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[Senate, No. 765. — Moved (Fleming) as substitute for House Resolve No. 2485.]

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## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Five.

### AN ACT PROHIBITING THE PUBLICATION AND DISTRIBUTION OF CERTAIN COMIC BOOKS, AND THE SALE OF OBSCENE PICTURES OR PUBLICATIONS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Chapter 272 of the General Laws is hereby amended  
2 by striking out section 28, as amended by chapter 328  
3 of the acts of 1948, and inserting in place thereof the  
4 following section: —

5 *Section 28.* Whoever publishes or distributes for re-  
6 sale any book, pamphlet or magazine consisting of narra-  
7 tive material in pictorial form, colored or uncolored, and  
8 commonly known as comic books, the title or titles of  
9 which contain the words crime, sex, horror or terror or  
10 the content of which is devoted to or principally made  
11 up of pictures or accounts of methods of crime, of illicit  
12 sex, horror, terror, physical torture, brutality or physical  
13 violence, or wilfully or knowingly sells, lends, gives  
14 away, shows, advertises for sale or distributes commer-  
15 cially to any person under the age of eighteen years or  
16 has in his possession with intent to give, lend, show, sell,  
17 distribute commercially, or otherwise offer for sale or com-  
18 mercial distribution to any individual under the age of  
19 eighteen years any pornographic motion picture, or any  
20 still picture or photograph, or any book, "pocket book",

21 pamphlet or magazine the cover or content of which ex-  
22 ploits, is devoted to, or is principally made up of descrip-  
23 tions of illicit sex or sexual immorality or which is obscene,  
24 lewd, lascivious, filthy, indecent or disgusting, or which  
25 consists of pictures of nude or partially de-nuded figures,  
26 posed or presented in a manner to provoke or arouse  
27 lust or passion or to exploit sex, lust or perversion for  
28 commercial gain, or any article or instrument of in-  
29 decent or immoral use shall for a first offence be pun-  
30 ished by imprisonment for not more than two years or  
31 by a fine of not less than one hundred nor more than one  
32 thousand dollars, or both, and for a subsequent offence  
33 by imprisonment for not less than six months nor more  
34 than two and one-half years or by a fine of not less than  
35 two hundred nor more than two thousand dollars, or both.  
36 In order to obtain a conviction under this section, it  
37 shall not be necessary to prove that the book, pamphlet  
38 or magazine, motion picture, still picture or photograph  
39 or other thing which the accused is alleged to have  
40 dealt with in a manner prohibited by this section has  
41 been adjudged to be obscene, indecent or impure under  
42 the provisions of sections twenty-eight C to twenty-  
43 eight H, inclusive.

44 For the purposes of this section "knowingly" shall  
45 mean having knowledge of the character and content  
46 of the publication or failure to exercise reasonable in-  
47 spection which would disclose the content and character  
48 of the same.