

## HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

**BILL #:** HB 7063 PCB JDC 24-01 Anti-human Trafficking

**SPONSOR(S):** Judiciary Committee, Overdorf and others

**TIED BILLS:** IDEN./SIM. BILLS: CS/CS/CS/SB 796

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**FINAL HOUSE FLOOR ACTION:** 104 Y's 3 N's **GOVERNOR'S ACTION:** Approved

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### SUMMARY ANALYSIS

HB 7063 passed the House on February 22, 2024. The bill was amended in the Senate on March 5, 2024, and returned to the House. The House concurred in the Senate amendment and subsequently passed the bill as amended on March 8, 2024. The bill includes portions of CS/HB 1379.

Human trafficking is a form of modern day slavery which involves the transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, purchasing, patronizing, procuring, or obtaining of another person for the purpose of exploiting that person. Section 16.617, F.S., creates the Statewide Council on Human Trafficking (Council), within the Department of Legal Affairs (DLA), to enhance the development and coordination of state and local law enforcement and social services responses to fight commercial sexual exploitation as a form of human trafficking and to support victims. Section 16.618, F.S., requires DLA to establish a direct-support organization (DSO) to provide assistance, funding, and support to the Council. Authorization for the DSO expires on October 1, 2024, unless reviewed and saved from repeal by the Legislature.

Sections 394.875, 456.0341, 480.043, 509.096, and 787.29, F.S., require various entities to implement procedures to report suspected human trafficking and to display human trafficking awareness signs. The signs must contain the telephone number for the National Human Trafficking Hotline or such other number that the Florida Department of Law Enforcement uses to detect and stop human trafficking.

Section 562.13, F.S., prohibits any licensed alcohol vendor to employ a person under 18 years of age, with certain exceptions. However, a minor to whom these exceptions otherwise apply may not be employed if the employment involves nudity on the part of the minor and such nudity is intended as a form of adult entertainment.

The bill amends s. 16.618, F.S., to extend the statutory authorization for the DSO until October 1, 2029, at which time s. 16.618, F.S., will be repealed unless reviewed and saved from repeal by the Legislature.

The bill also amends ss. 394.875, 456.0341, 480.043, 509.096, and 787.29, F.S., to modify the requirements for human trafficking reporting procedures and awareness signs from requiring the National Human Trafficking Hotline number to be utilized to requiring the Florida Human Trafficking Hotline number to be utilized. The bill amends ss. 456.0341, 480.043, and 509.096, F.S., to require the update to human trafficking awareness signs to be completed and updated signage to be posted by January 1, 2025.

The bill amends s. 787.06, F.S., to require a nongovernmental entity to provide an affidavit attesting that the nongovernmental entity does not use coercion for labor or services, when executing, renewing, or extending a contract with a governmental entity.

The bill creates s. 787.30, F.S., to prohibit an owner, manager, employee, or contractor of an adult entertainment establishment from knowingly employing, contracting with, or contracting with another person to employ, or otherwise permitting a person under the age of 21 years to perform or work in any capacity at an adult entertainment establishment as a first-degree misdemeanor; or to perform or work *while nude* in an adult entertainment establishment, as a second-degree felony.

The bill amends s. 562.13, F.S., to prohibit a minor who may otherwise meet an exception to work for an alcohol vendor from being employed by an adult entertainment establishment.

The bill may have an indeterminate fiscal impact on state, local government, and private entities. See Fiscal Analysis.

The bill was approved by the Governor on May 13, 2024, ch. 2024-184, L.O.F., and will become effective on July 1, 2024.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h7063z1.DOCX

**DATE:** 5/15/2024

# I. SUBSTANTIVE INFORMATION

## A. EFFECT OF CHANGES:

### Background

#### Human Trafficking

Human trafficking is a form of modern day slavery which involves the transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, purchasing, patronizing, procuring, or obtaining of another person for the purpose of exploiting that person.<sup>1</sup> A person may not knowingly, or in reckless disregard of the facts, engage in human trafficking, attempt to engage in human trafficking, or benefit financially by receiving anything of value from participating in a venture that has subjected a person to human trafficking for commercial sexual activity, labor, or services:

- By using coercion;<sup>2</sup>
- With or of a child or person believed to be a child younger than 18;<sup>3</sup> or
- If for commercial sexual activity, with a mentally defective<sup>4</sup> or mentally incapacitated<sup>5</sup> person.<sup>6</sup>

“Coercion” includes:

- Using or threatening to use force against a person.
- Restraining, isolating, or confining a person without lawful authority and against his or her will, or threatening to do so.
- Using lending or other credit methods to establish a debt by a person when labor or services are pledged as a security for the debt, if the reasonably assessed value of the labor or services is not applied toward the liquidation of the debt.
- Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, other immigration document, or government identification document.
- Causing or threatening to cause financial harm.
- Enticing or luring a person by fraud or deceit.
- Providing a Schedule I or II controlled substance<sup>7</sup> to a person for the purpose of exploiting that person.<sup>8</sup>

#### Statewide Council on Human Trafficking

Section 16.617, F.S., creates the Statewide Council on Human Trafficking (Council), within the Department of Legal Affairs (DLA), to enhance the development and coordination of state and local law enforcement and social services responses to fight commercial sexual exploitation as a form of human trafficking and to support victims. The Council is tasked with:

- Developing recommendations for human trafficking victim programs and services, including recommendations for certification criteria for safe houses and safe foster homes.
- Assessing the frequency and extent to which social media platforms are used to assist, facilitate, or support human trafficking within this state; establishing a process to detect such use on a consistent basis; and making recommendations on how to stop, reduce, or prevent social media platforms from being used for such purposes.

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<sup>1</sup> S. 787.06(2)(d), F.S.

<sup>2</sup> Ss. 787.06(3)(a)2., (b), (c)2., (d), (e)2., and (f)2., F.S.

<sup>3</sup> Ss. 787.06(3)(a)1., (c)1., (e)1., (f)1., and (g), F.S.

<sup>4</sup> Mentally defective means a mental disease or defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct. S. 794.011(1)(c), F.S.

<sup>5</sup> Mentally incapacitated means temporarily incapable of appraising or controlling a person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent or due to any other act committed upon that person without his or her consent. S. 794.011(1)(d), F.S.

<sup>6</sup> S. 787.06(3)(g), F.S.

<sup>7</sup> S. 893.03, F.S.

<sup>8</sup> S. 787.06(2)(a), F.S.

- Making recommendations for apprehending and prosecuting traffickers and enhancing coordination of responses.
- Annually holding a statewide policy summit.
- Working with the Department of Children and Families (DCF) to create and maintain an inventory of human trafficking programs and services in each county.
- Developing policy recommendations that advance the duties of the Council and further the efforts to combat human trafficking in the state.<sup>9</sup>

Membership on the Council includes:

- The Attorney General, or a designee, serving as chair.
- The Secretary of Children and Families, or a designee, serving as vice chair.
- The State Surgeon General, or a designee.
- The Secretary of Health Care Administration, or a designee.
- The executive director of the Department of Law Enforcement, or a designee.
- The Secretary of Juvenile Justice, or a designee.
- The Commissioner of Education, or a designee.
- One member of the Senate appointed by the President of the Senate.
- One member of the House of Representatives appointed by the Speaker of the House of Representatives.
- An elected sheriff appointed by the Attorney General.
- An elected state attorney appointed by the Attorney General.
- Two members appointed by the Governor, and two members appointed by the Attorney General, who have professional experience to assist the Council in the development of care and treatment options for human trafficking victims.<sup>10</sup>

#### Direct-support Organization- Florida Alliance to End Human Trafficking

Section 16.618, F.S., requires DLA to establish a direct-support organization (DSO) to provide assistance, funding, and support to the Council. The DSO incorporated in 2019 as the Florida Alliance to End Human Trafficking.<sup>11</sup> The DSO is statutorily required to be:

- A Florida not for profit corporation, incorporated under chapter 617, and approved by the Secretary of State;
- Organized and operated exclusively to conduct programs and activities; solicit funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, property and funds; and make expenditures to or for the direct or indirect benefit of the Council;<sup>12</sup> and
- Certified by DLA, after review, to be operating in a manner consistent with the purposes of the DSO and in the best interests of the state.<sup>13</sup>

The DSO's board of directors must be thirteen members, including:

- Two members appointed by the executive director of the Florida Department of Law Enforcement (FDLE), both of whom must have law enforcement backgrounds with experience and knowledge in the area of human trafficking.
- Three members appointed by the Attorney General:
  - One of whom must be a human trafficking survivor.
  - One of whom must be a mental health expert.
- Four members appointed by the President of the Senate.

<sup>9</sup> S. 16.617(4), F.S.

<sup>10</sup> S. 16.617(2), F.S.

<sup>11</sup> Florida Alliance to End Human Trafficking, 2019-2020 Annual Report, [https://www.floridaallianceendht.com/wp-content/uploads/2022/10/2019-2020-Annual-Report\\_FINAL.pdf](https://www.floridaallianceendht.com/wp-content/uploads/2022/10/2019-2020-Annual-Report_FINAL.pdf) (last visited Mar. 11, 2024).

<sup>12</sup> S. 16.618(8)(a), F.S.

<sup>13</sup> S. 16.618(1), F.S.

- Four members appointed by the Speaker of the House of Representatives.<sup>14</sup>

The DSO in conjunction with the Council is required to form strategic partnerships to foster the development of community and private sector resources to advance the goals of the Council.<sup>15</sup>

Authorization for the DSO expires on October 1, 2024, unless reviewed and saved from repeal by the Legislature.<sup>16</sup>

### Human Trafficking Reporting Procedures and Awareness

Sections 394.875, 456.0341, 480.043, 509.096, and 787.29, F.S., require various entities to implement procedures to report suspected human trafficking and to display human trafficking awareness signs.

Section 394.875, F.S., requires residential treatment centers for children and adolescents<sup>17</sup> to conspicuously place signs on their premises to warn children and adolescents of the dangers of human trafficking and to encourage the reporting of individuals observed attempting to engage in human trafficking activity. The signs must contain the telephone number for the National Human Trafficking Hotline or such other number that FDLE uses to detect and stop human trafficking.<sup>18, 19</sup>

Section 456.0341, F.S., requires each person licensed or certified in the following professions to post a human trafficking awareness sign<sup>20</sup> in their place of work in a conspicuous place accessible to employees:<sup>21</sup>

- Acupuncture;<sup>22</sup>
- Medical practice;<sup>23</sup>
- Osteopathic medicine;<sup>24</sup>
- Chiropractic medicine;<sup>25</sup>
- Podiatric medicine;<sup>26</sup>
- Optometry;<sup>27</sup>
- Pharmacy;<sup>28</sup>
- Dentistry, dental hygiene, and dental laboratories;<sup>29</sup>
- Nursing home administration;<sup>30</sup>
- Occupational therapy;<sup>31</sup>
- Respiratory therapy;<sup>32</sup>

<sup>14</sup> S. 16.618(3), F.S.

<sup>15</sup> S. 16.618(5), F.S.

<sup>16</sup> S. 16.618(12), F.S.

<sup>17</sup> “Residential treatment center for children and adolescents” means a 24-hour residential program, including a therapeutic group home, which provides mental health services to emotionally disturbed children or adolescents and which is a private for-profit or not-for-profit corporation licensed by the Agency for Health Care Administration which offers a variety of treatment modalities in a more restrictive setting. S. 394.67(22), F.S.

<sup>18</sup> S. 394.875(8)(b), F.S.

<sup>19</sup> FDLE hosts the Florida Human Trafficking Hotline (1-855-FLA-SAFE/1-855-352-7233) as a resource for the public to report suspected human trafficking. FDLE, *Florida Human Trafficking Hotline*, <https://www.fdle.state.fl.us/Florida-Human-Trafficking-Hotline.aspx> (last visited Mar. 11, 2024).

<sup>20</sup> The sign must be at least 11 inches by 15 inches in size, printed in a clearly legible font and in at least a 32-point type, in English and Spanish. *Id.*

<sup>21</sup> S. 456.0341(3), F.S.

<sup>22</sup> Ch. 457, F.S.

<sup>23</sup> Ch. 458, F.S.

<sup>24</sup> Ch. 459, F.S.

<sup>25</sup> Ch. 460, F.S.

<sup>26</sup> Ch. 461, F.S.

<sup>27</sup> Ch. 463, F.S.

<sup>28</sup> Ch. 465, F.S.

<sup>29</sup> Ch. 466, F.S.

<sup>30</sup> Ch. 468, pt. II, F.S.

<sup>31</sup> Ch. 468, pt. III, F.S.

<sup>32</sup> Ch. 468, pt. V, F.S.

- Dietetics and nutrition practice;<sup>33</sup>
- Massage therapy practice;<sup>34</sup> and
- Physical therapy practice.<sup>35</sup>

Section 480.043, F.S., requires massage establishments<sup>36</sup> to implement a procedure for reporting suspected human trafficking to the National Human Trafficking Hotline or to a local law enforcement agency and post a sign with the relevant provisions of the reporting procedure in a conspicuous place in the establishment which is accessible to employees.<sup>37</sup>

Section 509.096, F.S., requires a public lodging establishment<sup>38</sup> to implement a procedure for the reporting of suspected human trafficking to the National Human Trafficking Hotline or to a local law enforcement agency.<sup>39</sup> Additionally, all such establishments are required to post a human trafficking public awareness sign<sup>40</sup> in a conspicuous location in the establishment which is accessible to all employees.<sup>41</sup>

Section 787.29, F.S., requires the Department of Transportation and several types of businesses which may encounter human trafficking activity to display human trafficking public awareness signs<sup>42</sup> as follows:

- Rest areas, turnpike service plazas, weigh stations, primary airports, passenger rail stations, and welcome centers.<sup>43</sup>
- Emergency rooms at general acute care hospitals.<sup>44</sup>
- Strip clubs and other adult entertainment establishments.<sup>45</sup>
- Businesses or establishments that offer massage or bodywork services for compensation that are not owned by health care practitioners.<sup>46</sup>

The human trafficking awareness signs required under ss. 456.0341, 509.096, and 787.29, F.S., must state substantially the following:<sup>47</sup>

If you or someone you know is being forced to engage in an activity and cannot leave, whether it is prostitution, housework, farm work, factory work, retail work, restaurant work, or any other activity, call the National Human Trafficking Resource Center at 888-373-7888 or text INFO or HELP to 233-733 to access help and services. Victims of slavery and human trafficking are protected under United States and Florida law.

The National Human Trafficking Hotline (1-888-373-7888) is a national, toll-free hotline, available to answer calls, texts, emails, and live chats from anywhere in the United States, 24 hours a day, 7 days a

<sup>33</sup> Ch. 468, pt. X, F.S.

<sup>34</sup> Ch. 480, F.S.

<sup>35</sup> Ch. 486, F.S.

<sup>36</sup> A "massage establishment" means a site or premises, or portion thereof, wherein a massage therapist practices massage therapy. S. 480.033(7), F.S.

<sup>37</sup> S. 480.043(13), F.S.

<sup>38</sup> A "public lodging establishment" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is either considered transient and rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less; or which is considered nontransient and is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less. S. 509.013(4), F.S.

<sup>39</sup> S. 509.096(1)(b), F.S.

<sup>40</sup> The sign must be at least 11 inches by 15 inches in size, printed in easily legible font and in at least 32-point type, and printed in English and in Spanish and in any other language predominantly spoken in the area. S. 509.096(1)(c), F.S.

<sup>41</sup> S. 509.096(1)(c), F.S.

<sup>42</sup> The public awareness signs must be at least 8.5 inches by 11 inches in size, must be printed in at least 16-point type, and in English and Spanish. S. 787.29(4), F.S.

<sup>43</sup> S. 787.29(1), F.S.

<sup>44</sup> S. 787.29(2), F.S.

<sup>45</sup> S. 787.29(3)(a), F.S.

<sup>46</sup> S. 787.29(3)(b), F.S.

<sup>47</sup> Ss. 456.0341(3), 509.096(1)(c), and 787.29(4), F.S.

week, in more than 200 languages. The hotline connects human trafficking victims and survivors to critical support and services to get help and stay safe, including the opportunity to speak with specially-trained advocates. The Trafficking Hotline has been operated since 2007 by Polaris, a non-profit, non-governmental organization. The United States Department of Health and Human Services and other private donors and supporters provide funding for the hotline.<sup>48</sup>

In 2011, FDLE implemented the Florida “See Something, Say Something” Phone Line (1-855-FLA-SAFE/1-855-352-7233), which is a component of the national “If You See Something, Say Something” campaign.<sup>49</sup> This campaign operates in conjunction with the Nationwide Suspicious Activity Reporting Initiative. FDLE hosts both the Florida “See Something, Say Something” phone line as well as a web portal that can be used by the public to report suspicious activities that may be indicative of pre-operational planning for terrorist activities or other criminal activities. The phone line is available to answer calls 24 hours a day, 7 days a week. In calendar year 2023, FDLE received 1,955 calls to this phone line. Beginning in 2023, FDLE expanded the scope of tips accepted through the Florida “See Something, Say Something” phone line (which may also be referred to as the Florida Human Trafficking Hotline) to include tips regarding suspected human trafficking activity. From January 10<sup>th</sup> through December 11<sup>th</sup>, 2023, the phone line received 181 human trafficking related calls.<sup>50</sup>

Florida law currently mandates the use of the National Human Trafficking Hotline number on human trafficking awareness signs required to be posted by specified entities; however, certain provisions of current law allow for some entities to display either the National Human Trafficking Hotline number, a number that FDLE uses to detect and stop human trafficking, or the number to a local law enforcement agency.

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<sup>48</sup> Polaris, *The National Human Trafficking Hotline*, <https://polarisproject.org/national-human-trafficking-hotline/> (last visited Mar. 11, 2024).

<sup>49</sup> The “If You See Something, Say Something” campaign was originally implemented by the New York Metropolitan Transportation Authority, who licensed the use of the slogan to the United States Department of Homeland Security in 2010 for the national “If You See Something, Say Something” campaign focused on anti-terrorism. United States Department of Homeland Security, *If You See Something, Say Something*® Campaign Overview, <https://www.dhs.gov/publication/if-you-see-something-say-something%E2%84%A2-campaign-overview#:~:text=The%20%22If%20You%20See%20Something%2C%20Say%20Something%20AE%22%20campaign,to%20DHS%20for%20anti-terrorism%20and%20anti-terrorism%20crime%20efforts>. (last visited Mar. 11, 2024).

<sup>50</sup> Email from Bobbie Smith, Director of Legislative Affairs, FDLE, Re: FL Human Trafficking Hotline (Feb. 5, 2024)(on file with the House Judiciary Committee).

## Florida's Child Labor Law

Florida's Department of Business and Professional Regulation's (DBPR) Division of Regulation enforces Florida's Child Labor Law<sup>51</sup> through its Child Labor Program<sup>52</sup> to provide a program of education, enforcement, and administrative initiatives designed to achieve full compliance in the enforcement of child labor laws and ensure the health, education and welfare of Florida's working minors."<sup>53</sup>

Section 450.061, F.S., prohibits minors under 18 years of age, regardless of whether such person's disabilities of nonage have been removed, from being employed, permitted, or suffered to work in any of the following places of employment or in any of the following occupations, with specified exceptions for student learners under certain conditions:

- In or around explosive or radioactive materials.
- On any scaffolding, roof, superstructure, residential or nonresidential building construction, or ladder above six feet.
- In or around toxic substances or corrosives, including pesticides or herbicides, unless proper field entry time allowances have been followed.
- Any mining occupation.
- In the operation of power-driven woodworking machines; hoisting apparatuses; metal forming, punching, or shearing machines; bakery machinery; or paper products and printing machines.
- Slaughtering, meat packing, processing, or rendering, except as provided in 29 C.F.R. s. 570.61(c).<sup>54</sup>
- Manufacturing brick, tile, and like products.
- Wrecking or demolition.
- Excavation operations.
- Logging or sawmilling.
- Working on electric apparatus or wiring.
- Firefighting.
- Operating or assisting to operate, including starting, stopping, connecting or disconnecting, feeding, or any other activity involving physical contact associated with operating, a tractor over 20 PTO horsepower, any trencher or earthmoving equipment, fork lift, or any harvesting, planting, or plowing machinery, or any moving machinery.<sup>55</sup>
- Any occupation hazardous or injurious to the life, health, safety, or welfare of such minor, as such places of employment or occupations may be determined and declared by the DBPR to be hazardous and injurious to the life, health, safety, or welfare of such minor.<sup>56</sup>

These restrictions do not apply to minors employed in the entertainment industry.<sup>57</sup>

Section 450.141, F.S., prohibits a person from violating the Child Labor Law or any order issued under the Child Labor Law; employing, permitting, or suffering any minor to be employed or to work in

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<sup>51</sup> See ss. 450.001-450.165, F.S.

<sup>52</sup> Section 450.155(1), F.S., provides that Child Labor Law program appropriations made by the Legislature must be used to carry out the proper responsibilities of administering the Child Labor Law, to protect the working youth of the state, and to provide education about the Child Labor Law to employers, public school employees, the general public, and working youth.

<sup>53</sup> DBPR, *Division of Regulation*, <http://www.myfloridalicense.com/DBPR/division-of-regulation/> (last visited Mar. 11, 2024); DBPR, *Child Labor*, <http://www.myfloridalicense.com/DBPR/child-labor/> (last visited Mar. 11, 2024).

<sup>54</sup> Exemptions apply to the killing and processing of rabbits or small game in areas physically separate from the killing floor and the employment of apprentices or student-learners under specified conditions. 29 C.F.R. §570.61(c).

<sup>55</sup> S. 450.061(2), F.S.

<sup>56</sup> S. 450.061(3), F.S.

<sup>57</sup> S. 450.061(4), F.S.; Section 450.012(5), F.S., defines "entertainment industry" to mean any group, entity, organization, or individual, in which the services of any minor are rendered in any capacity in conjunction with any motion picture, television, video, audio, theatrical, or still photography, using any format whether now existing or hereafter developed, including, but not limited to, theatrical film, commercial, documentary, television, radio, and/or cable, by any medium, whether now existing or hereafter developed, including theater, television, audiocassette, or videocassette; legitimate theaters or photography; recording; modeling; theatrical productions or publicity; rodeos; circuses; musical performances; or any other performances where minors perform.

violation of the Child Labor Law; or from obstructing persons authorized to inspect places of employment, as a second-degree misdemeanor. Additionally, each day during which any such violation continues constitutes a separate and distinct offense, and the employment of any minor in violation of the law, with respect to each minor so employed, constitutes a separate and distinct offense.<sup>58</sup>

Section 450.151, F.S., prohibits any person, as a second-degree felony, from:<sup>59</sup>

- Taking, receiving, hiring, employing, using, exhibiting, or, in any manner or under any pretense, causing or permitting any child less than 18 years of age to suffer;
- Inflicting upon any such child unjustifiable physical pain or mental suffering;
- Willfully causing or permitting the life of any such child to be endangered or his or her health to be injured or such child to be placed in such situation that his or her life may be endangered or health injured; or
- Having in his or her custody any such child for any of these purposes.

### Employment of a Minor by a Licensed Alcohol Vendor

In Florida, the Beverage Law<sup>60</sup> regulates the manufacture, distribution, and sale of alcoholic beverages<sup>61</sup> by manufacturers, distributors, and vendors.<sup>62</sup> DBPR's Division of Alcoholic Beverages and Tobacco supervises and enforces the Beverage Law.<sup>63</sup>

Since the repeal of Prohibition, regulation of alcohol in the United States has traditionally been based upon what is termed the "three-tier system." The system requires separation of the manufacture, distribution, and sale of alcoholic beverages. The manufacturer creates the beverages, the distributor obtains the beverages from the manufacturer and then delivers to the vendor, and the vendor makes the ultimate sale to the consumer.<sup>64</sup>

The license and registration classifications used in the Beverage Law include the following:

- "Manufacturers" are those "licensed to manufacture alcoholic beverages and distribute the same at wholesale to licensed distributors and to no one else within the state, unless authorized by statute."
- "Distributors" are those "licensed to sell and distribute alcoholic beverages at wholesale to persons who are licensed to sell alcoholic beverages."
- "Vendors" are those "licensed to sell alcoholic beverages at retail only" and may not "purchase or acquire in any manner for the purpose of resale any alcoholic beverages from any person not licensed as a vendor, manufacturer, bottler, or distributor under the Beverage Law."<sup>65</sup>

Under s. 562.13, F.S., prohibits any vendor from employing a person under 18 years of age.<sup>66</sup> However, this prohibition does not apply to employment of the following individuals:<sup>67</sup>

- Professional entertainers 17 years of age who are not in school.
- Minors employed in the entertainment industry, under certain circumstances.
- Persons under the age of 18 years who are employed in drugstores, grocery stores, department stores, florists, specialty gift shops, or automobile service stations which have obtained licenses to sell beer or beer and wine, when such sales are made for consumption off the premises.

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<sup>58</sup> S. 450.141(1), F.S.

<sup>59</sup> S. 450.151, F.S.

<sup>60</sup> Section 561.01(6), F.S., provides that the "The Beverage Law" includes chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

<sup>61</sup> "Alcoholic beverages" means distilled spirits and all beverages containing one-half of one percent or more alcohol by volume. S. 561.01(4)(a), F.S.

<sup>62</sup> S. 561.14, F.S.

<sup>63</sup> S. 561.02, F.S.

<sup>64</sup> National Alcohol Beverage Control Association, *Alcohol Regulation 101*, <https://www.nabca.org/three-tier-system> (last visited Mar. 11, 2024).

<sup>65</sup> S. 561.14, F.S.

<sup>66</sup> S. 562.13(1), F.S.

<sup>67</sup> S. 562.13(2), F.S.



- Persons 17 years of age or over or any person who is a graduate of or a senior in high school, employed by a bona fide food service establishment where alcoholic beverages are sold, provided such persons do not participate in the sale, preparation, or service of the beverages and that their duties are of such a nature as to provide them with training and knowledge as might lead to further advancement in food service establishments.
- Persons under the age of 18 years employed as bellhops, elevator operators, and others in hotels when such employees are engaged in work apart from the portion of the hotel property where alcoholic beverages are offered for sale for consumption on the premises.
- Persons under the age of 18 years employed in bowling alleys in which alcoholic beverages are sold or consumed, so long as such minors do not participate in the sale, preparation, or service of such beverages.
- Persons under the age of 18 years employed by a bona fide dinner theater, as long as their employment is limited to the services of an actor, actress, or musician.
- Persons under the age of 18 years who are employed at a theme park, provided such persons do not participate in the sale, preparation, or service of alcoholic beverages.

However, a minor to whom these exceptions otherwise apply may not be employed if the employment, whether as a professional entertainer or otherwise, involves nudity,<sup>68</sup> on the part of the minor and such nudity is intended as a form of adult entertainment.<sup>69</sup>

### Adult Entertainment Establishments

Section 847.001, F.S., defines “adult entertainment establishment” to include adult bookstores, adult theaters, special cabaret, and unlicensed massage establishments.

An adult bookstore is any corporation, partnership, or business of any kind which restricts or purports to restrict admission only to adults, which has as part of its stock books, magazines, other periodicals, videos, discs, or other graphic media and which offers, sells, provides, or rents for a fee any sexually oriented material.<sup>70</sup>

An adult theater is an enclosed building or enclosed space within a building used for presenting either films, live plays, dances, or other performances that are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specific sexual activities<sup>71</sup> for observation by patrons, and which restricts or purports to restrict admission only to adults, or any business that features a person who engages in specific sexual activities for observation by a patron, and which restricts or purports to restrict admission to only adults.

<sup>68</sup> Section 847.001(11), F.S., defines “nudity” as the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state. A mother’s breastfeeding of her baby does not under any circumstance constitute “nudity,” irrespective of whether or not the nipple is covered during or incidental to feeding.

<sup>69</sup> S. 562.13(2), F.S.

<sup>70</sup> “Sexually oriented material” means any book, article, magazine, publication, or written matter of any kind or any drawing, etching, painting, photograph, motion picture film, or sound recording that depicts sexual activity, actual or simulated, involving human beings or human beings and animals, that exhibits uncovered human genitals or the pubic region in a lewd or lascivious manner, or that exhibits human male genitals in a discernibly turgid state, even if completely and opaquely covered. S. 847.001(21), F.S.

<sup>71</sup> Section 847.001(23), F.S., defines “specific sexual activities” as the following sexual activities and the exhibition of the following anatomical areas:

- Human genitals in the state of sexual stimulation or arousal.
- Acts of human masturbation, sexual intercourse, sodomy, cunnilingus, fellatio, or any excretory function, or representation thereof.
- The fondling or erotic touching of human genitals, the pubic region, the buttocks, or the female breasts.
- Less than completely and opaquely covered:
  - Human genitals or the pubic region.
  - Buttocks.
  - Female breasts below the top of the areola.
  - Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

A special cabaret is any business that features persons who engage in specific sexual activities for observation by patrons, and which restricts or purports to restrict admission only to adults.

An unlicensed massage establishment is any business or enterprise that offers, sells, or provides, or that holds itself out as offering, selling, or providing, massages that include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating, or other tactile stimulation of the human body by either male or female employees or attendants, by hand or by any electrical or mechanical device, on or off the premises.<sup>72</sup>

### *Minimum Age of Employment for Adult Entertainment Establishments*

Section 450.021, F.S., prohibits a person under the age of 18, whether or not such person's disabilities of nonage have been removed by marriage or otherwise, from being employed, permitted, or suffered to work in an adult theater.<sup>73</sup>

Additionally, several states and local governments have enacted laws and ordinances prohibiting persons under 21 years of age from working or performing in certain adult entertainment establishments. These laws and ordinances are frequently challenged on First Amendment grounds, however, several courts have upheld these regulations finding that the state or local government has sufficiently demonstrated a link between the regulation and curbing secondary effects of human trafficking.

In *Doe I v. Landry*, the United States Court of Appeals of the Fifth Circuit, upheld a Louisiana law that prohibited establishments licensed to serve alcohol from employing entertainers younger than 21 years of age where the entertainers' breasts or buttocks would be exposed.<sup>74</sup> The court found that the State of Louisiana sufficiently demonstrated its reasonable belief that there was a link between the prohibition and curbing the secondary effects of human trafficking and prostitution.<sup>75</sup> Additionally, the court found that the State demonstrated that younger adults are more vulnerable to recruitment by traffickers, and that these vulnerabilities are exacerbated in alcohol-licensed clubs. Furthermore, the regulation prohibited semi-nude dancing for 18-20-year-olds at alcohol-licensed clubs only. As such, the court found that the regulation promoted a substantial government interest that would be achieved less effectively absent the regulation.<sup>76</sup>

In *Valadez v. Paxton*, the United States District Court of the West District of Texas, Austin Division, denied a motion for a preliminary injunction against the enforcement of a Texas law prohibiting "all working relationships between 18-20-year-olds and sexually-oriented businesses," holding that the State of Texas sufficiently demonstrated that it held a reasonable belief that the law prohibiting such working relationships would serve to curb harmful secondary effects of sexually-oriented businesses, including human trafficking and sexual exploitation, and the plaintiff failed to show that the age restrictions were not rationally related to the State's legitimate interest in curbing human trafficking.<sup>77</sup>

In *Wacko's Too, Inc. v. City of Jacksonville*, the United States District Court of the Middle District of Florida, upheld age restrictions in a City of Jacksonville ordinance requiring performers at adult entertainment establishments to be at least 21 years of age based, at least in part, on evidence that there was a reasonable basis to believe that the age restrictions would further the City's interest in preventing human trafficking.<sup>78</sup>

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<sup>72</sup> This term does not include a massage therapy establishment licensed by the Department of Health under s. 484.043, F.S., which routinely provides medical services by state-licensed health care practitioners and massage therapists. S. 847.001(2)(d), F.S.

<sup>73</sup> S. 450.021(5), F.S.

<sup>74</sup> *Doe I v. Landry*, 909 F.3d 99, 109 (5th Cir. 2018).

<sup>75</sup> *Doe*, 909 F.3d at 110.

<sup>76</sup> *Doe*, 909 F.3d at 112-113.

<sup>77</sup> *Valadez v. Paxton*, 553 F. Supp.3d 387 (W.D. Tex. 2021); See *DC Operating, LLC v. Paxton*, 586 F.Supp.3d 554 (W.D. Tex. 2022).

<sup>78</sup> *Wacko's Too Inc. v. City of Jacksonville*, 658 F.Supp.3d 1086 (11th Cir. 2023).

## Effect of the Bill

The bill amends s. 16.618, F.S., to extend the statutory authorization for the DSO until October 1, 2029, at which time s. 16.618, F.S., will be repealed unless reviewed and saved from repeal by the Legislature.

The bill amends ss. 394.875, 456.0341, 480.043, 509.096, and 787.29, F.S., to modify the requirements for human trafficking reporting procedures and awareness signs from requiring the National Human Trafficking Hotline number to be utilized to requiring the Florida Human Trafficking Hotline number to be utilized. The bill also amends ss. 456.0341, 480.043, and 509.096, F.S., to require the update to human trafficking awareness signs to be completed and updated signage to be posted by January 1, 2025.

The bill amends s. 787.06, F.S., to require a nongovernmental entity to provide an affidavit, signed by an officer or a representative of the nongovernmental entity under penalty of perjury, attesting that the nongovernmental entity does not use coercion for labor or services, when executing, renewing, or extending a contract with a governmental entity.<sup>79</sup>

The bill creates s. 787.30, F.S., to prohibit an owner, manager, employee, or contractor of an adult entertainment establishment from knowingly employing, contracting with, contracting with another person to employ, or otherwise permitting a person under the age of 21 years to perform or work in an adult entertainment establishment. A violation of this prohibition is a first-degree misdemeanor.

The bill also prohibits an owner, manager, employee, or contractor of an adult entertainment establishment from knowingly employing, contracting with, contracting with another person to employ, or otherwise permitting a person under the age of 21 years to perform or work *while nude* in an adult entertainment establishment. A violation of this prohibition is a second-degree felony.

The bill requires an owner, manager, employee, or contractor of an adult entertainment establishment who employs a person to perform as an entertainer or work in any capacity in an adult entertainment establishment to carefully check a driver license, identification card, passport, or United States Uniformed Services identification card presented by the person and to act in good faith and reliance upon such a representation and the appearance of the person in determining that he or she is 21 years of age or older.

Under the bill, a person's ignorance of another person's age or a person's misrepresentation of his or her age may not be raised as a defense in a prosecution for a violation of s. 787.30, F.S.

The bill amends s. 562.13, F.S., to prohibit a minor who may otherwise meet an exception to work for an alcohol vendor from performing as a professional entertainer if such employment involves nudity on the part of the minor and such nudity is intended as a form of adult entertainment and from being employed by an adult entertainment establishment, as defined in s. 847.001, F.S.

The bill makes additional technical changes.

The effective date of the bill is July 1, 2024.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

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<sup>79</sup> "Governmental entity" means any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, but not limited to, the Commission on Ethics, the Public Service Commission, the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency. S. 287.138(1)(d), F.S.

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

The Criminal Justice Impact Conference reviewed the bill on February 12, 2024, and determined that the bill will have a positive indeterminate impact on jail and prison beds by creating a new misdemeanor and a new felony offense prohibiting a person from knowingly employing a person younger than 21 years of age in any adult entertainment establishment, which may result in increased jail and prison admissions.<sup>80</sup>

The bill may have a negative indeterminate impact on adult entertainment establishments as the bill prohibits the employment of any person younger than 21 years of age at such an establishment and costs may be incurred in replacing current employees who are under 21 years of age or in hiring new employees who are 21 years of age or older.

The bill may have an insignificant negative impact on entities that are required to update their human trafficking awareness signs due to any costs associated with updating, replacing, and reposting such signs as required by the bill.

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<sup>80</sup> Florida Office of Economic and Demographic Research, Criminal Justice Impact Conference, *CS/SB 1690 – Human Trafficking (Similar CS/HB 1379)*, <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/CSSB1690.pdf> (last visited Mar. 11, 2024).