

5466-S

Sponsor(s): Senate Committee on Law & Justice (originally sponsored by Senators Smith, Oke, Heavey, Winsley and Franklin)

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

SB 5466-S.E - DIGEST

(DIGEST AS ENACTED)

Prohibits the sale or display of matter which is harmful to minors.

Provides affirmative defenses to prosecution for violations of the act, including the parental consent being given to a minor.

Makes a violation of the act a gross misdemeanor offense.

Repeals RCW 9.68.015, 9.68.050, 9.68.060, 9.68.070, 9.68.080, 9.68.090, 9.68.100, 9.68.110, 9.68.120, 9.68.130, 9.68A.140, 9.68A.150, and 9.68A.160.

Exempts libraries, museums, and transmissions by franchised cable operators under certain circumstances.

VETO MESSAGE ON SB 5466-S

May 12, 1995

To the Honorable President and Members,
The Senate of the State of Washington
Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Substitute Senate Bill No. 5466 entitled:

"AN ACT Relating to the well-being of children;"

This legislation represents an effort to distinguish between that which is properly seen and heard by adults and that which should properly be seen and heard by those under 18 years of age - to define whose writings, photographs, devices, recordings and performances that are "harmful to minors."

No responsible parent or caring person can dispute the propriety of protecting our children from harm. What has become clear, however, is the great disparity in determining from what harm we seek to provide that protection.

Proponents of this bill cite the need to strengthen our response to those who would utilize pornographic material to exploit our children. I wholeheartedly agree with this effort and state again my commitment to craft a bill to achieve this important objective. I will work with the legislature to strengthen the severity and certainty of punishment for those who would even attempt to occasion sexual improprieties upon a child - including dramatically increasing criminal penalties on those who would prey upon innocent victims. That is not what this legislation does.

In an attempt to filter minors' exposure to certain materials and performances, this bill stands to burden a broad segment of legitimate programs and businesses. Individuals would be forced to block access to what they determined to be suspect material or defend themselves in court. The chilling effect is potentially

severe. Retailers, computer on-line services, arts organizations, health care providers, telephone service providers, artists, performers and professionals -- especially those whose labors keep them at the fore of technology, medicine or artistic movement -- fear they would have to unnecessarily ban minors from their products, services, or displays or prohibit access to certain materials entirely. Those with less resources -- including those who confront some of the most difficult issues affecting young people today, such as teen pregnancy and AIDS -- for whom review and segregation of materials are simply not feasible and the threat of court battles overwhelming, would simply shut down altogether.

The well-being of our children is not promoted by banning them from art galleries, barring them from a world of instant communication, or hiding them from accurate health care education and information that may save their lives. A community standard cognizant of our children's well-being is already evident in the marketplace, resulting in retailers' voluntary use of blinder racks, announcements of adult content, and other methods of establishing barriers to minors' access to sexually explicit materials. The computer software industry is diligently working to continually improve methods for parents to offer their children controlled computer network access.

If it is harmful conduct we seek to enjoin, then let us work together to bar by any legitimate means those who would cause that harm. If, on the other hand, it is harmful content we wish to censor, then we have much work ahead of us to find a line less egregious than presented by this measure.

I will commit my office over the coming months to seek the guidance of legislators and concerned individuals. We will work together to clarify the intent behind this legislation, to identify the harms we would seek to prevent, and to carefully tailor legislation appropriate to our task.

For these reasons, I am vetoing Engrossed Substitute Senate Bill No. 5466 in its entirety.

Respectfully submitted,
Mike Lowry
Governor