

HOUSE BILL No. 2054

By Committee on Federal and State Affairs

1-23

1 AN ACT establishing the community defense act; amending K.S.A. 2012
2 Supp. 22-3901 and repealing the existing section.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 New Section 1. The provisions of sections 1 through 11, and
6 amendments thereto, shall be known and may be cited as the community
7 defense act.

8 New Sec. 2. The purpose of the community defense act is to regulate
9 sexually oriented businesses in order to promote the health, safety and
10 general welfare of the citizens of Kansas, and to establish reasonable and
11 uniform regulations to prevent the deleterious secondary effects of
12 sexually oriented businesses within the state. The provisions of this act
13 have neither the purpose nor effect of imposing a limitation or restriction
14 on the content or reasonable access to any communicative materials,
15 including sexually oriented materials. Similarly, it is neither the intent nor
16 effect of this act to restrict or deny access by adults to sexually oriented
17 materials protected by the first amendment, or to deny access by the
18 distributors and exhibitors of sexually oriented entertainment to their
19 intended market. Neither is it the intent nor effect of this act to condone or
20 legitimize the distribution of obscene material.

21 New Sec. 3. As used in sections 1 through 11, and amendments
22 thereto, the following words and phrases shall have the following
23 meanings unless a different meaning clearly appears from the context:

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

31 (b) "Adult bookstore or adult video store" means a commercial
32 establishment which, as one of its principal business activities, offers for
33 sale or rental for any form of consideration any one or more of the
34 following items: Books, magazines, periodicals or other printed matter, or
35 photographs, films, motion pictures, video cassettes, compact discs, digital
36 video discs, slides or other visual representations which are characterized

Ballroom Amendment for HB2054
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1 by their emphasis upon the display of specified sexual activities or
2 specified anatomical areas. For purposes of this subsection, a principal
3 business activity exists where the commercial establishment:

4 (1) Has a substantial portion of its displayed merchandise which
5 consists of such items;

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

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

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

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

14 (6) maintains an adult arcade.

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

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

25 (e) "Characterized by" means describing the essential character or
26 dominant theme of an item. ~~For purposes of sections 1 through 11, and
27 amendments thereto, no business shall be classified as a sexually oriented
28 business by virtue of showing, selling or renting materials rated NC-17 or
29 R by the motion picture association of America.~~

30 (f) "Employ, employee and employment" means any person who
31 performs any service on the premises of a sexually oriented business, on a
32 full-time, part-time or contract basis, whether or not the person is
33 denominated an employee, independent contractor, agent or otherwise.
34 "Employee" does not mean a person exclusively on the premises for repair
35 or maintenance of the premises or for the delivery of goods to the
36 premises.

37 (g) "Establish or establishment" means and includes any of the
38 following:

39 (1) The opening or commencement of any sexually oriented business
40 as a new business;

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

43 (3) the addition of any sexually oriented business to any other