

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS

The meeting was called to order by REPRESENTATIVE ROBERT H. MILLER at _____
Chairperson

1:30 a.m./p.m. on February 11, 1988 in room 526S of the Capitol.

All members were present except:
Representative Peterson

Committee staff present:

Mary Torrence, Revisor's Office
Mary Galligan, Research Department
Lynda Hutfles, Committee Secretary

Conferees appearing before the committee:

Jimmy Grenz, Kansas Racing Commission
Denny Burgess, Sunflower Racing

The meeting was called to order by Chairman Miller.

Representative Eckert made a motion, seconded by Representative Sifers, to introduce a proposal relating to pay and allowances of the Kansas National Guard. The motion carried.

Representative Long made a motion, seconded by Representative Eckert, to introduce a proposal at the request of the Cherokee County commissioners which would allow temporary memberships in any class B club located in a racetrack facility where races with parimutuel wagering is conducted. The motion carried.

SB95 - Veterans Preference

Representative Roper made a motion, seconded by Representative Eckert, to report SB95 favorably. The motion carried.

HB2746 - Citizenship requirement for liquor licenses

Representative Walker made a motion, seconded by Representative Sughrue, to report HB2746 favorable for passage. The motion carried.

HB2772 - Parimutuel racing; drug testing, licenses, dual facilities

Jimmy D. Grenz, Executive Director of the Kansas Racing Commission, gave testimony in support of the bill which in part would allow the Kansas Racing Commission to contract with one or more laboratories for the analysis of samples taken for the purpose of determining compliance with the controlled substance sections of the statutes and the regulations of the commission concerning drugs and medication.

The bill would also clarify when the 2% penalty would apply to those developers who fail to complete their plan for the construction of a dual racetrack facility. The commission also requested the addition of annual and periodic review of the facility owner and facility manager license. Also in the bill is a pay back provision similar to that of the lottery legislation which would require paying back the state general fund those monies used in start up of the racing commission. See attachment A.

HB2773 - Payment for expenses of investigating certain applicants for licensure under Kansas parimutuel racing act

Jimmy Grenz, Executive Director of the Kansas Racing Commission, explained the bill which would require the applicant for an organizational license, facility owner license or a facility manager license to absorb a large portion of the costs involved in these investigations. Mr. Grenz suggested there be an amendment to the bill which would in effect say that no license shall be issued by the commission until such costs have been paid in full.

See attachment B.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS,
room 526S, Statehouse, at 1:30 a.m./p.m. on February 11, 1988, 19

HB2774 - Racing commission, criminal records used to determine
licensure qualifications

Jimmy Grenz, Executive Director of the Kansas Racing Commission, told the committee that this bill would authorize the KBI or other criminal justice agencies the authority to share with the Kansas Racing Commission criminal history information including arrest and nonconviction data, criminal intelligence information, and information relating to criminal and background investigations as necessary for the purpose of determining the qualifications of applicants for licensure by the commission. The bill would also allow the commission to discuss this information in closed or executive session and further grant the commission the authority to negotiate with licensees of or applicants for licensure by the commission regarding such information. Mr. Grenz also suggested an amendment in line 465. See attachment C.

HB2775 - Kansas Racing Commission, reimbursement of expenses

Jimmy Grenz, Executive Director of the Kansas Racing Commission, explained that the intent of the bill is to bring the members of the Kansas Racing Commission under the same provisions as the members of the legislature, members of the interstate corporation commission, and judges of the district courts with regard to travel and subsistence allowances rather than the standard fees allowed for other state agencies. See attachment D.

HB2776 - Procedures for denial of certain licenses by racing commission

Jimmy Grenz, Executive Director of the Kansas Racing Commission, explained that this bill was not introduced at their request, but was probably the result of discussions held during various commission meetings. The commission has become concerned that the application of the Kansas Administrative Procedure Act with regard to the denial of an application or applications for an organization license, facility owner license or facility manager license may result in the unnecessary delay of the start up of parimutuel racing in Kansas. See attachment E.

Denny Burgess, representing Sunflower Racing, gave support for all of the above bills.

The Chairman appointed a sub-committee to address the issue of the Kansas Administrative Procedures Act in HB2776 with Representatives Ramirez and Sprague as members and Representative Roy as Chairman.

A Sub-Committee report on HB2707 & 2709 by Representative Roy. Representative Roy explained the proposed substitute for HB2707. The committee suggested that "and/or" should be inserted in line 3(d)(1) and 4(d)(1) and that the language dealing with the penalties for furnishing and consumption of alcoholic liquor or CMB to or by a minor shall be discretionary. (Attachment F)

Representative Sprague made a motion, seconded by Representative Sebelius, to recommend the proposed substitute for HB2707, as amended, favorable for passage. The motion carried.

Representative Barr made a motion, seconded by Representative Aylward, to approve the minutes of the February 8 & 9 meeting. The motion carried.

The Chairman called attention to the agenda for the week of February 15.

The meeting was adjourned.

SIFERS

8/11/88

BEFORE THE HOUSE OF REPRESENTATIVES
FEDERAL AND STATE AFFAIRS COMMITTEE

The Honorable Robert H. Miller, Chairperson

Thursday, February 11, 1988, 1:30 P.M.

Jimmy D. Grenz
Executive Director
Kansas Racing Commission

TESTIMONY

H.B. 2772 was introduced at the request of the Kansas Racing Commission and was designed to accomplish several purposes.

No. 1. Beginning on line 61 and concluding on line 67. This provision would allow the Kansas Racing Commission to contract with one or more laboratories for the analysis of samples taken for the purpose of determining compliance with the controlled substance sections of the statutes and the regulations of the commission concerning drugs and medication. While the proposed legislation would give preference to laboratory facilities located within the State of Kansas, it would allow contracting outside the state should no facilities be available in Kansas. It would also allow for quality control to be done outside the State of Kansas if no facilities were available in Kansas. In both instances it would allow negotiation with laboratory facilities to obtain the best service for the least cost to the state.

Attach A

No. 2 A second provision is in reference to the construction of a dual racetrack facility. Reference first appears on page 12. It is the opinion of the racing commission that as the legislation was previously written it was very unclear as to when the 2% penalty would apply to those developers who failed to complete their plan for the construction of a dual racetrack facility. The language beginning on line 419 perhaps addresses this issue sufficiently. The only possible addition would be to add in line 420 after "is completed" the words "and horse racing has begun". There was some discussion that it might be possible for the developer to suffer the 2% penalty and not complete the horse track if it were, in their opinion, more lucrative to suffer the penalty than the greater loss possible by completion of a horse track. By the addition of the requested language we believe we would be assured that the horse track would be completed. At that point in time other provisions of the act specifically those provisions in subsection (t) beginning at line 423 would come into effect. The 20% allocation of racing days to horses would then allow the commission to revoke a license if horse racing did not actually take place at the facility or if it were to be terminated after a short trial period. On page 16 on line 590 we have the same language concerning the dual racetrack

facility as that appearing on page 12, this time the 2% penalty applies to the facility owner licensee whereas the earlier reference applied to the organizational licensee. The racing commission would recommend similar language in both of these provisions.

No. 3 On page 15 at line 533 the commission has requested the addition of annual and periodic review of the facility owner license and the facility manager license as well as that of the organization license as had been previously required. This was addressed in the regulations that were adopted by the commission, however, it was not specifically set out in the language of the racing act and this would clarify that.

No. 4 On page 19 of HB 2772 beginning at line 704 is a pay back provision requested by the racing commission. This provision is similar to that of the Lottery Legislation and would require paying back the state general fund those monies used in start up of the racing commission. Exactly when this payback would occur is subject to many factors, a number of which are beyond the control of the racing commission. Therefore the exact timing was left open but it was tied to appropriation acts to insure that payback would occur when sufficient funds are available for that purpose.

SIFERS

BEFORE THE HOUSE OF REPRESENTATIVES
FEDERAL AND STATE AFFAIRS COMMITTEE

The Honorable Robert H. Miller, Chairperson

Thursday, February 11, 1988, 1:30P.M.

Jimmy D. Grenz
Executive Director
Kansas Racing Commission

TESTIMONY

H.B. 2773 was introduced at the request of the Kansas Racing Commission and has to do with the costs involved in conducting background investigations by the Kansas Bureau of Investigation and commission security officers. This amendment would require the applicant for an organization license, facility owner license or a facility manager license to absorb a large portion of the costs involved in these investigations. The racing commission has been informed by the Kansas Bureau of Investigation that it is intent of the KBI to charge the Kansas Racing Commission those costs associated with background investigations above and beyond basic agent salary. Essentially what we are talking about is travel and subsistence for the agents while conducting background investigations of applicants. This would provide beginning on line 42 that should the \$5000.00 application fee be insufficient to cover the costs involved that the racing commission could require the applicant to post an additional sum of money or sums of money to pay the actual and necessary expenses involved. In reviewing the proposed legislation, I

Attach B

would suggest that on line 50 language be added to the effect that no license shall be issued by the commission until such costs have been paid in full and to change the language on line 44 from may require to a shall require. Language appearing on page 1 line 42 applies to an organization license applicant whereas the language beginning on page 11 at line 406 applies to the facility owner and the facility manager license applicants. Similar language needs to be added to this section also. Consideration should also be given to the addition of language requiring the reimbursement of the Kansas Bureau of Investigation of those costs incurred in addition to those attributable to the operations of the bureau. There is language to this effect in the Lottery Legislation in K.S.A. 74-8705 (c) (5).

BEFORE THE HOUSE OF REPRESENTATIVES
FEDERAL AND STATE AFFAIRS COMMITTEE

The Honorable Robert H. Miller, Chairperson

Thursday, February 11, 1988, 1:30P.M.

Jimmy D. Grenz
Executive Director
Kansas Racing Commission

TESTIMONY

H.B. 2774 was requested by the Kansas Racing Commission and is supported by the Kansas Bureau of Investigation. This bill contains some of the most important provisions of any of the bills introduced on behalf of the racing commission. A major provision of this bill begins on page 12 line 448, section (n). This section would authorized the KBI or other criminal justice agencies the authority to share with the Kansas Racing Commission criminal history information including arrest and nonconviction data, criminal intelligence information, and information relating to criminal and background investigations as necessary for the purpose of determining the qualifications of applicants for licensure by the commission. Section (o) would allow the commission to discuss the information received in closed or executive session and further grant the commission the authority to negotiate with licensees of or applicants for licensure by the commission regarding such information. I would suggest, however, that on line 465 after the word "to" the addition of the words "receive and discuss" and then to continue with the present language. These subjects became and issue after members of the

Attach e

Kansas Racing Commission staff, and Kansas Bureau of Investigation agents, met with members of the Iowa Division of Criminal Investigations, an Iowa Racing Commissioner, and staff from the Iowa Racing Commission. We were informed that this was the manner in which such meetings are conducted in Iowa and that it was found to be very beneficial in conducting the racing commission's business. Under our present legislation the Kansas Bureau of Investigation could not legally share a large portion of the previously mentioned information with the members of the commission as the commissioners are not law enforcement officers. It would also be unlawful for the Kansas Bureau of Investigation to divulge this same type of information in an open meeting for the same reasons. We were advised by Iowa officials that by meeting with applicants and discussing the results of background investigations in a closed session they were able to avoid most of the adverse publicity which could have resulted if negative background investigation results were disclosed during a public meeting. Iowa officials indicated that once the applicants were confronted with the results of the background investigation in a closed session it was their experience that the applicant would merely withdraw their application rather than subject themselves to a public hearing in which the negative background material would be required to be divulged. We believe that the amendments requested would allow the Kansas Racing Commission similar latitude and would allow the commission to move forward and complete its business in a more timely manner. The racing commission would suggest that on page 13 line 465 be

changed to read "to receive and discuss information received by the commission pursuant" to subsection (n). Perhaps language also needs to be added which would protect and hold confidential any documents, charts, or other materials that would be produced or utilized during the closed or executive meetings pursuant to sections (n) or (o). This bill also includes provisions that would require an applicant to divulge an expunged criminal record and would allow the Kansas Racing Commission access to that expunged criminal record. On page 12 line 437 language was added to clarify the Kansas Bureau of Investigation would be the agency charged with doing the testing of humans to determine whether they are the users of any controlled substances.

BEFORE THE HOUSE OF REPRESENTATIVES
FEDERAL AND STATE AFFAIRS COMMITTEE

The Honorable Robert H. Miller, Chairperson

Thursday, February 11, 1988, 1:30 P.M.

Jimmy D. Grenz
Executive Director
Kansas Racing Commission

TESTIMONY

HB2775 The intent of this bill is to bring the members of the Kansas Racing Commission under the same provisions as the members of the legislature, members of the interstate corporation commission, and judges of the district courts, ect., with regard to travel and subsistence allowances rather than the standard fees allowed for other state agencies. Additionally the commission is finding that it is having to spend an exorbitant amount of time outside its regular meetings conducting commission business, such as reviewing massive applications, traveling for educational purposes, attending meetings, and answering inquiries from developers and other interested parties concerning various facets of the racing industry and commission business. The members of the Kansas Racing Commission believe they should be compensated for their time spent on official business. This bill was intended to adjust the perceived deficiencies in the travel and subsistence allowances for the commissioners and to clarify the circumstances under which the commissioners would be entitled to compensation.

Attach D

BEFORE THE HOUSE OF REPRESENTATIVES
FEDERAL AND STATE AFFAIRS COMMITTEE

The Honorable Robert H. Miller, Chairperson

Thursday, February 11, 1988, 1:30 P.M.

Jimmy D. Grenz
Executive Director
Kansas Racing Commission

Testimony

H.B. 2776 While this bill was not introduced at the request of Kansas Racing Commission it is probably the result of discussions held during various commission meetings. The racing commission has become concerned that the application of the Kansas Administrative Procedure Act with regard to the denial of an application or applications for an organization license, facility owner license or facility manager license may result in the unnecessary delay of the start up of parimutuel racing in the State of Kansas as an example where this possibility might surface consider that if the Kansas Racing Commission were to grant a license say in the greater Kansas City area knowing that we have 4 applicants for that same geographic area might not one or more of the other 3 utilize their right to a hearing under the KAR Act in order to delay the progress of the successful applicant perhaps to the point that our neighboring state might be able to go forward with their plans and defeat the Kansas proposal or make the Kansas proposals plans futile. The racing commission is very cognizant of the fact that we need to expedite to the greatest extent possible the licensing procedure so that we can award a license to an applicant who inturn can begin

ATTACH E

construction of the racing facility. However, this particular bill while attempting to assist in this effort appears to be in direct conflict with the parimutuel racing act. While the commission is appreciative of this attempt to clarify and perhaps speed the licensing process, I believe that if an amendment such as this is to be entertained it would be more appropriate under the provisions of the parimutuel act. The commission certainly has not at this time resolved in their own minds the manner in which this should be addressed as it is a very complex issue. Rather than rushing forward to only later find that we have resolved only half the problem it might be prudent to explore other alternatives. As the mere removal of the application of the Kansas Administrative Procedure Act certainly would not deny a disgruntled applicant access for appeal to the courts in the State of Kansas. Might it not be more prudent to require an immediate hearing on the Kansas Administrative Procedure Act followed by an immediate review of the findings of the hearing by the Supreme Court of the State of Kansas. While I don't pretend to know if this is even possible, I mention it merely to state that I am not certain we have explored all the alternatives which would address the whole problem rather than a part of the problem. I would again state that the commission would most certainly like to issue a license to a developer and have that developer be assured that they could begin construction of their facility and not be tied up or delayed by hearings or court action. Although the commission perceives the problem it does not at this time have the solution.

PROPOSED SUBSTITUTE FOR HOUSE BILL NO. 2707

By

AN ACT concerning alcoholic beverages; relating to certain prohibited acts with regard to persons under 21 years of age and penalties therefor; amending K.S.A. 21-3610 and K.S.A. 1987 Supp. 21-3610a, 41-727 and 41-2721 and repealing the existing sections.

CMB + liquor

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 21-3610 is hereby amended to read as follows: 21-3610. (1) Furnishing ~~intoxieants~~ alcoholic liquor to a minor is directly or indirectly, selling to, buying for, giving or furnishing any ~~intoxieating~~ alcoholic liquor to any person under the age of ~~twenty-one-(21)~~ 21 years.

(2) Furnishing ~~intoxieants~~ alcoholic liquor to a minor (1S) a class B misdemeanor for which the minimum fine is \$200.

(3) As used in this section, "alcoholic liquor" has the meaning provided by K.S.A. 41-102 and amendments thereto.

Sec. 2. K.S.A. 1987 Supp. 21-3610a is hereby amended to read as follows: 21-3610a. (a) Furnishing cereal malt beverage to a minor is buying for or selling, giving or furnishing, whether directly or indirectly, any cereal malt beverage to any person under the legal age for consumption of cereal malt beverage.

(b) Furnishing cereal malt beverage to a minor is a class B misdemeanor for which the minimum fine is \$200.

(c) This section shall not apply to the furnishing of cereal malt beverage by a parent or legal guardian to such parent's child or such guardian's ward.

(d) As used in this section, "cereal malt beverage" and "legal age for consumption of cereal malt beverage" have the meanings provided by K.S.A. 41-2701 and amendments thereto.

Attach F

(e) This section shall be part of and supplemental to the Kansas criminal code.

Sec. 3. K.S.A. 1987 Supp. 41-727 is hereby amended to read as follows: 41-727. (a) Except with regard to serving of alcoholic liquor as permitted by K.S.A. 41-308a, or 41-2610 or K.S.A. 1987 Supp. 41-308b, and amendments thereto, no person under 21 years of age shall possess, consume, obtain, purchase or attempt to obtain or purchase alcoholic liquor except as authorized by law.

(b) Violation of this section by a person 18 or more years of age but less than 21 years of age is a ~~misdemeanor--punishable by--a--fine-of-not-less-than-\$100-nor-more-than-\$250.--In-addition to-such-fine,-the-court-may-order--the--offender--to--perform--40 hours-of-public-service~~ class C misdemeanor for which the minimum fine is \$100.

(c) Any person less than 18 years of age who violates this section is a juvenile offender under the Kansas juvenile offenders code. Upon adjudication thereof and as a condition of disposition, the court ~~shall~~ require the offender to pay a fine of not less than \$100 nor more than \$250. ~~In-addition-to-such fine,-the-court-may-order-the-offender-to--perform--40--hours--of public-service~~ \$500.

(d) In addition to or in lieu of any other penalty provided for a violation of this section, the court may order the offender to:

- (1) Perform 40 hours of public service; or
- (2) attend and satisfactorily complete a suitable educational or training program dealing with the effects of alcohol or other chemical substances when ingested by humans.

(e) This section shall be part of and supplemental to the Kansas liquor control act.

Sec. 4. K.S.A. 1987 Supp. 41-2721 is hereby amended to read as follows: 41-2721. (a) Except with regard to dispensing and selling of cereal malt beverage as permitted by K.S.A. 41-2704 and amendments thereto, no person under the legal age for

consumption of cereal malt beverage shall possess, consume, obtain, purchase or attempt to obtain or purchase cereal malt beverage except as authorized by law.

(b) Violation of this section by a person 18 or more years of age but less than the legal age for consumption of cereal malt beverage is a ~~misdemeanor-punishable-by-a-fine-of-not-less-than \$100-nor-more-than-\$250.--in-addition-to-such-fine,-the-court-may order-the-offender-to-perform-40-hours-of-public-service~~ class C misdemeanor for which the minimum fine is \$100.

(c) Any person less than 18 years of age who violates this section is a juvenile offender under the Kansas juvenile offenders code. Upon adjudication thereof and as a condition of disposition, the court shall require the offender to pay a fine of not less than \$100 nor more than \$250-and,-in-addition,-may order-the-offender-to-perform-40-hours-of-public-service \$500.

(d) In addition to or in lieu of any other penalty provided for a violation of this section, the court may order the offender to:

- (1) Perform 40 hours of public service; or
- (2) attend and satisfactorily complete a suitable educational or training program dealing with the effects of alcohol or other chemical substances when ingested by humans.

(e) This section shall not apply to the possession and consumption of cereal malt beverage by a person under the legal age for consumption of cereal malt beverage when such possession and consumption is permitted and supervised, and such beverage is furnished, by the person's parent or legal guardian.

(f) This section shall be part of and supplemental to article 27 of chapter 41 of the Kansas Statutes Annotated.

Sec. 5. K.S.A. 21-3610 and K.S.A. 1987 Supp. 21-3610a, 41-727 and 41-2721 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.