

AMENDED IN ASSEMBLY FEBRUARY 27, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2389**

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**Introduced by Assembly Members Cristina Garcia and Gonzalez**

February 18, 2020

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An act to add Chapter 6 (commencing with Section 1710) to Part 6 of Division 2 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2389, as amended, Cristina Garcia. Adult performers: employment rights.

Existing law requires the Division of Labor Standards Enforcement to establish a biennial in-person sexual violence and harassment training for property service employees and employers, as specified. Existing law requires the division to convene an advisory committee, composed of specified representatives, to recommend requirements for the training program. Existing law provides for enforcement of these provisions by the division.

Under existing law, local jurisdictions have the authority to license and regulate businesses, including adult entertainment businesses.

This bill would prohibit adult entertainers or performers from working at an adult entertainment business or working in an adult entertainment video unless they have ~~a valid business license~~. *received a certificate of training completion regarding their employment rights, as specified.* The bill would, on and after July 1, 2022, require these entertainers and performers to complete a specified biennial training program regarding safety and working rights for adult entertainer workers. The bill would, by January 1, 2022, require the Department of Industrial Relations to create the training program and to convene an advisory group, composed

of specified representatives of the adult performance industry, to provide recommendations for the creation and dissemination of the training. The bill would specify certain requirements for the training curriculum and would require the department to issue a certificate of training completion to the entertainer or performer upon completion of the training. The bill would authorize the division and local business license issuing enforcement authorities to enforce the training and recordkeeping requirements.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

Because this bill would create additional licensing and enforcement requirements for local authorities, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. The Legislature finds and declares all of the~~
- 2     ~~following:~~
- 3     ~~(a) There are hundreds of thousands of adult entertainers~~
- 4     ~~currently working in the United States.~~
- 5     ~~(b) All adult entertainment workers are now classified as~~
- 6     ~~employees in the State of California as determined by Assembly~~
- 7     ~~Bill 5 (Chapter 296 of the Statutes of 2019), with other states now~~
- 8     ~~following closely behind.~~
- 9     ~~(c) Safety, general welfare, and working conditions in the adult~~
- 10    ~~entertainment industry are a major high risk and concern.~~
- 11    ~~(d) Workers in the adult entertainment industry deserve working~~
- 12    ~~rights as much as workers in any other industry, helping to protect~~
- 13    ~~them as well as their families.~~

1 ~~(e) Education on safety and working rights for adult~~  
2 ~~entertainment workers is necessary because, in the absence of such~~  
3 ~~regulation, significant criminal activity has historically and~~  
4 ~~regularly occurred, and depression and suicide rates have risen.~~

5 ~~(f) It is necessary to prevent the exploitation of minors in the~~  
6 ~~adult entertainment industry, to ensure that those workers have~~  
7 ~~not assumed a false name that would make regulation of the worker~~  
8 ~~difficult or impossible and to ensure that those workers are not~~  
9 ~~involved in criminal activity. It is also necessary in order to ensure~~  
10 ~~that the worker is not a victim of human trafficking and may legally~~  
11 ~~work in the United States.~~

12 ~~(g) The avoidance of tax payments has historically occurred in~~  
13 ~~the adult entertainment industry with the absence of regulations~~  
14 ~~and permits.~~

15 ~~SEC. 2.~~

16 *SECTION 1.* Chapter 6 (commencing with Section 1710) is  
17 added to Part 6 of Division 2 of the Labor Code, to read:

18  
19 CHAPTER 6. ADULT PERFORMERS EMPLOYMENT RIGHTS

20  
21 1710. A person shall not work as an entertainer at an adult  
22 entertainment business or as a performer in any adult entertainment  
23 video, including, but not limited to, internet web-camming sites,  
24 without having first obtained a ~~valid business license or permit~~  
25 ~~from the local business license issuing authority and the entertainer~~  
26 ~~or performer obtaining a certificate of training completion issued~~  
27 ~~by the Division of Labor Standards Enforcement pursuant to~~  
28 ~~subdivision (h) of Section 1713.~~

29 1711. An employer shall keep a copy of the certificate of  
30 training completion for each adult entertainer or performer  
31 employed for three years following the termination of employment.  
32 These copies shall be available to the employee or to the Division  
33 of Labor Standards Enforcement upon request.

34 ~~1712. Each adult entertainer or performer shall keep a copy of~~  
35 ~~the certificate of training completion issued and shall present it to~~  
36 ~~the local business license issuing authority or the Division of Labor~~  
37 ~~Standards Enforcement upon demand.~~

38 1713. (a) (1) The Department of Industrial Relations shall,  
39 by January 1, 2022, develop, or contract for the development of,  
40 training for adult entertainers and performers.

1 (2) (A) The department shall convene an advisory group,  
2 consisting of ~~10~~ 9 members with the following representatives  
3 appointed by the Governor to assist with recommendations for  
4 creating and disseminating the training curriculum:

- 5 (i) Two members with adult film experience.
- 6 (ii) Three members with dancing experience.
- 7 (iii) Two medical doctors.
- 8 (iv) One licensed therapist.
- 9 (v) One licensed money manager.

10 (B) Each member of the advisory committee shall receive a per  
11 diem of two hundred dollars (\$200) for each day actually spent in  
12 the discharge of official duties, and shall be reimbursed for travel  
13 and other expenses necessarily incurred in the performance of  
14 official duties. The payments in each instance shall be made only  
15 from funds appropriated in the state budget to the Labor and  
16 Workforce Development Agency and shall be subject to the  
17 availability of money.

18 (b) The training shall be required for the issuance or renewal  
19 of the adult entertainer's or performer's license or permit.

20 ~~(c) The initial training shall be a minimum of two hours and~~  
21 ~~shall be required for all adult performers 21 years of age and older.~~  
22 Initial training for adult entertainers and performers shall be a  
23 minimum of two hours and 45 minutes. Subsequent training shall  
24 be completed every three years and shall be a minimum of 45  
25 minutes.

26 (d) If the training is conducted on an internet website, the  
27 website shall contain an interactive feature in order to complete  
28 the training.

29 (e) The training curriculum shall include, but is not limited to,  
30 all of the following information:

- 31 (1) The rights and responsibilities of adult entertainers and  
32 performers as employees.
- 33 (2) Reporting workplace injuries, including physical and sexual  
34 abuse and sexual harassment.
- 35 (3) The risk of human trafficking and how to report suspected  
36 human trafficking.
- 37 (4) Resources for assistance, including any applicable hotline  
38 telephone numbers.
- 39 (5) *The risk of sexually transmitted infection and how to avoid*  
40 *it.*

1 (f) The requirements for this training shall apply to all licenses  
2 or renewals on or after July 1, 2022.

3 (g) The fee for the training shall be paid by the adult entertainer  
4 or performer and shall not exceed the reasonable cost of providing  
5 the training.

6 (h) The department shall issue a training completion certificate  
7 to the adult entertainer or performer upon completion of the  
8 training. If the training was conducted on an internet website, the  
9 website shall provide a means for the adult entertainer or performer  
10 to print out a training completion certificate.

11 ~~(i) Each adult entertainer or performer shall also obtain a Live  
12 Scan fingerprinting as part of completing the initial training.~~

13 1714. The division and local ~~business license issuing~~  
14 *enforcement* authorities shall have the power to enforce the  
15 requirement that adult entertainers and performers and employers,  
16 within their jurisdiction, comply with the requirements of this  
17 chapter.

18 ~~SEC. 3.~~

19 *SEC. 2.* The Legislature finds and declares that the prevention  
20 of ~~exploitation of minors~~ *human trafficking* in the adult  
21 entertainment industry, as well as ~~for the other reasons stated in~~  
22 ~~Section 1 of this measure,~~ are *industry is* a matter of statewide  
23 concern and is not a municipal affair as that term is used in Section  
24 5 of Article XI of the California Constitution. Therefore, Section  
25 2 of this act adding Chapter 6 (commencing with Section 1710)  
26 to Part 6 of Division 2 of the Labor Code applies to all cities,  
27 including charter cities.

28 ~~SEC. 4.~~

29 *SEC. 3.* If the Commission on State Mandates determines that  
30 this act contains costs mandated by the state, reimbursement to  
31 local agencies and school districts for those costs shall be made  
32 pursuant to Part 7 (commencing with Section 17500) of Division  
33 4 of Title 2 of the Government Code.