
ENGROSSED SUBSTITUTE SENATE BILL 5614

State of Washington

68th Legislature

2023 Regular Session

By Senate Labor & Commerce (originally sponsored by Senators Saldaña, Nguyen, and C. Wilson)

READ FIRST TIME 02/15/23.

1 AN ACT Relating to adult entertainment establishments; amending
2 RCW 9A.88.010, 9A.88.030, 9A.88.030, and 49.17.470; adding a new
3 section to chapter 49.44 RCW; adding a new section to chapter 66.24
4 RCW; providing an effective date; and providing an expiration date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 9A.88.010 and 2003 c 53 s 92 are each amended to
7 read as follows:

8 (1) A person is guilty of indecent exposure if he or she
9 intentionally makes any open and obscene exposure of his or her
10 person or the person of another knowing that such conduct is likely
11 to cause reasonable affront or alarm. The act of breastfeeding or
12 expressing breast milk is not indecent exposure.

13 (2)(a) Except as provided in (b) and (c) of this subsection,
14 indecent exposure is a misdemeanor.

15 (b) Indecent exposure is a gross misdemeanor on the first offense
16 if the person exposes himself or herself to a person under the age of
17 fourteen years.

18 (c) Indecent exposure is a class C felony if the person has
19 previously been convicted under this section or of a sex offense as
20 defined in RCW 9.94A.030.

1 (3) Adult entertainment as defined in RCW 49.17.470 is not
2 indecent exposure.

3 **Sec. 2.** RCW 9A.88.030 and 1988 c 145 s 16 are each amended to
4 read as follows:

5 (1) A person is guilty of prostitution if such person engages or
6 agrees or offers to engage in sexual conduct with another person in
7 return for a fee.

8 (2) For purposes of this section, "sexual conduct" means "sexual
9 intercourse" or "sexual contact," both as defined in chapter 9A.44
10 RCW.

11 (3) Prostitution is a misdemeanor.

12 (4) Adult entertainment as defined in RCW 49.17.470 is not sexual
13 conduct.

14 **Sec. 3.** RCW 9A.88.030 and 2020 c 331 s 4 are each amended to
15 read as follows:

16 (1) A person age eighteen or older is guilty of prostitution if
17 such person engages or agrees or offers to engage in sexual conduct
18 with another person in return for a fee.

19 (2) For purposes of this section, "sexual conduct" means "sexual
20 intercourse" or "sexual contact," both as defined in chapter 9A.44
21 RCW.

22 (3) Prostitution is a misdemeanor.

23 (4) Adult entertainment as defined in RCW 49.17.470 is not sexual
24 conduct.

25 **Sec. 4.** RCW 49.17.470 and 2019 c 304 s 1 are each amended to
26 read as follows:

27 (1)(a) The department shall develop or contract for the
28 development of training for entertainers. The training must include,
29 but not be limited to:

30 (i) Education about the rights and responsibilities of
31 entertainers, including with respect to working as an employee or
32 independent contractor;

33 (ii) Reporting of workplace injuries, including sexual and
34 physical abuse and sexual harassment;

35 (iii) The risk of human trafficking;

36 (iv) Financial aspects of the entertainer profession; and

37 (v) Resources for assistance.

1 (b) As a condition of receiving or renewing an adult entertainer
2 license issued by a local government on or after July 1, 2020, an
3 entertainer must provide proof that the entertainer took the training
4 described in (a) of this subsection. The department must make the
5 training reasonably available to allow entertainers sufficient time
6 to take the training in order to receive or renew their licenses on
7 or after July 1, 2020.

8 (2) An adult entertainment establishment must provide a panic
9 button in each room in the establishment in which an entertainer may
10 be alone with a customer, and in bathrooms and dressing rooms. An
11 entertainer may use the panic button if the entertainer has been
12 harmed, reasonably believes there is a risk of harm, or there is an
13 other emergency in the entertainer's presence. The entertainer may
14 cease work and leave the immediate area to await the arrival of
15 assistance.

16 (3)(a) An adult entertainment establishment must record the
17 accusations it receives that a customer has committed an act of
18 violence, including assault, sexual assault, or sexual harassment,
19 towards an entertainer. The establishment must make every effort to
20 obtain the customer's name and if the establishment cannot determine
21 the name, it must record as much identifying information about the
22 customer as is reasonably possible. The establishment must retain a
23 record of the customer's identifying information for at least five
24 years after the most recent accusation.

25 (b) If an accusation is supported by a statement made under
26 penalty of perjury or other evidence, the adult entertainment
27 establishment must decline to allow the customer to return to the
28 establishment for at least three years after the date of the
29 incident. The establishment must share the information about the
30 customer with other establishments with common ownership and those
31 establishments with common ownership must also decline to allow the
32 customer to enter those establishments for at least three years after
33 the date of the incident. No entertainer may be required to provide
34 such a statement.

35 (4) For the purposes of enforcement, except for subsection (1) of
36 this section, this section shall be considered a safety or health
37 standard under this chapter.

38 (5)(a) Each establishment must develop training for establishment
39 employees to minimize occurrences of unprofessional behavior by the
40 establishments' employees and enable the employees to support

1 entertainers in times of conflict. Training topics must include, but
2 are not limited to, topics related to:

3 (i) Conflict de-escalation; and

4 (ii) First aid.

5 (b) An establishment must require all establishment employees to
6 take the training within 30 days of hiring and at least every two
7 years.

8 (6) An adult entertainment establishment must provide at least
9 one dedicated security person during business hours. Between the
10 hours of 9:00 a.m. and 9:00 p.m., the dedicated security person's
11 primary duty is security, between the hours of 9:00 p.m. and 9:00
12 a.m. the dedicated security person must have no other duties. The
13 department may adopt rules that require additional security persons
14 based on additional factors, including but not limited to:

15 (a) The size of the establishment;

16 (b) The layout and floor plan of the establishment;

17 (c) The patron volume;

18 (d) Security cameras and panic buttons; and

19 (e) The history of security events at the establishment.

20 (7) This section does not affect an employer's responsibility to
21 provide a place of employment free from recognized hazards or to
22 otherwise comply with this chapter and other employment laws.

23 ~~((6) The department shall convene an entertainer advisory~~
24 ~~committee to assist with the implementation of this section,~~
25 ~~including the elements of the training under subsection (1) of this~~
26 ~~section. At least half of the advisory committee members must be~~
27 ~~former entertainers who held or current entertainers who have held an~~
28 ~~adult entertainer license issued by a local government for at least~~
29 ~~five years. At least one member of the advisory committee must be an~~
30 ~~adult entertainment establishment which is licensed by a local~~
31 ~~government and operating in the state of Washington. The advisory~~
32 ~~committee shall also consider whether additional measures would~~
33 ~~increase the safety and security of entertainers, such as by~~
34 ~~examining ways to make the procedures described in subsection (3) of~~
35 ~~this section more effective and reviewing the fee structure for~~
36 ~~entertainers. If the advisory committee finds and recommends~~
37 ~~additional measures that would increase the safety and security of~~
38 ~~entertainers and that those additional measures would require~~
39 ~~legislative action, the department must report those recommendations~~
40 ~~to the appropriate committees of the legislature.~~

1 ~~(7))~~ (8) The definitions in this subsection apply throughout
2 this section unless the context clearly requires otherwise.

3 (a) "Adult entertainment" means any exhibition, performance, or
4 dance of any type conducted in a premises where such exhibition,
5 performance, or dance involves an entertainer who:

6 (i) Is unclothed or in such attire, costume, or clothing as to
7 expose to view any portion of the breast below the top of the areola
8 or any portion of the pubic region, anus, buttocks, vulva, or
9 genitals; or

10 (ii) Touches, caresses, or fondles the breasts, buttocks, anus,
11 genitals, or pubic region of another person, or permits the touching,
12 caressing, or fondling of the entertainer's own breasts, buttocks,
13 anus, genitals, or pubic region by another person, with the intent to
14 sexually arouse or excite another person.

15 (b) "Adult entertainment establishment" or "establishment" means
16 any business to which the public, patrons, or members are invited or
17 admitted where an entertainer provides adult entertainment to a
18 member of the public, a patron, or a member.

19 (c) "Adult entertainment nightclub" means an adult entertainment
20 establishment that has met the requirements of subsection (9) of this
21 section.

22 (d) "Entertainer" means any person who provides adult
23 entertainment within an adult entertainment establishment, whether or
24 not a fee is charged or accepted for entertainment and whether or not
25 the person is an employee under RCW 49.17.020.

26 ~~((d))~~ (e) "Panic button" means an emergency contact device by
27 which the entertainer may summon immediate on-scene assistance from
28 another entertainer, a security guard, or a representative of the
29 ~~((adult))~~ adult entertainment establishment.

30 (9) (a) In order to qualify as an adult entertainment nightclub
31 the establishment must demonstrate in a manner determined by the
32 department that it:

33 (i) Has written processes and procedures accessible to all its
34 employees and entertainers who are not employees for:

35 (A) Responding to customer violence or criminal activity,
36 including when police are called;

37 (B) Ejecting customers who violate club policies, including
38 intoxication or other inappropriate or illegal behavior; and

39 (C) Processing requests from entertainers to place a patron on
40 the list under subsection (3) (b) of this section;

1 (ii) Provides to the department at least annually a customer
2 complaint log including, but not limited to, the number of
3 entertainer complaints and the number of customers related to
4 customer actions described in subsection (3) of this section;

5 (iii) Provides to the department at least annually proof of
6 compliance with subsection (2) of this section and maintenance
7 records showing that the panic buttons are maintained and checked to
8 ensure they are in working condition;

9 (iv) Has entertainers' dressing or locker rooms equipped with a
10 keypad requiring a code to enter;

11 (v) Provides appropriate cleaning supplies and a waste receptacle
12 accessible from private performance areas; and

13 (vi) Displays signage:

14 (A) In an employee common area indicating that entertainers are
15 not required to surrender any tips or gratuities and may not be
16 denied services and amenities in consideration of tips or gratuities;
17 and

18 (B) At the entrance directing customers to resources on
19 appropriate etiquette.

20 (b) The establishment must demonstrate compliance with the above
21 requirements on an annual basis.

22 (c) If, based on an inspection, the department determines that an
23 establishment is no longer in compliance with these requirements the
24 department will notify the liquor and cannabis board.

25 (d) The department may share information with the liquor and
26 cannabis board for purposes of this subsection (9) and section 6 of
27 this act.

28 NEW SECTION. Sec. 5. A new section is added to chapter 49.44
29 RCW to read as follows:

30 (1) For any entertainer who is an employee under chapter 49.46
31 RCW, an adult entertainment establishment may not charge any fee.

32 (2)(a) For any entertainer who is found to not be an employee
33 under chapter 49.46 RCW, an adult entertainment establishment may
34 not:

35 (i) Charge any fees or other charges that, separately or when
36 combined, are greater than 30 percent of the entertainment fees
37 collected by the entertainer during the leased date and time,
38 excluding tips paid to the entertainer;

1 (ii) Carry forward an unpaid balance from any fee incurred
2 previously by the entertainer for access to or usage of the
3 establishment premises;

4 (iii) Charge fees to an entertainer for late payment or
5 nonpayment of any fee;

6 (iv) Charge an entertainer a fee for failure to appear at a
7 scheduled time;

8 (v) Control:

9 (A) How much the entertainer charges customers for adult
10 entertainment;

11 (B) When and how the entertainer works; or

12 (C) What type of clothing or costumes to wear during the adult
13 entertainment;

14 (vi) Take adverse action against an entertainer based on
15 scheduling;

16 (vii) Obligate an entertainer to appear for any length of time,
17 provided the entertainer satisfies a leasing fee or otherwise agrees
18 to an alternative charge, subject to the limitations of (a)(i) of
19 this subsection; and

20 (viii) Refuse to provide an entertainer with written notice of
21 the reason or reasons for any termination or refusal to rehire the
22 entertainer. Such notice must be provided within 10 business days of
23 the termination or refusal to rehire the entertainer.

24 (b) Any fees not prohibited under this subsection (2) must be
25 stated in a written contract and continue to apply for a period of
26 not less than three months with effective dates.

27 (c) This subsection (2) does not prevent an establishment from
28 providing leasing discounts or credits to encourage scheduling or
29 charge lease amounts that vary based on the time of day.

30 (3)(a) No state agency or local government may adopt laws, rules,
31 ordinances, or regulations that limit or prohibit an entertainer
32 from:

33 (i) Collecting any form of payment from customers;

34 (ii) Touching their own body or exposing themselves while
35 performing within an adult entertainment establishment; and

36 (iii) Engaging in physical contact with another person that is
37 otherwise lawful outside of an adult entertainment establishment,
38 such as restrictions on proximity or distance, before or during any
39 exhibition, performance, or dance of any type.

1 (b) This subsection may not be construed to prohibit a local
2 government from adopting ordinances or regulations that are more
3 protective of entertainers than the requirements of this section.

4 (4) No adult entertainment establishment may allow any person
5 under the age of 18 on the premises of the establishment.

6 (5) For purposes of this section:

7 (a) "Adult entertainment" has the same meaning as in RCW
8 49.17.470.

9 (b) "Adult entertainment establishment" or "establishment" have
10 the same meaning as in RCW 49.17.470.

11 (c) "Adult entertainment nightclub" has the same meaning as in
12 RCW 49.17.470.

13 (d) "Entertainer" has the same meaning as in RCW 49.17.470.

14 NEW SECTION. **Sec. 6.** A new section is added to chapter 66.24
15 RCW to read as follows:

16 (1) There shall be a spirits, beer, and wine adult entertainment
17 nightclub license to sell spirituous liquor by the drink, beer, and
18 wine at retail, for consumption on the licensed premises.

19 (2) The license may be issued only to an adult entertainment
20 nightclub whose business includes the sale and service of alcohol to
21 the adult entertainment nightclub's customers and has food sales and
22 service incidental to the sale and service of alcohol.

23 (3) The board may adopt rules to allow entertainers who are over
24 18 years of age but under 21 years of age to perform in an adult
25 entertainment nightclub.

26 (4) The annual fee for this license is \$2,000. The fee for the
27 license shall be reviewed from time to time and set at such a level
28 sufficient to defray the cost of licensing and enforcing this
29 licensing program. The fee shall be fixed by rule adopted by the
30 board in accordance with the provisions of chapter 34.05 RCW.

31 (5) Local governments may petition the board to request that
32 further restrictions be imposed on a spirits, beer, and wine adult
33 entertainment nightclub license in the interest of public safety.
34 Examples of further restrictions a local government may request are:
35 Not allowing minors on the entire premises, submitting a security
36 plan, or signing a good neighbor agreement with the local government.

37 (6) The total number of spirits, beer, and wine adult
38 entertainment nightclub licenses are not subject to the requirements
39 of RCW 66.24.420(4). However, the board may not refuse a spirits,

1 beer, and wine adult entertainment nightclub license to any applicant
2 even if the board determines that the spirits, beer, and wine
3 nightclub licenses already granted for the particular locality are
4 adequate for the reasonable needs of the community.

5 (7) The board may adopt rules to implement this section.

6 (8) The board may share information with the department of labor
7 and industries for purposes of this section.

8 (9) The board may not issue any liquor license to any adult
9 entertainment establishment which is not an adult entertainment
10 nightclub.

11 (10) WAC 314-11-050 does not apply to an adult entertainment
12 nightclub licensed under this section.

13 (11) For purposes of this section:

14 (a) "Adult entertainment establishment" or "establishment" have
15 the same meaning as in RCW 49.17.470.

16 (b) "Adult entertainment nightclub" has the same meaning as in
17 RCW 49.17.470.

18 (c) "Entertainer" has the same meaning as in RCW 49.17.470.

19 NEW SECTION. **Sec. 7.** If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected.

23 NEW SECTION. **Sec. 8.** Section 2 of this act expires January 1,
24 2024.

25 NEW SECTION. **Sec. 9.** Section 3 of this act takes effect January
26 1, 2024.

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