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Des Moines Register

BUSINESS

'We pay taxes': Iowa strip club owners balk at state rules blocking COVID relief

[Tyler Jett](#) Des Moines Register

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Cream-colored cushion bubbles through a fake leather chair in the corner of Rick Goulden's strip club, like a wound seeping through claw marks.

Blemishes are an expected line item for a business like Outer Limits, at 6560 NE 14th St., in Des Moines. Goulden paid \$5,500 to reupholster the chair last summer, along with the three others in the club's private section. Out went the tiger print velour; in came the brown Naugahyde fabric.

Goulden, who opened the business 37 years ago, hoped the darker color would better hide alcohol stains. He knew the fix wouldn't last long, though.

"The girls themselves are pretty rough on stuff," he said. "It's just those high heels. They climb up on the furniture and stuff. And their heels poke holes in the material. For a long time, we had signs up: 'NO HIGH HEELS ON THE FURNITURE.' But they didn't pay attention to it."

Last year was rough on Outer Limits. Gov. Kim Reynolds shut bars in March, April and May due to the coronavirus pandemic. Then she shut them again in August. Then she mandated a 10 p.m. curfew.

Bars and restaurants were given financial relief in the form of state and federal grants to help stave off lost business due to the closures.

But because women take their clothes off here, government officials denied Goulden's requests for financial assistance.

He said he applied for a Paycheck Protection Program forgivable loan, which would have covered his small payroll for a couple of months last spring. His banker told him the U.S. Small Business Administration exempted strip clubs from the grant. The Iowa Economic Development Authority created similar rules for its COVID-19 relief programs.

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Federal and state officials said they issued the rules because hundreds of thousands of businesses asked for money at the beginning of the pandemic, and the government couldn't help everybody. While the First Amendment allows women to remove their clothes for money, the law doesn't guarantee taxpayer funds.

But strip club owners like Goulden say the rules don't make sense. They pay taxes and hire employees, just like other bars. And the government forced them to shut down, just like other bars.

Some challenged the Small Business Administration's rules in court. Dozens of them succeeded, with judges forcing the agency to issue Paycheck Protection Program loans to the suing strip clubs.

The crisis could change the way the government treats strip clubs going forward. As part of the lawsuits, lawyers are challenging decades-old rules that prevent any assistance from going to businesses like Outer Limits.

Iowa strip clubs had a rough time in pandemic

Goulden could use the help. Despite the shutdowns, he said he spent about \$20,000 on renovations last year. He rebuilt the dressing room and installed new carpet. In the bathroom, he bought two toilets, a urinal and a sink and added a fresh coat of paint. This year, he's paid about \$10,000 more after the ice machine broke, the stereo broke and part of a furnace blew out.

Still, he isn't optimistic that any relief is coming for him.

"I'm just kind of used to it," he said. "They're never going to give a strip club a break."

In Waterloo, Mirzet Dizdarevic said he also got rejected when he applied for federal and state relief for his two strip clubs, Flirts Gentlemen's Club and Risque Gentlemen's Club. He said he's been scraping to survive since.

The business picked up this year, he said. Customers in their 20s have shown little hesitancy during the pandemic. Still, few of the regulars over 60 years old are coming by these days.

While the dancers are independent contractors, Dizdarevic said his businesses employ about 15 total full-time bartenders, bouncers and waitresses. At the beginning of the pandemic, some of his employees waited months to receive unemployment insurance. He said he floated them some personal funds to get by.

He believes the lack of government funding is simply the result of discomfort among lawmakers.

"People watch too many movies," Dizdarevic said. "When you say, 'strip clubs,' they're just like, 'Prostitution! Drugs! Pills!' ... I run a tight ship, as far as I can speak for myself. There's no drugs in

here. There's no prostitution. There's none of that. We try to run our club as well as we can."

State says it 'has to make tough choices' with limited funds

In a statement to the Des Moines Register, Iowa Economic Development Authority spokesperson Kanan Kappelman said state officials excluded strip clubs because of the limited COVID-19 relief funds available. The state provided about \$90 million through about 16,000 grants to small businesses, restaurants and bars over the last year.

"IEDA and [the Iowa Finance Authority] has to make tough choices on how best to use the limited resources to maintain our economy and assist businesses," Kappelman said.

Lawyers for the Small Business Administration made similar points in federal lawsuits last year. Attorneys wrote that the federal agency could block Paycheck Protection Program loans from strip clubs because they needed to "consider the public interest" for the agency's "limited resources."

The lawyers pointed out that the Small Business Administration has denied all of its low-interest loans to strip clubs since 1996, when the agency issued a blanket rule that blocked them.

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But lawyers for a collection of strip clubs, including Spearmint Rhino Gentlemen's Club in Carter Lake, Iowa, argued in federal court that the Small Business Administration's rules never made sense. They said no lawyer has challenged the rules until last year.

U.S. District Court judges in Michigan and Wisconsin sided with the strip clubs — at least for the moment. Both granted preliminary injunctions last spring, meaning the suing strip clubs could get Paycheck Protection Program funds while the Small Business Administration still had money in the coffers.

The ruling meant the businesses have a good chance to win the case, said Brad Shafer, an attorney for the strip clubs in the Michigan lawsuit. But he said the cases won't go back to judges until at least August, and lawyers don't know what the cases will mean for any future government funding.

In the Wisconsin case, Judge Lynn Adelman wrote that the Small Business Administration has operated with unfair rules against strip clubs for 25 years. She said Congress never gave the agency the authority to make the rule.

Lawyer: Government can decide funding, but can't discriminate

University of California at Davis law professor Brian Soucek said these lawsuits could forever change the Small Business Administration. But, he added in a California Law Review article that rules about government funding are tricky.

For the most part, federal and state lawmakers can pick which industries deserve subsidies. This is why states often "exempt milk but not Milk Duds from sales taxes," Soucek wrote. If people are upset about the rules, they can always vote out the lawmakers.

But governments are not completely free to fund who they want, he explained. They can't discriminate against a business that meets all criteria for a funding program. If everything else is equal, a state or federal government can't exclude a sales tax exemption for one dairy farmer and not another.

Asked about Iowa's programs, Soucek said the state could exclude many strip clubs from a bar and restaurant relief grant it issued earlier this year — unless the strip club happens to operate a bar or serve food with waitresses.

But he thinks strip clubs should have at least received funds through last year's grant program, which went to small businesses in general.

"That exclusion is unconstitutional," he told the Register in an email. "To provide general funding to all small businesses except one particular type, where the only distinction is the fact that the government dislikes its expression — that's a violation of the First Amendment."

In Ames, Dangerous Curves owner Neil Slater applied for a grant last fall after Reynolds ordered the city's bars to shut down. When the Iowa Economic Development Authority denied his application, he asked for an explanation.

Rita Grimm, the authority's chief legal counsel, said that the state disqualified Dangerous Curves because the bar provides "adult entertainment," according to emails Slater shared with the Register. Dangerous Curves is a "bikini bar," meaning performers keep on at least slivers of clothing.

When one of Slater's co-owners asked Grimm for a definition of "adult entertainment," she sent links to a Google search of the business, an online review of the business and an "Iowa Adult Entertainment" map that someone had made and uploaded online. The map included Dangerous Curves.

"The photos are also quite telling," Grimm wrote. " ... The thing speaks for itself."

Slater's co-owner wrote back, telling Grimm she still had not provided a definition for "adult entertainment."

"The decision is final," Grimm responded, according to the emails.

Slater said the definition left him wanting.

"We pay a liquor license," he said. "We pay taxes — sales tax, property tax, income tax. Food service license. We do the same thing that every restaurant and bar in Iowa has to. ... There's no rhyme or reason."

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