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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 845 Session of  
2017

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INTRODUCED BY MURT, V. BROWN, CALTAGIRONE, D. COSTA, DEAN,  
GILLEN, KINSEY, ROZZI AND WATSON, MARCH 13, 2017

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REFERRED TO COMMITTEE ON FINANCE, MARCH 13, 2017

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AN ACT

1 Providing for a fee on sexually oriented businesses; imposing  
2 duties on the Department of Revenue and the Department of  
3 Human Services; 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 "Adult entertainment material." The term shall include, but  
15 is not limited to, any material, product or service that depicts  
16 actual or simulated sexually explicit conduct, the primary  
17 purpose of which is the sexual stimulation of humans, including  
18 motion pictures, videos, phone sex, books, magazines, computer  
19 games and private or public arcades and booths used to view live

1 or recorded adult entertainment material. The term shall not  
2 include any legitimate medical, scientific, educational,  
3 artistic, literary, dramatic or political materials, works,  
4 displays or products in any form.

5 "Adult entertainment venue." An establishment that, as its  
6 principal business purpose, sells or rents adult entertainment  
7 material to customers.

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

9 "Nude." Either of the following:

10 (1) entirely unclothed; or

11 (2) clothed in a manner that leaves uncovered or  
12 visible, through less than fully opaque clothing, any portion  
13 of the breasts below the top of the areola of the breasts, if  
14 the person is female, or any portion of the genitals or  
15 buttocks.

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

17 "Sexually oriented business."

18 (1) A nightclub, bar, restaurant or similar commercial  
19 enterprise that:

20 (i) Provides for an audience of two or more  
21 individuals live nude entertainment or live nude  
22 performances.

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

28 (2) The term excludes a theatre as defined under section  
29 2 of the act of June 5, 1937 (P.L.1656, No.344), known as the  
30 Store and Theatre Tax Act.

1 (3) An adult entertainment venue.

2 Section 3. Fee based on admissions and records.

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

6 (b) Records.--A sexually oriented business shall record  
7 daily, in a manner prescribed by the secretary, the number of  
8 customers admitted to the business. The business shall maintain  
9 the records for the period required by the secretary and make  
10 the records available for inspection and audit on request by the  
11 secretary.

12 (c) Discretion of business.--This section does not require a  
13 sexually oriented business to impose a fee on a customer of the  
14 business. A business has discretion to determine the manner in  
15 which the business derives the money required to pay the fee  
16 imposed under this section.

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

18 Each quarter, a sexually oriented business shall:

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

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

23 Section 5. Allocation of revenue to services for victims of  
24 rape.

25 The secretary shall forward the revenue received from the fee  
26 imposed under section 3 to the Department of Human Services for  
27 use for victims of rape in accordance with provisions of section  
28 2333 of the act of April 9, 1929 (P.L.177, No.175), known as The  
29 Administrative Code of 1929. The Commonwealth shall certify that  
30 such money will not be used to supplant Federal and State funds

1 otherwise available for rape victims services.

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

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

7 Section 7. Applicability.

8 The fee imposed under section 3 applies only to a sexually  
9 oriented business with respect to the admission by the business  
10 of customers on or after the effective date of this section.

11 Section 8. Effective date.

12 This act shall take effect in 60 days.