
SUBSTITUTE HOUSE BILL 1486

State of Washington

54th Legislature

1995 Regular Session

By House Committee on Law & Justice (originally sponsored by Representatives Sherstad, Padden, Van Luven, Mielke, Koster, Morris, Hickel, Hargrove, Casada and Patterson)

Read first time 03/01/95.

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

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

5 NEW SECTION. **Sec. 1.** It is the purpose of this chapter to
6 regulate certain sexually oriented businesses to promote the health,
7 safety, and welfare of the citizens of the state of Washington. The
8 legislature finds that these businesses, when unregulated, promote
9 illegal activities including obscenity, sexual offenses, tax evasion,
10 and prostitution, as well as create a variety of negative secondary
11 impacts on local communities including increase of crime, decline in
12 property values, blighting of neighborhoods, diminution of the quality
13 of life, and depression of business activity. This chapter has neither
14 the purpose nor effect of imposing a limitation or restriction on the
15 content of any communicative materials, including sexually oriented
16 materials. Similarly, it is neither the intent nor effect of this
17 chapter to restrict or deny access by adults to sexually oriented
18 materials protected by the First Amendment to the United States
19 Constitution or to deny access by the distributors and exhibitors of

1 sexually oriented entertainment to their intended market. It is also
2 neither the intent nor effect of this chapter to condone or legitimize
3 the distribution of obscene material or child pornography.

4 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly
5 requires otherwise, the definitions in this section apply throughout
6 this chapter.

7 (1) "Adult arcade" means a place to which the public is permitted
8 or invited in which coin-operated, slug-operated, or electronically,
9 electrically, or mechanically controlled still or motion picture
10 machines, projectors, video or laser disc players, or other image-
11 producing devices are maintained to show images to five or fewer
12 persons per machine at any one time, and where the images so displayed
13 are distinguished or characterized by the depicting or describing of
14 specified sexual activities or specified anatomical areas.

15 (2)(a) "Adult bookstore," "adult novelty store," or "adult video
16 store" means a commercial establishment that, as one of its principal
17 purposes, offers for sale or rental for any form of consideration one
18 or more of the following:

19 (i) Books, magazines, periodicals or other printed matter, or
20 photographs, films, motion pictures, video cassettes or video
21 reproductions, slides, or other visual representations that are
22 characterized by the depiction or description of specified sexual
23 activities or specified anatomical areas; or

24 (ii) Instruments, devices, or paraphernalia which are designed for
25 use in connection with specified sexual activities.

26 (b) A commercial establishment may have other principal business
27 purposes that do not involve the offering for sale or rental of
28 material depicting or describing specified sexual activities or
29 specified anatomical areas and still be categorized as "adult
30 bookstore," "adult novelty store," or "adult video store." The other
31 business purposes do not serve to exempt the commercial establishment
32 from being categorized as an "adult bookstore," "adult novelty store,"
33 or "adult video store" so long as one of its principal business
34 purposes is the offering for sale or rental for consideration the
35 specified materials that are characterized by the depiction or
36 description of specified sexual activities or specified anatomical
37 areas or as long as this business purpose constitutes the primary or a
38 major attraction to the premises.

1 (3) "Adult cabaret" means a nightclub, bar, restaurant, or similar
2 commercial establishment that regularly features:
3 (a) Persons who appear in a state of nudity or seminude; or
4 (b) Live performances that are characterized by the exposure of
5 specified anatomical areas or by including specified sexual activities;
6 or
7 (c) Films, motion pictures, video cassettes, slides or other
8 photographic reproductions that are characterized by the depiction or
9 description of specified sexual activities or specified anatomical
10 areas.
11 (4) "Adult motel" means a hotel, motel, or similar commercial
12 establishment that:
13 (a) Offers accommodations to the public for any form of
14 consideration and provides patrons with closed-circuit television
15 transmissions, films, motion pictures, video cassettes, slides, or
16 other photographic reproductions that are characterized by the
17 depiction or description of specified sexual activities or specified
18 anatomical areas, and has a sign visible from a public right of way
19 that advertises the availability of this adult type of photographic
20 reproductions;
21 (b) Offers a sleeping room for rent for a period of time that is
22 less than ten hours; or
23 (c) Allows a tenant or occupant of a sleeping room to subrent the
24 room for a period of time that is less than ten hours.
25 (5) "Adult motion picture theater" means a commercial establishment
26 where, for any form of consideration, films, motion pictures, video
27 cassettes, slides, or similar photographic reproductions are regularly
28 shown that are characterized by the depiction or description of
29 specified sexual activities or specified anatomical areas.
30 (6) "Adult theater" means a theater, concern, hall, auditorium, or
31 similar commercial establishment that regularly features persons who
32 appear in a state of nudity or seminudity or live performances that are
33 characterized by the exposure of specified anatomical areas or by
34 specified sexual activities.
35 (7) "Applicant" means a person or persons applying for a license
36 under this chapter.
37 (8) "Business license" means a license issued by the department
38 under this chapter to a sexually oriented business.
39 (9) "Department" means the department of licensing.

1 (10) "Director" means the director of licensing.

2 (11) "Employee" means a person who performs a service on the
3 premises of a sexually oriented business on a full-time, part-time, or
4 contract basis, whether or not the person is denominated an employee,
5 independent contractor, agent, or otherwise and whether or not the
6 person is paid a salary, wage, or other compensation by the operator of
7 the business. "Employee" does not include a person exclusively on the
8 premises for repair or maintenance of the premises or equipment on the
9 premises, for the delivery of goods to the premises, or as a companion,
10 guide, or date for another person, or who agrees or offers to privately
11 model lingerie or to privately perform a striptease for another person.

12 (12) "Escort agency" means a person or business association that
13 furnishes, offers to furnish, or advertises to furnish escorts as one
14 of its primary business purposes for a fee, tip, or other
15 consideration.

16 (13) "Establishment" means any of the following:

17 (a) The opening or commencement of a sexually oriented business as
18 a new business;

19 (b) The conversion of an existing business, whether or not a
20 sexually oriented business, to a sexually oriented business;

21 (c) The additions of a sexually oriented business to another
22 existing sexually oriented business; or

23 (d) The relocation of a sexually oriented business.

24 (14) "Interest" means the interest possessed by a person when the
25 person, or the person's marital community, owns and operates, manages,
26 or conducts, directly or indirectly, the sexually oriented business, or
27 a part of it amounting to a substantial interest similar to that of an
28 owner or leaseholder.

29 (15) "Licensee" means a person or persons in whose name a license
30 to operate a sexually oriented business has been issued under this
31 chapter, as well as the individual listed as an applicant on the
32 application for a license, and in the case of an employee, a person in
33 whose name a license has been issued authorizing employment in a
34 sexually oriented business.

35 (16) "Manager" means a person who manages, directs, administers, or
36 is in charge of the affairs or conduct of a portion of an activity
37 within a sexually oriented business, and includes assistant managers
38 working with or under the direction of a manager to carry out these
39 purposes.

1 (17) "Manager's license" means a license issued by the department
2 under this chapter to a manager of a sexually oriented business.

3 (18) "Nude model studio" means a place where a person appears
4 seminude, nude, or who displays specified anatomical areas and is
5 provided to be observed, sketched, drawn, painted, sculptured,
6 photographed, or similarly depicted by other persons who pay money or
7 any form of consideration. "Nude model studio" does not include:

8 (a) A proprietary school licensed by the state of Washington;

9 (b) A college, junior college, or university supported entirely or
10 in part by public taxation;

11 (c) A private college or university that maintains and operates
12 educational programs in which credits are transferable to a college,
13 junior college, or university supported entirely or partly by taxation;
14 or

15 (d) A place housed in a structure:

16 (i) That has no sign visible from the exterior of the structure and
17 no other advertising that indicates a nude or seminude person is
18 available for viewing;

19 (ii) Where, in order to participate in a class, a student must
20 enroll at least three days in advance of the class; and

21 (iii) Where no more than one nude or seminude model is on the
22 premises at one time.

23 (19) "Nudity" or a "state of nudity" means the showing of the human
24 male or female genitals, pubic area, vulva, anus, anal cleft, or anal
25 cleavage with less than a fully opaque covering, the showing of the
26 female breast with less than a fully opaque covering of any part of the
27 nipple, or the showing of the covered male genitals in a discernibly
28 turgid state.

29 (20) "Own or operate" means a person has a substantial ownership
30 and operational interest in a sexually oriented business.

31 (21) "Performer" means a person who provides entertainment on the
32 premises of a sexually oriented business during which the person
33 exposes specified anatomical areas or performs specified sexual
34 activities, whether or not a fee or other consideration is charged or
35 accepted for the entertainment.

36 (22) "Performer's license" means a license issued by the department
37 under this chapter to a performer or entertainer in a sexually oriented
38 business.

1 (23) "Person" means an individual, proprietorship, partnership,
2 corporation, association, or other legal entity.

3 (24) "Seminude" or "seminude condition" means the showing of the
4 female breast below the top of the areola or the showing of the female
5 or male buttocks.

6 (25) "Sexual encounter center" means a business or commercial
7 enterprise that, as one of its principal business purposes, offers for
8 any form of consideration:

9 (a) Physical contact in the form of wrestling or tumbling between
10 persons of the opposite sex; or

11 (b) Activities between male and female persons or persons of the
12 same sex when one or more of the persons is in a state of nudity or
13 seminude.

14 (26) "Sexually oriented business" means an adult arcade, adult
15 bookstore, adult novelty store, adult video store, adult cabaret, adult
16 motel, adult motion picture theater, adult theater, escort agency, nude
17 model studio, or sexual encounter center.

18 (27) "Specified anatomical areas" means:

19 (a) The human male genitals in a discernibly turgid state, even if
20 completely and opaquely covered; or

21 (b) Less-than-completely and opaquely covered human genitals, pubic
22 region, or buttocks or a female breast below a point immediately above
23 the top of the areola.

24 (28) "Specified criminal activity" means an offense for:
25 Prostitution or promotion of prostitution; dissemination of obscenity;
26 sale, distribution, or display of harmful material to a minor; sexual
27 performance by a child; possession or distribution of child
28 pornography; public lewdness; indecent exposure; indecency with a
29 child; sexual assault; molestation of a child; or any similar offenses
30 to those described in this subsection under the criminal or penal code
31 of other states or countries for which:

32 (a) Less than two years have elapsed since the date of conviction
33 or the date of release from confinement imposed for the conviction,
34 whichever is the later date, if the conviction is of a misdemeanor
35 offense;

36 (b) Less than five years have elapsed since the date of conviction
37 or the date of release from confinement for the conviction, whichever
38 is the later date, if the conviction is of a felony offense; or

1 (c) Less than five years have elapsed since the date of the last
2 conviction or the date of release from confinement for the last
3 conviction, whichever is the later date, if the convictions are of two
4 or more misdemeanor offenses or combination of misdemeanor offenses
5 occurring within any twenty-four month period.

6 The fact that a conviction is being appealed has no effect on the
7 disqualification of the applicant or a person residing with the
8 applicant.

9 (29) "Specified sexual activities" means any of the following:

10 (a) The fondling or other touching of human genitals, pubic region,
11 buttocks, anus, or female breasts;

12 (b) Sex acts, normal or perverted, actual or simulated, including
13 intercourse, oral copulation, masturbation, or sodomy; or

14 (c) Excretory functions as part of or in connection with any of the
15 activities set forth in (a) and (b) of this subsection.

16 (30) "Substantial enlargement of a sexually oriented business"
17 means the increase in floor areas occupied by the business by more than
18 twenty-five percent, as the floor areas exist on the effective date of
19 this act.

20 (31) "Transfer of ownership or control" of a sexually oriented
21 business means any of the following:

22 (a) The sale, lease, or sublease of the business;

23 (b) The transfer of securities that constitute a controlling
24 interest in the business, whether by sale, exchange, or similar means;
25 or

26 (c) The establishment of a trust, gift, or other similar legal
27 device that transfers the ownership or control of the business, except
28 for transfer by bequest or other operation of law upon the death of the
29 person possessing the ownership or control.

30 NEW SECTION. **Sec. 3.** CLASSIFICATION. Sexually oriented
31 businesses are classified as follows:

32 (1) Adult arcades;

33 (2) Adult bookstores, adult novelty stores, or adult video stores;

34 (3) Adult cabarets;

35 (4) Adult motels;

36 (5) Adult motion picture theaters;

37 (6) Adult theaters;

38 (7) Escort agencies;

- 1 (8) Nude model studios; and
- 2 (9) Sexual encounter centers.

3 NEW SECTION. **Sec. 4. LICENSE REQUIRED.** (1) It is a gross
4 misdemeanor for a person to own, operate, or act as the agent for one
5 who owns or operates a sexually oriented business in the state of
6 Washington unless the person has obtained a business license under this
7 chapter.

8 (2) It is a gross misdemeanor for a person to manage or act as the
9 agent for one who manages a sexually oriented business in the state of
10 Washington unless the person has obtained a manager's license under
11 this chapter.

12 (3) It is a gross misdemeanor for a performer to appear nude or
13 seminude, or to expose his or her specified anatomical areas, in a
14 sexually oriented business or to engage in specified sexual activities
15 in a sexually oriented business, unless the performer has obtained a
16 performer's license under this chapter.

17 (4) It is a gross misdemeanor for a person who operates a sexually
18 oriented business to employ a person to work as a manager for the
19 sexually oriented business who is not licensed as a sexually oriented
20 business manager under this chapter.

21 (5) It is a gross misdemeanor for a person who operates a sexually
22 oriented business to employ a person to work as a performer for the
23 sexually oriented business who is not licensed as a sexually oriented
24 business performer under this chapter.

25 (6) It is a class C felony for a person issued a manager's or
26 performer's license to allow another person to use the license to
27 either manage a sexually oriented business or perform in a sexually
28 oriented business.

29 (7) It is a defense to prosecution under this section that a person
30 appearing in a state of nudity did so in a modeling class
31 operated:

32 (a) By a proprietary school licensed by the state of Washington or
33 a college, junior college, or university supported entirely or partly
34 by taxation;

35 (b) By a private college or university which maintains and operates
36 educational programs in which credits are transferable to a college,
37 junior college, or university supported entirely or partly by taxation;
38 or

1 (c) In a structure:

2 (i) That has no sign visible from the exterior of the structure and
3 no other advertising that indicates a nude person is available for
4 viewing; and

5 (ii) Where, in order to participate in a class, a student must
6 enroll at least three days in advance of the class; and

7 (iii) Where no more than one nude model is on the premises at one
8 time.

9 NEW SECTION. **Sec. 5.** APPLICATION FOR BUSINESS LICENSE. (1) Each
10 owner or operator of a sexually oriented business must obtain and
11 maintain a separate business license. All applicants must be qualified
12 according to this chapter. The application may request and the
13 applicant shall provide such information, including fingerprints, as
14 enables the department to determine whether the applicant meets the
15 qualifications established in this chapter.

16 (2) If a person who wishes to operate a sexually oriented business
17 is an individual, the person must sign the application for a license as
18 the applicant. If a person who wishes to operate a sexually oriented
19 business is other than an individual, each individual who has a
20 substantial interest similar to that of an owner or leaseholder in the
21 business must sign the application for a license as applicant. Each
22 applicant must be qualified under section 8 of this act and each
23 applicant is considered a licensee if a license is granted.

24 (3) An application for a sexually oriented business license must be
25 made on a form provided and adopted by the department. The completed
26 application for a sexually oriented business license must contain or be
27 accompanied by all of the following information and documents:

28 (a) If the applicant is:

29 (i) An individual, the individual shall state his or her legal name
30 and any aliases and submit proof that he or she is eighteen years of
31 age or older;

32 (ii) A partnership, the partnership shall state its complete name,
33 and the names of all partners, whether the partnership is general or
34 limited, and a copy of the partnership agreement, if any;

35 (iii) A corporation, the corporation shall state its complete name,
36 the date of its incorporation, evidence that the corporation is in good
37 standing under the laws of Washington state, the names and capacity of
38 all officers, directors, and principal stockholders, and the name of

1 the registered corporate agent and the address of the registered office
2 for service of process;

3 (b) If the applicant intends to operate the sexually oriented
4 business under a name other than that of the applicant, the applicant
5 must state the sexually oriented business's fictitious name and submit
6 the required registration documents;

7 (c) Whether the applicant has been convicted of specified criminal
8 activity as defined in this chapter, and, if so, the specified criminal
9 activity involved, the date, place, and jurisdiction of each offense;

10 (d) Whether the applicant has had a previous license issued under
11 this chapter or under a similar sexually oriented business ordinance
12 from a city or county in Washington state denied, suspended, or
13 revoked, including the name and location of the sexually oriented
14 business for which the permit was denied, suspended, or revoked, as
15 well as the date of the denial, suspension, or revocation, and whether
16 the applicant has been a partner in a partnership or an officer,
17 director, or principal stockholder of a corporation that is licensed
18 under this chapter whose license has previously been denied, suspended,
19 or revoked, including the name and location of the sexually oriented
20 business for which the permit was denied, suspended, or revoked, as
21 well as the date of denial, suspension, or revocation;

22 (e) Whether the applicant holds other licenses under this chapter
23 or under a similar sexually oriented business ordinance from a city or
24 county in Washington state and, if so, the names and locations of the
25 other licensed businesses;

26 (f) The single classification of license under section 3 of this
27 act for which the applicant is filing;

28 (g) The location of the proposed sexually oriented business,
29 including a legal description of the property, street address, and
30 telephone number, if any;

31 (h) The applicant's mailing address and residential address;

32 (i) A recent photograph of the applicant showing the full face;

33 (j) The applicant's driver's permit number and the applicant's
34 state or federally issued tax identification number;

35 (k) A sketch or diagram showing the configuration of the premises,
36 including a statement of total floor space occupied by the business.
37 The sketch or diagram need not be professionally prepared, but it must
38 be drawn to a designated scale or drawn with marked dimensions of the
39 interior of the premises to an accuracy of plus or minus six inches;

1 (1) A current certificate and straight-line drawing prepared within
2 thirty days before application for an original business license by a
3 registered land surveyor depicting the property lines and the
4 structures containing, within one thousand feet of the property to be
5 certified, any: Existing sexually oriented businesses; church,
6 synagogue, mosque, temple, or building that is used primarily for
7 religious worship and related religious activities; public or private
8 educational facility including but not limited to child day-care
9 facilities, nursery schools, preschools, kindergartens, elementary
10 schools, private schools, intermediate schools, junior high schools,
11 middle schools, high schools, vocational schools, secondary schools,
12 continuation schools, special education schools, junior colleges, and
13 universities; boundary of a residential district as defined in the city
14 or county zoning code; public park or recreational area which has been
15 designated for park or recreational activities including but not
16 limited to a park, playground, nature trails, swimming pool, reservoir,
17 athletic field, basketball or tennis courts, pedestrian or bicycle
18 paths, wilderness areas, or other similar public land within the city
19 or county that is under the control, operation, or management of the
20 city or county park and recreation authorities; property line of a lot
21 devoted to a residential use as defined in the city or county zoning
22 code; entertainment business that is oriented primarily towards
23 children or family entertainment; and licensed premises, licensed under
24 the alcoholic beverage control regulations of the state of Washington.
25 For purposes of this section, a use is considered "existing" or
26 "established" if it is in existence at the time an application is
27 submitted. For the purposes of this section, "school" includes the
28 school grounds but does not include the facilities used primarily for
29 another purpose and only incidentally as a school.

30 NEW SECTION. **Sec. 6.** APPLICATION FOR MANAGER'S OR PERFORMER'S
31 LICENSE. (1) Each manager of a sexually oriented business and each
32 performer in a sexually oriented business must obtain and maintain a
33 separate business license.

34 (2) An applicant must be qualified according to this chapter. The
35 application form may request and the applicant shall provide, such
36 information, including fingerprints, as will enable the department to
37 determine whether the applicant meets the qualifications established in
38 this chapter.

1 (3) An application for a manager's license or performer's license
2 must be made on a form provided and adopted by the department. The
3 completed application for a sexually oriented business manager's or
4 performer's license must contain or be accompanied by the following
5 information and documents:

6 (a) The applicant's name or any other name, including "stage" names
7 or aliases, used by the individual;

8 (b) Age, date, and place of birth;

9 (c) Height, weight, hair and eye color, and other identifying mark;

10 (d) Present residence address and telephone number;

11 (e) Present business address and telephone number;

12 (f) Date, issuing state, and number of driver's permit or other
13 identification card information;

14 (g) Proof that the individual is at least eighteen years of age;

15 (h) Name and address of the sexually oriented business at which the
16 individual will perform; and

17 (i) Such other information as the department may require by rule
18 adopted by the department.

19 (4) Attached to the application form for a manager's or performer's
20 license must be the following:

21 (a) A color photograph of the applicant clearly showing the
22 applicant's full face, and the applicant's fingerprints on a form
23 provided by the police department. The applicant must pay any fees for
24 the photographs and fingerprints;

25 (b) A statement detailing the license history of the applicant for
26 the five years immediately preceding the date of the filing of the
27 application, including whether the applicant, in this or any other
28 county, city, state, or country, has ever had a license, permit, or
29 authorization to do business denied, revoked, or suspended, or had any
30 professional or vocational license or permit denied, revoked, or
31 suspended. In the event of any such a denial, revocation, or
32 suspension, the applicant must state the name, the name of the issuing
33 or denying jurisdiction, and describe in full the reason for the
34 denial, revocation, or suspension. A copy of any order of denial,
35 revocation, or suspension must be attached to the application; and

36 (c) A statement whether the applicant has been convicted of
37 specified criminal activity and, if so, the specified criminal activity
38 involved, the date, place, and jurisdiction of each offense.

1 NEW SECTION. **Sec. 7.** TEMPORARY LICENSE AND NOTIFICATION. (1)

2 Upon the filing of an application for a manager's or performer's
3 license, the department shall issue a temporary license to the
4 applicant and shall give notice of the application within ten days to
5 the chief executive officer of the incorporated city or town if the
6 application is for a manager's or performer's license within an
7 incorporated city or town, to the county legislative authority if the
8 application is for a manager's or performer's license outside the
9 boundaries of an incorporated city or town, or to all the appropriate
10 executive officers in the case of a regional adult entertainment
11 business plan.

12 (2) Upon the filing of the application for a business license, the
13 department shall give notice of the application within ten days to the
14 health department, fire department, and the building official of the
15 city or town or, if the premises are located in an unincorporated area,
16 the county requiring each to make an investigation as to whether the
17 premises are in compliance or are not in compliance with this chapter
18 and the applicable city or county ordinances.

19 NEW SECTION. **Sec. 8.** ISSUANCE AND DENIAL OF LICENSE. Denial of
20 a license under this section is subject to appeal as set forth in
21 section 20 of this act.

22 (1) Upon the filing of an application for a business license,
23 manager's license, or performer's license, the application shall be
24 referred to the appropriate agencies for an investigation to be made on
25 the information contained in the application. The application process
26 must be completed within thirty days from the date the completed
27 application is filed. The health department, fire department, and the
28 building official of the city or, if the premises are located in an
29 unincorporated area, the county shall complete their certification that
30 the premises are in compliance or not in compliance with this chapter
31 and the applicable city or county ordinances, within twenty days of
32 receipt of notification from the department.

33 (2) After the investigation, the department shall issue a business,
34 manager's, or performer's license, unless it is determined by a
35 preponderance of the evidence that one or more of the following
36 findings is true:

1 (a) The applicant has failed to provide information reasonably
2 necessary for issuance of the license or has falsely answered a
3 question or request for information on the application form;

4 (b) The applicant is under the age of eighteen years;

5 (c) The applicant has been convicted: Within the past two years of
6 a misdemeanor offense involving a specified criminal activity; within
7 the past five years of a felony offense involving a specified criminal
8 activity; or within the past five years of two or more misdemeanor
9 offenses or combination of misdemeanor offenses occurring within any
10 twenty-four month period involving specified criminal activities;

11 (d) The manager's or performer's license is to be used for
12 employment in a business prohibited by local or state law, statute,
13 rule, or regulation, or prohibited by this chapter;

14 (e) The applicant for a manager's or performer's license has had a
15 sexually oriented business, manager's, or performer's license revoked
16 by the department or by a city or county in Washington state within two
17 years of the date of the current application. If the business,
18 manager's, or performer's license is denied, the temporary license
19 previously issued is immediately null and void;

20 (f) An applicant has been denied a license by the department or by
21 a city or county in Washington state to operate a sexually oriented
22 business within the preceding twelve months or whose license to operate
23 a sexually oriented business has been revoked by the department or a
24 city or county within Washington state within the preceding twelve
25 months;

26 (g) The license fee required by this chapter has not been paid; or

27 (h) The premises to be used for the sexually oriented business have
28 not been approved by the health department, fire department, and the
29 building official in the city where the premises are located or, if
30 located in an unincorporated area, the county, as being in compliance
31 with applicable laws and ordinances.

32 (3) Every business, manager's, and performer's license must be
33 issued in the name of the applicant or applicants, and the holder of a
34 license may not allow another person to use it.

35 (4) The license must state on its face the name of the person or
36 persons to whom it is granted, the expiration date, the address of the
37 sexually oriented business, and the classification for which the
38 license is issued under section 3 of this act. A license issued under
39 this chapter is subject to all conditions and restrictions imposed by

1 this chapter. The trade name and address of the business and
2 expiration date of the license must be listed on the face of the
3 license. All business licenses and manager's licenses must be posted
4 in a conspicuous place at or near the entrance to the sexually oriented
5 business so that they may be easily read at any time. A performer
6 shall keep his or her business performer's license on the premises
7 while performing.

8 (5) A business license issued by the department is valid only for
9 the business classification, as defined in section 3 of this act, for
10 which it is issued. A person who wishes to own or operate more than
11 one classification of sexually oriented business must obtain separate
12 business licenses for each classification of business.

13 (6) If the health department, fire department, or building official
14 of the city or, if the sexually oriented business premises are located
15 in an unincorporated area, the county fails to complete its
16 certification that the premises are in compliance with this chapter and
17 with the applicable city or county ordinances, the department shall
18 issue the business license, as long as the failure to complete
19 certification did not occur because the owner or operator, or other
20 employee, of the sexually oriented business denied valid
21 representatives of these agencies access to the premises for purposes
22 of inspection and investigation.

23 (7) A business license may not be issued to:

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

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

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

30 (d) An applicant who has failed to provide information reasonably
31 necessary for issuance of the business license or who has falsely
32 answered a question or request for information on the application form;
33 or

34 (e) An applicant who has proposed the location of the business
35 within a zone where the use is prohibited by the department or local
36 authority.

37 (8) Upon the granting of a business license under this chapter, the
38 department shall send a duplicate of the license or written
39 notification to the chief executive officer of the incorporated city or

1 town in which the license is granted, to the county legislative
2 authority if the license is granted outside the boundaries of
3 incorporated cities or towns, or to all chief executive officers of
4 impacted cities, towns, or counties participating in a regional adult
5 entertainment business plan.

6 (9) A business license, manager's license, or performer's license
7 issued by the department does not preempt and is not a substitute for
8 a similar business, manager's, or performer's license that may be
9 required by the applicable city or county.

10 NEW SECTION. **Sec. 9.** ESTABLISHMENT OF BUFFER ZONES. (1) Except
11 as set forth in subsection (7) of this section, the department may not
12 issue an initial business license covering a premises, if at the time
13 the initial license is to be issued the premises are within a buffer
14 zone of one thousand feet surrounding a:

15 (a) Church, synagogue, mosque, temple, or building that is used
16 primarily for religious worship and related religious activities;

17 (b) Public or private educational facility including but not
18 limited to child day-care facilities, nursery schools, preschools,
19 kindergartens, elementary schools, private schools, intermediate
20 schools, junior high schools, middle schools, high schools, vocational
21 schools, secondary schools, continuation schools, special education
22 schools, junior colleges, and universities;

23 (c) Boundary of a residential district as defined in the applicable
24 city or county zoning code;

25 (d) Public park or recreational area that has been designated for
26 park or recreational activities including but not limited to a park,
27 playground, nature trail, swimming pool, reservoir, athletic field,
28 basketball or tennis court, pedestrian or bicycle path, wilderness
29 area, or other similar public land within the city or county which is
30 under the control, operation, or management of the city or county park
31 and recreation authorities;

32 (e) Property line of a lot devoted to a residential use as defined
33 in the applicable city or county zoning code;

34 (f) Entertainment business that is oriented primarily towards
35 children or family entertainment;

36 (g) Premises licensed under the alcoholic beverage control
37 regulations of the state of Washington; or

38 (h) Sexually oriented business.

1 For the purposes of this subsection, "school" includes the school
2 grounds, but does not include the facilities used primarily for another
3 purpose and only incidentally as a school.

4 (2) A person commits a misdemeanor if the person causes or permits
5 the operation, establishment, or maintenance of more than one sexually
6 oriented business in the same building, structure, or portion thereof,
7 or the increase of floor area of a sexually oriented business in a
8 building, structure, or portion thereof containing another sexually
9 oriented business.

10 (3) For the purposes of subsection (1) of this section, measurement
11 must be made in a straight line, without regard to the intervening
12 structures or objects, from the nearest portion of the building or
13 structure used as the part of the premises where a sexually oriented
14 business is conducted, to the nearest property line of the premises of
15 a use listed in this section. Presence of a city, county, or other
16 political subdivision boundary is irrelevant for purposes of
17 calculating and applying the distance requirements of this section.

18 (4) A sexually oriented business lawfully operating on the
19 effective date of this act that is in violation of subsections (1) and
20 (2) of this section is deemed a nonconforming use. The nonconforming
21 use is permitted to continue for a period not to exceed three years,
22 unless sooner terminated for any reason or voluntarily discontinued for
23 a period of thirty days or more. The nonconforming uses may not be
24 increased, enlarged, extended, or altered except that the use may be
25 changed to a conforming use. If two or more sexually oriented
26 businesses are within one thousand feet of one another and otherwise in
27 a permissible location, the sexually oriented business that was first
28 established and continually operating at a particular location is the
29 conforming use and the later established business is nonconforming.

30 (5) A sexually oriented business lawfully operating as a conforming
31 use is not rendered a nonconforming use by the location, after the
32 grant or renewal of the business license, of a use listed in subsection
33 (1) of this section within one thousand feet of the sexually oriented
34 business. This subsection applies only to the renewal of a valid
35 license and does not apply when an application for a license is
36 submitted after a license has expired or been revoked.

37 (6) The department may rely on the measurements of the relevant
38 local jurisdictions in determining the boundaries of a buffer zone.

39 (7)(a) The legislative authority of a city, town, or county:

1 (i) Shall establish a buffer zone less than that established in
2 subsection (1) of this section if the legislative authority finds: (A)
3 That the adverse secondary effects of adult entertainment businesses on
4 public health, safety, or welfare would not be greater as a result of
5 the smaller buffer zone; or (B) that failure to establish a smaller
6 buffer zone will effectively prohibit any adult entertainment business
7 in the city, town, or county and there is no regional agreement with
8 neighboring cities, towns, or counties that provides adequate
9 opportunities for these businesses;

10 (ii) May establish a buffer zone greater than that established in
11 subsection (1) of this section if the legislative authority finds: (A)
12 The negative secondary impacts of sexually oriented businesses on
13 public health, safety, or welfare would not be reasonably and
14 effectively mitigated without the larger buffer zone; and (B)
15 establishing a larger buffer zone will not effectively prohibit any
16 adult entertainment business in the city, town, or county, or that
17 there is a regional agreement with neighboring cities, towns, or
18 counties that provides adequate opportunities for these businesses.

19 (b) If the location requirements established under this chapter
20 effectively preclude location of sexually oriented businesses within a
21 city, town, or county, the city, town, or county shall join with
22 neighboring cities, towns, or counties in a regional adult
23 entertainment business location plan in order to provide reasonable
24 opportunity for location of sexually oriented businesses in the
25 regional area.

26 NEW SECTION. **Sec. 10.** RENEWAL OF LICENSES. A license granted
27 under this chapter is subject to annual renewal upon the written
28 application of the applicant and a finding by the department that the
29 applicant has not been convicted of a specified criminal activity or
30 committed an act during the existence of the previous license that
31 would be grounds to deny the initial license application. The renewal
32 of the license is subject to the payment of the fee as set forth in
33 section 11 of this act.

34 NEW SECTION. **Sec. 11.** FEES. (1) The department shall establish
35 the original business license fee under RCW 43.24.086, but the fee must
36 be at least seven hundred fifty dollars per year for application and
37 investigation. The applicant shall pay the fee at the time of

1 application. The department shall pay fifty percent of the initial
2 license fee to any county, city, or town required to conduct an
3 investigation of the business premises under section 7 of this act.

4 (2) An application for an original manager's or performer's license
5 must be accompanied by an annual nonrefundable application,
6 investigation, and license fee. The department shall establish the
7 manager's and performer's license fees under RCW 43.24.086, but the
8 fees must be at least three hundred fifty dollars per year. An
9 applicant for a manager's or performer's license shall pay the fee at
10 the time of application.

11 (3) An annual, nonrefundable fee of two hundred fifty dollars is
12 required for every renewal of a business, manager's, or performer's
13 license.

14 (4) All license applications and fees must be filed or submitted to
15 the department.

16 NEW SECTION. **Sec. 12.** PRORATION OF LICENSE FEES. (1) At the time
17 of the original issuance of a business license, the department shall
18 prorate the license fee charged to the new licensee according to the
19 number of calendar quarters, or portion of calendar quarters, remaining
20 until the first renewal of that license is required.

21 (2) Unless canceled sooner, every business license issued by the
22 department expires July 1st of the fiscal year for which it was issued.
23 However, if the department deems it feasible and desirable to do so, it
24 may establish, by rule adopted under chapter 34.05 RCW, a system for
25 staggering the annual renewal dates for business licenses. If a system
26 of staggered annual renewal dates is established by the department, the
27 business license fees provided by this chapter must be appropriately
28 prorated during the first year that the system is in effect.

29 NEW SECTION. **Sec. 13.** INSPECTION. (1) An applicant or licensee
30 shall permit representatives of the police department, health
31 department, fire department, zoning or land-use department, or other
32 city or county departments or agencies to inspect the premises of a
33 sexually oriented business for the purpose of insuring compliance with
34 the law at any time it is occupied or open for business.

35 (2) A person who operates a sexually oriented business or the
36 person's agent or employee commits a misdemeanor if the person refuses

1 to permit a lawful inspection under subsection (1) of this section at
2 any time the premises is occupied or open for business.

3 NEW SECTION. **Sec. 14.** EXPIRATION OF LICENSE. (1) A license
4 obtained under this chapter expires one year from the date of issuance
5 and may be renewed only by making application as provided in section 10
6 of this act. Application for renewal must be made at least thirty days
7 before the license's expiration date, and when made less than thirty
8 days before the expiration date the expiration of the license is not
9 affected.

10 (2) When the department denies renewal of a license, the applicant
11 may not be issued a license for one year from the date of denial. If,
12 after denial, the department finds that the basis for denial of the
13 renewal license has been corrected or abated, the applicant may be
14 granted a license if at least ninety days have elapsed since the date
15 denial became final.

16 NEW SECTION. **Sec. 15.** ADDITIONAL REGULATIONS FOR ADULT MOTELS.
17 (1) A person commits a misdemeanor if, as the person in control of a
18 sleeping room in a hotel, motel, or similar commercial establishment
19 that does not have a business license, the person rents or subrents a
20 sleeping room to a person and, within ten hours from the time the room
21 is rented, the person rents or subrents the same sleeping room again.

22 (2) For the purposes of this section, "rent" or "subrent" means the
23 act of permitting a room to be occupied for any form of consideration.

24 NEW SECTION. **Sec. 16.** TRANSFER OF OWNERSHIP OR CONTROL. The
25 department may not issue a business license to a transferee until the
26 transferee has applied for and received a license under this chapter.

27 NEW SECTION. **Sec. 17.** TRANSFER OF LICENSE. (1) The holder of a
28 business license may not assign or transfer the license to another,
29 except that a transfer may be made to the surviving spouse of a
30 deceased licensee if the transferor and transferee were maintaining a
31 marital community and the license was issued in the name of one or both
32 of them.

33 (2) The holder of a manager's license or performer's license may
34 not assign or transfer the license to another.

1 (3) The holder of a business license may not operate a sexually
2 oriented business under the authority of a license at a place other
3 than the address designated in the application.

4 (4) A change in an owner or operator of a licensed sexually
5 oriented business or a change in the manager or agent of a sexually
6 oriented business must be reported to the department within thirty
7 days, and a new owner, operator, manager, or agent must meet the
8 requirements of section 5 of this act.

9 (5) The department shall charge a fee established by the department
10 under RCW 43.24.086 that is at least seventy-five dollars for the
11 processing of a change in an owner, operator, manager, or agent.

12 NEW SECTION. **Sec. 18.** SUSPENSION AND REVOCATION OF LICENSE. (1)

13 The department may, subject to this chapter and as provided by rule
14 adopted by the department, suspend or revoke a business license or
15 manager's or performer's license, and all rights of the licensee under
16 this chapter are then suspended or terminated, as the case may be.

17 (2) Upon receipt of notice of the suspension or revocation of a
18 business license or manager's or performer's license, the licensee
19 shall without delay deliver the license to the department. Where the
20 business, manager's, or performer's license has been suspended only,
21 the department shall return the license to the licensee at the
22 expiration or termination of the period of suspension.

23 NEW SECTION. **Sec. 19.** SUSPENSION OF LICENSE. The department

24 shall suspend a license for a period not to exceed thirty days if it
25 determines that a licensee or an employee of a licensee has:

26 (1) Failed to provide information reasonably necessary for issuance
27 of a license issued under this chapter;

28 (2) Refused to allow an inspection of the sexually oriented
29 business premises as authorized by this chapter;

30 (3) Had a sexually oriented business license, sexually oriented
31 business manager's license, or sexually oriented business performer's
32 license issued by a city or county suspended; or

33 (4) Been found to violate license requirements in a manner that
34 would be grounds for denial of a license.

35 NEW SECTION. **Sec. 20.** REVOCATION OF LICENSE. (1) Violations,

36 suspensions, and revocations of licenses issued to sexually oriented

1 businesses, managers, or performers by city or county authorities must
2 be reported by the city or county authorities to the department within
3 thirty days. The department shall make this information readily and
4 timely available, along with background and identification information
5 obtained from license applications and other sources if available, to
6 law enforcement officers throughout the state of Washington.

7 (2) The department shall revoke a business license, manager's
8 license, or performer's license if it determines that:

9 (a) A licensee gave false or misleading information in the material
10 submitted during the application process;

11 (b) A licensee knowingly operated the sexually oriented business
12 during a period of time when the licensee's license was suspended;

13 (c) A licensee knowingly acted as a sexually oriented business
14 manager or sexually oriented business performer during a period of time
15 when the licensee's license was suspended;

16 (d) A cause of suspension in section 19 of this act occurs and the
17 license has been suspended within the preceding twelve months; or

18 (e) The corresponding sexually oriented business license, sexually
19 oriented business manager's license, or sexually oriented business
20 performer's license issued by the local city or county government is
21 revoked.

22 (3) When the department revokes a license, the revocation must
23 continue for one year, and the licensee may not be issued a business
24 license, manager's license, or performer's license for one year from
25 the date the revocation became effective. If, after revocation, the
26 department finds that the basis for the revocation has been corrected
27 or abated, the applicant may be granted a license if at least ninety
28 days have elapsed since the date the revocation became effective.

29 NEW SECTION. **Sec. 21.** HEARINGS. An action, order, or decision of
30 the department as to a denial of an application for the issuance or
31 renewal of a business license or a manager's or performer's license or
32 as to a revocation, suspension, or modification of such a license is
33 subject to the applicable provisions of chapter 34.05 RCW. An
34 opportunity for a hearing must be provided a licensee before a
35 revocation, modification, or suspension of a business, manager's, or
36 performer's license. A hearing is not required until demanded by the
37 applicant or licensee.

1 NEW SECTION. **Sec. 22.** CONTINUATION OF BUSINESS WHILE DEPARTMENT
2 OF LICENSING AND HEARING DECISIONS ARE PENDING. Except in the case of
3 a license suspension or revocation, whenever timely request for appeal
4 of a denial to renew a license is filed with the department, the
5 hearing examiner, or a court, a licensee may engage in the activity for
6 which the license was required pending the decision from the
7 department, the hearing examiner, or the court. An applicant not
8 licensed when the current application was made may not engage in the
9 activity for which the license is required pending decision by the
10 department, hearing examiner, or the court.

11 NEW SECTION. **Sec. 23.** PROTECTION OF CHILDREN. (1) A person
12 commits a misdemeanor if the person knowingly allows a person under the
13 age of eighteen years on the premises of a sexually oriented business.
14 (2) It is a class C felony for a person to employ or permit a
15 person under the age of eighteen years to appear nude or seminude, to
16 expose specified anatomical areas, or to engage in specified sexual
17 activities on the premises of a sexually oriented business under the
18 person's control.

19 NEW SECTION. **Sec. 24.** MONTHLY REPORTS. A sexually oriented
20 business licensed under this chapter shall file a monthly report with
21 the department under rules adopted by the department. The report must
22 include: (1) The name, address, and date of birth of all performers
23 appearing nude or seminude, exposing specified anatomical areas, or
24 engaging in specified sexual activities during the month on the
25 business premises; and (2) such further information as the department
26 may require.

27 NEW SECTION. **Sec. 25.** LOCAL AUTHORITY TO REGULATE SEXUALLY
28 ORIENTED BUSINESSES. (1) This chapter does not limit the authority of
29 cities, towns, and counties from further regulating adult entertainment
30 businesses as to hours of operation, location of premises, or manner of
31 operation.

32 (2) The provisions of this chapter relating to the licensing of a
33 sexually oriented business are not exclusive and a city, town, or
34 county within whose jurisdiction the sexually oriented business is
35 located may require registrations or licenses or charge a fee for the
36 same or similar purpose. This chapter does not limit or abridge the

1 authority of a city, town, or county to levy and collect a general and
2 nondiscriminatory license fee levied upon all businesses, or to levy a
3 tax based upon gross business conducted by a firm within the city,
4 town, or county.

5 NEW SECTION. **Sec. 26.** AUTHORITY OF DIRECTOR OF LICENSING. The
6 director may:

7 (1) Adopt, amend, or repeal such rules as are deemed necessary to
8 carry out this chapter;

9 (2) Investigate all complaints or reports of conduct in violation
10 of this chapter and to hold hearings as provided in this chapter;

11 (3) Issue subpoenas and administer oaths in connection with an
12 investigation, hearing, or proceeding held under this chapter;

13 (4) Take or cause depositions to be taken and use other discovery
14 procedures as needed in any investigation, hearing, or proceeding held
15 under this chapter;

16 (5) Compel attendance of witnesses at hearings;

17 (6) Use the office of administrative hearings as authorized in
18 chapter 34.12 RCW to conduct hearings. However, the director or the
19 director's designee shall make the final decision in the hearing;

20 (7) Enter into contracts for professional services determined to be
21 necessary for adequate enforcement of this chapter;

22 (8) Grant or deny business license applications and manager's or
23 performer's license applications, and impose sanctions against a
24 license applicant or license holder provided by this chapter;

25 (9) Establish or increase in accordance with RCW 43.24.086 sexually
26 oriented business, manager's, and performer's license fees above the
27 minimum set by this chapter;

28 (10) Designate individuals authorized to sign subpoenas and
29 statements of charges; and

30 (11) Employ such investigative, administrative, and clerical staff
31 as are necessary for the enforcement of this chapter.

32 NEW SECTION. **Sec. 27.** COMPLAINTS. A person, including but not
33 limited to a customer, licensee, corporation, organization, or state or
34 local governmental agency, may submit a written complaint to the
35 department charging a business license holder, manager's or performer's
36 license holder, or applicant with a violation of this chapter. If the
37 department determines that the complaint merits investigation or if the

1 department has reason to believe, without a formal complaint, that a
2 license holder or applicant may have violated this chapter, the
3 department may investigate to determine whether there has been a
4 violation. A person who files a complaint under this section in good
5 faith is immune from suit in a civil action related to the filing or
6 contents of the complaint.

7 NEW SECTION. **Sec. 28.** STATEMENT OF CHARGES. (1) If the
8 department determines, upon investigation under section 27 of this act,
9 that there is reason to believe a violation of this chapter has
10 occurred, a statement of charge or charges may be prepared and served
11 upon the sexually oriented business, manager's, or performer's license
12 holder or applicant. The statement of charge or charges must be
13 accompanied by a notice that the license holder or applicant may
14 request a hearing to contest the charge or charges. The license holder
15 or applicant must file a request for hearing with the department within
16 twenty days after being served the statement of charges. The failure
17 to request a hearing constitutes a default, upon which the director or
18 the director's designee may enter an order under RCW 34.05.440(1).

19 (2) If a hearing is requested, the time of the hearing must be
20 scheduled. However, the hearing may not be held earlier than thirty
21 days after service of the charges upon the license holder or applicant.
22 A notice of hearing must be issued at least twenty days before the
23 hearing, specifying the time, date, and place of the hearing.

24 NEW SECTION. **Sec. 29.** PROCEDURES. The procedures governing
25 adjudicative proceedings before agencies under chapter 34.05 RCW, the
26 administrative procedure act, govern all hearings requested under
27 section 28 of this act.

28 NEW SECTION. **Sec. 30.** DISCIPLINARY ACTION. (1) Upon a finding
29 that a business license holder or applicant or manager's or performer's
30 license holder or applicant has engaged in conduct or violated
31 conditions that are grounds for denial of a license or for disciplinary
32 action under section 31 of this act, the director shall issue an order
33 providing for one or any combination of the following:

- 34 (a) Revocation of the license;
35 (b) Suspension of the license for a fixed or indefinite term;

1 (c) Payment of a fine for each violation of this chapter, not to
2 exceed one thousand dollars per violation, which must be paid to the
3 department; or

4 (d) Denial of the license request.

5 (2) Costs associated with compliance with orders issued under this
6 section are the obligation of the license holder or applicant.

7 NEW SECTION. **Sec. 31.** GROUNDS FOR DISCIPLINARY ACTION. The
8 following conduct, acts, or conditions constitute grounds for denial of
9 a license or for disciplinary action against a business license holder
10 or applicant or a manager's or performer's license holder or applicant
11 under the jurisdiction of this chapter:

12 (1) With respect to a license holder, commission of an act that
13 constitutes an obscenity or pornography offense under chapter 9.68 RCW,
14 or a sexual exploitation of children offense under chapter 9.68A RCW.
15 Conviction in a criminal proceeding is not a condition precedent to
16 disciplinary action under this section. Upon a conviction, however,
17 the judgment and sentence are conclusive evidence at an ensuing
18 disciplinary hearing of the guilt of the license holder or applicant of
19 the crime described in the indictment or information, and of the
20 person's violation of the statute on which it is based. For the
21 purposes of this section, conviction includes a plea of guilty or nolo
22 contendere and also includes all sentence deferrals or suspensions;

23 (2) Misrepresentation or concealment of a material fact in
24 obtaining a license or in license reinstatement;

25 (3) Advertising that is false, fraudulent, or misleading;

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

28 (a) Not furnishing requested papers or documents;

29 (b) Not furnishing in writing a full and complete explanation
30 regarding the matter under investigation; or

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

33 (5) Failure to comply with an order issued by the director;

34 (6) Aiding and abetting an unlicensed person to own or operate a
35 sexually oriented business or to act as a manager or performer when a
36 license is required;

37 (7) Interfering with an investigation or disciplinary proceeding by
38 willful misrepresentation of facts before the director or the

1 director's authorized representative, or by the use of threats or
2 harassment against any witness to prevent the witness from providing
3 evidence in a disciplinary proceeding or other legal action; and
4 (8) Violating this chapter or rule adopted under this chapter.

5 NEW SECTION. **Sec. 32.** INVESTIGATION OF UNLICENSED PREMISES AND
6 PERFORMERS. (1) The director may investigate complaints under this
7 chapter concerning ownership or operation of a business without a
8 license or performing without a license. In the investigation of the
9 complaints, the director has the same authority as provided the
10 director under section 26 of this act.

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

20 NEW SECTION. **Sec. 33.** VIOLATION OF INJUNCTION. A person or
21 business that violates an injunction issued under this chapter shall
22 pay a civil penalty, as determined by the court, of not more than
23 twenty-five thousand dollars, which must be paid to the department.
24 For the purpose of this section, the superior court issuing an
25 injunction shall retain jurisdiction and the cause must be continued,
26 and in these cases the attorney general acting in the name of the state
27 may petition for the recovery of civil penalties.

28 NEW SECTION. **Sec. 34.** IMMUNITY AND LIABILITY. (1) The director
29 or individuals acting on the director's behalf are immune from suit in
30 a civil or criminal action based on disciplinary proceedings or other
31 official acts performed in good faith in the course of their duties in
32 the administration and enforcement of this chapter.

33 (2) Legislative authorities of cities, towns, and counties are
34 immune from suit in a civil or criminal action based on official acts
35 performed in good faith in the course of their duties in the
36 administration or enforcement of this chapter.

1 (3) In a challenge to location, distance, or conduct requirements
2 imposed by the legislative authority of a city, town, or county under
3 this chapter, the legislative authority may request that the state
4 assume some or all of the obligation to defend the constitutionality of
5 this chapter. The attorney general may grant or deny the request.
6 This chapter does not create state liability for actions of a city,
7 town, or county.

8 NEW SECTION. **Sec. 35.** Sections 1 through 34 of this act shall
9 constitute a new chapter in Title 18 RCW.

10 **Sec. 36.** RCW 7.48A.040 and 1985 c 235 s 1 are each amended to read
11 as follows:

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

13 (2) Upon a determination that a defendant has with knowledge
14 maintained a moral nuisance, the court shall impose a civil fine and
15 judgment of an amount as the court shall determine to be appropriate.
16 In imposing the civil fine, the court shall consider the willfulness of
17 the defendant's conduct and the profits made by the defendant
18 attributable to the lewd matter, lewdness, or prostitution, whichever
19 is applicable. In no event shall the civil fine exceed the greater of
20 (~~twenty-five~~) fifty thousand dollars or these profits.

21 NEW SECTION. **Sec. 37.** SEVERABILITY. If any provision of this act
22 or its application to any person or circumstance is held invalid, the
23 remainder of the act or the application of the provision to other
24 persons or circumstances is not affected.

25 NEW SECTION. **Sec. 38.** CAPTIONS. Captions as used in this act
26 constitute no part of the law.

27 NEW SECTION. **Sec. 39.** EFFECTIVE DATE. This act shall take effect
28 January 1, 1996.

29 NEW SECTION. **Sec. 40.** IMPLEMENTATION. The department of
30 licensing may take such steps before the effective date of this act,

1 including the adoption of rules, as are necessary to ensure that this
2 act is implemented on January 1, 1996.

--- END ---