

RCW 9.68.060 "Erotic material"—Determination by court—Labeling—Penalties. (1) When it appears that material which may be deemed erotic is being sold, distributed, or exhibited in this state, the prosecuting attorney of the county in which the sale, distribution, or exhibition is taking place may apply to the superior court for a hearing to determine the character of the material with respect to whether it is erotic material.

(2) Notice of the hearing shall immediately be served upon the dealer, distributor, or exhibitor selling or otherwise distributing or exhibiting the alleged erotic material. The superior court shall hold a hearing not later than five days from the service of notice to determine whether the subject matter is erotic material within the meaning of RCW 9.68.050.

(3) If the superior court rules that the subject material is erotic material, then, following such adjudication:

(a) If the subject material is written or printed, or is a sound recording, the court shall issue an order requiring that an "adults only" label be placed on the publication or sound recording, if such publication or sound recording is going to continue to be distributed. Whenever the superior court orders a publication or sound recording to have an "adults only" label placed thereon, such label shall be impressed on the front cover of all copies of such erotic publication or sound recording sold or otherwise distributed in the state of Washington. Such labels shall be in forty-eight point boldface type located in a conspicuous place on the front cover of the publication or sound recording. All dealers and distributors are hereby prohibited from displaying erotic publications or sound recordings in their store windows, on outside newsstands on public thoroughfares, or in any other manner so as to make an erotic publication or the contents of an erotic sound recording readily accessible to minors.

(b) If the subject material is a motion picture, the court shall issue an order requiring that such motion picture shall be labeled "adults only". The exhibitor shall prominently display a sign saying "adults only" at the place of exhibition, and any advertising of the motion picture shall contain a statement that it is for adults only. Such exhibitor shall also display a sign at the place where admission tickets are sold stating that it is unlawful for minors to misrepresent their age.

(4) Failure to comply with a court order issued under the provisions of this section shall subject the dealer, distributor, or exhibitor to contempt proceedings.

(5) Any person who, after the court determines material to be erotic, sells, distributes, or exhibits the erotic material to a minor shall be guilty of violating RCW 9.68.050 through 9.68.120, such violation to carry the following penalties:

(a) For the first offense a misdemeanor and upon conviction shall be fined not more than five hundred dollars, or imprisoned in the county jail not more than six months;

(b) For the second offense a gross misdemeanor and upon conviction shall be fined not more than one thousand dollars, or imprisoned for up to three hundred sixty-four days;

(c) For all subsequent offenses a class B felony and upon conviction shall be fined not more than five thousand dollars, or imprisoned not less than one year. [2011 c 96 § 8; 2003 c 53 § 41; 1992 c 5 § 2; 1969 ex.s. c 256 § 14.]

Reviser's note: As to the constitutionality of this section, see *Soundgarden v. Eikenberry*, 123 Wn.2d 750, 871 P.2d 1050 (1994).

Findings—Intent—2011 c 96: See note following RCW 9A.20.021.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Severability—1969 ex.s. c 256: See note following RCW 9.68.050.