

By: Cohen

H.B. No. 2123

A BILL TO BE ENTITLED

AN ACT

relating to certain sexually oriented businesses and the funding of and appropriations from the sexual assault program fund; providing a civil penalty.

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

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

SUBCHAPTER A. SEX OFFENDER PROHIBITION

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

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

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

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

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

SUBCHAPTER B. ADMISSION TO AND REGISTRATION OF CERTAIN SEXUALLY ORIENTED BUSINESSES

Sec. 47.051. DEFINITIONS. In this subchapter:

1           (1) "Nude" means:

2                   (A) entirely unclothed; or

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

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

9           Sec. 47.052. FEE ON ADMISSIONS. (a) A fee is imposed on a  
10 sexually oriented business that provides live nude entertainment or  
11 performances in an amount equal to \$5 for each entry by each  
12 customer admitted to the business, regardless of whether a business  
13 charges a customer for admission using a membership fee or a  
14 multiple-entry admission charge.

15           (b) A person operating a sexually oriented business in this  
16 state shall remit all fees imposed under this section to the  
17 comptroller each quarter in the manner prescribed by the  
18 comptroller.

19           (c) The comptroller may revoke the registration certificate  
20 of a sexually oriented business that violates this section.

21           Sec. 47.053. ANNUAL REGISTRATION. (a) A person may not  
22 operate a sexually oriented business in this state on or after  
23 January 1, 2008, unless the person holds a registration certificate  
24 issued by the comptroller under this subchapter.

25           (b) To obtain a registration certificate under this  
26 subchapter, a person must:

27                   (1) file with the comptroller an original application

1 on a form prescribed by the comptroller; and

2 (2) pay a \$5,000 registration fee to the comptroller.

3 (c) The application must include:

4 (1) the name and address of the sexually oriented  
5 business that is the subject of the registration certificate; and

6 (2) any other information that the comptroller  
7 requires.

8 (d) A registration certificate issued under this subchapter  
9 expires on the first anniversary of the date of issuance.

10 (e) A separate registration certificate is required under  
11 this subchapter for each distinct sexually oriented business  
12 location in this state.

13 Sec. 47.054. RENEWAL. (a) A person may renew an unexpired  
14 registration certificate by paying to the comptroller, before the  
15 expiration date of the certificate, the annual registration fee.

16 (b) A person may renew an expired registration certificate  
17 under this subsection. If the certificate has been expired for not  
18 more than 90 days, the person may renew the certificate by paying to  
19 the comptroller a fee that is 1-1/2 times the amount of the annual  
20 registration fee. If the registration certificate has been expired  
21 for more than 90 days but less than two years, the person may renew  
22 the certificate by paying to the comptroller a fee that is two times  
23 the amount of the annual registration fee.

24 (c) A person whose registration certificate has been  
25 expired for two years or more may not renew the certificate. The  
26 person may obtain a new registration certificate by complying with  
27 the requirements and procedures for obtaining an original

1 registration certificate.

2 Sec. 47.055. NOTICE OF APPLICATION. (a) Not less than 60  
3 days before filing an original application to obtain a registration  
4 certificate under this subchapter, the operator of the proposed  
5 sexually oriented business must:

6 (1) publish notice for two consecutive issues in a  
7 newspaper of general circulation published in the municipality in  
8 which the proposed business is to be located; and

9 (2) send notice by first-class mail to the following  
10 public officials representing the area in which the proposed  
11 business is to be located:

12 (A) each city council member;

13 (B) each county commissioner;

14 (C) the state representative; and

15 (D) the state senator.

16 (b) If a newspaper of general circulation is not published  
17 in the appropriate municipality or if the proposed business will  
18 not be located in a municipality, the notice required by Subsection  
19 (a)(1) must be published in a newspaper of general circulation in  
20 the county where the proposed business is to be located. If a  
21 newspaper of general circulation is not published in that county,  
22 the notice must be published in a newspaper that is published in the  
23 county closest to the location of the proposed business in which a  
24 newspaper of general circulation is published and that is  
25 circulated in the county where the proposed business is to be  
26 located.

27 (c) The notice required under Subsection (a)(1) must be in

1 10-point boldfaced type. Each notice required under Subsection (a)  
2 must state:

- 3 (1) the type of registration applied for;  
4 (2) the exact location of the business;  
5 (3) the name of the owner or owners;  
6 (4) the name used by the business, if operating under  
7 an assumed name; and  
8 (5) in the case of a corporation, the names and titles  
9 of all officers of the corporation.

10 Sec. 47.056. CIVIL PENALTY FOR FAILURE TO HOLD CERTIFICATE.  
11 A person who operates a sexually oriented business without holding  
12 a registration certificate issued under this subchapter shall pay a  
13 civil penalty in an amount determined by comptroller rule.

14 Sec. 47.057. DEPOSIT OF FEES. (a) The comptroller shall  
15 deposit all fees collected under this subchapter to the credit of  
16 the sexual assault program fund, except as provided by Subsection  
17 (b).

18 (b) The comptroller shall deposit any amount received from  
19 the fees imposed under this subchapter that exceeds \$12 million in a  
20 fiscal biennium to the credit of the general revenue fund.

21 Sec. 47.058. RULEMAKING. The comptroller shall adopt any  
22 necessary rules for the administration, payment, collection, and  
23 enforcement of the fee imposed by this chapter.

24 SECTION 4. Section 420.005(b), Government Code, is amended  
25 to read as follows:

26 (b) To be eligible for a grant, a program under this section  
27 must provide at a minimum:

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

8 SECTION 5. Section 420.008, Government Code, is amended by  
9 amending Subsections (b) and (c) and adding Subsection (d) to read  
10 as follows:

- 11 (b) The fund consists of fees collected under:
- 12 (1) Section 19(e), Article 42.12, Code of Criminal
  - 13 Procedure;
  - 14 (2) [~~and~~] Section 508.189, Government Code; and
  - 15 (3) Subchapter B, Chapter 47, Business & Commerce
  - 16 Code.

17 (c) Except as provided by Subsection (d), the [~~The~~]  
18 legislature may appropriate money deposited to the credit of the  
19 fund only to the attorney general to finance the grant program under  
20 Section 420.005 [~~created by this chapter~~].

21 (d) The legislature may appropriate an amount, not to exceed  
22 \$12 million annually, from money deposited to the credit of the fund  
23 to the following agencies for the purposes provided:

24 (1) the Department of State Health Services for  
25 measuring the prevalence of sexual assault in the state;

26 (2) The University of Texas at Austin Institute on  
27 Domestic Violence and Sexual Assault to conduct research on all

1 aspects of sexual assault and domestic violence;

2 (3) the attorney general for:

3 (A) sexual violence prevention campaigns;

4 (B) grants to faith-based groups, independent  
5 school districts, and community action organizations for  
6 prevention of sexual assault;

7 (C) grants for equipment for sexual assault nurse  
8 examiner programs;

9 (D) grants to support the preceptorship of future  
10 sexual assault nurse examiners;

11 (E) grants for continuing education for sexual  
12 assault nurse examiners;

13 (F) grants to increase the level of sexual  
14 assault services statewide;

15 (G) grants to support victim assistance  
16 coordinators in district attorneys' offices; and

17 (H) grants to support technology in rape crisis  
18 centers;

19 (4) the Texas State University System for training and  
20 technical assistance for campus safety for independent school  
21 districts;

22 (5) the office of the governor for grants to support  
23 sexual assault prosecution projects;

24 (6) the Department of Public Safety to support sexual  
25 assault training for Texas Rangers;

26 (7) the Texas Department of Criminal Justice for:

27 (A) increasing the capacity of the sex offender

1 civil commitment program;

2 (B) pilot projects for the monitoring of sex  
3 offenders on parole; and

4 (C) increasing the number of adult incarcerated  
5 sex offenders receiving treatment; and

6 (8) the Texas Youth Commission for increasing the  
7 number of juvenile incarcerated sex offenders receiving treatment.

8 SECTION 6. The fee imposed by Section 47.052, Business &  
9 Commerce Code, as added by this Act, applies only to a customer  
10 admitted to a sexually oriented business on or after January 1,  
11 2008.

12 SECTION 7. The comptroller of public accounts shall adopt  
13 all rules and forms necessary to implement Subchapter B, Chapter  
14 47, Business & Commerce Code, as added by this Act, not later than  
15 October 1, 2007.

16 SECTION 8. This Act takes effect September 1, 2007.