

## CHAPTER 1267

## OBSCENITY

## H. F. 1102

AN ACT relating to the dissemination and exhibition of obscene material to minors and lascivious acts with certain minors and providing penalties.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. NEW SECTION. **Definitions.** As used in this Act, un-  
2 less the context otherwise requires:

3 1. "Obscene material" is any material depicting or describing the  
4 genitals, sex acts, masturbation, excretory functions or sado-masochis-  
5 tic abuse which the average person, taking the material as a whole  
6 and applying contemporary community standards with respect to what  
7 is suitable material for minors, would find appeals to the prurient in-  
8 terest and is patently offensive; and the material, taken as a whole,  
9 lacks serious literary, scientific, political or artistic value.

10 2. "Material" means any book, magazine, newspaper or other  
11 printed or written material or any picture, drawing, photograph, mo-  
12 tion picture, or other pictorial representation or any statue or other  
13 figure, or any recording, transcription or mechanical, chemical or elec-  
14 trical reproduction or any other articles, equipment, machines or  
15 materials.

16 3. "Disseminate" means to transfer possession, with or without con-  
17 sideration.

18 4. "Knowingly" means being aware of the character of the matter.

19 5. "Sado-masochistic abuse" means the infliction of physical or  
20 mental pain upon a person or the condition of a person being fettered,  
21 bound or otherwise physically restrained.

22 6. "Minor" means any person under the age of eighteen.

23 7. "Sex act" means any sexual contact, actual or simulated, between  
24 two or more persons, either natural or deviate, or between a person  
25 and an animal, by penetration of the penis into the vagina or anus, or  
26 by contact between the mouth and genitalia or anus, or by use of  
27 artificial sexual organs or substitutes therefor in contact with the gen-  
28 italialia or anus.

1 SEC. 2. NEW SECTION. **Dissemination and exhibition of obscene**  
2 **material to minors.** Any person, other than the parent or guardian of  
3 the minor, who knowingly disseminates or exhibits obscene material to  
4 a minor; including the exhibition of obscene material so that it can be  
5 observed by a minor on or off the premises where it is displayed, is  
6 guilty of a public offense and shall upon conviction be imprisoned in  
7 the state penitentiary for not to exceed one year or be fined not to  
8 exceed one thousand dollars or be subject to both such fine and im-  
9 prisonment.

1 SEC. 3. NEW SECTION. **Admitting minors to premises where ob-**  
2 **scene material is exhibited.** Any person who knowingly sells, gives,  
3 delivers, or provides a minor with a pass or admits a minor to prem-  
4 ises where obscene material is exhibited is guilty of a public offense  
5 and shall upon conviction be imprisoned in the state penitentiary for  
6 not to exceed one year or be fined not to exceed one thousand dollars  
7 or be subject to both such fine and imprisonment.

1     **SEC. 4. NEW SECTION. Civil suit to determine obscenity.** When-  
2 ever the county attorney of any county has reasonable cause to be-  
3 lieve that any person is engaged or plans to engage in the dissemina-  
4 tion or exhibition of obscene material within his county to minors he  
5 may institute a civil proceeding in the district court of the county to  
6 enjoin the dissemination or exhibition of obscene material to minors.  
7 Such application for injunction is optional and not mandatory and  
8 shall not be construed as a prerequisite to criminal prosecution for a  
9 violation of this Act.

1     **SEC. 5. NEW SECTION. Exemptions for public libraries and edu-**  
2 **cational institutions.** Nothing in this Act prohibits the use of appro-  
3 priate material for educational purposes in any accredited school, or  
4 any public library, or in any educational program in which the minor  
5 is participating. Nothing in this Act prohibits the attendance of  
6 minors at an exhibition or display of art works or the use of any  
7 materials in any public library.

1     **SEC. 6. NEW SECTION. Suspension of licenses or permits.** Any  
2 person who knowingly permits a violation of section two (2) or three  
3 (3) of this Act to occur on premises under his control shall have all  
4 permits and licenses issued to him under state or local law as a pre-  
5 requisite for doing business on such premises revoked for a period of  
6 six months. The county attorney shall notify all agencies responsible  
7 for issuing licenses and permits of any conviction under section two  
8 (2) or three (3) of this Act.

1     **SEC. 7. NEW SECTION. Evidence considered.** At a trial for vio-  
2 lation of sections two (2) and three (3) of this Act the court may  
3 consider the material, and receive into evidence in addition to other  
4 competent evidence, the offered testimony of experts pertaining to:  
5     1. The artistic, literary, political, or scientific value, if any, of the  
6 challenged material.  
7     2. The degree of public acceptance within the community of the  
8 material or material of similar character.  
9     3. The intent of the author, artist, producer, publisher, or manufac-  
10 turer in creating the material.  
11     4. The advertising promotion and other circumstances relating to  
12 the sale of the material.

1     **SEC. 8. NEW SECTION. Affirmative defense.** In any prosecution  
2 for disseminating or exhibiting obscene material to minors, it is an  
3 affirmative defense that the defendant had reasonable cause to believe  
4 that the minor involved was eighteen years old or more and the minor  
5 exhibited to the defendant a draft card, driver's license, birth certifi-  
6 cate or other official or apparently official document purporting to  
7 establish that such minor was eighteen years old or more or was ac-  
8 companied by a parent or spouse eighteen years of age or more.

1     **SEC. 9. NEW SECTION. Uniform application.** In order to provide  
2 for the uniform application of the provisions of this Act relating to  
3 obscene material applicable to minors within this state, it is intended  
4 that the sole and only regulation of obscene material shall be under  
5 the provisions of this Act, and no municipality, county or other gov-  
6 ernmental unit within this state shall make any law, ordinance or  
7 regulation relating to the availability of obscene materials. All such

8 laws, ordinances or regulations, whether enacted before or after this  
9 Act, shall be or become void, unenforceable and of no effect upon the  
10 effective date of this Act.

1 SEC. 10. NEW SECTION. Lascivious acts with persons under the  
2 age of sixteen years. It is unlawful for any person eighteen years of  
3 age or older to perform any of the following acts with any person  
4 under the age of sixteen, with or without his or her consent unless  
5 married to each other, for the purpose of arousing or satisfying the  
6 sexual desires of either of them:

7 1. Fondle or touch the pubes or genitals of a person under the age  
8 of sixteen.

9 2. Permit a person under the age of sixteen to fondle or touch his  
10 or her genitals or pubes.

11 3. Solicit a person under sixteen years of age to engage in sexual  
12 contact performed by penetration of the penis into the vagina or anus  
13 or by contact between the mouth and genitalia or anus, or by use of  
14 artificial sexual organs or substitutes therefor in contact with geni-  
15 talia or anus.

16 4. Inflict pain or discomfort upon a person under the age of sixteen  
17 or permit a person under the age of sixteen to inflict pain or discom-  
18 fort on him or her.

19 Any person who violates a provision of this section shall, upon con-  
20 viction, be imprisoned in the penitentiary for not to exceed five years  
21 or be fined not to exceed five hundred dollars, or be subject to both  
22 such fine and imprisonment.

1 SEC. 11. Sections seven hundred twenty-five point one (725.1),  
2 seven hundred twenty-five point two (725.2), seven hundred twenty-  
3 five point three (725.3), seven hundred twenty-five point four (725.4),  
4 seven hundred twenty-five point six (725.6), seven hundred twenty-five  
5 point seven (725.7), seven hundred twenty-five point eight (725.8),  
6 seven hundred twenty-five point nine (725.9), seven hundred twenty-  
7 five point ten (725.10), and seven hundred twenty-five point eleven  
8 (725.11), Code 1973, are repealed.

Approved May 27, 1974

## CHAPTER 1268

### CONTRACEPTIVE PRODUCTS

S. F. 301

AN ACT relating to the sale, distribution or advertisement of contraceptive products,  
and the regulation of distribution of venereal disease prophylactics and providing  
a penalty.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Section seven hundred twenty-five point five (725.5),  
2 Code 1973, is hereby repealed.

1 SEC. 2. Section one hundred thirty-five point eleven (135.11),  
2 Code 1973, is amended by adding the following new subsection: