

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  
2 82nd General Assembly  
3 Regular Session, 1999  
4

*As Engrossed: S4/1/99*

# A Bill

SENATE BILL 756

5 By: Senator Hunter  
6  
7

## For An Act To Be Entitled

9 "AN ACT TO STRENGTHEN THE PORNOGRAPHY LAWS OF THIS  
10 STATE; AND FOR OTHER PURPOSES."

### Subtitle

11  
12 "TO STRENGTHEN THE PORNOGRAPHY LAWS OF  
13 THIS STATE."  
14  
15  
16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18  
19 SECTION 1. Arkansas Code 5-68-501 is amended to read 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 graphic, audio, video and written materials and may be used by computer or  
24 other device to play or display materials harmful to minors;

25 ~~(6)(2)~~ 'Harmful to minors' means that quality of any description,  
26 exhibition, presentation or representation, in whatever form, of nudity,  
27 sexual conduct, sexual excitement, or sadomasochistic abuse, when ~~it~~ the  
28 material or performance, taken as a whole, has the following characteristics:

29 (A) ~~Predominantly appeals to the prurient, shameful, or morbid~~  
30 ~~interest of minors~~ The average person eighteen (18) years of age or older  
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 to minors; and

34 (B) ~~Is patently offensive to prevailing standards in the adult~~  
35 ~~community as a whole with respect to what is suitable material for minors~~ The  
36 average person eighteen (18) years of age or older applying contemporary

1 community standards would find that the material or performance depicts or  
 2 describes nudity, sexual conduct, sexual excitement or sadomasochistic abuse  
 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

5 ~~(C) Is utterly without redeeming social importance for minors~~ The  
 6 material or performance lacks serious literary, scientific, medical, artistic,  
 7 or political value for minors;

8 ~~(7)(3)~~ 'Knowingly' means having general knowledge of, or reason to  
 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  
 14 constitute an excuse from liability hereunder if the defendant made a  
 15 reasonable bona fide attempt to ascertain the age of the minor;

16 (4) 'Magnetic disk memory' means a memory system that stores and  
 17 retrieves binary data on record-like metal or plastic disks coated with a  
 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,  
 23 print, picture, figure, image, description, motion picture, film, record,  
 24 recording tape, CD-ROM disk, magnetic disk memory, magnetic tape memory, video  
 25 tape or other media, but does not include matters displayed, transmitted,  
 26 retrieved or stored on the internet or other network for the electronic  
 27 dissemination of information;

28 ~~(1)(7)~~ 'Minor' means any person under the age of ~~seventeen (17)~~  
 29 eighteen (18) years;

30 ~~(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  
 32 of the female breast with less than a fully opaque covering of any portion  
 33 thereof below the top of the nipple, or the depiction of covered male genitals  
 34 in a discernibly turgid state;

35 (9) 'Performance' means any motion picture, film, video tape, played  
 36 record, phonograph or tape, preview, trailer, play, show, skit, dance, or

1 other exhibition performed or presented to or before an audience of one (1) or  
 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;

5 (10) 'Person' means any individual, partnership, association,  
 6 corporation, or other legal entity of any kind; and

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 ~~(5)~~(12) 'Sadomasochistic abuse' means flagellation or torture by or  
 13 upon a person clad in undergarments, a mask or bizarre costume, or the  
 14 condition of being fettered, bound, or otherwise physically restrained on the  
 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;

19 ~~(4)~~(14) 'Sexual excitement' means the condition of the human male or  
 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,  
 25 any persons having custody, control or supervision of any commercial  
 26 establishment, to knowingly to sell or loan for monetary consideration to a  
 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~~  
 30 ~~body which depicts nudity, sexual conduct, or sadomasochistic abuse and which~~  
 31 ~~is harmful to minors~~ Display material which is harmful to minors in such a way  
 32 that minors, as a part of the invited general public, will be exposed to view  
 33 such material. Provided, however, a person shall be deemed not to have  
 34 displayed material harmful to minors if the material is kept behind devices  
 35 commonly known as 'blinder racks' so that the lower two-thirds (2/3) of the  
 36 material is not exposed to view; or

