

STATE OF KANSAS

HOUSE OF REPRESENTATIVES

MR. CHAIRMAN:

I move to amend **House Substitute for SB 25**, on page 1, by striking all in lines 5 through 36;

By striking all on pages 2 through 9 and inserting:

"New Section 1. (a) As used in this section the following words and phrases shall have the following meanings unless a different meaning clearly appears from the context:

(1) "Adult arcade" means any place to which the public is permitted or invited, wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting specified sexual activities or specified anatomical areas.

(2) "Adult bookstore or adult video store" means a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following items: Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides or other visual representations which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas. For purposes of this subsection, a principal business activity exists where the commercial establishment:

(A) Has a substantial portion of its displayed merchandise which consists of such items;

(B) has a substantial portion of the wholesale value of its displayed merchandise which consists of such items;

(C) has a substantial portion of the retail value of its displayed merchandise which consists of such items;

(D) derives a substantial portion of its revenues from the sale or rental, for any form of consideration, of such items;

(E) maintains a substantial section of its interior business space for the sale or rental of such items; or

(F) maintains an adult arcade.

(3) "Adult cabaret" means a nightclub, bar, juice bar, restaurant, bottle club or other commercial establishment, regardless of whether alcoholic beverages are served, which regularly features persons who appear semi-nude.

(4) "Adult motion picture theater" means a commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions, which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas, are regularly shown to more than five persons for any form of consideration.

(5) "Characterized by" means describing the essential character or dominant theme of an item.

(6) "Establish or establishment" means and includes any of the following:

(A) The opening or commencement of any sexually oriented business as a new business;

(B) the conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or

(C) the addition of any sexually oriented business to any other existing sexually oriented business.

(7) "Semi-nude or state of semi-nudity" means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point or the showing of the male or female buttocks. This definition shall include the lower portion of the

human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard or similar wearing apparel provided the areola is not exposed in whole or in part.

(8) "Semi-nude model studio" means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons. "Semi-nude model studio" does not mean any place where persons appearing in a state of semi-nudity did so in a modeling class operated:

(A) By a postsecondary educational institution, as defined in K.S.A. 74-3201b, and amendments thereto, supported entirely or partly by state moneys;

(B) by a private postsecondary educational institution, as defined in K.S.A. 2010 Supp. 74-32,163, and amendments thereto, supported entirely or partly by state moneys; or

(C) in a structure which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing, and where, in order to participate in a class, a student must enroll at least three days in advance of the class.

(9) "Sexual device" means any three dimensional object designed and marketed for stimulation of the male or female human genitals, anus, female breast or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

(10) "Sexual device shop" means a commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access

to their premises by reason of age.

(11) "Sexual encounter center" means a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration, physical contact in the form of wrestling or tumbling between persons of the opposite sex when one or more of the persons is semi-nude.

(12) "Sexually oriented business" means an adult arcade, an adult bookstore or adult video store, an adult cabaret, an adult motion picture theater, a semi-nude model studio, a sexual device shop or a sexual encounter center.

(13) "Specified anatomical areas" means and includes:

(A) Less than completely and opaquely covered: Human genitals; pubic region; buttock; and female breast below a point immediately above the top of the areola; and

(B) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(14) "Specified sexual activity" means any of the following:

(A) Intercourse, oral copulation, masturbation or sodomy; or

(B) excretory functions as a part of or in connection with any of the activities described in paragraph (A).

(15) "Substantial" means at least 30% of the items so modified.

(b) No person shall establish a sexually oriented business within 1,000 feet of any preexisting accredited public or private elementary or secondary school, house of worship, state-licensed day care facility, public library, public park, residence or other sexually oriented business. For purposes of this subsection, measurements shall be made in a straight line, without regard to intervening structures or objects, from the closest property line of the parcel containing the sexually oriented business to the closest property line of the parcel containing the preexisting elementary or secondary school, house of

worship, state-licensed day care facility, public library, public park, residence or other sexually oriented business. This subsection shall not apply to any sexually oriented business lawfully established prior to the effective date of this act.

(c) Nothing in this section shall prevent any city or county from enacting or enforcing any local ordinance or resolution concerning the regulation of sexually oriented businesses or similar adult oriented businesses which is not in conflict with this section.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.";

On page 1, in the title, in line 1, by striking all following "ACT"; by striking all in line 2 and inserting "concerning the regulation of sexually oriented businesses; relating to the location thereof."

_____ District.