

Approved: 3/6/96 la  
Date

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE & LABOR  
The meeting was called to order by Vice-Chairman Greg Packer at 9:02 a.m. on February 16, 1996 in Room 526-S of the Capitol.

All members were present except: Rep. Jill Grant - excused

Committee staff present: Jerry Donaldson, Legislative Research Department  
Bob Nugent, Revisor of Statutes  
Bev Adams, Committee Secretary

Conferees appearing before the committee: Scott Stone, (KAPE),  
Timothy Rohrig, Osborn Laboratories  
Wendy McFarland, ACLU  
Wayne Maichel, Kansas AFL/CIO  
Dr. Roger Carlson, KDHE

Others attending: See attached list

Continued hearing on:  
**HB 2847 - Drug Testing**

Scott Stone, executive Director and Chief Counsel of Kansas Association of Public Employees (KAPE), appeared before the committee in support of the bill. He feels that the bill is needed to maintain the safeguards that protect the state from lawsuits and the individual from false accusation. He pointed out that without this bill, cheaper tests may be used, by less experienced technicians, which will likely result in more false positive readings. (see Attachment 1)

Timothy Rohrig, Director of Toxicology at Osborn Laboratories, appeared before the committee as a proponent of the bill. He pointed out that an important aspect of this bill is the requirement for confirmation of any screening test that is positive. This will protect against the release of any false positive test results. He offered amendments to the bill. (see Attachment 2) He concluded his testimony by answering questions from the committee.

Wendy McFarland, ACLU, answered a question from one of the committee members about answering questions when a person is taking a drug test.

Wayne Maichel, Kansas AFL/CIO, appeared as a proponent of the bill. They believe this bill is necessary due to the massive changes in the rules and regulations recommended by the Kansas Department of Health and Environment (KDHE). They believe these changes will ultimately subject employers to the possibility of higher liability due to legal actions by wrongfully terminated employees. (see Attachment 3)

Dr. Roger Carlson, Director, Kansas Health and Environmental Laboratory of KDHE, appeared as an opponent of the bill. They are currently recommending changes in their rules and regulations for drug testing in Kansas. A public hearing was held on January 11, 1996, to consider the adoption of proposed changes in the rules and regulations. The changes are still being considered by the Secretary of KDHE. They are opposed to **HB 2847**, which would place current restrictive regulations into Kansas statute and would be a costly solution to the stated goal. Funding to carry out the regulation of Kansas drug screening laboratories as proposed by this bill is not included in the KDHE budget. (see Attachment 4) He concluded his testimony by answering questions from the committee.

No others were present who wanted to testify on **HB 2847**, and the hearing was closed.

The meeting was adjourned at approximately 10:00 a.m.

The next meeting is scheduled for February 20, 1996.

HOUSE BUSINESS, COMMERCE & LABOR COMMITTEE  
GUEST LIST

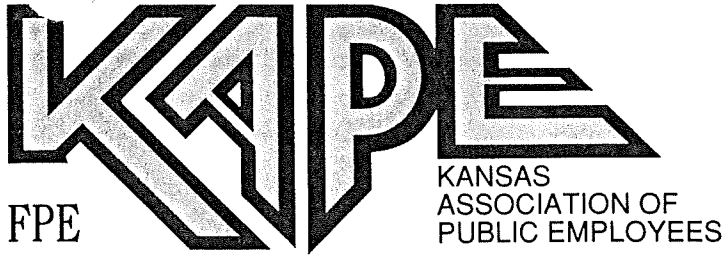
DATE February 16, 1996

NAME	REPRESENTING
Stanley P. Sutton	KDHE-KHEL-Sub Unemployment
Roger Carlson	KDHE-LA3
Cliff Denton	Kansas Livestock Dept
Patrick Mulvihill	Kansas Insurance Dept.
Phil Harless	KDHR-Workers Comp.
Dwain Wingo	KBT
Wendy McFarland	ALLU
Scott Stone	KAPE
Thaine Hoffman	DOAS
TRUDY ARON	AM INST OF ARCHITECTS
KEVIN ROBERTSON	BARBEE & ASSOCIATES
Jenny Wentz	Sec. of State
Chuck Knapp	Sec of State
TERRY LEATHERMAN	KCCI
Debi Smith	KAIA
D. WAYNE ZIMMERMAN	KBIWCF
Jamie Clover Adams	KGFA/KFCA
Gill Czapfeller	Intern
John Kieflaber	Ks Health Care Assn.

HOUSE BUSINESS, COMMERCE & LABOR COMMITTEE  
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DATE Feb 16, 1996

NAME	REPRESENTING
Bob Clawson	SRS
Michelle Peterson	PhRMA
CLYDE KENSINGER	COMMERCIAL BANK & TRUST / TOPKSD
JANET STUBBS	Ks. Bldg. IND. ASSN.
JASON PITTSBERGER	BAAO Smart
Bill Curtis	Ks Assoc of School Bds



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TESTIMONY OF SCOTT A. STONE  
Executive Director and Chief Counsel,  
Kansas Association of Public Employees (KAPPE)

Before the Senate Business, Commerce and Labor Committee.

February 16, 1996, 9:00 a.m.  
State Capitol, Room 526-S

In support of House Bill 2847.

My name is Scott A. Stone and I am the Executive Director and Chief Counsel for the Kansas Association of Public Employees (KAPPE). Members of the committee, I appreciate the opportunity to appear before you today in support of House Bill 2847. The bill reverses the decision by the Secretary of Health and Environment to remove many of the safeguards in Kansas' drug testing law. House Bill 2847 seeks to codify what was regulation in order to maintain the safeguards that protect the state from lawsuits and the individual from false accusation.

Nearly all of the regulations pertaining to all drug testing of employees have been proposed to be deleted. The requirement for a second, confirmatory test combined with reductions in the experience level of laboratory handlers and testers places all involved at a higher risk.

Without this Bill, cheaper tests may be used, by less experienced technicians, which will likely result in more false positive readings. Without this Bill, the regulations will become, since their recent revision, overly broad and vague resulting in large

*House Business, Commerce  
& Labor Committee  
2/16/96*

Affiliated with the Federation of Public Employees / AFT / AFL-CIO



*Attachment 1*

loopholes that harm both Kansas taxpayers due to increased liability and the civil rights of Kansas employees.

I commend Representative Swenon for his sponsorship of a bill that is far sighted enough to recognize that not all governmental regulations are simply excess paper. KAPE also supports the other proponents in their endorsement of this Bill.

I would like to thank the members of this committee for their time and consideration on this matter. I will gladly stand for any questions from the committee.

Thank you.



OSBORN LABORATORIES

TIMOTHY P. ROHRIG, Ph.D., DABFT  
DIRECTOR OF TOXICOLOGY

TESTIMONY IN SUPPORT OF HB 2847  
15 FEBRUARY 1996

Testimony by: Timothy P. Rohrig, Ph.D., DABFT  
OSBORN LABORATORIES  
P.O. Box 2920  
Shawnee Mission, KS 66201

- We (Osborn Laboratories) would like to thank the committee for the opportunity to speak in support of HB 2847.
- We are in full support of the intent of HB 2847.
- An important aspect of this bill is the requirement for **confirmation** of any screening test that is positive. This will protect against the release of any *false* positive test results.
- We would like to offer a few minor enhancements/corrections to HB 2847:
  - a) Under screening tests; in addition to the listed methodologies, include high performance liquid chromatography (HPLC) and other analytical techniques which are based upon separation sciences (e.g. capillary electrophoresis)  
  
or more simply utilize the definition of screening test on page 1 line 30.
  - b) Delete *individual* from page 2 line 14; there are many scientifically valid methods that will screen for multiple drug classes at the same time.
  - c) The **confirmation test** should allow any technique based upon *MASS SPECTROMETRY* and not be limited to just GC/MS (gas chromatography/mass spectrometry).

*House Business Commerce  
& Labor Committee  
2/16/96  
Attachment 2*



President  
**Dale Moore**

Executive Secretary  
Treasurer  
**Jim DeHoff**

Executive Vice  
President  
**Wayne Maichel**

#### Executive Board

*Richard Aldrich  
James Banks  
Mike Bellinger  
Bill Brynds  
Gary Buresh  
Eugene Burrell  
Ken Doud, Jr.  
Richard Durow  
David Han  
Jim Hastings  
John Hoover  
Greg Jones  
Frank Mueller  
Dwayne Peaslee  
Craig Rider  
Wallace Scott  
Debbie Snow  
Betty Vines*

**Testimony Presented To  
House Business, Labor and Commerce Committee  
House Bill 2847  
by Wayne Maichel  
February 16, 1996**

Mr. Chairman and members of the committee, I thank you for the opportunity to appear before you today in support of House Bill 2847. This bill places in the statute, the present Department of Health and Environment rules and regulations regarding drug testing.

We believe this bill is necessary due to the massive changes in the rules and regulations recommended by the department. We feel these changes will severely compromise the integrity of employee drug tests. Under the recommended new rules and regulations, the possibility of false positives resulting in wrongful termination is greatly increased.

Employees subjected to drug testing have a right to guarantees under the law that those tests will be done with high quality control, confidentiality and security. The planned changes by the Department seriously undermines that right.

These recommended changes would, in our opinion, enable sub-standard laboratories to be certified. This would be possible because of the following recommended changes:

1. The removal of the requirements for high quality control.
2. The removal of the required confirmation by a different, secondary procedure in the case of positive tests.
3. The removal of the requirement for a secure chain of custody of specimens.
4. Only minimal standards will be required for personnel performing the testing.

Because of these changes and others, we feel inaccurate results are far more likely to occur. We also believe that the changes will ultimately subject employers to the possibility of higher liability due to legal actions by wrongfully terminated employees.

We strongly urge you to vote in favor of HB 2847 and keep these high standards which protect Kansas workers.

*House Business, Commerce  
& Labor Committee  
2/16/96  
Attachment 3*



State of Kansas

Bill Graves



Governor

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Department of Health and Environment

James J. O'Connell, Secretary

Testimony presented to  
Committee on Business, Commerce, and Labor

by  
The Kansas Department of Health and Environment  
House Bill 2847

It is very important that drug screening information which is used for workplace testing and employment decisions be accurate. The quality of other laboratory tests performed on specimens derived from the human body is assured through federal requirements outlined in the Clinical Laboratory Improvement Amendments of 1988 (CLIA'88). Unfortunately, laboratory tests for drugs of abuse are not included under federal requirements and thus Kansas regulations were drafted to address this deficiency. However, some provisions of current Kansas regulations are significantly more stringent than CLIA'88 requirements and are quite difficult for many Kansas laboratories to meet. The rapid assessment of comatose patients in Kansas hospital emergency rooms is also problematic under current Kansas requirements. Because of the large number of Kansas laboratories which have been exempted from current requirements, the cost of regulation may also prove burdensome for the remaining 32 approved laboratories. One solution to improve this situation would be to revise KAR 28-33-12 consistent with CLIA'88 requirements. This option is under consideration at the present time. HB2847, which would place current restrictive regulations into Kansas statute, would be a costly solution to the stated goal and is opposed by the Kansas Department of Health and Environment. Funding to carry out the regulation of Kansas drug screening laboratories as proposed by this bill is not included in the KDHE budget.

Testimony presented by: Roger Carlson Ph.D.  
Director  
Kansas Health & Environmental Laboratory  
February 15, 1996

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*House Business, Commerce & Labor*

*2/16/96*

*Attachment 4*