

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Barbara Allen at 10:40 A.M. on January 24, 2005 in Room 519-S of the Capitol.

Committee members absent: Senator Derek Schmidt - excused

Committee staff present: Chris Courtwright, Kansas Legislative Research
Martha Dorsey, Kansas Legislative Research
Gordon Self, Revisor of Statutes Office
Nancy Kirkwood, Secretary

Conferees appearing before the committee: Jerry, Slaughter, Kansas Medical Society
Terry Roberts, Kansas State Nurses Assn
Kathy Porter, Judicial Branch
Kathy Damron, Kansas Assn of Realtors
Jim Clark, Kansas Bar Assn
Jane Hart, Kansas Trial Lawyers
Sharon Munk, Kansas Pet Breeder

Written testimony

Trudy Aron, American Institute of Architects
Becky Mosshart, USDA and KAHD licensed kennel, Nashville, KS

Marlee Carpenter, The Kansas Chamber

E-mails

Bruce Marcotte, Concordia, KS
David Gebers, Belleville, KS
Rose Gebers, Belleville, KS
Velma Kirk, Belleville, KS
Janie Marcott, Belleville, KS
M. A. Phillips, Florence, KS
Melody Cassell, Wichita, KS
Charla Cassell, Belleville, KS
Crystal Cassell, Lawrence, KS
Mike Regnier, Marion, KS
Jack Regnier, Marion, KS
Lyle Hanschu, Lost Springs, KS
Ryon Lindgren, Marion, KS
Ray Lindgren, Marion, KS
Kara Lindgren, Marion, KS
Karole Lindgren, Marion, KS
Rocky Lindgren, Marion, KS

Others attending:

Continued hearing on:

SB 15 –Delinquent taxes and returns; professional license issuance and renewal

Chairperson Allen brought the committee's attention to the continued hearing on **SB 15** by recognizing Jerry Slaughter, Kansas Medical Society, appearing as a neutral conferee. Jerry asked the committee to consider extending the time frames set out in the bill. The initial notification by licensing agencies to the Secretary should be not less than 120 days prior to the expected issuance of the renewal license (Attachment 1).

There being no others to testify as neutral to **SB 15**, the Chair moved to the opponents of the bill.

Opponent Kathy Porter, Office of Judicial Administration, testified the Supreme Court has serious concerns about the constitutional implication inherent in **SB 15** (Attachment 2).

CONTINUATION SHEET

MINUTES OF THE Senate Assessment and Taxation Committee at 10:30 A.M. on January 24, 2005 in Room 519-S of the Capitol.

Kathy Damron, representing the Kansas Association of Realtors, spoke in opposition to **SB 15**. Kathy stated the Realtors and other professional licensees included in **SB 15** should not be denied their ability to practice their profession should they find themselves in dispute with the Department of Revenue regarding taxes owed to the state (Attachment 3).

The Chair recognized Jim Clark, Legislative Counsel, Kansas Bar Association. Jim addressed the committee in opposition to **SB 15** (Attachment 4).

Russell Peterson spoke in opposition to **SB 15** on behalf of the Kansas Trial Lawyers Association. Russell stated the KTLA believes that inclusion of attorneys in the provision of **SB 15** violates a ruling of the Kansas Supreme Court which gives exclusive power over the admission and disbarment of a practicing lawyer to the courts (Attachment 5).

Chairperson Allen recognized opponent Sharon Munk, Licensed Pet Breeder, to the Committee. Sharon asked on behalf of the Kansas Pet Professionals that the committee contemplate each of the licensing bodies individually, and that the Committee remove from the bill the licensing bodies that have a trickle down effect on more than just the person who is delinquent (Attachment 6).

Chairperson Allen asked the Committee to note written testimony in opposition to **SB 15** as well as the e-mails it has received. They are as follows:

Trudy Aron, Executive Director, AIA (Attachment 7); Marlee Carpenter, The Kansas Chamber (Attachment 8); Terri Roberts, Kansas State Nurses Association (Attachment 9); Kevin Robertson, Kansas Dental Association, (Attachment 10); Pam Scott, Kansas Funeral Director Association, (Attachment 11); Becky Mosshart, USDA and KAHD licensed kennel, (Attachment 12); e-mails from: Bruce Marcotte, Concordia, KS (Attachment 13); David Gebers, Belleville, KS, (Attachment 14); Rose Gebers, Belleville, KS, (Attachment 15); Velma Kirk, Belleville, KS, (Attachment 16); Janie Marcott, Belleville, KS, (Attachment 17); M. A. Phillips, Florence, KS, (Attachment 18); Melody Cassell, Wichita, KS, (Attachment 19); Charla Cassell, Belleville, KS, (Attachment 20); Crystal Cassell, Lawrence, KS, (Attachment 21); Mike Regnier, Marion, KS, (Attachment 22); Jack Regnier, Marion, KS, (Attachment 23); Lyle Hanschu, Lost Springs, KS, (Attachment 24); Ryon Lindgren, Marion, KS, (Attachment 25); Ray Lindgren, Marion, KS, (Attachment 26); Kara Lindgren, Marion, KS, (Attachment 27); Karole Lindgren, Marion, KS, (Attachment 28); Rocky Lindgren, Marion, KS, (Attachment 29);

The Chair asked for any others wanting to testify as opponents. There being none, the Chair closed the hearing on **SB 15**.

Secretary Wagon asked the Committee for another week before it began working **SB 15**. She stated the Department needed more time to work on organizational structure issues. Secretary Wagon asked the Chair if it would benefit the committee to provide a flow chart on who would be affected, how it works, and what the time lines are. Chairperson Allen welcomed any information the Department could provide, and stated the Committee had no plans to work **SB 15** this week.

At the hearing on January 20, 2005, the Chair requested the Department of Revenue to provide tax clearance information for states. Secretary Wagon stated the Department had made the request and would make it available to the Committee as soon as it is received. The Department had furnished Senator Apple his request for the fiscal note on trust taxes. The Chair said the Committee would be furnished copies of the request of Senator Apple.

Chairperson Allen asked for bill introductions. Senator Apple asked for a committee bill stating Miami County had passed a quarter cent sales tax for improvement of roads and bridges. When the journal came out the language needed clarification. Senator Apple moved to introduce legislation, seconded by Senator Donovan. The motion carried.

The meeting adjourned at 11:30 a.m. The next scheduled meeting is Tuesday, January 25, 2005.



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**Senate Committee on Assessment and Taxation
SB15; Concerning revocation of professional licenses for tax delinquency**

Testimony of the Kansas Medical Society
Jerry Slaughter
Executive Director

January 24, 2005

The Kansas Medical Society appreciates the opportunity to comment on SB 15, which establishes a process that would prohibit licensing agencies from issuing license renewals to individuals and businesses that were delinquent in the payment of certain taxes.

This legislation represents one of those issues which seems conceptually simple, but will most likely be very complex to administer fairly. Who could oppose efforts to require taxpayers to pay what they owe? No responsible business or professional organization could oppose this program in principle. However, we are a bit skeptical about how this new program will be administered. What is now a fairly straightforward administrative process for license renewal which involves only one state agency – in the case of physicians, the Healing Arts Board – will in the future require the coordinated efforts of two state agencies to complete the formerly simple task of renewing a professional license.

The proposal raises numerous questions about how complicated tax situations will be handled administratively by the staff at the Department of Revenue. For example, if five physicians jointly own a licensed ambulatory surgery center through a practice corporation, and the entity is delinquent in the payment of withholding taxes, will each of the partners have their individual licenses to practice medicine and surgery non-renewed?

It should come as no surprise to anyone that a program such as this produces enhanced collection of delinquent taxes. Withholding the renewal of an individual's license to practice – to make a living – is enormous leverage. We have no quarrel with the principle, just the process. We would only ask that the committee consider extending the timeframes set out in the bill for notification of the taxpayer and for the subsequent follow up with the Department of Revenue and the issuance of the tax clearance certificate.

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Attachment # 1

For example, we believe the initial notification by licensing agencies to the Secretary should be not less than 120 days prior to the expected issuance of the renewal license (at page 4, line 22). Then, the Secretary would have the 30 days specified in the bill to notify the delinquent taxpayer, leaving ninety days for the taxpayer to request and complete the proposed informal conference with the Department. The additional time will give the parties a better opportunity to resolve disputes and provide for the payment of taxes owed without further complicating the license renewal process.

We also believe that in order to be fair, all taxpayers (and taxes, for that matter) should be treated equally. The bill discriminates against certain taxpayers and favors others. Is it fair to exempt licenses to operate a motor vehicle? Actually, if driver's licenses were withheld, it would cast the broadest net and make legislation that singles out other license holders unnecessary. Why are property taxes excluded? Are some taxes off limits? In the alternative, if not all taxes and taxpayers are going to be included, we would support limiting the delinquency determination to "*taxes related directly to the business for which the license is issued,*" such as in the case of liquor dealers (page 7, lines 28-29). At least then the application of the underlying principle would be consistent across all categories of taxpayer.

Finally, just as a technical correction to the legislation, we would recommend that the bill be amended on page 2, lines 37-38, by inserting the word "physician" as shown on the attached page, to make this bill consistent with terms used in the Healing Arts Act.

Thank you for the opportunity to appear and comment on SB 15. We would be happy to respond to any questions.

1 commission, board of cosmetology, dental board, emergency medical
2 services board, department of health and environment, board of healing
3 arts, board of examiners in fitting and dispensing hearing aids, insurance
4 department, board of mortuary arts, board of nursing, board of examiners
5 in optometry, board of pharmacy, real estate appraisal board, real estate
6 commission, securities commissioner, speech-language pathology and au-
7 diology board, state board of education, supreme court, board of technical
8 professions, department of transportation and board of veterinary
9 examiners;

10 (c) "licensee" means any person who is applying for issuance of or
11 has been issued a license. "Licensee" shall include, but not be limited to,
12 an abstractor, adult care home administrator, barber school, barber col-
13 lege, barber instructor, barber, noncompetitive boxing, karate, kick box-
14 ing, competitive boxing, mixed martial arts, professional wrestling, school
15 of cosmetology, school of nail technology, school of esthetics, school of
16 electrology, cosmetology instructor, salon, clinic, tanning facility, cosme-
17 tologist, cosmetology technician, cosmetology apprentice, electrologist,
18 electrologist apprentice, manicurist, manicurist apprentice, esthetician,
19 esthetician apprentice, tattoo artist, tattoo facility, permanent color tech-
20 nician, permanent color facility, body piercer, body piercing facility, pub-
21 lic livestock market operator, animal carcass disposal plant, garbage feed-
22 ing operator, feedlot operator, animal distributor, animal breeder, hobby
23 breeder, retail breeder, pet shop operator, pound or animal shelter, ken-
24 nel operator, animal research facility, livestock dealer, private detective,
25 private detective agency, mortgage business, clinical psychologist, master
26 level psychologist, attorney, certified public accountant, municipal public
27 accountant, professional counselor, clinical professional counselor, master
28 social worker, specialist clinical social worker, social work associate, social
29 worker, marriage and family therapist, clinical marriage and family ther-
30 apist, alcohol or drug abuse counselor, dentist, dental intern, dental hy-
31 gienist, highway advertising, junkyard certificate of compliance, insurance
32 company, viatical settlement provider or broker, insurer administrator,
33 insurance broker, bail bondsman, emergency medical services attendant,
34 emergency medical technician, emergency medical technician-defibril-
35 lator, emergency medical technician-intermediate, first responder, emer-
36 gency medical instructor-coordinator, mobile intensive care technician,
37 ambulance operator, emergency medical training officer, ~~medical doctor,~~
38 ~~surgeon,~~ osteopathic physician, chiropractor, podiatrist, physician assis-
39 tant, physical therapist, physical therapist assistant, occupational therapist,
40 respiratory therapist, athletic trainer, naturopathic doctor, insurance
41 agent, embalmer, funeral director, assistant funeral director, apprentice
42 funeral director, funeral establishment, branch funeral establishment,
43 crematory, practical nurse, professional nurse, mental health technician,

physician



State of Kansas

Office of Judicial Administration

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Special Committee on Assessment and Taxation

January 24, 2005

Testimony on 2005 SB 15
Kathy Porter

The Constitution of the State of Kansas vests the Kansas Supreme Court with general administrative authority over all courts in this state. *Constitution of the State of Kansas*, Article 3, Section 1. Given the Court's constitutional duty to regulate the practice of law, the Supreme Court has serious concerns about the constitutional implications inherent in 2005 SB 15. To the extent SB 15 gives the Secretary of Revenue, rather than the Supreme Court, the authority to determine whether licenses to practice law should be issued or renewed, the provision creates serious constitutional questions.

The Supreme Court has a process in place for attorneys who violate the Kansas Rules of Professional Conduct for attorneys. This is consistent with the Supreme Court's constitutional authority and obligation to regulate the practice of law.

Thank you for the opportunity to testify on this issue.

Assessment & Taxation
Date 01-24-05
Attachment # 2

TO: Senate Assessment and Taxation Committee
FROM: Kathy Damron, Kansas Association of Realtors

DATE: January 20, 2005
RE: Senate Bill 15

The Kansas Association of Realtors opposes Senate Bill 15. As stated in testimony last year before the House Taxation Committee when House Bill 2776 was considered, the Realtors Association believes that all taxpayers should remain current in the payment of taxes owed. All taxpayers should timely file all tax returns due to the state.

However, Realtors and other professional licensees included in Senate Bill 15 should not be denied their ability to practice their profession should they, for any number of reasons, find themselves in dispute with the Department of Revenue regarding taxes owed to the state.

For Realtors there is a particular difficulty associated with this measure. Kansas law requires that all real estate licensees associate with a supervising broker. If a broker's license is somehow revoked, all agents associated with that broker could no longer practice their profession. It does not appear that the provisions of SB 15 speak to situations when one licensed professional, by law, must supervise the work of other licensed professionals.

The Kansas Association of Realtors has a large number of members who live and practice real estate in border counties to the east. This proposal, patterned after a similar concept in Missouri, has generated great anxiety among those members

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in particular based on the very negative reaction to the Missouri approach.

Please know we appreciate the efforts that the Department of Revenue invested in this effort and the dialogue initiated by Secretary Wagnon among professionals affected by this proposal. It is well intentioned legislation, but we would ask the committee to not adopt such a drastic approach at this time.

Thank you.



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Testimony in Opposition to

SENATE BILL NO. 15

Presented by Jim Clark, Legislative Counsel, Kansas Bar Association
Senate Assessment and Taxation Committee January 24, 2005

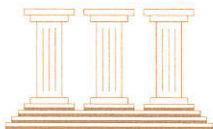
The Kansas Bar Association's opposition to **SB 15** is not because we think licensees of the state who happen to be attorneys should be allowed to avoid taxes in the State of Kansas. In fact, one of our main legislative policies, the funding of the court system, depends on tax law compliance by all taxpayers, including attorneys.

Our concern with this bill is that under the separation of powers doctrine, the Kansas Supreme Court regulates the practice of law. This regulation includes admission, continuing education requirements, and, thankfully in only a few cases, suspension or disbarment. The effect of **SB 15** on the Supreme Court's ability to regulate attorneys creates uncertainty, at best. Since the intent behind the bill is to encourage the payment of taxes, and there has been no testimony that the separation of powers doctrine is the major cause of non-payment, there is simply no point in violating this well-established doctrine. The alternative we suggest will be just as effective. The Kansas Bar Association would request that all references to attorneys and the Kansas Supreme Court be deleted from the bill, and, in the alternative, we would propose that after the Secretary of Revenue determines a delinquency, that the Secretary be required to notify the licensee attorney and the Disciplinary Administrator of such delinquency.

This proposed amendment puts both the attorney and the Disciplinary Administrator on notice of the delinquency, allowing the attorney to rectify the situation with the Department, and, if necessary, allowing the Disciplinary Administrator the authority to seek sanctions against the attorney for nonpayment of state taxes. The exemption of attorneys removes any separation of powers problem in the bill and invokes the procedures already in place for disciplining attorneys and, if necessary, removing their license to practice law.

Thank you for your consideration.

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Attachment # 4



KANSAS TRIAL LAWYERS ASSOCIATION

Lawyers Representing Consumers

To: Members of the Senate Committee on Assessment and Taxation
From: Russell F. Peterson on behalf of the Kansas Trial Lawyers Association
RE: SB 15
Date: January 24, 2005

Madam Chairman Allen and members of the Senate Committee on Assessment and Taxation, I appear before you today on behalf of the Kansas Trial Lawyers Association. I am a Kansas attorney and member of KTLA. KTLA is a statewide, nonprofit organization of lawyers who represent consumers and advocate for the safety of families and the preservation of the civil justice system. We appreciate the opportunity to present written and oral testimony in opposition to SB 15.

KTLA believes that inclusion of attorneys in the provision of SB 15 violates a ruling of the Kansas Supreme Court which gives exclusive power over the admission and disbarment of a practicing lawyer to the courts. In *Hanson v. Grattan*, 84 Kan. 843, the state supreme court held that

A practicing attorney is an officer of the court in which he is admitted to practice. The power to admit applicants to practice law is judicial, and not legislative, and is, of course, vested in the courts only. 4 Cyc. 900. The act of admission is a judicial determination, and is not for a term of years, but for life, or until the attorney shall have been disbarred by a court of competent jurisdiction.

A license to practice law in Kansas, or any other Kansas license of a learned professional, is distinguishable from other state licenses where part of the licensure requirements includes a duty to return taxes collected on behalf of the State of Kansas. A licensed professional holds their license personally and has received such license as a result of satisfying educational and other competency requirements while licenses such as those conferred on car dealers or liquor licensees may be—and are--held by corporations. The duties of a licensed professional include maintaining certain standards of practice and education, while those holding liquor licenses or other revenue licenses have a fiduciary relationship with the state requiring them to forward tax revenue to the state. Because these two types of licensees are distinguishable, it is appropriate to treat them differently under the law.

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Terry Humphrey, Executive Director

If SB 15 is passed, those holding professional licenses in Kansas may find themselves—through no fault of their own—without a license to practice and therefore no way to earn and repay delinquent taxes to the state. We envision the following scenarios:

- A nurse seeks a divorce from her husband who has accrued debt—including unpaid state taxes--as the result of a gambling problem. Since the nurse and her husband filed joint tax returns, the nurse is liable for all delinquent taxes and she loses her license. She will not have the ability to work to either repay the taxes or to support herself and her family.
- A limited liability partnership of attorneys is equally responsible for the taxes of all the partner attorneys. Unknown to the partners, one of the attorneys is delinquent in his personal income taxes. Since all the partners are responsible for the taxes of all the partners, all the attorneys lose their licenses through no fault of their own.
- Many doctors and other professionals hold Kansas licenses but do not live or work in Kansas and therefore owe no taxes. SB 15 could create confusion about tax and filing obligations of such individuals.

Currently, there is already a process in place for dealing with disciplinary matters, including tax delinquency, of attorneys and other professionals. We suggest that the current methods for upholding the high standards of all professionals in Kansas are appropriate and effective and should not be replaced by SB 15.

The Kansas Trial Lawyers Association urges that the legislature seek other ways to promote the collection of overdue taxes. The non-renewal of a professional license is not sound public policy and in fact is counterproductive both for the licensee and the citizens that the licensee serves. Even if a license is suspended for a short time, disruption for the customers, clients, and patients of a professional who is legally unable to care for their needs would be significant.

We respectfully request your opposition to SB 15.

SENATE BILL #15

Madam Chairperson and Committee Members (Assessment and Taxation)

Upon reading the background, the committee's activities, their conclusions and recommendations on the delinquent tax dilemma, I very much understand KDOR's request to the legislators for assistance.

You can refuse to issue a license to those bodies that will only need to **CANCEL** appointments, and the effects of this bill will be minimized, contained to only the professional that doesn't abide. The Dentist, Optometrist, Barber, Tattoo Artist, Accountant, will need to cancel an appointment due to the lack of being licensed. The customer goes to a competitor for services. No one suffers except the one at fault. The delinquent tax payer.

Before you pass a bill out of this committee, I ask you to contemplate each of the licensing bodies **individually**, and remove the ones that have a trickle down effect on more than just the one that is delinquent.

I'm Sharon Munk, Licensed Professional Kansas Pet Breeder, from Menlo, Kansas. That is three hundred miles west, close to Colby. The Kansas Pet Professionals asked me to speak on their behalf. My words today are not the words of one, they are the concerns of many.

Lack of a valid license will endanger the health, safety and welfare of **ANIMALS**. Appropriate animal husbandry practices require monetary income. If a Kansas Pet Animal Breeder is not allowed to sell their pets this month...there will be no **food** for next month.

This **MULTI-MILLION** dollar Kansas Pet Industry...**"FRESH"** money, I call it, coming in from out-of-state is a boost to the Kansas economy. That is just the sale of pets. Twelve **BILLION** if you want to include the farm products purchased for pet food manufacturing etc.

In the past, the Kansas Pet Industry was lambasted in the National media. There was a nationwide Kansas Puppy Boycott. The biscuits showed up on the capital lawn in protest. California threatened a Kansas Beef Boycott. The Kansas Pet Industry was on the bottom, if we even existed anymore, in the PIT area. With the appointment of an intelligent Advisory Board, the cooperation within the industry, and the legislators ears with the revisions to the Kansas Pet Animal Act, we rebounded with such speed that Kansas was nicknamed the **MODEL STATE**, and other states were scrambling to copy us.

The Kansas Pet Industry has insisted that the Kansas Animal Health Department follow the written law, with no exceptions. That is how we gain and maintain the **REPUTATION** that we enjoy today.

The Kansas Animal Health Department does not have the finances, the resources, the budget, the money to either accept, rescue, or seize the animals from the tax delinquent licensees this bill will effect.

The Kansas Facilities Inspection Program is operating on a shoe-string budget as it is. Just barely holding on, until the legislators give us a 50% increase in licensee fees. We have not had an increase for fourteen (14) years. They are currently holding open the position of an inspector for my area.

This bill has the potential to damage the reputation of the Kansas Pet Industry, which will have a trickle down effect on the boost that we give the Kansas economy.

Please consider removing the **ANIMAL HEALTH BOARD** and all those that receive their license from the Animal Health Department from this bill.

I presume there are other laws already in place that could be enacted to entice taxpayers to abide by the written law.

Again, I sympathize with KDOR on the enormity of their task at hand. I'm one of the 72.1% that is paying taxes on time, so I relish the day a feasible solution is encountered, so tax burden can be shared by more. I'm just not sure that jeopardizing Kansans livelihood is the solution.

Sharon Munk

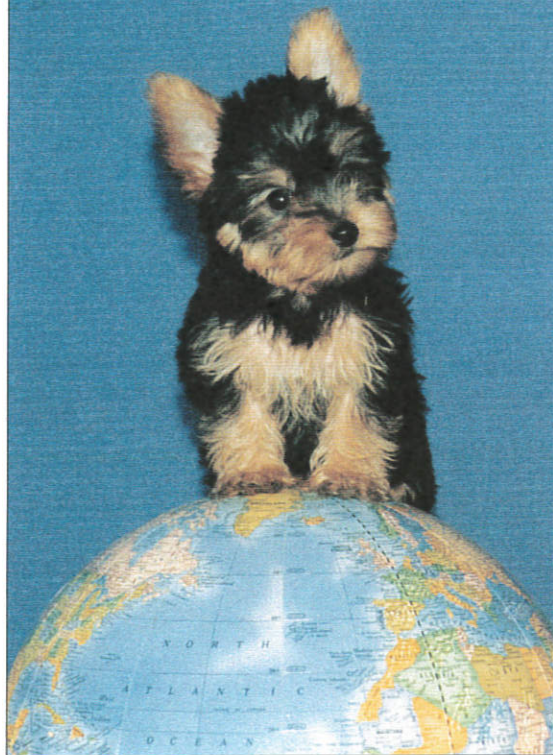
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KANSAS

PET

PROFESSIONALS

ON TOP OF THE WORLD

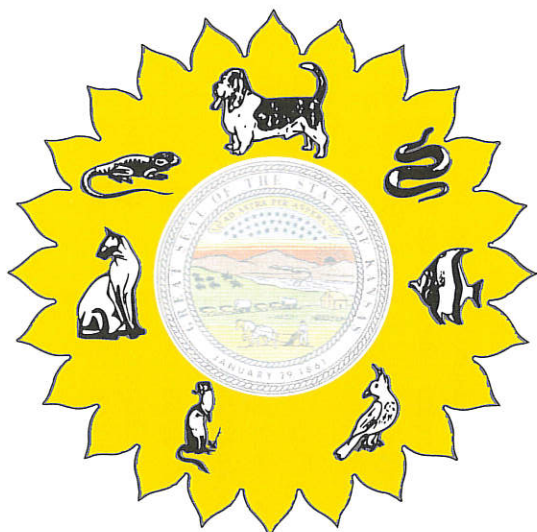


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KANSAS Pet Professionals is a non-profit organization dedicated to ensuring the health of KANSAS pets.

KPP conducts educational seminars for continued education in pet related fields.

KPP has cooperated with state and federal officials in the development of legislation which clearly establishes sanitation and care requirements, effectively provides compliance procedures, fairly and equitably regulates the pet animal industry, while providing comprehensive consumer protection.

KANSAS is known as the "MODEL STATE" with the passing and enforcing of their Pet Animal Act.

Kansas Pet Professionals are devoted to the humane care of all animals. This can be obtained with education for everyone involved in the pet's life.



6-2

6-2

January 24, 2005



TO: Senator Allen and Members of the Senate Assessment and
Tax Committee

FROM: Trudy Aron, Executive Director

RE: **Support for SB 15 with Amendments**

Good morning, Madam Chair and members of the Committee. I am Trudy Aron, executive director, of the American Institute of Architects in Kansas (AIA Kansas.) We would like to express our support for the amendments to SB 15 offered by T.C. Anderson, of the Kansas Society of Certified Public Accountants.

AIA Kansas is a statewide association of architects and intern architects. Most of our 700 members work in over 100 private practice architectural firms designing a variety of project types for both public and private clients including justice facilities, schools, hospitals and other health facilities, industrial buildings, offices, recreational facilities, housing, and much more. The rest of our members work in industry, government and education where many manage the facilities of their employers and hire private practice firms to design new buildings and to renovate or remodel existing buildings.

AIA Kansas supports the aggressive collection of delinquent taxes. However, we all know that mistakes sometimes happen on the part of both the taxpayer and the tax collector. The amendments offered by Mr. Anderson on Friday ease many of the concerns we have with SB 15. These amendments protect the privacy of the licensee while allowing the Department of Revenue to forcefully pursue payment.

Thank you for this opportunity to express our position on SB 15.

Legislative Testimony

SB 15

Thursday, January 20, 2005

Testimony before the Kansas Senate Assessment and Taxation Committee
By Marlee Carpenter, Vice President Government Relations

Chairman Allen and members of the committee;

The Kansas Chamber and its over 10,000 members agree with the intent of SB 15, that all businesses should pay taxes. However, requiring the Kansas Department of Revenue to provide a tax clearance for licensed professionals causes the business community concern.

First, if the license of a professional is not renewed because of failure to pay taxes, that takes away the livelihood of the professional and their ability to earn money and pay the taxes owed. Second, there are many professions in which non-renewal of a license not only affects the license of the professional, but others under that professional that depend on them to practice or operate their business. Non-renewal in this instance not only affects the professional's livelihood, but others that have rightfully paid their taxes.

Finally, we still believe that there is a lack of due process and other protections for licensees. There are no provisions in the bill to address the possibility the Department of Revenue may not provide accurate information to the licensing body and the license is not renewed because of these errors. There needs to be some remedy in any measure to address these situations and provide the licensed professional recourse if they suffer undue harm because of errors in information.

Again, the Kansas Chamber agrees with the intent that all businesses and professionals should pay their taxes, but there are many problems associated with the current proposal.

The Kansas Chamber, with headquarters in Topeka, is the statewide business advocacy group moving Kansas towards becoming the best state in America to do business. The Kansas Chamber and its affiliate organization, The Kansas Chamber Federation, have more than 10,000 member businesses, including local and regional chambers of commerce and trade organizations. The Chamber represents small, medium and large employers all across Kansas.

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Attachment # 8



**THE KANSAS
CHAMBER**

The Force for Business

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S.B. 15 Tax Compliance Clearance for Professional License Renewal
Written Testimony to Senate Assessment and Taxation Committee
January 24, 2005

Chairwoman Allen and members of the Senate Assessment and Taxation Committee, the KANSAS STATE NURSES ASSOCIATION is strongly opposed to the proposal offered by the Kansas Department of Revenue (and the administration) requiring a tax clearance for state income, excise, and sales tax prior to renewal or reinstatement of professional licenses. The strongest objection to this proposal is the "heavy handed" approach to collection of taxes due and owing. There are only nine states who use this as a supplemental mechanism in their approach to collect delinquent taxes, and making Kansas the tenth state has limited support. The issue is not whether citizens of Kansas are required to pay their taxes and supporting that concept—the public policy issue is what is the most fair and effective means to collect unpaid state taxes. Throughout the interim committee hearing and during last year's discussion, and even on Thursday, the Kansas Department of Revenue presented no "compelling evidence" to warrant a public policy change of this magnitude. Why aren't they sending out letters now to citizens that owe taxes and/or haven't filed? They have not demonstrated that the need for this "hold hostage" approach is warranted. They also underplay the enormity of the task they are requesting to take on: over 800,000 different licenses, certificates, and permits, many of which are on annual or biennial schedules for renewal. Not to be too critical of the agency, but considering the 14 additional categories for the list of licensees added in their balloon amendments last week (not to mention the other additions they submitted, including extending the timeline to January 1, 2006, for implementation, to be able to "get it right"), it is clear that after a year of advocating for this, they can't even get the list correct for those they are asking to get tax clearances from. This is hardly reassuring to licensed health professionals, including RN's, who everyday have to "get it right" or people die. Like physicians there are about 1500 ARNP's in Kansas who have hospital privileges for practice and Medicare billing numbers. There are significant ramifications if these licensees do not (or are not permitted to) renew their licenses. It extends much beyond "licensure and practice" per se.

In Kansas there are about 27,000 RN's and another 7,000 LPN's that renew every 24 months. That is 34,000 licensees in a 24-month period of time that have to be processed. Nurses can now renew their licenses on-line, and about 42% of nurses pursue this option. According to the statistics generate by the KDOR, they suggest that 1 out of 5, or 20% of the Board of Nursing licensees, have not filed or not paid their state taxes. This translates to about 1417 RN/LPN licenses they will monthly run through their system to verify delinquent tax status, which will result in 283 (20%) letters being generated indicating that those licensees have not paid or filed their state taxes. If each one of those RN's and LPN's calls the KDOR to determine the accuracy and verify this information, assuming excellent customer service, with no mistakes on KDOR's part, this would take at a minimum 23.5 hours per month of just one staff member's time to give just 5 minutes to each RN or LPN to discuss payment and clarify the amount due and owing. If the average time is higher, say 10 minutes per licensee, then the agency will spend 47 hours per month just taking calls from RN's and LPN's about the letters they sent and the taxes owed. The mechanisms needed to implement this policy change have been greatly oversimplified, and at the very least KDOR should have to pilot this operationally.

We would encourage the legislature to look at a less cumbersome and heavy handed approach to collecting delinquent taxes from citizens. Thank you.



KANSAS DENTAL ASSOCIATION

Date: January 24, 2005

To: Senate Committee on Assessment & Taxation

From: Kevin J. Robertson, CAE
Executive Director

RE: Testimony Opposing SB 15 -Delinquent Taxes and Professional Licensure

Chairman Allen and members of the committee I am Kevin Robertson, executive director of the Kansas Dental Association (KDA) representing 1,168, or some 80% of the state's licensed dentists. I am here today to discuss SB 15.

The KDA believes dentists, like all Kansans, should responsibly pay their taxes. And though we may believe that the suspension of a professional license seems appropriate if a licensee's taxes are truly not paid, this action is rather drastic should the Department of Revenue be in error.

The KDA appreciates Department of Revenue's to make changes over the past year on this topic that now make SB 15 a better bill than 2004 SB 468: SB 15 is clear that non-renewal of the dental license will not be considered a suspension, revocation or other board action that would prompt reporting of the dentist the National Practitioner Data Bank and also addresses the KDA's concern that dentists would have to "re-sit" for the dental licensure exam should their license be non-renewed or revoked. The KDA is also appreciates the establishment of an appeals process that has been established.

Be that as it may, I have had the opportunity over the past year to discuss this concept with dentists, and what I find is a genuine distrust as to the Department Revenue's ability to accurately oversee this program where the very reputation and livelihood of the licensees are at stake. I have had a number of dentists tell me stories about lost tax payments and a variety of other stories related to the ineptness of the Department of Revenue. Let me be clear that the stories related to me have not necessarily occurred under the current administration.

What happens if after the appeals process the Department of Revenue is found to be in error and a license has been revoked for a period of time? What recourse do licensees have for lost wages, the lost wages of their employees, and (in the case of healthcare licenses) the health of their patients?

Perhaps the Department of Revenue does need better weapons to assist with the collections of delinquent state taxes, however, the KDA believes the removal of a professional license is like giving the KDOR a nuclear warhead when they may only need a pistol.

5200 Huntoon
Topeka, Kansas 66604-2398
Phone: 785-272-7360
Fax: 785-272-2301

Assessment & Taxation
Date 01-24-05
Attachment # 10



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PAM SCOTT
Topeka

January 24, 2005

To: Senate Assessment and Taxation Committee

From: Pam Scott, Executive Director

Re: Senate Bill No. 15

Chairman Allen and members of the Committee, on behalf of the Kansas Funeral Directors and Embalmers Association (KFDA) I would like to thank you for the opportunity to present testimony in opposition to Senate Bill No. 15. The KFDA represents over 300 funeral homes across the state of Kansas.

First, I would like to state that the KFDA does not condone the failure of a licensee to pay taxes. We believe appropriate and reasonable steps should be taken to assure the payment of all taxes owed to the State of Kansas.

With that said, it is our position that to deny the renewal of a license due to delinquent taxes is not an appropriate way to attempt to collect past due taxes. Such action would take away the ability of a licensee to make a living in his or her given profession. We believe such action would make it more difficult for the Department of Revenue to recover delinquent taxes since it would hinder the licensee's ability to generate income to pay any taxes that might be past due. While we support the recovery of delinquent taxes, we believe the Department of Revenue should pursue collections through other avenues available to them.

If legislation is to be passed, the KFDA believes a better alternative to this legislation would be to provide a licensing board with the authority to revoke the license of licensee when the Board is notified by the Department of Revenue that a final determination has been made that a licensee is delinquent in the payment of taxes and all appeals have been exhausted.

If you decide this bill in its current form should be passed, we would encourage you to amend New Section 4 (b) of the bill to require the licensing body to provide the secretary of revenue with a list of licensees at least 90 days prior to a renewal date, rather than 60 days prior to renewal. Once a licensee is notified by the secretary within the first 30 days of a possible delinquency, this would give a licensee 60 days to investigate the allegations and clear up the matter before their license is non-renewed. Since the licensee forfeits the licensing fee, which may be substantial, if the licensee is

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Date 01-24-05
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unsuccessful in having his or her license renewed based on delinquent taxes, this will give the licensee an opportunity to clear up any discrepancies before sending the renewal fee to the agency rather than pending the non-renewal by providing a clearance certificate.

We also oppose any requirement which would require all licensees, upon renewal of their licenses, to obtain a clearance certificate to be submitted with their license renewals. This would be an onerous burden placed on those who are not delinquent.

For these reasons, the KFDA urges you to oppose the passage of Senate Bill No. 15. The KFDA appreciates the opportunity to share our views with you on this legislation.

Opposed to Senate Bill 15

Wednesday, January 19, 2005

State of Kansas
Senate Assessment and Taxation Committee
Topeka, Kansas

Dear Senators:

I am opposed to Senate Bill 15.

Kansas is not a very business friendly state. Our people often leave the state in search of jobs with better pay, better benefits and more job satisfaction. Entrepreneurs and businesses from small town and rural areas to the big corporations have their businesses penalized by the State of Kansas and locate elsewhere.

I think that denying or revoking a license because of delinquent taxes is a mistake. How is anybody supposed to pay delinquent taxes if their business is shut down? What could compound the problem is if live animals were involved in the business.

For instance, I am a USDA and KAHD licensed kennel. There is a possibility that I could be behind in my taxes because of things beyond my control such as computer glitches, error in estimated tax payments, etc. If my license were to be revoked I legally couldn't sell my puppies. To do so could cost me severe penalties, even the possibility of the KAHD confiscating my dogs for operating without a license. The State wouldn't get their overdue taxes, I'd be out of business, and the State would be responsible for my dogs. What a no-win situation on both sides.

I'm sure that there must be an alternative to collecting overdue taxes. If child support can be collected from a parent who really doesn't think they should have to pay, and it is, then there is a way to pressure those who are behind on their taxes. Taking away their licenses or permits accomplishes absolutely nothing!

Please help Kansas to become a more business friendly state and vote to defeat Senate Bill 15!

Becky Mosshart
PO Box 65
Nashville, KS 67112
620 246-5384

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Date 01-24-05
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Dear Senators,

I am opposed to Senate Bill 15.

I am worried about how this bill will affect my doctors.

Thank you very much,

*Bruce Marcotte
Concordia, Kansas*

January 19, 2005

It has come to my attention that there is a bill before the senate ___ committee, SB 15.

I would like for the Senators to know that I am VERY much in OPPOSITION to this bill.

I DO NOT believe that it is good for this bill to be passed. Because I for one would NOT like to show up at my Doctors office for an appointment only to be told that my doctor had not paid his taxes, and therefore was not a licensed doctor, and would not be treating me.

This bill (SB 15) is not fair to the persons who are issued licenses (how would they pay their taxes anyway if they had no work??), nor is it fair to the many unlicensed people who depend on the licensed individuals services.

Thank you very much for your attention to this matter.

David Gebars
Bullville, Va.

January 19, 2005

It has come to my attention that there is a bill before the senate ___ committee, SB 15.

I would like for the Senators to know that I am VERY much in OPPOSITION to this bill.

I DO NOT believe that it is good for this bill to be passed. Because I for one would NOT like to show up at my Doctors office for an appointment only to be told that my doctor had not paid his taxes, and therefore was not a licensed doctor, and would not be treating me.

This bill (SB 15) is not fair to the persons who are issued licenses (how would they pay their taxes anyway if they had no work??), nor is it fair to the many unlicensed people who depend on the licensed individuals services.

Thank you very much for your attention to this matter.

Rose Hebers
Bellville, Ks.

January 19, 2005

It has come to my attention that there is a bill before the senate ___ committee, SB 15.

I would like for the Senators to know that I am VERY much in OPPOSITION to this bill.

I DO NOT believe that it is good for this bill to be passed. Because I for one would NOT like to show up at my Doctors office for an appointment only to be told that my doctor had not paid his taxes, and therefore was not a licensed doctor, and would not be treating me.

This bill (SB 15) is not fair to the persons who are issued licenses (how would they pay their taxes anyway if they had no work??), nor is it fair to the many unlicensed people who depend on the licensed individuals services.

Thank you very much for your attention to this matter.

Velma Kirk
Belleville, Ms.

Assessment & Taxation
Date 01-24-05
Attachment # 16

January 19, 2005

It has come to my attention that there is a bill before the senate committee on Assessment and Taxation, SB 15.

I would like for the Senators to know that I am VERY much in OPPOSITION to this bill.

I DO NOT believe that it is good for this bill to be passed. Because I for one would NOT like to show up at my Doctors office for an appointment only to be told that my doctor had not paid his taxes, and therefore was not a licensed doctor, and would not be treating me.

This bill (SB 15) is not fair to the persons who are issued licenses (how would they pay their taxes anyway if they had no work??), nor is it fair to the many unlicensed people who depend on the licensed individuals services.

Thank you very much for your attention to this matter.

Sincerely,

Janie Marcotte
Janie Marcott

Belleville, Kansas

Honorable Senators,

I am opposed to Senate Bill 15.

As I understand it, it will bring hardships to licensed people in many professions.

I don't believe that this bill is fair to people, if they become unlicensed and have no income. how will they be able to pay their back taxes, and become licensed again.

You will in some cases cost people their businesses and livelihoods.

Please think about this, and vote NO.

M.A. Phillips
M. A. Phillips
Florence, Kansas

Dear Senators,

I am against Senate Bill 15.

I am schooling to become a hairdresser and I feel that SB 15 will be unfair to hairdressers.

Please vote No on this bill.

Sincerely,

Melody Cassell
Melody Cassell
Wichita, KS

Dear Senators,

I am opposed to Senate Bill 15.

I am worried about how this bill will affect my doctors.

Thank you very much,


Charla Cassell
Charla Cassell
Belleville, Kansas

Dear Senators,

I am opposed to Senate Bill 15.

Please DO NOT pass this bill.

Thank you,


Crystal Cassell
Lawrence, Kansas

Dear Honorable Senators,

I am opposed to Senate Bill 15.

Today I read a letter which stated that -

“the KS Dept of Revenue conducted research on 7 licensing agencies.

14,536 (27.9) of the total 52,173 licensees examined, were delinquent in filing or paying their taxes.

Board of Accountancy	20.8% non-compliant
Board of Cosmetology	27.9% non-compliant
Dental Board	29.4% non-compliant
Board of Emergency Medical Services	23.9% non-compliant
Board of Nursing	20.7% non-compliant
Board of Optometry Examiners	33.3% non-compliant
Board of Healing Arts	37.6% non-compliant”

With 37.6 in non compliance, imagine what effect shutting down over 33% of the doctors in this state would do to health care in Kansas! If 1/3 of the doctors in Kansas were shut down, what would Kansans do for health care? This could have HORRIBLE results for the citizens of Kansas.

Please DO NOT vote for this bill.

Thank you,

Marion, KS

01-19-05

Dear Honorable Senators,

I am not in favor of Senate Bill 15. Because I don't think that anyone who is delinquent in the payment of taxes or filing of tax returns should be penalized by not having their license issued, renewed or reinstated. This is wrong.

I think that taxes should be collected with the appropriate methods in our tax laws. NOT by using licensing agencies. If the percentage of non-compliance is as great as the department of revenue says. Then Senate Bill 15 could have devastating effects on Kansas Health care, with approximately 1/3 of our doctors unable to practice medicine. Many other areas would also be affected to a similar degree.

Please vote NO on this bill.

Thank you,



Marion, Kansas

January 19, 2005

Honorable Senators,

I am a dairyman. I am opposed to Senate bill 15.

What is a dairyman to do if he cannot sell his milk, or if D.H.E. doesn't renew their permits or licenses? Also, how would a dairyman be expected to pay his taxes if he couldn't sell his milk?

I think that this is a very bad bill. This bill could cause a very great hardship or a total loss for some dairy owners.

Thank you,



Lyle Hanschu

Lost Springs, KS

785-983-4841 - please call me I would be happy to discuss my views further with you.

January 19, 2005

Honorable Senators,

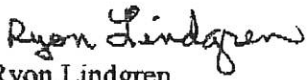
I am opposed to Senate Bill 15.

Please do not vote for it.

I think that this bill could cause many problems for people in the areas of their health care.

It could also cause problems with feedlots. If they loose their license, what is going to happen to their cattle?

Thank you,


Ryon Lindgren
Marion, Kansas

01-19-05

Dear Honorable Senators,

I am not in favor of Senate bill 15.

I believe that people should have some privacy in their lives. I do NOT think that the different agencies should be sharing tax information.

What happens if a person is contesting the taxes?

What happens if there is a computer problem and the person doesn't owe at all?

We already have an agency to collect taxes. I think they should collect the taxes and the licensing agencies should be left out of it!

Please do NOT vote for this bill.

Thank you,

Ray Lindgren
Sen. At-Large KS

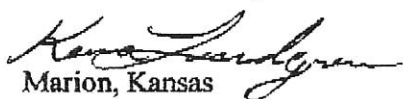
January 20, 2005

Honorable Senators,

I AM NOT in favor of SB 15.

Please DO NOT vote for it.

I for one, if I am in need of Emergency Medical care, do NOT care if the person (nurse, doctor, etc.) has paid their taxes or not. If they are a good doctor or nurse I NEED them to be licensed so that they can care for me.


Marion, Kansas

Jan. 19, 2005

Honorable Senators,

I am opposed to Senate Bill 15.

I believe that it would be very detrimental to the citizens of Kansas.

I believe that taxes should be collected by the agencies we already have for that purpose. Not by the license issuing agencies.

Please vote NO on this bill.

Thank you,



Marion, Kansas

01-19-05

Dear Honorable Senators,

I am not in favor of Senate Bill 15. Because I don't think that anyone who is delinquent in the payment of taxes or filing of tax returns should be penalized by not having their license issued, renewed or reinstated. This is wrong.

I think that taxes should be collected with the appropriate methods in our tax laws. NOT by using licensing agencies. If the percentage of non-compliance is as great as the department of revenue says. Then SB 15 could have devastating effects on Kansas Health care, and many other areas.

Please vote NO on this bill.

Thank you,

Rocky Lindgren
Marion, Kansas