
HOUSE COMMITTEE AMENDMENTS

2024 Regular Session

Substitute for Original House Bill No. 414 by Representative Carlson as proposed by the House Committee on Administration of Criminal Justice

This document reflects the content of a substitute bill but is not in a bill form; page numbers in this document DO NOT correspond to page numbers in the substitute bill itself.

To amend and reenact R.S. 14:91.11, relative to offenses affecting the public morals; to provide relative to the prohibited sale, exhibition, or distribution of material harmful to minors; to provide for a definition; to provide for an additional prohibited location; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:91.11 is hereby amended and reenacted to read as follows:

§91.11. Sale, exhibition, or distribution of material harmful to minors

A.~~(+)~~ The unlawful sale, exhibition, rental, leasing, or distribution of material harmful to minors is the intentional sale, allocation, distribution, advertisement, dissemination, exhibition, or display of material harmful to minors, by a person who is not the spouse, parent, or legal guardian of the minor to any unmarried person under the age of eighteen years, or the possession of material harmful to minors with the intent to sell, allocate, advertise, disseminate, exhibit, or display such material to any unmarried person under the age of eighteen years, by a person who is not the spouse, parent, or legal guardian of the minor at a newsstand or any other commercial establishment or public library which is open to persons under the age of eighteen years.

~~(2)~~ B. For the purposes of this Section:

(1) "Material harmful to minors" is defined as any paper, magazine, book, newspaper, periodical, pamphlet, composition, publication, photograph, drawing, picture, poster, motion picture film, video tape, video game, figure, phonograph record, album, cassette, compact disc, wire or tape recording, or other similar tangible work or thing which exploits, is devoted to or principally consists of,

descriptions or depictions of illicit sex or sexual immorality for commercial gain, and when the trier of fact determines that each of the following applies:

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

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

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

~~(3)~~ (2) For the purpose of this Section ~~"descriptions~~ "Descriptions or depictions of illicit sex or sexual immorality" includes the depiction, display, description, exhibition or representation of any of the following:

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

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

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

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

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

~~(4)~~ (3) "Minor" means any person under the age of eighteen years.

~~(5)~~ (4) "Video game" means an object or device that stores recorded data or instructions, receives data or instructions generated by a person who uses it, and, by processing the data or instructions, creates an interactive game capable of being played or viewed on or through a computer, gaming system, console, or other technology.

(5) "Exhibition or display" means the presentation, arrangement, or exposure of material harmful to minors so that, as presented, depictions and representations of illicit sex or sexual immorality are visible to minors.

~~B. C.~~(1) It shall be unlawful for a person who is not the spouse, parent, or legal guardian of the minor to invite or permit any unmarried person under the age of eighteen years of age to be in any commercial establishment or public library that exhibits or displays any item, material, work or thing of any kind that is described in ~~Subsection A~~ of this Section.

(2) Lack of knowledge of age shall not constitute a defense, unless the defendant shows that he had reasonable cause to believe that the minor involved was eighteen years of age or ~~more~~ older and that the minor exhibited to the defendant a selective service card, driver's license, military identification card, birth certificate or other official or apparently official document purporting to establish that such a minor was eighteen years of age or ~~more~~ older.

~~(3) For the purpose of Subsections A and B of this Section, "exhibition or display" means the exhibition or display of material harmful to minors as defined in Subsection A of this Section so that, as displayed, depictions and representations of illicit sex or sexual immorality are visible to minors.~~

~~(4)~~ A commercial establishment or public library shall not be in violation of this Section if the commercial establishment or public library provides for a separate area for the exhibition or display of material harmful to minors and designates said area "NOT FOR MINORS" or similar words and the commercial establishment or public library prohibits persons under the age of eighteen years from seeing or examining the contents of material harmful to minors.

~~C. D.(1)~~ This ~~section does~~ Section shall not preempt, nor shall anything in this ~~section~~ Section be construed to preempt, the regulation of obscenity by municipalities, parishes, and consolidated city-parish governments; ~~however,~~

(2) Notwithstanding the provisions of Paragraph (1) of this Subsection, in order to promote uniform obscenity legislation throughout the state, the regulation of obscenity by municipalities, parishes, and consolidated city-parish governments shall not exceed the scope of the regulatory prohibitions contained in the provisions of this ~~section~~ Section.

~~D. E.~~ Prior to selling material harmful to minors as provided ~~for~~ by this Section, a commercial establishment or public library shall require the individual purchasing the material harmful to minors to provide a driver's license, selective service card, military identification card, birth certificate, or other official form of identification which on its face establishes the age of the person as eighteen years or older.

~~E. F.~~ Whoever is ~~found guilty of violating~~ violates the provisions of this Section shall be fined not less than one hundred dollars nor more than two thousand dollars or imprisoned for not more than one year, or both.

Section 2. The Louisiana State Law Institute is hereby authorized and directed to renumber the terms defined in R.S. 14:91.11 to ensure that such terms are in alphabetical order.

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)]

HB Draft

2024 Regular Session

Abstract: Adds a public library as a location where the sale, exhibition, or distribution of material harmful to minors is prohibited.

Present law provides for the sale, exhibition, or distribution of material harmful to minors and provides for penalties.

Proposed law retains present law.

Proposed law makes technical changes to present law and reorganizes present law definitions.

Present law provides that it shall be unlawful for a person who is not the spouse, parent, or legal guardian of the minor to invite or permit any unmarried person under 18 years of age to be in any commercial establishment that exhibits or displays any item, material, work or thing of any kind that is described in present law.

Proposed law retains present law and adds a public library as a prohibited location.

Present law provides that a commercial establishment shall not be in violation of present law if the commercial establishment provides a separate area for the exhibition or display of material harmful to minors and designates said area "NOT FOR MINORS" or similar words and the commercial establishment prohibits persons under 18 years of age from seeing or examining the contents of material harmful to minors.

Proposed law retains present law and adds public libraries to this exception.

Present law provides that prior to selling material harmful to minors as provided by present law, a commercial establishment shall require the individual purchasing the material harmful to minors to provide a driver's license, selective service card, military identification card, birth certificate, or other official form of identification which on its face establishes the age of the person as 18 years or older.

Proposed law retains present law and applies this age verification process to public libraries.

Proposed law authorizes and directs the La. State Law Institute to renumber the terms defined in present law to ensure that such terms are in alphabetical order.

(Amends R.S. 14:91.11)