

SENATE BILL No. 291

By Committee on Assessment and Taxation

2-5

9 AN ACT concerning taxation; imposing an excise tax on certain com-
10 mercial establishments, businesses and individuals which provide sex-
11 ually explicit products and services; prescribing certain powers and
12 duties for the director of taxation.

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

15 Section 1. (a) There is hereby imposed a tax on a sexually explicit
16 business equal to 10% of amounts paid to or charged by the sexually
17 explicit business for the following transactions:

- 18 (1) An admission fee;
19 (2) a user fee;
20 (3) a retail sale of tangible personal property made within the state;
21 (4) a sale of:
22 (A) Food and food ingredients; or
23 (B) prepared food;
24 (5) a sale of a beverage; and
25 (6) any service.

26 (b) (1) Except as provided in subsection (b)(2) there is hereby im-
27 posed a tax on an escort service equal to 10% of amounts paid or charged
28 by the escort service for any transaction that involves providing an escort
29 to another individual.

30 (2) Notwithstanding the provisions of subsection (b)(1), the tax im-
31 posed by subsection (b)(1) does not apply to a transaction that is subject
32 to the tax imposed in subsection (a).

33 (c) There is hereby imposed a tax on an adult bookstore or adult video
34 store equal to 10% of the amounts paid for items purchased from or
35 services provided by such adult bookstore or adult video store.

36 (d) The tax imposed by this section may not be imposed on any city
37 or countywide retailers' sales tax paid pursuant to the provisions of K.S.A.
38 12-187 et seq., and amendments thereto, and any sales and use tax col-
39 lected or paid pursuant to the provisions of K.S.A. 79-3601 et seq., and
40 amendments thereto, and K.S.A. 79-3701 et seq., and amendments
41 thereto.

42 Sec. 2. (a) The director of taxation shall administer the provisions of
43 this act. Taxpayers shall make all tax payments required pursuant to this

1 act to the director. All such tax payments shall be accompanied by a return
2 upon forms devised and furnished by the director. The times for making
3 returns and paying the tax shall be the same as provided in K.S.A. 79-
4 3607, and amendments thereto.

5 (b) The tax imposed by this act shall be in addition to all other state
6 and local sales or excise taxes.

7 (c) The provisions of K.S.A. 79-3607, 79-3609, 79-3611, 79-3612, 79-
8 3614, 79-3615, 79-3617 and 79-3643, and amendments thereto, and re-
9 lated provisions that are a part of the Kansas retailers' sales tax act shall
10 have application to the excise tax prescribed in this act.

11 (d) The secretary of revenue shall adopt rules and regulations nec-
12 essary to administer and enforce the provisions of this act. Such rules and
13 regulations shall include, but not be limited to, standards for determining
14 whether a commercial establishment, business or operation is a sexually
15 explicit business, escort service or an adult bookstore or adult video store,
16 and standards to determine amounts that are similar to an amount paid
17 for a salary, fee, commission, hire or profit for purposes of section 1, and
18 amendments thereto.

19 Sec. 3. (a) There is hereby created within the state treasury the sex-
20 ually explicit business fund. All amounts collected pursuant to this act
21 shall be remitted to the state treasurer in accordance with the provisions
22 of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
23 remittance, the state treasurer shall deposit the entire amount in the state
24 treasury to the credit of the sexually explicit business fund to be credited
25 within the fund, as provided by law, to an account or accounts of the fund
26 which are created by this section as directed by the legislature. Such
27 accounts shall be as follows:

28 (1) There is hereby created the sex offender treatment account in the
29 sexually explicit business fund in which 40% of the moneys in the fund,
30 shall be credited to such account and shall be used by the department of
31 corrections in addition to existing budgets, to provide programs and treat-
32 ment services to persons in the custody of the department who have been
33 convicted of a sex offense as provided in article 35 of chapter 21 of the
34 Kansas statutes annotated, and amendments thereto, with particular em-
35 phasis to programs and treatment services of such persons who are on
36 postrelease supervision;

37 (2) there is hereby created the victims of sex offense treatment ac-
38 count in the sexually explicit business fund in which 40% of the moneys
39 in the fund, shall be credited to such account and shall be used, in addition
40 to existing budgets, to provide programs and treatment services for vic-
41 tims of sex offenses; and

42 (3) there is hereby created the protection of children from internet
43 sex offenders account of the sexually explicit business fund in which 20%

1 of the moneys in the fund, shall be credited to such account and shall be
2 used by the attorney general, in addition to existing budgets, to investigate
3 and prosecute persons who use the internet to commit sex offenses
4 against children.

5 (b) Expenditures from the sexually explicit business fund and the ac-
6 counts provided in this section shall be made in accordance with appro-
7 priation acts for the purposes as provided in this section.

8 Sec. 4. As used in sections 1 through 4, and amendments thereto:

9 (a) “Adult bookstore” and “adult video store” means commercial es-
10 tablishments in which is offered for sale or rent any book, video, film or
11 other medium which in the aggregate constitute substantially all of its
12 stock or inventory which depicts sexual conduct;

13 (b) “escort” means any individual who is available to the public for
14 the purpose of accompanying another individual for:

15 (1) Companionship; and

16 (2) (A) A salary;

17 (B) a fee;

18 (C) a commission;

19 (D) hire;

20 (E) profit; or

21 (F) any amount similar to an amount listed in this subsection;

22 (c) “escort service” means any person who furnishes or arranges for
23 an escort to accompany another individual for:

24 (1) Companionship; and

25 (2) (A) A salary;

26 (B) a fee;

27 (C) a commission;

28 (D) hire;

29 (E) profit; or

30 (F) any amount similar to an amount listed in this subsection;

31 (d) “nude or partially denuded individual” means an individual in
32 which occurs the showing of the human male or female genitals, pubic
33 area or buttocks with less than a full opaque covering; the showing of the
34 female breast with less than a full opaque covering of any portion thereof
35 below the top of the nipple; or the depiction of covered male genitals in
36 a discernable state of sexual excitement;

37 (e) “sexual conduct” means any act of intercourse, masturbation, ur-
38 ination, defecation, lewd exhibition of the genitals, sadomasochistic abuse,
39 bestiality or the fondling of the sex organs of animals, or any other physical
40 contact with a person’s unclothed genitals, pubic area, buttocks or the
41 breast or breasts of a female, whether alone or between members of the
42 same or opposite sex or between a human and an animal, in an act of
43 sexual stimulation, gratification or perversion;

- 1 (f) “sexually explicit business” means a business at which any nude
2 or partially denuded individual, regardless of whether the nude or par-
3 tially denuded individual is an employee of the sexually explicit business
4 or an independent contractor, performs any service:
- 5 (1) Personally on the premises of the sexually explicit business;
 - 6 (2) during at least 30 consecutive or nonconsecutive days within a
7 calendar year; and
 - 8 (3) for:
 - 9 (A) A salary;
 - 10 (B) a fee;
 - 11 (C) a commission;
 - 12 (D) hire;
 - 13 (E) profit; or
 - 14 (F) any amount similar to an amount listed in this subsection; and
 - 15 (g) “taxpayer” means any commercial establishment, business or in-
16 dividual subject to the tax imposed by this act.
- 17 Sec. 5. This act shall take effect and be in force from and after its
18 publication in the statute book.