

AMENDED IN ASSEMBLY APRIL 28, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2798

Introduced by Assembly Member Leslie

February 20, 2004

~~An act to amend Section 120140 of the Health and Safety Code, relating to health.~~ *An act to add Division 10 (commencing with Section 25800) to the Business and Professions Code, relating to adult entertainment.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2798, as amended, Leslie. ~~Communicable disease—Adult entertainment: adult film production companies: sexually transmitted disease prevention.~~

Under existing law, any person who is afflicted with any contagious, infectious, or communicable disease who willfully exposes himself or herself to another person, and any person who willfully exposes another person afflicted with the disease to someone else, is guilty of a misdemeanor. Existing law also provides that any person who exposes any person to or infects any person with any venereal disease, or any person infected with a venereal disease in an infectious state who knows of the condition and who marries or has sexual intercourse, is guilty of a misdemeanor.

This bill would require an adult film production company, prior to the beginning of any production, to require each performer to be tested to determine whether the performer has any sexually transmitted disease. The bill would require that the company pay for the tests and that the tests be performed by health care providers who do not have any other



financial relationship, or any personal relationship, with the company or any performers. The bill would provide that the tests results are confidential.

This bill would prohibit an adult film production company that has been notified by a performer, or that receives test results indicating, that the performer has, or has had, any STD from allowing the performer to perform in any production, unless the performer submits documentation from a physician that certifies that the performer is free from any STD.

The bill would prohibit a performer or adult film production company from falsifying STD tests obtained for purposes of the bill.

This bill would provide that a violation of these prohibitions and requirements by an adult film production company or performer is subject to civil action.

~~Existing law authorizes the department, upon being informed by a health officer of any contagious, infectious, or communicable disease, to take measures as are necessary to ascertain the nature of the disease and prevent its spread.~~

~~This bill would make technical, nonsubstantive changes to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—Section 120140 of the Health and Safety Code~~
2 *SECTION 1. Division 10 (commencing with Section 25800) is*
3 *added to the Business and Professions Code, to read:*

4
5 *DIVISION 10. ADULT*
6 *ENTERTAINMENT—COMMUNICABLE DISEASE*
7 *PREVENTION*

8
9 25800. (a) *It is the intent of Legislature in enacting this*
10 *division to obstruct the spread of sexually transmitted diseases in*
11 *the general population by taking steps to ensure the health and*
12 *safety of those whose job it is to perform sexual acts with other*
13 *individuals for the purpose of providing public entertainment*
14 *through visual media.*

15 (b) *It is the intent of the Legislature that a person who is in*
16 *violation of this division may be subject to penalties pursuant to*



1 *this division in addition to any other penalties that may apply for*
2 *a violation of existing laws related to sexual conduct.*

3 25805. *For purposes of this division, the following definitions*
4 *apply:*

5 (a) *“Adult film production company” means any film*
6 *production company that is in the business of producing films for*
7 *commercial purposes available to an individual or group of*
8 *individuals depicting the performance or simulated performance*
9 *of explicitly sexual acts appropriate only for an adult viewing*
10 *audience.*

11 (b) *“Laboratory” means a laboratory licensed by the State*
12 *Department of Health Services, or approved by the State*
13 *Department of Health Services to perform tests for purposes of this*
14 *division.*

15 (c) *“Performer” means any adult who is paid by an adult film*
16 *production company to perform or simulate the performance of*
17 *sexual acts.*

18 (d) *“Sexually transmitted disease” or “STD” includes, but is*
19 *not limited to, all of the following:*

20 (1) *Chancroid.*

21 (2) *Chlamydia.*

22 (3) *Gonorrhea.*

23 (4) *Hepatitis A virus.*

24 (5) *Hepatitis B virus.*

25 (6) *Hepatitis C virus.*

26 (7) *Herpes simplex virus (HSV), also known as genital herpes.*

27 (8) *Human immunodeficiency virus (HIV).*

28 (9) *Human papilloma virus (HPV), also known as genital*
29 *warts.*

30 (10) *Syphilis.*

31 25810. (a) (1) *Prior to the beginning of any production, an*
32 *adult film production company shall require each performer to be*
33 *tested to determine whether the performer has any STD. The adult*
34 *film production company shall obtain the consent of the performer*
35 *for the company to receive the test results.*

36 (2) *The tests shall be current, having been taken within two*
37 *weeks of filming any scene in which the subject is not alone.*

38 (b) *The tests for STD shall be paid for by the adult film*
39 *production company and performed by health care providers who*



1 do not have any other financial relationship, or any personal
2 relationship, with the company or any performers.

3 (c) (1) The tests for STD shall be standard tests capable of
4 detecting all of the sexually transmitted diseases listed in
5 subdivision (e) of Section 25805.

6 (2) If available, the test for any STD that is utilized for purposes
7 of this division shall detect infection at a two-week incubation
8 period or less. For purposes of this paragraph, “incubation
9 period” means the time between when a person is infected and
10 when the test can be expected to identify the infection.

11 (d) The tests shall be submitted to a laboratory, as defined in
12 subdivision (b) of Section 25805. The results of the tests shall be
13 confidential.

14 (e) An adult film production company that fails to comply with
15 subdivision (a) shall be liable in a civil action for any damages to
16 any performer who is infected with an STD by reason of that
17 failure.

18 25815. (a) An adult film production company that has been
19 notified by a performer, or that receives test results pursuant to
20 Section 25810 indicating, that the performer has, or has had, any
21 STD, shall not allow the performer to perform in any production,
22 unless the performer submits documentation from a physician that
23 certifies that the performer is free from any STD.

24 (b) The physician that certifies that a performer is free from any
25 STD may not have any other financial relationship, or any
26 personal relationship, with the adult entertainment business for
27 whom the performer works or any performers in the production in
28 which the performer works.

29 (c) An adult film production company that fails to comply with
30 subdivision (a) shall be liable in a civil action for any damages to
31 any performer who is infected with an STD by reason of that
32 failure.

33 25820. (a) A performer or adult film production company
34 shall not falsify an STD test obtained for purposes of this division.

35 (b) (1) Any performer who is infected with an STD by reason
36 of a violation of subdivision (a) by a performer may file a civil
37 action against both the performer and the adult film production
38 company.

39 (2) An adult film production company may seek recovery from
40 the performer who violated subdivision (a) for the costs of



1 *damages paid as a result of a judgment pursuant to this*
2 *subdivision.*

3 *(c) Any performer who is infected with an STD by reason of a*
4 *violation of subdivision (a) by an adult film production company*
5 *may file a civil action against the adult film production company.*

6 25825. *The provisions of this division are severable. If any*
7 *provision of this division or its application is held invalid, that*
8 *invalidity shall not affect other provisions or applications that can*
9 *be given effect without the invalid provision or application.*

10 ~~is amended to read:~~

11 ~~120140. Upon being informed by a health officer of the~~
12 ~~presence of any contagious, infectious, or communicable disease,~~
13 ~~the department may take measures as are necessary to ascertain the~~
14 ~~nature of the disease and prevent its spread. To that end, the~~
15 ~~department may, if it considers it proper, take possession or control~~
16 ~~of the body of any living person, or the corpse of any deceased~~
17 ~~person.~~

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19 CORRECTIONS

20 **Heading — Page 1.**

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