

## **Oregon**

### **ORS**

#### **ORS 167.051 Definitions for ORS 167.057.**

- As used in ORS 167.057:
  - (1) "Furnishes" means to sell, give, rent, loan or otherwise provide.
  - (2) "Minor" means a person under 18 years of age.
  - (3) "Sexual conduct" means:
    - (a) Human masturbation or sexual intercourse;
    - (b) Genital-genital, oral-genital, anal-genital or oral-anal contact, whether between persons of the same or opposite sex or between humans and animals;
    - (c) Penetration of the vagina or rectum by any object other than as part of a medical diagnosis or as part of a personal hygiene practice; or
    - (d) Touching of the genitals, pubic areas or buttocks of the human male or female or of the breasts of the human female.
- Note: 167.051 and 167.057 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

#### **167.057 Luring a minor.**

- (1) A person commits the crime of luring a minor if the person furnishes to, or uses with, a minor a visual representation or explicit verbal description or narrative account of sexual conduct for the purpose of inducing the minor to engage in sexual conduct.
- (2) A person is not liable to prosecution for violating subsection (1) of this section if the person furnishes or uses a representation, description or account of sexual conduct that forms merely an incidental part of an otherwise nonoffending whole and serves some purpose other than titillation.
- (3) In a prosecution under subsection (1) of this section, it is an affirmative defense:
  - (a) That the representation, description or account was furnished or used for the purpose of psychological or medical treatment and was furnished by a treatment provider or by another person acting on behalf of the treatment provider;
  - (b) That the defendant had reasonable cause to believe that the person to whom the representation, description or account was furnished or with whom the representation, description or account was used was not a minor; or
  - (c) That the defendant was less than three years older than the minor at the time of the alleged offense.
- (4) In a prosecution under subsection (1) of this section, it is not a defense that the person to whom the representation, description or account was furnished or with whom the representation, description or account was used was not a minor but was a law enforcement officer posing as a minor.
- (5) Luring a minor is a Class C felony.
- Note: See note under 167.051.

#### **167.060 Definitions for ORS 167.060 to 167.095.**

- As used in ORS 167.060 to 167.095, unless the context requires otherwise:
  - (1) "Advertising purposes" means purposes of propagandizing in connection with the commercial sale of a product or type of product, the commercial offering of a service, or the commercial exhibition of an entertainment.
  - (2) "Displays publicly" means the 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 public thoroughfare, depot or vehicle.
  - (3) "Furnishes" means to sell, give, rent, loan or otherwise provide.
  - (4) "Minor" means an unmarried person under 18 years of age.
  - (5) "Nudity" means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and areola only are covered.
  - (6) "Obscene performance" means a play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sadomasochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.
  - (7) "Obscenities" means those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.
  - (8) "Public thoroughfare, depot or vehicle" means any street, highway, park, depot or transportation platform, or other place, whether indoors or out, or any vehicle for public transportation, owned or operated by government, either directly or through a public corporation or authority, or owned or operated by any agency of public transportation that is designed for the use, enjoyment or transportation of the general public.
  - (9) "Sadomasochistic abuse" means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
  - (10) "Sexual conduct" means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.
  - (11) "Sexual excitement" means the condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

**167.062 Sadomasochistic abuse or sexual conduct in live show.**

- (1) It is unlawful for any person to knowingly engage in sadomasochistic abuse or sexual conduct in a live public show.
- (2) Violation of subsection (1) of this section is a Class A misdemeanor.

- (3) It is unlawful for any person to knowingly direct, manage, finance or present a live public show in which the participants engage in sadomasochistic abuse or sexual conduct.
- (4) Violation of subsection (3) of this section is a Class C felony.
- (5) As used in ORS 167.002, 167.007 and this section unless the context requires otherwise:
  - (a) "Live public show" means a public show in which human beings, animals, or both appear bodily before spectators or customers.
  - (b) "Public show" means any entertainment or exhibition advertised or in some other fashion held out to be accessible to the public or member of a club, whether or not an admission or other charge is levied or collected and whether or not minors are admitted or excluded.

**167.075 Exhibiting an obscene performance to a minor.**

- (1) A person commits the crime of exhibiting an obscene performance to a minor if the minor is unaccompanied by the parent or lawful guardian of the minor, and for a monetary consideration or other valuable commodity or service, the person knowingly or recklessly:
  - (a) Exhibits an obscene performance to the minor; or
  - (b) Sells an admission ticket or other means to gain entrance to an obscene performance to the minor; or
  - (c) Permits the admission of the minor to premises whereon there is exhibited an obscene performance.
- (2) No employee is liable to prosecution under this section or under any city or home-rule county ordinance for exhibiting or possessing with intent to exhibit any obscene motion picture provided the employee is acting within the scope of regular employment at a showing open to the public.
- (3) As used in this section, "employee" means any person regularly employed by the owner or operator of a motion picture theater if the person has no financial interest other than salary or wages in the ownership or operation of the motion picture theater, no financial interest in or control over the selection of the motion pictures shown in the theater, and is working within the motion picture theater where the person is regularly employed, but does not include a manager of the motion picture theater.
- (4) Exhibiting an obscene performance to a minor is a Class A misdemeanor. Notwithstanding ORS 161.635 and 161.655, a person convicted under this section may be sentenced to pay a fine, fixed by the court, not exceeding \$ 10,000.

**167.080 Displaying obscene materials to minors.**

- (1) A person commits the crime of displaying obscene materials to minors if, being the owner, operator or manager of a business or acting in a managerial capacity, the person knowingly or recklessly permits a minor who is not accompanied by the parent or lawful guardian of the minor to enter or remain on the premises, if in that part of the premises where the minor is so permitted to be, there is visibly displayed:
  - (a) Any picture, photograph, drawing, sculpture or other visual representation or image of a person or portion of the human body that depicts nudity, sexual conduct, sexual excitement or sadomasochistic abuse; or
  - (b) Any book, magazine, paperback, pamphlet or other written or printed

matter, however reproduced, that reveals a person or portion of the human body that depicts nudity, sexual conduct, sexual excitement or sadomasochistic abuse.

- (2) Displaying obscene materials to minors is a Class A misdemeanor. Notwithstanding ORS 161.635 and 161.655, a person convicted under this section may be sentenced to pay a fine, fixed by the court, not exceeding \$ 10,000.

#### **167.085 Defenses in prosecutions under ORS 167.075 and 167.080.**

- In any prosecution under ORS 167.075 and 167.080, it is an affirmative defense for the defendant to prove:
  - (1) That the defendant was in a parental or guardianship relationship with the minor;
  - (2) That the defendant was a bona fide school, museum or public library, or was acting in the course of employment as an employee of such organization or of a retail outlet affiliated with and serving the educational purpose of such organization;
  - (3) That the defendant was charged with furnishing, showing, exhibiting or displaying an item, those portions of which might otherwise be contraband forming merely an incidental part of an otherwise nonoffending whole, and serving some purpose therein other than titillation; or
  - (4) That the defendant had reasonable cause to believe that the person involved was not a minor.

#### **167.090 Publicly displaying nudity or sex for advertising purposes.**

- (1) A person commits the crime of publicly displaying nudity or sex for advertising purposes if, for advertising purposes, the person knowingly:
  - (a) Displays publicly or causes to be displayed publicly a picture, photograph, drawing, sculpture or other visual representation or image of a person or portion of the human body that depicts nudity, sadomasochistic abuse, sexual conduct or sexual excitement, or any page, poster or other written or printed matter bearing such representation or a verbal description or narrative account of such items or activities, or any obscenities; or
  - (b) Permits any display described in this section on premises owned, rented or operated by the person.
- (2) Publicly displaying nudity or sex for advertising purposes is a Class A misdemeanor.

#### **167.095 Defenses in prosecutions under ORS 167.090.**

- In any prosecution for violation of ORS 167.090, it shall be an affirmative defense for the defendant to prove:
  - (1) That the public display, even though in connection with a commercial venture, was primarily for artistic purposes or as a public service; or
  - (2) That the public display was of nudity, exhibited by a bona fide art, antique or similar gallery or exhibition, and visible in a normal display setting.

#### **167.100 Application of ORS 167.060 to 167.100.**

ORS 167.060 to 167.100 shall be applicable and uniform throughout the state and all political subdivisions and municipalities therein, and no local authority shall enact any ordinances, rules or regulations in conflict with the provisions thereof.