
Wisconsin Legislative Council

AMENDMENT MEMO



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Contact: Amber Otis, Senior Staff Attorney

2021 Senate Bill 836

Senate Amendment 1

2021 SENATE BILL 836

2021 Senate Bill 836 regulates adult-entertainment establishments by creating various requirements, prohibitions, and related penalties applicable to such establishments, as well as to certain persons with an interest in such establishments.

Requirements

The bill defines an “adult-entertainment establishment” as a commercial establishment, business, or service that offers sexually oriented material, devices, paraphernalia, or presentations or sexual activities, services, exhibitions, or performances. The bill prohibits such establishments from doing any of the following:

- Employing an employee¹ under the age of 18 years.
- Knowingly employing an employee who is or has been a victim of the crimes of human trafficking or trafficking of a child, or another sex trafficking offense.
- Knowingly allowing a violation of state controlled substances laws or prostitution-related offenses to occur on the establishment’s premises.

The bill also regulates certain persons with an interest in an adult-entertainment establishment. Specifically, the bill defines an “interested person” as an individual who has legal authority to manage or control operations or policies of an adult-entertainment establishment, or who holds a management position in an entity that has such legal authority, or a person that has at least a 30-percent financial interest in an adult-entertainment establishment. Under the bill, such “interested persons” may not have been convicted of specified disqualifying offenses,² and also may not have been an interested person at another adult-entertainment establishment that has been declared a public nuisance or subject to certain penalties created by the bill, described below.

¹ The bill defines “employee” as an individual who performs a service on the premises of an adult-entertainment establishment, including an individual who is an independent contractor or agent, but excluding an individual on the premises only for repair or maintenance or for delivery of goods.

² The bill defines “disqualifying offense” as any of the following: a criminal violation of subch. IV of ch. 944 (titled *Obscenity*); a criminal violation of subch. V of ch. 944, Stats. (titled *Prostitution*); a criminal violation of subch. VI of ch. 946, Stats. (titled *Racketeering Activity and Continuing Criminal Enterprise*); a criminal violation of ch. 961, Stats. (titled *Uniform Controlled Substances Act*); a violation of s. 940.302, Stats. (titled *Human Trafficking*), s. 948.051, Stats. (titled *Trafficking of a Child*), or another sex trafficking offense; a criminal violation of ch. 948, Stats., that relates to sexual assault, sexual abuse, or sexual exploitation of a child; or a violation of s. 940.32, Stats. (titled *Stalking*).

Finally, the bill requires adult-entertainment establishments to display, in a prominent location for employees to view, a poster that is currently made available by the Wisconsin Department of Justice (DOJ) that provides information regarding a human trafficking resource center hotline.

Information to Law Enforcement

The bill authorizes a law enforcement officer of a city, village, town, or county in which an adult-entertainment establishment conducts business to request that the establishment furnish a list of all its employees, including each employee's full name and date of birth, as well as the establishment's interested persons. Under the bill, the establishment must comply by submitting the list no later than the business day following the request. The bill limits the receiving law enforcement officer or agency to disclosing the information only to another law enforcement officer or agency.

Penalties

The bill imposes a forfeiture penalty not to exceed \$10,000 upon any adult-entertainment establishment violating the bill's prohibitions or requirements. The bill specifies that each act prohibited or required by the bill constitutes a separate violation, and each day on which an establishment knowingly violates a prohibition or requirement constitutes a separate violation.

SENATE AMENDMENT 1

Senate Amendment 1 modifies the bill, as follows:

- Modifies the definition of an "adult-entertainment establishment" to clarify that it applies only to businesses that predominantly offer, or are distinguished by an emphasis on offering, sexually oriented material or presentations. Specifically, under the amendment, an "adult-entertainment establishment" means a commercial establishment, business, or service that is distinguished by an emphasis on the offering of, or in which the predominant business or attraction is the offering of, sexually oriented material, devices, paraphernalia, or presentations or sexual activities, services, exhibitions, or performances.
- Excludes from the definition of an "adult-entertainment establishment" all of the following: health care facilities; institutions of higher education; nonprofit organizations; and schools.
- Replaces the prohibition against an adult-entertainment establishment knowingly employing a victim of sex trafficking with a prohibition against the establishment knowingly allowing a violation of human trafficking, trafficking of a child, or another sex trafficking offense to occur on the establishment's premises.
- Requires an adult-entertainment establishment to display a poster distributed by the U.S. Department of Homeland Security that provides human trafficking information, in addition to the state DOJ-issued poster as required under the bill.
- Clarifies that an interested person who violates the bill's prohibitions applicable to interested persons is also subject to the bill's penalty provisions.

BILL HISTORY

Senator Jacque offered Senate Amendment 1 on February 7, 2022. On February 8, 2022, the Senate Committee on Judiciary and Public Safety recommended adoption of the amendment, and passage of the bill, as amended, on votes of Ayes, 7; Noes, 0.

AO:jal