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**SENATE BILL 5003**

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**State of Washington**                      **53rd Legislature**                      **1993 Regular Session**

**By** Senators Nelson, West, Erwin, Oke and McCaslin

Read first time 01/11/93. Referred to Committee on Law & Justice.

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 buttock, anus, genital, or breast, or a state of dress which fails to  
11 cover opaquely a person's buttock, anus, genital, or areola of the  
12 breast.

13 (8) "Own or operate" means a person has a substantial interest in  
14 an 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, operate, or manage, or act as the agent for one who owns,  
6 operates, or manages, an adult entertainment business in the state of  
7 Washington unless the person has obtained a business license pursuant  
8 to this chapter. Subsequent violations of this subsection within a  
9 two-year period constitute a class C felony.

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

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

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

25 (3) 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 (4) At the time of applying, the applicant shall post notice of the  
29 application at the proposed business location in a form and manner as  
30 required by the department by rule.

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

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

36 (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) An applicant whose business is conducted by a manager or agent,  
4 unless the manager or agent possesses the same qualifications as are  
5 required of the business licensee;

6 (c) A corporation, unless it was created under the laws of the  
7 state of Washington or holds a certificate of authority to transact  
8 business in the state of Washington;

9 (d) An applicant who is under eighteen years of age;

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

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

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

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

1 playground, day care center, or school. For the purpose of this  
2 section, church means a building erected for and used exclusively for  
3 religious worship and schooling or other activity in connection with  
4 the worship and schooling. The department may rely on the measurements  
5 of the relevant local jurisdictions in determining the boundaries of a  
6 buffer zone.

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

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

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

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

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

1 (2) Upon receipt of notice of the suspension or cancellation of a  
2 business license, the licensee shall forthwith deliver the license to  
3 the department. Where the business license has been suspended only,  
4 the department shall return the license to the licensee at the  
5 expiration or termination of the period of suspension.

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

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

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

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

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

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

1        NEW SECTION.    **Sec. 10.**    (1) A person who is named on a business  
2 license may not assign or transfer, in whole or in part, his or her  
3 interest in the license, except that a transfer may be made to the  
4 surviving spouse of a deceased licensee if the transferor and  
5 transferee were maintaining a marital community and the license was  
6 issued in the name of the deceased licensee. The transfer permitted  
7 under this subsection must be reported to the department within thirty  
8 days of the transfer. The department shall charge a fee established  
9 under RCW 43.24.086 of at least seventy-five dollars for the processing  
10 of a transfer.

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

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

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

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

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

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

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

2 (b) A person who knowingly has failed to provide information  
3 reasonably necessary for issuance of the license or who with an intent  
4 to misrepresent has falsely answered a question or request for  
5 information on the application form.

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

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

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

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

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

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

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



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

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

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

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

17        (2) To investigate all complaints or reports of conduct in  
18 violation of this chapter and to hold hearings as provided in this  
19 chapter;

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

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

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

26        (6) To take emergency action ordering summary suspension of a  
27 business or performer's license, or restriction or limitation of the  
28 licensee's practice pending further disciplinary action under section  
29 21 of this act;

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

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

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

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

4 (11) To enter into an assurance of discontinuance in lieu of  
5 issuing a statement of charges or conducting a hearing. The assurance  
6 shall consist of a statement of the law in question and an agreement  
7 not to violate the stated provision. The applicant or license holder  
8 shall not be required to admit to any violation of the law, nor shall  
9 the assurance be construed as such an admission. Violation of an  
10 assurance under this subsection is grounds for disciplinary action;

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

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

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

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

1 (2) If a hearing is requested, the time of the hearing shall be  
2 scheduled but the hearing shall not be held earlier than thirty days  
3 after service of the charges upon the license holder or applicant. A  
4 notice of hearing shall be issued at least twenty days prior to the  
5 hearing, specifying the time, date, and place of the hearing.

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

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

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

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

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

32 (1) With respect to a license holder or applicant, commission of an  
33 act that constitutes an obscenity or pornography offense under chapter  
34 9.68 RCW, a sexual exploitation of children offense under chapter 9.68A  
35 RCW, an assault under chapter 9A.36 RCW, a sexual offense under chapter  
36 9A.44 RCW, a prostitution or indecent exposure offense under chapter

1 9A.88 RCW, a drug offense under chapter 69.41, 69.50, 69.52, or 69.53  
2 RCW, or a substantially similar ordinance adopted by the legislative  
3 authority of a city, town, or county or other state or federal statute.  
4 Conviction in a criminal proceeding is not a condition precedent to  
5 disciplinary action under this section. Upon a conviction, however,  
6 the judgment and sentence is conclusive evidence at an ensuing  
7 disciplinary hearing of the guilt of the license holder or applicant of  
8 the crime described in the indictment or information, and of the  
9 person's violation of the statute on which it is based. For the  
10 purposes of this section, conviction means an adjudication of guilt  
11 pursuant to Title 10 RCW and includes a verdict of guilty, a finding of  
12 guilty, and acceptance of a plea of guilty;

13 (2) Misrepresentation or concealment of a material fact in  
14 obtaining a license or in license reinstatement;

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

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

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

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

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

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

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

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

33 (8) Violating this chapter or any rule adopted pursuant to this  
34 chapter.

35 NEW SECTION. **Sec. 22.** (1) The director shall investigate  
36 complaints under this chapter concerning ownership or operation of a  
37 business without a license or performing without a license. In the  
38 investigation of the complaints, the director shall have the same

1 authority as provided the director under section 16 of this act. The  
2 director shall issue a cease and desist order to a person after notice  
3 and hearing and upon a determination that the person has owned or  
4 operated a business without a license, or has performed without a  
5 license, in violation of this chapter. If the director makes a written  
6 finding of fact that the public interest will be irreparably harmed by  
7 delay in issuing an order, the director may issue a temporary cease and  
8 desist order before the notice and hearing. A cease and desist order  
9 does not relieve the person so owning or operating a business or  
10 performing without a license from criminal prosecution. The remedy of  
11 a cease and desist order is in addition to any criminal liability. A  
12 cease and desist order may be enforced through remedial sanctions under  
13 chapter 7.21 RCW. Enforcement of the cease and desist order under  
14 chapter 7.21 RCW may be used in addition to, or as an alternative to,  
15 any provisions for enforcement of agency orders set out in chapter  
16 34.05 RCW.

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

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

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

1 (2) Legislative authorities or officials of cities, towns, and  
2 counties are immune from suit in any civil or criminal action based on  
3 any official acts performed in the course of their duties in the  
4 administration or enforcement of this chapter.

5 In any challenge to location, distance, or conduct requirements  
6 imposed by the legislative authority of a city, town, or county  
7 pursuant to this chapter, the legislative authority may request that  
8 the state assume some or all of the obligation to defend the  
9 constitutionality of this chapter. The attorney general may grant or  
10 deny the request. Nothing in this chapter creates any state liability  
11 for actions of a city, town, or county.

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

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

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

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

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

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

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

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

1 (2) Upon a determination that a defendant has with knowledge  
2 maintained a moral nuisance, the court shall impose a civil fine and  
3 judgment of an amount as the court shall determine to be appropriate.  
4 In imposing the civil fine, the court shall consider the wilfulness of  
5 the defendant's conduct and the profits made by the defendant  
6 attributable to the lewd matter, lewdness, or prostitution, whichever  
7 is applicable. In no event shall the civil fine exceed the greater of  
8 (~~twenty-five~~) fifty thousand dollars or these profits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

26 (x) Information obtained by the board of pharmacy or the department  
27 of health and its representatives as provided in RCW 69.41.044,  
28 69.41.280, and 18.64.420.

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

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

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

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

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

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

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

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

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

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

1        NEW SECTION.   **Sec. 33.**   This act shall take effect January 1, 1994.  
2   The department of licensing may take such steps before then, including  
3   the adoption of rules, as are necessary to ensure that this act is  
4   implemented on January 1, 1994.

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