

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairman Tony Powell at 1:30 p.m. on January 25, 2000 in Room 313-S of the Capitol.

All members were present.

Committee staff present: Theresa Kiernan, Revisor of Statutes  
Russell Mills, Legislative Research  
Mary Galligan, Legislative Research  
Winnie Crapson, Secretary

Conferees appearing before the committee:

Proponents

Jane Nohr, Assistant Attorney General  
Bill Sneed, Kansas Speedway Corp.

Opponents

Hal Wagner, Ace Sports, Overland Park

Written testimony only

Joint letter from Max Urick, Athletic Director, Kansas State University,  
and Bob Frederick, Athletic Director, University of Kansas

Others attending: See attached list.

Chairman Powell announced the postponement of committee consideration of **HB 2581, Abortion; partial birth abortion; limitations,** until tomorrow, January 26.

By unanimous consent bill will be introduced relating to the licensing and regulation of Naturopathic Physicians requested by Tom Burgess representing the Kansas Association of Naturopathic Physicians.

By unanimous consent bill will be introduced bill covering recommendations of the Legislative Compensation Commission.

By unanimous consent bill will be introduced enacting a Kansas polygraph protection act as requested by Representative Gilbert.

Hearing was opened on:

**HB 2653, Unlawful sale of ticket of admission.**

Chairman Powell said proponents would be heard today and further hearing for opponents is scheduled for February 8. Testimony of any opponents unable to return on February 8 will be heard today.

Jane Nohr, Assistant Attorney General, presented the written testimony of Carla Stovall, Attorney General in support of **HB 2653 (Attachment #1)**. The office of the Attorney General is aware of at least 27 states which have some form prohibition of ticket scalping, has examined those laws and regulations and believes this bill offers the best language of all those they have examined. The office of the Attorney General has heard from citizens who have complaints, usually about major events at K.U. and K-State and concerts at Sandstone. This bill would create a crime prohibiting the sale or resale of tickets for entertainment of sporting events in excess of the face value of the ticket. It also prohibits the practice of requiring individuals to purchase additional goods or services at an inflated price as a precondition for receiving tickets.

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS January 25, 2000

Bill Sneed testified in support of **HB 2653** on behalf of the Kansas Speedway Corporation (Attachment #2). His testimony included a video presentation. Kansas Speedway Corporation wants to take every reasonable step necessary to protect the interests of individuals who played a role in procuring the racetrack in Kansas, to assure their customers will have the opportunity to purchase tickets at a reasonable price, to protect the State of Kansas by making sure tax proceeds from sale of tickets are collected, and to protect the private investors in the track. They believe the process is increasingly short-circuited by increased purchases by ticket brokers. Ticket brokers are not licensed in the State of Kansas.

Assistant Attorney General Nohr responded to questions. She said "fair market value" or "fair market price" is derived from face value or price originally advertised.. The third paragraph of her testimony with reference to ticket scalping leading to resale fraud in distribution of tickets referred relates to promoters offering tickets they cannot back up. She knew of no such instances in Kansas nor did she know of misrepresentation of seat locations. Tickets must be resold at the price paid. Complaints are received about Ticketmaster and about scalpers. Complaints are not logged. She believes the intent of the bill was to prevent a windfall.

Mr. Sneed responded to questions. They will have 75,000 tickets in Phase 1 and 115,000 in Phase 2. When asked how many tickets had been sold he explained they are not tickets but passes for permanent access to Speedway seating. Almost all of the 14,000 passes offered have been sold. Representative Klein asked for an explanation of the pass concept. Mr. Sneed stated it was a real estate transaction, the opportunity to own the seat for thirty years so long as season ticket is renewed. You must purchase tickets to utilize the seat.

Representative Mason referred to Mr. Sneed's concern about safety and asked if an area could be specified for selling tickets. Representative Edmonds questioned the statement that taxes were being lost when in fact they were being collected twice with broker services charging sales tax.

Representative Cox asked if states with laws prohibiting ticket scalping are all NFL, big league states. Mr. Sneed did not have that information. Chairman Powell indicated it would be helpful.

Chairman Powell recognized Hall Wagner, Ace Sports, Overland Park, an opponent, as he is unable to appear on February 8, the date for testimony from opponents. Mr. Wagner testified he has been in business in the Oak Park Mall for ten years. He chose to go into the business of ticket brokering in an appropriate way and has never had one complaint about their service. They provide a service to people who choose not to get in line, on the phone or on the internet. Corporations also rely on them to get tickets. They charge a fair market price and take a risk in every situation if they purchase tickets they do not sell. Mr. Wagner would have no problem with a state license for legitimate brokers selling tickets and cannot understand why there is none.

Chairman Powell called attention to written testimony in the form of a joint letter from Max Urick, Athletic Director at Kansas State University, and Bob Frederick, Athletic Director of Kansas University (Attachment #3).

Hearing on HB 2653 was closed.

The meeting adjourned at 3:10 p.m. The next meeting is scheduled for January 26, 2000.

# HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

## COMMITTEE GUEST LIST

DATE: Jan. 25, 2000

NAME	REPRESENTING
Jon Josseland	KU
John Gottenberg	KSO
Bill Sneed	Ks Speedway Corp.
Paul M. Mathis	Leadership Emporia
Melissa Jones	" "
Tim Downs	" "
Mason Logan	" "
Anne Alexander	Gen. Nick Jordan
Jerisa Bauck	Leadership Emporia
Alan Burton	Leadership Emporia
Carla Norcott-Mahang	PPKM
PATRICK WARREN	KU ATHLETICS
Anne Spiess	Peterson Public Affairs Group
D. S. Koch	SW Bell
Carl Scheepers	Leadership Emporia
Yvonne Barnett	Leadership Emporia
Susan Hernandez	Leadership Emporia
Bob Kowitz	TicketAmerica
Russell Linchart	Ticket Solutions





State of Kansas

## Office of the Attorney General

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CARLA J. STOVALL  
ATTORNEY GENERAL

MAIN PHONE: (785) 296-2215  
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TESTIMONY OF  
ATTORNEY GENERAL CARLA J. STOVALL  
BEFORE THE HOUSE FEDERAL & STATE AFFAIRS COMMITTEE  
RE: HOUSE BILL 2653  
JANUARY 25, 2000

Mr. Chairperson and Members of the Committee:

Thank you for the opportunity to appear today to ask for your support of House Bill 2653. While we are not the principal sponsors of the bill, we do support the bill as proposed. My office has been consulted and we believe this bill offers the best language of all of the states we have examined.

This bill would create a crime prohibiting the sale or resale of tickets for entertainment or sporting events in excess of the face value of the ticket. It also prohibits the practice of requiring individuals to purchase additional goods or services at an inflated price as a precondition for receiving tickets.

Across the country, ticket scalping has been recognized as a tremendous problem within the entertainment and sports industries. Ticket scalping leads to resale fraud, unequal distribution of tickets, misrepresentation of seat locations and gouging of ticket prices. Individuals are forced to pay higher prices for tickets or forego attending a particular event altogether.

We are aware of at least 27 states which have some form of law or regulation prohibiting ticket scalping. Some states like Kentucky and Maryland have strict provisions prohibiting the sale of tickets in excess of the face value of the ticket with no exceptions. Georgia and Connecticut allow for increases for taxes and reasonable service charges. Missouri prohibits any resale or offer to resell tickets in excess of the price on the ticket and also prohibits requiring the purchase of other goods or services as a precondition to receiving tickets.

Ticket scalping has increasingly become a problem anytime major sporting events, concerts or other entertainment events occur in Kansas. Our office receives dozens of telephone calls from Kansas citizens who express their frustration that they are unable to obtain tickets at a fair market price. Many of these calls are from parents who are desperately trying to obtain admission at a reasonable price for their children.

House Bill 2653 proposes important legislation which will provide invaluable protection for the public by helping to prevent abuses associated with ticket scalping. Kansas citizens will have a fair opportunity to obtain tickets to sporting or entertainment events at reasonable prices. I would urge your favorable consideration of House Bill 2653.

House Fed. &  
State Affairs  
Date 1/25/00  
Attachment No. 1  
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POLSINELLI  
WHITE  
VARDEMAN &  
SHALTON

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## Memorandum

**TO:** The Honorable Tony Powell, Chairman  
House Federal & State Affairs Committee

**FROM:** William W. Sneed, Legislative Counsel  
Kansas Speedway Corporation

**RE:** H.B. 2653

**DATE:** January 25, 2000

Mr. Chairman, Members of the Committee: My name is Bill Sneed and I represent the Kansas Speedway Corporation, which is the operating corporation for the motorcar racetrack facility that is currently being built in Wyandotte County. We are pleased today to appear in support of H.B. 2653.

As my client prepares to introduce world-class racing entertainment to the State of Kansas, we want to take every reasonable step necessary to protect the interests of all individuals who played a role in procuring the racetrack in the State of Kansas.

We want to assure that our customers, the enthusiastic public racing fans, will have the opportunity to purchase tickets at a reasonable price.

We wish to protect the State of Kansas, which has invested heavily in allowing the racetrack facility to be built in Kansas, and to be assured that the appropriate tax proceeds from the sale of tickets make their way into the state coffers.

We wish to protect the private investors in the track who have invested millions of dollars in the belief that such a program will provide a return on their investments.

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House Fed. &  
State Affairs  
Date 1/25/00  
Attachment No. 2  
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Topeka, KS 66603  
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Telecopy: (785) 233-1939  
wsneed@pwvs.com

Thus, we support legislation that protects the consumer, allows him or her to purchase a ticket, and to enjoy a first-class event.

Unfortunately, this process is increasingly short-circuited by the increased purchase of tickets by ticket brokers throughout the United States. Too often, the consumer finds that the desired ticket is unavailable within minutes after it goes on sale, and many people who wish to enjoy a reasonably priced entertainment function are left in the cold. However, the consumer becomes aware that while there is a "sold out" sign immediately after the tickets go on sale, they note that within a short period of time newspapers are filled with advertisements for tickets to the event and, depending upon the popularity of the event, the cost of the tickets may become out of reach for many citizens.

The problem is not simply the result of the law of supply and demand, but rather, in our opinion, the tactics that can be used by ticket brokers within the current ticket distribution system.

Thus, the average disappointed consumer walks away with the suspicion that tickets could not have all be sold, through normal means, quite that fast. He or she often believes that someone, somewhere, had an "in," and that dutifully waiting in line or telephoning repeatedly was in reality an exercise in futility. To a large extent, as seen in the *Dateline* report, the frustrated consumer is correct.

Currently in the State of Kansas, ticket brokers are not licensed or regulated pursuant to Kansas law. Seventeen states currently regulate ticket resale, including our neighboring state of Missouri. Certainly, because of the fact that there will shortly be a major entertainment venue available, it is in our opinion appropriate for the Kansas Legislature to evaluate the licensing and/or regulation of ticket brokers.

We wish to make it clear that we have no independent knowledge that any current ticket broker residing in the State of Kansas utilizes any of the tactics that we will describe. However, once the racetrack is established and tickets are being sold, it has become obvious through the historical research of other states that these practices may soon follow and other unscrupulous ticket brokers may enter the scene.

Generally, ticket brokers strive to monopolize the supply of tickets through premiums over the face price of the ticket to various persons who have control over tickets at the original point of sale. These payments, although they could be construed as being legal under current Kansas law, are made to venue operators, agents or employees, or others who have initial control over the tickets. These payment are historically known as "ice."

Brokers who pay ice must, of course, cover of the cost of the ticket plus the additional payment to whoever is selling the ticket to the broker. Thereafter, the broker will price the ticket at its original cost plus the ice paid to the original seller, and whatever additional premium the broker wishes to charge to the face of the ticket. Therefore, the broker resells the tickets substantially above the face price of the ticket. It is important to note that the ice paid to the original holder of the ticket receives such payment without any sales tax being derived by the state.

Historically, when legislation like this is proposed, opponents argue that if an individual wants to sell his or her tickets, it is the American way to allow them to do so. Whether or not it is the American way, we have quickly pointed out the loss of revenue to the State by not taxing these additional sales. Further, it is the unfair economic balance that ticket brokers have that makes such an argument inappropriate.

Ticket brokers have the economic capacity to hire individuals to stand in line at box offices in an attempt to purchase tickets. These "diggers" are paid certain sums to stand in



line for tickets. What individual has the economic wherewithal to do the same thing in order to be on the same playing field as the ticket broker?

Also, brokers use high-speed dialing equipment to increase their chance of getting through by telephone to place ticket orders. Again, what individual has the resources to purchase equipment like that in order to compete against the broker?

Finally, brokers can flood mail order requests using a multitude of names of employees and/or surrogates using credit card numbers to skew their statistical chance of getting their mail orders accepted. Again, what individual has that economic advantage in purchasing tickets?

Remember, the individual is attempting to purchase the ticket in order to attend the event. The broker is attempting to purchase the ticket for resale.

On behalf of my client, we appreciate the opportunity to speak in favor of H.B. 2653. We encourage the Committee's favorable consideration of this bill. It is our contention that ticket scalping is not a victimless crime. The victims are the fans, producers, investors, and the State of Kansas. Perhaps the attached letter to the editor found in *USA Today*, December 17, 1999 crystallizes the way the fans feel about the issue. The fans want the best process possible to allow the average American the opportunity to see a particular event.

Respectfully submitted,

William W. Sneed

Attachment

# Kansas State University Athletic Department



January 25, 2000

The Honorable Tony Powell  
Chair, House Federal and State Affairs Committee  
300 SW 10<sup>th</sup> Avenue, Room #448-N  
Topeka, KS 66612-1504

Dear Chairman Powell and Members of the Committee:

We appreciate the opportunity to offer comments on HB2653 before your committee today. We strongly support its adoption.

Both The University of Kansas and Kansas State University have had many experiences with ticket scalpers and ticket "consolidators" working both athletic and entertainment events on our campuses. We are highlighting only a few reasons we support the passage of HB2653 in this letter.

First, the pervasive presence of ticket scalping is inconsistent with the atmosphere intended as part of the intercollegiate sports experience. It is an intrusive and disruptive activity.

Second, through ticket scalping, there is an increased chance that the fan will have an unsatisfactory experience. When we distribute the ticket, we can accurately describe the relative location and cost of a ticket. Surprisingly, we are increasingly beset with complaints from individuals who have acquired tickets from third parties about the quality or location of a seat.

Third, university athletic programs are highly dependent upon the generosity of alumni and friends to support the costs of our student athletes and athletic program. The promotion of secondary commercial markets directly interferes with our relationship with our donors.

Last, we would note that universities collect and remit sales tax for our events. We find it highly unlikely that the numerous individuals which seem to surround our performance facilities have sales tax identification numbers for the transactions which are occurring.

Thank you for your favorable consideration of HB2653.

Sincerely,

Max Urick  
Athletic Director  
Kansas State University

Bob Frederick  
Athletic Director  
The University of Kansas

House Fed. &  
State Affairs  
Date 1/25/00  
Attachment No. 3  
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Academics  
785-532-5190

Business Office  
785-532-6586

Development  
785-532-7932

Marketing/Promotions  
785-532-7953

Sports Information  
785-532-6735

Ticket Office  
785-532-7606

Training Room  
785-532-5880

Baseball  
785-532-5723

Men's Basketball  
785-532-6531

Women's Basketball  
785-532-6970

Football  
785-532-5876

Men's Golf  
785-532-7931

Women's Golf  
785-532-7799

Women's Rowing  
785-532-7027

Tennis  
785-532-7198

Track  
785-532-6567

Volleyball  
785-532-5935