

3. We are named defendants in the above entitled matter and are familiar with the contents of House Bill 260, Amendments Related to Pornographic and Harmful Materials, passed by the 2005 Utah Legislature.

4. House Bill 260 is directed at Internet service providers (ISPs) and Utah-based Internet content providers. In the event ISPs do not make filtering or blocking systems available to their customers they may be subject to criminal penalties under the Act. In the event Utah-based content providers post material harmful to minors on the Internet, and do not label their content, they may be subject to criminal penalties under the Act.

5. We have viewed the web sites of The King's English, Sam Weller's Zion Bookstore, and the ACLU of Utah, plaintiffs herein, and we find nothing on those web sites which violates the provisions of House Bill 260.

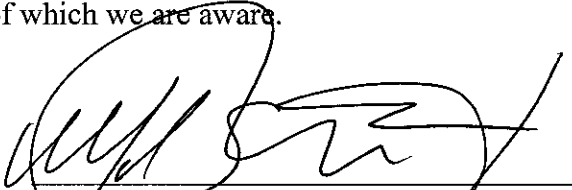
6. The web sites we have viewed to make this determination are: kingsenglish.booksense.com (The King's English), www.samwellers.com (Sam Weller's Zion Bookstore), www.acluutah.org (ACLU of Utah).

7. While the Act is not currently being enforced because of its delayed implementation dates, were the Act to be enforced we find it extremely difficult to conceive of a scenario in which we would regard these plaintiffs as posting anything on their websites which would be in violation of the Act.

8. Plaintiff American Booksellers Foundation for Free Expression is neither an ISP nor Utah-based content provider, but claims that it represents Utah booksellers, and claims that some of its members "have their own web pages." It also claims that its members are not "adult bookstores." (Cmplt. ¶ 161.) Based upon the assumption that some of its Utah members may have their own web pages, and upon the assumption that those members are similar to plaintiffs The King's English and Sam Weller's Zion Bookstore, we do not believe such bookstores in Utah are posting anything on their web sites which would be deemed in violation of the provisions of House Bill 260 or the harmful to minors standard.


9. As such, not only do we believe that it would be unlikely that the above plaintiffs, or members of ABFFE, would ever be subject to prosecution under House Bill 260, we deem it extremely unlikely based upon current web sites of which we are aware.

DATED this 22nd day of August, 2005.




MARK L. SHURTLEFF
Attorney General

Subscribed and sworn to before me this 22nd day of August, 2005.


Notary Public
SHELLEY EXETER
Utah State Capitol Complex
East Office Bldg. #320
Salt Lake City, UT 84114
My Commission Expires
November 11, 2008
State of Utah
DATED this 22nd day of August, 2005.

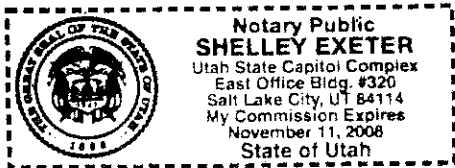


Notary Public



DAVID YOCOM
Salt Lake County District Attorney

Subscribed and sworn to before me this 22nd day of August, 2005.





Notary Public