

FISCAL NOTE

Bill #: SB399

Title: Licensure of sexually oriented business

**Primary
Sponsor:** Ric Holden

Status: As Introduced

Sponsor signature	Date	Chuck Swysgood, Budget Director	Date
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Fiscal Summary

	<u>FY2002 Difference</u>	<u>FY2003 Difference</u>
Expenditures:		
General Fund	\$113,725	\$40,725
State Special Revenue	\$500,000	\$500,000
Revenue:		
General Fund	(\$10,281)	(\$10,876)
State Special Revenue	\$500,000	\$500,000
Net Impact on General Fund Balance:	(\$124,006)	(\$51,601)

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
	X	Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget	X		Significant Long-Term Impacts
	X	Dedicated Revenue Form Attached	X		Family Impact Form Attached

Fiscal Analysis

ASSUMPTIONS:

Department of Public Health and Human Services

1. The Department of Public Health and Human Services (DPHHS), Food and Consumer Safety Section will be responsible for enforcing the provisions of this act.
2. There are approximately 200 establishments in the State of Montana which will be regulated by this act.
3. There are approximately 3000 individuals working in establishments regulated by this act in any given calendar year.

4. DPHHS will need 10.00 FTE, grade 15 inspectors, and 2.00 FTE support staff one grade 9 and one grade 11, to manage this program. The cost for the FTEs is \$426,725 each year.
5. The act will be effective July 1, 2001.
6. It is assumed that the Department of Justice will be responsible for the required criminal background checks in the act. We also assume that the applicants for licensure will bear any costs associated with the criminal background checks.
7. It is assumed that building code inspectors will be responsible for inspections related to compliance with building codes.
8. Travel costs will be approximately \$4,000 per inspector, per year. Operating costs include other expenses such as, rent, communications, and supplies at \$2,000 per year per FTE and \$4,000 to purchase computers and office equipment for each FTE in FY 2002.
9. Given the nature of this act and based on the experience with legal effort associated with other licensing regulatory efforts, it is anticipated that attempts to regulate this industry or these workers will cost an estimated \$50,000 per year in legal fees to defend the regulations.
10. DPHHS will need to update the current licensure system to allow for these types of licenses at a cost of \$25,000 in the first year.
11. This bill establishes a fee of \$1,000 for the issuance or renewal of sexually oriented business operator's license. It is estimated that this fee will generate \$200,000 in revenue each year (200 business X \$1,000).
12. This bill establishes a fee of \$100 for the issuance or renewal of sexually oriented business employee license. It is estimated that this fee will generate \$300,000 in revenue per year (3,000 employees X \$100).

Department of Revenue:

13. Under current law, alcoholic beverages can be sold or consumed on the premises of a sexually oriented business. Under this proposal, the sale, use, or consumption of alcoholic beverages on the premises of a sexually oriented business is prohibited.
14. Under this proposal, revenue to the general fund will decrease by \$10,231 in fiscal 2002 and by \$10,823 in fiscal 2003. These impacts only include taxes collected from liquor sales; it does not include lost taxes due to reduced consumption of beer or wine. The beer tax and the wine tax collected under current law from sexually oriented businesses are not available.
15. The impacts in the above assumption, assumes the current amount of consumption of liquor at sexually oriented businesses will decrease by 50% under this proposal. This means under this proposal the amount of liquor consumed at these businesses that will be consumed elsewhere will only decrease by 50%, not by 100%. Additionally, it is assumed that current sexually oriented businesses in Montana that serve or allow alcohol beverages on their premises will discontinue to serve or allow alcohol beverages on their premises and continue to run a sexually oriented business.
16. Under this proposal, collections from the beer tax and the wine tax will decrease revenue to the local governments and the state special revenue account administered by the Department of Public Health and Human Services. This impact is anticipated to be minimal.

FISCAL IMPACT:

Department of Public Health and Human Services:

	FY2002	FY2003
	<u>Difference</u>	<u>Difference</u>
FTE	12	12

Expenditures:

Personal Services	\$426,725	\$426,725
Operating Expenses	<u>187,000</u>	<u>114,000</u>
TOTAL	\$613,725	\$540,725

Funding:

General Fund (01)	\$113,725	\$40,725
State Special Revenue (02)	<u>500,000</u>	<u>500,000</u>
TOTAL	\$613,725	\$540,725

Revenues:

State Special Revenue (02)	\$500,000	\$500,000
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FISCAL IMPACT:**Department of Revenue :**

	<u>FY2002</u> <u>Difference</u>	<u>FY2003</u> <u>Difference</u>
<u>Revenues:</u>		
General Fund (01)	\$(10,281)	\$(10,876)

Net Impact to Fund Balance (Revenue minus Expenditure):

General Fund (01)	(\$124,006)	(\$51,601)
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EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Under this proposal, revenue to the local governments will decrease slightly. This minimal decrease is due to a decrease in the collections of beer and wine taxes.

LONG-RANGE IMPACTS:

The long-range impacts will be minimal to the state general fund, local governments, and to the state special revenue account administered by the Department of Public Health and Human Services.

TECHNICAL NOTES:**Department of Public Health and Human Services**

1. The act does not provide rule making authority to DPHHS. Successful regulatory programs utilize rules to support and clarify the intent of requirements provided in statute.
2. DPHHS does not have the authority to inspect public facilities for compliance with local laws as specified in Section 13 (4) (a) of the act. Compliance with local laws is determined by local officials.
3. Section 2 (4)(c) and Section 20 (2) of the act appear to provide conflicting time criteria regarding Adult Motels. If the hours threshold is occupancy for less than 24 hours, the majority of motels advertising and providing pay per view adult video services would become licensable under this act, increasing the estimated number of licensable establishments and associated costs by a factor of 2.
4. Section 18 of the act appears to prohibit more than one type or classification (as specified in Section 3) of business at a premises. Many existing adult businesses currently provide multiple classifications of service at one location.
5. Section 17(4) of the act states that an employee license include the address of the employment location. This implies that employees may have to procure a new license every time they work at a new business.

If this is the intent of the bill, the associated revenue and costs estimates would increase by about 50%, since there is significant turnover and movement by the workforce in these industries.