



Adverse Secondary Effects Doctrine Overview

The adverse secondary effects doctrine allows governments to regulate sexually oriented businesses (SOBs) based on their potential negative impacts on the surrounding community, such as increased crime, reduced property values, and public health concerns. These regulations must be **content-neutral**, meaning they target the secondary effects rather than the content of the speech or expression itself.

Courts require municipalities to provide **substantial evidence** to justify these regulations. However, the evidence does not need to be perfect, and courts often defer to legislative judgment if the evidence is reasonably reliable.

Key Cases: Successes and Defeats Challenging Adverse Secondary Effects

Municipalities Successfully Justifying Regulations

1. **Young v. American Mini Theatres, Inc. (1976)**

- **Key Decision:** The U.S. Supreme Court upheld Detroit's zoning ordinance that dispersed adult businesses to prevent the concentration of such establishments in one area.
- **Rationale:** The Court found that the ordinance was aimed at reducing adverse secondary effects, such as crime and urban blight, and did not violate the First Amendment.
- **Impact:** This case introduced the idea that adult businesses could be treated differently from other businesses due to their unique secondary effects.

2. **City of Renton v. Playtime Theatres, Inc. (1986)**

- **Key Decision:** The U.S. Supreme Court upheld a zoning ordinance that prohibited adult theaters from being located within 1,000 feet of schools, parks, churches, or residential areas.
- **Rationale:** The Court ruled that the ordinance was a content-neutral regulation aimed at mitigating adverse secondary effects (e.g., crime and neighborhood decline), not suppressing speech. The city relied on studies from other municipalities, which the Court found acceptable.
- **Impact:** This case established that municipalities can rely on studies conducted elsewhere to justify regulations, as long as the evidence is reasonably believed to be relevant.

3. **City of Erie v. Pap's A.M. (2000)**

- **Key Decision:** The U.S. Supreme Court upheld a public nudity ordinance that required dancers at adult entertainment venues to wear at least pasties and a G-string.
- **Rationale:** The Court ruled that the ordinance was a content-neutral regulation aimed at reducing adverse secondary effects, such as crime and public health concerns, rather than suppressing expression.
- **Impact:** This case reinforced the principle that municipalities can regulate adult businesses to address secondary effects without violating the First Amendment.

4. **City of Los Angeles v. Alameda Books, Inc. (2002)**

- **Key Decision:** The U.S. Supreme Court upheld a Los Angeles ordinance prohibiting multiple adult businesses from operating on the same premises.
 - **Rationale:** The Court ruled that the city could rely on a study showing that the concentration of adult businesses led to increased crime rates. The Court emphasized that the city did not need to prove causation definitively, only that its evidence was reasonably believed to be relevant.
 - **Impact:** This case clarified that municipalities can use studies to justify regulations, even if the studies are imperfect, as long as they provide reasonable support for the regulation.
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Businesses and Individuals Successfully Challenging Regulations

1. **H&H Entertainment, Inc. v. City of Kissimmee (1999)**

- **Key Decision:** A federal court struck down a zoning ordinance that restricted adult businesses to industrial areas and imposed excessive distancing requirements.
- **Rationale:** The court found that the city failed to provide sufficient evidence of adverse secondary effects and that the restrictions left too few viable locations for adult businesses to operate.
- **Impact:** This case reinforced the requirement for municipalities to provide substantial evidence and ensure that regulations do not create a de facto ban on adult businesses.

2. **Ann Arbor Video v. City of Ann Arbor (1999)**

- **Key Decision:** A federal court struck down a zoning ordinance that restricted adult businesses to industrial areas and imposed excessive distancing requirements.
- **Rationale:** The court found that the city failed to provide sufficient evidence of adverse secondary effects and that the restrictions left too few viable locations for adult businesses to operate.
- **Impact:** This case highlighted the requirement for municipalities to provide substantial evidence and ensure that regulations do not create a de facto ban on adult businesses.

3. **Fly Fish, Inc. v. City of Cocoa Beach (2000)**

- **Key Decision:** A federal court struck down a public nudity ordinance that applied to adult entertainment venues.
- **Rationale:** The court found that the city failed to provide sufficient evidence of adverse secondary effects and that the ordinance was not narrowly tailored to address the alleged harms.
- **Impact:** This case emphasized that municipalities must show a direct connection between the regulation and the mitigation of adverse secondary effects.

4. **Peek-A-Boo Lounge of Bradenton, Inc. v. Manatee County (2003)**

- **Key Decision:** The Eleventh Circuit Court of Appeals struck down a public nudity ordinance that applied to adult entertainment venues.
- **Rationale:** The court found that the county failed to provide substantial evidence of adverse secondary effects and that the ordinance was overly broad.
- **Impact:** This case reinforced the principle that municipalities must provide substantial evidence and narrowly tailor their regulations.

5. **Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County (2003)**

- **Key Decision:** A federal court struck down a zoning ordinance that restricted adult businesses to industrial areas and imposed excessive distancing requirements.
- **Rationale:** The court found that the ordinance effectively banned adult businesses from operating in the county and that the county failed to provide sufficient evidence of adverse secondary effects.
- **Impact:** This case demonstrated that municipalities cannot use zoning regulations to create a de facto ban on adult businesses.

Key Takeaways

- **For Municipalities:**
 - Regulations must be content-neutral and aimed at mitigating adverse secondary effects.
 - Municipalities can rely on studies from other jurisdictions, but the evidence must be reasonably relevant and credible.
 - Regulations must leave sufficient alternative avenues for expression and not create a de facto ban.

- **For Businesses:**
 - Municipalities must provide substantial evidence of adverse secondary effects to justify regulations.
 - Regulations must be narrowly tailored to address the alleged harms without being overly broad or restrictive.
 - Businesses can challenge regulations that effectively ban adult businesses or fail to show a direct connection to mitigating secondary effects.

By understanding these cases, you can better assess the strengths and weaknesses of regulations targeting adult businesses and develop strategies to protect your rights.