

By: Representatives Ellington, Gunn, Baker (8th), Chism, Robinson (84th), Beckett, Denny, Davis, Fillingane, Nicholson, Barnett, Jennings, Howell, Martinson, Carlton, Formby, Simpson, Bounds, Guice, Mayhall, Turner, Moore, Snowden, Hamilton (6th), Stevens, Wells-Smith, Lott

To: County Affairs

## HOUSE BILL NO. 1480

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 ADULT ENTERTAINMENT ESTABLISHMENTS LOCATED IN  
6 UNINCORPORATED AREAS; AND FOR RELATED PURPOSES.

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

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

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

23 (2) For the purposes of this section the term "adult  
24 entertainment establishment" shall mean any premises where a  
25 person manipulates, rubs, caresses, touches, massages, kneads,  
26 palpates or otherwise physically contacts the body or part or area  
27 of the body of another person. The term "adult entertainment  
28 establishment" shall not include gymnasias or other premises  
29 wherein persons engage in bona fide athletic or conditioning

30 activities, duly licensed barbershop, beauty parlor, chiropractic  
31 clinic or other premises of a person practicing a vocation or  
32 profession regulated and licensed by the state.

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

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

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

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

58 **SECTION 2.** This act shall take effect and be in force from  
59 and after July 1, 2005.