
ENGROSSED SUBSTITUTE SENATE BILL 5644

State of Washington 52nd Legislature 1991 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators Nelson, Rasmussen, Thorsness, A. Smith and Madsen).

Read first time February 27, 1991.

1 AN ACT Relating to adult entertainment businesses; amending RCW
2 7.48A.040; reenacting and amending RCW 42.17.310; adding a new section
3 to chapter 43.43 RCW; adding a new chapter to Title 18 RCW; prescribing
4 penalties; and providing an effective date.

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

6 NEW SECTION. **Sec. 1.** It is the purpose of this chapter to
7 regulate certain adult entertainment businesses to promote the health,
8 safety, and welfare of the citizens of the state of Washington. The
9 legislature finds that these businesses, when unregulated, promote
10 illegal activities including obscenity, pornography, assaults, drug
11 offenses, sexual offenses, and prostitution.

12 NEW SECTION. **Sec. 2.** Unless the context clearly requires
13 otherwise, the definitions in this section apply throughout this
14 chapter.

1 (1) "Adult entertainment business" means a nightclub, bar,
2 restaurant, theater, concert hall, auditorium, or similar commercial
3 establishment that regularly features live performances by nude or
4 seminude persons.

5 (2) "Applicant" means a person or persons applying for a license
6 under this chapter.

7 (3) "Business license" means a license issued by the department
8 under this chapter to an adult entertainment business.

9 (4) "Department" means the department of licensing.

10 (5) "Director" means the director of licensing.

11 (6) "Licensee" means a person or persons in whose name a license
12 has been issued under this chapter.

13 (7) "Nude" means a state of dress that exposes a person's bare
14 buttock, anus, genital, or breast, or a state of dress which fails to
15 cover opaquely a person's buttock, anus, genital, or areola of the
16 breast.

17 (8) "Own or operate" means a person has a substantial interest in
18 an adult entertainment business.

19 (9) "Performer's license" means a license issued by the department
20 under this chapter to a performer in an adult entertainment business.

21 (10) "Seminude" means a state of dress other than nude that, with
22 respect to a person's torso, opaquely covers only the buttocks, anus,
23 genitals, and areolae of the breasts, as well as portions of the body
24 covered by supporting straps or devices.

25 (11) "Substantial interest" means the interest possessed by a
26 person when:

27 (a) With respect to a sole proprietorship, the person, or his or
28 her marital community, owns, operates, manages, or conducts, directly
29 or indirectly, the business, or any part of it; or

1 (b) With respect to a partnership, the person or his or her marital
2 community, shares in any of the profits, or potential profits, of the
3 business; or

4 (c) With respect to a corporation, the person or his or her spouse,
5 is an officer, or director, or the person or his or her marital
6 community is a holder, directly or beneficially, of ten percent or more
7 of any class of stock of the business; or

8 (d) With respect to an organization not covered in (a), (b), or (c)
9 of this subsection, the person or his or her spouse, is an officer or
10 manages the business affairs, or the person or his or her marital
11 community is owner of or otherwise controls ten percent or more of the
12 assets of the business; or

13 (e) The person, or his or her marital community, furnishes ten
14 percent or more of the capital, whether in cash, goods, or services,
15 for the operation of the business during any calendar year.

16 NEW SECTION. **Sec. 3.** (1) It is a gross misdemeanor for a
17 person to own, operate, or manage, or act as the agent for one who
18 owns, operates, or manages, an adult entertainment business in the
19 state of Washington unless the person has obtained a business license
20 pursuant to this chapter. Subsequent violations of this subsection
21 within a two-year period constitute a class C felony.

22 (2) It is a gross misdemeanor for a performer to appear nude or
23 seminude in an adult entertainment business unless the performer has
24 obtained a performer's license pursuant to this chapter.

25 NEW SECTION. **Sec. 4.** (1) Each owner, operator, manager, or
26 agent of a business must obtain and maintain a business license.

27 (2) An application for a business license must be made on a form
28 provided by the department. The applicant shall provide: (a) The

1 name, address, phone number, and date of birth of the applicant; (b)
2 two recent passport-size color photographs of the applicant; (c) the
3 applicant's principal occupation; (d) the nature of the proposed
4 business; (e) the trade name of the proposed business; (f) location of
5 the proposed business; (g) a list of all prior business license
6 numbers; (h) a record of all prior criminal convictions for any offense
7 listed under section 21(1) of this act; and (i) such other information
8 as the department may require by rule.

9 (3) The department shall require the applicant to submit to
10 fingerprinting to assist the Washington state patrol in conducting a
11 background check under section 29 of this act.

12 (4) At the time of applying, the applicant shall post notice of the
13 application at the proposed business location in a form and manner as
14 required by the department by rule.

15 NEW SECTION. **Sec. 5.** (1) The department shall grant or refuse
16 a business license in accordance with this chapter.

17 (2) Every business license shall be issued in the name of the
18 applicant or applicants, and the holder of a license shall not allow
19 any other person to use it.

20 (3) No business license may be issued to:

21 (a) An individual, partnership, or corporation, unless qualified to
22 obtain a business license, as provided in this chapter;

23 (b) An applicant whose business is conducted by a manager or agent,
24 unless the manager or agent possesses the same qualifications as are
25 required of the business licensee;

26 (c) A corporation, unless it was created under the laws of the
27 state of Washington or holds a certificate of authority to transact
28 business in the state of Washington;

29 (d) An applicant who is under eighteen years of age;

1 (e) An applicant who knowingly has failed to provide information
2 reasonably necessary for issuance of the business license or who with
3 an intent to misrepresent has falsely answered a question or request
4 for information on the application form; or

5 (f) An applicant who has proposed the location of the business
6 within a zone where such use is prohibited by state or local authority.

7 (4) Upon receipt of an application for a business license, the
8 department shall give notice of the application to the chief executive
9 officer of the incorporated city or town, if the application is for a
10 business license within an incorporated city or town, or to the county
11 legislative authority, if the application is for a business license
12 outside the boundaries of incorporated cities or towns, or to all the
13 appropriate executive officers in the case of a regional adult
14 entertainment business plan. Upon the granting of a business license
15 under this chapter the department shall send a duplicate of the license
16 or written notification to the chief executive officer of the
17 incorporated city or town in which the license is granted, or to the
18 county legislative authority if the license is granted outside the
19 boundaries of incorporated cities or towns, or to all chief executive
20 officers of impacted cities, towns, or counties participating in a
21 regional adult entertainment business plan.

22 (5)(a) Except as set forth in (b) of this subsection, the
23 department shall not issue an initial business license covering any
24 premises, if at the time the initial license is to be issued the
25 premises are within a buffer zone of one thousand feet surrounding any
26 residential zone, single or multifamily dwelling, church, park,
27 playground, day care center, or elementary or secondary school. The
28 one thousand feet shall be measured on a straight line between the
29 closest points of the property on which the premises are located and
30 the property of the residential zone, dwelling, church, park,

1 playground, day care center, or school. For the purpose of this
2 section, church means a building erected for and used exclusively for
3 religious worship and schooling or other activity in connection with
4 the worship and schooling. The department may rely on the measurements
5 of the relevant local jurisdictions in determining the boundaries of a
6 buffer zone.

7 (b) The legislative authority of a city, town, or county:

8 (i) Shall establish a buffer zone less than that established in (a)
9 of this subsection if an applicant submits adequate documentation
10 supporting a variance from the buffer zone and the legislative
11 authority finds (A) that the adverse secondary effects of adult
12 entertainment businesses on public health, safety, or welfare would not
13 be greater as a result of the smaller buffer zone or (B) that failure
14 to establish a smaller buffer zone will effectively prohibit any adult
15 entertainment business in the city, town, or county and there is no
16 regional agreement with neighboring cities, towns, or counties that
17 provides adequate opportunities for such businesses; or

18 (ii) May establish a buffer zone greater than that established in
19 (a) of this subsection if the legislative authority finds (A) that the
20 adverse secondary effects of adult entertainment businesses on public
21 health, safety, or welfare would not be reasonably and effectively
22 mitigated without the larger buffer zone and (B) that establishing a
23 larger buffer zone will not effectively prohibit any adult
24 entertainment business in the city, town, or county, or that there is
25 a regional agreement with neighboring cities, towns, or counties that
26 provides adequate opportunities for such businesses.

27 (c) If the location requirements established pursuant to this
28 chapter effectively preclude location of adult entertainment businesses
29 within a city, town, or county, such city, town, or county shall join
30 with neighboring cities, towns, or counties in a regional adult

1 entertainment business location plan in order to provide reasonable
2 opportunity for location of adult entertainment businesses in the
3 regional area.

4 NEW SECTION. **Sec. 6.** (1) The department may, subject to the
5 provisions of this chapter and as provided by rule, suspend or cancel
6 a business license; and all rights of the licensee under this chapter
7 shall be suspended or terminated, as the case may be.

8 (2) Upon receipt of notice of the suspension or cancellation of a
9 business license, the licensee shall forthwith deliver the license to
10 the department. Where the business license has been suspended only,
11 the department shall return the license to the licensee at the
12 expiration or termination of the period of suspension.

13 NEW SECTION. **Sec. 7.** (1) Every business license issued under
14 this chapter is subject to all conditions and restrictions imposed by
15 this chapter. All conditions and restrictions imposed by the
16 department in the issuance of an individual business license shall be
17 listed on the face of the individual license along with the trade name,
18 address, and expiration date.

19 (2) Every business licensee shall post and keep posted its license
20 in a conspicuous place on the premises.

21 NEW SECTION. **Sec. 8.** The department shall not issue a
22 business license to a transferee until the transferee has applied for
23 and received a business license under this chapter.

24 NEW SECTION. **Sec. 9.** (1)(a) At the time of the original
25 issuance of a business license, the department shall prorate the
26 license fee charged to the new licensee according to the number of

1 calendar quarters, or portion thereof, remaining until the first
2 renewal of that license is required.

3 (b) Unless canceled sooner, every business license issued by the
4 department shall expire at midnight of the thirtieth day of June of the
5 fiscal year for which it was issued. However, if the department deems
6 it feasible and desirable to do so, it may establish, by rule pursuant
7 to chapter 34.05 RCW, a system for staggering the annual renewal dates
8 for business licenses. If such a system of staggered annual renewal
9 dates is established by the department, the business license fees
10 provided by this chapter shall be appropriately prorated during the
11 first year that the system is in effect.

12 (2) The adult entertainment business license fee shall be
13 established under RCW 43.24.086, but shall be at least seven hundred
14 fifty dollars per annum, and shall be paid at the time of application.
15 One-half of the fee shall be refunded if the application is withdrawn
16 prior to a denial of the license by the department.

17 NEW SECTION. **Sec. 10.** (1) A person who is named on a business
18 license may not assign or transfer, in whole or in part, his or her
19 interest in the license, except that a transfer may be made to the
20 surviving spouse of a deceased licensee if the transferor and
21 transferee were maintaining a marital community and the license was
22 issued in the name of the deceased licensee. The transfer permitted
23 under this subsection must be reported to the department within thirty
24 days of the transfer. The department shall charge a fee established
25 under RCW 43.24.086 of at least seventy-five dollars for the processing
26 of a transfer.

27 (2) At the expiration of the transferred license, the surviving
28 spouse must meet the requirements of this chapter.

1 NEW SECTION. **Sec. 11.** The department in suspending a business
2 license may further provide in the order of suspension that such
3 suspension shall be vacated upon payment to the department by the
4 licensee of a monetary penalty in an amount fixed by the department but
5 not to exceed ten thousand dollars.

6 NEW SECTION. **Sec. 12.** (1)(a) An application for a performer's
7 license must be made on a form provided by the department. The
8 performer shall provide the following: (i) The performer's name,
9 including all aliases, address, phone number, and date of birth; (ii)
10 two passport-size color photographs of the performer; (iii) principal
11 occupation; (iv) the name and address of any business, if known, at
12 which the performer will perform; (v) a list of all prior performer's
13 license numbers; (vi) a record of all prior criminal convictions for
14 any offense listed under section 21(1) of this act; and (vii) such
15 other information as the department may require by rule.

16 (b) The department shall require the applicant to submit to
17 fingerprinting to assist the Washington state patrol in conducting a
18 background check under section 29 of this act.

19 (c) Identifying information provided by an applicant under this
20 subsection is exempt from public disclosure, and the department shall
21 not disclose such information except to the extent necessary to carry
22 out its responsibilities under this chapter, or to comply with a
23 request from another governmental entity, or to comply with a court
24 order.

25 (2) No performer's license may be issued to:

26 (a) A person who is under eighteen years of age;

27 (b) A person who knowingly has failed to provide information
28 reasonably necessary for issuance of the license or who with an intent

1 to misrepresent has falsely answered a question or request for
2 information on the application form.

3 (3) The performer's license fee shall be established under RCW
4 43.24.086, but shall be at least seventy-five dollars per annum and
5 shall be paid at the time of application. One-half of the fee shall be
6 refunded if the application is withdrawn prior to denial of the license
7 by the department.

8 (4) Every performer shall keep his or her performer's license on
9 the premises while performing.

10 NEW SECTION. **Sec. 13.** Every business licensed under section 5
11 of this act shall file monthly reports with the department pursuant to
12 rule. The reports shall include the following: (1) The name, address,
13 date of birth, and the performer's license number for all performers
14 appearing nude or seminude during the month; and (2) such further
15 information as the department may require.

16 NEW SECTION. **Sec. 14.** An action, order, or decision of the
17 department as to a denial of an application for the issuance or renewal
18 of a business or performer's license or as to a revocation, suspension,
19 or modification of a license is subject to the applicable provisions of
20 chapter 34.05 RCW.

21 (1) An opportunity for a hearing must be provided a licensee prior
22 to a revocation or modification of a business or performer's license
23 and, except as provided in subsection (3) of this section, prior to the
24 suspension of a license.

25 (2) No hearing shall be required until demanded by the applicant or
26 licensee.

27 (3) The department may summarily suspend a business or performer's
28 license for a period of up to thirty days without a prior hearing if it

1 finds that public health, safety, or welfare imperatively requires
2 emergency action, and incorporates a finding to that effect in its
3 order; and proceedings for revocation or other action must be promptly
4 instituted and determined.

5 NEW SECTION. **Sec. 15.** No provision in this chapter limits the
6 authority of cities, towns, and counties from further regulating adult
7 entertainment businesses as to hours of operation, location of
8 premises, or manner of operation.

9 The provisions of this chapter relating to the licensing of any
10 adult entertainment business shall not be exclusive and any city, town,
11 or county within whose jurisdiction the adult entertainment business is
12 located may require any registrations or licenses, or charge any fee
13 for the same or similar purpose; and nothing in this chapter shall
14 limit or abridge the authority of any city, town, or county to levy and
15 collect a general and nondiscriminatory license fee levied upon all
16 businesses, or to levy a tax based upon the gross business receipts of
17 any firm within the city, town, or county.

18 NEW SECTION. **Sec. 16.** The director has the following
19 authority:

20 (1) To adopt, amend, or repeal such rules as are deemed necessary
21 to carry out this chapter;

22 (2) To investigate all complaints or reports of conduct in
23 violation of this chapter and to hold hearings as provided in this
24 chapter;

25 (3) To issue subpoenas and administer oaths in connection with any
26 investigation, hearing, or proceeding held under this chapter;

1 (4) To take or cause depositions to be taken and use other
2 discovery procedures as needed in any investigation, hearing, or
3 proceeding held under this chapter;

4 (5) To compel attendance of witnesses at hearings;

5 (6) To take emergency action ordering summary suspension of a
6 business or performer's license, or restriction or limitation of the
7 licensee's practice pending further disciplinary action under section
8 21 of this act;

9 (7) To use the office of administrative hearings as authorized in
10 chapter 34.12 RCW to conduct hearings. However, the director or the
11 director's designee shall make the final decision in the hearing;

12 (8) To enter into contracts for professional services determined to
13 be necessary for adequate enforcement of this chapter;

14 (9) To grant or deny business or performer's license applications,
15 and to impose any sanction against a license applicant or license
16 holder provided by this chapter;

17 (10) To establish or increase in accordance with RCW 43.24.086
18 business and performer's license fees above the minimum set by this
19 chapter;

20 (11) To enter into an assurance of discontinuance in lieu of
21 issuing a statement of charges or conducting a hearing. The assurance
22 shall consist of a statement of the law in question and an agreement
23 not to violate the stated provision. The applicant or license holder
24 shall not be required to admit to any violation of the law, nor shall
25 the assurance be construed as such an admission. Violation of an
26 assurance under this subsection is grounds for disciplinary action;

27 (12) To designate individuals authorized to sign subpoenas and
28 statements of charges; and

29 (13) To employ such investigative, administrative, and clerical
30 staff as necessary for the enforcement of this chapter.

1 NEW SECTION. **Sec. 17.** A person, including but not limited to
2 a customer, licensee, corporation, organization, or state or local
3 governmental agency, may submit a written complaint to the department
4 charging a business or performer's license holder or applicant with a
5 violation of this chapter. If the department determines that the
6 complaint merits investigation, or if the department has reason to
7 believe, without a formal complaint, that a license holder or applicant
8 may have violated this chapter, the department may investigate to
9 determine whether there has been a violation. A person who files a
10 complaint under this section in good faith is immune from suit in any
11 civil action related to the filing or contents of the complaint.

12 NEW SECTION. **Sec. 18.** (1) If the department determines, upon
13 investigation pursuant to section 17 of this act, that there is reason
14 to believe a violation of this chapter has occurred, a statement of
15 charge or charges may be prepared and served upon the business or
16 performer's license holder or applicant. The statement of charge or
17 charges shall be accompanied by a notice that the license holder or
18 applicant may request a hearing to contest the charge or charges. The
19 license holder or applicant must file a request for hearing with the
20 department within twenty days after being served the statement of
21 charges. The failure to request a hearing constitutes a default, upon
22 which the director or the director's designee may enter an order
23 pursuant to RCW 34.05.440(1).

24 (2) If a hearing is requested, the time of the hearing shall be
25 scheduled but the hearing shall not be held earlier than thirty days
26 after service of the charges upon the license holder or applicant. A
27 notice of hearing shall be issued at least twenty days prior to the
28 hearing, specifying the time, date, and place of the hearing.

1 NEW SECTION. **Sec. 19.** The procedures governing adjudicative
2 proceedings before agencies under chapter 34.05 RCW, the administrative
3 procedure act, govern all hearings requested under section 18 of this
4 act.

5 NEW SECTION. **Sec. 20.** (1) Upon a finding that a business or
6 performer's license holder or applicant has engaged in conduct or
7 violated conditions that are grounds for denial of a license or for
8 disciplinary action under section 21 of this act, the director may
9 issue an order providing for one or any combination of the following:

10 (a) Revocation of the license;

11 (b) Suspension of the license for a fixed or indefinite term;

12 (c) Censure or reprimand;

13 (d) Compliance with conditions of probation for a designated period
14 of time;

15 (e) Payment of a fine for each violation of this chapter, not to
16 exceed one thousand dollars per violation, which shall be paid to the
17 department;

18 (f) Denial of the license request.

19 (2) Any of the actions under this section may be totally or partly
20 stayed by the director. All costs associated with compliance with
21 orders issued under this section are the obligation of the license
22 holder or applicant.

23 NEW SECTION. **Sec. 21.** The following conduct, acts, or
24 conditions, constitute grounds for denial of a license or for
25 disciplinary action against any business or performer's license holder
26 or applicant under the jurisdiction of this chapter:

27 (1) With respect to a license holder or applicant, commission of an
28 act that constitutes an obscenity or pornography offense under chapter

1 9.68 RCW, a sexual exploitation of children offense under chapter 9.68A
2 RCW, an assault under chapter 9A.36 RCW, a sexual offense under chapter
3 9A.44 RCW, a prostitution or indecent exposure offense under chapter
4 9A.88 RCW, a drug offense under chapter 69.41, 69.50, 69.52, or 69.53
5 RCW, or a substantially similar ordinance adopted by the legislative
6 authority of a city, town, or county or other state or federal statute.
7 Conviction in a criminal proceeding is not a condition precedent to
8 disciplinary action under this section. Upon a conviction, however,
9 the judgment and sentence is conclusive evidence at an ensuing
10 disciplinary hearing of the guilt of the license holder or applicant of
11 the crime described in the indictment or information, and of the
12 person's violation of the statute on which it is based. For the
13 purposes of this section, conviction means an adjudication of guilt
14 pursuant to Title 10 RCW and includes a verdict of guilty, a finding of
15 guilty, and acceptance of a plea of guilty;

16 (2) Misrepresentation or concealment of a material fact in
17 obtaining a license or in license reinstatement;

18 (3) All advertising that is false, fraudulent, or misleading;

19 (4) Failure to cooperate with the department in the conduct of an
20 investigation by:

21 (a) Not furnishing any requested papers or documents;

22 (b) Not furnishing in writing a full and complete explanation
23 regarding the matter under investigation upon written request of the
24 department; or

25 (c) Not responding to subpoenas issued by the director, whether or
26 not the recipient of the subpoena is the subject of the investigation;

27 (5) Failure to comply with an order issued by the director or an
28 assurance of discontinuance entered into with the director;

29 (6) Aiding and abetting an unlicensed person to own or operate a
30 business or to perform when a license is required;

1 (7) Interference with an investigation or disciplinary proceeding
2 by willful misrepresentation of facts before the director or the
3 director's authorized representative, or by the use of threats or
4 harassment against any witness to prevent him or her from providing
5 evidence in a disciplinary proceeding or any other legal action;

6 (8) Violating this chapter or any rule adopted pursuant to this
7 chapter.

8 NEW SECTION. **Sec. 22.** (1) The director shall investigate
9 complaints under this chapter concerning ownership or operation of a
10 business without a license or performing without a license. In the
11 investigation of the complaints, the director shall have the same
12 authority as provided the director under section 16 of this act. The
13 director shall issue a cease and desist order to a person after notice
14 and hearing and upon a determination that the person has owned or
15 operated a business without a license, or has performed without a
16 license, in violation of this chapter. If the director makes a written
17 finding of fact that the public interest will be irreparably harmed by
18 delay in issuing an order, the director may issue a temporary cease and
19 desist order before the notice and hearing. A cease and desist order
20 does not relieve the person so owning or operating a business or
21 performing without a license from criminal prosecution. The remedy of
22 a cease and desist order is in addition to any criminal liability. A
23 cease and desist order may be enforced through remedial sanctions under
24 chapter 7.21 RCW. Enforcement of the cease and desist order under
25 chapter 7.21 RCW may be used in addition to, or as an alternative to,
26 any provisions for enforcement of agency orders set out in chapter
27 34.05 RCW.

28 (2) The attorney general, a county prosecuting attorney, the
29 department, or any person may, in accordance with the law of this state

1 governing injunctions, maintain an action to enjoin any person owning
2 or operating a business, or performing, without a license required by
3 this chapter from continuing such ownership, operation, or performing
4 until the required license is secured. However, an injunction does not
5 relieve a person from criminal prosecution and the remedy by injunction
6 is in addition to any criminal liability.

7 NEW SECTION. **Sec. 23.** A person or business that violates an
8 injunction issued under this chapter shall pay a civil penalty, as
9 determined by the court, of not more than twenty-five thousand dollars,
10 which shall be paid to the department. For the purpose of this
11 section, the superior court issuing any injunction shall retain
12 jurisdiction and the cause shall be continued, and in such cases the
13 attorney general acting in the name of the state may petition for the
14 recovery of civil penalties.

15 NEW SECTION. **Sec. 24.** (1) The director or individuals acting
16 on the director's behalf are immune from suit in any civil or criminal
17 action based on any disciplinary proceedings or other official acts
18 performed in the course of their duties in the administration and
19 enforcement of this chapter.

20 (2) Legislative authorities or officials of cities, towns, and
21 counties are immune from suit in any civil or criminal action based on
22 any official acts performed in the course of their duties in the
23 administration or enforcement of this chapter.

24 In any challenge to location, distance, or conduct requirements
25 imposed by the legislative authority of a city, town, or county
26 pursuant to this chapter, the legislative authority may request that
27 the state assume some or all of the obligation to defend the
28 constitutionality of this chapter. The attorney general may grant or

1 deny the request. Nothing in this chapter creates any state liability
2 for actions of a city, town, or county.

3 NEW SECTION. **Sec. 25.** Existing adult entertainment businesses
4 are exempt from any location restrictions imposed by this chapter until
5 January 1, 1995.

6 NEW SECTION. **Sec. 26.** It is a gross misdemeanor for any person
7 to permit any person under the age of eighteen on the premises of any
8 adult entertainment business under his or her control.

9 NEW SECTION. **Sec. 27.** It is a class C felony for any person to
10 employ or permit any person under the age of eighteen to appear nude or
11 seminude on the premises of any adult entertainment business under his
12 or her control.

13 NEW SECTION. **Sec. 28.** Sections 1 through 27 of this act shall
14 constitute a new chapter in Title 18 RCW.

15 NEW SECTION. **Sec. 29.** A new section is added to chapter 43.43 RCW
16 to read as follows:

17 The department of licensing may request information from the
18 Washington state patrol criminal identification system regarding the
19 conviction of offenses listed under section 21(1) of this act for any
20 applicant or for a license holder who is the subject of an
21 investigation under section 17 of this act.

22 **Sec. 30.** RCW 7.48A.040 and 1985 c 235 s 1 are each amended to read
23 as follows:

24 (1) No person shall with knowledge maintain a moral nuisance.

1 (2) Upon a determination that a defendant has with knowledge
2 maintained a moral nuisance, the court shall impose a civil fine and
3 judgment of an amount as the court shall determine to be appropriate.
4 In imposing the civil fine, the court shall consider the wilfulness of
5 the defendant's conduct and the profits made by the defendant
6 attributable to the lewd matter, lewdness, or prostitution, whichever
7 is applicable. In no event shall the civil fine exceed the greater of
8 (~~twenty-five~~) fifty thousand dollars or these profits.

9 **Sec. 31.** RCW 42.17.310 and 1991 c 301 s 13, 1991 c 87 s 13, and
10 1991 c 23 s 10 are each reenacted and amended to read as follows:

11 (1) The following are exempt from public inspection and copying:

12 (a) Personal information in any files maintained for students in
13 public schools, patients or clients of public institutions or public
14 health agencies, or welfare recipients.

15 (b) Personal information in files maintained for employees,
16 appointees, or elected officials of any public agency to the extent
17 that disclosure would violate their right to privacy.

18 (c) Information required of any taxpayer in connection with the
19 assessment or collection of any tax if the disclosure of the
20 information to other persons would (i) be prohibited to such persons by
21 RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result
22 in unfair competitive disadvantage to the taxpayer.

23 (d) Specific intelligence information and specific investigative
24 records compiled by investigative, law enforcement, and penology
25 agencies, and state agencies vested with the responsibility to
26 discipline members of any profession, the nondisclosure of which is
27 essential to effective law enforcement or for the protection of any
28 person's right to privacy.

1 (e) Information revealing the identity of persons who file
2 complaints with investigative, law enforcement, or penology agencies,
3 other than the public disclosure commission, if disclosure would
4 endanger any person's life, physical safety, or property. If at the
5 time the complaint is filed the complainant indicates a desire for
6 disclosure or nondisclosure, such desire shall govern. However, all
7 complaints filed with the public disclosure commission about any
8 elected official or candidate for public office must be made in writing
9 and signed by the complainant under oath.

10 (f) Test questions, scoring keys, and other examination data used
11 to administer a license, employment, or academic examination.

12 (g) Except as provided by chapter 8.26 RCW, the contents of real
13 estate appraisals, made for or by any agency relative to the
14 acquisition or sale of property, until the project or prospective sale
15 is abandoned or until such time as all of the property has been
16 acquired or the property to which the sale appraisal relates is sold,
17 but in no event shall disclosure be denied for more than three years
18 after the appraisal.

19 (h) Valuable formulae, designs, drawings, and research data
20 obtained by any agency within five years of the request for disclosure
21 when disclosure would produce private gain and public loss.

22 (i) Preliminary drafts, notes, recommendations, and intra-agency
23 memorandums in which opinions are expressed or policies formulated or
24 recommended except that a specific record shall not be exempt when
25 publicly cited by an agency in connection with any agency action.

26 (j) Records which are relevant to a controversy to which an agency
27 is a party but which records would not be available to another party
28 under the rules of pretrial discovery for causes pending in the
29 superior courts.

1 (k) Records, maps, or other information identifying the location of
2 archaeological sites in order to avoid the looting or depredation of
3 such sites.

4 (l) Any library record, the primary purpose of which is to maintain
5 control of library materials, or to gain access to information, which
6 discloses or could be used to disclose the identity of a library user.

7 (m) Financial information supplied by or on behalf of a person,
8 firm, or corporation for the purpose of qualifying to submit a bid or
9 proposal for (a) a ferry system construction or repair contract as
10 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
11 or improvement as required by RCW 47.28.070.

12 (n) Railroad company contracts filed with the utilities and
13 transportation commission under RCW 81.34.070, except that the
14 summaries of the contracts are open to public inspection and copying as
15 otherwise provided by this chapter.

16 (o) Financial and commercial information and records supplied by
17 private persons pertaining to export services provided pursuant to
18 chapter 43.163 RCW and chapter 53.31 RCW.

19 (p) Financial disclosures filed by private vocational schools under
20 chapter 28C.10 RCW.

21 (q) Records filed with the utilities and transportation commission
22 or attorney general under RCW 80.04.095 that a court has determined are
23 confidential under RCW 80.04.095.

24 (r) Financial and commercial information and records supplied by
25 businesses during application for loans or program services provided by
26 chapter 43.163 RCW and chapters 43.31, 43.63A, and 43.168 RCW.

27 (s) Membership lists or lists of members or owners of interests of
28 units in timeshare projects, subdivisions, camping resorts,
29 condominiums, land developments, or common-interest communities

1 affiliated with such projects, regulated by the department of
2 licensing, in the files or possession of the department.

3 (t) All applications for public employment, including the names of
4 applicants, resumes, and other related materials submitted with respect
5 to an applicant.

6 (u) The residential addresses and residential telephone numbers of
7 employees or volunteers of a public agency which are held by the agency
8 in personnel records, employment or volunteer rosters, or mailing lists
9 of employees or volunteers.

10 (v) The residential addresses and residential telephone numbers of
11 the customers of a public utility contained in the records or lists
12 held by the public utility of which they are customers.

13 (w) Information obtained by the board of pharmacy as provided in
14 RCW 69.45.090.

15 (x) Information obtained by the board of pharmacy or the department
16 of health and its representatives as provided in RCW 69.41.044,
17 69.41.280, and section 12, chapter 87, Laws of 1991.

18 (y) Financial information, business plans, examination reports, and
19 any information produced or obtained in evaluating or examining a
20 business and industrial development corporation organized or seeking
21 certification under chapter 31.24 RCW.

22 (z) Financial and commercial information supplied to the state
23 investment board by any person when the information relates to the
24 investment of public trust or retirement funds and when disclosure
25 would result in loss to such funds or in private loss to the providers
26 of this information.

27 (aa) Financial and valuable trade information under RCW 51.36.120.

28 (bb) Client records maintained by an agency that is a domestic
29 violence program as defined in RCW 70.123.020 or a rape crisis center
30 as defined in RCW 70.125.030.

1 (cc) Identifying information provided by an applicant under section
2 12(1) of this act except to the extent necessary to carry out the
3 responsibilities of the department of licensing under chapter 18.---RCW
4 (sections 1 through 27 of this act), or to comply with a request from
5 another governmental entity, or to comply with a court order.

6 (2) Except for information described in subsection (1)(c)(i) of
7 this section and confidential income data exempted from public
8 inspection pursuant to RCW 84.40.020, the exemptions of this section
9 are inapplicable to the extent that information, the disclosure of
10 which would violate personal privacy or vital governmental interests,
11 can be deleted from the specific records sought. No exemption may be
12 construed to permit the nondisclosure of statistical information not
13 descriptive of any readily identifiable person or persons.

14 (3) Inspection or copying of any specific records exempt under the
15 provisions of this section may be permitted if the superior court in
16 the county in which the record is maintained finds, after a hearing
17 with notice thereof to every person in interest and the agency, that
18 the exemption of such records is clearly unnecessary to protect any
19 individual's right of privacy or any vital governmental function.

20 (4) Agency responses refusing, in whole or in part, inspection of
21 any public record shall include a statement of the specific exemption
22 authorizing the withholding of the record (or part) and a brief
23 explanation of how the exemption applies to the record withheld.

24 NEW SECTION. Sec. 32. If any provision of this act or its
25 application to any person or circumstance is held invalid, the
26 remainder of the act or the application of the provision to other
27 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 33.** This act shall take effect January 1,
2 1992. The department of licensing may take such steps before then,
3 including the adoption of rules, as are necessary to ensure that this
4 act is implemented on January 1, 1992.