

# HOUSE . . . . . No. 1408

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Nine  
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An Act requiring the disclosure of obscene materials..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 29B of chapter 272 of the General Laws, as appearing in the 2004  
2   Official Edition, is hereby amended by adding the following subsection:-

3           (f) Any commercial film and photographic print processor or computer technician who  
4   has knowledge of or observes, within the scope of such person's professional capacity or  
5   employment, any film, photograph, video tape, negative, or slide, or any computer file,  
6   recording, cd-rom, magnetic disk memory, magnetic tape memory, picture, graphic, or image  
7   that is intentionally saved, transmitted or organized on hardware or any other means and whether  
8   directly viewable, compressed or encoded, that he reasonably believes to be depicting a real child  
9   under the age of 18 engaged in an act of sexual conduct, sexual performance, or in a sexually  
10   explicit posture, shall immediately or as soon as reasonably possible, report such instance of  
11   suspected child abuse or child pornography to the local police and shall prepare and send a  
12   written report of the incident with an attached copy of such material, if possible, within 36 hours  
13   after receiving the information concerning the incident.

14           The following shall apply:

(i) the identity of the computer technician shall be confidential, subject to disclosure only with his consent or by judicial process; and

(ii) provided the computer technician has acted in good faith, he shall be immune from civil liability that might otherwise be incurred by his actions. This immunity extends only to acts described in this subsection.

For purposes of this subsection “commercial film and photographic print processor” shall mean any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. This term shall also include any employee or agent of such a person but shall not include a person who develops film or makes prints for a public agency; and “commercial computer technician” shall mean any person who repairs, installs, or otherwise services any digital storage media including, but not limited to, any component part, device, memory storage or recording mechanism, auxiliary storage, recording or memory capacity, or any other materials relating to operation and maintenance of a computer or computer network or system, for compensation. The term shall also include any employee or agent of such person.

Any person who violates the provisions of this section, upon conviction, shall be punished by a fine not to exceed \$1000 or by imprisonment not to exceed one year, or both such fine and imprisonment.

Nothing in this section shall be construed to require or authorize any person to act outside the scope of such person’s professional capacity or employment by searching for prohibited materials or media.