

Approved: 3-25-98
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Lana Oleen at 11:15 a.m. on March 23, 1998, in Room 254-E of the Capitol.

All members were present.

Committee staff present: Mary Galligan, Legislative Research Department
Robin Kempf, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Midge Donohue, Committee Secretary

Conferees appearing before the committee:

Ms. Helen Stephens, Kansas Peace Officers Association and Kansas Sheriffs Association, Topeka
Mr. Myron E. Scafe, Executive Director, Racing Commission
Representative Shari Weber

Others attending: See attached list

The chair deferred to Senator Jones who introduced Mike Watson, Shawn Doyle and Robert Noel, students from Sumner High School in his home district, and Erica Ridley from USD 501, Topeka. The students served as pages for the committee today.

Senator Oleen announced that she had received a request for introduction of a bill and recognized Ms. Helen Stephens. Ms. Stephens asked for introduction of a bill on behalf of the Kansas Peace Officers Association and the Kansas Sheriffs Association that would make it unlawful to intentionally and knowingly administer a substance for a purpose other than lawful medical or therapeutic treatment without the consent and knowledge of the individual.

Senator Jones moved for introduction of the bill. Senator Becker seconded the motion. The motion carried.

Senator Oleen advised that **HB 2510**, concerning the parimutuel racing act, was on the agenda today and called on staff to brief the committee on the provisions of the bill. She indicated she would accommodate Representative Shari Weber's appearance when she arrived, as she has an amendment to offer.

Staff advised that **HB 2510** had passed the House by a 77-42 vote and explained the several amendments it would cause to the Parimutuel Racing Act, including two amendments that were made on the Floor of the House. The proposed balloon amendment requested by Representative Weber was also explained.

The hearing was opened on:

HB 2510 An act amending the Kansas parimutuel racing act.

Mr. Myron Scafe, Executive Director of the Kansas Racing and Gaming Commission (KRG), spoke in support of **HB 2510**, (Attachment #1). Mr. Scafe was accompanied by Terry Hamblin, Assistant Attorney General assigned to the KRG and indicated that, following his testimony, he would defer to Mr. Hamblin to respond to questions the committee might have. He advised that the purpose of the bill was to clarify various sections of the statute and that it was endorsed by the Racing Commission. Mr. Scafe reviewed the provisions of the bill and responded to a question from a committee member regarding the incident which prompted the requested amendment by Representative Weber.

Representative Shari Weber, a proponent of the bill, requested its introduction on behalf of a constituent, (Attachment #2) Representative Weber told the committee current law contains a provision addressing conflict of interest issues among licensed Racing Commission employees and their relatives doing business in Kansas. She related a situation that had gone unnoticed for sometime which involved her constituent, a racing judge assigned to the Kansas City track, and his son-in-law who wanted to race his greyhounds at a track where his

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E,
Statehouse, at 11:15 a.m. on March 23, 1998

father-in-law was not employed. Representative Weber said she was requesting a change in current law which would allow the constituent's son-in-law to race his greyhounds at a track where his father-in-law is not a racing judge. She indicated her intent is to keep the definition as narrow as possible to avoid additional abuse in the area of dog racing as it relates to conflict of interest in track business endeavors by relatives.

Mr. Scafe advised that, to his knowledge, judges have not been moved from track to track, other than for an assignment at a county fair. He did not think the amendment would present a problem unless the father-in-law wanted to move to Wichita where the son-in-law was racing.

Noting the time and number of conferees remaining to testify, Senator Oleen announced that the hearing would be continued at a later date.

Attention was then directed to **SB 606**, concerning cigarettes, and the chair recognized Senator Biggs who reviewed the information presented during testimony on the bill. He stated that sampling of cigarettes and tobacco products is an unacceptable marketing technique in Kansas because youth is a targeted group and those under eighteen years of age do have access to the products. Senator Biggs discussed the balloon amendment and said its purpose was to prohibit the sampling, not only of cigarettes but tobacco products as well.

Senator Biggs moved to report the bill favorably to the full Senate. Senator Gooch seconded the motion.

Senator Harrington commented that no testimony was presented during the hearing to indicate samples were being provided to the underage. She stated she did not want to regulate what businesses can do in regard to dispensing free samples to adults and testimony did not indicate anyone under the age of eighteen was receiving samples. Senator Biggs countered that the industry cannot control the sale of cigarettes to the underage and it would be unrealistic to say they are not getting free samples.

Senator Biggs withdrew his motion to report the bill favorably to the full Senate, and Senator Gooch withdrew his second of the motion.

Senator Biggs moved to amend the bill to include tobacco products. Senator Gooch seconded the motion. The motion failed on a voice vote.

Senator Biggs requested a division vote and, by a show of hands, the vote was three to four. The bill remains in committee.

The meeting adjourned at 12:05 p.m. The next meeting is scheduled for March 24, 1995.

SENATE FEDERAL & STATE AFFAIRS COMMITTEE
GUEST LIST

DATE: 3-23-98

NAME	REPRESENTING
Betty Smith	
Dennis Hightberger	KDHE
Theresa Miller	Kansas Smokeless Kids Initiative
Bill R McCoy	KDHE
Dave Schneider	Kansans For Life At It's Best
Cristina Miller	American Cancer Society
Sally Vinney	Ks. Public Health Assn.
John Small	Ks Smokeless Kids Initiative, Inc
Erica Ridley	Page
Shawn Doyle	Page
Robert J Noel	Page
MIKE WATSON	PAGE
DENNY KOCH	UST . PUBLIC AFFAIRS
Bill Sneed	Ex Officio
Pat Hubble	IL
Tom Caches	McGill's Asso.
McGraw Aulse	Ks Racing & Gaming Comm.
Jerry D. Hamblin	ATTY GENL / Ks Racing & Gaming Comm
Dale Finger	KBI

**TESTIMONY BEFORE THE
SENATE FEDERAL & STATE AFFAIRS COMMITTEE
Senator Lana Oleen, Chair
March 23, 1998
11:00 a.m.**

RE: HOUSE BILL 2510

**Myron E. Scafe, KRGC Executive Director
Terry D. Hamblin, Assistant Attorney General,
KRGC General Counsel**

House Bill (HB) 2510 is proposed by the Kansas Racing and Gaming Commission (KRGC).

It is unanimously endorsed by the racing commission and is for the purpose of clarifying various sections of the statute.

Section I, page 1, line 19, of the bill as originally proposed by the commission 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. Consequently, we asked for an additional attorney to be assigned if the need arose.

The House Committee of the Whole amended the bill back to the original language. The commission does not object to the position of the House Committee of the Whole.

Section 2, page 5, beginning on line 43 and continuing to line 7 on page 6, currently prohibits the commissioners 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.

K.S.A. 74-8810 addresses individuals who may or may not directly or indirectly have a financial interest in a racetrack facility. The House Committee of the Whole added a section in subparagraph (4)(c)(2) on page 6, line 42, that allows relatives of racing commission employees to race at a track that is different from the one where the racing employee works. The commission has no objection to this amendment.

The next amendment is on page 10, see 3, line 18. 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 the most minor of offenses.

On page 12, line 2, 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 a step in between.

When the Camptown greyhound track at Frontenac closed in 1995, there was approximately \$57,000 held in escrow by the commission. Those funds could not be distributed without 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 when and at what time a kennel operator had to have dogs at the track to be eligible to collect some of those funds. The result was the filing of a friendly lawsuit by the kennel owners and operators association in the Shawnee County Court. On page 13, beginning on line 21, are amendments 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 16, beginning on line 20. Currently, there is a bookkeeping nightmare involved in complying with the statutes as originally passed. The intent of the proposed change is to correct the language so the track operators can properly file their reports following legislative intent. This change will greatly facilitate bookkeeping processes by the tracks and KRGC auditors who must track those expenses and revenues.

A change in the simulcast rules being requested is located at page 16, lines 17 through 24.

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 KRGC 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.

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The Kansas House

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Representative
Shari Weber

Testimony for Senate Federal And State Affairs Committee

Re: HB 2510

Hearing: March 23, 1998

Thank you Chairman Oleen and members of the committee, for the opportunity to appear before the committee today. I appear today on behalf of one of my constituents from Abilene, who has operated a greyhound farm business for decades in the state of Kansas.

In the late 1980's the legislature passed laws governing parimutuel racing in our state. Contained in those laws was a provision for addressing conflict of interest issues among licensed Racing Commission employees and their relatives doing business at Kansas tracks. This provision applies to my constituent as his father-in-law (who previous to 1990 had held a greyhound racing license in the state of Kansas) did not renew his license and instead applied for a position as a racing judge at the track in Kansas City. Apparently during the investigation held before the father-in-law went to work as a racing judge, this conflict went unnoticed. In the mid-90's, the son-in-law was denied renewal of a license to race greyhounds because of this conflict, when in fact the conflict was actually created when the father-in-law went to work for the Kansas Racing Commission. The legislature again made the conflict of interest law more specific during that same period of time with the result that my constituent could not race at either the Kansas City track (the track where his father-in-law was a racing judge) or the Wichita track (where his father-in-law was not a racing judge).

Therefore, I am requesting a change in current law to allow my constituent (who has had his dog farm in Kansas for decades) to be able to race his greyhounds at a track where his father-in-law is not a racing judge. I would also like to keep the definition as narrow as possible so that there is no room for additional abuse in the area of dog racing with regard to relatives conflict of interest in track business endeavors.

Thank you,

A handwritten signature in blue ink that reads "Shari Weber".

Sen. Federal & State Affairs Comm.
Date: 3-23-98

Attachment: #2