

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 563

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO VIDEO VOYEURISM; AMENDING SECTION 18-6609, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE CRIME OF VIDEO VOYEURISM AND TO PROVIDE THAT A CERTAIN SECTION DOES NOT APPLY IN CERTAIN CIRCUMSTANCES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 18-6609, Idaho Code, be, and the same is hereby amended to read as follows:

18-6609. CRIME OF VIDEO VOYEURISM. (1) As used in this section:

(a) "Broadcast" means the electronic transmittal of a visual image with the intent that it be viewed by a person or persons.

(b) "Disseminate" means to make available by any means to any person.

(c) "Imaging device" means any instrument capable of recording, storing, viewing or transmitting visual images.

(d) "Intimate areas" means the buttocks, genitals or genital areas of males or females, and the breast area of females.

(e) "Person" means any natural person, corporation, partnership, firm, association, joint venture or any other recognized legal entity or any agent or servant thereof.

(f) "Place where a person has a reasonable expectation of privacy" means:

(i) A place where a reasonable person would believe that he could undress, be undressed or engage in sexual activity in privacy, without concern that he is being viewed, photographed, filmed or otherwise recorded by an imaging device; or

(ii) A place where a person might reasonably expect to be safe from casual or hostile surveillance by an imaging device; or

(iii) Any public place where a person, by taking reasonable steps to conceal intimate areas, should be free from the viewing, recording, storing or transmitting of images obtained by imaging devices designed to overcome the barriers created by a person's covering of intimate areas.

(g) "Publish" means to:

(i) Disseminate with the intent that such image or images be made available by any means to any person; or

(ii) Disseminate with the intent that such images be sold by another person; or

(iii) Post, present, display, exhibit, circulate, advertise or allow access by any means so as to make an image or images available to the public; or

(iv) Disseminate with the intent that an image or images be posted, presented, displayed, exhibited, circulated, advertised

1 or made accessible by any means and to make such image or images
2 available to the public.

3 (h) "Sell" means to disseminate to another person, or to publish, in ex-
4 change for something of value.

5 (2) A person is guilty of video voyeurism when:

6 (a) With the intent of arousing, appealing to or gratifying the lust
7 or passions or sexual desires of such person or another person, or for
8 his own or another person's lascivious entertainment or satisfaction of
9 prurient interest, or for the purpose of sexually degrading or abusing
10 any other person:—(a) He, he uses, installs or permits the use or in-
11 stallation of an imaging device at a place where a person would have a
12 reasonable expectation of privacy, without the knowledge or consent of
13 the person using such place; or

14 (b) He either intentionally or with reckless disregard disseminates,
15 publishes or sells or conspires to disseminate, publish or sell any im-
16 age or images of the intimate areas of another person or persons without
17 the consent of such other person or persons and with knowledge he knows
18 or reasonably should have known that such image or images were obtained
19 with the intent set forth above one (1) or both parties agreed or under-
20 stood that the images should remain private.

21 (3) A violation of this section is a felony.

22 (4) This section does not apply to an interactive computer service, as
23 defined in 47 U.S.C. section 230(f) (2), an information service, as defined
24 in 47 U.S.C. section 153 or a telecommunication service, as defined in sec-
25 tion 61-121(2) or 62-603(13), Idaho Code, for content provided by another
26 person, unless the provider intentionally aids or abets video voyeurism.