

Amendment - 2nd Reading/2nd House-tan - Requested by: Ellie Boldman - (S) Committee of Whole

- 2023

68th Legislature 2023

Drafter: Madelyn Krezowski, (406) 444-6857

HB0359.003.003

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 BUSINESSES;
17 PROHIBITING DRAG ADULT-ORIENTED PERFORMANCES IN LIBRARIES OR SCHOOLS THAT RECEIVE
18 STATE FUNDING; PROHIBITING DRAG PERFORMANCES ON PUBLIC PROPERTY WHERE CHILDREN
19 ARE PRESENT; PROHIBITING DRAG PERFORMANCES IN A LOCATION OWNED BY AN ENTITY THAT
20 RECEIVES STATE FUNDING; PROVIDING DEFINITIONS; AND PROVIDING PENALTIES; AND PROVIDING
21 AN IMMEDIATE EFFECTIVE DATE."

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 AN OBSCENE performance in which a performer

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

6 ~~(2) "DRAG QUEEN" MEANS A MALE OR FEMALE PERFORMER WHO ADOPTS A FLAMBOYANT OR PARODIC~~
7 ~~FEMININE PERSONA WITH GLAMOROUS OR EXAGGERATED COSTUMES AND MAKEUP.~~

8 ~~(3) "DRAG STORY HOUR" MEANS AN EVENT HOSTED BY A DRAG QUEEN WHO READS CHILDREN'S BOOKS.~~

9 ~~(4) "EXOTIC DANCER" MEANS AN INDIVIDUAL WHO DANCES OR PERFORMS IN A SEDUCTIVE OR~~
10 ~~PROVOCATIVE MANNER WHILE SCANTILY DRESSED OR WHILE GRADUALLY REMOVING THEIR CLOTHES PIECE BY PIECE.~~

11 ~~(5) "MINOR" MEANS AN INDIVIDUAL UNDER 18 YEARS OF AGE.~~

12 ~~(2)(6)(2)~~ "Nude" means:

13 (a) entirely unclothed; or

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

15 any portion of the breast below the top of the areola of the breasts if the person is female or any portion of the

16 genitals or buttocks.

17 ~~(7)(3)~~ "OBSCENE" HAS THE SAME MEANING AS PROVIDED IN 45-8-201.

18 ~~(3)(8)(4)~~ "PRURIENT INTEREST" MEANS HAVING A TENDENCY TO EXCITE LUSTFUL THOUGHTS.

19 "PRURIENT INTEREST IN SEX" HAS THE SAME MEANING AS PROVIDED IN 45-8-205.

20 ~~(3)(4)(9)(5)~~ "Sexually oriented business" means a nightclub, bar, restaurant, or similar commercial

21 enterprise that:

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

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

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

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

26

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

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1 sexually oriented business may not allow a person under 18 years of age to enter the premises of the business
2 DURING A LIVE NUDE PERFORMANCE OR ~~DRAG adult-oriented~~ PERFORMANCE.

3 (2) The owner, operator, manager, or employee of a sexually oriented business who is convicted
4 of violating this section shall be fined not less than \$1,000 or more than \$5,000 for the first offense, not less
5 than \$2,500 or more than \$5,000 for the second offense, and for third and subsequent offenses be fined
6 \$10,000 and, if applicable, the county or municipality shall revoke the business license held by the offender.

7
8 NEW SECTION. Section 3. Drag WHERE ~~DRAG adult-oriented~~ performances ARE prohibited in
9 publicly funded libraries or schools. (1) A library that receives any form of funding from the state may not
10 allow ~~a drag an adult-oriented~~ performance OR DRAG STORY HOUR as defined in [section 1] on its premises
11 ~~during its regular operating hours~~ during its regular operating hours.

12 (2) A school, AS DEFINED IN 20-6-501, that receives any form of funding from the state may not
13 allow ~~a drag an adult-oriented~~ performance OR DRAG STORY HOUR as defined in [section 1] on its premises
14 during school hours or at any school-sanctioned extracurricular activity.

15 (3) A MUSEUM THAT RECEIVES ANY FORM OF FUNDING FROM THE STATE MAY NOT ALLOW A DRAG an
16 adult-oriented PERFORMANCE OR DRAG STORY HOUR AS DEFINED IN [SECTION 1] ON ITS PREMISES.

17 (4) ANY FACILITY WHERE AT LEAST 10% OF ITS OPERATING BUDGET IS FUNDED BY THE STATE OR LOCAL
18 GOVERNMENT OR MUNICIPALITY MAY NOT HOST A DRAG an adult-oriented PERFORMANCE OR DRAG STORY HOUR AS
19 DEFINED IN [SECTION 1].

20 (3) ~~— A DRAG PERFORMANCE IS PROHIBITED:~~

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

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

24 (3)~~(4)(5)~~ A library, a school, or OR library or school personnel; A PUBLIC EMPLOYEE, OR AN ENTITY
25 DESCRIBED IN SUBSECTION (3)(B) OR AN EMPLOYEE OF THE ENTITY convicted of violating the prohibition under this
26 section shall be fined \$5,000 and, if applicable, the board of public education shall initiate proceedings MUST BE
27 INITIATED to suspend the teacher, administrator, or specialist certificate of the offender under 20-4-110 for 1

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1 year. If an offender's certificate has previously been suspended pursuant to this subsection ~~(3) (4) (5)~~, the board
of public education shall initiate proceedings MUST BE INITIATED to permanently revoke the teacher,
administrator, or specialist certificate of the offender under 20-4-110 on a subsequent violation of this section.

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

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

NEW SECTION. SECTION 5. SEVERABILITY. IF A PART OF [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE
SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS ACT] IS INVALID IN ONE OR MORE OF ITS
APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID
APPLICATIONS.

NEW SECTION. SECTION 6. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

- END -