

HOUSE BILL NO. 359

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A BILL FOR AN ACT ENTITLED: “AN ACT PROHIBITING MINORS FROM ATTENDING ~~DRAG-ADULT-ORIENTED~~ SHOWS; PROHIBITING MINORS FROM ENTERING ~~SEXUALLY-ORIENTED-ADULT-ORIENTED~~ BUSINESSES; PROHIBITING ~~DRAG-ADULT-ORIENTED~~ PERFORMANCES IN LIBRARIES OR SCHOOLS THAT RECEIVE STATE FUNDING; ~~PROHIBITING DRAG PERFORMANCES ON PUBLIC PROPERTY WHERE CHILDREN ARE PRESENT; PROHIBITING DRAG PERFORMANCES IN A LOCATION OWNED BY AN ENTITY THAT RECEIVES STATE FUNDING; PROHIBITING ADULT-ORIENTED PERFORMANCES ON PUBLIC PROPERTY WHERE CHILDREN ARE PRESENT; PROHIBITING ADULT-ORIENTED PERFORMANCES IN A LOCATION OWNED BY AN ENTITY THAT RECEIVES STATE FUNDING;~~ PROVIDING DEFINITIONS; ~~AND-AND~~ PROVIDING PENALTIES; ~~AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.”~~

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

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

1 definitions apply:

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

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

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

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

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

14 (1) ~~"ADULT-ORIENTED BUSINESS" MEANS A NIGHTCLUB, BAR, RESTAURANT, OR SIMILAR COMMERCIAL~~
15 ~~ENTERPRISE THAT:~~

16 (A) ~~PROVIDES FOR AN AUDIENCE OF TWO OR MORE INDIVIDUALS:~~

17 (i) ~~LIVE NUDE ENTERTAINMENT OR LIVE NUDE PERFORMANCES; OR~~

18 (ii) ~~AN ADULT-ORIENTED PERFORMANCE; AND~~

19 (B) ~~AUTHORIZES ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES.~~

20 (2) ~~"ADULT-ORIENTED PERFORMANCE" MEANS A PERFORMANCE THAT, REGARDLESS OF WHETHER~~
21 ~~PERFORMED FOR CONSIDERATION, IS INTENDED TO APPEAL TO A PRURIENT INTEREST IN SEX AND FEATURES:~~

22 (A) ~~THE PURPOSEFUL EXPOSURE, WHETHER COMPLETE OR PARTIAL, OF:~~

23 (i) ~~A HUMAN GENITAL, THE PUBIC REGION, THE HUMAN BUTTOCKS, OR A FEMALE BREAST, IF THE BREAST IS~~
24 ~~EXPOSED BELOW A POINT IMMEDIATELY ABOVE THE TOP OF THE AREOLA; OR~~

25 (ii) ~~PROSTHETIC GENITALIA, BREASTS, OR BUTTOCKS; OR~~

26 (B) ~~SEXUAL CONDUCT.~~

27 (2)(6)(3) "Nude" means:

28 (a) entirely unclothed; or

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

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

5 ~~(3)(8)(4) "PRURIENT INTEREST" MEANS HAVING A TENDENCY TO EXCITE LUSTFUL THOUGHTS.~~

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

7 (5) "PUBLIC PROPERTY" MEANS ANY REAL PROPERTY OWNED OR LEASED, IN WHOLE OR PART, BY THE
8 STATE OR A POLITICAL SUBDIVISION, AS DEFINED IN 2-9-101, OR HELD IN THE NAME OF A POLITICAL SUBDIVISION BY A
9 DEPARTMENT, BOARD, OR AUTHORITY OF THE STATE OR A POLITICAL SUBDIVISION.

10 ~~(3)(4)(9) "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~~ ADULT-ORIENTED businesses --

18 **penalty.** ~~(1) A sexually oriented~~ AN ADULT-ORIENTED business may not allow a person under 18 years of age to
19 enter the premises of the business DURING A LIVE NUDE PERFORMANCE OR DRAG AN ADULT-ORIENTED
20 PERFORMANCE.

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

25 (3) [SECTIONS 1 THROUGH 3] ARE APPLICABLE AND UNIFORM THROUGHOUT THE STATE AND ANY POLITICAL
26 SUBDIVISIONS.

27

28 NEW SECTION. Section 3. Drag ~~WHERE DRAG~~ ADULT-ORIENTED performances ARE prohibited in

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

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

7 ~~(3) A MUSEUM THAT RECEIVES ANY FORM OF FUNDING FROM THE STATE MAY NOT ALLOW A DRAG~~
8 ~~PERFORMANCE OR DRAG STORY HOUR AS DEFINED IN [SECTION 1] ON ITS PREMISES.~~

9 ~~(4) ANY FACILITY WHERE AT LEAST 10% OF ITS OPERATING BUDGET IS FUNDED BY THE STATE OR LOCAL~~
10 ~~GOVERNMENT OR MUNICIPALITY MAY NOT HOST A DRAG PERFORMANCE OR DRAG STORY HOUR AS DEFINED IN [SECTION~~
11 ~~1].~~

12 ~~(3) A DRAG PERFORMANCE IS PROHIBITED:~~

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

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

16 ~~(3) AN ADULT-ORIENTED PERFORMANCE IS PROHIBITED:~~

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

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

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

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