

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE BILL DRS45172-NIxf-66

Short Title: Fight Exploitation Funding Act (FEFA). (Public)

Sponsors: Senators Hanig, Alexander, and Jarvis (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT REQUIRING A NOMINAL ADMISSION FEE ON ADULT LIVE ENTERTAINMENT BUSINESSES TO BE REMITTED QUARTERLY TO THE DEPARTMENT OF REVENUE AND DEPOSITED INTO THE NORTH CAROLINA HUMAN TRAFFICKING AND CHILD EXPLOITATION PREVENTION GRANT FUND AND CREATING THE NORTH CAROLINA HUMAN TRAFFICKING AND CHILD EXPLOITATION PREVENTION GRANT FUND FOR THE BENEFIT OF GOVERNMENT ENTITIES AND NONPROFITS THAT ARE WORKING TO PROVIDE ASSISTANCE TO VICTIMS OF HUMAN TRAFFICKING AND SEXUAL EXPLOITATION.

Whereas, the United States Supreme Court held in *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000), that expressive conduct in nude dancing falls only within the outer ambit of the First Amendment's protection and that regulations designed to curb the deleterious effects caused by the presence of a live adult entertainment establishment in a neighborhood do not offend the First Amendment; and

Whereas, informed by the United States Supreme Court's decisions in *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000), and *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002), the Texas Supreme Court in *Combs v. Texas Entertainment Association, Inc.*, 347 S.W.3d 277 (Tex. 2011), held that a state statute that imposes a five-dollar admission fee on live adult entertainment establishments is constitutional under the First Amendment because the fee is:

- (1) Nominal and de minimis;
- (2) Content-neutral and satisfies the four-part of the O'Brien test set forth by the United States Supreme Court in *United States v. O'Brien*, 391 U.S. 367 (1968);
- (3) Not aimed at any expressive content of nude dancing but at the secondary effects of the expression in the presence of the aggravating factor of alcohol; and

Whereas, because the erotic dancing at adult live entertainment businesses in North Carolina is of the same licentious character as the adult live entertainment businesses at issue in cases before the United States Supreme Court, such as *Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres, Inc.*, 427 U.S. 50 (1976), and *California v. LaRue*, 409 U.S. 109 (1972), the General Assembly concludes that such erotic dancing is likely producing the same secondary effects in the State of North Carolina and intends to combat those secondary effects by enacting the Fight Exploitation Funding Act (FEFA); and



1 (d) Record keeping. – An adult live entertainment business shall record daily in the
2 manner required by the Department the number of customers admitted to the business. An adult
3 live entertainment business shall maintain the records for the period required by the Department
4 and make the records available only for inspection and audit on request by the Department. The
5 records shall not contain the names or personal information of any of the customers.

6 (e) Distribution and Use. – The Secretary shall remit the proceeds of the fee to the State
7 treasury to be deposited into the North Carolina Human Trafficking and Child Exploitation
8 Prevention Grant Fund established under G.S. 7A-354.1 to be used in accordance with that
9 section."

10 **SECTION 3.** Article 29 of Chapter 7A of the General Statutes is amended by adding
11 a new section to read:

12 **"§ 7A-354.1. North Carolina Human Trafficking and Child Exploitation Prevention Grant**
13 **Fund.**

14 (a) Fund Established. – The Human Trafficking and Child Exploitation Prevention Grant
15 Fund is established within the State treasury. The fund shall be administered by the
16 Administrative Office of the Courts, North Carolina Human Trafficking Commission, and shall
17 be used to make grants for the purpose of providing programs or services that combat human
18 trafficking or assist victims of human trafficking or sex offenses, including awareness and
19 prevention, counseling, victim advocacy, shelters or housing, legal advocacy, physical and
20 mental health services, and job placement and training. This fund shall be administered in
21 accordance with the provisions of the State Budget Act under Chapter 143C of the General
22 Statutes. The fund shall consist of the adult live entertainment business fee collected by the
23 Department of Revenue under Article 2E of Chapter 105 of the General Statutes and any other
24 appropriations, gifts, grants, donations, and bequests.

25 (b) Eligibility and Administration. – The Administrative Office of the Courts shall
26 determine eligibility requirements for grants awarded under this section and develop guidelines
27 to administer and implement the grant program. At a minimum, the eligibility requirements must
28 require grant recipients to meet all of the following conditions:

29 (1) Be a local government entity or a nonprofit organization.

30 (2) Have been in operation on the preceding July 1 and continue to be in
31 operation.

32 (3) Act in support of victims of human trafficking or offenses involving sexual
33 exploitation.

34 (4) Offer awareness and prevention education, counseling, victim advocacy,
35 shelters or housing, legal advocacy, and physical and mental health services.

36 (5) Submit financial and programmatic reports.

37 (c) Report. – The Administrative Office of the Courts, North Carolina Human Trafficking
38 Commission, shall evaluate activities conducted under this section each year and, on or before
39 February 15, submit an annual report containing all of the following information to the Justice
40 and Public Safety Oversight Committee and the Fiscal Research Division of the General
41 Assembly:

42 (1) The amount of fees received under G.S. 105-113.202.

43 (2) The manner in which the funds in the fund were distributed.

44 (3) The manner in which each entity receiving a grant used the grant money."

45 **SECTION 4.** This act becomes effective July 1, 2023.