

2018 Regular Session

HOUSE BILL NO. 830

BY REPRESENTATIVES STOKES, AMEDEE, BAGLEY, BAGNERIS, BARRAS, BOUIE, GARY CARTER, CONNICK, COX, CREWS, DAVIS, EDMONDS, EMERSON, FALCONER, GLOVER, HODGES, HOFFMANN, HORTON, IVEY, JACKSON, JEFFERSON, JAY MORRIS, PIERRE, PYLANT, REYNOLDS, SEABAUGH, SMITH, AND ZERINGUE AND SENATORS ALARIO, APPEL, BARROW, BISHOP, BOUDREAUX, CARTER, CORTEZ, DONAHUE, ERDEY, FANNIN, GATTI, HEWITT, JOHNS, LAFLEUR, LONG, MARTINY, MILKOVICH, MILLS, MIZELL, MORRELL, PEACOCK, PERRY, PETERSON, PRICE, RISER, GARY SMITH, JOHN SMITH, TARVER, THOMPSON, WARD, AND WHITE

1 AN ACT

2 To enact Part XIV of Chapter 9 of Title 23 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 23:1019.1 through 1019.6, relative to work in a sexually oriented
4 business; to provide for verification of age and work-eligibility status; to provide
5 with respect to human trafficking; to provide for notices to be posted; to provide
6 definitions; to provide for enforcement; to provide for penalties; and to provide for
7 related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Part XIV of Chapter 9 of Title 23 of the Louisiana Revised Statutes of
10 1950, comprised of R.S. 23:1019.1 through 1019.6, is hereby enacted to read as follows:

11 PART XIV. SEXUALLY ORIENTED BUSINESSES

12 §1019.1. Definitions

13 As used in this Part, the following terms have the meaning ascribed as
14 follows:

15 (1) "Adult arcade" means any place to which the public is permitted or
16 invited in which coin-operated, slug-operated, or electronically, electrically, or
17 mechanically controlled still or motion picture machines, projectors, or other
18 image-producing devices are regularly maintained to show images to five or fewer
19 persons per machine at any one time, and in which the images so displayed are

1 distinguished or characterized by their emphasis upon matter exhibiting or describing
2 specified sexual activities or specified anatomical areas.

3 (2) "Adult bookstore," "adult novelty store," or "adult video store" means a
4 commercial establishment that, for any form of consideration, has as a significant or
5 substantial portion of its stock-in-trade in, derives a significant or substantial portion
6 of its revenues from, devotes a significant or substantial portion of its interior
7 business or advertising to, or maintains a substantial section of its sales or display
8 space for the sale or rental of any of the following:

9 (a) Books, magazines, periodicals, or other printed matter, or photographs,
10 films, motion pictures, video cassettes, compact discs, slides, or other visual
11 representations, that are characterized by their emphasis upon the exhibition or
12 description of specified sexual activities or specified anatomical areas.

13 (b) Instruments, devices, or paraphernalia that are designed for use or
14 marketed primarily for stimulation of human genital organs or for sadomasochistic
15 use or abuse of self or others.

16 (3) "Adult cabaret" means a nightclub, bar, juice bar, restaurant, bottle club,
17 gentleman's club, strip club, or similar commercial establishment, whether or not
18 alcoholic beverages are served, that regularly features any of the following:

19 (a) Persons who appear in a state of nudity or seminudity for the purpose of
20 enticing sexual arousal or otherwise sexually excite a patron or customer.

21 (b) Live performances that are characterized by the exposure of specified
22 anatomical areas or specified sexual activities.

23 (c) Films, motion pictures, video cassettes, slides, or other photographic
24 reproductions that are distinguished or characterized by their emphasis upon the
25 exhibition or description of specified sexual activities or specified anatomical areas.

26 (4) "Adult motion picture theater" means a commercial establishment where
27 films, motion pictures, video cassettes, slides, or similar photographic reproductions
28 that are distinguished or characterized by their emphasis upon the exhibition or
29 description of specified sexual activities or specified anatomical areas are regularly
30 shown for any form of consideration.

1 (5) "Adult theater" means a theater, concert hall, auditorium, or similar
2 commercial establishment that, for any form of consideration, regularly features
3 persons who appear in a state of nudity or seminudity or live performances that are
4 characterized by their emphasis upon the exposure of specified anatomical areas or
5 specified sexual activities.

6 (6) "Employee" means any individual employed by a sexually oriented
7 business for remuneration pursuant to a contract for hire but does not include an
8 independent contractor.

9 (7) "Independent contractor" means an individual contracted to perform
10 services for a sexually oriented business on a non-exclusive basis pursuant to a
11 written agreement specifying that the individual is a contractor and not an employee
12 of the sexually oriented business.

13 (8) "Nudity" means the exposure of the vulva, penis, testicles, anus, female
14 nipples, or female areola with less than a fully opaque covering.

15 (9) "Operator" means any individual on the premises of a sexually oriented
16 business authorized to manage the business, exercise overall operational control of
17 the premises, or cause the business to function.

18 (10) "Sexually oriented business" means any business that is part of the sex
19 industry that offers services that include the exposure of specified anatomical areas
20 or specified sexual activities, or the purchase of erotic paraphernalia. Sexually
21 oriented business includes any adult arcade, adult book store, adult novelty store,
22 adult video store, adult cabaret, adult motion picture theater, or adult theater.

23 (11)(a) "Seminudity" means any of the following:

24 (i) Exposure of the female breast below a horizontal line across the top of the
25 areola and extending across the width of the breasts at that point including the lower
26 portion of the breasts.

27 (ii) Exposure of a majority of the male or female buttocks.

28 (iii) The outline of human male genitals when the penis is in a discernibly
29 erect state, even if completely and opaquely covered.

1 **(b) "Seminudity" shall not include any portion of the cleavage of the female**
 2 **breast exhibited by swim wear, dance wear, or clothing, provided that the areola is**
 3 **not exposed in whole or in part.**

4 **(12) "Specified anatomical area" means genitals, buttocks, or female nipple**
 5 **or areola.**

6 **(13)(a) "Specified sexual activity" means any of the following:**

7 **(ii) Oral, anal, or vaginal sexual intercourse.**

8 **(iii) Fondling, oral touching, or other stimulation of the genitals, anus, or**
 9 **female breasts.**

10 **(iv) Masturbation.**

11 **(b) Emission is not necessary to constitute "specified sexual activity".**

12 **§1019.2. Employee and independent contractor eligibility verification**

13 **A.(1) The operator of a sexually oriented business shall verify the age and**
 14 **work eligibility status of each employee and potential employee by using either the**
 15 **United States Citizenship and Immigration Services E-Verify program or by ensuring**
 16 **proper completion of Form I-9, Employment Eligibility Verification, for each**
 17 **employee or potential employee.**

18 **(2) The operator of a sexually oriented business shall verify the age and work**
 19 **eligibility status of each independent contractor by requiring him to submit one**
 20 **United States Citizenship and Immigration Services Form I-9 List A document or**
 21 **one United States Citizenship and Immigration Services Form I-9 List B document**
 22 **in combination with a completed and signed Internal Revenue Service Form W-9**
 23 **with a verified social security number or taxpayer identification number.**

24 **B.(1) The operator shall retain the employment eligibility verification**
 25 **documents in his records for at least three years after the last day of the employee's**
 26 **employment with the sexually oriented business.**

27 **(2) Proof of employment eligibility verification shall be available for**
 28 **inspection by the executive director of the Louisiana Workforce Commission, the**
 29 **attorney general of Louisiana, the commissioner of alcoholic beverage control of the**
 30 **office of alcohol and tobacco control within the Louisiana Department of Revenue,**

1 a law enforcement agency of the state or its political subdivisions when jurisdiction
2 is appropriate, and authorized United States government officials.

3 §1019.3. Questionnaire

4 A. Before hiring an employee or independent contractor, the operator shall
5 require the potential employee or independent contractor to submit in writing
6 answers to a questionnaire which includes all of the following questions:

7 (1) Is your freedom of movement restricted?

8 (2) How do you learn about job opportunities?

9 (3) Did you come to this country for a specific job that you were promised?

10 (4) To what forms of media or telecommunication do you have access?

11 (5) Do you or does someone else retain your identification documents?

12 (6) Were you provided with false documents or identification?

13 (7) How was payment for your travel handled?

14 (8) Do you owe your employer any money?

15 B. After the questionnaire is complete, the potential employee or
16 independent contractor shall sign affirming the accuracy of the answers and the
17 operator shall sign to acknowledge receipt. The operator shall retain a copy of the
18 questionnaire for his records in a locked or otherwise secure location for at least
19 three years after the last day of the employee's or independent contractor's work with
20 the sexually oriented business.

21 C. The Louisiana Workforce Commission shall prepare a standard form
22 questionnaire to implement the provisions of this Section.

23 §1019.4. Mandatory reporting

24 If, at any time during the application process or subsequent hiring of an
25 employee or independent contractor, an operator of a sexually oriented business
26 believes that the potential employee, employee, or independent contractor may be
27 a victim of human trafficking, he shall, as soon as possible, but within twenty-four
28 hours, contact law enforcement or call the National Human Trafficking Resource
29 Center Hotline to coordinate with local resources.

1 §1019.5. Notices to be posted

2 Every operator of a sexually oriented business shall post and keep posted in
3 conspicuous places upon the business premises, including any restroom and dressing
4 room, a notice, in both English and Spanish, prepared by the office of alcohol and
5 tobacco control setting forth information regarding human trafficking and the
6 telephone number to the National Human Trafficking Resource Center Hotline.

7 §1019.6. Enforcement; penalties

8 A.(1) The executive director of the Louisiana Workforce Commission, the
9 commissioner of alcoholic beverage control of the office of alcohol and tobacco
10 control within the Louisiana Department of Revenue, or a law enforcement agency
11 of the state or its political subdivisions with appropriate jurisdiction may conduct an
12 investigation as necessary to ensure enforcement of this Part.

13 (2) Upon a determination that any operator has violated, neglected, or
14 refused to comply with any provision of this Part, the executive director, the
15 commissioner of alcoholic beverage control, or a law enforcement officer
16 representing an agency with appropriate jurisdiction may notify the attorney general
17 who may pursue civil charges against the operator in the Nineteenth Judicial District
18 Court.

19 B. If the court finds an operator to be in violation of the provisions of this
20 Part, the court shall issue penalties as follows:

- 21 (1) For a first violation, a fine of one thousand dollars.
- 22 (2) For a second violation, a fine of five thousand dollars.
- 23 (3) For a third and any subsequent violation, a fine of ten thousand dollars.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____