

MINUTES OF THE SENATE COMMITTEE ON TRANSPORTATION AND TOURISM

The meeting was called to order by Chairman Ben Vidricksen at 9:05 a.m. on February 10, 1997 in Room 254-E of the Capitol.

All members were present except: Senator Nancy Harrington
Senator Tim Huelskamp

Committee staff present: Hank Avila, Legislative Research Department
Emalene Correll, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Marian Holeman, Committee Secretary

Conferees appearing before the committee: Senator Biggs
Charles Yunker
Kevin Robertson
Bill Malcolm
Ed Foreman

Others attending: See attached list

SB 117: CONCERNING LICENSE PLATES - CONGRESSIONAL MEDAL OF HONOR RECIPIENTS

Senator Donald Biggs testified as a proponent for issuance of distinctive vehicle license plates for Congressional Medal of Honor Recipients, advising that Kansas and three other states are the only states who do not so honor these veterans. He provided background information and the names of the two residents in Kansas together with copies of their citations (Attachment 1). He questioned the fiscal note and expressed the opinion that a less expensive way could be found to deal with the issuance of these two plates. Senator Biggs requested the committee's support for the bill.

Charles M. Yunker, Adjutant Kansas American Legion also appeared in support of the bill. He suggested an amendment which would involve veterans organizations in helping to pay for the tag (Attachment 2).

The Chair advised that in his opinion everyone supported the concept of this bill and that it is just a matter of determining the best way to go about it therefore, the committee will not take any action at this time. The Committee will take a look at this again.

SB 166: RELATING TO RIGHTS AND DUTIES OF INNKEEPERS AND GUESTS

Kevin Robertson, Executive Director, Kansas Lodging Association, a proponent of **SB 166** briefly reviewed the bill and the problems it is expected to resolve. This bill is designed to set forth some provision that are implied in other state laws and do not provide clear cut directions for law enforcement, district attorneys and others who need direction in these instances (Attachment 3).

Mr. Ed Foreman, owner/operator of the Best Western Candlelight Inn, Topeka detailed some specific incidents at his place of business and his experience with the reluctance of law enforcement officers to act since this is private property and they do not have the authority to act on private property. Then there is the problem of breaching the security of the other guests. Mr. Bill Malcolm, owner/operator of the Derrick Inn, Ness City also told the committee about some of his experiences and problems in these same areas. Mr. Malcolm specifically addressed the problem of abandoned children (Attachment 4).

Several members expressed support for the central issues contained in this bill. There is a real problem in Kansas when adults rent rooms for minors and there would not be a problem if there is some clout to prevent this behavior. However, some doubt was expressed over the broad scope of the bill and perhaps there should be a narrowing of the focus as there are some areas that are already covered by other federal and state laws, such as those dealing with children in need of care, federal/state firearms laws, etc.

The Chair requested members go over this bill section by section. **SB 166** will be rescheduled for consideration. Information was requested on how many states have laws on the books that are similar to this.

The meeting adjourned at 10:00 a.m.

The next meeting is scheduled for Tuesday, February 11, 1997.

DONALD E. BIGGS
SENATOR, 3RD DISTRICT
LEAVENWORTH & JEFFERSON COUNTIES



COMMITTEE ASSIGNMENTS
RANKING MINORITY MEMBER:
ENERGY AND NATURAL RESOURCES
MEMBER:
AGRICULTURE
ARTS AND CULTURAL RESOURCES
FEDERAL AND STATE AFFAIRS
FINANCIAL INSTITUTIONS AND
INSURANCE

LEGISLATIVE HOTLINE
1-800-432-3924
(DURING SESSION)

TOPEKA

SENATE CHAMBER

January 27, 1997

LICENSE PLATES FOR RECIPIENTS OF THE CONGRESSIONAL MEDAL OF HONOR
SB117

The impetus for the legislation came from students at Roncalli Middle School in Pueblo, Colorado. It was discovered that only four states with resident Medal of Honor recipients did not have distinctive vehicle license plates. The states are Colorado, Kansas, Oregon and Alaska. With student support, legislation is moving through the Colorado legislature. The students and advisors are working to bring this about in the other three states.

There are two Medal of Honor residents in Kansas:

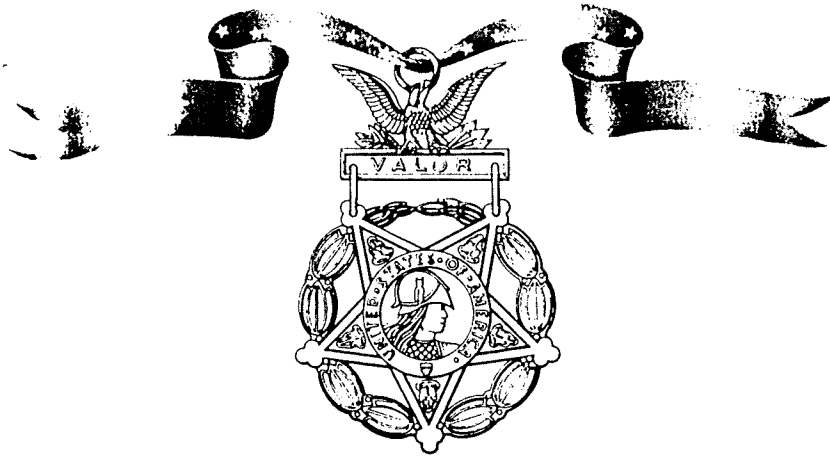
Roger H. C. Donlon

Charles C. Hagemeister

Both received the award for valor while serving in Vietnam. They retired from the U.S. Army and chose Leavenworth as their home.

While the legislation honors these heros and rewards them in a small way, it is also giving some of our young people a lesson in government and the legislative process. It is a positive patriotic experience and a lesson in American history and the sacrifices that so many have made for our country.

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The President of the United States

in the name of

The Congress

takes pleasure in presenting the

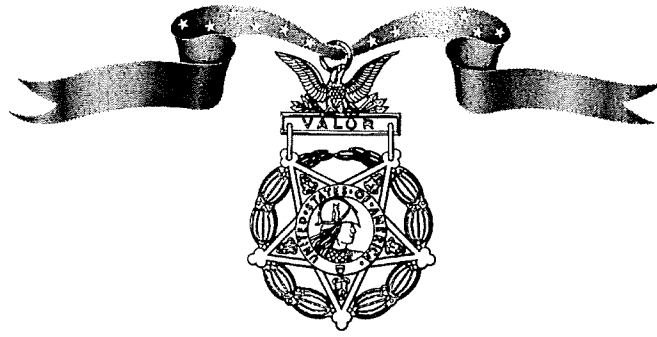
Medal of Honor

to

DONLON, ROGER HUGH C.

Rank and organization: Captain, U.S. Army. *Place and date:* Near Nam Dong, Republic of Vietnam, 6 July 1964. *Entered service at:* Fort Chaffee, Ark. *Born:* 30 January 1934, Saugerties, N.Y. *G.O. No.:* 41, 17 December 1964. *Citation:* For conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty while defending a U.S. military installation against a fierce attack by hostile forces. Capt. Donlon was serving as the commanding officer of the U.S. Army Special Forces Detachment A-726 at Camp Nam Dong when a reinforced Viet Cong battalion suddenly launched a full-scale, predawn attack on the camp. During the violent battle that ensued, lasting 5 hours and resulting in heavy casualties on both sides, Capt. Donlon directed the defense operations in the midst of an enemy barrage of mortar shells, falling grenades, and extremely heavy gunfire. Upon the initial onslaught, he swiftly marshaled his forces and ordered the removal of the needed ammunition from a blazing building. He then dashed through a hail of small arms and exploding handgrenades to abort a breach of the main gate. En route to this position he detected an enemy demolition team of 3 in the proximity of the main gate and quickly annihilated them. Although exposed to the intense grenade attack, he then succeeded in reaching a 60mm mortar position despite sustaining a severe stomach wound as he was within 5 yards of the gunpit. When he discovered that most of the men in this gunpit were also wounded, he completely disregarded his own injury, directed their withdrawal to a location 30 meters away, and again risked his life by remaining behind and covering the movement with the upmost effectiveness. Noticing that his team sergeant was unable to evacuate the gunpit he crawled toward him and, while dragging the fallen soldier out of the gunpit, an enemy mortar exploded and inflicted a wound in Capt. Donlon's left shoulder. Although suffering from multiple wounds,

he carried the abandoned 60mm mortar weapon to a new location 30 meters away where he found 3 wounded defenders. After administering first aid and encouragement to these men, he left the weapon with them, headed toward another position, and retrieved a 57mm recoilless rifle. Then with great courage and coolness under fire, he returned to the abandoned gunpit, evacuated ammunition for the 2 weapons, and while crawling and dragging the urgently needed ammunition, received a third wound on his leg by an enemy handgrenade. Despite his critical physical condition, he again crawled 175 meters to an 81mm mortar position and directed firing operations which protected the seriously threatened east sector of the camp. He then moved to an eastern 60mm mortar position and upon determining that the vicious enemy assault had weakened, crawled back to the gunpit with the 60mm mortar, set it up for defensive operations, and turned it over to 2 defenders with minor wounds. Without hesitation, he left this sheltered position, and moved from position to position around the beleaguered perimeter while hurling handgrenades at the enemy and inspiring his men to superhuman effort. As he bravely continued to move around the perimeter, a mortar shell exploded, wounding him in the face and body. As the long awaited daylight brought defeat to the enemy forces and their retreat back to the jungle leaving behind 54 of their dead, many weapons, and grenades, Capt. Donlon immediately reorganized his defenses and administered first aid to the wounded. His dynamic leadership, fortitude, and valiant efforts inspired not only the American personnel but the friendly Vietnamese defenders as well and resulted in the successful defense of the camp. Capt. Donlon's extraordinary heroism, at the risk of his life above and beyond the call of duty are in the highest traditions of the U.S. Army and reflect great credit upon himself and the Armed Forces of his country.



The President of the United States of America, authorized by Act of Congress, March 3, 1863, has awarded in the name of The Congress the MEDAL OF HONOR to

CHARLES C. HAGEMENTER
UNITED STATES ARMY

for conspicuous gallantry and intrepidity in action at the risk of his life above and beyond the call of duty:

Citation: Specialist Fifth Class (then Specialist Forth Class) *Charles Hagementer*, Headquarters and Headquarters Company, 1st Battalion, 5th Cavalry, 1st Cavalry Division (Airmobile), while conducting combat operations against a hostile force, on 20 March 1967, Bihn Dinh Province, Republic of Vietnam, Specialist Fifth Class *Hagementer's* platoon suddenly came under heavy attack from three sides by an enemy force occupying well-concealed fortified positions and supported by machineguns and mortars. Seeing two of his comrades seriously wounded in the initial action, Specialist Fifth Class *Hagementer* unhesitatingly and with total disregard for his safety, raced through the deadly hail of enemy fire to provide them medical aid. Upon learning that the platoon leader and several other soldiers also had been wounded, Specialist Fifth Class *Hagementer* continued to brave the withering fire and crawled forward to render lifesaving treatment and to offer words of encouragement. Attempting to evacuate the seriously wounded soldiers, Specialist Fifth Class *Hagementer* was taken under fire at close range by an enemy sniper. Realizing that the lives of his fellow soldiers depended on his actions, Specialist Fifth Class *Hagementer* seized a rifle from a fallen comrade, killed the sniper, three other enemy soldiers who were attempting to encircle his position, and silenced an enemy machine gun that covered the area with deadly fire. Unable to remove the wounded to a less exposed location and aware of the enemy's efforts to isolate his unit, he dashed through the fusillade of fire to secure help from a nearby platoon. Returning with help, he placed men in positions to cover his advance as he moved to evacuate the wounded forward of his location. These efforts successfully completed, he then moved to the other flank and evacuated additional wounded men despite the fact that his every move drew fire from the enemy. Specialist Fifth Class *Hagementer's* repeated heroic and selfless actions at the risk of his life saved the lives of many of his comrades and inspired their actions in repelling the enemy assault. Specialist Fifth Class *Hagementer's* indomitable courage was in the highest traditions of the United States Armed Forces and reflect great credit upon himself.

Inner Courtyard at the Pentagon
May 14, 1968

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STATISTICS

260,000,000+ People call themselves Americans
 26,500,000 Americans today are veterans of military service
 (That is about 1 in 10 living Americans)
 3,408 Americans have received the Medal of Honor since 1862
 17 Kansas servicemen have received the Medal since 1899
 40,000,000 Men and women have fought in American Wars since 1776
 1,000,000+ Veterans have died in defense of Freedom since 1776

→ * WORLD WAR I, II, KOREA, VIETNAM, DESERT STORM & SOMALIA

35,300,000 Americans served in the military during these wars
 433,000 Americans died in actual combat
 180,000 Other military deaths
 930 Received the Medal of Honor
 (That is 1 in every 37,956 veterans of these wars)
 (.000026 /or/ 26 thousandths of a per cent)
 527 of these awards were POSTHUMOUS presentations (57%)
 403 Lived to wear their Medal of Honor
 170 Medal of Honor recipients are still alive (18%)
 (That is 1 MOH for every 1,529,000 Americans)

*
 10 Kansas servicemen received the Medal of Honor
 6 Were Posthumous awards
 4 Kansas servicemen lived to wear their Medal
 3 Kansas MOH recipients are still living
 Leon Johnson (WWII) now living in Ft. Belvoir, VA
 Walter Ehlers (WWII) now living in Buena Park, CA
 Stanley Adams (Korea) now living in Bend, OR
 2 MOH recipients now live in Kansas
 Roger Donlon (Vietnam)
 Charles Hagemeister (Vietnam)

MEDAL OF HONOR STATISTICS

WAR	TOTAL AWARDED	POSTHUMOUS AWARDS	LIVING RECIPIENTS	ALIVE TODAY
World War I	119	32	87	0
World War II	440	249	191	74
Korea	131	94	37	25
Vietnam	238	150	88	71
Somalia	2	2	0	0
TOTALS	930	527	403	170

LIVING MEDAL OF HONOR RECIPIENTS:

WAR	AIR CORPS	ARMY	NAVY	MARINES	AIR FORCE
World War II	3	49	7	15	
Korea		13	2	10	
Vietnam		46	8	11	6
TOTALS	3	108	17	36	6

AMERICAN LEGION TESTIMONY PRESENTED TO
THE SENATE TRANSPORTATION AND TOURISM COMMITTEE
ON SENATE BILL 117

Thank you for granting me the opportunity to appear before your Committee today and I wish to extend my apologies for missing your scheduled hearing on SB 117 last week. We simply overlooked the scheduling and appreciate this second opportunity.

As I'm certain you know, Kansas has honored various categories of veterans with special license tags such as American Ex-prisoners of War, Pearl Harbor survivors, recipients of the Purple Heart for those wounded in Combat, and the Kansas National Guard. SB 117 gives the Legislature the opportunity to honor and pay tribute to those veterans who have earned this nation's highest military award, the Medal of Honor or sometimes called the Congressional Medal of Honor.

That is the "up side" of SB 117; the "down side" is the number of Medal of Honor license plates which would eventually be ordered. More often than not a recipient of the Medal of Honor sacrifices their life while earning their right to membership in that very exclusive club.

I do not know how much it costs to produce a new style of license plate; I do know the state would never re-coup its expenses. However the question should be asked: Is the production and its related costs in this case justified? I believe it is.

I also believe those living recipients of the Medal of Honor should be given a license plate at no cost especially since sales of the plates would have almost negligible impact on their production costs. Thus The American Legion wholeheartedly endorses the concept of SB 117.

I might take a moment or two to alert you to House Bill 2170 which calls for the authorization of license plates by branch of

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service (Army, Navy, Air Force, Marines and Coast Guard). Perhaps HB 2170 is an appropriate bill but it does not address thousands of veterans such as myself who served in two or more branches of the Armed Forces for which we are proud of each. Last year The American Legion testified in opposition to bills which would have authorized license plates recognizing those who have served in the Armed Forces during a certain era, in specific locations, and/or for a specific length of time. Our reasoning was The American Legion has always believed a war era veteran is a veteran regardless of where or for how long he or she served in the military.

We also feared such authorization would open a Pandora's Box in that almost every group imaginable would solicit license plates honoring their organization. Indeed before last year's hearings were over in the House the Transportation Committee heard suggestions to include police and fire personnel and others.

Thus we offered as a possible solution with regard to veterans groups seeking distinctive license plates would be to authorize the Department of Motor Vehicles, working in cooperation with veterans groups, to establish distinctive license plates by using the State's existing vanity of personalized plates.

That is; authorize the addition of a two or three inch veterans organization decal similar in composition to the county identification sticker currently placed on license tags. Provided that a deadline of perhaps a year in duration be established to allow each veterans group to directly reimburse the Division of Motor Vehicles all production costs for a minimum of five hundred (500) such decals and all future decal orders in multiples of five hundred (500).

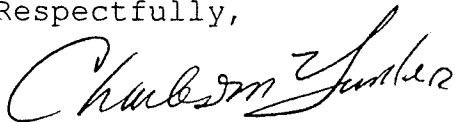
Each veteran should then be allowed one (1) organizational decal per license plate which would be placed either to the viewers extreme

left or right side of the tag with the remaining spaces utilized in the normal fashion for personalized or vanity plates.

There has been speculation as to whether or not such decals would last the life of the license plate; should that be the case, then the veterans organizations should be required to reimburse the state's initial screen printing set up charge in lieu of purchasing the aforementioned decals.

I would ask this Committee to consider amending SB 117 in such a manner as to authorize veterans organizations distinctive license plates and perhaps even be required to pay a one time fee to help offset the set up costs to produce a Medal of Honor tag. In other words the State of Kansas could pay tribute to our Medal of Honor recipients by authorizing the tag, and veterans organizations can also pay tribute to these same individuals by helping to pay for their tag's design and set up cost.

Respectfully,

A handwritten signature in cursive script that reads "Charles M. Yunker". The signature is written in dark ink and is positioned above the typed name.

Charles M. Yunker, Adjutant
Kansas American Legion



Date: February 10, 1997

To: Senate Committee on Transportation and Tourism

From: Kevin Robertson
Executive Director

Re: Testimony in support of SB 166

Chairman Vidricksen and members of the Committee my name is Kevin Robertson, I am executive director of the Kansas Lodging Association which represents the lodging industry in Kansas statewide. I am hear today in support of SB 166, the innkeeper rights bill, which we believe will resolve a number of problems that occur on hotel properties. I will briefly review the bill and explain some of the provisions that are contained within it. Following my comments, Mr. Ed Foreman, owner/operator of the Best Western Candlelight Inn here in Topeka and Bill Malcolm, owner/operator of the Derrick Inn in Ness City will talk about some specific examples of events which have occurred on their properties that this bill attempts to alleviate.

The bill outlines several occurrences whereby a hotel innkeeper could refuse and eject persons from the hotel's property. Some of the provisions are straight forward and do not need much explanation while others are not. These I will attempt to explain. Though some of the rights and provisions contained in SB 166 are implied in other state laws, continually innkeepers run into problems with law enforcement officers, district attorneys and others who refuse to take action or provide a legal remedy when hotel property has been damaged or when persons are violating the law on a hotel's premises.

Section 1 is the definition section.

A "lodging establishment" is defined in 36-501 as a hotel, boarding house, and rooming house.

Section 2 would specify who an innkeeper has the right to refuse or deny accommodation to without the refund of room rental:

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a) any person who is unwilling or unable to pay for accommodations and services of the lodging;

b) any minor. This subsection further provides conditions under which a minor may be admitted if a parent or legal guardian accept in writing responsibility for the room, pay in advance with a credit card, or a refundable advance payment not to exceed \$250.

Unfortunately, it is a common practice among minors and young adults to rent rooms for the purpose of having a party. Often times these parties result in the illegal consumption of alcohol, damage to guest rooms, and are a nuisance to other registered guests. Minors cannot be held liable for the damage they cause because they are not of legal age to enter into an agreement for the rental of a guest room.

It is not the position of the Kansas Lodging Association that minors should be categorically denied access to hotels and motels. Many minors have a legitimate purpose for acquiring hotel accommodations. SB 166 provides flexibility on the part of the innkeeper to determine if minors are to be denied or granted accommodation. For example, one hotel might determine only minors with out-of-state identification would be permitted accommodations while another may have a different policy.

There has been a question raised whether this language forbids school sports and academic teams access to hotels. My answer is not, if the parents sign a form accepting responsibility for their child's actions. However, we would accept an amendment on line 33 after "minor" but before "to" by adding "*a representative of the entity responsible for payment of the accommodation.*" This amendment, in effect, would result in the school being liable for any damage that might occur to the hotel. Unfortunately, there have been occasions where school groups have caused considerable damage to hotels and the school refused to pay for arguing "the students are responsible for there own actions."

c) any person who is engaged in disorderly conduct; or

d) any person who is on record by the lodging establishment as having violated the provisions hotel rules and policies in the past.

Section 3 would allow the innkeeper to require guests to provide a valid identification at the time of check-in and reiterates some of the requirements in section 2. It further allows a hotel to collect lost revenue from the violator.

Section 4 would allow innkeepers to eject guests for the following reasons:

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a) Nonpayment of the lodging establishment's charges for accommodations or services;

b) the person is engaged in disorderly conduct as defined by law or has been the subject of complaints from other guests of the lodging establishment;

Disorderly guests result in other guests who are dissatisfied which compounds the problem.

c) the person is using the premises for an unlawful act, including but not limited to the unlawful use or possession of controlled substances including the use of the premises for the consumption of alcoholic liquor or cereal malt beverage by any person under the age of 21;

Anyone could be using the premises for an unlawful act, however, the main thrust here is 18 to 21 year olds who are consuming alcohol on the premises.

d) the person has brought property onto the lodging establishment premises which may be dangerous to other persons as defined by law;

e) the person is not a registered guest of the lodging establishment;

This subsection addresses the "party" situation and the persons who sneak into a hotel to use a hotel's pool or other facilities.

f) the person has exceeded the limitations for guest room occupancy established by the lodging establishment;

From time to time a guest will refuse to leave even though the hotel has advance reservations for a meeting, convention, etc. This provision would allow the innkeeper to remove the people/person from the premises.

g) the person has obtained the accommodation under false pretenses;

Generally this subsection would apply to a minor who has given false identification or to a person who has registered fewer guests than are using the room.

h) the person is a minor and is not under the supervision of the adult who has obtained the accommodation;

Too often, a minor's older sibling or even parent will obtain a guest room on the minor's behalf for a prom night party or other activity. The legal age adult will register the minor into the room and simply turn over the

keys to the minor. this subsection would allow the hotel to eject such persons.

i) the person has violated any federal, state or local laws or regulations relating to the lodging establishment; or

j) the person has violated any rule of the lodging establishment which is posted in a conspicuous place and manner in the lodging establishment.

These rules may apply to the hours of the pool or game room, or other rules of the property.

Section 5 would allow the innkeeper to secure personal items left in the guest room of any person who is unwilling or unable to pay for accommodations, services, damages, and other charges owed to the lodging establishment against non-payment of such charges.

Section 6 would require the innkeeper to post this act either in each guest room or at the front desk.

Section 7 makes violation of this act a class c misdemeanor subject to up to \$500 fine in addition to other penalties the person may be subject to.

Section 8 is the effective date.

Thank you for allowing me the opportunity to appear before you today in support of SB 166. I would happy to attempt to answer questions now or wait until after Mr. Malcolm and Mr. Foreman have testified.

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SB 166
Monday, February 10, 1997

Testimony by Ed Forman

Thank you Senators, my name is Ed Forman from the Best Western Candlelight Inn in Topeka, Kansas. We want to thank you for taking a look at SB 166, this is something that we have needed for some time for the direction of our law enforcement agencies. I've been in the hotel business since 1987, in the State of Arizona and in the State of Kansas. In the State of Arizona we did have laws to protect innkeepers, in the State of Kansas we only have a liability law to protect innkeepers at this point. There are no laws on the books to assist the law enforcement agencies to help the hotels. Where we come to terms with this is concerning minors or unruly guest that we cannot remove from the property. The law enforcement has no direction as to how to assist the hotels since this is private property. We may or may not be successful by ourselves on an individual basis to be able to remove these unruly guests or unwanted guests, but for the most part we are unable to get the assistance needed from the police department or other law enforcement agencies for help. This is what my support of this bill is particularly for, we have had instances where a mother or father has checked in and the children have occupied the room under their parents name and we have been unable to remove them from the property. We enter under a contract agreement with an adult if a minor will be utilizing a room. This becomes a very frustrating situation for the innkeeper with no direction, we are trying to protect the security of all the guests at our establishment. We have situations were these minors are unruly guests and violate the security issues. This again is the heart trust of this bill for me since the law enforcement agencies could have direction on how to handle these situations. The police that come on our property are very knowledgeable to these situations and cannot act because there are no guidelines established.

Testimony by Bill Malcolm

Thank you. My name is Bill Malcolm I own the Derrick Inn Motel in Ness City, Kansas. I've been in the business since 1969. I was part of the Board of Directors on the Kansas Lodging Association that helped put this bill together as it is today and I just wanted to voice my support for the bill. I think that we try to be fair as far as the laws are concerned and also as far as the guest is concerned. I have to reiterate what Ed has said that a lot of things in this bill pertain to unruly guests but most of all protects the security of the other guests. One unruly guest in the motel can cause a tremendous uproar for all the rest and then cast an unpopular light on your property. One instance I have run into, for example, we had a guest check into the motel some years ago, he became very unruly and we went to kick him out after he had been there approximately 12 hours. We called the police department they came down and said well if you kick him out you have to return his money, I find this very unfair. As far as minors are concerned we've had instances with minor children as young as 8 years old where the parents went off and left the minor children and didn't come back. We had a situation where this lady and her two children, 8 and 10 years old, checked into the motel about 8 o'clock in the morning. Later, about 4 o'clock in the afternoon my wife said she didn't believe that the lady was around and the children were still in the motel. We checked and, sure enough, mom was gone. They had been there all day, nothing to eat. So we brought them down to the motel office and fed them and about 10 o'clock that night she still wasn't there so we took care of the children all night and the next morning we called the police department and told them what the situation was. After about three hours they decided to get social services because, basically, I didn't know what to do and they didn't know what to do. Social services came over and took the kids with them. Finally, four days later the mother showed up. I think the provisions in these laws will help clarify this as far as the innkeeper and law enforcement is concerned. For these reasons I strongly support this bill and I hope you do to.

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