

The Bare Facts

*How dancers get
'jerked' around by
the law!*



This booklet is not meant to replace legal advice. If you might be in trouble with the law, **YOU NEED A LAWYER!**

SAY NOTHING TO THE POLICE!

If you are under arrest: co-operate, be polite, **DON'T** fight or swear, and **SAY NOTHING** but your name and address until you have spoken to a lawyer!

If you need help getting a lawyer, or are harassed by police, contact:



Maggie's

The Toronto Prostitutes' Community Service Project

(416) 964-0150

THE SUPREME
COURT WANTS ME
TO WHAT!?!

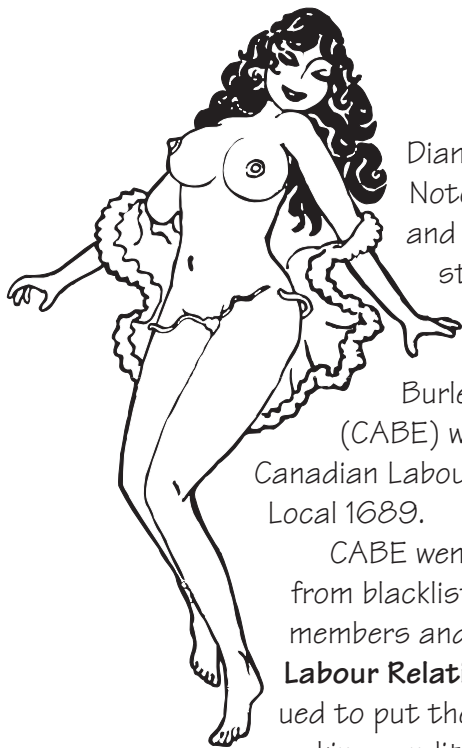


Decisions, decisions ...

Judges, the government and city councils are always changing the laws about strip shows. And these changes always result in changes in working conditions for strippers.

In 1961 Toronto city council passed a by-law allowing striptease on Sundays. At that time burlesque entertainment was restricted to theatres, and strippers had to wear opaque clothing over their bums and nipples. Around 1964 bars started to feature strip shows. In 1973 the Supreme Court of Canada ruled that dancing nude was not 'immoral.' By 1979 Toronto police were still arresting strippers who removed their G-strings, and Metro council passed a by-law that allowed police to close clubs that allowed nude dancing.





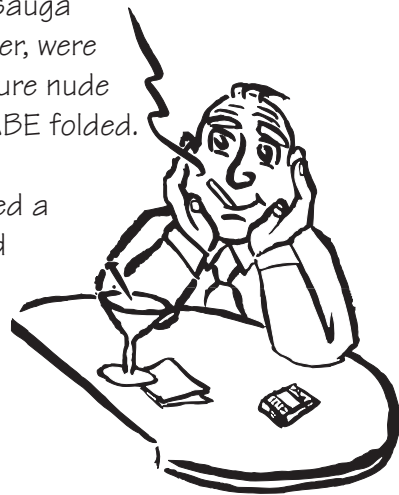
In 1979 strippers Diane Michaels, Mama Mia, Notorious Nadine, Peaches, and others formed the first strippers' union in Canada. The Canadian Association of Burlesque Entertainers (CABE) was recognized by the Canadian Labour Council as Local 1689.

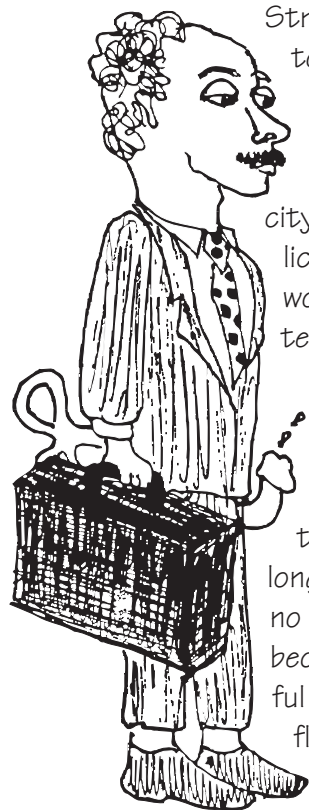
CABE went to court to keep clubs from blacklisting dancers for being members and won under the **Ontario Labour Relations Act**. CABE continued to put the issue of strippers' working conditions on the public agenda with its public appearances, benefits and a newsletter that lasted for three years. Hoping that it would help improve

working conditions, CABE supported licensing as a step in building a burlesque entertainers union.

In 1981 police arrested girls for letting customers slip money into their G-strings. In 1983 Metro council passed a by-law requiring strippers to wear G-strings, and eventually shut down the Danforth Hotel for having nude shows. Strip clubs in suburbs like Mississauga and Vaughan, however, were still allowed to feature nude dancing. In 1982 CABE folded.

Early in 1985 Metro council passed a by-law that required bars to buy a licence if they were going to feature strippers.





Strippers were also required to buy a licence if they wanted to strip in Toronto.

Despite promises from city officials and police that licensing would improve working conditions and protect girls from assault,

Metro profited while doing absolutely nothing for strippers. Corner bars which either couldn't afford licences or were no longer properly zoned could no longer hire strippers. Work became controlled by a handful of clubs while the city was flooded with out-of-town table dancers.

Meanwhile, the G-string by-law was fought all the way up to the Supreme Court of Canada, which ruled in November 1985 that the federal government, not cities, had the right to enforce rules about morality.

Jerk dancing

In 1989 the owners of a Montréal club, the Pussy Cat, were charged with **'keeping a common bawdy house for the purpose of the practice of acts of indecency.'** Dances at the Pussy Cat took place in private: the dancers touched themselves (breasts, crotch), the customers masturbated and management watched through peep holes to be sure that customers and girls didn't touch each other.

The club was found **not guilty** by





the trial court, **guilty** by the appeal court and **not guilty** by the supreme court (a final decision) in September 1993.

The supreme court decided that the acts were not **indecent** because there had been no contact between dancers and customers. The crown tried, part way into the first trial, to

change the charge from 'the practice of indecent acts' to 'the purpose of prostitution' but the judge wouldn't allow it.

Many clubs now have 'private' booths. Some of these booths are not very private. We don't know how a judge would rule in a jerk dancing case where people other than management can see into the room or booth. Bawdy-house laws make sex acts in clubs illegal if they happen in public (indecent) or if you charge money (prostitution).

Lap dancing

In 1991 the owner and manager of the Toronto Yonge Street club Cheaters were charged with '**presentation of an indecent performance**' for allowing nude dancers to rub against customers' laps and letting customers fondle them.



In February 1994 they were found **not guilty** but that decision is under appeal.



**THE POLICE
CAN STILL LAY
CHARGES!**

Indecent acts **section 173**

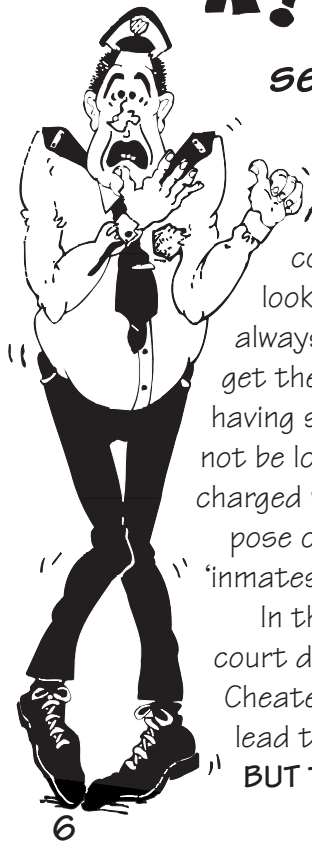
One charge that dancers are at risk for is **'committing an indecent act in a public place.'** In April 1994 the Ontario Court of Appeal ruled that a street prostitute was not guilty under s.173 for having sex with a client in a secluded parked car because they had really tried to be private. This may mean that a dancer and customer can do anything they both agree to, without getting busted for 'indecent act,' **if they are in a private place.** But someone will have to win a case in court before we can be sure that a booth or room in a club counts as private.

**YOU CAN STILL BE BUSTED ON
BAWDY-HOUSE CHARGES REGARDLESS!**



EEK!

How the cops see these cases



The police also help change laws. They decide when to lay charges and which charges to lay. As the courts change the rules, the police look for new ways to do what they have always done. These recent cases may get the cops to try to trap dancers into having sexual contact with them. It may not be long before dancers are being charged with 'communicating for the purpose of prostitution' or with being 'inmates of a common bawdy house.'

In the newspapers police say that court decisions like the Pussy Cat and Cheaters cases tie their hands and will lead to open prostitution in clubs.

BUT THE COPS KNOW THAT THEY CAN

STILL BUST YOU.

The Pussy Cat and the Cheaters decisions only mean that cops can't use 'bawdy house for **indecent acts**' charges in strip clubs where there's private dancing.

What about physical contact?

In the Montréal area, a month after the Pussy Cat case, six undercover Québec provincial cops spent the night in a strip





club partying – drinking, paying for \$10-table dances, grabbing dancers and trying to get blow-jobs from them.

Then they busted the girls for being found

in a common bawdy-house. Later the cops sold semi-nude photos of the dancers to crime tabloids. Judge Pierre Lalande found the dancers not guilty and criticized the way the cops acted.

In October 1993 the crown appealed the acquittals. Nothing had actually been done about the cops and the case wasn't over when this went to press.

Cops in Ontario may also see these

decisions as a challenge to find new ways to entrap dancers into sexual contact with them. An undercover cop could, in any bar that has private or semi-private rooms or booths, try to get a dancer to agree to sexual contact with them in the booth and then bust the stripper for 'communicating for the purpose of prostitution,' since he or she made a deal in a bar, which is a public

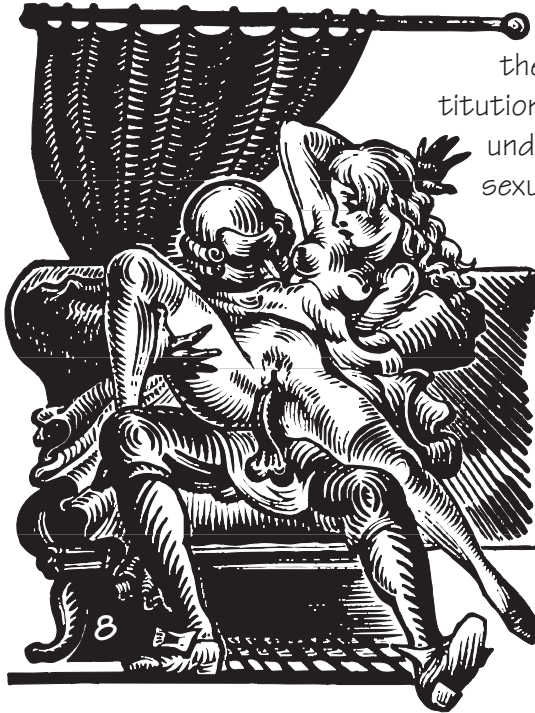


place. (See: **Trick or Trap?**) If a dancer only makes deals in private (if a booth counts as private) the cops may still get her or him

for being in a 'bawdy-house for the purpose of prostitution' if more than one undercover cop has sexual contact in the

club. (See: **No Bawdy's Business.**)

COPS CAN ENTRAP DANCERS BY PAYING FOR AND HAVING SEXUAL CONTACT WITH THEM!



What is a public place?

A public place is anywhere someone can or might be able

to see you. You are in public if you are in a private place but can be seen through an open door or an uncovered window. The '**public nudity**' law makes it clear that you are in public when you can be seen on private property that you own. A car is a public place.

In **obscenity** cases, the courts have said that a **stag** is not a public place if guests are invited. A club or theatre, even if people pay to get in, is a public place. You might be charged if someone who wasn't actually at a private party somehow accidentally saw your act and complained to police.



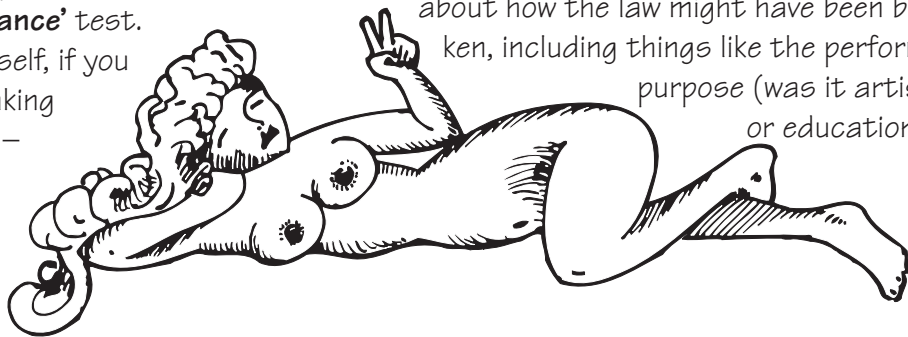


standards of tolerance' test.

To defend yourself, if you are accused of breaking many of these laws – 'immoral theatrical performance,' 'obscenity' or

'indecent act in a public place' – you have to pass the 'community standards of tolerance' test. A judge decides (based on his or her own experience) if Canadians, as a group, would accept people who wanted to be able to see the picture, show, or whatever. that was charged.

Judges in both the Pussy Cat and Cheaters cases decided that jerk dancing and lap dancing passed the community standards of tolerance test. This test also says the judge must look at everything about how the law might have been broken, including things like the performer's purpose (was it artistic or educational?).

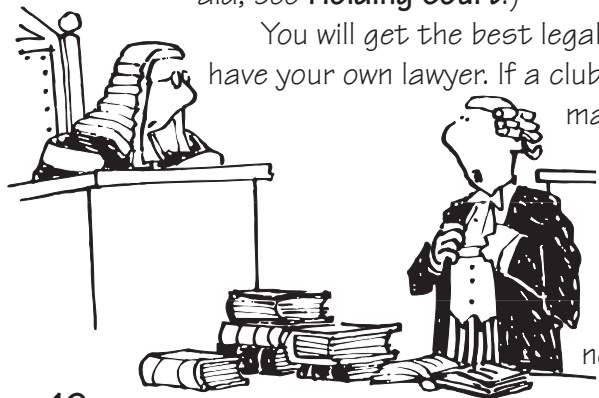




When do you need a lawyer?

You need to talk to a criminal lawyer if you have been charged with a criminal offence, including any of the offences described in this booklet. This is especially important if you already have a record. (For information about things like how to choose a lawyer or how to get legal aid, see **Holding Court.**)

You will get the best legal advice if you have your own lawyer. If a club owner or manager offers to pay for your lawyer, make sure it is your own lawyer and not the club's.

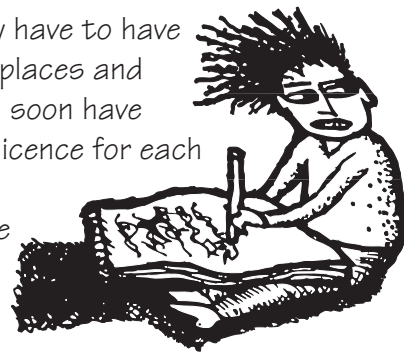


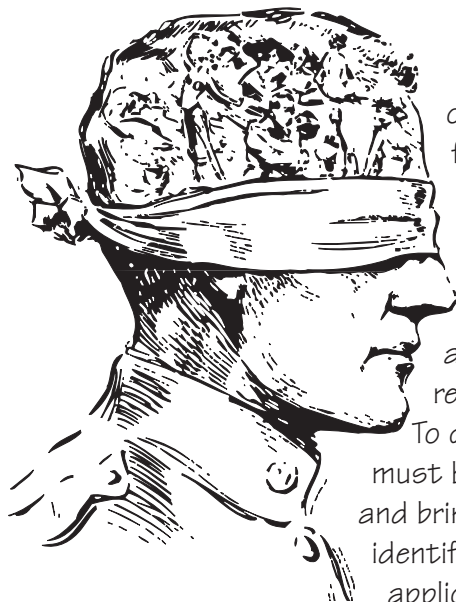
A lawyer who tries to represent you and your boss in one of these cases is in a **conflict of interest**. If the club gets to trial before the workers do, a guilty plea or conviction could have a bad effect on the chances of a dancer winning a case.

Licensing

Many towns have by-laws about strippers and strip clubs. In some places, including Metro Toronto, both have to be licensed. Dancers who travel to different towns to work may have to have licences in several places and some fear they will soon have to buy a different licence for each place they strip.

In Toronto, the Metro Licensing Commission





charges \$172 for a dancer's first licence (which is sold for the year in September) and \$60 to renew a licence.

To qualify, you must be 18 years old and bring two pieces of identification. The application asks if you have a crimi-

nal record and it may be harder to get licensed if you have a record for a sex-work-related offence. Metro does not provide anything (such as health information or safety standards) in return for these fees.

The laws

Most of the laws that have been used against strippers are in the part of the **Criminal Code** called '**offences tending to corrupt public morals.**' They seem to be alike but they apply to slightly different situations or have different penalties.

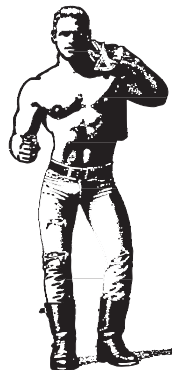


Immoral theatrical performance

Section 167

This law forbids managers, agents and people in charge of places where public entertainment takes place to allow an 'immoral, indecent or obscene performance.' It also



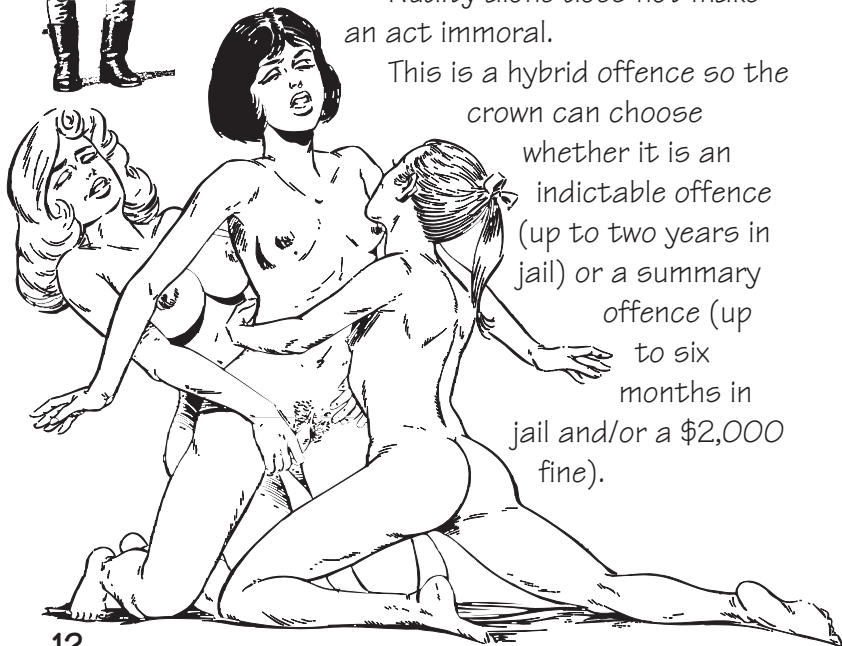


forbids people to act, perform or assist in an 'immoral, indecent or obscene performance, entertainment or representation' in any place that has public entertainment.

Nudity alone does not make an act immoral.

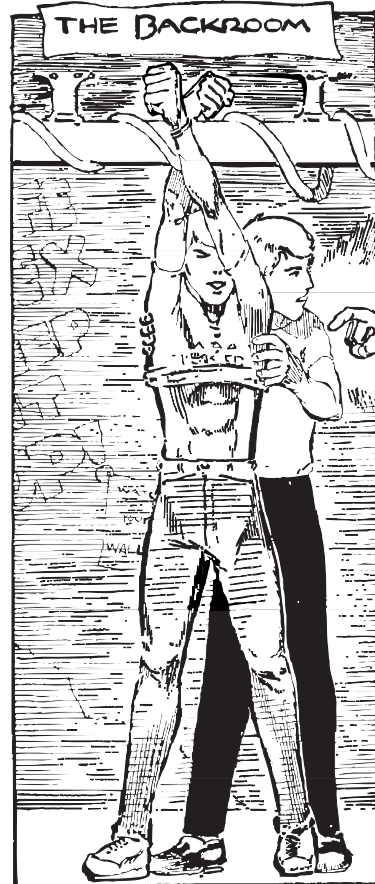
This is a hybrid offence so the crown can choose

whether it is an indictable offence (up to two years in jail) or a summary offence (up to six months in jail and/or a \$2,000 fine).



Common bawdy-house Section 210

A common bawdy-house is a place which is used regularly for the purpose of prostitution or for the practice of acts of indecency. The bawdy-house law is most often used against prostitutes who own or work in brothels or as in-call prostitutes. Clubs, including strip clubs, swingers' clubs and gay bathhouses, are



usually charged with being bawdy-houses on the grounds of acts of indecency.

'Keeping a common bawdy-house' is an indictable offence; you can get up to two years in jail. 'Inmate of a common bawdy-house' is a summary offence; you can get up to a \$2,000 fine and/or six months in jail.

(For more information about the bawdy-house laws, see **No Bawdy's Business.**)

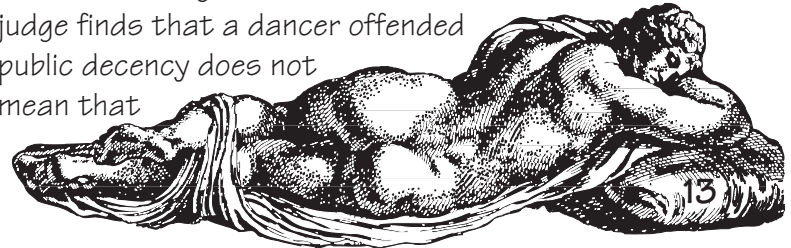


Nudity

Section 174

Anyone who is nude in a public place, without a lawful excuse, is guilty of breaking this law. Nudity includes being semi-dressed in such a way as 'to offend public decency or order.'

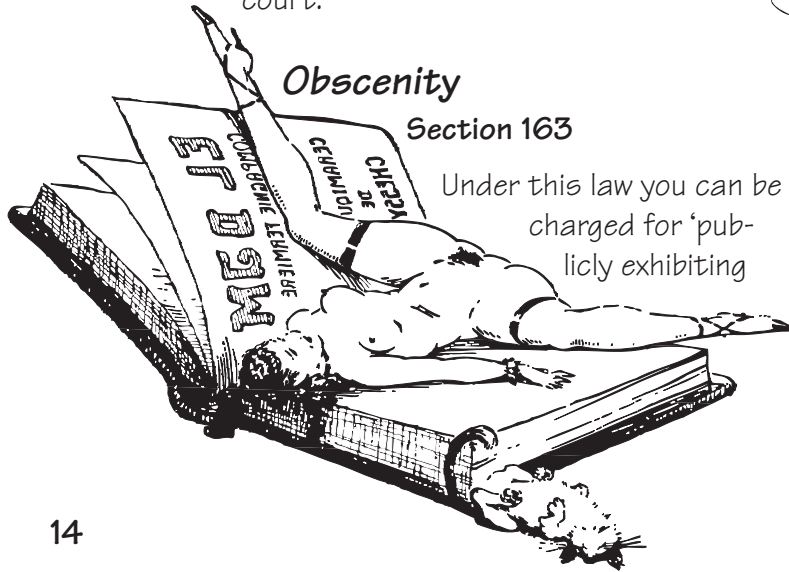
Public places include places on private property which are exposed to public view as well as entertainment places which are open to the public. The fact that a dancer is nude does not mean that her act is not legitimate entertainment, and providing such entertainment could be a lawful excuse for being naked. Just because a judge finds that a dancer offended public decency does not mean that





she or he did not have a lawful excuse. A judge must decide each case.

Being nude in a public place is a summary offence; you can get up to a \$2,000 fine and/or six months in jail. The crown must get permission from the Attorney General before taking nudity charges to court.



Obscenity

Section 163

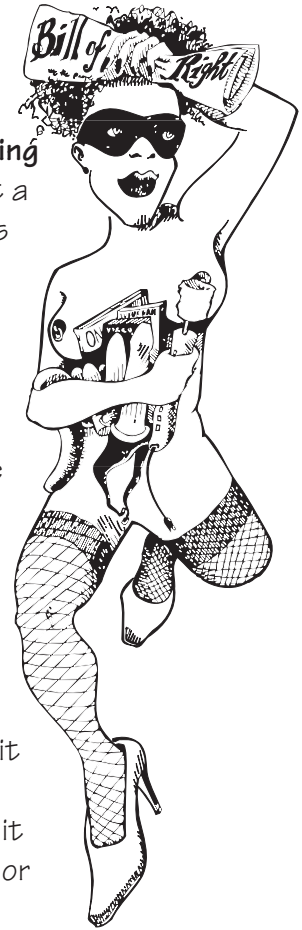
Under this law you can be charged for 'publicly exhibiting

an indecent show or a disgusting object.' **Disgusting object** is not defined, but a

stage act with sex toys might get this charge.

The courts have decided that realistic (cock-like) dildos are **obscene publications** and, under this section of the Code, they're not **supposed** to be sold, distributed or displayed.

Appearing in pictures photos, films or videos is also covered by this law. A show or picture would be **obscene** if a judge believed it represented the 'undue exploitation of sex' or that it 'combined sex with violence or





was degrading or dehumanizing.’ (Undue exploitation, degrading, dehumanizing and violence are not defined.)

A sexually explicit show or picture would also be obscene if it ‘employed children in its production.’ A related section of the Code, section 163.1 (child pornography), makes it illegal to make or own sexually explicit pictures of anyone (even yourself) who is, or looks like they are, under 18. (See: **Who’s Jail Bait?**)

‘Obscenity’ is a hybrid offence so the crown can choose whether it is an indictable offence (up to two years in jail) or a summary offence (up to six months in jail and/or a \$2,000 fine).





Indecent act in a public place Section 173

You can be charged for committing an 'indecent act' (exposing your genitals or, if you're a woman, your breasts) in any place where you can be seen by the public. The Ontario Court of Appeal changed this law in April 1994, to take into account whether people **try** to be private. (See page 5.)



'Indecent act in a public place' is a summary offence; you can get up to a



\$2,000 fine and/or six months in jail; the maximum penalty is rarely given.

Causing a disturbance, indecent exhibition, loitering, etc. Section 175

You can be charged for disturbing the peace of the people around you if you are in a public place and expose your genitals or, if you're a woman, your breasts. Someone must complain to the police before they can charge you with this. 'Indecent exhibition' is a summary offence; you can get up to a \$2,000 fine and/or six months in jail.



Communicating for the purpose of prostitution

Section 213

To be charged with this you must be in a **public place**, which means any place open to the public or where you might be seen. A bar or strip club is a public place.

You break this law if you 'in any manner

communicate for the purpose of engaging in prostitution or of obtaining the sexual services of a prostitute.'

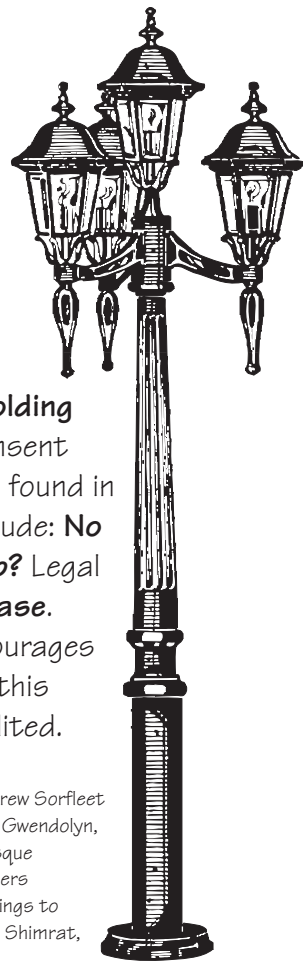
(See: **Trick or Trap?**)



For more information about Canadian laws related to prostitution and sex work look for the other sections of **Trials of the Sex Trade: A survival guide to Canada's legal jungle**. Information about court, drugs, family law and pressing charges can be found in **Holding Court**. Information about age of consent and the law against anal sex can be found in **Who's Jail Bait?** Other sections include: **No Bawdy's Business**, and **Trick or Trap?** Legal terms in **bold** are defined in **Legal Ease**. **Freedom Through Information** encourages people to reproduce and distribute this information; we would like to be credited.

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Some legal services (416 area code)

Legal Aid

- Old City Hall598-0200
- College Park.....598-1260
- Duty Counsel (24 hours).....868-0720

Parkdale Community Legal Services531-2411

Community & Legal Aid Services (CLASP)....736-5029

Aboriginal Legal Services408-3967

Justice for Children and Youth (under 18)920-1633

Dial-a-law947-3333

Lawyer Referral Service
(includes free half-hour consultation).....947-3330

Outside Metro Toronto

Lawyer Referral Service.....1-800-268-8326

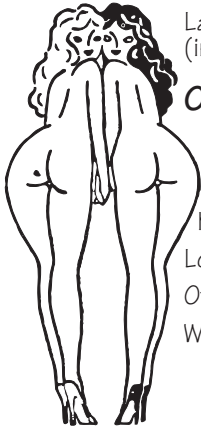
Student legal aid services

Kingston.....1-613-545-2102

London1-519-661-3352

Ottawa.....1-613-564-5855

Windsor1-519-253-7150



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