

SENATE BILL No. 404

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-31.5-2; IC 35-45-4-6.

Synopsis: Minors and sexually oriented businesses. Defines terms concerning sexually oriented businesses. Provides that a person less than 21 years of age may not be on the premises of a sexually oriented business.

Effective: July 1, 2013.

Banks, Kruse

January 10, 2013, read first time and referred to Committee on Public Policy.

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First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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SENATE BILL No. 404



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-31.5-2-8.1 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2013]: **Sec. 8.1. "Adult arcade" means any**
4 **place to which the public is permitted or invited in which coin**
5 **operated or slug operated or electronically, electrically, or**
6 **mechanically controlled still or motion picture machines,**
7 **projectors, or other image-producing devices are regularly**
8 **maintained to show images to five (5) or fewer persons per**
9 **machine at any one (1) time, and where the images are**
10 **characterized by their emphasis upon matter exhibiting specified**
11 **sexual activities or specified anatomical areas.**

12 SECTION 2. IC 35-31.5-2-8.4 IS ADDED TO THE INDIANA
13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
14 [EFFECTIVE JULY 1, 2013]: **Sec. 8.4. "Adult books or videos"**
15 **means:**

- 16 (1) **books, magazines, periodicals, or other printed matter; or**
- 17 (2) **photographs, films, motion pictures, video cassettes,**



1 compact discs, digital video discs, slides, or other visual
2 representations;
3 that are characterized by their emphasis upon the display of
4 specified sexual activities or specified anatomical areas.

5 SECTION 3. IC 35-31.5-2-8.5 IS ADDED TO THE INDIANA
6 CODE AS A NEW SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2013]: Sec. 8.5. "Adult bookstore" or "adult
8 video store" means a commercial establishment in which adult
9 books or videos form at least thirty percent (30%) of:

- 10 (1) the establishment's displayed merchandise;
- 11 (2) the wholesale value of the establishment's displayed
12 merchandise;
- 13 (3) the retail value of the establishment's displayed
14 merchandise;
- 15 (4) the establishment's total revenue; or
- 16 (5) the establishment's interior business space.

17 The term includes a commercial establishment that operates or
18 maintains an adult arcade.

19 SECTION 4. IC 35-31.5-2-8.6 IS ADDED TO THE INDIANA
20 CODE AS A NEW SECTION TO READ AS FOLLOWS
21 [EFFECTIVE JULY 1, 2013]: Sec. 8.6. "Adult cabaret" means a
22 night club, bar, juice bar, restaurant, bottle club, or other
23 commercial establishment, regardless of whether alcoholic
24 beverages are served, that regularly features persons who appear
25 semi-nude.

26 SECTION 5. IC 35-31.5-2-8.7 IS ADDED TO THE INDIANA
27 CODE AS A NEW SECTION TO READ AS FOLLOWS
28 [EFFECTIVE JULY 1, 2013]: Sec. 8.7. "Adult motion picture
29 theater" means a commercial establishment where films, motion
30 pictures, video cassettes, DVDs, slides, digital images, or similar
31 photographic reproductions, that are characterized by their
32 emphasis upon the display of specified sexual activities or specified
33 anatomical areas, are regularly shown to more than five (5)
34 persons.

35 SECTION 6. IC 35-31.5-2-36.8 IS ADDED TO THE INDIANA
36 CODE AS A NEW SECTION TO READ AS FOLLOWS
37 [EFFECTIVE JULY 1, 2013]: Sec. 36.8. "Characterized by" means
38 describing the essential character or dominant theme of an item.

39 SECTION 7. IC 35-31.5-2-273.2 IS ADDED TO THE INDIANA
40 CODE AS A NEW SECTION TO READ AS FOLLOWS
41 [EFFECTIVE JULY 1, 2013]: Sec. 273.2. "Regularly" means the
42 consistent and repeated engaging in or performance of an act on an

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1 ongoing basis.

2 SECTION 8. IC 35-31.5-2-291.3 IS ADDED TO THE INDIANA
3 CODE AS A NEW SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2013]: **Sec. 291.3. "Semi-nude" or "state of**
5 **semi-nudity" means the showing of the female breast below a**
6 **horizontal line across the top of the areola and extending across the**
7 **width of the breast at this point, or the showing of the male or**
8 **female buttocks. The term includes showing the lower part of the**
9 **human female breast, but does not include any part of the cleavage**
10 **of the female breasts exhibited by a bikini, dress, blouse, shirt,**
11 **leotard, or similar wearing apparel, if the areola is not exposed in**
12 **whole or in part.**

13 SECTION 9. IC 35-31.5-2-291.4 IS ADDED TO THE INDIANA
14 CODE AS A NEW SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2013]: **Sec. 291.4. "Semi-nude model studio"**
16 **means a place where persons regularly appear in a state of**
17 **semi-nudity for money or any form of consideration in order to be**
18 **observed, sketched, drawn, painted, sculptured, photographed, or**
19 **similarly depicted by other persons. The term does not apply to any**
20 **place where persons appearing in a state of semi-nudity do so in a**
21 **modeling class that is operated:**

22 (1) by a college, junior college, or university supported
23 entirely or partly by taxation;

24 (2) by a private college or university that maintains and
25 operates educational programs in which credits are
26 transferable to a college, junior college, or university
27 supported entirely or partly by taxation; or

28 (3) in a structure:

29 (A) that has no sign visible from the exterior of the
30 structure and no other advertising that indicates a
31 semi-nude person is available for viewing; and

32 (B) where, in order to participate in a class, a student must
33 enroll at least three (3) days in advance of the class.

34 SECTION 10. IC 35-31.5-2-300.5 IS ADDED TO THE INDIANA
35 CODE AS A NEW SECTION TO READ AS FOLLOWS
36 [EFFECTIVE JULY 1, 2013]: **Sec. 300.5. "Sexual encounter center"**
37 **means a business or commercial enterprise that, as one (1) of its**
38 **principal purposes, purports to offer, for any form of**
39 **consideration, physical contact in the form of wrestling or**
40 **tumbling between two (2) or more persons when one (1) or more of**
41 **the persons is semi-nude.**

42 SECTION 11. IC 35-31.5-2-302.5 IS ADDED TO THE INDIANA

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1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2013]: **Sec. 302.5. "Sexually oriented
 3 business" means an adult bookstore or adult video store, an adult
 4 cabaret, an adult motion picture theater, a semi-nude model studio,
 5 or a sexual encounter center.**

6 SECTION 12. IC 35-31.5-2-309.5 IS ADDED TO THE INDIANA
 7 CODE AS A NEW SECTION TO READ AS FOLLOWS
 8 [EFFECTIVE JULY 1, 2013]: **Sec. 309.5. "Specified anatomical
 9 areas" means the:**

10 (1) less than completely and opaquely covered human genitals,
 11 pubic region, buttocks, or female breast below a point
 12 immediately above the top of the areola; or

13 (2) human male genitals in a discernibly turgid state, even if
 14 completely and opaquely covered.

15 SECTION 13. IC 35-31.5-2-309.6 IS ADDED TO THE INDIANA
 16 CODE AS A NEW SECTION TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2013]: **Sec. 309.6. "Specified sexual activity"
 18 means any of the following acts:**

19 (1) Intercourse, oral copulation, masturbation, or sodomy.

20 (2) Excretory functions as a part of or in connection with any
 21 of the activities described in subdivision (1).

22 SECTION 14. IC 35-45-4-6 IS ADDED TO THE INDIANA CODE
 23 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 24 1, 2013]: **Sec. 6. A person who knowingly, intentionally, or
 25 recklessly permits a person less than twenty-one (21) years of age
 26 to be on the premises of a sexually oriented business commits
 27 permitting an underage person access to a sexually oriented
 28 business, a Class C misdemeanor.**

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