

CHAPTER 19A

ADULT BOOKSTORES

Section 1. PURPOSE.

The purpose of this chapter is to regulate the display of adult books, magazines, motion picture films or sound records for the purpose of sale by placing them out of the view of minors.

Section 2. DEFINITIONS.

The following are definitions of terms as used in this chapter:

“Adult book, magazine, motion picture film or sound recording”:

Any book, pamphlet, magazine, printed matter, however reproduced, or any motion picture film or sound recording which contains any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body which depicts sexual conduct and which is harmful to minors, or explicit and detailed verbal descriptions or narrative accounts of sexual conduct which, taken as a whole, is harmful to minors.

“Harmful to minors”:

Means that quality of any description or representation, in whatever form of sexual conduct, when it:

- a) Predominately appeals to the prurient interest of minors in sex, that is, an interest in lewdness or lascivious thoughts;
- b) Depicts or describes sexual conduct in a manner so explicit as to be patently offensive to contemporary adult standards of the community with respect to what is suitable for minors; and
- c) Lacks serious literary, artistic, political or scientific value.

“Knowingly”:

Means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry, or both as to:

- a) The character and content of any material described herein which is reasonably susceptible of examination by the defendant, and

- b) The age of the minor; provided however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonably bona fide attempt to ascertain the true age of such minor.

“Minor”:

Means any person under the age of eighteen (18) years.

“Sexual conduct”:

Means human masturbation, sexual intercourse, actual or simulated, normal or perverted, or any touching of the genital, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals, any depiction or representation of excretory functions, any lewd exhibitions of the genitals, flagellation or torture in the context of a sexual relationship. Sexual intercourse is simulated when it depicts sexual intercourse which gives the appearance of the consummation of sexual intercourse, normal or perverted.

Section 3. DISPLAY OF MERCHANDISE.

Any person, firm or corporation knowingly offering for sale adult books, magazines, motion picture films and/or sound recordings shall display them on shelves, bookracks or other display devices at a height of no less than sixty (60) inches from the floor level immediately in front of the display racks or shelves or, in the absence of shelves or bookracks having a minimum shelf height of sixty (60) inches; adult books, magazines, motion picture films and/or sound recordings shall be behind the operator or sales register or checkout counter; and any adult books, magazines, motion picture films and/or sound recordings covers containing pictures, photographs or drawings of a person or portion of the human body which depicts sexual conduct and which, taken as a whole, is harmful to minors, shall not be open to public view.

Section 4. COMPLIANCE REQUIRED.

It shall be unlawful for any person, firm or corporation to knowingly display any adult books, magazines, motion picture films and/or sound recordings in a manner which is inconsistent with the provisions of Section 3 of this chapter.

Section 5. VIOLATIONS AND PENALTIES.

Should any person, firm or corporation be guilty of violating any provisions of this chapter, a fine of one hundred dollars (\$100.00) per day, or the maximum which is authorized by statute, may be levied against said person, firm or corporation upon conviction.

Passed October 31, 1988.