

SFA

BILL ANALYSIS

Senate Fiscal Agency

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Mich. State Law Library

Senate Bill 491 (Substitute S-3 as reported)**Sponsor: Senator Robert Geake****Committee: Judiciary****Date Completed: 3-8-88****RATIONALE**

Store managers have long struggled with the question of how to limit the retail display of sexually explicit material so that it is inaccessible to minors without infringing on adults' rights to view and purchase such items. Although some retail establishments adequately restrict these materials from minors, others openly display sexually explicit magazines and video covers in their stores. Many people feel that accessibility to such items is detrimental to a child's development and that business owners and managers should be held responsible for keeping the explicit material away from children. They contend that stricter standards for displaying sexually explicit merchandise should be implemented.

CONTENT

The bill would amend Public Act 33 of 1978 to provide that a person would be guilty of displaying obscene matter to a minor if the person had managerial responsibility for a business selling visual matter that depicted sexual intercourse or sadomasochistic abuse, if the matter were knowingly displayed in such a manner that it was visible or accessible to a minor. The matter would not be considered "visible or accessible" to a minor if it were displayed in an area restricted to adults or at a height sufficient to make it inaccessible to a minor and so that only the title was visible.

Currently, under the Act, a person is guilty of displaying obscene matter to a minor if the person had managerial responsibility for a business selling such visual matter, and knowingly permitted a minor not accompanied by a parent or guardian to examine the matter. The bill would not change this provision.

The bill would take effect on July 1, 1988.

MCL 722.677

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

ARGUMENTS**Supporting Argument**

It is and should be the responsibility of a store manager to ensure that minors do not have access to sexually explicit material sold in the store. The law already provides for sanctions against a manager who knowingly allows a minor, unaccompanied by a parent, to examine those items. Since children don't possess the experience or maturity to understand sexually explicit material or to make a purchasing choice regarding such items, penalties should be extended to a manager who displays sexually explicit

material in such a way as to allow open accessibility. The proposed display restrictions would effectively remove any access that children had to explicit material, without infringing on the rights of adults to examine and purchase it.

Supporting Argument

Limiting the display of sexually explicit material is really a public health and public safety issue. Many believe that pornography can have an adverse effect on the development of a child. Reportedly, there have been instances of "copycat" sexual crimes by juveniles upon other juveniles after viewing sexually explicit and abusive material. Eliminating children's access to such material not only could be beneficial to individual emotional development, but also could contribute to the reduction of instances of criminal sexual conduct committed by minors.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

S.B. 491 (3-8-88)