

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE**PART I - CRIMES****CHAPTER 110 - SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN****§ 2252. Certain activities relating to material involving the sexual exploitation of minors**

(a) Any person who—

(1) knowingly transports or ships using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means including by computer or mails, any visual depiction, if—

(A) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

(B) such visual depiction is of such conduct;

(2) knowingly receives, or distributes, any visual depiction using any means or facility of interstate or foreign commerce or that has been mailed, or has been shipped or transported in or affecting interstate or foreign commerce, or which contains materials which have been mailed or so shipped or transported, by any means including by computer, or knowingly reproduces any visual depiction for distribution using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce or through the mails, if—

(A) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

(B) such visual depiction is of such conduct;

(3) either—

(A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States, or in the Indian country as defined in section 1151 of this title, knowingly sells or possesses with intent to sell any visual depiction; or

(B) knowingly sells or possesses with intent to sell any visual depiction that has been mailed, shipped, or transported using any means or facility of interstate or foreign commerce, or has been shipped or transported in or affecting interstate or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported using any means or facility of interstate or foreign commerce, including by computer, if—

(i) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

(ii) such visual depiction is of such conduct; or

(4) either—

(A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States, or in the Indian country as defined in section 1151 of this title, knowingly possesses, or knowingly accesses with intent to view, 1 or more books, magazines, periodicals, films, video tapes, or other matter which contain any visual depiction; or

(B) knowingly possesses, or knowingly accesses with intent to view, 1 or more books, magazines, periodicals, films, video tapes, or other matter which contain any visual depiction that has been mailed, or has been shipped or transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported, by any means including by computer, if—

(i) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

- (ii) such visual depiction is of such conduct;
shall be punished as provided in subsection (b) of this section.
- (b) (1) Whoever violates, or attempts or conspires to violate, paragraph (1), (2), or (3) of subsection (a) shall be fined under this title and imprisoned not less than 5 years and not more than 20 years, but if such person has a prior conviction under this chapter, section 1591, chapter 71, chapter 109A, or chapter 117, or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice), or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, or sex trafficking of children, such person shall be fined under this title and imprisoned for not less than 15 years nor more than 40 years.
- (2) Whoever violates, or attempts or conspires to violate, paragraph (4) of subsection (a) shall be fined under this title or imprisoned not more than 10 years, or both, but if such person has a prior conviction under this chapter, chapter 71, chapter 109A, or chapter 117, or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice), or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, such person shall be fined under this title and imprisoned for not less than 10 years nor more than 20 years.
- (c) **Affirmative Defense.**— It shall be an affirmative defense to a charge of violating paragraph (4) of subsection (a) that the defendant—
- (1) possessed less than three matters containing any visual depiction proscribed by that paragraph; and
- (2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any visual depiction or copy thereof—
- (A) took reasonable steps to destroy each such visual depiction; or
- (B) reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction.

(Added Pub. L. 95–225, § 2(a), Feb. 6, 1978, 92 Stat. 7; amended Pub. L. 98–292, § 4, May 21, 1984, 98 Stat. 204; Pub. L. 99–500, § 101(b) [title VII, § 704(b)], Oct. 18, 1986, 100 Stat. 1783–39, 1783–75, and Pub. L. 99–591, § 101(b) [title VII, § 704(b)], Oct. 30, 1986, 100 Stat. 3341–39, 3341–75; Pub. L. 100–690, title VII, § 7511(b), Nov. 18, 1988, 102 Stat. 4485; Pub. L. 101–647, title III, § 323(a), (b), Nov. 29, 1990, 104 Stat. 4818, 4819; Pub. L. 103–322, title XVI, § 160001(d), (e), title XXXIII, § 330010(8), Sept. 13, 1994, 108 Stat. 2037, 2143; Pub. L. 104–208, div. A, title I, § 101(a) [title I, § 121[5]], Sept. 30, 1996, 110 Stat. 3009, 3009–26, 3009–30; Pub. L. 105–314, title II, §§ 202(a), 203 (a), Oct. 30, 1998, 112 Stat. 2977, 2978; Pub. L. 108–21, title I, § 103(a)(1)(B), (C), (b)(1)(C), (D), title V, § 507, Apr. 30, 2003, 117 Stat. 652, 653, 683; Pub. L. 109–248, title II, § 206(b)(2), July 27, 2006, 120 Stat. 614; Pub. L. 110–358, title I, § 103(a)(3), (b), (c), title II, § 203(a), Oct. 8, 2008, 122 Stat. 4002, 4003.)

Codification

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

Amendments

2008—Subsec. (a)(1). Pub. L. 110–358, § 103(a)(3)(A), (b), inserted “using any means or facility of interstate or foreign commerce or” after “ships” and substituted “in or affecting interstate” for “in interstate”.

Subsec. (a)(2). Pub. L. 110–358, § 103(a)(3)(B), (b), inserted “using any means or facility of interstate or foreign commerce or” after “distributes, any visual depiction” and after “depiction for distribution” and substituted “in or affecting interstate” for “in interstate” in two places.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2012 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

Subsec. (a)(3)(B). Pub. L. 110–358, § 103(a)(3)(C), (b), (c), inserted “, shipped, or transported using any means or facility of interstate or foreign commerce” after “that has been mailed” and “using any means or facility of interstate or foreign commerce” after “so shipped or transported”, substituted “in or affecting interstate” for “in interstate” and struck out “by any means,” before “including”.

Subsec. (a)(4)(A). Pub. L. 110–358, § 203(a)(1), inserted “, or knowingly accesses with intent to view,” after “possesses”.

Subsec. (a)(4)(B). Pub. L. 110–358, §§ 103(a)(3)(D), (b), 203 (a)(2), inserted “, or knowingly accesses with intent to view,” after “possesses” and “using any means or facility of interstate or foreign commerce or” after “has been shipped or transported” and substituted “in or affecting interstate” for “in interstate”.

2006—Subsec. (b)(1). Pub. L. 109–248 substituted “paragraph (1)” for “paragraphs (1)” and inserted “section 1591,” after “this chapter,” and “, or sex trafficking of children” after “pornography”.

2003—Subsec. (b)(1). Pub. L. 108–21, § 507, inserted “chapter 71,” before “chapter 109A,” and “or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice),” before “or under the laws”.

Pub. L. 108–21, § 103(a)(1)(B), (C), substituted “and imprisoned not less than 5 years and” for “or imprisoned”, “20 years” for “15 years”, “40 years” for “30 years”, and “15 years” for “5 years” and struck out “or both,” before “but if such person has a prior”.

Subsec. (b)(2). Pub. L. 108–21, § 507, inserted “chapter 71,” before “chapter 109A,” and “or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice),” before “or under the laws”.

Pub. L. 108–21, § 103(a)(1)(C), (D), substituted “more than 10 years” for “more than 5 years”, “less than 10 years” for “less than 2 years”, and “20 years” for “10 years”.

1998—Subsec. (a)(4)(A), (B). Pub. L. 105–314, § 203(a)(1), substituted “1 or more” for “3 or more”.

Subsec. (b). Pub. L. 105–314, § 202(a), substituted “, chapter 109A, or chapter 117” for “or chapter 109A” in pars. (1) and (2) and substituted “aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography” for “the possession of child pornography” in par. (2).

Subsec. (c). Pub. L. 105–314, § 203(a)(2), added subsec. (c).

1996—Subsec. (b). Pub. L. 104–208 added subsec. (b) and struck out former subsec. (b) which read as follows:

“(b)(1) Whoever violates, or attempts or conspires to violate, paragraph (1), (2), or (3) of subsection (a) shall be fined under this title or imprisoned not more than ten years, or both, but, if such person has a prior conviction under this chapter or chapter 109A, such person shall be fined under this title and imprisoned for not less than five years nor more than fifteen years.

“(2) Whoever violates, or attempts or conspires to violate, paragraph (4) of subsection (a) shall be fined under this title or imprisoned for not more than five years, or both.”

1994—Subsec. (a)(3)(B). Pub. L. 103–322, § 330010(8), substituted “materials” for “materails” in introductory provisions.

Subsec. (b)(1). Pub. L. 103–322, § 160001(d), (e), inserted “, or attempts or conspires to violate,” after “violates” and substituted “conviction under this chapter or chapter 109A” for “conviction under this section”.

Subsec. (b)(2). Pub. L. 103–322, § 160001(e), inserted “, or attempts or conspires to violate,” after “violates”.

1990—Subsec. (a). Pub. L. 101–647, § 323(a), (b), struck out “or” at end of par. (1), substituted “that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which contains materials which have been mailed or so shipped or transported, by any means including by computer,” for “that has been transported or shipped in interstate or foreign commerce by any means including by computer or mailed” in par. (2), struck out at end “shall be punished as provided in subsection (b) of this section.”, and added pars. (3) and (4) and concluding provisions.

Subsec. (b). Pub. L. 101–647, § 323(a)(2), added subsec. (b) and struck out former subsec. (b) which read as follows: “Any individual who violates this section shall be fined not more than \$100,000, or imprisoned not more than 10 years, or both, but, if such individual has a prior conviction under this section, such individual shall be fined not more than \$200,000, or imprisoned not less than five years nor more than 15 years, or both. Any organization which violates this section shall be fined not more than \$250,000.”

1988—Subsec. (a)(1), (2). Pub. L. 100–690 inserted “by any means including by computer” after “commerce” in introductory provisions.

1986—Subsec. (b). Pub. L. 99–500 and Pub. L. 99–591 substituted “five years” for “two years”.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2012 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

1984—Subsec. (a)(1). Pub. L. 98–292, § 4(1), (3), (4), substituted “any visual depiction” for “for the purpose of sale or distribution for sale, any obscene visual or print medium” in provisions preceding subpar. (A).

Subsec. (a)(1)(A). Pub. L. 98–292, § 4(4), substituted “visual depiction” for “visual or print medium”.

Subsec. (a)(1)(B). Pub. L. 98–292, § 4(4), (5), substituted “visual depiction is of” for “visual or print medium depicts”.

Subsec. (a)(2). Pub. L. 98–292, § 4(2)–(4), (6), (7), substituted “, or distributes, any visual depiction” for “for the purpose of sale or distribution for sale, or knowingly sells or distributes for sale, any obscene visual or print medium” and inserted “or knowingly reproduces any visual depiction for distribution in interstate or foreign commerce or through the mails” in provisions preceding subpar. (A).

Subsec. (a)(2)(A). Pub. L. 98–292, § 4(4), substituted “visual depiction” for “visual or print medium”.

Subsec. (a)(2)(B). Pub. L. 98–292, § 4(4), (5), substituted “visual depiction is of” for “visual or print medium depicts”.

Subsec. (b). Pub. L. 98–292, § 4(8)–(11), substituted “individual” for “person” in three places, “\$100,000” for “\$10,000”, and “\$200,000” for “\$15,000”, and inserted “Any organization which violates this section shall be fined not more than \$250,000.”

Confirmation of Intent of Congress in Enacting Sections 2252 and 2256 of This Title

Section 160003(a) of Pub. L. 103–322 provided that:

“(a) Declaration.—The Congress declares that in enacting sections 2252 and 2256 of title 18, United States Code, it was and is the intent of Congress that—

“(1) the scope of ‘exhibition of the genitals or pubic area’ in section 2256 (2)(E), in the definition of ‘sexually explicit conduct’, is not limited to nude exhibitions or exhibitions in which the outlines of those areas were discernible through clothing; and

“(2) the requirements in section 2252 (a)(1)(A), (2)(A), (3)(B)(i), and (4)(B)(i) that the production of a visual depiction involve the use of a minor engaging in ‘sexually explicit conduct’ of the kind described in section 2256 (2)(E) are satisfied if a person photographs a minor in such a way as to exhibit the child in a lascivious manner.”