AN ACT concerning consumer protection; relating to unconscionable acts or practices; requiring technology protection measures on internet-accessible devices; enacting the human trafficking and child exploitation prevention act; establishing the human trafficking and child exploitation prevention grants fund.

Be it enacted by the Legislature of the State of Kansas:

Section 1. Sections 1 through 5, and amendments thereto, shall be known and may be cited as the human trafficking and child exploitation prevention act.

Sec. 2. As used in this act:
(a) "Child pornography" means the same as such term is defined in K.S.A. 2018 Supp. 75-2589, and amendments thereto.
(b) "Distributor" means any person who regularly engages in the sale, offer for sale or lease of products or services in this state that make content accessible on the internet.
(c) "Obscene" means the same as such term is defined in K.S.A. 2018 Supp. 21-6401, and amendments thereto, and includes, but is not limited to:
(1) Child pornography;
(2) revenge pornography, as described in K.S.A. 2018 Supp. 21-6101(a)(8), and amendments thereto; and
(3) websites known to facilitate:
(A) The selling of sexual relations, as described in K.S.A. 2018 Supp. 21-6419, and amendments thereto; and
(B) human trafficking, as described in K.S.A. 2018 Supp. 21-5426, and amendments thereto.
(d) "Technology protection measure" means any computer technology or other process that blocks or filters online access to obscene content.

Sec. 3. (a) Except as provided in subsection (d), a distributor shall not manufacture, sell, offer for sale, lease or distribute to a consumer any product or service that makes content accessible on the internet, unless such product or service contains an active and operating technology protection measure.
(b) A distributor shall:

(1) Regularly make available to consumers updates to the technology protection measure to ensure that the technology protection measure is sufficiently blocking access to obscene content;

(2) maintain a website or telephone line that consumers can use to report:

(A) Obscene content that is not blocked by the technology protection measure; and

(B) content that is not obscene that is blocked by the technology protection measure;

(3) have in place procedures for evaluating reports made pursuant to subparagraph (B) and, if necessary, updating the technology protection measure within five days; and

(4) report any child pornography reported to such distributor in accordance with 18 U.S.C. § 2258A.

(c) A distributor shall not:

(1) Block access to any website that provides a means for users of such website to report obscene content and that has procedures for evaluating such user reports and removing obscene content;

(2) block access to any website that operates as a search engine; or

(3) provide the source code for a technology protection measure in order to allow the deactivation of such measure without complying with the provisions of subsection (d).

(d) A distributor shall deactivate the technology protection measure for a product or service if the consumer who purchased or leased the product or service:

(1) Requests that the technology protection measure be deactivated;

(2) presents identification verifying that the consumer is at least 18 years of age;

(3) acknowledges receipt of a written warning regarding the potential danger of deactivating the technology protection measure; and

(4) pays a one-time deactivation fee of $20.

(e) Quarterly, each distributor shall remit all one-time deactivation fees paid pursuant to subsection (d) to the attorney general. Nothing in this section shall prohibit a distributor from charging any fee in addition to the one-time deactivation fee. Any additional fees may be retained by the distributor to assist in defraying the costs for maintaining and operating the technology protection measure.

(f) If the technology protection measure blocks access to a website that is not displaying obscene material and such block is reported through the distributor's report mechanism, the distributor shall unblock access to the website within a reasonable time, but in no event more than five business days after the block was first reported. A consumer may seek
judicial relief to unblock access to a website that is not displaying obscene content but was blocked by the technology protection measure. In any action brought pursuant to this subsection, the prevailing party may seek reasonable attorney fees, court costs and such other forms of relief as the court deems appropriate.

(g) If a distributor is unresponsive to a report of a website displaying obscene material while the technology protection measure is active, the attorney general or a consumer who was exposed to such content may bring an action against the distributor for damages of up to $500 for each website displaying obscene material that was reported but not subsequently blocked. In any action brought pursuant to this subsection, the prevailing party may seek reasonable attorney fees, court costs and such other forms of relief as the court deems appropriate. It shall be an affirmative defense in any such action that the dissemination of the obscene content was limited to institutions or organizations having scientific, educational or other similar justifications for displaying such content.

Sec. 4. (a) There is hereby established in the state treasury the human trafficking and child exploitation prevention grants fund to be administered by the attorney general. The attorney general shall remit all moneys collected pursuant to section 3(e), and amendments thereto, to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the human trafficking and child exploitation prevention grants fund.

(b) All moneys credited to the human trafficking and child exploitation prevention grants fund shall be used for the purpose of awarding grants to any individual, governmental agency or non-profit organization that the attorney general determines is working to uphold community standards of decency, strengthen families and develop, expand or strengthen programs for victims of human trafficking and child exploitation. Such grants may be made for the following:

(1) Rape-kit testing;
(2) physical and mental health services;
(3) temporary and permanent housing placement;
(4) employment, work placement, education or job training;
(5) prevention of and protection from human trafficking, domestic violence, prostitution, child abuse and rape through training of first responders and increasing public awareness;
(6) compensation for shelters for victims of human trafficking, domestic violence, prostitution, child abuse and rape;
(7) family counseling; and
(8) investigation and prosecution by law enforcement agencies of
human trafficking, domestic violence, prostitution, child abuse and rape.

Sec. 5.  (a) This act shall be a part of and supplemental to the Kansas consumer protection act.

(b) Any violation of this act shall be an unconscionable act or practice under the Kansas consumer protection act and shall be subject to any and all of the remedies and enforcement provisions of the Kansas consumer protection act.

(c) The attorney general shall remit all penalties and fines collected pursuant to this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the human trafficking and child exploitation prevention grants fund.

(d) The provisions of this act shall not apply to the sale of a product or service manufactured or sold prior to July 1, 2019.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.