

**SSB 6476 - S AMD 72**

By Senators Stevens and Hargrove

ADOPTED 2/13/2010

1 On page 31, after line 4, insert the following:

2 "Sec. 16. RCW 9.68A.110 and 2007 c 368 s 3 are each amended to  
3 read as follows:

4 (1) In a prosecution under RCW 9.68A.040, it is not a defense that  
5 the defendant was involved in activities of law enforcement and  
6 prosecution agencies in the investigation and prosecution of criminal  
7 offenses. Law enforcement and prosecution agencies shall not employ  
8 minors to aid in the investigation of a violation of RCW 9.68A.090 or  
9 9.68A.100. This chapter does not apply to lawful conduct between  
10 spouses.

11 (2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or  
12 9.68A.080, it is not a defense that the defendant did not know the age  
13 of the child depicted in the visual or printed matter(~~(:—PROVIDED,~~  
14 ~~That))~~). It is a defense, which the defendant must prove by a  
15 preponderance of the evidence, that at the time of the offense the  
16 defendant was not in possession of any facts on the basis of which he  
17 or she should reasonably have known that the person depicted was a  
18 minor.

19 (3) In a prosecution under RCW 9.68A.040, 9.68A.090, 9.68A.100,  
20 9.68A.101, or 9.68A.102, it is not a defense that the defendant did  
21 not know the alleged victim's age(~~(:—PROVIDED, That))~~). It is a  
22 defense, which the defendant must prove by a preponderance of the  
23 evidence, that at the time of the offense, the defendant made a  
24 reasonable bona fide attempt to ascertain the true age of the minor by  
25 requiring production of a driver's license, marriage license, birth  
26 certificate, or other governmental or educational identification card  
27

1 or paper and did not rely solely on the oral allegations or apparent  
2 age of the minor.

3 (4) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070,  
4 it shall be an affirmative defense that the defendant was a law  
5 enforcement officer in the process of conducting an official  
6 investigation of a sex-related crime against a minor, or that the  
7 defendant was providing individual case treatment as a recognized  
8 medical facility or as a psychiatrist or psychologist licensed under  
9 Title 18 RCW.

10 (5) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070,  
11 the state is not required to establish the identity of the alleged  
12 victim."

13

14 Renumber the remaining sections consecutively and correct any  
15 internal references accordingly.

16

17 EFFECT: Adds commercial sexual abuse of a minor to the list of  
18 other crimes for which it is not a defense that the defendant did not  
19 know the age of the victim.

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