

THE MEDIA COALITION INC

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Entertainment
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Freedom to Read
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MEDIA COALITION AND §2257 RECORD KEEPING REGULATIONS

Media Coalition has protected mainstream businesses from §2257 and its regulations since it was originally introduced.

Congress enacted the Child Protection and Obscenity Enforcement Act, 18 U.S.C. §2257, in 1988. The law may have been intended to aid in prosecuting child pornography by requiring records to be kept of all performers' ages. However, as enacted, it created overbroad restrictions on content producers, distributors, and retailers. Media Coalition organized a legal challenge to the overbroad sections of the law, leading to a 1989 decision that found several portions of the law unconstitutional.

Congress and the Department of Justice recently expanded the §2257 law and regulations. Among the changes are:

- Expanded the kinds of images subject to recordkeeping requirements to include images of simulated sex or lascivious display of the genitals.
- Expanded the existing law explicitly to cover digital and digitally created images.
- Broadened the definition of "produces" to potentially include distributors and retailers who had no contact with models or subjects, and thereby
 - required them to keep records subject to inspection at any time, and
 - forced those who suddenly found themselves within the scope of the law to purge their material of older images (because of the retroactive nature of the law) or become susceptible to criminal charges.
- Created §2257A as a safe harbor for companies that maintain business records.
- Added additional requirements to disclaimer labels to be in compliance.

Media Coalition takes action when proposed changes pose serious administrative obstacles for businesses.

- In July 2006, the Adam Walsh law passed with changes to §2257 and new §2257A. Media Coalition joined a broad group in opposition to proposed amendments to §2257. The group, representing a wide range of interests, sent letters to legislators in both the House and Senate. The negotiations resulted in improved language that mitigated the effect of the original changes.
- Media Coalition distributed to members a comprehensive briefing book with a complete history of §2257 containing all the court decisions, letters, comments, and other documents since its original enactment in 1988.
- In June 2007, Department of Justice proposed the first set of regulations pursuant to the 2006 law. Media Coalition responded by submitting a comment challenging certain provisions and seeking clarification on others. Department of Justice issued proposed regulations for §2257A the following year.
- In January 2009, Department of Justice released final regulations for §2257 and §2257A. Media Coalition distributed extensive analysis on both sections to members. The analysis covered the practical impact on doing business and legal questions unanswered by the regulations.
- Media Coalition continues to monitor recent challenges to different parts of the regulations in federal courts in Philadelphia, Colorado and elsewhere.