

Approved 4-25-91  
Date sh

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Carol H. Sader at  
Chairperson

2:20 /a.m./p.m. on April 1,, 1991 in room 423-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Research  
Bill Wolff, Research  
Norman Furse, Revisor  
Sue Hill, Committee Secretary

Conferees appearing before the committee:

Senator Parrish  
Susan Self, Former-Water Distributor  
Jim Boyer, Water Conditioning Dealer, McPherson, Kansas  
Terry Zimmer, Water Distributor, Salina, Kansas  
Ron Quick, Water Distributor, Hutchinson, Kansas  
Steve Paige, Director of Bureau of Environmental Health Services, Department of Health and Environment

Vice Chairman Theo Cribbs called meeting to order at 2:20 p.m. He apologized for the late start of Committee due to a long Session in the House of Representatives. He welcomed all those present and announced the agenda for the day.

Vice Chair requested a staff briefing on SB 235. Ms. Correll gave a comprehensive explanation of SB 235, highlighting policy issues.

HEARINGS BEGAN ON SB 235.

Chairperson Sader took over the meeting at this time and opened hearings on SB 235.

Senator Parrish offered hand-out (Attachment No. 1). She gave background on her interest and concerns with the distribution of bottled water. She noted the increase in popularity of bottled water and the need for tightening down of regulations for that industry. She noted concerns with labeling that are confusing as to the origin of the water source, needs for concern in regard to the quality of the water being bottled. She introduced Susan Self, who was formerly in the bottled water distribution business and who is knowledgeable about this industry.

Susan Self noted she and her husband are no longer in the bottled water distribution business, but still have interests, and also concerns about the process and labeling. It is her belief the State of Kansas has standards and regulations set out for bottled water. Consumers need and deserve these regulations. Many water distributors/producers voluntarily offer the highest quality product that can be made available and label honestly, however, some do not. Costs vary drastically and consumers do not understand why. Required laboratory testing will help regulate the industry.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 423-S Statehouse, at 2:20 a/m/p.m. on April 1, 1991

HEARINGS CONTINUED ON SB 235.

Ms. Self answered numerous questions, i.e., the Department of Health and Environment and Food and Drug do currently inspect water distributors' facilities, not the quality of water; she noted a lack of interest by the inspectors for the laboratory test results on the water product; Currently 12 states have adopted International Bottled Water Association (IBWA) standards. Many companies in Kansas currently follow these guidelines voluntarily.

Jim Boyer, Water Conditioning Dealer and Bottled Water Distributor, gave hand-out (Attachment No.2). He detailed his business operation, noting he has recently up-graded equipment in his bottled water business. He has always received favorable ratings after inspections from the Department of Health/Environment and they are interested in his laboratory test results. He further detailed the operation of the process of bottling water, noting training and experience of personnel, date-coding of each run of bottling so that if a problem occurs they can easily track that problem. He explained that if SB 235 is enacted, he and other small bottled water distributors will be out of business. It is Mr. Boyer's opinion the IBWA is after the small business man. He detailed costs that would be involved in joining this Association. It is obvious this Association has no interest in rural Kansas water bottlers. He stressed opposition to SB 235. Mr. Boyer considers this legislation as a model act which would require operations that are feasible economically only to the bottler who operates this business on a high volume scale. "This cannot be done economically by people in rural Kansas", he said.

Terry Zimmer, water distributor, offered hand-out (Attachment No. 3). He gave Committee members background information on the procedures he and his wife went through in Salina, Kansas as they began a bottled water business. He detailed up-grading of his business since purchasing it from a previous owner, and noted the Department of Health/Environment is very satisfied with the high quality product he is producing. He noted SB 235 was drafted after IBWA's regulations. IBWA is controlled by large bottling companies, and if SB 235 is enacted, small companies like his and others will be forced out of business. IBWA estimates that costs for start-up of a plant to comply with all regulations proposed in SB 235 would be 1.2 million dollars. Currently the state of Kansas is satisfied with his operation. He detailed possibilities of contamination, noting small bottlers are operating currently under cleaner/stricter conditions than any vending machine could possible match. He noted perhaps there is a need for some change in regulations, however, the way SB 235 is written, it will create financial hardship on several small businesses in Kansas. He opposed the bill, but noted he would be willing to work with a committee to help propose better legislation than SB 235.

Ron Quick, Hutchinson bottled water distributor, gave hand-out (Attachment No. 4). He detailed his experience in the industry, and the progression of his business. He is proud of the high quality product that is produced by his business. The proposed legislation in SB 235 will raise costs, especially in the rural areas. He asked that SB 235 be defeated.

Stephen N. Paige, Director of Environmental Health Services, Department of Health/Environment, offered hand-out (Attachment No.5). Mr. Paige noted regular inspections are done by the Department. The current regulatory program addresses adulteration, misbranding, and general sanitation aspects of bottled water manufacturing, but does not mandate specific compliance with sampling and compliance with standards for contaminants.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 423-S, Statehouse, at 2:20 4/1 p.m. on April 1, 1991

HEARINGS CONTINUED ON SB 235.

Mr. Paige noted the Department of Health/Environment stressed there are three issues in need of clarification, i.e., provisions in SB 235 require water sampling to be performed by qualified personnel; reports on non-compliance with regard to contaminants that are made to the Secretary of the Department should be enforced; sanctions for non-compliance should be addressed. These issues could be addressed through the Secretary's authority to adopt rules and regulations. He answered numerous questions, i.e., in the past, sampling of water was required but this procedure ceased because very few negative samples were found; the Department does have authority to regulate labeling in regard to no false or misleading labeling, the source of the water is required in labeling; it appears most regulations specified in SB 235 could be adopted by rules and regulations.

HEARINGS CLOSED ON SB 235.

Chair asked conferees on HB 2608 and SB 271 to return for the meeting at 5:00 p.m. this date. She apologized for any inconvenience to conferees who were unable to stay for the later scheduled meeting.

Chair adjourned meeting at 3:15 p.m.



NANCY PARRISH  
SENATE DEMOCRATIC POLICY CHAIR  
STATE SENATOR, NINETEENTH DISTRICT  
SHAWNEE COUNTY  
3632 S. E. TOMAHAWK DR.  
TOPEKA, KANSAS 66605  
913-379-0702 HOME  
913-296-7373 BUSINESS



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS  
RANKING MINORITY MEMBER: EDUCATION  
MEMBER: FINANCIAL INSTITUTIONS AND INSURANCE  
JUDICIARY  
LEGISLATIVE AND CONGRESSIONAL  
APPORTIONMENT  
LEGISLATIVE POST AUDIT  
WAYS AND MEANS

April 1, 1991

**TESTIMONY BEFORE HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE  
REGARDING S.B. 235**

The sections of S.B. 235 concerning bottled water provide as follows:

Section 1 defines different types of bottled water and various definitions pertaining to the bottling process;

Section 2 pertains to approved sources of water, as well as standards applying to bottled water as mandated by FDA regulations;

Section 3 pertains to the filtering, processing and packaging of bottled water (including mineral) as specified by the FDA Good Manufacturing Practice Regulations (GMP's);

Section 4 pertains to the compliance of plant operators-- specifically the sampling and analysis of water derived from approved sources, as defined in Section 2;

Section 5 applies to the procedures concerning sampling and monitoring;

Section 6 concerns the labeling requirements of bottled water;

Section 7 defines exceptions to the bottled water regulations (such as bottled soft drinks); and

Section 8 defines maximum chemical allowances for bottled water (an extensive list is provided in the bill).

*P. Heel  
4-1-91  
Attn #1.  
1:00pm.*

TESTIMONY BEFORE HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE  
REGARDING S.B. 235 - APRIL 1, 1991  
PAGE 2

Essentially, the International Bottled Water Association (IBWA) model code of regulations (i.e., S.B. 235) would accomplish the following:

1. Call for more stringent microbiological and chemical control standards...and that all bottled H<sup>2</sup>O is subject to effective germicidal treatment by "ozonation", carbonation or other equivalent disinfection approved by the appropriate state or regulatory department.

2. Mandate bottled H<sup>2</sup>O shall not be transported or stored in bulk tanks or processed or bottled through equipment or lines used for any non-food product, or which has passed milk, fruit juice or other food products likely to contribute nutrients for microbial growth.

3. Maximum level of five parts per billion of lead for bottled water - EPA imposed as a standard.

4. Regulations requiring more current and detailed inspections of bottling plants, sampling/testing of bottled H<sup>2</sup>O products, specific definitions of the various types of H<sup>2</sup>O listed on bottle labels, testing for contaminants listed but not regulated by EPA and a general updating of FDA regulations as they relate to bottled H<sup>2</sup>O.

5. Each plant and product undergo an unannounced annual plant inspection by an independent third-party inspection organization. (Consumer confidence/good tasting product.)

6. 12 states have adopted IBWA Model Code of Regulations. 19 are reviewing or are in process of adopting IBWA regulations.

*PKW*  
*4-1-91*  
*1:00pm*  
*Attn #1-2*

APRIL 1, 1991

COMMITTEE CHAIRPERSON AND MEMBERS OF COMMITTEE:

MY NAME IS JIM BOYER AND I AM A WATER CONDITIONING DEALER IN MCPHERSON, KANSAS, AND HAVE A SMALL BOTTLED WATER OPERATION IN CONJUNCTION WITH MY WATER CONDITIONING DEALERSHIP. I HAVE BEEN HANDLING BOTTLED WATER IN MY DEALERSHIP FOR 12 YEARS AND IT HAD BEEN PART OF THIS DEALERSHIP FOR 14 YEARS PRIOR TO THAT.

I HAVE UP-GRADED OUR BOTTLING OPERATION SEVERAL TIMES OVER THE YEARS AND INTEND TO FURTHER UP-GRADE AS TIME AND MONEY ALLOW. ON A MAJOR UP-GRADE IN 1982, I CONTACTED THE DEPARTMENT OF HEALTH AND ENVIRONMENT, FOOD AND DRUG DIVISION, EXPLAINING MY PLANS AND SEEKING THEIR INPUT. ON ANOTHER MAJOR UP-GRADE IN 1985, I SWITCHED FROM A DISTILLER TO AN R. O. SYSTEM, PURCHASING NEW EQUIPMENT FROM CULLIGAN U. S. A. WHICH THEY ASSISTED IN DESIGNING. WE HAVE BEEN INSPECTED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENT'S FOOD AND DRUG DIVISION AND HAVE ALWAYS RECEIVED FAVORABLE RATINGS. PRESENTLY, MY BOTTLING OPERATION CONSISTS OF SOFTENING, ACTIVATED CARBON FILTRATION, PARTICLE FILTRATION, REVERSE OSMOSIS, ULTRAVIOLET DISINFECTION, AND A DEIONIZATION OPTION FOR SOME OF OUR CUSTOMERS WHO REQUIRE 1,000,000 OHM OR BETTER WATER. WE HAND WASH OUR BOTTLES IN HOT WATER USING ROCAL II, A DISINFECTANT SOLUTION COMMONLY USED IN THE DAIRY INDUSTRY. WE RINSE WITH HOT WATER AND FILL MANUALLY. WE TEST OUR WATER FREQUENTLY; WE HAVE A PEST CONTROL CONTRACT FOR OUR BUILDING; WE MAINTAIN OUR EQUIPMENT ON A REGULARLY SCHEDULED BASIS; AND WE DATE CODE EACH RUN OF BOTTLING. OUR PEOPLE ARE TRAINED TO TAKE GREAT CARE TO FOLLOW SANITARY PROCEDURES. WE SELL BETWEEN 30 TO 50 FIVE GALLON BOTTLES PER DAY - 150 TO 200 PER WEEK. WE DELIVER OUT OF VEHICLES THAT ARE ALREADY AN INTEGRAL PART OF OUR BUSINESS. MOST IMPORTANTLY, WE PROVIDE OUR CUSTOMERS WITH A GOOD QUALITY PRODUCT AT A REASONABLE PRICE. WE PRESENTLY GROSS ABOUT \$28,000 PER YEAR ON THE BOTTLED WATER PHASE OF OUR BUSINESS WHICH IS SMALL BUT AN IMPORTANT PART OF OUR TOTAL OPERATION.

THIS BILL WOULD RESULT IN MY BEING FORCED TO SHUT DOWN MY OPERATION BECAUSE OF THE COSTS INVOLVED TO COMPLY. THIS BILL INVOLVES A BOTTLING OPERATION THAT WOULD REQUIRE A MINIMUM INVESTMENT OF MANY THOUSANDS OF DOLLARS AT THE LEAST. I SEE THIS AS AN ATTEMPT BY A WELL-FUNDED TRADE ASSOCIATION TO LIMIT COMPETITION IN THE MARKET PLACE. THERE ARE SOME PRETTY STRINGENT ANTI-TRUST LAWS ON THE BOOKS IN THIS COUNTRY TO PREVENT RESTRAINT OF TRADE. IN MY OPINION, WHAT THIS GROUP OF LARGE BOTTLERS HAS DONE IS TO CIRCUMVENT THESE LAWS BY FUNCTIONING WITHIN A TRADE ASSOCIATION, THE INTERNATIONAL BOTTLED WATER ASSOCIATION (IBWA), TO ACCOMPLISH THIS TASK. THEY ARE DOING IT UNDER THE GUISE OF CONSUMER PROTECTION, A VERY POPULAR THEME THESE DAYS. WHEN I CALLED THE IBWA HEADQUARTERS A FEW WEEKS AGO AND INDICATED I WAS INTERESTED IN GETTING INTO THE BOTTLED WATER BUSINESS, THEY TOLD ME MEMBERSHIP IS \$750 PER YEAR (\$550 THE 1ST YEAR), THEY WOULD SEND ME A PACKET TO HELP PLAN A BOTTLING OPERATION FOR \$275, AND THAT I COULD EXPECT TO INVEST \$1.2 MILLION DOLLARS IN LAND ACQUISITION, A BUILDING, A WATER SOURCE, AND BOTTLING EQUIPMENT. THIS DID NOT INCLUDE BOTTLES, LABELS, HANDLING AND TRANSPORTATION EQUIPMENT. OBVIOUSLY,

*pkw*  
*4-1-91*  
*1:00 pm*  
*Attn # 2*

THEY DO NOT WISH TO ENCOURAGE THE "FAINT OF HEART" OR THOSE WITH "SHORT POCKETS". BY THE SAME TOKEN, THEY HAVE NO INTEREST IN RURAL KANSAS HAVING BOTTLING OPERATIONS - ONLY THAT WE BECOME DISTRIBUTORS OF BOTTLED WATER PROCESSED BY THEIR LARGE PLANTS. I AM SURE THE PRESENCE OF MY BOTTLING OPERATION IN MCPHERSON REPRESENTS A SOURCE OF IRRITATION TO THEM AND THEIR EXPENSIVE, HIGH TECH, HIGH VOLUME OPERATION. THEIR WATER IS NO BETTER OR SAFER, JUST MORE EXPENSIVE WHEN TRUCKED TO MCPHERSON.

I FIND IT INTERESTING THAT MUNICIPALITIES CAN DRILL WELLS, PUMP WATER FROM THE GROUND, INJECT A MEASURED AMOUNT OF CHLORINE GAS, HOLD THE WATER IN A STATIC SYSTEM UNTIL A CONSUMER OPENS HIS TAP AND THEN DELIVER WATER THROUGH A MIXTURE OF PIPING AND VALVING AND PRONOUNCE THE WATER SUITABLE FOR HUMAN CONSUMPTION. THE THING THAT IS INTERESTING IS THAT FOR THE MOST PART THEY ARE ABSOLUTELY CORRECT - IT IS SUITABLE FOR HUMAN CONSUMPTION. THIS IS WATER IN MOST CASES THAT HASN'T BEEN FILTERED, PROCESSED BY A DISTILLER, REVERSE OSMOSIS, OR DEIONIZATION. THE DISTRIBUTION SYSTEM IS INFREQUENTLY DISINFECTED IF AT ALL EXCEPT FOR THE PRESENCE OF A CHLORINE RESIDUAL. THE FAUCETS IN OUR HOMES, RESTAURANTS, BUSINESSES, AND GOVERNMENT BUILDINGS ARE OPERATED MANUALLY. THERE IS NO OZONE OR ITS EQUIVALENT TO DISINFECT THE WATER AT THE TAP. IN OTHER WORDS, THE WATER SYSTEM THAT MANY PEOPLE RELY ON EACH DAY WOULD NOT COME CLOSE TO MEETING THE RESTRAINTS OF THIS BILL. HOWEVER, IT IS WATER THAT SATISFIES THE DEPARTMENT OF HEALTH AND ENVIRONMENT'S DEFINITION OF POTABLE WATER.

WHY THEN DO PEOPLE USE BOTTLED WATER OR PURCHASE WATER CONDITIONING EQUIPMENT? FOR MY CUSTOMERS THE REASONS ARE VARIED:

1. SOME DO NOT LIKE THE TASTE OF OUR PUBLIC WATER OR THEIR WELL SUPPLY AND PREFER THE TASTE OF BOTTLED WATER.
2. SOME FIND BOTTLED WATER AESTHETICALLY PREFERABLE SINCE IT IS SUBSTANTIALLY LOWER IN MINERAL CONTENT AND THEREFORE DOES NOT LEAVE A SCUM ON COFFEE OR TEA, GIVES CLEARER ICE, PREVENTS SCALING OF COFFEE MAKERS, ETC.
3. SOME BUSINESSES AND INDUSTRIES IN OUR AREA HAVE POLLUTED WELL WATER SUPPLIES AND NEED BOTTLED WATER TO PROVIDE THEIR EMPLOYEES WITH HIGH QUALITY DRINKING WATER.
4. SOME BUSINESSES AND PROFESSIONS NEED HIGH QUALITY DEMINERALIZED WATER FOR STERILIZERS, LAB TESTS, AND OPERATION OF CERTAIN HIGH TECH LASER WIRE CUTTING MACHINES.
5. SOME HAVE BEEN ADVISED BY THEIR DOCTOR TO USE HIGH QUALITY DEMINERALIZED WATER TO AVOID SODIUM, CHLORINE, ETC.
6. SOME PEOPLE HAVE READ NEWSPAPER ARTICLES, HEARD RADIO REPORTS, OR SEEN TV ACCOUNTS OF PUBLIC AND PRIVATE WATER SUPPLIES BEING POLLUTED EITHER ON A SHORT TERM OR LONG TERM BASIS AND HAVE ELECTED TO DRINK HIGH QUALITY WATER AS AN ASSURANCE THAT THEY ARE NOT INGESTING SOME POLLUTANT KNOWN TODAY OR LEARNED OF 10-20 YEARS FROM NOW.

*Adell*  
*4-1-91*  
*11:00 am*  
*Attn # 2-7*



7. SOME USE IT FOR THEIR HUMIDIFIERS TO PREVENT A BUILD-UP THAT CAN LEAVE A ROOM COATED WITH MINERAL DEPOSITS AND AT THE SAME TIME CAUSE PREMATURE FAILURE OF THAT EQUIPMENT.

ACTUALLY, THE LIST CAN GO ON AND ON. THE POINT IS THAT ALTHOUGH MOST PUBLIC WATER SUPPLIES AND MANY PRIVATE WELL SUPPLIES ARE NOT DANGEROUS AND MAY BE PERFECTLY SAFE TO CONSUME, MANY PEOPLE PREFER TO TREAT THEIR WATER OR BUY BOTTLED WATER FOR A VARIETY OF REASONS.

*Qualification*

MANY OF THE SMALL BOTTLERS IN THE RURAL AREAS OF KANSAS ARE ALSO WATER CONDITIONING DEALERS LIKE MYSELF WHO HAVE MADE TREATMENT OF WATER OUR PROFESSION. FOR EXAMPLE, I AM A WATER QUALITY ASSOCIATION SPECIALIST AND HAVE PASSED THE SPECIALTY EXAMS FOR REVERSE OSMOSIS AND ULTRA-FILTRATION, FOR FILTRATION, AND INSTALLATION. ALSO, I HAVE RECENTLY PASSED CULLIGAN'S NEW SALES LICENSING TEST THAT IS AIMED AT PROVIDING POSITIVE ASSURANCE TO CONSUMERS, CONSUMER ADVOCATES AND LEGISLATORS THROUGHOUT THE NATION THAT LICENSED REPRESENTATIVES WILL MEET THE HIGHEST STANDARDS OF CONDUCT, KNOWLEDGE, AND PERFORMANCE IN THE INDUSTRY. IN OTHER WORDS, WATER IS OUR BUSINESS. WE KNOW HOW TO TREAT IT, HOW TO DESIGN SYSTEMS TO DEAL WITH PROBLEMS FOR PRIVATE WELLS, FOR BUSINESS AND INDUSTRY, AND MUNICIPALITIES. ALSO, WE KNOW HOW TO DESIGN, INSTALL, MAINTAIN, AND OPERATE SMALL BOTTLING OPERATIONS THAT GIVE CONSUMERS AN EXCELLENT PRODUCT FOR A REASONABLE PRICE.

AS PROOF THAT THE JOB IS BEING WELL DONE, I QUOTE FROM A MEMORANDUM, KANSAS LEGISLATIVE RESEARCH DEPARTMENT, MARCH 18, 1991, RE: STATE OVERSIGHT OF BOTTLED WATER SOLD AT RETAIL - S.B. 235:

"THE STATE AGENCY NOTES THERE ARE NO DOCUMENTED CASES OF HEALTH RISKS OR HEALTH PROBLEMS ASSOCIATED WITH BOTTLED WATER BEING SOLD IN KANSAS,.... ADDITIONALLY, THE AGENCY HAS NOT HAD RECENT COMPLAINTS ABOUT THE LABELING OF BOTTLED WATER.....AS OF THIS TIME, THE AGENCY HAS NOT BEEN CONFRONTED WITH ANY PROBLEM THAT DOES NOT COME UNDER THE BROAD REGULATORY AUTHORITY GRANTED BY THE FOOD, DRUG, AND COSMETIC STATUTES." (ENTIRE MEMORANDUM IS ATTACHED.)

I HAVE ALREADY UP-GRADED MY FACILITY SEVERAL TIMES AND INTEND TO CONTINUE TO DO SO AS TIME AND MONEY ALLOW IF GIVEN THE OPPORTUNITY TO REMAIN IN BUSINESS. IT IS MY CONTENTION THAT HIGH QUALITY WATER CAN BE PRODUCED IN A PLANT MUCH MORE MODEST THAN THIS BILL REQUIRES IF:

1. A CREDITABLE SOURCE WATER IS USED LIKE FROM A PUBLIC WATER SUPPLY OR ADEQUATELY TREATED PRIVATE WELL.
2. IF CLEANLINESS IS PRACTICED.
3. IF REASONABLE SANITARY PROCEDURES ARE FOLLOWED.
4. IF PROCESSING IS DONE BY HIGH QUALITY EQUIPMENT THAT IS PROPERLY MAINTAINED.
5. IF WATER IS TESTED ON A REASONABLY SCHEDULED BASIS.

*P. Hall*  
*4-1-91*  
*1:00 pm*  
*Attn #2*

6. IF INSPECTIONS ARE PERIODICALLY CONDUCTED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENT.

THEREFORE, I AM OPPOSED TO THE PASSAGE OF THIS BILL WHICH IS NOTHING MORE THAN A MODEL ACT PREPARED BY THE IBWA - A MODEL ACT WHICH REQUIRES OPERATIONS THAT ARE FEASIBLE ECONOMICALLY ONLY IF THE BOTTLING OPERATION IS DONE ON A HIGH VOLUME SCALE.

*P. H. Wood*  
*4-1-91*  
*1:00 pm*  
*Attn. # 24*

# MEMORANDUM

## Kansas Legislative Research Department

Room 545-N -- Statehouse  
Topeka, Kansas 66612-1586  
(913) 296-3181

March 18, 1991

Re: State Oversight of Bottled Water Sold at Retail -- S.B. 235

Kansas has a Food, Drug and Cosmetic Act found at K.S.A. 65-656 through K.S.A. 65-680 which applies to bottled water that originates in Kansas and is sold in Kansas in the same manner that the federal Food, Drug and Cosmetic Act applies to any bottled water that moves in interstate commerce. The present Kansas act dates to 1953 at which time it replaced an earlier act that was originally adopted in 1907. In large part, the provisions of S.B. 235 would create legislation that replicates the state regulatory and oversight programs now in effect in regard to the safety, labeling, and production of bottled water.

The definition of "food" in K.S.A. 65-656 is very broad as is the federal definition from which the Kansas definition was borrowed. The statute defines food to mean (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article. Through the years the definition has been construed to cover anything that may be ingested by humans. The fact that the definition includes bottled water has apparently never been questioned. Paragraph (p) of K.S.A. 65-656 states "The provisions of this act regarding the selling of food, drug, devices, or cosmetics, shall be considered to include the manufacture, production, processing, packaging, exposure, offer, possession, and holding of any article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such articles in the conduct of any food, drug, or cosmetic establishment." K.S.A. 65-657 sets out those acts that are unlawful, including acts that result in the adulteration (purity and safety) or misbranding (mislabeling) of food (including bottled water), drugs, or cosmetics; false advertising, altering or removal of labels, etc. Paragraph (k) of K.S.A. 65-656 further expands on misbranding as including a label or advertising that is misleading.

Kansas, as is the case in the majority of the states, does not require that any producer of food be licensed. The state does, however, inspect the place in which the food is processed or manufactured, does act if the agency believes the food is mislabeled or misleadingly labeled, does do laboratory testing of samples if such testing appears warranted, and does embargo the sale or movement in commerce of any food the agency believes is not in compliance with the food, drug, and cosmetic laws regardless of whether the compliance issue is one of purity of the food or one of misleading or false labeling. State personnel inspect bottled water plants, of which there have been from 12 to 15 in operation in Kansas in the past year. The inspection involves sanitation, the building itself, the employees, the purity and safety of the water, and any labeling of the bottled water. Although the inspectors used to routinely send samples of the bottled water to the Health and Environment laboratory for testing, the laboratory analysis is no longer done on a routine basis. However, the agency laboratory has the equipment and capability of doing testing if state personnel have reason to believe that testing is needed or if complaints are received.

According to state personnel, most of the bottled water sold in Kansas starts as water taken from an approved public water supply and is then processed. Public water supplies are regulated pursuant to state and federal laws in Kansas. Water that is labeled as mineral free or chemical free

*P. J. Kelly*  
4-1-91  
1:00pm  
Attn: 2-7

or pure water usually is put through a deionizing or other process which results in the removal of minerals and chemicals that may have been added during the water purification process. Bottled water cannot lawfully be labeled as distilled water unless it has been put through a steam distillation process, a process that is more expensive than the processes used simply to remove minerals and chemicals. Only two of the bottled water operations in Kansas actually produce distilled water. Any other claim that might be made on the label such as "spring water" or "mineral free" would have to be factual, and the source of the water would be subject to state regulation.

Attached is a copy of a label from the bottled water used in the Research Department, which as can be noted, is labeled as drinking water. Other claims are also made on the label, with the primary one being that the water is sodium free. Further reading of the label states that the water is pure water purified by deionization, with added minerals as listed. The label also qualifies the "sodium free" statement as meaning that the water has less than 5 milligrams of sodium per 8 fluid ounce serving. Assuming that laboratory testing showed that the claims made on the label are in fact true, it would appear that the product is not mislabeled or falsely labeled. The label does not claim that the product is distilled water, spring water, mineral water, or make any other claim. Bottled water for sale in two grocery stores in Topeka was also checked by Research staff. One of the stores stocks bottled water labeled as distilled water, the other did not stock distilled water. The distilled water bottle included on the label a statement that the water was distilled through a steam distillation process, along with other information, including the statement that the original source of the water was a public water supply. The second was labeled as "pure water" with additional information as to the process used in treating the water and the minerals, etc. in the bottled product.

The Secretary of Health and Environment has not adopted specific rules and regulations relating to bottled water, nor have specific standards been adopted for most foods processed and sold solely in Kansas which come under the jurisdiction of the state food, drug, and cosmetic laws. Consideration has been given to adopting one of three different standards for bottled water -- the federal rules (see enclosure), the standards of the International Bottled Water Association (IBWA), or the standards of the Association of Food and Drug Officials (AFDO). S.B. 235 would establish the standards of the IBWA as the Kansas standards. Rules and regulations are not necessary, however, for the agency to take action under the state food, drug, and cosmetic laws.

S.B. 235 is essentially a model act prepared by the IBWA. The bill creates definitions, many of which are already in federal definitions; references the federal standards found at 21 CFR 103 *et seq.*; enacts the federal standards relating to processing found at 21 CFR 110 *et seq.*; requires the plant operator to be responsible for monitoring of approved sources (these should already be being monitored by the operator of the source and the state); requires bottled water to be labeled as required by state and federal law; requires monitoring of the bottled product; and sets out chemical quality standards which would enact into law federal standards that are changed from time to time.

The state agency notes there are no documented cases of health risks or health problems associated with bottled water being sold in Kansas, whether water that moves in interstate commerce or water that moves in intrastate commerce only. Additionally, the agency has not had recent complaints about the labeling of bottled water. Agency personnel state they do get calls from persons seeking information about bottled water and from processors who are interested in selling their product in Kansas. As of this time, the agency has not been confronted with any problem that does not come under the broad regulatory authority granted by the food, drug, and cosmetic statutes.

*Phell*  
*4-1-91*  
*1:00 pm*  
*Attn # 2-6*



QUALITY WATER

*J. Jones*

P. O. BOX 881

SALINA, KANSAS 67402-0881

PHONE 825-4912

House Public Health & Welfare Committee  
Carol H. Sader: Chairperson

Re: Bill #235  
An act concerning bottled water: adopting certain standards and regulations.

Thank you for the opportunity to express my opinion concerning the above bill.

Six and one half years ago when my wife and I were thinking of buying the business that we now own I checked with the State Health Dept. to make sure that all regulations were being complied with concerning bottled water that was being produced, by the former owner, at that time. They assured me that everything was ok. One year ago we moved to a large building, made some more improvements, spent thousands of dollars and the State Health dept. is satisfied that we are producing high quality bottled water under sanitary conditions. In fact they have commented that our bottling facility is by far cleaner than any restaurant or other food institution that prepares & serves food.

Bill No. 235 was drafted after the International Bottled Water Association's (IBWA) regulations. IBWA is controlled by the large bottling companies and if they have their way small companies like myself and many more will be forced out of business. The IBWA estimates that it would cost 1.2 million dollars to build a plant to comply with all the regulations proposed in bill No. 235. If we small bottlers are forced out of business the price for bottled water in rural areas of Kansas would skyrocket because of the limited number of bottlers, lack of competition, and high freight costs.

I feel that if we are inspected by the State Health Dept. on a regular basis and if we comply with their suggestions that we do not need more regulations

*PJKW*  
*4-1-91*  
*1:00 pm.*  
*Attn # 3*



QUALITY WATER

P. O. BOX 881

SALINA, KANSAS 67402-0881

PHONE 825-4912

House Public Health & Welfare Committee  
Page II

that could regulate many small businesses out of business. If I was forced to stop bottling water five families in our company would be affected. Bottled water accounts for one third of our company's total income.

There has never been a complaint turned in on any small bottling company in Kansas. If there had been a problem I would agree that more regulations are needed. However, we all operate under sanitary conditions, use strict means of sterilizing (either ozone or ultraviolet), and have an independent lab test regularly for any microbiological contamination. If the State Health Dept. continues to inspect us we will have no problem and no more regulations are needed.

Being reasonable, a five gallon bottle could be contaminated by a factory worker or home owner as it is being placed on a dispenser by dirty hands. That is hard to regulate. Another place of possible contamination is at the water vending machine. Those machines do not use ozone and they can be contaminated at outlet faucets by someone simply touching it or placing some foreign material on it. Plus there, if the consumer brings in a bottle that is not properly cleaned the water is contaminated when it enters the bottle. My point is that we small bottlers are already operating under cleaner & stricter conditions than any vending machine can possibly match.

We process our water by first softening the Salina Municipal water, then pass it through activated charcoal to remove organics and then through a reverse osmosis system to reduce the total dissolved solids. After this we bubble ozone through the water. Our bottles are washed in a high temperature washer. As we fill these clean bottles the ozonated water acts as a sterilizing agent for the bottles as well as the water.

*PKW*  
*4-1-91*  
*1:00 pm.*  
*Attn #*  
*3-2*



QUALITY WATER

P. O. BOX 881

~~755 N. 12th~~

SALINA, KANSAS 67402-0881

PHONE 825-4912

House Public Health & Welfare Committee

Page III

There is probably a need for some change in regulations on bottled water but if Bill No. 235 is passed the way that it is written it will create a financial hardship on several small businesses in Kansas. Therefore, I oppose this bill but would be willing to work with a committee to help propose a bill that will protect the consumer as well as being palatable to the small bottlers of Kansas.

Thank you,

  
Terry L. Zimmer

cc: Allen White  
Eloise Lynch  
John McClure

*P.H.W.*  
*4-1-91*  
*1:00 pm.*  
*Attn #*  
*3-3*

227



CULLIGAN WATER CONDITIONING

101 W. AVE. E.

P. O. BOX 118

HUTCHINSON, KS 67501

PHONE 316-669-9375

Public Health and Welfare Committee

4-1-91

My concern over Senate Bill #235 is whether or not my business will be able to continue bottled water service to my customers. We have been producing, bottling, and delivering bottled water in 5-gallon containers for 37 years. Our bottled water revenue is just over \$36,000 or about 10% of our total revenue.

My first job with this business was "the bottled water man". In our size business, this is an umbrella description for the employee who maintains the equipment, produces, bottles, and delivers bottled water. He must also take care of the customers who purchase the water from our company.

When I started (1976), all the bottles used in our bottled water service were made of glass. However, all the bottles nowadays are plastic because of the possibility of workers compensation claims with the breakable glass. Initially, the water was steam distilled but since then, production has predominantly switched to reverse osmosis, deionization, and activated carbon filtration along with ultraviolet lights and ozonation for disinfection.

My plans for this year were to update my plant to include an automatic bottle washer, clean room, and ozonator. To do this, my estimates on capital expenditures would total approximately \$18,000. In January, I started buying bottled water from Culligan in Wichita and will do so until we complete this remodeling in 6 to 9 months. However, with this impending legislation, I would not only not be in compliance with my updated plant, but would have to spend

*P. Hall  
1:00 pm 4-1-91  
Attn # 4*





CULLIGAN WATER CONDITIONING

101 W. AVE. E.

P. O. BOX 118

HUTCHINSON, KS 67501

PHONE 316-669-9375

approximately two (2) years of total gross revenue of my business to get into compliance. That is not feasible or realistic in a smaller market. In my opinion it just isn't necessary to use IBWA guidelines for bottled water. With my updated facilities mentioned earlier, I will produce a very high quality bottled water and have excellent bottling procedures.

I believe this legislation and its implications will be prohibitive to my bottled water business. By passing this legislation, the cost per bottle to consumers in the rural areas would skyrocket to 3 or 4 times current levels and would likely eliminate the delivered portion altogether. I urge you to throw out this bill and ask the Kansas State Health Department for some realistic guidelines for them to monitor. I would also ask, "why is there a need to pass such strong legislation on a business profession that has had no complaints from our customers and your constituents?"

Thank you,

Ron Quick

PHW  
4-1-91  
1:00 pm.  
attm 4-2

235



# State of Kansas

Joan Finney, Governor  
Department of Health and Environment  
Division of Health

Acting  
Stanley C. Grant, Ph.D., Secretary

Landon State Office Bldg., Topeka, KS 66612-1290

Respond to: (913) 296-1343  
FAX (913) 296-6231

Testimony presented to  
House Public Health & Welfare Committee  
by  
The Kansas Department of Health and Environment  
Senate Bill 235

For the past several years, public concern regarding microbiological and chemical contaminants in the food supply has increased dramatically. The current Kansas Department of Health and Environment regulatory program addresses adulteration, misbranding, and general sanitation aspects of bottled water manufacturing but does not mandate specific compliance with regard to product sampling and compliance with standards for contaminants. Federal requirements are applicable only to interstate products.

S. B. 235 incorporates recommendations of the International Bottled Water Association and CFRs adopted by the U.S. Food & Drug Administration. We do not currently have specific requirements comparable to those proposed by S. B. 235. However, as a matter of routine, we at the Kansas Department of Health and Environment promote the provisions of 21 CFR, Sections 103.35, 110 and 129 referenced in S. B. 235. During our inspection activities and consultations with new and potential water bottling firms, we have emphasized that compliance with such CFRs would provide a quality product permitted to be distributed in interstate commerce.

We at the Kansas Department of Health and Environment feel there are three issues needing clarification. First of all, the provisions of this bill require water sampling to be performed by qualified personnel. The bill does not address the basis for determining such qualifications. Secondly, there is no requirement for bottled water plant operators or water dealers to report non-compliance with regard to contaminants to the Secretary. We feel this is important with regard to product recalls and notifications to the consuming public. Last of all, there are no sanctions for non-compliance. The first two issues could be addressed through the Secretary's authority to adopt regulations necessary to administer and enforce this act.

*PHW*  
*4-1-91*  
*1:00 pm*  
*Attn #5*

SB 235

-2-

We at the Kansas Department of Health and Environment support favorable consideration of S.B. 235.

Testimony presented by: Stephen N. Paige  
Director  
Bureau of Environmental Health Services  
April 1, 1991

*PNW*  
*4-1-91*  
*1:00 pm*  
*Attn #5-2*