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

3743--A

2011-2012 Regular Sessions

I N S E N A T E

March 3, 2011

Introduced by Sen. PERALTA -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to distribution and dissemination of obscene material

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

Section 1. Subdivision 1 of section 235.00 of the penal law, as amended by chapter 264 of the laws of 2003, is amended to read as follows:

1. "Obscene." Any material or performance 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, criminal sexual act, sexual bestiality, NUDITY, masturbation, sadism, masochism, excretion or lewd exhibition of the genitals, PUBIC AREA, BUTTOCKS, A FEMALE SUBJECT'S UNCLOTHED BREAST, 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.

S 2. Subdivision 1 of section 235.05 of the penal law, as amended by chapter 649 of the laws of 1982, is amended to read as follows:

1. Promotes, DISTRIBUTES, DISSEMINATES, or possesses with intent to promote, DISTRIBUTE OR DISSEMINATE, any obscene material; or

S 3. This act shall take effect immediately.

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

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