

1 847.01385 Transmission of sexually oriented material
2 or material harmful to minors by electronic mail or computer
3 pop-up prohibited; penalties.--

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

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

15 (3) Notwithstanding ss. 847.012 and 847.0133, a person
16 in a jurisdiction other than this state who knows, should
17 know, or believes that an individual in this state is a minor
18 and who transmits, by means of electronic mail or a computer
19 pop-up, sexually oriented material, as defined in s. 847.001,
20 or an image, information, or data that is harmful to minors,
21 as defined in s. 847.001, to such individual commits a felony
22 of the third degree.

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

27 (5) This section shall not be construed to prohibit
28 prosecution of a person in this state or another jurisdiction
29 for a violation of any law of this state, including a law
30 providing for greater penalties than prescribed in this
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1 section, for the transmission of sexually oriented material or
2 material harmful to minors.

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

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

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

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13 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
14 COMMITTEE SUBSTITUTE FOR
15 Senate Bill 1220

- 16 - Provides that a person in this state or in another
17 jurisdiction who "believes" that an individual in this
18 state is a minor and who transmits, by means of
19 electronic mail or a computer pop-up, sexually oriented
20 material or an image, information, or data that is
21 harmful to a minor to such individual commits a third
22 degree felony.
- 23 - Provides that the fact that an undercover operative or
24 law enforcement officer was involved in the detection and
25 investigation of a violation of the act shall not
26 constitute a defense to prosecution under the act.
- 27 - Specifies that the act shall not be construed to prohibit
28 prosecution of a person in this state or another
29 jurisdiction for a violation of any law of this state
30 providing penalties for electronic transmission of
31 sexually oriented materials or material harmful to
minors.
- Provides that the act does not create a cause of action
or provide criminal charges against an interactive
computer service, telephone company, or cable provider
whose equipment is used in violation of the act.