

Approved _____ 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

10:20 ~~XXXX~~ ~~AM~~ p.m. on April 29, 1987 in room 254-E of the Capitol.

All members were present except:

Senator Arasmith and Senator Daniels were excused.

Committee staff present:

Mary Galligan, Legislative Research
Emalene Correll, Legislative Research
Mary Torrence, Assistant Revisor of Statutes
June Windscheffel, Secretary to the Committee

Conferees appearing before the committee:

Mr. James Barrett, President, Country Parks, Inc., Wichita
Representative Anthony Hensley

The Chairman called the Committee's attention to HB 2385, concerning time-share plans. Letters from Mr. Michael Sizemore, of Speir, Stroberg & Sizemore, Newton, (Attachment #1), and Dennis W. Moore, District Attorney from the Tenth Judicial District, Olathe, (Attachment #2) were distributed for the Committee to read and peruse. Mr. Sizemore's letter dealt with concerns of his client, Mr. James Barrett, the President of Country Parks, Inc., and the problems that could result under the bill by lumping campground membership operations such as his into the bill regulating time shares. Mr. Moore's letter said the bill offers important protection to consumers. He also set out the consumer complaints his office receives. Mr. James Barrett, was the first conferee. He said they were unaware of, and thus had no opportunity to appear, at the hearing in the House concerning HB 2385. He gave his testimony and explained that Mr. Sizemore's letter presented his case. He explained some of the problems involved in the industry. The Chairman thanked him for appearing.

The next conferee was Representative Anthony Hensley. He said he had been approached by a constituent, Leo Elskamp, concerning many of the problems. Representative Hensley said the "peanut" on this legislation is on page 4, lines 141-151. He said that Mr. Elskamp had shared complaints which he has received as a member of the Consumer Protection Division of the Attorney General's Staff. The Chairman thanked him for appearing.

There was Committee discussion. Senator Morris moved that the Chairman write a letter to the Legislative Coordinating Council to ask that a study be done during the interim on various issues of consumer protection, including health spas, buying clubs, business opportunity act, the time-shares plan, and perhaps other consumer protection items. Seconded by Senator Bond. The motion carried.

The next bill for consideration was HB 2546, concerning the office of secretary of corrections. Senator Vidricksen presented a proposed amendment concerning the matter. (Attachment #3) There was discussion concerning proposed language. The Chairman asked staff to draft another amendment for the Committee to consider later today.

The Minutes of the Meetings of January 27, February 10, February 11, March 20, March 25, March 30 (2 sets), and April 10, 1987, were before the Committee. Senator Martin moved that they be approved as corrected, seconded by Senator Morris. The motion carried.

The meeting was adjourned.

SPEIR, STROBERG & SIZEMORE

ATTORNEYS AT LAW

BOX 546

809 NORTH MAIN STREET

NEWTON, KANSAS 67114

KENNETH G. SPEIR
VERNON A. STROBERG
HERBERT H. SIZEMORE (1912-1985)
RICHARD F. HRDLICKA
MICHAEL S. SIZEMORE
DAVID C. BURNS, P.A.
A. JAMES GILLMORE

BRADLEY D. JANTZ

TELEPHONE:
AREA CODE 316
283-1550

Attachment #1
Topelka
4/29/87

April 21, 1987

Senator Ed Riley
Senate Federal and State Affairs
Kansas Senate
State Capitol Building
Topeka, Kansas 66606

RE: House Bill 2385 an Act Regulating Time Share Plans

Dear Senator Riley:

This office represents Country Parks, inc., a corporation which operates three recreational campground facilities in this State, located at Halstead, Abilene and Lake Perry.

James Barrett, the President of the corporation, has become aware of House Bill 2385, and I have been provided a copy, by Tom Walker, of the house bill as amended by the House Committee.

Although Mr. Barrett has very few reservations or concerns regarding the bill, he has asked that I make known some of the problems that could result under the bill by lumping campground membership operations such as his own into the bill regulating time shares.

Mr. Barrett and his corporation do sell memberships for a set fee, which entitles the member to camping and use privileges of not only his own recreational parks, but also to many other affiliated parks across the nation. Country Parks, inc. is affiliated with Camp Coast-to-Coast, which has hundreds of locations across the country. It is not, therefore, a strictly time-share operation, but more accurately, a right-to-use privilege by virtue of a membership. Such facility does seem to come under the purview of the statute.

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All three of Mr. Barrett's locations are promoted by mailings, with the promise of various prizes in various categories upon the prospective members touring its facilities. Of course, such prizes are offered as a marketing device to get the prospective member to the campground so that the person can see for himself the advantages of membership. Mr. Barrett has been in operation in this State for about three years, and has experienced occasional misinterpretations, or problems, with the various promotions, but is in a constant effort to make such promotional materials explicit and comprehensible so that there will be absolutely no misunderstanding regarding the purpose of such promotions.

He has asked me to speak directly to several provisions of the bill, and asks that if there are any questions, or any input that he may be able to provide from his position as an owner and promoter of such campgrounds, that he would be happy to appear before the committee, or anyone that you might designate, including a representative of the Attorney General's office.

The specific provisions that Mr. Barrett has suggested might need some clarification insofar as his type of operation is concerned, are as follows, and are referred to by line number in the house bill.

1. Line 73 - If indeed the campground membership operation is to be included, perhaps they should be specifically referred to.
2. Line 93 - We are aware that there are several multi-sponsored national programs, and that occasionally, to name each participating resort would be impractical. We are aware that some states allow a number to be used, such as "14" or "25" or "150" participant resorts, rather than to name each one of them.
3. Lines 95-107 - Country Parks, inc. utilizes marketing services from various marketing groups who supply the major prizes, such as cash, automobiles, etc. Country Parks buys the minor, or less expensive, prizes, such as cameras, radios, cutlery, etc., in volume, and therefore, of course, are able to secure a good price. These minor prizes are

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distributed on a daily basis to people who tour the resort. Our question is whether the provisions in lines 95 through 107 requires that Country Parks be responsible for seeing to it that the marketing company gives away all of the major prizes. Of course, the awarding of all prizes is tied to a "registration number", and there are many, many persons who do receive mailings, who do not respond at all. Our question is whether the prizes must be awarded even though the addressee does not respond.

4. Line 0118 - We would ask that the ten day requirement be changed at least to thirty or forty-five days. We have experienced difficulties on occasion, where items are ordered, but are not delivered in time by reason of manufacturer's shortages, trucking delays, accident, or other factors outside our control. We would also ask that the time be counted from the time of the visit to the time that it is shipped by the promoter, rather than to the time that it was received. Again, there can be delays completely outside the control of the promoter, which would increase the actual shipping time.

5. Line 178 and following - Mr. Barrett points out that our licensing agreement with Camp Coast-to-Coast is 14 pages long. It would appear that most of the required information in section 4 relates purely to time share situations rather than the type of organization maintained by Mr. Barrett.

For example, in sections 207 through 212, this information, regarding the number of "units", is unavailable to us. We would translate that provision in our own circumstance to number of parking spots for recreational vehicles throughout the country in Camp Coast-to-Coast operation. Inasmuch as there are hundreds of campgrounds affiliated with Camp Coast-to-Coast, with thousands upon thousands of camping spots, we are afraid that we would not be able to provide the information required unless Camp Coast-to-Coast undertook to survey their various campgrounds and provide the information to us.

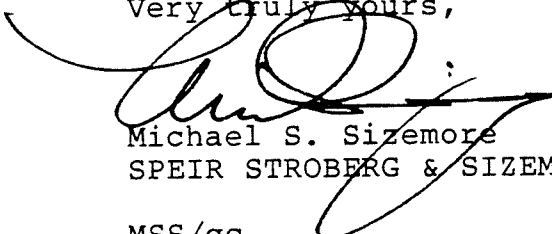
6. Lines 223-308 - Again, said section 17, beginning at line 02 to 3, presents considerable difficulties to a camp membership organization where they might not, in a time share program.

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7. Line 0315 - Effective date- We would suggest that perhaps a grace period would be appropriate after enactment of the statute so that Country Parks and other corporations in a similar business would have the opportunity to change its marketing material. This would take anywhere from three to six weeks as a minimum time. We would also hope that anything associated with the mailing prior to enactment, or the end of the grace period, would be exempt from the requirements of the statute even if the tour or visit occurred after the grace period expired.

Mr. Barrett's business is a very specialized one, utilizing marketing techniques that are not familiar to the general public. We are aware that there are those in the industry that have misused and abused the responsibilities of legitimate business. By reason of that abuse, we welcome the implementation of regulation in the hopes that the dishonest and "fly-by-night" operator will be kept out of Kansas. We have in the past, and wish to continue to offer, services and facilities at competitive and reasonable values, and feel that the regulations do nothing but enhance our business and reputation. We do feel, however, in light of the very specific differences between the Country Parks type of operation and the general time share program, that special attention is required in the bill so that we may fully comply with the requirements. Again I would state Mr. Barrett would be happy to visit with you, or any other appropriate person or committee, so that you may have the full benefit of his experience in the area.

Very truly yours,



Michael S. Sizemore
SPEIR STROBERG & SIZEMORE

MSS/gc

cc: Mr. James Barrett
President
Country Parks, inc.
Route 2
Halstead, Kansas 67056

Attachment #2
4/29/87

STATE OF KANSAS
Tenth Judicial District

OFFICE OF DISTRICT ATTORNEY

DENNIS W. MOORE
DISTRICT ATTORNEY

JOHNSON COUNTY COURTHOUSE
P.O. Box 728, 6TH FLOOR TOWER
OLATHE, KANSAS 66061
913-782-5000, EXT. 333

April 28, 1987

Senator Ed Reilly, Jr.
Statehouse
Post Office Box 3
Topeka, Kansas 66612

Dear Senator Riley:

I was advised that your committee will be considering House Bill 2385, the Kansas Timeshare Act. I appreciate the invitation to appear before your committee to testify in support of this bill, however, due to prior commitments I will not be able to appear personally. I hope that you and the members of your committee will consider my written comments.

Late last year I received from Mr. Russell M. Skolnick, Chairman of the Board of Transworld Travel International, a travel organization located in Merriam, Kansas, a copy of the Missouri Timeshare Act. Mr. Skolnick indicated in his letter that "I strongly feel that it (a timeshare act) is a necessary safeguard for the consumer and would rid Kansas of developers or marketers who may not deliver what they promise."

Generally, the District Attorney's Office in Johnson County receives consumer complaints which fall into several different categories as follows:

1. There is no disclosure on prizes or offers. Consumers have to listen to the entire presentation which may last two hours or more before they are entitled to receive a prize which was offered by the promoter.
2. Consumers may be subjected to a high pressure sales pitch by a timeshare sales person.
3. Consumers receive no cooling off period after they agree to purchase a timeshare. Our Consumer Department indicates that timeshare purchases average \$2,000.
4. In some cases, the consumer does not receive the prize at the time of the consumers visit to the sight or presentation. Prizes may be of little or no value. For example, the prize may be a free week at a timeshare location, but does

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not include the cost of transportation. Sometimes the prize consists of a vacation certificate involving the purchase of one airline ticket to obtain a second one free. However, in some of these cases the consumer must purchase a designated class of tickets, in most cases, the most expensive class fare.

5. The marketing company solicites timeshare memberships but does not disclose to the consumer the names of other principals or business organizations having an interest in the timeshare offered. Thus, the consumer may not be aware that he is contracting with another principal. Once the marketing company sells all of the units, the company may leave the area.

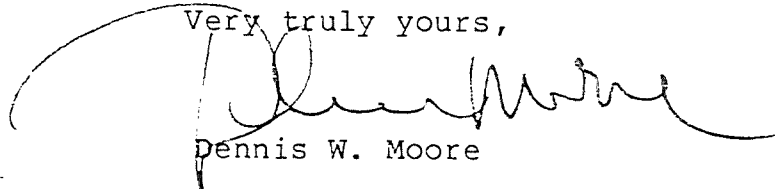
6. Some timeshare resorts are outside of the State or Country and the consumer does not know what he/she is getting until after traveling to the resort in person.

A provision in the act which allows a cooling off period for a consumer who has entered into a contractual obligation after a high pressure sales pitch to reconsider that purchase would obviously be of great benefit to Kansas consumers. Additionally, a requirement that promoters file their promotion plans with the Kansas Attorney General's Office might better enable our State to monitor what is going on in terms of marketing and promotional schemes which may be questionable.

House Bill 2385, which is patterned after the Missouri Act regulating timeshare plans, offers important protections to consumers. While many of the individuals and companies selling timeshares attempt to operate honestly and forthrightly with the consumer, some persons take advantage of the consumer and use unscrupulous tactics to complete a sale and then leave the area. I believe this bill will offer important new protections to Kansas consumers.

I hope this committee will give favorable consideration to House Bill 2385.

Very truly yours,

A handwritten signature in black ink, appearing to read "Dennis W. Moore", written over a large, sweeping flourish that extends to the left and right.

Dennis W. Moore

DWM:JH

4/29/87
Attachment #3

Re: HB No. 2546
Begin Line 0033

No person shall be eligible for appointment to, or hold the position of, secretary of corrections unless such person has had at least five years supervisory experience in the administration of federal or state penal or correctional institutions. Except that: (1) Three years of such experience may be waived for an appointee having earned a degree from an accredited college or university which degree is based on penology or a related field as a major field of study, to include corrections, criminal justice, police science, criminology, prosecution, public administration, local corrections programs, or military justice administration. Within ^{broader military} this context we believe experience in the field of corrections means experience in the area of treating criminal offenders through programs involving penal custody, parole, probation and sentencing; or (2) the provisions of (1&2) may be waived if such person~~s~~ has a law degree and 4 years experience as a Judge, County Attorney, District Attorney, or in the administration of a criminal justice entity; or (3) if the governor is unable to appoint a person as secretary who possesses such qualifications, the governor may appoint a person without such qualifications as acting secretary, who shall serve at the pleasure of the governor. All such appointments will be subject to Senate Confirmation.

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No person shall be eligible for appointment to, or hold the position of, secretary of corrections unless such person has had a baccalaureate degree in one of the social or behavioral sciences or related field; five years of related administrative experience; and demonstrated administrative ability and leadership. A related field could include penology, corrections, criminal justice, police science, criminology, prosecution, public administration, local corrections programs, or military justice administration. Related experience could include treating criminal offenders through programs involving penal custody, parole, probation, and sentencing, experience as a judge, county attorney, district attorney, or in the administration of a criminal justice agency, or military administration. If the governor is unable to appoint a person as secretary who possesses such qualifications, the governor may appoint a person without such qualifications as acting secretary, who shall serve at the pleasure of the governor.