



national coalition for sexual freedom inc.

Timeline of Sexually Oriented Business Laws

19th Century: Early Obscenity Laws

- **1873 – Comstock Act:**
 - The federal government enacts the Comstock Act, which prohibits the distribution of "obscene" materials through the mail.
 - Reflects Victorian-era morality and establishes the foundation for future regulation of sexually explicit content.
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Mid-20th Century: Rise of Adult Entertainment and Early Regulation

- **1957 – Roth v. United States:**
 - The U.S. Supreme Court rules that obscenity is not protected by the First Amendment, creating a vague standard for what constitutes obscenity.
- **1973 – Miller v. California:**
 - The Court refines the definition of obscenity with the "Miller test," allowing regulation of sexually explicit materials based on local community standards.
- **Post-WWII to 1970s:**
 - The rise of adult bookstores, strip clubs, and adult theaters leads to increasing societal concerns.

- Local governments begin using zoning laws to regulate the location of SOBs, particularly in response to public pressure to address their negative impacts on communities.
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1979: The Phoenix Laws

- The City of Phoenix, Arizona, enacts a comprehensive set of ordinances to regulate sexually oriented businesses.
 - **Key Features:**
 - **Zoning Restrictions:** SOBs are prohibited from operating within a certain distance of sensitive areas such as residential neighborhoods, schools, churches, and parks.
 - **Operational Regulations:** Limits are placed on physical contact between performers and patrons (e.g., "no-touch" rules in strip clubs), and restrictions are imposed on full nudity.
 - **Licensing Requirements:** SOBs and their employees must obtain special licenses, which can be revoked for violations.
 - **Focus on Secondary Effects:**
 - The Phoenix Laws explicitly aim to mitigate **adverse secondary effects**, such as:
 - Increased crime (e.g., prostitution, drug trafficking).
 - Decreased property values in surrounding areas.
 - Public health concerns, including the spread of sexually transmitted infections (STIs).
 - **Impact:**
 - The Phoenix Laws become a national model for regulating SOBs, inspiring other cities to adopt similar ordinances.
 - **Legal Challenges:**
 - Courts uphold the Phoenix Laws under the **secondary effects doctrine**, which allows governments to regulate SOBs to address societal harms rather than targeting their content.

1980s: The Meese Report and the Expansion of Secondary Effects Doctrine

1986 – The Meese Report:

- The **Attorney General’s Commission on Pornography**, chaired by Edwin Meese III, publishes a comprehensive report linking sexually explicit materials and businesses to various societal harms.
 - **Findings:**
 - The report emphasizes the connection between sexually oriented businesses and increased crime, exploitation, and public health risks.
 - It highlights the **adverse secondary effects** of SOBs, including:
 - Higher rates of prostitution and drug activity near SOBs.
 - Negative impacts on neighborhood safety and property values.
 - The report advocates for stricter regulation of SOBs to protect communities.
 - **Impact:**
 - The Meese Report bolsters efforts to regulate SOBs and provides evidence for lawmakers and courts to justify zoning and operational restrictions.

1986 – City of Renton v. Playtime Theatres, Inc.:

- The Supreme Court upholds zoning ordinances inspired by the Phoenix Laws and the findings of the Meese Report.
 - **Key Ruling:**
 - Regulations targeting SOBs are constitutional if they address **adverse secondary effects** rather than restricting the content of speech.
 - This decision solidifies the **secondary effects doctrine** as a cornerstone of SOB regulation.
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1990s: Refining the Secondary Effects Doctrine

- **1991 – Barnes v. Glen Theatre, Inc.:**
 - The Supreme Court upholds public indecency laws requiring minimal clothing for nude dancers, emphasizing the government’s interest in maintaining public order and addressing secondary effects.

- **1994 – Studies on Secondary Effects:**
 - Cities conduct studies to document the adverse secondary effects of SOBs, providing empirical evidence to justify zoning and operational restrictions.
 - Common findings include:
 - Increased crime rates in areas near SOBs.
 - Negative impacts on property values and community stability.
 - Strain on local law enforcement resources.
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2000s: Absolute Prohibition of Live Sex Act Businesses

- **Public Health and Safety Concerns:**
 - States and municipalities begin enacting laws to completely ban live sex act businesses, citing public health risks (e.g., STIs), human trafficking, and criminal activity.
 - **Florida’s Live Sex Act Ban:**
 - Florida enacts an absolute prohibition on live sex act businesses under **Florida Statute § 796.07**, targeting prostitution and exploitation.
 - **Minnesota and Other States:**
 - Minnesota and other states follow suit, passing laws banning live sex acts in commercial establishments.
 - **Legal Justifications:**
 - Courts uphold these bans by emphasizing the secondary effects doctrine and government interests in preventing crime, protecting public health, and combating human trafficking.
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2000–Present: Modern Trends and Continued Regulation

- **2000 – City of Erie v. Pap’s A.M.:**
 - The Supreme Court upholds a public nudity ordinance, reinforcing the government’s ability to regulate SOBs to address secondary effects.
- **2002 – City of Los Angeles v. Alameda Books, Inc.:**
 - The Court upholds zoning laws restricting the concentration of SOBs in one area, further supporting the secondary effects doctrine.

Modern Developments:

1. Anti-Trafficking Focus:

- Modern SOB laws increasingly focus on combating human trafficking and exploitation, particularly in strip clubs and massage parlors.

2. Public Health Measures:

- Cities incorporate public health initiatives, such as mandatory health inspections and STI prevention programs, into SOB regulations.

3. Technology and Online Regulation:

- Lawmakers explore ways to adapt SOB laws to digital platforms, addressing the rise of online adult entertainment and its societal implications.
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Conclusion

This timeline highlights the evolution of sexually oriented business laws, from early obscenity regulations to modern efforts addressing public health, safety, and trafficking concerns. Key milestones, such as the **Phoenix Laws**, the **Meese Report**, and the **absolute prohibition of live sex act businesses**, demonstrate how the concept of **adverse secondary effects** has shaped the legal framework for regulating SOBs. These regulations reflect an ongoing effort to balance constitutional protections with the need to protect communities from the negative impacts of sexually oriented businesses.