
By Mr. Kiernan of Lowell, petition of James L. O'Dea, Jr. (District Attorney for the Northern District), Cornelius F. Kiernan and Maurice A. Donahue for legislation to increase the penalties for violations of the obscene literature law and imposing a compulsory prison sentence for subsequent offences. The Judiciary.

The Commonwealth of Massachusetts

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

AN ACT INCREASING THE PENALTIES FOR VIOLATION OF THE OBSCENE LITERATURE LAW AND IMPOSING A COMPULSORY PRISON SENTENCE FOR SECOND AND SUBSEQUENT OFFENCES.

1 *Whereas*, The deferred operation of this act would tend to
2 defeat its purpose, which is to provide for the prevention of the
3 corruption of the morals of youth and society and to enhance
4 the public welfare, safety and morality by providing for stronger
5 penalties for the violation of the obscene literature law, there-
6 fore it is hereby declared to be an emergency law, necessary for
7 the immediate preservation of the public safety.

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

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

5 *Section 28.* Whoever sells or distributes, or imports, prints
6 or publishes for the purpose of selling or distributing, to a per-
7 son under the age of eighteen years a book, pamphlet, ballad,
8 printed paper, phonographic record or other thing which is
9 obscene, indecent or impure, or manifestly tends to corrupt the
10 morals of youth, or an obscene, indecent or impure print, pic-
11 ture, figure, image or description, manifestly tending to corrupt
12 the morals of youth, or introduces into a family, school or place
13 of education, or buys, procures, receives or has in his possession
14 any such book, pamphlet, ballad, printed paper, phonographic
15 record, obscene, indecent or impure print, picture, figure, image

16 or other thing, either for the purpose of sale, exhibition, loan or
17 circulation to a person under the age of eighteen years or with
18 intent to introduce the same into a family, school or place of
19 education, shall, for a first offence, be punished by imprisonment
20 in the state prison for not more than five years, or in a jail or
21 house of correction for not more than two and one half years,
22 or by a fine of not less than one hundred dollars nor more than
23 five thousand dollars, or both, and for a second and subsequent
24 offence, by imprisonment in the state prison for not less than
25 two and one half nor more than five years or by imprisonment
26 in a jail or house of correction for not less than six months nor
27 more than two and one half years. For second and subsequent
28 offences a fine of not more than five thousand dollars may be
29 imposed, in addition to the imprisonment herein provided. Ex-
30 cept in the case of conviction for the first offence of a violation
31 of this section an imposition or execution of the sentence shall
32 not be suspended, and no probation or parole shall be granted
33 until the minimum imprisonment herein provided for the offence
34 shall have been served. In order to obtain a conviction under
35 this section, it shall not be necessary to prove that the book,
36 pamphlet, ballad, printed paper, phonographic record, print,
37 picture, image, description or other thing which the accused is
38 alleged to have dealt with in a manner prohibited by this section
39 has been adjudged to be obscene, indecent or impure under the
40 provisions of sections twenty-eight C to twenty-eight H, inclu-
41 sive, of this chapter.

1 SECTION 2. Said chapter 272 is hereby further amended by
2 striking out section 28A, inserted by section 1 of chapter 278 of
3 the acts of 1945, and inserting in place thereof the following
4 section: —

5 *Section 28A.* Whoever imports, prints, publishes, sells or
6 distributes a pamphlet, ballad, printed paper, phonographic
7 record, or other thing which is obscene, indecent or impure, or
8 an obscene, indecent or impure print, picture, figure, image or
9 description, or buys, procures, receives or has in his possession
10 any such pamphlet, ballad, printed paper, phonographic record,
11 obscene, indecent or impure print, picture, figure, image or other
12 thing, for the purpose of sale, exhibition, loan or circulation, shall
13 be punished by imprisonment in a jail or house of correction for
14 not more than two and one half years or by imprisonment for

15 not more than five years in a state prison or by a fine of not less
16 than one hundred dollars nor more than five thousand dollars,
17 or both, for a first offence, and for a second and subsequent
18 offence by imprisonment for not less than two and one half
19 years nor more than five years in a state prison or by imprison-
20 ment in a jail or house of correction for not less than six months
21 nor more than two and one half years. For second and subse-
22 quent offences a fine of not more than five thousand dollars may
23 be imposed, in addition to the imprisonment herein provided,
24 except in the case of conviction for the first offence of a viola-
25 tion of this section an imposition or execution of the sentence
26 shall not be suspended, and no probation or parole shall be
27 granted until the minimum imprisonment herein provided for
28 the offence shall have been served.

