

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairperson Nancey Harrington at 10:45 a.m. on March 25, 2003 in Room 245-N of the Capitol.

All members were present except: Senator Teichman, excused

Committee staff present: Russell Mills, Legislative Research Department  
Dennis Hodgins, Legislative Research Department  
Theresa Kiernan, Office of the Revisor  
Nikki Kraus, Committee Secretary

Conferees appearing before the committee:

Denise Everhart, Acting Commissioner, Juvenile Justice Authority  
Kyle Smith, Director of Public and Governmental Affairs, KBI

Others attending: Please see attached.

Chairperson Harrington asked the committee for any bill introductions.

Ms. Kiernan presented two bill introductions from Alcoholic Beverage Control to the committee. She explained that the first bill would make the Liquor Control Act uniform, including a county option provision for Sunday liquor sales, and the second bill would make the law uniform, but that she would need a direction in which the committee wished to take that.

Following discussion, Senator O'Connor made a motion to introduce both bills. Senator Gooch seconded the motion to introduce the bills. The bills were introduced.

Chairperson Harrington opened the public hearing on:

**HB 2101—Private detective license and firearm permit become anniversary biennial process**

Kyle Smith presented testimony in favor of the bill. (Attachment 1)

Following discussion, Mr. Smith clarified that the permit renewal date would be based on the registration date instead of them all being at the first of the year in order to spread out the workload. The hearing was then closed.

Chairperson Harrington opened the public hearing on:

**HB 2310—Superintendent at the Topeka correctional facility may appoint a deputy superintendent and an attorney; unclassified service**

Denise Everhart presented testimony in favor of the bill. (Attachment 2) Ms. Everhart explained that this would amend a statute that specifies that the department can only have two unclassified positions and allows for those positions to be unclassified, but this does not mean that these are new or additional positions. (Attachment 3)

The hearing was closed.

Chairperson Harrington stated that the committee would now look at possibly taking action on:

**SB 254—Club and drinking establishments; fire, safety, and building codes**

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:45 a.m. on March 25, 3003 in Room 245-N of the Capitol.

Senator Barnett offered an amendment to **SB 254**. (Attachment 4)

The committee clarified that these regulations would not only be for drinking establishments and that there would be additional penalties for those who violated the regulations. Karl Mc Norton, Fire Marshal's office responded to a question from Senator Vratil by clarifying that the original fiscal note was inaccurate because additional inspections would not be required as previously thought.

Senator Barnett made a motion to amend **SB 254**. Senator Brungardt seconded the motion to amend. The bill was amended.

Senator Barnett made a motion to advance **SB 254** favorably to the entire Senate. Senator Brungardt seconded the motion. The bill was recommended favorable for passage.

Chairperson Harrington assigned **SB 254** to Senator Barnett to carry on the floor.

Senator O'Connor made a motion to recommend **HB 2310** favorable for passage. Senator Barnett seconded the motion. The bill was recommended favorable for passage.

Chairperson Harrington assigned **HB 2310** to Senator O'Connor to carry on the floor.

Senator Vratil suggested that the committee consider an amendment to **HB 2101** so that continuing education requirement was not more than 24 hours annually.

The committee discussed the need for a clarification of exactly what the continuing education was and how it would be contracted or carried out. Additionally, there was discussion of initial requirements for the permit or the lack thereof.

Senator Vratil made a motion to amend **HB 2310** regarding the continuing education requirement. Senator O'Connor seconded the motion to amend. The bill was amended.

Senator Brungardt made a motion to recommend **HB 2310** as amended favorable for passage. Senator Vratil seconded the motion to recommend favorable for passage. The bill was recommended favorable as amended.

Chairperson Harrington assigned **HB 2310** to Senator Brungardt to carry on the floor.

The meeting adjourned at 11:30 a.m.

**SENATE FEDERAL AND STATE AFFAIRS**  
**SUBCOMMITTEE**

**DATE:** March 25, 2003

NAME	REPRESENTING
Tom Palace	PAWNS OF KANSAS
Michelle Peterson	Ks. Governmental Consulting
Doreen Deekshear Johnson	Patrick J. Hurley & Co. (C)
J.P. SMALL	KQHRA
J.P. "Tom" Jaw	VFW
Jeff Edwards	SRS/AAPS
Norma Martin	SRS/AAPS
David Bossemeyer	Chamber Junction City, KS
Susan Parson	Butler National Corp.
TRAM Diehl	Ks Racing + Gaming Commission
Ron Volkman	River Falls Gaming
Bethie Thompson	—
Glenn Thompson	Stand Up For KS.
Jim Yankow	Ks. Lottery
Keith Kocher	KS Lottery
Ed Van Petten	KS. LOTTERY
Lois Wald	River Falls Gaming
David Lawrence	Butler National Corp.
Ron Hein	Prairie Band Potawatomi Nation

# SENATE FEDERAL AND STATE AFFAIRS COMMITTEE GUEST LIST

DATE: March 25, 2003

NAME	REPRESENTING
Amber Kjelskus	Sen. Pete Brungardt
Twila Drybread	Div. of Budget
Gwen Eastley	St. Fire Marshals
Karl M <sup>o</sup> Votta	" " "
Judy Orr	Am Inst of Architects
Denise Everhart	JJA
JAMES FRAZIER	JJA
Sandy Jacquot	LKM
Sandy Meier	KBI
Kyle Smith	KBI
TJCC DVN	KWSWA.





## Kansas Bureau of Investigation

Larry Welch  
*Director*

Phill Kline  
*Attorney General*

**Before the Senate Federal and State Affairs Committee  
In Support of HB 2101**

Kyle G. Smith  
Director of Public and Governmental Affairs  
Kansas Bureau of Investigation  
March 25, 2003

Dear Chairman Harrington and Members of the Committee:

I appear today on behalf of the Kansas Bureau of Investigation (KBI) in support of HB 2101. This is a very simple amendment to the Kansas Private Detective Licensing Act, and other than cleaning up some antiquated language, it merely allows for the licenses of private investigators to be renewed on the anniversary date of when they were licensed.

The purpose of this change is to spread out the workload, so license renewal may be conducted throughout the year rather than having a massive backlog occurring every January 1<sup>st</sup>. There was some confusion caused by the bill summary that stated that this legislation struck the limits on Private Investigator fees. While the references to fees are struck in the statute in the bill, that is only because it is redundant language as the fees are set out, with existing limits, in K.S.A. 75 – 7b22. I've included that statute for your review.

I would be happy to answer any questions.



# KANSAS

JUVENILE JUSTICE AUTHORITY  
DENISE L. EVERHART, ACTING COMMISSIONER

KATHLEEN SEBELIUS, GOVERNOR

## SENATE FEDERAL & STATE AFFAIRS COMMITTEE MARCH 25, 2003

### Testimony on House Bill 2310

This bill is a request to amend K.S.A. 76-3202 to include a deputy superintendent and an attorney on the statutory list of approved unclassified regular positions at the Topeka Juvenile Correctional Facility (TJCF). Current statute provides only for superintendent positions and physician positions at the juvenile correctional facilities to be in the unclassified service. This bill does not authorize new FTE positions. In the event that the facility is able to hire an attorney, the position could be filled as an unclassified FTE rather than a classified FTE or an unclassified temporary position.

These positions perform duties at the executive level working in conjunction with the commissioner, deputy commissioner of operations, and superintendent. Appointment of these positions as unclassified will allow for maximum options and flexibility with recruiting, hiring, making assignments, and retaining the incumbents.

A yearlong review of the organizational structure of the four juvenile correctional facilities lead to the determination that the position of deputy superintendent was not only warranted, but necessary. The greater population of the TJCF, its physical plant, the seriousness of the crimes committed by many of the juvenile offenders, and the number of staff needed make overseeing its operation substantially more complex and difficult than at the other three juvenile correctional facilities.

An entirely different organizational structure is mandated in order for the mission of the facility to be fulfilled; the position of deputy superintendent is key to that structure. The position provides more than assistance to the superintendent, but functions as the superintendent when necessary. The deputy superintendent has in conjunction with the superintendent significant latitude in performing his/her duties, as well as responsibility for the facility, its operation, safety, and work toward the mission. A great degree of judgment and complete trust between the superintendent and deputy must be employed in order to achieve required outcomes.

As a means of implementing the necessary organizational changes, the position of deputy superintendent was established in August 2002 at the Public Service Executive IV level, and staffed in October 2002 under the provisions of an unclassified special project appointment.

There currently are no attorney positions in any of our juvenile correctional facilities. It is anticipated, however, that an attorney will become necessary in the near future as the system grows in population. When the Kansas Juvenile Correctional Complex is fully staffed and operational, the Topeka system will eventually double in the number of staff and offenders. With the additional number of offenders,

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employees and programs, it is anticipated that the need for legal advice and representation will increase proportionately; an additional attorney housed at the TJCF will be needed to provide assistance to this more complex system.

Currently, there are two attorneys representing the entire JJA system; both are unclassified. They address the myriad legal issues that any correctional facility system encounters, from internal employment issues to complex litigation. They provide legal advice to the commissioner and senior staff of the central office, as well as the superintendents and senior staff of the four existing juvenile correctional facilities and community case managers for the 31 judicial districts.

The attorneys address interpretation and application of the Kansas Juvenile Justice Code, Kansas Tort Claims Act, and Department of Administration personnel regulations, and many other state and federal acts and regulations. They represent the agency in all employment matters in regard to the agency's more than 600 employees, review employment issues with the agency staff, and represent the agency and facilities during Civil Service Appeals or when complaints are filed with the Kansas Human Rights Commission or similar agencies. Experience indicates JJA has as many as 24 disciplinary actions during a six-month period with slightly fewer than half being appealed to the Civil Service Board. In addition, JJA currently has seven outstanding matters with the Kansas Human Rights Commission or similar agencies.

Over the course of FY 2002, the legal division, which in addition to the two attorneys is staffed by a paralegal and an investigator, conducted nearly 30 investigations.

The legal division provides training on legal issues to all new correctional officers and case managers. Further, the legal division presents training on an annual basis for current employees and at the Governor's Conference on Juvenile Justice.

Additionally, the legal division is coordinating the implementation of Health Insurance Portability Accountability Act (HIPAA) compliance, reviews all contracts and drafts contracts as needed, acts as the Legislative Liaison, and provides assistance to the communities on issues such as interpretation of the juvenile justice code, application of the placement matrix, open meetings, and confidentiality of records.

Thank you for the opportunity to appear today in support and for passage of HB 2310.

**K.S.A. 75-7b22.**

**Fees for regulation of private detectives; maximum limitations established; set by attorney general.**

(a) In each fiscal year, the attorney general shall determine the amount of funds which will be required during the next ensuing fiscal year to properly administer the laws which the attorney general is directed to enforce and administer relating to the licensure and regulation of private detectives and private detective agencies. The attorney general, by the adoption of rules and regulations, shall fix fees in accordance with this section in such reasonable sums as may be necessary for such purposes.

(b) After fixing such fees, the attorney general may charge and collect the fees, in advance for the following purposes, subject to the following limitations:

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For initial application forms and materials, not to exceed .....	\$ 15
For application for licensure, not to exceed .....	250
For application by an officer, director, partner or associate of an organization, if required to be licensed pursuant to K.S.A. 75-7b05, and amendments thereto, not to exceed .....	100
For renewal of license, not to exceed .....	175
For renewal of license of an officer, director, partner or associate of an organization, if required to be licensed by K.S.A. 75-7b05, and amendments thereto, not to exceed .....	100
For application for a firearm permit, not to exceed .....	50
For renewal of a firearm permit, not to exceed .....	50
For application for a firearm trainers permit, not to exceed .....	100
For renewal of a firearm trainers permit, not to exceed .....	100

(c) A duplicate license shall be issued upon the filing of a statement covering the loss of the license and the payment of a fee of \$5 for the issuance of a duplicate license. Each duplicate license shall have the word "duplicate" stamped across the face thereof and shall bear the same number as the original.

**History:** L. 1998, ch. 183, § 14; July 1.

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**New Sec. 3.** (a) As used in this section:

(1) "Place of public assembly" means a building or structure with an occupancy capacity of 50 or more.

(2) "Pyrotechnics" mean any controlled exothermic chemical reactions that are timed to create the effects of heat, gas, sound, dispersion of aerosols, emission of visible electromagnetic radiation or a combination of these effects to provide the maximum effect from the least volume for entertainment purposes.

(3) "Pyrotechnic device" means any device which contains pyrotechnic material and which is capable of producing a visual or audible effect for entertainment purposes.

(4) "Pyrotechnic material" means a chemical mixture used to produce visible or audible effects by combustion for entertainment purposes.

(b) (1) Except as provided by this section, the use of any pyrotechnics, pyrotechnic device or pyrotechnic material is prohibited in any building which is a place of public assembly.

(2) The use of pyrotechnics, pyrotechnic devices or pyrotechnic materials in violation of this section or any rules and regulations adopted pursuant to this section or any ordinance or resolution prohibiting or restricting such use shall constitute a common nuisance.

(c) The provisions of subsection (b) shall not apply to:

(1) Any building in which there has been installed an automatic sprinkler system which is adequate for suppression of a fire in the building or structure and such system is functioning properly;

(2) any building in which the interior and exterior walls and ceilings are constructed with or consist of fire-restrictive materials;

(3) religious ceremonies;

(4) candles that are securely supported on noncombustible bases and if the candle flame is protected;

(5) any other building, structure or use exempted by rules and regulations adopted by the state fire marshal.

(d) The state fire marshal shall adopt any rules and regulations necessary to implement the provisions of this section.

**Sec. 4. K.S.A. 22-3901 is hereby amended to read as follows: 22-3901.** (1) The following unlawful activities and the use of real [and] *or* personal property in maintaining and carrying on such activities are hereby declared to be common nuisances:

(a) Commercial gambling;

(b) dealing in gambling devices;

(c) possession of gambling devices;

(d) promoting obscenity;

(e) promoting prostitution;

(f) habitually promoting prostitution;

(g) violations of any law regulating controlled substances;

(h) habitual violations of any law regulating the sale or exchange of alcoholic liquor or cereal malt beverages, by any person not licensed pursuant to chapter 41 of the Kansas Statutes Annotated;

(i) habitual violations of any law regulating the sale or exchange of cigarettes or tobacco products, by any person not licensed pursuant to article 33 of chapter 79 of the Kansas Statutes

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Annotated; [or]

(j) any felony committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members. As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more person felonies or felony violations of the uniform controlled substances act, K.S.A. 65-4101 et seq., and amendments thereto, which has a common name or common identifying sign or symbol, whose members, individually or collectively engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies or felony violations of the uniform controlled substances act, K.S.A. 65-4101 et seq., and amendments thereto, or any substantially similar offense from another jurisdiction[.] ; *or*

*(k) use of pyrotechnics, pyrotechnic devices or pyrotechnic materials in violation of section 3, and amendments thereto.*

(2) Any real property used as a place where any such activities are carried on or permitted to be carried on and any effects, equipment, paraphernalia, fixtures, appliances, musical instruments or other personal property designed for and used on such premises in connection with such unlawful activities are subject to the provisions of K.S.A. 22-3902, 22-3903 and 22-3904, and amendments thereto.

**Sec. 5. K.S.A. 22-3902 is hereby amended to read as follows: K.S.A. 22-3902.** (1) Unless otherwise provided by law, proceedings under K.S.A. 22-3901 through 22-3904, and amendments thereto, shall be governed by the provisions of the Kansas code of civil procedure relating to the abatement of common nuisances.

(2) (A) In addition to the procedure established by this section, if a person is arrested for an unlawful act listed in K.S.A. 22-3901, and amendments thereto, the attorney general, city, county or district attorney may petition the court for a hearing to determine whether an unlawful activity is or has been occurring on such owner's property. The owner of the property on which such person is or was committing an unlawful activity may be given notice of such hearing. *Except as provided by paragraph (B)*, a hearing shall be held before the court within 30 days of the notification. If the court determines by a preponderance of the evidence that an unlawful act occurred, such act shall render void any lease under which a tenant holds possession, and shall cause the right of possession to revert to the owner who may evict the tenant. If the owner does not commence eviction proceedings against the tenant within 30 days of the court determination, the attorney general or the city, county or district attorney may proceed to file a petition pursuant to subsection (3). The provisions of this subsection are in addition to any remedy provided pursuant to the residential landlord and tenant act.

*(B) In the case of a violation of subsection (k) of K.S.A. 22-3901, a hearing shall be held before the court within five days of the notification.*

(3) Proceedings under K.S.A. 22-3901 through 22-3904, and amendments thereto, shall be instituted only in the name of the state of Kansas upon the petition of the attorney general or the city, county or district attorney to enjoin a nuisance within the city, county or district.

(4) The petition shall describe any real estate alleged to be used or to have been used as a place where such common nuisance is or was maintained or permitted and shall identify the owner or person in charge of such real estate. It shall describe any effects, equipment,

paraphernalia, fixtures, appliances, musical instruments or other personal property designed for and used in such unlawful activity. It shall pray for the particular relief sought with respect to such property.

(5) The petition for injunction may include or be accompanied by an application for an order for the seizure of the effects, equipment, paraphernalia, fixtures, appliances, musical instruments or other personal property described in the petition. If the court finds that there is probable cause to believe that the personal property described is or has been used for any of the unlawful purposes set forth in K.S.A. 22-3901 and amendments thereto, the court may order the sheriff or other law enforcement officer to seize such personalty and to hold it in custody pending further order of the court. An order for seizure shall particularly describe the personal property to be seized.

(6) An order for seizure of materials alleged to be obscene shall not be issued until after a hearing at which evidence in support of the application for such order has been heard. At least three days notice of such hearing shall be given to the owner or person in possession of such material. Pending such hearing, the court may make an order prohibiting the owner or person in possession from removing such material from the jurisdiction of the court.

(7) No bond or other security shall be required for any restraining order, order for seizure or injunction issued under K.S.A. 22-3901 through 22-3904, and amendments thereto, in an action brought by the attorney general or city, county or district attorney.

(8) The provisions of K.S.A. 22-3901 through 22-3904, and amendments thereto, shall not limit nor otherwise affect proceedings under K.S.A. 60-908 and amendments thereto, but shall be supplemental and in addition to, and not in lieu of, the remedy provided by that statute.

(9) The attorney general or the city, county or district attorney shall give notice of proceedings under K.S.A. 22-3901 through 22-3904 and amendments thereto by sending a copy of the petition to enjoin a nuisance by certified mail, return receipt requested, to each person having ownership of or a security interest in the property if: (a) The property is of a type for which title, registration or deed is required by law; (b) the owner of the property is known in fact at the time of seizure; or (c) the property is subject to a security interest perfected in accordance with the uniform commercial code. The attorney general or the city, county or district attorney shall be obligated only to make diligent search and inquiry as to the owner of the property and if, after diligent search and inquiry, the attorney general or city, county or district attorney is unable to ascertain the owner, the requirement of actual notice by mail with respect to persons having perfected security interest in the property shall not be applicable.

**Sec. 6. K.S.A. 22-3904 is hereby amended to read as follows: 22-3904.** (1) Upon final judgment that any real property is being or has been used as a place where any of the unlawful activities set forth in K.S.A. 22-3901 and amendments thereto are carried on or permitted to be carried on, the court may order that any [house,] building [, room] or other structure located on such real estate be closed and padlocked for a period of not more than two years, subject to modification in the manner provided by K.S.A. 60-910 and amendments thereto, if the court finds that the owner of the property knew or should have known under the circumstances of the maintenance of a common nuisance on the property and did not make a bona fide attempt to abate such nuisance under the circumstances. The court may require, as part of the judgment, that the owner, lessee, tenant or occupant enter into a bond to the state of Kansas, in such amount and with security as the court may require, conditioned that such owner, lessee, tenant or occupant

will not within a period of two years use or permit the use of such real estate in violation of law. If any condition of such bond is violated, the whole amount may be recovered as a penalty. In addition, the court may assess a civil penalty not to exceed \$25,000 against any or all defendants, based upon the severity of the nuisance and its duration. Such penalty shall be paid into the county treasury, if recovered by a county or district attorney, and into the city treasury, if recovered by a city attorney.

(2) Upon final judgment that any effects, equipment, paraphernalia, fixtures, appliances, musical instruments or other personal property are designed for and have been used in carrying on any of the unlawful activities set forth in K.S.A. 22-3901 and amendments thereto, the court may order that such effects, equipment, paraphernalia, fixtures, appliances, musical instruments and other personal property be publicly destroyed by the sheriff or other law enforcement officer or that such personal property be sold in the manner provided for sales in execution of judgment.

(3) The proceeds of any sale of personal property pursuant to subsection (2) shall be applied as follows:

- (a) First, to the fees and costs of the *abatement or removal of the nuisance and the sale.*
- (b) Second, to the costs of closing the structure and keeping it closed.
- (c) Third, to payment of the costs of the action.
- (d) Fourth, to payment of any civil penalty imposed pursuant to this section or any fine imposed for contempt in the proceedings.
- (e) Fifth, to the owner of the personal property.

(4) Subject to the provisions of subsection (3), upon final judgment for the state the court shall adjudge that any defendant who was maintaining the common nuisance pay all costs, including a reasonable fee, fixed by the court, to be paid to the prosecuting attorney. Such costs shall be a lien upon any real property against which an order of abatement is obtained, if the court finds that the owner of such property knew or should have known under the circumstances of the maintenance of the common nuisance on the property and did not make a bona fide attempt to abate such nuisance under the circumstances.

(5) For purposes of this section, evidence of a bona fide attempt to abate such nuisance by the owner of the property shall include, but not be limited to, the filing of a written report, by such owner or at such owner's direction, to the local law enforcement agency that the property is suspected by the owner of the property of being used in maintaining and carrying on any of the unlawful activities set forth in K.S.A. 22-3901 and amendments thereto.

**Sec. 7. K.S.A. 31-133 is hereby amended to read as follows:** 31-133. (a) The state fire marshal shall adopt reasonable rules and regulations, consistent with the provisions of this act, for the safeguarding of life and property from fire, explosion and hazardous materials. Such rules and regulations shall include, but not be limited to the following:

- (1) The keeping, storage, use, sale, handling, transportation or other disposition of highly flammable materials, including crude petroleum or any of its products, natural gas for use in motor vehicles, and of explosives, including gunpowder, dynamite, fireworks and firecrackers; and any such rules and regulations may prescribe the materials and construction of receptacles and buildings to be used for any of such purposes;
- (2) the transportation of liquid fuel over public highways in order to provide for the public safety in connection therewith;
- (3) the construction, maintenance and regulation of exits and fire escapes from buildings



and all other places in which people work, live or congregate from time to time for any purpose, including apartment houses, as defined by K.S.A. 31-132a, and amendments thereto. Such rules and regulations shall not apply to buildings used wholly as dwelling houses containing no more than two families;

(4) the installation and maintenance of equipment intended for fire control, detection and extinguishment in all buildings and other places in which persons work, live or congregate from time to time for any purpose, including apartment houses as defined by K.S.A. 31-132a, and amendments thereto. Such rules and regulations shall not apply to buildings used wholly as dwelling houses containing no more than two families;

(5) requiring administrators of public and private schools and educational institutions, except community colleges, colleges and universities, to conduct at least one fire drill each month at some time during school hours, aside from the regular dismissal at the close of the day's session, and prescribing the manner in which such fire drill is to be conducted;

(6) procedures for the reporting of fires and explosions occurring within the state and for the investigation thereof;

(7) procedures for reporting by health care providers of treatment of second and third degree burn wounds involving 20% or more of the victim's body and requiring hospitalization of the victim, which reporting is hereby authorized notwithstanding any provision of K.S.A. 60-427, and amendments thereto, to the contrary;

(8) requiring administrators of public and private schools and educational institutions, except community colleges, colleges and universities, to establish tornado procedures, which procedures shall provide for at least three tornado drills to be conducted each year at some time during school hours, aside from the regular dismissal at the close of the day's session, shall describe the manner in which such tornado drills are to be conducted, and shall be subject to approval by the state fire marshal;

(9) requiring administrators of community colleges, colleges and universities to establish tornado procedures, which procedures shall be subject to approval by the director of the disaster agency of the county;

(10) the development and implementation of a statewide system of hazardous materials assessment and response; [and]

*(11) the use of pyrotechnics, pyrotechnic devices and pyrotechnic materials; and*

[(11)] (12) other safeguards, protective measures or means adapted to render inherently safe from the hazards of fire or the loss of life by fire any building or other place in which people work, live or congregate from time to time for any purpose, except buildings used wholly as dwelling houses containing no more than two families.

(b) Any rules and regulations of the state fire marshal adopted pursuant to this section may incorporate by reference specific editions, or portions thereof, of nationally recognized fire prevention codes.

(c) The rules and regulations adopted pursuant to this section shall allow facilities in service prior to the effective date of such rules and regulations, and not in strict conformity therewith, to continue in service, so long as such facilities are not determined by the state fire marshal to constitute a distinct hazard to life or property. Any such determination shall be subject to the appeal provisions contained in K.S.A. 31-140, and amendments thereto.

*New Sec. 8. Notice of a conviction of a violation of K.S.A. 21-4106 or 21-4107, and*



*amendments thereto, for maintaining or permitting a public nuisance on the premises of a club or drinking establishment licensed under the club and establishment act shall be given to the director of the division of alcoholic beverage control; in the case of a cereal malt beverage retailer notice shall be given to the governing body of the appropriate city or county.*

**21-4106. Maintaining a public nuisance.** Maintaining a public nuisance is by act, or by failure to perform a legal duty, intentionally causing or permitting a condition to exist which injures or endangers the public health, safety or welfare.

Maintaining a public nuisance is a class C misdemeanor.

**21-4107. Permitting a public nuisance.** Permitting a public nuisance is knowingly permitting property under the control of the offender to be used to maintain a public nuisance, as defined in section 21-4106.

Permitting a public nuisance is a class C misdemeanor.