

By: Turner of Tarrant

H.B. No. 2397

A BILL TO BE ENTITLED

AN ACT

relating to requiring computer technicians to report images of child pornography; providing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 5, Business & Commerce Code, as effective April 1, 2009, is amended by adding Chapter 107 to read as follows:

CHAPTER 107. COMPUTER TECHNICIANS REQUIRED TO REPORT CHILD PORNOGRAPHY

Sec. 107.001. DEFINITIONS. In this chapter:

(1) "Child pornography" means an image of a child engaging in sexual conduct or sexual performance.

(2) "Commercial mobile service provider" has the meaning assigned by Section 64.201, Utilities Code.

(3) "Computer technician" means an individual who in the course and scope of employment or business installs, repairs, or otherwise services a computer for a fee.

(4) "Information service provider" includes an Internet service provider and hosting service provider.

(5) "Sexual conduct" and "sexual performance" have the meanings assigned by Section 43.25, Penal Code.

(6) "Telecommunications provider" has the meaning assigned by Section 51.002, Utilities Code.

Sec. 107.002. REPORTING OF IMAGES OF CHILD PORNOGRAPHY. A

1 computer technician who in the course and scope of employment or  
2 business views an image on a computer that is or appears to be child  
3 pornography shall immediately report the discovery of the image to  
4 a local or state law enforcement agency or the Cyber Tipline at the  
5 National Center for Missing and Exploited Children. The report  
6 must include the name and address of the owner or person claiming a  
7 right to possession of the computer, if known.

8 Sec. 107.003. IMMUNITY FROM LIABILITY. (a) Except in a  
9 case of wilful or wanton misconduct, a computer technician is  
10 immune from liability in a criminal or civil action brought against  
11 the technician for reporting the discovery of an image under  
12 Section 107.002.

13 (b) A telecommunications provider, commercial mobile  
14 service provider, or information service provider is not liable  
15 under this chapter for the failure to report child pornography that  
16 is transmitted or stored by a user of the service.

17 Sec. 107.004. CRIMINAL PENALTY. (a) A person who violates  
18 this chapter commits an offense. An offense under this subsection  
19 is a Class B misdemeanor.

20 (b) It is a defense to prosecution under this section that  
21 the actor did not report the discovery of an image of child  
22 pornography because the child in the image appeared to be at least  
23 18 years of age.

24 SECTION 2. This Act takes effect September 1, 2009.