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**OBSCENE MATTER**

**DRAFT**  
~~RSA 650:2, 1 (a) Obscenity - [sale]~~

The defendant is charged with the offense of obscenity. The definition of this crime has three parts or elements. The state must prove each element beyond a reasonable doubt. Thus the state must prove that:

1. The defendant with knowledge of the nature of the content; and
2. [Sold] [delivered or provided] [offered or agreed to sell] any obscene material; and
3. The defendant acted knowingly.

These are the elements of the crime of obscenity. Certain words in the definition need to be further defined.

“Material” means any printed matter, visual representation, live performance or sound recording including, but not limited to, books, magazines, motion picture films, pamphlets, phonographic records, pictures, photographs, figures, statutes, plays, dances or other representation or embodiment of the obscene. Undeveloped photographs, molds, printing plates, and the like, shall be deemed obscene material notwithstanding that processing or other acts may be required to make the obscenity patent or to disseminate it.

Material is “obscene” if, considered as a whole, to the average person

(a) When applying the contemporary standards of the county within which the obscenity offense was committed, its predominate appeal is to the prurient interest in sex, that is, an interest in lewdness or lascivious thoughts;

(b) It depicts or describes sexual conduct in a manner so explicit as to be patently offensive;

(c) It lacks serious literary, artistic, political or scientific value.

“Knowledge” means general awareness of the nature of the content of the material.

“Knowingly” means [see definition of knowingly].

**RSA 650:2, I (b) Obscenity – [present or direct performance]**

The defendant is charged with the offense of obscenity. The definition of this crime has three parts or elements. The state must prove each element beyond a reasonable doubt. Thus the State must prove that:

1. The defendant with knowledge of the nature of the content thereof;
2. [Presented or directed an obscene play, dance or performance] [participated in that portion thereof which made it obscene];and
3. The defendant acted knowingly.

These are the elements of the crime of obscenity. Certain words in the definition need to be further defined.

“Obscene” means if, considered as a whole, to the average person

(a) When applying the contemporary standards of the county within which the obscenity offense was committed, its predominate appeal is to the prurient interest in sex, that is, an interest in lewdness or lascivious thoughts;

(b) It depicts or describes sexual conduct in a manner so explicit as to be patently offensive;

(c) It lacks serious literary, artistic, political or scientific value.

“Knowledge” means general awareness of the nature of the content of the material.

“Knowingly” means [see definition of knowingly].

**RSA 650:2, I (c) Obscenity – [publish]**

The defendant is charged with the offense of obscenity. The definition of this crime has three parts or elements. The state must prove each element beyond a reasonable doubt. Thus the State must prove that:

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1. The defendant with knowledge of the nature of the content thereof; and
2. [Published] [exhibited][otherwise made] obscene material available; and
3. The defendant acted knowingly.

These are the elements of the crime of obscenity. Certain words in the definition need to be further defined.

“Material” means any printed matter, visual representation, live performance or sound recording including, but not limited to, books, magazines, motion picture films, pamphlets, phonographic records, pictures, photographs, figures, statues, plays, dances or other representation or embodiment of the obscene. Undeveloped photographs, molds, printing plates, and the like, shall be deemed obscene material notwithstanding that processing or other acts may be required to make the obscenity patent or to disseminate it.

“Obscene” means if, considered as a whole, to the average person

(a) When applying the contemporary standards of the county within which the obscenity offense was committed, its predominate appeal is to the prurient interest in sex, that is, an interest in lewdness or lascivious thoughts;

(b) It depicts or describes sexual conduct in a manner so explicit as to be patently offensive;

(c) It lacks serious literary, artistic, political or scientific value.

“Knowledge” means general awareness of the nature of the content of the material.

“Knowingly” means [see definition of knowingly].

**RSA 650:2, I (d) Obscenity – [possess with intent to sell]**

The defendant is charged with the offense of obscenity. The definition of this crime has three parts or elements. The state must prove each element beyond a reasonable doubt. Thus the State must prove that:

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1. The defendant with knowledge of the nature of the content thereof; and
2. Possessed obscene material for purposes of sale or other commercial; and
3. The defendant acted purposely.

These are the elements of the crime of obscenity. Certain words in the definition need to be further defined.

“Material” means any printed matter, visual representation, live performance or sound recording including, but not limited to, books, magazines, motion picture films, pamphlets, phonographic records, pictures, photographs, figures, statuettes, plays, dances or other representation or embodiment of the obscene. Undeveloped photographs, molds, printing plates, and the like, shall be deemed obscene material notwithstanding that processing or other acts may be required to make the obscenity patent or to disseminate it.

“Obscene” means if, considered as a whole, to the average person

(a) When applying the contemporary standards of the county within which the obscenity offense was committed, its predominate appeal is to the prurient interest in sex, that is, an interest in lewdness or lascivious thoughts;

(b) It depicts or describes sexual conduct in a manner so explicit as to be patently offensive;

(c) It lacks serious literary, artistic, political or scientific value.

“Disseminate” means to import, publish, produce, print, manufacture, distribute, sell, lease, exhibit or display.

“Knowledge” means general awareness of the nature of the content of the material.

“Purposely” means [see definition of purposely.]

**RSA 650:2, 1, (e) Obscenity [commercial dissemination]**

The defendant is charged with the offense of obscenity. The definition of this crime has three parts or elements. The state must prove each element beyond a reasonable doubt. Thus the State must prove that:

1. The defendant with knowledge of the nature of the content thereof; and
2. [Sold] [advertised] [otherwise commercially disseminated] material, whether or not obscene, by representing or suggesting that it was obscene; and
3. The defendant acted knowingly.

These are the elements of the crime of obscenity. Certain words in the definition need to be further defined.

“Material” means any printed matter, visual representation, live performance or sound recording including, but not limited to, books, magazines, motion picture films, pamphlets, phonographic records, pictures, photographs, figures, statues, plays, dances or other representation or embodiment of the obscene. Undeveloped photographs, molds, printing plates, and the like, shall be deemed obscene material notwithstanding that processing or other acts may be required to make the obscenity patent or to disseminate it.

“Obscene” means if, considered as a whole, to the average person

(a) When applying the contemporary standards of the county within which the obscenity offense was committed, its predominate appeal is to the prurient interest in sex, that is, an interest in lewdness or lascivious thoughts;

(b) It depicts or describes sexual conduct in a manner so explicit as to be patently offensive;

(c) It lacks serious literary, artistic, political or scientific value.

“Disseminate” means to import, publish, produce, print, manufacture, distribute, sell, lease, exhibit or display.

“Knowledge” means general awareness of the nature of the content of the material.

“Knowingly means [see definition of knowingly.]