

GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 731
HOUSE BILL 143

AN ACT TO AMEND CERTAIN OBSCENITY STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-202.10 is rewritten to read:

"§ 14-202.10. **Definitions.**—As used in this Article:

- (1) 'Adult bookstore' means a bookstore:
 - a. which receives a majority of its gross income during any calendar month from the sale of publications (including books, magazines, and other periodicals) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section; or
 - b. having as a preponderance of its publications books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section.
- (2) 'Adult establishment' means an adult bookstore, adult motion picture theatre, adult mini motion picture theatre, adult live entertainment business, or massage business as defined in this section.
- (3) 'Adult live entertainment' means any performance of or involving the actual presence of real people which exhibits specified sexual activities or specified anatomical areas, as defined in this section.
- (4) 'Adult live entertainment business' means any establishment or business wherein adult live entertainment is shown for observation by patrons.
- (5) 'Adult motion picture theatre' means an enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by patrons therein. 'Adult motion picture theatre' does not include any adult mini motion picture theatre as defined in this section.
- (6) 'Adult mini motion picture theatre' means an enclosed building with viewing booths designed to hold patrons which is used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined in this section, for observation by patrons therein.

(7) 'Massage' means the manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device.

(8) 'Massage business' means any establishment or business wherein massage is practiced, including establishments commonly known as health clubs, physical culture studios, massage studios, or massage parlors.

(9) 'Sexually oriented devices' means without limitation any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device.

(10) 'Specified anatomical areas' means:

- a. less than completely and opaquely covered: (i) human genitals, pubic region, (ii) buttock, or (iii) female breast below a point immediately above the top of the areola; or
- b. human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(11) 'Specified sexual activities' means:

- a. human genitals in a state of sexual stimulation or arousal;
- b. acts of human masturbation, sexual intercourse or sodomy; or
- c. fondling or other erotic touchings of human genitals, pubic regions, buttocks or female breasts."

Sec. 2. G.S. 14-202.11 is rewritten to read:

"§ 14-202.11. Restrictions as to adult establishments.—No person shall permit any building, premises, structure, or other facility that contains any adult establishment to contain any other kind of adult establishment. No person shall permit any building, premises, structure, or other facility in which sexually oriented devices are sold, distributed, exhibited, or contained to contain any adult establishment.

No person shall permit any viewing booth in an adult mini motion picture theatre to be occupied by more than one person at any time."

Sec. 3. G.S. 14-202.12 is amended by adding a new sentence at the end to read:

"As used herein, 'person' shall include:

- (1) the agent in charge of the building, premises, structure or facility; or
- (2) the owner of the building, premises, structure or facility when such owner knew or reasonably should have known the nature of the business located therein, and such owner refused to cooperate with the public officials in reasonable measures designed to terminate the proscribed use; provided, however, that if there is an agent in charge, and if the owner did not have actual knowledge, the owner shall not be prosecuted; or
- (3) the owner of the business; or
- (4) the manager of the business."

Sec. 4. If any provisions of this act or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 5. This act shall become effective October 1, 1985.

In the General Assembly read three times and ratified, this the 12th day of July, 1985.