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

971

2009-2010 Regular Sessions

I N S E N A T E

January 22, 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, in relation to public distribution of offensive sexual material

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

Section 1. The penal law is amended by adding a new section 245.12 to read as follows:

S 245.12 PUBLIC DISTRIBUTION OF OFFENSIVE SEXUAL MATERIAL.

A PERSON IS GUILTY OF PUBLIC DISTRIBUTION OF OFFENSIVE SEXUAL MATERIAL WHEN, WITH KNOWLEDGE OF ITS CHARACTER OR CONTENT, HE OR SHE PUBLICLY DISTRIBUTES WITHOUT CHARGE ANY PICTORIAL OR OTHER VISUAL REPRESENTATION OF A PERSON OR PORTION OF THE HUMAN BODY THAT PREDOMINANTLY APPEALS TO THE PRURIENT INTEREST IN SEX, AND THAT:

(A) DEPICTS NUDITY, OR ACTUAL OR SIMULATED SEXUAL CONDUCT OR SADO-MASOCHISTIC ABUSE; OR

(B) DEPICTS OR APPEARS TO DEPICT NUDITY, OR ACTUAL OR SIMULATED SEXUAL CONDUCT OR SADO-MASOCHISTIC ABUSE, WITH THE AREA OF THE MALE OR FEMALE SUBJECT'S UNCLOTHED OR APPARENTLY UNCLOTHED GENITALS, PUBIC AREA OR BUTTOCKS, OR OF THE FEMALE SUBJECT'S UNCLOTHED OR APPARENTLY UNCLOTHED BREAST, OBSCURED BY A COVERING OR A MARK PLACED OR PRINTED ON OR IN FRONT OF THE MATERIAL DISPLAYED, OR OBSCURED OR ALTERED IN ANY OTHER MANNER.

PUBLIC DISTRIBUTION OF OFFENSIVE SEXUAL MATERIAL IS A CLASS A MISDEMEANOR, AND SHALL ALSO BE PUNISHABLE BY A FINE NOT TO EXCEED ONE HUNDRED DOLLARS FOR EACH VIOLATION OF THIS SECTION.

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.

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

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