

House BILL NO. 82

INTRODUCED BY

Jack Jensen

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE CRIMINAL OFFENSE OF PUBLIC INDECENCY; REVISING THE CRIMINAL OFFENSE OF INDECENT EXPOSURE TO MAKE IT APPLY ONLY IN PRIVATE PLACES; AND AMENDING SECTION 45-5-504, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Public indecency. (1) A person commits the offense of public indecency if the person knowingly, in a public place:

(a) engages in actual or simulated sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, excretory functions, or another ultimate sex act;

(b) appears in a state of nudity; or

(c) fondles the person's own or another person's genitals.

(2) (a) A person convicted of the offense of public indecency shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term of not more than 6 months, or both.

(b) On a second conviction, the person shall be fined not less than \$500 and not more than \$1,000 or be imprisoned in the county jail for a term of not more than 1 year, or both.

(c) On a third or subsequent conviction, the person shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term of not more than 10 years, or both.

(3) For purposes of this section, the following definitions apply:

(a) "Nudity" means:

(i) the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering;

(ii) the showing of the female breast with less than a fully opaque covering of any part of the nipple;

or

(iii) the showing of the covered male genitals in a discernibly turgid state.

(b) "Public place" means a location, place, or business open to or accessible to the public or to a segment of the public or a place exposed to the public view, regardless of whether an admission or other

1 charge is levied or collected, whether minors are admitted or excluded, or whether attendance is
2 conditioned upon the presentation of a membership card or other token.

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4 **Section 2.** Section 45-5-504, MCA, is amended to read:

5 **"45-5-504. Indecent exposure.** (1) A person who, for the purpose of arousing or gratifying the
6 person's own sexual desire ~~of himself~~ or the sexual desire of any person, exposes ~~his~~ the person's genitals
7 in a private, nonpublic place under circumstances in which ~~he~~ the person knows ~~his~~ the conduct is likely
8 to cause affront or alarm commits the offense of indecent exposure.

9 (2) (a) A person convicted of the offense of indecent exposure shall be fined an amount not to
10 exceed \$500 or be imprisoned in the county jail for a term of not more than 6 months, or both.

11 (b) On a second conviction, ~~he~~ the person shall be fined an amount not to exceed \$1,000 or be
12 imprisoned in the county jail for a term of not more than 1 year, or both.

13 (c) On a third or subsequent conviction, ~~he~~ the person shall be fined an amount not to exceed
14 \$10,000 or be imprisoned in the state prison for a term of not more than 5 years, or both."

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16 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an
17 integral part of Title 45, chapter 5, part 5, and the provisions of Title 45 apply to [section 1].

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