SENATE BILL NO. 2429

AN ACT TO AMEND SECTION 19-5-103, MISSISSIPPI CODE OF 1972, TO AUTHORIZE CERTAIN COUNTIES ADDITIONAL AUTHORITY TO PROMULGATE ORDINANCES REGULATING HEALTH, SAFETY AND WELFARE IN THAT COUNTY; AND FOR RELATED PURPOSES.

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

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

19-5-103. (1) In accordance with the provisions of Section 19-3-41, providing that additional powers may be conferred upon the boards of supervisors, the board of supervisors of the following counties are hereby empowered to promulgate, adopt and enforce ordinances which are necessary and reasonable for the protection of public health and the maintenance of order in relation to the advertisement, the offering of services and the dispensation for compensation of personal services in establishments known as massage parlors and to promulgate, adopt and enforce ordinances which are necessary and reasonable for the protection of public health and the maintenance of order in relation to public displays of nudity:

(a) Any county bordering on the Gulf of Mexico and having two (2) judicial districts;

(b) Any county adjacent to a county of this or an adjoining state wherein is located a city having a population in excess of two hundred thousand (200,000), according to the latest federal census; or

(c) Any county in which is located an Air Force base and in which Highways 69 and 82 intersect.
(2) For the purposes of this section the term "massage parlor" shall mean any premises where a person manipulates, rubs, caresses, touches, massages, kneads, palpates or otherwise physically contacts the body or part or area of the body of another person. The term "massage parlor" shall not include gymnasium or other premises wherein persons engage in bona fide athletic or conditioning activities, duly licensed barbershop, beauty parlor, chiropractic clinic or other premises of a person practicing a vocation or profession regulated and licensed by the state.

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

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

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

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

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