

Approved

Date: 3/13/02

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Senator Vratil at 9:39 a.m. on March 12, 2002 in Room 123-S of the Capitol.

All members were present except: Senator Umbarger (excused)

Committee staff present:

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

Conferees appearing before the committee:

Frances Kastner, Kansas Food Dealers Association (KFDA)
Marlee Carpenter, Kansas Chamber of Commerce and Industry (KCCI)
Mike Davis, J.C. Penney

Others attending: see attached list

The minutes of the March 11th, 2002 meeting were approved on a motion by Senator Donovan, seconded by Senator Schmidt. Carried.

Final action:

HB 2698—real estate validation questionnaires

SB 228—transfer upon death of the owner of real property; filing notification of interest in title by heirs
Following a review of HB 2698 by the Chair, Senator Adkins made a motion to pass the bill out favorably, Senator Goodwin seconded. During discussion, Senator Haley briefly reviewed SB 228 and discussed the possibility of amending it into this bill. Senator Adkins withdrew his motion and Senator Haley moved to amend HB 2698 by adding the contents of SB 228 to it, Senator Oleen seconded. Motion failed. Senator Adkins renewed his motion, Senator Goodwin seconded. Carried.

HB 2769—abatement of common nuisances

Following a review of HB 2769 by the Chair and lengthy discussion by Committee, Senator Adkins moved to pass the bill out favorably, Senator Gilstrap seconded. Carried, with Senators Haley and Pugh requesting their nay votes be recorded.

Hearing:

HB 2078—civil actions; re: shoplifting; parents of minors

Conferee Kastner testified in support of HB 2078, a bill which would apply civil penalties to parents of unemancipated minors who commit retail theft. She briefly discussed the bill and KFDA's preference for the House amendment which limited the parent's liability to \$50 if the merchandise is recovered and marketable.(attachment 1)

Conferee Carpenter testified in support of HB 2078. She stated that forty-nine states have recovery statutes and all but 12 of those states have civil recovery provisions for juvenile shoplifters.(attachment 2)

Conferee Davis testified in support of HB 2078. He explained the bill and discussed how retail theft, "shoplifting," impacts not only his J.C. Penney store but other retail stores across Kansas. He supported his statements with statistical data and showed where over 50% of retail thefts are committed by juveniles. He stated that Kansas is among the 12 states which "do not have provisions allowing for recovery from the parents of unemancipated minor shoplifters." He further discussed the process which follows after a juvenile is apprehended.(attachment 3) Discussion followed.

The meeting adjourned at 10:30 a.m. The next meeting is March 13, 2002.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 3-12-02

NAME	REPRESENTING
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Roslyn James-Martin	SPS-Children/Family Policy
Jean Barber	KADC
Joe Herold	KSC
Brenda Harmon	KSC
Kate Heys	Intern for Sen Gibrat
Matthew Goddard	Heartland Community Bankers Assoc
Frances Kastner	Ks Food Dealers Assn
Kathy Olsen	Ks Bankers Assn
Michael Davis	SCREWERY / KRC
Marlee Carpenter	KCOT
Ami Hyten	JUDICIAL BRANCH
Mike Roest	KS GOVT CONSULTING
LARRY MAGILL	KAIA



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Shawnee Mission

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**DIRECTOR OF
GOVERNMENTAL AFFAIRS**

FRANCES KASTNER

SENATE JUDICIARY COMMITTEE

March 12, 2002

SUPPORTING HB 2078

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

As we testified in the House Judiciary Committee January 24, 2001, and again this year on February 18, we support any legislation you can pass which benefits the honest customers who shop in Kansas grocery stores.

There are numerous items that are easily concealed by those who prefer to not pay for the goods they think they want or need. Some items have to be locked up to prevent shoplifting.

I don't need to tell you that anything that goes out the grocer's doors without being paid for is a direct loss that ends up adding to the grocer's cost.

We prefer the bill as it came out of the House Judiciary Committee. It sends a stronger message to the juvenile shoplifter.

The House Committee of the Whole adopted an amendment providing when an unemancipated minor is charged with shoplifting an item the parent's liability is limited to \$50 if the merchandise is recovered and marketable.

If we had to chose between losing the bill entirely and taking the amended version you have before you today, we will settle with the limits set out in HB 2078 as Amended by the House Committee of the Whole.

I appreciate the opportunity to express the views of our members.

Frances Kastner, Director
Governmental Affairs, KFDA

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LEGISLATIVE TESTIMONY



The Unified Voice of Business

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HB 2078

March 12, 2002

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the
Senate Judiciary Committee

by

Marlee Carpenter
Executive Director, Kansas Retail Council

Mr. Chairman and members of the Committee:

My name is Marlee Carpenter and I am here on behalf of the Kansas Retail Council and the Kansas Chamber of Commerce and Industry. We are here today in support of HB 2078, which would make civilly liable the parents of a minor who shoplifts.

The Kansas Retail Council Board of Directors believe that this is an important issue. Forty-nine states have civil recovery statutes, and all but 12 of those states have civil recovery provisions for juvenile shoplifters.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 2,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 48% of KCCI's members having less than 25 employees, and 78% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

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Retail theft is a large problem in Kansas, as it is everywhere in the United States. Here with me today is Mike Davis, Store Manager for JC Penney's at Oak Park Mall and President of the Kansas Retail Council. He will explain the bill and how retail theft, especially theft by juveniles, impacts his store and JC Penney stores across the state.

Thank you for the opportunity to address the committee and I urge you to support HB 2078.



KANSAS RETAIL COUNCIL

A DIVISION OF THE *Kansas Chamber of Commerce and Industry*

Testimony for H.B. 2078

Mr. Chairman and members of the Committee, my name is Mike Davis. I am here today on behalf of the Kansas Retail Council, and the JCPenney Company and its 4,300 associates in the state of Kansas. JCPenney has 30 stores and other units in Kansas, including district offices. One of the Company's five catalog fulfillment centers is located in Lenexa. JCPenney pays \$2.9 million in taxes to the state of Kansas.

What I'd like to talk to you about today is a problem that is also worth millions of dollars to Kansas retailers, and that is juvenile shoplifting. Forty-nine states plus the District of Columbia now have statutes authorizing the victims of shoplifters to recover civil damages from them.¹ The laws of all but twelve of those states include provisions allowing for recovery from the parents of unemancipated minor shoplifters.

Unfortunately, Kansas is one of those twelve. H.B. 2078 will fix this problem.

First, let me give you some facts about our Kansas JCPenney apprehension figures for last year, along with national figures.

	<u>Kansas JCPenney Apprehensions</u>	<u>%</u>	<u>US National %</u>
Juveniles	391	53.8%	38%
Adults	336	46.2%	62%
Total	727	100%	100%

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Please note the times and months of apprehension for Kansas JCPenney Stores:

<u>Rank</u>	<u>Time</u>		<u>Month</u>
#1	4-5 p.m.	(school is out)	#1 November
#2	6-7 p.m.		#2 October
#3	3-4 p.m.	(school is out)	#3 December

We in the business sector desperately need your help! Here is how shrinkage affected some of our metropolitan stores in Kansas. Our geographic, or smaller stores, are not listed.

<u>Location</u>	<u>Dollars</u>	<u>Percent of Sales</u>
Wichita / Towne East	\$ 447,000	2.05%
Wichita / Towne West	218,277	1.36%
Topeka	188,596	2.23%
Manhattan	214,400	3.23%
Lawrence	242,857	2.47%
Overland Park / Oak Park	1,165,629	2.81%
Overland Park	661,615	2.40%
Total from these stores	\$3,138,374	2.50%

Total shrinkage includes shoplifting, internal theft, vendor theft, and auditing errors. Shoplifting is conservatively estimated to account for 35% - 40% of total retail shrink / losses.² Thus, our total shoplifting losses based on the above total would be approximately \$1.1 - \$1.2 million. Since we also know that juvenile shoplifters account for 53.7% of our total apprehensions, our 2001 losses attributable to juveniles, based on the above figures, would be between \$589,857 and \$674,123. Please keep in mind, these amounts are only from our seven largest stores, and we are only one company! What about Wal-Mart, Sears, Dillards, May Company, Anthony's, and many more?

Juvenile shoplifting, as all shoplifting, is a cost of doing business that is passed on to the consumer. Unfortunately, this figure is greater than the cost of heat and lights.

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Shoplifting losses cost the company sales and they cost our employees in benefits and salary increases. If we do not sell our goods, we do not make money, and we cannot offer what we would like to offer our employees in terms of salaries and benefits. I represent employers and employees just as you represent your constituents. We as managers must react to the needs and wants of our employees. Why should their salaries and benefits be affected by juvenile shoplifting? Shoplifting affects the Manager's salary directly. We even have Managers who have been demoted due to inability to account for inventory when audits show shoplifting is the major cause.

Our juvenile apprehensions in Kansas are higher than in other states company-wide – 1.81% compared to 1.12%. Shoplifting is "NO BIG DEAL" in today's society. Shoplifting is a joke to kids. They laugh at police. They laugh at sales associates. They know nothing is going to happen to them. Once juveniles are successful stealing their first package of gum at the 7-11 store, bigger items will follow.

What do we know about why and how kids steal?

- "GANG" initiation. Older gang members have the juveniles do it because they suffer little, if any, punishment. Therefore, the older gang members stay out of trouble. This is a good fund-raiser for the gang.
- Because they want an item but cannot pay for due to lack of money.
- Peer pressure influences them. Can they get away with it?
- Clothes or items are hidden on their person.
- Magnets are carried in pockets to disconnect ink tags and J tags.
- Some juveniles have access to a sensor tag remover.
- Groups of juveniles enter businesses and cause a disturbance so one or more can shoplift -- attention of associates is diverted to the disturbance. This can be gang related.

- "Gangs" have had weapons on their person. Some Loss Prevention Officers are wearing bulletproof vests in some states and not far from Kansas. (Pueblo, CO., 259 miles from Dodge City.)
- Torn clothing due to sensor tags or ink-stained clothing from ink tags is a status symbol. It shouts, "I stole this garment".

We spend thousands on security devices, cameras, meetings, and loss prevention hours, and still cannot catch everyone. Loss prevention personnel average 32.35 hours per shoplifter.³ Several store managers have told me they could not afford to remodel their stores due to shoplifting losses. This is not only a loss to the store, but also a loss to the consumer. The consumer loses the store ambiance of new paint, new carpet, new fixtures, wider aisles, and new visual presentation displays. Instead, the criminal element wins again.

We need to ask ourselves, when is enough, enough? We believe it is now! Now is the time to fix the problem with H.B. 2078. We believe, based on parents' response to calls when juveniles are caught, that some parents just do not care what their kids have done. Others are in denial. They say, "You are wrong, my kid would not shoplift." H.B. 2078 will make them believers. They will look at problem juveniles differently. Parents need to be accountable for their children. We need to get teenagers' attention. HB 2078 does both. Teenagers will realize that their parents are accountable and responsible. They know their parents will have to pay for their crime of shoplifting. This problem is as much about personal responsibility as it is dollars. It's a moral issue as well as a financial one. Shoplifting is a crime. It is stealing!

There are some parents who try hard to raise their children right, but because of outside peer pressure and influences, the kids steal their first item and then bigger

ones. Again, H.B. 2078 gives parents another tool. We think it is time that we help our children. The penalty provision of HB 2078 may change juveniles' habits before they become more serious. Most teens are good kids. Knowing that his or her parents will have to pay for one lapse of judgment might make a good kid think twice about shoplifting. Make this happen -- vote "YES" to H.B. 2078!

I have discussed with you the JCPenney Company apprehensions, which were greater in 2001 than in 2000 – every year the numbers increase. We must think about what juvenile shoplifting costs all retailers, whether national chains, regional businesses or local businesses in the state of Kansas.

Let's make it happen by working together to pass H.B. 2078. We need this bill. Remember, currently, Kansas is one of twelve states without this law. New Jersey and California addressed this topic back in the 1970's. We are asking Kansas to react now.

Thank you so much for your time. I will be glad to answer any questions.

¹ Only Delaware has no civil recovery law.

² Jack Hayes International, a leading loss prevention/inventory shrinkage control consulting firm.

³ Ibid.