

**SENATE BILL REPORT**

**SB 5644**

**AS REPORTED BY COMMITTEE ON LAW & JUSTICE, FEBRUARY 26, 1991**

**Brief Description:** Regulating adult entertainment.

**SPONSORS:** Senators Nelson, Rasmussen, Thorsness, A. Smith and Madsen.

**SENATE COMMITTEE ON LAW & JUSTICE**

**Majority Report:** That Substitute Senate Bill No. 5644 be substituted therefor, and the substitute bill do pass.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Erwin, Hayner, L. Kreidler, Madsen, Newhouse, Rasmussen, and A. Smith.

**Staff:** Richard Rodger (786-7461)

**Hearing Dates:** February 18, 1991; February 25, 1991; February 26, 1991

**BACKGROUND:**

Presently there are no statutes specifically licensing or regulating adult entertainment businesses or their employees. It has been suggested that regulation of these businesses would decrease the amount of illegal activities which occur on these premises.

It is unlawful to maintain a moral nuisance within this state. The moral nuisance statute refers to the application of community standards in determining what is lewd or obscene matter. However, there is no definition which provides for the establishment of community standards. The maximum penalty for maintaining a moral nuisance is \$25,000.

**SUMMARY:**

A new chapter is created for the regulation of adult entertainment businesses. Every owner and operator of an adult entertainment business is required to obtain a business license from the Department of Licensing. The applicant must submit extensive background information, undergo fingerprinting, and is subjected to a background check conducted by the State Patrol. The department has the discretion to grant or refuse the license based on the background information.

The license is denied if the applicant: (1) is not a resident of the state; (2) is a partnership or corporation with partners, officers, or directors who do not meet the applicant qualifications; (3) has a manager or agent who does not meet the applicant qualifications; (4) is a corporation not

authorized to conduct business in the state; (5) is under the age of 18; (6) fails to provide or falsely answers any information requested; or (7) proposes the location of the business within a zone prohibited by the statute or the local governing authority.

Before issuing a license, the department must notify the local authorities of the application and consider any objections which may be filed. The license is only transferable to a surviving spouse unless the transferee previously obtains a license from the department. Any change of the officers or directors of a corporation must be reported to the department within 30 days.

Each performer at an adult entertainment business must obtain a license from the department. The performer must also submit background information, fingerprints, and undergo a State Patrol background check. The performer must be at least 18 years of age and must truthfully answer all information requested on the application form. The department may use discretion in issuing a license to persons who commit various criminal offenses.

Various license fees are set and an admissions tax of \$1 per customer is imposed. Each business must file a monthly report with the department listing: (1) the number of customers during the month, (2) the names, addresses, and dates of birth of each performer appearing during the month, and (3) such further information as the department may require by rule.

Local jurisdictions may further regulate, tax, or zone adult entertainment businesses.

A definition of "community" is added to the moral nuisance statute. The community may establish standards through elected representatives or by initiative. The penalty for maintaining a moral nuisance is increased to a maximum of \$50,000.

**EFFECT OF PROPOSED SUBSTITUTE:**

Sexual offenses are added to the list of crimes contained in the intent section. The failure to have a business or performer's license is a gross misdemeanor.

The business applicant is required to post notice at the site of the proposed business for at least 30 days. Social security numbers are required to be reported for all applicants and on the employer's monthly reports.

Prior criminal offenses are tailored to the offenses stated in the intent section. Violations of municipal ordinances and statutes of other states are included in the applicant's criminal history.

The zoning limit is decreased from 1500 to 1000 feet. Residential areas, playgrounds, and daycare centers are

included in the list of restricted areas. The zoning limit may be increased or decreased based on specific site impact.

The department may limit the number of licenses in a county if there is a finding of inadequate protection against the cumulative adverse secondary effects of these businesses. The department is granted additional authority covering rule making, complaints, investigations, and disciplinary actions. The established license fees are minimum fees.

The department is granted immunity for actions taken in compliance with the new chapter. Local legislative authorities are given immunity for official acts performed in the course of the administration or enforcement of this chapter.

A three-year grandfather clause, as to location, is provided for existing businesses. The department will thereafter review the adequacy of the business location on an annual basis.

It is a gross misdemeanor to allow a person under age 18 on the premises of an adult entertainment business. It is a class C felony to employ or allow a person under age 18 to appear, in the state of nudity or semi-nudity, on the premises of an adult entertainment business.

The local authorities may request the state to join in the defense of challenges to the new chapter. Clarifying and technical amendments are made.

The definition of "community standards" is deleted.

**Appropriation:** none

**Revenue:** yes

**Fiscal Note:** requested

**Effective Date:** January 1, 1992

**TESTIMONY FOR:**

Registration and licensing are necessary to protect our communities. There has been extensive criminal activity occurring in and around these business locations.

**TESTIMONY AGAINST:** None

**TESTIFIED:** John Turner, Mountlake Terrace Chief of Police (pro); John Keith, Attorney General's Office, Department of Licensing (pro); Mike Redman, WAPA (pro); Bob Seeber, Washington Publication Distribution Association (pro); Janet Scott, citizen (pro)