

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1318 Session of
2011

INTRODUCED BY CLYMER, BOYD, DENLINGER, GEIST, GINGRICH, GOODMAN,
HUTCHINSON, LONGIETTI, PICKETT, STERN, SWANGER AND THOMAS,
MAY 5, 2011

REFERRED TO COMMITTEE ON FINANCE, MAY 5, 2011

AN ACT

1 Providing for a fee on sexually oriented businesses; imposing
2 duties on the Department of Revenue and the Department of
3 Public Welfare; and providing for the allocation of revenue
4 to services for victims of rape.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Sexually
9 Oriented Businesses Revenue Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Department." The Department of Revenue of the Commonwealth.

15 "Nude." Either of the following:

16 (1) entirely unclothed; or

17 (2) clothed in a manner that leaves uncovered or
18 visible, through less than fully opaque clothing, any portion

1 of the breasts below the top of the areola of the breasts, if
2 the person is female, or any portion of the genitals or
3 buttocks.

4 "Secretary." The Secretary of Revenue of the Commonwealth.

5 "Sexually oriented business."

6 (1) A nightclub, bar, restaurant or similar commercial
7 enterprise that:

8 (i) Provides for an audience of two or more
9 individuals live nude entertainment or live nude
10 performances.

11 (ii) Authorizes on-premises consumption of alcoholic
12 beverages, regardless of whether the consumption of
13 alcoholic beverages is under a license or permit issued
14 under the act of April 12, 1951 (P.L.90, No.21), known as
15 the Liquor Code.

16 (2) The term excludes a theatre as defined under section
17 2 of the act of June 5, 1937 (P.L.1656, No.344), known as the
18 Store and Theatre Tax Act.

19 Section 3. Fee based on admissions and records.

20 (a) Imposition of fee.--A fee shall be imposed on a sexually
21 oriented business in an amount equal to \$5 for each entry by
22 each customer admitted to the business.

23 (b) Records.--A sexually oriented business shall record
24 daily, in a manner prescribed by the secretary, the number of
25 customers admitted to the business. The business shall maintain
26 the records for the period required by the secretary and make
27 the records available for inspection and audit on request by the
28 secretary.

29 (c) Discretion of business.--This section does not require a
30 sexually oriented business to impose a fee on a customer of the

1 business. A business has discretion to determine the manner in
2 which the business derives the money required to pay the fee
3 imposed under this section.

4 Section 4. Remission of fee and submission of reports.

5 Each quarter, a sexually oriented business shall:

6 (1) Remit the fee imposed by section 3 to the department
7 in the manner prescribed by the secretary.

8 (2) File a report with the department in the manner and
9 containing the information required by the secretary.

10 Section 5. Allocation of revenue to services for victims of
11 rape.

12 The secretary shall forward the revenue received from the fee
13 imposed under section 3 to the Department of Public Welfare for
14 use for victims of rape in accordance with provisions of section
15 2333 of the act of April 9, 1929 (P.L.177, No.175), known as The
16 Administrative Code of 1929. The Commonwealth shall certify that
17 such moneys will not be used to supplant Federal and State funds
18 otherwise available for rape victims services.

19 Section 6. Administration, payment, collection and enforcement.

20 The provisions of the act of April 9, 1929 (P.L.343, No.176),
21 known as The Fiscal Code, shall apply to the administration,
22 payment, collection and enforcement of the fee imposed by this
23 act.

24 Section 7. Applicability.

25 The fee imposed under section 3 applies only to a sexually
26 oriented business with respect to the admission by the business
27 of customers on or after the effective date of this act.

28 Section 20. Effective date.

29 This act shall take effect in 60 days.