

REGULATING PEEP SHOWS

Peep Show Law Must Stand
HFF City Council Testimony

Let's be clear about this. The Advertiser's editorial on the peep show law simply missed the legal mark. Honolulu's new "open booth" requirement for peep shows is about protecting families, neighborhoods, and communities from the well-documented negative secondary effects of sex-oriented businesses. We commend the mayor and the city council for their progressive approach to a serious community problem.

The current law at issue requires open booths for depictions of "sexual conduct, sexual excitement, sadomasochistic abuse, or sexual anatomical display". The purpose of open booths is to allow for enforcement of existing laws outlawing public sex, prostitution, and drug use. Like it or not, these activities are commonplace in peep show booths. And their consequences are tragic. They are disproportionately likely to happen in these places as opposed to the cars and apartments mentioned in your editorial. And a right to privacy in what the law declares a public accommodation? Nonsense.

The law does nothing to prohibit or suppress the production or viewing of the sexual display. Anyone who wants to produce or view pornography is perfectly free to do so. "Free speech" is not hampered in any way, shape or form. Under the law it simply won't be so easy to have public sex, engage in prostitution, or use drugs.

This same legal approach is used by local governments all across the country. And the sex business operators raise the same objections over and over again. But guess what? Open booth laws have passed constitutional muster in court after court. In fact, Hawaii's own federal 9th Circuit has upheld Spokane's open booth requirements in the 1996 Spokane Arcade case.

I hope the city doesn't give in to the peep show operators. It should tinker around the edges if it must, but it should also fight vigorously to maintain the most important aspects of the open booth ordinance.

Very simply - the current law requiring open peep show booths is constitutionally sound.

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