

SENATE, No. 952

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JANUARY 27, 2020

Sponsored by:

Senator CHRISTOPHER J. CONNORS

District 9 (Atlantic, Burlington and Ocean)

SYNOPSIS

Revises law concerning sexually oriented businesses.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning the regulation of sexually oriented businesses,
2 amending and supplementing P.L.1995, c.230 and amending
3 various sections of statutory law.

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

7
8 1. (New section) This act shall be known and may be cited as
9 the “Defense of Community Standards Act.”

10
11 2. (New section) The Legislature finds and declares:
12 Sexually oriented businesses require special supervision from the
13 public safety agencies of this State in order to protect and preserve
14 the health, safety, morals and welfare of the patrons, contractors
15 and employees of these businesses, as well as the residents of the
16 State;

17 There is convincing documented evidence that sexually oriented
18 businesses, because of their very nature, have a deleterious effect on
19 both the existing businesses around them and the surrounding
20 residential areas adjacent to them and contribute to increased crime,
21 particularly in the overnight hours, and the downgrading of property
22 values;

23 The Legislature desires to minimize and control these adverse
24 effects in order to protect the health, safety and welfare of the
25 State’s residents, to protect the State’s residents from increased
26 crime, to preserve the quality of life, local property values and the
27 character of neighborhoods surrounding sexually oriented
28 businesses, and to deter the spread of blight;

29 The reduction of crime and the preservation of the aesthetic and
30 commercial character of the neighborhoods surrounding sexually
31 oriented businesses is substantially in the public interest, so it is
32 appropriate for the Legislature to provide municipalities with the
33 authority to exert limited controls on the time, place and manner of
34 their operation.

35
36 3. Section 3 of P.L.1995, c.230 (C.2C:34-7) is amended to read
37 as follows:

38 3. a. Except as provided in a municipal zoning ordinance
39 adopted pursuant to N.J.S.2C:34-2, no person shall operate a
40 sexually oriented business within **[1,000]** 2,500 feet of any existing
41 sexually oriented business, or any church, synagogue, temple or
42 other place of public worship, or any elementary or secondary
43 school or any school bus stop, or any municipal or county
44 playground or place of public resort and recreation, or any hospital
45 or any child care center, or within **[1,000]** 2,500 feet of any area

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 zoned for residential use. This subsection shall not apply to a
2 sexually oriented business already lawfully operating on the
3 effective date of this act where another sexually oriented business,
4 an elementary or secondary school or school bus stop, or any
5 municipal or county playground or place of public resort and
6 recreation, or any hospital or any child care center, is subsequently
7 established within **【1,000】** 2,500 feet, or a residential district or
8 residential lot is subsequently established within **【1,000】** 2,500
9 feet.

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

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

22 d. A person who violates this section is guilty of a crime of the
23 fourth degree.

24 (cf: P.L.1999, c.41, s.1)

25

26 4. R.S.40:48-1 is amended to read as follows:

27 40:48-1. Ordinances; general purpose. The governing body of
28 every municipality may make, amend, repeal and enforce
29 ordinances to:

30 Finances and property. 1. Manage, regulate and control the
31 finances and property, real and personal, of the municipality;

32 Contracts and contractor's bonds. 2. Prescribe the form and
33 manner of execution and approval of all contracts to be executed by
34 the municipality and of all bonds to be given to it;

35 Officers and employees; duties, terms and salaries. 3. Prescribe
36 and define, except as otherwise provided by law, the duties and
37 terms of office or employment, of all officers and employees; and to
38 provide for the employment and compensation of such officials and
39 employees, in addition to those provided for by statute, as may be
40 deemed necessary for the efficient conduct of the affairs of the
41 municipality;

42 Fees. 4. Fix the fees of any officer or employee of the
43 municipality for any service rendered in connection with his office
44 or position, for which no specific fee or compensation is provided.
45 In the case of salaried officers or employees, such fee shall be paid
46 into the municipal treasury;

47 Salaries instead of fees; disposition of fees. 5. Provide that any
48 officer or employee receiving compensation for his services, in

1 whole or in part by fees, whether paid by the municipality or
2 otherwise, shall be paid a salary to be fixed in the ordinance, and
3 thereafter all fees received by such officer or employee shall be
4 paid into the municipal treasury;

5 Maintain order. 6. Prevent vice, drunkenness and immorality; to
6 regulate sexually oriented businesses, as defined in section 2 of
7 P.L.1995, c.167 (C.2C:12-2), in compliance with all constitutional
8 requirements; to preserve the public peace and order; to prevent and
9 quell riots, disturbances and disorderly assemblages; to prohibit the
10 consumption of alcoholic beverages by underage persons on private
11 property pursuant to section 1 of P.L.2000, c.33 (C.40:48-1.2);

12 Punish beggars; prevention of loitering. 7. Restrain and punish
13 drunkards, vagrants, mendicants and street beggars; to prevent
14 loitering, lounging or sleeping in the streets, parks or public places;

15 Auctions and noises. 8. Regulate the ringing of bells and the
16 crying of goods and other commodities for sale at auction or
17 otherwise, and to prevent disturbing noises;

18 Swimming; bathing costume; prohibition of public nudity. 9.
19 Regulate or prohibit swimming or bathing in the waters of, in, or
20 bounding the municipality, and to regulate or prohibit persons from
21 appearing upon the public streets, parks and places clad in bathing
22 costumes or robes, or costumes of a similar character; regulate or
23 prohibit persons from appearing in a state of nudity upon all lands
24 within its borders which are under the jurisdiction of the State
25 including, without limitation, all lands owned by, controlled by,
26 managed by or leased by the State;

27 Prohibit annoyance of persons or animals. 10. Regulate or
28 prohibit any practice tending to frighten animals, or to annoy or
29 injure persons in the public streets;

30 Animals; pounds; establishment and regulation. 11. Establish
31 and regulate one or more pounds, and to prohibit or regulate the
32 running at large of horses, cattle, dogs, swine, goats and other
33 animals, and to authorize their impounding and sale for the penalty
34 incurred, and the costs of impounding, keeping and sale; to regulate
35 or prohibit the keeping of cattle, goats or swine in any part of the
36 municipality; to authorize the destruction of dogs running at large
37 therein;

38 Hucksters. 12. Prescribe and regulate the place of vending or
39 exposing for sale articles of merchandise from vehicles;

40 Building regulations; wooden structures. 13. Regulate and
41 control the construction, erection, alteration and repair of buildings
42 and structures of every kind within the municipality; and to
43 prohibit, within certain limits, the construction, erection or
44 alteration of buildings or structures of wood or other combustible
45 material;

46 Inflammable materials; inspect docks and buildings. 14.
47 Regulate the use, storage, sale and disposal of inflammable or
48 combustible materials, and to provide for the protection of life and

1 property from fire, explosions and other dangers; to provide for
2 inspections of buildings, docks, wharves, warehouses and other
3 places, and of goods and materials contained therein, to secure the
4 proper enforcement of such ordinance;

5 Dangerous structures; removal or destruction; procedure. 15.
6 Provide for the removal or destruction of any building, wall or
7 structure which is or may become dangerous to life or health, or
8 might tend to extend a conflagration; and to assess the cost thereof
9 as a municipal lien against the premises;

10 Chimneys and boilers. 16. Regulate the construction and setting
11 up of chimneys, furnaces, stoves, boilers, ovens and other
12 contrivances in which fire is used;

13 Explosives. 17. Regulate, in conformity with the statutes of this
14 State, the manufacture, storage, sale, keeping or conveying of
15 gunpowder, nitroglycerine, dynamite and other explosives;

16 Firearms and fireworks. 18. Regulate and prohibit the sale and
17 use of guns, pistols, firearms, and fireworks of all descriptions;

18 Soft coal. 19. Regulate the use of soft coal in locomotives,
19 factories, power houses and other places;

20 Theaters, schools, churches and public places. 20. Regulate the
21 use of theaters, cinema houses, public halls, schools, churches, and
22 other places where numbers of people assemble, and the exits
23 therefrom, so that escape therefrom may be easily and safely made
24 in case of fire or panic; and to regulate any machinery, scenery,
25 lights, wires and other apparatus, equipment or appliances used in
26 all places of public amusement;

27 Excavations. 21. Regulate excavations below the established
28 grade or curb line of any street, not greater than eight feet, which
29 the owner of any land may make, in the erection of any building
30 upon his own property; and to provide for the giving of notice, in
31 writing, of such intended excavation to any adjoining owner or
32 owners, and that they will be required to protect and care for their
33 several foundation walls that may be endangered by such
34 excavation; and to provide that in case of the neglect or refusal, for
35 10 days, of such adjoining owner or owners to take proper action to
36 secure and protect the foundations of any adjacent building or other
37 structure, that the party or parties giving such notice, or their
38 agents, contractors or employees, may enter into and upon such
39 adjoining property and do all necessary work to make such
40 foundations secure, and may recover the cost of such work and
41 labor in so protecting such adjacent property; and to make such
42 further and other provisions in relation to the proper conduct and
43 performance of said work as the governing body or board of the
44 municipality may deem necessary and proper;

45 Sample medicines. 22. Regulate and prohibit the distribution,
46 depositing or leaving on the public streets or highways, public
47 places or private property, or at any private place or places within
48 any such municipality, any medicine, medicinal preparation or

1 preparations represented to cure ailments or diseases of the body or
2 mind, or any samples thereof, or any advertisements or circulars
3 relating thereto, but no ordinance shall prohibit a delivery of any
4 such article to any person above the age of 12 years willing to
5 receive the same;

6 Boating. 23. Regulate the use of motor and other boats upon
7 waters within or bounding the municipality;

8 Fire escapes. 24. Provide for the erection of fire escapes on
9 buildings in the municipality, and to provide rules and regulations
10 concerning the construction and maintenance of the same, and for
11 the prevention of any obstruction thereof or thereon;

12 Care of injured employees. 25. Provide for the payment of
13 compensation and for medical attendance to any officer or
14 employee of the municipality injured in the performance of his
15 duty;

16 Bulkheads and other structures. 26. Fix and determine the lines
17 of bulkheads or other works or structures to be erected, constructed
18 or maintained by the owners of lands facing upon any navigable
19 water in front of their lands, and in front of or along any highway or
20 public lands of said municipality, and to designate the materials to
21 be used, and the type, height and dimensions thereof;

22 Lifeguard. 27. Establish, maintain, regulate and control a
23 lifeguard upon any beach within or bordering on the municipality;

24 Appropriation for life-saving apparatus. 28. Appropriate moneys
25 to safeguard people from drowning within its borders, by location
26 of apparatus or conduct of educational work in harmony with the
27 plans of the United States volunteer life-saving corps in this State;

28 Fences. 29. Regulate the size, height and dimensions of any
29 fences between the lands of adjoining owners, whether built or
30 erected as division or partition fences between such lands, and
31 whether the same exist or be erected entirely or only partly upon the
32 lands of any such adjoining owners, or along or immediately
33 adjacent to any division or partition line of such lands. To provide,
34 in such ordinance, the manner of securing, fastening or shoring such
35 fences, and for surveying the land when required by statute, and to
36 prohibit in any such ordinance the use at a height of under 10 feet
37 from the ground, of any device, such as wire or cable, that would be
38 dangerous to pedestrians, equestrians, bicyclists, or drivers of off-
39 the-road vehicles, unless that device is clearly visible to pedestrians,
40 equestrians, bicyclists or drivers of off-the-road vehicles. In the
41 case of fences thereafter erected contrary to the provisions thereof,
42 the governing body may provide for a penalty for the violation of
43 such ordinance, and in the case of such fence or fences erected or
44 existing at the time of the passage of any such ordinance, may
45 provide therein for the removal, change or alteration thereof, so as
46 to make such fence or fences comply with the provisions of any
47 such ordinance;

1 Advertise municipality. 30. Appropriate funds for advertising
2 the advantages of the municipality;

3 Government Energy Aggregation Programs. 31. Establish
4 programs and procedures pursuant to which the municipality may
5 act as a government aggregator pursuant to sections 40 through 43
6 of P.L.1999,c.23 (C.48:3-89 through C.48:3-92), section 45 of
7 P.L.1999, c.23 (C.48:3-94), and sections 1, 2 and 6 of P.L.2003,
8 c.24 (C.48:3-93.1 through C.48:3-93.3). Notwithstanding the
9 provisions of any other law, rule or regulation to the contrary, a
10 municipality acting as a government aggregator pursuant to
11 P.L.1999, c.23 (C.48:3-49 et al.) shall not be deemed to be a public
12 utility pursuant to R.S.40:62-24 or R.S.48:1-1 et seq. or be deemed
13 to be operating any form of public utility service pursuant to
14 R.S.40:62-1 et seq., to the extent such municipality is solely
15 engaged in the provision of such aggregation service and not
16 otherwise owning or operating any plant or facility for the
17 production or distribution of gas, electricity, steam or other product
18 as provided in R.S.40:62-12;

19 Joint municipal action on consent for the provision of cable
20 television service. 32. Establish programs and procedures pursuant
21 to which a municipality may act together with one or more
22 municipalities in granting municipal consent for the provision of
23 cable television service pursuant to the provisions of the "Cable
24 Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) as amended
25 and supplemented. Notwithstanding the provisions of any other
26 law, rule or regulation to the contrary, two or more municipalities
27 acting jointly pursuant to the provisions of P.L.1972, c.186
28 (C.48:5A-1 et seq.) shall not be deemed a public utility pursuant to
29 R.S.48:1-1 et seq., to the extent those municipalities are solely
30 engaged in granting municipal consent jointly and are not otherwise
31 owning or operating any facility for the provision of cable
32 television service as provided in P.L.1972, c.186 (C.48:5A-1 et
33 seq.);

34 Private cable television service aggregation programs. 33.
35 Establish programs and procedures pursuant to which a
36 municipality may employ the services of a private aggregator for
37 the purpose of facilitating the joint action of two or more
38 municipalities in granting municipal consent for the provision of
39 cable television service provided that any such municipality shall
40 adhere to the provisions of the "Cable Television Act," P.L.1972,
41 c.186 (C.48:5A-1 et seq.) as amended and supplemented, and to the
42 provisions of the "Local Public Contracts Law," P.L.1971, c.198
43 (C.40A:11-1 et seq.) as amended and supplemented.
44 Notwithstanding the provisions of any other law, rule or regulation
45 to the contrary, a municipality that employs the services of a private
46 aggregator pursuant to the provisions of P.L.1972, c.186 (C.48:5A-
47 1 et seq.) shall not be deemed a public utility pursuant to R.S.48:1-
48 1 et seq., to the extent that the municipality is solely engaged in

1 employing the services of a private aggregator for the purpose of
2 facilitating the joint action of two or more municipalities in
3 granting municipal consent and is not otherwise owning or
4 operating any facility for the provision of cable television service as
5 provided in P.L.1972, c.186 (C.48:5A-1 et seq.);

6 Protective Custody. 34. Provide protective custody to persons
7 arrested for operating a motor vehicle under the influence of
8 alcoholic beverages, any chemical substance, or any controlled
9 dangerous substance in violation of R.S.39:4-50 as provided in
10 section 1 of P.L.2003, c.164 (C.40:48-1.3);

11 Private Outdoor Video Surveillance Camera Registry. 35.
12 Establish a private outdoor video surveillance camera registry and
13 allow voluntary registration of private outdoor video surveillance
14 cameras as provided in P.L.2015, c.142 (C.40:48-1.6 et al.).
15 (cf: P.L.2015, c.142, s.3)

16
17 5. R.S.40:52-1 is amended to read as follows:

18 40:52-1. The governing body may make, amend, repeal and
19 enforce ordinances to license and regulate:

20 a. All vehicles used for the transportation of passengers,
21 baggage, merchandise, and goods and chattels of every kind, and
22 the owners and drivers of all such vehicles; and the places and
23 premises in which or at which the different kinds of business or
24 occupations mentioned herein are carried on and conducted.
25 Nothing herein contained shall be construed as modifying or
26 repealing any of the provisions of chapter 4 of Title 48 of the
27 Revised Statutes (R.S.48:4-1 et seq.);

28 b. Autobuses, and the owners and drivers of all such vehicles,
29 and to fix the fees for such licenses, which may be imposed for
30 revenue, and to prohibit the operation of all such vehicles in the
31 public streets or places of such municipality, unless such ordinances
32 are complied with, whether such vehicles are operated over routes
33 wholly or partly within the territorial limits of such municipality;
34 the powers conferred by this section shall not be in substitution of
35 but in addition to whatever other right, power and authority any
36 such municipality may at any time have as to licensing, regulating,
37 or control of the operation of such autobuses, commonly called
38 jitneys, and this section shall not be construed as modifying or
39 repealing any of the provisions of chapter 4 (R.S.48:4-1 et seq.) or
40 article 3 of chapter 16 (R.S.48:16-23 et seq.) of Title 48 of the
41 Revised Statutes;

42 c. Cartmen, expressmen, baggagemen, porters, common criers,
43 hawkers, peddlers, employment agencies, pawnbrokers, junk shop-
44 keepers, junk dealers, motor vehicle junk dealers, street sprinklers,
45 bill posters, bill tackers, sweeps, scavengers, itinerant vendors of
46 merchandise, medicines and remedies; and the places and premises
47 in which or at which the different kinds of business or occupations
48 mentioned herein are conducted and carried on; provided, however,

1 no ordinance regulating solicitation for services shall be applicable
2 to solicitations, whether written or oral, for snow shoveling services
3 made within 24 hours of a snowstorm that has been predicted by a
4 commonly recognized commercial or governmental weather
5 reporting entity;

6 d. Hotels, boardinghouses, lodging and rooming houses, trailer
7 camps and camp sites, motels, furnished and unfurnished rented
8 housing or living units and all other places and buildings used for
9 sleeping and lodging purposes, and the occupancy thereof,
10 restaurants and all other eating places, and the keepers thereof;

11 e. Automobile garages, dealers in second-hand motor vehicles
12 and parts thereof, bathhouses, swimming pools, and the keepers
13 thereof;

14 f. Theatres, cinema and show houses, opera houses, concert
15 halls, dance halls, pool or billiard parlors, bowling alleys, exhibition
16 grounds, and all other places of public amusement, circuses and
17 traveling or other shows, plays, dances, exhibitions, concerts,
18 theatrical performances, and all street parades in connection
19 therewith, and sexually oriented businesses as defined in section 2
20 of P.L.1995, c.167 (C.2C:33-12.2), including employees and
21 independent contractors performing therein;

22 g. Lumber and coal yards, stores for the sale of meats,
23 groceries and provisions, dry goods and merchandise, and goods
24 and chattels of every kind, and all other kinds of business conducted
25 in the municipality other than herein mentioned, and the places and
26 premises in or at which the business is conducted and carried on;
27 street stands for the sale or distribution of newspapers, magazines,
28 periodicals, books, and goods and merchandise or other articles;

29 h. Street signs and other objects projecting beyond the building
30 line, into or over any public street or highway;

31 i. Auctioneers and their business, whether the auctioneers be
32 real estate brokers engaged in selling at auction or real estate
33 auctioneers licensed by the New Jersey Real Estate Commission;
34 fix their fees, and license and regulate public auctions; make such
35 regulations as the governing body of the municipality shall deem
36 necessary, to protect the public against fraud at public auction sales,
37 and for the safety and protection of the property of the municipality
38 and its inhabitants, including the power to require from auctioneers
39 a bond to the municipality, not exceeding the penal sum of
40 \$5,000.00, conditioned as the governing body shall require;

41 j. Sales of goods, wares and merchandise to be advertised, held
42 out or represented, or which are advertised, held out or represented,
43 to the public, by any means, directly or by implication, as forced
44 sales at reduced prices or as insurance, bankruptcy, mortgage
45 foreclosure, insolvency, removal, loss or expiration of lease or
46 closing out sales, or as assignees', receivers' or trustees' sales or as
47 sales of goods distrained or as sales of goods damaged by fire,
48 smoke or water, except any sale which is to be held under a judicial

1 order, judgment or decree or a writ issuing out of any court or to
2 enforce any lawful lien or power of sale whether by judicial process
3 or not or by a licensed auctioneer; to make such regulations
4 governing the advertisement, holding out or representing to the
5 public of such sales, and the conduct thereof, as the governing body
6 of the municipality shall deem necessary to protect the public
7 against fraud; to prohibit the advertising, holding out or
8 representing to the public of any sale as being of the character
9 above described which is not of such character and to fix license
10 fees for the conduct of such sales and to impose penalties for the
11 violation of any such ordinance;

12 k. (Deleted by amendment, P.L.1997, c.320.)

13 l. (Deleted by amendment, P.L.1984, c.205.)

14 m. The rental of real property for commercial purposes wherein
15 the lease is for a term less than 175 consecutive days. No ordinance
16 adopted pursuant to this subsection shall apply to any lease or
17 occupancy which results from a tenant holding over at the
18 expiration or early termination of a lease with an original term in
19 excess of 175 consecutive days, regardless of whether the holdover
20 is month-to-month or for some other term of less than 175
21 consecutive days; and

22 n. The rental of real property for a term less than 175
23 consecutive days for residential purposes by a person having a
24 permanent place of residence elsewhere.

25 Nothing in this chapter contained shall be construed to authorize
26 or empower the governing body of any municipality to license or
27 regulate any person holding a license or certificate issued by any
28 department, board, commission, or other agency of the State;
29 provided, however, that the governing body of a municipality may
30 make, amend, repeal and enforce ordinances to license and regulate
31 real estate auctioneers or real estate brokers engaged in selling at
32 auction and their business as provided in this section despite the
33 fact that such real estate auctioneers or brokers may be licensed by
34 the New Jersey Real Estate Commission and notwithstanding the
35 provisions of this act or any other act.

36 (cf: P.L.2015, c.240, s.1)

37

38 6. (New section) The governing body of a municipality may,
39 by ordinance pursuant to the provisions of R.S.40:48-1, regulate the
40 time, place and manner of operation of a sexually oriented business.
41 The governing body of a municipality may also require the
42 licensure of a sexually oriented business and its employees and
43 independent contractors pursuant to the provisions of R.S.40:52-1.

44 For the purposes of this section, "time, place and manner of
45 operation" shall mean the hours of operation of a sexually oriented
46 business, the interior configuration of the business, including the
47 distance between certain performers and patrons, and the degree of
48 allowable nudity to be demonstrated by the performers employed by

1 the business. For the purposes of this section, “performer” means
2 an employee or an independent contractor.

3

4 7. (New section) A sexually oriented business, as defined in
5 section 2 of P.L.1995, c.167 (C.2C:33-12.2), shall close no later
6 than 11:00 P.M. and shall maintain a distance of not less than six
7 feet between its performers and patrons at all times, unless the
8 governing body of the municipality in which a sexually oriented
9 business is located, by ordinance, sets a later closing time and a
10 shorter distance between the performers and patrons.

11

12 8. This act shall take effect immediately.

13

14

15

STATEMENT

16

17 This bill would amend current law to prohibit the operation of a
18 sexually oriented business within 2,500 feet, increased from the
19 current 1,000 feet, of any existing sexually oriented business, any
20 church, synagogue, temple or other place of public worship, any
21 elementary or secondary school or any school bus stop, any
22 municipal or county playground or place of public resort and
23 recreation, or any hospital or any child care center, or within 2,500
24 feet of any area zoned for residential use.

25 This bill would also authorize the governing body of a
26 municipality, by ordinance, to regulate the time, place and manner
27 of operation of a sexually oriented business, and to require the
28 licensure of a sexually oriented business and its employees,
29 including independent contractors.

30 Under the bill, “time, place and manner of operation” shall mean
31 the hours of operation of a sexually oriented business, the interior
32 configuration of the business, including the distance between
33 certain employees and patrons, and the degree of allowable nudity
34 to be demonstrated by the performers employed by the business.

35 The bill also requires that a sexually oriented business shall close
36 no later than 11:00 P.M. and shall maintain a distance of not less
37 than six feet between its performers and patrons at all times, unless
38 the governing body of the municipality in which a sexually oriented
39 business is located, by ordinance, sets a later closing time and a
40 shorter distance between the performers and patrons.