

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2144**

As Amended by House Committee on  
Judiciary

**Brief\***

HB 2144 would enact the Community Defense Act to do the following:

- Regulate any sexually oriented business and establish reasonable and uniform regulations to prevent unwanted secondary effects of such business;
- Define necessary terms to establish needed regulations regarding sexually oriented businesses;
- Establish limitations regarding the location of such sexually oriented businesses from public and private facilities, such as:
  - Within 1,000 feet of an accredited public or private elementary or secondary school; or
  - Within 1,000 feet of a house of worship, state licensed day care, public library, public park, residence, or other sexually oriented business.
- Establish minimum requirements for such businesses regarding their physical configurations;
- Mandate hours of operation so that such businesses could not be open from midnight to 6:00 a.m. on any day; and
- Require that no person in such a business could appear in the nude.

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\*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>

A period of time would be allowed (180 days from the effective date) to come into compliance with the Act. Violations of the Act would be a class C misdemeanor for each day a violation occurred.

Other provisions of the bill would do the following:

- Establish a defense to liability for an officer, director, general partner or a person who managed, supervised or controlled the operation of the sexually oriented business under certain circumstances;
- Allow for a severability clause; and
- Include in the list of common nuisances the habitual violations of any law regulating sexually oriented businesses.

## **Background**

Support for the bill was expressed by Phillip Cosby, National Coalition for the Protection of Children and Families. Scott Bergthold, an attorney from Tennessee, who testified via telephone, expressed support for the bill.

Opposition to the measure was offered by Philip Bradley, Kansas Licensed Beverage Association; Ron Hein, Motion Picture Association of America; and Charles O'Hara, Attorney, Wichita. A written list of opponents included Tuck Duncan, Kansas Wine and Spirits Wholesalers Association; John Peterson, Anheuser-Busch Companies, Inc.; John Bottenberg, Miller Coors, LLC; Larrie Ann Lower, Wine Institute; and Neal Whitaker, Kansas Beer Wholesalers Association.

The House Committee amendments were technical and clarifying in nature.

The fiscal note indicates HB 2144 has the potential for increasing litigation in the courts because of the new violations created by the bill. If court activity does increase, the Office of Judicial Administration indicates that there would be a fiscal effect on the operations of the court system. However, it is not possible to predict the number of additional court cases that would arise or how complex and time-consuming they would be. Therefore, a precise fiscal effect cannot be determined. In any case, the fiscal effect would most likely be accommodated within the existing schedule of court cases and would not require additional resources.

According to the League of Kansas Municipalities, if enforcement of this bill would fall upon the cities, it would result in additional costs for investigation and prosecution. Because violation of the Act would be a class C misdemeanor, the fines collected would be negligible and would not be sufficient to offset those costs. However, because the nature and extent of violations associated with the Act cannot be determined, it is impossible to estimate the costs that would be incurred. The League also points out that legislation of this type is often challenged on a variety of constitutional issues, and the cities would be named as defendants in these actions and be responsible for the costs of defense in such litigation.