

## ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda--underwritten by global corporations--includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

### ALEC's Corporate Board --in recent past or present

- AT&T Services, Inc.
  - centerpoint360
  - UPS
  - Bayer Corporation
  - GlaxoSmithKline
  - Energy Future Holdings
  - Johnson & Johnson
  - Coca-Cola Company
  - PhRMA
  - Kraft Foods, Inc.
  - Coca-Cola Co.
  - Pfizer Inc.
  - Reed Elsevier, Inc.
  - DIAGEO
  - Peabody Energy
  - Intuit, Inc.
  - Koch Industries, Inc.
  - ExxonMobil
  - Verizon
  - Reynolds American Inc.
  - Wal-Mart Stores, Inc.
  - Salt River Project
  - Altria Client Services, Inc.
  - American Bail Coalition
  - State Farm Insurance
- For more on these corporations, search at [www.SourceWatch.org](http://www.SourceWatch.org).

MEETINGS

**DID YOU KNOW?** Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

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### Obscenity and Child Pornography Act

Did you know the NRA--the National Rifle Association--was the corporate co-chair in 2011?

#### Summary

This Act would clearly and explicitly define material that is obscene, material that is pornographic for minors, and child pornography. The Act would establish misdemeanor penalties for first offense sale or distribution of material that is pornographic for minors and for first offense possession of child pornography. The Act would establish felony penalties for sale or distribution of obscene material, second offense sale or distribution of material that is pornographic for minors, and second offense possession of child pornography.

#### Model Legislation

{Title, enacting clause, etc.}

**Section 1. {Title.}** This Act may be cited as the Obscenity and Child Pornography Act.

**Section 2. {Definitions.}** As used in this Act:

(A) "Child pornography" means any material or performance depicting sexual conduct, sexual contact, or a sexual performance as these terms are defined in [cite appropriate state law], and which has as one of its participants or portrays as an observer of such conduct, contact, or performance a child under the age of 18; provided, that it shall not include material that is not the visual reproduction of a live event.

(B) "Displays publicly" means exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway, or public sidewalk, or from the property of others or from any portion of the person's store, or the exhibitor's store or property when items and material other than this material are offered for sale or rent to the public.

(C) "Explicit sexual material" means any pictorial or three-dimensional material depicting human masturbation, deviate sexual intercourse, sexual intercourse, direct physical stimulation or unclothed genitals, sadomasochistic abuse, or emphasizing the depiction of post-pubertal human genitals; provided, however, that works of art or of anthropological significance shall not be deemed to be within the foregoing definition.

(D) "Furnish" means to issue, sell, give, provide, lend, mail, deliver, transfer, circulate, disseminate, present, exhibit, or otherwise provide.

(E) "Material" means anything printed or written or any picture drawing, photograph, motion picture film, videotape or videotape production, or pictorial representation, or any statue or other figure, or any recording or transcription, or any mechanical, chemical, or electrical reproduction, or anything that is or may be used as a means of communication. "Material" includes underdeveloped photographs, molds, printing plates, and other latent representational objects.

(F) "Minor" means any person under the age of 18.

(G) "Nudity" means the showing of post-pubertal human genitals, or pubic area with less than a fully opaque covering;

(H) "Obscene" means any material or performance if:

(1) applying contemporary community standards, its predominant appeal is to prurient interest in sex; and

(2) taken as a whole with the average person, applying contemporary community standards, it depicts or describes sexual conduct in a patently offensive way; and

(3) taken as a whole it lacks serious literary, artistic, political, or scientific value. Obscenity shall be judged with reference to its impact upon ordinary adults.

(I) "Performance" means any play, motion picture film, video tape, dance, or exhibition performed before an audience of one or more.

(J) "Pornographic for minors" means any material or performance if the following apply:

(1) The average person, applying contemporary community standards, would find that the material or performance, taken as a whole, has a tendency to cater or appeal to a

prurient interest of minors; and

(2) The material or performance depicts or describes nudity, sexual conduct, sexual excitement, or sadomasochistic abuse in a way which is patently offensive to the average person applying contemporary adult community standards with respect to what is suitable for minors; and

(3) The material or performance, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

(K) "Promote" means to manufacture, issue, sell, provide, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do the same.

(L) "Sadomasochistic abuse" means flagellation or torture by or upon a person as an act of sexual stimulation or gratification.

(M) "Sexual conduct" means actual or simulated, normal or perverted acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification or any sadomasochistic abuse or acts including animals or any latent objects in an apparent sexual stimulation or gratification.

(N) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(O) "Wholesale promote" means to manufacture, issue, sell, provide, mail, deliver, transfer, publish, distribute, circulate, disseminate, or to offer or agree to do the same for purposes of resale or redistribution.

### **Section 3. {Penalty for wholesale promoting obscenity.}**

(A) A person commits the crime of promoting obscenity in the first degree if, knowing its content and character, he or she:

(1) wholesale promotes or possesses with the purpose to wholesale promote any obscene material; or

(2) wholesale promotes for minors or possesses with the purpose to wholesale promote for minors any material pornographic for minors.

(B) Promoting obscenity in the first degree is a class D felony.

### **Section 4. {Penalty for promoting pornography for minors.}**

(A) A person commits the crime of promoting pornography for minors, or obscenity in the second degree if, knowing its content and character, he or she:

(1) promotes or possesses with the purpose to promote any obscene material for pecuniary gain;

(2) produces, presents, directs, or participates in any obscene performance for pecuniary gain;

(3) promotes or possesses with the purpose to promote any material pornographic for minors for pecuniary gain; or

(4) produces, presents, directs, or participates in any performance pornographic for minors for pecuniary gain.

(B) Promoting pornography for minors or obscenity in the second degree is a class A misdemeanor unless the person has pleaded guilty to or has been found guilty of an offense under this section committed at a different time, in which case it is a class D felony.

### **Section 5. {Penalty for possession of child pornography.}**

(A) A person commits the crime of possession of child pornography if he or she knowingly:

(1) possesses or controls any obscene material that has a minor as one of its participants or portrays as an observer of sexual conduct, sexual contact, or a sexual performance a minor; or

(2) possesses or controls any material that shows a minor participating or engaging in sexual conduct.

(B) Possession of child pornography is a class A misdemeanor unless the person has pleaded guilty to or has been found guilty of an offense under this section committed at a different time, in which case it is a class D felony.

### **Section 6. {Penalty for furnishing pornographic material to minors.}**

(A) A person commits the crime of furnishing pornographic material to minors if, knowing its content and character, he or she:

(1) furnishes any material pornographic for minors, knowing that the person to whom it is furnished is a minor or acting in reckless disregard of the likelihood that such person is a minor; or

(2) produces, presents, directs, or participates in any performance pornographic for minors that is furnished to a minor knowing that any person viewing such performance

is a minor or acting in reckless disregard of the likelihood that a minor is viewing the performance.

(B) Furnishing pornographic material to minors is a class A misdemeanor unless the person has pleaded guilty to or has been found guilty of an offense under this section committed at a different time, in which case it is a class D felony.

#### **Section 7. {Admissibility of evidence.}**

(A) In any prosecution under this Act evidence shall be admissible to show:

(1) what the predominant appeal of the material or performance would be for ordinary adults or minors;

(2) the literary, artistic, political, or scientific value of the material or performance;

(3) the degree of public acceptance in this state and in the local community;

(4) the appeal to prurient interest in advertising or other promotion of the material or performance;

(5) the purpose of the author, creator, promoter, furnisher, or publisher of the material or performance;

(B) Testimony of the author, creator, promoter, furnisher, publisher, or expert testimony, relating to factors entering into the determination of the issues of obscenity or child pornography, shall be admissible.

(C) In any prosecution for possession of child pornography or promoting child pornography in the first or second degree, the determination that the person who participated in the child pornography was younger than 18 years of age may be made as set forth in [cite appropriate state law] or reasonable inferences drawn by a judge or jury after viewing the alleged pornographic material shall constitute sufficient evidence of the child's age to support a conviction.

(D) In any prosecution for promoting child pornography in the first or second degree, no showing is required that the performance or material involved appeals to prurient interest, that it lacks serious literary, artistic, political or scientific value, or that it is patently offensive to prevailing standards in the community as a whole.

#### **Section 8. {Severability clause.}**

#### **Section 9. {Repealer clause.}**

#### **Section 10. {Effective date.}**

*ALEC's Sourcebook of American State Legislation 1995*

**About Us and ALEC EXPOSED.** The Center for Media and Democracy reports on corporate spin and government propaganda. We are located in Madison, Wisconsin, and publish [www.PRWatch.org](http://www.PRWatch.org), [www.SourceWatch.org](http://www.SourceWatch.org), and now [www.ALECExposed.org](http://www.ALECExposed.org). For more information contact: [editor@prwatch.org](mailto:editor@prwatch.org) or 608-260-9713.