

SESSION OF 2011

**SUPPLEMENTAL NOTE ON HOUSE
SUBSTITUTE FOR SENATE BILL NO. 25**

As Recommended by House Committee on
Federal and State Affairs

Brief*

House Sub. for SB 25 would establish the Community Defense Act to regulate the location and operation of statutorily defined sexually oriented businesses. Such businesses would include the following types that are defined in the bill: adult arcade, adult book store, adult video store, adult cabaret, adult motion picture theater, semi-nude model studio, sexual device shop, and sexual encounter center.

The bill would establish limitations on the location of such establishments in relation to specified distances from certain types of public and private facilities, minimum requirements for their physical configurations, and restrictions on the types of performances, hours of operation, age of employees, and activities that may take place within such establishments.

The bill would make any violation of the provisions of the Community Defense Act a class C misdemeanor.

Finally, the bill would allow any city or county to have an ordinance or resolution regulating sexually oriented businesses as long as the local law does not conflict with the Community Defense Act and its provisions.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Background

The House Committee amended provisions of HB 2107 as passed by the House into House Sub. for SB 25.

Proponents of HB 2107 included representatives of the National Coalition for the Protection of Children and Families, the Concerned Women of America of Kansas, a Jefferson County Citizen's Group, the Kansas Catholic Conference, and three other individuals from legal and psychological backgrounds. Opponents included representatives of local governments that had adopted local regulations, of the Equal Entertainment Group, and of local businesses that would be impacted by the proposed legislation.

The bill as introduced would have prohibited the sale, use, and consumption of alcohol and cereal malt beverages on the premises of sexually oriented businesses. The House Committee deleted this provision from the bill.

The House Committee also modified the provision about local ordinances and resolutions that in the bill as introduced would have required that ordinances or resolutions regulating sexually oriented businesses must be stricter but not inconsistent with the Act. The House Committee clarified that such local laws must not be in conflict with the Act.

In addition, the House Committee amended the term "portion" as it pertained to property to read as "property line" in order to clarify the separation distances would be measured from the closest property line when determining the required separation distances from sexually oriented businesses.

Finally, the House Committee made two technical amendments: the first one to delete duplicate language in New Sec. 4(a) and the second one to add language that was omitted in error from Sec. 13 as subsection (k) in the bill as introduced.

The House Committee of the Whole made a technical amendment on page 5 of the bill to parallel *2010 Session Laws of Kansas* references with KSA references as appropriate for the same provisions of law.

The fiscal note for the HB 2107, as introduced, indicated that 21 drinking establishments could be impacted by the prohibition of alcohol and cereal malt beverages at such businesses know as adult cabarets. An undetermined loss in the amount of liquor excise tax and state sales tax would occur if such businesses continued to operate as an adult cabaret. The House Committee deleted the provision prohibiting alcohol and cereal malt beverages, nullifying this portion of the fiscal note.

The fiscal note for the bill as introduced also indicated that an increase in costs for investigations and prosecution of violations under the Community Defense Act could occur and that action could have a fiscal impact on the state and local authorities. Any increased court activity that could result also would result in a fiscal effect on the operation of the court system, according to the fiscal note. No estimates were available as to the costs.