

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

Committee Report: Favorable
Senate action: Adopted
Read second time: March 14, 2000

CHAPTER_____

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:

1

Article 27 - Crimes and Punishments

2 416A.

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

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

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

10 (2) AN AVERAGE ADULT APPLYING CONTEMPORARY COMMUNITY
11 STANDARDS WOULD FIND THAT THE DEPICTION OR DESCRIPTION OF
12 SADMASOCHISTIC ABUSE, SEXUAL EXCITEMENT, OR SEXUAL CONDUCT IN THE
13 MATERIAL OR PERFORMANCE IS PATENTLY OFFENSIVE TO PREVAILING STANDARDS
14 IN THE ADULT COMMUNITY CONCERNING WHAT IS SUITABLE FOR MINORS; AND

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

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

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

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

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

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

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

1 416B.

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

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

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

12 416C.

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

22 416D.

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

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

31 416H.

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

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

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

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