
DIGEST

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Adley

SB No. 686

Present law provides for the crime of obscenity and provides for criminal penalties.

Present law provides that, in addition to other defined acts, the crime of obscenity includes the intentional transmission of an unsolicited advertisement that includes sexually explicit content to one or more persons within this state through electronic communications without including the words "ADV-ADULT" in the subject line of the advertisement.

Present law defines "sexually explicit" as the graphic depiction of sex, including but not limited to sexual audio, text, or images; depiction of sexual activity; nudity; or sexually oriented language.

Present law (R.S. 14:106(A)(3)(b)) defines "obscene material" as any tangible work or thing which the trier of fact determines that the average person applying contemporary community standards would find, taken as a whole, appeals to the prurient interest, and which depicts or describes in a patently offensive way, hard core sexual conduct, and the work or thing taken as a whole lacks serious literary, artistic, political, or scientific value.

Present law provides that whoever violates proposed law shall be penalized as follows:

- (1) First conviction - Fine of \$1,000 to \$2,500, imprisonment for six months to three years, or both.
- (2) Second conviction - Imprisonment for six months to three years, and may be fined \$2,500 to \$5,000.
- (3) Third or subsequent conviction - Imprisonment for two years to five years, and may be fined \$5,000 to \$10,000.

Proposed law adds to the crime of obscenity the transmission of an unsolicited text message that includes sexually explicit content to one or more persons within this state through a wireless telecommunications device.

Defines "sexually explicit" for purposes of proposed law as the graphic depiction of sex, including but not limited to sexual audio, text, or images, depiction of sexual activity, nudity, or sexually oriented language and is obscene as defined in present law R.S. 14:106(A)(3)(b). Proposed law further provides for a definition of "wireless telecommunications device."

Proposed law amends present law penalties relative to intentional transmission of an unsolicited advertisement that includes sexually explicit content to remove the term of imprisonment and provide that the offender may be fined \$100 to \$500; and further applies the same penalties to violations of proposed law.

(Amends R.S. 14:106(A)(7)(a) and (G); Adds R.S. 14:106(A)(8))

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Changes the definition of "sexually explicit".
2. Provides for penalties.

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the reengrossed bill.

1. Removed the proposed law provision which requires the fines collected to be deposited into a special fund to address the needs of sexual abuse victims.