

SENATE BILL NO. 265
INTRODUCED BY D. GRIMES

A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING LIVE ENTERTAINMENT IN ESTABLISHMENTS LICENSED TO SELL ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION; REQUIRING LIVE ENTERTAINMENT TO BE PERFORMED ON A PLATFORM OR EXCLUSIVE AREA; PROHIBITING LIVE ENTERTAINMENT NOT PERFORMED ON A PLATFORM FROM BEING PERFORMED IN AN ESTABLISHMENT LICENSED TO SELL ALCOHOLIC BEVERAGES FOR ON-PREMISES CONSUMPTION; REQUIRING PHYSICAL SEPARATION BETWEEN ENTERTAINMENT NOT PERFORMED ON A PLATFORM AND AN ESTABLISHMENT LICENSED TO SELL ALCOHOLIC BEVERAGES; PROHIBITING OWNERSHIP INTERESTS BETWEEN CERTAIN ESTABLISHMENTS; PROVIDING PENALTIES; CREATING THE OFFENSE OF NUDITY ON PREMISES LICENSED TO SELL ALCOHOLIC BEVERAGES AND PROVIDING PENALTIES; AND AMENDING SECTION 16-3-311, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Establishments licensed for on-premises consumption -- live entertainment -- separation of premises -- restrictions -- penalty. (1) (a) Subject to the provisions of subsections (1)(b), (1)(c), and (2), the owner or proprietor of an establishment licensed to sell alcoholic beverages for on-premises consumption may permit instrumental and vocal music or entertainment and radio and television entertainment in the establishment, whether the entertainment is provided by paid or voluntary live male or female entertainers or performers or by mechanical, electrical, electronic, or other comparable device or equipment.

(b) All live entertainment permitted under subsection (1)(a) must be performed on a platform or other exclusive area provided for that purpose, and an entertainer or performer, whether male or female, may not be permitted to leave the platform or exclusive area while entertaining or performing.

(c) There may not be a door or other entrance or access from an establishment licensed to sell alcoholic beverages for on-premises consumption into another room, building, premises, or place where any entertainment prohibited by subsection (1)(b) is permitted. The owner, proprietor, or person in charge of an establishment licensed to sell alcoholic beverages for on-premises consumption may not operate, conduct, or have an ownership in any room, building, premises, or place where live entertainment otherwise prohibited under subsection (1)(b) is permitted if the room, building, premises, or place is within 300 feet of the establishment

licensed to sell alcoholic beverages for on-premises consumption.

(2) The owner or proprietor of an establishment licensed to sell alcoholic beverages for on-premises consumption may not permit any person to dance, promenade, or exhibit that person for gain, drinks, hire, or for the solicitation of orders for alcoholic beverages.

(3) An owner, proprietor, or person in charge of an establishment licensed to sell alcoholic beverages for on-premises consumption who is convicted of permitting any activity prohibited by subsection (1) or (2) shall be fined not to exceed \$500 or imprisoned in the county jail for a term not to exceed 6 months, or both. Each day of violation constitutes a separate offense.

NEW SECTION. Section 2. Nudity on premises licensed to sell alcoholic beverages. (1) A person commits the offense of nudity on a premises licensed to sell alcoholic beverages if:

(a) the person is an owner, proprietor, or person in charge of an establishment licensed under Title 16 to sell alcoholic beverages for on-premises consumption and knowingly permits:

(i) any female person to appear on the premises with a breast or breasts uncovered; or

(ii) any person to appear on the premises in a manner in which the person's genitalia or gluteal cleavage is not covered by a fully opaque material or is so thinly covered as to appear uncovered;

(b) the person is a female who intentionally appears on the premises with a breast or breasts uncovered, whether or not the female is employed by the establishment; or

(c) the person intentionally appears on the premises with the person's genitalia or gluteal cleavage uncovered or appearing to be uncovered, whether or not the person is employed by the establishment.

(2) For purposes of this section, a breast must be considered uncovered if any portion of the nipple or areola is not covered by a fully opaque material or is so thinly covered as to appear uncovered.

(3) A person convicted of nudity on a premises licensed to sell alcoholic beverages shall be fined not to exceed \$500 or imprisoned in the county jail for a term not to exceed 6 months, or both.

Section 3. Section 16-3-311, MCA, is amended to read:

"16-3-311. Suitable premises for licensed retail establishments. (1) ~~A~~ Except as provided in [section 1], a licensed retailer may use a part of a building as premises licensed for on-premises consumption of alcoholic beverages. The premises must be separated from the rest of the building by permanent walls but may have inside access during lawful hours of operation to the rest of the building even if the businesses or uses in the other part of the building are unrelated to the operation of the premises in which the alcoholic beverages are served.

(2) A licensee whose premises did not meet the requirements of this section on September 24, 1992, shall meet the requirements when an alteration to the premises has been completed and the department has approved the alteration. An alteration is any structural change in a premises. A cosmetic change, such as painting, carpeting, or other interior decorating, is not considered an alteration under this section."

NEW SECTION. Section 4. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 16, chapter 3, part 3, and the provisions of Title 16, chapter 3, part 3, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 45, chapter 8, part 2, and the provisions of Title 45, chapter 8, part 2, apply to [section 2].

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