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1. [*Tenn. Code Ann. § 7-51-1102*](https://plus.lexis.com/api/document?id=urn:contentItem:4X8J-DJ90-R03N-74C4-00000-00&idtype=PID&context=1530671)

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[***Tenn. Code Ann. § 7-51-1102***](https://plus.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4X8J-DJ90-R03N-74C4-00000-00&context=1530671)

Current through the 2022 Regular Session.

***TN - Tennessee Code Annotated* > *Title 7 Consolidated Governments and Local Governmental Functions and Entities* > *Local Government Functions* > *Chapter 51 Miscellaneous Governmental and Proprietary Functions* > *Part 11 Adult-Oriented Establishment Registration Act of 1998***

***7-51-1102*. Part definitions.**

As used in this part, unless the context otherwise requires:

**(1)** “Adult bookstore” means a business that offers, as its principal or predominate stock or trade, sexually oriented material, devices, or paraphernalia, whether determined by the total number of sexually oriented materials, devices or paraphernalia offered for sale or by the retail value of such materials, devices or paraphernalia, specified sexual activities, or any combination or form thereof, whether printed, filmed, recorded or live, and that restricts or purports to restrict admission to adults or to any class of adults. The definition specifically includes items sexually oriented in nature, regardless of how labeled or sold, such as adult novelties, risqué gifts or marital aids;

**(2)** “Adult cabaret” means an establishment that features as a principal use of its business, entertainers, waiters, or bartenders who expose to public view of the patrons within such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material, including swim suits, lingerie, or latex covering. “Adult cabaret” includes a commercial establishment that features entertainment of an erotic nature, including exotic dancers, strippers, male or female impersonators, or similar entertainers;

**(3)** “Adult entertainment” means any exhibition of any adult-oriented motion picture, live performance, display or dance of any type, that has as a principal or predominant theme, emphasis, or portion of such performance, any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers;

**(4)** “Adult mini-motion picture theater” means an enclosed building with a capacity of fewer than fifty (50) persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined in this section, for observation by patrons in the building;

**(5)** “Adult motion picture theater” means an enclosed building with a capacity of fifty (50) or more persons regularly used for presenting material having as a dominant theme or presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined in this section, for observation by patrons in the building;

**(6)** “Adult-oriented establishment” includes, but is not limited to, an adult bookstore, adult motion picture theater, adult mini-motion picture establishment, adult cabaret, escort agency, sexual encounter center, massage parlor, rap parlor, sauna; 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;

**(7)** “Board” means the adult-oriented establishment board, or, if there is in existence in the county a massage registration board appointed by the county mayor, such board may be substituted for the board;

**(8)** “County,” as used in this part, means either a Class A county or a Class B county as classified in [*§ 57-5-103(b)*](https://plus.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4WN4-3R60-R03M-92DW-00000-00&context=1530671). When county legislative body or county mayor is used in this part, it means metropolitan council or metropolitan mayor when applicable to a Class B county;

**(9)**

**(A)** “Employee” means a person who performs any service on the premises of an adult-oriented establishment on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise, and whether or not such person is paid a salary, wage, or other compensation by the operator of such business;

**(B)** “Employee” does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does it include an independent accountant, attorney, or other similar professional incidentally visiting the premises solely to perform accounting, legal or other similar professional services; provided, that the accountant, attorney or other similar professional is not a manager, owner, operator, entertainer, or escort connected with the adult-oriented establishment or the providing of adult entertainment;

**(10)** “Entertainer” means any person who provides entertainment within an “adult-oriented establishment” as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee, escort or an independent contractor;

**(11)** “Escort” means a person who, for monetary consideration in the form of a fee, commission, salary or tip, dates, socializes, visits, consorts with, accompanies, or offers to date, socialize, visit, consort or accompany to social affairs, entertainment or places of amusement or within any place of public resort or within any private quarters of a place of public resort;

**(12)** “Escort service” means a “person” as defined in this section, who, for a fee, commission, profit, payment or other monetary consideration, furnishes or offers to furnish escorts or provides or offers to introduce patrons to escorts;

**(13)** “Massage parlor” means an establishment or place primarily in the business of providing massage or tanning services where one (1) or more of the employees exposes to public view of the patrons within such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material;

**(14)** “Notice” means, when required by this part, placing the document in the United States mail with sufficient first-class postage to carry it to its destination to the address of the person being notified as contained in their application, unless such person has notified the board in writing of such person's new address. “Receipt of notification” is presumed three (3) days after the mailing of a notice as provided in this subdivision (14);

**(15)** “Open office” means an office at the escort service from which the escort business is transacted and that is open to patrons or prospective patrons during all hours during which escorts are working, which is managed or operated by an employee, officer, director or owner of the escort service having authority to bind the service to escort and patron contracts and adjust patron and consumer complaints;

**(16)** “Operator” means any person, partnership, or corporation operating, conducting or maintaining an adult-oriented establishment;

**(17)** “Person” means an individual, partnership, limited partnership, firm, corporation or association;

**(18)** “Rap parlor” means an establishment or place primarily in the business of providing nonprofessional conversation or similar service for adults;

**(19)** “Sauna” means an establishment or place primarily in the business of providing:

**(A)** A steam bath; or

**(B)** Massage services;

**(20)** “Service-oriented escort” is an escort that:

**(A)** Operates from an open office;

**(B)** Does not employ or use an escort runner;

**(C)** Does not advertise that sexual conduct will be provided to the patron or work for an escort bureau that so advertises; and

**(D)** Does not offer or provide sexual conduct;

**(21)** “Service-oriented escort bureau” is an escort bureau that:

**(A)** Maintains an open office at an established place of business;

**(B)** Employs or provides only escorts who possess valid permits issued under this part;

**(C)** Does not use an escort bureau runner; and

**(D)** Does not advertise that sexual conduct will be provided to a patron;

**(22)** “Sexual conduct” means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttocks or female breast of a person for the purpose of arousing or gratifying the sexual desire of another person;

**(23)** “Sexual encounter center” means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

**(A)** Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

**(B)** Physical contact between male and female persons or persons of the same sex when one (1) or more of the persons exposes to view of the persons within such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material;

**(24)** “Sexual gratification” means sexual conduct as defined in this section;

**(25)** “Sexual stimulation” means to excite or arouse the prurient interest or to offer or solicit acts of sexual conduct as defined in this section;

**(26)** “Sexually-oriented escort” is an escort that:

**(A)** Employs as an employee, agent, or independent contractor an escort bureau runner;

**(B)** Works for, as an agent, employee, contractor, or is referred to a patron by a sexually-oriented escort bureau;

**(C)** Advertises that sexual conduct will be provided, or works for, as an employee, agent or independent contractor or is referred to a patron by an escort bureau that so advertises;

**(D)** Solicits, offers to provide or does provide acts of sexual conduct to an escort patron, or accepts an offer or solicitation to provide acts of sexual conduct for a fee in addition to the fee charged by the escort bureau;

**(E)** Works as an escort without having a current valid permit issued under this part in such person's possession at all times while working as an escort; or

**(F)** Accepts a fee from a patron who has not first been delivered a contract;

**(27)** “Sexually-oriented escort bureau” is an escort bureau that:

**(A)** Does not maintain an open office;

**(B)** Employs as an employee, agent, or independent contractor, uses an escort bureau runner;

**(C)** Advertises that sexual conduct will be provided, or that escorts that provide such sexual conduct will be provided, referred, or introduced to a patron;

**(D)** Solicits, offers to provide or does provide acts of sexual conduct to an escort patron;

**(E)** Employs, contracts with or provides or refers escorts who do not possess valid permits issued under this part;

**(F)** Does not deliver contracts to every patron or customer; or

**(G)** Employs or contracts with a sexually-oriented escort, or refers or provides to a patron, a sexually-oriented escort;

**(28)** “Specified anatomical areas” means:

**(A)** Less than completely and opaquely covered:

**(i)** Human genitals;

**(ii)** Pubic region;

**(iii)** Buttocks; and

**(iv)** Female breasts below a point immediately above the top of the areola; and

**(B)** Human male genitals in a discernibly turgid state, even if completely opaquely covered;

**(29)** “Specified criminal acts” means the following criminal offenses as defined by the Tennessee Code Annotated or the corresponding violation of another state or country:

**(A)** Aggravated rape;

**(B)** Rape;

**(C)** Rape of a child;

**(D)** Aggravated sexual battery;

**(E)** Sexual battery by an authority figure;

**(F)** Sexual battery;

**(G)** Statutory rape;

**(H)** Public indecency;

**(I)** Prostitution;

**(J)** Promoting prostitution;

**(K)** Distribution of obscene materials;

**(L)** Sale, loan or exhibition to a minor of material harmful to minors;

**(M)** The display for sale or rental of material harmful to minors;

**(N)** Sexual exploitation of a minor;

**(O)** Aggravated sexual exploitation of a minor; and

**(P)** Especially aggravated sexual exploitation of a minor;

**(30)** “Specified services” means massage services, private dances, private modeling, acting as an escort as defined in this part, and any other live adult entertainment as defined in this section; and

**(31)** “Specified sexual activities” means:

**(A)** Human genitals in a state of sexual stimulation or arousal;

**(B)** Acts of human masturbation, sexual intercourse or sodomy; or

**(C)** Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

**History**

Acts 1987, ch. 432, § 2; [*1998, ch. 1090, § 1*](https://plus.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4J6N-MP80-002X-51HG-00000-00&context=1530671); *2003, ch. 47, § 1*; [*2003, ch. 90, § 2*](https://plus.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4J6N-MRW0-002X-549H-00000-00&context=1530671); [*2005, ch. 79, § 1*](https://plus.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4J6N-MSX0-002X-50B8-00000-00&context=1530671); [*2006, ch. 943, §§ 1*](https://plus.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4K8X-HG10-002X-527Y-00000-00&context=1530671), 2; [*2008, ch. 1085, § 1*](https://plus.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4SRD-N7F0-002X-53YD-00000-00&context=1530671).

Annotations

**Notes**

**Compiler's Notes.**

[*Acts 2003, ch. 90, § 2*](https://plus.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4J6N-MRW0-002X-549H-00000-00&context=1530671), directed the code commission to change all references from “county executive” to “county mayor” and to include all such changes in supplements and replacement volumes for the Tennessee Code Annotated.

**Case Notes**

 1. Constitutionality.  
 2. Construction.  
 3. Video Rental Store.  
 4. Bookstores.

**NOTES TO DECISIONS**

**1. Constitutionality.**

Where nightclub operators challenged the constitutionality of the Tennessee Adult-Oriented Establishment Registration Act of 1998, [*T.C.A. § 7-51-1101*](https://plus.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4X8J-DJ90-R03N-74C3-00000-00&context=1530671) et seq., a preliminary injunction was properly denied because, the definitions of the terms “adult cabaret,” “adult entertainment,” and “adult-oriented establishment” did not render the Act overly broad since the Act was readily susceptible to a narrowing construction that would clearly except mainstream artistic venues from the licensing and regulatory scheme. [*Entm't Prods., Inc. v. Shelby County, 588 F.3d 372, 2009 U.S. App. LEXIS 25808, 2009 FED App. 406P (6th Cir. Nov. 25, 2009)*](https://plus.lexis.com/api/document?collection=cases&id=urn:contentItem:7X5P-6PS0-YB0V-J00M-00000-00&context=1530671) , cert. denied, *562 U.S. 835, 131 S. Ct. 141, 178 L. Ed. 2d 36, 2010 U.S. LEXIS 5875 (U.S. 2010)* .

**2. Construction.**

There is no explicit requirement that adult entertainment be regularly presented by or constitute a principal use of an establishment, in order for an establishment to be subject to the Tennessee Adult-Oriented Establishment Registration Act of 1998, [*T.C.A. § 7-51-1101*](https://plus.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4X8J-DJ90-R03N-74C3-00000-00&context=1530671) et seq., under the second part of the “adult-oriented establishment” definition. [*Entm't Prods., Inc. v. Shelby County, 588 F.3d 372, 2009 U.S. App. LEXIS 25808, 2009 FED App. 406P (6th Cir. Nov. 25, 2009)*](https://plus.lexis.com/api/document?collection=cases&id=urn:contentItem:7X5P-6PS0-YB0V-J00M-00000-00&context=1530671) , cert. denied, *562 U.S. 835, 131 S. Ct. 141, 178 L. Ed. 2d 36, 2010 U.S. LEXIS 5875 (U.S. 2010)* .

Certain activities constitute “adult entertainment” only when they implicate “specified sexual activities” or “specified anatomical areas.” [*Entm't Prods., Inc. v. Shelby County, 588 F.3d 372, 2009 U.S. App. LEXIS 25808, 2009 FED App. 406P (6th Cir. Nov. 25, 2009)*](https://plus.lexis.com/api/document?collection=cases&id=urn:contentItem:7X5P-6PS0-YB0V-J00M-00000-00&context=1530671) , cert. denied, *562 U.S. 835, 131 S. Ct. 141, 178 L. Ed. 2d 36, 2010 U.S. LEXIS 5875 (U.S. 2010)* .

Definitions of a sexually oriented business, specified anatomical areas, and employees in a licensing ordinance applicable to sexually oriented businesses in the City of Knoxville, Tenn., do not pose a real and substantial danger to significantly compromise constitutionally protected speech and words are narrowly tailored to target performances at sexually oriented business that cause negative secondary effects; terms adult cabaret and employee are subject to a narrowing construction that more clearly defines those subject to the ordinance. [*Gene Lovelace Enters. v. City of Knoxville, — S.W.3d —, 2021 Tenn. App. LEXIS 229 (Tenn. Ct. App. June 11, 2021)*](https://plus.lexis.com/api/document?collection=cases&id=urn:contentItem:62WP-RRT1-JFDC-X3CF-00000-00&context=1530671) .

**3. Video Rental Store.**

The definitions of “adult book store” and “adult-oriented establishment” contained in this section exclude a video rental store business from coverage under this act. [*Price v. State, 806 S.W.2d 179, 1991 Tenn. LEXIS 124 (Tenn. 1991)*](https://plus.lexis.com/api/document?collection=cases&id=urn:contentItem:3S3K-3MV0-003F-94MK-00000-00&context=1530671) .

**4. Bookstores.**

Since all adult bookstores restricted admission to adults, as defined in [*T.C.A. §****7-51-1102****(1)*](https://plus.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4X8J-DJ90-R03N-74C4-00000-00&context=1530671), restricted access was a reliable indicator of adult materials and was a rational way to identify those likely to produce the adverse secondary effects the Tennessee Adult-Oriented Establishment Registration Act of 1998, [*T.C.A. § 7-51-1101*](https://plus.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4X8J-DJ90-R03N-74C3-00000-00&context=1530671) et seq., targeted; plaintiff bookstore was properly denied a preliminary injunction on an equal protection challenge against defendant county. [*East Brooks Books, Inc. v. Shelby County, 588 F.3d 360, 2009 U.S. App. LEXIS 25806, 2009 FED App. 407P (6th Cir. Nov. 25, 2009)*](https://plus.lexis.com/api/document?collection=cases&id=urn:contentItem:7X5P-6PT0-YB0V-J00N-00000-00&context=1530671) .

**Opinion Notes**

**Attorney General Opinions.**

Constitutionality of disqualification provisions, OAG 98-096, [*1998 Tenn. AG LEXIS 96 (4/29/98)*](https://plus.lexis.com/api/document?collection=administrative-materials&id=urn:contentItem:3SR4-1810-003Y-Y059-00000-00&context=1530671) .

“Adult-oriented establishment” construed, OAG 98-096, [*1998 Tenn. AG LEXIS 96 (4/29/98)*](https://plus.lexis.com/api/document?collection=administrative-materials&id=urn:contentItem:3SR4-1810-003Y-Y059-00000-00&context=1530671) .

Proposed amendment clarifying the scope of the definition of “adult bookstore” in [*T.C.A. §****7-51- 1102****(1)*](https://plus.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:4X8J-DJ90-R03N-74C4-00000-00&context=1530671) is constitutionally defensible, OAG 05-030 [*(3/29/05) , 2005 Tenn. AG LEXIS 30*](https://plus.lexis.com/api/document?collection=administrative-materials&id=urn:contentItem:4FY4-FB30-003Y-Y4GK-00000-00&context=1530671).

**Research References & Practice Aids**

**Cross-References.**

Sale, loan or exhibition of material to minors, [*§ 39-17-911*](https://plus.lexis.com/api/document?collection=statutes-legislation&id=urn:contentItem:50J2-V4S0-R03M-D4F5-00000-00&context=1530671).

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