

Bill No. CS for SB 2118

Amendment No. Barcode 751150

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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Senator Crist moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 847.001, Florida Statutes, is amended to read:

847.001 Definitions.--When used in this chapter:

(1) "Adult" means a person 18 years of age or older.

(2) "Adult entertainment establishment" means the

following terms as defined:

(a) "Adult bookstore" means any corporation, partnership, or business of any kind which restricts or purports to restrict admission only to adults, which has as part of its stock books, magazines, other periodicals, videos, discs, or other graphic media and which offers, sells, provides, or rents for a fee any sexually oriented material.

(b) "Adult theater" means an enclosed building or an enclosed space within a building used for presenting either films, live plays, dances, or other performances that are

Bill No. CS for SB 2118

Amendment No. ____ Barcode 751150

1 distinguished or characterized by an emphasis on matter
2 depicting, describing, or relating to specific sexual
3 activities for observation by patrons, and which restricts or
4 purports to restrict admission only to adults.

5 (c) "Unlicensed massage establishment" means any
6 business or enterprise that offers, sells, or provides, or
7 that holds itself out as offering, selling, or providing,
8 massages that include bathing, physical massage, rubbing,
9 kneading, anointing, stroking, manipulating, or other tactile
10 stimulation of the human body by either male or female
11 employees or attendants, by hand or by any electrical or
12 mechanical device, on or off the premises. The term
13 "unlicensed massage establishment" does not include an
14 establishment licensed under s. 480.43 which routinely
15 provides medical services by state-licensed health care
16 practitioners and massage therapists licensed under s.
17 480.041.

18 (d) "Special Cabaret" means any business that features
19 persons who engage in specific sexual activities for
20 observation by patrons, and which restricts or purports to
21 restrict admission only to adults.

22 (3)(1) "Computer" means an electronic, magnetic,
23 optical, electrochemical, or other high-speed data processing
24 device performing logical, arithmetic, or storage functions
25 and includes any data storage facility or communications
26 facility directly related to or operating in conjunction with
27 such device. The term also includes: any on-line service,
28 Internet service, or local bulletin board; any electronic
29 storage device, including a floppy disk or other magnetic
30 storage device; or any compact disc that has read-only memory
31 and the capacity to store audio, video, or written materials.

Bill No. CS for SB 2118

Amendment No. ____ Barcode 751150

1 ~~(4)(2)~~ "Deviate sexual intercourse" means sexual
2 conduct between persons not married to each other consisting
3 of contact between the penis and the anus, the mouth and the
4 penis, or the mouth and the vulva.

5 ~~(5)(3)~~ "Harmful to minors" means that quality of any
6 description, exhibition, presentation, or representation, in
7 whatever form, of nudity, sexual conduct, or sexual excitement
8 when it:

9 (a) Predominantly appeals to the prurient, shameful,
10 or morbid interest of minors;

11 (b) Is patently offensive to prevailing standards in
12 the adult community as a whole with respect to what is
13 suitable material for minors; and

14 (c) Taken as a whole, is without serious literary,
15 artistic, political, or scientific value for minors.

16
17 A mother's breastfeeding of her baby is not under any
18 circumstance "harmful to minors."

19 ~~(6)~~ "Masochism" means sexual gratification achieved by
20 a person through, or the association of sexual activity with,
21 submission or subjection to physical pain, suffering,
22 humiliation, torture, or death.

23 ~~(7)(4)~~ "Minor" means any person under the age of 18
24 years.

25 ~~(8)(5)~~ "Nudity" means the showing of the human male or
26 female genitals, pubic area, or buttocks with less than a
27 fully opaque covering; or the showing of the female breast
28 with less than a fully opaque covering of any portion thereof
29 below the top of the nipple; or the depiction of covered male
30 genitals in a discernibly turgid state. A mother's
31 breastfeeding of her baby does not under any circumstance

Bill No. CS for SB 2118

Amendment No. ____ Barcode 751150

1 constitute "nudity," irrespective of whether or not the nipple
2 is covered during or incidental to feeding.

3 ~~(9)(6)~~ "Person" includes individuals, firms,
4 associations, corporations, and all other groups and
5 combinations.

6 ~~(10)(7)~~ "Obscene" means the status of material which:

7 (a) The average person, applying contemporary
8 community standards, would find, taken as a whole, appeals to
9 the prurient interest;

10 (b) Depicts or describes, in a patently offensive way,
11 sexual conduct as specifically defined herein; and

12 (c) Taken as a whole, lacks serious literary,
13 artistic, political, or scientific value.

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15 A mother's breastfeeding of her baby is not under any
16 circumstance "obscene."

17 (11) "Sadism" means sexual gratification achieved
18 through, or the association of sexual activity with, the
19 infliction of physical pain, suffering, humiliation, torture,
20 or death upon another person or an animal.

21 ~~(12)(8)~~ "Sodomasochistic abuse" means flagellation or
22 torture by or upon a person or animal, or the condition of
23 being fettered, bound, or otherwise physically restrained, for
24 the purpose of deriving sexual satisfaction, or satisfaction
25 brought about as a result of sadistic violence, from
26 inflicting harm on another or receiving such harm oneself.

27 ~~(13)(9)~~ "Sexual battery" means oral, anal, or vaginal
28 penetration by, or union with, the sexual organ of another or
29 the anal or vaginal penetration of another by any other
30 object; however, "sexual battery" does not include an act done
31 for a bona fide medical purpose.

Bill No. CS for SB 2118

Amendment No. ____ Barcode 751150

1 ~~(14)(10)~~ "Sexual bestiality" means any sexual act,
2 actual or simulated, between a person and an animal involving
3 the sex organ of the one and the mouth, anus, or vagina of the
4 other.

5 ~~(15)(11)~~ "Sexual conduct" means actual or simulated
6 sexual intercourse, deviate sexual intercourse, sexual
7 bestiality, masturbation, or sadomasochistic abuse; actual
8 lewd exhibition of the genitals; actual physical contact with
9 a person's clothed or unclothed genitals, pubic area,
10 buttocks, or, if such person is a female, breast; or any act
11 or conduct which constitutes sexual battery or simulates that
12 sexual battery is being or will be committed. A mother's
13 breastfeeding of her baby does not under any circumstance
14 constitute "sexual conduct."

15 ~~(16)(12)~~ "Sexual excitement" means the condition of
16 the human male or female genitals when in a state of sexual
17 stimulation or arousal.

18 ~~(17)~~ "Sexually oriented material" means any book,
19 article, magazine, publication, or written matter of any kind
20 or any drawing, etching, painting, photograph, motion picture
21 film, or sound recording that depicts sexual activity, actual
22 or simulated, involving human beings or human beings and
23 animals, that exhibits uncovered human genitals or the pubic
24 region in a lewd or lascivious manner, or that exhibits human
25 male genitals in a discernibly turgid state, even if
26 completely and opaquely covered.

27 ~~(18)(13)~~ "Simulated" means the explicit depiction of
28 conduct described in subsection ~~(15)(11)~~ which creates the
29 appearance of such conduct and which exhibits any uncovered
30 portion of the breasts, genitals, or buttocks.

31 ~~(19)~~ "Specific sexual activities" includes the

Bill No. CS for SB 2118

Amendment No. ____ Barcode 751150

1 following sexual activities and the exhibition of the
2 following anatomical areas:

3 (a) Human genitals in the state of sexual stimulation
4 or arousal.

5 (b) Acts of human masturbation, sexual intercourse,
6 sodomy, cunnilingus, fellatio, or any excretory function, or
7 representation thereof.

8 (c) The fondling or erotic touching of human genitals,
9 the pubic region, the buttocks, or the female breasts.

10 (d) Less than completely and opaquely covered:

11 1. Human genitals or the pubic region.

12 2. Buttocks.

13 3. Female breasts below the top of the areola.

14 4. Human male genitals in a discernably turgid state,
15 even if completely and opaquely covered.

16 Section 2. Section 847.0134, Florida Statutes, is
17 created to read:

18 847.0134 Prohibition of adult entertainment
19 establishment that displays, sells, or distributes materials
20 harmful to minors within 2,500 feet of a school.--

21 (1) Except for those establishments that are legally
22 operating or have been granted a permit from a local
23 government to operate as adult entertainment establishments
24 on or before July 1, 2001, an adult entertainment
25 establishment that sells, rents, loans, distributes,
26 transmits, shows, or exhibits any obscene material, as
27 described in s. 847.0133, or presents live entertainment or a
28 motion picture, slide, or other exhibit that, in whole or in
29 part, depicts nudity, sexual conduct, sexual excitement,
30 sexual battery, sexual bestiality, or sadomasochistic abuse
31 and that is harmful to minors, as described in s. 847.001, may

Bill No. CS for SB 2118

Amendment No. ____ Barcode 751150

1 not be located within 2,500 feet of the real property that
2 comprises a public or private elementary school, middle
3 school, or secondary school unless the county or municipality
4 approves the location under proceedings as provided in s.
5 125.66(4) for counties or s. 166.041(3)(c) for municipalities.

6 (2) A violation of this section constitutes a felony
7 of the third degree, punishable as provided in s. 775.082 or
8 s. 775.083.

9 Section 3. This act shall take effect July 1, 2001.

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12 ===== T I T L E A M E N D M E N T =====

13 And the title is amended as follows:

14 On page 1, line 9,

15

16 insert:

17 WHEREAS, based upon the experience of other counties
18 and cities, and the personal observation of the legislators in
19 their own districts, the Legislature finds that adult
20 entertainment establishments cause adverse effects in and
21 around these establishments, and

22 WHEREAS, relevant studies demonstrate a significant
23 increase in crime in areas where adult entertainment
24 establishments are located, and

25 WHEREAS, the United States Supreme Court has recognized
26 the adverse secondary effects caused by adult entertainment
27 establishments in Renton v. Playtime Theatres, 475 U.S. 41
28 (1986) and Eric v. Pap's, 529 U.S. 277 (2000); and

29 WHEREAS, prohibiting adult entertainment establishments
30 that show or exhibit material obscene or harmful to minors
31 near public or private elementary, middle, or secondary

Bill No. CS for SB 2118

Amendment No. ____ Barcode 751150

1 schools will protect minors from the adverse effects of the
2 activities that accompany such establishments, and
3 WHEREAS, the Legislature does not intend to impinge on
4 the rights of free speech by limiting the location of these
5 establishments away from schools where minors will be present,
6 NOW, THEREFORE,

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