

Successful Business

The Prostitute Protection Act

from **A** to **Z**

english

englisch



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Wilhelmine-Gemberg-Weg 10 | D-10179 Berlin
Tel +49 (0)174 91 99 246 | info@bsd-ev.info | www.bsd-ev.info

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The following texts are taken from our brochure
"Gute Geschäfte – Das ABC des Prostituiertenschutzgesetzes"
(Successful Business – The Prostitute Protection Act from A to Z)
which was published in German in December 2017.

The section referring to sex workers is now available in the following
languages: Bulgarian, English, Hungarian, Spanish, Romanian and Thai.

As far as the regulations for brothel managers and prostitution businesses
are concerned, please refer to the original brochure.

You can order it from us for free, and it is also available at:
www.bsd-ev.info/publikationen.

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Successful Business

The Prostitute Protection Act from A to Z

Dear colleagues,
dear brothel managers,

The prostitution industry is faced with great challenges. After many years of discussion, the Prostitute Protection Act was introduced and is now part of the laws regulating the industry, and includes the Prostitution Act, criminal law and police and tax laws. This law will radically change the prostitution industry.

We had a different way in mind: By picking up where the Prostitution Act (ProstG) from 2002 left off – which, for the first time ever, guaranteed wages for sex workers and established brothels as regular businesses – we called for the gradual integration of the prostitution industry into other laws, such as commercial and building law.

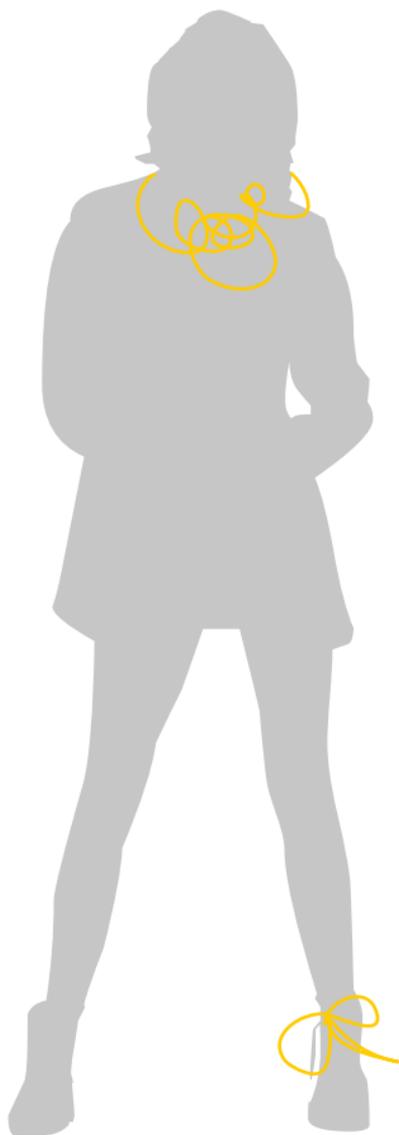
But policymakers chose a different path! Now all we can do is publish this brochure to explain the law to sex workers, especially those who don't speak German, and to help them put it into practice.

After all, you will only be successful if you are well-informed and act professionally.

With that in mind, here's to

business success!





Prostitute Protection Act

The Prostitute Protection Act (ProstSchG) is a law that regulates the prostitution industry and protects people working in this industry.

It contains a lot of new information for sex workers and brothel managers, but also for clients. The federal law consists of several articles. Article 1 is the law that protects people working as prostitutes (ProstSchG) and consists of 38 sections. The additional articles include changes to laws such as the ProstG, the Control of Unreported Employment Act, the Trade Regulations Act, the Social Code IV and the Administrative Offence Act. The new law also includes a very detailed explanation. In addition, there are two legal regulations by the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth (Bundesministerium für Familie, Senioren, Frauen und Jugend) as well as the implemented regulations and laws of the 16 federal states to keep in mind.

Either way – it won't hurt to take a peek at the new law.

§

This law became fully effective on 1 July 2017. There are some transitional regulations valid thru 31/12/2017 in place for those currently working as prostitutes and for already existing brothels. The new law introduced entirely new tasks for the 16 federal states in Germany and the cities, counties and municipalities. They had to develop new structures for administrative bodies, furnish new offices and find and train new staff. These preparations are not yet completed – therefore we all have to be patient, continue to ask questions and gather information to avoid disadvantages.

Simply pretending that nothing has changed, won't help!



Policymakers created this law to protect sex workers in particular. This also explains the name of “Prostitute Protection Act”. They want to provide this protection by making sex workers report to the authorities on a regular basis. The authorities will provide sex workers with information about their rights and obligations, and identify who is in need of protection. These sex workers will then be referred to other authorities and outreach programs.

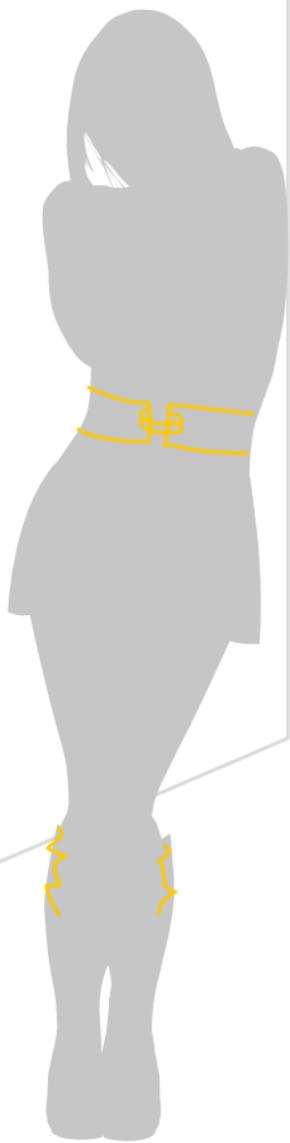
Time will tell whether this law with a promising name will meet its goals!

The Prostitute Protection Act will regulate all matters of prostitution and keep an eye on businesses in particular by enforcing strict regulations. Many regulations originate from hospitality and industrial law.

But there are exceptions: Working on the street or via the Internet are not regarded as places of prostitution.

The ProstSchG defines prostitution as “a sexual act performed for payment by at least one person with or in front of at least one other present person, or allowing a sexual act to be performed with or in front of you for payment.”

This is meant to include the entire range of sexual services: both the classical range of sex workers' services at diverse prostitution businesses as well as BDSM, tantra and sexual assistance. The key factor is **receiving payment** for sexual services. Usually, this refers to **MONEY**, however it could also be meal, travel, good grades at school, provisions for accommodations, etc. It doesn't have to be a commercial exchange.



Regulations for prostitutes

The law mainly uses the term “prostitutes”. In the political context, the terms “sex worker” and “sex work” are more common.



This brochure refers to both terms to make both widely known and used. We also want to make our political standpoint as a federal association clear: we support the rights of sex workers, brothel managers and clients in the sex work industry.

The ProstSchG defines prostitution as “people who provide sexual services”.

No matter where you work: on the street, at a bar, a club, a brothel, sauna or nudism clubs, by appointment, as an escort, at “brothel flats”, at a massage or SM studio, in prostitution vehicles (e.g. “love mobiles”), as a sexual assistant, or whether you do house calls or hotel visits, etc. Of course this law also includes male and trans* sex workers like male prostitutes, call boys and tantra massage therapists. According to the law, they are all prostitutes.

If you **work as** a prostitute, you need to have a valid health consultation certificate and a registration **certificate**, and you have to carry them with you when you work.



The registration certificate is often called **Hooker ID** when using slang.

Health consultation

you must attend regular health consultations, at **least every 12 months**. You will receive a certificate to prove you have attended the consultation. When you register as a sex worker for the first time, this certificate may not be older than three months. (If you are younger than 21, you must attend health advice **consultations at least every six months**.)



Registration with the authority

you must register with the authority to receive a certificate. If you are 21 or older, you have to renew this certificate **every two years**. (If you are under 21: **every year**.)

Health consultation

- you must go to the local health office (Gesundheitsamt),
- you must present your passport or another form of identification,
- you will receive a certificate and you may have to pay a fee.

The health consultation certificate states:

- your first and last name,
- your date of birth,
- the health office, the issuing and expiration date.

You can also register with **an alias** and receive an “alias certificate” (see page 13).

You will **be advised** on how to prevent diseases, contraception, on pregnancy and the risks of alcohol and drug abuse.

Important

The ProstSchG
does not require
mandatory
examina-
tions!

Registration with the authority

- you must go to the registration authority,
- before starting work (prostitutes who were working before 1 July 2017 must register by **31/12/2017**; your first registration is valid for three years, the health consultation certificate is valid for two years),
- you have to present your passport or another identification document,
- immigrants (non-EU members) must also provide a work permit,
- you need two photographs,
- your first and last name, your date of birth, your place of birth, your nationality, your registered address or your mailing address will be listed,
- the health consulting certificate may not be older than three months.

You will **receive advice and information** on the ProstSchG, the ProstG and other laws relevant for the industry, on health insurance and social security, health-related and social consulting, emergency help and tax obligations. This information should be given in a language you understand. This means there may be an interpreter present. The consultation should take place in a confidential setting.

The authority may also refer you to other outreach centers. However, if you are in need of protection – because you are being forced to work as a prostitute or if your immigrant situation is being exploited – it must take action. After all, it is about persecuting criminal acts.

The **registration certificate** includes:

- your photograph,
- your first and last name,
- your date and place of birth,
- your nationality,
- the federal states or cities you are planning to work in, its validity and the issuing office.

All federal states or municipalities where you want to work in the future will be listed on the certificate. Insist on having all 16 federal states listed. In this way you are free to move about and independent from the authority. Also, you won't have to list new cities over and over again.

Alternatively, you can have both certificates issued with an **alias** name. This can be your artist's name, e.g. Natascha, Irma la Douce or Maya the Bee.

If you are controlled by the police, they can determine your identity with the photograph and by comparing with your passport. Of course, they can also request your real name from the registration authority.

You must always carry both certificates with you when you are working, and you need to present them to the authorities if necessary. If you don't have the certificates, you won't be allowed to work for a brothel manager.

If you are controlled and you are not carrying the certificate with you, you may receive a verbal warning, followed by a fine of up to EUR 1,000 (depending on the individual case and your personal situation).

Brothel managers will collect your information and present it to the authorities if necessary.

The brothel manager must hand you a receipt for the room rent, room fees, your commission or your share of the earnings, and if necessary report this to the authorities.

The registration authority will forward your information to the tax office.

This doesn't change anything for you. Just like before, you have to register your work with the tax office and complete the form "Fragebogen zur steuerlichen Erfassung – Aufnahme einer gewerblichen, selbständigen Tätigkeit" (Questionnaire on tax assessment – Registration of self-employed work). Then you will receive your tax ID if this is required. And just like before you have to submit your tax return for income, VAT and trade tax for each calendar year to your tax office.

Thanks to the ProstSchG, the tax office is now also notified about your line of work by the registration authority.

You **will NOT** receive the registration certificate

- if you don't provide sufficient verification,
- if you are younger than 18 years,
- if you are pregnant and will give birth within the next six weeks,
- if you are under 21 and you were coerced into taking up or continuing prostitution,
- if there is evidence that you are in a constraining position, that you are helpless, or if someone is exploiting that you are in a foreign country or in a dependency relationship.

You have to figure out which **authority** is responsible in which city. This is also the right place to ask questions. Also, you should talk about this with your colleagues, get information online or from a professional consulting center for prostitutes (see page 25).

According to this law, you should register in the city where you will be **working most of the time**. This means if you want to work in several cities, you can decide where you will be most of the time and register there!

Some authorities ask for a fee for the certificate (e.g. EUR 35.00) – **some don't!**

The authority should decide about your application straight away or at the latest within 5 days.



But that's not all.

You also need to know about the following:

- you have to let the authority know about any change to your situation within 14 days: if you get married and change your name or if you have a new address, etc.
- as a sex worker, you are required to wear condoms during sexual intercourse (vaginal, oral and anal) – even if it's the customer and not you who gets punished otherwise,
- it is not allowed to advertise for sexual intercourse without a condom – no paraphrasing or abbreviations,
- gang bang parties and flat rate offers are prohibited,
- you are no longer allowed to sleep in the room you work in. This means you might have to pay more if you have to rent a separate place to sleep,
- however, you are allowed to work and live alone in your flat,
- if you are sharing a house, a flat or an apartment with another colleague, you are operating a prostitution business and you have to apply for a prostitution business permit (see explanation in the German brochure),
- you also have to be aware of other laws: e.g. the Prostitution Act, the Restricted Area Regulation, the Infection Protection Act,

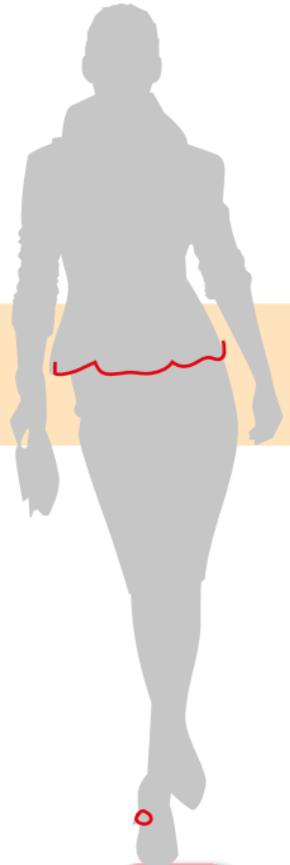
- your data is deleted by the registration authority at the latest three months after the termination of your work or after your registration certificate has expired.



Surely, it will take a while until the respective authorities are established in all of the cities. Some are already working perfectly – others are still work in progress. These new regulations

probably sound very complicated to you at first, but with a little planning and information you will get through it, and then you can focus on your work again.

Be good and smart and work professionally.

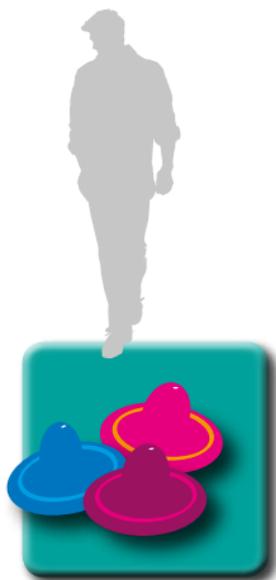


Regulations for clients



Sex workers and their clients are obliged to use a condom during sexual intercourse (vaginal, oral and anal) by law. If they don't, **only** the client can be punished with a fine of up to EUR 50,000.

There are similar regulations that already exist in Bavaria (= "Bavarian condom regulation") and in Saarland.



What else is important

Legal structures in Germany

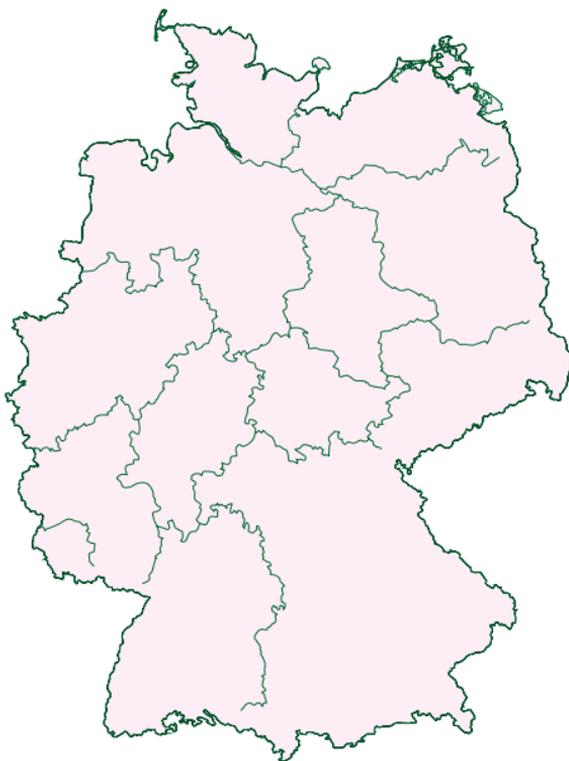
The ProstSchG is a federal law. It was passed by the Bundestag and most of the 16 federal states agreed to the law in the Bundestag on 23 September 2016.

Therefore, the law applies throughout Germany, in all 16 federal states: in Schleswig-Holstein, Hamburg, Bremen, Mecklenburg-Vorpommern, Niedersachsen, Nordrhein-Westfalen, Berlin, Brandenburg, Sachsen-Anhalt, Sachsen, Thüringen, Saarland, Hessen, Rheinland-Pfalz, Baden-Württemberg, Bayern. All sex workers, brothel managers and clients, as well as the authorities, have to abide by it.

There are two additional regulations from the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth:

- 🌀 the Prostitution Registration Regulation (ProstAV)
- 🌀 and the Prostitution Statistics Regulation (ProstStatV)

These legal regulations define additional framework conditions, e.g. the design of the registration certificate and ascertainment of the mailing address, in addition to the ProstSchG.



However,

the 16 federal states decide how they want to implement the law locally, and which will be the responsible authority. As an example, these can be individual authorities such as the health office, the regulatory agency or the trade office in the cities, counties, independent cities, etc.

There may also be additional aspects to take into account:

- 🌀 As an example, the federal states of Schleswig-Holstein, Hamburg, Mecklenburg-Vorpommern, Berlin and

Saarland have decided that there is only one place for the registration of sex workers,

- and some federal states demand a fee from sex workers: e.g. in München every certificate costs EUR 35.00 and in Niedersachsen it's EUR 15.00. In Berlin, Hamburg and Nordrhein-Westfalen, on the other hand, the certificate is free.

Costs for sex workers can add up:

➔ for health consulting:	EUR	35.00
➔ for the registration:	EUR	35.00
➔ for the alias certificate:	EUR	35.00
Total:	EUR	105.00 Euro + more! e.g. if you need an interpreter.

But all have to take into account the framework conditions of the ProstSchG as a federal law!

Privacy

From a data privacy perspective, there are major concerns regarding the ProstSchG:

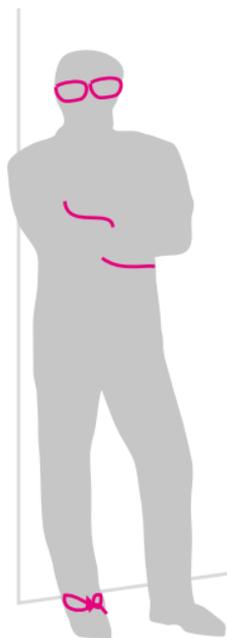
- ⬆ Is the large amount of personal information, which is also sensitive data as it refers to a person's sexuality, safe with the authorities?
- ⬆ Who can this information be forwarded to?
- ⬆ Is the information safe from hacker attacks and abuse?

Of course, there is no absolute protection of data. But the ProstSchG itself states that sex workers' and brothel managers' personal data

- ⬆ may only be collected and used in connection with this law,
- ⬆ may only be passed on when persecuting offences and if there is a specific risk – according to the ProstSchG,
- ⬆ may only be passed on anonymously and only for statistical and research purposes,

🌀 The registration data must be deleted at the latest three months after the registration certificate has expired.

**It's good
to be
skeptical!**



Successful Business...



in prostitution requires more and more knowledge and a lot of patience to work through the many obstacles of bureaucracy. Please inform yourself, read the law and research it on the Internet, ask the authorities.

Join an association to get support.

Yes, there is a lot of bureaucracy and the consequences for your day-to-day business and the additional effort are not yet foreseeable. But you can do it! And if you want to continue your business, you will have to.

At some point you may have to ask a lawyer and the courts, or you will have to raise an objection against official decisions. After all, it is worth the fight: There is a need for prostitutes; sex work is a profession and must be treated with respect and include good conditions.

In any case, we would like to wish you:

All the best and a lot of success

Further information

General Information

<https://www.bmfsfj.de/ProstSchG>

<https://www.bmfsfj.de/bmfsfj/themen/gleichstellung/frauen-vor-gewalt-schuetzen/prostituiertenschutzgesetz/prostituiertenschutzgesetz-links-der-laender>

BSD e.V.

www.bsd-ev.info

Brochure “Gute Geschäfte – Rechtliches ABS der Prostitution” (Successful Business – Legal ABS for Prostitution) from 2005 – www.bsd-ev.info/publikationen

Brochure – “Gute Geschäfte – das ABC des Prostituiertenschutzgesetzes” (Successful Business – The Prostitute Protection Act from A to Z) from 2018 in German – www.bsd-ev.info/publikationen

Professional consulting centers for prostitution

www.bufas.net

www.lola-nrw.de

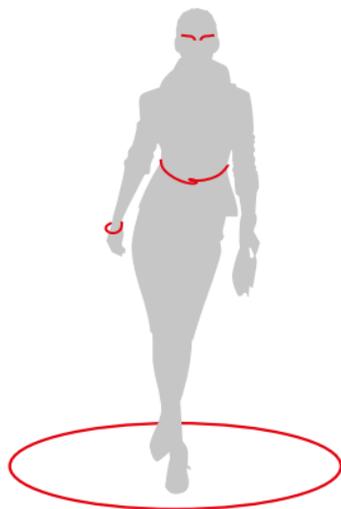
Additional information

<https://berufsverband-sexarbeit.de>

www.prostituiertenschutzgesetz.info

profiS workshop

www.move-ev.org/profis



Successful Business 3

Prostitute Protection Act 5

Regulations for sex workers 9

Regulations for clients 18

What else is important 19

Legal structures in Germany 19

Data privacy 22

Successful Business 24





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