

MINUTES OF THE HOUSE BUSINESS, COMMERCE AND LABOR COMMITTEE.

The meeting was called to order by Chairperson Al Lane at 9:10 a.m. on February 9, 2001 in Room 521-S of the Capitol.

All members were present except: Rep. John Ballou - excused
 Rep. Melany Barnes - excused
 Rep. Broderick Henderson - excused
 Rep. Bill Levinson - excused
 Rep. Rick Rehorn - excused
 Rep. Dale Swenson - excused
 Rep. Gwen Welshimer - excused

Committee staff present: Renaë Jeffries, Revisor of Statutes
 Jerry Donaldson, Legislative Research Department
 Bev Adams, Committee Secretary

Conferees appearing before the committee: Steve Rarrick, Deputy Attorney General

Others attending: See attached list

Hearing on: HB 2206 - Kansas consumer protection act; family partnerships

Steve Rarrick, Deputy Attorney General, Consumer Protection Division of the Attorney General's Office, appeared as a proponent of the bill. It amends the definition of consumer in the Kansas Consumer Protection Act (KCPA) to include husband and wife or family partnerships. Currently, the definition of "consumer" includes only "an individual or sole proprietor." (Attachment 1)

No others were present to testify for or against the bill, and Chairman Lane closed the hearing.

Chairman Lane read the fiscal note for **HB 2206**. It would have no fiscal effect.

Chairman Lane adjourned the meeting at 9:20 a.m. The next meeting is scheduled for February 13, 2001.

HOUSE BUSINESS, COMMERCE AND LABOR COMMITTEE
GUEST LIST

DATE: February 9, 2001

NAME	REPRESENTING
STEVE RARRICK	ATTORNEY GENERAL
TERRY LEATHERMAN	KCCT
BILL BIRD	KS Govt Consulting



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, Deputy Attorney General

Consumer Protection Division

Office of Attorney General Carla J. Stovall

Before the House Business, Commerce & Labor Committee

RE: HB 2206

February 8, 2001

CONSUMER HOTLINE
1-800-432-2310

Chairperson Lane and Members of the Committee:

Thank you for the opportunity to appear on behalf of Attorney General Carla J. Stovall today to testify in support of HB 2206. My name is Steve Rarrick and I am the Deputy Attorney General for Consumer Protection.

In HB 2206, Attorney General Stovall seeks to amend the definition of consumer in the Kansas Consumer Protection Act (KCPA) to include husband and wife or family partnerships. Last year, this proposal was heard by this Committee as part of HB 2741. Currently, the definition of "consumer" includes only "an individual or sole proprietor." Many small family-run businesses and farms do not qualify as a consumer under this definition, and the Attorney General believes they should have the same protection as a sole proprietorship.

Under well-established rules of statutory construction, the current definition of consumer in the KCPA does not provide protection to businesses owned by more than one owner. Under K.S.A. 50-624(b), "[c]onsumer' means **an individual or sole proprietor** who seeks or acquires property or services for personal, family, household, business or agricultural purposes."

Black's Law Dictionary (6th ed. 1990) defines the terms "sole," and "sole proprietorship" as follows (bold emphasis added):

Sole. Single; individual; separate; the opposite of joint; as a *sole tenant*. Comprising only of **one person**; the opposite of aggregate; as a *corporation sole*. Without another or others. Unmarried; as a *feme sole*.

Sole proprietorship. A form of business in which **one person** owns all the assets of the business in contrast to a partnership, trust, or corporation. The sole proprietor is solely liable for all of the debts of the business.

House Business, Commerce & Labor Committee

2-9-01

Attachment 1

The Attorney General seeks this amendment not to expand her jurisdiction, but to clarify what we believe the legislature originally intended when the KCPA was passed and to avoid a repeat of what occurred in a 1998 trial involving three related business opportunity schemes in Johnson County. In that case, we successfully shut down three Johnson County toy and cigar business opportunity companies and their principals who defrauded hundreds of consumers in Kansas and across the country of millions of dollars. After shutting these businesses down with a preliminary injunction, we obtained a jury verdict for over twelve (12) million dollars in consumer restitution and the court imposed over fifteen (15) million dollars in civil penalties and permanently enjoined the businesses and the individuals involved with the businesses.

Although we have recovered only a fraction of that judgment, we are nonetheless very pleased with the fact that we were able to shut these businesses down. However, our sense of accomplishment is tempered by the exclusion of numerous distributor claims from this judgment, simply because they purchased their toy and cigar distributorships as husband and wife proprietors or family partnerships, not as consumers as defined by the KCPA (an individual or "sole" proprietor).

Attorney General Stovall believes husband and wife proprietors and family partnerships should receive protection under the KCPA. As a result, we ask you to amend the definition of "consumer" as requested in this bill.

On behalf of Attorney General Stovall, I urge you to pass this bill out favorably. I would be happy to answer questions of the Chair or any member of the Committee.