

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE
PART I - CRIMES
CHAPTER 71 - OBSCENITY

§ 1466. Engaging in the business of selling or transferring obscene matter

(a) Whoever is engaged in the business of producing with intent to distribute or sell, or selling or transferring obscene matter, who knowingly receives or possesses with intent to distribute any obscene book, magazine, picture, paper, film, videotape, or phonograph or other audio recording, which has been shipped or transported in interstate or foreign commerce, shall be punished by imprisonment for not more than 5 years or by a fine under this title, or both.

(b) As used in this section, the term “engaged in the business” means that the person who produces¹ sells or transfers or offers to sell or transfer obscene matter devotes time, attention, or labor to such activities, as a regular course of trade or business, with the objective of earning a profit, although it is not necessary that the person make a profit or that the production, selling or transferring or offering to sell or transfer such material be the person’s sole or principal business or source of income. The offering for sale of or to transfer, at one time, two or more copies of any obscene publication, or two or more of any obscene article, or a combined total of five or more such publications and articles, shall create a rebuttable presumption that the person so offering them is “engaged in the business” as defined in this subsection.

Footnotes

¹ So in original. Probably should be followed by a comma.

(Added Pub. L. 100–690, title VII, § 7521(a), Nov. 18, 1988, 102 Stat. 4489; amended Pub. L. 101–647, title XXXV, § 3548, Nov. 29, 1990, 104 Stat. 4926; Pub. L. 109–248, title V, § 506(b), July 27, 2006, 120 Stat. 630.)

Amendments

2006—Subsec. (a). Pub. L. 109–248, § 506(b)(1), inserted “producing with intent to distribute or sell, or” before “selling or transferring obscene matter.”

Subsec. (b). Pub. L. 109–248, § 506(b)(3), which directed amendment of subsec. (b) by inserting “production,” before “selling or transferring or offering to sell or transfer such material,” was executed by making the insertion before “selling or transferring or offering to sell or transfer such material be”, to reflect the probable intent of Congress.

Pub. L. 109–248, § 506(b)(2), inserted “produces” before “sells or transfers or offers to sell or transfer obscene matter”.

1990—Subsec. (b). Pub. L. 101–647 substituted “this section” for “this subsection” and “this subsection” for “subsection (b)”.