

SECOND REGULAR SESSION

# HOUSE BILL NO. 1998

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HENDRICKSON.

Read 1<sup>st</sup> time February 20, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4798L.011

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### AN ACT

To amend chapter 71, RSMo, by adding thereto six new sections relating to the regulation of adult establishments, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 71, RSMo, is amended by adding thereto six new sections, to be  
2 known as sections 71.1000, 71.1003, 71.1006, 71.1009, 71.1012 and 71.1015, to read as follows:

**71.1000. As used in sections 71.1000 to 71.1015, the following terms mean:**

2 (1) "Adult establishment", an establishment having a significant portion of its stock  
3 and trade in, or, as one of its principal business purposes, the promotion of material which  
4 portrays sexual conduct, publicly displays any sexual performance or specified anatomical  
5 areas;

6 (2) "Inspector", an employee of a municipality's public health department  
7 authorized and designated by the director of the department, an employee of a  
8 municipality's department of inspections and permits authorized and designated by the  
9 director of the department, an employee of a municipality's police department authorized  
10 by the commanding officer of the police department or other persons designated by the  
11 governing body of a municipality to inspect premises regulated pursuant to sections  
12 71.1000 to 71.1015, to cooperate in taking the required actions authorized by sections  
13 71.1000 to 71.1015 where violations are found on a premise and to request correction of  
14 unsatisfactory conditions found on a premise;

15 (3) "Operator", a person, partnership, or corporation operating, conducting, or  
16 maintaining an adult-oriented establishment;

17 (4) "Specified anatomical areas":

18 (a) Less than completely and opaquely covered:

- 19       a. Human genitals or pubic region;  
20       b. Buttocks; or  
21       c. Female breasts below a point immediately above the top of the areola;  
22       (b) Human male genitals in a discernible turgid state, even if completely opaquely  
23 covered.

**71.1003. 1.** No operator or employee of an adult establishment shall permit any  
2 minor to loiter in any part of the establishment, including parking lots immediately  
3 adjacent to the establishment used by patrons of an adult establishment.

4       **2.** Every adult establishment doing business in this state shall be well lighted at all  
5 times and be physically arranged in such a manner that the entire interior public access  
6 portion of the establishment shall be clearly visible from the common areas of the premises.  
7 Visibility into public or private membership access booths, cubicles, rooms, or stalls shall  
8 not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction  
9 whatsoever. It shall be unlawful to install enclosed booths, cubicles, rooms or stalls within  
10 adult establishments for whatever purpose, including for the purpose of providing for the  
11 secluded viewing of sexual material, performances or specified anatomical areas. The  
12 provisions of this section do not apply to enclosures which are private offices and which  
13 are not held out as public or private membership access.

14       **3.** No adult establishment shall contain partitions between subdivisions of a room  
15 or portions or parts of a building, structure, or premise with an aperture which is designed  
16 or constructed to facilitate sexual conduct between persons on either side of the partitions.

17       **4.** The operator of each adult establishment shall be responsible for and shall  
18 provide that any room or other area used for the purpose of viewing sexual material,  
19 performances or specified anatomical areas shall be well lighted and readily accessible at  
20 all times and shall be continuously open to view in its entirety. The premises shall be  
21 equipped with overhead lighting fixtures of sufficient intensity to illuminate every place  
22 to which patrons are permitted access at an illumination of not less than one footcandle as  
23 measured at the floor level. It shall be the duty of the operator and the operator's agents  
24 to ensure that the illumination required by this subsection is maintained at all times that  
25 a patron is present on the premises.

**71.1006.** Every act or omission by an employee constituting a violation of sections  
2 71.1000 to 71.1015 shall be deemed the act or omission of the operator if the act or omission  
3 occurs either with the authorization, knowledge or approval of the operator or as a result  
4 of the operator's negligent failure to supervise the employee's conduct, and the operator  
5 shall be punishable for the act or omission in the same manner as if the operator committed  
6 the act or caused the omission.

**71.1009. All adult establishments shall be open to inspection at all reasonable times**  
2 **by inspectors.**

**71.1012. Any person who violates any provision of sections 71.1000 to 71.1012 is**  
2 **guilty of a class A misdemeanor for the first offense and a class D felony for second and**  
3 **subsequent offenses.**

**71.1015. An action pursuant to section 71.1012 or an action to enjoin or abate a**  
2 **violation of sections 71.1000 to 71.1009 may be brought by the Missouri attorney general**  
3 **or by the prosecuting attorney of the county concerned or by the prosecuting attorney of**  
4 **the municipality in which the adult-oriented establishment is located.**