
**Labor & Workplace Standards
Committee**

HB 2036

Brief Description: Concerning workplace safety and operational standards for adult entertainment establishments.

Sponsors: Representatives Walen, Morgan, Berry, Fitzgibbon, Ryu, Duerr, Farivar, Reeves, Simmons, Reed, Ormsby, Taylor, Alvarado, Peterson, Gregerson, Goodman, Thai, Lekanoff, Doglio and Macri.

Brief Summary of Bill

- Requires adult entertainment establishments (establishments) to provide mandatory training to employees on first-aid, sexual harassment, conflict de-escalation, and other specified topics.
- Establishes certain safety requirements for establishments, including keypad locks for locker rooms, cleaning supplies, and certain safety signage.
- Requires establishments to provide dedicated security personnel during business hours.
- Establishes restrictions on leasing fees charged to entertainers by establishments.
- Prohibits state agencies and local governments from enforcing laws or rules to the extent that any such enforcement action is based solely on an entertainer touching his or her own body during a performance at an establishment.
- Prohibits state agencies and local governments from adopting or enforcing laws or rules that restrict proximity or distance from others of an entertainer before or during a performance where the entertainer does

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

not engage in sexual contact with another person.

Hearing Date: 1/12/24

Staff: Kelly Leonard (786-7147).

Background:

Adult entertainment establishments are subject to a variety of laws and regulations adopted by the state and local governments, including those pertaining to workplace safety and business licenses, among others.

Workplace Safety at Adult Entertainment Establishments.

The Washington Industrial Safety and Health Act (WISHA) generally establishes responsibilities for employers to provide a workplace free from recognized hazards. If an employer violates the requirements or standards promulgated under the WISHA, it may be subject to penalties imposed by the Department of Labor and Industries (L&I). Since 2019 the WISHA has contained specific requirements governing adult entertainment establishments.

Training.

Adult entertainers are required to take a "Know Your Rights" training and provide proof of training completion in order to receive or renew an adult entertainer license issued by a local government. The training, which is facilitated through L&I, must include, for example: education about the rights and responsibilities of entertainers, including with respect to working as an employee or independent contractor; reporting of workplace injuries, including sexual and physical abuse and sexual harassment; financial aspects of the entertainer profession; and the risk of human trafficking.

Safety Standards.

The WISHA requires adult entertainment establishments to provide panic buttons in certain locations of the establishment, which an entertainer may use if they have been harmed, believe there is a risk of harm, or if there is another emergency in their presence. Adult entertainment establishments must also document accusations of customer violence against adult entertainers via a "blocklist," which records the customer's identifying information for a period of at least five years. If an accusation of violence by a customer is supported by a statement made under penalty of perjury or other evidence, the establishment must ban the customer for a period of not less than three years. Establishments with common ownership must share this information amongst themselves, and all must decline admission to the customer.

Local Regulations of Adult Entertainment Businesses.

Many local jurisdictions have adopted ordinances regulating adult entertainment establishments and entertainers. These ordinances typically require licensing of the managers and entertainers.

The ordinances also address standards of conduct within the premises, lighting requirements, distance requirements, and other matters.

Adult Entertainer Advisory Committee.

In 2019 the state enacted Engrossed House Bill 1756, which established the workplace safety requirements for adult entertainment establishments under the WISHA and also directed L&I to convene the Adult Entertainer Advisory Committee (Committee). The Committee was required to consider measures to increase the safety and security of entertainers, including reviewing relevant fee structures. The Committee submitted a report to the Legislature in 2020, including the following recommendations:

- requiring mandatory training for staff in adult entertainment establishments;
- setting minimum requirements for security staffing in adult entertainment establishments;
- eliminating the practice of charging back rent to adult entertainers in adult entertainment establishments; and
- legalizing the service of alcohol in adult entertainment establishments.

Summary of Bill:

Workplace Safety at Adult Entertainment Establishments.

Training.

An adult entertainment establishment must provide mandatory training for employees on how to:

- provide basic first aid in emergencies, including accessing and using the first-aid kit located on the premises;
- prevent sexual harassment, sexual discrimination, and assault at the establishment;
- de-escalate conflict between entertainers, employees, and patrons;
- minimize occurrences of unprofessional and inappropriate behavior by the employees; and
- understand legal protections for employees who report violations of federal and state laws and rules.

The training required must be developed and provided by a qualified professional with experience and expertise in personnel training. All employees must complete the training by January 1, 2025, or within 30 days of hiring, whichever is later, and at least every two years thereafter. L&I may require establishments to annually report certain information on the training.

Safety Standards.

An adult entertainment establishment must annually report to L&I certain information demonstrating compliance with the requirements pertaining to panic buttons and blocklists. An adult entertainment establishment must: equip entertainers' dressing or locker rooms with a keypad requiring a code to enter; provide appropriate cleaning supplies at all stage performance areas; and display signage at the entrance directing customers to resources on appropriate etiquette.

An adult entertainment establishment may not allow any person under the age of 18 on the premises. The Liquor and Cannabis Board may adopt stricter age restrictions for establishments holding certain licenses.

Security.

An adult entertainment establishment must provide at least one dedicated security personnel during operating hours. Between 9:00 a.m. and 9:00 p.m., the dedicated security personnel's primary duty must be security, and between 9:00 p.m. and 9:00 a.m., the dedicated security personnel must have no other duties. L&I may adopt rules requiring additional security personnel based on additional factors including, but not limited to: the size of the establishment; the layout and floor plan of the establishment; the patron volume; security cameras and panic buttons; and the history of security events at the establishment.

Fees and Other Relations Between Entertainers and Adult Entertainment Establishments.

A "leasing fee" means a fee, charge, or amount charged to or requested from an entertainer by an establishment in exchange for allowing an entertainer to conduct entertainment or to otherwise use the establishment premises or private performance areas. Any fees or charges must be stated in a written contract between the establishment and the entertainer, and must continue to apply for a specified finite period of at least three months. Any leasing fee or other fee or amount charged to an entertainer by an establishment must apply equally to all entertainers at the establishment. However, an establishment may provide leasing fee discounts or credits to encourage scheduling or vary leasing fee amounts based on the time of day. An establishment may charge an entertainer a leasing fee only if:

- the leasing fee is a fixed amount or percentage and applies equally to all entertainers;
- the leasing fee does not exceed, in any eight-hour period: the lesser of \$150 or 30 percent of the total amount collected by the entertainer (adjusted for inflation every 10 years by L&I), excluding any amount collected for entertainment provided in a private performance area; and 30 percent of the total amount collected by the entertainer for entertainment provided in a private performance area.

An adult entertainment establishment may not:

- carry forward an unpaid balance from any fee or charge incurred previously by the entertainer for access to or usage of the establishment premises;
- charge interest or additional fees to an entertainer for late payment or nonpayment of any fee or charge;
- charge a fee for failure to appear at a scheduled time;
- control how much the entertainer charges customers for entertainment, except that an establishment may establish base charges for different services if such base charges are stated in a written contract, are applied equally to all entertainers in a given establishment, and do not limit what entertainers may charge above the base charges;
- obligate an entertainer to appear for any length of time or how the entertainer performs, provided the entertainer satisfies a leasing fee or otherwise agrees to an alternative charge;
- control the types of clothing or costumes the entertainer wears while providing entertainment, except to the extent necessary to comply with state and local law; or

- take adverse action against an entertainer based on scheduling.

An establishment must provide 10 days advance written notice to an entertainer when terminating or declining to renew the entertainer's contract with the establishment.

Local Regulations of Adult Entertainment Businesses.

A state agency or local government may not enforce any law, rule, ordinance, or regulation against an entertainer to the extent that such enforcement action is based solely on an entertainer touching his or her own body during an entertainment performance at an establishment, regardless of whether the entertainer receives payment from the establishment or gratuities from patrons for his or her performance.

A state agency or local government may not adopt or enforce laws, rules, ordinances, or regulations that restrict proximity or distance from others of an entertainer before or during any exhibition, performance, or dance of any type, where the entertainer does not engage in sexual contact with another person.

Adult Entertainer Advisory Committee.

The provisions establishing the Committee are removed.

Appropriation: None.

Fiscal Note: Requested on January 2, 2024.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.