

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
4

5 Legislative Document

No. 264  
6

7 S.P. 112

In Senate, January 25, 1983

8 Received by the Secretary of the Senate on January 25, 1983. Referred to  
9 the Committee on Judiciary, and ordered printed pursuant to Joint Rule 14.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Hichens of York.

Cosponsors: Representative McPherson of Eliot and Representative  
11 Martin of Brunswick.

12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-THREE  
16

17 AN ACT to Prohibit the Dissemination of  
18 Obscene Material.  
19

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

22 Sec. 1. 17 MRSA c. 93-A, as amended, is  
23 repealed.

24 Sec. 2. 17 MRSA c. 93-C is enacted to read:

25 CHAPTER 93-C

26 DISSEMINATION OF OBSCENE MATERIAL

27 §2931. Definitions

28 As used in this chapter, unless the context  
29 otherwise indicates, the following terms have the  
30 following meanings.

1           1. Material. "Material" means anything tangible  
2 that is capable of being used or adapted to arouse  
3 interest, whether through the medium of reading,  
4 observation, sound, or in any other manner, but does  
5 not include an actual 3-dimensional obscene device.

6           2. Obscene. "Obscene" means material or a per-  
7 formance that:

8           A. The average person, applying contemporary  
9 community standards, would find that taken as a  
10 whole appeals to the prurient interest in sex;

11           B. Depicts or describes:

12                   (1) Patently offensive representations or  
13 descriptions of ultimate sexual acts, normal  
14 or perverted, actual or simulated, including  
15 sexual intercourse, sodomy and sexual  
16 bestiality; or

17                   (2) Patently offensive representations or  
18 descriptions of masturbation, excretory  
19 functions, sadism, masochism, lewd exhibi-  
20 tion of the genitals, the male or female  
21 genitals in a state of sexual stimulation or  
22 arousal, covered male genitals in a discern-  
23 ibly turgid state or a device designed and  
24 marketed as useful primarily for stimulation  
25 of the human genital organs; and

26           C. Taken as a whole, lacks serious literary,  
27 artistic, political or scientific value.

28           3. Obscene device. "Obscene device" means a  
29 device including a dildo or artificial vagina,  
30 designed or marketed as useful primarily for the  
31 stimulation of human genital organs.

32           4. Performance. "Performance" means a play,  
33 motion picture, dance or other exhibition performed  
34 before an audience.

35           5. Promote. "Promote" means to manufacture,  
36 issue, sell, give, provide, lend, mail, deliver,  
37 transfer, transmit, publish, distribute, circulate,  
38 disseminate, present, exhibit or advertise, or to  
39 offer or agree to do any of these actions.

1           6. Prurient interest in sex. "Prurient interest  
2 in sex" means a shameful or morbid interest in sex.

3           7. Wholesale promote. "Wholesale promote" means  
4 to manufacture, issue, sell, provide, mail, deliver,  
5 transfer, transmit, publish, distribute, circulate,  
6 disseminate, or to offer or agree to do any of these  
7 actions for the purpose of resale.

8 If any of the depictions or descriptions of sexual  
9 conduct described in this section are declared by a  
10 court of competent jurisdiction to be unlawfully  
11 included in this section, this declaration shall not  
12 invalidate this section as to other patently offen-  
13 sive sexual conduct included in this section.

14 §2932. Obscenity

15           1. Wholesale promotion; offense. A person com-  
16 mits an offense if, knowing its content and charac-  
17 ter, he wholesale promotes or possesses with intent  
18 to wholesale promote any obscene material or obscene  
19 device.

20           2. Penalty for wholesale promotion. An offense  
21 under subsection 1 is punishable by a penalty of not  
22 less than \$50 nor more than \$500. Each day an  
23 offense under subsection 1 continues shall be a sep-  
24 arate offense.

25           3. Promotion, presentation; offense. A person  
26 commits an offense if, knowing its content and char-  
27 acter, he:

28           A. Promotes or possesses with intent to promote  
29 any obscene material or obscene device; or

30           B. Produces, presents or directs an obscene per-  
31 formance or participates in a portion thereof  
32 that is obscene or that contributes to its  
33 obscurity.

34           4. Penalty for promotion, presentation. An  
35 offense under subsection 3 is punishable by a penalty  
36 of not less than \$50 nor more than \$500. Each day an  
37 offense under subsection 3 continues shall be a sep-  
38 arate offense.

