



General Assembly

February Session, 2010

Amendment

LCO No. 5132

SB0042705132SR0

Offered by:

SEN. MCKINNEY, 28th Dist.

SEN. FASANO, 34th Dist.

To: Subst. Senate Bill No. 427

File No. 235

Cal. No. 164

**"AN ACT CONCERNING THE USE OF HAND-HELD MOBILE
TELEPHONES AND MOBILE ELECTRONIC DEVICES BY MOTOR
VEHICLE OPERATORS."**

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. (NEW) (*Effective October 1, 2010*) (a) (1) No person who is
4 thirteen years of age or older but under eighteen years of age may
5 knowingly possess any visual depiction of child pornography that the
6 subject of such visual depiction knowingly and voluntarily transmitted
7 by means of an electronic communication device to such person and in
8 which the subject of such visual depiction is a person thirteen years of
9 age or older but under sixteen years of age.

10 (2) No person who is thirteen years of age or older but under sixteen
11 years of age may knowingly and voluntarily transmit by means of an
12 electronic communication device a visual depiction of child
13 pornography in which such person is the subject of such visual

14 depiction to another person who is thirteen years of age or older but
15 under eighteen years of age.

16 (b) As used in this section, "child pornography" and "visual
17 depiction" have the same meanings as provided in section 53a-193 of
18 the general statutes, and "electronic communication device" means any
19 electronic device that is capable of transmitting a visual depiction,
20 including a computer, computer network and computer system, as
21 those terms are defined in section 53a-250 of the general statutes, and a
22 cellular or wireless telephone.

23 (c) Any person who violates the provisions of this section shall be
24 guilty of a class A misdemeanor.

25 Sec. 502. Section 53a-196d of the general statutes is repealed and the
26 following is substituted in lieu thereof (*Effective October 1, 2010*):

27 (a) A person is guilty of possessing child pornography in the first
28 degree when such person knowingly possesses fifty or more visual
29 depictions of child pornography.

30 (b) In any prosecution for an offense under this section, it shall be an
31 affirmative defense that the acts of the defendant, if proven, would
32 constitute a violation of section 501 of this act.

33 [(b)] (c) Possessing child pornography in the first degree is a class B
34 felony and any person found guilty under this section shall be
35 sentenced to a term of imprisonment of which five years of the
36 sentence imposed may not be suspended or reduced by the court.

37 Sec. 503. Section 53a-196e of the general statutes is repealed and the
38 following is substituted in lieu thereof (*Effective October 1, 2010*):

39 (a) A person is guilty of possessing child pornography in the second
40 degree when such person knowingly possesses twenty or more but
41 fewer than fifty visual depictions of child pornography.

42 (b) In any prosecution for an offense under this section, it shall be an

43 affirmative defense that the acts of the defendant, if proven, would
44 constitute a violation of section 501 of this act.

45 [(b)] (c) Possessing child pornography in the second degree is a class
46 C felony and any person found guilty under this section shall be
47 sentenced to a term of imprisonment of which two years of the
48 sentence imposed may not be suspended or reduced by the court.

49 Sec. 504. Section 53a-196f of the general statutes is repealed and the
50 following is substituted in lieu thereof (*Effective October 1, 2010*):

51 (a) A person is guilty of possessing child pornography in the third
52 degree when such person knowingly possesses fewer than twenty
53 visual depictions of child pornography.

54 (b) In any prosecution for an offense under this section, it shall be an
55 affirmative defense that the acts of the defendant, if proven, would
56 constitute a violation of section 501 of this act.

57 [(b)] (c) Possessing child pornography in the third degree is a class
58 D felony and any person found guilty under this section shall be
59 sentenced to a term of imprisonment of which one year of the sentence
60 imposed may not be suspended or reduced by the court.

61 Sec. 505. Section 53a-196g of the general statutes is repealed and the
62 following is substituted in lieu thereof (*Effective October 1, 2010*):

63 In any prosecution for a violation of section 53a-196d, 53a-196e or
64 53a-196f, as amended by this act, or section 501 of this act, it shall be an
65 affirmative defense that (1) the defendant (A) possessed fewer than
66 three visual depictions of child pornography, (B) did not knowingly
67 purchase, procure, solicit or request such visual depictions or
68 knowingly take any other action to cause such visual depictions to
69 come into the defendant's possession, and (C) promptly and in good
70 faith, and without retaining or allowing any person, other than a law
71 enforcement agency, to access any visual depiction or copy thereof,
72 took reasonable steps to destroy each such visual depiction or reported

73 the matter to a law enforcement agency and afforded that agency
74 access to each such visual depiction, or (2) the defendant possessed a
75 visual depiction of a nude person under sixteen years of age for a bona
76 fide artistic, medical, scientific, educational, religious, governmental or
77 judicial purpose."