

CHAPTER 15

S.B. No. 106

An Act relating to local regulation of certain sexually oriented business activities; providing penalties; amending Chapter 229, Acts of the 66th Legislature, Regular Session, 1979, as amended (Article 2372w, Vernon's Texas Civil Statutes), by adding Subsection (a-1) to Section 3, by amending Subsection (b) of Section 3 and Subsection (b) of Section 5, and by repealing Subsection (c) of Section 5.

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** Section 3, Chapter 229, Acts of the 66th Legislature, Regular Session, 1979 (Article 2372w, Vernon's Texas Civil Statutes), is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

“(a-1) A business is not exempt from regulation under this Act because it holds a license or permit under the Alcoholic Beverage Code authorizing the sale or service of alcoholic beverages. However, a regulation adopted under this Act may apply to a business that happens to hold such a license or permit only if the business meets the general criteria for regulation under this Act. A regulation adopted under this Act may not discriminate against a business on the basis of whether or not the business holds a license or permit under the Alcoholic Beverage Code. This Act does not affect the existing preemption by the state of regulation of alcoholic beverages and the alcoholic beverage industry as provided by Section 1.06, Alcoholic Beverage Code.

“(b) Nothing in this Act is intended to authorize the regulation of any bookstore or [;] movie theatre [; or business licensed to sell alcoholic beverages], nor does this Act [it] authorize regulation of any business named in Subsection (a) of this section except as to location. This Act does not authorize regulation of any business:

“(1) operated by or employing licensed psychologists, licensed physical therapists, licensed athletic trainers, licensed cosmetologists, or licensed barbers engaged in performing functions authorized under the license held; or

“(2) operated by or employing licensed physicians or licensed chiropractors engaged in practicing the healing arts.”

**SECTION 2.** Subsection (b), Section 5, Chapter 229, Acts of the 66th Legislature, Regular Session, 1979 (Article 2372w, Vernon’s Texas Civil Statutes), is amended to read as follows:

“(b) Violation of a city or county regulation adopted under this Act is a Class B misdemeanor.”

**SECTION 3.** Subsection (c), Section 5, Chapter 229, Acts of the 66th Legislature, Regular Session, 1979 (Article 2372w, Vernon’s Texas Civil Statutes), is repealed.

**SECTION 4.** (a) The change in law made by this Act as to punishment applies only to the punishment for an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) The punishment for an offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

**SECTION 5.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on February 7, 1985, by the following vote: Yeas 27, Nays 1; and that the Senate concurred in House amendment on March 27, 1985, by the following vote: Yeas 28, Nays 1; passed the House, with amendment, on March 25, 1985, by the following vote: Yeas 147, Nays 0, one present not voting.

Approved: April 3, 1985

Effective: Immediately