

2 **SB 6003** - H COMM AMD
3 By Committee on Judiciary

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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) Sexual acts that are violent or destructive, including but
24 not limited to human or animal mutilation, dismemberment, rape, or
25 torture; and

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

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

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

35 (5) "Sexually explicit nudity" means the showing of the human male
36 or female genitals, pubic area, buttocks, or perineum with less than a

1 full opaque covering; or the showing of the female breast with less
2 than a full opaque covering of any portion thereof below the top of the
3 nipple.

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

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

7 (a) Film or plate negative;

8 (b) Film or plate positive;

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

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

12 (e) Video tape; or

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

15 (8) "Publication" means any book, magazine, article, pamphlet,
16 writing, printing, illustration, picture, sound recording, telephonic
17 communication, or coin-operated machine.

18 (9) "Sexual device" means any artificial human penis, vagina, or
19 anus, or other device primarily designed, promoted, or marketed to
20 physically stimulate or manipulate the human genitals, pubic area,
21 perineum, or anal area, including dildoes, penisators, vibrators,
22 vibrillators, penis rings, and erection enlargement or prolonging
23 creams, jellies, or other such chemicals or preparations.

24 (10) "Live performance" means any play, show, skit, dance, or other
25 exhibition performed or presented to or before an audience of one or
26 more, in person or by electronic transmission, or by telephonic
27 communication, with or without consideration.

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

30 (12) "Knowledge of its character" means that the person has
31 knowledge that the matter or performance contains, depicts, or
32 describes activity or conduct which may be found to be patently
33 offensive under subsection (2)(b) of this section. Such knowledge may
34 be proved by direct or circumstantial evidence, or both.

35 (13) "Knowledge" means knowledge as defined in RCW 9A.08.010(1)(b).

36 NEW SECTION. **Sec. 2.** No person shall with knowledge of its
37 character:

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

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

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

14 NEW SECTION. **Sec. 3.** In any prosecution for violation of section
15 2 of this act, it shall be an affirmative defense that:

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

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

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

27 NEW SECTION. **Sec. 4.** Any person who is convicted of violating any
28 provision of section 2 of this act is guilty of a gross misdemeanor.
29 Each day that any violation of section 2 of this act occurs or
30 continues shall constitute a separate offense and shall be punishable
31 as a separate violation. Every act, thing, or transaction prohibited by
32 section 2 of this act shall constitute a separate offense as to each
33 item, issue, or title involved and shall be punishable as such. For
34 the purpose of this section, multiple copies of the same identical
35 title, monthly issue, volume, and number issue, or other such identical
36 material shall constitute a single offense.

1 NEW SECTION. **Sec. 5.** Nothing in this chapter applies to the
2 circulation of any material by any recognized historical society or
3 museum, any library of any college or university, or to any archive or
4 library under the supervision and control of the state, county,
5 municipality, or other political subdivision.

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

- 8 (1) RCW 9.68.050 and 1992 c 5 s 1 & 1969 ex.s. c 256 s 13;
- 9 (2) RCW 9.68.060 and 1992 c 5 s 2 & 1969 ex.s. c 256 s 14;
- 10 (3) RCW 9.68.070 and 1992 c 5 s 4 & 1969 ex.s. c 256 s 15;
- 11 (4) RCW 9.68.080 and 1969 ex.s. c 256 s 16;
- 12 (5) RCW 9.68.090 and 1992 c 5 s 3 & 1969 ex.s. c 256 s 17;
- 13 (6) RCW 9.68.100 and 1969 ex.s. c 256 s 18;
- 14 (7) RCW 9.68.110 and 1969 ex.s. c 256 s 19;
- 15 (8) RCW 9.68.120 and 1969 ex.s. c 256 s 20;
- 16 (9) RCW 9.68.130 and 1975 1st ex.s. c 156 s 1;
- 17 (10) RCW 9.68A.140 and 1987 c 396 s 1;
- 18 (11) RCW 9.68A.150 and 1987 c 396 s 2; and
- 19 (12) RCW 9.68A.160 and 1987 c 396 s 3.

20 NEW SECTION. **Sec. 7.** Sections 1 through 5 of this act are each
21 added to chapter 9.68 RCW.

22 NEW SECTION. **Sec. 8.** If any provision of this act or its
23 application to any person or circumstance is held invalid, the
24 remainder of the act or the application of the provision to other
25 persons or circumstances is not affected."

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