

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

S

D

SENATE DRS75037-LHz-23A* (12/18)

Short Title: Duty To Report Child Porn. (Public)

Sponsors: Senator Goss.

Referred to:

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT A RETAIL OR WHOLESALE FILM PROCESSOR,
2 PHOTO FINISHER, OR COMPUTER TECHNICIAN WHO, IN THE COURSE
3 OF WORK, ENCOUNTERS AN IMAGE OF A MINOR ENGAGING IN SEXUAL
4 ACTIVITY MUST REPORT THE NAME OF THE CUSTOMER REQUESTING
5 THE DEVELOPMENT OF THE FILM OR IN POSSESSION OF THE
6 COMPUTER TO THE NATIONAL CENTER FOR MISSING AND EXPLOITED
7 CHILDREN AND TO THE APPROPRIATE LOCAL LAW ENFORCEMENT
8 OFFICER.
9

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** G.S. 14-190.13 reads as rewritten:

12 "**§ 14-190.13. Definitions for certain offenses concerning minors.**

13 The following definitions apply to G.S. 14-190.14, displaying material harmful to
14 minors; G.S. 14-190.15, disseminating or exhibiting to minors harmful material or
15 performances; G.S. 14-190.16, first degree sexual exploitation of a minor;
16 G.S. 14-190.17, second degree sexual exploitation of a minor; G.S. 14-190.17A, third
17 degree sexual exploitation of a minor; G.S. 14-190.18, promoting prostitution of a
18 minor; ~~and~~ G.S. 14-190.19, participating in prostitution of a ~~minor~~ minor, and
19 G.S. 14-190.25, film processor or computer technician to report film or computer
20 images containing pictures of a minor engaging in sexual activity.

21 (1) Harmful to Minors. – That quality of any material or performance that
22 depicts sexually explicit nudity or sexual activity and that, taken as a
23 whole, has the following characteristics:

- 24 a. The average adult person applying contemporary community
25 standards would find that the material or performance has a
26 predominant tendency to appeal to a prurient interest of minors
27 in sex; and

- 1 b. The average adult person applying contemporary community
- 2 standards would find that the depiction of sexually explicit
- 3 nudity or sexual activity in the material or performance is
- 4 patently offensive to prevailing standards in the adult
- 5 community concerning what is suitable for minors; and
- 6 c. The material or performance lacks serious literary, artistic,
- 7 political, or scientific value for minors.
- 8 (2) Material. – Pictures, drawings, video recordings, films or other visual
- 9 depictions or representations but not material consisting entirely of
- 10 written words.
- 11 (3) Minor. – An individual who is less than 18 years old and is not
- 12 married or judicially emancipated.
- 13 (4) Prostitution. – Engaging or offering to engage in sexual activity with
- 14 or for another in exchange for anything of value.
- 15 (5) Sexual Activity. – Any of the following acts:
- 16 a. Masturbation, whether done alone or with another human or an
- 17 animal.
- 18 b. Vaginal, anal, or oral intercourse, whether done with another
- 19 human or with an animal.
- 20 c. Touching, in an act of apparent sexual stimulation or sexual
- 21 abuse, of the clothed or unclothed genitals, pubic area, or
- 22 buttocks of another person or the clothed or unclothed breasts
- 23 of a human female.
- 24 d. An act or condition that depicts torture, physical restraint by
- 25 being fettered or bound, or flagellation of or by a person clad in
- 26 undergarments or in revealing or bizarre costume.
- 27 e. Excretory functions; provided, however, that this
- 28 sub-subdivision shall not apply to G.S. 14-190.17A.
- 29 f. The insertion of any part of a person's body, other than the male
- 30 sexual organ, or of any object into another person's anus or
- 31 vagina, except when done as part of a recognized medical
- 32 procedure.
- 33 (6) Sexually Explicit Nudity. – The showing of:
- 34 a. Uncovered, or less than opaquely covered, human genitals,
- 35 pubic area, or buttocks, or the nipple or any portion of the
- 36 areola of the human female breast, except as provided in
- 37 G.S. 14-190.9(b); or
- 38 b. Covered human male genitals in a discernibly turgid state."

39 **SECTION 2.** Article 26 of Chapter 14 of the General Statutes is amended by
40 adding a new section to read:

41 "**§ 14-190.25. Film processor or computer technician to report film or computer**
42 **images containing pictures of a minor engaging in sexual activity.**

43 Any retail or wholesale film processor or photo finisher who is requested to develop
44 film and any computer technician working with a computer who views an image of a

1 minor or a person who appears to be a minor who is engaging in sexual activity shall
2 report the name and address of the individual requesting the development of the film, or
3 the owner or person in possession of the computer to the Cyber Tip Line at the National
4 Center for Missing and Exploited Children and to the appropriate law enforcement
5 official in the county or municipality in which the image or film was submitted. Any
6 person complying with this section in good faith shall be immune from any civil or
7 criminal liability that might otherwise be incurred as a result of the report."

8 **SECTION 3.** This act becomes effective December 1, 2007.