WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 2000

ENROLLED
Committee Substitute for
SENATE BILL NO. 415

(By Senators Snyder and Anderson)

PASSED March 11, 2000
In Effect from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 415

(SENATORS SNYDER AND ANDERSON, original sponsors)

[Passed March 11, 2000; in effect from passage.]

AN ACT to amend article four, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-three, relating to regulating, restricting and placing a prohibition on additional exotic entertainment facilities; requiring regulation and licenses by the alcohol beverage control commissioner; providing definitions; providing effective date; prohibiting certain acts; prohibiting minors in licensed facilities; providing for application, renewal, license fee and restrictions on transfer; requiring commissioner to promulgate legislative rules to effectuate the same; and providing for unlawful acts and penalties to be imposed therefor.

Be it enacted by the Legislature of West Virginia:
That article four, chapter sixty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section twenty-three, to read as follows:

ARTICLE 4. LICENSES.

§60-4-23. License to operate a facility where exotic entertainment is offered; definitions; restrictions, regulations and prohibitions; application, renewal, license fee, restrictions on transfer; effective date; legislative rules; unlawful acts and penalties imposed.

(a) For purposes of this section:

(1) "Exotic entertainment" means live nude dancing, nude service personnel or live nude entertainment, and "nude" means any state of undress in which male or female genitalia or female breasts are exposed.

(2) "Places set apart for traditional family-oriented naturism" means family nudist parks, clubs and resorts chartered by the American association for nude recreation or the naturist society, including all of their appurtenant business components, and also including places temporarily in use for traditional family-oriented naturist activities.

(b) No person may operate any commercial facility where exotic entertainment is permitted or offered unless such person is granted a license by the commissioner to operate a facility where exotic entertainment may be offered. The provisions of this subsection apply whether or not alcoholic liquor, wine or nonalcoholic beer is legally kept, served, sold or dispensed in a facility, or purchased for use in a facility, or permitted to be brought by others into a facility and whether or not such person holds any other license or permit issued pursuant to chapter sixty of this code.
(c) A licensee is subject to all the regulatory provisions of article seven of this chapter, whether or not the licensee is otherwise a private club. The commissioner shall have all the powers and authorization granted under article seven of this chapter to regulate, restrict and sanction a licensee under this section. No licensee may purchase, keep, sell, serve, dispense or purchase for use in a licensed facility, or permit others to bring into the facility, any alcoholic liquor, wine or nonintoxicating beer without having the appropriate license therefor. No licensee may operate a private club without being licensed therefor.

(d) No person or licensee may allow a person under the age of eighteen years to perform as an exotic entertainer. No person under the age of twenty-one years, other than a performing exotic entertainer, may be allowed to be in a commercial facility on any day on which any exotic entertainment is offered therein. No licensee may hold special nonalcoholic entertainment events for persons under age twenty-one pursuant to the provisions of section eight, article seven of this chapter in the licensed facility.

(e) Any person operating a commercial facility where exotic entertainment is offered on the effective date of this section may apply to the commissioner for a license to operate a facility where exotic entertainment may be offered. Applications must be filed with the commissioner on or before the first day of July, two thousand; thereafter no application for license may be received by the commissioner. The commissioner may issue a license to a person complying with the provisions of this chapter. Upon application for renewal, the commissioner shall annually, on the first day of July of each succeeding year, renew the license of any licensee then in compliance with the provisions of this chapter. The commissioner shall specify the form of application and information required of applicants and licensees. No license which has lapsed, been revoked or expired without renewal may be reissued.
(f) A person to whom a license is issued or renewed under the provisions of this section shall pay annually to the commissioner a license fee of three thousand dollars. A municipal corporation wherein any such licensee is located shall issue a municipal license to any person to whom the commissioner has issued a license and may impose a license fee not in excess of the state license fee.

(g) A person shall not sell, assign or otherwise transfer a license without the prior written approval of the commissioner. For purposes of this section, the merger of a licensee or the sale of more than fifty percent of the outstanding stock of or partnership interests in the licensee shall be deemed to be a sale, assignment or transfer of a license under this section. A license shall not be transferred to another location, except within the county of original licensure. A transferee of a licensed facility may apply for reissuance of the transferor's license if the transferee applicant otherwise qualifies for a license. The commissioner is authorized to propose the promulgation of a legislative rule in accordance with the provisions of chapter twenty-nine-a of this code, to implement the provisions of this subsection.

(h) This section shall be effective upon passage by the Legislature in the year two thousand. On or before the first day of May, two thousand, the commissioner shall promulgate an emergency legislative rule pursuant to the provisions of chapter twenty-nine-a of this code to effectuate the provisions of this section, and shall propose a legislative rule therefor, for consideration by the Legislature, prior to the last day of December, two thousand.

(i) Any person who violates any provision of this section, or principal of a firm or corporation which violates any provision of this section, or licensee, agent, employee or member of any licensee who violates any provision of this section, or who violates any of the provisions of section
twelve, article seven of this chapter, on the premises of a licensed facility, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one thousand dollars nor more than three thousand dollars, or imprisoned for a period not to exceed one year, or both so fined and imprisoned.

(j) The provisions of this section do not apply to places set apart for traditional family-oriented naturist activities.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within... approved... this the... Day of... April, 2000.

[Signature]
Governor
PRESENTED TO THE
GOVERNOR
Date 3/28/17
Time 3:10