

SB 415

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WEST VIRGINIA

# 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

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WEST VIRGINIA  
LEGISLATURE

## 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; prohibitions against minors; application, renewal, license fee, restrictions on transfer; effective date; legislative rules; unlawful acts and penalties imposed.**

1 (a) For purposes of this section:

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

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

13 (b) No person may operate any commercial facility where  
14 exotic entertainment is permitted or offered unless such  
15 person is granted a license by the commissioner to operate  
16 a facility where exotic entertainment may be offered. The  
17 provisions of this subsection apply whether or not alco-  
18 holic liquor, wine or nonalcoholic beer is legally kept,  
19 served, sold or dispensed in a facility, or purchased for use  
20 in a facility, or permitted to be brought by others into a  
21 facility and whether or not such person holds any other  
22 license or permit issued pursuant to chapter sixty of this  
23 code.

24 (c) A licensee is subject to all the regulatory provisions of  
25 article seven of this chapter, whether or not the licensee is  
26 otherwise a private club. The commissioner shall have all  
27 the powers and authorization granted under article seven  
28 of this chapter to regulate, restrict and sanction a licensee  
29 under this section. No licensee may purchase, keep, sell,  
30 serve, dispense or purchase for use in a licensed facility, or  
31 permit others to bring into the facility, any alcoholic  
32 liquor, wine or nonintoxicating beer without having the  
33 appropriate license therefor. No licensee may operate a  
34 private club without being licensed therefor.

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

44 (e) Any person operating a commercial facility where  
45 exotic entertainment is offered on the effective date of this  
46 section may apply to the commissioner for a license to  
47 operate a facility where exotic entertainment may be  
48 offered. Applications must be filed with the commissioner  
49 on or before the first day of July, two thousand; thereafter  
50 no application for license may be received by the commis-  
51 sioner. The commissioner may issue a license to a person  
52 complying with the provisions of this chapter. Upon  
53 application for renewal, the commissioner shall annually,  
54 on the first day of July of each succeeding year, renew the  
55 license of any licensee then in compliance with the provi-  
56 sions of this chapter. The commissioner shall specify the  
57 form of application and information required of applicants  
58 and licensees. No license which has lapsed, been revoked  
59 or expired without renewal may be reissued.

60 (f) A person to whom a license is issued or renewed under  
61 the provisions of this section shall pay annually to the  
62 commissioner a license fee of three thousand dollars. A  
63 municipal corporation wherein any such licensee is located  
64 shall issue a municipal license to any person to whom the  
65 commissioner has issued a license and may impose a  
66 license fee not in excess of the state license fee.

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

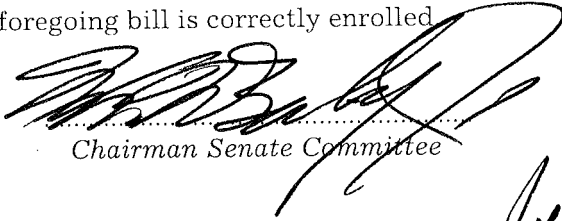
82 (h) This section shall be effective upon passage by the  
83 Legislature in the year two thousand. On or before the first  
84 day of May, two thousand, the commissioner shall promul-  
85 gate an emergency legislative rule pursuant to the provi-  
86 sions of chapter twenty-nine-a of this code to effectuate  
87 the provisions of this section, and shall propose a legisla-  
88 tive rule therefor, for consideration by the Legislature,  
89 prior to the last day of December, two thousand.

90 (i) Any person who violates any provision of this section,  
91 or principal of a firm or corporation which violates any  
92 provision of this section, or licensee, agent, employee or  
93 member of any licensee who violates any provision of this  
94 section, or who violates any of the provisions of section

95 twelve, article seven of this chapter, on the premises of a  
96 licensed facility, is guilty of a misdemeanor and, upon  
97 conviction thereof, shall be fined not less than one thou-  
98 sand dollars nor more than three thousand dollars, or  
99 imprisoned for a period not to exceed one year, or both so  
100 fined and imprisoned.

101 (j) The provisions of this section do not apply to places  
102 set apart for traditional family-oriented naturist activities.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled



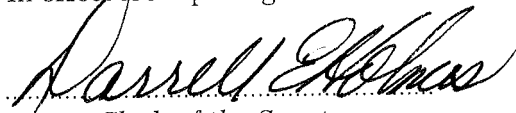
Chairman Senate Committee



Chairman House Committee

Originated in the Senate.

In effect from passage.



Clerk of the Senate



Clerk of the House of Delegates

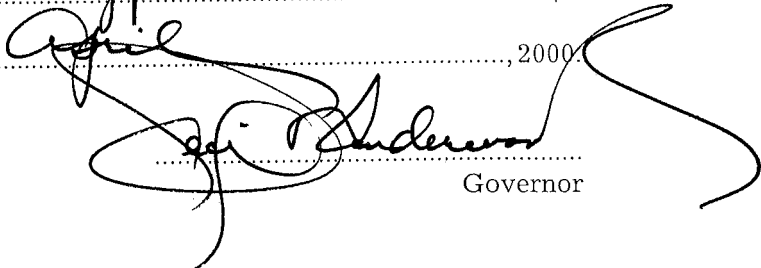


President of the Senate



Speaker House of Delegates

The within approved this the 3rd  
Day of April, 2000.



Governor

PRESENTED TO THE

GOVERNOR

Date 3/28/17

Time 3:10 pm