

2 SSB 5644 - H COMM AMD  
3 By Committee on Judiciary

4  
5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. Sec. 1. It is the purpose of this chapter to  
8 regulate certain adult entertainment businesses to promote the health,  
9 safety, and welfare of the citizens of the state of Washington. The  
10 legislature finds that these businesses, when unregulated, promote  
11 illegal activities including obscenity, pornography, sexual offenses,  
12 and prostitution."

13 "NEW SECTION. Sec. 2. Unless the context clearly requires  
14 otherwise, the definitions in this section apply throughout this  
15 chapter.

16 (1) "Adult entertainment business" means a nightclub, bar,  
17 restaurant, theater, concert hall, auditorium, or similar commercial  
18 establishment that regularly features live performances by nude or  
19 seminude persons.

20 (2) "Applicant" means a person or persons applying for a license  
21 under this chapter.

22 (3) "Business license" means a license issued by the department  
23 under this chapter to an adult entertainment business.

24 (4) "Department" means the department of licensing.

25 (5) "Director" means the director of licensing.

26 (6) "Licensee" means a person or persons in whose name a license  
27 has been issued under this chapter.

1           (7) "Nude" means a state of dress that exposes a person's bare  
2 buttock, anus, genital, or breast, or a state of dress which fails to  
3 cover opaquely a person's buttock, anus, genital, or areola of the  
4 breast.

5           (8) "Own or operate" means a person has a substantial interest in  
6 an adult entertainment business.

7           (9) "Performer's license" means a license issued by the department  
8 under this chapter to a performer in an adult entertainment business.

9           (10) "Seminude" means a state of dress other than nude that, with  
10 respect to a person's torso, opaquely covers only the buttocks, anus,  
11 genitals, and areolae of the breasts, as well as portions of the body  
12 covered by supporting straps or devices.

13           (11) "Substantial interest" means the interest possessed by a  
14 person when:

15           (a) With respect to a sole proprietorship, the person, or his or  
16 her marital community, owns, operates, manages, or conducts, directly  
17 or indirectly, the business, or any part of it; or

18           (b) With respect to a partnership, the person or his or her marital  
19 community, shares in any of the profits, or potential profits, of the  
20 business; or

21           (c) With respect to a corporation, the person or his or her spouse,  
22 is an officer, or director, or the person or his or her marital  
23 community is a holder, directly or beneficially, of ten percent or more  
24 of any class of stock of the business; or

25           (d) With respect to an organization not covered in (a), (b), or (c)  
26 of this subsection, the person or his or her spouse, is an officer or  
27 manages the business affairs, or the person or his or her marital  
28 community is owner of or otherwise controls ten percent or more of the  
29 assets of the business; or

1 (e) The person, or his or her marital community, furnishes ten  
2 percent or more of the capital, whether in cash, goods, or services,  
3 for the operation of the business during any calendar year."

4 "NEW SECTION. Sec. 3. (1) It is a gross misdemeanor for a  
5 person to own, operate, or manage, or act as the agent for one who  
6 owns, operates, or manages, an adult entertainment business in the  
7 state of Washington unless the person has obtained a business license  
8 pursuant to this chapter.

9 (2) It is a gross misdemeanor for a performer to appear nude or  
10 seminude in an adult entertainment business unless the performer has  
11 obtained a performer's license pursuant to this chapter."

12 "NEW SECTION. Sec. 4. (1) Each owner, operator, manager, or  
13 agent of a business must obtain and maintain a separate business  
14 license.

15 (2) An application for a business license must be made on a form  
16 provided by the department. The applicant shall provide: (a) The  
17 name, address, phone number, and date of birth of the applicant; (b)  
18 two passport-size color photographs of the applicant; (c) the  
19 applicant's principal occupation; (d) a description of the proposed  
20 establishment; (e) the nature of the proposed business; (f) the trade  
21 name of the proposed business; (g) location of the proposed business;  
22 and (h) such other information as the department may require by rule.

23 (3) At the time of applying, the applicant shall post notice of the  
24 application at the proposed business location in a form and manner as  
25 required by the department by rule."

26 "NEW SECTION. Sec. 5. (1) The department shall grant or refuse  
27 a business license in accordance with this chapter.

1 (2) Every business license shall be issued in the name of the  
2 applicant or applicants, and the holder of a license shall not allow  
3 any other person to use it.

4 (3) No business license may be issued to:

5 (a) An individual, partnership, or corporation, unless qualified to  
6 obtain a business license, as provided in this chapter;

7 (b) An applicant whose business is conducted by a manager or agent,  
8 unless the manager or agent possesses the same qualifications as are  
9 required of the business licensee;

10 (c) A corporation, unless it was created under the laws of the  
11 state of Washington or holds a certificate of authority to transact  
12 business in the state of Washington;

13 (d) An applicant who is under eighteen years of age;

14 (e) An applicant who has failed to provide information reasonably  
15 necessary for issuance of the business license or who has falsely  
16 answered a question or request for information on the application form;  
17 or

18 (f) An applicant who has proposed the location of the business  
19 within a zone where such use is prohibited by state or local authority.

20 (4) Upon receipt of an application for a business license, the  
21 department shall give notice of the application to the chief executive  
22 officer of the incorporated city or town, if the application is for a  
23 business license within an incorporated city or town, or to the county  
24 legislative authority, if the application is for a business license  
25 outside the boundaries of incorporated cities or towns, or to all the  
26 appropriate executive officers in the case of a regional adult  
27 entertainment business plan. Upon the granting of a business license  
28 under this chapter the department shall send a duplicate of the license  
29 or written notification to the chief executive officer of the  
30 incorporated city or town in which the license is granted, or to the

1 county legislative authority if the license is granted outside the  
2 boundaries of incorporated cities or towns, or to all chief executive  
3 officers of impacted cities, towns, or counties participating in a  
4 regional adult entertainment business plan.

5 (5)(a) Except as set forth in (b) of this subsection, the  
6 department shall not issue an initial business license covering any  
7 premises, if at the time the initial license is to be issued the  
8 premises are within a buffer zone of one thousand feet surrounding any  
9 residential zone, single or multifamily dwelling, church, park,  
10 playground, day care center, or elementary or secondary school. The  
11 one thousand feet shall be measured on a straight line between the  
12 closest points of the property on which the premises are located and  
13 the property of the residential zone, dwelling, church, park,  
14 playground, day care center, or school. For the purpose of this  
15 section, church means a building erected for and used exclusively for  
16 religious worship and schooling or other activity in connection with  
17 the worship and schooling. The department may rely on the measurements  
18 of the relevant local jurisdictions in determining the boundaries of a  
19 buffer zone.

20 (b) The legislative authority of a city, town, or county:

21 (i) Shall establish a buffer zone less than that established in (a)  
22 of this subsection if the legislative authority finds (A) that the  
23 adverse secondary effects of adult entertainment businesses on public  
24 health, safety, or welfare would not be greater as a result of the  
25 smaller buffer zone or (B) that failure to establish a smaller buffer  
26 zone will effectively prohibit any adult entertainment business in the  
27 city, town, or county and there is no regional agreement with  
28 neighboring cities, towns, or counties that provides adequate  
29 opportunities for such businesses; or

1 (ii) May establish a buffer zone greater than that established in  
2 (a) of this subsection if the legislative authority finds (A) that the  
3 adverse secondary effects of adult entertainment businesses on public  
4 health, safety, or welfare would not be reasonably and effectively  
5 mitigated without the larger buffer zone and (B) that establishing a  
6 larger buffer zone will not effectively prohibit any adult  
7 entertainment business in the city, town, or county, or that there is  
8 a regional agreement with neighboring cities, towns, or counties that  
9 provides adequate opportunities for such businesses.

10 (c) If the location requirements established pursuant to this  
11 chapter effectively preclude location of adult entertainment businesses  
12 within a city, town, or county, such city, town, or county shall join  
13 with neighboring cities, towns, or counties in a regional adult  
14 entertainment business location plan in order to provide reasonable  
15 opportunity for location of adult entertainment businesses in the  
16 regional area."

17 "NEW SECTION. Sec. 6. (1) The department may, subject to the  
18 provisions of this chapter and as provided by rule, suspend or cancel  
19 a business license; and all rights of the licensee under this chapter  
20 shall be suspended or terminated, as the case may be.

21 (2) Upon receipt of notice of the suspension or cancellation of a  
22 business license, the licensee shall forthwith deliver the license to  
23 the department. Where the business license has been suspended only,  
24 the department shall return the license to the licensee at the  
25 expiration or termination of the period of suspension."

26 "NEW SECTION. Sec. 7. (1) Every business license issued under  
27 this chapter is subject to all conditions and restrictions imposed by  
28 this chapter. All conditions and restrictions imposed by the

1 department in the issuance of an individual business license shall be  
2 listed on the face of the individual license along with the trade name,  
3 address, and expiration date.

4 (2) Every business licensee shall post and keep posted its license  
5 in a conspicuous place on the premises."

6 "NEW SECTION. Sec. 8. The department shall not issue a  
7 business license to a transferee until the transferee has applied for  
8 and received a business license under this chapter."

9 "NEW SECTION. Sec. 9. (1)(a) At the time of the original  
10 issuance of a business license, the department shall prorate the  
11 license fee charged to the new licensee according to the number of  
12 calendar quarters, or portion thereof, remaining until the first  
13 renewal of that license is required.

14 (b) Unless canceled sooner, every business license issued by the  
15 department shall expire at midnight of the thirtieth day of June of the  
16 fiscal year for which it was issued. However, if the department deems  
17 it feasible and desirable to do so, it may establish, by rule pursuant  
18 to chapter 34.05 RCW, a system for staggering the annual renewal dates  
19 for business licenses. If such a system of staggered annual renewal  
20 dates is established by the department, the business license fees  
21 provided by this chapter shall be appropriately prorated during the  
22 first year that the system is in effect.

23 (2) The adult entertainment business license fee shall be  
24 established under RCW 43.24.086, but shall be at least seven hundred  
25 fifty dollars per annum, and shall be paid at the time of application.  
26 One-half of the fee shall be refunded if the application is withdrawn  
27 prior to a denial of the license by the department."

1        "NEW SECTION. Sec. 10.        (1) The holder of a business license may  
2 not assign or transfer the license, except that a transfer may be made  
3 to the surviving spouse of a deceased licensee if the transferor and  
4 transferee were maintaining a marital community and the license was  
5 issued in the name of one or both of them.

6        (2) A change in an owner or operator of a licensed business or a  
7 change in the manager or agent of a business must be reported to the  
8 department within thirty days, and any new owner, operator, manager, or  
9 agent must meet the requirements of section 5 of this act. The  
10 department shall charge a fee established under RCW 43.24.086 that is  
11 at least seventy-five dollars for the processing of a change in an  
12 owner, operator, manager, or agent."

13        "NEW SECTION. Sec. 11.        The department in suspending a business  
14 license may further provide in the order of suspension that such  
15 suspension shall be vacated upon payment to the department by the  
16 licensee of a monetary penalty in an amount fixed by the department but  
17 not to exceed ten thousand dollars."

18        "NEW SECTION. Sec. 12.        (1)(a) An application for a performer's  
19 license must be made on a form provided by the department. The  
20 performer shall provide the following: (i) The performer's name,  
21 including all aliases, address, phone number, and date of birth; (ii)  
22 two passport-size color photographs of the performer; (iii) principal  
23 occupation; (iv) the name and address of any business, if known, at  
24 which the performer will perform; and (v) such other information as the  
25 department may require by rule.

26        (b) Identifying information provided by an applicant under this  
27 subsection is exempt from public disclosure, and the department shall  
28 not disclose such information except to the extent necessary to carry

1 out its responsibilities under this chapter, or to comply with a  
2 request from another governmental entity, or to comply with a court  
3 order.

4 (2) No performer's license may be issued to:

5 (a) A performer who is under eighteen years of age;

6 (b) A performer who has failed to provide information reasonably  
7 necessary for issuance of the license or has falsely answered a  
8 question or request for information on the application form.

9 (3) The performer's license fee shall be established under RCW  
10 43.24.086, but shall be at least seventy-five dollars per annum and  
11 shall be paid at the time of application. One-half of the fee shall be  
12 refunded if the application is withdrawn prior to denial of the license  
13 by the department.

14 (4) Every performer shall keep his or her performer's license on  
15 the premises while performing."

16 "NEW SECTION. Sec. 13. Every business licensed under section 5  
17 of this act shall file monthly reports with the department pursuant to  
18 rule. The reports shall include the following: (1) The name, address,  
19 and date of birth of all performers appearing nude or seminude during  
20 the month; and (2) such further information as the department may  
21 require."

22 "NEW SECTION. Sec. 14. An action, order, or decision of the  
23 department as to a denial of an application for the issuance or renewal  
24 of a business or performer's license or as to a revocation, suspension,  
25 or modification of a license is subject to the applicable provisions of  
26 chapter 34.05 RCW.

27 (1) An opportunity for a hearing must be provided a licensee prior  
28 to a revocation or modification of a business or performer's license

1 and, except as provided in subsection (3) of this section, prior to the  
2 suspension of a license.

3 (2) No hearing shall be required until demanded by the applicant or  
4 licensee.

5 (3) The department may summarily suspend a business or performer's  
6 license for a period of up to thirty days without a prior hearing if it  
7 finds that public health, safety, or welfare imperatively requires  
8 emergency action, and incorporates a finding to that effect in its  
9 order; and proceedings for revocation or other action must be promptly  
10 instituted and determined."

11 "NEW SECTION. Sec. 15. No provision in this chapter limits the  
12 authority of cities, towns, and counties from further regulating adult  
13 entertainment businesses as to hours of operation, location of  
14 premises, or manner of operation.

15 The provisions of this chapter relating to the licensing of any  
16 adult entertainment business shall not be exclusive and any city, town,  
17 or county within whose jurisdiction the adult entertainment business is  
18 located may require any registrations or licenses, or charge any fee  
19 for the same or similar purpose; and nothing in this chapter shall  
20 limit or abridge the authority of any city, town, or county to levy and  
21 collect a general and nondiscriminatory license fee levied upon all  
22 businesses, or to levy a tax based upon gross business conducted by any  
23 firm within the city, town, or county."

24 "NEW SECTION. Sec. 16. The director has the following  
25 authority:

26 (1) To adopt, amend, or repeal such rules as are deemed necessary  
27 to carry out this chapter;

1 (2) To investigate all complaints or reports of conduct in  
2 violation of this chapter and to hold hearings as provided in this  
3 chapter;

4 (3) To issue subpoenas and administer oaths in connection with any  
5 investigation, hearing, or proceeding held under this chapter;

6 (4) To take or cause depositions to be taken and use other  
7 discovery procedures as needed in any investigation, hearing, or  
8 proceeding held under this chapter;

9 (5) To compel attendance of witnesses at hearings;

10 (6) To take emergency action ordering summary suspension of a  
11 business or performer's license, or restriction or limitation of the  
12 licensee's practice pending further disciplinary action under section  
13 21 of this act;

14 (7) To use the office of administrative hearings as authorized in  
15 chapter 34.12 RCW to conduct hearings. However, the director or the  
16 director's designee shall make the final decision in the hearing;

17 (8) To enter into contracts for professional services determined to  
18 be necessary for adequate enforcement of this chapter;

19 (9) To grant or deny business or performer's license applications,  
20 and to impose any sanction against a license applicant or license  
21 holder provided by this chapter;

22 (10) To establish or increase in accordance with RCW 43.24.086  
23 business and performer's license fees above the minimum set by this  
24 chapter;

25 (11) To enter into an assurance of discontinuance in lieu of  
26 issuing a statement of charges or conducting a hearing. The assurance  
27 shall consist of a statement of the law in question and an agreement  
28 not to violate the stated provision. The applicant or license holder  
29 shall not be required to admit to any violation of the law, nor shall

1 the assurance be construed as such an admission. Violation of an  
2 assurance under this subsection is grounds for disciplinary action;

3 (12) To designate individuals authorized to sign subpoenas and  
4 statements of charges; and

5 (13) To employ such investigative, administrative, and clerical  
6 staff as necessary for the enforcement of this chapter."

7 "NEW SECTION. Sec. 17. A person, including but not limited to  
8 a customer, licensee, corporation, organization, or state or local  
9 governmental agency, may submit a written complaint to the department  
10 charging a business or performer's license holder or applicant with a  
11 violation of this chapter. If the department determines that the  
12 complaint merits investigation, or if the department has reason to  
13 believe, without a formal complaint, that a license holder or applicant  
14 may have violated this chapter, the department may investigate to  
15 determine whether there has been a violation. A person who files a  
16 complaint under this section in good faith is immune from suit in any  
17 civil action related to the filing or contents of the complaint."

18 "NEW SECTION. Sec. 18. (1) If the department determines, upon  
19 investigation pursuant to section 17 of this act, that there is reason  
20 to believe a violation of this chapter has occurred, a statement of  
21 charge or charges may be prepared and served upon the business or  
22 performer's license holder or applicant. The statement of charge or  
23 charges shall be accompanied by a notice that the license holder or  
24 applicant may request a hearing to contest the charge or charges. The  
25 license holder or applicant must file a request for hearing with the  
26 department within twenty days after being served the statement of  
27 charges. The failure to request a hearing constitutes a default, upon

1 which the director or the director's designee may enter an order  
2 pursuant to RCW 34.05.440(1).

3 (2) If a hearing is requested, the time of the hearing shall be  
4 scheduled but the hearing shall not be held earlier than thirty days  
5 after service of the charges upon the license holder or applicant. A  
6 notice of hearing shall be issued at least twenty days prior to the  
7 hearing, specifying the time, date, and place of the hearing."

8 "NEW SECTION. Sec. 19. The procedures governing adjudicative  
9 proceedings before agencies under chapter 34.05 RCW, the administrative  
10 procedure act, govern all hearings requested under section 18 of this  
11 act."

12 "NEW SECTION. Sec. 20. (1) Upon a finding that a business or  
13 performer's license holder or applicant has engaged in conduct or  
14 violated conditions that are grounds for denial of a license or for  
15 disciplinary action under section 21 of this act, the director may  
16 issue an order providing for one or any combination of the following:

17 (a) Revocation of the license;

18 (b) Suspension of the license for a fixed or indefinite term;

19 (c) Censure or reprimand;

20 (d) Compliance with conditions of probation for a designated period  
21 of time;

22 (e) Payment of a fine for each violation of this chapter, not to  
23 exceed one thousand dollars per violation, which shall be paid to the  
24 department;

25 (f) Denial of the license request.

26 (2) Any of the actions under this section may be totally or partly  
27 stayed by the director. All costs associated with compliance with

1 orders issued under this section are the obligation of the license  
2 holder or applicant."

3 "NEW SECTION. Sec. 21. The following conduct, acts, or  
4 conditions, constitute grounds for denial of a license or for  
5 disciplinary action against any business or performer's license holder  
6 or applicant under the jurisdiction of this chapter:

7 (1) With respect to a license holder, commission of an act that  
8 constitutes an obscenity or pornography offense under chapter 9.68 RCW,  
9 a sexual exploitation of children offense under chapter 9.68A RCW, a  
10 sexual offense under chapter 9A.44 RCW, a prostitution or indecent  
11 exposure offense under chapter 9A.88 RCW, or a substantially similar  
12 ordinance adopted by the legislative authority of a city, town, or  
13 county or other state statute. Conviction in a criminal proceeding is  
14 not a condition precedent to disciplinary action under this section.  
15 Upon a conviction, however, the judgment and sentence is conclusive  
16 evidence at an ensuing disciplinary hearing of the guilt of the license  
17 holder or applicant of the crime described in the indictment or  
18 information, and of the person's violation of the statute on which it  
19 is based. For the purposes of this section, conviction includes a plea  
20 of guilty or nolo contendere and also includes all sentence deferrals  
21 or suspensions;

22 (2) Misrepresentation or concealment of a material fact in  
23 obtaining a license or in license reinstatement;

24 (3) All advertising that is false, fraudulent, or misleading;

25 (4) Failure to cooperate with the department in the conduct of an  
26 investigation by:

27 (a) Not furnishing any requested papers or documents;

28 (b) Not furnishing in writing a full and complete explanation  
29 regarding the matter under investigation; or

1 (c) Not responding to subpoenas issued by the director, whether or  
2 not the recipient of the subpoena is the subject of the investigation;

3 (5) Failure to comply with an order issued by the director or an  
4 assurance of discontinuance entered into with the director;

5 (6) Aiding and abetting an unlicensed person to own or operate a  
6 business or to perform when a license is required;

7 (7) Interference with an investigation or disciplinary proceeding  
8 by willful misrepresentation of facts before the director or the  
9 director's authorized representative, or by the use of threats or  
10 harassment against any witness to prevent him or her from providing  
11 evidence in a disciplinary proceeding or any other legal action;

12 (8) Violating this chapter or any rule adopted pursuant to this  
13 chapter."

14 "NEW SECTION. Sec. 22. (1) The director may investigate  
15 complaints under this chapter concerning ownership or operation of a  
16 business without a license or performing without a license. In the  
17 investigation of the complaints, the director shall have the same  
18 authority as provided the director under section 16 of this act. The  
19 director may issue a cease and desist order to a person after notice  
20 and hearing and upon a determination that the person has owned or  
21 operated a business without a license, or has performed without a  
22 license, in violation of this chapter. If the director makes a written  
23 finding of fact that the public interest will be irreparably harmed by  
24 delay in issuing an order, the director may issue a temporary cease and  
25 desist order before the notice and hearing. A cease and desist order  
26 does not relieve the person so owning or operating a business or  
27 performing without a license from criminal prosecution. The remedy of  
28 a cease and desist order is in addition to any criminal liability. A  
29 cease and desist order is conclusive proof of unlicensed practice and

1 may be enforced through remedial sanctions under chapter 7.21 RCW.  
2 Enforcement of the cease and desist order under chapter 7.21 RCW may be  
3 used in addition to, or as an alternative to, any provisions for  
4 enforcement of agency orders set out in chapter 34.05 RCW.

5 (2) The attorney general, a county prosecuting attorney, the  
6 department, or any person may, in accordance with the law of this state  
7 governing injunctions, maintain an action to enjoin any person owning  
8 or operating a business, or performing, without a license required by  
9 this chapter from continuing such ownership, operation, or performing  
10 until the required license is secured. However, an injunction does not  
11 relieve a person from criminal prosecution and the remedy by injunction  
12 is in addition to any criminal liability."

13 "NEW SECTION. Sec. 23. A person or business that violates an  
14 injunction issued under this chapter shall pay a civil penalty, as  
15 determined by the court, of not more than twenty-five thousand dollars,  
16 which shall be paid to the department. For the purpose of this  
17 section, the superior court issuing any injunction shall retain  
18 jurisdiction and the cause shall be continued, and in such cases the  
19 attorney general acting in the name of the state may petition for the  
20 recovery of civil penalties."

21 "NEW SECTION. Sec. 24. (1) The director or individuals acting  
22 on the director's behalf are immune from suit in any civil or criminal  
23 action based on any disciplinary proceedings or other official acts  
24 performed in the course of their duties in the administration and  
25 enforcement of this chapter.

26 (2) Legislative authorities of cities, towns, and counties are  
27 immune from suit in any civil or criminal action based on any official

1 acts performed in the course of their duties in the administration or  
2 enforcement of this chapter.

3 In any challenge to location, distance, or conduct requirements  
4 imposed by the legislative authority of a city, town, or county  
5 pursuant to this chapter, the legislative authority may request that  
6 the state assume some or all of the obligation to defend the  
7 constitutionality of this chapter. The attorney general may grant or  
8 deny the request. Nothing in this chapter creates any state liability  
9 for actions of a city, town, or county."

10 "NEW SECTION. Sec. 25. Existing adult entertainment businesses  
11 are exempt from any location restrictions imposed by this chapter until  
12 January 1, 1995."

13 "NEW SECTION. Sec. 26. It is a gross misdemeanor for any person  
14 to permit any person under the age of eighteen on the premises of any  
15 adult entertainment business under his or her control."

16 "NEW SECTION. Sec. 27. It is a class C felony for any person to  
17 employ or permit any person under the age of eighteen to appear nude or  
18 seminude on the premises of any adult entertainment business under his  
19 or her control."

20 "NEW SECTION. Sec. 28. Sections 1 through 27 of this act shall  
21 constitute a new chapter in Title 18 RCW."

22 "NEW SECTION. Sec. 29. A new section is added to chapter 43.43  
23 RCW to read as follows:

24 The department of licensing may request information from the  
25 Washington state patrol criminal identification system regarding the

1 conviction of offenses listed under section 21(1) of this act for a  
2 license holder who is the subject of an investigation under section 17  
3 of this act."

4 "Sec. 30. RCW 7.48A.040 and 1985 c 235 s 1 are each amended to  
5 read as follows:

6 (1) No person shall with knowledge maintain a moral nuisance.

7 (2) Upon a determination that a defendant has with knowledge  
8 maintained a moral nuisance, the court shall impose a civil fine and  
9 judgment of an amount as the court shall determine to be appropriate.  
10 In imposing the civil fine, the court shall consider the wilfulness of  
11 the defendant's conduct and the profits made by the defendant  
12 attributable to the lewd matter, lewdness, or prostitution, whichever  
13 is applicable. In no event shall the civil fine exceed the greater of  
14 (~~twenty-five~~) fifty thousand dollars or these profits."

15 "NEW SECTION. Sec. 31. If any provision of this act or its  
16 application to any person or circumstance is held invalid, the  
17 remainder of the act or the application of the provision to other  
18 persons or circumstances is not affected."

19 "NEW SECTION. Sec. 32. This act shall take effect January 1,  
20 1992. The department of licensing may take such steps before then,  
21 including the adoption of rules, as are necessary to ensure that this  
22 act is implemented on January 1, 1992."

1 **SSB 5644** - H COMM AMD  
2 By Committee on Judiciary

3  
4 On page 1, line 1 of the title, after "businesses;" strike the  
5 remainder of the title and insert "amending RCW 7.48A.040; adding a new  
6 chapter to Title 18 RCW; adding a new section to chapter 43.43 RCW;  
7 prescribing penalties; and providing an effective date."