

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2010, Legislative Day No. 8

Bill No. 26-10

Mr. John Olszewski, Sr., Councilman

By the County Council, April 19, 2010

AN ACT concerning

Adult Entertainment Businesses

FOR the purpose of amending the definition of an adult entertainment business; regulating the location of adult entertainment businesses; stating certain findings; providing for the application of the Act; and generally relating to adult entertainment businesses.

BY repealing and re-enacting, with amendments

Section 4B-101
Baltimore County Zoning Regulations

BY repealing and re-enacting, with amendments

Section 21-2-101 (h) and (I)
Article 21 - Permits, Licenses, and Business Regulation
Title 2 - Adult Entertainment Businesses
Baltimore County Code, 2003

WHEREAS, in 1998, the Baltimore County Council passed Bill No. 29-98, effective March 20, 1998, to regulate the location of adult entertainment businesses, massage establishments, and tattoo or body piercing establishments; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

WHEREAS, at that time, the County Council found that, in order to protect the health, safety

and welfare of the county's citizens, it was necessary to allow suitable locations for certain adult entertainment businesses, massage establishments, and tattoo or body piercing establishments while limiting their adverse secondary effects on the community; and

WHEREAS, the County Council further found that adult entertainment businesses, massage establishments and tattoo or body piercing establishments frequently are used for unlawful sexual activities, may facilitate the transmission of diseases, contribute generally to crime; decrease property values, and adversely impact the quality of life in their surrounding areas; and

WHEREAS, many land use studies have documented the adverse secondary effects of certain adult entertainment businesses, massage establishments, and tattoo or body piercing establishments; and

WHEREAS, in order to lessen and control these effects and to limit exposure of these businesses to children, the Council found that it was necessary to place certain restrictions on the location and arrangement of adult entertainment businesses, massage establishments, and tattoo or body piercing establishments; and

WHEREAS, Bill 29-98 has withstood legal challenge; and

WHEREAS, the Council now finds that certain refinements are needed to that portion of the Act that defines adult entertainment businesses in order to more effectively regulate the location of such businesses and prevent the subversion of the Act's purposes; now, therefore

1 SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2 COUNTY, MARYLAND that Section 4B-101 of the Baltimore County Zoning Regulations be and
3 it is hereby repealed and re-enacted, with amendments, to read as follows:
4 §4B-101. Definitions.

1 A. As used in this article, the following terms have the meanings indicated:

2 ADULT ENTERTAINMENT BUSINESS. An adult store or an adult movies theater.

3 ADULT MOVIE THEATER.

4 1. A business establishment open to the public, or to members, that maintains display
5 devices for viewing on the premises files, videos or other viewable material, if a substantial portion
6 of the stock or trade is characterized by an emphasis on matters depicting, describing or relating to
7 sexual activities.

8 2. "Adult movie theater" does not include a motion-picture theater which has seating
9 for at least 50 persons per screen.

10 ADULT STORE.

11 1. A business establishment open to the public, or to members, that offers for sale
12 or rental any printed, recorded, photographed, filmed or otherwise viewable material, or any sexually
13 oriented paraphernalia or aid, if a substantial portion of the stock or trade is characterized by an
14 emphasis on matters, depicting, describing or relating to sexual activities.

15 2. the term does not include a motion-picture theater which has seating for at least
16 50 persons per screen.

17 DISPLAY DEVICE. An electronically or mechanically controlled still or motion-
18 picture machine, film projector, videotape player or other image-producing device that may be
19 activated directly or indirectly by viewers or at the request of viewers for which a fee is charged.

20 MASSAGE. Any method of treating the external parts of the human body, for
21 compensation, by touching, rubbing, kneading, tapping or vibrating with the hand, arm, foot or other

1 part provided by a massage technician.

2 MASSAGE ESTABLISHMENT.

3 1. Any establishment where a massage technician administers a massage to another
4 person for compensation.

5 2. “Massage establishment” does not include a hospital, nursing home, medical clinic
6 or other establishment where massages are administered by individuals identified under §24-442 of
7 the Baltimore County Code, 1988 Edition, as revised.

8 MASSAGE TECHNICIAN.

9 1. An individual who administers a massage to another individual for compensation.

10 2. “Massage technician” does not include a medical practitioner as defined by
11 Section 101 of these regulations.

12 SEXUAL ACTIVITIES. Includes nudity or partial nudity, as defined in Section 101,
13 and sexual conduct, sexual excitement or sadomasochistic abuse, as defined in Article 27, §416A,
14 of the Annotated Code of Maryland.

15 SKIN-PENETRATING BODY ADORNMENT PROCEDURE.

16 1. A process that involves piercing or entering the skin or the mucous membrane of
17 an individual for the purpose of inserting pigmented patterns, jewelry or other forms of body
18 decoration.

19 2. “Skin-penetrating by adornment procedure” includes tattooing and body-piercing.

20 3. “Skin-penetrating body adornment procedure” does not include piercing of an ear
21 using a properly disinfected ear piercing gun and single use studs or clutches.

22 [SUBSTANTIAL PORTION.

1 1. At least 20% of the stock in the establishment or on display consists of matters
2 or houses devices depicting, describing or relating to sexual activities; and

3 2. A least 20% of the usable floor area is used for the display or storage of matters
4 or devices depicting, describing or relating to sexual activities.]

5 TATTOO OR BODY PIERCING ESTABLISHMENT. Any establishment where
6 a skin-penetrating adornment procedure is performed.

7
8 SECTION 2. AND BE IT FURTHER ENACTED, that Section 21-2-101 (h) and (I) of
9 Article 21- Permits, Licenses, and Business Regulation, Title 2 - Adult Entertainment Businesses,
10 of the Baltimore County Code 2003, be and it is hereby repealed and re-enacted, with amendments,
11 to read as follows:

12 21-2-101. Definitions.

13 [(h) Substantial portion. “Substantial portion” means:

14 1. At least 20% of the stock in the establishment or on display consists of matters or houses
15 devices depicting, describing, or relating to sexual activities; or

16 2. At least 20% of the usable floor area is used for the display or storage of matters or houses
17 devices depicting, or relating to sexual activities.]

18 [(I)] (H) Viewing booth. “Viewing booth” means a space or area within an adult
19 entertainment business in which a display device is located for purposes of viewing pictures, films,
20 videotapes, or other images.

21 SECTION 3. AND BE IT FURTHER ENACTED, that this Act does not apply to an adult

1 entertainment business lawfully established prior to the effective date of this Act. An adult
2 entertainment business may continue to operate until six months from the effective date of this Act.
3 On or after that date, all adult entertainment businesses shall conform to the requirements of this
4 Act.

5 SECTION 4. AND BE IT FURTHER ENACTED, that this Act, having been passed by an
6 affirmative vote of five members of the County Council shall take effect on June 9, 2010.

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