

**SUBJECT:** Regulating the location of sexually oriented businesses

**COMMITTEE:** Land and Resource Management — favorable, without amendment

**VOTE:** 6 ayes — Bosse, B. Turner, Hamric, Howard, Mowery, Staples  
0 nays  
3 absent — Crabb, Jackson, Krusee

**WITNESSES:** For — Robert Eckels, Harris County; Arthur Nagel; D.L. Smith, Jr.,  
Houston Police Department  
Against — Steven Swander, Texas Entertainment Association

**BACKGROUND :** Cities and counties can regulate the location and density of sexually oriented businesses to promote the health, safety and welfare of citizens. Sexually oriented businesses can be restricted to certain parts of a city or county or prohibited within a certain distance of a school, place of religious worship, residential neighborhood, or other specified land uses.

**DIGEST:** HB 630 would allow counties to prohibit the location of sexually oriented businesses within 1,500 feet of a school, church or other regular place of worship, park, playground, athletic field, day care or child care center, adult care center, hospital or nursing facility, or an area used primarily as a residential neighborhood.  
HB 630 would take immediate effect if finally approved by a two-thirds record vote of the membership in each house.

**SUPPORTERS SAY:** HB 630 would keep sexually oriented businesses out of Texas neighborhoods. Children are extremely impressionable and should not be forced to pass by these questionable businesses while walking to school, a neighborhood park or a friend's house.  
Urban areas in Texas have had difficulty regulating the location of adult businesses in unzoned areas. HB 630 is permissive and would give cities

and counties the option to impose a 1,500 foot distance requirement to regulate the location of these adult businesses.

Sexually oriented businesses detract from the community feeling created in Texas' residential neighborhoods, and have been associated with decreased property values and increased crime rates. HB 630 would impose a uniform statewide distance requirement to protect residents from the negative effects of these undesirable land uses.

The 1,500 foot distance requirement would not be that much greater than the 1,000 foot requirement upheld by the U.S. Supreme Court in 1986. Cities and counties can currently impose distance requirements to regulate the location of adult businesses, but are vulnerable to lawsuits because there is not a state law specifying a distance. HB 630 would add validation and legitimacy to the acts of certain Texas cities and counties that have already adopted a local ordinance requiring at least 1,500 feet between adult businesses and other land uses.

In addition, HB 630 would require distances to be measured by the methods specified in the Texas Alcohol and Beverage Code.

OPPONENTS  
SAY:

The state should not impose an arbitrary one-size-fits-all standard to the diverse needs and land uses of Texas cities and counties. Local governments know how to best craft local land use policies and should be trusted to regulate sexually oriented businesses to reflect the viewpoints and needs of all citizens.

HB 630 could be held unconstitutional because it would effectively deny certain types of expression. The 1986 Supreme Court ruling upheld a 1,000 foot distance requirement between adult picture theaters and residential neighborhoods, churches, parks or schools. However, the 1,500 foot distance in HB 630 would be too great and the list of conflicting land uses too general to allow access to adult businesses in urbanized areas.

The 1,500 feet requirement would be excessive. Any negative effects resulting from the location of a sexually oriented business have been proven to dissipate within three blocks, approximately 1,000 feet, of the business.

In addition, HB 630 does not mention how localities should measure the 1,500 feet distance. There is a large difference between door-to-door and property line to property line distances. The bill should at least be amended to clarify this distinction because it could mean the difference between being in compliance with the ordinance or not.

OTHER  
OPPONENTS  
SAY:

HB 630 is unnecessary. Municipalities and counties already have the authority to restrict the location and density of sexually oriented businesses.

NOTES:

Related bills include HB 761 by Nixon, which would require notice before the construction of a sexually oriented business, and HB 3287 by Bailey, which would require 1,000 foot distance between adult businesses and certain local land uses and require adult businesses to register with the state. Both bills are pending in the House Land and Resource Management Committee.