

1 IN THE SENATE

BY POLLOCK

2 SENATE BILL NO. 287

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to obscenity."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 11.40 is amended by adding a new section to
9 read:

10 Sec. 11.40.195. OBSCENITY. (a) It is unlawful for a
11 person with knowledge of the obscene nature thereof, to

12 (1) sell, deliver or provide, or offer or agree
13 to sell, deliver or provide any obscene writing, picture,
14 record or other representation or embodiment of the obscene;
15 or

16 (2) present or direct an obscene play, dance or
17 other performance or participate directly in that portion
18 thereof which makes it obscene; or

19 (3) publish, exhibit or otherwise make available
20 anything obscene; or

21 (4) perform an obscene act or otherwise present
22 an obscene exhibition of his body for gain; or

23 (5) create, buy, procure or possess obscene
24 matter or material with intent to disseminate it in violation
25 of this section; or

26 (6) advertise or otherwise promote the sale of
27 material represented or held out by him to be obscene.

28 (b) A thing is obscene if, considered as a whole, its
29 predominant appeal is to prurient interest, that is, a

1 shameful or morbid interest in nudity, sex or excretion, and
2 if it goes substantially beyond customary limits of candor
3 in description or representation of those matters. A thing
4 is obscene if the obscenity is latent.

5 (c) In any prosecution for an offense under this sec-
6 tion, obscenity shall be judged with reference to ordinary
7 adults, except that it shall be judged with reference to
8 children or other especially susceptible audience if it
9 appears from the character of the material or the circum-
10 stances of its dissemination to be especially designed for
11 or directed to a special audience. Evidence admissible in
12 any prosecution under this section includes, but it not
13 limited to

14 (1) the character of the audience for which the
15 material was designed or to which it was directed;

16 (2) what the predominant appeal of the material
17 would be for ordinary adults or a special audience, and what
18 effect it would probably have on the behavior of the people
19 for whom it was designed or directed;

20 (3) the artistic, literary, scientific, educational
21 or other merits of the material;

22 (4) the degree of public acceptance of the material
23 in this state;

24 (5) the appeal to prurient interest, or the lack
25 thereof, in advertising or other promotion of the material;
26 and

27 (6) the purpose of the author, creator, publisher,
28 or disseminator.

29 (d) It shall be an affirmative defense to obscenity

1 that the dissemination

2 (1) was not for gain and was made to personal
3 associates other than children under 18 years of age; or

4 (2) was to institutions or individuals having
5 scientific or other special justification for possession of
6 obscene material.

7 (e) The creation, purchase, procurement or possession
8 of a mold, engraved plate or other embodiment of obscenity
9 specially adapted for reproducing multiple copies, or the
10 possession of more than three copies of obscene material
11 shall be prima facie evidence of an intent to disseminate.

12 (f) A person who violates any of the provisions of
13 this section is guilty of a misdemeanor, and upon conviction
14 is punishable by imprisonment for not more than one year,
15 or by a fine not to exceed \$1,000, or by both. Upon a
16 second or subsequent conviction under this section, the
17 person is guilty of a felony, and upon conviction shall be
18 punishable by imprisonment for not more than three years, or
19 by a fine not to exceed \$5,000, or by both.
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