

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Representative Tony Powell at 1:30 p.m. on February 14, 2000 in Room 313-S of the Capitol.

All members were present except Representative Freeborn, excused.:

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

Conferees appearing before the committee to propose substitute for **HB 2653, Unlawful sale of ticket of admission:**

Bill Sneed, Kansas Speedway Corporation
Bud Burke, Ticket Solutions

Conferees on hearing on **HB 2870, Alcohol and cereal malt beverages, licensees, bonds, server training programs, use of minors to enforce compliance with age restrictions:**

Proponents

Representative Sloan
Philip Bradley, Kansas Licensed Beverage Association
Rita Madl, Kansas Licensed Beverage Association
Ron Hein, Kansas Restaurant and Hospitality Association

Opponents

Lester Lawson, Kansas Clubs and Associates

Information presented

Robert Longino, Acting Director, Division of Alcoholic Beverage Control

Others attending: See attached list.

Chairman Powell opened discussion on the proposed compromise for **HB2653 Unlawful sale of ticket of admission** worked out by proponenets and opponents.

Bill Sneed, Kansas Speedway Corporation, presented the proposed substitute containing the changes representing the compromise (Attachment #1). He noted Section 1 contains similar language prohibiting ticket scalping and reviewed proposed changes: subsection (1) to Sec. 1 (a) exempts non-profits allowing them to utilize tickets in fund raising activities; subsection (5) provides for exception for tickets part of travel agent packages; subsection (6) exempts transactions where neither the buyer nor seller is located in Kansas; subsection (7) allows individuals to include any additional costs in selling tickets they are unable to use; subsection (8)(A) provides for registration of ticket brokers; subsection (8)(C) provides for an annual registration fee of \$100.00 to be paid to the Secretary of State but did not provide language to allow receipt and deposit of that fee. Secretary of State requests that the following language be added to Sec. 1 (a)(7)(C): "Fees received under this act by the secretary of state shall be deposited in the state treasury to the credit of the information and copy service fee fund." Mr. Sneed pointed out subsection (1) to Sec. 1 (b) changes the distance involved in prohibition of sales surrounding an event.

Mr. Sneed thanked the committee for allowing all interested parties time to work on a compromise and requested the committee approve the substitute bill and recommend for passage.

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Mr. Sneed said the substitute represents the attempt of the parties to balance the concerns of the committee about people and those of the entities who have legitimate reasons for reselling tickets as opposed to people trying to manipulate the system.

In response to question Melissa Wangemann of the office of the Secretary of State said the "Information and Copy Service Fee Fund" is used to provide information and copies to the public and for the imaging system.

Committee members had a number of questions about the definition of area within which reselling of tickets would be prohibited, specifically the definition of "place of entertainment" and "property line". Mr. Sneed responded that the thousand feet runs from the property line of the place of entertainment complex, not the property line of the track but of all property owned by the track. He said the Kansas Speedway could create a place on the property for a brokers' tent.

Representative Burroughs suggested the bill should be more specific about property line and pointed out that Kansas City, Kansas has an amphitheater on land owned by local government.

Representative Dahl suggested rewording of Sec. 1(a)(6) referring to buyers and sellers out of state.

Mr. Sneed explained that language was requested by brokers because of current litigation in which New York is attempting to assert jurisdiction over a broker in California selling to a resident of Arizona.

Mr. Burke stated that as in any compromise, neither side is thrilled with the work product but asked the committee to respect what the parties have been trying to achieve.

Chairman Powell moved for approval of the substitute for **HB 2653** representing compromise by opponents and proponents. Representative Hutchins seconded.

Substitute for **HB 2653** adopted.

Representative Klein moved to delete subsection (7) of Section 1 (a). Representative Rehorn seconded. Motion passed.

Representative Klein moved to change "nor" to "not" in subsection (1) of Section 1 (b). Representative Ruff seconded. Motion passed.

Representative Dahl moved to delete subsection (6) of Section 1 (a). Representative Mayans seconded. .

Chairman Powell stated he opposes the amendment. While it would be helpful to rearrange the language, he thinks its good to clarify the intent when listing some exceptions.

Representative Dahl moved to the amendment. Motion failed.

Chairman Powell moved to restate subsection (6) of Section 1 (a) to state "where the buyer and the seller of the ticket are not located..." Representative Hutchins seconded. Motion passed.

Representative Cox moved to adopt substitute HB 2653 as amended. Representative Mason seconded. Motion passed.

Representative Edmonds moved to table.

Representative Edmonds withdrew his motion to table.

Chairman Powell moved to report **Substitute HB 2653** as amended favorable for passage. Representative Klein seconded. Motion passed.

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Representative Edmonds requested his No vote be recorded.

Chairman Powell opened the hearing on

HB 2870, Alcohol and cereal malt beverages, licensees, bonds, server training programs, use of minors to enforce compliance with age restrictions.

Representative Sloan was unable to appear before the Committee but presented written testimony in support of the bill (Attachment #2). He explained his reasons for introducing the bill to simplify alcohol licensing and administration procedures.

Philip Bradley presented testimony in support of the bill on behalf of the Kansas Licensed Beverage Association (Attachment #3). He explained that the bill allows business persons who have proven that they are responsible and trustworthy to be relieved of the burden of a performance bond. If the licensee meets specified conditions the Director has the discretion not to require such a bond. He suggested amendments to replace the word "shall" with "may" in line 38 on page 2 and in line 3 on page 4.

Rita Madl of the Kansas Licensed Beverage Association presented oral testimony.

Ron Hein provided testimony in support of the bill as legislative counsel for the Kansas Restaurant and Hospitality Association (Attachment #4). The bill will allow "law abiding" businesses to avoid penalization for the acts of those who are not current in their obligations to the state.

Members of the committee had questions about the cost of the bonds required under current law.

Robert Longino, Acting Director of the Division of Alcoholic Beverage Control, presented testimony reviewing the provisions of the bill (Attachment #5). He stated the bill provides a mechanism whereby honest and reliable alcoholic liquor licensees may be relieved of the requirement to maintain a bond in order to renew their licenses after a continuous period of compliance with the liquor laws and the proper payment of taxes and fees.

In response to question from Representative Dahl, Director Longino said he knew of no other business required to provide a similar bond.

Lester Lawson, President of Kansas Clubs and Associates, presented testimony in opposition to **HB 2870**. He stated he believes the current system is fair and has protected both the taxpayer and the license holder. With three months of tax payments presently secured by bonds of CDs the ABC is less inclined to pull a liquor license immediately and he is concerned that if the bill is passed and a licensee falls behind in tax payments, the state would be more likely to remove a license more quickly.

Chairman Powell closed the hearing on **HB 2870**.

Without objection bill will be introduced providing for distinctive license plates for the Kansas Foundation for Agriculture in the Classroom as requested by Representative Hutchins. [See HB 3004 introduced February 23.]

Meeting adjourned. Next meeting is scheduled for February 15.

HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

COMMITTEE GUEST LIST

DATE: 2/14/00

NAME	REPRESENTING
Phil Bradley	KLBA
Justin Laurson	KC AA
Bob Longino	KDOR ABC
Kit [unclear]	clom Egypt
Bill Sneed	Ks Speedway
Michael [unclear]	Lincoln
Krystal Bacon	Lincoln
Tyler Sutter	Lincoln
Chris Walker	Lincoln Ks
Jon Josseland	Ku
GRIC Sexton	WSU
Pete Bodylek	KDOR/ABC
Rebecca Rice	KC & A & KBWA
Bud Burke	TICKET SOLUTIONS
Ron Hein	Ks Restaurant & Hospitality Ass'n
John C. Bottemberg	Kansas Speedway
Jack Dunaj	Ks wine/spirits wholesaler
Matt Walters	Rep Dahl & Schwartz
Bunny Campbell	KLDA

SUBSTITUTE FOR
HOUSE BILL No. 2653

By Committee on Federal and State Affairs

1-19

AN ACT concerning crimes and punishments; creating the crime of unlawful sale of tickets of admission and prescribing the penalty therefor.

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

Section 1. (a) Except as provided by this section, no person shall resell any ticket for a price in excess of the price printed on the ticket. If a seller of a ticket requires, as a precondition of the resale of such ticket, the purchase or rental of other goods or services at a price in excess of the fair market value of such goods or services, the excess amount shall be deemed to be part of the purchase price of such ticket.

The provisions of this section shall not apply

- (1) to a nonprofit organization or any person acting on its behalf if the profit realized from the resale of tickets is wholly dedicated to the purposes of the nonprofit organization,
- (2) to the sponsor, promoter, artist or operator of the event,
- (3) to the owner, operator, lessee or tenant of the place of entertainment for the event,
- (4) an agent of one of the above who is expressly authorized to make sales of tickets for the event, including a seller of a ticket of admission who, with the consent of the sponsor of such event, collects a reasonable service charge, in addition to the printed box office ticket price, from a ticket purchaser in return for services actually rendered,
- (5) to any travel or tour agent or operator or other person who offers and resells the ticket as part of a package of goods and services that includes air or ground transportation, hotel or other accommodations or meals,
- (6) where neither the buyer nor the seller of the ticket is located in this state,
- (7) to any person not engaged in the business of reselling tickets, or
- (8) to a ticket broker who meets all of the following requirements:

(A) The ticket broker is duly registered with the Office of the Secretary of State on a registration form provided by that Office. The registration must contain a certification that the ticket broker: (i) engages in the resale of tickets on a regular and ongoing basis from one or more permanent or fixed locations located within or outside of this state; (ii) displays at those locations within this state a copy of the ticket broker's registration; and (iii) has not been convicted of a violation of this Act within the preceding 12 months.

(B) The ticket broker (i) maintains a statewide toll free number for consumer complaints and inquiries; and (ii) has adopted an internal code that advocates consumer protection and includes, at a minimum, a standard refund policy and standards of professional conduct.

(C) The ticket broker has paid an annual registration fee of \$100.00.

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(b) No person shall resell a ticket which contains restrictions on transfer in violation of such restrictions:

- (1) within 1,000 feet of the place of entertainment for the event if the place of entertainment has a permanent seating capacity over 5,000 persons, unless the operator of such place of entertainment has designated an area within the property line of the place of entertainment for the resale of tickets by any person whether or not registered under this act; or
- (2) on any fully access-controlled highway within five miles of the place of entertainment for the event.

(c) As used in this act:

- (1) "Ticket" means any printed or electronic medium of admission or right of entry to an event.
- (2) "Event" means any musical or theatrical performance, concert, exhibition or sporting athletic contest open to the general public for which an entry fee is charged and which is given or held at a place of entertainment.
- (3) "Nonprofit organization" means a bona fide nonprofit religious, charitable, fraternal, educational or veterans' organization as defined in K.S.A. 79-4701, and amendments thereto.
- (4) "Person" means any individual, firm, corporation, partnership, limited liability company, limited liability partnership or other entity, whether located within or outside of this state.
- (5) "Place of entertainment" means any privately or publicly owned and operated entertainment facility in this state, such as a theater, stadium, amphitheater, concert hall, arena, racetrack, museum or amusement park, where athletic games or contests, concerts, performances or exhibitions are given or held and for which an entry fee is charged.
- (6) "Resale" or "resell" means any offer to sell or resell, or sale or resale of, a ticket to an event at a price in excess of the face price thereof, including in person or by telephone, mail, delivery service, facsimile or the internet.
- (7) "Ticket broker" means any person engaged in the business of resale of tickets, other than an employee of a ticket broker registered under this act.

Section 2. A person convicted of violating the provisions of this act shall be guilty of a class C nonperson misdemeanor. The resale of each ticket in violation of the provisions of this act shall constitute a separate offense.

Section 3. (a) This act shall be part of and supplemental to the Kansas criminal code.

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

SUBSTITUTE FOR
HOUSE BILL No. 2653

By Committee on Federal and State Affairs

New Section 1. (a)(8)(C) The ticket broker has paid an annual registration fee of \$100.00. *Fees received under this act by the secretary of state shall be deposited in the state treasury to the credit of the information and copy service fee fund.*

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TOM SLOAN
 REPRESENTATIVE, 45TH DISTRICT
 DOUGLAS COUNTY

COMMITTEE ASSIGNMENTS
 MEMBER ENVIRONMENT
 UTILITIES

STATE CAPITOL BUILDING
 ROOM 446-N
 TOPEKA, KANSAS 66612-1504
 (913) 296-7677
 1-800-432-3924
 772 HWY 40
 LAWRENCE, KANSAS 66049-4174
 (913) 841-1526



TOPEKA
 HOUSE OF
 REPRESENTATIVES

TESTIMONY ON HB2870:

PROVIDING THE ALCOHOL BEVERAGE COMMISSION FLEXIBILITY IN REQUIRING BUSINESSES TO PROVIDE ANNUAL PERFORMANCE BONDS.

Thank you Mr. Chairman, members of the Committee for hearing testimony on **HB2870**. I apologize for not being present for this hearing, but a Kansas 2000 Sub-Committee is working a bill and the Chairman naturally prefers to have his members present.

I introduced this bill in response to a request by Bernie Norwood (former ABC Director) and Jim Conant (at the time ABC Director) to reduce the agency's paperwork load and adhere to Governor Graves' and the Legislature's desire for all agencies to be more "customer/citizen friendly".

Each applicant for a license or license renewal related to the sale of alcohol is currently required by statutes to provide performance bonds to the ABC. **HB2870** will permit the ABC Director to waive the filing of the bond if the **applicant seeking renewal** has a good fiscal and management record with the ABC. The bill is permissive in nature, allowing the ABC to establish criteria license holders must meet to obtain a waiver. The bill also allows the ABC to reinstitute the bond requirements if a licensee becomes less responsible.

Many of you knew Bernie Norwood before his recent untimely death. He was working on a much more comprehensive simplification of the alcohol licensing and administration procedures bill at the time of his death. This is the only initiative that he completed. His death is not a good enough reason to pass this bill, but based on his years of public service, particularly as ABC Director, this was his highest priority and should warrant your consideration. I have spoken with Bob Longino, the current ABC Director, and support his suggested clarification language.

Again, I regret I cannot be with you today. I invite any Committee member with questions about **HB2870** to speak with me on the House floor or between and after committee meetings.

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Kansas Licensed Beverage Association

Chairman Powell, and Members of the Committee,

My name is Philip Bradley and I am here representing the KLBA, Kansas Licensed Beverage Assn. We support HB 2870 and assisted in its conception in conjunction with the leadership of the ABC. (There was a change to the draft that wasn't made before introduction. That change has been handed to you now as an amendment. It comes as a request from both Director Longino and Licensees.) I come to this endeavor late. My predecessor the late Bernie Norwood started this process. Many of you will remember Bernie for his many years of service to our state culminating with his work in the ABC as Director ('95-'98) at the time of his retirement. Bernie agreed to help our organization in proposing and advocating reasonable solutions to common problems. He was working with then Director Conate of the ABC and Rep Sloan on this very legislation at his sudden and untimely death. They had a workable draft and were preparing for this session. I was asked to assist in his stead to continue his work. Therefore we refer to this as Bernie's Bill.

Bernie's Bill is very simple and only does one thing. It allows businesspersons who have proven that they are responsible and trustworthy to be relieved of the extra burden of a "performance" bond. Currently any person when applying to open a business as a Licensee must post a bond as surety, that they will pay their excise tax. Each year when it is time to renew their license, if they have worked hard, "played by the rules" and been lucky enough to succeed, each gets a letter notifying them that their license can't be renewed until they increase their bond. And this must be done immediately before they can continue. Unfortunately, if they haven't had a successful year they aren't allowed to reduce their bond. This continues as long as they choose to hold a license, regardless of their history of on time and correct payments. This is an extraordinary standard that other citizens aren't required to meet, to continue to conduct their businesses.

All HB 2870 does is to allow the Licensee, at the discretion of the director, not to have such a bond, if they meet the following conditions:

- 1) Have made all their payments on time and in full for the preceding 12 months,
- 2) Request to have this bond relieved,
- 3) And have complied with the provisions of the Kansas liquor control act.

In this way, it allows those who meet the criteria to have a choice of maintaining the security of bonding or to request relief.

Once adopted it will require new policies of implementation. Director Longino has agreed to allow representatives from our industry to be a part of a working group to assist him in this endeavor. We believe that this effort represents a beginning of positive cooperation. We believe that this bill stands as a test, if you will, of what good faith efforts between the ABC and our industry can lead to. This is not an earth shattering, comprehensive act. In contrast is very simple and direct.

We urge your timely, favorable support of "Bernie's Bill", HB2870!

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117 East 8th Street
Lawrence, Kansas 66044



Memberships available. Inquiries invited.
Phone: 785-331-4282

House Bill 2870 Amendments

Page 2, line 38, section 3

Change *shall* to *may* to read “*the director may waive the bond...*”

Also page 4, line 3, section 5

Change *shall* to *may* to read “*the director may not require a bond...*”

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**Testimony Re: HB 2870
before House Federal and State Affairs
Presented by Ronald R. Hein
on behalf of
Kansas Restaurant and Hospitality Association
February 14, 2000**

Madam Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Restaurant and Hospitality Association. The KRHA is the trade association for restaurant, hotel, lodging and hospitality businesses in Kansas..

The KRHA supports HB 2870. This bill recognizes that those businesses who are current on their taxes taxes and fees pursuant to the appropriate alcohol act owed to state government should not have to go to the additional expense of posting a bond to secure payment of their excise tax to the state. This will permit, if you will accept the terminology, the law-abiding businesses to avoid penalization for the acts of those who are not current in their obligations to the state.

We believe that this approach is far superior to approaches which have been discussed in the past by the Legislature.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

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STATE OF KANSAS

Bill Graves, Governor

Robert Longino, Acting Director
Division of Alcoholic Beverage Control
Kansas Department of Revenue
200 SE 6th Street
Topeka, KS 66603



DEPARTMENT OF REVENUE

Karla Pierce, Secretary

(785) 296-7015
FAX (785) 296-1279

Division of Alcoholic Beverage Control

MEMORANDUM

TO: Representative Tony Powell, Chairman
House Committee on Federal and State Affairs

FROM: Robert Longino, Acting Director

RE: House Bill 2870

DATE: February 14, 2000

Mister Chairman and Members of the Committee - Good Afternoon

Thank you for the opportunity to appear before you today in response to House Bill 2870. This bill provides a mechanism whereby honest and reliable alcoholic liquor licensees may be relieved of the requirement to maintain a bond in order to renew their licenses after a continuous period of compliance with the liquor laws and the proper payment of taxes and fees.

Current licensing procedures require the establishment of a bond to protect the state from any potential tax liability that it might encounter if a licensee failed to meet its tax obligations. Bonds are established during initial licensing and the Department of Revenue verifies bond requirements at every renewal thereafter. The department also accepts escrow agreements where licensees establish accounts with financial institutions. These escrow accounts provide protection to the tax obligations while earning interest for the licensee.

Licensees operating under the gallonage tax and enforcement tax have specific bond amounts specified in the statutes with a couple of exceptions where the highest monthly tax liability is also considered. In the case of clubs and drinking establishments which operate under the excise tax, bond amounts are determined initially on either a set amount or a percentage of anticipated tax revenue, whichever is greater. A revised bond amount is recomputed based on the average of three months liquor excise tax at every renewal thereafter.

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This legislation will provide for a relief from such bond requirements to licensees who have complied with the liquor laws and have not been delinquent in the payment of any taxes or fees pursuant to the liquor laws.

Our interpretation of this legislation is that it is perhaps too directive in nature. I am specifically addressing where it states in section 3, "the director shall waive the bond required" for any licensees who have complied with the provisions of the liquor control act and have paid all their taxes and fees for the minimum time specified of at least 12 months. We have heard there are business owners who feel comfortable with having a bond as a protection to their business, but the legislation using "shall" does not provide any means of allowing the department to maintain a bond for such businesses if they haven't violated the liquor laws.

Less directive terminology such as the phrase "may waive the bond" would allow for some discretion for situations such as those where licensees desire to keep the bond in place as a protection for them. I would ask the committee to consider an amendment changing the terminology from "shall waive the bond" to "may waive the bond." I have discussed this change with Representative Sloan and he expressed his support.

If this bill is passed, the Alcoholic Beverage Control Division and the Department of Revenue will immediately establish rules and regulations to govern the process of waiving the bond requirement as well as on what violations to the liquor laws would necessitate the reestablishment of a bond.

As we addressed in the fiscal note submitted by the department, there will be some administrative costs associated with this bill. Currently our licensing personnel verify compliance with the bond requirement. Under this legislation, they would have to do a more thorough review of each licensee at every renewal to ensure they qualify for the waiver.

In our effort to provide customer service to liquor licensees, we feel this legislation and the discretion it allows will ensure we can provide the bond relief to those deserving it. Although there are the risks of allowing uninsured liability to exist, protective measures to the state's revenue sources from those who have not demonstrated the appropriate level of compliance with the liquor laws and taxation requirements can and will be **established, implemented and enforced.**

I would be happy to attempt and answer questions from the committee at this time.