

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 487
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE KOTT

Introduced: 2/24/94

Referred: Labor & Commerce, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the sale, display, or distribution of material harmful to
2 minors at places where minors are present or allowed to be present and where
3 minors are able to view such material; and prohibiting the sale or display of
4 certain audio recordings, phonograph records, magnetic tapes, compact discs, or
5 videotapes, without warning labels and opaque wrappings."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * Section 1. AS 11.61 is amended by adding new sections to read:

8 **Sec. 11.61.127. SALE, DISPLAY, OR DISTRIBUTION OF MATERIAL**
9 **HARMFUL TO MINORS. (a) A person commits the crime of sale, display, or**
10 **distribution of material harmful to minors if the person knowingly sells, displays, or**
11 **distributes any material, including the covers and packaging of the material, but not**
12 **including audio recordings, music video recordings, or rated video recordings, that is**
13 **harmful to minors in any place where minors are present or are allowed to be present**

1 and where minors are able to view such material unless each item of the material is
2 sealed in an opaque wrapper.

3 (b) In this section, the requirement of an opaque wrapper shall be satisfied if
4 the portions of the covers or packaging of the material that visually depict material
5 harmful to minors are blocked with the opaque wrapper and the wrapper is sealed.

6 (c) In this section,

7 (1) "material harmful to minors" means a description or representation,
8 in any form, of nudity, sexual conduct, or sexual excitement when it

9 (A) predominately appeals to the prurient, shameful, or morbid
10 interest of minors in sex;

11 (B) is patently offensive to contemporary standards in the adult
12 community as a whole with respect to what is suitable sexual material for
13 minors; and

14 (C) taken as a whole, lacks serious literary, artistic, political, or
15 scientific value for minors;

16 (2) "music video recording" means a tape or other recorded visual
17 depiction of a song or songs that is not voluntarily rated by the Classification and
18 Rating Administration (CARA);

19 (3) "rated video recording" means a tape or other recorded visual
20 depiction that is voluntarily rated by the Classification and Rating Administration
21 (CARA).

22 (d) Except as provided in (e) of this section, sale or display of material
23 harmful to minors is a class B misdemeanor.

24 (e) A person convicted under this section is guilty of a class A misdemeanor
25 if the person has previously been convicted of a violation of this section.

26 **Sec. 11.61.128. UNLAWFUL SALE OR DISPLAY OF AUDIO OR MUSIC**
27 **VIDEO RECORDING.** (a) A person commits the crime of unlawful sale of an audio
28 recording or music video recording if the person knowingly sells or offers to sell an
29 audio recording, phonograph record, magnetic tape, compact disc, or music video
30 recording that contains lyrics that include or are descriptive of material harmful to
31 minors, unless the cover of the recording, record, tape, or disc contains a warning label

1 that the lyrics contain material harmful to minors. .

2 (b) A person commits the crime of unlawful display of an audio recording or
3 music video recording if the person knowingly displays an audio recording,
4 phonograph record, magnetic tape, compact disc, or music video recording, whose
5 packaging uses words, symbols, or pictures that include or describe material harmful
6 to minors unless the recording is sealed in an opaque wrapping.

7 (c) In this section, the requirement of a warning label shall be satisfied if the
8 label is affixed to the front cover, beneath any cellophane or other clear wrapping
9 material or above any opaque wrapping material, of the audio recording, phonograph
10 record, magnetic tape, compact disc, or music video recording and for (1) cassette
11 tapes and compact discs or other recordings the same size or smaller than cassette
12 tapes or compact discs, is printed with black letters of eight point type or larger, except
13 that the words "WARNING" and "PARENTAL ADVISORY" shall be of 10 point type
14 or larger on a fluorescent yellow background; or (2) all other audio or music video
15 recordings larger than cassette tapes or compact discs, is printed with black letters of
16 12 point type or larger on a fluorescent yellow background, except that the words
17 "WARNING" and "PARENTAL ADVISORY" shall be printed in letters which are of
18 48 point type or larger, and the label reads substantially as follows:

19 "WARNING:

20 May contain explicit lyrics that include or describe material
21 harmful to minors.

22 PARENTAL ADVISORY".

23 (d) In this section, the requirement of an opaque wrapper is satisfied if the
24 portions of the packaging of the audio recording, phonograph record, magnetic tape,
25 compact disc, or music video recording that use words, symbols, or pictures that
26 include or describe material harmful to minors are blocked with an opaque wrapper
27 and the wrapper is sealed.

28 (e) In a prosecution under this section, each day that a violation occurs and
29 each audio recording, phonograph record, magnetic tape, compact disc, or music video
30 recording that is found in violation of this section is a separate offense.

31 (f) In this section,

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(1) "material harmful to minors" means a

(A) description or representation, in any form, of nudity, sexual conduct, or sexual excitement when it

(i) predominately appeals to the prurient, shameful, or morbid interest of minors in sex;

(ii) is patently offensive to contemporary standards in the adult community as a whole with respect to what is suitable sexual material for minors; and

(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value for minors; or

(B) graphic description, representation of, or incitement to violent behavior that if acted out would constitute felonious behavior that is morally repugnant to the community as a whole;

(2) "music video recording" has the meaning given in AS 11.61.127.

(g) Except as provided in (h) of this section, a violation of (a) or (b) of this section is a class B misdemeanor.

(h) A person convicted under this section is guilty of a class A misdemeanor if the person has previously been convicted of a violation of this section.