

IN THE SENATE

SENATE BILL NO. 1213

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO SEXUAL EXHIBITIONS; AMENDING TITLE 6, IDAHO CODE, BY THE ADDI-
2 TION OF A NEW CHAPTER 36, TITLE 6, IDAHO CODE, TO PROVIDE THAT CERTAIN
3 PERSONS AND INSTITUTIONS MUST TAKE REASONABLE STEPS TO RESTRICT THE
4 ACCESS OF MINORS IN CERTAIN INSTANCES, TO PROVIDE FOR AN ACTION BY THE
5 ATTORNEY GENERAL IN CERTAIN INSTANCES, TO PROVIDE FOR AFFIRMATIVE DE-
6 FENSES, TO DEFINE TERMS, TO PROVIDE SEVERABILITY, TO AUTHORIZE THE
7 ATTORNEY GENERAL TO BRING AN ACTION, AND TO PROVIDE FOR INJUNCTIVE
8 RELIEF AND DAMAGES; AMENDING CHAPTER 23, TITLE 67, IDAHO CODE, BY THE
9 ADDITION OF A NEW SECTION 67-2359, IDAHO CODE, TO PROHIBIT THE USE OF
10 PUBLIC FACILITIES AND PUBLIC ASSETS FOR SEXUAL EXHIBITIONS; AND DECLAR-
11 ING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
12

13 Be It Enacted by the Legislature of the State of Idaho:

14 SECTION 1. That Title 6, Idaho Code, be, and the same is hereby amended
15 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
16 ter 36, Title 6, Idaho Code, and to read as follows:

17 CHAPTER 36

18 SEXUAL EXHIBITIONS -- RESTRICTING ACCESS OF MINORS

19 6-3601. SEXUAL EXHIBITIONS -- RESTRICTING ACCESS OF MINORS. (1) Any
20 person or institution that knowingly conducts, performs, or participates in
21 a live, in-person show, exhibition, or performance before an audience in any
22 public place, in any place exposed to public view, or in any place open to the
23 public or to a segment thereof, whether or not an admission fee is charged,
24 must take reasonable steps to restrict the access of minors if:

25 (a) The person or institution has reason to believe that minors are
26 likely to be present;

27 (b) The show, exhibition, or performance involves live persons engaged
28 in sexual conduct;

29 (c) The average person, applying contemporary community standards,
30 would find that the show, exhibition, or performance, taken as a whole,
31 appeals to the prurient interest;

32 (d) The show, exhibition, or performance depicts or describes, in a
33 patently offensive way, sexual conduct specifically defined by appli-
34 cable state law; and

35 (e) The show, exhibition, or performance, taken as a whole, lacks seri-
36 ous literary, artistic, political, or scientific value.

37 (2) Any person or institution who knowingly violates the provisions of
38 subsection (1) of this section may be subject to an action brought by the at-
39 torney general pursuant to section 6-3602, Idaho Code.

40 (3) It shall be an affirmative defense to an action brought under the
41 provisions of this chapter that the defendant had reasonable cause to be-

1 believe that the minor involved was eighteen (18) years of age or older, or such
2 minor exhibited to the defendant a draft card, driver's license, birth cer-
3 tificate, or other official or apparently official document purporting to
4 establish that the minor was eighteen (18) years of age or older.

5 (4) It shall be an affirmative defense to an action brought under the
6 provisions of this chapter that the minor was accompanied by the minor's par-
7 ent or legal guardian, or another adult who is temporarily accompanying and
8 supervising the minor, when a ticket is required to enter the show, exhibi-
9 tion, or performance, whether or not a fee is charged.

10 (5) It shall be an affirmative defense to an action brought under the
11 provisions of this chapter that the presenting venue or presenting organ-
12 ization provided the following notice, or a notice substantially similar,
13 prominently displayed at the place of entrance within public view that
14 states the following: "This performance of [title of performance or per-
15 former] contains sexually provocative material that may not be suitable for
16 minors. Parents should use discretion regarding the attendance of a minor."

17 (6) For purposes of this section:

18 (a) "Minor" means any person less than eighteen (18) years of age.

19 (b) "Prurient interest" is as defined in section 18-4101, Idaho Code.

20 (c) "Sexual conduct" means acts, whether actual or simulated, of mas-
21 turbation, sexual intercourse, or physical contact with a person's un-
22 clothed genitals or pubic area.

23 (7) The provisions of this section are hereby declared to be severable
24 and if any provision of this section or the application of such provision to
25 any person or circumstance is declared invalid for any reason, such declara-
26 tion shall not affect the validity of the remaining portions of this section.

27 6-3602. PROCEEDINGS BY THE ATTORNEY GENERAL. Whenever the attorney
28 general has reason to believe that a person or institution has knowingly
29 violated or is violating the provisions of section 6-3601, Idaho Code, the
30 attorney general, acting in the public interest, may bring an action in the
31 name of the state against the person or institution:

32 (1) To enjoin any action that constitutes a violation of section
33 6-3601, Idaho Code, by issuance of a temporary restraining order or prelimi-
34 nary or permanent injunction;

35 (2) To recover from the alleged violator a civil penalty not to exceed
36 two thousand five hundred dollars (\$2,500) per violation, and not to exceed
37 a total of ten thousand dollars (\$10,000) in aggregate, as determined by the
38 court; and

39 (3) To obtain other appropriate relief.

40 SECTION 2. That Chapter 23, Title 67, Idaho Code, be, and the same is
41 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
42 ignated as Section 67-2359, Idaho Code, and to read as follows:

43 67-2359. USE OF PUBLIC FACILITIES AND PUBLIC ASSETS FOR SEXUAL EXHI-
44 BITIONS PROHIBITED. No public institution, public facility, public equip-
45 ment, or other physical asset owned, leased, or controlled by this state, a
46 county, a city, a public health district, or any local political subdivi-
47 sion or agency thereof shall be used for the purpose of shows, exhibitions,

1 or performances that involve live persons engaged in a sexual exhibition as
2 described in section 6-3601(1), Idaho Code.

3 SECTION 3. An emergency existing therefor, which emergency is hereby
4 declared to exist, this act shall be in full force and effect on and after
5 July 1, 2023.