S T A T E O F N E W Y O R K

4354

2011-2012 Regular Sessions

I N A S S E M B L Y

February 3, 2011

Introduced by M. of A. GABRYSZAK, SPANO, MOLINARO, CALHOUN, MONTESANO, WEISENBERG, RAIA, McDONOUGH, FINCH, KATZ -- Multi-Sponsored by -- M. of A. BARCLAY, BURLING, CONTE, DUPREY, GIGLIO, HAWLEY, KOLB, REILICH, SCHIMMINGER -- read once and referred to the Committee on Economic Development

AN ACT to amend the general business law, in relation to prohibiting adult book stores within a one thousand foot radius of schools

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The general business law is amended by adding a new section 399-ccc to read as follows:

S 399-CCC. ADULT BOOK STORES PROHIBITED WITHIN CERTAIN ZONES. 1. IT SHALL BE UNLAWFUL FOR ANY PERSON, FIRM OR CORPORATION TO ENGAGE IN THE BUSINESS OF OPERATING OR MAINTAINING AN ADULT BOOK STORE WITHIN A ONE THOUSAND FOOT RADIUS OF AN ELEMENTARY OR SECONDARY SCHOOL. THIS SECTION SHALL NOT APPLY TO ANY PREMISES UPON WHICH A PERSON, FIRM, OR CORPORATION HAS BEEN CONTINUOUSLY CONDUCTING BUSINESS AS DESCRIBED IN THIS SECTION FROM A DATE PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

2. A. FOR PURPOSES OF THIS SECTION, "ADULT BOOK STORE" SHALL MEAN A BOOK STORE WHICH HAS A SUBSTANTIAL PORTION OF ITS STOCK IN-TRADE IN ANY ONE OR MORE OF THE FOLLOWING:

(I) BOOKS, MAGAZINES, PERIODICALS OR OTHER PRINTED MATTER WHICH ARE CHARACTERIZED BY AN EMPHASIS UPON THE DEPICTION OR DESCRIPTION OF "SPECIFIED SEXUAL ACTIVITIES" OR "SPECIFIED ANATOMICAL AREAS"; OR

(II) PHOTOGRAPHS, FILMS, MOTION PICTURES, VIDEO CASSETTES, SLIDES OR OTHER VISUAL REPRESENTATIONS WHICH ARE CHARACTERIZED BY AN EMPHASIS UPON THE DEPICTION OR DESCRIPTION OF "SPECIFIED SEXUAL ACTIVITIES" OR "SPECIFIED ANATOMICAL AREAS".

B. FOR THE PURPOSE OF DETERMINING WHETHER A BOOK STORE HAS A "SUBSTANTIAL PORTION" OF ITS STOCK IN MATERIALS DEFINED IN PARAGRAPH A OF THIS SUBDIVISION, THE FOLLOWING FACTORS SHALL BE CONSIDERED:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(I) THE AMOUNT OF SUCH STOCK ACCESSIBLE TO CUSTOMERS AS COMPARED TO THE TOTAL STOCK ACCESSIBLE TO CUSTOMERS IN THE BOOK STORE; AND

(II) THE AMOUNT OF FLOOR AREA AND CELLAR SPACE ACCESSIBLE TO CUSTOMERS CONTAINING SUCH STOCK; AND

(III) THE AMOUNT OF FLOOR AREA AND CELLAR SPACE ACCESSIBLE TO CUSTOMERS CONTAINING SUCH STOCK AS COMPARED TO THE TOTAL FLOOR AREA AND CELLAR SPACE ACCESSIBLE TO CUSTOMERS IN THE BOOK STORE.

S 2. This act shall take effect immediately.