

upon compliance with the provisions of Minnesota Statutes, Section 645.021.

Approved June 6, 1969.

CHAPTER 1071—H. F. No. 990

[Coded]

An act relating to the health, physical, and mental welfare of minors; preventing the commercial dissemination of material in written, photographic, printed, sound, or published form deemed harmful to minors; providing exemptions thereto; and providing penalties and remedies for violation thereof.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **[617.291] Sexually provocative material; regulation.** Subdivision 1. In enacting this law the legislature declares its purposes and intent to be as follows:

There exists an urgent need to prevent commercial exposure of minors to sexually provocative written, photographic, printed, sound or published materials as these are hereafter defined in this act and which are hereby declared to be harmful to minors.

Subd. 2. It is in the best interest of the health, welfare and safety of the citizens of this state, and especially of minors within the state, that commercial dissemination of such sexually provocative written, photographic, printed, sound or published materials deemed harmful to minors be restricted to persons over the age of 17 years; or, if available to minors under the age of 18 years, that the availability of such materials be restricted to sources within established and recognized schools, churches, museums, medical clinics and physicians, hospitals, public libraries, or government sponsored organizations.

Sec. 2. **[617.292] Definitions.** Subdivision 1. As used in this act the terms defined in this section have the meanings given them.

Subd. 2. "Minor" means any person under the age of 18 years.

Subd. 3. "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque

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covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

Subd. 4. "Sexual conduct" means acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's unclothed genitals, pubic area, buttocks or, if such a person be a female, her breast.

Subd. 5. "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

Subd. 6. "Sadomasochistic 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.

Subd. 7. "Harmful to minors" means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, when it:

(1) predominantly appeals to the prurient, shameful or morbid interest of minors, and

(2) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors, and

(3) is utterly without redeeming social importance for minors.

Subd. 8. "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;

(1) the character and content of any material which is reasonably susceptible of examination by the defendant, and

(2) 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 such minor.

Sec. 3. **[617.293] Harmful materials; dissemination to minors prohibited.** It is unlawful for any person knowingly to sell or loan for monetary consideration to a minor:

(a) any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or por-

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tion of the human body which depicts nudity, sexual conduct, or sadomasochistic and which is harmful to minors, or

(b) Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in clause (a), or which contains explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct, or sadomasochistic abuse which, taken as a whole, is harmful to minors.

Sec. 4. [617.294] **Commercial exhibition prohibited.** It is unlawful for any person knowingly to exhibit for a monetary consideration to a minor or knowingly to sell to a minor an admission ticket or pass or knowingly to admit a minor for a monetary consideration to premises whereon there is exhibited, a motion picture, show or other presentation which, in whole or in part, depicts nudity, sexual conduct, or, sadomasochistic abuse and which is harmful to minors.

Sec. 5. [617.295] **Exemptions.** The following are exempt from criminal or other action hereunder:

(a) Recognized and established schools, churches, museums, medical clinics and physicians, hospitals, public libraries, governmental agencies or quasi governmental sponsored organizations, and persons acting in their capacity as employees or agents of such organization. For the purpose of this section "recognized and established" shall mean an organization or agency having a full time faculty and diversified curriculum in the case of a school; a church affiliated with a national or regional denomination; a licensed physician or psychiatrist or clinic of licensed physicians or psychiatrists; and in all other exempt organizations shall refer only to income tax exempted organizations which are supported in whole or in part by tax funds or which receive at least one third of their support from publicly donated funds.

(b) Individuals in a parental relationship with the minor.

(c) Motion picture machine operators, stagehands, or other theatre employees such as cashiers, doormen, ushers, and concession employees, if such person or persons have no financial interest in the entertainment presented other than the salary or wage, or in any theatre or place where such employee has no financial interest when his services are obtained solely for salary or wage; provided, that such employee is under the direct supervision of a theatre manager who is a resident of this state and who is not exempt from action under this act.

Sec. 6. [617.296] **Penalties; injunctive remedies.** Subdivi-

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sion 1. A violation of any provision of this act shall constitute a gross misdemeanor.

Subd. 2. Whenever any county attorney, or the attorney general of this state, has reasonable cause to believe that any person within this state is violating this act, he may by verified petition seek a temporary restraining order or temporary injunction in the district court in the county in which the alleged violation occurred. No temporary restraining order or preliminary injunction shall be issued without a prior show cause notice of hearing to the respondents named in the petition, and an opportunity for the respondents to be heard. Personal service of the show cause order and of the petition made as in civil actions on the named respondents, or upon any of their employees or agents found within the state, shall constitute sufficient notice. Such show cause order for hearing may be returnable on the third day from the date of service as to a respondent who is present in this state, and on the fifth day as to a person not a resident or not found within this state.

Sec. 7. [617.297] **Evidence of adherence to motion picture rating system.** In any proceeding or prosecution involving the exhibitor or owner of any motion picture theatre, evidence of compliance or noncompliance with and adherence to a rating system recognized in the motion picture industry is admissible.

Sec. 8. **Severability.** The provisions of this act are severable in accordance with Minnesota Statutes 1967, Section 645.20.

Approved June 6, 1969.

CHAPTER 1072—H. F. No. 2186

[Coded in Part]

An act relating to the Minnesota Watershed Act; amending Minnesota Statutes 1967, Sections 112.37, by adding a subdivision; 112.39, Subdivision 4; 112.42, Subdivision 3; 112.43, Subdivision 1; 112.44; 112.48, Subdivision 1, and by adding a subdivision; 112.49, Subdivision 1; 112.501, Subdivision 2; 112.61, Subdivision 3; 112.63; 112.65, Subdivision 1.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1967, Section 112.37, is amended by adding a subdivision to read:

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