



# Washington State Liquor and Cannabis Board

**Topic:** Petition for Adoption, Amendment, or Repeal of a State Administrative Rule – Alcohol Service in Adult Entertainment Establishments

**Date:** August 31, 2021

**Presented by:** Audrey Vasek, Policy and Rules Coordinator

## Problem or Opportunity

On July 7, 2021, Amber Lewis on behalf of Eric Forbes of Dreamgirls of Seattle, LLC submitted a petition for adoption, amendment, or repeal of a state administrative rule. Mr. Forbes proposes to amend WAC 314-11-050 to allow alcohol service in adult entertainment establishments.<sup>1</sup>

In the rule petition, Mr. Forbes states:

**2. AMEND RULE - I am requesting the agency to change an existing rule.**

List rule number (WAC), if known: WAC 314-11-050

The WSLCB change its interpretation and enforcement policy regarding WAC 314-11-050 to align with the City of Seattle's interpretation of Seattle Municipal Code 6.270 such that adult entertainment is not prohibited in WSLCB licensed premises, and could be licensed to sell alcohol to adults age 21-plus under an existing license type while in compliance with the WAC.

I am requesting the following change:

Due to dual regulation, which the Seattle Municipal Code is more rigorous, this would allow for safer establishments, financial growth, and equity of entertainers. The current interpretation of the WSLCB could be amended to defer to local regulations, where they exist, as they pertain to the selling of alcohol in adult entertainment facilities. We are able to provide draft language for consideration upon the request of the WSLCB staff and/or Board Members and assist in chapter revisions as needed.

This change is needed because:

Adult entertainment facilities, that are dually regulated by the Seattle Municipal Code and WAC 314-11-050, will be able to serve alcohol on premises, so long as they are in full compliance with the local ordinance. Additionally, the WSLCB should not be regulating the morality of activities of legal adults while in the presence of other legal adults. This is particularly true when like minded activities take place in burlesque establishments and other adult only night clubs.

The effect of this rule change will be:

Mr. Forbes's petition presents the following **issue**:

Whether the Board should revise WAC 314-11-050 to allow alcohol service in adult entertainment establishments without specific direction from the Legislature.

## Authority

RCW 66.08.030(12) authorizes the Board, among other things, to adopt rules prescribing the conditions, accommodations, and qualifications required to obtain licenses to sell beer, wine, and spirits, and regulating the sale of beer, wine, and spirits under these licenses.

While the term "adult entertainment" is not used in Board rules or alcohol laws, "adult entertainment" and "adult entertainment establishment" are defined in RCW 49.17.470(7) for the purpose of the Washington Industrial Safety and Health Act as follows:

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

- (i) Is unclothed or in such attire, costume, or clothing as to expose to view any portion of the breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva, or genitals; or
- (ii) Touches, caresses, or fondles the breasts, buttocks, anus, genitals, or pubic region of another person, or permits the touching, caressing, or fondling of the entertainer's own breasts, buttocks, anus, genitals, or pubic region by another person, with the intent to sexually arouse or excite another person.

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

While state law does not directly regulate alcohol service in adult entertainment establishments, WAC 314-11-050 does not permit businesses to hold a liquor license if they allow, permit, or encourage certain types of conduct or activities on the premises, such as exposure of certain areas of the body; touching, caressing, or fondling of certain body parts; or acts that simulate sexual acts. Although WAC 314-11-050(4) provides certain exceptions, such as allowing entertainers to expose their breasts or buttocks if they are on a stage 18 inches high and at least six feet away from the nearest patron, this rule effectively prevents the sale of alcohol in adult entertainment establishments because of the prohibited activities it identifies for liquor licensed premises.

## **Analysis**

The advisory committee created by the Legislature during the 2019 session to study adult entertainer workplace safety issues recommended that the Legislature take action to legalize the service of alcohol in adult entertainment establishments as part of a package of four recommendations designed to address the safety and security of adult entertainers in Washington. While the Board has regulatory authority to allow alcohol service in adult entertainment establishments,<sup>2</sup> the Board does not have regulatory authority to take action on the other three recommendations, which include requiring mandatory training for staff in adult entertainment establishments, eliminating the practice of charging back rent to adult entertainers, and setting minimum requirements for security staffing in adult entertainment establishments. These four elements work together to support adult entertainer safety and security. Additionally, the issue of whether to allow alcohol service in adult entertainment establishments is a significant legislative issue that raises public health and safety concerns directly impacting local governments.

Based on the recommendations and findings from the committee report and the significant legislative nature of this issue, agency staff find that it would be premature to

initiate rulemaking allowing alcohol service in adult entertainment establishments without direction from the Legislature that considers the whole package of four recommendations from the report.

### *Adult Entertainer Advisory Committee Recommendation*

In 2019, the Washington State Legislature passed [Engrossed House Bill \(EHB\) 1756](#), aimed at addressing the safety and security of adult entertainers and mandating the creation of the Adult Entertainer Advisory Committee (AEA Committee). EHB 1756, codified as RCW 49.17.470, directed the Department of Labor & Industries to convene the AEA Committee and directed the committee to identify measures that would increase the safety and security of adult entertainers and report to the Legislature any recommendations that require legislative action. The AEA Committee consists of eight adult entertainer representatives, two adult entertainment establishment representatives, and a representative from Working Washington, a Seattle-based nonprofit collaborating with the adult entertainer representatives.<sup>3</sup>

The [AEA Committee Report to the Legislature](#), published in November 2020, includes the following four recommendations that the committee voted on and established a majority for:

- “1. Legalize the service of alcohol in adult entertainment establishments in Washington.
2. Require mandatory training for staff in adult entertainment establishments.
3. Eliminate the practice of charging back rent to adult entertainers in adult entertainment establishments.
4. Set minimum requirements for security staffing in adult entertainment establishments.”<sup>4</sup>

The report further states that “[w]hile the Liquor and Cannabis Board has regulatory authority, the Committee recommends the legislature take action to ensure clubs have the option to sell alcohol.”<sup>5</sup> The report includes a summary of the information the committee considered, including safety and security concerns associated with the prohibition on alcohol sales in adult entertainment establishments and the limited research available on the topic of alcohol sales in adult entertainment establishments.<sup>6</sup>

While the Board has regulatory authority to take action on the AEA Committee recommendation to legalize the service of alcohol in adult entertainment establishments, the Board does not have regulatory authority to take action on the other three recommendations. Legalizing alcohol service in adult entertainment establishments without implementing the other three recommendations from the report may not have the same impact on the safety and security of adult entertainers as if all four recommendations were implemented at once. As a result, agency staff find that it would be premature to initiate rulemaking allowing alcohol service in adult entertainment establishments without direction from the Legislature that considers the whole package of recommendations from the report.

## *Public Health and Safety Impacts*

In general, greater alcohol outlet density is associated with increased alcohol consumption and related harms, including medical harms, injury, crime, and violence.<sup>7</sup> Since allowing alcohol service in adult entertainment establishments may increase overall alcohol outlet density, allowing alcohol service in adult entertainment establishments may be linked to increased crime and other public health and safety impacts, depending on the other types of businesses in the area. For example, in the one instance where the Board approved a liquor license for a topless dancing establishment in 1998 on a trial period with strict parameters, the local authority objected to the adult entertainment establishment's liquor license renewal based on criminal activity, and the liquor license was cancelled in 2002.

Currently, there are a relatively small number of adult entertainment establishments in Washington. According to the AEA Committee Report, as of November 2020, there were 11 adult entertainment establishments in Washington state, and 7 of the 11 adult entertainment establishments were related entities.<sup>8</sup> The majority of clubs in Washington were located in King and Pierce counties, with the largest percentage located specifically in the City of Seattle. There was one club located in Spokane Valley.<sup>9</sup>

Although the number of adult entertainment establishments in Washington is currently relatively small, allowing alcohol service in adult entertainment establishments may encourage an overall increase in the number of adult entertainment establishments by making these types of businesses more appealing to customers and business owners. For example, in Oregon—where alcohol is allowed to be served in adult entertainment establishments—there are many of these establishments along the along the Portland/Vancouver border. However, the large number of adult entertainment establishments in Oregon may be due to other factors.<sup>10</sup>

While allowing alcohol service in adult entertainment establishments may be linked to negative public health and safety impacts in the surrounding local communities, some literature, including the open letter from strippers to lawmakers posted on the Working Washington webpage<sup>11</sup> and the AEA Committee Report suggests that there is not necessarily increased crime and that any observed increases may be due to other factors, such as zoning laws prescribing where adult entertainment establishments can be located.

Additionally, as described in the AEA Committee Report, many dancers feel that allowing alcohol service in adult entertainment establishments will improve worker safety, which is also a component of public health. For example, the AEA Committee Report suggests that allowing alcohol service in clubs may increase safety for workers through creation of new sources of income for adult entertainment establishments, which will create a more sustainable business model for industry and workers.<sup>12</sup> Allowing alcohol service could also create a safer environment in adult entertainment establishments by increasing the ability of clubs to attract customers seeking a more

social atmosphere. <sup>13</sup> Increasing the overall numbers of customers in adult entertainment establishments could also allow dancers to be more selective about the customers with whom they interact, improving worker safety. <sup>14</sup>

Due to the potential public health and safety impacts—both positive and negative—of allowing alcohol service in adult entertainment establishments, agency staff find that this is a significant legislative issue and anticipate that local governments and other interested parties will want to be closely involved in the decision making process on whether to allow adult entertainment locations to serve alcohol.

### *Conclusion*

Based on the recommendations and findings from the AEA committee report and the significant legislative nature of this issue, agency staff find that it would be premature to initiate rulemaking allowing alcohol service in adult entertainment establishments without direction from the Legislature that considers the whole package of four recommendations from the committee report.

### **Recommendation**

Director's Office staff recommends that consistent with RCW 34.05.330(1)(a)(i), the Board deny Mr. Forbes's rule petition request to allow alcohol service in adult entertainment establishments, received on July 7, 2021, for the reasons described above.

### **Board Action**

Based on the recommendation of Director's Office staff, the Board agrees to deny the petition received on July 7, 2021, from Mr. Forbes for the reasons stated herein.

\_\_\_\_\_ Accept \_\_\_\_\_ Deny                      \_\_\_\_\_  
David Postman, Chair                                      \_\_\_\_\_  
Date

\_\_\_\_\_ Accept \_\_\_\_\_ Deny                      \_\_\_\_\_  
Ollie Garrett, Board Member                                      \_\_\_\_\_  
Date

\_\_\_\_\_ Accept \_\_\_\_\_ Deny                      \_\_\_\_\_  
Russ Hauge, Board Member                                      \_\_\_\_\_  
Date

### **Attachments**

1. Email from Amber Lewis dated July 7, 2021, with rule petition attached, and follow-up email dated July 20, 2021 with proposed language attached.
2. Rule petition and proposed language.

3. Adult Entertainer Advisory Committee, Report to the Legislature (November 2020).
4. RCW 66.08.030
5. RCW 49.17.470
6. WAC 314-11-050

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<sup>1</sup> See Attachment 1, Email from Amber Lewis dated July 7, 2021, with rule petition attached, and follow-up email dated July 20, 2021 with proposed language attached.

<sup>2</sup> Because State law does not directly regulate alcohol service in adult entertainment facilities, and the Board has authority under its general regulatory powers in RCW 66.08.030(12) to set the conditions for businesses to obtain licenses to sell alcohol, the Board has rulemaking authority to allow or prescribe conditions on alcohol service in adult entertainment establishments.

<sup>3</sup> Attachment 3, AEA Committee Report, page 4: “The Committee consists of eight adult entertainers, representing a broad range of experience in the adult entertainment industry. Many of the dancers on the Committee have worked in adult entertainment for more than five years, working at clubs both in and outside of Washington. A number of the adult entertainers on the Committee were involved in organizing dancers to address concerns in the industry, and participated in the legislative process during passage of EHB 1756.

A representative from Working Washington, a Seattle-based nonprofit that has been collaborating closely with dancers throughout this effort, is also a member of the Committee.

...  
The Committee includes two representatives of adult entertainment establishments currently licensed in Washington. . . .”

<sup>4</sup> Attachment 3, AEA Committee Report, page 1. See also, pages 7-10 on the legalization of alcohol recommendation.

<sup>5</sup> Attachment 3, AEA Committee Report, page 10 (emphasis added): “Members of the Committee voted unanimously in support of a recommendation to legalize the service of alcohol in adult entertainment establishments in Washington. **While the Liquor and Cannabis Board has regulatory authority, the Committee recommends the legislature take action to ensure clubs have the option to sell alcohol.** Allowing alcohol service in clubs would not preclude the rights of any individual establishment to maintain an alcohol-free operation, as there are many states that currently have both clubs that serve alcohol and clubs that do not serve alcohol. This diversity allows for dancers to seek out clubs that provide the income opportunities, atmosphere, and type of work they desire, which increases their control over the customers they interact with and their personal boundaries.”

<sup>6</sup> See Attachment 3, AEA Committee Report, pages 7-10.

<sup>7</sup> Campbell, Carla Alexia et al. “The effectiveness of limiting alcohol outlet density as a means of reducing excessive alcohol consumption and alcohol-related harms.” *American journal of preventive medicine* vol. 37,6 (2009): 556-69. doi:10.1016/j.amepre.2009.09.028, available at <https://www.thecommunityguide.org/sites/default/files/publications/Alcohol-AJPM-evrev-outlet-density.pdf>.

<sup>8</sup> Attachment 3, AEA Committee Report, page 19: “Seven of the 11 adult entertainment establishments in Washington are related entities.”

<sup>9</sup> Attachment 3, AEA Committee Report, page 4: “There are approximately 11 adult entertainment establishments in Washington, and the adult entertainment establishment representatives serving on the Committee represent a majority of clubs in the state. One industry representative appeared on behalf of seven clubs in Washington (operating under the names Déjà Vu Showgirls, Dreamgirls, and Little Darlings, referred to collectively in this report as “Déjà Vu Clubs”), and the second industry representative represents Kittens Cabaret. The majority of clubs in Washington are located in King and Pierce counties, with the largest percentage located specifically in the City of Seattle. There is one club located in Spokane Valley, and when the Committee first convened, there was a club in Kennewick (this club has since closed).”

<sup>10</sup> The large number of adult entertainment establishments in Portland may also be due in part to a provision in Oregon’s constitution that protects nude dancing as a form of free speech. *State v. Henry*, 302 Or.510, 732 P.2d 9 (1987) See Oregon Encyclopedia essay, “Stripping in Oregon”, [https://www.oregonencyclopedia.org/articles/stripping\\_in\\_oregon](https://www.oregonencyclopedia.org/articles/stripping_in_oregon) (accessed on August 19, 2021).

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<sup>11</sup> Working Washington, “Nothing About Us Without Us - Open Letter from Strippers to Lawmakers” available at <http://www.workingwa.org/saw-open-letter> (accessed on August 19, 2021). See also, Anastasi T, “The (non)use of alcohol in topless establishments: Protection for women or gender policing?” *Sexualities*, 2020;23(1-2):81-107, available at <https://journals.sagepub.com/doi/10.1177/1363460717750822>. First published February 26, 2018.

<sup>12</sup> Attachment 3, AEA Committee Report, page 8-9.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

## Attachment 1

### Vasek, Audrey (LCB)

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**From:** Amber D. Lewis <amber@lewisconsulting.us>  
**Sent:** Tuesday, July 20, 2021 5:53 PM  
**To:** Vasek, Audrey (LCB)  
**Cc:** Eric Forbes  
**Subject:** Re: Petition request for rulemaking  
**Attachments:** WAC 314-11-050 Revised Draft v7.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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#### External Email

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Audrey - please find that attached revision per your request. I submit these on behalf of Mr. Forbes who is included on this email.

We look forward to further dialogue on this matter and appreciate the offer to be of assistance. Please let me know if you have any further questions or inquiries.

Respectfully submitted,

Amber D. Lewis  
Lewis Consulting LLC  
m) 360-915-3882  
[amber@lewisconsulting.us](mailto:amber@lewisconsulting.us)

\*\*Note my email address has changed and please use this account.\*\*

On Jul 19, 2021, at 5:07 PM, Amber D. Lewis <[amber@lewisconsulting.us](mailto:amber@lewisconsulting.us)> wrote:

Thank you Audrey.

Mr. Forbes and his team will get something back to you as soon as possible.

Have a great evening!

Amber D. Lewis  
Lewis Consulting LLC  
m) 360-915-3882  
[amber@lewisconsulting.us](mailto:amber@lewisconsulting.us)

\*\*Note my email address has changed and please use this account.\*\*



On Jul 19, 2021, at 9:22 AM, Vasek, Audrey (LCB) <[audrey.vasek@lcb.wa.gov](mailto:audrey.vasek@lcb.wa.gov)> wrote:

Good morning Ms. Lewis,

Would you be able to provide the draft language for consideration that you reference in the attached petition? This will help us better understand the type of amendments that you are requesting for [WAC 314-11-050](#).

Thank you!

**Audrey Vasek**

Policy and Rules Coordinator  
Washington State Liquor and Cannabis Board  
(360) 664-1758 **Desk** | (360) 480-1238 **Mobile**  
[audrey.vasek@lcb.wa.gov](mailto:audrey.vasek@lcb.wa.gov)

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**From:** Vasek, Audrey (LCB) <[audrey.vasek@lcb.wa.gov](mailto:audrey.vasek@lcb.wa.gov)>

**Sent:** Wednesday, July 7, 2021 9:58 AM

**To:** Lewis, Amber <[amber@lewisconsulting.us](mailto:amber@lewisconsulting.us)>; LCB DL Rules <[rules@lcb.wa.gov](mailto:rules@lcb.wa.gov)>

**Cc:** Eric Forbes <[eric@dejavnw.com](mailto:eric@dejavnw.com)>; Lewis, Amber <[amber@lewisconsulting.us](mailto:amber@lewisconsulting.us)>

**Subject:** RE: Petition request for rulemaking

Good morning Ms. Lewis and Mr. Forbes,

Thank you for your petition to adopt, amend, or repeal state administrative rules. I am responding on behalf of the WSLCB Policy and Rules Unit.

Your petition was received today, Wednesday, July 7, 2021. Consistent with [RCW 34.05.330](#) and [WAC 82-05-040](#), the Board has 60 days after submission of a rulemaking petition to either:

(a) deny the petition in writing, stating (i) its reasons for the denial, specifically addressing the concerns raised by the petitioner, and, where appropriate, (ii) the alternative means by which it will address the concerns raised by the petitioner, or

(b) initiate rule-making proceedings in accordance with RCW 34.05.320.

The Board will have until September 5, 2021, to take action as detailed above.

Please let me know if you have any questions.

Sincerely,

**Audrey Vasek**

Policy and Rules Coordinator  
Washington State Liquor and Cannabis Board

(360) 664-1758 **Desk** | (360) 480-1238 **Mobile**  
[audrey.vasek@lcb.wa.gov](mailto:audrey.vasek@lcb.wa.gov)

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**From:** Amber D. Lewis <[amber@lewisconsulting.us](mailto:amber@lewisconsulting.us)>  
**Sent:** Wednesday, July 7, 2021 9:34 AM  
**To:** LCB DL Rules <[rules@lcb.wa.gov](mailto:rules@lcb.wa.gov)>  
**Cc:** Eric Forbes <[eric@dejavunw.com](mailto:eric@dejavunw.com)>; Lewis, Amber <[amber@lewisconsulting.us](mailto:amber@lewisconsulting.us)>  
**Subject:** Petition request for rulemaking

External Email

Dear WA State Liquor and Cannabis Board:

Please accept this rules petition request on behalf of Mr. Eric Forbes.

We are happy to provide additional information, answer any question staff may have, or further explain our request.

Thank you,

Amber D. Lewis  
Lewis Consulting LLC  
m) 360-915-3882  
[amber@lewisconsulting.us](mailto:amber@lewisconsulting.us)

**\*\*Note my email address has changed and please use this account.\*\***

<LCB rules petition request on behalf of Mr. Eric Forbes.pdf>



PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF A STATE ADMINISTRATIVE RULE

Print Form

In accordance with RCW 34.05.330, the Office of Financial Management (OFM) created this form for individuals or groups who wish to petition a state agency or institution of higher education to adopt, amend, or repeal an administrative rule. You may use this form to submit your request. You also may contact agencies using other formats, such as a letter or email.

The agency or institution will give full consideration to your petition and will respond to you within 60 days of receiving your petition. For more information on the rule petition process, see Chapter 82-05 of the Washington Administrative Code (WAC) at http://apps.leg.wa.gov/wac/default.aspx?cite=82-05.

CONTACT INFORMATION (please type or print)

Petitioner's Name Eric Forbes
Name of Organization Dreamgirls of Seattle, LLC
Mailing Address PO BOX 2602
City Seattle State WA Zip Code 98111
Telephone 253-508-6436 Email eric@dejavunw.com

COMPLETING AND SENDING PETITION FORM

- Check all of the boxes that apply.
Provide relevant examples.
Include suggested language for a rule, if possible.
Attach additional pages, if needed.
Send your petition to the agency with authority to adopt or administer the rule. Here is a list of agencies and their rules coordinators: http://www.leg.wa.gov/CodeReviser/Documents/RClist.htm.

INFORMATION ON RULE PETITION

Agency responsible for adopting or administering the rule: Washington State Liquor and Cannabis Board

1. NEW RULE - I am requesting the agency to adopt a new rule.

The subject (or purpose) of this rule is:

The rule is needed because:

The new rule would affect the following people or groups:

**2. AMEND RULE - I am requesting the agency to change an existing rule.**

List rule number (WAC), if known: WAC 314-11-050

The WSLCB change its interpretation and enforcement policy regarding WAC 314-11-050 to align with the City of Seattle's interpretation of Seattle Municipal Code 6.270 such that adult entertainment is not prohibited in WSLCB licensed premises, and could be licensed to sell alcohol to adults age 21-plus under an existing license type while in compliance with the WAC.

I am requesting the following change: \_\_\_\_\_

Due to dual regulation, which the Seattle Municipal Code is more rigorous, this would allow for safer establishments, financial growth, and equity of entertainers. The current interpretation of the WSLCB could be amended to defer to local regulations, where they exist, as they pertain to the selling of alcohol in adult entertainment facilities. We are able to provide draft language for consideration upon the request of the WSLCB staff and/or Board Members and assist in chapter revisions as needed.

This change is needed because: \_\_\_\_\_

Adult entertainment facilities, that are dually regulated by the Seattle Municipal Code and WAC 314-11-050, will be able to serve alcohol on premises, so long as they are in full compliance with the local ordinance. Additionally, the WSLCB should not be regulating the morality of activities of legal adults while in the presence of other legal adults. This is particularly true when like minded activities take place in burlesque establishments and other adult only night clubs.

The effect of this rule change will be: \_\_\_\_\_

The rule is not clearly or simply stated: \_\_\_\_\_

**3. REPEAL RULE - I am requesting the agency to eliminate an existing rule.**

List rule number (WAC), if known: \_\_\_\_\_

*(Check one or more boxes)*

It does not do what it was intended to do.

It is no longer needed because: \_\_\_\_\_

It imposes unreasonable costs: \_\_\_\_\_

The agency has no authority to make this rule: \_\_\_\_\_

It is applied differently to public and private parties: \_\_\_\_\_

It conflicts with another federal, state, or local law or rule. List conflicting law or rule, if known: \_\_\_\_\_

It duplicates another federal, state or local law or rule. List duplicate law or rule, if known: \_\_\_\_\_

Other (please explain): \_\_\_\_\_

**WAC 314-11-050 What types of conduct are prohibited on a premises with a liquor license?**

|  |  |
|--|--|
| (1) Licensees may not allow, permit, or encourage any employees (including him or herself) to:   | (a) Be unclothed or in such attire, costume, or clothing as to expose to view any portion of the breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals <u>except as provided in Section 4.</u>   |
| (2) Licensees may not allow, permit, or encourage any person (including him or herself) on the licensed premises to:                   | (a) Perform acts of or acts which simulate, or use artificial devices or inanimate objects which depict; <ul style="list-style-type: none"> <li>• Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;</li> <li>• The touching, caressing, or fondling of the breast, buttocks, anus or genitals <u>except as provided in Section 4.</u>; or</li> <li>• The displaying of the pubic hair, anus, vulva, or genitals.</li> </ul> (b) Show any film, still picture, electronic reproduction, or other visual reproduction that depicts pornography, or a sexual act prohibited by law.  |
| (3) Notwithstanding the provisions of subsection (4) of this rule, licensees may not encourage any person on the licensed premises to: | (a) Expose to public view any portion of his or her genitals or anus;  |
| (4) Licensees may allow performers or entertainers to perform the following acts:  | (b) Touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person; or<br>(c) Wear or use any device or covering that is exposed to view which simulates the breast, genitals, anus, pubic hair, or any portion thereof.<br><br>(a) Entertainers may expose their breast and/or buttocks if the performer(s) is on a stage at least eighteen inches above the immediate floor level and removed at least six feet from the nearest patron.<br>(b) Performers <u>may be within six feet from the nearest patron and may touch, caress, or fondle the breast or buttocks.</u><br><br>provided that all of the following conditions are met:<br>(i) The dancers are compensated by the licensee <u>or the dancers are performing pursuant to an agreement or contract with the licensee;</u><br>(ii) At all times, the licensee must maintain and have available for inspection by any liquor enforcement officer a list of all dancers employed <u>or contracted at</u> the licensed premises. The list must be retained for a period of thirty days after termination of employment and must contain the following information for each dancer or entertainer: <ul style="list-style-type: none"> <li>• True name and professional or stage name, if any;</li> <li>• Residence address and phone number;</li> <li>• Terms of the agreement of employment <u>or contract;</u> and</li> <li>• Signature of both the licensee and the dancer or entertainer;</li> </ul><br>(3) The traditional or ethnic dance performances will be those performed for the enjoyment of the general audience of the licensee and not for individual patrons. |

- Deleted: only
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- Deleted: . This restriction will not be applied to performances of
- Deleted: traditional ethnic dancing,
- Deleted: traditional ethnic
- Deleted: iii

(5) Except as provided in this section, the occurrence of any of the above acts or conduct, whether permitted by a licensee, employee, or any other person under the control or direction of the licensee or an employee, constitutes good and sufficient cause for cancellation of license privileges.

(6) Nothing in this rule is intended disallow local officials from adopting ordinances that are more restrictive than the requirements outlined in this rule.

(7) If any provision of this rule or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of the rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are severable.

[Statutory Authority: RCW 66.08.030, 66.28.100, 66.28.040, 66.28.090, 66.44.010, 66.44.070, 66.44.200, 66.44.270, 66.44.291, 66.44.292, 66.44.310, 66.44.316, 66.44.318, 66.44.340, 66.44.350, and chapter 66.44 RCW. WSR 01-06-014, § 314-11-050, filed 2/26/01, effective 3/29/01.]

Deleted: The



# **Adult Entertainer Advisory Committee**

*Report to the Legislature*

November 2020

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# Executive Summary

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## Introduction

On May 8, 2019, Engrossed House Bill 1756 (EHB 1756), aimed at addressing the safety and security of adult entertainers, was signed into law. The bill, codified as [RCW 49.17.470](#), creates new requirements for panic buttons and “blacklists” in adult entertainment establishments, sets forth training requirements for the purposes of adult entertainer licensure (beginning July 1, 2020), and directs the Department of Labor & Industries (L&I) to convene an adult entertainer advisory committee (the Committee). EHB 1756 directs the Committee to identify measures that would increase the safety and security of adult entertainers, and report to the Washington State Legislature any such recommendations that require legislative action.

## Summary of research

There is limited research that examines the issues of safety and security in adult entertainment establishments. A percentage of the research L&I was able to locate regarding adult entertainment establishments (clubs) focuses on government regulations and First Amendment protections of adult entertainment as free speech. For the purposes of this report, L&I predominantly relied on two sources:

- A 2017 study from the University of Minnesota’s Robert J. Jones Urban Research and Outreach-Engagement Center, *Workplace Perspectives on Erotic Dancing: A Brief Report on Community-Based Research with Entertainers in Minneapolis Strip Clubs*
- A 2018 report from Portland State University, *Exotic Dancers Experiences with Occupational Violence in Portland, Oregon Strip Clubs*

## Recommendations

The Committee voted on, and established a majority, for the following four recommendations. These recommendations represent concerns that both address the safety and security of adult entertainers, and would require legislative action. These are recommendations forwarded by the Committee, and are not endorsed by nor do they otherwise reflect the interests of L&I.

1. Legalize the service of alcohol in adult entertainment establishments in Washington.
2. Require mandatory training for staff in adult entertainment establishments.
3. Eliminate the practice of charging back rent to adult entertainers in adult entertainment establishments.
4. Set minimum requirements for security staffing in adult entertainment establishments.

There were a number of other recommendations identified by the Committee during the development of this report. These additional topics require further discussion, research, and consensus, and are therefore not included as formal recommendations to the legislature at this time. However, these topics are addressed in an *Additional considerations* section later in this report.

# Introduction

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On May 8, 2019, Engrossed House Bill 1756 (EHB 1756), aimed at addressing the safety and security of adult entertainers, was signed into law. Upon its passage, the bill directed the Department of Labor & Industries (L&I), under the advisement of the Adult Entertainer Advisory Committee (the Committee), to identify measures that would increase the safety and security of adult entertainers, and report to the Washington State Legislature any such recommendations that require legislative action.

L&I convened the Committee, consisting of representatives from both business and labor, with support from L&I staff with relevant knowledge and expertise. The Committee began meeting in September 2019. Over the course of monthly meetings, with L&I serving in the capacity of facilitator, the Committee identified and discussed safety and security issues in the adult entertainment industry, and established recommendations designed to mitigate safety and security risks that currently exist for dancers.

This report summarizes the Committee’s safety and security recommendations, as well as next steps for this group and its efforts. The content of this report represents the ideas and suggestions of members on the Committee, and does not reflect the recommendations or opinions of L&I. For each recommendation to the legislature, available research is summarized and shared.

## ENGROSSED SUBSTITUTE HOUSE BILL 1756

In addition to directing the Committee to submit recommendations to the legislature, EHB 1756 establishes requirements addressing panic buttons and “blacklists,” both of which took effect on July 28, 2019. Adult entertainment establishments are required to provide panic buttons in certain locations of the establishment, which an entertainer may use if they have been harmed, believe there is a risk of harm, or if there is another emergency in their presence.

Adult entertainment establishments must also document accusations of customer violence against adult entertainers via a “blacklist,” which records the customer’s identifying information for a period of at least five years. If an accusation of violence by a customer is supported by a statement made under penalty of perjury or other evidence, the establishment must ban such customer for a period of not less than three years. Establishments with common ownership must share this information amongst themselves and all must decline admission to the customer.

Beginning July 1, 2020, adult entertainers are now required to take a “Know Your Rights” training and provide proof of training completion in order to receive or renew an adult entertainer license issued by a local government. L&I was required to develop or contract for the development of training for adult entertainers. The training is required for adult entertainer licensing and must include, but is not limited to:

- 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.

Beginning in November 2019, L&I worked with members of the Committee to identify and draft content for the “Know Your Rights” training. The training was finalized in June 2020, and L&I will update it on an ongoing basis as needed. The “Adult Entertainer Safety: Know Your Rights” training webpage.

# Advisory Committee

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[RCW 49.17.470\(6\)](#) directs L&I to convene the Adult Entertainer Advisory Committee. The primary objectives of the Committee are to assist with development of the “Know Your Rights” training required for adult entertainer licensure, and to identify recommendations aimed at increasing the safety and security of adult entertainers. The statute also establishes requirements for Committee membership. At least half of the Committee members must be former or current entertainers who have held an adult entertainer license issued by a local government for at least five years, and at least one member of the Committee must be a representative of an adult entertainment establishment that is currently licensed by a local government and operating in Washington. L&I was not a member of the Committee and did not vote on the recommendations.

## ADULT ENTERTAINER REPRESENTATIVES

The Committee consists of eight adult entertainers, representing a broad range of experience in the adult entertainment industry. Many of the dancers on the Committee have worked in adult entertainment for more than five years, working at clubs both in and outside of Washington. A number of the adult entertainers on the Committee were involved in organizing dancers to address concerns in the industry, and participated in the legislative process during passage of EHB 1756.

A representative from Working Washington, a Seattle-based nonprofit that has been collaborating closely with dancers throughout this effort, is also a member of the Committee.

## ADULT ENTERTAINMENT ESTABLISHMENT REPRESENTATIVES

The Committee includes two representatives of adult entertainment establishments currently licensed in Washington. There are approximately 11 adult entertainment establishments in Washington, and the adult entertainment establishment representatives serving on the Committee represent a majority of clubs in the state. One industry representative appeared on behalf of seven clubs in Washington (operating under the names Déjà Vu Showgirls, Dreamgirls, and Little Darlings, referred to collectively in this report as “Déjà Vu Clubs”), and the second industry representative represents Kittens Cabaret.

The majority of clubs in Washington are located in King and Pierce counties, with the largest percentage located specifically in the City of Seattle. There is one club located in Spokane Valley, and when the Committee first convened, there was a club in Kennewick (this club has since closed).

# Committee Meetings

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The Committee convened for the first time in September 2019. To accommodate the large percentage of members traveling from the King County area, L&I hosted meetings at its field office located in Tukwila. In response to the preferences of Committee members, meetings were held on Monday mornings, for three hours each time.

Prior to finalization of this report, meetings occurred every month between September 2019 and November 2020, with the exception of March 2020. After an initial discussion about recommendations to the legislature in September 2019, the Committee shifted its short-term focus for subsequent meetings held in 2019 to developing the content of the “Know Your Rights” training. The Committee resumed substantive conversations about recommendations to the legislature in January 2020.

In an effort to maximize participation, L&I provided members with the option of attending Committee meetings in-person or remotely via WebEx. Providing members with the ability to participate remotely also addressed concerns that dancers expressed about fear of retaliation, and the need to maintain their anonymity. In response to the COVID-19 pandemic, beginning in April 2020, Committee meetings were all held remotely.

During Committee meetings, members:

- Identified information for inclusion in the “Know Your Rights” training
- Participated in feedback sessions about concerns that exist in the industry
- Established recommendations aimed at increasing the safety and security of adult entertainers
- Had the opportunity to engage with L&I staff on a number of topics L&I oversees (e.g., wage and hour, safety and health, and industrial insurance)

# Report Format

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This report examines a number of concerns related to the safety and security of adult entertainers, and makes recommendations to the Washington State Legislature on how these issues may be mitigated. EHB 1756 directs the Committee to include information about “financial aspects of the entertainer profession” in the “Know Your Rights” training. Recognizing that there are elements of the adult entertainment industry that are unique to dancers, this report contemplates concerns related to both the physical *and* financial security of adult entertainers in the context of “security.”

The report also provides information about other topics the Committee discussed in the context of safety and security. These concerns, highlighted in the *Additional considerations* section, provide a high-level overview of what the issues are, but require further conversation, research, and Committee action.

In an effort to provide an opportunity for Committee members to speak about the concerns within the industry using their own voices, the report also includes a *Background and additional information from committee members* section that features direct statements made by both adult entertainer and industry representatives.

# Committee Recommendations to the Legislature

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This section of the report explores the Committee’s recommendations to the legislature aimed at increasing the safety and security of adult entertainers in Washington. These recommendations are the result of an eight-month process, which began in January 2020. The Committee kicked off this effort by brainstorming a comprehensive list of concerns that exist within the industry. In an effort to ensure that all ideas were considered, the list consisted of concerns that were both in and out of scope for the purposes of this report.

After developing the list, the Committee worked to identify which items were linked to dancer safety and security (in scope), and which were not (out of scope). Next, the Committee discussed each legislative recommendation at length, identified significant details associated with each consideration, and worked to establish what measures could be taken to address each concern. L&I also conducted research to identify what, if any, information exists on each topic.

Prior to being included in the report, each recommendation was voted on by members of the Committee. The recommendations outlined below reflect only those that received a majority vote. Majority votes that are not unanimous are comprised either exclusively of dancer representatives, or of a combination of both dancer and club representatives. Minority votes are also represented. Recommendations that did not receive a majority vote are included in the *Additional considerations* section of this report.

The terms “entertainers” or “dancers” refer to the eight members of the Committee who represent adult entertainers. The terms “industry representatives” or “clubs” refer to the two members of the Committee who are adult entertainment industry representatives. A representative from Working Washington was also a member of the Committee, and the feedback provided and votes submitted by the Working Washington representative were aligned with dancers. To the extent there was not a consensus amongst groups, the report may denote that “some” or “a few” entertainers or industry representatives align with a certain statement or perspective. The terms “members” or “Committee members” more broadly refers to a statement or claim made with the consensus of all parties. The viewpoints expressed in this report reflect the input received through a process that encouraged all parties to share personal and lived experiences.

## ALCOHOL SERVICE IN ADULT ENTERTAINMENT ESTABLISHMENTS

Washington does not, by statute, regulate alcohol in adult entertainment establishments, but delegates rulemaking authority to the Washington State Liquor and Cannabis Board. [WAC 314-11-050](#) prescribes the types of conduct prohibited on any premise that holds a liquor license, which includes many activities reflected in the definition of adult entertainment establishments as defined in [RCW 49.17.470\(7\)\(b\)](#). Unlike the neighboring state of Oregon and the majority of other states, which allow for the service of alcohol in adult entertainment establishments, WAC 314-11-050 effectively

prohibits the sale of alcohol in clubs because of the prohibited activities it identifies for premises holding a liquor license (e.g., exposure of specific areas of the body, touching, caressing, or fondling of specified body parts, etc.).

## **Committee concerns**

Members of the Committee identified a number of safety and security concerns associated with the prohibition of alcohol sales in adult entertainment establishments. Concerns that could potentially be mitigated by legalizing on-site sale of alcohol include, but are not limited to:

- alcohol consumption by customers (either offsite or from an alternative source) that is not monitored by dancers/staff of the adult entertainment establishments;
- decreased customer demand and a low customer-to-dancer ratio, resulting in what dancers identify as diminished ability for them to draw their own boundaries and protect their safety by being selective about the customers with whom they interact;
- limited ability of clubs to attract customers who are seeking a social (“fun or party”) atmosphere, which dancers assert creates an atmosphere with higher expectations of sexual interaction; and
- high “house fees” paid by dancers to clubs as a result of limited options of revenue streams for the clubs.

According to entertainers, it is common for customers of adult entertainment establishments to arrive at a club after already consuming alcohol. Consistent with various other types of venues in Washington, adult entertainment establishments offer “in and out” privileges for their patrons, meaning that customers are free to leave and re-enter the club once a cover charge for that day has been paid. Entertainers report it is a common practice for customers to leave a club to seek out alcohol service prior to their return. Similarly, entertainers note that customers are known to retreat to their vehicles to consume alcohol illegally, and then re-enter the club.

Unlike bars, which rely on bartenders, wait staff, and security staff to monitor a customer’s alcohol consumption and respond/intervene accordingly, dancers and staff in adult entertainment establishments have no mechanism to effectively monitor alcohol consumption by patrons. Entertainers state this sometimes results in customers becoming so intoxicated due to off-site consumption that they pose a security risk to dancers, especially when the customer’s behavior escalates to the point of violence against dancers and/or other staff in the club. Members believe offering the ability for customers to consume alcohol on-site would give both dancers and staff in the adult entertainment establishment the ability to effectively monitor customer consumption and reduce the risk of a patron being overserved. Legalizing the service of alcohol would also yield governmental oversight by the Liquor and Cannabis Board, resulting in an additional layer of enforcement for the club environment.

Lack of alcohol in clubs in Washington limits the ability of clubs to create a social atmosphere and restricts their customer base, which entertainers assert creates a less safe environment for dancers. Dancers on the Committee report they have greater ability to draw their own boundaries and exercise



personal discretion about the customers they interact with in clubs that attract a broad range of customers, including both those seeking sexual interaction (the primary patrons of Washington clubs), and those seeking a social atmosphere more akin to a bar or nightclub. Members report that in states such as Oregon, which allow alcohol service in adult entertainment establishments, the environment takes on a more social feel. According to members, this difference is highly important in destigmatizing the experience of visiting an adult entertainment establishment, a paradigm shift that not only yields a larger and broader customer base, but normalizes a broader set of social circumstances for which clubs are frequented (e.g., bachelor/bachelorette parties, birthday celebrations, etc.).

Committee members also see diversifying the potential customer pool for adult entertainment establishments through alcohol service as a way to address concerns related to the financial security of dancers and clubs. Currently, the relatively limited base of customers for clubs in Washington often results in dancers competing with one another for a small pool of customers. Entertainers note that the net effect is dancers frequently working shifts where they earn little to no money, creating the risk of financial insecurity and abuse of dancers. As a result of this financial pressure and limited customer base, dancers indicate they are less able to be selective about the customers they choose to interact with, and may be compelled to sell private dances to customers who are intoxicated, disrespectful of boundaries, or otherwise jeopardize their safety. This issue intersects with an additional concern related to the restriction on the sale of alcohol: high “rent” or “house fees.”

Without the ability to sell alcohol, clubs have limited options for generating revenue. With the exception of cover charges paid by patrons upon entry, a majority of the money earned by adult entertainment establishments is generated by “rent” or “house fees.” Dancers pay clubs these fees for the right to use certain spaces within the club. Members of the Committee have indicated that the service of alcohol may enable clubs to lower house fees by providing more options for generating revenue. Additional concerns related to house fees are addressed later in this report.

## Research summary

There is limited research available addressing the topic of alcohol sales in adult entertainment establishments. One of the most recent resources on the topic is a 2017 report from the University of Minnesota’s Robert J. Jones Urban Research and Outreach-Engagement Center. The report, *Workplace Perspectives on Erotic Dancing: A Brief Report on Community-Based Research with Entertainers in Minneapolis Strip Clubs*,<sup>1</sup> summarizes the findings of a study performed in Minneapolis focused specifically on businesses licensed as adult entertainment establishments that provide “nude or semi-nude performance.”

The report outlines a number of safety concerns associated with alcohol consumption in adult entertainment establishments, regardless of whether alcohol is served. Consistent with feedback provided by the Adult Entertainer Advisory Committee, the report notes that “in non-alcohol serving establishments, it is very common for customers to arrive already intoxicated.” The current

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<sup>1</sup> University of Minnesota, Robert J. Jones Urban Research and Outreach Engagement Center. (2017) *Workplace perspectives on Erotic Dancing: A Brief Report on Community-Based Research with Entertainers in Minneapolis Strip Clubs*. <https://uroc.umn.edu/sites/uroc.umn.edu/files/UROC%20Strip%20Club%20Report%203.26.17-Final%20FINAL.pdf>

restriction on the sale of alcohol in Washington adult entertainment establishments has not prevented dancers from coming into contact with intoxicated patrons. As the report notes, intoxication of customers was “seen as a concern for entertainers’ safety, regardless of whether or not the establishment serviced alcohol.”

The report also highlights a concern correlated with alcohol-serving clubs in Minneapolis, in which “entertainers who are over the age of 21 are allowed to consume alcohol while working.” Alcohol consumption by dancers in alcohol-serving clubs in Minneapolis is characterized as being “embedded into workplace culture and customer expectations,” leading to “a safety concern as it made it harder for entertainers to maintain professional boundaries and to keep track of their earnings.” The report also includes suggestions to mitigate these concerns. The report does not suggest removing alcohol service from these establishments, instead suggesting policies like “alcohol consumption limits for entertainers while working.” In considering how regulations in Washington could mitigate potential concerns related to alcohol service in clubs, it is important to note that Washington’s workplace safety and health rules require that all employers prohibit from the workplace any workers, including independent contractors, under the influence of drugs or alcohol. Please *see* [WAC 296-800-11025](#).

### **Recommendation to the legislature**

Members of the Committee voted unanimously in support of a recommendation to legalize the service of alcohol in adult entertainment establishments in Washington. While the Liquor and Cannabis Board has regulatory authority, the Committee recommends the legislature take action to ensure clubs have the option to sell alcohol. Allowing alcohol service in clubs would not preclude the rights of any individual establishment to maintain an alcohol-free operation, as there are many states that currently have both clubs that serve alcohol and clubs that do not serve alcohol. This diversity allows for dancers to seek out clubs that provide the income opportunities, atmosphere, and type of work they desire, which increases their control over the customers they interact with and their personal boundaries.

## **MANDATORY TRAINING FOR ADULT ENTERTAINMENT ESTABLISHMENT EMPLOYEES**

[RCW 49.17.470](#) requires that entertainers provide proof that they have completed a “Know Your Rights” training as a condition of receiving or renewing an adult entertainer license. The training, developed by L&I, provides dancers with information including, but not limited to, the rights and responsibilities of adult entertainers, reporting workplace injuries, and resources for assistance. No such state-level training requirement for licensure exists for staff (non-dancers) in adult entertainment establishments.

### **Committee concerns**

Collaboration and mutual effort among all workers are needed for club operations to run smoothly. Many dancers know that they can rely upon one another as resources and sources of support. Aside from having a shared experience in the club, dancers have a specific understanding of the difficulties

faced in their jobs. The result is an unspoken reliance on each other to be responsive to problems, and identify issues before they develop.

Entertainers believe that enhancing workplace training for the various staff (e.g., management, DJ's, security, etc.) who work in clubs alongside dancers will improve responsiveness to issues that arise (which are often unique to dancers), as well as overall club safety.<sup>2</sup> Entertainers believe that dancers' safety and security are at increased risk when club staff do not have a firm understanding of the concerns and risks that exist specifically for dancers.

Entertainers report that additional training designed by dancers for club staff and managers could better prepare them to effectively intervene and de-escalate when customers harass or pose a security threat to dancers, or when dancers are assaulted. Dancers on the Committee note that in their experience, club management is sometimes unresponsive or even hostile when dancers report assault by customers. Staff and managers could be trained to provide trauma-informed options for dancers who are assaulted or harassed at work. This could include options that do not rely on the involvement of law enforcement, as many dancers have expressed concerns related to police intervention and the potential for mistreatment resulting from the stigma against sex work.

Trainings could also establish employees' responsibilities to not perpetuate harassment and discrimination against dancers. Entertainers report that racial discrimination and sexual harassment of dancers by club managers are persistent issues in the industry, and that clearly establishing club employees' legal and ethical responsibilities related to harassment and discrimination is one step that could be taken to mitigate these abuses.

Government-mandated trainings currently exist for staff working in adult entertainment establishments (for example, training pertaining to bloodborne pathogens). A training that centers on ways to bolster dancer safety and security would be largely in alignment with a number of the trainings already required, which are focused on establishing a safe workplace.

## Research summary

L&I was unable to locate any research that addresses the topic of mandatory training specific to staff in adult entertainment establishments. Recognizing that the underlying premise of the Committee's concern is increasing the safety and security of adult entertainers, L&I focused its research efforts for this topic on the effectiveness of reducing safety risks through training. All employers in Washington are required to have a written Accident Prevention Program (APP) that is tailored to the needs of the particular workplace or operation and to the types of hazards involved (*see* [WAC 296-800-14005](#)). In addition, employers are required to have effective safety and health training programs in place (*see* [WAC 296-800-14020](#)). Workplace violence is a recognized hazard for this industry, and employers are expected to address workplace violence in their APP and train all employees accordingly.

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<sup>2</sup> The Déjà Vu Clubs, which consist of seven clubs in Washington State, partners with U.S. Immigration and Customs Enforcement's Homeland Security Investigations to deliver staff training (managers and employees, and also available to entertainers) on human trafficking identification through the organization Club Owners Against Sex Trafficking (COAST). This training is offered on a reoccurring basis to all club managers and other staff working at clubs operated by Déjà Vu.

## Recommendation to the legislature

Members of the Committee submitted a majority vote in favor of a recommendation to require mandatory training for staff in adult entertainment establishments. The training would be aimed at providing staff in the clubs with the information necessary to identify workplace hazards that exist for dancers, and to help increase dancer safety. Such a training could include information consisting of, but not be limited to: de-escalation strategies; sexual harassment; exploitation; discrimination; and anti-racism. Managers and staff could be trained on how to identify and intervene in harassment and discrimination from customers, as well as on compliance with anti-harassment and anti-discrimination policies.

One of the industry representatives voted in opposition to this recommendation.

## ELIMINATING “BACK RENT” CHARGED TO ADULT ENTERTAINERS BY ADULT ENTERTAINMENT ESTABLISHMENTS

A majority of adult entertainers and adult entertainment establishments in Washington classify dancers as independent contractors, meaning the terms of the relationship between dancers and clubs are set through written contracts.<sup>3</sup> All of the dancers on the Committee indicate that they are required to sign pre-written contracts provided by clubs, while the club representatives on the Committee note that the terms are set through contractually negotiated dancer performance leases. These contracts set forth a broad range of terms, including the fees dancers are required to pay to the club, what resources the club will provide (e.g., use of specific portions of the facilities), and what constitutes a violation of the contract terms. Entertainers report that some, but not all contracts, also address a significant concern that exists for dancers: “back rent.”

### Committee concerns - majority

In Washington, dancers are required to pay clubs “house fees” for each shift they work. When a dancer begins work at an adult entertainment establishment, the contract the entertainer signs defines how much the dancer will pay (“fee”) the club (“house”) for each day spent dancing in the establishment. This is known as a “house fee” or “rent.” While rent is a standard feature of the adult entertainment industry, dancers note that clubs in Washington charge high house fees due, in part, to the limited revenue streams available to them. Entertainers report that house fees for clubs in Washington range from \$65-\$165/day, with an average fee of over \$100/day.

Entertainers indicate that both in Washington and other states, the majority of money dancers earn comes from the sale of private dances and VIP rooms to customers. The clubs generate revenue from

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<sup>3</sup> Under Washington employment laws, whether an individual is an employee or an independent contractor is determined by various multi-factor tests applicable under the specific laws. These tests are covered in the “Know Your Rights” training. For the purposes of workers’ compensation, L&I has determined that adult entertainers are covered workers. L&I has also issued health and safety citations to adult entertainment establishments where it was determined that the dancers covered by the inspection were employees under the Washington Industrial Safety and Health Act (WISHA). Under Washington’s wage and hour laws, employees (versus independent contractors) must earn at least minimum wage for every hour worked and are entitled to meal and rest breaks. However, for the issues in this report, L&I does not establish or define the status of adult entertainers as employees or independent contractors given the fact-specific nature by which the individual status is determined under the specific law in question.

house fees, VIP room fees (included in a portion of the fee dancers charge to customers for VIP room performances), drink purchases, door fees (ranging from \$10 - \$20), and occasionally other miscellaneous fees dancers indicate they are charged by the clubs. House fees are required to be paid on the same day the entertainer performs in the club, so the amount a dancer earns during their shift is the money remaining after paying the club its house fee and any portion of VIP room fees.

Multiple factors affect how much a dancer earns during their shift. These factors include the day of the week the dancer works, the time of day the dancer performs, how many other dancers are in the club during the same shift, how many customers are in the club at the time the entertainer is performing, and the ability for a dancer to sell services to customers (e.g., lap dances and VIP rooms). Due to any one or a combination of these variables, the entertainers note that it is very possible for dancers to leave a shift having earned little to no money. In some cases, dancers may also conclude their shift owing the house, meaning they did not earn enough to cover their house fees. The result of this is the dancer owing “back rent.”

While some clubs manage back rent differently, dancers indicate that the majority of contracts carry forward any unpaid balance of fees from a dancer’s previous shifts and add it to the dancer’s rent due for future performance dates. For example, if a dancer works a shift at a club with a daily house fee of \$140, and the dancer is only able to pay \$100 of that fee, the amount owed to the club for the dancer’s next shift would be \$180 (\$40 owed from the previous shift, and \$140 for the current shift). Dancers also note that it is not uncommon for contracts to outline additional reasons for which they can be charged back rent, such as failure to work during a pre-established timeslot. If a dancer does not work during the established timeslot, the club will charge the dancer a percentage of, if not the entire, house fee for that day.

Entertainers report that house fees are a standard in the adult entertainment industry nationwide. They do not wish to change the nature of the dancers’ relationship to clubs, which they currently identify as being that of independent contractors. However, they note that the practice of back rent as a method of enforcing high house fees at clubs in Washington can result in various negative outcomes for dancers, and has the ability to significantly impact their personal safety and financial security. According to the dancers on the Committee, dancers commonly exercise discretion about the customers for whom they offer personal services, such as lap dances. There can be a broad range of reasons a dancer might choose not to offer a lap dance to a given customer – for example, a dancer may feel the customer poses some sort of risk to them, or the customer may be seeking services that would cross the dancer’s personal boundaries. Though dancers can avoid customers with whom they believe close interaction might compromise their personal safety or cross their boundaries, they indicate they are likelier to engage with those customers because they need to earn enough money to avoid being charged back rent.

Entertainers discussed how the use of back rent also poses a serious risk to the financial security of dancers. Owing back rent can result in two particularly negative outcomes for dancers. The first is the potential for a dancer to continue working shifts where they make no money, and are essentially working for free. If an adult entertainer is unable to earn enough money to cover their house fee and the back rent owed, this perpetuates the cycle of indebtedness. In addition to impacting the ability of dancers to earn a living, dancers note that owing back rent is oftentimes used by adult entertainment establishments as grounds for terminating dancer contracts. Some contracts between adult

entertainers and the clubs clearly define the owing of “excessive” back rent as a violation of the contract terms, therefore subjecting the dancer to termination. The result is the dancer having no recent earnings to draw upon, while also facing the uncertainty and difficulty of finding another job or establishment to work in.

The second potential outcome is that, due to inconsistent enforcement of back rent policies by clubs, some dancers may be allowed to accrue high amounts of back rent, while others may be terminated for owing less. Dancers indicate that some club managers use back rent as a justification for terminating a contract with a dancer for reasons that may be discriminatory or retaliatory in nature. By eliminating back rent, clubs can reduce the financial pressure and potential for exploitation faced by dancers.

To mitigate the impact of eliminating back rent on the ability of clubs to generate revenue, clubs could incorporate variable house fees or alternative revenue streams, including the service of alcohol (should such a practice be legalized).

### **Committee concerns - minority**

Industry representatives recognize that when dancers enter into a lease agreement with a club, and pay for repeated shifts where they do not recuperate their costs, breaking free from that cycle can be challenging. Clubs note that house fees do not change on the basis of dancer earnings, and dancers are entitled to all of their earnings in excess of the house fee. Back rent is not considered a “collectable debt,” and does not follow the dancer or impact their credit.

Clubs indicate that it is not uncommon for rent (“house fees”) to be forgiven at the discretion of managers, noting that as a general practice, clubs do not usually allow dancers to accumulate back rent in excess of five shifts. The practice of charging back rent is a near-universal business model within the industry, and alternatives have not been sufficiently tested. Industry members recognize that there are persistent dancer concerns associated with back rent, and have expressed a commitment to experimenting with new models. There is concern amongst clubs about pursuing a legislative approach that adopts a specific regimen that may prove inflexible to market conditions.

### **Research summary**

There is limited research available addressing the topic of back rent in adult entertainment establishments. For the purposes of this legislative recommendation, we again call upon the findings contained in the *Workplace Perspectives on Erotic Dancing: A Brief Report on Community-Based Research with Entertainers in Minneapolis Strip Clubs*<sup>4</sup> report by the University of Minnesota. The report focuses most specifically on concepts related to house fees and tipping, but because such practices lead to the creation of back rent, they are mutually inclusive.

Dancers surveyed for the Minnesota report noted that “tipping obligations, house fees, and fines were some of the greatest concerns and burdens” they experienced working in adult entertainment establishments. Dancers also stated that it is not uncommon to “leave work owing money to the

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<sup>4</sup> University of Minnesota, Robert J. Jones Urban Research and Outreach Engagement Center. (2017) *Workplace Perspectives on Erotic Dancing: A Brief Report on Community-Based Research with Entertainers in Minneapolis Strip Clubs*. <https://uroc.umn.edu/sites/uroc.umn.edu/files/UROC%20Strip%20Club%20Report%203.26.17-Final%20FINAL.pdf>

club.” Many of the issues highlighted in the report echoed the concerns expressed by dancers on the Committee. These concerns include the belief that “the arbitrary and large amounts of money required for house fees, tipping and fines are a form of economic exploitation of entertainers,” and that in an effort to ensure earnings, dancers are pushed to engage in practices which result in “less safe work environments.” This section of the report goes on to conclude that entertainers recommended a “requirement to maintain uniform and non-exploitative standards for tipping and house fees,” with these recommendations calling for “eliminating the possibility of an entertainer finishing a shift owing money to the club by waiving house fees on slow nights.”

### **Legislative recommendation**

Members of the Committee submitted a majority vote in favor of a recommendation to eliminate the practice of charging adult entertainers back rent, or any form of debt, based on the dancer’s inability to pay house fees to the adult entertainment establishment.

The club representatives on the Committee voted in opposition of this recommendation.

## **MINIMUM SECURITY STAFFING REQUIREMENTS AT ADULT ENTERTAINMENT ESTABLISHMENTS**

Minimum levels for security staffing in adult entertainment establishments is not something currently regulated through statute. [WAC 296-800-140](#), Accident Prevention Program (APP), requires a written program tailored to particular needs of workplaces and specific hazards, and supervision and training to enforce effective programs. Workplace violence is a recognized hazard in many industries, particularly those in which workers work in isolation with customers, such as the adult entertainment industry. As such, an employer’s APP is expected to include how the employer is addressing security hazards. L&I currently can enforce safety and security in adult entertainment establishments through the APP, which could include compliance action if a complaint about security issues is filed with the agency asserting that the APP is not effective in practice.

### **Committee concerns – majority**

As with many other industries, there currently is no clearly established, minimum requirement directing adult entertainment establishments to provide sufficient security staff. According to dancers, it is not uncommon for clubs to only have one or two security staff onsite, and these staff are usually assigned to work at the entrance to the club. Entertainers note that there are clubs in Washington that have no security staff at all, and in these cases, staff (e.g., waitresses, DJs, supervisors) are expected to regulate customer behavior.

Dancers report that not having dedicated security staff is problematic for a number of reasons. While they agree that the adult entertainment industry is not an inherently or uniquely dangerous industry, the risk of violence is an industry-recognized hazard, just as it is in the broader entertainment and customer service industries. Many of the risks faced in the adult entertainment industry are similar to those in industries where hiring security staff is a common practice, such as bars and nightclubs.

Security staff, in general, are tasked with assessing risks that exist within a club so that they can try to prevent customers from escalating to the point of inappropriate or violent behavior; and with



intervening when such circumstances arise. Staff assigned to security are responsible for maintaining constant vigilance to ensure the safety of all those present in the establishment, including but not limited to customers, dancers, and club staff. In the absence of adequate security staffing levels, these individuals may be placed at higher risk. Entertainers note that for dancers in particular, the lack of dedicated security staff creates a higher risk when they are in isolated conditions, including private VIP rooms or dance areas where they are with a single customer, or when traveling between the club and their vehicle (or other form of transportation) at the end of their shift.

Entertainers assert that security staff can be specifically trained to respond to a broad range of situations involving customers, including when customer behavior escalates and becomes violent. Dancers also indicate that relying on undertrained security staff or non-security staff to attend to patrons demonstrating inappropriate and violent behavior not only puts those staff at an increased risk for violence, but could result in further escalation of the situation. Dancers on the Committee have concerns about police involvement as a path forward for a safe workplace, and would not view training for security staff that relies solely or heavily on police intervention as a resolution. Security staff provide a straightforward approach to ensuring that everyone working in adult entertainment establishments, especially dancers, are operating in a safe workplace.

### **Committee concerns – minority**

The industry representative in the minority notes that clubs have gradually moved away from employing designated security officers, as the use of security officers is inconsistent with de-escalation strategies. Based on the experience of the club representative, the mentality of security staff, or “bouncers,” is counterproductive and has the potential to illicit greater confrontation in the club environment. They note that adult entertainment establishments instead have increasingly relied on enhanced video equipment, and training of staff to have shared safety responsibilities. Pursuant to the requirements set forth in EHB 1756, some clubs have begun installing panic buttons in locations where a dancer may be alone with a customer. The industry representative indicates that panic buttons can facilitate quicker response times in the event of an incident.

The club representative in the minority also notes that appropriate staffing is heavily dependent upon each specific club and the hours of operation. Adult entertainment establishments are required to have a manager on shift at all times. In matters involving violence, which the industry representative quantifies as rare, the police are seen as being the most appropriate response, not club employees. Requiring dedicated personnel may also be cost-prohibitive and could result in an increase of house fees.

### **Research summary**

There is limited research available to L&I that specifically addresses the topic of security staffing in adult entertainment establishments. An intelligence bulletin from the National Institute for Occupational Safety and Health (NIOSH) identifies a number of risks that increase the likelihood for general workplace assault. These risks include, but are not limited to: contact with the public; exchange of money; working alone or in small numbers; and working late at night or during early



morning hours.<sup>5</sup> Each of the aforementioned risk factors apply to the nature of the work of adult entertainers. The NIOSH bulletin discusses the role that security can play in mitigating the risk of assault against workers, which includes “the use of security guards or receptionists to screen persons entering the workplace and controlling access to actual work areas.”

A 2018 report from Portland State University explores a number of health and safety issues associated with work in adult entertainment establishments. The study, *Exotic Dancers Experiences with Occupational Violence in Portland, Oregon Strip Clubs*,<sup>6</sup> reports that of its 32 participants, “32 reported “yes” to experiencing some form of violence while at work,” including sexual assault, verbal abuse, harassment, and physical assault. According to the report, the most common forms of violence against dancers included sexual assault, verbal abuse, harassment, and physical assault. Dancers participating in the study were asked to identify safety features used in clubs where they had experienced the least amount of violence, with 78 percent of respondents identifying bouncers as one of the safety features. One dancer interviewed stated that she felt most safe at work “[when a club has] really good bouncers who...are active and like paying attention to what is going on.” In its recommendations, the report identifies a number of safety features in the clubs that could help prevent violence and abuse. These recommendations include “stricter rules for employees,” like never leaving a dancer alone in the club, security staff actively monitoring cameras, and always intervening when any abuse occurs or is reported.

### **Recommendation to the legislature**

Members of the Committee submitted a majority vote in favor of a recommendation to establish minimum requirements for security staffing in adult entertainment establishments. When discussing this recommendation, L&I specified that the Committee was voting specifically for a recommendation that would require minimum safety/security procedures to be followed and/or a minimum amount of trained staff on the premises.

One club representative and one dancer representative voted in opposition of this recommendation.

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<sup>5</sup> *Violence in the workplace*. (1996, July). Centers for Disease Control and Prevention. Retrieved September 11, 2020, from <https://www.cdc.gov/niosh/docs/96-100/risk.html>

<sup>6</sup> Paulsen, Harley J., and Kimball, Ericka (2018) "Exotic Dancers Experiences with Occupational Violence in Portland, Oregon Strip Clubs." *PSU McNair Scholars Online Journal*, 12(1), Article 2. <https://pdxscholar.library.pdx.edu/mcnair/vol12/iss1/2/>

# Additional Committee Considerations

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In addition to the recommendations outlined in the previous section, members of the Committee wish to highlight additional considerations for the legislature. These considerations require further conversation, research, and consensus, and the Committee wanted to introduce these topics in this report for initial awareness by the legislature. Dancers on the Committee note that the topics outlined in this section are directly linked to their concerns about the safety and security of entertainers.

Members of the Committee have identified the following issues for further consideration:

- Municipal ordinances criminalizing dancer conduct, like lap dance and stage tipping bans
- Zoning laws, which limit locations of adult entertainment establishments
- Limiting the amount of house fees charged to dancers by clubs

Dancers on the Committee have also identified the following issue for further consideration:

- Creation of anti-discrimination protections tailored to the adult entertainment industry

## ADDRESSING EXISTING MUNICIPAL ORDINANCES REGULATING CONDUCT OF ADULT ENTERTAINERS

From the perspective of Committee members, many existing regulations were created without input from those working in the adult entertainment industry. A number of municipal codes throughout the state place restrictions on conduct in adult entertainment establishments. Members of the Committee identified a number of concerns related to municipal ordinances, including, but not limited to:

- requirements that customers maintain six feet of distance from dancers performing onstage – effectively banning the practice of tipping during stage performances;
- requirements that dancers remain “fully clothed” when off stage – banning the common industry practice of performing topless or nude lap dances; and
- requirements that dancers must perform private dances at a minimum of four feet from customers – prohibiting lap dances and virtually all performances in private rooms.

Committee members indicate that many of the local ordinances are restrictive in such a way that they are virtually impossible to follow. The ordinances referenced above are a sample of municipal ordinances which Committee members feel need to be discussed further. While these are city ordinances rather than state law, the Committee believes that their widespread use warrants highlighting this issue for the legislature.

## ADDRESSING EXISTING ZONING LAWS FOR ADULT ENTERTAINMENT ESTABLISHMENTS

Members of the Committee believe that one of the barriers to opening new clubs is existing zoning laws. These zoning laws are seen as prohibitive to the establishment of new clubs, resulting in a very small market, and less diversity in ownership. Seven of the 11 adult entertainment establishments in Washington are related entities. In an effort to expand and diversify the adult entertainment industry in Washington, members of the Committee are interested in exploring alternatives to current zoning laws.

## REGULATION OF HOUSE FEES

As outlined in the “Recommendations to the legislature” section of this report, high house fees paid by dancers to clubs impact dancers’ financial security and safety. Members of the Committee seek to further discuss and consider the amounts charged to dancers for house fees. There is a significant linkage between house fees, zoning, and the statewide ban on alcohol in adult entertainment establishments. Members of the Committee have indicated that serving alcohol may enable establishments to lower house fees by providing alternative sources of revenue. The Committee wishes to continue exploring modified approaches to how house fees are determined, including what the impact on house fees could be should the service of alcohol in adult entertainment establishments be legalized.

## ADDRESSING RACISM IN THE INDUSTRY AND CREATING ANTI-DISCRIMINATION PROTECTIONS

Dancers on the Committee state that an anti-racist approach to regulating the industry must address both existing regulations that deepen racial inequity, and the lack of protection for dancers experiencing discrimination. Additionally, dancers indicate that they face explicit discrimination in hiring, scheduling, and evaluation by managers. Dancers note that uneven enforcement of clubs’ internal policies disproportionately harms the safety of dancers of color. Regardless of a dancer’s status as an employee or independent contractor, dancers on the Committee indicate that it is often extremely difficult for dancers to prove discrimination has occurred, in part because policies are arbitrarily enforced to justify discipline or termination.

Entertainers on the Committee report that dancers of color are:

- Less likely to be offered contracts than white dancers when they apply to work
- Limited to working specific, often less lucrative, shifts
- Given less autonomy than white dancers, with clubs exercising more control over dancers of color
- Possibly restricted from selecting specific types of music perceived as attracting the “wrong crowd”
- Banned from specific hairstyles worn by dancers of color

Dancers face unique challenges pertaining to enforcement of existing anti-discrimination laws, and therefore hope to explore development of anti-discrimination policies tailored to the adult entertainment industry.

# Background and Additional Information from Committee Members

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This section of the report contains content submitted by members of the Committee using their own words. The information provided is in addition, and supplemental, to the *Recommendations to the legislature* and *Additional considerations* sections. There is also feedback reflected in testimonials provided by members of the Committee and dancers in Washington. The content of this section offers background/additional information aimed at further contextualizing the concerns that exist within the adult entertainment industry, and underscores the unique perspectives of Committee members.

## INFORMATION PROVIDED BY ADULT ENTERTAINERS AND WORKING WASHINGTON

### *Nothing About Us Without Us: Why we need workplace standards designed by strippers*

The adult entertainment industry represents economic mobility for many people. Dancing is one of few jobs providing workers autonomy and agency that is accessible to women regardless of formal experience or academic education. The financial opportunity and flexibility provided by dancing supports many of us in furthering our education, other careers, or interests.

*“I got into dancing... and it CHANGED MY LIFE. I was pretty sure I had finally escaped poverty.”*

- Anonymous stripper

Many dancers share this sentiment. It goes deeper than simply “escaping poverty,” because poverty means more than financial hardship. **Poverty means absence of choice:** you can’t choose where to live because you can’t afford your own place, and you may end up stuck in abusive relationships, homeless, or even losing custody of your children simply because you cannot afford childcare or adequate housing. **Poverty means a lower quality of life:** you can’t afford quality food or education for your family and end up living in a cheaper, often less safe environment. **Poverty also means less free time:** less time spent with your family or just taking care of your basic health needs.

*“Every time I quit dancing, I found myself homeless.”*

- Anonymous stripper

For many of us, stripping can be a salvation. For many women, dancing offers a sense of empowerment. For single parents, it is one of few entry-level jobs that can cover the cost of childcare and offers a flexible schedule. For workers with disabilities, chronic illnesses, or mental health issues, it offers the ability to take time off as needed. Dancing is not *the* solution to these problems, but it is *a* solution.

In the current climate, with many other options for work becoming less accessible, bolstering economic mobility in this industry is crucial. Restrictive laws, like bans on alcohol and city codes

criminalizing the very movement that supports our living, have made this job harder and less safe. This particularly impacts the most vulnerable of our communities, like women of color and LGBTQ+ people, many of whom rely on sex work as an accessible and low-barrier industry to enter. Regulations created without input from dancers have limited our economic mobility, leaving thousands of women in Washington with fewer options. We are looking for legislative support in creating safer, more equitable, and more prosperous workplaces for dancers, by dancers.

### ***Background on the development of recommendations to the legislature from dancers of the Committee***

At the root of many of the concerns highlighted in this report is the stigma against sex work, which creates a cultural and legislative landscape that limits income opportunities for clubs and dancers. Because sex work is so stigmatized, even well-intentioned attempts to regulate the industry often have adverse effects for workers when their voices aren't heard in the process.

The stigma against sex work has given rise to regulations that restrict dancers' ability to earn income in a safe, healthy environment, and it has led to the industry being overlooked when it comes to workers' rights. These impacts are even more profound for women of color, workers with disabilities, LGBTQ+ workers, and other marginalized groups. Reducing anti-sex work stigma and creating pathways to thriving, economically successful clubs will create a safer environment for dancers.

Dancers of the Committee wish to highlight background information about the need to change existing regulations that have arisen from the stigma against sex work, and were created without input from the workers they impact. Most of the current laws regulating the industry were created without input from dancers. The ban on alcohol service in clubs, municipal ordinances criminalizing dancer conduct, and zoning laws which limit locations of adult entertainment establishments are all examples of regulations intended to improve safety which, due to being developed without input from dancers, actually have deleterious effects on safety.

Strippers are workers, and like all workers, they deserve workplace protections tailored to their needs. But until very recently, with the passage of EHB 1756, virtually no meaningful, enforced workplace protections existed for dancers in Washington State. The process of designing and passing EHB 1756 created a new model for regulating the industry by putting workers at the forefront of policy development. Dancers of the Committee wish to build on the successes of EHB 1756 to create additional protections in the industry, including mandatory security staffing, trainings for club staff, banning the practice of back rent and limiting house fees, creating anti-discrimination policies tailored to the industry, and ensuring dancers are given the freedoms they should be entitled to as independent contractors.

Dancers of the Committee emphasize the need to address the concerns highlighted throughout this report using worker-driven policy development processes.

### ***Protecting dancers' status as independent contractors while improving safety***

As independent contractors, dancers are excluded from most existing labor protections. Dancers on the committee see independent contractor status as a benefit, and do not wish to pursue employee classification. Like other independent contractor jobs, stripping can offer a lot of freedom: dancers choose who to talk to, who they dance for, and when they take breaks, and can stop or start working as they please. This freedom of choice can be empowering. And many — like single parents, artists, students, and workers with disabilities — consider this flexibility essential to surviving and thriving. The industry therefore requires a unique regulatory approach, one that goes beyond models of advancing safety and security for workers through employment law and instead creates regulations designed for independent contractors.

Additionally, dancers wish to see policies that clearly define the freedoms they must be entitled to as independent contractors. Clubs often exercise excessive control over dancers – for example, by setting their schedules, pressuring them to work specific shifts, or dictating how they dress or interact with customers. These practices limit dancers' agency, and by extension their safety and security.

### ***Addressing outdated local ordinances restricting dancers' conduct***

Dancers of the Committee identified safety and financial security risks arising from municipal ordinances outlined in the Additional Considerations section, and restated here:

- Requirements that customers maintain six feet of distance from dancers performing onstage – effectively banning the practice of tipping during stage performances
- Requirements that dancers remain “fully clothed” when mingling with customers – banning the common industry practice of performing topless or nude lap dances
- Requirements that dancers must perform private dances at a minimum of four feet from customers – prohibiting lap dances and virtually all performances in private rooms

Most cities in Washington, including Seattle, incorporate the former two policies in their municipal codes; most cities outside of Seattle, like Tacoma, Lake Forest Park, and Renton, incorporate the policy banning lap dances. (Seattle's City Council passed a similar “four-foot law” in 2005, but it was repealed by citizen referendum the following year.) Because these ordinances heavily restrict or ban almost all of the services offered in clubs, they are virtually impossible to follow and are unevenly enforced. Restrictive policies like these create a high risk of criminal charges for both clubs and dancers, constrain clubs' ability to operate lawfully and profitably, and limit dancers' ability to earn a stable income.

The vast majority of dancers' income is earned through private dances; ordinances outlawing or restricting these dances puts a constant strain on workers' ability to make money, especially since dancers cannot earn money through stage performances due to the stage tipping ban.

Dancers report that by criminalizing their conduct at work, these ordinances harm, rather than enhance, their sense of safety in the workplace. Clubs, as opposed to independent sex work, can offer

many women a safer environment with the benefit of security staff, management, and fellow dancers to help enforce their boundaries. But the risk of being cited for violations makes it difficult for workers to enforce these boundaries for fear of retaliation from customers or management. Customers are emboldened to infringe upon their bodily autonomy, knowing dancers are unlikely to report their behavior because if law enforcement intervenes, it is the dancer who will likely be ticketed and fined. And when dancers experience violations and wish to seek outside assistance, they are sometimes discouraged from reporting or retaliated against by managers who want to avoid subjecting their club to additional scrutiny.

Vague language in some ordinances — for example, the Seattle ordinance preventing dancers from “simulating...sexual intercourse [or] masturbation” — encourages arbitrary and discriminatory enforcement by both law officers and club management. For example, managers may let some dancers “get away with” touching during a private dance, while sending other dancers home for coming too close to customers.

Like many vague or overly restrictive laws, these ordinances have a particularly damaging effect on the safety and security of dancers of color, who are likelier to be cited for violations and often face harsher punishments than their white peers due to bias in the criminal justice system. Women of color are already at increased risk of violence in the workplace, and the increased likelihood of being criminalized when they report violence makes them even more vulnerable.

### ***Revising zoning regulations to promote safe, healthy, and profitable work environments***

In addition to the information outlined in the Additional Considerations section, dancers of the Committee wish to highlight the way restrictive zoning laws have driven down workplace standards. The high barriers to opening new clubs in Washington have given rise to a de facto monopoly in the majority of the state: Deja Vu, a large international corporate chain, owns the majority of clubs and thus effectively dictates industry standards. Dancers at Deja Vu clubs face heightened fear of retaliation in raising safety concerns because termination could result in being banned from all Deja Vu locations. These zoning restrictions limit dancers’ choice of workplace and their bargaining power, negatively impact dancers’ safety, and prevent the creation of new clubs with higher workplace standards to compete with existing clubs.

### ***Addressing racism in the industry and creating anti-discrimination protections***

An anti-racist approach to regulating the industry must address both existing regulations that deepen racial inequity, and the lack of protection for dancers experiencing discrimination. Just as the uneven legal enforcement of municipal ordinances disproportionately harms the safety of dancers of color, so does uneven managerial enforcement of clubs’ internal policies. When managers can use arbitrarily enforced policies to justify discipline or termination, it’s difficult for dancers to prove discrimination has occurred. For example, most clubs’ contracts require dancers to pay any accrued “back rent” from previous shifts, but enforcement of this policy is up to managers’ discretion, and many dancers continue to work despite owing back rent. This policy is often enforced more aggressively for dancers of color, and managers often terminate dancers of color on this basis while letting their white counterparts continue to accrue debt.



Additionally, dancers face explicit discrimination in hiring, scheduling, and evaluation by managers. Dancers of color are less likely to be offered contracts than white dancers when they apply to work, or to be limited to working specific, often less lucrative, shifts. Managers sometimes justify these biased decisions by suggesting they want to avoid having “too many” dancers of a given race, body shape, or age working a given shift. Managers often give white dancers more autonomy — for example, being allowed to select the music for their stage performances or choose the clothes they want to wear while working — while exercising more direction and control over dancers of color. Some club policies are implicitly racist, particularly against Black dancers and customers: clubs may restrict dancers from selecting rap or hip hop music, claiming it will attract the “wrong crowd,” or ban specific hairstyles, like braids, worn by Black women.

In light of the unique challenges dancers face in enforcing existing anti-discrimination law, dancers see a strong need for anti-discrimination policies tailored to the adult entertainment industry. Effective policies could increase transparency in managerial decision-making — for example, requiring clubs to provide written statements explaining why dancers were fired or not hired or scheduled for a given shift, and a transparency report outlining how clubs spend house fees collected from dancers.

### ***Limiting fees charged to dancers while allowing alternative revenue sources for clubs***

As outlined in the “Legislative Recommendations” section of this report, high house fees paid by dancers to clubs pose a significant threat to dancers’ financial security and safety. While clubs in many states generate revenue through the sale of alcohol, clubs in Washington depend almost entirely on dancers’ house fees, charging them up to \$165 per shift simply for the privilege of working. Clubs are incentivized to overhire in order to maximize house fee revenue, and the lack of alcohol depresses demand, resulting in a low customer-to-dancer ratio. As a result of low customer turnout and high house fees, dancers frequently take home subminimum wages or leave work owing money to the club.

Legalizing alcohol service in clubs would allow for alternative revenue streams, and if the recommendation to allow alcohol in clubs is taken up by the legislature, it should be done alongside creating policies that ban back rent and limit house fees charged to dancers. Dancers steering the process to design equitable house fee regulations would ensure that increased revenue generation from alcohol sales will be meaningfully passed along to workers.

### ***Conclusion***

The considerations and recommendations highlighted here are a reflection of the lived experiences of dancers on the committee and involved in related advocacy efforts, such as the Strippers Are Workers campaign. Dancers want to emphasize that the criminalization of their work diminishes their agency and heightens the vulnerability of workers in the adult entertainment industry.

The recommendations made here suggest not only a pathway to creating policy in a complex and underserved industry, but also a paradigm shift in policy making, from a history of legislation which has stigmatized sex workers and isolated them from community to an approach that uplifts and

protects the agency of all workers in the field. Dancers want to see their independent contractor status respected by workplaces, the repeal of biased and stigmatizing regulations, and the creation of new protections. Most importantly, they want to be seen as the experts in their field, and to engage in legislative processes that honor the powerful slogan underlying the organizing work that led to the passage of EHB 1756 and creation of this committee: “Nothing about us without us.”

### ***Impacts of COVID-19***

When clubs are allowed to reopen, they will face additional operating expenses in response to COVID-19 and potential changes to customer habits resulting in much less revenue generated by selling lap dances. This will force the clubs to either take a much larger portion of the entertainer’s earnings, or operate in the red. COVID-19 has required entertainment establishments to close, however restaurants can remain open in limited capacity. Allowing the sale of alcohol would enable clubs to open as early as restaurants are opening, giving many, but not all, dancers the ability to go back to work during COVID-19.

### ***Dancer testimonials***

I love dancing! I love the physical nature of it, I love the financial mobility it has provided me, and I honestly like it better than bartending which I did for a number of years. I got into dancing when I was younger and in school, and then stopped for a number of years, but three years ago I started again. I really like the flexibility in schedule it has provided me, as I have been building my business in healing arts for the last 4-5 years.

But I want to see the high house fees and back rent policies change. I paid \$180 a night for a long time because I was not on schedule. Then I got on schedule and still paid \$140. Back rent honestly would deter me on nights I knew were going to be slow in fear of them hanging back rent over my head or having to pay more than what I walked in there with.

Last winter, my club lowered the house fees because back rents were so high, it was the only way to make sure dancers could pay them back. There were so many nights I went home with no money and racked up back rent. There were also nights that I did make money, but because of VIP fees & other charges, I would pay the club up to \$500. I had really high back rent last year and it was really stressful because the management would harass me about it. It made me not want to come to work at times, so I got stuck in a loop where I wouldn't go to work and then get really stressed and then work a bunch of nights in a row to make up for it.

The other big problem I’ve dealt with is how managers treat us. I have been assaulted by customers in the club, and I went to management a few times but mostly I would just try and shake it off. There was one manager at my club who I trusted to have the dancers’ backs, so I felt safe going to him and typically he would escort the customer out of the club. But other managers would just reprimand the customer or do nothing at all. Even if they were asked to leave, a lot of times the customer would come back, especially if they were drunk. If management had de-escalation training, and we knew they were on our side, I would feel much safer.

The club I work at enforces the municipal ordinances about dancing at times, and it really affects us financially. Last winter, the manager really started cracking down on topless dances. That was hard

on me financially because I charge more for topless dances. I haven't been charged with violating any ordinances, but there was always a sense of fear that if I did do a topless dance I would get fired. Some of these laws are so arbitrary, like the law that states if you take off your shoes while giving a dance, it's considered prostitution. These laws were not made in collaboration with dancers, or even with dancers' best interest in mind! These laws need to be changed in order to shift the culture in the club altogether. – *Tiffany*

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When I say I need this job, it's an understatement. Everyone needs their job — what I mean is that I cannot economically do any other type of work. I am a full-time single mom of young children — meaning no help from their biological father and meaning I'm on duty as mommy 24/7. I have a college education, but still, any other type of work I could do would not cover my childcare, nor would it allow me to make my own hours as the club allows me to do. I actually enjoy this job, I love the pro-female environment of the locker room, I love the challenge of selling dances, and I do not want to be on government assistance. Most importantly, this job's financial freedom allows me to choose my childcare provider and be away from my kids much less. – *WA State Stripper*

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Stripping has always been my backbone because I didn't have financial family help. Until now, it was always an option, whereas a "regular" job required me to be in situations where I needed to lean on others to survive. It's strangely enough an awesome pro-female community to be a part of and is a pretty rare social structure to encounter as an adult. It's also sort of worldly, and it's broadened my awareness. I have met men from all over, and from all classes. It has financially supported me and given me a reason to stay fit and take care of myself.

It definitely can become exhausting being so independent in certain ways, like giving my hard-earned money to back rent, and higher house fees due to clubs not selling alcohol, on top of the fact that we already fully invest in our own businesses — we pay for beauty, outfits, transportation, and more. The lack of alcohol is a financially detrimental domino effect for everyone involved. – *Simone*

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I started working as a dancer because with two minimum-wage jobs, plus tips, I was working 60 hours a week and still struggling to pay rent, and I had to go to the food bank for food. Dancing saved me from poverty.

But the worst part about this job in Washington is the astronomically high house fees. It's exploitation of desperate women and it's unreasonable. Because of the high house fees, I have often worked an 8-12 hour shift and left the club with less than minimum wage or even “in the hole” because I now owe the club back rent. It's like gambling every time I work. Will I make money that day or will I lose more than I walked in with?

Customers often refuse to come into the club when they learn that we don't serve alcohol. It makes them angry and they sometimes yell at the staff and dancers about it. It drastically cuts down on our business. It's also the excuse that the club owners use for charging the dancers insanely high house fees. They tell dancers that we have to make them money, instead of profiting from alcohol sales like they do everywhere else.

There are many issues in the industry, but dancing is by far the best job I have ever had for a lot of reasons. I love being an independent contractor and having the freedom and flexibility dancing provides. It changed my life for the better. The biggest problems in the clubs come from the owners and managers, not from the customers. – *Christina*

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Alcohol being banned from our clubs is like having a birthday party without the cake and ice cream. Repealing the ban is severely needed. Not only does it bring in customers, but the customers spend more while they are there. As it is now, customers come into the club wasted all the time. They are easier to talk to most times, compared to someone who's angry and just got off work and doesn't really want to talk to anyone. Alcohol would allow us to have a customer base besides customers looking for private dances. We would be able to just sit and talk and make money from them buying booze and tipping us.

I love my job though, and I love my girls. I feel safer in my club than doing webcamming or Only Fans. We all are handed a terrible hand of rules and regulations here. Seattle doesn't think about us. We need to be heard. We aren't bad people and we all have families to care for. Please help our families by allowing us to make the money we should be getting. – *Alice D.*

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I chose to become a dancer because I was going to school full-time to become a massage therapist and needed money quick. I ended up realizing that it gave me a huge advantage. I was taking control over my life, and my income, and overall feeling empowered to be able to set my own schedule and make as much money as I did!

But discrimination and harassment are major issues. People may think harassment from customers would be the biggest problem, but managers are some of the people I was harassed by the most in the club. It was like if you didn't let managers touch or flirt with you, you could get on their bad side and be fired at any moment.

From my personal experience working five years in many states, Seattle being the first and my longest, I've had the most racist experiences right here. I have been banned from being able to work on certain managers' shifts for having disagreements about being able to run my house fee payment or payouts, even though they let women of other races leave after paying little to nothing with no complaints. I've had managers claim I owed back rent when I didn't or try to control my music choice. I have seen other women of color told they can only work day shift, or be fired for doing something dancers of other races get away with.

I think in particular, Deja Vu clubs favor white dancers and customers. They don't play any kind of rap because they say they don't want "those" kinds of customers in here. They have not one flyer or advertisement to promote black women in the club, which means my house fees pay for promotions that have nothing to do with dancers of my color.

Clubs should be held accountable for making sure their employees and managers undergo a racial sensitivity training, providing all dancers with a reason for being terminated or not hired, being transparent about where our money is going for "advertising," and not restricting which shift dancers

can work. All of these can help stop clubs from targeting people of color, and start holding clubs accountable for their actions.

And we absolutely need to end back rent, which is Deja Vu's last and final secret weapon to discriminate against dancers when they have no more excuses as to why you should be fired! Back rent was something they always held over my head. I would sometimes leave work with little or no money at all, and owe the club at the end of the day. So I was in a double negative. I feel like I was a great dancer. When I felt like something was wrong, I spoke up about it, and then I was kicked out. Because the real reason was discriminatory, back rent was the one excuse they could use to get rid of me. – *Aaliyah*

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I chose to work as a dancer because when I was 17 I was a camgirl and a sugarbaby. I started sex work because of an addiction and desperation, but when I got away from that I found I still loved selling content. I like being a dancer because I can control when I work and for how long. I've had so much trouble keeping jobs because of health issues. Being a stripper is the longest job I've ever held.

When I first started, I would show up at open for the discount which would make my house fee \$45. Showing up at opening at my club means hanging out for hours with maybe one customer coming in that won't tip. They still make you go up on stage, so you're physically exhausted by the time real customers come in. The \$30 discount wasn't worth messing up your whole night. There were often days where I literally needed to go home because I was so tired, but I hadn't made any money. So you rack up back rent and when you can actually pay, they raise your house fee to pay it off. I was in a very abusive relationship last year, and the stress of having to pay the club so much money on top of teaching myself how to work this job made me stay in the relationship because he helped pay my rent.

High house fees are the biggest issue I've faced as a dancer, but now I'm also concerned about health and cleanliness in the club with the prospect of going back soon. I'd really love to see actual changes when it comes to health and safety, so we can return to work soon.

Discrimination is also a major issue in the clubs. The white managers I've worked with blatantly pick and choose who they want to enforce the rules on, and it's almost never tiny white girls. I've seen a manager nag and harass black women for doing extras even though he knows we all do it. He tries to frame them as the "bad girls" that fight and make trouble. – *Ivy*

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I am chronically ill and stripping allows me to work fewer hours a week to allow more time for recovery while still making enough money to survive. The ability to work less hours significantly decreases the severity of my symptoms. It is the only reason I am able to support myself.

But harassment is a big problem. Management doesn't protect dancers, they sexually harass dancers and fire us whenever they feel like it for any reason.

I work for Dreamgirls and once I saw a dancer get fired for hitting a customer after he put his hand on her vagina while she was dancing on stage. She was an excellent dancer and had never been in trouble with management before, but in an instant she lost her source of income for defending herself

against sexual assault. It made it clear to all the dancers working that we were expected to put up with sexual assault from customers without defending ourselves.

The management sexually harasses a majority of dancers and fires them when they resist it. They give the dancers massages, catcall them on stage, and make inappropriate comments about having sex with the dancers. Once a customer touched my vagina and management told me they could not remove the customer from the facility because they were still spending money. The male managers regularly hang out in the locker room. No one is protecting dancers from harassment and unfair treatment from management. It is completely up to us to fight for ourselves right now.

This needs to change, and so do restrictive laws that make the risk even higher. A lot of laws in Washington State are unrealistic, such as the law that dancers may not be topless anywhere but on the stage. Since it is a strip club, customers expect to be able to have contact with a nude dancer. In order for dancers to offer this experience, we must risk arrest and being charged with prostitution. –  
*Vanessa Heaux*

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I chose to be a dancer because I heard you could make hundreds of dollars a day. I am a former fashion model who couldn't make it in that industry due to depression. Dancing attracts performance-minded artists, and for me it means getting a good workout, being surrounded by other performers, and getting financial stability where any other job available to me would not afford me a proper, healthy life. Some people are born to dance and entertain.

I have been at work when girls get sexually assaulted, and it's disheartening that there's not much they can do about it. It's degrading and affects our mental health because it feeds into the commonly held notion that strippers are worthless people. When we tell our managers about customers overstepping our boundaries, they usually favor the customer's side because he is the one paying their wages. Usually, those customers are left alone to "find a dancer who can handle him." I've been told by managers that being too disciplinary towards violent customers would be bad for business.

I think the world needs to stop treating strippers like we are stupid and worthless. We happen to make good money being physically active, we love the unlovable in many cases, some of us came from poor backgrounds and depressive mental health backgrounds. Our job is tough. Society needs to pay us more respect, and give us healthier tools. We are not here to be degraded. Not by professional women who think they are better than us nor by the staff or customers. We bust our bodies to give people a smile when we are onstage. Because that smile might lead to dance sales, dances are memories better than video. There should be more stories in the media showing that dancers deserve respect and build the community. We are mothers and daughters who care for others and want to take good care of ourselves. – *WA State Stripper*

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I got into the industry out of interest, and I immediately loved it. This industry has taught me how to tell people no and set boundaries, whereas before I would never tell people no even if it made me uncomfortable or put my wellbeing at risk. It also helped with my self confidence. While it's not a "regular" job so to speak, it's great having a flexible schedule, so if an emergency comes up you can reschedule or come in on an off day for extra hours.

A big issue I've faced is men harassing me and being unable to report it. The four-foot rule makes it impossible, because if a customer touches me and I report him, I could get arrested too. I'm constantly on the alert, afraid of a cop arresting me. I'd really like to see the regulations loosen to allow us to give lap dances, and allow us to interact with customers on stage and at the tip line, or even allow topless dances.

Another issue is that house fees are unfair and flat-out stealing earnings. High house fees have forced me to work 8-10 hours some days and go home with \$20 - \$40 because rent was so high. Sometimes it's like I worked a full day for free. Between the house fee and the tipout, I take home next to nothing. I feel cheated out of hard work. It's also unfair that when we don't even make enough money to pay rent, it's back rented or you pay all your money and go home with nothing. That's not to say I don't love management and my club — I do. They didn't make the rules, the company did, but it's still upsetting. Even my manager, who was a dancer for many years, agrees and wishes she could change it. – *Baby*

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The restrictive laws in WA currently enable bad behavior. Honestly, disrespectful personalities are formed before a man walks into a club. Most of the men we encounter are merely lonely and need human affection. There's nothing wrong with that. If the laws were established by those of us who actually know what's going on, we would make more money and be able to reject disrespectful customers instead of being forced to rely on them due to low customer count. – *WA State Stripper*

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I got into the industry a few years ago because working in non-profit administration wasn't covering the bills. I was constantly worried about running out of money. After applying for countless positions in other industries, dancing was the only way I found to make more than \$50,000 a year, which is essentially what you need in Seattle to live as an independent, single adult.

Personally, high house fees and back rent have made me a little bit paranoid about work in the past. I spent my first year at Seattle clubs worried that I would go home owing the club money. I learned to work long hours, putting my body through the ringer, to avoid back rent and ensure that I could pay my house fee no matter what. I know this experience is fairly mild compared to experiences other dancers have had with regard to high house fees and back rent.

The alcohol ban impacts my work because the club has no other way to make money than to charge dancers sky-high house fees to work in a juice bar. If the clubs had another revenue stream, they could lower our house fees and eliminate back rent, making our lives a lot less stressful. The alcohol ban is also severely disliked by customers. It prevents dancers from selling to customers who really just want to have someone to sit and drink with and chat, as opposed to going for private dances or champagne rooms. It drastically limits the social activities available in the club to almost nothing, or forces some dancers to engage in more sexual behavior, since there aren't more appropriate things to do, like sitting and having a drink together.

The alcohol ban must be lifted in order to eliminate back rent and high house fees. These issues go hand in hand. If back rent and high house fees are eliminated without alcohol in the clubs, the clubs will not survive and will close. That would be catastrophic for all of us. Please do not move forward on these or any other issues without consulting the dancers who will be directly impacted by

We need decriminalization of sex work, and stripping specifically, because it's almost impossible to make money without breaking the ordinances that require keeping every part of our body under the bikini area covered. Our clothes tend to move easily, and this creates an easy way to discriminate against dancers who are disliked by management.

Strip club culture is notorious for being prejudiced against women of color, and even more so against darker skinned women. I've often been in conversations with management in clubs throughout different states, franchised or not, about how they would be "cleaning up the club" or saying "it's too dark in here" – meaning they would find any reason to get rid of certain individuals of color.

With the combination of strip clubs being overly restricted and needing to do the things that are restricted by law, such as showing nipples or a view of the vagina or anus as a way to make money, we face the vulnerability of being ticketed and barred from being able to make a living. This in turn leads women to turn towards other types of sex work or face vulnerability.

We have to endure constant sexual harassment, and it takes a mental and emotional toll on us. Many women in the clubs have already faced traumatic circumstances in their lives. With those experiences they've had previous to dancing, many are facing a mental strain or mental health problems, which prevents them from being able to maintain a 9 to 5 type of position.

This is true for me as a United States Navy veteran. Women like myself have turned to stripping as a means to survive and avoid homelessness and hunger. Keeping things criminalized leads us back to square one instead of being able to have dancing as a safe avenue for us. Decriminalizing our work in the clubs makes our jobs easier and our communities safer: it persuades customers to visit, which increases revenue for the clubs and dancers. In turn, that means more taxes paid that can be put towards other means needed in the city. Keeping dancers employed by decriminalizing our work is important, as we pay taxes just like everyone else and our tax dollars also assist in paying for the resources needed locally. – *Apples*

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I got into the industry being on my own at 18 and wanting to be empowered to go back to school full-time while not having to struggle paying my bills. Dancers have few rights within clubs. We are treated as second class.

I believe the alcohol ban makes this worse, and contributes to more negative and illegal activity in the club environment. The attendance of Washington strip clubs can be low in volume, greatly due to the lack of alcohol. Clubs only make revenue from a small customer cover charge (\$10-30 in Seattle) and dancers' rent (\$80-\$200). The lack of alcohol leads to low profits for the club, which, I believe, leads to clubs and management being more likely to support unhealthy or illegal avenues of creating a profit. Managers, who make the majority of their income from dancers' tips, are more motivated to turn a blind eye to things like high-paying but abusive customers. Illegal activity can bring more customers in, bridging the gap in volume, but also making it less likely for management to address harmful workplace situations.



Further, many clubs have little to no hired security, partially due to revenue issues, and I believe with the presence of alcohol, clubs will be able to afford security and be motivated to hire security, as is standard for most alcohol-based establishments like dance clubs or large bars. This can lead to a safer and healthier workplace for the dancers.

Old laws like the four-foot rule are harmful to minority groups like dancers. It inherently risks our well-being, targeting us with unnecessary and puritanical laws that are largely absent in our neighboring states. Empowering dancers through organization, law, and rights will do more good for the environment of a strip club than excessively specific and controlling laws ever will. – *Lily*

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There are risks and problems in our industry, but criminalizing us has made all of our problems worse. For example, I can't even tell my customers what my personal boundaries are during a dance because I'm implicating myself criminally by telling him what he can do. For fear he may be an undercover cop, I just wait until he does something I don't allow to tell him "no."

But the problem is much worse once you look deeper into the industry. The municipal ordinances, which essentially outlaw lap dances in every city outside Seattle, deter clubs from opening up, because no one wants to risk millions of dollars to open a club only to have it shut down by the city for "breaking the law." This harms us in two ways: first, not enough clubs means not enough jobs for the women who need these jobs. Second, this deterrent to open clubs protects the monopolies that control our contracts. In 2011 my favorite club was shut down because of these laws. About a thousand women worked at these clubs, and because half the strippers in Washington lost their jobs overnight, I went to Oregon to work. Every club I went to had 5-10 dancers from Washington in the same predicament. I had to live in a hotel in Oregon for six months until I got a job at the newly opened Sinrock in Renton.

Also, I'm not a legal professional, but as I was looking for other cases relevant to our issues I stumbled upon a case that called the practice of back rent "labor trafficking."

The documented violations included "... forcing dancers to 'work to pay off a debt for not showing up at work' and having employees work for free for the for-profit business." The U.S. Department of Labor investigator testified that it is a "sign of labor trafficking when somebody has to work to pay off a debt and not earn any money."

This case is from *Fantasies on 5th Avenue, LLC v. State, Alcoholic Beverage Control Board*, 446 P.3d 360, (2019).

This practice of charging back rent is clearly predatory, had our work not been so stigmatized, other legal and political professionals would have taken more notice and outlawed this practice in a clear RCW at its inception. These issues wouldn't be issues at all had Déjà Vu not had a monopoly, but Déjà Vu has absolutely no incentive to treat us better absent other clubs that would offer us dancers competitive contracts. The root cause of these problems, what is building Déjà Vu's monopoly, are the zoning laws and alcohol prohibition because it discourages and, in most cases, entirely prevents competitors in our industry. Even when the courts conclude what they are doing is illegal, Déjà Vu rarely changes their practices and instead just changes insignificant semantics in their contracts to protect themselves. We do need labor laws, however, even with labor laws, if we continue to protect Déjà Vu's monopoly with these zoning and alcohol laws, we're rewarding a company that exploits us

at every chance they get. This is just one example of laws that attempt to curb sex-work actually encourage and protect the exploitation in our industry.

This job offers the only legal platform for a worker to charge for being a woman. Men enjoy my presence when I'm not at work, so I'm grateful for an environment that allows me to profit from it. People who claim this job "degrades women" have either never been in a club in the first place or are ignorant to the fact that the club's culture revolves around the concept of celebrating women. Stripping has raised my personal standards for relationships: I'm literally put on an 8" pedestal where men throw money at me for being a woman, so why would I go home to put up with disrespect? Stripping enabled me to buy my own home by myself, and leave relationships before they got abusive. This job is empowering, and we need laws that recognize how much power dancing can provide for women. – *Shira Cole*

## INFORMATION PROVIDED BY THE REPRESENTATIVE OF THE DÉJÀ VU CLUBS

### *Mandatory security training*

While supporting enhanced training, some club members state that there is training that already exists for many of the areas of concern raised by entertainers. Clubs report that all of its employees are required to undergo job specific training. Because the entertainers do not generally work as employees and are not then subject to “employee” exclusions in the clubs’ general liability insurance policies and can, therefore, assert liability claims against the clubs, the clubs and their staff already undergo risk management training as mandated by their insurance carriers, including sexual harassment and discrimination training.

The Déjà Vu Clubs, which consist of seven clubs in Washington State, partner with U.S. Immigration and Customs Enforcement’s Homeland Security Investigations to deliver staff training (managers and employees, and also available to entertainers) on human trafficking identification through the organization Club Owners Against Sex Trafficking (“COAST”). This training is offered on a reoccurring basis, as is staff training regarding discrimination and harassment prevention.

Club members are also concerned how the failure to involve police in matters involving entertainers, or to have staff undertake roles that are properly the province of the police, can subject both the employees and the clubs to civil as well as criminal liability for failure to abide by their legal duties to provide safety and security. Industry representatives also claim that insurance data demonstrates that adult entertainment facilities have far lower claims rates, and therefore fewer altercations, than bars with no adult entertainment.

### *Unpaid rent*

Club representatives report that there are *three* components to the rent structure. First, there is what is referred to as “Base Rent,” which is a set daily charge for all dancers as partial compensation for the right to use the club facilities. Second, there is “Additional Rent,” which is a charge to the entertainer that is only assessed on the entertainment fees that she receives from her customers for the purchase of personal entertainment performances. Third, as approved by the courts,<sup>7</sup> there are various “rent credits” that an entertainer may earn to offset or even eliminate her rent obligations.

Industry representatives claim that because of rent credits and an Additional Rent structure that *only* applies as a percentage to monies actually *earned* by the entertainers the actual amount of daily rent paid by entertainers may be lower. When an entertainer accrues large amounts in payments to a club they do so as a result of an even larger amount generated from personal entertainment performances, which they retain. Clubs note that if indebtedness and low wages were as widespread and pervasive concern as is suggested that *entertainers have the option to become employees currently and avoid rent completely without additional policy changes*. Clubs contend that entertainers prefer not to choose this option and want to retain their Independent Professional Entertainer status because there

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<sup>7</sup> See, e.g., *Deja Vu-Lynnwood, Inc. v. United States*, 1997 WL 720803, \* 3 (W.D. Wash. 1997), aff’d 21 Fed.Appx. 691, 694 (9th Cir. 2001).

is even greater upside and likely potential to generate income far above the rent obligations under the existing model.

Industry representatives assert that the amount of money a dancer makes on any given day is largely dependent on their independent initiative in soliciting the purchase of personal entertainment performances, or the payment of tips from customers. The clubs state that entertainers are not obligated to perform any “minimum” number of personal entertainment performances, and that some entertainers choose to only work to earn a specific amount of money that *they* desire to generate on that particular day. Clubs contend that if entertainers were truly working for “free” more entertainers would choose the employee option which is offered to entertainers and does not require the payment of rent.

In addition, the club representatives note that back rent is not considered a “collectible debt” in that no club has ever sued an entertainer on that basis, and therefore does not follow the dancer or impact their credit. The clubs claim they do not have an interest in retaining an entertainer who is often subject to large amounts of unpaid rent or “back rent.” They report that termination provision in contracts is specifically included as a way to *prohibit* financial exploitation by ensuring that so-called “back rent” does not become a guiding principle for the conduct of entertainers.

Industry Representatives state that under a national class action settlement, the vast majority of clubs in the state of Washington, are required to provide the dancers with the option of performing as independent contractors or working as employees under terms specifically laid out in that settlement agreement. Industry Representatives have expressed concern that eliminating the practice of charging rent and the ability to collect unpaid rent may jeopardize the independent contractor model as an option for entertainers in the future.<sup>8</sup>

Clubs reference point of sales data that they maintain regarding the mandatory entertainment fees that the dancers obtain from their customers as the price to purchase a personal entertainment performance to claim that the rent prices set by the clubs are well within the economic ability of the dancers to pay. Clubs suggest actual income could be higher because as independent contractors, entertainers do not report their tip income to the club.

Clubs have expressed concern that eliminating what the entertainers refer to as “back rent” would encourage entertainers who are capable of paying to leave a club without paying the rent otherwise owed to have such rent obligation then turned into “back rent” which simply cannot be collected upon. Without back rent the clubs express that they do not have any other recourse to ensure the presence of dancers to entertain customers, and would leave the clubs no alternative other than to

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<sup>8</sup> Legislators may ask why, in utilizing this independent contractor model, rent is necessary in the first place. The club representatives respond: First, the propriety of utilizing a lease structure has been specifically approved by numerous federal district courts in the State of Washington (as uniformly affirmed by appellate decisions). Second, in the event that the entertainers performed as employees, as a matter of law under uniform formal rulings of both the Internal Revenue Service and the United States Department of Labor, mandatory charges for services rendered are the income and gross receipts of the *employer*, and *not* that of the employee (there is no doubt that the fees for personal entertainment performances are indeed mandatory; the dancer contracts establishing these prices, the clubs advertising the specific prices, and a number of the municipal ordinances governing the clubs actually requiring the posting of the dance charges). Therefore, if the clubs were to use an employee model, the fees charged by the entertainers for the purchase personal entertainment performances would be the *property and income of the clubs*. Under the independent contractor model, these monies are collected by the entertainers, with only a portion thereof then being remitted to the clubs by way of rent payments.

terminate the contract of an entertainer who consistently breaches the terms of her contract by failing to perform on the days that *they* have so scheduled. Clubs argue that prohibiting a charge for violating the terms of a contract, which is a liquidated damages provision, would further violate the impairment of contracts clauses set forth in Art. I, §10 of the United States Constitution and Art. 1, §23 of the Constitution of the State of Washington.

While club representatives voted in opposition of this recommendation, some clubs have expressed a willingness to experiment with new rent models. Club members are concerned about pursuing a legislative approach that would inevitably require the clubs to convert the entertainers into employees, that adopts “one-size-fits-all” approach that may be inapplicable to certain business structures and to certain club operations, and that may prove inflexible to market conditions. While new revenue streams such as the introduction of alcohol into the clubs (should such a practice be legalized) can mitigate rent costs, it also imposes additional operating costs on the business and current market conditions are not as favorable for alcohol venues as in the past.

### ***Minimum security staffing requirements***

Industry representatives refer to data analysis used by liability insurance carriers to calculate the premiums due by adult entertainment establishments to claim that adult entertainment facilities have far fewer liability claims (including those for assault and battery) than do “regular” bars and nightclubs.

The club representatives point out that their security procedures are largely set by the protocols and risk management plans developed by their liability insurance carriers (that can deny insurance coverage for a claim, or deny renewal of a policy, if a club fails to abide by those protocols and plans). As a result of this experience, the clubs have gradually moved away from employing designated and marked security personnel, as the use of such has been found to be counterproductive to successful de-escalation strategies.

In addition, based on the experience of some club representatives the mentality of dedicated security staff, or “bouncers,” is counterproductive to maintaining a safe work environment and has been found to have the effect of causing certain individuals to exhibit greater hostility and to elicit greater confrontation in a club environment. The club representatives have noted that adult entertainment establishments have been able to better de-escalate situations by increasingly relying on enhanced video equipment and by uniformly training staff to have shared and joint safety and security responsibilities. Moreover, pursuant to the requirements set forth in EHB 1756, clubs have installed panic buttons in locations where a dancer may be alone with a customer a requirement created to address the concerns raised by entertainers. Such panic buttons can facilitate quicker response times in the event of an incident.

Since L&I extended workers’ compensation coverage to exotic dancers in the state of Washington, the clubs are unaware of any claims brought by entertainers alleging that they have been assaulted by a customer while in a club.

The club representative point out that EHB 1756 already requires them to take action on these matters. There is concern that a rule to “never leave a dancer alone in the club” conflicts with entertainers’ requests for privacy with their customers in the VIP rooms. The clubs assert that staff personnel do in fact actively monitor security cameras; that club personnel will intervene when any

battery (unconsented to touching) or assault (the *threat* of a battery) occurs; and that club personnel will engage the assistance of the police when circumstances warrant.

The club representative on the Committee representing Déjà Vu Clubs voted in opposition to this recommendation. They note that the security procedures that they have developed, using decades of experience in consultation with their liability insurance carriers, have resulted in measurably enhanced safety and security throughout the clubs as demonstrated by the low liability insurance rates that they are able to pay. Clubs believe the determination of appropriate staffing for security purposes is heavily dependent upon the size and physical characteristics of each specific club, and the hours of operation, and the occupancy density which changes frequently (depending upon such things as the time of day, the day of the week, whether live sporting events are being broadcast on the television screens in a club, whether live sporting events are occurring in the area, whether the day is a holiday, etc.). In addition, adult entertainment establishments are required to have a manager on shift at all times trained in responding to incidents. In matters involving actual violence, which are quantified as rare by the club representatives, the police are seen as being the most appropriate response, not club employees. Requiring dedicated personnel may also be cost-prohibitive and could result in an increase of rent (“house fees”) in order to defray such additional expenses.

### ***Accusations of racism***

The Industry representative for Déjà Vu Clubs on the Committee strongly denies any accusation of racism and wrongful termination. In response to specific allegations made during the committee process, the clubs assert that the contracts of three dancer Members of the committee were terminated for engaging in illegal or inappropriate conduct – not discrimination. Industry representatives report that they demonstrably contract with entertainers of color in far greater proportion than is the case of the overall population. In response to comments related to restrictions on certain music the clubs point to legal constraints imposed on businesses in order to *curtail* harassment and discrimination. Specifically, while some may find the prolific use of racially insensitive or derogatory language in music to be acceptable, others do not. Accordingly, subjecting club *employees* to such music can be actionable against the club and management for creating a legally cognizable “hostile work environment,” and the clubs can also face legal jeopardy from *customers* who are legally entitled to frequent “places of public accommodation” free from harassing and discriminatory language. This is the only type of music that is properly and legally banned; not random music that is “perceived as attracting the ‘wrong crowd.’” Clubs report that they do not ban any hairstyles worn by performers.

### ***Regulation of house fees***

The club representatives of the Committee point out that these comments do not represent a realistic assessment of the financial considerations affecting both club operations and profitability. First, alcohol sales are, of course, limited by the proper legal constraints placed upon selling establishments to ensure that patrons do not drive away in a state of intoxication. Second, introducing the sale of alcoholic beverages into the clubs, while beneficial for numerous reasons, also increases cost associated with operating a club, such as cost of goods purchased in the necessity for additional staff trained in the sale of alcohol and safety issues related to the same. The introduction of alcohol into the clubs should not be seen as a panacea to justify the jettisoning of the concept of rent.

In addition, rent determinations are made by considering a host of factors, such as size and physical characteristics of each specific club, mortgage or rent obligations of the club to its landlord, staffing size, the hours of operation, limitations placed on the club by local ordinances, and the like. These considerations do not lend themselves to a “one-size-fits-all” legislative proclamation of rent “caps” applying to all club operators in all circumstances.

### ***Impacts of COVID-19***

When clubs are allowed to reopen, they will face additional operating expenses in response to COVID-19 related costs and potential changes to customer habits, placing greater pressure on house fees.

### ***Testimonial from the representative of Déjà Vu Clubs***

I am honored to have the opportunity to serve as a member of the Adult Entertainer Advisory Committee. I have devoted my time and energy to the goals this committee was tasked with. When I started, I understood that we would have some difficult conversations, but I believed that they were important conversations to have. With 26 years of experience in the Industry as an Independent Professional Entertainer (yes, I was previously an adult entertainer), staff member, Management and now a Management consultant, I was hopeful that I could bring a unique and welcome perspective to the committee.

In the beginning, I was the only Industry representative on the committee. Another Industry representative was added later. While I appreciated that personal experiences and feelings were to be discussed, the dynamic was much more difficult to navigate and adversarial than I had expected.

Because of the selection bias of Entertainers and the lack of membership transparency, I do not believe the committee provided a true and accurate representation, or reflective sample, of the perspective of Entertainers of Washington State. Most identified entertainers on the committee were former Entertainers who had been released from their leases due to gross violations of the contract terms (usually, as a result of improper, or even illegal, conduct). Consistently untrue allegations would be presented as facts without proof, or events would be presented while leaving out key information so as to create an inaccurate or blatantly false interpretation of events. While I can share the direct circumstances that call into significant question the truthfulness of some of the committee members, half of the dancers participated anonymously which prevents me from evaluating or commenting on the truthfulness (or lack thereof) of their allegations.

Any attempts by me to address or respond to these statements would lead to outbursts that took the committee off topic. Early on I made the decision to focus on the work the committee was designed to produce and not the disinformation. I am thankful that I have been given the ability to submit this testimonial so that I can address just a few of the misrepresentations.

### **Dancer status and unpaid rent**

I feel that it is important to provide my insight on the lease process of becoming an Independent Professional Entertainer because it plays a pivotal role in the majority of the conversations the

committee had. I do not feel that the report nor the conversations during the committee meetings accurately reflect this process. Independent Professional Entertainers (what the report refers to as “independent contractors”) enter into a Dancer Performance Lease with the club. Before signing the Dancer Performance lease, they are given an offer of employment that would provide to them wages well above the applicable minimum wage.

Before a dancer can perform as an Independent Professional Entertainer, this employment offer must be specifically declined. If the entertainer accepts the offer and chooses to work as an employee, the clubs will so hire her. This option provides all entertainers an opportunity to avoid the concerns about unpaid rent or back rent completely and make wages well above minimum wage. Entertainers unanimously do not choose this option and want to retain their Independent Professional Entertainer status because there is even greater upside and potential to generate income far above the rent obligations. A dance is the length of one three-minute song and costs the customer \$30. With rent of \$150, an obligation can be fulfilled with as little as 15 minutes of performance, after which the entertainer retains all income and tips she receives. While there are additional fees for use of a VIP room, an entertainer can expect to receive at minimum net compensation of \$100, \$200 or \$300, depending on the length of the VIP Room time being purchased (15 minutes to one hour).

Most recently, and as a result of a court-approved settlement, for a dancer to be able to perform as an Independent Professional Entertainer (if she so chooses) she must first pass an Entertainer Assessment that uses a series of questions based upon legal standards in order to determine whether she can perform as an “independent contractor” (the phrase used in the report) or must work as an employee. If the Entertainer Assessment determines that she must work as an employee, employment is offered to her. Only after she qualifies through the Entertainer Assessment to perform as an Independent Professional Entertainer is a dancer given a lease to sign, where she then provides to the club a schedule of the days she intends to perform. The Entertainer has the ability to change the schedule she has selected at any time during the course of her lease.

Schedules from the entertainers are important because the clubs desire to have enough dancers on site to be able to service the anticipated customer base. When an entertainer gives us a schedule, we assume that she is going to abide by it. When she does not, not only does that create problems for the customers (there are many days when clubs are open for business with absolutely no entertainers being on the premises), but other entertainers who might have performed on a certain day or night but decided not to because they concluded that were too many entertainers to compete with, are then deprived of having the ability to earn income at that time. When entertainers do not show up for their self-scheduled show dates, management has to then scurry and call, email, or text other entertainers to see if they are available. Because the entertainers are generally not employees, management cannot require them to come in.

While being specific to our industry, much of our Lease language is similar in nature and context to Leases used by Hairdressers for chair rentals. If an Entertainer fails to appear for their performance on a selected show date, yes, she is still charged the lease amount owed for that date. If an Entertainer fails to pay the Lease amount of Rent for a day she performs, the lease amount is still owed. But this is not a reported collectable debt. No entertainer has ever been sued for failing to pay rent.



Contrary to the comments made by entertainers on the committee, it is not an accurate portrayal to say that Entertainers often leave with no money or still owing lease fees the majority of the time. Entertainers more often than not leave with substantial amounts of cash that far exceed what they would have earned had they been paid as a minimum wage employee. I know this, in part, as a result of my personal experience as an entertainer.

In addition, we have a point of sale system in which we keep an accurate record of the personal performances an Entertainer gives their customers. Entertainers are encouraged to keep their own records as well and are able to access our records upon request throughout any shift worked. If the indebtedness issue and low wages were as widespread and pervasive concern as is suggested in this report, entertainers have the option to become employees TODAY and avoid rent completely without additional policy changes. I fear this report undermines a system that is working for most in this industry based on a flawed understanding of the options available to entertainers.

### Safety and hiring

Safety, security and training have been some of the largest topics of conversation for the duration of the committee meetings. And they are of the utmost importance to me both personally and professionally. However, I do not feel that I was ever given the opportunity to properly share my thoughts on these matters or to address the accounts being presented.

I have always maintained a personal and active role, adopting a hands-on approach in the training and procedures used by all staff members. A few examples being the vast scale of training materials, mandatory de-escalation training, and mandatory attendance to training seminars provided by 'COAST' "Club Owners Against Sex Trafficking." The training process starts at the moment of hire and continues to be a daily and ongoing process for the duration of any staff member's employment.

I have witnessed firsthand during my years working in the industry that de-escalation is both the safest and most effective strategy for conflict resolution. We have staff members located throughout the club, a staff member constantly walking the floor, and someone always available to walk anyone to a vehicle.

I am proud to work for a company with a strong diversity of staff and entertainers. I take allegations that the clubs have unfair hiring, lease offers, and terminations-based race very seriously and personally. The allegations that have been thrown around during committee meetings, some of which are reflected in the committee report, are based off inaccurate accounts of the events in question and are being grossly misrepresented. I am disappointed that false allegations are being used to negatively portray an industry that provides well-paying jobs to women of color in our state in far greater proportion than other industries. More work can always be done to root out racism. However, I believe the record of our clubs is vastly superior to that of many other industries in this state, and these allegations should not detract from the positive role clubs play in empowering women of color and creating financial opportunity.

In closing, I would like to take this opportunity to say that the Adult Entertainment Industry played a large part in me becoming the self-assured, strong and independent woman that I am today. I came to Washington State at 18 years of age from the opposite side of the country. I was fortunate enough to meet a woman who helped me out with finding a club to perform at and assisted me along the way

until I was able to gain the financial stability to provide a new life for myself. The understanding, acceptance and support I felt truly saved my life.

# Conclusion

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This report examines a broad range of concerns related to the safety and security of adult entertainers. The recommendations made in this report aim to address these concerns at the legislative level, and the Committee hopes to engage in conversations with members of the legislature to help identify ways to make any such changes tenable.

In addition to the recommendations made to the legislature, the concerns highlighted in the *Additional considerations* section underscore more topics for future conversations by the Committee. Moving forward, the Committee anticipates continuing to meet and work collaboratively to address issues in the adult entertainment industry, and hopes to report additional findings to the legislature at a future date.

## RCW 66.08.030

### Regulations—Scope.

The power of the board to make regulations under chapter 34.05 RCW extends to:

(1) Prescribing the duties of the employees of the board, and regulating their conduct in the discharge of their duties;

(2) Prescribing an official seal and official labels and stamps and determining the manner in which they must be attached to every package of liquor sold or sealed under this title, including the prescribing of different official seals or different official labels for different classes of liquor;

(3) Prescribing forms to be used for purposes of this title or the regulations, and the terms and conditions to be contained in permits and licenses issued under this title, and the qualifications for receiving a permit or license issued under this title, including a criminal history record information check. The board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation;

(4) Prescribing the fees payable in respect of permits and licenses issued under this title for which no fees are prescribed in this title, and prescribing the fees for anything done or permitted to be done under the regulations;

(5) Prescribing the kinds and quantities of liquor which may be kept on hand by the holder of a special permit for the purposes named in the permit, regulating the manner in which the same is kept and disposed of, and providing for the inspection of the same at any time at the instance of the board;

(6) Regulating the sale of liquor kept by the holders of licenses which entitle the holder to purchase and keep liquor for sale;

(7) Prescribing the records of purchases or sales of liquor kept by the holders of licenses, and the reports to be made thereon to the board, and providing for inspection of the records so kept;

(8) Prescribing the kinds and quantities of liquor for which a prescription may be given, and the number of prescriptions which may be given to the same patient within a stated period;

(9) Prescribing the manner of giving and serving notices required by this title or the regulations, where not otherwise provided for in this title;

(10) Regulating premises in which liquor is kept for export from the state, or from which liquor is exported, prescribing the books and records to be kept therein and the reports to be made thereon to the board, and providing for the inspection of the premises and the books, records and the liquor so kept;

(11) Prescribing the conditions and qualifications requisite for the obtaining of club licenses and the books and records to be kept and the returns to be made by clubs, prescribing the manner of licensing clubs in any municipality or other locality, and providing for the inspection of clubs;

(12) Prescribing the conditions, accommodations, and qualifications requisite for the obtaining of licenses to sell beer, wines, and spirits, and regulating the sale of beer, wines, and spirits thereunder;

(13) Specifying and regulating the time and periods when, and the manner, methods and means by which manufacturers must deliver liquor within the state; and the time and periods when, and the manner, methods and means by which liquor may lawfully be conveyed or carried within the state;

(14) Providing for the making of returns by brewers of their sales of beer shipped within the state, or from the state, showing the gross amount of such sales and providing for the inspection of brewers' books and records, and for the checking of the accuracy of any such returns;

(15) Providing for the making of returns by the wholesalers of beer whose breweries are located beyond the boundaries of the state;

(16) Providing for the making of returns by any other liquor manufacturers, showing the gross amount of liquor produced or purchased, the amount sold within and exported from the state, and to

whom so sold or exported, and providing for the inspection of the premises of any such liquor manufacturers, their books and records, and for the checking of any such return;

(17) Providing for the giving of fidelity bonds by any or all of the employees of the board. However, the premiums therefor must be paid by the board;

(18) Providing for the shipment of liquor to any person holding a permit and residing in any unit which has, by election pursuant to this title, prohibited the sale of liquor therein;

(19) Prescribing methods of manufacture, conditions of sanitation, standards of ingredients, quality and identity of alcoholic beverages manufactured, sold, bottled, or handled by licensees and the board; and conducting from time to time, in the interest of the public health and general welfare, scientific studies and research relating to alcoholic beverages and the use and effect thereof;

(20) Seizing, confiscating and destroying all alcoholic beverages manufactured, sold or offered for sale within this state which do not conform in all respects to the standards prescribed by this title or the regulations of the board. However, nothing herein contained may be construed as authorizing the \*liquor board to prescribe, alter, limit or in any way change the present law as to the quantity or percentage of alcohol used in the manufacturing of wine or other alcoholic beverages;

(21) Monitoring and regulating the practices of license holders as necessary in order to prevent the theft and illegal trafficking of liquor pursuant to RCW **66.28.350**.

[ **2014 c 63 § 2**; **2012 c 2 § 204** (Initiative Measure No. 1183, approved November 8, 2011); **2002 c 119 § 2**; **1977 ex.s. c 115 § 1**; **1971 c 62 § 1**; **1943 c 102 § 1**; **1933 ex.s. c 62 § 79**; RRS § 7306-79. Formerly RCW **66.08.030** and **66.08.040**.]

## NOTES:

**\*Reviser's note:** The "state liquor control board" was renamed the "state liquor and cannabis board" by **2015 c 70 § 3**.

**Finding—Application—Rules—Effective date—Contingent effective date—2012 c 2 (Initiative Measure No. 1183):** See notes following RCW **66.24.620**.

**RCW 49.17.470****Attachment 5****Entertainers and adult entertainment establishments—Entertainer training—Panic buttons—Recording of accusations—Enforcement—Entertainer advisory committee.**

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

- (i) Education about the rights and responsibilities of entertainers, including with respect to working as an employee or independent contractor;
- (ii) Reporting of workplace injuries, including sexual and physical abuse and sexual harassment;
- (iii) The risk of human trafficking;
- (iv) Financial aspects of the entertainer profession; and
- (v) Resources for assistance.

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

(2) An adult entertainment establishment must provide a panic button in each room in the establishment in which an entertainer may be alone with a customer, and in bathrooms and dressing rooms. 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.

(3)(a) An adult entertainment 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.

(b) If an accusation is supported by a statement made under penalty of perjury or other evidence, the adult entertainment establishment must decline to allow the customer to return to 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 with common ownership must also decline to allow the customer to enter those establishments for at least three years after the date of the incident. No entertainer may be required to provide such a statement.

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

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

(6) The department shall convene an entertainer advisory committee to assist with the implementation of this section, including the elements of the training under subsection (1) of this section. At least half of the advisory committee members must be former entertainers who held or current entertainers who have held an adult entertainer license issued by a local government 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 advisory committee shall also consider whether additional measures would increase the safety and security of entertainers, such as by examining ways to make the procedures described in subsection (3) of this section more effective and reviewing the fee structure for entertainers. If the advisory committee finds and recommends additional measures that would increase the safety and security of entertainers and

that those additional measures would require legislative action, the department must report those recommendations to the appropriate committees of the legislature.

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

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

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

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

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

(c) "Entertainer" means any person who provides adult entertainment within an adult entertainment establishment, whether or not a fee is charged or accepted for entertainment and whether or not the person is an employee under RCW [49.17.020](#).

(d) "Panic button" means 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 [adult] entertainment establishment.

[ [2019 c 304 § 1](#).]

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PDF WAC 314-11-050

What types of conduct are prohibited on a premises with a liquor license?

|   |  |
|---|--|
| <p>(1) Licensees may not allow, permit, or encourage employees (including him or herself) to:</p>   | <p>(a) Be unclothed or in such attire, costume, or clothing as to expose to view any portion of the breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals.</p>   |
| <p>(2) Licensees may not allow, permit, or encourage any person (including him or herself) on the licensed premises to:</p>                   | <p>(a) Perform acts of or acts which simulate, or use artificial devices or inanimate objects which depict;</p> <ul style="list-style-type: none"> <li>• Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;</li> <li>• The touching, caressing, or fondling of the breast, buttocks, anus or genitals; or</li> <li>• The displaying of the pubic hair, anus, vulva, or genitals.</li> </ul> <p>(b) Show any film, still picture, electronic reproduction, or other visual reproduction that depicts pornography, or a sexual act prohibited by law.</p>  |
| <p>(3) Notwithstanding the provisions of subsection (4) of this rule, licensees may not encourage any person on the licensed premises to:</p> | <p>(a) Expose to public view any portion of his or her genitals or anus;</p> <p>(b) Touch, caress, or fondle the breasts, buttocks, anus, or genitals of any other person; or</p> <p>(c) Wear or use any device or covering that is exposed to view which simulates the breast, genitals, anus, pubic hair, or any portion thereof.</p>  |
| <p>(4) Licensees must ensure any entertainers on the licensed premises perform under the following guidelines:</p>                            | <p>(a) Entertainers may only expose their breast and/or buttocks if the performer(s) is on a stage at least eighteen inches above the immediate floor level and removed at least six feet from the nearest patron.</p> <p>(b) Performers must be at least six feet away from the nearest patron. This restriction will not be applied to performances of traditional ethnic dancing, provided that all of the following conditions are met:</p> <ul style="list-style-type: none"> <li>(i) The dancers are compensated by the licensee;</li> <li>(ii) At all times, the licensee must maintain and have available for inspection by any liquor enforcement officer a list of all traditional ethnic dancers employed at the licensed premises. The list must be retained for a period</li> </ul> |



of thirty days after termination of employment and must contain the following information for each dancer or entertainer:

- True name and professional or stage name, if any;
  - Residence address and phone number;
  - Terms of the agreement of employment; and
  - Signature of both the licensee and the dancer or entertainer;
- (iii) The traditional or ethnic dance performances will be those performed for the enjoyment of the general audience of the licensee and not for individual patrons.

(5) The occurrence of any of the above acts or conduct, whether permitted by a licensee, employee, or any other person under the control or direction of the licensee or an employee, constitutes good and sufficient cause for cancellation of license privileges.

(6) Nothing in this rule is intended disallow local officials from adopting ordinances that are more restrictive than the requirements outlined in this rule.

(7) If any provision of this rule or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of the rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are severable.

[Statutory Authority: RCW [66.08.030](#), [66.28.100](#), [66.28.040](#), [66.28.090](#), [66.44.010](#), [66.44.070](#), [66.44.200](#), [66.44.270](#), [66.44.291](#), [66.44.292](#), [66.44.310](#), [66.44.316](#), [66.44.318](#), [66.44.340](#), [66.44.350](#), and chapter [66.44](#) RCW. WSR 01-06-014, § 314-11-050, filed 2/26/01, effective 3/29/01.]