

Fifty-sixth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2384

Introduced by

Senators Redlin, C. Nelson

Representatives Tollefson, Wentz

1 A BILL for an Act to create and enact a new section to chapter 12.1-27.1 of the North Dakota
2 Century Code, relating to city ordinances to prohibit material harmful to minors; and to amend
3 and reenact section 12.1-27.1-02 of the North Dakota Century Code, relating to the promotion
4 of material that is harmful to minors.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 12.1-27.1-02 of the North Dakota Century Code
7 is amended and reenacted as follows:

8 **12.1-27.1-02. Promoting obscenity to minors - Definitions.** As used in this section
9 and in section 12.1-27.1-03:

- 10 1. "Promote" means to produce, direct, manufacture, issue, sell, lend, mail, publish,
11 distribute, exhibit, or advertise.
- 12 2. "Harmful to minors" means that quality of any description or representation, in
13 whatever form of sexual conduct or sexual excitement or in whatever form of
14 advocating, glamorizing, or encouraging suicide, murder, violent racism, religious
15 violence, morbid violence, or the illegal use of drugs or alcohol, when ~~such~~ the
16 description or representation:
 - 17 a. Considered as a whole, appeals to the prurient sexual interest, morbid
18 interest, or shameful interest of minors;
 - 19 b. Is patently offensive to prevailing standards in the adult community in ~~North~~
20 ~~Dakota~~ this state as a whole with respect to what is suitable material for
21 minors; and
 - 22 c. Considered as a whole, lacks serious literary, artistic, political, or scientific
23 value for minors.

3. "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

SECTION 2. A new section to chapter 12.1-27.1 of the North Dakota Century Code is created and enacted as follows:

City ordinance to prohibit material that is harmful to minors - Penalty.

Notwithstanding section 12.1-01-05, a city may pass an ordinance prohibiting and criminally penalizing the sale of material that is harmful to minors as permitted by this section. The ordinance may state no person engaged in the business of selling audio recordings may sell an audio recording that has content that is harmful to minors unless the person has the permission of that minor's parent or guardian. An audio recording has content that is harmful to minors if the recording, considered as a whole, predominantly appeals to the prurient, shameful, or morbid interest of minors; is patently offensive to the prevailing standards in the adult community considered as a whole, with respect to what is suitable for minors; and considered as a whole, is without serious literary, artistic, political, or scientific importance for minors. Content that is harmful to minors may include lyrics advocating, glamorizing, or encouraging suicide, murder, violent racism, religious violence, morbid violence, or the illegal use of drugs or alcohol. The ordinance may require a recording that has content that is harmful to minors to contain a label that states the recording is for sale to adults only, if the governing body of the city or a board created by the governing body which represents the average person eighteen years or older in that city determines the recording has content that is harmful to minors. The ordinance may require a recording with content that is harmful to minors to be displayed and sold from a section of the store which is partitioned as to have the content of the room not readily visible from the rest of the store and which is posted for adults only.