

**SSB 6251 - S AMD 35**

By Senators Kline, Kohl-Welles, Padden

ADOPTED 02/08/2012

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds it unacceptable that  
4 Washington's children are being sold for sex in advertisements. A 2008  
5 Seattle human services department report estimated that there are three  
6 hundred to five hundred children being exploited for sex in the Seattle  
7 area alone each year. The legislature finds that the practice of  
8 escort services advertising includes minors who are being sold for sex,  
9 a form of sex trafficking and commercial sexual abuse of minors.  
10 According to the Seattle police department, since the beginning of  
11 2010, at least twenty-two children have been advertised online in the  
12 Seattle area for commercial sex and were recovered by the police  
13 department. The legislature is committed to eliminating sex  
14 trafficking of minors in a manner consistent with federal laws  
15 prohibiting sexual exploitation of children.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.68A RCW  
17 to read as follows:

18 (1) A person commits the offense of advertising commercial sexual  
19 abuse of a minor if he or she knowingly publishes, disseminates, or  
20 displays, or causes directly or indirectly, to be published,  
21 disseminated, or displayed, any advertisement for a commercial sex act,  
22 which is to take place in the state of Washington and that includes the  
23 depiction of a minor.

24 (a) "Advertisement for a commercial sex act" means any  
25 advertisement or offer in electronic or print media, which includes  
26 either an explicit or implicit offer for a commercial sex act to occur  
27 in Washington.

28 (b) "Commercial sex act" means any act of sexual contact or sexual

1 intercourse, both as defined in chapter 9A.44 RCW, for which something  
2 of value is given or received by any person.

3 (c) "Depiction" as used in this section means any photograph or  
4 visual or printed matter as defined in RCW 9.68A.011 (2) and (3).

5 (2) In a prosecution under this statute it is not a defense that  
6 the defendant did not know the age of the minor depicted in the  
7 advertisement. It is a defense, which the defendant must prove by a  
8 preponderance of the evidence, that the defendant made a reasonable  
9 bona fide attempt to ascertain the true age of the minor depicted in  
10 the advertisement by requiring, prior to publication, dissemination, or  
11 display of the advertisement, production of a driver's license,  
12 marriage license, birth certificate, or other governmental or  
13 educational identification card or paper of the minor depicted in the  
14 advertisement and did not rely solely on oral or written  
15 representations of the minor's age, or the apparent age of the minor as  
16 depicted. In order to invoke the defense, the defendant must produce  
17 for inspection by law enforcement a record of the identification used  
18 to verify the age of the person depicted in the advertisement.

19 (3) Advertising commercial sexual abuse of a minor is a class C  
20 felony.

21 NEW SECTION. **Sec. 3.** If any part of this act is found to be in  
22 conflict with federal requirements that are a prescribed condition to  
23 the allocation of federal funds to the state, the conflicting part of  
24 this act is inoperative solely to the extent of the conflict and with  
25 respect to the agencies directly affected, and this finding does not  
26 affect the operation of the remainder of this act in its application to  
27 the agencies concerned. Rules adopted under this act must meet federal  
28 requirements that are a necessary condition to the receipt of federal  
29 funds by the state."

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1        On page 1, line 1 of the title, after "minor;" strike the remainder  
2 of the title and insert "adding a new section to chapter 9.68A RCW;  
3 creating new sections; and prescribing penalties."

EFFECT: Clarifies that a person commits the applicable offense if he or she knowingly publishes, disseminates, or displays, or causes directly or indirectly, to be published, disseminated, or displayed, any advertisement for a commercial sex act, which is to take place in this state and that includes the depiction of a minor. Adds definitions for advertisement for commercial sex act, commercial sex act, and depiction. Adds a recordkeeping component to the defense against the applicable offense. Adds a federal severability clause.

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