


SIXTEENTH GUAM LEGISLATURE
1982 (SECOND) Regular Session

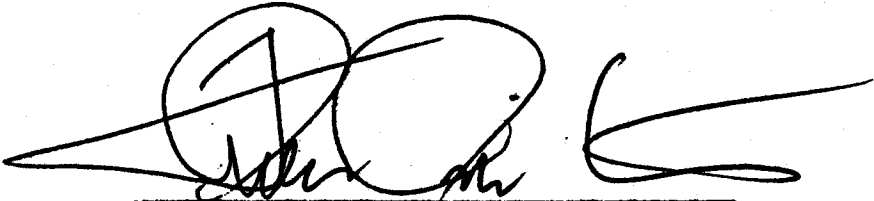
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 408, "An act to amend Chapter 28 of Title 9 of the Guam Code Annotated to strengthen the laws prohibiting the sale of obscene materials", was on the 15th day of April 1982, duly and regularly passed.




THOMAS V. C. TANAKA
Speaker

ATTESTED:




THOMAS C. CRISOSTOMO
Legislative Secretary

This Act was received by the Governor this 26th day of
April, 1982, at 2:40 o'clock P.M.



SIERRA L. FRANCISCO
Assistant Staff Officer
Governor's Office

APPROVED:



PAUL H. GALVO
Governor of Guam.

DATED:

5/7/82
P. L. 16-84

SIXTEENTH GUAM LEGISLATURE
1982 (SECOND) Regular Session

Bill No. 408
(As Substituted by the Committee
on Health, Welfare and Cultural
Affairs)

Introduced by: C. A. Kasperbauer, M. E. Bordallo, P. F. Perez, Jr.

A. C. Lanorena III
T. C. Crisostomo

AN ACT TO AMEND CHAPTER 23 OF TITLE 9 OF THE
GUAM CODE ANNOTATED TO STRENGTHEN THE LAWS
PROHIBITING THE SALE OF OBSCENE MATERIALS.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. 9 GCA Section 23.40 is amended to read:

3 "Section 23.40. Definitions. As used in this article:

4 (a) 'material' means any picture, drawing, photograph,
5 motion picture, or pictorial representation, or any statue
6 or other figure, or any mechanical, chemical, or electrical
7 reproduction, or anything which is or may be used as a means
8 of communication (other than the written or spoken word).

9 'Material' includes molds, printing plates and other latent
10 representational objects.

11 (b) 'prurient interest' means a shameful or morbid
12 interest in nudity, sex, or excretion.

13 (c) 'performance' means any physical human bodily
14 activity, whether engaged in alone or with other persons,
15 including but not limited to dancing, acting, simulating, or
16 pantomining which is either public or for commercial gain.

17 (d) 'distribute' means to transfer possession of
18 material.

19 (e) Any material or performance is obscene if:

20 (1) the average person, applying contemporary
21 community standards, finds that the material or per-
22 formance, taken as a whole, appeals to the prurient
23 interest; and

1 (2) the material or performance depicts or
2 describes in a patently offensive way, sexual conduct,
3 normal or perverted, actual or simulated; and

4 (3) the material or performance, taken as a whole,
5 lacks serious literary, artistic, political, or
6 scientific value.

7 (f) 'sado-masochistic abuse' means flagellation or
8 torture by upon a person as an act of sexual stimulation or
9 gratification.

10 (g) 'sexual conduct' means acts of masturbation,
11 excretory functions, lewd exhibition of the genitals, sado-
12 masochistic abuse, bestiality, sexual intercourse or physical
13 contact with a person's clothed or unclothed genitals, pubic
14 area, buttocks or the breast or breasts of a female for the
15 purpose of sexual stimulation, gratification or perversion.

16 (h) 'owner' means any person who owns or has legal
17 right to possession of any material."

18 Section 2. 9 GCA Section 28.45 is repealed.

19 Section 3. 9 GCA 28.49 is added to read:

20 "Section 28.49. Every person who knowingly sends or
21 causes to be sent, or who in Guam possesses, prepares, pub-
22 lishes, shows, prints or who offers to distribute, distri-
23 butes or exhibits to another any obscene material, when such
24 acts or acts are public or for commercial gain, is guilty
25 of a misdemeanor."

26 Section 4. 9 GCA Section 28.50 is repealed and reenacted to
27 read:

28 "Section 28.50. Every person who knowingly engages or
29 participates in, manages, produces, sponsors, presents or

exhibits any obscene performance which is public or for commercial gain is guilty of a misdemeanor."

Section 5. A new Section 9 GCA 28.51 is added to read:

"Section 28.51. A person is guilty of a felony of the third degree if he knowingly or recklessly employs or uses a minor under the age of sixteen (16) years to do or assist in doing any of the acts described in Section 28.49 or 28.50 of this Chapter."

Section 5a. Section 28.52 is added to Title 9 of the Guam Code Annotated to read:

"Section 23.52. Use of one's child in obscene acts. A person is guilty of a felony of the first degree if while having custody or control of any child under the age of sixteen (16) years, he shall knowingly permit that child to be used in or be a party to any material or performance that is obscene."

Section 6. 9 GCA Section 28.55 is repealed and reenacted to read:

"Section 28.55. Defenses. It shall be an affirmative defense in a prosecution under this Article for the defendant to show:

(1) that the distribution was made to the recipient by a bona-fide school, museum, or public library or by an employee of such organization acting in the course of his employment or of a retail outlet affiliated with and serving the educational purposes of such organization; or

(2) that the act was done for legitimate scientific or educational purposes."

Section 7. 9 GCA Section 1.60(F) is added to read:

"(F) 'person' means any natural person, partnership, firm, association, corporation or other legal entity."

DATE 4-15-82

SIXTEENTH GUAM LEGISLATURE

VOTING RECORD

BILL/RESOLUTION NO. 40 as amended
 MAIN SPONSOR CAIC

SENATOR	AYE	NAY	NOT VOTING	ABSENT
BLAS, Frank F.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
BORDALLO, Madeleine Z.	<input checked="" type="checkbox"/>			
CHARFAUROS, Edward T.	<input checked="" type="checkbox"/>			
CRISOSTOMO, Thomas C.	<input checked="" type="checkbox"/>			
DUENAS, Edward R.	<input checked="" type="checkbox"/>			
GUTIERREZ, Carl T. C.	<input type="checkbox"/>	<input type="checkbox"/>		
KASPERBAUER, Carmen A.	<input checked="" type="checkbox"/>			
LAMORENA, Alberto C., III	<input checked="" type="checkbox"/>			
LEON GUERRERO, Jose I.	<input checked="" type="checkbox"/>			
MOYLAN, Kurt	<input checked="" type="checkbox"/>			
PEREZ, Peter F., Jr.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
QUAN, John F.		<input checked="" type="checkbox"/>		
QUITUGUA, Franklin J.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
SAN AGUSTIN, Joe T.	<input checked="" type="checkbox"/>			
SANTOS, Francisco R.		<input checked="" type="checkbox"/>		
SUDO, Ramon Q.	<input checked="" type="checkbox"/>			
TANAKA, Thomas V. C.		<input checked="" type="checkbox"/>		
TORRES, Jess Q.		<input checked="" type="checkbox"/>		
UMAGAT, Lloyd L.	<input checked="" type="checkbox"/>			
UNDERWOOD, James H.	<input checked="" type="checkbox"/>			
UNPINGCO, Antonio R.		<input checked="" type="checkbox"/>		

T O T A L

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