

76-10-1205 Inducing acceptance of pornographic material -- Exemptions for Internet service providers and hosting companies.

- (1) A person is guilty of inducing acceptance of pornographic material when he knowingly:
- (a) requires or demands as a condition to a sale, allocation, consignment, or delivery for resale of any newspaper, magazine, periodical, book, publication, or other merchandise that the purchaser or consignee receive any pornographic material or material reasonably believed by the purchaser or consignee to be pornographic; or
 - (b) denies, revokes, or threatens to deny or revoke a franchise, or to impose any penalty, financial or otherwise, because of the failure or refusal to accept pornographic material or material reasonably believed by the purchaser or consignee to be pornographic.
- (2)
- (a) An offense under this section is a third degree felony punishable by:
 - (i) a minimum mandatory fine of not less than \$1,000 plus \$10 for each article exhibited up to the maximum allowed by law; and
 - (ii) incarceration, without suspension of sentence in any way, for a term of not less than 30 days.
 - (b) This Subsection (2) supersedes Section 77-18-1.
- (3)
- (a) This section does not apply to an Internet service provider, as defined in Section 76-10-1230, if:
 - (i) the distribution of pornographic material by the Internet service provider occurs only incidentally through the Internet service provider's function of:
 - (A) transmitting or routing data from one person to another person; or
 - (B) providing a connection between one person and another person;
 - (ii) the Internet service provider does not intentionally aid or abet in the distribution of the pornographic material; and
 - (iii) the Internet service provider does not knowingly receive funds from or through a person who distributes the pornographic material in exchange for permitting the person to distribute the pornographic material.
 - (b) This section does not apply to a hosting company, as defined in Section 76-10-1230, if:
 - (i) the distribution of pornographic material by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;
 - (ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the pornographic material; and
 - (iii) the hosting company does not knowingly receive funds from or through a person who distributes the pornographic material in exchange for permitting the person to distribute, store, or cache the pornographic material.

Amended by Chapter 337, 2007 General Session