

SUBSTITUTE FOR
SENATE BILL NO. 785

A bill to amend 2004 PA 241, entitled
"Michigan children's protection registry act,"
by amending sections 1, 3, and 5 (MCL 752.1061, 752.1063, and
752.1065).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) This act shall be known and may be cited as the
2 "Michigan children's protection registry act".

3 (2) **THE INTENT OF THIS ACT IS TO PROVIDE SAFEGUARDS TO PREVENT**
4 **CERTAIN MESSAGES REGARDING TOBACCO, ALCOHOL, PORNOGRAPHY, GAMBLING,**
5 **AND OTHER ILLEGAL PRODUCTS FROM REACHING THE MINOR CHILDREN OF THIS**
6 **STATE.**

7 Sec. 3. (1) The department shall establish and operate, or
8 contract with a qualified third party to establish and operate, the
9 child protection registry. The department or a third party

1 administrator shall establish procedures, to the extent possible,
2 to prevent the use or disclosure of protected contact points as
3 required under section 6. If the department elects to contract with
4 a third party, the department shall give due consideration to any
5 person located in this state.

6 (2) A parent, guardian, individual, or an entity under
7 subsection (4) who is responsible for a contact point to which a
8 minor may have access may register that contact point with the
9 department under rules promulgated by the department under the
10 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
11 24.328. The department shall establish procedures to ensure that a
12 registrant meets the requirements of this subsection.

13 (3) A registration under this section shall be for not more
14 than 3 years. If the contact point is established for a specific
15 minor, the registration expires the year the minor turns 18 years
16 of age. A registration can be revoked or renewed by the registrant
17 upon notification to the department.

18 (4) Schools and other institutions or entities primarily
19 serving minor children may register 1 or more contact points with
20 the department. An entity under this subsection may make 1
21 registration for all contact points of the entity, and the
22 registration may include the entity's internet domain name under
23 rules promulgated by the department under the administrative
24 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

25 (5) No fee or charge shall be assessed or incurred by a person
26 registering a contact point under this act.

27 (6) The department shall establish a mechanism for senders to

1 verify compliance with the registry.

2 (7) A person desiring to send a message described in section 5
3 shall pay the department a fee for access to the mechanism required
4 under subsection (6). The fee required under this subsection shall
5 be set by the department. The fee shall not exceed ~~—.03~~ 3 cents
6 and shall be based on the number of contact points checked against
7 the registry for each time a contact point is checked. The
8 mechanism to verify compliance under subsection (6) and the fee
9 required under this subsection shall be established under rules
10 promulgated by the department under the administrative procedures
11 act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

12 (8) The fees collected under this act shall be credited to the
13 following:

14 (a) Eighty-five percent of the fees to the fund created under
15 section 4.

16 (b) Not less than 15% of the fees to the attorney general to
17 cover the costs of investigating, enforcing, and defending this act
18 and section 5a of 1979 PA 53, MCL 752.795a. The department may
19 reimburse the attorney general from the fund created under section
20 4 for any costs incurred under this subdivision that exceed the
21 fees credited under this subdivision.

22 (9) The registry shall be fully operational not later than
23 July 1, 2005.

24 Sec. 5. (1) ~~—A—~~ **EXCEPT AS OTHERWISE PROVIDED UNDER THIS**
25 **SECTION, A** person shall not send, cause to be sent, or conspire
26 with a third party to send a message to a contact point that has
27 been registered for more than 30 calendar days with the department

1 if the primary purpose of the message is to, directly or
2 indirectly, advertise or otherwise link to a message that
3 advertises a product or service that a minor is prohibited by law
4 from purchasing, viewing, possessing, participating in, or
5 otherwise receiving.

6 (2) A person desiring to send a message described in
7 subsection (1) shall use the mechanism created under section 3(6)
8 to ensure compliance with this act.

9 (3) The consent of a minor or third party to receive the
10 message is not a defense to a violation of this section.

11 (4) A person does not violate this act because the person is
12 an intermediary between the sender and recipient in the
13 transmission of an electronic message that violates this act or
14 unknowingly provides transmission of electronic messages over the
15 person's computer network or facilities that violate this act.

16 (5) The sending of a message described in subsection (1) is
17 prohibited only if it is otherwise a crime for the minor to
18 purchase, view, possess, participate in, or otherwise receive the
19 product or service.

20 (6) THE SENDING OF A MESSAGE DESCRIBED IN SUBSECTION (1) IS
21 NOT PROHIBITED IF PRIOR TO SENDING THE MESSAGE THE SENDER HAS
22 OBTAINED FROM AN AGE-VERIFIED ADULT AN AFFIRMATIVE STATEMENT OF
23 CONSENT TO RECEIVE THE MESSAGE AT AN ADULT DESIGNATED ELECTRONIC
24 MAIL ADDRESS. TO COMPLY WITH THIS SUBSECTION, THE SENDER SHALL DO
25 ALL OF THE FOLLOWING:

26 (A) VERIFY THAT THE PERSON MAKING THE AFFIRMATIVE STATEMENT IS
27 OF LEGAL AGE BY INSPECTING IN A FACE-TO-FACE TRANSACTION A VALID

1 GOVERNMENT-ISSUED PHOTO IDENTIFICATION WITH PROOF OF AGE.

2 (B) OBTAIN A WRITTEN RECORD STATING THAT THE RECIPIENT HAS
3 CONSENTED TO RECEIVE THE TYPE OF MESSAGES DESCRIBED IN SUBSECTION
4 (1). THE CONSENT FORM REQUIRED UNDER THIS SUBDIVISION SHALL BE
5 SIGNED BY THE RECIPIENT. THE SENDER SHALL RETAIN THE CONSENT FORM
6 REQUIRED UNDER THIS SUBDIVISION AND MAKE IT AVAILABLE FOR
7 VERIFICATION AS MAY BE REQUIRED UNDER SUBDIVISION (D).

8 (C) ALL MESSAGES ALLOWED UNDER THIS SUBSECTION SHALL INCLUDE
9 NOTICE TO THE RECIPIENT THAT HE OR SHE MAY RESCIND THEIR CONSENT
10 AND PROVIDE AN OPPORTUNITY FOR THE RECIPIENT TO OPT OUT OF
11 RECEIVING ANY FUTURE MESSAGES.

12 (D) NOTIFY THE DEPARTMENT THAT THE SENDER INTENDS TO SEND
13 MESSAGES AS ALLOWED UNDER THIS SUBSECTION. THE DEPARTMENT MAY
14 IMPLEMENT PROCEDURES TO VERIFY THAT THE SENDER IS IN COMPLIANCE
15 WITH THIS SUBSECTION.