

## CONCISE EXPLANATORY STATEMENT (CES)

### Adult Entertainer Safety

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

The date of adoption for this rule: May 3, 2022

The effective date for this rule: July 1, 2022

#### **I. Purpose and background of rulemaking:**

This rule will implement the requirements of Engrossed House Bill 1756 (Chapter 304, Laws of 2019) codified under RCW 49.17.470.

EHB 1756 passed the Washington State Legislature and was signed into law in July 2019. The law set forth specific worker safety requirements for adult entertainment establishments to be enforced by the Department of Labor & Industries (L&I), and tasked the department with convening an adult entertainer advisory committee.

Prior to proposing this rule, the Division of Occupational Safety and Health (DOSH) coordinated with the Adult Entertainer Safety Advisory Committee and held multiple meetings with stakeholders representing both business and labor to refine draft rule language over the course of more than two years.

The adoption of this rule:

- Adds a 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 a requirement that adult entertainment establishments record accusations of customer violence, including assault, sexual assault, or sexual harassment, towards an entertainer
- Adds a 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

#### **2. Differences between the rule as adopted and the proposed rule:**

The adopted rule is identical to the proposed rule.

### 3. Comments on proposed rule:

A public hearing was held virtually on **February 10, 2022 at 9:00 a.m.** via Zoom webinar and written comments were permitted through February 17, 2022. There were no attendees present at this public hearing and the department received no testimony or written comments to the CR-102 (Proposal).

In order to ensure adequate opportunity for stakeholder input, DOSH staff reached out specifically to former Adult Entertainer Safety Advisory Committee members and subsequently held another public hearing on **April 6, 2022 at 1:00 p.m.** via Zoom webinar with written comments permitted through April 13, 2022. There were 11 attendees present at the public hearing, a few of whom made comments, and the department received no written comments to the CR-102 (Proposal).

Below are the comments the department received and the department's responses, grouped into the following five categories:

**General Support** (9 comments)

**General Concern** (3 comments)

**Concern regarding: WAC 296-831-300 Panic button requirements.** (3 comments)

**Concern regarding: WAC 296-831-400 Training requirements.** (2 comments)

**Concern regarding: WAC 296-831-500 Customer complaint log requirements.** (3 comments)

#### General Support

COMMENT	DEPARTMENT RESPONSE
I just wanted to follow up... with just some support about some of those laws and things and how they affect us. And I also want to say thank you for addressing our concerns today to even make the workplace safer for all of us entertainers in Washington because these laws are very important to us because I believe that the majority of entertainers have experienced a situation where their health and safety and well-being was at risk. And often in those situations, there's little to no response or support being offered to us. And having those panic buttons will drastically increase our safety, and also just positively impact the outcome of similar situations happening in the future. And having those trainings for the panic buttons and for entertainers as well as employees and ensuring that we know where they're located, how they work and	Thank you for your comment.

<p>how they're used, and having to make sure that they're even routinely checked to make sure that we are staying safe is super important in keeping us safe.</p>	
<p>Also, even the blacklisting of customers from an establishment for three years where an incident has occurred in any other establishments is very helpful and impacts us greatly because the safety of us is so important. And that, you know, keeping proper records of incidents that happen with those blacklisted customers, I feel we can further reduce the risk of incidents happening, or even recurring incidents. Like one club or another club just knowing that those customers are blacklisted is, you know, so important to keeping us safe. And knowing that all of these measures are being taken to ensure our safety, I think that we're -- we can feel accomplished about that. And that's about all.</p>	<p>Thank you for your comment.</p>
<p>I was one of the original members of Strippers Are Workers that helped write this legislation. And I want to address a couple of things that [were] just said.</p> <p>The idea with the customer blacklist is actually super easy to implement. Lots of strip clubs all over the country have this. Lots of bars here in Washington State already have a customer blacklist. One of the things that you can do is there's a little device. You already have to check everyone's ID on the way in the door. You scan people's ID on the way in the door. It saves their name, their age, their address into a database. And then if they have a problem in the club, you can easily look up that customer's ID. It's already in your database. So that's easy. And then you can just flag that person in the computer, and next time someone scans their ID, it will go beep, beep, beep, "Oh, sorry, sir, you can't come in." This is not hard to do. It's not expensive. Lots of bars and clubs here in Seattle already have it implemented. I've been to them. I've worked at them. This is not new</p>	<p>Thank you for your comment.</p>

<p>technology. That's one way to do it. You don't have to do it that way.</p> <p>Another way to do it is just to take a quick photograph with a instamax-type camera. And then all your door people, whether they come and go, whether they only work there for a month, can flip through the book and see the faces of who's not allowed in the club. At Showgirls, where I used to work in downtown Seattle for 15 years, we did have some photographs of customers that were not allowed back posted discretely under the front desk where whoever was checking IDs could easily see them and access them. So I don't think I think this is a problem. I think it's something that's pretty easy to do.</p> <p>And I want to state specifically that the law doesn't say you have to share this information with every single other club in the state. What it says is that club owners are obligated to share this information with other clubs that they own. So specifically, Deja Vu, who owns a monopoly on most of the clubs in this state -- I think it's 11 out of 14 or something -- would have to share that information between Deja Vu clubs. If you don't own multiple clubs, that part of the law won't affect you whatsoever.</p>	
<p>The panic buttons was the most important thing on the bill to me because I have been both physically and sexually assaulted at work. And the idea is if I'm literally on the couch with a customer, I can easily reach up, see where the panic button is, hit it, and it will sound a silent alarm that calls a bouncer or manager to come help me with that situation. I've had customers holding me down and strangling me. And if I had had a panic button there, it would have been a lot easier to get myself out of that situation. I'm not saying that our jobs are always scary or bad like that, but that kind of stuff does happen.</p>	<p>Thank you for your comment.</p>
<p>The other thing I wanted to address was the part of the bill that says that we have to have strippers do education before they</p>	<p>Thank you for your comment. The training requirements under WAC</p>

<p>get hired is actually already implemented in Washington State. L&amp;I made a training for the strippers that they have to do to get their license. So it doesn't affect the club at all. When you go to get your license now, there is education, "Know Your Rights," training for strippers, they just have to click through. It's very easy. It doesn't take long. There's a website, and you just log in from your phone or your laptop or whatever while you're in the office waiting to get fingerprinted and your photo taken, and all the other things we have to do to get our entertainer's license, and all you do is click through and say, "Yep, I've read it." And the training for the Know Your Rights training is like, "Hey, this is exploitation. Here's what to look out for." It's very basic. The club owners don't need to worry about it at all. They just need to know that that information is available for the entertainers when they get their license.</p>	<p>296-831-400 are intended to ensure that entertainers and responders are adequately trained on the location, type, use, and other important information related to panic buttons and blocklists.</p> <p>The "Know Your Rights" training required under RCW 49.17.470 does not convey panic button location, type, use information or response procedures for any establishment.</p> <p>As mentioned in later comments, entertainers must train on both.</p>
<p>I'd just like to respond briefly. The training would be specifically for the panic buttons. So it wouldn't be included in original, like, Know Your Rights training. It's on the details -- this is my understanding -- of how the panic buttons work, how they're signaling, where they are, that sort of thing.</p>	<p>Thank you for your comment.</p>
<p>On the topic of IDs, there are clubs in the city in Seattle that already take IDs when charging credit cards for high amounts. And that hasn't been a deterrent so far, but it is pretty common practice. And I'd just like to uplift what the commenter who said is that taking IDs to get into strip clubs has been common practice around the country, and I don't think that that would actually be deterrent or impactful on revenue. That's it.</p>	<p>Thank you for your comment.</p>
<p>I'm also an original member of Strippers Are Workers. And I would like to say that -- a couple of things. One is that this training, it's not like you have to sit everybody down for 30 minutes to go over the panic buttons. I mean, I think it can be as brief as you just make sure that you show them</p>	<p>Thank you for your comment.</p>

where they are and how they work.	
<p>I just want to say that as the law is right now, it doesn't specify how you have to maintain a customer blacklist. It just says that you have to do it. So whether you use the device to scan people's ID at the door or whether you use a list of credit cards with someone's name on it that they've used inside the club or whether you use a photograph, however you want to do it is up to you. The law just says that you have to maintain it. And the reason we wrote that part in is because of the problem that [was] mentioned, which is staff rotates. Managers are in and out. Bouncers are in and out. Entertainers are in and out. So the same person can keep coming back and targeting the same club over and over and over again, and the people that are working on Monday don't recognize him because he came in on Friday. So that was the problem that we were trying to prevent with that.</p>	Thank you for your comment.

**General Concern**

<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
<p>I do have one question. So this is just preliminary stuff; right? I mean, this is not going to dictate what happens with this ordinance because we're going -- because I want to do a little research on exactly what you're -- what you're proposing and the impact that it's going to have on our business. So is that something that's going to happen?</p>	<p>As we mentioned at the hearing, the rules adoption date is May 3, 2022, and will take effect on July 1, 2022. Over the past two and a half years multiple public stakeholder meetings were held and other opportunities were afforded for the public to provide feedback on rule language under consideration.</p>
<p>Okay. I understand. So we got -- so we got time to put our ducks in a row?</p> <p>Oh, okay. Thank you.</p>	<p>Written comments were permitted up to 5pm on April 13, 2022. As we mentioned at the hearing the rules adoption date is May 3, 2022 with an effective date of July 1, 2022.</p>
<p>Just a quick question. Somebody said that there were clubs in town already doing IDs on the way in, scanning IDs. I'd like to know who they -- who they are so I can check out exactly how they do it and how</p>	<p>Thank you for your comment. The rule requires and L&amp;I expects establishments make every effort to obtain the customer's name and if the establishment cannot determine the name, it must record as</p>

<p>they maintain their database. You know, I'm not arguing with it. I mean, it's a good idea.</p> <p>Example: Back in the years way back, a guy came in and shot some girl seven times, and then walked out the door. And he went to prison. Seven years later he's out coming back in the club. So I agree with keeping bad people out. How you identify those people is the problem. So that's all I got to say. I'm done.</p>	<p>much identifying information about the customer as is reasonably possible.</p>
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**Concern regarding: WAC 296-831-300 Panic button requirements.**

<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
<p>So the first recommendation that we have is on the topic of the panic buttons. The section requires that panic buttons be placed in all areas that dancers are alone with customers, such as private rooms or semiprivate private booths. We recommend requiring that the panic buttons be within a reasonable distance, such as like arm's length away, from where the entertainer would be dancing in those private rooms or semiprivate booths. For example, the panic button should be hanging on the semiprivate booth where the dancer can reach, instead of, like, on a wall near the booth a few feet away. Our recommendation is to increase the likelihood of the dancer being able to trigger the panic button while in an unsafe situation.</p>	<p>Thank you for your comment.</p> <p>The rule is consistent with existing requirements under RCW 49.17.470. To be consistent with the purpose of panic buttons – for entertainers to activate when needed to get assistance – establishments must ensure the locations are accessible to entertainers based on the specific spaces. Additionally, adult entertainment establishments' Safety and Health Committees, required under WAC 296-800-130, may provide direction on the most appropriate placement of required alarms.</p>
<p>And then also, we are curious about the decision for inconspicuous panic buttons. They're supposed to be low in visibility and silent. And we're not entirely clear on why inconspicuous buttons were opted over conspicuous ones. We'd just like to note that there are some pros and cons to both inconspicuous and conspicuous buttons. So for example, visible buttons may act as a deterrent. But then obviously we do recognize that utilizing the buttons and maybe them being loud could further conflict with our clients. So we're just kind of wondering what motivated L&amp;I to make that choice for having inconspicuous panic</p>	<p>The rule does not specify whether an alarm must be conspicuous or inconspicuous, but rather that it must be "silent (discreet)" unless an adult entertainment establishment's required safety committee has determined that an audible alarm would be more effective. WAC 296-831-310(3) further addresses the pros and cons to be considered when determining which type of alarm system to use with panic buttons.</p> <p>Silent (discreet) alarms are essentially the default requirement because attendees at our stakeholder meetings who identified</p>

<p>buttons.</p>	<p>themselves as adult entertainers or allies overwhelmingly advocated for their exclusive use, citing the concern that audible (or otherwise inconspicuous) alarms would contribute to the escalation of violence. However, the exception that allows for the use of audible alarms in certain, limited cases was included in the rule because there isn't sufficient evidence available to suggest that one type of alarm is inherently more protective in all situations and locations, and the department further believes that required safety committees, comprised of both workers and management, are best positioned to determine the most appropriate type of alarm in each required location, for the particular response procedures being employed in any particular establishment.</p>
<p>And other than that, I think that any panic button that's within arm's reach of a dancer sitting at a booth is -- is -- fits the requirement for "easable" access.</p>	<p>Thank you for your comment.</p> <p>The rule is consistent with existing requirements under RCW 49.17.470. To be consistent with the purpose of panic buttons – for entertainers to activate when needed to get assistance – establishments must ensure the locations are accessible to entertainers based on the specific spaces. Additionally, adult entertainment establishments' Safety and Health Committees, required under WAC 296-800-130, may provide direction on the most appropriate placement of required alarms</p>

**Concern regarding: WAC 296-831-400 Training requirements.**

<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
<p>There's another section that we'd like to flag, or another line. "Adult entertainment establishments must train entertainers on the following prior to their work as entertainers." We're not totally clear on the specifics of this language. We wonder if there could potentially be an issue where clubs, based on this language, will only</p>	<p>Thank you for your comment. As written, the department interprets the rule language to mean that an adult entertainment establishment must train any entertainer before they begin working, and any entertainer currently working who has not previously been trained would have to undergo training in order to</p>



<p>train new dancers. We would definitely prefer more specific language that clarifies that all dancers need to get this training.</p>	<p>continue working.</p> <p>DOSH intends that compliance officers evaluate the panic button training of both new and veteran entertainers.</p> <p>The language is worded this way in an effort to not to exclude entertainers from working non-entertainer jobs trainee/cashier/greeter/etc. prior to panic button training.</p> <p>DOSH's intent is to reflect the fact that both new and veteran entertainers begin work each day/shift/etc. Alternatively, this could be worded along the lines of "<i>prior to beginning/resuming working as an entertainer</i>".</p>
<p>I'm not sure what laws you guys are trying to put in now, or regulations. Educating the entertainers? Yeah, for what? Again, there's such a high turnover of entertainers. One, they come and go between different clubs. And two, they come and go in the business. A girl decides she wants to dance, dances for a week or two, and says "Hey, this is not for me," she's gone. So if you put regulations where we have to go through this long process to indoctrinate her into the business, and then she leaves two weeks later, it doesn't get anybody anywhere. I mean, I'm not sure what you have proposed. But that's my two cents.</p>	<p>Thank you for your comment.</p> <p>The requirements regarding educating dancers on rights and responsibilities, reporting sexual or physical abuse and harassment, risk of human trafficking, financial aspects of the profession, and resources for assistance are not included in this rulemaking, but are currently required under RCW 49.17.470.</p> <p>The training requirements within WAC 296-831, Adult Entertainer Safety regarding panic buttons and customer complaint logs/blocklists are conceptually aligned with basic workplace safety and health training requirements that apply to all businesses, but are necessary in addition to basic workplace safety and health training because of the unique hazards and related mitigation strategies associated with the adult entertainment industry.</p> <p>The implementation of the training requirements within WAC 296-831, Adult Entertainer Safety will be specific to each club. Accordingly, in order to be able to effectively use panic buttons an entertainer needs to know the specific locations and appropriate procedures related to panic buttons in whatever club they're working in, which may differ</p>

	somewhat from other clubs. This is also true for reporting customer incidents for the complaint log/block list.
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**Concern regarding: WAC 296-831-500 Customer complaint log requirements.**

<b>COMMENT</b>	<b>DEPARTMENT RESPONSE</b>
<p>I own Pandora's. We opened July 11 -- July 11, 2011. I've been in the business since 1984, so I've been through quite a bit. To be honest with you, over the years there have been minute attacks on girls that I'm aware of. We just -- it just doesn't happen very often. But I do agree with the panic buttons. And we have them visible and close to all the -- all over the place. We even have them in the bathroom and the dressing room because if something happens, we need to take care of it quick.</p> <p>The problem that I see with this is that we're supposed to get some guy's ID and ban him for three years. That's an -- that's an impossibility. One, "Would you stop beating the girl and give me your ID?" It just doesn't -- it doesn't make any sense. The guy has a problem with a girl. They get into a tussle. He's out the door and gone. Who is this guy? Do we know who he is? Can we ban him? Can we tell the other clubs about him? When we get situations where a guy has had problems -- or we had some gangbangers in, they were waving their weapons around, we made sure that we told all the other clubs, you know, you got problems coming down the road. But having -- having something where we have to get the guy's name and ban him for three years, you know, think about it logically. Are we going to be able to get this guy's name and ban him? Not only that, changeover in doormen or security, lot security or inside security, they wouldn't know from the next ones. So how do we -- how do we keep posted who's banned and who's not, especially if we don't know who he is. I just see an impossibility there. It just doesn't make any sense. That's kind of what I got for now.</p>	<p>Thank you for your comment.</p> <p>The rule regarding the customer complaint log ("blocklist") is consistent with existing requirements under RCW 49.17.470 that are currently in effect. It requires that establishments 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.</p> <p>Based on our research and what we have heard from club owners and others, there are a variety of ways to feasibly comply with this requirement ranging from strategies that employ paper records in coordination with surveillance camera footage, to the use of web-based ID scanning systems at the point of entry.</p>

<p>Okay. So we can all agree that the panic buttons are a good -- a good addition to the strip clubs.</p> <p>I want to -- I want to focus on the -- the guys that get bounced out. And, you know, we have done that, blacklisted them, but, again, people change. So I'm just going to give you a scenario. Joe Blow is driving down the street going home from work -- which is where my club is at. Everybody's coming or going to work -- and says "Oh, what's that? That sounds pretty cool. Let me stop in." They stop in, and they say, "We've got to take your picture, know who you are, copy your driver's license so we know who you are. It's going to go into a database." How secure is the database? Who owns it? He doesn't want anybody to know he's been in a strip club. I mean, that's a good share of the customers, you know, that's -- you know, they're parking behind the building. They don't want anybody to see their car. So again, getting somebody's information before they come in, I'm not coming in. If I had to go to a place like Pandora's or another club, and they say you need your ID to get in, well, I can show them my ID, show them that I'm over 18. However, they're going to take a copy of it? Hell no. That just doesn't go anywhere. Security issues, there's a lot of issues with that information on your driver's license or whatever ID you pose. I wouldn't trust any strip club to -- or any organization -- and I don't care how good they are -- to keep it private and keep it secure so it doesn't get out in hands. You got some bad apples that dig into that information and use your - - use your private information to do nasty things to you. So I see that as a serious problem.</p>	<p>Thank you for your comment.</p> <p>The customer complaint log requirements under WAC 296-831-500 are consistent with existing requirements under RCW 49.17.470 that are currently in effect.</p> <p>The rule requires and L&amp;I expects establishments 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. These requirements do not specify that you must utilize ID scanning technology or keep user information in a web-based database, nor is this method of compliance prohibited.</p>
<p>Also, I'd like to say that the -- I -- this is one thing that we were very divided on in the very beginning when we proposed this bill was the idea of taking IDs. And it was not consensus. We were very divided. Many of us felt like taking IDs would heavily discourage clientele. And not having</p>	<p>Thank you for your comment.</p> <p>The customer complaint log requirements under WAC 296-831-500 are consistent with existing requirements under RCW 49.17.470 that are currently in effect.</p>

enough clientele is actually very very harmful to us because we end up over competing against each other. So I am adamantly against requiring scanning IDs for customers when they come and leave. It's one thing when they pay a high amount on a credit card -- they understand that -- but not for when customers come and go.

And so I mainly decided to raise my hand because I am adamantly opposed to scanning ID for customers as we all face a lot of stigma working in this industry and being a patron of this industry. And this industry is very oppressed by a lot of different groups. We already have way too many enemies, and to further discourage our clientele would be very harmful to us. So thank you.

The rule requires and L&I expects establishments 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.

These requirements do not specify that an adult entertainment establishment must utilize ID scanning technology or keep user information in a web-based database, nor is this method of compliance prohibited.