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ed by striking out section 417 and inserting in place thereof the following section:-

Section 417. This act shall expire on December thirty-first, nineteen hundred and eighty-three.

SECTION 3. Chapter 572 of the acts of 1980 is hereby amended by adding the following section:-

Section 417A. Sixty days prior to the increase of any fee, the secretary of administration and finance shall submit information relative to the purpose for a fee increase with the senate and house committees on ways and means; provided however, that no such notification shall be effective prior to March first, nineteen hundred and eighty-three.

Approved December 23, 1982.

EMERGENCY LETTER - December 29, 1982 @ 2:42 P.M.

Chap. 603. AN ACT FURTHER REGULATING ZONING.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for further regulation of zoning, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety. _____

Be it enacted, etc., as follows:

SECTION 1. Chapter 40A of the General Laws is hereby amended by inserting after section 9 the following section:-

Section 9A. Zoning ordinances or by-laws may provide for special permits authorizing the establishment of adult bookstores or adult motion picture theatres as hereinafter defined. Such zoning ordinance or by-law may state the specific improvements, amenities or locations of proposed uses for which such permit may be granted and may provide that the proposed use be a specific distance from any district designated by zoning ordinance or by-law for any residential use or from any other adult bookstore or adult motion picture theatre or from any establishment licensed under the provisions of section twelve of chapter one hundred and thirty-eight.

As used in this section, the following words shall have the following meanings:-

"Adult bookstore", an establishment having as a substantial or significant portion of its stock in trade, books, magazines, and

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other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in section thirty-one of chapter two hundred and seventy-two.

"Adult motion picture theatre", an enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in section thirty-one of chapter two hundred and seventy-two.

Zoning ordinances or by-laws shall provide that special permits shall only be issued following public hearings held within sixty-five days after filing of an application with the special permit granting authority, a copy of which shall forthwith be given to the city or town clerk by the applicant, and may provide that certain classes of special permits shall be issued by one special permit granting authority and others by another special permit granting authority as provided in the ordinance or by-law. Such special permit granting authority shall adopt and from time to time amend rules relative to the issuance of such permits, and shall file a copy of said rules in the office of the city or town clerk. Such rules shall prescribe a size, form, contents, style and number of copies of plans and specifications and the procedure for a submission and approval of such permits.

Special permit granting authorities shall act within ninety days following a public hearing for which notice has been given by publication or posting as provided in section eleven, and by mailing to all parties in interest; provided, however, that a city council having more than five members designated to act upon such a permit may appoint a committee of such council to hold the public hearing. Failure by a special permit granting authority to take final action upon an application for a special permit within said ninety days following the date of public hearing shall be deemed to be a grant of the permit applied for. Special permits issued by a special permit granting authority shall require a two-thirds vote of boards with more than five members, a vote of at least four members of a five member board and a unanimous vote of a three member board. Zoning ordinances or by-laws shall provide that a special permit granted under this section shall lapse within a specified period of time, not more than two years, and including such time required to pursue or await the determination of an appeal referred to in section seven-teen, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.

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SECTION 2. Chapter 272 of the General Laws is hereby amended by striking out section 28, as most recently amended by section 1 of chapter 430 of the acts of 1974, and inserting in place thereof the following section:-

Section 28. Whoever disseminates to a minor any matter harmful to minors, as defined in section thirty-one, knowing it to be harmful to minors, or has in his possession any such matter with the intent to disseminate the same to minors, shall be punished by imprisonment in the state prison for not more than five years or in a jail or house of correction for not more than two and one-half years, or by a fine of not less than one thousand nor more than ten thousand dollars for the first offense, not less than five thousand nor more than twenty thousand dollars for the second offense, or not less than ten thousand nor more than thirty thousand dollars for the third and subsequent offenses, or by both such fine and imprisonment. A prosecution commenced under this section shall not be continued without a finding nor placed on file. It shall be a defense in any prosecution under this section that the defendant was in a parental or guardianship relationship with the minor. It shall also be a defense in any prosecution under this section if the evidence proves that the defendant was a bona fide school, museum or library, or was acting in the course of his employment as an employee of such organization or of a retail outlet affiliated with and serving the educational purpose of such organization.

SECTION 3. Said chapter 272 is hereby further amended by striking out section 29, as amended by section 9 of said chapter 430, and inserting in place thereof the following section:-

Section 29. Whoever disseminates any matter which is obscene, knowing it to be obscene, or whoever has in his possession any matter which is obscene, knowing it to be obscene, with the intent to disseminate the same, shall be punished by imprisonment in the state prison for not more than five years or in a jail or house of correction for not more than two and one-half years or by a fine of not less than one thousand nor more than ten thousand dollars for the first offense, not less than five thousand nor more than twenty thousand dollars for the second offense, or not less than ten thousand nor more than thirty thousand dollars for the third and subsequent offenses, or by both such fine and imprisonment. A prosecution commenced under this section shall not be continued without a finding nor placed on file. It shall be a defense under this section if the evidence proves that the defendant was a bona fide school, museum or library, or was acting in the course of his employment as an employee of such organization or of a retail outlet affiliated with

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and serving the educational purpose of such organization.

SECTION 4. The second paragraph of section 29A of said chapter 272, as appearing in section 2 of chapter 364 of the acts of 1982, is hereby amended by striking out, in line 1, the word "affirmative".

SECTION 5. The second paragraph of section 29B of said chapter 272, as so appearing, is hereby amended by striking out, in line 1, the word "affirmative".

SECTION 6. The definition of "Harmful to minors" in section 31 of said chapter 272, as appearing in section 12 of chapter 430 of the acts of 1974, is hereby amended by striking out clause (2) and inserting in place thereof the following clause:-

(2) is patently contrary to prevailing standards of adults in the county where the offense was committed as to suitable material for such minors.

SECTION 7. The definition of "Obscene" in said section 31 of said chapter 272, as so appearing, is hereby amended by striking out clause (1) and inserting in place thereof the following clause:-

(1) appeals to the prurient interest of the average person applying the contemporary standards of the county where the offense was committed.

SECTION 8. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not impair any of the remaining provisions.

SECTION 9. This act shall take effect upon its passage.

Approved December 29, 1982.

Chap. 604. AN ACT PROVIDING FURTHER PROTECTION OF ELDERLY PERSONS.

Be it enacted, etc., as follows:

SECTION 1. Chapter 19A of the General Laws is hereby amended by adding the following thirteen sections:-

Section 14. For the purposes of sections fourteen to twenty-seven, inclusive, the following words and terms shall, unless the