

STATE OF TENNESSEE

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Opinion No. 10-15

Prohibition of Multiple Adult-Oriented Establishments in the Same Building or Structure

QUESTION

Does Tenn. Code Ann. § 7-51-1104(b) prohibit two adult-oriented establishments operating in the same building or structure, where there is no interior access from one establishment to the other and where the businesses have two separate entrances, two addresses, two separate electric meters, two business licenses, and two adult-oriented establishment licenses?

OPINION

Yes, Tenn. Code Ann. § 7-51-1104(b) prohibits more than one adult-oriented establishment at a building, premises, structure, or other facility.

ANALYSIS

Tennessee's Adult-Oriented Establishment Registration Act, Tenn. Code Ann. § 7-51-1101, *et seq.*, in counties where it is applicable, requires an "adult-oriented establishment" to register with a county adult-oriented establishment board and to comply with restrictions and conditions regarding the operation of the establishment. Tenn. Code Ann. § 7-51-1102 (6)(2009 Supp.) specifies:

"Adult-oriented establishment" includes, but is not limited to, an adult bookstore,¹ adult motion picture theater,² adult mini-motion picture establishment,³ adult cabaret,⁴ escort agency, sexual encounter center,⁵ massage

1 "Adult bookstore" is defined in Tenn. Code Ann. § 7-51-1102 (1).

2 "Adult motion picture theater" is defined in Tenn. Code Ann. § 7-51-1102 (5).

3 "Adult mini-motion picture establishment" is defined in Tenn. Code Ann. § 7-51-1102 (4).

4 "Adult cabaret" is defined in Tenn. Code Ann. § 7-51-1102 (2).

5 "Sexual encounter center" is defined in Tenn. Code Ann. § 7-51-1102 (21).

parlor,⁶ rap parlor,⁷ sauna;⁸ further, “adult-oriented establishment” means any premises to which the public patrons or members are invited or admitted and that are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. “Adult-oriented establishment” further includes, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, model studio, escort service, escort or any other term of like import[.]

In regard to issuance of a license by the county adult-oriented establishment board, Tenn. Code Ann. § 7-51-1104(b)(2009 Supp.) provides:

A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership or corporation that desires to operate more than one (1) adult-oriented establishment must have a license for each. No building, premises, structure or other facility that contains any adult-oriented establishment shall contain any other kind of adult-oriented establishment.

The question presented is whether two adult-oriented establishments may be operated out of the same building or structure if there is no interior access from one establishment to the other. The question presented is described further as being a situation essentially involving two separate places of business with two separate entrances, two addresses, two separate electric meters, two business licenses, and two adult-oriented establishment licenses. On its face, Tenn. Code Ann. § 7-51-1104(b) prohibits the operation of two adult-oriented establishments, as described, operating out of the same “building, premises, structure or other facility.” Applying the commonly understood definitions of “building,” “structure,” or “facility,” it is our opinion that on its face, Tenn. Code Ann. § 7-51-1104(b) prohibits the operation of the previously described establishments.

6 “Massage parlor” is defined in Tenn. Code Ann. § 7-51-1102 (13).

7 “Rap parlor” is defined in Tenn. Code Ann. § 7-51-1102 (18).

8 “Sauna” is defined in Tenn. Code Ann. § 7-51-1102 (19).

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