

SUBJECT: Requiring Internet access to screening software

COMMITTEE: Economic Development — committee substitute recommended

VOTE: 7 ayes — Oliveira, Yarbrough, Greenberg, Keffer, Luna, Seaman, Siebert
0 nays
2 absent — Raymond, Van de Putte

WITNESSES: For — Chad Kissinger, Texas Internet Service Providers Association
Against — None

DIGEST: CSHB 1300 would require Internet service providers (ISPs) to furnish subscribers links to software that would enable them to block or screen certain Internet material. A link would have to be conspicuously placed on the provider's home page. The bill would establish civil penalties of up to \$10,000 per violation, and authorize the attorney general to sue to recover fines. ISPs would not be liable for a link that was temporarily inoperable. The bill would not apply to institutions of higher education that provide access to the Internet.

CSHB 1300 would take effect September 1, 1997. The civil penalty could be imposed for violations occurring on or after January 1, 1998.

SUPPORTERS SAY: CSHB 1300 would help parents protect children from inappropriate or objectionable material on the Internet by ensuring that parents had access to screening software. This type of computer software can be hard to find, particularly in small and rural communities. HB 1300 would resolve this problem by requiring the same providers that sell Internet access to also provide a link to blocking software.

This requirement would not represent a burden on ISPs, who already regularly update their home pages with links to new sites on the Internet. The costs associated with providing the link would be negligible and would be outweighed by the positive benefit to all Texas parents whose children surf the web. ISPs could even use the blocking software as part of their

marketing strategy to attract new customers who now are fearful of what their families may be exposed to on the Internet.

HB 1300 would not infringe on any personal rights nor regulate the content of the Internet. By providing access to a tool that subscribers could choose to use or ignore, it would ensure that Internet monitoring remained in the hands of individuals and not become another area of government oversight.

OPPONENTS
SAY:

CSHB 1300 would infringe upon the rights of companies to run their businesses. Blocking software is readily available on the Internet; there is no good reason to require that ISPs provide access to something that is already accessible to the public. Furthermore, in requiring that all ISPs provide a link to screening software, the bill would take away a marketing advantage now enjoyed by those ISPs that already offer this software as an additional service. In addition, because ISPs would have to provide a link to some variety of this software, they could possibly be held liable for the effectiveness of the software even though it was not their product. ISPs also would have to spend both time and money to install the link on their homepage; this could pose a problem for some smaller ISPs.

OTHER
OPPONENTS
SAY:

Parents who are concerned about what their children are encountering on the Internet should take the time to monitor their activities. If their fears are confirmed, they can easily subscribe for Internet access with a provider that offers blocking software. CSHB 1300 would unfairly shift the burden of responsibility from parents to ISPs, along with a hefty fine, and open the door to future and more intrusive government regulation of the Internet.

NOTES:

The committee substitute required that the link be for only one type of computer operating system; deleted a requirement that the link be to software with a 30-day free trial period; modified the requirements for making the link conspicuous on a provider's homepage; added the provision that ISPs would not be liable for a temporarily inoperable link; and deleted a criminal penalty for violations.

Rep. Corte plans to offer or accept an amendment to hold ISPs harmless for the quality of the blocking or screening software.

On March 10, the Senate passed a related bill, SB 674 by Brown, which would expand the state's child pornography laws to encompass visual images transmitted over the Internet. The bill has been referred to the House Criminal Jurisprudence Committee.