

ASSEMBLY BILL NO. 351—ASSEMBLYMAN MORTENSON

MARCH 22, 2005

Referred to Concurrent Committees on Government Affairs and
Natural Resources, Agriculture, and Mining

SUMMARY—Encourages adoption of regulations to facilitate display and sale of artistic expressions protected by First Amendment in state, county and municipal parks, and recreational and cultural facilities. (BDR S-555)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to parks; encouraging the adoption of regulations to facilitate the display and sale of artistic expressions protected by the First Amendment in state, county and municipal parks, recreational and cultural facilities; and providing other matters properly relating thereto.

1 WHEREAS, The Supreme Court of the United States has
2 recognized that art is a form of expression protected by the First
3 Amendment; and

4 WHEREAS, The Supreme Court of the United States has held
5 that a narrow, succinctly articulable message is not a condition of
6 constitutional protection, which if confined to expressions
7 conveying a particularized message, would never reach the
8 unquestionably shielded painting of Jackson Pollock, music of
9 Arnold Schoenberg, or Jabberwocky verse of Lewis Carroll; and

10 WHEREAS, The Supreme Court of the United States has held
11 that public parks are quintessential public forums where citizens
12 may engage in constitutionally protected expression, subject only to
13 *reasonable* restrictions on the time, place and manner of their doing
14 so; and



1 WHEREAS, The Supreme Court of the United States has held
2 that it is unquestioned that the First Amendment protection is not
3 lost simply because the protected expression is sold for profit; and

4 WHEREAS, The President's Committee on the Arts and the
5 Humanities has found that participation in the arts and humanities
6 unlocks the human potential for creativity and supports a thriving
7 culture that is at the core of a vital society; and

8 WHEREAS, The use of the parks for the appreciation and
9 viewing of art has not yet been fully realized but presents continuing
10 opportunities to broaden the visitor base and public enjoyment of
11 Nevada's parks by making art and culture basic components of
12 recreation; now, therefore,

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14 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
15 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
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17 **Section 1.** 1. The Legislature hereby encourages:

18 (a) The Administrator of the Division of State Parks of the State
19 Department of Conservation and Natural Resources;

20 (b) Each board of county commissioners, county park and
21 recreation commission and county park commission; and

22 (c) The governing body of each city or town,
23 ➤ to adopt regulations to facilitate the display and sale of artistic
24 expressions protected by the First Amendment in the public parks,
25 public recreational and cultural facilities and other public spaces
26 within their respective jurisdictions.

27 2. The Legislature hereby encourages the Administrator,
28 county commissioners, county park and recreation commissions,
29 county park commissions and the governing bodies to adopt
30 regulations that do not create impediments to artistic expression, but
31 include reasonable standards for:

32 (a) Designating space within public parks, public recreational
33 and cultural facilities or other suitable public spaces within their
34 respective jurisdictions, including sidewalks, for the display of
35 various forms of artistic expression, including space for an artist to
36 sell art he has created; and

37 (b) Allocating space within the public park, public recreational
38 or cultural facility or other public space among the artists wishing to
39 display and sell their work in the public park, public recreational or
40 cultural facility or other public space, at the lowest cost possible to
41 encourage artists and the public to participate in, develop and enjoy
42 various forms of art.

