Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1	State of Arkansas	As Engrossed: S4/1/99	
2	82nd General Assembly	A Bill	Act 1263 of 1999
3	Regular Session, 1999		SENATE BILL 756
4			
5	By: Senator Hunter		
6			
7			
8	For An Act To Be Entitled		
9	"AN ACT TO STRENGTHEN THE PORNOGRAPHY LAWS OF THIS		
10	STATE; AND	FOR OTHER PURPOSES. "	
11		~	
12		Subtitle	
13	"TO S	STRENGTHEN THE PORNOGRAPHY LAWS OF	
14	THI S	STATE. "	
15			
16			
17	BE IT ENACTED BY THE G	ENERAL ASSEMBLY OF THE STATE OF ARKA	INSAS:
18			
19		nsas Code 5-68-501 is amended to rea	d as follows:
20	"5-68-501. Definitions.		
21	As used in this subchapter, unless the context otherwise requires:		
22	(1) 'CD-ROM' means a compact disk which has the capacity to store		
23	<u>graphic, audio, video and written materials and may be used by computer or</u>		
24	<u>other device to play o</u>	<mark>or display materials harmful to minor</mark>	<u>`S;</u>
25	<del>(6)<u>(</u>2)</del> 'Harmful	to minors' means that quality of an	y description <u>,</u>
26	<u>exhibition, presentati</u>	<u>on</u> or representation, in whatever fo	orm, of nudity,
27	sexual conduct, sexual	excitement, or sadomasochistic abus	se, when <del>it</del> <u>the</u>
28	material or performanc	e, taken as a whole, has the followi	<u>ng characteristics</u> :
29	(A) <del>Predo</del>	minantly appeals to the prurient, sh	ameful, or morbid
30	interest of minors <u>The</u>	e average person eighteen (18) years	<u>of age or older</u>
31	applying contemporary community standards would find that the material or		
32	performance has a predominant tendency to appeal to a prurient interest in sex		
33	<u>to minors</u> ; and		
34	(B) <del>Is pa</del>	tently offensive to prevailing stand	lards in the adult
35	community as a whole with respect to what is suitable material for minors <u>The</u>		
36	<u>average person eightee</u>	n (18) years of age or older applyin	<u>ig contemporary</u>

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community standards would find that the material or performance depicts or 1 describes nudity, sexual conduct, sexual excitement or sadomasochistic abuse 2 3 in a manner that is patently offensive to prevailing standards in the adult 4 community with respect to what is suitable for minors; and (C) Is utterly without redeeming social importance for minors The 5 <u>material or performance lacks serious literary, s</u>cientific, medical, artistic, 6 7 or political value for minors; (7)(3) 'Knowingly' means having general knowledge of, or reason to 8 9 know, or a belief or ground for belief which warrants further inspection or 10 inquiry of both: 11 (A) The character and content of any material described herein 12 which is reasonably susceptible to examination by the defendant; and 13 (B) The age of the minor, provided that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a 14 15 reasonable bona fide attempt to ascertain the age of the minor; 16 (4) 'Magnetic disk memory' means a memory system that stores and retrieves binary data on record-like metal or plastic disks coated with a 17 18 magnetic material, including but not limited to, hard disk drives and floppy 19 diskettes; 20 (5) 'Magnetic tape memory' means a memory system that stores and 21 retrieves binary data on magnetic recording tape; 22 (6) 'Material' means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture, film, record, 23 24 recording tape, CD-ROM disk, magnetic disk memory, magnetic tape memory, video tape or other media, but does not include matters displayed, transmitted, 25 retrieved or stored on the internet or other network for the electronic 26 27 dissemination of information; 28 (1) (7) 'Minor' means any person under the age of seventeen (17)29 eighteen (18) years; 30  $\frac{(2)}{(8)}$  'Nudity' means the showing of the human male or female genitals, 31 pubic area, or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion 32 thereof below the top of the nipple, or the depiction of covered male genitals 33 in a discernibly turgid state; 34 35 (9) 'Performance' means any motion picture, film, video tape, played record, phonograph or tape, preview, trailer, play, show, skit, dance, or 36

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other exhibition performed or presented to or before an audience of one (1) or 1 2 more, with or without consideration, but does not include matters displayed, 3 transmitted, retrieved or stored on the internet or other network for 4 electronic dissemination of information; (10) 'Person' means any individual, partnership, association, 5 corporation, or other legal entity of any kind; and 6 7 (11) 'Reasonable bona fide attempt' means an attempt to ascertain the 8 true age of the minor by requiring production of a driver's license, marriage 9 license, birth certificate or other governmental or educational identification 10 card or paper and not relying solely on the oral allegations or apparent age 11 of the minor. 12 (12) 'Sadomasochistic abuse' means flagellation or torture by or 13 upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the 14 15 part of one so clothed; 16 (3)(13) 'Sexual conduct' means acts of masturbation, homosexuality, 17 sexual intercourse, or physical contact with a person's clothed or unclothed 18 genitals, pubic area, buttocks, or female breast; (4) (14) 'Sexual excitement' means the condition of the human male or 19 20 female genitals when in a state of sexual stimulation or arousal;" 21 22 SECTION 2. Arkansas Code 5-68-502 is amended to read as follows: 23 "5-68-502. Unlawful acts. 24 (a) It shall be unlawful for any person, including but not limited to, any persons having custody, control or supervision of any commercial 25 establishment, to knowingly to sell or loan for monetary consideration to a 26 27 minor: 28 (1) Any picture, photograph, drawing, sculpture, motion picture film, 29 or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct, or sadomasochistic abuse and which 30 31 is harmful to minors Display material which is harmful to minors in such a way that minors, as a part of the invited general public, will be exposed to view 32 such material. Provided, however, a person shall be deemed not to have 33 displayed material harmful to minors if the material is kept behind devices 34 commonly known as 'blinder racks' so that the lower two-thirds (2/3) of the 35 material is not exposed to view; or 36

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1	(2) Any book, pamphlet, magazine, printed matter, however reproduced,		
2	or sound recording which contains any matter enumerated in subdivision (1) of		
3	this section or explicit and detailed verbal descriptions or narrative		
4	accounts of sexual excitement, sexual conduct, or sadomasochistic abuse and		
5	<del>which, taken as a whole, is harmful to minors.</del> <u>Sell, furnish, present,</u>		
6	<u>distribute, allow to view, or otherwise disseminate to a minor, with or</u>		
7	without consideration, any material which is harmful to minors, provided that		
8	this prohibition shall not apply to any dissemination by a parent, guardian or		
9	relative within the third degree or consanguinity of the minor, or any		
10	dissemination with the consent of a parent or guardian of the minor; or		
11	(3) Present to a minor or participate in presenting to a minor, with or		
12	without consideration, any performance which is harmful to a minor, provided		
13	that this prohibition shall not apply to any dissemination by a parent,		
14	guardian or relative within the third degree or consanguinity of the minor, or		
15	any dissemination with the consent of a parent or guardian of the minor.		
16	(b) It shall be unlawful for any person knowingly to exhibit for a		
17	monetary consideration to a minor or knowingly to sell to a minor an admission		
18	ticket or pass or knowingly to admit a minor for a monetary consideration to		
19	premises whereon there is exhibited a motion picture, show, or other		
20	presentation which, in whole or in part, depicts nudity, sexual conduct, or		
21	sadomasochistic abuse and which is harmful to minors."		
22			
23	SECTION 3. All provisions of this act of a general and permanent nature		
24	are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code		
25	Revision Commission shall incorporate the same in the Code.		
26			
27	SECTION 4. If any provision of this act or the application thereof to		
28	any person or circumstance is held invalid, such invalidity shall not affect		
29	other provisions or applications of the act which can be given effect without		
30	the invalid provision or application, and to this end the provisions of this		
31	act are declared to be severable.		
32			
33	SECTION 5. All laws and parts of laws in conflict with this act are		
34	hereby repealed.		
35	/s/ Hunter		
36	APPROVED: 4/8/1999		

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