

MINUTES OF THE HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairperson Doug Mays at 1:35 p.m. on March 19, 2001 in Room 313-S of the Capitol.

All members were present except: Representative Mary Cook, Excused
Representative Joann Freeborn, Excused
Representative Broderick Henderson Excused

Committee staff present: Theresa M. Kiernan, Revisor of Statutes
Russell Mills, Legislative Research Department
Shelia Pearman, Committee Secretary

Conferees appearing before the committee:
Senator Dave Jackson
Senator James Bamett
Representative Dennis McKinney
Representative Lloyd Stone
Harlan Forslund, Kansas Urban Forestry Council
Scott Hattrup, Attorney
John Parisi, Kansas Trial Lawyers Association
Theresa Walters, Emporians for Drug Awareness
Spencer Stewart, Butler County Community College Student
Randy Rogers, Coffey County Sheriff
Jim Scott, Kansas Association of Beverage Retailers President
Marge Roberson, Kansas Association of Beverage Retailers

Others attending: See attached list

The Chairman opened the hearing on **SB 133 - Arbor day; last Friday in April.**

Senator Jackson authored this bill on behalf of the Kansas Arborist Association and the Kansas Nursery and Landscape Association amending K.S.A. 35-204, the observance of Arbor Day, from the last Friday in March to the last Friday in April. (Attachment #1) This bill has no fiscal impact.

Mr. Forslund voiced support for **SB 133** on behalf of the Kansas Urban Forestry Council. This would provide a larger more variable supply of nursery stock as well as better weather. No opposition has arisen to this bill and additional letters of support are attached to his written testimony (Attachment #2)

The hearing on **SB 133** was closed.

Representative Hutchins moved that Committee recommend **SB 133** favorable for passage. Representative Williams seconded the motion. The motion passed.

The Chairman opened the hearing on **HB 2564 - Theft of firearm relieves owner of liability.**

Mr. Hattrup supported the bill which cures a misinterpretation of product liability law by the Kansas Supreme Court last summer. Two recent Kansas cases, *Long v. Turk* 265 Kan. 855 P.2d 1093 (1998) and *Wood v. Groh* 269 Kan.7 P.3d 1163 (2000), illustrate what this bill would protect against. (Attachment #3) Firearms owners with children should securely store their firearms to prevent misuse and not subjected to unlimited liability without proof of their negligence. Firearms owners in Kansas are now at risk of liability even if their firearms are stolen from them or even if they have taken reasonable storage precautions. **HB 2564** does reverse the dangerous idea that firearms owners in Kansas should be responsible for the later misuse of their property by thieves. ?? His suggested amendment is to change Section 1(b), lines 20-21: change to read "of the **use or** discharge of such firearm by another person if **that other person or a third party's** criminal act has contributed to such damages."

Representative McKinney presented the written testimony of John V. Black (Attachment #4) in support of **HB 2564**. Mr. Black cited his concern that *Wood v. Groh* creates a dilemma for gun owners because of

the liability of any actions from the gun even if it is stolen and used in a criminal act.

Mr. Parisi appeared as an opponent of the bill. He referred to *Wood v. Groh* and the parental control in respect to use of a firearm. Copies of this brief were distributed to committee members. The parent has a reasonable duty to exercise control of weapons in their home and what access the child has to the weapon. He stated eliminating liability for negligence and going to a gross disregard standard will have the opposite effect of the intent of the bill.

Written testimony in opposition of **HB 2564** was submitted by Ron Pope (Attachment #5) and Jerry Palmer. (Attachment #6) Mr. Pope commented **HB 2564** would have an opposite effect of its stated purpose and protect those people who are negligent in their maintenance and handling of a dangerous instrumentality. Mr. Palmer noted the purpose of this bill is "to encourage owners of firearms to store such weapons in a responsible manner" and is not a debate about Second Amendment rights.

Additional submitted testimony by Rev. Michael Poage (Attachment #7) and Dr. Manfred Menking (Attachment #8) opposed **HB 2564** because of the perceived misplaced responsibility relative to children accessing and misusing their parents firearms. All encouraged the safe storage and responsible use of firearms.

The hearing on **HB 2564** was closed.

The Chairman opened the hearing on **SB 328 - Beer and cereal malt beverage keg registration act.**

Senator Barnett stated Lyons County enacted keg registration in 2000 commenting a keg of beer is equivalent to approximately 175 cans. A packet of support from individuals was distributed to each committee member. (Attachment #9) A 1998 Mothers Against Drunk Driving survey of Kansas law enforcement agencies cited 70 percent of all agencies responding identified beer keg parties as a problem in their jurisdiction. Cities other than Emporia are supportive in registration and believe the state will enact this type of legislation. Testimony included from the Regional Prevention Center of the Flint Hills cites *three risk factors strongly associated with underage alcohol use face adolescents and youth throughout Kansas. These are 1) availability of alcohol and drugs, 2) early age of first alcohol use, and 3) community laws and norms favorable toward alcohol use.*

He submitted an amended Substitute for **SB 328** and clarified reasons for amendments. *Bigs v. City of Wichita* case presently pending in the Kansas Supreme Court regarding licensing if favorable for Bigs would strengthen state's ability to make this type of legislation. If decided in favor of the city, it would strengthen the case of home rule which is not in contradiction to this legislation. He addressed questions of privacy issues raised by the maintaining of records of customers.

Representative Stone noted the Interim Study Committee learned that proponents and opponents acknowledged the problem of underage drinking. He challenged the committee to unveil something that will address this issue should it be decided this legislation is not appropriate.

Ms. Walters declared the economic cost of alcohol abuse excess that of either tobacco or illicit drugs and noted 12 is the average age when youth begin using alcohol in Kansas. She noted education has its place in prevention of underage drinking, but environmental strategies are far more effective because they reach a broader audience and actually impact the norms of communities where children are being raised. (Attachment #10)

Sheriff Rogers urged support of **SB 328** because the enactment of the Keg Registration Resolutions adopted in Coffey County has produced a significant decrease in "Pasture Parties." (Attachment #11) While the registration has not stopped underage drinking, he noted the Resolution has reduced the amount of alcohol available. Applicable statewide registration would reduce crime, accidents and other related incidents by decreasing purchases of kegs in other counties which do not require registration.

Mr. Stewart discussed his support not only because of first-hand knowledge of frequent peer pressure to participate in keg parties but more importantly that of his infant brother's death due to an alcohol-related crash. (Attachment #12) He also voiced concern that while this legislation will not prevent underage drinking and the use of fake ID's, it will provide a means of tracking and preventing those who blatantly

disregard the current law by providing alcohol to youth under 21.

Ms. Roberson (Attachment #13) is already doing most of the efforts required by the current bill which would not pre-empt more restrictive local ordinances. The keg sales in her Newton store are equivalent to about one weeks sales. As the instructor for the association's *Techniques of Alcohol Management* classes, various community regulations would not only but also violate customer's privacy issues

Mr. Scott has addressed the Committee regarding this issue approximately five times in as many years. As a board member on the National Association of Beverage Retailers, he has surveyed other states to determine the effectiveness of keg registration. (Attachment #14) He cited the following statistics:

1. Rates of alcohol-involved fatalities among drivers 16 - 20 have decreased 33 percent since 1988 representing the largest decrease for any age group (National Highway Traffic Safety Administration, 1999);
2. Since 1982, drinking among teens (12 - 17 years old) is down 45 percent;
3. Since 1982, beer drinking among college freshman is down 32 percent;
4. Since 1982, drunk driving fatalities is down percent;
5. Since 1982, drunk teenage driving is down 65 percent.

Written testimony in opposition was submitted by Marlin and Don Platt (Attachment #15) and John Davis (Attachment #16) all of Wichita.

The hearing on SB 328 was closed and will be re-opened tomorrow.

Representative Hutchins moved that Committee approve the minutes from January 22, January 23, January 24, January 29, January 30, February 5, February 6, February 13, February 15, February 20, and February 28. Representative Novascone seconded. Motion passed.

The committee meeting adjourned at 3:25 p.m. The next scheduled meeting is March 20, 2001.