

CHAPTER 682
Sex Related Offenses

682.01	Indecent exposure; immoral conduct.	682.99	Penalty.
682.02	Obscenity.		

CROSS REFERENCES

Prostitution - see M.C.L.A. Secs. 750.448 et seq.

Mashing - see GEN. OFF. 666.01(4)

Voyeurism - see GEN. OFF. 666.01(4)

Immoral or indecent exhibitions - see B. R. & T.
812.04

Adult entertainment - see P. & Z. 1272.06

682.01 INDECENT EXPOSURE; IMMORAL CONDUCT.

No person shall exhibit himself or herself in any place of entertainment or in any public place, nude or indecently clad. No person shall indulge in any indecent, immoral or suggestive conduct in such place. No person shall designedly make any open or indecent exposure of his or her person or of the person of another. No person shall urinate in any public park, alley or street or in any place in open view of the public.

682.02 OBSCENITY.

(a) As used in this section:

- (1) "Material" means any paper, handbill, card, drawing, magazine, book, pamphlet, ballad, printed paper, phonographic record or tape, motion picture film, print, picture, figure, image, description or other tangible thing capable of being used to arouse interest through sight or sound or in any other manner.
- (2) "Nudity" means the showing, representation or depiction of human male or female genitals, pubic area or buttocks with less than a full, opaque covering, of any female breast with less than a full, opaque covering or any portion thereof below the top of the nipple or of covered male genitals in a discernibly turgid state.

- (3) "Performance" means any motion picture, preview, play, show, skit, dance or other exhibition performed before an audience.
- (4) "Sexual conduct" means masturbation, homosexuality, lesbianism, sadism, masochism, natural or unnatural sexual intercourse or any physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person is a female, breast.
- (5) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
- (6) "Minor" means any unmarried person under the age of eighteen years.
- (7) "Harmful to minors" means that quality of any description, exhibition, presentation or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sado-masochistic abuse, when the material or performance, taken as a whole, has the following characteristics:
 - A. The average adult person, applying contemporary community standards, would find that the material or performance has a predominant tendency to appeal to a prurient interest in sex to minors.
 - B. The average adult person, applying contemporary community standards, would find that the material or performance depicts or describes nudity, sexual conduct, sexual excitement or sado-masochistic abuse in a manner that is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors.
 - C. The material or performance lacks serious literary, scientific, educational, artistic or political value for minors.
- (8) "Sado-masochistic abuse" means flagellation or torture by or upon a person, or the condition of being fettered, bound or otherwise physically restrained.
- (9) "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, record, recording tape or video tape.
- (10) "Knowingly" means having general knowledge of, or reason to know, or a belief which warrants further inspection or inquiry of both:
 - A. The character and content of any material or performance which is reasonably susceptible to examination by the defendant; and
 - B. The age of the minor. However, an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.

- (11) "Person" means any individual, partnership, association, corporation or other legal entity of any kind.
- (12) "A reasonable bona fide attempt" means an attempt to ascertain the true age of the minor by requiring production of a driver's license, marriage license, birth certificate or other governmental or educational identification card or paper and not relying solely on the oral allegations or apparent age of the minor.

(b) No person shall sell, offer for sale, distribute, circulate or give away any obscene material or show or exhibit any obscene performance. Any material or performance shall be considered obscene if, when, considered as a whole and judged with reference to any ordinary adult, any of the following applies:

- (1) Its dominant appeal is to prurient interest.
- (2) Its dominant tendency is to arouse lust by displaying or depicting nudity, sexual excitement or sexual conduct in a way which tends to represent human beings as mere objects of sexual appetite.
- (3) Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty or brutality.
- (4) It contains a series of displays or descriptions of nudity, sexual excitement, sexual conduct, bestiality, extreme or bizarre violence, cruelty or brutality or human bodily functions of elimination, the cumulative effect of which is a dominant tendency to appeal to prurient interest, when the appeal to such interest is primarily for its own sake or for commercial exploitation, rather than for a genuine scientific, educational, sociological, moral or artistic purpose.

(c) No person having custody, control or supervision of any commercial establishment shall knowingly:

- (1) Display material which is harmful to minors in such a way that minors, as a part of the invited general public, will be exposed to view such material, provided, however, that a person shall be deemed not to have "displayed" material harmful to minors if the material is kept behind devices commonly known as "blinder racks" so that the lower two-thirds of the material is not exposed to view;
- (2) Sell, furnish, present, distribute, allow to view, or otherwise disseminate to a minor, with or without consideration, any material which is harmful to minors; or
- (3) Present to a minor or participate in presenting to a minor, with or without consideration, any performance which is harmful to a minor.

(d) It shall be an affirmative defense to any prosecution under this section that the material or performance involved was displayed, presented or disseminated to a minor at a recognized and established school, church, museum, medical clinic, hospital, public library, governmental agency or quasi-governmental agency by persons acting in their capacity as employees or agents of such institutions and organizations, which institutions and organizations display, present or disseminate such material or performance for a bona fide governmental, educational or scientific purpose.

(e) No person shall violate, disobey, neglect or refuse to comply with, or reject the enforcement of, any of the provisions of this section.

(f) In the event of a conflict between any of the provisions of this section and any provision of State law, the State law provision shall prevail.

682.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)