

## **Part 5**

### **Attire, Conduct, and Entertainment Act**

#### **32B-1-501 Title.**

This part is known as the "Attire, Conduct, and Entertainment Act."

Enacted by Chapter 276, 2010 General Session

#### **32B-1-502 Purpose -- Application to other laws.**

- (1) This part establishes reasonable and uniform time, place, and manner of operation requirements relating to attire, conduct, and sexually oriented entertainers on premises or at an event at which an alcoholic product is sold, offered for sale, furnished, or allowed to be consumed under a retail license or permit issued by the commission so as to:
  - (a) reduce the adverse secondary effects that the attire, conduct, and sexually oriented entertainers may have upon communities of this state; and
  - (b) protect the health, peace, safety, welfare, and morals of the residents of communities of this state.
- (2) Nothing in this part allows the showing or display of any matter that is contrary to:
  - (a) applicable federal or state statutes prohibiting obscenity; or
  - (b) state statutes relating to lewdness or indecent public displays.
- (3) A local authority may be more restrictive of attire, conduct, or sexually oriented entertainers of the type prohibited in this part.

Enacted by Chapter 276, 2010 General Session

#### **32B-1-503 Definitions.**

Reserved

Enacted by Chapter 276, 2010 General Session

#### **32B-1-504 General requirements on attire and conduct.**

- (1) As used in this section, "obscene" means that:
  - (a) the average individual, applying contemporary community standards, would find the conduct or material, taken as a whole, appeals to the prurient interest;
  - (b) the conduct or material depicts or describes sexual conduct in a patently offensive way; and
  - (c) the conduct or material, taken as a whole, lacks serious literary, artistic, political, or scientific value.
- (2) The following attire and conduct on premises or at an event regulated by the commission under this title are considered contrary to the public health, peace, safety, welfare, and morals, and are prohibited:
  - (a) employing or using a person in the sale, offer for sale, or furnishing of an alcoholic product while the person is in:
    - (i) a state of nudity;
    - (ii) a state of seminudity; or
    - (iii) performance attire or clothing that exposes to view any portion of:
      - (A) the female breast below the top of the areola; or
      - (B) the cleft of the buttocks;

- (b) employing or using the services of a person to mingle with patrons while the person is in:
    - (i) a state of nudity;
    - (ii) a state of seminudity; or
    - (iii) performance attire or clothing that exposes to view any portion of:
      - (A) the female breast below the top of the areola; or
      - (B) the cleft of the buttocks;
  - (c) encouraging or permitting a person to:
    - (i) engage in or simulate an act of:
      - (A) sexual intercourse;
      - (B) masturbation;
      - (C) sodomy;
      - (D) bestiality;
      - (E) oral copulation;
      - (F) flagellation; or
      - (G) a sexual act that is prohibited by Utah law; or
    - (ii) caress or fondle the breast, anus, or genitals of any other person;
  - (d) permitting a person to wear or use a device or covering that:
    - (i) is exposed to view; and
    - (ii) simulates all or any portion of the human genitals, anus, pubic area, or female breast;
  - (e) permitting a person to use an artificial device or inanimate object to depict an act prohibited by this section;
  - (f) permitting a person to remain on premises or at an event who exposes to public view any portion of that person's:
    - (i) genitals, pubic area, or anus; or
    - (ii) in the case of a female, the areola and nipple of the breast; or
  - (g) showing a film, still picture, electronic reproduction, or other visual reproduction depicting conduct or material that is obscene or in violation of other state or federal law regarding pornography or obscenity.
- (3) Subsection (2) does not apply to artistic expression that:
- (a) when taken as a whole, has serious literary, artistic, political, or scientific value;
  - (b) is not in violation of state or federal law regarding pornography or obscenity; and
  - (c) occurs on premises or at an event regulated by the commission under this title that is not predominantly used for performances by sexually oriented entertainers.

Amended by Chapter 313, 2018 General Session

**32B-1-505 Sexually oriented entertainer.**

- (1) Subject to the requirements of this part, live entertainment is permitted on premises or at an event regulated by the commission.
- (2) Notwithstanding Subsection (1), a retail licensee or permittee may not permit a person to:
  - (a) appear or perform in a state of nudity;
  - (b) perform or simulate an act of:
    - (i) sexual intercourse;
    - (ii) masturbation;
    - (iii) sodomy;
    - (iv) bestiality;
    - (v) oral copulation;
    - (vi) flagellation; or

- (vii) a sexual act that is prohibited by Utah law; or
  - (c) touch, caress, or fondle the breast, buttocks, anus, or genitals.
- (3) A sexually oriented entertainer may perform in a state of seminudity:
- (a) only in:
    - (i) a tavern; or
    - (ii) a bar license premises; and
  - (b) only if:
    - (i) the windows, doors, and other apertures to the premises are darkened or otherwise constructed to prevent anyone outside the premises from seeing the performance; and
    - (ii) the outside entrance doors of the premises remain unlocked.
- (4) A sexually oriented entertainer may perform only upon a stage or in a designated performance area that is:
- (a) approved by the commission in accordance with rules made by the commission;
  - (b) configured so as to preclude a patron from:
    - (i) touching the sexually oriented entertainer; or
    - (ii) placing any money or object on or within the performance attire or the person of the sexually oriented entertainer; and
  - (c) configured so as to preclude the sexually oriented entertainer from touching a patron.
- (5) A sexually oriented entertainer may not touch a patron:
- (a) during the sexually oriented entertainer's performance; or
  - (b) while the sexually oriented entertainer is dressed in performance attire.
- (6) A sexually oriented entertainer, while in the portion of the premises used by patrons, shall be dressed in opaque clothing which covers and conceals the sexually oriented entertainer's performance attire from the top of the breast to the knee.
- (7) A patron may not be on the stage or in the performance area while a sexually oriented entertainer is appearing or performing on the stage or in the performance area.
- (8) A patron may not:
- (a) touch a sexually oriented entertainer:
    - (i) during the sexually oriented entertainer's performance; or
    - (ii) while the sexually oriented entertainer is dressed in performance attire; or
  - (b) place money or any other object on or within the performance attire or the person of the sexually oriented entertainer.
- (9) A minor may not be on premises described in Subsection (3).
- (10) A person who appears or performs for the entertainment of patrons on premises or at an event regulated by the commission that is not a tavern or bar licensee:
- (a) may not appear or perform in a state of nudity or a state of seminudity; and
  - (b) may appear or perform in opaque clothing that completely covers the person's genitals, pubic area, and anus if the covering:
    - (i) is not less than the following at its widest point:
      - (A) four inches coverage width in the front of the human body; and
      - (B) five inches coverage width in the back of the human body;
    - (ii) does not taper to less than one inch wide at the narrowest point; and
    - (iii) if covering a female, completely covers the breast below the top of the areola.

Amended by Chapter 455, 2017 General Session

**32B-1-506 Compliance -- Administrative enforcement.**

- (1) A retail licensee, a permittee, and staff of a licensee or permittee shall comply with this part.

- (2) Failure to comply with this part may result in a disciplinary proceeding pursuant to Chapter 3, Disciplinary Actions and Enforcement Act, against:
- (a) a licensee or permittee;
  - (b) staff of the licensee or permittee;
  - (c) both a licensee and staff of the licensee; or
  - (d) both a permittee and staff of the permittee.

Enacted by Chapter 276, 2010 General Session