HOUSE BILL No. 2323

By Representatives Garber, Donohoe, French, Helmer, Highland, Huebert and Rahjes

2-13

AN ACT concerning taxation; relating to adult-oriented businesses; imposing an excise tax on admission thereto.

Be it enacted by the Legislature of the State of Kansas:

Section 1. As used in sections 1 through 9, and amendments thereto:

(a) "Adult-oriented business" means a business that:

(1) Is a sexually oriented business as defined in K.S.A. 12-770, and amendments thereto;

(2) Provides live, nude entertainment for an audience of two or more individuals; and

(3) Sells, serves or otherwise permits the consumption of alcoholic liquor on the business premises.

(b) "Department" means the department of revenue.

(c) "Nude" means the same as that term is defined in K.S.A. 12-770, and amendments thereto.

Sec. 2. (a) On and after July 1, 2019, for the privilege of engaging in an adult-oriented business, there is hereby levied a tax in the amount of $3 for each entry by a customer admitted to an adult-oriented business for the purpose of providing revenue that may be used by the state to provide human trafficking and child exploitation prevention grants.

(b) The tax imposed by this section shall be in addition to any other taxes or fees imposed on the adult-oriented business.

(c) The tax imposed by this section is not levied on the basis of the content of the entertainment provided by the business, but is imposed for the purposes of offsetting the secondary harmful effects and to help the state uphold community standards of decency and to combat sex-related crimes.

Sec. 3. Each adult-oriented business shall record the number of customers admitted to each business each day in such form and manner as required by the secretary. The business shall maintain such records as required by the secretary and shall make such records available for inspection and audit upon request by the department. Nothing in this section shall be construed to require an adult-oriented business to impose the tax levied under section 2, and amendments thereto, on a customer of such business.
Sec. 4. On or before the 25th day of each calendar month, every person engaged in an adult-oriented business in this state during the immediately preceding calendar month shall make a return to the director of taxation upon forms prescribed and furnished by the director, stating: 
(a) The name and address of the business; (b) the total number of customers admitted to such business during the immediately preceding calendar month; and (c) any other pertinent information the director requires. The person making the return shall, at the time of making the return, pay to the director of taxation the amount of tax imposed by section 2, and amendments thereto. The director of taxation may extend the time for making returns and paying the tax for any period not to exceed 60 days, under rules and regulations adopted by the secretary of revenue.

Sec. 5. The provisions of K.S.A. 75-5133, 79-3609, 79-3610, 79-3611, 79-3612, 79-3613, 79-3614, 79-3615, 79-3617, 79-3619 and 79-3643, and amendments thereto, relating to enforcement, collection and administration, insofar as practicable, shall have full force and effect with respect to the tax imposed under section 2, and amendments thereto. Wherever the word "director" is used in such statutes, it shall be construed to mean, for the purposes of this act, the director of taxation. The provisions of K.S.A. 74-2422, 74-2425, 74-2426 and 74-2427, and amendments thereto, relating to the approval of rules and regulations, and the adoption of uniform rules and regulations for such hearings and for appeals from orders of the director of taxation and prescribing the duties of county attorneys with respect to such appeals, insofar as practicable, shall have full force and effect with respect to the tax imposed by, and proceedings under, the provisions of sections 1 through 9, and amendments thereto.

Sec. 6. The director of taxation shall administer the provisions of sections 1 through 9, and amendments thereto. The secretary of revenue shall adopt rules and regulations necessary to carry out the provisions and intent of sections 1 through 5, and amendments thereto. The director of taxation shall appoint such agents and employees as the director may deem necessary for the proper enforcement and administration of such statutes. When, in the judgment of the director of taxation, it is necessary in order to secure the collection of any such tax, penalties or interest due thereon, or to become due under such statutes, the director may require any person subject to such tax to file a bond with the director in such form and amount as the director may prescribe.

Sec. 7. (a) No person shall: (1) Fail to make a return or pay any tax provided in sections 1 through 5, and amendments thereto; (2) make a false or fraudulent return; (3) willfully violate any rules and regulations of the secretary of revenue for the enforcement and administration of such statutes; (4) aid or abet another in attempting to evade the payment of any
tax imposed by such statutes; or (5) violate any other provision of such statutes.

(b) Violation of subsection (a) is punishable by a fine of not less than $100 or more than $1,000, or by imprisonment for not less than one month or more than six months, or both.

Sec. 8. All revenue collected or received by the director of taxation from the tax imposed under section 2, and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the human trafficking and child exploitation prevention grants fund established under section 9, and amendments thereto.

Sec. 9. There is hereby established in the state treasury the human trafficking and child exploitation prevention grants fund, which shall be administered by the attorney general. All moneys credited to the human trafficking and child exploitation prevention grants fund shall be used for the purpose of awarding grants to any individual, governmental agency or non-profit organization that the attorney general determines is working to uphold community standards of decency, strengthen families and develop, expand or strengthen programs for victims of human trafficking and child exploitation. Such grants may be made for the following:

(a) Rape-kit testing;
(b) physical and mental health services;
(c) temporary and permanent housing placement;
(d) employment, work placement, education or job training;
(e) prevention of and protection from human trafficking, domestic violence, prostitution, child abuse and rape through the training of first responders and increasing public awareness;
(f) compensation or shelters for victims of human trafficking, domestic violence, prostitution, child abuse and rape;
(g) family counseling; and
(h) investigation and prosecution by law enforcement of human trafficking, domestic violence, prostitution, child abuse and rape.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.