

Approved: April 5, 2000
Date

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 March 28, 2000 in Room 313-S of the Capitol.

All members were present except: Representative Henderson, excused
Representative Vickrey, 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:

HB 3030

Senator Goodwin
Representative Edmonds
Steven Rarick, Office of Attorney General
Donna Homan, Winfield
Gary Simmons, Great Bend

SB 492

Tracy Diehl, State Gaming Agency

Others attending: See attached list.

Hearing opened on

HB 3030, Use of locality name by fictitious business in advertisement

Representative Edmonds testified he requested the bill after the problem was brought to his attention by constituents (Attachment #1). Advertising is being placed in local telephone books with local phone numbers and addresses by out-of-state florists. When you call the local number to place an order, unknown to you the call is being answered by an overtaker in Bernardsville NJ. No one objects to competition, but they do object to the failure to disclose to the consumer that it is not a local business. This affects not only customer service, but local sales tax collection. The problem is nationwide. Eleven states have already enacted statutes similar to **HB 3030**. The bill requires that if you use the name of the locality in your business name either you are actually located in that locality or you disclose where your business is located.

Senator Goodwin testified (Attachment #2) that when informed of this problem she did some research and discovered national telemarketers masquerade as local businesses generally targeting the florist industry. **HB 3030** is drafted from model legislation used in Connecticut. She provided a transcript received from NBC Dateline. Senator Goodwin described her experience in calling some of these phone

Steve Rarrick, Deputy Attorney General, presented testimony in support (Attachment #3). In addition to florists, in other states heating and airconditioning businesses are being targeted. Companies that misrepresent their location impact both consumers and local businesses. In the florist industry consumers will call listings for a local florist with the intent of using a local business that will process their order carefully to maintain their reputation in the community.

Donna Homan, Winfield, presented testimony with a listing of 33 towns in Kansas where this is occurring (Attachment #4). She explained in detail how the deception is carried out.

CONTINUATION SHEET

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Gary Simmons, owner of Great Bend Floral, presented testimony (Attachment #5). He described instances where customers assuming they had placed their orders with Great Bend Flowers, complained of not receiving their flowers. He testified the impact has been building over the last four years.

The vendors are not paying taxes in Kansas and it is unclear if they are paid in New Jersey.

Hearing closed on HB 3030

Representative Edmonds moved HB 3030 be recommended favorable for passage. Representative Benlon seconded. Motion carried.

Hearing opened on

SB 492, State Gaming Agency, powers and duties.

Tracy Diehl, Executive Director, State Gaming Agency testified in support of the bill (Attachment #6). He explained that at the time the Tribal Gaming Oversight Act was passed in 1996 there was only one native American Indian casino about to begin operating in the State of Kansas. The State Gaming Agency had been created through an Executive Order in 1995. Since that time there have been four casinos opened in Kansas.

SB 492 proposes to amend K.S.A. 74-9803 which made the State Gaming Agency a part of the Kansas Racing and Gaming Commission. The Tribal Gaming Oversight Act provided that other than budgeting, personnel expansion and arbitration authorization as provided by the Tribal-State Compacts, all other management functions would be handled by the Agency. Individuals who work for the State Gaming Agency fall under the definition of employees in K.S.A. 74-8810 and are prohibited from gambling at racetracks although they are not involved in any regulatory decisions concerning the racetracks. Employees of the racetracks are not prohibited from gaming at casinos.

SB 492 would also amend K.S.A. 74-9804 to permit the State Gaming Agency to perform background investigations on enforcement agents employed by the Agency. Originally it was envisioned that the KBI would perform these investigations but in response to a need to address timeliness of investigations, the Agency has taken over the investigations. [See Legislative Post Audit Report **Compliance and Fiscal Year 1999 Audit Report of Kansas Racing and Gaming Commission.**] The KBI does not oppose this change in the law.

Two proposed changes to K.S.A.74-9805 are requested. The first would allow the State Gaming Agency to receive individual and corporate taxpayer information from the Department of Revenue on gaming license applicants in conducting background investigations. The second requested change is to allow the Agency to communicate information on gaming license applicants with gambling regulatory agencies in other states.

Amendment is requested to K.S.A.74-9808 which calls for any funds provided the Agency from the state general fund to be viewed as a loan and interest be paid by the tribes who have Tribal-State Compacts. Any monetary resources are used solely by the Agency allowing the Agency to function during the period of time at the beginning of the fiscal year when no funds are being received from the tribes. Once assessment payments are received from the tribes, the amount used to capitalize the agency is reimbursed to the State. The tribes are required to pay for the reasonable and necessary costs of regulation and each year the Agency assesses the four tribes the cost of the agency. The Tribal-State Compact does not provide for the payment of any interest or penalties by the tribes. This proposed amendment would bring the statute in line with Section 25 of the Compacts.

In response to questions about altering the payment structure, Mr. Diehl said it would require that the Compact to be re-negotiated. Specific dates are set under the Compact and it requires the fiscal year to close June 30.

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Chairman Powell said that while he could understand the point about disparity in prohibiting Agency employees from gambling at racetracks but allowing parimutuel employees to gamble at casinos, his choice would be to have the law changed so parimutuel employees could not gamble at casinos.

In response to questions about the purpose of access to Department of Revenue records, Mr. Diehl said it would be used in investigations by looking at sources of income. Together with credit history it can help determine if the individual is someone we need to look very seriously at to allow them access to cash. At the present time the Agency can go to the IRS but cannot find out if they have filed a Kansas tax return. Information in the report would indicate whether or not the individual has filed taxes and if they are behind paying taxes. The Agency makes them pay those back taxes because someone who fails to follow tax rules will not follow other regulations.

Mr. Diehl said the Compact provides that copies of tribal records obtained "shall be the property of the tribe and shall be considered closed information" and that release of such information violates the privacy of the tribe.

Mr. Diehl said of the 21 positions in the Agency 17 are filled. There are four casinos with 2200-2400 employees of which 1500-1600 are gaming employees. He was unsure how many were Tribal members but there is a hiring preference for them.

The growth of number of employees in the Agency was due to assuming responsibility for background checks. In July 1998 it was taking in many instances nine months to complete and people could go to work after 90 days if investigation had not been completed. An arbitration was lost and it was necessary to do something to meet the obligations under the Compact. It was determined to do the investigations internally so the system could be managed. Mr. Diehl said the Tribes are the licensing entities under the Compact. The Agency does the background check, delivers it to the Tribes and they make the decision. If the Tribe disagrees, it moves into arbitration.

Natalie Haag, Chief Counsel to Governor Graves, presented a proposed amendment to **SB 492**. She testified the State is currently involved in litigation with the Prairie Band Potawatomi Tribe concerning issuance of license tags. The Judge has determined the State is not negotiating in good faith. Passage of this amendment would demonstrate to the Judge that we have made a good faith effort to resolve issues he is concerned about. This legislation allows the issuance of specialty plates for Tribal entities. The Tribes would like to issue license plates as a means of generating revenue and for them a more important issue, their pride in their heritage and background. It is a sovereignty issue for them.

The State's concern is that the vehicles will travel in the state of Kansas and are not in the system so that when stopping a vehicle with the Tribal tag cannot be run. This proposed legislation indicates the State is willing in good faith to resolve this issue. It requires they be a resident of Kansas. Application is made to the Tribe for approval. They could charge a fee to generate revenue. The tag would be designed by the Tribe so they could display their heritage, subject to the approval of the Director of Vehicles so there is a means of tracking vehicles. Issuance would put the tag in the State system and allow our law enforcement officials to safely approach a vehicle.

The fiscal impact requires them to purchase 500 tags at \$27.50 to guarantee covering costs of issuing the specialty tags. The legislation could be changed so that the Tribe would be billed only the cost involved. She does not believe in a good faith settlement offer the State should generate revenue.

When asked why the proposal was attached to **SB 492**, Ms. Haag said it could be a stand-alone bill but it was important to find a way it could be worked quickly.

Representative Mays questioned the nexus with the **SB 492**.

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Representative Hutchins asked about the terms specialty and distinctive in relation to tags.

Revisor Kiernan said there is a provision in current law on distinctive plates that there must be a guarantee of 500 to be issued.

Hearing on SB 492 was closed.

Committee considered matters heard.

Represented Ruff moved, Representative Klein seconded, that SCR 1639, Establishing legal assistants day, be recommended favorably for passage.

Representative Freeborn moved, Representative Benlon seconded, a substitute motion to table SCR 1639. Motion failed 5-6.

Motion to recommend SCR 1639 favorably for passage carried.

Representative Rehorn moved, Representative Ruff seconded that HB 2970, Creating the Kansas Civil Rights History Task Force be recommended favorably for passage. Motion carried.

Meeting adjourned. Next scheduled meeting is March 30.

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GREAT BEND, KS 67530
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JOHN T. EDMONDS
112TH DISTRICT

Testimony on House Bill 3030
House Federal and State Affairs Committee
March 28, 2000

Chairman Powell:

Thank you for the opportunity to be heard regarding House Bill 3030. This bill is an attempt to create a commercial "level playing field" and provides enhanced disclosure so that the consumer can more easily make an informed purchasing decision.

The situation which made me aware of the need for HB 3030, and its predecessor SB 614, was first brought to my attention by Mr. Gary Simmons, owner of the Great Bend Floral Company. You will be hearing from Mr. Simmons shortly.

Over the last two or three years, telephone listings have been appearing around the country advertising florists whose business name includes the name of the locality, but which are not actually located in that locality. In most cases, the actual firm is one of two related entities in Bernardsville, New Jersey. Please note the attachments to this testimony.

Difficulties occur when the consumer becomes confused over the similarity of names. Those wishing to do business with local firms are deceived. Sales tax revenues are lost. Local businesses who support local communities are hurt and customer service problems are created.

HB 3030 merely requires firms which use a location name to either be located in the specified location or to disclose the actual location of the firm. We are interested in promoting disclosure to consumers and providing a fair and equitable marketplace.

Similar legislation has already been adopted in a number of other states, including California, Connecticut, Delaware, Florida, Georgia, Michigan, Minnesota, Oklahoma, Ohio, Wisconsin, and Washington. I ask for your support in adding Kansas to this list.

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GOSS WILLIAM E ATTY 118 S Main
STF 67578 **234-5122**
Residence 538 E Stafford STF 67578 **234-5952**
Gosser Major & Phyllis Rt 5 Box 246 GBN 67530 **792-6031**
Gossett David & Kathy 206 Cardinal Ln
GBN 67530 **792-6680**
Gossett Kathy 2611 27 St GBN 67530 **792-6108**
Gotschall Matt & Michele 419 NE 100 Av ENW **564-3658**
Gotsche Eric 5502 Navajo Rd GBN 67530 **792-3126**
Gotsche Irving 5335 Quail Creek Dr GBN 67530 **793-6484**
Gotsche Steve 2030 Monroe GBN 67530 **793-5586**
Goufd Louis (Nat) & Muriel 710 SE 60 Rd ENW **564-2963**
GOVERNMENT OFFICES
CITY-See Name Of City
COUNTY-See Name Of County
STATE-See Kansas State Of
FEDERAL-See United States Government
Gowdy Craig & Eric 5818 Rosewood Dr
GBN 67530 **793-3590**
Gowdy Craig L & Rogers Jeanna 1035 Madison
GBN 67530 **792-5114**
Gowdy Dan 5818 Rosewood GBN 67530 **793-9304**
Gowdy Jeanine 302 W 5th ENW **564-2515**
Grabael Janice 510 W 7th ENW **564-3777**
Grabhorn Bob 53 Karen GBN 67530 **793-9365**
Grabhorn Hallie 457 W 6th HOI **653-4751**
Grace Community Church Of Great Bend
5401 Broadway GBN 67530 **792-7813**
Grace Lutheran Church 6 & Carroll LRD
-If No Answer Call **285-3658**
Grace Lutheran Parsonage 516 Carroll
LRD 67550 **285-3658**
Grace Paul 806 Monroe GBN 67530 **793-8780**
Grady Bolding Corp 114 N Main ENW **564-2249**
Graf Edwin & Jewell 1411 Sherman GBN 67530 **793-7987**
Graf Tom 2927 Quivira GBN 67530 **792-3213**
Graham Charles Jr 3112 16 St GBN 67530 **793-3367**
Graham Chas B 101 Bdwy Av BDT **525-6580**
Modem Line **525-6342**
Graham Doris F 1411 Taft GBN 67530 **793-9342**
Graham Jim & Kathy 1307 Taft GBN 67530 **792-5424**
Graham Michelle 548 W 6 LRD 67550 **285-2170**
Graham Mike 113 E 17 LRD 67550 **285-6766**
Grain Club The 718 Fort Larned Av LRD 67550 **285-3895**
Grandclair Ira 558 W 10th HOI **653-2398**
Grandy Crieg ROZ **527-4217**
Grandy Crieg ROZ **527-4228**
Grandy Gary ROZ **527-4363**
Grandy Harold 1200 Broadway LRD 67550 **285-6220**
Grandy J L 518 W 8th LRD 67550 **285-2084**
Grandy R P & Grace Rt 1 Box 10 ROZ **527-4372**
Graner James F Rev 401 Morris LRD 67550 **285-2278**
Granger Lester BDT **525-6534**
Granny's Kitchen 925 10 St GBN 67530 **793-7441**
Grant Charles & Judy Rev 723 Main LRD 67550 **285-2073**
Grant Doris Mrs 145 E 14 LRD 67550 **285-6048**
Grant Enterprises 164 NW 30 Rd GBN **793-7274**
Grant Eric 723 Main LRD 67550 **285-3454**
Grant John R 309 Second St GRF **569-2327**
Grant Leonard Rt 1 LRD 67550 **285-2573**
Grant M 315 Fry LRD 67550 **285-2822**
Grant Trash Service **793-7274**
Grant Brad 164 NW 30 Rd GBN 67530 **793-7274**
Grauer Paul F 503 N Main HOI **653-2261**
Graver Kent 5967 Eisenhower GBN 67530 **793-7795**
Graver Leon & Mystel 548 W 7 LRD 67550 **285-6121**
Graver Wilbur 515 W 13 LRD 67550 **285-2472**
Graves A A 924 Kansas LRD 67550 **285-3777**
Graves Allen L 1330 NW 10th Av HOI **653-7598**

Graves Dennis & Barbara 807 N Exchange STJ **549-3290**
Graves Lloyd 253 S Center HOI **653-4450**
Graves Paula C 102 Centennial Ct STJ **549-3493**
Graves Stewart & Sarah 305 E 3rd HOI **653-4193**
Gray B B 1811 Holland GBN 67530 **792-3165**
Gray Herman L 117 Topeka LRD 67550 **285-7354**
Gray J E 1120 Odell GBN 67530 **793-6391**
Gray James W 369 W Broadway Av HOI **653-7762**
Gray Kenneth 426 E Camden STE 67578 **234-5415**
Gray Lewis 5912 Aspen Dr GBN 67530 **793-5816**
Gray Lewis 5912 Aspen Dr GBN 67530 **793-9322**
Gray M E Rt 2 Box 162 Radium 67550 **982-4601**
Gray Norma 1516 2 GBN 67530 **793-6900**
Gray R 2205 26 GBN 67530 **793-8042**
Gray Tommy 108 Centre PRK 67567 **982-4832**
Gray Travis 3109 Meadowlark Ln GBN 67530 **792-2793**
Gray Van 2515 11 St GBN 67530 **792-3631**
Great Bend Ampride 2300 10 GBN 67530 **792-5037**
GREAT BEND APPLIANCE CENTER
2301 10 St GBN 67530 **792-3999**
Great Bend Asphalt & Concrete Inc **793-7474**
Great Bend Asphalt & Sand Co 54 SE 10 Rd
GBN Ks 67530 **792-8900**
Great Bend Bible Church 3920 Forest
GBN 67530 **792-5107**
GREAT BEND CHILDREN'S CLINIC PA 1924 Broadway GBN 67530 **792-5437**
GREAT BEND-CITY OF-
Airport Manager 1209 Williams GBN **793-4111**
Airport-Airline Ticket-Freight & Baggage
Great Bend Municipal Airport GBN **792-4900**
AMBULANCE-
Administrative Calls **793-4140**
Animal Control Officer Rt 2 GBN 67530 **792-4297**
Bldg Inspctn Dept 1209 Williams GBN 67530 **793-4106**
Cemetery Office W Broadway GBN **793-4160**
City Administrator 1209 Williams GBN 67530 **793-4111**
City Attorney 1209 Williams GBN 67530 **793-4111**
City Clerk 1209 Williams GBN 67530 **793-4100**
City Engineer 1209 Williams GBN 67530 **793-4111**
FIRE DEPT-
Other Fire Dept Calls 1205 Williams
GBN 67530 **793-4140**
Health Dept 1300 Kansas Av GBN 67530 **793-1902**
Housing Authority 1101 Kansas GBN 67530 **793-7761**
Mayor 1209 Williams GBN 67530 **793-4111**
Park Dept Brit Spough Park GBN **793-4160**
POLICE DEPT-
Administrative Calls Lakin & Williams
GBN **793-4120**
Public Library 1409 Williams GBN 67530 **792-2409**
RECREATION CENTER-
Office 1214 Stone GBN 67530 **793-3755**
Hot Line 1214 Stone GBN 67530 **793-6677**
City Swimming Pool 2007 Main GBN 67530 **792-1516**
Fitness Facility 1917 17 St GBN 67530 **792-3422**
Veterans South Press Box 4800 17-Terr
GBN 67530 **792-8465**
Sewage Treatment Plant Rt 3 GBN 67530 **793-4170**
Street Dept 6 & Morton GBN **793-4150**

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GREAT BEND-CITY OF-
RECREATION CENTER-
Water & Sewer Utility Office-
1209 Williams GBN 67530 **793-4100**
After Hours Call **792-3588**
WATER POLLUTION CONTROL DEPT-
Rt 3 GBN **793-4170**
Sanitarian Rt 3 GBN 67530 **793-4170**
After 5 PM & Saturday Sundays & Holidays Call **793-4170**
Great Bend Community Theatre 1905 Lakin Av
GBN 67530 **792-4228**
Great Bend Co-Op 323 S Hwy 281 GBN 67530 **792-9045**
Great Bend Co-Op 323 S Hwy 281 GBN 67530 **792-9053**

GREAT BEND CO-OP ASSN-
Office 606 Main GBN 67530 **793-3531**
Larned Branch 606 Main LRD 67530 **285-3191**
Elevator C 1600 Kansas GBN 67530 **792-6805**
Fertilizer & Chemical 323 S Hwy 281
GBN 67530 **793-5031**
Service Station 2300 10 GBN 67530 **792-1281**

GREAT BEND CONVENTION & VISITOR BUREAU 3111 10 St GBN 67530 **792-2750**
Great Bend Coop Assoc 224 Main GBN 67530 **792-8161**

Great Bend Coop Assn-
Office 104 S Kennedy Av ENW **564-3056**
Boyd **653-7661**
Tire Store 201 E Santa Fe-Boyd ENW **564-2180**
Great Bend Coop Assn Boyd **653-7661**
Great Bend Credit Bureau 2015 Forest
GBN 67530 **793-5451**

GREAT BEND DAY CARE CENTER 19 Kansas GBN **792-2421**
GREAT BEND FAMILY MORTUARY & CREMATORY 5220 10 St GBN 67530 **793-8690**
GREAT BEND FARM EQUIPMENT CO INC Highway 281 South GBN **793-3509**
Great Bend Feed Mill Rt 4 GBN 67530 **793-5581**
GREAT BEND FEEDING INC Rt 5
GBN 67530 **792-2508**

Great Bend Fire Equipment Co
Toll Free-Dial 1 & Then **800 444-4297**
GREAT BEND FIRE EQUIPMENT CO
1400 Broadway GBN 67530 **792-2091**

GREAT BEND FLORAL CO
2414 Bdwy GBN 67530 **793-5870**

Great Bend Florist Great Bend GBN **792-2502**
Great Bend Flowers Great Bend GBN **792-2502**

GREAT BEND GYMNASTICS 803 Jefferson
GBN 67530 **792-2133**

GREAT BEND HONDA KAWASAKI
2111 10 St GBN 67530 **792-2301**

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State florists angry over New Jersey man's telephone marketing

Friday, March 6, 1998

By SHANNON SHELTON
Capital News Service

Florist of East Lansing, Florist of Lansing and Florist of Mason all sound like names of neighborhood flower shops.

Call any of these listings, however, and it will be answered by a company in Bernardsville, N.J., that contracts with local florists to fill its orders.

Listed locally in East Lansing, Lansing or Mason, the New Jersey company doesn't have offices in any of these cities or elsewhere in Michigan Ñ a practice two legislators say is misleading and predatory.

Reps. Andrew Raczkowski, R-Farmington Hills, and Mark Schauer, D-Battle Creek, are sponsoring bills to prevent out-of-state companies from listing their businesses in local phone books using local addresses, then forwarding calls to locations outside Michigan.

Such businesses could only list their out-of-state address. Violators would face a fine of up to \$10,000.

The bills passed the House and have moved to the Senate.

Raczkowski and Schauer said the bills were introduced after florists in their districts complained the New Jersey business was misleading customers into believing they were calling a local storeÑ a practice they believed hurt their businesses.

"Customers call a local number, thinking they will receive the same good and reliable service," Raczkowski said. "The local florists' reputations are also put in jeopardy, along with important profits."

Although committee hearings focused mostly on the floral industry, Raczkowski said the bill is aimed at all state businesses.

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The New Jersey company in question is actually called Flowers with Gifted Elegance. FWGE President Tom Meola said his company is a wholesale business registered to do business throughout the nation, including Michigan.

"We're a Michigan business. We're registered to do business in Michigan. I pay the taxes and perform the services. I don't know of any law that says I have to have a building in the state," Meola said.

Meola said he uses a remote call forwarding system to operate the business. He said this system technically gives him a "home" in whatever state it operates.

When people call Florists of East Lansing, Lansing or Mason, callers are greeted with a general, "Hello, you've reached our flower shop" message.

When callers reach an operator, he or she answers, "Flower Shop," without giving a location. When asked, operators state the shop is a New Jersey wholesaler.

The phone book lists both New Jersey and local Michigan business locations.

Cheryl Flo, owner of B. C. Flower Shop in Battle Creek said Meola's practices have been a nightmare for her business. She said many times customers have mistakenly called Meola's business and complained to her if they received an inferior product.

"They assume they are calling us," Flo said. "We get complaints every week. It's become a nightmare for us."

Meola is listed as Florist in Battle Creek in the phone book. Flo said that when customers call directory assistance, the Florist in Battle Creek number is often given instead of the B.C. Flower Shop number, which causes many of the mistaken calls.

"That's really deceptive. That makes it look like this place is located in Battle Creek," Flo said.

Flo also said she has had to take out more ads in the phone book to distinguish her business from Meola's, which has cost her between \$350 - \$400 per month.

Meola, who said he has been a florist for 22 years, says he's competing fairly with Flo and other businesses that have generic, city-based names. "We do not use the same name; we use a geographic, generic use of the name."

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He said larger businesses that use the name of a city in the title often take money away from smaller flower shops.

Meola said customers with no loyalty to a certain store automatically turn to generically named stores because they are easiest to find in directories.

"Larger shops using the 'X-town' name have gotten this business by default, which is totally wrong," said Meola.

Rod Crittenden, executive vice president of the Michigan Floral Association, supports the bill because he says Meola is hurting local businesses and the industry as a whole.

"It hurts the local area because it takes an order out of the Lansing economy and moves it out of state. Eventually consumers will be turned off from the floral industry," Crittenden said.

Crittenden said the situation has affected florists throughout the state, including Lansing and Metro Detroit.

Meola disagreed, saying he helps the local business he contracts with, which in turn helps the local economy. He said he gives 75 percent of his profits from a sale to the local florist.

Meola refused to give the names of Lansing-area florists he works with, saying they shouldn't have to defend his practices to his opposition.

Schauer said that while he has no problem with local florists contracting with Meola, the state loses sales tax money when customers call him instead of a local store.

Bill supporters also say Meola adds service charges to orders and delivers arrangements worth less than what the customer believes he or she is paying for, something Meola says is untrue.

"We tell you there is an \$8.95 service charge. If you order a \$59.95 arrangement, your total is \$68.90, and you get a \$59.95 arrangement. If we agree, we have a deal," he said.

Meola said there are no other costs because he does not work through wire services.

Meola said prices are often worse through local shops because they add service, delivery and wire service charges without telling customers how much of their money goes towards these extra charges.

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When a local flower shop participates in a wire service program to make an out-of-area delivery, it contacts a shop in the delivery area that is also a member. The selling florist, the delivering florist and the wire service share the revenues.

Floral Transworld Delivery (FTD) and Teleflora are two of the nation's largest wire services.

The Battle Creek Chamber of Commerce and FTD are among the groups supporting the bills.

Karen Sanborn, media relations manager for Ameritech, which operates the directory system, said the company is neutral on the bills.

"We're neutral for the simple fact that there could be a legitimate business with a local operation that should be allowed to be in the book," she said.

Schauer, however, said this is not the case with Meola. "The consumer is being hoodwinked. He is fraudulently representing his address."

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Bernardsville, N.J.
07924



Come shop our Virtual Store! From here, you can browse, price, and *order* a multitude of both *floral* and *plant* arrangements. Also, be sure to check out our giftshop!



All of our arrangements start at \$30. From there, you decide how much more you want to spend. We can add to the arrangement in \$5 increments, and, best of all, that \$5 is all flowers! One additional charge of \$8.95 applies to all delivered orders to cover applicable tax and service fees.



Flowers with Gifted Elegance is proud to be a founding member of The Preferred Florist Network! All it took was a little "gifted elegance" to bring you its simplicity. Check it out!

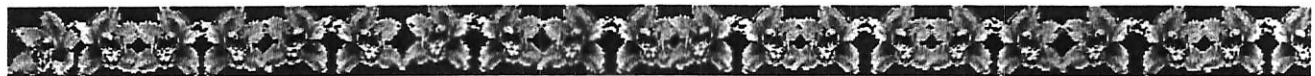


Come and meet all of our friendly staff!
NEW!! See our LIVE Internet-Camera!!



If you have any questions or comments about Flowers with Gifted Elegance or the Preferred Florist Network, go ahead and either call or send us an email.

[Arrangements] [PFN] [Our Staff] [Mail Us]



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Please direct any questions or comments to webmaster@tsa.net

Created by Rick Smith

STATE OF KANSAS

GRETA H. GOODWIN
SENATOR, 32ND DISTRICT
COWLEY AND SUMNER COUNTIES

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(316) 221-9058



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TRANSPORTATION AND TOURISM
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HEALTH CARE REFORM LEGISLATIVE
OVERSIGHT
KANSAS SENTENCING COMMISSION
JUDICIAL COUNCIL PROBATE
LAW ADVISORY COMMITTEE

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

RE: HB 3030
DATED: March 28, 2000

Thank you Chairman Powell and Committee Members for the opportunity to speak in support of House Bill 3030.

When I was informed of the fictitious phone listings being used in Kansas, I started researching the issue of this technique being used which has targeted the Florists' industry. I was amazed at the information which I found.

A fictitious phone listing misrepresents a store's name and location in phone books. This deceptive - but legal - practice allows national telemarketing companies to masquerade as local businesses, by listing themselves as a local city business with local phone numbers.

House Bill 3030 is drafted from the model legislation used by the State of Connecticut to curtail out-of-state telemarketers from deceptively listing a local phone number as a local "Florist" or "Flowers" business name, such as "Topeka Florist" or "Topeka Flower's", where such a business does not exist. There is never a business address listed with the telephone listing. The local phone numbers are call-forwarded to the company's out-of-state location, which I have found in each case to be in the State of New Jersey. Consumers who call these local numbers with the presumption they are contacting a local florist are actually call-remote forwarded to another state without their knowledge. Fictitious phone listings have become a high-profile issue for many retail florists across the nation. I called the number listed in my local telephone book for Winfield Florist and upon much inquiry found I was actually speaking to a telemarketing firm

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in New Jersey. My secretary, Betty, called the Topeka Florist/Flower listing last week and engaged in an extended conversation with the woman who answered and found the woman on the other end of the line was sitting in her living room in New Jersey and had no connection with a floral company. I have visited with the regional representative of my telephone provider and I was informed that these call- forwarding numbers are being used throughout the state.

I have attached a transcript of NBC-TV Dateline, aired in February 1998, to my testimony. The first part of the transcript details the deplorable customer service which resulted from the telemarketing scheme. I call your attention to the last two paragraphs on Page 2. The rest of this transcript is very interesting and on Page 5 substantiates the black eye this type of deception gives to the floral industry.

I have been given information that members of the Society of American Florists have made considerable progress in their fight for fair business practices through the power of political involvement. Thus far, florists in the states of Connecticut, Delaware, Indiana, Florida, Georgia, Michigan, Minnesota, New Jersey, Oklahoma, Ohio, Virginia, Wisconsin, and Washington State have successfully lead to the passage of legislation prohibiting the misrepresentation of a business's name and location. More states are following in introducing legislation to ban this practice.

I believe for Kansas to allow the continued practice of using a deceptive and fictitious name to conduct business in our state is highly unethical. Any person using an assumed or fictitious name for the person's business should be required to include the complete street address of the location from which such person's business is actually being conducted, including the city or town and state. As legislators' addressing consumer protection laws, I believe you will agree any less information is clearly a misrepresentation to our consumers. The continuation of this call-and-switch practice is draining our local florists' income and, in addition, substantial tax revenue is being lost at the state level.

Again, I thank you for the opportunity to address the Committee. I urge your favorable consideration of this legislation. I would be happy to respond to any questions you might have at the appropriate time.

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Transcript

DATE
TIME
NETWORK
PROGRAM

February 10, 1998
10:00-11:00 PM (ET)
NBC-TV
Dateline

Stone Phillips, co-host:

How much are you going to spend on flowers this Valentine's Day, or when Mother's Day rolls around, twenty dollars, fifty, a hundred? Well, it's the thought that counts. So you'll probably hear that the flowers were great no matter how much you spend. But how would you feel if you weren't doing business with the hometown florist you thought you'd called?

Tonight, chief consumer correspondent Lea Thompson has the latest developments since we first brought you this "Dateline" investigation.

Unidentified Woman #1: Here I come, boy. I'm a satisfied customer. Aren't they beautiful?

Lea Thompson reporting:

A lot of people go out of their way to use a local florist. They get personal service, choose exactly what they want, and don't have to pay the fees charged by national services, like FTD. That's why Jennifer Frazier's boss told her to buy directly from Alexandria Floral, his favorite local florist. She didn't have the florist's number, so she called directory information and started using a number she thought was Alexandria Floral. That is until one of those orders came to the office for an employee's birthday.

Jennifer Frazier (Customer): The roses that I ordered were wilted. They were brown around the edges.

Thompson: Her boss went in to complain to the owner of Alexandria Floral. But Nina Carroll says, she didn't know what he was talking about. (Visual of exterior of Alexandria Floral)

Nina Carroll (Owner of Alexandria Floral): When we received the complaints, we would go and look for the order and couldn't find the order.

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Thompson: So who did deliver the flowers?

Sandy Blood (Florida Resident): Is that the one you want?

Thompson: Florida resident Sandy Blood also wanted to use a local florist when she had to buy flowers for a relative's funeral in a nearby community.

Blood: I was looking for someone, specifically, in the Seminole area, because that's where the service was going to be held.

Thompson: She also didn't want to pay a middleman. So she found this listing for florists in Seminole and ordered a flower arrangement to be delivered for the grave side service the next day.

When you called that number, was there any question in your mind that you were calling a local number?

Blood: It was a seven-digit local exchange. No--I--yes, I felt totally like I was calling, you know, Seminole Boulevard. I just knew I was speaking to somebody on Seminole Boulevard.

Thompson: Naturally, when Sandy arrived for her relative's funeral at this cemetery, she looked around for the flowers she had ordered. She was stunned to find, despite three conversations to make sure they'd be here on time, the flowers were nowhere to be found.

Blood: I was just so angry, because my flowers did not get to the service. They totally missed the entire service.

Thompson: Sandy Blood later found out from Pete Bengston, the owner of the shop she thought she called, that he had no record of her order. (Visual of exterior of Seminole Floral building)

Pete Bengston (Owner of Seminole Floral): And we went and checked our files, delivery tickets for that day, and we had no order going to that place.

Thompson: So who was actually delivering these flowers? Both Jennifer Frazier and Sandy Blood say they were positive they had called local florists in Virginia and Florida. Neither of them had any idea both calls had really ended up in New Jersey.

Melissa (Flower Shop Employee): Flower Shop, this is Melissa. How can I help you?

Thompson: These operators answer, Flower Shop, but you won't find any flowers for sale in this building. And

these women are not florists, they are telemarketers. They work for a man named Tom Meola, an inventive florist turned big-time entrepreneur.

The entire phone operation happens in this room.

Tom Meola (Entrepreneur): Yes. The actual sale is made right here.

Thompson: So both women actually used a middleman, exactly what they were trying to avoid. And they also had to pay an extra eight dollars and ninety-five cent service fee. Lots of other customers attempting to reach local florists end up here, too. In fact, Tom Meola's operators take in an average of four hundred orders a day, twenty-four hundred sales a week.

Unidentified Woman #1: (Over telephone) So what did you have in mind? Like, maybe a springtime vase arrangement of flowers?

Thompson: The orders are filled by local florists, but ones Meola chooses. He makes his money by keeping twenty-five percent of the price of the flowers; that leaves the local florist with seventy-five percent.

The operation is so successful, Meola says he expects sales to hit five million dollars this year. Yet he still manages the business right here at home, in his son's old room. (Visual of Meola sitting in office at home)

Meola: Business has improved thirty percent--a minimum thirty percent each year for the past seven years.

Thompson: The key to the operation: something called remote call forwarding. All it takes is one call to the phone company to get it up and running in any town in America.

Meola: Technology melts borders. That's what this is all about, the use of technology.

Thompson: And with that technology, Meola can create the illusion he's all over the country. He says if you live in a town of over eight thousand people, he probably has listings in the Yellow and White pages of your phone book under local-sounding names. (Visual of phone book floral listings; stack of phone books)

Meola: We don't advertise that we have a flower shop. We advertise our vocation.

Thompson: Using local numbers and eight hundred lines, Meola is now doing business in forty-eight states. And every call made to those numbers is automatically routed to

his operators in New Jersey.

Meola: We went to the phone company and said, whatever area you cover, we want to be florist of, florist in, X-town florist, and X-town flowers.

Thompson: So in a community like Bethesda, Maryland, his listings look like this: "Florist of Bethesda," "Florist in Bethesda," "Bethesda Flowers," and "Bethesda Flower Shop." As you can see, these listings have no address. You can't walk into any of these shops. They only exist in the phone book or directory information. (Visual of Meola's listings for shops in Bethesda, Maryland)

Thompson: What was your reaction when you realized all along the way, you were dealing with a florist in New Jersey?

Blood: It was so deceiving. You're not supposed to, you know, dial a seven-digit number, local exchange number, out of your yellow pages and get rolled over to New Jersey!

Thompson: And remember Pete Bangston, the man who owns Seminole Florist, the shop Sandy Blood thought she'd called? He says not only has he lost business to Meola's Florist of Seminole, but he gets the complaints and bad reputation when Meola's local florist doesn't do a good job. Tom Meola says he doesn't know Pete Bengston, and he says if Jennifer Frazier looked at her credit-card statements, she would see Meola's New Jersey address. As for Sandy Blood's order? Although she told us she called three times, Meola says her order was late because she gave confusing instructions.

Meola: We're competing fairly on a playing field that's open to anybody and everybody.

Thompson: Some people say you're tricking consumers.

Meola: We're not tricking people in the slightest. When you call me up and you ask for flowers to be delivered anywhere in this country, that's what we do for you.

Thompson: You call yourself "Alexandria," "Herndon," "Clearwater," whatever name...

Meola: Yes.

Thompson: ...but you never tell people that you're really in New Jersey. Why not?

Meola: We do tell people that we are in New Jersey, if they ask.

Thompson: If they ask. Well, we decided to ask.

(On telephone) Let me ask you one thing: what's your address?

We ordered flowers from Meola's listing, Florist of Clearwater.

(On telephone) You're at 92 Morristown Road in Clearwater? OK, thank you very much.

And I asked, are you in Clearwater? And the operator said, yes. She lied to me.

Meola: I doubt very much that she absolutely said, yes, I am located in Clearwater.

Thompson: We asked NBC affiliates in four cities--Washington, Minneapolis, Columbus and Sacramento--to order flowers from local Meola listings. (Visual of map of United States showing NBC affiliates KCRA, KARE, WCMH, WRC)

Unidentified Woman #2: (On telephone) I wanted to send a spring bouquet.

Thompson: Of the eight orders our affiliates made, Meola's operators never volunteered they were in New Jersey. And when specifically asked, where are you?, three times out of four, our affiliates were not told the truth.

Unidentified Woman #3: (On telephone) So where are you guys located?

Thompson: Although the arrangements looked fine, two of our eight orders did not arrive when promised. One missed the morning delivery, and the other was three days early. Meola says that was a computer glitch. He also states what he is doing is not illegal or unethical, and his booming nationwide operation is just a savvy way to do business in the '90s.

Meola: Our customers are so satisfied, they come back and buy again from us.

Thompson: And Meola is proud of the fact he soon will be able to give those customers an even more localized greeting. This new fifty thousand dollar system will actually be able to identify what shop the customer thinks they've called. So, instead of... (Visual fifty thousand dollar system)

Unidentified Woman #1: (On telephone) Flower Shop. How may I help you?

Thompson: ...the operators will be able to say:

Meola: Good morning. Thank you for calling our flower shop, Mrs. Smith, and you're calling East Chicago Florist.

Thompson: Even when your call has been routed all the way to New Jersey.

Thompson: If you told people that their phone calls were going to New Jersey, what do you think would happen to your business?

Meola: You know, that's an interesting question. I really don't know.

Thompson: Well, we can tell you this; after Dateline's report aired last spring, apparently hundreds of "Dateline" viewers called to tell Tom Meola what they thought of his New Jersey-based business.

Melissa: (On telephone) Flower Shop, may I help you?

Thompson: Meola says he received both positive and negative calls. But business, he says, is up thirty-five percent. This woman is one of the people who took some of those calls.

Judy Connelly (Former Meola Employee): A lot of people would just say, we saw you on "Dateline" last night, and why don't you get a real life? Get a real job! Where are you located?

Thompson: Judy Connelly, who once owned flower shops, was Meola's office manager at the time. She says she personally talked to about one hundred unhappy customers.

Connelly: So after a while, it got to the point where you just didn't even want to answer the phone.

Thompson: She says Dateline's report turned out to be a revelation for her.

Connelly: I think sometimes we just go through life without even thinking of what we're doing, and then you see it on TV; wakes you up real quick.

Thompson: So three months after our story, Connelly quit her job and opened her own competing business.

Unidentified Woman #4: (On telephone) Florist Search.

Thompson: Her new company, Florist Search, still acts as a middleman. But Connelly helps you find a florist in the city where you want the flowers delivered, and her service is free to her customers. It's the local florists who pay to be in her directory. And so far, she says four hundred

have signed up.

Connelly: (On telephone) Mesa, Arizona?

Thompson: You call her service, get the number of a local florist, and then order the flowers yourself.

Connelly: I knew that there was a better way to order flowers in the United States today.

And I hope to bring the consumer back to the local flower shops.

Phillips: If you'd like to know more about ordering flowers by phone, you can check out Dateline's Web site. Our address is www.dateline.msnbc.com

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CARLA J. STOVALL
ATTORNEY GENERAL

State of Kansas

Office of the Attorney General

CONSUMER PROTECTION/ANTITRUST DIVISION

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Testimony of
Steve Rarrick

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Deputy Attorney General
Consumer Protection Division

Office of Attorney General Carla J. Stovall
Before the House Committee on Federal & State Affairs
Re: HB 3030
March 28, 2000

Chairperson Powell and Members of the Committee:

Thank you for the opportunity to appear on behalf of Attorney General Carla J. Stovall to testify in support of House Bill 3030. My name is Steve Rarrick and I am the Deputy Attorney General for Consumer Protection.

House Bill 3030 would prohibit suppliers from using, in printed advertisements, assumed or fictitious names that include the name of any municipality, community or region in this state in a manner suggesting the business is located in such municipality, community or region, unless the person's business is, in fact, located in such municipality, community or region. Suppliers can continue to use municipal, community or regional names if the printed advertisement includes the complete street and city address of the location from which the business is actually conducted within the state. If the business is actually conducted outside of Kansas, the state name must also be included.

There are three exceptions in the bill for the use of: (1) any trademark or service mark registered under the laws of this state or under federal law; (2) any name that, when applied to the goods or services of such person's business, is merely descriptive of them; and (3) any name that is merely a surname. In addition, publishers are not liable for the publication of an advertisement violating this proposed law "when such publisher had no knowledge the business was not, in fact, located in such municipality, community or region."

Companies that misrepresent their location in advertisements impact both consumers and local businesses. For example, in the florist industry, consumers will call listings for a local florist with the intent of using a local business that will process their order carefully to maintain their reputation in the community. These consumers may end up contracting with a floral order-forwarding company on the east coast that has used a local municipal name. Generally, these operations charge processing fees to the consumer who calls and places an order and a commission to the local business that fills the order. However, the processing fee is typically disclosed to the consumer over the phone.

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In addition, local companies lose business because of unfair competition. Our research indicates that similar tactics have been used by appliance, plumbing, electrical, and heating and air conditioning businesses in other states.

On behalf of Attorney General Stovall, I urge you to recommend passage of House Bill 3030. I would be happy to answer questions of the Chair or any member of the Committee.

STATEMENT BEFORE THE HOUSE FEDERAL
AND STATE AFFAIRS COMMITTEE

Submitted by

Donna Homan
President
Donna's Designs, Inc.
1409 Main
Winfield, Kansas 67156

MARCH 27, 2000

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Representative Powell and members of the committee, I very much appreciate the opportunity to testify before you today on this important issue. My comments will focus on a deceptive trade practice which has hurt retail florists here in the state of Kansas as well as in many other states, too.

My name is Donna Homan and I own a floral and gift shop in Winfield Kansas. I am here on behalf of florists across the state to ask your help in stopping the practice of deceptive telephone listings. I would like to explain to you what is happening across our state. For example, if a customer here in Topeka wants to send flowers to his family in Winfield, he may call a local operator in Winfield. He may get a number belonging to a company listed as "Florist in Winfield". When the number is dialed, however, it is automatically forwarded to an out-of-state company. The person who answers the phone does so with a generic "flower shop", takes the order and then calls back to a florist in Winfield to fill the order. He then takes a substantial percentage (usually about 25%) of the flower order as well as a service charge which is generally \$8.95. Most often the customer placing the order has no idea he is talking to someone on the East coast and is unaware that a true local florist would not charge the \$8.95 fee. Let's consider another example. A man here in Topeka wants to send flowers to his girlfriend who also lives in Topeka. He opens the white pages and finds a listing for "Topeka Florist". When he calls the number listed he has no way of knowing that the call has in fact been answered in New Jersey. It has now become a long distance transaction that benefits, a least partially, that business in New Jersey.

This practice deceives the consumer and hurts the ability of small, retail florists to stay profitable and provide livelihoods for themselves, their families and their employees. Many florists are already experiencing many other challenges including finding help, meeting payroll, upgrading technology and staying profitable. Olathe is said to be one of the fastest growing cities in the state, yet in the last six months three retail florists have closed their doors there.

Currently I have found 33 cities that have deceptive listings and there may be more. In most towns the listing appears four times in the white pages and often in the yellow pages, too. . The listings include for example, "Florist in Winfield", "Florist of Winfield", "Winfield Florist", and "Winfield Flowers". This is even worse in some instances as the business name used in the deceptive listing is already the name of an existing business. Thus a legitimate retail florist is competing against a company with the same name that seems to be local but is in fact out of state. The cities I am aware of that have deceptive listings are:

Arkansas City
Atchison
Chanute
Derby
Dodge City
El Dorado
Emporia
Garden City
Great Bend
Hays
Hutchinson
Independence
Junction City
Kansas City
Lawrence
Leawood
Lenexa

Liberal
Manhattan
McPherson
Merriam
Newton
Olathe
Overland Park
Parsons
Pittsburg
Prairie Village
Salina
Shawnee Mission
Topeka
Wellington
Wichita
Winfield

Another interesting fact is that most of these deceptive shops appear on the internet phone listings. Most internet business listings give you an option to click on a map and another to receive written directions. When you select map for these stores an actual map of each city comes up. A star is placed in the very center of each map with the words "Florist of Winfield" for example. When you click on directions, there is no information.

My store is a member of AFS which stands for American Floral Services. AFS is now the largest wire service with over 24,000 members. Our President, Mr. Tom Butler, has testified before several other legislatures regarding deceptive telephone listings. I would like to read excerpts from AFS's Policy Statement of Deceptive Telephone Listings. "AFS actively supports efforts of AFS Florists to seek legislation that prohibits deceptive telephone listings that misrepresent the geographical location of non-local providers of floral goods and services.

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AFS believes this practice deceives the consumer and causes potential quality problems when there are order questions.

AFS strongly opposes any sort of deceptive trade practice. In this case, these telemarketers not only misrepresent their geographical location but also often use the names of existing flower shops in a particular locale which can only hurt the local florist and the entire floral industry.”.

The floral sales tax category (SIC 5992) generated 3.1 billion in sales tax during 1999 for the State of Kansas. There is no way to measure the volume of calls being sent through these deceptive flower shop listings. However, each and every call hurts the local florist and is a missed source of sales tax for our state.

On behalf of florists all across Kansas I urge your support of House Bill #3030. Your support of this legislation would allow consumers to be fully aware of what they are buying and who they are trading with. We realize it will not eliminate these competitors, but it would force them to compete in a legitimate, honest way. It would help give Kansas retailers a fair opportunity to compete, to remain profitable and to continue contributing to their local communities. Thank you for your time.



Great Bend Floral

WHEN IT IS FLOWERS... SAY IT WITH OURS

TONY POWELL
CHAIRMAN OF THE HOUSE HOUSE BILL 3030
FEDERAL AND STATE AFFAIR COMMITTEE

MY NAME IS GARY SIMMONS AND I AM THE OWNER OF GREAT BEND FLORAL IN GREAT BEND, KANSAS. MY PROBLEM IS THAT IN THE GREAT BEND PHONE BOOK AND THE FEIST DIRECTORY THERE IS ANOTHER SHOP (SENDING FLORIST ONLY) IN THE LISTINGS, WITH ABOUT THE SAME NAME AS GREAT BEND FLORAL NOT ONLY IS THE LISTING SIMILAR BUT THE SAME PERSON HAS A LISTING UNDER THE NAMES OF FLORIST OF GREAT BEND, GREAT BEND FLOWERS, GREAT BEND FLORIST, AND FLORIST IN GREAT BEND. THESE SHOPS OR NUMBERS ARE NOT LOCATED IN GREAT BEND AS THEY INDICATE, BUT ARE LOCATED IN NEW JERSEY.

PERSONS CALLING THESE PHONE NUMBERS ARE TRICKED INTO THINKING THEY ARE CALLING A LOCAL FLORIST AND INSTEAD GET THE PERSONS IN NEW JERSEY. THEY ARE THEN CHARGED A LARGE AMOUNT TO USE THIS COMPANY AND ARE MADE TO USE A CREDIT CARD. WE THEN AT GREAT BEND FLORAL HAVE NOT SO HAPPY CUSTOMERS CALL US AT GREAT BEND FLORAL AND COMPLAIN THAT THEY DID NOT RECEIVE THEIR FLOWERS, BUT IN REALITY IT WASN'T EVEN GREAT BEND FLORAL THAT RECEIVED THE ORDER. BUT OF COURSE, WE ARE THE ONES THAT GET IN TROUBLE.

ON OCCASION WE HAVE HAD OUR CUSTOMERS CALL ONE OF THE OTHERS BY MISTAKE SINCE THE LISTINGS ARE SO CLOSE AND AND THE OTHER SO CALLED FLOWER SHOPS WOULD NOT CHARGE TO THEM, THEN CALL GREAT BEND FLORAL BACK, AT THE RIGHT NUMBER AND WONDER WHY WE WOULDN'T CHARGE TO THEM. TO ME WHAT THEY ARE DOING IS FRAUD. IF YOU SEND SOMETHING LIKE THAT IN THE MAIL, IT'S MAIL FRAUD.

THE BEST WAY TO FIND OUT WHAT IS HAPPENING IS TO CALL 1-316-792-2502 AND ORDER SOME FLOWERS, AND ACT LIKE YOU ARE FROM GREAT BEND, KANSAS, AND SEE FOR YOURSELF.

THIS PROBLEM IS NOT ONLY IN GREAT BEND, BUT PROBABLY EVEN IN YOUR HOME TOWN. THIS IS NOT FAIR TO THE LOCAL FLORISTS OR TO THE PERSONS BEING DECEIVED BY THE SO CALLED OTHER LOCAL FLORAL SHOPS. THANK YOU FOR YOUR TIME.

GARY SIMMONS -OWNER GREAT BEND FLORAL

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KANSAS
STATE GAMING AGENCY



TO: House Federal and State Affairs Committee

FROM: Tracy T. Diel, Executive Director
State Gaming Agency

DATE: March 21, 2000

RE: Testimony on SB 492

Racing & Gaming Commission

Chairman and members of the Committee. Thank you for the opportunity to testify on SB 492. I come before the Committee today as the proponent of this legislation and ask that the Committee act favorably on it. I have asked that this bill be introduced in order to address some issues which have arisen since the initial passage and implementation of the Tribal Gaming Oversight Act.

As background for the Committee, the Tribal Gaming Oversight Act was passed by the 1996 Kansas Legislature. At the time of its implementation there were four (4) approved Tribal-State Compacts. However, there was only one native American Indian casino about to begin operating in the State of Kansas. The State Gaming Agency had been created through an Executive Order signed by Governor Graves in August, 1995 and was made part of the Department of Commerce and Housing. The purpose of the State Gaming Agency is to monitor and enforce the terms of the Tribal-State Compacts. Under the language of the compacts, if the State of Kansas did not designate or create a State Gaming Agency, then most if not all of the State's rights and responsibilities under the compacts would fall to the respective tribes. Since that time, there have been four (4) casinos opened and operating in Northeast Kansas. The agency has been transferred to the Kansas Racing and Gaming Commission for the purposes of approving the agency's budget, personnel expansion and authorization to seek arbitration as provided by the Tribal-State Compacts. And the responsibility for performing background investigations on all gaming employees within the gaming facilities has been transferred from the Kansas Bureau of Investigation to the State Gaming Agency.

I would like to take this opportunity to explain the amendments and answer any questions which the Committee may have on this proposed legislation.

The first change amends K.S.A. 74-9803. This statute removed the State Gaming Agency from the Department of Commerce and Housing and made it a part of the Kansas Racing and Gaming Commission. As such, the State Gaming Agency and its employees were made part of the Kansas Racing and Gaming Commission. The Tribal Gaming Oversight Act provided that the Commission would exercise responsibility only in the areas of budgeting, personnel expansion and arbitration authorization. All other management functions and responsibilities would be handled by

the agency. However, under K.S.A. 74-8810, all employees of the Kansas Racing and Gaming Commission are prohibited from engaging in parimutuel wagering at racetracks regulated by the Kansas Racing and Gaming Commission. Due to the definition of employees under K.S.A. 74-8810, individuals who work for the State Gaming Agency fall under this statute and are prohibited from wagering at horse and greyhound tracks located in the State of Kansas. However, employees of the State Gaming Agency have no connection to any regulatory functions at the parimutuel racetracks. In contrast, individuals who were involved in the Commission's function of regulating at the racetracks could engage in gambling at the native American Indian casinos.

The present amendment removes State Gaming Agency employees from the prohibition of gambling at parimutuel racetracks, but keeps in place the prohibition against gambling in native American Indian casinos. The employees of the State Gaming Agency are not involved in any regulatory decisions at the racetracks, so their choice to wager at a racetrack will not be detrimental to the regulatory efforts of the Commission. The ability of Commission employees to gamble at casinos, which they do not regulate, but prohibiting State Gaming Agency employees from wagering at racetracks, where they have no regulatory responsibilities, has created an inequity. This proposal would correct this situation and allow State Gaming Agency employees the opportunity to choose whether they wish to visit a Kansas racetrack and make a parimutuel wager.

The second change will amend K.S.A. 74-9804 and permit the State Gaming Agency to perform background investigations on enforcement agents who are employed by the Agency. Under the current statute, background investigations for the position of enforcement agents are required to be conducted by the Kansas Bureau of Investigation. This creates a time lag in employing agents hired by the Agency.

Originally, it was envisioned that the KBI would perform all background investigations necessary under the Tribal-State Compacts and the Tribal Gaming Oversight Act. This would mean a small staff for the State Gaming Agency. However, in Fiscal Years 1998 and 1999 the State Gaming Agency staff was increased and the KBI was removed from the casino background investigation process. This was in response to a need to address the amount of time it was taking to complete casino employee background investigations. The agency now has sufficient staff and resources to perform enforcement agent background investigations when they are needed.

The KBI does not oppose this change in the law. It is rare in the law enforcement arena that another agency performs the background investigations. For example, the KBI, the Highway Patrol, the Kansas Racing and Gaming Commission and the Kansas Lottery perform their own background investigations for their law enforcement officer positions. Adoption of this amendment will allow the State Gaming Agency to do the same. It will also allow the Agency to have a shorter recruiting time and a better ability to manage this function. It will allow the agency to focus on those issues which are specific to gaming rather than a generic investigation. It will assist the agency in keeping a consistent monitoring force active in the tribal gaming facilities. This amendment will not change the standards used in determining whether an individual should be employed as an enforcement agent. The change would give the agency the choice of using the KBI or performing the background investigations internally.

The third proposed change would amend K.S.A. 74-9805 to allow the State Gaming Agency to receive individual and corporate taxpayer information on gaming license applicants from the

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Kansas Department of Revenue. Under present Kansas law, the State Gaming Agency can receive tax information from the Internal Revenue Service, but cannot receive the same type of information from the State's Department of Revenue. The Agency can obtain tax information on individuals from the different county taxing entities, but cannot obtain tax information from the Department of Revenue. Previously, this type of income tax information was being obtained through the KBI when they were conducting background investigations. When the process was changed during Fiscal Year 1998, there was no provision made for this information to be communicated to the State Gaming Agency.

The purpose for obtaining this information is to complete background investigations on applicant's who are seeking a gaming license. This information is needed to evaluate an individual's sources of income and the amount of income they receive against their credit and financial history. It also allows the agency to determine if an individual is generating or losing income as a result of gambling. This tool is valuable in determining whether a gaming license should be granted.

The fourth change would also amend K.S.A. 74-9805. It would allow the State Gaming Agency to communicate information it has obtained on gaming license applicants with other gambling regulatory agencies in other states. At the present time, the Tribal Gaming Oversight Act does not allow this to occur. This would permit the agency to share with casino regulatory agencies in other states information on common gaming license applicants. At the present time, we do communicate with other jurisdictions about applicants. However, we do not communicate specific information about these applicants, unless the information is a matter of public record. This creates a problem for other jurisdictions which may wish to deny an individual a gaming license based upon our information.

The fifth change would amend K.S.A. 74-9808. The statute calls for any funds provided to the State Gaming Agency from the state general fund to be viewed as a loan and interest be paid by the tribes who have tribal-state compacts. Any monetary resources provided to the State Gaming Agency are used solely by the Agency. At no time do any of the tribes receive or have access to this money. These funds allow the Agency to function during the period of time, at the beginning of the fiscal year, when no funds are being received from the tribes or if for some reason a tribe fails to pay. Once the assessment payments are paid by the tribes, then the amount used to capitalize the agency is reimbursed to the State.

Under Section 25 of the Compacts, the different tribes are required to pay for the reasonable and necessary costs of regulation incurred by the State. Each year, the State Gaming Agency assesses the four tribes the cost of the agency. The budget approved by the Legislature is provided to the Tribes for their review on July 31. They have until September 1 to review the budget and make any objections to the State. If no changes or arbitration proceedings are initiated then the Tribes are required to make payments in three equal installments to the State Gaming Agency. In accordance with the Tribal-State Compact the first installment is due on September 21, with subsequent payments due on January 1 and April 1. The Tribal-State Compact does not provide for the payment of any interest or penalties by the tribes. The proposed amendment would bring the statute in line with Section 25 of the Compacts.

If the Committee has any questions, I will be happy to answer them.

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PROPOSED AMENDMENT TO SENATE BILL NO. 492
(As Amended by Senate Committee)

Presented by Natalie Hoag

On page 6, following line 28, by inserting:

"New Sec. 5. (a) As used in this section, "Native American Indian tribe" or "tribe" means the following resident Kansas Native American Indian tribes:

- (1) The Iowa Tribe of Kansas and Nebraska.
- (2) The Kickapoo Tribe in Kansas.
- (3) The Prairie Band Potawatomi Nation of Kansas.
- (4) The Sac and Fox Nation of Missouri in Kansas and Missouri.

(b) The owner or lessee of one or more passenger vehicles or trucks registered for a gross weight of not more than 20,000 pounds who is an enrolled member of a Native American Indian tribe and a resident of Kansas may be issued one distinctive license plates designed for the specified tribe for each such passenger vehicle or truck. Such license plates shall be issued for the same period of time as other license plates upon proper registration and without payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto, and in accordance with subsection (c) of this section.

(c) License tag fees shall be determined by each tribe and payments made to each tribe shall be used as designated by each tribe.

(d) Any person who is an enrolled member of a Native American Indian tribe and a resident of Kansas may make application for such distinctive license plates, not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the tribe. Applications approved by the tribe shall be submitted to the division of motor vehicles for issuance of tags.

(e) Each tribe, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a license plate to be issued under the provisions of this section.

(f) No registration of distinctive license plates issued

under the authority of this section shall be transferable to any other person.

(g) Renewals of registration under this section shall be made annually, upon payment of fees prescribed in subsection (c). No renewal of registration shall be made to any applicant until such applicant has filed with the division of motor vehicles a form as provided in subsection (d). If such form is not filed, the applicant shall be required to comply with K.S.A. 8-143, and amendments thereto, and return the distinctive license plates to the division of motor vehicles.";

By renumbering sections accordingly;

In the title, by striking all in lines 10 through 14 and inserting:

"AN ACT concerning Native American Indian Tribes; concerning the powers and duties of the state gaming agency; concerning distinctive license plates; amending K.S.A. 1999 Supp. 74-9803, 74-9804, 74-9805 and 74-9808 and repealing the existing sections."