

Approved: March 16, 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 March 5, 1998 in Room 519-S of the Capitol.

All members were present except: Representative John Ballou, Excused
Representative Phill Kline, Excused

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

Conferees appearing before the committee:

Others attending: See attached list

The Chairperson opened the meeting and asked for bill introductions.

Representative Ruff moved and Representative Gilbert seconded to introduce a resolution dealing with gun safety. The motion carried.

Representative Boston moved and Representative Sharp seconded to introduce a bill on education dealing with school funding. The motion carried.

Representative Samuelson moved and Representative Gilbert seconded to accept Substitute **HB 2972** and work from that bill.

HB 2972 - Concerning Adult Care Homes; Relating to Background Check of Employees.

Jill Wolters, Revisor of Statutes, gave a briefing on Substitute **HB 2972**. The crimes would be capital murder, pursuant to K.S.A. 21-3439 and amendments thereto, first degree murder, second degree murder, assisting suicide, rape, indecent liberties with a child, aggravated indecent liberties with a child, aggravated criminal sodomy, indecent solicitation of a child, aggravated indecent solicitation of a child, sexual exploitation of a child, or aggravated sexual battery, or similar statutes of other states or the federal government.

On and after July 1, 1998, a person operating an adult care home may employ an applicant who has been convicted of any of the crimes if five or more years have elapsed since the applicant satisfied the sentence imposed or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence, or if five or more years have elapsed since the applicant has been finally discharged from the custody of the commissioner of juvenile justice or from probation or has been adjudicated a juvenile offender, whichever time is longer.

The operator of a home health agency where the applicant was the subject of such background check may release a copy of such background check to the operator of a home health agency where the applicant is currently applying.

The Chairperson asked what the wishes were of the committee on **HB 2972**.

Representative Gilbert moved and Representative Ruff seconded to move Substitute **HB 2972** out favorably.

Representative Kirk explained there was miscommunication and original **SB 399** was to be amended into **HB 2972** which exempts the Kansas soldier's home or the Kansas veterans' home from the entire regulation by prisoners working there. The Department of Corrections continues to be there under direct supervision in non-patient areas.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE FEDERAL AND STATE AFFAIRS, Room 519-S
Statehouse, at 1:30 p.m. on March 5, 1998.

Representative Grant moved a substitute motion to pass **Substitute HB 2972** out as amended.

Motion failed because there was no second.

Representative Samuelson moved and Representative Crow seconded a substitute motion to merge original **SB 399** with the balloon on Page 7 into **Substitute HB 2972**. The motion carried.

Representative Samuelson moved and Representative Gilbert seconded that **Substitute HB 2972** be passed out. The motion carried.

HB 2887 - Unlawful Sale of Alcoholic Beverages.

The Chairperson asked what the wishes were of the committee on **HB 2887**.

Representative Vickrey moved and Representative Cox seconded to amend that deliveries be made to liquor or CMB stores to be picked up by consumer.

Representative Sharp moved and Representative Swenson seconded a substitute motion to Table **HB 2887**. The motion carried.

HB 2487 - Licensure and regulation of private detectives.

The Chairperson asked what the wishes were of the committee on **HB 2487**.

Representative Mays moved and Representative Franklin seconded a conceptual motion to amend **HB 2487** that the badge be silver in color and the words "licensed private detective" be on the face. The motion carried.

Representative Vickrey stated he would like the badge to have a license number on the face.

It was decided that additional information could be printed on the badges.

Representative Crow stated the Attorney General testified in the hearing that a private detective fee fund has not been established. A temporary private detective license is established with a fee of \$20 and under this bill the license fee is only \$18. Under this bill the Attorney General would thus need to refund \$2 when the permanent license is issued. The effect would create a greater administrative burden which would require a corresponding fiscal note.

Representative Vickrey moved and Representative Franklin seconded to pass out **HB 2487** as amended.

There was a question.

A Division was called -- Yeas - 10 and Nays - 8. The motion carried.

The following testimony was distributed: **HB 2972** - Linda Lubensky, Executive Director, Kansas Home Care Association, (Atch 1); **HB 2887** - Rebecca Rice, Legislative Counsel, Kansas Retail Liquor Dealers Association, (Atch 2); Jim Conant, Fiscal Impact Scenarios, (Atch 3); **HB 2847** - Mickey Gitlin, Kansas Association of Private Investigators, (Atch 4); Shawnee Police Department, (Atch 5); Merriam Police Department, (Atch 6); and Robert A. Sturm, Chief of Police, Mission, (Atch 7).

The meeting adjourned at 2:40 p.m.

The next meeting is scheduled for March 10, 1998.



Kansas Home Care Association • 1000 Monterey Way, E2 • Lawrence, Kansas 66049 • (785) 841-8611
Fax (785) 749-5414

February 25, 1998

Rep. Garry Boston
State House, 156-E
Topeka, KS 66612

Dear Chairman Boston,

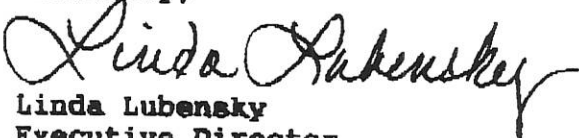
On behalf of the Kansas Home Care Association, I wish to share some concerns with you in regard to H.B. 2972, relating to background check of employees. I understand that the House Committee on Federal and State Affairs held a hearing on that bill recently, during which the committee added a balloon to make the provisions applicable to home care, as well as the adult care home industry.

Although, I understand the wish of the committee to treat the industries equally, I must point out that home care, by its very nature, poses some decidedly different risks in regard to personnel. Home care paraprofessionals are out in the field alone delivering services. There are stringent supervision requirements, but that supervision is infrequently on-site. Consequently, home care agencies must do everything possible to insure the reliability and trustworthiness of their employees.

I do understand that H.B. 2972 would not consider rehabilitation for those crimes involving "bodily harm". However, the homes of vulnerable and isolated adults can provide many temptations for lesser, non-violent, crimes such as theft or exploitation. We do not believe that it is in the interest of the home care providers, nor their patients, to create a mechanism to allow for the hiring of an individual with a criminal record. Regardless of what process is used to determine rehabilitation, we feel that the risk still remains in a service area such as home care.

At these times, home care is under close scrutiny by the public, a multitude of regulators, and Congress. It is incredibly important to support high standards to insure the quality of services provided and the safety of the beneficiaries. We ask that the committee remove their balloon, including the home care industry, and deal with the bill as it applies to the adult care home industry only.

Sincerely,


Linda Lubensky
Executive Director

Fed. State
3-5-98
Atch #1



Rebecca Rice, J.D.

Attorney at Law

P.O. Box 4842
Topeka, KS 66604

913-234-9702

February 24, 1998

Chairman Gary Boston
156-E, State Capitol
Topeka, KS 66612

Dear Chairman Boston:

We have attached a copy of the amendment KRLDA is proposing to HB2887. The purpose of the amendment is to provide the necessary incentive for state and local authorities to enforce the ban on alcoholic liquor shipments.

Rather than costing the state money, we believe the proposed legislation would generate revenue for the state. We believe the individuals currently violating the law would properly register as required by HB2887 and pay the necessary taxes. Out-of-state retailers would simply not ship into Kansas because it would be a felony violation. These are business people who cannot afford a felony conviction. It would not be necessary to extradite them because they would simply stop violating the law. In the alternative, they would pay a fine by mail and no conviction, in all likelihood, would be sought.

These are not petty criminals who would run to avoid extradition. These are business people who know that they will not lose their state-issued license for a misdemeanor conviction from Kansas. They also know Kansas law enforcement will not bother to convict them for the crime of shipping into Kansas because it is only a misdemeanor. Therefore, the business decision is to ship the product into Kansas and avoid the state regulation and tracking. When that business decision no longer makes sense, they will stop illegally shipping into this state.

We think HB 2887 helps them make the business decision to legally ship into Kansas and abide by the regulations and laws created by this legislature.

Thank you for your consideration of this amendment and this legislation.

Sincerely,

A handwritten signature in cursive script that reads "Rebecca".

Rebecca Rice, Legislative Counsel
Kansas Retail Liquor Dealers Association

Cc: Committee Members

quarter, the amount of such taxes to be calculated as if the sale took place at the location where the delivery is made;

(6) maintain such records for at least three years as will permit the alcoholic beverage control to ascertain the truthfulness of the information filed and permit the alcoholic beverage control to perform an audit of the licensee's records upon reasonable request; and

(7) be deemed to have consented to the personal jurisdiction of the alcoholic beverage control or any other state agency and the courts of this state concerning enforcement of this section and any related laws or rules and regulations.

(c) This section shall be part of and supplemental to the Kansas liquor control act.

New Sec. 2. (a) It is unlawful for any person domiciled outside the state of Kansas to ship alcoholic beverages or cereal malt beverages to Kansas consumers, except as otherwise provided by this act.

(b) It is unlawful for any manufacturer of alcoholic beverages domiciled outside the state of Kansas to ship directly to any consumer less than 21 years of age.

(c) Any person who makes, participates in, transports, imports or receives a shipment in violation of this act shall be guilty of a severity level 10, nonperson felony and further may be subject to a civil penalty of not more than \$500 for the first offense and \$1,000 for each subsequent offense.

(d) Where the person holds an out-of-state shipper's license, license suspension or revocation may be in addition to or in lieu of the foregoing penalties.

(e) Upon determination by the director that a manufacturer holding a basic permit from the federal bureau of alcohol, tobacco and firearms has made an illegal shipment to consumers in Kansas, the director shall notify the bureau of alcohol, tobacco and firearms in writing and by certified mail of the director's official determination that state law has been violated and request the bureau to take appropriate action.

(f) This section shall be part of and supplemental to the Kansas liquor control act.

Sec. 3. K.S.A. 41-304 is hereby amended to read as follows: 41-304. Licenses issued by the director shall be of the following classes: (a) Manufacturer's license; (b) spirits distributor's license; (c) wine distributor's license; (d) beer distributor's license; (e) retailer's license; (f) microbrewery license; (g) farm winery license; and (h) nonbeverage user's license; and (i) out-of-state shipper's license.

Sec. 4. K.S.A. 41-310 is hereby amended to read as follows: 41-310. (a) At the time application is made to the director for a license of any class, the applicant shall pay the fee provided by this section.

New Sec. 3. (a) All out-of-state shipper's application and license fees and any fines or penalties assessed by the director in enforcing violations of the statutes concerning out-of-state shippers shall be credited to the alcohol beverage control enforcement fund. License fees may be used for administrative and enforcement expenses. Fines or penalties shall only be used for enforcement expenses. The director shall remit all moneys received by the director under this subsection to the state treasurer at least monthly. Upon receipt of such remittance the state treasurer shall deposit the entire amount thereof in the state treasury and the same shall be credited to the alcohol beverage control enforcement fund, which is hereby created. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director or a person or persons designated by the director.

(b) If the county or district attorney prosecutes an out-of-state shipper who is found to have violated the Kansas liquor control act, any fines or penalties assessed against such shipper shall be retained by the office of such county or district attorney to be used in the future prosecution and enforcement of violations by out-of-state shippers of the Kansas liquor control act.

(c) This section shall be part of and supplemental to the Kansas liquor control act.

Renumber remaining sections accordingly.

House Bill 2887
Fiscal Impact Scenarios

Fed & State
3-5-98
Atch #3

TAX REVENUES

Container	Number shipped	Gallonage tax per container	Total gallonage tax	Container Sale Price	Enf. tax rate	Total enf. tax	Total taxes due	100 Consumers	500 Consumers	1,000 Consumers
750 ml wine	24	0.060	\$1.44	\$15.00	8.00%	\$28.80	\$30.24	\$3,024.00	\$15,120.00	\$30,240.00
12oz beer (6-pk)	4	0.102	\$0.41	\$10.00	8.00%	\$3.20	\$3.61	\$360.80	\$1,804.00	\$3,608.00
								\$3,384.80	\$16,924.00	\$33,848.00

LICENSE REVENUES

Out-of-state Shippers	Fee	License Fee Revenues
50	\$25	\$1,250
100	\$25	\$2,500
500	\$25	\$12,500

Investigative Scenarios

CONTROLLED BUYS

Out-of-state Shippers	Buy Attempts	Product Cost	FTE Days
50	5*	\$1,398	8
100	10	\$2,796	20
500	50	\$13,980	100

*Assumes 3 wine buys, 2 beer buys - max. quantity each

KANSAS ASSOCIATION OF PRIVATE INVESTIGATORS

Post Office Box 2111

Overland Park, Kansas 66201-1111

Chairman of the House Committee on Federal and State Affairs
Kansas State Capitol Building
Topeka, Kansas 66612

and

Members of the House Committee on Federal and State Affairs
Kansas State Capitol Building
Topeka, Kansas 66612

RE: In Support of House Bill 2487

Dear Chairman and Members of the Committee:

My name is Mickey Gitlin. I have already stated my association and KAPI's position on H.B. 2487 and S.B. 322.

I have identified myself to you all previously and hopefully my credentials will lend some credibility to my observations for those of you who did not receive, or haven't had a chance to read the material that I sent you.

I am the Chairman of the Board of KAPI, Vice President of the National Polygraph Association, former Vice President of the Kansas Polygraph Association and have been a licensed Private Detective for over 40 years - in the State of Kansas for over 20 years.

I have assisted in making good laws and have passionately fought bad laws. Which is what brings me here today.

I know you are all very busy people trying your best to do what you think is best for our fellow Kansans (ladies too).

As I have stated before, differences of opinions makes for controversy, and that's what I want to address specifically.

I have always had a problem when members of the same profession are blinded by ego, or misinformation.

1. Their opposition to working an intern program is incomprehensible! What better way to avoid the very thing they're fearful of. (Untrained, unqualified people!)

2. Their opposition to us not wanting to allow the Attorney General to have the right to come into our offices, in violation of our constitutional rights, to examine our private records? We say she can but she must obey the law and do it according to the law! (We've been perfectly clear about the conditions under which she can do this.)

Fed. State
3-5-98
Atch #4

3. The need for a fee increase? Have her justify it! And we'll be happy to accommodate the requested. There are less than 500 active licensed Private Detectives in this state! The Attorney General wants \$100,000 more to monitor us?

4. Those of us who carry firearms want to carry a badge for identification purposes. Safety for ourselves and police officers is our primary concern! (NOTE: Our opponents are not "adamant" about this issue.)

I haven't talked to a single law enforcement officer who objects to our carrying badges, and I have canvased literally hundreds over the years, many in Kansas.

If the Attorney General objects, let her explain the objection and have her identify those in law enforcement who object and why they object.

We have asked for specific information, none has been forthcoming except for the fact that they fear they will be used to impersonate police officers.

5. Licensed informants? If any of you were informants, would you want to be licensed? Informants don't do detective work! They provide information. We the licensees will do the "detective work" and we will train and supervise their activities.

6. Firearms review board? We agree this should be left to the Attorney General and the K.B.I., but what have they done about this issue over the past 23 years? Nothing! Although it has been suggested time and time again.

7. I don't know where our opposition had been practicing their "detective work," but there are unlicensed - unqualified - unauthorized people "running around" the State of Kansas ever since I have been here.

I have personally complained about these people to the Attorney General's office. Good laws don't make "bad guys" good.

And finally:

*There are thousands of uniformed security people wearing badges working all over this state, in police-like uniforms, completely unregulated and not under the control of the Attorney General's office.

It would seem logical that if the Attorney General's office wants more money that would be a veritable gold mine, untapped so far.

I would like to close by saying that when you make new laws, or amend the statutes, it naturally follows that rules and regulations have to conform to the new statutes.

All we ask is that you, the legislators, you that have the responsibility to protect the people of the State of Kansas, help us to protect these people by taking advantage of our knowledge and experience.

Try to see beyond the egos and personal agendas and blindness of our opponents. We urge you to pass H.B. 2487. OUR NEIGHBORS WILL TURN OUT TO BE THE WINNERS.

Thank you.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "M. Gitlin", with a long horizontal flourish extending to the right.

Mickey Gitlin
Chairman of the Board
Kansas Association of Private Investigators



SHAWNEE POLICE DEPARTMENT
6535 Quivira
Shawnee, Kansas 66216
Thomas K. Hayselden
Chief of Police
Phone: (913) 631-2155 FAX: (913) 631-6389



March 5, 1998

Chairman Gary Boston
Committee on Federal and State Affairs
Topeka, KS 66612

Reference: H.B. 2487

Dear Chairman Boston:

In reference to H.B. 2487, I support private investigators having a special badge for identification that is the same for all private agencies throughout the State of Kansas. The badge must say in bold letters **PRIVATE INVESTIGATOR**.

Sincerely,

Thomas K. Hayselden
Chief of Police

Fed & State
3-5-98
Atch #5



Merriam Police Department

9000 W. 62nd Terrace Merriam, Ks. 66202

Phone#: (913) 677-3111 Fax#: (913) 677-1061

03/03/98

Mickey Gitlin
Chairman of the Board
Kansas Association of Licensed Private Investigators
6701 W. 64th
Overland Park, KS 66202

Dear Mr. Gitlin,

This letter is written in reference to H.B. 2487 concerning the establishment of operating procedures for licensed private investigators. I believe that for safety reasons, it would be beneficial for LICENSED PRIVATE INVESTIGATORS, who are lawfully armed with a handgun, to be allowed to carry badges. This would enhance their ability to properly identify themselves in cases where they have been forced to use their firearms for protective purposes.

It is very important that these badges clearly state "Licensed Private Investigator" so that there can be no mistake that they are not members of a public law enforcement agency.

If you have any questions concerning this issue, please call me at 722-7760.

Sincerely,

A handwritten signature in cursive script that reads "Kenneth Sissom".

Kenneth Sissom, Chief of Police

Fed & State
3-5-98
Atch # 6



MISSION

POLICE DEPARTMENT

6090 Woodson Road - Mission, Kansas 66202

Emergency 911

Administrative 722-0697



February 18, 1998

Mr. Mickey Gitlin
ALCOPS, Inc.
6701 W. 64th St., #221
Overland Park, KS 66212

Dear Mr. Gitlin:

Confirming our phone conversation today, I see no problem with a State Licensed Private Detective carrying a shield for identification.

In my opinion, this would be a plus as ready identification. If a badge is used, it would be nice to see it uniform throughout the state.

Sincerely,

Robert A. Sturm
Chief of Police

D.A.R.E. TO KEEP KIDS
OFF DRUGS.

Fedu State
3-5-98
Atch #7