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Victory! NAC Derails Dangerous Nevada Legislation

Tax Bill would have defined some naturist activities as “Live Adult Entertainment”

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CARSON CITY, Nevada — With the grass roots help of large numbers of naturists and other concerned citizens, the Naturist Action Committee has stopped a legislative bill that would have defined “live adult entertainment” to include naturist activities.

Nevada Senate Bill 247 was passed by the State Senate, but issues raised by NAC stalled the measure in an Assembly committee. The bill never made it to an Assembly floor vote. The Nevada legislative session was concluded on June 7, and SB 247 is officially dead.

WHAT DID SB 247 PROPOSE?

The legislation proposed a revision to an existing 10% tax on live entertainment that was adopted by the state just two years ago. SB 247 would have created a tax that applied only to “live adult entertainment.”

Senate Bill 247 defined “live adult entertainment” as “any activity provided for pleasure, enjoyment, recreation, relaxation, diversion or other similar purpose which includes the exposure of one or more personal anatomical features by a person or persons who are physically present when providing that activity to a patron or group of patrons who are physically present.”

“Personal anatomical feature” was defined by the proposed new law to mean any portion of the:

1. Genitals, pubic region, anus or perineum of any human person; or
2. Areola of any female human breast or of any male human breast which has been surgically altered to appear as a female human breast.

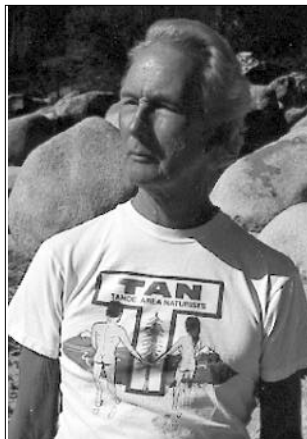
TESTIFYING BEFORE LAWMAKERS ON BEHALF OF NATURISTS



Richard Clauser.



Craig Hartman.



North Swanson.

WHAT MAKES THIS A NATURIST ISSUE?

Beyond the obvious burden of an additional tax, the inclusion of nudist resorts and other naturist venues in the bill's overly broad definition of “Live Adult Entertainment” would have created a dangerous and unacceptable situation for naturists. The classification of nudist and naturist resorts as “adult” facilities for taxation purposes places them just a

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step away from further onerous regulation and suggests prohibitions on families with children.

HISTORY AND DISCUSSION

Nevada has taxed live entertainment in casinos for many years. The two-year-old tax on noncasino live entertainment was expected to bring in as much as \$75 million in additional revenue to the state, but the actual figure has been only \$6 million. Entertainment taxes on strip clubs currently make up 62 percent of the noncasino revenue, but many such clubs are exempt because of a 300-seat minimum that was written into the law. That same minimum has prevented the tax from being applied to the state's brothels.

SB 247 was introduced on March 21 by Nevada State Senator Dina Titus (D-Las Vegas). The measure sought to shift the entire 10% live entertainment tax to the state's sexually oriented entertainment industry and remove the 300-seat minimum. As introduced, the bill would also have imposed the tax on brothels. According to Sen. Titus, the result of shifting this tax will be the addition of a second NASCAR race in Nevada and the selection of the state as a location for a new Major League Baseball franchise.

NAC TAKES ACTION

In an effort headed by Naturist Action Committee board member Allen Baylis, NAC consulted with local naturists and with the ownership and management of Nevada Sun Rancho, the state's landed naturist resort. Nevada Sun Rancho is affiliated with The Naturist Society.

NAC also opened an immediate dialog with key Nevada lawmakers, proposing specific substitute language for the offending definition in SB 247.

At NAC's request, prominent Nevada naturist North Swanson testified in opposition to SB 247 at the Senate Taxation Committee hearing on April 12, pointing out to the committee members the inappropriate inclusion of nudist resorts and other naturist venues in the definition of "live adult entertainment." The ACLU also testified against the legislation. Sen. Titus failed to deliver on an assurance to NAC that the bill would be amended to protect naturist interests. The measure was reported out by the legislative committee with no such amendment, but with a protection for brothels, instead.

NAC's effort to kill or change SB 247 was given more urgency when the measure was immediately approved by a floor vote of the Senate with the Sen. Titus' original broad definition intact. The bill was sent to the Assembly, where it was assigned to the Committee on Commerce and Labor. At a hearing of that committee, NAC Area Representative Richard Clauser testified against the bill. When the bill was referred to the Assembly Ways and Means Committee, local naturist Craig Hartman testified of behalf of the Naturist Action Committee.



Nevada Senator Dina Titus.



NAC board member Allen Baylis.

GRASS ROOTS ACTION

NAC stayed with SB 247 each step of the way, testifying at hearings and continuing the dialog with lawmakers. On May 13, a NAC Action Alert asked naturists and others to contact key lawmakers. The overwhelming response was the beginning of the end for SB 247.

In its Action Alert, NAC carefully selected the members of the Assembly committee to which the bill was assigned, and the grass roots reaction hit just the right lawmakers with exactly the right remarks.

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- August 18-21 **Western Naturist Gathering**
DeAnza Springs Resort, Jacumba, CA
- October 6-9 **Southern Naturist Gathering**
Lake Como Resort, Lutz, FL

Texas Success Has a Big Asterisk

AUSTIN, Texas — An effort led by the Naturist Action Committee (NAC) has resulted in the withdrawal of potentially damaging anti-naturist legislation, but the success has been dimmed by news that similar language has been added to the Texas Administrative Code through a low profile non-legislative process that escaped notice.

Texas State Representative Bryan Hughes (R-Mineola) introduced House Bill 772 in the 2005 legislative session seeking to prohibit nude youth camps in the state. Hughes had sponsored a similar measure in 2003, but it had died after NAC testified against it in a legislative committee hearing. [Newsletter, August, 2003.]

As with his previous effort, Hughes explained that his sole reason for filing HB 772 was an article that had appeared on June 18, 2003, in the *New York Times*. That article, a promotional piece for the American Association for Nude Recreation (AANR), achieved immediate infamy as the trigger for a fusillade of charges by U.S. Congressman Mark Foley (R-Florida).

In 2003, Foley labeled youth camps at nudist facilities to be “reprehensible exploitation of children.” Citing the *Times* article, the Congressman demanded investigations and he called for the immediate closure of what he called a legal “loophole” that “subjects impressionable youths to denigrating and dangerous behavior and could expose them to pedophiles.” [Newsletter, August, 2003.]

“organizers in Texas are planning a fourth camp [for nude youth] there for the summer of 2005.”

The statement given to the *Times* in the context of the “closely managed” article was simply not true, but it’s that very statement that Rep. Hughes has used as the justification for his legislation, both in 2003 and again in 2005.

Within hours of the moment that Texas House Bill 772 was officially filed for introduction, the Naturist Action Committee had engaged a professional legislative lobbyist to assist it in opposing the bill. AANR and its regional affiliate, the Southwestern Sunbathing Association (SWSA), had both been alerted to expect trouble, and both AANR and SWSA graciously agreed to split the cost of the lobbyist with NAC.

The bill was headed for its first showdown in a hearing before the House Committee on Public Health on April 21. However, just minutes before the hearing was scheduled to start, Rep. Hughes agreed to NAC’s suggestion that he withdraw his bill from further consideration.

NAC had succeeded in killing the bill. That had been the objective, but this was no real victory. In a move done so stealthily that not even Rep. Hughes knew about it, administrators in the Department of State Health Services had already taken matters into their own hands. Through an administrative process available to the Department, they amended the Texas Administrative Code to prohibit nudity at youth camps. The Texas rules on “General Sanitation” (25 TAC §265.26) have been modified to read:


“A youth camp may not allow campers or staff to be nude, except when bathing, showering, changing clothing or receiving medical care.”

What was the trigger for such a rule? In a publicly issued statement, Department administrators wrote: “The new rule is not due to recent legislation, but is in response to published comments from nudist associations that plan to operate nudist youth camps in Texas ...”

The “published comments” to which they were responding were, of course, those that appeared in the 2003 article in the *New York Times*.



Texas State Rep. Bryan Hughes (R-Mineola), sponsor of HB 772.



"A youth camp may not allow campers or staff to be nude, except when bathing, showering, changing clothing or receiving medical care."

Texas Administrative Code:
"General Sanitation" (25 TAC §265.26)

The same *Times* article was also the catalyst for the 2004 passage of Virginia state law that bans nude youth camps of the style described by the article.

In the *Times* piece, which AANR characterizes as having been “closely managed” by the association and its public relations firm, camps in Florida, Virginia and Arizona are mentioned, and AANR sources were quoted as saying that

County Ordinance-Making Power Fails in Two States

LINCOLN, Nebraska — State lawmakers in Nebraska's unicameral legislature have once again ignored a bill to give the state's counties the authority to make ordinances. Nebraska counties lack that power.

Legislative Bill 56, introduced by Sen. Mike Foley (I-Lincoln) would have increased the authority of counties. According to LB 56: "County ordinances may address but are not limited to animal control, registration of burglar alarms, public nudity, curfews, booking fees, and towing."

LB 56 failed to make it out of committee. A similar Nebraska bill, LB 665 met the same fate in 2003.

Like their counterparts in Nebraska, Texas counties are also without ordinance-making power. Texas House Bill 757 sought to change that. Sponsored by David Farabee (D-Wichita Falls), the measure stalled in committee. HB 140, a similar bill from 2003 also failed to make it to a floor vote.

Unlike this year's Nebraska bill, county ordinance legislation in Texas has never specifically mentioned nudity. Nevertheless, the Naturist Action Committee has concluded that the regulation of personal nudity and nude displays in adult establishments is an important goal of the legislation.

The existence of county ordinances can force fights over nudity to take place time and again, as a patchwork of local laws is created. A current example is Florida with its 68 counties, 40 of which have adopted anti-nudity ordinances. Nebraska has 93 counties and Texas has 254.

Texas

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Without question, Rep. Hughes was influenced in his decision to drop his bill when he learned of the Health Department's rule.

DISCUSSION

The Naturist Action Committee vigorously supports and defends the right of naturists and nudists to send their kids to camp, in the same way that parents send their children to Boy Scout camp, church camp, band camp, etc. NAC has specifically defended AANR's nude youth camps, even doing so as part of a broad coalition of naturists who held a face-to-face meeting on the issue with Congressman Mark Foley in 2003. Foley had demanded investigations into the camps and had suggested the introduction of legislation to prohibit them. AANR was invited to that meeting, but chose not to participate.

The focus here on the effect of the "closely managed" article in the *New York Times* is a direct reflection of its central role in so many assaults on nude youth camps by lawmakers and rulemakers, including those involved with HB 772 and the administrative rule that accomplished a similar goal.

WHAT'S NEXT IN TEXAS?

NAC has initiated an immediate investigation into the legal ramifications of the change to the Administrative Code. The exact nature of further action will depend on the result of that investigation.

NAC has also broadened its data gathering in Texas and in other states in an effort to be more effective in catching future "end runs" around the legislative process.

Nevada Victory

(continued from page 2)

Speaking of the naturists who responded to NAC's call to action, Assembly majority leader Barbara Buckley said, "I didn't know there were so many ... until we checked the e-mail." Assembly minority leader Lynn Hettrick remarked that law-makers had received "a ton of mail" from naturists.

The thoughtful and persuasive messages sent by naturists to the targeted lawmakers did the trick. Instead of slipping quickly through the Assembly's Commerce and Labor Committee, as most pundits had expected, SB 247 was sidetracked to the Ways and Means Committee, from which it never emerged.

Working without a backup plan is for those who can only imagine a single path to a solution. The Naturist Action Committee had multiple levels of fallback planning, in case the bill could not be killed. But instead of seeking an awkward and shaky exemption, NAC proposed solid alternate legislative language to be used in the event the bill could not be killed.

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