

Mississippi
Title 97, Chapter 19

- [Distribution of obscene materials or performances](#) (Sec .101)
- [Definitions](#) (Sec .103)

SEC. 97-29-101. Distribution or wholesale distribution of obscene materials or performances; character and reputation as evidence; prosecutor's bond.

A person commits the offense of distributing obscene materials or obscene performances when he sells, rents, leases, advertises, publishes or exhibits to any person any obscene material or obscene performance of any description knowing the obscene nature thereof, or offers to do so, or possesses such material with the intent to do so. A person commits the offense of wholesale distributing obscene materials or obscene performances when he distributes for the purpose of resale any obscene material or obscene performance of any description knowing the obscene nature thereof, or offers to do so, or possesses such material with the intent to do so. The word "knowing" as used in this section means either actual or constructive knowledge of the obscene contents of the subject matter, and a person has constructive knowledge of the obscene contents if he has knowledge of facts which would put a reasonable and prudent person on notice as to the suspect nature of the material. The character and reputation of an individual charged with an offense under sections [97-29-101](#) through [97-29-109](#) and, if a commercial dissemination of obscene material or an obscene performance is involved, the character and reputation of the business establishment involved, may be placed in evidence by the defendant on the question of intent to violate sections [97-29-101](#) through [97-29-109](#).

Any person, other than a city attorney, county prosecuting attorney or district attorney, who shall sign an affidavit charging an offense prescribed by this section shall file a bond in the amount of five hundred dollars (\$500.00) at the time such affidavit is lodged. Such bond shall be conditioned that the affidavit was not filed frivolously, maliciously or out of ill will.

SOURCES: Laws, 1983, ch. 498, Sec. 1, eff from and after July 1, 1983.

SEC. 97-29-103. Definitions.

(1) Material or performance is obscene if:

(a) To the average person, applying contemporary community standards, taken as a whole, it appeals to the prurient interest, that is, a lustful, erotic, shameful, or morbid interest in nudity, sex or excretion; and

(b) The material taken as a whole lacks serious literary, artistic, political or scientific value; and

(c) The material depicts or describes in a patently offensive way, sexual conduct specifically defined in subparagraphs (i) through (v) below:

(i) Acts of sexual intercourse, heterosexual or homosexual, normal or perverted, actual or simulated;

(ii) Acts of masturbation;

(iii) Acts involving excretory functions or lewd exhibition of the genitals;

(iv) Acts of bestiality or the fondling of sex organs of animals; or

(v) Sexual acts of flagellation, torture or other violence indicating a sadomasochistic sexual relationship.

(2) Undeveloped photographs, molds, printing plates and the like shall be deemed obscene material, notwithstanding that processing or other acts may be required to make the obscenity patent or to distribute it.

(3) "Performance" means a play, motion picture, dance or other exhibition performed before an audience.

(4) "Patently offensive" means so offensive on its face as to affront current community standards of decency.

(5) "Wholesale distributes" means to distribute for the purpose of resale.

(6) "Material" means any book, magazine, newspaper, advertisement, pamphlet, poster, print, picture, figure, image, drawing, description, motion picture film, phonographic record, recording tape, video tape, or other tangible thing producing, reproducing or capable of producing or reproducing an image, picture, sound or sensation through sight, sound or touch, but it does not include an actual three-dimensional sexual device as defined in section [97-29-105](#).

SOURCES: Laws, 1983, ch. 498, Sec. 2, eff from and after July 1, 1983.

SEC. 97-29-105. Distribution or wholesale distribution of unlawful sexual devices; prosecutor's bond.

A person commits the offense of distributing unlawful sexual devices when he knowingly sells, advertises, publishes or exhibits to any person any three-dimensional device designed or marketed as useful primarily for the stimulation of human genital organs, or offers to do so, or possesses such devices with the intent to do so. A person commits the offense of wholesale distributing unlawful sexual devices when he distributes for the purpose of resale any three-dimensional device designed or marketed as useful primarily

for the stimulation of human genital organs, or offers to do so, or possesses such devices with the intent to do so.

Any person, other than a city attorney, county prosecuting attorney or district attorney, who shall sign an affidavit charging an offense prescribed by this section shall file a bond in the amount of five hundred dollars (\$500.00) at the time such affidavit is lodged. Such bond shall be conditioned that the affidavit was not filed frivolously, maliciously or out of ill will.

SOURCES: Laws, 1983, ch. 498, Sec. 3, eff from and after July 1, 1983.

SEC. 97-29-107. Exemptions from application of Secs. 97-29-101 through 97-29-109; procedure for claiming exemption; defenses.

(1) Sections [97-29-101](#) through [97-29-109](#) shall not apply when the distribution or wholesale distribution of the material, performance or device was made by:

(a) A person, corporation, company, partnership, firm, association, business, establishment or other legal entity to a person associated with an institution of higher learning, either as a member of the faculty or as a matriculated student, teaching or pursuing a course of study related to such material, performance or device;

(b) A licensed physician or a licensed psychologist to a person whose receipt of such material or device was authorized in writing by such physician or psychologist in the course of medical or psychological treatment or care;

(c) A person who while acting in his capacity as an employee is employed on a full-time or part-time basis by (i) any recognized historical society or museum accorded charitable status by the federal government; (ii) any state, county or municipal public library; or (iii) any library of any public or private school, college or university in this state; or

(d) A community television antenna services system or a cable television system operating pursuant to a written agreement not in conflict with this paragraph granted by a county, municipality or other political subdivision of this state, or by an employee of such system while acting within the scope of his employment, when the signal transmitting the material or performance originates outside of the state of Mississippi.

(2) Any exemption from prosecution claimed under the provisions of this section may be raised at a pretrial hearing by motion, and the court shall determine whether sufficient evidence exists to constitute an exemption from prosecution under the provisions of sections [97-29-101](#) through [97-29-109](#). If the motion is sustained, the case shall be dismissed; provided, however, if the motion is not sustained then the defendant may offer into evidence at trial as an affirmative defense to conviction under this act any matter which could have been raised by the defendant in the motion to dismiss.

SOURCES: Laws, 1983, ch. 498, Sec. 4, eff from and after July 1, 1983.

