TITLE 11
Criminal Offenses

CHAPTER 11-31
Obscene and Objectionable Publications and Shows

SECTION 11-31-1

§ 11-31-1 Circulation of obscene publications and shows. – (a) Every person who willfully or knowingly promotes for the purpose of commercial gain within the community any show, motion picture, performance, photograph, book, magazine, or other material which is obscene shall, upon conviction, be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment for not more than two (2) years, or both.

(b) For the purpose of this section:

(1) In determining whether or not a show, motion picture, performance, photograph, book, magazine, or other material is obscene the trier of the fact must find:

(i) That the average person, applying contemporary community standards, would find that the work, taken as a whole, appeals to the prurient interest;

(ii) That the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by this chapter; and

(iii) That the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(2) "Community standards" means the geographical area of the state of Rhode Island and Providence Plantations.

(3) "Knowingly" means having knowledge of the character and content of the material or failure on notice to exercise reasonable inspection which would disclose the content and character of it.

(4) "Material" means anything tangible which is capable of being used or adapted to arouse prurient interest through the medium of reading, or observation.

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

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

(7) "Promote" means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do it for resale.

(8) "Sexual conduct" means:

(i) An act of sexual intercourse, normal or perverted, actual or simulated, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal.

(ii) Sado-masochistic abuse, meaning flagellation or torture by or upon a person in an act of apparent sexual stimulation or gratification.

(iii) Masturbation, excretory functions, and lewd exhibitions of the genitals.

(9) "Standards of decency" means community standards of decency.

(c) If any of the depictions and descriptions of sexual conduct described in this section are declared by a court of competent jurisdiction to be unlawfully included because the depictions or descriptions are constitutionally protected or for any other reason, that declaration shall not invalidate this chapter as to other sexual conduct included in this chapter.

§ 11-31-2 Forfeiture of obscene publications. – Any obscene book, pamphlet, ballad, printed paper, or other thing mentioned in § 11-31-1 found by any officer in executing a search warrant or which shall be produced and brought into court shall be forfeited to the state. Further proceedings shall be had on them for their forfeiture as is prescribed by law in chapter 21 of title 12, and upon entry of final judgment of forfeiture the item shall be destroyed by order of the court. However, if any book, pamphlet, ballad, printed paper or other thing mentioned in § 11-31-1 is seized by any officer in executing a search warrant, it shall not be forfeited to the state unless the person, firm, corporation, or association claiming a proprietary interest in and to it or in whose possession it is found has been accorded the opportunity for a hearing on the question of whether it is obscene as provided by § 12-5-8.

§ 11-31-8 Entry of premises by sheriff or deputies. – The sheriff of any county or any of his deputies, when so directed by him or her, may, in the discharge of their duties, enter any exhibition, performance, or place mentioned in this chapter or chapter 22 of title 5.

§ 11-31-10 Sale or exhibition to minors of indecent publications, pictures, or articles. – (a) Every person who shall willfully or knowingly engage in the business of selling, lending, giving away, showing, advertising for sale, or distributing to any person under the age of eighteen (18) years, has in his or her possession with intent to engage in that business or to otherwise offer for sale or commercial distribution to any person under the age of eighteen (18) years, or who shall display at newsstands or any other business establishment frequented by persons under the age of eighteen (18) years or where persons under the age of eighteen (18) years are or may be invited as a part of the general public, any motion picture, any still picture, photograph, or any book, pocket book, pamphlet, or magazine of which the cover or content consists of explicit representations of "sexual conduct", "sexual excitement", "nudity" and which is indecent for minors or which is predominantly made up of descriptions of "sexual conduct", "sexual excitement", "nudity" and which is indecent, shall, upon conviction, be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment for not more than two (2) years, or both.

(b) As used in this section, the following words have the following meaning:

(1) "Indecent for minors" means:

(i) Appealing to the prurient interest in sex of minors;

(ii) Patently offensive to prevailing standards in the adult community with respect to what is suitable material for minors; and

(iii) Lacking serious literary, artistic, political, or scientific value for minors;

(2) "Knowingly" means having knowledge of the character and content of the publication or failure on notice to exercise reasonable inspection which would disclose its content and character;

(3) "Nudity" means less than completely and opaquely covered; human genitals, pubic regions, buttock, and female breast below a point immediately above the top of the areola;

(4) "Sexual conduct" means act of human masturbation, sexual intercourse, sodomy, fondling, or other erotic touching of human genitals, pubic region, buttock, or female breasts; and

(5) "Sexual excitement" means human genitals in a state of sexual stimulation or arousal.

§ 11-31-12 Penalty for making receipt of obscene publications a condition to delivery of other publications. – (a) Any person, firm, corporation, or association who shall as a condition to a sale,

allocation, consignment, or delivery for resale of any book, periodical, publication, pamphlet, magazine, ballad, printed paper, print, photograph, or any other thing require that the purchaser or consignee receive for resale any other book, periodical, publication, pamphlet, magazine, ballad, printed paper, print, picture, photograph, or other thing which is obscene or shall deny or threaten to deny any franchise or impose or threaten to impose any penalty financial or otherwise, by reason of the failure of any person to accept the book, periodical, publication, pamphlet, magazine, ballad, printed paper, print, picture, photograph, or other thing, or by reason of the return of it, shall be imprisoned for a term not to exceed two (2) years or shall pay a fine of not more than one thousand dollars ($1,000) nor less than one hundred dollars ($100).

(b) For the purpose of this section, "obscene" has the same meaning as defined in § 11-31-1.

§ 11-31-13 Injunctive proceedings by attorney general. – The attorney general, upon complaint being made to him or her under oath that any person is violating any of the provisions of §§ 11-31-1 and 11-31-12, may institute in his or her name as attorney general of the state of Rhode Island an action to enjoin the violation in a court of competent jurisdiction. The Rhode Island Superior Court Rules of Civil Procedure shall apply to all such actions whenever possible. Any person against whom an action has been brought shall be entitled to a trial of the issues within one day after the joinder of issue and to a decision by the court within forty-eight (48) hours of the conclusion of the trial. No restraining orders or preliminary injunctions shall be issued under this section, and the hearing shall be upon the merits of the case. After the hearing, the court may restrain and/or enjoin any person, firm, corporation, or association from violating any of the provisions of §§ 11-31-1 and 11-31-12 with regard to whether criminal proceedings have already been or may be instituted.