

# SENATE BILL No. 131

February 1, 2005, Introduced by Senators SANBORN, KUIPERS, BIRKHOLZ,  
HARDIMAN, GARCIA, BARCIA, CLARKE, CROPSEY and GOSCHKA and referred  
to the Committee on Judiciary.

A bill to prohibit publicly displaying or playing sexually  
explicit matter; and to provide penalties.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. As used in this act:

2       (a) "Display" means to exhibit, hold up, present, project,  
3 show, put or set out to view, or make visible.

4       (b) "Erotic fondling" means touching a person's clothed or  
5 unclothed genitals, pubic area, buttocks, or, if the person is  
6 female, breasts, for the purpose of sexual gratification or  
7 stimulation.

8       (c) "Nudity" means the lewd display of the female breasts,  
9 human male or female genitals, or pubic area.

10       (d) "Sadomasochistic abuse" means either of the following:

1 (i) Flagellation, or torture, for sexual stimulation or  
2 gratification, by or upon a person who is nude or clad only in  
3 undergarments or in a revealing or bizarre costume.

4 (ii) The condition of being fettered, bound, or otherwise  
5 physically restrained for sexual stimulation or gratification, of a  
6 person who is nude or clad only in undergarments or in a revealing  
7 or bizarre costume.

8 (e) "Sexual excitement" means the condition of human male or  
9 female genitals when in a state of sexual stimulation or arousal.

10 (f) "Sexual intercourse" means intercourse, real or simulated,  
11 whether genital-genital, oral-genital, anal-genital, or oral-anal,  
12 whether between persons of the same or opposite sex or between a  
13 human and an animal.

14 (g) "Vehicle" means that term as it is defined in section 79  
15 of the Michigan vehicle code, 1949 PA 300, MCL 257.79.

16 Sec. 2. As used in this act:

17 (a) "Sexually explicit audible material" means a sound  
18 recording that contains an explicit and detailed verbal description  
19 or aural representation of sexual excitement, erotic fondling,  
20 sexual intercourse, or sadomasochistic abuse.

21 (b) "Sexually explicit matter" means sexually explicit visual  
22 material or sexually explicit audible material.

23 (c) "Sexually explicit visual material" means a picture,  
24 photograph, drawing, sculpture, motion picture film, videotape,  
25 compact disc, digital video, or versatile disc or similar form of  
26 visual representation through any technological means that depicts  
27 nudity, sexual excitement, erotic fondling, sexual intercourse, or

1 sadomasochistic abuse, or a book, magazine, or pamphlet that  
2 contains such a photograph, drawing, or other form of visual  
3 representation.

4       Sec. 3. (1) A person is guilty of publicly displaying or  
5 playing sexually explicit matter if that person, knowing the nature  
6 of the matter, recklessly or knowingly does any of the following:

7       (a) Openly or in a public manner displays sexually explicit  
8 visual material or plays sexually explicit audible material so that  
9 the material is visible or audible to a member of the general  
10 public.

11       (b) Displays sexually explicit visual material or plays  
12 sexually explicit audible material in a vehicle on a street,  
13 highway, or other place open to the general public or generally  
14 accessible to motor vehicles, including an area designated for the  
15 parking of vehicles, when the displaying or playing of that  
16 material is visible or audible to members of the general public  
17 outside the vehicle, either as pedestrians or as individuals in  
18 other vehicles within 1,000 feet of the vehicle.

19       (2) A person knows the nature of matter if the person either  
20 is aware of its character and content or recklessly disregards  
21 circumstances suggesting its character and content.

22       (3) A person is guilty of publicly displaying or playing  
23 sexually explicit matter under subsection (1) whether or not any  
24 individual member of the public in particular actually views or  
25 hears the material being displayed, if the displaying or playing of  
26 the material occurred under circumstances in which an individual  
27 might reasonably have been expected to observe or hear the

1 material.

2 (4) Publicly displaying or playing sexually explicit matter is  
3 a crime as follows:

4 (a) Except as provided for in subdivision (b), a misdemeanor  
5 punishable by imprisonment for not more than 93 days or a fine of  
6 not more than \$500.00, or both.

7 (b) For a second or subsequent offense, a felony punishable by  
8 imprisonment for not more than 2 years or a fine of not more than  
9 \$5,000.00, or both.