
SENATE BILL 5246

State of Washington

55th Legislature

1997 Regular Session

By Senators Oke, Benton, Morton, Winsley, Zarelli, Hochstatter, Swecker, Finkbeiner and Stevens

Read first time 01/20/97. Referred to Committee on Government Operations.

1 AN ACT Relating to use of public facilities and resources; adding
2 a new section to chapter 42.23 RCW; adding a new section to chapter
3 42.52 RCW; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 42.23 RCW
6 to read as follows:

7 (1) No municipal officer or employee may use or authorize the use
8 of facilities or resources of a municipality, directly or indirectly,
9 for the purpose of accessing material that is patently offensive.
10 Knowing acquiescence by a person with authority to direct or control
11 the actions of the officer or employee using public facilities or
12 resources in violation of this section constitutes a violation of this
13 section. Facilities of a municipality include, but are not limited to,
14 use of stationery, postage, machines, and equipment, use of state
15 employees of the municipality during working hours, vehicles, office
16 space, and access to the internet or other electronic and
17 telecommunications services.

18 (2) As used in this section, "patently offense material" means any
19 matter or live performance:

1 (a) Which the average adult person, applying contemporary community
2 standards, would find, when considered as a whole, appeals to the
3 prurient interest; and

4 (b) Which explicitly depicts or describes, by prevailing standards
5 in the adult community, patently offensive representations or
6 descriptions of:

7 (i) Ultimate sexual acts, normal or perverted, actual or simulated;
8 or

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

12 (iii) Sexual acts that are violent or destructive, including but
13 not limited to human or animal mutilation, dismemberment, rape, or
14 torture; and

15 (c) Which, when considered as a whole, and in the context in which
16 it is used, lacks serious literary, artistic, political, or scientific
17 value.

18 (3) Each violation of this section is a misdemeanor.

19 (4) This section does not apply to uses of facilities or resources
20 for official law enforcement purposes and purposes related to the
21 official obligations of an officer or employee.

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 42.52 RCW
23 to read as follows:

24 (1) No state officer or state employee may use or authorize the use
25 of facilities or resources of an agency, directly or indirectly, for
26 the purpose of accessing material that is patently offensive. Knowing
27 acquiescence by a person with authority to direct or control the
28 actions of the state officer or state employee using public facilities
29 or resources in violation of this section constitutes a violation of
30 this section. Facilities of an agency include, but are not limited to,
31 use of stationery, postage, machines, and equipment, use of state
32 employees of the agency during working hours, vehicles, office space,
33 and access to the internet or other electronic and telecommunications
34 services.

35 (2) As used in this section, "patently offense material" means any
36 matter or live performance:

1 (a) Which the average adult person, applying contemporary community
2 standards, would find, when considered as a whole, appeals to the
3 prurient interest; and

4 (b) Which explicitly depicts or describes, by prevailing standards
5 in the adult community, patently offensive representations or
6 descriptions of:

7 (i) Ultimate sexual acts, normal or perverted, actual or simulated;
8 or

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

12 (iii) Sexual acts that are violent or destructive, including but
13 not limited to human or animal mutilation, dismemberment, rape, or
14 torture; and

15 (c) Which, when considered as a whole, and in the context in which
16 it is used, lacks serious literary, artistic, political, or scientific
17 value.

18 (3) Each violation of this section is a misdemeanor.

19 (4) This section does not apply to uses of facilities or resources
20 for official law enforcement purposes and purposes related to the
21 official obligations of an officer or employee.

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