

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 452

Short Title: Local Regulation Adult Entertainment.

(Public)

Sponsors: Senator Cooper.

Referred to: Judiciary.

March 24, 1997

A BILL TO BE ENTITLED

AN ACT TO CLARIFY LOCAL GOVERNMENT AUTHORITY TO REGULATE
THE LOCATION AND OPERATION OF SEXUALLY ORIENTED BUSINESSES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 160A of the General Statutes is amended by adding the following new section:

"§ 160A-181.1. Regulation of sexually oriented businesses.

(a) The General Assembly finds and determines that sexually oriented businesses can and do cause adverse secondary impacts on neighboring properties. Numerous studies that are relevant to North Carolina have found increases in crime rates and decreases in neighboring property values as a result of the location of sexually oriented businesses in inappropriate locations or from the operation of such businesses in an inappropriate manner. Reasonable local government regulation of sexually oriented businesses in order to prevent or ameliorate adverse secondary impacts is consistent with the federal constitutional protection afforded to nonobscene but sexually explicit speech.

(b) In addition to State laws on obscenity, indecent exposure, and adult establishments, local government regulation of the location and operation of sexually oriented businesses is necessary to prevent undue adverse secondary impacts that would otherwise result from these businesses.

1 (c) A city or county may regulate sexually oriented businesses through zoning
2 regulations, licensing requirements, or other appropriate local ordinances. The city or
3 county may require a fee for the initial license and any annual renewal. Such local
4 regulations may include, but are not limited to:

5 (1) Restrictions on location of sexually oriented businesses, such as
6 limitation to specified zoning districts and minimum separation from
7 sensitive land uses and other sexually oriented businesses;

8 (2) Regulations on operation of sexually oriented businesses, such as limits
9 on hours of operation, open booth requirements, limitations on exterior
10 advertising and noise, age of patrons and employees, required separation
11 of patrons and performers, clothing restrictions for masseuses, and
12 clothing restrictions for servers of alcoholic beverages;

13 (3) Clothing restrictions for entertainers; and

14 (4) Registration and disclosure requirements for owners and employees and
15 restrictions on ownership or employment by a person with a criminal
16 record other than minor traffic offenses.

17 (d) In order to preserve the status quo while appropriate studies are conducted and
18 the scope of potential regulations are deliberated, cities and counties may enact moratoria
19 of reasonable duration on either the opening of any new businesses authorized to be
20 regulated under this section or the expansion of any such existing business. Businesses
21 existing at the time of the effective date of regulations adopted under this section may be
22 required to come into compliance with newly adopted regulations within an appropriate
23 and reasonable period of time.

24 (e) Cities and counties may enter into cooperative agreements regarding
25 coordinated regulation of sexually oriented businesses, including provision of adequate
26 alternative sites for the location of constitutionally protected speech within an interrelated
27 geographic area.

28 (f) For the purpose of this section 'sexually explicit businesses' include those
29 characterized by their emphasis on matter and conduct depicting, describing, or related to
30 anatomical areas and sexual activities specified in G.S. 14-202.10. This includes but is
31 not limited to: bars, restaurants, clubs, cabarets, and other establishments offering topless
32 or seminude dancing; adult bookstores and video rental facilities; adult theaters and
33 viewing establishments for adult films or videos; and massage parlors, saunas, baths, and
34 similar establishments. Local governments may adopt detailed definitions of these and
35 similar businesses in order to precisely define the scope of any local regulations."

36 Section 2. G.S. 14-190.1 is amended by adding a new subsection to read:

37 "(i) Nothing in this section shall be deemed to preempt local government
38 regulation of nonobscene sexually-explicit speech or conduct."

39 Section 3. G.S. 14-190.9 is amended by adding a new subsection to read:

40 "(c) Notwithstanding any other provision of law, a local government may regulate
41 the location and operation of sexually explicit businesses. Such local regulation may
42 restrict or prohibit nude, seminude, or topless dancing to the extent permissible consistent
43 with the constitutional protection afforded free speech."

1 Section 4. G.S. 14-202.10(1) reads as rewritten:

2 "(1) 'Adult bookstore' means a bookstore:

- 3 a. Which receives a majority of its gross income during any
4 calendar month from the sale or rental of publications (including
5 books, videotapes, magazines, and other periodicals) which are
6 distinguished or characterized by their emphasis on matter
7 depicting, describing, or relating to specified sexual activities or
8 specified anatomical areas, as defined in this section; or
9 b. Having as a preponderance (either in terms of the weight and
10 importance of the material or in terms of greater volume of
11 materials) of its publications books, magazines, and other
12 periodicals which are distinguished or characterized by their
13 emphasis on matter depicting, describing, or relating to specified
14 sexual activities or specified anatomical areas, as defined in this
15 section."

16 Section 5. G.S. 14-202.11 reads as rewritten:

17 "**§ 14-202.11. Restrictions as to adult establishments.**

18 (a) No person shall permit any building, premises, structure, or other facility that
19 contains any adult establishment to contain any other kind of adult establishment. No
20 person shall permit any building, premises, structure, or other facility in which sexually
21 oriented devices are sold, distributed, exhibited, or contained to contain any adult
22 establishment.

23 (b) No person shall permit any viewing booth in an adult mini motion picture
24 theatre to be occupied by more than one person at any time.

25 (c) Nothing in this section shall be deemed to preempt local government
26 regulation of the location or operation of adult establishments or other sexually oriented
27 businesses."

28 Section 6. G.S. 18B-1005 is amended by adding the following new subsection:

29 "(c) Nothing in this section shall be deemed to preempt local government
30 regulation of the location or operation of adult establishments or other sexually oriented
31 businesses."

32 Section 7. This act is effective when it become law.