

What are Strict Liability Crimes?

These are crimes where you can go to jail or prison even if you had no idea that you were breaking the law.

Now most crimes require an intentionally wrongful act. If you are drunk and you intentionally get into a car and drive the law says that your decision to get behind the wheel was intentional. You may not have known that you were drunk but you did something on purpose, which was the choice to drive. This is called a general intent crime.

If you work for a company and decide to cook the books to hide the fact that you are stealing. This is a deliberate decision to break the law. This deliberate crime is called a specific intent crime.

Strict Liability crimes take place when you have no idea you are breaking the law. That 22 year old woman you met at the bar turns out to be 16. You are probably toast. It is statutory rape except that in California you do get to argue that you legitimately were tricked. But if the person was even a day shy of 14 years old, you are out of luck. Now it is hard in most cases to believe that a person under 14 years of age could possibly be seen as being over 18. For this reason the legislature and courts have found that there is no defense to relations with a person under 14.

So, what makes strict liability special? It is all about the act. The prosecution only has to show you did something that is prohibited by law. The prosecution does not have to show what was going on in your head. You could have no bad intent at all and still be guilty.

Here are some other examples. Have you ever gotten a speeding ticket? That's strict liability. It doesn't matter if you didn't mean to speed. If you were over the limit, you're liable.

Another one: selling alcohol to minors. Even if you checked an ID and got fooled by a fake, you could still be guilty.

The same goes for some environmental violations, like improper waste disposal.

Many people ask whether strict liability crimes are unconstitutional. The courts have generally allowed a limited class of strict liability crimes to remain on the books. The Horowitz law office challenges strict liability crimes on constitutional grounds and there is case precedent to support these challenges.

The Ninth Circuit Court of Appeals is the federal appellate court that covers a very wide area on the West Coast of the United States including California.

In a criminal case titled United States versus Kantor the court looked at a situation where pornographic movie producers were charged with violating a statute against making a sexually explicit film with minors. The film featured a 16-year-old actress whose stage name was Traci Lords.

The producers had argued that the law was unconstitutional because it did not require that they deliberately used an actress who was under 18 years of age.

The Ninth Circuit agreed that if they were barred from presenting a defense the law was unconstitutional.

To make the law constitutional, the Ninth Circuit allowed the trial court to allow the producers to claim innocence by showing their lack of knowledge about the actress's age. The Court understood that this was a strict liability statute as written but that by letting the defendants argue an innocent state of mind the statute was bootstrapped out of being an unfair strict liability crime and into the realm of being a properly charged crime.

At the law office of Daniel Horowitz we use federal cases and constitutional law to challenge state laws for being unconstitutional. We are certified criminal defense specialists and part of being a specialist is training in broad areas of criminal defense law. We raise challenges to state statutes that include claims that the statute is void for vagueness or that the law does not provide fair notice as to what conduct is lawful and what conduct is prohibited.

If you are facing serious criminal charges, Call Daniel Horowitz at nine two five, two eight three, eighteen sixty three.

Daniel Horowitz is a Board Certified Criminal Defense Specialist. The State Bar of California's board of legal specialization issues this certification to very few attorneys. Call Daniel at nine two five, two eight three, eighteen sixty three.

Thank you for watching our video. I hope it was helpful.

in *United States v. Kantor*, which concerned underage pornographic actress Traci Lords, the Ninth Circuit Court of Appeals introduced a "good faith" defense against crimes in which the victim intentionally tricked the defendants into a factual mistake thinking that no crime was being committed.^{[21][a]} A "good faith" defense requires showing that the defendant affirmatively had reason to believe that they were not committing a crime, not simply a lack of knowledge that they were.