
SENATE BILL 5614

State of Washington

68th Legislature

2023 Regular Session

By Senators Saldaña, Nguyen, and C. Wilson

Read first time 01/30/23. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to adult entertainment establishments; amending
2 RCW 9A.88.010, 9A.88.030, 9A.88.030, and 49.17.470; adding a new
3 section to chapter 49.17 RCW; adding a new section to chapter 66.24
4 RCW; creating a new section; providing an effective date; and
5 providing an expiration date.

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

7 **Sec. 1.** RCW 9A.88.010 and 2003 c 53 s 92 are each amended to
8 read as follows:

9 (1) A person is guilty of indecent exposure if he or she
10 intentionally makes any open and obscene exposure of his or her
11 person or the person of another knowing that such conduct is likely
12 to cause reasonable affront or alarm. The act of breastfeeding or
13 expressing breast milk is not indecent exposure.

14 (2)(a) Except as provided in (b) and (c) of this subsection,
15 indecent exposure is a misdemeanor.

16 (b) Indecent exposure is a gross misdemeanor on the first offense
17 if the person exposes himself or herself to a person under the age of
18 fourteen years.

19 (c) Indecent exposure is a class C felony if the person has
20 previously been convicted under this section or of a sex offense as
21 defined in RCW 9.94A.030.

1 (3) Adult entertainment as defined in RCW 49.17.470 is not
2 indecent exposure.

3 **Sec. 2.** RCW 9A.88.030 and 1988 c 145 s 16 are each amended to
4 read as follows:

5 (1) A person is guilty of prostitution if such person engages or
6 agrees or offers to engage in sexual conduct with another person in
7 return for a fee.

8 (2) For purposes of this section, "sexual conduct" means "sexual
9 intercourse" or "sexual contact," both as defined in chapter 9A.44
10 RCW.

11 (3) Prostitution is a misdemeanor.

12 (4) Adult entertainment as defined in RCW 49.17.470 is not sexual
13 conduct.

14 **Sec. 3.** RCW 9A.88.030 and 2020 c 331 s 4 are each amended to
15 read as follows:

16 (1) A person age eighteen or older is guilty of prostitution if
17 such person engages or agrees or offers to engage in sexual conduct
18 with another person in return for a fee.

19 (2) For purposes of this section, "sexual conduct" means "sexual
20 intercourse" or "sexual contact," both as defined in chapter 9A.44
21 RCW.

22 (3) Prostitution is a misdemeanor.

23 (4) Adult entertainment as defined in RCW 49.17.470 is not sexual
24 conduct.

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

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

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

33 (ii) Reporting of workplace injuries, including sexual and
34 physical abuse and sexual harassment;

35 (iii) The risk of human trafficking;

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

37 (v) Resources for assistance.

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

8 (2) An adult entertainment establishment must provide a panic
9 button in each room in the establishment in which an entertainer may
10 be alone with a customer, and in bathrooms and dressing rooms. An
11 entertainer may use the panic button if the entertainer has been
12 harmed, reasonably believes there is a risk of harm, or there is an
13 other emergency in the entertainer's presence. The entertainer may
14 cease work and leave the immediate area to await the arrival of
15 assistance.

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

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

35 (4) For the purposes of enforcement, except for subsections (1)
36 and (8) through (10) of this section, this section shall be
37 considered a safety or health standard under this chapter.

38 (5)(a) The department must develop or contract for the
39 development of training for establishment employees. The training
40 must include topics to minimize occurrences of unprofessional

1 behavior by establishments' employees and enable the employees to
2 support entertainers in times of conflict including, but not limited
3 to, topics related to:

4 (i) Antisexual harassment;

5 (ii) Conflict de-escalation; and

6 (iii) First aid.

7 (b) An establishment must require all establishment employees to
8 take the training within 30 days of hiring and at least every two
9 years.

10 (6) An adult entertainment establishment must provide at least
11 one security person during business hours. The department may require
12 additional security persons based on the size of the establishment as
13 determined by the department by rule.

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

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

35 ~~(7))~~ (8) Establishments must provide entertainers with written
36 notice of the reason or reasons for any termination or refusal to
37 rehire an entertainer within 10 business days of the termination or
38 refusal to rehire the entertainer.

1 (9) RCW 49.60.030 and the right to be free from discrimination
2 applies to the relationship between the establishment and an
3 entertainer.

4 (10) (a) An adult entertainment establishment may not:

5 (i) Charge any fee:

6 (A) To entertainers who are employees under RCW 49.17.020; and

7 (B) That is greater than 30 percent of the entertainment fees
8 collected by the entertainer during the leased date and time,
9 excluding tips paid to the entertainer, to entertainers who are not
10 employees under RCW 49.17.020;

11 (ii) Carry forward an unpaid balance from any fee incurred
12 previously by the entertainer for access to or usage of the
13 establishment premises;

14 (iii) Charge fees to an entertainer for late payment or
15 nonpayment of any fee;

16 (iv) Take adverse action against an entertainer based on
17 scheduling;

18 (v) Charge an entertainer a fee for failure to appear at a
19 scheduled time;

20 (vi) Obligate an entertainer to appear for any length of time,
21 provided the entertainer satisfies a leasing fee or otherwise agrees
22 to an alternative charge;

23 (vii) Control, for any entertainer who is not an employee under
24 RCW 49.17.020:

25 (A) How much the entertainer charges customers for adult
26 entertainment;

27 (B) When, how, and for how long the entertainer works; or

28 (C) What type of clothing or costumes to wear during adult
29 entertainment;

30 (viii) Include arbitration clauses in contracts with
31 entertainers.

32 (b) Any fee must be stated in a written contract and continue to
33 apply for a period of not less than six months.

34 (c) This subsection does not prevent an establishment from
35 providing leasing discounts or credits to encourage scheduling or
36 charge lease amounts that vary based on the time of day.

37 (11) The definitions in this subsection apply throughout this
38 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) "Adult entertainment nightclub" means an adult entertainment
18 establishment that demonstrates to the department that the
19 establishment:

20 (i) Has written processes and procedures accessible to all its
21 employees and entertainers who are not employees for:

22 (A) Responding to customer violence or criminal activity,
23 including when police are called;

24 (B) Ejecting customers who violate club policies, including
25 intoxication or other inappropriate or illegal behavior; and

26 (C) Processing requests from entertainers to place a patron on
27 the list under subsection (3)(b) of this section;

28 (ii) Provides to the department at least annually a customer
29 complaint log including, but not limited to, the number of
30 entertainer complaints and the number of customers related to
31 customer actions described in subsection (3) of this section;

32 (iii) Provides to the department at least annually proof of
33 compliance with subsection (2) of this section and maintenance
34 records showing that the panic buttons are maintained and checked to
35 ensure they are in working condition;

36 (iv) Has entertainers' dressing or locker rooms equipped with a
37 keypad requiring a code to enter;

38 (v) Provides appropriate cleaning supplies and a waste receptacle
39 accessible from private performance areas; and

40 (vi) Displays signage:

1 (A) In an employee common area indicating that entertainers are
2 not required to surrender any tips or gratuities and may not be
3 denied services and amenities in consideration of tips or gratuities;
4 and

5 (B) At the entrance directing customers to resources on
6 appropriate etiquette.

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

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

15 (12) The department may share information with the liquor and
16 cannabis board for purposes of this section and section 6 of this
17 act.

18 NEW SECTION. Sec. 5. A new section is added to chapter 49.17
19 RCW to read as follows:

20 (1) No state agency or local government may adopt laws, rules,
21 ordinances, or regulations that limit or prohibit an entertainer
22 from:

23 (a) Collecting any form of payment from customers;

24 (b) Touching their own body or exposing themselves while
25 performing within an adult entertainment establishment; and

26 (c) Engaging in physical contact with another person that is
27 otherwise lawful outside of an adult entertainment establishment,
28 such as restrictions on proximity or distance, before or during any
29 exhibition, performance, or dance of any type.

30 (2) This section may not be construed to prohibit a local
31 government from adopting ordinances or regulations that are more
32 protective of entertainers than the requirements of this section.

33 (3) For purposes of this section, "entertainer" has the same
34 meaning as in RCW 49.17.470.

35 NEW SECTION. Sec. 6. A new section is added to chapter 66.24
36 RCW to read as follows:

1 (1) There shall be a spirits, beer, and wine adult entertainment
2 nightclub license to sell spirituous liquor by the drink, beer, and
3 wine at retail, for consumption on the licensed premises.

4 (2) The license may be issued only to an adult entertainment
5 nightclub whose business includes the sale and service of alcohol to
6 the adult entertainment nightclub's customers and has food sales and
7 service incidental to the sale and service of alcohol.

8 (3) (a) Minors may be allowed on the licensed premises but only in
9 areas where alcohol is not served or consumed.

10 (b) The board may adopt rules to allow entertainers who are over
11 18 years of age but under 21 years of age to perform in an adult
12 entertainment nightclub.

13 (4) The annual fee for this license is \$2,000. The fee for the
14 license shall be reviewed from time to time and set at such a level
15 sufficient to defray the cost of licensing and enforcing this
16 licensing program. The fee shall be fixed by rule adopted by the
17 board in accordance with the provisions of chapter 34.05 RCW.

18 (5) Local governments may petition the board to request that
19 further restrictions be imposed on a spirits, beer, and wine adult
20 entertainment nightclub license in the interest of public safety.
21 Examples of further restrictions a local government may request are:
22 Not allowing minors on the entire premises, submitting a security
23 plan, or signing a good neighbor agreement with the local government.

24 (6) The total number of spirits, beer, and wine adult
25 entertainment nightclub licenses are not subject to the requirements
26 of RCW 66.24.420(4). However, the board may not refuse a spirits,
27 beer, and wine adult entertainment nightclub license to any applicant
28 even if the board determines that the spirits, beer, and wine
29 nightclub licenses already granted for the particular locality are
30 adequate for the reasonable needs of the community.

31 (7) The board may adopt rules to implement this section.

32 (8) The department of labor and industries may share information
33 with the board for purposes of this section.

34 (9) The board may not issue any liquor license to any adult
35 entertainment establishment which is not an adult entertainment
36 nightclub.

37 (10) For purposes of this section:

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

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

3 (c) "Entertainer" has the same meaning as in RCW 49.17.470.

4 NEW SECTION. **Sec. 7.** The liquor and cannabis board shall repeal
5 the rule currently codified at WAC 314-11-050 in its entirety.

6 NEW SECTION. **Sec. 8.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 9.** Section 2 of this act expires January 1,
11 2024.

12 NEW SECTION. **Sec. 10.** Section 3 of this act takes effect
13 January 1, 2024.

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