

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

10844 HOUSE JUDICIARY



SERVING SAFE FOOD
SECOND EDITION

Carol Hartman

has participated in the **Serving Safe Food** training program.

National Restaurant Association

THE EDUCATIONAL FOUNDATION

DATE

11-30-94

MANAGER

Mary E. Joyce

MANAGER'S
SERVSAFE
CERTIFICATE NO.

#103740

Names: Carol Hartman

Establishment: Sands North

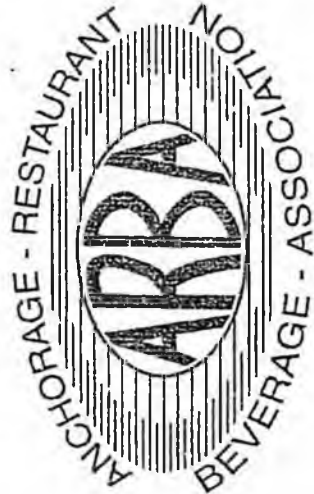
Has successfully passed the

Limited Service

Sanitation Challenge Test

presented by the

Anchorage Restaurant Beverage Association



Date: 4/30/98 *Instructor:* Meresa Nyholm *Certificate #* 061

Only valid within the Municipality of Anchorage



Drivers License Guide Company
1492 Oddstad Drive
Redwood City, CA 94063
(650) 369-4849

A publication of the Drivers License Guide Company

Invoice

No. 428616

Sold to:

Kathy Heartman
Sands North Inc.
1911 East 5th Avenue
Anchorage, AK 99501

Kathy Heartman
Sands North Inc.
1911 East 5th Avenue
Anchorage, AK 99501

DATE	PURCHASE ORDER NO.	CUSTOMER NO.	SHIPPED VIA	SALES
02/05/04		92664	USPS	
QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT	
2	2004 I.D. Checking Guide	17.50		35.00
	Shipping and Handling			4.00
	BALANCE DUE	U.S. \$		39.00

PLEASE USE THE ENCLOSED POSTAGE-PAID
ENVELOPE TO MAKE PAYMENT.
THANK YOU!

DUPLICATE INVOICE. NO STATEMENT WILL BE SENT. NET 30 DAYS.

Alaska Department of Community and Economic Development
P.O. Box 110806, Juneau, Alaska 99811-0806

ALASKA BUSINESS LICENSE

The licensee named below holds Alaska Business License Number 262837
covering the period of: October 16, 2002 through December 31, 2004
Line of Business: 72 Accommodation and Food Services

SANDS NORTH, INC. DBA FANTASIES ON 5TH AVENUE

1120 E 5TH AVENUE, ANCHORAGE, AK 99501

Owner:
SANDS NORTH, INC.

TOBACCO ENDORSEMENT: 262837 - 1

Effective October 16, 2002 to the expiration date of this business license.

This business license has a tobacco endorsement authorizing sale of tobacco at the physical
address shown below:

1911 E 5TH AVENUE, ANCHORAGE, AK 99501

This license shall not be taken as permission to do business in the state without having complied with
the other requirements of the laws of the State of Alaska or of the United States.

*Department of Community and Economic Development
Commissioner: Deborah B. Sedwick*

This license must be posted in a conspicuous place at the business location. It is not transferable or assignable.

33333

For Official Use Only
OMB No. 1545-0008

b Kind of Payer 941 <input checked="" type="checkbox"/> Military <input type="checkbox"/> 943 <input type="checkbox"/> CT-1 <input type="checkbox"/> Hshld. emp. <input type="checkbox"/> Medicare gov. emp. <input type="checkbox"/> Third-party sick pay <input type="checkbox"/>		1 Wages, tips, other compensation \$ 458675.02	2 Federal income tax withheld \$ 42587.00
c Total number of Forms W-2 77		3 Social security wages \$ 405084.82	4 Social security tax withheld \$ 30966.45
d Establishment number		5 Medicare wages and tips \$ 499458.92	6 Medicare tax withheld \$ 7242.20
e Employer identification number 92-0133421		7 Social security tips \$ 94374.00	8 Allocated tips \$
f Employer's name Sands North Inc. Fantasies On 5th Ave 1911 E 5th Ave Anchorage AK 99501		9 Advance EIC payments \$	10 Dependent care benefits \$
g Employer's address and ZIP code		11 Nonqualified plans \$	12 Deferred compensation \$ 30464.00
h Other EIN used this year		13 For third-party sick pay use only	
15 State Employer's state ID number		14 Income tax withheld by payer of third-party sick pay \$	
		16 State wages, tips, etc. \$	17 State income tax \$
		18 Local wages, tips, etc. \$	19 Local income tax \$
Contact person Carol Hartman		Telephone number (907) 561-8679	For Official Use Only
E-mail address		Fax number ()	

Under penalties of perjury, I declare that I have examined this return and accompanying documents, and, to the best of my knowledge and belief, they are true, correct, and complete.

Signature ▶

Title ▶

Date ▶

Form **W-3** Transmittal of Wage and Tax Statements

2003

Department of the Treasury
Internal Revenue Service

Send this entire page with the entire Copy A page of Form(s) W-2 to the Social Security Administration. Photocopies are not acceptable.

Do not send any payment (cash, checks, money orders, etc.) with Forms W-2 and W-3.

An Item To Note

Separate instructions. See the separate 2003 Instructions for Forms W-2 and W-3 for information on completing this form.

Purpose of Form

Use this form to transmit Copy A of Form(s) W-2, Wage and Tax Statement. Make a copy of Form W-3, and keep it with Copy D (For Employer) of Form(s) W-2 for your records. Use Form W-3 for the correct year. **File Form W-3 even if only one Form W-2 is being filed.** If you are filing Form(s) W-2 on magnetic media or electronically, do not file Form W-3.

When To File

File Form W-3 with Copy A of Form(s) W-2 by March 1, 2004.

Where To File

Send this entire page with the entire Copy A page of Form(s) W-2 to:

Social Security Administration
Data Operations Center
Wilkes-Barre, PA 18769-0001

Note: If you use "Certified Mail" to file, change the ZIP code to "18769-0002." If you use an IRS approved private delivery service, add "ATTN: W-2 Process, 1150 E. Mountain Dr." to the address and change the ZIP code to "18702-7997." See Circular E, Employer's Tax Guide (Pub. 15), for a list of IRS approved private delivery services.

Do not send magnetic media to the address shown above.

For Privacy Act and Paperwork Reduction Act Notice, see the 2003 Instructions for Forms W-2 and W-3.

Cat. No. 10159Y



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POST IN A CONSPICUOUS PLACE

ALL WORK MUST BE INSPECTED

A 24-HOUR NOTICE IS REQUIRED FOR INSPECTION SERVICE -
INSPECTION REQUEST LINE (907) 343-8300 OR FAX REQUEST (907)
248-7777

MUNICIPALITY OF ANCHORAGE
BUILDING SAFETY DIVISION
4700 SOUTH BRAGAW STREET
TELEPHONE (907) 343-8211



MECHANICAL

NO: 02- -7205

RETROFIT

Date: 02/11/02

SITE ADDRESS: 1911 E. 5TH AVE.

PERMITEE/OWNER: HARTMAN KATHLEEN ANN

CONTRACTOR: ALWAYS ON CALL MT. MECHANICAL

LOT: 7 BLOCK/TRACT: 26C SL3D: FOURTH ADDITION

TYPE: RETROFIT

PROPOSED WORK: RESTAURANT

WORK DESC. replace boiler - 175,000 BTU

REMARKS: cs

TOTAL CONSTRUCTION VALUATION: \$0.00

Total fees for \$95.00
this issuance:

Permit Issued By: STERLING CATHERINE J.

Approvals:

Total payments for \$95.00
this issuance:

Chq

**ALL WORK IN STRICT CONFORMANCE WITH PLAN
CHECK REQUIREMENTS AS PER JOB PRINTS.
FIELD INSPECTION REQUIRED**

**INSPECTION REQUIRED OF
FOUNDATION EXCAVATION PRIOR
TO PLACING ANY CLASSIFIED FILL**

**CONTACT THE UTILITY FOR APPROVAL OF SERVICE EQUIPMENT AND LOCATION PRIOR TO INSTAL-
LATION. SERVICE CHANGES MUST BE SCHEDULED IN ADVANCE WITH THE UTILITY COMPANY
AND THE BUILDING SAFETY INSPECTION SECTION.**

I HAVE READ THE ABOVE APPLICATION AND KNOW THE CONTENTS THEREOF: THE SAME IS TRUE AND CORRECT.
I FURTHER AGREE THE ABOVE WORK WILL BE DONE IN ACCORDANCE WITH ALL STATE, MUNICIPAL LAWS, AND
ORDINANCES.

PERMIT EXPIRES IN 360 DAYS IF WORK IS NOT COMMENCED

Signature of permittee or Agent: _____

Printed Name: Per Fax

Inspection Report
Municipality of Anchorage, Building Safety Division
4700 South Bragaw

INSPECTION: VOICE 563-3464

INSPECTION: FAX (907) 249-7777

INFO: 343-8211

Name	hartman kathleen ann	Permit	02-7205
Address	1911 E 5th ave	Phone	563-0042
Lot	7	Block	26c
		Inspection Date	

Subdivision fourth addition

Comments or Directions

need to schedual a inspection date please call the number above and ask for Carol or Cyndy. Thank you!

Type of Inspection	retrofit of boiler	Reinspection	no
---------------------------	--------------------	---------------------	----

Your Report Has Been Sent to the Municipality. Please press 'print' if you'd like a copy for your records.



MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM
AM NO. 868-2003

Meeting Date: November 4, 2003


1 **From:** Assemblymember Dan Sullivan
2 **Subject:** AO 2003-153— Amendment to AMC 10.40.050, Adult-Oriented
3 Establishment License
4
5

6 Adult-oriented establishments and activities associated with them have been documented to have
7 secondary impacts affecting the quality of life in neighborhoods, such as increased crime rates,
8 declining property values, disinvestment and decline in economic and pedestrian activity.
9

10 AMC 10.40.50 regulates such businesses through a licensing procedure, but within its definitions
11 contains an exclusion for adult-oriented establishments known as an "*adult cabaret*," which feature
12 "topless dancers, strippers, male or female impersonators, or similar entertainers." AO 2003-153
13 presents an amendment to the "definitions" of adult establishments to include adult cabarets and
14 impose reasonable licensing requirements on such establishments in furtherance of the protection
15 of the public's health, safety, and welfare.
16

17 It is recommended that AO 2003-153 be introduced and set for public hearing.
18
19

20 Respectfully submitted,
21

22 
23

24 Dan Sullivan
25 Assemblymember, Section 3
26

Submitted by: Assemblymembers
SULLIVAN, Traini, Kendall
Prepared by: Department of Assembly
For reading: November 4, 2003

ANCHORAGE, ALASKA
AO NO. 2003-153

1 AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AMENDING ANCHORAGE
2 MUNICIPAL CODE SECTION 10.40.50, ADULT-ORIENTED ESTABLISHMENT
3 LICENSE, TO REQUIRE ADULT CABARETS BE LICENSED.
4

5
6 THE ANCHORAGE ASSEMBLY ORDAINS:
7

8 Section 1. Anchorage Municipal Code section 10.40.050 is hereby amended to read as follows:
9 (*Sections and subsections not affected are not set out.*)

10
11 10.40.050 Adult-oriented establishment license; physical layout of premises;
12 conduct of business.
13

14 A. Definitions. For the purpose of this section, the following words and phrases shall
15 have the meanings indicated in this subsection:
16

17 *Adult-oriented establishment*, or *adult business*, shall include, but is not limited to,
18 adult bookstores, adult motion picture theaters, adult mini-motion picture
19 establishments, adult cabarets, physical culture studios, massage parlors, escort
20 services, or similar type businesses where, by the nature of the business, minors
21 under the age of 18 are denied entry, or businesses which are prohibited by law from
22 having minors or unaccompanied minors on the premises for reasons other than the
23 sale of liquor. [PROVIDED HOWEVER, THAT ADULT-ORIENTED
24 ESTABLISHMENT, OR ADULT BUSINESS SHALL NOT INCLUDE A
25 BUSINESS FOR WHICH MINORS ARE PERMITTED ON THE PREMISES, OR
26 AN ADULT CABARET.] If a premises, whose primary business is overnight
27 lodging, offers adult movies via a cable, closed circuit or pay per view system, in the
28 absence of any other adult entertainment activities, the availability of such movies,
29 does not render the business an adult-oriented establishment for the purposes of this
30 section.
31

32 *Adult bookstore* means an establishment having as its stock in trade, for sale, rent,
33 lease, inspection or viewing, books, films, videocassettes, magazines or other
34 periodicals which are distinguished or characterized by their emphasis on matters
35 depicting, describing or relating to specified sexual activities, or specified anatomical
36 areas, as defined in this section, and in conjunction therewith have facilities for the



MUNICIPALITY OF ANCHORAGE
OFFICE OF THE MUNICIPAL CLERK
P.O. Box 196650 (532 W. 6th Avenue)
Anchorage, Alaska 99519-6650

ADULT ORIENTED ESTABLISHMENT APPLICATION

For Office Use Only
License No. _____
Date Issued _____

PLEASE PRINT OR TYPE INFORMATION

(LICENSES ARE NOT TRANSFERABLE)

Original Application Renewal
Date: 11/21/00

I, Kathy Hartman, hereby make application for an ADULT ORIENTED ESTABLISHMENT LICENSE in accordance with Title 10 of the Anchorage Municipal Code for the 2001 license year.

APPLICANT'S NAME: Kathy Hartman (PHONE) 278-5791
 APPLICANT'S MAILING ADDRESS: 1711 E 5th Ave Anchorage (ZIP) 99501
 APPLICANT'S STREET ADDRESS: 333 M St #401 Anchorage (ZIP) 99501
 BUSINESS NAME: Funko's on 5th Ave (PHONE) 263-0042
 BUSINESS MAILING ADDRESS: 1711 E 5th Ave Anchorage (ZIP) 99501
 BUSINESS STREET ADDRESS: 1711 E 5th Ave Anchorage (ZIP) 99501

PERSON HAVING ACTIVE MANAGEMENT OF THE ESTABLISHMENT:

NAME: Hartman (Last) Kathy (First) J (Middle) DATE OF BIRTH: 10-6-49 DAYTIME PHONE: 107-563-001
 ADDRESS: 1911 E 5th Ave (ZIP) 99501

- Within 2 years prior to the date of application have you been convicted of any of the following offenses as described in Title 8 of the Anchorage Municipal Code? Check those that apply:
- Assniation for prostitution
 - Prostitution
 - Offering to secure another for prostitution
 - Coercing another to become a prostitute
 - Owning or leasing a place of prostitution
 - Maintaining a place of prostitution
 - Section 8.05.410 Minors -Prohibited performances and exhibitions
 - Section 8.05.420 Minors -Disseminating indecent material to minors.
 - Section 8.05.425 Sexual exploitation of minors

If you answered yes to any of the above, list all charges, date of charges, places of charges, and sentences or fines imposed.

State of Alaska Business License No. 262837 (PLEASE ATTACH A COPY) EXPIRATION DATE 12-31-04

Note: State of Alaska business license is required. Municipal business license NOT transferable. Any change requires NEW license.

IF CORPORATION, PLEASE COMPLETE:

Corporate Officer's Name	Address	Zip Code	Telephone
Registered Agent:			
President: <u>Kathy Hartman</u>	<u>333 M St #401 Anchorage</u>	<u>99501</u>	<u>278-5791</u>
Vice President: <u>Frances Dunn</u>	<u>1113 Seward St Anchorage</u>	<u>99507</u>	<u>223-6803</u>
Secretary: <u>Kathy Hartman</u>	<u>1711 E 5th Ave Anchorage</u>	<u>99501</u>	<u>278-3714</u>
Treasurer:			

Directors and Stockholders holding 30% or more of stock in the corporation:

Name: <u>Kathy Hartman</u>			
Name:			
Name:			

State of Alaska)
) ss:
 Third Judicial District)

Kathy Hartman being duly sworn, deposes and says that he/she is the individual making the foregoing application and that the answers to the questions and other statements contained in this application are true and complete to his/her knowledge.

Signature of Applicant

Subscribed and Sworn to before me this 21 day of Nov 2000



Notary Public

My commission expires: 11/1/07

FOR OFFICE USE ONLY

I.D. Furnished (Document & Number)	Fee Paid: \$	Cash	Check No.	Receipt No.
<u>0311178</u>	<u>1300</u>		<u>6070</u>	<u>217210</u>

Municipality of Anchorage



P.O. Box 196650
Anchorage, Alaska 99519-6650
Telephone: (907) 343-4311
Fax: (907) 343-4313 or 343-4780
www.ci.anchorage.ak.us/Assembly

OFFICE OF THE CLERK

PRE-INSPECTION QUESTIONNAIRE FOR ADULT-ORIENTED ESTABLISHMENTS

1. Establishment Name: Fantasies on 5th Ave (phone) 5163-0042
2. Establishment Address: 1911 E 5th Ave
3. Establishment Owner/Operator: Kathy Hartman
4. Check ALL that apply to your business (see AMC 10.40.050 A. for definitions):

<input type="checkbox"/>	Adult bookstore	<input checked="" type="checkbox"/>	Adult cabaret
<input type="checkbox"/>	Adult mini-motion picture theater	<input checked="" type="checkbox"/>	Adult entertainment
<input type="checkbox"/>	Adult motion picture theater	<input type="checkbox"/>	Escort service
<input type="checkbox"/>	Physical culture studio or massage parlor		
5. List services provided: Live Exotic Dancer Entertainment
6. Number of rooms used for private viewing: NA
7. Number of signs displayed: ?
8. List all employees (attach extra sheet if necessary):

<u>Name</u>	<u>Position/Title</u>	<u>SS#</u>
<u>I am giving you a list of names inside</u>		
<u>very deep pocket. My employees do not</u>		
<u>want their info given out. See attached</u>		
<u>letter list</u>		
9. Hours of operation: 8pm to Closing

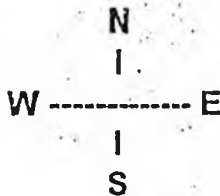
Kathy Hartman
Print Name

Kathy Hartman
Signature

2-9-04
Date

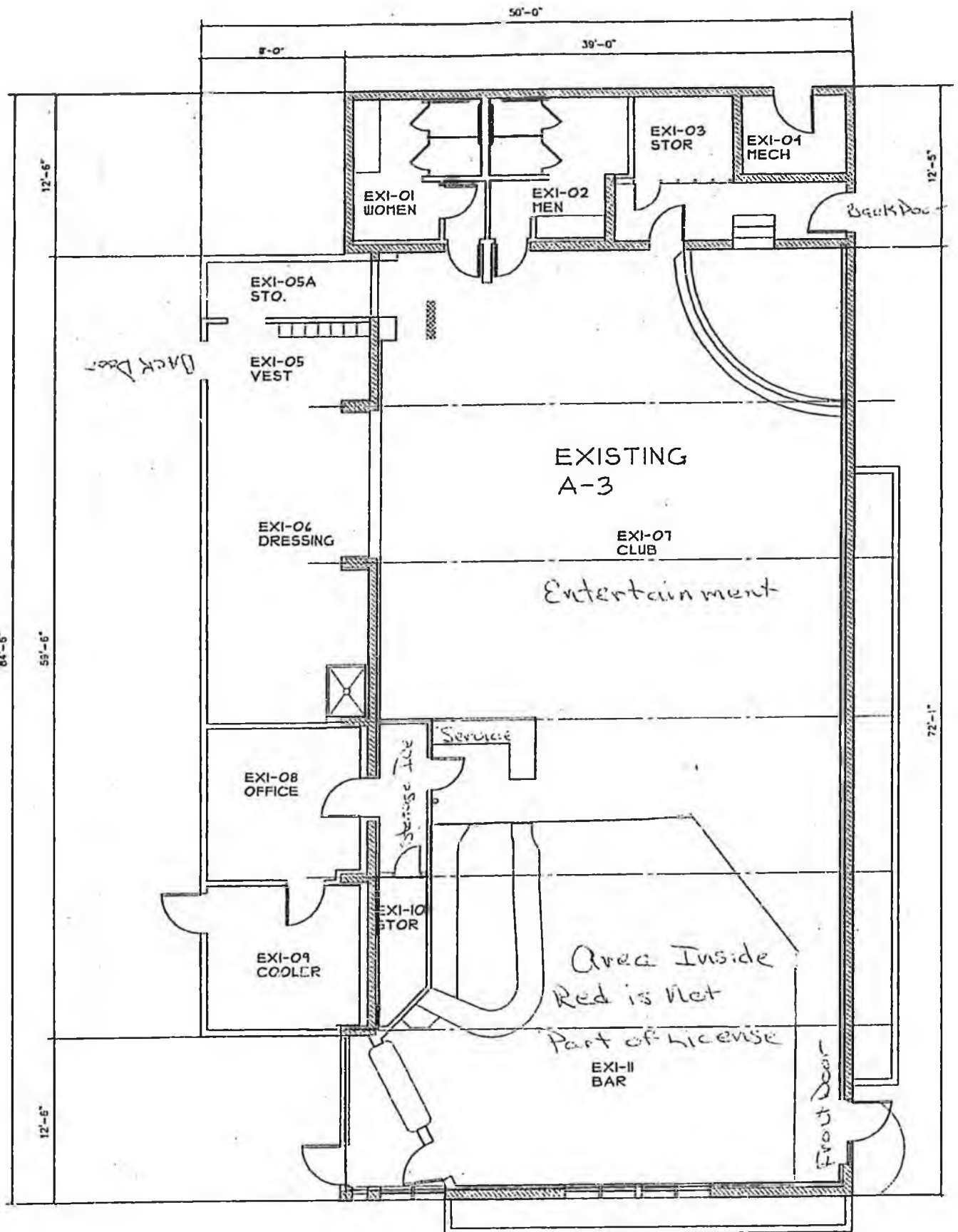
**MUNICIPALITY OF ANCHORAGE
PRE-INSPECTION QUESTIONNAIRE FOR ADULT-ORIENTED ESTABLISHMENTS
PHYSICAL LAY-OUT OF PREMISES**

Please draw a floor plan on the diagram below and indicate all areas and their use: (i.e. doors, windows, front entrance, rear exit, private viewing rooms, massage, entertaining, theater, books, videos, etc.). Exact measurements for each room are not necessary.



See Attached Copy

Please Return Questionnaire to: Licensing Clerk, Clerk's Office
Municipality of Anchorage
P.O. Box 196550
Anchorage, AK 99515-6550



DEMOLITION PLAN

2:39 PM
02/09/04

SANDS NORTH, INC. (2003)
Employee Phone List

February 9, 2004

	Employee	SS No.
Dancer/Ent	Apatiki, A'jaquedder 'Foxy' C.	-----
Dancer/Ent	Ayson, Brandie 'Shai' L.	
Dancer/Ent	Beeching, Ashley 'Carmela' R.	
Dancer/Ent	Davis, Brandy 'Jessica' L.	
Dancer/Ent	DeRushe', Jacqueline 'Jasm...	
Security	Dinkins, Steven H.	
Dancer/Ent	Evans, Vanna 'Contessa' Q.	
Light Manager	Gonzalez, Armando R.	
Wait Staff	Gonzalez, Carlos R.	
DJ	Gonzalez, Marco A.	
DJ	Hamilton, Kima M.	
Dancer/Ent	Hanson, Amy 'Angel'	
Dancer/Ent	Harris, Krista 'Temptation' L.	
Owner Manager	Hartman, Carol	
Wait Staff	Hartman, Derek S.	
Owner	Hartman, Kathy	
Dancer/Ent	Harvey, Brooke 'Crystal' R.	
Dancer/Ent	Hungerford, Jennifer 'Jasper'	
Dancer/Ent	Jewell 'Shanna', Dawn	
Security	Jones, Sherman	
Wait Staff	Kearney (Lawry), Theresa K.	
Dancer/Ent	Masewicz, Ania 'Athena'	
Dancer/Ent	Morg, Alessandra ;Alexandr...	
Dancer/Ent	Parker, Tabitha 'Alizay' M.	
Dancer/Ent	Petrini, Lori 'Susan' L.	
Dancer/Ent	Popadince, Summer 'Dyna' L.	
Dancer/Ent	Protosova, Anna V.	
Dancer/Ent	Simon, Heather 'Jolie'	
Dancer/Ent	Slick, Heather 'Daisy' D.	
Dancer/Ent	Spindler 'Siraha', Halee K.	
Wait Staff	Springstead, Jeanne S.	
Dancer/Ent	Tabor, Bonnie 'H. Haley' G.	
Dancer/Ent	Tweet 'Lacey', Jessica I.	
Dancer/Ent	Tyree, Natasha 'Nina'	
Dancer/Ent	Wallis, Brittany 'Madison' M.	
Dancer/Ent	Webster-Smith, Desiree L.	-----

*Under loan
S# card
be given
out.
Birthday
dates
with
letter
343-4313
H.*

Municipality of Anchorage
Office of the Municipal Clerk
632 W. 6th Avenue
Anchorage, Alaska 99519-6650

February 9, 2004

RE: Adult Oriented Establishment Application for License

To Whom It May Concern:


I am writing to you to express our concerns involving the threat we feel that our First Amendment rights, and those of our employees will be violated if we are forced to comply with a portion of the pre-inspection questionnaire for adult oriented establishments. Our dancers and other employees have expressed concern over the fact that we, as owners are required to list all employees names, position/title, and Social Security numbers. As many have stated, giving out their personal information violates their rights, and someone could get a hold of that list and begin harassing or stalking them.

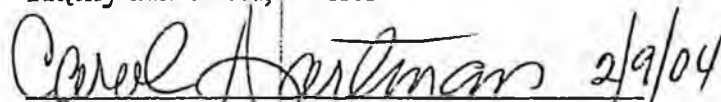
We feel that being required to obtain a license, and give out *any* information, is unconstitutional, and a violation of our right to privacy. If we are forced to comply with these regulations, and divulge this information, we feel that every other business owner in the Municipality should be required to obtain the same license and divulge the same information about all of their employees.

Please see attached five pages giving some of the reasons why we are against divulging this information.

We have sought legal counsel on this issue.

Thank you,


Kathy Hartman, owner


Carol Hartman, owner

Adult Oriented Businesses

Objections to HB 367

The First Amendment of the United States Constitution states:

**AMENDMENT I - FREEDOM OF RELIGION, OF SPEECH AND OF THE PRESS;
PEACEFUL ASSEMBLAGE; PETITION OF GRIEVANCE**

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

The Fourteenth Amendment of the United States Constitution states, in relevant part:

**AMENDMENT XIV - CITIZENSHIP; PRIVILEGES AND IMMUNITIES;
DUE PROCESS; EQUAL PROTECTION**

Section 1. “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privilege or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

The Pack Shack, Inc. v. Howard County, 365 Md. 266, 781 A.2d 778 (2001) The cause of action raising the federal constitutional challenges was brought under the *Civil Rights Act of 1871*, 42 U.S.C. 1983. Pack Shack filed a complaint alleging that the “purpose, intent and effect of Bill 65-1997 was to chill and inhibit and otherwise prevent the exercise of the freedom of speech” and “to prevent Plaintiff and all similar adult establishments from doing business” in the County. Pack Shack claimed that the ordinance suffered from several other specific constitutional infirmities. Pack Shack alleged that the County did not have sufficient evidence that the restrictions placed by the ordinance would serve a substantial government interests. It also asserted that the licensing requirement set forth in the ordinance lacked adequate procedural safeguards and, therefore, was an

unlawful prior restraint on constitutionally protected speech, and that the ordinance was not narrowly tailored so that any incidental restriction on speech was no greater than necessary to achieve the County's goal. Lastly, Pack Shack contended that the ordinance failed to provide reasonable alternative channels of communication, because there could be as few as four sites in the entire County that complied with all the requirements. Following the trial, the Circuit Court for Howard County issued a Memorandum and Order rejecting Pack Shack's challenge to the constitutionality of the ordinance and entering an injunction ordering Pack Shack to comply with the zoning ordinance. The Court of Special Appeals affirmed the trial court's decision. Pack Shack then petitioned the Court for a writ of certiorari, which was granted.

(1.) Bill 65 constitutes an unconstitutional prior restraint, even though the lower court found to the contrary. "any system of prior restraint ... comes to this Court bearing a heavy presumption against validity." The Supreme Court's cases addressing prior restraints "have identified two evils that will not be tolerated in such schemes. First, a scheme that places unbridled discretion in the hands of a government official or agency constitutes a prior restraint and may result in censorship." "Second, a prior restraint that fails to place limits on the time within which the decision maker must issue a license is impermissible."

(2.) Bill 65 places unbridled discretion in the hands of the Director of Planning and Zoning, contrary to the lower court's decision. Howard County's Director of the Department of Planning and Zoning is vested with the discretion to grant or deny an adult entertainment business zoning permit. Moreover, as part of the permit application, the ordinance unconstitutionally requires submission of the name and address of each owner of the business and each owner of the property, as well as the names and addresses of all natural persons who have a financial interest in any entity that owns the business or the property, no matter what percentage of ownership.

(3.) Bill 65 is clearly unconstitutional in limiting the outside visibility of merchandise and material that merely describe or relate to any sexual activity or nudity.

(4.) Bill 65 unconstitutionally permits the Director to require an overbroad disclosure of the identity of any and all persons with a financial interest in an adult entertainment business and the property where the business will operate. This section of the bill is unconstitutionally overbroad and potentially chills protected expression. In other words, "a shareholder disclosure statute that potentially chills protected expression cannot stand if the information sought is not reasonably related to the furtherance of a legitimate and substantial government interest in regulating the protected activity."

(5.) Bill 65 fails to provide adequate procedural safeguards for new adult businesses.

(6.) Bill 65 fails to sufficiently guarantee that an adult entertainment business will be permitted to operate pending permit approval and pending appeal.

(7.) Bill 65 fails to place sufficient time limits on the Director for issuing permits.

(8.) Bill 65 unconstitutionally censors adult entertainment businesses by limiting present and future businesses to an insufficient number of economically viable locations.

(9.) The lower appellate court conducted a constitutionally flawed secondary effect analysis. Here, the lower appellate court merely allowed Howard County Council to rely on studies that demonstrate "detrimental effects of adult entertainment uses." Clearly, no secondary effects studies can be considered sufficient until they are shown to be more applicable to the challenged zoning legislation.

(10.) Bill 65 provides an unconstitutionally overbroad definition of "adult entertainment business."

CONCLUSION: Bill 65 fails to meet critical constitutional protections for free expression. For all the foregoing reasons, amices DC FSC respectfully request that this Court reverse the lower appellate court's judgment. And that this Court quash Bill 65 as unconstitutional.

In the case of *J.L. Spoons v. City of Brunswick*, N.D. Ohio, May 20, 1999, The Federal District Court agreed with the plaintiff's argument that the city had failed to show how the 10-foot rule furthered the city's interests. And, more importantly, the court credited the evidence the plaintiff had produced, ".....tending to show that the ten-foot buffer zone would destroy the market for adult cabarets," a result that would violate the First Amendment.

In the same opinion, the court struck down as unconstitutional the city's licensing scheme for adult cabarets and their employees. The ordinance provided that the city was required to issue a license to an adult cabaret within 30 days of the submission of an application. However, a license could not be issued unless the premises were approved by the health, fire and building departments. The ordinance required those departments to complete their inspections and give their approval or disapproval within 20 days of the application. But, the city had no health department of its own and, therefore, they had to rely on the county health department for the necessary inspection. The court held that the time limits set out for the ordinance were illusory because the city had no control over the county health department and, therefore, could not guarantee that it would complete its inspection and issue its approval within any specific time frame. The court also held that the ordinance provisions for judicial review of the denial of a license were illusory as well, and, in any event, failed to guarantee prompt judicial review.

The court also struck down another part of the ordinance which was particularly dangerous, and has become increasingly popular with municipalities because it can so easily be exploited by government officials to

See also 4804 *Convoy*, 183F.3d at 1112 (“[A] plaintiff may challenge an overly broad statute or regulation by showing that it may inhibit the First Amendment rights of individuals who are not before the court.”).

An over breadth challenge is appropriate here because there is credible risk the Ordinance could cause self-censorship and chilling of expression. For example, instead of subjecting themselves to the alleged unconstitutional licensing scheme, managers and entertainers might choose to engage in their professions in other cities where their livelihood is not dependent upon the issuance and maintenance of a license. Managers might decide they cannot afford to wait 21 days before they can start working or that they cannot risk losing their job if the city revokes their license. Additionally, employees might be concerned about the Ordinance’s requirement that they disclose their home address and phone number. Entertainers might be especially concerned about the risk that cabaret patrons could obtain such personal information and harass the entertainers at their homes, or worse. See *LLEH, Inc. v. Wichita County*, 121 F. Supp. 2d 513, 525 (N.D. Tex. 2000) (holding requirement that adult entertainment employees must disclose their home address and phone number is unconstitutional); *N.W. Enters, Inc. v. City of Houston*, 27 F. Supp. 2d 754, 840-841 (S.D. Tex 1998) (same). For these reasons. There is a risk cabaret employees will engage in self-censorship and avoid participating in protected activity in Lakewood. We hold this is a sufficient basis to relax the prudential standing requirements and allow Clark to bring a facial over breadth challenge to the licensing of managers and entertainers. See *Munson*, 467 U.S. at 956-57.

Lady J. Lingerie, Inc. v. City of Jacksonville, supra, 176 F.3d at 1366. The court pointed out that [compelled] disclosure of the sort the Jacksonville ordinance entails threatened to stymie the exercise of First Amendment Freedoms....”Ibid. The court held that there was no “relevant correlation” or a “substantial relation” between the names of principal stockholders and the harmful secondary effects of adult entertainment establishments.”Ibid. The court indicated that disclosure of directors and officers of the corporation would be sufficient for the City’s need to know who was actually running the adult businesses, to allow for effective enforcement of the zoning regulation.

Similarly, the United States Court of Appeals for the Ninth Circuit held unconstitutional a regulation by the city of Seattle that required a license application for a specific adult business to list the names and addresses of all stockholders of a corporate application. *Acorn Investments, Inc. v. City of Seattle*, 887 F .2d 219 (9th Cir. 1989). The city justified the licensing ordinance on the grounds of the adverse secondary effects associated with the adult businesses in question, relying on *Renton v. Playtime Theatres, supra*, 475 U.S. 41, 106 S. Ct. 925, 89

21.45.240 Location of premises where children are not allowed.

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A. *Purpose.* Certain types of enterprises are places where children unaccompanied by an adult guardian or parent are prohibited. These enterprises have been determined, by court-accepted independent studies, to produce secondary impacts on surrounding land uses. The impacts include a decline in property values, and increase in the level of criminal activity, including prostitution, rape and assaults, in the vicinity of these types of enterprises, and the degradation of the community standard of morality by inducing a loss of sensitivity to the adverse effect of pornography upon children, upon established family relations, and upon respect for marital relationships. The purpose of this section is to segregate such enterprises from places frequented by minors in order to reduce the influence of these enterprises on minors.

B. *Minimum distance from certain uses.* Except as provided in subsection C of this section, permitted principal uses, accessory uses or conditional uses that are prohibited by law from having minors or unaccompanied minors on the premises for reasons other than sale of liquor shall be located so that all portions of the lot on which the use is located shall be 1,000 feet or more from the property line of:

1. A public or parochial school;
2. A public park;
3. A church;
4. Property zoned residential, except R-11;
5. R-11 zoned property designated as residential in the comprehensive plan;
6. PC zoned property designated as residential in the PC master plan;
7. Public recreational facilities;
8. Twenty-four-hour child care facilities or day care; or
9. Public libraries.

C. *Compliance with state standards.* Where the state has provided specific standards for determining an enterprise's permissible location then, the state's means of measurement shall apply. Such enterprises must also comply with subsection B of this section if the enterprise engages in other activities not regulated by the state for which Title 8 prohibits the presence of minors or unaccompanied minors on the premises.

D. *Administrative permit required.* An administrative permit shall be on display in a prominent place. This permit shall certify that, when granted, the enterprise was in compliance with subsection B or C of this section. This permit shall be obtained from the administrative official designated pursuant to Section 21.10.005. This permit shall remain valid so long as that enterprise remains in continuous operation at that location, and does not physically expand. In addition, a permit granted under subsection C of this section shall remain valid so long as the enterprise does not engage in an activity for which a permit is required under subsection B of this section.

E. *Premises without permit.* An enterprise not in possession of a permit must immediately cease all activities for which a permit pursuant to this section is required.

(AO No. 88-37(S); AO No. 89-131)

[Previous Doc](#) | [Next Doc](#)

Cross references: Adult entertainment establishments, license required, restrictions, [§ 10.40.050](#); alcoholic beverages, [Ch. 10.50](#).

THE SAFE HARBOR INN

ALASKA'S NONPROFIT MOTEL

February 5, 2003

ANCHOR ARMS, INC.
BOARD OF DIRECTORS

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VICE PRESIDENT

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JOE MURDY

WALT MONEGAN,
CHIEF, APD

MYRNA GREEN

PAUL QUESNEL

STEVE BYE

Ms. Carol Hartman, Owner
Sands North, Inc. dba Fantasies on 5th
1911 East 5th Avenue
Anchorage, Alaska 99501

Dear Carol:

Anchor Arms, Inc. dba the Safe Harbor Inn is pleased to express its strong support for your plans to improve your facility and property.

Ever since we purchased the former Grizzly Inn in 2001 and began to operate it as a nonprofit motel for homeless families and people with disabilities, we have been very grateful to have you as our neighbor. Not only have we had no problems whatsoever with any of your customers, but we have really appreciated the way you keep your property clean and quiet and the responsible way in which you have run your operation.

Along with our primary mission of providing successful, compassionate transitional housing, one of our main goals is to improve our neighborhood. Our planned expansion will further that end, and we believe that your planned improvements will do the same. We look forward to continuing to work together with you to achieve our common goals, and we thank you very much for all your kindness and support.

With best wishes,



Lynne Ballew, Project Director

February 11, 2004

To Whom It May Concern:

I believe that HB 367 is totally unjust. My name is Armando Gonzalez, I'm 23 years old, and have been employed at Fantasies on 5th Avenue, (an adult cabaret) for five years. The legislators are trying to pass a bill that is very disturbing to many people, including me.

HB 357 goes against everything this Country stands for, and has fought for, since we became the United States of America. The legislators are trying to pass a bill that's unconstitutional, because of morality issues.

If you are 18 years old and you commit a crime, you are punished as an adult. You have the right to go war, and possibly die for your country. However, you don't have the right as an *adult*, who fought for your country, to view nudity, or semi-nudity. There is something very wrong with this picture, and I'm sure that whoever is reading this should feel the same way. But if you don't, I would like you to take a minute, read that last part again, ponder on it for awhile, then look deep down in your heart. Is it even justifiable? I don't believe so. It's wrong for many different reasons

The legislators talk about secondary effects around adult businesses, but I haven't seen any. They say land values have decreased, but research shows they increased in value.

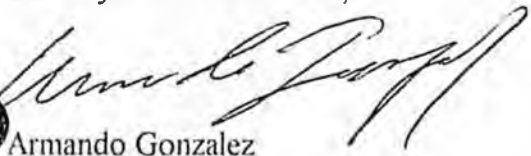
In the State of Alaska the legal age for consensual sex is 16 years old. In layman's terms, that means a 16 year old can have sex with a 50 year old. I believe that's wrong, but it especially makes HB 367 wrong when it would ban 18 year old from working at, or even entering a non-alcoholic adult cabaret. This would totally prevent self-expression, or the viewing of expression yet they can start having sex at 18 year old with the State's blessing.

To me, and I'm sure a lot of other people, it sounds like the government in Alaska is telling their community's *children* that it's okay to have sex at 16, but telling their *adult citizens* that you can no longer look at nudity until you are 21 years old. How do you have sex, and not view any nudity? WOW, that's weird, or something is very, very, wrong with that.

I wonder if the President of the United States actually knows what's going on in this State, because I refuse to believe that he would even agree with taking away the rights of all 18, 19, and 20 who fight and die for him and this country.

In conclusion, I would like to say thank you for taking the time to read this letter, and I hope it makes you feel, and think as I and many other already do.

Thank you and God Bless,


Armando Gonzalez

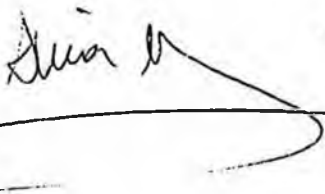
To whom it may concern:

To take away our rights of the first Amendment is against the American justice system. Why focus on women who have families, attend college, and are a part of a functional community just like everyone else burdened with a financial misjudgment that will prove nothing.

I have been at fantasies for three years. I gained confidence in myself, the ability to attend college and found financial security. This job has saved me from distress. Working here at fantasies has proven to be the best decision that I have made for my future. It is definitely a choice to work as an entertainer. I would not work anywhere else.

Sincerely

Athena

 2/4/09

February 9, 2004

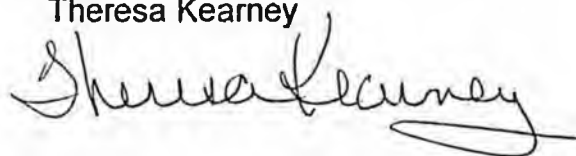
To Whom It May Concern,

I have been employed by Kathy Hartman for over ten years as a waitress and house mother. She is the owner of Fantasies on 5th Avenue. During this time I have never seen the Club demand , endorse, encourage, neither drugs nor prostitution. The Club has always encouraged dancers to be independent and that "self" matters. We have had many dancers that have received further education from college and trade schools. Even today we have dancers in some type of educational program. We have also had single moms supporting themselves. They are young adults making their own choices in their life.

I am alarmed that our legislative are trying to change the age of Clubs to 21 and over. Not recognizing that 18 year olds are adults. We certainly announce that they are adults when it comes to Protecting our National Security , and if they have broken the law . What is even more alarming is that the legislative is presenting justification for these changes under the disguise of "morality" and "protection" . I say these are dangerous politicians for they are willing to stamp out the rights of certain groups to achieve their agenda. I always believed that their job was to protect the "rights " of all people? This to me is no different than the legislative trying to close all hamburger places to protect certain individuals from heart disease. What happened to freedom of choice and freedom of expression???

Sincerely,

Theresa Kearney

A handwritten signature in cursive script that reads "Theresa Kearney". The signature is written in black ink and is positioned below the typed name.

February 4, 2004

To whomever it may concern:

I am writing about the legislative bill that is in the process of being passed and why I think it is unnecessary. I am 20 years old and have been dancing for over one year. Dancing is something that allows me to support myself while I am going to school, and it is something that I made the decision to do on my own; there was no persuasion from any other source. I do not do drugs and I made the decision to dance as a means to better myself. The legislative bill that is in the process of being passed and activated that states dancers that are under 21 need to undergo career counseling and take a class on the prevention of spreading STDs, is unnecessary for numerous reasons but the main reasons are that career counseling and STD prevention is taught in high school, it insinuates that all dancers are dumb, and it's our constitutional right to dance if we want to.

I have been going to UAA for 2 years now, and as a young adult, I have graduated not only high school, but college, and am now pursuing my second degree, and I am able to fully support myself while going to school through dancing. Obviously, if I have been going to college for 2 years and have already graduated from there, I am fully aware of the other career opportunities available to me besides dancing. I do not need an instructional course to tell me that I have other choices. In the Anchorage school district, career counseling is something that is offered in high school, and since I graduated from the anchorage school district, I have already been given that counseling years ago. I find it ludicrous that I would need to be informed again of what is out there, because I already know. Not only that, but taking a class on the prevention of spreading STDs is also another unnecessary course. Students in Anchorage first begin to learn about sexually transmitted diseases in the eighth grade and learn about it again when they are in high school. It is a waste of time and money for me to sit through a class that teaches me about the same STDs that I learned about previously. Furthermore, in the spring semester of 2003, I had taken a biomedical science class where I learned about STDs again. That is three times where I have been formally educated in the matter. I do not need to go through another class like that again to become a dancer, where there is absolutely no sex involved. I am sure you are already aware about the conditions of how STDs are transmitted, therefore, I do not need to inform you that it is impossible to spread STDs through a club where there is no sexual contact. Or maybe you didn't know that.

I realize that not every single dancer has gone through the same extensive training/education that I have, so as a note on their behalf: mandatory career counseling in order to obtain a license to dance is an insult, because it is insinuating that every dancer is not aware of the other jobs that are out there, therefore making the assumption that every dancer is unintelligible. Would we not all go to high school where every teenager was basically taught the same principles of life? Were we not all informed that after you graduate high school you are entering a world as an employee as a means to support yourself? Even if one was to eventually drop out of high school, they are mandated by law to stay enrolled until they are 16. So even if they did not finish their education, before they made the decision to leave high school, they were still taught about working after their high school career subsided, and they all had guidance counselors that taught them about a variety of career opportunities. The average high school student will take

February 9, 2004

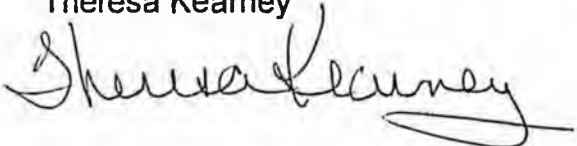
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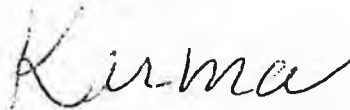
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biology as a sophomore. Sophomores are ~~15~~ and 16 years old. Most sophomores will enter their high school year being 15 yrs. Old and will turn 16 sometime during that same school year. Biology is a year long class, so even though a student can legally drop out of high school at 16 years old, they most likely started the class at 15, therefore, they were instructed about sexually transmitted diseases at some point in that time frame. If for some reason they did not receive that part of the class during that time in their life, they learned about it in eighth grade. Regardless of when they were taught about the dynamics of sex and its repercussions in class(es), there are clubs active in high school that teach about STDs. Clubs such as RARE-T, which makes presentations throughout the school year about such things as STDs and how they are spread, how to avoid them, and so forth. The point being, if you are a junior high or high school student, you have more than likely received some form of instruction on the subject, which takes me back to the point of dancers **not** needing to take a class on the subject matter.

The last time I checked, the United States of America was a free country. Furthermore, the legal age in which one becomes an adult is 18. Why, then would it be possible to shut down an adult establishment business to those under 21, if by definition 18 is an "adult?" What's even more troubling is cigarettes, which are clinically proven to cause lung and mouth cancers, are sold to 19 year olds, but a 19 year old who could potentially kill themselves with cigarettes, can not enter a club that is for "adults only." In the United States of America, a 19 year old is old enough to deteriorate their own health, but they can not step inside an adult entertainment business where there is nothing going on of compromising nature. As mentioned before, there is no sex being solicited or being engaged upon, so I do not understand what the controversy is.

In conclusion, I feel that the legislative bill that is of topic here is completely illegitimate. Proof of the bills illegitimacy is in the fact that dancers are already schooled about the opportunities in careers and the prevention of sexually transmitted diseases, and the fact that in America, 18 is an adult. Being an adult means doing whatever you so please. It is unconstitutional to take that right away from someone because others are worried and uneducated about the subject matter.

Sincerely,

A handwritten signature in cursive script that reads "Karma".

Karma from Fantasies on 5th Ave.

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Central Microfilm Services
Department of Education & Early Development
State of Alaska

February 9, 2004

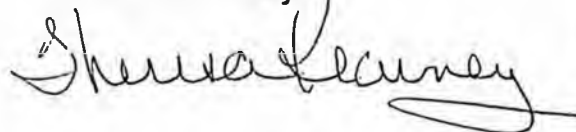
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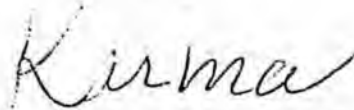
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Karma from Fantasies on 5th Ave.

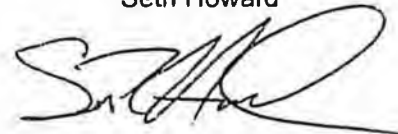
To Whom It May Concern:

This letter is in response to the proposed changing of legislation to regulate the lives of young women who want to make a living by dancing in local "under-21" clubs. It is my opinion that these WOMEN have every right to choose for themselves where they wish to be employed. As I recall this is the United States of America, the land of the free, as in free to make our own choices in life. Our ever wise and benevolent state representatives seem to miss this fact entirely, as they (Leslie McGuire and Les Gara) wish to control the ability of legally (18 and over for those who have forgotten) adult women to choose where they wish to work. The idea that someone should have to attend career counseling and STD education classes is simply ridiculous. What does that imply about our states public schools? Surely every high school student (unless curriculum has changed drastically since 1995, my year of graduation) is required to take courses relative to these subjects before they can graduate, so to single out a group of working individuals and require them to meet standards that have already been met is again, ridiculous.

In regards to comment made by Mrs. Nancy Fair, member of the prestigious Service High School Parent Teacher Association, that her teenage children informed her that 18 year old students were attending strip clubs and those visits could subsequently interfere with their education. Mrs. Fair seems to want to play the concerned humanitarian in this situation, she says "It seemed sad to me that there were girls that felt they needed to make a living that way," with such strong emotional conviction Mrs. Fair had to help, by proposing unnecessary changes to existing laws. For instance requiring drug tests and STD test for dancers, as I recall it is the employers discretion whether or not to require drug testing for employment, do they require that at over 21 clubs? The thought of testing for STD's is simply preposterous, as every educated individual should know, it is impossible to contract or pass on an STD by touching a person's jeans with ANY of one's body parts. Now onto another matter that Mrs. Fair and Assemblyman Dan Sullivan are concerned with, the classification of these "cabarets" are not inline with other "adult oriented establishments" as far as regulations go. Regulations like cleanliness, signs and displays, and how booths and cubicles are accessed, all of which are inspected annually. It seems pretty frivolous in my opinion. Furthermore, to correlate stripping and drug use and prostitution is quite narrow minded. How many average citizens have used some sort of narcotic in their life? Our former president smoked marijuana, had an extra-marital affair (breaking one of the ten commandments for those of you who are not religious zealots) and he wasn't impeached. If prostitution is the issue then focus on prostitutes, if drug use is the issue then focus on drug dealers, if you want to control what people want to do with their adult lives then move to China and become a communist.

My fiancé is presently employed as a dancer at a local club in the Anchorage area, and as I have known her for almost four years and she has only been dancing for 14 months, I can say that I fully support her. She does not do drugs and she is not a prostitute. She is a student at UAA in her second year of study. She could not find a job that would work around her school schedule. When she did find one that was willing to be flexible with her schedule, the rate of pay was so paltry that she could not support herself. She is a very smart woman who speaks three languages, is studying to be a dentist and overall is a fabulous human being. To instill all of these proposals that are being thought up by those who are seemingly looking out for the "best interests" of others is, simply put, silly. We as Americans must not forget those things that make this country great, freedom of speech, freedom of expression, freedom of choice and the pursuit of life, liberty and happiness. There are those who wish to limit these things and in some cases take them away entirely. Please, people open your eyes and make a difference, make a choice. Your OWN choice.

Seth Howard



To Whom It May Concern:

"Adult entertainment" adult is the key word. Men and women can fight for our country and vote for our next president at 18, our next U.S leader, **WOW** that's a lot of responsibility. But they can't have enough freedom to be in an adult establishment that dose not sell liquor, or work in one. As a dancer of 4 years, starting at the age of 18, I see no need to take the courses are that have been suggested. Sex courses are not needed, we did that in high school, and that's what parents are for. As for the defense classes everyone should take one, but we don't. I don't think just cause I'm a dancer, I should have to, in that case every women should, mothers, grandmothers, bartender, ect,ect.

Thank you for your time

"Dyna"

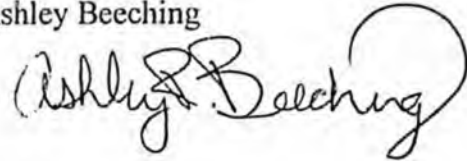
A handwritten signature in cursive script, appearing to read "Dyna". The signature is written in dark ink and is positioned to the right of the name "Dyna" which is printed in a simple font.

To whom it may concern:

Dancing is not just my job, but it's my livelihood. I am currently a 1st year student at UAA just getting out on my own. This is how I pay for my education. Dancing is not something I want to make a career out of, but this is my stepping stone to a better life. Changing the dancing age to 21 and up would cause me to take a lower paying job that could not support me or paying for my college. Plus I have never seen nor heard about there being drugs sold or the girls being prostituted in this club.

Sincerely yours,

Ashley Beeching

A handwritten signature in cursive script that reads "Ashley Beeching". The signature is written in black ink and is positioned below the printed name.

To Whom It May Concern:

I am a (nearly 30 year old) single mother of two small children. I have been an exotic dancer since I was 18 years old. For the majority of those years, I have worked in the non-alcoholic clubs. I won't deny that there are obviously some undesirable and illegal things that go on in this industry, however, in all these years, I have rarely seen them. I have chosen a pretty straight and narrow path for myself, regardless of the choices that I could have made during my lifetime thus far. I work in a very clean club as far as this type of club goes, and I enjoy what I do. Dancing keeps me in shape, it provides an honest and completely legal income for my family and it frees up my days so that I can stay at home with my children, which is very important to me. My children have never had to go to daycare, and I am very proud to be able to say that.

As a mother, I wouldn't work in an environment that contributed to the delinquency of minors. At the age 18, one is considered an adult and should be treated that way. No one blinks an eye when it is time to send over our young men and women to fight and die for our country and many of them are only 18 years old. As young adults, (at age 18) regardless of whether or not they are still in high school, men and women alike should be able to make their own choices in life. We have bigger problems, here in America, than 18-20 year olds dancing nude and watching others do so.

Sincerely,

A mother who works for a living

A handwritten signature in cursive script, appearing to read "Amy Hauer".

To Whom It May Concern:

I started dancing because I was eighteen years old and still in states custody. I'd been moved from house to house. Forced to live with strangers. I was tired of it and I wanted to be on my own. I was ready to except the responsibility of taking care of my self. After my first week at Fantasies I was able to move out of the home I was living in and get a place of my own with my best friend, who also is a dancer. The best thing about being a dancer is that I make good money. This means that I will never have to live on the streets. Since then I have left the apartments with my roommate and I'm staying in a residential hotel. This job has kept me from being homeless or in a shelter. I thought that I would always have a safe place to live but if you pass this bill I would not make the same amount of money.

Fantasies isn't my idea of a life long career just something on the side to help me keep a roof over my head, and help me pay for school when I am ready. I plan to go for my masters in fine arts and business, and my bachelors in fashion design and merchandising.

In my time spent working a fantasies never experienced any danger or uncomfortable situations. The club is equipped with good security guards, to take care of the extremely rare incidents of any hostility from customers. I have never be exposed to drugs or any uncomfortable sexual behavior from dancers or customers. Aside from the nudity, the club is really clean and safe. I have never been treated like anything less than a lady by the employees or customers.

Sincerely,

Natural

A handwritten signature in cursive script that reads "Natural" followed by a stylized flourish or symbol.

To Whom It May Concern:

My name is Derek Hartman. I've worked at Fantasies for around 16 months. In this time I have seen countless young women come and go through this business. We do not hire girls that are on drugs or are suspected of prostitution, or girls that are still in high school. It says this on our application and has for as long as I can remember. We have strived to run a clean and healthy club. We have excellent security we see very little acts of violence or costumers groping our girls, which we are very proud to say. Girls that come to work say that they love our club because of this reason! Most of our customers are in the military, they come to merely have a social life, and to talk to someone while they are away from their home. This bill is against everyone's 1st amendment rights. Are you telling me that our solders can fight and die for our country, but they can not make decisions like adults that they are. This is not right.

Sincerely,



Derek Hartman

To whom this may concern,

my name is Krista, I'm writing in reference to fantasies on 5th Ave. I'm a worker here, and to me this job has provided me a lot. It has given me an opportunity to make it here in Anchorage, Alaska, where I moved two years ago. I came here for college and a place to live and grow on my own.

Since working here, I have built much confidence, strength, security in myself. I feel good about myself. I have as well been able to save money to pay for my college and I also am paying for my place to live.

It's been a real struggle but since I've started working here, I feel great and encouraged to just work, not only here but other jobs. Thanks for your undr
Stamini. H. C. L.

2/5/04

To whom it may concern:

My name is Jacqueline DeRuské. I have been a dancer at Fantasie's for four months now. In the time that I've worked there ~~worked~~ ^{the met} with and get to know some of the the girls there. Some are College Students. Some work to support - or help-support their family's. I am one of those who help-support my family.

Without the extra income I receive from working at Fantasie's. I wouldn't be able to help my disabled mother with her rent or utilities. I wouldn't be able to save for a car, or have an apartment of my own.

Now I've worked other jobs. Before I started at Fantasie's I was a Graveyard Manager at Village Inn for a year. Before that a Graveyard Server at Denny's for nine months. I made ok. money, but not enough to keep me on my feet - much less help my family.

Fantasia's has given me an opportunity to help my self and my family.

To take away my Right to Dance because I am ~~only~~ 19 years old is a Direct Infringement on my Rights as an adult.

To tell me, and quite a few others, that because a few people think Dance clubs are Disease and drug infested, and that they think we convert innocent kids into prostitutes, that it's O.K. to say no one under 21 can go to or work at an adult orientated establishments ~~in Alaska~~. It is wrong, and I say again, a direct Infringement on my Rights as an adult ~~in the State of~~ Alaska.

In the time that I've worked here I have yet to see any drugs on the premises, or any form of Prostitution. Nor have I heard any stories - From Patrons or Staff - of such.

For a Person to be 18 in the State of Alaska, It is legal for that Person to Dance as an exotic - Dancer. Lets not change this Law that has helped and is now helping life long Alaskan Residents. ^{Thank you} Jacobi DeRoses

I'm the owner of the Setter Lounge, Undress lingere store, and Fantasies on 5th ave. Both hospitality businesses are members of Anchorage and State of Alaska Cabaret Hotel and Restaurant Retailers Assn..Both businesses belong to the H.E.R.E local union. ^{FR18} We have been in business for 15 years in Anchorage. I pay into unemployment, workers comp insurance, social security insurance and anything else required by the law. I have never had a police record, nor do I intend to. There are laws in place at this time to regulate this business. It is up to the proper authorities to see that those laws are followed. We have now and always have had to have health and fire inspections and any other inspections that are required. If there are problems within this industry, raising the age limit will not prevent them only delay them. All of us at Fantasies have worked hard to establish this business and I feel we have a very good business. I feel this new proposed law is wrong for many reasons and I will fight it with everything I have. Most of my employees of long standing are single woman and we will not be defeated by "moralistic" legislators who are no better than we are. You are here to serve us. Your job is not to make frivoulous laws of which you will cause the State of Alaska to spend many tens of thousands of dollars {or more}, on a lawsuit to defend, when you have already aknowledged that it is constitutionally on thin ice. Take that money and give it to the seniors for their longevity.

Kathy Nant

Discrimination is rampant in the United States. Sex, race, and religion are just a few of the types of discrimination that are illegal in the United States but still happen. One form of legal discrimination still goes on, age discrimination. Everyday millions of Americans are discriminated upon just by their age. The United States must have equality in all walks of life, including age. I propose that every American age 18 and up must get equal treatment under the law.

After a person reaches age 18 and has the right to vote, they are now the voting public, but they still lack basic rights. Americans cannot buy alcohol in most states until age 21, insurance companies can charge higher or lower rates based on age, and people are not allowed to run for some public offices because of age. An 18 year old can fight and die for their country, but can not drink. They can vote but cannot run to president until age 36. A person 18 years of age will pay more for car insurance then will a person over age 25. And on the other end of the spectrum, people age 55 and up are charged more then younger people for health insurance. If a person wants to rent a car, they must be 21, but if the car rental business said that women could not rent cars, that would be sex discrimination, why are companies allowed to discriminate by age? If we are all equal under the law, why are services and job opportunities not available to me? The answer is that age discrimination is legal. This kind of discrimination must end. It does not matter what a person's age, sex, race, religion, or political party is, in the United States everyone is equal. It is time to stop discrimination; it is time to stop Age discrimination.

The largest voting block in the United States are people ages 18 to 25, but sadly the most discriminated do not vote. Politicians who want this kind of equality are beat out by the larger political parties. It is up to the younger Americans to make change, before we become old and continue the practice of age discrimination. As Americans it is time to understand our role as voters, if we do not vote for change, change will not happen.

Discrimination



Why Would a Woman Want to Become a Stripper?

People wonder, I try to answer. So it goes.

People take jobs of all kinds for various reasons – some people are lucky enough to do what they love and what they've always dreamed of. Others go into a profession they can tolerate because it provides security. Still others take whatever they can get so that they can do other things that are more important to them. Some people are willing to do something most others are not because they realize that it's very lucrative to provide a specialized service (*I really doubt most people ever aspire to work in slaughterhouses or to drive the honey wagon on film sets... and what little boy or girl dreams of cleaning up crime scenes?*). Then there are those who reluctantly do one thing after another just to pay the bills and eat, who get trapped just staying afloat and trying to provide for their families, who feel that life is passing them by.

Some professions are dangerous; some are tedious. Some are dirty, or repugnant. The reasons each individual enters any given profession are their own, and reflect not at all on the job itself.

Therefore, it goes to follow that women want to be strippers for any of the reasons people take any job. When you meet a telemarketer, even though it takes very little talent or education it's very rare to assume that she has that job because she's not able to get another one, to wonder what she does in her spare time, or to assume that telemarketing is a lifestyle instead of a job. Strippers do it because they like the money – who doesn't want to be paid well? Some strippers do it because they like the attention – is that bad? Babies look three times longer at faces that look back at them than at ones that are looking away. Humans are social creatures who learn through praise and validation. Wanting and enjoying attention isn't necessarily unhealthy. Some strippers do it because they don't have any other job skills. So do some telemarketers, cashiers, and ditch diggers. If you're a happy housewife who wants to supplement your household income, but you got married instead of finishing college, what's the difference between dancing and waitressing if it pays to repaint the nursery or add on a deck – especially when you can go to work after your children are in bed?

The blue-collar worker is the backbone of our society, yet many of these workers have limited educations and few alternatives. They've learned a skill, to perform a function. However, society needs the services and products they provide, whether the workers themselves dream of something better or not. Many of them love their jobs, too – that doesn't change that quite a few of them aren't qualified to do much else. There's no shame in that.

Some strippers really do it because they're beautiful and very stupid. Society has looked down on stripping as the refuge for dumb beauties for many years. But let's look at that: being born genuinely stupid is no one's fault any more than being born crippled or deformed. Stripping and other jobs that market beauty are really some of the very few ways that these women can truly empower themselves and command that kind of income,

and there's nothing they can do about that. Does that mean that they should simply resign themselves to their fate and live in some sort of caste system in which those born with less advantage may not transcend their station in life? Just because some women dance because they have no other skills doesn't mean that they hate being there. It means that they're earning more and living better than they could anywhere else under their present circumstances. Whether they change that in the future is entirely up to them, but in the meantime, what's wrong with taking the better-paying job?

What I really resent is women who do very little to improve their own lot in life, compromise their own morality for short-term financial gain, and then blame the very industry that improved their lifestyle for victimizing them, exploiting them, or 'sucking them in,' effectively denying responsibility for their own actions and choices. Aside from Linda Lovelace, there are very few women that are truly forced, either through desperate poverty or some other difficulty, to walk up the steps and start undressing when the music begins to play. They could have made other choices, and endured further hardships to preserve their integrity (if they believe what they're doing is wrong); many have done so before. In no other instance is an industry that provides such a quick leg up for those in need blamed for the very hardships it relieves. Instead of being seen as a cesspool that sucks in the needy and unsuspecting, the sex industry should be seen as an oasis for some in a desert of bad circumstances and limited earning potential.

(So some people become sex workers because they have no other skills, and that makes the industry exploitative? Isn't the entire premise of minimum wage paying people to do menial but necessary tasks for the very least you can pay them because they have no alternative but to do the work? No one works for minimum wage because they want to. They do it because they have no alternative, either temporarily or permanently. Are they being victimized, or is that simply the way industry works? Not to mention the fact that the poor, exploited dancers are making WAY more than minimum wage...)

Occasionally there's a bad club or an unethical manager, and so people denigrate the industry for being abusive to women, but remember: sweatshop conditions don't mean it's wrong to make clothing, but that it's wrong to exploit workers. In no other industry do we blame mistreated workers for their unfair treatment and refuse to help them or to provide recourse, then blame them because they should have known all along.

One thing that is common to virtually all strippers is that, regardless of their original motivation, they have looked past a widely held convention of society and examined something for its innate value and for its potential benefit to them. Yes, some women are desperate, whether through divorce or other unfortunate circumstance, when they start dancing. However, any person who remains unemployed for long enough after personal difficulty is bound to become desperate after a while, and the next job they take will then, by definition, be out of desperation. If you're divorced, uneducated, or homeless and you take a job washing dishes or mopping floors and don't like it, is your choice more valid somehow? Lives of quiet desperation are the desolate territory of all mankind.

I can't speak for anyone else without being rightly accused of making assumptions. I can only tell you my own experience. The answer is not simple or short, but is probably reasonably typical.

When I was a young, poor college student and struggling actress, I never would have dreamed of dancing. I saw the ads in the paper and assumed the claims they made about the potential income were exaggerated. Moreover, I couldn't really imagine myself actually walking into a place like that, climbing up on the stage, and disrobing. I worried about the kind of people I'd meet in a place like that; nice folks didn't go there. I thought perhaps that other dirty, seedy things went on there – after all, if a woman is willing to take her clothes off for money, what wouldn't she be willing to do for a price? I took the conventional route, and had a conventional idea of what people did and didn't do.

Then a friend of mine, a girl I liked and respected, started showing up at the restaurant where I worked the graveyard shift and leaving huge tips after her meal. I was so dirt poor, I couldn't really imagine what it was like to have an extra \$20 to eat out, much less \$10 on top of that just to tip the help. The job I had before that, I used to go into the cooler when no one was looking and stuff food into my mouth so that I didn't pass out from hunger and get fired.

I wondered about it for a couple of weeks, and then one day she brought it up: she was dancing now in a go-go club. That meant that she didn't actually expose anything private, she just danced in a teeny bikini or a bra and panties.

I was shocked. So *this* was how she had so much money. I could hardly believe it. I had read about strippers, but assumed that they had to have been cut from an entirely different cloth than I to do a job like that; they weren't like me. I didn't know people like that. But she seemed so normal... she was the same girl I'd always known. She didn't seem dirty or diminished; she hadn't suddenly lost her mind. I had a lot to think about.

Still, I didn't consider it in relation to myself, only in my perception of her. My objections were partially moral and partly because I didn't think my self-image could stand being looked at without my clothes on. I didn't look like the girls on the magazine covers, so I clearly wasn't beautiful enough to let people see me that way. I went on about my business for several months more, hating my job, miserably trying to make time to study, to rehearse and audition, all the while barely eking out an existence. There was never food in the house. Our power and phone had been shut off more than once. I never had money to go to the movies or to buy new clothes. When my work pants got damaged, a friend's mother kindly took me out to get a new pair so that I could keep my job. My life was a dead end. This was the single unhappiest period of my life.

Then I began dating someone new. I had known him for a while, but we had been friends for a long time before we became romantically interested in each other. He was older than I, an artist. I found out that he often went to a certain strip club on nights he wasn't around our crowd to draw the dancers.

I struggled with the things that most of my older feminist friends would have said about how bad that was, how it meant that his view of women was skewed, that he saw them as objects, not people. However, he treated me like a *person*, not an object. My mother always told me that actions speak louder than words; I think sometimes we forget that universal truths don't always support our position.

Then I had a personal tragedy: my ex-boyfriend, my first love and a

longtime friend, was killed in a car accident. I was overwhelmed with grief. The restaurant where I worked refused to give me a couple of days off to go to the funeral and deal with my crippling sorrow. Suddenly it all became too much, and in the next few weeks it became impossible for me to continue in the poverty-stricken life of drudgery I was living. When you're 18, it seems like bad things are really never going to end, that things are always going to be the way they are just at that moment. I quit my job, not knowing what I would do next.

(Please note here that I wasn't desperate. Unhappy, yes - but 18, able-bodied, drug-and-alcohol-free, employable, educated, and loved and supported by friends and family. My destitution, though the hunger was real, was that of students and artists, not of the truly disadvantaged. What happened next was by choice, not out of necessity or lack of alternatives.)

My boyfriend told me that the club where he spent time was hiring waitresses. It wasn't actually dancing, and the job requirements were much less stressful: I had been working at an all-you-can-eat diner, bringing plate after plate to drunks and freaks in the middle of the night, and the tips were meager, to say the least. Here, all I had to do was bring soda or juice, and I would be pleasantly surprised at my earnings.

It didn't take too much thought. I was still unsure about what I thought of stripping, but since I was just going to be a waitress, it didn't really apply to me. I was younger then, and didn't really understand yet about choosing things and what they really mean, and about condoning things through proximity or silence. I *did* know that many of the things that adults had told me as the gospel truth had turned out, as I got older, to be gray areas, so I wasn't sure that just because I had always been told something that it necessarily meant that's the way it is.

To make a long story short, I worked there as a waitress for a few months, commanding a higher income than ever before and living at a level of comfort I hadn't known since I left home, getting to know the dancers and the customers and watching their interactions. I enjoyed this job. I suddenly realized that I was happy. I had worked in retail, in food service, in offices, and always hated going to work. After a very short time I realized that dancing didn't look bad to me at all. It would be a few years before I really examined all of the ramifications of my actions and decided to become an activist and to see sex work as a relevant social issue. I was a child then, and all I knew was that I could see that it wasn't what I had thought. Simply realizing that the dancers were real women whose experiences I could relate to went a long way toward reevaluating the validity of the things most mainstream society had told me about them. I saw that the picture most people had of them was unfair; that they were *people*, not ideas, and that morality wasn't black and white. As I got older, I had already begun to realize that sometimes what society thinks of as moral isn't at all. I knew I had to decide for myself, to open my eyes and see how things really worked.

Another profound realization for me was that these women didn't look like the girls on magazine covers, either. They were real women, with real bodies: some with stretch marks, some with extra weight or cellulite. I suddenly realized that they were beautiful, that the magazines were wrong. In one instant this burden, carried by young girls all over the world, was lifted from my shoulders, and I came one step closer to truly understanding what it is to be a woman.

After a while I realized that it wasn't scary, that the things I assumed a

woman would feel standing nude in a roomful of strangers (*scared, exposed, humiliated, subservient, compromised*) weren't what these dancers were feeling, and that because the experience wasn't what I would have thought, the reasons that brought each woman to that experience weren't what I would have thought (*desperation, apathy, self-hatred, emotional disturbance*), either.

Once I saw it for what it really was, once I was willing to accept that I risked being perceived differently (and erroneously) by others, I knew I could do it.

I remember some of the dancers warning me before I auditioned that this was not to be entered into lightly or unadvisedly; that I was about to change my life. I didn't understand what they meant, really. The young don't really know what we mean when we tell them how something is going to be, any more than any of us really knew what 'hot' meant when we were tiny; we saw that it was important to our mothers, that the thing we weren't supposed to touch was significant, that something bad would happen – but we didn't really know what it was like to be burned until we finally disregarded her advice.

So I did it. I took the plunge, I shouldered the responsibility, I crossed the line. I realized that I loved it. I loved the money (*who doesn't love a well-paying job after working for peanuts?*), I enjoyed the attention (*! wasn't desperate for it, but was pleased by it, like a friend dropping by unexpectedly, or good news from far away – it's nicer to have a job where someone claps for you than one where your hard work goes unappreciated, after all*), I came to understand the incredible power of female sexuality and the joy of truly knowing how to use it – and realized that enjoying it wasn't undignified or perverse. I came to see the interaction as a good thing, and I was pleased to participate. I liked the other girls, we laughed a lot at work, my bills were paid, I had time to study and money to buy books, and I could do any play any time without worrying about having to quit my job to rehearse. I learned what was truly part of the job and what came from the outside (*the desire to humiliate any woman, dancer or not, comes from inside that person and not from where they're standing*), and saw stripping from the only valid perspective, which, as it is with any aspect of the human condition, is firsthand experience.

They were right. It did change my life. When I think of what could have happened if I hadn't walked into that dark place out of the bright sunlight that day, if I hadn't decided to take a risk and see something new, I feel the way someone might if they suddenly realized that they had narrowly missed being hit by a truck: I could have missed so much.

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6/6/03

Anchorage Daily News

's Letters

Average graduating seniors are 18, old enough to make own choices

This letter is in response to the article "Age now an issue for strip clubs" (May 26). So there are 2,500 Anchorage School District students who are old enough to work at or attend a strip club? I think that Ms. Fair is forgetting one very important point: Patron, employee and/or student ... they're all adults.

Yep, that's right. They can vote, pay taxes, serve Uncle Sam, rent or buy their own homes or apartments, and most importantly, make their own choices. These choices include a decision as to what is too "graphic." If they still live with Mom/Dad, then they can answer to Mom/Dad as to what is an (in)appropriate activity. If they are employed at these clubs, will their school work suffer? Probably. But that is their choice.

The fact of the matter is that the average age of graduating seniors is 18. The majority of 19-

and 20-year-olds in Anchorage are either students or hardworking, tax-paying citizens, just like Ms. Fair.

Being an adult is all about making choices and decisions of your own. Stop making choices for us. We are old enough to be adults. We don't need anyone else telling us how we should live.

— Gabrielle Donaldson, age 20
Anchorage

Closing under-21 strip clubs, taxing young dancers is age discrimination

I am a former employee of Fantasies on Fifth Avenue; I worked for the company a little over two years as a DJ and a doorman, so I think that I have an inside knowledge of the goings on of the adult industry ("Bill targets under-21 strip clubs," Feb. 4).

Despite what many believe, the dancers are not prostitutes and drug addicts. On the contrary, they are single parents, college students paying tuition and mothers trying to earn a little extra cash for their families. I cannot speak on what goes on at other clubs, but Kathy and Carol run a safe, clean club that does not tolerate prostitution or drug use in their establishment. I have personally seen dancers fired when they crossed the line.

As far as the age of dancers, who cares if they are 18 or 40? Last I heard, when you turn 18 you are considered an adult. A person can vote, get drafted, watch porn, gamble, go to jail and, in most states, smoke. So in my opinion, HB 367 is just another example of government getting involved in the personal lives of adults.

Closing under-21 strip clubs and taxing the dancers who are 18 to 20 is not the answer; doing so, in my book, is age discrimination. If a person doesn't like the idea of strip clubs, then don't go to them. And if they don't want their daughter to become a stripper, first start parenting and programming their values in them at an early age and stop trying to push their beliefs on others.

ADN 2-10-04

— Ray Hunt
Palmer

Bill to ban under-21 strip clubs makes good sense on many levels

This letter is in response to "Bill targets under-21 strip clubs" (Feb. 4). I am all for the ban because even with no alcohol being served, young people should not be able to have the option of viewing young girls in the nude. Although 18-year-olds are considered to be adults, I don't think that the majority of young adults are fully mature enough to realize how much these clubs contribute to prostitution, pedophilia and unsafe sex. Not to mention the unplanned pregnancies that result from unsafe and unprotected sex.

There are enough older adults who practice sex without condoms; we do not need to contribute to sexually transmitted diseases and unplanned pregnancies by allowing these clubs to cater to teenagers who are at a time in their lives when they are especially vulnerable and impressionable.

I fully agree with Regina Manteufel's stance that young women have enough to think about — trying to figure out life and all of the pressures of adolescence.

I fully support anyone's right to work and earn money, but there are many, many other ways to make a living without having to take your clothes off. I urge all to support HB 367.

— Brendan Aune
Anchorage

Sat 2-7-2004

Politicians have no business removing young adults' choices

The legislation of morality on an adult population is never a good idea. I couldn't care less if every strip club in Anchorage closes; what I do care about is an attempt to remove a choice from adults ("Bill targets under-21 strip clubs," Feb. 4). I feel personally insulted by a moral minority's attempt to label 18-year-olds as too immature to deal with life and their attempt to "protect" them.

When I was 18, I was an infantryman in the U.S. Army on the DMZ in Korea. Daily, I faced a North Korean guard who just as well would have shot me than said hi. I didn't need their protection; as a matter of fact, I believe at the time it was my job to protect them.

We need to stop trying to protect our young adult population; regardless of whether their choices are right or wrong, they are theirs to make. Many of the mistakes I made as a young man helped me learn valuable life lessons, without which I would not be as good a person as I am today.

The overprotective mothers of these children need to let go, and the self-serving politicians sponsoring this piece of legislation need to understand they will lose more votes from a large segment of us than they will gain by supporting feel-good measures that take away the rights of adults to choose how they will live their lives.

— William Fulton
Anchorage

Rep. Anderson's attempt to strip away rights is outrageous

If anyone has been to the Lower 48 lately, they should take note of the age limit to purchase bacco. It's 18 in most states. Now I believe the Constitution states that at age 18 a person is a legal adult; in this state it seems that is not the case. It's almost sad; in fact, it is sad.

Now yes there are downfalls to under-21 clubs such as drugs and prostitution, but would Mr. Anderson's idea do away with such problems? Kids are growing up much faster; our politicians should realize this.

Come on, this is ludicrous — if someone at age of 18 is old enough to live in this world on their own and function as an adult, why should they be able to partake in adult entertainment? So Mr. Anderson, should adult magazines and videos not be available until the age of 21?

I am outraged at how our rights can be stripped away (no pun intended) in this state. Another question to Mr. Anderson is, when are Alaska considered adults?

Sat 2-7-04

— Zach Dunlap
Anchorage

ADULT ENTERTAINMENT AND THE SECONDARY-EFFECTS DOCTRINE

When asked why government officials continue to target the adult industry, Weston responds by quoting journalist H.L. Mencken: "Puritanism: The haunting fear that someone, somewhere, may be happy."

Censorship of the adult industry also appears to contain a dangerous element of class discrimination. Adult bookstores and striptease bars are considered illegitimate, low forms of entertainment, while nudity at higher-priced theaters is considered legitimate, bona-fide expression.

Government officials and many in the community are more offended by the sexual gyrations of a stripper than the artistic skill of a Broadway entertainer. However, federal appeals court Judge Richard Posner terms this "robust paternalism and class consciousness."⁸⁹

Another federal judge expressed the sentiment as follows: "Perhaps the city of Schenectady finds the performance in cabarets more objectionable because the audience is mostly men who prefer to drink Budweiser while they view the naked form engaged in dance, rather than the couples at the opera who prefer Dom Perignon with their falsetto."⁹⁰

Porn magnate Larry Flynt said it this way: "The adult bookstore is the poor man's art museum."⁹¹

Nude dancing may offend; it may fail to appeal to the higher intellect. But First Amendment protection for nude-dancing establishments affects more than disrobing dancers. It affects all who care about constitutional freedoms.

LEGISLATIVE AGENDA

Updated July 18, 2003

The Free Speech Coalition is proud to report that we sponsored an important business bill in 2003 which was needed to correct certain inequities in current law and police practices regarding seizures of business records. A part of our Legislative Agenda for several years, the Access to Seized Records proposal was introduced as AB1438, authored by Assemblymembers John Longville and Mervyn Dymally, and has enjoyed bipartisan support.

We hope to sponsor other legislation in future years to benefit the entire adult entertainment industry.

We continue to work with the California Legislature to ensure that laws that may impact the adult entertainment industry are fair and reasonable.

1. The Adult Identity Fraud Bill

Underage persons defraud employers and/or retail businesses by presenting identification obtained by defrauding government agencies. Relying upon government-issued identification, employers lose tens of thousands of dollars destroying materials created in good faith, but unsalable upon discovery of the true age of the performer. Distributors and retailers lose equally substantial sums destroying or returning product. Under current law, there is no disincentive for underage persons to engage in this practice. Instead, because of the publicity generated, there is an actual affirmative incentive to attempt to engage in

this fraud. Minors offering false identification may attempt to enter establishments which offer entertainment suitable and lawful only for adults. There is likewise no disincentive to engage in such activity.

For example, in the 1980's, Norma Kuzma, performing under the name of Traci Lords, defrauded scores of manufacturers of adult films by presenting valid California- and federally-issued identification, which was fraudulently obtained. Then a "superstar" in the adult industry, Kuzma performed sex acts while underage for several years, and cost the unaware adult entertainment industry millions of dollars when her deceit was revealed. Kuzma has since exploited her conduct to create a career as a B-movie actress in Hollywood.

In 1996, it was discovered that Aaron Lance Denno, performing under the name of Jeff Browning, engaged in behavior identical to that of Kuzma. Acquiring State and Federal identification by fraud, Denno presented the identification in order to perform in more than a dozen gay movies. The adult entertainment industry lost tens of thousands of dollars retrieving copies of those movies and eliminating Denno therefrom.

No civil remedy can adequately reimburse the industry. However, no defrauding underage performer has ever been prosecuted for his/her actions, nor even threatened with prosecution. Rather, they are looked upon as the victims!

Proposal: Create a deterrence to such fraud by specifically criminalizing the behavior.

2. The Access to Seized Records Act. - This bill was introduced in 2003 as AB1433 (Longville)

Current law provides of the seizure of

business records and the computers on which such records are usually housed. Review of those records can be time-consuming for law enforcement. However, during the period of review, the loss of the business records housed on the computers can shut down lawful businesses, or create insurmountable problems for creating tax records, making tax payments, maintaining customer good will and fulfilling orders. Moreover, since many small businesses, especially home businesses, use computers for personal as well as business records, loss of access to that computer's records may cause loss of access to vital personal records, such as medical or school records.

Furthermore, absent a statutory means for providing duplicate copies of records, unnecessary litigation against law enforcement agencies for loss of income and similar damages is inevitable.

For example, the Los Angeles Police Department executed a search warrant on a home business in 1995, alleging that the operator of the business, which published a newsletter, possessed child pornography. All computer equipment, which contained the company's complete business records, including subscriber and tax information, was seized. Eight months later, the computer equipment and records were returned without any evidence of child pornography having been found. No criminal charges were brought.

Only goodwill, fear of reprisal and an untrendy reluctance to litigate on the part of the business owners prevented a bitter civil rights action against the L.A.P.D.

Proposal: Provide a systematic means to duplicate and return business records to the entities from whom the records were seized, while providing law enforcement

Free Speech Coalition

with the means to protect society from the dissemination of illegal matter by means of immediate judicial review.

3. A Call for New "Secondary Effects" Studies.

For many years now, the California Legislature has authorized local governments to enact laws based on out-dated and scientifically flawed studies which assert that adult businesses create negative secondary effects in the communities in which they are located.

It is our belief, supported by considerable data and abundant anecdotal evidence, that a well-maintained adult business is no more likely to create adverse effects on a community than any other legitimate business.

The adult industry has matured greatly in the two decades since the studies being relied on were conducted and most adult businesses are law-abiding and well-maintained. We feel that it is time for new, unbiased studies to be conducted.

*TO Calif
Legislature*

Proposal: Include in all state legislation affecting the adult industry a requirement that local communities either conduct new studies prior to passage of local ordinances or base such laws on current and demographically comparable studies.

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F I R S T R E P O R T S

Court cited *Renton* in support of lowering the government's evidentiary burden to support speech restrictions in the area of campaign contributions and attorney solicitation letters.⁸³

The secondary-effects doctrine has proven to be fertile ground for abuse because it enables government officials to conceal their thinly disguised dislike for adult entertainment behind claims of harmful effects. In 1988 Justice Brennan warned that the doctrine "could set the court on a road that will lead to the evisceration of First Amendment freedoms."⁸⁴

The secondary-effects doctrine has been applied in cases far removed from issues relating to the land-use regulation of adult businesses. For example, a federal judge in Kentucky recently used the secondary-effects rationale to uphold the constitutionality of a public high school dress code, determining that the code was really aimed at the "secondary effects of student dress," such as gang activity, violence and inability to identify campus visitors.⁸⁵

The doctrine threatens to undermine existing First Amendment free-speech jurisprudence.⁸⁶ For this reason, First Amendment expert Robert O'Neil classifies *Pap's A.M.* as the "most disappointing First Amendment decision decided by the court in the last two years."⁸⁷

Ken Paulson, executive director of the First Amendment Center, noted that "the decision is troubling because it took a short cut that threatens freedom of speech well beyond the confines of a topless bar."⁸⁸

A major question that still has not been clarified by the Supreme Court is what level of proof of secondary effects is required by the Constitution. Lower courts have widely varying requirements for the amount of secondary-effects evidence municipalities must provide in order to justify restrictions on nude-dancing establishments.

Weston argues that the government will continue to suppress erotic expression because it is a convenient target. "Erotic expression is a perfect diversionary topic," he said. "In our society, the government cannot deal with real problems so they try to divert the public's attention to a politically popular topic."

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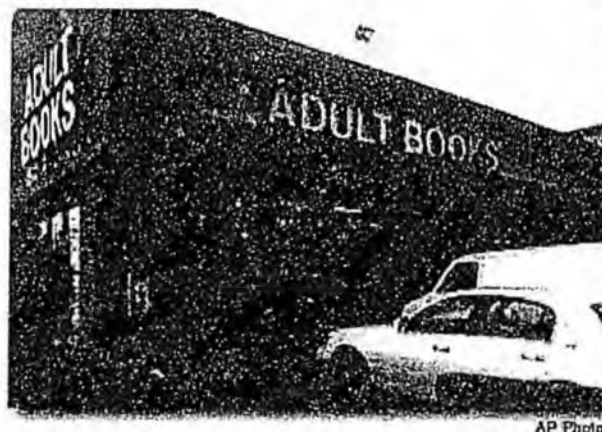
Secondary-effects argument takes center stage before high court

By Tony Mauro
Special to freedomforum.org

12.05.01

The Supreme Court yesterday appeared divided — if not confused — over how much specific evidence of "secondary effects" is needed before a city may enact a new ordinance restricting adult businesses.

The court heard arguments in *City of Los Angeles v. Alameda Books*, in which the operators of adult businesses challenged a 1983 ordinance banning "multiple use" adult businesses under one roof.



Adult Books in Los Angeles, as seen yesterday.

The ordinance was aimed at preventing adult "superstores." But in enacting the ordinance, the Los Angeles City Council relied on a 1977 study on the effects of single adult businesses on the safety and property values of the surrounding area. In 1995, the owners of Alameda Books and Highland Books, which offered adult videos, viewing booths and books under one roof, challenged the ordinance as a First Amendment violation. Their complaint: no new study, aimed at determining the effect of "multiple use" stores, had been conducted.

While the issue may seem trivial, First Amendment advocates see it as a crucial test of the potency of the "secondary effects" doctrine, which has been cited in efforts to restrict a wide range of speech. Legislators seeking to limit controversial forms of expression are able to justify their proposals not by attacking the speech itself but by citing the impact it will have on others — such as attracting crime or encouraging the abuse of women or children.

The only way to keep the doctrine from being overused, some say, is to force government officials to produce empirical evidence that the secondary effects they fear are real or plausible.

In the arguments yesterday, David Souter was the only justice who appeared insistent that Los Angeles should have studied the effects of multiple-use adult businesses before banning them. Souter, in a case last year involving nude dancing, had retreated from

earlier positions and said specific evidence of secondary effects was necessary because of the importance of First Amendment protections.

Deputy City Attorney Michael Klekner told the court that a study specifically focusing on multiple-use businesses was not only unnecessary but would be "next to impossible to do."

Souter replied sharply, "If it's next to impossible to do, then why should the First Amendment allow you to do it?"

Klekner said the previous studies had sufficiently documented the kind of effects multiple businesses under one roof would have, but Souter persisted. "The evidence did not address the issue before us."

Justice Antonin Scalia intervened to help Klekner, suggesting that there was no difference in harmful secondary effects between two separate businesses next door to each other and one business with the wall between two sections knocked down. Klekner agreed, but again Souter retorted, "How do you know that any more than I do?"

Chief Justice William Rehnquist seemed unpersuaded that Los Angeles did anything wrong. He said a city is entitled to make reasonable inferences from earlier studies to fit new situations. "If it affects A, then it affects B," Rehnquist said.

John Weston, arguing for the bookstores, said inferences were appropriate only if the new situation were so unique that it could not be studied. "The city is saying that if it's an adult business, we can do anything we want," he said.

Much of Weston's half-hour before the court was spent answering peripheral questions about the definition of adult businesses and other aspects of the Los Angeles ordinance. For several minutes, Scalia offered his own interpretation of the law based on his reading of a footnote in a brief in the case. Weston politely and repeatedly disagreed.

Later in the argument, Scalia spoke to Weston again, this time to confess error. "I tend to read footnotes quickly," he said. On reading it further, Scalia said he had realized, "You were right."

After a startled silence, Weston jokingly said, "I'm going to go home now."

A decision in the case is expected before the end of the court's term next summer.

Tony Mauro covers the Supreme Court for American Lawyer Media and is a legal correspondent for the First Amendment Center.

Zoning Ordinances and "Free Speech"

by Alan C. Weinstein, Esq.

Over the past two decades, there has been a marked expansion in legal challenges to local land use regulations claiming violations of the free speech clause of the First Amendment to the United States Constitution. First Amendment claims can arise whenever government enacts or enforces zoning or other regulations that deal with uses such as billboards or adult entertainment businesses. This article discusses why this litigation is taking place, provides an overview of First Amendment law, and offers local officials some guidelines to help avoid potential legal challenges.

WHY ARE THERE SO MANY FIRST AMENDMENT CHALLENGES TO ZONING?

While no one can provide a definitive answer to the question of why the past two decades have seen a significant increase in First Amendment challenges to local zoning, part of the answer can be found in several recent changes in both our society and legal system. First, a number of societal changes have coalesced to create a greater potential for conflict when government regulates the use of land. We have become an increasingly diverse society and, unfortunately, this has too often resulted in our also becoming divided and divisive. At the same time, we have become a more litigious society. We are much more likely today to turn to the courts in search of a resolution for our differences.

Second, two lines of Supreme Court decisions, beginning in the late 1970's, have combined to encourage potential litigants to bring their "First Amendment & Zoning" claims into federal court. In one line of decisions, beginning with *Monell v. Dep't. of Social Services*, 436 U.S. 658 (1978), the Court interpreted an 1871 federal "civil rights" statute as

allowing individual plaintiffs to sue local governments for damages and attorneys' fees if the plaintiff can show that a local regulation violated any of his individual rights guaranteed under the federal constitution. In the other line of decisions,

COURTS HAVE BECOME INCREASINGLY PROTECTIVE OF "FREE SPEECH" RIGHTS — INCLUDING "SPEECH" THAT IS PURELY COMMERCIAL IN NATURE

the Court, in 1974, ruled on its first zoning case in 46 years and subsequently decided a succession of zoning cases, many of them dealing with First Amendment claims. These Supreme Court decisions, in turn, led to a greater willingness on the part of the lower federal courts to decide zoning cases involving First Amendment claims.


OVERVIEW OF THE "FREE SPEECH" CLAUSE OF THE FIRST AMENDMENT

The First Amendment states: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peacefully to assemble, and to petition the Government for a redress of grievances." (Emphases added). This article focuses on the "free speech" clause of the First Amendment.

Although the First Amendment speaks in absolute terms — "Congress shall make no law ... abridging the freedom of speech ..." (emphasis added) — the Supreme Court has rejected a literal reading of the text. While government may not normally impose direct restric-

tions on the communicative aspects of speech — e.g., limit the message to be displayed on a sign — the Court has adopted the view that, under very limited circumstances, speech may be subject to narrowly proscribed regulations. There is no single test that the Supreme Court employs to determine how much government regulation of speech may be tolerated; rather, the Court chooses its analysis based on the manner in which government is attempting to impose regulations on speech. Recent Court decisions have shown, however, that attempts to regulate the content of speech in any context will trigger the highest level of scrutiny. Thus, the question of whether a regulation of speech is content-neutral has become the paramount concern of courts.

A content-neutral regulation will apply to a particular form of expression (e.g., signs or parades) regardless of the content of the message displayed or conveyed. The most common form of content-neutral regulation is so-called "time, place or manner" regulation, which, as the name suggests, does no more than place limits on when, where, and how a message may be displayed or conveyed; for example, a sign code that regulates the size, location and number of signs, regardless of the message they contain.

Normally, any time government makes regulatory distinctions based on the content of the regulated speech, courts will apply a very demanding analysis, known as *strict scrutiny*. By contrast, if the regulatory distinctions are content-neutral, a somewhat less demanding analysis, known as *intermediate scrutiny*, applies.  *Strict versus Intermediate Scrutiny.*

Courts will apply strict scrutiny even to content-neutral regulations, however, when the regulation imposes a total ban on a category of speech protected by the

First Amendment. For example, in *City of Ladue v. Gilleo*, 512 U.S. 43 (1994), a unanimous Supreme Court ruled that an ordinance banning all residential signs, with certain exemptions, violated the First Amendment rights of homeowners because it totally foreclosed their opportunity to display political, religious, or personal messages on their own property. While the Court accepted the city's contention that the ordinance was a content-neutral "time, place, and manner" regulation, it still struck down the ordinance because the city had foreclosed an important and distinct medium of expression — lawn signs — to political, personal, or religious messages and had failed to provide adequate substitutes for such an important medium.


Courts are also very concerned about any land use regulation that imposes a "prior restraint" on speech. "Prior restraint" is the legal term for any attempt to condition the right to freedom of expression on receiving the prior approval of a governmental official.

In the context of land-use regulation, a prior restraint may take the form of requiring an applicant to obtain a permit, license, or conditional use approval as a condition to displaying or conveying a message. Such attempts are seen as posing a particularly serious threat to the values embodied by the First Amendment and will receive the strictest judicial scrutiny. As with other forms of strict scrutiny, when a court finds a prior restraint, it will reverse the traditional presumption of validity afforded to the actions of government and presume that the prior restraint is unconstitutional.

In order to overcome the presumption that a prior restraint is unconstitutional, government must show that the licensing or permitting scheme: (1) is subject to clearly defined standards that strictly limit the discretion of the officials administering the scheme, and (2) meets stringent procedural safeguards to guarantee that a decision to grant or deny the license is rendered within a determined and short period of time, with provision for an automatic and

swift judicial review of any denial.

Finally, even where a government regulation of speech is otherwise valid, it may be struck down if a court finds the language so vague that it is unclear what type of expression is actually regulated or it is so broadly worded that it has the effect of restricting speech to an extent that is greater than required to achieve the goals of the regulation.

 "Vagueness & Overbreadth."

LEARNING TO AVOID FIRST AMENDMENT "MISTAKES" IN LAND USE REGULATIONS

The legal doctrines and decisions associated with the First Amendment are quite complex and local government officials are well-advised to consult legal counsel with substantial knowledge and experience in this area before enacting land-use regulations that affect freedom of speech or religion. At the same time, however, there are a number of fairly straightforward principles and policies, which, if rigorously followed, should enable local officials to avoid the most common mistakes that can arise when enacting or enforcing land-use regulations that could give rise to First Amendment challenges.

Among the regulatory areas most likely to create potential problems are: (1) adult entertainment zoning & licensing regulations; and (2) billboard and sign zoning regulation.

ADULT ENTERTAINMENT ZONING & LICENSING

The Supreme Court has ruled that local governments may single-out adult entertainment businesses for special regulatory treatment in the form of locational restrictions if government can show a substantial public interest in regulating such businesses unrelated to the suppression of speech and if the regulations allow for a reasonable number of alternative locations.

Local governments may bar such businesses from residential areas and subject them to "distancing" requirements from churches, schools, playgrounds, and each other. However, such businesses must be allowed to open and

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Strict versus Intermediate Scrutiny

The strict scrutiny test requires that a content-based regulation of speech must be justified by a *compelling* governmental interest and be *narrowly tailored* to achieve that interest. Moreover, a content-based regulation of speech is presumed to be unconstitutional (i.e., the normal presumption that a local government regulation is constitutional is reversed), so that government, rather than the party challenging the ordinance, bears the *burden of proof* and must affirmatively justify the regulation to the court's satisfaction.

The strict scrutiny test is not normally applied to content-neutral regulations of speech, which, as previously discussed, usually take the form of *time, place or manner* restrictions. Instead, the courts apply a less demanding test known as *intermediate scrutiny*. Intermediate scrutiny has also been applied to regulations that are directed at the non-communicative aspects of speech but, in addition, have an indirect effect on the message being communicated. This test requires that a content-neutral regulation of speech must be justified by a *substantial* — not a *compelling* — governmental interest and must be *narrowly tailored* to achieve that interest. Finally, the regulation must leave open "ample alternative avenues of communication."

Vagueness & Overbreadth

Two important legal principles — termed "*void for vagueness*" and "*overbreadth*" — seek to ensure that government regulation of expression is sufficiently precise so that individuals will know exactly what forms of expression are restricted and that laws which legitimately regulate certain forms of expression do not also include within their scope other types of expression that may not permissibly be regulated. These two principles are quite closely related, and courts often find that an ordinance violates both.



Zoning Ordinances and Free Speech
continued from page 13

operate at locations that are "available" for such a use; i.e., locations that are zoned to permit such uses and that are serviced by roads and utilities.

Adult entertainment zoning ordinances must also be drafted with meticulous attention to the definitions used to determine what constitutes an adult entertainment business and the legislative record must reflect that the ordinance was enacted to address the negative "secondary effects" (most typically, increased crime and lowered property values) associated with such businesses, rather than to censor or prohibit the entertainment itself.

The Supreme Court has also ruled that local government may license adult entertainment businesses and thereby regulate various operational aspects of these businesses. However, because licensing ordinances are viewed as a form or "prior restraint," courts will closely examine them and will not hesitate to strike one down if it either fails to contain criteria for city officials to follow in granting or denying a license or lacks effective time limitations for the issuance of a decision on a license application.

Finally, since requiring an adult business to obtain a conditional use permit raises concerns about a prior restraint similar to those raised by a licensing ordinance, courts have struck down such requirements where they vested over-broad discretion in city officials or did not provide for specific time limits for deciding on the application.

**ZONING REGULATION OF
SIGNS AND BILLBOARDS**

Courts have become increasingly protective of "free speech" rights - including "speech" that is purely commercial in nature (e.g., a billboard advertising a car, or a sign on a restaurant). In the past, local governments had to exercise the greatest caution only when regulating "non-commercial" signs such as political ("Vote for Joe") or personal ("No Solicitors") signs. Today, however, such caution should probably be extended



to any sign regulations that go beyond "time, place or manner" restrictions on the height, area, number, and location of signs.

This does not mean that localities cannot take steps to regulate commercial signs such as billboards. However, to do so, local government officials must be able to demonstrate that a substantial government interest (e.g., aesthetic or traffic safety) would be served by regulation and that there is a "reasonable fit" between the regulation and the interest to be served by the regulation.

1. Political Signs. A sign ordinance prohibiting political or election signs is clearly unconstitutional and courts have struck down prohibitions on political signs that applied in both residential and other districts. Courts have also struck down sign ordinances that discriminated among different political messages (e.g., an ordinance restricting the content of political signs to the candidates and issues being considered at an upcoming election).

Ordinances that place unreasonable limits on the number of political signs that may be displayed, or that impose restrictive time limits only on political signs, have also been struck down. Although some cases have suggested that

time limits on political signs might be permissible if they are part of a "comprehensive" program to address aesthetic issues, these cases provided little guidance on how comprehensive the government program must be to justify the restrictions on political signs.

2. Regulation of On-Premise versus Off-Premise Signs. Local sign regulations often distinguish between on-premise and off-premise signs in an effort to restrict the location and number of off-premise signs (i.e., billboards). Courts accept as rational a local determination that on-premise signs are an inseparable part of the business use of a piece of property, while off-premise advertising is a separate use unto itself that may be treated differently from on-premise signage.

There is little question that local government may lawfully regulate off-premise commercial signs more strictly than on-premise commercial signs. Regulations have also been upheld that limit the height, size, and/or number of off-premise signs, or that restrict their location.

Some off-premise sign regulations have been struck down, however. The U.S. Supreme Court in *Metromedia, Inc. v. City of San Diego*, 453 U.S. 490 (1981)

found San Diego's ban on off-premise signs to be invalid because exceptions to the ban were made for some, but not all, noncommercial messages. Courts have followed *Metromedia* by striking down off-premise sign regulations that make distinctions among forms of noncommercial speech as well as those that allow exceptions for certain commercial messages but not a general exception for noncommercial messages. In contrast, regulations that exempt all noncommercial speech from a general ban on off-premise signs have been upheld as have those where the definition of off-premise signs has been found not to include noncommercial messages.

Courts have also invalidated off-premise sign regulations where the local government failed to demonstrate what interests it was seeking to promote through the regulations. While most courts merely require that the interests be mentioned in the ordinance, and then defer to the governing body's determination that the regulations substantially promote those interests, other courts have required a higher level of substantiation of the interests involved and the regulations' relationship to them.

SUMMING UP:

When regulating speech – whether commercial or noncommercial – local governments need to act with care. As with other areas of land use law (e.g., property rights) local regulations are most likely to be upheld when they are carefully drafted to comport with judicial decisions and are supported by sound reasoning. Planners and lawyers can work together to develop ordinances that meet community objectives in a manner consistent with judicial case law. ♦

Professor Weinstein, a lawyer and planner, holds a joint appointment in the Cleveland-Marshall College of Law and Maxine Goodman Levin College of Urban Affairs at Cleveland State University. His research and practice both deal extensively with issues involving land use and the First Amendment.





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Supreme Court provides mixed day for First Amendment

Analysis

By Tony Mauro
Special to freedomforum.org

05.15.02

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It is hard to read this week's First Amendment decisions by the Supreme Court and not ask the same question that Rodney King posed during the Los Angeles riots 10 years ago: "Can't we all just get along?"

In one 52-page ruling, *Ashcroft v. ACLU*, the nine-member court divided into four different blocs as it assessed the constitutionality of the Child Online Protection Act, which seeks to restrict access by children to Internet material deemed harmful to minors. The bottom line was that the law, four years after passage, still won't take effect until lower court judges take another look at it.

In the other decision, *City of Los Angeles v. Alameda Books*, the five-justice majority could not agree on a single rationale for upholding a city ordinance that barred multiple adult businesses under one roof.

The result of both rulings was a mixed, but not altogether terrible day for First Amendment advocates.

In the Internet case, at least six justices suggested that they have serious doubts about the law's constitutionality that will be difficult to overcome once the case makes its way back to the high court. In that respect, the court's previously stated view that the Internet is a powerful form of expression that deserves a high level of First Amendment protection remains intact.

In the adult-business zoning case, even though the ordinance survived, five justices cautioned against expanding the "secondary-effects" doctrine, which upholds restrictions on adult businesses and other forms of expression based on the effects they have on crime and neighborhood livability.

But in the process of reaching its decisions, the court produced a pair of messy, mix-and-match rulings that give little guidance to lower courts, much less Web site operators or adult businesses.

The splintered rulings are not that uncommon on a court whose justices often feel the need to state their own slightly different take on a case, even if that means depriving the court and the public of a clear new decision on the issue before it. Whereas justices in the past often let go of their own minor objections in the interest of unanimity, the current court appears to have little interest in reaching that goal. It is also possible that the justices assigned to write the majority opinions — Clarence Thomas in the Internet case, Sandra Day O'Connor in the adult-business case — lost their majorities sometime after they circulated rough drafts of their rulings.

In addition, the court's fractured ways may reflect Chief Justice William Rehnquist's preferences for running the court. Whereas past chief justices like Earl Warren might have sent the quibbling justices back to the drawing board to work out their differences, Rehnquist appears inclined to push opinions out the door in the interest of productivity, even if the rulings have ragged edges or vulnerable cores.

So what can be gleaned from the decisions issued May 13?

In the Internet case, these conclusions can safely be drawn:

- Justice John Paul Stevens is the only one of the nine who thinks COPA is unconstitutional flat out, without further findings by lower courts. The law's use of "community standards" to determine what is unfit for minors to see simply does not work on the Internet, says Stevens, noting that the Internet is an inherently global medium. "If a prurient appeal is offensive in a puritan village, it may be a crime to post it on the World Wide Web," Stevens wrote.
- Justices Thomas, Rehnquist and Antonin Scalia agreed that

the community-standards approach was not automatically invalid, but that the lower courts need to examine the law more closely to determine if it is unconstitutional for other reasons, such as vagueness.

- Justices Anthony Kennedy, David Souter and Ruth Bader Ginsburg expressed somewhat more doubt about the community-standards approach, but concluded, "We cannot know whether variation in community standards renders the Act substantially overbroad without first assessing the extent of the speech covered and the variations in community standards with respect to that speech."
- Justices O'Connor and Stephen Breyer advocated interpreting the community-standards approach as a national standard in the context of the Internet. Breyer said that conclusion could be drawn from the legislative history of the law, while O'Connor said use of a national standard was just reasonably inferred under the Constitution. O'Connor wrote, "Although jurors asked to evaluate the obscenity of speech based on a national standard will inevitably base their assessments to some extent on their experience of their local communities, agree with Justice Breyer that the lesser degree of variation that would result is inherent in the jury system and does not necessarily pose a First Amendment problem."

In the adult-zoning case, these conclusions can be drawn:

- Justice Souter, joined by Stevens, Ginsburg and Breyer, found that Los Angeles had failed to justify its ordinance against multiple-use adult businesses, especially since the net effect of the ordinance is to multiply the number of adult businesses citywide. The only plausible motive for that, Souter said, is to make it more expensive for adult businesses to operate. "Every month business will be more expensive than it used to be, perhaps even twice as much. That sounds like a good strategy for driving out expressive adult businesses. It sounds, in other words, like a policy of content based regulation."
- O'Connor, joined by Rehnquist, Scalia and Thomas, found that Los Angeles could rely on a 1977 study of adult businesses in general to justify the ordinance at issue.

- Kennedy agreed with the O'Connor group that the ordinance should not have been struck down on its face, but says it should be returned to lower courts for further study. "The ordinance may be a covert attack on speech, but we should not presume it to be so," Kennedy wrote. He also cautioned against relying too heavily on secondary effects to justify speech restrictions. "it is no trick to reduce secondary effect by reducing speech or its audience; but a city may not attack secondary effects indirectly by attacking speech."

Tony Mauro covers the Supreme Court for American Lawyer Media and is a legal correspondent for the First Amendment Center.

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Free speech on the Internet: Where old freedoms meet new media

Analysis In reviewing constitutionality of Child Online Protection Act, high court issues one of its most fragmented decisions in years. 05.16.02

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The FIRST AMENDMENT to the U.S. Constitution
 Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for the redress of grievances.
 ABOUT THE FIRST AMENDMENT

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Case Summary for City of Los Angeles v. Alameda Books

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Argued: Dec. 4, 2001

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Decided: May 13, 2002

Issue: Freedom of Speech — Whether a city can justify a ban on multiple-use adult businesses by relying on a study that does not examine the harmful, secondary effects of those type of businesses.

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Vote: Yes, the Court ruled 5-4 that at this early stage of the litigation the city could rely on its prior study to satisfy its evidentiary burdens with respect to secondary effects.

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Decisions Below: The opinion of the federal district court in May 1998 is unreported. The opinion of the 9th U.S. Circuit Court of Appeals is reported as *City of Los Angeles v. Alameda Books, Inc.*, 222 F.3d 719 (9th Cir. 2000).

Free

Ever

Facts: In 1977, soon after the U.S. Supreme Court's decision in *Young v. American Mini Theatres, Inc.*, 427 U.S. 50 (1976), the city of Los Angeles' planning commission studies the effects of adult businesses on the city. The study concludes that a proliferation of adult businesses leads to an increase in crime and a decrease in surrounding property values.

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Based on this study, the city council passes a zoning law that prohibits adult businesses from locating within 1,000 feet of another adult business or 500 feet within a church, school, or public park.

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Then, in 1983, the city passes an ordinance banning so-called multiple use adult businesses, such as businesses that operate as both adult bookstores and adult arcades. Many years later, two adult businesses — Alameda Books

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and Highland Books — that operate as both bookstores and arcades sue in federal court, contending that the 1983 law is unconstitutional.

Priv:

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In 1998, a federal district court eventually sides with the adult businesses and prevents the city from enforcing the law. In 2000, a three-judge panel of the 9th U.S. Circuit Court of Appeals affirmed the lower court decision. The 9th Circuit reasons that the city did not have sufficient evidence that multiple-use adult businesses caused harmful, secondary effects. The panel writes: "The study did not identify any harmful secondary effects resulting from bookstore/arcade combinations as individual business units."

The city appeals to the U.S. Supreme Court, which grants review on March 5, 2001.

Reasoning: The city can rely on its older study examining the harmful effects on the concentration of adult businesses to justify its ban on multiple-use adult businesses. The lower court erred in rejecting the city's argument that the city's prior study had no relevance to a ban on multiple-use adult businesses. The adult bookstores will have the opportunity to refute the city's evidentiary claims when the case is sent back to the lower courts. The plurality wrote that "the Los Angeles City Council is in a better position than the Judiciary to gather and evaluate data on local problems."

Plurality Opinion: Justice O'Connor (joined by Justices Rehnquist, Scalia and Thomas)

Concurring Opinions: Justices Scalia, Kennedy

Dissenting Opinion: Justice Souter (joined by Justices Stevens, Ginsburg and Breyer)

Quotable: "This is not to say that a municipality can get away with shoddy data or reasoning. The municipality's evidence must fairly support the municipality's rationale for its ordinance." (O'Connor)

"Municipalities will, in general, have greater experience with and understanding of the secondary effects that follow certain unprotected speech than will the courts." (O'Connor)

"The Constitution does not prevent those communities that wish to do so from regulating, or indeed entirely suppressing, the business of pandering sex." (Scalia)

"A zoning law need not be blind to the secondary effects of adult speech, so long as the purpose of the law is not to suppress it." (Kennedy)

"It would in fact make sense to give this kind of zoning regulation a First Amendment label of its own, and if we called it content correlated, we would not only describe it for what it is, but keep alert to a risk of content-based regulation that it poses." (Souter)

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News Story

Petition throws L.A. 'no-touch' law back in council's lap

By The Associated Press
11.04.03

LOS ANGELES — Opponents of a city ordinance banning lap dancing at strip clubs, bikini bars and adult bookstores have a chance to take their gripe to the ballot box.

The city clerk certified yesterday that activists had collected enough signatures to force a referendum before the "no-touch" rule can go into effect.

The City Council must now decide whether to rescind it, place a referendum on the next citywide ballot in 2005 or add a question to the Democratic presidential primary in March. Council members have 20 days to decide what to do.

The council voted unanimously in September to require that dancers remain at least six feet from customers and put in place restrictions that also would outlaw "VIP rooms" where nude dancers perform privately.

Supporters of the law have argued that adult-entertainment establishments contribute to prostitution and drug use.

Club owners say the rules infringe on First Amendment

rights and would force many out of business. They spent \$400,000 to gather more than the required 56,941 signatures to force a vote.

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Update

L.A. rescinds ban on lap dancing

City Council backs down, fearing public referendum that might have threatened other adult entertainment regulations. 11.24.03

Related

Federal judge dismisses challenge to Nebraska city's exotic-dancing rules

Meanwhile in Nevada, county commission votes to restrict lap-dance gyrations in clubs outside Las Vegas city limits. 08.01.02

News summary page

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Last updated: Tuesday, February 3, 2004 | 00:11:21



National Newsletter

December 1, 2003 Volume 2, Number 29

The following articles appear compliments of Free Speech Xpress and its editor:

FIRST AMENDMENT ATTORNEYS WIN DECISION

NEW YORK-- From Jeffrey J. Douglas, General Counsel for the Free Speech Coalition, comes word of favorable court decisions in cases brought by First Amendment Lawyers Association (FALA) attorneys challenging 2001 amendments to the New York City Zoning Resolution. New York State Supreme Court for New York County Judge Louis York has granted a summary judgment declaring the amendments unconstitutional under both the First Amendment of the U.S. Constitution and the Free Expression clause of the New York Constitution. Among other things, the challenged amendments would enlarge the definition of "adult establishment" to include establishments which regularly feature "adult" entertainment in any portion of the premises, thereby eliminating the "substantial portion" test of the original law. Under the prior scheme, adult bookstores and premises featuring live entertainment were able to comply by operating as so-called "60-40" establishments, where at least 60% of their floor space was devoted to non-adult purposes. Quoting from the Supreme Court plurality opinion in *City of Los Angeles v. Alameda Books*, Judge York found that the City had an obligation to make an "evidentiary showing" that the amendments were "no broader than necessary." The city had not met that obligation because they had enacted the amendments without undertaking a secondary effects study to determine whether the "substantial portion" rule may have already reduced [alleged] secondary effects. Court highlights included the belated disclosure of New York City Police Department statistics showing virtually no crime attributable to "adult" businesses. This resulted in the City shifting its position (with no statistical support) to the lame argument that while there may be no statistical correlation between "adult businesses" and crime, such businesses nonetheless lead to "seedy neighborhoods" which, in turn, lead to increased crime. The 2001 Amendments were first challenged in two companion Federal actions also brought by FALA attorneys. However, a statewide temporary restraining order has been in effect and pending motions in the Federal cases are in abeyance while awaiting the state court decisions.

ALCOHOL AGENCY CAN'T MAKE UP THE RULES

The Alcoholic Beverage Control Appeals Board has - in an unprecedented decision -- overturned a 30-day suspension of a liquor license suspension imposed by the Department of Alcoholic Beverage Control (ABC) against Angels Sports Bar, a Corona topless club. The ABC had contended that Angels Sports Bar had violated Rule 143.3, a department law specifying that no one licensed by the department can "permit any person to perform an act of touching, caressing or fondling of the breast, buttocks, anus or genitals." However, the appeals board held that Rule 143.3 could not be implemented because it wasn't listed in the state Code of Regulations. The Administrative Procedure Act requires that rules adopted by administrative agencies in California be subject to public hearings and be published in the Code of Regulations. The appeals board said that "underground rules" such as the ABC ' law" against caressing and fondling can't be used for penalties. Roger Jon Diamond, counsel for Angels owner Renee Vicary, called the ruling "profound." "This is the first time the ABC has had its rules thrown out," he said. "This is a landmark decision. The ABC must obey the law."

that have no support whatsoever.

As far as the insults leveled at patrons, a study was commissioned to gauge the comparative social status of the patrons of Mr. Redner's clubs, and, in stark contrast to Mr. Redner's labels of "the biggest collection of losers," "hapless boobs" and "rubes," the report, conducted by the renowned Dr. Randy Fisher of the University of Central Florida, states that "this group is clearly more educated than the average resident of Florida or Hillsborough County and more likely to be registered to vote. Their occupations vary widely, but many are employed in high status positions which require high levels of skill and bestow considerable responsibility. Their reported incomes also place them well above the average resident of the state or of Hillsborough County."

Perhaps it is easy for disinterested onlookers to take these official and media assaults on the industry as a joke, however, they ought to consider taking a few steps in the shoes of the people most affected by this ridiculous ordinance—those losing their incomes. How would Mr. Ruth or the mayor feel if they woke one day to find that the city no longer had any tolerance for his work and would aggressively seek him out and arrest him if he continued?

Perhaps after taking such a moment to reflect, these insensitive miscreants would be a bit less acerbic and use a bit more intelligence and tolerance. Additionally, Mr. Ruth, as well as the mayor, should consider that there are those of us who find their professions offensive, and of those, a few who would have no problem outlawing such professions. Luckily, most intelligent human beings understand that the price of freedom is the tolerance of those things that we find offensive in order that we can all appreciate the freedom to enjoy those things not personally offensive.

Perhaps it is easy for journalists and the government to accept the city's efforts to trample on the rights of Mr. Redner and exotic dancers today, but will they find it so easy to accept the next group that the city targets? Do they believe that any amount of infringement on the people's rights ends once it is allowed to begin? Perhaps they found the stories of the Revolution, such as the Boston Tea Party, offensive too, and so did not learn the lessons those stories taught. When our forefathers fought against offensive governmental regulation and threw the tea into the harbor, we held them out to be heroes. Anyone who truly appreciates and embraces the freedoms our forefathers fought and gave their lives for cannot be so apt to close their eyes and ignore governmental attempts to take those freedoms away.

The interest in encouraging freedom of expression in a democratic society outweighs any theoretical but often benefit of censorship." Statement I.S. Supreme Court Justice John P. Stevens cited by Justices Scalia, Kennedy, Souter, Thomas, Ginsberg and Breyer in *Reno v. ACLU*, 26, 1997.

3

Bend, Indiana. Representing a number of alcohol serving gentlemen's clubs, and assisted by Southfield, Michigan FALA attorney Allan Rubin and South Bend attorney Jim Korpak, Shafer again attacked a comprehensive adult regulatory ordinance that included (among other things): club licensing;

hours of operation restrictions permitting dance clubs to be open only from 7 a.m. to 10 p.m.; a ten-foot dancer buffer zone; a "no touch" requirement during dancing; strict liability provisions for license holders; license suspension and revocation provisions; and various restrictions on adult business signs. In a 77-page opinion, the court basically eviscerated this ordinance across the board.

The court ruled that both the hours of operation restrictions and the ten-foot buffer zone were preempted under Indiana State law regarding liquor licenses. "The court was very clear that this was not even a close question," Shafer says. This ruling therefore has application to all gentlemen's clubs in Indiana that have a license to serve alcohol. The court also ruled unconstitutional ownership disclosure requirements, the "no touch" provision, the license suspension and revocation provisions, the strict liability requirements and various aspects of signage restrictions which prohibited a business from using any words or letters other than its own name.

"This was a very big win for the clubs in South Bend," Shafer proclaims. "The court even went so far as to invalidate provisions of the ordinance that the clubs had been living under for a number of years."

While the licensing ordinance had been enacted in South Bend quite a few years ago, it was only the passage of amendments, which added in the hours of operation restrictions, the dancer buffer zone, and the "no touch" provisions, that pushed the clubs to file suit. This summary judgment ruling in South Bend permits Shafer to file yet another motion for attorney fees.

At its October 10 meeting, the town council hurriedly introduced an anti-nudity ordinance designed to drive the Mirage out of business. The council planned to have the final reading of this ordinance at its October 24 meeting, and to pass the ordinance that night and finally be done with the Mirage. It just so happened that Wednesday October 24 was also the first meeting, in Minneapolis, to officially form the new ACE of Minnesota chapter.

At Tigue's suggestion and after a unanimous vote by the members of the fledgling organization, ACE sprang into action. ACE of Minnesota's first official act was to send ACE President Mark Van Gelder, Tigue, and yours truly on a 90-minute drive to Nicollet that evening to testify against the ordinance at the town council meeting.

ACE EXPLAINS

We at ACE did our best to point out the potential unconstitutionality of the ordinance and to cite where municipalities elsewhere had been required to pay the attorney fees and costs of the clubs affected when similar ordinances had been struck down, as well as those of their own attorneys.

1

club, a number of other dance clubs and two bookstores. The business and a number of individuals challenge a comprehensive adult business regulatory ordinance, made up of club dancer licensing and various business regulations, including a three dancer buffer zone.

The FALA attack team, which included Shafer, Cincinnati attorney Lou Sirkin and Memphis attorney Pleasants, together with Nashville attorney John Herbison, were able to obtain not one but two preliminary injunctions before the Court finally said "enough is enough" and entered a permanent injunction against the enforcement of the entirety of ordinance.

"Every time we would file a brief or write a motion, the city just kept passing amendments to the ordinance to try to fix the problem," says Shafer. "I told everyone that the law was still unconstitutional, and the 6th Circuit agreed." The clubs involved in the lawsuit had filed a motion for attorney fees in excess of \$650,000.

"What makes this case so important is the fact that the 6th Circuit has clearly held that temporary licenses and stays of enforcement actions are insufficient to save a licensing law when there is not the ability for a prompt judicial decision," Shafer adds, noting that this ruling would render numerous adult regulatory ordinances in the 6th Circuit (the states of Michigan, Ohio, Kentucky and Tennessee) to be unconstitutional.

ACE has long recommended it. It's only common sense: Lobbying to stop pending bad legislation is clearly a much better option than trying to fight a bad ordinance in court after it becomes law.

Nicollet, Minnesota, population 800, bears out this point. In October, 2001, two college students from a Twin Cities suburb opened a juice bar—the Mirage—in the tiny rural community of Nicollet. The town had no adult ordinance at that time and never before had adult entertainment of any sort.

Within two days, the town council quickly embraced a six-month moratorium on any new adult businesses in the city and on the expansion of any currently in existence.

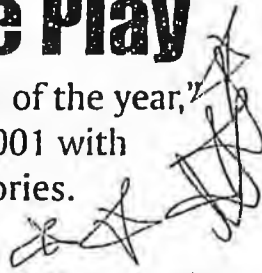
A day later, the city forced the club to close for building code violations. The Mirage enlisted noted Minneapolis First Amendment Lawyer's Association (FALA) attorney Randy Tigue, who was able to get the club reopened in a few days.

Adult Club Executives

← continue →

The December Triple Play

"Santa was very good to my clients at the end of the year," says FALA attorney Brad Shafer, who closed 2001 with a bang with three relevant adult industry victories.



1 The first win came in the 6th Circuit United States Court of Appeals in a case involving the Nashville, TN, Deja Vu club, a number of other dance facilities and two bookstores. The businesses and a number of individuals challenged a comprehensive adult business regulatory ordinance, made up of club and dancer licensing and various business regulations, including a three-foot dancer buffer zone.

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The ruling was, however, a mixed bag. The Court upheld criminal disability provisions in the ordinance, which prohibited people convicted of certain specified "sex crimes" from being exotic dancers, or being associated with adult businesses. "That ruling is in direct conflict with Supreme Court case law, decisions of other Courts of Appeals, and even prior decisions of the 6th Circuit," Shafer says. He has filed a motion for reconsideration with the 6th Circuit on that issue.

The 6th Circuit also upheld, at least on a qualified basis, the three-foot dancer buffer zone. The Court indicated that the plaintiffs had not put on evidence of the potential "economic harm" of such a buffer zone, which is a matter that can be litigated at a future trial if that ever becomes necessary, says Shafer. "We raised arguments in regard to the buffer zone

that had never been made, and we were able to get the 6th Circuit to at least acknowledge that a three-foot buffer zone was the absolute most a governmental entity could impose, without running into constitutional problems."

Shafer further indicates that although some of the rulings did not go in the favor of the clubs, until the judicial review problem is corrected the ordinance would continue to be enjoined in its entirety. Finally, Shafer states, "There have been so many amendments to the ordinance that we are basically now back at square one in regard to our constitutional challenge. If the city attempts to correct the judicial review problem, we have quite a few more legal challenges to this ordinance that should keep the law enjoined for the foreseeable future."

2 Shafer's second win in December came from the Nevada Supreme Court in a Las Vegas dancer class action case. That lawsuit, filed by a number of anonymous entertainers, seeks payment of minimum wages to the dancers who claim they were employees, as opposed to independent contractors.

The dancers asked the trial court to send out notice of the lawsuit to all other women who had danced at the defendant clubs and to treat the case as what is known as an "opt-out" lawsuit. This would mean that unless an entertainer specifically sent back a notification to the court that she did not want to participate in the lawsuit, she would automatically be considered to be a plaintiff and be entitled to make a claim for damages.

Spearheading the defense team which included Los Vegas FALA Attorney Allen Lichtenstein and numerous Las Vegas club attorneys, Shafer contended to the trial court that the lawsuit should, rather, be treated as an "opt-in" proceeding (where no other dancers would be participants in the lawsuit unless they specifically, in writing, requested to be added), that it was not mandatory for any notice to go out, and that the clubs should be entitled to the federal law "tip credit" against minimum wage if the dancers were ultimately determined to be employees.

The Las Vegas trial judge agreed with Shafer and the clubs, and ruled that the case was to proceed as an "opt-in" lawsuit, that the clubs were entitled to the federal tip credit against minimum wages, and the trial court also dismissed the plaintiffs' motion to provide notification to all other entertainers.

Although the plaintiffs' attorneys were con-

fident in having this ruling overturned, the miscalculated. The Nevada Supreme Court upheld the ruling of the trial court. "What this means is that rather than having a lawsuit involving potentially thousands of dancers, many of whom could probably not even be found by the plaintiffs or the clubs, we now have a lawsuit limited to the seven women who originally brought the legal action," explains Shafer. "The ruling basically eviscerates any type of damage claim once you factor in all of the tax consequences." Shafer further states that this entire ruling was predicated upon specific language that he had added into the Deja Vu "Dancer Performance Lease" a couple of years prior to the filing of the lawsuit. "It just goes to show you that a good contract is critical," says Shafer.

3 The third part of Shafer's tri-ecta came by way of a summary judgment order from a state court in South Bend, Indiana. Representing a number of alcohol serving gentlemen's clubs, and assisted by Southfield, Michigan FALA attorney Allan Rubin and South Bend attorney Jim Korpala, Shafer again attacked a comprehensive adult regulatory ordinance that included (among other things); club licensing; hours of operation restrictions permitting dance clubs to be open only from 7 a.m. to 10 p.m.; a ten-foot dancer buffer zone; a "no touch" requirement during dancing; strict liability provisions for license holders; license suspension and revocation provisions; and various restrictions on adult business signs. In a 77-page opinion, the court basically eviscerated this ordinance across the board.

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To contact Brad Shafer call (517) 886-6560.

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National Newsletter

December 1, 2003 Volume 2, Number 29

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L.A. City Council Repeals Gentlemen's Club Ordinance

The Los Angeles City Council backed down on gentlemen's club regulations that were enacted recently, giving preliminary approval to a watered-down ordinance. The new law lacks a "no-touch" rule and thus allows practices such as lap dancing and the placing of tips by customers in strippers' G-strings to continue. A ban on touching between customers and performers was a key provision in the original law that prompted the adult-entertainment industry to mount a petition drive that ultimately led to the revisions. Supporters said the new law was a necessary compromise, and still places needed restrictions on adult entertainment. For example, the law prohibits private rooms and cubicles in all clubs, which police hope will cut down on prostitution. It also requires the businesses to apply for annual permits, giving the Police Department a chance to review violations and complaints, and to move to revoke the permits if warranted. A business that is denied a permit can apply for a temporary permit that will let it stay open while the ruling is appealed.

Opponents of the revision called the new version toothless, and some accused the council of allowing the adult entertainment industry to blackmail the city. "This is a very sad day for the people of L.A. because special interests have won..." Los Angeles resident Jay Handle said. ACE National Members and other clubs in the California area spent over \$400,000 to collect more than 100,000 signatures in support of a ballot measure to overturn the original law. Placing the measure on the March 2004 ballot would have cost the city nearly \$3 million. Leaving the ordinance in place and scheduling a future vote would have left the city powerless to enforce the new regulations in the meantime. Council Member Tony Cardenas opposed repealing the original ordinance. "This is just wrong for us to allow any industry to impede the quality of life of our communities for no good reason," Cardenas said. Steven Afriat, a lobbyist for the clubs said his clients are pleased the council worked with them to revise the ordinance. But he emphasized that they are dissatisfied with the compromise, too. "Part of a good law is that nobody's happy - most of my clients are not happy," Afriat said. "The annual renewal of the license is onerous at best and threatening to this industry at most." The council schedules the new ordinance for a final vote on Dec. 2. The City Attorney's Office and the Police Commission will work with industry representatives in the meantime to develop criteria for determining what violations will be considered the most egregious and would warrant a permit being revoked.



National Newsletter

November 3, 2003 Volume 2, Number 27

Adult Entertainment Strikes Back with Petitions Over L.A. Lap Dance Limits

The adult entertainment industry in Los Angeles struck back against a proposed 6ft. dancer/patron distance ruling, filing petitions that could force an election on how far dancers must remain from customers. 107,000 signatures were gathered, more than twice the number needed. According to Spearmint Rhino owner John Gray, a coalition was formed between 24 clubs, including Déjà vu, where more than 800 people took to the LA streets to gather signatures to force the measure to a vote. "...I am pleased to say...we have effectively made the minimum requirement to stay the ordinance and thus the same will not now become law," explained Gray in a press release sent to ACE National. The signatures were submitted to the City Clerk's Office under guarded convoy. If the documents are certified, the City Council will have a month to rescind the ordinance or set it for an election. "We'll see if it qualifies," said Councilwoman Cindy Misickowski, the driving force behind the ban. "I'm not sure all those people who signed the petition live in the city or are registered voters. Attorney Roger Jon Diamond, who represents the adult clubs along with attorney John Weston, said city officials should question the cost of holding such an election.

"Our action puts the pressure squarely on the shoulders of the council," he said. "~~Considering the budget shortfall and the multimillion-dollar price tag of an election, it~~ should be an easy decision." That argument had some resonance with Councilman Tony Cardenas if it means putting the measure on the March 2004 ballot at an estimated cost of \$2.9 million. "The city will have to choose between holding this special election or keeping 27 cops," said Cardenas, who had voted in support of the lap-dancing ban. Lobbyist Steve Afriat, who represents many of the adult clubs, said the petitions showed the opposition to the measure. "Voters know needless legislation when they see it, and they have spoken loudly," Afriat said. "We showed that voters do not wish to have their public safety resources wasted on over-regulation of adult entertainment."

sound.
li, *adv.* Sharply.
ūt nes, *n.* Sharpness; shrewdness;
perception.
n. A proverb; a maxim.
ō, *a.* and *adv.* In music, slow, with
slow movement.
a-mant, *n.* Any substance of im-
ardness; the diamond.
id-a-mant'in, *a.* Made of adamant;

ad'amz-ap'l, *n.* The prominence
of the throat.

, *vt.* To fit; to adjust; to suit.
i-dapt'a-bil'li-ti, *n.* Capability of
ad.

apt'a-bl, *a.* That may be adapted.
dap-tā'shon, *n.* Act of adapting;
adapting.

join to; to annex; to say further.
den'dum, *n.*; pl. -da. A thing to be
pendix.

. A venomous serpent.
, *vt.* To apply habitually; gener-
sense, with refl. pron.

ikt'ed, *p.a.* Habitually given to a
ined; prone.

lik'shon, *n.* The state of being ad-
on.

'shon, *n.* Act of adding; the thing
se.

di'shon-al, *a.* Added on.

t-iv, *a.* That is to be or may be

Rotten; barren.—*vt.* (adbling, ad-
e corrupt or barren.

ad'l-hed-ed, *a.* Having barren
nk intellect.

as', *vt.* To direct; to apply to by
ng; to speak to; to apply (oneself);
ne and destination on.—*n.* Verbal
lication; speech or discourse to a
ourtship (generally in plural); di-
tter.

lres'ē, *n.* One addressed.
s', *vt.* (adducing, adduced). To
; to cite.

ūs'i-bl, *a.* That may be adduced.
kt'er, *n.* A muscle which draws
other.

-oid, *a.* Glandular.—*n.pl.* Gland-
owths in the throat behind the

l. One fully skilled in any art.—*a.*
ompletely versed or acquainted.
kwa-si, *n.* State or quality of be-

kwāt, *a.* Equal to; proportionate;

'ē-kwāt-li, *adv.* In an adequate

contiguous; neighboring.
Adjectival, ad'jek-tiv-al, *a.* Belonging to or like
an adjective.

Adjective, ad'jek-tiv, *n.* A word used with a noun,
to express some quality or circumstance.

Adjoin, ad-join', *vt.* To join to.—*vi.* To lie or be
next; to be contiguous.

Adjoining, ad-join'ing, *p.a.* Adjacent.
Adjourn, ad-jern', *vt.* To put off to a future day; to
postpone.—*vi.* To leave off for a future meeting.

Adjournment, ad-jern'ment, *n.* Act of adjourning;
interval during which a public body defers
business.

Adjudge, ad-juj', *vt.* To decree judicially; to de-
cide.

Adjudicate, ad-jū'di-kāt, *vt.* To adjudge; to deter-
mine judicially.

Adjudication, ad-jū'di-kā'shon, *n.* Judicial sen-
tence; judgment or decision.

Adjudicator, ad-jū'di-kāt-or, *n.* One who adjud-
icates.

Adjunct, ad'jungkt, *n.* A thing (or person) joined
to another.—*a.* United with.

Adjuration, ad-jū-rā'shon, *n.* Act of adjuring; an
oath or solemn charge.

Adjure, ad-jūr', *vt.* (adjuring, adjured). To charge
on oath; to charge earnestly and solemnly.

Adjust, ad-just', *vt.* To rectify; to make exact; to
regulate; to adapt; to settle.

Adjustable, ad-just'a-bl, *a.* That may or can be
adjusted.

Adjustment, ad-just'ment, *n.* Act of adjusting; ar-
rangement; settlement.

Adjutancy, ad'jū-tan-si, *n.* Office of an adjutant.
Adjutant, ad'jū-tant, *n.* An officer who assists a
commanding officer; a large species of bird al-
lied to the stork.

Admeasure, ad-me'zhūr, *vt.* To ascertain the size
or capacity of.

Admeasurement, ad-me'zhūr-ment, *n.* Act of ad-
measuring; dimensions.

Adminicle, ad-min'i-kl, *n.* Support; aid.
Administer, ad-min'is-tēr, *vt.* To manage; to dis-
pense; to distribute.

Administration, ad-min'is-trā'shon, *n.* Manage-
ment; executive part of a government.

Administrative, ad-min'is-trāt-iv, *a.* That admin-
isters.

Administrator, ad-min-is-trāt'or, *n.* One who
manages an intestate estate.

Admirable, ad'mi-ra-bl, *a.* Worthy of admiration;
excellent.

Admirably, ad'mi-ra-bli, *adv.* In an admirable
manner.

Admiral, ad'mi-ral, *n.* The chief commander of a
fleet or navy.

Admiralty, ad'mi-ral-ti, *n.* A board of officials for
administering naval affairs; the official build-
ings of this board.

Admiration, ad-mi-rā'shon, *n.* Wonder mingled
with delight; esteem.

Admonitory, ad-mon'itō-ri, *a.* Containing a
nition.

Ado, a-dō', *n.* Stir; bustle; difficulty.

Adobe, a-dō'be, *n.* A sun-dried brick.

Adolescence, ad-ō-les'ens, *n.* A growing up to
manhood; the age of youth.

Adolescent, ad-ō-les'ent, *a.* Advancing to man-
hood.

Adopt, a-dopt', *vt.* To take and treat as a child,
giving a title to the rights of a child; to em-
brace.

Adoption, a-dop'shon, *n.* Act of adopting; state of
being adopted.

Adoptive, a-dopt'iv, *a.* Adopting or adopted.

Adorable, a-dōr'a-bl, *a.* Worthy to be adored.

Adorably, a-dōr'a-bli, *adv.* In a manner worthy of
adoration.

Adoration, a-dōr-ā'shon, *n.* Worship paid to God;
profound reverence.

Adore, a-dōr', *vt.* (adoring, adored). To address in
prayer; to worship with reverence and awe; to
love intensely.

Adorer, a-dōr'er, *n.* One who adores.

Adoringly, a-dōr'ing-li, *adv.* With adoration.

Adorn, a-dorn', *vt.* To deck with ornaments; to
embellish; to beautify.

Adown, a-doun', *prep.* Down; towards the lower
part of.—*adv.* Down; on the ground.

Adrift, a-drift', *adv.* Floating at random; at the
mercy of any impulse.

Adroit, a-droit', *a.* Dexterous; skilful; ready.

Adroitly, a-droit'li, *adv.* With dexterity.

Adroitness, a-droit'nes, *n.* Dexterity.

Adscititious, ad'si-ti'shus, *a.* Additional; not req-
uisite.

Adstriction, ad-strik'shon, *n.* A binding fast.

Adulation, ad-ū-lā'shon, *n.* Servile flattery; ex-
cessive praise.

Adulatory, ad'ū-lā-tō-ri, *a.* Flattering; praising
excessively or servilely.

Adult, a-dult', *a.* Grown to maturity.—*n.* A person
grown to manhood.

Adulterate, a-dul'tēr-āt, *vt.* (adulterating, adulter-
ated). To change to a worse state by mixing; to
contaminate with base matter.

Adulterate, a-dul'tēr-āt, *a.* Adulterated.

Adulterated, a-dul'tēr-āt-ed, *p.a.* Debased by ad-
mixture.

Adulteration, a-dul'tēr-ā'shon, *n.* Act of adulter-
ating, or state of being adulterated.

Adulterer, a-dul'tēr-ēr, *n.* A man guilty of adul-
tery.

Adulteress, a-dul'tēr-es, *n.* A woman guilty of ad-
ultery.

Adulterine, a-dul'tēr-in, *a.* Proceeding from adul-
terous commerce; spurious.

Adulterous, a-dul'tēr-us, *a.* Guilty of adultery;
pertaining to adultery.

Adulterously, a-dul'tēr-us-li, *adv.* In an adulter-
ous manner.

Adultery, a-dul'tē-ri, *n.* Unfaithfulness to the

- ship; liturgy; set of dishes for the table; supply of things regularly provided.
- Serviceable**, sĕrv'is-a-bl, *a.* That renders service; useful; beneficial.
- Service-book**, sĕrv'is-buk, *n.* A book used in church service; a prayer-book.
- Service-tree**, sĕrv'is-trĕ, *n.* A European tree of the pear family.
- Serviette**, sĕr-vi-et', *n.* A table-napkin.
- Servile**, sĕr'vil, *a.* Slavish; mean; dependent; fawning; meanly submissive.
- Servilely**, sĕr'vil-li, *adv.* In a servile manner; slavishly; meanly.
- Servility**, sĕr-vil'i-ti, *n.* State of being servile; mean submission.
- Servitor**, sĕrv'i-tor, *n.* A male servant.
- Servitude**, sĕrv'i-tūd, *n.* State of a slave; slavery; compulsory labor.
- Sesame**, ses'a-me, *n.* An annual herbaceous plant, the seeds of which yield a fine oil.
- Sesquipedalian**, Sesquipedal, ses'kwi-pĕ-dā'li-an, ses'kwi-pĕ-dal, *a.* Containing a foot and a half; applied to long words; using long words.
- Sessile**, ses'il, *a.* Attached without any sensible projecting support; having no stalk.
- Session**, se'shon, *n.* The sitting of a court, etc., for business; time or term of sitting.—**Court of Session**, the highest civil court of Scotland.
- Sessional**, se'shon-al, *a.* Relating to sessions.
- Sestet**; **Sestette**, ses'tet, ses-tet', *n.* A musical composition for six voices or six instruments; the last six lines of a sonnet.
- Set**, set, *vt.* (setting, set). To put or dispose in a certain place or position; to fix; to appoint; to estimate; to regulate or adjust; to fit to music; to adorn; to intersperse; to incite.—*vi.* To disappear below the horizon; to solidify; to tend; to point out game; to apply oneself.—*p.a.* Placed, fixed, etc.; determined; established.—*n.* The descent of the sun, etc.; attitude, position; turn or bent; number of things combining to form a whole; a complete assortment; a clique.
- Seta**, sĕ'ta, *n.*; pl. -ae. A bristle or sharp hair.
- Setaceous**, se-tā'shus, *a.* Bristly.
- Set-off**; **set'of**, *n.* Any counterbalance; and equivalent; a counter claim.
- Seton**, sĕ'ton, *n.* A twist of silk or cotton drawn under the skin to keep up an issue.
- Setose**, sĕ'tos, *a.* Bristly.
- Settee**, set-tĕ', *n.* A long seat with a back to it; a kind of sofa.
- Setter**; **set'er**, *n.* One who or that which sets; a sporting dog.
- Setting**, set'ing, *n.* Act of sinking below the horizon; that in which something, as a jewel, is set; music set for certain words.
- Settle**, set'l, *n.* A bench with a high back and arms.—*vt.* (settling, settled). To place in a more or less permanent position; to establish; to quit; to determine; to reconcile; to pay; to square or adjust; to colonize.—*vi.* To become fixed; to fix
- in seven.
- Seventieth**, se'ven-ti-eth, *a.* and *n.* The next after sixty-ninth; one of seventy equal parts.
- Seventy**, se'ven-ti, *a.* and *n.* Seven times ten.
- Sever**, se'ver, *vt.* To separate by violence; to keep distinct.—*vi.* To separate.
- Severable**, se'ver-a-bl, *a.* Capable of being severed.
- Several**, se'ver-al, *a.* Separate; distinct; more than two, but not very many.
- Severally**, se'ver-al-li, *adv.* Separately.
- Severalty**, se'ver-al-ti, *n.* A state of separation from the rest, or from all others.
- Severance**, se'ver-ans, *n.* Act of severing; separation.
- Severe**, sĕ-vĕr', *a.* Serious; grave; harsh; stern; austere; rigidly exact; keen.
- Severely**, sĕ-vĕr'li, *adv.* Harshly; strictly.
- Severity**, sĕ-ve'ri-ti, *n.* State or quality of being severe; rigor; intensity; austerity.
- Sevres**, sĕ-vr, *n.* A kind of beautiful porcelain, made of *Sevres*, near Paris.
- Sew**, sō, *vt.* and *i.* To unite or make by needle and thread.
- Sewage**, sū'āj, *n.* The filthy matter which passes through sewers.
- Sewer**, sū'er, *n.* A subterranean drain, as in a city, to carry off water, filth, etc.
- Sewer**, sō'er, *n.* One who sews.
- Sewerage**, sū'er-āj, *n.* The system of sewers as in a city; sewage.
- Sewing**, sō'ing, *n.* Act of using a needle; that which is sewed; stitches made.
- Sex**, seks, *n.* That character by which an animal is male or female.
- Sexagenarian**, seks-a'jen-ā'ri-an, *n.* A person sixty years of age.—*a.* Sixty years old.
- Sexagenary**, seks-a'jen-a-ri, *a.* Pertaining to the number sixty.—*n.* A person sixty years old.
- Sexagesima**, seks-a-jes'i-ma, *n.* The second Sunday before Lent.
- Sexennial**, seks-en'ni-al, *a.* Lasting six years, or happening once in six years.
- Sextain**, seks'tān, *n.* A stanza of six lines.
- Sextant**, seks'tant, *n.* The sixth part of a circle; an instrument for measuring the angular distances of objects by reflection.
- Sexto-decimo**, seks-tō-des'i-mō, *n.* The size of a book when each sheet makes sixteen leaves; usually written 16mo (*sixteen mo*).
- Sexton**, seks'ton, *n.* An under officer of a church who takes care of the sacred vessels, acts as janitor, etc.
- Sextuple**, seks'tū-pl, *a.* Sixfold.
- Sexual**, seks'ū-al, *a.* Pertaining to, proceeding from, characterized by sex.
- Sexuality**, seks'ū-al'i-ti, *n.* State of being sexual.
- Sexually**, seks'ū-al-li, *adv.* In a sexual manner.
- Sforzando**, sfor-tsān'dō, *n.* A musical term marking notes that are to be emphasized, contracted *sf*.

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Ruling keeps Missouri from raising minimum age for strippers

The Associated Press
 FRIDAY, AUGUST 29, 2003

KANSAS CITY, MO — A Missouri law raising the minimum age for nude dancers from 18 to 19 appears to be a violation of the First Amendment right to free expression, a federal judge ruled in barring enforcement of the law.

"I'm not persuaded that (the law) furthers a substantial government interest, nor am I persuaded that the government interest in this case is unrelated to suppression of free speech," U.S. District Judge Ortrie Smith ruled Wednesday.

The law had been set to take effect Thursday, but Bazooka's, a Kansas City cabaret featuring nude dancing, and two of its 18-year-old dancers sought a restraining order.

Smith said the 18-year-old dancers were likely to suffer irreparable harm if the statute were enforced. Both dancers testified Wednesday, describing themselves as "live adult entertainers" whose work at Bazooka's was the primary means of support for themselves and their 2-year-old children.


After the hearing, the general manager of Bazooka's, Richard T. Snow, said he was pleased with Smith's ruling.

"I didn't think the government's case had any merit," Snow said.


Bazooka's and the two dancers -- Ashlea Nichol Williamson and Christine Dunkin - sued on Monday to prevent enforcement of the statute. Jay Nixon, as the state's attorney general charged with enforcing Missouri's laws, was named as the only defendant.

The law was passed by the General Assembly in May and signed by Gov. Bob Holden last month. Tucked into an otherwise unrelated liquor-control bill, the provision was sponsored by Sen. Sarah Steelman, R-Rolla.

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At the time, Steelman was quoted as saying that women could earn hundreds of dollars a day dancing nude but were at risk of being exploited. She also expressed concern that young women who performed in adult clubs might get involved in pornography.

Bazooka's is a so-called juice bar and serves no alcohol. As such, it is not regulated by state and local laws requiring dancers in clubs that serve alcohol to be partly covered.

In arguing that the minimum-age law was arbitrary and violated the First Amendment, Bazooka's attorney Richard Bryant acknowledged that the government could regulate nude dancing but said the statute impinged too much on the right of free speech.

E The bill, he said, bans 18-year-olds "from engaging in the exact same activity as a 19-year-old," even though 18-year-olds are not considered minors under Missouri law.

Assistant Atty. Gen. John Mollenkamp argued that while the law prohibited 18-year-olds from dancing nude in adult clubs, it did not prevent them from dancing partly clothed in clubs that serve liquor, dancing nude in the privacy of their homes or even appearing nude in videotapes.

Mollenkamp said it was up to lawmakers, not the courts, to determine the rightful age.

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10 Years, 700 Dancers, 400 Patrons—One Study

Exotic dancers are alcoholics? Victims of spousal abuse? Carriers of STDs? Not so, according to Legal Economics, Inc., who recently began releasing the results of their very interesting 10-year study of exotic dancers and club patrons.

Legal Economics, Inc., a consulting firm based in Las Vegas, NV, recently began releasing the initial results of an unprecedented 10-year study—which tracks over 700 exotic dancers and 400 club patrons—that offers a new perspective on arguments linking dance clubs to negative "secondary effects." Dr. Robert Schmidt headed up the multi-disciplinary group of internationally recognized scholars and researchers whose extensive project provides adult-oriented business owners, lawyers and public policy makers with empirical information about the short and long-term effects of exotic dancing.

The study examines industry impacts in terms of social, economic, public health and safety, and environmental effects. Because of the large volume of data, academic publication requirements and the potential implications for various elements of the industry, the data is being released in segments. Clubs in the study are placed into six classifications: Class 1 through Class 6. For example, Class 1 are very upscale gentlemen's clubs; Class 6 are "peep shows" which do not serve alcohol (which are generally not considered to be part of the adult nightclub industry—Ed.).

In the past, local governments trying to limit or ban adult nightclubs have based their contentions on studies that claim to connect sexually-oriented businesses with such negative secondary effects as high crime rates and decreases in contiguous property values. According to Schmidt, the data compiled for his ongoing project refutes a number of the allegations most frequently cited in the policy arguments made by the detractors of adult clubs.

"(This study) should have significant implications on zoning laws in a multitude of jurisdictions," says Schmidt, a respected

expert on urban and labor issues who has advanced degrees in economics, law, and sociology. "Local governments tend to focus on the wrong problems, like trying to prove an often nonexistent causal relationship linking alcohol and nudity with negative secondary effects. One conclusion we see is that it's time for virtually every jurisdiction to review its strategies regarding how this industry is regulated."

"We can provide information to individual dancers or give business owners the support they need to disprove negative secondary effects that are allegedly related to certain clubs and locations," Schmidt continues. "There are some exceptions, of course, but in most cases we can also show communities and club owners how to reduce the incidence of problems by using proper management controls and designs."

The study results also contain a significant amount of copyrighted literature and unreleased data that can be used in shaping support for distinctive circumstances. "We have the ability to build highly accurate profiles for specific clubs or jurisdictions," Schmidt says. "We are in a position to address the requirements of almost any individual situation. And in terms of admissibility and reliability, the methodologies employed in this research meet all the legal standards set out by the Frye, Daubert, Joiner, and Kumho Tire decisions" (major

Supreme Court cases concerning scientific evidence).

Issues Addressed by the Study

The original focus of the self-funded study was to empirically examine the occupation of exotic dancing in terms of its social and economic impacts. In addition to creating customer profile databases and collating statistics on clubs, the study considered both near and long-term effects on three specific

target groups: dancers, their families and the community in which they work.

Schmidt also aimed at developing a comprehensive data set based on key characteristics that could be used to measure biological, social, economic and psychological variation between exotic dancers and similarly situated women on regional and national levels. Additionally, he developed an economic database of dancer wages that could be used to estimate the financial impacts of change in a dancer's earning potential.

According to contributor Dr. Andrea Fontana, an internationally-recognized professor of sociology, compiling reliable data concerning the women who work in the industry was a unique aspect of the study. "We need to clarify and reformulate some key ideas about these women and their beliefs," said Fontana, whose academic work deals with issues of women and self. "First people need to accept the changing social view regarding adult-oriented businesses. Second, we need to be concerned for the safety and economic well-being of the literally hundreds of thousands of women who work in this industry."

The numerous study categories can be grouped roughly by economic, social and physical variables. Economic data covers financial and labor-related areas such as dancer income by business type, average hourly wages, tip-out amounts, shift data and earnings histories. Information is not limited only to current employment; previous, current and post-dancing occupation are also covered, along with spousal occupations. Social data compares such dancer characteristics as household composition, marital status, education and sexual behavior to the regional and national norms of women in similar age groups and economic situations.

The study also examined alcohol and illicit drug use and domestic violence. The physical aspect of the study covered topics that range from the impact of augmented dancer income to the prevalence (or lack thereof) of STDs.

Some Study Results Revealed

Some of the results were startling even to the researchers, and much of the information runs contrary to what opponents of adult-oriented businesses would like people to believe. The current ages of the women in the study are between 18 and 51 years of age.

The results reveal that, on a national level, the majority of dancers share behavioral patterns with women in similar age groups who are in the same or similar economic situations. The marriage profile of the dancers in the study mirrors those in the nation for their respective age groups. They include 157 married dancers, 431 single dancers, 120 widowed, divorced or separated dancers. A significant number of dancers



"Some of the results were startling even to the researchers, and much of the (dancer study) runs contrary to what opponents of adult businesses would like people to believe."
—Schmidt & Schlottmann