

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2554

52nd Legislature
1992 Regular Session

Passed by the House March 7, 1992
Yeas 89 Nays 7

**Speaker of the
House of Representatives**

Passed by the Senate March 3, 1992
Yeas 35 Nays 9

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is HOUSE BILL 2554 as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 2554

AS AMENDED BY THE SENATE

Passed Legislature - 1992 Regular Session

State of Washington 52nd Legislature 1992 Regular Session

By Representatives R. King, Padden, Scott, Casada, Paris, Pruitt,
Brough, Belcher, Rasmussen and Nealey

Read first time 01/22/92. Referred to Committee on Judiciary.

1 AN ACT Relating to erotic material and sound recordings; and
2 amending RCW 9.68.050, 9.68.060, 9.68.090, and 9.68.070.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 9.68.050 and 1969 ex.s. c 256 s 13 are each amended to
5 read as follows:

6 For the purposes of RCW 9.68.050 through 9.68.120:

7 (1) "Minor" means any person under the age of eighteen years;

8 (2) "Erotic material" means printed material, photographs,
9 pictures, motion pictures, sound recordings, and other material the
10 dominant theme of which taken as a whole appeals to the prurient
11 interest of minors in sex; which is patently offensive because it
12 affronts contemporary community standards relating to the description
13 or representation of sexual matters or sado-masochistic abuse; and is
14 utterly without redeeming social value;

1 (3) "Person" means any individual, corporation, or other
2 organization;

3 (4) "Dealers", "distributors", and "exhibitors" mean persons
4 engaged in the distribution, sale, or exhibition of printed material,
5 photographs, pictures, ~~((or))~~ motion pictures, or sound recordings.

6 **Sec. 2.** RCW 9.68.060 and 1969 ex.s. c 256 s 14 are each amended to
7 read as follows:

8 (1) When it appears that material which may be deemed erotic is
9 being sold, distributed, or exhibited in this state, the prosecuting
10 attorney of the county in which the sale, distribution, or exhibition
11 is taking place may apply to the superior court for a hearing to
12 determine the character of the material with respect to whether it is
13 erotic material.

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

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

22 (a) If the subject material is written or printed, or is a sound
23 recording, the court shall issue an order requiring that an "adults
24 only" label be placed on the publication or sound recording, if such
25 publication or sound recording is going to continue to be distributed.
26 Whenever the superior court orders a publication or sound recording to
27 have an "adults only" label placed thereon, such label shall be
28 impressed on the front cover of all copies of such erotic publication
29 or sound recording sold or otherwise distributed in the state of

1 Washington. Such labels shall be in forty-eight point bold face type
2 located in a conspicuous place on the front cover of the publication or
3 sound recording. All dealers and distributors are hereby prohibited
4 from displaying erotic publications or sound recordings in their store
5 windows, on outside newsstands on public thoroughfares, or in any other
6 manner so as to make ((them)) an erotic publication or the contents of
7 an erotic sound recording readily accessible to minors.

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

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

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

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

26 (ii) For the second offense a gross misdemeanor and upon conviction
27 shall be fined not more than one thousand dollars, or imprisoned not
28 more than one year;

1 (iii) For all subsequent offenses a felony and upon conviction
2 shall be fined not more than five thousand dollars, or imprisoned not
3 less than one year.

4 **Sec. 3.** RCW 9.68.090 and 1969 ex.s. c 256 s 17 are each amended to
5 read as follows:

6 No retailer, wholesaler, or exhibitor is to be deprived of service
7 from a wholesaler or wholesaler-distributor of books, magazines, motion
8 pictures, sound recordings, or other materials or subjected to loss of
9 his franchise or right to deal or exhibit as a result of his attempts
10 to comply with this statute. Any publisher, distributor, or other
11 person, or combination of such persons, which withdraws or attempts to
12 withdraw a franchise or other right to sell at retail, wholesale or
13 exhibit materials on account of the retailer's, wholesaler's or
14 exhibitor's attempts to comply with RCW 9.68.050 through 9.68.120 shall
15 incur civil liability to such retailer, wholesaler or exhibitor for
16 threefold the actual damages resulting from such withdrawal or
17 attempted withdrawal.

18 **Sec. 4.** RCW 9.68.070 and 1969 ex.s. c 256 s 15 are each amended to
19 read as follows:

20 In any prosecution for violation of RCW 9.68.060, it shall be a
21 defense that:

22 (1) If the violation pertains to a motion picture or sound
23 recording, the minor was accompanied by a parent, parent's spouse, or
24 guardian; or

25 (2) Such minor exhibited to the defendant a draft card, driver's
26 license, birth certificate, or other official or an apparently official
27 document purporting to establish such minor was over the age of
28 eighteen years; or

1 (3) Such minor was accompanied by a person who represented himself
2 to be a parent, or the spouse of a parent, or a guardian of such minor,
3 and the defendant in good faith relied upon such representation.