

INDECENT PUBLIC DISPLAY AMENDMENTS

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Peggy Wallace

This act modifies the Criminal Code regarding indecent public displays by defining material which does not have serious value for minors, and by clarifying the offense of distributing indecent material to minors.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

76-10-1227, as enacted by Chapter 80, Laws of Utah 1979

76-10-1228, as last amended by Chapter 163, Laws of Utah 1990

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-10-1227** is amended to read:

76-10-1227. Indecent public displays -- Definitions.

For purposes of this [act] part:

(1) "Description or depictions of illicit sex or sexual immorality" means:

- (a) human genitals in a state of sexual stimulation or arousal;
- (b) acts of human masturbation, sexual intercourse, or sodomy; [~~or~~]
- (c) fondling or other erotic touching of human genitals[;] or pubic region[; ~~buttock, or female breast.~~]; or

(d) fondling or other erotic touching of the human buttock or female breast.

(2) "Nude or partially denuded figures" means:

- (a) less than completely and opaquely covered:
 - (i) human genitals;
 - (ii) pubic regions;
 - (iii) buttock; and
 - (iv) female breast below a point immediately above the top of the areola; and
- (b) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(3) (a) This section does not apply to any material which, when taken as a whole, has serious value for persons younger than 18 years of age, except as provided under Subsection (3)(c).

(b) As used in Subsection (3)(a), "serious value" means having serious literary, artistic, political, or scientific value for persons younger than 18 years of age, taking into consideration the ages of all minors who could be exposed to the material.

(c) Descriptions or depictions of illicit sex or sexual immorality as defined in Subsection (1)(a), (b), or (c) have no serious value for persons younger than 18 years of age.

Section 2. Section **76-10-1228** is amended to read:

76-10-1228. Indecent public displays -- Prohibitions -- Penalty.

(1) A person is guilty of a class A misdemeanor who willfully or knowingly:

(a) engages in the business of selling, lending, giving away, showing, advertising for sale, or distributing to any person under the age of 18 or has in his possession with intent to engage in that business or to otherwise offer for sale or commercial distribution to any individual under the age of 18 any material with descriptions or depictions of illicit sex, sexual immorality, or nude or partially denuded figures; or

(b) publicly displays at newsstands or any other establishment frequented by minors under the age of 18, or where the minors are or may be invited as a part of the general public, any motion picture, or any live, taped, or recorded performance, or any still picture or photograph, or any book, pocket book, pamphlet, or magazine the cover or content of which exploits, is devoted to, or is principally made up of indecent descriptions or depictions of illicit sex or sexual immorality, or that consists of pictures of nude or partially denuded figures posed or presented in a manner to provoke or arouse lust or passion or to exploit lust or perversion [~~for commercial gain~~].

(2) A violation of this section is punishable by a minimum mandatory fine of not less than \$500 and by incarceration, without suspension of sentence in any way, for a term of not less than 30 days. This section supersedes Section 77-18-1.