

Approved MAY 9, 1992

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 March 27, 1992 in Room 254-E of the Capitol.

All members were present except:

Sens. Daniels, Ehrlich, Walker, Ward were excused

Committee staff present:

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

Conferees appearing before the committee:

John Gibbons, Topeka, Ks

Others attending: See attached list

Sen. Reilly called attention to SB 764 and asked the committee its wishes for action. Sen. Bond explained the three amendments proposed by KCCI, and they were discussed by the committee. Sen. Bond made a motion the KCCI amendments (Attachment 1) be adopted, and it was seconded by Sen. Strick. The motion passed. Sen. Bond moved to report the bill favorably, but there was no second. The committee then discussed the civil penalties of the bill, and Sen. Webb made a motion the penalty should not exceed one years' salary. It was seconded by Sen. Bond. Sen. Morris made a substitute motion the penalty not exceed \$2500.00, and it was seconded by Sen. Vidricksen. Sen. Bond moved the bill be passed as amended, and it was seconded by Sen. Webb. The motion passed. Sen. Morris requested he be recorded as voting "no".

Sen. Reilly introduced John Gibbons, who presented amendments (Attachment 2) and other information on SB 717. The committee discussed aspects of the bill, including administration and enforcement, and Sen. Reilly read the fiscal note (Attachment 3). Sen. Webb made a motion to increase the training course hours from 6 to 10; to change the renewal to biannual and to adjust the fee schedule accordingly. Sen. Vidricksen seconded the motion, and upon voting for the amendment, a division was called. Sen. Webb's motion passed: Yes - 3; No - 2. Sen. Reilly stated that he wanted to check with the KBI and the Budget Division before further action next week. Mary Torrence stated that on Page 9, Line 31 refers to the question of where concealed weapons may or may not be carried, and that an amendment is needed to refer back to New Section 8, Page 5, Line 34 for clarification. Sen. Webb made that motion, and Sen. Vidricksen seconded the motion. The motion passed.

Sen. Reilly distributed additional information on SB 717 (Attachment 4). He then referred to 3 memos from the Research Department (Attachment 5) and asked Mary Galligan to brief the committee on riverboat legislation (SB 772) prior to the Joint Committee Meeting on Monday.

The meeting adjourned at 12:00.



# LEGISLATIVE TESTIMONY

## Kansas Chamber of Commerce and Industry

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A consolidation of the  
Kansas State Chamber  
of Commerce,  
Associated Industries  
of Kansas,  
Kansas Retail Council

SB 764

March 25, 1992

KANSAS CHAMBER OF COMMERCE AND INDUSTRY  
Testimony Before the  
Senate Committee on Federal and State Affairs  
by  
Terry Leatherman  
Executive Director  
Kansas Industrial Council

Mr. Chairman and members of the Committee:

I am Terry Leatherman. I am the Executive Director of the Kansas Industrial Council, a division of the Kansas Chamber of Commerce and Industry. Thank you for the opportunity to appear before the Committee today to express the concerns the Kansas Chamber has towards SB 764.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

The Kansas Chamber has traditionally been a staunch supporter of the employment-at-will doctrine and remains so today. Employment-at-will benefits employers and employees

Att. 1  
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by bringing flexibility to employment arrangements. However, KCCI concedes that strict application of employment-at-will can conflict with equally important issues of individual privacy. As a result, when issues such as SB 764 are considered, KCCI hinges its position on whether a proposal will disrupt an employer's ability to maintain a business.

The original draft of SB 764 contained four areas which concerned KCCI. It is my understanding the principal proponents of this bill will support amendments which placates two of those KCCI concerns.

1) SB 764 makes it unlawful to "disadvantage an individual" for their use of lawful products away from work. This provision would make employers violators of this act who offer employees health or life insurance policies which discount premiums for individuals who do not smoke or drink alcohol.

An amendment to permit insurance policies offered through the workplace to include distinctions in the cost of coverage would be a step towards rectifying this problem. KCCI suggests the amendment go one step further to allow employers to offer voluntary incentives to employees which promotes healthy lifestyles.

2) SB 764 contains no provision to permit an employer to take action against an employee when their off-duty use of legal products causes problems at work. Two amendments have been drafted to permit employers to take action when it can be demonstrated that off-duty use of legal products causes an employee to be unable to achieve bona fide occupational requirements, or the use of the legal products violates the proprietary interests of an employer.

KCCI urges the Committee to include these amendments in the bill.

While these two areas have been addressed by supporters of SB 764, KCCI has two other suggestions.

1) The phrase "lawful products" should be changed to specify what products the authors of the legislation feel need protection.

SB 764 is a Kansas version of "lifestyle discrimination legislation" which has been introduced in state legislatures across the country. In two of the 21 states which have approved this type of legislation, the protection is extended to "lawful activities."

Another two of the 21 states have approved "lawful products" language proposed in SB 704. The remaining 17 states have limited the scope of the legislation to "tobacco products" only.

Narrowing the legislation to "tobacco products" or "alcohol products" makes clear the impact of the legislation. The phrase "lawful products" sends an unclear message to the Kansas business community.

2) SB 764 permits individuals who feel they are victims of this employment practice to sue an employer for back wages and benefits. Considering the avalanche of litigation businesses face today, KCCI urges the Committee to strike this penalty provision and replace it with a minimal civil fine.

Thank you for considering the position of the Kansas Chamber towards SB 764. I would be happy to attempt to answer any questions.

J. Gibbons  
Attach. 2

ATTACH. 2

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1 the extent that the applicant's normal faculties are impaired. It shall  
2 be presumed that an applicant chronically and habitually uses al-  
3 coholic beverages to the extent that the applicant's normal faculties  
4 are impaired if the applicant has been, during the three years im-  
5 mediately preceding the date on which the application is submitted,  
6 committed for the abuse of alcohol or has had two or more convictions  
7 under K.S.A. 8-1567 and amendments thereto, or under a similar  
8 law of any city, county, other state or the District of Columbia;

9 (7) desires a legal means to carry a concealed weapon or firearm  
10 for lawful self-defense;

11 (8) presents evidence satisfactory to the bureau that the applicants

12 (A) Has satisfactorily completed a hunter education or hunter  
13 safety course approved by the secretary of wildlife and parks or by  
14 a similar agency of another state;

15 (B) has satisfactorily completed a national rifle association firearms  
16 safety or training course;

17 (C) has satisfactorily completed a firearms safety or training  
18 course or class available to the general public and offered by a law  
19 enforcement agency, community college, college, university, private  
20 or public institution or organization or firearms training school, uti-  
21 lizing instructors certified by the national rifle association or criminal  
22 justice standards and training commission;

23 (D) has satisfactorily completed a law enforcement firearms safety  
24 or training course or class offered for security guards, investigators,  
25 special deputies or any division or subdivision of law enforcement  
26 or security enforcement;

27 (E) presents evidence of equivalent experience with a firearm  
28 through participation in organized shooting competition or military  
29 service;

30 (F) is licensed or has been licensed to carry a firearm in this  
31 state or a county or city of this state, unless such license has been  
32 revoked for cause; or

33 (G) has satisfactorily completed a firearms training or safety  
34 course or class conducted by a state certified or national rifle as-  
35 sociation certified firearms instructor;

36 (9) has not been adjudged a disabled person under the act for  
37 obtaining a guardian or conservator, or both, or under a similar law  
38 of another state or the District of Columbia, unless the applicant  
39 was ordered restored to capacity three or more years before the date  
40 on which the application is submitted; and

41 (10) has not been an involuntary patient pursuant to the treat-  
42 ment act for mentally ill persons, or pursuant to a similar law of  
43 another state or the District of Columbia, unless the applicant pos-

has satisfactorily completed a training course approved by the bureau and consisting of not less than six hours instruction in: (A) Weapon safety; (B) marksmanship fundamentals; (C) handgun proficiency; and (D) civil and criminal liability and lawful use of force

1 assesses a certificate from a psychiatrist licensed to practice medicine  
2 and surgery in this state that the applicant has not suffered from  
3 disability for three or more years immediately preceding the date  
4 on which the application is submitted.

5 (b) The bureau may deny a license if the applicant has been  
6 found guilty of one or more crimes of violence within the three-  
7 year period immediately preceding the date on which the application  
8 is submitted or may revoke a license if the licensee has been found  
9 guilty of one or more crimes of violence within the preceding three  
10 years.

11 (c) A photocopy of a certificate of completion of any of the courses  
12 or classes, an affidavit from the instructor, school, club, organization,  
13 or group that conducted or taught such course or class attesting to  
14 the completion of the course or class by the applicant or a copy of  
15 any document which shows completion of the course or class or  
16 evidences participation in firearms competition shall constitute sat-  
17 isfactory evidence of qualification under subsection (a)(8).

18 New Sec. 4. (a) The application for a license pursuant to this act  
19 shall be completed, under oath, on a form prescribed by the bureau  
20 and shall include:

21 (1) The name, address, place and date of birth, race and occu-  
22 pation of the applicant;

23 (2) a statement that the applicant is in compliance with criteria  
24 contained within section 3;

25 (3) a statement that the applicant has been furnished a copy of  
26 this act and is knowledgeable of its provisions;

27 (4) a conspicuous warning that the application is executed under  
28 oath and that a false answer to any question, or the submission of  
29 any false document by the applicant, subjects the applicant to crim-  
30 inal prosecution under K.S.A. 21-3805 and amendments thereto; and

31 (5) a statement that the applicant desires a concealed weapon or  
32 firearm license as a means of lawful self defense.

33 (b) The applicant shall submit to the bureau:

34 (1) A completed application as described in subsection (a);

35 (2) a nonrefundable license fee not to exceed \$125, if the ap-  
36 plicant has not previously been issued a statewide license, or a  
37 nonrefundable license fee not to exceed \$100, for renewal of a state-  
38 wide license;

39 (3) a full set of fingerprints of the applicant administered by a  
40 law enforcement agency of this state; and

(4) a photocopy of a certificate or an affidavit or document as  
described in subsection (c) of section 3.

43 (c) (1) The bureau, upon receipt of the items listed in subsection

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1 (b), shall provide for the full set of fingerprints of the applicant to  
2 be processed for any criminal justice information and shall forward  
3 a copy of the application and \$20 of the original license fee or \$10  
4 of the renewal license fee to the sheriff of the applicant's county of  
5 residence. The cost of processing such fingerprints shall be paid by  
6 the applicant at the time of submission of the application.

7 ~~(2) The sheriff of the applicant's county of residence, at the sher-  
8 iff's discretion, may participate in the process by submitting a vol-  
9 untary report to the bureau containing any readily discoverable prior  
10 information that the sheriff feels may be pertinent to the licensing  
11 of any applicant. Any such voluntary reporting shall be made within  
12 45 days after the date the sheriff receives the copy of the application.  
13 If the sheriff chooses, the sheriff may notify the bureau in writing,  
14 that the sheriff does not wish to receive copies of the application  
15 and the fee described in subsection (c)(1).~~

The sheriff shall submit a

report

(2)

16 ~~(3) The sheriff's office shall provide fingerprinting service at no  
17 charge to the applicant if requested by the applicant to do so.~~

After receipt of the sheriff's report, the bureau shall provide for the full set of fingerprints of the applicant to be processed for any criminal justice information. The cost of processing such fingerprints shall be paid by the applicant at the time of submission of the application.

18 ~~(4) All funds received by the sheriff pursuant to the provisions  
19 of this section shall be deposited in the general fund of the county  
20 and shall be budgeted to the use of the sheriff's office.~~

(3)

21 (d) The bureau, within 90 days after the date of receipt of the  
22 items listed in subsection (b), shall:

- 23 (1) Issue the license; or
- 24 (2) deny the application based solely on the ground that the  
25 applicant fails to qualify under the criteria listed in section 3. If the  
26 bureau denies the application, the bureau shall notify the applicant  
27 in writing, stating the ground for denial and informing the applicant  
28 of any right to a hearing pursuant to the Kansas administrative  
29 procedure act.

30 (e) Any law enforcement officer, as defined by K.S.A. 21-3110  
31 and amendments thereto, shall be exempt from the fees and back-  
32 ground investigation required by this section for a period of one  
33 year subsequent to the date of retirement of such officer as a law  
34 enforcement officer.

35 New Sec. 5. (a) The bureau shall maintain an automated listing  
36 of licenseholders and pertinent information, and such information  
37 shall be available, upon request, at all times to all law enforcement  
38 agencies in this state.

39 (b) Within 30 days after the changing of a permanent address,  
40 or within 30 days after having a license lost or destroyed, the licensee  
41 shall notify the bureau of such change, loss or destruction. Failure  
42 to notify the bureau pursuant to the provisions of this subsection  
43 shall constitute a class C misdemeanor.



STATE OF KANSAS

Attach. 3



DIVISION OF THE BUDGET

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Topeka, Kansas 66612-1578

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JOAN FINNEY, GOVERNOR

GLORIA M. TIMMER, Director

March 10, 1992

The Honorable Edward Reilly, Chairperson  
Committee on Federal and State Affairs  
Senate Chamber  
Third Floor, Statehouse

Dear Senator Reilly:

SUBJECT: Fiscal Note for SB 717 by Committee on Federal  
and State Affairs

In accordance with KSA 75-3715a, the following fiscal note  
concerning SB 717 is respectfully submitted to your committee.

SB 717 provides for the implementation of a licensure  
process to issue permits to carry concealed weapons. The  
Kansas Bureau of Investigation (KBI) is given the  
responsibility to implement the provisions of the bill. Any  
license issued would not allow the licensee to carry a  
concealed weapon into several specified places, including any  
police station, any prison or jail, any courthouse, any polling  
place, any meeting of a governmental body, any meeting of the  
legislature, any school and any place in which federal law  
prohibits the carrying of a firearm.

The bill would allow a license to carry a concealed weapon  
to be issued to an applicant if the applicant is a Kansas  
resident for six months or longer preceding the application  
date, is 21 years of age or older, is not ineligible to possess  
a firearm due to a felony conviction and either has  
successfully completed some form of a gun safety class or has  
presented evidence of competence with firearms. In addition,  
the bill would establish several other criteria which an  
applicant must meet prior to obtaining a license. The KBI would  
be allowed to deny a license to an applicant if the applicant  
has been found guilty of one or more crimes of violence within  
the three year period immediately preceding the application  
date.

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The bill requires that the application form include the following:

- a. the applicant's name, address, place and date of birth, race and occupation,
- b. a statement that the applicant meets the aforementioned criteria,
- c. a statement that the applicant has been given a copy of the act and is knowledgeable concerning its provisions,
- d. a conspicuous warning that the application is executed under oath and that any false information provided by the applicant could lead to a criminal prosecution,
- e. a statement that the applicant desires a concealed weapon as a means of legal self-defense.

The applicant would be required to submit to the KBI a completed application, a non-refundable fee of \$125 for an original license or \$100 for a renewal, a full set of fingerprints and a photocopy of a certificate of completion from a firearm course. The applicant would also be responsible for paying a fingerprint processing fee. Upon receipt of an application, the KBI would process the fingerprints of the applicant. Within 90 days of the application, the KBI would be required to either issue a license or deny a application and provide the grounds of such a denial to the applicant.

The Bureau would forward \$20 of the original license fee (or \$10 of a renewal fee) to the sheriff of the applicant's county. The sheriff's office would be required to perform gratis fingerprinting services to applicants, if so requested. The sheriff would be allowed to submit voluntarily, in a report to the KBI, any information which the sheriff feels is pertinent to the applicant. The bill would allow any sheriff to notify the KBI if the sheriff did not want to receive copies of applications and the \$20 fee. Any fees received by a sheriff would be deposited in the general fund of the county for the use of the sheriff's office.

The KBI would be required to maintain an automated list of license holders and to make such information available, upon request, to law enforcement agencies in the state. At least 90 days prior to the expiration of a three-year license, the KBI would be required to mail the licensee a notice of the expirations, as well as a renewal form. In order to renew a license, the applicant must pay a non-refundable \$100 fee, submit a notarized statement that the applicant still meets the applicable criteria, provide a fingerprint card and pay a fingerprint processing fee.

The bill would create a new "Concealed Weapon Licensure Fund" in the State treasury and provide that all license fees collected be credited to this fund. Expenditures from the fund would be authorized for the payments to county sheriffs (as prescribed by the bill) and for any other expenses incurred in administering the provisions of the bill. Any interest earned by the Pooled Money Investment Board on funds credited to the Concealed Weapon Licensure Fund would be transferred on the 10th day of each month from the State General Fund to the Concealed Weapons Licensure Fund.

The bill provides that the Director of the KBI shall adopt such rules and regulations that are required to administer the provisions of the bill. The Director is also given the responsibility to submit a statistical report to the Governor and the Legislature by January 1 of each year. The report shall indicate the number of licenses issued, revoked, suspended and denied during the preceding fiscal year.

The bill could have a fiscal impact. Any such impact would depend on the number of applicants for concealed weapons licenses. The KBI estimates that 1,040 applications would be received in FY 1993. However, since the bill would allow for the licensure of something for which licenses have not been available in the past, the actual number of applications received by the KBI could vary substantially from the estimate.

With an application charge of \$125 each, it is estimated that receipts to the Concealed Weapon Licensure Fund would be \$130,000 (1,040 x \$125). The bill would require each applicant to pay the costs of processing the fingerprints submitted with each application. The KBI charges currently \$17 for a fingerprint check of Kansas records and \$40 for a fingerprint check throughout the entire United States. Depending on whether fingerprints were checked in only Kansas or throughout the United States, receipts to the KBI's Criminal History Record Check Fee Fund could increase by as little as \$17,680 (1,040 x \$17) or as much as \$41,600 (1,040 x \$40). The amount of any increase in expenditures should approximate any increase in receipts to the Criminal History Records Check Fee Fund.

The bill requires the KBI to forward \$20 of any application fee to the sheriff of the county in which the applicant resides. Assuming that all sheriffs would opt to receive the fee, expenditures from the Concealed Weapons Licensure Fund would increase by \$20,800 (1,040 x \$20). In addition, the KBI indicates 2 additional FTE positions would be required to implement provisions of the bill. With associated other operating expenditures, these two positions are estimated to

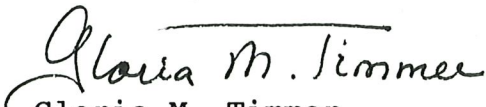
result in expenditures from the Concealed Weapons Licensure Fund of \$63,311. In addition, one-time costs of \$9,813 are estimated from the fund, in order to equip the two new positions.

The total impact of the bill, based on an estimated 1,040 applications in FY 1993, is summarized below:

	<u>Expenditures</u>	<u>Receipts</u>
Concealed Weapons Fund	\$93,924	\$130,000
Record Check Fund	<u>41,600</u>	<u>41,600</u>
	\$135,524	\$171,600

Any increased expenditures or receipts as a result of this bill would be in addition to the amounts included in the *FY 1993 Governor's Budget Report*.

Sincerely,

  
Gloria M. Timmer  
Director of the Budget

cc: Marsha Pappen, KBI

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# Threats Against Witnesses Rise

## Fear Undermining D.C. Trials, Police Probes

By Michael York and Sari Horwitz  
Washington Post Staff Writers

Marcia Watson, a key witness in a Southeast Washington murder, survived five shots to the chest and one in the mouth in October. Even after the shooting, she declined police offers of protection. On Nov. 29, she died as she tried to get away from another ambush. She was shot five times in the back.

Also in October, a D.C. Corrections Department halfway house counselor was killed on the morning he was supposed to testify against a convicted murderer charged with escape, kidnapping and assault.

In May, a 20-year-old woman was killed in the Deanwood neighborhood in Northeast because she had seen a shooting and the gunman did not want to risk her going to police. A D.C. detective said the woman didn't even know the people who were shooting at each other. "She was there while the shooting was going on. That's why she's dead," the detective said.

That same month, a recent high school graduate planning to study at the University of the District of Columbia was shot through the heart because he refused a \$3,000 bribe not to testify before a grand jury about a shooting.

Until about five years ago, such slayings of witnesses were rare in Washington, law enforcement officials said. Today, they said, such killings are almost commonplace.

Local agencies have responded with two new programs to protect witnesses, and the D.C. Council and the Maryland legislature are considering new laws to strengthen penalties for those who threaten prospective witnesses. But the problem seems only to grow, and for every person who is killed, officials said, there are scores who are threatened.

The threats took a new twist last week. Along a seemingly peaceful, tree-lined residential street in Northeast Washington, someone put up posters predicting that harm might come to families of "snitches."

"We've seen notes before, but we haven't seen them in public space before," said D.C. Police Chief Isaac Fulwood Jr., referring to the posters that listed the names of prospective witnesses in the R Street Crew trial underway in federal court.

No matter how the threats are delivered, their pervasiveness has meant that some witnesses, often those most crucial to the prosecution, never testify. Defense lawyers complain that the air of intimidation in some neighborhoods has prompted prosecutors to pursue marginal criminal cases against people merely to obtain leverage over them and persuade them to testify in other cases.

Defense lawyers routinely complain that reluctant witnesses are being coerced into testifying. In the R Street trial, for example, defense lawyers said they believe that law enforcement officials forced a key witness to testify by threatening to prosecute her for a crime she did not commit. Defense lawyers Leonard E. Birdsong and Greg English spent much of their cross-examination of the witness last week trying to show she had done nothing illegal, even though she was testifying under an agreement that gave her immunity.

Although law enforcement officials said they do not unjustly accuse people to encourage cooperation, they add that they must use every legal tool available to overcome the fear and intimidation that, in the words of an assistant U.S. attorney, "is everywhere."

Prosecutors note that threats have been made even in the courtroom. In May, a trial was interrupted when a witness told the judge that a spectator in the back row of the courtroom had just threatened him. In January, a 16-year-old was charged with threatening to shoot a key witness after he allegedly was overhead in a courthouse restroom telling another person of his plans.

See WITNESSES, D5, Col 1

# Growing Threats Against Witnesses Hampering D.C. Police, Prosecutors

WITNESSES, From D1

Not everyone is surprised at the growing threats to witnesses.

"Let's face it, when the rest of your life is on the line, you can resort to some pretty desperate things," said a longtime criminal defense lawyer. "But it's a high-wire act. Sometimes, you will get caught and lose all chances you might have. But sadly, sometimes the threats work."

Chief Fulwood said the phenomenon has been a continuing challenge to police. He said he believes that part of the problem is that criminal cases drag on too long.

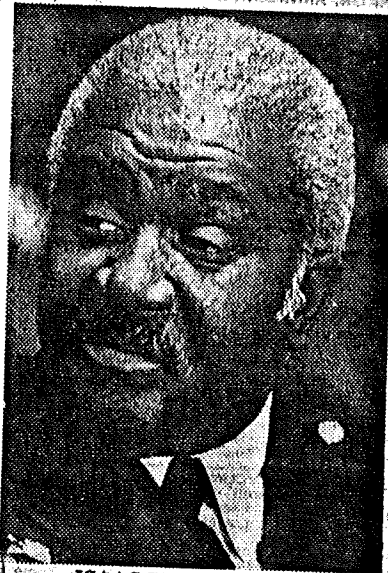
"When it takes a year to get to the trial, witnesses will be intimidated," Fulwood said. "The system just has to be faster."

D.C. police Capt. Alfred Broadbent, commander of the District's homicide squad, added that witness intimidation has hampered the squad's ability to solve slayings. In fact, police said, the increased threats are partly to blame for a dropping closure rate in homicide investigations. Last year, police reported solving about 57 percent of the city's homicides. The year before, the rate was 63 percent.

"There's a lot of fear in the witnesses today," Broadbent said. "Some of the intimidation is in person. Some is on the phone. Some is gestures."

The D.C. police department's intelligence division operates a short-term program that protects witnesses before the trial process begins. Last summer, U.S. Attorney Jay B. Stephens announced a \$2 million program to protect witnesses as cases begin working their way through the court system.

For the most extreme cases, the Justice Department operates the Witness Protection Program through the U.S. Marshals Service. In that program, witnesses' names are changed, their belongings are moved to houses in other parts of the country and their whereabouts



ISAAC FULWOOD JR.

... "the system just has to be faster"

are kept secret even from immediate family members.

Locally, police officials said they try to match the security precautions with the seriousness of the threat.

"Whenever a witness comes to us and is not comfortable, we'll do whatever we can to take the witness out of that environment," Broadbent said. "We take it seriously. You can't get convictions in court without witnesses."

D.C. police inspector Jacqueline Simms, the director of the police intelligence branch, said the department started its own witness protection program in December because there were witnesses who needed protection in cases that weren't in the court system yet. She noted that older witnesses generally are more scared by the threats than younger ones.

"Our protection ranges from buying a bus ticket for someone to relocate at a home out of town to relocating someone in a hotel," Simms said.

Witnesses often are intimidated by threatening phone calls from the defendants or their friends, a longtime detective said. Sometimes the defendants ask their friends to

"hang" outside witnesses' houses or drive by and shoot at their houses.

Detectives said witnesses often are caught up in the drug world themselves, so it's sometimes difficult to prove whether their killings are the result of their upcoming testimony or their own involvement in the drug trade.

Most threats occur during the days leading up to a trial or during a trial, the detective said. After the witnesses have testified, it's "extremely rare" for a defendant or his friends to take revenge because "the damage has already been done," the detective said.

D.C. Council members are reviewing legislation that would increase the penalties for threatening or harming witnesses. On Friday, the Maryland Senate tentatively approved legislation that calls for a sentence of 25 to 35 years for injuring a witness with the intent to influence testimony.

The current maximum sentence of three years, said Maryland State's Attorney Stuart O. Simms, is "not a spectacularly heavy penalty."

Staff writer Richard Tapscott contributed to this report.

# House favors legalizing concealed firearms

**Amendment sparks much debate. The plan still faces many hurdles.**

By JOHN A. DVORAK  
Missouri Correspondent

JEFFERSON CITY — Voting in favor of what one unhappy Kansas City lawmaker termed a "license to kill," the Missouri House Monday evening endorsed legislation that allows the carrying of concealed guns.

"This is giving honest people a chance to protect themselves," said Rep. Joe Driskill, a Doniphan Democrat who sponsored the measure. "We're not putting guns in the hands of anybody."

The legislation, which faces a series of hurdles before winning final passage in the General Assembly, would entitle many adult Missourians to obtain concealed-gun licenses for self-protection. A variety of requirements would have to be met first.

Opponents said the idea signals a step backward in the fight against crime, and they pointed to the widespread use of firearms on the streets of Kansas City and St. Louis. Current law generally bans concealed guns except among law enforcement officials.

The General Assembly should consider limiting guns, not promoting their use, said Rep. Mary Groves Bland, a Kansas City Democrat.

"We're giving people a license to kill," she complained.

Opponents tried in several different ways to derail the proposal but failed each time. The legislation carried on a 123-22 vote. House leaders, who backed the idea, kept the House in session

## GENERAL ASSEMBLY

into the evening, after normal quitting time, to obtain the vote.

The concealed-gun idea, which parallels laws already employed in other states, arose unexpectedly Monday afternoon as an amendment to an anti-crime bill. While the amendment passed, final action on the House bill won't come until later, and ultimately the Senate would have to consider the issue.

Driskill said about three dozen states have similar laws.

Supporters said criminals frequently use illegal weapons. A concealed-gun law, the supporters said, would give citizens a legal opportunity to arm and protect themselves.

"What we're aiming at are honest, law-abiding people," Driskill said.

Under his legislation, only people over 21 who haven't committed serious breeches of law and who have demonstrated the ability to use a firearm, could obtain concealed-gun licenses.

Sheriffs would oversee the licenses, which would run for five years and cost \$100 each.

To obtain licenses, applicants would have to specify their need, which may include fear of "a specific threat of serious physical injury" or concerns about their

"safety and well-being . . . due to specific special circumstances."

Col. C.E. Fisher, superintendent of the Missouri Highway Patrol, said Monday evening that law enforcement agencies have reservations about concealed-gun laws.

While not stating outright opposition to the legislation, Fisher said: "We'd be concerned about more guns being carried. Most police executives would be concerned."

Opponents said the House has fallen too much under the spell of the National Rifle Association, a nationwide group influential in politics that promotes pro-gun laws.

"This is about being nice to the NRA," said Rep. Chris Kelly, a Columbia Democrat.

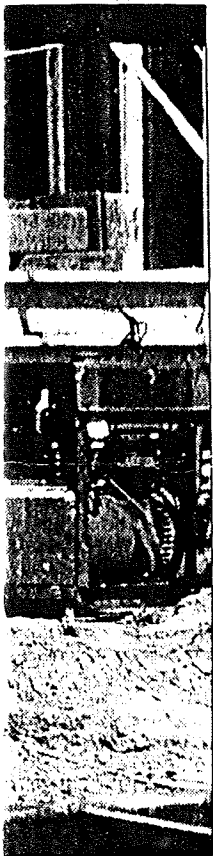
Driskill, the sponsor of the legislation, is a member of the National Rifle Association. He declined to speculate how many Missourians would seek concealed-gun licenses.

Rep. Vernon Thompson, a Kansas City Democrat, expressed concern that too many people will walk around carrying concealed guns.

"I don't know if we want to be Jesse James," Thompson said.

"This is not Jesse James," Driskill replied.

Concluded Thompson: "I think I might open up a gun shop."



ERLY BYNUM/The Star  
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MEMORANDUM

Kansas Legislative Research Department

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

March 23, 1992

RE: Crimes Defined in 1992 S.B. 772

The bill would make the following acts class A misdemeanors:

- operation of an excursion boat on which gambling is conducted without a certificate;
- acting, or employing a person to act, aboard a boat as a shill or decoy to encourage participation in a game, other than media marketing and work associated with the tourism industry;
- knowingly permitting a minor to make a wager in a game;
- wagering or accepting a wager on a game at any location outside the boat; and
- exchanging tokens, chips, or other forms of credit to be used on games for anything of value except as necessary to allow participation in games (New Section 17).

The bill would make the following acts class D misdemeanors, conviction of which would result in being permanently barred from boats in Kansas:

- offering, promising, or giving anything of value or benefit to a person who is connected with the holder of a certificate to conduct games, with the intent of influencing actions of the person to affect or attempt to affect the outcome of a game or to influence official action of a Lottery employee or member of the Commission;
- soliciting or knowingly accepting or receiving a promise of anything of value from a person while that person is connected with the holder of a certificate to operate a boat or conduct games with the understanding or as part of an arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to affect or attempt to affect the outcome of a game, or to influence official action of any employee of the Lottery or member of the Lottery Commission;



- cheating at a game (cheating would be defined by the Act to mean "to alter the selection of criteria which determine the result of an excursion boat game or the amount or frequency of payment in such game");
- manufacturing, selling, or distributing any cards, chips, dice, game, or device that is intended to be used to violate any provision of the Act;
- altering or misrepresenting the outcome of a game on which wagers have been made after the outcome is made sure but before it is revealed to the players;
- placing a bet after acquiring knowledge, not available to all players, of the outcome of the game that is the subject of the bet or aiding a person in acquiring the knowledge for the purpose of placing a bet contingent on that outcome;
- claiming, collecting, or taking or attempting to claim, collect, or take money or anything of value in or from a game with intent to defraud, without having made a wager contingent on winning a game, or taking an amount of money or thing of value of greater value than the amount won;
- knowingly enticing or inducing a person to go to any place where a game is being conducted or operated in violation of the Act with the intent that the other person play or participate in the game;
- using counterfeit chips or tokens in a game;
- knowingly using cash or a coin that is not of the same denomination as the coin intended to be used in a game;
- possessing any device intended to be used to violate the Act;
- possessing any key or device designed to open, enter, or affect the operation or any device connected with a game or for removing contents of a game; or
- possessing on a boat any firearm (law enforcement officers and employees of the Lottery acting in an official capacity excepted) (New Section 17)

Persons who are prohibited from participating in other Lottery games by virtue of their employment by the Lottery, their membership on the Commission, or their relationship to an employee of the Lottery or a Commission member also would be prohibited from participating in these games and the same penalties would apply. Other classes of persons who provide supplies or services to the Lottery may be prohibited from participation in games by rules and regulations of the Commission (New Section 18).

# MEMORANDUM

## Kansas Legislative Research Department

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

March 23, 1992

**FROM:** Mary Galligan, Principal Analyst

**RE:** S.B. 772

The bill would authorize the state Lottery to provide for the operation of specified gaming on excursion boats. Those boats could only operate on the Missouri River and the lower five miles of the Kansas River within the State of Kansas and could only be based in Wyandotte County. Persons operating those games would have to obtain certificates from the Lottery. Only one person at a time could be authorized to operate one of these boats (New Sec. 3). The Lottery would be authorized to give preference to Kansas residents currently operating excursion boats when issuing certificates to operate boats on which gambling could be conducted (New Sec. 8).

"Excursion boat entertainment games" (games) would be defined as any games played with cards, dice, or equipment, or any mechanical, electromechanical, or electronic device or machine, for anything of value. Bingo would be specifically excluded from the definition of games under the Act. An excursion boat (boat) would be defined as a self-propelled excursion vessel, including a barge and boat combination:

- which is certified and licensed by the U.S. Coast Guard;
- which, prior to retrofitting for games, had an authorized capacity of 500 or more persons;
- which is not continuously docked; and
- on which lawful gaming is authorized as provided in the Act. (New Sec. 2)

The Lottery would be authorized either to directly operate and conduct such games, or enter into contracts for facilities, equipment, products and services for the operation and conduct of such games. Any contract for this purpose would be subject to provisions of the Lottery Act regarding major procurement contracts (New Sec. 3).

Video lottery games, slot machines, and other electronic games operated under the authority of the Act would have to pay out an average of not less than 85 percent of all wagers on those games. (Staff Note: S.B. 695 that would authorize the Lottery to operate video lottery games would require that video lottery machines pay out an average of not less than 85 percent and not more than 95 percent of the amount wagered.)

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The Lottery Commission would be required to adopt rules and regulations governing a number of aspects of administration of the Act. Those rules and regulations would have to address procedures and standards for certification, fees, game payouts, duration of excursions, hours during which games could be conducted, minimum admission charges, and any other matters necessary to administer the Act (New Sec. 3). (Staff Note: The Legislature may need to establish statutory maximums for fees in order to avoid an illegal delegation of power.) The Commission would be required to adopt rules and regulations that establish the duration of certificates to operate boats and games. (New Sec. 6) The Commission also would be required to adopt rules and regulations specifying which games could be played and the number, location, and type of boats to be certified under the Act. The Commission also would be required to establish in rules and regulations the minimum number of days excursions must be operated by a certificate holder in order to enable that person to conduct games on the boat while it is docked (New Sec. 8). Further, the Commission would be required to adopt rules and regulations regarding searches of boats and adjacent facilities as part of investigations for violations of the Act or rules and regulations adopted under the Act (New Sec. 9).

The Commission would be authorized, but not required, to adopt rules and regulations allowing additional wagers consistent with generally accepted wagering options in games of twenty-one and dice (New Sec. 9). The Commission also would be authorized to adopt rules and regulations that would prohibit certain classes of persons who provide goods and services to the Lottery from participating in a game in which those goods and services are used (New Sec. 18).

The Executive Director of the Lottery would have full jurisdiction over and supervise all gaming operations governed by the Act. The Act would specify those powers in regard to granting certificates and certain enforcement activities. The Executive Director also would have to require periodic drug testing in accordance with standards provided by regulations of the United States Department of Transportation (New Sec. 5). (Staff Note: The Legislature may need to specify the federal regulation, and its effective date, to be used for this purpose.) Further, the executive director would be required to submit an annual report to the Governor. The report would have to include an account of the Lottery's actions, financial position and results of operation under the Act. The report also would have to include the practical results attained under the Act and any recommendations for legislation the Kansas Lottery deems advisable (New Sec. 16).

The Executive Director of the Lottery would be required to contract for the conduct of games and the operation of games and boats. (Staff Note: Language in this section may contradict permissive language in New Sec. 3(a).) Persons with whom the Director contracts would be issued certificates to conduct games or to operate a boat, as applicable. Certificates would be for a period of time established in rules and regulations of the Lottery Commission, but the term of those certificates could not exceed three years. Certificates would be renewable. Annual fees for certification to operate games would be established in rules and regulations of the Commission. (See previous staff note regarding statutory maximums for fees.) Annual fees for certification to operate boats would be \$5 per passenger-carrying capacity. All revenue from annual certification fees would be credited to the Lottery Operating Fund (New Sec. 6). The Lottery also would issue certificates to persons who manufacture or distribute games or gaming devices. Those certificates would be renewable annually. The annual certificate fee for a distributor would be \$1,000 and the annual fee for a manufacturer would be \$250. Those fees would be credited to the Lottery Operating Fund (New Sec. 19).

Persons who hold certificates to conduct games would be required to acquire all games or gaming devices from a certified distributor. A person certified to conduct games could not be a

manufacturer or distributor of games or gaming devices. Certified manufacturers and distributors would be required to have a representative in Kansas to accept games or gaming devices prior to delivery to a certificate holder (New Sec. 19).

Each applicant for a certificate to operate games or boats would be required to submit pictures, fingerprints, and descriptions of physical characteristics of the applicant, any partners, all officers and directors, and any stockholder who owns 5 percent or more of stock in the corporation. The Division of Lottery Security or the Kansas Bureau of Investigation (KBI) would have to conduct a thorough background investigation of the applicant and all persons for whom information is provided as part of the application. Applicants would be charged a fee in addition to the application fee to defray costs associated with the background investigations (New Sec. 7). (Staff Note: The bill does not contain any means of determining when it would be appropriate for the Lottery rather than the KBI to conduct background investigations of applicants.)

A certificate could be granted only upon the following conditions:

- the applicant could not assign or turn over to a person the operation of the boat or games (this specifically would not prohibit management contracts approved by the executive director of the Lottery); and
- the applicant could not permit anyone else to have a share of the money received for admissions to the boat (New Sec. 8).

Prior to issuance of a certificate, the applicant for the certificate would be required to post a bond to the state in an amount specified by the Lottery in the contract. The bond would be used to guarantee that the certificate holder would faithfully make all payments, keep its books and records, make reports, and operate or conduct games in conformity with the Act and rules and regulations adopted by the Commission. The bond could not be canceled by a surety on less than 30 days' notice in writing to the Kansas Lottery. If a bond is canceled and the certificate holder fails to file a new bond in the required amount on or before the effective date of cancellation, the certificate would be revoked (New Sec. 13). Certificate holders would be required to submit to the Lottery monthly and annual audits conducted by independent certified public accountants registered or licensed in Kansas (New Sec. 15).

Persons holding certificates to work on these boats, operate games, or to operate the boat would have to consent to the search, without warrant, by agents of the Division of Lottery Security or by other Lottery employees designated by the executive director of the certificate holder's person, personal property and effects, and premises located on the boat or adjacent facilities under the control of the certificate holder, in order to inspect or investigate for violations of the Act or rules and regulations adopted under the Act (New Sec. 9). (Staff Note: While New Sec. 9(h)(1) refers to "The holder of a certificate to engage in an occupation on an excursion entertainment boat . . .", the bill does not provide for occupation certificates.) However, warrantless inspections of living quarters or sleeping rooms on a boat would not be permitted if:

- the certificate holder specifically identifies to the Lottery in writing those areas that are to be used as living quarters or sleeping rooms;

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- gaming is not permitted in living quarters or sleeping rooms, and gaming devices, records, or other items relating to gaming operations are not stored, kept, or maintained in living quarters or sleeping rooms; and
- neither cereal malt beverages nor alcoholic liquors are stored, kept or maintained in living quarters or sleeping rooms except those legally possessed by the individual occupying those quarters or rooms (New Sec. 9).

Minors would not be allowed to place bets or to be present in the area of a boat where gambling is being conducted (New Sec. 9). Applicants for certification by the Lottery would, as a condition of certification, have to submit written documentation that the applicant would provide an adequately supervised area reserved solely for activities and interests of minors (New Sec. 8).

Games could not be conducted while the boat is docked except when it is temporarily docked:

- while passengers or crew are getting on and off the boat;
- while supplies are being moved on or off the boat;
- for mechanical problems, adverse weather or other conditions affecting safe navigation; or
- as authorized by the Lottery (New Section 9).

The bill would establish the Local Excursion Boat Fee Fund from which moneys would be allocated to each city, or county (if outside a city) where passengers embark on an excursion boat. Those funds would be allocated to the local governmental entity based on the proportion of the boat's total number of passengers during a given month embarking at that port of call. Local units of government receiving funds from this source would be required to deposit those funds in their general fund (New Sec. 12).

The bill would impose a fee of \$2 on each admission to a boat, whether paid or complimentary. Half of the admission fee revenue would be credited to the Local Excursion Boat Fee Fund with the balance remaining in the Lottery Operating Fund (New Sec. 10).

The state's portion of the adjusted gross receipts (adjusted gross receipts would be defined as the total amount wagered, less winnings paid out) from games would be equal to 5 percent of the first \$1 million, 10 percent of the next \$2 million, and 20 percent of amounts over \$3 million. Five percent of the state's share would go to the Local Excursion Boat Fee Fund, with the remainder going to the Lottery Operating Fund (New Sec. 11).

The bill would define a number of criminal acts. Among those crimes would be a number directly related to these games, conviction of which would result in a person being permanently barred from boats in Kansas (New Sec. 17).

Persons who are prohibited from participating in other Lottery games by virtue of their employment by the Lottery, their membership on the Commission, or their relationship to an

Att. 5  
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employee of the Lottery or a Commission member also would be prohibited from participating in these games and the same penalties would apply. Other classes of persons who provide supplies or services to the Lottery could be prohibited from participation in games by rules and regulations of the Commission (New Sec. 18).

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# MEMORANDUM

## Kansas Legislative Research Department

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

March 24, 1992

**FROM:** Mary Galligan, Principal Analyst

**RE:** Specific Regulation Authority of Lottery Commission and Powers of the Executive Director of the Kansas Lottery in 1992 S.B. 772

The Lottery Commission would be required to adopt rules and regulations:

- identifying those occupations for which a certificate must be obtained and establishing fees, standards, and procedures for that certification; (Staff Note: The Legislature may wish to define in the bill those occupations for which certificates would be required. The Legislature also may need to establish in statute maximum fees for those certificates in order to avoid an illegal delegation of power.)
- establishing standards under which all excursion entertainment boat operations would be held and standards for the facilities where operations are to be held, which may authorize the conduct of games on a boat where alcoholic beverages are sold and consumed;
- establishing payouts from excursion boat entertainment games, taking into consideration factors that provide entertainment opportunities that are beneficial to certificate holders and the general public;
- establishing the duration of excursions for a period of not less than two hours and limiting the hours of operation of these boats;
- establishing that the hours during which games may be conducted are not less than the hours during which liquor may be sold by a drinking establishment; (Staff Note: K.S.A. 41-2614 requires drinking establishments to be closed between 2:00 and 9:00 a.m. each day.)
- establishing minimum charges for admissions to boats and regulating the number of free admissions;
- prescribing the form and content of applications for certificates; and
- as necessary to administer the Act (New Sec. 3).

Att. 5  
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The Commission also would be required to adopt rules and regulations specifying which games could be played and the number, location, and type of boats to be certified under the Act. The Commission also would be required to establish in rules and regulations the minimum number of days excursions must be operated by a certificate holder in order to enable that person to conduct games on the boat while it is docked (New Sec. 8). (Staff Note: New Sec. 9(g) would prohibit conducting games while the boat is docked unless it is temporarily docked to let passengers and crew on and off or to load and unload supplies. Under that section games could also be conducted while the boat is docked for mechanical problems, adverse weather or other conditions adversely affecting safe navigation, during the duration of the problem or condition. Finally, the Lottery could authorize conduct of games while the boat is docked. The bill does not appear to include any limitations on this latter authority.) The Commission also would be required to adopt rules and regulations regarding searches of boats and adjacent facilities as part of investigations for violations of the Act or rules and regulations adopted under the Act (New Sec. 9).

The Commission would be authorized, but not required, to adopt rules and regulations allowing additional wagers consistent with generally accepted wagering options in games of twenty-one and dice (New Sec. 9). The Commission also would be authorized to adopt rules and regulations that would prohibit certain classes of persons who provide goods and services to the Lottery from participating in a game in which those goods and services are used (New Sec. 18).

The Executive Director of the Lottery would have full jurisdiction over and supervise all gaming operations governed by the Act. The Executive Director would have power to:

- investigate and determine the eligibility of applicants and select among competing applicants those that best serve the interests of the citizens of the state;
- certify persons to engage in those occupations on boats which require certification, certify persons to conduct games, and certify operators of boats;
- regulate the wagering structure for games;
- enter the office, boat, facilities, or other places of business of a certificate holder to determine compliance with the Act;
- investigate alleged violations of the Act or Commission rules and regulations or orders and take appropriate action against a holder of a certificate for such violation or institute appropriate legal action for enforcement, or both, including revocation or suspension of a certificate;
- require a certificate holder or employee of a certificated holder to remove a person violating a provision of the Act or Commission rules and regulations or other person deemed to be undesirable, from a boat;
- require removal from a boat of a certificate holder or employee of a certificate holder for violating the Act, a Commission rule or regulation, or for ordering or engaging in a fraudulent practice;
- take other action which may be reasonable or appropriate to enforce the Act and Commission rules and regulations;



- require all holders of certificates to conduct games that use cashless wagering systems; and
- provide for adequate security aboard each boat and at each port of call (New Sec. 5).

The Executive Director also would have to require periodic drug testing in accordance with standards provided by regulations of the United States Department of Transportation (New Sec. 5). (Staff Note: The Legislature may need to reference the specific regulations to be used for this purpose and their effective date.) The Executive Director also would be required to submit an annual report to the Governor. The report would have to include an account of the Lottery's actions, financial position, and results of operation under the Act. The report also would have to include the practical results attained under the Act and any recommendations for legislation the Kansas Lottery deems advisable (New Sec. 16). (Staff Note: Duties of the Executive Director of the Lottery at K.S.A. 74-8706 include making quarterly and annual financial reports to the Commission, Governor, Legislature, and State Treasurer. The Legislature may wish to clarify the relationship between those duties and the ones included in S.B. 722. Such clarification may include cross referencing or consolidating the Executive Director's duties in a single statute.)