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JUDICIARY

HOUSE FILE 2163

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Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act restricting the exhibition or dissemination of certain
2 sexual devices to minors and providing a penalty.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2163

1 Section 1. Section 272.2, subsection 14, paragraph b,
2 subparagraph (1), subparagraph subdivision (d), Code 2005, is
3 amended to read as follows:

4 (d) Dissemination and exhibition of obscene material or
5 sexual devices to minors under section 728.2.

6 Sec. 2. Section 692A.1, subsection 5, paragraph j, Code
7 Supplement 2005, is amended to read as follows:

8 j. Dissemination and exhibition of obscene material or
9 sexual devices to minors in violation of section 728.2.

10 Sec. 3. Section 728.2, Code 2005, is amended to read as
11 follows:

12 728.2 DISSEMINATION AND EXHIBITION OF OBSCENE MATERIAL OR
13 SEXUAL DEVICES TO MINORS.

14 Any person, other than the parent or guardian of the minor,
15 who knowingly disseminates or exhibits obscene material or a
16 sexual device to a minor, including the exhibition of obscene
17 material or a sexual device so that it can be observed by a
18 minor on or off the premises where it is displayed, is guilty
19 of a public offense and shall upon conviction be guilty of a
20 serious misdemeanor. A sexual device is any three-dimensional
21 item designed or marketed as useful primarily for the
22 stimulation of human genital organs.

23 Sec. 4. Section 728.9, Code 2005, is amended to read as
24 follows:

25 728.9 EVIDENCE CONSIDERED.

26 At a trial for violation of section 728.2 or 728.3 the
27 court may consider the obscene material or sexual device, and
28 receive into evidence in addition to other competent evidence,
29 the offered testimony of experts pertaining to:

30 1. The artistic, literary, political, or scientific value,
31 if any, of the challenged material or device.

32 2. The degree of public acceptance within the community of
33 the material or device or material or device of similar
34 character.

35 3. The intent of the author, artist, producer, publisher,

1 or manufacturer in creating the material or device.

2 4. The advertising promotion and other circumstances
3 relating to the sale of the material or device.

4 EXPLANATION

5 This bill prohibits any person, other than a parent or
6 guardian, from allowing a minor to view or from disseminating,
7 i.e., giving or selling, to a minor certain sexual devices
8 designed for sexual stimulation. A person who violates this
9 prohibition is guilty of a serious misdemeanor. A serious
10 misdemeanor is punishable by confinement for no more than one
11 year or a fine of at least \$250 but not more than \$1,500 or by
12 both. Under Code section 728.8, a person who knowingly
13 permits a violation at the person's place of business shall
14 have all permits and licenses needed for doing business
15 revoked for six months.

16 A person who violates Code section 728.2 by disseminating
17 or exhibiting a sexual device to a minor is disqualified
18 pursuant to Code section 272.2 from having a teacher's or an
19 administrator's license. Also, a person who violates Code
20 section 728.2 for displaying a sexual device to a minor
21 commits a criminal offense against a minor and must register
22 as a sex offender under Code chapter 692A.

23 The bill provides that at a trial for violation of Code
24 section 728.2, the court may consider certain evidence with
25 regard to the sexual device, e.g., the advertising promotion
26 relating to the device.

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