

SENATE BILL No. 1297

May 30, 2000, Introduced by Senators BULLARD, MC COTTER, SIKKEMA, 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 1895 PA 3, entitled
"The general law village act,"
by amending section 1 of chapter VII (MCL 67.1), as amended by
1994 PA 314, and by adding section 1b to chapter VII.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER VII

Sec. 1. A village subject to this act has, in addition to
other powers that are conferred, the general power and authority
granted in this chapter. The council of a village subject to
this act may enact ordinances relating to the powers described in
this section as it considers proper, including, but not limited
to, ordinances relating to 1 or more of the following:

(a) To restrain and prevent vice and immorality.

(b) To punish vagrants, disorderly persons, and

prostitutes.

1 (c) To abate nuisances and preserve the public health.

2 (d) To prohibit and suppress disorderly houses and gaming
3 houses.

4 (e) To regulate, license, or suppress billiard tables and
5 ball alleys, public dance halls, and soft drink emporiums.

6 (f) To suppress gaming.

7 (g) To regulate and license public shows and exhibitions.

8 (h) To license auctioneers, license and regulate hawkers and
9 peddlers, to regulate or prohibit sales of property at auction
10 except sales made pursuant to an order of a court or public law,
11 to require transient traders and dealers to obtain a license
12 before engaging in business, and to regulate by ordinance the
13 terms and conditions of issuing those licenses.

14 (i) To license and regulate hacks and other public
15 vehicles.

16 (j) To provide for and regulate the inspection of
17 provisions.

18 (k) To regulate or prohibit bathing in the rivers, ponds,
19 streams, and waters of the village.

20 (l) To regulate or prohibit the selling, storing, or trans-
21 portation of combustible or explosive substances or materials
22 within the village, and to regulate and restrain the making of
23 fires in the streets or other open spaces in the village.

24 (m) To provide for the organization and regulation of a fire
25 department, to provide for the prevention and extinguishment of
26 fires, and to establish and maintain definite fire limits.

1 (n) To license and regulate solicitors for passengers or
2 baggage for any hotel, tavern, public house, boat, or railroad,
3 and draymen, carmen, truckmen, porters, runners, drivers of cabs,
4 hackney coaches, omnibuses, carriages, sleighs, express vehicles,
5 and other vehicles used and employed for hire, and to fix and
6 regulate the amount and rate of compensation of those
7 individuals.

8 (o) To require horses, mules, or other animals attached to
9 any vehicle or standing in any street, lane, or alley in the vil-
10 lage to be securely fastened, hitched, watched, or held.

11 (p) To prevent and punish horse racing and immoderate driv-
12 ing in any street, park, or alley and to authorize the stopping
13 and detaining of any person who is immoderately driving or riding
14 in any street, park, or alley in the village.

15 (q) To prevent the running at large of dogs, to require dogs
16 to be muzzled, and to authorize the destruction of dogs found at
17 large in violation of an ordinance of the village.

18 (r) To establish lines and grades upon which buildings may
19 be erected, and beyond which buildings shall not extend.

20 (s) To prevent the erection and provide for the removal of
21 buildings considered unsafe.

22 (t) To regulate the placement and provide for the preserva-
23 tion of horse posts or hitching posts.

24 (u) To declare and define the powers and duties of the offi-
25 cers of the village whose powers and duties are not specifically
26 prescribed in this act.

1 (v) To require the treasurer or marshal of the village, and
2 other officers of the village as the council considers proper to
3 give bonds for the discharge of their official duties.

4 (w) To see that the officers of the village perform their
5 duties faithfully and that proper measures are taken to punish
6 neglect of duty by any officer of the village.

7 (x) To provide for the care, custody, and preservation of
8 the public property of the village.

9 (y) To investigate any matter that may come under the juris-
10 diction of the village and that is pursuant to the authority
11 vested in the council or in any officer under this act. The
12 council by majority consent of the council members serving may
13 serve upon a person a subpoena that has been authorized by a
14 court of proper jurisdiction in the county in which the village
15 is located compelling the person to appear before the council or
16 any committee of the council to be examined under oath or to
17 produce a document or object for inspection or copying. If a
18 person objects to or otherwise fails to comply with the written
19 notice served upon him or her, the council may file in that court
20 an action to enforce the subpoena. The court may issue an order
21 requiring the person to appear to be examined or to produce a
22 document or object for inspection or copying. Failure to obey
23 the order of the court is punishable by the court as a contempt.

24 (z) To adopt other ordinances and make other regulations for
25 the safety and good government of the village and the general
26 welfare of its inhabitants that are not inconsistent with the
27 general laws of this state.

1 (aa) To regulate or prohibit public nudity within village
 2 boundaries. As used in this subdivision, "public nudity" means
 3 ~~knowingly or intentionally displaying~~ THE KNOWING OR INTEN-
 4 TIONAL DISPLAY in a public place, or for payment or promise of
 5 payment by any person including, but not limited to, payment or
 6 promise of payment of an admission fee, OF any individual's geni-
 7 tals or anus with less than a fully opaque covering —, or a
 8 female individual's breast with less than a fully opaque covering
 9 of the nipple and areola. Public nudity does not include any of
 10 the following:

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

13 (ii) Material as defined in section 2 of ~~Act No. 343 of the~~
 14 ~~Public Acts of 1984, being section 752.362 of the Michigan~~
 15 ~~Compiled Laws~~ 1984 PA 343, MCL 752.362.

16 (iii) Sexually explicit visual material as defined in sec-
 17 tion 3 of ~~Act No. 33 of the Public Acts of 1978, being section~~
 18 ~~722.673 of the Michigan Compiled Laws~~ 1978 PA 33, MCL 722.673.

19 SEC. 1B. A PLAINTIFF WHO CHALLENGES AN ORDINANCE ENACTED BY
 20 A VILLAGE COUNCIL TO REGULATE OR PROHIBIT PUBLIC NUDITY SHALL
 21 JOIN AS PARTIES DEFENDANT THE VILLAGE AND THE STATE TREASURER.

22 Enacting section 1. The authority of a general law village
 23 to prohibit or regulate public nudity as set forth by the United
 24 States supreme court in City of Erie v Pap's A.M., 529 US ____;
 25 120 S Ct 1382; ____ L Ed 2d ____; 68 USLW 4239 (March 29,
 26 2000), is recognized by this state. The authority granted in
 27 this amendatory act shall not be construed to limit the authority

1 of a general law village to enact an ordinance that is based upon
2 the ordinance of the city of Erie, Pennsylvania that was the
3 subject of City of Erie v Pap's A.M., 529 US ____; 120 S Ct
4 1382; ____ L Ed 2d ____; 68 USLW 4239 (March 29, 2000), except
5 for the exclusions from the definition of public nudity listed in
6 section 1(aa) of chapter VII of the general law village act, 1895
7 PA 3, MCL 67.1.