

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 8, 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:

Kyle Smith  
Philip Bradley, Kansas Licensed Beverage Association  
Janey Wright, Wichita Festivals, Inc  
Bob Saathoff, Ducks Unlimited  
Shelly Chenoweth, Youth Entrepreneurs of Kansas  
Pam Irish, House of Schwan  
Tom Groneman, Alcoholic Beverage Control Division  
Carol Williams, Governmental Ethics Commission  
Senator Betts  
Daniel Dempsey-Swope, Kansas African American Affairs Commission  
Randy Rogers, Kansas Sheriffs Association

Others attending:

See attached list.

Philip Bradley, Kansas Licensed Beverage Association, appeared before the committee to request the introduction of two proposed bills.

1. Unfinished bottles of beverage alcohol may be carried out of a drinking establishment or club under limited specific circumstances
2. All Kansas issued drivers licenses shall expire upon the twenty-first birthday of the issued party

Senator Vratil made the motion that the request should be introduced as two committee bills. Senator Gilstrap seconded the motion. The motion carried.

Kyle Smith, Special Assistant Attorney General and Legal Counsel to the Kansas Commission on Police Officer Standards and Training, requested a bill introduction to separate the administration of officer certification from the education function of the Kansas Law Enforcement Training Center and so create a separate administrative agency. (Attachment 1)

Senator Vratil made the motion that the request should be introduced as a committee bill. Senator Gilstrap seconded the motion. The motion carried.

Chairman Brungardt opened the discussion on various liquor laws as related to festival and non-profit fund-raisers.

Janet Wright, President and CEO of Wichita Festivals, Inc., appeared before the committee with suggested changes to KSA 41-2645. (Attachment 2) The changes requested:

- Strike "on unlicensed premises"
- In (d) strike "premises" and insert "location." For example the Wichita River Festival is held throughout downtown Wichita
- Amend (e) striking "3 days" and making the limit not more than 12 days a year
- Add language that allows cities and counties to establish entertainment districts where alcoholic beverages and cereal malt beverages could be consumed outside of the Temporary Permit holder

or licensee's specific location

- Add Temporary Permit holders to the list of licensees and permit holders to whom a Beer Wholesaler can sell
- Amend keg registration statute to treat Temporary Permits the same as on premises retailers.

Other suggested changes:

- Eliminate drink ticket requirement
- Remove minimum drink price and same price all day requirement
- Create a definition for a private party
- Allow wholesalers or retailers to buy back excess product
- Allow possession of the alcoholic beverages or CMB the day before the license period
- Allow wholesalers or retailers to loan equipment to holders of temporary permits

Also, any changes that would become law would become effective immediately, rather than in July, to be helpful to the festival.

Bob Saathoff, Kansas Ducks Unlimited, spoke that each of their chapters holds at least one to two events a year and that trying to stay current on all the alcohol rules and regulations for each town, county, and state can be frustrating. (Attachment 3) Most of the work is done with volunteers, who sometimes are not knowledgeable in such matters, and must rely on the local authorities to interpret these rules and regulations.

Shelly Chenoweth, Youth Entrepreneurs of Kansas, spoke about fund-raising. (Attachment 4) She supports changes to KSA 41-2645 in several areas:

- Obtaining a temporary liquor license for charitable fund-raising events is a very complicated process, and non-profits have had difficulty with the interpretation of the law, creating a brief summary document for the non-profits as well as county or city officials would be helpful
- The complexity of the process actually causes some organizations to ignore the process entirely, causing loss in revenue to the state
- Coordination with county and city officials so there is consistency across the state regarding zoning as applied to temporary liquor licensing

Pam Irish, House of Schwan, Wichita, explained to the committee that there is no statute or regulation allowing the holder of a Special Event Permit to return unused product. (Attachment 5) Another concern is "leasing equipment" to the Special Event Permit holder; in her opinion to just "loan" the equipment at no charge would be the easiest way to handle.

Tom Groneman, Director, Alcoholic Beverage Control Division, provided the committee an overview on temporary permits, and rules and regulations. (Attachment 6) Mr. Groneman addressed several of the concerns of the conferees.

Chairman Brungardt suggested looking at the two issues separately: 1) non profits 2) festivals and the statutes that regulate them, and then revisit in the near future.

### **SB 68 - Elections; establishing requirements for daily reporting of campaign contributions, when**

Chairman Brungardt opened the hearing on **SB 68**.

Carol Williams, Governmental Ethics Commission, appeared in favor of the bill and provided a balloon with amended language. (Attachment 7) The bill would require the reporting of last minute independent expenditures made by party committees and political action committees.

The Chairman asked for final action on **SB 68**.

Senator Hensley moved the balloon on the bill. Senator Vratil seconded the motion. The motion carried.

Senator Brownlee moved \$300 on line 19 be raised to \$1000. Senator O'Connor seconded the motion.

The motion failed.

Senator Vratil made the motion to pass the bill favorably as amended. Senator Reitz seconded the motion. The motion carried.

Chairman Brungardt closed the hearing on **SB 68**.

### **SB 486 – Racial Profiling Commission**

Chairman Brungardt opened the hearing on **SB 486**.

Senator Betts, spoke in favor of the bill. (Attachment 8) The bill would create the racial profiling commission to continue the work the commission set up in 2005. The commission has worked beyond its authorization, and this act would replace it.

Danielle Dempsey-Sweopes, Kansas African American Affairs Commission, appeared in support of the bill and provided the committee with amended language. (Attachment 9) The amended language is line 14(b) replacing sentencing with racial profiling, breaking out (9) into two designees and renumbering.

William Minner, Kansas Human Rights Commission, (Attachment 10) and Elias Garcia, Kansas Hispanic & Latino American Affairs Commission, (Attachment 11) submitted written testimony in support of the bill.

Randy Rogers, Kansas Sheriffs Association, spoke in opposition of the bill. (Attachment 12) Mr. Rogers believes that the Racial Profiling legislation from last year has not been given enough time to work, and that there is minimal law enforcement representation on the commission.

Written testimony in opposition was submitted by Kyle Smith, Kansas Peace Officers Association, (Attachment 13) and Mike Watson, Kansas Association of Chiefs of Police. (Attachment 14)

Chairman Brungardt requested written testimony from Randy Rogers or Kyle Smith with their concerns and recommendations, copies of the Governor's Task Force on Racial Profiling report and recommendation, and copies of the bill **Substitute for SB 77** that was signed by the Governor on April 18, 2005 for the committee to review.

Chairman Brungardt closed the hearing on **SB 486**.

The meeting was adjourned at 11:55 am. The next scheduled meeting is February 9, 2006.

**SENATE FEDERAL AND STATE AFFAIRS COMMITTEE**

**GUEST LIST**

DATE 2-8-06

NAME	REPRESENTING
Charles Jean-Boyer	Kansas State NAACP
Danella Myrsky-Snowes	KAAAC
Kaelyn Seymour	KAAAC
Johanna Hat	KAAAC
Shelly Chenoweth	Youth Entrepreneurs of Kansas
Carol Williams	YEC
Donna Voth	"
Phil Wilkes	ABC
Alexander Heubaster	ABC
Brad Burke	ABC
Pam Irish	House of Schwan
Janet Wright	Wichita Festivals, Inc.
Linda Davidson	Wichita Festivals, Inc.
ROBERT SPATHOFF	KS DUCKS UNLIMITED
John Ritchey	Ducks Unlimited Inc.
Mandy Miller	Sen. Schmidt
SHIELBY SMITH	—
Bill Minger	KS. Human Rights Commission
RICK FISCHLI	"
Brandon Myers	" " " "
Neal Whitaker	Ks Beer Wholesalers Assn.
Bob Keller	JCSO
Ted Powers	Anheuser-Busch
John Peterson	Anheuser-Busch
Lindsey Douglas	Hein Law Firm

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE  
GUEST LIST

DATE 2-8-06

NAME	REPRESENTING
Charlotte Esan	self
Jesse Boyton	KSOS
Carol Luttjohann	observing for class at Washburn
GORDON LANSFORD	KCJIS
Joaquin Sumaya	KS Hispanic & Latin American Affairs Commission
Whitney Danson	DISCUS
TJ de Duda	KWSWA
Amy Campbell	KABR

BILL REQUEST  
BEFORE THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE  
Kyle G. Smith  
Special Assistant Attorney General and Legal Counsel to  
The Kansas Commission on Police Officer Standards and Training  
February 8, 2006

Chairman Brungardt and Committee Members:

I am Kyle Smith, Special Assistant Attorney General and Legal Counsel to the Kansas Commission on Police Officer Standards and Training. I appear for them today to request introduction of legislation to separate the administration of officer certification from the educational function of the Kansas Law Enforcement Training Center and so create a separate administrative agency. After all, KU Medical Center doesn't license doctors. Attached is a draft of our proposal. Thank you for your consideration.



## Requests for Consideration by Federal & State Affairs Committee By Wichita Festivals, Inc.

February 8, 2006

### Suggested Changes to 41-2645

1. Strike "on unlicensed premises"

No being able to use a Temporary Permit for hotel party rooms and private rooms in drinking establishments without having to suspend the establishment's license for the time period of the event is cumbersome and unnecessary. Many events are not held at hotel or drinking establishment locations because of this requirement.

Wine Fest and Mid-West Beer Fest held annually at Wichita's Century II Convention Center are events used to raise money for a non-profit. They are being required to get permission to suspend the caterer's license in order to bring in beer and wine for sampling by the public.

2. In (d) strike "premises" and insert "location".

Assigning an actual street address is almost impossible in cases of festivals. Also see #4. For example, the Wichita River Festival is held throughout downtown Wichita, so using an actual street address is impossible.

3. Amend (e) striking "3 days" and making the limit not more than 12 days a year.

In circumstances similar to the Wichita River Festival which is nine days long, this requires us to secure multiple temporary permits for the event rather than just one permit for the entire event. This is only one event produced annually by Wichita Festivals. We also organize an aviation festival which is three days long and may potentially add a third event to those we produce. As a result, no more than 12 days per year could be too short a time frame and pose difficulties for us in producing community celebrations.

4. Add language that allows cities and counties to establish entertainment districts where alcoholic beverages and cereal malt beverages could be consumed outside of the Temporary Permit holder or licensee's specific location.



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Sen Fed & State Affairs  
2-8-06  
Attachment 2

Current City requirements make it necessary for any area in which alcohol or cereal malt beverages are sold to be fenced and for the purchaser to remain in the fenced area while consuming the product. In the case of the Wichita River Festival, this means they can't enjoy other components of the event while drinking. By inserting language in the statute allowing entertainment districts within a designated area, our guests would have the opportunity to enjoy the entire Festival if they chose, while also consuming an alcoholic beverage or CMB. The result of this revision would be similar to other events currently held in Kansas and Missouri, i.e. Fiesta, held annually in Topeka and the Plaza Art Fair, held each fall in Kansas City.

5. Add Temporary Permit holders to the list of licensees and permit holders to whom a Beer Wholesaler can sell.

Currently we are required to purchase any alcoholic or CMB from a retail liquor store. This creates the need for us to secure appropriate equipment, transportation and manpower to pickup and deliver the product from the liquor store and deliver o our site. Securing this type of equipment is expensive and often not easily available for non-profits. The wholesaler has the equipment and appropriate transportation to provide thiservice to theh temporary permit holder, i.e. non-profit. In addition, the cost of purchasing the CMB or alcoholic beverage from a retailer is significantly higher than that of the wholesaler, resulting in increased costs to the non-profit. We would like to see the current 4-tier system eliminated and replaced by a 3-tier system allowing non-profits to purchase directly from the wholesaler.

6. Amend keg registration statue to treat Temporary Permits the same as on premises retailers.

It's a hassle and not something that would seem necessary for a temporary permit holder.

### **Suggested changes to regulations:**

- Eliminate drink ticket requirement.
- Remove minimum drink price and same price all day requirement.
- Create a definition for a private party.
- Allow wholesalers or retailers to buy back excess product.

From a non-profit perspective we are faced with significant expense when left with unused product at an event. We do our best to estimate what will be needed for an event, buy many times end up with unused product that can not be returned or used for any other purpose.

- Allow possession of the alcoholic beverages or CMB the day before the license period.

In order to have product on site and ready for use when an event begins, we must extend our temporary permit by one additional day without the benefit of sale. This means we're losing one day of our allocated "days per year" o no advantage.



- Allow wholesalers or retailers to loan equipment to holders of temporary permits.  
Being required to rent equipment at non-regulated prices when wholesalers and retailers have the equipment readily available for loan is an unnecessary expense for non-profits to sustain.

Additional request:

In order to make these changes useful to us and others, we would request that any published drafted changes to the law become effective immediately, rather than in July.



## Fact Sheet

- Wichita Festivals, Inc. (WFI) was established in 1972 as a non-profit corporation with the purpose of creating diverse community celebration within the Wichita community.
- Eleven staff members plan and implement WFI events with the help of approximately 4,000 community volunteers.
- A volunteer board of directors elected from the community-at-large governs Wichita Festivals, Inc. with four committees executing the work of the board. These committees include: Board Development, Audit, Community/Inter-board Linkage and CEO Compensation.
- Operational funding is secured from a variety of sources including: charitable gifts, event concession sales, event admission sales, button sales and merchandise sales. WFI does not receive direct tax support from any government entity.
- Wichita Festivals, Inc. 2005 annual budget - \$1.6 million.
- The primary events produced by Wichita Festivals, Inc. are the Wichita River Festival® and the Kansas Flight Festival.
- Creating an economic impact of more than \$19 million annually, the Wichita River Festival is celebrating its 35<sup>th</sup> anniversary in 2006 and annually attracts more than 300,000 visitors. The Festival has become one of the top special events in Kansas and has been recognized as one of the top 100 festival destinations in the United States by travel and leisure organizations.
- Funding for events is generated from corporate sponsorships and in-kind contributions.
- WFI is a member of the International Festivals & Events Association (IFEA).

**For more information, contact Wichita Festivals, Inc. at 1820 East Douglas, Wichita, Kansas 67214, 316/267-2817, toll free at 1-877-WFI-FEST (1-877-934-3378) or visit our web site at [www.wichitafestivals.com](http://www.wichitafestivals.com).**

# Wichita River Festival® Fact Sheet

## HIGHLIGHTS

- Longest continuous running Festival in the State of Kansas – 2006 will mark thirty-fifth year
- Largest event in the State of Kansas
- Held annually beginning the Friday before Mothers Day for nine (9) days in May
- Marketed throughout Kansas and parts of Oklahoma
- Broad range of musical entertainment from Blues to Zydeco, Jazz, Oldies, Gospel, Country, Hip Hop, Classic Rock and Pop; featuring such artists as B.B. King, Three Doors Down, The Mississippi Mass Choir, Andy Griggs, Fantasia Barrino, and Nathan and the Zydeco Cha Chas
- Activities include: sporting events, traveling exhibits, cultural & historical activities, plays, interactive children's events, flea market, river events, parade, block party, food court, etc.
- Largest road race in State of Kansas - Bank of America River Run 10K & 2 – Mile
- Annual economic impact over **\$19 million**



## ANNUAL ATTENDANCE

- Over 300,000 people representing 40+ states and 30+ foreign countries

## DEMOGRAPHICS (based on 2005 research survey)

- Approximately 85% of event attendees are from Sedgwick County with 15% attending from outside of Sedgwick County.
- Fifty-three percent (53%) of attendees are married; 57% are between the ages of 25 and 54; and 20% are under the age of 18.
- Seventy-six percent (76%) of event attendees are White, 9% are African-American, 6% Hispanic, 4% Native American, and 5% other cultures.
- Sixty-six percent (66%) rated the Festival as an activity for the entire family.
- Sixty-eight percent (68%) rated the quality of the event as good or excellent.
- Ninety-one percent (91%) noted they would attend the event again.

## FUNDING

- Approximately 150 corporations annually provide underwriting and in-kind donations for the Festival valued at over \$1 million.
- Media partners provide promotional time and advertising valued at an average of \$500,000 annually.
- The City of Wichita supports the event through in-kind services from the Department of Parks, Wichita Police Department and other city services.
- Revenue from food, merchandise and button sales provides funding for administrative staff and overhead costs.

## VOLUNTEER SUPPORT

- Approximately 4,000 individuals volunteer prior to and during the Festival annually.
- Annual value of volunteer support - \$120,000+.
- An estimated 82 volunteer committees plan and execute Festival events in conjunction with nine full-time and two part-time staff members.



The Wichita River Festival® is produced by Wichita Festivals, Inc., a non-profit corporation with the purpose of creating diverse community celebration within the Wichita community.

For more information about the Wichita River Festival, contact Wichita Festivals, Inc. at 1820 East Douglas, Wichita, Kansas 67214, or by calling (316) 267 – 2817 or 1-877-WFI-FEST (1-877-934-3378).



To: The Federal and State Affairs Committee

February 8, 2006

Ducks Unlimited (DU) is a non-profit conservation organization with a mission of conserving, restoring, and managing wetlands and associated habitats for North America's waterfowl. DU was formed in 1937 by a group of sportsmen dedicated to bringing back ducks and geese following the Dust Bowl days. Today, with over 600,000 adult members, DU has become recognized as one of the most successful conservation groups in the world.

Kansas DU has 81 chapters spread across the state. These chapters, staffed by over 1,200 volunteers, organize fund raising events. Every year, over 11,000 members come together at these events to have fun, learn about conservation, and contribute to the DU mission. Funds raised help pay for conservation projects across North America including Kansas. Since 1987, DU has provided over \$1.4 million to Kansas wetland projects. Most of this amount has been in partnership with the Kansas Department of Wildlife and Parks (KDWP) on public lands managed by the agency. Partnerships with KDWP, the Federal Fish and Wildlife Service, and other private conservation groups have provided nearly \$10 million in wetland projects for this State. Most of these projects have been completed although several are ongoing such as the McPherson Wetlands, the Jamestown Wildlife Area, and the Marais des Cygnes Wildlife Area.

With each chapter holding at least one event and many holding two events each year and some type of alcohol being available at each event, staying on top of all the alcohol rules and regulations for each town, county, and state can be frustrating. This is especially true when our volunteers, who may not be knowledgeable in these matters, must rely on local authorities to interpret these rules and regulations. Anything that can be done to make it easier and simpler for our volunteers to understand and follow the alcohol rules and regulations would be extremely beneficial and welcomed. With this in mind, following are some areas of concern:

- Making the rules and regulations easier to understand and making the paperwork simpler should be a top priority.

- The options of the charitable organization regarding product remaining after the fundraiser concludes has been a burden on some of our Chapters. Trying to retain and store the product for future fundraising events is usually not practical. Allowing distributors to pick up unused products would be helpful.

- The formula for determining liquor taxes due is difficult to determine, and it seems to result in double taxation as the "actual retail price" of the product would normally include a liquor tax. The "actual retail price" of the product is not clear. Being allowed only a certain number of drink tickets seems unnecessary.

- Many of our Chapters use licensed vendors to supply alcoholic beverages at fundraisers because of their uncertainty of the rules and regulations. This has an impact on events by reducing the amount of funds raised.

As an aside, I can say that Kansas is losing revenue since retailers and distributors cannot provide alcoholic beverages to wine tasting functions at a reduced cost. Those of us in the eastern part of Kansas travel to Missouri to attend such functions at an affordable cost. At this time, holding such a function in Kansas would not be feasible due to the high cost.

I am available for questions:

Bob Saathoff, State Chairman Elect  
Kansas Ducks Unlimited (785)640-1482

LEADER IN WETLANDS CONSERVATION

Sen Fed & State Affairs  
2-8-06  
Attachment 3

Testimony on Various Liquor Laws related to festival and non-profit fund-raisers  
By Shelly Chenoweth, Executive Director, Youth entrepreneurs of Kansas  
Wednesday, February 8, 2006

I appreciated the opportunity to present our ideas at the hearing of the Federal and State Affairs Committee on Wednesday, Feb. 8, 2006. We support the changes proposed for 41-2645, and I especially wanted to address the following points.

1. We are trying to follow the law, we just know how to do that. Obtaining a temporary liquor license for charitable fund-raising events is a very complicated process, and our organization has had difficulty with the interpretation of the law. When we have spoken to people at the state, county and city levels, we receive very different replies. Creating some sort of brief summary document, for the non-profits, as well as county and city officials, would be very helpful.
2. I believe the complicated nature of the process actually causes some organizations to ignore the process entirely, causing loss in revenue to the state through taxes for the liquor that is used.
3. Coordination with county and city officials so there is consistency across the state regarding zoning as applied to temporary liquor licensing would be very helpful and eliminate confusion on the part of all parties.

Youth Entrepreneurs of Kansas overview

Youth Entrepreneurs of Kansas is a non-profit organization that works with high schools, teaching business and entrepreneurial skills in the classroom. The program operates at 11 Wichita-area high schools (Augusta, East, Heights, Kapaun Mt. Carmel, Newton, North, Northwest, South, Southeast, West, and Valley Center), at Topeka High School and Highland Park High School in Topeka, and at Lawrence High School. Beginning with the 2005-06 school year, the program was initiated in four Wyandotte County high schools in Kansas City, Kansas. Approximately 700 students are enrolled in the program for the 2005-06 school year. Since its first year of operation, more than 6,500 students have graduated from YEK. YEK is a licensed program of the National Foundation for Teaching Entrepreneurship, based in New York.

For more information, contact Youth Entrepreneurs of Kansas offices at 316-978-7959 or see [www.yeks.org](http://www.yeks.org).

Pam Irish

February 8, 2006

Currently, there is no statute or regulation allowing the holder of a Special Event Permit to return unused product. I am suggesting a change so that the permit holder is no longer burdened with excess inventory.

The change would be to allow the wholesaler to deliver the product to any given liquor store. Not to be taken off the wholesaler vehicle, but have the retailer count the product on the truck, the wholesaler then invoices and collects for that product. At that time the permit holder would pay the retailer. Then the wholesaler would deliver the product to the location of the event.

To return unused product the process would be reversed. The product would be returned to the retail store either by the wholesaler or permit holder. The retailer would inventory and the product would be returned to the wholesaler where they would refund the retailer. At that point then the liquor store would refund the permit holder.

These transactions would be allowed without notification or written permission from the director of the ABC.

This solves several issues. That is inventory control, product integrity and for cities that do not have Sunday sales it allow the event to over buy in case they under estimated their Sunday sales.

Another concern is "leasing equipment" to the Special Event Permit holder. It would be my opinion to just "loan" the equipment with no charge.



K A N S A S

JOAN WAGNON, SECRETARY

DEPARTMENT OF REVENUE  
ALCOHOLIC BEVERAGE CONTROL

KATHLEEN SEBELIUS, GOVERNOR

Overview of Temporary Permits  
Presented to  
The Senate Federal and State Affairs Committee  
By  
Tom Groneman, Director  
Alcoholic Beverage Control Division

February 8, 2006

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Provisions for temporary permits are contained in KSA 41-347, KSA 41-2645 and KAR 14-23-1 thru 15.

KSA 41-347. Temporary Permit, Charitable Auction or limited issue decanter sale.

Provides, the director may issue in accordance with rules and regulations

- A temporary permit to charitable organizations to auction liquor
- A temporary permit to an individual for sale of limited issue porcelain decanters containing alcohol
- Application must be filed 14 days before event except for good cause shown
- Application will state purpose for which the proceeds will be used
- Be on a form prescribed by the director
- Be accompanied by \$25.00 for each day for which permit is issued

It further provides, temporary permits shall:

- Specify the premises, which must comply with all applicable zoning regulations
- Be issued for a period not to exceed 3 consecutive days
- Be limited to one permit per applicant per calendar year
- Proceeds can only be used for purposes stated in the application
- Permit is not transferable or assignable
- Director may refuse to issue a permit to anyone who has violated provisions of the liquor control act

**KSA 41-2645 Temporary permit.** Provides that temporary permits issued under the club and drinking establishment act shall allow:

- The sale and consumption of alcoholic liquor on unlicensed premises
- Permit may be issued to one or more persons or organizations in accordance to rules and regulations
- Applications to be filed not less than 14 days prior to event unless waived by the director for good cause shown
- Application must be accompanied by \$25.00 for each day of the permit
- Permit shall specify the premises for which they are issued and meet city, county or township zoning for use for which permit was issued
- No permit shall be issued for premises in a county that has not approved a proposition allowing liquor by the drink
- No permit shall be issued for a period to exceed 3 consecutive days
- No more than 4 permits may be issued to any one applicant in a calendar year
- Permits are not transferable or assignable
- Director may refuse to issue a permit to anyone who has violated any provision of the liquor control act or the club and drinking establishment act

**Rules and Regulations concerning temporary permits are set out in KAR 14-23-1 through 15.**

1. Definitions
2. Applications; documents required
3. Requirements for temporary permit
4. Issuance of permit
5. Events; filings; notice; prohibitions

A temporary permit holder shall not:

- conduct event on licensed premises
- conduct event with a duration of longer than 3 days
- deny access to law enforcement
- operate between the hours of 2 a.m. and 9 a.m.
- sell cereal malt beverages
- sell alcoholic liquor for consumption off the permitted premises
- refill any original container with alcoholic liquor
- permit holder or designee must be present at all times and be responsible for conduct of event



6. Refund upon voluntary cancellation
7. Employees; prohibitions
8. Purchase of alcoholic liquor; requirements and restrictions
  - Permit holders may purchase only from a retailer
  - Permit holders shall not receive delivery of alcoholic liquor from a retailer
  - Retailer must be a "Wholesale liquor dealer under federal law"
  - Permit holder cannot warehouse liquor on retail premises, all liquor purchased must be picked up the day of the sale
  - Permit holder must keep records of sale for one year
9. Permit holder is responsible for conduct of event
10. Removal of liquor from event premises prohibited
  - Permit holder shall not sell alcoholic liquor for removal from or consumption off the permitted premises
11. Nontaxed liquor; individual bringing alcoholic liquor on to permitted premises
12. Minimum prices for drinks; how determined
  - Permit holder shall not sell drink for less than acquisition cost
13. Charge the same price for the same drink all day
  - Day is from 9 a.m. till 2 a. m. the following calendar day
14. Revoked
15. Suspension and revocation; grounds for; procedure

There were 336 and 308 temporary permits issued in 2004 and 2005, respectively. Most of the permits issued are for charitable events sponsored by organizations such as the American Heart Assoc., American Cancer Society, Guadalupe Clinic, Topeka Performing Arts Center, Cottonwood Inc, Ducks Unlimited and numerous church and school events. However, there are some for-profit permits issued primarily for events such as music festivals.

**41-347. Temporary permit, charitable auction or limited issue decanter sale.**

(a) The director may issue, in accordance with rules and regulations of the secretary: (1) To one or more charitable organizations a temporary permit authorizing the sale of alcoholic liquor at an auction; or (2) to an individual a temporary permit authorizing the sale of one or more limited issue porcelain containers containing alcoholic liquor. The permit shall be issued in the names of the charitable organizations or individual to which it is issued.

(b) Applications for temporary permits shall be required to be filed with the director not less than 14 days before the event for which the permit is sought unless the director waives such requirement for good cause. Each application for a permit authorizing an auction shall state the purposes for which the proceeds of the event will be used. The application shall be upon a form prescribed and furnished by the director and shall be filed with the director in duplicate. Each application shall be accompanied by a permit fee of \$25 for each day for which the permit is issued. Such fee shall be paid in full by a certified or cashier's check of a bank within this state, United States post office money order or cash. All permit fees collected by the director pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(c) Temporary permits shall specify the premises for which they are issued and shall be issued only for premises which comply with all applicable zoning regulations.

(d) A temporary permit shall be issued for a period of time not to exceed three consecutive days, the dates and hours of which shall be specified in the permit. Not more than one temporary permit may be issued to any one applicant in a calendar year.

(e) All proceeds from an auction for which a temporary permit is issued shall be used only for the purposes stated in the application for such permit.

(f) A temporary permit shall not be transferable or assignable.

(g) The director may refuse to issue a temporary permit to any charitable organization or individual which has violated any provision of the Kansas liquor control act.

(h) This section shall be part of and supplemental to the Kansas liquor control act.

**History:** L. 1995, ch. 258, § 4; L. 2001, ch. 5, § 128; L. 2005, ch. \_\_\_\_, § 6; November 15.

**41-2645. Temporary permit.** (a) A temporary permit shall allow the permit holder to offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises, which may be open to the public, subject to the terms of such permit.

(b) The director may issue a temporary permit to any one or more persons or organizations applying for such a permit, in accordance with rules and regulations of the secretary. The permit shall be issued in the names of the persons or organizations to which it is issued.

(c) Applications for temporary permits shall be required to be filed with the director not less than 14 days before the event for which the permit is sought unless the director waives such requirement for good cause. Each application shall state the purposes for

which the proceeds of the event will be used. The application shall be upon a form prescribed and furnished by the director and shall be filed with the director in duplicate. Each application shall be accompanied by a permit fee of \$25 for each day for which the permit is issued, which fee shall be paid by a certified or cashier's check of a bank within this state, United States post office money order or cash in the full amount thereof. All permit fees collected by the director pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(d) Temporary permits shall specify the premises for which they are issued and shall be issued only for premises where the city, county or township zoning code allows use for which the permit is issued. No temporary permit shall be issued for premises which are not located in a county where the qualified electors of the county:

(1) (A) Approved, by a majority vote of those voting thereon, to adopt the proposition amending section 10 of article 15 of the constitution of the state of Kansas at the general election in November, 1986; or (B) have approved a proposition to allow the sale of liquor by the individual drink in public places within the county at an election pursuant to K.S.A. 41-2646, and amendments thereto; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 41-2646, and amendments thereto.

(e) A temporary permit shall be issued for a period of time not to exceed three consecutive days, the dates and hours of which shall be specified in the permit. Not more than four temporary permits may be issued to any one applicant in a calendar year.

(f) All proceeds from an event for which a temporary permit is issued shall be used only for the purposes stated in the application for such permit.

(g) A temporary permit shall not be transferable or assignable.

(h) The director may refuse to issue a temporary permit to any person or organization which has violated any provision of the Kansas liquor control act, the drinking establishment act or K.S.A. 79-41a01 *et seq.*, and amendments thereto.

**History:** L. 1987, ch. 182, § 91; L. 1990, ch. 179, § 8; L. 2001, ch. 5, § 132; July 1.

## Article 23 - TEMPORARY PERMITS

**14-23-1. Definitions.** As used in this article of these regulations, unless the context clearly requires otherwise, the following words and phrases shall have the meanings ascribed to them in this regulation:

(a) "Alcoholic liquor" means alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being. Alcoholic liquor shall not include any cereal malt beverage.

(b) "Beer" means a beverage, containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water. The term beer includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content.

(c) "Beneficial interest" means any ownership interest of a person or that person's spouse in a business, corporation, partnership, business trust, association or other form of business organization which exceeds 5% of the outstanding shares of that corporation or a similar holding in any other form of business organization.

(d) "Cereal malt beverage" means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any liquor which is more than 3.2% alcohol by weight.

(e) "Director" means the director of the division of alcoholic beverage control of the department of revenue.

(f) "Distributor" means those persons licensed by the director, pursuant to K.S.A. 41-306 as amended by L. 1987, Ch. 182, Sec. 14; 41-307 as amended by L. 1987, Ch. 182, Sec. 17; L. 1987, Ch. 182, Sec. 15; and 41-2713 et seq., to sell or offer for sale alcoholic liquor, spirits, wine, beer or cereal malt beverage to any person authorized by law to sell alcoholic liquor, spirits, wine, beer or cereal malt beverage at retail.

(g) "Event" means the occasion for which the applicant has received a temporary permit as required in these regulations and at which the applicant may offer for sale, sell and serve alcoholic liquor to the general public.

(h) "Licensed premises" means those facilities which have been licensed pursuant to the club and drinking establishment act as a club or a drinking establishment.

(i) "Morals charge" means a charge made in an indictment, information or a complaint alleging crimes which involve:

- (1) Prostitution;
- (2) procuring any person;
- (3) solicitation of a child under 18 years of age for any immoral act involving sex;
- (4) possession or sale of narcotics, marijuana, amphetamines or barbiturates;
- (5) rape;
- (6) incest;
- (7) gambling;
- (8) illegal cohabitation;
- (9) adultery;
- (10) bigamy; or
- (11) a crime against nature.

(j) "Organization" means any nonprofit charitable organization that conducts charitable activities in the state.

(k) "Permit Holder" means a person granted a permit as required in this Article 23 of these regulations.

(l) "Permitted Premises" means the area in which alcoholic liquor is to be served pursuant to the temporary permit as described in the application.

(m) "Person" means any natural person, corporation, partnership or association.

(n) "Retailer" means a person licensed by the director to sell at retail, or offer for sale at retail, alcoholic liquor for consumption off the licensed premises of the retailer.

(o) "Spirits" means any beverage that contains alcohol obtained by distillation, mixed with water or other substance in solution. The term "spirits" includes brandy, rum, whiskey, gin or other spirituous liquors, and liquors when rectified, blended or otherwise mixed with alcohol or other substances.

(p) "Wine" means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including those beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2601 as amended by L. 1987, Ch. 182, Sec. 60, L. 1987, Ch. 182, Sec. 91; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

**14-23-2. Applications; documents required.** (a) Each application for a temporary permit shall be made upon forms prepared by the director and shall contain all information the director deems necessary. Any application which does not contain all required information may be returned to the applicant without the application being considered on its merits.

(b) Each application shall be accompanied by the permit fee in the form of a certified check or cashier's check drawn on a Kansas bank, United States post office money order or cash. Personal or business checks shall not be accepted.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing L. 1987, Ch. 182, Sec. 91; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

**14-23-3. Requirements for temporary permit.** (a) Corporations. A corporation shall not be issued a temporary permit if any officer, manager, director or stockholder owning a beneficial interest in the corporation:

(1) has been convicted of a felony under the laws of this state, any other state or the United States;

(2) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(3) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality, or has forfeited bond to appear in court to answer charges for any of those crimes;

(4) is not at least 21 years of age;

(5) is an employee of the director;

(6) intends to act as the agent of another in exercising control of the permit;

(7) has had any license or permit issued by the director revoked;

(8) has been an officer, manager, director or a stockholder owning a beneficial interest in a corporation which:

(A) has had a license revoked under the club and drinking establishment act; or

(B) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(b) Associations. An association shall not be issued a temporary permit if any manager, officer, director, owner or members with a beneficial interest in the association:

(1) has been convicted of a felony under the laws of this state, any other state or the United States;

(2) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(3) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality, or has forfeited bond to appear in court to answer charges for any of those crimes;

(4) is not at least 21 years of age;

(5) is an employee of the director;

(6) intends to act as the agent of another in exercising control of the permit;

(7) has had any license or permit issued by the director revoked;

(8) has been an officer, manager, director or stockholder owning a beneficial interest in a corporation which:

(A) has had a license revoked under the club and drinking establishment act; or

(B) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(c) Partnerships. A partnership shall not be issued a temporary permit if any partner:

(1) has been convicted of a felony under the laws of this state, any other state or the United States;

(2) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(3) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality, or has forfeited bond to appear in court to answer charges for any of those crimes;

(4) is not at least 21 years of age;

(5) is an employee of the director;

(6) intends to act as the agent of another in exercising control of the permit;

(7) has had any license or permit issued by the director revoked;

(8) has been an officer, manager, director or stockholder owning a beneficial interest in a corporation which:

(A) has had a license revoked under the club and drinking establishment act; or

(B) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state;

(d) Individuals. An individual shall not be issued a temporary permit if the individual:

(1) has been convicted of a felony under the laws of this state, any other state or the United States;

(2) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(3) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality, or has forfeited bond to appear in court to answer charges for any of those crimes;

(4) is not at least 21 years of age;

(5) is an employee of the director;

(6) intends to act as the agent of another in exercising control of the permit;

(7) has had any license or permit issued by the director revoked;

(8) has been an officer, manager, director or a stockholder owning a beneficial interest in a corporation which:

(A) has had a license revoked under the club and drinking establishment act; or

(B) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(Authorized by K.S.A. 1987 Supp. 41-2634, 41-2645; implementing K.S.A. 1987 Supp. 41-2623, 41-2645; effective, T-88-22, July 1, 1987; effective May 1, 1988; amended Sept. 26, 1988.)

**14-23-4. Issuance of permit.** (a) A temporary permit shall be issued to each applicant determined by the director to have satisfied the requirements of the club and drinking establishment act and this article of these regulations.

(b) An application for a temporary permit may be rejected by the director if:

(1) the applicant, or any officer, director, partner, registered agent, trustee, manager or owner of the applicant has previously owned or operated any type of temporary permit, club, drinking establishment or caterer's license, and at the time the previous temporary permit or license was surrendered, the temporary permit holder or licensee had been ordered to appear and show cause why the temporary permit or license should not be revoked or suspended;

(2) the applicant has been granted four permits in the current calendar year;

(3) the applicant has designated an area for an event which was the subject of the order to appear and show cause as set forth in paragraph (1), above, and it appears that the new application for a temporary permit covering the premises is an attempt to avoid any possible remedial action taken by the director against the former licensee;

(4) the applicant has had a license or permit revoked under the club and drinking establishment act or has been convicted of a violation of the club and drinking establishment act, the liquor control act, K.S.A. 41-2701 et seq. or K.S.A. 79-41a01 et seq.; or

(5) the application is not filed with the director at least 14 days prior to the event.

(Authorized by K.S.A. 1989 Supp. 41-2634; implementing 1989 Supp. K.S.A. 41-2645 as amended by L. 1990, Ch. 179, Sec. 8; effective, T-88-22, July 1, 1987; effective May 1, 1988; effective July 1, 1990; amended July 1, 1991.)

**14-23-5. Events; filings; notice; prohibitions.** (a) Each permit holder shall be allowed to offer for sale, sell and serve alcoholic liquor for consumption at an event in accordance with the club and drinking establishment act and these regulations.

(b) The permit holder shall prominently display at each event upon a poster or other device located at the entrance to the permitted premises:

- (1) The temporary permit; and
- (2) the name of the agent of the organization who is in charge of the event.

(c) A temporary permit holder shall not:

- (1) Conduct an event upon licensed premises;
- (2) conduct an event with a duration of longer than three days;
- (3) deny access to an event to any law enforcement officer;
- (4) operate an event between the hours of 2:00 A.M. and 9:00 A.M.;
- (5) sell cereal malt beverages at an event;
- (6) make any sales of alcoholic liquor at an event for consumption off the permitted premises;

or

(7) refill any original container with alcoholic liquor or any other substance.

(d)(1) An individual permit holder shall be present at all times during an event or designate another individual who will be responsible for the conduct of the event in the permit holder's absence.

(2) an organization that is a permit holder shall designate one or more agents who shall be present at all times during an event who will be responsible for the conduct of the event.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85, L. 1987, Ch. 182, Sec. 91; implementing K.S.A. 41-718 as amended by L. 1987, Ch. 182, Sec. 53, 41-2613 as amended by L. 1987, Ch. 182, Sec. 68, L. 1987, Ch. 182, Sec. 91; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

**14-23-6. Refund upon voluntary cancellation.** Temporary permit fees shall not be refunded by the director upon cancellation of a permit or event, regardless of the reason.

(Authorized by and implementing K.S.A. 41-2607, 41-2629 as amended by L. 1987, Ch. 182, Sec. 80, L. 1987, Ch. 182, Sec. 91; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

**14-23-7. Employees; prohibitions.** Each temporary permit holder shall not employ or use the service of any person:

- (a) Who is under the age of 18 years to serve alcoholic liquor;
- (b) who is under the age of 21 years to mix or dispense drinks containing alcoholic liquor;
- (c) who is under the age of 21 years and not supervised by the permit holder or an employee who is at least 21 years of age;
- (d) who has been convicted of a felony or of any crime involving a morals charge to dispense, mix or serve alcoholic liquor;
- (e) who has been convicted within the previous two years of a violation of any intoxicating liquor law of Kansas, any other state or the United States, to dispense, mix or serve alcoholic liquor.



(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85, L. 1987, Ch. 182, Sec. 91; implementing K.S.A. 41-2610 as amended by L. 1987, Ch. 182, Sec. 65; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

**14-23-8. Purchase of alcoholic liquor; requirements and restrictions.** (a) Each temporary permit holder shall purchase alcoholic liquor only from a retailer.

(b) Temporary permit holders shall not receive delivery of alcoholic liquor from a retailer.

(c) Temporary permit holders shall not purchase alcoholic liquor from any retail liquor licensee who does not possess a federal wholesaler's basic permit and who does not have on display at the retail establishment a sign that states that the licensee is a "Wholesale Liquor Dealer Under Federal Law." Temporary permit holders shall not warehouse any liquor on any retail liquor store premises. All liquor purchased on any one day shall be picked up at the retail liquor store on that same day.

(d) Each temporary permit holder, when making alcoholic liquor purchases from a retailer, shall obtain and keep, for a period of not less than one year from the date of purchase, a sales slip that contains the following information:

(1) The date of purchase;

(2) the name and address of the retailer;

(3) the name and address of the permit holder as it appears on the permit;

(4) the brand, size and amount of all alcoholic liquor purchased; and

(5) the subtotal of the cost of the alcoholic liquor and the total cost of the order including enforcement tax.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10, 41-211, 41-2634 as amended by L. 1987, Ch. 182, Sec. 85, 79-41a03 as amended by L. 1987, Ch. 182, Sec. 119, L. 1987, Ch. 182, Sec. 91; implementing K.S.A. 41-301, 41-307 as amended by L. 1987, Ch. 182, Sec. 16, 41-308 amended by L. 1987, Ch. 182, Sec. 18; L. 1987, Ch. 182, Sec. 91; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

**14-23-9. Permit holder's responsibility for conduct at event.** Each permit holder shall be responsible for the conduct at an event. The permit holder shall be responsible for all violations of the club and drinking establishment act by the following people while on the permitted premises:

(a) An employee of the permit holder;

(b) any individual serving or mixing alcoholic liquor at an event; or

(c) any employee of any person contracting with the permit holder to provide services or food in connection with an event.

(Authorized by L. 1987, Ch. 182, Sec. 91; implementing K.S.A. 41-2604, L. 1987, Ch. 182, Sec. 91; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

**14-23-10. Removal of liquor from event premises prohibited.** A permit holder shall not sell alcoholic liquor for removal from or consumption off of the permitted premises.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2604, L. 1987, Ch. 182, Sec. 91; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

**14-23-11. Nontaxed liquor; individual bringing alcoholic liquor on to permitted premises.** (a) At an event, alcoholic liquor shall be dispensed from original containers bearing Kansas alcoholic liquor identification stamps.

(b) Any individual may be allowed to bring bottles onto the event premises upon the following conditions:

(1) A permit holder shall not warehouse any bottles upon the event premises;

(2) each individual bringing any bottles onto the event premises shall remove the bottles when departing from the event premises; and

(3) each bottle shall bear a Kansas alcoholic liquor identification stamp if required by law.

(Authorized by K.S.A. 41-210 as amended by L. 1987, Ch. 182, Sec. 10; 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-718 as amended by L. 1987, Ch. 182, Sec. 53; L. 1987, Ch. 182, Sec. 91, L. 1987, Ch. 182, Sec. 93; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

**14-23-12. Minimum prices for drinks; how determined.** (a) A permit holder shall not sell a drink to any person for less than the acquisition cost of that drink to the permit holder.

(b) The cost of each of the following items shall be included in the acquisition cost of a drink:

(1) All alcoholic liquor contained in the drink; and

(2) any liquid of a non-alcoholic nature contained in the drink.

(c) Any of the following items shall not be required to be included in the acquisition cost:

(1) City service or tap water;

(2) ice;

(3) employee salaries or other usual overhead; and

(4) any other items of clearly negligible value used in the drink.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2640 as amended by L. 1987, Ch. 182, Sec. 94; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

**14-23-13. Charge the same price for the same drink all day; day defined.** (a) A permit holder shall not sell a drink to any person for less than the price charged for that same drink to all other persons on that day. Any particular drink that is offered for sale at any time during the day shall be offered at the same price for the entire day.

(b) The term "day" shall mean from 9:00 a.m. until 2:00 a.m. the following calendar day.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2640 as amended by L. 1987, Ch. 182, Sec. 94; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

**14-23-14.** (Authorized by K.S.A. 1989 Supp. 41-2634; implementing K.S.A. 1989 Supp. 41-2611; effective, T-88-22, July 1, 1987; effective May 1, 1988; revoked Aug. 6, 1990.)

**14-23-15. Suspension and revocation; grounds for; procedure.** The director may revoke a permit or fine a permit holder for any one or more of the following reasons, subject to the procedures and other provisions of K.A.R. 14-16-14 et seq.:

- (a) The permit holder has omitted or misstated a material fact in its application;
- (b) the permit holder has operated in a manner materially different from that represented in the application;
- (c) the permit holder has engaged in a prohibited act or transaction;
- (d) the permit holder has violated any provision of the liquor control act, the club and drinking establishment act or any regulation adopted pursuant thereto;
- (e) there has been a violation of the laws of Kansas pertaining to the sale of alcoholic liquor or cereal malt beverage or a violation of the laws of the United States pertaining to the sale of intoxicating liquor or a violation involving a morals charge;
- (f) the permit holder, its managing officers or any employee has purchased and displayed, on the permitted premises, a federal wagering occupational stamp or a federal coin operated gambling device stamp issued by the United States treasury department;
- (g) the permit holder refuses to allow the director or any agent or employee of the director or secretary to inspect the permitted premises, any alcoholic liquor upon the permitted premises or any records required to be kept by these regulations; or
- (h) the permit holder has allowed a person who is under the age of 21 years to possess alcoholic liquor while on the permitted premises.

(Authorized by K.S.A. 41-2634 as amended by L. 1987, Ch. 182, Sec. 85; implementing K.S.A. 41-2611 as amended by L. 1987, Ch. 182, Sec. 66; effective, T-88-22, July 1, 1987; effective May 1, 1988.)

DO NOT WRITE IN THIS BLOCK		
VALIDATED AMOUNTS		CASHIER
DATE	AMOUNT	

**APPLICATION FOR TEMPORARY PERMIT**

This application and fee must be received in the ABC office at least **14 days prior to the date of event** for which the Temporary Permit is to be used.

- On-Premise (4 per year)  Charitable Auction (1 per year)  Porcelain Containers (1 per year)  
 (Please circle one)      **1 Day - \$25.00**      **2 Day - \$50.00**      **3 Day - \$75.00**

1. Please print name and address of sponsoring corp/organization/individual: Please indicate if you are a:

- Corporation     Individual     Organization     Partnership

Name _____				Street Address _____	
City _____		County _____	Zip Code _____	Telephone Number _____	Fax Number _____
<b><u>Mailing Address: (If different than above)</u></b>					

Name _____				Street Address _____	
City _____		County _____	Zip Code _____	Telephone Number _____	Fax Number _____

2. What date and hours will alcoholic beverages be sold or consumed each day?

Date _____	From: (a.m./p.m.) _____	To: (a.m./p.m.) _____
Date _____	From: (a.m./p.m.) _____	To: (a.m./p.m.) _____
Date _____	From: (a.m./p.m.) _____	To: (a.m./p.m.) _____

3. Give the address of the location of event. **Attach a diagram of the boundaries of the area, if applying for an on-premise permit.**

Street _____	County _____	City _____	Zip Code _____
--------------	--------------	------------	----------------

3a. Complete zoning Form ABC-280-8. The official seal of the city or county of the exact location the event is being held at must be affixed.

4. Have you or any person in the sponsoring organization been convicted of a felony or a violation of the intoxicating liquor or cereal malt beverage laws of Kansas? Yes \_\_\_ No \_\_\_

5. Have you individually or the organization/corporation been issued a temporary permit within the current calendar year? Yes \_\_\_ No \_\_\_ Date: \_\_\_\_\_ Date: \_\_\_\_\_ Date: \_\_\_\_\_

6. Have you individually or the organization/corporation met all the requirements for receiving a temporary permit as outlined in K.A.R. 14-23-3? Yes \_\_\_ No \_\_\_

7. Explain the purpose of this event and indicate where the proceeds from the **sale of alcoholic beverages** will be allocated:

\_\_\_\_\_

\_\_\_\_\_

8. Estimated gross receipts from **ONLY** liquor sales at this event: \_\_\_\_\_

I certify that the information provided on this application is true. I further certify that the sale or consumption of alcoholic beverages in relationship with this temporary permit will not violate any city, county or other local ordinances or zoning restrictions. (Falsifying information on the application can lead to administrative as well a criminal sanctions.)

Designated Person (print name) _____	(Daytime Phone) _____	Social Security Number (SSN) _____ (Of Designated Person)	Date of Birth _____
--------------------------------------	-----------------------	--------------------------------------------------------------	---------------------

Designated Person (sign name) _____	(Fax Number) _____	Date of Application _____
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KANSAS DEPARTMENT OF REVENUE  
Alcoholic Beverage Control Division

ZONING

Applicant/Owner Name: \_\_\_\_\_

Type of License Sought:

- |                                                                                                 |                                                 |                                                                                    |
|-------------------------------------------------------------------------------------------------|-------------------------------------------------|------------------------------------------------------------------------------------|
| <input type="checkbox"/> Retail Liquor Store                                                    | <input type="checkbox"/> Drinking Establishment | <input type="checkbox"/> Drinking Establishment/Caterer                            |
| <input type="checkbox"/> Private Club: <input type="checkbox"/> A or <input type="checkbox"/> B | <input type="checkbox"/> Hotel                  | <input type="checkbox"/> Hotel/Drinking Establishment                              |
| <input type="checkbox"/> Caterer                                                                | <input type="checkbox"/> Hotel/Caterer          | <input type="checkbox"/> Farm Winery <input type="checkbox"/> Outlet               |
| <input type="checkbox"/> Distributor                                                            | <input type="checkbox"/> Temporary Permit       | <input type="checkbox"/> Microbrewery <input type="checkbox"/> Packaging/Warehouse |

PREMISES TO BE LICENSED

\_\_\_\_\_  
DBA Name of business

\_\_\_\_\_  
Location Address

\_\_\_\_\_  
City

\_\_\_\_\_  
Township

\_\_\_\_\_  
County

\_\_\_\_\_  
Zip

**NOTICE TO CITY/COUNTY CLERK:** Submission of this zoning form by the applicant to the City or County constitutes notification to the governmental entity that an application for a liquor license has been or will be received by the ABC. Should the city or county you represent desire to make any comments, suggestions or recommendations relative to the granting of or refusal to grant a license to the above-named applicant or the premise for which licensure is sought – or to request a hearing pursuant to K.S.A. 41-318 or 41-2651 – it may do so by mailing such information to the ABC within 10 days of the date you affix your seal to this document at: **ABC, New Applications, 915 SW Harrison St., Rm. 214, Topeka KS 66625-3512.**

-----  
**CERTIFICATE OF CITY, TOWNSHIP OR COUNTY CLERK**

STATE OF KANSAS, COUNTY OF \_\_\_\_\_, SS:

I HEREBY CERTIFY THAT (check applicable box):

- The premises described above are **inside** the incorporated city limits; **or**,  
 The premises described above are **outside** the city limits.\*

**\*For RETAIL LIQUOR STORES ONLY: Per K.S.A. 41-303, no license shall be granted to any applicant unless 1) the premise to be licensed is located in a township with a population of at least 5,000; AND 2) the board of county commissioners has adopted a resolution approving the issuance of a license to the location. A certified copy of such resolution must accompany the license application.**

AND (check applicable box):

- The premises described above are within an area that complies with all applicable zoning regulations required by K.S.A. 41-710 or K.S.A. 41-2608. Farm Wineries and Microbreweries **must** be zoned agricultural, commercial or business as required by K.S.A. 41-710(b) **AND** if the license type is a Retail Liquor Store, Farm Winery or Microbrewery, the premises complies with the applicable building regulations per K.S.A. 41-710.
- The premises described above are located outside an incorporated city, in a township or county **that is not zoned.**

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
(month) (year)

\_\_\_\_\_  
City, Township or County Clerk (Circle one)

\_\_\_\_\_  
Phone number of City, Township or County Clerk

(Seal)

## GUIDELINES FOR USING YOUR TEMPORARY PERMIT

### Do's and Don'ts

#### ALL TYPES OF PERMITS

**Do** display the temporary permit at the event with the name of the agent of the organization who is in charge of the event.

**Do** see that all city, county and state laws are adhered to.

**Do** send your temporary permit fee by certified or cashier's check on any bank located within this state or a United States Postal Money Order.

Mail to:                   **Alcoholic Beverage Control Division**  
                                  **Licensing Segment**  
                                  **915 SW Harrison St.**  
                                  **Topeka, KS 66625-2073**

**Don't** allow anyone under the age of 21 to possess, purchase, sell or consume alcoholic beverages. Administrative and/or criminal penalty may result from allowing individuals under age to possess or consume alcoholic beverages.

**Don't** deny immediate entry and inspection on the part of any ABC agents or other law enforcement officers. Agents and officers have the right to check the premises for compliance with the terms of the permit and state and/or local ordinances.

#### ON-PREMISE CONSUMPTION ONLY

**Do** purchase all alcoholic beverages from a licensed retail liquor dealer who possesses a federal Wholesale Liquor Dealer permit.

**Do** complete your liquor excise tax return and remittance after the event is held (by the 25th day of the following month) to the Kansas Department of Revenue in the green envelope provided. **Use the liquor excise tax return to send in your payment.** This form will be provided to you with the temporary permit.

**Do** keep the sales slip from the retail liquor store for the period of at least three (3) years. The sales slip must contain the following information:

- (1) The date of purchase, the name of the retailer and the retailer's address as it appears on licensee's license;
- (2) The name and address of the permit holder as it appears on the permit;
- (3) The name of the individual who made the purchase for the permit holder;
- (4) The brand, size, proof and amount of each brand purchased;
- (5) The unit cost to the permit holder and the total price for each brand size;
- (6) The total cost of the order and the total cost of the order including enforcement tax.

**Don't** sell an alcoholic drink for a price less than acquisition cost or less than the price charged for that drink to all other persons on that day.

**Don't** allow alcoholic beverages to be removed from the permitted premises.

**Don't** hold any event on premises which are currently licensed to sell liquor or cereal malt beverage (beer containing 3.2 percent or less alcohol by weight).

**Don't** sell or serve alcoholic beverages or allow consumption of alcoholic beverages before 9 a.m. or after 2 a.m.

KANSAS DEPARTMENT OF REVENUE  
ALCOHOLIC BEVERAGE CONTROL

**INSTRUCTIONS FOR TEMPORARY PERMIT APPLICATION**

The information required on the attached form is pursuant to K.S.A. 41-311 and K.S.A. 41-2645. Fill out all appropriate boxes. Failure to provide all of the required information will result in a delay in processing your application. **All information on the form shall remain confidential.**

Check the appropriate box for the type of permit applying for. If applicant is planning on operating under more than one type of permit, both types of permits will need to be applied for. (Example: Applicant is holding an auction and selling alcoholic liquor for consumption on premises, you will need to apply for a Charitable Auction permit and an On-Premise permit.)

**Types of Permits:**

On-Premise – Allows the sale and consumption of alcoholic liquor upon the licensed premises. Limited to four (4) permits per year per applicant. Permit not to exceed three (3) consecutive days.

Charitable Auction – Allows charitable organizations to auction alcoholic liquor. Limited to one (1) permit per year per applicant. Permit not to exceed three (3) consecutive days.

Sales of Porcelain Containers – Allows individuals to sell “limited issue porcelain containers” containing alcoholic liquor. Limited to one (1) permit per year per applicant. Permit not to exceed three (3) consecutive days.

**Circle the number of days the permit is for. Cost is \$25.00 per day, per event.**

**NUMBER 1**

Complete the name and address of the sponsoring organization/individual applying for the temporary permit. An auctioneer cannot obtain a permit to auction another individual's containers. The individual owning the porcelain container has to obtain the temporary permit.

**NUMBER 2**

List the date and time of each event applying for.

**NUMBER 3**

Complete the address for the location where the event will take place. If applying for an on-premise permit, attach a detailed diagram of the area.

**NUMBER 3a**

**Attach a completed Form ABC 280-8 Zoning Form.** The official seal of the city or county of the exact location the event is being held must be affixed.

**NUMBER 4 through 8**

Answer the questions. Questions 4 through 6 apply to all individuals, including individuals in organizations.

**Please complete all the information required on the designated person.** This will enable our offices to process your applications without any delays.

**REQUIREMENTS FOR OBTAINING A TEMPORARY PERMIT**

Kansas Administrative Regulations (K.A.R.) 14-23-3 Requirements for Temporary Permits

A Corporation/Association/Partnership/Individual shall not be issued a temporary permit if any, officer, manager, director, stockholder, owner, member, partner or individual:

- (1) Has been convicted of a felony under the laws of this state, any other state or the United States.
- (2) Has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution.
- (3) Has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality, or has forfeited bond to appear in court to answer charges for any of those crimes.
- (4) Is not at least 21 years of age.
- (5) Is an employee of the director.
- (6) Intends to act as the agent of another in exercising control of the permit.
- (7) Has had any license or permit issued by the director revoked.
- (8) Has been an officer, manager, director or a stockholder owning beneficial interest in a corporation which:
  - (A) Has had a license revoked under the club and drinking establishment act; or
  - (B) Has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state. (Authorized by K.S.A. 1987 Supp. 41-2634, 41-2645; implementing K.S.A. 1987 Supp. 41-2623, 41-2645; effective T-88-22, July 1, 1987; effective May 1, 1988; amended P-October 1, 1988.)



## GOVERNMENTAL ETHICS COMMISSION

[www.accesskansas.org/ethics](http://www.accesskansas.org/ethics)

### Testimony before Senate Federal and State Committee in Support of Senate Bill 68

by Carol Williams, Executive Director

February 8, 2006

Senate Bill 68 is a recommendation made by the Governmental Ethics Commission in its 2005 and 2006 Annual Report and Recommendations. Senate Bill 68 would require the reporting of last minute independent expenditures made by party committees and political action committees.

Under current law, any independent expenditures made by a political action committee or party committee during the time period from eleven days before the primary election through the date of the primary election go unreported until eight days before the general election. Any independent expenditures made during the time period from eleven days before the general election through the date of the general election are not disclosed until the January 10 Receipts and Expenditures Report is filed. This post election reporting of last minute independent expenditures does not provide the citizens of Kansas with timely information concerning money spent in support of or opposition to candidates for state or local office. In the United States, thirty-five states require the reporting of last minute contributions by candidates and last minute expenditures by party committees and PACs.

Senate Bill 68 would require treasurers for political action committees and party committees to file a report of any independent expenditures made by the committee in the amount of \$300 or more before close of the next business day with the Secretary of State and/or county election officer by e-mail, facsimile transmission, telegram, or express delivery service.

After careful review of Senate Bill 68, the following amendments are recommended: 1) on line 18, after the word "made" the phrase "or contracted to be made" should be added. This would assure reporting by a committee that has not actually paid a vendor for services that have



been rendered or contracted for; 2) on lines 22 and 27, after the word “expenditure” add the phrase “as well as the name of the candidate the independent expenditure expressly advocates the election or defeat of” be added. For this new disclosure to have meaning, the candidate who is identified in the independent expenditure must be disclosed; and 3) lines 30-31 should be replaced with the following “Reports required by this section shall be filed by hand delivery, express delivery service, facsimile transmission, or any electronic method authorized by the Secretary of State”.

Providing the public with timely and accurate information regarding the financing of political campaigns is one of the Commission’s primary objectives. The Commission believes that independent expenditures made by political and party committees in the final days before an election should be reported and made available to the public prior to an election. The Commission urges your support for passage of Senate Bill 68.

# SENATE BILL No. 68

By Committee on Elections and Local Government

1-20

7-3

9 AN ACT concerning campaign finance; relating to independent  
10 expenditures.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) Every treasurer for a party committee or political com-  
14 mittee shall file reports of independent expenditures as prescribed by this  
15 act. Reports shall be filed with the secretary of state. Reports required  
16 by this section shall be in additions to any other reports required by law.

17 (b) The report shall contain the name and address of each party com-  
18 mittee or political committee which has made independent expenditures

[or contracted to be made

19 in an aggregate amount or value in excess of ~~\$50~~ or more during the  
20 period commencing 11 days before a primary or general election at which  
21 a state or local officer is to be elected and ending ~~upon the day of such~~

[\$300

[before

22 election. Such report shall contain the amount, date and purpose of each  
23 such independent expenditure. When an independent expenditure is

24 made by payment to an advertising agency, public relations firm or po-  
25 litical consultant for disbursement to vendors, the report of such inde-

[as well as the name of the candidate for whom the independent  
expenditure expressly advocates the election or defeat of.

26 pendent expenditure shall show in detail the name of each such vendor  
27 and the amount; date and purpose of the payments to each. The report

28 shall be made on or before the close of the next business day in which  
29 any independent expenditure is made.

[as well as the name of the candidate for whom the independent  
expenditure expressly advocates the election or defeat of.

30 (c) ~~Reports required by this section shall be filed via e-mail, facsimile~~  
31 ~~transmission, telegram or express delivery service.~~

[Reports required by this section shall be filed by hand delivery,  
express delivery service, facsimile transmission, or any  
electronic method authorized by the secretary of state.

32 (d) (1) "Expenditure" shall have the meaning ascribed to it in K.S.A.  
33 25-4143 and amendments thereto.

34 (2) "Independent expenditure" means an expenditure that is not con-  
35 trolled by or coordinated with any candidate or agent of such candidate.

36 (3) "Party committee" shall have the meaning ascribed to it in K.S.A.  
37 25-4143 and amendments thereto.

38 (4) "Political committee" shall have the meaning ascribed to it in  
39 K.S.A. 25-4143 and amendments thereto.

40 Sec. 2. The provisions of this act shall be part of and supplemental  
41 to the campaign finance act.

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

STATE OF KANSAS

DONALD BETTS JR.

SENATOR, 29TH DISTRICT  
SEDGWICK COUNTY

STATE CAPITOL BUILDING  
ROOM 404-N  
TOPEKA, KANSAS 66612-1504

(785) 296-7387 • 1-800-432-3924

1505 N. MATLOCK DR.  
WICHITA, KANSAS 67208  
(316) 393-9203



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GOVERNMENT

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• JOINT COMMITTEE ON  
ADMINISTRATIVE RULES  
& REGULATIONS

• JUDICIARY

Testimony in favor of SB 486

February 8, 2006

The bill before you today would create a racial profiling commission to continue the work of the commission set up in last year's SB 77. The earlier commission has worked beyond its authorization, and this act would replace it.

The bill calls for some specific officials to act *ex officio*, and others to be appointed by the governor. This commission will have similar powers to the original commission. I am open to any questions from the Committee.

Donald Betts Jr.  
Senator, 29<sup>th</sup> District

**State of Kansas**  
**Senate Committee on Federal and State Affairs**  
**Testimony in support of SB486**  
**Danielle Dempsey-Swopes, Executive Director**  
**Kansas African American Affairs Commission**  
**February 8, 2006**

Chairman Brungardt, members of the committee,

The Kansas African American Affairs Commission has been pleased to continue its partnership with the Kansas Highway Patrol and other state law enforcement agencies to implement new statutes to prohibit racial profiling and implement law enforcement practices that will prevent such profiling.

The statute preventing racial profiling also called for a 15 member task force, appointed by the Governor, to develop a process for the collection of data and for the full implementation of the statutes. The Task Force report, dated October 31, 2005 outlined the following recommendations:

- The identification of core data elements to be collected by each law enforcement agency for appropriate analysis.
- A recommendation for further research and consultation with an expert(s) to identify the appropriate benchmark(s) and appropriate data analysis methodology.
- The creation of a standard data collection form and initiation of an appropriate data collection process and method to ensure agency reporting.
- A recommendation for the appropriate repository, management and sharing of data and reports.
- A recommendation to reinstate the practice of indicating the race/ethnicity of Kansas drivers' on a Kansas driver's license.
- A recommendation to consider the use of a statewide, uniform traffic citation for future use.
- A recommendation for a permanent allocation of funding for the full implementation of SB77
- A recommendation to retain the current Task Force for an extended period.

Senate Bill 486 outlines the method for retaining the current task force for an extended period so that it can work with law enforcement agencies to fully implement the recommendations listed above. This Commission on Racial Profiling will be an excellent opportunity for law enforcement leaders and community leaders to continue to work together to address mutual concerns. This commission would also be temporary, as the bill calls for the commission to complete its work by 2012.

The work of this commission will ultimately increase cooperation and trust between law enforcement personnel and Kansas minority communities. We respectfully ask that you support this bill.

SENATE BILL No. 486

By Committee on Federal and State Affairs

2-1

9 AN ACT creating the racial profiling commission.

10 *Be it enacted by the Legislature of the State of Kansas:*

11 Section 1. (a) There is hereby established the Kansas commission on  
12 racial profiling.

[ racial profiling

13 (b) The Kansas [sentencing] commission shall consist of 15 members,  
14 as follows:

15 (1) The attorney general or the attorney general's designee.

16 (2) One member of the Hispanic and Latino American affairs  
17 commission.

18 (3) One member of the Kansas advisory commission on African-  
19 American affairs.

20 (4) One member of the Kansas human rights commission.

21 (5) One representative of the Kansas highway patrol.

22 (6) One representative from a city law enforcement agency.

23 (7) One representative of a county law enforcement agency.

24 (8) One representative of a Kansas district court.

25 (9) The secretary of the Kansas department of revenue or the sec-  
26 retary's designee. One representative of a Kansas district court.

FP (10)

(11) 27 [10] Four Kansas civil rights advocates of which one shall be chosen  
28 from each congressional district.

(12) 29 [11] [two] ex-officio members who have some expertise or experience  
30 in addressing racial profiling.

[ one

31 (c) Each appointed member of the commission shall be appointed  
32 for a term of two years and shall continue to serve during that time as  
33 long as the member occupies the position which made the member eli-  
34 gible for the appointment. Each member shall continue in office until a  
35 successor is appointed and qualifies. Members shall be eligible for reap-  
36 pointment, and appointment may be made to fill an unexpired term.  
37 Initial members of the commission shall be appointed by the governor  
38 no later than July 1, 2006. No member shall serve more than two terms.

39 (d) (1) The commission shall meet at the call of its chairperson as  
40 necessary, at least quarterly, to carry out its duties under this act.

41 (2) Administrative support for the commission and its chairperson  
42 shall be provided by the Kansas advisory commission on African-Ameri-  
43

ERROL V. WILLIAMS, Chairman  
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**K A N S A S**

**KANSAS HUMAN RIGHTS COMMISSION**

**LANDON STATE OFFICE BLDG. – 5<sup>TH</sup> FLOOR  
 900 S.W. JACKSON – SUITE 568 S.  
 TOPEKA, KANSAS 66612-1258  
 (785) 296-3206  
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 KAREN K. MCDANELD  
 OFFICE MANAGER

**WRITTEN TESTIMONY OF THE KANSAS HUMAN RIGHTS COMMISSION  
 REGARDING  
 S.B. 486  
 FEBRUARY 6, 2006**

Staff Attending Hearing: William V. Minner, Executive Director  
 Brandon L. Myers, Chief Legal Counsel  
 Ruth Glover, Assistant Director  
 Rick Fischli, Racial and Other Profiling Administrator

In the United States, we are fortunate the Constitution guarantees equal protection under the law. Our race, ethnicity, national origin, gender and religious dress should not matter in the eyes of the law. Although we would like perfect implementation of this lofty goal in every situation, that is not always the case. There are concerns that we fall short of this goal especially in regards to profiling, which undermines the public’s trust of the law, law enforcement, and law enforcement officers.

In February 2003, the Police Foundation and subcontractor Lamberth Consulting, LLC, concluded a study authorized by the 2000 Legislature to develop a system to collect and report statistics relating to race, ethnicity, sex, age and residency by county and state of those who came in contact with law enforcement activities, and to determine if Kansas law enforcement agencies engaged in racial profiling. The research concluded, “The results of this study demonstrated, by and large, that the State of Kansas is experiencing profiling of Hispanic and Black motorists. While evidence of this was not apparent in all jurisdictions, seven assessed agencies had evidence of at least one of these two groups being targeted by police in traffic stops. In three of the seven jurisdictions, evidence of profiling of both Hispanics and Blacks was present.”

It is interesting to note that our neighboring state of Missouri has also wrestled with the topic of profiling. The *Kansas City Star* reported on June 2, 2005, for Missouri that, “Statewide, the statistics showed that black motorists were 38 percent more likely than white drivers to be stopped. And after the stop, they were 71 percent more likely to be searched.” Even when there was no disparity in the number of stops in a specific locale, the *Star* reports that treatment after the stop often differs: “The state report found that black drivers or their property were searched more often (9 percent) compared with Hispanic drivers (6 percent) and white

drivers (2 percent). After a stop, black drivers were ticketed 79 percent of the time, compared with 87 percent for Hispanic drivers and 93 percent for white drivers.”

On a national level, the U.S. Department of Justice’s “Contacts Between Police and Public-Findings from the 2002 National Survey” reported that, “The likelihood of being stopped by police in 2002 did not differ significantly among white (8.7%), black (9.1%), and Hispanic (8.6%) drivers.” The survey, however, highlighted that treatment after the stop was often disparate, reporting that, “1. Black (10.2%) and Hispanic (11.4%) motorists stopped by police were more likely than whites (3.5%) to be physically searched or to have their vehicle searched. 2. Black (8.1%) and Hispanic (8.3%) motorists were more likely than white (2.5%) motorists to be subjected to a physical search of the driver. 3. Police were more likely to search a vehicle driven by a black (7.1%) or Hispanic (10.1%) than by a white (2.9%).” Although these differences may or may not be a result of profiling, they certainly raise concerns.

Last Legislative session, Kansas, through the efforts of Senator Donald Betts, Jr., Senator David Haley, this committee, the Legislature, and Governor Sebelius, once again lead the nation in the civil rights field by adopting Substitute for Senate Bill 77, which prohibits the use of racial and other profiling in conjunction with traffic stops. At the time of its passage, just 19 other states had legislation prohibiting racial profiling and/or requiring jurisdictions within the state to collect data on law enforcement stops and searches, and only five states provided for some type of complaint reporting mechanism. Kansas was the only state providing for the filing and investigation, if necessary, of racial and other profiling complaints with an independent agency, the Kansas Human Rights Commission.

Senate Bill 486 provides a unique opportunity for statewide leadership to address profiling concerns by establishing the Commission on Racial Profiling. The establishment of a Commission raises the state’s social consciousness of this subject. The bill’s duties also include a variety of topics that can best be addressed by the new Commission and, thereby, provide leadership to others.

Substitute for Senate Bill 77 provided for the appointment of a task force to design a uniform method for the collection of data. This task force has tackled the complicated issue of data collection, and submitted within their statutorily required recommendation a model for mandating data collection for traffic and other vehicle stops. If the Legislature and the Governor choose to proceed to the next step and mandate data collection of traffic stops statewide, decisions on the use of that data will be needed. Those decisions must be made with the authority and public trust that a commissioned body, such as the Commission on Racial Profiling, would provide.

Since the implementation of Substitute for Senate Bill 77 on July 1st, our contact with law enforcement agencies has been positive and we have found them eager to address the public’s concern about profiling. They understand that profiling, even the perception of profiling, detracts from the integrity of the individual, law enforcement, and society at large. Charles de Montesquieu, a French lawyer and philosopher, once said, “In the state of nature...all men are born equal, but they cannot continue in this equality. Society makes them lose it, and they recover it only by the protection of the law.” The act of profiling inherently makes persons unequal before the law by the very individuals who are supposed to uphold it. The Commission on Racial Profiling can provide a leadership role on this socially important issue, ensuring that Lady Justice remains blind to our race, ethnicity, national origin, gender and religious dress.

(11)

**Senate Federal & State Affairs Committee**

**SB 486**

**Testimony**

**Elias L. Garcia, Executive Director**

**Kansas Hispanic & Latino American Affairs Commission (KHLAAC)**

Mr. Chair and members of this committee, my name is Elias L. Garcia, Executive Director of the Kansas Hispanic & Latino American Affairs Commission (KHLAAC) and I thank you for the opportunity to add my voice in support of SB 486 a bill that enjoys a broad base of community support not only from the Hispanic & Latino Community, but also the African American community, the law enforcement community, and other Kansans who view this bill as a unique opportunity to take that next step in addressing one of the most pressing civil rights issues of our time – Racial profiling..

I will keep my remarks short and simply say that SB 486 is the next logical and progressive step in ensuring that the momentum that was started by the mandate of SB 77 the Racial Profiling Bill (a bill that was passed unanimously by this Chamber in '05) is maintained through SB 486 which authorizes a Racial Profiling Commission.

Ladies and Gentlemen, we all know what Racial Profiling is, it is the spontaneous reliance on race, gender, national origin or religious stereotypes as determining factors in law enforcement activities. We also know that the per the Department of Justice Guidance regarding the use of Race in Federal Law Enforcement Agencies, the practice of relying upon generalized stereotypes is absolutely forbidden. By definition, Racial Profiling is a form of disparate treatment and thus racial discrimination.

Further, we can all agree that racial profiling is one of the most disturbing and controversial issues confronting our society today. It is our position that racial profiling must not be condoned or otherwise tolerated within the ranks of public service and most certainly not within the ranks of law enforcement officers who are charged with protecting and serving the public.

We can also all agree, that when law enforcement officials focus on what people look like, where they come from, what religion they follow, or what they wear...it puts us all at risk. DWB has become a slogan that has special meaning to members of both the African American Community and the Hispanic and Latino community. Yet, with the reach of our national Home Land Security legislation, DWB has taken on even more significance to our Latino community as the ramifications of these national legislative initiatives have yet to be fully realized.

As one who participated in the work and outcomes of the Racial Profiling Advisory Committee this past year (authorized by SB 77), I will tell you that every respective member of this advisory committee deserves kudos for their time, input, effort and eventual product that was produced by this committee. Yet, I would suggest to you that there is still much work to be done. A Racial Profiling Commission only makes sense, as there is now a need for a body of this nature to be authorized to oversee the work that that is inherent in the recommendations that were submitted by the Racial Profiling Advisory Committee.

Honorable members of this Committee, last year when you unanimously passed SB 77 you recognized the importance of this issue and you wholeheartedly supported the formation of an advisory committee to come up with a plan for data collection that would shed insight into this Racial Profiling issue. Now that the plan is in place, we are once again calling upon you to support the next phase of these efforts to get a real handle on this issue and allow all our communities to partner and have input in activities that would preempt racial profiling in the state of Kansas. We encourage you to vote in support of SB 486 and thank for the opportunity to participate in these hearings.

8 . Feb . 06



# Kansas Sheriffs Association

P.O. Box 1853  
Salina, Kansas 67402-1853  
785-827-2222  
Fax 785-827-5215

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To: Senate Committee of Federal and State Affairs  
Re: SB486 Racial Profiling Commission

The Kansas Sheriff's Association comes forward in opposition of SB486. Kansas Law Enforcement Associations have worked diligently with legislators in an effort to resolve issues surrounding Racial Profiling in Kansas. We have worked in good faith to try and enact legislation that addressed the issue of Racial Profiling. After passage of legislation last year law enforcement agencies across this state worked with the Attorney Generals Office to create Racial Profiling policies, grievance procedures, officer training and a reporting system.

We do not believe that SB486, which creates a Racial Profiling Commission, is warranted or needed. We have not given the Racial Profiling legislation from last year enough time to come full circle.

This Commission would be acting as big brother and gives the appearance that local law enforcement agencies can not be trusted.

In reviewing the composition of the commission, law enforcement has minimal representation on the commission.

The commission further would be intruding into local policy that has traditionally been the responsibility of the local sheriff or Chief of Police.

Law enforcement agencies again have acted in good faith to comply with last years legislation concerning Racial Profiling and feel that by enacting SB486 the legislature would be acting prematurely in regards to a Racial Profiling Commission.



Randy L. Rogers  
Legislative Chair

**Senate Committee on Federal and State Affairs**  
**SB 486 Testimony**  
**Kansas Peace Officers Association**  
**Kyle Smith, Legislative Chairman**  
**February 8, 2006**

Chairman Brungardt and members of the committee,

The Kansas Peace Officers Association has and will continue to support all reasonable and necessary steps to stamp out racial profiling in the law enforcement community. However, we do not believe that the provisions of SB 486 have been shown to that at this time.

Last year SB 77, which was supported by the KPOA, among other provisions, set in place requirements that all complaints of racial profiling, and the resulting findings and consequences, be reported to the attorney general's office. The KPOA believes that those reports, after sufficient time has passed to collect statistically meaningful numbers, will be useful in determining the extent of racial profiling and the need for any additional legislation. Until then, the KPOA will continue to work with minority communities to establish standards, procedures and provide training to address this problem.

Thank you for your time and consideration.

14

**Senate Committee on Federal and State Affairs**  
**SB 486 Testimony by Mike Watson**  
**Kansas Association of Chiefs of Police**  
**February 8, 2006**

Chairman Brungardt and members of the committee,

Last year, the Kansas Association of Chiefs of Police (KACP) helped in the drafting of SB 77 and has since devoted significant time and effort to insure that our members and all members of Kansas law enforcement understand and comply with the provisions of Substitute SB77, the bill prohibiting racial profiling passed last year. We recognize the important issues involved, but also recognize that there are serious concerns that the racial profiling legislation passed last year was well intentioned yet unnecessary with inherent huge unfunded mandates and serious questions regarding effectiveness. We cannot however support SB 486 this year.

The KACP has worked with the Governor's Task Force on Racial Profiling, the Kansas Attorney General's Office, the Kansas Law Enforcement Training Center, the Kansas Highway Patrol, the Kansas Sheriff's Association and other organizations to assist in the development of racial profiling policies that define and prohibit racial profiling, mandate annual racial profiling training, set forth penalties for racial profiling, publicize procedures for receiving and investigating racial profiling complaints and mandate annual reporting of complaints to the Kansas Attorney General's Office.

We continue to work with the Kansas Law Enforcement Training Center and the Midwest Criminal Justice Institute at Wichita State University to develop model training courses and materials that can be distributed to all Kansas law enforcement agencies to provide the training as required in Substitute SB77.

We participated in the Governor's Task Force on Racial Profiling and shared the frustrations of the members who attempted to devise an efficient and effective method in which racial profiling might be identified and verified through the collection of traffic stop data. The Task Force was unable to devise an effective method to collect all of the data required in Substitute SB77 and was unable to establish or identify accurate benchmarking with which to analyze the data. We believe this is indicative of the issue: how do you attempt to prove what is in the heart and mind of a law enforcement officer through the compilation and analysis of statistics? Statistics are being gathered under SB 77 on the number of complaints and resolution but until we have sufficient data for valid analysis, SB 486 would seem at least premature and possibly unnecessary.

The Kansas Association of Chief's of Police cannot support SB 486 and its further unfunded mandates. We have and will continue to support all necessary actions to prohibit racial profiling.