

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Bill Mason at 1:40 p.m. on March 19, 2003 in Room 313-S of the Capitol.

All members were present except: Representative Edmonds - E

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

Conferees appearing before the committee:

**Proponents:** Senator Jay Scott Emler  
                         Roger Kroh, Director of Planning, City of Lenexa  
                         Sandy Jacquot, League of KS Municipalities  
                         Harris Terry, Commissioner, McPherson  
                         Rick Witte, County Manager, McPherson  
**Opponents:** Phillip Journey, President, KS State Rifle Assn.  
                         Dawson Hobbs, NRA, (written testimony)

Others attending: See Attached

**SB 25** - Sport shooting ranges; local regulations

Staff briefed the committee on **SB 25**, which adds the requirement that a sport shooting range has to be in compliance with any ordinance or resolution of a local unit of government, in effect at the time of construction or initial operation of the range.

Senator Emler requested introduction of **SB 25** to clarify the intent of the Senate amendment to **HB 2599** in the 2001 session (Attachment 1). The current bill allows sport shooting ranges that were out of compliance with local regulation to be grandfathered in by that Senate amendment, making a legitimate business out of one that was illegal. The intent of **SB 25** is to protect the sport shooting ranges, while eliminating those ranges that are out of compliance with local regulations. Discussion followed regarding the issue on compensation and a pending court case.

Roger Kroh, Director of Planning and Development, City of Lenexa, withdrew their request that part of section C be added back into the bill (Attachment 2). They support the intent of **SB 25**.

Harris Terry, County Commissioner, McPherson appeared in support of **SB 25** (Attachment 3). The bill acknowledges the ability of a community to amortize lawful nonconforming uses. The amortization provision has been removed and they were requesting that the Committee re-insert the amortization provision in Subsection C. Discussion followed regarding the pending court case and attorneys's fees.

Rick Witte, County Administrator, McPherson rose in support of **SB 25**, (see Attachment 3) and provided the history of the compliance issue as it relates to the sports shooting range in McPherson. He described the difference between private and public shooting ranges and the problems neighbors have experienced with the shooting range.

Sandy Jacquot, League of Kansas Municipalities, submitted written testimony in support of **SB 25** (Attachment 4)

Phillip Journey, Kansas State Rifle Assn, expressed his concern with **SB 25** and the affect it would have on shooting sports in Kansas (Attachment 5). Shooting ranges have provided recreational and educational opportunities as well as bringing a tremendous amount of economic activity in the state. The bill would effectively allow the elimination of any or all sports shooting ranges in the State of Kansas by the enactment of a patchwork quilt of noise ordinances by municipalities or counties across the state. If a problem exists with a specific range, perhaps the authorities in the Department of Wildlife and Parks should enforce the regulations.

Dawson R. Hobbs, State Liaison for NRA submitted written testimony (Attachment 6).

Discussion followed regarding definitions in the bill, who has the burden of proof and the Department of Wildlife and Parks responsibility to enforce regulations.

The hearing was closed on **SB 25**.

The meeting adjourned at 3:08 p.m. with the next meeting scheduled for March 20.



**Testimony Before the  
House of Representatives  
Federal and State Affairs Committee**

March 19, 2003  
Senate Bill 25

Presented by  
Jay Scott Emler  
Senator, District 35

Chairman Mason, members of the committee, thank you for allowing me to testify this morning on Senate Bill 25 (SB25).

I requested introduction of SB 25 to clarify what I believe was the intent of the Senate amendment to House Bill 2599 (HB 2599) in the 2001 legislative session.

HB 2599 was amended to afford protection to sport shooting ranges around which communities were built. When the amendment was offered, I inquired whether a shooting range that was not in compliance with local ordinances and/or resolutions when it commenced operation would be "legalized" by the amendment. Perhaps I phrased the question poorly, or perhaps I misunderstood the answer, but it was my understanding that a sport shooting range that was out of compliance with local regulations *ab initio*, would not be grandfathered by the amendment.

I believe a reading of New Section 6 of HB 2599 supports my interpretation of the answer to my question. Paragraph (a) states in part

...even if the operation of the sport shooting range at a later date does not conform to the **new** ordinance or resolution or amendment to an existing ordinance or resolution. (Emphasis added)

I have spoken with the original proponents of the amendment, gun safety instructors and

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others. I believe we are all in agreement that we want sport shooting ranges to be operated safely. Unfortunately, the effect of HB 2599 was to legitimize sport shooting ranges that were not in compliance from their very inception.

I will be pleased to stand for questions.

Proponent

**TESTIMONY BEFORE THE KANSAS HOUSE FEDERAL AND  
STATE AFFAIRS COMMITTEE  
SB 25**

**Presented by Roger Kroh  
Director of Planning and Development  
City of Lenexa**

To Chairman Mason and Committee Members:

The City of Lenexa supported SB 25 as originally presented to the Senate Judiciary Committee in that it specifically acknowledged the ability of a community to amortize lawful nonconforming uses. This is a seldom used but necessary tool for local governments to protect the health, safety and welfare of those in the community while permitting owners of lawful nonconforming uses ample time to realize a return on their investment. Since the amortization provision has been removed, we ask that the Committee re-insert the amortization provision in Subsection C with one amendment.

We are concerned, with the provision in Subsection C requiring mandatory compensation. We believe this provision should be amended to be consistent with existing law, which provides in K.S.A. 12-771 for the gradual elimination of lawful nonconforming uses. The determination of what is an adequate amortization period should be determined on a case-by-case basis as is historically done when a city or county utilizes amortization. We ask you to consider adding the amortization provision back into the bill, but without the mandatory compensation provision.

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March 19, 2003

Re: SB 25 – Sport Shooting Ranges

Mr. Chairman and Members of the Committee:

We appreciate the opportunity to address you this afternoon. McPherson County Commission Chairman Harris Terry and County Administrator Rick Witte will both address the Committee and recommend that you support SB 25.

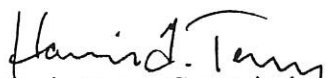
McPherson County has zoning regulations to classify certain property for the purpose of land use regulation and upon application the Board of County Commission is authorized to approve or deny conditional use permits for various land uses. A conditional use permit is necessary to establish a shooting range in McPherson County.

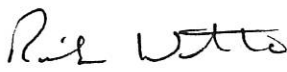
On December 6, 1999 a McPherson County applicant was granted a Home Occupation Zoning Permit to operate a retail business limited to the retail of guns and pawn and classroom training, but the permit specifically prohibited any use of a pistol and rifle range. The applicant had a five-acre parcel in the unincorporated area of the County—an area approximately the size of one and one-half city blocks. There were concerns regarding the safety of a pistol and rifle shooting range on this small of acreage.

The applicant submitted three separate applications for a zoning permit to establish a shooting range on the five acres in McPherson County. Two of those applications were denied and the third one was abandoned. The applicant proceeded to develop and open to the public the shooting range by ignoring all County planning and zoning regulations requiring a conditional use permit.

SB 25, as amended, requires that a shooting range operating on July 1, 2001 be in compliance with any local ordinance or resolution. Previous legislation allowed ranges to operate even if not in compliance with local regulations. It is evident that the shooting range in McPherson County has never been in compliance with existing County zoning regulations and there is no reason to compensate the owner of a shooting range that was never in compliance.

Thank you for your time and consideration of this legislation.

  
Harris Terry, Commissioner  
McPherson County

  
Rick Witte, County Administrator  
McPherson County

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League of Kansas Municipalities

TO: House Federal and State Affairs Committee  
FROM: Sandra Jacquot, Director of Law/Legal Counsel  
DATE: March 19, 2003  
RE: SB 25

Thank you for allowing the League this opportunity to testify in favor of SB 25. The League opposed the original shooting range bill because of its preemptive nature and the fact that it contradicts typical nuisance and zoning law that has been in place in Kansas since statehood. The current bill, however, would improve the law and give local governments some measure of control over shooting ranges that were not in compliance with city ordinances or county resolutions at the time they were opened.

While this bill will apply to a limited number of shooting ranges, we see it as an improvement to existing law. Therefore, the League respectfully requests that this Committee report this bill out favorably. Thank you again for the opportunity to testify.



**Testimony for the Kansas State House of Representatives  
Federal and State Affairs Committee**

Presented March 19, 2003 in opposition to Senate Bill #25

On behalf of the Kansas Second Amendment Society, PAC; Kansas State Rifle Association; and Air Capitol Gun Club, Inc.; it is a privilege and an honor to have the opportunity to address the Senate Judiciary Committee and to offer our comments in opposition to Senate Bill #25. Sponsored by Senator Emler and intended to amend K.S.A. 58-3222, 58-3223, and 58-3224.

Shooting ranges are important both to the Kansas economy and shooting sports in the State of Kansas. Kansans and out-of-state hunters who come here spend over half a billion dollars each year in our state. According to the Congressional Sportsman Foundation, this consumer spending translates into 14,500 Kansas jobs, \$255 Million paid in wages, \$32 Million in state revenue, and \$1.1 Billion in total economic activity in the State of Kansas. In 2001, there were over 437,000 Kansas sportsmen and women, which is more than the combined population of the cities of Wichita and of Topeka. Senate Bill #25 would effectively allow the elimination of any or all sports shooting ranges in the State of Kansas by the enactment of a patchwork quilt of noise ordinances by municipalities or counties across the state.

Over 30 states have enacted laws similar to the laws seeking to be amended by Senate Bill #25. More than half of all Kansans own firearms. They need safe places to shoot. Leaving the Kansas Law as it is would protect this valuable component of our rural economy.

Many shooting ranges in Kansas have been around for more than 2 decades. Some are in the process of being surrounded by suburban development. At times in other states, subsequent property owners adjacent to shooting ranges have attempted to increase their property values by eliminating these facilities through legal or political action.

Shooting ranges provide recreational and educational opportunities to their members and the general public. Thousands of Kansans each year complete Hunter Education Courses. Many of which are held on private shooting ranges. Shooting ranges are also needed for organized competitions. Tens of thousands of Kansans compete in the various shooting disciplines each year. Thousands of competitors from out-of-state come to Kansas to participate in the shooting sports.

Law Enforcement and the United States Military use private shooting facilities in Kansas for training and are generally provided at no cost by these private clubs. If these ranges are shut down Kansas tax payers must provide new shooting ranges for training and qualifying purposes for Kansas Law Enforcement at a time when local government cannot afford the enormous expense of acquiring land and developing these ranges in accord with the Kansas Department of Wildlife and Parks Regulations.

In 2001, House Bill #2599 passed both bodies of the Kansas Legislature with large bipartisan majorities, and Governor Bill Graves wholeheartedly signed this enacting the Bill into Law. Kansas shooting ranges provide support for a significant portion of the States economy. They provide recreational and educational opportunities for Kansas youth, support for Kansas Law Enforcement and the Armed Forces of the United States and the State of Kansas. They deserve our protection.

This bill appears to be one in which there must be a problem in search of a solution. Surely, if a range is being operated outside the guidelines established by the Kansas Department of Wildlife and Parks administrative or other action can be taken. The Kansas State House of Representatives should not let one bad apple, if it exist, to spoil the whole barrel.

Respectfully, submitted.

Phillip B. Journey  
Spokesman Air Capitol Gun Club  
President Kansas Second Amendment Society, PAC  
President Kansas State Rifle Associ  
Chair of the Legislative Committee.

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Attachment # 5

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NATIONAL RIFLE ASSOCIATION OF AMERICA  
INSTITUTE FOR LEGISLATIVE ACTION  
11250 WAPLES MILL ROAD  
FAIRFAX, VIRGINIA 22030-7400

STATE & LOCAL AFFAIRS DIVISION  
DAWSON R. HOBBS, STATE LIAISON

**MEMORANDUM IN OPPOSITION**

TO: Members of the Kansas State House of Representatives  
FR: Dawson R. Hobbs, State Liaison  
RE: SB 25  
Date: March 18, 2003

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On behalf of the more than 40,000 NRA members living in the State of Kansas, I respectfully urge you to oppose SB 25, a proposal which would effectively eliminate the Range Protection statute passed in 2001. Kansas sport shooting ranges are in need of the protection offered by this statute, without it they could face closure without good cause.

Ranges play an important role in training citizens and law enforcement officers in safe firearms handling and marksmanship. Competitive and recreational shooting and hunting form a major segment in the heritage of Kansas. Without ranges these activities would be forced to cease. Ranges also play a critically important role for law enforcement, especially in less populated areas. These areas have smaller law enforcement agencies and therefore smaller budgets, they can not afford to build private ranges and must rely on publicly operated ranges for their training. If these public ranges are shut down the safety of these officers could be put in jeopardy.

While SB 25 does not actually repeal the range protection statute, it does limit its scope to an unacceptable degree. Also, the current statute is still very new and has not been thoroughly tested in court, modifications to it are extremely premature.

In the event that you would like to discuss NRA's position on SB 25 or any other piece of legislation pending before the Kansas Legislature, please do not hesitate to contact me at (703) 267-1206. Again, thank you for your careful consideration on this matter.

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