

## ARTICLE 733

### Obscene Materials Involving Minors

- 733.01 Sale Or Exhibition To Minors Under Seventeen
- 733.02 Offers And Admission Tickets; Exceptions
- 733.03 Definitions
- 733.04 Severability
- 733.99 Penalty

### CROSS REFERENCE

Sale or loan to persons over seventeen - See Act 269 of July 31, 1968  
(18 P.S. §4524)

#### 733.01 SALE OR EXHIBITION TO MINORS UNDER SEVENTEEN.

No person shall knowingly offer to sell, lend, distribute, exhibit, give away or show to any person under the age of seventeen years:

- (a) Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to persons under the age of seventeen years; or
- (b) Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in subsection (a) hereof, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to persons under the age of seventeen years.  
(Ord. 2154 §1. Passed 6/17/69.)

## 733.02 OFFERS AND ADMISSION TICKETS; EXCEPTIONS.

No person shall knowingly offer to exhibit to a person under the age of seventeen years or knowingly offer to sell to a person under the age of seventeen years an admission ticket or pass or knowingly admit a person under the age of seventeen years to premises whereon there is exhibited a motion picture show or other presentation which, in whole or in part, depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to persons under the age of seventeen years, except that the foregoing shall not apply to any person under the age of seventeen years accompanied by his parent. (Ord. 2154 §1. Passed 6/17/69.)

## 733.03 DEFINITIONS.

As used in this Article:

- (a) "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.
- (b) "Sexual conduct" means acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person be a female, breast.
- (c) "Sexual excitement" means the condition of the human male or female genitals when in a state of sexual stimulation or arousal.
- (d) "Sadomasochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
- (e) "Harmful to persons under the age of seventeen years" means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, when it:

- (1) Predominantly appeals to the prurient, shameful or morbid interest of persons under the age of seventeen years;
  - (2) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for persons under the age of seventeen years; and
  - (3) Is utterly without redeeming social importance for persons under the age of seventeen years.
- (f) "Knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry or both:
- (1) The character and content of any material described herein which is reasonably susceptible of examination by the defendant, and
  - (2) The age of the person under the age of seventeen years, provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such person under the age of seventeen years. (Ord. 2154 §1. Passed 6/17/69.)

#### 733.04 SEVERABILITY.

The provisions of this article are severable, and, if any of its provisions shall be held illegal, invalid or unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this article. It is hereby declared to be the intention of Council that this article would have been adopted if such illegal, invalid or unconstitutional provisions had not been included herein. (Ord. 2154 §1. Passed 6/17/69.)

#### 733.99 PENALTY.

Any person who violates any provision of this article shall be fined six hundred dollars (\$600.00) or imprisoned not more than ninety days, or both. (Ord. 2154 §4. Passed 6/17/69; Ord. 3242-Passed 2/7/89)