

Bill No. SB 1220

Barcode 621588

CHAMBER ACTION

Senate

House

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Comm: RCS
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The Committee on Criminal Justice (Haridopolos) recommended
the following **substitute for amendment** (771560):

Senate Amendment (with title amendment)

Delete everything after the enacting clause,

and insert:

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

847.01385 Transmission of sexually oriented material
or material harmful to minors by electronic mail or computer
pop-up prohibited; penalties.--

(1) As used in this section, the terms "transmits" and
"transmission" mean the act of sending any image, information,
or data by use of any electronic equipment or device.

(2) Notwithstanding ss. 847.012 and 847.0133, any
person in this state who knows, should know, or believes that
an individual in this state is a minor and who transmits, by
means of electronic mail or a computer pop-up, sexually
oriented material, as defined in s. 847.001, or an image,
information, or data that is harmful to minors, as defined in

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1 s. 847.001, to such individual commits a felony of the third
2 degree.

3 (3) Notwithstanding ss. 847.012 and 847.0133, a person
4 in a jurisdiction other than this state who knows, should
5 know, or believes that an individual in this state is a minor
6 and who transmits, by means of electronic mail or a computer
7 pop-up, sexually oriented material, as defined in s. 847.001,
8 or an image, information, or data that is harmful to minors,
9 as defined in s. 847.001, to such individual commits a felony
10 of the third degree.

11 (4) The fact that an undercover operative or law
12 enforcement officer was involved in the detection and
13 investigation of an offense under this section shall not
14 constitute a defense to a prosecution under this section.

15 (5) This section shall not be construed to prohibit
16 prosecution of a person in this state or another jurisdiction
17 for a violation of any law of this state, including a law
18 providing for greater penalties than prescribed in this
19 section, for the transmission of sexual oriented material or
20 material harmful to minors.

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

23 (7) This section does not create a cause of action or
24 provide for criminal charges against an interactive computer
25 service as defined in s. 668.602, a telephone company, or a
26 cable provider whose equipment is used to transport, handle,
27 or retransmit an unsolicited electronic mail or a computer
28 pop-up that violates this section.

29 Section 2. This act shall take effect July 1, 2006.

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 Delete everything before the enacting clause,

4

5 and insert:

6 A bill to be entitled

7 An act relating to the transmission of sexually
8 oriented material or material harmful to a
9 minor; creating s. 847.01385, F.S.; providing a
10 definition relating to the transmission of
11 materials to a minor or person believed to be a
12 minor; prohibiting a person in this state or
13 another jurisdiction from transmitting, by
14 means of electronic mail or computer pop-up,
15 sexually oriented material or material that is
16 harmful to minors to an individual in this
17 state who is a minor or is believed to be a
18 minor; providing that a violation of the act is
19 a felony of the third degree; precluding a
20 defense to prosecution for a violation of the
21 act; providing that the act shall not be
22 construed to prohibit prosecution of a person
23 in this state or another jurisdiction for a
24 violation of any law of this state; exempting
25 list servers from application of the act;
26 providing that the act does not create a cause
27 of action or provide for criminal charges
28 against an interactive computer service,
29 telephone company, or cable provider whose
30 equipment is used in violation of this act;
31 providing an effective date.