

ESSB 6105 - H COMM AMD

By Committee on Labor & Workplace Standards

ADOPTED AS AMENDED 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) July 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 ((an other)) 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 employees and entertainers to record allegations involving a
13 customer under this subsection.

14 (~~(4)~~) (5) An adult entertainment establishment must provide at
15 least one dedicated security person on the premises during operating
16 hours whose primary duty is security. The department must adopt rules
17 for requiring security persons to not have duties other than security
18 during peak operating hours when necessary, and requiring additional
19 security persons when necessary. The rules must take into account:

20 (a) The size of the establishment;

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

22 (c) The occupancy and patron volume;

23 (d) Security cameras and panic buttons;

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

25 (f) Other factors identified by the department.

26 (6) An adult entertainment establishment must:

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

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

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

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

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

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

1 (8) For the purposes of enforcement, except for subsection (1) of
2 this section, this section shall be considered a safety or health
3 standard under this chapter. The department must share information
4 regarding violations of this section with the liquor and cannabis
5 board. The department must share any other information collected
6 under this chapter and requested by the liquor and cannabis board for
7 the purposes of safeguarding worker safety in establishments seeking,
8 or operating with, a license to serve alcohol.

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

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

31 ~~(7))~~ (10) The definitions in this subsection apply throughout
32 this section unless the context clearly requires otherwise.

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

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

1 ~~(ii) Touches, caresses, or fondles the breasts, buttocks, anus,~~
2 ~~genitals, or pubic region of another person, or permits the touching,~~
3 ~~caressing, or fondling of the entertainer's own breasts, buttocks,~~
4 ~~anus, genitals, or pubic region by another person)), with ((the)) an~~

5 intent to sexually arouse or excite another person.
6 (b) "Adult entertainment establishment" or "establishment" means
7 any business to which the public, patrons, or members are invited or
8 admitted where an entertainer provides adult entertainment to a
9 member of the public, a patron, or a member.

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

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

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

20 (1) No adult entertainment establishment may allow any person
21 under the age of 18 on the premises. If an establishment serves
22 alcohol, the establishment may not allow any person under the age of
23 21 on the premises. This includes, but is not limited to, any
24 employee, entertainer, contractor, or customer.

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

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

28 (b) Be stated in a written contract; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (10) For purposes of this section:

38 (a) "Adult entertainment" has the same meaning as in RCW
39 49.17.470.

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

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

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

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

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

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

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

22 (2) For the purposes of this section:

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

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

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

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

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

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

4 NEW SECTION. **Sec. 5.** If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected.

8 NEW SECTION. **Sec. 6.** Sections 1 and 2 of this act take effect
9 January 1, 2025."

10 Correct the title.

EFFECT: (1) Requires the mandatory employee training to be designed for use by adult entertainment establishments (establishments) if possible, and requiring the training to be translated for non-English-speaking employees if necessary and practicable. Specifies that current employees must complete the training by July 1, 2025, rather than January 1, 2025, in order to account for the delayed effective date in the striking amendment.

(2) Modifies the requirements for customer allegation records, also referred to as blocklists, by: Requiring establishments to have written policies and procedures for employees and entertainers to record allegations involving a customer (rather than a written process and procedure accessible to all employees and entertainers for submitting allegations involving a customer); removing the requirement for records to be annually reported to the Department of Labor and Industries (L&I); and removing language providing that records sent to L&I are confidential and not open to public inspection.

(3) Modifies the requirement for establishments to provide security by: Specifying that an establishment must provide at least one dedicated security person on the premises during operating hours whose primary duty is security (rather than one person on the premises during business hours whose primary duty is security); requiring L&I to 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, taking into account the factors identified in the underlying bill (rather than allowing L&I to adopt rules for requiring additional security persons based on those factors); and allowing L&I to consider additional factors identified by L&I when adopting rules for security.

(4) Requires L&I to share any information requested by the Liquor and Cannabis Board (LCB) for the purposes of safeguarding worker safety in establishments seeking, or operating with, a license to serve alcohol (in addition to requiring L&I to share information with LCB regarding violations).

(5) Specifies that the restriction limiting a person under age 21 from accessing an establishment that serves alcohol applies to any person, including but not limited to any employee, entertainer,

contractor, or customer. Shifts this provision to the new section in chapter 49.46 RCW.

(6) Defines "leasing fee" as 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 premises or for otherwise allowing an entertainer to conduct entertainment on the premises (rather than a fee, charge, or other request for money from an entertainer by an establishment in exchange for allowing an entertainer to conduct entertainment). Replaces certain descriptive language with the term "leasing fee" to reduce redundancy, and specifies that certain restrictions on fees apply to "any leasing fee or other fee." Specifies that 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 the applicable period for the purposes of complying with the fee maximums established in the bill.

(7) Adds a section preempting a city with a population of more than six hundred fifty thousand or a county with a population of more than two million from adopting or enforcing ordinances or regulations: Limiting or prohibiting an entertainer from collecting payment for adult entertainment from customers; or restricting an entertainer's proximity or distance from others before or after any adult entertainment, or restricting 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.

(8) Removes provisions requiring the LCB to repeal WAC 314-11-050, and removes provisions requiring the LCB to adopt rules to allow establishments to hold liquor licenses. Removes provisions conditioning an establishment's liquor license on compliance with other workplace safety and fee-related provisions in the bill.

(9) Specifies that the LCB may not adopt a rule or enforce any such rule restricting the exposure of body parts by any licensee, 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, its employees or patrons, or any other person under the control or direction of the licensee or an employee. Specifies that this provision may not be construed to permit conduct that is otherwise prohibited under other statutes.

(10) Delays the effective date of the workplace safety and fee-related provisions in the bill until January 1, 2025. Other provisions take effect 90 days after the adjournment of session.

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