

**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: \_\_\_\_\_

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**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



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) "Division" means the Division of Consumer Protection.

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

47 (5) "Internet service provider" means a person who provides:

48 (a) Internet access;

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

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

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

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

55 (8) "Prohibited communication" means a communication that is:

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

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

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

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

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

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

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

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

67 **Application -- Renewal.**

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

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

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

75 (b) agrees to:

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

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

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

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

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

88 (vi) respond to the division, a law enforcement agency, or customer who complains of  
89 a prohibited communication published by or accessible using the Internet service provider's  
90 service; and

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

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

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

96 (b) the Internet service provider will:

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

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

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

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

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

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

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

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

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

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

117 **13-46-202. Penalties.**

118 An Internet service provider is liable for an administrative fine not to exceed \$10,000

119 if:  
120           (1) the Internet service provider violates an agreement entered into under Section  
121 13-46-201; and  
122           (2) the division receives a complaint concerning the violation of the agreement.

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**H.B. 407 2nd Sub. (Gray) - Community Conscious Internet Provider**

**Fiscal Note**

2008 General Session  
State of Utah

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**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
Education Fund, One-Time	\$0	\$43,500	\$43,500	\$0	\$0	\$0
Commerce Service Fund	\$0	\$2,000	\$0	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$45,500</b>	<b>\$43,500</b>	<b>\$0</b>	<b>(\$45,500)</b>	<b>(\$43,500)</b>

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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.