

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on March 23, 2004 in Room 231-N of the Capitol.

All members were present.

Committee staff present:

Dennis Hodgins, Legislative Research
Theresa Kiernan, Revisor of Statutes' Office
John Beverlin, Committee Secretary

Conferees appearing before the committee:

Ron Hein, Motion Picture Association of America
Keith Wood, National Rifle Association

Others attending:

See Attached List.

Chairperson Brungardt called the meeting to order. He then opened the hearing on **HB 2835, Unlawful use of a recording device**. Chairperson Brungardt welcomed Ron Hein to the podium.

Mr. Hein presented testimony in favor of **HB 2835** (Attachment 1). After his testimony, he informed the committee that they had received written testimony from Dennis McIntire of the United Motion Picture Association in favor of **HB 2835** (Attachment 2).

Chairperson Brungardt asked the committee for questions.

Senator O' Connor expressed concern about language concerning the owner of a theater not being liable when detaining an individual who has attempted to record a movie.

Mr. Hein explained that the language was not necessarily necessary, but would give owners of theaters a level of comfort.

Chairperson Brungardt asked the committee for additional questions. None were asked. Chairperson Brungardt then asked the committee to take action on **HB 2835**.

Senator Teichman made a motion to recommend **HB 2835** favorable for passage. The motion was seconded by Senator Barnett. The bill was recommended favorable for passage.

Chairperson Brungardt asked the committee to turn its attention to **SB 41, School building construction standards; fire safety codes**. He asked the committee if there were any other concerns with the bill.

Senator Vratil asked the committee to remove the amendments he offered for the bill, except the change in date.

Chairperson Brungardt agreed with Senator Vratil. He asked the committee to take action on the bill.

Senator Vratil made a motion to recommend **SB 41** favorable for passage as amended removing his previous amendments except the change of date. The motion was seconded by Senator Teichman. The bill was recommended favorable for passage as amended.

Chairperson Brungardt asked the committee to turn its attention to action on **HB 2798, Personal and family protection act; licensing to carry concealed firearms**. He asked the committee to follow an informal group discussion format. He said he would not require a second on a motion. Chairperson Brungardt asked Theresa Kiernan to go over any proposed amendments.

Ms. Kiernan reviewed each amendment for the committee.

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Chairperson Brungardt asked the committee for questions.

Senator O' Connor asked if under current law there was any prohibition for any business in the state of Kansas to post a sign prohibiting an individual to carry a concealed weapon on the premise.

Ms. Kiernan stated that businesses could post signs prohibiting concealed weapons on premises.

Senator O' Connor asked for the reason in prohibiting concealed carry in certain areas, if the business could just post a sign.

Ms. Kiernan explained that the statutes would prohibit the weapons in areas and provide penalty for breaking the law.

Chairperson Brungardt asked what the level of offense for an individual carrying a concealed weapon into a prohibited area.

Ms. Kiernan stated that it was class A misdemeanor.

Chairperson Brungardt asked for the committee's opinion on the first amendment. The amendment would change the licensing authority from the KBI to the Attorney General.

Senator O' Connor explained that the change would save money because the Attorney General has the staff and the room available for such responsibility.

Chairperson Brungardt called for action on the amendment.

Senator O' Connor made a motion to amend the bill. The bill was amended to change the licensing authority from the KBI to the Attorney General.

Chairperson Brungardt asked for the committee's opinion on the second amendment. The amendment would change the policy in the bill to authorize the concealed and unconcealed carry of tasers or stun guns.

Senator Barnett explained the amendment was a way to satisfy some opponents to the bill. He explained that it takes away the fiscal note and any administrative complications that might be associated with concealed carry.

Chairperson Brungardt asked whether tasers were regulated.

Senator Barnett explained that there were restrictions because the companies that manufacture tasers will not sell to everyone. The amendment, he explained, would limit who could and could not carry tasers.

Senator Clark asked what the purpose of the bill would be, if people can carry tasers under current law.

Ms. Kiernan explained that the bill would contain preemptive language to prevent cities or counties from prohibiting tasers.

Senator O' Connor expressed concern with the amendment. She said she would be unable to support the amendment.

Chairperson Brungardt asked the committee for additional concerns on the amendment. None were expressed. He then called for a vote on the amendment.

The bill was not amended to change the policy in the bill to authorize the concealed and unconcealed carry of tasers.

Chairperson Brungardt asked the committee to consider an amendment that would require an applicant for

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initial licensing and renewal to submit proof of liability insurance, providing coverage in an amount not less than \$100,000.

Senator O' Connor asked how much \$100,000 of liability insurance would cost an individual.

Chairperson Brungardt stated that he was not certain of the cost for such insurance.

Senator Clark asked the audience if anybody was aware of any similar legislation in other states.

Keith Wood stated that there was no similar requirement in any other states. He observed that such insurance may be unavailable.

Chairperson Brungardt explained that the insurance may not be currently available because of the lack of market for the insurance.

Senator Vratil explained that a parallel may already exist in current law. He further explained that liability insurance is required to drive an automobile.

Chairperson Brungardt asked the committee for further discussion. None was had. He called for a vote on the amendment.

The bill was not amended to include a liability insurance requirement.

Chairperson Brungardt asked the committee to turn its attention to the proposed amendments that would amend new section ten. New section ten includes places where concealed weapons would be prohibited.

Ms. Kiernan explained that the first part of the amendment would prohibit concealed carry at any location where an activity sponsored by any private or public elementary or secondary school and any private or public institution of post-secondary education.

Senator Clark asked how it would be possible to enforce the law if there are individuals who are not involved in the event or related to the event, but are in the area of the activity.

Senator Teichman asked whether the school had to notify the business or area where the activity is to take place, so that a sign can be posted to prohibit concealed carry.

Ms. Kiernan explained that a provision like that did not exist in the amendment.

Chairperson Brungardt observed that the amendment did seem hard to enforce.

Senator Vratil explained to the committee that the beginning of page eight reads, "any elementary or secondary school building or structure used for student instruction, attendance or extra curricular activities or for administration or maintenance." He further explained that any structure, but not a park, that is used for extra curricular activities would be included on the list of prohibited areas for concealed carry.

Senator Lyon explained that because it is possible for a class to participate in an extra curricular activity at a mall, concealed carry would have to be prohibited at all times in that mall.

Senator O' Connor asked if the words "extra curricular activities" could be struck from the amendment. The amendment would be hard to define and enforce, she explained.

Chairperson Brungardt asked the committee for its opinion concerning the use of the words "extra curricular activities" in the bill.

Senator Vratil explained that he supports the amendment. He stated that it would be better to say, "any place where students are currently engaged in school sponsored activities."

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Ms. Kiernan explained that it is possible to just prohibit parents and sponsors that are involved in the activity from carrying a concealed weapon.

Chairperson Brungardt asked the committee to consider whether they wanted to prohibit concealed carry at off site extra curricular activities.

The bill was not amended to prohibit concealed carry at off site extra curricular activities.

Senator O'Connor asked if the committee could remove "extra curricular activities" from page eight line three.

Chairperson Brungardt asked the committee to consider striking "extra curricular activities" from page eight, line three.

The motion to amend the bill and remove "extra curricular activities" from page eight, line three passed.

Chairperson Brungardt stated the next amendment amends page seven, line 41. The amendment would prohibit concealed carry in any portion of an establishment licensed to dispense alcohol or cereal malt beverage.

Senator O'Connor asked about how the bill was currently written. She wanted to know which part of a restaurant was considered the portion primarily devoted to consumption of alcoholic or cereal malt beverages.

Senator Clark stated primarily was more than 51 percent.

Chairperson Brungardt asked the committee to consider an amendment to the bill that would prohibit concealed carry at any location that serves alcoholic or cereal malt beverages for consumption on premise.

Senator Barnett made a motion to amend the bill. The motion to amend the bill and prohibit concealed carry in any location that serves alcoholic or cereal malt beverages for consumption on premise, passed.

Chairperson Brungardt asked the committee to consider the amendment that would prohibit concealed carry in any city or county owned or leased property including public parks and recreation facilities.

Senator Clark expressed concern with having to figure out which property was city or county public parks, recreation facilities and public works buildings.

Chairperson Brungardt stated they would have to post a sign, such as they do for alcoholic beverage consumption. He then asked them to consider the amendment.

The bill was not amended to prohibit concealed carry in city and county parks, recreation facilities and public works buildings.

Senator Barnett asked the committee to consider an amendment to prohibit concealed carry in hospitals.

Chairperson Brungardt called for a vote on the amendment.

The bill was not amended to prohibit concealed carry in a hospital.

Chairperson Brungardt asked the committee to turn its attention to the amendment that would prohibit concealed carry in churches or any place of worship.

Senator Clark explained that laws used to require people to carry guns to church.

Chairperson Brungardt called for a vote on the amendment.

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The bill was not amended to prohibit concealed carry in churches or places of worship.

Chairperson Brungardt asked the committee to consider the amendment that would prohibit concealed carry in child care facilities.

The bill was not amended to prohibit concealed carry in child care facilities.

Chairperson Brungardt asked the committee to consider the amendment that would prohibit concealed carry in banks.

The bill was not amended to prohibit concealed carry in banks.

Chairperson Brungardt stated the committee would pass over the amendment to prohibit concealed carry in casinos. He then asked the committee to turn its attention to the amendment that would increase the penalty for violating the provisions of section 10 to a class A misdemeanor.

Senator Clark asked for the difference between a class B misdemeanor and a class A misdemeanor.

Senator Vratil explained that a B misdemeanor resulted in a sentence of up to six months in jail and a fine of 500 dollars. A class A misdemeanor resulted in a sentence of up to one year in jail and a fine of up to 1000 dollars.

Chairperson Brungardt called for a vote on the amendment.

The bill was amended to increase the penalty for violating the provision of section 10 to a class A misdemeanor.

Chairperson Brungardt asked the committee to turn its attention to the amendment that would create a penalty for a violation of new section 11.

Senator Vratil explained that it would be worthless to allow businesses to post a sign prohibiting concealed carry, if there was no enforcement.

Chairperson Brungardt called for a vote on the amendment.

The bill was not amended to create a penalty for violation of new section 11.

Chairperson Brungardt asked the committee to consider an amendment to new section 12 that would impose stiffer penalties for repeat offenders.

Ms. Kiernan explained that the suggestion for the amendment was that for each subsequent violation, penalties would increase.

Chairperson Brungardt called for a vote on the amendment.

The bill was not amended to impose stiffer penalties for repeat offenders of new section 12.

Chairperson Brungardt asked the committee to consider an amendment to the preemption provision of the bill.

Senator O' Connor asked whether the current bill has preemption language.

Ms. Kiernan explained that the bill currently has preemption language.

Chairperson Brungardt called for a vote on the amendment to remove preemption language from the bill.

The bill was not amended, and preemption language remained part of the bill.

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Chairperson Brungardt asked the committee to turn its attention toward the amendment that would prohibit individuals who are found behind in child support payments from carrying concealed weapons. Senator O' Connor asked how long over due in child support would be considered a violation.

Senator Vratil explained that only if the court finds the individual in arrears.

Chairperson Brungardt called for a vote on the amendment.

The bill was not amended to prohibit individuals who are found in arrears by the court, for not paying child support, from carrying concealed weapons.

Chairperson Brungardt asked the committee for additional amendments.

Senator Clark stated he had an amendment to page seven, line 31. The amendment would prohibit concealed carry at a polling place, on the date of an election.

Chairperson Brungardt called for a vote on the amendment.

The bill was amended to prohibit concealed carry at a polling place on the date of an election.

Chairperson Brungardt asked for a motion on the bill as amended.

Senator Clark made a motion to recommend the **HB 2798** favorable for passage as amended. The motion was seconded by Senator O' Connor. The bill was recommended favorable for passage as amended.

Chairperson Brungardt thanked the committee.

The meeting was adjourned at 11:45 a.m. The next meeting is scheduled for March 26, 2004 at 10:30 a.m. in room 231-N.

Senate Federal and State Affairs Committee

Date: ~~March~~ 23, 2004

Name:

Representing:

Ron Hein

Motion Picture Association of America

Glenn Thompson

Stand Up For U.S.I.

Heather Gaud

Dannon + Associates

Kamle Bradford

Inter-Faith Ministries

Judy Gross

American Inst of Architects

CARMEN ALDRIT

KDOR

DIANE ALBERT

KDOR

Andy Shaw

Kearney + Associates

Jeff Bottenberg

Kansas Peace Officers Assn

Ron Paul Weber

Sen. Oler

Emily K. Wasson

Sen. Allen

Joseph Wendling

—

Katie Kuhlmann

Sen. Barnett

Nicole Wendling

Sen. Barnett

Steve Peterson

K's Second Amendment Soc.

Scott Hattoff

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Keith Wood

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**Testimony re: HB 2835
Senate Federal and State Affairs Committee
Presented by Ronald R. Hein
on behalf of the
Motion Picture Association of America
March 23, 2004**

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Motion Picture Association of America (MPAA), the trade association representing the nation's leading producers and distributors of motion pictures on film, home video, the Internet, satellite, cable, subscription and over-the-air television broadcast. MPAA member companies include: the Walt Disney Company, M-G-M Studios, Paramount Pictures, Sony Pictures, Fox, Universal, and Warner Brothers.

The MPAA requested introduction of and strongly supports HB 2835. This legislation prohibits the unauthorized operation of a recording device in a movie theater where a motion picture is being exhibited without the permission of the owner or lessee of the premises.

We live in a digital age with many positive advantages for individuals and for society. However, the digital age has also added a new dimension to some traditional problems. Plagiarism and copyright infringement have been a problem for writers, artists, and society throughout modern history. However, with the advancement of technology (camcorders, digital imagery, and other photographic techniques), piracy of lawfully protected intellectual property has become more sophisticated, more prolific, and more difficult to address.

The utilization of digital camcorders to pirate newly-released motion pictures has also increased significantly in the recent past. Video recorders are smaller, less obtrusive, easier to conceal, and create higher quality images of the real product. Add the digital element, which permits rapid, sophisticated, high quality duplication of the original, unlike the multiple recording of non-digital recordings in the past, the pirated images can now be spread to a large audience in an incredibly short period of time.

More and more, movies are being stolen from movie theatres by thieves wielding camcorders or other recording devices. Typically, these thieves are organized criminals who illicitly record films early in their theatrical release and in the n

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instances, during pre-release or promotional screenings, *before* the film has been commercially debuted. These so-called camcorder pirates sell their master recordings to illicit source labs where they are illegally duplicated, packaged and distributed to bootleg dealers, flea markets and street vendors across the country and overseas.

In addition, these stolen movies are released on the Internet (on peer-to-peer networks, chat rooms or auction sites) within days of their theatrical release (or even *before* their theatrical release). In 9 out of 10 instances, those early, pirated copies can be traced back to a video recorded copy of a theatrical presentation. The trend is alarming: 125 major camcorder piracy product labs have been investigated in the US in the first three quarters of 2003, more than twice the number during the same period in 2002. Time Magazine, in their January 26, 2004, issue, contained an excellent article on this problem and how this full-scale piracy occurs. [See copies distributed.]

Obviously, if we can stop the camcorder pirates from recording a master copy in the first place, we will have gone a long way in mitigating the financial damage. That's where this legislation can make all the difference: Currently, even though a movie theater may catch a thief in the act, Kansas law enforcement is not empowered to respond, let alone hold or charge such a thief. This legislation would give theater owners and law enforcement the tools they need to stop movie theft.

HB 2835 would enable the exhibitor and individuals or entities which own the motion picture or its copyright to prosecute the criminals who are video recording the movies illegally in the first instance by prosecuting them for the operation of the video equipment itself. This legislation will enable prosecutors to reduce the amount of piracy which is currently occurring, which some estimate is costing the motion picture industry \$3.5 billion per year. In addition, prosecution of these individuals should assist law enforcement in uprooting the other less visible segments of these piracy schemes.

Regarding the penalties, the economic harm suffered as a result of even one illegitimate copy of a motion picture is great; the penalty borne by the individual responsible for causing the harm should be commensurate. As camcorder piracy becomes more and more organized and sophisticated, strong penalties are necessary as smaller fines and misdemeanor charges simply become a "cost of doing business" for most movie thieves.

It is a crime to steal a DVD or videotape from a retail establishment in Kansas. It should also be a crime to steal the same movie from a theater in Kansas. I respectfully urge the Committee to report HB 2835 with the recommendation that it be passed.

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

TESTIMONY — DENNIS MCINTIRE
UNITED MOTION PICTURE ASSOCIATION
TESTIMONY IN SUPPORT OF
HB 2835

THANK YOU, CHAIRMAN BRUNGARDT, AND MEMBERS OF THE COMMITTEE.

MY NAME IS DENNIS MCINTIRE. I REPRESENT THE MEMBERS OF UNITED MOTION PICTURE ASSOCIATION, WHICH INCLUDES THEATER OWNERS FROM BOTH KANSAS AND MISSOURI. THE NUMEROUS THEATER OWNERS IN KANSAS REPRESENT MORE THAN 120 THEATER COMPLEXES THAT EMPLOY MORE THAN FIFTEEN HUNDRED KANSAS RESIDENTS. THIS TRANSLATES INTO APPROXIMATELY 11 MILLION DOLLARS IN ANNUAL WAGES.

I AM HERE TO URGE YOUR SUPPORT OF HOUSE BILL 2835 CRIMINALIZING THE UNAUTHORIZED USE OF A RECORDING DEVICE, SPECIFICALLY FOR THE FILMING OF A MOTION PICTURE BEING SHOWN IN MOTION PICTURE THEATRES.

LET ME EXPLAIN WHY.

THIS LEGISLATION IS A CRITICAL ELEMENT IN THE INDUSTRY'S EFFORTS TO COMBAT AN EVER-GROWING MOVIE PIRACY PROBLEM. THERE ARE CLEAR LAWS PUNISHING THOSE WHO STEAL VIDEOS FROM RETAIL ESTABLISHMENTS. WE DESERVE

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Attachment: # 2

SIMILAR PROTECTIONS. WE NEED THE LEGAL TOOLS THIS BILL PROVIDES TO MAKE THIS HAPPEN. CURRENTLY, WE HAVE NO LEGAL RECOURSE OR PROTECTION TO STOP THESE THIEVES.

PIRACY CLEARLY EATS AWAY AT OUR LIVELIHOOD, AS MOVIE ATTENDENCE WILL DWINDLE.

THIS MUST BE STOPPED NOW.

PIRACY LEFT UNCHECKED WOULD CONTRIBUTE TO A LOSS OF JOBS, BUSINESS REVENUE AND EVEN TAX REVENUE TO THE STATE.

I APPLAUD THE KANSAS LEGISLATURE'S CONSIDERATION OF THIS MEASURE AND URGE ITS SWIFT ENACTMENT.

THANK YOU FOR YOUR CONSIDERATION.