S T A T E O F N E W Y O R K

923

2009-2010 Regular Sessions

I N S E N A T E

January 21, 2009

Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law and the general business law, in relation to increasing protection for minors from exposure to obscene materials

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 1 of section 235.20 of the penal law, as added by chapter 791 of the laws of 1967, is amended to read as follows:

1. "Minor" means any person less than [seventeen] TWENTY-ONE years old.

S 2. The general business law is amended by adding a new article 29-JJ to read as follows:

ARTICLE 29-JJ

EMPLOYEE EXPOSURE TO OBSCENE MATERIAL

SECTION 613. DEFINITIONS.

614. RETAIL SALE OF OBSCENE MATERIALS AND EMPLOYEE PROTECTION.

S 613. DEFINITIONS. AS USED IN THIS ARTICLE THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "OBSCENE." ANY MATERIAL IS "OBSCENE" IF (A) THE AVERAGE PERSON, APPLYING CONTEMPORARY COMMUNITY STANDARDS, WOULD FIND THAT, CONSIDERED AS A WHOLE, ITS PREDOMINANT APPEAL IS TO THE PRURIENT INTEREST IN SEX, AND (B) IT DEPICTS OR DESCRIBES IN A PATENTLY OFFENSIVE MANNER, ACTUAL OR SIMULATED: SEXUAL INTERCOURSE, SODOMY, SEXUAL BESTIALITY, MASTURBATION, SADISM, MASOCHISM, EXCRETION OR LEWD EXHIBITION OF THE GENITALS, AND (C) CONSIDERED AS A WHOLE, IT LACKS SERIOUS LITERARY, ARTISTIC, POLITICAL, AND SCIENTIFIC VALUE. PREDOMINANT APPEAL SHALL BE JUDGED WITH REFERENCE TO ORDINARY ADULTS UNLESS IT APPEARS FROM THE CHARACTER OF THE MATERIAL OR THE CIRCUMSTANCES OF ITS DISSEMINATION TO BE DESIGNED FOR CHILDREN OR OTHER SPECIALLY SUSCEPTIBLE AUDIENCE.

2. "MINOR" MEANS ANY PERSON LESS THAN TWENTY-ONE YEARS OLD.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD06417-01-9

3. "MATERIALS" MEANS ANYTHING TANGIBLE WHICH IS CAPABLE OF BEING USED OR ADAPTED TO AROUSE INTEREST, WHETHER THROUGH THE MEDIUM OF READING, OBSERVATION, SOUND OR IN ANY OTHER MANNER.

S 614. RETAIL SALE OF OBSCENE MATERIALS AND EMPLOYEE PROTECTION. 1. NO PERSON, INDIVIDUAL, PARTNERSHIP, CORPORATION, ASSOCIATION OR OTHER LEGAL ENTITY SHALL EMPLOY ANY MINOR TO PARTICIPATE IN THE RETAIL SALE, MAILING, DELIVERY, TRANSFER, DISTRIBUTION, CIRCULATION, DISSEMINATION, PRESENTATION, EXHIBITION OR ADVERTISEMENT OF ANY OBSCENE MATERIALS.

2. A VIOLATION OF SUBDIVISION ONE OF THIS SECTION SHALL BE PUNISHABLE BY A CIVIL PENALTY OF NOT MORE THAN ONE HUNDRED DOLLARS PER VIOLATION.

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law.