

HOUSE BILL 97

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9lr0391

By: **Delegate Dumais**

Introduced and read first time: January 18, 2019

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Sale or Display of Obscene Item to Minor – Video Image**

3 FOR the purpose of altering the definition of “item” as it relates to a certain prohibition
4 against selling or displaying a certain obscene item to a minor; and generally relating
5 to sale or display of an obscene item to a minor.

6 BY repealing and reenacting, with amendments,
7 Article – Criminal Law
8 Section 11–203
9 Annotated Code of Maryland
10 (2012 Replacement Volume and 2018 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
12 That the Laws of Maryland read as follows:

13 **Article – Criminal Law**

14 11–203.

15 (a) (1) In this section the following words have the meanings indicated.

16 (2) “Distribute” includes to rent.

17 (3) “Illicit sex” means:

18 (i) human genitals in a state of sexual stimulation or arousal;

19 (ii) acts of human masturbation, sexual intercourse, or sodomy; or

20 (iii) fondling or other erotic touching of human genitals.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (4) "Item" means a:

2 (i) still **OR MOTION** picture, **IMAGE, VISUAL REPRESENTATION,**
3 or photograph;

4 (ii) book, pocket book, pamphlet, or magazine;

5 (iii) videodisc, videotape, video game, **VIDEO FILE, VIDEO IMAGE,**
6 **VIDEO RECORDING,** film, or computer disc; or

7 (iv) recorded telephone message.

8 (5) "Obscene" means:

9 (i) that the average adult applying contemporary community
10 standards would find that the work, taken as a whole, appeals to the prurient interest;

11 (ii) that the work depicts sexual conduct specified in subsection (b)
12 of this section in a way that is patently offensive to prevailing standards in the adult
13 community as a whole with respect to what is suitable material; and

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

16 (6) "Partially nude figure" means a figure with:

17 (i) less than completely and opaquely covered human genitals, pubic
18 region, buttocks, or female breast below a point immediately above the top of the areola; or

19 (ii) human male genitals in a discernibly turgid state, even if
20 completely and opaquely covered.

21 (b) (1) A person may not willfully or knowingly display or exhibit to a minor
22 an item:

23 (i) the cover or content of which is principally made up of an obscene
24 description or depiction of illicit sex; or

25 (ii) that consists of an obscene picture of a nude or partially nude
26 figure.

27 (2) A person may not willfully or knowingly engage in the business of
28 displaying, exhibiting, selling, showing, advertising for sale, or distributing to a minor an
29 item:

30 (i) the cover or content of which is principally made up of an obscene
31 description or depiction of illicit sex; or

1 (ii) that consists of an obscene picture of a nude or partially nude
2 figure.

3 (3) If a newsstand or other place of business is frequented by minors, the
4 owner, operator, franchisee, manager, or an employee with managerial responsibility may
5 not openly and knowingly display at the place of business an item whose sale, display,
6 exhibition, showing, or advertising is prohibited by paragraph (2) of this subsection.

7 (c) The provision of services or facilities by a telephone company under a tariff
8 approved by the Public Service Commission is not a violation of subsection (b) of this section
9 relating to recorded telephone messages.

10 (d) A person who violates this section is guilty of a misdemeanor and on conviction
11 is subject to:

12 (1) for a first violation, imprisonment not exceeding 1 year or a fine not
13 exceeding \$1,000 or both; and

14 (2) for each subsequent violation, imprisonment not exceeding 3 years or a
15 fine not exceeding \$5,000 or both.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2019.