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LEGISLATURE *of* THE STATE *of* KANSAS
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MEMORANDUM

To: Chairman Barker and the Committee on Federal and State Affairs
From: Office of Revisor of Statutes
Date: March 11, 2021
RE: House Bill 2403

HB 2403 would enact the community defense act. The stated purpose of the act is to regulate sexually oriented businesses to promote the health, safety and general welfare of the citizens of Kansas.

Section 2 provides definitions for the act, including a “sexually oriented business” which 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.

Section 3 would prohibit establishing 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. This prohibition would not apply to any sexually oriented business established prior to the enactment of the bill.

Section 4 would prohibit nudity in a sexually oriented business. Semi-nudity would be prohibited in a sexually oriented business unless the employee remained on a fixed stage at least six feet from all patrons and at least 18 inches from the floor in a room of at least 600 square feet. No employee of a sexually oriented business would be permitted to touch a patron while they were semi-nude.

Any sexually oriented business that displayed adult videos would be required to configure the premises so there was an unobstructed view from the operator’s station to the

interior of each viewing room. An operator would have to be on duty at all times any patron was on the premises. Sexually oriented businesses that did not have stages or interior configurations that met these requirements would have 180 days to comply.

Sexually oriented businesses would be prohibited: 1) from operating between 12am and 6am, 2) selling or allowing patrons to consume alcoholic beverages on the premises, and 3) allow persons under the age of 18 on the premises.

Any violation of the provisions of the act would constitute a class C misdemeanor and each day that a violation occurred would constitute a separate violation. It would be a defense to a violation for a supervisor of a sexually oriented business if they did not knowingly allow the violations to be committed by an employee or if they were unable to prevent the violation.

Section 8 would amend K.S.A. 22-3901 to make habitual violations of the act a common nuisance. If a person is arrested for a common nuisance, the attorney general, city, county or district attorney may petition the court for a hearing to determine whether an unlawful activity is or has been occurring on such owner's property. Upon final judgment that any real property was used for the commission of a common nuisance, the court could order that any structure located on the property be closed and padlocked for a period of not more than two years and may assess a civil penalty not to exceed \$25,000.