

CONFERENCE COMMITTEE REPORT

HB 830

2018 Regular Session

Stokes

May 17, 2018

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 830 by Representative Stokes, recommend the following concerning the Reengrossed bill:

1. That the set of Senate Committee Amendments by the Committee on Labor and Industrial Relations (#4008) be rejected.
2. That the set of Senate Floor Bureau Amendments by Senator Riser (#4255) be rejected.
3. That the set of Senate Floor Amendments by Senator Johns (#4215) be rejected.
4. That the following amendments to the Reengrossed bill be adopted:

AMENDMENT NO. 1

On page 3, delete lines 8 through 22 and insert the following:

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

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

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

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

AMENDMENT NO. 2

On page 3, line 23, change "(9)" to "(10)"

AMENDMENT NO. 3

On page 3, between lines 27 and 28, insert the following:

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

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

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

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

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

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

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

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

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

(iv) Masturbation.

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

AMENDMENT NO. 4

On page 3, line 28, after "Employee" insert "and independent contractor"

AMENDMENT NO. 5

On page 4, line 11, after "number" and before the period ":" insert "or taxpayer identification number"

AMENDMENT NO. 6

On page 5, line 7, after "location" delete the comma " , "

Respectfully submitted,

Representative Julie Stokes

Senator Neil Riser

Representative Patrick Jefferson

Senator Ronnie Johns

Representative Barry Ivey

Senator Regina Barrow

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)]

CONFERENCE COMMITTEE REPORT DIGEST

HB 830

2018 Regular Session

Stokes

Keyword and oneliner of the instrument as it left the House

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

Report rejects Senate amendments which would have:

1. Required that an employee present an Internal Revenue Service form W-2 for employment eligibility verification.
2. Changed the documents required for work eligibility verification.
3. Changed and added certain definitions.

Report amends the bill to:

1. Make technical changes.
2. Clarify definitions.
3. Restore federal work eligibility documentation requirements for age and work status verification.
4. Retain the nature of the Senate amendments which change the definitions to "employee", "independent contractor", and "operator" and add definitions of "nudity", "seminudity", "specified anatomical area", and "specified sexual activity", while rejecting the actual amendments in order to make technical changes.

Digest of the bill as proposed by the Conference Committee

Proposed law defines the term sexually oriented business as well as the various types of sexually oriented businesses. Proposed law further provides definitions to certain terms that arise in proposed law regarding activity, performance, or presentation in certain sexually oriented businesses.

Proposed law provides that, for purposes of proposed law, an employee is defined as any individual who is employed by a sexually oriented business for remuneration pursuant to any contract for hire but does not include an independent contractor.

Proposed law defines independent contractor as an individual who enters into a contract to perform services for a sexually oriented business on a non-exclusive basis.

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 or taxpayer identification 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)