

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

HUMAN TRAFFICKING: Requires age and work status verification prior to work in a sexually oriented business to prevent human trafficking

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

1 persons per machine at any one time, and in which the images so displayed are
2 distinguished or characterized by their emphasis upon matter exhibiting or describing
3 specified sexual activities or specified anatomical areas.

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

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

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

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

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

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

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

27 (4) "Adult motion picture theater" means a commercial establishment where
28 films, motion pictures, video cassettes, slides, or similar photographic reproductions
29 that are distinguished or characterized by their emphasis upon the exhibition or

1 description of specified sexual activities or specified anatomical areas are regularly
2 shown for any form of consideration.

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

8 (6) "Employee" means any individual who performs any service on the
9 premises of a sexually oriented business on a full-time or part-time basis but does not
10 include an individual exclusively on the premises for repair or maintenance of the
11 premises or for the delivery of goods to the premises.

12 (7) "Independent contractor" means an individual who, exercising
13 independent employment or engaging in an independent business enterprise,
14 contracts with a sexually oriented business to do work according to his own methods
15 and without being subject to the control of the person or business with which he has
16 contracted.

17 (8) "Operator" means either of the following:

18 (a) Any individual who owns a sexually oriented business.

19 (b) Any individual who is on the premises of a sexually oriented business
20 who causes the business to function or who puts or keeps in operation the business
21 or who is authorized to manage the business or exercise overall operational control
22 of the business premises.

23 (9) "Sexually oriented business" means any business that is part of the sex
24 industry that offers services that include the exposure of specified anatomical areas
25 or specified sexual activities, or the purchase of erotic paraphernalia. Sexually
26 oriented business includes any adult arcade, adult book store, adult novelty store,
27 adult video store, adult cabaret, adult motion picture theater, or adult theater.

28 §1019.2. Employee eligibility verification

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

6 (2) The operator of a sexually oriented business shall verify the age and work
7 eligibility status of each independent contractor by requiring him to submit one
8 United States Citizenship and Immigration Services Form I-9 List A document or
9 one United States Citizenship and Immigration Services Form I-9 List B document
10 in combination with a completed and signed Internal Revenue Service Form W-9
11 with a verified social security number.

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

15 (2) Proof of employment eligibility verification shall be available for
16 inspection by the executive director of the Louisiana Workforce Commission, the
17 attorney general of Louisiana, the commissioner of alcoholic beverage control of the
18 office of alcohol and tobacco control within the Louisiana Department of Revenue,
19 a law enforcement agency of the state or its political subdivisions when jurisdiction
20 is appropriate, and authorized United States government officials.

21 §1019.3. Questionnaire

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

25 (1) Is your freedom of movement restricted?

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

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

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

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

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

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

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

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

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

12 §1019.4. Mandatory reporting

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

19 §1019.5. Notices to be posted

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

25 §1019.6. Enforcement; penalties

26 A.(1) The executive director of the Louisiana Workforce Commission, the
27 commissioner of alcoholic beverage control of the office of alcohol and tobacco
28 control within the Louisiana Department of Revenue, or a law enforcement agency

1 of the state or its political subdivisions with appropriate jurisdiction may conduct an
 2 investigation as necessary to ensure enforcement of this Part.

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

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

11 (1) For a first violation, a fine of one thousand dollars.

12 (2) For a second violation, a fine of five thousand dollars.

13 (3) For a third and any subsequent violation, a fine of ten thousand dollars.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 830 Reengrossed

2018 Regular Session

Stokes

Abstract: Requires age and work status verification of employees and independent contractors in sexually oriented businesses to prevent human trafficking.

Proposed law defines the term sexually oriented business as well as the various types of sexually oriented businesses.

Proposed law provides that, for purposes of proposed law, an employee is defined as any individual who performs any service on the premises of a sexually oriented business on a full- or part-time basis.

Proposed law provides that an employee is not someone who is exclusively on the premises for repair or maintenance of the premises, or for the delivery of goods.

Proposed law defines independent contractor as an individual who, exercising independent employment or engaging in an independent business enterprise, contracts with a sexually oriented business to do work according to his own methods and without being subject to the control of the person or business with which he has contracted.

Proposed law requires that an operator of a sexually oriented business verify the age and employment status of each potential employee through the U.S. Citizenship and Immigration Services E-Verify program or the completion of Form I-9 and retain the documentation proving such eligibility to work in his records for at least three years.

Proposed law requires that an operator of a sexually oriented business verify the age and work eligibility status of an independent contractor by requiring the independent contractor to submit a U.S. Citizenship and Immigration Services Form I-9 List A document or a List B document along with a completed Internal Revenue Service Form W-9 with a verified social security number.

Proposed law requires that before hiring an employee or independent contractor, the operator shall require the potential employee or independent contractor to answer a questionnaire, provided by La. Workforce Commission (LWC), and retain the answers for his record. This questionnaire includes questions to give an indication whether or not a potential employee or independent contractor could be a victim of human trafficking.

Proposed law requires that the questionnaire be retained by the operator for a period of three years after the last day of work and that it be stored in a locked or otherwise secure location.

Proposed law requires that if an operator suspects that a potential employee, employee, or independent contractor is a victim of human trafficking that he contact local law enforcement or the National Human Trafficking Resource Center Hotline as soon as possible within 24 hours.

Proposed law requires that notices regarding human trafficking be posted in English and Spanish.

Proposed law allows the executive director of LWC, the commissioner of the office of alcohol and tobacco control, or a law enforcement agency of the state or its political subdivisions to conduct an investigation of an operator for violations of proposed law and that if the investigation shows that an operator has violated proposed law, the agency representative may notify the attorney general who may pursue civil charges against the operator in the 19th Judicial District Court.

Proposed law provides that upon a finding that a violation has occurred, the court shall issue penalties as follows:

- (1) For a first violation, a fine of \$1,000.
- (2) For a second violation, a fine of \$5,000.
- (3) For a third and any subsequent violation, a fine of \$10,000.

(Adds R.S. 23:1019.1-1019.6)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Labor and Industrial Relations to the original bill:

1. Define independent contractor.
2. Specifically add independent contractors to the provisions of proposed law.
3. Require the age and work eligibility status of an independent contractor to be verified by the submission of certain documents.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Change the name of the proposed law being enacted from the Human Trafficking Prevention Act to Sexually Oriented Businesses.
3. Clarify the definition of an "adult cabaret" by specifying that a person being featured in a state of nudity or seminudity is doing so for the purpose of enticing sexual arousal or excitement in the customer or patron of the business.
4. Require that if an operator suspects that an employee, potential employee, or independent contractor is being trafficked, he notify proper authorities as soon as possible, but within twenty-four hours.
5. Require the operator to maintain records required by proposed law in a locked or otherwise secure location.