

AN ACT

relating to sexually oriented businesses, including a requirement to participate in the federal electronic verification of employment authorization program, or E-verify, and restricting the age of persons employed by or allowed on the premises; creating criminal offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 51.016, Labor Code, is amended by amending Subsections (a), (b), (c), (d), (e), (h), and (i) and adding Subsection (j) to read as follows:

(a) In this section:

(1) "E-verify program" has the meaning assigned by Section 673.001, Government Code.

(2) "Sexually~~ly~~, ~~sexually~~ oriented business" has the meaning assigned by Section 243.002, Local Government Code.

(b) A sexually oriented business may not employ or enter into a contract, other than a contract described by Subsection (g), for the performance of work or the provision of a service with an individual younger than 21 [18] years of age.

(c) A sexually oriented business shall:

(1) maintain at the business a record that contains a copy of a valid proof of identification of each employee and ~~or~~ independent contractor working at the premises of the business; and

(2) register and participate in the E-verify program

1 to verify information of all employees and independent contractors.

2 (d) A proof of identification satisfies the requirements of
3 Subsection (c)(1) [~~(c)~~] if the identification:

4 (1) contains a physical description and photograph
5 consistent with the person's appearance;

6 (2) contains the date of birth of the person; and

7 (3) was issued by a government agency.

8 (e) The form of identification under Subsection (c)(1)
9 [~~(c)~~] may include:

10 (1) a driver's license issued by this state or another
11 state;

12 (2) a passport; or

13 (3) an identification card issued by this or another
14 state or the federal government.

15 (h) The commission, the attorney general, or a [~~local~~] law
16 enforcement agency may inspect a record maintained under this
17 section and request proof of E-verify program information
18 verification if there is good reason to believe that an individual
19 younger than 21 [~~18~~] years of age is employed or has been employed
20 by, or has entered into a contract, other than a contract described
21 by Subsection (g), for the performance of work or the provision of a
22 service with, the sexually oriented business within the five [~~two~~]
23 years preceding the date of the inspection.

24 (i) A person commits an offense if the person:

25 (1) fails to maintain a record as required by this
26 section; [~~or~~]

27 (2) knowingly or intentionally hinders an inspection

1 authorized under Subsection (h); or

2 (3) violates Subsection (b).

3 (j) A person commits an offense if the person fails to
4 register and participate in the E-verify program as required by
5 Subsection (c)(2).

6 SECTION 2. Chapter 106, Alcoholic Beverage Code, is amended
7 by adding Section 106.17 to read as follows:

8 Sec. 106.17. PRESENCE OR EMPLOYMENT OF CERTAIN PERSONS AT
9 PERMITTED OR LICENSED PREMISES OPERATING AS SEXUALLY ORIENTED
10 BUSINESS. (a) An individual younger than 18 years of age may not be
11 on premises covered by a permit or license issued under this code if
12 a sexually oriented business, as defined by Section 243.002, Local
13 Government Code, operates on the premises.

14 (b) The holder of a permit or license covering a premises
15 described by Subsection (a) may not:

16 (1) knowingly or recklessly allow an individual
17 younger than 18 years of age to be on the premises; or

18 (2) enter into a contract, other than a contract
19 described by Section 51.016(g), Labor Code, with an individual
20 younger than 21 years of age for the performance of work or the
21 provision of a service on the premises.

22 (c) Notwithstanding any other provision of this code, if it
23 is found, after notice and hearing, that a permittee or licensee has
24 violated Subsection (b) the commission or administrator shall:

25 (1) suspend the permit or license for 30 days for the
26 first violation;

27 (2) suspend the permit or license for 60 days for the

1 second violation; and

2 (3) cancel the permit or license for the third
3 violation.

4 SECTION 3. Subchapter A, Chapter 102, Business & Commerce
5 Code, is amended by adding Section 102.0031 to read as follows:

6 Sec. 102.0031. PROHIBITION ON CERTAIN ACTIVITIES BY
7 BUSINESS IN RELATION TO A CHILD. A sexually oriented business may
8 not allow an individual younger than 18 years of age to enter the
9 premises of the business.

10 SECTION 4. Section 102.004(a), Business & Commerce Code, is
11 amended to read as follows:

12 (a) The attorney general or appropriate district or county
13 attorney, in the name of the state, may bring an action for an
14 injunction or other process against a person who violates or
15 threatens to violate Section 102.002, ~~[or]~~ 102.003, or 102.0031.

16 SECTION 5. Section 102.005(b), Business & Commerce Code, is
17 amended to read as follows:

18 (b) A sexually oriented business commits an offense if the
19 business violates Section 102.003 or 102.0031.

20 SECTION 6. Section 125.0015(a), Civil Practice and Remedies
21 Code, is amended to read as follows:

22 (a) A person who maintains a place to which persons
23 habitually go for the following purposes and who knowingly
24 tolerates the activity and furthermore fails to make reasonable
25 attempts to abate the activity maintains a common nuisance:

26 (1) discharge of a firearm in a public place as
27 prohibited by the Penal Code;

- 1 (2) reckless discharge of a firearm as prohibited by
2 the Penal Code;
- 3 (3) engaging in organized criminal activity as a
4 member of a combination as prohibited by the Penal Code;
- 5 (4) delivery, possession, manufacture, or use of a
6 substance or other item in violation of Chapter 481, Health and
7 Safety Code;
- 8 (5) gambling, gambling promotion, or communicating
9 gambling information as prohibited by the Penal Code;
- 10 (6) prostitution, promotion of prostitution, or
11 aggravated promotion of prostitution as prohibited by the Penal
12 Code;
- 13 (7) compelling prostitution as prohibited by the Penal
14 Code;
- 15 (8) commercial manufacture, commercial distribution,
16 or commercial exhibition of obscene material as prohibited by the
17 Penal Code;
- 18 (9) aggravated assault as described by Section 22.02,
19 Penal Code;
- 20 (10) sexual assault as described by Section 22.011,
21 Penal Code;
- 22 (11) aggravated sexual assault as described by Section
23 22.021, Penal Code;
- 24 (12) robbery as described by Section 29.02, Penal
25 Code;
- 26 (13) aggravated robbery as described by Section 29.03,
27 Penal Code;

- 1 (14) unlawfully carrying a weapon as described by
2 Section 46.02, Penal Code;
- 3 (15) murder as described by Section 19.02, Penal Code;
- 4 (16) capital murder as described by Section 19.03,
5 Penal Code;
- 6 (17) continuous sexual abuse of young child or
7 children as described by Section 21.02, Penal Code;
- 8 (18) massage therapy or other massage services in
9 violation of Chapter 455, Occupations Code;
- 10 (19) employing or entering into a contract for the
11 performance of work or the provision of a service with an individual
12 younger than 21 years of age for work or services performed [a
13 ~~minor~~] at a sexually oriented business as defined by Section
14 243.002, Local Government Code;
- 15 (20) trafficking of persons as described by Section
16 20A.02, Penal Code;
- 17 (21) sexual conduct or performance by a child as
18 described by Section 43.25, Penal Code;
- 19 (22) employment harmful to a child as described by
20 Section 43.251, Penal Code;
- 21 (23) criminal trespass as described by Section 30.05,
22 Penal Code;
- 23 (24) disorderly conduct as described by Section 42.01,
24 Penal Code;
- 25 (25) arson as described by Section 28.02, Penal Code;
- 26 (26) criminal mischief as described by Section 28.03,
27 Penal Code, that causes a pecuniary loss of \$500 or more; [~~or~~]

1 (27) a graffiti offense in violation of Section 28.08,
2 Penal Code; or

3 (28) permitting an individual younger than 18 years of
4 age to enter the premises of a sexually oriented business as defined
5 by Section 243.002, Local Government Code.

6 SECTION 7. Section 51.031(b), Labor Code, is amended to
7 read as follows:

8 (b) An offense under Section 51.014(d), ~~[or Section]~~
9 51.0145, or 51.016(i)(3) is a Class A misdemeanor.

10 SECTION 8. Section 43.251(a)(1), Penal Code, is amended to
11 read as follows:

12 (1) "Child" means a person younger than 21 ~~[18]~~ years
13 of age.

14 SECTION 9. The changes in law made by this Act apply only to
15 an offense committed on or after the effective date of this Act. An
16 offense committed before the effective date of this Act is governed
17 by the law in effect on the date the offense was committed, and the
18 former law is continued in effect for that purpose. For purposes of
19 this section, an offense was committed before the effective date of
20 this Act if any element of the offense was committed before that
21 date.

22 SECTION 10. Section 51.016(c)(2), Labor Code, as added by
23 this Act, applies only to an employee of a sexually oriented
24 business who commences employment with the business on or after the
25 effective date of this Act.

26 SECTION 11. This Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 766 passed the Senate on April 20, 2021, by the following vote: Yeas 31, Nays 0; May 27, 2021, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 28, 2021, House granted request of the Senate; May 30, 2021, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 766 passed the House, with amendments, on May 25, 2021, by the following vote: Yeas 144, Nays 0, one present not voting; May 28, 2021, House granted request of the Senate for appointment of Conference Committee; May 30, 2021, House adopted Conference Committee Report by the following vote: Yeas 142, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor