

Florida Scores Major Victory in Fight to Keep Kids Out of Drag Shows

A divided federal appeals court ruled Tuesday that Florida can enforce a law barring minors from attending sexually explicit live performances, handing Gov. Ron DeSantis and Attorney General James Uthmeier a win after three years of litigation.

The full U.S. Court of Appeals for the 11th Circuit ruled 8-5 that Orlando restaurant Hamburger Mary's had not shown it was likely to succeed on its First and 14th Amendment challenge to Florida's Protection of Children Act. The court vacated what remained of a preliminary injunction, sending the case back to the U.S. District Court for the Middle District of Florida.

"We will not second-guess the Florida Legislature's decision to regulate obscenity," U.S. Circuit Judge Andrew Brasher wrote for the majority. "Preventing children from attending adult live performances obscene for them is rationally related to Florida's interest in safeguarding the well-being of minors." Brasher was appointed to the appellate bench by President Trump.



Order "Born Gay, Born Again" by Zaire Willis and Reginald Robinson on !

The 2023 law makes it a first-degree misdemeanor to knowingly admit a child to an "adult live performance," punishable by up to a year in jail and a \$1,000 fine. The state can separately fine licensed restaurants, hotels and alcohol licensees \$5,000 for a first violation and \$10,000 for repeat violations, and can suspend or revoke their licenses.

To qualify as an "adult live performance," a show depicting

nudity, sexual conduct or lewd conduct must also predominantly appeal to a “prurient, shameful, or morbid interest,” be patently offensive under statewide adult community standards for the age of the child present, and lack serious literary, artistic, political or scientific value for that child’s age. The majority noted nothing in the law singles out performances for featuring drag.

Uthmeier hailed the ruling on X. “Huge victory for our team at the 11th Circuit,” he wrote. “After 3 years of litigation, the full court affirmed the constitutionality of Florida’s ban on children attending sexualized drag shows.”

DeSantis, who signed the measure into law, said in a statement the ruling should not have been necessary. “This shouldn’t even be controversial, yet our law protecting kids required us to fend off lawsuits and win a case before a divided appellate court,” he said.

Hamburger Mary’s sued in 2023 after canceling its “family friendly” drag brunches to challenge the law. A district judge blocked the act statewide, and a three-judge panel affirmed that injunction in May 2025 before the full court agreed to rehear the case. A December 2025 order had already narrowed the injunction to cover only Hamburger Mary’s, letting the state enforce the law against other venues for months before Tuesday’s ruling.

Five judges dissented. U.S. Circuit Judge Robin Rosenbaum, an Obama appointee, wrote that the statute “wields a Titanic-sized iceberg of chilling power against protected speech.” She was joined by four other judges, including Judge Nancy Abudu.

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