

FEB 2 2 2006
JUDICIARY

HOUSE FILE 2473
BY ANDERSON and SWAIM

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to indecent exposure and providing penalties.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2473

1 Section 1. Section 728.1, subsection 6, Code Supplement
2 2005, is amended to read as follows:

3 6. "Place of business" means any of the following:

4 a. The premises of a business required to obtain a sales
5 tax permit pursuant to chapter 423~~7~~-the.

6 b. The premises of a nonprofit or not-for-profit
7 organization~~7~~-and-the.

8 c. The premises of an establishment which is open to the
9 public at large or where entrance is limited by a cover charge
10 or membership requirement.

11 d. The premises of a business required to obtain a sales
12 tax permit adjoining or adjacent to the premises of an
13 organization under paragraph "b" or adjoining or adjacent to
14 the premises of an establishment under paragraph "c".

15 Sec. 2. Section 728.5, Code 2005, is amended to read as
16 follows:

17 728.5 PUBLIC INDECENT EXPOSURE IN CERTAIN ESTABLISHMENTS.

18 1. An owner, manager, or person who exercises direct
19 control over a place of business required to obtain a sales
20 tax permit shall be guilty of a serious misdemeanor under any
21 of the following circumstances: listed in paragraphs "a"
22 through "f". An owner, manager, or person who has a property
23 interest or right of any kind in a place of business as
24 defined in section 728.1, subsection 6, paragraph "d", is
25 deemed to have direct control over a place of business
26 required to obtain a sales tax permit.

27 1- a. If such person allows or permits the actual or
28 simulated public performance of any sex act upon or in such
29 place of business.

30 2- b. If such person allows or permits the exposure of
31 the genitals or buttocks or female breast of any person who
32 acts as a waiter or waitress.

33 3- c. If such person allows or permits the exposure of
34 the genitals or female breast nipple of any person who acts as
35 an entertainer, whether or not the owner of the place of

1 business in which the activity is performed employs or pays
2 any compensation to such person to perform such activity.

3 ~~4~~ d. If such person allows or permits any person to
4 remain in or upon the place of business who exposes to public
5 view the person's genitals, pubic hair, or anus.

6 ~~5~~ e. If such person advertises that any activity
7 prohibited by this section is allowed or permitted in such
8 place of business.

9 ~~6~~ f. If such person allows or permits a minor to engage
10 in or otherwise perform in a live act intended to arouse or
11 satisfy the sexual desires or appeal to the prurient interests
12 of patrons. However, if such person allows or permits a minor
13 to participate in any act included in subsections 1 through 4,
14 the person shall be guilty of an aggravated misdemeanor.

15 2. For purposes of this section, "minor" means any person
16 under the age of twenty-one.

17 3. The provisions of this section shall not apply to a
18 theater, concert hall, art center, museum, or similar
19 establishment which is primarily devoted to the arts or
20 theatrical performances and in which any of the circumstances
21 contained in this section were permitted or allowed as part of
22 such art exhibits or performances. At trial for a violation
23 of this section the court may consider the challenged
24 circumstance, and receive into evidence in addition to other
25 competent evidence, the offered testimony of experts
26 pertaining to:

27 a. The artistic or theatrical value, if any of the
28 performance or exhibit.

29 b. The degree of public acceptance within the community.

30 c. The advertising promotion.

31 Sec. 3. Section 728.8, Code 2005, is amended to read as
32 follows:

33 728.8 SUSPENSION OF LICENSES OR PERMITS.

34 Any person who knowingly permits a violation of section
35 728.2, 728.3, or 728.5~~7~~-~~subsection-6~~7 to occur on premises

1 under the person's control shall have all permits and licenses
2 issued to the person under state or local law as a
3 prerequisite for doing business on such premises revoked for a
4 period of six months. The county attorney shall notify all
5 agencies responsible for issuing licenses and permits of any
6 conviction under section 728.2, 728.3, or 728.57-subsection-6.

7 EXPLANATION

8 This bill relates to indecent exposure under Code section
9 728.5. Under current law, a person who exercises control over
10 a place of business required to obtain a sales tax permit may
11 be held accountable for circumstances of indecent exposure.

12 "Place of business" is a defined term that, under the bill,
13 is expanded to include the premises of a business required to
14 obtain a sales tax permit adjoining or adjacent to the
15 premises of a nonprofit organization or to the premises of an
16 establishment open to the public or where entrance is limited.
17 The bill provides that if a person has an ownership interest
18 in a place of business, then such person has direct control
19 over the place of business.

20 The indecent exposure provisions do not apply to the arts
21 or to theatrical performances. However, the bill provides
22 that at a trial, the court may consider testimony regarding
23 the artistic or theatrical value of the performance or
24 exhibit, if any, the degree of public acceptance within the
25 community, and the advertising promotion.

26 Upon a conviction, a person's license or permit required to
27 do business on the premises shall be revoked for a period of
28 six months.

29 The bill also, for purposes of Code section 728.5 only,
30 raises the age of a minor from 18 years to 21 years.

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