

1 HOUSE BILL NO. 359

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14

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

16 PROHIBITING MINORS FROM ENTERING SEXUALLY ORIENTED BUSINESSES; PROHIBITING DRAG

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

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

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

20 PROVIDING DEFINITIONS; AND PROVIDING PENALTIES."

21

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

23

24 NEW SECTION. Section 1. Definitions. As used in [sections 1 through AND 2], the following

25 definitions apply:

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

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

28 ~~sings, lip syncs, dances, or otherwise performs for entertainment to appeal to a prurient interest~~ THAT FEATURES

1 TOPLESS DANCERS, EXOTIC DANCERS, STRIPPERS, OR MALE OR FEMALE IMPERSONATORS WHO PROVIDE
2 ENTERTAINMENT THAT APPEALS TO A PRURIENT INTEREST, REGARDLESS OF WHETHER OR NOT PERFORMED FOR
3 CONSIDERATION.

4 (2) "Nude" means:

5 (a) entirely unclothed; or

6 (b) clothed in a manner that leaves uncovered or visible through less than fully opaque clothing

7 any portion of the breast below the top of the areola of the breasts if the person is female or any portion of the
8 genitals or buttocks.

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

10 (3)(4) "Sexually oriented business" means a nightclub, bar, restaurant, or similar commercial
11 enterprise that:

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

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

14 (ii) a drag performance; and

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

16

17 NEW SECTION. Section 2. Restrictions on sexually oriented businesses -- penalty. (1) A

18 sexually oriented business may not allow a person under 18 years of age to enter the premises of the business

19 DURING A LIVE NUDE PERFORMANCE OR DRAG PERFORMANCE.

20 (2) The owner, operator, manager, or employee of a sexually oriented business who is convicted

21 of violating this section shall be fined not less than \$1,000 or more than \$5,000 for the first offense, not less

22 than \$2,500 or more than \$5,000 for the second offense, and for third and subsequent offenses be fined

23 \$10,000 and, if applicable, the county or municipality shall revoke the business license held by the offender.

24

25 NEW SECTION. Section 3. Drag ~~WHERE DRAG~~ performances ARE prohibited in ~~publicly funded~~

26 libraries or schools. (1) A library that receives any form of funding from the state may not allow a drag

27 performance as defined in [section 1] on its premises during its regular operating hours.

28 (2) A school that receives any form of funding from the state may not allow a drag performance as

1 defined in [section 1] on its premises during school hours or at any school-sanctioned extracurricular activity.

2 (3) A DRAG PERFORMANCE IS PROHIBITED:

3 (A) ON PUBLIC PROPERTY IN ANY LOCATION WHERE THE PERFORMANCE IS IN THE PRESENCE OF AN

4 INDIVIDUAL UNDER THE AGE OF 18; AND

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

6 ~~(3)~~(4) A library, a school, or library or school personnel, A PUBLIC EMPLOYEE, OR AN ENTITY DESCRIBED

7 IN SUBSECTION (3)(B) OR AN EMPLOYEE OF THE ENTITY convicted of violating the prohibition under this section shall

8 be fined \$5,000 and, if applicable, ~~the board of public education shall initiate proceedings~~ MUST BE INITIATED to

9 suspend the teacher, administrator, or specialist certificate of the offender under 20-4-110 for 1 year. If an

10 offender's certificate has previously been suspended pursuant to this subsection ~~(3) (4), the board of public~~

11 ~~education shall initiate proceedings~~ MUST BE INITIATED to permanently revoke the teacher, administrator, or

12 specialist certificate of the offender under 20-4-110 on a subsequent violation of this section.

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

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

19
20 NEW SECTION. Section 5. Severability. If a part of [this act] is invalid, all valid parts that are
21 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
22 the part remains in effect in all valid applications that are severable from the invalid applications.

23 - END -