

March 3, 2009

S 372. CLARIFICATION OF NUISANCE ABATEMENT LAWS. Filed 3/3/09. *TO CLARIFY TYPES OF NUISANCES WHEREIN OBSCENE OR LEWD MATTER OR OTHER CONDUCT PROHIBITED IS INVOLVED.*

Amends GS 19-1.2(1) to identify as a type of nuisance places in the state where lewd films are publicly exhibited as a predominant course of business (was, predominant and regular). Amends GS 19-1.2(6) to also identify as a type of nuisance every place (was, as a regular course of business) used for purposes proscribed by GS Chapter 19 (offenses against public morals). Provides that knowledge of, acquiescence to, or participation in activities prohibited by this Chapter by any person charged with maintaining a nuisance is prima facie evidence that the person uses the place for the purpose of such activities.

Amends GS 19-1.1(1a) to clarify the definition of *knowledge* or *knowledge of such a nuisance* to encompass knowledge of repeated activities or conditions which violate a local ordinance regulating sexually oriented businesses. Amends GS 19-1.3 to declare certain personal property used in the operation of a sexually oriented business in violation of GS 19-1(b1) as a nuisance. Also provides that the furniture of a place used in connection with conduct prohibited by GS 19-1(a), (b), or (b1) is a nuisance. Amends GS 19-2.1 to provide that in an action for abatement instituted by a private person, that person is to execute a bond prior to the issuance of a temporary restraining order (was, restraining order) or a preliminary injunction (was, temporary injunction). Amends GS 19-3(a) to provide an action for abatement under GS Chapter 19 is to be set for trial on application of either of the parties. Amends GS 19-6 to clarify that a finding by the court after a hearing that a tenant or occupant of a building or tenement engaged in repeated acts or omissions that violate a local ordinance regulating sexually oriented businesses causes the right of possession to revert and vest in the owner of the real property at the option of the owner and without any act of the owner. Amends GS 19-6.1 (regarding forfeiture of real property) to replace the term *narcotic drugs* with *controlled substances*.

Makes technical and conforming changes.

Effective October 1, 2009, and applies to offenses committed and abatement actions commenced on or after that date.

Intro. by Boseman.

GS 19

May 13, 2009

S 372. CLARIFICATION OF NUISANCE ABATEMENT LAWS. Filed 3/3/09.

Senate committee substitute makes the following changes to 1st edition. Changes title to *AN ACT TO CLARIFY TYPES OF NUISANCES WHEREIN OBSCENE OR LEWD MATTER OR OTHER CONDUCT PROHIBITED IS INVOLVED AND TO PROVIDE THAT INDIVIDUALS ENGAGED IN A PATTERN OF STREET GANG ACTIVITY ARE SUBJECT TO INJUNCTIONS PURSUANT TO CHAPTER 19 OF THE GENERAL STATUTES*. Defines *nuisance* in GS 19-1 to require regular and repeated acts prohibited by that statute (prostitution, gambling and so forth), and makes similar changes to the specific acts declared to be nuisances in GS 19-1.2. Adds new Article 13B to GS Chapter 14 to declare real property used by street gangs as public nuisance, subject to abatement under GS Chapter 19, with exemptions for owners who do not have actual knowledge that the property is being used for gang activity. Declares street gangs, as defined in GS Chapter 14, to be a public nuisance if the gang associates in street gang activities for at least five times in a 12-month period. Makes any person who regularly associates with the gang to be a defendant, who may be enjoined from engaging in gang activities. Repeals GS 14-50.24, which also declares real property used by gangs as nuisance. Makes technical changes.

July 30, 2009

S 372. CLARIFICATION OF NUISANCE ABATEMENT LAWS. Filed 3/3/09. House committee substitute makes the following changes to 2nd edition. Adds to proposed amended GS 19-1.2 that a place may not be declared a nuisance under the statute, or GS 14-50.32, if the persons charged establishes that they made and are continuing to make good faith efforts to abate the nuisance. Modifies proposed language amending GS 19-6 to provide that if, after an adversary hearing, it is judicially found that a tenant or occupant of a building or tenement under lawful title uses such place for the purposes of repeated activities or conditions (was, repeated acts or omissions) that violate a local ordinance regulating sexually oriented businesses, such use makes void the lease or other title at the option of the owner and, without any act of the owner, causes the right of possession to revert and vest in such owner. Also makes a clarifying change in proposed GS 14-50.32(a).