

Multiple Agency Fiscal Note Summary

Bill Number: 5614 S SB	Title: Adult entertainment
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Estimated Cash Receipts

Agency Name	2023-25			2025-27			2027-29		
	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total	GF-State	NGF-Outlook	Total
Liquor and Cannabis Board	0	0	72,000	0	0	72,000	0	0	72,000
Department of Labor and Industries	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Total \$	0	0	72,000	0	0	72,000	0	0	72,000

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Total						
Local Gov. Courts						
Loc School dist-SPI						
Local Gov. Other	No fiscal impact					

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Office of Attorney General	.0	0	0	0	.0	0	0	0	.0	0	0	0
Office of Administrative Hearings	.0	0	0	0	.0	0	0	0	.0	0	0	0
Liquor and Cannabis Board	.2	0	0	144,537	.1	0	0	24,572	.1	0	0	24,572
Department of Labor and Industries	Non-zero but indeterminate cost and/or savings. Please see discussion.											
Total \$	0.2	0	0	144,537	0.1	0	0	24,572	0.1	0	0	24,572

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other	No fiscal impact								
Local Gov. Total									

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Office of Attorney General	.0	0	0	.0	0	0	.0	0	0
Office of Administrative Hearings	.0	0	0	.0	0	0	.0	0	0
Liquor and Cannabis Board	.0	0	0	.0	0	0	.0	0	0
Department of Labor and Industries	.0	0	0	.0	0	0	.0	0	0
Total \$	0.0	0	0	0.0	0	0	0.0	0	0

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other	No fiscal impact								
Local Gov. Total									

Estimated Capital Budget Breakout

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Prepared by: Amy Hatfield, OFM	Phone: (360) 280-7584	Date Published: Final 2/21/2023
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Individual State Agency Fiscal Note

Bill Number: 5614 S SB	Title: Adult entertainment	Agency: 100-Office of Attorney General
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Susan Jones	Phone: 360-786-7404	Date: 02/15/2023
Agency Preparation: Amy Flanigan	Phone: 509-456-3123	Date: 02/20/2023
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 02/20/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 02/21/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

1. The AGO Labor and Industries Division (LNI) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Department of Labor and Industries (L&I). The additional requirements provided in Section 4 may require more education and compliance work by L&I. However, the amount of additional appealed citations, as well as the advice required to implement the bill is likewise projected to be nominal. Therefore, costs are not included in this request.
2. The AGO Licensing & Administrative Law Division (LAL) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing the Liquor and Cannabis Board (LCB). The enactment of this bill will not impact the provision of legal services to LCB. While this bill allows for a specific type of business to apply for a new type of liquor license issued by LCB, the number of new licensees (approximately 18) will be small. Additionally, the overall licensing scheme is well established. There will likely be advice needs for necessary rulemaking amendments, and to establish standards for LCB to review local government petitions for further restrictions on the license. However, new legal services are considered nominal and costs are not included in this request.
3. The AGO Government Compliance & Enforcement Division (GCE) has reviewed this bill and determined it will not significantly increase or decrease the division's workload in representing LCB. GCE litigates licensing and enforcement actions for LCB. This bill would create a spirits, beer, and wine adult entertainment night club license. This bill would also authorize LCB to adopt rules to enact the provisions of the bill. GCE assumes that rulemaking would be completed during FY 2024. LCB anticipates that there would be 18 new licenses issued as a result of the enactment of this bill. LCB assumes that there would be a small increase of enforcement actions relating to this new license type beginning in FY 2025. In FY 2026 and each FY thereafter, LCB anticipates referring two new enforcement cases and then decreasing to one enforcement case to GCE. GCE assumes that each new case would utilize minimal legal assistance to litigate to resolution. Therefore, new legal services are nominal and costs are not included in this request.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

III. C - Operating FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 5614 S SB	Title: Adult entertainment	Agency: 110-Office of Administrative Hearings
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Susan Jones	Phone: 360-786-7404	Date: 02/15/2023
Agency Preparation: Pete Boeckel	Phone: 360-407-2730	Date: 02/17/2023
Agency Approval: Deborah Feinstein	Phone: 360-407-2717	Date: 02/17/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 02/17/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

No fiscal impact. This legislation will not measurably increase the appeal workload for the Office of Administrative Hearings (OAH).

The Liquor & Cannabis Board has affirmed that they do not intend to forward any new appeals to OAH as a result of this law.

The Department of Labor & Industries does not project any referrals to OAH as a result of this law.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

None.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

None.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

III. C - Operating FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 5614 S SB	Title: Adult entertainment	Agency: 195-Liquor and Cannabis Board
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Liquor Revolving Account-State 501-1	36,000	36,000	72,000	72,000	72,000
Total \$	36,000	36,000	72,000	72,000	72,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.3	0.1	0.2	0.1	0.1
Account					
Liquor Revolving Account-State 501-1	132,251	12,286	144,537	24,572	24,572
Total \$	132,251	12,286	144,537	24,572	24,572

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Susan Jones	Phone: 360-786-7404	Date: 02/15/2023
Agency Preparation: Colin O Neill	Phone: (360) 664-4552	Date: 02/21/2023
Agency Approval: Aaron Hanson	Phone: 360-664-1701	Date: 02/21/2023
OFM Review: Amy Hatfield	Phone: (360) 280-7584	Date: 02/21/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

Section 1(3): Adult entertainment as defined in RCW 49.17.470 is not indecent exposure.

Section 2(4): Adult entertainment as defined in RCW 49.17.470 is not sexual conduct.

Section 4 - RCW 49.17.470:

(8c): Creates definition of "Adult entertainment nightclub"

(9d): The department of labor and industries may share information with the liquor and cannabis board for purposes of this section and section 6 of this act.

Section 6 – NEW SECTION:

(1) There shall be a spirits, beer, and wine adult entertainment nightclub license to sell spirituous liquor by the drink, beer, and wine at retail, for consumption on the licensed premises.

(2) The license may be issued only to an adult entertainment nightclub whose business includes the sale and service of alcohol to the adult entertainment nightclub's customers and has food sales and service incidental to the sale and service of alcohol.

(3) (a) Minors may be allowed on the licensed premises but only in areas where alcohol is not served or consumed.

(b) The board may adopt rules to allow entertainers who are over 18 years of age but under 21 years of age to perform in an adult entertainment nightclub.

(4) The annual fee for this license is \$2,000. The fee for the license shall be reviewed from time to time and set at such a level sufficient to defray the cost of licensing and enforcing this licensing program. The fee shall be fixed by rule adopted by the board in accordance with the provisions of chapter 34.05 RCW.

(5) Local governments may petition the board to request that further restrictions be imposed on a spirits, beer, and wine adult entertainment nightclub license in the interest of public safety. Examples of further restrictions a local government may request are: Not allowing minors on the entire premises, submitting a security plan, or signing a good neighbor agreement with the local government.

(6) The total number of spirits, beer, and wine adult entertainment nightclub licenses are not subject to the requirements of RCW 66.24.420(4) [limit on the combined total number of spirits, beer and wine nightclub licenses in the state]. However, the board may not refuse a spirits, beer, and wine adult entertainment nightclub license to any applicant even if the board determines that the spirits, beer, and wine nightclub licenses already granted for the particular locality are adequate for the reasonable needs of the community.

(7) The board may adopt rules to implement this section.

(8) The department of labor and industries may share information with the board for purposes of this section.

(9) The board may not issue any liquor license to any adult entertainment establishment which is not an adult entertainment nightclub.

(10) For purposes of this section:

(a) "Adult entertainment establishment" or "establishment" have the same meaning as in RCW 49.17.470 (Section 4 of this act).

(b) "Adult entertainment nightclub" has the same meaning as in RCW 49.17.470 (Section 4 of this act).

(c) "Entertainer" has the same meaning as in RCW 49.17.470 (Section 4 of this act).

Section 7 -- NEW SECTION: The Board shall repeal WAC 314-11-050 in its entirety [types of conduct prohibited on a premises with a liquor license]

CHANGES MADE BY THE SUBSTITUTE:

- Section 4(5): Requires each adult entertainment establishment to develop training and removes antisexual harassment from the mandatory training topics.
- Section 4(6): Adds factors L&I may consider for adopting rules requiring security persons at establishments.
- NEW Section 5: Moves certain provisions related to fees, control, taking adverse action, obligations related to length of appearance time, notice of reasons for termination or refusal to rehiring, and prohibitions on state and local governments adopting certain laws and rules related to entertainers, to the prohibited actions chapter of the labor regulations title from the safety and health chapter.
- NEW Section 5(2a)(viii): Prohibits an establishments from refusing to provide notice of the reason for termination or refusal to rehiring.
- Removes the provisions regarding discrimination and arbitration clauses - was Section 5(2a)(viii) in the original bill.
- NEW Section 5(2b): Modifies the time period for fees to continue for a period of not less than three months from the effective date of the written contract

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

Section 6 creates a new spirits, beer, and wine adult entertainment nightclub license to sell spirituous liquor by the drink, beer, and wine at retail, for consumption on the licensed premises.

The annual fee for this license is \$2,000. The fee for the license shall be reviewed from time to time and set at such a level sufficient to defray the cost of licensing and enforcing this licensing program. The fee shall be fixed by rule adopted by the board in accordance with the provisions of chapter 34.05 RCW.

In November 2020, the Adult Entertainment Advisory Committee produced a report showing that there were approximately 11 adult entertainment establishments in Washington. The majority were located in King and Pierce counties, with the largest percentage located specifically in the City of Seattle. There was one club located in Spokane Valley, and when the Committee first convened in September 2019, there was a club in Kennewick that had since closed by November 2020.

The agency assumes that all 11 clubs would seek to obtain the new adult entertainment nightclub license. Since adding the ability to serve liquor would likely make adult entertainment facilities more profitable, the agency estimates an additional 7 licensees (possibly existing liquor nightclubs or other licensees) would convert to adult entertainment facilities and would obtain the new license, making an estimated total of 18 new licensees.

18 x \$2,000 = \$36,000/yr.

The agency makes no assumptions regarding potential fee increases that may be set by the Board in the future.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

ASSUMPTIONS:

In November 2020, the Adult Entertainment Advisory Committee produced a report showing that there were approximately 11 adult entertainment establishments in Washington. The majority were located in King and Pierce counties, with the largest percentage located specifically in the City of Seattle. There was one club located in Spokane Valley, and when the Committee first convened in September 2019, there was a club in Kennewick that had since closed by November 2020.

The agency assumes that all 11 clubs would seek to obtain the new adult entertainment nightclub license. Since adding the

ability to serve liquor would likely make adult entertainment facilities more profitable, the agency estimates an additional 7 licensees (possibly existing liquor nightclubs or other licensees) would convert to adult entertainment facilities and would obtain the new license, making an estimated total of 18 new licensees.

BOARD DIVISION:

The Washington State Liquor and Cannabis Board ("Board") is currently in the middle of a project to upgrade the agency's internal licensing and enforcement systems. The Licensing, Enforcement, Education, and Administrative Data Systems (LEEADS) is expected to go live July 1, 2024. There are change request costs associated with this legislation that will have to be submitted to the vendor. The estimated costs for these change requests is \$90,000 in FY24. Some examples of changes needed follow:

- A new license type with a new privilege code
- Implementation of licensing fee
- Implementation of Local Authority Process (assumed standard process)

LICENSING DIVISION:

The agency will have onetime workload impact from processing the 18 new applications in FY24.

0.1 FTE Licensing Specialist Senior - \$8,436 (\$8,329 salary/benefits, \$107 in associated costs).

ENFORCEMENT DIVISION:

The Washington State Liquor and Cannabis Board ("Board") keeps detailed statistics on all of its enforcement activities and tracks this activity using a unit of measure called a Field Increment (FI). All direct enforcement activities such as premise checks, inspections and investigations are tracked to determine how many FI's are needed to accomplish each activity. Each FI is equivalent to 1/10th of an hour (6 minutes). For example, if a tavern premise check takes 2 FI's and two officers, it is anticipated that one check will consume 4 FI's. Using historical data to factor out indirect activities such as driving time, training, office time and leave, it has been determined that officers are available for an average of 4,220 FI's each year.

The anticipated ongoing workload impact of this bill will be from licensee support and education, premise checks, and complaint investigations. Please see the attached "5614 SSB Adult Entertainment - Enforcement Field Increment Calculator.pdf" for the workload calculations.

0.1 FTE LCB Enforcement Officer 2 - \$12,286/yr (\$10,700 salary/benefits, \$1,586 in associated costs).

INFORMATION TECHNOLOGY DIVISION:

There will be contracted costs and staff workload impacts in FY24 to implement this bill.

iSeries contractor - 40 hrs x \$150/hr = \$6,000

0.1 FTE IT App Development - Senior/Specialist - \$15,529 (\$15,422 salary/benefits, \$107 in associated costs).

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
501-1	Liquor Revolving Account	State	132,251	12,286	144,537	24,572	24,572
Total \$			132,251	12,286	144,537	24,572	24,572

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	0.3	0.1	0.2	0.1	0.1
A-Salaries and Wages	25,446	7,703	33,149	15,406	15,406
B-Employee Benefits	9,005	2,997	12,002	5,994	5,994
C-Professional Service Contracts	96,000		96,000		
E-Goods and Other Services	650	436	1,086	872	872
G-Travel	1,116	1,116	2,232	2,232	2,232
J-Capital Outlays	34	34	68	68	68
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	132,251	12,286	144,537	24,572	24,572

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
IT App Development - Senior/Specialist	118,716	0.1		0.1		
LCB Enforcement Officer 2	77,028	0.1	0.1	0.1	0.1	0.1
Licensing Specialist Senior	58,704	0.1		0.1		
Total FTEs		0.3	0.1	0.2	0.1	0.1

III. D - Expenditures By Program (optional)

Program	FY 2024	FY 2025	2023-25	2025-27	2027-29
Board Division (010)	90,000		90,000		
Licensing Division (050)	8,436		8,436		
Enforcement Division (060)	12,286	12,286	24,572	24,572	24,572
Information Technology Division (070)	21,529		21,529		
Total \$	132,251	12,286	144,537	24,572	24,572

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

Section 6 – NEW SECTION:

- (1) There shall be a spirits, beer, and wine adult entertainment nightclub license to sell spirituous liquor by the drink, beer, and wine at retail, for consumption on the licensed premises.
- (3)
 - (a) Minors may be allowed on the licensed premises but only in areas where alcohol is not served or consumed.
 - (b) The board may adopt rules to allow entertainers who are over 18 years of age but under 21 years of age to perform in an adult entertainment nightclub.
- (7) The board may adopt rules to implement this section.

Enforcement Field Increment (FI) Calculator

5614 SSB "Adult entertainment"

	Number of events	Time Factor	Staffing Factor	FI Total
Non RVP Member Support and Education	18	7	1	126
Nightclubs Premises checks	36	3	2	216
Complaint Investigations Liquor	6	15	1.3	117

Total FI's	459
Total Field Increments per FTE	4,220
FTE's required	0.11
Round	0.10

<u>Factors</u>	<u>Values</u>
Night Clubs	18
Non RVP Member Support and Education	18
Nightclubs Premises checks	36
Complaint Investigations Liquor	6

Individual State Agency Fiscal Note

Bill Number: 5614 S SB	Title: Adult entertainment	Agency: 235-Department of Labor and Industries
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

Estimated Operating Expenditures from:

Non-zero but indeterminate cost and/or savings. Please see discussion.

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

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- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Susan Jones	Phone: 360-786-7404	Date: 02/15/2023
Agency Preparation: Jenifer Colley	Phone: (360) 902-6983	Date: 02/20/2023
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 02/20/2023
OFM Review: Anna Minor	Phone: (360) 790-2951	Date: 02/20/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

This bill relates to the safety and security of adult entertainers; amending RCW 9A.88.010, 9A.88.030, 9A.88.030, and 49.17.470; adding a section to chapter 49.44 RCW; adding a new section to chapter 66.24 RCW.

The proposed substitute makes the following changes to the original bill:

- Substitute bill makes changes to Section 4. The employer and not the department is responsible to:
 - o Create training,
 - o Provide security and written processes and procedures,
 - o Provide appropriate cleaning supplies,
 - o Provide a keypad requiring a security code for dressing rooms, and
 - o Provide signage with entertainer's rights.
- Section 5 is now a new section in 49.44 RCW and is no longer under 49.17 RCW. Some requirements previously under Section 4 are moved to Section 5.

Section 4 Amends RCW 49.17.470:

(4) For the purposes of enforcement, except for subsections (1) of this section, this section shall be considered a safety and health standard under this chapter.

(5) (b) An establishment must require all establishment employees to take the training within 30 days of hiring and at least every two years.

(6) An adult entertainment establishment must provide at least one security person during business hours. The department may adopt rules that require additional security persons based on additional factors, including but not limited to:

- (a) The size of the establishment;
- (b) The layout and floor plan of the establishment;
- (c) The patron volume;
- (d) Security cameras and panic buttons; and
- (e) The history of security events at the establishment.

(9)(a) In order to qualify as an adult entertainment nightclub the establishment must demonstrate in a manner determined by the department that it:

- (i) Has written processes and procedures accessible to all its employees and entertainers who are not employees for:
 - (A) Responding to customer violence or criminal activity, including when police are called;
 - (B) Ejecting customers who violate club policies, including intoxication or other inappropriate or illegal behavior; and
 - (C) Processing requests from entertainers to place a patron on the list under subsection (3)(b) of this section;
 - (ii) Provides to the department at least annually a customer complaint log including, but not limited to, the number of entertainer complaints and the number of customers related to customer actions described in subsection (3) of this section;
 - (iii) Provides to the department at least annually proof of compliance with subsection (2) of this section and maintenance records showing that the panic buttons are maintained and checked to ensure they are in working conditions;
 - (iv) Has entertainers' dressing or locker rooms equipped with a keypad requiring a code to enter;
 - (v) Provides appropriate cleaning supplies and a waste receptacle accessible from private performance areas; and
 - (vi) Displays signage:
 - (A) In a employee common area indicating that entertainers are not required to surrender any tips or gratuities and may not be denied services and amenities in consideration of tips or gratuities; and
 - (B) At the entrance directing customers to resources on appropriate etiquette.
- (b) The establishment must demonstrate compliance with the above requirements on an annual basis.
- (c) If, based on an inspection, the department determines that an establishment is no longer in compliance with these requirements the department will notify the Liquor and Cannabis Board.
- (d) The department may share information with the Liquor and Cannabis Board for purposes of the subsection (9) and section 6 of this act.

Section 5 Adds a new section to chapter 49.44 RCW:

(1) For any entertainer who is an employee under chapter 49.46 RCW, an adult entertainment establishment may not charge any fee.

(2)(a) For any entertainer who is found to not be an employee under chapter 49.46 RCW, an adult entertainment establishment may not:

(i) Charge any fee that is greater than 30 percent of the entertainment fees collected by the entertainer during the leased date and time, excluding tips paid to the entertainer;

(ii) Carry forward an unpaid balance from any fee incurred previously by the entertainer for access to or usage of the establishment premises;

(iii) Charge fees to an entertainer for late payment or nonpayment of any fee;

(iv) Charge an entertainer a fee for failure to appear at a scheduled time;

(v) Control:

(A) How much the entertainer charges customers for adult entertainment;

(B) When and how the entertainer works; or

(C) What type of clothing or costumes to wear during the adult entertainment;

(vi) Take adverse action against an entertainer based on scheduling;

(vii) Obligate an entertainer to appear for any length of time, provided the entertainer satisfies a leasing fee or otherwise agrees to an alternative charge; and

(viii) Refuse to provide an entertainer with written notice of the reason or reasons for any termination or refusal to rehire the entertainer. Such notice must be provided within 10 business days of the termination or refusal to rehire the entertainer.

(b) Any fees not prohibited under this subsection (2) must be stated in a written contract and continue to apply for a period of not less than three months with effective dates.

(c) This subsection (2) does not prevent an establishment from providing leasing discounts or credits to encourage scheduling or charge lease amounts that vary based on the time of day.

(3)(a) No state agency or local government may adopt laws, rules, ordinances, or regulations that limit or prohibit an entertainer from:

(i) Collecting any form of payment from customers;

(ii) Touching their own body or exposing themselves while performing within an adult entertainment establishment; and

(iii) Engaging in physical contact with another person that is otherwise lawful outside of an adult entertainment establishment, such as restrictions on proximity or distance, before or during any exhibition, performance, or dance of any type.

(b) This subsection may not be construed to prohibit a local government from adopting ordinances or regulations that are more protective of entertainers than the requirements of this section.

Section 6

Amends Alcoholic Beverage Control chapter 66.24 RCW and WAC 314-11-050 to permit alcohol sales in adult entertainment establishments.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

The cash receipts related to this bill are indeterminate due to variables including, how many violations will be found and how many of these cases will result in penalties. At this time, L&I estimates a minimal number of citations, due to the limited size of the industry.

Section 6

None. The Liquor and Cannabis board collects and retains the proceeds from the spirits, beer, and wine adult entertainment license fee. Therefore there is no impact to fees that L&I collects.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

Section 4 (6)

The rulemaking can be accomplished with existing resources.

This section is also subject to DOSH enforcement, which can be done with existing resources.

Section 4(8)(c)

This subsection adds a definition of “adult entertainer nightclub”, which is defined as adult entertainment establishment that has met the requirements of subsection (9) of this section. This will likely require an onsite visit for some of the criteria and review of documentation. As adult entertainer nightclubs are eligible for the issuance of a spirits, beer, and wine adult entertainment nightclub license by the Liquor and Cannabis Board under section (6), we assume all existing adult entertainment establishments will choose to demonstrate to the department they are in compliance with the requirements. Under subsection (9)(b), this demonstration occurs annually and it is assumed that the department will investigate complaints that the establishments are no longer in compliance with the criteria, including complaints that the establishments are not in compliance with existing safety and health standards that are included in the criteria. The department will have to retain the document related to the determination and share as needed with the Liquor and Cannabis Board under section as authorized under section 4(9). Given the current number of establishments, this work can be done with existing resources. However, it is unknown if number of establishments will increase and if so, by how much. Depending on factors such as these, there may be a need for resources.

Section 5

Subsections are added to chapter 49.44 RCW, this bill adds a new section to RCW 49.44. The Department of Labor and Industries (L&I) does not enforce this RCW. No fiscal impact to L&I.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Non-zero but indeterminate cost and/or savings. Please see discussion.

III. B - Expenditures by Object Or Purpose

Non-zero but indeterminate cost and/or savings. Please see discussion.

III. C - Operating FTE Detail: FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

None

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

This legislation would result in rule changes to:

- WAC 296-831

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 5614 S SB

Title: Adult entertainment

Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- Cities:
- Counties:
- Special Districts:
- Specific jurisdictions only:
- Variance occurs due to:

Part II: Estimates

- No fiscal impacts.
- Expenditures represent one-time costs:
- Legislation provides local option: This legislation provides local governments the option to adopt ordinances or regulations that are more protective than what is proposed.
- Key variables cannot be estimated with certainty at this time:

Estimated revenue impacts to:

None

Estimated expenditure impacts to:

None

Part III: Preparation and Approval

Fiscal Note Analyst: Kristine Williams	Phone: (564) 669-3002	Date: 02/16/2023
Leg. Committee Contact: Susan Jones	Phone: 360-786-7404	Date: 02/15/2023
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 02/16/2023
OFM Review: Amy Hatfield	Phone: (360) 280-7584	Date: 02/16/2023

Part IV: Analysis

A. SUMMARY OF BILL

Description of the bill with an emphasis on how it impacts local government.

CHANGES BETWEEN THIS VERSION OF THE BILL AND THE ORIGINAL VERSION: These changes do not impact local governments.

Several sections of the bill were amended to remove or clarify provisions that addressed workplace standards and practices as follows:

Sec.4 (4) is amended to remove subsections (8) through (10) from being considered a safety or health standard under this chapter.

Sec.4 (5) is amended to assign the responsibility for training entertainers on workplace safety topics to the entertainment establishment instead of the department of labor and industries.

Sec.4 (6) is amended to allow the department to adopt rules regarding security based on certain additional factors including the size, layout, existing security, patron volume and history of security events at the establishment.

Sec.4 (8) is amended to remove language related to termination notices provided by the establishment.

Sec.4 (9) is amended to remove language extending the right to be free from discrimination to entertainers.

Sec.4 (10) is amended to remove language that limited the actions establishments could take with regard to entertainers' fees.

Sec.4 (8) is amended to clarify or add the definition of adult entertainment nightclub, entertainer, and panic button.

Sec.4 (9)(a) is amended to list the criteria needed for an establishment to qualify as an adult entertainment nightclub for the purposes of this act.

Sec.5 is amended to add the section to chapter 49.44 RCW, removing chapter 49.17 RCW and describes outlines actions the establishment is prohibited from taking with regard to entertainer fees, clothing, scheduling, and termination notices.

B. SUMMARY OF EXPENDITURE IMPACTS

Expenditure impacts of the legislation on local governments with the expenditure provisions identified by section number and when appropriate, the detail of expenditures. Delineated between city, county and special district impacts.

CHANGES IN EXPENDITURE IMPACTS BETWEEN THIS VERSION AND PREVIOUS BILL VERSION: The substitute version of this bill does not change the expenditure impact this bill would have on local governments. There is no expenditure impact on local governments due to the local option.

Local governments are provided an option to petition the liquor and cannabis board to request that further restrictions be imposed on a spirits, beer, and wine liquor license in the interest of public safety. There is no information available on whether or not any local jurisdictions will request these restrictions or what expenditures would result for local governments.

C. SUMMARY OF REVENUE IMPACTS

Revenue impacts of the legislation on local governments, with the revenue provisions identified by section number, and when appropriate, the detail of revenue sources. Delineated between city, county and special district impacts.

CHANGES IN REVENUE IMPACTS BETWEEN THIS VERSION AND PREVIOUS BILL VERSION: The substitute version of this bill does not change the revenue impact this bill would have on local governments, which is no impact.

SOURCES

Washington State Association of Counties



Multiple Agency Ten-Year Analysis Summary

Bill Number 5614 S SB	Title Adult entertainment
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This ten-year analysis is limited to the estimated cash receipts associated with the proposed tax or fee increases.

Estimated Cash Receipts

	Fiscal Year 2024	Fiscal Year 2025	Fiscal Year 2026	Fiscal Year 2027	Fiscal Year 2028	Fiscal Year 2029	Fiscal Year 2030	Fiscal Year 2031	Fiscal Year 2032	Fiscal Year 2033	2024-33 TOTAL
Office of Attorney General	0	0	0	0	0	0	0	0	0	0	0
Office of Administrative Hearings	0	0	0	0	0	0	0	0	0	0	0
Liquor and Cannabis Board	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	360,000
Department of Labor and Industries	0	0	0	0	0	0	0	0	0	0	0
Total	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	360,000



Ten-Year Analysis

Bill Number 5614 S SB	Title Adult entertainment	Agency 100 Office of Attorney General
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Estimates

No Cash Receipts

 Partially Indeterminate Cash Receipts

 Indeterminate Cash Receipts

Name of Tax or Fee	Acct Code												
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Agency Preparation: Amy Flanigan	Phone: 509-456-3123	Date: 2/20/2023 4:09:32 pm
Agency Approval: Edd Giger	Phone: 360-586-2104	Date: 2/20/2023 4:09:32 pm
OFM Review:	Phone:	Date:



Ten-Year Analysis

Bill Number 5614 S SB	Title Adult entertainment	Agency 110 Office of Administrative Hearings
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Estimates

No Cash Receipts **Partially Indeterminate Cash Receipts** **Indeterminate Cash Receipts**

Name of Tax or Fee	Acct Code												
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Agency Preparation: Pete Boeckel	Phone: 360-407-2730	Date: 2/17/2023 4:01:01 pm
Agency Approval: Deborah Feinstein	Phone: 360-407-2717	Date: 2/17/2023 4:01:01 pm
OFM Review:	Phone:	Date:



Ten-Year Analysis

Bill Number 5614 S SB	Title Adult entertainment	Agency 195 Liquor and Cannabis Board
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Estimates

No Cash Receipts

 Partially Indeterminate Cash Receipts

 Indeterminate Cash Receipts

Estimated Cash Receipts

Name of Tax or Fee	Acct Code	Fiscal Year 2024	Fiscal Year 2025	Fiscal Year 2026	Fiscal Year 2027	Fiscal Year 2028	Fiscal Year 2029	Fiscal Year 2030	Fiscal Year 2031	Fiscal Year 2032	Fiscal Year 2033	2024-33 TOTAL
spirits, beer, and wine adult entertainment nightclub license	501	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	360,000
Total		36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	360,000
Biennial Totals		72,000		72,000		72,000		72,000		72,000		360,000

Narrative Explanation (Required for Indeterminate Cash Receipts)

Section 6 of this bill creates a new spirits, beer, and wine adult entertainment nightclub license to sell spirituous liquor by the drink, beer, and wine at retail, for consumption on the licensed premises.

The annual fee for this license is \$2,000. The fee for the license shall be reviewed from time to time and set at such a level sufficient to defray the cost of licensing and enforcing this licensing program. The fee shall be fixed by rule adopted by the board in accordance with the provisions of chapter 34.05 RCW.

In November 2020, the Adult Entertainment Advisory Committee produced a report showing that there were approximately 11 adult entertainment establishments in Washington. The majority were located in King and Pierce counties, with the largest percentage located specifically in the City of Seattle. There was one club located in Spokane Valley, and when the Committee first convened in September 2019, there was a club in Kennewick that had since closed by November 2020.

The agency assumes that all 11 clubs would seek to obtain the new adult entertainment nightclub license. Since adding the ability to serve liquor would likely make adult entertainment facilities more profitable, the agency estimates an additional 7 licensees (possibly existing liquor nightclubs or other licensees) would convert to adult entertainment facilities and would obtain the new license, making an estimated total of 18 new licensees.

18 x \$2,000 = \$36,000/yr.



Ten-Year Analysis

Bill Number 5614 S SB	Title Adult entertainment	Agency 195 Liquor and Cannabis Board
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp> .

Narrative Explanation (Required for Indeterminate Cash Receipts)

The agency makes no assumptions regarding potential fee increases that may be set by the Board in the future.

Agency Preparation: Colin O Neill	Phone: (360) 664-4552	Date: 2/21/2023 10:49:09 am
Agency Approval: Aaron Hanson	Phone: 360-664-1701	Date: 2/21/2023 10:49:09 am
OFM Review:	Phone:	Date:



Ten-Year Analysis

Bill Number 5614 S SB	Title Adult entertainment	Agency 235 Department of Labor and Industries
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Estimates

No Cash Receipts **Partially Indeterminate Cash Receipts** **Indeterminate Cash Receipts**

Name of Tax or Fee	Acct Code												
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Agency Preparation: Jenifer Colley	Phone: (360) 902-6983	Date: 2/20/2023 3:21:20 pm
Agency Approval: Trent Howard	Phone: 360-902-6698	Date: 2/20/2023 3:21:20 pm
OFM Review:	Phone:	Date: