

IN THE SENATE

SENATE BILL NO. 1187, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO MINORS; AMENDING SECTION 18-1515, IDAHO CODE, TO REVISE PROVI-
2 SIONS REGARDING DISSEMINATING MATERIAL HARMFUL TO MINORS AND TO MAKE
3 TECHNICAL CORRECTIONS; AMENDING SECTION 18-1517, IDAHO CODE, TO RE-
4 VISE A PROVISION REGARDING AN AFFIRMATIVE DEFENSE AND TO MAKE TECHNICAL
5 CORRECTIONS; AMENDING CHAPTER 1, TITLE 33, IDAHO CODE, BY THE ADDITION
6 OF A NEW SECTION 33-141, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING
7 POLICIES TO PROTECT MINORS FROM HARMFUL MATERIALS; AMENDING SECTION
8 67-6533, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE
9 TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN EF-
10 FECTIVE DATE.
11

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

13 SECTION 1. That Section 18-1515, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 18-1515. DISSEMINATING MATERIAL HARMFUL TO MINORS -- DEFINED --
16 PENALTY. A person is guilty of disseminating material harmful to minors
17 when:

18 ~~1-~~ (1) He knowingly gives or makes available to a minor or promotes or
19 possesses with intent to promote to minors, or he knowingly sells or loans to
20 a minor for monetary consideration:

21 (a) Any picture, photograph, video, drawing, sculpture, motion picture
22 film, or similar visual representation or image of a person or portion
23 of the human body ~~which that~~ depicts nudity, sexual conduct, or sado-
24 masochistic abuse and ~~which that~~ is harmful to minors; or

25 (b) Any book, pamphlet, magazine, printed matter however repro-
26 duced, or sound recording ~~which that~~ contains any matter enumerated
27 in paragraph (a) hereof, or explicit and detailed verbal descrip-
28 tions or narrative accounts of sexual excitement, sexual conduct, or
29 sado-masochistic abuse and ~~which that~~ , taken as a whole, is harmful to
30 minors; or

31 (c) Any other material harmful to minors.

32 ~~2-~~ (2) With reference to a motion picture, show or other presentation
33 ~~which that~~ depicts nudity, sexual conduct, or sado-masochistic abuse, and
34 ~~which that~~ is harmful to minors, he knowingly:

35 (a) Exhibits such motion picture, show, or other presentation to a mi-
36 nor for a monetary consideration; or

37 (b) Sells to a minor an admission ticket or pass to premises whereon
38 there is exhibited or to be exhibited such motion picture, show, or
39 other presentation; or

40 (c) Admits a minor for a monetary consideration to premises whereon
41 there is exhibited or to be exhibited such motion picture, show, or
42 other presentation; or

1 (d) Exhibits such motion picture, show or other presentation to a minor
2 not for a monetary consideration; or

3 (e) Gives without monetary consideration to a minor an admission ticket
4 or pass to premises where there is exhibited or to be exhibited such mo-
5 tion picture, show, or other presentation-; or

6 (f) Provides a video or motion picture to a minor that may be viewed at
7 home or a location other than the location where it was provided to the
8 minor.

9 Disseminating material harmful to minors is a misdemeanor punishable by
10 confinement in the county jail not to exceed one (1) year, or by a fine not to
11 exceed one thousand dollars (\$1,000), or by both such fine and jail sentence.

12 SECTION 2. That Section 18-1517, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 18-1517. DISSEMINATING MATERIAL HARMFUL TO MINORS -- DEFENSES. ~~1.~~ In
15 any prosecution for disseminating material harmful to minors, it is an af-
16 firmative defense that:

17 ~~(a)~~ (1) The defendant had reasonable cause to believe that the minor in-
18 volved was eighteen (18) years ~~old or more of age or older~~, or such minor ex-
19 hibited to the defendant a draft card, driver's license, birth certificate,
20 or other official or apparently official document purporting to establish
21 that the minor was eighteen (18) years of age or older.

22 ~~(b)~~ (2) The minor involved was accompanied by his parent or legal
23 guardian, or by an adult and the adult represented that he was the minor's
24 parent or guardian or an adult and signed a written statement to that effect.

25 ~~(c)~~ (3) The defendant was the parent or guardian of the minor involved.

26 ~~(d)~~ (4) The defendant was a bona fide school, college, university, mu-
27 seum or public library, or was acting in his capacity as an employee of such
28 an organization or a retail outlet affiliated with and serving the educa-
29 tional purposes of such an organization, and for a defendant school, museum,
30 or public library, that such institution adopted polices to protect minors
31 from harmful materials and provided training on such polices, as provided
32 in section 33-141, Idaho Code, and if the defendant is an employee as de-
33 scribed in this subsection, that such employee followed the polices.

34 SECTION 3. That Chapter 1, Title 33, Idaho Code, be, and the same is
35 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
36 ignated as Section 33-141, Idaho Code, and to read as follows:

37 33-141. POLICIES TO PROTECT MINORS FROM HARMFUL MATERIALS. (1) For
38 purposes of this section:

39 (a) "Board" means the board of trustees or other governing body of an
40 institution.

41 (b) "Institution" means a bona fide school, museum, or public library.

42 (2) If an institution retains materials that could be considered harm-
43 ful to minors, as defined in section 18-1514, Idaho Code, whether in print,
44 video, audio, or electronic formats, then the board shall develop, imple-
45 ment, and enforce compliance with policies to ensure that the institution,
46 its employees, and its volunteers are not in violation of section 18-1515,
47 Idaho Code. The board shall provide training on the polices to institution

1 employees and volunteers not less than annually and whenever the board im-
2 plements a change in policy.

3 (3) The board of an institution in operation as of July 1, 2023, shall,
4 if it has not already adopted policies described in subsection (2) of this
5 section, adopt such policies by August 1, 2023. The board of an institution
6 that begins operation after July 1, 2023, shall adopt the policies described
7 in subsection (2) of this section prior to the opening of the institution.

8 (4) Each board of an institution operating in this state shall estab-
9 lish a citizen review committee of individuals that the institution serves
10 that shall advise the board on the development, implementation, and enforce-
11 ment of the policies described in subsection (2) of this section and on any
12 material that could be considered harmful to minors. The membership of such
13 committee shall be selected by the board with not fewer than five (5) members
14 of the public selected from the area served by the institution. The member-
15 ship of the committee shall include, to the extent possible:

16 (a) Parents of minors who attend or patronize the institution, being
17 primary stakeholders in their children's lives, who shall constitute a
18 majority of the committee;

19 (b) Residents of the community served by the institution;

20 (c) One (1) representative from the local law enforcement agency's sex
21 crimes unit or with experience handling such cases; and

22 (d) One (1) representative from the religious community in the commu-
23 nity being served by the institution.

24 (5) Members of the committee established in subsection (4) of this sec-
25 tion shall serve a term of two (2) years and may volunteer for an additional
26 two (2) year term after a two (2) year period of not serving on the committee.
27 When developing and implementing the policies described in subsection (2)
28 of this section, the committee shall meet as often as necessary for such de-
29 velopment and implementation. Thereafter, the committee shall meet not less
30 than quarterly to review concerns from citizens, employees and volunteers of
31 the institution, and board members to determine if changes need to be made in
32 the policy and to evaluate which materials need to be included in the policy.

33 SECTION 4. That Section 67-6533, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 67-6533. LOCATION OF STORES SELLING SEXUAL MATERIAL RESTRICTED IN
36 CERTAIN AREAS. (a) From and after January 1, 1980, no person or entity shall
37 own or operate any store, shop or business which sells or rents any mate-
38 rials defined as obscene materials in section 18-4101, Idaho Code, within
39 twenty-five hundred (2500) feet of any school, church, or place of worship
40 measured in a straight line to the nearest entrance to the premises.

41 (b) From and after January 1, 1980, no person or entity shall own or op-
42 erate any store, shop or business which sells or rents any materials defined
43 in ~~subsection 1 of section 18-1515~~ section 18-1515(1), Idaho Code, where
44 such materials constitute ten percent (10%) or more of the printed materials
45 held for sale or rent of such store, shop or business, within twenty-five
46 hundred (2500) feet of any school, church, or place of worship measured in a
47 straight line to the nearest entrance to the premises.

48 (c) From and after the effective date of this act, a violation of sub-
49 section (a) or subsection (b) of this section shall be a misdemeanor.

1 (d) A judge of a court of competent jurisdiction shall immediately
2 issue a temporary restraining order for a violation of subsection (a) or
3 subsection (b) of this section upon application ~~therefore~~ therefor by any
4 public or private entity or person and upon compliance with the Idaho rules
5 of civil procedure, except that no bond or security for the issuance of such
6 restraining order shall be required. Further, a violation of subsection
7 (a) or subsection (b) of this section shall subject the person and entities
8 ~~therefore~~ therefor to a preliminary and permanent order of any court of this
9 state enjoining them from such violation and no bond or security shall be
10 required from the plaintiff or applicant ~~therefore~~ therefor.

11 (e) No entity, public or private, nor any person shall be liable for any
12 damages, costs or attorney fees for any acts attempting to civilly or crimi-
13 nally enforce this section.

14 (f) Nothing contained in this section shall preempt or prohibit cities
15 or counties from regulating or restricting the location of the business ac-
16 tivity described in this section and cities and counties are hereby specifi-
17 cally authorized to so regulate or restrict the location of said business ac-
18 tivity.

19 SECTION 5. An emergency existing therefor, which emergency is hereby
20 declared to exist, this act shall be in full force and effect on and after
21 July 1, 2023.