

February 14, 2011

The Honorable Steve Brunk, Chairperson
House Committee on Federal and State Affairs
Statehouse, Room 149-S
Topeka, Kansas 66612

Dear Representative Brunk:

SUBJECT: Fiscal Note for HB 2107 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2107 is respectfully submitted to your committee.

HB 2107 would enact the Community Defense Act, which would regulate the operation and location of sexually oriented businesses and establish uniform regulations to prevent undesirable secondary effects of such businesses. The Act would define terms applicable to regulate and control a sexually oriented business. It would establish limitations on the location of such establishments in relation to their distance from specifically identifiable types of public and private facilities, minimum requirements for their physical configuration, as well as limitations and restrictions on the types of performances and behaviors that may take place within these businesses and the hours that the businesses could be open. In addition, the bill would prohibit the sale, use, or consumption of alcohol or cereal malt beverages on the premises of a sexually oriented business. A period of time would be allowed during which existing businesses could come into compliance with the requirements of the Act. Any person found in violation of the Act would be guilty of a class C misdemeanor. Each day that a violation continued and each separate occurrence would constitute a separate offense. The bill would allow any city or county to enact or enforce an ordinance or resolution regulating any sexually oriented business which is stricter than, but not inconsistent with, this Act.

According to the Department of Revenue, there are 21 drinking establishments that would be affected by the passage of this bill because the bill prohibits the sale, use, and consumption of alcohol and cereal malt beverages. The Department indicates that there would be a reduction in liquor excise tax collections from the prohibition of alcohol sales on the premises and state sales tax would be reduced from the prohibition of cereal malt beverage sales. However, the Department does not know if any establishments have a cereal malt beverage (CMB) license. The reduction in taxes would be negligible. Upon enactment of the bill, the agency also would be required to identify and notify sexually oriented businesses that their liquor license is no longer valid. However, the agency could absorb the costs within its existing budget.

The Honorable Steve Brunk, Chairperson

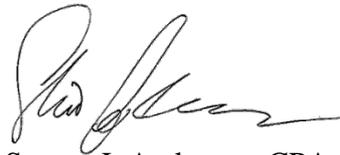
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A fiscal effect on local governments cannot be estimated. The bill could result in additional costs for investigation and prosecution of violators of this Act. In addition, any CMB licenses issued to a sexually oriented business would be identified and revoked by the issuing city or county. However, because the number of violations associated with the Act cannot be determined, it is not possible to estimate the costs that would be incurred.

HB 2107 has the potential for increasing litigation in the courts because of the new violations created by the bill. If it does, 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.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson", written in a cursive style.

Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Mary Rinehart, Judiciary
Melissa Wangemann, KS Association of Counties
Larry Baer, League of KS Municipalities
Megan Pinegar, Attorney General's Office
Steve Neske, Revenue