

SENATE BILL REPORT

EHB 1756

As Reported by Senate Committee On:
Labor & Commerce, March 28, 2019

Title: An act relating to safety and security of adult entertainers.

Brief Description: Concerning the safety and security of adult entertainers.

Sponsors: Representatives Orwall, Mosbrucker, Appleton, Frame, Goodman, Lovick, Gregerson, Sells, Davis, Doglio and Ormsby.

Brief History: Passed House: 3/05/19, 95-3.

Committee Activity: Labor & Commerce: 3/25/19, 3/28/19 [DPA].

Brief Summary of Amended Bill

- Requires adult entertainers to take training relating to the rights and responsibilities of entertainers, reporting of injuries, and other matters to receive an adult entertainer license issued by a local government.
- Requires adult entertainment establishments to provide panic buttons in certain locations and to ban customers for three years if an accusation of violence or harassment against the customer is supported by a statement made under penalty of perjury or other evidence.
- Establishes an adult entertainer advisory committee within the Department of Labor and Industries.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: Do pass as amended.

Signed by Senators Keiser, Chair; Conway, Vice Chair; King, Ranking Member; Braun, Saldaña, Walsh and Wellman.

Staff: Susan Jones (786-7404)

Background: A number of local jurisdictions regulate adult entertainment businesses and entertainers. These ordinances typically require licensing of the managers and the

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

entertainers. The ordinances also address standards of conduct within the premises, lighting requirements, and other matters.

Under the Washington Industrial Safety and Health Act (WISHA), an employer has a responsibility to provide a workplace free from recognized hazards. Employers must create an Accident Prevention Program and follow other requirements. If an employer violates the standards, the employer may be subject to penalty.

Employers have responsibilities towards employees with respect to industrial insurance, unemployment insurance, minimum wage and overtime, and other employment standards. Whether a worker is an employee or an independent contractor under the various labor laws depends on the application of tests.

Summary of Amended Bill: Training. The Department of Labor and Industries (L&I) must develop training for adult entertainers (entertainers). The training must include:

- education about the rights and responsibilities of entertainers, including with respect to working as an employee or independent contractor;
- reporting of workplace injuries, including sexual and physical abuse and sexual harassment;
- financial aspects of the entertainer profession;
- the risk of human trafficking; and
- resources for assistance.

To obtain or renew an adult entertainer license issued by a local government, an entertainer must provide proof that the entertainer took the training.

Panic Buttons. An adult entertainment establishment (establishment) must provide a panic button to each entertainer, at no cost to the entertainer. An entertainer may use the panic button if the entertainer has been harmed, reasonably believes there is a risk of harm, or there is an other emergency in the entertainer's presence. The entertainer may cease work and leave the immediate area to await the arrival of assistance.

Customer Ban. An establishment must record the accusations it receives that a customer has committed an act of violence, including assault, sexual assault, or sexual harassment, towards an entertainer. The establishment must make every effort to obtain the customer's name and if the establishment cannot determine the name, it must record as much identifying information about the customer as is reasonably possible. The establishment must retain a record of the customer's identifying information for at least five years after the most recent accusation.

If an accusation is made under penalty of perjury or is supported by other evidence, the establishment must refuse to allow the customer in the establishment for at least three years after the date of the incident. The establishment must share the information about the customer with other establishments with common ownership and those establishments must also refuse to allow the customer in those establishments for at least three years.

WISHA Violations. A violation of the panic button or customer violence provisions is considered a violation of the WISHA for purposes of enforcement.

Advisory Committee. L&I must convene an entertainer advisory committee to assist with the implementation of the requirements, including training. At least half the members must be former or current entertainers who held or have held a license for at least five years. At least one member of the advisory committee must be an adult entertainment establishment which is licensed by a local government and operating in the state of Washington. The committee must also consider whether additional measures would increase safety and security, such as by examining ways to make the list and ban more effective and reviewing the entertainer fee structure. If the committee recommends that additional measures would increase the safety and security of entertainers and those additional measures would require legislative action, L&I must report those recommendations to the appropriate committees of the Legislature.

Definitions. A "panic button" is an emergency contact device by which the entertainer may summon immediate on-scene assistance from another entertainer, a security guard, or a representative of the establishment. Definitions are also provided for "adult entertainment" and "entertainer."

EFFECT OF LABOR & COMMERCE COMMITTEE AMENDMENT(S): Adds a licensed adult entertainment establishment to the advisory committee.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Imagine you work in a profession where it is so dangerous, you need a security guard to walk you to your car. That is the experience of a number of adult entertainers in our state. We want every worker in the state to feel safe. We have a few more details to work out on the training and how that would be documented. We made need to include industry in the bill.

A group of about 50 strippers began meeting last fall to talk about their needs and making positive changes to the industry. This bill came about in a grassroots way because dancers wanted to make changes to protect themselves and make the workplace safer. The dancers started meeting and began working with Working Washington, helping them to contact Rep. Orwall and Senator Saldaña. The bill would allow them to get help when they feel unsafe.

There could be a blacklist for customers who are repeat offenders. Clubs have tried their own blacklists but this has not been successful. Some customers have been let back into the clubs because there is a high turnover of staff. We asked for training because a lot of dancers begin dancing at age eighteen and it is their very first job. They do not even know how to report sexual harassment or file taxes; or who to contact if they are injured or feel unsafe.

The advisory group would help implement changes. It is important that lawmakers listen to the voices of the people in the industry. Well-intentioned legislation may be helpful or harmful. Dancing has allowed some people flexibility and financial stability. I have noticed clubs' decline in safety. The bill would change this. The panic button will help. A dancer was raped in a VIP room. It is not clear if a panic button would have prevented that but if the dancer could have pushed a panic button, security would have been informed. Clubs may have cameras but these only help if someone is watching them.

Two recent federal laws were directed at the sex trade and eradicated many online advertising. The unintended consequence is that there are displaced sex workers and clients looking for a place to connect. Then clients came into the clubs with mismatched expectations and anger. There is an uptick in violence across the sex trades. Bad actors target sex workers. Not all clients are bad actors. Some customers believe sex workers are unlikely to call police or tell their friends or family.

OTHER: Under the bill, L&I is charged with developing training and convening a work group. We are happy to do that. We have some questions that we have reached out to members about, including timing, proof of training, L&I collecting names that may be subject to public disclosure and may not be confidential. L&I wants an understanding on how to implement the requirements. These are employees for workers comp and workplaces subject to L&I safety and health jurisdiction.

This industry is constitutionally protected free speech. The industry is supportive of the bill but has a few issues. They may need additional time to install panic buttons. They are not against the blacklist concept but the only place with a legal blacklist is Las Vegas. You have to give an opportunity for a hearing and due process. We want to have tools but do not want to get into a legal and constitutional battle. Industry would like to be included in the workgroup.

The language was taken from the Seattle ordinance for hotels. Unlike hotels, the entertainment industry does not have customer information. Privacy is extremely important to us for our customers and dancers. There should be some type of prosecution. The bill requires that establishment to evaluate the evidence. We believe the police should have a role in this. We support the training because there is only so much training that the establishment can give.

Persons Testifying: PRO: Representative Tina Orwall, Prime Sponsor; Aubrey Porter; Amber Bergstrom; Savannah Sly; Emi Koyama, Coalition for Rights & Safety for People in the Sex Trade.

OTHER: Tammy Fellin, Labor & Industries; Winter Finck, Deja Vu/ Dreamgirls; Chester Baldwin.

Persons Signed In To Testify But Not Testifying: No one.