

HOUSE BILL NO. 359

INTRODUCED BY B. MITCHELL, E. BUTTREY, M. CUFFE, D. SALOMON, J. READ, T. MCGILLVRAY, K. REGIER, L. JONES, E. BUTCHER, B. KEENAN, C. GLIMM, G. HERTZ, M. LANG, D. LENZ, J. HINKLE, F. MANDEVILLE, T. MANZELLA, W. MCKAMEY, M. NOLAND, S. HINEBAUCH, S. GUNDERSON, M. REGIER, D. LOGE, R. FITZGERALD, F. ANDERSON, L. SHELDON-GALLOWAY, J. TREBAS, D. BARTEL, C. KNUDSEN, B. USHER, S. VINTON, B. BEARD, M. HOPKINS, N. DURAM, J. FULLER, R. KNUDSEN, K. BOGNER, B. GILLESPIE, J. KASSMIER, B. MERCER, T. MOORE, B. LER, B. PHALEN, F. NAVE, J. CARLSON, L. BREWSTER, K. ZOLNIKOV, A. REGIER, L. REKSTEN, P. FIELDER, S. KERNS, S. GALLOWAY, S. GIST, J. SCHILLINGER, K. SEEKINS-CROWE, M. MALONE, J. GILLETTE, C. HINKLE, M. BERTOGLIO, R. MARSHALL, C. FRIEDEL, S. ESSMANN, M. YAKAWICH, T. BROCKMAN, T. SMITH, R. MINER, G. PARRY, G. OBLANDER, N. NICOL, L. DEMING, D. EMRICH, S. VANCE, T. VERMEIRE, C. SPRUNGER, T. FALK, J. BERGSTROM, G. KMETZ, P. GREEN, J. ETCHART, B. BARKER, L. HELLEGAARD, Z. WIRTH, N. HASTINGS

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING MINORS FROM ATTENDING DRAG SHOWS; PROHIBITING MINORS FROM ENTERING SEXUALLY ORIENTED BUSINESSES; PROHIBITING DRAG 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; PROVIDING DEFINITIONS; ~~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 definitions apply:

(1) "Drag performance" means ~~a~~ AN OBSCENE performance in which a performer exhibits a gender identity that is different than the performer's gender assigned at birth using clothing, makeup, or other physical

1 ~~markers and sings, lip syncs, dances, or otherwise performs for entertainment to appeal to a prurient interest~~
2 ~~THAT FEATURES DRAG QUEENS, TOPLESS DANCERS, EXOTIC DANCERS, STRIPPERS, OR MALE OR FEMALE~~
3 ~~IMPERSONATORS OR SIMILAR ENTERTAINERS WHO PROVIDE ENTERTAINMENT THAT APPEALS TO A PRURIENT INTEREST IN~~
4 ~~SEX, REGARDLESS OF WHETHER OR NOT PERFORMED FOR CONSIDERATION.~~

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

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

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

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

11 (6) "Nude" means:

12 (a) entirely unclothed; or

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

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

17 (8) "PRURIENT INTEREST" MEANS HAVING A TENDENCY TO EXCITE LUSTFUL THOUGHTS. "PRURIENT
18 INTEREST IN SEX" HAS THE SAME MEANING AS PROVIDED IN 45-8-205.

19 ~~(3)(4)~~ (9) "Sexually oriented business" means a nightclub, bar, restaurant, or similar commercial
20 enterprise that:

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

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

23 (ii) a drag performance; and

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

25

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

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

28 DURING A LIVE NUDE PERFORMANCE OR DRAG PERFORMANCE.

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

5
6 **NEW SECTION. Section 3. Drag WHERE DRAG performances ARE prohibited in publicly funded**
7 **libraries or schools.** (1) A library 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 ~~during its regular operating hours.~~

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

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

14 (4) ANY FACILITY WHERE AT LEAST 10% OF ITS OPERATING BUDGET IS FUNDED BY THE STATE OR LOCAL
15 GOVERNMENT OR MUNICIPALITY MAY NOT HOST A DRAG PERFORMANCE OR DRAG STORY HOUR AS DEFINED IN [SECTION
16 1].

17 (3) A DRAG PERFORMANCE IS PROHIBITED:

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

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

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

28

