
The original instrument was prepared by Carla S. Roberts. The following digest, which does not constitute a part of the legislative instrument, was prepared by Michelle Broussard-Johnson.

DIGEST

Present law provides that the attorney general has the authority to protect the public, investigate and restrain unfair or deceptive trade practices pursuant to the Unfair Trade Practices and Consumer Protection Law.

Proposed law retains present law and provides that it will be an unfair or deceptive trade practice for any retail business to engage in a pattern of activity where a retailer, on at least five separate occasions, sells or distributes goods, materials, or services to anyone under the age of 18 where such goods, materials, or services contain sexually explicit conduct.

Proposed law defines "sexually explicit conduct" to mean any of the following:

1. Graphic sexual intercourse, including genital to genital, oral to genital, anal to genital, or oral to anal, whether between persons of the same or opposite sex, or between a person and an animal.
2. Masturbation where the genital, breast, or pubic area of any person is exhibited.
3. Sadistic or masochistic abuse, where the genital, breast, or pubic area of any person is exhibited.
4. Graphic or simulated lascivious exhibitions of the genital or pubic area of any person.

Present law provides that the attorney general may pursue an injunction, in court, against a person who violates the terms of the Unfair Trade Practices and Consumer Protection Law or obtain a voluntary compliance agreement with the violator, in lieu of that court-ordered injunction.

Present law provides that, if the injunction or a written voluntary compliance agreement is violated, the attorney general may pursue a civil fine in court of not more than \$5,000.

Proposed law retains present law and provides that a retailer who engages in a pattern of activity by selling obscene materials to a minor can be subjected to the civil penalties contained in the Unfair Trade Practices and Consumer Protection Law.

Proposed law does not apply to the internet.

Proposed law does not apply to content distributed by a cable system and defines "cable system."

Proposed law provides that when a complaint is received alleging that a retailer has sold or distributed goods, materials or services to a person under the age of 18, meeting the definition from the Attorney General's Public Protection Division, Consumer Protection Section, the retailer will be notified via certified mail. Further provides the complaint will include a brief description of the materials or services sold, in addition to the date of the alleged sale or deceptive trade.

Proposed law provides that the written notice will advise the retailer that five such complaints may subject the retailer to a formal investigation by the Consumer Protection Section to determine if an unfair or deceptive trade practice, pursuant to this Section, has occurred.

Effective January 1, 2010.

(Adds R.S. 51:1427)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill.

1. Changes language from prohibiting a business from selling or distributing materials which are labeled with an age restriction to a person under the recommended age to a restriction against selling or distributing materials containing sexually explicit conduct to minors.
2. Provides a definition for sexually explicit conduct.
3. Exempts internet providers.

Senate Floor Amendments to engrossed bill.

1. Clarifies that "written notice must be given to a retailer" when a complaint is received.
2. Technical corrections made.
3. Adds proposed law indicating this Section will not apply to content distributed by a cable system and defines "cable system."
4. Adds proposed law that a retailer will be notified "in writing by certified mail" of an alleged complaint and the complaint will include a brief description and the date the alleged sale occurred.
5. Adds proposed law indicating written notification will be sent to the retailer that

five complaints may subject the retailer to a formal investigation.