

IN THE SENATE

SENATE BILL NO. 1188, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO MINORS; AMENDING SECTION 18-1520, IDAHO CODE, TO PROVIDE THAT
2 CERTAIN INSTITUTIONS MAY BE ENJOINED AND TO MAKE TECHNICAL CORREC-
3 TIONS; AMENDING SECTION 18-1521, IDAHO CODE, TO REVISE PROVISIONS
4 REGARDING UNIFORM ENFORCEMENT AND THE ABROGATION AND BANNING OF CERTAIN
5 ORDINANCES, RULES, AND REGULATIONS; AND DECLARING AN EMERGENCY AND PRO-
6 VIDING AN EFFECTIVE DATE.
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Section 18-1520, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 18-1520. DISTRICT COURTS -- INJUNCTIONS -- TRIAL -- ORDERS OF INJUNC-
12 TION. The district courts have jurisdiction to enjoin the sale or distribu-
13 tion of material harmful to minors, and to direct the seizure and destruction
14 of the same, as hereinafter specified:

15 ~~1-~~ (a) The prosecuting attorney of any county in which a person, firm,
16 ~~or corporation, school, museum, public library, public health dis-~~
17 ~~trict, taxing district, or political subdivision of this state~~ sells,
18 distributes or promotes, or is about to sell, distribute or promote, or
19 has in ~~his~~ their possession with intent to sell, distribute or promote,
20 or is about to acquire possession with intent to sell, distribute or
21 promote, any material harmful to minors, may maintain an action in the
22 name of the state of Idaho for an injunction against such person, firm,
23 ~~or corporation, school, museum, public library, public health dis-~~
24 ~~trict, taxing district, or political subdivision of this state~~ in the
25 district court of that county to prevent the sale, distribution or pro-
26 motion, or further sale, distribution, or promotion, or the acquisition
27 or possession of any material harmful to minors.

28 ~~2-~~ (b) The person, firm, ~~or corporation, school, museum, public li-~~
29 ~~brary, public health district, taxing district, or political subdivi-~~
30 ~~sion of this state~~ sought to be enjoined for selling, distributing, or
31 promoting materials harmful to minors shall be entitled to a trial of
32 the issues within one (1) day after joinder of issue and a decision shall
33 be rendered by the court within two (2) days of the conclusion of the
34 trial.

35 ~~3-~~ (c) In the event that a final order or judgment of injunction be en-
36 tered in favor of the state of Idaho and against the person, firm, ~~or~~
37 ~~corporation, school, museum, public library, public health district,~~
38 ~~taxing district, or political subdivision of this state~~ sought to be en-
39 ~~joined~~ for selling, distributing, or promoting materials harmful to mi-
40 nors, such final order or judgment shall contain a provision directing
41 the person, firm, ~~or corporation, school, museum, public library, pub-~~
42 ~~lic health district, taxing district, or political subdivision of this~~

1 state to cease and desist from the sale, distribution, or promotion of
 2 all materials adjudged to be harmful to minors.

3 4. (d) Such final order or judgment of injunction shall not enjoin
 4 or prohibit a person, firm, ~~or~~ corporation, school, museum, public
 5 library, public health district, taxing district, or political subdivi-
 6 vision of this state from sale, distribution or promotion of material
 7 harmful to minors to persons other than minors, nor shall it order the
 8 seizure and destruction of material harmful to minors unless the court
 9 finds and concludes that the person, firm, ~~or~~ corporation, school,
 10 museum, public library, public health district, taxing district, or
 11 political subdivision of this state has been selling, distributing or
 12 promoting, or intends to sell, distribute or promote, such material to
 13 minors.

14 5. (e) In any action brought as herein provided in this section, the
 15 prosecuting attorney, on behalf of the state of Idaho, shall not be re-
 16 quired to file any other undertaking before the issuance of an injunc-
 17 tion order for selling, distributing, or promoting materials harmful to
 18 minors, shall not be liable for costs, and shall not be liable for dam-
 19 ages sustained by reason of the injunction order in cases where judgment
 20 is rendered in favor of the person, firm, ~~or~~ corporation, school, mu-
 21 seum, public library, public health district, taxing district, or po-
 22 litical subdivision of this state sought to be enjoined.

23 6. (f) Every person, firm, ~~or~~ corporation, school, museum, public li-
 24 brary, public health district, taxing district, or political subdivi-
 25 sion of this state who sells, distributes, or promotes, or acquires pos-
 26 session with intent to sell, distribute, or promote, any material harm-
 27 ful to minors, after the service upon him of a summons and complaint in
 28 an action brought pursuant to this section, is chargeable with knowl-
 29 edge of the contents thereof.

30 SECTION 2. That Section 18-1521, Idaho Code, be, and the same is hereby
 31 amended to read as follows:

32 18-1521. UNIFORM ENFORCEMENT -- ABROGATION OF EXISTING ORDINANCES,
 33 RULES, AND REGULATIONS -- FURTHER LOCAL ORDINANCES, RULES, OR REGULA-
 34 TIONS BANNED. In order to make the application and enforcement of this act
 35 uniform throughout the state, it is the intent of the legislature to preempt,
 36 to the exclusion of city and county governments, schools, museums, public
 37 libraries, public health districts, taxing districts, or any political
 38 subdivision of this state, the regulation of the sale, loan, distribution,
 39 dissemination, presentation or exhibition to a minor of material ~~which that~~
 40 is obscene or ~~which that~~ is harmful to minors and depicts in whole or in part
 41 nudity, sexual conduct or sado-masochistic abuse. To that end, it is hereby
 42 declared that every city or county ordinance, rule, or regulation adopted
 43 before the effective date of this act ~~which that~~ deals with the regulation of
 44 the sale, loan, distribution, dissemination, presentation or exhibition to
 45 a minor of material ~~which that~~ is obscene or ~~which that~~ is harmful to minors
 46 and depicts in whole or in part nudity, sexual conduct or sado-masochistic
 47 abuse, shall stand abrogated and unenforceable on or after such effective
 48 date; and that no city or county government, school, museum, public library,
 49 public health district, taxing district, or political subdivision of this

1 state shall have the power to adopt any ordinance, rule, or regulation re-
2 lating to the regulation of the sale, loan, distribution, dissemination,
3 presentation or exhibition to a minor of material ~~which~~ that is obscene or
4 ~~which~~ that is harmful to minors and depicts in whole or in part nudity, sexual
5 conduct or sado-masochistic abuse, on or after such effective date.

6 SECTION 3. An emergency existing therefor, which emergency is hereby
7 declared to exist, this act shall be in full force and effect on and after
8 July 1, 2023.