
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; adding a new chapter to Title 18 RCW; adding a new section
3 to chapter 43.43 RCW; prescribing penalties; and providing an effective
4 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 assaults, sexual offenses, drug offenses,
11 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 cabaret" means a nightclub, bar, restaurant, or similar
2 commercial establishment which regularly features persons who appear in
3 a state of nudity or seminude.

4 (2) "Adult entertainment business" means an adult cabaret or adult
5 theater.

6 (3) "Adult theater" means a theater, concert hall, auditorium, or
7 similar commercial establishment which regularly features live
8 performances where persons appear in a state of nudity or seminude.

9 (4) "Applicant" means a person or persons applying for a license
10 under this chapter, including each partner of a partnership and each
11 officer and director of a corporation.

12 (5) "Department" means the department of licensing.

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

15 (7) "Nudity" means the appearance of a human bare buttock, anus,
16 genital, or breast, or a state of dress which fails to opaquely cover
17 a human buttock, anus, genital, or areola of the breast.

18 (8) "Seminude" means a state of dress not including nudity in which
19 clothing opaquely covers only the genitals, pubic region, or areolae of
20 the breast, as well as portions of the body covered by supporting
21 straps or devices.

22 NEW SECTION. **Sec. 3.** (1) It is a gross misdemeanor for a
23 person, partnership, or corporation, to own or operate an adult
24 entertainment business in the state of Washington unless such person,
25 partnership, or corporation, has obtained a license pursuant to this
26 chapter.

27 (2) An application for a license must be made on a form provided by
28 the department. The applicant shall provide: (a) The name, address,
29 phone number, social security number, and date of birth of the

1 applicant; (b) two passport-size color photographs of the applicant;
2 (c) the applicant's principal occupation; (d) a description of the
3 proposed establishment; (e) the nature of the proposed business; (f)
4 location of the proposed business; (g) a record of all prior criminal
5 convictions; and (h) such other information as the department may
6 require by rule.

7 (3) The department shall require the applicant to submit to
8 fingerprinting to assist the Washington state patrol in conducting a
9 background check under section 30 of this act.

10 (4) At the time of applying, the applicant shall post notice of the
11 application at the proposed business location, for a period of not less
12 than thirty days, in a form and manner as required by the department by
13 rule.

14 NEW SECTION. **Sec. 4.** (1) For the purpose of considering an
15 application for a license, the department may cause an inspection of
16 the premises to be made, and may inquire into all matters in connection
17 with the construction and operation of the premises. For the purpose
18 of reviewing a application for a license and for considering the
19 denial, suspension, or revocation of a license, the department shall
20 consider any prior convictions of a firearm offense under chapter 9.41
21 RCW, an obscenity or pornography offense under chapter 9.68 RCW, a
22 sexual exploitation of children offense under chapter 9.68A RCW, an
23 assault under chapter 9A.36 RCW, a sexual offense under chapter 9A.44
24 RCW, a prostitution or indecent exposure offense under chapter 9A.88
25 RCW, or a drug offense under chapter 69.41, 69.50, 69.52, or 69.53 RCW,
26 or a substantially similar ordinance adopted by a local legislative
27 authority or other state statute, or prior violations of the provisions
28 of this chapter by the applicant, and the provisions of RCW 9.95.240
29 and chapter 9.96A RCW shall not apply to such cases. The department

1 shall grant or refuse the license as provided in this chapter and by
2 rule.

3 (2) Every license shall be issued in the name of the applicant or
4 applicants, and the holder thereof shall not allow any other person to
5 use the license.

6 (3) No license may be issued to:

7 (a) A partnership or corporation, unless qualified to obtain a
8 license, as provided in this chapter;

9 (b) An applicant whose place of business is conducted by a manager
10 or agent, unless such manager or agent possesses the same
11 qualifications required of the licensee;

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

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

16 (e) An applicant who has failed to provide information reasonably
17 necessary for issuance of the license or who has falsely answered a
18 question or request for information on the application form;

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

21 (4) Before the department issues a license to an applicant it shall
22 give notice of such application to the chief executive officer of the
23 incorporated city or town, if the application is for a license within
24 an incorporated city or town, or to the county legislative authority,
25 if the application is for a license outside the boundaries of
26 incorporated cities or towns, or to all such executive officers in the
27 case of a regional adult entertainment business plan; and such
28 incorporated city or town, through the official or employee selected by
29 it, or the county legislative authority or the official or employee
30 selected by it, shall have the right to file with the department within

1 twenty days after date of transmittal of such notice, written
2 objections against the applicant or against the premises for which the
3 license is asked, and shall include with such objections a statement of
4 all facts upon which such objections are based, and in case written
5 objections are filed, may request and the department may in its
6 discretion hold a formal hearing subject to the applicable provisions
7 of Title 34 RCW. Upon the granting of a license under this chapter the
8 department shall send a duplicate of the license or written
9 notification to the chief executive officer of the incorporated city or
10 town in which the license is granted, or to the county legislative
11 authority if the license is granted outside the boundaries of
12 incorporated cities or towns, or to all chief executive officers of
13 impacted cities, towns, or counties participating in a regional adult
14 entertainment business plan.

15 (5)(a) Except as set forth in (b) of this subsection, the
16 department shall issue no license covering any premises, if such
17 premises are within one thousand feet of the premises of any
18 residential zone, single or multifamily dwelling, church, park,
19 playground, day care center, or elementary or secondary school measured
20 along the most direct route over or across established public walks,
21 streets, or other public passageway from the outer property line of the
22 school grounds to the nearest public entrance of the premises proposed
23 for license. For the purpose of this section, church shall mean a
24 building erected for and used exclusively for religious worship and
25 schooling or other activity in connection therewith.

26 (b) Local legislative authority (i) shall establish a lesser buffer
27 zone upon a finding that the adverse secondary effects of adult
28 entertainment users would not impact public health, safety, or welfare;
29 or (ii) may establish a greater buffer zone upon a finding that the
30 adverse secondary effects of adult entertainment users on public

1 health, safety, or welfare would not be reasonably and effectively
2 mitigated.

3 (c) If the location requirements established pursuant to this
4 chapter preclude location of adult entertainment businesses within a
5 local governmental jurisdiction, such jurisdiction may join with
6 neighboring jurisdictions in a regional adult entertainment business
7 location plan in order to provide reasonable opportunity for location
8 of adult entertainment businesses in the regional area.

9 NEW SECTION. **Sec. 5.** (1) The department may, subject to the
10 provisions of this chapter and as provided by rule, suspend or cancel
11 a license; and all rights of the licensee hereunder shall be suspended
12 or terminated, as the case may be.

13 (2) Upon receipt of notice of the suspension or cancellation of a
14 license, the licensee shall forthwith deliver the license to the
15 department. Where the license has been suspended only, the department
16 shall return the license to the licensee at the expiration or
17 termination of the period of suspension.

18 NEW SECTION. **Sec. 6.** (1) Every license issued under this
19 chapter shall be subject to all conditions and restrictions imposed by
20 this chapter and all applicable rules of the department. All
21 conditions and restrictions imposed by the department in the issuance
22 of an individual license shall be listed on the face of the individual
23 license along with the trade name, address, and expiration date.

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

1 NEW SECTION. **Sec. 7.** The department shall not issue a license
2 to a transferee until the transferee has applied for and received a
3 license under this chapter.

4 NEW SECTION. **Sec. 8.** (1)(a) At the time of the original
5 issuance of a license, the department shall prorate the license fee
6 charged to the new licensee according to the number of calendar
7 quarters, or portion thereof, remaining until the first renewal of that
8 license is required.

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

18 (2) The adult entertainment license fee shall be at least seven
19 hundred fifty dollars per annum and shall be paid at the time of
20 application. One-half of the fee shall be refunded if the application
21 is withdrawn prior to a denial of the license by the department.

22 NEW SECTION. **Sec. 9.** (1) The holder of one or more licenses
23 may not assign and transfer the license except for transfer to the
24 surviving spouse of a deceased licensee if the parties were maintaining
25 a marital community and the license was issued in the names of one or
26 both of the parties.

27 (2) A change in the officers or directors of a licensed corporation
28 or a change in the manager or agent must be reported to the department

1 within thirty days, and such persons must meet the department's
2 approval under section 4 of this act. The department shall charge a
3 fee of at least seventy-five dollars for the processing of such change.

4 NEW SECTION. **Sec. 10.** The department in suspending a license
5 may further provide in the order of suspension that such suspension
6 shall be vacated upon payment to the department by the licensee of a
7 monetary penalty in an amount then fixed by the department.

8 NEW SECTION. **Sec. 11.** (1) It is a gross misdemeanor for a
9 performer to appear in an adult entertainment business in a state of
10 nudity or seminude, unless such performer has obtained a license
11 pursuant to this chapter.

12 (2) An application for a performer's license must be made on a form
13 provided by the department. The performer shall provide the following:
14 (a) The performer's name, including all aliases, address, phone number,
15 social security number, and date of birth; (b) Two passport-size color
16 photographs of the performer; (c) principal occupation; (d) the name
17 and address of the business at which the performer will perform; (e) a
18 record of all prior criminal convictions, if any; and (f) such other
19 information as the department may require by rule.

20 (3) The department shall require the applicant to submit to
21 fingerprinting to assist the Washington state patrol in conducting a
22 background check under section 18 of this act.

23 (4) No license may be issued to:

24 (a) A performer who is under eighteen years of age;

25 (b) A performer who has failed to provide information reasonably
26 necessary for issuance of the license or has falsely answered a
27 question or request for information on the application form.

1 (c) A performer who has violated the provisions of this chapter or
2 been convicted of a firearm offense under chapter 9.41 RCW, an
3 obscenity or pornography offense under chapter 9.68 RCW, a sexual
4 exploitation of children offense under chapter 9.68A RCW, an assault
5 under chapter 9A.36 RCW, a sexual offense under chapter 9A.44 RCW, a
6 prostitution or indecent exposure offense under chapter 9A.88 RCW, or
7 a drug offense under chapter 69.41, 69.50, 69.52, or 69.53 RCW, or a
8 substantially similar ordinance adopted by a local legislative
9 authority or other state statute; and (i) less than two years have
10 elapsed since the date of the conviction or the date of release from
11 confinement for the conviction, whichever is the later date, if the
12 conviction is of a misdemeanor or gross misdemeanor offense; or (ii)
13 less than five years have elapsed since the date of the conviction or
14 the date of release from confinement for the conviction, whichever is
15 the later date, if the conviction is of a felony offense or of two
16 misdemeanor or gross misdemeanor offenses occurring within any twenty-
17 four month period.

18 (5) The performer license fee shall be at least seventy-five
19 dollars per annum and shall be paid at the time of application. One-
20 half of the fee shall be refunded if the application is withdrawn prior
21 to denial of the license by the department.

22 (6) The department shall issue a temporary performer's license
23 valid for a period of five days, if the department is unable to
24 determine the performer's qualifications for an annual license within
25 twenty-four hours from the time of application.

26 (7) Every performer shall keep his or her license on the premises
27 while performing.

28 NEW SECTION. **Sec. 12.** There is hereby imposed an admissions
29 tax of one dollar upon all customers of adult entertainment businesses

1 within the state. The tax provided for in this section shall be
2 collected by the business and remitted to the state treasurer for
3 deposit in the public safety education account established under RCW
4 43.08.250.

5 NEW SECTION. **Sec. 13.** Every business licensed under section 4
6 of this act shall file monthly reports with the department pursuant to
7 rule. The reports shall include the following: (1) The number of
8 customers patronizing the business during the month; (2) the name,
9 address, social security number, and date of birth of all performers
10 appearing in a state of nudity or seminude during the month; and (3)
11 such further information as the department may require.

12 NEW SECTION. **Sec. 14.** The department, for the purpose of
13 maintaining public health, safety, and welfare, may limit the number of
14 licenses issued in each county or region, based upon a finding of
15 inadequate protection against cumulative adverse secondary effects of
16 adult entertainment businesses located in such counties.

17 In determining whether licenses shall be issued in a county or
18 region, the department shall ascertain, pursuant to rule, whether the
19 existing restrictions on adult entertainment businesses reasonably and
20 adequately protect the public health, safety, and welfare against the
21 cumulative adverse secondary effects of licensed adult entertainment
22 businesses.

23 NEW SECTION. **Sec. 15.** The action, order, or decision of the
24 department as to a denial of an application for the reissuance of a
25 license or as to a revocation, suspension, or modification of a license
26 is an adjudicative proceeding and subject to the applicable provisions
27 of chapter 34.05 RCW.

1 (1) An opportunity for a hearing may be provided an applicant for
2 the reissuance of a license prior to the disposition of the
3 application, and if no such opportunity for a prior hearing is provided
4 then an opportunity for a hearing to reconsider the application must be
5 provided the applicant.

6 (2) An opportunity for a hearing must be provided a licensee prior
7 to a revocation or modification of a license and, except as provided in
8 subsection (4) of this section, prior to the suspension of a license.

9 (3) No hearing shall be required until demanded by the applicant or
10 licensee.

11 (4) The department may summarily suspend a license or permit for a
12 period of up to thirty days without a prior hearing if it finds that
13 public health, safety, or welfare imperatively requires emergency
14 action, and incorporates a finding to that effect in its order; and
15 proceedings for revocation or other action must be promptly instituted
16 and determined.

17 NEW SECTION. **Sec. 16.** No provision in this chapter limits the
18 authority of local jurisdictions from further regulating adult
19 entertainment businesses as to hours of operation, location of
20 premises, or manner of operation.

21 The provisions of this chapter relating to the licensing of any
22 adult entertainment business shall not be exclusive and any political
23 subdivision of the state of Washington within whose jurisdiction the
24 adult entertainment business is located may require any registrations
25 or licenses, or charge any fee for the same or similar purpose; and
26 nothing herein shall limit or abridge the authority of any political
27 subdivision to levy and collect a general and nondiscriminatory license
28 fee levied upon all businesses, or to levy a tax based upon gross
29 business conducted by any firm within said political subdivision.

1 NEW SECTION. **Sec. 17.** The director has the following
2 authority:

3 (1) To adopt, amend, or rescind such rules as are deemed necessary
4 to carry out this chapter;

5 (2) To investigate all complaints or reports of conduct in
6 violation of this chapter and to hold hearings as provided in this
7 chapter;

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

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

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

14 (6) To take emergency action ordering summary suspension of a
15 license, or restriction or limitation of the licensee's practice
16 pending proceedings by the disciplining authority;

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

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

22 (9) To adopt standards of conduct or practice for adult
23 entertainment businesses;

24 (10) To grant or deny license applications, to impose any sanction
25 against a license applicant or license holder provided by this chapter;

26 (11) To adjust license fees under this chapter above the minimum
27 set by law;

28 (12) To enter into an assurance of discontinuance in lieu of
29 issuing a statement of charges or conducting a hearing. The assurance
30 shall consist of a statement of the law in question and an agreement to

1 not violate the stated provision. The applicant or license holder
2 shall not be required to admit to any violation of the law, nor shall
3 the assurance be construed as such an admission. Violation of an
4 assurance under this subsection is grounds for disciplinary action;

5 (13) To designate individuals authorized to sign subpoenas and
6 statements of charges; and

7 (14) To employ such investigative, administrative, and clerical
8 staff as necessary for the enforcement of this chapter.

9 NEW SECTION. **Sec. 18.** A person, including but not limited to
10 consumers, licensees, corporations, organizations, and state and local
11 governmental agencies, may submit a written complaint to the department
12 charging a license holder or applicant with a violation of established
13 standards of appropriate conduct. If the department determines that
14 the complaint merits investigation, or if the department has reason to
15 believe, without a formal complaint, that a license holder or applicant
16 may have engaged in inappropriate conduct, the department shall
17 investigate to determine whether there has been inappropriate conduct.
18 A person who files a complaint under this section in good faith is
19 immune from suit in any civil action related to the filing or contents
20 of the complaint.

21 NEW SECTION. **Sec. 19.** (1) If the department determines, upon
22 investigation, that there is reason to believe a violation of this
23 chapter has occurred, a statement of charge or charges shall be
24 prepared and served upon the license holder or applicant. The
25 statement of charge or charges shall be accompanied by a notice that
26 the license holder or applicant may request a hearing to contest the
27 charge or charges. The license holder or applicant must file a request
28 for hearing with the department within twenty days after being served

1 the statement of charges. The failure to request a hearing constitutes
2 a default, whereupon the director may enter an order pursuant to RCW
3 34.05.440.

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

9 NEW SECTION. **Sec. 20.** The procedures governing adjudicative
10 proceedings before agencies under chapter 34.05 RCW, the administrative
11 procedure act, govern all hearings before the director.

12 NEW SECTION. **Sec. 21.** Upon a finding that a license holder or
13 applicant has engaged in conduct or acts or violated conditions that
14 are grounds for disciplinary action, the director may issue an order
15 providing for one or any combination of the following:

16 (1) Revocation of the license;

17 (2) Suspension of the license for a fixed or indefinite term;

18 (3) Censure or reprimand;

19 (4) Compliance with conditions of probation for a designated period
20 of time;

21 (5) Payment of a fine for each violation of this chapter, not to
22 exceed one thousand dollars per violation. Funds received shall be
23 placed in the health professions account;

24 (6) Denial of the license request.

25 Any of the actions under this section may be totally or partly
26 stayed by the director. All costs associated with compliance with
27 orders issued under this section are the obligation of the license
28 holder or applicant.

1 NEW SECTION. **Sec. 22.**

2 The following conduct, acts, or
3 conditions, constitute grounds for disciplinary action against any
4 license holder or applicant under the jurisdiction of this chapter:

5 (1) Conviction of a firearm offense under chapter 9.41 RCW, an
6 obscenity or pornography offense under chapter 9.68 RCW, a sexual
7 exploitation of children offense under chapter 9.68A RCW, an assault
8 under chapter 9A.36 RCW, a sexual offense under chapter 9A.44 RCW, a
9 prostitution or indecent exposure offense under chapter 9A.88 RCW, or
10 a drug offense under chapter 69.41, 69.50, 69.52, or 69.53 RCW, or a
11 substantially similar ordinance adopted by a local legislative
12 authority or other state statute. If the act constitutes a crime,
13 conviction in a criminal proceeding is not a condition precedent to
14 disciplinary action. Upon such a conviction, however, the judgment and
15 sentence is conclusive evidence at the ensuing disciplinary hearing of
16 the guilt of the license holder or applicant of the crime described in
17 the indictment or information, and of the person's violation of the
18 statute on which it is based. For the purposes of this section,
19 conviction includes all instances in which a plea of guilty or nolo
20 contendere is the basis for the conviction and all proceedings in which
21 the sentence has been deferred or suspended.

22 (2) Misrepresentation or concealment of a material fact in
23 obtaining a license or in reinstatement thereof;

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

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

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

28 (b) Not furnishing in writing a full and complete explanation
29 regarding the matter under investigation; or

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

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

3 (6) Aiding and abetting an unlicensed person to practice when a
4 license is required;

5 (7) Interference with an investigation or disciplinary proceeding
6 by willful misrepresentation of facts before the director or the
7 director's authorized representative, or by the use of threats or
8 harassment against any witness to prevent them from providing evidence
9 in a disciplinary proceeding or any other legal action.

10 NEW SECTION. **Sec. 23.** (1) The director shall investigate
11 complaints concerning practice by unlicensed persons of a profession or
12 business for which a license is required by this chapter. In the
13 investigation of the complaints, the director shall have the same
14 authority as provided the director under section 17 of this act. The
15 director shall issue a cease and desist order to a person after notice
16 and hearing and upon a determination that the person has violated this
17 subsection. If the director makes a written finding of fact that the
18 public interest will be irreparably harmed by delay in issuing an
19 order, the director may issue a temporary cease and desist order. The
20 cease and desist order shall not relieve the person so practicing or
21 operating a business without a license from criminal prosecution
22 therefor, but the remedy of a cease and desist order shall be in
23 addition to any criminal liability. The cease and desist order is
24 conclusive proof of unlicensed practice and may be enforced through
25 remedial sanctions under chapter 7.21 RCW. This method of enforcement
26 of the cease and desist order may be used in addition to, or as an
27 alternative to, any provisions for enforcement of agency orders set out
28 in chapter 34.05 RCW.

1 (2) The attorney general, a county prosecuting attorney, the
2 director, a board, or any person may in accordance with the law of this
3 state governing injunctions, maintain an action in the name of this
4 state to enjoin any person practicing a profession or business for
5 which a license is required by this chapter without a license from
6 engaging in such practice or operating such business until the required
7 license is secured. However, the injunction shall not relieve the
8 person so practicing or operating a business without a license from
9 criminal prosecution therefor, but the remedy by injunction shall be in
10 addition to any criminal liability.

11 (3) Unlicensed practice as a performer or operating a business for
12 which a license is required by this chapter unless otherwise exempted
13 by law, constitutes a gross misdemeanor.

14 NEW SECTION. **Sec. 24.** A person or business that violates an
15 injunction issued under this chapter shall pay a civil penalty, as
16 determined by the court, of not more than twenty-five thousand dollars,
17 which shall be paid to the department. For the purpose of this
18 section, the superior court issuing any injunction shall retain
19 jurisdiction and the cause shall be continued, and in such cases the
20 attorney general acting in the name of the state may petition for the
21 recovery of civil penalties.

22 NEW SECTION. **Sec. 25.** (1) The director or individuals acting
23 on the director's behalf are immune from suit in any civil or criminal
24 action based on any disciplinary proceedings or other official acts
25 performed in the course of their duties in the administration and
26 enforcement of this chapter.

1 (2) Local legislative authorities are immune from suit in any civil
2 or criminal action based on any official acts performed in the course
3 of their duties in the administration or enforcement of this chapter.

4 In any challenge to location, distance, or conduct requirements
5 imposed by the local legislative authority pursuant to this chapter,
6 the authority may tender the defense of those issues to the state and
7 the state and local jurisdiction shall jointly assume the obligation to
8 defend issues raised by this chapter.

9 NEW SECTION. **Sec. 26.** Existing adult entertainment businesses
10 are exempt from any location restrictions imposed by this chapter for
11 a period of three years from the date of enactment. At the expiration
12 of the three-year period the department shall ascertain on an annual
13 basis, pursuant to rule, whether an existing business should be
14 licensed at the existing location. In making this determination for
15 each specific location, the department shall consider, but not be
16 limited to, the following: (1) The general public health, safety, and
17 welfare; (2) the number of criminal investigations and arrests
18 occurring on the premises and in the general vicinity; (3) the number
19 of violations of this chapter, department rules, or local ordinances as
20 committed by owners, operators, or performers of the business; and (4)
21 the fiscal impact imposed on local law enforcement agencies related to
22 continuation of the business.

23 NEW SECTION. **Sec. 27.** It is a gross misdemeanor for any person
24 to permit any person under the age of eighteen on the premises of any
25 adult entertainment business under his or her control.

26 NEW SECTION. **Sec. 28.** It is a class C felony for any person to
27 employ or permit any person under the age of eighteen to appear in a

1 state of nudity or seminude on the premises of any adult entertainment
2 business under his or her control.

3 NEW SECTION. **Sec. 29.** Sections 1 through 28 of this act shall
4 constitute a new chapter in Title 18 RCW.

5 NEW SECTION. **Sec. 30.** A new section is added to chapter 43.43 RCW
6 to read as follows:

7 The department of licensing may request of the Washington state
8 patrol criminal identification system information regarding the
9 conviction of offenses listed under section 11(5) of this act for any
10 applicant as defined in section 2 of this act.

11 **Sec. 31.** RCW 7.48A.040 and 1985 c 235 s 1 are each amended to read
12 as follows:

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

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

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

1 NEW SECTION. **Sec. 33.** This act shall take effect January 1,
2 1992.