
ENGROSSED SUBSTITUTE HOUSE BILL 1575

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Law & Justice (originally sponsored by Representatives Sherstad, Koster, Mulliken, Thompson, Ballasiotes, Lambert, Hickel, Sheahan, Reams and Dunn)

Read first time 03/03/97.

1 AN ACT Relating to a model ordinance for cities, towns, and
2 counties for the regulation of live adult entertainment establishments;
3 adding a new chapter to Title 18 RCW; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** This act may be known and cited as the live
6 adult entertainment establishment model licensing act.

7 NEW SECTION. **Sec. 2.** The purpose of this chapter is to encourage
8 regulation of the negative secondary impacts of live adult
9 entertainment on the health, safety, and welfare of the citizens of
10 this state by providing a comprehensive compilation of sound, uniform
11 laws for licensing and regulating conduct in live adult entertainment
12 establishments. These uniform laws are provided to serve as a model
13 that local jurisdictions may adopt by reference in whole or in part,
14 including all future amendments or additions to the laws. A local
15 jurisdiction that adopts this chapter by reference may at any time
16 exclude any section or sections from this chapter that the local
17 jurisdiction does not desire to include in its local ordinance. This
18 chapter is not intended to deny a local jurisdiction its legislative

1 power, but rather to enhance regulation of the negative secondary
2 impacts of live adult entertainment throughout the state by having
3 uniform laws available. This chapter may not be construed as
4 permitting or promoting lewd or obscene conduct.

5 NEW SECTION. **Sec. 3.** The legislature finds that:

6 (1) Live adult entertainment establishments require special
7 supervision from the public safety agencies of the cities, towns, and
8 counties in which the establishments might locate in order to protect
9 and preserve the health, safety, and welfare of the patrons of the
10 establishments as well as the citizens of the state;

11 (2) Live adult entertainment establishments are frequently used for
12 unlawful activities, including prostitution and sexual exploitation of
13 minors and the illegal use and sale of narcotics;

14 (3) The concern over sexually transmitted diseases is a legitimate
15 health concern of the state that demands reasonable regulation of live
16 adult entertainment establishments in order to protect the health and
17 well-being of the citizens;

18 (4) Local licensing is a legitimate and reasonable means of
19 accountability to ensure that operators of live adult entertainment
20 establishments comply with reasonable regulations and to ensure that
21 operators do not knowingly allow their establishments to be used as
22 places of illegal sexual activity or solicitation;

23 (5) Live adult entertainment establishments, due to their nature,
24 have secondary adverse impacts upon the health, safety, and welfare of
25 the citizenry through increases in crime and increases in the
26 opportunity for the spread of sexually transmitted diseases;

27 (6) It is not the intent of this legislation to suppress speech
28 activities protected by the First Amendment to the United States
29 Constitution or Article I, section 5 of the state Constitution, but to
30 enact content neutral legislation that addresses the negative secondary
31 impacts of live adult entertainment establishments; and

32 (7) The financial resources of many cities, towns, and counties in
33 this state are limited, making it difficult for those jurisdictions to
34 conduct studies necessary to enact local legislation and to address
35 legal challenges to the local legislation. The model ordinance adopted
36 in this chapter will provide a means by which local jurisdictions can
37 adopt reasonable time, place, and manner regulations of live adult

1 entertainment establishments without having to bear a disproportionate
2 share of the costs of enacting and enforcing this type of legislation.

3 NEW SECTION. **Sec. 4.** The addition of a new section to, or
4 amendment or repeal of a section in, this chapter by the legislature is
5 deemed to amend an ordinance of a city, town, or county that has
6 adopted by reference this chapter or any part of this chapter, and it
7 is not necessary for the legislative authority of a city, town, or
8 county to take an action with respect to the addition, amendment, or
9 repeal notwithstanding RCW 35.21.180, 35A.12.140, 35A.13.180, and
10 36.32.120(7).

11 NEW SECTION. **Sec. 5.** The definitions in this section apply
12 throughout this chapter unless the context clearly requires otherwise.

13 (1) "Adult entertainment" means:

14 (a) An exhibition, performance, or dance conducted in a commercial
15 premises for a member of the public where the exhibition, performance,
16 or dance involves a person who is nude or seminude. "Adult
17 entertainment" includes, but is not limited to, a performance commonly
18 known as "striptease";

19 (b) An exhibition, performance, or dance conducted in a commercial
20 premises for a member of the public where the exhibition, performance,
21 or dance is distinguished or characterized by a predominant emphasis on
22 the depiction, description, simulation, or relation to the following
23 specified sexual activities:

24 (i) Human genitals in a state of sexual stimulation or arousal;

25 (ii) Acts of human masturbation, sexual intercourse, sodomy, oral
26 copulation, or bestiality; or

27 (iii) Fondling or other erotic touching of human genitals, pubic
28 region, buttocks, or female breasts; or

29 (c) An exhibition, performance, or dance conducted in a commercial
30 premises that is intended to sexually stimulate a member of the public.
31 This includes, but is not limited to, such an exhibition, performance,
32 or dance performed for, arranged with, or engaged in with fewer than
33 all members of the public on the premises at that time, with separate
34 consideration paid, either directly or indirectly, for the performance,
35 exhibition, or dance and that is commonly referred to as table dancing,
36 couch dancing, taxi dancing, lap dancing, private dancing, or straddle
37 dancing.

1 (2) "Applicant" means the individual or entity seeking a live adult
2 entertainment establishment license.

3 (3) "Applicant control person" means all partners, corporate
4 officers and directors, and other individuals in the applicant's
5 business organization who hold a significant interest in the live adult
6 entertainment business, based on responsibility for management of the
7 live adult entertainment establishment.

8 (4) "Clerk" means an employee or agent of the jurisdiction
9 designated to administer this chapter or a designee of the employee or
10 agent.

11 (5) "Employee" means a person, including a manager, entertainer, or
12 an independent contractor, who works in or at, or renders services
13 directly related to the operation of, a live adult entertainment
14 establishment.

15 (6) "Entertainer" means a person who provides adult entertainment
16 within a live adult entertainment establishment, whether or not a fee
17 is charged or accepted for the entertainment.

18 (7) "Liquor" means a beverage defined in RCW 66.04.010.

19 (8) "Live adult entertainment establishment" means a commercial
20 premises to which a member of the public is invited or admitted and
21 where an entertainer provides live adult entertainment to a member of
22 the public on a regular basis or as a substantial part of the premises
23 activity.

24 (9) "Manager" means a person who manages, directs, administers, or
25 is in charge of the affairs or conduct, or the affairs and conduct, of
26 a portion of an activity involving adult entertainment occurring at a
27 live adult entertainment establishment, and includes an assistant
28 manager working with or under the direction of a manager to carry out
29 such affairs or conduct.

30 (10) "Member of the public" means a customer, patron, club member,
31 or person, other than an employee, who is invited or admitted to a live
32 adult entertainment establishment.

33 (11) "Nude or seminude" means a state of complete or partial
34 undress in such costume, attire, or clothing so as to expose any
35 portion of the female breast below the top of the areola or any portion
36 of the pubic region, anus, buttocks, vulva, or genitals, or human male
37 genitals in a discernibly turgid state, even if completely and opaquely
38 covered.

1 (12) "Operator" means a person operating, conducting, or
2 maintaining a live adult entertainment establishment.

3 (13) "Person" means an individual, partnership, corporation, trust,
4 incorporated or unincorporated association, marital community, joint
5 venture, governmental entity, or other entity or group of persons
6 however organized.

7 (14) "Sexual conduct" means an act of:

8 (a) Sexual intercourse within its ordinary meaning, occurring upon
9 a penetration, however slight; or

10 (b) A penetration of the vagina or anus, however slight, by an
11 object; or

12 (c) A contact between persons involving the sex organs of one
13 person and the mouth or anus of another; or

14 (d) Masturbation, manual or instrumental, of oneself or of one
15 person by another; or

16 (e) Touching of the sex organs, anus, or female breasts, whether
17 clothed or unclothed, of oneself or of one person by another.

18 NEW SECTION. **Sec. 6.** (1) A person may not conduct, manage, or
19 operate a live adult entertainment establishment unless the person is
20 the holder of a valid and subsisting license from the jurisdiction to
21 do so.

22 (2) An entertainer, employee, or manager may not knowingly work in
23 or about, or knowingly perform a service or entertainment directly
24 related to the operation of, an unlicensed live adult entertainment
25 establishment.

26 (3) An entertainer may not perform in a live adult entertainment
27 establishment unless the person is the holder of a valid and subsisting
28 license from the jurisdiction to do so.

29 (4) A manager may not work in a live adult entertainment
30 establishment unless the person is the holder of a valid and subsisting
31 license from the jurisdiction to do so.

32 NEW SECTION. **Sec. 7.** A jurisdiction may not issue a license to:

33 (1) A natural person who has not attained the age of twenty-one
34 years, except that a license may be issued to a person who has attained
35 the age of eighteen years with respect to live adult entertainment
36 establishments where no intoxicating liquors are served or provided;

1 (2) A person whose place of business is conducted by a manager or
2 agent, unless the manager or agent has obtained a manager's license;

3 (3) A partnership, unless all the members of the partnership are
4 qualified to obtain a license. The license must be issued to the
5 manager or agent of the partnership; and

6 (4) A corporation, unless all the officers and directors of the
7 corporation are qualified to obtain a license under this chapter. The
8 license must be issued to the manager or agent of the corporation.

9 NEW SECTION. **Sec. 8.** (1) An application for a live adult
10 entertainment establishment license must be submitted to the clerk in
11 the name of the person or entity proposing to operate a live adult
12 entertainment establishment on the business premises and must be signed
13 by the person and certified as true under penalty of perjury. An
14 application must be submitted on a form supplied by the jurisdiction,
15 which must require the following information:

16 (a) For the applicant and for each applicant control person,
17 provide: Names; aliases or previous names, if any; driver's license
18 number, if any; social security number, if any; business, mailing, and
19 residential address; and business telephone number;

20 (b) If a partnership, whether the partnership is general or
21 limited, and if a corporation, the date and place of incorporation;
22 evidence that the partnership or corporation is in good standing under
23 the laws of this state; and the name and address of the registered
24 agent for service of process;

25 (c) Whether the applicant or a partner, corporate officer, or
26 director of the applicant holds another license under this chapter or
27 a license for a similar live adult entertainment or sexually oriented
28 business, including a motion picture theater and a panoram, from the
29 jurisdiction or another city or county or state, and, if so, the name
30 and address of each other licensed business;

31 (d) A summary of the business history of the applicant and
32 applicant control persons in owning or operating the live adult
33 entertainment or other sexually oriented business, providing names,
34 addresses, and dates of operation for the businesses and whether a
35 business license or live adult entertainment establishment license has
36 been revoked or suspended and the reason for the revocation or
37 suspension;

1 (e) For the applicant and all applicant control persons, all
2 criminal convictions or forfeitures within five years immediately
3 preceding the date of the application, other than parking offenses or
4 minor traffic infractions, including the dates of conviction, nature of
5 the crime, name and location of the court, and disposition;

6 (f) For the applicant and all applicant control persons, a
7 description of business, occupation, or employment history for the
8 three years immediately preceding the date of the application;

9 (g) Authorization for the jurisdiction and the jurisdiction's
10 agents and employees to seek information to confirm statements set
11 forth in the application;

12 (h) The location and doing-business-as name of the proposed live
13 adult entertainment establishment, including a legal description of the
14 property, street address, and telephone number, together with the name
15 and address of each owner and lessee of the property;

16 (i) Two two-inch by two-inch color photographs of the applicant and
17 applicant control persons, taken within six months of the date of
18 application showing only the full face;

19 (j) A complete set of fingerprints for the applicant or each
20 applicant control person, taken by the law enforcement agency for the
21 jurisdiction, or such other entity as authorized by the law enforcement
22 agency; and

23 (k) A scale drawing or diagram showing the configuration of the
24 premises for the proposed live adult entertainment establishment,
25 including a statement of the total floor space occupied by the
26 business, and marked dimensions of the interior of the premises.
27 Performance areas, seating areas, manager's office and stations,
28 restrooms, and service areas must be clearly marked on the drawing. An
29 application for a license for a live adult entertainment establishment
30 must include building plans that demonstrate conformance with the
31 jurisdiction's building code requirements.

32 (2) An application must be deemed complete upon the applicant's
33 provision of all information requested in subsection (1) of this
34 section, including the identification of "none" where that is the
35 correct response, and the applicant's verification that the application
36 is complete. The clerk may request other information or clarification
37 in addition to that provided in a complete application if necessary to
38 determine compliance with this chapter.

1 (3) The applicant must pay a nonrefundable application fee at the
2 time of filing an application in order to defray the costs of
3 processing the application.

4 (4) An applicant shall verify, under penalty of perjury, that the
5 information contained in the application is true.

6 (5) If, subsequent to the issuance of a live adult entertainment
7 establishment license for a business, a person or entity acquires a
8 significant interest based on responsibility for management or
9 operation of the business, notice of the acquisition must be provided
10 by the business or person or entity in writing to the clerk, no later
11 than twenty-one days following the acquisition. The notice must
12 include the information required for the original live adult
13 entertainment establishment license application.

14 (6) The live adult entertainment establishment license, if granted,
15 must state on its face the name of the person or persons to whom it is
16 issued, the expiration date, the doing-business-as name, and the
17 address of the licensed live adult entertainment establishment. The
18 license must be posted in a conspicuous place at or near the entrance
19 to the live adult entertainment establishment so that the notice can be
20 easily read when the business is open.

21 (7) A person granted a live adult entertainment establishment
22 license under this chapter may not operate the live adult entertainment
23 establishment under a name not specified on the license, nor may a
24 person operate a live adult entertainment establishment under a
25 designation or at a location not specified on the license.

26 (8) Upon receipt of the complete application and fee, the clerk
27 shall provide copies to the police, fire, and building departments of
28 the jurisdiction for their investigations and reviews to determine
29 compliance of the proposed live adult entertainment establishment with
30 the laws and regulations that each department administers. Each
31 department shall, within thirty days of the date of the application,
32 inspect the application and premises and shall make a written report to
33 the clerk whether the application and premises comply with the laws
34 administered by the department. A license may not be issued unless
35 each department reports that the applicant and premises comply with the
36 relevant laws. If the premises is not yet constructed, the departments
37 shall base their recommendations as to premises compliance on their
38 review of the drawings submitted in the application. A live adult
39 entertainment establishment license approved before the premises

1 construction must contain a condition that the premises may not open
2 for business until the premises have been inspected and determined to
3 be in substantial conformance with the drawings submitted with the
4 application. A department shall recommend denial of a license under
5 this subsection if it finds that the proposed live adult entertainment
6 establishment is not in conformance with this chapter or other
7 applicable law in effect in the jurisdiction. The department shall
8 cite in a recommendation for denial the specific reason for the
9 recommendation including applicable laws.

10 (9) The clerk shall issue a live adult entertainment establishment
11 license within thirty days of the date of filing a complete license
12 application and fee unless the clerk determines that the applicant
13 failed to meet a requirement of this chapter, failed to provide
14 information required under this section, or made a false, misleading,
15 or fraudulent statement of material fact on the license application.
16 The clerk shall grant an extension of time in which to provide all
17 information required for a complete license application upon the
18 request of the applicant. If the clerk finds that the applicant has
19 failed to meet a requirement for issuance of a live adult entertainment
20 establishment license, the clerk shall deny the application in writing
21 and shall cite the specific reasons for the denial, including
22 applicable laws. If the clerk fails to issue or deny the license
23 within thirty days of the date of filing of a complete application and
24 fee, the applicant may, subject to all other applicable laws, operate
25 the business for which the license was sought until notification by the
26 clerk that the license has been denied, but the clerk may not extend
27 the applicant review time for more than an additional twenty days.

28 NEW SECTION. **Sec. 9.** (1) A person may not work as a manager,
29 assistant manager, or entertainer at a live adult entertainment
30 establishment without a manager's or an entertainer's license from the
31 jurisdiction. An applicant for a manager's or entertainer's license
32 must complete an application on forms provided by the jurisdiction
33 containing the information identified in this subsection. A
34 nonrefundable application fee must accompany the application. The
35 clerk shall provide a copy of the application to the law enforcement
36 agency of the jurisdiction for its review, investigation, and
37 recommendation. An application for a manager's or entertainer's
38 license must be signed by the applicant and certified to be true under

1 penalty of perjury. The manager's or entertainer's license application
2 must require the following information:

3 (a) The applicant's name, home address, home telephone number, date
4 and place of birth, fingerprints taken by the law enforcement agency of
5 the jurisdiction or such other entity as authorized by the local law
6 enforcement agency, social security number, and any stage names or
7 nicknames used in entertaining;

8 (b) The name and address of each live adult entertainment
9 establishment at which the applicant intends to work;

10 (c) Documentation that the applicant has attained the age of
11 eighteen years. Any two of the following are acceptable as
12 documentation of age:

13 (i) A motor vehicle operator's license issued by a state, bearing
14 the applicant's photograph and date of birth;

15 (ii) A state-issued identification card bearing the applicant's
16 photograph and date of birth;

17 (iii) A passport issued by the United States of America;

18 (iv) An immigration card issued by the United States of America; or

19 (v) Other identification that the jurisdiction determines to be
20 acceptable and reliable;

21 (d) A complete statement of all convictions of the applicant for
22 misdemeanor or felony violations in the jurisdiction or another city,
23 county, or state within five years immediately preceding the date of
24 the application, except parking violations or minor traffic
25 infractions;

26 (e) A description of the applicant's principal activities or
27 services to be rendered;

28 (f) Two two-inch by two-inch color photographs of the applicant,
29 taken within six months of the date of application showing only the
30 full face; and

31 (g) Authorization for the city and its agents and employees to
32 investigate and confirm statements in the application.

33 (2) The clerk may request additional information or clarification
34 if necessary to determine compliance with this chapter.

35 (3) The contents of an application for an entertainer's license and
36 any additional information submitted by an applicant for an
37 entertainer's license are confidential and are not subject to public
38 disclosure under chapter 42.17 RCW. Nothing in this subsection

1 prohibits the exchange of information among government agencies for law
2 enforcement or licensing purposes.

3 (4) An entertainer shall provide the entertainer's license to the
4 live adult entertainment establishment manager on duty on the premises
5 before the entertainer's performance. The manager shall retain the
6 license of the entertainer so as to be readily available for inspection
7 by the jurisdiction during business hours of the live adult
8 entertainment establishment.

9 (5) The clerk shall issue a live adult entertainment establishment
10 manager's or entertainer's license within fourteen days from the date
11 the complete application and fee are received unless the clerk
12 determines that the applicant failed to provide information required to
13 be supplied according to this chapter, made a false, misleading, or
14 fraudulent statement of material fact in the application, or failed to
15 meet a requirement for issuance of a license under this chapter. If
16 the clerk determines that the applicant does not qualify for the
17 license, the clerk shall deny the application in writing and shall cite
18 the specific reasons for the denial, including applicable laws. If the
19 clerk fails to approve or deny an application for a live adult
20 entertainment establishment manager's license within fourteen days of
21 filing of a complete application, the applicant may, subject to all
22 other applicable laws, commence work as a live adult entertainment
23 establishment manager in a licensed live adult entertainment
24 establishment until notified by the clerk that the license is denied,
25 but the clerk may not extend the application review time for more than
26 an additional twenty days.

27 (6) An applicant for an entertainer's license must be issued a
28 temporary license upon receipt of a complete license application and
29 fee. The temporary license automatically expires on the fourteenth day
30 following the filing of the complete license application and fee unless
31 the clerk fails to approve or deny the license application, in which
32 case the temporary license is valid until the clerk approves or denies
33 the application or until the final determination of an appeal from a
34 denial of the application. The clerk may not extend the application
35 review time for more than an additional twenty days.

36 NEW SECTION. **Sec. 10.** The jurisdiction shall fix license fees for
37 live adult entertainment establishment licenses, live adult
38 entertainment establishment manager's licenses, and live adult

1 entertainer's licenses. The jurisdiction shall base the license fees
2 on the costs to the jurisdiction to process and investigate license
3 applications and to enforce the licensing provisions of this chapter.

4 NEW SECTION. **Sec. 11.** (1) An applicant may appeal the action of
5 the clerk in refusing to issue or renew a license issued under this
6 chapter. The applicant must file a notice of appeal with the clerk
7 within ten days of issuance of the notice of refusal to issue or renew.
8 A hearing body designated by the jurisdiction to hear licensing appeals
9 shall hear the appeal. The hearing must be conducted within thirty
10 days of the filing of the notice of appeal. At the hearing, the
11 appellant and other interested persons may appear and be heard, subject
12 to the rules of the hearing body. The hearing body shall render its
13 decision in writing within fifteen days of the close of the appeal
14 hearing.

15 (2) An applicant may appeal a decision of the hearing body rendered
16 under subsection (1) of this section by filing a petition for a writ of
17 certiorari, prohibition, or mandamus in the superior court within ten
18 days of the date the decision of the hearing body is mailed to the
19 applicant.

20 NEW SECTION. **Sec. 12.** (1) An employee of a live adult
21 entertainment establishment must adhere to the following standards of
22 conduct while in an area in which a member of the public is allowed to
23 be present:

24 (a) An employee may not be unclothed or in such less than opaque
25 and complete attire, costume, or clothing so as to expose to view a
26 portion of the female breast below the top of the areola or a portion
27 of the pubic region, anus, buttocks, vulva, or genitals, except upon a
28 stage at least eighteen inches above the immediate floor level and
29 removed at least eight feet from the nearest member of the public;

30 (b) An employee mingling with a member of the public may not be
31 unclothed or in less than opaque and complete attire, costume, or
32 clothing as described in (a) of this subsection, nor may a male
33 employee appear with his genitals in a discernibly turgid state, even
34 if completely and opaquely covered, or wearing or using a device or
35 covering that simulates the same;

36 (c) An employee mingling with a member of the public may not wear
37 or use a device or covering exposed to view that simulates the breast

1 below the top of the areola, vulva, genitals, anus, a portion of the
2 pubic region, or buttocks;

3 (d) An employee may not caress, fondle, or erotically touch a
4 member of the public or another employee. An employee may not
5 encourage or permit a member of the public to caress, fondle, or
6 erotically touch an employee;

7 (e) An employee may not perform an actual or simulated act of
8 sexual conduct or an act that constitutes a violation of chapter 7.48A
9 RCW, the Washington moral nuisance statute, or any local ordinance
10 regulating offenses against public morals;

11 (f) An employee mingling with a member of the public may not
12 conduct a dance, performance, or exhibition in or about the nonstage
13 area of the live adult entertainment establishment unless that dance,
14 performance, or exhibition is performed at a distance of at least four
15 feet from the member of the public for whom the dance, performance, or
16 exhibition is performed. The distance of four feet is measured from
17 the torso of the dancer to the torso of the member of the public;

18 (g) A tip or gratuity offered to or accepted by an entertainer may
19 not be offered or accepted before a performance, dance, or exhibition
20 provided by the entertainer. An entertainer performing upon a stage
21 area may not accept any form of gratuity offered directly to the
22 entertainer by a member of the public. A gratuity offered to an
23 entertainer performing upon a stage area must be placed into a
24 receptacle provided for receipt of gratuities by the management of the
25 live adult entertainment establishment or provided through a manager on
26 duty on the premises. A gratuity or tip offered to an entertainer
27 conducting a performance, dance, or exhibition in or about the nonstage
28 area of the live adult entertainment establishment must be placed into
29 the hand of the entertainer or into a receptacle provided by the
30 entertainer, and not upon the person or into the clothing of the
31 entertainer.

32 (2) At a live adult entertainment establishment the following are
33 required:

34 (a) Admission must be restricted to persons of the age of eighteen
35 years or older. An owner, operator, manager, or other person in charge
36 of a live adult entertainment establishment may not knowingly permit or
37 allow a person under the age of eighteen years to be in or upon the
38 premises;

1 (b) Neither the performance, nor any photograph, drawing, sketch,
2 or other pictorial or graphic representation of the performance,
3 displaying a portion of the breasts below the top of the areola or a
4 portion of the pubic hair, buttocks, genitals, or anus may take place
5 or be located so as to be visible to a minor who is or might be outside
6 of the live adult entertainment establishment; and

7 (c) A member of the public may not be permitted to enter into a
8 nonpublic portion of the live adult entertainment establishment, that
9 includes but is not limited to: The dressing rooms of the
10 entertainers; other rooms provided for the benefit of employees; or the
11 kitchen or storage areas. However, a person delivering goods and
12 materials, food and beverages, or performing maintenance or repairs to
13 the premises or equipment on the premises may be permitted into a
14 nonpublic area to the extent required to perform the person's job
15 duties.

16 (3) The responsibilities of the manager of a live adult
17 entertainment establishment include but are not limited to:

18 (a) A licensed manager shall be on duty at a live adult
19 entertainment establishment at all times adult entertainment is
20 provided or members of the public are present on the premises. The
21 name and license of the manager must be prominently posted during
22 business hours. The manager is responsible for verifying that a person
23 who provides adult entertainment within the premises possesses a
24 current and valid entertainer's license;

25 (b) The licensed manager on duty may not be an entertainer;

26 (c) The manager or an assistant manager licensed under this chapter
27 must maintain visual observation of each member of the public at all
28 times an entertainer is present in the public or performance areas of
29 the live adult entertainment establishment. If there is more than one
30 performance area, or the performance area is of such a size or
31 configuration that one manager or assistant manager is unable to
32 visually observe, at all times, each entertainer, each employee, and
33 each member of the public, a manager or assistant manager licensed
34 under this chapter must be provided for each public or performance area
35 or portion of a public or performance area visually separated from
36 other portions of the live adult entertainment establishment; and

37 (d) The manager is responsible for and must ensure that the actions
38 of members of the public, the entertainers, and all other employees
39 comply with this chapter.

1 (4)(a) The performance area of the live adult entertainment
2 establishment where adult entertainment is provided must be a stage or
3 platform at least eighteen inches in elevation above the level of the
4 patron seating areas, and must be separated by a distance of at least
5 eight feet from all areas of the premises to which a member of the
6 public has access. A continuous railing affixed to the floor and
7 measuring at least three feet in height and located at least eight feet
8 from all points of the performance area must be installed on the floor
9 of the premises to separate the performance area and the patron seating
10 areas. The stage and the entire interior portion of cubicles, rooms,
11 or stalls in which adult entertainment is provided must be visible from
12 the common areas of the premises and at least one manager's station.
13 Visibility may not be blocked or obstructed by doors, curtains, drapes,
14 or other obstruction.

15 (b) Sufficient lighting must be provided and equally distributed
16 throughout the public areas of the premises so that all objects are
17 plainly visible at all times. A minimum lighting level of thirty lux
18 horizontal, measured at thirty inches from the floor and on ten-foot
19 centers is required for all areas of the live adult entertainment
20 establishment where members of the public are permitted.

21 (c) A sign at least two feet by two feet with letters at least one
22 inch high must be conspicuously displayed in the public area of the
23 premises stating the following:

24 THIS LIVE ADULT ENTERTAINMENT ESTABLISHMENT IS REGULATED BY THE
25 LAWS OF THIS JURISDICTION. ENTERTAINERS ARE:

- 26 A. NOT PERMITTED TO ENGAGE IN ANY TYPE OF SEXUAL CONDUCT;
27 B. NOT PERMITTED TO APPEAR SEMINUDE OR NUDE, EXCEPT ON STAGE;
28 C. NOT PERMITTED TO ACCEPT TIPS OR GRATUITIES IN ADVANCE OF
29 THEIR PERFORMANCE;
30 D. NOT PERMITTED TO ACCEPT TIPS DIRECTLY FROM PATRONS WHILE
31 PERFORMING UPON ANY STAGE AREA.

32 (d)(i) All papers, records, and things required to be kept under
33 this chapter must be open to inspection by the clerk during the hours
34 the licensed premises are open for business, upon two days' written
35 notice. The purpose of the inspections must be to determine whether
36 the papers, records, and things meet the requirements of this chapter.

37 (ii) A live adult entertainment establishment must maintain and
38 retain for a period of two years the name, address, and age of each
39 person employed or otherwise retained or allowed to perform on the

1 premises as an entertainer, including independent contractors and their
2 employees. This information must be open to inspection by the clerk
3 during hours of operation of the business upon twenty-four hours'
4 notice to the licensee.

5 (e) In order to ensure compliance with this chapter, all areas of
6 a licensed live adult entertainment establishment that are open to a
7 member of the public must be open to inspection by agents and employees
8 of the jurisdiction during the hours the premises are open for
9 business. The purpose of the inspections must be to determine if the
10 licensed premises are operated in accordance with this chapter.
11 Unannounced inspections are necessary to ensure compliance with this
12 chapter.

13 (5) A live adult entertainment establishment may not be operated or
14 otherwise open to the public between the hours of 2:00 a.m. and 10:00
15 a.m.

16 (6)(a) This chapter does not prohibit:

17 (i) Plays, operas, musicals, or other dramatic works that are not
18 obscene;

19 (ii) Classes, seminars, and lectures that are held for serious
20 scientific or educational purposes and that are not obscene; or

21 (iii) Exhibitions, performances, expressions, or dances that are
22 not obscene.

23 (b) The exemptions in (a) of this subsection do not apply to sexual
24 conduct as defined in section 5 of this act or the sexual conduct
25 described in RCW 7.48A.010(2)(b) (ii) and (iii).

26 (c) Whether or not activity is obscene shall be determined by
27 consideration of standards set forth in RCW 7.48A.010(2).

28 NEW SECTION. **Sec. 13.** (1) A license issued under this chapter
29 expires on the thirty-first day of December of each year. A license
30 fee may not be prorated, except that if the original application is
31 made subsequent to June 30th then one-half of the annual fee may be
32 accepted for the remainder of the year. A license issued under this
33 chapter is not assignable.

34 (2) Application for renewal of a license issued under this chapter
35 must be made to the clerk no later than thirty days before the
36 expiration for a live adult entertainment establishment license and no
37 later than fourteen days before the expiration for live adult
38 entertainment establishment manager's and entertainer's licenses. The

1 clerk shall issue the renewal license in the same manner and on payment
2 of the same fees as for an original application under this chapter.
3 The clerk shall assess and collect an additional charge, computed as a
4 percentage of the license fee, on an application not made on or before
5 the date, as follows:

6	Days Past Due	Percent of License Fee
7	7-30	25%
8	31-60	50%
9	61 and over	75%

10 (3) The clerk shall renew a license upon application: Unless the
11 clerk is aware of a fact that would disqualify the applicant from being
12 issued the license for which the applicant seeks renewal; and if the
13 application complies with this chapter.

14 (4) The clerk shall provide written notice to the licensee of the
15 decision to not renew the license. The notice must include the reason
16 for the decision to not renew and inform the licensee of the right to
17 appeal the decision to the designated hearing body.

18 NEW SECTION. **Sec. 14.** (1) The clerk may, upon the recommendation
19 of the chief law enforcement officer of the jurisdiction or the chief
20 law enforcement officer's designee and as provided in subsection (2) of
21 this section, suspend or revoke a license issued under this chapter:

22 (a) If the license was procured by fraud or false representation of
23 fact;

24 (b) For the violation of, or failure to comply with this chapter by
25 the licensee or by the licensee's servant, agent, or employee when the
26 licensee knew or should have known of the violation committed by the
27 servant, agent, or employee; or

28 (c) For the conviction of the licensee of a crime or offense
29 involving prostitution, promoting prostitution, a liquor law violation,
30 a transaction involving a controlled substance, as defined in chapter
31 69.50 RCW, or a violation of chapter 9.68A RCW, committed on the
32 premises, or the conviction of the licensee's servant, agent, or
33 employee of a crime or offense involving prostitution, promoting
34 prostitution, a liquor law violation, a transaction involving a
35 controlled substance, as defined in chapter 69.50 RCW, or a violation
36 of chapter 9.68A RCW, committed on the premises in which the licensee's
37 live adult entertainment establishment is conducted when the licensee

1 knew or should have known of the violations committed by the servant,
2 agent, or employee. A license may be suspended or revoked under this
3 subsection only if the conviction of the crime or offense occurred
4 within twenty-four months of the date of the decision to suspend or
5 revoke the license.

6 (2) The clerk shall revoke a license procured by fraud or
7 misrepresentation. If another violation of this chapter or other
8 applicable ordinance, statute, or regulation is found, the license must
9 be suspended for thirty days upon the first violation, ninety days upon
10 the second violation within a twenty-four-month period, and revoked for
11 a third and subsequent violation within a twenty-four-month period, not
12 including a period of suspension.

13 (3) The clerk shall provide at least ten days' prior written notice
14 to the licensee of the decision to suspend or revoke the license
15 stating the reasons for the decision to suspend or revoke. The notice
16 must inform the licensee of the right to appeal the decision to the
17 designated hearing body and must state the effective date of the
18 revocation or suspension. A licensee who wishes to appeal the clerk's
19 decision must file a notice of appeal with the clerk within ten days of
20 the date of the clerk's notice of the decision to suspend or revoke the
21 license. The hearing must be conducted within forty-five days of the
22 filing of the notice of appeal under the rules and procedures
23 established by the jurisdiction. The hearing body shall render its
24 decision within fifteen days following the close of the appeal hearing.
25 A person aggrieved by the decision of the hearing body and wishing to
26 appeal that decision must seek review in the superior court by filing
27 a petition for writ of certiorari, prohibition, or mandamus within ten
28 days of the date the decision by the hearing body was mailed to the
29 applicant. The decision of the clerk must be stayed during the
30 pendency of an appeal under this chapter except as provided in
31 subsection (4) of this section.

32 (4) If the building official or fire marshal of the local
33 jurisdiction or the county health department finds that a condition
34 exists upon the premises of a live adult entertainment establishment
35 that constitutes a threat of immediate serious injury or damage to
36 person or property, the official may immediately suspend a license
37 issued under this chapter pending a hearing in accordance with
38 subsection (3) of this section. The official shall issue a notice
39 setting forth the basis for the action and the facts that constitute a

1 threat of immediate serious injury or damage to person or property, and
2 informing the licensee of the right to appeal the suspension to the
3 designated hearing body under the same appeal provisions set forth in
4 subsection (3) of this section. However, a suspension based on threat
5 of immediate serious injury or damage may not be stayed during the
6 pendency of the appeal.

7 NEW SECTION. **Sec. 15.** A license issued under this chapter is
8 subject to rules of the Washington state liquor control board relating
9 to the sale of intoxicating liquor. If there is a conflict between
10 this chapter and the applicable rules of the Washington state liquor
11 control board, the rules of the Washington state liquor control board
12 control.

13 NEW SECTION. **Sec. 16.** A person violating this chapter is guilty
14 of a misdemeanor.

15 NEW SECTION. **Sec. 17.** (1) A live adult entertainment
16 establishment operated, conducted, or maintained in violation of this
17 chapter or a law of the local jurisdiction or the state of Washington
18 is unlawful and a public nuisance. The attorney for the local
19 jurisdiction may, in addition to or in lieu of other remedies in this
20 chapter, commence an action to enjoin, remove, or abate the nuisance in
21 the manner provided by law and shall take such other steps and apply to
22 such court or courts as have jurisdiction to grant such relief as will
23 abate or remove the public nuisance, and restrain and enjoin any person
24 from operating, conducting, or maintaining a live adult entertainment
25 establishment contrary to this chapter.

26 (2) A live adult entertainment establishment operated, conducted,
27 or maintained contrary to chapter 7.48 RCW is unlawful and a public and
28 moral nuisance and the attorney for the local jurisdiction may, in
29 addition to or in lieu of other remedies in this chapter, commence an
30 action to abate, remove, and enjoin the public and moral nuisance, or
31 impose a civil penalty, in the manner provided by chapter 7.48A RCW.

32 NEW SECTION. **Sec. 18.** The remedies found in this chapter are not
33 exclusive and a jurisdiction may seek other legal or equitable relief,
34 including but not limited to enjoining an act or practice that

1 constitutes or will constitute a violation of a business license
2 ordinance or other regulation in this chapter.

3 NEW SECTION. **Sec. 19.** This chapter may not be construed to
4 prevent a city, town, or county from adopting a different regulatory
5 scheme for live adult entertainment establishments, whether more or
6 less restrictive than this chapter.

7 NEW SECTION. **Sec. 20.** If any provision of this act or its
8 application to any person or circumstance is held invalid, the
9 remainder of the act or the application of the provision to other
10 persons or circumstances is not affected.

11 NEW SECTION. **Sec. 21.** Sections 1 through 20 of this act
12 constitute a new chapter in Title 18 RCW.

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