

HB0144S01 compared with HB0144

~~deleted text~~ shows text that was in HB0144 but was deleted in HB0144S01.

inserted text shows text that was not in HB0144 but was inserted into HB0144S01.

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Representative Kyle R. Andersen proposes the following substitute bill:

MODIFICATIONS TO HUMAN TRAFFICKING PROVISIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kyle R. Andersen

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates a human trafficking education program and requires certain individuals to participate in the program.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Human Trafficking Education Program;
- ▶ provides development and content requirements for the program;
- ▶ requires employees of sexually oriented businesses to complete the program;
- ▶ directs government agencies overseeing the licensure of sexually oriented businesses to require applicants to complete the program; and
- ▶ makes technical and conforming changes.

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Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-8-41.5, as last amended by Laws of Utah 2019, Chapter 303

17-50-331, as enacted by Laws of Utah 2010, Chapter 398

ENACTS:

67-5-36, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **10-8-41.5** is amended to read:

10-8-41.5. Regulation of sexually oriented business.

(1) As used in this section:

(a) "Adult service" means dancing, serving food or beverages, modeling, posing, wrestling, singing, reading, talking, listening, or other performances or activities conducted by a nude or partially denuded individual for compensation.

(b) "Compensation" means:

(i) a salary;

(ii) a fee;

(iii) a commission;

(iv) employment;

(v) a profit; or

(vi) other pecuniary gain.

(c) (i) "Escort" means ~~a person~~ an individual who, for compensation, dates, socializes with, visits, consorts with, or accompanies another, or offers to date, consort with, socialize with, visit, or accompany another:

(A) to a social affair, entertainment, or a place of amusement; or

(B) within a place of public or private resort, a business or commercial establishment, or a private quarter.

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(ii) "Escort" does not mean ~~[a person]~~ an individual who provides business or personal services, including:

(A) a licensed private nurse;

(B) an aide for the elderly or ~~[a person]~~ an individual with a disability;

(C) a social secretary or similar service personnel whose relationship with a patron is characterized by a contractual relationship having a duration of 12 hours or more and who provides a service not principally characterized as dating or socializing; or

(D) ~~[a person]~~ an individual who provides services such as singing telegrams, birthday greetings, or similar activities that are characterized by an appearance in a public place, contracted for by a party other than the ~~[person]~~ individual for whom the service is being performed, and of a duration not to exceed one hour.

(d) "Escort service" means any person who furnishes or arranges for an escort to accompany another individual for compensation.

(e) "Nude or partially denuded individual" means an individual with any of the following less than completely and opaquely covered:

(i) genitals;

(ii) the pubic region; or

(iii) a female breast below a point immediately above the top of the areola.

(f) (i) "Sexually oriented business" means a business at which any nude or partially denuded individual, regardless of whether the nude or partially denuded individual is an employee of the sexually oriented business or an independent contractor, performs any service for compensation.

(ii) "Sexually oriented business" includes:

(A) an escort service; or

(B) an adult service.

(2) ~~[A person]~~ An individual employed in a sexually oriented business may not work in a municipality if:

(a) ~~{(i)}~~ the municipality requires that ~~[a person]~~ an individual employed in a sexually oriented business obtain an individual license; and

~~{(b)}~~ ~~{(ii)}~~ the ~~[person]~~ individual has not obtained an individual license from the municipality ~~{(.)}~~ or

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~~_____ (b) the individual has not completed the Human Trafficking Education Program established in Section 67-5-36.~~

~~_____ (3) (a) If a municipality requires an individual employed in a sexually oriented business to obtain an individual license, the municipality shall include as a requirement of the license that the individual complete the Human Trafficking Education Program established in Section 67-5-36.~~

~~_____ (b) The requirement described in Subsection (2)(b) applies regardless of whether the municipality requires an individual employed in a sexually oriented business to obtain an individual license.~~

~~_____ [(3)] (4) :~~

(3) A business entity or sole proprietorship that conducts a sexually oriented business may not conduct business in a municipality if:

(a) (i) the municipality requires that a sexually oriented business obtain a license; and

[(b)] (ii) the business entity has not obtained a license from the municipality.

~~_____ [(4)] (5) [-]; or~~

(b) the business entity or sole proprietorship fails to ensure that each owner, employee, or independent contractor of the sexually oriented business completes the Human Trafficking Education program established in Section 67-5-36.

(4) If a municipality requires a business entity or sole proprietorship that conducts a sexually oriented business to obtain a licence, the municipality shall include as a requirement of the license that the business entity or sole proprietorship provide documentation demonstrating that each owner, employee, or independent contractor of the sexually oriented business completes the Human Trafficking Education Program established in Section 67-5-36.

(5) The requirement described in Subsection (3)(b) applies regardless of whether the municipality requires a sexually oriented business to obtain a business license.

[(4)] (6) (a) A violation of this section by an individual who is at least 18 years old, a sole proprietorship, or a business entity is a class A misdemeanor.

(b) {f} A person {f} An individual} charged under this section may not also be charged under Section 76-10-1302.

(7) Within one year after the day on which the Office of the Attorney General provides notice in accordance with Subsection 67-5-36(7):

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(a) a business entity or sole proprietorship that conducts a sexually oriented business shall comply with Subsection (3)(b); and

(b) a municipality requiring a sexually oriented business to obtain a license, shall comply with the requirements of Subsection (4).

Section 2. Section **17-50-331** is amended to read:

17-50-331. Regulation of sexually oriented business.

(1) As used in this section:

(a) "Adult service" means dancing, serving food or beverages, modeling, posing, wrestling, singing, reading, talking, listening, or other performances or activities conducted by a nude or partially denuded individual for compensation.

(b) "Compensation" means:

(i) a salary;

(ii) a fee;

(iii) a commission;

(iv) employment;

(v) a profit; or

(vi) other pecuniary gain.

(c) (i) "Escort" means [~~a person~~] an individual who, for compensation, dates, socializes with, visits, consorts with, or accompanies another, or offers to date, consort with, socialize with, visit, or accompany another:

(A) to a social affair, entertainment, or a place of amusement; or

(B) within[~~;~~(H)] a place of public or private resort[~~;~~(H)], a business or commercial establishment[~~;~~or (H)], or a private quarter.

(ii) "Escort" does not mean [~~a person~~] an individual who provides business or personal services, including:

(A) a licensed private nurse;

(B) an aide for the elderly or [~~a person~~] an individual with a disability;

(C) a social secretary or similar service personnel[~~;~~(H)] whose relationship with a patron is characterized by a contractual relationship having a duration of 12 hours or more[~~;~~and (H)] and who provides a service not principally characterized as dating or socializing; or

(D) [~~a person~~] an individual who provides services such as singing telegrams, birthday

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greetings, or similar activities~~[(H)]~~ that are characterized by an appearance in a public place~~[(H)]~~, contracted for by a party other than the ~~[person]~~ individual for whom the service is being performed~~[(H)]~~, and of a duration not to exceed one hour.

(d) "Escort service" means any person who furnishes or arranges for an escort to accompany another individual for compensation.

(e) "Nude or partially denuded individual" means an individual with any of the following less than completely and opaquely covered:

- (i) genitals;
- (ii) the pubic region; or
- (iii) a female breast below a point immediately above the top of the areola.

(f) (i) "Sexually oriented business" means a business at which any nude or partially denuded individual, regardless of whether the nude or partially denuded individual is an employee of the sexually oriented business or an independent contractor, performs any service for compensation.

(ii) "Sexually oriented business" includes:

- (A) an escort service; or
- (B) an adult service.

(2) ~~[A person]~~ An individual employed in a sexually oriented business may not work in the unincorporated area of a county if:

(a) ~~{(i)}~~ [if] the county requires that [a person] an individual employed in a sexually oriented business be licensed individually; and

~~{(b)} (ii) [if the person] the individual is not licensed by the county[.]; or~~

~~(b) the individual has not completed the Human Trafficking Education Program established in Section 67-5-36.~~

~~(3) (a) If a county requires that an individual employed in a sexually oriented business obtain an individual license, the county shall include as a requirement of the license that the individual demonstrate that the individual has completed the Human Trafficking Education Course established in Section 67-5-36.~~

~~(b) The requirement described in Subsection (2)(b) applies regardless of whether the county requires an individual employed in a sexually oriented business to obtain an individual license.~~

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~~— (3) (4) A business entity that conducts a sexually oriented business may not conduct business in an unincorporated area of a county if:~~

- ~~— (a) [if] the county requires that a sexually oriented business be licensed; and
‡ (b) [if ()] the {business entity} person the individual is not licensed by the county.~~

(3) A business entity or sole proprietorship that conducts a sexually oriented business may not conduct business in an unincorporated area of a county if:

(a) (i) [if] the county requires that a sexually oriented business be licensed; and

[(b) (ii) [if] the business entity is not licensed by the county[-]; or

(b) the business entity or sole proprietorship fails to ensure that each owner, employee, or independent contractor of the sexually oriented business completes the Human Trafficking Education program established in Section 67-5-36.

(4) If a county requires a business entity or sole proprietorship that conducts a sexually oriented business to obtain a licence, the county shall include as a requirement of the license that the business entity or sole proprietorship provide documentation demonstrating that each owner, employee, or independent contractor of the sexually oriented business completes the Human Trafficking Education Program established in Section 67-5-36.

(5) The requirement described in Subsection (3)(b) applies regardless of whether the county requires a sexually oriented business to obtain a business license.

(6) Within one year after the day on which the Office of the Attorney General provides notice in accordance with Subsection 67-5-36(7):

(a) a business entity or sole proprietorship that conducts a sexually oriented business shall comply with Subsection (3)(b); and

(b) a county requiring a sexually oriented business to obtain a license, shall comply with the requirements of Subsection (4).

Section 3. Section **67-5-36** is enacted to read:

67-5-36. Human Trafficking Education Program -- Creation -- Content --

Enforcement.

(1) As used in this section:

(a) "Human trafficking" means the act of forcing or coercing an individual to perform some type of labor or sexual act.

(b) "Program" means the Human Trafficking Education Program created in this

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section.

(2) There is created the Human Trafficking Education Program.

(3) The Office of the Attorney General shall develop and manage the program.

(4) The Office of the Attorney General shall contract with a reputable organization that operates primarily to combat human trafficking to:

(a) develop or access content for the program that meets the requirements of

Subsection (5);

(b) develop or access an online platform to provide public access to the program that meets the requirements of Subsection (4); and

(c) update the program's content as relevant data and information develop within the human trafficking subject area, or as otherwise needed.

(5) The Human Trafficking Education Program shall:

(a) provide an online, research-based education course that informs participants of:

(i) the various forms of human trafficking currently in practice;

(ii) the common characteristics of victims of human trafficking;

(iii) how to identify a human trafficking operation or a victim of human trafficking;

(iv) the best practices for assisting a victim or suspected victim of human trafficking;

(v) current resources available to victims of human trafficking; and

(vi) other information relevant to preventing human trafficking, identifying and reporting human trafficking, and assisting victims of human trafficking;

(b) be available to the public without charge on an online platform;

(c) test a participant of the program throughout the course to ensure the participant's understanding of the information presented; and

(d) generate a certificate of completion for an individual completing the full course.

(6) Completion of the program is mandatory for any employee of a sexually oriented business as defined in Sections 10-8-41.5 and 17-50-331.

(7) The Office of the Attorney General shall provide written notice to each county and municipality when development of the program is complete and the program is accessible to the public.