

1 HOUSE BILL NO. 359

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12

13 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING MINORS FROM ATTENDING DRAG SHOWS;

14 PROHIBITING MINORS FROM ENTERING SEXUALLY ORIENTED BUSINESSES; PROHIBITING DRAG

15 PERFORMANCES IN LIBRARIES OR SCHOOLS THAT RECEIVE STATE FUNDING; PROHIBITING DRAG

16 PERFORMANCES ON PUBLIC PROPERTY WHERE CHILDREN ARE PRESENT; PROHIBITING DRAG

17 PERFORMANCES IN A LOCATION OWNED BY AN ENTITY THAT RECEIVES STATE FUNDING;

18 PROVIDING DEFINITIONS; AND PROVIDING PENALTIES."

19

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

21

22 NEW SECTION. Section 1. Definitions. As used in [sections 1 ~~through and~~ 2], the following

23 definitions apply:

24 (1) "Drag performance" means a performance ~~in which a performer exhibits a gender identity that~~

25 ~~is different than the performer's gender assigned at birth using clothing, makeup, or other physical markers and~~

26 ~~sings, lip syncs, dances, or otherwise performs for entertainment to appeal to a prurient interest that features~~

27 topless dancers, exotic dancers, strippers, or male or female impersonators who provide entertainment that

28 appeals to a prurient interest, regardless of whether or not performed for consideration.

- 1 (2) "Nude" means:
- 2 (a) entirely unclothed; or
- 3 (b) clothed in a manner that leaves uncovered or visible through less than fully opaque clothing
- 4 any portion of the breast below the top of the areola of the breasts if the person is female or any portion of the
- 5 genitals or buttocks.

6 (3) "Prurient interest" means having a tendency to excite lustful thoughts.

7 ~~(3)~~(4) "Sexually oriented business" means a nightclub, bar, restaurant, or similar commercial
8 enterprise that:

- 9 (a) provides for an audience of two or more individuals:
 - 10 (i) live nude entertainment or live nude performances; or
 - 11 (ii) a drag performance; and
- 12 (b) authorizes on-premises consumption of alcoholic beverages.

13
14 **NEW SECTION. Section 2. Restrictions on sexually oriented businesses -- penalty.** (1) A
15 sexually oriented business may not allow a person under 18 years of age to enter the premises of the business
16 during a live nude performance or drag performance.

17 (2) The owner, operator, manager, or employee of a sexually oriented business who is convicted
18 of violating this section shall be fined not less than \$1,000 or more than \$5,000 for the first offense, not less
19 than \$2,500 or more than \$5,000 for the second offense, and for third and subsequent offenses be fined
20 \$10,000 and, if applicable, the county or municipality shall revoke the business license held by the offender.

21
22 **NEW SECTION. Section 3. ~~Drag~~Where drag performances are prohibited ~~in publicly funded~~**
23 **libraries or schools.** (1) A library that receives any form of funding from the state may not allow a drag
24 performance as defined in [section 1] on its premises during its regular operating hours.

25 (2) A school that receives any form of funding from the state may not allow a drag performance as
26 defined in [section 1] on its premises during school hours or at any school-sanctioned extracurricular activity.

27 (3) A drag performance is prohibited:

28 (a) on public property in any location where the performance is in the presence of an individual

Amendment - 1st Reading-white - (H) Judiciary

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1 under the age of 18; and
2 (b) in a location owned by an entity that receives any form of funding from the state.
3 ~~(3)(4)~~ A library, a school, ~~or~~ library or school personnel, a public employee, or an entity described in
4 subsection (3)(b) or an employee of the entity convicted of violating the prohibition under this section shall be
5 fined \$5,000 and, if applicable, ~~the board of public education shall initiate~~ proceedings must be initiated to
6 suspend the teacher, administrator, or specialist certificate of the offender under 20-4-110 for 1 year. If an
7 offender's certificate has previously been suspended pursuant to this subsection ~~(3)(4), the board of public~~
8 ~~education shall initiate~~ proceedings must be initiated to permanently revoke the teacher, administrator, or
9 specialist certificate of the offender under 20-4-110 on a subsequent violation of this section.

10
11 NEW SECTION. Section 4. Codification instruction. (1) [Sections 1 and 2] are intended to be
12 codified as an integral part of Title 45, chapter 8, and the provisions of Title 45, chapter 8, apply to [sections 1
13 and 2].

14 (2) [Section 3] is intended to be codified as an integral part of Title 20, chapter 7, part 1, and the
15 provisions of Title 20, chapter 7, part 1, apply to [section 3].

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