

By: Thierry, Thompson of Harris, Darby,
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H.B. No. 1655

A BILL TO BE ENTITLED

AN ACT

relating to restrictions on the age of persons employed by or
allowed on the premises of a sexually oriented business; creating a
criminal offense.

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

SECTION 1. This Act may be cited as the Standardizing
Minimum Age Requirements in Texas (SMART) Act.

SECTION 2. Chapter 106, Alcoholic Beverage Code, is amended
by adding Section 106.17 to read as follows:

Sec. 106.17. PRESENCE OF CERTAIN MINORS ON PERMITTED OR
LICENSED PREMISES OPERATING AS SEXUALLY ORIENTED BUSINESS. (a) An
individual younger than 18 years of age may not be on premises
covered by a permit or license issued under this code if a sexually
oriented business, as defined by Section 243.002, Local Government
Code, operates on the premises.

(b) The holder of a permit or license covering a premises
described by Subsection (a) may not knowingly or recklessly allow
an individual younger than 18 years of age to be on the premises.

(c) Notwithstanding any other provision of this code, if it
is found, after notice and hearing, that a permittee or licensee has
violated Subsection (b) the commission or administrator shall:

(1) suspend the permit or license for 30 days for the
first violation;

(2) suspend the permit or license for 60 days for the

1 second violation; and

2 (3) cancel the permit or license for the third
3 violation.

4 SECTION 3. Subchapter A, Chapter 102, Business & Commerce
5 Code, is amended by adding Section 102.0031 to read as follows:

6 Sec. 102.0031. PROHIBITION ON CERTAIN ACTIVITIES BY
7 BUSINESS IN RELATION TO A CHILD. A sexually oriented business may
8 not allow an individual younger than 18 years of age to enter the
9 premises of the business.

10 SECTION 4. Section 102.004(a), Business & Commerce Code, is
11 amended to read as follows:

12 (a) The attorney general or appropriate district or county
13 attorney, in the name of the state, may bring an action for an
14 injunction or other process against a person who violates or
15 threatens to violate Section 102.002, ~~[or]~~ 102.003, or 102.0031.

16 SECTION 5. Section 102.005(b), Business & Commerce Code, is
17 amended to read as follows:

18 (b) A sexually oriented business commits an offense if the
19 business violates Section 102.003 or 102.0031.

20 SECTION 6. Section 125.0015(a), Civil Practice and Remedies
21 Code, is amended to read as follows:

22 (a) A person who maintains a place to which persons
23 habitually go for the following purposes and who knowingly
24 tolerates the activity and furthermore fails to make reasonable
25 attempts to abate the activity maintains a common nuisance:

26 (1) discharge of a firearm in a public place as
27 prohibited by the Penal Code;

- 1 (2) reckless discharge of a firearm as prohibited by
2 the Penal Code;
- 3 (3) engaging in organized criminal activity as a
4 member of a combination as prohibited by the Penal Code;
- 5 (4) delivery, possession, manufacture, or use of a
6 substance or other item in violation of Chapter 481, Health and
7 Safety Code;
- 8 (5) gambling, gambling promotion, or communicating
9 gambling information as prohibited by the Penal Code;
- 10 (6) prostitution, promotion of prostitution, or
11 aggravated promotion of prostitution as prohibited by the Penal
12 Code;
- 13 (7) compelling prostitution as prohibited by the Penal
14 Code;
- 15 (8) commercial manufacture, commercial distribution,
16 or commercial exhibition of obscene material as prohibited by the
17 Penal Code;
- 18 (9) aggravated assault as described by Section 22.02,
19 Penal Code;
- 20 (10) sexual assault as described by Section 22.011,
21 Penal Code;
- 22 (11) aggravated sexual assault as described by Section
23 22.021, Penal Code;
- 24 (12) robbery as described by Section 29.02, Penal
25 Code;
- 26 (13) aggravated robbery as described by Section 29.03,
27 Penal Code;

- 1 (14) unlawfully carrying a weapon as described by
2 Section 46.02, Penal Code;
- 3 (15) murder as described by Section 19.02, Penal Code;
- 4 (16) capital murder as described by Section 19.03,
5 Penal Code;
- 6 (17) continuous sexual abuse of young child or
7 children as described by Section 21.02, Penal Code;
- 8 (18) massage therapy or other massage services in
9 violation of Chapter 455, Occupations Code;
- 10 (19) employing or entering into a contract for the
11 performance of work or the provision of a service with an individual
12 younger than 21 years of age for work or services performed [~~a~~
13 minor] at a sexually oriented business as defined by Section
14 243.002, Local Government Code;
- 15 (20) trafficking of persons as described by Section
16 20A.02, Penal Code;
- 17 (21) sexual conduct or performance by a child as
18 described by Section 43.25, Penal Code;
- 19 (22) employment harmful to a child as described by
20 Section 43.251, Penal Code;
- 21 (23) criminal trespass as described by Section 30.05,
22 Penal Code;
- 23 (24) disorderly conduct as described by Section 42.01,
24 Penal Code;
- 25 (25) arson as described by Section 28.02, Penal Code;
- 26 (26) criminal mischief as described by Section 28.03,
27 Penal Code, that causes a pecuniary loss of \$500 or more; [~~or~~]

1 (27) a graffiti offense in violation of Section 28.08,
2 Penal Code; or

3 (28) permitting an individual younger than 18 years of
4 age to enter the premises of a sexually oriented business as defined
5 by Section 243.002, Local Government Code.

6 SECTION 7. Sections 51.016(b), (h), and (i), Labor Code,
7 are amended to read as follows:

8 (b) A sexually oriented business may not employ or enter
9 into a contract, other than a contract described by Subsection (g),
10 for the performance of work or the provision of a service with an
11 individual younger than 21 [~~18~~] years of age.

12 (h) The commission, the attorney general, or a local law
13 enforcement agency may inspect a record maintained under this
14 section if there is good reason to believe that an individual
15 younger than 21 [~~18~~] years of age is employed or has been employed
16 by, or has entered into a contract, other than a contract described
17 by Subsection (g), for the performance of work or the provision of a
18 service with, the sexually oriented business within the two years
19 preceding the date of the inspection.

20 (i) A person commits an offense if the person:

21 (1) fails to maintain a record as required by this
22 section; [~~or~~]

23 (2) knowingly or intentionally hinders an inspection
24 authorized under Subsection (h); or

25 (3) violates Subsection (b).

26 SECTION 8. Section 51.031(b), Labor Code, is amended to
27 read as follows:

1 (b) An offense under Section 51.014(d), ~~[or Section]~~
2 51.0145, or 51.016(i)(3) is a Class A misdemeanor.

3 SECTION 9. Section 43.251(a)(1), Penal Code, is amended to
4 read as follows:

5 (1) "Child" means a person younger than 21 ~~[18]~~ years
6 of age.

7 SECTION 10. The changes in law made by this Act apply only
8 to an offense committed on or after the effective date of this Act.
9 An offense committed before the effective date of this Act is
10 governed by the law in effect on the date the offense was committed,
11 and the former law is continued in effect for that purpose. For
12 purposes of this section, an offense was committed before the
13 effective date of this Act if any element of the offense was
14 committed before that date.

15 SECTION 11. This Act takes effect immediately if it
16 receives a vote of two-thirds of all the members elected to each
17 house, as provided by Section 39, Article III, Texas Constitution.
18 If this Act does not receive the vote necessary for immediate
19 effect, this Act takes effect September 1, 2021.