

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on January 26, 2006 in Room 313-S of the Capitol.

All members were present except:

Marti Crow- excused
Michael Peterson- excused

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research
Jill Wolters, Office of Revisor of Statutes
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Representative Dan Johnson
Representative Virgil Peck
Kyle Smith, Kansas Bureau of Investigations
Ron Carnine, Former Officer for Coffeyville Police Department
Chief Brian Helkenberg, Cherryvale Police Department
Assistant Chief Kirby Lee, Cherryvale Police Department
Ron Rooks, Montgomery County Sheriff's Department
Representative Jim Ward
Lisa Benlon, American Cancer Society
Dr. Howard Rodenberg, Kansas Department of Health & Environment
Gary Brunk, Executive Directory, Kansas Action for Children
David Remes, RJ Reynolds

Chairman O'Neal opened the hearing on **HB 2606- theft of services**.

Representative Dan Johnson appeared as the sponsor of the proposed bill. He explained that the bill would add "water" to the list of items listed under the theft of services statute. He proposed an amendment which would include rural water districts and rural electric cooperative as public utilities. (Attachment 1)

The hearing on **HB 2606** was closed.

The hearing on **HB 2414 - penalties for battery against a law enforcement officer and aggravated battery against a law enforcement officer**, was opened.

Representative Virgil Peck appeared as the sponsor of the proposed bill. Current statute allows for felony charges when battery is committed against a state correctional officer, juvenile correctional facility officer, a juvenile detention officer, city or county correctional officer and a university or college police officer. Misdemeanor charges are allowed to be filed on battery of a law enforcement officer. This would simply include law enforcement officers in the list because they are at most risk for battery. (Attachment 2)

Kyle Smith, Kansas Bureau of Investigations, stated that there is a need for deterrence due to the high number of batteries against law enforcement officers. He acknowledged that the proposed bill would have a high impact on bed space therefore creating a substantial fiscal note. (Attachment 3)

Ron Carnine, Former Officer for Coffeyville Police Department, relayed his story of how he was battered while on the police department. (Attachment 4)

Chief Brian Helkenberg, Cherryvale Police Department, provided the committee with a copy of the Oklahoma statute. He commented that assaults and battery are a constant problem in the law enforcement profession and those who are committing these types of crimes need to be held more accountable. (Attachment 5)

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Assistant Chief Kirby Lee, Cherryvale Police Department, believes that the proposed bill would help deal with individuals who are violent and have no respect for the law. The current fine of \$50-\$100 does not seem to be deterring those individuals. (Attachment 6)

Ron Rooks, Montgomery County Sheriff's Department, was concerned that if individuals are allowed to continue to commit misdemeanor battery against officers, they will eventually turn more violent. (Attachment 7)

Chairman O'Neal informed the committee that the bed impact for fiscal year 07 would be 53-76 additional beds with 393-546 by FY 2015.

Written testimony in support of the bill was provided by Stephen Shook, Cherryvale Police Department (Attachment 8)

The hearing on **HB 2414** was closed.

Chairman O'Neal opened the hearing on **HB 2552 - ban of flavored cigarettes**.

Representative Jim Ward appeared before the committee as the sponsor of the proposed bill which would prohibit flavored cigarettes in Kansas, along with setting a \$500 fine. (Attachment 9)

Lisa Benlon, American Cancer Society, appeared as a proponent of the proposed bill. She believes that tobacco companies are targeting youths with these new flavored tobacco products. She suggested that the packaging of the products are enticing for youths. (Attachment 10)

She requested an two amendments:

- page 4, after line 2..."any cigarette advertised as having or producing a taste, flavor, or aroma other than tobacco or menthol shall be deemed to have a characterizing flavor and be subject to the prohibitions of..."
- page 3, line 41 ... no person shall sell, offer for sale, or distribute in this state....

Dr. Howard Rodenberg, Kansas Department of Health & Environment, stated that most all tobacco use begins during the teen years and that it cost Kansans more than \$700 million in medical costs. The new flavored brands come in flavors like cola, Caribbean Chill, Midnight Berry and Mocha Taboo. A restriction on the sale of flavored cigarettes would support current efforts in preventing youths from beginning to smoke. It is estimated that less than 1/3 of teens who smoke obtain their cigarettes by purchasing them at retail stores. (Attachment 11)

Gary Brunk, Executive Directory, Kansas Action for Children, informed the committee that youth smoking jumps from 5.7 percent in middle school to 21.1 percent in high school. Prohibiting the sale of flavored cigarettes would help lower the percentage of underage smokers. (Attachment 12)

The following proponents did not appear before the committee but requested their written testimony be included in the minutes:

Kansas Academy of Family Physicians (Attachment 13)

American Heart Association (Attachment 14)

Kansas State Nurses Association (Attachment 15)

Tobacco Free Kansas Coalition (Attachment 16)

American Lung Association (Attachment 17)

David Remes, RJ Reynolds, appeared as an opponent of the bill. He was concerned that the proposed bill would ban the sale of any cigarette that RJ Reynolds makes because they use cocoa, herbs and spices in their regular line of cigarettes. He reminded the committee that it is against Federal law to market tobacco products to those under the age of 18. (Attachment 18)

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Committee members expressed concern about how broad the proposed bill could be and wasn't sure that it was needed due to the fact that it is currently illegal to market and sell to anyone under the age of 18.

The following opponents did not appear before the committee but requested their written testimony be included in the minutes:

Petroleum marketers and Convenience Store Association of Kansas (Attachment 19)

Kansas Licensed Beverage Association (Attachment 20)

The hearing on **HB 2552** was closed.

Representative Watkins made the motion to approve the minutes of January 11, 17, 18 & 19, 2006. Representative Kelly seconded the motion. The motion carried.

The committee meeting adjourned at 5:30 p.m. The next meeting was scheduled in room 313-S on Monday, January 30, 2006 at 3:30 p.m.