

# SENATE BILL No. 785

September 29, 2005, Introduced by Senator BISHOP and referred to the Committee on Technology and Energy.

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, AND  
5       GAMBLING FROM REACHING THE CHILDREN OF THIS STATE.

6       Sec. 3. (1) The department shall establish and operate, or  
7       contract with a qualified third party to establish and operate, the  
8       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 A DESIGNATED E-MAIL ADDRESS. TO  
24 COMPLY WITH THIS SUBSECTION, THE SENDER SHALL DO ALL OF THE  
25 FOLLOWING:

26 (A) VERIFY THAT THE RECIPIENT IS OF LEGAL AGE BY INSPECTING IN  
27 A FACE-TO-FACE TRANSACTION A VALID GOVERNMENT-ISSUED PHOTO

1 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.