

Amendment - 2nd Reading-yellow - Requested by: Zoey Zephyr - (H) Committee of the Whole

- 2023

68th Legislature 2023

Drafter: Rachel Weiss, 406-444-5367

HB0359.002.001

1 HOUSE BILL NO. 359
2 INTRODUCED BY B. MITCHELL, E. BUTTREY, M. CUFFE, D. SALOMON, J. READ, T. MCGILLVRAY, K.
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6 KNUDSEN, B. USHER, S. VINTON, B. BEARD, M. HOPKINS, N. DURAM, J. FULLER, R. KNUDSEN, K.
7 BOGNER, B. GILLESPIE, J. KASSMIER, B. MERCER, T. MOORE, B. LER, B. PHALEN, F. NAVE, J.
8 CARLSON, L. BREWSTER, K. ZOLNIKOV, A. REGIER, L. REKSTEN, P. FIELDER, S. KERNS, S.
9 GALLOWAY, S. GIST, J. SCHILLINGER, K. SEEKINS-CROWE, M. MALONE, J. GILLETTE, C. HINKLE, M.
10 BERTOGLIO, R. MARSHALL, C. FRIEDEL, S. ESSMANN, M. YAKAWICH, T. BROCKMAN, T. SMITH, R.
11 MINER, G. PARRY, G. OBLANDER, N. NICOL, L. DEMING, D. EMRICH, S. VANCE, T. VERMEIRE, C.
12 SPRUNGER, T. FALK, J. BERGSTROM, G. KMETZ, P. GREEN, J. ETCHART, B. BARKER, L.
13 HELLEGAARD, Z. WIRTH, N. HASTINGS
14

15 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING MINORS FROM ATTENDING DRAG ADULT-
16 ORIENTED SHOWS; PROHIBITING MINORS FROM ENTERING SEXUALLY ORIENTED BUSINESSES;
17 PROHIBITING DRAG ADULT-ORIENTED PERFORMANCES IN LIBRARIES OR SCHOOLS THAT RECEIVE
18 STATE FUNDING; PROHIBITING DRAG ADULT-ORIENTED PERFORMANCES ON PUBLIC PROPERTY
19 WHERE CHILDREN ARE PRESENT; PROHIBITING DRAG-ADULT-ORIENTED PERFORMANCES IN A
20 LOCATION OWNED BY AN ENTITY THAT RECEIVES STATE FUNDING; PROVIDING DEFINITIONS; AND
21 PROVIDING PENALTIES."
22

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
24

25 NEW SECTION. Section 1. Definitions. As used in [sections 1 through AND 2], the following
26 definitions apply:

27 (1) "Drag Adult-oriented performance" means a performance in which a performer exhibits a

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1 ~~gender identity that is different than the performer's gender assigned at birth using clothing, makeup, or other~~
2 ~~physical markers and sings, lip syncs, dances, or otherwise performs for entertainment to appeal to a prurient~~
3 ~~interest THAT FEATURES TOPLESS DANGERS, EXOTIC DANGERS, STRIPPERS, OR MALE OR FEMALE IMPERSONATORS WHO~~
4 ~~PROVIDE provides ENTERTAINMENT THAT APPEALS intended to appeal TO A PRURIENT INTEREST, REGARDLESS OF~~
5 ~~WHETHER OR NOT PERFORMED FOR CONSIDERATION.~~

6 (2) "Nude" means:

7 (a) entirely unclothed; or

8 (b) clothed in a manner that leaves uncovered or visible through less than fully opaque clothing
9 any portion of the breast below the top of the areola of the breasts ~~if the person is female~~ or any portion of the
10 genitals or buttocks.

11 (3) "PRURIENT INTEREST" MEANS HAVING A TENDENCY TO EXCITE LUSTFUL THOUGHTS.

12 (3)(4) "Sexually oriented business" means a nightclub, bar, restaurant, or similar commercial
13 enterprise that:

14 (a) provides for an audience of two or more individuals:

15 (i) live nude entertainment or live nude performances; or

16 (ii) ~~a drag an adult-oriented~~ performance; and

17 (b) authorizes on-premises consumption of alcoholic beverages.

18
19 NEW SECTION. Section 2. Restrictions on sexually oriented businesses -- penalty. (1) A
20 sexually oriented business may not allow a person under 18 years of age to enter the premises of the business
21 DURING A LIVE NUDE PERFORMANCE OR ~~DRAG adult-oriented~~ PERFORMANCE.

22 (2) The owner, operator, manager, or employee of a sexually oriented business who is convicted
23 of violating this section shall be fined not less than \$1,000 or more than \$5,000 for the first offense, not less
24 than \$2,500 or more than \$5,000 for the second offense, and for third and subsequent offenses be fined
25 \$10,000 and, if applicable, the county or municipality shall revoke the business license held by the offender.

26
27 NEW SECTION. Section 3. Drag WHERE ~~DRAG adult-oriented~~ performances ARE prohibited in

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1 ~~publicly funded libraries or schools.~~ (1) A library that receives any form of funding from the state may not
2 allow ~~a drag an adult-oriented~~ performance as defined in [section 1] on its premises during its regular operating
3 hours.

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

7 ~~(3) A DRAG An adult-oriented PERFORMANCE IS PROHIBITED:~~

8 ~~(A) ON PUBLIC PROPERTY IN ANY LOCATION WHERE THE PERFORMANCE IS IN THE PRESENCE OF AN~~
9 ~~INDIVIDUAL UNDER THE AGE OF 18; AND~~

10 ~~(B) IN A LOCATION OWNED BY AN ENTITY THAT RECEIVES ANY FORM OF FUNDING FROM THE STATE.~~

11 ~~(3)(4) A library, a school, or library or school personnel, A PUBLIC EMPLOYEE, OR AN ENTITY DESCRIBED~~
12 ~~IN SUBSECTION (3)(B) OR AN EMPLOYEE OF THE ENTITY~~ convicted of violating the prohibition under this section shall
13 be fined \$5,000 and, if applicable, ~~the board of public education shall initiate proceedings~~ MUST BE INITIATED to
14 suspend the teacher, administrator, or specialist certificate of the offender under 20-4-110 for 1 year. If an
15 offender's certificate has previously been suspended pursuant to this subsection ~~(3) (4), the board of public~~
16 ~~education shall initiate proceedings~~ MUST BE INITIATED to permanently revoke the teacher, administrator, or
17 specialist certificate of the offender under 20-4-110 on a subsequent violation of this section.

18
19 NEW SECTION. Section 4. Codification instruction. (1) [Sections 1 and 2] are intended to be
20 codified as an integral part of Title 45, chapter 8, and the provisions of Title 45, chapter 8, apply to [sections 1
21 and 2].

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

24 - END -