

# HOUSE BILL REPORT

## HB 2554

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*As Amended by Senate*

**Title:** An act relating to erotic material and sound recordings.

**Brief Description:** Regarding sale of erotic sound recordings to minors.

**Sponsor(s):** Representatives R. King, Padden, Scott, Casada, Paris, Pruitt, Brough, Belcher, Rasmussen and Nealey.

**Brief History:**

Reported by House Committee on:  
Judiciary, February 7, 1992, DP;  
Passed House, February 17, 1992, 96-2;  
Amended by Senate.

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**HOUSE COMMITTEE ON  
JUDICIARY**

**Majority Report:** *Do pass.* Signed by 17 members:  
Representatives Appelwick, Chair; Ludwig, Vice Chair;  
Padden, Ranking Minority Member; Paris, Assistant Ranking  
Minority Member; Belcher; Broback; Forner; Hargrove; Inslee;  
Locke; R. Meyers; Mielke; H. Myers; Scott; D. Sommers; Tate;  
and Vance.

**Minority Report:** *Do not pass.* Signed by 1 member:  
Representative Riley.

**Staff:** Bill Perry (786-7123).

**Background:** The sale, distribution or exhibition of "erotic material" to minors is generally prohibited. Under current law, however, only visual material, including printed material, is explicitly affected by this prohibition. Recently concern has been expressed about the availability to minors of erotic sound recordings.

"Erotic material" as currently defined means printed material, photographs, pictures, motion pictures or other material the dominant theme of which taken as a whole appeals to the prurient interest of minors in sex, and which is patently offensive because it affronts contemporary community standards relating to the description or

representation of sexual matters or sadomasochistic abuse, and which is utterly without redeeming social value.

Following notice to a dealer, distributor, or exhibitor, a county prosecuting attorney may seek a judicial determination that the material is erotic. If the material is found to be erotic, it must be labelled "adults only" and may not be displayed or sold in a manner that makes the material readily accessible to minors. Failure to comply with these labelling and display provisions subjects the dealer, distributor, or exhibitor to contempt. Actually selling, distributing, or exhibiting such material to a minor is a crime. A first offense carries a maximum fine of \$500 and up to six months in jail; a second offense carries a maximum fine of \$1,000 and up to a year in jail; and a third offense is a felony with a maximum fine of \$5,000 and a minimum jail sentence of one year.

Retailers who try to comply with the requirements of this law may not be discriminated against by their wholesalers or franchisers. Treble damages may be awarded against any wholesaler or franchiser who violates this provision.

The law does not apply to public libraries, recognized historical societies and museums, county law libraries, libraries of colleges and universities, the state library, the state law library or public archives. An exception to the law is also made for minors who are accompanied by a parent or guardian while attending a motion picture.

***Summary of Bill:*** Erotic sound recordings are added to the definition of "erotic material" that may not be sold, distributed or exhibited to minors.

***EFFECT OF SENATE AMENDMENT(S):*** The Senate amendment makes two changes in the bill. First, the defense already available in the current law with respect to movies is made available with respect to sound recordings. It is a defense to a violation of the prohibition against the sale, distribution, or exhibition of erotic sound recordings to a minor that the minor was accompanied by a parent, parent's spouse, or guardian. Second, the prohibition against displaying erotic sound recordings is modified. The House bill prohibits displaying an erotic recording in a store window or newsstand or in any other manner readily accessible to minors. The amendment also prohibits displaying an erotic recording in a store window or newsstand, but prohibits displaying the "contents" of an erotic recording in any other manner readily accessible to minors.

***Fiscal Note:*** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Many responsible retailers do not allow access by minors to this material. However, there should be a way to prevent the irresponsible few from distributing inappropriate recordings to children.

**Testimony Against:** None.

**Witnesses:** (All in favor): Mike Redman, Washington Association of Prosecuting Attorneys; Michael Weight, City of Everett; and Karen Leslie.

**VOTE ON FINAL PASSAGE:**

Yeas 96; Nays 2

Nays: Braddock, Riley