



## Ohio Revised Code

### Section 503.52 Adult entertainment establishment regulations.

Effective: September 4, 2007

Legislation: Senate Bill 16 - 127th General Assembly

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(A) Townships have authority to exercise all powers of local self-government regarding the operation of adult entertainment establishments within their limits and to adopt and enforce within their limits any local police, sanitary, and similar regulations regarding the operation of adult entertainment establishments that are not in conflict with general laws. The regulations may include, but are not limited to, antinudity restrictions, limitations on hours of operation, interior configuration requirements, and requirements that adult entertainment establishments and their employees obtain licenses or permits to operate as or to be employed by an adult entertainment establishment. The authority granted under this division shall be exercised by the adoption of resolutions and may include the adoption of resolutions that create one or more criminal offenses and impose criminal penalties related to the operation of adult entertainment establishments or may provide for civil sanction for violations of regulations established under the resolutions. Townships have the same rights, powers, and duties pursuant to the authority granted under this division as municipal corporations have under Section 3, Article XVIII, Ohio Constitution relative to their authority to exercise powers of local self-government and to adopt and enforce within their limits local police, sanitary, and similar regulations, except to the extent that the rights, powers, and duties that the municipal corporations have by their nature clearly are inapplicable to townships and to the exercise by townships of their authority granted under this division. No regulation adopted under authority of this division shall be in conflict with any provision in Chapter 4303. of the Revised Code, or with any rule adopted by the division of liquor control pursuant to that chapter, that regulates establishments that hold a liquor permit.

(B)(1) The authority of a township granted under division (A) of this section applies to all townships. If a township has adopted a limited home rule government pursuant to Chapter 504. of the Revised Code, the authority granted under division (A) of this section is in addition to the powers and authority granted to the township under Chapter 504. of the Revised Code.

(2) Upon the request of any township, the attorney general shall provide legal guidance and assistance to the township in developing, formulating, and drafting a resolution regarding the



operation of adult entertainment establishments of a type described in division (A) of this section. The attorney general shall provide this service without charge to the township for which the service is performed.

(C) In case of conflict between any resolution enacted by a board of township trustees under the authority granted under division (A) of this section and a municipal ordinance or resolution, the ordinance or resolution enacted by the municipal corporation prevails. In case of conflict between any resolution enacted by a board of township trustees under the authority granted under division (A) of this section and a county resolution, the resolution enacted by the board of township trustees prevails.

(D) All proceeds from criminal and civil sanctions for violation of a regulation established by a township under a resolution adopted under division (A) of this section that are paid to the township shall be applied initially to the payment of costs incurred in the prosecution and enforcement of the resolution, including, but not limited to, court costs, reasonable attorney's fees, and other litigation expenses incurred by the county or township.

(E)(1)(a) When it appears that a resolution adopted under division (A) of this section or section 503.53 of the Revised Code is being or is about to be violated, the township in which the violation is taking place may request the prosecuting attorney of the county in which the township is located to prosecute and defend on behalf of the township a civil action to enjoin the violation. If the township does not request the prosecuting attorney to prosecute and defend an action to enjoin the violation, the legal counsel of that township, if other than the prosecuting attorney, may prosecute and defend a civil action to enjoin the violation.

(b) A township may request the prosecuting attorney of the county in which the township is located to prosecute and defend on behalf of the township a civil action under Chapter 3767. of the Revised Code to abate as a nuisance any place in the unincorporated area of the township at which a resolution adopted under division (A) of this section or section 503.53 of the Revised Code is being or has been violated. If the township does not request the prosecuting attorney to prosecute and defend an action under that chapter, the legal counsel of the township, if other than the prosecuting attorney, may prosecute and defend an action under that chapter for that purpose. All proceeds from the sale of personal property or contents seized pursuant to the action shall be applied initially to the



payment of costs incurred in the prosecution of the action and the costs associated with the abatement and sale ordered under division (A) of section 3767.06 of the Revised Code, including, but not limited to, court costs, reasonable attorney's fees, and other litigation expenses incurred by the county or township. Any proceeds remaining after that initial application shall be deposited into the township treasury and credited to the general fund.

(c) If a township has adopted one or more resolutions regarding the operation of adult entertainment establishments pursuant to the authority that is granted under division (A) of this section or if a township resolution of that nature has been adopted under section 503.53 of the Revised Code and the validity of the resolution is challenged, the township may request the prosecuting attorney of the county in which the township is located to prosecute and defend on behalf of the township in the trial and argument in any court or tribunal of the challenge to the validity of the resolution.

(2) Division (E)(1) of this section applies regarding all townships, including townships that have adopted a limited home rule government pursuant to Chapter 504. of the Revised Code and regardless of whether a township that has so adopted a limited home rule government has entered into a contract with the prosecuting attorney as described in division (B) of section 504.15 of the Revised Code or has appointed a law director as described in division (A) of that section.

Upon the request of any township in the county served by the prosecuting attorney made pursuant to division (E)(1)(a), (b), or (c) of this section, the prosecuting attorney shall prosecute and defend in the action or proceeding as requested, as specified in division (B)(2) of section 309.09 of the Revised Code, without charge to the township for which the service is performed.

If a prosecuting attorney is prosecuting and defending a challenge to the validity of a resolution of a township pursuant to a request made pursuant to division (E)(1)(c) of this section and if the challenge is before a federal court, the prosecuting attorney may request the attorney general to assist the prosecuting attorney in prosecuting and defending the challenge, and, upon the prosecuting attorney's making of such a request, the attorney general shall assist the prosecuting attorney in performing that service if the resolution was drafted in accordance with legal guidance provided by the attorney general as described in division (B)(2) of this section. The attorney general shall provide this assistance without charge to the township for which the service is performed. If a township adopts a resolution without the legal guidance of the attorney general, the attorney general



is not being required to provide assistance as described in this division to a prosecuting attorney.

(F) Except as otherwise provided in this division, the state shall indemnify a township and its trustees from liability incurred in the enforcement of a resolution that is authorized by this section, that was drafted in accordance with legal guidance provided by the attorney general as described in division (B)(2) of this section, and that a court finds to be unconstitutional or otherwise legally defective by paying any judgment in, or amount negotiated in settlement of, any civil action arising from the enforcement of the resolution. The state shall not indemnify a township or its trustees until all appeals have been exhausted or the action has otherwise been finally resolved.

The state shall not indemnify a township or its trustees for any of the following or to the extent that any of the following apply:

- (1) Any part of the judgment or settlement that represents damages that are covered by a policy of insurance for civil liability;
- (2) Any part of the judgment or settlement that is based upon an officer or employee of the township acting manifestly outside the scope of the officer's or employee's employment or official responsibilities, with malicious purpose, in bad faith, or in a wanton or reckless manner;
- (3) Any part of the judgment that is for punitive damages;
- (4) Any part of a consent judgment or settlement that the attorney general determines is unreasonable.