



End discrimination based on sexual orientation and gender identity

Statement of Thomas Witt in Opposition to SB331
Executive Director, Equality Kansas
Senate Committee on Federal and State Affairs
January 28, 2014

Good morning Mr. Chairman and members of the committee. I am here today to speak in in opposition to SB331, the “Firearms Industry Nondiscrimination Act,” and I thank you for the opportunity to do so.

I am Thomas Witt, Executive Director of Equality Kansas, which works to eliminate discrimination based on sexual orientation and gender identity.

Although we would welcome substantial revision to this bill, we are opposed to the enactment of SB331 in its current form. We have three recommendations for this committee to consider.

The Kansas Act Against Discrimination (KAAD) currently protects Kansans from discrimination in housing, employment, and public accommodations based on race, religion, color, sex, disability, familial status, national origin, or ancestry. The KAAD was originally established in 1953, and has been amended at least nine times since. Kansas has continued to amend the KAAD as the need has been shown to protect the fundamental rights of employment, housing, and public accommodations for individuals who have been – and still are - targets of discrimination.

Never in the history of our great state has this act, or any similar act, been used to protect the business interests of a particular industry. In that regard SB331 is truly unprecedented.

The LGBT population in the United States is estimated to be between four and six percent of the population, depending on the state. Here in Kansas, researchers have found the LGBT population to be slightly more than 4.5%, or approximately 150,000 Kansans.

By contrast, as of January 1 2016, there are 1317 federally licensed firearms dealers in the state of Kansas. This includes all licensee types, as shown in the table below:

1012	Dealer in Firearms Other Than Destructive Devices (Includes Gunsmiths)
101	Pawnbroker in Firearms Other Than Destructive Devices
0	Collector of Curios and Relics
59	Manufacturer of Ammunition for Firearms
132	Manufacturer of Firearms Other Than Destructive Devices
10	Importer of Firearms Other Than Destructive Devices
0	Dealer in Destructive Devices
1	Manufacturer of Destructive Devices
2	Importer of Destructive Devices

Source: Bureau of Alcohol, Tobacco, Firearms and Explosives: Listing of Federal Firearms Licensees (FFLs) - 2016

My organization has, for the past decade, been asking the State of Kansas to amend the Kansas Act Against Discrimination to include sexual orientation and gender identity among its protected classes. In that time, we have

appeared four times before this committee, and had our request recommended for passage twice. Once passed out of this committee, however, the bills have languished and eventually died with no action taken.

Our first recommended revision to this bill is to amend it to include protections for sexual orientation and gender identity. If this committee finds it necessary to protect the commercial business interests of 1317 federally licensed firearms dealers, we believe you should also protect the right to a job, a home, and fair treatment for 150,000 LGBT Kansans.

Should the committee choose to move forward with our recommendation, language may be drawn from HB2323, which was heard in the House Judiciary Committee on January 14 of this year.

We understand the intent of this bill is to protect the business interests of an industry whose products and business practices face moral disapproval from an overwhelming number of Americans. If protecting politically unpopular industries from discrimination is a goal worthy of taking this unprecedented, there are additional industries deserving of the same protection.

Women's health care clinics are regularly denied service by contractors, suppliers, landlords, lenders and others who disapprove of the reproductive care offered by such facilities. Service is often denied not just to clinics where abortions are performed, but also at women's health care clinics where abortions have never been and never will be offered.

Bookstores offering adult materials have faced discrimination similar to women's health clinics.

Some religious organizations are also targets of "unlawful discrimination" of the type defined in SB331. For example, the First Metropolitan Community Church of Wichita, which serves a predominantly LGBT congregation, has at times had difficulties in hiring contractors to repair damage done to their facility by years of ongoing vandalism.

The constitutional rights of churches, bookstores, and women's reproductive care facilities to engage in their activities is clear. The rights of all Americans to access these facilities, products, and services is also clear. Like the firearms industry and the gun owners they serve, their activities have been thoroughly litigated and protected under our federal and state constitutions.

There are undoubtedly even more industries worthy of the same protections afforded to the firearms industry.

This brings us to our second recommendation: amend SB331 to include identifiable industries whose activities have been harmed by, or are at risk of being harmed by, unlawful discriminatory practices as generally defined by this bill. If the firearms industry deserves statutory protections from moral disapproval, so do abortion clinics, adult bookstores, churches with disfavored congregations and others.

Finally, this bill contains a provision which we will describe as the "Open Season for Firearms Dealers Clause." Section 5 gives successful industry plaintiffs the right to collect attorney fees and court costs. No such recovery of fees and costs is provided to successful defendants in these cases. Should this section be enacted in its current form, unscrupulous firearms dealers will face little to no financial risk in suing anyone and everyone they believe has harmed their business through the unlawful discriminatory practices defined in Section 3.

Our third and final recommendation is this: Prevailing defendants must be able to recover their court costs and attorney fees. Without that provision, you are helping the firearms industry place a lawsuit target on the back of each of your nearly three million fellow Kansans.

Thank you for your time and attention. I am available to stand for questions.