

2015 Regular Session

HOUSE BILL NO. 153

BY REPRESENTATIVE TIM BURNS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIME: Creates the crime of unlawful distribution of material harmful to minors through the Internet

1 AN ACT

2 To enact R.S. 14:91.14, relative to offenses affecting the health and morals of minors; to  
3 create the crime of unlawful distribution of material harmful to minors through the  
4 Internet; to provide elements for the offense; to provide for definitions; to provide  
5 for criminal penalties; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:91.14 is hereby enacted to read as follows:

8 §91.14. Unlawful distribution of material harmful to minors through the Internet

9 A.(1) Any person or entity in Louisiana that publishes material harmful to  
10 minors on the Internet shall, prior to permitting access to such material, require any  
11 person attempting to access such material to electronically acknowledge and attest  
12 that the person seeking to access such material is eighteen years of age or older.

13 (2) The failure to comply with the provisions of Paragraph (1) of this  
14 Subsection shall constitute the unlawful distribution of material harmful to minors  
15 through the Internet when the material being distributed via the Internet is harmful  
16 to minors.

17 (3) If a person or entity in Louisiana publishes material harmful to minors  
18 on the Internet and complies with the provisions of Paragraph (1) of this Subsection,  
19 such person or entity shall not be held liable under the provisions of this Section if

1 the person seeking to access such material is under the age of eighteen and falsely  
2 acknowledges and attests that he is eighteen years of age or older.

3 B. For purposes of this Section:

4 (1) "Descriptions or depictions of illicit sex or sexual immorality" includes  
5 the depiction, display, description, exhibition, or representation of any of the  
6 following:

7 (a) Ultimate sexual acts, normal or perverted, actual, simulated, or animated,  
8 whether between human beings, animals, or an animal and a human being.

9 (b) Masturbation, excretory functions, or exhibition, actual, simulated, or  
10 animated, of the genitals, pubic hair, anus, vulva, or female breast nipples.

11 (c) Sadoomasochistic abuse, meaning actual, simulated, or animated,  
12 flagellation or torture by or upon a person who is nude or clad in undergarments or  
13 in a costume which reveals the pubic hair, anus, vulva, genitals, or female breast  
14 nipples, or the condition of being fettered, bound, or otherwise physically restrained,  
15 on the part of one so clothed.

16 (d) Actual, simulated, or animated, touching, caressing, or fondling of, or  
17 other similar physical contact with, a pubic area, anus, female breast nipple, covered  
18 or exposed, whether alone or between human, animals, or a human and an animal,  
19 of the same or opposite sex, in an act of apparent sexual stimulation or gratification.

20 (e) Actual, simulated, or animated, stimulation of the human genital organs  
21 by any device whether or not the device is designed, manufactured, and marketed for  
22 such purpose.

23 (2) "Material harmful to minors" is defined as any digital image, photograph,  
24 or video which exploits, is devoted to or principally consists of, descriptions or  
25 depictions of illicit sex or sexual immorality for commercial gain, and when the trier  
26 of fact determines that each of the following applies:

27 (a) The material incites or appeals to or is designed to incite or appeal to the  
28 prurient, shameful, or morbid interest of minors.

1           (b) The material is offensive to the average adult applying contemporary  
2           community standards with respect to what is suitable for minors.

3           (c) The material taken as a whole lacks serious literary, artistic, political, or  
4           scientific value for minors.

5           C. Whoever violates the provisions of this Section shall be fined up to ten  
6           thousand dollars.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 153 Original

2015 Regular Session

Tim Burns

**Abstract:** Creates the crime of unlawful distribution of material harmful to minors through the Internet and provides criminal penalties including a fine of up to \$10,000.

Proposed law creates the crime of unlawful distribution of material harmful to minors through the Internet, providing that any person or entity in La. that publishes material harmful to minors on the Internet shall, prior to permitting access to such material, require any person attempting to access such material to acknowledge that the person is 18 years of age or older.

Proposed law provides that if the person seeking to access such material is under the age of 18 and falsely acknowledges that he is 18 years of age or older, the person or entity in La. that publishes material harmful to minors on the Internet and who complies with the requirements set forth in proposed law shall not be held liable for this offense.

Proposed law provides for definitions of "descriptions or depictions of illicit sex or sexual immorality" and "material harmful to minors".

Provides that whoever violates the provisions of proposed law shall be fined up to \$10,000.

(Adds R.S. 14:91.14)