

# HOUSE BILL No. 4360

March 18, 2003, Introduced by Reps. Reeves, Adamini, Cheeks, Vagnozzi, Dennis, Bieda, Voorhees, Vander Veen, Hager, Pappageorge and Daniels and referred to the Committee on Commerce.

A bill to amend 1978 PA 33, entitled

"An act to prohibit the dissemination, exhibiting, or displaying of certain sexually explicit matter to minors; to prohibit certain misrepresentations facilitating the dissemination of sexually explicit matter to minors; to provide penalties; to provide for declaratory judgments and injunctive relief in certain instances; to impose certain duties upon prosecuting attorneys and the circuit court; to preempt local units of government from proscribing certain conduct; and to repeal certain acts and parts of acts,"

by amending sections 1 and 7 (MCL 722.671 and 722.677), section 7 as amended by 1999 PA 33.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. As used in this act:

2       (a) "Display" means to put or set out to view or to make  
3 visible.

4       (b) "Disseminate" means to sell, lend, give, exhibit, show,  
5 or allow to examine or to offer or agree to do the same.

6       (c) ~~(a)~~ "Exhibit" means to do 1 or more of the following:

1 (i) Present a performance.

2 (ii) Sell, give, or offer to agree to sell or give a ticket  
3 to a performance.

4 (iii) Admit a minor to premises where a performance is being  
5 presented or is about to be presented.

6 ~~(b) "Disseminate" means to sell, lend, give, exhibit, or~~  
7 ~~show or to offer or agree to do the same.~~

8 (d) ~~(c)~~ "Minor" means a person ~~under~~ **less than** 18 years  
9 of age.

10 (e) "Restricted area" means any of the following:

11 (i) An area behind a counter if access is limited only to  
12 employees who are not minors and sexually explicit visual or  
13 verbal material is displayed only in devices that prevent public  
14 view of the lower 2/3 of the material's cover or exterior.

15 (ii) A building, or a distinct and enclosed area or room  
16 within a building, if access by minors is prohibited, notice of  
17 the prohibition is prominently displayed, and access is monitored  
18 to prevent minors from entering.

19 (iii) An area with at least 75% of its perimeter surrounded  
20 by walls or solid, nontransparent dividers that are sufficiently  
21 high to prevent a minor in a nonrestricted area from seeing  
22 sexually explicit visual or verbal material within the perimeter  
23 if the point of access provides prominent notice that access to  
24 minors is prohibited.

25 Sec. 7. (1) A person ~~is guilty of displaying sexually~~  
26 ~~explicit matter to a minor if that person~~ **who** possesses  
27 managerial responsibility for a business enterprise selling

1 **sexually explicit** visual ~~matter that depicts sexual intercourse~~  
2 ~~or sadomasochistic abuse and is harmful to minors, and that~~  
3 ~~person knowingly permits a minor who is not accompanied by a~~  
4 ~~parent or guardian to examine that matter~~ **or verbal material**  
5 **shall not display that material knowing its nature unless the**  
6 **person does so in a restricted area.**

7 ~~(2) A person knowingly permits a minor to examine visual~~  
8 ~~matter that depicts sexual intercourse or sadomasochistic abuse~~  
9 ~~and is harmful to minors if the person knows both the nature of~~  
10 ~~the matter and the status of the minor permitted to examine the~~  
11 ~~matter.~~

12 **(2) —(3)—** A person knows the nature of the ~~matter~~ **material**  
13 if the person either is aware of its character and content or  
14 recklessly disregards circumstances suggesting its character and  
15 content.

16 ~~(4) A person knows the status of a minor if the person~~  
17 ~~either is aware that the person who is permitted to examine the~~  
18 ~~matter is under 18 years of age or recklessly disregards a~~  
19 ~~substantial risk that the person who is permitted to examine the~~  
20 ~~matter is under 18 years of age.~~

21 **(3) —(5)—** ~~Displaying sexually explicit matter to a minor is~~  
22 **A person who violates subsection (1) is guilty of** a misdemeanor  
23 punishable by imprisonment for not more than 90 days or a fine of  
24 not more than \$5,000.00, or both.

25 **(4) —(6)—** This section does not apply if a person displays  
26 sexually explicit matter to a minor by means of the internet or a  
27 computer network unless 1 or both of the following apply:

1 (a) The matter is obscene as that term is defined in  
2 section 2 of 1984 PA 343, MCL 752.362.

3 (b) The prosecuting attorney proves that the person  
4 displayed the matter to 1 or more specific minors and knew his or  
5 her status as a minor.