

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/SCS/Senate Bill Nos. 189, 36 & 37, Page 3, Section 43.507, Line 31,

2 by inserting after all of said line the following:

3 "67.2540. As used in sections 67.2540 to 67.2556, the
4 following terms mean:

5 (1) "Adult cabaret", a nightclub, bar, restaurant, or
6 similar establishment in which persons regularly appear in a
7 state of nudity[, as defined in section 573.500,] or
8 seminudity in the performance of their duties;

9 (2) "Adult cabaret performance", a performance that
10 appeals to a prurient interest in a location other than an
11 adult cabaret that features topless dancers, go-go dancers,
12 exotic dancers, strippers, male or female impersonators who
13 provide entertainment, or similar entertainers, regardless
14 of whether performed for consideration;

15 (3) "Employee", a person who is at least twenty-one
16 years of age and who performs any service on the premises of
17 a sexually oriented business on a full-time, part-time, or
18 contract basis, whether or not the person is denominated an
19 employee, independent contractor, agent, or otherwise, and
20 whether or not said person is paid a salary, wage, or other
21 compensation by the operator of said business. The term
22 employee does not include a person exclusively on the
23 premises for repair or maintenance of the premises or
24 equipment on the premises, or for the delivery of goods to
25 the premises;

26 [(3)] (4) "Nudity" or a "state of nudity", the showing
27 of the human male or female genitals, pubic area, vulva,
28 anus, anal cleft or anal cleavage with less than a fully
29 opaque covering, the showing of the female breast with less
30 than a fully opaque covering of any part of the nipple, or
31 the showing of the covered male genitals in a discernibly
32 turgid state;

33 [(4)] (5) "Nuisance", any place in or upon which
34 lewdness, assignation, or prostitution is conducted,
35 permitted, continued, or exists, or any place, in or upon
36 which lewd, indecent, lascivious, or obscene films, or films
37 designed to be projected for exhibition, are photographed,
38 manufactured, developed, screened, exhibited, or otherwise
39 prepared or shown, and the personal property and contents
40 used in conducting and maintaining any such place for any
41 such purpose. The provisions of this section shall not
42 affect any newspaper, magazine, or other publication entered
43 as second class matter by the post office department;

44 [(5)] (6) "Person", an individual, proprietorship,
45 partnership, corporation, association, or other legal entity;

46 [(6)] (7) "Seminude" or in a "seminude condition", a
47 state of dress in which opaque clothing fails to cover the
48 genitals, anus, anal cleft or cleavage, pubic area, vulva,
49 nipple and areola of the female breast below a horizontal
50 line across the top of the areola at its highest point.
51 Seminudity shall include the entire lower portion of the
52 female breast, but shall not include any portion of the
53 cleavage of the human female breast exhibited by wearing
54 apparel provided the areola is not exposed in whole or part;

55 [(7)] (8) "Sexually oriented business", an adult
56 cabaret [or], any business which offers its patrons goods of
57 which a substantial or significant portion are sexually
58 oriented material, or any business other than an adult

59 cabaret that offers an adult cabaret performance. It shall
60 be presumed that a business that derives thirty percent or
61 less of its revenue from sexually oriented materials is
62 presumed not to be a sexually oriented business. **[No]** A
63 building, premises, structure, or other facility that
64 contains any sexually oriented business shall not contain
65 any other kind of sexually oriented business, except that of
66 an adult cabaret performance;

67 **[(8)]** (9) "Sexually oriented materials", any pictorial
68 or three-dimensional material, or film, motion picture, DVD,
69 video cassette, or similar photographic reproduction, that
70 depicts nudity, sexual conduct, sexual excitement, or
71 sadomasochistic abuse, as defined in section 573.010;

72 **[(9)]** (10) "Specified criminal activity" includes the
73 following offenses:

74 (a) Prostitution or promotion of prostitution;
75 dissemination of obscenity; sale, distribution, or display
76 of harmful material to a minor; sexual performance by a
77 child; possession or distribution of child pornography;
78 public lewdness; indecent exposure; indecency with a child;
79 engaging in organized criminal activity; sexual assault;
80 molestation of a child; gambling prohibited under Missouri
81 law; or distribution of a controlled substance; or any
82 similar offenses described in this subdivision under the
83 criminal or penal code of other states or countries;

84 (b) For which:

85 a. Less than two years have elapsed since the date of
86 conviction or the date of release from confinement imposed
87 for the conviction, whichever is the later date, if the
88 conviction is of a misdemeanor offense;

89 b. Less than five years have elapsed since the date of
90 conviction or the date of release from confinement for the

91 conviction, whichever is the later date, if the conviction
92 is of a felony offense; or

93 c. Less than five years have elapsed since the date of
94 the last conviction or the date of release from confinement
95 for the last conviction, whichever is the later date, if the
96 convictions are of two or more misdemeanor offenses or
97 combination of misdemeanor offenses occurring within any
98 twenty-four-month period;

99 (c) The fact that a conviction is being appealed shall
100 not prevent a sexually oriented business from being
101 considered a nuisance and closed under section 67.2546;

102 [(10)] (11) "Specified sexual activities" includes the
103 following acts:

104 (a) The fondling or other erotic touching of human
105 genitals, pubic region, buttocks, anus, or female breasts;

106 (b) Sex acts, actual or simulated, including
107 intercourse, oral copulation, masturbation, or sodomy; or

108 (c) Excretory functions as part of or in connection
109 with any of the activities set forth in this subdivision."
110 and

111 Further amend said bill, page 20, Section 217.690, line
112 161, by inserting after all of said line the following:

113 "226.531. 1. As used in this section the following
114 terms mean:

115 (1) "Adult cabaret", a nightclub, bar, restaurant, or
116 similar establishment in which persons appear in a state of
117 nudity, as defined in section [573.500] 573.010, or
118 seminudity, in the performance of their duties;

119 (2) "Adult cabaret performance", a performance that
120 appeals to a prurient interest in a location other than an
121 adult cabaret that features topless dancers, go-go dancers,
122 exotic dancers, strippers, male or female impersonators who

123 provide entertainment, or similar entertainers, regardless
124 of whether performed for consideration;

125 (3) "Seminudity", a state of dress in which opaque
126 clothing fails to cover the genitals, anus, anal cleft or
127 cleavage, pubic area, vulva, nipple and areola of the female
128 breast below a horizontal line across the top of the areola
129 at its highest point. Seminudity shall include the entire
130 lower portion of the female breast, but shall not include
131 any portion of the cleavage of the human female breast
132 exhibited by wearing apparel provided the areola is not
133 exposed in whole or part;

134 ~~[(3)]~~ (4) "Sexually oriented business", any business
135 which offers its patrons goods of which a substantial
136 portion are sexually oriented materials or any business
137 other than an adult cabaret that offers an adult cabaret
138 performance. Any business where more than ten percent of
139 display space is used for sexually oriented materials shall
140 be presumed to be a sexually oriented business;

141 ~~[(4)]~~ (5) "Sexually oriented materials", any textual,
142 pictorial, or three-dimensional material that depicts
143 nudity, sexual conduct, sexual excitement, or
144 sadomasochistic abuse in a way which is patently offensive
145 to the average person applying contemporary adult community
146 standards with respect to what is suitable for minors.

147 2. No billboard or other exterior advertising sign for
148 an adult cabaret or sexually oriented business shall be
149 located within one mile of any state highway except if such
150 business is located within one mile of a state highway then
151 the business may display a maximum of two exterior signs on
152 the premises of the business, consisting of one
153 identification sign and one sign solely giving notice that
154 the premises are off limits to minors. The identification
155 sign shall be no more than forty square feet in size and

156 shall include no more than the following information: name,
157 street address, telephone number, and operating hours of the
158 business.

159 3. Signs existing on August 28, 2004, which did not
160 conform to the requirements of this section, may be allowed
161 to continue as a nonconforming use, but should be made to
162 conform within three years from August 28, 2004.

163 4. Any owner of such a business who violates the
164 provisions of this section shall be guilty of a class C
165 misdemeanor. Each week a violation of this section
166 continues to exist shall constitute a separate offense.

167 5. This section is designed to protect the following
168 public policy interests of this state, including but not
169 limited to: to mitigate the adverse secondary effects of
170 sexually oriented businesses, to improve traffic safety, to
171 limit harm to minors, and to reduce prostitution, crime,
172 juvenile delinquency, deterioration in property values, and
173 lethargy in neighborhood improvement efforts."; and

174 Further amend said bill, page 51, Section 571.070, line
175 18, by inserting after all of said line the following:

176 "573.010. As used in this chapter the following terms
177 shall mean:

178 (1) "Adult cabaret", a nightclub, bar, juice bar,
179 restaurant, bottle club, or other commercial establishment,
180 regardless of whether alcoholic beverages are served, which
181 regularly features persons who appear semi-nude;

182 (2) "Adult cabaret performance", a performance that
183 appeals to a prurient interest in a location other than an
184 adult cabaret that features topless dancers, go-go dancers,
185 exotic dancers, strippers, male or female impersonators who
186 provide entertainment, or similar entertainers, regardless
187 of whether performed for consideration;

188 (3) "Characterized by", describing the essential
189 character or dominant theme of an item;

190 [(3)] (4) "Child", any person under the age of
191 fourteen;

192 [(4)] (5) "Child pornography":

193 (a) Any obscene material or performance depicting
194 sexual conduct, sexual contact as defined in section
195 566.010, or a sexual performance and which has as one of its
196 participants or portrays as an observer of such conduct,
197 contact, or performance a minor; or

198 (b) Any visual depiction, including any photograph,
199 film, video, picture, or computer or computer-generated
200 image or picture, whether made or produced by electronic,
201 mechanical, or other means, of sexually explicit conduct
202 where:

203 a. The production of such visual depiction involves
204 the use of a minor engaging in sexually explicit conduct;

205 b. Such visual depiction is a digital image, computer
206 image, or computer-generated image that is, or is
207 indistinguishable from, that of a minor engaging in sexually
208 explicit conduct, in that the depiction is such that an
209 ordinary person viewing the depiction would conclude that
210 the depiction is of an actual minor engaged in sexually
211 explicit conduct; or

212 c. Such visual depiction has been created, adapted, or
213 modified to show that an identifiable minor is engaging in
214 sexually explicit conduct. "Identifiable minor" means a
215 person who was a minor at the time the visual depiction was
216 created, adapted, or modified; or whose image as a minor was
217 used in creating, adapting, or modifying the visual
218 depiction; and who is recognizable as an actual person by
219 the person's face, likeness, or other distinguishing
220 characteristic, such as a unique birthmark or other

221 recognizable feature. The term identifiable minor shall not
222 be construed to require proof of the actual identity of the
223 identifiable minor;

224 [(5)] (6) "Employ", "employee", or "employment", any
225 person who performs any service on the premises of a
226 sexually oriented business, on a full-time, part-time, or
227 contract basis, whether or not the person is denominated an
228 employee, independent contractor, agent, or otherwise.
229 Employee does not include a person exclusively on the
230 premises for repair or maintenance of the premises or for
231 the delivery of goods to the premises;

232 [(6)] (7) "Explicit sexual material", any pictorial or
233 three-dimensional material depicting human masturbation,
234 deviate sexual intercourse, sexual intercourse, direct
235 physical stimulation or unclothed genitals, sadomasochistic
236 abuse, or emphasizing the depiction of postpubertal human
237 genitals; provided, however, that works of art or of
238 anthropological significance shall not be deemed to be
239 within the foregoing definition;

240 [(7)] (8) "Furnish", to issue, sell, give, provide,
241 lend, mail, deliver, transfer, circulate, disseminate,
242 present, exhibit or otherwise provide;

243 [(8)] (9) "Material", anything printed or written, or
244 any picture, drawing, photograph, motion picture film,
245 videotape or videotape production, or pictorial
246 representation, or any recording or transcription, or any
247 mechanical, chemical, or electrical reproduction, or stored
248 computer data, or anything which is or may be used as a
249 means of communication. Material includes undeveloped
250 photographs, molds, printing plates, stored computer data
251 and other latent representational objects;

252 [(9)] (10) "Minor", any person less than eighteen
253 years of age;

254 [(10)] (11) "Nudity" or "state of nudity", the showing
255 of the human genitals, pubic area, vulva, anus, anal cleft,
256 or the female breast with less than a fully opaque covering
257 of any part of the nipple or areola;

258 [(11)] (12) "Obscene", any material or performance if,
259 taken as a whole:

260 (a) Applying contemporary community standards, its
261 predominant appeal is to prurient interest in sex; and

262 (b) The average person, applying contemporary
263 community standards, would find the material depicts or
264 describes sexual conduct in a patently offensive way; and

265 (c) A reasonable person would find the material lacks
266 serious literary, artistic, political or scientific value;

267 [(12)] (13) "Operator", any person on the premises of
268 a sexually oriented business who causes the business to
269 function, puts or keeps the business in operation, or is
270 authorized to manage the business or exercise overall
271 operational control of the business premises. A person may
272 be found to be operating or causing to be operated a
273 sexually oriented business whether or not such person is an
274 owner, part owner, or licensee of the business;

275 [(13)] (14) "Performance", any play, motion picture
276 film, videotape, dance or exhibition performed before an
277 audience of one or more;

278 [(14)] (15) "Pornographic for minors", any material or
279 performance if the following apply:

280 (a) The average person, applying contemporary
281 community standards, would find that the material or
282 performance, taken as a whole, has a tendency to cater or
283 appeal to a prurient interest of minors; and

284 (b) The material or performance depicts or describes
285 nudity, sexual conduct, the condition of human genitals when
286 in a state of sexual stimulation or arousal, or

287 sadomasochistic abuse in a way which is patently offensive
288 to the average person applying contemporary adult community
289 standards with respect to what is suitable for minors; and

290 (c) The material or performance, taken as a whole,
291 lacks serious literary, artistic, political, or scientific
292 value for minors;

293 [(15)] (16) "Premises", the real property upon which a
294 sexually oriented business is located, and all appurtenances
295 thereto and buildings thereon, including but not limited to
296 the sexually oriented business, the grounds, private
297 walkways, and parking lots or parking garages or both;

298 [(16)] (17) "Promote", to manufacture, issue, sell,
299 provide, mail, deliver, transfer, transmute, publish,
300 distribute, circulate, disseminate, present, exhibit, or
301 advertise, or to offer or agree to do the same, by any means
302 including a computer;

303 [(17)] (18) "Regularly", the consistent and repeated
304 doing of the act so described;

305 [(18)] (19) "Sadomasochistic abuse", flagellation or
306 torture by or upon a person as an act of sexual stimulation
307 or gratification;

308 [(19)] (20) "Semi-nude" or "state of semi-nudity", the
309 showing of the female breast below a horizontal line across
310 the top of the areola and extending across the width of the
311 breast at such point, or the showing of the male or female
312 buttocks. Such definition includes the lower portion of the
313 human female breast, but shall not include any portion of
314 the cleavage of the female breasts exhibited by a bikini,
315 dress, blouse, shirt, leotard, or similar wearing apparel
316 provided the areola is not exposed in whole or in part;

317 [(20)] (21) "Sexual conduct", actual or simulated,
318 normal or perverted acts of human masturbation; deviate
319 sexual intercourse; sexual intercourse; or physical contact

320 with a person's clothed or unclothed genitals, pubic area,
321 buttocks, or the breast of a female in an act of apparent
322 sexual stimulation or gratification or any sadomasochistic
323 abuse or acts including animals or any latent objects in an
324 act of apparent sexual stimulation or gratification;

325 [(21)] (22) "Sexually explicit conduct", actual or
326 simulated:

327 (a) Sexual intercourse, including genital-genital,
328 oral-genital, anal-genital, or oral-anal, whether between
329 persons of the same or opposite sex;

330 (b) Bestiality;

331 (c) Masturbation;

332 (d) Sadistic or masochistic abuse; or

333 (e) Lascivious exhibition of the genitals or pubic
334 area of any person;

335 [(22)] (23) "Sexually oriented business" includes:

336 (a) An adult bookstore or adult video store. "Adult
337 bookstore" or "adult video store" means a commercial
338 establishment which, as one of its principal business
339 activities, offers for sale or rental for any form of
340 consideration any one or more of the following: books,
341 magazines, periodicals, or other printed matter, or
342 photographs, films, motion pictures, video cassettes,
343 compact discs, digital video discs, slides, or other visual
344 representations which are characterized by their emphasis
345 upon the display of specified sexual activities or specified
346 anatomical areas. A principal business activity exists
347 where the commercial establishment:

348 a. Has a substantial portion of its displayed
349 merchandise which consists of such items; or

350 b. Has a substantial portion of the wholesale value of
351 its displayed merchandise which consists of such items; or

352 c. Has a substantial portion of the retail value of
353 its displayed merchandise which consists of such items; or
354 d. Derives a substantial portion of its revenues from
355 the sale or rental, for any form of consideration, of such
356 items; or
357 e. Maintains a substantial section of its interior
358 business space for the sale or rental of such items; or
359 f. Maintains an adult arcade. "Adult arcade" means
360 any place to which the public is permitted or invited
361 wherein coin-operated or slug-operated or electronically,
362 electrically, or mechanically controlled still or motion
363 picture machines, projectors, or other image-producing
364 devices are regularly maintained to show images to five or
365 fewer persons per machine at any one time, and where the
366 images so displayed are characterized by their emphasis upon
367 matter exhibiting specified sexual activities or specified
368 anatomical areas;
369 (b) An adult cabaret;
370 (c) An adult motion picture theater. "Adult motion
371 picture theater" means a commercial establishment where
372 films, motion pictures, video cassettes, slides, or similar
373 photographic reproductions, which are characterized by their
374 emphasis upon the display of specified sexual activities or
375 specified anatomical areas are regularly shown to more than
376 five persons for any form of consideration;
377 (d) A semi-nude model studio. "Semi-nude model
378 studio" means a place where persons regularly appear in a
379 state of semi-nudity for money or any form of consideration
380 in order to be observed, sketched, drawn, painted,
381 sculptured, photographed, or similarly depicted by other
382 persons. Such definition shall not apply to any place where
383 persons appearing in a state of semi-nudity do so in a
384 modeling class operated:

385 a. By a college, junior college, or university
386 supported entirely or partly by taxation;

387 b. By a private college or university which maintains
388 and operates educational programs in which credits are
389 transferable to a college, junior college, or university
390 supported entirely or partly by taxation; or

391 c. In a structure:

392 (i) Which has no sign visible from the exterior of the
393 structure and no other advertising that indicates a semi-
394 nude person is available for viewing; and

395 (ii) Where, in order to participate in a class, a
396 student must enroll at least three days in advance of the
397 class;

398 (e) A sexual encounter center. "Sexual encounter
399 center" means a business or commercial enterprise that, as
400 one of its principal purposes, purports to offer for any
401 form of consideration physical contact in the form of
402 wrestling or tumbling between two or more persons when one
403 or more of the persons is semi-nude; or

404 (f) Any business other than an adult cabaret that
405 offers an adult cabaret performance;

406 [(23)] (24) "Sexual performance", any performance, or
407 part thereof, which includes sexual conduct by a child who
408 is less than eighteen years of age;

409 [(24)] (25) "Specified anatomical areas" include:

410 (a) Less than completely and opaquely covered: human
411 genitals, pubic region, buttock, and female breast below a
412 point immediately above the top of the areola; and

413 (b) Human male genitals in a discernibly turgid state,
414 even if completely and opaquely covered;

415 [(25)] (26) "Specified sexual activity", includes any
416 of the following:

417 (a) Intercourse, oral copulation, masturbation, or
418 sodomy; or

419 (b) Excretory functions as a part of or in connection
420 with any of the activities described in paragraph (a) of
421 this subdivision;

422 [(26)] (27) "Substantial", at least thirty percent of
423 the item or items so modified;

424 [(27)] (28) "Visual depiction", includes undeveloped
425 film and videotape, and data stored on computer disk or by
426 electronic means which is capable of conversion into a
427 visual image.

428 573.520. 1. A person commits the offense of engaging
429 in an adult cabaret performance if such performance is:

430 (1) On public property; or

431 (2) In a location other than an adult cabaret where
432 the adult cabaret performance is reasonably expected to be
433 viewed by a person who is not an adult.

434 2. The offense of engaging in an adult cabaret
435 performance is a class A misdemeanor for a first offense and
436 a class E felony for any second or subsequent offense.

437 3. The provisions of this section shall:

438 (1) Preempt an ordinance or a regulation, restriction,
439 or license that was lawfully adopted or issued by a
440 political subdivision prior to August 28, 2023, if such
441 ordinance, regulation, restriction, or license conflicts
442 with this section; and

443 (2) Prevent or preempt a political subdivision from
444 enacting and enforcing in the future other ordinances,
445 regulations, restrictions, or licenses that are in conflict
446 with this section."; and

447 Further amend the title and enacting clause accordingly.