

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.