

State Law Survey: Advertising Laws Comparison Chart

Bill ¹	Advertising Offense	A person commits the offense...	Applies to advertiser	Applies to trafficker	Affirmative defense if...	Penalty	Status/ Effective date
WA SB-6251	Commercial sex abuse of a minor— advertising Chapter 9.68A	“if he or she knowingly publishes, disseminates, or displays, or causes directly or indirectly, to be published, disseminated, or displayed, any advertisement for a commercial sex act, which is to take place in the state of Washington and that includes the depiction of a minor.”	Yes	Yes	“defendant made a reasonable bona fide attempt to ascertain the true age of the minor depicted in the advertisement by requiring, prior to publication, dissemination, or display of the advertisement, production of a driver’s license, marriage license, birth certificate, or other governmental or educational identification card or paper of the minor depicted in the advertisement and did not rely solely on oral or written representations of the minor’s age, or the apparent age of the minor as depicted.” ID relied on must be produced to assert this defense.	Class C felony	Enacted; effective 6/7/12 Determined likely to be found unconstitutional and enjoined ² Repealed; 5/20/2013
WA SB-5488	Enhanced penalty for the use of an internet advertisement to facilitate the commission of a sex-trafficking crime	“under RCW 9.68A.100, 9.68A.101, or 9.68A.102 shall be assessed an additional fee of five thousand dollars per offense when the court finds that an internet advertisement in which the victim of the crime was described or depicted was instrumental in facilitating the commission of the crime.”	No	Yes	Not applicable	An additional fee of \$5,000 per offense	Enacted; effective 7/28/2013

¹ Reflects legislation enacted or introduced as of April 1, 2014.

² On June 4, 2012 Backpage LLC filed an action in federal district court for the Western district of Washington to enjoin enforcement of this law. On June 5, 2012 the district court granted a temporary restraining order temporarily barring enforcement of the law. On July 27, 2012 the District Court in Washington granted Backpage.com LLC’s motion for a preliminary injunction. Senate Bill 5488 repealed Wash. Rev. Code Ann. § 9.68A.104 (Advertising commercial sexual abuse of a minor--Penalty).

State Law Survey: Advertising Laws Comparison Chart

TN SB-2371	Advertising commercial sexual abuse of a Minor § 39-13-314	“if the person knowingly sells or offers to sell an advertisement that would appear to a reasonable person to be for the purpose of engaging in what would be a commercial sex act, as defined in § 39-13-301, with a minor”	Yes	No	“defendant made a reasonable bona fide attempt to ascertain the true age of the minor appearing in the advertisement by requiring, prior to publication of the advertisement, production of a driver license, marriage license, birth certificate, or other governmental or educational identification card or paper of the minor depicted in the advertisement and did not rely solely on oral or written allegations of the minor’s age or the apparent age of the minor.”	Class C felony; min. fine of \$10K, 3 – 15 years imprisonment	Enacted; effective 7/1/12 Determined likely to be found unconstitutional and enjoined ³
CT HB-5504	Commercial sexual exploitation of a minor Public Act No. 12-141	“when such person knowingly purchases advertising space for an advertisement for a commercial sex act that includes a depiction of a minor”	No	Yes	“the defendant, prior to purchasing advertising space for the advertisement, made a reasonable bona fide attempt to ascertain the true age of the person depicted in the advertisement by requiring the person depicted in the advertisement to produce a driver’s license, marriage license, birth certificate or other government-issued or school-issued identity card that identifies the age of the person, provided the defendant retains and produces a copy or other record of the license, certificate or identity card used to ascertain the age of the person depicted in the advertisement”	Class C felony	Enacted; effective 10/1/12

³ On June 27, 2012, Backpage.com LLC filed an action in federal district court for the Middle District of Tennessee to declare invalid and enjoin enforcement of this law. On January 3rd, 2013 Backpage.com LLC’s motion was granted and the Tennessee law enjoined.

State Law Survey: Advertising Laws Comparison Chart

MO HB-62	<p>Crime of promoting online sexual solicitation</p> <p>Mo. Rev. Stat. § 566.103(1)</p>	<p>“if such person or entity knowingly permits a web-based classified service owned or operated by such person or entity to be used by individuals to post advertisements promoting prostitution, enticing a child to engage in sexual conduct, or promoting sexual trafficking of a child after receiving notice under this section.”</p>	Yes	No	Not applicable	<p>Felony punishable by a fine of \$5,000 for every day that the advertisement remains posted after 72 hours of notice</p>	<p>Enacted; effective 7/09/2009</p>
NY S-7105A	<p>Promoting prostitution in the third degree</p> <p>§ 230.25(3)</p>	<p>...who “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.”</p>	Yes	Yes	<p>“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.”</p>	<p>Class D felony</p>	<p>Introduced 4/27/12; Failed to pass prior to adjournment on June 21, 2012</p>

State Law Survey: Advertising Laws Comparison Chart

NJ SB 2021	Advertising commercial sexual abuse of a minor § 2C:13-10	“the person knowingly published, disseminates, or displays, or causes directly or indirectly to be published, disseminated, or displayed, any advertisement for a commercial sex act, which is to take place in this State and which includes the depiction of a minor; or (2) the person knowingly purchases advertising in this State for a commercial sex act which includes the depiction of a minor.”	Yes	Yes	“the defendant made a reasonable, bona fide attempt to ascertain the true age of the minor depicted in the advertisement by requiring, prior to publication, dissemination, or display of the advertisement, production of a driver's license, marriage license, birth certificate, or other governmental or educational identification card or paper of the minor depicted in the advertisement and did not rely solely on oral or written representations of the minor's age, or the apparent age of the minor as depicted...The defendant shall maintain and, upon request, produce a record of the identification used to verify the age of the person depicted in the advertisement.”	Crime of the first degree, punishable by imprisonment for 10 – 20 years, a possible fine up to \$200,000, and a mandatory fine of \$25,000	Enacted; effective July 1, 2013 Determined likely to be found unconstitutional and enjoined ⁴
MS HB 1032	Advertising sexual servitude of a minor § 97-3-54.1(d)	“if the person knowingly sells or offers to sell an advertisement that would appear to a reasonable person to be for the purpose of engaging in what would constitute commercial sexual activity or sexually explicit performance with or by a minor, or for the purpose of creating sexually oriented material with a minor.”	Yes	Yes	“the defendant made a reasonable bona fide attempt to ascertain the true age of the minor appearing in the advertisement by requiring, prior to publication of the advertisement, production of a driver's license, marriage license, birth certificate, or other governmental or educational identification card or paper of the minor depicted in the advertisement and did not rely solely on oral or written allegations of the minor's age or the apparent age of the minor.”	Fine of not less than \$10,000 nor more than \$100,000.	Failed on February 13, 2014 - Died on Calendar

⁴ Shortly after the enactment of N.J. Stat. Ann. § 2C:13-10, Backpage.com, LLC and the Internet Archive filed a complaint with the United States District Court for the District of New Jersey against the acting Attorney General and District Attorneys in their official capacities to enjoin the statute. On August 20, 2013, the District Court for New Jersey granted a preliminary injunction in favor of the Plaintiffs, finding that N.J. Stat. Ann. § 2C:13-10 likely violates the First Amendment, is overbroad and vague, and likely violates the Dormant Commerce Clause. See Backpage.com, LLC v. Hoffman, 13-CV-03952 DMC JAD, 2013 WL 4502097 (D.N.J. Aug. 20, 2013).

State Law Survey: Advertising Laws Comparison Chart

OH HB 130	Advertisement for sexual activity for hire § 2907.19 (A)	who “shall knowingly purchase or otherwise obtain advertising space for an advertisement for sexual activity for hire that includes a depiction of a minor” or who “knowingly publish, disseminate, or display or directly or indirectly cause to be published, disseminated or displayed any advertisement for sexual activity for hire that includes the depiction of a minor.”	Yes	Yes	“the offender, prior to purchasing advertising space for the advertisement, made a reasonable bona fide attempt to ascertain the true age of the person depicted in the advertisement by requiring the person depicted in the advertisement to produce a driver’s license, marriage license, birth certificate, or other government issued or school issued document that identifies the age of the person, provided that the offender retains and produces a copy or other record of the driver’s license, marriage license, birth certificate, or other document used to ascertain the age of the person depicted in the advertisement.”	Felony in the third degree	Enacted effective – 6/20/2014
AZ HB 2454	Escort and escort agency advertising requirement; civil penalty; definitions § 9-500.10	If “[a]n escort or escort agency . . . advertise[s] escort services unless the advertisement includes either: 1. The escort license number of the escort if the advertisement is for the services of a specific escort. 2. The business license number of the escort agency where the services are offered if the advertisement does not offer the services of a specific escort.”	No	Yes	If “in a civil action for a first violation of subsection A of this section that the escort or escort agency possessed a valid license at the time the advertisement was published.” If “in a civil action for a violation of subsection B of this section that the escort whose services were offered in an advertisement for escort services was eighteen years of age or older at the time the advertisement was published.”	Five hundred dollars for a first violation. One thousand five hundred dollars for a second violation. Five thousand dollars for a third or subsequent violation.	Enacted effective – 7/24/2014

State Law Survey: Advertising Laws Comparison Chart

US HR 4225	Advertising that offers certain commercial sex acts § 1591A	if that person “in or affecting interstate or foreign commerce, knowingly benefits financially from, receives anything of value from, or distributes advertising that offers a commercial sex act in a manner prohibited under section 1591, shall be fined under this title, imprisoned not more than 5 years, or both”	Yes	No	Not Applicable	Fine, imprisonment up to 5 years, or both.	Introduced March 13, 2014
---	--	--	-----	----	----------------	--	---------------------------