

House Bill 247

By: Representatives Jennings of the 63rd, Campbell of the 42nd and Wiles of the 34th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 6 of Title 32 of the Official Code of Georgia Annotated,
2 relating to control of signs and signals on or near public roads, so as to prohibit certain
3 outdoor advertising which contains depictions of nudity or sexual conduct and is discernible
4 by motor vehicle drivers traveling on public roads; to define certain terms; to provide
5 punishments for violations; to provide for injunctive relief from nuisances; to provide
6 legislative findings and declarations; to repeal certain provisions of law restricting outdoor
7 advertising which were declared unconstitutional by the Georgia Supreme Court in the case
8 of State v. Cafe Erotica, Inc., 270 Ga. 97 (1998); to amend Chapter 1 of Title 40 of the
9 Official Code of Georgia Annotated, relating to motor vehicles and traffic generally, so as
10 to repeal certain provisions of law prohibiting display of profane or lewd words on motor
11 vehicles which were declared unconstitutional by the Georgia Supreme Court in the case of
12 Cunningham v. State, 260 Ga. 827 (1991); to repeal conflicting laws; and for other purposes.

13 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

14 **SECTION 1.**

15 Article 3 of Chapter 6 of Title 32 of the Official Code of Georgia Annotated, relating to
16 control of signs and signals on or near public roads, is amended by adding a new Code
17 Section 32-6-52 to read as follows:

18 "32-6-52.

19 (a) As used in this Code section, the term:

20 (1) 'Nudity' means the displaying of any portion of the human female breast below the
21 top of the areola or the displaying of any portion of any human's pubic hair, anus, cleft
22 of the buttocks, vulva, or genitals.

23 (2) 'Outdoor advertising' means any visual commercial advertisement when displayed
24 in such a way as to be discernible by motor vehicle drivers of normal visual acuity
25 traveling on any public road, including without limitation such advertisements displayed
26 from real or personal property by means of billboards, signs, paintings, bumper stickers,

1 or decals.

2 (3) 'Sexual conduct' means acts of sexual intercourse, masturbation, sodomy, or fondling
3 of a human's clothed or unclothed genitals, pubic area, buttocks, or, if the human is
4 female, breast.

5 (b) The General Assembly finds and declares that outdoor advertising containing
6 depictions of nudity or sexual conduct may be startling or provocative, divert the attention
7 of motor vehicle drivers, and thus cause traffic hazards. The General Assembly further
8 declares that the purpose of this Code section is to protect the welfare and safety of the
9 residents of this state and the traveling public against such hazards.

10 (c) No person shall display any outdoor advertising containing any depiction of actual,
11 simulated, or fictional nudity or sexual conduct.

12 (d)(1) Any person guilty of violating subsection (c) of this Code section shall be
13 punished as for a misdemeanor.

14 (2) Each day during which outdoor advertising is displayed in violation of subsection (c)
15 of this Code section shall constitute a separate offense.

16 (e) The maintenance by any person of any outdoor advertising displayed from real
17 property in violation of subsection (c) of this Code section is declared to be a public
18 nuisance. In addition to any other remedies provided for by law, the department or the
19 county or municipality wherein such real property is located is authorized to bring an
20 equitable proceeding to enjoin any person from maintaining any outdoor advertising
21 displayed from such property in violation of subsection (c) of this Code section. It shall not
22 be necessary for the department, county, or municipality to allege and prove that there is
23 no adequate remedy at law in order to obtain the equitable relief provided for in this
24 subsection."

25 SECTION 2.

26 Said article is further amended by striking subsection (b) of Code Section 32-6-75, relating
27 to restrictions on certain outdoor advertising, and inserting in lieu thereof the following:

28 ~~"(b)(1) As used in this subsection, the term 'nudity' means the displaying of any portion of~~
29 ~~the female breast below the top of the areola or the displaying of any portion of any~~
30 ~~person's pubic hair, anus, cleft of the buttocks, vulva, or genitals.~~

31 ~~(2) Since the exhibition of nudity or depictions of nudity in connection with the sale or~~
32 ~~consumption of alcoholic beverages may be restricted or prohibited in certain political~~
33 ~~subdivisions of this state pursuant to Article III, Section VI, Paragraph VII of the~~
34 ~~Constitution, since an outdoor advertising device advertising a commercial establishment~~
35 ~~where nudity is exhibited which is located in a political subdivision different from where~~
36 ~~the commercial establishment is located may mislead the traveling public and cause a~~

1 ~~devaluation of the property in the area surrounding such outdoor advertising, and since~~
 2 ~~outdoor advertising of a commercial establishment where nudity is exhibited may divert~~
 3 ~~the attention of drivers and thus cause traffic hazards, it is the intent of the General~~
 4 ~~Assembly to protect the welfare and safety of the residents of this state and the traveling~~
 5 ~~public by regulating outdoor advertising of commercial establishments where nudity is~~
 6 ~~exhibited.~~

7 ~~(3) Any outdoor advertising of a commercial establishment where nudity is exhibited~~
 8 ~~shall be limited to the property where such commercial establishment is located, and the~~
 9 ~~size, type, and number of outdoor advertising devices on any such property may be~~
 10 ~~further regulated by rules and regulations promulgated by the commissioner of~~
 11 ~~transportation. Reserved.~~

12 **SECTION 3.**

13 Chapter 1 of Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles
 14 and traffic generally, is amended by striking Code Section 40-1-4, relating to stickers, decals,
 15 or emblems containing profane or lewd words describing sexual acts, excretory functions,
 16 or parts of the human body, and inserting in lieu thereof the following:

17 "40-1-4.

18 ~~No person owning, operating, or using a motor vehicle in this state shall knowingly affix~~
 19 ~~or attach to any part of such motor vehicle any sticker, decal, emblem, or other device~~
 20 ~~containing profane or lewd words describing sexual acts, excretory functions, or parts of~~
 21 ~~the human body. Any person who violates any part of this Code section shall be guilty of~~
 22 ~~a misdemeanor and shall be punished by a fine not to exceed \$100.00. Reserved.~~

23 **SECTION 4.**

24 All laws and parts of laws in conflict with this Act are repealed.