

CS/HB 1243

2009

1                   A bill to be entitled  
2       An act relating to voyeurism; amending s. 810.145, F.S.;  
3       revising the definition of the term "imaging device" to  
4       include a mirror or similar device; providing that a  
5       violation of this section on the premises of a business  
6       does not confer civil liability on the business or its  
7       agents or employees in certain circumstances; providing an  
8       effective date.

9  
10   Be It Enacted by the Legislature of the State of Florida:

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12       Section 1.   Section 810.145, Florida Statutes, is amended  
13   to read:

14       810.145   Video voyeurism.--

15       (1)   As used in this section, the term:

16       (a)   "Broadcast" means electronically transmitting a visual  
17   image with the intent that it be viewed by another person.

18       (b)   "Imaging device" means any mechanical, digital, or  
19   electronic viewing device, including a mirror or similar device;  
20   still camera; camcorder; motion picture camera; or any other  
21   instrument, equipment, or format capable of recording, storing,  
22   or transmitting visual images of another person.

23       (c)   "Place and time when a person has a reasonable  
24   expectation of privacy" means a place and time when a reasonable  
25   person would believe that he or she could fully disrobe in  
26   privacy, without being concerned that the person's undressing  
27   was being viewed, recorded, or broadcasted by another,

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28 | including, but not limited to, the interior of a bathroom,  
29 | changing room, fitting room, dressing room, or tanning booth.

30 | (d) "Privately exposing the body" means exposing a sexual  
31 | organ.

32 | (2) A person commits the offense of video voyeurism if  
33 | that person:

34 | (a) For his or her own amusement, entertainment, sexual  
35 | arousal, gratification, or profit, or for the purpose of  
36 | degrading or abusing another person, intentionally uses or  
37 | installs an imaging device to secretly view, broadcast, or  
38 | record a person, without that person's knowledge and consent,  
39 | who is dressing, undressing, or privately exposing the body, at  
40 | a place and time when that person has a reasonable expectation  
41 | of privacy;

42 | (b) For the amusement, entertainment, sexual arousal,  
43 | gratification, or profit of another, or on behalf of another,  
44 | intentionally permits the use or installation of an imaging  
45 | device to secretly view, broadcast, or record a person, without  
46 | that person's knowledge and consent, who is dressing,  
47 | undressing, or privately exposing the body, at a place and time  
48 | when that person has a reasonable expectation of privacy; or

49 | (c) For the amusement, entertainment, sexual arousal,  
50 | gratification, or profit of oneself or another, or on behalf of  
51 | oneself or another, intentionally uses an imaging device to  
52 | secretly view, broadcast, or record under or through the  
53 | clothing being worn by another person, without that person's  
54 | knowledge and consent, for the purpose of viewing the body of,  
55 | or the undergarments worn by, that person.

56 (3) A person commits the offense of video voyeurism  
57 dissemination if that person, knowing or having reason to  
58 believe that an image was created in a manner described in this  
59 section, intentionally disseminates, distributes, or transfers  
60 the image to another person for the purpose of amusement,  
61 entertainment, sexual arousal, gratification, or profit, or for  
62 the purpose of degrading or abusing another person.

63 (4) A person commits the offense of commercial video  
64 voyeurism dissemination if that person:

65 (a) Knowing or having reason to believe that an image was  
66 created in a manner described in this section, sells the image  
67 for consideration to another person; or

68 (b) Having created the image in a manner described in this  
69 section, disseminates, distributes, or transfers the image to  
70 another person for that person to sell the image to others.

71 (5) This section does not apply to any:

72 (a) Law enforcement agency conducting surveillance for a  
73 law enforcement purpose;

74 (b) Security system when a written notice is conspicuously  
75 posted on the premises stating that a video surveillance system  
76 has been installed for the purpose of security for the premises;

77 (c) Video surveillance device that is installed in such a  
78 manner that the presence of the device is clearly and  
79 immediately obvious; or

80 (d) Dissemination, distribution, or transfer of images  
81 subject to this section by a provider of an electronic  
82 communication service as defined in 18 U.S.C. s. 2510(15), or a  
83 provider of a remote computing service as defined in 18 U.S.C.

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84 s. 2711(2). For purposes of this section, the exceptions to the  
85 definition of "electronic communication" set forth in 18 U.S.C.  
86 s. 2510(12)(a), (b), (c), and (d) do not apply, but are included  
87 within the definition of the term.

88 (6) Except as provided in subsections (7) and (8), a  
89 person who violates this section commits a misdemeanor of the  
90 first degree, punishable as provided in s. 775.082 or s.  
91 775.083.

92 (7) A person who violates this section and who has  
93 previously been convicted of or adjudicated delinquent for any  
94 violation of this section commits a felony of the third degree,  
95 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

96 (8)(a) A person who is:

97 1. Eighteen years of age or older who is responsible for  
98 the welfare of a child younger than 16 years of age, regardless  
99 of whether the person knows or has reason to know the age of the  
100 child, and who commits an offense under this section against  
101 that child;

102 2. Eighteen years of age or older who is employed at a  
103 private school as defined in s. 1002.01; a school as defined in  
104 s. 1003.01; or a voluntary prekindergarten education program as  
105 described in s. 1002.53(3)(a), (b), or (c) and who commits an  
106 offense under this section against a student of the private  
107 school, school, or voluntary prekindergarten education program;  
108 or

109 3. Twenty-four years of age or older who commits an  
110 offense under this section against a child younger than 16 years

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111 of age, regardless of whether the person knows or has reason to  
112 know the age of the child

113

114 commits a felony of the third degree, punishable as provided in  
115 s. 775.082, s. 775.083, or s. 775.084.

116 (b) A person who violates this subsection and who has  
117 previously been convicted of or adjudicated delinquent for any  
118 violation of this section commits a felony of the second degree,  
119 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

120 (9) For purposes of this section, a person has previously  
121 been convicted of or adjudicated delinquent for a violation of  
122 this section if the violation resulted in a conviction that was  
123 sentenced separately, or an adjudication of delinquency entered  
124 separately, prior to the current offense.

125 (10) This section does not confer civil liability upon a  
126 business or its agents or employees who act reasonably if a  
127 violation of this section occurs on the premises of the  
128 business.

129 Section 2. This act shall take effect October 1, 2009.