

Stevens Trade School, Pennsylvania State Oral School for the Deaf and Scotland School for Veterans' Children, who enter school service subsequent to June 30, 1919, and who file with the retirement board [within six (6) months after beginning employment] a written election not to become a member or file a written election to transfer such membership and become members of the State Employees' Retirement System.

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(d) School employes in the Department of Public Instruction, State Colleges, Indiana University of Pennsylvania, Thaddeus Stevens Trade School, Pennsylvania State Oral School for the Deaf, Scotland School for Veterans' Children and Pennsylvania State University, who are members of the retirement system on the effective date of this act and who file with the retirement board [within one year after January 1, 1962,] an election in writing to transfer such membership and become members of the State Employees' Retirement System.

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Section 2. This act shall take effect immediately.

APPROVED—The 31st day of July, A. D. 1968.

RAYMOND P. SHAFER.

No. 269

AN ACT

HB 1058

Amending the act of June 24, 1939 (P. L. 872), entitled "An act to consolidate, amend and revise the penal laws of the Commonwealth," further providing for unlawful acts relating to obscene literature and evidence, injunctions and penalties therefor.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 524, act of June 24, 1939 (P. L. 872), known as "The Penal Code," amended October 20, 1959 (P. L. 1329), is amended to read:

Section 524. Obscene Literature, etc.—(a) Whoever sells, lends, distributes, exhibits, gives away or shows to any person seventeen (17) years of age or older or offers to sell, lend, distribute, exhibit or give away or show, or has in his possession with intent to sell,

lend, distribute or give away or to show to any person seventeen (17) years of age or older, or knowingly advertises in any manner any obscene literature, book, magazine, pamphlet, newspaper, storypaper, paper, comic book, writing, drawing, photograph, figure or image, or any written or printed matter of an obscene nature, or any article or instrument of an obscene nature, or whoever designs, copies, draws, photographs, prints, utters, publishes or in any manner manufactures or prepares any such book, picture, drawing, magazine, pamphlet, newspaper, storypaper, paper, comic book, writing, figure, image, matter, article or thing or whoever writes, prints, publishes or utters or causes to be printed, published or uttered, any advertisement or notice of any kind giving information, directly or indirectly, stating or purporting to state where, how, or whom, or by what means any obscene book, picture, writing, paper, comic book, figure, image, matter, article or thing named in this section can be purchased, obtained or had, or whoever hires, employs, uses or permits any minor or child to do or assist in doing any act or thing mentioned in this section, is guilty of a [felony] misdemeanor, and upon conviction, shall be sentenced to imprisonment not exceeding two (2) years, or to pay a fine not exceeding two thousand dollars (\$2000), or both.

"Obscene," as used in this section, means that which, to the average person applying contemporary community standards, has as its dominant theme, taken as a whole, an appeal to prurient interest.

(b) It shall be unlawful for any person knowingly to sell or loan for monetary or other valuable consideration to a minor:

(1) Any picture, photograph drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sado-masochistic abuse and which is harmful to minors, or

(2) Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in clause (1) hereof, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sado-masochistic abuse and which, taken as a whole, is harmful to minors.

(c) It shall be unlawful for any person knowingly to exhibit for monetary consideration to a minor or knowingly to sell to a minor an admission ticket or pass or knowingly to admit a minor for a monetary consideration to premises whereon there is exhibited, a motion

picture show or other presentation which, in whole or in part, depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors, except that the foregoing shall not apply to any minor accompanied by his parent.

(d) As used in subsections (b) and (c) of this section:

(1) "Minor" means any person under the age of seventeen ¹ (17) years.

(2) "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

(3) "Sexual conduct" means acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person be a female, breast.

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

(5) "Sadomasochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

(6) "Harmful to minors" means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, when it: (i) predominantly appeals to the prurient, shameful or morbid interest of minors, and (ii) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors, and (iii) is utterly without redeeming social importance for minors.

(7) "Knowingly" means having general knowledge of, or reason to

¹ "(17)" not in original.

know, or a belief or ground for belief which warrants further inspection or inquiry of both: (i) the character and content of any material described herein which is reasonably susceptible of examination by the defendant, and (ii) the age of the minor: Provided, however, That an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.

(e) Any person who violates subsections (b) or (c) of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be imprisoned for not more than five (5) years, or fined not more than five thousand dollars (\$5,000), or both.

(f) A person who knowingly requires any distributor or retail seller as a condition to sale or delivery for resale or consignment of any literature, book, magazine, pamphlet, newspaper, storypaper, paper, comic book, writing, drawing, photograph, figure or image, or any written or printed matter of an obscene nature, or any article or instrument of an obscene nature to purchase or take by consignment for purposes of sale, resale, or distribution any obscene literature, book, magazine, pamphlet, newspaper, storypaper, paper, comic book, writing, drawing, photograph, figure or image, or any written or printed matter of an obscene nature, or any article or instrument of an obscene nature, is guilty of a misdemeanor, and, upon conviction, shall be sentenced to imprisonment not exceeding two (2) years, or to pay a fine not exceeding two thousand dollars (\$2000), or both.

(g) The district attorney of any county in which any person sells, lends, distributes, exhibits, gives away or shows, or is about to sell, lend, distribute, exhibit, give away or show, or has in his possession with intent to sell, resell, lend, distribute, exhibit, give away or show, any obscene literature, book, magazine, pamphlet, newspaper, storypaper, paper, comic book, writing, drawing, photograph, figure or image, or any written or printed matter of an obscene nature, or any article or instrument of an obscene nature, may institute proceedings

in equity in the court of common pleas of said county for the purpose of enjoining the sale, resale, lending, distribution, exhibit, gift or show of such obscene literature, book, magazine, pamphlet, newspaper, storypaper, paper, comic book, writing, drawing, photograph, figure or image, or any written or printed matter of an obscene nature, or any article or instrument of an obscene nature, contrary to the provisions of this act, and for such purposes jurisdiction is hereby conferred upon said courts. A preliminary injunction may issue and a hearing thereafter be held thereon in conformity with the Rules of Civil Procedure upon the averment of the district attorney that the sale, resale, lending, distribution, exhibit, gift or show of such publication constitutes a danger to the welfare or peace of the community. The district attorney shall not be required to give bond.

(h) The right to trial by jury shall be preserved in all proceedings under this act.

Section 2. Sections 527, 529 and 530 of the act are repealed absolutely.

Section 3. Severability.—The provisions of this act are severable, and, if any of the provisions hereof are held to be unconstitutional or otherwise invalid, the decision shall not be construed to impair any other provision of this act. It is hereby declared as the legislative intent that this act would have been adopted had such unconstitutional or otherwise invalid provision not been included herein.

Section 4. Acts Repealed.—The following acts and parts of acts, and their amendments, are hereby repealed to the extent specified:

Sections 409 and 1306, act of April 9, 1929 (P. L. 177), known as "The Administrative Code of 1929," absolutely.

The act of June 1, 1956 (P. L. 1997), entitled "An act relating to comic books, magazines and other publications; prohibiting and regulating the sale thereof in certain instances; and imposing penalties," absolutely.

The act of September 17, 1959 (P. L. 902), entitled "An act relating to motion picture films, reels, or stereopticon views or slides; providing a system of listing the first showing of each film, reel or view and a system of registration of exhibitors, sellers, lessors and users of films, reels or views; disapproval of films, reels or views which are obscene or unsuitable for children and of advertising matter used in connection therewith; imposing powers and duties upon the Pennsylvania State Board of Motion Picture Control; and providing penalties for the violation of this act," absolutely.

APPROVED—The 31st day of July, A. D. 1968.

RAYMOND P. SHAFER.

No. 270

AN ACT

HB 1083

Amending the act of June 24, 1931 (P. L. 1206), entitled "An act concerning townships of the first class; amending, revising, consolidating, and changing the law relating thereto," further providing for township and officers' powers as to real and personal property.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 1501, act of June 24, 1931 (P. L. 1206), known as "The First Class Township Code," reenacted and amended May 27, 1949 (P. L. 1955), is amended to read:

Section 1501. Suits, Property.—Townships of the first class may—
I. Sue and be sued.

II. [Purchase, acquire by gift or otherwise, hold, lease, let and convey such real and personal property as shall be deemed to be to the best interest of the township. Such real and personal estate shall be taken and held only for the benefit of the inhabitants of the township, and for such objects and purposes as township rates and levies are authorized by law to be laid for.] Purchase, acquire by gift, or otherwise, hold, lease, let and convey, by sale or lease, such real and personal property as shall be deemed to be to the best interest of the township: Provided, That no real estate owned by the township shall be sold for a consideration in excess of five hundred dollars except to the highest bidder after due notice by advertisement for bids in one newspaper of general circulation in the township. Such advertisement shall be published once not less than ten days prior to the date fixed for the opening of bids, and such date for opening bids shall be announced in such advertisement. The acceptance of bids shall be made only by public announcement at a regular or special meeting of the board of township commissioners. All bids shall be accepted on the condition that payment of the