

Approved: February 3, 1998
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Garry Boston at 1:30 p.m. on January 27, 1998 in Room 519-S of the Capitol.

All members were present except: Representative Troy Findley, Excused
Representative Steve Lloyd, Excused
Representative Dale Swenson, Excused

Committee staff present: Mary Galligan, Legislative Research Department
Jill Wolters, Revisor of Statutes
June Evans, Committee Secretary

Conferees appearing before the committee: Myron E. Scafe, Executive Director, Kansas Racing and Gaming Commission

Others attending: See attached list

The Chairman called the meeting to order and asked if any of the members had any suggestions to honor Representative Steve Lloyd.

Representative Kuether stated Clay Center was in the process of placing a statue of geese and a fountain downtown and they might need funding to complete the project. It was suggested this could be investigated.

Representative Mason questioned what was being done to name the Wetlands after Representative Lloyd and it was stated that Representative Laura McClure had a bill drafted.

Whitney Damron requested introduction of a bill to allow, by county option, the sale of alcoholic liquor by retailers licensed under the Kansas Liquor Control Act on three holidays on which sales are currently prohibited by Kansas statute: Memorial Day, Independence Day and Labor Day. (Attachment 1)

Representative Grant moved and Representative Kuether seconded to accept request as a committee bill. The motion carried.

Representative Sharp requested introduction of a bill to update law on identity theft after the federal bill of the 105th Congress. There needs to be a harsher penalty for a person stealing the identity of a social security number then changing the names to request and receive a credit card and it appears on credit report as unpaid and ruins a person's credit rating.

Representative Gilbert moved and Representative Ruff seconded to accept request as a committee bill. The motion carried.

HB 2510 - Parimutuel racing; expenses related to tribal gaming; prohibited acts; disqualification of certain animals; disposition of certain moneys; orders of the commission.

Mary Galligan, Legislative Research, gave a briefing on **HB 2510**.

Myron Scafe, Executive Director, Kansas Racing and Gaming Commission, introduced two associates: Jerry Hathaway and Kathy O'Donnell. Mr. Scafe testified **HB 2510** was unanimously endorsed by the racing commission and is for the purpose of clarifying various sections of the statute. (Attachment 2)

The Chairman closed the hearing on **HB 2510**.

Representative Grant moved and Representative Cox seconded to approve the minutes of January 13. The motion carried.

The meeting adjourned at 2:20 p.m. The next meeting will be January 29.

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TO: Chairman Garry Boston
and Members of the
House Federal and State Affairs Committee

FROM: Whitney Damron
on behalf of
Lukas Liquor Super Store

RE: Request for Bill Introduction/Selected Holiday Sales

DATE: January 27, 1998

Good afternoon Chairman Boston and Members of the House Federal and State Affairs Committee. My name is Whitney Damron and I appear before you this afternoon on behalf of my client, Lukas Liquor Super Store, located in Overland Park, Kansas, to request introduction of a bill which would allow, by county option, for the sale of alcoholic liquor by retailers licensed under the Kansas Liquor Control Act on three holidays on which sales are currently prohibited by Kansas statute: Memorial Day, Independence Day and Labor Day.

The bill draft before you would allow for the sale of alcoholic beverages on these days if approved by a resolution adopted by a county commission or through a petition process initiated by qualified voters within a county as defined under the bill.

This bill would not affect current law sales of cereal malt beverages which may presently be sold on these days. We respectfully request consideration of this legislation in order to address some of the liquor sale inequities between Kansas and our neighboring states. Presently the states of Missouri, Colorado and Nebraska allow for alcoholic liquor sales on these holidays. Oklahoma does not.

In closing, I would note again that this bill, if adopted, would not automatically allow for the retail sales of alcoholic liquor on these three designated holidays and would require county approval, either through a county resolution adopted with publicly-mandated input or through an election of the people from within a county.

On behalf of Lukas Liquor Super Store, I thank you for your consideration and look forward to hearings on this proposal. I would be pleased to stand for questions.

F+SA
1-27-98
Atch #1

PROPOSED BILL NO. _____

By

AN ACT concerning intoxicating liquors; relating to sales by retailers; amending K.S.A. 1997 Supp. 41-712 and repealing the existing section.

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

New Section 1. (a) Sales of alcoholic liquor by retailers licensed under the Kansas liquor control act shall be permitted on Memorial Day, Independence Day and Labor Day, between the hours of 1 p.m. and 11 p.m., in any county where, in accordance with this section, the board of county commissioners by resolution has permitted such sales or where the qualified voters of the county have voted to permit such sales.

(b) The board of county commissioners of any county, by resolution, may permit sales provided for by subsection (a) within the county. Such resolution shall be published once each week for two consecutive weeks in the official county newspaper and shall take effect 60 days after final publication unless within such time a valid petition is filed requesting submission to the qualified voters of the county of a proposition to permit the sales provided for by subsection (a).

(c) Whether or not a resolution is adopted under subsection (b), a petition may be filed at any time requesting submission to the qualified voters of a county of a proposition to permit sales provided for by subsection (a) within the county.

(d) To be valid, a petition provided for by this section shall be filed with the county election officer of the county and shall be signed by qualified voters of the county equal in number to not less than 5% of the qualified voters of the county who voted for all candidates for the office of secretary of state at the last preceding general election at which such office was elected. The following shall appear at the top of each page of

the petition: "We request an election to determine whether sales of alcoholic liquor shall be permitted on Memorial Day, Independence Day and Labor Day in _____ county."

(e) Upon the filing of a valid petition under this section, the county election officer shall cause the following proposition to be placed on the ballot at the next countywide election which occurs more than 60 days after the petition is filed with the county election officer: "Shall the sale of alcoholic liquor be permitted on Memorial Day, Independence Day and Labor Day in _____ county?"

(f) If a majority of the votes cast and counted at an election under this section is in favor of the proposition, sales of alcoholic liquor provided for the subsection (a) shall be permitted in the county.

(g) The election provided for by this section shall be conducted, and the votes counted and canvassed, in the manner provided by law for question submitted elections of the county.

Sec. 2. K.S.A. 1997 Supp. 41-712 is hereby amended to read as follows: 41-712. No person shall sell at retail any alcoholic liquor: (1) On Sunday; (2) except as provided in section 1, and amendments thereto, on Memorial Day, Independence Day or Labor Day; (3) on Thanksgiving Day or Christmas Day; or ~~(3)~~ (4) before 9 a.m. or after 11 p.m. on any day when the sale is permitted, except that the governing body of any city by ordinance may require closing prior to 11 p.m., but such ordinance shall not require closing prior to 8 p.m.

Sec. 3. K.S.A. 1997 Supp. 41-712 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

**TESTIMONY BEFORE THE
HOUSE FEDERAL & STATE AFFAIRS COMMITTEE
Representative Garry Boston, Chair
January 27, 1998
1:30 p.m.**

RE: HOUSE BILL 2510

**Myron E. Scafe, KRGC Executive Director
Terry D. Hamblin, Assistant Attorney General,
KRGC General Counsel
Kathy S. O'Donnell, KRGC Inspector of Parimutuels**

House Bill (HB) 2510 is proposed by the Kansas Racing and Gaming Commission. It is unanimously endorsed by the racing commission and is for the purpose of clarifying various sections of the statute.

Section 1, page 1, line 14, allows the Attorney General to assign no fewer than two (2) Assistant Attorneys General to the commission. There are two (2) Assistant Attorneys General currently assigned on the racing side and none on the gaming side. This would allow the Attorney General, if the need arises, to assign to the commission an Assistant Attorney General over and above the two (2) currently working for the racing and gaming commission for the purpose of assisting the gaming agency with legal matters relating to tribal gaming issues. Funding for this position would come from the State Gaming Fund which is reimbursed to the State by the tribes as agreed to in the compacts.

Currently, the commissioners are prohibited from having a direct or indirect financial interest in a racetrack or simulcast facility for a period of five (5) years after leaving the commission. This section adds the "Executive Director" to the prohibited list. The addition of the "Executive Director" is on page 2, line 7.

The next amendment is on page 6, line 2. The word "shall" has been changed to "may" to give the racing judges some discretion in assessing penalties. Currently, a violation, be it ever so minor, is one that also means forfeiture of any winnings from a race. Kansas is the only racing jurisdiction with a mandatory disqualification which includes minor offenses.

On page 7, line 21, is an amendment relating to Kansas Administrative Procedures Act (KAPA) hearings. This change would eliminate one (1) level of appeals. With this change, the hearing officer makes a decision that determines what the penalty should be and issues a final order except that there is an appeal process with KAPA hearings whereby the commission would hear the first appeal and then it is sent to district court for further appeal. This guarantees the defendant the right to an appeal process, but eliminates one (1) or two (2) steps in between.

When the Camptown greyhound track at Frontenac closed, there were approximately \$57,000 held in escrow by the commission. Those funds could not be distributed without a great amount of controversy in as much as the statute did not address how the funds were to be distributed when a track closes the doors. The money was due the greyhound owners or kennel operators, but there was a question as to what time frame one of these individuals had to have dogs at the track. The result was the filing of a friendly lawsuit by the kennel owners and operators association in the Shawnee County Court. On page 9, beginning on line 5, are additions to the statute based on the district court judge's decision which allows the distribution of those funds. Consequently, if a similar situation occurs in the future, those funds can be distributed to the proper individual without delay.

The next amendment is on page 12, beginning on line 1. Currently, there is a bookkeeping nightmare involved in following the statutes as written and the intent of the proposed change is to

correct the language so the track operators can properly file their reports following the legislative intent.

A change in the simulcast rules being requested is located at page 12, lines 1 through 8 of House Bill 2510.

Actually there is a typographical error at line 4. The word *Of* which is lined through and is located near the end of the line, just prior to the words *The balance*, should be the first word of the sentence. The sentence should read *Of the balance....* To omit the word *Of* results in the sentence being unclear and confusing.

Simulcasting is, in the context of state statutes, where a Kansas track receives a live signal (both audio and visual) of a race taking place elsewhere. Such allows the track's patrons the opportunity to simultaneously view the race while it is being run. Additionally, the patrons have the opportunity to place wager(s) on the race from the Kansas track - such being a location remote from the live race. Through a computerized system (the Totalisator System) all wagering information is maintained and transmitted to/from the host track. For receiving the signal, the Kansas track pays the host track a set fee, such as 3% of the total handle (amount wagered), based upon a written contract between the parties.

First, the requested change in the simulcasting statute deals with the computation of the amount of revenues earned from simulcasting that are retained by the track and those contributed to greyhound and horse purses.

Current law allows for the track(s) to keep 50% of the net revenues from a simulcast signal with the other 50% paid to purses. It is in the computation of the net revenues that results in a nightmare of an accounting problem. The computation is as follows:

Revenues (Takeout)	Generally 14-22% of handle-determined by contract
Less	Direct expenses: Pari-mutuel taxes
Less	Direct expenses: host track fees
Less	Direct expenses: tote fees
Less	Direct expenses: telephone fees
Less	<u>Other Direct expenses: as determined by commission</u>
Net Revenue	

The problem arises in the timeliness of being able to properly compute the net revenues. The net revenue must be computed for *each simulcast* signal individually, deducting only direct expenses allocable to that particular signal; and the computation must be made the following week so that purses can be paid out immediately. It is virtually impossible to determine the direct expenses that quickly, as telephone bills and other billings are received only on a monthly basis. With the number of simulcast signals being as many as 10-12 per day for 5-7 days per week, one is looking at individual computations for up to 70 signals for a week. If direct expenses are estimated, it's necessary to go back and adjust those estimates to actual (on each individual signal) upon receipt of billings. For the sake of practicality, this is not possible. The statutes and regulations currently do not allow for adjustments of costs allocable to past signals (on which the purses have already been paid) to be made against current or future signals.

House Bill 2510 requests that the purses payable from simulcast revenues be based upon a set percentage of the gross amount wagered, with that percentage to be determined by the commission. It is anticipated that the percentage will be determined through use of past historical data of purses paid, as a percentage of the relative handle. Other racing jurisdictions such as Iowa and Wisconsin use a percentage of the handle, as is being proposed here.

The allowance of such a percentage will be a straight forward computation that should greatly benefit not only the KRGK auditors but also staffing requirements of the tracks.

Currently, it is my understanding that both tracks must employ a person full time to maintain the current simulcasting net revenue computations. With the volume of simulcasting continuing to increase, not only does the work load under this requirement increase, but also does the potential for human error.

As the situation currently stands, it is nearly impossible for the tracks to be in accordance with the statutes in this area. Thus we request this change.

The final change in HB 2510 is on page 14, beginning on line 27, which implements the funding for the additional Assistant Attorneys General, if it is necessary. This allows the State Gaming Agency to bill the tribe for any expenses involved in the litigation, whatever that might be, unless the tribe prevails and then the State bears the expense.

I'll be happy to answer any questions any one may have.

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