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**SUBSTITUTE SENATE BILL 5614**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senate Labor & Commerce (originally sponsored by Senators Saldaña, Nguyen, and C. Wilson)

READ FIRST TIME 02/15/23.

1 AN ACT Relating to adult entertainment establishments; amending  
2 RCW 9A.88.010, 9A.88.030, 9A.88.030, and 49.17.470; adding a new  
3 section to chapter 49.44 RCW; adding a new section to chapter 66.24  
4 RCW; creating a new section; providing an effective date; and  
5 providing an expiration date.

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

7 **Sec. 1.** RCW 9A.88.010 and 2003 c 53 s 92 are each amended to  
8 read as follows:

9 (1) A person is guilty of indecent exposure if he or she  
10 intentionally makes any open and obscene exposure of his or her  
11 person or the person of another knowing that such conduct is likely  
12 to cause reasonable affront or alarm. The act of breastfeeding or  
13 expressing breast milk is not indecent exposure.

14 (2)(a) Except as provided in (b) and (c) of this subsection,  
15 indecent exposure is a misdemeanor.

16 (b) Indecent exposure is a gross misdemeanor on the first offense  
17 if the person exposes himself or herself to a person under the age of  
18 fourteen years.

19 (c) Indecent exposure is a class C felony if the person has  
20 previously been convicted under this section or of a sex offense as  
21 defined in RCW 9.94A.030.

1       (3) Adult entertainment as defined in RCW 49.17.470 is not  
2 indecent exposure.

3       **Sec. 2.** RCW 9A.88.030 and 1988 c 145 s 16 are each amended to  
4 read as follows:

5       (1) A person is guilty of prostitution if such person engages or  
6 agrees or offers to engage in sexual conduct with another person in  
7 return for a fee.

8       (2) For purposes of this section, "sexual conduct" means "sexual  
9 intercourse" or "sexual contact," both as defined in chapter 9A.44  
10 RCW.

11       (3) Prostitution is a misdemeanor.

12       (4) Adult entertainment as defined in RCW 49.17.470 is not sexual  
13 conduct.

14       **Sec. 3.** RCW 9A.88.030 and 2020 c 331 s 4 are each amended to  
15 read as follows:

16       (1) A person age eighteen or older is guilty of prostitution if  
17 such person engages or agrees or offers to engage in sexual conduct  
18 with another person in return for a fee.

19       (2) For purposes of this section, "sexual conduct" means "sexual  
20 intercourse" or "sexual contact," both as defined in chapter 9A.44  
21 RCW.

22       (3) Prostitution is a misdemeanor.

23       (4) Adult entertainment as defined in RCW 49.17.470 is not sexual  
24 conduct.

25       **Sec. 4.** RCW 49.17.470 and 2019 c 304 s 1 are each amended to  
26 read as follows:

27       (1)(a) The department shall develop or contract for the  
28 development of training for entertainers. The training must include,  
29 but not be limited to:

30       (i) Education about the rights and responsibilities of  
31 entertainers, including with respect to working as an employee or  
32 independent contractor;

33       (ii) Reporting of workplace injuries, including sexual and  
34 physical abuse and sexual harassment;

35       (iii) The risk of human trafficking;

36       (iv) Financial aspects of the entertainer profession; and

37       (v) Resources for assistance.

1 (b) As a condition of receiving or renewing an adult entertainer  
2 license issued by a local government on or after July 1, 2020, an  
3 entertainer must provide proof that the entertainer took the training  
4 described in (a) of this subsection. The department must make the  
5 training reasonably available to allow entertainers sufficient time  
6 to take the training in order to receive or renew their licenses on  
7 or after July 1, 2020.

8 (2) An adult entertainment establishment must provide a panic  
9 button in each room in the establishment in which an entertainer may  
10 be alone with a customer, and in bathrooms and dressing rooms. An  
11 entertainer may use the panic button if the entertainer has been  
12 harmed, reasonably believes there is a risk of harm, or there is an  
13 other emergency in the entertainer's presence. The entertainer may  
14 cease work and leave the immediate area to await the arrival of  
15 assistance.

16 (3)(a) An adult entertainment establishment must record the  
17 accusations it receives that a customer has committed an act of  
18 violence, including assault, sexual assault, or sexual harassment,  
19 towards an entertainer. The establishment must make every effort to  
20 obtain the customer's name and if the establishment cannot determine  
21 the name, it must record as much identifying information about the  
22 customer as is reasonably possible. The establishment must retain a  
23 record of the customer's identifying information for at least five  
24 years after the most recent accusation.

25 (b) If an accusation is supported by a statement made under  
26 penalty of perjury or other evidence, the adult entertainment  
27 establishment must decline to allow the customer to return to the  
28 establishment for at least three years after the date of the  
29 incident. The establishment must share the information about the  
30 customer with other establishments with common ownership and those  
31 establishments with common ownership must also decline to allow the  
32 customer to enter those establishments for at least three years after  
33 the date of the incident. No entertainer may be required to provide  
34 such a statement.

35 (4) For the purposes of enforcement, except for subsection (1) of  
36 this section, this section shall be considered a safety or health  
37 standard under this chapter.

38 (5)(a) Each establishment must develop training for establishment  
39 employees to minimize occurrences of unprofessional behavior by the  
40 establishments' employees and enable the employees to support

1 entertainers in times of conflict. Training topics must include, but  
2 are not limited to, topics related to:

3 (i) Conflict de-escalation; and

4 (ii) First aid.

5 (b) An establishment must require all establishment employees to  
6 take the training within 30 days of hiring and at least every two  
7 years.

8 (6) An adult entertainment establishment must provide at least  
9 one security person during business hours. The department may adopt  
10 rules that require additional security persons based on additional  
11 factors, including but not limited to:

12 (a) The size of the establishment;

13 (b) The layout and floor plan of the establishment;

14 (c) The patron volume;

15 (d) Security cameras and panic buttons; and

16 (e) The history of security events at the establishment.

17 (7) This section does not affect an employer's responsibility to  
18 provide a place of employment free from recognized hazards or to  
19 otherwise comply with this chapter and other employment laws.

20 ~~((6) The department shall convene an entertainer advisory~~  
21 ~~committee to assist with the implementation of this section,~~  
22 ~~including the elements of the training under subsection (1) of this~~  
23 ~~section. At least half of the advisory committee members must be~~  
24 ~~former entertainers who held or current entertainers who have held an~~  
25 ~~adult entertainer license issued by a local government for at least~~  
26 ~~five years. At least one member of the advisory committee must be an~~  
27 ~~adult entertainment establishment which is licensed by a local~~  
28 ~~government and operating in the state of Washington. The advisory~~  
29 ~~committee shall also consider whether additional measures would~~  
30 ~~increase the safety and security of entertainers, such as by~~  
31 ~~examining ways to make the procedures described in subsection (3) of~~  
32 ~~this section more effective and reviewing the fee structure for~~  
33 ~~entertainers. If the advisory committee finds and recommends~~  
34 ~~additional measures that would increase the safety and security of~~  
35 ~~entertainers and that those additional measures would require~~  
36 ~~legislative action, the department must report those recommendations~~  
37 ~~to the appropriate committees of the legislature.~~

38 ~~(7))~~ (8) The definitions in this subsection apply throughout  
39 this section unless the context clearly requires otherwise.

1 (a) "Adult entertainment" means any exhibition, performance, or  
2 dance of any type conducted in a premises where such exhibition,  
3 performance, or dance involves an entertainer who:

4 (i) Is unclothed or in such attire, costume, or clothing as to  
5 expose to view any portion of the breast below the top of the areola  
6 or any portion of the pubic region, anus, buttocks, vulva, or  
7 genitals; or

8 (ii) Touches, caresses, or fondles the breasts, buttocks, anus,  
9 genitals, or pubic region of another person, or permits the touching,  
10 caressing, or fondling of the entertainer's own breasts, buttocks,  
11 anus, genitals, or pubic region by another person, with the intent to  
12 sexually arouse or excite another person.

13 (b) "Adult entertainment establishment" or "establishment" means  
14 any business to which the public, patrons, or members are invited or  
15 admitted where an entertainer provides adult entertainment to a  
16 member of the public, a patron, or a member.

17 (c) "Adult entertainment nightclub" means an adult entertainment  
18 establishment that has met the requirements of subsection (9) of this  
19 section.

20 (d) "Entertainer" means any person who provides adult  
21 entertainment within an adult entertainment establishment, whether or  
22 not a fee is charged or accepted for entertainment and whether or not  
23 the person is an employee under RCW 49.17.020.

24 (~~(d)~~) (e) "Panic button" means an emergency contact device by  
25 which the entertainer may summon immediate on-scene assistance from  
26 another entertainer, a security guard, or a representative of the  
27 (~~adult~~) adult entertainment establishment.

28 (9) (a) In order to qualify as an adult entertainment nightclub  
29 the establishment must demonstrate in a manner determined by the  
30 department that it:

31 (i) Has written processes and procedures accessible to all its  
32 employees and entertainers who are not employees for:

33 (A) Responding to customer violence or criminal activity,  
34 including when police are called;

35 (B) Ejecting customers who violate club policies, including  
36 intoxication or other inappropriate or illegal behavior; and

37 (C) Processing requests from entertainers to place a patron on  
38 the list under subsection (3) (b) of this section;

39 (ii) Provides to the department at least annually a customer  
40 complaint log including, but not limited to, the number of

1 entertainer complaints and the number of customers related to  
2 customer actions described in subsection (3) of this section;

3 (iii) Provides to the department at least annually proof of  
4 compliance with subsection (2) of this section and maintenance  
5 records showing that the panic buttons are maintained and checked to  
6 ensure they are in working condition;

7 (iv) Has entertainers' dressing or locker rooms equipped with a  
8 keypad requiring a code to enter;

9 (v) Provides appropriate cleaning supplies and a waste receptacle  
10 accessible from private performance areas; and

11 (vi) Displays signage:

12 (A) In an employee common area indicating that entertainers are  
13 not required to surrender any tips or gratuities and may not be  
14 denied services and amenities in consideration of tips or gratuities;  
15 and

16 (B) At the entrance directing customers to resources on  
17 appropriate etiquette.

18 (b) The establishment must demonstrate compliance with the above  
19 requirements on an annual basis.

20 (c) If, based on an inspection, the department determines that an  
21 establishment is no longer in compliance with these requirements the  
22 department will notify the liquor and cannabis board.

23 (d) The department may share information with the liquor and  
24 cannabis board for purposes of this subsection (9) and section 6 of  
25 this act.

26 NEW SECTION. Sec. 5. A new section is added to chapter 49.44  
27 RCW to read as follows:

28 (1) For any entertainer who is an employee under chapter 49.46  
29 RCW, an adult entertainment establishment may not charge any fee.

30 (2)(a) For any entertainer who is found to not be an employee  
31 under chapter 49.46 RCW, an adult entertainment establishment may  
32 not:

33 (i) Charge any fee that is greater than 30 percent of the  
34 entertainment fees collected by the entertainer during the leased  
35 date and time, excluding tips paid to the entertainer;

36 (ii) Carry forward an unpaid balance from any fee incurred  
37 previously by the entertainer for access to or usage of the  
38 establishment premises;

1 (iii) Charge fees to an entertainer for late payment or  
2 nonpayment of any fee;

3 (iv) Charge an entertainer a fee for failure to appear at a  
4 scheduled time;

5 (v) Control:

6 (A) How much the entertainer charges customers for adult  
7 entertainment;

8 (B) When and how the entertainer works; or

9 (C) What type of clothing or costumes to wear during the adult  
10 entertainment;

11 (vi) Take adverse action against an entertainer based on  
12 scheduling;

13 (vii) Obligate an entertainer to appear for any length of time,  
14 provided the entertainer satisfies a leasing fee or otherwise agrees  
15 to an alternative charge; and

16 (viii) Refuse to provide an entertainer with written notice of  
17 the reason or reasons for any termination or refusal to rehire the  
18 entertainer. Such notice must be provided within 10 business days of  
19 the termination or refusal to rehire the entertainer.

20 (b) Any fees not prohibited under this subsection (2) must be  
21 stated in a written contract and continue to apply for a period of  
22 not less than three months with effective dates.

23 (c) This subsection (2) does not prevent an establishment from  
24 providing leasing discounts or credits to encourage scheduling or  
25 charge lease amounts that vary based on the time of day.

26 (3) (a) No state agency or local government may adopt laws, rules,  
27 ordinances, or regulations that limit or prohibit an entertainer  
28 from:

29 (i) Collecting any form of payment from customers;

30 (ii) Touching their own body or exposing themselves while  
31 performing within an adult entertainment establishment; and

32 (iii) Engaging in physical contact with another person that is  
33 otherwise lawful outside of an adult entertainment establishment,  
34 such as restrictions on proximity or distance, before or during any  
35 exhibition, performance, or dance of any type.

36 (b) This subsection may not be construed to prohibit a local  
37 government from adopting ordinances or regulations that are more  
38 protective of entertainers than the requirements of this section.

39 (4) For purposes of this section:

1 (a) "Adult entertainment" has the same meaning as in RCW  
2 49.17.470.

3 (b) "Adult entertainment establishment" or "establishment" have  
4 the same meaning as in RCW 49.17.470.

5 (c) "Adult entertainment nightclub" has the same meaning as in  
6 RCW 49.17.470.

7 (d) "Entertainer" has the same meaning as in RCW 49.17.470.

8 NEW SECTION. **Sec. 6.** A new section is added to chapter 66.24  
9 RCW to read as follows:

10 (1) There shall be a spirits, beer, and wine adult entertainment  
11 nightclub license to sell spirituous liquor by the drink, beer, and  
12 wine at retail, for consumption on the licensed premises.

13 (2) The license may be issued only to an adult entertainment  
14 nightclub whose business includes the sale and service of alcohol to  
15 the adult entertainment nightclub's customers and has food sales and  
16 service incidental to the sale and service of alcohol.

17 (3) (a) Minors may be allowed on the licensed premises but only in  
18 areas where alcohol is not served or consumed.

19 (b) The board may adopt rules to allow entertainers who are over  
20 18 years of age but under 21 years of age to perform in an adult  
21 entertainment nightclub.

22 (4) The annual fee for this license is \$2,000. The fee for the  
23 license shall be reviewed from time to time and set at such a level  
24 sufficient to defray the cost of licensing and enforcing this  
25 licensing program. The fee shall be fixed by rule adopted by the  
26 board in accordance with the provisions of chapter 34.05 RCW.

27 (5) Local governments may petition the board to request that  
28 further restrictions be imposed on a spirits, beer, and wine adult  
29 entertainment nightclub license in the interest of public safety.  
30 Examples of further restrictions a local government may request are:  
31 Not allowing minors on the entire premises, submitting a security  
32 plan, or signing a good neighbor agreement with the local government.

33 (6) The total number of spirits, beer, and wine adult  
34 entertainment nightclub licenses are not subject to the requirements  
35 of RCW 66.24.420(4). However, the board may not refuse a spirits,  
36 beer, and wine adult entertainment nightclub license to any applicant  
37 even if the board determines that the spirits, beer, and wine  
38 nightclub licenses already granted for the particular locality are  
39 adequate for the reasonable needs of the community.



1 (7) The board may adopt rules to implement this section.

2 (8) The board may share information with the department of labor  
3 and industries for purposes of this section.

4 (9) The board may not issue any liquor license to any adult  
5 entertainment establishment which is not an adult entertainment  
6 nightclub.

7 (10) For purposes of this section:

8 (a) "Adult entertainment establishment" or "establishment" have  
9 the same meaning as in RCW 49.17.470.

10 (b) "Adult entertainment nightclub" has the same meaning as in  
11 RCW 49.17.470.

12 (c) "Entertainer" has the same meaning as in RCW 49.17.470.

13 NEW SECTION. **Sec. 7.** The liquor and cannabis board shall repeal  
14 the rule currently codified at WAC 314-11-050 in its entirety.

15 NEW SECTION. **Sec. 8.** If any provision of this act or its  
16 application to any person or circumstance is held invalid, the  
17 remainder of the act or the application of the provision to other  
18 persons or circumstances is not affected.

19 NEW SECTION. **Sec. 9.** Section 2 of this act expires January 1,  
20 2024.

21 NEW SECTION. **Sec. 10.** Section 3 of this act takes effect  
22 January 1, 2024.

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