
SUBSTITUTE SENATE BILL 5003

State of Washington

53rd Legislature

1993 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators Nelson, West, Erwin, Oke and McCaslin)

Read first time 02/10/93.

1 AN ACT Relating to adult entertainment businesses; amending RCW
2 7.48A.040 and 42.17.310; adding a new section to chapter 43.43 RCW;
3 adding a new chapter to Title 18 RCW; prescribing penalties; and
4 providing an effective date.

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

6 NEW SECTION. **Sec. 1.** It is the purpose of this chapter to
7 regulate certain adult entertainment businesses to promote the health,
8 safety, and welfare of the citizens of the state of Washington. The
9 legislature finds that these businesses, when unregulated, promote
10 illegal activities including obscenity, pornography, assaults, drug
11 offenses, sexual offenses, and prostitution.

12 NEW SECTION. **Sec. 2.** Unless the context clearly requires
13 otherwise, the definitions in this section apply throughout this
14 chapter.

15 (1) "Adult entertainment business" means a nightclub, bar,
16 restaurant, theater, concert hall, auditorium, or similar commercial
17 establishment that regularly features live performances by nude or
18 seminude persons.

1 (2) "Applicant" means a person or persons applying for a license
2 under this chapter.

3 (3) "Business license" means a license issued by the department
4 under this chapter to an adult entertainment business.

5 (4) "Department" means the department of licensing.

6 (5) "Director" means the director of licensing.

7 (6) "Licensee" means a person or persons in whose name a license
8 has been issued under this chapter.

9 (7) "Nude" means a state of dress that exposes a person's bare
10 buttocks, anus, genitals, or breasts, or a state of dress which fails
11 to cover opaquely a person's buttocks, anus, genitals, or areolae of
12 the breast.

13 (8) "Own or manage" means a person has a substantial interest in an
14 adult entertainment business.

15 (9) "Performer's license" means a license issued by the department
16 under this chapter to a performer in an adult entertainment business.

17 (10) "Seminude" means a state of dress other than nude that, with
18 respect to a person's torso, opaquely covers only the buttocks, anus,
19 genitals, and areolae of the breasts, as well as portions of the body
20 covered by supporting straps or devices.

21 (11) "Substantial interest" means the interest possessed by a
22 person when:

23 (a) With respect to a sole proprietorship, the person, or his or
24 her marital community, owns, operates, manages, or conducts, directly
25 or indirectly, the business, or any part of it; or

26 (b) With respect to a partnership, the person or his or her marital
27 community, shares in any of the profits, or potential profits, of the
28 business; or

29 (c) With respect to a corporation, the person or his or her spouse,
30 is an officer, or director, or the person or his or her marital
31 community is a holder, directly or beneficially, of ten percent or more
32 of any class of stock of the business; or

33 (d) With respect to an organization not covered in (a), (b), or (c)
34 of this subsection, the person or his or her spouse, is an officer or
35 manages the business affairs, or the person or his or her marital
36 community is owner of or otherwise controls ten percent or more of the
37 assets of the business; or

1 (e) The person, or his or her marital community, furnishes ten
2 percent or more of the capital, whether in cash, goods, or services,
3 for the operation of the business during any calendar year.

4 NEW SECTION. **Sec. 3.** (1) It is a gross misdemeanor for a person
5 to own or manage an adult entertainment business in the state of
6 Washington unless the person has obtained a business license pursuant
7 to this chapter. Subsequent violations of this subsection within a
8 two-year period constitute a class C felony.

9 (2) It is a gross misdemeanor for a performer to appear nude or
10 seminude in an adult entertainment business unless the performer has
11 obtained a performer's license pursuant to this chapter.

12 NEW SECTION. **Sec. 4.** (1) Each owner or manager of a business must
13 obtain and maintain a business license.

14 (2) An application for a business license must be made on a form
15 provided by the department. The applicant shall provide: (a) The
16 name, address, phone number, and date of birth of the applicant; (b)
17 two recent passport-size color photographs of the applicant; (c) the
18 applicant's principal occupation; (d) the nature of the proposed
19 business; (e) the trade name of the proposed business; (f) location of
20 the proposed business; (g) a list of all prior business license
21 numbers; (h) a record of all prior criminal convictions for any offense
22 listed under section 21(1) of this act; and (i) such other information
23 as the department may require by rule.

24 (3) The department shall require the applicant to submit to
25 fingerprinting to assist the Washington state patrol in conducting a
26 background check under section 29 of this act.

27 (4) At the time of applying, the applicant shall post notice of the
28 application at the proposed business location in a form and manner as
29 required by the department by rule.

30 NEW SECTION. **Sec. 5.** (1) The department shall grant or refuse a
31 business license in accordance with this chapter.

32 (2) Every business license shall be issued in the name of the
33 applicant or applicants, and the holder of a license shall not allow
34 any other person to use it.

35 (3) No business license may be issued to:

1 (a) An individual, partnership, or corporation, unless qualified to
2 obtain a business license, as provided in this chapter;

3 (b) A corporation, unless it was created under the laws of the
4 state of Washington or holds a certificate of authority to transact
5 business in the state of Washington;

6 (c) An applicant who is under eighteen years of age;

7 (d) An applicant who knowingly has failed to provide information
8 reasonably necessary for issuance of the business license or who with
9 an intent to misrepresent has falsely answered a question or request
10 for information on the application form; or

11 (e) An applicant who has proposed the location of the business
12 within a zone where such use is prohibited by state or local authority.

13 (4) Upon receipt of an application for a business license, the
14 department shall give notice of the application to the chief executive
15 officer of the incorporated city or town, if the application is for a
16 business license within an incorporated city or town, or to the county
17 legislative authority, if the application is for a business license
18 outside the boundaries of incorporated cities or towns, or to all the
19 appropriate executive officers in the case of a regional adult
20 entertainment business plan. Upon the granting of a business license
21 under this chapter the department shall send a duplicate of the license
22 or written notification to the chief executive officer of the
23 incorporated city or town in which the license is granted, or to the
24 county legislative authority if the license is granted outside the
25 boundaries of incorporated cities or towns, or to all chief executive
26 officers of impacted cities, towns, or counties participating in a
27 regional adult entertainment business plan.

28 (5)(a) Except as set forth in (b) of this subsection, the
29 department shall not issue an initial business license covering any
30 premises, if at the time the initial license is to be issued the
31 premises are within a buffer zone of one thousand feet surrounding any
32 residential zone, single or multifamily dwelling, church, park,
33 playground, day care center, or elementary or secondary school. The
34 one thousand feet shall be measured on a straight line between the
35 closest points of the property on which the premises are located and
36 the property of the residential zone, dwelling, church, park,
37 playground, day care center, or school. For the purpose of this
38 section, church means a building erected for and used exclusively for
39 religious worship and schooling or other activity in connection with

1 the worship and schooling. The department may rely on the measurements
2 of the relevant local jurisdictions in determining the boundaries of a
3 buffer zone.

4 (b) The legislative authority of a city, town, or county:

5 (i) Shall establish a buffer zone less than that established in (a)
6 of this subsection if an applicant submits adequate documentation
7 supporting a variance from the buffer zone and the legislative
8 authority finds (A) that the adverse secondary effects of adult
9 entertainment businesses on public health, safety, or welfare would not
10 be greater as a result of the smaller buffer zone or (B) that failure
11 to establish a smaller buffer zone will effectively prohibit any adult
12 entertainment business in the city, town, or county and there is no
13 regional agreement with neighboring cities, towns, or counties that
14 provides adequate opportunities for such businesses; or

15 (ii) May establish a buffer zone greater than that established in
16 (a) of this subsection if the legislative authority finds (A) that the
17 adverse secondary effects of adult entertainment businesses on public
18 health, safety, or welfare would not be reasonably and effectively
19 mitigated without the larger buffer zone and (B) that establishing a
20 larger buffer zone will not effectively prohibit any adult
21 entertainment business in the city, town, or county, or that there is
22 a regional agreement with neighboring cities, towns, or counties that
23 provides adequate opportunities for such businesses.

24 (c) If the location requirements established pursuant to this
25 chapter effectively preclude location of adult entertainment businesses
26 within a city, town, or county, such city, town, or county shall join
27 with neighboring cities, towns, or counties in a regional adult
28 entertainment business location plan in order to provide reasonable
29 opportunity for location of adult entertainment businesses in the
30 regional area.

31 NEW SECTION. **Sec. 6.** (1) The department may, subject to the
32 provisions of this chapter and as provided by rule, suspend or cancel
33 a business license; and all rights of the licensee under this chapter
34 shall be suspended or terminated, as the case may be.

35 (2) Upon receipt of notice of the suspension or cancellation of a
36 business license, the licensee shall forthwith deliver the license to
37 the department. Where the business license has been suspended only,

1 the department shall return the license to the licensee at the
2 expiration or termination of the period of suspension.

3 NEW SECTION. **Sec. 7.** (1) Every business license issued under this
4 chapter is subject to all conditions and restrictions imposed by this
5 chapter. All conditions and restrictions imposed by the department in
6 the issuance of an individual business license shall be listed on the
7 face of the individual license along with the trade name, address, and
8 expiration date.

9 (2) Every business licensee shall post and keep posted its license
10 in a conspicuous place on the premises.

11 NEW SECTION. **Sec. 8.** The department shall not issue a business
12 license to a transferee until the transferee has applied for and
13 received a business license under this chapter.

14 NEW SECTION. **Sec. 9.** (1)(a) At the time of the original issuance
15 of a business license, the department shall prorate the license fee
16 charged to the new licensee according to the number of calendar
17 quarters, or portion thereof, remaining until the first renewal of that
18 license is required.

19 (b) Unless canceled sooner, every business license issued by the
20 department shall expire at midnight of the thirtieth day of June of the
21 fiscal year for which it was issued. However, if the department deems
22 it feasible and desirable to do so, it may establish, by rule pursuant
23 to chapter 34.05 RCW, a system for staggering the annual renewal dates
24 for business licenses. If such a system of staggered annual renewal
25 dates is established by the department, the business license fees
26 provided by this chapter shall be appropriately prorated during the
27 first year that the system is in effect.

28 (2) The adult entertainment business license fee shall be
29 established under RCW 43.24.086, but shall be at least seven hundred
30 fifty dollars per annum, and shall be paid at the time of application.
31 One-half of the fee shall be refunded if the application is withdrawn
32 prior to a denial of the license by the department.

33 NEW SECTION. **Sec. 10.** (1) A person who is named on a business
34 license may not assign or transfer, in whole or in part, his or her
35 interest in the license, except that a transfer may be made to the

1 surviving spouse of a deceased licensee if the transferor and
2 transferee were maintaining a marital community and the license was
3 issued in the name of the deceased licensee. The transfer permitted
4 under this subsection must be reported to the department within thirty
5 days of the transfer. The department shall charge a fee established
6 under RCW 43.24.086 of at least seventy-five dollars for the processing
7 of a transfer.

8 (2) At the expiration of the transferred license, the surviving
9 spouse must meet the requirements of this chapter.

10 NEW SECTION. **Sec. 11.** The department in suspending a business
11 license may further provide in the order of suspension that such
12 suspension shall be vacated upon payment to the department by the
13 licensee of a monetary penalty in an amount fixed by the department but
14 not to exceed ten thousand dollars.

15 NEW SECTION. **Sec. 12.** (1)(a) An application for a performer's
16 license must be made on a form provided by the department. The
17 performer shall provide the following: (i) The performer's name,
18 including all aliases, address, phone number, and date of birth; (ii)
19 two passport-size color photographs of the performer; (iii) principal
20 occupation; (iv) the name and address of any business, if known, at
21 which the performer will perform; (v) a list of all prior performer's
22 license numbers; (vi) a record of all prior criminal convictions for
23 any offense listed under section 21(1) of this act; and (vii) such
24 other information as the department may require by rule.

25 (b) The department shall require the applicant to submit to
26 fingerprinting to assist the Washington state patrol in conducting a
27 background check under section 29 of this act.

28 (c) Identifying information provided by an applicant under this
29 subsection is exempt from public disclosure, and the department shall
30 not disclose such information except to the extent necessary to carry
31 out its responsibilities under this chapter, or to comply with a
32 request from another governmental entity, or to comply with a court
33 order.

34 (2) No performer's license may be issued to:

35 (a) A person who is under eighteen years of age;

36 (b) A person who knowingly has failed to provide information
37 reasonably necessary for issuance of the license or who with an intent

1 to misrepresent has falsely answered a question or request for
2 information on the application form.

3 (3) The performer's license fee shall be established under RCW
4 43.24.086, but shall be at least seventy-five dollars per annum and
5 shall be paid at the time of application. One-half of the fee shall be
6 refunded if the application is withdrawn prior to denial of the license
7 by the department.

8 (4) Every performer shall keep his or her performer's license on
9 the premises while performing.

10 NEW SECTION. **Sec. 13.** Every business licensed under section 5 of
11 this act shall file monthly reports with the department pursuant to
12 rule. The reports shall include the following: (1) The name, address,
13 date of birth, and the performer's license number for all performers
14 appearing nude or seminude during the month; and (2) such further
15 information as the department may require.

16 NEW SECTION. **Sec. 14.** An action, order, or decision of the
17 department as to a denial of an application for the issuance or renewal
18 of a business or performer's license or as to a revocation, suspension,
19 or modification of a license is subject to the applicable provisions of
20 chapter 34.05 RCW.

21 (1) An opportunity for a hearing must be provided a licensee prior
22 to a revocation or modification of a business or performer's license
23 and, except as provided in subsection (3) of this section, prior to the
24 suspension of a license.

25 (2) No hearing shall be required until demanded by the applicant or
26 licensee.

27 (3) The department may summarily suspend a business or performer's
28 license for a period of up to thirty days without a prior hearing if it
29 finds that public health, safety, or welfare imperatively requires
30 emergency action, and incorporates a finding to that effect in its
31 order; and proceedings for revocation or other action must be promptly
32 instituted and determined.

33 NEW SECTION. **Sec. 15.** No provision in this chapter limits the
34 authority of cities, towns, and counties from further regulating adult
35 entertainment businesses as to hours of operation, location of
36 premises, or manner of operation.

1 The provisions of this chapter relating to the licensing of any
2 adult entertainment business shall not be exclusive and any city, town,
3 or county within whose jurisdiction the adult entertainment business is
4 located may require any registrations or licenses, or charge any fee
5 for the same or similar purpose; and nothing in this chapter shall
6 limit or abridge the authority of any city, town, or county to levy and
7 collect a general and nondiscriminatory license fee levied upon all
8 businesses, or to levy a tax based upon the gross business receipts of
9 any firm within the city, town, or county.

10 NEW SECTION. **Sec. 16.** The director has the following authority:

11 (1) To adopt, amend, or repeal such rules as are deemed necessary
12 to carry out this chapter;

13 (2) To investigate all complaints or reports of conduct in
14 violation of this chapter and to hold hearings as provided in this
15 chapter;

16 (3) To issue subpoenas and administer oaths in connection with any
17 investigation, hearing, or proceeding held under this chapter;

18 (4) To take or cause depositions to be taken and use other
19 discovery procedures as needed in any investigation, hearing, or
20 proceeding held under this chapter;

21 (5) To compel attendance of witnesses at hearings;

22 (6) To take emergency action ordering summary suspension of a
23 business or performer's license, or restriction or limitation of the
24 licensee's practice pending further disciplinary action under section
25 21 of this act;

26 (7) To use the office of administrative hearings as authorized in
27 chapter 34.12 RCW to conduct hearings. However, the director or the
28 director's designee shall make the final decision in the hearing;

29 (8) To enter into contracts for professional services determined to
30 be necessary for adequate enforcement of this chapter;

31 (9) To grant or deny business or performer's license applications,
32 and to impose any sanction against a license applicant or license
33 holder provided by this chapter;

34 (10) To establish or increase in accordance with RCW 43.24.086
35 business and performer's license fees above the minimum set by this
36 chapter;

37 (11) To enter into an assurance of discontinuance in lieu of
38 issuing a statement of charges or conducting a hearing. The assurance

1 shall consist of a statement of the law in question and an agreement
2 not to violate the stated provision. The applicant or license holder
3 shall not be required to admit to any violation of the law, nor shall
4 the assurance be construed as such an admission. Violation of an
5 assurance under this subsection is grounds for disciplinary action;

6 (12) To designate individuals authorized to sign subpoenas and
7 statements of charges; and

8 (13) To employ such investigative, administrative, and clerical
9 staff as necessary for the enforcement of this chapter.

10 NEW SECTION. **Sec. 17.** A person, including but not limited to a
11 customer, licensee, corporation, organization, or state or local
12 governmental agency, may submit a written complaint to the department
13 charging a business or performer's license holder or applicant with a
14 violation of this chapter. If the department determines that the
15 complaint merits investigation, or if the department has reason to
16 believe, without a formal complaint, that a license holder or applicant
17 may have violated this chapter, the department may investigate to
18 determine whether there has been a violation. A person who files a
19 complaint under this section in good faith is immune from suit in any
20 civil action related to the filing or contents of the complaint as
21 provided in RCW 4.24.500 through 4.24.520.

22 NEW SECTION. **Sec. 18.** (1) If the department determines, upon
23 investigation pursuant to section 17 of this act, that there is reason
24 to believe a violation of this chapter has occurred, a statement of
25 charge or charges may be prepared and served upon the business or
26 performer's license holder or applicant. The statement of charge or
27 charges shall be accompanied by a notice that the license holder or
28 applicant may request a hearing to contest the charge or charges. The
29 license holder or applicant must file a request for hearing with the
30 department within twenty days after being served the statement of
31 charges. The failure to request a hearing constitutes a default, upon
32 which the director or the director's designee may enter an order
33 pursuant to RCW 34.05.440(1).

34 (2) If a hearing is requested, the time of the hearing shall be
35 scheduled but the hearing shall not be held earlier than thirty days
36 after service of the charges upon the license holder or applicant. A

1 notice of hearing shall be issued at least twenty days prior to the
2 hearing, specifying the time, date, and place of the hearing.

3 NEW SECTION. **Sec. 19.** The procedures governing adjudicative
4 proceedings before agencies under chapter 34.05 RCW, the administrative
5 procedure act, govern all hearings requested under section 18 of this
6 act.

7 NEW SECTION. **Sec. 20.** (1) Upon a finding that a business or
8 performer's license holder or applicant has engaged in conduct or
9 violated conditions that are grounds for denial of a license or for
10 disciplinary action under section 21 of this act, the director may
11 issue an order providing for one or any combination of the following:

- 12 (a) Revocation of the license;
- 13 (b) Suspension of the license for a fixed or indefinite term;
- 14 (c) Censure or reprimand;
- 15 (d) Compliance with conditions of probation for a designated period
16 of time;
- 17 (e) Payment of a fine for each violation of this chapter, not to
18 exceed one thousand dollars per violation, which shall be paid to the
19 department;
- 20 (f) Denial of the license request.

21 (2) Any of the actions under this section may be totally or partly
22 stayed by the director. All costs associated with compliance with
23 orders issued under this section are the obligation of the license
24 holder or applicant.

25 NEW SECTION. **Sec. 21.** The following conduct, acts, or conditions,
26 constitute grounds for denial of a license or for disciplinary action
27 against any business or performer's license holder or applicant under
28 the jurisdiction of this chapter:

- 29 (1) With respect to a license holder or applicant, commission of an
30 act that constitutes an obscenity or pornography offense under chapter
31 9.68 RCW, a sexual exploitation of children offense under chapter 9.68A
32 RCW, an assault under chapter 9A.36 RCW, a sexual offense under chapter
33 9A.44 RCW, a prostitution or indecent exposure offense under chapter
34 9A.88 RCW, a drug offense under chapter 69.41, 69.50, 69.52, or 69.53
35 RCW, or a substantially similar ordinance adopted by the legislative
36 authority of a city, town, or county or other state or federal statute.

1 Conviction in a criminal proceeding is not a condition precedent to
2 disciplinary action under this section. Upon a conviction, however,
3 the judgment and sentence is conclusive evidence at an ensuing
4 disciplinary hearing of the guilt of the license holder or applicant of
5 the crime described in the indictment or information, and of the
6 person's violation of the statute on which it is based. For the
7 purposes of this section, conviction means an adjudication of guilt
8 pursuant to Title 10 RCW and includes a verdict of guilty, a finding of
9 guilty, and acceptance of a plea of guilty;

10 (2) Misrepresentation or concealment of a material fact in
11 obtaining a license or in license reinstatement;

12 (3) All advertising that is false, fraudulent, or misleading;

13 (4) Failure to cooperate with the department in the conduct of an
14 investigation by:

15 (a) Not furnishing any requested papers or documents;

16 (b) Not furnishing in writing a full and complete explanation
17 regarding the matter under investigation upon written request of the
18 department; or

19 (c) Not responding to subpoenas issued by the director, whether or
20 not the recipient of the subpoena is the subject of the investigation;

21 (5) Failure to comply with an order issued by the director or an
22 assurance of discontinuance entered into with the director;

23 (6) Aiding and abetting an unlicensed person to own or operate a
24 business or to perform when a license is required;

25 (7) Interference with an investigation or disciplinary proceeding
26 by willful misrepresentation of facts before the director or the
27 director's authorized representative, or by the use of threats or
28 harassment against any witness to prevent him or her from providing
29 evidence in a disciplinary proceeding or any other legal action;

30 (8) Violating this chapter or any rule adopted pursuant to this
31 chapter.

32 NEW SECTION. **Sec. 22.** (1) The director shall investigate
33 complaints under this chapter concerning ownership or operation of a
34 business without a license or performing without a license. In the
35 investigation of the complaints, the director shall have the same
36 authority as provided the director under section 16 of this act. The
37 director shall issue a cease and desist order to a person after notice
38 and hearing and upon a determination that the person has owned or

1 operated a business without a license, or has performed without a
2 license, in violation of this chapter. If the director makes a written
3 finding of fact that the public interest will be irreparably harmed by
4 delay in issuing an order, the director may issue a temporary cease and
5 desist order before the notice and hearing. A cease and desist order
6 does not relieve the person so owning or operating a business or
7 performing without a license from criminal prosecution. The remedy of
8 a cease and desist order is in addition to any criminal liability. A
9 cease and desist order may be enforced through remedial sanctions under
10 chapter 7.21 RCW. Enforcement of the cease and desist order under
11 chapter 7.21 RCW may be used in addition to, or as an alternative to,
12 any provisions for enforcement of agency orders set out in chapter
13 34.05 RCW.

14 (2) The attorney general, a county prosecuting attorney, the
15 department, or any person may, in accordance with the law of this state
16 governing injunctions, maintain an action to enjoin any person owning
17 or operating a business, or performing, without a license required by
18 this chapter from continuing such ownership, operation, or performing
19 until the required license is secured. However, an injunction does not
20 relieve a person from criminal prosecution and the remedy by injunction
21 is in addition to any criminal liability.

22 NEW SECTION. **Sec. 23.** A person or business that violates an
23 injunction issued under this chapter shall pay a civil penalty, as
24 determined by the court, of not more than twenty-five thousand dollars,
25 which shall be paid to the department. For the purpose of this
26 section, the superior court issuing any injunction shall retain
27 jurisdiction and the cause shall be continued, and in such cases the
28 attorney general acting in the name of the state may petition for the
29 recovery of civil penalties.

30 NEW SECTION. **Sec. 24.** (1) The director or individuals acting on
31 the director's behalf are immune from suit in any civil action as
32 provided in RCW 4.24.470 or criminal action based on any disciplinary
33 proceedings or other official acts performed in the course of their
34 duties in the administration and enforcement of this chapter.

35 (2) Legislative authorities or officials of cities, towns, and
36 counties are immune from suit in any civil action as provided in RCW
37 4.24.470 or criminal action based on any official acts performed in the

1 course of their duties in the administration or enforcement of this
2 chapter.

3 In any challenge to location, distance, or conduct requirements
4 imposed by the legislative authority of a city, town, or county
5 pursuant to this chapter, the legislative authority may request that
6 the state assume some or all of the obligation to defend the
7 constitutionality of this chapter. The attorney general may grant or
8 deny the request.

9 NEW SECTION. **Sec. 25.** Existing adult entertainment businesses are
10 exempt from any location restrictions imposed by this chapter until
11 January 1, 1996.

12 NEW SECTION. **Sec. 26.** It is a gross misdemeanor for any person to
13 permit any person under the age of eighteen on the premises of any
14 adult entertainment business under his or her control.

15 NEW SECTION. **Sec. 27.** It is a class C felony for any person to
16 employ or permit any person under the age of eighteen to appear nude or
17 seminude on the premises of any adult entertainment business under his
18 or her control.

19 NEW SECTION. **Sec. 28.** Sections 1 through 27 of this act shall
20 constitute a new chapter in Title 18 RCW.

21 NEW SECTION. **Sec. 29.** A new section is added to chapter 43.43 RCW
22 to read as follows:

23 The department of licensing may request information from the
24 Washington state patrol criminal identification system regarding the
25 conviction of offenses listed under section 21(1) of this act for any
26 applicant or for a license holder who is the subject of an
27 investigation under section 17 of this act.

28 **Sec. 30.** RCW 7.48A.040 and 1985 c 235 s 1 are each amended to read
29 as follows:

30 (1) No person shall with knowledge maintain a moral nuisance.

31 (2) Upon a determination that a defendant has with knowledge
32 maintained a moral nuisance, the court shall impose a civil fine and
33 judgment of an amount as the court shall determine to be appropriate.

1 In imposing the civil fine, the court shall consider the wilfulness of
2 the defendant's conduct and the profits made by the defendant
3 attributable to the lewd matter, lewdness, or prostitution, whichever
4 is applicable. In no event shall the civil fine exceed the greater of
5 (~~twenty-five~~) fifty thousand dollars or these profits.

6 **Sec. 31.** RCW 42.17.310 and 1992 c 139 s 5 are each amended to read
7 as follows:

8 (1) The following are exempt from public inspection and copying:

9 (a) Personal information in any files maintained for students in
10 public schools, patients or clients of public institutions or public
11 health agencies, or welfare recipients.

12 (b) Personal information in files maintained for employees,
13 appointees, or elected officials of any public agency to the extent
14 that disclosure would violate their right to privacy.

15 (c) Information required of any taxpayer in connection with the
16 assessment or collection of any tax if the disclosure of the
17 information to other persons would (i) be prohibited to such persons by
18 RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result
19 in unfair competitive disadvantage to the taxpayer.

20 (d) Specific intelligence information and specific investigative
21 records compiled by investigative, law enforcement, and penology
22 agencies, and state agencies vested with the responsibility to
23 discipline members of any profession, the nondisclosure of which is
24 essential to effective law enforcement or for the protection of any
25 person's right to privacy.

26 (e) Information revealing the identity of persons who are witnesses
27 to or victims of crime or who file complaints with investigative, law
28 enforcement, or penology agencies, other than the public disclosure
29 commission, if disclosure would endanger any person's life, physical
30 safety, or property. If at the time a complaint is filed the
31 complainant, victim or witness indicates a desire for disclosure or
32 nondisclosure, such desire shall govern. However, all complaints filed
33 with the public disclosure commission about any elected official or
34 candidate for public office must be made in writing and signed by the
35 complainant under oath.

36 (f) Test questions, scoring keys, and other examination data used
37 to administer a license, employment, or academic examination.

1 (g) Except as provided by chapter 8.26 RCW, the contents of real
2 estate appraisals, made for or by any agency relative to the
3 acquisition or sale of property, until the project or prospective sale
4 is abandoned or until such time as all of the property has been
5 acquired or the property to which the sale appraisal relates is sold,
6 but in no event shall disclosure be denied for more than three years
7 after the appraisal.

8 (h) Valuable formulae, designs, drawings, and research data
9 obtained by any agency within five years of the request for disclosure
10 when disclosure would produce private gain and public loss.

11 (i) Preliminary drafts, notes, recommendations, and intra-agency
12 memorandums in which opinions are expressed or policies formulated or
13 recommended except that a specific record shall not be exempt when
14 publicly cited by an agency in connection with any agency action.

15 (j) Records which are relevant to a controversy to which an agency
16 is a party but which records would not be available to another party
17 under the rules of pretrial discovery for causes pending in the
18 superior courts.

19 (k) Records, maps, or other information identifying the location of
20 archaeological sites in order to avoid the looting or depredation of
21 such sites.

22 (l) Any library record, the primary purpose of which is to maintain
23 control of library materials, or to gain access to information, which
24 discloses or could be used to disclose the identity of a library user.

25 (m) Financial information supplied by or on behalf of a person,
26 firm, or corporation for the purpose of qualifying to submit a bid or
27 proposal for (a) a ferry system construction or repair contract as
28 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
29 or improvement as required by RCW 47.28.070.

30 (n) Railroad company contracts filed prior to July 28, 1991, with
31 the utilities and transportation commission under RCW 81.34.070, except
32 that the summaries of the contracts are open to public inspection and
33 copying as otherwise provided by this chapter.

34 (o) Financial and commercial information and records supplied by
35 private persons pertaining to export services provided pursuant to
36 chapter 43.163 RCW and chapter 53.31 RCW.

37 (p) Financial disclosures filed by private vocational schools under
38 chapter 28C.10 RCW.

1 (q) Records filed with the utilities and transportation commission
2 or attorney general under RCW 80.04.095 that a court has determined are
3 confidential under RCW 80.04.095.

4 (r) Financial and commercial information and records supplied by
5 businesses during application for loans or program services provided by
6 chapter 43.163 RCW and chapters 43.31, 43.63A, and 43.168 RCW.

7 (s) Membership lists or lists of members or owners of interests of
8 units in timeshare projects, subdivisions, camping resorts,
9 condominiums, land developments, or common-interest communities
10 affiliated with such projects, regulated by the department of
11 licensing, in the files or possession of the department.

12 (t) All applications for public employment, including the names of
13 applicants, resumes, and other related materials submitted with respect
14 to an applicant.

15 (u) The residential addresses and residential telephone numbers of
16 employees or volunteers of a public agency which are held by the agency
17 in personnel records, employment or volunteer rosters, or mailing lists
18 of employees or volunteers.

19 (v) The residential addresses and residential telephone numbers of
20 the customers of a public utility contained in the records or lists
21 held by the public utility of which they are customers.

22 (w) Information obtained by the board of pharmacy as provided in
23 RCW 69.45.090.

24 (x) Information obtained by the board of pharmacy or the department
25 of health and its representatives as provided in RCW 69.41.044,
26 69.41.280, and 18.64.420.

27 (y) Financial information, business plans, examination reports, and
28 any information produced or obtained in evaluating or examining a
29 business and industrial development corporation organized or seeking
30 certification under chapter 31.24 RCW.

31 (z) Financial and commercial information supplied to the state
32 investment board by any person when the information relates to the
33 investment of public trust or retirement funds and when disclosure
34 would result in loss to such funds or in private loss to the providers
35 of this information.

36 (aa) Financial and valuable trade information under RCW 51.36.120.

37 (bb) Client records maintained by an agency that is a domestic
38 violence program as defined in RCW 70.123.020 or a rape crisis center
39 as defined in RCW 70.125.030.

1 (cc) Information that identifies a person who, while an agency
2 employee: (i) Seeks advice, under an informal process established by
3 the employing agency, in order to ascertain his or her rights in
4 connection with a possible unfair practice under chapter 49.60 RCW
5 against the person; and (ii) requests his or her identity or any
6 identifying information not be disclosed.

7 (dd) Identifying information provided by an applicant under section
8 12(1) of this act except to the extent necessary to carry out the
9 responsibilities of the department of licensing under chapter 18.---RCW
10 (sections 1 through 27 of this act), or to comply with a request from
11 another governmental entity, or to comply with a court order.

12 (2) Except for information described in subsection (1)(c)(i) of
13 this section and confidential income data exempted from public
14 inspection pursuant to RCW 84.40.020, the exemptions of this section
15 are inapplicable to the extent that information, the disclosure of
16 which would violate personal privacy or vital governmental interests,
17 can be deleted from the specific records sought. No exemption may be
18 construed to permit the nondisclosure of statistical information not
19 descriptive of any readily identifiable person or persons.

20 (3) Inspection or copying of any specific records exempt under the
21 provisions of this section may be permitted if the superior court in
22 the county in which the record is maintained finds, after a hearing
23 with notice thereof to every person in interest and the agency, that
24 the exemption of such records is clearly unnecessary to protect any
25 individual's right of privacy or any vital governmental function.

26 (4) Agency responses refusing, in whole or in part, inspection of
27 any public record shall include a statement of the specific exemption
28 authorizing the withholding of the record (or part) and a brief
29 explanation of how the exemption applies to the record withheld.

30 NEW SECTION. Sec. 32. If any provision of this act or its
31 application to any person or circumstance is held invalid, the
32 remainder of the act or the application of the provision to other
33 persons or circumstances is not affected.

34 NEW SECTION. Sec. 33. This act shall take effect January 1, 1994.
35 The department of licensing may take such steps before then, including

1 the adoption of rules, as are necessary to ensure that this act is
2 implemented on January 1, 1994.

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