

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Carlos Mayans at 1:30 p.m. on January 30, 1995 in Room 423-S of the State Capitol.

All members were present.

Committee staff present: Emalene Correll, Legislative Research Department
Bill Wolff, Legislative Research Department
Norman Furse, Revisor of Statutes
Lois Hedrick, Committee Secretary

Conferees appearing before the committee: Pat Hubbell, The Tobacco Industry

Others attending: See Guest List, Attachment 1.

The minutes of the meetings held on January 19, January 23, January 24, January 25, and January 26, 1995, were approved.

Chairperson Mayans stated the first item of business was to consider introduction of bills. Pat Hubbell, representing The Tobacco Industry, requested that the committee consider introduction of legislation to make the statutes concerning smoking in public places uniform statewide, preempting local ordinances (see Attachment 2). Essentially, the bill would authorize the person who has control over a space to decide whether there would be a designated area for smoking. Mr. Hubbell indicated that if the committee approves the introduction of the bill, that at the time of hearing it is planned that some local officials will come to testify as to problems they have encountered under the various laws and ordinances that are in effect. After discussion, on motion of Representative Morrison, seconded by Representative Henry, the committee approved the introduction of the bill as set out on Attachment 2.

Subcommittee Chairman Morrison reported that members of the Subcommittee on **HB 2009** (social welfare, prohibit mailing assistance payments to a post office box) met last Thursday, January 26th, in Room 174-W of the Capitol, with committee staff member Norman Furse (Revisor of Statutes), and Candy Shively (Acting Commissioner, SRS Income Maintenance and Medical Services Commission). The subcommittee discussed the implementation of electronic benefit transfer cards, which are anticipated to control fraud. The subcommittee members felt that utilization of the card will solve the problems entailed in the delivering of assistance benefits to post office boxes; and felt that if this bill was enacted, the problems may already be fixed. Representative Morrison stated in visiting with Representative Haulmark, that he agreed that the need for this bill is a moot point in view of the oncoming electronic benefits transfer card. Representative Morrison then moved, seconded by Representative Rutledge, that **HB 2009** be not passed.

Representative Henry asked if SRS could verify that a client actually had a post office box. Emalene Correll replied they do verify addresses as a routine procedure. Representative Landwehr stated that in checking with postal authorities in Sedgwick and Johnson counties, the problem of post office box deliveries was not as large as stated during the hearing on the bill. Representative Geringer asked if there is a way to report potential fraud to SRS. Emalene Correll stated there is an 800 number for reporting suspected fraud. After discussion, by voice vote, the committee approved the motion that **HB 2009** be not passed.

Chairperson Mayans stated that tomorrow the committee will consider introduction of bills and will consider action on **HB 2083** (reporting termination of pregnancies). On Wednesday, February 1, the committee will consider action on **HB 2004** (chiropractors authorized to perform health assessments of school pupils).

In other business, Representative Henry asked about **HB 2221** (administration to infants of tests for genetic diseases). Emalene Correll replied that the bill will cause all physicians to perform certain genetic tests on infants. Currently, the law requires that the person in charge of the institution where a child is born is required to perform such tests.

The meeting was adjourned at 1:45 p.m.

The next meeting is scheduled for January 31, 1995.

HEALTH AND HUMAN SERVICES COMMITTEE GUEST LIST

DATE: JANUARY 30, 1995

NAME	REPRESENTING
PHILIP HURLEY	PATRICK J. HURLEY & CO.
Clita Renyer	R to S. of Mo.
Daelruz Starus	L W U
Amy Howell	Intera
Peggy Jarman	PCAL
Barb Lisher	my family
Aaron Rosen	KAOA
Chip Wheeler	KS Medical Soc.
Met Truell	AP
GARY Robbins	KS Optometric ASSN
KOTN & LAUDIS	CHRISTIAN SCIENCE CONG ON PUBLICATION FOR KS
Joe Furjanic	KCA
Stacey Emerson	Hein, Gortz, Weir
Tom Bruno	Allen & ASSOC.
John Roffenberg	Phillip Morris
Pat Huhll	TI
Steve Posen	KDHE

HEALTH AND HUMAN SERVICES COMMITTEE GUEST LIST

DATE: JANUARY 31, 1995

NAME	REPRESENTING
Peggy Jarman	PCAL, WHCS
Darlene Ferr Stearns	LAW
Tom Hitchcock	Bd. of Pharmacy
Joe Furganic	KCA
Rich Pittman	Health Medment
Tom Bruno	Alten Assoc.
Jeanne Gaudin	KFL
Kay Miller	N.O.W.
Douglas Johnston	Planned Parenthood
Gary Robbins	Ks Optometric Assn
AROLD RIEHN	KAOM
Bob Williams	Ks. Pharmacists Assoc.
Michelle Peterson	PhRMA
LORNE A. PHILLIPS	KDWR
Matt Truell	AP
Man Kent	Amer. Cancer Soc.
Nathalie Scharf	KHA
Sharon Shingellon	CWA of Ks
JIM McDAVITT	Ks Education Watch

PROPOSED BILL NO. _____

By

AN ACT concerning cigarettes and tobacco products; regulating smoking in public places; preempting certain local regulation; repealing K.S.A. 21-4009, 21-4010, 21-4011, 21-4012, 21-4013 and 21-4014.

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

Section 1. As used in this act:

(a) "Public meeting" includes all meetings open to the public.

(b) "Public place" means enclosed indoor areas open to the public or used by the general public including but not limited to: Restaurants, retail stores, public means of mass transportation, elevators, hallways, escalators, restrooms, health care institutions or any other place where health care services are provided to the public, educational facilities, libraries, courtrooms, state, county or municipal buildings, grocery stores, school buses, museums, theaters, auditoriums, arenas and recreational facilities.

Public place does not include:

- (1) Private homes, residences and automobiles;
- (2) any indoor area where private social functions are being held;
- (3) any indoor area open to the public exclusively reserved for conventions and trade shows if the sponsor or organizer gives notice in any promotional material or advertisements that smoking will not be restricted and prominently posts notice at the entrance to the convention or trade show advising the public that smoking will not be restricted;
- (4) tobacco businesses;
- (5) limousines under private hire by an individual or corporation;

(6) licensed drinking establishments and clubs, as defined in K.S.A. 41-2601 and amendments thereto, and cereal malt retailers licensed for on-premise consumption under K.S.A. 41-2701 et seq. and amendments thereto; and

(7) taxis for hire.

(c) "Restaurant" means any licensed food service establishment, as defined in K.S.A. 36-501 and amendments thereto, in which food is served on the premises, except drinking establishments and clubs, as defined in K.S.A. 41-2601 and amendments thereto, and cereal malt retailers licensed for on-premise consumption under K.S.A. 41-2701 et seq. and amendments thereto.

(d) "Smoking" means possession of a lighted cigarette, cigar, pipe or burning tobacco in any form or device designed for the use of tobacco.

Sec. 2. (a) No person shall smoke in a public place or at a public meeting except in designated smoking areas.

(b) Smoking areas may be designated by proprietors or other persons in charge of public places, except in passenger elevators, school buses, public means of mass transportation and any other place where smoking is prohibited by the fire marshal or by state law.

(c) Drivers of taxis for hire may designate taxis as smoking or nonsmoking areas, but smoking is prohibited when the taxi is engaged unless all patrons agree to allow smoking.

(d) Where smoking areas are designated, existing physical barriers and ventilation systems shall be used.

Sec. 3. The proprietor or other person in charge of the premises of a public place shall post or cause to be posted in a conspicuous place signs clearly stating that smoking is prohibited by state law. The person in charge of the premises shall also post or cause to be posted in any designated smoking area, signs stating that smoking is permitted in such room or area. Except as otherwise provided by law, the proprietor or person in charge of the public place shall have the authority to

establish the percentage of area in the public place which shall be posted and designated as the smoking area.

Sec. 4. Smoking in violation of this act is a misdemeanor punishable by a fine of not more than \$20 for each violation. Failure to post signs as required by this act is a misdemeanor punishable by a fine of not more \$50. In addition, the department of revenue may institute an action in any court of competent jurisdiction to enjoin repeated violations of this act.

Sec. 5. The proprietor or other person in charge of a restaurant with a seating capacity of 50 or more shall designate a nonsmoking area within such restaurant. The provisions of this section shall not apply to an entire restaurant or separate designated rooms being used for a private function, or to a restaurant which prominently displays a sign on the outside of the premises which advises the public that smoking will not be restricted.

Sec. 6. Except as otherwise provided by law, any public or private employer operating a workplace with 100 or more employees shall adopt, implement and maintain a written smoking policy and shall conspicuously post the employer's smoking policy in the workplace. Each person in the workplace shall be subject to the posted smoking policy of the employer. The designation of smoking and nonsmoking areas in the workplace shall be a mandatory subject of collective bargaining where applicable.

Sec. 7. An employer, administrator, manager, proprietor or operator of any indoor arena, restaurant or place of employment subject to the provisions of this act who designates smoking and nonsmoking areas and establishes written smoking guidelines pursuant to this act shall not be subject to liability for harm to any person relating thereto, except as provided by this act.

Sec. 8. This act expressly preempts the regulation of the sale, marketing, licensing, distribution, advertising, sampling, promotion, display or smoking of cigarettes and tobacco products, or any limitation of competition of tobacco products by any restriction of the use of coupons, discounts, promotional

allowances or premiums by any city, county or other political subdivision of this state and expressly supersedes any ordinance or resolution by any city, county or other political subdivision of this state that pertains to these matters which is adopted before, on or after the effective date of this act. A city, county or other political subdivision of this state may adopt an ordinance or resolution under the provisions of this act, but the conduct prohibited or restricted by such ordinance or resolution shall be identical to the conduct prohibited or restricted under this act and under no circumstances shall the provisions of any such ordinance or resolution be more stringent than the provisions of this act.

Sec. 9. If any provision of this act or the application thereof to any person, thing or circumstance is held invalid, the invalidity shall not affect the provisions or applications of this act that can be given effect without the invalid provision or application. To this end the provisions of this act are severable.

Sec. 10. K.S.A. 21-4009, 21-4010, 21-4011, 21-4012, 21-4013 and 21-4014 are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.