

2C:34-2

LEGISLATIVE HISTORY CHECKLIST
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(Sexually oriented businesses)

NJSA: 2C:34-2

LAWS OF: 1995 **CHAPTER:** 230

BILL NO: A252

SPONSOR(S): Crecco

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY** Judiciary
SENATE: ---

AMENDED DURING PASSAGE: No Committee Substitute
A252/A842 enacted

DATE OF PASSAGE: **ASSEMBLY:** December 15, 1994
SENATE: June 26, 1995

DATE OF APPROVAL: August 16, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE:

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

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See newspaper clippings--attached:

"Strict new limits set for sex shops," 8-18-95, Asbury Park Press.

"Whitman signs law regulating adult stores," 8-18-95, Atlantic City Press.

KBG:pp

ASSEMBLY, No. 252

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Assemblywoman CRECCO

1 AN ACT concerning the location of sexually oriented businesses
2 and amending N.J.S.2C:34-2 and supplementing chapter 34 of
3 Title 2C of the New Jersey Statutes.

4

5 BE IT ENACTED *by the Senate and General Assembly of the*
6 *State of New Jersey:*

7 1. N.J.S.2C:34-2 is amended to read as follows:

8 2C:34-2. Obscenity for Persons 18 Years of Age or Older. a.
9 Definitions for purpose of this section:

10 (1) "Obscene material" means any description, narrative
11 account, display, or depiction of sexual activity or anatomical
12 area contained in, or consisting of, a picture or other
13 representation, publication, sound recording, live performance, or
14 film, which by means of posing, composition, format or animated
15 sensual details:

16 (a) Depicts or describes in a patently offensive way, ultimate
17 sexual acts, normal or perverted, actual or simulated,
18 masturbation, excretory functions, or lewd exhibition of the
19 genitals,

20 (b) Lacks serious literary, artistic, political, or scientific
21 value, when taken as a whole, and

22 (c) Is a part of a work, which to the average person applying
23 contemporary community standards, has a dominant theme taken
24 as a whole, which appeals to the prurient interest.

25 (2) "Exhibit" means the sale of admission to view obscene
26 material.

27 b. A person who sells, distributes, rents or exhibits obscene
28 material to a person 18 years of age or older commits a crime of
29 the fourth degree. Sale of obscene material shall be deemed to
30 include any form of transaction which results in the admission to
31 a display or depiction of obscene material or temporary or
32 permanent access to any obscene material.

33 Nothing contained herein or in section 3 of P.L. , c.
34 (C.) (pending before the Legislature as this bill) shall be
35 construed to prohibit a municipality from adopting as a part of its
36 zoning ordinances an ordinance permitting the sale, distribution,
37 rental or exhibition of obscene material in which event such sale,
38 distribution, rental or exhibition shall be deemed legal.

39 (cf: P.L.1989, c.54, s.1)

40 2. (New section) As used in sections 2 and 3 of this act:

41 a. "Sexually oriented business" means:

42 (1) A commercial establishment which as one of its principal

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 business purposes offers for sale, rental, or display any of the
2 following:

3 Books, magazines, periodicals or other printed material, or
4 photographs, films, motion pictures, video cassettes, slides or
5 other visual representations which depict or describe a "specified
6 sexual activity" or "specified anatomical area"; or still or motion
7 picture machines, projectors or other image-producing devices
8 which show images to one person per machine at any one time,
9 and where the images so displayed are characterized by the
10 depiction of a "specified sexual activity" or "specified
11 anatomical area"; or instruments, devices, or paraphernalia which
12 are designed for use in connection with a "specified sexual
13 activity"; or

14 (2) A commercial establishment which regularly features
15 waiters, waitresses, dancers or other live performances
16 characterized by the exposure of a "specified anatomical area"
17 or by a "specified sexual activity," or which regularly shows
18 films, motion pictures, video cassettes, slides, or other
19 photographic representations which depict or describe a
20 "specified sexual activity" or "specified anatomical area"; or a
21 commercial establishment which regularly features sexually
22 explicit live entertainment; or

23 (3) A hotel, motel or similar commercial establishment which
24 offers accommodations to the public for any form of
25 consideration, and which provides patrons with closed-circuit
26 television transmissions, films, motion pictures, video cassettes,
27 slide or other visual representations which depict or describe a
28 "specified sexual activity" or "specified anatomical area", and
29 has a sign visible from a public right of way which advertises the
30 availability of these visual representations; or offers a sleeping
31 room for rent for a period of time that is less than 10 hours; or
32 allows an occupant of a sleeping room to sub-rent the room for a
33 period of time that is less than 10 hours.

34 b. "Person" means an individual, proprietorship, partnership,
35 corporation, association, or other legal entity.

36 c. "Specified anatomical area" means:

37 (1) Less than completely and opaquely covered human genitals,
38 pubic region, buttock or female breasts below a point
39 immediately above the top of the areola; or

40 (2) Human male genitals in a discernibly turgid state, even if
41 covered.

42 d. "Specified sexual activity" means:

43 (1) The fondling or other erotic touching of covered or
44 uncovered human genitals, pubic region, buttock or female
45 breast; or

46 (2) Any actual or simulated act of human masturbation, sexual
47 intercourse or deviate sexual intercourse.

48 3. (New section) a. Except as provided in a municipal zoning
49 ordinance adopted pursuant to N.J.S.2C:34-2, no person shall
50 operate a sexually oriented business within 1,000 feet of any
51 existing sexually oriented business, or any church, synagogue,
52 temple or other place of public worship, or any elementary or
53 secondary school or any school bus stop, or any municipal or
54 county playground or place of public resort and recreation, or

1 within 1,000 feet of any area zoned for residential use. This
2 subsection shall not apply to a sexually oriented business already
3 lawfully operating on the effective date of this act where another
4 sexually oriented business, an elementary or secondary school or
5 school bus stop, or any municipal or county playground or place of
6 public resort and recreation is subsequently established within
7 1,000 feet, or a residential district or residential lot is
8 subsequently established within 1,000 feet.

9 b. Every sexually oriented business shall be surrounded by a
10 perimeter buffer of at least 50 feet in width, consisting of
11 plantings to the satisfaction of the municipal planning board.
12 This subsection shall not apply to a sexually oriented business
13 already lawfully operating on the effective date of this act.

14 c. No sexually oriented business which regularly shows films,
15 motion pictures, video cassettes, slides, or other photographic
16 representations which depict or describe a "specified sexual
17 activity" or "specified anatomical area" shall offer for public use
18 any private booths, screens, enclosures or other devices which
19 facilitate sexual activity by patrons.

20 d. No sexually oriented business shall display more than two
21 exterior signs, consisting of one identification sign and one sign
22 giving notice that the premises are off limits to minors. The
23 identification sign shall be no more than 40 square feet in size.

24 e. A person who violates this act is guilty of a crime of the
25 fourth degree.

26 4. This act shall take effect on the first day of the fourth
27 month after enactment.

28 *Sponsor*
29 STATEMENT
30

31
32 This bill would regulate the operations of sexually oriented
33 businesses, such as "juice bars" featuring nude waitresses or nude
34 dancers, adult theaters, adult bookstores, and adult motels. No
35 sexually oriented business would be allowed to operate within
36 1,000 feet of an existing sexually oriented business, any church,
37 synagogue, temple or other place of public worship, any
38 elementary or secondary school or any school bus stop, any
39 municipal or county playground or place of public resort and
40 recreation, or within 1,000 feet of any area zoned for residential
41 use a school, school bus stop, playground, or public park, or within
42 1,000 feet of an area zoned for residential use. Notwithstanding
43 this provision, municipalities, could still choose to adopt zoning
44 ordinances establishing so called "combat" zones for the
45 clustering of sexually oriented businesses.

46 In addition, adult theaters would be prohibited from
47 maintaining private booths, which, according to reports,
48 facilitate sexual activity by patrons.

49 The bill would also regulate the external appearance of
50 sexually oriented businesses, requiring them to be surrounded by
51 50-foot wide perimeter buffers made up of plantings, and limiting
52 the number and size of signs outside the premises.

53 Violators would be guilty of a crime of the fourth degree,
54 which is punishable by a term of imprisonment of up to 18 months

1 or a fine of up to \$7,500, or both.

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6 Regulates location of sexually oriented businesses.

ASSEMBLY, No. 842

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Assemblymen CONNORS and MORAN

1 AN ACT concerning sexually oriented businesses and
2 supplementing chapter 34 of Title 2C of the New Jersey
3 Statutes.

4

5 BE IT ENACTED by the Senate and General Assembly of the
6 State of New Jersey:

7 1. As used in this act:

8 a. "Sexually oriented business" means:

9 (1) A commercial establishment which as one of its principal
10 business purposes offers for sale, rental, or display any of the
11 following:

12 Books, magazines, periodicals or other printed material, or
13 photographs, films, motion pictures, video cassettes, slides or
14 other visual representations which depict or describe a "specified
15 sexual activity" or "specified anatomical area"; or still or motion
16 picture machines, projectors or other image-producing devices
17 which show images to one person per machine at any one time,
18 and where the images so displayed are characterized by the
19 depiction of a "specified sexual activity" or "specified
20 anatomical area"; or instruments, devices, or paraphernalia which
21 are designed for use in connection with a "specified sexual
22 activity"; or

23 (2) A commercial establishment which regularly features live
24 performances characterized by the exposure of a "specified
25 anatomical area" or by a "specified sexual activity," or which
26 regularly shows films, motion pictures, video cassettes, slides, or
27 other photographic representations which depict or describe a
28 "specified sexual activity" or "specified anatomical area"; or

29 (3) A hotel, motel or similar commercial establishment which
30 offers accommodations to the public for any form of consideration,
31 and which provides patrons with closed-circuit television
32 transmissions, films, motion pictures, video cassettes, slide or
33 other visual representations which depict or describe a "specified
34 sexual activity" or "specified anatomical area", and has a sign
35 visible from a public right of way which advertises the
36 availability of these visual representations; or offers a sleeping
37 room for rent for a period of time that is less than 10 hours; or
38 allows an occupant of a sleeping room to sub-rent the room for a
39 period of time that is less than 10 hours.

40 b. "Person" means an individual, proprietorship, partnership,
41 corporation, association, or other legal entity.

42 c. "Specified anatomical area" means:

43 (1) Less than completely and opaquely covered human genitals,
44 pubic region, buttock or female breasts below a point
45 immediately above the top of the areola; or

1 (2) Human male genitals in a discernibly turgid state, even if
2 covered.

3 d. "Specified sexual activity" means:

4 (1) The fondling or other erotic touching of covered or
5 uncovered human genitals, pubic region, buttock or female
6 breast; or

7 (2) Any actual or simulated act of human masturbation, sexual
8 intercourse or deviate sexual intercourse.

9 2. a. No person shall operate a sexually oriented business
10 within 1,000 feet of any existing sexually oriented business, or
11 any elementary or secondary school or any school bus stop, or any
12 municipal or county playground or place of public resort and
13 recreation, or within 500 feet of any area zoned for residential
14 use. This subsection shall not apply to a sexually oriented
15 business already lawfully operating at the effective date of this
16 act where another sexually oriented business, an elementary or
17 secondary school or school bus stop, or any municipal or county
18 playground or place of public resort and recreation is
19 subsequently established within 1,000 feet, or a residential
20 district or residential lot is subsequently established within
21 500 feet.

22 b. Every sexually oriented business shall be surrounded by a
23 perimeter buffer of at least 50 feet in width, consisting of
24 plantings to the satisfaction of the municipal planning board.
25 This subsection shall not apply to a sexually oriented business
26 already lawfully operating at the effective date of this act.

27 c. No sexually oriented business which regularly shows films,
28 motion pictures, video cassettes, slides, or other photographic
29 representations which depict or describe a "specified sexual
30 activity" or "specified anatomical area" shall offer for public use
31 any private booths, screens, enclosures or other devices which
32 facilitate sexual activity by patrons.

33 d. No sexually oriented business shall display more than two
34 exterior signs, consisting of one identification sign and one sign
35 giving notice that the premises are off limits to minors. The
36 identification sign shall be no more than 40 square feet in size.

37 e. A person who violates this act is guilty of a crime of the
38 fourth degree.

39 3. This act shall take effect on the 90th day after enactment.
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42 *Sponsor* STATEMENT

43
44 This bill would regulate the operations of sexually oriented
45 businesses, such as adult theaters, adult bookstores, and adult
46 motels. No sexually oriented business would be allowed to
47 operate within 1,000 feet of an existing sexually oriented
48 business, a school, school bus stop, playground, or public park, or
49 within 500 feet of an area zoned for residential use.

50 In addition, adult theaters would be prohibited from
51 maintaining private booths, which, according to reports,
52 facilitate sexual activity by patrons.

53 The bill would also regulate the external appearance of
54 sexually oriented businesses, requiring them to be surrounded by

1 50-foot wide perimeter buffers made up of plantings, and limiting
2 the number and size of signs outside the premises.

3 Violators would be guilty of a crime of the fourth degree,
4 which is punishable by a term of imprisonment of up to 18 months
5 or a fine of up to \$7,500, or both.

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10 _____
Regulates the operations of sexually oriented businesses.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, Nos. 252 and 842

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 1994

The Assembly Judiciary, Law and Public Safety Committee reports favorably an Assembly Committee Substitute for Assembly Bills Nos. 252 and 842.

This substitute would regulate the operations of sexually oriented businesses, such as "juice bars" featuring nude waitresses or nude dancers, adult theaters, adult bookstores, and adult motels. No sexually oriented business would be allowed to operate within 1,000 feet of an existing sexually oriented business, any church, synagogue, temple or other place of public worship, any elementary or secondary school or any school bus stop, any municipal or county playground or place of public resort and recreation, or within 1,000 feet of any area zoned for residential use. Notwithstanding this provision, municipalities, could still choose to adopt zoning ordinances establishing so called "combat zones" for the clustering of sexually oriented businesses.

In addition, adult theaters would be prohibited from maintaining private booths, which may facilitate sexual activity by patrons and thus, may be conducive to the spread of sexually transmitted diseases.

The substitute would also regulate the external appearance of sexually oriented businesses, requiring them to be surrounded by 50-foot wide perimeter buffers made up of plantings, and limiting the number and size of signs outside the premises. However, a business operating on the effective date of this substitute would not be subject to this buffer regulation.

Violators would be guilty of a crime of the fourth degree, which is punishable by a term of imprisonment of up to 18 months or a fine of up to \$7,500, or both.

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 252 and 842

STATE OF NEW JERSEY

ADOPTED SEPTEMBER 19, 1994

Sponsored by Assemblywoman CRECCO, Assemblymen
CONNORS and MORAN

1 AN ACT concerning the location of sexually oriented businesses
2 and amending N.J.S.2C:34-2 and supplementing chapter 34 of
3 Title 2C of the New Jersey Statutes.

4
5 BE IT ENACTED by the Senate and General Assembly of the
6 State of New Jersey:

7 1. N.J.S.2C:34-2 is amended to read as follows:
8 2C:34-2. Obscenity for Persons 18 Years of Age or Older. a.
9 Definitions for purpose of this section:

10 (1) "Obscene material" means any description, narrative
11 account, display, or depiction of sexual activity or anatomical
12 area contained in, or consisting of, a picture or other
13 representation, publication, sound recording, live performance, or
14 film, which by means of posing, composition, format or animated
15 sensual details:

16 (a) Depicts or describes in a patently offensive way, ultimate
17 sexual acts, normal or perverted, actual or simulated,
18 masturbation, excretory functions, or lewd exhibition of the
19 genitals,

20 (b) Lacks serious literary, artistic, political, or scientific
21 value, when taken as a whole, and

22 (c) Is a part of a work, which to the average person applying
23 contemporary community standards, has a dominant theme taken
24 as a whole, which appeals to the prurient interest.

25 (2) "Exhibit" means the sale of admission to view obscene
26 material.

27 b. A person who sells, distributes, rents or exhibits obscene
28 material to a person 18 years of age or older commits a crime of
29 the fourth degree. Sale of obscene material shall be deemed to
30 include any form of transaction which results in the admission to
31 a display or depiction of obscene material or temporary or
32 permanent access to any obscene material.

33 Nothing contained herein or in section 3 of P.L. , c.
34 (C.) (now pending before the Legislature as this bill) shall be
35 construed to prohibit a municipality from adopting as a part of its
36 zoning ordinances an ordinance permitting the sale, distribution,
37 rental or exhibition of obscene material in which event such sale,
38 distribution, rental or exhibition shall be deemed legal.

39 (cf: P.L.1989, c.54, s.1)

40 2. (New section) As used in sections 2 and 3 of this act:

41 a. "Sexually oriented business" means:

42 (1) A commercial establishment which as one of its principal

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 business purposes offers for sale, rental, or display any of the
2 following:

3 Books, magazines, periodicals or other printed material, or
4 photographs, films, motion pictures, video cassettes, slides or
5 other visual representations which depict or describe a "specified
6 sexual activity" or "specified anatomical area"; or still or motion
7 picture machines, projectors or other image-producing devices
8 which show images to one person per machine at any one time,
9 and where the images so displayed are characterized by the
10 depiction of a "specified sexual activity" or "specified
11 anatomical area"; or instruments, devices, or paraphernalia which
12 are designed for use in connection with a "specified sexual
13 activity"; or

14 (2) A commercial establishment which regularly features
15 waiters, waitresses, dancers or other live performances
16 characterized by the exposure of a "specified anatomical area"
17 or by a "specified sexual activity," or which regularly shows
18 films, motion pictures, video cassettes, slides, or other
19 photographic representations which depict or describe a
20 "specified sexual activity" or "specified anatomical area"; or a
21 commercial establishment which regularly features sexually
22 explicit live entertainment; or

23 (3) A hotel, motel or similar commercial establishment which
24 offers accommodations to the public for any form of
25 consideration, and which provides patrons with closed-circuit
26 television transmissions, films, motion pictures, video cassettes,
27 slide or other visual representations which depict or describe a
28 "specified sexual activity" or "specified anatomical area", and
29 has a sign visible from a public right of way which advertises the
30 availability of these visual representations; or offers a sleeping
31 room for rent for a period of time that is less than 10 hours; or
32 allows an occupant of a sleeping room to sub-rent the room for a
33 period of time that is less than 10 hours.

34 b. "Person" means an individual, proprietorship, partnership,
35 corporation, association, or other legal entity.

36 c. "Specified anatomical area" means:

37 (1) Less than completely and opaquely covered human genitals,
38 pubic region, buttock or female breasts below a point
39 immediately above the top of the areola; or

40 (2) Human male genitals in a discernibly turgid state, even if
41 covered.

42 d. "Specified sexual activity" means:

43 (1) The fondling or other erotic touching of covered or
44 uncovered human genitals, pubic region, buttock or female
45 breast; or

46 (2) Any actual or simulated act of human masturbation, fellatio
47 intercourse or deviate sexual intercourse.

48 3. (New section) a. Except as provided in a municipal zoning
49 ordinance adopted pursuant to N.J.S.2C:34-2, no person shall
50 operate a sexually oriented business within 1,000 feet of any
51 existing sexually oriented business, or any church, synagogue,
52 temple or other place of public worship, or any elementary or
53 secondary school or any school bus stop, or any municipal or
54 county playground or place of public resort and recreation, or

1 within 1,000 feet of any area zoned for residential use. This
2 subsection shall not apply to a sexually oriented business already
3 lawfully operating on the effective date of this act where another
4 sexually oriented business, an elementary or secondary school or
5 school bus stop, or any municipal or county playground or place of
6 public resort and recreation is subsequently established within
7 1,000 feet, or a residential district or residential lot is
8 subsequently established within 1,000 feet.

9 b. Every sexually oriented business shall be surrounded by a
10 perimeter buffer of at least 50 feet in width with plantings,
11 fence, or other physical divider along the outside of the
12 perimeter sufficient to impede the view of the interior of the
13 premises in which the business is located. The municipality may,
14 by ordinance, require the perimeter buffer to meet additional
15 requirements or standards. This subsection shall not apply to a
16 sexually oriented business already lawfully operating on the
17 effective date of this act.

18 c. No sexually oriented business which regularly shows films,
19 motion pictures, video cassettes, slides, or other photographic
20 representations which depict or describe a "specified sexual
21 activity" or "specified anatomical area" shall offer for public use
22 any private booths, screens, enclosures or other devices which
23 facilitate sexual activity by patrons.

24 d. No sexually oriented business shall display more than two
25 exterior signs, consisting of one identification sign and one sign
26 giving notice that the premises are off limits to minors. The
27 identification sign shall be no more than 40 square feet in size.

28 e. A person who violates this section is guilty of a crime of the
29 fourth degree.

30 4. This act shall take effect on the 30th day after enactment.

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35 Regulates location of sexually oriented businesses.