

Approved: 2-21-06
Date

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on February 1, 2006 in Room 231-N of the Capitol.

All members were present.

Committee staff present:

Athena Andaya, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
Connie Burns, Committee Secretary

Conferees appearing before the committee:

Senator Schodorf
Senator McGinn
Lt. Governor John Moore
Senator Goodwin
Rep. Kenny Wilk
Rep. Lee Tafanelli
Richard Strothman, Patriot Guard
Brandy Sacco
John Woydziak, Patriot Guard
Charles Yunker, American Legion
Andrew Schlapp, Sedgwick County Government
Pam Scott, Kansas Funeral Directors Association
Steve Drain
Jonathan Phelps
Fred Phelps
Tom Groneman, Alcoholic Beverage Control
Amy Campbell, Kansas Association of Beverage Retailer
Philip Bradley, Kansas Licensed Beverage Association

Others attending:

See attached list.

SB 421 - Unlawful picketing or protest march at funeral or memorial service

Chairman Brungardt opened the hearing on **SB 421**.

Senator Jean Schodorf (Attachment 1) and Senator Carolyn McGinn appeared as sponsors of the bill.

Lt. Governor John Moore, appeared in support of the bill. (Attachment 2) The bill would prohibit protest activities within 300 feet of any entrance to any cemetery, church or mortuary within one hour prior to, during and two hours following the commencement of a funeral or memorial service.

Senator Greta Goodwin, provided an amendment to the bill. (Attachment 3) The amendment extends the 300 feet to include the boundary of a state veterans cemetery or entrance.

Representative Lee Tafanelli, testified in support of the bill. (Attachment 4) As a recent returning veteran he has fought to give and to preserve the right to the freedom of speech as well as the right to protest, but not to give the protester the right to interfere, denigrate or harass families at funerals.

Richard Strothman, a member of the American Legion Riders and the Patriot Guard of Kansas, spoke in support of the bill. (Attachment 5) The Patriot Guard supports the legislation protecting the rights of families to grieve the loss of loved ones in peace by creating buffer zones to protect such families from unwanted harassment during funerals and memorial services, and he would like to see the bill upgraded

from a class B misdemeanor to a class D felony if possible.

Brandy Sacco, spoke in support of the bill. (Attachment 6) Ms. Sacco related her experience at her husband's funeral and harassment of her and her family by the Westboro Baptist Church.

Representative Kenny Wilk, spoke in favor of the bill and for Kelly Franz of Toxganoxie, whose husband's funeral was protested by the Westboro Baptist Church. Representative Wilk asked for swift action on the bill.

John Woydziak, Patriot Guard, testified in support of the bill. (Attachment 7) Mr. Woydziak respectfully requested that amended language be unlawful for any person to engage in picketing or a direct protest march at any public location with one hour prior to, during and two hours following the commencement of a funeral or memorial service, because there are small communities that hold the memorial service at the public schools.

Charles Yunker, American Legion, appeared in support of the bill. (Attachment 8)

Andrew Schlapp, Sedgwick County Government, spoke in support of the bill (Attachment 9) The Board of County Commissioners of Sedgwick County, has passed a resolution requesting support for the bill which would create buffer zones to protect families from unwarranted harassment during funerals or memorial services.

Pam Scott, Kansas Funeral Directors Association, spoke in support of the bill and offered amended language. (Attachment 10) Funeral services often take place in locations other than churches, funeral homes and cemeteries; and often in the case of high profile funerals which often draw larger than usual attendance, in such cases schools, community centers, auditoriums, parks or other locations are used. Therefore, the protection should extend to any location where a funeral service is to take place; also the term funeral establishment should be used rather than mortuary, since that is the term used in Kansas statutes.

Written testimony in support of the bill was provided by Terry Houck, Patriot Guard, (Attachment 11) and Barbara Torkelson. (Attachment 12)

Fred Phelps, spoke in opposition to the bill. (Attachment 13) He felt this issue had already been resolved in Federal and State Court and further believes that the bill is discriminatory against only the Westboro Baptist church's religious message and violates four of six rights secured by the First Amendment.

Jonathan Phelps, appeared as an opponent on the bill. (Attachment 14) Mr. Phelps believes that government has no place in the debate except to secure that right for him against the onslaught of mob violence which opposes his right and beliefs.

Steve Drain, spoke in opposition to the bill. (Attachment 15)

Chairman Brungardt closed the hearing on **SB 421**.

SB 403 - Alcoholic beverage licensees; procedures relating to violations; prohibition against employing certain persons

Chairman Brungardt opened the hearing on **SB 403**.

Tom Groneman, Director, Alcoholic Beverage Control, spoke in favor of the bill. (Attachment 16) The purpose of the bill is to clarify the administrative process as it relates to violations of the liquor control act and the club and drinking establishment act and to prohibit those who have had a liquor license revoked from managing retail liquor store and drinking establishments.

Amy Campbell, Kansas Association of Beverage Retailers (KABR), appeared as an opponent to the bill. (Attachment 17) KABR opposes removing the requirement that an individual be notified of the citation within thirty days and support amending the statute to be certain that the agency is able to legally follow through with prosecutions, but does not support removing the requirement that the citations be timely.

The agency is working with KABR on Section 2, that would prevent individuals from sidestepping the intent of the licensing statutes, and is hopeful for a resolution.

Ron Hein, Kansas Restaurant and Hospitality Association, submitted written testimony in opposition to the bill. (Attachment 18)

Philip Bradley, Kansas Licensed Beverage Association, appeared with changes to the bill. (Attachment 19) The bill creates a new prohibition to employing anyone who has had a liquor or CMB license revoked for specific jobs, a bartender may be considered to be "supervising" other servers if they are not 21 and waiting on customers, therefore a suggested term "managing" used to avoid this unintended consequence. In current law a person that has had an alcohol related conviction may not be employed or continue to be employed for two years, and KLBA would request a similar term that would be appropriate for this situation to allow a person that has made mistakes, been punished, and served years limited in their employment opportunities in this industry, to have the chance to make amends and advance to at least the supervisor and possibly manager level.

Chairman Brungardt closed the hearing on **SB 403**.

The meeting was adjourned at 11:50 am. The next scheduled meeting is February 2, 2006.

SENATE FEDERAL & STATE AFFAIRS COMMITTEE GUEST LIST

DATE 2-1-06

Matt Sedast - Associated Press	Albert Kostulecky SSG USA Ret Post #2
Gena Terlizzi 49 News	Ron Henderson - Patriot Guard
Larry Levindofsky Patriot Guard	Carl E Rhoads CMA Patriot G
D.C. Hannan Patriot Guard	Roeding Snyder - Patriot Guard
Kathy Schlewife KSTIC	Ann S. Tucker CMA
Larry Woydziak Citizen	Denise Noonan - Citizen
Barbara Meidinger Citizen	Gayle Ross - Citizen
Jim Meidinger Derby City Council Patriot Guard	Scott A. Wright ALR Post 38
Donna Starin Citizen	Charlie Stripling ALR 38 Patriot
Stephanie Tabone - Citizen	Kevin Reene - Legislative Consulting
Kandi Daniel - citizen	Gene Schrody
Ann Andrews PGR	Carolyn M. Ginn
Bill LOGAN Patriot Guard	
Leon Roberts PGR	
Anja Wilson in support of PGR	
DOUG LEHMAN - PATRIOT GUARD	
Greg Hansen - Patriot Guard	
Ralph Snyder Am. Legion	
Harold Cooper Post 81 American Legion	
Sue Olliso - Patriot Guard	
Sherry Hertlein, MSgt, KSANG	
Scott Mick, MSgt, KSANG	
HOWARD STEANSON, CMSgt, KSANG	
Lindsey Douglas	Hein Law Firm
Mandy Miller	

JEAN KURTIS SCHODORF

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TESTIMONY IN SUPPORT OF SB 421

Before the Senate Federal and State Affairs Committee

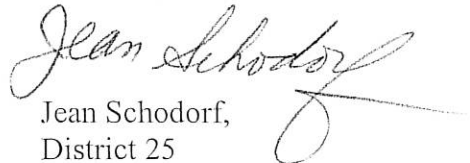
February 1, 2006

Senate Bill 421 is not a bill designed to limit freedom of speech. It is, in fact, a bill to provide a buffer from protesting or picketing so that families can bury their family members in peace at what is probably the most difficult time in a person's life. Picketing a funeral is already illegal. But the current statute is vague and unenforceable. Senate Bill 421 places a 300 foot buffer between the protesters and the funeral, cemetery or memorial service one hour before and two hours after the service so that it is illegal to protest within that 300 feet.

The reason that 300 feet was chosen as the buffer distance is that there is already an Illinois law which used the 300 feet. At first we considered a longer distance, but in conversations with several attorneys, if the law is challenged, a court would look at the statute to determine if the restriction is narrowly tailored to accomplish the governmental objective. Three hundred feet would likely satisfy this requirement. Five thousand feet would be broader and quite possibly it would be unlikely to be construed as narrowly tailored.

We believe that this bill will stand up to court scrutiny if challenged, and while this applies to all funerals, specifically it is the right thing to do for the families of our soldiers who died in combat.

Thank you for allowing me to testify.


Jean Schodorf,
District 25

Westboro Baptist Church

(WBC Chronicles – Since 1955)

3701 SW 12th Topeka, Kansas 66604 785-273-0325 www.godhatesfags.com

Monday, January 30, 2006

NEWS RELEASE

WBC to picket the pandering, demagogic, unfaithful Kansas Legislature – at 10:30 a.m., Wednesday, Feb. 1 -- at the Statehouse, Topeka, Kansas – in religious protest & warning: “God is not mocked!” God Hates Fags! & Fag-Enablers! Ergo, God hates the Kansas Legislature.

The ignominious Kansas Legislature – apparently led by Bible-/Constitution-ignorant Sens. Jean Schodorf and Carolyn McGinn – is hysterically rushing to pass a so-called “Let Them Rest in Peace Act.” People in Hell – tormented with fire and brimstone by a sovereign God for their sins – are quite beyond their feeble power to give rest.

The legislators know, of course, that they are flagrantly violating their solemn oaths to support and defend the Constitution, in that they are deliberately, knowingly trashing the First Amendment. To wit:

They are making laws respecting an establishment of religion (Westboro Baptist Church); they are prohibiting the free exercise of WBC’s religion (picketing at the forum and venue of God’s choice – Military funerals); they are abridging the freedom of speech (God hates fags and God hates America and God is blowing these soldiers to smithereens by Iraqi IEDs and sending them home in pieces in body bags); and they are abridging the freedom of the press (words on signs like, You Turned America Over to Fags; They’re Coming Home in Body Bags).

WBC’s purpose is to educate as well as to “reprove, rebuke and exhort” (2 Tim. 4:2). WBC holds the following truths to be self-evident, and to be a harbinger of sodomite America’s doom:

- 1. God has suckered this evil nation into a bloody war and is killing our kids – blowing them to smithereens with Iraqi IEDs – for spitting in His Face, by contending and teaching our kids the lie: It’s OK to be gay.**
- 2. They turned America over to fags; they’re coming home in body bags.**
- 3. God’s weapon of choice to punish sinful, sodomite America is the cheap, homemade IED.**
- 4. God’s forum of choice to deliver His message is the funeral of kids blown to smithereens by the IED.**
- 5. Unprincipled, demagogic politicians think they can do an end run around the First Amendment. It’s irresistible to pandering demagogues because maudlin, Bible-ignorant Americans worship dead bodies and bloody fag flags, pursuing their own sinful lusts. Titus 3:3.**
- 6. America has sinned away her day of grace and America is no longer blessed of God, but is now irreversibly cursed of God.**

God is now America’s Terrorist – America’s implacable Enemy. America is doomed.

(2)

Testimony on Senate Bill 421
to
Senate Committee on Federal and State Affairs Committee

by John E. Moore
Lieutenant Governor

February 1, 2006

Good morning Chairman Brundgardt and members of the committee. My name is John E. Moore and it is my pleasure to appear before you today in strong support of Senate Bill 421 which would prohibit protest activities within 300 feet of any entrance to any cemetery, church or mortuary within one hour prior to, during and two hours following the commencement of a funeral or memorial service.

On January 15th, I attended the memorial service in Buckhannon, West Virginia for the twelve West Virginia coal miners who perished after the explosion in the Sago #6 mine on January 2nd. Representatives of the Westboro Baptist Church were also in Buckhannon.

There is no industrial tragedy like a deep coal mine explosion that leaves miners underground. In the hours and days after an explosion when the fate of those trapped is unknown and rescue operations are underway the core beliefs of miners and their families are shown to the world. These are good, hard working people who believe in family, their neighbors and God.

When miners are lost, these communities come together and share grief which will last forever. Neighbors, friends and family members have died. The memorial service for these 12 men who perished was, as I knew it would be from the years I lived in West Virginia, solemn and burdened by the heavy loss of this community.

As I entered the church to join the families of those who had been lost, the protestors were pointed out to me. They had been placed approximately 300 or so feet from the church. They did not come into contact with grieving family members. In fact, I believe

most of the family members did not know they were present. The family members of the lost miners never discussed them before or after the memorial service. The demonstrators were irrelevant. They did not bring additional sadness or an ugly confrontation to a memorial service already heavily burdened by grief.

West Virginia does not have a statute which caused these demonstrators to be placed a few hundred feet away from the mourners. Rather, some one realized what was truly important on January 15th and exercised sound judgment.

I believe that enacting Senate Bill 421 can provide dignity for Kansas families who are remembering and honoring lost ones at whose services demonstrators would appear. Surely, we should support that right for all Kansas families in their time of grief.

Thank you for the opportunity to testify in support of this important legislation.

Respectfully submitted,

John E. Moore

Lieutenant Governor

1 a funeral.

2 (e) It is unlawful for any person to engage in picketing ~~before or about~~
3 ~~or a directed protest march at any public location within 300 feet of any~~
4 ~~entrance to any cemetery,~~ church or mortuary within one hour prior to,
5 during and two hours following the commencement of a funeral ~~or me-~~
6 ~~morial service.~~

within 300 feet of the boundary of a state veterans cemetery, or

other cemetery or any

7 (f) A violation of subsection (e) is a class B person misdemeanor. Each
8 day on which a violation of subsection (e) occurs shall constitute a separate
9 offense.

10 (g) Notwithstanding the penalties provided in subsection (f), any dis-
11 trict court may enjoin conduct proscribed by this section and may in any
12 such proceeding award damages, including punitive damages, attorney
13 fees or other appropriate relief against the persons found guilty of actions
14 made unlawful by subsection (e).

15 (h) If any provision of this section or the application thereof to any
16 person or circumstances is held invalid, the invalidity does not affect other
17 provisions or applications of this section which can be given effect without
18 the invalid provisions or application. To this end the provisions of this
19 section are severable.

20 Sec. 2. K.S.A. 21-4015 is hereby repealed.

21 Sec. 3. This act shall take effect and be in force from and after its
22 publication in the statute book.

STATE OF KANSAS

House of Representatives



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Lee Tafanelli

Representative, Forty Seventh District

February 1, 2006

TESTIMONY IN SUPPORT OF SB421

Chairman Brungardt and Members of the Committee

Thank you for the opportunity to testify here today in support of SB421. As a recent returning veteran of Operation Iraqi Freedom, I understand precisely the very freedoms and liberties that we enjoy in this Nation. I, along with every other veteran, have fought to give and to preserve the right to the freedom of speech as well as the right to protest. What we did not do is to give them the right to interfere, denigrate or harass families at funerals.

This bill does nothing to deny anyone the right to the freedom of speech, no matter how egregious or distasteful it is. This bill provides full opportunity for anyone to exercise their freedom of speech and their other constitutional rights. But more importantly, this bill gives a family the right to some privacy during their darkest hour, to grieve, honor and pay their respects to their loved one. This is a right that they have earned and that they deserve.

As a Commander in Iraq, I lost two soldiers, SGT. Derrick Letters and SGT. Dusty Carroll. Two families lost a son, a brother and a friend. Young Soldiers that gave their last full measure of devotion to their Country, and the freedoms it embodies. Those heroes along with every other Veteran who has died defending and preserving our Nation, its freedom and our liberties have earned a debt of gratitude that our Nation can never repay. Soldiers, their families and friends deserve nothing less than to be able to grieve, honor and pay their respects to their loved ones free from protest and harassment.

Mr. Chairman, members of the Committee, thank you again for the opportunity to appear before you today and I ask for your support of SB421.

Sen Fed & State Affairs

2-1-06
Attachment 4

5

Testimony of Richard Strothman
For Bill 421
To the Kansas Senate Committee

Senators

My name is Richard Strothman, and I live in Wichita, Ks. I am a member of the American Legion Riders and the Patriot Guard of Kansas. Our total number of members now stand at 700 for Ks. And over 5500 across this Great Nation.

The Patriot Guard started with ALR136, Terry Houck and his wife were watching the news one evening and saw where the protesters had been to a funeral of a fallen soldier in Newkirk, Okla. At this time, a committee was put together and the Patriot Guard was formed. 11 Oct., 2005 was our first mission ride to Chelsea, Okla and to the funeral of SSG John Doles. The family was contacted and our presence was requested. Since Chelsea, at any death of a soldier, the family has made contact with us and requested our presence for them, as their guests.

We ARE NOT counter-protesters, we go as guest of the family to show our support of the families and pay our respects to the fallen brother or sister. When this Bill passes we WILL NOT cease our presence at these funerals, we will still provide a color guard escort to the cemetery and an avenue of Flags.

WE have been on 10 missions already with number 11 coming soon for the funeral of Peter Wagler, who has been awarded the Bronze Star and a Purple Heart.

The protesters have been to all of these funerals, except for the funeral of Sgt Jerry Mills in Arkansas City, where apparently it was to cold for them and they have been stationed as close as 50 ft. from the entrance to the church to 1 blk. away, All within site of the family entering the church.

Letter of request for Patriot Guard

Jade O'Connel writes: a childhood friend of mine from Arkansas City, Jerry Mills, was killed in Iraq Tuesday morning 29 Nov., 2005. This has not hit the news as yet, but I assume when it does it will catch the attention of the protesters. Your Presence at he funerals of other fallen soldiers from around the state caught my attention and made my day. Your presence will be greatly appreciated by everyone.

Thank you,

Letters of Thanks

American Legion Riders 136

I am 1st Sgt. Rick Dean, I was at the funeral of Ssg Doles funeral in Chelsea, Okla. On Tuesday. I wanted to write and say thanks again you for all you did for John and his family at his funeral. I know John would have been proud too. I was in the church and I can tell you that not

one word was heard from the protesters, thanks to you and the bikes.

Thanks again for all you do and keep up the good work...God Bless Rick Dean

I want to thank you again for the Honor you gave my Son. Your protection from the protesters was so greatly appreciated. When we first arrived with my son's body, the sight all of you was just overwhelming. When I was at the church later I could hear the cycles, but not the protesters. When we arrived and left the school, all of you made my heart swell with pride, not only for my son, but for all of you and our Great Nation.

I am forever in your debt and if you need anything, please feel you have gained another brother and call me.

With deepest respect,
Danny Parker

I just wanted to thank everyone for their support on Friday Dec. 2nd!!! My husband would have been sooo proud to see that complete strangers came to support Him and his family. If there is anything I can do to support you guys, just let me know, even if it's to go and support another family who has lost someone from war. Words cannot express how much all of your support meant to Nick's family and I.

With lots of love,
Mrs. Brandy Sacco

Mrs. Brandy Sacco buried her husband, Sgt Dominic Sacco, on 2 Dec, 2005, then came out on 16 Jan, 2006 to support the family of Sgt. Charles Allen, in Topeka at his funeral.

We accept nor receive any money for what we do, we take time off work and pay for our own gas and meals.

The protesters say they come to these funerals to convey their message to the people who come to the funerals, because they feel these people are ready to hear their version of the Truth of God's Wrath. All I see they are spreading is HATE and Harassment. These family members and friends have just lost a loved one and need to Grieve in peace and do not need this form of harassment.. If the protesters want to get their message out, then why only to a small number of people. On the day of a funeral, they could be on the busiest street in the town or city, preaching to thousands.

We of the Patriot Guard and Ks. American Legion Riders support this Bill 421 and would like to see it pass unanimously. We would like to see the Bill upgraded from a class B misdemeanor to a class D felony if possible. Along with us, Sedgwick County also passed a resolution this morning stating: The board of County Commissioners strongly urges the Kansas Legislature and members of the Sedgwick County legislative delegation to support legislation protecting the rights of families to grieve the loss of loved ones in peace by creating buffer zones to protest such families from unwanted harassment during funerals and memorial services.

Thank You and God Bless

Thank you, ladies and gentlemen, for allowing me to speak for a few minutes today in support of Bill 421. My name is Brandy Sacco and as most of you know my husband Nick was killed in action in Iraq on the 20th of November 2005. The public support for me and my family has been unbelievable. The out-pouring of support from family, friends, my church, and people throughout our great Nation continues yet today. From the over 500 veterans, who were invited guests of my family, at Nick's funeral to the cards and notes of encouragement I continue to receive each day in the mail reveals to me that our State and Nation is a grateful State and Nation. One that honors the honorable men and women of our Armed Forces.

Today I want to focus on a more negative aspect of our society - groups such as the Westboro Baptist Church. A group, which I believe, has lost a sense of responsibility, at the very least, on an individual level. We have too many people like the members of the Westboro Baptist Church, who believe that the government owes them total, undisciplined freedom. Freedom of speech is what their handheld signs claim to represent! To me, they are nothing short of pornography. The prank, non-identifiable, harassing phone calls to my home by members of this so-called church group explaining how my husband is burning in hell for serving in our Nation's Army are protected by the very sacrifices many soldiers like my Nick have paid the ultimate price for! They choose to abuse these rights by harassment of a grieving wife and family. Such a lack of common decency should not be protected by law, but punishable by the law. Graphic stories, rambling emails from their congregation and protesting funerals (which are and should always be a private family matter) should not be protected by the law but punishable by the law.

If everyone believed in the ways of the Westboro Baptist Church and other groups like them, there would be no society as we know it today! It seems that members of these groups have forgotten that our Nation's strength and freedoms come from each person surrendering a portion of his or her individual urges to the common good of our Nation. My husband surrendered not only those urges for the good of our Nation - he surrendered all!

Thank you again for allowing me to speak to you today. God bless all of you for serving our great State as elected officials and God bless America.

Senators of the Great State of Kansas, I would first like to thank you for this opportunity to address you this morning concerning Senate Bill 421 to amend K.S.A. 21-4015, the Kansas funeral picketing act.

I am John Woydziak, I reside in the City of Rose Hill, Butler County, Kansas. I am a veteran, having retired from the U.S. Navy, a proud member of the American Legion, the American Legion Riders and the Patriot Guard.

As a Viet Nam Veteran, I have first hand knowledge of the horrors of war and the devastating effect it can have on the veteran, their family and the country as a whole. My oldest son was enlisted in the U.S. Navy as a SeaBee. My wife and I understand the anxiety of wondering if he too would be called into "Harms Way". Having lost a cousin, Bobby Reidle, a proud U.S. Marine, in the jungles of Viet Nam, has also taught me the trauma of losing a family member in the defense of our nation. This tragedy was compounded for Bobby's parents as they were constantly bombarded by the news concerning anti-war protests and demonstrations. I cannot imagine the catastrophic effect on them of having had his funeral picketed by someone being so callous as to be toting signs that read "Thank God for dead soldiers", "Thank God for 9/11", "Thank God for IED's" and the like.

In the last few months I have attended the funerals of Sgt Evan Parker, of South Haven, Ks, Sgt Jerry Mills, of Ark City, Ks, Sgt Dominic Sacco, of Topeka, Ks and 1Sgt Donald Hasse, of Wichita, Ks. These families, their friends and their community earned and deserved the right to a

dignified atmosphere in which to grieve the loss of their "Fallen Hero", to honor and cherish the memory of the life that was so tragically cut short. They paid the ultimate price in the service of this great Nation, to preserve its rights, principles and the democracy for which it stands. We owe them nothing less than the opportunity to be laid to rest in peace. They, as their predecessors before them, would be the last to deny citizens their right to practice their constitutional rights. They, as we here today, would hope that such a solemn occasion would not be desecrated in such a manner.

Kansas is comprised of a constituency of "small" communities. A significant percentage of these would have difficulty providing a church and/or mortuary capable of accommodating those wishing to pay their respects to the "Fallen Hero" and their family. This fact would necessitate the service of another facility suitable to accommodate the occasion, such as a school auditorium or gymnasium, as in the case of Sgt. Evan Parker. In consideration of this, I would respectfully request that you consider language that would cover this eventuality. A practicable example for K.S.A. 21-4015, Section (e) being:

"(e) It is unlawful for any person to engage in picketing or a direct protest march at any public location within 300 feet of any property of any cemetery, church, mortuary or funeral service within one hour prior to, during and two hours following the commencement of a funeral or memorial service."

The American Legion, the American Legion Riders, the Patriot Guard, all veterans groups and veterans, all patriotic citizens and our valiant military personnel who are presently serving this great nation wholeheartedly support Senate Bill 421 and its vigorous enforcement upon being enacted.

Again, thank you for this opportunity.

God Bless America.

God Bless and Protect our Troops.

Testimony In Favor of
SENATE BILL 421
SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

By
Charles M. Yunker, Adjutant
The American Legion Department of Kansas

Thank you for this opportunity to appear before you today and to ask for your favorable action on Senate Bill 421. My name is Charles Yunker and I serve as Adjutant for the American Legion Department of Kansas.

When someone loses a friend, brother or sister, mother or father, spouse or child, or any relative for that matter, they should be allowed to lay their friend or loved one to rest in peace and with dignity. That applies to everyone, not just those lost while serving their nation in the Armed Forces.

No one should have to endure insults, harassment, jeers, and signs during their time of mourning especially during funeral services. For that matter no one should be subjected to "in your face" picketers when they enter their place of worship for any type of religious service. And kindergarten thru fourth grade school children should not be exposed to the hatred of those who routinely show up at the same time as the children's recess.

I wish Senate Bill 421 addressed each of these examples I've cited where pickets are inappropriate. However it does speak to the most important, when people are perhaps most vulnerable....when laying their loves ones to rest. We can counsel and teach our children right from wrong, good from bad, and we can continue to ignore the signs and chants while we enter our places of worship, and perhaps even say a prayer for the misguided ones outside.

I salute the Patriot Guard which was founded by Kansas Legionnaires and whose ranks have swelled to more than five thousand nationwide since October. Patriot Guard members come from all walks of life and from a number of organizations with one common purpose: to provide a peaceful human shield between the families of those who sacrificed their life for this nation and those who would dishonor their service. I'm proud to be a member of the Patriot Guard whose only dues are your patriotism and time. I hope you will join us by voting in favor of Senate Bill 421 and by urging your colleagues to do the same.



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Andrew J. Schlapp
Director, Government Relations

TESTIMONY

SB 421

Senate Federal and State Affairs Committee

February 1, 2006

Chairman Brungart and members of the committee, my name is Andy Schlapp, Director of Government Relations for Sedgwick County. Thank you for the opportunity to testify in support of SB 421. The Board of County Commissioners of Sedgwick County has passed a resolution, that I have included as back up, requesting that you support legislation that would create buffer zones to protect families from unwarranted harassment during funerals or memorial services.

While Sedgwick County respects the rights guaranteed under the First Amendment, we also believe there are other avenues for protestors to express particular points of view without disrupting a family's funeral or memorial service. The emotional distress following the loss of a loved one has the potential for creating disturbances and resulting in a threat to public safety and a breach of peace.

Sedgwick County is the home of the largest city in Kansas, and is the second most populous county in the state. Our citizens have stepped forward to defend our freedoms, and our rights, and some of them have made the ultimate sacrifice. Most recently, Sgt. Donald T. Hasse was called home, and honored by his family and his friends at a military funeral held on December 10, 2005, here in Wichita. He was dishonored, however, by the actions of a few, but vocal, protestors who know no shame. Richard Strothmen and the Patriot Guard with the American Legion Post 136, were at that funeral, as they have been at other similar funerals. They have brought this issue to the forefront by requesting that a law be enacted to protect families because they can only miss work so often, be away from their families so often, and forgo income so often to protect these families from harassment.

The Board of Sedgwick County Commissioners strongly urges the passage of SB 421.

A RESOLUTION REQUESTING THAT GOVERNOR KATHLEEN SEBELIUS AND THE KANSAS LEGISLATURE SUPPORT LEGISLATION THAT WOULD CREATE BUFFER ZONES TO PROTECT FAMILIES FROM UNWARRANTED HARASSMENT DURING FUNERALS AND MEMORIAL SERVICES.

WHEREAS, families have a substantial interest in organizing and attending funerals for deceased relatives; and

WHEREAS, the interest of families to privately and peacefully mourn the loss of their loved ones are violated when funerals are targeted for picketing and other public demonstrations; and

WHEREAS, picketing, public demonstrations and other uninvited outside interference at funerals causes emotional distress and has the potential for creating disturbances resulting in a threat to public safety and the breach of the peace; and

WHEREAS, the State Legislature has addressed the issue of picketing at funerals by enacting previous statutes and should once again address this issue to provide for a state-wide policy protecting the rights of families to grieve without unwarranted harassment; and

WHEREAS, the Board of County Commissioners of Sedgwick County recognizes and appreciates the efforts of Richard Strothman and the Patriot Guard with American Legion Post 136 to bring this issue to the forefront by requesting that laws be enacted protecting the right of families to grieve the loss of their loved ones in peace and without harassment.

NOW THEREFORE BE IT RESOLVED by the Board of County Commissioners of Sedgwick County, Kansas that:

The Board of County Commissioners strongly urges the Kansas Legislature and members of the Sedgwick County legislative delegation to support legislation protecting the rights of families to grieve the loss of loved ones in peace by creating buffer zones to protect such families from unwarranted harassment during funerals and memorial services.

Commissioners present and voting

DAVID M. UNRUH	_____
TIM R. NORTON	_____
THOMAS G. WINTERS	_____
LUCY BURTNETT	_____
BEN SCIORTINO	_____

Dated this _____ day of _____, 2006

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Topeka

Testimony before the Senate Federal and State Affairs Committee
By Pam Scott, Executive Director
Kansas Funeral Directors and Embalmers Association

February 1, 2006

On behalf of the Kansas Funeral Directors and Embalmers Association (KFDA), I would like to thank you for the opportunity to appear before you today in support of Senate Bill No. 421. The KFDA represents over three hundred funeral homes in the State of Kansas.

Kansas funeral directors witness up close the emotional impact the picketing of a funeral has on the family and loved ones of a deceased whose funeral is targeted for picketing. Such picketing has a negative emotional impact on grieving families who are already emotionally fragile. Each family member may react to the picketing in a different manner just as each expresses their grief in a different way. While some family members are distraught and emotionally upset by the picketing, others react in anger. Often a picketer's message has nothing to do with the deceased but rather is just an opportunity to get their message out at a high profile funeral where the media may be watching. Families are often concerned that the public will not understand that the picketer's message is not directed at the deceased and worry that it will adversely reflect on the life and reputation of the deceased which the funeral is intended to honor.

We would like to suggest an amendment to the legislation. Funeral services often take place in locations other than churches, funeral homes and cemeteries. This is often the case in high profile funerals which often draw larger than usual attendance. Schools, community centers, auditoriums, parks or other locations are sometimes used for such services. Therefore, the protection should extend to any location at which a funeral service is to take place. Also, the term funeral establishment should be used rather than mortuary, since that is the term used in Kansas statutes.

At a funeral service, families are just coming to grips with their loss and how their life will be impacted with the loss of their loved one. Disruptive picketing is just one more thing the family must deal with when they should be able to pay tribute to and say goodbye to their family member in peace. The KFDA urges you to pass Senate Bill No. 421.

Testimony of Terry D. Houck
01 Feb 2006
In Support of Senate Bill No. 421

I am Terry Houck, and I reside in Derby, Kansas. I am an American citizen, Kansas tax payer, lifetime member of Kansas American Legion Post 136, American Legion Rider Post 136 member serving as the Veterans Affairs Coordinator, lifetime member of Veterans of Foreign Wars Post 7253, and lifetime member of Disabled American Veterans. I am a Combat-wounded US Army Vietnam veteran, serving in country 24 April 1969 to 17 Jun 1970. I know the horrors of war.

I support the Senate Bill No. 421 by Republican Senators Jean Schodorf and Carolyn McGinn. I commend and gratefully thank each one of you for signing this bill. I also strongly believe the violation should be raised from a class B misdemeanor to a class D felony conviction.

Last summer my wife and I learned that a church group had picketed a military funeral service in Newkirk, Oklahoma on 23 July 2005. We could not believe that a group claiming to be Christians could treat a grieving family with such contempt and hate. A family burying their loved one who was killed in action defending the United States of America should have the right to pay their last respects without being taunted and tormented by hate-spewing protesters. I then gave a report about the funeral service being picketed at my next American Legion Rider meeting on 07 August 2005. The ALR Director appointed me chairman of a committee to honor and support Fallen Soldiers and their families. The committee started with 5 and now consists of 10 members.

The Patriot Guard began as a small group of Kansas American Legion Riders with the idea of riding to the funerals to show honor and respect to our country's fallen heroes, their families, and their communities. Many other motorcycle groups joined our missions. The name "Patriot Guard" was chosen for the participants of these missions and now is a nationwide network. The Patriot Guard always contacts the families and law enforcement prior to attending any funeral. If the family invites the Patriot Guard to be guests, we attend the funeral. The Patriot Guard of Kansas has attended 10 military funerals since 11 Oct 2005. The last one was here in Topeka, Kansas, on 16 Jan 2006. Picketers have protested at 9 of the funerals. The father of Corporal Peter Wagler, an 18-year-old US Army soldier from Partridge, Kansas, has invited the Patriot Guard to attend his son's funeral. He was killed in action 23 Jan 2006 in Baghdad, Iraq. Service date and time are not set as yet but should be later this week.

Several hundred of us have been on the front lines at these funerals and witnessed the vicious signs the picketers hold up and shake at the families and friends of the soldier who died in battle fighting for our country. The protest signs bear the slogans "Thank God for Dead Soldiers", "Thank God for Body Bags", "Thank God for IEDs", "Thank God for 9/11", "God Hates America", "God Hates the USA", "US=FAG", "Soldiers are FAGS", "FAG Troops", "Semper Fie Semper Die". The picketers sing songs to disgrace the soldier and America. Their picketing and protesting torments and harasses grieving families. Those families need our support, sympathy, and respect because of the sacrifices they have made to the United States of America.

I present my testimony with respect and sincerity, and I thank you for your attention to this issue.

Terry D. Houck "Darkhorse"
Kansas Patriot Guard Captain



*Submitted by
Barbara Forkelson
Topeka, KS*

Media Room

**For Immediate Release
Wednesday, January 25, 2006**

Anne Lupardus, Office of the Governor, 608-261-2162

Governor Doyle Statement on Proposed Legislation to Halt Funeral Protests

CAMP ARIFJAN, KUWAIT – Governor Doyle today released the following statement regarding bipartisan legislation proposed today that would prohibit protests within 500 feet of a funeral; wake, interment, or memorial service for an hour before and an hour after the ceremony:

“The right to protest is a fundamental American right. But the right of families to grieve the loss of a loved one in quiet and private is a basic human right, and one that deserves protection.

“I have been to too many of these funerals. I have seen the mothers, daughters, sisters, brothers, wives, husbands, and friends of soldiers who, deep in grief, are forced to listen to hecklers and see signs with slogans such as, ‘Thank God for Dead Soldiers.’

“It is unfortunate that a bill like this one is even necessary, but I was happy that my office was able to work in a bipartisan fashion with Senators Ron Brown and Russ Decker, and Representatives Terry Musser and Bob Turner, to craft this legislation. When this bill reaches my desk, I will sign it, and give these families some small measure of peace at such a painful time in their lives.”

Printed: 2/1/2006

SB525



B525

LRB-4444/1
MGD::jld::rs

2005 - 2006 LEGISLATURE

2005 SENATE BILL 525 

[Link to Bill History](#)


January 25, 2006 - Introduced by Senators Brown, Decker, Schultz, A. Lasee, Zien, Harsdorf, Lazich, Cowles, Olsen, Carpenter and Plale, cosponsored by Representatives Musser, Turner, Loeffelholz, J. Fitzgerald, Lothian, Pettis, Davis, Ott, Rhoades, Montgomery, Gronemus, Nelson, Kreuser, Kerkman, Hines, Lehman, LeMahieu, Zepnick, M. Williams, Krawczyk, Bies, Van Roy, Gunderson, Albers, Kreibich and Petrowski. Referred to Committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform.

g1Ln1 **An Act** to renumber 947.01; and to create 947.01 (2) of the statutes; relating
g1Ln2 to: disrupting a funeral or memorial service or a funeral procession and
g1Ln3 providing penalties.

Analysis by the Legislative Reference Bureau

SB525 

Current law prohibits disorderly conduct, which is defined as engaging in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance. A person who commits disorderly conduct is guilty of a Class B misdemeanor and may be fined up to \$1,000 or imprisoned in the county jail for up to 90 days or both.

SB525 

Under this bill, no person may do any of the following during a funeral or memorial service (including a wake), during the 60 minutes immediately preceding a funeral or memorial service that has a scheduled starting time, or during the 60 minutes immediately following a funeral or memorial service: 1) engage in a loud protest that involves singing, chanting, whistling, yelling, or honking a motor vehicle horn within 500 feet of any entrance to a facility being used for the service (including a cemetery) if the protest is intended to disrupt the service; 2) display any visual image that conveys fighting words or actual or veiled threats against any other person within 500 feet of any entrance to a facility being used for the service; or 3) intentionally block access to a facility being used for the service. In addition, under the bill, no person, with the intent to disrupt a funeral procession, may impede vehicles that he or she knows are part of the procession. In general, a person who violates either of these prohibitions is guilty of a Class A misdemeanor and may be fined up to \$10,000 or imprisoned in the county jail for up to nine months or both. But if a person violates one of these prohibitions after having been convicted of a prior


12-2

violation of either of them, the person is guilty of a Class I felony and may be fined up to \$10,000 or sentenced to a term of imprisonment of up to three and one-half years (which, if the sentence is for more than one year, consists of a term of confinement in prison followed by a term of extended supervision) or both.


Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.


The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SB525, s. 1 


g2Ln1 **Section 1.** 947.01 of the statutes is renumbered 947.01 (1).

SB525, s. 2 


g2Ln2 **Section 2.** 947.01 (2) of the statutes is created to read:

SB525, s. 2 - continued 

g2Ln3 947.01 (2) (a) In this subsection:

SB525, s. 2 - continued 

g2Ln4 1. "Facility" includes a cemetery in which a funeral or memorial service takes
g2Ln5 place.

SB525, s. 2 - continued 


g2Ln6 2. "Funeral or memorial service" includes a wake but does not include a service
g2Ln7 that is not intended to honor or commemorate one or more specific decedents.

SB525, s. 2 - continued 

g2Ln8 (b) No person may do any of the following during a funeral or memorial service,
g2Ln9 during the 60 minutes immediately preceding a funeral or memorial service that has
g2Ln10 a scheduled starting time, or during the 60 minutes immediately following a funeral
g2Ln11 or memorial service:

SB525, s. 2 - continued 

g2Ln12 1. Engage in a loud protest, with or without using an electric sound
g2Ln13 amplification device, that involves singing, chanting, whistling, yelling, or honking
g2Ln14 a motor vehicle horn within 500 feet of any entrance to a facility being used for the
g2Ln15 service if the protest is intended to disrupt the service.

SB525, s. 2 - continued 

g3Ln1 2. Display any visual image that conveys fighting words or actual or veiled
g3Ln2 threats against any other person within 500 feet of any entrance to a facility being
g3Ln3 used for the service.

SB525, s. 2 - continued 

g3Ln4 3. Intentionally block access to a facility being used for the service.

SB525, s. 2 - continued 

g3Ln5 (c) No person, with the intent to disrupt a funeral procession, may impede
g3Ln6 vehicles that he or she knows are part of the procession.

[Back](#)

Decker: Bill serves protesters, mourners

The Associated Press
and Gannett Wisconsin Newspapers January 27, 2006

Sen. Russ Decker says a bipartisan bill aimed to stop protesters from gathering outside funerals balances mourners' right to privacy with the right to free speech.

The measure is designed to stop members of a Kansas-based church who have protested outside the funerals and visitations of about 80 soldiers nationwide, including three in Wisconsin, said Decker, D-Weston, and Sen. Ron Brown, R-Eau Claire, two of the bill's supporters in the state Senate.

The church, led by the Rev. Fred Phelps, believes God is killing U.S. soldiers because the United States accepts homosexuality.

The group picketed in Wausau in 2003 in protest of a University of Wisconsin Marathon County production of "The Laramie Project," the true-life account of a man who died after he was beaten and tied to a fence in Wyoming because he was gay. And it announced plans to picket outside a church in Antigo during the funeral service for Marine Corps Lance Cpl. John J. Mattek Jr., who died in June of injuries suffered during combat operations in Iraq. The group, however, did not show up at the service.

The bill would prohibit protests within 500 feet of a funeral, wake, interment or memorial service for an hour before and after the ceremony.

"It's unfortunate but necessary we take these steps," Decker said.

Protesters who violate the bill's conditions would face a misdemeanor punishable by up to nine months in jail and a \$10,000 fine. A second violation would be a felony offense, punishable by up to 3 1/2 years in prison and \$10,000 in fines.

The 75-member Westboro Baptist Church is made up of mostly Phelps' extended family. Shirley Phelps-Roper, a member of the church, called the bill unpatriotic, un-American and unconstitutional.

"If the state of Wisconsin tries to interfere in our capacity to cause America to know her abominations and to put the cup of the fury and the wrath of God to your lips and make you drink it, then we'll see," Phelps-Roper said.

Dodge County Sheriff Todd Nehls has firsthand experience with the group and is featured in a video on its Web site showing how he handled its protest in October at the funeral for a soldier killed in Iraq.

When a handful of members showed up with picket signs at the funeral of Army Spc. Michael Wendling of Mayville, Nehls moved them down the road about 300 yards from the church, telling them he was acting to avoid dangerous confrontations between picketers and those attending the funeral.



⊕ zoom

Members of the Westboro Baptist Church of Topeka, Kan., demonstrate outside the Church of St. Anne in Wausau in March 2003. The group picketed six churches in the area to spread its anti-gay message. *Wausau Daily Herald File photo*

In retaliation, the group targeted Nehls, running material on the Web site to accuse him of illegal tactics.

Nehls said he has mixed feelings about the legislative proposal unveiled Wednesday.

"Anytime we can shield grieving families and loved ones while they are paying their last respects -- any way we can protect them -- is a good thing," Nehls said.

On the other hand, he said, the Westboro group's message, as reflected in its picket signs, incites violence, and that can be enough under existing laws to arrest members for disorderly conduct.

"I would never want to deny anyone of their First Amendment rights," Nehls said, "but in this particular case, I don't think Westboro Baptist Church is covered (by First Amendment rights) because of their message and the way they are spreading it. It's like going to a movie theater and yelling, 'Fire' -- that's not First Amendment."

The bill needs approval from the Legislature and the governor to become law.

Melanie Fonder, a spokeswoman for Gov. Jim Doyle, said Doyle's office helped draft the measure. Doyle has attended many military funerals as commander in chief of the Wisconsin National Guard, and "these families deserve a quiet and respectful space to grieve and pay their final respects," she said.

From:
To:
Date:
Subject:

USA Today
09/04/2003 - Updated 06:06 PM ET



Wisconsin

Thursday, January 26

Madison - Protesters who gather outside funerals could face jail and fines under a proposed bill. The bipartisan measure is designed to stop members of a Kansas-based church who have protested outside the funerals and visitations of about 80 soldiers nationwide, including three in Wisconsin, the legislators said. The church believes God is killing American soldiers because the United States accepts homosexuality.

P

BEFORE THE KANSAS STATE SENATE
Federal and State Affairs Committee – Statehouse Room 231-N
Wednesday, February 1, 2006

Testimony of Fred W. Phelps

My name is Fred Phelps. It is a privilege to appear before this distinguished panel. I rise in opposition to Sen. Bill 421. For these reasons:

1. The Bill appears to be a bad faith move by the State to disturb the status quo on a matter already extensively litigated and fairly resolved many years ago – in both State and Federal courts. The State court action reached the Court of Appeals and therefore has statewide application. The Federal action reached the 10th Circuit, with even broader application.

The same issue. The same parties.

The Federal court litigation was finally concluded April 3, 1998, with payment by the State to our attorneys of \$170,000. (See, attached).

The State court litigation was finally concluded October 28, 1999, with payment by the City to our attorneys of \$47,000. (See, attached).

Good faith equitable principles akin to *res adjudicata* should receive some consideration here.

The central issue for resolution ten years ago – in order to save the Constitutionality of the Act from a void-for-vagueness fate – was the meaning to be given the words “*before or about* a cemetery, mortuary or church.”

It’s been authoritatively construed. In Topeka, Kansas, it means directly in front of the entrance, across the street, 90 feet – not 300 feet. For 10 years the parties (the State and WBC) have followed those parameters – that’s the status quo. It’s false to say the existing statute is not enforced. Only the motorcyclists violate it. We may not be lawfully moved out of sight of our target audience.

2. The Bill is invidiously discriminatory against only *our* religious message, violates only *our* First Amendment rights, and appears to be the product of passion, prejudice and pandering – targetting only *our* church.

The Bill violates 4 of 6 rights secured to us by the First Amendment: Congress (likewise, the Kansas Legislature) shall make no law respecting an establishment of religion (like, WBC), or prohibiting the free exercise thereof (like, funeral picketing), or abridging the freedom of speech (like, saying God is punishing America by killing our kids with IEDs in Iraq), or of the press (like, words on signs, such as, God Hates America, and Thank God for IEDs).

Respectfully submitted.

STARS

STATE OF KANSAS

Department of Administration
Division of Accounts and Reports
To the Treasurer of State: Topeka, Kansas

NO. 6929671

006929671

Date: 04 03 98

Pay to the order of: PHELPS CHARTERED
1414 S TOPEKA BLVD
PO BOX 1886
TOPEKA KS 66601-1886

Amount
\$*****170,000.00

ONE HUNDRED SEVENTY THOUSAND DOLLARS AND 00 CENTS

Agy No. Document No.
082 V1001292

Shelley A. Moore
Director of Accounts and Reports
Richard Chatter
State Treasurer

Cash Immediately - Void One Year From Date of Issue

This warrant payable at any Topeka, Kansas bank at par if cleared through regular banking channels.

⑈ 26929671⑈ ⑆ 101101154⑆ 999⑈911⑈

THIS CHECK IS VOID WITHOUT A COLORED BACKGROUND AND AN ARTIFICIAL WATERMARK CERTIFICATION SEAL ON THE BACK - HOLD AT ANGLE TO VIEW SEAL



CITY OF TOPEKA

215 SE 7th Street
Topeka, KS 66603-3914

Vendor Payment Warrant - Regular
VOID AFTER 90 DAYS

44-18(8)/1010
Mercantile Bank
Topeka, Kansas

PAY TO THE ORDER OF DATE WARRANT NO. WARRANT AMOUNT

11 10/28/1999 346628

\$*****47,000.00

By Order of the Governing Body

PHELPS CHARTERED
1414 SW TOPEKA BOULEVARD
TOPEKA KS 66601-1886

Joan Wagner
MAYOR OF TOPEKA
Richard P. Blinn
CITY CONTROLLER
Richard Chatter
CITY TREASURER

SIGNATURE HAS A COLORED BACKGROUND - BORDER CONTAINS MICROPRINTING

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AMERICA IS DOOMED

Testimony of Jonathan B. Phelps to the Kansas State Senate on February 1, 2006

Good morning. My name is Jonathan Phelps. I reside in Topeka, Kansas. I've practiced law in Kansas since December, 1982, with an emphasis on the First Amendment. I'm a member of Westboro Baptist Church in Topeka, Kansas. I graduated from Washburn University with degrees in law and history. My specialization in history was the history of the adoption of the First Amendment to the U.S. Constitution, especially surrounding the work of John Leland, a Baptist preacher.

If you go to Virginia and travel "the Constitution Route" on highway 20, you will find an interesting monument about seven miles east of Orange. On it is the embossed head of John Leland, the influential Baptist preacher and champion of religious liberty. The monument marks the location where James Madison and John Leland met to discuss Madison's candidacy for Virginia delegate to the Convention to ratify the Federal Constitution. At that meeting Leland pressed Madison to insure the liberty of freedom of conscience. He told Madison that "[e]very man must give account to himself to God, and therefore every man ought to be at liberty to serve God in a way that he can best reconcile his conscience. If government can answer for individuals at the day of judgment, let men be controlled by it in religious matters; otherwise, let men be free." Madison promised Leland that if he was elected, he would do all in his power to see that religious freedom would be incorporated into the Constitution by Amendment.

Madison, true to his word, drafted and introduced proposed Amendments, including "Congress shall make no laws establishing articles of Faith, or mode of worship, or prohibiting the free exercise of religion, or abridging the freedom of speech, or the press, or the right of the people peaceably to assemble and to petition to the government for redress of grievances." The members of the convention condensed Madison's proposal to our current First Amendment, to wit: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

This is a picture of that monument:



Psalms 9:17: "The wicked shall be turned into hell, and all the nations that forget God." America, in all its institutions, has forgotten God. God has promised that any nation in such a condition is not blessed of God. Deuteronomy 11:26-28: "Behold, I set before you this day a blessing and a curse; A blessing, if ye obey the commandments of the LORD your God, which I command you this day: And a curse, if ye will not obey the commandments of the LORD your God, but turn aside out of the way which I command you this day, to go after other gods, which ye have not known."

These cursings of God for America are set forth in great detail in the Bible and they include in the most colorful and graphic language how God will destroy this American nation by bloody wars. For example, Jeremiah 18:21: "Therefore deliver up their children to the famine, and pour out their blood by the force of the sword; and let their wives be bereaved of their children, and be widows; and let their men be put to death; let their young men be slain by the sword in battle." It is worse than God is simply withholding his blessings for America; God has become America's enemy and God fights against America. See, for example, Jeremiah 21:5: "And I myself will fight against you with an outstretched hand and with a strong arm, even in anger, and in fury, and in great wrath." (This is that same outstretched hand of God which had fought for that nation in earlier times to deliver them from Egyptian armies. See Deuteronomy 26:8).

America comes on the world stage in such a damned condition and declares war on Iraq. If there was ever a matter of vital public concern, this subject is and especially at the funeral of the supposed war heroes who have been killed in battle, John Q. Soldier.

The government has invoked God in this war and insists that God blesses America in this war. The people of Westboro Baptist Church are conscience-bound to voice dissent. We owe a duty to God and our fellow man to tell them that America is Doomed, that she has sinned away her day of grace, and that anyone who fights for this country is doomed with this country. Simple message; hard medicine.

We deliver this message because we love our neighbor. Leviticus 19:17-18: "Thou shalt not hate thy brother in thine heart: thou shalt in any wise rebuke thy neighbour, and not suffer sin upon him. Thou shalt not avenge, nor bear any grudge against the children of thy people, but thou shalt love thy neighbour as thyself: I am the LORD."

We deliver this message because we love our own souls. Ezekiel 33:7-9: "So thou, O son of man, I have set thee a watchman unto the house of Israel; therefore thou shalt hear the word at my mouth, and warn them from me. When I say unto the wicked, O wicked man, thou shalt surely die; if thou dost not speak to warn the wicked from his way, that wicked man shall die in his iniquity; but his blood will I require at thine hand. Nevertheless, if thou warn the wicked of his way to turn from it; if he do not turn from his way, he shall die in his iniquity; but thou hast delivered thy soul."

Paramount, however, we deliver this message because of our love for the King of glory. See, for example, Psalm 24:7-10.

John Q. Soldier's family has sent him off to die in a bloody war having constructive knowledge that God hates this country. John Q. Soldier's family invites the world to his funeral after God kills him in this bloody war. Just because the government only wants their conduct to be praised and glorified, so as to convince others (and maybe these families) that God is with the USA, doesn't mean that I have to agree. These funerals are not taking place inside a church, a funeral home, or some other place secreted away from the public. They are bringing the dead body parts (most of these soldiers having been ripped to pieces by IEDs) marching down Main Street and demanding by force of law that we respect them and encourage them in their sin. They play loud music, such as "God Bless America" and "I'm Proud to be an American". They waive bright American flags (a/k/a as butcher's aprons) and demand everyone bow and salute. They have ear-piercing motorcycles roaring. Barnum and Bailey Circus productions don't hold a candle to these events.

In the tradition of the three Hebrew children of Daniel Chapter 3, I have the God-given right—no, the duty—to stand on a public sidewalk while this circus production of lies from hell is going on around me and deliver a message from God: No blessings, only a curse. God hates America. Thank God for IEDs. God Hates Your Tears. Thank God for Dead Soldiers. And, similar sentiments.

Government has no place in the debate except to secure that right for me against the onslaught of mob violence which opposes my right to tell them all that God hates them and they soon will join John Q. Soldier in hell for eternity. From my view, this committee is holding the rope of the lynch mob because I have and will deliver that faithful message from God. That you would hold meetings for such a shameful thing as this hellish law is breathtaking in its arrogance and tyranny. The God of eternity, who holds your breath in his hands, requires that you do your duty. You took an oath, to God, to uphold my right to freedom of conscience. Do your duty and send this proposed law to the trash heap of tyranny. Short of that, admit that we have no First Amendment and quit pretending there is something honorable about this country.

"Truth disdains the aid of law for its defense --- it will stand upon its own merits."
Right of Conscience Inalienable. John Leland (Baptist minister, 1754-1841).

The Testimony given in opposition to Senate Bill 421, by Stephen Drain, to the Kansas State Senate Federal and State Affairs Committee, February 1, 2006

Distinguished members of this committee, it is an honor and a privilege to present testimony before you Today.

The First Amendment has been interpreted by the Supreme Court as applying to the entire federal government even though it is only expressly applicable to Congress. Furthermore, the Court has interpreted, the due process clause of the Fourteenth Amendment as protecting the rights in the First Amendment from interference by state governments.

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Amendment XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. ***No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States;*** nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

King Solomon, who was, if you credit the Bible with any authority, the wisest son or daughter of Adam ever to have lived, said that the conclusion to the deep matter of the purpose, meaning and whole duty of any person's life is to 'fear God and keep His commandments' (**Eccl. 12:13**)

The members of the Westboro Baptist Church feel a sincere, deep, and unshakable compulsion of conscience to do just that. It is our religion and the sole purpose of our existences to strive to obey the voice of God as it is revealed in the Holy Bible. The same Holy Bible that is still commonly used to authenticate an oath made, either in swearing to answer truthfully in some legal proceeding, or in swearing to faithfully and honestly execute the duties and responsibilities of some official position, as in the oaths that you all have undertaken. It is this same Holy Bible that is the origin, if you track it, for any law in the common law, or any law that was codified in this country at its inception. So the folly of this bill is not lost on anyone of a sober mind. The scripture calls what you are attempting to undertake in even introducing this piece of legislation "framing mischief by a law" (Psalm 94:20), but for practical purposes, it would make it illegal, in certain circumstances, to preach the Bible. What you propose makes Bible preaching a crime, thereby making a *law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech*. This is as cut and dried as constitutional law gets.

In obedience to specific commandments of God as revealed in the scripture, the members of the Westboro Baptist Church must publish a relevant, scriptural message to all those of our generation. The commandment to warn people about the consequences of their sin is the solemn and non-delegable duty of any man or woman who claims to fear God:

Ezekiel 16:2 Son of man, cause Jerusalem to know her abominations,

Isaiah 58:11 Cry aloud, spare not, lift up thy voice like a trumpet, and shew my people their transgression, and the house of Jacob their sins.

2 Timothy 4:2 Preach the word; be instant in season, out of season; reprove, rebuke, exhort with all longsuffering and doctrine.

3 For the time will come when they will not endure sound doctrine; but after their own lusts shall they heap to themselves teachers, having itching ears;

4 And they shall turn away *their* ears from the truth, and shall be turned unto fables.

The Lord Jesus Christ, in response to being questioned as to what is the great commandment in the law, said:

Matt. 22:37 Jesus said unto him, Thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy mind.

38 This is the first and great commandment.

39 And the second *is* like unto it, Thou shalt love thy neighbour as thyself.

40 On these two commandments hang all the law and the prophets.

In commanding all people to love their neighbors as themselves, the Lord was quoting Leviticus 19:17-18, where a specific definition is given for how one loves their neighbors as themselves.

Lev. 19:17 Thou shalt not hate thy brother in thine heart: thou shalt in any wise rebuke thy neighbour, and not suffer sin upon him.

18 Thou shalt not avenge, nor bear any grudge against the children of thy people, but thou shalt love thy neighbour as thyself: I *am* the LORD.

The Lord was saying, in no uncertain terms, that the only way to love thy neighbor as thyself is to warn them that their sins are taking them to hell. Not to lie to them and tell them it was okay to sin; not to call a dishonorable death honorable. The Lord said to tell people the truth about their sin.

This is all by way of providing a general framework for the proposition that it is intrinsic to our religious position to preach. It is neither our goal nor our prerogative to convince anyone of anything. It is our mission to publish a message in a timely, topical, and relevant manner, which is specifically why we preach the Word of God at these military funerals.

Holding a peaceful protest at a soldier's funeral isn't a disgrace – by the scriptural standard that Christ preached at Matthew 22 and Leviticus 19, it is the only loving thing that we can do for those close to the soldier who have not yet hit the grave. Dying time is truth time - while the necromancers, flag-worshippers and false

prophets spend time majoring in the minors, somehow trying to find some lying words to convince one another that their dead friend has gone to heaven, we come and inject some truth and sanity into what is otherwise an insane orgy of lies, hypocrisy and delusion.

In Jeremiah 16, the Lord warns His people not to mourn for the fallen amongst the children of disobedience:

Jeremiah 16:5 For thus saith the LORD, Enter not into the house of mourning, neither go to lament nor bemoan them: for I have taken away my peace from this people, saith the LORD, even lovingkindness and mercies.

6 Both the great and the small shall die in this land: they shall not be buried, neither shall *men* lament for them, nor cut themselves, nor make themselves bald for them:

7 Neither shall *men* tear *themselves* for them in mourning, to comfort them for the dead; neither shall *men* give them the cup of consolation to drink for their father or for their mother.

The people of this evil nation have given control of it over to the fags, and now their sons and daughters are coming home in body bags. The mighty arm of the Lord their God is causing it all! God DOES hate homosexuals! God DOES hate America! God IS America's Terrorist! America IS doomed! There isn't a single God-fearing soul out there who would fight for a nation that parades its blatant disobedience to God in every major institution of life – Bill 421 is a paradigmatic example of what is expressed in Psalm 2 regarding such deep-seated, all-encompassing disobedience.

Psalm 2:1 Why do the heathen rage, and the people imagine a vain thing?

2 The kings of the earth set themselves, and the rulers take counsel together, against the LORD, and against his anointed, *saying*,

3 Let us break their bands asunder, and cast away their cords from us.

4 He that sitteth in the heavens shall laugh: the Lord shall have them in derision.

5 Then shall he speak unto them in his wrath, and vex them in his sore displeasure.

6 Yet have I set my king upon my holy hill of Zion.

The rule of law you must abide by is that you cannot remove people with a message from their intended audience. Anything more than about 100 feet will go too far, in most locations, so they will be subject to challenge. We are going to deliver this message to the people going to these events. That is our intended audience, and you do not have the constitutional authority to remove us from our audience. Indeed, one of your solemn obligations of office is to protect the constitutionally-guaranteed free exercise of religious expression, and of speech, especially unpopular speech. A remedy already exists, in this country, for those who don't agree with or like a certain message; it's called "avert your eyes."

Second-guessing the clear standards of God as set out in scripture is a hallmark of a disobedient and rebellious nation. You should all be instructed by the Word of the Lord as it relates to your God-given positions of authority:

10 ¶ Be wise now therefore, O ye kings: be instructed, ye judges of the earth.

11 Serve the LORD with fear, and rejoice with trembling.

12 Kiss the Son, lest he be angry, and ye perish *from* the way, when his wrath is kindled but a little. Blessed *are* all they that put their trust in him.

Thank you.



K A N S A S

JOAN WAGNON, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL

February 1, 2006

BEFORE THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
Remarks by the Director of Alcoholic Beverage Control on Senate Bill 403

Mr. Chairman, members of the committee, thank you for the opportunity to appear before you today regarding Senate Bill 403. The purpose of the bill is to clarify the administrative process as it relates to violations of the liquor control act and the club and drinking establishment act and to prohibit those who have had a liquor license revoked from managing retail liquor stores and drinking establishments.

The agency requested that SB 403 be introduced and we strongly support the legislation. However, in discussing the bill with members of the industry, they expressed certain concerns about the specific language of all three sections.

Section 1

The agency's proposed amendment to K.S.A. 41-106 will accomplish the goal of decreased litigation over the definition of "citation" and will streamline the notification process for the licensee.

The term "citation" in K.S.A. 41-106 is confusing because ABC routinely issues "citations" to licensees for administrative violations of the liquor control act and the club and drinking establishment act. These "citations" are rarely issued at the time of the alleged violation but when the agency initiates administrative action. ABC agents and other law enforcement officers issue a "notice to appear" pursuant to K.S.A. 22-2408 for criminal violations of the liquor control act and the club and drinking establishment act. The proposed changes to K.S.A. 41-106 will make it clear that ABC agents and other law enforcement officers will issue a "notice to appear" to the person allegedly committing a violation of liquor control act or the club and drinking establishment act at the time of the violation, while allowing ABC to continue to issue "citations" for administrative violations. The intent is to eliminate litigation over the

meaning of the term "citation" as currently used K.S.A. 41-106. We feel the agency's proposed amendment will remedy the problem and uphold the intent of the statute.

K.S.A. 41-106 also provides the manner in which notice of the alleged violation can be given to the licensee. Currently, personal service of the alleged violation to the licensee is not sufficient notice under the statute. If ABC is afforded the option of personal service of notice, in addition to the current option of mailing notice, the administrative process will be streamlined and the licensee's right to timely notice will be maintained.

Finally, the last sentence of Section 1 clarifies the consequences of noncompliance with K.S.A. 41-106 on the ABC.

To address the industry concerns, we request the following changes be made on page 1, lines 15-16, strike *issued to a person by a law enforcement officer* and insert on page 1, line 18, following "violation" the words *at the time of the alleged violation, for any violation that occurs in the presence of a law enforcement officer or that occurs during a compliance check.*

Sections 2 and 3

Currently, there is nothing prohibiting a person who as had a liquor license revoked from operating/managing a retail liquor establishment in Kansas. It is not uncommon for ABC to revoke a liquor license and then find out shortly thereafter that the individual who had been unwilling or incapable of complying with the liquor control act or the club and drinking establishment act, to be managing the very same business with a "new" owner and license. The current language in Sections 2 and 3, would outright prohibit the employment of such a person in any retail establishment. ABC acknowledges industry concerns on this issue and we agree that a compromise to limit the prohibition to the "operation" of a retail establishment is reasonable. To that end, ABC proposes the amendments shown in bold in the attachment.

The proposed amendments will prohibit any person who has had a liquor license revoked from participating in the management of the licensed retail liquor establishment, but it will permit an individual with a revoked liquor license to work in a non-management position.

Thank you for your consideration, and I request that you favorably pass SB 403 with the proposed amendments.

Respectfully submitted,


Thomas W. Groneman, Director
Alcoholic Beverage Control

Agency's Proposed Amendment to Section 1:

Section 1. K.S.A. 41-106 is hereby amended to read as follows: 41-106. Any citation issued ~~notice to appear issued to a person by a law enforcement officer~~ for a violation of the liquor control act or the club and drinking establishment act shall be ~~delivered to~~ *served upon* the person allegedly committing the violation at the ~~time of the alleged violation.~~ **at the time of the alleged violation for any violation that occurs in the presence of a law enforcement officer or that occurs during a compliance check.** A copy of such citation ~~notice to appear~~ also shall be ~~delivered by United States mail to~~ *served upon* the licensee within 30 days of the alleged violation. *Service on the licensee shall be made in person or by mailing a copy of the notice to appear to the licensee's last known address. Service shall be complete upon personal service or mailing.* If such ~~citation notice to appear~~ and copy are not so ~~delivered,~~ *the citation shall be void and unenforceable served,* *administrative action against the licensee for the alleged violation shall not be taken by the director of alcoholic beverage control.*

Agency's Proposed Amendment to Section 2:

Sec. 2. K.S.A. 41-713 is hereby amended to read as follows: 41-713.
It shall be unlawful for a retailer of alcoholic liquor: ~~(1)~~

(a) To permit any person to mix drinks in or on the licensed premises;

~~(2)~~

(b) to employ any person under the age of ~~twenty-one (21)~~ 21 years in connection with the operation of such retail establishment; ~~or (3)~~

(c) to employ any person in connection with the operation of such retail establishment who has been adjudged guilty of a felony;

(d) *to employ any person in connection with the operation of such retail establishment who has had a license revoked under the provisions of the liquor control act, cereal malt beverage act or club and drinking establishment act; or*

(e) *to employ any person in connection with the operation of such retail establishment who has had a beneficial interest in a license that was revoked under the provisions of the liquor control act, cereal malt beverage act or club and drinking establishment act.*

(f) **“Operation of such retail establishment” shall include participating in any of the following activities:**

- (1) **Hiring, firing, or supervising the store's employees;**
- (2) **determining the amount or type of inventory to be ordered or maintained by the store, ordering inventory for the store, or coordinating deliveries of inventory to the store;**
- (3) **determining the advertising, marketing, or promotional programs that are enlisted, offered, or utilized by the store;**
- (4) **negotiating, entering into, or executing contracts to which the store is a party; or**
- (5) **paying for or authorizing payment for services provided to or purchases made by the store.**

Agency's Proposed Amendment to Section 3:

Sec. 3. K.S.A. 41-2610 is hereby amended to read as follows: 41-2610. It shall be unlawful for any licensee or holder of a temporary permit under this act to:

(a) Employ any person under the age of 18 years in connection with the serving of alcoholic liquor.

(b) Employ knowingly or continue in employment any person in connection with the dispensing or serving of alcoholic liquor or the mixing of drinks containing alcoholic liquor who has been adjudged guilty of a felony or of any crime involving a morals charge in this or any other state, or of the United States.

(c) Employ knowingly or to continue in employment any person in connection with the dispensing or serving of alcoholic liquor or mixing of drinks containing alcoholic liquor who has been adjudged guilty of a violation of any intoxicating liquor law of this or any other state, or of the United States, during the two-year period immediately following such adjudging.

(d) In the case of a club, fail to maintain at the licensed premises a current list of all members and their residence addresses or refuse to allow the director, any of the director's authorized agents or any law enforcement officer to inspect such list.

(e) Purchase alcoholic liquor from any person except from a person authorized by law to sell such alcoholic liquor to such licensee or permit holder.

(f) Permit any employee of the licensee or permit holder who is under the age of 21 years to work on premises where alcoholic liquor is sold by such licensee or permit holder at any time when not under the on-premises supervision of either the licensee or permit holder, or an employee who is 21 years of age or over.

(g) Employ any person under 21 years of age in connection with the mixing or dispensing of drinks containing alcoholic liquor.

(h) Employ any person in connection with the operation of the club, drinking establishment, caterer or temporary permit who has had a license revoked under the provisions of the club and drinking establishment act, liquor control act or cereal malt beverage act.

(i) Employ any person in connection with the operation of the club, drinking establishment, caterer or temporary permit who has had a beneficial interest in a license that was revoked under the provisions of the club and drinking establishment act, liquor control act or cereal malt beverage act.

(j) "Operation of the of the club, drinking establishment, or temporary permit" shall include participating in any of the following activities:

(1) Hiring, firing, or supervising any of the club, drinking establishment, or temporary permit employees;

(2) determining the amount or type of inventory to be ordered or maintained by the club, drinking establishment, or temporary permit, ordering inventory for the club, drinking establishment, or temporary permit holder, or coordinating deliveries of inventory to the club, drinking establishment, or temporary permit location;

(3) determining the advertising, marketing, or promotional programs that are enlisted, offered, or utilized by the club, drinking establishment, or temporary permit holder;

(4) negotiating, entering into, or executing contracts to which the club, drinking establishment, or temporary permit holder is a party; or

(5) paying for or authorizing payment for services provided to or purchases made by the club, drinking establishment, or temporary permit holder.



The Kansas Association of Beverage Retailers

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Larry Knackstedt, President

Amy A. Campbell, Executive Director

TESTIMONY PRESENTED TO THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

Re: SB 403

February 1, 2006

By Amy A. Campbell, Executive Director

Mr. Chairman and members of the committee, my name is Amy Campbell and I appear before you as an opponent to this legislation on behalf of the Kansas Association of Beverage Retailers. Senate Bill 403 is written to amend two important rules regarding the licensing of businesses under the Liquor Control Act.

The amendments to Section 1 of the bill are acceptable to us in part. We understand the need for the agency to have the ability to cite a licensee properly, but are concerned that some of the proposed changes may go too far.

KABR opposes removing the requirement that an individual be notified of the citation within thirty days. The violations being cited under this provision involve a unique situation where the employer must be able to manage his store, identify the problem, and correct it immediately.

At the time these provisions were placed into law, the Division of ABC was not in good working order. The agency personnel was being drawn into other duties at the Department of Revenue. Funding which had been appropriated for technological upgrades was not shared with the Division of ABC. The Division was being starved for resources and it was clear to the licensees.

A Legislative Post Audit study showed that licensee prosecution records were not being kept properly. In some cases, the agency could not show how many citations had been issued to a single licensee. The prosecution of violations was inconsistent. Citations were being issued more than six months after the violation had occurred. These delays made it impossible for a liquor store owner to address the problem. Often, the employees in question had moved on to other employment.

As a result of the Post Audit and strong pressure from the Kansas Legislature, the Division of ABC set up a progressive penalty grid, designed to make prosecutions fair and consistent. In addition, the Legislature established the language in this statute to force the process to be timely.

KABR supports amending the statute to be certain that the agency is able to legally follow through with prosecutions, but does not support removing the requirement that the citations be timely.

Regarding Section 2, KABR has asked for some amendments to the section that would allow an individual to continue to be gainfully employed. The agency has drafted some language which would address our concerns and still prevent individuals from sidestepping the intent of our licensing statutes. We are pleased the agency has been willing to talk to us about this bill and are hopeful that an acceptable solution can be reached.

Thank you, Mr. Chairman, and members of the Committee for your kind attention.

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Testimony Re: SB 403
Senate Federal and State Affairs Committee
Presented by Ronald R. Hein
on behalf of
Kansas Restaurant and Hospitality Association
February 1, 2006

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Restaurant and Hospitality Association. The KRHA is the Kansas professional association for restaurant, hotel, lodging and hospitality businesses in Kansas.

The KRHA opposes SB 403. This bill would prohibit any individual whose license to operate a club and drinking establishment has been revoked, among other licensees, from being hired for any job involved in the operation of a club and drinking establishment. There are a variety of reasons why a licensee could have their license revoked, including non-payment of taxes. This bill appears to prohibit such individuals from getting jobs in certain industries involving alcohol, including restaurant and lodging facilities for the rest of their lives.

Although this bill could also apply to felonies or crimes of moral turpitude that might justify such a significant punishment against the individual, the fact that the licenses can be revoked for other reasons not involving felonies or crimes of moral turpitude, the prohibition involved in this bill seems to be unfair and unreasonable in its scope.

Although we have not done the legal research necessary to support the contention that legislation of this nature treads on personal rights and responsibilities guaranteed by the Constitution, we would at least raise the question as to whether this legislation would have any due process, freedom of speech, or other personal freedoms, ramifications.

Unless this legislation is amended to make it more restrictive, and to target the specific violations which are intended, the KRHA opposes SB 403.

I understand proposed amendments are floating around, that might narrow the scope of the provisions, but since I have not seen them, I am testifying on the bill as it currently reads

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

Sen Fed & State Affairs

2-1-06

Attachment 18



*Kansas
Licensed
Beverage
Association*

President
James "Jim" Fager

Vice Presidents
Tammy Davis
Tom Intfen
Robert Farha
Jim Hendricks
Curt Melzer
Richard Markle
Paul Boone
Billy Long
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Testimony on SB-403, February 1, 2006
Senate Federal and State Affairs Committee

Mr. Chairman, and Senators of the Committee,

I am Philip Bradley representing the Kansas Licensed Beverage Assn., the men and women, in the hospitality industry, who own and manage bars, clubs, caterers, restaurants, breweries and hotels where beverage alcohol are served. Thank you for the opportunity to submit testimony today.

We ask for changes to SB-403.

First we appreciate the cooperation of Asst Attorney General Brad Burke in discussing the his bill and working to address our concerns. He forwarded changes to several concerned parties and those are attached with our amendments. We continue the conversation and some if not all of these issues may be resolved by the time of this hearing. Those changes include two issues. First this bill creates a new prohibition to employing anyone who has had a liquor or CMB license revoked for specific jobs. We understand the intent, to ensure that there is no phantom ownership or surrogate operation by anyone who has had their license revoked. However because of the peculiarities of Kansas statutes a bartender may be considered to be "supervising" other servers if they are not 21 and are waiting on customers. We suggest using the term "managing" to avoid this unintended consequence.

Second we do not see a need to change the language at the end of KSA 41-106. we believe that it has the effect of the authoring and approving legislative bodies to make sure that notice on the all the violations are made in a timely manner. We ask that the original language as indicated in the attached remain. Finally, even though we do not show this change in the attachment we would ask you to consider a time limitation on the specific job prohibition. In current law if you may not employ or continue to employ a person that has had an alcohol related conviction for 2 years. We believe that a similar term would be appropriate for this situation to allow a person that has made mistakes, been punished, and served years limited in their employment opportunities in this industry have the chance to make amends and advance to at least the supervisor and possibly manager level.

Therefore, we ask for the above amendments..

Thank you for your time.

Philip Bradley
Executive Director



Sen Fed & State Affairs
2-1-06
Attachment 19

K.S.A. § 41-106

**KANSAS STATUTES ANNOTATED
CHAPTER 41.--INTOXICATING LIQUORS AND BEVERAGES
ARTICLE 1.--GENERAL PROVISIONS
41-106. Violations of law; copy of citation.**

Any ~~citation notice to appear~~ issued for a violation of the liquor control act or the club and drinking establishment act shall be delivered to the person allegedly committing the violation at the time of the alleged violation, *for all violations that occur in the presence of a law enforcement officer or are committed during a compliance check.* A copy of such ~~citation notice to appear~~ also shall be delivered ~~by United States mail to~~ *served upon* the licensee within 30 days of the alleged violation. *Service on the licensee may be made in person or by mailing a copy of the notice to appear to the licensee's last known address. Service shall be complete upon personal service or mailing. If such citation notice to appear and copy are not so served, the citation shall be void and unenforceable: served, administrative action against the licensee for the alleged violation shall not be taken by the director of alcoholic beverage control.*

History: L. 2000, ch. 166, § 9; July 1.

K.S.A. § 41-713

**KANSAS STATUTES ANNOTATED
CHAPTER 41.--INTOXICATING LIQUORS AND BEVERAGES
ARTICLE 7.--CERTAIN PROHIBITED ACTS AND PENALTIES
41-713. Retailers; mixing drinks on premises and employment of certain persons prohibited.**

(a) It shall be unlawful for a retailer of alcoholic liquor: (1) To permit any person to mix drinks in or on the licensed premises; (2) to employ any person under the age of twenty-one (21) years in connection with the operation of such retail establishment; or (3) to employ any person in connection with the operation of such retail establishment who has been adjudged guilty of a felony, (4) to employ any person in connection with the operation of such retail establishment who has had a license revoked under the provisions of the liquor control act, cereal malt beverage act, or club and drinking establishment act; or (5) to employ any person in connection with the operation of such retail establishment who has had a beneficial interest in a license that was revoked under the provisions of the liquor control act, cereal malt beverage act, or club and drinking establishment act.

(b) "Operation of such retail establishment" shall include participating in any of the following activities:

- (1) Hiring, firing, or supervising-managing the store's employees;*
- (2) determining the amount or type of inventory to be ordered or maintained by the store, ordering inventory for the store, or coordinating deliveries of inventory to the store;*
- (3) determining the advertising, marketing, or promotional programs that are enlisted, offered, or utilized by the store;*
- (4) negotiating, entering into, or executing contracts to which the store is a party; or*
- (5) paying for or authorizing payment for services provided to or purchases made by the store.*

History: L. 1949, ch. 242, § 76; March 9.

K.S.A. § 41-2610

KANSAS STATUTES ANNOTATED
CHAPTER 41.--INTOXICATING LIQUORS AND BEVERAGES
ARTICLE 26.--LICENSURE AND REGULATION OF SALE OF LIQUOR BY THE DRINK
41-2610. Unlawful acts of licensee.

It shall be unlawful for any licensee or holder of a temporary permit under this act to:

- (a) Employ any person under the age of 18 years in connection with the serving of alcoholic liquor.
- (b) Employ knowingly or continue in employment any person in connection with the dispensing or serving of alcoholic liquor or the mixing of drinks containing alcoholic liquor who has been adjudged guilty of a felony or of any crime involving a morals charge in this or any other state, or of the United States.
- (c) Employ knowingly or to continue in employment any person in connection with the dispensing or serving of alcoholic liquor or mixing of drinks containing alcoholic liquor who has been adjudged guilty of a violation of any intoxicating liquor law of this or any other state, or of the United States, during the two-year period immediately following such adjudging.
- (d) In the case of a club, fail to maintain at the licensed premises a current list of all members and their residence addresses or refuse to allow the director, any of the director's authorized agents or any law enforcement officer to inspect such list.
- (e) Purchase alcoholic liquor from any person except from a person authorized by law to sell such alcoholic liquor to such licensee or permit holder.
- (f) Permit any employee of the licensee or permit holder who is under the age of 21 years to work on premises where alcoholic liquor is sold by such licensee or permit holder at any time when not under the on-premises supervision of either the licensee or permit holder, or an employee who is 21 years of age or over.
- (g) Employ any person under 21 years of age in connection with the mixing or dispensing of drinks containing alcoholic liquor.
- (h) Employ any person in connection with the operation of the of the club, drinking establishment, or temporary permit who has had a license revoked under the provisions of the club and drinking establishment act, liquor control act, or cereal malt beverage act; or**
- (i) Employ any person in connection with the operation of the of the club, drinking establishment, or temporary permit who has had a beneficial interest in a license that was revoked under the provisions of the club and drinking establishment act, liquor control act, or cereal malt beverage act.**
- (j) "Operation of the of the club, drinking establishment, or temporary permit" shall include participating in any of the following activities:
 - (1) Hiring, firing, or supervising-managing the any of the club, drinking establishment, or temporary permit employees;

(2) determining the amount or type of inventory to be ordered or maintained by the club, drinking establishment, or temporary permit, ordering inventory for the club, drinking establishment, or temporary permit, or coordinating deliveries of inventory to the club, drinking establishment, or temporary permit location;

(3) determining the advertising, marketing, or promotional programs that are enlisted, offered, or utilized by the club, drinking establishment, or temporary permit;

(4) negotiating, entering into, or executing contracts to which the club, drinking establishment, or temporary permit holder is a party; or

(5) paying for or authorizing payment for services provided to or purchases made by the club, drinking establishment, or temporary permit.

History: L. 1965, ch. 316, § 10; L. 1975, ch. 52, § 17; L. 1978, ch. 189, § 15; L. 1979, ch. 152, § 6; L. 1985, ch. 171, § 4; L. 1987, ch. 182, § 65; April 30.