



# PROPOSED RULE MAKING

## CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: January 04, 2022

TIME: 8:18 AM

WSR 22-02-054

Agency: Department of Labor & Industries (L&I)

Original Notice

Supplemental Notice to WSR

Continuance of WSR \_\_\_\_\_

Preproposal Statement of Inquiry was filed as WSR 19-22-062 ; or

Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW \_\_\_\_\_.

Title of rule and other identifying information: (describe subject) Adult Entertainer Safety. Chapter 296-831 WAC, Adult Entertainer Safety

### Hearing location(s):

| Date:             | Time:  | Location: (be specific)   | Comment:   |
|-------------------|--|---|--|
| February 10, 2022 | 9:00 a.m.<br>Pacific<br>Time (US<br>and<br>Canada. | Join Zoom Meeting at:<br><a href="https://lni-wa-gov.zoom.us/join">https://lni-wa-gov.zoom.us/join</a><br><br>Meeting ID: 848 0524 5551<br>Passcode: AES@2022<br><br>OR<br><br>Join by phone:<br>+1 253 215 8782 US (Tacoma)<br><br>Meeting ID: 848 0524 5551<br>Passcode: 41875688 | Virtual meetings and public hearings necessitated by the COVID-19 pandemic have proven effective in allowing greater public access, eliminating the burden of physical travel, and maintaining public safety. Accordingly, no in-person meeting will be held.<br><br>The hearing will start at 9:00 a.m. and will continue until all oral comments are received. |

Date of intended adoption: March 22, 2022 (Note: This is NOT the effective date)

### Submit written comments to:

Name: Kevin Walder

Address: Department of Labor & Industries  
Division of Occupational Safety and Health (DOSH)  
PO Box 44620  
Olympia WA 98504-4620

Email: Kevin.Walder@Lni.wa.gov

Fax: 360-902-5619

Other: N/A

By (date) February 17, 2022

### Assistance for persons with disabilities:

Contact Kevin Walder, Administrative Regulations Analyst

Phone: 360-902-6681

Fax:

TTY:  
Email: Kevin.Walder@Lni.wa.gov  
Other: N/A  
By (date) February 3, 2022

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** This rulemaking will implement the requirements of Engrossed House Bill 1756 (Chapter 304, Laws of 2019) codified under RCW 49.17.470.

**New Chapter**

**Chapter 296-831 WAC Adult Entertainer Safety**

- Adds requirement that adult entertainment establishments provide panic buttons in specified locations
  - Panic buttons must be silent (discreet) unless an adult entertainment establishment's safety committee has assessed the premises and operations and have unanimously agreed on the use of an audible alarm
- Adds requirement that adult entertainment establishments record accusations of customer violence, including assault, sexual assault, or sexual harassment, towards an entertainer
- Adds requirement that adult entertainment establishments ban customers for three years if an accusation of violence or harassment against the entertainer is supported by a statement made under penalty of perjury or other evidence
- Includes definitions pertinent to these new requirements
- Includes notes clarifying requirements

**Reasons supporting proposal:** L&I Division of Occupational Safety and Health is implementing Engrossed House Bill 1756 (Chapter 304, Laws of 2019) codified under RCW 49.17.470. The legislature passed this bill into law in recognition of the fact that adult entertainers encounter unique workplace hazards that warrant specific occupational safety and health rules to best protect them from these hazards.

**Statutory authority for adoption:** Chapter 49.17 RCW, RCW 49.17.470

**Statute being implemented:** RCW 49.17.470

**Is rule necessary because of a:**

- |                         |                              |  |
|-------------------------|------------------------------|--|
| Federal Law?            | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision?   | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** None

**Name of proponent:** (person or organization) Department of Labor & Industries  Private  Public  Governmental

**Name of agency personnel responsible for:**

|                 | Name            | Office Location | Phone        |
|-----------------|-----------------|-----------------|--------------|
| Drafting:       | Chris Miller    | Tumwater, WA    | 360-902-5516 |
| Implementation: | Craig Blackwood | Tumwater, WA    | 360-902-5090 |
| Enforcement:    | Craig Blackwood | Tumwater, WA    | 360-902-5090 |

**Is a school district fiscal impact statement required under RCW 28A.305.135?**  Yes  No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:  
Name:  
Address:

Phone:  
Fax:  
TTY:  
Email:  
Other:

**Is a cost-benefit analysis required under RCW 34.05.328?**

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name: Kevin Walder  
Address: Department of Labor & Industries  
Division of Occupational Safety and Health (DOSH)  
PO Box 44620  
Olympia WA 98504-4620  
Phone: 360-902-6681  
Fax: 360-902-5619  
TTY:  
Email: Kevin.Walder@Lni.wa.gov  
Other:

No: Please explain:

**Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- |   |  |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)<br>(Internal government operations)         | <input type="checkbox"/> RCW 34.05.310 (4)(e)<br>(Dictated by statute)   |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(c)<br>(Incorporation by reference)  | <input type="checkbox"/> RCW 34.05.310 (4)(f)<br>(Set or adjust fees)  |
| <input checked="" type="checkbox"/> RCW 34.05.310 (4)(d)<br>(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)<br>((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW \_\_\_\_\_.

Explanation of exemptions, if necessary:

**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated.

L&I first estimates the total cost for implementing the silent panic button which includes the hardware and labor costs. Second, L&I estimates the cost of recording accusations based on the estimated number of annual accusations. Both cost components are annualized to determine the total annual cost of implementing this rule to affected businesses.

**Per-business Cost V.S. Minor Cost Threshold**

|                                     |                |
|-------------------------------------|----------------|
| Per business average cost-recurring | \$108 to \$227 |
|-------------------------------------|----------------|


|   |                      |
|---|----------------------|
| Minor cost threshold (1% of annual payroll) | \$1,860 <sup>1</sup> |
|---|----------------------|

When compared to the minor-cost threshold (1% of annual payroll), it clearly indicates the average per-business cost of these proposed rule amendments is far below the threshold for affected businesses discussed above.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

|                              |  |
|------------------------------|--|
| <b>Date:</b> January 4, 2022 | <b>Signature:</b><br><br> |
| <b>Name:</b> Joel Sacks      |  |
| <b>Title:</b> Director       |  |

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