

# SENATE BILL No. 1293

May 30, 2000, Introduced by Senators MC COTTER, SIKKEMA, BULLARD, SHUGARS, NORTH, EMMONS, GOUGEON, MC MANUS, SCHUETTE, STILLE, GOSCHKA, STEIL, HAMMERSTROM, GAST, DUNASKISS, BENNETT, DINGELL, HART, DE BEAUSSAERT and MURPHY and referred to the Committee on Judiciary.

A bill to amend 1909 PA 279, entitled  
"The home rule city act,"  
by amending section 5h (MCL 117.5h), as amended by 1994 PA 313.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 5h. (1) Whether or not so provided in its charter, a  
2 city may, by ordinance, regulate or prohibit public nudity within  
3 city boundaries.

4       (2) A PLAINTIFF WHO CHALLENGES AN ORDINANCE ADOPTED BY A  
5 CITY THAT PROHIBITS OR REGULATES PUBLIC NUDITY SHALL JOIN AS PAR-  
6 TIES DEFENDANT THE CITY AND THE STATE TREASURER.

7       (3) ~~-(2)-~~ As used in this section, "public nudity" means  
8 ~~knowingly or intentionally displaying~~ THE KNOWING OR INTEN-  
9 TIONAL DISPLAY in a public place, or for payment or promise of  
10 payment by any person including, but not limited to, payment or  
11 promise of payment of an admission fee, OF any individual's

1 genitals or anus with less than a fully opaque covering —, or a  
 2 female individual's breast with less than a fully opaque covering  
 3 of the nipple and areola. PUBLIC NUDITY DOES NOT INCLUDE ANY OF  
 4 THE FOLLOWING:

5 (A) A mother's breastfeeding of ~~her baby does not under any~~  
 6 ~~circumstances constitute nudity irrespective of~~ A BABY whether  
 7 or not the nipple is covered during or incidental to the  
 8 feeding.

9 (B) MATERIAL AS DEFINED IN SECTION 2 OF 1984 PA 343, MCL  
 10 752.362.

11 (C) SEXUALLY EXPLICIT VISUAL MATERIAL AS DEFINED IN SECTION  
 12 3 OF 1978 PA 33, MCL 722.673.

13 Enacting section 1. The authority of a home rule city to  
 14 prohibit or regulate public nudity as set forth by the United  
 15 States supreme court in City of Erie v Pap's A.M., 529 US \_\_\_\_;  
 16 120 S Ct 1382; \_\_\_\_ L Ed 2d \_\_\_\_; 68 USLW 4239 (March 29,  
 17 2000), is recognized by this state. The authority granted in  
 18 this amendatory act shall not be construed to limit the authority  
 19 of a home rule city to enact an ordinance that is based upon the  
 20 ordinance of the city of Erie, Pennsylvania that was the subject  
 21 of City of Erie v Pap's A.M., 529 US \_\_\_\_; 120 S Ct 1382;  
 22 \_\_\_\_ L Ed 2d \_\_\_\_; 68 USLW 4239 (March 29, 2000), except for  
 23 the exclusions from the definition of public nudity listed in  
 24 section 5h(3) of the home rule city act, 1909 PA 279, MCL  
 25 117.5h.