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 Division of Consumer Protection 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
Utah Code Sections Affected:
ENACTS:

13-46-101, Utah Code Annotated 1953
13-46-102, Utah Code Annotated 1953
13-46-201, Utah Code Annotated 1953
13-46-202, Utah Code Annotated 1953

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

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

13-46-101. Title.
This chapter is known as the "Community Conscious Internet Provider Act."

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

As used in this chapter:
(1) "Allocated" or "allocation" refers to the distribution, delegation, lease, license, or other authorization to a person of the right to use an IP address.
(2) "Cache" means to utilize a process to duplicate a communication on the Internet in another location other than the communication's origin.
(3) "Division" means the Division of Consumer Protection.
(4) "Internet protocol" means a data-oriented protocol used for communicating data across a packet-switched network.
(5) "Internet service provider" means a person who provides:
(a) Internet access;
(b) equipment for hosting or publishing content on the Internet; or
(c) a location on the Internet for a customer.
(6) "IP address" means a number that uniquely identifies a device connected to a computer network based on the Internet protocol.
(7) "Link" means to functionally integrate a communication into an Internet location, allowing a person to easily move to another Internet location.
(8) "Prohibited communication" means a communication that is:
(a) pornographic under Section 76-10-1203; or
(b) harmful to minors under Section 76-10-1206.

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

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

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

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

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

13-46-201. Community Conscious Internet Provider -- Requirements --

Application -- Renewal.

(1) The Division of Consumer Protection shall create a Community Conscious Internet Provider designation, including a seal, that may be used in promotional and other materials by an Internet service provider that is awarded the Community Conscious Internet Provider designation under this section.

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

(a) completes an application created by the division; and

(b) agrees to:

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

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

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

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

(v) cooperate with any law enforcement agency by providing records sufficient to identify a customer if the law enforcement agency requests the information and supplies reasonable proof that a crime has been committed using the Internet service provider's service;
(vi) respond to the division, a law enforcement agency, or customer who complains of a prohibited communication published by or accessible using the Internet service provider's service; and

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

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

(a) publishing a prohibited communication is prohibited; and

(b) the Internet service provider will:

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

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

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

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

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

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

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

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

(5) The division shall provide an application form and information concerning the Community Conscious Internet Provider designation on the division's Internet website and at the division's office.

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


An Internet service provider is liable for an administrative fine not to exceed $10,000
if:
(1) the Internet service provider violates an agreement entered into under Section 13-46-201; and
(2) the division receives a complaint concerning the violation of the agreement.
Fiscal Note

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.

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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.

2/25/2008, 2:24:05 PM, Lead Analyst: Schoenfeld, J.D.