

FIRST REGULAR SESSION

SENATE BILL NO. 255

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATORS GROSS, RUSSELL, FOSTER AND LOUDON.

Read 1st time January 9, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0864S.011

AN ACT

To repeal sections 565.090 and 573.100, RSMo 2000, relating to improper communications, and to enact in lieu thereof two new sections relating to the same subject, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 565.090 and 573.100, RSMo 2000, are repealed and two new sections enacted in lieu thereof, to be known as sections 565.090 and 573.100, to read as follows:

565.090. 1. A person commits the crime of harassment if for the purpose of frightening or disturbing another person, he **or she**:

(1) Communicates in writing, **by computer electronic mail** or by telephone a threat to commit any felony; or

(2) Makes a telephone call, **sends computer electronic mail**, or communicates in writing and uses coarse language offensive to one of average sensibility; or

(3) Makes a telephone call **or sends computer electronic mail** anonymously; or

(4) Makes repeated telephone calls **or computer electronic mailings**;

(5) Continues to send unsolicited computer electronic mailings after a recipient requests that the mailings stop.

2. Harassment is a class A misdemeanor.

573.100. 1. As used in this section, the following terms mean:

(1) "Indecent", language or material that depicts or describes, in terms patently offensive as measured by contemporary community standards, sexual or excretory activities or organs;

(2) "Obscene", any comment, request, suggestion or proposal is obscene if:

(a) Applying contemporary community standards, its predominant appeal is to prurient interest in sex; and

(b) Taken as a whole with respect to the average person, applying contemporary

community standards, it depicts or describes sexual conduct in a patently offensive way; and

(c) Taken as a whole, it lacks serious literary, artistic, political or scientific value. Obscenity shall be judged with reference to its impact upon ordinary adults.

2. It shall be unlawful for any person, by means of a telephone communication **or computer electronic mail** for commercial purposes, to make directly or by means of an electronic recording device, any comment, request, suggestion, or proposal which is obscene or indecent. Any person who makes any such comment, request, suggestion, or proposal shall be in violation of the provisions of this section regardless of whether such person placed or initiated the telephone call **or computer electronic mail**.

3. It shall be unlawful for any person to permit knowingly any telephone or telephone facility connected to a local exchange telephone under such person's control to be used for any purpose prohibited by subsection 2 of this section.

4. Any person who violates any provision of this section is guilty of a class A misdemeanor unless such person has pleaded guilty to or has been found guilty of the same offense committed at a different time, in which case the violation is a class D felony. For purposes of this subsection, each violation constitutes a separate offense.

5. The prohibitions and penalties contained herein are not applicable to a telecommunications company as defined in section 386.020, RSMo, over whose facilities prohibited communications may be transmitted.

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