



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 266 (Substitute S-3 as passed by the Senate)
Sponsor: Senator Tupac A. Hunter
Committee: Transportation

(as enacted)

Date Completed: 10-26-09

RATIONALE

In some Michigan communities, billboards for sexually oriented businesses have caused some controversy with the display of explicit images or sexually suggestive content. Because billboards are on public display in places where the general public, including children, are exposed to them, some have suggested that there should be restrictions on the content of such advertisements.

CONTENT

The bill would amend the Highway Advertising Act, beginning January 1, 2011, to require a billboard within the State that advertised a sexually oriented business to display only words or numbers, except that the billboard could display the business's registered trademark. The words could not describe or relate to a specified sexual activity or relate to a specified sexual activity or specified anatomical area.

"Sexually oriented business" would include an adult bookstore, adult video store, adult cabaret, adult motion picture theater, sexual device shop, sexual encounter center, or an establishment that regularly features live performances characterized by the exposure of a specific anatomical area or by a specific sexual activity or in which people appear in a state of nudity or seminudity in the performance of their duties, but would not include a business solely because it shows, sells, or rents materials that may depict sex.

The bill also would define "specified anatomical area", "specified sexual activity", and "seminudity".

A person violating Section 18a of the Act, which the bill would amend, is responsible for a civil fine of not less than \$5,000 or more than \$10,000 for each day of violation. Civil fines collected under this section must be distributed to public libraries.

MCL 252.318a

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would remove sexual images and content from display along the State's streets and highways, preventing children from being exposed to inappropriate material. Billboards occupy public places, which should not be the site of sexually oriented advertisements. Billboards containing offensive material can depress property values or send the message that a particular area is not family-friendly. For example, some Detroit residents have complained that advertisements for local topless bars portray the neighborhood as more akin to Las Vegas than a place where families would want to raise their children. Restricting the content of such billboards would allow a business to advertise without offending residents. Other states have similar restrictions, and while some state laws have been struck down as unconstitutional limits on free speech, the bill would be focused narrowly enough that it should avoid any constitutional challenge.

Response: The bill should include provisions to address bumper stickers, which also may contain offensive slogans or content that is inappropriate for children.

Opposing Argument

The bill would unfairly discriminate against certain types of businesses. Advertisements for adult establishments are no more lewd than some lingerie ads, which would not be restricted under the bill.

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: David Zin

A0910\266b

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.