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## **SECONDARY EFFECTS (TIME, MANNER, AND PLACE) RESTRICTIONS**

The U.S. Supreme Court has permitted states and localities to address the alleged “negative secondary effects” of sexually oriented businesses, such as adult bookstores, cabarets, and movie theaters, through “time, manner, and place” restrictions. The alleged negative secondary effects of sexually oriented businesses include crime, unsanitary conditions, traffic congestion, and decreased property values. Permissible restrictions generally establish where sexually oriented businesses can be located, hours of operation, standards of behavior for employees and patrons, and licensing requirements.

The Supreme Court has stated that, in order to impose a secondary effects restriction on a category of businesses, a state or local government must have some evidence that can be reasonably relied on to support the assertion that the category of businesses generates negative secondary effects and, therefore, should be regulated. The court has also clarified that a local government cannot rely on “shoddy data or reasoning” and the evidence “must fairly support the municipality’s rationale for its ordinance.” *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002).

The Entertainment Merchants Association (EMA) strongly opposes efforts to regulate mainstream video stores that carry some adult product as sexually oriented businesses. Given U.S. Supreme Court rulings on secondary effects regulations, it is impermissible for states and localities to attempt to apply them to video stores that primarily sell or rent material that is not sexually oriented and that do not allow on-premises viewing of adult movies. There is no evidence that such video stores generate negative secondary effects. Such regulations would unduly burden protected speech and, as a result, violate the First Amendment.