
Labor & Workplace Standards Committee

ESSB 6105

Brief Description: Creating safer working conditions in adult entertainment establishments.

Sponsors: Senate Committee on Labor & Commerce (originally sponsored by Senators Saldaña, Trudeau, Nguyen, Hunt, Lovelett, Pedersen and Wilson, C.).

Brief Summary of Engrossed Substitute Bill

- Requires adult entertainment establishments to provide mandatory training to employees on first-aid, conflict de-escalation, and identifying and preventing human trafficking, sexual harassment, discrimination, and assault.
- Expands certain safety requirements for adult entertainment establishments, including keypad locks for locker rooms, cleaning supplies, and certain safety signage.
- Requires adult entertainment establishments to provide dedicated security personnel during business hours.
- Establishes restrictions on leasing fees charged to entertainers by adult entertainment establishments.
- Requires the Liquor and Cannabis Board (LCB) to repeal its rule restricting persons from exposing certain body parts and restricting sexually oriented conduct on the premises of businesses with liquor licenses.
- Requires the LCB to modify or adopt rules to allow adult entertainment establishments to hold liquor licenses.

Hearing Date: 2/14/24

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.

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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.

Relevant Definitions. "Adult entertainment" means any exhibition, performance, or dance of any type conducted in a premises where such exhibition, performance, or dance involves an entertainer who: (1) 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 (2) 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 intent to sexually arouse or excite another person. "Adult entertainment 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. "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.

Training. 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: (1) education about the rights and responsibilities of entertainers, including with respect to working as an employee or independent contractor; (2) reporting of workplace injuries, including sexual and physical abuse and sexual harassment; (3) financial aspects of the entertainer profession; and (4) the risk of human trafficking.

Safety Standards. The WISHA requires adult entertainment establishments to provide panic buttons in certain locations, 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.

Liquor-Related Restrictions Affecting Adult Entertainment Establishments.

State statute does not directly address alcohol in adult entertainment establishments. Instead, this authority is delegated to the Washington State Liquor and Cannabis Board (LCB). A current rule adopted by the LCB restricts the exposure of certain body parts and restricts sexually oriented conduct on the premises of a business holding a liquor license. This includes many activities conducted at adult entertainment establishments (such as exposure of specific areas of the body, touching, caressing, or fondling of specified body parts, among others), thereby effectively prohibiting the sale of alcohol in those establishments.

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.

Summary of Bill:

Workplace Safety at Adult Entertainment Establishments.

Relevant Definitions. The definition of "adult entertainment" is modified. "Adult entertainment" means any exhibition, performance, or dance of any type conducted within the view of one or more members of the public inside a premises where such exhibition, performance, or dance involves an entertainer, who 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, vulva, or genitals, with an intent to sexually arouse or excite another person.

Training. 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. The training content must be developed and provided by a third-party qualified professional with experience and expertise in personnel training. The training topics must include, but are not limited to:

- preventing sexual harassment, sexual discrimination, and assault in the workplace;
- information on how to identify and report human trafficking;
- conflict de-escalation between entertainers, other employees, and patrons; and
- providing first aid.

An adult entertainment establishment must require all employees other than entertainers to take the training by January 1, 2025, or within 30 days of hiring for recorded content or 120 days of hiring for live courses, whichever is later, and at least every two years thereafter. L&I may require annual reporting.

Safety Standards. Panic buttons for entertainers must be accessible. An adult entertainment establishment must annually provide L&I with copies of maintenance records showing that panic buttons are maintained and checked to ensure they are in working condition.

An adult entertainment establishment must also record allegations of sex trafficking, promotion of prostitution, and prostitution in its blocklist, as well as written details of each incident and allegation. The establishment must have a written process and procedure accessible to all employees and entertainers for submitting allegations to its blocklist. The establishment must provide information recorded in its blocklist to L&I annually. These records are deemed confidential and may not be open to public inspection, provided that the records are available to law enforcement or employees of governmental agencies in the performance of their official duties, and to an entertainer or employee or their legal representative.

An adult entertainment establishment must also provide appropriate cleaning supplies at all stage performance areas, equip dressing or locker rooms for entertainers with a keypad requiring a code to enter, and display signage at the entrance directing customers to resources on appropriate etiquette.

Age Restrictions. An adult entertainment establishment may not allow any person under the age of 18 on the premises.

Security. An adult entertainment establishment must provide at least one person on the premises during business hours whose primary duty is security. L&I may adopt rules that require additional security persons based on additional factors including, but not limited to the: size of the establishment; layout and floor plan of the establishment; occupancy and patron volume; security cameras and panic buttons; and history of security events at the establishment.

An adult entertainment establishment must have written processes and procedures accessible to all employees and entertainers for responding to customer violence or criminal activity an ejecting customers who violate club policies, including intoxication or other inappropriate or illegal behavior.

Fees and Other Relations Between Entertainers and Adult Entertainment Establishments.

Any fee charged by an establishment to an entertainer must be stated in a written contract and continue to apply for a period of not less than three months with effective dates. An establishment may not refuse to provide an entertainer with written notice of the reason or reasons for any termination or refusal to rehire the entertainer. This notice must be provided within 10 business days of the termination or refusal to rehire the entertainer.

Fees must apply equally to all entertainers in a given establishment, except an establishment may provide leasing discounts or credits to encourage scheduling or charge leasing fees that vary based on the time of day. An adult entertainment establishment may not charge an entertainer:

- a fee or interest for late payment or nonpayment of any fee;

- a fee for failure to appear at a scheduled time;
- a fee or interest that results in the entertainer carrying forward an unpaid balance from any fee incurred previously by the entertainer for access to or usage of the establishment premises;
- a fee for access to or usage of the establishment premises in an amount greater than the entertainer receives during the period of access to or usage of the establishment premises; or
- within an eight-hour period, a fee that exceeds 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 30 percent of amounts collected by the entertainer for adult entertainment provided in a private performance area.

L&I may enforce the restrictions pertaining to fees and contracts. Any amounts owed to an entertainer may be enforced as a wage payment requirement under the Wage Payment Act.

Liquor-Related Restrictions Affecting Adult Entertainment Establishments.

The LCB must repeal its rule restricting the exposure of body parts and restricting sexually oriented conduct at any premises holding a liquor license. Repeal of this rule may not be construed to legalize conduct which is otherwise illegal under other state laws. The LCB must also modify or adopt rules to allow adult entertainment establishments to hold liquor licenses. If an establishment is granted a license, it may not allow persons under 21 years of age on the premises.

If an adult entertainment establishment has received a citation from L&I for a violation of the WISHA provisions pertaining to adult entertainment establishments or the fee-related restrictions, and does not abate the violation within the time period provided in the citation, the LCB may not issue or reissue a liquor license to the establishment and must suspend or cancel the establishment's existing liquor license until L&I affirms the violation has been abated.

Appropriation: None.

Fiscal Note: Available.

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