

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE.

The meeting was called to order by Chairperson Senator Nancey Harrington at 10:30 a.m. on March 6, 2001 in Room 245-N of the Capitol.

All members were present.

Committee staff present: Russell Mills, Legislative Research Department  
Dennis Hodgins, Legislative Research Department  
Theresa Kiernan, Office of the Revisor  
Nikki Kraus, Committee Secretary

Conferees appearing before the committee: Bill Ogg, Kansas State Fair Association  
Joe Cheesman, Cheesman's Rides  
David Garrett, Haas and Wolkerson Insurance  
Terry Humphrey, Kansas Trial Lawyers Association

Others attending: See Attached List

Chairman Harrington asked the committee to note a memorandum provided by Theresa Kiernan, Office of the Revisor of Statutes, which addressed "Home Rules Powers". ([Attachment 1](#)).

Chairman Harrington opened the hearing on:

**HB 2120—Inspection and regulation of amusement park rides**

Chairman Harrington recognized Bill Ogg, Kansas State Fair Association, who presented testimony in favor of the bill. ([Attachment 2](#)).

Joe Cheesman, Cheesman's Rides, presented testimony in opposition to the bill. ([Attachment 3](#)).

David Garrett, Haas and Wolkerson Insurance, presented testimony in favor of the bill. ([Attachment 4](#)).

Chairman Harrington asked the committee to note written testimony submitted by Robert Johnson, Outdoor Amusement Business Association, in opposition to the bill. ([Attachment 5](#)).

Terry Humphrey, Executive Director, Kansas Trial Lawyers Association, presented testimony in favor of the bill as amended. ([Attachment 6](#)).

Senator Gooch asked Ms. Humphrey if her association supported the bill as it was currently written, although there were no state funds set for inspections. Ms. Humphrey stated that yes, the Kansas Trial Lawyers Association supported it. She stated that there were no annual inspections now, but the bill in its amended form required them.

Senator Gooch stated that he was interested in what the qualifications were for an inspector, and Ms. Humphrey stated that she thought that there were industry and insurance standards.

Senator Barnett asked what the requirements were for inspections, and Mr. Garrett stated that with the training of the individuals and the particular requirements which his insurance group provides the inspectors, they are able to go out in the field and satisfy the company.

Following further discussion with Senator Brungardt, Mr. Garrett stated that the legislation was not redundant because not all insurance companies did inspections or were as strict in their requirements or standards for inspection of equipment.

CONTINUATION SHEET  
MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE  
March 6, 2001

In response to a question from Senator Vratil, Mr. Garrett confirmed that death was covered under insurance for bodily injury.

Chairman Harrington stated that Senator Clark had said that not-for-profit organizations were not included in the bill, and Ms. Kiernan agreed. Ms. Kiernan also stated that this bill repealed a portion of a bill passed last year by making inspection requirements broader.

In response to a question from Senator Barnett regarding a class D misdemeanor charge referenced in the bill, Ms. Kiernan stated that the maximum penalty was up to a one thousand dollar fine and six months in jail.

Senator Barnett stated that he would like to know why the State Fair Manager had been selected to control this issue instead of the Agricultural Department. Mr. Ogg stated that it was apparent in the House subcommittee that some kind of repository was necessary to keep records, and the State Fair Manager volunteered to act in that manor.

Chairman Harrington made reference to Mr. Ogg's testimony and stated that it had indicated that his organization was not in a position to take on liability or an enforcement role.

Senator Teichman stated that there might be a conflict of interest with the State Fair Manager maintaining such records, and Mr. Ogg stated that there was absolutely no conflict because they required their carnival provider to meet all of the provisions that are already in the law. Mr. Ogg stated that it would be no problem to keep those files.

Chairman Harrington asked Mr. Ogg how this information would be provided to the public and those who might inquire; Mr. Ogg responded that there was no provision to require carnival providers to register, so that type of bill would be publicized through legislation.

Mr. Cheesman stated that there had not been a carnival ride accident in Kansas for twenty years.

Senator Teichman asked Mr. Ogg what the cost would be to the State Fair to maintain the files. Mr. Ogg stated that he felt that the cost would be minimal and that he was willing to make that investment for the best interests of the people of Kansas. He stated that he was concerned that eventually there would be an incident which would spark legislation after the fact which would be extreme and fueled by emotion, and he would rather create preventative legislation now based on reason.

Senator Brungardt stated that as a member of the public interested in whether or not inspections were up to date on a carnival, he would probably call the state, not the State Fair. Linda DeCoursey, Kansas Insurance Department, stated that her organization regulated insurance companies, so, in agreement with statements from Senator Brungardt, it would then not make sense for her department to maintain records. Senator Barnett stated that he would not have any objection to having a state inspector, and Chairman Harrington stated that the committee was not working the bill at the moment, but he could bring that point up at another time.

Senator O'Connor recalled that Mr. Cheesman had stated that Kansas has no inspectors, and she was interested in how much the inspections were going to cost, and who was going to pay for them. Mr. Garnett stated that there are approximately 25 inspectors in Kansas which hold the qualifications in the bill. He stated that many carnivals have people with these qualifications on call and that there are enough inspectors in the state to meet the needs of Kansas. He stated that other states's inspectors were often sent to be trained by those in Kansas. Mr. Garrett stated that his clients were in favor of additional inspections because they felt it was good for the industry.

In response to a questions from Senator Gooch, Mr. Garrett stated that there were two major organizations which certified inspectors: The National Association of Amusement Safety Rides Inspection and the Amusement Industry Factory and Supplies.

Chairman Harrington instructed the committee to note written testimony submitted by Representative Tom

CONTINUATION SHEET  
MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE  
March 6, 2001

Sloan in support of the bill. (Attachment 7).

Chairman Harrington opened the hearing on:

**SB 152—Regulation of Alcoholic Beverages**

Senator Brungardt then read and explained the subcommittee report to the committee. (Attachment 8).

Philip Bradley, Kansas Licensed Beverage Association, stated that his organization was interested in a change in the bond issue, but that his organization was waiting for a change in regulation language. He stated that the Secretary of Revenue had spoken with him and committed to a regulation change which made his request for an amendment unnecessary.

Senator Brungardt continued to explain the subcommittee report. Senator Vratil stated that he was concerned with the Glazure lawsuit currently undergoing litigation which concerned the ten-year residency requirement in the Liquor Control Act. He stated that the Governor suggested that the Senate might want to consider changing the requirement to one year; that would get rid of the litigation and save the State Attorney General's Office the need to pursue an appeal. He stated that it would also give the Legislature the ability to retain a residency requirement whereas if the appeal goes through the court and fails, the state would have none whatsoever. He stated that this may be the state's only opportunity to retain such a requirement.

Chairman Harrington stated that the Attorney General's Office had already filed for the appeal. She stated that the Governor's Office could provide information and the committee would address that.

In response to a question from Senator Gooch, Mr. Longino stated that the spouse of a license applicant had to meet the initial qualifications to get the license. He stated that the law was changed fifteen years ago and that the loophole needed to be closed in the bill so that a license could not be transferred to a spouse between the time that the license holder is charged with a felony and the time that he or she is convicted.

In response to a question from Senator Brungardt, Mr. Longino stated that current law in Kansas only allows for background checks on Kansas residents. Rebecca Rice, Kansas Beer Wholesalers Association, stated that the requirement for Kansas residency gave Kansas many rights, including the ability to sue for damages without having to chase a company to another state.

Chairman Harrington stated that Kansas requires background checks and has residency issues for licensing, and that she did not think that it was unreasonable to expect a background check on out-of-state companies who want to come into Kansas.

In response to a question from Senator Vratil, Mr. Longino stated that his department could not do background checks on non-Kansas residents, but that other state agencies did have that ability.

Senator Barnett stated that he would like a statement from the Attorney General's Office regarding the Glazure lawsuit. Theresa Kiernan stated that there is a requirement for residency for out of state companies. Ms. Rice stated that the bill was really close to what the industry and the director of the agency wanted.

Chairman Harrington stated that about a week ago, every member of the committee had been provided a copy of the Glazure lawsuit which Senator Vratil had referenced. Chairman Harrington stated that the committee would request a letter from the Attorney General's Office. She stated that the subcommittee had done a very good job.

Senator Gilstrap moved to introduce a bill concerning legal publications. Senator Brungardt seconded the motion. The bill was introduced.

The meeting was adjourned at 11:37 a.m. The next meeting is scheduled for 10:30 a.m. on March 7, 2001.

**SENATE FEDERAL AND STATE AFFAIRS COMMITTEE  
GUEST LIST**

DATE: March 4, 2001

NAME	REPRESENTING
Rebecca Zepick	Sen. Barnett
DAVID GARRETT	Haas & Wilkerson Ins
Chris Niemann	Haas & Wilkerson Ins.
Bill Gyp	Kansas State Fair
for Chasner	Chasner Rides
Dan's Rahn	Joyland Amusement Park
STAN NELSON	" " "
Bill Wampler	Ks. Ins. DEPT
Phil BRADLEY	KLBA
Ralonging	KDOR ABC
Sharon Olyer	KDOR/ABC
Pete Bodak	KDOR/ABC
Neal Whitaker	Ks Beer Wholesalers Assn.
Rebecca Rice	Ks Clubs & Assn.
Linda DeLooney	KS Ins. Dept
Julio Hein	Hein & Weir
Marsha Stahl	CMA of Ks.
Andy Shaw	PMCA



MAN J. FURSE, ATTORNEY  
REVISOR OF STATUTES

JAMES A. WILSON III, ATTORNEY  
FIRST ASSISTANT REVISOR

ASSISTANT REVISORS

AVIS A. SWARTZMAN, ATTORNEY  
DON S. HAYWARD, ATTORNEY  
MARY ANN TORRENCE, ATTORNEY  
WILLIAM L. EDDS, ATTORNEY  
BRUCE W. KINZIE, ATTORNEY  
THERESA M. KIERNAN, ATTORNEY  
GORDON L. SELF, ATTORNEY  
JILL A. WOLTERS, ATTORNEY  
ROBERT J. NUGENT, ATTORNEY  
MICHAEL K. CORRIGAN, ATTORNEY  
RENAE JEFFERIES, ATTORNEY  
KENNETH M. WILKE, ATTORNEY  
LISA D. MONTGOMERY, ATTORNEY



OFFICE OF  
REVISOR OF STATUTES

300 SW 10TH AVE  
STE 322, STATEHOUSE  
TOPEKA, KANSAS 66612-1592  
(785) 296-2321  
FAX (785) 296-6668

LEGAL CONSULTANTS  
LEGISLATIVE  
COMMITTEES AND LEGISLATORS  
LEGISLATIVE BILL DRAFTING  
SECRETARY—LEGISLATIVE  
COORDINATING COUNCIL  
SECRETARY—KANSAS COMMISSION  
ON INTERSTATE COOPERATION  
KANSAS STATUTES ANNOTATED  
EDITING AND PUBLICATION  
LEGISLATIVE INFORMATION SYSTEM

COMPUTER INFORMATION STAFF  
MARY O. CHENG, M.S.  
RICHARD M. CHAMPNEY, B.S.

MEMORANDUM

TO: Special Committee on Federal and State Affairs  
FROM: Theresa Kiernan  
RE: Home Rule Powers Overview  
Date: August 17, 1998

**CITIES POWER TO LEGISLATE**

**Police Power.**

- The broadest class of power exercised by cities includes the powers to protect the public safety, public health, morality, peace and quiet and law and order.
- Derived from statute (grant from legislature) and/or constitution (grant from people).
- Prior to the adoption of the Home Rule Amendment in 1961, the Kansas Supreme Court recognized that cities could exercise police powers to supplement or add to regulatory authority granted by the state as long as there was no conflict with the state law or the field had not been preempted by state law.

Senate Fed + State  
3-6-01  
Attachment 1-1

### **Home Rule Power.**

- Cities have a constitutional source of local legislative power in Article 12, Section 5 of the Kansas Constitution.
- The Home Rule Amendment provides a Constitutional limit on state legislative control over the affairs of cities.
- Cities may adopt local laws on subjects not addressed by state law.
- Cities may adopt local laws on subjects where a state law exists, but which state law does not apply uniformly to all cities.
- Cities may adopt local laws on subjects where there is a uniform law and the city wants to enact additional or supplemental local provisions.
- The legislature, with certain exceptions, may bind completely cities by enacting a state law that applies uniformly in the exact same way to all cities and the law contains a clear statement of preemption.
- Powers granted under the home rule amendment are to be construed liberally to give cities the largest measure of self-government.
- Home rule power includes police powers. In a 1995 case, the Supreme Court stated "home rule is merely an alternative procedure mechanism to enabling statutes for cities to use in exercising police power."

### **How Is Home Rule Exercised?**

#### Ordinary Ordinances

- If there is no existing state law on the subject, a city may adopt an "ordinary" ordinance. (Regulation and licensure of massage parlors).
- To supplement, enlarge or enhance a uniform state law, a city may adopt an "ordinary" ordinance. (Prohibiting the carrying of an unconcealed weapon; requiring the closing of a private club at a time earlier than prescribed by statute).

- As a complete alternative to an existing permissive statute, whether uniform or not, but the city chooses to act under its home power, a city may adopt an "ordinary" ordinance. A 1995 case, Blevins v. Hiebert held the use of an ordinary resolution by Douglas county was improper and would require the use of a charter resolution.

#### Charter Ordinances

- A charter ordinance is an ordinance which exempts a city from the whole or part of an enactment of the legislature. A charter ordinance may provide substitute and additional provisions on the same subject addressed in an enactment of the legislature.
- A city may not use a charter ordinance to exempt from an enactment of the legislature which:
  - 1) Is nonuniform, but where the legislature has established not to exceed four classes of cities for the levy of taxes, excises, fees, charges and other exactions (Art. 12, §5(b)).
  - 2) Is of statewide concern applying uniformly to all cities (Art. 12, §5(c)(1)).
  - 3) Is applicable uniformly to all cities (Art. 12, §5(c)(1)).
- A city may not enact a charter ordinance to exempt from a constitutional amendment.
- A charter ordinance is subject to protest petition and election.

#### **How Does a City Determine If It May Exercise Home Rule?**

- 1) Is there a state law that governs the subject?
- 2) If there is a state law, is it uniformly applicable to all cities?
- 3) If there is a uniform state law, does it contain language which clearly preempts further action by the city?
- 4) If there is a uniform state law, but no preemption, does the ordinance conflict with the state law?

- An enactment is all sections of a single bill enacted by the legislature. Every section of a bill must apply uniformly to all cities if the bill is to be an uniform enactment.
- In Claflin v. Walsh, the court stated all statutes on the same subject whether enacted at the same time or not are considered in pari materia and should be construed together to determine the question of uniformity.

**How Is It Determined If There Is A Conflict Between Uniform State Law and an Ordinance?**

1) If the ordinance permits what the state law prohibits or prohibits what the state law authorizes, a conflict exists.

2) If the ordinance is parallel or identical to the state law, there is no conflict.

3) If the ordinance supplements or adds to the state law, there is no conflict.

4) If the ordinance provides for standards of performance that are higher than those set by the state law, there is no conflict.

5) If the state law is uniform, but does not expressly preempt the field, there is no conflict.

**Do Cities Have Power to Adopt Ordinances Regulating Liquor Licensees?**

- If the general principles governing home rule authority are applied to the liquor laws, it appears cities do have the authority to adopt ordinances regulating liquor licensees.
- The liquor control act, K.S.A. 41-101 et seq., is a nonuniform law and should be subject to home rule by a city through adoption of a charter ordinance, but Article 15, Section 10 of the Kansas Constitution provides that the legislature may permit, regulate, license and tax the sale of intoxicating liquor. Cities may not home rule out of constitutional provisions.
- The Supreme Court has ruled that cities may adopt ordinances supplementing the club and drinking establishment act, because



the legislature did not clearly preempt the area of regulation and control of consumption of alcohol as it did in the area of the traffic in alcohol.

- A district court in Wichita has ruled that the city may adopt an ordinance providing for the local licensure of clubs and drinking establishments since the state has not preempted the area, and through its police powers the city could enact nonconflicting ordinary ordinances. The court found the city's licensing fee schedule in conflict with the state statute and therefore invalid. The Supreme Court twice refused to hear the question of law, reserved by the city, on the fee schedule because the court felt it did not present a question of statewide concern. In its order to show cause, the Supreme Court referred to the limit on cities' home rule power when a uniform state law limits a tax fee, charge or other exaction.
- If the court does not construe Article 15 Section 10 as a limit on the cities home rule power and given the manner in which the various liquor acts have been amended in single enactments, the entire body of the liquor laws may be subject to home rule.
- If the court finds that by enacting various nonuniform laws, the legislature has not clearly preempted the area, a city may adopt an ordinary ordinance to supplement any uniform state law.
- Cities may adopt a charter ordinance to a nonuniform law notwithstanding any preemptive language in the statute.
- Attorney General Opinion No. 93-147 determined the Liquor Control Act is nonuniform and subject to charter ordinance.

The Kansas State Fair  
2000 North Poplar  
Hutchinson, Kansas 67502-5598  
316 669-3600  
Fax: 316 669-3640  
E-Mail: ksfair@southwind.net  
www.kansasstatefair.com



BILL OGG, GENERAL MANAGER  
DENNY STOECKLEIN, ASSISTANT MANAGER  
LARRY ANKERHOLZ, PHYSICAL PLANT MANAGER

March 5, 2001

Senator Nancey Harrington  
Federal & State Affairs Committee  
State Capitol 143-N  
Topeka, KS 66612

Dear Senator Harrington and Members of the Federal & State Affairs Committee:

House Bill 2120 provides for legislation defining prudent business practice currently conducted by the majority of amusement ride owners and operators in Kansas. Regular safety inspection of the mechanical devices, training of operators and liability coverage are reasonable expectations that Kansans deserve when investing their leisure time and money at an amusement park or mobile carnival operation.

Enacting this bill is an exercise in proactive government. To me that means recognizing and fulfilling a need of the general citizenry as a whole in matters wherein it is impractical for individual citizens to address that need. HB 2120 assures that all Kansans can enjoy the excitement and family fun of amusement rides, confident that all legal operators have exercised due diligence.

As the manager of a State facility hosting amusement rides, I strongly urge your passage of rider responsibility legislation. HB 2120 included language that would dramatically strengthen the State defense if an accident were to ever occur. This same protection would of course apply to County Fair Boards, civic, and fraternal organizations and others who contract for amusement rides. As amended, I am concerned that rider responsibility may not have the emphasis that was originally intended.

The bill was further amended to name my position with the Kansas State Fair as the State Agency repository for inspection certificates. Provided the intent is to utilize State Fair staff as a reference contact, I am willing to offer our agency to perform that service. We cannot accept any legally binding responsibility to interpret or verify the accuracy of the information. It is not within our expertise or budget to assume such an enforcement or over-site role.

I respectfully request your consideration of HB 2120 and am willing to serve the people of Kansas within the resources available. I extend my appreciation to Representative Tom Sloan for his effort in introduction of worthy legislation.

Thank you for your attention.

Sincerely,

Bill Ogg  
General Manager

dn

Senate Fed + State  
3-6-01  
Attachment 2-1

OPPOSING

House bill #2120

Facts LIBRARY RESEARCH USA TODAY 12/6/2000

Of 559 million riders last year, only 6 resulted in death. State inspections are costly. In Florida the tab runs to \$1.2 million a year, a little amount is picked up in ride fees charged to ride operators.

The industry uses such indicators to argue that a relatively small number of accidents are caused by equipment malfunction, compared with 65% to 85% it says are brought on by riders who intentionally or inadvertently break the rules.

Kansas has not had serious accident in over twenty years or longer.

Kansas has no inspectors. Who is going to pick up the bill? If there is to be a ride inspection in Kansas all rides should be inspected

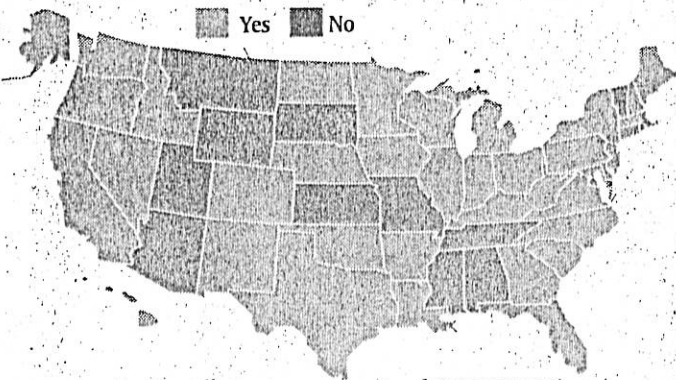
11 states do not have inspection. (see attached sheet)

JOE CHEESMAN, CHEESMAN'S RIDES LEBANON KANSAS

Senate Fed + State  
3-6-01  
Attachment 3-1

Mo. Has ride bill passed 2000. No inspection do to lack of funding.

### Does your state require inspection of rides?



State	Are traveling rides inspected? <sup>1</sup>	Are permanent rides inspected? <sup>1</sup>
Ala.	No	No
Alaska	Yes, annually	Yes, annually, sometimes more
Ariz.	No <sup>2</sup>	No
Ark.	Yes, every setup	Yes, twice a year
Calif.	Yes, annually	Yes, annually <sup>3</sup>
Colo.	Yes, annually	Yes, annually
Conn.	Yes, every setup	Yes, annually
Del.	Yes, electric at every setup	Yes, annually
D.C.	Yes, every setup	No
Fla.	Yes, every setup	Yes <sup>4</sup> , twice a year
Ga.	Yes, annually	Yes, annually
Hawaii	Yes, every six months	No
Idaho	Yes <sup>5</sup> , every setup	Yes <sup>5</sup> , annually
Ill.	Yes, annually	Yes, annually
Ind.	Yes, annually	Yes, annually
Iowa	Yes, start of season plus spot checks	Yes, start of season plus spot checks
Kan.	No	No
Ky.	Yes, annually	Yes, annually
La.	Yes, every setup	Yes, annually
Maine	Yes, annually, though typically 4 to 5 times a year	Yes, annually
Md.	Yes, every setup	Yes, twice a year
Mass.	Yes, annually by insurance company; at each setup by state inspector	No

Mich.	Yes, annually (daily inspection by operator required; state may inspect more frequently)	Yes, annually (daily inspection by operator required; state may inspect more frequently)
Minn.	Yes, annually	Yes <sup>6</sup> , annually
Miss.	No	No
Mo.	No	No
Mont.	No	No
Neb.	Yes <sup>7</sup> , annually	Yes <sup>7</sup> , annually
Nev.	Yes, but varies by city	Yes, but varies by city
N.H.	Yes, initial setup, again in 90 to 120 days	Yes, annually but usually at least twice a year
N.J.	Yes, initial annual inspection plus spot checks	Yes, initial inspection plus 2 to 4 more times during season
N.M.	Yes <sup>8</sup> , annually	Yes, annually
N.Y.	Yes, every setup	Yes, start of season plus follow-up
N.C.	Yes, every setup	Yes, annually plus spot checks
N.D.	Yes, law does not specify	Yes, law does not specify
Ohio	Yes, 2 to 3 times a year	Yes, 2 to 3 times a year
Okla.	Yes, every setup	Yes, annually
Ore.	Yes, annually	Yes, annually
Pa.	Yes, every setup by third party	Yes, monthly by third-party inspectors; randomly by state
R.I.	Yes, annually plus at every setup	Yes, annually
S.C.	Yes, annually plus spot checks	Yes, annually plus spot checks
S.D.	No	No
Tenn.	No	No
Texas	Yes, annually	Yes, annually
Utah	No	No
Vt.	No	No
Va.	Yes <sup>9</sup> , every setup	Yes, annually
Wash.	Yes, annual mechanical plus electrical at every setup	Yes, annual mechanical plus electrical at setup
W.Va.	Yes, annually plus spot checks	Yes, annually plus spot checks
Wis.	Yes, annually	Yes, annually
Wyo.	No	No

1 - Local governments may enact additional requirements; not all states have permanent rides.  
 2 - Rides at state fair inspected by insurance company.  
 3 - Law governing permanent rides enacted in January; proposed frequency of inspection is annually.  
 4 - Exempts parks with more than 1,000 employees and safety inspectors on staff.  
 5 - Electrical inspection only.  
 6 - Park rides can be exempt from inspection if they have a maintenance program, full-time maintenance staff and \$50 million insurance.  
 7 - Allows inspections from other states or insurance companies in last 12 months to suffice.  
 8 - Exempts operators with six or fewer kiddie rides or seasonal rides at promotional events, such as a choo-choo train.  
 9 - Inspections by local inspector. Certain travelling kiddie rides only inspected annually.  
 Source: USA TODAY research by Anthony DeBarros

By Julie Stacey, USA TODAY





## HAAS & WILKERSON INSURANCE

4300 Shawnee Mission Parkway, Shawnee Mission, Kansas 66205-2526  
P.O. Box 2946, Shawnee Mission, Kansas 66201-1346  
913-432-4400 • 800-821-7703 • FAX 913-676-9389

March 5, 2001

Honorable Senator Nancy Harrington, Chairperson Senate  
Federal and State Affairs Committee  
State Capitol  
Topeka, Kansas 66612

RE: House Bill 2120

Dear Chairperson Harrington:

As the nation's largest, privately owned insurance agency providing services to the outdoor amusement industry, we have reviewed the legislation in detail at the request of and in conjunction with major Kansas domiciled carnival companies, amusement parks, the Kansas State Fair, the Kansas Fairs Association, and the Outdoor Amusement Business Association, which represents the entire mobile amusement industry nationwide. We are all satisfied with the purpose and intent of the legislation and its potential impact on carnivals and amusement parks in the state of Kansas. Listed below are highlights and requirements of the proposed legislation, the purpose of which is to ensure the safety of Kansas citizens while riding or using amusement devices:

1. Minimum insurance requirements
2. Automatic additional insured status for sponsors or landowners
3. 30-day guaranteed cancellation clause for liability policies
4. Safety inspector certification and/or training requirements
5. Preparation and retention of maintenance documentation by amusement companies
6. Non-destructive testing of amusement devices per manufacturer requirements
7. Implementation and documentation of amusement device operator training
8. Safety instructions and signage
9. Prompt incident reporting provisions
10. Patron or rider responsibility requirements

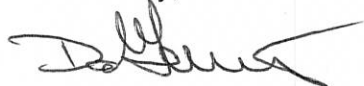
We have diligently assisted the sponsor, Representative Sloan, for the past 3-years in the preparation of this proposed legislation. We strongly feel that the wisdom of exempting certain amusement devices on the basis of ownership should be reconsidered. In addition, a penalty should be added for violations of the sections addressing rider/patron responsibility to mirror owner/operator or sponsor violations of the act. As we realize these changes cannot be approved without potentially sacrificing the entire legislation, we have committed to Representative Sloan our support for the Bill as approved by the House.



It has been suggested that the beneficiaries of this legislation will be insurance companies. Due to requirements in the act this is simply not true, as the overwhelming majority of Kansas operators are already purchasing insurance equal to or greater than the requirements of the Bill. There will in fact be two different sets of beneficiaries once the legislation is enacted. The first will be the safety inspectors, who will be paid by amusement device owner or operators to assure their equipment meets certain standards. Second will be the citizens of Kansas, who will enjoy their experience on amusement devices with the knowledge that they have been inspected to prevent potential accidents.

Thank you again for the opportunity to be of service.

Sincerely,



David L. Garrett  
Vice President

pkb

cc: Robert Johnson  
Executive Director  
Outdoor Amusement Business Association

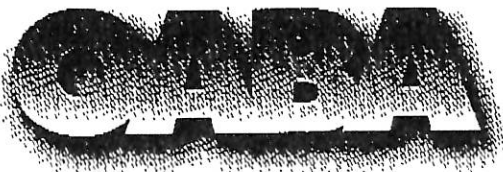
Bill Ogg  
General Manager  
Kansas State Fair

Chris Flattery  
Ottaway Amusement Company  
Derby, KS

David Rohr  
Joyland Amusement Park

Stan Nelson  
Wichita, KS

Natalie Bright  
Bright & Bright



## OUTDOOR AMUSEMENT BUSINESS ASSOCIATION, INC.



1-800-517-OABA  
(407) 681-9444  
Fax: (407) 681-9445  
E-Mail: oaba@aol.com  
www.oaba.org

### OFFICERS

Jeff Blomness  
President  
Danny Hustan  
1st Vice President  
Jackie Swika  
2nd Vice President  
James E. Strates  
3rd Vice President  
Dale Merriam  
Treasurer  
Robert W. Johnson  
Executive Director

### DIRECTORS

Eric Bales  
Ron Burback  
Richard Chance  
Alan Cockerham  
Robert Cammerford  
Don Deggeller  
John Hanschen  
Bill Johnson  
Jack Keough  
Wayna Kunz  
Guy Leavitt  
Bill Lowery  
Harry Mason  
Wayne McCary  
Stan Minker  
Dawn Murphy  
David Norton  
Gary Otterbacher  
Charles Panacek  
Alfie Phillips  
David Smith  
Marris Vivona  
Milko Williams

### PAST PRESIDENTS

Sam Johnston - 1999  
Buddy Merien - 1998  
Richard Janas - 1997  
Jean Clair - 1996  
James Murphy - 1995  
Dominic Vivona - 1994  
Bill Dillard, Sr. - 1993  
Tom Atkins - 1992  
\*Red Wood - 1991  
Billy Burr - 1990  
Bob Coleman, Sr. - 1989  
Milt F. Kaufman - 1988  
Andy Anderson - 1987  
John Vivona - 1986  
Milko Farina - 1985  
James H. Drew III - 1984  
Gerald L. Murphy - 1983  
John Camp - 1982  
\*Buster L. Brown - 1981  
\*Hub Luehrs - 1980  
Lloyd Hillgoss - 1979  
\*Hal F. Ertel - 1978  
\*Alfred H. Kunz - 1977  
RE. Reilthoffer, Jr. - 1976  
Bernard P. Thomas - 1975  
E. James Strates - 1974  
\*Rod Link - 1973  
C. J. Sedlmayr - 1972  
\*John Parliament - 1971  
\*William T. Collins - 1966-70  
W. G. Wada - 1965

\*deceased

March 6, 2001

via facsimile

Ms. Nancey Harrington  
Chairperson  
Senate Federal and State  
Affairs Committee  
Kansas Senate

RE: HB 2120

Dear Ms. Harrington,

This letter serves as notice that this trade association, representing carnivals, circuses, concessionaires and amusement rental equipment owners, is **withdrawing support of HB 2120** as it was amended by the House legislature.

Our concern has to do with the fact that the bill was amended in Section 4. (b) making the State Fair Manager the depository for the inspection certificate. This is highly unusual and no other state in the country has such a provision.

We would support the bill if the Insurance Department or say the Agriculture Department or Office of the Fire Marshal had the responsibilities for record keeping and maintaining the **certificate of an inspection**, in order to operate amusement rides. These departments typically have oversight of a regulatory program of this type in other states. If no state Department takes on this responsibility, then the event sponsor, where amusement rides are to operate would have this responsibility.

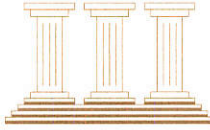
Please understand that this trade association has been involved with this legislation for over three years in Kansas and would support amendments as suggested above in the interest of patron safety on amusement rides.

Sincerely,

Robert W. Johnson  
Executive Director

1035 S. SEMORAN BOULEVARD, SUITE 1045A, WINTER PARK, FLORIDA 32792  
PROVIDING **OVER 35 YEARS** OF SERVICE TO OUR MEMBERS

Senate Fed + State  
3-6-01  
Attachment 5-1



KANSAS TRIAL LAWYERS ASSOCIATION

*Lawyers Representing Consumers*

TO: Members of the Senate Committee on Federal and State Affairs

FROM: Terry Humphrey  
Executive Director  
Kansas Trial Lawyers Association

RE: 2001 HB 2120

DATE: March 6, 2001

Chairman Harrington and members of the Senate Committee on Federal and State Affairs – thank you for the opportunity to appear before you today to comment on HB 2120. I am Terry Humphrey, executive director of the Kansas Trial Lawyers Association.

KTLA supports this bill that proposes to safeguard the safety of Kansans, and in particular, our children. As amended, HB 2120 balances safety and accountability by addressing requirements for equipment inspection, insurance coverage, operator training and rider notification. We support the requirements for regular safety inspections of amusement rides and the bill's mandate that owners of the equipment carry liability insurance in the event that a rider is injured.

KTLA expressed concerns about certain liability issues in the bill as it was originally written and offered alternative language, which was adopted by the House Local Government Committee. With those amendments, KTLA supports HB 2120.

Thank you for opportunity to express our support of this bill as amended. With these amendments, KTLA encourages your passage of HB 2120, which balances safety and accountability for Kansans and our children.

*Terry Humphrey, Executive Director*

Jayhawk Tower • 700 SW Jackson, Suite 706 • Topeka, Kansas 66603-3758 • 785.232.7756 • Fax 785.232.7730

E-Mail: [triallaw@ink.org](mailto:triallaw@ink.org)

Senate Fed + State  
3-6-01  
Attachment 6-1

**TOM SLOAN**  
REPRESENTATIVE, 45TH DISTRICT  
DOUGLAS COUNTY

STATE CAPITOL BUILDING  
ROOM 446-N  
TOPEKA, KANSAS 66612-1504  
(785) 296-7677  
1-800-432-3924



TOPEKA

HOUSE OF  
REPRESENTATIVES

772 HWY 40  
LAWRENCE, KANSAS 66049-4174  
(785) 841-1526

**TESTIMONY**  
**HOUSE BILL 2120**  
**Amusement Rides Safety Inspection & Operator Training**  
**Senate Federal and State Affairs Committee**  
**March 6, 2001**

**Madam Chairman, Committee Members:**

Kansas is one of only six states that do not require the safety inspection of amusement rides. HB 2120 is the result of collaborative efforts between Kansas fair operators, the amusement ride industry, amusement ride manufacturers, insurance company representatives, Kansas trial lawyers, and myself. In addition to better ensuring the safety of our children, the objectives of the bill are:

1. Require at least annual safety inspections of all defined categories of amusement rides (the bill exempts the "rocket" and "horse" rides in front of Wal-Mart, McDonald Restaurant playgrounds, etc., and community-owned rides);
2. Require documentation of ride operator safety training.
3. Require prominent posting of safe rider rules;
4. Create no burden on the State of Kansas or local governments;
5. Work within the industry, manufacturer, and fair accepted inspection system; and

Senate Fed & State  
3-6-01  
Attachment 7-1

**6. Minimize costs to the participants.**

The fact that 44 other states require ride inspections is not necessarily a good reason for Kansas to do so. Most amusement ride operators are honest and work hard to ensure the safety of their equipment and training of their operators. Those companies police themselves. The problems generally arise from the few parties in business that cut corners on safety and those few riders that place themselves and others at risk.

HB 2120 is not designed to put anyone out of work or to prevent any amusement ride owner from entertaining families or making a living. It is designed, in cooperation with the interested parties indicated above, to safeguard our children, and balance the responsibility of riders and operators.

Thank you for your attention and consideration of this bill.

**Tom Sloan**  
**Representative - 45<sup>th</sup> District**



STATE OF KANSAS

PETE BRUNGARDT  
SENATOR, 24TH DISTRICT  
522 FAIRDALE RD.  
SALINA, KS 67401

STATE CAPITOL, ROOM 462-E  
TOPEKA, KANSAS 66612-1504  
(785) 296-7390



TOPEKA

SENATE CHAMBER

March 6, 2001

COMMITTEE ASSIGNMENTS

VICE CHAIR: FEDERAL AND STATE AFFAIRS  
MEMBER: COMMERCE  
FINANCIAL INSTITUTIONS  
AND INSURANCE  
PUBLIC HEALTH AND WELFARE

**To:** Senate Committee on Federal and State Affairs  
**From:** Senator Brungardt, Senator Lyon, and Senator Gooch  
**Re:** Second Subcommittee Report on SB 152

**Background.** The Subcommittee on SB 152 held a hearing on the bill on February 15, 2001 and received a briefing from staff, and testimony from the Division of Alcoholic Beverage Control (ABC) and a number of representatives of the industry. At the full Committee hearing on the bill, a number of amendments were proposed by various conferees. The Chairman directed the Subcommittee to meet again in order to review the proposed amendments. The Subcommittee held a second hearing on February 28, 2001 to discuss the amendments.

The bill contains three major provisions:

1. Currently, furnishing alcoholic liquor and cereal malt beverages (CMB) to minors are criminal violations contained in two separate statutes. The bill combines these two violations into one statute in order to simplify the process of citing and prosecuting individuals who furnish either alcoholic liquor or CMB to minors. This change will mirror the provisions of KSA 41-727, which makes it unlawful for minors to purchase or consume both alcoholic liquor or CMB. (The existing exemption which allows a parent or guardian to furnish CMB to their child is retained in the new language.)
2. The second provision concerns the residency requirements for employees of the Division of Alcoholic Beverage Control. Current law requires that the Director must have resided in Kansas for 5 years and the Deputy Director for 2 years. The revised language states that the Director and all employees of the Division must be US citizens and residents of Kansas.
3. The third provision concerns the requirements for a renewal license for a liquor or CMB licensee. Current law contains an exception that allows a liquor or CMB licensee to renew a license even though the person's spouse is ineligible for any reason other than citizenship, residence requirements, or age. The bill would eliminate this exception, and, thus,

Senate Fed + State  
3-6-01  
Attachment 8-1

prevent an individual from obtaining or renewing a license if that individual's spouse is ineligible to receive a license for any reason other than the three noted above.

**Testimony.** The Acting Director of Alcoholic Beverage Control testified in support of SB 152. He also proposed several amendments to the third provision noted above, concerning renewal licenses. Most representatives of the industry supported the changes noted in items 1 and 2 above. One representative opposed combining the violations sections noted in item 1 into one statute. Nearly all of the industry representatives expressed opposition to the change proposed in item 3, which would delete an existing exception relating to renewal of liquor and CMB licensees.

The Subcommittee held a second hearing for the purpose of reviewing the proposed amendments. The Acting Director of ABC proposed amendments to the bill sections dealing with the qualifications for licensure affecting spouses. The amendments would limit the renewal disqualifications to "a person whose spouse has been convicted of a felony or other disqualifying crime under this section if the crime was committed during a time that the spouse held a license under this act." The Acting Director stated that this new language would address the problem which ABC is trying to reach.

A representative of the Kansas Licensed Beverage Association also proposed an amendment which would affect the bond requirements for liquor licensees. The amendment provides that the bond posted by licensees could be refunded if the licensee stays current in their drink excise tax payments for 12 months. The Acting Director of ABC did not oppose the bond relief amendment, but recommended that the time period be extended to 24 months and that the requirement for licensees to be current include both liquor taxes and also sales and withholding taxes in order to be released from the bond requirement.

**Recommendations.** The Subcommittee is generally supportive of the changes proposed by the Acting Director in SB 152. The Subcommittee supports combining the two violation statutes into one statute and revising the residency requirements for the Director and ABC employees. The Subcommittee also does support the amendments proposed by ABC in item 3 concerning the renewal requirements of a spouse.

The Subcommittee also endorses the amendments providing bond relief to licensees who are current in their liquor taxes, with the extension of the time period to 24 months as recommended by the Director. The Subcommittee feels that the licensees should only be required to be current in their liquor tax payments. The full Committee may wish to discuss whether the requirement should be extended to other taxes, such as sales and withholding taxes.

The full Committee may still wish to address the policy question of spousal responsibility for licensure. The Subcommittee recommends that these proposed changes be approved and that the full Committee report SB 152 favorably.