

By: West

S.B. No. 1717

A BILL TO BE ENTITLED

AN ACT

relating to the imposition of fees on sexually oriented businesses to provide funding for certain purposes, including funding of the sexual assault program fund, and distributing that money from that fund.

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 is added to that subchapter 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. FEES ON 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 the provisions of  
21 this section.

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

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

1           (1) file with the comptroller an original application  
2 on a form prescribed by the comptroller; and

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

4           (c) The application must include:

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

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

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

11           (e) A separate registration certificate is required under  
12 this subchapter for each distinct sexually oriented business  
13 premises, address, or location operating in this state.

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

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

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

1 the requirements and procedures for obtaining an original  
2 registration certificate.

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

7 (1) publish notice for two consecutive issues in a  
8 newspaper of general circulation published in the city or town in  
9 which the applicant's proposed place of business is located; and

10 (2) notify by first class mail the following public  
11 officials representing the area in which the applicant's proposed  
12 place of business is located:

13 (A) each city council member;

14 (B) each county commissioner;

15 (C) the state representative; and

16 (D) the state senator.

17 (b) If no newspaper of general circulation is published in  
18 the appropriate city or town, the notice required by Subsection  
19 (a)(1) must be published in a newspaper of general circulation in  
20 the county where the applicant's proposed place of business is to be  
21 located. If no newspaper of general circulation is published in  
22 that county, the notice must be published in a newspaper which is  
23 published in the closest neighboring county and is circulated in  
24 the county where the applicant's proposed place of business is to be  
25 located.

26 (c) The notice required under Subsection (a)(1) must be in  
27 10-point boldface type and set forth the type of registration

1 applied for; the exact location of the business; the name of the  
2 owner or owners; the trade name, if operating under an assumed name;  
3 and in the case of a corporation, the names and titles of all  
4 officers of the corporation.

5 (d) The notice to public officials under Subsection (a)(2)  
6 must contain the information described by Subsection (c).

7 Sec. 47.056. CIVIL PENALTY FOR FAILURE TO REGISTER. A  
8 person who operates a sexually oriented business without possessing  
9 a current registration certificate issued under this subchapter  
10 shall pay a civil penalty in an amount determined by comptroller  
11 rule.

12 Sec. 47.057. TRUST ACCOUNT. Except as provided by Section  
13 420.008(b-1), Government Code, the comptroller shall deposit the  
14 fees collected by the comptroller under this subchapter in trust in  
15 the separate suspense account of the county from which the fees were  
16 collected.

17 Sec. 47.058. DISTRIBUTION OF TRUST FUNDS. At least twice  
18 during each state fiscal year and at other times as often as  
19 feasible, the comptroller shall send to the county treasurer  
20 payable to the county the county's share of the fees collected by  
21 the comptroller under this subchapter.

22 Sec. 47.059. AMOUNTS RETAINED IN TRUST ACCOUNT. (a) The  
23 comptroller may retain in the suspense account of a county a portion  
24 of the county's share of the fee collected for the county under this  
25 subchapter, not to exceed five percent of the amount remitted to the  
26 county. If the fee is abolished or the law imposing the fee is  
27 repealed, the amount that may be retained may not exceed five

1 percent of the final remittance to the county at the time of the  
2 termination of the collection of the fee.

3 (b) From the amounts retained in a county's suspense  
4 account, the comptroller may make refunds for overpayments to the  
5 account and to redeem dishonored checks and drafts deposited to the  
6 credit of the account.

7 Sec. 47.060. INTEREST ON FEE REVENUE. Interest earned on  
8 all deposits made with the comptroller under this subchapter,  
9 including interest earned from the suspense accounts retained under  
10 Section 47.059, shall be sent at least twice during each state  
11 fiscal year, and at other times as often as feasible, to each county  
12 treasurer payable to the appropriate county in proportion to that  
13 county's share of the fees collected by the comptroller under this  
14 subchapter.

15 Sec. 47.061. USE OF FEE REVENUE FOR INDIGENT HEALTH CARE.

16 (a) Except as provided by Subsection (b) or (c), money received by  
17 a county under this subchapter is for the use and benefit of the  
18 county. The county shall use the money only for indigent health  
19 care purposes.

20 (b) If the county has a countywide hospital district, the  
21 money received by the county under this subchapter is received only  
22 for the use and benefit of the hospital district.

23 (c) If territory within the county is included in the  
24 boundaries of one or more hospital districts that are not  
25 countywide, the money received by the county under this subchapter  
26 must be:

27 (1) used only for indigent health care purposes; and

1           (2) allocated between the county and a hospital  
2 district located in the county according to the number of indigent  
3 persons served during the preceding calendar year by the county or a  
4 hospital district located in the county.

5           (d) Money received under this subchapter may be used or  
6 pledged as security for bonds or other obligations issued:

7           (1) by or on behalf of a hospital district for  
8 authorized purposes; or

9           (2) by a county for indigent health care purposes.

10          Sec. 47.062. RULEMAKING. The comptroller shall adopt any  
11 necessary rules for the administration, payment, collection, and  
12 enforcement of fees imposed by this subchapter.

13          SECTION 4. Section 420.008, Government Code, is amended by  
14 adding Subsections (b-1) and (d) and amending Subsection (c) to  
15 read as follows:

16          (b-1) In addition to the amounts deposited to the fund under  
17 Subsection (b), an amount not to exceed \$12 million per fiscal  
18 biennium from the fee imposed under Section 47.052, Business &  
19 Commerce Code, shall be deposited to the credit of the fund.

20          (c) Except as provided by Subsection (d), the [The]  
21 legislature may appropriate money deposited to the credit of the  
22 fund only to the attorney general to finance the grant program  
23 created by this chapter.

24          (d) The legislature may appropriate an amount, not to exceed  
25 \$12 million annually, from money deposited to the credit of the fund  
26 to the following agencies for the purposes provided:

27           (1) the Department of State Health Services for

1 measuring the prevalence of sexual assault in the state;

2 (2) The University of Texas at Austin Institute on  
3 Domestic Violence and Sexual Assault to conduct research on all  
4 aspects of sexual assault and domestic violence;

5 (3) the attorney general for:

6 (A) sexual violence prevention campaigns;

7 (B) grants to faith-based groups, independent  
8 school districts, and community action organizations for  
9 prevention of sexual assault;

10 (C) grants for equipment for Sexual Assault Nurse  
11 Examiner (SANE) programs;

12 (D) grants to support the preceptorship of future  
13 sexual assault nurse examiners;

14 (E) grants for continuing education for sexual  
15 assault nurse examiners;

16 (F) grants to increase the level of sexual  
17 assault services statewide;

18 (G) grants to support victim assistance  
19 coordinators in district attorney's offices; and

20 (H) grants to support technology in rape crisis  
21 centers;

22 (4) the Texas State University System for training and  
23 technical assistance for campus safety for independent school  
24 districts;

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

27 (6) the Department of Public Safety to support sexual



1 assault training for Texas Rangers;

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

3 (A) increasing the capacity of the sex offender  
4 civil commitment program;

5 (B) pilot projects for the monitoring of sex  
6 offenders on parole; and

7 (C) increasing the number of adult incarcerated  
8 sex offenders receiving treatment; and

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

11 SECTION 5. The fee imposed by Section 47.052, Business &  
12 Commerce Code, as added by this Act, applies only to a customer  
13 admitted to a sexually oriented business on or after January 1,  
14 2008.

15 SECTION 6. The comptroller of public accounts shall adopt  
16 all rules and forms necessary to implement Subchapter B, Chapter  
17 47, Business & Commerce Code, as added by this Act, not later than  
18 October 1, 2007.

19 SECTION 7. This Act takes effect September 1, 2007.