

8421

2015-2016 Regular Sessions

I N A S S E M B L Y

October 9, 2015

Introduced by M. of A. ORTIZ, RIVERA, BENEDETTO, JAFFEE, COOK, ROBINSON,
CLARK, HOOPER, COLTON -- read once and referred to the Committee on
Labor

AN ACT to amend the labor law, in relation to protecting persons includ-
ing those employed at adult entertainment establishments from becoming
victims of severe forms of human trafficking

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "dance performer registration act".
3 S 2. Legislative findings. Although there are believed to be tens or
4 even hundreds of thousands of trafficking victims in the United States,
5 less than one out of a thousand have been identified since human traf-
6 ficking was made a federal crime in 2000. Therefore, there is an immedi-
7 ate need to end human trafficking in the United States by identifying
8 victims and monitoring places that are suspected of participating in
9 severe forms of trafficking. Victims of sex trafficking may work at
10 places where commercial sexual exploitation occurs. The purpose of this
11 act is to ensure and prevent dance performers from becoming victims of
12 involuntary servitude or prostitution.
13 S 3. The labor law is amended by adding a new article 4-B to read as
14 follows:

15 ARTICLE 4-B

16 DANCE PERFORMER REGISTRATION

17 SECTION 156. DEFINITIONS.

18 157. DANCE PERFORMER PERMIT.

19 158. DANCE PERFORMER PERMIT REGISTRY.

20 159. PENALTIES.

21 S 156. DEFINITIONS. WHEREVER USED IN THIS ARTICLE:

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD04088-01-5

1 1. "ADULT ENTERTAINMENT ESTABLISHMENT" SHALL MEAN ANY PERSON, CORPO-
2 RATION, PARTNERSHIP, OR OTHER BUSINESS ESTABLISHMENT WITH A LICENSE TO
3 SELL ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES AND/OR FOOD FOR
4 CONSUMPTION ON THE PREMISES, WHICH FEATURES DANCERS THAT ARE DISPLAYED
5 IN SUCH MANNER OR ATTIRE AS TO EXPOSE TO VIEW ANY PORTION OF THE PUBIC
6 AREA, ANUS, VULVA OR GENITALS, OR ANY SIMULATION THEREOF, OR PERMIT ANY
7 FEMALE TO APPEAR IN SUCH MANNER OR ATTIRE AS TO EXPOSE TO VIEW ANY
8 PORTION OF THE BREAST BELOW THE TOP OF THE AREOLA.

9 2. "SEVERE FORMS OF TRAFFICKING" MEANS EITHER SEX TRAFFICKING IN
10 WHICH A PERSON IS FORCED TO PERFORM A COMMERCIAL SEX ACT OR THE RECRUIT-
11 MENT, HARBORING, TRANSPORTATION, OR OBTAINING OF A PERSON FOR LABOR OR
12 SERVICES, THROUGH THE USE OF FORCE, FRAUD OR COERCION FOR THE PURPOSE OF
13 SUBJECTION TO INVOLUNTARY SERVITUDE, DEBT BONDAGE OR SLAVERY.

14 3. "SEX TRAFFICKING" MEANS THE RECRUITMENT, HARBORING, TRANSPORTATION
15 OR OBTAINMENT OF A PERSON USING FORCE, FRAUD OR COERCION FOR THE PURPOSE
16 OF A COMMERCIAL SEX ACT.

17 4. "COMMERCIAL SEX ACT" MEANS ANY SEXUAL CONDUCT, PERFORMANCE OR ACT
18 CONTINGENT UPON PAYMENT.

19 5. "SEXUALLY ORIENTED BUSINESS" MEANS A NIGHTCLUB, BAR, RESTAURANT, OR
20 SIMILAR COMMERCIAL ENTERPRISE THAT:

21 (A) PROVIDES FOR AN AUDIENCE OF TWO OR MORE INDIVIDUALS LIVE NUDE
22 ENTERTAINMENT OR LIVE NUDE PERFORMANCES; AND

23 (B) AUTHORIZES ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES.

24 S 157. DANCE PERFORMER PERMIT. 1. ON OR BEFORE JANUARY FIRST, TWO
25 THOUSAND SEVENTEEN, THE COMMISSIONER SHALL BE REQUIRED TO DEVELOP A
26 DANCE PERFORMER PERMIT PROGRAM AND SHALL REQUIRE THE REGISTRATION OF
27 DANCE PERFORMERS EMPLOYED BY ADULT ENTERTAINMENT ESTABLISHMENTS.

28 2. A DANCE PERFORMER EMPLOYED BY AN ADULT ENTERTAINMENT ESTABLISHMENT
29 SHALL BE REQUIRED TO HAVE A DANCE PERFORMER PERMIT AS SPECIFIED IN
30 SUBDIVISION FOUR OF THIS SECTION.

31 3. A DANCE PERFORMER PERMIT SHALL BE VALID FOR THREE YEARS FROM THE
32 DATE OF ISSUANCE. A DANCE PERFORMER PERMIT SHALL BE ACCOMPANIED BY A
33 FEE DETERMINED BY THE COMMISSIONER IN AN AMOUNT SUFFICIENT TO DEFRAY THE
34 DEPARTMENT'S COSTS OF ADMINISTERING THE PERMIT PROGRAM, PROVIDED, THAT
35 SUCH FEE SHALL NOT EXCEED TWENTY-FIVE DOLLARS FOR INITIAL REGISTRATION
36 OR FIFTEEN DOLLARS FOR RENEWAL.

37 4. AN APPLICATION FOR A DANCE PERFORMER PERMIT SHALL BE MADE ON A FORM
38 PRESCRIBED BY THE DEPARTMENT, AND SHALL CONTAIN SUCH MATTERS AS THE
39 COMMISSIONER MAY DEEM TO BE NECESSARY, INCLUDING BUT NOT LIMITED TO THE
40 FOLLOWING:

41 (A) THE LEGAL AND STAGE NAME, IF ANY, OF THE DANCE PERFORMER;

42 (B) THE DANCE PERFORMER'S SOCIAL SECURITY NUMBER;

43 (C) EMPLOYER INFORMATION, INCLUDING BUT NOT LIMITED TO, EMPLOYER NAME;
44 TYPE OF BUSINESS; EMPLOYER'S FEDERAL EMPLOYER IDENTIFICATION NUMBER;
45 PERMANENT AND MAILING ADDRESS; AND PHONE NUMBER; AND

46 (D) PROOF OF UNITED STATES CITIZENSHIP OR QUALIFIED ALIEN STATUS AS
47 DEFINED IN SUBPARAGRAPH (II) OF PARAGRAPH (C) OF SUBDIVISION ONE OF
48 SECTION ONE HUNDRED TWENTY-TWO OF THE SOCIAL SERVICES LAW.

49 S 158. DANCE PERFORMER PERMIT REGISTRY. 1. ON OR BEFORE JANUARY FIRST,
50 TWO THOUSAND SEVENTEEN, THE DEPARTMENT SHALL DEVELOP A REGISTRY CONTAIN-
51 ING DANCE PERFORMER PERMITS FOR ADULT ENTERTAINMENT ESTABLISHMENTS FOR
52 THE EMPLOYMENT OF DANCE PERFORMERS. NAMES OF PERMIT HOLDERS SHALL BE
53 PURGED UPON THE EXPIRATION WITHOUT RENEWAL OF SUCH PERMIT. A PERMIT
54 HOLDER MAY VOLUNTARILY RELINQUISH A DANCE PERFORMER PERMIT AND MAY
55 REQUEST THAT HIS OR HER NAME AND PERMIT INFORMATION BE REMOVED FROM THE
56 REGISTRY.

1 2. AN OWNER OR SUPERVISOR OF AN ADULT ENTERTAINMENT ESTABLISHMENT
2 SHALL KEEP ON FILE ON THE PREMISES A COPY OF ALL DANCE PERFORMER
3 PERMITS. SUCH FILES SHALL BE AVAILABLE AT ALL TIMES TO THE DEPARTMENT,
4 BUT SHALL BE KEPT CONFIDENTIAL AND SHALL NOT BE MADE AVAILABLE TO ANY
5 OTHER PERSON EXCEPT PURSUANT TO A COURT ORDER. PERMITS ON FILE SHALL BE
6 PURGED BY AN EMPLOYER THREE YEARS AFTER A PERFORMER TERMINATES EMPLOY-
7 MENT.

8 S 159. PENALTIES. 1. IF AN OWNER OF AN ADULT ENTERTAINMENT ESTABLISH-
9 MENT HAS BEEN CONVICTED OF VIOLATING ANY PROVISION OF THIS ARTICLE OR
10 ANY RULE OR REGULATION PROMULGATED THEREAFTER, THE DEPARTMENT SHALL
11 ASSESS THE OWNER A CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS
12 FOR THE FIRST SUCH VIOLATION AND NOT MORE THAN TWO THOUSAND DOLLARS FOR
13 A SECOND SUBSEQUENT VIOLATION. SUCH PENALTY SHALL BE PAID TO THE DEPART-
14 MENT FOR DEPOSIT IN THE TREASURY OF THE STATE. IN ASSESSING THE AMOUNT
15 OF THE PENALTY, THE DEPARTMENT SHALL GIVE DUE CONSIDERATION TO THE SIZE
16 OF THE EMPLOYER'S BUSINESS, THE HISTORY OF PREVIOUS VIOLATIONS AND THE
17 FAILURE TO COMPLY WITH RECORD-KEEPING OR OTHER REQUIREMENTS.

18 2. IF CONVICTED OF A VIOLATION OF THIS ARTICLE UNPERMITTED DANCE
19 PERFORMERS SHALL BE LIABLE FOR A CIVIL PENALTY OF NOT MORE THAN TWENTY
20 DOLLARS FOR THE FIRST SUCH VIOLATION AND NOT MORE THAN FIFTY DOLLARS FOR
21 A SECOND SUBSEQUENT VIOLATION. SUCH PENALTY SHALL BE PAID TO THE DEPART-
22 MENT FOR DEPOSIT IN THE TREASURY OF THE STATE. UNPERMITTED DANCE
23 PERFORMERS FOUND TO BE VICTIMS OF SEVERE FORMS OF TRAFFICKING SHALL NOT
24 BE FINED A CIVIL PENALTY.

25 S 4. The department of labor shall enforce all provisions of article
26 4-B of the labor law, as added by section three of this act, and shall
27 work with any state and local agencies or departments with any regulato-
28 ry authority over adult entertainment establishments as defined in such
29 article 4-B, to provide notice to such establishments of the registra-
30 tion and permit requirements set forth in this act.

31 S 5. This act shall take effect immediately.