

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 308 Session of
1997

INTRODUCED BY KASUNIC, STOUT, ARMSTRONG, HELFRICK, HART, BELL
AND STAPLETON, JANUARY 29, 1997

REFERRED TO JUDICIARY, JANUARY 29, 1997

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, prohibiting the operation of clubs and
3 businesses patronized primarily for the purpose of engaging
4 in sexual activity.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title 18 of the Pennsylvania Consolidated
8 Statutes is amended by adding a section to read:

9 § 5905. Prohibited businesses and clubs.

10 (a) Offense defined.--

11 (1) It shall be unlawful for any person to knowingly
12 operate a business or club in the person's residence or at
13 any other place where a fee or dues are charged for
14 admission, beverage, entertainment, food, occupancy or
15 service and the business or club is patronized primarily for
16 the purpose of engaging in sexual activity not otherwise
17 prohibited by law, including, but not limited to, sexual
18 conduct, adultery, fornication and voyeurism.

1 (2) It shall be unlawful for any person to patronize an
2 establishment described under paragraph (1).

3 (b) Grading.--

4 (1) An offense under subsection (a)(1) is a misdemeanor
5 of the second degree for the first offense. A second or
6 subsequent offense under subsection (a)(1) is a felony of the
7 third degree.

8 (2) An offense under subsection (a)(2) is a summary
9 offense.

10 (c) Injunction.--The attorney for the Commonwealth may
11 institute proceedings in equity in the court of common pleas of
12 the county in which any person violates or clearly is about to
13 violate this section for the purpose of enjoining the violation.
14 The court shall issue an injunction only after written notice
15 and hearing and only against the defendant to the action. The
16 court shall hold a hearing within three days after demand by the
17 attorney for the Commonwealth, one of which days must be a
18 business day for the court, and a final decree shall be filed in
19 the office of the prothonotary within 24 hours after the close
20 of the hearing. A written memorandum supporting the decree shall
21 be filed within five days of the filing of the decree. The
22 attorney for the Commonwealth shall prove the elements of the
23 violation beyond a reasonable doubt. The defendant shall have
24 the right to trial by jury at the hearing.

25 (d) Ordinance or resolution.--Nothing in this section shall
26 be construed to invalidate, supersede, repeal or preempt any
27 ordinance or resolution of any municipality insofar as it is
28 consistent with this section, and municipalities further retain
29 the right to regulate any activities, businesses or clubs not
30 specifically regulated by this section.

1 (e) Definitions.--As used in this section, the following
2 words and phrases shall have the meanings given to them in this
3 subsection:

4 "Adultery." Voluntary sexual intercourse as defined in
5 section 3101 (relating to definitions) between a married man and
6 someone other than his wife or between a married woman and
7 someone other than her husband.

8 "Fornication." Voluntary sexual intercourse as defined in
9 section 3101 (relating to definitions) between unmarried people.

10 "Sexual conduct." Acts of masturbation, homosexuality,
11 sexual intercourse as defined in section 3101 (relating to
12 definitions), sexual bestiality or physical contact with a
13 person's genitals, pubic area, buttocks, or if such person be a
14 female, breast.

15 "Voyeurism." Obtaining sexual gratification from viewing or
16 witnessing the sex organs or sexual acts of others.

17 Section 2. This act shall take effect in 60 days.