

ESSB 6105 - H COMM AMD

By Committee on Labor & Workplace Standards

ADOPTED AND ENGROSSED 02/27/2024

1 Strike everything after the enacting clause and insert the
2 following:

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

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

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

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

13 (iii) The risk of human trafficking;

14 (iv) Financial aspects of the entertainer profession; and

15 (v) Resources for assistance.

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

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

27 (b) An establishment must require all employees other than
28 entertainers to complete the training by the later of: (i) March 1,
29 2025; or (ii) within 30 days of hiring for recorded content or 120
30 days of hiring for live courses. Employees must complete the training
31 at least every two years thereafter.

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

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

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

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

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

13 (iv) Providing first aid.

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

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

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

30 ((3)) (4)(a) An adult entertainment establishment must record
31 the ((accusations)) allegations it receives that a customer has
32 committed sex trafficking, prostitution, promotion of prostitution,
33 or an act of violence, including assault, sexual assault, or sexual
34 harassment, towards an entertainer. The establishment must make every
35 effort to obtain the customer's name and if the establishment cannot
36 determine the name, it must record as much identifying information
37 about the customer as is reasonably possible. The establishment must
38 retain a record of the customer's identifying information and written
39 detail about the incident for at least five years after the most
40 recent ((accusation)) allegation.

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

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

18 (~~(4)~~) (5) An adult entertainment establishment must provide at
19 least one dedicated security person on the premises during operating
20 hours whose primary duty is security, including monitoring
21 interactions between entertainers and patrons. The department must
22 adopt rules for requiring security persons to not have duties other
23 than security during peak operating hours when necessary, and
24 requiring additional security persons when necessary. The rules must
25 take into account:

26 (a) The size of the establishment;

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

28 (c) The occupancy and patron volume;

29 (d) Security cameras and panic buttons;

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

31 (f) Other factors identified by the department.

32 (6) An adult entertainment establishment must:

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

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

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

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

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

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

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

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

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

22 ~~((+5))~~ (9) This section does not affect an employer's
23 responsibility to provide a place of employment free from recognized
24 hazards or to otherwise comply with this chapter and other employment
25 laws.

26 ~~((+6) The department shall convene an entertainer advisory~~
27 ~~committee to assist with the implementation of this section,~~
28 ~~including the elements of the training under subsection (1) of this~~
29 ~~section. At least half of the advisory committee members must be~~
30 ~~former entertainers who held or current entertainers who have held an~~
31 ~~adult entertainer license issued by a local government for at least~~
32 ~~five years. At least one member of the advisory committee must be an~~
33 ~~adult entertainment establishment which is licensed by a local~~
34 ~~government and operating in the state of Washington. The advisory~~
35 ~~committee shall also consider whether additional measures would~~
36 ~~increase the safety and security of entertainers, such as by~~
37 ~~examining ways to make the procedures described in subsection (3) of~~
38 ~~this section more effective and reviewing the fee structure for~~
39 ~~entertainers. If the advisory committee finds and recommends~~
40 ~~additional measures that would increase the safety and security of~~

1 entertainers and that those additional measures would require
2 legislative action, the department must report those recommendations
3 to the appropriate committees of the legislature.

4 ~~(7))~~ (10) The definitions in this subsection apply throughout
5 this section unless the context clearly requires otherwise.

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

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

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

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

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

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

31 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.46
32 RCW to read as follows:

33 (1) No adult entertainment establishment may allow any person
34 under the age of 18 on the premises. If an establishment serves
35 alcohol, the establishment may not allow any person under the age of
36 21 on the premises. This includes, but is not limited to, any
37 employee, entertainer, contractor, or customer.

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

1 (a) Apply equally to all entertainers in a given establishment;
2 (b) Be stated in a written contract; and
3 (c) Continue to apply for a period of not less than three months
4 with effective dates.

5 (3) An establishment may not charge an entertainer:

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

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

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

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

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

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

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

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

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

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

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

37 (7) The department may enforce subsections (2) through (6) of
38 this section under the provisions of this chapter and any applicable
39 rules. Any amounts owed to an entertainer under this section may be
40 enforced as a wage payment requirement under RCW 49.48.082. Any other

1 violation may be enforced as an administrative violation under this
2 chapter and any applicable rules. The department must share
3 information regarding violations of this section with the liquor and
4 cannabis board.

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

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

10 (10) For purposes of this section:

11 (a) "Adult entertainment" has the same meaning as in RCW
12 49.17.470.

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

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

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

23 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.44
24 RCW to read as follows:

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

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

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

34 (2) For the purposes of this section:

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

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

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

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 66.24
2 RCW to read as follows:

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

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

13 NEW SECTION. **Sec. 5.** The liquor and cannabis board shall repeal
14 WAC 314-11-050 in its entirety. The liquor and cannabis board is
15 preempted from adopting any similar rule as provided under section 4
16 of this act.

17 NEW SECTION. **Sec. 6.** If any provision of this act or its
18 application to any person or circumstance is held invalid, the
19 remainder of the act or the application of the provision to other
20 persons or circumstances is not affected.

21 NEW SECTION. **Sec. 7.** Sections 1 and 2 of this act take effect
22 January 1, 2025."

23 Correct the title.

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