

SENATE BILL NO. 686

BY SENATORS ADLEY AND THOMPSON

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AN ACT

To amend and reenact R.S. 14:106(A)(7)(a) and (G) 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) and (G) are 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 the transmission 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 containing sexually explicit materials** 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" is the area of an electronic communication that contains a summary description of the content of the message.

\* \* \*

**(8)(a) Transmission or causing the transmission by a person, knowing its content to be sexually explicit as defined in this Paragraph, of an unsolicited text message containing sexually explicit materials to a wireless telecommunications device of one or more persons within this state.**

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

**(i) "Sexually explicit" means the graphic depiction of sex, including but**

1 not limited to sexual audio, text, or images, the depiction of sexual activity,  
 2 nudity, or sexually oriented language and is obscene as defined in R.S.  
 3 14:106(A)(3)(b).

4 (ii) "Wireless telecommunications device" means a cellular telephone,  
 5 a text-messaging device, a personal digital assistant, a tablet computer, or any  
 6 other substantially similar wireless device.

7 \* \* \*

8 G.(1) ~~On~~ Except as provided in Paragraph (5) of this Subsection, on a  
 9 first conviction, whoever commits the crime of obscenity shall be fined not less than  
 10 one thousand dollars nor more than two thousand five hundred dollars, or  
 11 imprisoned, with or without hard labor, for not less than six months nor more than  
 12 three years, or both.

13 (2)(a) ~~On~~ Except as provided in Paragraph (5) of this Subsection, on a  
 14 second conviction, the offender shall be imprisoned, with or without hard labor for  
 15 not less than six months nor more than three years, and in addition may be fined not  
 16 less than two thousand five hundred dollars nor more than five thousand dollars.

17 (b) The imprisonment provided for in Subparagraph (a) of this Paragraph,  
 18 may be imposed at court discretion if the court determines that the offender, due to  
 19 his employment, could not avoid engagement in the offense. This Subparagraph (b)  
 20 shall not apply to the manager or other person in charge of an establishment selling  
 21 or exhibiting obscene material.

22 (3) ~~On~~ Except as provided in Paragraph (5) of this Subsection, on a third  
 23 or subsequent conviction, the offender shall be imprisoned with or without hard labor  
 24 for not less than two years nor more than five years, and in addition may be fined not  
 25 less than five thousand dollars nor more than ten thousand dollars.

26 (4) When a violation of Paragraph (1), (2), or (3) of Subsection A of this  
 27 Section is with or in the presence of an unmarried person under the age of seventeen  
 28 years, the offender shall be fined not more than ten thousand dollars and shall be  
 29 imprisoned, with or without hard labor, for not less than two years nor more than five  
 30 years, without benefit of parole, probation, or suspension of sentence.

