

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Garry Boston at 1:30 p.m. on March 21, 2002 in Room 526-S of the Capitol

All members were present except: Representative Peggy Long, Excused  
Representative Peggy Palmer, Excused  
Representative Jonathan Wells, Excused

Committee staff present: Dr. Bill Wolff, Kansas Legislative Research Department  
Renea Jefferies, Revisor of Statute's Office  
June Evans, Secretary

Conferees appearing before the committee: Stephen N. Paige, MPA, Director, Bureau of Consumer Health, KDHE  
Representative Sharon Schwartz

Others attending: See Attached Sheet

The Chairperson stated that minutes of March 12 and 13 had been distributed and would ask for approval later.

The Chairperson asked Vice Chairman Morrison for an update on the Credentialing Sub-Committee. The Sub-Committee will meet to complete the report following this meeting and again tomorrow, March 22 at 8:00 a.m. to continue their work. There is no report at this time.

The Chairperson opened the hearing on **SB 419 - Licensure and inspection of retail food store and processing plant licenses.**

Dr. Bill Wolff gave a briefing stating **SB 419** creates four additional statutes that give the Secretary authority to implement and enforce the earlier legislation. New statutes created by **SB 419** require the renewal of a license to conduct a retail food store or food processing plant, authorize the Secretary to deny a license renewal for failure to meet applicable standards, provide for an administration appeal of a license renewal denial or the suspension or revocation of a license, require an annual inspection of every food processing plant and retail food store in Kansas, authorize the suspension or revocation of a license for failure to meet applicable standards, authorize the imposition of civil penalties, and allow the Secretary to seek an order enjoining a retail food store or food processing plant from operating without a license.

Stephen N. Paige, MPA, Director, Bureau of Consumer Health, KDHE, stated that passage of **SB 100** provided the Secretary with very few administrative enforcement tools needed to implement the new licensing laws. Specifically, the Secretary has no noncompliance, and no authority to revoke or suspend licenses. In addition, there are no sanctions available to the Secretary for dealing with firms that fail to obtain licenses as required by law. KDHE cannot effectively administer the new licensing laws without having administrative and enforcement sanctions to deal with noncompliance.

Passage of **SB 419**, amending the Kansas Food Drug and Cosmetic Act would provide the Secretary with administrative and enforcement tools needed to manage the new laws regarding licensing of retail food stores and food processing plants (Attachment 1).

Representative Sharon Schwartz stated a constituent beekeeper was concerned as they would be considered a food processor and wanted to make it clear that commercial honey producers who stores honey until it is shipped for processing does not fall under the definition of a food processor. An amendment was offered to **SB 419** to add on Page 4, line 12, "food processing plants shall not include any commercial honey operation". There are many other raw products that could fall under this category (Attachment 2).

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of the Capitol

Representative Showalter asked if any of the honey operations processed the honey?

Representative Schwartz replied, as a commercial honey producer they do not process. The processors also asked for this amendment to be attached to another bill in the Agriculture Committee.

Representative Showalter said she had a problem with the word "operation" as they could be a honey processor also.

Representative Schwartz said she would have no problem with using producer but this was the language the revisor came up with.

Representative Storm asked if beekeepers were registered under article 7 of chapter 65 because if they are that amendment would not be needed.

Mr. Paige stated under the Food, Drug and Cosmetic Act the storage of raw honey would be covered under that and inspected. The Department of Agriculture's role is dealing with the beekeeper and the health of the hives and bees and not the food product itself. The food product is exempt from meat, poultry and dairy laws. Not 100% sure about that.

Representative Storm said, then Representative Schwartz's constituent wasn't suddenly inspected last year and not in prior years?

Mr. Paige said there were no licenses required prior, there weren't annual inspections required earlier. They have been inspected but not on an annual basis as there was no requirement.

Dr. Moser said in the past we have not had the authority to require them to get a license and have not inspected them. That was introduced last year by the legislature in conjunction with a fee. However, we have on a periodic basis, as well as a complaint or problem basis, inspected these storage facilities for over 50 years. A good example of how the protection of public health requires inspection or authority and does not duplicate the authority of Department of Agriculture was an incident last year where wheat was sprayed inappropriately and was in storage and the Department of Agriculture had no authority over that grain in storage. It was identified and KDHE's authority that held that grain back until such time that proper testing could clear most of it and reassure the grain industry that Kansas wheat was safe and also accomplish disposition of 2100 bushel out of 16m bushel diverted to salvage. That could have not happened under the authority of the Department of Agriculture and that is why this authority is necessary to protect public health.

Chairman Boston asked if this was the tip of the iceberg, are we going to be hearing from 500 or more people on this that have never been in this situation before?

Dr. Michael Moser, KDHR, said many of the establishments have benefitted from KDHE's inspection service as well as the public. The KDHE inspectors did not cause a problem and they did not charge a fee. Now because we are no longer permitted to fund this program from the general fund but required to fund it from fees they are aware of our inspection. It is possible there will be others who have become aware of something that in the past they did not pay any attention to or weren't aware of. In the previous financing arrangement we couldn't offer inspections once a year that we strive to do, and I think achieve, for restaurants.

Representative Storm asked, do you see anything about beekeeping that should exempt them from these requirements?

Dr. Moser replied, no, someone needs to inspect them.

Representative Schwartz said this family business had been handed down generation to generation and had just received a notice they had to be licensed and they were going to be inspected. Their honey is on the market, it is processed, they do not sell raw honey. They

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inquired what was done that they had to be licensed. Is every farmer going to have to be licensed by KDHE and have their grain inspected?

After more discussion, the Chairperson asked if the Committee wished to work the bill and it was decided not to work the bill. The Chairperson closed the hearing on **SB 419**.

Representative Morrison moved and Representative Miller seconded to approve the minutes of March 12 and 13. The motion carried.

The Chairperson announced that the Sub-Committee on Credentialing would be meeting immediately after this full meeting.

The meeting adjourned at 2:20 p.m.

# HEALTH AND HUMAN SERVICES

DATE March 21, 2002

NAME	REPRESENTING
Rebecca Gruenig	Federico Consulting
Elise Nelson, N.D.	Lawrence, KNPA.
Russell Rin	Kansas Chiropractic Assn
KEITH R LAUDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Dr. M. N. REDENS	SELF
Dr. E. O. J. J. J.	SELF
PHILIP HORLEY	PHILIP HORLEY & CO. / KAFF
Michael Moser	KDHR
Jawane J. Alpa	Self
JIMMY SAWITZER	KNP
Chip Wheelen	Osteopathic Association
GEVORNHOLT	self
Sally Finney	Ks. Public Health Assn.
Georgia A. Bonghner	Student
Norica Zell	Self NAMT / Ks. Mental Health Coalition
David L. Storz D.C.	Ks Chiro Assn.
Sharon Shurath	Openerulators
Dr. Evan M. Sumner	Ks Dept of Agriculture
Rebecca Reed	Ks Dept of Agriculture
Jennifer Orth	Conlee Consulting
LARRY BUENING	BD OF HEALING ARTS
Mehul Joshi D.M.S.K	Phillipsburg, KS (SELF)
P. A. Kimble	KNPA
Meholi Khosh	KNPA, Lawrence
Fahrang Khosh	Lawrence, KNPA



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

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**Testimony on Senate Bill 419**  
**presented to**  
**House Health and Human Services Committee**  
**by Stephen N. Paige**

**March 21, 2002**

Chairman Boston and members of the House Health and Human Services Committee, I am pleased to appear today regarding Senate Bill 419.

The Secretary of the Kansas Department of Health and Environment is responsible for food protection programs related to food service establishments, retail food stores, food manufacturing and warehousing. Responsibilities of the Secretary include establishing food protection standards, maintaining an inspection and regulatory program, and investigation of consumer complaints.

The 2001 Kansas Legislature passed Senate Bill 100 requiring retail food stores and food processing plants to obtain licenses from the Secretary and pay the associated fees. This new licensing requirement became effective July 1, 2001. The new law did not expand the inspection responsibilities of the KDHE, but only required the existing inspection activities to be supported by fees. Food Service establishments have been required to pay license and application fees since 1913.

Passage of Senate Bill 100 provided the Secretary with very few administrative enforcement tools needed to implement the new licensing laws. Specifically, the Secretary has no authority to conduct annual or follow-up inspections, no authority to issue administrative fines for noncompliance, and no authority to revoke or suspend licenses. In addition, there are no sanctions available to the Secretary for dealing with firms that fail to obtain licenses as required by law. The KDHE cannot effectively administer the new licensing laws without having administrative and enforcement sanctions to deal with noncompliance.

The changes proposed in Senate Bill 419 are very similar to the provisions of the Kansas Food Service and Lodging Act. Specific laws of the Food Service and Lodging Act, permit the Secretary to manage and administer the licensing and inspection requirements for food service establishments. Passage of Senate Bill 419, amending the Kansas Food Drug and Cosmetic Act will provide the Secretary with administrative and enforcement tools needed to manage the new laws regarding licensing of retail food stores and food processing plants.

Thank you for the opportunity to appear today, and I will stand for questions.

HsHHS  
3-21-02  
Atch #1

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NATURAL RESOURCES BUDGET  
HOUSE ENVIRONMENT

Date: March 21, 2002

RE: SB 419 Concerning Food Processing Plants

Thanks for the opportunity to appear today as a neutral conferee. I would like to propose to amend one of the statues enacted in 2001, to make it clear that a commercial honey producer who stores honey until it is shipped for processing does not fall under the definition of a food processor.

This summer I was contacted by a bee keeper in my country who explained that they were now being considered a food processor under the authority of KDHE. They currently do not process honey. They collect the honey and store the honey until it is shipped for further processing.

I would appreciate your support for the proposed amendment to clarify the situation.

HsHHS  
3.21-02  
Atch #2