

AMENDATORY SECTION (Amending WSR 18-22-116, filed 11/6/18, effective 12/7/18)

WAC 296-800-140 Accident prevention program. Your responsibility:

You must establish, supervise and enforce an accident prevention program (APP) that is effective in practice. (You may call this your total safety and health plan.)

You must meet the requirements ...	in this section:
Develop a formal, written accident prevention program	WAC 296-800-14005
Develop, supervise, implement, and enforce safety and health training programs that are effective in practice	WAC 296-800-14020
Make sure your accident prevention program is effective in practice	WAC 296-800-14025
<u>Additional APP requirements for adult entertainment establishments (per RCW 49.17.470)</u>	<u>WAC 296-800-14030</u>

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060. WSR 18-22-116, § 296-800-140, filed 11/6/18, effective 12/7/18. Statutory Authority: RCW 49.17.010, [49.17].040, and [49.17].050. WSR 01-11-038, § 296-800-140, filed 5/9/01, effective 9/1/01.]

NEW SECTION

WAC 296-800-14030 Additional APP requirements for adult entertainment establishments (per RCW 49.17.470).

NOTE: The requirements in this rule are corollary to, and addressed under, DOSH's Accident Prevention Program rules (WAC 296-800-140 through 296-800-14030). For example; entertainer orientation on panic button location, use, maintenance (if any), how to have customers added to complaint log/blacklist, how to report work-related hazards/injuries/etc., how to report unsafe conditions/practices, the use and care of Personal Protective Equipment (PPE), what to do in an emergency including how to leave the workplace, etc.

(1) **Definitions** - The definitions below exclusively apply to this section.

(a) **Adult entertainment.** Any exhibition, performance, or dance of any type conducted in 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**. 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**. 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**. 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 entertainment establishment. Panic buttons, both at the entertainer's point of use and other areas within the establishment such as the

designated responder's point of reception, can be audible, silent (discreet), or a combination of the two.

(2) **Panic button requirements.** Adult entertainment establishments 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 another emergency in the entertainer's presence. The entertainer may cease work and leave the immediate area to await the arrival of assistance.

NOTE: Panic button audible alarms at the point of use (at the panic button itself) may escalate an interaction, potentially towards violence. Employers can mitigate potential escalation hazards via panic button systems that automatically switch between discrete and audible alarming where a situation requires. For example; panic buttons which initially attempt to send a silent alarm to the designated responder, but where the system detects a failure in the alarm system; then audibly alarms at the point of use to inform other entertainers or designated responders in the area to attempt to respond.

(3) **Customer complaint log requirements.**

(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.

NOTE: Statements, or other evidence made under penalty of perjury must comply with Washington State Evidentiary Rules (Rules of Evidence). Additional statements that were not made under penalty of perjury would not, on their own, rise to the level of evidence required by this rule; however, surveillance footage, employee statements made during a DOSH inspection, etc. can.