

1 AN ACT

2 relating to the imposition and use of a fee on certain sexually
3 oriented businesses and certain programs for the prevention of
4 sexual assault.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Sections 47.001 through 47.004, Business &
7 Commerce Code, are designated as Subchapter A, Chapter 47, Business
8 & Commerce Code, and a heading for Subchapter A is added to read as
9 follows:

10 SUBCHAPTER A. RESTRICTION ON OWNERS, OPERATORS, MANAGERS, OR
11 EMPLOYEES OF SEXUALLY ORIENTED BUSINESSES

12 SECTION 2. Section 47.001, Business & Commerce Code, is
13 amended to read as follows:

14 Sec. 47.001. DEFINITIONS. In this subchapter [~~chapter~~]:

15 (1) "Sex offender" means a person who has been
16 convicted of or placed on deferred adjudication for an offense for
17 which a person is subject to registration under Chapter 62, Code of
18 Criminal Procedure.

19 (2) "Sexually oriented business" has the meaning
20 assigned by Section 243.002, Local Government Code.

21 SECTION 3. Chapter 47, Business & Commerce Code, is amended
22 by adding Subchapter B to read as follows:

23 SUBCHAPTER B. FEE IMPOSED ON CERTAIN SEXUALLY ORIENTED BUSINESSES

24 Sec. 47.051. DEFINITIONS. In this subchapter:

1 (1) "Nude" means:

2 (A) entirely unclothed; or

3 (B) clothed in a manner that leaves uncovered or
4 visible through less than fully opaque clothing any portion of the
5 breasts below the top of the areola of the breasts, if the person is
6 female, or any portion of the genitals or buttocks.

7 (2) "Sexually oriented business" means a nightclub,
8 bar, restaurant, or similar commercial enterprise that:

9 (A) provides for an audience of two or more
10 individuals live nude entertainment or live nude performances; and

11 (B) authorizes on-premises consumption of
12 alcoholic beverages, regardless of whether the consumption of
13 alcoholic beverages is under a license or permit issued under the
14 Alcoholic Beverage Code.

15 Sec. 47.052. FEE BASED ON ADMISSIONS; RECORDS. (a) A fee
16 is imposed on a sexually oriented business in an amount equal to \$5
17 for each entry by each customer admitted to the business.

18 (b) A sexually oriented business shall record daily in the
19 manner required by the comptroller the number of customers admitted
20 to the business. The business shall maintain the records for the
21 period required by the comptroller and make the records available
22 for inspection and audit on request by the comptroller.

23 (c) This section does not require a sexually oriented
24 business to impose a fee on a customer of the business. A business
25 has discretion to determine the manner in which the business
26 derives the money required to pay the fee imposed under this
27 section.

1 Sec. 47.053. REMISSION OF FEE; SUBMISSION OF REPORTS. Each
2 quarter, a sexually oriented business shall:

3 (1) remit the fee imposed by Section 47.052 to the
4 comptroller in the manner prescribed by the comptroller; and

5 (2) file a report with the comptroller in the manner
6 and containing the information required by the comptroller.

7 Sec. 47.054. ALLOCATION OF CERTAIN REVENUE FOR SEXUAL
8 ASSAULT PROGRAMS. The comptroller shall deposit the first \$25
9 million received from the fee imposed under this subchapter in a
10 state fiscal biennium to the credit of the sexual assault program
11 fund.

12 Sec. 47.055. ALLOCATION OF ADDITIONAL REVENUE. (a) The
13 comptroller shall deposit all amounts received from the fee imposed
14 under this subchapter after the first \$25 million in a state fiscal
15 biennium in the Texas health opportunity pool established under
16 Subchapter N, Chapter 531, Government Code. Money deposited in the
17 pool under this section may be used only to provide health benefits
18 coverage premium payment assistance to low-income persons through a
19 premium payment assistance program developed under that
20 subchapter.

21 (b) This section takes effect only if Senate Bill No. 10,
22 Acts of the 80th Legislature, Regular Session, 2007, becomes law
23 and the Texas health opportunity pool is established under that
24 Act. If that Act does not become law, or that Act becomes law but
25 the pool is not established, this section has no effect, and the
26 revenue is deposited as provided by Section 47.0551.

27 Sec. 47.0551. ALLOCATION OF ADDITIONAL REVENUE. (a) The

1 comptroller shall deposit all amounts received from the fee imposed
2 under this subchapter after the first \$25 million in a state fiscal
3 biennium to the credit of the premium payment assistance account.
4 The premium payment assistance account is an account in the general
5 revenue fund that may be appropriated to the Health and Human
6 Services Commission only to provide health benefits coverage
7 premium payment assistance to low-income persons through a program
8 developed by the commission.

9 (b) This section takes effect only if Senate Bill No. 10,
10 Acts of the 80th Legislature, Regular Session, 2007, does not
11 become law, or that Act becomes law, but the Texas health
12 opportunity pool is not established under that Act. If that Act
13 becomes law and the pool is established, this section has no effect,
14 and the revenue is deposited as provided by Section 47.055.

15 Sec. 47.056. ADMINISTRATION, COLLECTION, AND ENFORCEMENT.
16 The provisions of Subtitle B, Title 2, Tax Code, apply to the
17 administration, payment, collection, and enforcement of the fee
18 imposed by this chapter.

19 SECTION 4. Sections 420.005(a) and (b), Government Code,
20 are amended to read as follows:

21 (a) The attorney general may award grants to programs
22 described by Section 420.008 [~~for maintaining or expanding existing~~
23 ~~services~~]. A grant may not result in the reduction of the financial
24 support a program receives from another source.

25 (b) The attorney general may by rule require that to [~~To~~] be
26 eligible for a grant, certain programs [~~a program~~] must provide at a
27 minimum:

- 1 (1) a 24-hour crisis hotline;
- 2 (2) crisis intervention;
- 3 (3) public education;
- 4 (4) advocacy and accompaniment to hospitals, law
5 enforcement offices, prosecutors' offices, and courts for
6 survivors and their family members; and
- 7 (5) crisis intervention volunteer training.

8 SECTION 5. Sections 420.008(b) and (c), Government Code,
9 are amended to read as follows:

10 (b) The fund consists of fees collected under:

- 11 (1) Section 19(e), Article 42.12, Code of Criminal
12 Procedure;
- 13 (2) [~~and~~] Section 508.189, Government Code; and
- 14 (3) Subchapter B, Chapter 47, Business & Commerce
15 Code, and deposited under Section 47.054.

16 (c) The legislature may appropriate money deposited to the
17 credit of the fund only to:

- 18 (1) the attorney general, for:
 - 19 (A) sexual violence awareness and prevention
20 campaigns;
 - 21 (B) grants to faith-based groups, independent
22 school districts, and community action organizations for programs
23 for the prevention of sexual assault and programs for victims of
24 human trafficking;
 - 25 (C) grants for equipment for sexual assault nurse
26 examiner programs, to support the preceptorship of future sexual
27 assault nurse examiners, and for the continuing education of sexual

1 assault nurse examiners;

2 (D) grants to increase the level of sexual
3 assault services in this state;

4 (E) grants to support victim assistance
5 coordinators;

6 (F) grants to support technology in rape crisis
7 centers;

8 (G) grants to and contracts with a statewide
9 nonprofit organization exempt from federal income taxation under
10 Section 501(c)(3), Internal Revenue Code of 1986, having as a
11 primary purpose ending sexual violence in this state, for programs
12 for the prevention of sexual violence, outreach programs, and
13 technical assistance to and support of youth and rape crisis
14 centers working to prevent sexual violence; and

15 (H) grants to regional nonprofit providers of
16 civil legal services to provide legal assistance for sexual assault
17 victims;

18 (2) the Department of State Health Services, to
19 measure the prevalence of sexual assault in this state and for
20 grants to support programs assisting victims of human trafficking;

21 (3) the Institute on Domestic Violence and Sexual
22 Assault at The University of Texas at Austin, to conduct research on
23 all aspects of sexual assault and domestic violence;

24 (4) Texas State University, for training and technical
25 assistance to independent school districts for campus safety;

26 (5) the office of the governor, for grants to support
27 sexual assault and human trafficking prosecution projects;

1 (6) the Department of Public Safety, to support sexual
2 assault training for commissioned officers;

3 (7) the comptroller's judiciary section, for
4 increasing the capacity of the sex offender civil commitment
5 program;

6 (8) the Texas Department of Criminal Justice:

7 (A) for pilot projects for monitoring sex
8 offenders on parole; and

9 (B) for increasing the number of adult
10 incarcerated sex offenders receiving treatment;

11 (9) the Texas Youth Commission, for increasing the
12 number of incarcerated juvenile sex offenders receiving treatment;

13 (10) the comptroller, for the administration of the
14 fee imposed on sexually oriented businesses under Section 47.052,
15 Business & Commerce Code; and

16 (11) the supreme court, to be transferred to the Texas
17 Equal Access to Justice Foundation, or a similar entity, to provide
18 victim-related legal services to sexual assault victims, including
19 legal assistance with protective orders, relocation-related
20 matters, victim compensation, and actions to secure privacy
21 protections available to victims under law [~~to finance the grant~~
22 ~~program created by this chapter~~].

23 SECTION 6. Subchapter A, Chapter 420, Government Code, is
24 amended by adding Section 420.015 to read as follows:

25 Sec. 420.015. ASSESSMENT OF SEXUALLY ORIENTED BUSINESS
26 REGULATIONS. The legislature may appropriate funds for a
27 third-party assessment of the sexually oriented business industry

1 in this state and provide recommendations to the legislature on how
2 to further regulate the growth of the sexually oriented business
3 industry in this state.

4 SECTION 7. (a) The Sexual Assault Advisory Council is
5 established to:

6 (1) serve as an information clearinghouse and informal
7 coordinator of existing and future sexual assault programming
8 efforts at state and local levels;

9 (2) report to the governor and the 81st Legislature
10 the results of actions taken by the 80th Legislature on any gaps
11 with respect to research, prevention, response and other victims'
12 services, adjudication, and incarceration at state and local
13 levels;

14 (3) develop recommendations for appropriate
15 performance measures that enable the governor and the legislature
16 to biennially assess and respond to the status of sexual assault in
17 this state; and

18 (4) report to the 81st Legislature on the
19 effectiveness of appropriations made in this Act and other sexual
20 assault legislation passed by the 80th Legislature.

21 (b) The Sexual Assault Advisory Council is composed of
22 representatives designated by the attorney general from state
23 agencies that receive sexual assault-related appropriations in the
24 General Appropriations Act.

25 (c) The legislature intends that agencies receiving sexual
26 assault-related appropriations coordinate with the Sexual Assault
27 Advisory Council to provide answers for:

1 (1) how prevalent is sexual assault in Texas, and why;

2 (2) how to reduce the recidivism of known sex
3 offenders;

4 (3) how to increase the reporting of sexual assault to
5 law enforcement;

6 (4) how to increase conviction and prosecution rates
7 of sexual assault;

8 (5) how to identify the geographic areas in this state
9 with higher rates of sexual assault and how to coordinate
10 delivering resources to these areas; and

11 (6) how to convey that assistance is available for all
12 victims of sexual assault and how to ensure that residents of this
13 state know how to obtain assistance if they have been sexually
14 assaulted.

15 SECTION 8. The fee imposed by Section 47.052, Business &
16 Commerce Code, as added by this Act, applies only to a sexually
17 oriented business with respect to the admission by the business of
18 customers on or after the effective date of this Act.

19 SECTION 9. This Act takes effect January 1, 2008.

President of the Senate

Speaker of the House

I certify that H.B. No. 1751 was passed by the House on May 9, 2007, by the following vote: Yeas 110, Nays 28, 3 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1751 on May 25, 2007, by the following vote: Yeas 112, Nays 21, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1751 was passed by the Senate, with amendments, on May 22, 2007, by the following vote: Yeas 28, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor