

SENATE BILL REPORT

SB 6003

AS PASSED SENATE, FEBRUARY 1, 1994

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

Majority Report: Do pass.

Signed by Senators A. Smith, Chairman; Ludwig, Vice Chairman; Hargrove, Nelson, Quigley, Roach and Schow.

Staff: Dick Armstrong (786-7460)

Hearing Dates: January 12, 1994; January 19, 1994

HOUSE COMMITTEE ON JUDICIARY

BACKGROUND:

Washington law prohibits the sale, distribution, or exhibition of erotic materials to minors. The prohibition applies only to 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The statutory prohibitions on distribution or display of erotic materials to minors are repealed and replaced with provisions prohibiting the display, sale, or distribution of materials harmful to minors. Material which may be harmful to minors includes written and visual materials and live performances containing patently offensive sexual conduct which lacks serious literary, artistic, political, or scientific value for minors. A person who knowingly displays, sells, or distributes such material to minors, or presents to a minor a live performance which is harmful to minors is guilty of a gross misdemeanor.

It is an affirmative defense to an alleged violation of the act if a parent or guardian of the minor has given permission

for the minor to view the material, or a reasonable attempt was made to ascertain the true age of the minor.

Libraries and museums are exempt from the provisions of the bill.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

This bill prevents children from viewing inappropriate material, which is often used to entice children into sexual acts. The bill meets all constitutional tests and has been upheld in other states. Explicit sexual material is harmful to minors and is often used to groom children for sexual exploitation.

TESTIMONY AGAINST:

The bill is unconstitutional because of its emphasis on violence and, in addition, it would create difficulties for magazine publishers and distributors to conduct their business. The bill will also curtail the distribution of many videos. First amendment rights are very important and this bill will infringe on those rights.

TESTIFIED: PRO: Chris Quinn Britnall, Pierce County Prosecutor's Office; Lang Taylor, Sexual Therapist; Andrea Vangor, WA Together Against Pornography; Tammy Tavares, citizen; CON: Bob Seeber, Magazine Distributors; Bill Fritz, Media Coalition, Robert Taylor Manning, WA Music Publications Assn.; Jerry Sheehan, ACLU

HOUSE AMENDMENT(S):

The age of a minor is changed from "under the age of 18" to "under the age of 17."

The amendment adds public school libraries, approved instructional materials, health care providers, health agencies, contraceptive devices, and depictions of female breasts nursing an infant to the section exempting libraries, museums, and archives from the act.

An express provision is added that expressly prohibits vicarious liability. Liability is limited to those persons who violate the provisions of the act acting either as a principal or as an accomplice. However, the amendment also provides for the vicarious liability of a corporation when the board of directors or a high managerial employee engages in, solicits, authorizes, requests, or tolerates the illegal conduct.