

Approved: 4-8-98  
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Lana Oleen at 1:15 p.m. on April 1, 1998, in Room 254-E of the Capitol.

All members were present except:

Senator Don Biggs - excused  
Senator Keith Schraad - excused

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:

Mr. Myron Scafe, Executive Director, Kansas Racing Commission  
Mr. Gary Smith, Orion Stables, Olathe

Others attending: See attached list

Staff briefed the committee on **HB 2999**, concerning lottery machines and the unlawful sale of lottery tickets. It was explained that the bill would amend bingo laws as well as the Lottery Act. The bill was reviewed, section by section, with discussion of the new definition of "lottery machines," and examples of interactive and noninteractive lottery machines. An explanation was provided on the House committee amendment to the bill that would prohibit the governor or lieutenant governor from approving games on lottery machines. A significant policy change was pointed out which would place stricter standards on retailers in regard to the sale of lottery tickets to persons under the age of 18 by striking the language, "knowing such person to be". A second House amendment was noted which would provide a defense to prosecution in that regard.

Following briefing on **HB 2999**, Senator Oleen announced that the bill was scheduled for hearing next week.

Staff was then asked to brief the committee on **HB 2886**, concerning regulations and ordinances to sport shooting ranges and providing civil immunity to persons who operate or use such ranges. The committee was provided a memo summarizing provisions of the bill and discussing the practical applications of those provisions (Attachment #1). It was explained that, if enacted, the bill would create several new statutes relating to sport shooting ranges which are not currently regulated at the state level. The term "generally accepted operation practices" and its unlawful delegation of powers was discussed as was the provision on non-conforming use, and staff was requested to draft language prior to the hearing next week to clarify the "non-conforming use" provision.

Attention was then drawn to **HB 2510**, relating to the Kansas parimutuel racing act. The chair recognized Mr. Myron Scafe, Executive Director of the Racing Commission. He assured the committee that the Commission works only in open session and in compliance with the Open Meeting Act in all instances. Contrary to testimony presented earlier, Mr. Scafe said the industry had been aware of **HB 2510** since 1996, and he related occasions when representatives of the industry had been present during discussion of the simulcast issue.

Senator Oleen advised she had spoken with Mr. Gary Smith and Mr. Lee Smith after the hearing last week and asked them to get together and try to resolve their differences. Gary Smith was present and Senator Oleen asked him to report to the committee the outcome of their meeting.

Mr. Smith referenced a letter from Richleen Turpin, President, of the Kansas Thoroughbred Association, (Attachment #2), advising that the Association is opposed to the two proposed amendments. He said he had met with Lee Smith, and had also spoken with Commission staff where he learned language had been drafted which would change the wording of the provision in question. He said he did not have an opportunity to study it and discuss it with the parties involved. Mr. Smith indicated a compromise had not been reached with Lee Smith.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E,  
Statehouse, at 1:15 p.m., April 1, 1998

Senator Oleen announced that a subcommittee composed of herself, Senator Jones and Senator Vidricksen, would meet and the bill would come out of committee.

A letter was made available to the committee from Richaleen Turpin, President of the Kansas Horseman's Association, advising that testimony presented was strictly individual opinions and not necessarily those of the Association (Attachment #3)

Senator Becker moved for approval of the minutes of the March 25, 26, and 30 meetings. Senator Vidricksen seconded the motion, and the motion carried.

The meeting adjourned at 2:15 p.m. The next meeting is scheduled for April 2, 1998.

SENATE FEDERAL & STATE AFFAIRS COMMITTEE  
GUEST LIST

DATE: 4-1-98

NAME	REPRESENTING
ROB MANES	DEPT. OF WILDLIFE & PARKS
STEVE WILLIAMS	"
Melvin Seafey	K.R.G.C.
Shirley K. Brown	S
Jerry D. Hamblin	ATTY GEN'L / KRGC
Gary Smith	KTA / Horse owner
John F. McCloy	K.T.A. / KHA - owner
Ron Cayles	WICHITA GREYHOUND PARK
Alvin Miller	League of KS Men.
Gene W. Kralich	K.T.A.
Steven D. Thompson	Stand Up For KS.
Dave Schneider	Kansans For Life At Its Best
Acq. Zemanek	K.A. Following
Carl Anderson	" "
Harrie Ann Brown	KS GOVT Consulting
Ann A. Campbell	KRLPA
Steve Montgomery	Ks. Greyhd. Kennel Owners' Assoc.

April 1, 1998

**To:** Senate Committee on Federal and State Affairs  
**From:** Robin Kempf, Research Analyst, and Teresa Kiernan, Assistant Revisor  
**Re:** Summary of H.B. 2886, Concerning Sport Shooting Ranges

If enacted, H.B. 2886 would create several new statutes relating to sport shooting ranges. Currently, sport shooting ranges are not regulated at the state level; however, the Kansas Department of Wildlife and Parks keeps an informal list of ranges. Although the person who keeps the list was not available to provide the exact number, other Department of Wildlife and Parks staff members estimated there are approximately 100 shooting ranges in Kansas. This number includes both trap and rifle ranges.

There are three primary components of the bill. First, the bill defines terms relevant to the enactment. Second, the bill creates several exemptions for sport shooting ranges, as well as for owners, operators, managers, and users of such ranges. Third, the bill provides that sport shooting ranges may engage in certain enumerated activities. This memo summarizes the provisions of the bill and discusses the practical applications of those provisions.

## Definitions

Section 1 of the bill defines four terms to be used throughout the bill:

- (a) "**Generally accepted operation practices**" means those practices which are:
- (1) established by a nationally recognized nonprofit membership organization that provides voluntary firearm safety programs, which include training individuals in the safe handling and use of firearms;
  - (2) developed by that organization with consideration of all information reasonably available regarding the operation of shooting ranges; and
  - (3) adopted by Kansas Department of Wildlife and Parks.

The Kansas Wildlife and Parks Commission is required to adopt the generally accepted operation practices within 180 days of the enactment of this bill and review those practices at least every seven years.

- (b) "**Local unit of government**" means a county, city, township, or any other political subdivision of the state, or any agency, authority, institution, or instrumentality thereof.
- (c) "**Person**" is an individual, proprietorship, partnership, corporation, club, governmental entity, or other legal entity.

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- (d) "Sport shooting range" is broadly defined as an area designed and operated for the use of archery, rifles, shotguns, pistols, semiautomatic firearms, skeet, trap, black powder, or any other similar sport shooting.

## Exemptions

H.B. 2886 creates several exemptions with regard to sport shooting ranges. The following table explains each exemption and provides a practical example of how the exemption would apply if the bill were enacted.

<u>H.B. 2886</u>	<u>Who or What Is Exempt?</u>	<u>Exempt from What?</u>	<u>Example</u>
Sec. 2(a)	Any person who owns, operates, manages, or uses a sport shooting range that conforms to generally accepted operation practices.	Not subject to <i>civil liability relating to noise or noise pollution</i> resulting from the operation or use of the range, as long as the range is in compliance with noise control laws or ordinances existing at the time the range was constructed or initially operated.	An employee of a shooting range would be barred from suing for money damages for the loss of hearing due to exposure to excessive noise, as long as the range was in compliance with the original noise laws in existence when the range was opened.
Sec. 2(a)	Same.	Not subject to <i>criminal prosecution relating to noise or noise pollution</i> resulting from the operation or use of the range, as long as the range is in compliance with noise control laws or ordinances existing at the time the range was constructed or initially operated.	If a range was in violation of local noise ordinances, but was in compliance with noise control laws at the time it was opened, it could not be fined for violating a city noise ordinance.
Sec. 2(b)	Same.	Not subject to a <i>nuisance action on the basis of noise or noise pollution</i> , so long as the range is in compliance with noise control laws or ordinances existing at the time the range was constructed or initially operated.	A court could not enjoin or restrain the use or operation of a range on the basis of noise or noise pollution whether the action was brought by the state, as a public nuisance, or an individual neighbor, as a private nuisance.

H.B. 2886	Who or What Is Exempt?	Exempt from What?	Example
Sec. 2(c)	Any range which falls within the definition of "sport shooting range" under this Act.	Not subject to <i>future rules and regulations adopted by any state department or agency for limiting levels of noise in terms of decibel level</i> which may occur in the outdoor atmosphere. (This exemption does not include provisions of the generally accepted operation practices.)	Any range would be exempt from noise-related rules and regulations promulgated by Kansas Department of Human Resources regarding occupational safety hazards; any range would be exempt from noise-related rules and regulations promulgated by Kansas Department of Health and Environment regarding health issues.
Sec. 3(a)	Any range which is operated in conformance with state law.	In addition to the immunity provided for noise and noise pollution, not subject to <i>any new ordinance or amendment to any existing ordinance which may affect operation.</i>	Examples of this exemption include a variety of city governance issues including, but not limited to, zoning, sewage, and special assessments.

### Permitted Activities

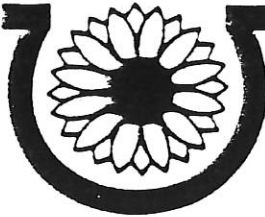
H.B. 2886 would permit any sport shooting range that is in existence as of the effective date of the Act and is in compliance with generally accepted operation practices to engage in several activities. A qualified range would be able to engage in the following activities even if its operation is not in full compliance with local ordinances. Sec. 3(b).

- A range would be able to repair, remodel or reinforce any improvement, facility, building, or structure, as may be necessary in the interest of public safety or as is necessary to secure the continued use of the improvement, facility, building or structure. Sec. (3)(b)(1) could be construed to authorize a shooting range to operate in violation of local building and fire codes.
- A range would be able to reconstruct, repair, rebuild, or resume the use of a facility or building damaged by fire, collapse, explosion, act of God, or act of war occurring after the enactment of this bill. Sec. 3(b)(2). For example, a range could reconstruct in violation of nonconforming use ordinances. This section amends, by implication, K.S.A. 12-758.
- A range would be able to do anything authorized under generally accepted operation practices, including, but not limited to: (1) the expansion or enhancement of its membership or opportunities for public participation; and (2) the expansion or increase of facilities and activities. Sec. 3(b)(3). For example, a range could expand its hours of operation in violation of local limits.

The bill limits the above activities by providing that such activities comply with generally accepted operation practices and that the range conduct the activities within the range's pre-existing geographic boundaries.

Section 4 of the bill notes that except as otherwise provided in the bill, a local unit of government would not be prohibited from regulating the location, use, operation, safety, and construction of a sport shooting range. The bill would become effective upon its publication in the *Kansas Register*.

# KANSAS THOROUGHBRED ASSOCIATION



March 31, 1998

To: Committee of Federal and State Affairs

**President**  
Richaleen Turpin  
913-727-5412

From: Richleen Turpin, President 

**Vice-President**  
Albert Freeman  
316-624-1564

Re: Proposed amendment to HB2510 A by HCW, Section 6  
page 16 and HB 2510 by HCW., Section 6(H) page 16-line 39.

**Sec./Treas.**  
Louis Wexler  
913-831-3600

The Kansas Thoroughbred Association is opposed to the two proposed amendments to house bill 2510. The original regulation as presently written had the complete support of the Kansas Racing Commission and their staff along with the Greyhound and race horse groups in Kansas.

**Past President**  
Larry Wilkerson  
316-488-3604

**Directors**  
Kelly Clark  
316-855-2125

Pete Gibb  
316-624-2762

Kenneth Hanson  
316-342-6390

John McCoy  
913-441-4115

Donnie Molder  
913-422-5662

Meredith Sloan  
316-733-2020

Gary Smith  
913-764-0416

To change this regulation without thorough review and counsel from the individual groups that worked so hard on the original simulcast legislation would be unwise. The second amendment that has been proposed to be inserted Section 6 (H) page 16 line 39, would limit the recognized horse and Greyhound elected representatives from fulfilling their duties in distributing purse money that would be awarded to different racing facilities. These representatives of the horse and dog industry were elected with the support of the racing commission and the legislature. They have fulfilled their duties in distributing purse funds in the best interest of the pari-mutuel industry for the past two years.

John Watson  
316-675-8375

Our organization was not informed by the Kansas Racing Commission concerning the two proposed amendments nor have we been ask for our opinion. Please do not allow these amendments to move out of committee.

Sen. Federal & State Affairs Comm.  
Date: 4-1-98  
Attachment: # 2



APR 1 1998

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# Kansas Horsemen's Association

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To	Lana Oleen	
Co.	Richaleen Turpin	
Dept.	Phone #	
Fax #	913-368-6365	
	Fax #	

March 31, 1998

Senator Lana Oleen  
 Senate Federal and State Affairs Committee  
 State Capitol Building  
 Topeka, Kansas 66612

Dear Senator Oleen,

It has been brought to my attention that members of the Kansas Horsemen's Association board have given testimony regarding Bill 2510. According to our contract with the Kansas Racing Commission our association cannot be involved in any legislative matters. These testimonies are strictly individual opinions and not the opinions of the Kansas Horsemen's Association.

Sincerely,

*Richaleen Turpin*

Richaleen Turpin  
 President

cc: Ben Vidricksen

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Sen. Federal & State Affairs Comm.  
 Date: 4-1-98  
 Attachment: # 3