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HOUSE BILL NO. 1492**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Joint Conference Committee
on March 10, 2000)

(Patron Prior to Substitute—Delegate Devolites)

*A BILL to amend and reenact §§ 18.2-373 and 18.2-391 of the Code of Virginia, relating to unlawful electronic file or message; penalty.***Be it enacted by the General Assembly of Virginia:****1. That §§ 18.2-373 and 18.2-391 of the Code of Virginia are amended and reenacted, as follows:**

§ 18.2-373. Obscene items enumerated.

Obscene items shall include:

(1) Any obscene book; or

(2) Any obscene leaflet, pamphlet, magazine, booklet, picture, painting, bumper sticker, drawing, photograph, film, negative, slide, motion picture, videotape recording; ~~or~~(3) Any obscene figure, object, article, instrument, novelty device, or recording or transcription used or intended to be used in disseminating any obscene song, ballad, words, or sounds; *or*(4) *Any obscene writing, picture or similar visual representation, or sound recording, stored in an electronic or other medium retrievable in a perceivable form.*

§ 18.2-391. Unlawful acts.

A. It shall be unlawful for any person knowingly to sell, rent or loan to a juvenile, or to knowingly display for commercial purpose in a manner whereby juveniles may examine and peruse:

1. Any picture, photography, drawing, sculpture, motion picture film, electronic file or message containing an image, or similar visual representation or image of a person or portion of the human body which depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to juveniles, or

2. Any book, pamphlet, magazine, printed matter however reproduced, electronic file or message containing words, or sound recording which contains any matter enumerated in subdivision 1 of this subsection, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to juveniles.

However, if a person uses services of an Internet service provider or an electronic mail service provider in committing acts prohibited under this subsection, such Internet service provider or electronic mail service provider shall not be held responsible for violating this subsection.

B. It shall be unlawful for any person knowingly to sell to a juvenile an admission ticket or pass, or knowingly to admit a juvenile to premises whereon there is exhibited a motion picture, show or other presentation which, in whole or in part, depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to juveniles or to exhibit any such motion picture at any such premises which are not designed to prevent viewing from any public way of such motion picture by juveniles not admitted to any such premises.

C. It shall be unlawful for any juvenile falsely to represent to any person mentioned in subsection A or subsection B hereof, or to his agent, that such juvenile is eighteen years of age or older, with the intent to procure any material set forth in subsection A, or with the intent to procure such juvenile's admission to any motion picture, show or other presentation, as set forth in subsection B.

D. It shall be unlawful for any person knowingly to make a false representation to any person mentioned in subsection A or subsection B hereof or to his agent, that he is the parent or guardian of any juvenile, or that any juvenile is eighteen years of age, with the intent to procure any material set forth in subsection A, or with the intent to procure such juvenile's admission to any motion picture, show or other presentation, as set forth in subsection B.

E. Violation of any provision hereof shall constitute a Class 1 misdemeanor.