



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 02, 2024

TIME: 9:56 AM

WSR 24-24-075

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

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: The Washington State Legislature passed Engrossed Substitute Senate Bill 6105 (ESSB 6105), Chapter 250, Laws of 2024, during the 2024 legislative session. ESSB 6105, codified under RCW 49.46.360, establishes the following protections for entertainers at adult entertainment establishments:

- Leasing or other fees must apply equally to all entertainers in an establishment, be stated in a written contract, and continue for at least three months;
- Establishments may not charge an entertainer any fees or interest for late or non-payments, for failure to appear at a scheduled time, or that result in the entertainer carrying forward an unpaid balance from any previously incurred leasing fee;
- Establishments may not charge a leasing fee in an amount greater than the entertainer receives during the period of access or usage; or within an eight-hour period, any leasing fee that exceeds the lesser of \$150 or 30 percent of amounts collected by the entertainer for non-private performance areas and 30 percent of amounts collected by the entertainer for private performance areas;
- If establishments charge a leasing fee, the contract must include a method for estimating the total amounts collected by the entertainer in any eight hour period;
- Establishments must display signage in designated areas on forbiddance of entertainers surrendering any tips or gratuities;
- Establishments may not take adverse action against an entertainer in response to the entertainer's use or collection of tips or gratuities; and
- Establishments must provide an entertainer with written notice of the reason or reasons for any termination or refusal to rehire the entertainer within 10 business days.

L&I's Fraud Prevention and Labor Standards (FPLS) Division is adopting rules to clarify and implement the requirements of ESSB 6105. The adopted rules also describe FPLS's enforcement of ESSB 6105 including the complaint, investigation, citation, and appeals processes.

Other requirements related to Adult Entertainment Establishments under chapter 49.17 RCW are enforced by L&I's Division of Occupational Safety and Health (DOSH). DOSH conducted simultaneous rulemaking for the provisions of chapter 49.17 RCW enforced by the division in chapter 296-831 WAC.

Citation of rules affected by this order:

New: WAC 296-128-90010, 296-128-90020, 296-128-90030, 296-128-90040, 296-128-90050, 296-128-90060, 296-128-90070, 296-128-90080, 296-128-90090, 296-128-90100, 296-128-90110, 296-128-90120, and 296-128-90130

Repealed:

Amended:

Suspended:

Statutory authority for adoption: RCW 49.46.360

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 24-18-110 on September 3, 2024 (date).

Describe any changes other than editing from proposed to adopted version:

WAC 296-128-90010(3) Definitions.

- (3) – updated the “amounts collected” definition to clarify that the definition is included for the purpose of calculating leasing fees under RCW 49.46.360(3).
- (3) – updated the “amounts collected” definition to clarify that if an establishment charges a customer a room fee, with no entertainment being provided, then that amount is paid to the establishment and does not count as “amounts collected” for the purposes of determining the maximum leasing fee amount.

WAC 296-128-90070(4)(e) Retaliation.

- (4)(e) – updated to clarify that altering how an entertainer’s requested music is handled generally, is considered an adverse action.

WAC 296-128-90110 Administrative Appeals.

- (1) – updated to correct a numeral error to WAC 296-128-90080 instead of WAC 296-128-90090.
- (6) – updated to correct a numeral error to WAC 296-128-90080 instead of WAC 296-128-90090.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: Bridget Osborne

Address: Department of Labor & Industries
Fraud Prevention & Labor Standards
PO Box 44510
Olympia, WA 98504-4510

Phone: 360-902-5552

Fax: 360-902-5300

TTY:

Email: AERules@Lni.wa.gov

Web site: [https://www.lni.wa.gov/rulemaking-activity/?query=adult entertainment](https://www.lni.wa.gov/rulemaking-activity/?query=adult%20entertainment)

Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	<u>13</u>	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
-----	-------	---------	-------	----------	-------

The number of sections adopted on the agency's own initiative:

New ____ Amended ____ Repealed ____

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New ____ Amended ____ Repealed ____

The number of sections adopted using:

Negotiated rule making: New ____ Amended ____ Repealed ____
Pilot rule making: New ____ Amended ____ Repealed ____
Other alternative rule making: New ____ Amended ____ Repealed ____

Date Adopted: December 2, 2024

Name: Joel Sacks

Title: Director

Signature:

