

Approved 2/6/86 Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Senator Edward F. Reilly, Jr. at
Chairperson

11:00 a.m./~~xxxx~~ on January 22, 1986 in room 254-E of the Capitol.

All members were present ~~except~~:

Committee staff present:

J. Russell Mills, Jr., Legislative Research
Mary Torrence, Assistant Revisor of Statutes
June Windscheffel, Committee Secretary

Conferees appearing before the committee:

Bud Grant, Kansas Chamber of Commerce and Industry
Fred Allen, Kansas Association of Counties
Steven R. Rosenblatt, Executive Manager of the Kansas Expocentre
Representative Robert Vancrum
Nick Jordan, Travel Industry Association of Kansas and Overland Park
Convention & Visitors Bureau
F. Michael Grimaldi, Bicentennial Center at Salina
Joe Boyd, Wichita Convention and Visitors Bureau
David Moses, Consumer Division of Sedgwick County
John Ryberg, Vice President, Salina Area Chamber of Commerce
Jack Percival, Century of Toys Show at Salina, of Topeka

The Committee was scheduled to hear SB411, exemptions to transient merchant licensing act. The Chairman introduced the first conferee, Mr. Bud Grant, of Kansas Chamber of Commerce and Industry. His written statement is part of these Minutes. (Attachment 1) He said that the Kansas Retail Council supports the changes to the exemption section on the bill. As to the deletions from last year's statutes (lines 112 through 122 of SB411), because the Council does not know the rationale for the deletions it would have to oppose eliminating these requirements. Also, he said that the city and state would want to be assured that all personal and sales taxes are paid on the property being sold. They feel that the deletion of the language beginning on line 118 would not insure this.

The next conferee was Mr. Fred Allen, of the Kansas Association of Counties. His statement is part of these Minutes. (Attachment 2) Mr. Allen said they support the repeal of the transient merchants licensing act. Senator Vidricksen expressed a concern that the association really did not understand the problem.

Mr. Steven R. Rosenblatt, Executive Manager of the Kansas Expocentre, presented his statement. (Attachment 3) In it he recommended that at the very least the laws be amended or modified to exclude organized trade show activities which take place at convention facilities across the state. He pointed out that action needs to be taken as soon as possible, as it will take convention facilities at least one year from the date of the change in law to reschedule all the shows that were cancelled, IF they ever wish to return. Mr. Rosenblatt said they could lose over two years of trade show business in this state if action is not taken very soon.

Representative Robert Vancrum appeared to give his testimony on SB411. (Attachment 4) Representative Vancrum was Chairman of the Interim Committee that studied the matter. He said it had been suggested that the licensing act or the property tax act should be repealed, but the

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS,
room 254-E, Statehouse, at 11:00 a.m./p.m. on January 22, 1986

Committee decided not to do that for two reasons. The Committee believed the intent of the bill has some merit and strong support within the legislature and elsewhere. Also, since the legislation inadvertently called attention to the transient inventory tax law and other laws requiring full property tax to certain vendors, it cannot be assumed that appraisers in some communities will not attempt to enforce such laws. He also said that simple repeal of the 1918 law will not solve the problem, as there are other statutes that give the appraiser the power to assess the property.

The next conferee was Mr. Nick Jordan, Legislative Chairman, Travel Industry Association of Kansas, and Director, Overland Park Convention & Visitors Bureau. He presented his statement in writing for the Committee. (Attachment 5) He pointed out that the problem now does not center on licensing of transient merchants, but the taxation of convention and trade show groups; this seems to have come up since the passing of the licensing act at the last legislative session. He said that SB411 appears to remove the obstacles for conventions, trade shows, fairs and festivals as far as licensing is concerned.

The management at the Bicentennial Center at Salina urged the continued support of SB411 by this Committee, as filed by the Special Committee on Federal and State Affairs. Mr. F. Michael Grimaldi, Assistant Manager of the Center, appeared to express those sentiments. (Attachment 6)

Mr. Joe Boyd, President, Wichita Convention and Visitors Bureau, appeared to express his organization's support of SB411. A copy of his written statement is part of these Minutes. (Attachment 7) He said that he had been a participant throughout the committee hearings since last summer regarding the Transient Merchants License; that he had cautioned throughout that time that publishing a laundry list is at best risky business. Operators run the risk of eliminating some group of the future from those exemptions. He suggested that "Those activities secured, procured or sponsored by a convention and visitors bureau will be exempt from the transient merchants license act." He said the context of the bill is quite good.

Another conferee who appeared was Mr. David Moses, of the Consumer Division of Sedgwick County. His statement is attached. (Attachment 8) He said that as director of the Sedgwick County District Attorney's Consumer Fraud and Economic Crime Division, he thanks the committee for the opportunity to discuss the law as it exists and the proposed amendments. He stated that proposed changes in SB411 appear to resolve the problem facing convention and tour bureaus, but there are still some areas of concern. Following his suggestions to the Committee he said that he thought with some fine tuning, as suggested, that the bill could become more effective.

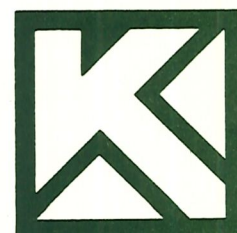
Mr. John Ryberg, Vice President of the Salina Area Chamber of Commerce, pointed out that the travel and convention industry in Kansas is a billion dollar industry. (Mr. Ryberg is also Director of Convention and Visitors Bureau.) He is concerned that legislation passed in 1985 will seriously curtail and hinder industry from growing and prospering. They would support the efforts in altering or amending legislation that would exempt certain requirements for transient merchant licensing and personal property tax. He added that the Kansas Convention and Visitors Bureau Directors and Travel Industry Association of Kansas stands ready and available to testify whenever necessary.

There was one more conferee: Mr. Jack Percival. Mr. Percival sponsors the "Century of Toys" toy and doll show which is held in Salina, Kansas. He favors SB411 and SB412 with a few changes. He asked that these bills be passed and sent to the governor as soon as possible. (Attachment 9)

The meeting was adjourned.

1/22/86
Attachi mt #1

LEGISLATIVE TESTIMONY



Kansas Chamber of Commerce and Industry

500 First National Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321

A consolidation of the
Kansas State Chamber
of Commerce,
Associated Industries
of Kansas,
Kansas Retail Council

SB 411

January 22, 1986

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

Senate Committee on Federal and State Affairs

by

Bud Grant
Executive Director

Mr. Chairman and members of the committee, my name is Bud Grant and I appear here today as Executive Director of the Kansas Retail Council, a major division of the Kansas Chamber of Commerce and Industry. I appreciate the opportunity to offer comments on SB 411.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

The Kansas retail community was very pleased with the action that the legislature took in 1985 when it enacted the Transient Merchants Licensing and Regulation Act. Kansas joined with Texas and Oklahoma in enacting this type of legislation in 1985, and joined with close to half the states and hundreds of local units of government in licensing and regulating transient merchants.

While the application of the act was to be very narrow and the lists of exemptions was very long, it became obvious very quickly that a very major element of the Kansas economy was being included within the provisions of the act. Those who participate in trade shows suddenly found themselves being considered transient merchants and subject to the licensing and regulation of the act.

The Kansas Retail Council supports the changes to the exemption section which are indicated in SB 411. As to the deletions from last years statutes which are shown on lines 112 through line 122 of SB 411, without knowing the background and rationale for recommending such deletions, the Kansas Retail Council would have to oppose eliminating these requirements. Most states which have enacted transient merchant legislation have included the requirement that a transient merchant doing business in that state have a resident agent. This then provides the consumer some place in which to serve any notice that might be necessary in the case of damaged or faulty merchandise. Without such a resident agent this becomes very difficult. I would also think that the city and state would want to be assured that all personal and sales taxes are paid on the property being sold and it would appear by deleting the language beginning with line 118 such assurance would no longer be available.

I appreciate the opportunity of appearing before the committee today Mr. Chairman, and would be pleased to attempt to answer any questions.

FRED D. ALLEN

Executive Secretary



**KANSAS ASSOCIATION
OF COUNTIES**
913 233-2271

112 WEST SEVENTH ST.
SUITE D
TOPEKA, KANSAS 66603

of the requirement for the assessment roll on July 1 with Valuation.

legislative consideration of deadlines in the property tax will allow the use of the most information available in the government budgets.

- 10. **TRANSIENT MERCHANTS** - We support the repeal of the Transient Merchants Licensing Act.
- 11. **MORTGAGE REGISTRATION TAX** - The mortgage registration tax is a valuable and fair type of intangibles tax. We oppose legislative efforts to limit the applicability of the mortgage registration tax to mortgage instruments as currently defined in state law.
- 12. **REAL ESTATE CONTRACTS** - Due to increasing reliance on real estate contracts (contracts for deed), we support legislative action requiring that such contracts be recorded in the office of the county register of deeds for any executory contract for one year or more.
- 13. **REVENUE ANTICIPATION NOTES** - We support the granting of authority to issue revenue anticipation notes by local government.
- 14. **EXTENSION COUNCIL BUDGETS** - We support an addition in funding from State General Revenue Funds for County Extension Councils in their joint relationship with the Division of Extension, KSU, to reduce the dependency on the property tax to finance the County Extension Councils' budgets. K.S.A. 2-610 should be amended to provide for the approval of the Extension Council Budget by a majority of the County Governing Board.
- 15. **COURT FINANCING** - We urge legislative approval of a fine-sharing arrangement that would require all fines paid for violations of county home rule resolutions that do not parallel state laws be deposited in the county general fund.
- 16. **COURTS** - We support the activities of the Judicial Council in its study of the effects of court unification and request further review of statutes relating to court fines and fees. Additional funding is needed at the county level.

EXECUTIVE MANAGER
STEVEN R. ROSENBLATT

Steven R. Rosenblatt
Executive Manager
Kansas ExpoCentre

TO: MEMBERS OF THE FEDERAL AND STATE AFFAIRS COMMITTEE

Members of the committee, I am Steven Rosenblatt, the Executive Manager of the Kansas ExpoCentre, and I thank you for allowing me to be here to speak to you about issues of importance to the economic success and survival of the Kansas ExpoCentre, other convention facilities in the state and the trade show industry in the State of Kansas in general.

Several months ago, I received a letter from Mike Grimaldi of the Bicentennial Center in Salina detailing the events surrounding the cancellation of the third Regal Rose Antique Show due to a combination of the transient merchant licensing act and the personal property tax. A cancellation that cost the Bicentennial Center several thousand dollars - a loss that somehow must be made up by the local taxpayers and a financial loss of even more to the entire local community - a loss which may never be made up.

In September, I received a letter from Terry Brotherton - a producer who had a trade show scheduled at the Kansas ExpoCentre in 1987. Along with his letter, he enclosed an article from a recent issue of Old Cars Weekly - a national publication he claims has several hundred thousand subscribers. Mr. Brotherton states in his letter he was looking forward to bringing his show to Kansas and I quote, "However, after reading the attached clipping, it is my opinion that your elected state officials have just about eliminated Kansas from the trade show business." He goes on to say that I should work with facility managers and again I quote, "...because unless something is done, there will not be any more trade shows in your state." He concludes his letter with a P.S. - quote, "Attached is some informa-

tion on our 1985-86 tour that will give you a better idea of what we had hoped to bring to Kansas."

The article Mr. Brotherton enclosed starts off with, "A new state law in Kansas, requiring licensing of transient merchants, is hurting trade shows in that state." It states that a Salina antique show and sale was cancelled after the promoter realized the new state law would be too costly. The Producer was quoted as saying, "Until the laws are changed, there will be no more trade shows in Kansas."

The article continues with a brief section on George Kuehler of Continental Show Ltd. in Wichita. He was quoted as saying, "Several of the dealers will probably never come back to Kansas to do a show, this is my last trip to Kansas."

Ladies and gentlemen, in this state we already have liquor laws which many feel are stifling our economic well-being and give others a negative opinion of us. You, as elected officials, have exhibited the courage and wisdom to allow those laws to be changed. Now we have trade show laws which also stifle our economic well-being and further enhance the negative opinion others have of us. Please have the wisdom and the courage to change these laws.

I know we are here to discuss the Licensing of Transient Merchants; however, K.S.A. 79-1434 (the 1915 property tax law) probably has more of a negative effect on trade shows in Kansas, so I would like to deal with these issues in relation to convention facilities across the state.

I would recommend that, at the very least, the laws be amended, changed or modified to exclude organized trade show activities which take place at convention facilities across the state. This action needs to be taken NOW - not in 1987 as it will take convention facilities at least one year from the date of the change in the law to reschedule all the shows that were cancelled, IF they even wish to return. We could realistically lose over two years of trade show business in this state if action is not taken very soon.

My reasons for excluding organized activities at convention centers is as follow:

- o The event pays rent to the facility. If the facility is municipally owned, the money is, in effect, paid to the municipality. If the facility is a convention hotel or maybe even in the future a privately owned convention center, the municipality still receives funds as a result of the event. The event leaves SOMETHING in the community!
- o If the event is in excess of one day, as most are, the transient merchants become consumers at a community's lodging and eating establishments, thereby putting money into the communities and private businesses across the state.
- o The event pays the facility for some sort of event labor, janitors, security, etc. and therefore creates jobs for our state's residents.

The true "Transient Merchant," the one in the van or pick-up who comes into town on Friday and sets up - and I use the term loosely - "shop" on empty lots or deserted gas stations has no intention of returning anything to the community. Their attitude reminds me of a Woody Allen movie - "TAKE THE MONEY AND RUN! Their desires, goals and objectives are to take as much from the community as possible while leaving as little as possible.

The Kansas communities of Topeka, Salina, Wichita, Hutchinson, Kansas City and others have invested taxpayers money in an amount in excess of 125 million dollars in publicly owned convention facilities. Privately owned hotels in Topeka, Wichita, Overland Park and other Kansas communities have also invested many millions of dollars in convention facilities or are extremely dependent on business brought to the convention facilities. These facilities should not and can not afford to pass up events which bring revenue to their own bottom lines as well as revenue to local hotels, motels, restaurants and retail establishments.

As the publicly owned facilities lose their ability to attract trade shows, the burden of any increased deficit will be shifted to and placed on the local taxpayers, thereby, in effect, penalizing the residents of Kansas and costing the community the jobs associated with the convention facility.

In requesting exemptions for organized activities at convention facilities, I fully realize I have only addressed these issues from the convention facility standpoint. I realize there are other components necessary to be discussed before these issues can be resolved.

Exempting or excluding organized activities at convention centers might not be the entire solution, but it will allow us to compete for trade shows on equal terms with 49 other states, and I, for one, will certainly be willing to serve on any committee or fact-finding group working to improve these laws.

The cancellation of trade shows at our facilities has already demonstrated the economic damage that is happening as a result of these laws. We cannot afford to gamble any further with the taxpayers' 125 million dollar investment in convention facilities for the sake of the relatively few dollars generated by these laws.

These laws, if left unchanged, will spell disaster for every convention center, convention facility and exhibit hall in the State of Kansas.

Thank you for listening to this position on this important issue.

Bicentennial Center



August 20, 1985

Mr. Steven R. Rosenblatt
Kansas Expo Centre
3139 S.E. 29th Street
Topeka, Kansas 66605

Dear Steve:

On July 1, 1985, House Bill #2443, "Licensure of Transient Merchants," went into effect (copy of the Bill is enclosed). Our policy has been to inform tenants of any special licensing requirements. When the manager of the Center became aware of this law in early July, we were instructed to inform all clients who might be affected and instruct them to contact the County Clerk for further information.

The Regal Rose Antique Show (produced by Marita Wornom of Bethany, Oklahoma) had been held in the Center in 1983 and 1984 and was booked for July 24-28, 1985. This show had approximately 30 exhibitors from 15-20 states. Marita received a copy of the Bill around the second week in July when she was in town to place advertising. She stated she would touch base with the Clerk when she came back in advance of the show. On July 23, 1985, Marita visited with representatives of the Saline County Clerk's office and was informed that she would need to acquire a license. Marita was willing to go along with this new regulation; however, she was informed that prior to receiving the license the County Appraiser would assess all goods for sale. Marita was confused by the assessment since she had never been assessed before, and this was her third Salina show. She was informed that her show should have been assessed in past years and that it was an oversight on their part. KSA #79-1434 enacted in 1915 states that personal property tax must be paid on all goods brought into the State for sale. Apparently this law has been enforced to varying degrees in each county in the state.

Because of this tax, Marita cancelled her show, and other shows since have questioned whether they will come to Kansas. The two main problems I see with these laws are (1) It appears most events coming into facilities like the Bicentennial Center can get by without obtaining the License. All events that have property for sale should be assessed. This will include gun shows, antique shows, and even concert novelty items such as T-shirts. (2) The law should be enforced equally in all counties, which might place each of us in a position of checking on each other to insure that we are all suffering equally.

All in all, I think these laws have a very strong negative effect on our ability to attract certain events and hope that you will pass your thoughts on this issue along to your legislators. We would appreciate hearing your thinking and ideas on how to deal with this matter.

Sincerely yours,

A handwritten signature in cursive script that reads "Mike".

F. Michael Grimaldi

Copies to Sam Fulco, James Clancy,
George Jaworski, Mark Lair

TERRY BROTHERTON ENTERPRISES

MAIL: P.O. BOX 10

DENVER, N.C. 28037

TELEPHONE: 704-483-5916

September 7, 1985

Laurie A. Ward
Kansas Expocentre
One Expocentre Drive
Topeka, Kansas 66604

Dear Laurie:

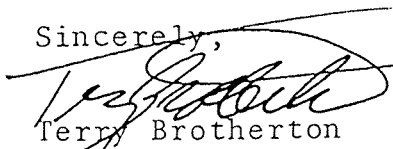
I have been looking forward to February, 1987 and bringing our racer auction and trade show to Kansas. However, after reading the attached clipping, it is my opinion that your elected state officials have just about eliminated Kansas from the trade show business.

Most likely you and other facility managers are not aware of this new law. There is no way that trade show exhibitors will pay a \$250 license, post a cash bond of \$2,000 and pay property merchandise tax on their products.

I am sure there are several halls in the state that can not survive without trade shows. I do hope you will look at this situation and perhaps discuss it with other facility people, because unless something is done, there will not be any more trade shows in your state, which means reduced income for the various business people in cities that have previously hosted such events.

Please advise me as to what you know on this matter,

Sincerely,


Terry Brotherton

P.S. Attached is some information on our 1985-86 tour that will give you a better idea of what we had hoped to bring to Kansas.

FROM TERRY BROTHERTON

IN NORTH CAROLINA

New Law in Kansas Hurts Trade Shows

A new state law in Kansas, requiring licensing of transient merchants, is hurting trade shows in that state.

An antique show and sale in Salina, Kan., scheduled for late July, was cancelled after the promoter realized the new state law would be too costly.

Marita Warnom of Oklahoma City, promoter of the Regal Rose Antique Show and Sale, cancelled the event because of the licensing law and another law that requires property tax payments on merchandise offered for sale by out-of-state sellers.

"Until the laws are changed,

there will be no trade shows in Kansas," Warnom said.

One of the state laws took effect July 1. It requires transient merchants to obtain a \$250 license and pay a cash bond of \$2,000 or five percent of the wholesale value of the goods, whichever is less. The bond is refundable a year after its issue.

The other law, enacted in 1915, requires transient merchants to pay property tax on any out-of-state merchandise offered for sale.

The promoter of another antique show held his show despite the laws.

George Kuehler, of Continental Show Ltd. in Wichita, said a team of appraisers sent to the show collected \$833.95 for one afternoon.

Kuehler said about half of the 36 exhibits at the show were from out of state and subjected to the tax. He added that his show has been deemed exempt from the license fee, but he had been forced to pay property taxes.

"Several of the dealers will probably never come back to Kansas to do a show," Kuehler said. "This is my last trip to Kansas."

The Topeka Capital Journal **Home/Business**

Old law creates new worries

By ANITA MILLER
Capital-Journal business editor

A 1915 state law that collected dust on the shelves is now creating havoc for the trade show industry, conventions and hotel business, and may potentially give Kansas a "black eye" across the nation if it isn't dealt with deftly by legislators.

The law deals with the personal property taxation on the inventory of transient merchants, and basically was never enforced in most counties in the state until July 1 of this year when a new law requiring the licensing of transient merchants went into effect.

"It was not designed to do what it's doing," says Bud Grant with the Kansas Chamber of Commerce and Industry, who lobbied for the new law's passage. "We were addressing the problem of the guy who pulled in on Friday night and set up a stand with stereos or blue jeans or shine-in-the-dark pictures. It had nothing to do with trade shows."

Neither law was intended to tax or regulate the "legitimate organized shows," but the end result has been that the older law has farther-reaching implications than anyone ever envisioned. That has set off anxiety in show circles, meant negative publicity for the state in at least two national trade magazines, and resulted in county clerks and county appraisers receiving voluminous numbers of telephone calls from "nervous craft ladies" and other people planning shows.

More importantly, the resurrected law has the potential to turn off convention planners and promoters who could bring trade shows — and ultimately a turnover of dollars — to the state, according to John Ryberg, director of Salina's Convention and Tourism Bureau. Salina has been faced with the most problems over the laws so far.

"There's talk all over about what's happening in Kansas. We want to get a handle on this before they (more shows) come to town," Ryberg said.

Steve Rosenblatt, executive manager of the Kansas Expo Centre, agrees, saying the two laws can affect the same show differently and it becomes "confusing for the person who wants to come in and have a show."

Revisions to one or both laws will likely be facing legislators when the 1986 Legislature convenes in January. Some convention people want to completely get rid of the licensure law because they say it is "cumbersome"; others want it amended so that retail dealers are exempt.

Three legislators — Sen. Ben Vidricksen, R-Salina, Sen. Phil Martin, D-Pittsburg, and Rep. Clint Acheson, R-Topeka — have been working in a special study group to get changes drafted for the next session to consider. Vidricksen said several options are available: to repeal the 1915 law, make more exemptions in the new law, or amend the 1915 law

to make it compatible with the new law.

Vidricksen said he also has asked the attorney general to consider the constitutionality of some parts of the 1915 law.

"This is really causing some serious problems. People who have shows from out of state are really nervous," Vidricksen said. He said when the Salina County appraiser collected \$30 in taxes at the county fair, with the top bill around \$8.50, "that made people angry and they said they won't come back. . . The money you collect from these shows

the Cessna Center. Phillips said the promoter was from Texas and normally has three shows a year in Wichita. The same promoter has a show scheduled in November and Phillips is hoping he'll still come.

Lemon said the antique show promoter who decided to cancel a show in Salina took her case to the public and has been quoted in at least one national trade publication. "She was upset by the fact that it came as a surprise," Lemon said. There was one story in the August edition of Old Cars Weekly, a newspaper for antique car enthusiasts, and another

aches," he said. "Other areas include shows at hotels, which are scheduled to draw in people during periods when conventions aren't booking all of the facilities.

"No one understands the law, and everyone is enforcing it different. Either they're overlooking it, using the soft-glove approach or following the letter of the law," Ryberg said. "Our people felt they had to go by the law."

Gary Smith, Shawnee County appraiser, said his office is still patrolling the main streets of Topeka on weekends, looking to collect taxes from merchants set up on street corners and parking lots, but he said he hasn't instructed any of his workers to go to craft shows to tax dealers there.

"There are some real nervous craft organizations out there. We looked at that law and thought we could go in and make out 50 tax statements for 10 bucks a piece, but that's not to mention my man's time," Smith said. "The little old craft ladies have been real upset. I tell them to go ahead and have the show. I don't think they (the legislators) thought it would create all of this hullabaloo when they wrote that (the new law)."

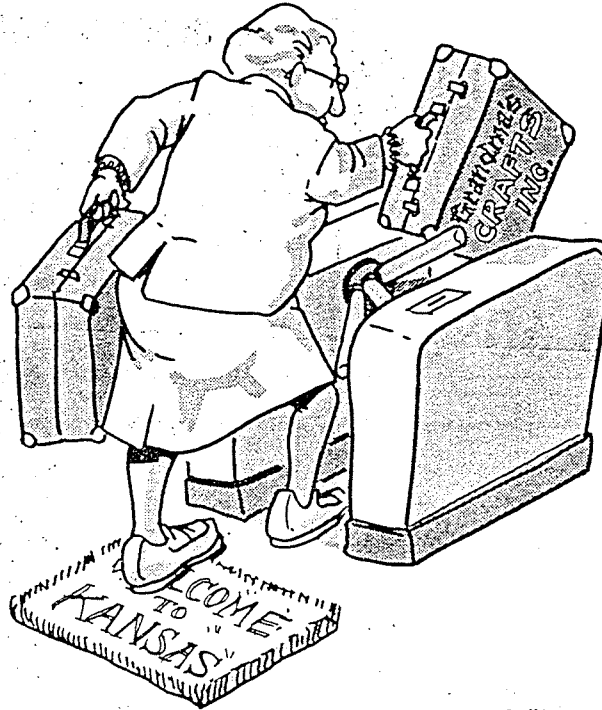
Smith said there also is a problem of determining the value of some of the items, such as at a "starving artist" sale. "What's it really worth? The frame, plus the canvas or what? I never tried to go out and do one of them because of that," Smith said.

Paula Moege, the personal property supervisor in the Shawnee County appraiser's office, said the county will deal later this month with the first antique show since the controversy has started. Moege said she has suggested that the dealers bring in their inventory lists before the show opens, then appraisers and the sheriff's officers won't have to go to show to issue a tax warrant. Moege said if the dealers have already paid the tax on the same inventory in another county, they'll just have to show proof of that and won't be taxed again.

Shawnee County picked up \$24,794 in personal property taxes on "tool and trinket sales" in the past three years, but those tax dollars came to an abrupt stop after July because the merchants didn't want to deal with the cost of both a license, which is \$250 plus a bond, and the taxes. The taxes were collected on tools, rugs, china, shrimp and other merchandise.

Pat McDonald, Shawnee County clerk, said the new law has "caused more telephone calls than anything that was passed in the 1985 Legislature. We're receiving a lot of calls on it. It's becoming a nightmare."

McDonald, like other county clerks, is responsible for issuing the licenses. She has the forms ready, but no one has bought one yet. According to a survey of the 10 most populous counties in the state, there has been only one application for a license.



—Staff/Pat Martin

is peanuts compared to the amount those people spend and the amount they bring into a community's economy."

Vidricksen said he had heard that a national television news show had called promoters of one show in Wichita to question them about the effect of the transient merchant laws.

"This is all we really need to give us a black eye," he said. "We hope these trade show people will see the action we're taking. If they know the Legislature is looking at it, maybe they'll still plan conventions."

The push to enforce the 1915 law peaked in late July in Salina when Saline County Appraiser Darrell Lemon told the promoter of an antique show about the inventory tax. The promoter, who was from Oklahoma, canceled the show. Later the same week, appraisers in Sedgewick County arrived at the Cessna Activity Center 15 minutes before an antique show was to begin and appraised the inventories of dealers.

"It caused us some trouble," according to John Phillips, manager of

in a national antique dealers' magazine.

An antique toy show scheduled in Salina for October was canceled after the July show was canceled, but then the promoter, Jack Percival of Topeka, rescheduled it. Percival worked out a deal to pay for the taxes on the out-of-state dealers ahead of time and then raised the table fee to cover it. In-state dealers are supposed to pay the inventory tax in the county in which they live, Percival said.

"This is a poor, poor law," Percival said of the 1915 law.

Ryberg said he is concerned about the enforcement of the laws through the next three months, which are considered the season for trade shows, until legislative action can be taken.

"This may affect ag shows, rodeos, rock concerts, festivals, all kinds of festivals," he said, adding that trade shows at conventions for various professional groups could be affected as well if the merchandise is sold at the show and not ordered.

"This is going to cause real head-

Friday, September 13, 1985

4

The Topeka Capital Journal

Opinion

Editorials

In God We Trust

Unnecessary black eye

Kansas has many good things going for it: clean air, open spaces, lakes, unique scenery, friendly people. But it also has its legal idiosyncrasies. Unfortunately, with many outsiders, Kansas has gained a reputation more for the latter than the former.

The latest example is the rediscovery of a 70-year-old law that allows collection of personal property taxes on inventory of transient merchants. The law had been forgotten until a new law requiring the licensing of transient merchants went into effect this summer. As a result, ambitious county assessors are pursuing this new source of revenue not just on street corners but also at convention centers and trade shows.

The result has been negative publicity for the state in national trade journals. In addition, some promoters have pulled their shows out of the state. And who

would blame them?

Trade shows are drawing cards for the host cities. They bring in outsiders who spend money in stores, in restaurants, in motels. Local merchants benefit and so do local and state coffers from the sales tax that is collected when they spend money. The new procedure, however, has generated more ill will than revenue.

No one is arguing against the licensing law. Requiring a license of those seeking to do business in a community is reasonable. It serves as a screen to weed out unethical dealers. That is a boon not just to the consumer but to the legitimate dealer as well.

The culprit is the 1915 law. Now that it has been taken from the shelf, the Legislature should make sure it gets tossed out as soon as possible. It is giving Kansas a black eye it doesn't need.



TOPEKA

HOUSE OF
REPRESENTATIVES

January 22, 1986

BOB VANCNUM
REPRESENTATIVE, TWENTY-NINTH DISTRICT
OVERLAND PARK
9004 W. 104TH STREET
OVERLAND PARK, KANSAS 66212
(913) 341-2609
STATE CAPITOL, ROOM 115-S
TOPEKA, KANSAS 66612
(913) 296-7655

1/22/83
Attachment #4

COMMITTEE ASSIGNMENTS
VICE-CHAIRMAN: FEDERAL AND STATE AFFAIRS
MEMBER: ASSESSMENT AND TAXATION
JUDICIARY

TESTIMONY ON SB 411

Senator Reilly and honorable members of the Committee. I appear this morning in support of SB 411, an amendment to the Transient Merchants Licensing Act recommended by the Interim Committee of Federal and State Affairs of which I was the Chairman. I'm sure you will recall the Transient Merchant Licensing Act, HB 2443, was enacted by the 1985 Legislature with an eye to bringing state regulation into an area which has long troubled local authorities, the sales of dairy products and seafood as well as many other items from semi-trailer trucks and other temporary locations. The 1985 Legislature required all transient merchants to obtain a license at the County Clerk's Office, post a bond and provide evidence that all taxes on the merchandise had been paid. The principle problem with such requirement is that it triggered the use of a 1918 law which requires persons bringing any merchandise into the state for sale to immediately pay a full year property tax on any inventory offered for sale whether or not it actually sells.

The effect of this legislation has been to make it virtually impossible to reasonably hold antique shows, gift shows, auto

shows, athletic contests and music concerts at which any merchandise is sold. It also requires all exhibitors at county fairs or trade shows to obtain a \$250 license, a \$5,000 bond and pay prohibitive taxes prior to participating in the event. Kansas has obtained severe negative press in national trade show publications from coast to coast and a number of these shows were actually cancelled, perhaps never to return to the state of Kansas.

Admittedly the greatest obstacle is the property tax provision which has been on the books for nearly 70 years and was only sporadically enforced. Nevertheless, the requirement of perhaps obtaining separate licenses for each exhibitor at a trade show or hobby show is a severe burden and one which I believe was never intended by the 1985 Legislature. We have therefore recommended extensive amendments in clarifying exemptions to the licensing act which are contained in SB 411 before you. Only through extraordinary efforts by Senator Vidricksen, Martin and many others have we been able to persuade a number of these shows to stay in the state of Kansas, and part of the argument has been the 1986 Legislature would promptly enact corrective legislation. We must not break faith with our travel, trade show and convention industry in the state of Kansas.

There will be those who will argue that either the licensing act or the property tax act should be simply repealed rather than going to this effort. Our committee decided not to do that for two reasons. In the first place, we believe the original

intent of the bill still has some merit and certainly has strong support both within the Legislature and elsewhere. Secondly, since we have inadvertently called attention to the Transient Inventory Tax Law and other laws on our books requiring full property tax to these vendors, we cannot assume that some appraisers in some communities will not again attempt to enforce such laws on a bare expression of legislative intent. Furthermore, simple repeal of the 1918 law will not solve the problem since there are a half a dozen other statutes that give the appraiser the power to assess this property. Those who argue for repeal either aren't telling you that property taxation will still be possible or simply haven't studied the issue in enough depth. I will of course be available at any time for questions from members of this committee.

1/22/86
Attachment #5



SENATE BILL NO. 411

Testimony of
Nick Jordan
Legislative Chairman
Travel Industry Association of Kansas
and
Director
Overland Park Convention & Visitors Bureau

Thank you for this opportunity to appear before the Federal and State Affairs Committee to comment on Senate Bill No. 411.

When the licensing of transient merchants was discussed and passed in the 1985 legislative session, the intent was understandable. However, it became obvious that we were now asking convention and trade show managers to go through another step they have never been asked to do before.

With the exemptions presented in Senate Bill 411 there appears to be a remedy for this process. Our problem now does not center on licensing of transient merchants, but the taxation of convention and trade show groups, which seems to have come up since the passing of the licensing act.

It has been suggested that if the licensing act passed in the 1985 Session were repealed this could be a solution to our problem. The logic being apparently that if an appraiser did not know someone was coming then they would not be taxed.

This, obviously, is too "open-ended" and does not resolve our problem now that everyone is knowledgeable on K.S.A. 79-1434 pertaining to taxation of transient merchants.

In light of the above and the exemptions listed in Senate Bill No. 411 it would appear that as far as licensing is concerned, the obstacles for conventions, trade shows, fairs and festivals have been removed.

Thank you for your consideration.

January 22, 1986



1/22/83
Attachment #6

DATE: JANUARY 21, 1986
TO: FEDERAL AND STATE AFFAIRS COMMITTEE
FROM: F. MICHAEL GRIMALDI, ASSISTANT MANAGER
BICENTENNIAL CENTER, SALINA, KANSAS
SUBJECT: SB #411

CHAIRMAN REILLY AND MEMBERS OF THE COMMITTEE:

The management of the Bicentennial Center urges your continued support of SB 411 as filed by the Special Committee on Federal and State Affairs.

We take this opportunity again to express our appreciation to Senator Vidricksen and others who have worked so diligently to bring about a quick remedy to a bad situation.

The Transient Merchant Licensing Act (KSA 1985 Supp. 19-2233, 19-2235, and 19-2237) in combination with KSA 79-1434 relating to the taxation of property has proven to be a disaster.

Our convention center lost a prestigious antique show in 1985 because of these laws. This was a show which attracted exhibitors, dealers, and collectors from throughout the country. We not only lost the show in 1985, but have been assured by the organizer it will not return until the situation is remedied.

As a result of that incident and others elsewhere in the state, Kansas has received some very damaging publicity nationally.

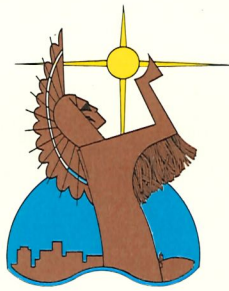
Conventions, fairs, tradeshow, and various entertainment events bring a lot of people into our state each year. That translates into millions of dollars for our economy.

We need legislation which will help that industry grow, rather than work against it.

Thank you for your assistance in this matter.

1/22/86
Attachment #7

WICHITA
Convention &
Visitors
Bureau



TESTIMONY GIVEN TO THE FEDERAL AND STATE AFFAIRS COMMITTEE BY JOE E. BOYD,
PRESIDENT, WICHITA CONVENTION AND VISITORS BUREAU, JANUARY 22, 1986.

TO: Senator Ed Reilly, Chairman
Federal and State Affairs Committee
Studying Senate Bill 411 Transient Merchants License Act

I have been a participant throughout the committee hearings held since last summer regarding the Transient Merchants License Act. Today I would like to express my immediate concerns in regard to Senate Bill 411 which each of you have before you.

I have cautioned throughout the course of committee hearings that publishing a laundry list of exemptions from the Transient Merchants License Act was at best risky business. The convention and visitor industry is a very diverse industry and by specifying a laundry list of exemptions, we as promoters run the risk of eliminating some group of the future from those exemptions.

Specifically, I am concerned that Senate Bill 411 does not specify in exact terms an exemption for a bowling tournament but merely specifies tournaments. In 1989, Wichita will be host to the American Bowling Congress National Tournament. This activity will last approximately four to five months in duration, with an anticipated revenue to the Wichita economy in excess of \$20 million.

Might I suggest to the committee that rather than to attempt to expand the list of exemptions contained in Senate Bill 411, that a clause merely be inserted in Senate Bill 411 that states "Those activities secured, procured, or sponsored by a convention and visitors bureau will be exempt from the Transient Merchants License Act." In my opinion, this would alleviate the situation of trying to accommodate all interested parties. Today in Kansas there are some forty convention and visitor bureaus, chambers of commerce, or authorities utilizing transient guest tax revenues and attempting to lure visitors to Kansas. These organizations are engaged in a variety of activities to attract visitors to our state and are very much involved in all types of promotional activities.

Overall, the context of Senate Bill 411 is quite good and I do not have any objections to the Bill beyond those that I have voiced today. The Wichita Convention and Visitors Bureau, however, does have some specific concerns regarding the companion bills, Senate Bill 398 and Senate Bill 412, which pertain to the taxation of the transient merchant and those concerns have been expressed to the appropriate committees.

Respectfully submitted,

Joe E. Boyd
Joe E. Boyd, President

Sen. Fed. & State Affairs
1/22/86 Attachment 7

1/22/86
Attachment #8

SEDGWICK COUNTY DISTRICT ATTORNEY
18th Judicial District

Sedgwick County Courthouse
Annex — First Floor
535 North Main
Wichita, Kansas 67203

CLARK V. OWENS
District Attorney

Henry H. Blase
Chief Deputy

Consumer Fraud and
Economic Crime Division
(316) 268-7921

TESTIMONY

TO: FEDERAL AND STATE AFFAIRS COMMITTEE

FROM: DAVID H. MOSES, DIRECTOR, CONSUMER FRAUD & ECONOMIC
CRIME DIVISION OF THE SEDGWICK COUNTY DISTRICT
ATTORNEY'S OFFICE

RE: SENATE BILL 411 - An act amending the transient merchants
licensing act

GIVEN: JANUARY 22, 1986, STATE CAPITOL, TOPEKA, KANSAS

As director of the Sedgwick County District Attorney's Consumer Fraud and Economic Crime Division, I would like to thank the committee for offering me the opportunity to discuss the transient merchant law as it currently exists and the proposed amendments found in Senate bill number 411. The enactment of the transient merchant law during the 1985 legislative session gave this office and other county and district attorneys' offices throughout the state the authority to prosecute violations of the law. This testimony is intended to give the committee a somewhat different perspective regarding the law and areas requiring fine tuning.

Our office is not opposed to the concept of adding trade shows, expositions and conventions to the exemptions currently provided in the transient merchant law. It is important to note, also, that a transient merchant law is helpful in protecting Kansas consumers from transient businesses. Our consumer fraud division, which consists of twelve employees, has actively pursued transient merchants who have violated the current transient merchant law. Since July 1, 1985, this office has filed five criminal cases alleging violations of the law. In addition to the five criminal cases, this office has received a large number of inquiries from both consumers and businesses regarding the law. Very few licenses, however, have been purchased in Sedgwick County.

The proposed changes in Senate bill 411, Section 1, appear to resolve the problem facing convention and tour bureaus. In reviewing Senate bill 411, the following areas of concern still exist:

1. Our office has experienced a number of complaints from consumers being victimized by out-of-state magazine salespeople. The current language in Senate bill 411 found in Section 1(a)(3) appears to exempt those type of sales from the licensing requirements. I would suggest that the committee consider requiring these type of magazine salespeople to obtain licenses without compromising those businesses intended to be protected by that subparagraph.
2. Section 1(a)(7) creates a question whether individuals making crafts or handmade items can designate an agent to display those items for them. If this is allowed, then there are some transient businesses that our office has dealt with who would fall under this exemption. An example would be art shows held throughout the state, where artwork is purchased from the artist by the entrepreneur (transient merchant) conducting the sales.
3. Section 1(a)(8) deals with the sale of agricultural products. The concept is a good one, however, a close reading of the proposed section includes fruit peddlers from out of state within the exemption. We have had a number of situations in this area in which rotten fruit was placed in the bottom of boxes displaying good fruit on top. This not only causes health problems, but also takes advantage of unsuspecting Kansas consumers. It is quite possible that this exemption relieves those merchants from obtaining licenses and being held accountable for their actions.
4. Section 1(a)(9) exempts out sales that take place at the premises of the owner or legal occupant of residential premises pursuant to an invitation of the owner All areas of the state, including Sedwick County, have individuals from out of state going door-to-door offering their services for home repair. If these individuals initially contact the home owner and make an offer to perform work and then are invited back to the premises of the homeowner to conduct that work, it is conceivable that those sales are exempted by this paragraph. By inserting the words "or offer to sale" after the word "sales" in the paragraph would seem to protect these homeowners and also require these "home repairmen" to obtain licenses.

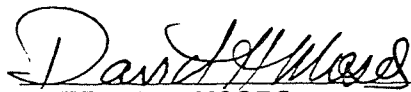
I note, with some concern, that Senate bill 411 appears to eliminate the requirement of obtaining a registered agent. Elimination of the requirement to obtain a registered agent could create severe problems in enforcing the transient merchant law. It appears that the intent of the law was that these transient merchants pay that which they were required to pay and provide a method in which service of process could be obtained if their

actions necessitated a lawsuit. Elimination of the required resident agent places a heavy burden on those parties desiring to file a lawsuit as contemplated by the current law. I urge this committee to continue requiring transient merchants to maintain resident agents in each county.

The phone calls, letters and other inquiries received by this office since the enactment of the law, as well as practical considerations in enforcing this law as a criminal violation, make it clear that this committee needs to consider including a definitional section. By defining key words within the law, prosecution will be more effective, transient merchants will have a better idea of its application, Kansas consumers will be offered additional protection and those other interest groups either directly or indirectly affected by this law will have a better understanding of its effect on their business. Some words which appear to need definition include fairs, flea markets, bazaars, charitable organizations, trade shows, exposition, permanent business location, registered agent and "on any real estate". A strict reading of the law, which is required when interpreting a criminal statute, creates the question whether the classic "transient business" is included within the definition of "temporary or transient business", door-to-door sales people, as found in the current law. This office has maintained a position that the law allows prosecution of individuals going door-to-door in violation of it, however, the question could be eliminated by simply including language when defining "temporary transient business" that deals specifically with the door-to-door situation.

In conclusion, the enactment of the transient merchant licensing law was a positive step by the 1985 Kansas legislature to offer additional protection to Kansas consumers from transient merchants. With some fine tuning, as suggested above, the law can become more effective. This office has always maintained an active role in fairly enforcing laws enacted by the legislature. By fine tuning the current transient merchant law, we hope to be more effective in enforcing the law and offering the protection to Kansas consumers desired by this committee and the legislature, as a whole. If members of this committee have any questions, suggestions or comments, please do not hesitate to contact me at my office. Thank you very much for allowing me the opportunity to assist you in fine tuning the transient merchant law.

Respectfully submitted,



DAVID H. MOSES
Assistant District Attorney
Director, Consumer Fraud &
Economic Crime Division

SALINA

AREA
CHAMBER OF COMMERCE

115 West Iron / P.O. Box 586
Salina, Kansas 67402-0586
Telephone (913) 827-9301

CONVENTION AND VISITORS COUNCIL

February 4, 1985

Senator Ed Reilly
Special Committee on Federal and State Affairs
P.O. Box 3
Topeka, KS 66612

To: Special Committee on Federal and State Affairs

From: John C. Ryberg, Vice President of the Salina Area Chamber of Commerce
Director of Convention and Visitors Bureau

Subject: Senate Bill No. 411

Dear Senator Reilly:

The travel and convention industry in Kansas is a billion dollar industry. I am concerned that legislation passed in 1985 will seriously curtail and hinder industry from growing and prospering.

I would support your efforts and Senator Vidricksen's in altering or amending legislation that would exempt certain requirements for transient merchant licensing and personal property tax.

The Kansas Convention and Visitors Bureau Directors and Travel Industry Association of Kansas stands ready and available to testify whenever necessary.

Sincerely,


John C. Ryberg
Vice President
Salina Area Chamber of Commerce

JCR/dr



Jan 22, 1986

To Senator Ed. F. Reilly Jr.
PO Box 3 State House
Topeka, Ks 66612

From: Jack Percival; 2904 Hillcrest, Topeka, Kansas, 66614. In regards to my comments at the Senate Committee hearing Jan. 22 1986, Room 254E on the proposed Senate Bills 411 + 412.

I sponsor the "Century of Joys" toy and doll show in Salina, Ks. And last October was our 12th annual show. I was confronted with H.B. 2443 and how it was going to effect my show. I decided I could not have our show because of the new law so I went to the Saline County Park Board and cancelled my contract for there 4-H Building. That cancellation was printed on the front page of the Salina Journal. Ben Vidrickson saw the story and called me and encouraged me to reconsider. So I went to the Saline County Clerk and Assessors office. Mr. Darrell Lemon the Saline county assessor and I worked out a plan were I would pay the property taxes for the Out of State Dealers

which I did. The amount of \$1123.60 and we had our show. We had a good turnout of about 2500 people come to Salina for the 2 day show.

I am in favor of S.B. 411 and S.B. 412 with a few changes. SB412 has a 14 day provision which should be changed to cover the Wichita Bowling convention and also Festivals like the one held in the fall near Bonner Springs which goes on for 5 or 6 weekends. I hope these bills can be presented to the legislature for vote and passed and sent to governor for signing as soon as possible

Sincerely
Jack Percival.