

Article 26A.

Adult Establishments.

§ 14-202.10. Definitions.

As used in this Article:

- (1) "Adult bookstore" means a bookstore:
 - a. Which receives a majority of its gross income during any calendar month from the sale or rental of publications (including books, magazines, other periodicals, videotapes, compact discs, other photographic, electronic, magnetic, digital, or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section; or
 - b. Having as a preponderance (either in terms of the weight and importance of the material or in terms of greater volume of materials) of its publications (including books, magazines, other periodicals, videotapes, compact discs, other photographic, electronic, magnetic, digital, or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section.
- (2) "Adult establishment" means an adult bookstore, adult motion picture theatre, adult mini motion picture theatre, or adult live entertainment business as defined in this section.
- (3) "Adult live entertainment" means any performance of or involving the actual presence of real people which exhibits specified sexual activities or specified anatomical areas, as defined in this section.
- (4) "Adult live entertainment business" means any establishment or business wherein adult live entertainment is shown for observation by patrons.
- (5) "Adult motion picture theatre" means an enclosed building or premises used for presenting motion pictures, a preponderance of which are 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 therein. "Adult motion picture theatre" does not include any adult mini motion picture theatre as defined in this section.
- (6) "Adult mini motion picture theatre" means an enclosed building with viewing booths designed to hold patrons which is used for presenting motion pictures, a preponderance of which are 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 therein.
- (7), (8) Repealed by Session Laws 2017-151, s. 2(b), effective October 1, 2017.
- (9) "Sexually oriented devices" means without limitation any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device.
- (10) "Specified anatomical areas" means:

- a. Less than completely and opaquely covered: (i) human genitals, pubic region, (ii) buttock, or (iii) female breast below a point immediately above the top of the areola; or
 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (11) "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 other erotic touchings of human genitals, pubic regions, buttocks or female breasts. (1977, c. 987, s. 1; 1985, c. 731, s. 1; 1998-46, s. 4; 2017-151, ss. 2(a), (b).)

§ 14-202.11. Restrictions as to adult establishments.

(a) No person shall permit any building, premises, structure, or other facility that contains any adult establishment to contain any other kind of adult establishment. No person shall permit any building, premises, structure, or other facility in which sexually oriented devices are sold, distributed, exhibited, or contained to contain any adult establishment.

(a1) No person shall permit the practice of massage and bodywork therapy, as defined in Article 36 of Chapter 90 of the General Statutes, in an adult establishment.

(b) No person shall permit any viewing booth in an adult mini motion picture theatre to be occupied by more than one person at any time.

(c) Nothing in this section shall be deemed to preempt local government regulation of the location or operation of adult establishments or other sexually oriented businesses to the extent consistent with the constitutional protection afforded free speech. (1977, c. 987, s. 1; 1985, c. 731, s. 2; 1998-46, s. 5; 2017-151, s. 2(c).)

§ 14-202.12. Violations; penalties.

Any person who violates G.S. 14-202.11 shall be guilty of a Class 3 misdemeanor. Any person who has been previously convicted of a violation of G.S. 14-202.11, upon conviction for a second or subsequent violation of G.S. 14-202.11, shall be guilty of a Class 2 misdemeanor.

As used herein, "person" shall include:

- (1) The agent in charge of the building, premises, structure or facility; or
- (2) The owner of the building, premises, structure or facility when such owner knew or reasonably should have known the nature of the business located therein, and such owner refused to cooperate with the public officials in reasonable measures designed to terminate the proscribed use; provided, however, that if there is an agent in charge, and if the owner did not have actual knowledge, the owner shall not be prosecuted; or
- (3) The owner of the business; or
- (4) The manager of the business. (1977, c. 987, s. 1; 1985, c. 731, s. 3; 1993, c. 539, s. 132; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 14-202.13. Human trafficking public awareness sign.

An adult establishment, as defined in G.S. 14-202.10, shall prominently display on the premises in a place that is clearly conspicuous and visible to employees and the public a public awareness sign created and provided by the North Carolina Human Trafficking Commission that

contains the National Human Trafficking Resource hotline information. (2017-57, s. 17.4(a); 2017-197, s. 5.8.)