

By: Representatives Gunn, Williamson,  
Arnold, Eubanks

To: Judiciary B

HOUSE BILL NO. 1341

1 AN ACT TO CREATE NEW SECTIONS 37-11-81 AND 39-3-25,  
 2 MISSISSIPPI CODE OF 1972, TO AUTHORIZE PUBLIC SCHOOLS, CHARTER  
 3 SCHOOLS, THE MISSISSIPPI SCHOOL OF THE ARTS, THE MISSISSIPPI  
 4 SCHOOL FOR MATHEMATICS AND SCIENCE, THE MISSISSIPPI VIRTUAL PUBLIC  
 5 SCHOOL, THE MISSISSIPPI SCHOOL FOR THE DEAF, THE MISSISSIPPI  
 6 SCHOOL FOR THE BLIND AND PUBLIC LIBRARIES TO OFFER DIGITAL OR  
 7 ONLINE RESOURCES OR DATABASES TO PERSONS UNDER 18 YEARS OF AGE  
 8 ONLY IF THE VENDOR PROVIDING THOSE RESOURCES VERIFIES THAT IT HAS  
 9 IN PLACE SAFETY POLICIES AND TECHNOLOGY PROTECTION MEASURES THAT  
 10 PROHIBIT CHILDREN FROM ACCESSING AND SENDING CHILD PORNOGRAPHY,  
 11 OBSCENE AND SEXUALLY ORIENTED MATERIALS AND OTHER MATERIALS  
 12 HARMFUL TO CHILDREN; TO ESTABLISH MONETARY PENALTIES FOR A VENDOR  
 13 THAT FAILS TO CORRECT NONCOMPLIANCE; TO REQUIRE REPORTS OF  
 14 NONCOMPLIANCE TO BE MADE TO THE STATE AUDITOR; TO BRING FORWARD  
 15 SECTIONS 97-5-27, 97-5-29, 97-5-31, 97-5-33, 97-5-37, 97-29-101,  
 16 97-29-107 and 97-29-109, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE  
 17 OF POSSIBLE AMENDMENTS; TO PROVIDE SEVERABILITY IF ANY PART OF  
 18 THIS ACT IS FOUND UNCONSTITUTIONAL; AND FOR RELATED PURPOSES.

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

20 **SECTION 1.** The following shall be codified as Section  
 21 37-11-81, Mississippi Code of 1972:

22 37-11-81. (1) A school district, charter school, the  
 23 Mississippi School of the Arts, the Mississippi School for  
 24 Mathematics and Science, the Mississippi Virtual Public School,  
 25 the Mississippi School for the Deaf and the Mississippi School for  
 26 the Blind may offer digital or online resources or databases to



27 students in kindergarten through twelfth grade only if the vendor  
28 or other person or entity providing the resources verifies that  
29 all the resources will comply with the provisions of subsection  
30 (2) of this section.

31 (2) A vendor or other person or entity providing digital or  
32 online resources or databases under the authority of this section  
33 for use by a person under eighteen (18) years of age must have  
34 safety policies and technology protection measures that:

35 (a) Prohibit and prevent a person under eighteen (18)  
36 years of age from sending, receiving, viewing or downloading  
37 materials that are:

38 (i) Child pornography;

39 (ii) Materials that depict or promote child sexual  
40 exploitation or trafficking;

41 (iii) Obscene materials, as defined in Section  
42 97-29-103;

43 (iv) Inappropriate materials depicting or dealing  
44 with matters of sex, cruelty and violence in a manner likely to be  
45 injurious or harmful to a child; or

46 (v) Materials that are sexually oriented, as  
47 defined in Section 97-5-27(2); and

48 (b) Filter or block access to obscene materials,  
49 inappropriate materials, materials that are sexually oriented or  
50 materials that depict, describe or promote child pornography or  
51 child sexual exploitation.



52           (3)   (a)   The provisions of this section take precedence over  
53 any provision in a contract between a school district or school  
54 and a vendor or other person or entity providing digital or online  
55 resources or databases to the contrary. Notwithstanding any  
56 provision in a contract between a school district or school and a  
57 provider to the contrary, if a provider of digital or online  
58 resources or databases fails to comply with the requirements of  
59 this section, the school district or school shall withhold further  
60 payments, if any, to the provider pending verification of  
61 compliance.

62           (b)   Upon a first occurrence by a provider of digital or  
63 online resources or databases of noncompliance with subsection (2)  
64 of this section and failure to verify within thirty (30) days of  
65 receiving notice of the noncompliance from a school district or  
66 school that the provider is in compliance with this section, the  
67 school district or school shall consider the provider's  
68 noncompliance to be a breach of contract.

69           (c)   Upon a second occurrence by a provider of  
70 noncompliance with subsection (2) and failure to verify within  
71 thirty (30) days of receiving notice of the noncompliance from a  
72 school district or school that the provider is in compliance with  
73 the requirements of this section, the school district or school is  
74 entitled to a reduction in the amount of ten percent (10%) of the  
75 agreed upon price in the contract to be paid by the school  
76 district or school to the provider. The school district or school



77 shall adjust any future payments due to the provider under the  
78 contract accordingly to effectuate the ten percent (10%)  
79 reduction. However, if the contract price has been paid in full,  
80 or if the balance owed on the contract price is equal to less than  
81 ten percent (10%) of the contract price, the provider must return  
82 to the school district or school such amount that is required to  
83 effectuate a ten percent (10%) reduction of the contract price.

84 (d) Upon a third occurrence by a provider of  
85 noncompliance with subsection (2) and failure to verify within  
86 thirty (30) days of receiving notice of the noncompliance from a  
87 school district or school that the provider is in compliance with  
88 the requirements of this section, the contract must be considered  
89 terminated and the school district or school is entitled to a  
90 complete refund of the agreed upon price in the contract to be  
91 paid by the school district or school to the provider. The school  
92 district or school shall withhold any future payments that may be  
93 due to the provider, and the provider must return to the school  
94 district or school all amounts previously paid to the provider  
95 under the contract.

96 (4) The State Auditor may audit a school district or  
97 school's compliance with this section. A school district or  
98 school must report to the State Auditor a provider's failure to  
99 comply with subsection (2) of this section no later than thirty  
100 (30) days after the district or school learns of the provider's  
101 noncompliance.



102           **SECTION 2.** The following shall be codified as Section  
103 39-3-25, Mississippi Code of 1972:

104           39-3-25. (1) A public library may offer digital or online  
105 resources or databases to persons under eighteen (18) years of age  
106 only if the vendor or other person or entity providing the  
107 resources verifies that all the resources will comply with the  
108 provisions of subsection (2) of this section.

109           (2) A vendor or other person or entity providing digital or  
110 online resources or databases under the authority of this section  
111 for use by a person under eighteen (18) years of age must have  
112 safety policies and technology protection measures that:

113           (a) Prohibit and prevent a person under eighteen (18)  
114 years of age from sending, receiving, viewing or downloading  
115 materials that are:

116                   (i) Child pornography;

117                   (ii) Materials that depict or promote child sexual  
118 exploitation or trafficking;

119                   (iii) Obscene materials, as defined in Section  
120 97-29-103;

121                   (iv) Inappropriate materials depicting or dealing  
122 with matters of sex, cruelty and violence in a manner likely to be  
123 injurious or harmful to a child; or

124                   (v) Materials that are sexually oriented, as  
125 defined in Section 97-5-27(2); and



126 (b) Filter or block access to obscene materials,  
127 inappropriate materials, materials that are sexually oriented or  
128 materials that depict, describe or promote child pornography or  
129 child sexual exploitation.

130 (3) (a) The provisions of this section take precedence over  
131 any provision in a contract between a public library and a vendor  
132 or other person or entity providing digital or online resources or  
133 databases to the contrary. Notwithstanding any provision in a  
134 contract between a public library and a provider to the contrary,  
135 if a provider of digital or online resources or databases fails to  
136 comply with the requirements of this section, the library shall  
137 withhold further payments, if any, to the provider pending  
138 verification of compliance.

139 (b) Upon a first occurrence by a provider of digital or  
140 online resources or databases of noncompliance with subsection (2)  
141 of this section and failure to verify within thirty (30) days of  
142 receiving notice of the noncompliance from a public library that  
143 the provider is in compliance with this section, the library shall  
144 consider the provider's noncompliance to be a breach of contract.

145 (c) Upon a second occurrence by a provider of  
146 noncompliance with subsection (2) and failure to verify within  
147 thirty (30) days of receiving notice of the noncompliance from a  
148 public library that the provider is in compliance with the  
149 requirements of this section, the library is entitled to a  
150 reduction in the amount of ten percent (10%) of the agreed upon



151 price in the contract to be paid by the library to the provider.  
152 The library shall adjust any future payments due to the provider  
153 under the contract accordingly to effectuate the ten percent (10%)  
154 reduction. However, if the contract price has been paid in full,  
155 or if the balance owed on the contract price is equal to less than  
156 ten percent (10%) of the contract price, the provider must return  
157 to the library such amount that is required to effectuate a ten  
158 percent (10%) reduction of the contract price.

159 (d) Upon a third occurrence by a provider of  
160 noncompliance with subsection (2) and failure to verify within  
161 thirty (30) days of receiving notice of the noncompliance from a  
162 public library that the provider is in compliance with the  
163 requirements of this section, the contract must be considered  
164 terminated and the library is entitled to a complete refund of the  
165 agreed upon price in the contract to be paid by the library to the  
166 provider. The library shall withhold any future payments that may  
167 be due to the provider, and the provider must return to the  
168 library all amounts previously paid to the provider under the  
169 contract.

170 (4) The State Auditor may audit a public library's  
171 compliance with this section. A public library must report to the  
172 State Auditor a provider's failure to comply with subsection (2)  
173 of this section no later than thirty (30) days after the library  
174 learns of the provider's noncompliance.



175           **SECTION 3.** Section 97-5-27, Mississippi Code of 1972, is  
176 brought forward as follows:

177           97-5-27. (1) Any person who intentionally and knowingly  
178 disseminates sexually oriented material to any person under  
179 eighteen (18) years of age shall be guilty of a misdemeanor and,  
180 upon conviction, shall be fined for each offense not less than  
181 Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars  
182 (\$5,000.00) or be imprisoned for not more than one (1) year in the  
183 county jail, or be punished by both such fine and imprisonment. A  
184 person disseminates sexually oriented material within the meaning  
185 of this section if he:

186           (a) Sells, delivers or provides, or offers or agrees to  
187 sell, deliver or provide, any sexually oriented writing, picture,  
188 record or other representation or embodiment that is sexually  
189 oriented; or

190           (b) Presents or directs a sexually oriented play, dance  
191 or other performance or participates directly in that portion  
192 thereof which makes it sexually oriented; or

193           (c) Exhibits, presents, rents, sells, delivers or  
194 provides, or offers or agrees to exhibit, present, rent or to  
195 provide any sexually oriented still or motion picture, film,  
196 filmstrip or projection slide, or sound recording, sound tape or  
197 sound track or any matter or material of whatever form which is a  
198 representation, embodiment, performance or publication that is  
199 sexually oriented.





200 (2) For purposes of this section, any material is sexually  
201 oriented if the material contains representations or descriptions,  
202 actual or simulated, of masturbation, sodomy, excretory functions,  
203 lewd exhibition of the genitals or female breasts, sadomasochistic  
204 abuse (for the purpose of sexual stimulation or gratification),  
205 homosexuality, lesbianism, bestiality, sexual intercourse, or  
206 physical contact with a person's clothed or unclothed genitals,  
207 pubic area, buttocks, or the breast or breasts of a female for the  
208 purpose of sexual stimulation, gratification or perversion.

209 (3) (a) A person is guilty of computer luring when:

210 (i) Knowing the character and content of any  
211 communication of sexually oriented material, he intentionally uses  
212 any computer communication system allowing the input, output,  
213 examination or transfer of computer data or computer programs from  
214 one (1) computer to another, to initiate or engage in such  
215 communication with a person under the age of eighteen (18); and

216 (ii) By means of such communication he importunes,  
217 invites or induces a person under the age of eighteen (18) years  
218 to engage in sexual intercourse, deviant sexual intercourse or  
219 sexual contact with him, or to engage in a sexual performance,  
220 obscene sexual performance or sexual conduct for his benefit.

221 (b) A person who engages in the conduct proscribed by  
222 this subsection (3) is presumed to do so with knowledge of the  
223 character and content of the material.



224 (c) In any prosecution for computer luring, it shall be  
225 a defense that:

226 (i) The defendant made a reasonable effort to  
227 ascertain the true age of the minor and was unable to do so as a  
228 result of actions taken by the minor; or

229 (ii) The defendant has taken, in good faith,  
230 reasonable, effective and appropriate actions under the  
231 circumstances to restrict or prevent access by minors to the  
232 materials prohibited, which may involve any appropriate measures  
233 to restrict minors from access to such communications, including  
234 any method which is feasible under available technology; or

235 (iii) The defendant has restricted access to such  
236 materials by requiring use of a verified credit card, debit  
237 account, adult access code or adult personal identification  
238 number; or

239 (iv) The defendant has in good faith established a  
240 mechanism such that the labeling, segregation or other mechanism  
241 enables such material to be automatically blocked or screened by  
242 software or other capabilities reasonably available to responsible  
243 adults wishing to effect such blocking or screening and the  
244 defendant has not otherwise solicited minors not subject to such  
245 screening or blocking capabilities to access that material or to  
246 circumvent any such screening or blocking.

247 (d) In any prosecution for computer luring:



248 (i) No person shall be held to have violated this  
249 subsection (3) solely for providing access or connection to or  
250 from a facility, system, or network not under that person's  
251 control, including transmission, downloading, intermediate  
252 storage, access software or other related capabilities that are  
253 incidental to providing such access or connection that do not  
254 include the creation of the content of the communication.

255 (ii) No employer shall be held liable for the  
256 actions of an employee or agent unless the employee's or agent's  
257 conduct is within the scope of his employment or agency or the  
258 employer, having knowledge of such conduct, authorizes or ratifies  
259 such conduct, or recklessly disregards such conduct.

260 (iii) The limitations provided by this paragraph  
261 (d) shall not be applicable to a person who is a conspirator with  
262 an entity actively involved in the creation or knowing  
263 distribution of communications that violate such provisions, or  
264 who knowingly advertises the availability of such communications,  
265 nor to a person who provides access or connection to a facility,  
266 system or network engaged in the violation of such provisions that  
267 is owned or controlled by such person.

268 (e) Computer luring is a felony, and any person  
269 convicted thereof shall be punished by commitment to the custody  
270 of the Department of Corrections for a term not to exceed three  
271 (3) years and by a fine not to exceed Ten Thousand Dollars  
272 (\$10,000.00).



273 (4) Investigation and prosecution of a defendant under this  
274 section does not preclude prosecution of the defendant for a  
275 violation of other applicable criminal laws, including, but not  
276 limited to, the Mississippi Human Trafficking Act, Section 97-3-54  
277 et seq.

278 **SECTION 4.** Section 97-5-29, Mississippi Code of 1972, is  
279 brought forward as follows:

280 97-5-29. (1) Any person who intentionally and knowingly  
281 places sexually oriented materials upon public display, or who  
282 knowingly and intentionally fails to take prompt action to remove  
283 such a display from property in his possession after learning of  
284 its existence shall be guilty of a misdemeanor and upon conviction  
285 shall be fined for each offense not less than Five Hundred Dollars  
286 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00) or be  
287 imprisoned for not more than one (1) year in the county jail, or  
288 be punished by both such fine and imprisonment.

289 (2) For purposes of this section any material is sexually  
290 oriented if the material consists of representations or  
291 descriptions of actual or simulated masturbation, sodomy,  
292 excretory functions, lewd exhibition of the genitals or female  
293 breasts, sadomasochistic abuse (for the purpose of sexual  
294 stimulation or gratification), homosexuality, lesbianism,  
295 bestiality, sexual intercourse or physical contact with a person's  
296 clothed or unclothed genitals, pubic area, buttocks or the breast



297 or breasts of a female for the purpose of sexual stimulation,  
298 gratification or perversion.

299 (3) A person places sexually oriented material upon public  
300 display within the meaning of this section if he places the  
301 material on or in a billboard, viewing screen, theater stage or  
302 marquee, newsstand, display rack, window, showcase, display case  
303 or other similar place, including a viewing screen in a vehicle,  
304 so that sexually oriented material is easily visible from a public  
305 street, public road or sidewalk or from areas of public businesses  
306 in which minors are normally business invitees.

307 **SECTION 5.** Section 97-5-31, Mississippi Code of 1972, is  
308 brought forward as follows:

309 97-5-31. As used in Sections 97-5-33 through 97-5-37, the  
310 following words and phrases shall have the meanings given to them  
311 in this section:

312 (a) "Child" means any individual who has not attained  
313 the age of eighteen (18) years.

314 (b) "Sexually explicit conduct" means actual or  
315 simulated:

316 (i) Oral genital contact, oral anal contact, or  
317 sexual intercourse as defined in Section 97-3-65, whether between  
318 persons of the same or opposite sex;

319 (ii) Bestiality;

320 (iii) Masturbation;

321 (iv) Sadistic or masochistic abuse;



322 (v) Lascivious exhibition of the genitals or pubic  
323 area of any person; or

324 (vi) Fondling or other erotic touching of the  
325 genitals, pubic area, buttocks, anus or breast.

326 (c) "Producing" means producing, directing,  
327 manufacturing, issuing, publishing or advertising.

328 (d) "Visual depiction" includes, without limitation,  
329 developed or undeveloped film and video tape or other visual  
330 unaltered reproductions by computer.

331 (e) "Computer" has the meaning given in Title 18,  
332 United States Code, Section 1030.

333 (f) "Simulated" means any depicting of the genitals or  
334 rectal areas that gives the appearance of sexual conduct or  
335 incipient sexual conduct.

336 **SECTION 6.** Section 97-5-33, Mississippi Code of 1972, is  
337 brought forward as follows:

338 97-5-33. (1) No person shall, by any means including  
339 computer, cause, solicit or knowingly permit any child to engage  
340 in sexually explicit conduct or in the simulation of sexually  
341 explicit conduct for the purpose of producing any visual depiction  
342 of such conduct.

343 (2) No person shall, by any means including computer,  
344 photograph, film, video tape or otherwise depict or record a child  
345 engaging in sexually explicit conduct or in the simulation of  
346 sexually explicit conduct.



347 (3) No person shall, by any means including computer,  
348 knowingly send, transport, transmit, ship, mail or receive any  
349 photograph, drawing, sketch, film, video tape or other visual  
350 depiction of an actual child engaging in sexually explicit  
351 conduct.

352 (4) No person shall, by any means including computer,  
353 receive with intent to distribute, distribute for sale, sell or  
354 attempt to sell in any manner any photograph, drawing, sketch,  
355 film, video tape or other visual depiction of an actual child  
356 engaging in sexually explicit conduct.

357 (5) No person shall, by any means including computer,  
358 knowingly possess or knowingly access with intent to view any  
359 photograph, drawing, sketch, film, video tape or other visual  
360 depiction of an actual child engaging in sexually explicit  
361 conduct.

362 (6) No person shall, by any means including computer,  
363 knowingly entice, induce, persuade, seduce, solicit, advise,  
364 coerce, or order a child to meet with the defendant or any other  
365 person for the purpose of engaging in sexually explicit conduct.

366 (7) No person shall by any means, including computer,  
367 knowingly entice, induce, persuade, seduce, solicit, advise,  
368 coerce or order a child to produce any visual depiction of adult  
369 sexual conduct or any sexually explicit conduct.

370 (8) The fact that an undercover operative or law enforcement  
371 officer posed as a child or was involved in any other manner in



372 the detection and investigation of an offense under this section  
373 shall not constitute a defense to a prosecution under this  
374 section.

375 (9) For purposes of determining jurisdiction, the offense is  
376 committed in this state if all or part of the conduct described in  
377 this section occurs in the State of Mississippi or if the  
378 transmission that constitutes the offense either originates in  
379 this state or is received in this state.

380 **SECTION 7.** Section 97-5-37, Mississippi Code of 1972, is  
381 brought forward as follows:

382 97-5-37. The provisions of Sections 97-5-31 through 97-5-37  
383 are supplemental to any statute relating to child abuse or  
384 neglect, obscenity, enticement of children or contributing to  
385 delinquency of a minor and acquittal or conviction pursuant to any  
386 other statute shall not be a bar to prosecution under Sections  
387 97-5-31 through 97-5-37. Acquittal or conviction under Sections  
388 97-5-31 through 97-5-37 shall not be a bar to prosecution and  
389 conviction under other statutes defining crimes or misdemeanors,  
390 nor to any civil or administrative remedy otherwise available.

391 **SECTION 8.** Section 97-29-101, Mississippi Code of 1972, is  
392 brought forward as follows:

393 97-29-101. A person commits the offense of distributing  
394 obscene materials or obscene performances when he sells, rents,  
395 leases, advertises, publishes or exhibits to any person any  
396 obscene material or obscene performance of any description knowing





397 the obscene nature thereof, or offers to do so, or possesses such  
398 material with the intent to do so. A person commits the offense  
399 of wholesale distributing obscene materials or obscene  
400 performances when he distributes for the purpose of resale any  
401 obscene material or obscene performance of any description knowing  
402 the obscene nature thereof, or offers to do so, or possesses such  
403 material with the intent to do so. The word "knowing" as used in  
404 this section means either actual or constructive knowledge of the  
405 obscene contents of the subject matter, and a person has  
406 constructive knowledge of the obscene contents if he has knowledge  
407 of facts which would put a reasonable and prudent person on notice  
408 as to the suspect nature of the material. The character and  
409 reputation of an individual charged with an offense under Sections  
410 97-29-101 through 97-29-109 and, if a commercial dissemination of  
411 obscene material or an obscene performance is involved, the  
412 character and reputation of the business establishment involved,  
413 may be placed in evidence by the defendant on the question of  
414 intent to violate Sections 97-29-101 through 97-29-109.

415 Any person, other than a city attorney, county prosecuting  
416 attorney or district attorney, who shall sign an affidavit  
417 charging an offense prescribed by this section shall file a bond  
418 in the amount of Five Hundred Dollars (\$500.00) at the time such  
419 affidavit is lodged. Such bond shall be conditioned that the  
420 affidavit was not filed frivolously, maliciously or out of ill  
421 will.



422           **SECTION 9.** Section 97-29-107, Mississippi Code of 1972, is  
423 brought forward as follows:

424           97-29-107. (1) Sections 97-29-101 through 97-29-109 shall  
425 not apply when the distribution or wholesale distribution of the  
426 material, performance or device was made by:

427           (a) A person, corporation, company, partnership, firm,  
428 association, business, establishment or other legal entity to a  
429 person associated with an institution of higher learning, either  
430 as a member of the faculty or as a matriculated student, teaching  
431 or pursuing a course of study related to such material,  
432 performance or device;

433           (b) A licensed physician or a licensed psychologist to  
434 a person whose receipt of such material or device was authorized  
435 in writing by such physician or psychologist in the course of  
436 medical or psychological treatment or care;

437           (c) A person who while acting in his capacity as an  
438 employee is employed on a full-time or part-time basis by (i) any  
439 recognized historical society or museum accorded charitable status  
440 by the federal government; (ii) any state, county or municipal  
441 public library; or (iii) any library of any public or private  
442 school, college or university in this state; or

443           (d) A community television antenna services system or a  
444 cable television system operating pursuant to a written agreement  
445 not in conflict with this paragraph granted by a county,  
446 municipality or other political subdivision of this state, or by



447 an employee of such system while acting within the scope of his  
448 employment, when the signal transmitting the material or  
449 performance originates outside of the State of Mississippi.

450 (2) Any exemption from prosecution claimed under the  
451 provisions of this section may be raised at a pretrial hearing by  
452 motion, and the court shall determine whether sufficient evidence  
453 exists to constitute an exemption from prosecution under the  
454 provisions of Sections 97-29-101 through 97-29-109. If the motion  
455 is sustained, the case shall be dismissed; provided, however, if  
456 the motion is not sustained then the defendant may offer into  
457 evidence at trial as an affirmative defense to conviction under  
458 Sections 97-29-101 through 97-29-109 any matter which could have  
459 been raised by the defendant in the motion to dismiss.

460 **SECTION 10.** Section 97-29-109, Mississippi Code of 1972, is  
461 brought forward as follows:

462 97-29-109. Any person, except one who wholesale distributes,  
463 who violates Section 97-29-101 or Section 97-29-105 shall be  
464 guilty of a misdemeanor and, upon conviction, shall, in the case  
465 of the first offense, be fined not more than Five Thousand Dollars  
466 (\$5,000.00) or imprisoned in the county jail for a term not to  
467 exceed six (6) months, or both. If the person has been previously  
468 convicted of a violation of Section 97-29-101 or Section 97-29-105  
469 or of Section 97-5-27 or 97-5-29, Mississippi Code of 1972, then  
470 the person shall be fined not less than Two Thousand Five Hundred  
471 Dollars (\$2,500.00) nor more than Ten Thousand Dollars



472 (\$10,000.00) or imprisoned for a term not to exceed one (1) year,  
473 or both.

474 Any person who wholesale distributes in violation of Section  
475 97-29-101 or Section 97-29-105 shall, upon conviction, be fined  
476 not more than Ten Thousand Dollars (\$10,000.00) or imprisoned for  
477 a term not to exceed one (1) year, or both. If the person has  
478 been previously convicted of a violation of Section 97-29-101 or  
479 Section 97-29-105 or of Section 97-5-27 or 97-5-29, Mississippi  
480 Code of 1972, then the person shall, upon conviction, be fined not  
481 less than Two Thousand Five Hundred Dollars (\$2,500.00) nor more  
482 than Fifty Thousand Dollars (\$50,000.00) or imprisoned for a term  
483 not to exceed one (1) year, or both.

484 A corporation, company, partnership, firm, association,  
485 business, establishment, organization or other legal entity other  
486 than an individual convicted of distributing obscenity or unlawful  
487 sexual devices or wholesale distribution of obscenity or unlawful  
488 sexual devices shall be fined not less than One Thousand Dollars  
489 (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00). If  
490 such legal entity has been previously convicted of distributing  
491 obscenity or unlawful sexual devices or wholesale distribution of  
492 obscenity or unlawful sexual devices or of a violation of Section  
493 97-5-27 or Section 97-5-29, Mississippi Code of 1972, then such  
494 legal entity shall be fined not less than Five Thousand Dollars  
495 (\$5,000.00) nor more than Fifty Thousand Dollars (\$50,000.00).



496           **SECTION 11.** If any section, paragraph, sentence, clause,  
497 phrase or any part of this act passed on or after the effective  
498 date of this act is declared to be unconstitutional or void, or if  
499 for any reason is declared to be invalid or of no effect, the  
500 remaining sections, paragraphs, sentences, clauses, phrases or  
501 parts of this act shall be in no manner affected thereby but shall  
502 remain in full force and effect.

503           Unless the contrary intent shall clearly appear in the  
504 particular act in question, each and every act passed hereafter  
505 shall be read and construed as though the provisions of the first  
506 paragraph of this section form an integral part thereof, whether  
507 expressly set out therein or not.

508           **SECTION 12.** This act shall take effect and be in force from  
509 and after July 1, 2023.  
510

