By Senator Posey

24-544-05

A bill to be entitled

An act relating to the transmission of sexually oriented material to a minor; creating s. 847.01385, F.S.; providing definitions relating to the transmission of materials to a minor; prohibiting a person in this state or in any jurisdiction from transmitting sexually oriented material or material that is harmful to a minor by means of unsolicited electronic mail or a computer pop-up; providing that a violation of the act is a felony of the third degree; providing criminal penalties; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 847.01385, Florida Statutes, is created to read:

<u>847.01385 Transmission of sexually oriented or other material harmful to a minor by electronic device or equipment prohibited; penalties.--</u>

<u>(1) As used in this section, the term:</u>

<u>(a) "Known to be a minor" means that a person knew or should have known that the recipient of the communication was a minor.</u>

<u>(b) "Transmit" means the act of sending any image, information, or data by use of any electronic equipment or device.</u>

<u>(2) Notwithstanding ss. 847.012 and 847.0133, a person in this state may not transmit sexually oriented material or an image, information, or data that is harmful to minors, as</u>

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defined in s. 847.001, to an individual in this state known to be a minor by means of unsolicited electronic mail or a computer pop-up. Any person who knew or reasonably should have known that he or she was transmitting sexually oriented material or an image, information, or data in violation of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Notwithstanding ss. 847.012 and 847.0133, a person in any jurisdiction other than this state may not transmit sexually oriented material or an image, information, or data that is harmful to minors, as defined in s. 847.001, to an individual in this state known to be a minor by means of unsolicited electronic mail or a computer pop-up. Any person who knew or reasonably should have known that he or she was transmitting sexually oriented material or an image, information, or data in violation of this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) This section does not apply to subscription-based transmissions such as list servers.

Section 2. This act shall take effect July 1, 2005.

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SENATE SUMMARY

Prohibits a person from transmitting sexually oriented material or material that is harmful to a minor by unsolicited electronic mail or a computer pop-up. Provides that any person violating the act commits a felony of the third degree. Provides criminal penalties.

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