

**OBSCENITY AND
RELATED OFFENSES**

167.051 Definitions for ORS 167.054 and 167.057. As used in ORS 167.054 and 167.057:

- (1) "Child" means a person under 13 years of age.
- (2) "Furnishes" means to sell, give, rent, loan or otherwise provide.
- (3) "Minor" means a person under 18 years of age.
- (4) "Sexual conduct" means:
 - (a) Human masturbation or sexual intercourse;
 - (b) Genital-genital, oral-genital, anal-genital or oral-anal contact, whether between persons of the same or opposite sex or between humans and animals;
 - (c) Penetration of the vagina or rectum by any object other than as part of a medical diagnosis or as part of a personal hygiene practice; or
 - (d) Touching of the genitals, pubic areas or buttocks of the human male or female or of the breasts of the human female.

(5) "Sexually explicit material" means material containing visual images of:

(a) Human masturbation or sexual intercourse;

(b) Genital-genital, oral-genital, anal-genital or oral-anal contact, whether between persons of the same or opposite sex or between humans and animals; or

(c) Penetration of the vagina or rectum by any object other than as part of a personal hygiene practice. [2007 c.869 §1]

Note: 167.051, 167.054 and 167.057 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

167.054 Furnishing sexually explicit material to a child. (1) A person commits the crime of furnishing sexually explicit material to a child if the person intentionally furnishes a child, or intentionally permits a child to view, sexually explicit material and the person knows that the material is sexually explicit material.

(2) A person is not liable to prosecution for violating subsection (1) of this section if:

(a) The person is an employee of a bona fide museum, school, law enforcement agency, medical treatment provider or public library, acting within the scope of regular employment; or

(b) The person furnishes, or permits the viewing of, material the sexually explicit portions of which form merely an incidental part of an otherwise nonoffending whole and serve some purpose other than titillation.

(3) In a prosecution under subsection (1) of this section, it is an affirmative defense:

(a) That the sexually explicit material was furnished, or the viewing was permitted, solely for the purpose of sex education, art education or psychological treatment and was furnished or permitted by the child's parent or legal guardian, by an educator or treatment provider or by another person acting on behalf of the parent, legal guardian, educator or treatment provider;

(b) That the defendant had reasonable cause to believe that the person to whom the sexually explicit material was furnished, or who was permitted to view the material, was not a child; or

(c) That the defendant was less than three years older than the child at the time of the alleged offense.

(4) In a prosecution under subsection (1) of this section, it is not a defense that the person to whom the sexually explicit material was furnished or who was permitted to view the material was not a child but was a law enforcement officer posing as a child.

(5) Furnishing sexually explicit material to a child is a Class A misdemeanor. [2007 c.869 §2]

Note: See note under 167.051.

167.055 [1955 c.636 §9; 1963 c.513 §1; repealed by 1971 c.743 §432]

167.057 Luring a minor. (1) A person commits the crime of luring a minor if the person:

(a) Furnishes to, or uses with, a minor a visual representation or explicit verbal description or narrative account of sexual conduct; and

(b) Furnishes or uses the representation, description or account for the purpose of:

(A) Arousing or satisfying the sexual desires of the person or the minor; or

(B) Inducing the minor to engage in sexual conduct.

(2) A person is not liable to prosecution for violating subsection (1) of this section if the person furnishes or uses a representation, description or account of sexual conduct that forms merely an incidental part of an otherwise nonoffending whole and serves some purpose other than titillation.

(3) In a prosecution under subsection (1) of this section, it is an affirmative defense:

(a) That the representation, description or account was furnished or used for the purpose of psychological or medical treatment and was furnished by a treatment provider or by another person acting on behalf of the treatment provider;

(b) That the defendant had reasonable cause to believe that the person to whom the representation, description or account was furnished or with whom the representation, description or account was used was not a minor; or

(c) That the defendant was less than three years older than the minor at the time of the alleged offense.

(4) In a prosecution under subsection (1) of this section, it is not a defense that the person to whom the representation, description or account was furnished or with whom the representation, description or account was used was not a minor but was a law enforcement officer posing as a minor.

(5) Luring a minor is a Class C felony. [2007 c.869 §3]

Note: See note under 167.051.

167.060 Definitions for ORS 167.060 to 167.095. As used in ORS 167.060 to 167.095, unless the context requires otherwise:

(1) "Advertising purposes" means purposes of propagandizing in connection with the commercial sale of a product or type of product, the commercial offering of a service,