

House Bill 1553

By: Representatives Franklin of the 43rd, Rice of the 51st, Reese of the 98th, Hembree of the 67th, Parsons of the 42nd, and others

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue, so as to
2 require state licenses for adult video stores; to provide for definitions of certain terms; to
3 establish license fees; to provide penalties; to provide for transferability of licenses under
4 certain conditions; to provide for powers, duties, and authority of the state revenue
5 commissioner; to provide for related matters; to provide an effective date; to repeal
6 conflicting laws; and for other purposes.

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

8 **SECTION 1.**

9 Title 48 of the Official Code of Georgia Annotated, relating to revenue, is amended by
10 adding a new Chapter 19 to read as follows:

11 **"CHAPTER 19**

12 48-19-1.

13 As used in this chapter, the term:

14 (1) 'Adult video' means photographs, films, motion pictures, movies, video cassettes or
15 reproductions, digital versatile disc, digital video disc, slides, or other visual
16 representations, the central theme of which depicts or describes sexual activities.

17 (2) 'Adult video store' means a commercial establishment which:

18 (A) Holds itself out to be such a business; or

19 (B) Offers for sale or rent for any form of consideration any adult videos.

20 (3) 'Adult video title' means a specific movie or copies of a specific movie whether such
21 movies are rented for viewing outside such establishment or are rented for viewing inside
22 such establishment through a vending or other arrangement.

23 (4) 'Commissioner' means the state revenue commissioner of the Georgia Department
24 of Revenue.

- 1 (5) 'Department' means the Georgia Department of Revenue.
- 2 (6) 'Licensed premises' means any premises in which adult videos are sold or rented.
- 3 (7) 'Licensee' means the individual to whom a license is issued or, in the case of
4 partnership or corporation, all partners, officers, and directors of the partnership or
5 corporation.
- 6 (8) 'Location' means any physical structure, place, or premises at which adult videos are
7 sold or rented.
- 8 (9) 'Person' means any individual, firm, partnership, cooperative, corporation, company,
9 association, nonprofit membership corporation, joint venture, syndicate, estate, trust,
10 business trust, receiver, fiduciary, or other group or combination acting as a unit, body
11 politic, or political subdivision, whether public, private, or quasipublic.
- 12 (10) 'Sexual activities' means those activities described in subparagraphs (A) through (I)
13 of paragraph (3.1) of Code Section 49-5-40 and any sexual acts which are prohibited by
14 law.

15 48-19-2.

16 (a) Whenever any county or municipality permits or licenses an adult video store, the
17 person who owns the adult video store must also obtain a state license to sell or rent adult
18 videos.

19 (b)(1) The annual state license fees for such license shall be assessed for each particular
20 adult video title the adult video store sells or rents, and shall be as follows:

- 21 (1) Ten thousand dollars for each specific adult video title the adult video store sells; and
- 22 (2) Five thousand dollars for each specific adult video title the adult video store rents.

23 These amounts shall be assessed by the state due to the costs of the administration of this
24 chapter.

25 (c) There shall be no limit imposed on the number of adult video titles sold or rented by
26 the licensee at each adult video store location.

27 (d) Each location must have a separate license.

28 (e) Each adult video store shall maintain a current list with the department of all adult
29 video titles that such adult video store offers for sale or rental. As adult video titles are
30 obtained and offered for sale or rental, the adult video store shall have ten days to update
31 its list on file with the department and pay the requisite license fee pursuant to subsection
32 (b) of this Code section. It shall be unlawful for an adult video store to offer for sale or
33 rental any adult video title that is not on the adult video store's list on file with the
34 department.

1 48-19-3.

2 (a) The applicant must be 18 years of age or older to apply for a license under this chapter.
3 (b) Each person holding a license issued pursuant to this chapter shall display the license
4 prominently at all times on the premises for which the license is issued.

5 (c) Each annual license issued pursuant to this chapter shall be for the calendar year. The
6 fees paid for the license shall be assessed for the entire calendar year and shall not be
7 prorated or otherwise apportioned.

8 (d) Each licensee shall keep and preserve, as prescribed by the commissioner, records of
9 all adult videos sold, purchased, leased, or rented by him or her. The records shall be kept
10 for a period of three years from the date of sale or rent and shall at all times be open to
11 inspection by the commissioner or any authorized agent or employee of the commissioner.

12 (e) The commissioner may authorize by rule the disposal of records maintained pursuant
13 to subsection (d) of this Code section, prior to the expiration of the specified three-year
14 period, when he or she is satisfied as to their contents or otherwise determines that the
15 maintenance of the records is no longer necessary.

16 48-19-4.

17 (a) No state license provided for pursuant to this chapter shall be transferable, except as
18 otherwise provided in this Code section.

19 (b) In case of the death of the licensee, the establishment shall be allowed to continue to
20 operate under the license of the licensee for a period of 30 days from the date of death or
21 until approval of a new license, whichever occurs first; provided, however, that the
22 department must be notified of the licensee's death within ten days of the death or the
23 license shall automatically terminate on the eleventh day following the death of the
24 licensee.

25 (c) If a license is surrendered or a licensee severs his or her association with the licensed
26 establishment, the establishment may continue to operate under the licensee's license for
27 a period of 30 days from the date of surrender, or from the date determined to be the date
28 of severance; provided, however, that the department must be notified of the change within
29 ten days of the severance or the license shall automatically terminate on the eleventh day
30 following the date of the severance. Upon issuance of a new license, the authorization to
31 sell under the previous license shall be revoked by operation of law.

32 (d) Nothing in this Code section shall prohibit one or more of the partners in the
33 partnership holding a license to withdraw from the partnership in favor of one or more of
34 the partners who were partners at the time of the issuance of the license. This subsection
35 shall not prohibit transfer of stock between persons who held stock in the corporate owner
36 at the time of issuance of the license; nor shall it prohibit transfers of stock which do not

1 result in any person increasing stock holdings to a total of 10 or more percent of any class
2 of corporate stock, or any other entity having a financial interest in the entity.

3 (e) Should a transfer of location be approved by the department, with no change of
4 ownership of the business, the license fees paid for the old location shall be applied to the
5 new location.

6 (f) Except as provided in this Code section, any change in the ownership of any entity
7 owning a licensed establishment shall cancel and revoke any license issued under this
8 chapter automatically.

9 (g) Violation of this Code section shall result in revocation of the license being used and
10 a civil penalty of \$100,000.00 each on the new ownership and the old ownership, and no
11 license will be issued to the old or the new owner for one year from the date of the
12 violation.

13 48-19-5.

14 Any person who violates any provision of this chapter shall be guilty of a misdemeanor.

15 48-19-6.

16 The commissioner shall provide for the conducting of periodic compliance audits by the
17 department to verify compliance with the requirements of this chapter.

18 48-19-7.

19 The commissioner shall be authorized to develop any forms or applications and to provide
20 by rules or regulations for the proper administration of this chapter."

21 **SECTION 2.**

22 This Act shall become effective July 1, 2006.

23 **SECTION 3.**

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