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H.B. 245
135th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. King and Williams

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SUMMARY

- Creates the offense of “unlawful adult cabaret performance” that prohibits a person, with knowledge of its character and content, from recklessly engaging in an adult cabaret performance in a location other than an adult cabaret.
- Provides that the penalty for a violation of the offense is a first degree misdemeanor or a fourth or fifth degree felony depending of the circumstances of the offense.

DETAILED ANALYSIS

Unlawful adult cabaret performance

Offense

The bill creates the offense of “unlawful adult cabaret performance” that prohibits a person, with knowledge of its character or content, from recklessly engaging in an adult cabaret performance in a location other than an adult cabaret.¹

Penalty

The bill provides that the penalty for a violation of the offense is as follows:²

- A first degree misdemeanor, if the performance occurs in the presence of a juvenile;
- A fifth degree felony, if the performance involved is obscene;
- A fourth degree felony, if the performance involved is obscene and if the performance occurs in the presence of a juvenile who is under 13 years of age.

¹ R.C. 2907.39(B)(2) and 4301.25(A)(1).

² R.C. 2907.39(C)(2).

Definitions

The bill uses the following definitions:

- **“Adult cabaret”** means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, that regularly features any of the following:³
 - Persons who appear in a state of nudity or semi-nudity;
 - Live performances that are characterized by the exposure of specified anatomical areas or specified sexual activities;
 - Films, motion pictures, video cassettes, slides, or other photographic reproductions that are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.
- **“Adult cabaret performance”** means a performance in a location other than an adult cabaret that is harmful to juveniles or obscene and that features topless dancers; go-go dancers; exotic dancers; strippers; performers or entertainers who exhibit a gender identity that is different from the performer’s or entertainer’s gender assigned at birth using clothing, makeup, prosthetic or imitation genitals or breasts, or other physical markers; or other similar performers or entertainers who provide entertainment that appeals to a prurient interest, regardless of whether or not the performance is for consideration.⁴
- **“Harmful to juveniles”** means that quality of any material or performance describing or representing nudity, sexual conduct, sexual excitement, or sado-masochistic abuse in any form to which all of the following apply:⁵
 - The material or performance, when considered as a whole, appeals to the prurient interest of juveniles in sex;
 - The material or performance is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for juveniles;
 - The material or performance, when considered as a whole, lacks serious literary, artistic, political, and scientific value for juveniles.
- When considered as a whole, and judged with reference to ordinary adults or, if it is designed for sexual deviates or other specially susceptible group, judged with reference to that group, any material or performance is **“obscene”** if any of the following apply:⁶

³ R.C. 2907.39(A)(3).

⁴ R.C. 2907.39(A)(4).

⁵ R.C. 2907.01(E) and 2907.39(A)(17).

⁶ R.C. 2907.01(F) and 2907.39(A)(17).

- Its dominant appeal is to prurient interest;
- Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement, or nudity in a way that tends to represent human beings as mere objects of sexual appetite;
- Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty, or brutality;
- Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way that inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral, or artistic purpose;
- It contains a series of displays or descriptions of sexual activity, masturbation, sexual excitement, nudity, bestiality, extreme or bizarre violence, cruelty, or brutality, or human bodily functions of elimination, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interest, when the appeal to such an interest is primarily for its own sake or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral, or artistic purpose.

HISTORY

Action	Date
Introduced	07-17-23
