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Porn industry wins battle against California regulators over condoms, eyewear on film shoots



Chanel Preston, Adult Performer's Advocacy Committee President, speaks before the Occupational Safety & Health Standards Board during a hearing Thursday, Feb. 18, 2016, in Oakland, Calif. Scores of porn actors, writers, directors and producers are imploring state officials not to make them use condoms in films, saying it will criminalize and perhaps even destroy their multibillion-dollar industry. (AP Photo/Ben Margot)

By [Susan Abram](#), Los Angeles Daily News

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Porn actress Maxine Holloway gestures while speaking before an Occupational Safety & Health Standards Board hearing Thursday, Feb. 18, 2016, in Oakland, Calif. California officials in charge of workplace safety voted down a proposal Thursday that would have put condoms on porn actors, heeding the call of scores of industry officials who said doing so would force them to make films nobody would watch. (AP Photo/Ben Margot) The adult-film industry claimed victory Thursday after California regulators [voted against](#) passing a set of standards that would have mandated condoms and eye protection as well as other protective barriers during all porn production across the state.

About 100 adult-film performers spoke during a nearly six-hour hearing held by the state's Occupational Safety and Health Standards Board in Oakland, each one testifying they were against the proposed regulations because they went too far. The regulations, many performers said, would force the adult film industry out of California, where it is made legally, and into other states, where no laws exist. In addition, performers said regulations such as the use of "personal protective equipment" for eyes, for example, would ruin the aesthetics and fantasy of pornographic films.

The board voted 3 to 2 against the regulations.

"These regulations were based in stigma rather than science and would have severely hurt adult performers," Eric Paul Leue, executive director of the [Free Speech Coalition](#), said in a statement. "This shows what can happen when producers and performers unite. We look forward to working with Cal/OSHA on sensible regulations that respects performers' choices."

The dispute over safety standards is part of a long debate about condom use between [AIDS Healthcare Foundation](#) and the adult-film industry. In 2012, AHF supported and saw passage of [Measure B](#), a Los Angeles County law that mandates condoms on all adult-film shoots, saying that performers deserve to be protected while working. The organization was able to go further by placing a statewide measure on November's ballot to strengthen mandates under Cal/OSHA. If passed by voters, production sites across the Golden State will have to take out health permits.

Leue said the adult-film industry plans to unite again to fight the ballot initiative, which he said would "seek to replicate and amplify the worst parts of the regulations."

"In fact, the ballot initiative allows private citizens to sue adult performers who do not use condoms and would drive a legal industry underground where performers would be less safe," he said. "This idea — that private citizens can sue adult performers because of actions they disapprove of is outrageous and would not be permitted in any other sector of our society. We will fight this, and this, too, we will win."

Although some film sets do use condoms, the San Fernando Valley-based industry relies on testing performers for sexually transmitted diseases every 15 days as its standard health protocol.

Nina Hartley, a veteran in the porn industry, told reporters the testing standards work.

"I oppose this measure," she said of the regulations. "This is unwanted, unneeded, patronizing, insulting and will not work. We have a wonderful system in place that everyone trusts and believes is safe."

California is one of two states where the making of pornographic films is legal. New Hampshire is the other. Condoms have been required on all California sets since the early 1990s, and some sets follow the laws. But the industry largely has been able to skirt the issue, and enforcement takes place on a complaint-only basis. The new regulations, which were six years in the making, were drawn up to amend those requirements and included rules for testing.

"While the Standards Board voted against adopting the proposed regulation, condoms are still required under the existing blood-borne pathogens standard in California and nationwide," according to a statement officials with Cal/OSHA. "This includes adult films. Cal/OSHA will continue to enforce existing regulations and investigate complaints in the adult film industry, as it has since 2004."

In 2009, AIDS Healthcare Foundation submitted a formal petition to the Cal/OSHA Standards Board to convene an advisory committee to amend the

standards. Several actors who said they contracted HIV and sexually transmitted diseases while working on sets also spoke out during the hearing, including Sofia Delgado, who said she contracted HIV in 2013, and asked Cal/OSHA to vote yes on the regulations.

Michael Weinstein, president of AIDS Healthcare Foundation, said his organization will file a new petition to Cal/OSHA to amend the standards.

“We are disappointed that the Occupational Safety & Health Standards Board failed to complete this years-long process, an action that would have resulted in improved worker safety for adult-film workers in California, but thank them for their work on this over the past six years,” Weinstein said in a statement.

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