
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 304 Session of
2009

INTRODUCED BY CLYMER, GINGRICH, HARPER, RAPP AND ROHRER,
FEBRUARY 9, 2009

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 9, 2009

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
19 of the breasts below the top of the areola of the breasts, if

1 the person is female, or any portion of the genitals or
2 buttocks.

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

4 "Sexually oriented business."

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

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

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

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

18 Section 3. Fee based on admissions and records.

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

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

28 (c) Discretion of business.--This section does not require a
29 sexually oriented business to impose a fee on a customer of the
30 business. A business has discretion to determine the manner in

1 which the business derives the money required to pay the fee
2 imposed under this section.

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

4 Each quarter, a sexually oriented business shall:

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

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

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

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

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

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

23 Section 7. Applicability.

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

27 Section 20. Effective date.

28 This act shall take effect in 60 days.