

SENATE BILL No. 1295

May 30, 2000, Introduced by Senators SIKKEMA, MC COTTER, BULLARD, SHUGARS, NORTH, EMMONS, GOUGEON, MC MANUS, SCHUETTE, STILLE, GOSCHKA, STEIL, HAMMERSTROM, GAST, DUNASKISS, BENNETT, DINGELL, HART, DE BEAUSSAERT and MURPHY and referred to the Committee on Judiciary.

A bill to amend 1945 PA 246, entitled

"An act to authorize township boards to adopt ordinances and regulations to secure the public health, safety and general welfare; to provide for the establishment of a township police department; to provide for policing of townships by certain law enforcement officers and agencies; to provide for the publication of ordinances; to prescribe powers and duties of township boards and certain local and state officers and agencies; to provide sanctions; and to repeal all acts and parts of acts in conflict with the act,"

by amending section 1 (MCL 41.181), as amended by 1999 PA 257, and by adding section 1a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) The township board of a township, at a regular
2 or special meeting by a majority of the members elect of the
3 township board, may adopt ordinances regulating the public
4 health, safety, and general welfare of persons and property,
5 including, but not limited to, ordinances concerning fire
6 protection, licensing or use of bicycles, traffic, parking of

1 vehicles, sidewalk maintenance and repairs, the licensing of
2 business establishments, the licensing and regulating of public
3 amusements, and the regulation or prohibition of public nudity,
4 and may provide sanctions for the violation of the ordinances.
5 The township shall enforce the ordinances and may employ and
6 establish a police department with full power to enforce township
7 ordinances and state laws. If state laws are to be enforced, a
8 township shall have a law enforcement unit or may by resolution
9 appropriate funds and call upon the sheriff of the county in
10 which the township is located, the department of state police, or
11 another law enforcement agency to provide special police protec-
12 tion for the township. The sheriff, department of state police,
13 or other local law enforcement agency shall, if called upon, pro-
14 vide special police protection for the township and enforce local
15 township ordinances to the extent that township funds are appro-
16 priated for the enforcement. Special township deputies appointed
17 by the sheriff shall be under the jurisdiction of and solely
18 responsible to the sheriff. Ordinances regulating traffic and
19 parking of vehicles and bicycles shall not contravene the
20 Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

21 (2) Ordinances enacted may apply to streets, roads, high-
22 ways, or portions of the township determined by the township
23 board or may be limited to specified platted lands within the
24 township, and with respect to these lands shall be valid and
25 enforceable whether the roads and streets have been dedicated to
26 public use or not. Township boards of townships enacting
27 ordinances under this section may accept contributions from duly

1 constituted representatives of the platted lands benefited by the
2 ordinances to defray administrative and enforcement costs inci-
3 dent to the enactment of ordinances.

4 (3) A township may adopt a provision of any state statute
5 for which the maximum period of imprisonment is 93 days or the
6 Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, by ref-
7 erence in an adopting ordinance, which statute shall be clearly
8 identified in the adopting ordinance. A township shall not
9 enforce any provision adopted by reference for which the maximum
10 period of imprisonment is greater than 93 days.

11 (4) As used in this section, "public nudity" means
12 ~~knowingly or intentionally displaying~~ THE KNOWING OR INTEN-
13 TIONAL DISPLAY in a public place, or for payment or promise of
14 payment by any person including, but not limited to, payment or
15 promise of payment of an admission fee, OF any individual's geni-
16 tals or anus with less than a fully opaque covering ~~—~~ or a
17 female individual's breast with less than a fully opaque covering
18 of the nipple and areola. Public nudity does not include any of
19 the following:

20 (a) A woman's breastfeeding of a baby whether or not the
21 nipple or areola is exposed during or incidental to the feeding.

22 (b) Material as defined in section 2 of 1984 PA 343, MCL
23 752.362.

24 (c) Sexually explicit visual material as defined in section
25 3 of 1978 PA 33, MCL 722.673.

1 SEC. 1A. A PLAINTIFF WHO CHALLENGES AN ORDINANCE ADOPTED BY
2 A TOWNSHIP BOARD TO REGULATE OR PROHIBIT PUBLIC NUDITY SHALL JOIN
3 AS PARTIES DEFENDANT THE TOWNSHIP AND THE STATE TREASURER.

4 Enacting section 1. The authority of a township to prohibit
5 or regulate public nudity as set forth by the United States
6 supreme court in City of Erie v Pap's A.M., 529 US ____; 120 S
7 Ct 1382; ____ L Ed 2d ____; 68 USLW 4239 (March 29, 2000), is
8 recognized by this state. The authority granted in this amenda-
9 tory act shall not be construed to limit the authority of a town-
10 ship to enact an ordinance that is based upon the ordinance of
11 the city of Erie, Pennsylvania that was the subject of City of
12 Erie v Pap's A.M., 529 US ____; 120 S Ct 1382; ____ L Ed 2d
13 ____; 68 USLW 4239 (March 29, 2000), except for the exclusions
14 from the definition of public nudity listed in section 1(4) of
15 1945 PA 246, MCL 41.181.