

# SESSION LAWS

of the

## STATE OF MINNESOTA

ENACTED BY THE SEVENTY-FIFTH LEGISLATURE

AT THE 1988 REGULAR SESSION

FEBRUARY 9, 1988 TO APRIL 25, 1988

CHAPTERS 1 TO 405 APPEAR IN LAWS OF MINNESOTA 1987

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### CHAPTER 406—S.F.No. 236

*An act relating to obscenity; prohibiting the distribution and exhibition of obscene materials and performances; prescribing penalties; amending Minnesota Statutes 1986, section 617.241.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1986, section 617.241, is amended to read:

617.241 **OBSCENE MATERIALS AND PERFORMANCES; DISTRIBUTION AND EXHIBITION PROHIBITED; PENALTY.**

Subdivision 1. **DEFINITIONS.** For purposes of this section, the following terms have the meanings given them:

(a) "Obscene" means that the work, taken as a whole, appeals to the prurient interest in sex of the average person, which ~~portrays patently offensive and depicts or describes in a patently offensive manner~~ sexual conduct and which, taken as a whole, does not have serious literary, artistic, political, or scientific value. In order to determine that a work is obscene, the trier of fact must find:

(i) that the average person, applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest in sex of the average person;

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(ii) that the work depicts ~~patently offensive~~ sexual conduct specifically defined by clause (b) in a patently offensive manner; and

(iii) that the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(b) "~~Patently offensive~~ Sexual conduct" ~~includes~~ means any of the following ~~depicted sexual conduct~~:

(i) An act of sexual intercourse, normal or perverted, actual or simulated, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal.

(ii) Sadomasochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a sexually revealing costume or the condition of being fettered, bound, or otherwise physically restricted on the part of one so clothed or who is nude.

(iii) Masturbation, excretory functions, or lewd exhibitions of the genitals including any explicit, close-up representation of a human genital organ.

(iv) Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

(c) "Community" means the political subdivision from which persons properly qualified to serve as jurors in a ~~civil~~ criminal proceeding are chosen.

(d) "Work" means "material" or "performance."

(e) "Material" means a book, magazine, pamphlet, paper, writing, card, advertisement, circular, print, picture, photograph, motion picture film, videotape, script, image, instrument, statue, drawing, or other article.

(f) "Performance" means a play, motion picture, dance, or other exhibition performed before an audience.

Subd. 2. **CRIME.** It is unlawful for any a person knowingly, knowing or with reason to know its content and character, to:

(a) exhibit, sell, print, offer to sell, give away, circulate, publish, distribute or attempt to distribute any obscene book, magazine, pamphlet, paper, writing, card, advertisement, circular, print, picture, photograph, motion picture film, play, image, instrument, statue, drawing, or other article which is obscene material; or

(b) produce, present, participate in, or direct an obscene performance.

Subd. 3. **PENALTY.** Any A person violating any provision of this section shall be fined up to \$10,000 for the first offense and up to \$20,000 for the second

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~~or a subsequent offense subdivision 2 is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year, or to payment of a fine of not more than \$3,000, or both.~~

Subd. 4. SECOND OR SUBSEQUENT VIOLATIONS. Whoever violates the provisions of subdivision 2 within five years of a previous conviction under that subdivision is guilty of a felony and may be sentenced to imprisonment for not more than two years, or to payment of a fine of not more than \$10,000, or both.

Sec. 2. EFFECTIVE DATE.

Section 1 is effective June 1, 1988, and applies to crimes committed on or after that date.

Approved March 10, 1988

CHAPTER 407—S.F.No. 1184

*An act relating to state lands; authorizing the conveyance of certain lands in Pine county to the Amherst H. Wilder Foundation; amending Laws 1981, chapter 354, section 1, subdivisions 1 and 5; repealing Laws 1981, chapter 354, section 1, subdivisions 2, 3, and 4.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Laws 1981, chapter 354, section 1, subdivision 1, is amended to read:

Subdivision 1. **AUTHORIZATION.** Notwithstanding the provisions of Minnesota Statutes, Section 92.45, upon recommendation of the commissioner of administration, the commissioner of natural resources, and the commissioner of corrections, the governor may transfer and convey, in the name of the state of Minnesota, to the Amherst H. Wilder Foundation, for purposes of operating a ~~youth conservation camp~~ residential human service facility serving individuals referred to the facility by court order, county or other social service agencies only, the real estate now being leased from the state and operated as a youth conservation camp by the Amherst H. Wilder Foundation ~~and situated in the~~ consisting of approximately 81 acres including all improvements located in sections 27 and 28, Wilma township, county of Pine in the St. Croix state forest. The consideration to be paid for the property shall be \$200,000.

Sec. 2. Laws 1981, chapter 354, section 1, subdivision 5, is amended to read:

Subd. 5. **STATE OPTION TO PURCHASE.** If the property conveyed to the Amherst H. Wilder Foundation pursuant to this section is not used for the purpose of operating a ~~youth conservation camp~~ residential human service facility serving individuals referred to this facility by court order, county or other

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