

# SENATE BILL No. 879

September 29, 2009, Introduced by Senator HUNTER and referred to the Committee on Transportation.

A bill to regulate the use of signs advertising sexually oriented businesses; to provide for the powers and duties of certain state and local governmental officers and entities; to provide remedies; and to prescribe civil sanctions.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. As used in this act:

2           (a) "Seminudity" means a state of dress in which the genitals,  
3           pubic area, buttocks, anus, anal cleft, or nipple and areola of the  
4           female breast are less than completely and opaquely covered.

5           (b) "Sexually oriented business" includes, but is not limited  
6           to, an adult bookstore, adult video store, adult cabaret, adult  
7           motion picture theater, sexual device shop, or sexual encounter  
8           center or an establishment that regularly features live

1 performances characterized by the exposure of a specified  
2 anatomical area or by a specified sexual activity or in which  
3 persons appear in a state of nudity or seminudity in the  
4 performance of their duties. However, sexually oriented business  
5 does not include a business solely because it shows, sells, or  
6 rents materials that may depict sex.

7 (c) "Specified anatomical area" means less than completely and  
8 opaquely covered human genitals, pubic area, buttocks, anus, anal  
9 cleft, or female breasts below a point immediately above the top of  
10 the areola; or human male genitals in a discernibly turgid state,  
11 even if covered.

12 (d) "Specified sexual activity" means the fondling or other  
13 erotic touching of covered or uncovered human genitals, pubic area,  
14 buttocks, anus, anal cleft, or female breast.

15 Sec. 3. (1) Beginning January 1, 2011, the owner or operator  
16 of any sexually oriented business shall not erect, construct, or  
17 maintain on the premises of that sexually oriented business a sign  
18 that advertises or identifies the sexually oriented business and is  
19 visible outdoors unless the sign meets the requirements of  
20 subsection (2).

21 (2) Subject to subsection (3), a sign authorized under  
22 subsection (1) shall display only words or numbers, or both. The  
23 words on the sign shall not describe or relate to a specified  
24 sexual activity or to human genitals, pubic area, buttocks, anus,  
25 anal cleft, or female breasts.

26 (3) A sign authorized under subsection (1) may display the  
27 sexually oriented business's or a credit card company's trademark

1 if the trademark has been registered under the Lanham act, 15 USC  
2 1051 to 1141n, or under 1969 PA 242, MCL 429.31 to 429.46.

3       Sec. 5. If there is a conflict between a provision of this act  
4 and a provision of a local zoning ordinance or the highway  
5 advertising act of 1972, 1972 PA 106, MCL 252.301 to 252.324,  
6 including a rule promulgated under that act, the more restrictive  
7 provision applies.

8       Sec. 7. (1) A sign in violation of this act is a nuisance. The  
9 attorney general or the attorney for a local unit of government  
10 where the sign is located may bring an action in the circuit court  
11 to abate the nuisance.

12       (2) A person who violates this act is responsible for a civil  
13 fine of not less than \$5,000.00 or more than \$10,000.00 for each  
14 day of violation. A civil fine collected under this section shall  
15 be distributed to public libraries as provided under 1964 PA 59,  
16 MCL 397.31 to 397.40.