OHIO LEGISLATIVE SERVICE COMMISSION

www.lsc.ohio.gov

Office of Research and Drafting

Legislative Budget Office

H.B. 249*
136th General Assembly

Bill Analysis

Click here for H.B. 249's Fiscal Note

Version: As Reported by House Judiciary

Primary Sponsors: Reps. King and Williams

Sarah A. Maki, Attorney

SUMMARY

- Creates the offense of "unlawful adult cabaret performance" that prohibits a person, with knowledge of its character and content, from recklessly engaging in an adult cabaret performance in a location other than an adult cabaret.
- Provides that the penalty for "unlawful adult cabaret performance" is a first degree misdemeanor or a fourth or fifth degree felony depending on the circumstances of the offense.
- Names the act the "Indecent Exposure Modernization Act."

DETAILED ANALYSIS

Indecent Exposure Modernization Act

The bill names the act the "Indecent Exposure Modernization Act."[1]

Unlawful adult cabaret performance

Offense

The bill creates the offense of "unlawful adult cabaret performance" that prohibits a person, with knowledge of its character or content, from recklessly engaging in an adult cabaret performance in a location other than an adult cabaret.[2]

* This analysis was prepared before the report of the House Judiciary Committee appeared in the House Journal. Note that the legislative history may be incomplete.

[1] Section 3.

[2] R.C. 2907.39(B)(2) and 4301.25(A)(1).

The bill provides that the offense must not be construed to prohibit any of the following:[3]

- A bona fide film, theatrical, or other artistic endeavor or performance that is not obscene or not harmful to juveniles;
- An adult cabaret performance in a private residence where no minors are present;
- The criminal prosecution for conduct or activity that is obscene or harmful to juveniles under the Sexual Offense Law.[4]

Penalty

The bill provides that the penalty for "unlawful adult cabaret performance" is as follows:[5]

- A first degree misdemeanor, if the performance occurs in the presence of a juvenile;
- A fifth degree felony, if the performance involved is obscene;
- A fourth degree felony, if the performance involved is obscene and if the performance occurs in the presence of a juvenile who is under 13 years of age.

Public indecency

The offense of "public indecency" currently prohibits a person from recklessly exposing a person's private parts if the person's conduct is likely to be viewed by and affront others who are in the person's physical proximity and who are not members of the person's household.[6]

The bill makes two changes to the public indecency offense. First, it modifies the term "private parts" to "private area." Under current law, "private parts" is not defined, while "private area" is defined as the genitals, pubic area, buttocks, or female breast below the top of the areola, where nude or covered by an undergarment.[7]

Second, the bill creates an exception to the offense of public indecency that allows a person to expose a private area if that person is a woman who is breastfeeding and the private area that is exposed is the woman's breast.[8]

The bill retains the current law penalty for the violation as generally a first degree misdemeanor.[9]

---

[3] R.C. 2907.39(F)(1).

[4] R.C. 2907.

[5] R.C. 2907.39(G)(2).

[6] R.C. 2907.09(A)(1).

[7] R.C. 2907.09(A)(1), by reference to R.C. 2907.01(R), not in the bill.

[8] R.C. 2907.09(A)(1).

[9] R.C. 2907.09(C)(2).

Definitions

The bill creates the following definitions:

- "**Adult cabaret performance**" means a performance in a location other than an adult cabaret where minors may be present, that is harmful to juveniles or obscene, regardless of whether the performance is for consideration, and that features any of the following: topless dancers; go-go dancers; exotic dancers; strippers; performers or entertainers who exhibit a gender identity that is different from the performer's or entertainer's biological sex using clothing, makeup, prosthetic or imitation genitals or breasts, or other physical markers; or other similar performers or entertainers who provide entertainment that appeals to a prurient interest.[10]
- "**Biological sex**" means the biological indication of male and female, including sex chromosomes, naturally occurring sex hormones, gonads, and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological, chosen, or subjective experience with gender.[11]

The bill uses the following definitions:

- "**Adult cabaret**" means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, that regularly features any of the following:[12]
  - Persons who appear in a state of nudity or semi-nudity;
  - Live performances that are characterized by the exposure of specified anatomical areas or specified sexual activities;
  - Films, motion pictures, video cassettes, slides, or other photographic reproductions that are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.
- "**Harmful to juveniles**" means that quality of any material or performance describing or representing nudity, sexual conduct, sexual excitement, or sado-masochistic abuse in any form to which all of the following apply:[13]
  - The material or performance, when considered as a whole, appeals to the prurient interest of juveniles in sex;
  - The material or performance is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for juveniles;

[10] R.C. 2907.39(A)(4)(a).

[11] R.C. 2907.39(A)(4)(b).

[12] R.C. 2907.39(A)(3).

[13] R.C. 2907.39(A)(5), by reference to R.C. 2907.01(E), not in the bill.

- The material or performance, when considered as a whole, lacks serious literary, artistic, political, and scientific value for juveniles.

- "**Nudity**," "**nude**," or "**state of nudity**," means the showing of the male or female genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering; or the showing of the female breasts with less than a fully opaque covering of any part of the nipple.[14]

- When considered as a whole, and judged with reference to ordinary adults or, if it is designed for sexual deviates or other specially susceptible group, judged with reference to that group, any material or performance is "**obscene**" if any of the following apply:[15]
  - Its dominant appeal is to prurient interest;
  - Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement, or nudity in a way that tends to represent human beings as mere objects of sexual appetite;
  - Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty, or brutality;
  - Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way that inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral, or artistic purpose;
  - It contains a series of displays or descriptions of sexual activity, masturbation, sexual excitement, nudity, bestiality, extreme or bizarre violence, cruelty, or brutality, or human bodily functions of elimination, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interest, when the appeal to such an interest is primarily for its own sake or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral, or artistic purpose.

- "**Private area**" (see above).[16]

- "**Semi-nude**" or "**state of seminudity**" means a state of dress in which opaque clothing covers not more than the genitals, pubic region, and nipple of the female breast, as well as portions of the body covered by supporting straps or devices.[17]

[14] R.C. 2907.39(A)(12).

[15] R.C. 2907.39(A)(5), by reference to R.C. 2907.01(F), not in the bill.

[16] R.C. 2907.09(A)(1), by reference to R.C. 2907.01(R), not in the bill.

[17] R.C. 2907.39(A)(14).

HISTORY

Action	Date
Introduced	04-29-25
Reported, H. Judiciary	--

ANHB0249RH-136/sb