
SENATE BILL 5209

State of Washington

55th Legislature

1997 Regular Session

By Senators Fairley, Roach, Hargrove, Patterson, Goings, Rasmussen, Haugen, Wojahn, Franklin, Winsley and Oke

Read first time 01/20/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to standards of conduct for adult cabarets and
2 adult theaters; adding new sections to chapter 9.68 RCW; creating a new
3 section; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The purpose of this act is to prevent the
6 adverse secondary effects of adult entertainment in and around the
7 facilities where it is conducted, including, without limitation,
8 prostitution and public sexual conduct, and not to infringe any
9 protected rights of expression.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.68 RCW
11 to read as follows:

12 The following standards of conduct must be adhered to by employees,
13 entertainers, and customers of adult cabarets or adult theaters at all
14 times.

15 (1) No employee or entertainer may appear seminude or nude in any
16 part of the premises open to view of customers, except in an adult live
17 entertainment performance area. No entertainer may perform anywhere on
18 the premises except in an adult live entertainment performance area.

1 (2) No employee, entertainer, or customer may perform acts of or
2 acts which simulate: Sexual intercourse, masturbation, bestiality,
3 sodomy, oral copulation, flagellation, or any sexual acts the
4 performance of which are prohibited by law.

5 (3) The performance area of the live adult entertainment
6 establishment where adult entertainment is provided shall be a stage or
7 platform at least eighteen inches in elevation above the level of the
8 patron seating areas, and shall be separated by a distance of at least
9 eight feet from all areas of the premises to which members of the
10 public have access. The stage and the entire interior portion of
11 cubicles, rooms, or stalls wherein adult entertainment is provided must
12 be visible from the common areas of the premises and at least one
13 manager's station. Visibility shall not be blocked or obstructed by
14 doors, curtains, drapes, or any other obstruction whatsoever.

15 (4) No customer, employee, or entertainer may encourage or permit
16 physical contact between an employee or entertainer and customer.

17 (5) No employee or entertainer may use artificial devices or
18 inanimate objects to depict any of the prohibited activities described
19 in subsection (2) of this section.

20 (6) No tip or gratuity offered to or accepted by an adult
21 entertainer may be offered or accepted prior to any performance, dance,
22 or exhibition provided by the entertainer. No entertainer performing
23 upon any stage area shall be permitted to accept any form of gratuity
24 offered directly to the entertainer by any member of the public. Any
25 gratuity offered to any entertainer performing upon any stage area must
26 be placed into a receptacle provided for receipt of gratuities by the
27 management of the live adult entertainment establishment or provided
28 through a manager on duty on the premises.

29 (7) A sign at least two feet by two feet with letters at least one
30 inch high must be conspicuously displayed in a public area of the
31 cabaret or theater stating the following:

32 "THIS ADULT CABARET OR ADULT THEATER IS REGULATED BY
33 COUNTY.

34 ENTERTAINERS, EMPLOYEES, AND CUSTOMERS ARE NOT PERMITTED TO
35 ENGAGE IN ANY TYPE OF SEXUAL CONDUCT.

36 ENTERTAINERS ARE NOT PERMITTED TO APPEAR SEMINUDE OR NUDE OR
37 PERFORM EXCEPT IN AN ADULT LIVE ENTERTAINMENT PERFORMANCE AREA.

1 ANY GRATUITY OR TIP OFFERED TO ANY ADULT ENTERTAINER MUST BE
2 PLACED IN A RECEPTACLE PROVIDED BY MANAGEMENT."

3 (8) There must be at least one employee who is not working as an
4 entertainer in any public area during all hours of operation.

5 (9) Except for public restrooms, doors to areas on the premises
6 that are available for use by persons other than the owner and/or
7 manager, or their agents or employees, may not be locked during
8 business hours.

9 (10) No person may operate or maintain any kind of warning device
10 or system for the purpose of warning or aiding and abetting the warning
11 of any employee, customer, or any other person that the police, health,
12 fire, or building inspectors or other public officials are approaching
13 or have entered the premises.

14 (11) Sufficient lighting shall be provided and equally distributed
15 throughout the public areas of the premises so that all objects are
16 plainly visible at all times. A minimum lighting level of thirty lux
17 horizontal, measured at thirty inches from the floor and on ten-foot
18 centers is hereby established for all areas of the adult cabaret where
19 members of the public are permitted.

20 (12) For the purposes of this section:

21 (a) "Adult cabaret" means a nightclub, bar, restaurant, or similar
22 commercial establishment, whether or not alcoholic beverages are
23 served, that features: (i) Persons who appear seminude or nude; or
24 (ii) live performances that are characterized by the exposure of the
25 genitals, buttocks, anus, or pubic area of a person or breasts of a
26 female person or sexual activities.

27 (b) "Adult theater" means a theater, concert hall, auditorium, or
28 similar commercial establishment that, for any form of consideration,
29 features persons who appear live in a seminude or nude state, or live
30 performances that are characterized by the exposure of the genitals,
31 buttocks, anus, or pubic area of a person or breasts of a female person
32 or sexual activities.

33 (c) "Entertainer" means any person who appears or performs seminude
34 or nude within an adult cabaret or adult theater.

35 (d) "Seminude or nude" means the exposure of any or all of the
36 following: Genitals, buttocks, anus, or pubic area of a person or
37 breasts of a female person.

38 (13) Violation of this section is a misdemeanor.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.68 RCW
2 to read as follows:

3 (1) Section 2 of this act may not be construed to prohibit:

4 (a) Plays, operas, musicals, or other dramatic works that are not
5 obscene;

6 (b) Classes, seminars, and lectures held for serious scientific or
7 educational purposes; or

8 (c) Exhibitions or dances that are not obscene.

9 (2) For purposes of this section, an activity is "obscene" if:

10 (a) Taken as a whole by an average person applying contemporary
11 community standards the activity appeals to a prurient interest in sex;

12 (b) As measured against community standards, the activity depicts
13 patently offensive representations of (i) ultimate sexual acts, normal
14 or perverted, actual or simulated; (ii) masturbation, fellatio,
15 cunnilingus, bestiality, excretory functions, or lewd exhibition of the
16 genitals or genital area; or (iii) violent or destructive sexual acts,
17 including but not limited to human or animal mutilation, dismemberment,
18 rape, or torture; and

19 (c) The activity taken as a whole lacks serious literary, artistic,
20 political, or scientific value.

21 (3) For purposes of this section, an activity is "dramatic" if the
22 activity is of, relating to, devoted to, or concerned specifically or
23 professionally with current drama or the contemporary theater.

24 NEW SECTION. **Sec. 4.** A new section is added to chapter 9.68 RCW
25 to read as follows:

26 Nothing in this chapter shall be construed to prevent a county or
27 city from adopting a different regulatory scheme for live adult
28 entertainment establishments, whether more or less restrictive than the
29 provisions contained in this chapter.

30 NEW SECTION. **Sec. 5.** 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.

--- END ---