

HB458 INTRODUCED



1 HB458
2 SLIR255-1
3 By Representative Moore (P)
4 RFD: Judiciary
5 First Read: 17-Feb-26



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SYNOPSIS:

Under existing law, it is unlawful for a person to knowingly possess with intent to distribute obscene material.

This bill would provide that a person who is knowingly in actual or constructive possession of at least 50 items or digital files containing obscene material is guilty of knowingly possessing with intent to distribute obscene material.

A BILL
TO BE ENTITLED
AN ACT

Relating to crimes and offenses; 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



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29 designed or marketed as useful primarily for the stimulation
30 of human genital organs for any thing of pecuniary value.
31 Material not otherwise obscene may be obscene under this
32 section if the distribution of the material, the offer to do
33 so, or the possession with the intent to do so is a commercial
34 exploitation of erotica solely for the sake of prurient
35 appeal.

36 (2) Any person who violates this subsection shall be
37 guilty of a misdemeanor and, upon conviction, shall be
38 punished by a fine of not more than ten thousand dollars
39 (\$10,000) and may also be imprisoned in the county jail or
40 sentenced to hard labor for the county for not more than one
41 year.

42 (3) A second or subsequent violation of this
43 ~~subdivision~~ subsection is a Class C felony if the second or
44 subsequent violation occurs after a conviction has been
45 obtained for a previous violation. Upon a second violation, a
46 corporation or business entity shall be fined not less than
47 ten thousand dollars (\$10,000) nor more than fifty thousand
48 dollars (\$50,000).

49 ~~(2)~~ (b) (1) It shall be unlawful for any person, being a
50 wholesaler, to knowingly distribute, possess with intent to
51 distribute, or offer or agree to distribute, for the purpose
52 of resale or commercial distribution at retail, any obscene
53 material or any device designed or marketed as useful
54 primarily for the stimulation of human genital organs for any
55 thing of pecuniary value. Material not otherwise obscene may
56 be obscene under this section if the distribution of the



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57 material, the offer to do so, or the possession with the
58 intent to do so is a commercial exploitation of erotica solely
59 for the sake of ~~their~~ prurient appeal.

60 (2) Any person who violates this subsection shall be
61 guilty of a misdemeanor and, upon conviction, shall be
62 punished by a fine of not more than twenty thousand dollars
63 (\$20,000) and may also be imprisoned in the county jail or
64 sentenced to hard labor for the county for not more than one
65 year.

66 (3) A second or subsequent violation of this
67 ~~subdivision~~ subsection is a Class C felony if the second or
68 subsequent violation occurs after a conviction has been
69 obtained for a previous violation. Upon a second violation, a
70 corporation or business entity shall be fined not less than
71 ten thousand dollars (\$10,000) nor more than fifty thousand
72 dollars (\$50,000).

73 ~~(3)~~ (c) (1) It shall be unlawful for any person to
74 knowingly produce, or offer or agree to produce, any obscene
75 material or any device designed or marketed as useful
76 primarily for the stimulation of human genital organs for any
77 thing of pecuniary value. Material not otherwise obscene may
78 be obscene under this section if the distribution of the
79 material, the offer to do so, or the possession with the
80 intent to do so is a commercial exploitation of erotica solely
81 for the sake of prurient appeal.

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

84 ~~(4)~~ (d) If a person is held under this section in the



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85 county jail, one-half of any fines collected and due to be
86 deposited to the State General Fund for violations of this
87 section shall be paid by the Comptroller to the general fund
88 of the county where the person is held for the operation of
89 the county jail.

90 (e) For the purposes of this section, the term "possess
91 with intent to distribute" includes to knowingly be in actual
92 or constructive possession of at least 50 items or digital
93 files containing obscene material."

94 Section 2. This act shall become effective on October
95 1, 2026.