

MAINE STATE LEGISLATURE

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Legislative Document

No. 1840

H. P. 1466 House of Representatives, February 4, 1970
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BERTHA W. JOHNSON, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
AND SEVENTY

**AN ACT Providing for the Regulation of Motion Pictures for Exhibition to
Minors.**

Emergency preamble. Whereas, during the past several years the exhibition of certain motion pictures which are deemed harmful to minors has become a matter of increasingly grave concern to the people of this State; and

Whereas, the regulation of the exhibition of such motion pictures and the consequent protection of minors from the effects of these motion pictures is in the best interest of the morals and general welfare of the citizens of this State, in general; and

Whereas, existing Maine statutes are insufficient to provide such protection; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. R. S., T. 8, c. 26, additional. Title 8 of the Revised Statutes is amended by adding a new chapter 26, to read as follows:

CHAPTER 26
REGULATION OF MOTION PICTURES FOR EXHIBITION TO
MINORS

§ 660. Definitions

1. Harmful to minors. "Harmful to minors" means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sado-masochistic abuse, when it:

- A. Predominantly appeals to the prurient, shameful or morbid interest of minors; and
- B. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and
- C. Is utterly without redeeming social value for minors.

2. Knowingly. "Knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry or both as to:

- A. The character and content of any motion picture which is reasonably susceptible of examination by the accused.
- B. The age of the minor, provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of the minor.

3. Minor. "Minor" means any person under the age of 18 years.

4. Motion picture. "Motion picture" means all motion pictures, including previews of motion pictures.

5. Nudity. "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breasts with less than a fully opaque covering or any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernably turgid state.

6. Sado-masochistic abuse. "Sado-masochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

7. Sexual conduct. "Sexual conduct" means acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person be a female, breast.

8. Sexual excitement. "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

§ 661. Commercial exhibitions prohibited

It shall be unlawful for:

1. Show or exhibit to a minor. Any person to knowingly show or exhibit for a monetary consideration to a minor a motion picture which, in whole or in part, depicts nudity, sexual conduct, sexual excitement or sado-masochistic abuse and which is harmful to minors;

2. Sell tickets or passes to a minor. Any person to knowingly sell to a minor an admission ticket or pass to a motion picture which, in whole or in part, depicts nudity, sexual conduct, sexual excitement or sado-masochistic abuse and which is harmful to minors;

3. Admits a minor. Any person to knowingly admit a minor for a monetary consideration to premises whereon there is exhibited a motion picture which, in whole or in part, depicts nudity, sexual conduct, sexual excitement or sado-masochistic abuse and which is harmful to minors.

Any person who violates any of the provisions of this section shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment for not more than 11 months, or by both.

§ 662. Municipal laws prohibited

No municipality or political subdivision of this State may adopt any ordinance, law or regulation dealing with the subject matter of this chapter.

§ 663. Exemption

This chapter shall not apply to any noncommercial exhibition of motion pictures for purely educational, charitable or religious purposes by any religious association, fraternal society, library, museum, public school, private school or institution of learning.

§ 664. Defenses

It shall be a valid defense to any proceeding under this chapter that:

1. Accompanied by spouse. The minor was accompanied by his spouse;
or

2. Exhibition or showing exempt. That the exhibition or showing is exempt under section 663.

Sec. 2. R. S., T. 17, § 2901, amended. The first sentence of section 2901 of Title 17 of the Revised Statutes is amended to read as follows:

Whoever sells, rents, displays for sale, loans, gives or distributes to any person or offers for sale to such a person or has in his possession, actual or constructive, any pamphlet, magazine, comic book, picture or picture book ~~or film~~ which contains illustrations of, or the literature of which contains, sadism, masochism, sexual perversion, bestiality or lust, or obscenity, indecency or immorality, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.