

government and its existing public institutions, and shall take effect June 30, 1986.

Passed the Senate March 12, 1986.

Passed the House March 11, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 1(6), Senate Bill No. 3397, entitled:

"AN ACT Relating to game and game fish."

Section 1(6) of this bill would direct to the Game Fund, rather than to the Public Safety and Education fund, reimbursements to the state for the value of game animals taken illegally.

These reimbursements were directed to the Public Safety and Education Fund by the 1984 Court Reform Act, which did away with a very cumbersome system of separate accounting for numerous small special purpose court collections. The unified and simplified system now in place is vastly superior to its predecessor. The change contemplated by this subsection would be a step backward toward the old system. Moreover, the change is unnecessary because the Game Department receives appropriations from the Public Safety and Education Fund.

For this reason, I have vetoed section 1(6) of Senate Bill No. 3397."

CHAPTER 319

[Engrossed Senate Bill No. 4705]

COMMUNICATING WITH A MINOR FOR IMMORAL PURPOSES

AN ACT Relating to communications with minors for immoral purposes; amending RCW 9.68A.090, 9.68A.050, and 9.68A.110; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

***Sec. 1. Section 4, chapter 262, Laws of 1984 and RCW 9.68A.050 are each amended to read as follows:**

A person who:

(1) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, finances, attempts to finance, or sells any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct; or

(2) Possesses with intent to develop, duplicate, publish, print, disseminate, exchange, or sell any visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct; or

(3) Knowingly exposes a minor to visual or printed matter that depicts a minor engaged in an act of sexually explicit conduct
is guilty of a class C felony punishable under chapter 9A.20 RCW.

((3)) (4) As used in this section, "minor" means a person under ((sixteen)) eighteen years of age.

*Sec. 1 was vetoed, see message at end of chapter.

Sec. 2. Section 8, chapter 262, Laws of 1984 and RCW 9.68A.090 are each amended to read as follows:

(1) A person who communicates with a minor for immoral purposes is guilty of a gross misdemeanor, unless that person has previously been convicted under this section or of a felony sexual offense under chapter 9.68A, 9A.44, or 9A.64 RCW or of any other felony sexual offense in this or any other state, in which case the person is guilty of a class C felony punishable under chapter 9A.20 RCW.

(2) As used in this section, "minor" means a person under ~~((sixteen))~~ eighteen years of age.

Sec. 3. Section 10, chapter 262, Laws of 1984 and RCW 9.68A.110 are each amended to read as follows:

(1) In a prosecution under RCW 9.68A.040, it is not a defense that the defendant was involved in activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses. Law enforcement and prosecution agencies shall not employ minors to aid in the investigation of a violation of RCW 9.68A.090 or 9.68A.100. This chapter does not apply to individual case treatment in a recognized medical facility or individual case treatment by a psychiatrist or psychologist licensed under Title 18 RCW, or to lawful conduct between spouses.

(2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or 9.68A.080, it is not a defense that the defendant did not know the age of the child depicted in the visual or printed matter: PROVIDED, That it is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense the defendant was not in possession of any facts on the basis of which he or she should reasonably have known that the person depicted was a minor.

(3) In a prosecution under RCW 9.68A.040, 9.68A.090, or 9.68A.100, it is not a defense that the defendant did not know the alleged victim's age: PROVIDED, That it is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense, the defendant reasonably believed the alleged victim to be at least eighteen years of age based on declarations by the alleged victim.

(4) In a prosecution under RCW 9.68A.050(~~(;)~~) or 9.68A.060(~~(; or 9.68A.090)~~), it is not a defense that the defendant did not know the alleged victim's age: PROVIDED, That it is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense, the defendant reasonably believed the alleged victim to be at least sixteen years of age based on declarations by the alleged victim.

(5) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070, the state is not required to establish the identity of the alleged victim.

Passed the Senate March 11, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 4, 1986, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 4, 1986.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 1, Engrossed Senate Bill No. 4705, entitled:

"AN ACT Relating to communications with minors for immoral purposes."

Minors should be protected from exposure to sexually explicit material. Unfortunately, the language used in section 1 of this measure is both broad and unclear, and poses serious problems for libraries. Library staff would have to begin policing minors who use their facilities, and this is not an appropriate role. Unfortunately, provisions which would have exempted libraries and their staff from having to enforce this provision were deleted from the bill.

Selection of books for public libraries has historically been the responsibility of local library boards; I am satisfied this system continues to provide adequate safeguards for communities. Additionally, there are materials used by professional counselors and caseworkers in working with sexually abused children which may be suspect under this section.

Also, the definition of "minor" in section 1 is changed to age eighteen, which puts it in conflict with RCW 9.68A.110 — the defense section to RCW 9.68A.050 — which still refers to the age of a minor as sixteen. This will create serious problems and make the law unenforceable.

With the exception of section 1, Engrossed Senate Bill No. 4705 is approved."

CHAPTER 320

[Engrossed Senate Bill No. 4620]

MOTOR VEHICLE FUELS—RETAIL TRADING PRACTICES

AN ACT Relating to retail trading practices in the sale of motor vehicle fuels; adding a new chapter to Title 19 RCW; creating a new section; prescribing penalties; making an appropriation; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

*NEW SECTION. Sec. 1. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Advertisement" means any written or printed communication or any communication by means of recorded telephone messages or spoken on radio, television, or similar communication media published in connection with an offer or sale of a franchise.

(2) "Affiliate" means any person, firm, or corporation who controls or is controlled by any motor fuel refiner-supplier, and includes any subsidiary or affiliated corporation in which the motor fuel refiner-supplier or its shareholders, officers, agents, or employees hold or control more than twenty-five percent of the voting shares.