

By: Carona

S.B. No. 1037

A BILL TO BE ENTITLED

AN ACT

relating to the imposition of a tax on the gross receipts from admissions fees charged by sexually oriented businesses.

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

SECTION 1. Subtitle G, Title 2, Tax Code, is amended by adding Chapter 184 to read as follows:

CHAPTER 184. SEXUALLY ORIENTED BUSINESSES ADMISSIONS TAX

Sec. 184.001. DEFINITIONS. In this chapter:

(1) "Admissions fee" means a fee imposed on a customer for admission into any portion of the premises of a sexually oriented business.

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

Sec. 184.002. IMPOSITION AND RATE OF TAX. (a) A tax is imposed on each sexually oriented business that charges an admissions fee.

(b) The rate of the tax imposed by this chapter is 10 percent of the gross receipts received by the sexually oriented business from admissions fees.

Sec. 184.003. CREDIT. (a) A sexually oriented business that paid a fee under Subchapter B, Chapter 102, Business & Commerce Code, before the repeal of that subchapter by the Act that added this chapter is entitled to a credit against the tax imposed by this chapter in an amount equal to the amount of the fee paid.

1 (b) The total credit claimed on a tax report may not exceed
2 the amount of tax due for the report.

3 (c) If a person is eligible for a credit that exceeds the
4 limitation under Subsection (b), the person may carry the credit
5 forward for subsequent reporting periods.

6 Sec. 184.004. TAX DUE DATES. The tax imposed by this
7 chapter is due and payable to the comptroller on or before the last
8 day of the first month following the end of each calendar quarter.

9 Sec. 184.005. REPORT. (a) A person required to pay a tax
10 under this chapter shall file a tax report with the comptroller on a
11 form prescribed by the comptroller. The tax report is due on the
12 date the tax is due under Section 184.004.

13 (b) A tax report must include a statement of the gross
14 receipts received from admissions fees during the preceding
15 quarterly period and any other information required by the
16 comptroller.

17 Sec. 184.006. RECORDS. A person on whom the tax is imposed
18 by this chapter shall keep a record of:

19 (1) the gross receipts received each day from
20 admissions fees; and

21 (2) any other information required by the comptroller.

22 Sec. 184.007. PENALTY FOR FAILURE TO FILE REPORT OR PAY TAX.

23 (a) A person who fails to file a report as required by this chapter
24 or who fails to pay a tax imposed by this chapter when due forfeits
25 five percent of the amount of the tax due as a penalty, and if the
26 person fails to file the report or pay the tax within 30 days after
27 the day on which the tax or report is due, the person forfeits an

1 additional five percent.

2 (b) The minimum penalty imposed by this section is \$1.

3 Sec. 184.008. NATURE OF TAX. A tax imposed by this chapter
4 is an occupation tax.

5 Sec. 184.009. ALLOCATION OF TAX REVENUE. (a) The net
6 revenue from the tax collected under this chapter is allocated as
7 follows:

8 (1) one-fourth to the foundation school fund; and

9 (2) three-fourths to the general revenue fund.

10 (b) The comptroller shall transfer to the sexual assault
11 program fund established under Section 420.008, Government Code,
12 the first \$25 million of net revenue collected under this chapter
13 that is allocated to the general revenue fund under Subsection
14 (a)(2) in any state fiscal biennium.

15 SECTION 2. Section 420.008(b), Government Code, is amended
16 to read as follows:

17 (b) The fund consists of fees or revenue collected under:

18 (1) Section 19(e), Article 42.12, Code of Criminal
19 Procedure;

20 (2) Section 508.189, Government Code; and

21 (3) Chapter 184, Tax Code, and deposited under Section
22 184.009(b), Tax Code [~~Subchapter B, Chapter 102, Business &~~
23 ~~Commerce Code, and deposited under Section 102.054].~~

24 SECTION 3. Subchapter B, Chapter 102, Business & Commerce
25 Code, is repealed.

26 SECTION 4. If this Act takes effect July 1, 2011, the first
27 report and tax payment required under Chapter 184, Tax Code, as

1 added by this Act, are due on or before September 30, 2011. If this
2 Act takes effect on October 1, 2011, the first report and tax
3 payment required under Chapter 184, Tax Code, as added by this Act,
4 are due on January 31, 2012.

5 SECTION 5. This Act takes effect on July 1, 2011, if it
6 receives a vote of two-thirds of all the members elected to each
7 house, as provided by Section 39, Article III, Texas Constitution.
8 If this Act does not receive the vote necessary to become effective
9 on July 1, 2011, this Act takes effect October 1, 2011.