

2 SSB 6262 - S AMD  
3 By Senator Roach

4 RULED OUT OF ORDER - 2/18/92

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** As used in sections 1 through 4 of this  
8 act, the following terms have the meanings indicated unless the context  
9 clearly requires otherwise.

10 (1) "Minor" means any person under the age of eighteen years.

11 (2) "Harmful to minors" means any matter or live performance:

12 (a) Which the average adult person, applying contemporary community  
13 standards, would find, when considered as a whole, appeals to the  
14 prurient interest of minors; and

15 (b) Which explicitly depicts or describes, by prevailing standards  
16 in the adult community with respect to what is suitable for minors,  
17 patently offensive representations or descriptions of:

18 (i) Ultimate sexual acts, normal or perverted, actual or simulated;  
19 or

20 (ii) Masturbation, fellatio, cunnilingus, bestiality, excretory  
21 functions, lewd exhibition of the genitals or genital area, sexually  
22 explicit conduct, sexual excitement, or sexually explicit nudity; or

23 (iii) Violent or destructive sexual acts, including but not limited  
24 to human or animal mutilation, dismemberment, rape, or torture; and

25 (c) Which, when considered as a whole, and in the context in which  
26 it is used, lacks serious literary, artistic, political, or scientific  
27 value for minors.

1 (3) "Sexually explicit conduct" means physical contact with a  
2 person's clothed or unclothed genitals, pubic area, buttocks, or, if  
3 such person be a female, breast.

4 (4) "Sexual excitement" means the condition of human male or female  
5 genitals when in a state of sexual stimulation or arousal; or the  
6 depiction of covered male genitals in a discernibly turgid state.

7 (5) "Sexually explicit nudity" means the showing of the human male  
8 or female genitals, pubic area, or buttocks with less than a full  
9 opaque covering; or the showing of the female breast with less than a  
10 full opaque covering of any portion thereof below the top of the  
11 nipple.

12 (6) "Matter" means a motion picture film, a publication, a sexual  
13 device, or any combination thereof.

14 (7) "Motion picture film" means any:

15 (a) Film or plate negative;

16 (b) Film or plate positive;

17 (c) Film designed to be projected on a screen for exhibition;

18 (d) Film, glass slides, or transparencies, either in negative or  
19 positive form, designed for exhibition by projection on a screen;

20 (e) Video tape; or

21 (f) Any other medium used to electronically transmit or reproduce  
22 images on a screen.

23 (8) "Publication" means any book, magazine, article, pamphlet,  
24 writing, printing, illustration, picture, sound recording, or coin-  
25 operated machine.

26 (9) "Sexual device" means any artificial human penis, vagina, or  
27 anus, or other device primarily designed, promoted, or marketed to  
28 physically stimulate or manipulate the human genitals, pubic area,  
29 perineum, or anal area, including dildoes, penisators, vibrators,

1 vibrillators, penis rings, and erection enlargement or prolonging  
2 creams, jellies, or other such chemicals or preparations.

3 (10) "Live performance" means any play, show, skit, dance, or other  
4 exhibition performed or presented to or before an audience of one or  
5 more, in person or by electronic transmission, with or without  
6 consideration.

7 (11) "Person" means any individual, partnership, firm, association,  
8 corporation, or other legal entity.

9 (12) "Knowledge of its character" means that the person knows or is  
10 aware, or has reason to know, that the matter or performance contains,  
11 depicts, or describes any of the activity or conduct which may be found  
12 to be patently offensive under subsection (2)(b) of this section,  
13 regardless of whether such person has actual or specific knowledge of  
14 its precise contents or that the matter or performance is "harmful to  
15 minors" under subsection (2) of this section. Such knowledge may be  
16 proved by direct or circumstantial evidence, or both."

17 "NEW SECTION. Sec. 2. No person shall recklessly and with  
18 knowledge of its character:

19 (1) Display matter which is harmful to minors, as defined in  
20 section 1(2) of this act, in such a way that minors, as part of the  
21 invited general public, will be exposed to view such matter; however,  
22 a person shall be deemed not to have displayed matter harmful to minors  
23 if the matter is kept behind devices commonly known as blinder racks so  
24 that the lower two-thirds of the matter is not exposed to view;

25 (2) Sell, furnish, present, distribute, allow to view or hear, or  
26 otherwise disseminate to a minor, with or without consideration, any  
27 matter which is harmful to minors as defined in section 1(2) of this  
28 act; or

1 (3) Present to a minor or participate in presenting to a minor,  
2 with or without consideration, any live performance which is harmful to  
3 minors as defined in section 1(2) of this act."

4 "NEW SECTION. Sec. 3. In any prosecution for violation of  
5 section 2 of this act, it shall be an affirmative defense that:

6 (1) The matter or performance involved was displayed or otherwise  
7 disseminated to a minor by the minor's parent or legal guardian, for  
8 bona fide purposes;

9 (2) The matter or performance involved was displayed or otherwise  
10 disseminated to a minor with the written permission of the minor's  
11 parent or legal guardian, for bona fide purposes; or

12 (3) The person made a reasonable bona fide attempt to ascertain the  
13 true age of the minor by requiring production of a driver's license,  
14 marriage license, birth certificate, or other governmental or  
15 educational identification card or paper and not relying solely on the  
16 oral allegations or apparent age of the minor."

17 "NEW SECTION. Sec. 4. Any person who is convicted of violating  
18 any provision of section 2 of this act is guilty of a gross  
19 misdemeanor. Each day that any violation of section 2 of this act  
20 occurs or continues shall constitute a separate offense and shall be  
21 punishable as a separate violation. Every act, thing, or transaction  
22 prohibited by section 2 of this act shall constitute a separate offense  
23 as to each item, issue, or title involved and shall be punishable as  
24 such. For the purpose of this section, multiple copies of the same  
25 identical title, monthly issue, volume, and number issue, or other such  
26 identical material shall constitute a single offense."

1        "NEW SECTION.   **Sec. 5.**        The provisions of sections 1 through 4  
2 of this act shall be exclusive."

3        "NEW SECTION.   **Sec. 6.**        The following acts or parts of acts are  
4 each repealed:

5        (1) RCW 9.68.050 and 1969 ex.s. c 256 s 13;

6        (2) RCW 9.68.060 and 1969 ex.s. c 256 s 14;

7        (3) RCW 9.68.070 and 1969 ex.s. c 256 s 15;

8        (4) RCW 9.68.080 and 1969 ex.s. c 256 s 16;

9        (5) RCW 9.68.090 and 1969 ex.s. c 256 s 17;

10       (6) RCW 9.68.100 and 1969 ex.s. c 256 s 18;

11       (7) RCW 9.68.110 and 1969 ex.s. c 256 s 19;

12       (8) RCW 9.68.130 and 1975 1st ex.s. c 156 s 1;

13       (9) RCW 9.68A.140 and 1987 c 396 s 1;

14       (10) RCW 9.68A.150 and 1987 c 396 s 2; and

15       (11) RCW 9.68A.160 and 1987 c 396 s 3."

16       "NEW SECTION.   **Sec. 7.**        Sections 1 through 4 of this act are  
17 each added to chapter 9.68 RCW."

18       "NEW SECTION.   **Sec. 8.**        If any provision of this act or its  
19 application to any person or circumstance is held invalid, the  
20 remainder of the act or the application of the provision to other  
21 persons or circumstances is not affected."

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4 On page 1, line 1 of the title, after "children;" strike the  
5 remainder of the title and insert "adding new sections to chapter 9.68  
6 RCW; creating a new section; repealing RCW 9.68.050, 9.68.060,  
7 9.68.070, 9.68.080, 9.68.090, 9.68.100, 9.68.110, 9.68.130, 9.68A.140,  
8 9.68A.150, and 9.68A.160; and prescribing penalties."