

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 785

A bill to amend 2004 PA 241, entitled
"Michigan children's protection registry act,"
by amending sections 1 and 5 (MCL 752.1061 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 **ILLEGAL DRUGS, AND OTHER ILLEGAL PRODUCTS FROM REACHING THE MINOR**
6 **CHILDREN OF THIS STATE.**

7 Sec. 5. (1) ~~—A—~~ **EXCEPT AS OTHERWISE PROVIDED UNDER THIS**
8 **SECTION, A** person shall not send, cause to be sent, or conspire
9 with a third party to send a message to a contact point that has

1 been registered for more than 30 calendar days with the department
2 if the primary purpose of the message is to, directly or
3 indirectly, advertise or otherwise link to a message that
4 advertises a product or service that a minor is prohibited by law
5 from purchasing, viewing, possessing, participating in, or
6 otherwise receiving.

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

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

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

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

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

27 (A) VERIFY THAT THE PERSON MAKING THE AFFIRMATIVE STATEMENT IS

Senate Bill No. 785 (H-2) as amended November 9, 2005

1 OF LEGAL AGE BY INSPECTING IN A FACE-TO-FACE TRANSACTION A VALID
2 GOVERNMENT-ISSUED PHOTO IDENTIFICATION WITH PROOF OF AGE.

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

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

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

[(7) WITHIN 90 DAYS OF THE EFFECTIVE DATE OF THE AMENDATORY ACT
THAT ADDED THIS SUBSECTION, THE DEPARTMENT, OR THE VENDOR PROVIDING
REGISTRY SERVICES FOR THE DEPARTMENT, SHALL CONDUCT A THIRD-PARTY AUDIT
TO CERTIFY THE SECURITY OF THE REGISTRY. FOLLOW-UP THIRD-PARTY SECURITY
AUDITS ON THE REGISTRY SYSTEMS SHALL BE CONDUCTED AT LEAST ANNUALLY. IF
THE THIRD-PARTY SECURITY AUDIT DETERMINES THAT THE REGISTRY DOES NOT MEET
OR EXCEED THE INDUSTRY STANDARD FOR HIGH SECURITY SYSTEMS THEN THE
REGISTRY SHALL BE SUSPENDED UNTIL THE SECURITY SYSTEMS ARE DETERMINED TO
MEET THIS STANDARD.]