

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Robert Tyson at 8:36 a.m. on March 12, 2004 in Room 423-S of the Capitol.

Members present:

Senator Christine Downey  
Senator Dwayne Umbarger  
Senator Janis Lee  
Senator Mark Taddiken  
Senator Phil Journey  
Senator Robert Tyson  
Senator Tim Huelskamp

Committee staff present:

Raney Gilliland, Legislative Research Department  
Lisa Montgomery, Office of Revisor of Statutes  
Linda Bradley, Committee Secretary

Conferees appearing before the committee:

Willa DeCastro, State Representative - 96<sup>th</sup> District  
Ben Minor, Minor Marine Service from Parsons  
Christopher Tymeson, Legal Counsel, Kansas Department of Wildlife and Parks  
Cecil Walker, Independent Living Specialist/Counselor from El Dorado

Others attending:

See Attached List.

The meeting was called to order by Chairman Tyson.

Chairman Tyson appointed a Sub-Committee on **HB 2583**. He appointed Senator Schmidt and Senator Journey along with himself to discuss the bill and come back to the Committee to see how the bill will be handled.

**Hearing on House Bill 2604**

**HB 2604 is concerning watercraft, relating to dealers; requiring licensing, providing for dealer certificates of number.**

Chairman Tyson asked Raney Gilliland, Staff, to give a brief review of **HB 2604**. Mr. Gilliland explained there were a number of changes and new language. A "Vessel" means any watercraft designed to be propelled by machinery, oars, paddles or wind action upon a sail for navigation on the water. The bill defines the term "dealer". Means any person who maintains an established place of business with sufficient space to display vessels at least equal in number of the number of dealer registrations the dealer has been assigned and maintains signage easily visible from the street identifying the established place of business. A dealers' license shall be granted or refused within 30 days after the application is received by the Secretary of Wildlife and Parks. The license shall expire, unless previously suspended or revoked, on December 31 of the calendar year for which the license is granted. Any application for renewal received by the secretary after February 15 shall be considered as a new application. Mr. Gilliland stated a licensed dealer demonstrating, displaying or exhibiting on the waters of this state any vessel of a type required to be numbered under the laws of this state may obtain for the department, in lieu of obtaining a certificate of number for each such vessel, dealer certificates of number for the use in demonstrating, displaying or exhibiting any such vessel. No dealer certificate of number shall be issued to any dealer unless such dealer at the time of making application therefor exhibits to the secretary or the secretary's agent a receipt showing that the applicant has paid all personal property taxes levied against such dealer for the preceding year, including taxes assessed against vessels of such dealer which were assessed as stock in trade.

Chairman Tyson asked the Committee if there were questions. A range of questions were asked by Senator Lee and Senator Huelskamp regarding are certificate of number like a dealers tag, is there sales

CONTINUATION SHEET

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE at 8:36 a.m. on March 12, 2004 in Room 423-S of the Capitol.

tax on sale of a boat and boat registration.

Representative Willa DeCastro of the 96<sup>th</sup> District was introduced as a proponent by Chairman Tyson. Representative DeCastro stated it is necessary for the Legislature to review the working of the current law in reference to licensing and providing dealer certificates. It is necessary for dealers to have full use of the watercraft product for use in demo, and assist in sales of our product. (Attachment 1)

Ben Minor, Minor Marine Service of Parsons, was introduced as a proponent by Chairman Tyson. Mr. Minor stated he supports Representative DeCastro and the twenty other Kansas marine dealers effort to pass **HB 2604**, to modify language in the law pertaining to boat dealer permit usage. The wording of the current law prohibits all "recreational activities" for boats with dealer permits. (Attachment 2)

Christopher Tymeson, Legal Counsel, Kansas Department of Wildlife and Parks, a proponent, testified. Mr. Tymeson stated the bill would more distinctly define who is a vessel dealer and the process to become a vessel dealer would be similar to the process to become a automobile dealer. (Attachment 3)

The Committee was asked by Chairman Tyson if there were questions. Various questions were asked by Senators Lee, Tyson, Huelskamp, Umbarger and Taddiken regarding sales and transfers, taxes, dealer tags, boats stored in another state, tax situation with surrounding states.

Mr. Tymeson presented an amendment to clarify vessel dealer. Chairman Tyson stated there is a lot to the amendment. Senator Umbarger stated it was an in depth amendment and did the proponent of **HB 2604** understand this amendment? Representative DeCastro was aware of the amendment. Chairman Tyson asked Lisa Montgomery, Staff, to work on amendment.

Chairman Tyson stated after discussion with the Committee, time is running short on working bill. The hearing was closed on **HB 2604** by Chairman Tyson.

**Hearing on House Bill 2573**

**HB 2573 is concerning wildlife and parks; relating to requirements for persons designated to assist disabled licensees.**

The hearing on **HB 2573** was opened by Chairman Tyson.

Cecil Walker, Independent Living Specialist/Counselor from El Dorado, a proponent, testified. Mr. Walker stated he has been an avid hunter and fisherman before and after becoming disabled. I need to have assistance when I go hunting or fishing, more so for hunting. With the passing of this bill it will make it easier for me and other people to find an attendant to go with us, because they will not have to purchase a license, especially if they are there only to assist us in what we love to do. (Attachment 4)

Christopher Tymeson, Legal Counsel, Kansas Department of Wildlife and Parks, a proponent, stated **HB 2573** would not require a person assisting a disabled hunting or fishing permit holder to hold any hunting or fishing licenses, permits, stamps or other issues of the Department required for the hunting or fishing activity being engaged in. The provisions of the bill would take effect July 1, 2004. (Attachment 5)

The Committee was asked by Chairman Tyson if they had questions. Senators Huelskamp, Taddiken, Journey and Tyson had a various questions regarding, person being assisted has to be in close proximity of hunting field or fishing spot, enforcement, if a license is lost, restricted or suspended by a person whom is assisting a disabled person then that person can not be of assistance to the disabled person.

Chairman Tyson closed the hearing on **HB 2573**.

**Action on House Bill 2621 which was previously heard.**

**HB 2621 is concerning inflicting harm, disability or death to certain dogs.**

Chairman Tyson asked what the will of the Committee is on **HB 2621**. Senator Umbarger made a motion

CONTINUATION SHEET

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE at 8:36 a.m. on March 12, 2004 in Room 423-S of the Capitol.

to pass the bill out favorably. Senator Lee seconded the motion and the motion passed.

**Review of Minutes**

Senator Lee moved to approve the minutes of March 4 and 5. Senator Taddiken seconded the motion and the motion carried.

**Adjournment**

The meeting adjournment at 9:30 a.m.

The next scheduled meeting will be Thursday, March 18, 2004.

SENATE NATURAL RESOURCES COMMITTEE

GUEST LIST

DATE: *Friday, March 12, 2004*

NAME	REPRESENTING
<i>Phil Brodows</i>	<i>RCIL</i>
<i>Gail E. Walby</i>	<i>RCIL Inc El Dorado</i>
<i>Jan Washel</i>	<i>Ks. Wildlife ~ Parks</i>
<i>Amy Thornton</i>	<i>KDWP</i>
<i>KetAnn Schmitt</i>	<i>KDWP</i>
<i>Chris Tymeson</i>	<i>KDWP</i>
<i>Ben Minor</i>	<i>Minor Marine Service</i>
<i>Rep. Willa DeCato</i>	

To Whom It May Concern:

With the signatures and endorsement of the following dealers who are active in the state of Kansas, we believe it is necessary for Legislature to review the wording of the current law in reference to licensing and providing dealer certificates.

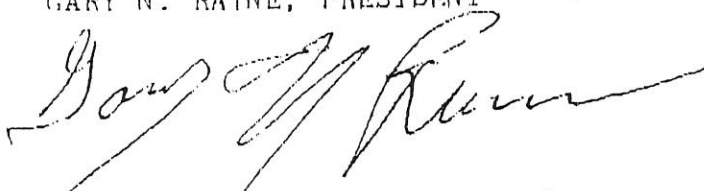
It is necessary for us, as dealers to have full use of the watercraft product for use in demo, and assist in sales of our product. We believe it should be viewed as an auto dealer, allowing for full use of the product for no determined amount of time. The dealers rely on the income from the sell, barter, exchanges, leases or rents with the option to purchase, offers, attempts to sell, or negotiates the sales of any vessel, whether or not the vessel is owned by such person.

We are required to carry the same license as an auto dealer. We, as dealers, agree and believe that others should comply and participate in the proper license, building/location requirements, and legal sign ordinances. Everyone should be treated equally.

<u>DEALER</u>	<u>LOCATION</u>	<u>PHONE#</u>
ALBERS MARINE	ARMA, KS	620-347-8863
THE BOAT HOUSE	ANDOVER, KS	316-733-6000
MID-KANSAS MARINE	ANDOVER, KS	316-733-9889
SPORTSCRAFT MARINE	WICHITA, KS	316-942-2256
MARINE WORLD	WICHITA, KS	316-265-2628
SLACK OUTBOARDS	WELLINGTON, KS	620-326-5433
FISH & SKI MARINE	WELLINGTON, KS	316-682-0491
CLEVE'S MARINE	SALINA, KS	785-823-6986
PLAINVILLE BOAT SHOP	PLAINVILLE, KS	800-499-4503
MID-KANSAS MARINE	HUTCHINSON, KS	800-625-0396
LARRY BOAT SHOP	HUTCHINSON, KS	620-663-4120
INLAND MARINE	HUTCHINSON, KS	888-866-2860
SHADY CREEK MARINA	ELDORADO, KS	800-530-5138
SALINA MOTOR SPORTS	SALINA, KS	785-827-1313
BASS BOATS LLC	TOPEKA, KS	785-876-2628
LAKE PERRY YAUGHT & MARINA	TOPEKA, KS	785-828-9392
LAKESIDE MARINE	TOPKEA, KS	785-478-9392
BOAT HOUSE	TOPEKA, KS	785-267-2628
SOUTHWEST MARINE	KC, KS	913-262-6556
SALINA POWER SPORTS	SALINA, KS	785-

WICHITA MARINE, INC.

GARY N. RAINE, PRESIDENT



*Senate Natural Resources Committee*  
*Date: 3-12-04 Attachment 1*

## SUPPORT OF HOUSE BILL 2604

I want to thank each of you for allowing me to address this distinguished group. The purpose of my presentation here is to support Rep DeCastro and the 20 other Kansas marine dealers effort to pass House Bill 2604, to modify language in the law pertaining to boat dealer permit usage. The wording of the current law prohibits all "recreational activities" for boats with dealer permits.

Under the current law I cannot ask a potential buyer to go to the lake to fish for an hour or to water ski for 20 minutes. These are recreational activities which are specifically prohibited by the current law. It makes it much harder to sell a boat if I must ask my customer to go for a "test drive". It has been my experience that the "soft sell" technique is much more effective for most customers. I have a much greater chance of selling a boat when I can use techniques such as asking a potential customer to go fishing for the afternoon or to go skiing one evening than to go for a test drive.

All the other fishermen I meet at the lake get a full explanation and demonstration of my boat's features during the course of my conversation with them. Many times I have sold a boat to someone I met on the lake or took out for an afternoon of fishing.

Please understand that each boat I sell results in not only profit for my business but also in sales tax revenue collected for the state. Also, as a Kansas business the profit I earn is taxed by State income tax, and the property my business buys with that profit is taxed for personal property tax. So as a Kansas dealer it is in the best interest of the state to allow me to sell boats and collect taxes for Kansas. The ability to use dealership owned boats for recreational activity is essential to maximize the selling potential of my location near a lake.

Under the current law Kansas dealers are at a competitive disadvantage compared to dealers in other states. If I must register and pay property taxes on boats in my inventory to use for recreation I must add the extra \$200 to \$1000 to the price of the boats I am trying to sell. This gives the dealers in other states an automatic \$200 to \$1000 price advantage. This results in more Kansas customers buying boats in other states and paying sales tax in those states rather than in Kansas.

It is my hope that the Legislature approves HB 2604 to allow recreational activities by Kansas dealers in boats owned by the dealership.

Ben Minor, owner  
Ben Minor Marine Service  
Parsons, Kansas

*Senate Natural Resources Committee*  
*Date: 3-12-04* *Attachment 2*

# KANSAS

DEPARTMENT OF WILDLIFE & PARKS

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on HB 2604 Relating to Vessel Dealers  
To  
Senate Committee on Natural Resources**

**By Christopher J. Tymeson  
Chief Legal Counsel  
Kansas Department of Wildlife and Parks**

**March 12, 2004**

HB 2604 further clarifies the definition of vessel dealers, allows for administrative appeals under the Kansas Administrative Procedures Act for denial, suspension, revocation or refusal to issue a vessel dealer's license, and allows for dealer certificates of numbering for vessels under prescribed conditions. The provisions involved with the bill would take effect on January 1, 2005.

The department supports the enactment of the provisions contained in the bill. The bill would more distinctly define who is a vessel dealer and the process to become a vessel dealer would be similar to the process to become an automobile dealer. In addition, dealer certificates of number for temporary use on vessels would be similar to automobile dealer tags, thereby alleviating some enforcement concerns within the department regarding dealer vessels.

In addition, the department would like to offer a potential amendment that was originally part of the proposal from which this bill comes to the Committee. There are several portions of HB 2710 which did not arrive on the Senate side that the department feels would be beneficial to bring into a comprehensive boating bill.

As briefly as possible, the potential amendment in total would create several definitions including "direct and audible supervision", "livery" and "cargo, update the vessel statutes to conform with federal laws including the state of principal use and lighting requirements, allow the registration of legally documented vessels, update water skiing statutes, create a muffling statute, create new statutes geared towards preventing and deterring vessel theft, create new statutes dealing with abandoned vessels and finally, clarify questions regarding storage fee payments when a vessel is stored for preservation of evidence and safe storage of the vessel and its cargo.

Office of the Secretary

1020 S Kansas Ave., Ste. 200, Topeka, KS 66612-1327

Phone 785-296-2281 Fax 785-296-6953 [www.kdwp.state.ks.us](http://www.kdwp.state.ks.us)

*Senate Natural Resources Committee Attachment 3*  
*Date: 3-12-04*

# Resource Center for Independent Living, Inc.

615 N. Main  
El Dorado, KS 67042



(800) 960-7853  
(316) 322-7853  
(316) 322-7888 FAX

March 11, 2004

The Honorable Representative Melvin Neufeld  
300 SW 10<sup>th</sup> Street  
Topeka, Ks 66612-1504

Dear Representative Melvin Neufeld and other members of:  
The Committee on Appropriations.

I am Cecil Walker and I would like to thank you for giving me this opportunity to speak on HB 2573. I am in favor of the way HB 2573 is now written. When it was in the Tourism and Parks Committee it was just dealing with the fishing license. I gave testimony asking that it include the hunting license also.

I have been an avid hunter and fisherman before and after becoming disabled. I have to have assistance when I go hunting or fishing, more so for hunting. With the passing of this bill it will make it easier for me and other people to find an attendant to go with us, because they will not have to purchase a license, especially if they are there only to assist us in what we love to do. I agree that if my attendant wants to fish and hunt along side me that they should follow all state laws and regulations.

We started a Wheatland Fishing Has No Boundaries event at El Dorado Lake in September of 2002 for people of all ages and disabilities and we are going to have our third event this year in September. We assign an attendant with every person that goes out on a boat and fishes. With this bill the volunteers will not have to buy a license just to help someone to fish, like they had to in the past. I also want to get a hunting program started in my area and this will help with that also.

I ask you to please pass HB 2573 as is. I feel that with this passage it will open the great outdoors that Kansas has offer to more people with disabilities. I would like to thank you for letting me speak before this Committee and I am open for any questions that you might have.

Cecil E. Walker Jr.

*Senate Natural Resources Committee*  
*Date: 3-12-04*  
*Attachments 4*



# KANSAS

DEPARTMENT OF WILDLIFE & PARKS

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on HB 2573 relating to Disability Assistance for Fishing and Hunting  
To  
Senate Committee on Natural Resources**

**By Christopher J. Tymeson  
Chief Legal Counsel  
Kansas Department of Wildlife and Parks**

**12 March 2004**

HB 2573 would not require a person assisting a disabled hunting or fishing permitholder to hold any hunting or fishing licenses, permits, stamps or other issues of the Department required for the hunting or fishing activity being engaged in. The provisions of the bill would take effect July 1, 2004.

The Department supports the provisions of HB 2573. HB 2573, as amended, relates to both hunting and fishing disability assistance permitholders. The Department would like to note however that this change in statute will reduce the fiscal intake to the department by an estimated \$2619 annually.

In addition, the Department would like to note that some additional law enforcement problems may arise as a result of this bill, in the case of violations. For example, determining who is the responsible party when a violation occurs such as hunting without written permission, taking an overlimit of game or sport-fish, or taking game in violation of permit restrictions. A clear requirement should also be maintained that the disabled person must accompany the designated person to the field, at least to the level possible. The designated person should also be required to hold hunter education certification, if not exempt under current law, whenever hunting activities take place. And finally, the Department would note that any change under state law would only apply to state issues. Federal laws dictate additional requirements for species hunted under their jurisdiction, including the requirements associated with migratory birds and waterfowl.

The Department does not oppose the bill as it is anticipated that most of the potential hunting assistants will already be licensed but wanted to ensure the Committee was aware of the potential problems that may arise as a result of its passage.

Office of the Secretary

1020 S Kansas Ave., Ste. 200, Topeka, KS 66612-1327

Phone 785-296-2281 Fax 785-296-6953 [www.kdwp.state.ks.us](http://www.kdwp.state.ks.us)

*Senate Natural Resources Committee Attachment 5*  
*Date: 3-12-04*