

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 444**

Introduced by Christensen, 44.

Read first time January 20, 2009

Committee: Health and Human Services

A BILL

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

1           Section 1. Sections 1 to 12 of this act shall be  
2 known and may be cited as the Escort Services Accountability and  
3 Licensing Act.

4           Sec. 2. For purposes of the Escort Services  
5 Accountability and Licensing Act:

6           (1) Department means the Department of Health and Human  
7 Services;

8           (2) (a) Escort means an individual who agrees or offers,  
9 for consideration, to act as a companion, guide, or date for a  
10 patron or who agrees or offers to privately and for consideration,  
11 (i) model lingerie for a patron, (ii) perform a striptease for  
12 a patron, (iii) act out a fantasy for a patron, (iv) provide a  
13 massage for a patron without a massage therapy license, or (v)  
14 engage in any other activity or entertainment in person and of an  
15 erotic nature for a patron;

16           (b) Escort does not include an individual who provides  
17 transportation or in-home care or medical services to the elderly  
18 or disabled, provides child care services, or acts as a hunting  
19 guide or private tour guide;

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

22           (4) (a) Escort agency employee means an individual who  
23 performs any service for an escort agency on a full-time,  
24 part-time, or contract basis, regardless of whether such person  
25 is paid a salary, wage, or other form of compensation by the owner

1 of such agency and includes an individual acting as an escort; and

2 (b) Escort agency employee does not include an individual  
3 exclusively on the premises of an escort agency for the repair or  
4 maintenance of the premises or equipment on such premises or for  
5 the delivery of goods to such agency;

6 (5) Patron means any person who compensates an escort  
7 agency or escort agency employee with some form of consideration  
8 for the furnishment of an escort or the receipt of services from an  
9 escort; and

10 (6) Person has the same meaning as in section 49-801.

11 Sec. 3. (1) It shall be unlawful for a person:

12 (a) To operate an escort agency without a license  
13 pursuant to section 5 of this act;

14 (b) Who operates an escort agency to employ an individual  
15 to work for such agency who is not licensed as an escort agency  
16 employee pursuant to section 6 of this act;

17 (c) To hold himself or herself out as an escort agency  
18 or to use or display the words escort agency without a license  
19 pursuant to section 5 of this act; or

20 (d) To act as an escort agency employee without a license  
21 pursuant to section 6 of this act.

22 (2) Any violation of subdivision (1)(a), (b), or (c) of  
23 this section shall be a Class II misdemeanor. Any violation of  
24 subdivision (1)(d) of this section shall be a Class IV misdemeanor.

25 Sec. 4. (1) An application for a license under section 5

1 or 6 of this act shall be on a form provided by the department.  
2 The application may require any information the department deems  
3 necessary to determine if the applicant meets the licensing  
4 requirements under section 5 or 6 of this act. The department  
5 may suspend or revoke a license issued under the Escort Services  
6 Accountability and Licensing Act pursuant to rules and regulations  
7 adopted and promulgated under the act. Any person may appeal the  
8 department's decision to revoke his or her license. Such appeal  
9 shall be in accordance with the Administrative Procedure Act.

10 (2) The applicant shall submit with the application a  
11 full set of fingerprints which shall be forwarded to the Nebraska  
12 State Patrol to be submitted to the Federal Bureau of Investigation  
13 for a national criminal history record information check. The  
14 applicant shall authorize release of the results of the national  
15 criminal history record information check to the department. The  
16 applicant shall pay the cost of the fingerprinting and criminal  
17 background check.

18 Sec. 5. An applicant for a license to operate an escort  
19 agency shall provide to the department an application fee of one  
20 thousand dollars and an application pursuant to section 4 of this  
21 act that contains the following:

22 (1)(a) If the applicant is an individual, his or her  
23 legal name and all aliases the individual may use or has used and  
24 written proof that the individual is at least the age of majority;

25 (b) If the applicant is a partnership, the name of the

1 partnership and the names of all partners, whether the partnership  
2 is a general or limited partnership, and a copy of the partnership  
3 agreement, if any; and

4 (c) If the applicant is a corporation, the name of the  
5 corporation, the date of incorporation, written proof that the  
6 corporation is in good standing under the laws of its state of  
7 incorporation, the names and capacities of all officers, directors,  
8 and controlling stockholders of the corporation, the name of the  
9 registered corporate agent, and the address of the registered  
10 office for service of process;

11 (2) If the applicant intends to operate the escort agency  
12 under a name other than a name provided pursuant to subdivision (1)  
13 of this section, the name of the escort agency;

14 (3) Whether the applicant or any partner, officer,  
15 director, or controlling stockholder of the applicant has been  
16 convicted of a felony or misdemeanor and the details of the  
17 conviction, including the type, date, and location of the  
18 conviction;

19 (4) Whether the applicant has been denied a license  
20 or holds or has held a license under the Escort Services  
21 Accountability and Licensing Act and such license was suspended  
22 or revoked. The applicant shall include the name and location of  
23 the escort agency under which the license was held and the date of  
24 denial, suspension, or revocation of the license;

25 (5) Whether the applicant has been a partner of a

1 partnership or an officer, director, or controlling stockholder of  
2 a corporation that has been denied a license or holds or has held  
3 a license under the act and such license was suspended or revoked.  
4 The applicant shall include the name and location of the escort  
5 agency under which the license was held and the date of denial,  
6 suspension, or revocation;

7 (6) The location of the escort agency, including a legal  
8 description of the property, physical address, and telephone number  
9 or numbers;

10 (7) The applicant's mailing address, if different from  
11 the address in subdivision (6) of this section, and residential  
12 address if the applicant is an individual;

13 (8) If the applicant is an individual, a photo  
14 identification of the applicant;

15 (9) If the applicant is an individual, the date of issue,  
16 state of issue, and number of the applicant's driver's license or  
17 state identification card;

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

24 (11) A certificate and straight-line drawing prepared  
25 by a registered land surveyor no more than thirty days prior

1 to submission of the application under this section that depicts  
2 (a) the property lines and the structures containing any existing  
3 escort agency licensed or required to be licensed under the act  
4 within one thousand feet of the property of the applicant and (b)  
5 the property lines of any religious institution, school, public  
6 park, or public recreation area within one thousand feet of the  
7 property of the applicant; and

8 (12) The signature of the applicant. If the applicant is  
9 not an individual, all individuals responsible for the operation of  
10 the escort agency or who have control or direction over the escort  
11 agency's operations shall sign the application for the license.  
12 Such individuals may include, but are not limited to, partners,  
13 officers, directors, and controlling shareholders.

14 A license issued under this section shall be effective  
15 for one year after the date of issuance. A licensee may apply  
16 for a license renewal prior to the expiration of the license by  
17 submitting a renewal fee of five hundred dollars and satisfying any  
18 requirements deemed necessary by the department pursuant to rules  
19 and regulations adopted and promulgated under the act.

20 Sec. 6. An applicant for an escort agency employee  
21 license shall provide to the department an application fee of two  
22 hundred dollars and an application pursuant to section 4 of this  
23 act that contains the following:

24 (1) His or her legal name and all aliases the applicant  
25 may use or has used and written proof that the applicant is at

- 1 least the age of majority;
- 2 (2) The applicant's date and location of birth;
- 3 (3) The applicant's height, weight, hair color, and eye  
4 color;
- 5 (4) The address and telephone number of the applicant's  
6 residence;
- 7 (5) The address and telephone number of any other place  
8 of employment of the applicant, if any;
- 9 (6) The date of issue, state of issue, and number of the  
10 applicant's driver's license or state identification card;
- 11 (7) A color photo of the applicant clearly showing the  
12 applicant's face;
- 13 (8) The applicant's fingerprints on a form provided by  
14 the department;
- 15 (9) A signed affidavit detailing the escort service  
16 licensing history of the applicant for five years immediately  
17 preceding the date of the application under this section, including  
18 whether the applicant has previously held a license, permit, or  
19 authorization from another issuing authority and if such license,  
20 permit, or authorization was ever denied, suspended, or revoked. If  
21 the applicant has had a license, permit, or authorization denied,  
22 suspended, or revoked, the applicant shall provide the name of the  
23 issuing authority and a full description of the reason for such  
24 denial, suspension, or revocation. The applicant shall include a  
25 written copy of such denial, revocation, or suspension, if such



1 copy exists;

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

6 (11) The signature of the applicant.

7 A license issued under this section shall be effective  
8 for one year after the date of issuance. A licensee may apply  
9 for a license renewal prior to the expiration of the license by  
10 submitting a renewal fee of one hundred dollars and satisfying any  
11 requirements deemed necessary by the department pursuant to rules  
12 and regulations adopted and promulgated under the Escort Services  
13 Accountability and Licensing Act.

14 Sec. 7. (1) Within sixty days after receipt of an  
15 application for a license to operate an escort agency, the  
16 department shall approve or deny such application. If the  
17 application is approved, such license shall be issued to the  
18 applicant. The department shall deny the application if a  
19 determination is made of one of the following:

20 (a) If the applicant is an individual, the applicant is  
21 under the age of majority;

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

25 (c) The applicant has failed to provide the information

1 required in section 5 of this act or has provided false information  
2 in the application;

3 (d) The applicant has been denied a license to operate an  
4 escort agency by the state within the preceding twelve months or  
5 has had a license to operate an escort agency revoked within the  
6 preceding twelve months;

7 (e) The applicant has been convicted of a felony. The  
8 department may deny the application if the applicant has been  
9 convicted of a misdemeanor;

10 (f) The premises of the escort agency has not received  
11 approval from the local health department, fire department, and  
12 building officials for compliance with applicable local laws or  
13 ordinances; or

14 (g) The applicant has failed to pay the required license  
15 fee.

16 (2) A license issued under this section shall state on  
17 its face the name of the person to whom the license is issued, the  
18 expiration date of the license, the physical address of the escort  
19 agency, and the fact that the license is to operate an escort  
20 agency. The escort agency shall conspicuously post any escort  
21 agency license at or near the entrance of the escort agency.

22 Sec. 8. (1) Within thirty days after receipt of an  
23 application for an escort agency employee license, the department  
24 shall approve or deny such application. If the application is  
25 approved, such license shall be issued to the applicant. The

1 department shall deny the application if a determination is made of  
2 one of the following:

3 (a) The applicant is under the age of majority;

4 (b) The applicant has failed to provide the information  
5 required in section 6 of this act or has provided false information  
6 in his or her application;

7 (c) The applicant has been convicted of a felony. The  
8 department may deny the application if the applicant has been  
9 convicted of a misdemeanor;

10 (d) The applicant has failed to pay the required license  
11 fee;

12 (e) The applicant intends to use the license for  
13 employment at a business prohibited by local or state law; or

14 (f) The applicant has previously held an escort agency  
15 employee license and has had such license revoked by the department  
16 within the two years prior to the date of application under the  
17 Escort Services Accountability and Licensing Act.

18 (2) A license issued under this section shall state on  
19 its face the name of the individual to whom the license is issued,  
20 the expiration date of the license, and the fact that the license  
21 is an escort agency employee license. An escort agency shall  
22 conspicuously post a copy of any escort agency employee license  
23 issued to an employee at or near the entrance of the escort agency.

24 Sec. 9. An escort agency licensed under the Escort  
25 Services Accountability and Licensing Act shall maintain an

1 up-to-date registry of all patrons from the preceding seven years  
2 from which the escort agency has received consideration. If the  
3 patron is an individual, the registry shall include the date on  
4 which he or she paid consideration to the escort agency and the  
5 individual's name and address as they appear on his or her photo  
6 identification. If the patron is a group of individuals, such  
7 information shall be collected from a designated representative of  
8 the group. The escort agency shall make the registry available to  
9 any law enforcement officer for inspection.

10           Sec. 10. The Escort Services Accountability and Licensing  
11 Fund is created. Any fees collected pursuant to the Escort Services  
12 Accountability and Licensing Act shall be remitted to the State  
13 Treasurer for credit to the fund for the administration of the act.  
14 Any money in the fund available for investment shall be invested  
15 by the state investment officer pursuant to the Nebraska Capital  
16 Expansion Act and the Nebraska State Funds Investment Act.

17           Sec. 11. The department shall adopt and promulgate rules  
18 and regulations to carry out the Escort Services Accountability and  
19 Licensing Act.

20           Sec. 12. Nothing in the Escort Services Accountability  
21 and Licensing Act shall be construed to permit or authorize conduct  
22 or activity prohibited by the Nebraska Criminal Code.

23           Sec. 13. This act becomes operative on January 1, 2010.