

# DISTRICT OF COLUMBIA STATE OBSCENITY & LIBRARY/SCHOOL FILTERING STATUTES

(Last Updated Summer 2012)

D.C. Code

## **D.C. Code § 22-2201. Certain obscene activities and conduct declared unlawful; definitions; penalties; affirmative defenses; exception [Formerly § 22-2001]**

- (a) (1) It shall be unlawful in the District of Columbia for a person knowingly:
  - (A) To sell, deliver, distribute, or provide, or offer or agree to sell, deliver, distribute, or provide any **obscene**, indecent, or filthy writing, picture, sound recording, or other article or representation;
  - (B) To present, direct, act in, or otherwise participate in the preparation or presentation of, any **obscene**, indecent, or filthy play, dance, motion picture, or other performance;
  - (C) To pose for, model for, print, record, compose, edit, write, publish, or otherwise participate in preparing for publication, exhibition, or sale, any **obscene**, indecent, or filthy writing, picture, sound recording, or other article or representation;
  - (D) To sell, deliver, distribute, or provide, or offer or agree to sell, deliver, distribute or provide any article, thing, or device which is intended for or represented as being for indecent or immoral use;
  - (E) To create, buy, procure, or possess any matter described in the preceding subparagraphs of this paragraph with intent to disseminate such matter in violation of this subsection;
  - (F) To advertise or otherwise promote the sale of any matter described in the preceding subparagraphs of this paragraph; or
  - (G) To advertise or otherwise promote the sale of material represented or held out by such person to be **obscene**.
    - (2)
      - (A) For purposes of subparagraph (E) of paragraph (1) of this subsection, the creation, purchase, procurement, or possession of a mold, engraved plate, or other embodiment of **obscenity** specially adapted for reproducing multiple copies or the possession of more than 3 copies, of **obscene**, indecent, or filthy material shall be prima facie evidence of an intent to disseminate such material in violation of this subsection.
      - (B) For purposes of paragraph (1) of this subsection, the term "knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of, the character and content of any article, thing, device, performance, or representation described in paragraph (1) of this subsection which is reasonably susceptible of examination.
    - (3) When any person is convicted of a violation of this subsection, the court in its judgment of conviction may, in addition to the penalty prescribed, order the confiscation and disposal of any materials described in paragraph (1) of this subsection, which were named in the charge against such person and which were found in the possession or under the control of such person at the time of such person's arrest.
- (b) (1) It shall be unlawful in the District of Columbia for any person knowingly:

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- (A) To sell, deliver, distribute, or provide, or offer or agree to sell, deliver, distribute, or provide to a minor:
  - (i) Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body, which depicts nudity, sexual conduct, or sado-masochistic abuse and which taken as a whole is patently offensive because it affronts prevailing standards in the adult community as a whole with respect to what is suitable material for minors; or
  - (ii) Any book, magazine, or other printed matter however reproduced or sound recording, which depicts nudity, sexual conduct, or sado-masochistic abuse or which contains explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct, or sado-masochistic abuse and which taken as a whole is patently offensive because it affronts prevailing standards in the adult community as a whole with respect to what is suitable material for minors; or
- (B) To exhibit to a minor, or to sell or provide to a minor an admission ticket to, or pass to, or to admit a minor to, premises whereon there is exhibited, a motion picture, show, or other presentation which, in whole or in part, depicts nudity, sexual conduct, or sado-masochistic abuse and which taken as a whole is patently offensive because it affronts prevailing standards in the adult community as a whole with respect to what is suitable material for minors.
  - (2) For purposes of paragraph (1) of this subsection:
    - (A) The term "minor" means any person under the age of 17 years.
    - (B) The term "nudity" includes the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.
    - (C) The term "sexual conduct" includes acts of sodomy, masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person be a female, breast.
    - (D) The term "sexual excitement" includes the condition of human male or female genitals when in a state of sexual stimulation or arousal.
    - (E) The term "sado-masochistic abuse" includes flagellation or torture by or upon a person clad in undergarments or a mask or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.
    - (F) The term "knowingly" means having a general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry or both of:
      - (i) The character and content of any material described in paragraph (1) of this subsection which is reasonably susceptible of examination by the defendant; and
      - (ii) The age of the minor.

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- (c) It shall be an affirmative defense to a charge of violating subsection (a) or (b) of this section that the dissemination was to institutions or individuals having scientific, educational, or other special justification for possession of such material.
- (d) Nothing in this section shall apply to a licensee under the Communications Act of 1934(47 U.S.C.S. § 151 et seq.) while engaged in activities regulated pursuant to such Act.
- (e) A person convicted of violating subsection (a) or (b) of this section shall for the 1st offense be fined not more than \$ 1,000 or imprisoned not more than 180 days, or both. A person convicted of a 2nd or subsequent offense under subsection (a) or (b) of this section shall be fined not less than \$ 1,000 nor more than \$ 5,000 or imprisoned not less than 6 months or more than 3 years, or both.

## § 22-3101. Definitions [Formerly § 22-2011]

- For the purposes of this chapter, the term:
  - (1) "Knowingly" means having general knowledge of, or reason to know or a belief or ground for belief which warrants further inspection or inquiry, or both.
  - (2) "Minor" means any person under 18 years of age.
  - (3) "Performance" means any play, motion picture, photograph, electronic representation, dance, or any other visual presentation or exhibition.
  - (4) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, publish or distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do the same.
  - (5) "Sexual conduct" means:
    - (A) Actual or simulated sexual intercourse:
      - (i) Between the penis and the vulva, anus, or mouth;
      - (ii) Between the mouth and the vulva or anus; or
      - (iii) Between an artificial sexual organ or other object or instrument used in the manner of an artificial sexual organ and the anus or vulva;
    - (B) Masturbation;
    - (C) Sexual bestiality;
    - (D) Sadomasochistic sexual activity for the purpose of sexual stimulation;
    - or
    - (E) Lewd exhibition of the genitals.
  - (6) "Sexual performance" means any performance or part thereof which includes sexual conduct by a person under 18 years of age.

## § 22-3102. Prohibited acts [Formerly § 22-2012]

- (a) It shall be unlawful in the District of Columbia for a person knowingly to use a minor in a sexual performance or to promote a sexual performance by a minor.
  - (1) A person is guilty of the use of a minor in a sexual performance if knowing the character and content thereof, he or she employs, authorizes, or induces a person under 18 years of age to engage in a sexual performance or being the

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- parent, legal guardian, or custodian of a minor, he or she consents to the participation by a minor in a sexual performance.
- (2) A person is guilty of promoting a sexual performance by a minor when, knowing the character and content thereof, he or she produces, directs, or promotes any performance which includes sexual conduct by a person under 18 years of age.
- (b) It shall be unlawful in the District of Columbia for a person, knowing the character and content thereof, to attend, transmit, or possess a sexual performance by a minor.
- (c) If the sexual performance consists solely of a still or motion picture, then this section:
  - (1) Shall not apply to the minor or minors depicted in a still or motion picture who possess it or transmit it to another person unless at least one of the minors depicted in it does not consent to its possession or transmission; and
  - (2) Shall not apply to possession of a still or motion picture by a minor, or by an adult not more than 4 years older than the minor or minors depicted in it, who receives it from a minor depicted in it unless the recipient knows that at least one of the minors depicted in the still or motion picture did not consent to its transmission.
- (d) For the purposes of subsections (b) and (c) of this section, the term:
  - (1) "Possess," "possession," or "possessing" requires accessing the sexual performance if electronically received or available.
  - (2) "Still or motion picture" includes a photograph, motion picture, electronic or digital representation, video, or other visual depiction, however produced or reproduced.
  - (3) "Transmit" or "transmission" includes distribution, and can occur by any means, including electronically.

## **§ 22-3103. Penalties [Formerly § 22-2013]**

- Violation of this chapter shall be a felony and shall be punished by:
  - (1) A fine of not more than \$ 5,000 or imprisonment for not more than 10 years, or both for the first offense; or
  - (2) A fine of not more than \$ 15,000 or imprisonment for not more than 20 years, or both for the 2nd and each subsequent offense.

## **§ 22-3104. Affirmative defenses [Formerly § 22-2014]**

- (a) Under this chapter it shall be an affirmative defense that the defendant in good faith reasonably believed the person appearing in the performance was 18 years of age or over.
- (b) (1) Except as provided in paragraph (2) of this subsection, in any prosecution for an offense pursuant to § 22-3102(2) it shall be an affirmative defense that the person so charged was:
  - (A) A librarian engaged in the normal course of his or her employment; or
  - (B) A motion picture projectionist, stage employee or spotlight operator, cashier, doorman, usher, candy stand attendant, porter, or in any other nonmanagerial or nonsupervisory capacity in a motion picture theater.

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- (2) The affirmative defense provided by paragraph (1) of this subsection shall not apply if the person described therein has a financial interest (other than his or her employment, which employment does not encompass compensation based upon any proportion of the gross receipts) in:
  - (A) The promotion of a sexual performance for sale, rental, or exhibition;
  - (B) The direction of any sexual performance; or
  - (C) The acquisition of the performance for sale, retail, or exhibition.
- (c) It shall be an affirmative defense to a charge under § 22-3102 that the defendant:
  - (1) Possessed or accessed less than 6 still photographs or one motion picture, however produced or reproduced, of a sexual performance by a minor; and
  - (2) Promptly and in good faith, and without retaining, copying, or allowing any person, other than a law enforcement agency, to access any photograph or motion picture:
    - (A) Took reasonable steps to destroy each such photograph or motion picture; or
    - (B) Reported the matter to a law enforcement agency and afforded that agency access to each such photograph or motion picture.

## **§ 22-1312. Lewd, indecent, or obscene acts; sexual proposal to a minor [Formerly § 22-1112]**

It is unlawful for a person, in public, to make an **obscene** or indecent exposure of his or her genitalia or anus, to engage in masturbation, or to engage in a sexual act as defined in § 22-3001(8). It is unlawful for a person to make an **obscene** or indecent sexual proposal to a minor. A person who violates any provision of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$ 500, imprisoned for not more than 90 days, or both.

## **§ 22-3312.01. Defacing public or private property [Formerly § 22-3112.1]**

- It shall be unlawful for any person or persons willfully and wantonly to disfigure, cut, chip, or cover, rub with, or otherwise place filth or excrement of any kind; to write, mark, or print **obscene** or indecent figures representing **obscene** or objects upon; to write, mark, draw, or paint, without the consent of the owner or proprietor thereof, or, in the case of public property, of the person having charge, custody, or control thereof, any word, sign, or figure upon:
  - (1) Any property, public or private, building, statue, monument, office, public passenger vehicle, mass transit equipment or facility, dwelling or structure of any kind including those in the course of erection; or
  - (2) The doors, windows, steps, railing, fencing, balconies, balustrades, stairs, porches, halls, walls, sides of any enclosure thereof, or any movable property.

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## § 34-1264.01. Obscenity.

The cable operator and all users of the cable system shall comply with all federal laws regarding **obscenity** on cable television and all District laws regarding **obscenity**.

## § 5-115.06. Gaming and bawdy houses and sale of lottery tickets -- Arrest of persons; seizure of implements [Formerly § 4-145]

If any member of the police force, or if any 2 or more householders shall report in writing, under his or their signature, to the Chief of Police that there are good grounds, stating the same, for believing any house, room, or premises within the police district to be kept or used for any of the following purposes, namely: (1) as a common gaming house, common gaming room, or common gaming premises, for therein playing for wagers of money at any game of chance; (2) as a bawdy house, or as a house of prostitution, or for purposes of prostitution; (3) for lewd and **obscene** public amusement or entertainment; or (4) for the deposit or sale of lottery tickets or lottery policies, it shall be lawful for the Chief of Police to authorize any member or members of the police force to enter the same, who shall forthwith arrest all persons there found offending against law, and seize all implements of gaming, or lottery tickets, or lottery policies, and convey any person so arrested before the proper court, and bring the articles so seized to the office of the Mayor of the District of Columbia.

## § 9-1154. Advertising.

- (a) The franchisee is authorized to sell commercial advertisement space on no more than 2 sides of a single end of the bus shelters which have been designated by the Mayor to contain advertisement. The end of the bus shelter with advertisement shall be opposite the end nearest the approaching buses. Ten percent of the total available advertisement space shall be made available for public service announcements and advertisements regarding community, art, cultural, educational and similar events. This shall include public service notices which the District of Columbia government may want to post. The amount of such public service announcements and advertisements shall be determined by the total number of hours the advertisement is displayed in a calendar year.
- (b) The Mayor shall establish procedures for the review of proposed advertisements.
- (c) The Mayor shall approve or disapprove any proposed advertisement submitted within 10 working days of its receipt, setting forth in writing the reason or reasons for any disapproval. Any proposed advertisement not disapproved by the Mayor within 10 working days of its receipt shall be deemed to have been approved.
- (d) The franchisee shall remove any advertisement which the Mayor determines to be deceptive, misleading, untruthful, **obscene**, or in violation of Chapter 39 of Title 28 within 15 days from receipt of a request from the Mayor.