

Sixty-eighth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1333

Introduced by

Representatives Prichard, Frelich, Klemin, Koppelman, Marschall, Motschenbacher, D. Ruby,  
Tveit, VanWinkle

Senator Estenson

1 A BILL for an Act to create and enact a new section to chapter 12.1-27.1 of the North Dakota  
2 Century Code, relating to restrictions on adult-oriented performances; to amend and reenact  
3 section 12.1-27.1-12 of the North Dakota Century Code, relating to state pre-emption of local  
4 laws regulating obscenity; and to provide a penalty.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** A new section to chapter 12.1-27.1 of the North Dakota Century Code is  
7 created and enacted as follows:

8 **Restrictions on adult-oriented performances - Penalty.**

9 1. As used in this section:

10 a. "~~adult cabaret~~Adult-oriented performance" means a performance ~~in a location~~  
11 ~~other than an adult cabaret which features topless dancers, exotic dancers,~~  
12 ~~strippers, or male or female impersonators who provide entertainment that~~  
13 ~~appeals to a prurient interest~~that, regardless of whether or not performed for  
14 consideration, is intended to appeal to a prurient interest and features:

15 (1) The purposeful exposure, whether complete or partial, of:

16 (a) A human genital, the pubic region, the human buttocks, or a female  
17 breast, if the breast is exposed below a point immediately above the  
18 top of the areola; or

19 (b) Prosthetic genitalia, breasts, or buttocks; or

20 (2) Sexual conduct.

21 b. "Public property" means real property in which a state agency or a political  
22 subdivision has an ownership interest.

- 1        2. A person is guilty of a class A misdemeanor for a first offense and a class C felony for  
2        a second or subsequent offense if the person ~~engages in~~organizes an ~~adult-~~  
3        ~~cabaret~~adult-oriented performance:  
4        a. On public property; or  
5        b. ~~In a location where the adult cabaret performance is in the presence of an-~~  
6        ~~individual under the age of eighteen~~At a business establishment frequented by  
7        minors, or where minors are or may be invited as a part of the general public.

8        **SECTION 2. AMENDMENT.** Section 12.1-27.1-12 of the North Dakota Century Code is  
9        amended and reenacted as follows:

10        **12.1-27.1-12. State pre-emption of local laws regulating obscenity.**

11        This chapter ~~shall be~~is applicable and ~~uniform~~ throughout the state, and ~~no~~a political  
12        subdivision ~~shall~~may not enact new, or enforce existing, ordinances or resolutions regulating or  
13        prohibiting the dissemination of obscene materials, or controlling obscene or adult-oriented  
14        performances, except ordinances authorized by section 5-02-09, section 58-03-11, chapter  
15        11-33, or chapter 40-47.