

## MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 8:30 a.m. on February 17, 2006, in Room 423-S of the Capitol.

All members were present.

## Committee staff present:

Raney Gilliland, Kansas Legislative Research Department  
Lisa Montgomery, Revisor of Statutes Office  
Judy Holliday, Committee Secretary

## Conferees appearing before the Committee:

Christopher Tymeson, Chief Legal Counsel, Kansas Wildlife & Parks  
Dan Heskett, Kansas Wildlife & Parks  
Ron Hammerschmidt, Kansas Department of Health and Environment

## Others attending:

See attached list.

Chairperson McGinn told the Committee they would be working on **SB 417, Imposing certain requirements for boating**. She asked Christopher Tymeson, Kansas Department of Wildlife and Parks, to answer questions and provide clarification required by the Committee.

A motion was made and seconded to clarify the language on page 5, line 36 of the bill. The motion carried.

Senator Taddiken questioned the lighting provision and asked if it applied to older boats, and Mr. Tymeson replied that it did. With regard to the restriction for skiing between the hours of one-hour before sunrise to one-hour after sunset, Senator Taddiken made a motion to amend the provision to read, "one-half hour before sunrise to one-half hour after sunset." Senator Ostmeyer seconded the motion, and the motion carried.

There was considerable discussion on the skier down flag issue which currently is required in thirteen states. Senator McGinn asked how information on the flags would get out to the people, and Mr. Tymeson stated that it would be sent out with boating registrations. Senator Pyle stated that he felt the flag would be a distraction to other boaters. Senator Ostmeyer told the Committee that some boaters already use skier down flags, and wondered if those who have already bought flags would have to change them to another size. Mr. Tymeson told the Committee they would not. Senator Taddiken told the Committee that he had observed people using the skier down flags and they got some attention, but there were some skiers and boaters who do not pay any attention to them. Senator Bruce asked if the flags made any difference in other states, but with little statistical data to support changes, there was no consensus of the Committee to recommend changes.

Senator Ostmeyer made a motion, seconded by Senator Teichman, to amend the terminology from "vessel" to "motorboat." The motion carried.

With regard to fines assessed which would go to the Boating Fee Fund, Senator Huelskamp asked how much money it would generate, and Mr. Tymeson responded that approximately \$30,000 would be realized based on the number of tickets written. Mr. Heskett with Wildlife and Parks responded that the Department went back five years, recorded court action in a database, and based its findings on a five-year average.

Senator Teichman made a motion, seconded by Senator Ostmeyer, to recommend the bill as amended. The motion carried.

Chairperson McGinn opened the hearing on **SB 453, Environmental laws; compliance audit privilege; immunity; lesser penalties for violations**. She recognized Ron Hammerschmidt, Kansas Department of Health and Environment, who commented that he and staff members were available for questions as necessary during the hearing.

Chairperson McGinn told the Committee the bill was moved from Judiciary, and that Senator Bruce would handle the legal issues involved in the environmental audits. Senator Bruce stated he reviewed the bill and

CONTINUATION SHEET

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asked the reasoning for having the audit privilege legislation when there are so many exceptions, and he did not consider it a privilege.

Dr. Hammerschmidt stated that he would encourage people to audit and that there were protections from third parties while in the audit process. Senator Bruce asked how anyone would be protected when the audit is a list of violations that can be used against them? He stated that public policy should encourage people to fix their own problems rather than get the State involved. Dr. Hammerschmidt replied that when someone brings an audit to them and they have fixed the problems, the information is given back to them and not retained by KDHE. Senator Bruce asked about EPA involvement, and Dr. Hammerschmidt stated that they had two drinking water regulations adopted that they sent to EPA for approval, EPA denied approval and will not recognize the changes to allow KDHE to proceed. Senator Bruce noted that EPA does not have authority over Kansas State law, but apparently it has become a monetary issue.

Senator Huelskamp noted a provision in the bill which addresses witnesses. Dr. Hammerschmidt told the Committee this is one of EPA's provisions relating to whistle blower situations, apart from federal witness protection laws. EPA is requesting that the current law remove the privilege for criminal prosecutions, and the Revisor of Statutes recommended removing the reference as a cleanup to the bill.

Chairperson McGinn called the Committee's attention to an amendment to the bill offered by Barb Hinton from Legislative Post Audit. This amendment would insert language permitting the Division of Post Audit to have access during an audit approved by Legislative Post Audit Committee of all environmental audit report documents in the custody of the governmental agency.

Senator Francisco stated that an amendment needed to be added to ensure that documents involved in an environmental audit should not be retained. Senator Bruce asked if someone from Post Audit could answer the question, if someone did a self-audit would that information be accessible through the Open Records Act? Staff answered that the Post Audit Act states that any records in its possession would be subject to the same confidentiality requirements.

Senator Bruce stated we could accommodate Post Audit and put in their amendment, but in his opinion we could do away with the self-auditing system. He stated that KDHE was put in this situation by 'Big Brother' so it was not a reflection on them, and they were doing a good job.

Senator Taddiken made a motion, seconded by Senator Bruce, to adopt the amendment by Post Audit. The motion carried. A motion was made by Senator Bruce, seconded by Senator Ostmeyer, to also insert language returning these documents to their custodian. The motion carried.

Senator Francisco made a motion, seconded by Senator Teichman, to pass the bill out of Committee as amended. The motion carried.

Chairperson McGinn advised the Committee that they would be meeting on Monday morning at 8:30 a.m. in 423-S to work **SB 459, If a person owes arrearages on child support, Secretary of Wildlife & Parks not issue license, permit, stamp or tag to person**; and to have a hearing on **SB 526, Concerning sales of over-the-counter deer tags.**

With no further discussion to come before the Committee, the meeting adjourned at 9:25 a.m.