

26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **76-10-1230**, as last amended by Laws of Utah 2008, Chapter 297

31 **76-10-1231**, as last amended by Laws of Utah 2008, Chapters 297 and 382



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

34 Section 1. Section **76-10-1230** is amended to read:

35 **76-10-1230. Definitions.**

36 As used in Sections 76-10-1231 and 76-10-1233:

37 (1) "Consumer" means [~~a natural person~~] an individual residing in this state who
38 subscribes to a service provided by a service provider for personal or residential use.

39 (2) "Content provider" means a person domiciled in Utah or that generates or hosts
40 content in Utah, and that creates, collects, acquires, or organizes electronic data for electronic
41 delivery to a consumer with the intent of making a profit.

42 (3) (a) "Hosting company" means a person that provides services or facilities for
43 storing or distributing content over the Internet without editorial or creative alteration of the
44 content.

45 (b) A hosting company may have policies concerning acceptable use without becoming
46 a content provider under Subsection (2).

47 (4) (a) "Internet service provider" means a person engaged in the business of providing
48 [~~a computer communications facility in Utah~~] ~~§→~~ **broadband** ~~←§~~ Internet access ~~§→~~ **service** ~~←§~~
48a , with the intent of making a
49 profit, [~~through which a consumer may obtain access to the Internet~~] to consumers in Utah.

50 (b) "Internet service provider" does not include [~~a common carrier if it provides only~~
51 ~~telecommunications service~~] a business providing Internet access to a customer or business
52 invitee.

53 (5) "Properly rated" means content using a labeling system to label material harmful to
54 minors provided by the content provider in a way that:

55 (a) accurately appraises a consumer of the presence of material harmful to minors; and

56 (b) allows the consumer the ability to control access to material harmful to minors

88 (A) by electronic communication;

89 (B) with a consumer's bill; or

90 (C) in another conspicuous manner.

91 (c) Before December 31, 2018, a service provider shall:

92 (i) notify the Division of Consumer Protection within the Department of Commerce
93 that notice was sent under Subsection (2)(b); and

94 (ii) provide the Division of Consumer Protection within the Department of Commerce
95 a copy of the notice that was sent under Subsection (2)(b).

96 (d) The Division of Consumer Protection within the Department of Commerce shall
97 report all violations of Subsections (2)(b) and (c) to the attorney general.

98 (3) (a) A service provider may comply with Subsection (1)(a) by~~[-(i)]~~ providing
99 in-network filtering to prevent receipt of material harmful to minors, provided that the filtering
100 does not affect or interfere with access to Internet content for consumers who do not request
101 filtering under Subsection (1)~~[-or]~~(a).

102 ~~[(ii) providing software;]~~

103 (b) A service provider may comply with Subsection (1)(a) by engaging a third party to
104 provide [software, or referring users to a third party that provides filtering software, by
105 providing a clear and conspicuous hyperlink or written statement, for installation on the
106 consumer's computer that blocks, in an easy-to-enable and commercially reasonable manner;] ~~§~~ → ,

106a or referring a consumer to a third party that provides, ← ~~§~~ a
107 commercially reasonable method of filtering to block the receipt of material harmful to minors.

108 ~~[(b)]~~ (c) A service provider may charge a consumer a commercially reasonable fee for
109 providing filtering under this Subsection (3)~~[(a)]~~.

110 (4) If the attorney general determines that a service provider violates Subsection (1) or
111 (2), the attorney general shall:

112 (a) notify the service provider that the service provider is in violation of Subsection (1)
113 or (2); and

114 (b) notify the service provider that the service provider has ~~[30]~~ 90 days to comply with
115 the provision being violated or be subject to Subsection (5).

116 (5) (a) A service provider that intentionally or knowingly violates Subsection (1)~~or~~
117 ~~(2)]~~(a) is subject to a civil fine of \$2,500 for each separate violation of Subsection (1)~~or~~
118 ~~(2)]~~(a), up to ~~[\$10,000]~~ \$15,000 per day.