

# MISSOURI STATE OBSCENITY & LIBRARY/SCHOOL FILTERING STATUTES

(Last Updated Summer 2012)

## § 573.010. R.S.Mo.

### Definitions

- As used in this chapter the following terms shall mean:
  - (1) "Child", any person under the age of fourteen;
  - (2) "Child pornography":
    - (a) Any obscene material or performance depicting sexual conduct, sexual contact, or a sexual performance, as these terms are defined in section 556.061, and which has as one of its participants or portrays as an observer of such conduct, contact, or performance a minor under the age of eighteen; or
    - (b) Any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct where:
      - a. The production of such visual depiction involves the use of a minor engaging in sexually explicit conduct;
      - b. Such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaging in sexually explicit conduct; or
      - c. Such visual depiction has been created, adapted, or modified to show that an identifiable minor is engaging in sexually explicit conduct;
  - (3) "Displays publicly", exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway or public sidewalk, or from the property of others or from any portion of the person's store, or the exhibitor's store or property when items and material other than this material are offered for sale or rent to the public;
  - (4) "Explicit sexual material", any pictorial or three-dimensional material depicting human masturbation, deviate sexual intercourse, sexual intercourse, direct physical stimulation or unclothed genitals, sadomasochistic abuse, or emphasizing the depiction of postpubertal human genitals; provided, however, that works of art or of anthropological significance shall not be deemed to be within the foregoing definition;
  - (5) "Furnish", to issue, sell, give, provide, lend, mail, deliver, transfer, circulate, disseminate, present, exhibit or otherwise provide;
  - (6) "Graphic", when used with respect to a depiction of sexually explicit conduct, that a viewer can observe any part of the genitals or pubic area of any depicted person or animal during any part of the time that the sexually explicit conduct is being depicted;
  - (7) "Identifiable minor":
    - (a) A person:
      - a.
        - (i) Who was a minor at the time the visual depiction was created, adapted, or modified; or

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- (ii) Whose image as a minor was used in creating, adapting, or modifying the visual depiction; and
    - b. Who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and
  - (b) The term shall not be construed to require proof of the actual identity of the identifiable minor;
- (8) "Indistinguishable", when used with respect to a depiction, virtually indistinguishable, in that the depiction is such that an ordinary person viewing the depiction would conclude that the depiction is of an actual minor engaged in sexually explicit conduct. Indistinguishable does not apply to depictions that are drawings, cartoons, sculptures, or paintings depicting minors or adults;
- (9) "Material", anything printed or written, or any picture, drawing, photograph, motion picture film, videotape or videotape production, or pictorial representation, or any recording or transcription, or any mechanical, chemical, or electrical reproduction, or stored computer data, or anything which is or may be used as a means of communication. Material includes undeveloped photographs, molds, printing plates, stored computer data and other latent representational objects;
- (10) "Minor", any person under the age of eighteen;
- (11) "Nudity", the showing of postpubertal human genitals or pubic area, with less than a fully opaque covering;
- (12) "Obscene", any material or performance is obscene if, taken as a whole:
  - (a) Applying contemporary community standards, its predominant appeal is to prurient interest in sex; and
  - (b) The average person, applying contemporary community standards, would find the material depicts or describes sexual conduct in a patently offensive way; and
  - (c) A reasonable person would find the material lacks serious literary, artistic, political or scientific value;
- (13) "Performance", any play, motion picture film, videotape, dance or exhibition performed before an audience of one or more;
- (14) "Pornographic for minors", any material or performance is pornographic for minors if the following apply:
  - (a) The average person, applying contemporary community standards, would find that the material or performance, taken as a whole, has a tendency to cater or appeal to a prurient interest of minors; and
  - (b) The material or performance depicts or describes nudity, sexual conduct, sexual excitement, or sadomasochistic abuse in a way which is patently offensive to the average person applying contemporary adult community standards with respect to what is suitable for minors; and
  - (c) The material or performance, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors;
- (15) "Promote", to manufacture, issue, sell, provide, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do the same, by any means including a computer;
- (16) "Sadomasochistic abuse", flagellation or torture by or upon a person as an act of sexual stimulation or gratification;

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- (17) "Sexual conduct", actual or simulated, normal or perverted acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification;
- (18) "Sexually explicit conduct", actual or simulated:
  - (a) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;
  - (b) Bestiality;
  - (c) Masturbation;
  - (d) Sadistic or masochistic abuse; or
  - (e) Lascivious exhibition of the genitals or pubic area of any person;
- (19) "Sexual excitement", the condition of human male or female genitals when in a state of sexual stimulation or arousal;
- (20) "Visual depiction", includes undeveloped film and videotape, and data stored on computer disk or by electronic means which is capable of conversion into a visual image;
- (21) "Wholesale promote", to manufacture, issue, sell, provide, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, or to offer or agree to do the same for purposes of resale or redistribution.

## **§ 573.013. Criminal investigations, site of criminal conduct undetermined, attorney general may subpoena witness and documents**

In the course of a criminal investigation under this chapter, when the venue of the alleged criminal conduct cannot be readily determined without further investigation, the attorney general may request the prosecuting attorney of Cole County to request a circuit or associate circuit judge of Cole County to issue a subpoena to any witness who may have information for the purpose of oral examination under oath or to require access to data or the production of books, papers, records, or other material of evidentiary nature at the office of the attorney general. If, upon review of the evidence produced pursuant to the subpoenas, it appears that a violation of this chapter may have been committed, the attorney general shall provide the evidence produced pursuant to subpoena to an appropriate county prosecuting attorney or circuit attorney having venue over the criminal offense.

## **§ 573.020. Promoting obscenity in the first degree**

- 1. A person commits the crime of promoting obscenity in the first degree if:
  - (1) He or she wholesale promotes or possesses with the purpose to wholesale promote any obscene material; or
  - (2) He or she wholesale promotes for minors or possesses with the purpose to wholesale promote for minors any material pornographic for minors; or

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- (3) He or she promotes, wholesale promotes or possesses with the purpose to wholesale promote for minors material that is pornographic for minors via computer, Internet or computer network if the person made the matter available to a specific individual known by the defendant to be a minor.
- 2. Promoting obscenity in the first degree is a class D felony.

## § 573.023. Sexual exploitation of a minor, penalties

- 1. A person commits the crime of sexual exploitation of a minor if such person knowingly or recklessly photographs, films, videotapes, produces or otherwise creates obscene material with a minor or child pornography.
- 2. Sexual exploitation of a minor is a class B felony unless the minor is a child, in which case it is a class A felony.

## § 573.025. Promoting child pornography in the first degree

- 1. A person commits the crime of promoting child pornography in the first degree if such person possesses with the intent to promote or promotes child pornography of a child less than fourteen years of age or obscene material portraying what appears to be a child less than fourteen years of age.
- 2. Promoting child pornography in the first degree is a class B felony unless the person knowingly promotes such material to a minor, in which case it is a class A felony. No person who pleads guilty to or is found guilty of, or is convicted of, promoting child pornography in the first degree shall be eligible for probation, parole, or conditional release for a period of three calendar years.
- 3. Nothing in this section shall be construed to require a provider of electronic communication services or remote computing services to monitor any user, subscriber or customer of the provider, or the content of any communication of any user, subscriber or customer of the provider.

## § 573.030. Promoting obscenity in the second degree

- 1. A person commits the crime of promoting pornography for minors or obscenity in the second degree if he or she:
  - (1) Promotes or possesses with the purpose to promote any obscene material for pecuniary gain; or
  - (2) Produces, presents, directs or participates in any obscene performance for pecuniary gain; or
  - (3) Promotes or possesses with the purpose to promote any material pornographic for minors for pecuniary gain; or
  - (4) Produces, presents, directs or participates in any performance pornographic for minors for pecuniary gain; or
  - (5) Promotes, possesses with the purpose to promote, produces, presents, directs or participates in any performance that is pornographic for minors via computer, electronic transfer, Internet or computer network if the person made the matter available to a specific individual known by the defendant to be a minor.

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- 2. Promoting pornography for minors or obscenity in the second degree is a class A misdemeanor unless the person has pleaded guilty to or has been found guilty of an offense pursuant to this section committed at a different time, in which case it is a class D felony.

## § 573.035. Promoting child pornography in the second degree

- 1. A person commits the crime of promoting child pornography in the second degree if such person possesses with the intent to promote or promotes child pornography of a minor under the age of eighteen or obscene material portraying what appears to be a minor under the age of eighteen.
- 2. Promoting child pornography in the second degree is a class C felony unless the person knowingly promotes such material to a minor, in which case it is a class B felony. No person who is found guilty of, pleads guilty to, or is convicted of promoting child pornography in the second degree shall be eligible for probation.

## § 573.037. Possession of child pornography

- 1. A person commits the crime of possession of child pornography if such person knowingly or recklessly possesses any child pornography of a minor under the age of eighteen or obscene material portraying what appears to be a minor under the age of eighteen.
- 2. Possession of child pornography is a class C felony unless the person possesses more than twenty still images of child pornography, possesses one motion picture, film, videotape, videotape production, or other moving image of child pornography, or has pleaded guilty to or has been found guilty of an offense under this section, in which case it is a class B felony.

## § 573.038. Property or material constituting child pornography to remain in custody of the state -- availability of, when

- 1. In any criminal proceeding, any property or material that constitutes child pornography shall remain in the care, custody, and control of either the state or the court.
- 2.
  - (1) Notwithstanding Missouri rule of criminal procedure 25.03 or any other rule or statute to the contrary, a court shall deny, in any criminal proceeding, any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any property or material that constitutes child pornography, so long as the state makes the property or material reasonably available to the defendant.
  - (2) For the purposes of subdivision (1) of this subsection, property or material shall be deemed to be reasonably available to the defendant if the state provides ample opportunity for inspection, viewing, and examination at a state or other governmental facility of the property or material by the defendant, his

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or her attorney, and any individual the defendant may seek to qualify to furnish expert testimony at trial.

## § 573.040. Furnishing pornographic materials to minors

- 1. A person commits the crime of furnishing pornographic material to minors if he or she:
  - (1) Furnishes any material pornographic for minors, knowing that the person to whom it is furnished is a minor or acting in reckless disregard of the likelihood that such person is a minor; or
  - (2) Produces, presents, directs or participates in any performance pornographic for minors that is furnished to a minor knowing that any person viewing such performance is a minor or acting in reckless disregard of the likelihood that a minor is viewing the performance; or
  - (3) Furnishes, produces, presents, directs, participates in any performance or otherwise makes available material that is pornographic for minors via computer, electronic transfer, Internet or computer network if the person made the matter available to a specific individual known by the defendant to be a minor.
- 2. It is not an affirmative defense to a prosecution for a violation of this section that the person being furnished the pornographic material is a peace officer masquerading as a minor.
- 3. Furnishing pornographic material to minors or attempting to furnish pornographic material to minors is a class A misdemeanor unless the person has pleaded guilty to or has been found guilty of an offense committed at a different time pursuant to this chapter, chapter 566 or chapter 568, in which case it is a class D felony.

## § 573.050. Evidence in obscenity and child pornography cases

- 1. In any prosecution under this chapter evidence shall be admissible to show:
  - (1) What the predominant appeal of the material or performance would be for ordinary adults or minors;
  - (2) The literary, artistic, political or scientific value of the material or performance;
  - (3) The degree of public acceptance in this state and in the local community;
  - (4) The appeal to prurient interest in advertising or other promotion of the material or performance;
  - (5) The purpose of the author, creator, promoter, furnisher or publisher of the material or performance.
- 2. Testimony of the author, creator, promoter, furnisher, publisher, or expert testimony, relating to factors entering into the determination of the issues of obscenity or child pornography, shall be admissible.
- 3. In any prosecution for possession of child pornography or promoting child pornography in the first or second degree, the determination that the person who participated in the child pornography was younger than eighteen years of age may be made as set forth in section 568.100, or reasonable inferences drawn by a judge or

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jury after viewing the alleged pornographic material shall constitute sufficient evidence of the child's age to support a conviction.

- 4. In any prosecution for promoting child pornography in the first or second degree, no showing is required that the performance or material involved appeals to prurient interest, that it lacks serious literary, artistic, political or scientific value, or that it is patently offensive to prevailing standards in the community as a whole.

## **§ 573.052. Child pornography, attorney general authorized to investigate, when -- violator immune from civil liability, when**

Upon receipt of any information that child pornography as defined in section 573.010 is contained on a website, the attorney general shall investigate such information. If the attorney general has probable cause to believe the website contains child pornography, the attorney general shall notify a website operator of any child pornography site residing on that website operator's server, in writing. If the website operator promptly, but in no event longer than five days after receiving notice, removes the alleged pornography from its server, and so long as the website operator is not the purveyor of such child pornography, it shall be immune from civil liability. If the website operator does not promptly remove the alleged pornography, the attorney general may seek an injunction pursuant to section 573.070 to remove the child pornography site from the website operator's server. This section shall not be construed to create any defense to any criminal charges brought pursuant to this chapter or chapter 568.

## **§ 573.060. Public display of explicit sexual material**

- 1. A person commits the crime of public display of explicit sexual material if he knowingly or recklessly:
  - (1) Displays publicly explicit sexual material; or
  - (2) Fails to take prompt action to remove such a display from property in his possession after learning of its existence.
- 2. Public display of explicit sexual material is a class A misdemeanor unless the person has pleaded guilty to or has been found guilty of an offense under this section committed at a different time, in which case it is a class D felony.
- 3. For purposes of this section, each day there is a violation of this section shall constitute a separate offense.

## **§ 573.065. Coercing acceptance of obscene material**

- 1. A person commits the crime of coercing acceptance of obscene material if:
  - (1) He requires acceptance of obscene material as a condition to any sale, allocation, consignment or delivery of any other material; or
  - (2) He denies any franchise or imposes any penalty, financial or otherwise, by reason of the failure or refusal of any person to accept any material obscene or pornographic for minors.
- 2. Coercing acceptance of obscene material is a class D felony.

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## § 573.070. Injunctions and declaratory judgments

- 1. Whenever material or a performance is being or is about to be promoted, furnished or displayed in violation of this chapter, a civil action may be instituted in the circuit court by the prosecuting or circuit attorney or by the city attorney of any city, town or village against any person violating or about to violate those sections in order to obtain a declaration that the promotion, furnishing or display of such material or performance is prohibited. Such an action may also seek an injunction appropriately restraining promotion, furnishing or display of the material or performance.
- 2. Such an action may be brought only in the circuit court of the county in which any such person resides, or where the violation is taking place or about to take place.
- 3. Any promoter, furnisher or displayer of, or a person who is about to be a promoter, furnisher or displayer of, the material or performance involved may intervene as of right as a party defendant in the proceedings.
- 4. The trial court and the appellate court shall give expedited consideration to actions and appeals brought under this section. The defendant shall be entitled to a trial of the issues beginning within one week after joinder of issue and a decision shall be rendered by the court within two days of the conclusion of the trial. No restraining order or injunction of any kind shall be issued restraining the promotion, furnishing or display of any material or performance without a prior adversary hearing before the court.
- 5. A final declaration obtained pursuant to this section may be used to form the basis for an injunction and for no other purpose.
- 6. All laws regulating the procedure for obtaining declaratory judgments or injunctions which are inconsistent with the provisions of this section shall be inapplicable to proceedings brought pursuant to this section. There shall be no right to jury trial in any proceedings under this section.

## § 573.080. Preemption and standardization--cities, towns, and certain counties may regulate, limitations

The general assembly by enacting this chapter intends to preempt any other regulation of the area covered by [section 573.020](#), to promote statewide control of pornography, and to standardize laws that governmental subdivisions may adopt in other areas covered by this chapter. No governmental subdivision may enact or enforce a law that makes any conduct in the area covered by [section 573.020](#) subject to a criminal or civil penalty of any kind. Cities and towns and counties of the first class may enact and enforce laws prohibiting and penalizing conduct subject to criminal or civil sanctions under other provisions of this chapter.

## § 573.090. Video cassettes, morbid violence, to be kept in separate area--sale or rental to persons under seventeen prohibited, penalties

- 1. Video cassettes or other video reproduction devices, or the jackets, cases or coverings of such video reproduction devices shall be displayed or maintained in a separate area if the same are pornographic for minors as defined in [section 573.010](#), or if:

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- (1) Taken as a whole and applying contemporary community standards, the average person would find that it has a tendency to cater or appeal to morbid interest in violence for persons under the age of seventeen; and
- (2) It depicts violence in a way which is patently offensive to the average person applying contemporary adult community standards with respect to what is suitable for persons under the age of seventeen; and
- (3) Taken as a whole, it lacks serious literary, artistic, political, or scientific value for persons under the age of seventeen.
- 2. Any video cassettes or other video reproduction devices meeting the description in subsection 1 of this section shall not be rented or sold to a person under the age of seventeen years.
- 3. Any violation of the provisions of subsection 1 or 2 of this section shall be punishable as an infraction, unless such violation constitutes furnishing pornographic materials to minors as defined in section 573.040, in which case it shall be punishable as a class A misdemeanor or class D felony as prescribed in section 573.040, or unless such violation constitutes promoting obscenity in the second degree as defined in section 573.030, in which case it shall be punishable as a class A misdemeanor or class D felony as prescribed in section 573.030.

## **§ 573.100. Telephones, obscene or indecent commercial messages, direct or electronic recording, penalties, exceptions**

- 1. As used in this section, the following terms mean:
  - (1) "Indecent", language or material that depicts or describes, in terms patently offensive as measured by contemporary community standards, sexual or excretory activities or organs;
  - (2) "Obscene", any comment, request, suggestion or proposal is obscene if:
    - (a) Applying contemporary community standards, its predominant appeal is to prurient interest in sex; and
    - (b) Taken as a whole with respect to the average person, applying contemporary community standards, it depicts or describes sexual conduct in a patently offensive way; and
    - (c) Taken as a whole, it lacks serious literary, artistic, political or scientific value.
    - Obscenity shall be judged with reference to its impact upon ordinary adults.
- 2. It shall be unlawful for any person, by means of a telephone communication for commercial purposes, to make directly or by means of an electronic recording device, any comment, request, suggestion, or proposal which is obscene or indecent. Any person who makes any such comment, request, suggestion, or proposal shall be in violation of the provisions of this section regardless of whether such person placed or initiated the telephone call.
- 3. It shall be unlawful for any person to permit knowingly any telephone or telephone facility connected to a local exchange telephone under such person's control to be used for any purpose prohibited by subsection 2 of this section.
- 4. Any person who violates any provision of this section is guilty of a class A misdemeanor unless such person has pleaded guilty to or has been found guilty of the same offense committed at a different time, in which case the violation is a class

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D felony. For purposes of this subsection, each violation constitutes a separate offense.

- 5. The prohibitions and penalties contained herein are not applicable to a telecommunications company as defined in section 386.020, over whose facilities prohibited communications may be transmitted.

## § 573.500. Definitions

- As used in sections 573.500 to 573.507, the following terms mean:
  - (1) "Adult cabaret", a nightclub, bar, restaurant, or similar establishment in which persons appear in a state of nudity in the performance of their duties;
  - (2) "Nudity", the showing of either:
    - (a) The human male or female genitals or pubic area with less than a fully opaque covering; or
    - (b) The female breast with less than a fully opaque covering on any part of the nipple.

## § 573.503. Local government may require background checks

Notwithstanding any provision of law to the contrary, any city not within a county and any county may, by order or ordinance, require a background check be conducted on all employees of any adult cabaret to ascertain whether any such employees have been convicted of or have pled guilty to any misdemeanor or felony involving prostitution or aiding or abetting prostitution, drug possession or trafficking, money laundering, tax evasion, or illegal gambling activity.

## § 573.507. Minimum age limit--security personnel--random drug testing--space limitation--prohibition of public displays

- 1. Notwithstanding any provision of law to the contrary, any city not within a county and any county may establish a minimum age limit for admission into any adult cabaret within the city or county.
- 2. Notwithstanding any provision of law to the contrary, any city not within a county and any county may require security personnel to be present on the premises of any adult cabaret within the city or county.
- 3. Notwithstanding any provision of law to the contrary, any city not within a county and any county may require employers of any adult cabaret within the city or county to conduct random testing for the presence of illegal substances within the blood or urine of any or all employees of such adult cabaret.
- 4. Notwithstanding any provision of law to the contrary, any city not within a county and any county may prohibit within such city or county any live public nudity within ten feet of any person observing such nudity.
- 5. Notwithstanding any provision of law to the contrary, any city not within a county and any county may prohibit within such city or county the public display of sexual

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intercourse, deviate sexual intercourse or appearing in a state of nudity in any adult cabaret.

## § 573.509. Adult cabaret, persons less than nineteen years of age prohibited from dancing, penalty

- 1. No person less than nineteen years of age shall dance in an adult cabaret as defined in section 573.500, nor shall any proprietor of such establishment permit any person less than nineteen years of age to dance in an adult cabaret.
- 2. Any person who violates the provisions of subsection 1 of this section is guilty of a class A misdemeanor.
- 
- 1. It is the purpose of sections 573.525 to 573.537 to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of this state, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the state. The provisions of sections 573.525 to 573.537 have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of sections 573.525 to 573.537 to restrict or deny access by adults to sexually oriented materials protected by the first amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of sections 573.525 to 573.537 to condone or legitimize the distribution of obscene material.
- 2. The general assembly finds that:
  - (1) Sexually oriented businesses, as a category of commercial enterprises, are associated with a wide variety of adverse secondary effects, including but not limited to personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation;
  - (2) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area;
  - (3) Each of the foregoing negative secondary effects constitutes a harm which the state has a substantial interest in preventing or abating, or both. Such substantial government interest in preventing secondary effects, which is the state's rationale for sections 573.525 to 573.537, exists independent of any comparative analysis between sexually oriented and nonsexually oriented businesses. Additionally, the state's interest in regulating sexually oriented businesses extends to preventing future secondary effects of current or future sexually oriented businesses that may locate in the state.

## § 573.528. Definitions

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- For purposes of sections 573.525 to 573.537, the following terms shall mean:
  - (1) "Adult bookstore" or "adult video store", a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas. A "principal business activity" exists where the commercial establishment:
    - (a) Has a substantial portion of its displayed merchandise which consists of such items; or
    - (b) Has a substantial portion of the wholesale value of its displayed merchandise which consists of such items; or
    - (c) Has a substantial portion of the retail value of its displayed merchandise which consists of such items; or
    - (d) Derives a substantial portion of its revenues from the sale or rental, for any form of consideration, of such items; or
    - (e) Maintains a substantial section of its interior business space for the sale or rental of such items; or
    - (f) Maintains an adult arcade. "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting specified sexual activities or specified anatomical areas;
  - (2) "Adult cabaret", a nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, regardless of whether alcoholic beverages are served, which regularly features persons who appear semi-nude;
  - (3) "Adult motion picture theater", a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions, which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas are regularly shown to more than five persons for any form of consideration;
  - (4) "Characterized by", describing the essential character or dominant theme of an item;
  - (5) "Employ", "employee", or "employment", describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises;
  - (6) "Establish" or "establishment", any of the following:
    - (a) The opening or commencement of any sexually oriented business as a new business;
    - (b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or

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- (c) The addition of any sexually oriented business to any other existing sexually oriented business;
- (7) "Influential interest", any of the following:
  - (a) The actual power to operate the sexually oriented business or control the operation, management, or policies of the sexually oriented business or legal entity which operates the sexually oriented business;
  - (b) Ownership of a financial interest of thirty percent or more of a business or of any class of voting securities of a business; or
  - (c) Holding an office, such as president, vice president, secretary, treasurer, managing member, or managing director, in a legal entity which operates the sexually oriented business;
- (8) "Nudity" or "state of nudity", the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple or areola;
- (9) "Operator", any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business whether or not such person is an owner, part owner, or licensee of the business;
- (10) "Premises", the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including but not limited to the sexually oriented business, the grounds, private walkways, and parking lots or parking garages or both;
- (11) "Regularly", the consistent and repeated doing of the act so described;
- (12) "Semi-nude" or "state of semi-nudity", the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at such point, or the showing of the male or female buttocks. Such definition includes the lower portion of the human female breast, but shall not include any portion of the cleavage of the female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part;
- (13) "Semi-nude model studio", a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. Such definition shall not apply to any place where persons appearing in a state of semi-nudity do so in a modeling class operated:
  - (a) By a college, junior college, or university supported entirely or partly by taxation;
  - (b) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
  - (c) In a structure:
    - a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and

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- b. Where, in order to participate in a class, a student must enroll at least three days in advance of the class;
- (14) "Sexual encounter center", a business or commercial enterprise that, as one of its principal purposes, purports to offer for any form of consideration physical contact in the form of wrestling or tumbling between two or more persons when one or more of the persons is semi-nude;
- (15) "Sexually oriented business", an adult bookstore or adult video store, an adult cabaret, an adult motion picture theater, a semi-nude model studio, or a sexual encounter center;
- (16) "Specified anatomical areas":
  - (a) Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
  - (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered;
- (17) "Specified criminal act", any of the following specified offenses for which less than eight years has elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is later:
  - (a) Rape and sexual assault offenses;
  - (b) Sexual offenses involving minors;
  - (c) Offenses involving prostitution;
  - (d) Obscenity offenses;
  - (e) Offenses involving money laundering;
  - (f) Offenses involving tax evasion;
  - (g) Any attempt, solicitation, or conspiracy to commit one of the offenses listed in paragraphs (a) to (f) of this subdivision; or
  - (h) Any offense committed in another jurisdiction which if committed in this state would have constituted an offense listed in paragraphs (a) to (g) of this subdivision;
- (18) "Specified sexual activity", any of the following:
  - (a) Intercourse, oral copulation, masturbation, or sodomy; or
  - (b) Excretory functions as a part of or in connection with any of the activities described in paragraph (a) of this subdivision;
- (19) "Substantial", at least thirty percent of the item or items so modified;
- (20) "Viewing room", the room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, video cassette, digital video disc, or other video reproduction.

## **§ 573.531. Establishment of business, prohibited where -- nudity in establishment prohibited -- display of sexual activities, requirements -- state requirements -- hours of operation -- minors and alcohol prohibited**

- 1. No person shall establish a sexually oriented business within one thousand feet of any preexisting primary or secondary school, house of worship, state-licensed day care facility, public library, public park, residence, or other sexually oriented business. This subsection shall not apply to any sexually oriented business lawfully established prior to August 28, 2010. For purposes of this subsection, measurements shall be made in a straight line, without regard to intervening structures or objects, from the closest portion of the parcel containing the sexually oriented business to the closest

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portion of the parcel containing the preexisting primary or secondary school, house of worship, state-licensed day care facility, public library, public park, residence, or other sexually oriented business.

- 2. No person shall establish a sexually oriented business if a person with an influential interest in the sexually oriented business has been convicted of or pled guilty or nolo contendere to a specified criminal act.
- 3. No person shall knowingly or intentionally, in a sexually oriented business, appear in a state of nudity.
- 4. No employee shall knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the employee, while semi-nude, shall be and remain on a fixed stage at least six feet from all patrons and at least eighteen inches from the floor in a room of at least six hundred square feet.
- 5. No employee, who appears in a semi-nude condition in a sexually oriented business, shall knowingly or intentionally touch a patron or the clothing of a patron in a sexually oriented business.
- 6. A sexually oriented business, which exhibits on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disc, or other video reproduction, characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements:
  - (1) The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose;
  - (2) An operator's station shall not exceed thirty-two square feet of floor area;
  - (3) If the premises has two or more operator's stations designated, the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operator's stations;
  - (4) The view required under this subsection shall be by direct line of sight from the operator's station;
  - (5) It is the duty of the operator to ensure that at least one employee is on duty and situated in an operator's station at all times that any patron is on the portion of the premises monitored by such operator station; and
  - (6) It shall be the duty of the operator and of any employees present on the premises to ensure that the view area specified in this subsection remains unobstructed by any doors, curtains, walls, merchandise, display racks, or other materials or enclosures at all times that any patron is present on the premises.
- 7. Sexually oriented businesses that do not have stages or interior configurations which meet at least the minimum requirements of sections 573.525 to 573.537 shall be given one hundred eighty days after August 28, 2010, to comply with the stage and building requirements of sections 573.525 to 573.537. During such one hundred eighty-day period, any employee who appears within view of any patron in a semi-nude condition shall remain, while semi-nude, at least six feet from all patrons.
- 8. No operator shall allow or permit a sexually oriented business to be or remain open between the hours of 12:00 midnight and 6:00 a.m. on any day.
- 9. No person shall knowingly or intentionally sell, use, or consume alcoholic beverages on the premises of a sexually oriented business.

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- 10. No person shall knowingly allow a person under the age of eighteen years on the premises of a sexually oriented business.

## **§ 573.534. Strict liability not imposed -- mental state required for violation -- act by employee not imputed to the business, when**

Sections 573.525 to 573.537 do not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of sections 573.525 to 573.537. Notwithstanding any other provision of law to the contrary, for purposes of sections 573.525 to 573.537, an act by an employee shall be imputed to the sexually oriented business for purposes of finding a violation of sections 573.525 to 573.537 only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

## **§ 573.537. Violations, penalty -- public nuisance for repeated violations -- state remedies permitted**

- 1. Any person, business, or entity violating or refusing to comply with any provision of sections 573.525 to 573.537 shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by imposition of a fine not to exceed five hundred dollars or by imprisonment for a period not to exceed ninety days, or both. Each day that a violation is permitted to exist or occur, and each separate occurrence, shall constitute a separate offense.
- 2. Any premises, building, dwelling, or other structure in which a sexually oriented business is repeatedly operated or maintained in violation of sections 573.525 to 573.537 shall constitute a public nuisance and shall be subject to civil abatement proceedings initiated by the state in a court of competent jurisdiction. Each day that a violation is permitted to exist or occur shall constitute a separate operation or maintenance of the violation.
- 3. Notwithstanding the provisions of this section, the state may employ any remedy available at law or in equity to prevent or remedy a violation of any provision of sections 573.525 to 573.537.

## **§ 568.080. Child used in sexual performance, penalties**

- 1. A person commits the crime of use of a child in a sexual performance if, knowing the character and content thereof, the person employs, authorizes, or induces a child less than seventeen years of age to engage in a sexual performance or, being a parent, legal guardian, or custodian of such child, consents to the participation by such child in such sexual performance.
- 2. Use of a child in a sexual performance is a class C felony, unless in the course thereof the person inflicts serious emotional injury on the child, in which case the crime is a class B felony.

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## FILTERING LAWS:

### § 182.825. Definitions

- As used in sections 182.825 and 182.827, the following terms mean:
  - (1) "Pornographic for minors", as that term is defined in section 573.010;
  - (2) "Public access computer", a computer that is:
    - (a) Located in an elementary or secondary public school or public library;
    - (b) Frequently or regularly used directly by a minor; and
    - (c) Connected to any computer communication system.

### § 182.827. Responsibilities of public schools and public libraries with public access computers -- rulemaking authority -- immunity from liability, when

- 1. A public school that provides a public access computer shall do one or both of the following:
  - (1) Equip the computer with software that will limit minors' ability to gain access to material that is pornographic for minors or purchase Internet connectivity from an Internet service provider that provides filter services to limit access to material that is pornographic for minors;
  - (2) Develop and implement by January 1, 2003, a policy that is consistent with community standards and establishes measures to restrict minors from gaining computer access to material that is pornographic for minors.
- 2. The department of elementary and secondary education shall establish rules and regulations for the enforcement of subsection 1 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.
- 3. A public library that provides a public access computer shall do one or both of the following:
  - (1) Equip the computer with software that will limit minors' ability to gain access to material that is pornographic for minors or purchase Internet connectivity from an Internet service provider that provides filter services to limit access to material that is pornographic for minors;
  - (2) Develop and implement by January 1, 2003, a policy that is consistent with community standards and establishes measures to restrict minors from gaining computer access to material that is pornographic for minors.
- 4. The secretary of state shall establish rules and regulations for the enforcement of subsection 3 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall

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become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

- 5. Any public school board member, officer or employee, including library personnel, who willfully neglects or refuses to perform a duty imposed by this section shall be subject to the penalties imposed pursuant to section 162.091.
- 6. A public school or public school board member, officer or employee, including library personnel, public library or public library board member, officer, employee or trustee that complies with subsection 1 or 3 of this section or an Internet service provider providing Internet connectivity to such public school or library in order to comply with this section shall not be criminally liable or liable for any damages that might arise from a minor gaining access to material that is pornographic for minors through the use of a public access computer that is owned or controlled by the public school or public library.