

HOUSE BILL No. 2323

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

2-13

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

3
4 *Be it enacted by the Legislature of the State of Kansas:*

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

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

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

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

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

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

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

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

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

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

28 Sec. 3. Each adult-oriented business shall record the number of
29 customers admitted to such business each day in such form and manner as
30 required by the secretary. The business shall maintain such records as
31 required by the secretary and shall make such records available for
32 inspection and audit upon request by the department. Nothing in this
33 section shall be construed to require an adult-oriented business to impose
34 the tax levied under section 2, and amendments thereto, on a customer of
35 such business.

1 Sec. 4. On or before the 25th day of each calendar month, every
2 person engaged in an adult-oriented business in this state during the
3 immediately preceding calendar month shall make a return to the director
4 of taxation upon forms prescribed and furnished by the director, stating:
5 (a) The name and address of the business; (b) the total number of
6 customers admitted to such business during the immediately preceding
7 calendar month; and (c) any other pertinent information the director
8 requires. The person making the return shall, at the time of making the
9 return, pay to the director of taxation the amount of tax imposed by section
10 2, and amendments thereto. The director of taxation may extend the time
11 for making returns and paying the tax for any period not to exceed 60
12 days, under rules and regulations adopted by the secretary of revenue.

13 Sec. 5. The provisions of K.S.A. 75-5133, 79-3609, 79-3610, 79-
14 3611, 79-3612, 79-3613, 79-3614, 79-3615, 79-3617, 79-3619 and 79-
15 3643, and amendments thereto, relating to enforcement, collection and
16 administration, insofar as practicable, shall have full force and effect with
17 respect to the tax imposed under section 2, and amendments thereto.
18 Wherever the word "director" is used in such statutes, it shall be construed
19 to mean, for the purposes of this act, the director of taxation. The
20 provisions of K.S.A. 74-2422, 74-2425, 74-2426 and 74-2427, and
21 amendments thereto, relating to the approval of rules and regulations, and
22 the adoption of uniform rules and regulations for such hearings and for
23 appeals from orders of the director of taxation and prescribing the duties of
24 county attorneys with respect to such appeals, insofar as practicable, shall
25 have full force and effect with respect to the tax imposed by, and
26 proceedings under, the provisions of sections 1 through 9, and
27 amendments thereto.

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

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

1 tax imposed by such statutes; or (5) violate any other provision of such
2 statutes.

3 (b) Violation of subsection (a) is punishable by a fine of not less than
4 \$100 or more than \$1,000, or by imprisonment for not less than one month
5 or more than six months, or both.

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

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

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

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