

FINAL BILL REPORT

SB 6003

FULL VETO

AS PASSED LEGISLATURE

Brief Description: Protecting children from sexually explicit films, publications, and devices.

SPONSORS: Senator A. Smith, Quigley, L. Smith, Haugen, Oke, Nelson, McAuliffe, Ludwig and Franklin

SENATE COMMITTEE ON LAW & JUSTICE

HOUSE COMMITTEE ON JUDICIARY

BACKGROUND:

Washington law prohibits the sale, distribution, or exhibition of materials which have been determined by a court to be erotic. Erotic materials are those which appeal to the prurient interest of minors in sex, are patently offensive, and are utterly without redeeming social value. A person who violates these provisions is guilty of a misdemeanor for the first offense, a gross misdemeanor for the second offense, and a felony for the third and subsequent offenses. In 1987 the Legislature prohibited allowing minors on the premises of commercial establishments where there is a live performance which contains erotic material. Violation of this provision is a gross misdemeanor.

SUMMARY:

The statutory prohibitions on distribution or display of erotic materials to minors are repealed. These provisions are replaced with provisions prohibiting the display, sale, or distribution to minors of materials which are "harmful to minors." "Minor" means a person under age 17.

Matter which may be harmful to minors includes live performances and written, auditory, and visual materials which: (1) the average adult person, applying contemporary community standards, would find appeals to the prurient interest of minors; (2) depicts or describes conduct that under prevailing adult community standards is patently offensive; and (3) lacks serious literary, artistic, political, or scientific value for minors.

A person who knowingly displays, sells, or distributes material harmful to minors, or allows the minor to view or listen to such materials, or brings a minor to a live performance which is harmful to minors is guilty of a gross misdemeanor, punishable by up to one year in jail and up to a \$5,000 fine.

Each day a person violates the act constitutes a separate offense.

If the material is kept behind devices that cover the lower two-thirds of the matter, it will not be deemed to be displayed.

In any prosecution, affirmative defenses available are: (1) the minor's parent or guardian disseminated the material for bona fide purposes; (2) the parent or guardian of the minor has given written permission for the minor to view the material for bona fide purposes; or (3) a reasonable attempt was made to ascertain the true age of the minor by not relying solely on the oral allegations or apparent age of the minor.

Exemptions from the provisions are as follows: (1) official circulations of material by historical societies or museums, libraries of colleges or universities, archives or libraries under the supervision and control of the state, county, city, or other political subdivisions; (2) the official distribution or use of material by a public school; (3) the official distribution or use of material by a health care provider or health agency under the supervision and control or funded in whole or in part by the state, county, city, or other political subdivision of the state; (4) contraceptive devices; or (5) depictions of a female breast feeding an infant.

No person shall be vicariously liable for the conduct of agents, employees, or employers who violate the act except as provided in the corporation liability statute. That statute is amended to provide that a corporation will not be liable for the conduct of an agent who violates the act if the agent is not a member of the board of directors or a person in a high managerial position.

VOTES ON FINAL PASSAGE:

Senate	46	1	
House	82	13	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate	45	0	(Senate concurred)