

## Washington

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### RCW 9.68.050

#### "Erotic material" -- Definitions.

For the purposes of RCW [9.68.050](#) through [9.68.120](#):

(1) "Minor" means any person under the age of eighteen years;

(2) "Erotic material" means printed material, photographs, pictures, motion pictures, sound recordings, and other material the dominant theme of which taken as a whole appeals to the prurient interest of minors in sex; which is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matters or sado-masochistic abuse; and is utterly without redeeming social value;

(3) "Person" means any individual, corporation, or other organization;

(4) "Dealers", "distributors", and "exhibitors" mean persons engaged in the distribution, sale, or exhibition of printed material, photographs, pictures, motion pictures, or sound recordings.

[1992 c 5 § 1; 1969 ex.s. c 256 § 13.]

### RCW 9.68.060

#### "Erotic material" -- Determination by court -- Labeling -- Penalties.

(1) When it appears that material which may be deemed erotic is being sold, distributed, or exhibited in this state, the prosecuting attorney of the county in which the sale, distribution, or exhibition is taking place may apply to the superior court for a hearing to determine the character of the material with respect to whether it is erotic material.

(2) Notice of the hearing shall immediately be served upon the dealer, distributor, or exhibitor selling or otherwise distributing or exhibiting the alleged erotic material. The superior court shall hold a hearing not later than five days from the service of notice to determine whether the subject matter is erotic material within the meaning of RCW [9.68.050](#).

(3) If the superior court rules that the subject material is erotic material, then, following such adjudication:

(a) If the subject material is written or printed, or is a sound recording, the court shall issue an order requiring that an "adults only" label be placed on the publication or sound recording, if such publication or sound recording is going to continue to be distributed. Whenever the superior court orders a publication or sound recording to have an "adults only" label placed thereon, such label shall be impressed on the front cover of all copies of such erotic publication or sound recording sold or otherwise distributed in the state of Washington. Such labels shall be in forty-eight point bold face type located in a conspicuous place on the front cover of the publication or sound recording. All dealers and distributors are hereby prohibited from displaying erotic publications or sound recordings in their store windows, on outside newsstands on public thoroughfares, or in any other manner so as to make an erotic publication or the contents of an erotic sound recording readily accessible to minors.

(b) If the subject material is a motion picture, the court shall issue an order requiring that such motion picture shall be labeled "adults only". The exhibitor shall prominently display a sign saying "adults only" at the place of exhibition, and any advertising of the motion picture shall contain a

statement that it is for adults only. Such exhibitor shall also display a sign at the place where admission tickets are sold stating that it is unlawful for minors to misrepresent their age.

(4) Failure to comply with a court order issued under the provisions of this section shall subject the dealer, distributor, or exhibitor to contempt proceedings.

(5) Any person who, after the court determines material to be erotic, sells, distributes, or exhibits the erotic material to a minor shall be guilty of violating RCW [9.68.050](#) through [9.68.120](#), such violation to carry the following penalties:

(a) For the first offense a misdemeanor and upon conviction shall be fined not more than five hundred dollars, or imprisoned in the county jail not more than six months;

(b) For the second offense a gross misdemeanor and upon conviction shall be fined not more than one thousand dollars, or imprisoned not more than one year;

(c) For all subsequent offenses a class B felony and upon conviction shall be fined not more than five thousand dollars, or imprisoned not less than one year.

[2003 c 53 § 41; 1992 c 5 § 2; 1969 ex.s. c 256 § 14.]

### **RCW 7.48A.010** **Definitions.**

The definitions set forth in this section shall apply throughout this chapter.

(1) "Knowledge" or "knowledge of such nuisance" means having knowledge of the contents and character of the patently offensive sexual or violent conduct which appears in the lewd matter, or knowledge of the acts of lewdness or prostitution which occur on the premises, or knowledge that controlled substances identified in Article II of chapter [69.50](#) RCW and not authorized by that chapter, are manufactured, delivered or possessed, or where any such substance not obtained in a manner authorized by chapter [69.50](#) RCW is consumed by ingestion, inhalation, or injection or any other means.

(2) "Lewd matter" is synonymous with "obscene matter" and means any matter:

(a) Which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and

(b) Which explicitly depicts or describes patently offensive representations or descriptions of:

(i) Ultimate sexual acts, normal or perverted, actual or simulated; or

(ii) Masturbation, fellatio, cunnilingus, bestiality, excretory functions, or lewd exhibition of the genitals or genital area; or

(iii) Violent or destructive sexual acts, including but not limited to human or animal mutilation, dismemberment, rape or torture; and

(c) Which, when considered as a whole, and in the context in which it is used, lacks serious literary, artistic, political, or scientific value.

(3) "Lewdness" shall have and include all those meanings which are assigned to it under the common law.

(4) "Live performance" means any play, show, skit, dance, or other exhibition performed or presented to or before an audience of one or more, in person or by electronic transmission, with or without consideration.

(5) "Matter" shall mean a live performance, a motion picture film, or a publication or any combination thereof.

(6) "Motion picture film" shall include any:

(a) Film or plate negative;

(b) Film or plate positive;

(c) Film designed to be projected on a screen for exhibition;

(d) Film, glass slides, or transparencies, either in negative or positive form, designed for exhibition by projection on a screen;

(e) Video tape or any other medium used to electronically reproduce images on a screen.

(7) "Person" means any individual, partnership, firm, association, corporation, or other legal entity.

(8) "Place" includes, but is not limited to, any building, structure, or places, or any separate part or portion thereof, whether permanent or not, or the ground itself.

(9) "Prurient" means that which incites lasciviousness or lust.

(10) "Publication" shall include any book, magazine, article, pamphlet, writing, printing, illustration, picture, sound recording, or coin-operated machine.

(11) "Sale" means a passing of title or right of possession from a seller to a buyer for valuable consideration, and shall include, but is not limited to, any lease or rental arrangement or other transaction wherein or whereby any valuable consideration is received for the use of, or transfer of possession of, lewd matter.

[1990 c 152 § 4; 1988 c 141 § 2; 1982 c 184 § 1.]

#### **RCW 9.68.140**

##### **Promoting pornography -- Class C felony -- Penalties.**

A person who, for profit-making purposes and with knowledge, sells, exhibits, displays, or produces any lewd matter as defined in RCW [7.48A.010](#) is guilty of promoting pornography. Promoting pornography is a class C felony and shall bear the punishment and fines prescribed for that class of felony. In imposing the criminal penalty, the court shall consider the wilfulness of the defendant's conduct and the profits made by the defendant attributable to the felony. All fines assessed under this chapter shall be paid into the general treasury of the state.

[1985 c 235 § 3; 1982 c 184 § 8.]

#### **RCW 9.68.130**

##### **"Sexually explicit material" -- Defined -- Unlawful display.**

(1) A person is guilty of unlawful display of sexually explicit material if he knowingly exhibits such material on a viewing screen so that the sexually explicit material is easily visible from a public thoroughfare, park or playground or from one or more family dwelling units.

(2) "Sexually explicit material" as that term is used in this section means any pictorial material displaying direct physical stimulation of unclothed genitals, masturbation, sodomy (i.e. bestiality or oral or anal intercourse), flagellation or torture in the context of a sexual relationship, or emphasizing the depiction of adult human genitals: PROVIDED HOWEVER, That works of art or of anthropological significance shall not be deemed to be within the foregoing definition.

(3) Any person who violates subsection (1) of this section shall be guilty of a misdemeanor.

[1975 1st ex.s. c 156 § 1.]

#### **RCW 7.42.010**

##### **Obscene prints and articles -- Jurisdiction to enjoin.**

The superior courts shall have jurisdiction to enjoin the sale or distribution of obscene prints and articles as hereinafter specified.

[1959 c 105 § 1.]

**RCW 7.42.060**

**Knowledge of contents chargeable after service.**

Every person, firm, or corporation who sells, distributes, or acquires possession with intent to sell or distribute any of the matter described in RCW [7.42.020](#), after the service upon him of a summons and complaint in an action brought by the prosecuting attorney pursuant to this chapter is chargeable with knowledge of the contents thereof.

[1959 c 105 § 6.]

**RCW 10.37.130**

**Obscene literature -- Description.**

An indictment or information for exhibiting, publishing, passing, selling, or offering to sell, or having in possession with such intent, any lewd or obscene book, pamphlet, picture, print, card, paper, or writing, need not set forth any portion of the language used or figures shown upon such book, pamphlet, picture, print, card, paper, or writing, but it is sufficient to state generally the fact of the lewdness or obscenity thereof.

[1891 c 28 § 39; Code 1881 § 1024; RRS § 2075.]