

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman John Edmonds at 1:30 P.M. on March 2, 2005 in Room 313-S of the Capitol.

All members were present except:

Representative Tom Hawk- excused
Representative Broderick Henderson- excused

Committee staff present:

Athena Andaya, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Mary Torrence, Revisor of Statutes Office
Carol Doel, Committee Secretary

Conferees:

Rep. Nile Dillmore
Lamar Shoemaker, Brown County Sheriff
Kyle Smith, KBI
Randy Rogers, Kansas Sheriffs' Association
Rose Rozmiarek, State Fire Marshall's Office
Edward Moses, Managing Director Kansas Aggregate Producers Association
Mary Torrence, Office of the Revisor

Others attending:

See attached list

Chairman Edmonds called the meeting to order and opened the floor for bill introductions.

Representative Mah was recognized requesting the introduction of a bill dealing with campaign finance law.

With no objections, this request was accepted for introduction.

The Chair opened public hearing on **HB 2177** regarding the use of forfeited firearms by law enforcement agencies to trade for other firearms or accessories and requested that Mary Torrence from the Revisor's Office give a briefing on the bill.

Mrs. Torrence explained that basically **HB 2177** would allow law enforcement agencies, in addition to other means of disposing forfeited firearms, to trade those firearms to licensed firearms dealers for other firearms or accessories. Currently the options are for the firearms to be destroyed, be used by the agency, or they can be forfeited to the KBI.

Recognized as a proponent of **HB 2177** was Brown County Sheriff Lamar Shoemaker from Hiawatha, Kansas. Sheriff Shoemaker related that with the passage of this bill they would be able to obtain duty weapons that benefit the department and yet cost taxpayers nothing. The financial benefit statewide would be a substantial savings and increase safety for officers by providing proper defense. He further stated another benefit would be the reduction in long term inventory which would help storage and help alleviate tracking problems. (Attachment 1)

Representing Kansas Peace Officers Association, was Kyle Smith a proponent for **HB 2177** stating briefly that it meant trading weapons for weapons and would be financially beneficial statewide. (No Testimony)

Randy Rogers from the Kansas Sheriffs Association delivered testimony in support of **HB 2177**. Sheriff Rogers stated that this bill would allow them to trade weapons not compatible for law enforcement use for weapons or accessories that could be utilized. (Attachment 2)

There were no further proponents of **HB 2177** and no opponents wishing to address the bill and The Chair closed public hearing on **HB 2177** and opened the hearing on **HB 2449** which places limitations on the sale,

CONTINUATION SHEET

MINUTES OF THE House Federal and State Affairs Committee at 1:30 P.M. on March 2, 2005 in Room 313-S of the Capitol.

trade or other transfer of ownership of firearms by law enforcement. At the request of the Chair, Mary Torrence of the Revisor's Office explained that the bill is a simple prohibition against law enforcement agencies selling, trading, or otherwise transferring firearms to a person or entity other than another law enforcement agency unless the firearm was first tested by the KBI for ballistics sampling. The cost of the testing would be paid by the law enforcement agency and the results would be included in the National Integrated Ballistic Information Network (NIBIN).

Representative Dillmore presented testimony in support of **HB 2449** stating that he had requested this bill in order to address an issue of public safety and law enforcement. This bill would require a municipality to test firearms prior to them being sold or traded. The process of testing weapons before sale also gives the buyer of that weapon some sense of confidence that the weapon has not been used in crime against some other person. (Attachment 3)

Next to address **HB 2449** as a proponent was Kyle Smith of the Kansas Bureau of Investigation. Mr. Smith provided testimony relating that the bill would require that before a firearm is sold by law enforcement, the gun be submitted to the KBI for ballistic testing and entry into the NIBIN. (Attachment 4)

Randy Rogers of the Sheriffs' Association addressed the committee regarding **HB 2449** stating that they are actually neutral to the bill, however, they do have a concern about the cost and some concerns about the language as there is no allowance for weapons that are no longer serviceable. (No Testimony)

There were no other persons wishing to address the bill and the public hearing was closed on **HB 2449**.

Chairman Edmonds opened the public hearing on **HB 2266** and asked Mary Torrence of the Revisor's Office to give a briefing on the bill. Mrs. Torrence stated that this bill provides for the state fire marshal's office to administer the Kansas Explosive Act which would provide for the issuance of licenses and permits, such as a user's license which would authorize a person to purchase, possess, store and use explosive materials. It provides for licenses to be for a period of three years.

Delivering testimony as a proponent for **HB 2266** representing the Kansas State Fire Marshal's Office was Rose M. Rozmiarek. Ms. Rozmiarek related that explosives have been and are the weapons of choice of terrorists both domestic and internationally. This bill would allow them to continue to monitor, inspect, and investigate the explosives that are used, stored, and manufactured in the State of Kansas to insure the citizens and emergency responders of this state are safe and secured. (Attachment 5)

There were no other proponents to **HB 2266** and The Chair recognized Edward Moses, Managing Director Kansas Aggregate Producers Association who spoke in opposition to the bill. In his testimony, Mr. Moses stated that **HB 2266** would create unnecessary confusion between existing Federal and State authorities, lead to unnecessary costs, imposed by the addition of bureaucracy, being born by the public and private sector in Kansas, and possibly threaten national and state security. He urged the committee to carefully consider the ramifications which may result from what appears to be a well intentioned bill. (Attachment 6)

No other person wished to address the bill and Chairman Edmonds closed the public hearing on **HB 2266**.

With no other business before the committee, The Chair adjourned the meeting.



Brown County Sheriff's Dept.

706 UTAH HIAWATHA, KS 66434

PHONE (785)-742-7125

FAX (785)-742-3058

Lamar Shoemaker-Sheriff



02-24-05

I WOULD LIKE TO OFFER TESTIMONY ON HOUSE BILL 2177. THIS CHANGE WOULD DEFINITELY BENEFIT AGENCIES IN SEVERAL WAYS. WHEN I TOOK OVER AS SHERIFF, THE OFFICE HAD OVER 150 FIREARMS. THESE WERE INVENTORIED AND LOGGED. SOME HAVE NO HISTORY DOCUMENTED WITHIN THE DEPARTMENT. ONCE THE COURTS RELINQUISH THESE TO US IN ACCORDANCE WITH A NEW LAW, WE WOULD BE ABLE TO OBTAIN DUTY WEAPONS THAT BENEFIT US AND YET COST TAXPAYERS NOTHING.

THE FINANCIAL BENEFIT STATEWIDE WOULD BE A SUBSTANTIAL SAVINGS AND INCREASE SAFETY FOR OFFICERS BY PROVIDING A PROPER DEFENSE.

ANOTHER BENEFIT WOULD BE THE REDUCTION IN LONG TERM INVENTORY. THIS WOULD HELP STORAGE AND HELP ALLEVIATE TRACKING PROBLEMS. OTHER STATES ARE DOING THIS AND ARE SUCCESSFUL. FIREARMS DEALERS ALSO HAVE SEVERAL PROGRAMS THAT ALLOW FOR TRADE-IN ON DUTY WEAPONS.

SEVERAL DEPARTMENTS AND I WOULD APPRECIATE YOUR CONSIDERATION ON THIS BILL. THANK YOU.

SHERIFF LAMAR SHOEMAKER

FEDERAL AND STATE AFFAIRS

Date 3-2-05

Attachment 1

Kansas Sheriffs Association

Salina, Kansas 67402-1853

785-827-2222

Fax 785-827-5215

OFFICERS

President
Sheriff Randy Rogers
Coffey County

First Vice President
Sheriff Jeff Parr
Stafford County

Second Vice President
Sheriff Gary Steed
Sedgwick County

Secretary-Treasurer
Sheriff Bob Odell
Cowley County

Sgt.-at-Arms
Sheriff John Fletcher
Russell County

Executive Director
Darrell Wilson

Office Manager
Carol Wilson

Legal Counsel
Robert Stephan

BOARD OF DIRECTORS

Sheriff Pat Parsons
Logan County - Dist. #1

Sheriff Allan Weber
Gove County - Alternate

Sheriff Buck Causey
Barton County - Dist. #2

Sheriff Charles "Ed" Harbin
Ellis County - Alternate

Sheriff Glen Kochanowski
Saline County - Dist. #3

Sheriff Tracy Ploutz
Ellsworth County - Alternate

Sheriff Lamar Shoemaker
Brown County - Dist. #4

Sheriff David Mee
Nemaha County - Alternate

Sheriff Kevin Bascue
Finney County - Dist. #5

Sheriff Ed Bezona
Stanton County - Alternate

Sheriff Vernon Chinn
Pratt County - Dist. #6

Sheriff Ray Stegman
Kiowa County - Alternate

Sheriff Gerald Gilkey
Sumner County - Dist. #7

Sheriff Steve Bundy
Rice County - Alternate

Sheriff Marvin Stites
Linn County - Dist. #8

Sheriff Sandy Horton
Crawford County - Alternate

To: House Committee on Federal and State Affairs
Re: HB 2177

Dear Members,

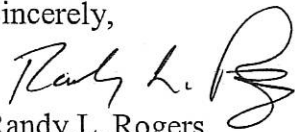
I come before you today in support of HB2177 that would allow Law Enforcement that ability to trade weapons to Federally Licensed Firearms Dealers. Currently Sheriff's are not allowed to sell or trade forfeited or unclaimed firearms, we must either utilize them or destroy them. Many of the weapons are not compatible for law enforcement use, therefore they must be destroyed. Many of the weapons that are held in our evidence rooms are weapons that can be purchased from any gun dealer for hunting, collecting or simply sport shooting. With continuing budget constraints this bill would allow Sheriff's the option of disposing of weapons by trading them for law enforcement equipment that could be utilized.

On behalf of Kansas Sheriff's I would advise this committee that many Sheriff's may not trade weapons, this would be a personal decision by that sheriff.

This bill does not require them to trade the weapons it simply allows them the avenue to if they choose to do so.

I would like to thank you for your time and would answer any questions.

Sincerely,



Randy L. Rogers
President
Kansas Sheriff's Association

FEDERAL AND STATE AFFAIRS

Date 3-2-05

Attachment 2

NILE DILLMORE
 REPRESENTATIVE, 92ND DISTRICT
 1102 JEFFERSON
 WICHITA, KANSAS 67203
 (316) 264-2988
 repdillmore@worldnet.att.net



TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS
 RANKING DEMOCRAT: INSURANCE
 MEMBER: FEDERAL AND STATE AFFAIRS
 FINANCIAL INSTITUTIONS
 TAX

JOINT COMMITTEE ASSIGNMENTS
 MEMBER: ECONOMIC DEVELOPMENT
 INFORMATION TECHNOLOGY

STATE CAPITOL BUILDING, ROOM 278-W
 TOPEKA, KANSAS 66612-1504
 (785) 296-7647
 dillmore@house.state.ks.us

Testimony for HB 2449
House Federal and State Affairs Committee
 March 2, 2005

Thank you for the opportunity to address this committee regarding HB 2449. I requested this bill in order to address an issue of public safety and law enforcement. What this bill does is require a municipality to test firearms prior to them being sold or traded.

Let me tell you a very short story. In the spring of 2003, a twenty-two year old college student is shot and killed in a liquor store robbery in Waco Texas. There is no witness. As of today, the case is unsolved and it will most likely remain that way.

Now let me tell you a different story. The same case is still open but now a .38 caliber handgun that was confiscated in a traffic stop is about to be sold or traded by the city of Salina, or Hays, or Wichita. However, prior to sale the city runs a ballistics test on that gun, runs the results thru the Integrated Ballistics Identification System (IBIS), and gets a hit. The bullet from that gun matches the one that killed that college student in Texas. The local police or the KBI send the information regarding how the gun came into their possession to the local police in Waco and now they have a lead in their otherwise cold case.

Does the story have a successful prosecution? Under current law, we would never have the opportunity to find out because the ballistics test would never have been run prior to the sale of gun used to kill that student.

Currently there are restrictions on when and how a firearm can be disposed of in cases that go before district court. However, there are no such restrictions on weapons confiscated in municipal cases. By having the weapons tested before disposal, we may be able to close an open case.

This process of testing weapons before sale also gives the buyer of that weapon some sense of confidence that the weapon has not been used in a crime against some other person. This would, I believe, increase the value of the gun to the seller and to the buyer.

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Date 3-2-05
 Attachment 3



Kansas Bureau of Investigation

Larry Welch
Director

Phill Kline
Attorney General

**House Committee on Federal and State Affairs
Testimony in Support of HB 2449
Kyle G. Smith
Kansas Bureau of Investigation
March 2, 2005**

Chairman Edmonds and Members of the Committee,

For those of you who do not know me, my name is Kyle Smith and I serve in several capacities at the KBI. I appear today on behalf of the KBI in support of HB 2449 which would require that before a firearm is sold by law enforcement, the gun be submitted to the KBI for ballistic testing.

Modern technology has made incredible changes in criminal investigations. Most of what you see on "CSI" is true, although our scientists don't carry guns, drive Hummers or finish a case in an hour. Computerized databases now exist on fingerprints, DNA, stolen property, registered sex offenders and for firearms, allowing identifications that would have been impossible 5 years ago. The firearms program is called the National Integrated Ballistic Information Network, NIBIN. Both fired bullets and cartridge cases can be digitally photographed and placed into the IBIS System, thus allowing qualified firearms examiners anywhere in the country the ability to track a firearm's use in crimes.

Like any such database, the more complete it is, the more useful. Fingerprint records of just some criminals would be less likely to identify fingerprints at a crime scene than a fingerprint database that contained all charged offenders. While law enforcement agencies are encouraged to submit their seized weapons to the KBI for ballistic testing and entry into NIBIN, it is not required.

In criminal investigations the KBI doesn't currently, and does not want to, charge local agencies for forensic testing. Justice is too important to be decided by the size of a department's budget.

HB 2449 would require departments that are selling or trading firearms to submit those guns to the KBI for ballistic testing and entry into NIBIN. This is in addition to the free investigative submissions, although that could be made clearer in the bill. Since the agencies are turning a profit, *maybe* it would be appropriate to have such tests paid for by

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the agency, but the KBI is reluctant to support that provision. The cost would be about \$24 a gun for each gun test fired and imaged into the system.

We would also remind the Committee that departmental firearms are excluded from entry into the IBIS System per the MOU between the KBI and ATF with regard to the use of this system.

Finally, with those clarifications, we believe the KBI can handle the number of submissions under current law as the only time an agency can sell a firearm is if it was seized for satisfying a drug tax violation. However, if HB 2177 is also passed and made into the law the number of firearms would be greatly increased and our current staff would be unable to handle the testing. We would have to hire another firearms examiner who, after completing training, would work a second shift. The cost of the examiner's salary, benefits and supplies would be about \$50,000.

Thank you for your attention and time. I would be happy to try and answer any questions.



K A N S A S

F.S. JACK ALEXANDER
FIRE MARSHAL

OFFICE OF THE KANSAS STATE FIRE MARSHAL

KATHLEEN SEBELIUS
GOVERNOR

Rose M. Rozmiarek
Kansas State Fire Marshal's Office
Chief of Investigations
Deputy State Fire Marshal

Dear House Committee for Federal and State Affairs:

I am here to speak to you as a proponent of House Bill 2266. This bill addresses the Kansas Explosive Act. The Kansas State Fire Marshal's Office is and has been responsible for the issuance of the explosive permits and licenses for the State of Kansas for over 30 years. The program is under the investigation division due to the nature of some violations that could be criminal as well as the need for the background checks for anyone handling explosives. I do want to clarify that this act only addresses the high explosives, DOT 1.1 and 1.2 and not the display fireworks that are DOT 1.3.

The first issue has to do with a ruling that came from the Kansas Attorney General's office about four years ago while we were trying to update our explosive regulations. The attorney general's office would not allow us to change the regulations because our current statute does not include the word 'license' even though we have been doing it for several years. Under the attorney general's office recommendations we are requesting the statute clarification to allow us to continue and improve this program.

Explosives have been and are the weapons of choice of terrorist, domestic and internationally. Eighty-six percent of all terrorist attacks have been with explosives. We must be able to continue to monitor, inspect, and investigate the explosives that are used, stored, and manufactured in the State of Kansas to insure the citizens and emergency responders of this state are safe and secured.

Governor Hayden recognized the need for the accountability of explosives in 1989 after the death of the six firefighters in Kansas City, Missouri. Governor's executive order number 88-112 was implemented to allow for the current regulations for the explosive

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permits / licenses but no funding was ever allocated. This explosive act will assist with the funding needs of the program.

Prior to the second half of the year 2002 no explosive site inspections were conducted or criminal history checks completed on those who handle the explosives. This was due to the lack of personnel and access to the NCIC terminal. In July of 2002 the investigation division was awarded a law enforcement Byrne grant to address this problem. With this grant we were able to hire an investigator to start doing the inspections, violation investigations, as well as explosive investigations. An administrative specialist was hired to build and maintain the explosive databases and completed the criminal history checks for all explosive applications. This grant was renewable for a total of four years with the anticipation the agency would assume the program on its own. During the application phase for the three year funding the agency was notified that the Byrne grant would no longer fund the program since they felt it should be funded under the homeland security grants. The homeland security grant could not fund the positions and under our state guidelines all the homeland security money to go the local agencies. Currently we have been able to complete an average of 40 inspections a year. This is done by just one investigator. Since we lose the grant money the governor removed the unclassified position. We had a vacant investigator position in the fire investigation unit due to a recent retirement. To save the explosive investigator with his knowledge and expertise we moved him into the vacant position. So he now has to assist with fire investigations if needed due to the loss which reduces his time dedicated to explosives.

Due to the site inspections and educating the explosive profession we have been able to increase the number of permits / licenses issued. Currently we have approximately 250 users, 1100 blasters, and 200 storage permits / licenses in Kansas. But we know there are still others out there who are not properly licensed. Unfortunately one investigator is not enough to cover the whole state.

The criminal explosive case load for 2004 was 36 and if we continue at the rate of cases we have worked in just two months this year we will have a 66% increase in criminal explosive cases for 2005.

Due to our expertise in explosives and arson fires we are very much a part of the homeland security forces for Kansas. We have been training local first responders, fire fighters, EMS, and law enforcement on explosive and terrorism issues. We are also assisting the Kansas Department of Emergency Management with the state's homeland security vulnerability assessments throughout the state in the area of explosive blast modeling. Due to receiving some federal grant money we will also be able to provide access to the explosive database to first responders to assist them in their safety in and investigative abilities.

I again request your support of this bill and the Kansas Explosive Act. This is very much a homeland security issue and we must be able to protect and insure the safety of all the citizens of Kansas.

KAPA

Kansas Aggregate
Producers' Association

Edward R. Moses
Managing Director

TESTIMONY

Date: March 2, 2005
Before: The House Committee on Federal & State Affairs
By: Edward Moses, Managing Director
Kansas Aggregate Producers Association
Regarding: HB 2266 – Kansas Explosives Act

Good afternoon Mr. Chairman and Members of the Committee:

My name is Woody Moses, Managing Director of the Kansas Aggregate Producers Association. The Kansas Aggregate Producers Association (KAPA) is an industry wide trade association comprised of over 170 members located or conducting operations in all 165 legislative districts in this state, providing basic building materials to all Kansans. I appreciate the opportunity to appear before you today in opposition to HB 2266.

Our industry as the state's largest consumer of explosives and blasting products our members are very concerned about the provisions contained in the Kansas Explosives Acts as proposed by the Kansas Fire Marshall's office. Simply put, we feel this bill is too broad in both its scope and purpose. Kansas already has very precise and comprehensive set of laws and regulations dealing with the manufacture, transportation, storage, sale, licensing, training and use of explosive materials. This body of governance has been carefully developed over many years and includes a precise distribution of authorities between the United States Department of Transportation, the Bureau of Alcohol, Tobacco and Firearms, the Mine Health and Safety Administration, the Kansas State Fire Marshall, Kansas Office of Emergency Preparedness. This current scheme has worked well and we see no reason to upset it by enacting legislation which would simply overlap an existing framework. Especially as we see no clear or compelling reason to do so. Enactment of HB 2266 will:

- Create unnecessary confusion between existing Federal and State authorities,
- Lead to unnecessary costs, imposed by the addition of bureaucracy, being born by the public and private sector in Kansas, and
- Possibly threaten national and state security.

This committee is charged with the difficult task of sorting out the differences between State and National authorities. In the past few years this legislature has dealt with many unintended

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consequences (ie: Streamlined Sales Tax and the "Clunker Bill") which have arisen from well intended purpose. We urge this committee to carefully consider the ramifications which may result from what appears to be a well intentioned bill.

Thank you for your time and attention. I will be happy to respond to any questions at the appropriate time.