

HOUSE BILL No. 4651

April 13, 1989, Introduced by Reps. Stabenow, DeMars, Pridnia, Rocca, Webb, Bartnik, Hart, Gnodtke, Wartner, Strand, Pitoniak, Miller, Nye, Emmons, Middaugh, Hoekman, Bender, Stopczynski, DeLange, Weeks, Maynard, Stacey, London, Porreca, Oxender, Ouwinga, Jaye, Martin, Trim, Van Regenmorter, Owen, Gilmer, Munsell, Saunders, Dolan, Sikkema, Camp, Bankes, Fitzgerald, Bandstra, Krause and Van Singel and referred to the Committee on Judiciary.

A bill to amend the title of Act No. 343 of the Public Acts of 1984, entitled

"An act to define and prohibit the possession or dissemination of obscene material under certain circumstances; to prohibit conduct related thereto; to provide penalties; to prohibit local units of government from enacting or enforcing any law, ordinance, or rule pertaining to matters under this act; and to repeal certain acts and parts of acts,"

being sections 752.361 to 752.374 of the Michigan Compiled Laws; and to add section 5e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title of Act No. 343 of the Public Acts of
2 1984, being sections 752.361 to 752.374 of the Michigan Compiled
3 Laws, is amended and section 5e is added to read as follows:

4 TITLE

5 An act to define and prohibit the possession or
6 dissemination of obscene material under certain circumstances; to

1 prohibit conduct related thereto; to provide REMEDIES AND
2 penalties; to prohibit local units of government from enacting or
3 enforcing any law, ordinance, or rule pertaining to matters under
4 this act; and to repeal certain acts and parts of acts.

5 SEC. 5E. (1) IT IS A PUBLIC NUISANCE UNDER THIS ACT TO DO
6 ANY OF THE FOLLOWING:

7 (A) DISSEMINATE OR POSSESS WITH INTENT TO DISSEMINATE ANY
8 HARD-CORE MATERIAL, OBSCENE MATERIAL, OR SEXUAL DEVICE.

9 (B) PRESENT OR PARTICIPATE IN PRESENTING ANY HARD-CORE PER-
10 FORMANCE OR OBSCENE PERFORMANCE.

11 (C) KNOWINGLY PERMIT A THEATER, BUILDING, STRUCTURE, ROOM,
12 PLACE, OR COMMERCIAL ESTABLISHMENT TO BE USED FOR THE PURPOSE OF
13 DISSEMINATING OR POSSESSING WITH THE INTENT TO DISSEMINATE ANY
14 HARD-CORE MATERIAL, OBSCENE MATERIAL, OR SEXUAL DEVICE.

15 (D) KNOWINGLY PERMIT A THEATER, BUILDING, STRUCTURE, ROOM,
16 PLACE, OR COMMERCIAL ESTABLISHMENT TO BE USED FOR THE PURPOSE OF
17 PRESENTING A HARD-CORE PERFORMANCE OR OBSCENE PERFORMANCE.

18 (2) ANY PERSON MAY FILE A COMPLAINT WITH THE CIRCUIT COURT
19 TO ABATE A NUISANCE DESCRIBED UNDER SUBSECTION (1). IF THE
20 PERSON WHO FILES THE COMPLAINT IS A PERSON OTHER THAN THE ATTOR-
21 NEY GENERAL OF THIS STATE, THE PROSECUTING ATTORNEY FOR THE
22 COUNTY IN WHICH THE NUISANCE ALLEGEDLY EXISTS, OR THE PROSECUTING
23 ATTORNEY FOR THE CITY, VILLAGE, OR TOWNSHIP IN WHICH THE NUISANCE
24 ALLEGEDLY EXISTS, THE COURT MAY ALLOW THE ATTORNEY GENERAL OR THE
25 PROSECUTING ATTORNEY FOR THAT COUNTY, CITY, VILLAGE, OR TOWNSHIP
26 TO PROSECUTE THE COMPLAINT.

1 (3) IF A COMPLAINT IS FILED WITH THE CIRCUIT COURT UNDER
2 SUBSECTION (2), THE COURT MAY ISSUE A TEMPORARY RESTRAINING
3 ORDER, PRELIMINARY INJUNCTION, OR INJUNCTION AS PROVIDED BY LAW,
4 EXCEPT THAT A TEMPORARY RESTRAINING ORDER ISSUED UNDER THIS SEC-
5 TION MAY ONLY PROHIBIT A PERSON FROM DOING ANY OF THE FOLLOWING:

6 (A) ALTERING, REMOVING, OR DISPOSING OF ALLEGED HARD-CORE
7 MATERIAL, OBSCENE MATERIAL, OR SEXUAL DEVICES.

8 (B) ALTERING, REMOVING, OR DISPOSING OF ANY EQUIPMENT,
9 DEVICES, OR ITEMS ALLEGEDLY USED TO CREATE OR MAINTAIN THE
10 NUISANCE.

11 (4) EXCEPT FOR DELAY ATTRIBUTABLE TO THE DEFENDANT, A TEMPO-
12 RARY RESTRAINING ORDER OR A PRELIMINARY INJUNCTION ISSUED UNDER
13 THIS SECTION SHALL EXPIRE, AND SHALL NOT BE EXTENDED, UPON THE
14 EXPIRATION OF 60 DAYS AFTER THE DATE THE TEMPORARY RESTRAINING
15 ORDER OR PRELIMINARY INJUNCTION IS ISSUED. THIS SUBSECTION DOES
16 NOT EXTEND THE PERIOD FOR WHICH A TEMPORARY RESTRAINING ORDER OR
17 PRELIMINARY INJUNCTION MAY BE ISSUED BEFORE THE EXPIRATION OF THI
18 60-DAY PERIOD, AND DOES NOT APPLY TO AN INJUNCTION.