

BBH:jrv
07/18/84

RESOLUTION NO. 84-9

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF MILL CREEK, WASHINGTON, SUPPORTING STATE
REGULATION OF PORNOGRAPY AND MORAL NUISANCES.

WHEREAS, the Washington State Legislature has adopted legislation codified under RCW 7.48.A and 9.68 relating to the control of pornography and other moral nuisances, and

WHEREAS, this legislation was deemed unconstitutional by the courts, and

WHEREAS, the Legislature of the State of Washington is considering new legislation to address pornography and moral nuisance issues in the form of Senate Bill 4872 attached hereto, and,

WHEREAS, the City Council of the City of Mill Creek is concerned about the ability of the City to control and regulate pornography and other moral nuisances, now, therefore,

THE CITY COUNCIL OF THE CITY OF MILL CREEK, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

That the City Council of the City of Mill Creek, Washington, work with other cities in encouraging the Washington State Legislature to adopt legislation similar to Senate Bill 4872, attached hereto as Exhibit A.

RESOLVED this 27th day of July, 1984.

APPROVED:

Sid Hanson
MAYOR, SID HANSON

ATTEST/AUTHENTICATED:



CITY CLERK, MICHELE SCHUTZ

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
RESOLUTION NO. 84-9

SB 4072

1 AN ACT Relating to pornography and moral nuisances; amending CR83B
 2 section 1, chapter 184, Laws of 1982 and RCW 7.48A.010; amending F
 3 section 4, chapter 184, Laws of 1982 and RCW 7.48A.040; amending S
 4 section 5, chapter 184, Laws of 1982 and RCW 7.48A.050; amending -4035
 5 section 8, chapter 184, Laws of 1982 and RCW 9.68.140; prescribing ;1
 6 penalties; and declaring an emergency. PARTA

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON: ;4

8 Sec. 1. Section 1, chapter 184, Laws of 1982 and RCW 7.48A.010 12
 9 are each amended to read as follows: 12

10 The definitions set forth in this section shall apply throughout 13
 11 this chapter. 13

12 (1) "Knowledge" or "knowledge of such nuisance" means having 14
 13 knowledge of the contents and character of the patently offensive 15
 14 sexual or violent conduct which appears in the lewd matter, or 15
 15 knowledge of the acts of lewdness or prostitution which occur on the 16
 16 premises. 16

17 (2) "Lewd matter" is synonymous with "obscene matter" and means 17
 18 any matter: 17

19 (a) Which the average person, applying contemporary community 18
 20 standards, would find, when considered as a whole, appeals to the 19
 21 prurient interest; and 19

22 (b) Which explicitly depicts or describes patently offensive 20
 23 representations or descriptions of: 20

24 (i) Ultimate sexual acts, normal or perverted, actual or 21
 25 simulated; or 21

26 (ii) Masturbation, fellatio, cunnilingus, bestiality, excretory 22
 27 functions, or lewd exhibition of the genitals or genital area; or 22

28 (iii) Violent or destructive sexual acts, including but not 23
 29 limited to human or animal mutilation, dismemberment, rape or 24

1 torture; and 24

2 (c) Which, when considered as a whole, (~~and-in-the-context-in~~ 26
3 ~~which-it-is-used~~)) lacks serious literary, artistic, political, or 27
4 scientific value. 27

5 (3) "Lewdness" shall have and include all those meanings which 28
6 are assigned to it under the common law. 28

7 (4) "Matter" shall mean a motion picture film or a publication or 29
8 both. 29

9 (5) "Motion picture film" shall include any: 30

10 (a) Film or plate negative; 31

11 (b) Film or plate positive; 32

12 (c) Film designed to be projected on a screen for exhibition; 33

13 (d) Film, glass slides, or transparencies, either in negative or 34
14 positive form, designed for exhibition by projection on a screen; 35

15 (e) Video tape or any other medium used to electronically 36
16 reproduce images on a screen. 36

17 (6) "Person" means any individual, partnership, firm, 37
18 association, corporation, or other legal entity. 38

19 (7) "Place" includes, but is not limited to, any building, 39
20 structure, or places, or any separate part or portion thereof, 40
21 whether permanent or not, or the ground itself. 40

22 (8) "Prurient interest" means (~~that-which-incites-licentiousness~~ 41
23 ~~or-vice~~) a shameful or morbid interest in nudity, sex, or excrement. 42

24 (9) "Publication" shall include any book, magazine, article, 43
25 pamphlet, writing, printing, illustration, picture, sound recording, 44
26 or coin-operated machine. 45

27 (10) "Sale" means a passing of title or right of possession from 46
28 a seller to a buyer for valuable consideration, and shall include, 47
29 but is not limited to, any lease or rental arrangement or other 47
30 transaction wherein or whereby any valuable consideration is received 48
31 for the use of, or transfer of possession of, lewd matter. 48

32 Sec. .2. Section 4, Chapter 184, Laws of 1982 and BCH 7.48A.040 51
33 are each amended to read as follows: 51

34 (1) No person shall with knowledge maintain a moral nuisance. 52

35 (2) Upon a determination that a defendant has with knowledge 53
36 maintained a moral nuisance, the court shall impose a civil ((penalty 54

1 and--judgment--of--an--court--as--the--court--may--determine--to--be 55
2 appropriate) fine not to exceed twenty-five thousand dollars. In 56
3 imposing the civil ((penalty)) fine, the court shall consider the 56
4 wilfulness of the defendant's conduct and the profits made by the 57
5 defendant attributable to the ((merit--violation)) levd satter, 58
6 levdness, or prostitution, whichever is applicable. 58

7 Sec. 3. Section 5, chapter 184, Laws of 1982 and RCW 7.48A.040 61
8 are each amended to read as follows: 61
9 All civil ((penalties)) finngs assessed under RCW 7.48A.040 shall 62
10 be paid into the general treasury of the governmental unit commencing 63
11 the civil action. 63

12 Sec. 4. Section 8, chapter 184, Laws of 1982 and RCW 9.68.140 66
13 are each amended to read as follows: 66
14 A person who, for profit-making purposes and with knowledge, 67
15 sells, exhibits, displays, or produces any lewd satter as defined in 68
16 RCW 7.48A.010 is guilty of promoting pornography. Promoting 68
17 pornography is a class C felony and shall bear the punishment and 69
18 finngs prescribed for that class of felony (~~(/--except--that--upon~~ 70
19 ~~conviction--of--promoting--pornography--the--court--shall--impose--a--fine--of~~ 71
20 ~~not--less--than--five--thousand--dollars--per--count--nor--more--than--fifty~~ 72
21 ~~thousand--dollars--per--count)).~~ In imposing the criminal penalty, the 73
22 court shall consider the wilfulness of the defendant's conduct and 74
23 the profits made by the defendant attributable to the felony. All 75
24 fines assessed under this chapter shall be paid into the general 76
25 treasury of the state. 76

26 NEW SECTION. Sec. 5. If any provision of this act or its 78
27 application to any person or circumstance is held invalid, the 79
28 remainder of the act or the application of the provision to other 79
29 persons or circumstances is not affected. 79

30 NEW SECTION. Sec. 6. This act is necessary for the immediate 81
31 preservation of the public peace, health, and safety, the support of 82
32 the state government and its existing public institutions, and shall 82
33 take effect immediately. 82