

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 March 4, 2009, in Room 136-N of the Capitol.

All members were present.

Committee staff present:

Jason Long, Office of the Revisor of Statutes
Julian Efird, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Connie Burns, Committee Assistant

Conferees appearing before the Committee:

Senator Kelly Kultala,
Larry Noell, Leavenworth, Kansas
Charles Klebe, Assistant Attorney General, Concealed Carry Unit
Representative Raj Goyle,
Jack Fowler, Executive Director of Veteran Services, Kansas Commission on Veterans' Affairs
Ken Stodgell, Kansas Veterans of Foreign Wars
Representative Lee Tafanelli,
Wayne Bollig, Director of Veteran Services, Kansas Commission on Veterans' Affairs

Others attending:

See attached list.

HB 2308 - Personal and family protection act, military.

Chairman Brungardt opened the hearing on **HB 2308.**

Staff provided an overview of the bill.

Senator Kelly Kultala, provided testimony for Representative Melanie Meier in support of the bill. (Attachment 1) The bill would amend the Personal and Family Protection Act; and require the AG's office to assign a unique number for active duty military applicants who do not have a Kansas driver's license or Kansas identification card for use on their concealed carry license card.

Larry Noell, Leavenworth, Kansas, spoke in favor of the bill. (Attachment 2) Mr. Noell noted that in considering the bill, the Kansas conceal carry permit is not an identification card for federal purposes, but enables the Department of Revenue to issue KS CCH Permits without violating the REAL-ID Act of 2005. A copy of the front of a military identification card with a copy of military orders that assign them to a station in KS may be attached to their KS CCH application to verify their status.

Charles Klebe, Assistant Attorney General, Concealed Carry Unit, provided neutral testimony with changes that the Attorney General requested. (Attachment 3) Mr. Klebe stated the changes requested by the Attorney General are minor substantive changes and that the majority of the changes are purely of a "clean-up" nature.

Chairman Brungardt closed the hearing on **HB 2308.**

HB 2267 - Requires senate confirmation of KCVA appointees.

Chairman Brungardt opened the hearing on **HB 2267.**

Staff provided an overview of the bill.

Representative Raj Goyle spoke in favor of the bill. (Attachment 4) The bill simply requires that commissioners nominated by the Governor be confirmed by the Senate and that each commissioner be a veteran honorably discharged from the military.

CONTINUATION SHEET

Minutes of the Senate Federal And State Affairs Committee at 10:30 a.m. on March 4, 2009, in Room 136-N of the Capitol.

Jack Fowler, Executive Director of Veteran Services, Kansas Commission on Veterans' Affairs, appeared in favor of the bill. (Attachment 5) The bill would change the way Commissioners are appointed, and would require individuals to provide a copy of their DD Form 214 as evidence of their military service.

Ken Stodgell, Kansas Veterans of Foreign Wars, provided testimony in favor of the bill. (Attachment 6) Mr. Stodgell stated that the position is appointed by the Governor; and are simply asking for verification of the commissioner's eligibility, and believes that confirmation of eligibility is essential if veterans are to have confidence in the agencies policy makers.

Chairman Brungardt closed the hearing on **HB 2267**.

HB 2171 - Veterans; Vietnam war medallion program.

Chairman Brungardt opened the hearing on **HB 2171**.

Staff provided an overview of the bill and the fiscal note.

Representative Lee Tafanelli spoke in favor of the bill. (Attachment 7) The bill would create within the Kansas Commission on Veterans' Affairs (KCVA), the Vietnam War Era Medallion Program; and under the Medallion Program eligible veterans would receive a medallion, medal, and a certificate of appreciation.

Wayne Bollig, Director of Veteran Services, Kansas Commission on Veterans' Affairs, appeared in favor of the bill. (Attachment 8) In addition to providing recognition to Vietnam era veterans, a major benefit is the opportunity to develop a Vietnam veteran database.

Ken Stodgell, Kansas Veterans of Foreign Wars, spoke in favor of the bill. (Attachment 9) The opportunity to develop a Vietnam veteran data base; it is important that the KCVA contact these veterans to ensure they are aware of federal benefits that are available to them.

Chairman Brungardt closed the hearing on **HB 2171**.

HB 2085 - An act relating to the veterans claims assistance program; service grant eligibility requirements.

Chairman Brungardt opened the hearing on **HB 2085**.

Staff provided an overview of the bill.

Wayne Bollig, Director of Veteran Services, Kansas Commission on Veterans' Affairs, spoke in favor of the bill. (Attachment 10) The bill would make technical changes to KSA 73-1234 and 73-1235; the requested changes are to ensure the program can be operated in accordance with current state statutes; and our veteran service representatives have the best training available to them.

Chairman Brungardt closed the hearing on **HB 2085**.

SB 76 - Cereal malt beverages; alcohol content, regulation by ABC, retailers authorized to sell, taxation.
Staff provided a balloon for the committee to review and will work the bill March 5, 2009. (Attachment 11)

Final Action:

SB 223 - Emergency medical services board, authority to issue subpoenas.

Senator Reitz moved to pass SB 223 out favorably. Senator Francisco seconded the motion. The motion carried.

SB 224 - Emergency medical services board authorized to assess civil fines.

CONTINUATION SHEET

Minutes of the Senate Federal And State Affairs Committee at 10:30 a.m. on March 4, 2009, in Room 136-N of the Capitol.

The committee requested an amendment and the bill will be worked in the near future.

SB 262 - Emergency medical services attendants scope of practice and titles.

Senator Morris moved to pass SB 262 out favorably. Senator Faust-Goudeau seconded the motion. The motion carried.

HB 2068 - Real estate brokers and salespersons; licensure; deactivation.

Senator Reitz moved to pass HB 2068 out favorably. Senator Francisco seconded the motion. The motion carried. Senator Abrams requested to be recorded as a no vote.

Sub HB 2339 - Concerning certified public accounts, mobility, practice privilege, powers of the board of accountancy and peer review.

Senator Reitz moved to pass Sub HB 2339 out favorably. Senator Francisco seconded the motion. The motion carried.

The next meeting is scheduled for March 5, 2009. The meeting was adjourned at 11:51 am.

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HOUSE OF REPRESENTATIVES

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17 February 2009

MELANIE MEIER
40TH DISTRICT

Thank you Mr. Chairman and committee.

I am here today in support of HB 2308.

This bill is making a change to the current law necessitated by a change in federal guidance. All it does is require the Attorney General's office to assign a unique number for active duty military applicants who do not have a Kansas driver's license or Kansas identification card for use on their concealed carry license card.

Until 2007, when changes were made to Kansas law (KSA 8-1324(e) bringing Kansas into compliance with the Department of Homeland Security guidelines concerning personal identification), there was no problem. Active duty military personnel stationed in Kansas were able to go to the DMV office and register for a Kansas identification card. The identification card entered the military person into the state database and the number issued on the card was used for the license.

In 2007, the state of Kansas would no longer issue a Kansas identification card to an active duty military person unless they surrendered their driver's license from their military Home of Record.

Active duty military are allowed to keep their Home of Record driver's licenses under Kansas law (KSA 8-234a(a)(2)).

Kansas law also extends resident status to any active duty military person stationed in Kansas under official orders. This status is recognized by the Department of Revenue Division of Vehicles for issuance of Kansas license plates, the Department of Wildlife and Parks for the issuance of hunting and fishing licenses, and by the federal agencies that monitor and approve firearms transfers.

I would also like to point out that, through speaking to Attorney General Six and his office, I know that he is willing to work with the military to fix this problem in a more informal manner; however I am concerned with what may happen 10-20 years from now where there may be a change in policy.

Therefore, Mr. Chairman and Committee, I am asking you to pass favorably HB2308 and I will stand for any questions when appropriate.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Melanie Meier', written over a printed name.

Melanie Meier

Sen Fed & State

Attachment 1
3-04-09

Testimony to the Senate Committee on Federal and State Affairs
In support of House Bill 2308

March 4, 2009

By: Larry Noell,
27155 Tonganoxie Road
Leavenworth, KS 66048,
Daytime Phone (913) 684-2589

NRA Firearms Instructor
KS CCH Certification Instructor
26+ years Active Duty Military Service

House Bill 2308 addresses two issues that impact on the ability of Active Duty Military personnel stationed in KS to obtain a KS CCH permit. First is the linkage of the KS CCH permit to the existing KS driver's license or KS identification card, second is the express extension of resident status to Active Duty Military personnel stationed in KS.

The linkage of the KS CCH permit to a KS Driver's License or KS Identification Card was an administrative agreement in the fall of 2006 between the Department of Revenue (who has the physical ability to issue permits statewide) and the KS Attorney Generals Office (who has oversight and responsibility for the KS CCH program).

Many Active Duty Military personnel stationed in KS would like to obtain a KS CCH permit, and those that met the requirements and applied before mid-summer 2008 were able to do so. Until that time, Active Duty Military personnel stationed in KS were able to obtain a KS Identification Card to facilitate applying for a KS CCH permit.

The REAL-ID act of 2005 took effect in May of 2008, and, as interpreted by the KS Department of Revenue, prohibits Active Duty Military personnel stationed in KS from obtaining a KS ID card unless they surrender their home state driver's license. For some military personnel, surrendering a home state driver's license has dramatic impacts on the ability to vote in their home state and on individual taxes or earned dividends from their home state.

House bill 2308 ties the KS CCH permit to either a KS driver's license or KS identification card. Without specific consideration, this will prevent qualified and deserving Active Duty Military personnel stationed in KS from obtaining a KS CCH permit. Recognition that the KS CCH is not a form of identification for federal purposes as defined in the REAL-ID Act is key to a solution.

The KS CCH permit is not an identification card; it is proof of a permit or license. The REAL-ID Act specifically contains provisions to allow states to issue permits and licenses that do not constitute identification for federal purposes.

Active Duty Military personnel stationed in KS make notable contributions to their communities and the state as a whole. This body has recognized these contributions in the past by extending resident status to Active Duty Military personnel stationed in KS for select activities and licenses. Most well-known are:

- K.S.A. 32-980; extends resident status to Active Duty Military personnel stationed in Kansas for the issue of hunting and fishing licenses.

- K.S.A. 71-407; extends resident status to Active Duty Military personnel stationed in Kansas for the purpose of tuition at state colleges.

This recognition of resident status does not end with the state. In fact, Federal BATF&E regulations also recognize active duty military stationed in Kansas as residents for the purpose of firearms purchase and/or transfer.

In each of these instances, the military member simply provides a copy of the front of their military identification card and a copy of the orders that stationed them in KS.

SUMMARY: In considering House Bill 2308, I ask you to recognize and make note that the KS CCH permit is not an identification card for federal purposes, that it is in fact nothing more than a license or permit. This enables the Department of Revenue to physically issue the KS CCH Permits without violating the REAL-ID Act of 2005. I also strongly urge you to continue with existing precedents and extend resident status to Active Duty Military personnel stationed in KS for obtaining a KS CCH permit. A copy of the front of a military identification card with a copy of military orders that assign them to a station in KS may be attached to their KS CCH application to verify their status.



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

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March 4, 2009

Mr. Chairman and Members of Senate Federal & State Affairs Committee:

Adding to the changes Representative Myers proposed in HB 2308, the following are changes the Attorney General would like to see made to the Personal and Family Protection Act (KPFPA). There are minor substantive changes that we are seeking, but by and large the majority of the changes are purely of a "clean-up" nature.

To begin with, one of our substantive changes would be to require that all CCH licenses be issued on a separate card instead of giving the option to have it placed on the Driver's license or separate card. There have been many issues in having the notation on the DL, such as the DL is valid for 6 years and the CCH is valid for 4...therefore, when a person wants to renew their DL at a time other than when their CCH is also needing renewal, the DMV has required them to get approval through our office; to change a DL to a CDL; update personal information (not related to a CCH, e.g., height, weight, etc.). Essentially, the KDOR system is set up, so that any changes made to a DL will remove the CCH notation and they cannot put the notation back on the DL without CCH Unit authorization. This adjustment will be made in K.S.A. 75-7c03.

Second, with regard to licensing requirements each applicant must meet, we need to update 75-7c04(d). Subsection (d) was added last year when the Legislature wanted to allow individuals with expunged felonies (that have met certain time requirements) to be able to get a CCH. Unfortunately, we did not catch the fact that there are certain felonies, specifically person felonies, which are expungeable but the individual is still not allowed to lawfully possess a firearm. For example: Defendant is convicted of Aggravated Assault (21-3410, person felony) after pointing a handgun at another individual. This is an expungeable conviction after some time has passed, but, according to the Criminal Possession of a Firearm statute (21-4204), it is

unlawful, *inter alia*, for an individual to possess a firearm for the rest of their life if they were convicted of any person felony and were found in possession of a firearm at the time of the offense. The expungement statute (K.S.A. 21-4619(h)) also states that, even after expungement, all federal and state requirements regarding firearms possession must be complied with.

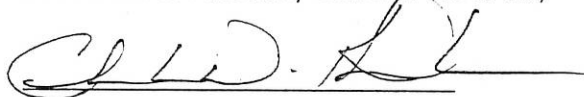
In essence, the issue currently with 75-7c04(d) is that a person who cannot possess a firearm under state law is "eligible" for CCH licensure. The Attorney General obviously would not license someone to carry a concealed firearm if they cannot lawfully possess a firearm; however, we would simply like to have this error corrected to solidify the Attorney General's actions should a future denial be necessary for a situation similar to the one proposed above. This omission is cured through the addition of language stating that the applicant, in addition to having the felony expunged, must also be otherwise compliant with state and federal laws regarding firearms possession.

Next, the CCH Unit would like to expand the number of instances where mental health could be considered a disqualifier. We have proposed amending 75-7c04 to include a time limited disqualifier for those who have attempted suicide within 5 years of application. We have also proposed language which mirrors the federal law's mental health disqualification language for those who have been "adjudicated as a mental defective" or "committed to a mental institution." The federal language can be found under 27 C.F.R. 478.11.

Finally, there were some simple statutory citations which need updating due to previous changes in the law. Quickly, when, in 2007, 75-7c04(a)(5) was added, it changed the subsection numbering for all 75-7c04 subsections which followed it. There were some references to 75-7c04 subsections found within other KPFPA statutes and those citations were not updated simultaneously. These updates can be found under K.S.A. 75-7c05 & 7c07.

Thank you for your time and attention and I would be happy to answer any questions you might have regarding the above sought changes.

On behalf of Attorney General Steve Six,



Charles W. Klebe

Assistant Attorney General

Concealed Carry Unit

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RAJ GOYLE
87TH DISTRICT

TESTIMONY IN SUPPORT OF HB 2267
SENATE FEDERAL AND STATE AFFAIRS
MARCH 4, 2009

Chairman Brungardt, Vice Chairman Reitz, and Committee Members:

Thank you for allowing me to testify in support of HB 2267, a bill that will strengthen the Kansas Commission on Veterans Affairs. The bill simply requires that commissioners nominated by the Governor be confirmed by the Senate and that each commissioner be a veteran honorably discharged from the military. The bill enjoys the support of the Commission and veterans groups including the VFW.

HB 2267 passed the House Committee on Veterans, Military, and Homeland Security without opposition before passing the House floor 119-0. I thank you for your time today and urge the Committee to pass HB 2267 favorably for passage.



Rep. Raj Goyle

Sen Fed & State

Attachment 4
3-04-09



KANSAS COMMISSION ON VETERANS' AFFAIRS



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Executive Director Jack Fowler

March 4, 2009

Testimony

Senate Committee: Federal and State Affairs

HB 2267 Commission Membership

My name is Jack Fowler, Executive Director of Veteran Services for the Kansas Commission on Veterans' Affairs. I would like to thank the Committee for allowing me to speak in support of this bill. HB 2267 makes two changes to the way Commissioners are appointed. The first change requires Senate confirmation for individuals selected to serve on the Commission. Senate confirmation will provide visibility to the position of Commissioner for the Kansas Commission on Veterans' Affairs. Individuals selected for these positions are volunteers dedicated to the mission of the KCVA. The other component of this bill requires individuals to provide a copy of their DD Form 214 as evidence of their military service. This has long been the policy of the KCVA for positions calling for a veteran. The State requires a DD Form 214 as evidence of eligibility for state benefits, for veterans preference and for positions as a Veterans Service Representative. Given the common use of this for to prove service in the Armed Forces we support this change to KSA 73-1208c.

Sen Fed & State

Attachment 5
3-04-09

Testimony on HB 2267

Kansas Commission on Veterans' Affairs (KCVA) membership

Mr. Chairman and members of the Federal and State Affairs committee my name is Ken Stodgell and I represent the Kansas Veteran of Foreign Wars (VFW). The VFW would like to thank the Committee for allowing us to speak in support of HB2267. We would like to take a few minutes to provide you some background on the bill and the reason we believe it necessary to support the bill. Since its inception in 1986, the KCVA has worked together with VFW and other service organizations. One of our greatest strengths is our ability to work together. Several years ago an individual was appointed who we were told did not meet the statutory requirements to hold a position on the commission. These positions are appointed by the Governor and we respect the governor's right to make these appointments. Because several veterans across the state questioned the qualifications of this commissioner, we believe it is our duty to bring this issue to the attention of the legislature. We simply asked the commission for verification of the commissioner's eligibility. This has never been done, in visiting with the Governor's office and with several legislators they thought senate confirmation for these positions was mandatory. We later found this was not the case, not only did the agency not have Senate confirmation in these key policy positions, however; the application process did not include any verification or proof of eligibility. The applicant simply filled out an application and submitted it to the Governor's office for consideration. We believe confirmation of eligibility is essential if veterans are to have confidence in the agencies policy makers. The state requires proof using a DD-214 for a license tag, for hunting and fishing license and also to apply for veteran's benefits. But for some reason proof of eligibility to be a member of the commission is not required. We believe given the mistakes made in the past that Senate confirmation and proof of eligibility are simply basic tenants of good government.

Thank you for giving us the opportunity to appear and we will stand for questions.

STATE OF KANSAS

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VISION 2020
VETERANS, MILITARY AND
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THE CAPITOL

Lee Tafanelli

Representative, Forty Seventh District

HB 2171

Testimony of Representative Lee Tafanelli to the

Senate Federal and State Affairs Committee

March 4, 2009

Chairman Brungardt and Members of the Committee,

It is my pleasure to appear before you in support of HB 2171, the Vietnam War Medallion Program.

A Vietnam era veteran is a person who:

1. Served on active duty for a period of more than 180 days, any part of which occurred between August 5, 1964 and May 7, 1975, and was discharged or released with other than a dishonorable discharge.
2. Was discharged or released from active duty for a service connected disability if any part of such active duty was performed between August 5, 1964 and May 7, 1975.
3. Served on active duty for more than 180 days and served in the Republic of Vietnam between February 28, 1961 and May 7, 1975.

For over 30 years many Vietnam Veterans seldom spoke of Vietnam, except with other veterans, when training soldiers, and in public speeches. However, over the years a number of states like New York, Oregon, New Jersey, Missouri, Louisiana and others have come to believe it is high time the service of these individuals receive the recognition they were not afforded upon their return. I would like Kansas to be among the states that recognize those who served during the Vietnam War. There were over 900,000 Kansans that served on active duty during the official Vietnam era from August 5, 1964 to May 7, 1975. These Vietnam Veterans represented 9.7% of their generation. Nationwide, 240 men were awarded the Medal of Honor. With the addition of 4 names to the Vietnam Veterans Memorial Wall in May of 2008, 58,260 were killed in Vietnam, some 75,000 were severely

disabled with 5,283 who lost limbs and 1,081 who sustained multiple amputations. Most of the young men and women killed in this war including here in Kansas were younger than 21 years of age at the time of their death with over 11,000 being younger than 20 years old.

These are men and women of dedication and honor, 97% of whom were honorably discharged. 91% say they are glad they served and 74% say they would serve again, even knowing the outcome.

In previous wars veterans were recognized with war bonuses, parades, accolades and honors. Kansas has long been a strong supporter of our military—that is why I am supporting this bill. Of the over 900,000 who served, US Census figures show there are only about 87,000 left. We often refer to our World War Veterans as our greatest generation; sadly we refer to Vietnam Veterans as the forgotten generation. That is why I hope Kansas will step forward and join a number of other states that recognize not just the sacrifices of this generation, but their contributions to Kansas and the Country. I don't believe \$5.04 for each program participant is too much to say thank you. Your life and sacrifices are recognized. Of the over 900,000 who served, US Census figures show there are only about 87,000 left. According to the USDVA Kansas currently has approximately 10,800 Vietnam Veterans receiving benefits. Current projections show that a minimum of 26,250 Vietnam Veterans are eligible for health care and possibly additional disability compensation. If these veterans were identified and assisted there would be an additional 15,500 veterans receiving benefits. Based on the Kansas average rate per veteran of \$2,884 the flow of federal dollars into Kansas in the form of benefits would be increased by an estimate of over 44 million dollars annually.



KANSAS COMMISSION ON VETERANS' AFFAIRS



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Executive Director Jack Fowler

March 4, 2009

Testimony

Senate Committee: Federal and State Affairs

HB 2171 Vietnam War Medallion Program.

My name is Wayne Bollig, Director of Veteran Services for the Kansas Commission on Veterans' Affairs. I would like to thank the Committee for allowing me to speak in support of this bill. (A number of states, including Missouri, have had medallion programs for a number of years.) As the director of Veteran Services, I have received a number of calls and e-mails referencing the Missouri program and asking if there is a similar program in Kansas. In addition to providing recognition to Vietnam era veterans, a major benefit of the bill is the opportunity to develop a Vietnam veteran database. If the program is initiated, the database will be an invaluable tool assisting the KCVA in reaching these veterans. If implemented, the state will see an expanded number of veterans receiving benefits and an increase of benefits to support a struggling Kansas economy.

Sen Fed & State

Attachment 8
3-04-09

Testimony on HB 2171
Vietnam War Medallion

Mr. Chairman and members of the Federal and State Affairs committee my name is Ken Stodgell and I represent the Kansas Veteran of Foreign Wars (VFW). The VFW would like to thank the Committee for allowing us to speak in support of HB2171. We have concerns about the current budget and potential cuts to veterans programs. We must be reminded that Missouri and other states have similar programs that have been a success for several years. The major benefit of the bill as it is written is the opportunity to develop a Vietnam veteran data base. We believe that if the program is initiated this database will be invaluable. It is important that the KCVA contact these veterans to insure they are aware of federal benefits available to them. We believe this bill can be an essential outreach tool for the KCVA. If passed it must contain language to mandate the KCVA to make contact with these veterans, and outline potential benefits and assist those who need help in applying for benefits. If properly implemented the state will see an expanded number of veterans receiving benefits and an increase of benefits to support a struggling Kansas economy.

Thank you for giving us the opportunity to appear and we will stand for questions.



KANSAS COMMISSION ON VETERANS' AFFAIRS



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Executive Director Jack Fowler

March 4, 2009

Testimony

Senate Committee: Federal and State Affairs

HB 2085: Technical changes to the Veterans' Claims Assistance program.

My name is Wayne Bollig, Director of Veteran Services for the Kansas Commission on Veterans' Affairs. I would like to thank the Committee for allowing me to speak in support of this bill. This bill makes several technical changes to K.S.A. 73-1234 and 73-1235. The changes are requested to ensure the program can be operated in accordance with current state statutes. Changes included on page 2, line 22 and 23, adds the language "who are veterans and who work in the veteran services program. This was added since not all employees of the KCVA are veterans and meet the eligibility to be cross accredited. Changes to lines 26 through 31 allow the Veterans' Claims Assistance Program to use training other than the National Association of County Veteran Service officers. A number of service organizations offer comparable or superior training. The Kansas Commission on Veterans' Affairs wants to ensure our veteran service representatives have the best training available to them. In addition, this ties us to a training that may or may not be available in the future. The other major change is on page 4, lines 16 through 19. This change is actually in line with how the Veterans Claims Assistance Advisory Board now operates. Currently, there are only two members representing veterans' service

organizations since there are only two participants in the grant program. The change would allow the number of service organization representatives to be reflective of participation on the board as was originally intended.

SENATE BILL No. 76

By Committee on Federal and State Affairs

1-22

Senate Federal and State Affairs
Balloon #2

Sen Fed & State
Attachment II
3-04-09

9 AN ACT concerning alcoholic beverages; amending K.S.A. 41-210, 41-
10 211, 41-304, 41-307, 41-308, 41-601, 41-602, 41-701, 41-708, 41-717,
11 41-718, 41-724, 41-725, 41-726, 41-729, 41-806, 41-901, 41-905, 41-
12 1001, 41-1002, 41-1004, 41-1101, 41-1102, 41-1122, 41-1123, 41-1125,
13 41-2604, 41-2610, 41-2614, 41-2632, 41-2637, 41-2641, 41-2642, 41-
14 2643, 41-2705, 41-2706, 41-2707, 41-2709, 41-2722, 41-2726, 79-4101,
15 79-4102, 79-4103, 79-4104, 79-41a01, 79-41a02, 79-41a04, 79-41a06,
16 79-41a07 and 79-41a08 and K.S.A. 2008 Supp. 41-102, 41-104, 41-209,
17 41-308b, 41-712, 41-805, 41-2611, 41-2645, 41-2701, 41-2704, 41-
18 2728, 79-3606, 79-4108 and 79-41a03 and repealing the existing sec-
19 tions; also repealing K.S.A. 41-403 and 41-2712 and K.S.A. 2008 Supp.
20 41-2702, 41-2703 and 41-2708.

21

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

23 Section 1. K.S.A. 2008 Supp. 41-102 is hereby amended to read as
24 follows: 41-102. As used in ~~this~~ *the Kansas liquor control* act, unless the
25 context clearly requires otherwise:

26 (a) (1) "Alcohol" means the product of distillation of any fermented
27 liquid, whether rectified or diluted, whatever its origin, and includes syn-
28 thetic ethyl alcohol ~~but does not include~~.

29 (2) "Alcohol" *does not mean* denatured alcohol or wood alcohol.

30 (b) (1) "Alcoholic liquor" means alcohol, spirits, wine, beer and every
31 liquid or solid, patented or not, containing alcohol, spirits, wine or beer
32 and capable of being consumed as a beverage by a human being, ~~but shall~~
33 ~~not include~~.

34 (2) "Alcoholic liquor" *does not mean* any cereal malt beverage.

35 (c) "Beer" means a beverage, containing more than ~~3.2%~~ 4% alcohol
36 by weight, obtained by alcoholic fermentation of an infusion or concoction
37 of barley, or other grain, malt and hops in water and includes beer, ale,
38 stout, lager beer, porter and similar beverages having such alcoholic
39 content.

40 (d) "Caterer" has the meaning provided by K.S.A. 41-2601, and
41 amendments thereto.

42 (e) "Cereal malt beverage" has the meaning provided by K.S.A. 41-
43 2701, and amendments thereto.

1 (e) The license year for a cereal malt beverage retailer's license shall
2 commence on the date the license is issued by the director and shall end
3 one year after that date.

4 (f) Any person who was licensed on the date immediately preceding
5 the effective date of this act to sell cereal malt beverage, as such term
6 was defined in K.S.A. 2008 Supp. 41-2701 prior to its amendment by this
7 act, shall be deemed a licensed cereal malt beverage retailer for a period
8 of ~~90~~ days after the effective date of this act. Thereafter, such person
9 must be licensed by the director as provided in this act, in order to operate
10 as a cereal malt beverage retailer.

180

and in rules and regulations adopted by the secretary regarding the time for filing an application by such person

11 (g) This section shall be a part of and supplemental to the Kansas
12 cereal malt beverage act.

13 New Sec. 47. (a) When an application for a license or renewal of a
14 license to sell cereal malt beverage is filed with the director, the director
15 shall notify the governing body of the city or county where the premises
16 to be licensed are located, if such governing body has requested such
17 notification. No such license shall be issued by the director until the
18 expiration of at least 10 days from the time of filing such application with
19 the director, during which period the governing body of such city or
20 county may request the director to hold a hearing on the granting or
21 renewal of such license. The hearing on the application shall be conducted
22 in accordance with the provisions of the Kansas administrative procedure
23 act.

24 (b) At such hearing the governing body of such city or county shall
25 have the right to appear before the director and present testimony and
26 evidence and make recommendations regarding the granting of such li-
27 cense or the renewal of such license. In determining whether to grant or
28 to refuse to grant such license or renewal, the director shall take into
29 consideration the testimony and evidence and recommendations of the
30 governing body of such city or county. The director may refuse to grant
31 such license or renewal based on the evidence gathered at such hearing.

32 (c) Within 30 days after an application for a license to sell cereal malt
33 beverage is filed, the director shall enter an order either refusing or grant-
34 ing the license. If the director does not enter an order within the time
35 prescribed, the license applied for shall be deemed to have been refused.
36 The director, with the written consent of the applicant for a license, may
37 delay entering an order on an application for an additional period of not
38 to exceed 30 days.

39 (d) Proceedings for the suspension, revocation or refusal to grant or
40 renew a license to sell cereal malt beverage, including the proceedings
41 for administrative appeal and judicial review, shall be in substantial con-
42 formity with the proceedings set forth in the Kansas liquor control act for
43 the suspension, revocation or refusal to grant or renew a liquor retailer's

1 quires. The person making the return shall, at the time of making the
 2 return, pay to the director of taxation the amount of tax imposed by K.S.A.
 3 79-4101, and amendments thereto. The director of taxation may extend
 4 the time for making returns and paying the tax for any period not to
 5 exceed 60 days, under rules and regulations adopted by the secretary of
 6 revenue.

7 Sec. 63. K.S.A. 79-4104 is hereby amended to read as follows: 79-
 8 4104. Whenever the director of alcoholic beverage control issues a *liquor*
 9 *retailer's, cereal malt beverage* retailer's, distributor's, microbrewery or
 10 farm winery license, the director of alcoholic beverage control shall
 11 promptly notify the director of taxation of its issuance. The notice shall
 12 include the name of the licensee and, in the case of a *liquor retailer,*
 13 *cereal malt beverage* retailer, microbrewery or farm winery, the address
 14 of the licensed premises. Whenever the director of alcoholic beverage
 15 control revokes or suspends any *liquor retailer's, cereal malt beverage*
 16 *retailer's, distributor's, microbrewery or farm winery* license or whenever
 17 any *liquor retailer's, cereal malt beverage* retailer's, distributor's, micro-
 18 brewery or farm winery license expires, the director of alcoholic beverage
 19 control shall likewise notify the director of taxation.

20 Sec. 64. K.S.A. 2008 Supp. 79-4108 is hereby amended to read as
 21 follows: 79-4108. All revenue collected or received by the director of
 22 taxation from taxes imposed by K.S.A. 79-4101 to 79-4105, and amend-
 23 ments thereto, shall be remitted to the state treasurer in accordance with
 24 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt
 25 of each such remittance, the state treasurer shall deposit the entire
 26 amount in the state treasury to the credit of the state general fund, *except*
 27 *that 25% of the revenue collected and received from cereal malt beverage*
 28 *retailers shall be credited to the local cereal malt beverage* ~~enforcement~~ revenue
 29 *fund, which is hereby created in the state treasury. Moneys credited to*
 30 *the local cereal malt beverage* ~~enforcement~~ revenue *fund shall be distributed quar-*
 31 *terly on January 15, April 15, July 15 and October 15 of each year to the*
 32 *various cities and counties in the proportion that taxpayers under the*
 33 *Kansas retailers' sales tax act in such cities and counties collected and*
 34 *remitted to the director of taxation in the preceding calendar quarter*
 35 *revenues under the Kansas retailers' sales tax act.* ~~Moneys received by~~
 36 ~~cities and counties pursuant to this section shall be used solely for the~~
 37 ~~purpose of enforcing the provisions of the Kansas cereal malt beverage~~
 38 ~~act.~~ ~~All expenditures for distributions from the local cereal malt beverage~~
 39 ~~enforcement~~ revenue *fund shall be made in accordance with appropriations acts*
 40 *upon warrants of the director of accounts and reports issued pursuant to*
 41 *vouchers approved by the director of taxation. The state treasurer shall*
 42 *transfer any moneys remaining in the county and city alcoholic liquor*
 43 *control enforcement fund on the effective date of this act to the state*