

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 468

Short Title: Lewd Films/Nuisance.

(Public)

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Sponsors: Senators Staton, Johnson, and Sherron.

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Referred to: Judiciary I.

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April 2, 1991

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT LEWD FILMS ARE INCLUDED IN THE  
DEFINITION OF NUISANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 19-1.2 reads as rewritten:

**"§ 19-1.2. Types of nuisances.**

The following are declared to be nuisances wherein obscene or lewd matter or other  
conduct prohibited in G.S. 19-1(a) is involved:

- (1) Any and every place in the State where lewd films are publicly exhibited ~~as a predominant and in the~~ regular course of business, or possessed for the purpose of such exhibition;
- (2) Any and every place in the State where a lewd film is publicly and repeatedly exhibited, or possessed for the purpose of such exhibition;
- (3) Any and every lewd film which is publicly exhibited, or possessed for such purpose at a place which is a nuisance under this Article;
- (4) Any and every place of business in the State in which lewd publications constitute a ~~principal or substantial~~ part of the stock in trade;
- (5) Any and every lewd publication possessed at a place which is a nuisance under this Article;
- (6) Every place which, as a regular course of business is used for the purposes of lewdness, assignation, gambling, the illegal possession or sale of alcoholic beverages, the illegal possession or sale of narcotic drugs as defined in the North Carolina Controlled Substances Act, or

1                   prostitution, and every such place in or upon which acts of lewdness,  
2                   assignment, gambling, the illegal possession or sale of alcoholic  
3                   beverages, the illegal possession or sale of narcotic drugs as defined in  
4                   the North Carolina Controlled Substances Act, or prostitution, are held  
5                   or occur."

6                   Sec. 2. G.S. 19-2.1 reads as rewritten:

7   "**§ 19-2.1. Action for abatement; injunction.**

8                   Wherever a nuisance is kept, maintained, or exists, as defined in this Article, the  
9   Attorney General, district attorney, county, city, or any private citizen of the city or  
10   county may maintain a civil action in the name of the State of North Carolina to abate a  
11   nuisance under this Chapter, perpetually to enjoin all persons from maintaining the  
12   same, and to enjoin the use of any structure or thing adjudged to be a nuisance under  
13   this Chapter. ~~Chapter; provided, however, that no private citizen may maintain such action~~  
14   ~~where the alleged nuisance involves the illegal possession or sale of obscene or lewd matter.~~

15                  If an action is instituted by a private person, the complainant shall execute a bond  
16   prior to the issuance of a restraining order or a temporary injunction, with good and  
17   sufficient surety to be approved by the court or clerk thereof, ~~in the sum of not less than~~  
18   ~~one thousand dollars (\$1,000),~~ in an amount set by the court in its discretion, to secure to  
19   the party enjoined the damages he may sustain if such action is wrongfully brought, not  
20   prosecuted to final judgment, or is dismissed, or is not maintained, or if it is finally  
21   decided that the temporary restraining order or preliminary injunction ought not to have  
22   been granted. The party enjoined shall have recourse against said bond for all damages  
23   suffered, including damages to his property, ~~person,~~ or character and including  
24   reasonable attorney's fees incurred by him in making defense to said action. No bond  
25   shall be required of ~~the prosecuting attorney or the~~ Attorney General, district attorney, city  
26   or county, and no action shall be maintained against the public ~~official for his official~~  
27   ~~action.~~ official, city or county for its action."

28                  Sec. 3. This act becomes effective October 1, 1991, and applies to offenses  
29   occurring on or after that date.