

Regular Session, 2014

HOUSE BILL NO. 258

BY REPRESENTATIVE TIM BURNS

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 require the use of an age verification system to access
11 such material.

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

16 B. For purposes of this Section:

17 (1) "Age verification system" is technology used by a website to confirm that
18 a user attempting to access the website is at least eighteen years of age.

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

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

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

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

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

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

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

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

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

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

1 (4) "Minor" means any person under the age of eighteen years.
2 C. Whoever violates the provisions of this Section shall be fined up to ten
3 thousand dollars.

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)]

Tim Burns HB No. 258

Abstract: Creates the crime of unlawful distribution of material harmful to minors through the Internet and provides elements and criminal penalties for the offense.

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 require the use of an age verification system to access such material.

Proposed law provides for definitions of the following terms: "age verification system", "descriptions or depictions of illicit sex or sexual immorality", "material harmful to minors", and "minor".

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

(Adds R.S. 14:91.14)