

1 HOUSE BILL NO. 354

2 INTRODUCED BY R. GARCIA

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROTECTING MONTANA CHILDREN AND COMMUNITIES;
5 PROHIBITING SEXUALLY EXPLICIT MATERIALS IN SCHOOLS AND LIBRARIES THAT RECEIVE STATE
6 FUNDING; ESTABLISHING RESTRICTIONS ON THE LOCATIONS OF SEXUALLY ORIENTED BUSINESSES;
7 PROVIDING PENALTIES; AND PROVIDING DEFINITIONS AND LEGISLATIVE PURPOSE."

8

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

10

11 NEW SECTION. **Section 1. Legislative findings -- purpose.** (1) The legislature finds that:12 (a) the ubiquity of sexually explicit materials that are easily accessible to youth is a public health concern
13 warranting legislative action; and14 (b) the prevalence of sexually oriented businesses contributes to the ubiquity of sexually explicit
15 materials and has a deleterious effect on community and neighborhood well-being and property values.

16 (2) (a) The purposes of [sections 1 through 4] are to:

17 (i) protect children from exposure to sexually explicit materials; and

18 (ii) protect Montana communities from degradation stemming from a prevalence of sexually oriented
19 businesses.

20 (b) It is not the intent of [sections 1 through 4] to:

21 (i) impose new restrictions on the content of communicative materials, including sexually explicit
22 materials;

23 (ii) restrict access by adults to sexually oriented businesses; or

24 (iii) condone or legitimize the distribution of obscene materials.

25

26 NEW SECTION. **Section 2. Definitions.** For the purposes of [sections 1 through 4], the following
27 definitions apply:28 (1) "Sexually explicit materials" means any form of display, including books, magazines, periodicals, or
29 other printed matter or photographs, films, motion pictures, videotapes, video reproductions, slides, or other visual
30 representations:

1 (a) displaying the male genitals in a state of sexual arousal or the vulva or more intimate parts of the
2 female genitals; or

3 (b) depicting sexual conduct as defined in 45-8-205.

4 (2) "Sexually oriented business" means a commercial establishment that as one of its primary business
5 purposes offers any product, production, performance, or service intending to arouse or gratify the sexual desire
6 of any person.

7
8 **NEW SECTION. Section 3. Sexually explicit materials prohibited in publicly funded libraries and**
9 **schools -- penalty.** (1) A library or school that receives any form of funding from the state may not possess or
10 make available sexually explicit materials as defined in [section 2].

11 (2) A library or school convicted of violating the prohibition under subsection (1) shall be fined not less
12 than \$1,000 or more than \$10,000.

13
14 **NEW SECTION. Section 4. Sexually oriented businesses -- restriction on density and location**
15 **-- penalty.** (1) A sexually oriented business as defined in [section 2] may not be located:

16 (a) within 600 feet of another sexually oriented business;

17 (b) within 1,000 feet of a school, day-care center, playground, developed or improved park, multiuse
18 path, athletic field, or facility that primarily serves minors, or a business or facility having a principal purpose of
19 caring for, educating, or entertaining minors, or a church or other place of worship, a cemetery, or a government
20 building; or

21 (c) within 1,000 feet of any property zoned for residential occupancy.

22 (2) For the purposes of the distance restrictions in subsection (1), distances must be measured in a
23 straight line, without regard to intervening structures, at the nearest points of relevant property lines.

24 (3) A sexually oriented business in existence prior to October 1, 2019, and located in violation of this
25 section shall relocate on or before October 1, 2024, to meet the requirements of this section.

26 (4) The owner of a sexually oriented business who is convicted of violating this section shall be fined not
27 less than \$1,000 or more than \$5,000 and, if applicable, the county or municipality shall revoke the business
28 license held by the offender.

29
30 **NEW SECTION. Section 5. Codification instruction.** [Sections 1 through 4] are intended to be codified

1 as an integral part of Title 45, chapter 8, and the provisions of Title 45, chapter 8, apply to [sections 1 through 4].

2 - END -