

### 35.II.2.07. Prohibited Conduct and Activities

- 100 No person holding an alcoholic beverage on-premises permit, and no agent, associate, employee, representative, promoter, entertainer or servant of any such permittee shall do, permit, or fail to stop any of the following activities or events on or about the licensed premises:
1. Fraternalize by sitting at tables with customers while on duty; or to employ or pay persons to solicit patrons for drinks, to accept drinks from patrons and receive a commission or any other remuneration in any other way.
  2. Permit any prostitute to frequent the licensed premises, or to solicit patrons for prostitution.
  3. Permit any person to remain on the premises while such person is unclothed or in such attire, costume or clothing to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, the pubic hair area, anus, cleft of the buttocks, vulva, penis or genitals. Furthermore, no female permittee or any female agent, associate, employee, representative, promoter, servant, or entertainer of said permittee shall wear such attire, costume or clothing on the licensed premises which reveals any part of the female breast below the top of the areola.
  4. Encourage or permit any person, for entertainment purposes, to touch, caress or fondle the breast, buttocks, anus, penis or genitals of their own, or those of any person, animal or inanimate object.
  5. Permit any person to wear or use any device or covering, exposed to view, which simulates the breast, buttocks, anus, penis or genitals of their own, or those of any person, animal or inanimate object.
  6. Permit live entertainment or conduct which is lewd, immoral or offensive to public decency, including:
    - a. Any live act or performance of, or which simulates:
      - i. Sexual intercourse, masturbation, sodomy, bestiality, or oral copulation, flagellation or any sexual act prohibited by law.
      - ii. The touching, caressing or fondling of the breast, buttocks, anus, penis or genitals.
      - iii. The displaying of the pubic hair, the pubic hair area, anus, vulva, penis, genitals or any portion of the female breast below the top of the areola.
      - iv. The use of any artificial device or object to depict any of the prohibited activities described above.
    - b. Any live act or performance which appeals primarily to sexually oriented, lustful, prurient, or erotic interest including, but not limited to, the following: erotic dancers; male or female strippers; topless female dancers; contests or exhibitions such as wet t-shirt, biggest breast, biggest bulge, body beautiful, best leg, hairiest chest, best tan, best hiney, mud wrestling, tight jeans, and contests or exhibitions involving the use of lingerie or similar attire. This prohibition shall not apply to contests and exhibitions involving the use of swim wear that (1) do not otherwise violate the regulations included herein; and (2) have been pre-approved in writing by the Commissioner or his delegatee on a per-event basis. Failure to obtain such preapproval may result in suspension or revocation of the permit.

7. The showing of films, still pictures, electronic reproduction, or other visual reproductions depicting:
  - a. Acts, or simulated acts, or sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any other sexual acts which are prohibited by law.
  - b. Any person being touched, caressed or fondled on the breast, buttocks, anus, penis or pubic area.
  - c. Scenes wherein a person displays the vulva, anus, penis or genitals or pubic area.
  - d. Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.
  - e. Paragraph 7 shall not apply to any theatrical performance which, when considered as a whole and in the context that it is used, expresses matters of serious literary, artistic, scientific or political value and is:
    - i. Held at a theater, concert hall, art center, or museum, and is held out to the public as predominately offering and which does predominately offer such performances;
    - ii. Does not violate any other portion of Miss. Admin. Code Title 35, Part II, Subpart 2; and
    - iii. Is not in violation of federal law regarding pornography, indecency or obscenity.
8. Allow disorderly or boisterous conduct or the use of profane or vulgar language; provided this regulation shall not apply to remarks made by entertainers/entertainment groups in the course of their performance unless otherwise prohibited by the laws of the State of Mississippi, and as long as:
  - a. The performance takes place in a portion of the licensed premises which has a sign conspicuously posted at each entrance, advising the public choosing to enter the portion of the premises of the nature of the performance and that certain words or phrases used may be considered offensive or insulting by some persons, and
  - b. That any use of profane language, addressed in paragraph (8) above, is not so amplified as to be clearly and distinctly audible in other areas of the licensed premises or beyond the premises.
9. On-premises permitted places of business may charge an admission fee, a cover or minimum charge, or an entertainment fee, but shall not require the purchase of alcoholic beverages in order for a customer to enter or remain in such permitted place.

101 The permittee shall be responsible at all times for any and all of the aforesaid actions which may take place in any permitted establishment whether the permittee or their manager is present or not. The Department may revoke or suspend the license of any permittee for the violation of any of the provisions of this chapter. Any questions regarding the permissibility of activities or conduct governed by this regulation should be submitted, in writing, to the Chief of Enforcement prior to the activities or conduct occurring.

102 Permittees shall be accountable for any criminal or regulatory employee misconduct which occurs on any part of the licensed premises whether the permittee or their manager is present or not. Such misconduct may result in suspension or revocation of the permit.

- 103 Permitees shall be accountable for any criminal or regulatory non-employee misconduct when the Department finds that the permittee or the permittee's employees knew or should have known about the non-employee misconduct and allowed, permitted or suffered the misconduct to occur or continue. . Such misconduct may result in suspension or revocation of the permit.
- 104 If a permittee or a permittee's clerk, agent or employee is convicted of selling alcoholic beverages to a minor, the subject permit shall be suspended or revoked based on the schedule of disciplinary actions under Miss. Code Section 67-1-81(1)(b).
- 105 (Reserved)

*35.II.2.07 revised effective March 8, 2021*