

SENATE BILL 454

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2000 Regular Session
0lr2556
CF 0lr0683

By: **Senators Stone, Haines, Mooney, Colburn, Jimeno, and Ferguson**
Introduced and read first time: February 4, 2000
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Nudity and Sexual Displays - Minors**

3 FOR the purpose of prohibiting the display, exhibition, or provision of certain adult
4 materials to minors; prohibiting the admission of certain minors to motion
5 picture shows or other presentations containing certain adult material;
6 prohibiting the display for advertising purposes of certain material to a certain
7 class of persons; providing a certain defense; defining and altering the
8 definitions of certain terms; and generally relating to nudity and sexual displays
9 to minors.

10 BY repealing and reenacting, with amendments,
11 Article 27 - Crimes and Punishments
12 Section 416A through 416D
13 Annotated Code of Maryland
14 (1996 Replacement Volume and 1999 Supplement)

15 BY adding to
16 Article 27 - Crimes and Punishments
17 Section 416H
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 1999 Supplement)

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

22 **Article 27 - Crimes and Punishments**

23 416A.

24 The following words and phrases, as used in this subheading, have the
25 meanings indicated:

26 (a) "ADULT MATERIAL" MEANS MATERIAL THAT:

1 (1) AN AVERAGE ADULT APPLYING CONTEMPORARY COMMUNITY
2 STANDARDS WOULD FIND THAT THE WORK, TAKEN AS A WHOLE AND WITH RESPECT
3 TO MINORS, INTENTIONALLY APPEALS OR PANDERS TO A PRURIENT INTEREST IN
4 NUDITY, SEX, OR EXCRETION;

5 (2) AN AVERAGE ADULT APPLYING CONTEMPORARY COMMUNITY
6 STANDARDS WOULD FIND THAT THE DEPICTION OR DESCRIPTION OF
7 SADMASOCHISTIC ABUSE, SEXUAL EXCITEMENT, OR SEXUAL CONDUCT IN THE
8 MATERIAL OR PERFORMANCE IS PATENTLY OFFENSIVE TO PREVAILING STANDARDS
9 IN THE ADULT COMMUNITY CONCERNING WHAT IS SUITABLE FOR MINORS; AND

10 (3) A REASONABLE PERSON WOULD FIND THAT THE WORK, TAKEN AS A
11 WHOLE, LACKS SERIOUS EDUCATIONAL, LITERARY, ARTISTIC, POLITICAL, OR
12 SCIENTIFIC VALUE FOR MINORS.

13 (B) "Advertising purposes" means the purpose of propagandizing in connection
14 with the sale commercially of a product or products, or the offering commercially of a
15 service, or the exhibiting commercially of entertainment.

16 (C) "KNOWINGLY" MEANS HAVING KNOWLEDGE OR REASON TO KNOW OF THE
17 CHARACTER AND CONTENT OF THE ADULT MATERIAL.

18 [(b)] (D) "Minor" means any person under eighteen years of age.

19 [(c)] (E) "Sadomasochistic abuse" means flagellation or torture by or upon a
20 human who is nude, or clad in undergarments, or in a revealing or bizarre costume, or
21 the condition of one who is nude or so clothed and is being fettered, bound, or
22 otherwise physically restrained FOR THE PURPOSE OF SEXUAL STIMULATION OR
23 SEXUAL ABUSE.

24 [(d)] (F) "Sexual conduct" means human masturbation, sexual intercourse,
25 LEWD EXHIBITION OF THE GENITALS, or any touching of or contact with, FOR THE
26 PURPOSE OF SEXUAL STIMULATION OR SEXUAL ABUSE, genitals, pubic areas or
27 buttocks of the human male or female, or the breasts of the female, whether alone or
28 between members of the same or opposite sex, or between humans and animals.

29 [(e)] (G) "Sexual excitement" means the condition of human male or female
30 genitals, or the breasts of the female, when in a state of sexual stimulation, or the
31 sensual experiences of humans engaging in or witnessing sexual conduct or nudity
32 FOR THE PURPOSE OF SEXUAL STIMULATION OR SEXUAL ABUSE.

33 416B.

34 Any person, firm or corporation which knowingly sells, DISPLAYS, EXHIBITS, OR
35 PROVIDES, or offers to sell, DISPLAY, EXHIBIT, OR PROVIDE, to any minor any ADULT
36 MATERIAL CONTAINING EITHER of the following is guilty of a misdemeanor:

37 (a) Any picture, photograph, drawing, sculpture, motion picture, film or other
38 visual representation or image of a person or portion of the human body that depicts
39 sadomasochistic abuse, sexual conduct or sexual excitement; or

1 (b) Any book, magazine, paperback, pamphlet or other written or printed
2 matter however reproduced, or any sound recording which contains any matter
3 enumerated in subsection (a), or obscenities, or explicit verbal descriptions or
4 narrative accounts of sexual conduct, sexual excitement or sadomasochistic abuse.

5 416C.

6 Any person, firm or corporation which, for a monetary consideration or other
7 valuable commodity or service, knowingly exhibits to a minor who is unaccompanied
8 by his parent or guardian, or knowingly sells to a minor an admission ticket or other
9 means to gain entrance to, or knowingly admits a minor who is unaccompanied by his
10 parent or guardian to premises where there is exhibited a motion picture show or
11 other presentation, whether animated or live, which IS ADULT MATERIAL AND in
12 whole or in part depicts or reveals sexual conduct, sexual excitement or
13 sadomasochistic abuse, or which includes obscenities or explicit verbal descriptions or
14 narrative accounts of sexual conduct, is guilty of a misdemeanor.

15 416D.

16 (a) Any person, firm or corporation is guilty of a misdemeanor if it knowingly
17 displays for advertising purposes any ADULT MATERIAL, TO MINORS OR THE
18 GENERAL PUBLIC, CONTAINING A picture, photograph, drawing, sculpture or other
19 visual representation or image of a person or portion of the human body that depicts
20 sadomasochistic abuse, sexual conduct or sexual excitement, or any verbal description
21 or narrative account of these activities or items.

22 (b) Any person, firm or corporation is guilty of a misdemeanor, if it knowingly
23 permits any such display on premises owned, rented or managed by it.

24 416H.

25 IT SHALL BE A DEFENSE TO A VIOLATION OF THIS SUBHEADING THAT:

26 (1) AN HONEST MISTAKE WAS MADE AS TO THE UNDERAGE STATUS OF A
27 MINOR; AND

28 (2) A REASONABLE, GOOD FAITH ATTEMPT WAS MADE TO ASCERTAIN
29 THE AGE OF THE MINOR.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2000.