

NEVADA STATE OBSCENITY & LIBRARY/SCHOOL FILTERING STATUTES

(Last Updated Summer 2012)

Nev. Rev. Stat. Ann.

Chapter 201, Sections .235 to .254

Nev. Rev. Stat. Ann. § 201.235 Definitions.

In NRS 201.235 to 201.254, inclusive, unless the context otherwise requires: 1. “Community” means the area from which a jury is or would be selected for the court in which the action is tried. 2. “Item” includes any book, leaflet, pamphlet, magazine, booklet, picture, drawing, photograph, film,

negative, slide, motion picture, figure, object, article, novelty device, recording, transcription, phonograph record or tape recording, videotape or videodisc, with or without music, or other similar items.

3. “Material” means anything tangible which is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound or in any other manner.

4. “Obscene” means any item, material or performance which: (a) An average person applying contemporary community standards would find, taken as a whole, appeals to prurient interest; (b) Taken as a whole lacks serious literary, artistic, political or scientific value; and (c) Does one of the following:

(1) Depicts or describes in a patently offensive way ultimate sexual acts, normal or perverted, actual or simulated.

(2) Depicts or describes in a patently offensive way masturbation, excretory functions, sadism or masochism.

(3) Lewdly exhibits the genitals. □Appeal shall be judged with reference to ordinary adults, unless it appears, from the character of the material or the circumstances of its dissemination, to be designed for children or a clearly defined deviant group.

5. “Performance” means any play, motion picture, dance or other exhibition performed before an audience.

[1911 C&P § 196; A 1955, 907]—(NRS A 1963, 1171; 1965, 584; 1971, 205, 493; 1979, 364)—
(Substituted in revision for NRS 201.250)

Nev. Rev. Stat. Ann. § 201.237 Exemptions.

The provisions of NRS 201.235 to 201.254, inclusive, do not apply to those universities, schools, museums or libraries which are operated by or are under the direct control of the State, or any political subdivision of the State, or to persons while acting as employees of such organizations.

(Added to NRS by 1979, 363)

Nev. Rev. Stat. Ann. § 201.239 Power of county, city or town to regulate obscenity.

The provisions of NRS 201.235 to 201.254, inclusive, do not preclude any county, city or town from adopting an ordinance further regulating obscenity if its provisions do not conflict with these statutes.

(Added to NRS by 1979, 364)

Nev. Rev. Stat. Ann. § 201.241 Action to declare item or material obscene and obtain injunction.

1. The district attorney or city attorney of any county or city, respectively, in which there is an item or material which he believes to be obscene, may file a complaint in the district court seeking to have the item or material declared obscene and to enjoin the possessor and the

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owner from selling, renting, exhibiting, reproducing, manufacturing or distributing it and from possessing it for any purpose other than personal use.

2. In such an action, no temporary restraining order may be issued.

3. A trial on the merits must be held not earlier than 5 days after the answer is filed nor later than 35 days after the complaint is filed. The court shall render a decision within 2 days after the conclusion of the trial.(Added to NRS by 1979, 363; A 1981, 1688)

Nev. Rev. Stat. Ann. § 201.243 **Evidence probative of obscenity of material or item.**

In prosecutions under NRS 201.235 to 201.254, inclusive, evidence of circumstances of production, dissemination, sale or publicity of the material or item, which indicates it is being commercially exploited by the defendant for its prurient appeal, is probative of the obscenity of the material or item and can justify the conclusion that it is, taken as a whole, without serious literary, artistic, political or scientific value.

(Added to NRS by 1979, 364)

Nev. Rev. Stat. Ann. § 201.245 **Surrender, seizure and destruction of obscene item or material; undertaking not required for injunction; defendant chargeable with knowledge of contents after service of summons and complaint.**

1. If a final judgment declaring an item or material obscene is entered against its owner or possessor, the judgment shall contain a provision directing the owner or possessor to surrender to the sheriff of the county in which the action was brought the item or material declared obscene and a direction to the sheriff to seize and destroy it.

2. In any action brought to declare an item or material obscene, the district attorney or city attorney bringing the action is not required to file an undertaking before an injunction is issued.

3. A sheriff directed to seize an obscene item or material is not liable for damages sustained by reason of the injunction in cases where judgment ultimately is rendered in favor of the person, firm, association or corporation sought to be enjoined.

4. Every person, firm, association or corporation who sells, distributes, or acquires possession with intent to sell or distribute any allegedly obscene item or material, after service upon him of a summons and complaint in an action brought to declare an item or material obscene is chargeable with knowledge of the contents of the item or material.

(Added to NRS by 1979, 363)

Nev. Rev. Stat. Ann. § 201.247 **Payment to city or county of value received from sale of obscene materials after judgment or injunction.**

If a district court enters a judgment that an item or material is obscene and that item or material, or one substantially identical thereto, is sold after that judgment or injunction, the court shall order an accounting to determine the value of all money and other consideration received by the defendant which was derived from the obscene item or material after the court judged it to be obscene. The defendant shall pay a sum equivalent to that value into the general fund of the city or county which prosecuted the action.

(Added to NRS by 1979, 364)

Nev. Rev. Stat. Ann. § 201.249 **Production, sale, distribution, exhibition and possession of obscene items or materials; penalty.**

Except as otherwise provided in NRS 201.237 and except under the circumstances described in NRS 200.720 or 200.725, a person is guilty of a misdemeanor who knowingly:

1. Prints, produces or reproduces any obscene item or material for sale or commercial distribution.

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2. Publishes, sells, rents, transports in intrastate commerce, or commercially distributes or exhibits any obscene item or material, or offers to do any such things.

3. Has in his possession with intent to sell, rent, transport or commercially distribute any obscene item or material.

(Added to NRS by 1979, 364; A 1995, 951)

Nev. Rev. Stat. Ann. § 201.251 **Coercing acceptance of obscene articles or publications; penalty.** 1. A person, firm, association or corporation shall not, as a condition to any sale, allocation, consignment or delivery for resale of any item or material, require that the purchaser or consignee receive for resale any other item or material which is obscene. A person, firm, association or corporation shall not deny or threaten to deny any franchise or impose or threaten to impose any penalty, financial or otherwise, for the failure or refusal of any person to accept any obscene item or material or for the return thereof.

2. A person, firm, association or corporation who violates any provision of this section is guilty of a misdemeanor.

(Added to NRS by 1979, 364)

Nev. Rev. Stat. Ann. § 201.253 **Obscene, indecent or immoral shows, acts or performances; penalty.** Except under the circumstances described in NRS 200.710, every person who knowingly causes to be performed or exhibited, or engages in the performance or exhibition of, any obscene, indecent or immoral show, act or performance is guilty of a misdemeanor.

(Added to NRS by 1967, 482; A 1995, 952)

Nev. Rev. Stat. Ann. § 201.254 **Exemption of stagehands and movie projectionists from criminal liability when possessing or exhibiting obscene material directly related to their work.**

A motion picture machine operator or a stagehand is not criminally liable for exhibiting or possessing with the intent to exhibit any obscene material if:

1. Such exhibition or possession is a part of the motion picture he is projecting or part of the stage show for which he is employed as a stagehand; and

2. The operator or stagehand has no financial interest, except wages, and no managerial responsibility in his place of employment.

(Added to NRS by 1969, 352)

201.256. Definitions.

As used in NRS 201.256 to 201.2655, inclusive, unless the context otherwise requires, the words and terms defined in NRS 201.257 to 201.264, inclusive, have the meanings ascribed to them in those sections.

201.2565. "Distribute" defined.

"Distribute" means to transfer possession with or without consideration.

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201.257. "Harmful to minors" defined.

"Harmful to minors" means that quality of any description or representation, whether constituting all or a part of the material considered, in whatever form, of nudity, sexual conduct, sexual excitement or sado-masochistic abuse which predominantly appeals to the prurient, shameful or morbid interest of minors, is patently offensive to prevailing standards in the adult community with respect to what is suitable material for minors, and is without serious literary, artistic, political or scientific value.

201.2581. "Material" defined.

- "Material" means:
 - **1.** A book, pamphlet, magazine, newspaper, printed advertising or other printed or written material;
 - **2.** A motion picture, photograph, picture, drawing, statue, sculpture or other visual representation or image; or
 - **3.** A transcription, recording or live or recorded telephone message.

201.259. "Minor" defined.

"Minor" means any person under the age of 18 years, but as applied to the showing of a motion picture excludes any person employed on the premises where the motion picture is shown.

201.2595. "Motion picture" defined.

- "Motion picture" means a film or a video recording, whether or not it has been rated appropriate for a particular audience, that is:
 - **1.** Placed on a videodisc or videotape; or
 - **2.** To be shown in a theater or on television,
- and includes, without limitation, a cartoon or an animated film.

201.261. "Nudity" defined.

- "Nudity" means:
 - **1.** The showing of the human female breast with less than a fully opaque covering of any portion of the areola and nipple;
 - **2.** The showing of the human male or female genitals or pubic area with less than a fully opaque covering of any portion thereof; or
 - **3.** The depiction of the human male genitals in a discernible turgid state, whether or not covered.

201.262. "Sado-masochistic abuse" defined.

- "Sado-masochistic abuse" means:

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- **1.** Flagellation or torture practiced by or upon a person whether or not clad in undergarments, a mask or bizarre costume; or
- **2.** The condition of being fettered, bound or otherwise physically restrained.

201.263. "Sexual conduct" defined.

"Sexual conduct" means acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's unclothed genitals or pubic area.

201.264. "Sexual excitement" defined.

"Sexual excitement" means the condition of human male or female genitals in a state of sexual stimulation or arousal.

201.265. Unlawful acts; penalty.

- Except as otherwise provided in NRS 200.720; and 201.2655, and unless a greater penalty is provided pursuant to NRS 201.560, a person is guilty of a misdemeanor if the person knowingly:
 - **1.** Distributes or causes to be distributed to a minor material that is harmful to minors, unless the person is the parent, guardian or spouse of the minor.
 - **2.** Exhibits for distribution to an adult in such a manner or location as to allow a minor to view or to have access to examine material that is harmful to minors, unless the person is the parent, guardian or spouse of the minor.
 - **3.** Sells to a minor an admission ticket or pass for or otherwise admits a minor for monetary consideration to any presentation of material that is harmful to minors, unless the minor is accompanied by his or her parent, guardian or spouse.
 - **4.** Misrepresents that he or she is the parent, guardian or spouse of a minor for the purpose of:
 - **(a)** Distributing to the minor material that is harmful to minors; or
 - **(b)** Obtaining admission of the minor to any presentation of material that is harmful to minors.
 - **5.** Misrepresents his or her age as 18 or over for the purpose of obtaining:
 - **(a)** Material that is harmful to minors; or
 - **(b)** Admission to any presentation of material that is harmful to minors.
 - **6.** Sells or rents motion pictures which contain material that is harmful to minors on the premises of a business establishment open to minors, unless the person creates an area within the establishment for the placement of the motion pictures and any material that advertises the sale or rental of the motion pictures which:
 - **(a)** Prevents minors from observing the motion pictures or any material that advertises the sale or rental of the motion pictures; and
 - **(b)** Is labeled, in a prominent and conspicuous location, "Adults Only."

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201.2655. Exemptions.

- The provisions of NRS 201.256 to 201.2655, inclusive, do not apply to:
 - **1.** A university, community college, school, museum or library which is operated by or which is under the direct control of this state or a political subdivision of this state; or
 - **2.** An employee or independent contractor of an institution listed in subsection 1, if the employee or independent contractor is acting within the scope of his or her employment or contractual relationship.

201.220. Indecent or obscene exposure; penalty.

- **1.** A person who makes any open and indecent or **obscene** exposure of his or her person, or of the person of another, is guilty:
 - **(a)** For the first offense, of a gross misdemeanor.
 - **(b)** For any subsequent offense, of a category D felony and shall be punished as provided in NRS 193.130.
- **2.** For the purposes of this section, the breast feeding of a child by the mother of the child does not constitute an act of open and indecent or **obscene** exposure of her body.

207.180. Threatening or obscene letters or writings.

- **1.** Any person who knowingly sends or delivers any letter or writing:
 - **(a)** Threatening to accuse another of a crime or misdemeanor, or to expose or publish any of the other person's infirmities or failings, with intent to extort money, goods, chattels or other valuable thing; or
 - **(b)** Threatening to maim, wound, kill or murder, or to burn or destroy the house or other property of another person, or to accuse another of a crime or misdemeanor, or expose or publish any of the other person's infirmities, though no money, goods, chattels or other valuable thing be demanded,
 - is guilty of a misdemeanor.
- **2.** Any person who:
 - **(a)** Writes and sends, or writes and delivers, either through the mail, express, by private parties or otherwise, any anonymous letter, or any letter bearing a fictitious name, charging any person with crime; or
 - **(b)** Writes and sends any anonymous letter or letters bearing a fictitious name, containing vulgar or threatening language, **obscene** pictures, or containing reflections upon his or her standing in society or in the community,
 - is guilty of a misdemeanor.

FILTERING LAWS:

603.100. "Regulation of Use of Internet by Children"

Definitions.

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As used in NRS 603.100 to 603.170, inclusive, unless the context otherwise requires, the words and terms defined in NRS 603.110 to 603.140, inclusive, have the meanings ascribed to them in those sections.

603.110. "Child" defined.

"Child" means a person who is less than 18 years of age.

603.120. "Electronic mail" defined.

"Electronic mail" has the meaning ascribed to it in NRS 41.715.

603.130. "Internet or any other computer network" defined.

- **1.** "Internet or any other computer network" means:
 - **(a)** The computer network commonly known as the Internet and any other local, regional or global computer network that is similar to or is a predecessor or successor of the Internet; and
 - **(b)** Any identifiable site on the Internet or such other computer network.
- **2.** The term includes, without limitation:
 - **(a)** A website or other similar site on the World Wide Web;
 - **(b)** A site that is identifiable through a Uniform Resource Location;
 - **(c)** A site on a computer network that is owned, operated, administered or controlled by a provider of Internet service;
 - **(d)** An electronic bulletin board;
 - **(e)** A list server;
 - **(f)** A newsgroup; or
 - **(g)** A chat room.

603.140. "Provider of Internet service" or "provider" defined.

"Provider of Internet service" or "provider" means any person who, for a fee or other consideration, provides subscribers with access to the Internet or any other computer network.

603.150. Definition of when person has "reasonable cause to believe."

For the purposes of NRS 603.100 to 603.170, inclusive, a person has "reasonable cause to believe" if, in light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, a reasonable person would believe, under those facts and circumstances, that an act, transaction, event, situation or condition exists, is occurring or has occurred.

603.160. Internet service provider required to provide product or service to regulate and monitor child's use of Internet under certain circumstances.

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- **1.** If a provider of Internet service knows or has reasonable cause to believe that a subscriber resides within this State, the provider shall make available to the subscriber a product or service which enables the subscriber to regulate a child's use of the Internet service provided to the subscriber if such a product or service is reasonably and commercially available for the technology utilized by the subscriber to access the Internet service. The product or service must, subject to such availability, enable the subscriber to:
 - **(a)** Block all access to the Internet;
 - **(b)** Block access to specific websites or domains disapproved by the subscriber;
 - **(c)** Restrict access exclusively to specific websites or domains approved by the subscriber; and
 - **(d)** Allow the subscriber to monitor a child's use of the Internet service by providing a report to the subscriber of the specific websites or domains that the child has visited or has attempted to visit but could not access because the websites or domains were blocked or restricted by the subscriber.
- **2.** For the purposes of subsection 1, a provider of Internet service shall be deemed to know that a subscriber resides within this State if the subscriber identifies Nevada as his or her place of residence at the time of subscription.
- **3.** If a product or service described in subsection 1 is reasonably and commercially available for the technology utilized by the subscriber to access the Internet service, the provider of Internet service:
 - **(a)** Shall provide to the subscriber, at the time of subscription, notice of the availability of the product or service described in subsection 1. The notice must be provided to the subscriber by electronic mail or in a written form through another reasonable means.
 - **(b)** May make the product or service described in subsection 1 available to the subscriber either directly or through a third-party vendor. The provider or third-party vendor may charge the subscriber a fee for the product or service.

603.170. Violation constitutes deceptive trade practice.

- **1.** Any violation of NRS 603.100 to 603.170, inclusive, constitutes a deceptive trade practice subject to NRS 598.0903 to 598.0999, inclusive.
- **2.** The remedies, duties and prohibitions set forth in NRS 603.100 to 603.170, inclusive, are not exclusive and are in addition to any other remedies, duties and prohibitions provided by law.