

By: Representatives Chism, Smith (39th),
Mitchell

To: County Affairs;
Judiciary A

HOUSE BILL NO. 397

1 AN ACT TO AMEND SECTION 19-5-103, MISSISSIPPI CODE OF 1972,
2 TO EXTEND TO THE BOARDS OF SUPERVISORS OF ALL COUNTIES THE
3 AUTHORITY GRANTED TO ONLY CERTAIN COUNTY BOARDS OF SUPERVISORS TO
4 ADOPT AND ENFORCE ORDINANCES REGULATING THE ESTABLISHMENT AND
5 OPERATION OF MASSAGE PARLORS; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** Section 19-5-103, Mississippi Code of 1972, is
8 amended as follows:

9 19-5-103. (1) In accordance with the provisions of Section
10 19-3-41, providing that additional powers may be conferred upon
11 the boards of supervisors, the board of supervisors of any county
12 may promulgate, adopt and enforce ordinances which are necessary
13 and reasonable for the protection of public health and the
14 maintenance of order in relation to the advertisement, the
15 offering of services and the dispensation for compensation of
16 personal services in establishments known as massage parlors and
17 to promulgate, adopt and enforce ordinances which are necessary
18 and reasonable for the protection of public health and the
19 maintenance of order in relation to public displays of nudity.

20 (2) For the purposes of this section the term "massage
21 parlor" shall mean any premises where a person manipulates, rubs,
22 caresses, touches, massages, kneads, palpates or otherwise
23 physically contacts the body or part or area of the body of
24 another person. The term "massage parlor" shall not include
25 gymnasias or other premises wherein persons engage in bona fide
26 athletic or conditioning activities, duly licensed barbershop,
27 beauty parlor, chiropractic clinic or other premises of a person



28 practicing a vocation or profession regulated and licensed by the
29 state.

30 For the purposes of this section the term "nudity" means
31 uncovered, or less than opaquely covered, postpubertal human
32 genitals, pubic areas, the postpubertal human female breast below
33 a point immediately above the top of the areola, or the covered
34 human male genitals in a discernibly turgid state. For purposes
35 of this definition, a female breast is considered uncovered if the
36 nipple only or the nipple and areola only are uncovered.

37 For the purposes of this section the term "public display"
38 means the exposing, exhibiting, revealing, or in any fashion
39 displaying the nude human body or any representation thereof in
40 any location in such a manner that it may be readily seen by the
41 public by normal unaided vision and the term also means any play,
42 motion picture, dance, show or other presentation, whether
43 pictured, animated or live, performed before an audience and which
44 in whole or in part depicts or reveals nudity or sexual conduct.

45 (3) Ordinances adopted pursuant to this section shall
46 comport with the elements of due process and shall include but not
47 be limited to specificity, adequate notice, right to hearing,
48 right to counsel, right to appeal adverse findings to a judicial
49 authority and penalties rationally related to prohibited acts.

50 (4) Boards of supervisors proposing such ordinances shall
51 publish and post notice of such intentions not less than twenty
52 (20) days prior to the holding of a public hearing whereat the
53 purposes and substance of such ordinances shall be fully
54 discussed.

55 **SECTION 2.** This act shall take effect and be in force from
56 and after July 1, 2002.

