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Regulation of Adult-Oriented Entertainment and Massage

Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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Regulation of Adult-Oriented Entertainment and Massage

Reference Number: CTAS-572

The primary state law that grants counties the authority to license and regulate adult-oriented establishments and entertainers is the Adult-Oriented Establishment Registration Act of 1998, T.C.A. § 7-51-1101 *et seq.* This act replaces a former and somewhat similar registration act, which was declared unconstitutional by a federal district court. *Brothers Three Enterprises v. Knox County*, No. CIV-3-89-0035 (E.D. Tenn., N.D., February 4, 1991). This registration law is optional for county governments and may be adopted by a two-thirds (2/3) majority of the county legislative body. An important change to this act occurred in 2008. In 2008 Public Chapter 1085, T.C.A. §§ 7-51-1102, 7-51-1109, and 7-51-1110 were amended to permit county legislative bodies to choose an alternative appeals procedure for denials of adult establishment applications and revocations of permits for adult establishments. Currently, if the **adult-oriented establishment board** affirms the denial of an application or the revocation of a permit, the county attorney files suit for declaratory judgment to confirm the decision was properly made. The county legislative body can now opt into a different procedure in which the aggrieved party shall have the right to appeal the board's decision by common-law writ of certiorari. The county legislative body may rescind its election at any time.

Another general state law governs the location and hours of operation of adult-oriented establishments codified at T.C.A. § 7-51-1401 *et seq.* This law prohibits these businesses, except those offering only live stage shows, adult cabaret, or dinner show type settings, from opening before 8 a.m. or remaining open after midnight Monday through Saturday. On Sundays and legal holidays they must remain closed. Local governments may establish shorter hours of operation, but may not extend the hours. The act provides that these businesses cannot be located within 1000 feet of child care facilities, public/private charter schools, public parks, residences, family recreation centers or places of worship. The act also contains regulations regarding the structure and type of lighting in viewing booths, and specifies penalties for violations.

Although under previous law counties could adopt an optional act to regulate massage services within the county, those statutes have been repealed and superseded by general law enacting a state licensing system in T.C.A. § 63-18-101 *et seq.* Under that law, a state board performs all licensing and regulatory functions that were formerly under the authority of the county board.

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