

728.1 Definitions.

As used in [this chapter](#), unless the context otherwise requires:

1. “Disseminate” means to transfer possession, with or without consideration.
2. “Knowingly” means being aware of the character of the matter.
3. “Material” means any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines or materials.
4. “Minor” means any person under the age of eighteen.
5. “Obscene material” is any material depicting or describing the genitals, sex acts, masturbation, excretory functions or sadomasochistic abuse which the average person, taking the material as a whole and applying contemporary community standards with respect to what is suitable material for minors, would find appeals to the prurient interest and is patently offensive; and the material, taken as a whole, lacks serious literary, scientific, political or artistic value.
6. “Place of business” means the premises of a business required to obtain a sales tax permit pursuant to [chapter 423](#), the premises of a nonprofit or not-for-profit organization, and the premises of an establishment which is open to the public at large or where entrance is limited by a cover charge or membership requirement.
7. Unless otherwise provided, “prohibited sexual act” means any of the following:
 - a. A sex act as defined in [section 702.17](#).
 - b. An act of bestiality involving a minor.
 - c. Fondling or touching the pubes or genitals of a minor.
 - d. Fondling or touching the pubes or genitals of a person by a minor.
 - e. Sadomasochistic abuse of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the abuse.
 - f. Sadomasochistic abuse of a person by a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the abuse.
 - g. Nudity of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the nude minor.
8. “Promote” means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do any of these acts.
9. “Sadomasochistic abuse” means the infliction of physical or mental pain upon a person or the condition of a person being fettered, bound or otherwise physically restrained.
10. “Sex act” means any sexual contact, actual or simulated, either natural or deviate, between two or more persons, or between a person and an animal, by penetration of the penis into the vagina or anus, or by contact between the mouth or tongue and genitalia or anus, or by contact between a finger of one person and the genitalia of another person or by use of artificial sexual organs or substitutes therefor in contact with the genitalia or anus.
11. “Visual depiction” means but is not limited to any picture, slide, photograph, digital or electronic image, negative image, undeveloped film, motion picture, videotape, digital or electronic recording, live transmission, or other pictorial or three-dimensional representation.

[C75, 77, §725.1; C79, 81, §728.1]

[83 Acts, ch 167, §1](#); [89 Acts, ch 263, §1](#); [97 Acts, ch 125, §2](#); [2005 Acts, ch 3, §111](#); [2012 Acts, ch 1057, §5, 6](#)

Referred to in [§15.301](#), [§232.2](#), [§232.68](#)