

Offered: 4/16/74
Referred: Judiciary

1 IN THE SENATE

BY THE COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 421

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to publications prohibited as to
7 persons under the age of 18 years."

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

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

10 Sec. 11.40.158. PROHIBITION OF CERTAIN MATERIALS AS TO PERSONS
11 UNDER 18. (a) It is unlawful for a person knowingly to sell, offer
12 for sale, attempt to sell, exhibit, give away, keep in his possession
13 with intent to sell or give away, or in any way furnish or attempt to
14 furnish, to a person under the age of 18 years, a book, magazine, paper,
15 or other publication which is obscene.

16 (b) It is unlawful for a person knowingly to sell, offer for sale,
17 attempt to sell, exhibit, give away, keep in his possession with intent
18 to sell or give away, or in any way furnish or attempt to furnish, to
19 a person under the age of 18 years, a book, magazine, paper, or other
20 publication which depicts, by the use of drawings, photographs, or words,
21 rape, assault with intent to commit rape, masochism, sadism, or mayhem.
22 This subsection includes but is not limited to publications in which
23 the text is not prominently featured but rather is incidental to the
24 picture and appears ordinarily in the balloons indicating the words
25 spoken by the characters. This subsection shall not be construed to
26 apply to accounts of crime which are part of the ordinary and general
27 dissemination of news, or to drawings or photographs used to illustrate
28 the accounts, and shall not be construed to apply to legitimate, illus-
29 trated, historical accounts of crime.

1 (c) A display of a publication prohibited under (a) or (b) of this
2 section in a newsstand, book store, drugstore, market, or other mer-
3 cantile establishment, where the publication may be seen by a person
4 under the age of 18 years who is visiting the establishment, is prima
5 facie evidence that the person in charge of the establishment was then
6 exhibiting the prohibited publication and intended to sell, offer for
7 sale, furnish or attempt to furnish, the prohibited publication to a
8 person under the age of 18 years in violation of this section, but the
9 defendant may show that the intent in fact did not exist.

10 (d) In this section

11 (1) "knowingly" means having knowledge of the character and
12 content of a publication described in this section, or having failed to
13 exercise reasonable inspection which would disclose character and
14 content;

15 (2) "publication which is obscene" means a publication which
16 depicts or describes, in a patently offensive way, specified sexual
17 activity or a specified anatomical area and which, taken as a whole,
18 the average person applying contemporary community standards of the
19 state would find appeals to the prurient interest in sex, and, taken
20 as a whole, does not have serious literary, artistic, political or
21 scientific value;

22 (3) "specified anatomical area" means

23 (A) less than completely and opaquely covered human
24 genitals, pubic region, buttock or female breast below a point
25 immediately above the top of the areola; or

26 (B) human male genitals in a discernibly turgid state,
27 even if covered;

28 (4) "specified sexual activity" means

29 (A) human genitals in a state of sexual stimulation or

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arousal; or

(B) any act of human masturbation, sexual intercourse or sodomy; or

(C) fondling or other erotic touching of covered or uncovered human genitals, pubic region, buttock or female breast.

* Sec. 2. AS 11.40.180 is amended to read:

Sec. 11.40.180. PENALTIES FOR VIOLATION OF SECS. 158 - 160 [SEC. 160] OF THIS CHAPTER. A person who violates secs. 158 - 160 [SEC. 160] of this chapter is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$1,000 [\$300], or by imprisonment for not more than one year [30 DAYS], or by both. Each day during which a violation continues is a separate offense. The superior court shall have jurisdiction upon hearing and for cause shown to grant temporary or permanent injunctive relief from violations of secs. 158 - 160 of this chapter irrespective of the availability of remedies at law.