

THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

No. 753 Session of  
2003

INTRODUCED BY BARD, HERMAN, BUNT, MARSICO, MANDERINO, ARMSTRONG,  
BARRAR, CORRIGAN, CRUZ, CURRY, GEORGE, GOODMAN, HENNESSEY,  
HERSHEY, HUTCHINSON, KIRKLAND, LEDERER, LEH, MELIO, MUNDY,  
RUBLEY, SATHER, SCAVELLO, SCHRODER, SOLOBAY, STABACK, STERN,  
E. Z. TAYLOR, TIGUE, TURZAI, WATSON AND YOUNGBLOOD,  
MARCH 6, 2003

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MARCH 6, 2003

## AN ACT

1 Amending the act of July 31, 1968 (P.L.805, No.247), entitled,  
2 as amended, "An act to empower cities of the second class A,  
3 and third class, boroughs, incorporated towns, townships of  
4 the first and second classes including those within a county  
5 of the second class and counties of the second through eighth  
6 classes, individually or jointly, to plan their development  
7 and to govern the same by zoning, subdivision and land  
8 development ordinances, planned residential development and  
9 other ordinances, by official maps, by the reservation of  
10 certain land for future public purpose and by the acquisition  
11 of such land; to promote the conservation of energy through  
12 the use of planning practices and to promote the effective  
13 utilization of renewable energy sources; providing for the  
14 establishment of planning commissions, planning departments,  
15 planning committees and zoning hearing boards, authorizing  
16 them to charge fees, make inspections and hold public  
17 hearings; providing for mediation; providing for transferable  
18 development rights; providing for appropriations, appeals to  
19 courts and penalties for violations; and repealing acts and  
20 parts of acts," providing for separation requirements for  
21 adult uses.

22 The General Assembly of the Commonwealth of Pennsylvania  
23 hereby enacts as follows:

24 Section 1. The act of July 31, 1968 (P.L.805, No.247), known  
25 as the Pennsylvania Municipalities Planning Code, reenacted and

1 amended December 21, 1988 (P.L.1329, No.170), is amended by  
2 adding a section to read:

3 Section 622. Separation Requirements for Adult Uses.--(a)  
4 Except as provided in subsection (b), an adult use shall not be  
5 permitted to locate within 1,000 feet of the property line of an  
6 existing protected use, measured by a straight line from the  
7 nearest property line of the premises on which the proposed  
8 adult use is to be located to the nearest property line of an  
9 existing protected use.

10 (b) This section shall not apply in a municipality in which  
11 the application of the separation requirements would result in  
12 unavailability of reasonable alternative locations for adult  
13 uses within the municipality, notwithstanding either the  
14 existence or absence of a local regulatory scheme imposed by a  
15 municipal zoning ordinance.

16 (c) (1) The purpose and intent of this section is to  
17 establish standards for locating adult uses in order to mitigate  
18 the adverse secondary effects of adult uses.

19 (2) The secondary effects of adult uses include increased  
20 crime and adverse impacts on public health, business climate,  
21 property values of residential and commercial property and  
22 quality of life.

23 (3) The attempt to control the secondary effects associated  
24 with adult uses serves a substantial interest by promoting the  
25 health, safety and welfare of the people of this Commonwealth.

26 (4) The provisions of this section have neither the purpose  
27 nor intent of imposing a limitation on the content of any  
28 communicative matter or materials, including sexually oriented  
29 matter or materials. Similarly, it is not the purpose or intent  
30 of this section to restrict or deny access by adults to adult

1 uses or to sexually oriented matter or materials that are  
2 protected by the Constitution of the United States or of the  
3 Constitution of Pennsylvania, nor to restrict or deny rights  
4 that distributors or exhibitors of such matter or materials may  
5 have to sell, rent, distribute or exhibit such matter or  
6 materials.

7 (5) Nothing in this section is intended to authorize the  
8 location of an adult use in any zoning district where it is  
9 prohibited, to limit the authority of a municipality from  
10 adopting more restrictive separation requirements or to legalize  
11 any business or activity that is illegal under Federal or State  
12 laws, including, but not limited to, the sale, rental,  
13 distribution or exhibition of obscene or other illegal matter or  
14 materials.

15 (d) As used in this section, the following words and phrases  
16 shall have the meanings given to them in this subsection:

17 "Adult bookstore," an establishment having, as a substantial  
18 or significant portion of its stock, books, magazines and other  
19 material distinguished or characterized by their emphasis on  
20 depicting, describing or relating to obscene material or sexual  
21 conduct as defined in 18 Pa.C.S. § 5903 (relating to obscene and  
22 other sexual materials and performances).

23 "Adult motion picture theater," an enclosed building used for  
24 presenting motion picture films, video cassettes, cable  
25 television, slides or other such visual material distinguished  
26 by an emphasis on matter depicting, describing or relating to  
27 obscene material or sexual conduct as defined in 18 Pa.C.S §  
28 5903 (relating to obscene and other sexual materials and  
29 performances).

30 "Adult paraphernalia store," an establishment having, as a

1 substantial or significant portion of its stock, devices,  
2 objects, tools or toys that are distinguished by their  
3 association with obscene material or sexual conduct as defined  
4 in 18 Pa.C.S. § 5903 (relating to obscene and other sexual  
5 materials and performances).

6 "Adult use," an adult bookstore, adult paraphernalia store,  
7 adult motion picture theater establishment, adult video store,  
8 establishment which displays live nudity or any other business  
9 or establishment characterized by an emphasis depicting,  
10 describing or relating to obscene material or sexual conduct as  
11 defined in 18 Pa.C.S. § 5903 (relating to obscene and other  
12 sexual materials and performances).

13 "Adult video store," an establishment having a substantial or  
14 significant portion of its stock in trade for the sale or rent  
15 of movies, videos and similar audio/visual media, which are  
16 distinguished or characterized by their emphasis depicting,  
17 describing or relating to obscene material or sexual conduct as  
18 defined in 18 Pa.C.S. § 5903 (relating to obscene and other  
19 sexual materials and performances).

20 "Establishment which displays live nudity," an establishment  
21 that provides live entertainment for its patrons, which includes  
22 a nude performance as defined in 18 Pa.C.S. § 5903 (relating to  
23 obscene and other sexual materials and performances).

24 "Existing protected use," a protected use established prior  
25 to the proposed adult use.

26 "Protected use," a school, preschool, nursery school, child-  
27 care facility, day-care operation, public park, public  
28 playground or recreational facility, residential housing area,  
29 public library, community center or church, meetinghouse or  
30 other actual place of regularly stated religious worship.

1       "Substantial or significant portion of stock," more than 25%  
2       of the establishment's inventory stock or of the premises' gross  
3       floor area.

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