1	HOUSE BILL NO. 359
2	INTRODUCED BY B. MITCHELL, E. BUTTREY, M. CUFFE, D. SALOMON, J. READ, T. MCGILLVRAY, K.
3	REGIER, L. JONES, E. BUTCHER, B. KEENAN, C. GLIMM, G. HERTZ, M. LANG, D. LENZ, J. HINKLE, F.
4	MANDEVILLE, T. MANZELLA, W. MCKAMEY, M. NOLAND, S. HINEBAUCH, S. GUNDERSON, M. REGIER,
5	D. LOGE, R. FITZGERALD, F. ANDERSON, L. SHELDON-GALLOWAY, J. TREBAS, D. BARTEL, C.
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 ADULT-ORIENTED
17	BUSINESSES; PROHIBITING DRAG-ADULT-ORIENTED PERFORMANCES IN LIBRARIES OR SCHOOLS
18	THAT RECEIVE STATE FUNDING; PROHIBITING DRAG ADULT-ORIENTED PERFORMANCES ON PUBLIC
19	PROPERTY WHERE CHILDREN ARE PRESENT; PROHIBITING DRAG-ADULT-ORIENTED
20	PERFORMANCES IN A LOCATION OWNED BY AN ENTITY THAT RECEIVES STATE FUNDING;
21	PROVIDING DEFINITIONS; AND 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 performance" means a performance in which a performer exhibits a gender identity that
28	is different than the performer's gender assigned at birth using clothing, makeup, or other physical markers and



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1	sings, lip syncs, dances, or otherwise performs for entertainment to appeal to a prurient interest THAT FEATURES
2	TOPLESS DANCERS, EXOTIC DANCERS, STRIPPERS, OR MALE OR FEMALE IMPERSONATORS WHO PROVIDE
3	ENTERTAINMENT THAT APPEALS TO A PRURIENT INTEREST, REGARDLESS OF WHETHER OR NOT PERFORMED FOR
4	CONSIDERATION.
5	(1) "Adult-oriented business" means a nightclub, bar, restaurant, or similar commercial enterprise
6	that:
7	(a) provides for an audience of two or more individuals:
8	(i) live nude entertainment or live nude performances; or
9	(ii) an adult-oriented performance; and
10	(b) authorizes on-premises consumption of alcoholic beverages.
11	(2) "Adult-oriented performance" means a performance that, regardless of whether performed for
12	consideration, is intended to appeal to a prurient interest in sex and features:
13	(a) the purposeful exposure, whether complete or partial, of:
14	(i) a human genital, the pubic region, the human buttocks, or a female breast, if the breast is
15	exposed below a point immediately above the top of the areola; or
16	(ii) prosthetic genitalia, breasts, or buttocks; or
17	(b) sexual conduct.
18	(2)(3) "Nude" means:
19	(a) entirely unclothed; or
20	(b) clothed in a manner that leaves uncovered or visible through less than fully opaque clothing
21	any portion of the breast below the top of the areola of the breasts if the person is female or any portion of the
22	genitals or buttocks.
23	(3)(4) "PRURIENT INTEREST" MEANS HAVING A TENDENCY TO EXCITE LUSTFUL THOUGHTS. "Prurient interest
24	in sex" has the same meaning as provided in 45-8-205.
25	(5) "Public property" means any real property owned or leased, in whole or part, by the state or a
26	political subdivision, as defined in 2-9-101, or held in the name of a political subdivision by a department, board
27	or authority of the state or a political subdivision.
28	(3)(4) "Sexually oriented business" means a nightclub, bar, restaurant, or similar commercial



1	enterprise that:
2	(a) provides for an audience of two or more individuals:
3	(i) live nude entertainment or live nude performances; or
4	(ii) a drag performance; and
5	(b) authorizes on-premises consumption of alcoholic beverages.
6	
7	NEW SECTION. Section 2. Restrictions on sexually oriented adult-oriented businesses
8	penalty. (1) A sexually oriented An adult-oriented business may not allow a person under 18 years of age to
9	enter the premises of the business <u>DURING A LIVE NUDE PERFORMANCE OR DRAG</u> an <u>adult-oriented PERFORMANCE</u> .
10	(2) The owner, operator, manager, or employee of a sexually oriented an adult-oriented business
11	who is convicted of violating this section shall be fined not less than \$1,000 or more than \$5,000 for the first
12	offense, not less than \$2,500 or more than \$5,000 for the second offense, and for third and subsequent
13	offenses be fined \$10,000 and, if applicable, the county or municipality shall revoke the business license held
14	by the offender.
15	(3) [Sections 1 through 3] are applicable and uniform throughout the state and any political
16	subdivisions.
17	
18	NEW SECTION. Section 3. Drag WHERE DRAG- adult-oriented performances ARE prohibited in
19	publicly funded libraries or schools. (1) A library that receives any form of funding from the state may not
20	allow a drag an adult-oriented performance as defined in [section 1] on its premises during its regular operating
21	hours.
22	(2) A school that receives any form of funding from the state may not allow a drag an adult-
23	oriented performance as defined in [section 1] on its premises during school hours or at any school-sanctioned
24	extracurricular activity.
25	(3) A DRAG-An adult-oriented PERFORMANCE IS PROHIBITED:
26	(A) ON PUBLIC PROPERTY IN ANY LOCATION WHERE THE PERFORMANCE IS IN THE PRESENCE OF AN
27	INDIVIDUAL UNDER THE AGE OF 18; AND
28	(B) IN A LOCATION OWNED BY AN ENTITY THAT RECEIVES ANY FORM OF FUNDING FROM THE STATE.



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1	(3)(4) A library, a school, or library or school personnel, <u>A PUBLIC EMPLOYEE, OR AN ENTITY DESCRIBED</u>
2	IN SUBSECTION (3)(B) OR AN EMPLOYEE OF THE ENTITY convicted of violating the prohibition under this section shal
3	be fined \$5,000 and, if applicable, the board of public education shall initiate proceedings MUST BE INITIATED to
4	suspend the teacher, administrator, or specialist certificate of the offender under 20-4-110 for 1 year. If an
5	offender's certificate has previously been suspended pursuant to this subsection (3) (4), the board of public
6	education shall initiate proceedings MUST BE INITIATED to permanently revoke the teacher, administrator, or
7	specialist certificate of the offender under 20-4-110 on a subsequent violation of this section.
8	
9	NEW SECTION. Section 4. Codification instruction. (1) [Sections 1 and 2] are intended to be
10	codified as an integral part of Title 45, chapter 8, and the provisions of Title 45, chapter 8, apply to [sections 1
11	and 2].
12	(2) [Section 3] is intended to be codified as an integral part of Title 20, chapter 7, part 1, and the
13	provisions of Title 20, chapter 7, part 1, apply to [section 3].
14	
15	NEW SECTION. Section 5. Severability. If a part of [this act] is invalid, all valid parts that are
16	severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
17	the part remains in effect in all valid applications that are severable from the invalid applications.
18	- END -