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HOUSE BILL NO. 359

INTRODUCED BY B. MITCHELL, S. GUNDERSON, M. MALONE, S. KERNS, J. SCHILLINGER, C. KNUDSEN, S. GIST, K. ZOLNIKOV, S. ESSMANN, P. FIELDER, S. VINTON, L. REKSTEN, L. SHELDON-GALLOWAY, M. REGIER, T. MOORE, M. BERTOGLIO, L. BREWSTER, J. CARLSON, J. HINKLE, B. LER, A. REGIER, K. SEEKINS-CROWE, S. GALLOWAY, F. NAVE, R. MARSHALL, E. BUTTREY, L. JONES, D. LOGE, B. KEENAN, C. HINKLE, J. READ, R. FITZGERALD, J. GILLETTE, G. OBLANDER, J. BERGSTROM, T. BROCKMAN, G. PARRY, M. YAKAWICH, J. FULLER, M. CUFFE, S. HINEBAUCH, T. MCGILLVRAY, M. NOLAND, D. LENZ, D. BARTEL, C. FRIEDEL, B. GILLESPIE, D. SALOMON, C. GLIMM, K. BOGNER, M. LANG, P. GREEN, G. KMETZ, T. FALK, C. SPRUNGER, B. BARKER, J. ETCHART, R. MINER, J. TREBAS, J. KASSMIER, B. PHALEN, L. DEMING, L. HELLEGAARD, T. SMITH, S. VANCE, F. MANDEVILLE, T. VERMEIRE, Z. WIRTH, N. DURAM, R. KNUDSEN, N. HASTINGS

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING MINORS FROM ATTENDING DRAG SHOWS; PROHIBITING MINORS FROM ENTERING SEXUALLY ORIENTED BUSINESSES; PROHIBITING DRAG PERFORMANCES IN LIBRARIES OR SCHOOLS THAT RECEIVE STATE FUNDING; PROHIBITING DRAG PERFORMANCES ON PUBLIC PROPERTY WHERE CHILDREN ARE PRESENT; PROHIBITING DRAG PERFORMANCES IN A LOCATION OWNED BY AN ENTITY THAT RECEIVES STATE FUNDING; PROVIDING DEFINITIONS; AND PROVIDING PENALTIES."

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

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 ~~through and~~ 2], the following definitions apply:

(1) "Drag performance" means a performance ~~in which a performer exhibits a gender identity that is different than the performer's gender assigned at birth using clothing, makeup, or other physical markers and sings, lip syncs, dances, or otherwise performs for entertainment to appeal to a prurient interest that features~~ topless dancers, exotic dancers, strippers, or male or female impersonators who provide entertainment that appeals to a prurient interest, regardless of whether or not performed for consideration.

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

- 2023

68th Legislature 2023

Drafter: Rachel Weiss, 406-444-5367

HB0359.001.007

- 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

- 2023

68th Legislature 2023

Drafter: Rachel Weiss, 406-444-5367

HB0359.001.007

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].

16 - END -