



House Judiciary Reported Substitute for HB458

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A BILL
TO BE ENTITLED
AN ACT

Relating to crimes and offenses; to amend Section 13A-12-200.2, Code of Alabama 1975, to further provide for the crime of possession with intent to distribute obscene material.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 13A-12-200.2, Code of Alabama 1975, is amended to read as follows:

"§13A-12-200.2

(a) (1) It shall be unlawful for any person to knowingly distribute, possess with intent to distribute, or offer or agree to distribute any obscene material or any device designed or marketed as useful primarily for the stimulation of human genital organs for any thing of pecuniary value. Material not otherwise obscene may be obscene under this section if the distribution of the material, the offer to do so, or the possession with the intent to do so is a commercial exploitation of erotica solely for the sake of prurient appeal.

(2) Any person who violates this subsection shall be guilty of a misdemeanor and, upon conviction, shall be



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29 punished by a fine of not more than ten thousand dollars
30 (\$10,000) and may also be imprisoned in the county jail or
31 sentenced to hard labor for the county for not more than one
32 year.

33 (3) A second or subsequent violation of this
34 ~~subdivision~~ subsection is a Class C felony if the second or
35 subsequent violation occurs after a conviction has been
36 obtained for a previous violation. Upon a second violation, a
37 corporation or business entity shall be fined not less than
38 ten thousand dollars (\$10,000) nor more than fifty thousand
39 dollars (\$50,000).

40 ~~(2)~~ (b) (1) It shall be unlawful for any person, being a
41 wholesaler, to knowingly distribute, possess with intent to
42 distribute, or offer or agree to distribute, for the purpose
43 of resale or commercial distribution at retail, any obscene
44 material or any device designed or marketed as useful
45 primarily for the stimulation of human genital organs for any
46 thing of pecuniary value. Material not otherwise obscene may
47 be obscene under this section if the distribution of the
48 material, the offer to do so, or the possession with the
49 intent to do so is a commercial exploitation of erotica solely
50 for the sake of ~~their~~ prurient appeal.

51 (2) Any person who violates this subsection shall be
52 guilty of a misdemeanor and, upon conviction, shall be
53 punished by a fine of not more than twenty thousand dollars
54 (\$20,000) and may also be imprisoned in the county jail or
55 sentenced to hard labor for the county for not more than one
56 year.



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57 (3) A second or subsequent violation of this
58 ~~subdivision~~-subsection is a Class C felony if the second or
59 subsequent violation occurs after a conviction has been
60 obtained for a previous violation. Upon a second violation, a
61 corporation or business entity shall be fined not less than
62 ten thousand dollars (\$10,000) nor more than fifty thousand
63 dollars (\$50,000).

64 ~~(3)~~ (c) (1) It shall be unlawful for any person to
65 knowingly produce, or offer or agree to produce, any obscene
66 material or any device designed or marketed as useful
67 primarily for the stimulation of human genital organs for any
68 thing of pecuniary value. Material not otherwise obscene may
69 be obscene under this section if the distribution of the
70 material, the offer to do so, or the possession with the
71 intent to do so is a commercial exploitation of erotica solely
72 for the sake of prurient appeal.

73 (2) Any person who violates this subsection shall be
74 guilty of a Class C felony.

75 ~~(4)~~ (d) If a person is held under this section in the
76 county jail, one-half of any fines collected and due to be
77 deposited to the State General Fund for violations of this
78 section shall be paid by the Comptroller to the general fund
79 of the county where the person is held for the operation of
80 the county jail.

81 (e) For the purposes of this section, the term "possess
82 with intent to distribute" includes to knowingly be in actual
83 or constructive possession of at least 50 items or digital
84 files containing obscene material depicting a prepubescent



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85 individual engaging in sexually explicit conduct, as defined
86 in Section 13A-12-190."

87 Section 2. This act shall become effective on October
88 1, 2026.