

IN THE SENATE

SENATE BILL NO. 1188

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO MINORS; AMENDING SECTION 18-1520, IDAHO CODE, TO PROVIDE THAT
2 CERTAIN INSTITUTIONS MAY BE ENJOINED, TO DEFINE TERMS, AND TO MAKE TECH-
3 NICAL CORRECTIONS; AMENDING SECTION 18-1521, IDAHO CODE, TO REVISE PRO-
4 VISIONS REGARDING UNIFORM ENFORCEMENT AND THE ABROGATION AND BANNING
5 OF CERTAIN ORDINANCES, RULES, AND REGULATIONS AND TO DEFINE TERMS; AND
6 DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Section 18-1520, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 18-1520. DISTRICT COURTS -- INJUNCTIONS -- TRIAL -- ORDERS OF INJUNC-
12 TION. (1) The district courts have jurisdiction to enjoin the sale or distri-
13 bution of material harmful to minors, and to direct the seizure and destruc-
14 tion of the same, as hereinafter specified:

15 ~~1-~~ (a) The prosecuting attorney of any county in which a person, firm,
16 ~~or~~ corporation, school, college, university, museum, public library,
17 public health district, taxing district, political subdivision of this
18 state, or any entity that within the last five (5) years received public
19 funds or a tax rebate, incentive, or exemption made available by the
20 state sells, distributes or promotes, or is about to sell, distribute
21 or promote, or has in ~~his~~ their possession with intent to sell, distrib-
22 ute or promote, or is about to acquire possession with intent to sell,
23 distribute or promote, any material harmful to minors, may maintain an
24 action in the name of the state of Idaho for an injunction against such
25 person, firm, ~~or~~ corporation, school, college, university, museum,
26 public library, public health district, taxing district, political
27 subdivision of this state, or any entity that within the last five (5)
28 years received public funds or a tax rebate, incentive, or exemption
29 made available by the state in the district court of that county to
30 prevent the sale, distribution or promotion, or further sale, distri-
31 bution, or promotion, or the acquisition or possession of any material
32 harmful to minors.

33 ~~2-~~ (b) The person, firm, ~~or~~ corporation, school, college, university,
34 museum, public library, public health district, taxing district, po-
35 litical subdivision of this state, or any entity that within the last
36 five (5) years received public funds or a tax rebate, incentive, or ex-
37 emption made available by the state sought to be enjoined for selling,
38 distributing, or promoting materials harmful to minors shall be enti-
39 tled to a trial of the issues within one (1) day after joinder of issue
40 and a decision shall be rendered by the court within two (2) days of the
41 conclusion of the trial.

1 ~~3.~~ (c) In the event that a final order or judgment of injunction be
2 entered in favor of the state of Idaho and against the person, firm,
3 ~~or corporation, school, college, university, museum, public library,~~
4 ~~public health district, taxing district, political subdivision of this~~
5 ~~state, or any entity that within the last five (5) years received public~~
6 ~~funds or a tax rebate, incentive, or exemption made available by the~~
7 ~~state sought to be enjoined for selling, distributing, or promoting ma-~~
8 ~~terials harmful to minors, such final order or judgment shall contain a~~
9 ~~provision directing the person, firm, or corporation, school, college,~~
10 ~~university, museum, public library, public health district, taxing~~
11 ~~district, political subdivision of this state, or any entity that~~
12 ~~within the last five (5) years received public funds or a tax rebate,~~
13 ~~incentive, or exemption made available by the state to cease and desist~~
14 ~~from the sale, distribution, or promotion of all materials adjudged to~~
15 ~~be harmful to minors.~~

16 ~~4.~~ (d) Such final order or judgment of injunction shall not enjoin or
17 prohibit a person, firm, ~~or corporation, school, college, university,~~
18 ~~museum, public library, public health district, taxing district, po-~~
19 ~~litical subdivision of this state, or any entity that within the last~~
20 ~~five (5) years received public funds or a tax rebate, incentive, or~~
21 ~~exemption made available by the state from sale, distribution or pro-~~
22 ~~motion of material harmful to minors to persons other than minors, nor~~
23 ~~shall it order the seizure and destruction of material harmful to minors~~
24 ~~unless the court finds and concludes that the person, firm, or corpo-~~
25 ~~ration, school, college, university, museum, public library, public~~
26 ~~health district, taxing district, political subdivision of this state,~~
27 ~~or any entity that within the last five (5) years received public funds~~
28 ~~or a tax rebate, incentive, or exemption made available by the state has~~
29 ~~been selling, distributing or promoting, or intends to sell, distribute~~
30 ~~or promote, such material to minors.~~

31 ~~5.~~ (e) In any action brought as ~~herein~~ provided in this section, the
32 prosecuting attorney, on behalf of the state of Idaho, shall not be re-
33 quired to file any ~~other~~ undertaking before the issuance of an injunc-
34 tion order for selling, distributing, or promoting materials harmful to
35 minors, shall not be liable for costs, and shall not be liable for dam-
36 ages sustained by reason of the injunction order in cases where judgment
37 is rendered in favor of the person, firm, ~~or corporation, school, col-~~
38 ~~lege, university, museum, public library, public health district, tax-~~
39 ~~ing district, political subdivision of this state, or any entity that~~
40 ~~within the last five (5) years received public funds or a tax rebate, in-~~
41 ~~centive, or exemption made available by the state sought to be enjoined.~~

42 ~~6.~~ (f) Every person, firm, ~~or corporation, school, college, univer-~~
43 ~~sity, museum, public library, public health district, taxing district,~~
44 ~~political subdivision of this state, or any entity that within the~~
45 ~~last five (5) years received public funds or a tax rebate, incentive,~~
46 ~~or exemption made available by the state who sells, distributes, or~~
47 ~~promotes, or acquires possession with intent to sell, distribute, or~~
48 ~~promote, any material harmful to minors, after the service upon him of a~~
49 ~~summons and complaint in an action brought pursuant to this section, is~~
50 ~~chargeable with knowledge of the contents thereof.~~

1 (2) As used in this section:

2 (a) "Tax exemption" means a reduction of the amount of income that is
3 subject to income tax in this state.

4 (b) "Tax incentive" means a measure designed to incentivize or encour-
5 age a particular economic activity by reducing tax payments.

6 (c) "Tax rebate" means a refund of taxpayer money after a retroactive
7 tax decrease.

8 SECTION 2. That Section 18-1521, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 18-1521. UNIFORM ENFORCEMENT -- ABROGATION OF EXISTING ORDINANCES,
11 RULES, AND REGULATIONS -- FURTHER LOCAL ORDINANCES, RULES, OR REGULA-
12 TIONS BANNED. (1) In order to make the application and enforcement of this
13 act uniform throughout the state, it is the intent of the legislature to
14 preempt, to the exclusion of city and county governments, schools, colleges,
15 universities, museums, public libraries, public health districts, tax-
16 ing districts, any political subdivision of this state, or any entity that
17 within the last five (5) years received public funds or a tax rebate, incen-
18 tive, or exemption made available by the state, the regulation of the sale,
19 loan, distribution, dissemination, presentation or exhibition to a minor of
20 material which that is obscene or which that is harmful to minors and depicts
21 in whole or in part nudity, sexual conduct or sado-masochistic abuse. To
22 that end, it is hereby declared that every city or county ordinance, rule,
23 or regulation adopted before the effective date of this act which that deals
24 with the regulation of the sale, loan, distribution, dissemination, presen-
25 tation or exhibition to a minor of material which that is obscene or which
26 that is harmful to minors and depicts in whole or in part nudity, sexual con-
27 duct or sado-masochistic abuse, shall stand abrogated and unenforceable on
28 or after such effective date; and that no city or county government, school,
29 college, university, museum, public library, public health district, taxing
30 district, political subdivision of this state, or any entity that within
31 the last five (5) years received public funds or a tax rebate, incentive,
32 or exemption made available by the state shall have the power to adopt any
33 ordinance, rule, or regulation relating to the regulation of the sale, loan,
34 distribution, dissemination, presentation or exhibition to a minor of ma-
35 terial which that is obscene or which that is harmful to minors and depicts
36 in whole or in part nudity, sexual conduct or sado-masochistic abuse, on or
37 after such effective date.

38 (2) As used in this section:

39 (a) "Tax exemption" means a reduction of the amount of income that is
40 subject to income tax in this state.

41 (b) "Tax incentive" means a measure designed to incentivize or encour-
42 age a particular economic activity by reducing tax payments.

43 (c) "Tax rebate" means a refund of taxpayer money after a retroactive
44 tax decrease.

45 SECTION 3. An emergency existing therefor, which emergency is hereby
46 declared to exist, this act shall be in full force and effect on and after
47 July 1, 2023.