

Approved: 4-7-00
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chairperson Sandy Praeger at 10:00 a.m. on March 27, 2000 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Norman Furse, Revisor of Statutes
Lisa Montgomery, Revisor of Statutes
Hank Avila, Legislative Research Department
JoAnn Bunten, Committee Secretary

Conferees appearing before the committee:

Clyde Graeber, Secretary of Kansas Department of Health and Environment
Alicia Salisbury, Kansas State Senator
Stephen Paige, Director, Bureau of Consumer Health, KDHE
Frances Kastner, Director of Governmental Affairs, Kansas Food Dealers Assn.

Others attending: See attached list

Hearing on HB 3005 - Child Care facilities, temporary permits; extension of

Clyde Graeber, Secretary of Kansas Department of Health and Environment, testified before the Committee in support of **HB 3005** which would authorize issuance of temporary permits by the Department of Health and Environment to allow maternity centers and child-care facilities to operate while licensure deficiencies are being corrected. Currently, the statute does not allow these permits to be extended once they expire. Mr. Graeber noted that the bill would allow the permits to be extended for up to 90 days only if the applicant can demonstrate that progress has been made to meet licensure compliance issues. (Attachment 1)

There were no opponents to the bill.

During Committee discussion it was noted that additional language needed to be added in the bill on page 1, line 36, relating to the secretary of health and environment may extend "without the approval of the secretary of social and rehabilitation services" the temporary permit.

Senator Salmans made a conceptual motion that language be added to the bill that would clarify the secretary of health and environment may extend the temporary permit without the approval of the secretary of social and rehabilitation services, seconded by Senator Langworthy. The motion carried.

Senator Salmans made a motion that the Committee recommend **HB 3005 as amended** favorably for passage, seconded by Senator Langworthy. The motion carried.

Hearing on SB 661 - Inspection of certain retail food stores and food processing plants

Alicia Salisbury, Kansas State Senator, called the Committee's attention to testimony from the Senate Ways and Means Subcommittee relating to grocery stores and food processors that are inspected the same as any food services establishment but are not required to pay fees. The cost of these inspections is paid out of the State General Fund. She noted that the Subcommittee recommended the introduction of a bill to establish annual license fees for retail food stores and food processors based on the complexity of the individual establishment. (Attachment 2)

Stephen Paige, Director, Bureau of Consumer Health, KDHE, testified in favor of **SB 661**, and noted that passage of the bill would establish a licensing requirement for retail food stores and food processors. The Secretary of KDHE would be authorized to adopt regulations to implement the provisions of the bill. He also pointed out that without a source of funding to offset reduction in the State General Fund, inspection services of non-licensed facilities would need to be reduced. (Attachment 3)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 526-S, Statehouse, at 10:00 a.m. on March 27, 2000.

Frances Kastner, Director of Governmental Affairs, Kansas Food Dealers Association, testified in opposition to **SB 661**. She noted that the bill as written would be a very expensive license for retail food stores. Many supermarkets have a deli, a bakery and a seafood department, and each of those separate areas would be subject to the additional fee up to \$50.00. Ms. Kastner also noted that the bill is another way to generate money for the general fund. The original idea for inspecting grocery stores was to use tax dollars to insure that Kansans have safe and healthy food products, and she felt the bill would make inspections a fee-supported function, and consumers would see a fee as nothing more than a hidden tax. (Attachment 4)

It was noted during Committee discussion that approximately \$838,000 was used for food inspection for fiscal year 2000 from the State General Fund, and \$415,000 would be generated from passage of this bill. Concerns were expressed that consumers would be picking up the fee for the inspections, as well as concerns on the impact the bill might have on a small grocery store. The Chair asked that a chart or diagram be drawn up that would show a traditional supermarket of today and what portion of the supermarket KDHE is currently licensing and what revenue is generated from that licensing. The Chair also requested the chart show what prepared food areas or entities are in a supermarket that would be effected by **SB 661**. Jim Sheehan with the Kansas Food Dealers Association volunteered to work with Health and Environment on the chart. Further discussion on the subject will continue at the next meeting.

Written testimony in opposition to the bill was received from Scott Riehl, National Food Processors Association. (Attachment 5)

Adjournment

The meeting was adjourned at 11:00 a.m.

The next meeting is scheduled for March 30, 2000.



KANSAS
DEPARTMENT OF HEALTH & ENVIRONMENT
BILL GRAVES, GOVERNOR
Clyde D. Graeber, Secretary

Testimony on HB 3005
to the
Senate Public Health and Welfare Committee
by
Secretary Clyde D. Graeber

March 27, 2000

Chairman Praeger and members of the Committee, thank you for the opportunity to appear before you today on behalf of HB 3005. This legislation would allow the Secretary of the Kansas Department of Health and Environment the ability to issue an additional 90 day temporary permit to home daycare facilities at the Secretary's discretion to facilities that are addressing compliance issues.

KDHE requested the Attorney General to render an opinion as to whether KDHE, at the expiration of the 90 day temporary permit, can extend the permit. The Attorney General's Opinion 99-19 states, "in our opinion, neither the temporary permit nor the temporary license can be renewed."

Often times, it may take longer than 90 days from receipt of application to conduct initial facility inspections, for the facility to address every compliance issue, and for follow-up inspections in order for the daycare to receive the license or permit. Another example is a situation where the applicant has obtained most of the training requirements but has not completed all of the training. Often the applicant has signed up for the next available training but needs additional time to attend.

The language in the bill does not require the Department to extend the temporary permit. The language would allow the Department to not extend the temporary permit when environmental hazards exist or the child care provider or foster parent does not make the necessary effort to meet requirements.

This legislation would allow the Secretary the discretion of extending the temporary permit for 30, 60 or 90 days to facilities that are showing good faith in trying to obtain compliance with the applicable rules and regulations.

Thank you again for this opportunity. I would be happy to respond to questions at this time.

of \$451,532 from FY 2001 to FY 2002. In order to operate the program, carry forward balances must be used for the first half of a fiscal year until licenses are renewed, generating fees at the end of the calendar year. The Department informed the Subcommittee that at current levels of income and expenditure, the Fund's balance will be depleted by FY 2004, or sooner, if the ending balance is used to further offset State General Fund expenditures.

✓ Currently, grocery stores and food processors are inspected the same as any food services establishment but are not required to pay fees. The cost of these inspections is paid out of State General Fund dollars. The Subcommittee recognizes the changed nature of grocery operations. Much food preparation goes on at grocery stores, and all food establishments present a risk to public health if health-focused best practices are not properly employed. Further, the 1999 Food and Drug Administration (FDA) Food Code adopted regulations governing food service establishments and retail food stores became identical. The Subcommittee believes that license fees for retail grocers and food processors are appropriate, and should be used to reduce the need for State General Fund dollars in supporting the expense of food protection activities in Kansas. The Subcommittee recommends the introduction of a bill to establish annual license fees for retail food stores and food processors based on the complexity of the individual establishment, to be established by the Department to a maximum of \$200. These fees will be credited to the Food Inspection Fee Fund and be used to support the inspection activities associated with these facilities. It is the Subcommittee's intention that the increased fees generate sufficient revenues to allow the food inspection program to be entirely fee funded, without reliance on the State General Fund.

As the additional fee income can be used to offset State General Fund expenditures, the Subcommittee recommends that the food inspection program's State General Fund expenditures of approximately \$400,000 be reviewed at Omnibus to determine if those dollars can be shifted elsewhere.

4. The Subcommittee recommends that the Department undertake a study and evaluation of the manner in which local public health is funded in Kansas. Except for an increase of approximately \$250,000 in FY 1999, grants to local health departments for general operations have been virtually flat for the past 19 years. The formula, enacted in 1991, may no longer reflect the needs of today's local health activities in both rural and urban settings. The Subcommittee requests that the Department undertake a thorough evaluation of the grant delivery system, including categorical grants, involving its knowledgeable and experienced staff and members of the public health community, and return to the 2001 Legislature with carefully considered recommendations for statutory and/or policy changes. The Department's review should take the entire public health



KANSAS

DEPARTMENT OF HEALTH & ENVIRONMENT

BILL GRAVES, GOVERNOR

Clyde D. Graeber, Secretary

Testimony
Presented to
Senate Public Health and Welfare

March 27, 2000

by

Kansas Department of Health and Environment

The Department of Health and Environment is responsible for inspecting approximately 18,000 food establishments. Approximately 12,000 of these establishments are licensed food service establishments. The remaining 6,000 establishments represent various facilities including grocery stores, convenience stores, food manufacturers, warehouses, and food salvagers.

Historically, inspections of food service establishments have been supported through the collection of annual license fees. Inspections of non-licensed establishments have been supported by the state general fund. During the department's budget hearings before the Senate Ways and Means Sub-Committee, it became apparent that state general fund support is declining. In response, the Sub-Committee proposed Senate Bill 661. Passage of SB661 would establish a licensing requirement for retail food stores and food processors. The secretary of KDHE would be authorized to adopt regulations to implement the provisions of SB661. Regulations can be drafted that would establish license fees required to maintain the inspection activities of the department.

It is the position of the KDHE that inspections of food facilities are an important function to protect the public's health. The food protection standards adopted by regulations are the same for retail food stores as they are for food service establishments. The public is dependent on and expects safe food from retail food stores and food processors as well as food service establishments. Without a source of funding to off set reductions in SGF, inspection services of non-licensed facilities will need to be reduced. It is the department's position that funding for food establishment inspections be supported. Passage of SB661 would provide the financial support to continue inspections of facilities currently non-licensed.

Thank you. I am available to answer any questions.

Presented by

Stephen N. Paige, Director
Bureau of Consumer Health



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GOVERNMENTAL AFFAIRS

FRANCES KASTNER

PUBLIC HEALTH & WELFARE COMM. OPPOSING SB 661 3-27-00

I am Frances Kastner, Director of Governmental Affairs for the Kansas Food Dealers Association. Our membership includes retailers, distributors and manufacturers of food products throughout Kansas.

Our members oppose SB 661.

The way the bill is written to cover all of the cost for inspections of retail food stores will be a very expensive license. It could cost up to \$200 for a neighborhood grocery store without any of the special departments we have been accustomed to finding in the larger grocery stores. Many supermarkets have a deli, a bakery and a seafood department. Each of those separate areas would be subject to the additional fee up to \$50. I'm referring to page 1, lines 29-34.

Inspectors for the Department of Health and Environment were cross-trained years ago so they can inspect a grocery store in all departments including those who have a sit-down area within the store, and pay for a "Food Service Establishment license".

This made the Department of Health and Environment more efficient and was more convenient for store operators to have one inspector do all the work at one time. That would not change except for charging a fee for those inspections outlined above.

We see SB 661 as another way to generate money for the general fund. The original idea for inspecting grocery stores was to use tax dollars to insure that Kansans have safe and healthy food products. This bill would make inspections a fee-supported function and consumers see a fee as nothing more than a hidden tax.

We feel the introduction of this bill, and others which are initiating license fees, is a scramble to find money to cover the shortfall of anticipated revenue. We ask you to NOT recommend SB 661 favorably.

The Honorable Sandy Praeger, Chairperson
Senate Public Health and Welfare Committee
Via e-mail
praeger@senate.state.ks.us

Dear Senator Praeger and Committee:

On behalf of the National Food Processors Association (NFPA), I am writing to respectfully express our strong concern and objection to the recently introduced Senate Bill 661, an Act to establish and collect fees for the inspection of food processing plants and retail food stores. The proposal, addressing future funding of the food service/retail food inspection program, seeks to impose new "user fees" – or regulatory taxes – on the retail food industry, in order to pay for food regulation.

NFPA is the principal scientific trade association representing the \$460 billion food processing industry. With three laboratory centers, NFPA is the leading authority on food science and safety for the food industry. For more than 90 years, the food industry has relied on NFPA for government and regulatory affairs representation, scientific research, technical services, education, communications, and crisis management.

NFPA member companies produce the incredible variety of foods available at your local grocery store. These include processed and packaged fruits and vegetables, meat and poultry, seafood, cereals, dairy products, drinks, juices, and other specialty items. These products are made using a range of technologies including refrigeration, freezing, canning, dehydration, and aseptic manufacturing.

While the NFPA concurs with the proposal's goal to ensure and enhance food safety, we strongly oppose the imposition of new "user fees" – or regulatory taxes – on the retail food industry, in order to pay for the privilege of being regulated. The food industry derives no proprietary benefit from the proposed user fees.

User fees are, in reality, new and regressive state food taxes, which would be passed on to those who can least afford them, in the form of higher food prices. Because there is no clearer example of a fundamental government function that broadly benefits society than regulating the safety and soundness of the food supply, this regulation should be paid for from appropriated funds. Further, such regulatory tax proposals ignore the enormous investment the food industry has

The Honorable Sandy Praeger, Chairperson
Senate Public Health and Welfare Committee
March 23, 2000
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already made – and continues to make every day – to ensure that America’s food supply is the safest in the world.

In the past, the food industry and representatives from the consumer community have expressed concern that regulatory taxes to fund food safety programs would undermine consumer confidence in the decision-making integrity of government regulators. Creating an industry-financed system would create public misunderstanding and confusion – a view held not only by NFPA but also by such well-know consumer organizations as the Center for Science in the Public Interest (CSPI), Safe Tables Our Priority (S.T.O.P.), and Public Voice for Food and Health Policy.

The U.S Congress has repeatedly rejected past attempts to impose regulatory taxes on the food industry to fund food safety programs. NFPA and the food processing industry support strong, science based and effective food safety programs, but firmly believe that funding for such programs should be derived from appropriated funds.

The food industry who has long supported full funding of this most important public health program, however, the current proposal to impose new “user fees” – or regulatory taxes would create for the first time a situation where there would be opposition to any future request for funding increases.

We ask that you support general funding of this important program and oppose any regulatory taxes included in Senate Bill 661. We thank you for your consideration of our views.

Regards,



Scott Riehl,
Senior Director, Government Affairs & Associate Counsel