

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRSThe meeting was called to order by Representative Robert H. Miller at
Chairperson1:30 a.m./p.m. on March 25, 1985 in room 526S of the Capitol.

All members were present except:

Representative Peterson

Committee staff present:

Lynda Hutfles, Secretary
Mary Torrence, Revisor's Office

Conferees appearing before the committee:

David Tittsworth, Kansas Department of Transportation
Bob Morrissey, Federal Highway Department
Billy McCray, Kansas Department of Economic Development
Representative Love
Chris Edmonds, Tavern League of Kansas
Harley Duncan, Kansas Department of Revenue
Herb Cohlma, Kansas Progressive Retail Association
John Miller, Kansas Progressive Retail Association
Albert Lawler, Kansas Retail Liquor Dealers
John Lamb, Alcoholic Beverage Control
Representative Elaine Hassler
Judge Robert Royer, Jr. Abilene
Gene Johnson, Kansas Community Alcohol Safety Action Project Coordinators
Association
John Eisenbart, Wichita
Marjorie VanBuren, Judicial Office of Administration

The meeting was called to order by Chairman Miller.

Representative Roenbaugh made a motion, seconded by Representative Sallee, to approve the minutes of the March 20 & 21 meetings. The motion carried.HB2462 - Kansas Highway Contractor Development ActDavid Tittsworth, Chief Counsel for Kansas Department of Transportation, explained the bill and how it will affect his department. This bill permits setting aside highway construction projects for bidding only by disadvantaged businesses. See attachment A.

Bob Morrissey, Federal Highway Department, told the committee he questions whether the bill is needed to meet the goals of the state in developing disadvantaged businesses. It could be used to develop contractors capable of being prime contractors and could be used to meet the goals of the state. He supported the concept of the bill.

Billy McCray, Kansas Department of Economic Development, Minority Business Division, gave testimony in support of the bill which would give KDOT authority to set aside certain construction contracts for disadvantaged businesses. See attachment B.

Representative Love gave testimony in support of the bill, saying that these subcontractors will be giving people in Kansas a place to work.

Glen Coulter, Kansas Contractors Association, opposes all set asides or special bidding preference programs because they do not believe they are in the best interest of the citizens of Kansas and therefore, oppose the bill. See attachment C. There are 119 members of the association with five of them being considered disadvantaged employees and these five would probably not oppose the bill.

There was discussion concerning the definition of "disadvantaged business"

CONTINUATION SHEET

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and who was included in this definition.

Hearings were concluded on HB2462.

HR6071 - Directing the Department of Revenue to modify drivers' license tests to include a question concerning alcohol and drug abuse while operating a motor vehicle

Chris Edmonds, Tavern League of Kansas, gave testimony in support of the resolution which directs the Division of Motor Vehicles to modify the driver's license test to include two questions concerning an applicants' understanding of the consequences of operating a motor vehicle while under the influence of alcohol or drugs.

Harley Duncan, Secretary of the Department of Revenue, told the committee they have no objection to the passage of the resolution. In the current test and in the revised test there is a review of the DUI laws, the implied consent statute and in some of the revised tests there are questions concerning driving under the influence. They are moving in that direction. Mr. Duncan said they could see a problem if they were asked to put in charts relating to physical consequences of alcohol consumption with a persons weight, how many drinks, that person could have so man drinks. See this as a big problem.

HB2571 - delivery of retail liquor

Herb Cohlma, President of the Kansas Progressive Retail Association, gave testimony in support of the bill which would allow retail liquor licensees to deliver beer, wine and spirits to class A & B private clubs. See attachment E.

Chris Edmonds, Tavern Legaeue of Kansas, told the committee he was in support of the bill.

Albert Lawler, Kansas Retail Liquor Dealers, gave testimony in opposition to the bill. The retail liquor dealers cannot afford to make these deliveries to the private clubs.

John Lamb, Alcoholic Beverage Control, told the committee if this bill is to pass, authority should be given the ABC to promulgate rules and regulations to control the delivery process, so they would not be delivering to homes.

Hearings were concluded.

HB2570 - Availability of diversion records to courts and prosecuting attorneys

Representative Elaine Hassler, explained the bill which provides that the records pertaining to diversions should be disclosed to city, county and district attorneys; municipal and district courts; and law enforcement by direct computer access.

Judge Robert Royer, Jr., Abilene, gave testimony in support of the bill and stated his reasons for supporting it. A bill passed last year tood this information off the computer and now in order to get access to records they must write to the motor vehicle division for the records and there is a two week waiting period. This causes problems in the diversion program because they need this information as soon as possible.

There was discussion of a bill which passed this year (HB2490) which strikes diversions from confidentiality.

Harley Duncan, Department of Revenue, gave testimony in support of the bill with two areas of concern. See attachment F.

Gene Johnson, Kansas Community Alcohol Safety Action Project Coordinators Association, gave testimony in support of the bill. They view it as a method of reducing the alcohol related crashes in the state. At this time our ability to quickly and effectively obtain the driving records for those persons who had been arrested for a DUI offense is limited. This bill would correct this. See attachment G.

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Mr. Johnson distributed a copy of a letter from Judge James Wells, Municipal Court Judge, who supports the bill. See attachment H.

John Eisenbart, Probation Division, Municipal Court in Wichita, gave testimony for himself and Judge Thiesen in support of the bill. With over 150 DUI evaluationa a month, there is a need for speedy access to the records.

Marjorie VanBuren, Judicial Office of Administration, gave her support to the bill.

Hearings were concluded on HB2570.

HB2424 - Certified public accountant examination, qualifications for admission

Representative Brady made a motion, seconded by Representative Groteweil, to report HB2424 favorably.

Representative Hensley made a substitute motion, seconded by Representative Sprague to insert on line 28 the words "completion of" after "or" and before "coursework". The motion carried.

Representative Brady withdrew his motion.

Representative Brady made a motion, seconded by Representative Groteweil, to report HB2424 favorable for passage as amended. The motion carried.

SB26 - Establishment of efficiency in government hotline

Representative Aylward made a motion, seconded by Representative Long, to change the effective date of the bill from the Kansas Register to the statute book. The motion carried.

Representative Walker made a motion, seconded by Representative Groteweil, to report SB26 favorably as amended. The motion carried.

HB2241 - Reporting of burn wounds to state fire marshal

Representative Sughrue made a motion, seconded by Representative Hensley, to report HB2241 favorable for passage. The motion failed.

SB147 - Persons subject to the law enforcement training act

Representative Walker made a motion, seconded by Representative Roy, to report SB147 unfavorable for passage. The motion carried.

The meeting was adjourned.

Kansas Department of Transportation

March 25, 1985

MEMORANDUM TO: House Federal and State Affairs Committee
FROM: David G. Tittsworth *David G. Tittsworth*
Chief Counsel
REGARDING: House Bill 2462

Section 105(f) of the 1982 Surface Transportation Assistance Act requires that "not less than ten per centum of the amounts authorized to be appropriated under this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals."

Pursuant to this provision, the Kansas Department of Transportation has implemented an active program designed to increase participation and development of disadvantaged businesses. During the past federal fiscal years, KDOT was successful in meeting the 10% goal established by Congress and approved by the Federal Highway Administration.

The primary approach which KDOT has utilized during the past two years in achieving our 10% goal of disadvantaged business participation is to set specific goals for each project as a contractual condition of eligibility for the award of prime contracts. This approach requires prime contractors to meet or exceed the goal established in each

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Attach. A

federally-aided project by utilizing disadvantaged businesses. KDOT also conducts seminars and training programs for disadvantaged businesses.

House Bill 2462 would provide another mechanism which could be utilized by KDOT to achieve the goals established by Congress. The bill permits the Secretary to "set aside" certain projects or portions thereof for bid by disadvantaged businesses solely. The bill is restricted to federal-aid projects and adopts terms contained in the federal legislation.

KDOT believes that House Bill 2462 would be a useful tool in our overall program of developing and encouraging disadvantaged business participation. At least seven other states utilize "set asides" as a part of their disadvantaged business program, according to a 1984 survey conducted by the American Association of State Highway and Transportation Officials.

C O M M I T T E E T E S T I M O N Y

TO: Robert H. Miller - Chairman of the
Federal & State Affairs Committee

FROM: Billy Q. McCray - Director
Minority Business - KDED

RE: HB2462 - Kansas Highway Contractor
Development Act

My name is Billy McCray and on behalf of the Minority Business Division of the Kansas Department of Economic Development, I rise to support HB2462.

The bill is very brief, yet concise, measure which would give the Kansas Department of Transportation authority (at it's discretion) to set aside certain construction contracts for disadvantaged businesses.

The Minority Business Division of KDED has historically supported set aside for MBE's and WBE's because statistics, both nationally and here in Kansas, show that these contractors do not receive their fair share of highway contracts awarded.

Up until 1983, only about 1% of construction contracts in KDOT were awarded to women-owned businesses (WBE's) and approximately 3% were awarded to businesses owned by minorities (MBE's). Although some improvement has been made, HB2462 would authorize, by statutes, discretionary authority for KDOT personnel to better meet Federal Department of Transportation requirements as stated in the 1982 Surface Transportation Assistance Act.

HB2462 does not go as far as some minority contractors would like, but having served in the House of Representatives a few years ago, I understand the legislative process. The art of the possible is often arrived at through compromise, and although I believe a true set aside would best serve WBE's and MBE's, HB2462 is a definite step in the right direction. It allows the state of Kansas, through its Department of Transportation, to meet the goals and objectives of the Surface Transportation Assistance Act (STAA), and at the same time solve the lingering problem of access to the state contract awarding process for those vendors who have been virtually shut out in the past.

The same concept was introduced in the Senate last year. It passed out of the Senate Transportation Committee without a dissenting vote and only had nine (9) no's in the full Senate. The Governor's office was supportive of that bill and I have heard nothing to the contrary this year.

Passage of HB2462 would enhance the present effort of KDOT and would certainly make our job more effective.

BQM:bjjo

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FEDERAL & STATE AFFAIRS COMMITTEE

TESTIMONY ON HB 2462

MARCH 25, 1985

By Glenn Coulter

Mr. Chairman, members of the committee. My name is Glenn Coulter and I am the Manager of the Kansas Contractors Association. Our members build over 90% of the highways, roads, streets and bridges in Kansas.

Thank you for the opportunity to visit with you for a few minutes about House Bill 2462 which would permit setting aside highway construction projects for bidding only by Disadvantaged Business Enterprises.

Our association during its entire 62 years of existence has opposed all set asides or special bidding preference programs because we do not believe they are in the best interests of the citizens of our state or our nation.

The federal surface transportation act of 1982 mandated a 10% set aside for Disadvantaged Business Enterprises in each state unless the state asked for and received a waiver to a lower per cent. Kansas has met its 10% quota and I feel certain they will continue to do so. Disadvantaged Business Enterprises may bid as prime contractors or may sub work from the prime.

I think it is very important that you ladies and gentlemen know that in 1985 this will assure Disadvantaged Business Enterprises in Kansas at least \$15 million in contracts.

We do not feel it is good public policy to set aside selected contracts for bidding by one single group. Rather we feel that free and open competitive bidding should continue to be the rule in Kansas.

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DELIVERY TO PRIVATE CLUBS BY RETAILER

- Proposed: Retail liquor licensee be permitted to deliver beer, wine and spirits to class A & B Private Clubs.
- Retailer required to have Federal "wholesale" permit.
- Delivery optional. Qualifications to be determined by individual retailer on competitive basis.
- No attempt to change present statutes, rules or regulations regarding prices, controls (invoices, etc.) collection for goods, etc. Simply allow delivery under whatever competitive conditions retailer offers.

CLUB POSITION

- Appearing before a house sub-committee of Federal and State affairs on February 2, 1983, Jack Milligan, Executive Director for Kansas Association of Private Clubs testified. . . "The establishments I am currently working with desire the benefit of some sort of delivery system. Many private clubs purchase in large quantities and enjoy a good working relationship with the retailer or retailers they purchase from. Such a relationship could easily find the retailer eager to deliver to their good Private Club customers even though such service would be optional on the retailer's part."
- This statement was made two years ago so the subject is not a new one. The need remains.
- Landed cost of product is vitally important to clubs as it is to every business. In recent past, clubs have requested lower acquisition costs. The ABC Board has responded on two occasions lowering the minimum price from retailer to club to "cost plus 15%" and then to the current "cost plus 12%" on wine, spirits and cordials. Allowing delivery from retailer would serve to lower clubs' net costs further.

THE ISSUE

- Opponents argue that retailer delivery could not be accomplished on a profitable basis. Obviously, dollar value of club orders, frequency of delivery, distance and other factors would have to be considered. The 12% minimum mark-up would create \$1.20 gross profit on a very small order of \$10.00 (retailer's cost) from a club and not create sufficient dollars to cover delivery costs. But the \$120.00 gross profit on an order of \$1,000 (retailer's cost) might well cover all costs of delivery and leave net dollars profit for the retailer. Somewhere between these wide-spread examples might be an order on which delivery could be offered profitably. Again, competition would dictate terms.
- Possibly some combination of policy would evolve in practice. Larger club orders on a predetermined basis might be delivered while smaller "as needed" orders would be picked up by clubs as at present.

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THE ISSUE (continued)

- Whatever the costs may prove to be, the proposed change would help the club and offer the retailer a chance to serve the club account better than at present.
- Delivery directly to clubs from wholesalers has been discussed in recent months. For reasons of sheer economics this can not be considered as an answer. If you consider the total costs of processing and delivering an order to a club it quickly becomes obvious that wholesaler warehouses located in only five cities in the state cannot affect delivery to private clubs in over 100 counties nearly as cost--effectively as distribution can be made from hundreds of retail locations licensed as Federal wholesalers to achieve the same purpose.

To require wholesalers to sell clubs would dramatically increase their handling and delivery costs resulting in price increases to the industry all the way to the consumer.

In the final analysis, the true costs of delivery must be covered by those who purchase the product. Those costs, therefore, should be minimized through the use of the least costly method for delivery to clubs. . . the retail liquor licensee.

John Miller

KPRA

Kansas Progressive Retail Association

Herb Cohlma, President
2323 E. Central
Wichita, Ks. 67214
(316) 262-3675

John Webb, Secretary/Treasurer
800 W. 23rd
Lawrence, Ks. 66044
(913) 841-2277

TO: The Kansas Legislature

Re: Delivery from retail liquor outlets to licensed, by the drink, establishments.

BACKGROUND:

In 1949, when the Kansas Liquor Control Act was written, the legislature saw fit to prohibit the delivery of liquor to any consumer. At that time there were no legal properties where liquor was sold for on-premise consumption.

Sixteen years later, in 1965, the Private Club Act was passed. Such clubs were deemed to be nothing more than an extension of the right to entertain in a location which of course, did not cater to the public. Liquor inventories were provided by the consumer, thus not requiring the club to purchase alcoholic beverages.

Through the years this "brown bagging" was gradually replaced by the "liquor-pool" system. This method allowed a registered agent of the club to purchase liquor in advance for those consumers paying for it in advance. Still the legislature did not concern itself with the semantics of purchasing the liquor. No changes were made in the Liquor Control Act.

Under S.B. 467, enacted in 1978, the resale of alcoholic beverages by licensees was allowed. Only a minimum of changes in The Liquor Control Act were instituted. Delivery was not one of them. It was generally felt, at that time, by the proponents, that it would engender opposition from those retailers who were satisfied with the status-quo.

Today, the legitimate growth of this on-premise industry has necessitated a closer look at this system of supply. For various reasons, the "store to club" methods of distribution is the most reasonable and economically feasible, but with one exception and that is delivery. The following is an attempt to answer some of those questions which may arise from this issue.

- Q. Will this proposal cause undue hardships upon the smaller retailer?
- A. No! In most cases the retailer must cater to the whims of the club when an order is placed, thereby causing the retailer to "warehouse" an order, sometimes for days. Most smaller stores do not have either the facilities nor the capital to do so.

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- Q. Will the club be forced to receive their orders only when the retailer is ready to deliver, thereby causing hardships on the small clubs?
- A. No! There are 600 "retail-wholesale" licensees and potentially 500 more. We are sure that the law of supply and demand will dictate any delivery practices.
- Q. Will it cause greater enforcement problems?
- A. No. The ABC has assured us that it would in effect, decrease their problems by eliminating another area of concern.
- Q. Is this a mandate to deliver?
- A. No. If a retailer does not wish to do so that is his or her privilege.
- Q. What has the status-quo caused?
- A. To some degree, it has created an increase in the number of liquor stores throughout the state. Too many times an individual has been duped into starting a new retail liquor operation simply because of the proximity of an on-premise location.
- Q. Why do we propose a "resale" license fee?
- A. The Federal Government receives \$254.00 for a wholesaler's permit. The cities require sometimes as much as \$300.00 for a retail license. The state requires \$100.00. These fees have not changed since the act was written. We therefore feel that in the interest of not taking a free ride, and bringing the state in line with other licensing agencies, a license fee should be imposed where one does not exist.
- Q. Is this an altruistic view or is there an ulterior motive?
- A. We hope it will discourage additional licenses.



Kansas
DEPARTMENT OF REVENUE

State Office Building
TOPEKA, KANSAS 66626

TO: Harley T. Duncan
Secretary of Revenue

FROM: John W. Smith
Chief Administrator
Driver Licensing & Control

DATE: March 25, 1985

RE: HOUSE BILL NO. 2570

A handwritten signature in cursive script, appearing to read "John W. Smith", is written over the "FROM:" field of the memo.

House Bill No. 2570 provides that the division's records pertaining to diversions shall be disclosed to city, county and district attorneys; municipal and district courts; and law enforcement by direct computer access.

The department does not object to this amendment but wishes to point out two areas of concern.

1. Once the division releases this information it has no control over its use. If a law enforcement agency obtains a record for the purpose of subparagraph (b)(2) and does not delete the confidential information (diversions, expungements and medical information) the requesting insurance company or agent will be aware of such information.
2. Does this amendment void the requirements of prosecutors and courts to obtain certified records from the division as required by K.S.A. 8-1567(h), K.S.A. 12-4415(a)(3) and K.S.A. 22-2908(c)?

JWS:bmh

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HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

Testimony on House Bill 2570

March 25, 1985

Mr. Chairman, Members of the Committee, my name is Gene Johnson and I represent the KS Community Alcohol Safety Action Project Coordinators Association. We are the people who do the evaluations of all DWI offenders in the state of Kansas. Our organization consist of 30 members from all parts of the state.

We endorse and enthusiastically support House Bill 2570 to be passed favorably by this Committee as a method of reducing the alcohol related crashes in the state of Kansas. The 1984 amendment to KSA - 74-2012 limited our ability to quickly and effectively obtain the driving records for those persons who had been arrested for a DWI offense. Our established practise prior to 1984 was to contact our local law enforcement direct computer service for those records. This was a matter of convenience both to the courts, the prosecutors' offices, and our offices. In a matter of minutes or hours, we could have the complete driving record of those offenders whom we were evaluating for charges of DWI.

Due to this 1984 amendment, it is now necessary for us, in order to get a complete driving history which might include a DWI diversion, to contact by mail the Division of Motor Vehicles, State Office Building,

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Topeka, Kansas. We must make this request in writing and we are told that the Division of Motor Vehicles will need at least two weeks to return this information to our offices. This means that once the offender has been referred to our offices we must wait at least two weeks in order to get a complete driving record. This will cause a delay or a postponement in the adjudication process of the DWI offender. Remember, this offender may have full driving privileges until his case is fully adjudicated by the sentencing court.

One of the principal factors in the founding of the Alcohol Safety Action Projects by the federal government, some fifteen years ago, was to eliminate unnecessary delays in the adjudication process. It was the feeling of the federal government and also the feeling of our Association that there should be no unnecessary delays such as what was imposed on us in the 1984 session by the amendment to KSA 74-2012. We understand why this amendment was passed in the last session and accept the fact that it was probably for good reason. However, in doing so, it does eliminate our efficient procedure in getting complete driving records for those people who have been arrested for a DWI.

Social drinkers who have been arrested for DWI's most generally request that the adjudication move as swiftly as possible in order for them to return to their normal life activities. The educational benefits to these people are much better received within a 90 day period of time after their arrest. Any other delays would cause diminishing effects on their educational process.

For those DWI offenders who may have a serious drinking problem and do not want to face that problem in a positive manner, any or all delays

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in the adjudication procedure would be welcome. These people will continue to drive and it is highly conceivable that they will drink while doing their driving. House Bill 2570 would eliminate that two week period in the adjudication process to get these DWI offenders off of our roads and highways into an educational or treatment process in a much more efficient manner.

We ask you, as a Committee, to act on this proposed legislation favorably and move it on its way for acceptance by the full Legislature so this unnecessary delay in the processing of the DWI offenders can be rectified July 1, 1985.

I will answer any questions. Thank you for your consideration

Respectfully submitted,

Gene Johnson, Chairman
KS Community ASAP Coordinators Assn.

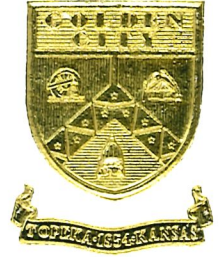
OFFICE OF THE MUNICIPAL JUDGE

JAMES E. WELLS
JUDGE

KAREN S. ROEDER
CLERK OF THE COURT
913-354-1781

214 E. 8th ST.
TOPEKA, KANSAS 66603

March 25, 1985



Representative Robert H. Miller
Kansas House of Representatives
State Capital
Topeka, Kansas

Dear Mr. Representative:

I am totally in support of House Bill No. 2570.

The present method of receiving information reference a driving record is not accurate for the benefit of the Courts. If I need an accurate record, the delay is a serious problem.

Please announce my complete support of House Bill #2570.

Very truly yours,

JAMES E. WELLS
MUNICIPAL COURT JUDGE

JW:ksr

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