Unofficial Copy E1 2002 Regular Session 2lr1884 CF 2lr1883

By: Delegates Getty and Doory (Committee to Revise Article 27 - Crimes and Punishments)

Introduced and read first time: February 6, 2002

Assigned to: Judiciary

A BILL ENTITLED

Criminal Law - Obscene Materials - Revision

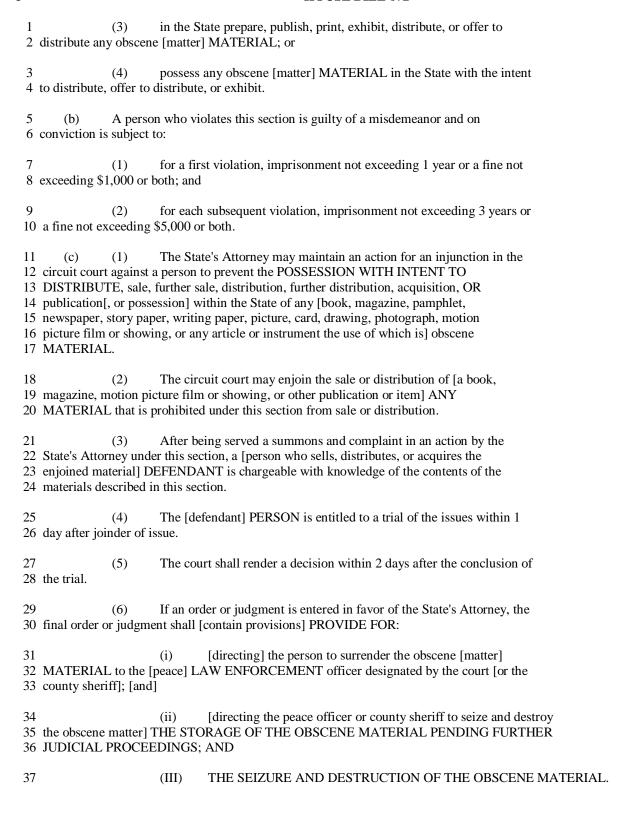
1 AN ACT concerning

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3	FOR	the	purpos	e o	f a	lterin	g cer	tain	prov	visions	of l	law	relat	ing t	o ob	scene	mat	eria
		-																

- 4 altering certain injunction requirements under certain circumstances; altering
- 5 certain prohibitions relating to the display or exhibition of obscene materials to
- a minor under certain circumstances; prohibiting the use of certain electronic
- 7 medium relating to an obscene act, sadomasochistic abuse, or sexual conduct
- 8 involving a minor; increasing certain penalties; making conforming changes;
- 9 expanding certain definitions; repealing certain definitions; defining a certain
- term; and generally relating to obscene materials.
- 11 BY repealing and reenacting, with amendments,
- 12 Article Criminal Law
- 13 Section 11-201, 11-202, 11-203, 11-205, 11-206, 11-207, 11-208, 11-209,
- 14 11-210, and 11-211
- 15 Annotated Code of Maryland
- 16 (As enacted by Chapter (H.B. 11) of the Acts of the General Assembly of
- 17 2002)
- 18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 19 MARYLAND, That the Laws of Maryland read as follows:
- 20 Article Criminal Law
- 21 11-201.
- 22 (a) In this subtitle the following words have the meanings indicated.
- 23 (b) "Distribute" means to [transfer possession] SEND, TRANSMIT, TELECAST,
- 24 BROADCAST, OR CABLECAST, PRODUCE OR PROVIDE MATERIAL FOR THE PURPOSE
- 25 OF DISTRIBUTION, TRANSFER, OR DISSEMINATE.
- 26 (c) "Knowingly" means having knowledge of the character and content of the
- 27 [matter] MATERIAL.

1	[(d)	"Matter	" means:					
2		(1)	a book,	magazine, newspaper, or other printed or written material;				
3 4	representatio	(2) on;	a picture	e, drawing, photograph, motion picture, or other pictorial				
5		(3)	a statue	or other figure;				
6 7	reproduction	(4) ; or	a record	ling, transcription, or mechanical, chemical, or electrical				
8		(5)	any othe	er article, equipment, machine, or material.]				
9	(D)	(1)	"MATE	"MATERIAL" MEANS ANY:				
10			(I)	PRINTED, WRITTEN, COMPUTER, OR ELECTRONIC MEDIUM;				
11			(II)	VISUAL REPRESENTATION;				
12 13	COMPUTE	R REPRO	(III) ODUCTI	MECHANICAL, CHEMICAL, ELECTRICAL, DIGITAL, OR ON; OR				
14			(IV)	OTHER ARTICLE, EQUIPMENT, MACHINE, OR OTHER MEDIUM.				
15		(2)	"MATE	CRIAL" INCLUDES ANY:				
16			(I)	BOOK, MAGAZINE, OR NEWSPAPER;				
17 18	OR OTHER	. PICTOI	(II) RIAL RE	PICTURE, DRAWING, PHOTOGRAPH, MOTION PICTURE, VIDEO PRESENTATION;				
19			(III)	STATUE OR OTHER FIGURE; OR				
20			(IV)	RECORDING OR TRANSCRIPTION.				
21	(e)	"Sadom	asochisti	c abuse" has the meaning stated in § 11-101 of this title.				
22	(f)	"Sexual	conduct'	has the meaning stated in § 11-101 of this title.				
23	(g)	"Sexual	exciteme	ent" has the meaning stated in § 11-101 of this title.				
24	11-202.							
25	(a)	A perso	n may no	ot:				
26 27	into the Stat	(1) te for sale		gly send or cause to be sent any obscene [matter] MATERIAL bution;				
28 29	MATERIAI	(2) L into the		gly bring or cause to be brought any obscene [matter]				



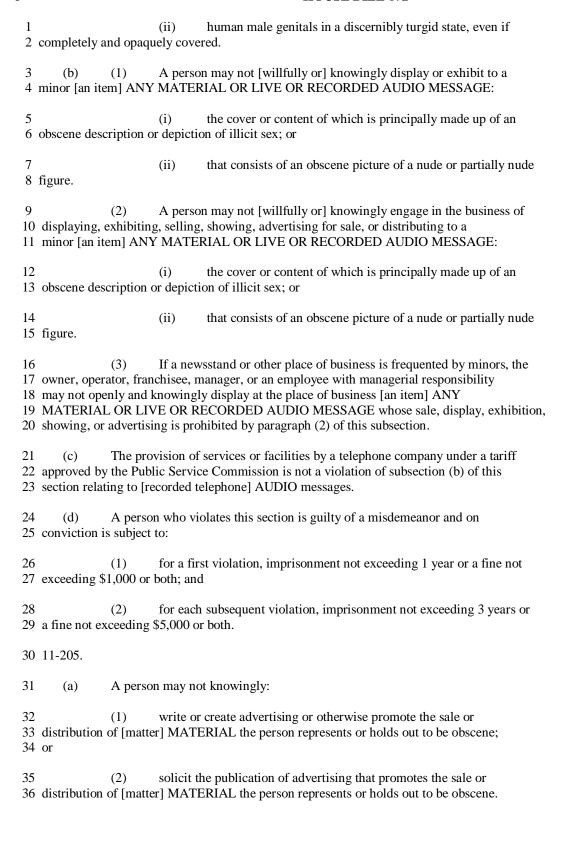
pubic region, buttocks, or female breast below a point immediately above the top of

less than completely and opaquely covered human genitals,

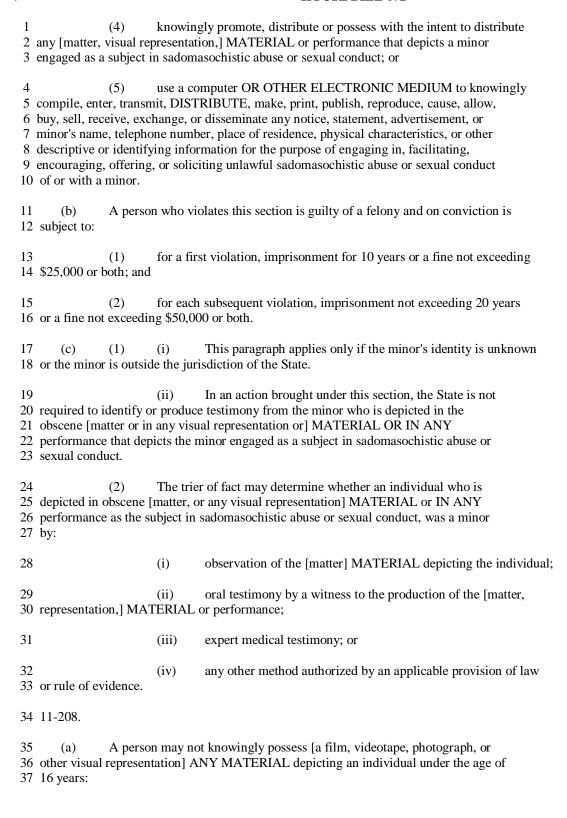
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30 the areola; or

(i)



1 2	(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:
3	(1) for a first violation, imprisonment not exceeding 1 year or a fine not exceeding $$1,000$ or both; and
5 6	(2) for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding $$5,000$ or both.
7	11-206.
10	(a) (1) A person may not knowingly require a purchaser or consignee to receive obscene [matter] MATERIAL as a condition to a sale, allocation, consignment, or delivery for resale of [a paper, magazine, book, periodical, publication,] MATERIAL or other merchandise.
12 13	(2) In response to a person's return of or failure to accept obscene [matter] MATERIAL, a person may not knowingly:
14	(i) deny or revoke a franchise;
15	(ii) threaten to deny or revoke a franchise; or
16	(iii) impose a financial or other penalty.
17 18	(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:
19 20	(1) for a first violation, imprisonment not exceeding 1 year or a fine not exceeding \$1,000 or both; and
21 22	(2) for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.
23	11-207.
24	(a) A person may not:
27	(1) cause, induce, solicit, or knowingly allow a minor to engage as a subject in the production of obscene [matter or a visual representation] MATERIAL or performance that depicts a minor engaged as a subject in sadomasochistic abuse or sexual conduct;
29 30	(2) photograph or film a minor engaging in an obscene act, sadomasochistic abuse, or sexual conduct;
31 32	(3) use a computer OR OTHER ELECTRONIC MEDIUM to depict or describe a minor engaging in an obscene act, sadomasochistic abuse, or sexual conduct;



1		(1)	engaged as a subject of sadomasochistic abuse;
2		(2)	engaged in sexual conduct; or
3		(3)	in a state of sexual excitement.
4 5	(b) conviction is		n who violates this section is guilty of a misdemeanor and on o:
6 7	exceeding \$2		for a first violation, imprisonment not exceeding 1 year or a fine not ooth; and
8 9	years or a fin	(2) le not exc	for each subsequent violation, imprisonment not exceeding [2] 3 eeding \$5,000 or both.
		isual rep	in this section may be construed to prohibit a parent from resentations of the parent's own child in the nude unless the s depict the child engaged:
13		(1)	as a subject of sadomasochistic abuse; or
14		(2)	in sexual conduct [and] OR in a state of sexual excitement.
15	11-209.		
18	[and] OR po	ssesses f	n may not hire, employ, or use an individual, if the person knows, acts under which the person should reasonably know, that the to do or assist in doing an act described in § 11-203 of this
20 21	(b) conviction is		n who violates this section is guilty of a misdemeanor and on to:
22 23	exceeding \$		for a first violation, imprisonment not exceeding 1 year or a fine not both; and
24 25	a fine not ex	(2) ceeding S	for each subsequent violation, imprisonment not exceeding 3 years or \$5,000 or both.
26	11-210.		
29			A person having a bona fide scientific, educational, governmental, r similar justification for possessing or distributing prohibited is not subject to the prohibitions and penalties imposed by this
			A distribution made in accordance with a bona fide scientific, nental, artistic, news, or other similar justification is not subject d penalties imposed by this subtitle.

- 1 (b) A justification is not bona fide under this section if a reasonable person
- 2 would find that a dominant purpose of the depiction of an individual under the age of
- 3 16 years engaging in sexual conduct is to arouse or gratify sexual desire in either the
- 4 violator, the individual under the age of 16 years, or the viewer.
- 5 11-211.
- When the conviction of a person for a violation of this subtitle becomes final, the
- 7 court may order the destruction of any [matter] MATERIAL or advertisement that
- 8 was the basis of the person's conviction and that remains in the possession or under
- 9 the control of the court, the State, or a law enforcement unit.
- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 11 October 1, 2002.