

By Mr. Carney of Boston, petition of Robert H. Quinn (Attorney General) and Daniel W. Carney for legislation to prohibit the public display of certain obscene matter. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy.

AN ACT PROHIBITING PUBLIC DISPLAYS OF OBSCENE MATTER

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 by add-
2 ing the following sections:—

3 *Section 30E.* Any person who knowingly displays publicly
4 any picture, photograph, drawing, sculpture, or other visual
5 representation or image of a person or portion of the human
6 body that depicts nudity, sado-masochistic abuse, sexual con-
7 duct, or sexual excitement, or any page, poster, or other written
8 or printed matter bearing such representation or a verbal de-
9 scription or narrative account of such items or activities, or
10 any offensive words, shall be punished by imprisonment in state
11 prison for not more than five years or in a jail or house of cor-
12 rection for not more than two and one half years or by a fine
13 of not less than one hundred dollars nor more than five thou-
14 sand dollars or by both such fine and imprisonment.

15 Any person who shall knowingly permit such display on
16 premises owned, rented, or operated by him shall be pun-
17 ished by imprisonment in state prison for not more than five
18 years or in a jail house of corection for not more than two and
19 one half years or by a fine of not less than one hundred dollars
20 nor more than five thousand dollars or by both such fine and
21 imprisonment.

1 SECTION 30F. *Definitions.*—As used in section 30D the fol-
2 lowing words shall have the following meaning:—

3 (1) “offensive words” mean those slang words currently
4 thought by contemporary community standards to be unfit for
5 use in public which depict sexual or excretory organs, sexual
6 conduct or excretory products.

7 (2) “displays publicly” means the exposing, placing, post-
8 ing, exhibiting, or in any fashion displaying in any location,
9 whether public or private, an item in such a manner that it
10 may be readily seen and its content or character distinguished
11 by normal unaided vision viewing it from a public thorough-
12 fare, depot, or vehicle; it shall also include the giving out of
13 handbills in a public thoroughfare, depot, or vehicle; and

14 (3) “public thoroughfare, depot, or vehicle” means any
15 street, highway, park, arcade, depot, or transportation plat-
16 form, or other place, whether indoors or out, or any vehicle
17 for public transportation, owned or operated by government,
18 either directly or through a public corporation or authority,
19 or owned or operated by any agency of public transportation,
20 that is designed for the use, enjoyment, or transportation of
21 the citizenry.

1 SECTION 30G. The following presumptions are applicable
2 to section thirty D:

3 (1) Any person managing or operating premises wherein
4 a public display in violation of this section takes place who
5 is on the premises at the time of the violation shall be pre-
6 sumed to have been the operator of the premises and to have
7 knowledge of the obscene matter being publicly displayed.

8 (2) The owner, lessee, or operator of premises wherein a
9 public display in violation of this section takes place shall be
10 presumed to have knowingly caused that public display to have
11 been made, to have had knowledge of the nature of the items
12 publicly displayed, and to have known that they could have
13 been seen and distinguished from an adjoining public thorough-
14 fare or depot.

1 SECTION 30H. It shall be a defense that the public display
2 of nudity, sado-masochistic abuse, sexual conduct or sexual
3 excitement exhibited by a bona fide art, antique, or similar

4 gallery or exhibition, and visible in a normal display setting
5 or if the display was primarily for artistic purposes or done
6 as a public service.

1 SECTION 30I. If any phrase, clause, sentence or provision
2 of section thirty E through thirty H or application to any
3 person or circumstance is held invalid, such invalidity shall
4 not affect any other phrase, clause, sentence, provision or
5 application of sections thirty E through thirty H, which can
6 be given effect without the invalid phrase, clause, sentence,
7 provision or application and to this end the provisions of
8 sections thirty E through thirty H are declared to be sev-
9 erable.

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