

Approved
Date: *February 14, 2001*

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson John Vratil at 9:42 a.m. on February 8, 2001 in Room 123-S of the Capitol.

All members were present except: Sen. Gilstrap (excused)

Committee staff present:

Gordon Self, Revisor
Mike Heim, Research
Mary Blair, Secretary

Conferees appearing before the committee:

Attorney General (AG) Carla Stovall
Phillip Journey, Attorney, President, Kansas State Rifle Association; Director, Kansas Second Amendment Society
Bob Hodgdon, President, Hodgdon Powder Company
Sandy Jacquot, Legal Counsel, League of Kansas Municipalities (LKM)
Ashley Sherard, Johnson County
Judy Moler, General Counsel, Kansas Association of Counties (KAC)
George Peterson, Hunter Education Instructor
Mike Reed, DeSoto, KS
Bob Curtis, Homeowner, Lenexa
Glenn Cox, Hill City, KS
Diane Linver, City of Lenexa
Susan Weins, Whispering Hills Homes Association (WHHA), Lenexa, KS

Others attending: see attached list

Minutes of the February 6 and 7 meetings were approved on a motion by Senator Donovan, seconded by Senator Schmidt. Carried.

SB 132—relating to aggravated battery

Conferee AG Stovall testified in support of **SB 132**. She presented a brief history of the bill which is one of several bills originally proposed in 1999 by her office as recommended by the Far-Reaching Alteration of Traffic and Alcohol Laws Task Force (FATAL). She stated that the bill proposes amending “the aggravated battery statute to include unintentionally causing great bodily harm or bodily harm while driving or boating under the influence of alcohol or drugs or fleeing or attempting to elude a law enforcement officer.” (attachment 1) She urged favorable consideration of the bill.

Written testimony supporting **SB 132** was submitted by Lannie Ornburn, Assistant DA, Tenth Judicial District, Johnson County (attachment 2) and Mothers Against Drunk Driving (MADD) (attachment 3).

SB 116—concerning firearms, ammunition and firearms dealers; re: limit on certain civil actions

Conferee Journey testified in support of **SB 116**, a bill which would prevent “frivolous” lawsuits against firearms manufacturers, distributor and dealers. He stated these types of lawsuits have been filed by cities such as Chicago and Atlanta and are an attempt to make firearm manufacturers financially liable for acts of criminals based in part on the theory that these manufacturers negligently market their products or create a public nuisance. He discussed the difference between real liability suits and frivolous suits and hypothesized the outcome of a successful frivolous suit. He further discussed the amount of revenue the state realizes from sport hunting. He urged immediate passage of this bill. (attachment 4)

Conferee Hodgdon testified in support of **SB 116**. He presented a detailed review of the significant economic contribution the firearms and related industries bring to the state of Kansas as well as nationally. He pointed out that hunting, recreational shooting, and the purchase of firearms for personal or home protection are a part of our national heritage and he urged passage of the bill to protect this industry. (attachment 5)

Written testimony supporting **SB 116** was submitted by James Chambers, National Shooting Sports Foundation, Inc. ([attachment 6](#))

Conferee Jacquot testified in opposition to **SB 116** stating that the bill would prohibit municipalities from exercising their fundamental right to sue. She stated this sets a dangerous precedent and preempts the home rule authority of cities. She strongly urged Committee to reject the bill as a matter of sound public policy. ([attachment 7](#))

Conferee Sherard testified in opposition to **SB 116** stating that this bill preempts local governments' traditional regulatory and enforcement authority, and creates a poor precedent. She strongly urged Committee to reject the bill. ([attachment 8](#))

Conferee Moler testified in opposition to **SB 116** citing the statute that afforded Kansas counties the ability to sue and be sued and stated that this bill would take away that right. She suggested passage of this bill would set a dangerous precedent. ([attachment 9](#))

Written testimony opposing **SB 116** was submitted by Mike Taylor, representing the City of Wichita. ([attachment 10](#))

SB 117—providing civil immunity to persons who operate or use sport shooting ranges

Conferee Journey testified in support of **SB 117**, a bill which would protect public and private shooting facilities. He presented an overview of shooting facilities in Kansas, discussed why they are needed, and discussed the economic impact they have on the Kansas economy. He stated that the Kansas Department of Wildlife and Parks (KDWP) supports a similar bill and indicated that the governor was in favor of the bill.. ([attachment 11](#))

Conferee Petersen testified in support of **SB 117**. He discussed the Kansas Hunter Education program and his role as one of approximately 1500 Kansas Hunter Education volunteer instructors. He stated range facilities are often used to provide hands-on experience for learners as well as a training and practice facility for the Olympics and other competitions. ([attachment 12](#))

Conferee Reid testified in support of **SB 117** presenting a brief overview of the DeSoto shooting range. He stated there was a need for legislation to protect it. ([no attachment](#))

Written testimony supporting **SB 117** was submitted by Verne and Joanne Dow, ([attachment 13](#)) Clint Riley KDWP, ([attachment 14](#)) Tom Lewis, ([attachment 15](#)) and David Lawrence. ([attachment 16](#)) Written testimony supporting both **SB 116** and **SB 117** was submitted by Phil Mellor, Wichita. ([attachment 17](#))

Conferee Cox testified as an opponent of **SB 117**. He discussed his "quality of life" as a homeowner living near a shooting range. He stated he would support regulated shooting ranges and discussed types of regulation he would like to see imposed on them. He further suggested the KDWP mediate concerns by citizens living within a specified distance of a range. ([attachment 18](#))

Conferee Jacquot testified in opposition to **SB 117** stating that the bill erodes local control by prohibiting the use by municipalities of nuisance and certain land use laws. She also explained how the bill goes beyond the current nonconforming use statute. ([attachment 19](#))

Conferee Linver testified in opposition to **SB 117**. She presented an overview of what this legislation proposes to do and reiterated the views of the previous Conferee. ([attachment 20](#))

Conferee Wiens, on behalf of a group of approximately 200 citizens in Lenexa, KS, testified in opposition to **SB 117**. ([attachment 21](#))

Written testimony opposing **SB 117** was submitted by Ashley Sherard, Johnson County Administrator's Office, ([attachment 22](#)) Judy Moler, Kansas Association of Counties, ([attachment 23](#)) and Mike Taylor, City of Wichita. ([attachment 24](#))

The meeting adjourned at 10:31 a.m. The next meeting is February 12, 2001.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: February 8, 2001

NAME	REPRESENTING
James A. McClinton, Policy Admin.	Juvenile Justice Authority
Ami Hyten	Office of Jud. Admin.
LANNIE ORNBURN	JOHNSON, COUNTY WA
MICHAEL REBO	MILL CREEK RIFLE CLUB
Robert Collins	KE Kearney Law OFFICE
Robert D. Curtis	self
Jeff Bottkberg	Kansas Sto. H's Ass'n
Jim KEATINGE	KANS SAFER KIDS COAL.
Mike Burgess	Kansas Sportmens Alliance
Kent Rains	Kansas Sportsmans Alliance
Lee Criter	" " "
Tom Burgess	KSA
Rick Wilkerson	Farmers Alliance
Denny Burgess	Sportsmans Alliance
John Skippes	NR A
Robert E. Hodgdon	KSA
Gerald A. Neely	KSA
Bernie Stocum	KSA 5
W ^m A. Ward	"

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Feb. 8, 2001

NAME	REPRESENTING
Joe Harold	KSC
Jan Bracke	KSC
Billy Tombs	KSC
Kelly Kuetala	City of Overland Park
Julie Mober	Ks. Assn of Counties
Suzanne Jacques	LKM
Ashley Sherard	Johnson County
Tommy Cox	Self
Barb Conant	Ks. Trial Lawyers Assoc
Jennifer O'H	Senator Co. strap
George Peterson	Ks. Grand Amalgamated Society
Wanda Linn	City of Lenexa
Susan Wiers	Whispering Hills Homes Assoc.
Debbie Huber	Whispering Hills - Lenexa president



State of Kansas

Office of the Attorney General

120 S.W. 10th Avenue, 2ND FLOOR, TOPEKA, KANSAS 66612-1597

TESTIMONY OF

CARLA J. STOVALL
ATTORNEY GENERAL

ATTORNEY GENERAL CARLA J. STOVALL
BEFORE THE SENATE JUDICIARY COMMITTEE

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MAIN PHONE: (785) 296-2215
FAX: 296-6296

RE: SENATE BILL 132

February 8, 2001

Senator Vratil and Members of the Committee:

Thank you for the opportunity to appear before you today to ask for your support on Senate Bill 132 which was introduced through this committee. Senate Bill 132 is one of several bills originally proposed in 1999 by my office on behalf of the Far-Reaching Alteration of Traffic and Alcohol Laws Task Force (FATAL), which I created to conduct a comprehensive examination of current traffic and alcohol laws and provide recommendations to change these laws.

Senate Bill 132 proposes amending the aggravated battery statute, K.S.A. 21-3414, to include unintentionally causing great bodily harm or bodily harm while driving or boating under the influence of alcohol or drugs or fleeing or attempting to elude a law enforcement officer. This Task Force recommendation was a result of the Kansas Supreme Court's decision in the case of *State v. Huser*, 265 Kan. 228 (1998), where the Court held that simply driving while intoxicated and causing an injury does not necessarily equate to reckless conduct as required under the aggravated battery statute. The members of the FATAL Task Force feel very strongly that there should be appropriate felony penalties for individuals who seriously injure innocent parties while committing these crimes.

There is absolutely no denying the fact that drunk driving is a serious and deadly problem in our State and our nation. Drunk driving is the number one cause of injury nationwide of young people. The FATAL Task Force wants you to know that they are convinced that serious steps must be taken to address the problem of drunk driving, and they, like myself, are committed to strengthening our State laws dealing with drunk drivers. We are confident that the changes proposed in this bill will save lives by sending a strong message that there are serious penalties and consequences to any person who drives while under the influence of alcohol or drugs.

On behalf of the FATAL Task Force, I would urge your favorable consideration of Senate Bill 132.

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State of Kansas

Office of the Attorney General

120 S.W. 10th Avenue, 2ND FLOOR, TOPEKA, KANSAS 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

**Attorney General Carla Stovall's
Far-reaching Alteration of Traffic and Alcohol Laws
(FATAL) Task Force**

MAIN PHONE: (785) 296-2215
FAX: 296-6296

Criminal:

Brad Ambrosier, Attorney, Elkhart
Don Kaufman, Moundridge
Terry Malone, Dodge City City Attorney, Dodge City
Craig Spomer, Wabaunsee County Attorney, Alma
Max Sutherland, MADD, Topeka

Administrative:

Mike Watson, Director, Riley County Police Department
Jim Keller, Department of Revenue, Topeka
Mary Ann Khoury, DUI Victim Center of Kansas, Wichita
Sergeant Charlie Kohler, Kansas Highway Patrol, Salina
Senator Lana Oleen, Manhattan
Honorable John Sanderson, District Court Judge, Emporia
Stan Sutton, Kansas Department of Health and Environment, Topeka

Prevention:

Rosalie Thornburgh, Bureau of Traffic Safety, Topeka
Captain Gayle Beth, Kansas City Police Department, Kansas City
R.E. "Tuck" Duncan, Topeka
Senator David Haley, Kansas City
David Nance, City Council, Pittsburg
Rick Wilborn, Alliance Insurance, McPherson

Staff:

Julienne Maska, Victims' Rights Coordinator, Topeka
Kevin Graham, Assistant Attorney General, Topeka
Nancy Lindberg, Assistant to the Attorney General, Topeka

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TESTIMONY TO THE SENATE JUDICIARY COMMITTEE

REGARDING SENATE BILL 132

Lannie C. Ornburn Jr.,

Assistant District Attorney - Tenth Judicial District

The Johnson County District Attorney's Office prosecutes hundreds of DUI cases every year. Unfortunately, some of those cases involve very serious injuries to innocent victims. SB 132 will make it easier for prosecutors to hold DUI defendants responsible for the damage, injuries, and permanent scarring that they cause as a result of their decision to drive drunk.

As 21-3414 now stands, prosecutors are required to prove intentional or reckless conduct. Most DUI cases do not involve the intent to harm others. Consequently, the State is required to prove reckless conduct on behalf of the defendant under the current version of 21-3414. By definition, "reckless" conduct can be difficult to establish because it requires a "realization of the imminence of danger to person of another and a conscious and unjustifiable disregard of that danger." K.S.A. 21-3201(c). The proposed legislative changes will make it easier to prosecute defendants for the crime of aggravated battery while committing a DUI or attempting to commit a DUI.

The proposed changes to 21-3414 are entirely consistent with this State's policy of being tough on those who drink and drive. In recent years, the BAC limits have dropped from .10 to .08, mandatory minimum jail sentences have been required, a new statute for DUI involuntary manslaughter has been enacted, and tougher provisions for those under the age

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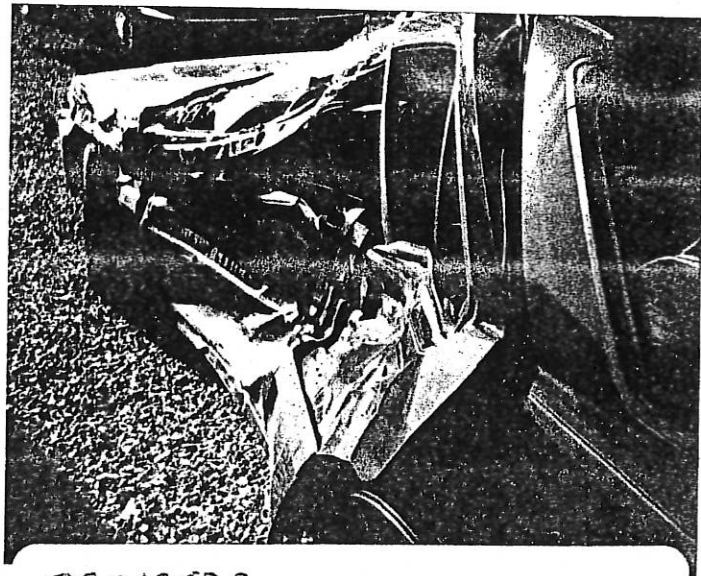
of 21 who choose to drink and drive have been created. The proposed legislative changes to K.S.A. 21-3414 are in accordance with recent legislative actions concerning those who choose to drink and drive on the roads of the State of Kansas. The changes are tough, they are fair, and they do not place undue burden on our prison system. We fully support the proposed crime of Aggravated Battery while DUI and encourage the passage of this bill.



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092999 153 + Lindenwood.



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Agg Battery 100599

Mr. Watson,

After reading through the newspaper clippings I get furious when I think about how the paper quoted you: "What's the big deal? It was **JUST** a traffic accident!" Meanwhile as you were quoted saying this, my husband was praying & crying at my bedside--wondering if I was going to make it, let alone the life of our unborn child. We had just found out 5 days before the accident that we were pregnant. I was unconscious, almost to the point of a coma for several days and for the following month I didn't talk or open my eyes for extended periods of time. I missed the entire month of October. I feel like I was robbed, not only of my body's physical motions but, of the things that I enjoy.

For my husband's birthday, I had booked a trip for us to fly to Chicago and stay downtown in a bed & breakfast with my husband's high school best friend & his new wife. We were supposed to leave the Friday after my accident. But instead of spending time in Chicago with his wife & friends, my husband spent his birthday wondering if his wife was going to live.

I didn't get to decorate our house with the new Halloween decorations I had just bought at Olathe Old Settler's Days. Nor did I get to pass out candy on Halloween or go to our friends Costume Party.

Autumn is one of my favorite times of the year. I didn't get to see our trees' leaves turn this fall. I didn't get to go to Weston, MO like we had planned. Our trip with another couple for mid October to Chateau on the Lake in Branson, MO got cancelled also. I feel robbed. Those were just the things in the fall that were taken away from us because you decided to get drunk & drive.

I thank God that you did cross over into my lane and hit my car because if you would of gone the other way you could have killed some little children who were having outdoor soccer practice at the school on the other side of your truck. Thank God I was somewhat protected by my car.

I also thank God daily for the hundreds of people who prayed for me. You and I both got lucky that I didn't die from the accident. I feel so lucky that it's because of the power of prayer that I am recovering so well from my brain injury. Because my left side was temporarily paralyzed, I'm making a slow progress but I can now spray my deodorant can with my left hand; I

workout with 2 pound weights on my left side. I am trying to build up my strength so I can lift up our baby. I can walk for 11 minutes on the treadmill before I get worn out. My left leg still keeps up at me night with pain and I still feel ice cold on my left side, even when the rest of my body is hot. I'm still working on my typing speed, reading and my speech. Therapy is helping me progress and to meet my goals.

You were also quoted, "That You Were Taking Full Responsibility For The Accident" This also makes me furious. *That you, someone who was previously convicted with DUIs were even allowed to drive again.* Also knowing this, that the State of Kansas would allow you to obtain only minimum liability insurance requirements which is \$25,000. How long do you think that lasted? We were a two-income family. But after you entered into our lives we quickly went to a single-income family with a baby on the way! *But, you are taking "full responsibility"?? What a joke!* Because of Kansas Law, you & your family, don't have to worry about losing your house. You're the one convicted with DUI's, yet I am the one who has to take a driver's course again!!

Even though I am so furious with you and your actions, I still pray for you. I pray that the Lord will take away my anger against you.

Vicki Kelleher



Mothers Against Drunk Driving

3601 SW 29th Street • Topeka, KS 66614 • (785) 271-7525 • Fax (785) 271-0797 • 1 (800) 228-6233

KANSAS STATE OFFICE

2/6/01

Senator John Vratil, Chairman
Senate Judiciary Committee
State Capitol, Room 120-S
300 SW 10th Ave.
Topeka, Kansas 66612

Dear Senator Vratil and Senate Judiciary Committee Members:

Kansas MADD will be unable to have a representative testify February 8th in support of Senate Bill 132. Kansas MADD would like to introduce written testimony on behalf of this important piece of legislation.

Kansas MADD victim service advocates have indicated that under the present aggravated battery statutes, charges relating to DUI aggravated battery, are filed in less than one-half the cases they assist and that the conviction rate of those cases filed is approximately 33%.

Kansas MADD ask for your support for Senate Bill 132.

Sincerely,

Dee Meyer

Dee Meyer
State Chairperson
Kansas MADD

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Mothers Against Drunk Driving

3601 SW 29th Street • Topeka, KS 66614 • (785) 271-7525 • Fax (785) 271-0797 • 1 (800) 228-6233

KANSAS STATE OFFICE

February 6, 2001

John Vratil, Chairman
Senate Judiciary Committee
State Capital, Room 120S
300 SW 10th Avenue
Topeka, Kansas 66612

Dear Senator Vratil and Senate Judiciary Committee Members:

Prior to 1993, Kansas Statute K.S.A. 21-3405b provided for separate and distinct offenses for vehicular battery. Those offenses were unintentionally causing bodily harm to another while driving under the influence, or driving recklessly, or eluding an officer. In *State V. Mourning* 233 Kan. 678, 644 P .2d 857 1983, it was determined that simply driving under the influence does not, standing alone, amount to reckless behavior. "Ones behavior is only reckless if he or she realizes that his or her conduct creates imminent danger to another person but consciously and unjustifiably disregards the danger". (*State V. Mourning*) Thus K.S.A. 21-3405b provided a separate offense for unintentionally causing bodily harm to another while driving under the influence. Reckless behavior was a separate offense.

In 1993, the vehicular battery statute K.S.A. 21-3405b was repealed and the legislature amended both misdemeanor battery statute and the general battery to include reckless acts as well as intentional acts. Under the new statute K.S.A.21-3414, vehicular battery was replaced with aggravated battery which punishes recklessness. Unintentionally causing bodily harm to another while driving under the influence under statute K.S.A. 21-3405b became recklessly causing great bodily harm to another person or disfigurement of another person under statute K.S.A. 21-3414. For a conviction of aggravated battery in a DUI case, the prosecutor must include independent evidence in addition to driving under the influence, that the offender was displaying reckless behavior.

In a Supreme Court of Kansas case No. 80,128, *State of Kansas, Appellant V. Dalene Gail Huser, Appellee*, the court reaffirmed *State V. Mourning* that simply driving under the influence does not, standing alone, amount to reckless behavior. In its syllabus, the court noted that "the legislature repealed a criminal statute which punished a defendant who caused bodily injury to a victim while driving under the influence and replaced it

with a criminal statute which punishes recklessness requiring evidence that the drunk driver also drove recklessly".

During 1999, Kansas recorded 3,273 alcohol-related motor vehicle crashes involving 6,890 individuals resulting in 2,437 injuries, 83 fatalities and an estimated \$122.7 million in direct costs to the people of Kansas. Approximately 47% (1,156) of the injuries recorded were not the drinking drivers. Approximately 132 of those injured were children under the age of 14 years.

Individuals who choose to drink and drive and injure men, women and children should be punished. Conviction of an offender for aggravated battery while driving under the influence should not be based on reckless behavior. It should be based on the fact that he or she chose to drive under the influence and as a result injured someone.

Kansas MADD strongly supports Senate Bill 132 and asks for your support for this extremely important piece of legislation.

Sincerely,



Dee Meyer, State Chairperson
Kansas MADD

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Phillip B. Journey
President Kansas Second Amendment Society (PAC)
Director-at-Large Kansas State Rifle Assoc.

Testimony in support of SB 116
An Act concerning firearms and firearms dealers; relating to the limitation
on certain civil actions

SB 116 is a bill that is sweeping the nation's state legislatures, in Texas then Governor George W. Bush signed a similar bill a year or two ago. The legislation is a reaction to the lawsuits filed by cities such as Chicago and Atlanta. The lawsuits filed by these cities attempt to make firearms manufactures financially liable for the acts of criminals based in part on the theory that manufacturers, distributors and dealers negligently market their products or create a public nuisance. These lawsuits are an attempt by lawyers to copy the financial success of the tobacco suits. Unlike tobacco there is a constitutionally protected right to keep and bear arms. The transparent goal of taking a large number of weak cases to court simultaneously is not to win verdicts, but to bankrupt the industry by inflicting massive legal expenses upon them.

Firearms manufactures, distributors and dealers have strong arguments for the substantial benefits their products offer their customers, guns are used three times more often to protect against crime than they are to commit crime. I would be surprised to hear where a cigarette saved someone's life. The Chicago Tribune wrote in a recent editorial " the Chicago lawsuit attempts to elevate good morality...not [to] sell guns to people you have reason to think are bad guys... to the level of a legal requirement that no legislation has seen fit to impose.... It seeks to use the courts and the public treasury to make the gun industry comply...or face bankruptcy." In real product liability suits injured plaintiffs sue manufactures of defective products and seek compensation for injuries caused by those defects. Defendants in such suits can assert the defense that the product was not defective and worked as intended. However the suits against the firearms industry are for products that properly yet tragically functioned as intended. Criminal or negligent use of correctly working products is not a cause of action against the manufacturer, distributor or retailer. "The mere fact that a product is capable of being misused to criminal ends does not render the product defective" *Armijo v. Ex Cam Inc.* 656 F.Supp771, 773 (D. N.M. 1987)

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These suits are merely attempts to end firearm ownership in this nation when the proponents of disarming the American people are unable to politically accomplish their goals through the legislature and lawyers seeking to enrich themselves at the expense of our liberty. This body sets public policy for the state and this bill stands for the proposition that, when criminals commit crimes, the criminal is to blame, not the store that complies with all federal, state and local laws. If marginally successful these suits could substantially increase the price of firearms across the board. This price increase will increase the costs to all of us including local and state governments. It will put the price of self defense further out of the reach of the poor who need the means to protect themselves, their families and their property the most.

Kansas and out of state hunters who come here spend 555 million dollars each year in Kansas. This consumer spending translates into 14,500 jobs, 255 million paid in wages, over 32 million in state revenue and 1.1 Billion in economic activity in the state annually according to the Congressional Sportsmen's Foundation. There are 437,000 Kansas sportsmen and women in the state, which is more than the combined population of the cities of Wichita and Topeka. They deserve to have their sport protected from these frivolous civil suits.

This bill does not prevent appropriate suits from being brought against those who sell defective products in breach of warranties by individuals or governmental entities. It does not prevent suits against those who negligently or intentionally sell firearms to persons who should not legally possess or purchase firearms. If these frivolous municipal lawsuits succeed it will set a dangerous precedent establishing legal theories that will be applied to other industries. Suits against car manufactures or liquor producers their distributors and retailers for the carnage caused by drunk drivers. Suits against the beef industry for heart disease. Suits against cutlery manufactures for the crime perpetrated with their products. The possibilities are endless as long as there are deep pockets to reach into. The organizations I am here representing today urge you to stop it here and now and to fast track this bill to the full House for approval as soon as possible. The KSRA and KSAS have thousands of members in the state.

Respectfully Submitted
Phillip B. Journey (316) 269-0602

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KANSAS SENATE BILL #116
Hearings before Senate Judiciary Committee February 8, 2001

My name is Robert Hodgdon. I am President of Hodgdon Powder Company, which has offices in Overland Park and a manufacturing plant in Herington, KS. We package and store products in our Shawnee facility, and do some processing and storage in the old ammunition facilities at Forbes Air Force Base in Topeka. We manufacture Pyrodex, a propellant for muzzleloading sportsmen, and produce smokeless powder primarily for sportsmen who reload their own ammunition. We sell to many ammunition manufacturers, including those as large as Remington Arms, and to one which manufactures specialty ammunition for the Navy Seals program. One of our products separates the bolts holding the liquid fuel tanks to the NASA shuttles. We hire 75 people who work in our three locations; have around a \$4.1 million payroll.

My testimony is prepared to inform the committee of the economic importance of the firearms and related industries to the State of Kansas, which could be grievously injured should these manufacturers be impaired or bankrupted by the massive legal costs incurred fighting newly-concocted legal theories in courts throughout the U.S.

The firearms industry goes far beyond only the manufacturers of firearms and ammunition, and those engaged in its commerce are employed in nearly every city and town in Kansas, as well as in many rural settings. The sportsmen who hunt, or are involved in sports shooting activities enjoy their sport, not just during a season, but around the calendar. They equip themselves not only with the necessary firearms and ammunition, but with specialized wearing apparel and accessories, raingear and boots, SUV's, a variety of off-road vehicles, optical gear, photographic equipment, game calls and devices, duffels and luggage, gun cases, cleaning equipment, and gun safes for storage, to name a few. Their interest in this sport carries over into facets which become hobbies of their own, requiring equipment such as reloading tools and components, chronographs, home gunsmithing items, woodworking equipment, taxidermy equipment and supplies, wild animal feeders, and animal care supplies, etc. Technology has not left the hunter behind; there are every imaginable type of cyber-hunting experiences available on computer programs to let the activist realistically practice off-season.

Among manufacturers in Kansas who depend on firearms are:

Coleman Co.	Wichita
Sugar Valley Products	Mound City
Bell & Carson	Dodge City
Bushnell Corp.	Overland Park
Hodgdon Powder Co.	Overland Park
Nelson/Weather-rite	Lenexa
Quality Machine Sales	Wichita
Sellior & Bellot	Shawnee Mission
CZ Guns	Kansas City, KS
Outland Sports	Overland Park
Discover the Outdoors	Overland Park

plus at least 30 shooting parks, and manufacturers reps. who belong to NSSF.

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he dollars brought to rural communities during hunting seasons are often the backbone of their economy. Motel rooms filled, restaurants serving meals, gasoline being pumped, and supplies being replaced at the local gunshop or hardware store helps sustain economies, which otherwise may rely solely on the shifting fortunes of agriculture or animal husbandry. Fortune Magazine says, "there, merchants look to hunting season the way Macy's looks to Christmas: it can make or break the year."

Obviously, all of law enforcement in the State of Kansas and its municipalities depend on products produced by our industry, as do security companies and officers. Programs of the Kansas National Guard and armed forces stationed on Kansas bases revolve significantly around small arms manufactured by the firearms industry. In short, our citizens would be much less secure without a continuing flow of products, which are now threatened by lawsuits recently initiated by cities against the industry.

According to the National Shooting Sports Foundation, overall shooting sports related activity in the U.S. amounts to \$30.9 billion annually! This activity supports more than 986,000 jobs. This is less than 1 percent of all U.S. employment, but represents more people than are employed in Wyoming and West Virginia combined, and more people than work in cities such as Kansas City and Wichita combined.

IN PERSPECTIVE

The following comparisons are provided to help put in perspective the economic significance of the sporting firearms and ammunition industries and related activities.

- In the few minutes it takes to review this report, the nation's hunters and shooters will generate enough economic activity to support eight jobs.
- Each day, the firearms and ammunition industry, and related hunting and shooting activities, generate enough economic activity to support 1,640 jobs.
- Hunting and shooting related industries employ more people than all Walmart stores.
- The \$30.0 billion in economic activity generated by the hunting and shooting sports industries exceeds the annual sales of companies such as Coca-Cola, Anheuser Busch, McDonalds, Home Depot, Johnson & Johnson, Caterpillar Tractor, Goodyear Tire & Rubber, Hewlett Packard, RJR Nabisco and scores of other highly recognizable "Fortune 500" companies.
- The blockbuster movie Titanic grossed \$376 million in 9 weeks. The hunting and shooting sports generate that much in just 4 days.
- The entire motion picture industry gross revenue from theater admissions is about \$5 billion, annually-the firearms and ammunition industry and related activities generate that much in two months.

- More than 21 million Americans participated in shotgun, handgun and rifle target shooting activities in 1998. That's over three times as many people who played racquetball during the same period, more than twice as many as take part in water skiing, and is roughly the same number of people who played golf.
- Hunting and target shooting activity employ more people than Chrysler, Phillip Morris, United Parcel Service, and Ford combined.

Hunting and target shooting in Kansas accounts for some **\$581 million** in economic activity each year. Retail sales data calculated from the U.S. Bureau of Census and applied to U.S. Fish & Wildlife figures, shows the multiplier effect of economic impact on Kansas can total as much as **\$1.1 billion**. Firearms products and jobs annually directly donate to Kansas sales tax of **\$16.7 million**, and income tax of **\$4.2 million**. Sportsmen's license fees are **\$15.2 million**. The Federal Aid in Wildlife Restoration Trust Funds (an excise tax of 11% on firearms and ammunition imposed by the industry on themselves in the 1930's) generates an additional **\$2.6 million** per year to the Kansas Dept. of Wildlife and Parks; for a total direct tax contribution to the State coffers of **\$38.7 million (not including taxes on ancillary activities)**.

In Missouri, the greatest tourist attraction is not the Arch in St. Louis, Silver Dollar City, Branson itself, the Lake of the Ozarks, or any other lake. It is the retail store and museum of Johnny Morris's Outdoor World Bass Pro in Springfield! This reflects the tremendous power of the outdoors and nature's pull on sportsmen.

According to the BATF, Kansas has 1493 federally licensed firearms dealers, some of which represent multiple locations. Perhaps the sporting goods department at Walmart (s) would be Kansas' greatest tourist attraction, especially right before and during our hunting season.

There were 209,734 hunters in Kansas in 1999, the last year for which we have figures. The National Sporting Goods Association, in their 1999 annual report, reported there were 177,000 target shooters in the state. This would indicate 14% of Kansans participate in a shooting sports event at least once a year.

SUMMARY

We do not maintain that hunting, recreational shooting, or the purchase of firearms for personal or home protection are acceptable merely because they make a significant contribution to our national and local economies. These activities are an acceptable, responsible and desirable ingredient of our nation's heritage, and should be continued, because experience, statistical evidence and common sense tells us so. The economic impact of these activities must be considered when well-meaning, but less than fully informed individuals, suggest that America would be a better place without hunting, recreational shooting, or the right of self-protection.



National Shooting Sports Foundation, Inc.

WASHINGTON OFFICE · 101 D STREET, SE · WASHINGTON, DC 20003 · TEL 202-544-1610 · FAX 202-543-5865

JAMES E. CHAMBERS
LIEUTENANT GENERAL, USAF (RETIRED)
VICE PRESIDENT GOVERNMENT AFFAIRS

MEMORANDUM IN SUPPORT

TO: Honorable Members of the Senate Judiciary Committee
FR: James E. Chambers, Vice President for Government Relations
National Shooting Sports Foundation
RE: SB 116
Date: February 6, 2001

On behalf of more than 1,800 members of the National Shooting Sports Foundation, I respectfully urge you to support SB 116, a proposal which would protect lawful manufacturers and sellers of firearms from the types of frivolous and financially devastating lawsuits that have been leveled against the firearms industry.

Trial lawyers and city officials eager to use the court system to dictate policy issues that are rightfully the purview of state and federal legislators have targeted gun manufacturers. The dismissal of the suit brought against gun manufacturers by the City of Cincinnati, Ohio, clearly illustrates this point. The presiding judge wrote in his decision: "The City's complaint is an improper attempt to have this court substitute its judgment for that of the legislature." The recent decision by the judge dismissing the City of Gary, Indiana's suit found that "In substance, the City and its Mayor opt to engage in arbitrary social reform by invoking the process of the Judicial Branch of Government.... the City should not be permitted to invoke the jurisdiction of this Court to overlay or supplement existing civil and criminal gun statutes and process (either state and federal) by means of a series of judicial fiats which, when taken together, would only create a body of 'judge made' gun laws."

By supporting this bill, you are protecting Kansas jobs and Kansas citizens. Each year, the hunting and shooting sports market generates in excess of \$30.9 billion in economic activity supporting nearly 1,000,000 jobs. Thousands of these jobs are located in Kansas and help bring prosperity to your state's rural communities.

The profligate use of lawsuits to force changes in social policy that are the jurisdiction of elected state lawmakers presents a threat to the entire business community. Your action to prevent this from happening marks a big step in protecting Kansas jobs, ensuring proper legislative review, and safeguarding the ability of citizens to exercise their Second Amendment Right.

*SnJed
2-8-01
att 6*



League of Kansas Municipalities

300 SW 8th Avenue
Topeka, Kansas 66603-3912
Phone: (785) 354-9565
Fax: (785) 354-4186

S. Jud
2-8-01
att 7

TO: Senate Judiciary Committee
FROM: Sandy Jacquot, Director of Law/Legal Counsel
DATE: February 8, 2001
RE: Opposition to SB 116

First, I would like to thank the Committee for allowing the League of Kansas Municipalities to testify today in opposition to SB 116. One of the fundamental powers of cities, found in the very first statute that sets out the corporate powers of cities, K.S.A. 12-101*First*, is the power of cities to sue and be sued. This is a fundamental aspect of the corporate powers of the 628 cities in Kansas and modification of this power should not be undertaken lightly.

SB 116 identifies a specific group of manufacturers, trade associations and dealers and prohibits lawsuits brought by cities in Kansas on behalf of their citizens and taxpayers, against these manufacturers, trade associations and dealers. We suggest this is a dangerous road to start down. If this legislation is successful this year, we suspect that some other group will approach the legislature in the near future asking for the same consideration, essentially removing the possibility that a city, county or other municipality might bring a lawsuit against them.

We are unaware of any city in Kansas currently contemplating such a lawsuit. However, to set a precedent prohibiting lawsuits in this area as a matter of state statute appears to us to be extreme and unwise public policy. We strongly urge the committee to reject SB 116 as a matter of sound public policy.

Once again, I want to thank the Committee for the opportunity to appear before you today in opposition to SB 116.

S. Jud
2-8-01
att 7



Johnson County, Kansas

COUNTY ADMINISTRATOR'S OFFICE

5J
2-8-01
att 8

To: The Honorable John Vratil, Chairman
Members, Senate Judiciary Committee

From: Ashley Sherard

Date: February 8, 2001

Subject: **SB 116 – Limits on Civil Actions Against Firearms and Ammunitions Dealers**

I would like to express the Johnson County Commission's strong opposition to SB 116, which preempts the authority of any county or municipality to bring action against a firearms manufacturer, dealer or seller and declares that authority to be within the strict prerogative of the state.

The Commission opposes this bill because, in an attempt to carve out special protection for a single industry, it directly preempts local governments' traditional regulatory and enforcement authority. We believe communities are best served when local officials are allowed to conduct the business of their jurisdiction in a manner that best reflects residents' values and standards and best benefits that community. To this end, we believe it is critical that longstanding principles of local control, a cornerstone of Kansas government, be respected and retained.

SB 116, however, is a direct assault on local control. Further, we have very strong concerns regarding the poor precedent that would be set if the bill passes and is enacted into law.

Because it would preempt regulatory and enforcement authority traditionally recognized as being within the purview of local government and create a poor precedent in the process, the Johnson County Commission strongly urges you to reject SB 116. Thank you for your time and consideration.

In Jud
2-8-01
att 8



53
2-8-01
att9

Kansas Association of Counties
Testimony on SB 116
Before the Senate Judiciary Committee
By Judy A. Moler, General Counsel/Legislative Services Director
February 8, 2001

The Kansas Association of Counties opposes SB 116 which would take away counties' right to sue specific groups of manufacturers, trade associations, and dealers in the name of the citizens and the taxpayers of their county.

Kansas counties are afforded by statute, K.S.A. 19-101 the ability to sue and to be sued. This ability is the very core of the corporate statutory powers given to counties. This ability was upheld in a Kansas court case in the late 1800s and has not been overturned since that time.

Although, the Kansas Association of Counties is not aware of such lawsuit against the manufacturers, trade associations or dealers mentioned in SB 116, we would suggest that passage of this bill would signal a dangerous precedent in removing the county's ability to sue in the interest of their citizens and taxpayers.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to the KAC by calling (785) 272-2585.

6206 SW 9th Terrace
Topeka, KS 66615
785•272•2585
Fax 785•272•3585
email kac@ink.org

In Jud
2-8-01
att9

2-8-01



TESTIMONY

City of Wichita
Mike Taylor, Government Relations Director
455 N Main, Wichita, KS. 67202
Phone: 316.268.4351 Fax: 316.268.4519
Taylor_m@ci.wichita.ks.us

Senate Bill 116 Special Protection for Gun Manufacturers and Dealers

Delivered February 8, 2001
Senate Judiciary Committee

Senate Bill 116 would prohibit any local government from bringing a nuisance abatement or damage action against businesses lawfully making or dealing in guns or ammunition. All such suits would be reserved exclusively to the state. Obviously, this is a special interest bill designed to protect one particular industry.

It seems Senate Bill 116 is in response to lawsuits filed against gunmakers by several major cities in other parts of the country. It is highly unlikely the City of Wichita would ever want to or try to initiate such a lawsuit. But that's not the point. The debate over this bill needs to go way beyond gun manufacturers and dealers. This bill is bad public policy because it infringes on the rights of local government to protect citizens.

It's one thing to be concerned about the interests of gunmakers, gun dealers, gun owners and the positions of the National Rifle Association. It's another to create a special class of citizen which has immunity from laws everyone else has to follow. The City of Wichita is not interested in debating gun control or the right to keep and bear arms. The City of Wichita's opposition to Senate Bill 116 has nothing to do with guns. We oppose the bill because it sets the dangerous precedent of putting one type of business and industry above the law.

If you approve Senate Bill 116, are you prepared to also put other types of businesses and special interest groups above the law?

*Sn Jud
2-8-01
att 10*

33
2-8-11
att

Testimony in support of SB117
by Phillip B. Journey
President Kansas Second Amendment Society
Spokesperson Air Capital Gun Clubb
Kansas State Rifle Assoc. Director-at-Large, Member Legislative Committee

SB117 a bill intended to protect public and private shooting facilities. Currently 29 states have enacted similar laws. They are intended to protect facilities from civil lawsuits and hopefully it will include a section intended to prevent them from being zoned out of existence or condemned by Eminent Domain.

Many shooting ranges in Kansas have been in around for over 20 years. Some of them are now being surrounded by suburban development. At times subsequent property owners desire to increase their property values by eliminating these facilities through legal or political action. Shooting sports bring tens of millions to the Kansas economy each year. Shooting ranges provide recreational and educational opportunities to their members and the general public. More than half of Kansans own firearms. They all need safe places to shoot. Thousands of Kansans each year complete Hunter Education each year many of which are held on private shooting ranges. Many of the courses include live fire exercises. Prior to hunting firearms should be sited in. Many ranges open their facilities to the public on specific days to the general public. That must be done at a range where the distance to the target is a known distance.

Ranges are needed not only for informal recreational shooting but also for organized competition. Tens of thousands of Kansans compete in the various shooting disciplines each year. Thousands of competitors from out of state to Kansas to participate in the shooting sports. Cowboy shooting sports are the fastest growing disciplines. Youth training provides such useful personal training enhancing self-discipline and self reliance. The shooting sports are the only sport where competitors of both genders compete on head to head on an equal footing. Chisolm Trail Antique Gun Association of which I am a member not only donated \$1,000.00 to facilitate the Kansas State Young Hunter Education Challenge but also provided the facilities where the Kansas Department of Wildlife and Parks held the event last year and will do the same this year.

Law enforcement and the United States military use the private facilities in Kansas for training which are provided at no cost by clubs. When these are shut down the taxpayers must provide ranges for training and qualifying purposes. Air Capital Gun Club has in the past allowed its range to be used by the Kansas National Guard, federal law enforcement and state law enforcement agencies.

A bill like this one was supported by the Kansas Department of Wildlife and Parks, it passed the Kansas House of Representatives with over 110 votes and in a press statement Governor Graves indicated he would sign it.

Shooting ranges in Kansas provide support for a significant portion of the State's economy. Provide recreational and educational opportunities to Kansas youth. They also provide support for law enforcement and the Armed forces of the United States and the State of Kansas. They deserve this protection before it is to late.

Respectfully submitted
Phillip B. Journey 316-269-0602

Signed
2-8-11
att 11

55
2-8-01
att 12

**TESTIMONY REGARDING SENATE BILL 117
BEFORE THE SENATE JUDICIARY COMMITTEE, FEBRUARY 8, 2001**

Good Morning Chairman Vratil, and members of the Senate Judiciary Committee, my name is George Petersen and I am a representative of the Kansas Second Amendment Society. However I am giving this testimony as a Kansas Hunter Education Instructor. I appreciate the opportunity to make these brief comments to the Committee on Senate Bill 117. Although I am one of approximately 1500 volunteer Kansas Hunter Education Instructors my comments reflect my feelings on this bill.

As you are aware the Hunter education requirement was mandated by the legislature to affect all of those hunters born on or after July 1, 1957. The program became mandatory in 1972 and we have graduated almost 500,000 students since that date. I have been teaching for over 25 years in this program, and I am also a National Rifle Association firearms instructor, and a National Muzzleloading Firearms Instructor. Although the Kansas Hunter Ed program does not require live firing it is STRONGLY recommended and wherever possible we do have live firing for the students. Without range facilities many students cannot experience the opportunity to live fire under the guidance of trained instructors. I know that Senator Oleen and her family are graduates of this program, and had it not been for a scheduling conflict, her instructor, Mr. Ed Augustine from Junction City would be testifying in my place. I am very reluctant to take students to fire anywhere but a regular firing range.

With urban areas spreading at a fast pace, many ranges are being forced to close by rezoning practices of the growing city governments. Each young person with an interest in firearms will lose the opportunity for supervised safety training when these ranges are forced to close by the encroachment of the suburban community. We need to protect these ranges and Senate Bill 117 is certainly a positive step in this direction. Lets keep a place open for the training of our youth by protecting the existing ranges. We should remember that the first gold medal in the Sidney Olympics this last summer was won by a young lady from the USA in air rifle competition. Kim Rhodes won the first USA gold medal in the Atlanta Olympics in the trap shooting event in 1996, and we cannot forget Topekas' Margaret Thompson who shared the gold in small bore rifle in the 1976 Olympics in Montreal. Without ranges how could the young ladies have developed their skills? We have many young, very skilled shooters in this state. Let's give them a protected range to develop and maybe they will be on the victory stand in future Olympics Competition.

Safety training and education allows the youth to learn the safe way to handle and respect firearms.

Thank you for taking the time to listen to my comments. I will try to answer any questions you may have. .

*In Jud
2-8-01
att 12*

2-8-01
413

TO: Chairman John Vretil, Committee on Federal and State Affairs
FROM: Verne and Joanne Dow
SUBJECT: Senate Bill 117

We are charter members of The First Santa Fe Trail Plainmen Muzzleloading Club, and had planned on testifying today on the above referenced bill, but are unable to do so because of work. However we want to go onto record as supporting the bill.

It is difficult to find a place to shoot, and we have been fortunate to have had a range at the same location for over twenty-seven years. During this time we have had twenty seven state championship shoots as well as our monthly shoots. We provide a range available to our club members year round for camping as well as shooting, and in December we have a benefit shoot with donations going to a selected charity.

There are very few homes in the area, and we have been able to improve the range over the years to provide an excellent facility. The range is used by Boy Scouts and law enforcement officers as well as our club members.

The range protection bill will allow us to continue to enjoy the activity of shooting muzzle loading firearms and the history and tradition that goes with it without the fear of losing all of our work to encroaching development.

Verne and Joanne Dow
5735 SW Urish Road
Topoka, KS 66610
785-478-4952

AnJed
2-8-01
att 13



STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

Office of the Secretary
900 SW Jackson, Suite 502
Topeka, KS 66612-1233
785/296-2281 FAX 785/296-6953



2-8-01 written #14

SENATE BILL NO. 117

**Testimony Provided to
Senate Committee on Judiciary
February 8, 2001**

The Kansas Department of Wildlife and Parks is aware of many success stories, as well as controversies, surrounding the placement and operation of shooting range facilities. Among other avenues of involvement, Secretary Steve Williams currently serves as Chair of the Hunting Education and Shooting Sports Committee of the International Association of Fish and Wildlife Agencies, and therefore is exposed to shooting range issues across the nation. In the department's role to provide outdoor recreation in Kansas, including safe and responsible hunting opportunities, the continued availability of shooting ranges for public use is critical. Consequently, our department supports the passage of SB 117.

State agencies, private industry, and private organizations have made tremendous strides in the past few years to address concerns about shooting ranges. The amount of scientifically-based studies and information for range construction and operation available at this time is unprecedented. Organizations such as the National Shooting Sports Foundation, National Rifle Association, International Hunter Education Association, and numerous others have invested significant dollars into safe range development plans. Consequently, our department stands ready to use that information to develop accepted operation practices, as would be required by this legislation.

Concerning the need for shooting range facilities, our department believes a few facts are clear. The demand for recreational and competitive shooting facilities is on the increase nationwide. The number of non-traditional shooters is also increasing. Hunters continue to search for safe facilities to hone their shooting skills prior to hunting seasons. In addition, there is a growing trend to include live-firing exercises in the traditional hunter education curriculum in order to best prepare young hunters. Finally, shooters simply need safe and adequate facilities to shoot, and in the absence of such facilities, they may use inappropriate areas. Although prohibited, we are aware of informal "shooting ranges" on some public lands. We also know that many unsafe shooting scenarios occur on private land with no regulation. These public and private areas are unlikely to meet the rigid standards that state agencies or private organizations can recommend, and therefore they can lead to undesirable results.

We conclude that well-designed shooting ranges serve a valuable role in teaching safe firearm handling, developing responsible hunters, and providing recreation. SB 117 provides a mechanism to address safe range operation and long-term viability of shooting range facilities. Consequently, we offer our support for passage of this legislation.

In Jud
2-8-01
att 14

February 6, 2001

Senate Judiciary Committee

Senator John Vratil; Chairman,

Dear Senator Vratil and Committee Members,

My name is Tom Lewis and I live in Lyndon Kansas. I am writing as a life long Kansas resident and sportsman to express my support for Senate Bill 117. If we are to be able to pass on a respect for the outdoor sports and for the out doors to future generations, we will need our ranges to be able to instruct the safe handling of firearms in a safe and controlled environment. I strongly support the Kansas Hunter Education Safety program and a safe and controlled environment is a vital tool to help them succeed . Thank you for your consideration and support of this needed bill.

Sincerely,

Tom Lewis

*Tom Lewis
Lyndon, KS*

*Sen Jud
2-8-01
Att 15*

#16

THE FIRST SANTA FE TRAIL PLAINSMEN

M u z z l e l o a d i n g • C l u b

211 Rice Road • Topeka, Kansas 66607 • (785) 357-6796

February 5, 2001

Senate Judiciary Committee
Re: SB 117

Senator John Vratil, Chairman,

Dear Senator Vratil and Committee Members,

My name is David Lawrence and I am the current President of The First Santa Fe Trail Plainsmen Muzzleloading Club located approximately seven miles SE of Overbrook, Ks. The members of the club have expressed their support of SB 117 and hope that you will pass the bill out of the committee favorably. Our range is used by not only the club members but also serves as a place where Boy Scout troops and other youth groups such as 4-H clubs can come and receive instruction in the safe handling and shooting of muzzleloading firearms. Our club has several instructors who have been trained as muzzleloading instructors by the National Muzzleloading Rifle Association. These instructors also teach in the Kansas Hunter Education program. Safe ranges will continue to disappear without the enactment of SB 117. Please support SB 117.

Thank you for your attention to this request.

Respectfully,

David Lawrence, President
First Santa Fe Trail Plainsmen

2-8-01
1

FLEESON, GOOING, COULSON & KITCH, L.L.C.

LAWYERS

CARL A. BELL
GERRIT H. WORMHOUDT
WILLARD B. THOMPSON
THOMAS D. KITCH
J. ERIC ENGSTROM
STEPHEN E. ROBISON
RON CAMPBELL
GREGORY J. STUCKY
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HOWARD T. FLEESON
(1895-1957)
HOMER V. GOOING
(1894-1986)
WAYNE COULSON
(1910-1985)
PAUL R. KITCH
(1911-1987)
DONALD R. NEWKIRK
(1919-1997)

Sender's E-mail Address:
pmellor@fleeson.com

February 7, 2001

Chairman and Members of the Senate Committee
On Federal and State Affairs
State House
Topeka, Kansas 66612

Dear Mr. Chairman and Senators:

I address you in support of Senate Bills 116 and 117.

Bill No. 116 is, of course, designed to prevent the harassment-type of litigation promised by ex-president Clinton in an effort to out-spend the gun manufacturers and dealers. It would not interfere with legitimate state interests.

Bill No. 117 is far more important to me and to the members of the groups for whom I speak.

I am a 43 year member of the Chisholm Trail Antique Gun Association and am currently its president. The association has 160 members. We own an 80 acre range facility near Benton in Sedgwick County. That facility offers rifle, pistol and shotgun practice and competition for black powder type weapons. We host regional and international shooting competition restricted to antique or reproduction firearms. We consult with and strictly follow safe range construction and operation guidance from the National Rifle Association. We cooperate with the Kansas Department of Wildlife and Parks in hosting young hunter education and advanced clinics for young shooters. Our activities attract persons from throughout the United States who spend nearly 5000 "nights" in the Wichita area to attend our shows and competition.

The glue which holds all of this together is our range facility. We sought and found a locale in which our shooting activities would bother no one. Encroachment by residences is not imminent, but will surely become reality some day. We have about \$250,000.00 invested in our land, our range construction and our buildings. We ask for the protection of Senate Bill 117.

Ingrid
2-8-01
att 17

Chairman and Members of the Senate Committee

February 7, 2001

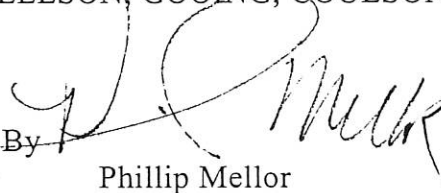
Page 2

I am also a member of and am the designated spokesman for the Sunflower Gun Club. Our facility is located on Highway 96 between Maize and Mt. Hope in Sedgwick County. It consists of about 5 acres which we have occupied for over 20 years. It affords safe shooting of shotguns, rifles and pistols. We have 140 members and a waiting list. The range is in almost daily use and during the summer months, shotgun practice and competition are open to all comers on an equal basis. Sunflower affords a healthy sport to approximately 300 shooters in the area. Its members also solicit your support for Senate Bills 116 and 117.

Should live testimony be of any assistance to you, I will be happy to appear at any time you designate.

Very truly yours,

FLEESON, GOOING, COULSON & KITCH, L.L.C.

By  Phillip Mellor

PSM:ljv

530A
2-8-01
att
18

Testimony to the Judiciary Committee of the Kansas State Senate
February 8 , 2001

My name is Glenn Michael Cox, I am a gun owner and an outdoorsman. I grew up on a farm in Republic County and received a degree from Fort Hays State University. In 1993 I moved to Graham County Kansas with the intent of starting a family. Three children later I bought a small farm in 1998 outside of Hill City where I presently reside.

Without regulation of shooting ranges at the state level I will tell you what happened to me. In March of 2000 a local gun dealer opened a shooting range within one-half mile of twelve private residences, seven of those residences are within a quarter mile of the range. The range is slightly over a mile from my home. I received no support at the local level with my issue of noise from the shooting range. The county sheriff is a member of the gun club and relatives of the county government use the range. I was treated as the bad guy for attempting to defend my property RIGHTS. This range uses a three to four foot berm as a background with a few round bales stacked on one side. The range had shooting on Father's Day and on July Fourth. The range owners and members sponsor large shooting events that last for three days in a row. The range is open seven days a week. When the wind is blowing my direction I can hear the bullets hitting the metal targets. My wife is fearful that a stray bullet could hit her or the kids when they are out walking. There is no range master present consistently to enforce any rules of the range. When I talk to the range owners and members they down play the noise or ignore my complaint.

This is a quality of life issue. The noise may be tolerable for an hour however after several hours or several days of shooting my only choice is to go inside or leave and go to a friend's house. With the current arrangements I will never be able to enjoy or implement the plans I had for my property due to noise from a shooting range. When the members are shooting, people who live near the range are not outside barbecuing, working in their yards or sitting on their porches. Quality of life issues is the reason I have attached information from the Safe Range Association. I would like to quote from page 9, first paragraph. Because of this unregulated shooting range I must alter my schedule, change my habits and even take anti-depressants to cope with the noise nuisance. What is also frustrating is that I am paying for my property and paying local and state taxes to have my property RIGHTS completely ignored.

I believe regulation at the state level is the answer, otherwise my only recourse is a costly lawsuit. SB117 implies that these shooting ranges are sources of noise pollution and a nuisance. This is the reason we are meeting today. I support the assignment of Kansas Dept. of Wildlife and Parks to regulate shooting ranges. I support a NRA standard berm of twenty feet high in the back and eight feet on the sides for all shooting ranges. I recommend also that sound baffles be placed on top of these berms if necessary. I believe all range developers should notify all private residences within one and half miles of a proposed range to allow for community concerns to be stated. These concerns would then be mediated by KDW&P. I support prohibition of shooting ranges to operate on holidays. In more quiet rural areas I support limiting the caliber size of guns allowed at shooting ranges. I believe the shooting range owner should provide financial assistance for the home owner to sell the property and move to another location when home owner desires not to endure noise from a shooting range.

Sn Jud
2-8-01
att 18

I have never met a person who has told me I am looking for a property close to a shooting range. I have met many people who desire a country home for peace and quiet. This is first a quality of life issue and secondly a property rights issue. No one can explain to me why my property is less important than the property owned by a shooting club. I encourage the committee to address this issue and to take it one step further. The committee should recommend that KDW&P standards be met first before a shooting range can operate. Range owners can pass the cost of improvements onto their customers, this is how a business operates. I believe this is a fair alternative to costly lawsuits that strain the financial resources of range owners and property owners who desire to enjoy and use their property without the constant noise of gunfire.

Safe Range Association

Citizens For Gun Range Safety

Safety and Health Aspects of Noise Exposure from Gun Ranges

1.0 Introduction

1.1 Summary

"Calling noise a nuisance is like calling smog an inconvenience. Noise must be considered a hazard to the health of people everywhere." (Dr. William H. Stewart, former U.S. Surgeon General)

Unwanted sound, or "noise", is considered by many to be America's most widespread nuisance. But noise is much more than just a nuisance; clear evidence from a profusion of research dating back to the 1940's clearly indicate that noise constitutes a real and present danger to peoples' safety and health.

Research conclusively show that manifestations of human response to sudden noise such as from gunfire may include one or all of the following.

Behavioral Manifestations

- *Eyeblink.*
 - Firm closure of the eyes.
 - Facial grimaces of a characteristic nature.
 - Bending of the knees.
 - General inward flexion of the body.
 - Increased neck and shoulder muscle tension tending to draw the head downward.
 - Random foot movement.
 - Elevation of the arms bringing the hand toward the face with an inward rolling of the forearms.

Manifestations of Noise on General Health

- Nausea
- Headaches
- Irritability
- Argumentativeness
- Reduction in sexual drive
- Anxiety
- Nervousness
- Fatigue
- Insomnia
- Loss of appetite
- Other ailments

Physiological Manifestations

- $\alpha\beta$ Alteration in the cardiovascular function.
- $\alpha\beta$ Increased endocrine activity.
- $\alpha\beta$ Alteration of respiration.
- $\alpha\beta$ Cessation of gastro-intestinal activity

Health Manifestations from Noise-Induced Stress

- $\alpha\beta$ Shrinking of the thymus gland.
- $\alpha\beta$ Gastric ulcers.
- $\alpha\beta$ Swelling of adrenal gland.

Health Manifestations from Noise-Disturbed Sleep

- Principal reason for noise annoyance.
- Older people more susceptible to noise-disturbed sleep.
- $\alpha\beta$ Noise may be health hazard as it interferes with the restorative benefits of sleep.

Manifestations of Noise on Mental and Social Well-Being

- $\alpha\beta$ Annoyance

- αβ Anger
- αβ Frustration
- αβ Destructive Behavior
- αβ Isolation
- αβ Behavior Modification
- αβ Deferring to Chemicals
- αβ Exacerbates Emotional Disorders

Unlike other environmental pollutants, gun range noise is generally not regulated except on an occasional local level. *Like* other environmental pollutants, gun range noise does not respect property boundaries and will trespass one's property and inflict harm on the physiology and emotional stability of inhabitants who find difficulty in escaping its intrusion even into the very quiet and sanctified areas of their home.

1.2 Introduction

The world health organization defines "*health*" as a state of complete physical, mental and social well being. Within this definitional context much research has focused on the potential effects of noise upon the health and safety of humans exposed to noise of various character.

This paper summarizes the safety and health effects of noise upon human physiology with specific attention on the effects of rapid changes in noise level as characterized by gunfire noise. The material presented is a compilation of results from extensive research on the effects of noise on humans. Most of the material is paraphrased from two important documents: "*Chapter 25, Physiological Effects of Noise, Handbook of Noise Control*", G. Jansen, 1991, and "*Information on Levels of Environmental Noise Requisite to Protect Public Human Health and Welfare With An Adequate Margin of Safety*", Environmental Protection Agency, March 1974. Other information was gleaned from "*Physiological Effects of Noise*", 1970, B.L. Welch, and a number of various papers and publications addressing the subject of safety and health issues related to human exposure to noise characterized as impulsive in character.

Many studies reviewed do not specifically isolate the effects of loud, sudden and repeated noises such as that from gun ranges. However, research addressing such noise character underscores the fact that the effects of loud and sudden noise are amplified substantially over the effects of noise that is continuous in character. By inference, the effects of gun range noise are sometimes drawn from studies addressing noise of a different character.

1.3 Background

The body of scientific research related to effects of noise on humans is broad and growing. Except for hearing loss from noise exposure, it is fair to say that research does not always support an express correlation of a particular noise occurrence or exposure to a primary disease. It is difficult to separate an individual from the total environment such that epidemiological evidence strictly correlates noise with a particular disease. For example, human response to an acoustic danger signal such as gunfire

may cause various responses related to fear in the respiratory, cardiovascular, voluntary muscle and neuroendocrine systems. Obviously, one cannot exclusively justify the acoustic properties of gunfire to human response, but rather the psychologically imbedded fear of gunfire noise is the stimulating mechanism generating respiratory, cardiovascular and endocrine stress.

On the other hand, it is well known that noise of a certain character and level evokes a physiological response from humans. Some of these responses are known to be detrimental to human safety and health.

Of the many safety and health hazards, hearing loss is the most distinctly observable and measurable effect from noise exposure. The other hazards are more difficult to measure and quantify, but there is strong antidotal and laboratory evidence that noise can be a substantial contributor to respiratory, cardiovascular and endocrine diseases. Perhaps the increase in stress as a result of noise exposure causes an increase in susceptibility to disease and infection.

While no one has yet shown that noise inflicts any measurable damage to the heart itself, an expanding body of evidence strongly suggest a link between exposure to noise and the development and aggravation of a number of heart disease problems. This is probably because of the fact that noise causes stress and the body reacts with increased adrenaline, changes in heart rate and elevated blood pressure. Noise is one of several environmental causes of stress. As such, researchers cannot say with confidence that noise alone caused the heart circulatory problems they have observed. What they can point to is a statistical relationship apparent in several field and laboratory studies, which support the likelihood of noise being a causal factor for heart function abnormalities. Particularly susceptible to harmful effects of noise are heart patients who already suffering from heart disease.

The link between noise and many disabilities or diseases has not been conclusively proved. But, like cigarette smoking statistical correlation with diseases of various sorts, the body of evidence connecting intruding noise exposure and disease is growing.

But even without further evidence, it is universally accepted that the danger of noise intrusion to human safety and health is real.

1.4 Acoustically, what is gunfire noise?

Gunfire noise is characterized as "impulsive and transient" in character, meaning that a sound pressure peak occurs in a short interval of time. For example, typical gunfire noise may have a sound pressure peak of about 150 to 175 dB occurring over a period of several hundred milliseconds. A single gunfire impulsive noise may be heard as a discrete event occurring in otherwise quiet conditions, or it may be superimposed upon a background of steady-state on-going noise.

2.0 Short Term Effects

Impulse noise such as that from gunfire (and gun ranges) leads to imbedded "protection" reactions of the human physiology. Short term effects range widely from a brief eye blink to after-effects such as headache, fatigue and emotional distress; these after-effects may be present for hours after exposure. Short-term effects may be categorized as "startle response", "orienting reflex" and "defense reflex". Startle response is the sudden stimuli that gets our attention and disrupts whatever activity in which we may be engaged. Orienting reflex is the response to locate and identify the source of disruptive noise, and defense reflex is the unconscious and involuntary response to a perceived threat of danger

or harm to our safety. These effects are particularly acute for unexpected impulse noise such as that characterized by gunfire.

2.1 Startle Response

Startle response is characterized a widespread flurry of activity in voluntary muscle. Imbedded in the human makeup is a mental and physical conditioning to automatically respond to any stimuli that may be interpreted as a threat or danger. The purpose of startle response appears to be protective. A gunfire burst of noise will illicit sudden and immediate startle response. Again, the most immediate danger to safety of an individual is the interruption of an ongoing task, which may place the individual in a harmful or life-threatening situation.

In readiness for dangerous and harmful situations, our bodies make automatic and unconscious responses to sudden or loud noises such as noise from gun ranges. Blood pressure rises, heart rate and breathing speed up, muscles tense, hormones are released into the blood stream and perspiration appears. The changes occur even during sleep.

Military studies show that even if we think we can become accustomed to repeated exposure to gunfire noise, biological changes still take place inside us, posturing us for defensive physical activity if necessary.

Gun range noise does not have to be loud to bring on these responses. Our bodies and subconscious minds interpret the noise as a threat and the consequent result is regular and predictable changes in the body.

2.2 Muscular Response

Research conclusively shows evidence that the muscle groups are stimulated to reflex by introducing noise. The response can be visually prominent and even violent as many muscle groups may respond at once to certain sound stimuli – this is particularly obvious when exposed to impulse noise and is often classified as "startle response" (above). Such muscle response is clearly visible to an observer. On the other hand, minimal muscle responses may not be visually apparent; in these cases, muscle tension is detected and measured by electrical activity of the muscle in laboratory studies.

The most likely practical implications are the occurrence of muscle stimuli causing involuntary muscle movements or modification of movements that can interfere with some active critical motor task. For example, should an individual be carrying a dangerous chemical fluid, the extension/contraction of arm and leg limbs can conceivably cause a spill and consequent serious damage to the individual.

Interruption of mental focus, alteration or interruption of a task as a consequence of a loud noise such as gunfire can lead to immediate short-term negative consequences, sometimes serious.

2.3 Respiratory Reflexes

The respiratory system functions to regulate the gaseous content of the blood, including the partial pressures of carbon dioxide and oxygen and to stabilize various aspects of body chemistry.

When exposed to gun range noise, breathing is slowed: minimum breathing movements occur at

about 15 to 20 seconds after exposure after which, breathing generally returns to normal.

2.4 Heart and Circulation Effects

"We now have millions with heart disease, high blood pressure, and emotional illness who need protection from the additional stress of noise." (Dr. Samuel Rosen, Mt. Sinai Hospital)

Research studies show that short term effects of a sudden loud noise of no specific meaning causes changes in heart rate and reduction of diameter of blood vessels in peripheral regions. Exposure to sudden noise (with no meaning) has been shown to cause an increase in heart beat from a low of about three beats per minute to an average high of about eleven beats per minute. Should the noise be identified with a source such as a threat of harm (gunfire noise, e.g., having meaning), the heart and circulation response is substantially intensified over that of noise with no specific meaning.

Stimulus and recovery of the heartbeat exhibits a pattern of sudden rise in heartbeat coincident with a burst of gunfire noise and an undulating reduction in heartbeat with the decay and cessation of the disturbing noise. Recovery of heartbeat to normal level typically occurs in ten to twenty seconds.

Studies performed to determine the extent of changes in the diameter of the small blood vessels in response to sudden noise show that constriction of these vessels (vasoconstriction) begins to occur at about 70 dB in a low-noise background environment. With increasing noise level, vasoconstriction has been measured from a low of 21 percent at low level short-duration intruding noise level of about 70 dB to a high of 64 percent at noise level of about 100 dB. Recovery of the vessels after a noise event is usually measured in seconds. Consequent with vasoconstriction of blood vessels is a rise in blood pressure during and shortly after exposure to gunfire noise.

The time and pattern of stimulus and recovery is related to the character of noise and its content. If meaning is connected to the noise, such as "gunfire", voluntary muscle response (startle and defense reflex) will magnify the level of heart effects described above.

Research results also show that the influence of external or internal environment affects the degree of response to sudden noise. For example, other powerful physiological responses such as stimuli due to exercise, heat, cold, or emotion will obscure or prevent the degree of vasoconstriction effect to short sudden noises.

Other studies focusing on the effects of impulse noise (such as gunfire) on blood pressure conclusively show that there is a drastic reduction of diastolic blood pressure while the systolic blood pressure is not substantially affected.

2.5 Other Physiological Responses

Our bodies are conditioned to respond to dangerous and harmful situations; they automatically interpret danger signs and respond according to innate conditioning. We automatically and unconsciously respond to sudden or loud sounds. Most noise in our society does not signal danger; however, our bodies still react as if these sounds were always a threat or warning. One can multiply these body reactions to common noise by many-fold when one is exposed to loud and sudden noise such as fire alarms, door slamming, gunfire, glass breakage, etc.

The idea that people get used to noise is a myth; even when we think we have become accustomed to

noise, biological changes still take place inside us, preparing us for physical counteraction to the implied threat if necessary. Noise does not have to be loud to invoke these responses. Low impulsive noise levels can cause regular and predictable changes in the body.

"Loud noises once in a while probably cause no harm. But chronic noise situations must be pathological. Constant exposure to noise is negative to your health." Dr. Gerd Jansen, Ruhr University.

2.5.1 Eye Pupil Responses

Noise can cause a dilation of the eye pupil. With about 75 dB of noise with no meaning, the eye begins to dilate. At 90 dB, an increase in pupil diameter of about five percent has been measured. Dilation varies with noise level. Return of the pupil diameter to pre-stimulus occurs very rapidly with cessation of noise.

No studies were found relating pupil response to impulse noise with meaning. However, it is believed that effects of the pupil dilation observed with noise of no meaning will be substantially amplified in response to noise with meaning such as gunfire noise.

2.5.2 Vestibular Effects

Extensive studies have been completed on the effects of high noise levels on equilibrium. The ability of humans to perform balancing tasks is impaired by high noise levels characterized by both broad band noise and narrow band noise.

2.5.3 Gastrointestinal Effects

Though studies are not distinctively conclusive on the total effect of high and/or sudden noise level on gastrointestinal activity (digestive and elimination system), some studies show that prolonged exposure to high noise level indicated a significantly delayed and lengthened colon motility. The studies reveal that the alterations resemble the well-known dysfunction recognized as "the irritable bowel syndrome." Early researchers found that workers chronically exposed to noise developed conspicuous digestive changes that were believed to be lead to ulcers.

2.5.4 Lungs and Upper Respiratory Tract

Studies suggest that when humans are exposed to gunfire noise, constrictive reflex of the bronchia occur, thus decreasing respiration and the flow of oxygen to the body. Recovery to normal is a slow relaxation of the bronchia and return to normal respiration.

2.5.5 Biochemical and Endocrinological Reactions

Clear evidence from studies show that the release of adrenaline is significantly increased by exposure to noise. This hormonal stress reaction causes an increase of the membrane permeability and a decrease of concentration gradients at the cell membranes. Electrolyte alterations induced by noise stress have been demonstrated. In one study, a group of test subjects lost five percent of the magnesium content in the blood during a test period of noise exposure.

3.0 Effects on Sleep

Numerous studies show that gunfire noise such as coming from military training camps evoked brain and heart reactions in sleeping subjects. Studies show in general that intruding noise into the sleep environment cause strained wakefulness and intensified fatigue. Even exposure to high noise levels during a daytime period has after-effects on a subsequent noise-undisturbed night sleep. Recovery from noise-disturbed sleep is long and can last for several sleep periods.

It has been determined that our response to noise before and during sleep varies widely among age groups. Elderly and sick people are especially sensitive to disruptive noise. Elderly people are more easily awakened by noise and once awake, have more difficulty returning to sleep.

Community noise complaint studies show that of the kinds of annoyance related to noise intrusion causing the interruption of rest, relaxation and sleep was the most prominent cause of many peoples' complaints.

Investigators of noise effects have learned that when noise interferes with our sleep, it demands that our bodies adapt. Implications of these demands on our general health and performance are not yet well understood. However, it is known that we need restful sleep and many are not getting it because of exposure to noise and other stimuli.

"no man can get a night's rest." (Chaucer, 1350, complaining of noise by blacksmiths)

4.0 Stress Effects

Stress is considered by most investigators to cause the prominent physiological effects of noise. The complex human system is constantly trying to achieve stabilization and physiological equilibrium. This process goes on during both waking and sleeping hours. Along with other stressors, heat, cold, fear, rage or emotions, etc., noise has been shown to affect elementary responses and activate stress of one sort or another to the body systems. For example, noise has been identified as the most prominent overall stress factor at the working place.

No one is immune from stress. It is known that noise can produce serious physiological and psychological stress. Most try to ignore intruding noise, but the fact is the ears are not equipped with earlids and intruding noise continues to bombard our system and the body and mind continues to respond, sometimes with extreme tension, particularly when fear response is invoked.

5.0 Mental and Social Well-Being Effects

The most obvious price one pays when exposed to noise from gun ranges is the annoyance frequently experienced from gunfire noise. When gun range noise causes chronic and repeated noise exposure, initial annoyance may be transformed into more extreme emotional responses and behavior. Newspaper files and police records contain reports of incidents that point to not only gun range noise but also other loud and repeated noises as a trigger of extreme behavior.

Some examples of noise-induced extreme behavior illustrating extreme behavior are presented in headline form below.

"Noisy Neighbors Helped Drive English Man to Suicide, Coroner Finds." (Headline, The Daily Telegraph, April 1, 1998)

"New Zealand Man Threatens to Shoot Down Air Force Jet Because of Noise." (Headline, The Dominion, October 23, 1997)

Pennsylvania Man Kills Dirt Biker Over Noise (Headline, The Pittsburgh Post-Gazette, September 8, 1997)

Indiana Man Enraged at Noisy Teen-Agers Charged for Firing a Gun (Headline, The Indianapolis News, July 29, 1997)

New York Man Found Guilty of Killing Neighbor After Feud About Noise (Headline, The New York Times, March 20, 1997)

"The noise, The Noise. I just couldn't stand the Noise." (Suicide note left by a desperate homeowner.) – Quote from: *Noise: A Health Problem*, EPA, 1974.

Some people cope with loud noise by directing their anger and frustration inward, by blaming themselves for being upset and by suffering in silence. Others resort to a denial of the problem altogether, considering themselves so tough that noise does not bother them. Others deal with noise more directly by taking sleeping pills, wearing ear plugs, increasing visits to their doctor, keeping windows closed, rearranging sleeping quarters, spending less time outdoors and complaining to government officials.

Evidence shows that these ways of contending with noise are unlikely to eliminate the noise or any underlying annoyance. Most people who cannot cope with noise in these ways typically direct their anger at others and become more argumentative and moody, though not necessarily violent. This noise-induced, anti-social behavior is considered to be far more prevalent than one may realize.

Research does not irrefutably conclude that noise by itself causes mental illness. There is, however, strong evidence that noise-related stress can aggravate already existing emotional disorders. Research in both the U.S. and England reveals that people living near airports have a higher rate of admission to psychiatric hospitals. Likewise in industry, prolonged noise exposure may lead to a larger number of psychological problems among workers.

6.0 Noise Implications to Human Health and Safety

It is widely accepted that as a risk factor for defined diseases, noise seems to be less important than smoking, eating habits, physical exercise and other habits of daily life. All of these factors may adversely affect health only after several years. Many studies clearly support the hypothesis that noise has to be considered as a risk factor to health and safety, particularly leading to disorders such as hypertension, coronary heart disease and biochemical changes.

7.0 Long Term Effects of Noise

Specific descriptions of the long-term effects of noise on human physiology are difficult and fraught with uncertainty. This is primarily because it is not reasonable to isolate humans from all other stimuli that have similar or identical effects on human physiology as those of noise and exclusively determine the direct effects of noise.

Long-term effects can be measured in hours, days or even longer. Researchers think long-term effects are attributed to repeated noise stimulation that produce short-term responses and are believed to be cumulative in total effect. Investigators accept that long-term effects of repeated noise exposure change the rate of hormonal secretion of into the bloodstream and thus modifying hormone concentrations for hours, days or longer.

For cardiovascular disorders, experimental results clearly demonstrate that long-term effects of noise exposure on vasoconstriction can be connected to the state of health of an individual as related to noise.

Research conclusively show that manifestations of human response to sudden noise such as from gunfire may include one or all of the following.

Behavioral Manifestations

- Eyeblink.
- Firm closure of the eyes.
- Facial grimaces of a characteristic nature.
- Bending of the knees.
- General inward flexion of the body.
- Increased neck and shoulder muscle tension tending to draw the head downward.
- Random foot movement.
- Elevation of the arms bringing the hand toward the face with an inward rolling of the forearms.

Manifestations of Noise on General Health

- Nausea
- Headaches

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Who is Encroaching

Encroachment - One of the interesting phrases that some shooting range owners have inserted into the current dialog on this issue is the term "encroachment" or one of its word forms. Usually it occurs in a statement like, "My range was doing all right until people encroached on it. Now they complain about the noise and stray bullets."

This shows how the person that phrases a statement takes the advantage by how he or she words the issue. In this example, the shooting range owner tries to create the impression that the range's neighbors are somehow in the wrong because they have "encroached" on the range.

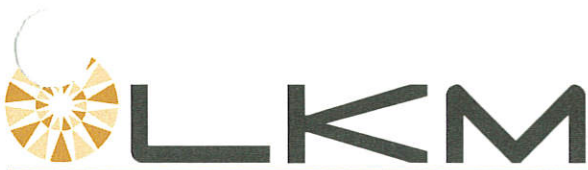
Obviously, the shooting range never had a God-given right to send its loud noises, lead pollution or stray bullets off its property whether or not the neighboring property was occupied. Occupied or not, it was still owned by someone else. Why shouldn't a neighbor have every right to tell a range to stop doing something it never had any legal or moral right to do in the first place?

So the next time you hear someone talking about people encroaching on a shooting range, remind them just who is encroaching on whom.

To Paraphrase the sound of a bullet firing is considered an "impulse noise" - a loud burst of acoustical energy, very short in duration which can cause hearing damage.

HOW LOUD IS GUNFIRE:

- **.22 L.R. (rifle) 134 dB**
- **.22 L.R. (pistol) 152 dB**
- **.22 mag pistol 157dB**
- **.410 Shotgun 150 dB**
- **20-Gauge Shotgun 153 dB**
- **12-Gauge Shotgun 156 dB**
- **.380 Automatic Pistol 158dB**
- **9 mm Pistol 160 dB**
- **.38 Special 158 dB**
- **.357 Magnum 164.5 dB**
- **.41 Magnum 163 dB**
- **44 Magnum 164.5 dB**
- **.45 ACP 157 dB**



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League of Kansas Municipalities

TO: Senate Judiciary Committee

FROM: Sandra Jacquot, Director of Law/Legal Counsel

DATE: February 8, 2001

RE: Opposition to SB 117

Thank you for allowing the League this opportunity to testify in opposition to SB 117. Specifically, the League opposes SB 117 because of its preemptive nature and the fact that it contradicts typical nuisance and land use law that has been in place in Kansas since statehood. Prohibiting the use of nuisance and certain land use laws sets a very bad precedent that we believe is unwise.

Nuisance law exists to protect the health, safety and welfare of the public. To legislate to protect the public is known as the "police power" of state and local government. The police power of local government is used when an otherwise lawful use becomes hazardous to the general welfare of the public. We believe that to preempt all local nuisance ordinances sets a very bad precedent and would allow activities that are potentially harmful to the health, safety and welfare of the public to continue without the ability of government at the local level to regulate the activity. Essentially this legislation excuses a variety of nuisance behaviors when they are undertaken as part of a "sport shooting range" or "range" in the state. Further, it goes far beyond the current nonconforming use statute. Nonconforming uses are allowed to continue when zoning is placed on a property or the property and use exist prior to the modification of a zoning ordinance. The current nonconforming use statute provides that when a structure is destroyed it cannot be rebuilt as a nonconforming use. This bill, however, allows that despite damage to any structure involved at a sport shooting range, it may be rebuilt and the use may continue if done within one year of the damage.

SB 117 would also allow a nonconforming use, which may well be in violation of local nuisance ordinances and noise control ordinances, to legally expand or increase the size and scope of the facilities and activities which may further increase the hazard to the general public. We would suggest that this is an unwise piece of legislation. We hope that the Committee will conclude that it is not in the best interests of the public to statutorily allow nuisances that may adversely affect the health, safety or welfare of the public.

Sandra Jacquot
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Opponent

**TESTIMONY BEFORE THE KANSAS SENATE
JUDICIARY COMMITTEE**

SB No. 117

Presented by Councilmember Diane Linver

Honorable Senator Vratil and Committee Members:

The City of Lenexa is strongly opposed to the above referenced legislation that severely restricts state and local regulation of sport shooting ranges. The bill essentially attempts to "grandfather" sport shooting ranges from any state or local regulation from both an operational and land use standpoint. SB No. 117 causes the City particular concern because it establishes special treatment for a specific land use, exempting it from the City's exercise of its police powers in regulating inherently dangerous and harsh land uses. If this proposed bill is approved and sport shooting ranges are essentially grandfathered from further local zoning control, what is to preclude other special interest groups and land uses from seeking similar protections? This bill is a strong departure from the basic foundation upon which Home Rule is established. The Kansas Legislature has long recognized the importance of the constitutionally granted home rule powers to cities. Locally elected officials are in the best position to make decisions of local concern and are most accountable for decisions that affect citizens in the communities in which they live.

This legislation is unnecessary. There has been no showing of any abuse of these land use decisions by municipal entities. Moreover, landowners currently have protection from arbitrary or capriciously applied municipal regulations. But what rights and protection do local citizens have when this type of state regulation is implemented?

As a practical matter, the majority of gun club operations affected by this legislation were established in what were then, rural areas. Many of these areas did not have noise regulations in existence at the time the use was established. The City believes there are approximately 50 operations in Kansas that have at least minimum facilities that are eligible to obtain insurance through the NRA for operation of a shooting range. Of these 50, approximately 20 are professional gun club operations. The remaining operations are generally individuals whom have designated a portion of their property for target shooting, with perhaps a bench and a few other minor improvements. Under this proposed legislation, these "mom and pop" operations would also be exempt from regulation.

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However, unlike the professional gun clubs, these operations were not built to any standards, nor do they adhere to any generally accepted operation practice.

Therefore, this legislation will effectively permit many gun clubs to operate without any noise regulation, and while doing so, be immune from suit. The noise at the property line associated with gun clubs can be significant and routinely exceeds permitted and safe noise levels. Government is charged with exercising its police powers to provide for the public order, peace, health, safety, welfare and morals. Cities routinely adopt zoning regulations, including performance standards addressing noise, odor, vibration, light levels, landscaping, etc. in an effort to protect the general health and safety of the public. To permit a land use, such as a gun club, to operate without any noise regulation, would be potentially detrimental to citizens' health.

Moreover, pursuant to the other provisions of this bill, the operation could intensify and even expand its current operation, thereby increasing the existing noise level, and still be afforded immunity from suit. Proponents of the bill would argue that surrounding residences, established after the gun club, knowingly assumed the risk of such noise. The City would argue that at a minimum, these residents were entitled to rely upon the City's noise standards and regulatory authority at the time they purchased their homes.

This proposed bill also runs directly contrary to the common law doctrine that embraces the gradual elimination of nonconforming uses. Well established law provides that the original nature and purpose of a nonconforming use must remain unchanged. Thus, an operation constituting a nonconforming use cannot be expanded as of right.

The proposed bill also includes a prohibition on the use of eminent domain on property that has a permanently located shooting range when such use for which the property to be taken would be either a shooting range or recreational activity. Any legislation that precludes the ability of local government to exercise its powers of eminent domain for a public purpose should be avoided. The eminent domain procedures act as set out in Chapter 26 of the State Statutes, establishes the parameters in which local government can use its eminent domain powers, including payment for the land taken. Eminent domain is necessary for the City to ensure the proper and orderly growth and development of a City or County.

The City respectfully requests the Committee veto this proposed legislation.

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February 8, 2001

This Statement is made on behalf of the 200 + property owners of Whispering Hills, a subdivision of Lenexa, Kansas which is a long-time, close neighbor of a sport shooting range. It is in regard to Senate Bill 117.

This is to attest to the fact that at the February monthly meeting of the Whispering Hills Homes Association Board of Directors, held on Monday evening, February 5, 2001, the Board was made aware that Senate Bill 117 was to be presented to the Federal and State Affairs Committee.

After discussion, a motion was made, seconded and approved to authorize the Board president, Susan Wiens, to present the Board's position regarding this bill. Therefore, I come before you to inform you that the Whispering Hills Homes Association Board, which represents all property owners in Whispering Hills, unanimously and firmly opposes Senate Bill 117.

I respectfully request that the members of the Federal and State Affairs Committee consider the wishes of the 200+ residents in Whispering Hills and not allow this bill to progress out of this committee.



Susan Wiens, President
Whispering Hills Homes Association
21011 Bittersweet Drive, Lenexa, Kansas 66220
913-422-5058

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Johnson County, Kansas

COUNTY ADMINISTRATOR'S OFFICE

*with
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To: The Honorable John Vratil, Chairman
Members, Senate Judiciary Committee

From: Ashley Sherard

Date: February 8, 2001

Subject: **SB 117 – Civil Immunity for Sport Shooting Ranges**

I would like to express the Johnson County Commission's opposition to SB 117, which provides civil immunity to persons who operate or use sport shooting ranges against certain state and local laws, rules, and ordinances, including noise and nuisance regulations.

The Commission opposes this bill because, in an attempt to carve out special protections for sport shooting ranges, it preempts local governments' traditional regulatory and enforcement authority. We believe communities are best served when local officials are allowed to conduct the business of their jurisdiction in a manner that best reflects residents' values and standards and best benefits that community. To this end, we believe it is critical that longstanding principles of local control, a cornerstone of Kansas government, be respected and retained.

In addition, we have very strong concerns regarding the poor precedent that would be set by this bill. Nuisance and noise ordinances exist to protect the health, safety and welfare of the general public. SB 117 sets a precedent, however, of allowing activities that may be potentially harmful to the public to continue without the ability of local government to regulate that activity.

Further, SB 117 goes beyond current nonconforming use statutes to extend special protections to sport shooting ranges, including allowing such ranges to expand the size and scope of their facilities and activities and to rebuild structures that have been damaged or destroyed. We believe these special protections are unwarranted and unjustified.

Because it would preempt local regulatory and enforcement authority and create a poor precedent that potentially risks the health and safety of the general public, the Johnson County Commission respectfully urges you to reject SB 117. Thank you for your time and consideration.

*Sherard
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Kansas Association of Counties
Testimony on SB 117
Before the Senate Judiciary Committee
By Judy A. Moler, General Counsel/Legislative Services Director
February 8, 2001

The Kansas Association of Counties opposes SB 117 for the simple reason that this is a preemption of local control. In addition this bill flies in the face of local nuisance law which exists to protect the health, safety and welfare of the county citizens.

Again, as mentioned in the KAC's testimony on SB 116, this is a slippery slope when one special interest is allowed to change long-standing laws regarding local control and police powers.

The Kansas Association of Counties opposes passage of this bill.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to the KAC by calling (785) 272-2585.

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TESTIMONY

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Senate Bill 117 Civil Immunity for Shooting Ranges

Delivered February 8, 2001
Senate Judiciary Committee

Senate Bill 117 is a special interest bill on behalf of the National Rifle Association and operators of existing shooting ranges. It would preempt local authority, sacrifice the public health and safety, and give shooting ranges protections and privileges beyond those given to any other business. It is bad public policy. The Kansas Legislature has rejected this issue before and should reject it again.

Basically, shooting ranges would be exempt from all noise regulations and noise-related nuisance cases. Existing shooting ranges could not only continue their operations, but make modifications and expansions. In effect, nothing the shooting range wants to do could be prohibited. And, they can't be sued even if someone on the range, or off of the range gets hurt. There isn't a single business in the that wouldn't want that kind of immunity. This year's version has a provision restricting use of eminent domain, a move apparently designed to keep local governments from taking ranges.

Discussion of this bill and the many like it from past years, always centers on the pro-gun/anti-gun argument. That's not it at all. The debate should be whether or not it is good public policy to create a special class of business which is exempt from the law. If this bill were proposed by any other industry group, how would the Legislature react? Would it give the "National Salvage Yard Association" unprecedented protections from lawsuits and enforcement of nuisance laws against junk yards? What about a proposal from a landlords association to allow all rental property complete protection against local building codes, safety regulations and nuisance laws? The question you need to answer is this: does this industry deserve to be put above the law and given special protections beyond those you would grant other types of businesses?

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