



**Preliminary Cost-Benefit Analysis &
Significant Legislative Rule Analysis**

Chapter 296-831 WAC– Adult Entertainer Safety

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Acronyms

APA	The Administrative Procedure Act
DOSH	Division of Occupational Safety and Health
EHB	Engrossed House Bill
ESSB	Engrossed Substitute Senate Bill
FPLS	Fraud Prevention and Labor Standards
L&I	Washington State Department of Labor & Industries
RCW	Revised Code of Washington
WAC	Washington Administrative Code

CHAPTER 1: Requirements of the Administrative Procedure Act

The Administrative Procedure Act (APA; chapter 34.05 RCW) requires that, before adopting a significant legislative rule, the Department of Labor & Industries (L&I) must analyze the probable costs and benefits of the rule, and determine that the benefits are greater than its costs, taking into account both the qualitative and quantitative benefits and costs.” [RCW 34.05.328(1)(d)] Emergency rules adopted under RCW 34.05.350;

RCW 34.05.328(5)(c)(iii) defines a "significant legislative rule" as a rule, other than a procedural or interpretive rule, that:

- Adopts substantive provisions of law pursuant to delegated legislative authority, the violation of which subjects a violator of such rule to a penalty or sanction;
- Establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or
- Adopts a new, or makes significant amendments to, a policy or regulatory program.

Under certain circumstances, a rule or rule component is exempt from this requirement. Several provisions of the proposed rule are exemption from analysis under RCW 34.05.328(5)(b) including:

- Rules adopting or incorporating by reference without material change federal statutes or regulations, Washington State statutes, rules of other Washington State agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington State law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and
- Rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

This cost-benefit analysis has been prepared in compliance with the APA for the rule amendments to Chapter 296-831 WAC that do not fall under these exemptions.

CHAPTER 2: Description of the Proposed Rules

In the 2024 legislative session, Engrossed Substitute Senate Bill (ESSB) 6105 was passed into law, which amended RCW 49.17.470 to include additional requirements adult entertainment establishments must follow. ESSB 6105 covers Division of Occupational Safety and Health (DOSH) provisions, new wage and hour laws that the Fraud Prevention and Labor Standards (FPLS) division will be implementing, and updated allowances around the service of alcohol in these establishments. The latter will require an interagency agreement with the Liquor and Cannabis Board regarding inspections and information sharing, and will not be covered by the rulemaking.

2.1 Explanation of Rulemaking Goals & Alternatives to Rulemaking

L&I's 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 FPLS division is also adopting rules to clarify and implement the requirements of ESSB 6105. The proposed rules describe FPLS's enforcement mechanisms, including the complaint, investigation, citation, and appeals processes. The proposed rules provide for remedies and penalties for violations of the rules. FPLS is engaging in simultaneous, coordinated rulemaking.

2.2 Description of Current Regulation

In 2020, DOSH adopted new rules under chapter 296-831 WAC, Adult Entertainer Safety. This rulemaking was required to implement RCW 49.17.470, which became effective July 28, 2019, as a result of the Engrossed House Bill (EHB) 1756: Adult Entertainers – Safety and Security.

That rulemaking specifically addressed:

- The requirement that adult entertainment establishments provide panic buttons in certain locations;
- The requirement that adult entertainment establishments record accusations of customer violence, including assault, sexual assault, or sexual harassment towards an entertainer; and

- The requirement that the adult entertainment establishments ban customers for three years if an accusation of violence or harassment towards an entertainer by a customer is supported by a statement made under penalty of perjury or other evidence.

Adult entertainers are at risk of unique hazards when compared with most other industries. Chapter 296-831 WAC, Adult Entertainer Safety, increased workplace safety conditions for these workers.

2.3 Description of Rule Amendments

This proposed rulemaking will address 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 (WAC 296-831-400), and provides a definition for the “third-party qualified professional” that is required to develop and provide training to employees;
- Updates requirements that an adult entertainment establishment provide panic buttons to include they must be “accessible,” requires establishments to use recommendations from entertainers to establish panic button placement meets the accessibility requirement, and adds statutory requirement to submit annual proof of compliance with the panic buttons requirements and panic button maintenance records to L&I (WAC 296-831-300);
- 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 (WAC 296-831-250);
- 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 (WAC 296-831-500);
- Add statutory requirements that an adult entertainment establishment provide dedicated security personnel, specify when security personnel may not engage in duties other than

security and when additional security is necessary, and provides guidance on how to establish “peak operating hours (WAC 296-831-450);

- Add statutory requirements that an adult entertainment establishment must provide dedicated security to monitor interactions between entertainers and patrons (WAC 296-831-450); and
- Makes housekeeping adjustments, including updates to where checklists and templates are located to align with underlying requirements.

CHAPTER 3: Description of the Affected Businesses and Workers

3.1 Affected Industries and Businesses

Stakeholders include adult entertainers, adult entertainment establishments' owners, and other workers of adult entertainment establishments, local governments involved in licensing adult entertainers, and various community-based organizations.

3.2 Affected Workers

Adult entertainers will be the primary beneficiary of the rule, as the law that necessitates the rule was intended to create safer working conditions in adult entertainment establishments.

CHAPTER 4: Probable Costs of the Proposed Rules

The estimated costs in this analysis, if any, represent only the new costs of complying with the adopted rules for the affected parties, excluding realized potential costs associated with or originating from the current practices, or “baseline standards” under existing laws, rules, or national consensus standards. Therefore, the costs that can be attributed to or are insignificantly different from these baseline standards are not analyzed or factored into our estimates.

Proposed Language: Proposed WAC 296-831-300(2) offers further guidance on how establishments should assess the "accessibility" of a panic button. This requirement comes from ESSB 6105, signed into law on March 25, 2025. According to this chapter, the determination of a panic button's accessibility must be made in collaboration with entertainers, who provide recommendations on the optimal location based on their usage needs.

Cost Implication: Given that the regulation does not prescribe a specific method for meeting this requirement, and considering that the safety committee can serve as a platform for fulfilling it, there are no significant direct costs involved. 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.

Proposed Language: Proposed WAC 296-831-300(4) includes provisions for plain language adjustments to ensure consistency across the standard. Additionally, establishments are required to regularly test and maintain their alarm systems to confirm they function correctly when needed. The proposed rule removes language in the current standard referencing testing in accordance with manufacturer intervals and updates the testing requirement to be performed annually to align with the annual compliance reporting required under ESSB 6105.

Cost Implication: The cost impact is negligible. This change adjusts the frequency of testing to an annual basis, which may actually reduce costs if establishments were previously conducting more frequent tests.

Proposed Language: Proposed WAC 296-831-300(5). By July 1 of each year, establishments must provide L&I with proof of compliance with the requirements. The submission must include: (a) The name and address of the adult entertainment establishment; (b) The unified business identifier number; (c) A list, map, or other visual representation showing the locations

of all panic buttons within the establishment; and (d) maintenance records demonstrating that panic buttons have been maintained and are confirmed to be in working condition.

Cost Implication: 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. The statute mandates establishments to submit proof of compliance, and the basic criteria for submission are being defined. L&I plans to allow establishments to submit this information electronically, likely via email, which will help minimize costs.

Proposed Language: Proposed WAC 296-831-400(4) specifies that establishments must provide proof of compliance with the requirements under this section if requested by L&I during an inspection.

Cost Implication: No additional cost is expected from this proposed language, as training records will be included in general recordkeeping, which is already required for establishments.

Proposed Language: Proposed WAC 296-831-450(2) states that during peak operating hours, security personnel must focus solely on security duties. Peak operating hours are defined as the times when customer volume is highest. Establishments are required to determine their peak operating hours using optional methods such as a log of daily customer volume, electronic point-of-sale activity, or other tracking mechanisms based on data from the preceding 90 days.

Cost Implication: No cost is anticipated. This language incorporates provisions from ESSB 6105 under RCW 49.17.470(5) and simply 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.

Proposed Language: Proposed WAC 296-831-450(3) requires establishments to assess the need for additional security personnel, even outside of peak hours, based on potential increases in customer volume due to events or activities. When determining the appropriate number of security staff, establishments should consider: (1) The size of the establishment, such as total square footage; (2) The layout and floor plan of the establishment; including visibility and customer-accessible areas; (3) The occupancy and customer volume, and average customer volume from the preceding 90 days. A 25:1 ratio of customers to security personnel will be

deemed to be in compliance with this requirement; (4) Security cameras and panic buttons, including coverage and monitoring; (5) The history of security incidents, including reports to law enforcement and the number of customers added to the blocklist in the preceding 90 days, and (6) Whether or not the establishment holds any license issued under chapter 66.24 RCW.

Cost Implication: 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.

CHAPTER 5: Probable Benefits of the Proposed Rules

While the majority of proposed changes are from ESSB 6105 and not assessed for cost or benefit impact, there are some remaining significant legislative changes which do have some benefits to impacted entities. Below we describe two main qualitative benefits possible from the proposed rule.

Enhanced safety:

The proposed rule can positively impact safety at adult entertainment establishments in several ways. First, by ensuring that panic buttons are strategically placed for quick access can improve emergency response times which is critical to ensuring entertainer safety. Second, by guaranteeing that alarm systems are operational when needed reduces the risk of malfunction and ensures a safe, reliable response. Third, by ensuring that security personnel are fully focused on safety during high-traffic times can lead to better crowd management and in turn reduce the risk of incidents. Finally, by encouraging proactive evaluations of security needs based on customer volume and past incidents, overall safety by anticipating and mitigating potential risks are therefore enhanced. This increased safety can further lead to increased comfort and wellbeing for all workers in the establishment.

Increased Accountability and Clarity:

The proposed rule also increases accountability by requiring establishments to submit clear proof of compliance with defined criteria, offering the option for electronic submission to simplify the process. Additionally, it ensures consistent safety standards by mandating that establishments provide proof of compliance during inspections, which promotes regular updates and maintenance of safety practices.

CHAPTER 6: Cost-Benefit Determination

The cost and benefit determination of the proposed rules revolves around ensuring that the implementation of new safety and compliance standards does not impose significant financial burdens on affected establishments. The analysis carefully considers only the additional costs associated with the new requirements, excluding any existing baseline standards. For instance, the minimal administrative costs involved in determining the accessibility of panic buttons or the negligible expenses related to adjusting the frequency of alarm system testing reflect the rule's focus on practicality and cost-efficiency. Similarly, the requirement for establishments to provide proof of compliance, both annually and during inspections, is designed to integrate seamlessly with existing recordkeeping practices, resulting in no significant additional costs. Overall, the proposed rules are structured to enhance safety without introducing prohibitive financial obligations.

On the benefits side, the proposed rules significantly enhance both safety and accountability within establishments. By focusing on the strategic placement of panic buttons, regular maintenance of alarm systems, and the proper allocation of security personnel during peak hours, these rules aim to create a safer environment for both entertainers and customers. Additionally, the rules promote increased accountability by establishing clear guidelines for compliance submissions and inspections, ensuring that safety standards are consistently maintained. The emphasis on proactive security assessments and the use of data-driven methods to determine peak operating hours further underscores the rules' commitment to preventing incidents before they occur. In summary, the benefits of the proposed rules, including improved safety and accountability, far outweigh the minimal costs involved in their implementation.

CHAPTER 7: Least Burdensome Analysis

RCW 34.05.328(1)(d) requires L&I to determine whether significant legislative rules are the least burdensome alternative for those required to comply with the goals and objectives of a rule. The following sections were identified as needing to be analyzed under this requirement:

WAC 296-831-300(2) – Provides guidance above the statute on how an establishment may determine accessibility of panic buttons, which is required under amendments made by ESSB 6105 to RCW 49.17.470. The proposed rule allows establishments multiple options in how to include entertainers in determining where panic button placement is accessible. Allowing flexibility in how to establish panic buttons are accessible is the least burdensome and most effective way to ensure entertainers have panic buttons at point of use as required under the rule and statute.

WAC 296-831-300(5) – Requires establishments to submit specific information as proof of compliance with sections of the rule as required by statute. This is least burdensome because it provides clarity and specificity to establishments on how to comply with the rule.

WAC 296-831-400(4) – Requires establishments to provide proof of compliance with training requirements of the proposed rule during an inspection if requested. This is least burdensome because it only adds a recordkeeping requirement for work an establishment will already be required to perform.

WAC 296-831-450(2) – The statute requires establishments to determine peak operating hours in order to determine if additional security personnel may be needed in an establishment. This provision gives additional guidance on what an establishment must take into account when determining peak operating hours. It is the least burdensome option because it provides establishments with flexibility and examples of how to comply with the underlying requirement.

WAC 296-831-450(3) – The statute requires L&I to adopt rules that describe conditions an establishment must consider when determining the need for additional security personnel, and included a list of criteria with the option for L&I to add to that list. The proposed rule adds one item for consideration, and this is if the establishment holds a liquor license. A liquor license can now be procured by an establishment, and introducing liquor into an establishment has a high probability of increasing potential security events. Only adding this one additional factor for

consideration is the least burdensome option because it recognizes a potential exposure to a hazard in addition to the legislatively required criteria.

CHAPTER 8: Federal & Local Jurisdiction

Does this rule require those to whom it applies to take an action that violates requirements of another federal or state law?

Yes. *(provide citation)*

No.

Does this rule impose more stringent performance requirements on private entities than on public entities? RCW 34.05.328(1)(g)

Yes.

No.

If yes, explain whether the requirements justified by state or federal law. *(provide citation)*

Do other federal, state, or local agencies have the authority to regulate this subject?

Yes *(describe below)* No

Is this rule different from any federal regulation or statute on the same activity or subject?

Yes *(describe below)* No

If yes, check all that apply. The difference is justified based on the following:

A state statute *(provide a citation)*

There is substantial evidence that the difference is necessary to achieve the general goals and objectives of the statute as described above.

RCW 34.05.328(1)(h)

Seattle Municipal Code Chapter 6.270 entitled “Adult Entertainment” regulates the adult entertainment industry in Seattle.

Pierce County Code Chapter 5.14 entitled “Adult Entertainment Industry Licensing and Regulation” regulates the adult entertainment industry in Pierce County.

King County Code Chapter 6.09 entitled “Adult Entertainment” regulates the adult entertainment industry in King County.

Washington State Liquor and Cannabis Board

Other local licensing laws may also regulate this industry, <https://mrsc.org/explore-topics/business-regulation/types/adult-entertainment>.

Explain how the rule has been coordinated, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. RCW 34.05.328(1)(i)

Representatives from local government, as well as the Liquor and Cannabis Board, have been invited to stakeholder meetings regarding the development of rule language.