

Introduced: 1/9/78  
Referred: Judiciary

1 IN THE HOUSE

BY PHILLIPS AND KELLY

2 HOUSE BILL NO. 554

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to obscene and sexually explicit  
7 materials."

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

9 \* Section 1. AS 11.40.160 is amended to read:

10 Sec. 11.40.160. DISPLAY, SALE, OFFER, DISTRIBUTION, LENDING, OR  
11 GIVING AWAY OF OBJECTIONABLE COMIC BOOKS PROHIBITED. It is unlawful for  
12 a person to knowingly display, sell, offer for sale, distribute, lend or  
13 give away or otherwise make available to a person a horror comic book,  
14 crime comic book, [SEXUALLY INDECENT COMIC BOOK,] or comic book portray-  
15 ing deeds of brutality and violence.

16 \* Sec. 2. AS 11.40 is amended by adding new sections to read:

17 Sec. 11.40.182. PUBLIC DISPLAY OF OBSCENE MATERIALS PROHIBITED.

18 (a) A person who, knowing the obscene character of the materials in-  
19 volved, displays, causes, or permits the display of obscene materials in  
20 or on a window, showcase, newsstand, display rack, billboard, display  
21 board, viewing screen, motion picture screen, marquee or similar place  
22 in such a manner that the display is visible from a public street,  
23 highway, sidewalk, transportation facility or other public thoroughfare,  
24 is guilty of a misdemeanor and upon conviction is punishable by im-  
25 prisonment for not more than two years.

26 (b) Nothing in this section applies to a recognized historical  
27 society or museum accorded charitable status by the federal government,  
28 a city or borough library, a public library, a library of a school,  
29 college or university, or an archive or library under the supervision

1 and control of the state or a political subdivision of the state.

2 (c) As used in this section, unless the context otherwise re-  
3 quires,

4 (1) "knowing" means having general knowledge of, or reason to  
5 know, or a belief or ground for belief which warrants further inspection  
6 or inquiry of, the character and content of any material described in  
7 this section which is reasonably susceptible of examination by the  
8 defendant;

9 (2) "obscene materials" means any literature, including a  
10 book, magazine, pamphlet, newspaper, storypaper, comic book or writing,  
11 and any figure, visual representation, or image including a drawing,  
12 photograph, picture or motion picture, if

13 (A) the average person applying contemporary Alaska  
14 standards would find that the subject matter taken as a whole  
15 appeals to the prurient interest;

16 (B) the subject matter depicts or describes in a  
17 patently offensive way sexual conduct of a type described in this  
18 section; and

19 (C) the subject matter, taken as a whole, lacks serious  
20 literary, artistic, political, educational or scientific value;

21 (3) "sexual conduct" means patently offensive representations  
22 or descriptions of ultimate sexual acts, normal or perverted, actual or  
23 simulated, and patently offensive representations or descriptions of  
24 masturbation, sexual conduct such as female or male masturbation, fel-  
25 latio, cunnilingus, anal sodomy, seminal ejaculation, sadomasochistic  
26 abuse, heterosexual intercourse, and lewd exhibition of the genitals;

27 (4) "transportation facility" means a conveyance, premises or  
28 place used for or in connection with public passenger transportation,  
29 whether by air, rail, motor vehicle or any other method, including

1 aircraft, watercraft, railroad cars, buses, and air, boat, railroad  
2 and bus terminals and stations.

3 Sec. 11.40.184. REQUIRING SALE OF OBSCENE MATERIALS PROHIBITED.

4 (a) A person who knowingly requires a distributor or retail seller, as  
5 a condition to sale or delivery for resale or consignment of any liter-  
6 ature, book, magazine, pamphlet, newspaper, storypaper, paper, comic  
7 book, writing, drawing, photograph, motion picture, figure or image, to  
8 resell or distribute obscene material or an article or instrument of an  
9 obscene nature is guilty of a misdemeanor and upon conviction is punish-  
10 able by imprisonment for not more than two years.

11 (b) As used in this section "knowing" and "obscene material" have  
12 the meaning ascribed to them by sec. 182(c)(1) and (2) of this chapter.

13 Sec. 11.40.185. DISSEMINATION TO MINORS. (a) A person may not  
14 knowingly disseminate to a minor, by sale, loan, or otherwise, explicit  
15 sexual materials which are harmful to minors.

16 (b) As used in this section, unless the context requires other-  
17 wise,

18 (1) "explicit sexual material" means

19 (A) material which is obscene as defined in sec.  
20 182(c)(2) of this chapter;

21 (B) any picture, photograph, drawing, sculpture, motion  
22 picture film, or similar visual representation or image of a person  
23 or portion of the human body which depicts nudity, sexual conduct,  
24 or sadomasochistic abuse; or

25 (C) any book, pamphlet, magazine, printed matter however  
26 reproduced, or sound recording which contains any matter enumerated  
27 in (B) of this paragraph, or explicit and detailed verbal descrip-  
28 tions or narrative accounts of sexual excitement, sexual conduct,  
29 or sadomasochistic abuse;

1 (2) "harmful to minors" means that quality of any description  
2 or representation, in whatever form, of nudity, sexual conduct, sexual  
3 excitement, or sadomasochistic abuse, when it

4 (A) predominantly appeals to the prurient, shameful, or  
5 morbid interest of minors; and

6 (B) is patently offensive to prevailing standards in the  
7 adult community as a whole with respect to what is suitable mater-  
8 ial for minors;

9 (3) "knowing" has the meaning ascribed to it by sec. 182(c)-  
10 (1) of this chapter.

11 Sec. 11.40.186. INJUNCTIONS. The prosecuting attorney may main-  
12 tain an action in the superior court whenever a violation of secs. 182 -  
13 184 of this chapter exists, to enjoin it, and upon a showing of notice  
14 and good cause a temporary injunction may be granted after the commence-  
15 ment of the action and no bond shall be required.

16 Sec. 11.40.187. PUNISHMENT FOR VIOLATION OF AN INJUNCTION. A  
17 person who violates the terms of an injunction granted under sec. 186 of  
18 this chapter is punishable by a fine of not less than \$500 nor more than  
19 \$1,000, or by imprisonment for not less than six months nor more than  
20 one year, or by both. No action may be maintained under this section  
21 unless there has been a conviction under secs. 182 - 184 of this chap-  
22 ter.

23 Sec. 11.40.188. SEXUAL EXPLOITATION OF CHILDREN. (a) A person  
24 who causes or knowingly permits a child to engage in a prohibited sexual  
25 act or in the simulation of a prohibited sexual act when he knows, has  
26 reason to know, or intends that the prohibited act may be photographed,  
27 drawn, sketched or filmed, is guilty of a felony and upon conviction is  
28 punishable by imprisonment for not less than 10 years nor more than 20  
29 years and by a fine of not less than \$25,000 nor more than \$50,000.

1 (b) A person who photographs, draws, sketches or films a child  
2 engaging in a prohibited sexual act or in the simulation of a prohibited  
3 sexual act is guilty of a felony and upon conviction is punishable by  
4 imprisonment for not less than 10 years nor more than 20 years and by a  
5 fine of not less than \$25,000 nor more than \$50,000.

6 (c) A person who knowingly transports a photograph, drawing,  
7 sketch or film depicting a child engaging in a prohibited sexual act or  
8 in the simulation of a prohibited sexual act is guilty of a felony and  
9 upon conviction is punishable by imprisonment for not more than seven  
10 years.

11 (d) A person who distributes for sale, sells or attempts to sell  
12 in any manner a photograph, drawing, sketch or film which depicts a  
13 child engaging in a prohibited sexual act or the simulation of a pro-  
14 hibited sexual act is guilty of a felony and upon conviction is punish-  
15 able by imprisonment for not less than 10 years nor more than 20 years  
16 and by a fine of not less than \$25,000 nor more than \$50,000.

17 (e) As used in this section, unless the context otherwise re-  
18 quires,

19 (1) "child" means an individual who has not attained the age  
20 of 16;

21 (2) "prohibited sexual act" means and applies to all forms of  
22 sexual intercourse, anal intercourse, masturbation, bestiality, sadism,  
23 masochism, fellatio, cunnilingus, and any other sexual activity includ-  
24 ing nudity when that conduct is depicted for the purposes of sexual  
25 stimulation or gratification of an individual who may view the depic-  
26 tion.