

## **Court Rejects Appeal on Sex Toy Sales Ban**

*From Yahoo News*

*By James Vicini*

WASHINGTON (Reuters) - The U.S. Supreme Court rejected on Tuesday a constitutional challenge to an Alabama law that makes it a crime to sell sex toys.

The high court refused to hear an appeal by a group of individuals who regularly use sexual devices and by two vendors who argued the case raised important issues about the scope of the constitutional right to sexual privacy.

The law prohibited the distribution of "any device designed or marketed as useful primarily for the stimulation of human genital organs." First-time violators can face a fine of up to \$10,000 and as much as one year in jail.

The law, adopted in 1998, allowed the sale of ordinary vibrators and body massagers that are not designed or marketed primarily as sexual aids. It exempted sales of sexual devices "for a bona fide medical, scientific, educational, legislative, judicial or law enforcement purpose."

Georgia and Texas are the only other states that restrict the distribution of sexual devices, according to the court record in the case.

Attorneys for the American Civil Liberties Union ([news](#) - [web sites](#)), representing those who challenged the law, argued that private, consensual sexual conduct among adults is constitutionally protected and beyond the reach of government regulation.

They said the Supreme Court's decision in 2003 striking down a Texas sodomy law also created a fundamental, constitutional due process right to sexual privacy.

"The evidence shows that this case is not about novelty items, naughty toys or obscene matter. It is a case about human sexuality and extremely intimate acts," the attorneys said.

They said Alabama has never explained "why sales of performance enhancing drugs like Viagra, Cialis and Levitra and even ribbed condoms are not similarly prohibited."

The attorneys said the state did not contest the evidence that about 20 percent of all American women use a vibrator and at least 10 percent of sexually active adults use vibrators in their regular sex life.

A federal judge ruled against the state and found a constitutional "right to use sexual devices like ... vibrators, dildos, anal beads and artificial vaginas."

But a U.S. appeals court based in Atlanta upheld the law by a 2-1 vote.

The appeals court said it agreed with Alabama that the law exercised time-honored use of state police power to restrict the sale of sex. It rejected the ACLU's argument that the constitutional right to privacy covered the commercial sale of sex toys.

Alabama Attorney General Troy King opposed the ACLU's appeal.

"This case involves conduct that is both public and commercial -- the sale of sexual devices to the general public in commercial retail shopping centers" and at in-house Tupperware-style parties, he said.

King said the law respected "the distinction between public commercial conduct and purely private behavior." He said, "It ... stays out of people's bedrooms."

The justices rejected the appeal without any comment or recorded dissent.