

By: Kolkhorst

S.B. No. 1811

A BILL TO BE ENTITLED

AN ACT

relating to certain publications of intimate visual material by a business; providing civil penalties.

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

SECTION 1. Subtitle C, Title 5, Business & Commerce Code, is amended by adding Chapter 111 to read as follows:

CHAPTER 111. BUSINESS ENTITIES ENGAGED IN PUBLICATION OF INTIMATE VISUAL MATERIAL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 111.001. DEFINITIONS. In this chapter:

(1) "Intimate visual material" means visual material that depicts sexual contact, actual or simulated sexual intercourse, or the exhibition of a person's genitals, anus, or any portion of the female breast below the top of the areola.

(2) "Publish" means to communicate or make information available to another person by means of telecommunications, including communicating information on an Internet website, computer bulletin board, or similar system.

(3) "Visual material" has the meaning assigned by Section 43.26, Penal Code.

Sec. 111.002. APPLICABILITY OF CHAPTER. (a) This chapter applies only to a business entity that is registered with the secretary of state.

(b) This chapter does not apply to an Internet service

1 provider, cable operator, telecommunications service, or provider
2 of an electronic communications service.

3 SUBCHAPTER B. NOTICE AND REMOVAL REQUIRED

4 Sec. 111.051. NOTICE REQUIRED FOR INTIMATE VISUAL MATERIAL.

5 (a) A business entity that publishes intimate visual material shall
6 clearly and conspicuously publish notice on each page the material
7 appears that includes:

8 (1) a statement that the business entity is required
9 to remove intimate visual material that depicts an individual who
10 did not consent to the publication of the material;

11 (2) a statement that any person, including a person
12 not depicted in the material, may request that the business entity
13 remove the material from publication;

14 (3) a statement that the business entity will remove
15 the material from publication not more than 24 hours after
16 receiving the request; and

17 (4) an e-mail address, fax number, or mailing address
18 to enable a person to request removal of the material from
19 publication.

20 (b) The notice must be prominently posted in at least
21 12-point Helvetica or Times New Roman font.

22 Sec. 111.052. REQUEST FOR REMOVAL OF INTIMATE VISUAL
23 MATERIAL. (a) A business entity that receives a request for the
24 removal of intimate visual material from publication shall remove
25 the material not less than 24 hours after the business entity
26 receives the request if the business entity does not have proof that
27 the individual depicted in the intimate visual material consented

1 to the publication of the material.

2 Sec. 111.053. REMOVAL OTHERWISE REQUIRED. A business
3 entity may not publish intimate visual material that includes an
4 image of an individual if the business entity knows or should know
5 that the individual does not consent to the publication.

6 SUBCHAPTER C. CIVIL PENALTIES AND REMEDIES

7 Sec. 111.101. CIVIL PENALTY; INJUNCTION. (a) A business
8 entity that violates a provision of this chapter is liable to the
9 state for a civil penalty in an amount not to exceed \$500 for each
10 day that each violation occurs.

11 (b) The attorney general or an appropriate prosecuting
12 attorney may sue to collect a civil penalty under this section.

13 (c) A civil penalty collected under this section shall be
14 deposited in the state treasury to the credit of the general revenue
15 fund.

16 (d) The attorney general may bring an action in the name of
17 the state to restrain or enjoin a violation or threatened violation
18 of this chapter.

19 Sec. 111.102. CIVIL LIABILITY. (a) A business entity that
20 publishes intimate visual material in violation of Section 111.053
21 or refuses to remove an image in violation of Section 111.052 is
22 liable to the individual depicted in the material in an amount not
23 to exceed \$500 for each separate violation and, in the case of a
24 continuing violation, \$500 for each subsequent day on which the
25 violation occurs.

26 (b) In an action brought under this section, the court may
27 grant injunctive relief to prevent or restrain a violation of this

1 chapter.

2 (c) An individual who prevails in an action brought under
3 this section is also entitled to recover court costs and reasonable
4 attorney's fees.

5 (d) Venue for a suit brought under this section is:

6 (1) in the county in which the individual resides;

7 (2) in the county in which the business entity has its
8 principal place of business; or

9 (3) in Travis County.

10 SECTION 2. This Act takes effect January 1, 2016.