**6105-S.E AMH ENGR H3337.E - NOT FOR FLOOR USE**

**ESSB 6105** - H COMM AMD

By Committee on Labor & Workplace Standards

**ADOPTED AND ENGROSSED 02/27/2024**

Strike everything after the enacting clause and insert the following:

"**Sec.**  RCW 49.17.470 and 2019 c 304 s 1 are each amended to read as follows:

(1)(a) The department shall develop or contract for the development of training for entertainers. The training must include, but not be limited to:

(i) Education about the rights and responsibilities of entertainers, including with respect to working as an employee or independent contractor;

(ii) Reporting of workplace injuries, including sexual and physical abuse and sexual harassment;

(iii) The risk of human trafficking;

(iv) Financial aspects of the entertainer profession; and

(v) Resources for assistance.

(b) As a condition of receiving or renewing an adult entertainer license issued by a local government on or after July 1, 2020, an entertainer must provide proof that the entertainer took the training described in (a) of this subsection. The department must make the training reasonably available to allow entertainers sufficient time to take the training in order to receive or renew their licenses on or after July 1, 2020.

(2)(a) An adult entertainment establishment must provide training to its employees other than entertainers to minimize occurrences of unprofessional behavior and enable employees to support entertainers in times of conflict.

(b) An establishment must require all employees other than entertainers to complete the training by the later of: (i) March 1, 2025; or (ii) within 30 days of hiring for recorded content or 120 days of hiring for live courses. Employees must complete the training at least every two years thereafter.

(c) The training content must be developed and provided by a third-party qualified professional with experience and expertise in personnel training. If possible, the training should be designed for use by adult entertainment establishments. When practicable, the training must be translated if necessary for one or more non-English-speaking employees to understand the training.

(d) The training topics must include, but are not limited to:

(i) Preventing sexual harassment, sexual discrimination, and assault in the workplace;

(ii) Information on how to identify and report human trafficking;

(iii) Conflict deescalation between entertainers, other employees, and patrons; and

(iv) Providing first aid.

(e) An adult entertainment establishment must offer entertainers the ability to opt in to trainings offered under this subsection.

(f) The department may require annual reporting on training required under this subsection in a manner determined by the department.

(3) An adult entertainment establishment must provide ((~~a~~)) an accessible panic button in each room in the establishment in which an entertainer may be alone with a customer, and in bathrooms and dressing rooms. An entertainer may use the panic button if the entertainer has been harmed, reasonably believes there is a risk of harm, or there is ((~~an other~~)) another emergency in the entertainer's presence. The entertainer may cease work and leave the immediate area to await the arrival of assistance. The establishment must provide to the department, at least annually, proof of compliance with this subsection and maintenance records showing that panic buttons are maintained and checked to ensure they are in working condition.

((~~(3)~~)) (4)(a) An adult entertainment establishment must record the ((~~accusations~~)) allegations it receives that a customer has committed sex trafficking, prostitution, promotion of prostitution, or an act of violence, including assault, sexual assault, or sexual harassment, towards an entertainer. The establishment must make every effort to obtain the customer's name and if the establishment cannot determine the name, it must record as much identifying information about the customer as is reasonably possible. The establishment must retain a record of the customer's identifying information and written detail about the incident for at least five years after the most recent ((~~accusation~~)) allegation.

(b) If an ((~~accusation~~)) allegation involving a customer is supported by a statement made under penalty of perjury or other evidence, the adult entertainment establishment must decline to allow the customer to return to the establishment for at least three years after the date of the incident. The establishment must share the information about the customer with other establishments with common ownership and those establishments with common ownership must also decline to allow the customer to enter those establishments for at least three years after the date of the incident. No entertainer may be required to provide such a statement.

(c) An establishment must have written policies and procedures for implementing the requirements of this subsection, which must include a process for employees and entertainers to record allegations involving a customer under this subsection. Upon the request of the department, an establishment must make written policies and procedures and any records under this subsection available for inspection by the department.

((~~(4)~~)) (5) An adult entertainment establishment must provide at least one dedicated security person on the premises during operating hours whose primary duty is security, including monitoring interactions between entertainers and patrons. The department must adopt rules for requiring security persons to not have duties other than security during peak operating hours when necessary, and requiring additional security persons when necessary. The rules must take into account:

(a) The size of the establishment;

(b) The layout and floor plan of the establishment;

(c) The occupancy and patron volume;

(d) Security cameras and panic buttons;

(e) The history of security events at the establishment; and

(f) Other factors identified by the department.

(6) An adult entertainment establishment must:

(a) Provide appropriate cleaning supplies at all stage performance areas;

(b) Equip dressing or locker rooms for entertainers with a keypad requiring a code to enter; and

(c) Display signage at the entrance directing customers to resources on appropriate etiquette.

(7) An adult entertainment establishment must have written processes and procedures accessible to all employees and entertainers for:

(a) Responding to customer violence or criminal activity, including when police are called; and

(b) Ejecting customers who violate club policies, including intoxication or other inappropriate or illegal behavior.

(8)(a) For the purposes of enforcement, except for subsection (1) of this section, this section shall be considered a safety or health standard under this chapter.

(b) If an establishment is eligible for and applies for a license under chapter 66.24 RCW and any applicable rules, the liquor and cannabis board must notify the department. The department must conduct an inspection of the establishment to verify compliance with this section within 90 days of receipt of the notice under this subsection. The department must share information regarding violations of this section with the liquor and cannabis board.

(c) The liquor and cannabis board must notify the department if it observes a violation of subsection (3), (5), or (6) of this section on the premises of any establishment operating with a license under chapter 66.24 RCW.

((~~(5)~~)) (9) This section does not affect an employer's responsibility to provide a place of employment free from recognized hazards or to otherwise comply with this chapter and other employment laws.

((~~(6) The department shall convene an entertainer advisory committee to assist with the implementation of this section, including the elements of the training under subsection (1) of this section. At least half of the advisory committee members must be former entertainers who held or current entertainers who have held an adult entertainer license issued by a local government for at least five years. At least one member of the advisory committee must be an adult entertainment establishment which is licensed by a local government and operating in the state of Washington. The advisory committee shall also consider whether additional measures would increase the safety and security of entertainers, such as by examining ways to make the procedures described in subsection (3) of this section more effective and reviewing the fee structure for entertainers. If the advisory committee finds and recommends additional measures that would increase the safety and security of entertainers and that those additional measures would require legislative action, the department must report those recommendations to the appropriate committees of the legislature.~~

~~(7)~~)) (10) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Adult entertainment" means any exhibition, performance, or dance of any type conducted ((~~in~~)) within the view of one or more members of the public inside a premises where such exhibition, performance, or dance involves an entertainer, who((~~:~~

~~(i) Is~~)) is unclothed or in such attire, costume, or clothing as to expose to view any portion of the breast below the top of the areola or any portion of the pubic region, anus, ((~~buttocks,~~)) vulva, or genitals((~~; or~~

~~(ii) Touches, caresses, or fondles the breasts, buttocks, anus, genitals, or pubic region of another person, or permits the touching, caressing, or fondling of the entertainer's own breasts, buttocks, anus, genitals, or pubic region by another person~~)), with ((~~the~~)) an intent to sexually arouse or excite another person.

(b) "Adult entertainment establishment" or "establishment" means any business to which the public, patrons, or members are invited or admitted where an entertainer provides adult entertainment to a member of the public, a patron, or a member.

(c) "Entertainer" means any person who provides adult entertainment within an adult entertainment establishment, whether or not a fee is charged or accepted for entertainment and whether or not the person is an employee under RCW 49.17.020.

(d) "Panic button" means an emergency contact device by which the entertainer may summon immediate on-scene assistance from another entertainer, a security guard, or a representative of the ((~~[adult]~~)) adult entertainment establishment.

NEW SECTION. **Sec.**  A new section is added to chapter 49.46 RCW to read as follows:

(1) No adult entertainment establishment may allow any person under the age of 18 on the premises. If an establishment serves alcohol, the establishment may not allow any person under the age of 21 on the premises. This includes, but is not limited to, any employee, entertainer, contractor, or customer.

(2) Any leasing fee or other fee charged by an establishment to an entertainer must:

(a) Apply equally to all entertainers in a given establishment;

(b) Be stated in a written contract; and

(c) Continue to apply for a period of not less than three months with effective dates.

(3) An establishment may not charge an entertainer:

(a) Any fees or interest for late payment or nonpayment of any fee;

(b) A fee for failure to appear at a scheduled time;

(c) Any fees or interest that result in the entertainer carrying forward an unpaid balance from any previously incurred leasing fee;

(d) Any leasing fee in an amount greater than the entertainer receives during the applicable period of access to or usage of the establishment premises; or

(e)(i) Within an eight-hour period, any leasing fee that exceeds:

(A) The lesser of $150 or 30 percent of amounts collected by the entertainer, excluding amounts collected for adult entertainment provided in a private performance area; and

(B) 30 percent of amounts collected by the entertainer for adult entertainment provided in a private performance area.

(ii) If an establishment charges an entertainer a leasing fee, the contract must include a method for estimating the total amount collected by the entertainer in any eight-hour period for the purposes of this subsection (e).

(4) This section does not prevent an establishment from providing leasing discounts or credits to encourage scheduling or charge leasing fees that vary based on the time of day.

(5) All establishments must display signage in areas designated for entertainers that entertainers are not required to surrender any tips or gratuities and an establishment may not take adverse action against an entertainer in response to the entertainer's use or collection of tips or gratuities.

(6) No establishment may refuse to provide an entertainer with written notice of the reason or reasons for any termination or refusal to rehire the entertainer. Such notice must be provided within 10 business days of the termination or refusal to rehire the entertainer.

(7) The department may enforce subsections (2) through (6) of this section under the provisions of this chapter and any applicable rules. Any amounts owed to an entertainer under this section may be enforced as a wage payment requirement under RCW 49.48.082. Any other violation may be enforced as an administrative violation under this chapter and any applicable rules. The department must share information regarding violations of this section with the liquor and cannabis board.

(8) The department may adopt rules to implement this chapter.

(9) The department must adjust the dollar amount in subsection (3)(e) of this section every two years, beginning January 1, 2027, based upon changes in the consumer price index during that time period.

(10) For purposes of this section:

(a) "Adult entertainment" has the same meaning as in RCW 49.17.470.

(b) "Adult entertainment establishment" or "establishment" has the same meaning as in RCW 49.17.470.

(c) "Entertainer" means any person who provides adult entertainment within an adult entertainment establishment, whether or not a fee is charged or accepted for entertainment and whether or not the person is an employee under RCW 49.46.010.

(d) "Leasing fee" means a fee, charge, or other request for money from an entertainer by an establishment in exchange for the entertainer's access or use of the establishment premises or for allowing an entertainer to conduct entertainment on the premises.

NEW SECTION. **Sec.**  A new section is added to chapter 49.44 RCW to read as follows:

(1) A city with a population of more than 650,000 or a county with a population of more than 2,000,000 may not adopt or enforce ordinances or regulations that:

(a) Limit or prohibit an entertainer from collecting payment for adult entertainment from customers; or

(b) Restrict an entertainer's proximity or distance from others before or after any adult entertainment, or restrict the customer's proximity or distance from the stage during any adult entertainment, so long as there is no contact between the dancers and customers.

(2) For the purposes of this section:

(a) "Entertainer" has the same meaning as in RCW 49.17.470.

(b) "Entertainment" has the same meaning as "adult entertainment" in RCW 49.17.470.

(c) "Establishment" has the same meaning as "adult entertainment establishment" in RCW 49.17.470.

NEW SECTION. **Sec.**  A new section is added to chapter 66.24 RCW to read as follows:

(1) The board may not adopt a rule or enforce any such rule restricting the exposure of body parts by any licensee under this title, its employees or patrons, or any other person under the control or direction of the licensee or an employee, or otherwise restricting sexually oriented conduct of any licensee under this title, its employees or patrons, or any other person under the control or direction of the licensee or an employee.

(2) This section may not be construed to permit conduct that is otherwise prohibited under other statutes in the Revised Code of Washington.

NEW SECTION. **Sec.**  The liquor and cannabis board shall repeal WAC 314-11-050 in its entirety. The liquor and cannabis board is preempted from adopting any similar rule as provided under section 4 of this act.

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

NEW SECTION. **Sec.**  Sections 1 and 2 of this act take effect January 1, 2025."

Correct the title.