

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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SENATE DRS85143-LK-116 (3/26)

Short Title: ABC-Sexually Explicit Conduct Banned. (Public)

Sponsors: Senator Garrou.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO BAN SEXUALLY EXPLICIT CONDUCT ON PREMISES LICENSED  
BY THE ALCOHOLIC BEVERAGE CONTROL COMMISSION.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 18B-1005(a) reads as rewritten:

"(a) Certain Conduct. – It shall be unlawful for a permittee or his agent or employee to knowingly allow any of the following kinds of conduct to occur on his licensed premises:

- (1) Any violation of this Chapter;
- (2) Any fighting or other disorderly conduct that can be prevented without undue danger to the permittee, his employees or patrons; or
- (3) Any violation of the controlled substances, gambling, or prostitution statutes, or any other unlawful acts.
- (4) ~~Any conduct or entertainment by any person whose private parts are exposed or who is wearing transparent clothing that reveals the private parts;~~
- (5) ~~Any entertainment that includes or simulates sexual intercourse or any other sexual act; or~~
- (6) ~~Any other lewd or obscene entertainment or conduct, as defined by the rules of the Commission."~~

**SECTION 2.** Chapter 18B of the General Statutes is amended by adding a new section to read:

**"§ 18B-1005.1. Sexually explicit conduct on licensed premises.**

(a) The General Assembly finds and determines that sexually explicit conduct on premises that are licensed to sell alcohol can and does cause adverse secondary effects. Studies that are relevant to North Carolina have found the sale and consumption of alcohol in conjunction with sexually explicit conduct can and do cause adverse

1 secondary effects. Regulation of sexually explicit conduct on premises that are licensed  
2 to sell alcohol, in order to prevent or ameliorate adverse secondary impacts, is  
3 consistent with the federal constitutional protection afforded to nonobscene but sexually  
4 explicit speech.

5 (b) Certain Conduct. – It shall be unlawful for a permittee or his agent or  
6 employee to knowingly allow or engage in any of the following kinds of conduct on his  
7 licensed premises:

8 (1) Any conduct or entertainment by any person whose private parts are  
9 exposed or who is wearing transparent clothing that reveals the private  
10 parts;

11 (2) Any conduct or entertainment that includes or simulates sexual  
12 intercourse, masturbation, sodomy, bestiality, oral copulation,  
13 flagellation, or any other sexual act;

14 (3) Any conduct or entertainment that includes the fondling of the breasts,  
15 buttocks, anus, vulva, or genitals; or

16 (4) Any other lewd or obscene entertainment or conduct, as defined by the  
17 rules of the Commission.

18 (c) Supervision. – It shall be unlawful for a permittee to fail to superintend in  
19 person or through a manager the business for which a permit is issued.

20 (d) Exception. – Persons engaged in expressing a matter of serious literary,  
21 artistic, scientific, or political value shall be excepted from this statute's reach."

22 **SECTION 3.** This act becomes effective December 1, 2003, and applies to  
23 offenses committed on or after that date. Prosecutions for offenses committed before  
24 the effective date of this act are not abated or affected by this act, and the statutes that  
25 would be applicable but for this act remain applicable to those prosecutions.