

MAINE STATE LEGISLATURE

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1 (New Draft of S.P. 112, L.D. 264)
2 (New Title)

3 FIRST REGULAR SESSION
4

5 ONE HUNDRED AND ELEVENTH LEGISLATURE
6

7 Legislative Document

No. 1438

9 S.P. 477

In Senate, April 8, 1983

10 Reported by Report A from the Committee on Judiciary and printed
11 under Joint Rule 2. Presented by Senator Hichens of York. Cosponsored by
12 Representative McPherson of Eliot and Representative Martin of Brunswick.

JOY J. O'BRIEN, Secretary of the Senate

13
14 STATE OF MAINE
15

16 IN THE YEAR OF OUR LORD
17 NINETEEN HUNDRED AND EIGHTY-THREE
18

19 AN ACT to Amend the Obscenity Laws.
20

21 Be it enacted by the People of the State of Maine as
22 follows:

23 Sec. 1. 8 MRSA c. 26, as amended, is repealed.

24 Sec. 2. 17 MRSA §2911, sub-§1, ¶C, as enacted by
25 PL 1977, c. 410, §2, is amended to read:

26 C. "Matter" means any printed or written mate-
27 rial, any picture, photograph, motion picture or
28 other visual representation, ~~excluding motion~~
29 ~~pictures.~~

30 Sec. 3. 17 MRSA §2911, sub-§1, ¶C-1 is enacted
31 to read:

1 C-1. "Minor" means a person under 18 years of
2 age.

3 Sec. 4. 17 MRSA §2911, sub-§2, ¶B, as enacted by
4 PL 1977, c. 410, §2, is amended to read:

5 B. It shall be a valid defense to any proceeding
6 under this section that:

7 (1) The defendant was a parent or guardian
8 of the minor; ~~and~~

9 (2) The distribution or exhibition is ex-
10 empt under paragraph A-; ~~or~~

11 (3) For motion pictures, the minor was ac-
12 companied by his spouse, parent or legal
13 guardian.

14 Sec. 5. 17 MRSA §2911, sub-§4, as enacted by PL
15 1977, c. 410, §2, is amended to read:

16 4. Penalty. Disseminating obscene matter to a
17 minor is a Class D C crime.

18 Sec. 6. 17 MRSA §2912, sub-§2, ¶B, as enacted by
19 PL 1979, c. 127, §123, is amended to read:

20 B. "Obscene material" means material which:

21 (1) To the average individual applying con-
22 temporary community standards with respect
23 to what is suitable material for minors,
24 considered as a whole, appeals to prurient
25 interests;

26 (2) ~~Depicts or describes in a patently~~
27 ~~offensive manner, human ultimate sexual~~
28 ~~intercourse, masturbation, sedomy, direct~~
29 ~~physical stimulation of unclothed genitals,~~
30 ~~or flagellation or torture in the context of~~
31 ~~ultimate sex acts, or which emphasizes the~~
32 ~~lewd depiction of uncovered genitals acts,~~
33 ~~excretory functions, masturbation or lewd~~
34 ~~exhibition of the genitals; and~~

1 (3) When considered as a whole, lacks
2 serious literary, artistic, political or
3 scientific value.

4 Sec. 7. 17 MRSA §2913 is enacted to read:

5 §2913. Exhibiting obscene motion pictures to minors
6 at outdoor motion picture theaters

7 1. Definitions. For purposes of this section,
8 unless the context indicates otherwise, the following
9 terms have the following meanings.

10 A. "Exhibit" means to display for viewing by the
11 public.

12 B. "Obscene motion picture" means a motion pic-
13 ture which:

14 (1) To the average individual applying con-
15 temporary community standards with respect
16 to what is suitable material for minors,
17 considered as a whole, appeals to prurient
18 interests;

19 (2) Depicts or describes in a patently
20 offensive manner, ultimate sexual acts,
21 excretory functions, masturbation or lewd
22 exhibition of the genitals; and

23 (3) When considered as a whole, lacks
24 serious literary, artistic, political or
25 scientific value.

26 2. Exhibiting obscene motion pictures. A person
27 is guilty of exhibiting obscene motion pictures to a
28 minor at an outdoor motion picture theater if he
29 knowingly exhibits an obscene motion picture declared
30 obscene in an action to which he was a party pursuant
31 to subsection 3, at an outdoor motion picture theater
32 in such a manner that the exhibition is visible by
33 minors from or in any public street, highway, side-
34 walk, thoroughfare, private residence or place of
35 public accommodation.

36 3. Procedure for adjudicating obscenity. When-
37 ever the Attorney General, or any district attorney,

1 reasonably believes a person is exhibiting at an out-
2 door motion picture theater a motion picture which is
3 obscene, he may petition the Superior Court to
4 declare the motion picture obscene pursuant to Title
5 14, sections 5951 to 5963. The Attorney General, or
6 district attorney, may join all persons he reasonably
7 believes to be exhibiting that motion picture to
8 minors as parties to the action. The hearing on that
9 petition shall be held not more than 10 days from the
10 filing of the petition.

11 A. Trial on the issue of obscenity shall be by
12 jury.

13 B. Intervention by others exhibiting the same
14 motion picture shall be freely allowed.

15 C. Determination by a court, pursuant to this
16 subsection, that a motion picture is obscene
17 shall not bar relitigation of that issue in a
18 criminal prosecution under this section.

19 4. Penalty. Exhibiting obscene motion pictures
20 to a minor at an outdoor motion picture theater is a
21 Class D crime.

22 Sec. 8. 17 MRSA §2921, sub-§3, as enacted by PL
23 1977, c. 628, §1, is amended to read:

24 3. Minor. "Minor" means a person under ~~16~~ 18
25 years of age.

26 STATEMENT OF FACT

27 This new draft replaces the original bill. It
28 amends the current law prohibiting the dissemination
29 of obscene matter to minors by raising the penalty
30 from a Class D crime to a Class C crime. It
31 standardizes the definition of minor for the obscen-
32 ity laws to anyone under 18 years of age and
33 standardizes the definition of obscene matter. In ad-
34 dition, the new draft repeals the separate provisions
35 dealing with exhibiting obscene motion pictures to
36 minors and includes motion pictures in the general
37 law concerning dissemination of obscene matter to
38 minors. The repealed provision concerning drive-in

1 movies has been reenacted as a separate section in
2 the obscenity laws.

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