

FINAL BILL REPORT

ESSB 5466

FULL VETO

As Passed Legislature

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

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

Senate Committee on Law & Justice

House Committee on Law & Justice

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 that 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 1994, the Washington Supreme Court held that, while the Legislature may regulate speech it considers "harmful to minors," the present statute is unconstitutional because it violates a variety of procedural due process requirements.

Summary: The statutory prohibitions on distribution or display of erotic materials to minors are repealed and replaced with provisions prohibiting the display, sale, or distribution of materials harmful to minors.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 that may be harmful to minors includes written, auditory, and visual materials and live performances that: (1) the average adult person, applying contemporary community standards, would find appeals to the prurient interest of minors; (2) depict conduct that under prevailing adult community standards is patently offensive for minors; and (3) lack serious literary, artistic, political, or scientific value for minors.

Materials that can be harmful to minors include movies, books, sound recordings, magazines, sexual devices, telephonic communications, and coin-operated machines.

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. In the case of on-line access to electronic information, materials are not displayed to minors if access is stored in a restricted area or if it is not reasonably possible to restrict access.

It is an affirmative defense to an alleged violation of the act if a parent or guardian of the minor gives permission for the minor to view the material, or a reasonable attempt is made to ascertain the true age of the minor.

All local ordinances relating to harmful to minor statutes must be consistent with the provisions of the act.

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

"Minor" means a person under the age of 18.

Votes on Final Passage:

Senate	41	6	
House	75	14	(House amended)
Senate			(Senate refused to concur)
House	79	17	(House amended)
Senate			(Senate refused to concur)
House	71	18	(House amended)
Senate	38	7	(Senate concurred)