

The House Committee on Judiciary Non-civil offers the following substitute to SB 316:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,
2 relating to obscenity and related offenses, so as to provide for affirmative defenses for the
3 offense of distributing obscene materials; to change provisions relating to the crime of
4 electronically furnishing obscene material to minors; to provide that a person commits this
5 crime if such person furnishes to an individual whom the person knows or should have
6 known is a minor any product which contains or reveals or gives access to any user name,
7 log-in code, password, number, or other information which enables a person to access one
8 or more Internet sites containing certain material which is harmful to minors in that it appeals
9 to and incites prurient interest; to provide for related matters; to provide for an effective date
10 and applicability; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Article 3 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to
14 obscenity and related offenses, is amended by striking subsection (e) of Code Section
15 16-12-80, relating to the affirmative defense for the offense of distributing obscene
16 materials, and inserting in its place a new subsection to read as follows:

17 "(e) It is an affirmative defense under this Code section that selling, lending, renting,
18 leasing, giving, advertising, publishing, exhibiting, or otherwise disseminating
19 ~~dissemination~~ of the material was restricted to:

20 (1) A person associated with an institution of higher learning, either as a member of the
21 faculty or a matriculated student, teaching or pursuing a course of study related to such
22 material; or

23 (2) A person whose receipt of such material was authorized in writing by a licensed
24 medical practitioner or psychiatrist."

1 female, whether alone or between members of the same or opposite sex or between
2 humans and animals in an act of apparent sexual stimulation or gratification.

3 (8) 'Sexual excitement' means the condition of human male or female genitals or the
4 breasts of the female when in a state of sexual stimulation.

5 (b) A person commits the crime of electronically furnishing obscene materials to minors
6 if:

7 (1) Knowing or having good reason to know the character of the material ~~furnished~~, the
8 person either furnishes to an individual whom the person knows or should have known
9 is a minor any prepaid Internet access product which would enable the minor to access
10 any of the following material over the Internet or electronically furnishes to an individual
11 whom the person knows or should have known is a minor any of the following material:

12 (A) Any picture, photograph, drawing, or similar visual representation or image of a
13 person or portion of a human body which depicts sexually explicit nudity, sexual
14 conduct, or sadomasochistic abuse and which is harmful to minors; or

15 (B) Any written or aural matter that contains material of the nature described in
16 subparagraph (A) of this paragraph or contains explicit verbal descriptions or narrative
17 accounts of sexual conduct, sexual excitement, or sadomasochistic abuse;

18 (2) The offensive portions of the material electronically furnished to the minor are not
19 merely an incidental part of an otherwise nonoffending whole;

20 (3) The material furnished to the minor, taken as a whole, lacks serious literary, artistic,
21 political, or scientific value; and

22 (4) The material furnished to the minor, taken as a whole, is harmful to minors in that it
23 appeals to and incites prurient interest.

24 (c) Any person who violates this Code section shall be guilty of a misdemeanor of a high
25 and aggravated nature."

26 **SECTION 3.**

27 This Act shall become effective upon its approval by the Governor or upon its becoming law
28 without such approval and shall apply with respect to offenses committed on or after that
29 effective date. Prior offenses shall continue to be governed by prior law.

30 **SECTION 4.**

31 All laws and parts of laws in conflict with this Act are repealed.