



Sen. William R. Haine

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09900HB3983sam004

LRB099 11142 AWJ 35869 a

1 AMENDMENT TO HOUSE BILL 3983

2 AMENDMENT NO. _____. Amend House Bill 3983, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Counties Code is amended by changing
6 Sections 5-1097.5 and 5-1097.7 as follows:

7 (55 ILCS 5/5-1097.5)

8 Sec. 5-1097.5. Adult entertainment facility.

9 (a) It is the intent of the General Assembly through this
10 Section to control the negative secondary effects associated
11 with the operation of adult entertainment facilities,
12 including, but not limited to, negative impacts on surrounding
13 properties, personal and property crimes, and vice activities,
14 and to restrict the proximity of adult entertainment facilities
15 near places where children and families are actively present,
16 so as to promote the health, safety, and welfare of the

1 citizens of Illinois.

2 This Section is not intended to deny access by adults to
3 any expression that may be protected by the First Amendment of
4 the United States Constitution or by the Illinois Constitution.

5 (b) It is prohibited within an unincorporated area of a
6 county to locate an adult entertainment facility within 3,000
7 feet of the property boundaries of any school, day care center,
8 cemetery, public park, ~~forest preserve~~, public housing, place
9 of religious worship, or residence, except that in a county
10 with a population of more than 800,000 and less than 2,000,000
11 inhabitants, it is prohibited to locate, construct, or operate
12 a new adult entertainment facility within one mile of the
13 property boundaries of any school, day care center, cemetery,
14 public park, ~~forest preserve~~, public housing, or place of
15 religious worship located anywhere within that county.
16 Notwithstanding any other requirements of this Section, it is
17 also prohibited to locate, construct, or operate a new adult
18 entertainment facility within one mile of the property
19 boundaries of any school, day care center, cemetery, public
20 park, ~~forest preserve~~, public housing, or place of religious
21 worship located in that area of Cook County outside of the City
22 of Chicago. The provisions requiring a one-mile separation
23 shall not be enforced if enforcement would fail to allow adult
24 entertainment facilities reasonable alternative avenues of
25 communication.

26 (c) For the purposes of this Section, "adult entertainment

1 facility" means (i) a movie theater, lounge, nightclub, bar,
2 juice bar, or similar commercial establishment that regularly
3 features a striptease club or pornographic movie theatre whose
4 business is the commercial sale, dissemination, or
5 distribution of sexually explicit material, shows, or other
6 exhibitions characterized by an emphasis on the display of
7 specified anatomical areas or specified sexual activities, or
8 (ii) a an adult bookstore or adult video store whose primary
9 business is the commercial sale, dissemination, or
10 distribution of sexually explicit material, shows, or other
11 exhibitions characterized by an emphasis on the display of
12 specified anatomical areas, specified sexual activities, or
13 devices, other than devices designed to prevent pregnancy or
14 sexually transmitted diseases, that are designed for use during
15 specified sexual activities. "Unincorporated area of a county"
16 means any area not within the boundaries of a municipality and
17 "specified anatomical areas" and "specified sexual activities"
18 shall have the meanings given to those terms in Section
19 5-1097.7 of this Code.

20 (d) The State's Attorney of the county where the adult
21 entertainment facility is located or the Attorney General may
22 institute a civil action for an injunction to restrain
23 violations of this Section. Those persons and entities
24 authorized to bring an action to enjoin a zoning violation may
25 bring an action to enjoin a violation of this Section. In any
26 enforcement ~~that~~ proceeding, the court shall determine whether

1 a violation has been committed and shall enter such orders as
2 it considers necessary to remove the effect of any violation
3 and to prevent the violation from continuing or from being
4 renewed in the future.

5 (e) In addition to the limitations contained in subsection
6 (b) of this Section, a unit of local government, including a
7 home rule unit, may not enact an ordinance or rule, or
8 otherwise allow an adult entertainment facility to operate
9 within 250 feet of the property boundaries of any school, day
10 care center, cemetery, public park, public housing, place of
11 religious worship, or residence when any part of that school,
12 day care center, cemetery, public park, public housing, place
13 of religious worship, or residence is located in an adjacent
14 unit of local government. This Section is a limitation under
15 subsection (i) of Section 6 of Article VII of the Illinois
16 Constitution on the concurrent exercise by home rule units of
17 powers and functions exercised by the State.

18 (f) The provisions of this Section are severable under
19 Section 1.31 of the Statute on Statutes.

20 (Source: P.A. 94-496, eff. 1-1-06; 95-214, eff. 8-16-07.)

21 (55 ILCS 5/5-1097.7)

22 Sec. 5-1097.7. Local ordinances to regulate adult
23 entertainment facilities and obscenity.

24 (a) Definitions. In this Act:

25 "Specified anatomical area" means human genitals or pubic

1 region, buttocks, anus, or the female breast below a point
2 immediately above the top the areola that is less than
3 completely or opaquely covered, or human male genitals in a
4 discernibly turgid state even if completely or opaquely
5 covered.

6 "Specified sexual activities" means (i) human genitals in a
7 state of sexual stimulation or excitement; (ii) acts of human
8 masturbation, sexual intercourse, fellatio, or sodomy; (iii)
9 fondling, kissing, or erotic touching of specified anatomical
10 areas; (iv) flagellation or torture in the context of a sexual
11 relationship; (v) masochism, erotic or sexually oriented
12 torture, beating, or the infliction of pain; (vi) erotic
13 touching, fondling, or other such contact with an animal by a
14 human being; or (vii) human excretion, urination,
15 menstruation, or vaginal or anal irrigation as part of or in
16 connection with any of the activities set forth in items (i)
17 through (vi).

18 (b) Ordinance to regulate adult entertainment facilities.
19 A county may adopt by ordinance reasonable regulations
20 concerning the operation of any business: (i) defined as an
21 adult entertainment facility in Section 5-1097.5 of this Act or
22 (ii) that offers or provides activities by employees, agents,
23 or contractors of the business that involve exposure of
24 specified anatomical areas or performance of specified sexual
25 activities in view of any patron, client, or customer of the
26 business. A county ordinance may also prohibit the sale,

1 dissemination, display, exhibition, or distribution of obscene
2 materials or conduct.

3 (c) A county adopting an ordinance to regulate adult
4 entertainment facilities may authorize the State's Attorney to
5 institute a civil action to restrain violations of that
6 ordinance. In that proceeding, the court shall enter such
7 orders as it considers necessary to abate the violation and to
8 prevent the violation from continuing or from being renewed in
9 the future. In addition to any injunctive relief granted by the
10 court, an ordinance may further authorize the court to assess
11 fines of up to \$1,000 per day for each violation of the
12 ordinance, with each day in violation constituting a new and
13 separate offense.

14 (d) A home rule unit may not enact an ordinance, rule, or
15 otherwise allow an adult entertainment facility to operate in a
16 manner inconsistent with this Section or subsection (e) of
17 Section 5-1097.5 of this Code. This Section is a limitation
18 under subsection (i) of Section 6 of Article VII of the
19 Illinois Constitution on the concurrent exercise by home rule
20 units of powers and functions exercised by the State.

21 (e) The provisions of this Section are severable under
22 Section 1.31 of the Statute on Statutes.

23 (Source: P.A. 94-496, eff. 1-1-06.)

24 Section 10. The Illinois Municipal Code is amended by
25 changing Section 11-5-1.5 as follows:

1 (65 ILCS 5/11-5-1.5)

2 Sec. 11-5-1.5. Adult entertainment facility.

3 (a) It is the intent of the General Assembly through this
4 Section to control the negative secondary effects associated
5 with the operation of adult entertainment facilities,
6 including, but not limited to, negative impacts on surrounding
7 properties, personal and property crimes, and vice activities,
8 and to restrict the proximity of adult entertainment facilities
9 near places where children and families are actively present,
10 so as to promote the health, safety, and welfare of the
11 citizens of Illinois.

12 This Section is not intended to deny access by adults to
13 any expression that may be protected by the First Amendment of
14 the United States Constitution or by the Illinois Constitution.

15 (b) It is prohibited within a municipality to locate an
16 adult entertainment facility within 1,000 feet of the property
17 boundaries of any school, day care center, cemetery, public
18 park, ~~forest preserve,~~ public housing, and place of religious
19 worship, except that in a county with a population of more than
20 800,000 and less than 2,000,000 inhabitants, it is prohibited
21 to locate, construct, or operate a new adult entertainment
22 facility within one mile of the property boundaries of any
23 school, day care center, cemetery, public park, ~~forest~~
24 ~~preserve,~~ public housing, or place of religious worship located
25 anywhere within that county. Notwithstanding any other

1 requirements of this Section, it is also prohibited to locate,
2 construct, or operate a new adult entertainment facility within
3 one mile of the property boundaries of any school, day care
4 center, cemetery, public park, ~~forest preserve,~~ public
5 housing, or place of religious worship located in that area of
6 Cook County outside of the City of Chicago. These provisions
7 requiring a one-mile separation shall not be enforced if
8 enforcement would fail to allow adult entertainment facilities
9 reasonable alternative avenues of communication.

10 (c) For the purposes of this Section, "adult entertainment
11 facility" means (i) a movie theater, lounge, nightclub, bar,
12 juice bar, or similar commercial establishment that regularly
13 features ~~a striptease club or pornographic movie theatre whose~~
14 ~~business is the commercial sale, dissemination, or~~
15 ~~distribution of sexually explicit material, shows, or other~~
16 exhibitions characterized by an emphasis on the display of
17 specified anatomical areas or specified sexual activities, or
18 (ii) a store whose primary business is the commercial sale,
19 dissemination, or distribution of materials, shows or other
20 exhibitions characterized by an emphasis on the display of
21 specified anatomical areas or specified sexual activities, or
22 devices, other than devices designed to prevent pregnancy or
23 sexually transmitted diseases, that are designed for use during
24 specified sexual activities. As used in this subsection (c),
25 "specified anatomical areas" and "specified sexual activities"
26 shall have the meanings given to those terms in Section

1 5-1097.7 of the Counties Code ~~an adult bookstore or adult video~~
2 ~~store in which 25% or more of its stock in trade, books,~~
3 ~~magazines, and films for sale, exhibition, or viewing~~
4 ~~on premises are sexually explicit material.~~

5 (d) The State's Attorney of the county where the adult
6 entertainment facility is located or the Attorney General may
7 institute a civil action for an injunction to restrain
8 violations of this Section. Those persons and entities
9 authorized to bring an action under Section 11-13-15 of this
10 Code to enjoin a zoning violation may bring an action to enjoin
11 a violation of this Section, and may obtain the remedies set
12 forth in Section 11-13-15 of this Code. In any enforcement
13 proceeding, the court shall determine whether a violation has
14 been committed and shall enter such orders as it considers
15 necessary to remove the effect of any violation and to prevent
16 the violation from continuing or from being renewed in the
17 future.

18 (e) In addition to the limitations contained in subsection
19 (b) of this Section, a unit of local government, including a
20 home rule unit, may not enact an ordinance or rule, or
21 otherwise allow an adult entertainment facility to operate
22 within 250 feet of the property boundaries of any school, day
23 care center, cemetery, public park, public housing, place of
24 religious worship, or residence when any part of that school,
25 day care center, cemetery, public park, public housing, place
26 of religious worship, or residence is located in an adjacent

1 unit of local government. This Section is a limitation under
2 subsection (i) of Section 6 of Article VII of the Illinois
3 Constitution on the concurrent exercise by home rule units of
4 powers and functions exercised by the State.

5 (f) The provisions of this Section are severable under
6 Section 1.31 of the Statute on Statutes.

7 (Source: P.A. 95-47, eff. 1-1-08; 95-214, eff. 8-16-07; 95-876,
8 eff. 8-21-08.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.".