



PROPOSED RULE MAKING

CR-102 (June 2024) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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FILED

DATE: September 04, 2024

TIME: 11:29 AM

WSR 24-18-123

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

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 24-11-022 ; 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

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
October 14, 2024	11:00 a.m.	Department of Labor & Industries 12806 Gateway Drive South Tukwila, WA 98168	A pre-hearing overview will begin at 10:00 a.m. The hearing will start at 11:00 a.m. and will continue until all oral comments are received. This public hearing will be held jointly with L&I's Division of Fraud Prevention and Labor Standards (FPLS).
October 15, 2024	2:00 p.m.	Virtual and telephonic hearing To join electronically: https://lni-wa-gov.zoom.us/j/87075679462?pwd=ePBJQ2wvAbvYdydgkD0fFPMVb4Ylx7.1 To join by phone (audio only): Call In: 253-205-0468 or 253-215-8782 Meeting ID: 870 7567 9462 Passcode: 140340150	A pre-hearing overview will begin at 1:00 p.m. The hearing will start at 2:00 p.m. and will continue until all oral comments are received. This public hearing will be held jointly with FPLS.

Date of intended adoption: December 2, 2024 (Note: This is **NOT** the effective date)

Submit written comments to:

Name Cynthia Ireland

Address Department of Labor & Industries
Division of Occupational Safety and Health
PO Box 44620
Olympia, WA 98504-4620

Email Cynthia.Ireland@lni.wa.gov

Fax 360-902-5619

Other

Beginning (date and time) September 5, 2024, at 8:00 a.m.

By (date and time) October 18, 2024, by 5:00 p.m.

Assistance for persons with disabilities:

Contact Cynthia Ireland

Phone 360-791-5048

Fax 360-902-5619

TTY

Email Cynthia.Ireland@lni.wa.gov

Other

By (date) October 7, 2024

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

This proposed rulemaking will implement the requirements of Section 1 of Engrossed Substitute Senate Bill (ESSB) 6105, Chapter 250, Laws of 2024, codified under RCW 49.17.470. Specifically, this rulemaking will address some of the following:

- Adds statutory requirement that an adult entertainment establishment provide training, inclusive of the training topics outlined in ESSB 6105, to its employees other than entertainers;
- Updates requirements that an adult entertainment establishment provide panic buttons to include they must be accessible, and adds statutory requirement to submit annual proof of compliance and panic button maintenance to L&I;
- Add statutory requirements for establishments to provide appropriate cleaning supplies, equip dressing or locker rooms with a keypad requiring a code, displaying signage about appropriate customer etiquette, and establishing written processes and procedures for responding to customer violence and ejecting customers who violate club policies;
- Add statutory requirement that an adult entertainment establishment have written policies and procedures for implementation of the block list and panic buttons requirements, and must make such policies, procedures, and any other related records available for inspection by L&I upon request;
- Add statutory requirements that an adult entertainment establishment provide dedicated security personnel, and specify when security personnel may not engage in duties other than security, and when additional security is necessary;
- Add statutory requirements that an adult entertainment establishment must provide dedicated security to monitor interactions between entertainers and patrons; and
- Other housekeeping amendments in chapter 296-831 WAC.

L&I's Division of Occupational Safety and Health (DOSH) is required to implement and enforce ESSB 6105 which addresses safety and health standards for entertainers at adult entertainment establishments. ESSB 6105, codified as RCW 49.17.470, becomes effective January 1, 2025. L&I must adopt rules to implement and enforce the provisions of the law.

L&I's Fraud Prevention and Labor Standards (FPLS) Division is conducting rulemaking to clarify and implement the requirements of ESSB 6105 under RCW 49.46 RCW. The proposed rules also describe FPLS's enforcement mechanisms, including the complaint, investigation, citation, and appeals processes. The proposed rules also provide for remedies and penalties for violations of the rules. FPLS is engaging in simultaneous rulemaking.

Reasons supporting proposal: The proposed rulemaking is needed in order to meet RCW 49.17.470 and to provide additional worker protections.

Statutory authority for adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060 and 49.17.470.

Statute being implemented: Chapter 49.17 RCW

Is rule necessary because of a:

- Federal Law? Yes No
 Federal Court Decision? Yes No
 State Court Decision? Yes 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)

Type of proponent: Private. Public. Governmental.

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting	Tracy West	Tumwater, WA	360-902-6954
Implementation	Craig Blackwood	Tumwater, WA	360-902-5828
Enforcement	Craig Blackwood	Tumwater, WA	360-902-5828

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 Cynthia Ireland, Administrative Regulations Analyst

Address Department of Labor & Industries
Division of Occupational Safety and Health
PO Box 44620

Olympia, WA 98504-4620

Phone 360-791-5048

Fax 360-902-5619

TTY

Email Cynthia.Ireland@Lni.wa.gov

Other

No: Please explain:

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). 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:

[RCW 34.05.310](#) (4)(b)
(Internal government operations)

[RCW 34.05.310](#) (4)(e)
(Dictated by statute)

[RCW 34.05.310](#) (4)(c)
(Incorporation by reference)

[RCW 34.05.310](#) (4)(f)
(Set or adjust fees)

[RCW 34.05.310](#) (4)(d)
(Correct or clarify language)

[RCW 34.05.310](#) (4)(g)
((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 19.85.025\(4\)](#). (Does not affect small businesses).

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

Explanation of how the above exemption(s) applies to the proposed rule: See table below. The proposed language largely adopts the statutory amendments made by ESSB 6105 to RCW 49.17.470 without material change and makes housekeeping adjustments.

(2) Scope of exemptions: Check one.

The rule proposal: Is fully exempt. (*Skip section 3.*) Exemptions identified above apply to all portions of the rule proposal.

The rule proposal: Is partially exempt. (*Complete section 3.*) The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)): The below table lists all sections identified as exempt from analysis:

Proposed WAC Sections and Title	This proposed rule section is exempt (in whole or in part). Provide RCW to support this exemption.
WAC 296-831-200 – Definitions	RCW 34.05.310(4)(c); the proposed language is fully exempt because it makes updates to definitions based on changes made by ESSB

	6105 to RCW 49.17.470 or make housekeeping updates by updating subsection numbers.
WAC 296-831-250 – General Requirements	RCW 34.05.310(4)(c) and (4)(d); the proposed language is exempt because part of the amendment is adopting without material change language from WAC 296-831-100 relocating the information found in a note into the general rule language. Requirements remain the same.
WAC 296-831-300 – Panic button requirements.	RCW 34.05.310(4)(c) and (4)(d); the proposed language is partially exempt because it makes updates based on changes made by ESSB 6105 to RCW 49.17.470, moves exception language into a subsection format and moves a guidance checklist to the correct section.
WAC 296-831-310 – Install an appropriate entertainer alarm system(s).	RCW 34.05.310(4)(d); the proposed language is fully exempt because it makes updates based on changes made by ESSB 6105 to RCW 49.17.470, removes redundant language and amends language to make the section easier to read and understand.
WAC 296-831-450 – Security personnel requirements.	RCW 34.05.310(4)(c); the proposed language is partially exempt because it makes updates based on changes made by ESSB 6105 to RCW 49.17.470.
WAC 296-831-500 – Customer complaint log requirements.	RCW 34.05.310(4)(c) and (4)(d); the proposed language is fully exempt because it makes updates based on changes made by ESSB 6105 to RCW 49.17.470, and makes housekeeping updates.

The rule proposal: Is not exempt. *(Complete section 3.)* No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of 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 minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. As outlined in the chart below, the rule does not impose more than minor administrative costs on adult entertainment establishments.

WAC 296-831-300(2)	Any potential costs would likely be minimal and administrative in nature, related to reviewing and synthesizing the entertainers' recommendations before finalizing the placement of panic buttons.
WAC 296-831-300(4)	The cost impact is negligible. This change adjusts the frequency of panic button testing to an annual basis, which may actually reduce costs if establishments were previously conducting more frequent tests.
WAC 296-831-300(5)	There is no associated cost. This language incorporates provisions from ESSB 6105, based on RCW 49.17.470(3), and clarifies the necessary documentation to be submitted as proof of compliance
WAC 296-831-400(4)	No additional cost is expected from this proposed language, as training records will be included in general recordkeeping, which is already required for establishments.
WAC 296-831-450(2)	No cost is anticipated. This language incorporates provisions from ESSB 6105 under RCW 49.17.470(5) and provides additional guidance on identifying peak operating hours, but does not put a specific requirement in place on how to determine when peak hours occur.
WAC 296-831-450(3)	No additional cost is expected. This language includes provisions from ESSB 6105 under RCW 49.17.470(5)(a)-(e). Additionally, the factors outlined are part of a broader assessment required to determine the appropriate security-to-customer ratio. Establishments that do serve alcohol will need to consider the increase in potential security events caused by alcohol use when staffing security for both peak and non-peak hours.

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

Date: September 4, 2024

Name: Joel Sacks

Title: Director

Signature:

