
SUBSTITUTE HOUSE BILL 2036

State of Washington

68th Legislature

2024 Regular Session

By House Labor & Workplace Standards (originally sponsored by Representatives Walen, Morgan, Berry, Fitzgibbon, Ryu, Duerr, Farivar, Reeves, Simmons, Reed, Ormsby, Taylor, Alvarado, Peterson, Gregerson, Goodman, Thai, Lekanoff, Doglio, and Macri)

READ FIRST TIME 01/26/24.

1 AN ACT Relating to workplace safety and operational standards for
2 adult entertainment establishments; amending RCW 49.17.470; adding
3 new sections to chapter 49.44 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) In recognizing the importance of
6 protecting all workers from exploitation, the legislature passed
7 Engrossed House Bill 1756 (2019), directing the department of labor
8 and industries to convene an advisory committee to develop
9 recommendations aimed at increasing safety and security of
10 entertainers in adult entertainment establishments. Members of the
11 advisory committee represented an array of interests and expertise,
12 and most importantly, the committee included the voices of eight
13 entertainers, all of whom have worked in adult entertainment
14 establishments for more than five years. The final report and
15 recommendations of the advisory committee are based on both the
16 voices and experiences from impacted workers and business owners, as
17 well as the available research focused on this industry. By elevating
18 the voices of entertainers, the report recognizes the complexity of
19 real-life experiences in an industry that has been historically
20 stigmatized. The committee acknowledged that solutions must strike an

1 achievable balance, maximizing worker protections while allowing
2 businesses to remain profitable.

3 (2) The legislature recognizes critical reforms recommended by
4 the advisory committee. For that reason, the legislature hereby
5 intends to establish the following workplace protections:

6 (a) Requiring training for all employees, including employees who
7 are not entertainers, in order to prevent harassment, discrimination,
8 and assault;

9 (b) Establishing minimum security staffing requirements; and

10 (c) Regulating leasing fees charged to entertainers, including
11 eliminating back rent and capping certain fees.

12 (3) The legislature also intends to expand existing requirements,
13 including those pertaining to panic buttons and blocklists, in an
14 effort to improve compliance and enforcement. And importantly,
15 safeguarding worker safety will be impossible if workers continue to
16 fear criminal prosecution for otherwise legal artistic performances
17 that do not involve sexual contact with patrons. Therefore, the
18 legislature intends to clarify the boundaries for local enforcement
19 actions in order to facilitate open communication between
20 entertainers, establishments, local law enforcement, the liquor and
21 cannabis board, and the department of labor and industries.

22 (4) Finally, the legislature also recognizes that the advisory
23 committee identified several safety and security concerns associated
24 with the existing prohibition against holding a liquor license in
25 establishments where entertainers perform unclothed or expose certain
26 parts of their body, which is based on regulations promulgated by the
27 liquor and cannabis board. Of those concerns, the advisory committee
28 highlighted the inability of adult entertainment establishments to
29 adequately regulate the behaviors of their patrons. Alcohol
30 consumption by customers frequently occurs off-site, or from an
31 alternative source, and it cannot be monitored or controlled by staff
32 and entertainers of adult entertainment establishments. Consistent
33 with various other types of venues in Washington, adult entertainment
34 establishments offer "in and out" privileges for their patrons,
35 meaning that customers are free to leave and reenter the
36 establishment once a cover charge for that day has been paid.
37 Entertainers report it is a common practice for customers to leave an
38 establishment to seek out alcohol service and then return later.
39 According to the findings of a 2017 report from the University of
40 Minnesota addressing the topic of alcohol sales in adult

1 entertainment establishments, even in nonalcohol serving
2 establishments, it is very common for customers to arrive already
3 intoxicated, and prohibitions on alcohol do not prevent entertainers
4 from coming into contact with intoxicated persons. Additionally, the
5 lack of alcohol sales inadvertently places entertainers as the main,
6 and often only, source of revenue for the establishments. The
7 legislature finds this limits the entertainers' ability to deny
8 services to customers who may pose a risk, thereby forcing them into
9 hazardous working conditions and difficult economic choices.
10 Therefore, the advisory committee recommended a change to agency
11 rules to allow for alcohol service in adult entertainment
12 establishments. While changes to liquor license regulations may be
13 helpful for improving workplace safety in these establishments, the
14 legislature recognizes that these changes can be effected through
15 agency rule making following the implementation of the reforms
16 provided herein.

17 **Sec. 2.** RCW 49.17.470 and 2019 c 304 s 1 are each amended to
18 read as follows:

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

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

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

27 (iii) The risk of human trafficking;

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

29 (v) Resources for assistance.

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

37 (2)(a) An establishment shall provide mandatory training for
38 employees on how to:

1 (i) Provide basic first aid in emergencies, including accessing
2 and using the first-aid kit located on the premises;

3 (ii) Prevent sexual harassment, sexual discrimination, human
4 trafficking, and assault at the establishment;

5 (iii) De-escalate conflict between entertainers, employees, and
6 patrons;

7 (iv) Minimize occurrences of unprofessional and inappropriate
8 behavior by the employees; and

9 (v) Understand legal protections for employees who report
10 violations of federal and state laws and rules.

11 (b) The training required under this subsection (2) must be
12 developed and provided by one or more qualified professionals with
13 experience and expertise in personnel training. If possible, the
14 training should be designed for use by adult entertainment
15 establishments. When practicable, the training must be translated if
16 necessary for one or more non-English speaking employees to
17 understand the training.

18 (c) An establishment shall require all employees to complete the
19 training by the later of: (i) January 1, 2025; or (ii) within 30 days
20 of hiring if the training is provided in a prerecorded format, or
21 within 120 days of hiring if the training is provided in a live
22 format. Employees must complete the training at least every two years
23 thereafter.

24 (d) The department may require establishments to annually report
25 to the department, in a manner determined by the department,
26 information on the training including: The provider; the dates
27 offered; the content; the number of employees who completed the
28 training; the number of employees not in compliance with (c) of this
29 subsection (2); and other information deemed appropriate by the
30 department.

31 (3) An establishment shall provide at least one dedicated
32 security personnel during operating hours. Between 9:00 a.m. and 9:00
33 p.m., the dedicated security personnel's primary duty must be
34 security, and between 9:00 p.m. and 9:00 a.m., the dedicated security
35 personnel must have no other duties. The department may adopt rules
36 requiring additional security personnel based on additional factors
37 including, but not limited to: The size of the establishment; the
38 layout and floor plan of the establishment; the patron volume;
39 security cameras and panic buttons; and the history of security
40 events at the establishment.

1 (4) An adult entertainment establishment must provide ((a)) an
2 accessible panic button in each room in the establishment in which an
3 entertainer may be alone with a customer, and in bathrooms and
4 dressing rooms. An entertainer may use the panic button if the
5 entertainer has been harmed, reasonably believes there is a risk of
6 harm, or there is an other emergency in the entertainer's presence.
7 The entertainer may cease work and leave the immediate area to await
8 the arrival of assistance. On an annual basis in accordance with
9 procedures established by the department, the establishment shall
10 provide to the department proof of compliance with this subsection
11 (4), including copies of maintenance records to ensure panic buttons
12 are in working condition.

13 ~~((3))~~ (5)(a) An adult entertainment establishment must record
14 the accusations it receives that a customer has ((committed)):
15 Committed an act of violence against an entertainer, including
16 assault, sexual assault, or sexual harassment((, — towards — an
17 entertainer)); or has committed or attempted to commit human
18 trafficking. The establishment must make every effort to obtain the
19 customer's name and if the establishment cannot determine the name,
20 it must record as much identifying information about the customer as
21 is reasonably possible. The establishment must retain a record of the
22 customer's identifying information for at least five years after the
23 most recent accusation.

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

34 ~~((4))~~ (6) An establishment may not allow any person under the
35 age of 18 on the premises. If an establishment serves alcohol, the
36 establishment may not allow any person under the age of 21 on the
37 premises.

38 (7) An establishment shall:

39 (a) Equip entertainers' dressing or locker rooms with a keypad
40 requiring a code to enter;

1 (b) Provide appropriate cleaning supplies at all stage
2 performance areas; and

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

5 (8) An establishment shall adopt and maintain written processes
6 and procedures accessible to all its employees and entertainers for
7 responding to customer violence or criminal activity, ejecting
8 customers who violate club policies, including intoxication or other
9 inappropriate or illegal behavior, and otherwise complying with
10 subsections (4) through (7) of this section.

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

14 ~~((5))~~ (10) The department shall share any information collected
15 under this chapter and requested by the liquor and cannabis board for
16 the purposes of safeguarding worker safety in establishments seeking,
17 or operating with, a license under chapter 66.24 RCW.

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

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

39 ~~(7))~~ (12) The definitions in this subsection apply throughout
40 this section unless the context clearly requires otherwise.

1 (a) "Adult entertainment" means any exhibition, performance, or
2 dance of any type conducted in a premises where such exhibition,
3 performance, or dance involves an entertainer who:

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

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

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

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

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

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

27 (1) Except as otherwise provided in this section, any leasing fee
28 or other fee or amount charged to an entertainer by an establishment
29 must apply equally to all entertainers at the establishment.

30 (2)(a) Any fees or charges must be stated in a written contract
31 between the establishment and the entertainer, and must continue to
32 apply for a specified finite period of at least three months.

33 (b) An establishment may charge an entertainer a leasing fee only
34 if the leasing fee does not exceed, in any eight-hour period:

35 (i) The lesser of \$150 or 30 percent of the total amount
36 collected by the entertainer, excluding any amount collected for
37 entertainment provided in a private performance area; and

38 (ii) 30 percent of the total amount collected by the entertainer
39 for entertainment provided in a private performance area.

1 (c) If an establishment charges an entertainer a leasing fee, the
2 contract must include a method for estimating the total amount
3 collected by the entertainer in any eight-hour period.

4 (d) An establishment may not:

5 (i) Carry forward an unpaid balance from any fee or charge
6 incurred previously by the entertainer for access to or usage of the
7 establishment premises;

8 (ii) Charge interest or additional fees to an entertainer for
9 late payment or nonpayment of any fee or charge;

10 (iii) Charge a fee for failure to appear at a scheduled time; or

11 (iv) Control how much the entertainer charges customers for
12 entertainment, except that an establishment may establish base
13 charges for different services if such base charges are stated in a
14 written contract, are applied equally to all entertainers in a given
15 establishment, and do not limit what entertainers may charge above
16 the base charges.

17 (3) An establishment may not:

18 (a) Obligate an entertainer to appear for any length of time or
19 how the entertainer performs, provided the entertainer satisfies a
20 leasing fee or otherwise agrees to an alternative charge, subject to
21 the limitations of this section;

22 (b) Control the types of clothing or costumes the entertainer
23 wears while providing entertainment, except to the extent necessary
24 to comply with state and local law; or

25 (c) Take adverse action against an entertainer based on
26 scheduling.

27 (4) An establishment shall provide 10 days advance written notice
28 to the entertainer when terminating or declining to renew the
29 entertainer's contract with the establishment.

30 (5) This section does not prevent an establishment from providing
31 leasing fee discounts or credits to encourage scheduling or from
32 charging leasing fees that vary based on the time of day.

33 (6) The department shall adjust the dollar amount in subsection
34 (2)(b)(i) of this section for inflation every 10 years, beginning
35 January 1, 2034, based upon changes in the consumer price index
36 during that time period.

37 (7) An establishment shall display signage in areas designated
38 for entertainers notifying entertainers that they are not required to
39 surrender any tips or gratuities and may not be denied service or
40 amenities in consideration of tips or gratuities.

1 (8) The department may adopt rules to implement and enforce this
2 section. For the purpose of enforcing this section, any amounts
3 unlawfully collected from, or otherwise owed to, an entertainer by an
4 establishment under subsections (1) and (2) of this section
5 constitute a wage payment requirement under RCW 49.48.082.

6 (9) For purposes of this section:

7 (a) "Department" means the department of labor and industries.

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

9 (c) "Entertainment" has the same meaning as "adult entertainment"
10 in RCW 49.17.470.

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

13 (e) "Leasing fee" means a fee, charge, or amount charged to or
14 requested from an entertainer by an establishment in exchange for
15 allowing an entertainer to conduct entertainment or to otherwise use
16 the establishment premises or private performance areas.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 49.44
18 RCW to read as follows:

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

26 (2) A state agency or local government may not adopt or enforce
27 laws, rules, ordinances, or regulations that restrict an
28 entertainer's proximity or distance from others before or during any
29 exhibition, performance, or dance of any type, where the entertainer
30 does not engage in inappropriate contact, with another person.

31 (3) For purposes of this section:

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

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

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

37 (d) "Inappropriate contact" means any touching of the sexual or
38 other intimate parts of another person done for the purpose of
39 gratifying sexual desire of either party or a third party.

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

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