

**CHAPTER 1115**  
**OBSCENITY OFFENSES**  
*S.F. 2278*

**AN ACT** relating to obscenity offenses and providing penalties.

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

Section 1. Section 728.4, Code 1981, is amended to read as follows:

728.4 SALE OF HARD CORE PORNOGRAPHY. Any person who knowingly sells or offers for sale material depicting a sex act involving sadomasochistic abuse, excretory functions, a child, or bestiality, which the average adult taking the material as a whole in applying contemporary community standards would find that it appeals to the prurient interest and is patently offensive; and the which material, taken as a whole, lacks serious literary, scientific, political, or artistic value shall, upon conviction be guilty of a simple an aggravated misdemeanor. Charges under this section may only be brought by a county attorney or by the attorney general.

Sec. 2. Chapter 728, Code 1981, is amended by adding the following new section:

**NEW SECTION. FORFEITURE.** Everything of value that is furnished or intended to be furnished in exchange for material in violation of sections 728.2 or 728.4, all proceeds traceable to such an exchange, and all property, moneys, negotiable instruments, and securities used or intended to be used to facilitate a violation of those sections, is subject to forfeiture. However, property shall not be forfeited under this paragraph, to the extent of the interest of an owner, if the owner did not have knowledge of or did not consent to the violation of the chapter. The burden of proof is upon claimants of the property to rebut this presumption.

Sec. 3. Section 809.1, subsection 4, Code 1981, is amended to read as follows:

4. Property subject to forfeiture except such property described in chapters 127 and 204 and except property subject to forfeiture pursuant to section 2 of this Act.

Sec. 4. Section 809.6, Code 1981, is amended by adding the following new subsection:

**NEW SUBSECTION.** If the seized property is of the type described in section 2 of this Act, and the court determines that it is forfeited as provided in section 2 of this Act, or a claimant's right to possession is not established under subsection 2 of section 809.5, the court shall order the property or the proceeds of its sale to be paid to the treasurer of state for deposit in the general fund. However, if the property is material which is in violation of chapter 728 or material which would be in violation of chapter 728 if sold to a minor, the materials shall be destroyed.

Approved April 23, 1982