

At its core, this bill is *not* about protecting public decency. Ohio already has laws addressing obscenity and indecent exposure. Instead, this legislation expands those laws in a way that targets creative gender expression, creating new criminal penalties for public displays of gender expression that simply challenge traditional, conservative expectations about gender norms.

The bill's definition of "adult cabaret performance" includes performers who "exhibit a gender identity that differs from their biological sex" through clothing, makeup, or other physical markers. In practice, this means that a performer could face criminal penalties simply for presenting themselves in a way that does not conform to someone else's definition of gender. That is not a modernization of the law—it is a restriction on freedom of expression.

Laws like this create vague enforcement standards. If a person's clothing, makeup, or performance style can transform an event into a criminal act, performers, venue owners, and community organizers will inevitably self-censor to avoid risk. That chilling effect undermines not only LGBTQ+ affirming artistic spaces but the broader cultural life of our state.

Throughout our history, theatrical performance has included gender-bending, satire, and costume. From Shakespearean theater, where men played women's roles because only men were *allowed* to perform, to modern drag and experimental performance art, individuals have long explored personal identity through performance. Artistic expression thrives when it is allowed to challenge norms, provoke thought, and reflect the diversity of human experience.

HB249 threatens Ohio's rich artistic traditions by placing the government in the role of deciding which forms of gender expression are acceptable in public artistic spaces. This raises serious First Amendment concerns. Courts have repeatedly recognized that performance art, including drag performance, is protected expressive conduct. In fact, courts reviewing similar laws have repeatedly found them unconstitutional for being overly broad, vague, and containing content-based restrictions on Constitutionally-protected expression. States have the right—and duty—to pass laws to protect the safety and general welfare of their citizens, but legislatures cannot prohibit expression simply because some members of the public find it offensive. That's what's happening here.

Ohio law already prohibits obscene conduct and material harmful to minors. These statutes provide clear legal standards and enforcement mechanisms. I repeat, HB249 does not fill a gap in the law. Instead, it introduces *new and ambiguous* categories of prohibited expression, including performances deemed to appeal to a "prurient interest" or those involving gender expression... It is not the fault of the greater transgender community that you are obsessed with them or find them too attractive to be in public. Being trans in and of itself is not an obscene condition. There is no moral panic here. Trans people in Ohio are lawyers, doctors, educators, and yes—performers; but no—you cannot legislate their existence out of public life.

By singling out performers who present a gender identity different from their presumed sex assigned at birth, this bill risks regulating speech *based on the identity of the speaker* and the individual's closely-held viewpoint conveyed, a core violation of American First Amendment principles. This is offensive.

But beyond its legal implications, this bill sends a clear and troubling message to transgender and gender-nonconforming Ohioans: you are not welcome here. Visibility matters. It's the Transgender Month of Visibility. HB249 signals that transgender visibility should be treated as inherently inappropriate or obscene. That framing is harmful, inaccurate, and stigmatizing. Transgender Ohioans are more than our entertainment; they are our family members, neighbors, friends, and coworkers. They deserve the same freedom to exist and express themselves in public life as anyone else, whether on the stage or not.

Ohio should be a place where creativity thrives and where individual liberty is respected—not a place where artists must worry that an outfit or performance could make them criminals. I urge this committee to reject HB249 and instead focus on policies that support artistic freedom, constitutional rights, and the dignity of all Ohioans. Thank you.