

Regular Session, 2012

SENATE BILL NO. 686

BY SENATORS ADLEY AND THOMPSON

CRIME/PUNISHMENT. Provides relative to the crime of obscenity. (8/1/12)

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AN ACT

To amend and reenact R.S. 14:106(A)(7)(a) and to enact R.S. 14:106(A)(8), relative to the crime of obscenity; to add the intentional transmission of sexually explicit text messages to the definition of the crime of obscenity; to provide for additional definitions; to provide for penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:106(A)(7)(a) is hereby amended and reenacted and R.S. 14:106(A)(8) is hereby enacted to read as follows:

§106. Obscenity

A. The crime of obscenity is the intentional:

\* \* \*

(7)(a) **Transmission or causing to be transmitted by a** No person, knowing the content of an advertisement to be sexually explicit as defined in this Paragraph, ~~shall transmit or cause to be transmitted~~ **of** an unsolicited advertisement in an electronic communication to one or more persons within this state that contains sexually explicit materials without including in the advertisement the term "ADV-ADULT" at the beginning of the subject line of the advertisement. A "subject line"

1 is the area of an electronic communication that contains a summary description of  
2 the content of the message.

3 \* \* \*

4 **(8)(a) Transmission or causing to be transmitted by a person, knowing**  
5 **the content of a text message to be sexually explicit as defined in this Paragraph,**  
6 **of an unsolicited text message to a wireless telecommunications device of one or**  
7 **more persons within this state that contains sexually explicit materials.**

8 **(b) As used in this Paragraph:**

9 **(i) "Sexually explicit" means the graphic depiction of sex, including but**  
10 **not limited to sexual audio, text, or images, the depiction of sexual activity,**  
11 **nudity, or sexually oriented language and is obscene as defined in R.S.**  
12 **14:106(A)(3)(b).**

13 **(ii) "Wireless telecommunications device" means a cellular telephone,**  
14 **a text-messaging device, a personal digital assistant, a tablet computer, or any**  
15 **other substantially similar wireless device.**

16 **(c) Anyone found to have violated the provisions of Paragraphs (7) or**  
17 **(8) of this Section may be fined not less than one hundred nor more than five**  
18 **hundred dollars and such fine shall be deposited into a special fund to address**  
19 **the needs of victims of sexual abuse.**

20 \* \* \*

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The original instrument was prepared by Alden A. Clement, Jr. The following digest, which does not constitute a part of the legislative instrument, was prepared by Tammy Crain-Waldrop.

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#### DIGEST

Adley (SB 686)

Present law creates and defines the crime of obscenity.

Proposed law retains present law and adds to the definition of obscenity the transmission or causing to be transmitted by a person, knowing the content of a text message to be sexually explicit as defined in proposed law, of an unsolicited text message to a wireless telecommunications device of one or more persons within this state that contains sexually explicit materials.

Proposed law defines "sexually explicit" as the graphic depiction of sex, including but not limited to sexual audio, text, or images, depiction of sexual activity, nudity, or sexually

oriented language and is obscene as defined in R.S. 14:106(A)(3)(b).

Proposed law defines "wireless telecommunications device" as a cellular telephone, a text-messaging device, a personal digital assistant, a tablet computer, or any other substantially similar wireless device.

Proposed law states that anyone who violates the provisions of proposed law may be fined not less than \$100 nor more than \$500 and such fine shall be deposited into a special fund to address the needs of victims of sexual abuse.

Effective August 1, 2012.

(Amends R.S. 14:106(A)(7)(a); adds R.S. 14:106(A)(8))

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Changes the definition of "sexually explicit".
2. Provides for penalties.