

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Steven Brunk at 1:30 p.m. on March 02, 2011, in Room 346-S of the Capitol.

All members were present except:

Representative Rocky Fund – Excused
Representative Mike Kiegerl – Excused
Representative Connie O'Brien – Excused
Representative Mike Peterson - Excused

Committee staff present:

Mike Heim, Office of the Revisor of Statutes
Doug Taylor, Office of the Revisor of Statutes
Julian Efird, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Stephen Bainum, Committee Assistant

Conferees appearing before the Committee:

Dale Goter, City of Wichita
Sandy Jacquot, Director of Law, League of Kansas Municipalities
Doug Mays, Ice and Olives
Sandi Wilber, Ice and Olives

Others attending:

See attached list.

The Chairman called for bill introductions. Representative Pat Colloton introduced a bill concerning community corrections programs. It was received without objection.

Chairman Brunk opened the hearing on **SB 25 Authorizing temporary licenses for on-premises sale of cereal malt beverage.**

Mike Heim explained the changes made by the bill.

Dale Goter presented testimony as a proponent of **SB 25 (Attachment 1)**. He said that the bill will allow for a reasonable system of municipal oversight over CMB sales at special events of three days or less. Representative Goico said that this bill would fix a problem they have had for special events. Representative Gregory asked if the restricted area would be like a beer garden or a fenced area? Dale said yes it would be a designated area, not the whole city. Representative Loganbill said that the statute would be changed to publication on the register. Dale said that they would prefer that it be dealt with in a conference committee. Representative Brunk asked how it would be handled if it was not effective until July and the River Festival is in June? Dale said that for a worst case scenario they would do it like they did last year. Representative Rubin asked why the Senate had removed the language of three consecutive days? Dale said that since the River Fest is longer than that the Senate decided to change it to the duration of the event. It was changed by amendment in the Senate.

Sandy Jacquot presented testimony as a proponent of **SB 25 (Attachment 2)**. She urged passage of the bill to avoid confusion in complying with the law.

Representative Holmes asked if there was anything in the bill to prevent the whole city becoming a beer garden? Sandy said that there are several properties that you are allowed to exempt for consumption of CMB. There is also the issue that it is not to be consumed on public property and so you have to identify the area. Representative Boman asked if there was provision to limit the duration of an event? Sandy said no there wasn't for two reasons. One is the confined area where it can be consumed. Two is if they wanted to do it for an extended time they would just get a CMB license.

Doug Mays presented testimony as a proponent of **SB 25 (Attachment 3)**. He requested an amendment (**Attachment 4**) to allow a license for a club or drinking establishment to be issued to any person who owns and operates a coffee shop and whose spouse has a license as a retailer under the Kansas liquor

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control act. He presented the case of Sandy Wilbur's coffee shop and her inability to get an on premise license because her husband owns a liquor store. Representative Patton asked what provision the amendment attempted to change? Doug said that they were concerned that product might be taken from the liquor store to the coffee shop and the state would lose some revenue or it would be sold cheaper at a discount. Doug said that those things could not happen today. Representative Gatewood asked if the husband has a license does the spouse have to pass a background check? Doug thought the answer was yes.

Sandi Wilber presented testimony as a proponent of **SB 25 (Attachment 5)**. She said that the law as it stands is discriminatory because it disallows her a license because she is married. Representative Rubin asked if her establishment was a restaurant? She said that it was a delicatessen, she would not call it a restaurant. We serve deli sandwiches at this point. If this were approved we would acquire some cooking facilities and expand our menu and hours of service. Representative Brunk asked if you would still be a coffee shop so that the amendment would apply to you.

Sarah Burn, Assistant Attorney General, Alcoholic Beverage Control stood to give an explanation and answer questions from the committee. She said the statute we are talking about does not refer to a man or a woman but only refers to a spouse. The reason behind the statute is that they did not want any sweetheart deals between the retailers who sell alcoholic beverages for resell. Retailers can do that but they have to sell it at the same price to everybody. Representative Gregory asked if she had looked at the amendment wording? Sarah said she had looked at several different wordings of the amendment with the Revisors and each one had some unforeseen consequences. The problem is that it opens the possibility of a crossover between the retail tier and the on premise drinking establishment tier. Representative Gatewood asked if a liquor store could sell to a drinking establishment directly without a wholesale license? The retail store has to hold what is called a Federal Basic Wholesalers permit to do that. There is still the problem of selling at a lower price. Representative Knox said that you could look at their inventory and determine if an exchange had occurred.

Rebecca Rice, legal council to the Kansas Beer Wholesalers Association, said that yes, it can be complicated. There can be inheritable interests. Yes, there can be any kind of illegal activity but they also can be compelled to testify. It is a built in safeguard for this highly regulated consumer product. To treat it cavalierly as though we don't need these regulations is wrong. Our laws are not arcane. They are much less restrictive than many states. This suggested amendment would erase a tier. This amendment is very controversial and would have no public hearing if it goes on this bill.

Philip Bradley agreed that this amendment should be heard by a public hearing because there are other people who would like to be heard on it that are not here.

Janet C Wright submitted written only testimony as a proponent of **SB 25 (Attachment 6)**. She said that they would support any changes that would streamline and clarify the process.

The hearing on **SB 25** was closed.

The Chairman opened the hearing on **SB 80 Alcoholic beverages; amendments relating to beer and microbreweries.**

Mike Heim explained the changes in the bill. Representative Boman asked what monitoring an event by ABC meant. Does it mean they have to have someone from the agency there? Mike said it could mean that or a notice that they are having it and could be subject to an inspection.

Philip Bradley, representing the Kansas Craft Brewers Guild, gave testimony as a proponent of **SB 80 (Attachment 7)**. He urged passage for two reasons. One is to allow for 10% alcohol by weight and the second is that it would equalize the sampling rules with farm wineries. Representative Boman asked if increasing to 10% by weight would increase drunkenness on the street? Philip said that they are trained so that they do not over-serve and they must understand where their customers are so I believe that it will not. Representative Loganbill asked if the beers they are competing against are measured by volume, and that would roughly translate to a 10% alcohol? And this would put them on a level playing field.

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The Chairman closed the hearing on **SB 80**.

The Chairman opened the hearing on **HB 2178** **Granting professional license to nonresident individuals.**

Mike Heim provided an explanation of the changes in the bill. Representative Wolfe Moore asked why there was an exception for the practice of law? Mike thought that one would be required to know Kansas law in order to practice Kansas law. Representative Gatewood asked how we know if the spouse has been disciplined? Mike assumed that the licensing body would check for that. Representative Goico said that this would be one of the criteria on which military bases would be judged. Passing this bill would make Kansas competitive for military bases. Representative Wolfe Moore asked about differences of requirements for different states, especially with KDHE. Mike said page 1, line 15 says that the licensing body determines the criteria for license. Representative Brunk asked if this bill included National Guard and Reserves? Mike said that it requires that they be in active service.

Martin L. Dempsey, Department of Defense Regional Liaison for Military Families for the Midwest, Office of the Deputy Assistant Secretary of Defense, presented testimony as a proponent of **HB 2178** (Attachment 8). He said that this was the Number One issue of the ten state issues addressing military family concerns. Decisions to stay in the military may depend on the spouses ability to provide income. We believe they should not have to sacrifice their goals and dreams to stay in the military. Representative Brunk asked what other states were doing. We have two states that have passed this bill and 19 states that are considering it this year. Representative Goico said that passing this bill would make the state more friendly to the military. Martin agreed. Representative Bowers asked if this would include teachers? Martin said they would be included.

Betty Wright, Executive Director, Kansas Dental Board presented testimony as neutral on **HB 2178** (Attachment 9). She said that the Dental Board recognizes the licensee's professional license when active in another state. Part of their licensure requirement is that the applicant must pass a jurisprudence examination, it is an open-book, true and false test about the Dental Practices Act. This assures that the applicants are aware of the applicable laws for acceptable practice in Kansas. Betty asked that if the bill is passed that they be allowed to examine the applicant for their understanding of Kansas law. Representative Knox asked if her suggested amendment was only meant to allow them to do as they are presently doing. Representative Gatewood asked if they require all dentists and hygienists to take a Kansas law exam to issue a license? Betty said yes.

John Armbrust, Executive Director, Governor's Military Council, presented testimony as a proponent of **HB 2178** (Attachment 10). He said that military friendly bills have been put forward for a long time.

Debra Billingsley, Executive Secretary of the Kansas State Board of Pharmacy, presented testimony as an opponent of **HB 2178** (Attachment 11). She said that the Board already practices reciprocity with all the 50 states and the District of Columbia. The only difference is that they also require a Pharmacy Jurisprudence Exam. Representative Brunk said that on page 1, B1 there is a restriction that another state have an equivalent license, would that satisfy your concerns? Debra said that if that was the interpretation then it appears that we would be able to give that exam. Representative Goico said that the ID cards for military spouses had to be renewed every three years. Representative Knox asked if there were other licenses that we have not heard from that might have different situations.

Representative Loganbill asked for copies of the Colorado and Florida state statutes.

Dirk Hanson, DVM, Executive director, Kansas Board of Veterinary Examiners gave written only testimony as an opponent of **HB 2178** (Attachment 12).

Kelli J. Stevens, General Counsel, Kansas State Board of Healing Arts, gave written only testimony as an opponent of **HB 2178** (Attachment 13).

The next meeting is scheduled for March 03, 2011.

The meeting was adjourned at 3:12 p.m.

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