

1 HOUSE BILL NO. 359

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13 HELLEGAARD, Z. WIRTH, N. HASTINGS

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."

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

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

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 DURING A LIVE NUDE PERFORMANCE OR DRAG an adult-oriented PERFORMANCE.

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.~~

