

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 513

Introduced by Christensen, 44.

Read first time January 18, 2011

Committee: Judiciary

A BILL

- 1 FOR AN ACT relating to escort agencies; to adopt the Escort Services
- 2 Accountability and Permit Act; to provide an operative
- 3 date; and to provide severability.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 13 of this act shall be known
2 and may be cited as the Escort Services Accountability and Permit
3 Act.

4 Sec. 2. The Legislature declares that the Escort Services
5 Accountability and Permit Act shall be deemed an exercise of police
6 powers of the state for the protection of the economic and social
7 welfare and the health, welfare, and safety of the people of this
8 state. The Legislature further declares that the permitting and
9 regulation of escort agencies and their employees are matters of
10 statewide concern, therefore the act shall be applicable in every
11 county, city, and village of this state.

12 Sec. 3. For purposes of the Escort Services
13 Accountability and Permit Act:

14 (1) Body rub means the nontherapeutic manipulation of a
15 patron's soft tissue, for consideration, provided by an individual
16 not licensed to provide such service;

17 (2) Child care facility has the same meaning as in
18 section 29-4016;

19 (3)(a) Escort means an individual who agrees or offers,
20 for consideration, to act as a companion, guide, or date for a patron
21 or who agrees or offers to provide, for consideration, private erotic
22 entertainment services for a patron;

23 (b) Escort does not include an individual who provides
24 transportation or in-home care or medical services to the elderly or
25 disabled, provides child care services, or acts as a hunting guide or

1 private tour guide;

2 (4) Escort agency means any person who furnishes or
3 offers or advertises to furnish an escort for consideration;

4 (5)(a) Escort agency employee means an individual who
5 performs any service for an escort agency on a full-time, part-time,
6 or contract basis, regardless of whether such person is paid a
7 salary, wage, or other form of compensation by the owner of such
8 agency and includes an individual acting as an escort;

9 (b) Escort agency employee does not include an individual
10 exclusively on the premises of an escort agency for the repair or
11 maintenance of the premises or equipment on such premises or for the
12 delivery of goods to such agency;

13 (6) Local permit authority means the governing body of
14 any county, city, or village or any authority designated by such
15 governing body by ordinance or resolution;

16 (7) Nudity or state of nudity means the showing of the
17 human genitals, pubic area, vulva, or anus with less than a fully
18 opaque covering or the showing of the female breast with less than a
19 fully opaque covering of any part of the nipple and areola;

20 (8) Patron means any person who compensates an escort
21 agency or escort agency employee with some form of consideration for
22 the furnishment of an escort or the receipt of services from an
23 escort;

24 (9) Permitted premises means the real property upon which
25 the escort agency is located and all appurtenances thereto and

1 buildings on the property, including, but not limited to, the escort
2 agency and the grounds, private walkways, parking lots, and adjacent
3 parking garages under the ownership, control, or supervision of the
4 escort agency;

5 (10) Person has the same meaning as in section 49-801;

6 (11) Playground has the same meaning as in section
7 28-416;

8 (12) Private erotic entertainment services includes
9 privately (a) modeling lingerie for a patron or a private group of
10 patrons, (b) performing a semi-nude striptease for a patron or a
11 private group of patrons, (c) providing a body rub for a patron, or
12 (d) engaging in any other activity or entertainment in person and of
13 an erotic nature for a patron or a private group of patrons; and

14 (13) Residential area means an area zoned exclusively for
15 residential use;

16 (14) School has the same meaning as in section 29-4016;

17 (15) Semi-nude or state of semi-nudity means the showing
18 of the female breast below a horizontal line across the top of the
19 areola and extending across the width of the breast at that point, or
20 the showing of the male or female buttocks. Semi-nude or state of
21 semi-nudity includes the lower portion of the female breast, but does
22 not include any portion of the cleavage of the female breast
23 exhibited by a bikini, dress, blouse, shirt, leotard, or similar
24 apparel if the areola is not exposed in whole or in part; and

25 (16) Youth center has the same meaning as in section

1 28-416.

2 Sec. 4. (1) It shall be unlawful for a person:

3 (a) To operate an escort agency without a permit pursuant
4 to section 6 of this act;

5 (b) Who operates an escort agency to employ an individual
6 to work for such agency who does not hold a permit as an escort
7 agency employee pursuant to section 7 of this act;

8 (c) Who operates an escort agency to allow an escort
9 agency employee to be in a state of nudity while in the presence of a
10 patron;

11 (d) To hold himself or herself out as an escort agency or
12 to use or display the words escort agency without a permit pursuant
13 to section 6 of this act;

14 (e) To act as an escort agency employee without a permit
15 pursuant to section 7 of this act;

16 (f) Who holds a permit as an escort agency employee and
17 does not have the permit on his or her person at all times;

18 (g) Who holds a permit as an escort agency employee to
19 touch a patron while in a state of semi-nudity;

20 (h) Who is a patron to be in a state of nudity or semi-
21 nudity while in the presence of an escort agency employee;

22 (i) Who is a patron to touch an escort agency employee
23 while he or she is in a state of semi-nudity;

24 (j) Who operates an escort agency to provide a service to
25 any person under the age of eighteen years as a patron of the escort

1 agency;

2 (2) Any violation of subdivision (1)(a), (b), (c), (d),
3 (h), (i), or (j) of this section shall be a Class I misdemeanor. Any
4 violation of subdivision (1)(e), (f), or (g) of this section shall be
5 a Class IV misdemeanor.

6 Sec. 5. (1) An application for a permit under section 6
7 or 7 of this act shall be on a form provided by the local permit
8 authority. The application may require any information the authority
9 deems necessary to determine if the applicant meets the permit
10 requirements under section 6 or 7 of this act. The local permit
11 authority may deny a permit issued under the Escort Services
12 Accountability and Permit Act if all application requirements are not
13 satisfied at the time of application or may suspend or revoke a
14 permit if any application requirements are not satisfied after
15 issuance of the permit. Any applicant may appeal the authority's
16 decision to deny the permit. Such appeal shall be in accordance with
17 the Administrative Procedure Act.

18 (2) The applicant shall submit with the application a
19 full set of fingerprints of the applicant if he or she is an
20 individual and of each partner or officer if the applicant is a
21 partnership or corporation which shall be forwarded to the Nebraska
22 State Patrol to be submitted to the Federal Bureau of Investigation
23 for a national criminal history record information check. The
24 applicant shall authorize release of the results of the national
25 criminal history record information check to the local permit

1 authority. The applicant shall pay the cost of the fingerprinting and
2 criminal background check.

3 Sec. 6. An applicant for a permit to operate an escort
4 agency shall provide to the local permit authority an application fee
5 that does not exceed three hundred dollars and an application
6 pursuant to section 5 of this act that also contains the following:

7 (1)(a) If the applicant is an individual, his or her
8 legal name and all aliases the individual may use or has used and
9 written proof that the individual is at least eighteen years of age
10 and has been a resident of the state for at least one hundred eighty
11 days;

12 (b) If the applicant is a partnership: The name of the
13 partnership; the names of all partners and written proof that each
14 partner is at least eighteen years of age and has been a resident of
15 the state for at least one hundred eighty days; whether the
16 partnership is a general or limited partnership; and a copy of the
17 partnership agreement, if any; and

18 (c) If the applicant is a corporation: The name of the
19 corporation; the date of incorporation; written proof that the
20 corporation is in good standing under the laws of its state of
21 incorporation and this state; the names and capacities of all
22 officers, directors, and controlling stockholders of the corporation
23 and written proof that each officer of the corporation is at least
24 eighteen years of age and has been a resident of the state for at
25 least one hundred eighty days; the name of the registered corporate

1 agent; and the address of the registered office for service of
2 process;

3 (2) The name of the escort agency if different than the
4 name provided pursuant to subdivision (1) of this section;

5 (3) Whether the applicant or any partner, officer,
6 director, or controlling stockholder of the applicant has been
7 convicted of a felony or misdemeanor and the details of the
8 conviction, including the type, date, and location of the conviction;

9 (4) Whether the applicant has been denied a permit or
10 holds or has held a permit under the Escort Services Accountability
11 and Permit Act and such permit was suspended or revoked. The
12 applicant shall include the name and location of the escort agency
13 under which the permit was held and the date of denial, suspension,
14 or revocation of the permit;

15 (5) Whether the applicant has been a partner of a
16 partnership or an officer, director, or controlling stockholder of a
17 corporation that has been denied a permit or holds or has held a
18 permit under the act and such permit was suspended or revoked. The
19 applicant shall include the name and location of the escort agency
20 under which the permit was held and the date of denial, suspension,
21 or revocation;

22 (6) The location of the escort agency, including a legal
23 description of the property, the physical address, and the telephone
24 number or numbers;

25 (7) The applicant's mailing address, if different from

1 the address in subdivision (6) of this section, and residential
2 address if the applicant is an individual;

3 (8) Photo identification of the individual applicant,
4 partners, or corporate officers;

5 (9) The date of issue, state of issue, and number of the
6 individual applicant's, partner's, or corporate officer's operator's
7 license or state identification card;

8 (10) A sketch or diagram showing the configuration of the
9 premises of the escort agency, including the amount of floor space
10 occupied by the agency. The sketch or diagram may be prepared by a
11 professional and shall be drawn to a designated scale or with marked
12 dimensions of the interior of the premises to an accuracy within six
13 inches;

14 (11) A certificate and straight-line drawing prepared by
15 a registered land surveyor no more than thirty days prior to
16 submission of the application under this section that depicts (a) the
17 property lines and the structures containing any existing escort
18 agency holding a permit or required to hold a permit under the act
19 within one thousand feet of the property of the applicant and (b) the
20 property lines of a child care facility, church, school, playground,
21 youth center, or residential area within one thousand feet of the
22 property of the applicant; and

23 (12) The signature of the applicant. If the applicant is
24 not an individual, all individuals responsible for the operation of
25 the escort agency or who have control or direction over the escort

1 agency's operations shall sign the application for the permit. Such
2 individuals may include, but are not limited to, partners, officers,
3 directors, and controlling shareholders.

4 The local permit authority shall assess a fee for the
5 issuance of a new permit that is at least one thousand dollars but
6 not more than five thousand dollars and that is due upon issuance of
7 a new permit. A permit issued under this section shall be effective
8 for one year after the date of issuance. A permit holder may apply for
9 a permit renewal at least forty-five days but not more than ninety
10 days prior to the expiration of the permit by submitting a renewal
11 fee of at least one thousand dollars but not more than five thousand
12 dollars as determined by the local permit authority and satisfying
13 the application requirements. The local permit authority may cause a
14 hearing on the application for renewal to be held. No such renewal
15 hearing shall be held by the local permit authority until a notice of
16 hearing has been conspicuously posted on the permitted premises for a
17 period of ten days and notice of the hearing has been provided to the
18 applicant at least ten days prior to the hearing. The local permit
19 authority may refuse to renew any permit for good cause, subject to
20 judicial review.

21 Sec. 7. An applicant for an escort agency employee permit
22 shall provide to the local permit authority an application fee that
23 does not exceed two hundred dollars and an application pursuant to
24 section 5 of this act that also contains the following:

25 (1) His or her legal name and all aliases the applicant

1 may use or has used and written proof that the applicant is at least
2 eighteen years of age;

3 (2) The applicant's date and location of birth;

4 (3) The applicant's height, weight, hair color, and eye
5 color;

6 (4) The address and telephone number of the applicant's
7 residence;

8 (5) The address and telephone number of any other place
9 of employment of the applicant, if any;

10 (6) The date of issue, state of issue, and number of the
11 applicant's operator's license or state identification card;

12 (7) A color photo of the applicant clearly showing the
13 applicant's face;

14 (8) The applicant's fingerprints on a form provided by
15 the local permit authority;

16 (9) A signed affidavit detailing the escort service
17 permit history of the applicant for five years immediately preceding
18 the date of the application under this section, including whether the
19 applicant has previously held a license, permit, or authorization
20 from another issuing authority and if such license, permit, or
21 authorization was ever denied, suspended, or revoked. If the
22 applicant has had a license, permit, or authorization denied,
23 suspended, or revoked, the applicant shall provide the name of the
24 issuing authority and a full description of the reason for such
25 denial, suspension, or revocation. The applicant shall include a

1 written copy of such denial, revocation, or suspension, if such copy
2 exists;

3 (10) A signed affidavit stating whether the applicant has
4 been convicted of a felony or misdemeanor and the details of the
5 conviction, including the type, date, and location of the conviction;
6 and

7 (11) The signature of the applicant.

8 The local permit authority shall assess a fee for the
9 issuance of a new permit that is at least one thousand dollars but
10 not more than five thousand dollars and that is due upon issuance of
11 a new permit. A permit issued under this section shall be effective
12 for one year after the date of issuance. A permitholder may apply for
13 a permit renewal at least forty-five days but not more than ninety
14 days prior to the expiration of the permit by submitting a renewal
15 fee of at least one thousand dollars but not more than five thousand
16 dollars as determined by the local permit authority and satisfying
17 the application requirements. The local permit authority may cause a
18 hearing on the application for renewal to be held. No such renewal
19 hearing shall be held by the local permit authority until a notice of
20 hearing has been conspicuously posted on the permitted premises for a
21 period of ten days and notice of the hearing has been provided to the
22 applicant at least ten days prior to the hearing. The local permit
23 authority may refuse to renew any permit for good cause, subject to
24 judicial review.

25 Sec. 8. (1) Within sixty days after receipt of an

1 application for a permit to operate an escort agency, the local
2 permit authority shall approve or deny such application. If the
3 application is approved, such permit shall be issued to the
4 applicant. The local permit authority shall deny the application if a
5 determination is made of one of the following:

6 (a) The applicant is under eighteen years of age;

7 (b) The applicant has failed to remit any taxes, fees,
8 finances, or penalties assessed by the State of Nebraska with respect to
9 the operation of any business;

10 (c) The applicant has failed to provide the information
11 required in section 6 of this act or has provided false information
12 in the application;

13 (d) The applicant has been denied a permit to operate an
14 escort agency by any local permit authority within the preceding two
15 years or has had a permit to operate an escort agency suspended or
16 revoked within the preceding two years;

17 (e) The applicant has been convicted of a felony. The
18 local permit authority may deny the application if the applicant has
19 been convicted of a misdemeanor for fraud, deceit, assault, sexual
20 misconduct, or prostitution-related misconduct;

21 (f) The premises of the escort agency has not received
22 approval from the local health department, fire department, and
23 building officials for compliance with applicable local laws or
24 ordinances; or

25 (g) The applicant has failed to pay the required permit

1 fee.

2 (2) A permit issued under this section shall state on its
3 face the name of the person to whom the permit is issued, the
4 expiration date of the permit, the physical address of the escort
5 agency, and the fact that the permit is to operate an escort agency.
6 The escort agency shall conspicuously post any escort agency permit
7 at or near the entrance of the escort agency.

8 Sec. 9. (1) Within thirty days after receipt of an
9 application for an escort agency employee permit, the local permit
10 authority shall approve or deny such application. If the application
11 is approved, such permit shall be issued to the applicant. The local
12 permit authority shall deny the application if a determination is
13 made of one of the following:

14 (a) The applicant is under eighteen years of age;

15 (b) The applicant has failed to provide the information
16 required in section 7 of this act or has provided false information
17 on his or her application;

18 (c) The applicant has been convicted of a felony. The
19 local permit authority may deny the application if the applicant has
20 been convicted of a misdemeanor for fraud, deceit, assault, sexual
21 misconduct, or prostitution-related misconduct;

22 (d) The applicant has failed to pay the required permit
23 fee;

24 (e) The applicant intends to use the permit for
25 employment at a business prohibited by local or state law; or

1 (f) The applicant has previously held an escort agency
2 employee permit and has had such permit suspended or revoked by a
3 local permit authority within the two years prior to the date of
4 application under the Escort Services Accountability and Permit Act.

5 (2) A permit issued under this section shall have a photo
6 of the individual to whom the permit is issued and state on its face
7 the name of the individual to whom the permit is issued, the
8 expiration date of the permit, and the fact that the permit is an
9 escort agency employee permit. An escort agency shall conspicuously
10 post a copy of any escort agency employee permit issued to an
11 employee at or near the entrance of the escort agency.

12 Sec. 10. (1) An escort agency holding a permit under the
13 Escort Services Accountability and Permit Act shall refer all
14 prospective escort agency employees to the local permit authority to
15 obtain a valid permit. Upon termination of employment of any escort
16 agency employee, the escort agency shall notify the local permit
17 authority of such termination within five days.

18 (2) The escort agency shall provide to every patron a
19 written contract for services. The contract shall clearly state the
20 name of the escort agency employee and the name and address of the
21 patron, the type of services to be performed, the length of time such
22 services shall be performed, the total amount of money such services
23 will cost the patron, and any special terms or conditions relating to
24 the services to be performed. The contract shall include a statement
25 in clear and concise language that prostitution is illegal in this

1 state and that both parties to an act of prostitution may be punished
2 by both fine and imprisonment and that no act of prostitution shall
3 be performed in relation to the services for which are contracted.
4 Each contract shall be numbered and utilized in numerical sequence by
5 the escort agency. The contract shall be signed by the patron and a
6 copy furnished to him or her. The escort agency shall also retain
7 copies of all such contracts, and one copy of each such contract
8 executed in any calendar month shall be transmitted by the escort
9 agency to the local permit authority no later than ten days after the
10 last day of such month. The local permit authority shall treat such
11 contracts transmitted to them as open public records.

12 Sec. 11. (1) Each permit issued under the Escort Services
13 Accountability and Permit Act by a local permit authority shall be
14 valid only within the territorial boundaries of the local permit
15 authority.

16 (2) Each permit issued under the act is separate and
17 distinct, and no person shall exercise any of the privileges granted
18 under any permit other than that which he or she holds. A separate
19 permit shall be obtained by each person wishing to exercise any of
20 the privileges governed by the act and for each geographical location
21 at or from which any person wishes to conduct business as an escort
22 agency or an escort agency employee.

23 (3) No permit issued under the act shall be transferred
24 or assigned, with or without consideration, without the consent of
25 the local permit authority. Any attempted transfer of assignment

1 without the consent of the local permit authority shall render the
2 applicable permit void.

3 (4) No changes of location for a permitted premises shall
4 be allowed without the consent of the local permit authority. Any
5 attempted change of location for a permitted premises without the
6 consent of the local permit authority shall render the applicable
7 permit void.

8 Sec. 12. (1) The Escort Services Accountability and
9 Permit Act is intended to provide minimum standards for the licensing
10 of escort agencies and escort agency employees. Nothing in the act
11 shall prohibit a county, city, or village from enacting an ordinance
12 providing more stringent standards for such permits, but such
13 ordinance shall meet the minimum standards established by the act. To
14 the extent that the act directs implementation by a county, all such
15 implementation may be accomplished by ordinance. Any implementation
16 needed under the act shall be required only upon a request to the
17 county, city, or village for an application for a license to operate
18 within the jurisdiction of the county, city, or village. Such request
19 shall not be acted upon until the implementation by ordinance has
20 been accomplished.

21 (2) In addition to the powers granted by sections 23-104
22 and 23-187 and in the manner specified by sections 23-187 to 23-193
23 but not subject to the requirements of section 23-192, a county may
24 enact an ordinance to carry out the purposes of the act.

25 Sec. 13. Nothing in the Escort Services Accountability

1 and Permit Act shall be construed to permit or authorize conduct or
2 activity prohibited by the Nebraska Criminal Code.

3 Sec. 14. This act becomes operative on October 1, 2011.

4 Sec. 15. If any section in this act or any part of any
5 section is declared invalid or unconstitutional, the declaration
6 shall not affect the validity or constitutionality of the remaining
7 portions.