
Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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House Bill 5133 (Substitute S-2 as reported by the Committee of the Whole)

House Bill 5134 (Substitute S-2 as reported)

Sponsor: Representative Laura M. Toy (House Bill 5133)

Representative Gloria Schermesser (House Bill 5134)

House Committee: Constitutional Law and Ethics

Senate Committee: Judiciary

CONTENT

House Bill 5133 (S-2) would amend the Public Health Code to allow a city, village, or township to adopt an ordinance or building code to regulate the interior structure of an adult entertainment establishment. A local unit also could adopt an ordinance to prohibit the construction, use, design, or operation of a facility for the purpose of engaging in or permitting a person to engage in sexual activity that included "high-risk sexual conduct", which would mean fellatio, cunnilingus, anal intercourse, vaginal intercourse, or sexual contact between employees and patrons, between independent contractors and patrons, or between patrons if the contact had a reasonable likelihood of spreading a sexually transmitted disease. ("Facility" would mean a commercial structure other than a hotel, motel, apartment house, rooming house, or condominium.)

The bill also would allow a local unit to prohibit owning, operating, managing, renting, leasing, or exercising control over a facility that contained a booth, stall, or partitioned portion of a room or an individual room used for the viewing of a motion picture, videocassette, or other video reproduction, or live entertainment characterized by an emphasis on the display or exposure of specific sexual activity, having a door, curtain, or portal partition, unless a number of specifications were met. (For example, the facility would have to contain at least one manager's station; there would have to be a direct line of sight from the manager's station to every area where patrons were allowed; no partitioned portion of a room could be occupied by more than one person at a time; floors, walls, and ceilings would have to be easy to clean; and no restroom could contain video viewing equipment.)

A local health officer could declare an imminent danger, as determined under the Code, if he or she determined that high-risk sexual conduct was occurring in an adult entertainment establishment. The bill specifies notification procedures that would have to be followed and would require issuance of an order to avoid, correct, or remove the imminent danger. Upon failure to comply, the local health department could petition a court to restrain a condition or practice or to require action to avoid, correct, or remove the imminent danger.

House Bill 5134 (S-2) would amend the Revised Judicature Act to allow a court to award a reasonable attorney fee to a private citizen who successfully maintained an action to abate a public nuisance that was a violation of any of the following:

- House Bill 5133.
- Disseminating sexually explicit visual material that is harmful to minors by displaying it in a business enterprise except in a restricted area.
- Regulations pertaining to the operation of adult entertainment establishments.
- A local ordinance substantially corresponding to any of the provisions listed above.
- A local ordinance regulating or prohibiting public nudity.

The bill also would add violations of the adult entertainment establishment regulations and public nudity ordinances to the list of offenses that are subject to the Act's property seizure and forfeiture provisions.

The bills would take effect on June 1, 2001, and are tie-barred to each other and to Senate Bills 1293, 1295, 1296, and 1297 and House Bills 4327 and 4359.

MCL 600.3805 & 600.4701 (H.B. 5134)

FISCAL IMPACT

House Bill 5133 (S-2) would have no fiscal impact on State government.

The fiscal impact on local units of government would depend on whether local governments chose to adopt ordinances to regulate the interior structure of an adult entertainment establishment and the scope of those ordinances.

House Bill 5134 (S-2) would have no fiscal impact on State or local government.

Date Completed: 11-29-00

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