

Approved 3-26-92

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Sen. Edward F. Reilly, Jr. at 11:00 a.m. on February 27, 1992 in Room 254-E of the Capitol.

All members were present except:

Committee staff present:

Mary Galligan, Legislative Research Department
Mary Torrence, Office of Revisor of Statutes
Jeanne Eudaley, Committee Secretary

Conferees appearing before the committee:

Senator Rock
Senator Gaines
Albert Hogoboom, Pres., Quarter Horse Racing Assoc.
R. Teichgraeber, Kansas Quarter Horse Racing Assoc.
Dana Nelson, Executive Director, Kansas Racing Assoc.

Others attending: See attached list

Senator Reilly called the meeting to order and introduced Sen. Rock, who gave the committee a history of the state march and then played SB 710, "Here's Kansas". Sen. Morris commented on the advantages of having words to go along with the music and Sen. McClure had another suggestion for a state march.

Sen. Reilly introduced Sen. Gaines who explained SB 639 and the difficulties at the Eureka Downs racing facility. He then introduced Albert Hogoboom, President of Kansas Quarterhorse Racing Association who gave the committee additional information (Attachment 1).

Sen. Vidricksen asked Mr. Hogoboom if the Woodlands supported this legislation, and he answered that they did and went on to explain about other race tracks throughout the state. Sen. Morris asked if this bill would be an advantage to any one group, and Mr. Hogoboom answered that the two organizations, the Thoroughbred Association and the Quarter Horse Association, would serve both organizations. Mr. Teichgraeber also gave the committee additional information on Eureka Downs.

Committee members asked Dana Nelson, Executive Director, Racing Commission, questions regarding administrative problems if this bill were passed. Mr. Nelson stated that he felt all problems could be dealt with and that he would support the bill, since it appears there are no buyers for Eureka Downs. He then went on to explain how Eureka Downs would be regulated the same as the other race tracks. The chairman appointed a sub-committee, consisting of Sens. Vidricksen, Ward, Bond and himself to review the bill before the committee takes action.

Sen. Reilly called the committee's attention to SB 710 and after discussion, Sen. Walker moved that on Page 1, Line 12, "the" be changed to "an"; that on Page 3, Line 34, Section 2 be removed and that the committee pass the bill as amended. Sen. McClure seconded the motion, and the bill will be recommended as amended.

Sen. Reilly referred to a letter (Attachment 2) from Clark Duffy, Assistant Director of the Kansas Water Office, regarding home water treatment devices. Since the same provisions are contained in HB 2036, the committee asked the chairman to talk with Rep. Grotewiel, Chairman of the House Energy and Natural Resources Committee, before taking action on this request.

Sen. McClure explained a proposal (Attachment 3) regarding boards of county commissioners. Sen. Morris moved the committee introduce the proposal, and Sen. Walker seconded the motion. The motion passed.

Sen. Reilly called attention to SCR 1638, and Sens. Vidricksen and Bond outlined where lottery revenues will be directed under the present lottery statute and those outlined in SCR 1632, which is up for debate in the Senate today. HB 3085, which is in the House Governmental Organization Committee, and its provisions were discussed, and staff explained the Sunset provisions in the lottery law. Sen. Reilly stated that if SCR 1632 passes, there is no need for this bill. Sen. Walker emphasized the impact would be greater if SCR 1632, 1638 and 1639 were all out of committee and up for debate in the Senate.

Sen. Walker moved that SCR 1638 be recommended favorably and Sen. McClure seconded the motion. The motion passed. Sens. Daniels and Ehrlich passed.

Sen. Walker moved that SCR 1639 be recommended for passage, and the motion was seconded by Sen. Strick. The motion failed.

The meeting adjourned at 12:00.

Attach

February 24, 1992

Senator Edward F. Reilly, Chairman
Federal and State Affairs Committee Members
Kansas State Senate
State Capitol Building
Topeka, Kansas

My name is Albert Hogoboom, I am President of the Kansas Quarter Horse Racing Association. I am here in support of Senate Bill 639.

This legislation was introduced to provide the horse racing industry in Kansas a workable solution to help stop the spiraling economic decline which has resulted from the introduction of parimutuel racing in the State.

The approval of parimutuel racing and the subsequently necessary level of stringent regulation which accompanies any venture associated with the gaming industry combined to render small tracks with a tremendous financial burden. Before this problem became apparent, and subsequent legislation was passed to provide for some relief from the costs of compliance for county fair associations the primary facility which supported the horse racing industry in Kansas was rendered financially bankrupt. This facility is, of course, Eureka Downs. For over 100 years the horse racing industry in Kansas had centered around the non-parimutuel racing at Eureka. The track offered an opportunity to try the young horses bred in Kansas and identify those which had the ability to go on to other states where the financial incentives were greater.

Lack of experience in the highly regulated parimutuel management of a race track, and the increased financial burden of updating the facility at Eureka all contributed to the resultant financial problems of the Greenwood County Fair Association, but the end result has been a financial devastation to the owners, breeders, and trainers who had relied on this track.

Additionally, it is now apparent that a track in a location so far removed from a major population center will not in the foreseeable future attract financial backing from an investor who does not have a vested interest in the racing industry. The bill you are considering today is proposed as a way to allow financial participation by those with the largest financial investment, therefore a real incentive to make a race track succeed without the profit levels which would be required by an outside investor.

The amendments in Section 1 define a horsemen's association as an organization formed and financed by licensed owners and trainers. It limits this type of organization in that it would only be allowed for the operation of Eureka Downs, and no participant in

Att. 1
1

this association may be a participant in another facility. (The only other facility at this time is the Woodlands, and this provision was included to avoid any possibility of a conflict of interest or creation of a monopoly in the ownership and operation of a racetrack.) In order to comply with the constitutional provision that parimutuel racing must be conducted by a nonprofit organization, the organization which is responsible for the conduct of the races must be a duly recognized not for profit organization formed with compliance to Kansas laws. This "non-profit" would have the same responsibilities as any other organizational license for parimutuel racing in Kansas and while they could not delegate either the responsibility or authority it would allow the licensed horsemen to participate so long as all of the currently existing compliance requirements were met.

In Section 2 the amendments would make the necessary revisions to the criminal penalty sections of the law to allow this horsemen's organization to operate under the conditions specified in the definitions without criminal penalty. The only other amendment in this section is the language in (c) which would allow the Racing Commission under the authority granted in current law to utilize the services of an advisory committee without the conflict with existed currently in this section which made those who participated on an advisory committee subject to criminal penalty if they were licensed to participate in racing.

Section 3 contains the language to require the horsemen's nonprofit organization to distribute its net earnings according to current law for nonprofit organizations and to require the new organization to comply with current law applicable to county fair or small track facilities in submission of financial information.

Section 4 provides the changes necessary to implement the licensing procedures for the new organization consistent with current law for fair associations.

The approval of this legislation will allow the formation of a "cooperative venture" with the financial participation of people who own and train racehorses. It will permit the same high level of regulation and enforcement required in Kansas law currently. The benefit to the State will be created by a renewed economic incentive to keep the breeding and racing industry functional. This benefit will be good for all breeds of horses which are currently being raised in Kansas because, unlike the Woodlands with its exclusive participation by thoroughbred and quarter horses, Eureka has been a home to all breeds which wished to race in the State. Given the financial difficulties of the Woodlands, and subsequent approval for even fewer racing days in 1992 an organization which allows the financial participation of those with the most to lose if horse racing is eliminated is the best possible way to keep the industry viable.

STATE OF KANSAS



Joan Finney, Governor

KANSAS WATER OFFICE
Stephen A. Hurst
Director

February 18, 1992

Suite 300
109 SW Ninth
Topeka, Kansas 66612-1249
913-296-3185

The Honorable Edward F. Reilly, Jr.
Kansas Senator
Rm. 255-E, Statehouse
Topeka, KS 66612

Dear Senator Reilly:

Thank you for your interest in considering proposed legislation regarding home water treatment devices.

During 1990, the Kansas Water Authority and Kansas Water Office studied this issue. This study resulted in a new sub-section in the *Kansas Water Plan*. During the 1991 legislative session, the Kansas Water Authority requested introduction of H.B. 2036 to implement this sub-section. This bill received a hearing in the House Energy and Natural Resources Committee. Although that bill is still in the committee, action is not anticipated during this legislative session.

If you decide to pursue legislation in this area, the Kansas Water Office and the Kansas Water Authority will assist in any way possible. By way of background, enclosed are the following materials.

1. Home Water Treatment Devices Sub-section of the *Kansas Water Plan*, Kansas Water Authority, July 1990.
2. H.B. 2036.
3. Summary of H.B. 2036 testimony.

This summary was prepared by the Kansas Water Office. It identifies proponents and opponents to H.B. 2036 and provides the main reasons for their position.

4. A letter dated March 12, 1991, to The Honorable Ken Grotewiel, Chairman of the House Energy and Natural Resources Committee, with attachments.

Attach.

Att. 2
1

The Honorable Edward F. Reilly, Jr.
Page 2
February 18, 1992

At the conclusion of the hearings on H.B. 2036 last session, the Kansas Water Office met with the Kansas Water Quality Association to determine if H.B. 2036 could be modified to address industry concerns. The result is the attachment which suggests a number of amendments to H.B. 2036. The Kansas Water Quality Association did support H.B. 2036 with the proposed amendments on March 7, 1991.

5. Letter from Jim Boyer, representing the Kansas Water Quality Association, to the Kansas Water Office dated September 18, 1991, which states an updated position of that organization.

The Kansas Water Office still supports H.B. 2036 with the proposed amendments. However, I do not believe the industry will support any legislation dealing with home water treatment units at this time.

Again, the Kansas Water Office and the Kansas Water Authority will assist you in any way we can should you choose to pursue legislation on this subject.

Sincerely,



Clark R. Duffy
Assistant Director

CRD:dk
Enclosures

Kansas Water Plan Quality Section

Sub-section: Home Water Treatment Devices

Kansas Water Office
109 S.W. Ninth, Suite 200
Topeka, Kansas 66612-1215
913-296-3185
An Equal Opportunity Employer

Pages 1-5

Introduction	2
Concepts	2
Policy Issues, Options and Recommendations	3
Dealer Practices	3
Product Certification	3
Consumer Education	3
Summary of Policy Recommendations	4
Plan Implementation	4
Legislative Action	4
Administrative Action	4
Financial Requirements	4
Time Schedule	5
References	5

FY 1992

***Approved
by the
Kansas Water Authority***

July 1990

*Att. 2
3*

Home Water Treatment Devices

INTRODUCTION

Public water supply systems provide water that meets or exceeds standards required by the federal and state statutes. However, private drinking water supplies are not subject to these standards. Potential contamination problems and general public awareness of health-related issues have raised concerns among many consumers about the quality of their water regardless of their source of water supply. Also, many public water supply consumers want their water to exceed legal standards. As a result, an increasing number of consumers are turning to home water treatment devices in order to improve or safeguard their water quality. According to a projection by the *U.S. Water News*, the home purification market is projected to double from \$1.7 billion dollars in sales in 1989 to 3.8 billion by 1995.

Most sellers of such products engage in fair sales practices. But, as with any industry, some promoters of residential water treatment products have engaged in deceptive business practices. The use of scare tactics and exaggerated or unsupported claims has been documented and has been recognized as a problem for consumers interested in improving or safeguarding their water quality. In Kansas alone, during the last year, the Office of Attorney General, "on an average received anywhere from three to ten inquiries (telephone calls) per day regarding these types of promotions."

An informal survey by the Kansas Water Office indicated that the Consumer Protection Division of the Attorney General's Office "received some 35 complaints within the last year." However recently there has been a drastic increase in this problem. Between February 1990 to June 1990, there have been more than 40 complaints against one company alone.

This problem is compounded by the complexity of the sources of potential contamination and the technical nature of most residential water treatment devices.

Kansas Consumer Protection Act (K.S.A. 50-623 *et seq.*) authorizes the Attorney General to protect consumers against fraud, deception or misrepresentation covering consumer goods and sales practices. However, these laws are not meant to deal with problems specifically related to home water treatment devices. It is very costly and time consuming for the Attorney General's Office to prosecute and convict the offenders who make misleading or false claims for their devices. With clear requirements on performance claims on the books, the Attorney General will be better able to enforce the consumer protection laws relating to home water treatment devices.

The Kansas Department of Health and Environment which has the regulatory responsibility for water quality currently has no legal authority to require or verify performance claims by the dealers of home treatment devices.

This void in the area of consumer protection and water quality regulation creates a lack of consumer confidence in the industry, at a time when the general public is concerned about the protection of their health from water pollution and contamination.

CONCEPTS

In June 1988, the Water Quality Association of the United States published a brochure entitled, "Water Quality Improvement Industry Voluntary Product Promotion Guidelines." The promulgation of these guidelines was prompted by concerns expressed to the Water Quality Association by various local, state and federal agencies of the United States and Canada, and the members of the water quality improvement industry. These concerns alleged "that the general level of industry advertising and promotional claims often fall below acceptable norms of accuracy and completeness." The sole purpose of these guidelines is to "provide guidance to companies in the point-of-use water quality improvement industry in their efforts to minimize the likelihood that their advertising and promotional material will mislead the public." These voluntary guidelines advise the member companies to ensure that "product performance claims and product benefit claims shall be based on factual data" and not to use "statements which are untrue, misleading, deceptive, fraudulent or which constitute insincere offers to sell."

These guidelines issued by the Water Quality Association are steps in the direction of protecting consumer interests. These guidelines help those companies who want to run an ethical, professional and reputable business. However, internal industry safeguards are powerless to protect consumers against those businesses which are unethical.

There is also a lack of consumer education. Many consumers do not generally know about the quality or safety of their own water supplies. They are also unfamiliar with the need and effectiveness of home water treatment devices and the appropriate devices for their specific problem. It is, therefore, necessary to develop a program to educate consumers on the necessity, use and effectiveness of residential water treatment products.

POLICY ISSUES, OPTIONS AND RECOMMENDATIONS

The issues involved in developing a sound policy on home water treatment devices are as follows:

1. To educate consumers so they can deal with reputable people who are knowledgeable about these products and engage in lawful sales practices.
2. To provide for certification of such products so that consumers are informed of the product's performance and to make it easier to prosecute those dealers who make misleading or unverified claims about their products.
3. To educate the consumers on the necessity, use and effectiveness of residential water treatment products.

Dealer Practices

There should be a mechanism whereby consumers can be assured that they are dealing with reputable people who are knowledgeable about water quality and home water treatment devices and engage in lawful sales practices.

The first option is to rely on consumer education. In this option the Cooperative Extension Service will educate the public on the Consumer Protection Act and on how to differentiate between reputable businesses and unreliable high pressure salespersons.

The second option is to require dealers to register with the Kansas Secretary of State, so that in case of fraud or other illegal practices the state could prosecute the owners and directors of the corporations rather than individual sales persons. However, dealers with no technical knowledge about drinking water quality standards could still register and continue to operate without any effective checks and assurances of quality.

The third option is to require the licensing of all sellers or installers of home water treatment devices. All these persons would be required to show adequate technical qualifications or pass an equivalent test to be administered by the State of Kansas. Such a requirement would assure the consumer that the dealer is performing a professional service and possesses some basic knowledge about water chemistry, drinking water standards and the performance of the water treatment devices.

The first option is recommended, because the other options will be infeasible to enforce and may adversely affect some genuine businesses.

Product Certification

A few sales persons try to sell their water treatment devices on the basis of unsupported or exaggerated claims. The consumer has no way to

judge whether these functions will be actually performed and for how long, because currently there is no requirement that claims be verified by qualified independent testing agencies.

The first option is to rely on consumer education. This could be done by public education on the performance data and capabilities of home water treatment devices.

The second option is for the state to adopt the standards and certification of the National Sanitation Foundation and to require that product benefit claims and product performance claims regarding water treatment devices are certified before sale, by the National Sanitation Foundation. A certificate of testing by the National Sanitation Foundation along with the test results and manufacturer's performance data sheet(s) will be included in a product information package accompanying home water treatment devices sold in Kansas.

The second option is recommended, because this will ensure consumers are informed regarding expected performance of the product. The option will also help the Attorney General to prosecute those dealers who make unsubstantiated claims about their products.

Consumer Education

It is necessary to educate consumers on the necessity, use and effectiveness of residential water treatment products.

The first option is to enhance the consumer education program of Cooperative Extension Service. This agency has published many handouts on home water treatment devices such as "(1) Questions to Ask Before Buying Water Treatment Devices, (2) Activated Carbon Filters and (3) Understanding Your Water Test Report." In addition they have been holding workshops for educating the public on water quality including the necessity, use and effectiveness of home water treatment devices. Under this option the Cooperative Extension Service would publish a consolidated consumer information handbook in easily understandable language. This handbook would cover all the aspects of home water treatment devices, i.e., when to consider buying such devices, which devices are suitable for different situations and how to properly operate and maintain them. In addition the handbook would educate consumers on their rights and responsibilities under the Consumer Protection Act and how to resolve any complaints regarding these devices. This handbook would be distributed freely to the public and would be sold to manufacturers or dealers who will be required to include it in the packages of home water treatment devices intended for sale in Kansas. The Cooperative Extension Service in cooperation with the Kansas Department of Health and Environment and the local health departments would also hold educational workshops throughout the state to inform consumers about the water quality in that part of the state and the necessity, use and effectiveness of the

home treatment devices. This program would be run along with the educational program of protection of private well water supplies. The Cooperative Extensive Service would also assist local public water suppliers in educating their consumers regarding the quality of their water supplies. This would be done using inserts with the monthly billing that provide information on the utilities water test results, and the state drinking water quality standards. The county extension agents would maintain updated lists of certified laboratories for guiding private well owners to get their water tested from reliable sources.

In the second option, the Kansas Department of Health and Environment would assemble a consumer information handbook to accompany the sale of any home water treatment device. This handbook would cover such items as drinking water quality standards, where to get water tested, when to consider installation of home water treatment devices, how to ensure that businesses dealing with home water treatment devices are genuine, what kind of information consumers are entitled to have before purchase, and what remedies are available if the products do not perform as claimed. Also, as proposed in the sub-section on "Protection of Private Well Water Supplies" all laboratories, testing water supplies would be required to be certified by the state (excluding simple screenings). The county health officials and county extension agents would maintain an updated list of such certified laboratories.

In the third option public water suppliers would be encouraged to educate the public on the quality of local public water supplies and address public concerns regarding the safety of their water supplies on a regular basis.

The first option is recommended because it is prudent to utilize the expertise of the Cooperative Extensive Service that has already done significant work in developing consumer informational material and holding public education workshops.

SUMMARY OF POLICY RECOMMENDATIONS

1. Require that product benefit claims and product performance claims regarding home water treatment devices are certified before sale by the National Sanitation Foundation.
2. The Cooperative Extension Service should enhance its education program on the necessity, use and effectiveness of home water treatment devices, the dealer business practices and Consumer Protection Act.

PLAN IMPLEMENTATION

LEGISLATIVE ACTION

Legislation is needed to:

1. Require that the state adopt the standards and certification of the National Sanitation Foundation and to require that product benefit claims and product performance claims relating to home water treatment devices intended for sale in Kansas are certified by the National Sanitation Foundation.
2. Require that the product information packages for home water treatment devices intended for sale in Kansas include (1) consumer information handbook prepared by the Cooperative Extension Services, (2) certification of product benefit claims and product performance claims by the National Sanitation Foundation and (3) manufacturer's performance data sheet.

ADMINISTRATIVE ACTIONS

1. The Kansas Water Office will submit proposed legislation.
2. The Cooperative Extension Service will:
 - a. Enhance its public education program on the necessity, use and effectiveness of the home treatment devices, the rights and responsibilities of the consumer under the Consumer Protection Act and how to differentiate between genuine businesses and high pressure sales persons.
 - b. Assemble a consumer information handbook.
 - c. Assist local public water suppliers in educating their consumers.
3. The county extension agents will maintain updated lists of certified laboratories for guiding private well owners to get their water tested from reliable sources.

FINANCIAL REQUIREMENTS

This program will not result in additional fiscal impact to the state. The educational program will be a part of existing Cooperative Extension Service programs, and the program for protection of private well water supplies. The cost of printing the consumer information handbook will be recovered from its sale to the manufacturers and dealers of home water treatment devices.

TIME SCHEDULE

The necessary legislation will be introduced in the Legislative Session of 1991. The program will be operational in fiscal year 1992.

REFERENCES

1. Kansas Water Office, *Home Water Treatment Devices, Background Paper No. 50, Kansas Water Plan*, November 5, 1989.
2. K.S.A. 50-623 *et seq.*, Kansas Consumer Protection Act.
3. Water Quality Improvement Industry, *Voluntary Product Promotion Guidelines*, June 1988.
4. *USA TODAY*, "Fraud Springs From Water Fears." Monday, August 8, 1989.
5. Telephone talks with Teresa Nelson of the Office of the Attorney General.
6. Letter dated November 28, 1989, from Teresa Nelson, Special Agent Consumer Protection Division, Office of the Attorney General, Topeka, Kansas.
7. Telephone talks with Lou Allen, Attorney Consumer Protection Division, Office of the Attorney General and Betty Rose, Secretary Board of Technical Professions, Topeka, Kansas.
8. Meeting dated December 15, 1989, with representatives of Water Quality Association, Patrick Theisen, Executive Director Government Affairs, Chicago; Jim Boyer, Member, McPherson; and Jim Gorver, Member, Wichita, Kansas.
9. American Water Works Association, *AWWA Main Stream*, "Controversy in Home Water Treatment Devices," December 1989.
10. Personal conversation with Teresa Nelson and Lou Allen of the Office of the Attorney General, date January 2, 1990.
11. Telephone talk with Sherman Parks, Attorney of the Office of the Secretary of State, date January 5, 1990.
12. Letter dated January 18, 1990, from Teresa Nelson, Special Agent Consumer Protection Division, Office of the Attorney General, Topeka, Kansas.
13. Letter dated February 12, 1990, from the Attorney General, Robert Stephen to Joseph Harkins, Director, Kansas Water Office.
14. *U.S. Water News*, "Home Purification Market Projected to Double," March 14, 1990.

HOUSE BILL No. 2036

By Committee on Energy and Natural Resources

1-23

8 AN ACT relating to drinking water treatment units; establishing
9 certain requirements relating thereto; prohibiting certain acts and
10 providing remedies for violations.
11

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

13 Section 1. This act shall be known and may be cited as the
14 Kansas drinking water quality and treatment units act.

15 Sec. 2. For the purpose of this act, unless the context otherwise
16 requires:

17 (a) "Consumer" means any person who purchases, leases or rents
18 a drinking water treatment unit, not for resale or use in the ordinary
19 course of a trade or business, but for providing drinking water for
20 household or business use.

21 (b) "Contaminant" means any undesirable physical, chemical, ra-
22 diological or microbiological substance or parameter in water for
23 which there is a federal or state maximum contaminant level (mcl),
24 secondary maximum contaminant level (smcl) or guideline.

25 (c) "Drinking water treatment unit" means any unit used to treat
26 all or part of the water for a household or business at the point of
27 entry or any plumbed in or faucet mounted unit for which a claim
28 is made that it will improve the quality of water by changing or
29 reducing one or more contaminants through mechanical, physical,
30 chemical or biological processes, or combinations thereof. For the
31 purposes of this act, each model of a drinking water treatment unit
32 shall be deemed a distinct drinking water treatment unit.

33 (d) "Manufacturer's performance data sheet" means a booklet,
34 document or other printed material containing, at a minimum, the
35 information required by section 5.

36 (e) "Seller" means a person who is in the business of offering
37 drinking water treatment units for sale, lease or rent to consumers
38 and shall include sales representatives.

39 (f) "Surrogate" means a chemical compound with similar reaction
40 characteristics as the target contaminant.

41 Sec. 3. (a) It is unlawful for a seller to sell, lease, rent or offer
42 for sale, lease or rent any drinking water treatment unit unless:

43 (1) Each model has been tested and certified by the National

Att. 2
8

1 Sanitation Foundation, Ann Arbor, Michigan, or its other authorized
2 branches; and

3 (2) each model has met the performance and materials testing
4 requirements specified in the latest revisions of the applicable stand-
5 ards of the National Sanitation Foundation; and

6 (b) It is unlawful for a seller to sell, lease or rent any water
7 treatment unit unless the consumer has first signed and dated a
8 statement that the consumer, prior to the consummation of the sale,
9 lease or rental, has received and read the product information pack-
10 age which includes: (1) The consumer information handbook provided
11 for by section 6; (2) certification of product benefit claims and product
12 performance claims by the National Sanitation Foundation; and (3)
13 the manufacturer's performance data sheet.

14 Sec. 4. In the case of customized drinking water treatment units
15 or systems integrated or assembled on site or designed for site-
16 specific needs, the individual water treatment components need not
17 be certified again if already certified. However, the customized sys-
18 tem as a whole must be certified for any claims not covered by the
19 individual units.

20 Sec. 5. (a) The manufacturer's performance data sheet shall be
21 written in layperson's language and printed with standard or over-
22 sized type and shall include, but not be limited to:

23 (1) The name, address and telephone number of the manufacturer
24 (i.e., the person who makes, assembles, fabricates or constructs the
25 drinking water units).

26 (2) The name, brand or trademark under which the drinking
27 water treatment unit is sold and its model number.

28 (3) Performance and test data including, but not limited to:

29 (A) The list of contaminants certified to be reduced or changed
30 by the drinking water treatment unit;

31 (B) the test influent concentration level of each contaminant or
32 surrogate for that contaminant;

33 (C) the percentage reduction, change or effluent concentration
34 of each contaminant or surrogate;

35 (D) the maximum permissible concentration of a contaminant in
36 water as established in the U.S. environmental protection agency
37 primary drinking water regulations;

38 (E) the approximate capacity in gallons;

39 (F) the period of time during which the unit is effective in re-
40 ducing or changing the contaminants based upon the contaminant
41 or surrogate influent concentrations used for the performance tests;
42 and

43 (G) the flow rate, pressure and operational temperature of the

1 water during the performance test.

2 (b) The following information must be contained on the perform-
3 ance data sheet or may be referenced to the owner's manual or to
4 other material given to the buyer:

5 (1) Installation instructions; and

6 (2) the recommended operational procedures and requirements
7 necessary for the proper operation of the drinking water treatment
8 unit including, but not limited to, electrical requirements; maximum
9 and minimum pressure; flow rate; temperature limitations; mainte-
10 nance requirements; and, where applicable, replacement
11 frequencies.

12 Sec. 6. A consumer information handbook to be provided to the
13 consumer of a drinking water treatment unit shall be prepared by
14 the cooperative extension service, Kansas state university, Manhat-
15 tan, Kansas, and shall be updated periodically. The handbook shall
16 educate the consumer on the necessity, use and effectiveness of
17 drinking water treatment units; the quality of public water supplies
18 in different areas of the state; the rights and responsibilities of the
19 consumer under the consumer protection act; and any other pertinent
20 information to safeguard the consumer interest in this matter.

21 Sec. 7. It shall be a violation of the consumer protection act
22 (K.S.A. 50-623 *et seq.* and amendments thereto) for a seller to:

23 (a) Sell, lease, rent or offer for sale, lease or rent any drinking
24 water treatment unit in this state to a consumer for which false or
25 deceptive claims or representations of removing or changing con-
26 taminants are made;

27 (b) make any representation or claim that the seller's drinking
28 water treatment unit has been approved or endorsed by any agency
29 of the state or the federal government; or

30 (c) commit any unlawful act described in section 3.

31 Sec. 8. This act shall take effect and be in force from and after
32 January 1, 1992, and its publication in the statute book.

Summary of House Bill 2036 Testimony Drinking Water Treatment Units

Proponents

1. Kansas Water Office
2. Kansas Water Authority
3. National Sanitation Foundation
4. Al Hermsen
5. Kansas Rural Center
6. Kansas Audodon Council
7. Cooperative Extension Service
8. Sedgwick County - Willie Martin
9. Wichita Dept. of Community Health
10. Larry Shannon - AWWA (Topeka, Kansas City, Lawrence, Johnson County District No. 1 and El Dorado)

Main Reasons

1. Because there has been a great deal of publicity concerning water pollution problems many persons are fearful of drinking "unhealthy water."
2. Many people have been contacted by telephone salesmen from the water treatment device industry.
3. Home water treatment devices are often misrepresented by sometimes inscrupulous sales persons.
4. These sales persons are simply not knowledgeable in the product they are selling.
5. They take water samples, put something in it and then claim that the city water contains all kinds of pathogens and toxic chemicals, and try to sell their expensive equipment to the uninformed customer.
6. Sometime they claim that chlorine in the city water is a poison and the customer needs to buy expensive equipment to remove chlorine. This will do more harm then

Opponents

1. Amway - Michigan
2. National Water Quality Association - Illinois
3. Spectrum - Minnesota
4. Kinetico - Ohio
5. Pollenex - Illinois
6. Great Water Company - Kansas
7. Mineral Right - Kansas
8. Liqui Tech - Kansas
9. Teledyne Water Pick - Colorado
10. Pure Water - Nebraska
11. Scheopner's Water Conditioner - Kansas
12. ECO Water - Minnesota
13. Kansas Water Quality Association - Kansas
14. White's Soft Water Service - Kansas
15. Durastill - Missouri

Main Reasons

1. National Sanitation Foundation testing extremely costly
2. National Sanitation Foundation listing would freeze technology.
3. National Sanitation Foundation listing unnecessary, already Consumer Protection Act.
4. Only National Sanitation Foundation listing - grants monopoly to a private organization.
5. This will require retesting of those units which have already been tested by other laboratories.
6. This will mean long delays in approval.
7. Other laboratories have better qualified and experienced personnel than National Sanitation Foundation.
8. National Sanitation Foundation standards limited to health claims only.
9. Like other states the third party testing be not required for aesthetic claims.
10. National Sanitation Foundation do not focus on commercial units,

11-7-72

- good to the health of the customer and his family.
7. National Sanitation Foundation known and respected worldwide as classical third party.
 6. National Sanitation Foundation standards developed with balanced participation from all parties.
 8. National Sanitation Foundation is recognized by American National Standards Institute.
 9. National Sanitation Foundation is U.S. Representative to major international standard bodies such International Organization for Standards (ISO) and International Electrotechnical Commission (IEC)
 10. Other contract laboratories can perform chemical analysis, however, their evaluation ends at that point.
 11. Other laboratories do not have a technical review of the design and construction of product.
 12. Other laboratories do not have a toxicological review and acceptance of materials to produce it.
 13. Generally other laboratories do no structural testing.

therefore, they should not be required to be certified by National Sanitation Foundation.

11. There is no evidence of abuse of commercial water treatment equipment sales - so why include commercial units under this bill.
12. Even if the units are certified by the National Sanitation Foundation, this would not guarantee proper installation.
13. Better alternative would be post installation validation by a certified laboratory.
14. Requiring customer's signature and keeping records will increase the cost of retailers like K-Mart.
15. Performance data sheet unnecessary - most information is already given to the consumer through owner's manual.
16. Performance data sheet - too technical to be understood by consumers.
17. Separate performance data sheet for each state causes distribution problems.
18. "Consumer Information Handbook" will confuse the consumer rather than educate.

14. After one time testing contract laboratories have no follow up on subsequent production by the manufacturer.
 15. Generally there is no registered mark of compliance owned and used by the contract laboratory.
 16. The state should not confuse between product certification and product testing.
 17. National Sanitation Foundation certification gives both the regulatory sector and the public the assurance that a drinking water treatment unit has been tested, evaluated, reevaluated and certified by an independent third party.
 18. Standards developed by National Sanitation Foundation can be used by others as a basis for product evaluation but this is not equivalent to product certification by National Sanitation Foundation.
 19. Requiring home treatment devices to be certified by National Sanitation Foundation would end the sale of some of the worthless equipment.
 20. Since many of these devices are complex
19. State specific consumer handbooks will cause distribution problems to national manufactures and dealers.
 20. Instead the state should strengthen its consumer protection laws to deal with false and misleading advertising and selling.

13
A-77. 2

continued correct operation and detailed instructions are necessary.

21. House Bill 2036 would assist consumers in making more informed decisions as to what the treatment devices are designed to do and how effectively they accomplish that goal.
22. The requirements to certify the units as well as to provide information to consumers on the manufacturer's performance data sheet, the owner's manual and to provide other information through Cooperative Extension Service should help prevent consumers becoming prey to unscrupulous salesperson using half truths and scare tactics.
23. Reputable companies selling legitimate products should not be intimidated by the intent of this bill.
24. Many people have been contacted by telephone salesmen from the water treatment device industry.

Maximum Contaminant Levels				Secondary Maximum Contaminant Levels			
No.	Contaminant	Unit	Level	No.	Contaminant	Unit	Level
Inorganic Chemicals							
1	Arsenic	mg/l	0.05	1	Chloride	mg/l	250
2	Barium		1	2	Color	col. units	15
3	Cadmium		0.01	3	Copper	mg/l	1
4	Chromium		0.05	4	Corrosivity		Non Corro- sive
5	Lead		0.05				
6	Mercury		0.002	5	Fluoride	mg/l	2
7	Nitrate (asn)		10	6	Foaming Agents	mg/l	0.5
8	Selenium		0.01	7	Manganese	mg/l	0.05
9	Silver		0.05	8	Iron	mg/l	0.3
10	Fluoride		4	9	Odor	Odor No.	3
				10	Ph	Value	6.5-8.5
Organic Chemicals				11	Sulphate	mg/l	250
(a)	Endrin		0.0002	12	Total Dissolved Solids	mg/l	500
	Lindane		0.004	13	Zinc	mg/l	5
	Methoxychlor		0.1				
	Toxaphene		0.005				
(b)	Chlorophenoxy 2,4-D		0.1				
	Chlorophenoxy 2, 4, 5-TP		0.01				
(c)	Total Trihalometanes		0.1				
Turbidity							
		Turbidity Unit	1				
Microbiological							
	Coliform Bacteria (when the membrane filter technique is used)	100 milli- liters	1				
Radium 226-228 and Gross Alpha							
(a)	Combined radium - 226 and radium 228	pci/l	5				
(b)	Gross alpha including radium 226		15				
Beta Particle and Photon Radioactivity							
(a)	Average annual concen- tration	millirem/ year	4				

Att. 2
15

STATE OF KANSAS



~~Mike Hayden, Governor~~
Joan Finney, Governor

KANSAS WATER OFFICE
Joseph F. Harkins
Director

Suite 300
109 SW Ninth
Topeka, Kansas 66612-1249
913-296-3185

March 12, 1991

The Honorable Ken Grotewiel
Kansas House of Representatives
Energy and Natural Resources
Committee Chairman
Statehouse, Room 426-S
Topeka, KS 66612

Dear Chairman Grotewiel:

Subject: House Bill 2036 Drinking Water Units

Please refer to the letter dated March 7, 1991 (copy enclosed) by George Elliott, President Kansas Water Quality Association, on the above subject. In this letter the Kansas Water Quality Association has conveyed its support for House Bill 2036 with proposed amendments (copy enclosed).

The Kansas Water Office believes the proposed amendments to the bill, would maintain the substantive provisions and satisfies most of the concerns expressed by the opponents during the testimony. A copy of the summary prepared by the Kansas Water Office on this testimony is also enclosed.

Please let me know if I can be of further assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "Clark R. Duffy".

Clark R. Duffy
Assistant Director

CRD:DSJ:sln
Enclosures

Att. 2
16



March 7, 1991

The Honorable Ken Grotewiel
Kansas House of Representatives
Energy & Natural Resources Committee Chairman
State House
Topeka, KS 66612

RE: House Bill #2036

Honorable Chairman Grotewiel:

Mr. Jawa of the Kansas Water Office has provided me with some proposed changes for HB 2036, as are shown on the attached marked-up bill.

These changes were all recommended by Kansas Water Quality Association as needed to assure the intent of this bill is addressed specifically to health related claims, and to clarify some other items.

We also recommended that a search be made for a satisfactory certification authority in addition to or in place of NSF.

These changes recommend that ANSI be substituted for NSF. At the present time only NSF carries ANSI certification, but we understand that other third party testing labs could be certified.

With these changes we re-assert our support for this bill.

Sincerely,

George W. Elliott
George W. Elliott, President
Kansas Water Quality Association

cc: Daljit Jawa



Att. 2
17

HOUSE BILL No. 2036

By Committee on Energy and Natural Resources

1-23

8 AN ACT relating to drinking water treatment units; establishing
9 certain requirements relating thereto; prohibiting certain acts and
10 providing remedies for violations.

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

12 Section 1. This act shall be known and may be cited as the
13 Kansas drinking water quality and treatment units act.

14 Sec. 2. For the purpose of this act, unless the context otherwise
15 requires:

16 (a) "Consumer" means any person who purchases, leases or rents
17 a drinking water treatment unit, not for resale or use in the ordinary
18 course of a trade or business, but for providing drinking water for
19 household or business use.

20 (b) "Contaminant" means any undesirable physical, chemical, ra-
21 diological or microbiological substance or parameter in water for
22 which there is a federal or state maximum contaminant level (mcl),
23 secondary maximum contaminant level (smcl) or guideline.

24 (c) "Drinking water treatment unit" means any unit ~~used to treat~~
25 ~~all or part of the water for a household or business at the point of~~
26 ~~entry or any plumbed in or faucet mounted unit for which a claim~~
27 ~~is made that it will improve the quality of water by changing or~~
28 ~~reducing one or more contaminants through mechanical, physical,~~
29 ~~chemical or biological processes, or combinations thereof. For the~~
30 ~~purposes of this act, each model of a drinking water treatment unit~~
31 ~~shall be deemed a distinct drinking water treatment unit.~~

32 (d) "Manufacturer's performance data sheet" means a booklet,
33 document or other printed material containing, at a minimum, the
34 information required by section 5.

35 (e) "Seller" means a person who is in the business of offering
36 drinking water treatment units for sale, lease or rent to consumers
37 and shall include sales representatives.

38 (f) "Surrogate" means a chemical compound with similar reaction
39 aracteristics as the target contaminant.

40 Sec. 3. (a) It is unlawful for a seller to sell, lease, rent or offer
41 for sale, lease or rent any drinking water treatment unit unless:

42 (1) Each model has been tested and certified by the National
43

designed for personal, family or household use

health related

(g) "completion of sale" means the completion of the act of selling leasing or renting. Where the drinking water treatment unit is ordered by telephone or mail, "completion of sale" means delivery.

(h) "Independent third party testing agency" is an organization or a program within an organization that has been accredited by the American National Standards Institute (ANSI) New York in accordance with the ANSI "Policy And Procedures & Manual Of Operations For Accreditation of Certification Programs" (current edition) and (1) it meets the requirements of "third party testing/inspection body" as defined in ANSI "Standard for Certification, Third Party Certification Program" Z 34.1 current edition; and (2) it meets or exceeds detailed supplemental criteria established by ANSI for all drinking water treatment units certification programs.

manufactured after January 1, 1992

/model series (family of models)

2-18

Att. 2
19

1 ~~Sanitation Foundation, Ann Arbor, Michigan, or its other authorized~~
2 ~~branches; and~~

an independent third party testing agency as defined in section 2 (h)

3 (2) each model has met the performance and materials testing
4 requirements specified in ~~the latest revisions~~ of the applicable stand-
5 ards of ~~the National Sanitation Foundation; and~~

an independent third party testing agency.

6 (b) It is unlawful for a seller to sell, lease or rent any water
7 treatment unit unless the consumer has first signed and dated a
8 statement that the consumer, prior to the ~~consummation~~ of the sale,
9 lease or rental, has received and read the product information pack-
10 age which includes: (1) The consumer information handbook provided
11 for by section 6; (2) certification of ~~product benefit claims and product~~
12 performance claims by the ~~National Sanitation Foundation; and~~ (3)

completion

13 the manufacturer's performance data sheet.

an independent third party testing agency along with evidence of accreditation from ANSI

14 Sec. 4. In the case of customized drinking water treatment units
15 or systems integrated or assembled on site or designed for site-
16 specific needs, ~~the individual water treatment components need not~~
17 ~~be certified again if already certified. However, the customized sys-~~
18 ~~tem as a whole must be certified for any claims not covered by the~~
19 ~~individual units.~~

seller shall provide the consumer with the results of a water analysis of the consumer's water supply from a certified laboratory which documents the effectiveness of the drinking water treatment unit in reducing the specified contaminants.

20 Sec. 5. (a) ~~The manufacturer's performance data sheet shall be~~
21 ~~written in layperson's language and printed with standard or over-~~
22 ~~sized type and shall include, but not be limited to:~~

average consumer

23 (1) The name, address and telephone number of the manufacturer
24 (i.e., the person who makes, assembles, fabricates or constructs the
25 drinking water units).

26 (2) The name, brand or trademark under which the drinking
27 water treatment unit is sold and its model number.

28 (3) Performance and test data including, but not limited to:

29 (A) The list of contaminants certified to be reduced or changed
30 by the drinking water treatment unit;

31 (B) the test influent concentration level of each contaminant or
32 surrogate for that contaminant;

33 (C) the percentage reduction, change or effluent concentration
34 of each contaminant or surrogate;

35 (D) the maximum permissible concentration of a contaminant in
36 water as established in the U.S. environmental protection agency
37 primary drinking water regulations;

38 (E) the approximate capacity in gallons;

39 (F) the period of time during which the unit is effective in re-
40 ducing or changing the contaminants based upon the contaminant
41 or surrogate influent concentrations used for the performance tests;
and

(G) the flow rate, pressure and operational temperature of the

1 water during the performance test.

2 (b) The following information must be contained on the perform-
3 ance data sheet or may be referenced to the owner's manual or to
4 other material given to the buyer:

5 (1) Installation instructions; and

6 (2) the recommended operational procedures and requirements
7 necessary for the proper operation of the drinking water treatment
8 unit including, but not limited to, electrical requirements; maximum
9 and minimum pressure; flow rate; temperature limitations; mainte-
10 nance requirements; and, where applicable, replacement
11 frequencies.

12 Sec. 6. A consumer information handbook to be provided to the
13 consumer of a drinking water treatment unit shall be prepared by
14 the cooperative extension service, Kansas state university, Manhat-
15 tan, Kansas, and shall be updated periodically. The handbook shall
16 educate the consumer on the necessity, use and effectiveness of
17 drinking water treatment units; the quality of public water supplies
18 in different areas of the state; the rights and responsibilities of the
19 consumer under the consumer protection act; and any other pertinent
20 information to safeguard the consumer interest in this matter.

21 Sec. 7. It shall be a violation of the consumer protection act
22 (K.S.A. 50-623 *et seq.* and amendments thereto) for a seller to:

23 (a) Sell, lease, rent or offer for sale, lease or rent any drinking
24 water treatment unit in this state to a consumer for which false or
25 deceptive claims or representations of removing or changing con-
26 taminants are made;

27 (b) make any representation or claim that the seller's drinking
28 water treatment unit has been approved or endorsed by any agency
29 of the state or the federal government; or

30 (c) commit any unlawful act described in section 3.

31 Sec. 8. This act shall take effect and be in force from and after
32 January 1, 1992, and its publication in the statute book.

401 NORTH OAK
MCPHERSON, KANSAS 67460
SEPTEMBER 18, 1991

MR. DALJIT SINGH JAWA
KANSAS WATER OFFICE
WATER RESOURCE PLANNER
109 S.W. 9TH
SUITE 200 MILLS BUILDING
TOPEKA, KANSAS 66612

DEAR MR. JAWA:

AFTER THE LEGISLATIVE HEARING LAST WINTER, THE MEMBERSHIP OF THE KWQA HAS HAD SEVERAL OPPORTUNITIES TO MEET AND DISCUSS WHAT OUR RESPONSE TO YOU AND THE KANSAS WATER OFFICE SHOULD BE REGARDING HOUSE BILL #2036.

IT IS OUR POSITION THAT HOUSE BILL #2036, EVEN IN ITS AMENDED FORM, IS NOT IN OUR BEST INTEREST. WE RECOGNIZE THERE IS AN OCCASIONAL PROBLEM WITH THE SALES PRACTICES OF A FEW INDIVIDUALS AND COMPANIES IN KANSAS. HOWEVER, WE FEEL THAT THIS BILL REPRESENTS AN OVERKILL.

WE DO NOT WANT TO LEND OUR SUPPORT TO A PIECE OF LEGISLATION THAT WOULD MAKE OUR EFFORTS TO CONDUCT BUSINESS INFINITELY MORE DIFFICULT, COSTLY, AND TIME CONSUMING WHEN WE DO NOT FEEL THAT WE ARE THE ONES WHO ARE MISLEADING THE PUBLIC. WE FEEL THAT A BILL TO DEAL WITH THIS PROBLEM SHOULD ADDRESS ITSELF TO THOSE WHO ARE CREATING THE PROBLEM.

AS WE HAVE STATED ALL ALONG, CERTIFICATION BY NSF IS COSTLY, TIME CONSUMING, AND AMOUNTS TO GRANTING A MONOPOLY TO A PRIVATE COMPANY. EVEN WITH THE ANSI PROVISION WE FEEL THAT IT STILL COMES DOWN TO NSF CERTIFICATION BECAUSE THEY ARE THE ONLY ONES IN THE INDUSTRY WITH ANSI ACCREDITATION.

THE CONSUMER "SIGN OFF" PROVISION OF SECTION 3 SEEMS A PARTICULARLY SEVERE CURTAILMENT ON THE CONDUCT OF BUSINESS. WE HAVE COLLECTIVELY RACKED OUR BRAINS TO THINK OF ANY OTHER PRODUCT WHERE THE CONSUMER IS REQUIRED TO SIGN THAT THEY HAVE READ A CONSUMER INFORMATION HANDBOOK, A CERTIFICATION OF PRODUCT PERFORMANCE CLAIM BY NSF, AND A MANUFACTURER'S PERFORMANCE DATA SHEET BEFORE THEY BUY, LEASE, OR RENT THE PRODUCT. WE HAVE THOUGHT OF NONE.

WE ARE IN AGREEMENT WITH EFFORTS TO EDUCATE THE CONSUMER. IN FACT, OUR SALES PRESENTATION, WHEN DONE ETHICALLY, CONSTITUTES SOME OF THE BEST CONSUMER EDUCATION AVAILABLE TODAY. THE WQA, THE BETTER BUSINESS BUREAU, AND THE COOPERATIVE EXTENSION SERVICE OF KANSAS STATE UNIVERSITY, PRODUCT MANUFACTURERS AS WELL AS OTHER GROUPS HAVE ALREADY WRITTEN A WEALTH OF GOOD INFORMATION ON THE IMPORTANT SUBJECT OF WATER TREATMENT. BUT, FOR US TO ENDORSE THE AUTHORSHIP OF A HANDBOOK THAT WE HAVE HAD NO INPUT INTO WOULD BE SILLY ON OUR PART.

SECTION 5 OF HOUSE BILL #2036 IS SO EXTENSIVE THAT IT WOULD, IN OUR OPINION, PROVE BURDENSOME TO CONSUMERS, MANUFACTURERS, AND DEALERS ALIKE. IF A CONSUMER REALLY WANTS TO KNOW ALL THIS INFORMATION,

Att. 2
21

RESPONSIBLE DEALERS AND MANUFACTURERS CAN PROVIDE IT AND THOSE CONSUMERS SHOULD HOLD THE SALESMAN'S "FEET TO THE FIRE" UNTIL IT IS PROVIDED. IN TWELVE YEARS OF DOING BUSINESS, I HAVE HAD LESS THAN A HANDFUL OF CONSUMERS WHO ARE DESIROUS OF EVEN A SMALL PART OF WHAT THIS SECTION REQUIRES US TO HAND TO EACH CONSUMER AND THEN HAVE THEM VERIFY WITH THEIR SIGNATURE THAT THEY HAVE READ IT.

AT SOME POINT, COMMON SENSE, REASON, AND THE WAY AMERICA DOES BUSINESS NEEDS TO PREVAIL. GOVERNMENT CANNOT AND SHOULD NOT TRY TO MAKE PURCHASES OF PRODUCTS A FAIL-SAFE PROPOSITION. IN ANY INDUSTRY, THERE ARE BAD PRODUCTS, GOOD PRODUCTS, AND EVEN BETTER PRODUCTS, AND ULTIMATELY THE CONSUMER NEEDS TO DECIDE WHICH WILL SUCCEED IN THE MARKET PLACE. THE SAME CAN BE SAID FOR THOSE WHOSE BUSINESS IT IS TO SELL THESE PRODUCTS.

GOVERNMENT'S RESPONSIBILITY SHOULD BE TO SEEK WAYS TO PREVENT FRAUD, ABUSE, AND INJUSTICE WITH AS LITTLE IMPACT ON THE FREE MARKET ECONOMY AS POSSIBLE. THIS BILL DOES NOT COMPLY WITH THAT CRITERIA. IT'S IMPACT ON THOSE CONDUCTING BUSINESS IN A FAIR AND HONEST MANNER WOULD BE STIFLING.

AS A SUBSTITUTE, WE WOULD SUGGEST WORDAGE ALONG THE LINES OF THE ATTACHMENT. WE AT KWQA WOULD BE MORE THAN HAPPY TO MEET WITH YOU AND OTHERS AT KANSAS WATER OFFICE IF YOU FEEL THAT SOME MEANINGFUL DIALOGUE WOULD RESULT. PLEASE LET US KNOW.

SINCERELY,

JIM BOYER

SECTION 1. THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE KANSAS DRINKING WATER QUALITY AND TREATMENT UNITS ACT.

SECTION 2. AS USED IN THIS ACT:

A. "CONTAMINANT" SHALL MEAN ONLY THOSE PHYSICAL, CHEMICAL, MICROBIOLOGICAL, OR RADIOLOGICAL SUBSTANCES IN WATER FOR WHICH A FEDERAL MAXIMUM CONTAMINANT LEVEL EXISTS PURSUANT TO THE FEDERAL SAFE DRINKING WATER ACT OR A STATE MAXIMUM CONTAMINANT LEVEL EXISTS PURSUANT TO THE PUBLIC HEALTH LAW.

B. "WATER TREATMENT UNIT" SHALL MEAN A PRODUCT, DEVICE OR SYSTEM DESIGNED FOR PERSONAL, FAMILY OR HOUSEHOLD USE AND FOR WHICH A CLAIM OR CLAIMS ARE MADE THAT IT WILL IMPROVE THE QUALITY OF WATER BY REDUCING ONE OR MORE CONTAMINANTS THROUGH MECHANICAL, PHYSICAL, CHEMICAL OR BIOLOGICAL PROCESSES OR COMBINATIONS THEREOF.

C. "CONSUMER" MEANS ANY PERSON WHO PURCHASES, LEASES OR RENTS A WATER TREATMENT UNIT.

D. "SELLER" MEANS AN INDIVIDUAL, CORPORATION, PARTNERSHIP, JOINT VENTURE, OR A BUSINESS ENTITY WHO IS IN THE BUSINESS OF OFFERING WATER TREATMENT UNITS FOR SALE, LEASE OR RENT TO CONSUMERS AND SHALL INCLUDE SALES REPRESENTATIVES.

SECTION 3: NO WATER TREATMENT UNIT THAT CLAIMS TO REDUCE OR ELIMINATE THE CONCENTRATION OF ONE OR MORE HEALTH RELATED CONTAMINANTS IN WATER SUPPLIES INTENDED FOR HUMAN CONSUMPTION MAY BE SOLD OR LEASED, OFFERED FOR SALE OR LEASE, DISTRIBUTED, OR INSTALLED IN THE STATE UNLESS THE UNIT HAS BEEN TESTED USING INDUSTRY ACCEPTED PRODUCT TESTING PROTOCOLS. IF SUCH PROTOCOLS DO NOT EXIST, TECHNICALLY VALID METHODOLOGY USING UNITED STATES ENVIRONMENTAL PROTECTION AGENCY ANALYTICAL TESTING METHODS FOR DRINKING WATER QUALITY AND MAXIMUM CONTAMINANT LEVELS, OR THEIR EQUIVALENT MAY BE USED.

SECTION 4: NO PERSON SHALL SELL, OFFER FOR SALE, RENT, LEASE, OR DISTRIBUTE ANY WATER TREATMENT UNIT FOR USE IN THIS STATE UNLESS WRITTEN MATERIAL WHICH PROVIDES THE FOLLOWING IS AVAILABLE TO THE CONSUMER UPON REQUEST.

A. THE NAME AND MAILING ADDRESS OF THE MANUFACTURER OR DISTRIBUTOR;

B. THE NAME, BRAND OR TRADEMARK UNDER WHICH THE UNIT IS SOLD, AND ITS MODEL NUMBER;

C. A STATEMENT LISTING ALL CONTAMINANTS THE UNIT IS CAPABLE OF REDUCING FROM THE WATER FOLLOWED BY A STATEMENT THAT ALL THE CONTAMINANTS REDUCED BY THE UNIT MAY NOT NECESSARILY BE IN THE USER'S WATER SUPPLY.

D. A SUMMARY OF RECOMMENDED OPERATIONAL PROCEDURES AND REQUIREMENTS NECESSARY FOR THE PROPER OPERATION OF THE UNIT INCLUDING, BUT NOT LIMITED TO:

- a. ELECTRICAL REQUIREMENTS, IF APPLICABLE
 - b. MAXIMUM AND MINIMUM OPERATION PRESSURE
 - c. MAXIMUM OPERATING TEMPERATURE
 - d. FLOW RATE
 - e. MAINTENANCE REQUIREMENTS
 - f. REPLACEMENT FREQUENCIES
 - g. EXPLANATION OF ANY PERFORMANCE INDICATOR IF AVAILABLE
- E. INSTALLATION INSTRUCTIONS
- F. THE MANUFACTURER'S WARRANTY AND GUARANTEE, IF APPLICABLE
- G. A STATEMENT THAT PERFORMANCE OF THE WATER TREATMENT UNIT MAY VARY BASED ON LOCAL WATER CONDITIONS
- H. A STATEMENT, IF TRUE, THAT THE UNIT IS ONLY INTENDED FOR USE WITH POTABLE WATER

SECTION 5: A) IT IS UNLAWFUL FOR ANY PERSON TO PRINT AND/OR DISSEMINATE ANY FALSE ADVERTISING OR TO USE OR EMPLOY ANY DECEPTIVE ACT OR PRACTICE AS DESCRIBED IN SUBDIVISION B OF THIS SECTION IN THE CONDUCT OF ANY TRADE OR COMMERCE FOR THE PURPOSE OF INDUCING THE SALE, LEASE, RENTAL, OR DISTRIBUTION OF WATER TREATMENT UNITS.

B) THE FOLLOWING WOULD CONSTITUTE A VIOLATION OF SECTION 5A:

(1) MATERIALLY FALSE OR MISLEADING CLAIMS CONCERNING THE QUALITY OF A PROSPECTIVE PURCHASER'S PUBLIC WATER SUPPLY OR PRIVATE WELL WATER;

(2) MATERIALLY FALSE OR MISLEADING CLAIMS CONCERNING THE KIND AND DEGREE OF PROBLEMS CAUSED BY WATER FROM A PUBLIC WATER SUPPLY;

(3) MATERIALLY FALSE OR MISLEADING CLAIMS OF SCIENTIFIC CERTAINTY REGARDING THE RELATIONSHIP BETWEEN ACUTE OR CHRONIC ILLNESSES AND WATER QUALITY;

(4) PRODUCT PERFORMANCE CLAIMS AND PRODUCT BENEFIT CLAIMS UNLESS SUCH CLAIMS ARE BASED ON FACTUAL DATA OBTAINED FROM TESTS CONDUCTED BY A TESTING FACILITY FOLLOWING SCIENTIFICALLY VALID TEST PROCEDURES, WHICH DATA IS IN EXISTENCE AT THE TIME SUCH CLAIMS ARE MADE;

(5) USES OF PICTURES, EXHIBITS, GRAPH, CHARTS OR OTHER GRAPHIC PORTRAYALS IN ADVERTISEMENTS IN A MATERIALLY FALSE OR MISLEADING MANNER;

(6) MATERIALLY FALSE OR MISLEADING CLAIMS THAT SERIOUS HARM MAY OR WILL OCCUR IF THE PRODUCT IS NOT PURCHASED;

(7) STATEMENTS THAT THE WATER FLOWING FROM A WATER

TREATMENT UNIT IS "PURE" UNLESS SUCH WORDS ARE REASONABLY DEFINED;

(8) CLAIMS THAT A WATER TREATMENT UNIT WOULD PROVIDE A HEALTH BENEFIT OR DIMINISH A HEALTH RISK UNLESS REASONABLY BASED ON FACTUAL DATA;

(9) MATERIALLY FALSE OR MISLEADING STATEMENTS THAT THE CONTAMINANTS REDUCED BY A WATER TREATMENT UNIT ARE PRESENT IN EXCESS OF PERMITTED LEVELS IN THE DRINKING WATER OF THE PERSON TO WHOM THE STATEMENT IS MADE;

(10) USES OF ENDORSEMENTS OR TESTIMONIALS, UNLESS SUCH ENDORSEMENTS OR TESTIMONIALS STATE THE OPINION AND QUALIFICATIONS OF THE PERSON GIVING THEM; ARE NOT MATERIALLY FALSE OR MISLEADING; AND ACCURATELY REFLECT THE CONTEXT IN WHICH THEY WERE MADE OR GIVEN;

(11) MAKE ANY REPRESENTATION OR CLAIM THAT THE SELLER'S WATER TREATMENT UNIT HAS BEEN APPROVED OR ENDORSED BY ANY AGENCY OF THE STATE OR THE FEDERAL GOVERNMENT.

PROPOSED BILL NO. _____

By

AN ACT concerning counties; relating to boards of county commissioners; amending K.S.A. 19-202 and 19-204 and K.S.A. 1991 Supp. 19-203 and repealing the existing sections.

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

New Section 1. (a) When the voters of a county approve a change in the number of county commissioner districts at an election held under K.S.A. 19-204, and amendments thereto, the board of county commissioners, on or before January 1 immediately following such election, shall adopt a resolution dividing the county into the number of districts approved by the voters. If the board of county commissioners fails to adopt such resolution within the time prescribed, the administrative judge of the district court of the county, on or before the following January 31, shall order the county divided into the appropriate number of districts.

Sec. 2. K.S.A. 19-202 is hereby amended to read as follows: 19-202. (a) The board of county commissioners of each county shall consist of three (3), five (5) or seven (7) qualified electors.

(b) One (1) county commissioner shall reside in and represent each commissioner district within the county.

(c) Except as provided by K.S.A. 19-203, and amendments thereto, terms of office for the board of county commissioners shall be staggered in such a way that, ~~except when it is necessary to fill a vacancy as provided in K.S.A. 19-203 or to effectuate a change in the number of commissioner districts,~~ no more than a simple majority of commissioners is elected at any general election.

(d) Except as provided by K.S.A. 19-203, and amendments

~~thereto, all county commissioners not-filling-a-vacancy-on-the commission-as-set-forth-in-K.S.A.-19-203-and-not--holding--office for--a-shorter-term-in-compliance-with-subsection-(e),~~ shall hold office for a term of four (4) years from the second Monday of January next after their election and until their successors are qualified.

(e) The provisions of subsections (a), (c) and (d) of this section may be modified by the adoption of a charter for county government in any county which has established a charter commission pursuant to law.

Sec. 3. K.S.A. 1991 Supp. 19-203 is hereby amended to read as follows: 19-203. (a) When a vacancy occurs in the office of a member of the board of county commissioners, it shall be filled by appointment of a resident in the district to fill the office for the unexpired term and until a successor is elected and qualified. When a vacancy occurs before May 1 of the first even-numbered year following the commencement of a term of office, it shall be filled by the appointment of a resident of such district who shall serve until a successor is elected and qualified at the next general election.

(b) Except as provided by subsection (c), appointments under this section shall be made in the manner provided by K.S.A. 25-3902, and amendments thereto, for filling vacancies in district offices.

(c) Vacancies created by an increase in the number of county commissioner districts in a county pursuant to K.S.A. 19-204, and amendments thereto, shall be filled by appointment of the governor. The governor shall make such appointments within 30 days of the date of the adoption of the resolution dividing the county into commissioner districts or within 30 days of the date of the order of the district court dividing the county into commissioner districts as required by section 1. Such appointees shall serve until successors are elected and qualified at the next general election. If at the next general election following

such appointments, more than a simple majority of commissioners are elected, persons elected to the positions created by increase in the number of districts shall be elected for two year terms and until their successors are qualified. Thereafter such members shall be elected to four year terms and until their successors are qualified.

Sec. 4. K.S.A. 19-204 is hereby amended to read as follows: 19-204. (a) Subject to the provisions of section 1, the board of county commissioners ~~shall~~, on the day of the organization of the board or as soon thereafter as may be possible, shall meet and divide the county into three commissioner districts or such number of districts as is prescribed by resolution of the board, as compact and equal in population as possible, and number them, subject to alteration at least once every three years.

(b) The board of county commissioners of any county ~~may~~, by resolution, may divide the county into three, five or seven commissioner districts, as compact and equal in population as possible, but no such resolution which would effect a change in the number of commissioner districts shall take effect until it has been approved by a majority of the qualified electors of the county voting thereon at the next general election~~7--except--as provided--in--subsections-(e)-and-(f)7~~, following not less than 60 days the adoption of such resolution, in which all the qualified electors of the county are entitled to vote. Upon the presentation of a petition to the board of county commissioners, signed by electors equal in number to 5% of the qualified electors of the county and verified by the county election officer, requesting that the number of commissioner districts be changed, the board of county commissioners shall cause such proposition to be submitted to the voters of the county at the next general election, following not less than 60 days the presentation of such petition, in which all of the qualified electors of the county are entitled to vote. In the event that more than one such petition is presented to the board of county

commissioners prior to a general election, and any of such petitions conflicts with any other such petition with respect to the number of commissioner districts requested, the board of county commissioners shall decide, by majority vote thereon, which of ~~said~~ the propositions shall be submitted to the voters at the next such general election. If a majority of the electors voting at such election shall be in favor of changing the number of commissioner districts, the board of county commissioners shall provide for the division of the county into commissioner districts as hereinabove--provided,--except--as---provided---in subsections--(e)--and--(f) provided in section 1.

(c) No change in the number of commissioner districts shall become effective in any county within four years of the effective date of any previous change in the number of commissioner districts in such county.

(d) The provisions of this section may be modified by the adoption of a charter for county government in any county which has established a charter commission pursuant to law.

~~(e)--In--any--county--having--a--population--of--more--than--350,000, the--board--of--county--commissioners--may--submit--the--question authorized--by--subsection--(b)--at--a--special--election--held--on--the first--Tuesday--in--April,--1981,--by--adoption--of--a--resolution--not less--than--45--days--before--such--Tuesday.---If--a--majority--of--the electors--voting--at--such--election--shall--be--in--favor--of--changing the--number--of--county--commissioners,--the--board---of---county commissioners--shall--provide--for--the--division--of--the--county--into commissioner--districts--as--compact--and--equal--in--population--as possible--by--resolution--adopted--not--later--than--six--months--after such--election.---At--the--election--in--1982,--the--commissioners--from the--two--additional--commissioner--districts--shall--be--elected--for four--year--terms,--and--such--two--additional--commissioners--so--elected shall--be--the--first--commissioners--to--serve--from--such---two additional--districts.~~

~~(f)--In--any--county--which--has--been--designated--as--an--urban--area~~

as--permitted--by--section-17-of-article-2-of-the-constitution-of
the-state-of-Kansas,--in-which-the-board-of--county--commissioners
has--heretofore--submitted--the-question-authorized-by-subsection
(b),--and-the-majority-of-the--electors--voting--at--the--election
favored--increasing--the--number--of--commissioner-districts,--all
resolutions-and-actions-so-adopted-and--taken--by--the--board--of
county---commissioners--and--the--election--so--held--are--hereby
validated.---Any--resolution--adopted--by--the--board--of--county
commissioners--of--such--county--dividing---the---counties---into
commissioner--districts-and-providing-for-the-time-of-election-of
the-commissioners-from-each-district-is--hereby--validated.---The
commissioners--elected-from-the-additional-commissioner-districts
shall-be-the-first-commissioners-to-serve--from--such--additional
districts.

Sec. 5. K.S.A. 19-202 and 19-204 and K.S.A. 1991 Supp.
19-203 are hereby repealed.

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