

Kansas Community Defense Act (CDA)

1. Due to proven and court recognized negative effects of Sexually Oriented Businesses (SOB's) on communities, many states have secured court tested statewide "Time, Place & Manner" restrictions on SOBs. The Kansas CDA restrictions are essentially the same as the Missouri law, which when challenged, the Supreme Court unanimously upheld. The courts call SOB limitations "common sense" restrictions.
2. For 50 years Federal and State Courts have consistently upheld the constitutional right of lawmakers to restrict SOB's because of the measurable "Negative Secondary Effects" these types of businesses have on communities. The leading negative secondary effects are increased crime, increased sexually transmitted diseases, general blight, decreased property values, increased drug trafficking, prostitution, human trafficking / slavery, etc... **An SOB does not add value to a community but is costly and burdensome to taxpayers. SOBs are not engines of economic prosperity.**
3. Local Control? : Most Kansas communities do not have the funds or legal expertise to contend with the lengthy litigation that SOBs inflict when faced with a local SOB ordinance. Mere intimidation by this wealthy industry (boasting more annual revenue than ABC, NBC & CBS combined) is sufficient to dissuade most cities and counties. Litigations like in Abilene Kansas, whose case went on for five years and could have gone longer but the insurance company that represented Abilene was reluctant to expend what they estimated was another \$ 1 million. The Meridan, KS. outcome was similar.
4. Geographically most Kansas communities do not have planning and zoning offices. This leaves them vulnerable and with few remedies when faced with SOB issues. Big cities can afford protection.
5. A state wide SOB statute will be challenged but the outcome will likely follow a well-worn path, that **every appellate court has taken** landing on the side of public safety and health. One challenge, thus reducing the number of city-by-city and county litigations and **dramatically reducing court costs.**
6. The "legislating morality" or "infringing of the 1st amendment free speech" arguments are a red herring. The CDA's reasonable restrictions and the court's rulings are solidly based on the evidence of "Negative Secondary Effects" on communities. The Kansas CDA is content neutral.
7. **Arguments of government intrusion on business is a diversion. SOBs are not like any other class of business.** SOB's are recognized as toxic and distinct by definition as outlined in Kansas Statute 12-770. The U.S. Supreme Court and **ALL** Federal appellate courts, including Denver's 10th circuit (Dr. John vs. Wahlen, Sept. 2008), have repeatedly upheld dancer-patron buffers, no touch rules, no total nudity, hours of operation (as early as 10:00 p.m. closings), no minors, ban of liquor at SOBs and open-booth regulations as constitutional. Constitutional, not because of content but because of the volumes of evidence of the negative secondary effects upon communities such as increased crime, STDs, blight, drug and human trafficking, etc.... **SOBs are not just another business; they are not engines of prosperity but a drain on community resources.**
8. Where are the negative secondary effect studies on Kansas? SOB's repeat this phrase in every town. The courts for the most part are satisfied that "this leopard does not change its spots" and do not require new evidence on the repeatable and predictable outcomes. Important to this statement is the study "Rural Hotspots". Like Missouri, the courts have not required new statewide studies.
9. The Kansas CDA, SOB restrictions put into place the below reasonable, constitutional and narrowly constructed TIME, PLACE and MANNER restrictions.

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- **TIME:** Close of SOB's at midnight till six a.m. (Courts have upheld closings as early as 10:00 p.m.)
 - **PLACE :** A standoff distance of 1,000 feet from homes, churches, playgrounds, schools, day care centers and other SOB's (new SOB's only, pre-existing SOB's are exempt)
 - **MANNER;**
 - Minors are prohibited from entering an SOB. Prevents minors from being "groomed" during amateur night. Currently, minors of any age can enter an SOB as long as they do not drink.
 - A six-foot standoff distance between dancers and patrons. (Eliminating lap and couch dances; thus reducing Sexually Transmitted Diseases)
 - Elimination of private VIP rooms or booths (where prostitution is frequent and STD transmission is a public health concern)
 - An employee or owner of an SOB cannot have a criminal history
 - Total nudity ban (twice upheld by the Supreme Court)
 - Raised dance platform (static barrier to reinforce six foot distance of dancer from patron, thus reducing "groping")
 - Elevated operators station that can view all of the SOB activities
 - Sex businesses cannot serve alcohol. As inebriation increases, predators at sex business are emboldened. Few victims self report having been "rolled" at a sex club, plus clubs own internal "security remedies" handle the reporting of incidents.
10. Statewide "Place" restrictions apply only to future SOB's. CDA does not dictate "Place" restrictions on pre-existing SOB's. "Place" restrictions on pre existing SOB's are upheld as constitutionally sound when adopted by local municipalities. "Place" restrictions require a more exacting geographical relocation of pre existing SOB's based on local sensitive land impact.
11. The term "**Zoning**" encompasses and **is** all "**Time**", **Place** and "**Manner**" restrictions. "Zoning" is not solely a "Place" restriction like the 1,000-foot standoff distance measure. Due to local land usage details "place" restrictions do not apply to pre-existing SOB's, only new ones. All "time" and "manner" restrictions are applied to all existing as well as future SOB's. Adopting only "place" restrictions would guarantee an unchecked monopoly for pre-existing SOB's., THUS HOLLOWING OUT THE CDA
12. **THE ROLE OF ALCOHOL AT STRIP CLUBS;** Proximity to alcohol is a key component of the criminological theory of secondary effects. Alcohol aggravates an SOB's already-high ambient crime risk by lowering the inhibitions and clouding the judgments of the SOB's patrons. In effect, alcohol makes the soft targets found at the SOB site considerably softer. The available data corroborate this expectation in all respects. Predatory criminals prefer inebriated victims, and SOB's that serve alcohol or that are located near liquor-serving businesses pose accordingly larger and qualitatively different ambient public safety hazards. Governments rely on this consistent finding of crime-related secondary effect studies as a rationale for limiting nudity in liquor serving businesses.
- 13 **Beware of "poison pill" amendments like...**
"Let cities with pre existing SOB restrictions be exempt" The problem with this is that Kansas is peppered with faux SOB ordinances that have the restraining power of cobwebs... Beware of monopoly guarantees to existing SOB's by passing "Zoning" or "Place" restrictions only. Cities must not, in essence say to rural Kansas, "I've got mine".