

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Lana Oleen at 11:05 a.m. on February 13, 1996 in Room 254-E of the Capitol.

Members present were: Senator Oleen, Chair
Senator Tillotson, Vice Chair
Senator Jones, Ranking Minority Member
Senator Gooch
Senator Hensley
Senator Jordan
Senator Papay
Senator Praeger
Senator Ramirez
Senator Vidricksen
Senator Walker

Committee staff present: Mary Galligan, Legislative Research
Mary Torrence, Revisor
Nancy Wolff, Committee Secretary

Conferees appearing before the committee:

Merrill Werts, Chair for the Commission on Veterans' Affairs for Kansas
Mr. Stan Teasley, Executive Director, Kansas Commission on Veterans' Affairs
Chuck Yunker, Adjutant for The American Legion Department
Fred Dumas, Veterans Service Rep., The American Legion Department of Kansas
Brenda Blue
Bud Grant, Kansas Chamber of Commerce and Industry
Charles Engel, American Society of Composers, Authors and Publishers (ASCAP)
Dean DeMerritt, ASCAP's
Ed Bailey, a Topeka copyright attorney
Alan Hanson, Past Chairman of the Miss Kansas Pageant
Ken Komenda, President of the Kansas Hotel Association
Kevin Robertson, Kansas Hotel & Lodging Association
Chad Treaster, Kansas Restaurant Association

The hearing on **SB582** - Qualifications of veterans service representatives employed by commission on veterans affairs. Senator Oleen introduced Merrill Werts of Junction City who was her former State Senator and is now the Chair for the Commission on Veterans' Affairs for Kansas. Mr. Stan Teasley, Executive Director of the Kansas Commission on Veterans' Affairs testified as a proponent on the bill (Attachment 1). Chuck Yunker, Adjutant for The American Legion Department of Kansas and Fred Dumas, Veterans Service Representative for The American Legion Department of Kansas, testified as proponents of SB582 (Attachment 2). The final proponent, Brenda Blue, testified in support of the bill and presented a petition signed by patients at the Topeka Veterans Administration Hospital (Attachment 3). There being no opponents, the hearing was closed.

The hearing was then held on **SB627** - Contracts for payment of royalties for certain musical works; imposing certain requirements and prohibiting certain acts. Senator Vidricksen gave a brief overview of his past experience with ASCAP. Bud Grant, representing the Kansas Chamber of Commerce and Industry testified in support of the bill (Attachment 4) and Charles Engel representing the American Society of Composers, Authors and Publishers (ASCAP) testified in opposition to the bill. He introduced Dean DeMerritt of ASCAP's Omaha, Nebraska office and Ed Bailey, a Topeka copyright attorney (Attachment 5). Ed Bailey, a Topeka copyright attorney, testified in support of the bill and Alan Hanson, an attorney from Pratt who was the Past Chairman of the Miss Kansas Pageant, testified as a proponent (Attachment 6). Ken Komenda, President of the Kansas Hotel Association. Testified in support of the bill and Kevin Robertson of the Kansas Hotel & Lodging Association (Attachment 7) and Chad Treaster of the Kansas Restaurant Association (Attachment 8) testified as proponents. Senator Oleen stated that since a dialogue had been started between the two factions. She encouraged them to continue their discussions in an effort to resolve their differences.

There being no other business, the meeting was adjourned at 12:05 p.m.



KANSAS **COMMISSION ON VETERANS' AFFAIRS** **KANSAS**

**Testimony by Stan Teasley, Executive Director
Kansas Commission on Veterans Affairs
on Senate Bill 582
before the
Senate Federal and State Affairs Committee
February 13, 1996**

Madame Chairperson and members of the Committee, I am Stan Teasley, Executive Director of the, Kansas Commission on Veterans Affairs and I am here to testify in favor of Senate Bill 582. Senate Bill 582 in essence would require that all Veterans Service Representatives appointed by the Executive Director of the Kansas Commission on Veterans be a honorably discharged veteran or retired from the United States Armed Forces.

This bill was introduced based upon the request of this agency. This veteran status was a requirement for in excess of 30 years as a basic minimum qualification of the position established by the State Division of Personnel (DPS). However, in January of last year as a result of an inquiry, DPS determined that this veteran specification did not meet their definition of a necessary special qualification because this specification was not grounded in a statute, law, or regulation of some type. This agency was informed that unless we could base this qualification on a federal or state law the necessary special qualification would be removed from this position. Consequently, we have been operating since approximately April of last year with this veteran status requirement not being a part of the qualifications of the Veterans Services Representative position. I would point out that no individual since that time has been hired as a permanent Veteran Service Representative who has not been a honorably discharged veteran.

We believe that being a honorably discharged veteran is an important element of being an effective and responsive Veteran Service Representative in assisting Kansas Veterans and their dependents in obtaining their deserved federal veteran benefits. The federal benefits that these positions attempt to obtain for Kansas citizens is based upon an individual's service in the U.S. Armed Forces. Therefore, having the knowledge and the

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experience of what military service entails is very beneficial to the service representative in being able to relate to their client and to obtain important information relevant to their claim.

There is precedent in requiring veteran status as a qualification for positions in other governmental programs. Local Veteran Employment Representatives and Disabled Veteran Outreach Program specialist employed with the Kansas Department of Human Resources in Job Service Centers are required to be veterans based upon federal law. It has been determined by the federal government that a veteran status requirement is an important qualification for these positions whom assist Kansas Veterans in obtaining employment and training opportunities and have consequently mandated that states hire veterans in these positions to be eligible to receive the necessary federal funds to fund these programs. Kansas should follow the lead of the federal government in this area by requiring their employees charged with assisting Kansas Veterans in obtaining veteran benefits to be a honorably discharged veteran.

Lastly, a survey was conducted telephonically of nine states to determine those state's qualifications for comparable positions. Seven of the nine states surveyed had a requirement of veteran status for comparable positions with six of these states having this requirement based in statute and one in administrative rule and regulation. One of the states which did not have a veteran status requirement is seeking similar legislation in their legislature to establish this requirement and the other state, although they do not have a statutory or administrative veteran requirement, have no individuals employed in their service representative positions that are not veterans. I believe that this clearly indicates that the veteran status requirement for veteran service representatives is important and represents a fair job qualification.

I would encourage passage of Senate Bill 582. This bill would reestablish a veteran status job qualification for Veteran Service Representatives that existed in excess of 30 years in Kansas. Being a veteran is important for these positions to relate to their clientele and to have the knowledge of what military service involved so that they can better serve the veterans of Kansas.

Thank you for this opportunity to testify and I would be happy to answer any questions.

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Testimony Presented
Kansas Federal and State Affairs Committee
Regarding Senate Bill 528 ~~582~~
by Charles M. Yunker, Adjutant
The American Legion Department of Kansas

The single most important reason The American Legion was founded was to insure that veterans - primarily disabled, elderly and needy veterans - were provided care when necessary and in a manner befitting those who defended this nation in time of peril, or who carried out our government's policies through their service in the armed forces.

With few exceptions, those veterans who seek assistance from the VA are the disabled, the elderly, and the needy. And when a veteran finds themselves in need of VA assistance they feel more comfortable confiding in a fellow veteran. I would, with your permission, like to introduce Fred Dumas a Veterans Service Representative with The American Legion who can better relate to you the importance of veterans being placed in positions to serve other veterans when filing for their earned VA benefits.

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Testimony Presented
Kansas Federal and State Affairs Committee
Regarding Senate Bill ~~528~~582
by Fred Dumas, Veterans Service Representative
The American Legion Department of Kansas

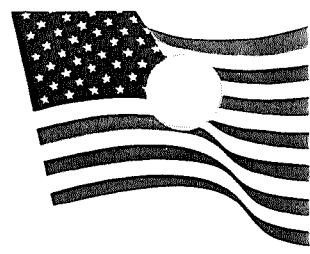
My experience as a Veteran Service Representative in assisting veterans with filing claims for disabilities incurred in or aggravated by military service with the Dept. of Veterans Affairs, has touched the lives of veterans of WWI, WWII, the Korean Conflict, Vietnam and the Persian Gulf.

It seems that the "military bond" or comradeship never ends, as military veterans share a special kind of "growing-up" together during our middle or late adolescence. This "bond" continues forever. You can look in our local newspaper, American Legion, VFW, DAV and various other organization's magazines and find listings of "outfits", ships and dates for reunions for former members of the Army, Air Force, Navy, Marines, Coast Guard, Merchant Marines and Army-Air Corps.

This pride and bonding lives today and when a veteran walks into my office he/she knows that another veteran understands what he/she is getting at or talking about. Further they want to feel that he or she is getting representation from a veterans advocate. Sometimes they come straight out and ask if I'm a veteran. At times they come in already upset and say "that's not what they promised when I went to serve my country", and if I don't tell them what they want to hear they get up from their chair and say "You're no damn veteran!" These situations occur in all Kansas Commission on Veterans Affairs Offices whether in a VA Medical Center or Field Office which are located throughout the state.

At times they preface an incident or situation with "you know", "when we", or "remember how it was". This I feel is their way of being at ease with another veteran to talk about certain things that happened to them while in service. Some of which are of a very personal and private nature. When a veteran comes into my office and shares horrible things that make them cry, or good things like crying at parades in honor of veterans or just seeing the Flag, I know they know they're talking to another veteran.

Therefore I urge your vote in favor of Senate Bill ~~528~~582



FROM: Miss Brenda D. Blue, Concern Veteran/citizen
TO: Senate Federal And State Affairs Committee
DATE: February 12, 1996
SUBJECT: VETERANS WORKING WITH/FOR VETERANS

The government is failing the veterans of every war ever fought by service personnels of all banches. Our government ask us as soldiens, as veterans, and as citizens of the U.S. to give our very best to what we accomplish in our life time upon this earth. And, that also include the many past lives that can no longer speak for themselves. Their lives canny on through their future generations, as well as, the present. And, we are the present! Don't we have the same ultimate right to ask that our government stand by our needs, now, so we can acquire the things that we need to live the best life possible as we grow older. We were there when the government needed us; now, we need the government ~~to be~~ their for us! Is that too much to ask?

Soldiens which become our honor veterans fight these wars that our government decides to start on become a part of for reasons unknown to them may be to increase more profit, for pride and glory, or for the protection of another human life. Unfortunatly or fortunatly (it depends on how this is received), soldiens do not have the luxury/ right to say 'NO' to a war when they are told that they have to be there. There are many soldiens that went to war in their time period that to this day still do not understand the true reasoning or purposes behind them. When 'Uncle Sam' said go, the soldiens went and they fought with honor. They believe in the government. Now, we ask that the government up-hold their part of past promises made when the soldiens were young.

The government has over the years slowly chipped away the number of veterans working with veterans long enough. You all have the power to put a stop to this tearing down of the veterans' support system that they very much need when the war they fight is over and its time to come home. Unfortunatly, they 'NEVER' come back with the same peace of mind that they left with, never! A part of them will always be lost back in the wars that they individually fought. They can never get that part of their life back. Don't take away their support system, please! We need more support, not less!

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You ask us as soldiers, as veterans, as citizens of the U.S. to help make this world a better place to live in; but, your slowly and surely putting a lot of our veterans that was once a soldier of the **U.S. ARMED FORCES** out in the cold whether it be an **homeless issue** or necessary **medical issue**, ect. because of the profit game put into the almighty dollar. We're in a sad, sad situation when money becomes more valuable than a human life. And, that's the directions that our government has been heading in for quite a few years, now. These are only some of the end results that you **do not see** or **choose not to see** or **see and refuse to open your mind up to other possible options** that may be available to you. Start putting value on a human life where it belong, please, before its too late! What if you had to fight those wars yourself (the government), and there were no soldiers to fight the wars for you? Who would be running the government, then? Think about!

Let's not forget about the computers! The more this world become computerized, the less values given to a human life. We very much need to keep a humanity side in our system of government because there are too many cold hearted people which sometimes makes for a cold hearted system of government. Please don't let this continue! Your committee can make a positive difference by voting for **veterans preference in hiring**. We need someone to understand our problems and issues. And, who can better understand a veteran but another veteran because the system can be **very confusing and frustrating**? Our experiences may be different; but, our issues are similar. You have to walk a mile in a person's shoes before you truly understand what their having to deal with.

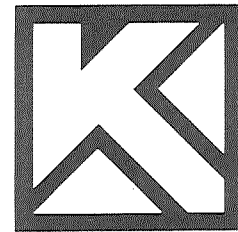
Love and concern for one another is one of the many issues that we face before us to sustain and give us hope for this world, as well as, the Heavenly Fathers great patience, good graces, and abundant love. We cannot make this world better without him.

Thank you for allowing me to be ^{here} and God bless you all!

Thank you,
Miss Brenda D. Blue,
Concern Veteran/Citizen

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry



835 SW Topeka Blvd. Topeka, Kansas 66612-1671 (913) 357-6321 FAX (913) 357-4732
SB 627

February 13, 1996

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

Senate Committee on Federal and State Affairs

by

Bud Grant

Executive Director

Kansas Retail Council

Madam Chair and members of the Committee:

My name is Bud Grant and I appreciate the opportunity to appear before you today in support of SB 627.

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.

Imagine with me for a moment if you would. You are a chamber of commerce executive in a small Kansas community. Your main street merchants want to have a festival to promote the downtown, and include a dance as part of the entertainment.

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You shop around and book a small band to provide the dance music at an agreed to fee. event is booked and you begin to advertise it. However, one day a stranger arrives and informs you that if you want the band to play music, you owe him money. Why?

Under the federal copyright law, licensing organizations are allowed to charge licensing fees to retailers and others that use radio or TV background music even though that same music has already been licensed by music transmitters. The law also allows music licensing organizations, such as Broadcast Music, Inc. (BMI) and the American Society of Composers, Authors and Publishers (ASCAP) to have a monopoly power to set fees, raise rates and penalize businesses that fail to fall in line with their demands. Any business that objects has no recourse other than to file a costly lawsuit in the federal court of the Southern District of New York, the single court authorized to handle such disputes. In addition, a music user that wants to save money by limiting its music to one society's repertoire, or even just to know what it is paying for, cannot, since the societies' repertoires are not accessible. Legislation has passed in several state legislatures that would put an end to these, and other unfair music licensing practices.

Colorado, Maryland, Oklahoma, Missouri, New York, Texas, and Virginia, are among the states that have passed legislation to halt the harassment associated with the current music licensing law.

With this activity at the state level, Congress is now declaring its support for music licensing reform. The House bill, HR 789 has 152 co-sponsors from both political parties. In addition, three Senators have joined the original sponsor of the Senate version, S. 1137. The problem of "double dipping," wherein businesses are paying fees for music that has already been paid several times, would be addressed by the proposed legislation. Under current law, if a marching band plays a song during half-time of a nationally televised college football game, the music licensing societies collect payments from the football stadium, the national television network, the local TV stations and the local cable networks, in addition to any restaurants or bars that may have the TV turned on.

Let's not deprive songwriters of compensation for their musical works Madam Chair and members of the Committee, but let's use this bill to put some fairness in the system and put a stop to the pressure tactics and threats now being used.

Thank you for this opportunity. I would be pleased to attempt to answer any questions.

**Testimony of
the American Society of Composers, Authors
and Publishers
in Opposition to 1996 S.B. 627**

**Senate Federal and State Affairs Committee
Tuesday, February 13, 1996**

Madame Chair and members of the committee, I am Charles Engel of Topeka, representing the American Society of Composers, Authors and Publishers (ASCAP) in opposition to Senate Bill 627. With me today are Mr. Dean DeMerritt, of ASCAP's Omaha, Nebraska, office, and Ed Bailey, a Topeka lawyer who has practiced in the area of copyright for nearly 30 years.

This bill is simply unnecessary. ASCAP's current policies coupled with federal statutory and case law already address the issues in this bill.

Since 1939, Kansas has had a statute addressing copyrights. It is found at K.S.A. 1939 57-201, *et seq.*, and we have provided a copy to you. The definitions in Section 1 of the bill do not match those in K.S.A. 57-201, which will cause some problems.

Nearly all of the requirements spread in Section 2 of the bill are already met. ASCAP provides written contracts to proprietors in advance of them signing that agreement, and we have for you a copy of that contract. You will note that it has a schedule of rates and terms of the royalties. Further, ASCAP provides proprietors at

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least three different methods to learn which works are in its repertoire as well as a list of the copyright owners. Those methods include:

- writing ASCAP at the address on the license agreement;
- accessing ASCAP's lists online through the Internet; and
- calling ASCAP 's toll free telephone in New York during business hours.

Also, ASCAP files a copy of each of its licenses written in Kansas with the Secretary of State's office pursuant to K.S.A. 1939 57-201, *et seq.*, and proprietors can access those files.

Additionally, from your review of the sample contract we have provided, you will notice that all of the enumerated requirements of Section 4 of the bill are already covered by those agreements. They are in writing, signed by the parties, for one-year duration which includes the proprietor's name and business address and the name and location of each place of business to which the contract applies, the name and address of ASCAP, the duration of the contract and the schedule of the rates and terms of the royalties to be collected under the contract.

Section 5 of the bill is the most problematic because it deals not only with human behavior, but with substantive legal issues. We will discuss each separately. We must keep in mind that it is against the law to use anyone's copyrighted work for other than personal and family uses, without either the copyright owner's consent or payment of a royalty. The goal in the negotiation process is to persuade the proprietor

to enter into a license agreement to avoid litigation for violating copyright laws, and collecting a license fee is the consideration for this contract. The negotiating period spans several months, and includes ASCAP sending the proprietor a series of letters, some certified, which contain a license agreement like the one you have before you. During this period of time, the proprietor certainly has enough time to review the license agreement, have his questions asked and answered, and even seek legal advice. If the proprietor chooses to continue violating the copyright laws without entering into a license agreement, then a law suit in federal district court is the last resort. However, under Section 5a(3)(A), an ASCAP representative merely telling an unhappy proprietor in the negotiating process that without a license agreement, the copyright owners will seek to enforce their statutory rights in federal court, could be construed as a violation of this act.

Further, the provisions on lines 7 and 8 on page 3 regarding charging or collecting a royalty which is unreasonable in comparison to the royalties for similar licenses would be preempted by the jurisdiction of the federal courts.

Probably the most problematic part of Section 5 is subparagraph 4 beginning on page 9 of paragraph 3. Initially, there is no definition for "nonprofit musical festival or performance". The federal case law in this area which Mr. Bailey can address more specifically than I, does not exempt nonprofit performances from the copyright laws. It would appear that this section would conflict with the federal laws. Second, the conductor of this "nonprofit musical festival or performance" obviously wants to have

music at the performance, but this bill would force ASCAP to provide a list of copyrighted works that cannot be performed without a license to the conductor. Keep in mind that it is against the law to use anybody's copyrighted works without their consent or payment of a royalty. In this case, ASCAP would not even know of the performance unless the conductor makes a request. Second, the conductor is obviously going to be using music at the performance, just wants to make sure they don't use any of ASCAP's. This appears to be a statutory scheme to get around the basic law that no performance of a copyrighted work is legal without the consent of the owner or payment of a royalty.

Finally, all of us must keep in mind that copyright is a creature of Congress. Congress creates them, copyright owners must file their copyrights with the Library of Congress, Congress dictates what the penalties for copyright infringement might be, and Congress preempts the states and other governments from interfering in this area. Therefore, essentially all of page 3 of the bill is already covered by federal statutes and case law.

In closing, you should know that since 1940, pursuant to K.S.A. 1939 57-201, ASCAP has abided by Kansas law. It is a good corporate citizen of the State of Kansas, by filing annually all of its licenses written in the State of Kansas with the Secretary of State, and paying the tax so required. You should know that just in the period of 1991 through 1994, ASCAP paid the State of Kansas \$93,217.00, without making demand for any services in return. ASCAP already does, voluntarily, most of

what Senate Bill 627 would require, and federal law takes care of the balance. This bill simply is not needed, and we wish the proponents had simply accepted our requests to sit down, discuss their complaints, and resolve the issue without going to the Legislature.

**GENERAL LICENSE AGREEMENT—RESTAURANTS, TAVERN
NIGHTCLUBS, AND SIMILAR ESTABLISHMENTS**

Agreement between AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS ("SOCIETY"), located

at

and

("LICENSEE"), located at

as follows:

1. Grant and Term of License

(a) SOCIETY grants and LICENSEE accepts for a term of one year, commencing and continuing thereafter for additional terms of one year each unless terminated by either party as hereinafter provided, a license to perform publicly at

("the premises"), and not elsewhere, non-dramatic renditions of the separate musical compositions now or hereafter during the term hereof in the repertory of SOCIETY, and of which SOCIETY shall have the right to license such performing rights.

(b) This license authorizes performances by means of "jukebox(es)" as defined in the Rate Schedule attached to and made a part of this Agreement.

(c) This Agreement shall enure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns, but no assignment shall relieve the parties hereto of their respective obligations hereunder as to performances rendered, acts done and obligations incurred prior to the effective date of the assignment.

(d) Either party may, on or before thirty days prior to the end of the initial term or any renewal term, give notice of termination to the other. If such notice is given the Agreement shall terminate on the last day of such initial or renewal term.

2. Limitations on License

(a) This license is not assignable or transferable by operation of law or otherwise, except as provided in subparagraph "1(c)" hereof, and is limited to the LICENSEE and to the premises.

(b) This license does not authorize the broadcasting, telecasting or transmission by wire or otherwise, of renditions of musical compositions in SOCIETY's repertory to persons outside of the premises, other than by means of a music-on-hold telephone system operated by LICENSEE at the premises.

(c) This license is limited to non-dramatic performances, and does not authorize any dramatic performances. For purposes of this Agreement, a dramatic performance shall include, but not be limited to, the following:

- (i) performance of a "dramatico-musical work" (as hereinafter defined) in its entirety;
- (ii) performance of one or more musical compositions from a "dramatico-musical work" (as hereinafter defined) accompanied by dialogue, pantomime, dance, stage action, or visual representation of the work from which the music is taken;
- (iii) performance of one or more musical compositions as part of a story or plot, whether accompanied or unaccompanied by dialogue, pantomime, dance, stage action, or visual representation;
- (iv) performance of a concert version of a "dramatico-musical work" (as hereinafter defined).

The term "dramatico-musical work" as used in this Agreement shall include, but not be limited to, a musical comedy, opera, play with music, revue, or ballet.

3. License Fees and Payments

(a) In consideration of the license granted herein, LICENSEE agrees to pay SOCIETY the applicable license fee set forth in the Rate Schedule annexed hereto and made a part hereof, based on "LICENSEE's Operating Policy." The term "LICENSEE's Operating Policy" shall mean all of the factors which determine the license fee applicable to the premises under the Rate Schedule.

(b) LICENSEE warrants that the Statement of LICENSEE's Operating Policy attached to and made a part of this Agreement is true and correct as of the date hereof.

(c) The current applicable license fee for the premises is _____ annually, based on the factors set forth in the Statement of LICENSEE's Operating Policy.

(d) LICENSEE agrees to pay SOCIETY the license fee due hereunder in installments of one-third the applicable annual fee in advance on or before January 1, May 1 and September 1 of each year provided, however, that if LICENSEE does not otherwise owe SOCIETY any fees under this or any prior license agreement, and if LICENSEE pays the full annual fee on or before January 31st of any year, the applicable license fee for that year shall be reduced by 20%.

(e) LICENSEE agrees to pay SOCIETY a \$25 service charge for each unpaid check, draft or other form of monetary instrument submitted by LICENSEE to SOCIETY.

(f) In the event LICENSEE shall be delinquent in payment of license fees due hereunder by 30 days or more, LICENSEE agrees to pay a finance charge on the license fees due of 1½% per month, or the maximum rate permitted by the law of the state in which the premises licensed hereunder are located, whichever is less, from the date such license fees became due.

STATEMENT OF OPERATING POLICY

OWNER _____

PREMISES _____

FULL ADDRESS _____

ZIP CODE _____

TELEPHONE NO. _____ ROOM NO. _____

Indicate only applicable factors:

I. Seating Capacity _____

II. Live Entertainment	No. Days/Nights Per Week	Days/Nights Used (Circle)
A. Single instrumentalist <input type="checkbox"/>	_____	Su M Tu W Th F Sa
B. Two or more instrumentalists <input type="checkbox"/>	_____	Su M Tu W Th F Sa

III. Mechanical music not otherwise licensed	No. Days/Nights Per Week	Days/Nights Used (Circle)
A. Audio-only		
1. Compact discs <input type="checkbox"/>	_____	Su M Tu W Th F Sa
2. Jukebox <input type="checkbox"/>	_____	Su M Tu W Th F Sa
3. Karaoke <input type="checkbox"/>	_____	Su M Tu W Th F Sa
4. Radio-over-speakers <input type="checkbox"/>	_____	Su M Tu W Th F Sa
5. Records <input type="checkbox"/>	_____	Su M Tu W Th F Sa
6. Tapes <input type="checkbox"/>	_____	Su M Tu W Th F Sa
7. Other _____ <input type="checkbox"/>	_____	Su M Tu W Th F Sa

B. Audio-Visual	No. Days/Nights Per Week	Days/Nights Used (Circle)
1. Karaoke with video <input type="checkbox"/>	_____	Su M Tu W Th F Sa
2. Large-screen television <input type="checkbox"/>	_____	Su M Tu W Th F Sa
Approximate screen size: _____ inches diagonally		
3. Laser disc <input type="checkbox"/>	_____	Su M Tu W Th F Sa
4. Multiple televisions <input type="checkbox"/>	_____	Su M Tu W Th F Sa
5. Video cassette recorder <input type="checkbox"/>	_____	Su M Tu W Th F Sa
6. Video jukebox <input type="checkbox"/>	_____	Su M Tu W Th F Sa
7. Other (describe) _____ <input type="checkbox"/>	_____	Su M Tu W Th F Sa

IV. Mechanical music furnished by licensed background music supplier

Name and address of supplier: _____

V. Variables	No. Days/Nights Per Week	Days/Nights Used (Circle)
A. Act(s) <input type="checkbox"/>	_____	Su M Tu W Th F Sa
B. Dancing and/or disc jockey <input type="checkbox"/>	_____	Su M Tu W Th F Sa
C. Show <input type="checkbox"/>	_____	Su M Tu W Th F Sa
D. Vocalist(s) <input type="checkbox"/>	_____	Su M Tu W Th F Sa

VI. Charges made: \$ _____	No. Days/Nights Per Week	Days/Nights Used (Circle)
A. Admission <input type="checkbox"/>	_____	Su M Tu W Th F Sa
B. Cover <input type="checkbox"/>	_____	Su M Tu W Th F Sa
C. Entertainment <input type="checkbox"/>	_____	Su M Tu W Th F Sa
D. Minimum <input type="checkbox"/>	_____	Su M Tu W Th F Sa
E. Similar charge (describe) _____ <input type="checkbox"/>	_____	Su M Tu W Th F Sa

VII. Alternate or relief music provided by instrumentalist(s) <input type="checkbox"/>	No. Days/Nights Per Week	Days/Nights Used (Circle)
	_____	Su M Tu W Th F Sa

VIII. Jukebox (see definition in Rate Schedule): Yes No

A. Number of jukeboxes: _____

IX. Music-on-hold: Yes No

X. Number of rooms with musical entertainment _____

(If music is performed in more than one room, fill out and attach a separate Statement of Operating Policy for each room)

XI. If seasonal operation, indicate seasonal period: Opening date _____ Closing date _____

Rate based on above policy \$ _____
 (If more than one room,
 total rate for premises \$ _____)

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RATE SCHEDULE

LICENSE FEES FOR CALENDAR YEAR 1996

This Rate Schedule applies to Bars, Grills, Taverns, Restaurants, Lounges, Supper Clubs, Night Clubs, Ballrooms, Dance Clubs, Discos, Piano Bars, Cabarets, Roadhouses and similar establishments.

Seating Capacity (A)	No. Days/Nights Per Week	LIVE MUSIC—SINGLE INSTRUMENTALIST						LIVE MUSIC—TWO OR MORE INSTRUMENTALISTS						NO LIVE MUSIC					
		Base Rate	NO. OF VARIABLES (B)			Mech Music Audio-Only (C) Add	Mech Music with A/V (D) Add	Base Rate	NO. OF VARIABLES (E)			Mech Music Audio-Only (C) Add	Mech Music with A/V (D) Add	Mech Music Audio-Only (C)		Mech Music With A/V (D)			
			(1)	(2)	(3)				(1)	(2)	(3)			Base Rate	NO. OF VARIABLES (F)	Base Rate	NO. OF VARIABLES (F)		
75 & under	1	\$ 224	\$ 296	\$ 394	\$ 528	\$ 86	\$131	\$ 296	\$ 394	\$ 528	\$ 704	\$ 86	\$ 131	\$ 202	\$ 296	\$ 394	\$ 302	\$ 445	\$ 591
	2-3	309	407	541	724	112	168	443	592	788	1048	112	168	224	407	541	336	610	812
	4-7	380	505	676	912	135	204	592	788	1048	1404	135	204	246	505	676	369	759	1016
76-150	1	296	394	528	703	123	185	394	528	703	936	123	185	289	394	528	435	591	795
	2-3	443	592	788	1048	160	241	592	788	1048	1404	160	241	322	592	788	483	888	1181
	4-7	592	788	1048	1404	197	294	788	1048	1404	1873	197	294	355	788	1048	533	1181	1571
151-225	1	394	528	703	938	160	241	528	703	936	1257	160	241	378	528	703	566	795	1056
	2-3	592	788	1048	1404	210	316	799	1056	1419	1884	210	316	420	788	1048	631	1181	1571
	4-7	788	1048	1404	1873	259	390	1056	1419	1884	2513	259	390	462	1048	1404	694	1571	2106
226-300	1	489	654	873	1168	197	294	664	886	1182	1575	197	294	467	654	873	700	980	1308
	2-3	742	985	1317	1761	259	390	999	1330	1774	2363	259	390	518	985	1317	777	1479	1976
	4-7	985	1317	1761	2342	322	483	1330	1774	2363	3154	322	483	570	1317	1747	855	1976	2622
301-375	1	592	788	1048	1404	233	350	799	1071	1428	1898	233	350	553	788	1048	829	1181	1571
	2-3	886	1182	1575	2102	309	463	1209	1604	2142	2843	309	463	614	1182	1575	919	1774	2363
	4-7	1182	1575	2102	2794	380	570	1604	2130	2843	3793	380	570	674	1575	2102	1013	2363	3154
376-450	1	692	924	1230	1640	271	406	936	1244	1662	2217	271	406	643	924	1230	966	1388	1846
	2-3	1034	1390	1837	2451	360	540	1404	1873	2499	3323	360	540	713	1378	1837	1070	2066	2755
	4-7	1378	1849	2451	3264	443	664	1873	2499	3323	4435	443	664	784	1849	2451	1178	2772	3676
451-525	1	692	924	1230	1640	271	406	1071	1428	1908	2536	309	463	734	1048	1419	1101	1571	2128
	2-3	1034	1390	1837	2451	360	540	1611	2142	2858	3818	407	610	814	1575	2130	1221	2363	3194
	4-7	1378	1849	2451	3264	443	664	2142	2858	3806	5074	505	759	896	2094	2832	1344	3142	4249
526-600	1	692	924	1230	1640	271	406	1209	1611	2142	2858	344	516	819	1168	1604	1230	1751	2405
	2-3	1034	1390	1837	2451	360	540	1812	2414	3214	4287	455	684	912	1761	2401	1368	2641	3600
	4-7	1378	1849	2451	3264	443	664	2414	3214	4287	5714	565	849	1002	2342	3203	1503	3514	4805
601-675	1	692	924	1230	1640	271	406	1343	1785	2389	3177	380	570	908	1293	1785	1363	1940	2678
	2-3	1034	1390	1837	2451	360	540	2019	2685	3583	4766	505	759	1010	1946	2685	1512	2920	4029
	4-7	1378	1849	2451	3264	443	664	2685	3583	4766	6352	626	940	1110	2589	3573	1667	3883	5358
676-750	1	692	924	1230	1640	271	406	1475	1969	2623	3498	420	631	997	1419	1969	1496	2128	2954
	2-3	1034	1390	1837	2451	360	540	2217	2953	3941	5247	556	835	1107	2130	2953	1661	3194	4428
	4-7	1378	1849	2451	3264	443	664	2953	3941	5247	6994	692	1037	1218	2832	3941	1827	4249	5912
751 & over	1	692	924	1230	1640	271	406	1475	1969	2623	3498	455	684	1088	1539	2155	1631	2309	3232
	2-3	1034	1390	1837	2451	360	540	2217	2953	3941	5247	603	906	1209	2313	3241	1813	3470	4861
	4-7	1378	1849	2451	3264	443	664	2953	3941	5247	6994	753	1128	1329	3079	4311	1993	4619	6467

- (A) "Seating Capacity" for ballrooms, dance clubs, discos and similar operations means the total allowable occupancy of the premises under local fire or similar regulations, and shall not be limited to the total number of available seats, provided that if no such local fire or similar regulations are in effect, then "seating capacity" means 10 people per 100 square feet or portion thereof of the room(s) in which music is performed.
- (B) VARIABLES (Applicable to single instrumentalist):
- Show or act(s) or vocalist(s).
 - Admission, minimum, cover, entertainment or similar charge.
 - Alternate or relief music (live) by a single instrumentalist. Music provided solely at the time of the show or act(s) shall not be deemed to be alternate or relief music.
- (C) "Mechanical Music Audio-Only" means performances other than by live musicians, e.g., records, tapes, compact discs, karaoke, or similar media or by a radio-over-loudspeaker system licensable under the United States Copyright Law, but shall not include music presented by means of a music-on-hold telephone system or a jukebox (as hereinafter defined).
- (D) "Mechanical Music Audio-Visual" means performances such as, for example, by means of a television with screen measuring greater than 36 inches diagonally, multiple televisions regardless of screen size, laser discs, video tapes, karaoke with video, or video jukeboxes. If performances are presented by both audio-only and audio-visual mechanical means, add only the applicable additional fee specified for "mechanical music audio-visual."
- (E) VARIABLES (Applicable to two or more instrumentalists):
- Show or act(s).
 - Admission, minimum, cover, entertainment or similar charge.
 - Alternate or relief music (live) by any instrumentalist(s). Music provided solely at the time of the show or act(s) shall not be deemed to be alternate or relief music.
- (F) VARIABLES (Applicable when there is no live music, to audio-only and audio-visual mechanical music):
- Admission, minimum, cover, entertainment or similar charge.
 - Dancing (patrons or performers), show or act(s) (including disc jockey, video jockey or master of ceremonies).

9
5-8

FEE FOR PERFORMANCES BY MEANS OF JUKEBOX(ES)

For purposes of this Agreement, a "jukebox" is a machine or device that is (i) employed solely for the non-dramatic performance of musical works by means of phonorecords, compact discs or similar medium and which is activated by insertion of coins, currency, tokens, or other monetary units or their equivalent; (ii) is located in an establishment making no direct or indirect charge for admission; (iii) is accompanied by a list of the titles of all musical works available for performance on the jukebox, which list is affixed to the jukebox or posted in the establishment in a prominent position where it can be readily examined by the public; (iv) affords a choice of works available for performance and permits the choice to be made by the patrons of the establishment in which it is located; and (v) for which neither a compulsory license nor a license from the Jukebox License Office nor a license from SOCIETY other than this license is in effect. For purposes of this Agreement, the term "jukebox" does not include devices commonly known as "video-jukeboxes," or any other audio-visual devices.

For performances given by means of jukebox(es), the annual license fee shall be \$220 per jukebox.

FEE FOR PERFORMANCES BY MEANS OF MUSIC-ON-HOLD TELEPHONE SYSTEM

For performances given by means of a music-on-hold telephone system at the premises, the annual license fee shall be \$164.

COMPUTATION OF FEE FOR MIXED POLICIES

1. Compute fee for the higher policy for the number of days/nights that the higher policy is in effect. The higher policy is the policy which generates the highest fee for any one day/night. If the higher policy is in effect for four or more days/nights per week, stop here: Your fee is the fee for the higher policy. If the higher policy is in effect for fewer than four days/nights per week, continue with steps 2 through 6 below to complete the computation of the fee for your mixed policy.
2. Note total number of days/nights entertainment is provided.
3. Compute fee for the lower policy using the total number of days/nights entertainment is provided under both the higher and lower policies.
4. Compute fee for the lower policy using the number of days/nights the higher policy is in effect.
5. Subtract fee computed in step 4 from fee computed in step 3.
6. Add fee computed in step 1 to fee computed in step 5 for total fee.

SEASONAL FEES

For seasonal licensees, the fees for periods up to four months of operation are 1/2 the annual license fee; for each additional month the fee is 1/12 the annual license fee. The seasonal license fee will in no case be more than the annual license fee.

FEE FOR OCCASIONAL PERFORMANCES

For policies in effect for any three or fewer days/nights per month, the fee is the applicable annual fee for the highest of such policies as if such highest policy were in effect for one day/night per week. For policies in effect for any six or fewer days/nights per calendar year, the fee is 1/3 the applicable annual fee for the highest of such policies as if such highest policy were in effect for one day/night per week.

ANNUAL LICENSE FEE FOR CALENDAR YEARS 1997 AND THEREAFTER

The annual license fee for each calendar year commencing 1997 shall be the license fee for the preceding calendar year, adjusted in accordance with the increase in the Consumer Price Index (National, All Items) between the preceding October and the next preceding October.

Article 2.—MUSICAL AND
DRAMATIC-MUSICAL COMPOSITIONS

57-201. Definitions. As used in this act, "person" means any individual, resident or non-resident, of this state, and every domestic or foreign or alien partnership, society, association or corporation; the words "performing rights" refer to "public performance for profit"; the word "user" means any person who directly or indirectly performs or causes to be performed musical compositions for profit; the term "blanket license" includes any device whereby public performance for profit is authorized of the combined copyrights of two or more owners; the term "blanket royalty or fee" includes any device whereby prices for performing rights are not based on the separate performance of individual copyrights.

History: L. 1939, ch. 306, § 1; June 24.

Research and Practice Aids:

Copyrights = 2.

C.J.S. Copyright and Literary Property § 21 et seq.

General forms, Vernon's Kansas Forms § 4102 et seq.

57-202 to 57-204.

History: L. 1939, ch. 306, §§ 2 to 4; Repealed, L. 1943, ch. 212, § 3; June 28.

57-205. Copy and affidavit to be filed. Any person issuing a blanket license for performance rights shall file with the secretary of state within thirty days from the date such blanket license is issued a true and complete copy of each such license issued or sold with respect to performance within this state, together with the affidavit of such person that such copy is a true and complete copy of the original and that it sets forth each and every agreement between the parties thereto with respect to such performing rights.

History: L. 1939, ch. 306, § 5; June 24.

Research and Practice Aids:

Copyrights = 48.

C.J.S. Copyright and Literary Property § 86.

57-206. Service of process; duties of secretary of state. Before entering into any blanket license as herein defined, the owner of said performing rights shall execute and deliver to the secretary of state, on a form to be furnished by the secretary of state, an authorization empowering the secretary of state to accept service of process on such person in any action or proceeding, whether cognizable at law or in equity, arising under this act, and designating the

address of such person until the same shall be changed by a new form similarly filed; and service of process may thereafter be effected in this state on such person in any such action or proceeding by serving the secretary of state with duplicate copies of such process; and immediately upon receipt thereof the secretary of state shall mail one of the duplicate copies by registered mail to the address of such person as stated on the authorization last filed by the person.

History: L. 1939, ch. 306, § 6; L. 1943, ch. 212, § 1; June 28.

57-207. Actions or proceedings; certified copies of lists, license agreements and other filed documents; fees; evidence. No person shall be entitled to commence or maintain any such action or proceeding in any court with respect to such performing rights, or to collect any compensation on account of any sale, license, or other disposition of such performing rights, in this state, except upon compliance with the provisions of this act. Copies, certified by the secretary of state as such, of each or all of license agreements, affidavits and other documents filed with the secretary of state pursuant to the requirements of this act, shall be furnished by the secretary of state to any person upon request at the prices regularly charged by the secretary of state for such work. Such certified copies shall be admitted in evidence in any action or proceeding in any court to the same extent as the original thereof.

History: L. 1939, ch. 306, § 7; L. 1943, ch. 212, § 2; June 28.

57-208. Gross receipts tax; payment; rules and regulations; blank forms. From and after the effective date of this act there is hereby levied, and there shall be collected, a tax, for the act or privilege of selling, licensing, or otherwise disposing of performing rights in such compositions in this state, in an amount equal to three percent of the gross receipts of all such sales, licenses or other dispositions of performing rights in this state, payable to the state treasurer on or before the fifteenth day of March, 1940, with respect to all such gross receipts for the portion of the calendar year 1939 after the effective date of this act, and annually thereafter, on or before the fifteenth of March of each succeeding year, with respect to the gross receipts of the preceding calendar year. The state treasurer shall adopt and publish rules and regulations not in conflict here-

with, as well as a :
forms to carry out

History: L. 1939,

Research and Practice
Licenses = 29.

C.J.S. Licenses § 48.

57-209, 57-20

History: L. 1939,
repealed, L. 1943, ch.

57-211. Prior
affected. Nothing

so construed as to

of any contract or

entered into prior to

with, as well as a form of return and any other forms to carry out the provisions of this section.

History: L. 1939, ch. 306, § 8; June 24.

Research and Practice Aids:

Licenses = 29.

C.J.S. Licenses § 48.

57-209, 57-210.

History: L. 1939, ch. 306, §§ 9, 10; Repealed, L. 1943, ch. 212, § 3; June 28.

57-211. Prior contracts or licenses not affected. Nothing contained in this act shall be so construed as to impair or affect the obligation of any contract or license which was lawfully entered into prior to the effective date of this act.

History: L. 1939, ch. 306, § 11; June 24.

57-212. Invalidity of part. If any section, sentence, clause or word of this act shall be held to be unconstitutional, the invalidity of such section, sentence, clause or word shall not affect the validity of any other portion of this act, it being the intent of this legislature to enact each of the provisions of this act insofar as they conform to the constitution of this state and of the United States.

History: L. 1939, ch. 306, § 12; June 24.

Research and Practice Aids:

Statutes = 64(2).

C.J.S. Statutes § 96 et seq.

WRITTEN TESTIMONY

of

ALAN HANSON

126 E. THIRD, P. O. BOX 824

PRATT, KS 67124

Office Phone: 316-672-9471

FAX: 316-672-9473

for

**Hearing before Committee on Federal & State Affairs
on Senate Bill No. 627,**

**AN ACT relating to contracts for the payment of
royalties, prohibiting and prescribing penalties for certain acts.**

Tuesday, February 13, 1996

As the immediate past Chairman of the Board of Miss Kansas Pageant, Inc., I was contacted by mail and finally threatened by telephone with injunction of the performances of the Miss Kansas Pageant before succumbing to the payment of ASCAP and BMI fees. Miss Kansas Pageant, Inc. is a non profit corporation operated entirely by volunteers, promoting the education and talent of the young women of the State of Kansas through the Miss Kansas and Miss America Pageants.

The persons I talked to at ASCAP and BMI were unable to tell me how the money we paid was allocated to the composers or artists. Neither ASCAP or BMI knew whether or not the music we used was licensed by their organization. In addition, the television station that broadcast the Miss Kansas Pageant paid rights fees. The fee we paid was only for the "in house" use.

It would be very interesting to know the amounts paid for salaries and expenses at ASCAP and BMI, and how much money actually makes it to the artists themselves. ASCAP and BMI must generate tremendous amounts of cash. It is my opinion the successful artists in our society are way overpaid without ASCAP or BMI.

I understand the need for a copyright and the laws to enforce them, but I do not understand ASCAP or BMI.

Based on my experience, I encourage your action on Senate Bill No. 627.

*Attachment 6
Senate Fed; State Affairs
2/13/96*



KANSAS
LODGING
ASSOCIATION

Date: February 13, 1996

To: Senate Committee on Federal & State Affairs

From: Kevin Robertson
Executive Director

RE: Testimony in **Support** of SB 627

Madame Chair and members of the Committee, thank you for the opportunity to appear before you today. I am Kevin Robertson, executive director of the Kansas Lodging Association comprised of approximately 140 hotels and motels statewide.

Today I am here, along with Ken Komenda, president of the association, to ask for your assistance curbing abuses by performing rights societies regarding licensure of music in Kansas businesses. As we have already heard in testimony today, performing rights societies like BMI, ASCAP, and SESAC consistently harass and threaten businesses in Kansas that play music. Kansas hotels and motels are not immune from this harassment. Agents of performing rights societies periodically audit hotels and motels across our state. They simply determine the businesses that are not licensed and lurk in the lobby, restaurant, meeting room, and other general public areas of a hotel until they uncover an infraction.

These unidentified agents are often hostile, and threaten the unsuspecting hotel/motel operator. They demand exorbitant royalty fees payable on demand or threaten legal action. Often, if not always, the rationale behind the licensing fees demanded cannot or are not explained leaving the hotelier at the mercy of the agent. Agents do not provide lists of those artists they license claiming it is too lengthy, ever changing, or too cumbersome to name them all.

This abuse of Kansas business has got to stop! Let's follow the lead already taken by Missouri that calls for placing restraints on activities of these performing rights societies and their agents. Let's also learn from Missouri as their Attorney General has recently concluded successful negotiations with ASCAP that has prevented legal action to "turn off the music" in their state. The settlement agreement sets forth that ASCAP will file a copy of its "performed works" list annually with the Attorney General's office. The agreement further stipulates that ASCAP cannot sue any business that plays a song that was inadvertently omitted from the list by ASCAP.

*Attachment 7
Senate Fed & State Affairs
2/13/96*



The members of KLA do not believe it is too much to ask an agent representing a performing rights society such as BMI, ASCAP, or SESAC to identify themselves, provide a list of artists they represent, and a logical explanation for the fee being requested of a hotelier. It is unfortunate this problem has come to you today, however, it is time to tell these folks from New York that we are not going to put up with their abuse in Kansas.

On behalf of the Kansas Lodging Association, I urge you to support SB 627. I will be happy to answer any question you may have at this time.



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 809
(314) 761-3321

February 5, 1996

Mr. Brad Jones
National Federation of Independent Business
215 East Capitol
Jefferson City, Missouri 65616

Dear Mr. Jones,

After many months of hard work by all concerned we have reached a settlement agreement with ASCAP regarding the licensing of copyrighted music in Missouri. Thank you for your assistance in this effort.

On February 2, 1996, United States District Judge William C. Conner signed the order we negotiated with ASCAP interpreting various provisions of Chapter 436 of the Missouri Revised Statutes. As you know, we could not agree on a reasonable interpretation of ASCAP's duty under the statute to file a "list" of their licensed works. We did, however, negotiate a separate agreement with ASCAP regarding the list requirement that provides Missouri proprietors with as much, or more, protection than that provided by the statute.

The separate agreement on the list provision requires ASCAP to file a performed works list once a year with my office. The agreement prohibits ASCAP from taking legal action against a Missouri proprietor for copyright infringement unless the work was on the last annual list filed or was not part of ASCAP's repertory of licensed works on the date that the annual list was last filed.

The entire settlement agreement will make certain that ASCAP does business in conformity with our statute and thereby protect Missouri businesses by providing them with access to the information they need to make informed

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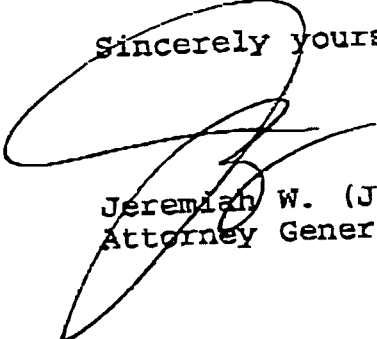
Page Two
February 5, 1996
Mr. Brad Jones

decisions about whether to enter into a contract with a performing rights society. It will also ensure ASCAP's compliance with the statutory provisions protecting Missouri businesses from coercion in the negotiation of licensing agreements.

I have enclosed a copy of Chapter 436, the court order, the separate agreement on the list provision and our press release on the successful conclusion of this litigation. I hope this information will be of assistance to you.

Again, thank you for your willingness to offer your advice, suggestions and support during the difficult negotiation process. I believe that all Missourians will benefit from this historic achievement.

Sincerely yours,



Jeremiah W. (Jay) Nixon
Attorney General

JWN:11
Enclosures

NEWS

JEREMIAH W. (JAY) NIXON

CONTACTOffice of
Communications**PHONE**

314-751-8844

OFFICE OF MISSOURI ATTORNEY GENERAL

Jan. 31, 1998

Nixon, ASCAP reach harmonious agreement

Jefferson City, Mo. — A settlement agreement between Missouri Attorney General Jay Nixon and the American Society of Composers, Authors and Publishers (ASCAP) will ensure that the association continues to license ASCAP songs to Missouri businesses while bringing its practices into compliance with a new Missouri law regulating performing rights societies.

In response to the new Missouri law, ASCAP initially asked the United States District Court, Southern District of New York, to allow the association to withhold its licensed music from Missouri establishments, including theaters, restaurants, and bars. Later, Nixon sought to intervene in the court proceeding, citing the state's direct interest in the controversy. The settlement agreement announced today must be approved by the federal court.

“Unlike other states, Missouri has not only passed a strong law but has succeeded in defending the law from industry attack and keeping it on the books,” Nixon said. Similar laws have been passed by the Wyoming and New Jersey legislatures, but the Wyoming law was later rescinded in response to industry pressure and the New Jersey law was vetoed.

The new Missouri law seeks to ensure that:

- payment of royalties to performing rights societies like ASCAP will be governed by written contracts;
- Missouri businesses will have access to the information needed to make informed decisions about whether to enter into a contract with a performing rights society;
- contracts with performing rights societies will be entered into freely;
- ASCAP will provide the Missouri Attorney General's office with a complete copy of its performed works list which will be available to the public.

The law specifically prohibits performing rights societies from using coercion to sign up Missouri proprietors.

The settlement agreement sets forth agreed upon interpretations of the new Missouri law, and provides that ASCAP will file a copy of its “performed works” list once each year with the Attorney General. The agreement also provides that ASCAP may not sue Missouri proprietors for performing works that could have been included on the list but were omitted.

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7-35

Testimony of
Chad Treaster, Director of Governmental Affairs
Kansas Restaurant & Hospitality Association

Date: February 13, 1996

Before the Kansas Senate Federal & State Affairs Committee

Testimony in **Support** of SB 627

Madame Chairperson and members of the Committee: Thank you for the opportunity to appear here today in support of S.B. 627. I am Chad Treaster, Director of Governmental Affairs for the Kansas Restaurant & Hospitality Association comprised of over 1,000 member operators in the foodservice industry statewide.

I am here to ask for your help to bring some sensibility to the licensing of music in the state of Kansas. Our members believe it is time to put a framework in place to curb the abuses by performing rights societies on owners/operators within the state. The music licensing agents use hostile tactics to demand exorbitant royalty fees or else threaten legal action. They do not provide any rational justification for their fees. If pressed by an owner that calls their bluff, the rationale behind the demanded fees is not explained leaving the restaurant or bar owner at the mercy of the agent or a lawsuit.

Our offices around the state receive numerous calls from our members wanting to know if other restaurants have been treated so harshly by agents demanding insupportable fees. KRHA does not dispute the law that allows licensing groups to collect fees. We feel the problem is the manner in which they attempt to collect and the lack of a schedule of fees for the "performed works." We want ASCAP and BMI to annually file a copy of their "performed works" with the state of Kansas. KRHA believes it is only fair that an agent of a performing rights society should identify themselves, provide a list of artists they represent and a logical explanation for the fees that are demanded of foodservice owners.

I urge you to report S.B. 627 favorably and to support its enactment by the full Senate. I will be happy to answer any questions you may have at this time.

*Attachment 8
Senate Fed and State Affairs
2/13/96*