



Ohio Revised Code

Section 2907.39 Permitting juvenile on premises of adult entertainment establishment - use of false information to gain entry.

Effective: August 17, 2006

Legislation: House Bill 23 - 126th General Assembly

(A) As used in this section:

(1) "Adult arcade" means any place to which the public is permitted or invited in which coin-operated, slug-operated, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and in which the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing specified sexual activities or specified anatomical areas.

(2)(a) "Adult bookstore," "adult novelty store," or "adult video store" means a commercial establishment that, for any form of consideration, has as a significant or substantial portion of its stock-in-trade in, derives a significant or substantial portion of its revenues from, devotes a significant or substantial portion of its interior business or advertising to, or maintains a substantial section of its sales or display space for the sale or rental of any of the following:

(i) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations, that are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas;

(ii) Instruments, devices, or paraphernalia that are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of self or others.

(b) "Adult bookstore," "adult novelty store," or "adult video store" includes a commercial establishment as defined in section 2907.38 of the Revised Code. An establishment may have other principal business purposes that do not involve the offering for sale, rental, or viewing of materials exhibiting or describing specified sexual activities or specified anatomical areas and still be



categorized as an adult bookstore, adult novelty store, or adult video store. The existence of other principal business purposes does not exempt an establishment from being categorized as an adult bookstore, adult novelty store, or adult video store so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, such materials that exhibit or describe specified sexual activities or specified anatomical areas.

(3) "Adult cabaret" means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, that regularly features any of the following:

(a) Persons who appear in a state of nudity or seminudity;

(b) Live performances that are characterized by the exposure of specified anatomical areas or specified sexual activities;

(c) Films, motion pictures, video cassettes, slides, or other photographic reproductions that are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.

(4) "Adult entertainment" means the sale, rental, or exhibition, for any form of consideration, of books, films, video cassettes, magazines, periodicals, or live performances that are characterized by an emphasis on the exposure or display of specified anatomical areas or specified sexual activity.

(5) "Adult entertainment establishment" means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, nude or seminude model studio, or sexual encounter establishment. An establishment in which a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized therapy, including, but not limited to, massage therapy, as regulated pursuant to section 4731.15 of the Revised Code, is not an "adult entertainment establishment."

(6) "Adult motion picture theater" means a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions that are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified



anatomical areas are regularly shown for any form of consideration.

(7) "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment that, for any form of consideration, regularly features persons who appear in a state of nudity or seminudity or live performances that are characterized by their emphasis upon the exposure of specified anatomical areas or specified sexual activities.

(8) "Distinguished or characterized by their emphasis upon" means the dominant or principal character and theme of the object described by this phrase. For instance, when the phrase refers to films "that are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas," the films so described are those whose dominant or principal character and theme are the exhibition or description of specified sexual activities or specified anatomical areas.

(9)(a) "Nude or seminude model studio" means any place where a person, who regularly appears in a state of nudity or seminudity, is provided for money or any other form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

(b) A modeling class or studio is not a nude or seminude model studio and is not subject to this chapter if it is operated in any of the following ways:

(i) By a college or university supported entirely or partly by taxation;

(ii) By a private college or university that maintains and operates educational programs, the credits for which are transferable to a college or university supported entirely or partly by taxation;

(iii) In a structure that has no sign visible from the exterior of the structure and no other advertising indicating that a person appearing in a state of nudity or seminudity is available for viewing, if in order to participate in a class in the structure, a student must enroll at least three days in advance of the class and if not more than one nude or seminude model is on the premises at any one time.

(10) "Nudity," "nude," or "state of nudity" means the showing of the human male or female genitals,



pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering; or the showing of the female breasts with less than a fully opaque covering of any part of the nipple.

(11) "Regularly features" or "regularly shown" means a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the adult entertainment establishment.

(12) "Seminude" or "state of seminudity" means a state of dress in which opaque clothing covers not more than the genitals, pubic region, and nipple of the female breast, as well as portions of the body covered by supporting straps or devices.

(13)(a) "Sexual encounter establishment" means a business or commercial establishment that, as one of its principal business purposes, offers for any form of consideration a place where either of the following occur:

(i) Two or more persons may congregate, associate, or consort for the purpose of engaging in specified sexual activities.

(ii) Two or more persons appear nude or seminude for the purpose of displaying their nude or seminude bodies for their receipt of consideration or compensation in any type or form.

(b) An establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized therapy, including, but not limited to, massage therapy, as regulated pursuant to section 4731.15 of the Revised Code, is not a "sexual encounter establishment."

(14) "Specified anatomical areas" means the cleft of the buttocks, anus, male or female genitals, or the female breast.

(15) "Specified sexual activity" means any of the following:

(a) Sex acts, normal or perverted, or actual or simulated, including intercourse, oral copulation, masturbation, or sodomy;



(b) Excretory functions as a part of or in connection with any of the activities described in division (A)(15)(a) of this section.

(B) No person knowingly shall allow an individual, including, but not limited to, a patron, customer, or employee, who is under eighteen years of age on the premises of an adult entertainment establishment.

(C) No individual who is under eighteen years of age knowingly shall show or give false information concerning the individual's name or age, or other false identification, for the purpose of gaining entrance to an adult entertainment establishment.

(D) A person shall not be found guilty of a violation of division (B) of this section if the person raises as an affirmative defense and if the jury or, in a nonjury trial, the court finds the person has established by a preponderance of the evidence, all of the following:

(1) The individual gaining entrance to the adult entertainment establishment exhibited to an operator, employee, agent, or independent contractor of the adult entertainment establishment a driver's or commercial driver's license or an identification card issued under sections 4507.50 and 4507.52 of the Revised Code showing that the individual was then at least eighteen years of age.

(2) The operator, employee, agent, or independent contractor made a bona fide effort to ascertain the true age of the individual gaining entrance to the adult entertainment establishment by checking the identification presented, at the time of entrance, to ascertain that the description on the identification compared with the appearance of the individual and that the identification had not been altered in any way.

(3) The operator, employee, agent, or independent contractor had reason to believe that the individual gaining entrance to the adult entertainment establishment was at least eighteen years of age.

(E) In any criminal action in which the affirmative defense described in division (D) of this section is raised, the registrar of motor vehicles or the deputy registrar who issued a driver's or commercial



driver's license or an identification card under sections 4507.50 and 4507.52 of the Revised Code shall be permitted to submit certified copies of the records, in the registrar's or deputy registrar's possession, of the issuance of the license or identification card in question, in lieu of the testimony of the personnel of the bureau of motor vehicles in the action.

(F)(1) Whoever violates division (B) of this section is guilty of permitting a juvenile on the premises of an adult entertainment establishment, a misdemeanor of the first degree. Each day a person violates this division constitutes a separate offense.

(2) Whoever violates division (C) of this section is guilty of use by a juvenile of false information to enter an adult entertainment establishment, a delinquent act that would be a misdemeanor of the fourth degree if committed by an adult.