

Approved 3-15-89
Date

MINUTES OF THE SENATE COMMITTEE ON SENATE PUBLIC HEALTH & WELFARE

The meeting was called to order by SENATOR ROY M. EHRLICH at
Chairperson

10:00 a.m./~~p.m.~~ on March 3, 1989 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Legislative Research
Bill Wolff, Legislative Research
Norman Furse, Revisors Office
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Dr. Jeff J. Ryan, Mid America Dairymen, Inc.
Sharon McKinney, DO

Senator Hayden introduced his pages from Tribune, Kansas, Sherri Elliott, Angie Graham and Jena Robertson to the committee.

The chairman placed SB-196 before the committee. Senator Salisbury read an amendment which had been offered, (Page 2, Line 51 following "is cooked" and insert "for a minimum of 25 seconds at 175 degrees Fahrenheit,"). A second amendment was presented by Senator Karr and appears as Attachment 1.

Senator Salisbury, with a second from Senator Langworthy, to amend SB-196 using Senator Karr's amendment. The motion carried.

Senator Langworthy, moved, with a second from Senator Salisbury, to pass SB-196 favorable for passage as amended. The motion carried.

Senate Bill 286 requested by Senator Reilly was placed before the committee for consideration. Senator Reilly stated his concern that a situation could eventually occur where first responders or Emergency Medical Technicians could possibly refuse to render aid unless they were advised or equipped to protect themselves. An amendment was offered by Chip Wheelen, Kansas Medical Society, which would insert definition of "first responder." Attachment 2

The term, "first responder" was discussed. It was determined that the term "First Responder" would have to be defined for the purposes of this act to encompass a broader definition. Staff stated that if you used term "First Responders and attendants" in reference to statutory definitions, then EMTs and first responders would be covered.

Senator Reilly proposed to amend SB-286 using the statutory definitions of "first responders and attendants" in order to cover EMTs and first responders. Senator Hayden seconded the proposed amendment. The motion carried.

Senator Reilly moved that a substitute bill for SB-286 be offered. Senator Langworthy seconded the motion. The motion carried.

The need of a first responder to be able to learn whether the person who declares he has a disease when being taken into custody, does have a disease was discussed at length.

Senator Reilly moved conceptually the language granting the ability to obtain this desired information into SB-286. Senator Strick seconded the motion. The vote was called and division requested. The vote was 4 yea and 4 nay votes. The chair voted yea making 5 votes. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 526-S, Statehouse, at 10:00 a.m./~~p.m.~~ on March 3, 1989.

Senator Reilly moved to recommned Substitute SB-286 as amended and as amended conceptually favorable for passage. Senator Strick seconded the motion and the motion carried.

Senate Bill 259 was placed before the committee. The chairman called the attention of the committee to the letter from Sherman Parks to committee members. Attachment 3

Senator Burke asked Sherman Parks whether any attempt had been made to get physical therapists, MDs and DOs and Chiropractors together on a definition of manipulation. Sherman Parks stated he was willing to work with the others and that an attempt could be made to work out a definition.

Senate Bill 259 was discussed, especially the definition of manipulation with regard to physical therapists, MDs, Dos, etc. Concern was expressed by staff that some areas of providers could be unaware of this bill and be left out.

Senator Burke made a motion to keep the bill in committee and the committee recommend the subject matter to the Legislative Coordinating Council for an Interium Study. Senator Anderson seconded the motion and the motion carried.

Senate Bill 181, dealing with anabolic steroids was placed before the committee. Staff presented a substitute for SB-181 as requested by the committee which would place anabolic steroids and human growth hormones under the uniform controlled substances act. Attachment 4 Staff stated the substitute bill would place anabolic steroids in Schedule III as done in North Carolina and several other states and provide for criminal penalties similar to other controlled substances through the amendments in Section 2, the inclusion of anabolic steroids, bottom of page 4 and middle of page 5. This could pick up penalty provisions under the Controlled Substances Act.

Richard Gannon told the committee that the Board of Healing Arts had discussed placing anabolic steroids in Schedule III and had been told by others who tried it that it caused trouble due to the fact that all other drugs in that schedule caused dependency and while steroids did not.

The Board of Healing Arts presented a balloon bill (Attachment 5) which eliminated specific amounts and inserted "which has not been prescribed for a valid medical purpose."

Senator Reilly moved adoption of the amendment proposed by the Board of Healing Arts with a second by Senator Anderson.

Discussion followed with comparisons made between the Board of Healing Arts amendment and Section (a) 1. The Board of Healing Arts stated they were not trying to limit this bill just to persons who practice medicine, surgery, or pharmacy, (the exception relative to possession). General Council stated that lines 38-39 were pharmacy laws dealing with practioners. It was stated that the human growth hormone is most often sent directly from the factory to the doctor.

Staff suggested placing anabolic steroids into Schedule IV where the same penalties would apply. It was also stated that the system of law enforcement is used to dealing with these laws and with the controlled substances act. An amendment to SB-181 was presented to the committee members by the Kansas Livestock Association concerning the use of anabolic steroids in animals or non-human species. (Attachment 6)

Written testimony was presented to the committee by Dr. Jeff Ryan. Dr. Ryan testified on SB-196 on Monday, February 27, 1989. Attachment 7

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

room 526-S, Statehouse, at 526-S a.m. ~~p.m.~~ on March 3, 1989.

Written testimony was presented to the committee by Sharon McKinney, D.O. concerning SB-259 stating the definition of "manipulation" was too general. Attachment 8

The meeting adjourned at 10:59 a.m. and will meet March 6, 10:00 a.m. in room 526-S.

SENATE BILL 196

Move to amend Senate Bill 196, on page 2, in line 51, preceding "all" by inserting the following: "and if such ice cream mix or mixture contains eggs is cooked according to federal food and drug administration general provisions for making frozen desserts using a high temperature, short term method,"

SPH/W
3-3-89
Attachment 1

nor to prevent any person from caring for the sick in accordance with tenets and practices of any church or religious denomination which teaches reliance upon spiritual means through prayer for healing.

History: L. 1988, ch. 228, § 12; July 1.

65-5913. Fees. The secretary shall fix by rules and regulations fees for applications for and renewal of licenses, temporary licenses, examination fees and reinstatement fees under this act. Such fees shall be fixed in an amount to cover the costs of administering the provisions of this act. The secretary shall remit all moneys received from fees, charges or penalties under this act to the state treasurer at least monthly. Upon receipt of each such remittance the state treasurer shall deposit the entire amount thereof in the state treasury and credit the same to the state general fund.

History: L. 1988, ch. 228, § 13; July 1.

Article 60.—ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)

Cross References to Related Sections:

Infectious or contagious diseases, see 65-118 et seq.
Tuberculosis, authority of health officers, see 65-116a et seq.

Transportation of dead body for disposition where deceased had an infectious or contagious disease, notification of certain persons, see 65-2438.

65-6001. Definitions. As used in K.S.A. 1988 Supp. 65-6001 to 65-6007, inclusive, and amendments thereto, unless the context clearly requires otherwise:

(a) "AIDS" means the disease acquired immune deficiency syndrome.

(b) "HIV" means the human immunodeficiency virus or any other identified causative agent of AIDS.

(c) "Positive reaction to an AIDS test" means a positive test, approved by the secretary, to detect antibodies to the probable causative agent for AIDS, with a positive confirmatory test as specified by the secretary.

(d) "Secretary" means the secretary of health and environment.

(e) "Physician" means any person licensed to practice medicine and surgery.

History: L. 1988, ch. 232, § 1; July 1.

65-6002. Reporting to secretary of health and environment information concerning AIDS; information reported; persons reporting; immunity from liability; confidentiality of information; disclosure; use of information to discriminate prohibited. (a)

Whenever any physician has information indicating that a person is suffering from or has died from AIDS, such knowledge or information shall be reported immediately to the secretary, together with the name and address of the person who has AIDS, or the name and former address of the deceased individual who had such disease. The provisions of this subsection shall not apply to a physician who, while performing services, other than the direct rendition of medical services, for an insurance company, health maintenance organization or non-profit medical and hospital service corporation, becomes aware that a person is suffering from or has died from AIDS.

(b) Any physician who reports the information required to be reported under subsection (a) in good faith and without malice to the secretary shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed in an action resulting from such report. Any such physician shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

(c) Information required to be reported under subsection (a) and information obtained through laboratory tests conducted by the department of health and environment relating to HIV or AIDS and persons suffering therefrom or infected therewith shall be confidential and shall not be disclosed or made public, upon subpoena or otherwise, beyond the disclosure necessary under subsection (a) or under subsection (a) of K.S.A. 1988 Supp. 65-6003 and amendments thereto or the usual reporting of laboratory test results to persons specifically designated by the secretary as authorized to obtain such information, except such information may be disclosed:

(1) If no person can be identified in the information to be disclosed and the disclosure is for statistical purposes;

(2) if all persons who are identifiable in the information to be disclosed consent in writing to its disclosure;

(3) if the disclosure is necessary, and only to the extent necessary, as specified by rules and regulations of the secretary, to protect the public health;

(4) if a medical emergency exists and the disclosure is to medical personnel qualified to treat AIDS, except that any information disclosed pursuant to this paragraph shall be disclosed only to the extent necessary to protect the health or life of a named party; or

*insert definition of
"first responders"*

*SRL:kw
3-3-89
Attachment 2*

(5) if the information to be disclosed is required in a court proceeding involving a minor and the information is disclosed in camera.

(d) Information regarding cases of AIDS reported in accordance with this section shall be used only as authorized under this act. Such information shall not be used in any form or manner which would lead to the discrimination against any individual or group with regard to provision of medical care or acceptance into any facilities or institutions for medical care, housing, education, transportation, or for the provision of any other goods or services.

History: L. 1988, ch. 232, § 2; July 1.

65-6003. Investigation of cases of AIDS; rules and regulations; protection of public health; disclosure of information; confidentiality; agreements with local boards of health authorized. (a) The secretary shall investigate cases of persons who have AIDS and maintain a supervision over such cases during their continuance. The secretary may adopt and enforce rules and regulations for the prevention and control of AIDS and for such other matters relating to cases of persons who have AIDS as may be necessary to protect the public health.

(b) Any information relating to persons who have AIDS which is required to be disclosed or communicated under subsection (a) shall be confidential and shall not be disclosed or made public beyond the disclosure necessary under subsection (a) or under subsection (a) of K.S.A. 1988 Supp. 65-6002 and amendments thereto to persons specifically designated by the secretary as authorized to obtain such information, except as otherwise permitted by subsection (c) of K.S.A. 1988 Supp. 65-6002 and amendments thereto.

(c) The secretary may enter into agreements with any county or joint board of health to perform duties required to be performed by the secretary under subsection (a) as specified by such agreement. The confidentiality requirements of subsection (b) shall apply to any duties performed pursuant to such an agreement.

History: L. 1988, ch. 232, § 3; July 1.

65-6004. Physician authorized to disclose to certain health care providers information about patient who has AIDS or who has had a positive reaction to an AIDS test; confidentiality of information; immunity in judicial proceedings. (a) Notwithstanding any other law to the contrary, a physician performing medical or surgical procedures on a patient

who the physician knows has AIDS or has had a positive reaction to an AIDS test may disclose such information to other health care providers who will be placed in contact with bodily fluids of such patient during such procedures. The information shall be confidential and shall not be disclosed by such health care providers except as may be necessary in providing treatment for such patient.

(b) Any physician who discloses information in accordance with the provisions of this section in good faith and without malice shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed in an action resulting from such disclosure. Any such physician shall have the same immunity with respect to participation in any judicial proceeding resulting from such disclosure.

History: L. 1988, ch. 232, § 4; July 1.

65-6005. Unlawful acts; penalties. Any person violating, refusing or neglecting to obey any provision of K.S.A. 1988 Supp. 65-6001 through 65-6004 or of the rules and regulations adopted by the secretary for the prevention and control of AIDS shall be guilty of a class C misdemeanor.

History: L. 1988, ch. 232, § 5; July 1.

65-6006. Educational material explaining AIDS; distribution to district courts; copies provided to parties applying for marriage license. The secretary shall prepare for distribution to the district courts of the state educational material explaining the nature, causes and effects of AIDS and other information relating to AIDS as may be appropriate. The clerks of the district courts or judges thereof, when applied to for a marriage license, shall provide copies of such educational material to the parties to the proposed marriage.

History: L. 1988, ch. 232, § 6; July 1.

65-6007. Establishment and maintenance of sites for anonymous testing for HIV. The secretary shall establish and maintain test sites throughout the state where the anonymous testing for HIV may be undertaken.

History: L. 1988, ch. 232, § 7; July 1.

Article 61.—EMERGENCY MEDICAL SERVICES

65-6101. Bureau of emergency medical services, position of director and emergency medical services council abolished; powers, duties and functions transferred. (a) The bureau of emergency medical services established

*or first responders
or have been
or first responders*



Kansas Chiropractic

ASSOCIATION

March 3, 1989

My name is Dr. Dennis Hamilton, M.D. and I have been contacted by Sherman A. Parks, Jr., of the Kansas Chiropractic Association to express my opinion as to my position on SB 259.

The definition used in SB 259 is a workable definition and I feel that persons who are registered by the Board of Healing Arts, for example Physical Therapists and other therapists, should not perform manipulation on the human living body. I also support the Kansas Board of Healing Arts' 1986 resolution of which SB 259 is a direct outgrowth.

I support SB 259 and I ask the Committee to pass this bill in its present form to the Senate as a whole.

I have authorized Mr. Parks to submit this letter and sign my name and submit it to the Committee.

Thank you for your consideration.

Very truly yours,

Dr. Dennis Hamilton, M.D.
Dr. Dennis Hamilton
7199 West 98th Street Terrace
Overland Park, Kansas 66212

SAP, Jr.

Substitute for SENATE BILL NO. 181
By Committee on Public Health and Welfare

AN ACT concerning the uniform controlled substances act; classifying anabolic steroids as controlled substances; amending K.S.A. 65-4109 and K.S.A. 1988 Supp. 65-4127b and repealing the existing sections.

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

Section 1. K.S.A. 65-4109 is hereby amended to read as follows: 65-4109. (a) The controlled substances listed in this section are included in schedule III and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.

(b) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

- (1) Any compound, mixture or preparation containing:
 - (A) Amobarbital.....2125
 - (B) Secobarbital.....2315
 - (C) Pentobarbital.....2270

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

- (2) Any suppository dosage form containing:
 - (A) Amobarbital.....2125
 - (B) Secobarbital.....2315
 - (C) Pentobarbital.....2270

or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository.

- (3) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances

*S.P.H.W.
3-3-89
Attachment 4*

which are specifically listed in other schedules.....2100

(4) Chlorhexadol.....2510

(5) Glutethimide.....2550

(6) Lysergic acid.....7300

(7) Lysergic acid amide.....7310

(8) Methyprylon.....2575

(9) Sulfondiethylmethane.....2600

(10) Sulfonethylmethane.....2605

(11) Sulfonmethane.....2610

(c) Nalorphine.....9400

(d) Any material, compound, mixture or preparation containing any of the following narcotic drugs or any salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1.8 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit with an equal or greater quantity of an isoquinoline alkaloid of opium.....9803

(2) not more than 1.8 grams of codeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....9804

(3) not more than 300 milligrams of dihydrocodeinone or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with a fourfold or greater quantity of an isoquinoline alkaloid of opium.....9805

(4) not more than 300 milligrams of dihydrocodeinone or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....9806

(5) not more than 1.8 grams of dihydrocodeine or any of its salts per 100 milliliters or not more than 90 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....9807

(6) not more than 300 milligrams of ethylmorphine or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit with one or more ingredients in recognized therapeutic amounts.....9808

(7) not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.....9809

(8) not more than 50 milligrams of morphine or any of its salts per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts9810

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Those compounds, mixtures or preparations in dosage unit form containing any stimulant substance listed in schedule II, which compounds, mixtures or preparations were listed on August 25, 1971, as excepted compounds under section 308.32 of title 21 of the code of federal regulations, and any other drug of the quantitative composition shown in that list for those drugs or which is the same, except that it contains a lesser quantity of controlled substances.....1405

(2) Benzphetamine.....1228

(3) Chlorphentermine.....1645

(4) Chlortermine.....1647

(5) Phendimetrazine.....1615

(f) The term "anabolic steroid" means any material, compound, mixture or preparation containing an anabolic steroid, including, but not limited to, the following:

- (1) Methandrostenolone;
- (2) stanozol;
- (3) ethylestrenol;
- (4) nandrolone phenpropionate;
- (5) nandrolone deconoate;
- (6) testosterone propionate; and
- (7) chorionic gonadotropin.

~~(f)~~ (g) The board may except by rule any compound, mixture or preparation containing any stimulant or depressant substance listed in subsection (b) from the application of all or any part of this act if the compound, mixture or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

Sec. 2. K.S.A. 1988 Supp. 65-4127b is hereby amended to read as follows: 65-4127b. (a) Except as authorized by the uniform controlled substances act, it shall be unlawful for any person to possess or have under such person's control:

(1) Any depressant designated in subsection (e) of K.S.A. 65-4105, subsection (e) of K.S.A. 65-4107, subsection (b) or (c) of K.S.A. 65-4109 or subsection (b) of K.S.A. 65-4111, and amendments thereto;

(2) any stimulant designated in subsection (f) of K.S.A. 65-4105, subsection (d) or (f) of K.S.A. 65-4107 or subsection (e) of K.S.A. 65-4109, and amendments thereto;

(3) any hallucinogenic drug designated in subsection (d) of K.S.A. 65-4105 and amendments thereto or designated in subsection (g) of K.S.A. 65-4107 and amendments thereto; or

(4) any substance designated in subsection (c), (d), (e), (f) or (g) of K.S.A. 65-4111 and amendments thereto; or

(5) any anabolic steroids as provided in subsection (f) of K.S.A. 65-4109 and amendments thereto.

Any person who violates this subsection shall be guilty of a class A misdemeanor, except that such person shall be guilty of a class D felony upon conviction for a second or subsequent offense.

(b) Except as authorized by the uniform controlled substances act, it shall be unlawful for any person to sell, offer for sale or have in such person's possession with the intent to sell, manufacture, prescribe, administer, deliver, distribute, dispense or compound:

(1) Any depressant designated in subsection (e) of K.S.A. 65-4105, subsection (e) of K.S.A. 65-4107, subsection (b) or (c) of K.S.A. 65-4109 or subsection (b) of K.S.A. 65-4111, and amendments thereto;

(2) any stimulant designated in subsection (f) of K.S.A. 65-4105, subsection (d) or (f) of K.S.A. 65-4107 or subsection (e) of K.S.A. 65-4109, and amendments thereto;

(3) any hallucinogenic drug designated in subsection (d) of K.S.A. 65-4105, and amendments thereto or designated in subsection (g) of K.S.A. 65-4107 and amendments thereto; or

(4) any substance designated in subsection (c), (d), (e), (f) or (g) of K.S.A. 65-4111, and amendments thereto; or

(5) any anabolic steroids as provided in subsection (f) of K.S.A. 65-4109 and amendments thereto.

Any person who violates this subsection shall be guilty of a class C felony.

(c) Except as authorized by the uniform controlled substances act, it shall be unlawful for any person to manufacture, possess, have under such person's control, prescribe, administer, deliver, distribute, dispense, compound, sell, offer for sale or have in such person's possession with intent to sell any controlled substance designated in K.S.A. 65-4113 and amendments thereto. Any person who violates this subsection shall be guilty of a class A misdemeanor, except that such person shall be guilty of a class D felony if the substance was prescribed for or administered, delivered, distributed,

dispensed, sold, offered for sale or possessed with intent to sell to a child under 18 years of age.

(d) Upon conviction of any person pursuant to subsection (a), (b) or (c) in which (1) the substances involved were equal to or greater than the amounts for such substance as specified in K.S.A. 1988 Supp. 65-4127e, or (2) the substances involved, regardless of amounts, were possessed with intent to sell, sold or offered for sale to a child under 18 years of age, there shall be at sentencing a presumption that the defendant be sentenced to imprisonment and not granted probation, assignment to a community correctional services program or suspension of sentence.

Sec. 3. K.S.A. 65-4109 and K.S.A. 1988 Supp. 65-4127b are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

S.P. 44
3-3-89
Attachment 5

SENATE BILL No. 181

By Committee on Public Health and Welfare

2-7

15 AN ACT concerning anabolic steroids; declaring certain acts to be
16 unlawful and providing penalties for violations.
17

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

19 Section 1. (a) It shall be unlawful for any person:

20 (1) To prescribe, dispense, deliver or administer an anabolic ste-
21 roid or a human growth hormone or deliver a prescription order for
22 an anabolic steroid or a human growth hormone to a person for
23 human use for any purpose other than a valid medical purpose and
24 in the course of professional practice;

25 (2) to prescribe, dispense or deliver an anabolic steroid or a
26 human growth hormone for human use without the written pre-
27 scription of a practitioner; or

28 (3) except for a pharmacist or practitioner to possess ~~over 250~~
29 ~~tablets or 16 cubic centimeters~~ of an anabolic steroid or a human
30 ~~growth hormone for combination of anabolic steroids or human growth~~
31 ~~hormones.~~

32 (b) Any person who violates subsection (a) shall be guilty of a
33 class E felony, except that, upon conviction for the second offense,
34 such person shall be guilty of a class D felony, and upon conviction
35 for a third or subsequent offense, such person shall be guilty of a
36 class C felony.

37 (c) Words and phrases used in this section shall have the same
38 meaning as is ascribed to such words and phrases under K.S.A. 65-
39 1626 and amendments thereto. The term "valid medical purpose"
40 shall not include the use of an anabolic steroid or human growth
41 hormone for bodybuilding, muscle enhancement or increasing bulk
42 or strength by a person who is in good health.

43 (d) This section shall be part of and supplemental to the Kansas

which has not been prescribed for a
valid medical purpose.

SENATE BILL No. 181

By Committee on Public Health and Welfare

2-7



RICH MCKEE
EXECUTIVE SECRETARY
FEEDLOT DIVISION

2044 FILLMORE • TOPEKA, KANSAS 66604 • 913/232-9358

SPH/vw
3-3-89
Attachment 6

15 AN ACT concerning anabolic steroids; declaring certain acts to be
16 unlawful and providing penalties for violations.
17

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

19 Section 1. (a) It shall be unlawful for any person:

20 (1) To prescribe, dispense, deliver or administer an anabolic ste-
21 roid or a human growth hormone or deliver a prescription order for
22 an anabolic steroid or a human growth hormone to a person for
23 human use for any purpose other than a valid medical purpose and
24 in the course of professional practice;

25 (2) to prescribe, dispense or deliver an anabolic steroid or a
26 human growth hormone for human use without the written pre-
27 scription of a practitioner; or

28 (3) except for a pharmacist or practitioner to possess over 250
29 tablets or 16 cubic centimeters of an anabolic steroid or a human
30 growth hormone or combination of anabolic steroids or human growth
31 hormones.

32 (b) Any person who violates subsection (a) shall be guilty of a
33 class E felony, except that, upon conviction for the second offense,
34 such person shall be guilty of a class D felony, and upon conviction
35 for a third or subsequent offense, such person shall be guilty of a
36 class C felony.

37 (c) Words and phrases used in this section shall have the same
38 meaning as is ascribed to such words and phrases under K.S.A. 65-
39 1626 and amendments thereto. The term "valid medical purpose"
40 shall not include the use of an anabolic steroid or human growth
41 hormone for bodybuilding, muscle enhancement or increasing bulk
42 or strength by a person who is in good health.

43 (d) This section shall be part of and supplemental to the Kansas

----- ... provided, however, that this subsection (a) (3) shall not apply with respect to anabolic steroids that are expressly intended for administration through implants to cattle or other non-human species, and that are approved by the FDA for such use.

44 criminal code.

45 Sec. 2. This act shall take effect and be in force from and after
46 its publication in the statute book.

47

6-2

Testimony in Opposition To
SB 196
Dr. Jeffrey J. Ryan
Mid-America Dairymen, Inc.
Springfield, MO 65802

Good Morning:

My name is Dr. Jeff Ryan and I am the Corporate Manager of Quality Assurance for Mid-America Dairymen, Inc. Our corporate offices are located in Springfield, Missouri. I am responsible for overseeing the development and monitoring of quality assurance programs in our Dairy Cooperative. These programs are designed to protect public health and provide consumers with a high quality product at a reasonable price.

In essence, my position description dictates that my primary responsibility is to guarantee that products produced in any one of our nearly 50 dairy processing plants are safe for human consumption and pose no threat to public health. I view this responsibility as one of paramount importance; should any one of the Mid-America Dairymen plants that produce retail dairy foods fail to produce a safe dairy food, severe illness and/or death are the potential outcomes. Furthermore, failure to produce a safe dairy food and thereby protect public health interests will not only have a negative impact on Mid-America Dairymen, but also negatively impact other dairy foods processors that manufacture the same or similar products.

There are no Teflon dairy processors; little bits of negative publicity stick to all of us, no matter how large or small or our geographical proximity to the plant or food service establishment that caused the problem.

Ladies and Gentlemen, Kansas Senate Bill #196 is of great concern to me and to Mid-America Dairymen, Inc. We are opposed to any rule or regulation that permits the sale of a fresh, non-pasteurized, standardized dairy product to the consuming public. If passed, Senate Bill #196 would open the door in Kansas to such practices.

SPH/4W
3-3-89
Attachment 7

Our decision to oppose said legislation is based on the following information:

In the United States dairy industry, the process of pasteurization has long been recognized as the keystone of all efforts designed to provide the consuming public with safe dairy foods. It is a scientifically documented fact that raw dairy products may contain pathogenic or disease-causing bacteria such as Salmonella spp., Listeria spp., Staphylococcus spp., enterotoxigenic Escherichia coli and others. Through years of scientific research which has been thoroughly reviewed and scrutinized, the pasteurization process was refined and designed to bring about 100% elimination of disease-causing microorganisms in the process liquid. Such pasteurization produces a food that is safe for human consumption. Without delving into extreme detail, let me simply state that pasteurization as defined in Code of Federal Regulations and Grade A Pasteurized Milk Ordinance and supported by the Federal Food and Drug Administration and United States Department of Agriculture, is a carefully defined and controlled process requiring sophisticated dairy processing equipment capable of providing documentation of every aspect of the pasteurization process. The words "legal pasteurization" and cooking are not and never will be synonymous. Pasteurization is only accomplished when a process liquid, like ice cream mix, is heated to a specific temperature and held at that temperature for at least a specified period of time. It is this time and temperature relationship that causes pathogen destruction. On the other hand, just what does "cooking" refer to?

With respect to soft and hard frozen dairy products like ice cream, dairy ingredients such as milk in its various liquid and concentrated forms, concentrated sources of milkfat and other non-dairy ingredients such as sweeteners, stabilizers, emulsifiers and egg yolks are blended together to produce a raw mix. Before this non-frozen liquid raw mix may be frozen to produce such standardized products as ice cream, ice milk, sherbet or other frozen dairy desserts, every particle of mix, including the non-dairy components, must be pasteurized. This is clearly stipulated in 21 CFR part 135. The mix must be pasteurized in total

because non-dairy as well as dairy ingredients can be a significant source of pathogens. Process times and temperatures are 155°F for at least 30 minutes, 175°F for at least 25 seconds or 180°F or at least 15 seconds. Controlled heat treatments of this type guarantee that the finished mix will be free of pathogens. We're not quite sure that this same guarantee comes with the "cooking" process.

Mid-America Dairy's fluid milk plants such as Zarda Dairy in Shawnee, Kansas, Steffen's in Wichita, Kansas and Gillette Dairy in Norfolk, Nebraska produce ice cream and ice cream mix according to all of the promulgated rules and regulations. Should an FDA initiated product recall occur or should a small segment of the consuming population get sick due to the presence of pathogens in ice cream or other frozen dairy desserts manufactured from non-pasteurized mix, the negative publicity of such events would impact heavily on two dairy processors in your state and the livelihood of the numerous Kansas citizens employed by Mid-Am in these plants.

Sharon L. McKinney, D.O.

Physical Medicine & Rehabilitation

1111 Kansas, Suite 300 - Topeka, Kansas 66606 (913) 441-1111

SENATE BILL 259

I am opposed to Senate Bill 259 because the definition of manipulation is too general.

I am an osteopathic physician, trained in all the same areas of medicine and surgery as M.D.'s, and trained in manipulation as well. I am Board Certified in Physical Medicine and Rehabilitation. I am a physical therapist and practiced in Kansas some thirteen years before going to medical school.

A strict interpretation of "application of directed manual or mechanical forces to...joints and adjacent tissue to achieve motion beyond the passive limit..." would outlaw physical therapists from the practice of their profession. Exercises and stretching of a hip or knee joint following a joint repair or replacement is, in fact, application of manual force to joints and adjacent tissue to achieve motion beyond the passive limits. Others who use directed manual forces to increase joint range beyond the passive limits are occupational therapists and athletic trainers.

I don't think passage of this resolution would benefit the many people in Kansas, who each year need the services of these professionals.

Sharon McKinney
Sharon McKinney, D.O.

S.P. Hoice
3-3-89
Attachment
8