

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairman Jim Barnett at 1:30 p.m. on February 3, 2009, in Room 136-N of the Capitol.

All members were present.

Committee staff present:

Nobuko Folmsbee, Office of the Revisor of Statutes
Doug Taylor, Office of the Revisor of Statutes
Kelly Navinsky-Wenzl, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Jan Lunn, Committee Assistant

Others attending:

See attached list.

Senator Barnett called attention to the fact that testimony from Ron Hein (Attachment 1), Curt Dibel (Attachment 2), and clarification from Susan Homan (Attachment 3) is attached to committee members' folders, and therefore, becomes part of this permanent record. This clarified testimony was heard from opponents to **SB 25** on January 29, 2009.

SB 102 - Emergency medical services; use of automated external defibrillator.

Chairman Barnett opened the discussion on **SB 102** - Emergency medical services; use of automated external defibrillator, and recognized Nobuko Folmsbee, revisor of statutes office, who presented a balloon amendment which would delete the definition and requirement that only a "qualified person" may use an automated external defibrillator, and any person using an automated external defibrillator in good faith to render emergency care or treatment would be held harmless from any civil damages. The bill further removes the word "gratuitously" as one of the conditions under which a person can provide emergency medical care or treatment and be held harmless from any civil damages resulting from care or treatment. Senator Brungardt moved to adopt the amendment as presented; Senator Pilcher-Cook seconded the motion. The motion passed.

Upon a motion by Senator Wysong to favorably move out **SB 102**, as amended, and a second by Senator Kelsey, the motion passed.

SB 25 - State-wide prohibition on smoking in indoor public areas

Senator Wysong indicated while **SB 25** has usually been referred to as "the smoking ban," the heart of the bill is public health protection, therefore, upon a motion by Senator Wysong to title the bill "An Act creating the Kansas indoor clean air act," and a second by Senator Kelly, the motion passed with eight senators voting yes and one senator voting no.

Senator Pilcher-Cook moved a substitute to **SB 25** and amended to include contents of **SB 81**. The motion failed due to lack of a second.

Senators discussed testimony received from those conferees appearing in opposition and in favor of **SB 25**. Specifically, the bill currently exempts tobacco shops operated primarily for the retail sale of tobacco, tobacco products or smoking devices or accessories where not less than 80% of its gross receipts are from the sale of tobacco. Senator Kelly moved to amend the percentage of gross receipts on page 3, line 27 from 80% to 65%; Senator Wysong seconded the motion. The motion passed.

Discussion was also heard relative to the civil fines and penalties for anyone who owns, manages, operates or controls the use of areas or public places where smoking is prohibited. Senator Barnett recognized Jason Long, revisor of statutes office, to discuss infractions. Mr. Long recommended that an amendment be made to clarify what the owner, manager, operator must do to avoid liability and defined acquiescence to smoking under totality of circumstances which provides enhanced discretionary control to law enforcement/prosecutors to better determine whether the law was violated. Senator Kelsey moved to amend line 29 on page 5 by deleting the word "or" and inserting the word "and" in its place. Senator Colyer seconded the motion which passed.

CONTINUATION SHEET

Minutes of the Senate Public Health And Welfare Committee at 1:30 p.m. on February 3, 2009, in Room 136-N of the Capitol.

Senators discussed the effective date of the proposed legislation which is from the date of its publication in the statute book. Discussion focused on allowing businesses additional time to shift marketing approaches. Senator Kelly moved to amend the effective date of SB 25 to January 2, 2010. Senator Wysong seconded the motion; the motion passed.

Discussion was heard regarding the definition of “access point” for buildings and facilities in existing construction as within a 10-foot radius and in new construction as within a 15-foot radius of any doorway, operable window, or air intake. Senator Schmidt moved to amend SB 25 to reflect that the radius for both new and existing construction will be a 10 foot radius within any doorway, operable window or air intake leading into a building or facility that is not exempted, and to technically amend the bill to reflect an alphabetical listing for definitions. Senator Brungardt seconded the motion; the motion was passed.

Senator Kelly moved to recommend SB 25, as amended, favorable for passage; Senator Colyer seconded the motion. The motion carried with eight senators voting in favor and one senator voting in opposition to the motion.

Senator Barnett adjourned the meeting at 2:09pm.

The next meeting is scheduled for February 4, 2009.