

## MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman John Edmonds at 1:30 P.M. on March 9, 2005 in Room 313-S of the Capitol.

All members were present except:

Representative Ray Cox- excused  
Representative Todd Novascone- excused

Committee staff present:

Athena Andaya, Kansas Legislative Research Department  
Dennis Hodgins, Kansas Legislative Research Department  
Mary Torrence, Revisor of Statutes Office  
Carol Doel, Committee Secretary

Conferees:

Gene Cannata, M.D.  
Howard Rodenberg, M.D.  
John Hauxwell, M.D.  
Elaine Schwartz, KS. Public Health Assn  
Katherine Bruner, Chairman, Clean Air Lawrence Coalition  
Shane Reif  
Terri Roberts, KS State Nurse Association  
Ron Hein, Kansas Restaurant and Hospitality  
Chuck Magerl, Free State Brewery - Lawrence, KS.  
Ron Anderson, Herford House - Lawrence, KS  
Joni Bocelewatz, Business Owner

Others attending:

See attached list

Chairman Edmonds opened the meeting asking for any bill introductions.

Representative Mary Pilcher-Cook requested a bill that would discover and prosecute perpetrators of sex crimes.

With no objections, the bill was accepted for introduction.

Chairman Edmonds appointed a subcommittee to study **SB 195** and bring back a substitute bill with all the necessary elements of **SB 195**, **HB 2439**, **HB 2449**, **HB 2303**, and **HB 2177** as well as a definition for the concept of the firearm. The committee will be chaired by Representative Siegfried, with the other members being Representative Burroughs, Representative Ruff, Representative Brunk and Representative Kinzer.

The Chair opened the floor for public hearing on **HB 2495** concerning smoking; enacting the Kansas public smoking ban act; prohibiting certain acts and providing penalties for violation and asked Mary Torrence of the Revisor's Office to brief the committee on the provisions of the bill.

Mary advised that **HB 2495** would enact a Kansas public smoking ban act. It would not take effect until January 1, 2007 and would be effective only in the cities and counties that had not voted to opt out of the provisions of the act. A city or county in an unincorporated area could opt out prior to the taking effect of the ban and then they could opt back in at a later date if they wished. The question would go to the voters either on submission by resolution of the city government body or the county commission or on petition filed by the voters. The bill prohibits smoking in all enclosed places. The bill would also prohibit smoking whether or not the place is enclosed if it is a sports arena, food service establishment, club or drinking establishment or a cereal malt beverage retail business. The bill further would prohibit smoking in enclosed places of employment and enclosed facilities at the state and political subdivisions of the state. There are certain places that the bill makes clear are not subject to the smoking ban and those are private residences unless they are used for travel care, adult day care or as a health care facility. Retail tobacco stores would not be subject to the ban. The bill also makes it clear that any owner/operator or manager or any person that is in control of an establishment can declare the entire establishment to be smoke free. The bill would hold the person who has control of the building or establishment as being responsible for posting signs. The Department of Health and Environment would be responsible for promotion of the act and licensing

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authorities for drinking establishments and liquor retailers. There is a prohibition for any person or employee from taking retaliation against any person who tries to enforce the ban. Violation of the act is a misdemeanor subject to a fine not exceeding \$100 for the first violation and \$200 maximum fine for the second violation and for a third violation it would be a maximum fine of \$500. It would also repeal the current criminal statutes that deal with smoking in public places. (No Attachment)

Dr. Gene Cannata was recognized and presented testimony as a proponent on **HB 2495** on behalf of the Kansas Academy of Family Physicians of Wichita, Kansas. Dr. Cannata stated facts regarding the human toll of tobacco use and secondhand smoke as well as the price tag. He further stated that as family physicians in Kansas, they daily see lives that are unalterably affected by the damaging, but preventable, effects of tobacco use and secondhand smoke. (Attachment 1)

Director of Health for the Kansas Department of Health and Environment and Kansas State Health Office, Dr. Howard Rodenberg, came before the committee supporting **HB 2495**. Dr. Rodenberg said the organizations which he represents wholeheartedly support the concept of clean indoor air. He further related that tobacco use is the single most preventable cause of death and disease in Kansas. Dr. Rodenberg also stated that there are several items within the text that will require clarification. These items inadvertently weaken the bill, and impair the collective ability to achieve clean indoor air. (Attachment 2)

Dr. John Hauxwell, Family Practice Physician from Hays, and currently serving as Vice-President of the Tobacco Free Kansas Coalition, testifying in support of **HB 2495** gave their opinion that this bill is the effort to protect all the people of Kansas from tobacco smoke pollution in public places. They urged the committee to acknowledge the importance of the dangers of tobacco smoke pollution by supporting the bill. (Attachment 3)

The Kansas Public Health Association, Inc. was represented by Elaine Schwartz the Executive Director supporting **HB 2495**. The testimony of Mrs. Schwartz was prepared by Dr. Kim Richter a Kansas Public Health Association member relating that this bill will protect the health of Kansans and it will not affect the revenues of restaurants and bars, which are just about the last work sites that permit smoking indoors. (Attachment 4) Included in the testimony were statistics and references regarding smoke-free air. (Attachment 5)

Kathy Bruner, volunteer coordinator for Clean Air Lawrence supports **HB 2495** and has been working over the past two years to establish, and now to maintain a citywide ban on public indoor smoking. It is her organization's stand that we as a state and a society must do everything possible to protect the coming generations from the cycle of nicotine addiction that we can no longer afford both in health care costs and human costs. (Attachment 6)

Shane Reif, an eighteen year old senior at the Hoisington High School in Hoisington, Barton County urged the committee to pass **HB 2495**, and help make the State of Kansas smoke free in all public places and work places. (Attachment 7)

Making a presentation in support of **HB 2495**, was Terri Roberts, J.D., R.N., Executive Director of Kansas State Nurses Association (KSNA). Ms. Roberts spoke of the dangers of secondhand smoke, the economic impact, and changes in employee health. (Attachment 8)

Written testimony in support of **HB 2495** was submitted by Kansas Medical Society (Attachment 9), Kansas Association of Osteopathic Medicine (Attachment 10), American Lung Association (Attachment 11), American Heart Association (Attachment 12)

There were no other proponents wishing to address **HB 2495** and The Chair opened the floor to the opponents recognizing Ron Hein, legislative counsel for the Kansas Restaurant and Hospitality Association (KRHA) who stated that they oppose **HB 2495** as they are a firm believer in the right of a business owner, and a private property owner to determine issues such as the smoking issue. Mr. Hein further stated that this bill is another example of the government protecting people from themselves. (Attachment 13)

Chuck Magerl of the Free State Brewery, Lawrence, Kansas, opposes **HB 2495**. Mr. Magerl is a nonsmoker,

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anti-smoking, but certainly not anti-smoker. He further related that the government has no role in accommodating personal preferences at the expense of private businesses, especially when a person has many options to enjoy a smoke free environment if that is important to him. (Attachment 14)

Ron Anderson owns and operates two Hereford House Restaurants in the state of Kansas. Mr. Anderson opposes **HB 2495** because it is his opinion that the drop in business which he has experienced is largely due to the decrease in traffic in their Lawrence location since the total smoking ban was implemented July 1, 2004. He further related that if they do not enforce the smoking clauses they will be obligated to pay a fine as high as \$500. He encourages the committee to find an outlet to smoke legally for those who wish to do so. (Attachment 15)

Joni Bocelewatz, KC K drinking establishment owner, spoke against **HB 2495** relating that a smoking ban was going to effect businesses along the state line corridors. She further stated that at a time when we are trying to bring a viable economy to downtown KCK, this would be an economic disaster for the bar owners, in addition to losing valuable Kansas tax dollars to surrounding states. (Attachment 16)

Written testimony in opposition to **HB 2495** was submitted by Ron Hein legislative counsel for the R.J. Reynolds Tobacco Company (Attachment 17), and by Phil Bradley representing the Kansas Licensed Beverage Association (KLBA) (Attachment 18)

With no other persons wishing to address the bill, The Chairman closed the public hearing on **HB 2495**.

There was no other business before the committee and the Chairman adjourned the meeting.