

Representative Michael T. Morley proposes the following substitute bill:

COMMUNITY CONSCIOUS INTERNET

PROVIDER

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael T. Morley

Senate Sponsor: _____

LONG TITLE

General Description:

This bill provides for the creation of a Community Conscious Internet Provider designation for Internet service providers.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Department of Commerce to establish a Community Conscious Internet Provider designation for Internet service providers;
- ▶ provides requirements for being designated as a Community Conscious Internet Provider;
- ▶ addresses the duration and renewal of the Community Conscious Internet Provider designation; and
- ▶ provides for a civil fine for certain violations.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 ENACTS:

28 **13-46-101**, Utah Code Annotated 1953

29 **13-46-102**, Utah Code Annotated 1953

30 **13-46-201**, Utah Code Annotated 1953

31 **13-46-202**, Utah Code Annotated 1953



33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **13-46-101** is enacted to read:

35 **13-46-101. Title.**

36 This chapter is known as the "Community Conscious Internet Provider Act."

37 Section 2. Section **13-46-102** is enacted to read:

38 **13-46-102. Definitions.**

39 As used in this chapter:

40 (1) "Allocated" or "allocation" refers to the distribution, delegation, lease, license, or
41 other authorization to a person of the right to use an IP address.

42 (2) "Cache" means to utilize a process to duplicate a communication on the Internet in
43 another location other than the communication's origin.

44 (3) "Internet protocol" means a data-oriented protocol used for communicating data
45 across a packet-switched network.

46 (4) "Internet service provider" means a person who provides:

47 (a) Internet access;

48 (b) equipment for hosting or publishing content on the Internet; or

49 (c) a location on the Internet for a customer.

50 (5) "IP address" means a number that uniquely identifies a device connected to a
51 computer network based on the Internet protocol.

52 (6) "Link" means to functionally integrate a communication into an Internet location,
53 allowing a person to easily move to another Internet location.

54 (7) "Prohibited communication" means a communication that is:

55 (a) pornographic under Section 76-10-1203; or

56 (b) harmful to minors under Section 76-10-1206.

57 (8) "Proxy" means a process allowing an Internet communication to be processed by an
58 intermediary to:

59 (a) mask the identity of a person using the Internet; or

60 (b) permit access to a port for which access is otherwise blocked for the person using
61 the Internet.

62 (9) "Published" or "publishing" means to broadcast, post, link, cache, or use an IP
63 address to make a proxy or communication.

64 Section 3. Section **13-46-201** is enacted to read:

65 **13-46-201. Community Conscious Internet Provider -- Requirements --**
66 **Application -- Renewal.**

67 (1) The department shall create a Community Conscious Internet Provider designation,
68 including a seal, that may be used in promotional and other materials by an Internet service
69 provider that is awarded the Community Conscious Internet Provider designation under this
70 section.

71 (2) The department shall award the Community Conscious Internet Provider
72 designation to an Internet service provider that:

73 (a) completes an application created by the department; and

74 (b) agrees to:

75 (i) prohibit its customers by contract from publishing any prohibited communication;

76 (ii) remove or prevent access to any prohibited communication published by or
77 accessed using the Internet service provider's service within a reasonable time after the Internet
78 service provider learns of the prohibited communication;

79 (iii) comply with any court order concerning the removal of a prohibited
80 communication;

81 (iv) maintain a record for two years following its allocation of an IP address of the IP
82 address, the date and time of the allocation, and the customer to whom the IP address is
83 allocated;

84 (v) cooperate with any law enforcement agency by providing records sufficient to
85 identify a customer if the law enforcement agency requests the information and supplies
86 reasonable proof that a crime has been committed using the Internet service provider's service;

87 (vi) respond to the department, a law enforcement agency, or customer who complains

88 of a prohibited communication published by or accessible using the Internet service provider's
89 service; and

90 (vii) provide information concerning the Internet service provider's compliance with
91 this section promptly upon request by the department.

92 (3) An Internet service provider that is awarded the Community Conscious Internet
93 Provider designation shall require its customers to enter into an agreement providing that:

94 (a) publishing a prohibited communication is prohibited; and

95 (b) the Internet service provider will:

96 (i) remove or prevent access to a prohibited communication of which it is aware;

97 (ii) comply with a court order ordering the removal of a prohibited communication;

98 (iii) maintain a record for two years following its allocation of an IP address of the IP
99 address, the date and time of the allocation, and the customer to whom the IP address is

100 allocated;

101 (iv) cooperate with any law enforcement agency by providing records sufficient to
102 identify a customer if the law enforcement agency requests the information and supplies
103 reasonable proof that a crime has been committed using the Internet service provider's service;
104 and

105 (v) respond to the department, a law enforcement agency, or customer who complains
106 of a prohibited communication published by or accessible using the Internet service provider's
107 service.

108 (4) A Community Conscious Internet Provider designation awarded under this section:

109 (a) is valid for one year from the day on which the designation is awarded; and

110 (b) may be renewed by filing an application for renewal provided by the department
111 and remaining in compliance with Subsections (2) and (3).

112 (5) The department shall provide an application form and information concerning the
113 Community Conscious Internet Provider designation on the attorney general's Internet website
114 and at the attorney general's office.

115 Section 4. Section **13-46-202** is enacted to read:

116 **13-46-202. Penalties.**

117 An Internet service provider is liable for a civil fine not to exceed \$10,000 if:

118 (1) the Internet service provider violates an agreement entered into under Section

119 13-46-201; and

120 (2) the department receives a complaint concerning the violation of the agreement.

H.B. 407 1st Sub. (Buff) - Community Conscious Internet Provider

**Revised
Fiscal Note**

2008 General Session
State of Utah

State Impact

Enactment of this bill will require an additional appropriation from the Commerce Service Fund of \$45,500 in FY 2009 and \$43,500 in FY 2010. Such appropriations will reduce deposits into the General Fund.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	\$0	(\$43,500)	(\$43,500)
General Fund, One-Time	\$0	\$0	\$0	\$0	(\$2,000)	\$0
Commerce Service Fund	\$0	\$43,500	\$43,500	\$0	\$0	\$0
Commerce Service, One-time	\$0	\$2,000	\$0	\$0	\$0	\$0
Total	\$0	\$45,500	\$43,500	\$0	(\$45,500)	(\$43,500)

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.