

1-1 By: Hughes, Kolkhorst S.B. No. 12
 1-2 (In the Senate - Filed March 10, 2023; March 13, 2023, read
 1-3 first time and referred to Committee on State Affairs;
 1-4 March 30, 2023, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 8, Nays 2; March 30, 2023,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13		X		
1-14		X		
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19			X	

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 12 By: Paxton

1-21 A BILL TO BE ENTITLED
 1-22 AN ACT

1-23 relating to restricting certain sexually oriented performances on
 1-24 public property, on the premises of a commercial enterprise, or in
 1-25 the presence of a child; authorizing a civil penalty; creating a
 1-26 criminal offense.

1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-28 SECTION 1. Subtitle A, Title 9, Health and Safety Code, is
 1-29 amended by adding Chapter 769 to read as follows:

1-30 CHAPTER 769. SEXUALLY ORIENTED PERFORMANCES

1-31 Sec. 769.001. DEFINITIONS. In this chapter:

1-32 (1) "Premises" has the meaning assigned by Section
 1-33 46.03, Penal Code.

1-34 (2) "Sexually oriented performance" has the meaning
 1-35 assigned by Section 43.28, Penal Code.

1-36 Sec. 769.002. CERTAIN SEXUALLY ORIENTED PERFORMANCES
 1-37 PROHIBITED ON PREMISES OF COMMERCIAL ENTERPRISE; CIVIL PENALTY;
 1-38 INJUNCTION. (a) A person who controls the premises of a commercial
 1-39 enterprise may not allow a sexually oriented performance to be
 1-40 presented on the premises in the presence of an individual younger
 1-41 than 18 years of age.

1-42 (b) A person who violates this section is liable to this
 1-43 state for a civil penalty of not more than \$10,000 for each
 1-44 violation.

1-45 (c) The attorney general may bring an action to:

1-46 (1) recover the civil penalty imposed under this
 1-47 section; or

1-48 (2) obtain a temporary or permanent injunction to
 1-49 restrain the violation.

1-50 (d) An action under this section may be brought in a
 1-51 district court in:

1-52 (1) Travis County; or

1-53 (2) a county in which any part of the violation occurs.

1-54 (e) The attorney general shall deposit a civil penalty
 1-55 collected under this section in the state treasury to the credit of
 1-56 the general revenue fund.

1-57 (f) The attorney general may recover reasonable expenses
 1-58 incurred in bringing an action under this section, including court
 1-59 costs, attorney's fees, investigative costs, witness fees, and
 1-60 deposition expenses.

2-1 SECTION 2. Chapter 243, Local Government Code, is amended
2-2 by adding Section 243.0031 to read as follows:

2-3 Sec. 243.0031. AUTHORITY TO REGULATE CERTAIN SEXUALLY
2-4 ORIENTED PERFORMANCES. (a) In this section, "sexually oriented
2-5 performance" has the meaning assigned by Section 43.28, Penal Code.

2-6 (b) Subject to Subsection (c), a municipality or county may
2-7 regulate sexually oriented performances as the municipality or
2-8 county considers necessary to promote the public health, safety, or
2-9 welfare.

2-10 (c) A municipality or county may not authorize a sexually
2-11 oriented performance:

2-12 (1) on public property; or

2-13 (2) in the presence of an individual younger than 18
2-14 years of age.

2-15 (d) Except as provided by Subsection (c), this section does
2-16 not limit the authority of a municipality to license, tax,
2-17 suppress, prevent, or otherwise regulate theatrical or other
2-18 exhibitions, shows, or amusements under Section 215.032.

2-19 SECTION 3. Subchapter B, Chapter 43, Penal Code, is amended
2-20 by adding Section 43.28 to read as follows:

2-21 Sec. 43.28. CERTAIN SEXUALLY ORIENTED PERFORMANCES
2-22 PROHIBITED. (a) In this section, "sexually oriented performance"
2-23 means a visual performance that:

2-24 (1) features:

2-25 (A) a performer who is nude, as defined by
2-26 Section 102.051, Business & Commerce Code; or

2-27 (B) a male performer exhibiting as a female, or a
2-28 female performer exhibiting as a male, who uses clothing, makeup,
2-29 or other similar physical markers and who sings, lip syncs, dances,
2-30 or otherwise performs before an audience; and

2-31 (2) appeals to the prurient interest in sex.

2-32 (b) A person commits an offense if, regardless of whether
2-33 compensation for the performance is expected or received, the
2-34 person engages in a sexually oriented performance:

2-35 (1) on public property; or

2-36 (2) in the presence of an individual younger than 18
2-37 years of age.

2-38 (c) An offense under this section is a Class A misdemeanor.

2-39 SECTION 4. If any provision of this Act or its application
2-40 to any person or circumstance is held invalid, the invalidity does
2-41 not affect other provisions or applications of this Act that can be
2-42 given effect without the invalid provision or application, and to
2-43 this end the provisions of this Act are declared severable.

2-44 SECTION 5. This Act takes effect September 1, 2023.

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