

SENATE BILL REPORT

SB 5003

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, FEBRUARY 9, 1993

Brief Description: Regulating adult entertainment.

SPONSORS: Senators Nelson, West, Erwin, Oke and McCaslin

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5003 be substituted therefor, and the substitute bill do pass.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; Hargrove, McCaslin, Nelson, and Roach.

Staff: Jon Carlson (786-7459)

Hearing Dates: January 22, 1993; February 9, 1993

BACKGROUND:

Currently, there are no statutes specifically licensing or regulating adult entertainment businesses or their employees. It has been suggested that regulation of these businesses would decrease the amount of illegal activities which occur on these premises.

It is unlawful to maintain a moral nuisance within this state. The maximum penalty for maintaining a moral nuisance is \$25,000.

SUMMARY:

A new chapter is created for the regulation of adult entertainment businesses.

Every owner, operator or manager of an adult entertainment business is required to obtain a business license from the Department of Licensing. The applicant must submit extensive background information, undergo fingerprinting, and is subjected to a background check conducted by the State Patrol. The department has the discretion to grant or refuse the license based on the background information.

The business license is denied if the applicant: (1) is a partnership or corporation with partners, officers, or directors who do not meet the applicant qualifications; (2) has a manager or agent who does not meet the applicant qualifications; (3) is a corporation not authorized to conduct business in the state; (4) is under the age of 18; (5) knowingly fails to provide or, with an intent to misrepresent, falsely answers any information requested; or (6) proposes the location of the business within a zone prohibited by the statute or the local governing authority.

Minimum license fees are set and the department is granted authority covering rule-making, complaints, investigations, and disciplinary actions.

The business license is not transferable except to a surviving spouse of a deceased licensee if the transferor and transferee were maintaining a marital community and the license was issued in the name of the deceased licensee.

Each business must file a monthly report with the department listing: (1) the names, addresses, social security numbers, and dates of birth of each performer appearing during the month; and (2) such further information as the department may require by rule.

A 1,000 foot zoning limitation is established. The business may not be established within 1,000 feet of any residential zone, single or multifamily dwelling, church, park, playground, day care center, or elementary or secondary school. The zoning limit may be increased or decreased based on specific site impact. Existing adult entertainment businesses are exempt from these location restrictions until January 1, 1996. If location requirements preclude location of adult entertainment businesses within a city, town, or county, a regional adult entertainment business location plan must be established.

Each performer at an adult entertainment business must obtain a license from the department. The performer must also submit background information, fingerprints, and undergo a State Patrol background check. The performer must be at least 18 years of age and must truthfully answer all information requested on the application form. The department may use discretion in issuing a license to persons who commit various criminal offenses. Identifying information provided in the application for a performer's license is exempt from public disclosure.

The failure to have a business or performer's license is a gross misdemeanor. Subsequent failures to obtain a business license within a two-year period constitute a class C felony. It is a gross misdemeanor to allow a person under age 18 on the premises of an adult entertainment business. It is a class C felony to employ or allow a person under age 18 to appear, in the state of nudity or semi-nudity, on the premises of an adult entertainment business.

The department is granted immunity for actions taken in compliance with the new chapter. Local legislative authorities are given immunity for official acts performed in the course of the administration or enforcement of this chapter. The local authorities may request the state to join in the defense of challenges to the new chapter.

The penalty for maintaining a moral nuisance is increased to a maximum of \$50,000.

EFFECT OF PROPOSED SUBSTITUTE:

Several technical and clarifying amendments are adopted.

Statutory references are added with regard to the immunity of citizens and public officials under the provisions of the act.

The language which immunizes the state for actions of a city, town or county is deleted.

Appropriation: none

Revenue: none

Fiscal Note: none requested

Effective Date: January 1, 1994

TESTIMONY FOR:

Registration and licensing are necessary to protect our communities. There has been extensive criminal activity occurring in and around the business locations.

TESTIMONY AGAINST:

Further licensing of these businesses is unnecessary. The immunities provided are unduly broad.

TESTIFIED: O. Dennis Finch, Citizens to Protect Community Standards (pro); Stan Choyce, Citizens to Protect Community Standards (con); Don Brockett, Spokane County Prosecutor (pro); Bob Seeber, Washington State Restaurant Association (con); John Keith, Assistant Attorney General, Department of Licensing; Harold Knox (pro); Jerry Sheehan, ACLU (con)