

By: Representatives Gunn, Williamson,
Arnold, Eubanks

To: Judiciary B

HOUSE BILL NO. 1341
(As Passed the House)

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 ONLY IF THE VENDOR
8 PROVIDING THOSE RESOURCES VERIFIES THAT IT HAS IN PLACE SAFETY
9 POLICIES AND TECHNOLOGY PROTECTION MEASURES THAT PROHIBIT CHILDREN
10 FROM ACCESSING AND SENDING CHILD PORNOGRAPHY, OBSCENE AND SEXUALLY
11 ORIENTED MATERIALS AND OTHER MATERIALS HARMFUL TO CHILDREN; TO
12 ESTABLISH MONETARY PENALTIES FOR A VENDOR THAT FAILS TO CORRECT
13 NONCOMPLIANCE; TO REQUIRE REPORTS OF NONCOMPLIANCE TO BE MADE TO
14 THE STATE AUDITOR; TO BRING FORWARD SECTIONS 97-5-27, 97-5-29,
15 97-5-31, 97-5-33, 97-5-37, 97-29-101, 97-29-107 and 97-29-109,
16 MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENTS;
17 TO PROVIDE SEVERABILITY IF ANY PART OF THIS ACT IS FOUND
18 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 must have safety policies and technology protection measures that:

34 (a) Prohibit and prevent a person from sending,
35 receiving, viewing or downloading materials that are:

36 (i) Child pornography;

37 (ii) Materials that depict or promote child sexual
38 exploitation or trafficking;

39 (iii) Obscene materials, as defined in this act;

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

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

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

49 (c) For the purposes of this act, material is obscene,
50 if:



51 (i) To the average person, applying contemporary
52 community standards, taken as a whole, it appeals to the prurient
53 interest, that is, a lustful, erotic, shameful, or morbid interest
54 in nudity, sex or excretion; and

55 (ii) The material taken as a whole lacks serious
56 literary, artistic, political or scientific value; and

57 (iii) The material depicts or describes in a
58 patently offensive way, sexual contact specifically defined in
59 items 1 through 5 below:

60 1. Acts of sexual intercourse of any kind,
61 normal or perverted, actual or simulated;

62 2. Acts of masturbation;

63 3. Acts involving excretory functions or lewd
64 exhibition of the genitals;

65 4. Acts of bestiality or the fondling of sex
66 organs of animals; or

67 5. Sexual acts of flagellation, torture or
68 other violence indicating a sadomasochistic sexual relationship.

69 (3) (a) The provisions of this section take precedence over
70 any provision in a contract between a school district or school
71 and a vendor or other person or entity providing digital or online
72 resources or databases to the contrary. Notwithstanding any
73 provision in a contract between a school district or school and a
74 provider to the contrary, if a provider of digital or online
75 resources or databases fails to comply with the requirements of



76 this section, the school district or school shall withhold further
77 payments, if any, to the provider pending verification of
78 compliance.

79 (b) Upon a first occurrence by a provider of digital or
80 online resources or databases of noncompliance with subsection (2)
81 of this section and failure to verify within thirty (30) days of
82 receiving notice of the noncompliance from a school district or
83 school that the provider is in compliance with this section, the
84 school district or school shall consider the provider's
85 noncompliance to be a breach of contract.

86 (c) Upon a second occurrence by a provider of
87 noncompliance with subsection (2) and failure to verify within
88 thirty (30) days of receiving notice of the noncompliance from a
89 school district or school that the provider is in compliance with
90 the requirements of this section, the school district or school is
91 entitled to a reduction in the amount of ten percent (10%) of the
92 agreed upon price in the contract to be paid by the school
93 district or school to the provider. The school district or school
94 shall adjust any future payments due to the provider under the
95 contract accordingly to effectuate the ten percent (10%)
96 reduction. However, if the contract price has been paid in full,
97 or if the balance owed on the contract price is equal to less than
98 ten percent (10%) of the contract price, the provider must return
99 to the school district or school such amount that is required to
100 effectuate a ten percent (10%) reduction of the contract price.



101 (d) Upon a third occurrence by a provider of
102 noncompliance with subsection (2) and failure to verify within
103 thirty (30) days of receiving notice of the noncompliance from a
104 school district or school that the provider is in compliance with
105 the requirements of this section, the contract must be considered
106 terminated and the school district or school is entitled to a
107 complete refund of the agreed upon price in the contract to be
108 paid by the school district or school to the provider. The school
109 district or school shall withhold any future payments that may be
110 due to the provider, and the provider must return to the school
111 district or school all amounts previously paid to the provider
112 under the contract.

113 (4) The State Auditor may audit a school district or
114 school's compliance with this section. A school district or
115 school must report to the State Auditor a provider's failure to
116 comply with subsection (2) of this section no later than thirty
117 (30) days after the district or school learns of the provider's
118 noncompliance.

119 **SECTION 2.** The following shall be codified as Section
120 39-3-25, Mississippi Code of 1972:

121 39-3-25. (1) A public library may offer digital or online
122 resources or databases to persons only if the vendor or other
123 person or entity providing the resources verifies that all the
124 resources will comply with the provisions of subsection (2) of
125 this section.



126 (2) A vendor or other person or entity providing digital or
127 online resources or databases under the authority of this section
128 must have safety policies and technology protection measures that:

129 (a) Prohibit and prevent a person from sending,
130 receiving, viewing or downloading materials that are:

131 (i) Child pornography;

132 (ii) Materials that depict or promote child sexual
133 exploitation or trafficking;

134 (iii) Obscene materials, as defined in Section 1
135 of this act;

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

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

141 (b) Filter or block access to obscene materials,
142 inappropriate materials, materials that are sexually oriented or
143 materials that depict, describe or promote child pornography or
144 child sexual exploitation.

145 (3) (a) The provisions of this section take precedence over
146 any provision in a contract between a public library and a vendor
147 or other person or entity providing digital or online resources or
148 databases to the contrary. Notwithstanding any provision in a
149 contract between a public library and a provider to the contrary,
150 if a provider of digital or online resources or databases fails to



151 comply with the requirements of this section, the library shall
152 withhold further payments, if any, to the provider pending
153 verification of compliance.

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

160 (c) Upon a second occurrence by a provider of
161 noncompliance with subsection (2) and failure to verify within
162 thirty (30) days of receiving notice of the noncompliance from a
163 public library that the provider is in compliance with the
164 requirements of this section, the library is entitled to a
165 reduction in the amount of ten percent (10%) of the agreed upon
166 price in the contract to be paid by the library to the provider.
167 The library shall adjust any future payments due to the provider
168 under the contract accordingly to effectuate the ten percent (10%)
169 reduction. However, if the contract price has been paid in full,
170 or if the balance owed on the contract price is equal to less than
171 ten percent (10%) of the contract price, the provider must return
172 to the library such amount that is required to effectuate a ten
173 percent (10%) reduction of the contract price.

174 (d) Upon a third occurrence by a provider of
175 noncompliance with subsection (2) and failure to verify within



176 thirty (30) days of receiving notice of the noncompliance from a
177 public library that the provider is in compliance with the
178 requirements of this section, the contract must be considered
179 terminated and the library is entitled to a complete refund of the
180 agreed upon price in the contract to be paid by the library to the
181 provider. The library shall withhold any future payments that may
182 be due to the provider, and the provider must return to the
183 library all amounts previously paid to the provider under the
184 contract.

185 (4) The State Auditor may audit a public library's
186 compliance with this section. A public library must report to the
187 State Auditor a provider's failure to comply with subsection (2)
188 of this section no later than thirty (30) days after the library
189 learns of the provider's noncompliance.

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

192 97-5-27. (1) Any person who intentionally and knowingly
193 disseminates sexually oriented material to any person under
194 eighteen (18) years of age shall be guilty of a misdemeanor and,
195 upon conviction, shall be fined for each offense not less than
196 Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars
197 (\$5,000.00) or be imprisoned for not more than one (1) year in the
198 county jail, or be punished by both such fine and imprisonment. A
199 person disseminates sexually oriented material within the meaning
200 of this section if he:



201 (a) Sells, delivers or provides, or offers or agrees to
202 sell, deliver or provide, any sexually oriented writing, picture,
203 record or other representation or embodiment that is sexually
204 oriented; or

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

208 (c) Exhibits, presents, rents, sells, delivers or
209 provides, or offers or agrees to exhibit, present, rent or to
210 provide any sexually oriented still or motion picture, film,
211 filmstrip or projection slide, or sound recording, sound tape or
212 sound track or any matter or material of whatever form which is a
213 representation, embodiment, performance or publication that is
214 sexually oriented.

215 (2) For purposes of this section, any material is sexually
216 oriented if the material contains representations or descriptions,
217 actual or simulated, of masturbation, sodomy, excretory functions,
218 lewd exhibition of the genitals or female breasts, sadomasochistic
219 abuse (for the purpose of sexual stimulation or gratification),
220 homosexuality, lesbianism, bestiality, sexual intercourse, or
221 physical contact with a person's clothed or unclothed genitals,
222 pubic area, buttocks, or the breast or breasts of a female for the
223 purpose of sexual stimulation, gratification or perversion.

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



225 (i) Knowing the character and content of any
226 communication of sexually oriented material, he intentionally uses
227 any computer communication system allowing the input, output,
228 examination or transfer of computer data or computer programs from
229 one (1) computer to another, to initiate or engage in such
230 communication with a person under the age of eighteen (18); and

231 (ii) By means of such communication he importunes,
232 invites or induces a person under the age of eighteen (18) years
233 to engage in sexual intercourse, deviant sexual intercourse or
234 sexual contact with him, or to engage in a sexual performance,
235 obscene sexual performance or sexual conduct for his benefit.

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

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

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

244 (ii) The defendant has taken, in good faith,
245 reasonable, effective and appropriate actions under the
246 circumstances to restrict or prevent access by minors to the
247 materials prohibited, which may involve any appropriate measures
248 to restrict minors from access to such communications, including
249 any method which is feasible under available technology; or



250 (iii) The defendant has restricted access to such
251 materials by requiring use of a verified credit card, debit
252 account, adult access code or adult personal identification
253 number; or

254 (iv) The defendant has in good faith established a
255 mechanism such that the labeling, segregation or other mechanism
256 enables such material to be automatically blocked or screened by
257 software or other capabilities reasonably available to responsible
258 adults wishing to effect such blocking or screening and the
259 defendant has not otherwise solicited minors not subject to such
260 screening or blocking capabilities to access that material or to
261 circumvent any such screening or blocking.

262 (d) In any prosecution for computer luring:

263 (i) No person shall be held to have violated this
264 subsection (3) solely for providing access or connection to or
265 from a facility, system, or network not under that person's
266 control, including transmission, downloading, intermediate
267 storage, access software or other related capabilities that are
268 incidental to providing such access or connection that do not
269 include the creation of the content of the communication.

270 (ii) No employer shall be held liable for the
271 actions of an employee or agent unless the employee's or agent's
272 conduct is within the scope of his employment or agency or the
273 employer, having knowledge of such conduct, authorizes or ratifies
274 such conduct, or recklessly disregards such conduct.



275 (iii) The limitations provided by this paragraph
276 (d) shall not be applicable to a person who is a conspirator with
277 an entity actively involved in the creation or knowing
278 distribution of communications that violate such provisions, or
279 who knowingly advertises the availability of such communications,
280 nor to a person who provides access or connection to a facility,
281 system or network engaged in the violation of such provisions that
282 is owned or controlled by such person.

283 (e) Computer luring is a felony, and any person
284 convicted thereof shall be punished by commitment to the custody
285 of the Department of Corrections for a term not to exceed three
286 (3) years and by a fine not to exceed Ten Thousand Dollars
287 (\$10,000.00).

288 (4) Investigation and prosecution of a defendant under this
289 section does not preclude prosecution of the defendant for a
290 violation of other applicable criminal laws, including, but not
291 limited to, the Mississippi Human Trafficking Act, Section 97-3-54
292 et seq.

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

295 97-5-29. (1) Any person who intentionally and knowingly
296 places sexually oriented materials upon public display, or who
297 knowingly and intentionally fails to take prompt action to remove
298 such a display from property in his possession after learning of
299 its existence shall be guilty of a misdemeanor and upon conviction



300 shall be fined for each offense not less than Five Hundred Dollars
301 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00) or be
302 imprisoned for not more than one (1) year in the county jail, or
303 be punished by both such fine and imprisonment.

304 (2) For purposes of this section any material is sexually
305 oriented if the material consists of representations or
306 descriptions of actual or simulated masturbation, sodomy,
307 excretory functions, lewd exhibition of the genitals or female
308 breasts, sadomasochistic abuse (for the purpose of sexual
309 stimulation or gratification), homosexuality, lesbianism,
310 bestiality, sexual intercourse or physical contact with a person's
311 clothed or unclothed genitals, pubic area, buttocks or the breast
312 or breasts of a female for the purpose of sexual stimulation,
313 gratification or perversion.

314 (3) A person places sexually oriented material upon public
315 display within the meaning of this section if he places the
316 material on or in a billboard, viewing screen, theater stage or
317 marquee, newsstand, display rack, window, showcase, display case
318 or other similar place, including a viewing screen in a vehicle,
319 so that sexually oriented material is easily visible from a public
320 street, public road or sidewalk or from areas of public businesses
321 in which minors are normally business invitees.

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



324 97-5-31. As used in Sections 97-5-33 through 97-5-37, the
325 following words and phrases shall have the meanings given to them
326 in this section:

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

329 (b) "Sexually explicit conduct" means actual or
330 simulated:

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

334 (ii) Bestiality;

335 (iii) Masturbation;

336 (iv) Sadistic or masochistic abuse;

337 (v) Lascivious exhibition of the genitals or pubic
338 area of any person; or

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

341 (c) "Producing" means producing, directing,
342 manufacturing, issuing, publishing or advertising.

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

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



348 (f) "Simulated" means any depicting of the genitals or
349 rectal areas that gives the appearance of sexual conduct or
350 incipient sexual conduct.

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

353 97-5-33. (1) No person shall, by any means including
354 computer, cause, solicit or knowingly permit any child to engage
355 in sexually explicit conduct or in the simulation of sexually
356 explicit conduct for the purpose of producing any visual depiction
357 of such conduct.

358 (2) No person shall, by any means including computer,
359 photograph, film, video tape or otherwise depict or record a child
360 engaging in sexually explicit conduct or in the simulation of
361 sexually explicit conduct.

362 (3) No person shall, by any means including computer,
363 knowingly send, transport, transmit, ship, mail or receive any
364 photograph, drawing, sketch, film, video tape or other visual
365 depiction of an actual child engaging in sexually explicit
366 conduct.

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



372 (5) No person shall, by any means including computer,
373 knowingly possess or knowingly access with intent to view any
374 photograph, drawing, sketch, film, video tape or other visual
375 depiction of an actual child engaging in sexually explicit
376 conduct.

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

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

385 (8) The fact that an undercover operative or law enforcement
386 officer posed as a child or was involved in any other manner in
387 the detection and investigation of an offense under this section
388 shall not constitute a defense to a prosecution under this
389 section.

390 (9) For purposes of determining jurisdiction, the offense is
391 committed in this state if all or part of the conduct described in
392 this section occurs in the State of Mississippi or if the
393 transmission that constitutes the offense either originates in
394 this state or is received in this state.

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



397 97-5-37. The provisions of Sections 97-5-31 through 97-5-37
398 are supplemental to any statute relating to child abuse or
399 neglect, obscenity, enticement of children or contributing to
400 delinquency of a minor and acquittal or conviction pursuant to any
401 other statute shall not be a bar to prosecution under Sections
402 97-5-31 through 97-5-37. Acquittal or conviction under Sections
403 97-5-31 through 97-5-37 shall not be a bar to prosecution and
404 conviction under other statutes defining crimes or misdemeanors,
405 nor to any civil or administrative remedy otherwise available.

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

408 97-29-101. A person commits the offense of distributing
409 obscene materials or obscene performances when he sells, rents,
410 leases, advertises, publishes or exhibits to any person any
411 obscene material or obscene performance of any description knowing
412 the obscene nature thereof, or offers to do so, or possesses such
413 material with the intent to do so. A person commits the offense
414 of wholesale distributing obscene materials or obscene
415 performances when he distributes for the purpose of resale any
416 obscene material or obscene performance of any description knowing
417 the obscene nature thereof, or offers to do so, or possesses such
418 material with the intent to do so. The word "knowing" as used in
419 this section means either actual or constructive knowledge of the
420 obscene contents of the subject matter, and a person has
421 constructive knowledge of the obscene contents if he has knowledge



422 of facts which would put a reasonable and prudent person on notice
423 as to the suspect nature of the material. The character and
424 reputation of an individual charged with an offense under Sections
425 97-29-101 through 97-29-109 and, if a commercial dissemination of
426 obscene material or an obscene performance is involved, the
427 character and reputation of the business establishment involved,
428 may be placed in evidence by the defendant on the question of
429 intent to violate Sections 97-29-101 through 97-29-109.

430 Any person, other than a city attorney, county prosecuting
431 attorney or district attorney, who shall sign an affidavit
432 charging an offense prescribed by this section shall file a bond
433 in the amount of Five Hundred Dollars (\$500.00) at the time such
434 affidavit is lodged. Such bond shall be conditioned that the
435 affidavit was not filed frivolously, maliciously or out of ill
436 will.

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

439 97-29-107. (1) Sections 97-29-101 through 97-29-109 shall
440 not apply when the distribution or wholesale distribution of the
441 material, performance or device was made by:

442 (a) A person, corporation, company, partnership, firm,
443 association, business, establishment or other legal entity to a
444 person associated with an institution of higher learning, either
445 as a member of the faculty or as a matriculated student, teaching



446 or pursuing a course of study related to such material,
447 performance or device;

448 (b) A licensed physician or a licensed psychologist to
449 a person whose receipt of such material or device was authorized
450 in writing by such physician or psychologist in the course of
451 medical or psychological treatment or care;

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

458 (d) A community television antenna services system or a
459 cable television system operating pursuant to a written agreement
460 not in conflict with this paragraph granted by a county,
461 municipality or other political subdivision of this state, or by
462 an employee of such system while acting within the scope of his
463 employment, when the signal transmitting the material or
464 performance originates outside of the State of Mississippi.

465 (2) Any exemption from prosecution claimed under the
466 provisions of this section may be raised at a pretrial hearing by
467 motion, and the court shall determine whether sufficient evidence
468 exists to constitute an exemption from prosecution under the
469 provisions of Sections 97-29-101 through 97-29-109. If the motion
470 is sustained, the case shall be dismissed; provided, however, if



471 the motion is not sustained then the defendant may offer into
472 evidence at trial as an affirmative defense to conviction under
473 Sections 97-29-101 through 97-29-109 any matter which could have
474 been raised by the defendant in the motion to dismiss.

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

477 97-29-109. Any person, except one who wholesale distributes,
478 who violates Section 97-29-101 or Section 97-29-105 shall be
479 guilty of a misdemeanor and, upon conviction, shall, in the case
480 of the first offense, be fined not more than Five Thousand Dollars
481 (\$5,000.00) or imprisoned in the county jail for a term not to
482 exceed six (6) months, or both. If the person has been previously
483 convicted of a violation of Section 97-29-101 or Section 97-29-105
484 or of Section 97-5-27 or 97-5-29, Mississippi Code of 1972, then
485 the person shall be fined not less than Two Thousand Five Hundred
486 Dollars (\$2,500.00) nor more than Ten Thousand Dollars
487 (\$10,000.00) or imprisoned for a term not to exceed one (1) year,
488 or both.

489 Any person who wholesale distributes in violation of Section
490 97-29-101 or Section 97-29-105 shall, upon conviction, be fined
491 not more than Ten Thousand Dollars (\$10,000.00) or imprisoned for
492 a term not to exceed one (1) year, or both. If the person has
493 been previously convicted of a violation of Section 97-29-101 or
494 Section 97-29-105 or of Section 97-5-27 or 97-5-29, Mississippi
495 Code of 1972, then the person shall, upon conviction, be fined not



496 less than Two Thousand Five Hundred Dollars (\$2,500.00) nor more
497 than Fifty Thousand Dollars (\$50,000.00) or imprisoned for a term
498 not to exceed one (1) year, or both.

499 A corporation, company, partnership, firm, association,
500 business, establishment, organization or other legal entity other
501 than an individual convicted of distributing obscenity or unlawful
502 sexual devices or wholesale distribution of obscenity or unlawful
503 sexual devices shall be fined not less than One Thousand Dollars
504 (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00). If
505 such legal entity has been previously convicted of distributing
506 obscenity or unlawful sexual devices or wholesale distribution of
507 obscenity or unlawful sexual devices or of a violation of Section
508 97-5-27 or Section 97-5-29, Mississippi Code of 1972, then such
509 legal entity shall be fined not less than Five Thousand Dollars
510 (\$5,000.00) nor more than Fifty Thousand Dollars (\$50,000.00).

511 **SECTION 11.** If any section, paragraph, sentence, clause,
512 phrase or any part of this act passed on or after the effective
513 date of this act is declared to be unconstitutional or void, or if
514 for any reason is declared to be invalid or of no effect, the
515 remaining sections, paragraphs, sentences, clauses, phrases or
516 parts of this act shall be in no manner affected thereby but shall
517 remain in full force and effect.

518 Unless the contrary intent shall clearly appear in the
519 particular act in question, each and every act passed hereafter
520 shall be read and construed as though the provisions of the first



521 paragraph of this section form an integral part thereof, whether
522 expressly set out therein or not.

523 **SECTION 12.** This act shall take effect and be in force from
524 and after July 1, 2023.

