

**ASSEMBLY BILL**

**No. 1576**

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**Introduced by Assembly Member Hall**

January 30, 2014

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An act to add Section 6720 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1576, as introduced, Hall. Occupational safety and health: adult films.

The California Occupational Safety and Health Act of 1973 establishes certain safety and other responsibilities of employers and employees. Violations of the act under certain circumstances are a crime.

This bill would require an employer engaged in the production of an adult film to adopt prescribed practices and procedures to protect employees from exposure to, and infection by, sexually transmitted diseases, including engineering and work practice controls, an exposure control plan, hepatitis B vaccinations, medical monitoring, and information and training on health and safety. The bill would define terms for those purposes. Because a violation of the act would be a crime under certain circumstances, the bill would impose a state-mandated local program by creating a new crime.

This bill would provide that its provisions are severable.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 6720 is added to the Labor Code, to read:  
2 6720. (a) The Legislature finds and declares that the protection  
3 of workers in the adult film industry is the responsibility of multiple  
4 layers of government, with the department being responsible for  
5 worker safety and the county being responsible for protecting the  
6 public health. Therefore, this section shall not be construed to  
7 prohibit a city, county, or city and county from implementing a  
8 local ordinance regulating the adult film industry, provided that  
9 nothing in the local ordinance contradicts any provision of this  
10 section.

11 (b) For purposes of this section, the following definitions shall  
12 apply:

13 (1) "Adult film" means any commercial film, video, multimedia,  
14 or other recorded representation during the production of which  
15 performers actually engage in sexual intercourse, including oral,  
16 vaginal, or anal penetration.

17 (2) "Employee" means a person who is an employee or  
18 independent contractor, regardless of whether the person is shown  
19 in the adult film, who, during the production of the adult film,  
20 performs sexual intercourse, including oral, vaginal, or anal  
21 penetration.

22 (3) "Employer" means a company, partnership, corporation, or  
23 individual engaged in the production of an adult film. There shall  
24 be a rebuttable presumption that the name on the material for  
25 commercial distribution is the employer unless there is evidence  
26 to the contrary as demonstrated through contractual or employment  
27 records.

28 (4) "Sexually transmitted disease" or "STD" means any infection  
29 commonly spread by sexual conduct, including, but not limited  
30 to, HIV/AIDS, gonorrhea, syphilis, chlamydia, hepatitis, genital  
31 human papillomavirus infection, and genital herpes.

32 (c) An employer shall maintain engineering and work practice  
33 controls sufficient to protect employees from exposure to blood  
34 and any potentially infectious materials, in accordance with Section  
35 5193 of Title 8 of the California Code of Regulations. Engineering

1 and work practice controls shall include, but are not limited to, the  
2 following:

3 (1) Simulation of sex acts using acting, production, and  
4 postproduction techniques.

5 (2) Provision of and required use of condoms and other  
6 protective barriers whenever acts of vaginal or anal intercourse  
7 are filmed.

8 (3) The provision of condom-safe water-based or silicone-based  
9 lubricants to facilitate the use of condoms.

10 (4) Plastic and other disposable materials to clean up sets.

11 (5) Sharps containers for disposal of contaminated sharps,  
12 including, but not limited to, any blades, wires, or broken glass.

13 (d) An employer shall maintain an exposure control plan in  
14 accordance with Section 5193 of Title 8 of the California Code of  
15 Regulations. An employer shall not be required to comply with  
16 any provision related to establishing and maintaining a sharps  
17 injury log, or any provision regarding regulated waste.

18 (e) An employer shall make available the hepatitis B vaccination  
19 and all medical followup required by Section 5193 of Title 8 of  
20 the California Code of Regulations, for any employee engaged in  
21 the production of adult films, at the employer's expense.

22 (f) An employer shall designate a custodian of records for  
23 purposes of this section. A copy of the original production shall  
24 be retained by the custodian of records.

25 (g) An employer shall pay the costs of required medical  
26 monitoring, such as STD testing, and keep confidential employee  
27 records.

28 (h) (1) An employer shall adopt, implement, maintain, and  
29 update, as required, a written health and safety program that meets  
30 the requirements of the Injury and Illness Prevention Program and  
31 the bloodborne pathogens standard, described, respectively, in  
32 Sections 3203 and 5193 of Title 8 of the California Code of  
33 Regulations.

34 (2) An employer shall provide a training program in accordance  
35 with Section 5193 of Title 8 of the California Code of Regulations.  
36 The training requirements of this subdivision may be satisfied by  
37 proof that the employee has received appropriate training at another  
38 workplace or from an appropriate third party approved by the  
39 department in the prior 12 months.

1 (i) This section shall not be construed to require condoms,  
2 barriers, or other personal protective equipment to be visible in  
3 the final product of an adult film.

4 (j) The Legislature finds and declares that screening for STDs  
5 is a critical public health measure and should be employed  
6 wherever possible, including the adult film industry. Therefore,  
7 this section shall not be construed to impede or replace STD  
8 screening of all employees, as defined in paragraph (2) of  
9 subdivision (b), pursuant to STD screening protocols established  
10 by the federal Centers for Disease Control and Prevention, the  
11 State Department of Public Health, and the public health  
12 department in the county where the filming occurs.

13 SEC. 2. The provisions of this act are severable. If any  
14 provision of this act or its application is held invalid, that invalidity  
15 shall not affect other provisions or applications that can be given  
16 effect without the invalid provision or application.

17 SEC. 3 No reimbursement is required by this act pursuant to  
18 Section 6 of Article XIII B of the California Constitution because  
19 the only costs that may be incurred by a local agency or school  
20 district will be incurred because this act creates a new crime or  
21 infraction, eliminates a crime or infraction, or changes the penalty  
22 for a crime or infraction, within the meaning of Section 17556 of  
23 the Government Code, or changes the definition of a crime within  
24 the meaning of Section 6 of Article XIII B of the California  
25 Constitution.