

SUBSTITUTE FOR
SENATE BILL NO. 302

A bill to amend 1998 PA 58, entitled
"Michigan liquor control code of 1998,"
(MCL 436.1101 to 436.2303) by adding section 916a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 916A. (1) THE PURPOSE OF THIS SECTION IS TO REGULATE**
2 **ALCOHOLIC BEVERAGE TRAFFIC WITHIN ADULT-ORIENTED BUSINESSES THAT**
3 **ARE LICENSED TO SELL ALCOHOLIC LIQUOR FOR CONSUMPTION ON THE**
4 **PREMISES TO PROMOTE THE HEALTH, SAFETY, AND GENERAL WELFARE OF THE**
5 **CITIZENS OF THIS STATE AND TO ESTABLISH REASONABLE AND UNIFORM**
6 **REGULATIONS TO PREVENT THE DELETERIOUS SECONDARY EFFECTS OF ADULT-**
7 **ORIENTED BUSINESSES WITHIN THIS STATE. THIS SECTION IS NOT INTENDED**
8 **TO, NOR SHALL IT BE INTERPRETED TO, IMPOSE A LIMITATION OR**
9 **RESTRICTION ON THE CONTENT OF, OR REASONABLE ACCESS TO, ANY**

1 COMMUNICATIVE MATERIALS INCLUDING ADULT-ORIENTED MATERIALS, TO
2 RESTRICT OR DENY ACCESS BY ADULTS TO ADULT-ORIENTED MATERIALS
3 PROTECTED BY AMENDMENT I OF THE CONSTITUTION OF THE UNITED STATES,
4 TO DENY ACCESS BY THE DISTRIBUTORS AND EXHIBITORS OF ADULT-ORIENTED
5 ENTERTAINMENT TO THEIR INTENDED MARKET, OR TO CONDONE OR LEGITIMIZE
6 THE DISTRIBUTION OF OBSCENE MATERIAL.

7 (2) THE LEGISLATURE FINDS ALL OF THE FOLLOWING:

8 (A) ADULT-ORIENTED BUSINESSES, AS A CATEGORY OF COMMERCIAL
9 ENTERPRISES, ARE ASSOCIATED WITH A WIDE VARIETY OF ADVERSE
10 SECONDARY EFFECTS, INCLUDING, BUT NOT LIMITED TO, PERSONAL AND
11 PROPERTY CRIMES, PROSTITUTION, POTENTIAL SPREAD OF DISEASE,
12 LEWDNESS, PUBLIC INDECENCY, OBSCENITY, ILLICIT DRUG USE AND DRUG
13 TRAFFICKING, NEGATIVE IMPACTS ON SURROUNDING PROPERTIES, URBAN
14 BLIGHT, LITTER, AND SEXUAL ASSAULT AND EXPLOITATION.

15 (B) EACH OF THE NEGATIVE SECONDARY EFFECTS DESCRIBED IN
16 SUBDIVISION (A) CONSTITUTES A HARM THAT THIS STATE HAS A
17 SUBSTANTIAL INTEREST IN PREVENTING, ABATING, OR BOTH. THE
18 SUBSTANTIAL GOVERNMENT INTEREST IN PREVENTING ADVERSE SECONDARY
19 EFFECTS, WHICH IS THIS STATE'S RATIONALE FOR THIS SECTION, EXISTS
20 INDEPENDENTLY OF ANY COMPARATIVE ANALYSIS BETWEEN ADULT-ORIENTED
21 AND NON-ADULT-ORIENTED BUSINESSES. ADDITIONALLY, THIS STATE'S
22 INTEREST IN REGULATING ADULT-ORIENTED BUSINESSES EXTENDS TO
23 PREVENTING FUTURE SECONDARY EFFECTS OF CURRENT OR FUTURE ADULT-
24 ORIENTED BUSINESSES THAT MAY LOCATE IN THIS STATE. THE UNITED
25 STATES SUPREME COURT HAS RECOGNIZED THAT PRECLUDING NUDITY IN
26 CERTAIN ESTABLISHMENTS THAT SERVE ALCOHOLIC BEVERAGES CAN REDUCE
27 ADVERSE SECONDARY EFFECTS, SEE NEW YORK STATE LIQUOR AUTHORITY v

1 BELLANCA, 452 US 714 (1981), CALIFORNIA v LARUE, 409 US 109 (1972),
2 AND 44 LIQUORMART v RHODE ISLAND, 517 US 484 (1996), AND THE
3 LEGISLATURE ADOPTS SUCH FINDINGS.

4 (3) AN ON-PREMISES LICENSEE SHALL NOT ALLOW IN OR ON THE
5 LICENSED PREMISES AN INDIVIDUAL WHO EXPOSES TO PUBLIC VIEW THE
6 PUBIC REGION, ANUS, OR GENITALS OR WHO DISPLAYS OTHER TYPES OF
7 NUDITY PROHIBITED BY LAW OR LOCAL ORDINANCE. AN ON-PREMISES
8 LICENSEE SHALL NOT ALLOW IN OR ON THE LICENSED PREMISES THE SHOWING
9 OF FILMS, TELEVISION, SLIDES, OR OTHER ELECTRONIC REPRODUCTIONS
10 THAT DEPICT SCENES WHEREIN ANY INDIVIDUAL EXPOSES TO PUBLIC VIEW
11 THE PUBIC REGION, ANUS, OR GENITALS OR DISPLAYS OTHER TYPES OF
12 NUDITY PROHIBITED BY LAW OR LOCAL ORDINANCE. THIS PROHIBITION DOES
13 NOT APPLY TO A PUBLICLY BROADCAST TELEVISION TRANSMISSION FROM A
14 FEDERALLY LICENSED STATION.

15 (4) THIS SECTION DOES NOT APPLY TO AN EXHIBITION OR
16 PERFORMANCE IN A THEATER, CONCERT HALL, ART CENTER, MUSEUM, OR
17 SIMILAR ESTABLISHMENT THAT IS PRIMARILY DEVOTED TO THE ARTS OR
18 THEATRICAL PERFORMANCES.

19 Enacting section 1. This amendatory act takes effect 90 days
20 after the date it is enacted into law.