

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 544

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO PROHIBITED ACTS REGARDING ALCOHOL BEVERAGE LAWS; AMENDING SECTION 23-614, IDAHO CODE, TO PROVIDE THAT THE SHOWING OF FILMS, STILL PICTURES, ELECTRONIC REPRODUCTIONS, OR OTHER VISUAL REPRODUCTIONS WHICH ARE IN VIOLATION OF STATE INDECENCY AND OBSCENITY LAWS OR ARE IN VIOLATION OF FEDERAL LAW REGARDING PORNOGRAPHY, INDECENCY OR OBSCENITY IS PROHIBITED IN OR UPON PREMISES LICENSED PURSUANT TO TITLE 23, IDAHO CODE, AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 23-614, Idaho Code, be, and the same is hereby amended to read as follows:

23-614. PROHIBITED ACTS -- MISDEMEANORS -- PENALTIES. (1) No person, partnership, association or corporation shall conduct, permit, or encourage any of the following acts or activities in or upon premises licensed pursuant to this title 23, Idaho Code:

(a) Employment or use of any person, including allowing any person on the premises, while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

(b) Employment or use of any person who touches, caresses or fondles the breast, buttocks, anus or genitals of any other person, or who is so touched, caressed or fondled by another person.

(c) Employment or use of any person to wear or use any device or covering, exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion thereof.

(d) Employment or use of any person to perform acts of or acts which simulate sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

(e) The showing of films, still pictures, electronic reproductions, or other visual reproductions which are in violation of chapter 41, title 18, Idaho Code (indecency and obscenity), or are in violation of federal law regarding pornography, indecency or obscenity depicting:

~~(i) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.~~

~~(ii) Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals.~~

~~(iii) Scenes wherein a person displays the vulva or the anus or the genitals.~~

1           ~~(iv) Scenes wherein artificial devices or inanimate objects are~~  
2           ~~employed to portray any of the prohibited activities described in~~  
3           ~~this section.~~

4           (2) A violation of any of the provisions of this section by any agent,  
5           employee, or other person in any way acting on behalf of a licensee shall con-  
6           stitute a misdemeanor, and upon conviction such person shall be fined not  
7           less than the sum of one hundred dollars (\$100) nor more than the sum of three  
8           hundred dollars (\$300), or be imprisoned in the county jail for not less than  
9           thirty (30) days nor more than six (6) months, or both such fine and impris-  
10          onment. Any court in which a judgment of conviction is entered shall certify  
11          a copy thereof to the director, and the director shall thereupon commence ad-  
12          ministrative proceedings. The director shall review the circumstances and  
13          may take action he considers appropriate against the licensee including sus-  
14          pension of the license for not to exceed six (6) months, a fine, or both such  
15          suspension and fine or may revoke the license.

16          (3) In addition to misdemeanor violations or other criminal proceed-  
17          ings instituted under this section, upon sufficient proof to the director,  
18          the director shall take administrative action as provided in subsection (2)  
19          of this section against any licensee in the event any person is found to have  
20          committed any of the above proscribed acts. The proceedings shall be in ac-  
21          cordance with provisions of the administrative procedure act.

22          SECTION 2. An emergency existing therefor, which emergency is hereby  
23          declared to exist, this act shall be in full force and effect on and after its  
24          passage and approval, and retroactively to January 1, 2015.