

By: Howard, Eissler

H.B. No. 219

Substitute the following for H.B. No. 219:

By: Allen of Dallas

C.S.H.B. No. 219

A BILL TO BE ENTITLED

AN ACT

1
2 relating to a sign advertising or identifying a sexually oriented
3 business; providing civil and criminal penalties.

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

5 SECTION 1. The purposes of this Act are to mitigate the
6 adverse secondary effects of sexually oriented businesses, improve
7 traffic safety, limit harm to minors, reduce prostitution, crime,
8 juvenile delinquency, and deterioration in property values, and
9 encourage neighborhood improvement efforts.

10 SECTION 2. Chapter 46, Business & Commerce Code, as added by
11 Chapter 402, Acts of the 78th Legislature, Regular Session, 2003,
12 is amended by adding Section 46.005 to read as follows:

13 Sec. 46.005. SIGNS. (a) In this section:

14 (1) "Nude" means:

15 (A) entirely unclothed; or

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

20 (2) "Obscene" has the meaning assigned by Section
21 43.21, Penal Code.

22 (b) Except as provided by Subsection (c), a person may not
23 place or maintain an outdoor sign advertising or identifying a
24 sexually oriented business.

1 (c) A person may place and maintain not more than two
2 on-premise signs, as defined by Section 216.002, Local Government
3 Code, identifying a sexually oriented business. Each sign may not
4 exceed 40 square feet in size and may include only the business's
5 name, street address, telephone number, and operating hours. A
6 sign authorized by this subsection may not contain obscene material
7 or a depiction of a nude person.

8 (d) A person who violates this section commits an offense.
9 An offense under this subsection is a Class B misdemeanor.

10 (e) A person who violates this section is liable to the
11 state for a civil penalty. The attorney general may sue to collect
12 the penalty. The amount of the civil penalty is not less than \$500
13 or more than \$1,000 for each violation, depending on the
14 seriousness of the violation. A separate penalty may be collected
15 for each day a continuing violation occurs.

16 SECTION 3. A sign that exists on the effective date of this
17 Act and that does not comply with Section 46.005, Business &
18 Commerce Code, as added by this Act, may be maintained until August
19 31, 2008. After August 31, 2008, the sign must comply with that
20 section.

21 SECTION 4. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2005.