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By: **Allegany County Delegation**

Rules suspended

Introduced and read first time: March 22, 2002

Assigned to: Rules and Executive Nominations

Re-referred to: Economic Matters, March 23, 2002

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Committee Report: Favorable

House action: Adopted

Read second time: March 23, 2002

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Allegany County - Alcoholic Beverages - Nudity and Sexual Displays**

3 FOR the purpose of including Allegany County among those jurisdictions in which  
4 certain sexual acts and certain attire, conduct, and visual reproductions  
5 featuring nudity or exposure of certain body parts are prohibited at premises or  
6 locations for which alcoholic beverages licenses are issued; making this Act an  
7 emergency measure; and generally relating to alcoholic beverages licenses in  
8 Allegany County.

9 BY repealing and reenacting, with amendments,  
10 Article 2B - Alcoholic Beverages  
11 Section 10-405  
12 Annotated Code of Maryland  
13 (2001 Replacement Volume)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article 2B - Alcoholic Beverages**

17 10-405.

18 (a) The provisions of this section apply only in:

19 (1) ALLEGANY COUNTY;

- 1           (2)     Anne Arundel County;
- 2           [(2)]   (3)     Calvert County;
- 3           [(3)]   (4)     Caroline County;
- 4           [(4)]   (5)     Carroll County;
- 5           [(5)]   (6)     Cecil County;
- 6           [(6)]   (7)     Charles County;
- 7           [(7)]   (8)     Dorchester County;
- 8           [(8)]   (9)     Frederick County;
- 9           [(9)]   (10)    Garrett County;
- 10          [(10)]   (11)    Harford County;
- 11          [(11)]   (12)    Kent County;
- 12          [(12)]   (13)    Queen Anne's County;
- 13          [(13)]   (14)    St. Mary's County;
- 14          [(14)]   (15)    Except as provided in subsection (i) of this section, Washington  
15 County;
- 16          [(15)]   (16)    Wicomico County; and
- 17          [(16)]   (17)    Worcester County.

18       (b)     Any license issued under the provisions of this article shall be revoked if,  
19 after hearing as provided in § 10-403 of this subtitle, any of the activities listed in  
20 this section are found to occur on any premises or location for which the license was  
21 issued.

22       (c)     With respect to attire and conduct, a person may not:

23           (1)     Be employed or used in the sale or service of alcoholic beverages in or  
24 upon the licensed premises while the person is unclothed or in attire, costume or  
25 clothing so as to expose to view any portion of the female breast below the top of the  
26 areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals;

27           (2)     Be employed or act as a hostess or act in a similar-type capacity to  
28 mingle with the patrons while the hostess or person acting in a similar-type capacity  
29 is unclothed or in attire, costume or clothing as described in paragraph (1) of this  
30 subsection;

1 (3) Encourage or permit any person on the licensed premises to touch,  
2 caress or fondle the breasts, buttocks, anus or genitals of any other person; or

3 (4) Permit any employee or person to wear or use any device or covering  
4 exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion  
5 of it.

6 (d) With respect to entertainment provided, a person may not:

7 (1) Permit any person to perform acts of or acts which simulate:

8 (i) The act of sexual intercourse, masturbation, sodomy, bestiality,  
9 oral copulation, flagellation or any sexual acts which are prohibited by law;

10 (ii) The touching, caressing or fondling of the breast, buttocks, anus  
11 or genitals; or

12 (iii) The display of the pubic hair, anus, vulva or genitals;

13 (2) Permit any entertainer whose breasts and/or buttocks are exposed  
14 (subject to the restrictions of paragraph (1) of this subsection) to perform closer than  
15 six feet from the nearest patron; or

16 (3) Permit any person to use artificial devices or inanimate objects to  
17 depict, perform or simulate any activity prohibited by paragraph (1) of this  
18 subsection.

19 (e) A person may not exhibit or show any motion picture film, still picture,  
20 electronic reproduction or other visual reproduction depicting:

21 (1) Acts or simulated acts of sexual intercourse, masturbation, sodomy,  
22 bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

23 (2) Any person being touched, caressed or fondled on the breast,  
24 buttocks, anus or genitals;

25 (3) Scenes where a person displays the vulva or anus or the genitals; or

26 (4) Scenes where artificial devices or inanimate objects are employed to  
27 depict, or drawings are employed to portray, any of the prohibited activities described  
28 above.

29 (f) A person may not permit any person to remain in or upon the licensed  
30 premises who exposes to public view any portion of his genitals or anus.

31 (g) The provisions of this section do not permit any conduct or form of attire  
32 prohibited by any other provision of statute, ordinance, rule or regulation.

33 (h) In Cecil County, in addition to the penalty provided in subsection (b) of this  
34 section, if any of the activities listed in subsections (c), (d), (e), and (f) of this section  
35 are found to occur on the premises for which the license was issued, the holder of the

1 license, or any employee, entertainer, or patron who performs any of the listed  
2 activities is guilty of a misdemeanor and shall be fined or imprisoned according to the  
3 penalty set forth in § 16-503 of this article.

4 (i) In Washington County, this section does not apply to:

5 (1) The Washington County Playhouse; or

6 (2) A theater holding a Class B beer, wine and liquor on-sale license  
7 under § 6-201(w) of this article.

8 (j) (1) This subsection applies only in Caroline County.

9 (2) After a finding that the activities enumerated in this section have  
10 occurred, the Board of License Commissioners may decide whether or not to revoke a  
11 license, notwithstanding the mandatory provisions of subsection (b) of this section.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
13 measure, is necessary for the immediate preservation of the public health or safety,  
14 has been passed by a yea and nay vote supported by three-fifths of all the members  
15 elected to each of the two Houses of the General Assembly, and shall take effect from  
16 the date it is enacted.