S T A T E O F N E W Y O R K

7105--A

I N S E N A T E

April 27, 2012

Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to promoting prostitution of a minor by means of advertising

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 230.25 of the penal law, as amended by chapter 627 of the laws of 1978, subdivision 1 as amended by chapter 74 of the laws of 2007, is amended to read as follows:

S 230.25 Promoting prostitution in the third degree.

A person is guilty of promoting prostitution in the third degree when he OR SHE knowingly:

1. Advances or profits from prostitution by managing, supervising, controlling or owning, either alone or in association with others, a house of prostitution or a prostitution business or enterprise involving prostitution activity by two or more prostitutes, or a business that sells travel-related services knowing that such services include or are intended to facilitate travel for the purpose of patronizing a prostitute, including to a foreign jurisdiction and regardless of the legality of prostitution in said foreign jurisdiction; or

2. Advances or profits from prostitution of a person less than nineteen years old[.]; OR

3. PUBLISHES, DISSEMINATES OR DISPLAYS, OR CAUSES, DIRECTLY OR INDIRECTLY, TO BE PUBLISHED, DISSEMINATED OR DISPLAYED ANY ADVERTISEMENT, WHETHER IN PRINT OR ELECTRONIC MEDIA, FOR SEXUAL CONDUCT WITH A PERSON UNDER THE AGE OF EIGHTEEN YEARS OF AGE IN EXCHANGE FOR MONEY OR ANY OTHER PROPERTY.

Promoting prostitution in the third degree is a class D felony.

S 2. The penal law is amended by adding a new section 230.26 to read as follows:

S 230.26 PROMOTING PROSTITUTION IN THE THIRD DEGREE; AFFIRMATIVE DEFENSE.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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IN ANY PROSECUTION FOR PROMOTING PROSTITUTION IN THE THIRD DEGREE AS DEFINED IN SUBDIVISION THREE OF SECTION 230.25 OF THIS ARTICLE, IT IS NOT A DEFENSE THAT THE DEFENDANT DID NOT KNOW THE AGE OF THE PERSON UNDER EIGHTEEN YEARS OF AGE IN THE ADVERTISEMENT. IT IS A DEFENSE TO SUCH OFFENSE, WHICH THE DEFENDANT MUST PROVE BY A PREPONDERANCE OF EVIDENCE, THAT AT THE TIME OF THE OFFENSE, THE DEFENDANT MADE A DIRECT ATTEMPT TO ASCERTAIN THE TRUE AGE OF THE PERSON APPEARING IN THE ADVERTISEMENT BY REQUIRING, PRIOR TO PUBLICATION OF THE ADVERTISEMENT, PRODUCTION AND VIEWING OF A VALID DRIVER'S LICENSE, MARRIAGE LICENSE, BIRTH CERTIFICATE, OR OTHER GOVERNMENTAL OR EDUCATIONAL IDENTIFICATION CARD OR PAPER OF THE PERSON UNDER EIGHTEEN YEARS OF AGE AND DID NOT SOLELY RELY ON ORAL OR WRITTEN ALLEGATIONS OF SUCH PERSON'S AGE OR THE APPARENT AGE OF SUCH PERSON.

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.