

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Bill Mason at 1:30 p.m. on February 24, 2003 in Room 313-S of the Capitol.

All members were present except: Representative Broderick Henderson

Committee staff present: Russell Mills, Legislative Research Department
Mary Torrence, Office of Revisor of Statutes
Rose Marie Glatt, Secretary

Conferees appearing before the committee: Representative Nancy Kirk
Representative Roger Reitz
Representative Mike O'Neal
Pete Bidyk, Alcohol Beverage Control
Ron Hein, Kansas Restaurant & Hospitality Assn.
& Kansas Food Dealers Assn.
Robert Longino, ABC
(written testimony only)

Others attending: See Attached

Without objection, a bill was introduced as requested by Representative Kirk regarding a liability insurance pool for nursing home residents.

Without objection, a bill was introduced by Representative Reitz concerning a counties liability for medical costs while in the custody of law enforcement personnel.

HB 2226 - The bill would allow 16 and 17-year old employees to take orders and accept payment for alcohol and cereal malt beverages.

Representative O'Neal stated that **HB 2226** would clarify what is meant by the prohibition against under aged "serving" in current law (Attachment 1). It makes it clear that serving does not include merely taking an order or collecting payment. Clearing up the current ambiguity in the law will serve the interest of both state and businesses that strive to conform to the law.

Pete Bidyk, ABC, reviewed a chart that outlined duties performed under the current law compared to those allowed if the bill were enacted in four types of businesses that provide liquor (Attachment 2). ABC recommends if the bill is enacted, that someone 18 or older be required to verify age and serve the product. They added that the statute must make clear who is responsible for the transaction in case of an illegal sale resulting in a citation.

Ron Hein, legislative counsel for the Kansas Food Dealers Assn. and Kansas Restaurant and Hospitality Assn., presented balloons to add clarifying language to **HB 2226** (Attachment 3). Under current law, there is a question as to what constitutes the "serving" of alcohol. The bill makes it clear that a 16 or 17 year old may take an order and collect payment for drinks containing alcoholic liquor. The serving of the product, and verification of age would be performed by the appropriate aged individual. The bill also clarifies the language regarding who is required to be 18 years of age or older in the process of serving alcohol at facilities which sell liquor on premises. Mr. Bob Longino, Director of ABC, has approved the language of the amendments.

Discussion followed regarding the process of sales of cereal malt beverages in grocery stores. The Chairman asked who would perform the age verification in a store that has automatic check-outs. Mr. Hein agreed to find out and get information back to the committee. The issue of whether a 16 or 17 year old would be required to learn about alcoholic drinks in order to take orders for such was discussed. Mr. Hein stated that was not the intent of the bill. There was a question raised regarding a 16 or 17 year old "taking money" for alcohol and if that act of taking money might be interpreted as "selling" alcohol. Is

the language used in the criminal code for selling alcohol in conflict with the language used in the amendments. There was a request for answers to the questions before any action on the bill.

The hearing was closed on **HB 2226**.

In response to questions from the briefing by Ed Van Petten, Kansas Lottery, staff distributed information on "Gambling counselors on call for problem gamblers" (Attachment 4).

HB 2176 - Standard for operation of abortion clinics

Information was distributed on "Life Decisions" from Kansans For Life (Attachment 5) and a "Q & A response" from Planned Parenthood (Attachment 6).

Representative Williams made the motion that **HB 2176** be passed out favorably. Representative Ruff seconded.

Representative Williams presented a balloon amendment to **HB 2176** per the request of KDHE, to clarify the language assuring that KDHE could carry out their duties (Attachment 7). Staff explained the amendments on page 5 and 6 of the bill.

Representative Williams made the motion that they adopt the balloon amendment on page 5 and 6 of the bill. Representative Johnson seconded the motion. The motion carried.

Discussion followed whether inspections require a statute or should be covered under rules and regulations. The fiscal note was explained.

Representative Williams made the motion that **HB 2176** be moved out favorably, as amended. The motion was seconded . The motion carried 13-6.

HB 2101 - Private detective license and firearm permit become anniversary biennial process.

Representative Freeborn presented a balloon amendment to **HB 2176** on page 2, adding an alternative for firearms training (Attachment 8). Staff explained the amendment on page 2.

Representative Freeborn made the motion that they adopt the balloon amendment on page 2. Representative Hutchins seconded the motion. The motion carried.

Staff noted there was a technical amendment on page 1, line 26, the word *on* needs to be stricken and the title needs some work. Permission given by consensus.

Representative Freeborn made the motion to pass **HB 2176** out favorably as amended. The motion was seconded.. The motion carried.

The meeting adjourned at 2:50 p.m. with the next meeting on call of the Chairman.

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

MICHAEL R. (MIKE) O'NEAL

104TH DISTRICT
HUTCHINSON/NORTHEAST RENO COUNTY

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CHAIRMAN:
JUDICIARY COMMITTEE

MEMBER:
TAX, JUDICIAL AND
TRANSPORTATION BUDGET
UNIFORM LAW COMMISSION
KANSAS JUDICIAL COUNCIL

Testimony on H.B. 2226
House Federal & State Affairs Committee
Feb. 24, 2003

Chairman Mason and members of the Committee, I appreciate the opportunity to appear in support of H.B. 2226. The bill stems from interim communications I had with the ABC last summer & fall on behalf of a constituent who owns and manages a number of eating establishments that also serve alcohol. Due to conflicting interpretations of current law obtained when different managers would ask, I was asked to pose a series of questions and obtain an official interpretation. My questions, as well as ABC's answers, were as follows:

1. If the restaurant is licensed as a drinking establishment, can persons between the ages of 15 & 18 take drink orders from customers? ___ Yes X No
2. If the restaurant is licensed as a drinking establishment, can persons between the ages of 15 & 18 collect payment from the customer at the table? ___ Yes X No
3. If the restaurant is licensed as a drinking establishment, can persons between the ages of 15 & 18 collect

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HUTCHINSON ADDRESS
Hs Federal & State Affairs
Date: 2-24-03
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payment from the customer at a central cashier point?

Yes No

4. If the restaurant only has a cereal malt beverage license, can persons between the ages of 15 & 18 take drink orders from customers? Yes No

5. If the restaurant only has a cereal malt beverage license, can persons between the ages of 15 & 18 collect payment from the customer at the table? Yes No

6. If the restaurant only has a cereal malt beverage license, can persons between the ages of 15 & 18 collect payment from the customer at a central cashier point?
 Yes No

I have attached the letter I received from the ABC. The ABC sympathizes with us as to the interpretation but suggests that the solution requires legislation to clarify what is meant by the prohibition against under aged "serving". H.B. 2226 was drafted and cleared with the ABC before introduction. It makes it clear that serving does not include merely taking an order or collecting payment. Drinking establishments employ servers who comply with the minimum age law. They also employ persons in the 16 to 18 age group who are not allowed to come into contact with alcoholic beverages. Clearing up the current ambiguity in the law will serve the interests of both the state and these establishments who strive to conform to the law.

Thank you for your attention and I will appreciate your favorable support.

Alcohol Beverage Control
Pete Bidyk

Type	Current duties allowed:			Changes in this bill
	Under 18	18-20	21 or above	
Alcoholic Liquor/On-Premise	No duties involving alcohol. With a supervisor on the premises, someone under 18 may be a cook, dishwasher, janitor, etc.	With a supervisor on the premises, may serve alcohol, but cannot mix or dispense (i.e. tend bar)	No restrictions.	Would allow 16 and 17 year olds to take orders and collect payment for drinks containing alcoholic liquor.
Alcoholic Liquor/Off-Premise	No employees under 21 allowed.	No employees under 21 allowed.	No restrictions.	No changes.
Cereal Malt Beverage (CMB)/On-Premise	No duties allowed involving dispensing or selling CMB.	May sell or dispense if the establishment is a licensed food establishment as defined by K.S.A. 36-501, and derives at least 50% of its gross receipts from the sale of food for consumption on the licensed premises.	No restrictions.	Would allow 16 & 17 year olds to take orders and collect payment for CMB if the establishment is a licensed food establishment as defined by K.S.A. 36-501, and derives at least 50% of its gross receipts from the sale of food for consumption on the licensed premises.
Cereal Malt Beverage (CMB)/Off-Premise	No duties allowed involving selling CMB.	May sell CMB.	No restrictions.	Would allow 16 & 17 year olds to collect payment for the sale of CMB.

There are four basic steps for serving alcoholic liquor or CMB at on-premise establishments (listed to the right). If the legislature makes the decision to pass this bill, we would strongly encourage that someone 18 or older be required to conduct steps 2 and 3. The statute must also be very clear who is responsible for the transaction. In other words, who would be cited or arrested for furnishing to an underage person should an illegal sale occur.

- 1) Take the order
- 2) Verify age
- 3) Serve the product
- 4) Collect payment

There are three basic steps for sales of CMB at off-premise establishments (listed to the right). As we understand the balloon amendment to this bill, it would require someone 18 or older to conduct steps 1 and 2. We feel the use of someone 18 or older is critical to conducting these two steps.

- 1) Verifying the age of the purchaser
- 2) Ringing up or registering the sale
- 3) Collecting the payment

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**Testimony Re: HB 2226
House Federal and State Affairs Committee
Presented by Ronald R. Hein
on behalf of
Kansas Food Dealers Association
February 24, 2003**

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Food Dealers Association. The KFDA represents retailers, distributors and manufacturers of food products throughout the state of Kansas.

The KFDA supports HB 2226. HB 2226 clarifies the language of the existing statutes regarding who is required to be 18 years of age or older in the process of serving alcoholic beverages and cereal malt beverage (CMB) at facilities which sell alcoholic liquor or cereal malt beverages for consumption on premises.

We have a proposed balloon amendment, attached to my testimony, that would make similar language changes to the statutory provisions relating to sales of cereal malt beverage at facilities that sell CMB for off-premises consumption. Our amendment makes clear that an 18 year old is doing the age verification, and yet permits 16 and 17 year olds to serve as cashiers for processing of payment when other groceries are being purchased or otherwise. Mr. Bob Longino, Director of the Alcoholic Beverage Control Division of the Department of Revenue, has approved the language of our amendment.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

Hs Federal & State Affairs

Date: 2-24-03

Attachment # 3

Page 1

1 of business is a licensed food service establishment, as defined by K.S.A.
2 36-501, and amendments thereto, which is licensed to sell cereal malt
3 beverage for consumption on the licensed premises and not less than 50%
4 of the gross receipts from the licensee's place of business is derived from
5 the sale of food for consumption on the premises of the licensed place of
6 business.

7 (f) No person shall have any alcoholic liquor in such person's posses-
8 sion while in a place of business, unless the premises are currently li-
9 censed as a club or drinking establishment pursuant to the club and drink-
10 ing establishment act.

11 (g) Cereal malt beverages may be sold on premises which are licensed
12 pursuant to both the acts contained in article 27 of chapter 41 of the
13 Kansas Statutes Annotated, and amendments thereto, and the club and
14 drinking establishment act at any time when alcoholic liquor is allowed
15 by law to be served on the premises.

16 Sec. 3. K.S.A. 2002 Supp. 41-2708 is hereby amended to read as
17 follows: 41-2708. (a) The board of county commissioners or the governing
18 body of any city, upon five days' notice to the persons holding a license,
19 shall revoke or suspend the license for any one of the following reasons:

20 (1) The licensee has fraudulently obtained the license by giving false
21 information in the application therefor;

22 (2) the licensee has violated any of the provisions of K.S.A. 41-2701
23 et seq., and amendments thereto, or any rules or regulations made by the
24 board or the city, as the case may be;

25 (3) the licensee has become ineligible to obtain a license under this
26 act;

27 (4) drunkenness of the licensee or permitting any intoxicated person
28 to remain in the licensee's place of business;

29 (5) the sale of cereal malt beverages to any person under the legal
30 age for consumption of cereal malt beverage;

31 (6) the nonpayment of any license fees;

32 (7) permitting any gambling in or upon the licensee's place of
33 business;

34 (8) permitting any person to mix drinks with materials purchased in
35 the place of business or brought in for that purpose;

36 (9) the employment of persons under 18 years of age in dispensing
37 or selling cereal malt beverages, except that a licensee may employ persons
38 16 or more years of age to take orders and collect payment for cereal malt
39 beverage if the licensee's place of business is a licensed food service estab-
40 lishment, as defined by K.S.A. 36-501, and amendments thereto, which is
41 licensed to sell cereal malt beverage for consumption on the licensed prem-
42 ises and not less than 50% of the gross receipts from the licensee's place
of business is derived from the sale of food for consumption on the licensed

; and
(3) a licensee's employee who is 16 or more years of age may process payment for cereal malt beverage if the licensee's place of business is licensed only to sell cereal malt beverage at retail in original and unopened containers and not for consumption on the premises and if an employee who is 18 or more years of age of such licensee scans or otherwise acts to register such sale and verifies the purchaser is of legal age for consumption of cereal malt beverage; and

(A)

1 premises; _____
 2 (10) the employment or continuation in employment of a person in
 3 connection with the sale, serving or dispensing of cereal malt beverages
 4 if the licensee knows such person has been, within the preceding two
 5 years, adjudged guilty of a felony or of any violation of the intoxicating
 6 liquor laws of this state, another state or the United States;

7 (11) the sale or possession of, or permitting any person to use or
 8 consume on the licensed premises, any alcoholic liquor as defined by
 9 K.S.A. 41-102, and amendments thereto; or

10 (12) the licensee has been convicted of a violation of the beer and
 11 cereal malt beverage keg registration act.

12 (b) The provisions of subsections (a)(8) and (11) shall not apply if the
 13 place of business or premises are also currently licensed as a club or
 14 drinking establishment pursuant to the club and drinking establishment
 15 act.

16 (c) Within 20 days after the order of the board revoking or suspending
 17 any license, the licensee may appeal to the district court and the district
 18 court shall proceed to hear such appeal as though such court had original
 19 jurisdiction of the matter. Any appeal taken from an order revoking or
 20 suspending the license shall not suspend the order of revocation or sus-
 21 pension during the pendency of any such appeal. In case of the revocation
 22 of the license of any licensee, no new license shall be issued to the former
 23 licensee, or to any person acting for or on the former licensee's behalf,
 24 for a period of six months thereafter.

25 Sec. 4. K.S.A. 41-2610 and 41-2704 and K.S.A. 2002 Supp. 41-2708
 26 are hereby repealed.

27 Sec. 5. This act shall take effect and be in force from and after its
 28 publication in the statute book.

and (B) a licensee's employee who is 16 or more years of age may process
 payment for cereal malt beverage if the licensee's place of business is
 licensed only to sell cereal malt beverage at retail in original and unopened
 containers and not for consumption on the premises and if an employee
 who is 18 or more years of age of such licensee scans or otherwise acts to
 register such sale and verifies the purchaser is of legal age for
 consumption of cereal malt beverage.

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**Testimony Re: HB 2226
House Federal and State Affairs Committee
Presented by Ronald R. Hein
on behalf of
Kansas Restaurant and Hospitality Association
February 24, 2003**

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Restaurant and Hospitality Association. The KRHA is the Kansas professional association for restaurant, hotel, lodging and hospitality businesses in Kansas.

The KRHA supports HB 2226. This bill was introduced by this committee at the request of Rep. Mike O'Neal after he was contacted by a constituent concerning problems with the existing language relating to serving of alcohol in restaurants. The constituent is a member of the KRHA.

HB 2226 would clarify the language of the existing statutes regarding who is required to be 18 years of age or older in the process of serving alcoholic beverages and cereal malt beverage. Under current law, there is a question as to what constitutes the serving of alcohol. HB 2226 makes it clear that a 16 or 17 year old may take an order and collect payment for drinks containing alcoholic liquor or cereal malt beverage. The serving of the product, and the subsequent verification that the age of the consumer is appropriate, would be performed by the appropriate aged individual. We believe the amendments in this bill will make no substantive change in the intent, and perhaps even the current interpretation, of what can be done in a restaurant.

We have been in communication with Mr. Bob Longino, Director of the Alcoholic Beverage Control Division of the Department of Revenue regarding these changes. He has requested that the language be clear that it is the 18 year old who is responsible for verifying that the consumer is of lawful age. Therefore, we have a proposed balloon amendment, attached to my testimony, that would make that clarification.

Just to give the committee an example of how the bill would work: A waiter or waitress who is 16 or 17 years of age could take the order for the dinner, but the bartender would have to be age 21 in order to mix an alcoholic liquor drink, and then an employee of at least 18 years of age would serve the drink to the table and verify the age of the purchaser. Subsequently, however, the 16 or 17 year old waiter/waitress could take the

credit card, check, or cash payment, and make change or return the credit card for signature, without such activities constituting the "serving" of the beverage. Similar provisions exist under the other sections of the bill for sale of cereal malt beverage (CMB) at restaurants.

The Kansas Food Dealers Association has a proposed amendment to make similar language changes to the law for sales at grocery stores and other facilities that sell CMB for off-premises consumption. Their amendment makes the language clear that an 18 year old shall scan or otherwise register the sale and perform the age verification, but that a 16 and 17 year old may perform the other cashier services such as processing the cash, check, or credit card payment when other groceries are being purchased or otherwise.

The KRHA has no objection to the Kansas Food Dealers Association proposed amendment.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

HOUSE BILL No. 2226

By Committee on Federal and State Affairs

2-6

9 AN ACT concerning alcoholic beverages; amending K.S.A. 41-2610 and
10 41-2704 and K.S.A. 2002 Supp. 41-2708 and repealing the existing
11 sections.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 41-2610 is hereby amended to read as follows: 41-
15 2610. It shall be unlawful for any licensee or holder of a temporary permit
16 under this act to:

17 (a) Employ any person under the age of 18 years in connection with
18 the serving of alcoholic liquor, *except that a licensee's or permit holder's*
19 *employee who is 16 or more years of age may take orders and collect*
20 *payment for drinks containing alcoholic liquor*

21 (b) Employ knowingly or continue in employment any person in con-
22 nection with the dispensing or serving of alcoholic liquor or the mixing
23 of drinks containing alcoholic liquor who has been adjudged guilty of a
24 felony or of any crime involving a morals charge in this or any other state,
25 or of the United States.

26 (c) Employ knowingly or to continue in employment any person in
27 connection with the dispensing or serving of alcoholic liquor or mixing of
28 drinks containing alcoholic liquor who has been adjudged guilty of a vi-
29 olation of any intoxicating liquor law of this or any other state, or of the
30 United States, during the two-year period immediately following such
31 adjudging.

32 (d) In the case of a club, fail to maintain at the licensed premises a
33 current list of all members and their residence addresses or refuse to
34 allow the director, any of the director's authorized agents or any law
35 enforcement officer to inspect such list.

36 (e) Purchase alcoholic liquor from any person except from a person
37 authorized by law to sell such alcoholic liquor to such licensee or permit
38 holder.

39 (f) Permit any employee of the licensee or permit holder who is under
40 the age of 21 years to work on premises where alcoholic liquor is sold by
41 such licensee or permit holder at any time when not under the on-prem-
42 ises supervision of either the licensee or permit holder, or an employee
43 who is 21 years of age or over.

3-6
 , so long as the employee who is 18 or more years of age verifies the purchaser is
of legal age for consumption of alcohol liquor

1 (g) Employ any person under 21 years of age in connection with the
2 mixing or dispensing of drinks containing alcoholic liquor.

3 Sec. 2. K.S.A. 41-2704 is hereby amended to read as follows: 41-

4 2704. (a) In addition to and consistent with the requirements of this act,
5 the board of county commissioners of any county or the governing body
6 of any city may prescribe hours of closing, standards of conduct and rules
7 and regulations concerning the moral, sanitary and health conditions of
8 places licensed pursuant to this act and may establish zones within which
9 no such place may be located.

10 (b) Except as provided by subsection (g), no cereal malt beverages
11 may be sold:

12 (1) Between the hours of 12 midnight and 6 a.m.; or

13 (2) on Sunday, except in a place of business which is licensed to sell
14 cereal malt beverage for consumption on the premises, which derives not
15 less than 30% of its gross receipts from the sale of food for consumption
16 on the licensed premises and which is located in a county where such
17 sales on Sunday have been authorized by resolution of the board of county
18 commissioners of the county or in a city where such sales on Sunday have
19 been authorized by ordinance of the governing body of the city.

20 (c) No private rooms or closed booths shall be operated in a place of
21 business, but this provision shall not apply if the licensed premises are
22 also currently licensed as a club pursuant to the club and drinking estab-
23 lishment act.

24 (d) Each place of business shall be open to the public and to law
25 enforcement officers at all times during business hours, except that a
26 premises licensed as a club pursuant to the club and drinking establish-
27 ment act shall be open to law enforcement officers and not to the public.

28 (e) No licensee shall permit a person under the legal age for con-
29 sumption of cereal malt beverage to consume or purchase any cereal malt
30 beverage in or about a place of business, and no licensee shall permit a
31 person under the legal age for consumption of cereal malt beverage to
32 possess cereal malt beverage in or about a place of business, except that:

33 (1) A licensee's employee who is not less than 18 years of age may
34 dispense or sell cereal malt beverage, if: ~~(A)~~ (A) The licensee's place of
35 business is licensed only to sell cereal malt beverage at retail in original
36 and unopened containers and not for consumption on the premises; or
37 ~~(B)~~ (B) the licensee's place of business is a licensed food service estab-
38 lishment, as defined by K.S.A. 36-501 and amendments thereto, and not
39 less than 50% of the gross receipts from the licensee's place of business
40 is derived from the sale of food for consumption on the premises of the
41 licensed place of business; and

42 (2) a licensee's employee who is 16 or more years of age may take
43 orders and collect payment for cereal malt beverage if the licensee's place

, so long as the employee who is 18 or more years of age verifies the purchaser is
of legal age for consumption of cereal malt beverage,

1 of business is a licensed food service establishment, as defined by K.S.A.
 2 36-501, and amendments thereto, which is licensed to sell cereal malt
 3 beverage for consumption on the licensed premises and not less than 50%
 4 of the gross receipts from the licensee's place of business is derived from
 5 the sale of food for consumption on the premises of the licensed place of
 6 business.

7 (f) No person shall have any alcoholic liquor in such person's posses-
 8 sion while in a place of business, unless the premises are currently li-
 9 censed as a club or drinking establishment pursuant to the club and drink-
 10 ing establishment act.

11 (g) Cereal malt beverages may be sold on premises which are licensed
 12 pursuant to both the acts contained in article 27 of chapter 41 of the
 13 Kansas Statutes Annotated, and amendments thereto, and the club and
 14 drinking establishment act at any time when alcoholic liquor is allowed
 15 by law to be served on the premises.

16 Sec. 3. K.S.A. 2002 Supp. 41-2708 is hereby amended to read as
 17 follows: 41-2708. (a) The board of county commissioners or the governing
 18 body of any city, upon five days' notice to the persons holding a license,
 19 shall revoke or suspend the license for any one of the following reasons:

20 (1) The licensee has fraudulently obtained the license by giving false
 21 information in the application therefor;

22 (2) the licensee has violated any of the provisions of K.S.A. 41-2701
 23 et seq., and amendments thereto, or any rules or regulations made by the
 24 board or the city, as the case may be;

25 (3) the licensee has become ineligible to obtain a license under this
 26 act;

27 (4) drunkenness of the licensee or permitting any intoxicated person
 28 to remain in the licensee's place of business;

29 (5) the sale of cereal malt beverages to any person under the legal
 30 age for consumption of cereal malt beverage;

31 (6) the nonpayment of any license fees;

32 (7) permitting any gambling in or upon the licensee's place of
 33 business;

34 (8) permitting any person to mix drinks with materials purchased in
 35 the place of business or brought in for that purpose;

36 (9) the employment of persons under 18 years of age in dispensing
 37 or selling cereal malt beverages, *except that a licensee may employ persons*
 38 *16 or more years of age to take orders and collect payment for cereal malt*
 39 *beverage if the licensee's place of business is a licensed food service estab-*
 40 *lishment, as defined by K.S.A. 36-501, and amendments thereto, which is*
 41 *licensed to sell cereal malt beverage for consumption on the licensed prem-*
 42 *ises and not less than 50% of the gross receipts from the licensee's place*
 43 *of business is derived from the sale of food for consumption on the licensed*

, so long as the employee who is 18 or more years of age verifies the purchaser is of legal age for consumption of cereal malt beverage,



Kansas News The Topeka Capital-Journal

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Gambling counselors on call

Toll-free number established to help problem gamblers.

By **CHRIS GRENZ**
The Capital-Journal

Joyce Markham has battled problem gambling in Kansas for 4 1/2 years, all the while saying the state wasn't doing enough to help her.

At last, Markham, who is one of just a handful of licensed gambling counselors in the state, is getting some much-needed aid.

Beginning today, a hotline is being launched to connect problem gamblers and their families with the help they need. It will be funded with state dollars.

The toll-free number -- (866) NO BET 00, or (866) 662-3800 -- will be answered by trained professionals who will refer people to counseling services.

"We believe the problem is there. Statistically, it's there," Markham said in an interview at her office in St. Francis Hospital and Medical Center's Chemical Dependency Treatment Services. "It's a progressive problem. It gets worse over time. The casinos have been around long enough now that they (problem gamblers) realize they need help. They can't do it alone. Family members are frustrated because they think someone has a problem, but they don't know what to do.

"With the hotline, people will have a place to call and reach out for help."

Markham said casinos aren't the only problem. Sports gambling and Internet gambling are on the rise and the lottery also is troublesome for many gamblers.

Gambling is especially increasing among teens and the elderly, Markham said.

The St. Francis clinic has more people undergoing counseling now than ever before, she said.

Markham cited statistics indicating 1 percent to 2 percent of any

Joyce Markham is a licensed compulsive gambling counselor who works at a gambling clinic within St. Francis Hospital and Medical Center's Chemical Dependency Treatment Services. Markham said she is pleased the state is launching a new hotline today for problem gamblers because she believes gambling is on the rise in Kansas and more people will need help.

Chris Ochsner/The Capital-Journal

Getting Around

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Breaking News

Updated @ 10:36 a.m.
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[Northwest Begins Quake Cleanup](#)

[Bush Touting Budget Plan in Ark.](#)

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Election 2000



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Pa: _____ Hs Federal & State Affairs
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Markham cited statistics indicating 1 percent to 2 percent of any population could be diagnosed as pathological gamblers. Another 2 percent to 7 percent have a problem with gambling, she said.

[LOGIN](#)

[CREATE ACCOUNT](#)

"Kansas legalized gambling, but they really didn't factor in the problems that would develop or any resources to address those problems," she said. "When gambling is more accessible, you're going to have more problems."

The hotline will be managed by the Mental Health Consortium, a private organization under contract with the Kansas Department of Social and Rehabilitation Services. The 2000 Legislature set aside \$100,000 for a problem gambling grant using \$20,000 from the state bingo regulations fund and \$80,000 from the gaming revenues fund, an SRS news release said.

SRS cited research from Harvard Medical School's Division on Addiction to estimate that up to 73,000 Kansans -- about 4 percent of the adult population -- could have a gambling addiction. Of those, 3 percent to 4 percent seek help.

Donna Doolin, assistant director of Substance Abuse and Recovery for SRS, said those statistics indicate that 2,195 Kansans may seek help because of a problem with gambling.

"This is a hidden addiction. You can't smell a pair of dice or a pack of cards on somebody," said Doolin, a licensed gambling counselor. "If it's not right there in front of us, we tend to overlook that a problem is there."

Doolin said many states set aside much more money than Kansas has to combat problem gambling. More money will have to be set aside than just the \$100,000 appropriated last year, which she noted was the first time the Legislature put money toward prevention.

"I consider that a very big victory," Doolin said. "But it's just a start."

Money from the state grant also is being used to train and license additional compulsive gambling counselors in Kansas. There are only about five now, but Markham said 25 more are undergoing 60 hours of training through the Kansas Coalition on Problem Gambling, which is part of the Kansas Association of Addiction Professionals.

SRS also plans to work to increase awareness of problem gambling in Kansas. Markham said that will be a key component of the effort.

"I think the average person finds it difficult to believe that someone could develop a compulsive gambling problem," Markham said. "Most people have the attitude, 'If you have a problem, just don't do it.' They don't understand the compulsive side of it."

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LIFE DECISIONS

February 2003

REBUTTALS to OPPONENTS of HB 2176

1. **Opponents contend: "This bill is merely intended to limit access to abortions by driving up costs."** This is confusing! The *only* way the bill can increase costs is if the provider is not presently following the minimum standards set forth by their own industry. That's scary. Which minimum standards recommended by the industry are not being followed by the provider who is so concerned about costs? Do they not have basic CPR training, adequate lighting, basic sanitation? If they are indeed meeting the minimum standards, again set forth by their own industry, then there can be no increase in costs.

2. **How in the world can Planned Parenthood be listed as an opponent of their own regulations?!** Planned Parenthood supposedly promotes "safe and legal abortions." They were the ones who wrote the standards. Was it their intent that the standards be written and then not implemented? This is akin to recognizing a dangerous intersection and installing traffic lights. However, after the lights are installed, electricity is not supplied. If the lights were not needed, why were they installed? If they are installed, why not utilize them by turning on the electricity and preventing accidents and injury. Surely, by opposing this bill Planned Parenthood is demonstrating a schizophrenic personality.

3. **The opponents state; "You are singling out the abortion industry--go pick on someone else."** Huh? The proponents are not the ones who said these standards are necessary-- it was the abortion industry. If abortion is so safe, and such a minor procedure that it does not need the standards, why did the industry come up with the standards? Are we to assume that on some boring Sunday afternoon some person unaffiliated with abortion just drafted these regulations for fun? (We again refer you to our "dead" traffic light example above)

4. **Opponents say: "The Board of Healing Arts can handle this if there is a problem."** Absolutely, unequivocally, not true! The Board of Healing Arts is a reactive agency which responds (allegedly) to complaints *after the damage is done*. (Somewhat inconsistent with promoting "safe and legal" don't you think?) Additionally, due to the controversial nature of abortion, women with complaints about clinics are unlikely to tell the Board (and that also assumes they even know there is a proper reporting avenue.) More importantly, the Board is totally without the statutory authority to perform **on site** inspections. HB 2176 enables KDHE to do what most people would assume was already being done.

(Turn page)

Contact Jeanne Gawdun, 785-234-2998, KANSANS FOR LIFE, 919 S. Kansas Ave. Topeka, KS

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5. The opponents say: "you can't prove that unsafe conditions exist at the present time."

It is true that the proponents of this bill expect to find substandard conditions when inspections are allowed. Why? Because this is what has happened **every** time, in **every** state, when the abortion industry's standards have been implemented in licensing laws. If there is not a problem, then no one should fear the inspections.

6. The opponents say: "The Legislature should not micro-manage health providers." While we run the risk of being repetitious, these are not standards written by legislators. Firemen know what prevents fires. Lawyers know what constitutes attorney malpractice. Police know what prevents burglaries. In the abortion industry, the abortion providers supposedly know what are the minimum standards of care needed to protect those receiving abortions.

7. Opponents suggest having KDHE create rules & regs. Why should KDHE re-invent the wheel? Planned Parenthood and the National Abortion Federation have done it. Minimum standards must be put into statute to insulate safety from being buffeted by politics. Administrative changes could otherwise show up in the form of inconsistent implementation, intentional omission or benign neglect. Why jeopardize women any longer?

8. The opponents argue that the bill is constitutionally impermissible. This bill has a 100 percent success record in front of multiple federal courts. The federal appellate courts have consistently ruled that the states have a valid interest in protecting the welfare of their citizens. Yes! The protection of a sanitary room, with a qualified staff, specifically extends to those undergoing an abortion.

9. There really is no opponent to this bill, so it should pass immediately. If no one opposed the bill, would there be any need for further debate? The reality of the situation is that no one does oppose the bill.

The National Organization for Women seeks to protect women--the proponents seek to protect women.

Planned Parenthood and the National Abortion Federation want minimum standards set and utilized-- the proponents want minimum standards set and utilized; in fact, the proponents actually endorse the abortion industry's *own minimum standards*.

So why is there feigned opposition? There is only one logical answer. It is because minimum standards are not being met by abortion providers in Kansas and the providers are fearful of this exposure of their substandard practices.

Kansas women deserve better and this Honorable Body can see that it happens.

Explanation: CURRENT OVERSIGHT, & LACK OF IT, FOR CLINICS

1. The abortion industry operates with facility deficiencies, outrageous website information and an entire clinic staff that needed regular drug testing. PP testified they're governed by CLIA and OSHA but CLIA only covers the handling of onsite lab work and not other aspects of medical care; OSHA deals primarily with employee workplace safety and does not deal with the safety and appropriateness of patient procedures.
 2. [OUR MAIN POINT:] The standards of 2176 are those of the clinics' own abortion industry. They are going to be intended to be supposedly already adhering to them. When they say HB 2176 will drive them out of business they are saying following their own standards will drive them out of business. [Reread this last sentence 20 times--we really shouldn't need anything else.] Legislators are not selecting rules for a medical procedure about which they know very little--the abortionists have created these rules used in HB 2176.
 3. All the medical groups [AMA, ACOG(CollegeObGyn), AAFP (FamilyPractitioners---likeTiller)] are committed to abortion. So also is the Kansas Medical Society and the Kansas State Board of Healing Arts. Thus, the May 2002 guidelines of KMS adopted by KSBHA in Oct2002 illustrate what proponent Dr.Kenny said: **medical professionals have determined this type of procedure warrants a serious protocol because of its nature, not because of its political status.**
 4. The Courts consistently been perfect candidate declare **abortion "rationally distinct."** It's irrelevant how many other office procedures, dental situations, etc are proposed as also being dangerous.
 5. The KMS/KSBHA guidelines, while showing the medical community's recognition that office based surgery is risky, have no force of law. Rather than undercutting the need for HB 2176, they underscore the need for it.
 6. The KSBHA has no statutory authority to go onsite and inspect.* They govern professional activities and cannot interfere with the property rights of the doctors. They act carefully to avoid being sued. They may request records and appearances but they cannot send in a team to evaluate the physical premises or observe the activities. **The KDHE needs to be enabled to do this job.**
- *Plus they all serve at the pleasure of the governor, and may not have the political incentive even to prosecute abortionists for negligence & incompetence--a situation we believe already exists.
7. **KDHE cannot police properly without HB 2176, which dictates their procedures no matter the political desires of the current, or succeeding, governors.** While KDHE may need to make further rules & regs, 2176 is only the floor (not the goal) and thus must be made into statute.
 8. **When inspections become permitted, violations will be exposed. Only one clinic (PP) has applied to meet KDHE non-abortion-specific "ASC" licensing requirements, and it failed.** KDHE found outdated medications in use, free access to narcotics, patient records in open boxes in open areas, untrained staff w/o medical records, no notice of patient rights or policy for reporting "incidents" or "misadventures". **Deficiencies were found when Missouri adopted abortion licensing** including: caseA-insects in recovery room, rusty surgical tables, nurse w/o CPR ability; caseB-patients given drugs before signing consent, suspected child abuse and patient infections not reported to state as required; caseC-dead abortion patient from abortionist w/o CPR training, lacking resuscitative equipment and trained staff. All 3 cases had Kansas-licensed abortionists.
 9. **HB 2176 is constitutional.** It has been litigated over and over again in federal courts.
 10. The state regulates popcorn in movie theatres, periodicals in veterinary clinics, ear piercing and tattoo parlors, but not clinics for invasive procedures in women--this is insane!

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Jennifer McAdam**Kansas Public Affairs Director/Lobbyist****Planned Parenthood of Kansas and Mid-Missouri****Answers to Questions on HB 2176****House Federal and State Affairs Committee****February 24, 2003****Questions**

1. Is the bill based on Planned Parenthood Regulations?
2. Why does Planned Parenthood object to this bill?
3. Have any Planned Parenthood affiliates had problems with these regulations in other states?
4. How could this bill drive up costs?
5. Is it right for veterinary clinic regulations to be stricter than women's health clinic regulations?

Answers

1. The provisions laid out in HB 2176 are very similar to the regulations Planned Parenthood follows as a licensed ambulatory surgical center.
2. Planned Parenthood objects to HB 2176 because it was not introduced with the goal of improving women's health. Planned Parenthood considers this form of legislation "TRAP" legislation (Targeted Regulations against Abortion Providers). TRAP laws are being passed in other states with varying degrees of burden placed on providers, but with the same objective: to limit women's access to legal abortion.
3. Planned Parenthood affiliates in other states have had problems with TRAP legislation in some cases depending on the degree of burden placed on providers. Because Planned Parenthood struggles with funding, any law that would require money to be spent on regulations that ultimately do not improve women's health is onerous.

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4. HB 2176 could drive up costs for providers, which would be passed on to women seeking abortion. Providers' costs would increase as they try to meet new regulations. For example, Section 1(c)(4) requires a licensed nurse to be present during any exam by a physician. Section 1(c)(5) requires a RN, N-P, LPN or PA to be present until each patient is discharged. These requirements are not medically necessary and are potentially burdensome. Clinics should not be required to have both doctors and other licensed professionals, and it should be up to the clinic to decide how to staff the recovery room.

5. KDHE does not regulate veterinary clinics. Veterinary clinics only fall under the rules and regulations of the State board of veterinary examiners, a body of seven members appointed by the governor (K.S.A. 47-818). If this bill's intentions were to bring women's health care up to the same standards of veterinary care then why is it directed only at abortion? Isn't breast or endometrial biopsy, sigmoidoscopy/colonoscopy, etc. at least as "worthy" of regulation? Why is abortion held to a higher standard than other routine surgeries that are at least as invasive and more risky?

1 for complications, including a telephone number to call for medical
2 emergencies.

3 (7) There is a specified minimum length of time that a patient re-
4 mains in the recovery room by type of abortion procedure and duration
5 of gestation.

6 (8) The physician assures that a licensed health professional from the
7 abortion clinic makes a good faith effort to contact the patient by tele-
8 phone, with the patient's consent, within 24 hours after surgery to assess
9 the patient's recovery.

10 (9) Equipment and services are located in the recovery room to pro-
11 vide appropriate emergency resuscitative and life support procedures
12 pending the transfer of the patient or viable fetus to the hospital.

13 ~~(g)~~ (h) The secretary shall adopt rules and regulations that prescribe stan-
14 dards for follow-up visits. At a minimum these rules and regulations shall
15 require that:

16 (1) A postabortion medical visit is offered and, if requested, sched-
17 uled for three weeks after the abortion, including a medical examination
18 and a review of the results of all laboratory tests.

19 (2) A urine pregnancy test is obtained at the time of the follow-up
20 visit to rule out continuing pregnancy. If a continuing pregnancy is sus-
21 pected, the patient shall be evaluated and a physician who performs abor-
22 tions shall be consulted.

23 ~~(h)~~ (i) The secretary shall adopt rules and regulations to prescribe min-
24 imum abortion clinic incident reporting. At a minimum these rules and
25 regulations shall require that:

26 (1) The abortion clinic records each incident resulting in a patient's
27 or viable fetus' serious injury occurring at an abortion clinic and shall
28 report them in writing to the department within 10 days after the incident.
29 For the purposes of this paragraph, "serious injury" means an injury that
30 occurs at an abortion clinic and that creates a serious risk of substantial
31 impairment of a major body organ.

32 (2) If a patient's death occurs, other than a fetal death properly re-
33 ported pursuant to law, the abortion clinic shall report such death to the
34 department of health and environment not later than the next department
35 business day.

36 (3) Incident reports are filed with the department of health and en-
37 vironment and appropriate professional regulatory boards.

38 ~~(i)~~ (j) The department of health and environment shall not release per-
39 sonally identifiable patient or physician information obtained under this
40 section.

41 ~~(j)~~ (k) The rules and regulations adopted by the secretary pursuant to
42 this section do not limit the ability of a physician or other health care
43 professional to advise a patient on any health issue.

[reletter preceding subsections as needed]

(j)(1) The secretary shall adopt rules and regulations r
each abortion clinic to establish and maintain an inter
management program which, at a minimum, shall consist o
system for investigation and analysis of the frequency and c
reportable incidents within the clinic; (B) measures to mini
occurrence of reportable incidents and the resulting injuries w
clinic; and (C) a reporting system based upon the duty of al
care providers staffing the clinic and all agents and employe
clinic directly involved in the delivery of health care services to report
reportable incidents to the chief of the medical staff, chief
administrative officer or risk manager of the clinic.

(2) As used in this subsection (j), "reportable incident" means
an act by a health care provider which: (A) Is or may be below the
applicable standard of care and has a reasonable probability of
causing injury to a patient; or (B) may be grounds for disciplinary
action by the appropriate licensing agency.

(k) The secretary shall make or cause to be made such
inspections and investigations of abortion clinics at such intervals as
the secretary determines necessary to protect the public health and
safety and to implement and enforce the provisions of this act and
rules and regulations adopted hereunder. For that purpose, authorized
agents of the secretary shall have access to an abortion clinic during
reasonable business hours.

(l) Information received by the secretary through filed reports,
inspections or as otherwise authorized under this act shall not be
disclosed publicly in such manner as to identify individuals. Under no
circumstances shall patient medical or other identifying information
be made available to the public and such information shall always be
treated by the department as confidential.

(m) Each such clinic shall be required annually to obtain a
license from the department. The secretary shall adopt rules and
regulations providing for the issuance of such licenses. At a minimum
such rules and regulations shall require compliance with the standards
adopted pursuant to this act. The secretary shall establish by rules and
regulations the fee for such licenses in the amount required to cover
costs of implementation and enforcement of this act.

(n)

1 ~~(k)~~ The provisions of this act and the rules and regulations adopted
 2 pursuant thereto shall be in addition to any other laws and rules and
 3 regulations which are applicable to facilities defined as abortion clinics
 4 under this section. (o)

5 ~~(l)~~ A violation of this section or any rules and regulations adopted
 6 under this section is a class B person misdemeanor. (p)

7 ~~(m)~~ In addition to any other penalty provided by law, whenever in
 8 the judgment of the secretary of health and environment any person has
 9 engaged, or is about to engage, in any acts or practices which constitute,
 10 or will constitute, a violation of this section, or any rules and regulations
 11 adopted under the provisions of this section, the secretary shall make
 12 application to any court of competent jurisdiction for an order enjoining
 13 such acts or practices, and upon a showing by the secretary that such
 14 person has engaged, or is about to engage, in any such acts or practices,
 15 an injunction, restraining order or such other order as may be appropriate
 16 shall be granted by such court without bond. (q)

17 ~~(n)~~ Reports filed under this act with the secretary or the department
 18 and risk management reports or records of abortion clinics shall constitute
 19 open records except that information in such reports or records shall be
 20 made available in a manner that does not identify patients of the clinic.

21 Sec. 2. This act shall take effect and be in force from and after its
 22 publication in the statute book.

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1 application for renewal is verified and acknowledged by the applicant
 2 before an officer authorized to administer oaths;

3 (2) the application for renewal shall provide the information required
 4 of original applicants if the information shown on the original application
 5 or any renewal thereof on file with the attorney general is no longer
 6 accurate;

7 (3) a new photograph shall be submitted with the application for re-
 8 newal only if the photograph on file with the attorney general has been
 9 on file more than two years; and

10 (4) additional information may be required by rules and regulations
 11 adopted by the attorney general.

12 (b) A license issued under this act shall not be assignable.

13 Sec. 3. K.S.A. 2002 Supp. 75-7b17 is hereby amended to read as
 14 follows: 75-7b17. (a) No licensee may carry a firearm concealed on or
 15 about the licensee's person unless the licensee obtains a permit therefor,
 16 upon application to the attorney general. No permit shall be issued to any
 17 licensee unless such licensee:

18 (1) Demonstrates to the attorney general the need to carry a firearm
 19 in order to protect the licensee's life or property or to protect the life or
 20 property of a client of licensee and submits such proof as required by the
 21 attorney general to establish the necessity for the issuance of a firearm
 22 permit; and

23 (2) ~~has received training in the handling of firearms and the lawful~~
 24 ~~use of force from a trainer certified pursuant to K.S.A. 75-7b21, and~~
 25 ~~amendments thereto, and submits such proof as required by the attorney~~
 26 ~~general to show satisfactory completion of such training.~~

27 (b) An application for a firearm permit ~~which will be effective on and~~
 28 ~~after January 1, 1999, by a licensee shall be made in the manner and form~~
 29 ~~prescribed by the attorney general and shall be accompanied by a fee in~~
 30 ~~an amount fixed by the attorney general pursuant to K.S.A. 2002 Supp.~~
 31 ~~75-7b22, and amendments thereto. The application fee for a firearm per-~~
 32 ~~mit issued during calendar year 1998, shall not exceed \$10. Such appli-~~
 33 ~~cation shall be made a part of and supplemental to such licensee's appli-~~
 34 ~~cation for a license under this act. The application shall contain:~~

35 (1) The applicant's name and business and residence addresses;

36 (2) the make or manufacturer's name, model, serial number, caliber,
 37 gauge and any other identifying information concerning the firearm or
 38 firearms to be carried by the applicant;

39 (3) a full set of the applicant's fingerprints;

40 (4) a color photograph of the applicant taken within 30 days prior to
 41 date of application and suitable for identification purposes;

42 (5) such other information as deemed necessary by the attorney
 43 general.

(A) within 24 months before the date of submission of the original application for a firearm permit, has successfully completed the law enforcement training requirements of subsection (a) of K.S.A. 74-5607a, and amendments thereto, or, within 12 months before the date of submission of the original application for a firearm permit, has successfully completed the law enforcement training requirements subsection (b) of K.S.A. 74-5607a, and amendments thereto, and submits such proof as required by the attorney general to show satisfactory completion of such training or (B) within six months before the date of submission of the original application for a firearm permit,