

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE.

The meeting was called to order by Chairperson Senator Nancey Harrington at 10:30 a.m. on March 6, 2001 in Room 245-N of the Capitol.

All members were present.

Committee staff present: Russell Mills, Legislative Research Department  
Dennis Hodgins, Legislative Research Department  
Theresa Kiernan, Office of the Revisor  
Nikki Kraus, Committee Secretary

Conferees appearing before the committee: Bill Ogg, Kansas State Fair Association  
Joe Cheesman, Cheesman's Rides  
David Garrett, Haas and Wolkerson Insurance  
Terry Humphrey, Kansas Trial Lawyers Association

Others attending: See Attached List

Chairman Harrington asked the committee to note a memorandum provided by Theresa Kiernan, Office of the Revisor of Statutes, which addressed "Home Rules Powers". (Attachment 1).

Chairman Harrington opened the hearing on:

**HB 2120—Inspection and regulation of amusement park rides**

Chairman Harrington recognized Bill Ogg, Kansas State Fair Association, who presented testimony in favor of the bill. (Attachment 2).

Joe Cheesman, Cheesman's Rides, presented testimony in opposition to the bill. (Attachment 3).

David Garrett, Haas and Wolkerson Insurance, presented testimony in favor of the bill. (Attachment 4).

Chairman Harrington asked the committee to note written testimony submitted by Robert Johnson, Outdoor Amusement Business Association, in opposition to the bill. (Attachment 5).

Terry Humphrey, Executive Director, Kansas Trial Lawyers Association, presented testimony in favor of the bill as amended. (Attachment 6).

Senator Gooch asked Ms. Humphrey if her association supported the bill as it was currently written, although there were no state funds set for inspections. Ms. Humphrey stated that yes, the Kansas Trial Lawyers Association supported it. She stated that there were no annual inspections now, but the bill in its amended form required them.

Senator Gooch stated that he was interested in what the qualifications were for an inspector, and Ms. Humphrey stated that she thought that there were industry and insurance standards.

Senator Barnett asked what the requirements were for inspections, and Mr. Garrett stated that with the training of the individuals and the particular requirements which his insurance group provides the inspectors, they are able to go out in the field and satisfy the company.

Following further discussion with Senator Brungardt, Mr. Garrett stated that the legislation was not redundant because not all insurance companies did inspections or were as strict in their requirements or standards for inspection of equipment.

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In response to a question from Senator Vratil, Mr. Garrett confirmed that death was covered under insurance for bodily injury.

Chairman Harrington stated that Senator Clark had said that not-for-profit organizations were not included in the bill, and Ms. Kiernan agreed. Ms. Kiernan also stated that this bill repealed a portion of a bill passed last year by making inspection requirements broader.

In response to a question from Senator Barnett regarding a class D misdemeanor charge referenced in the bill, Ms. Kiernan stated that the maximum penalty was up to a one thousand dollar fine and six months in jail.

Senator Barnett stated that he would like to know why the State Fair Manager had been selected to control this issue instead of the Agricultural Department. Mr. Ogg stated that it was apparent in the House subcommittee that some kind of repository was necessary to keep records, and the State Fair Manager volunteered to act in that manor.

Chairman Harrington made reference to Mr. Ogg's testimony and stated that it had indicated that his organization was not in a position to take on liability or an enforcement role.

Senator Teichman stated that there might be a conflict of interest with the State Fair Manager maintaining such records, and Mr. Ogg stated that there was absolutely no conflict because they required their carnival provider to meet all of the provisions that are already in the law. Mr. Ogg stated that it would be no problem to keep those files.

Chairman Harrington asked Mr. Ogg how this information would be provided to the public and those who might inquire; Mr. Ogg responded that there was no provision to require carnival providers to register, so that type of bill would be publicized through legislation.

Mr. Cheesman stated that there had not been a carnival ride accident in Kansas for twenty years.

Senator Teichman asked Mr. Ogg what the cost would be to the State Fair to maintain the files. Mr. Ogg stated that he felt that the cost would be minimal and that he was willing to make that investment for the best interests of the people of Kansas. He stated that he was concerned that eventually there would be an incident which would spark legislation after the fact which would be extreme and fueled by emotion, and he would rather create preventative legislation now based on reason.

Senator Brungardt stated that as a member of the public interested in whether or not inspections were up to date on a carnival, he would probably call the state, not the State Fair. Linda DeCoursey, Kansas Insurance Department, stated that her organization regulated insurance companies, so, in agreement with statements from Senator Brungardt, it would then not make sense for her department to maintain records. Senator Barnett stated that he would not have any objection to having a state inspector, and Chairman Harrington stated that the committee was not working the bill at the moment, but he could bring that point up at another time.

Senator O'Connor recalled that Mr. Cheesman had stated that Kansas has no inspectors, and she was interested in how much the inspections were going to cost, and who was going to pay for them. Mr. Garnett stated that there are approximately 25 inspectors in Kansas which hold the qualifications in the bill. He stated that many carnivals have people with these qualifications on call and that there are enough inspectors in the state to meet the needs of Kansas. He stated that other states's inspectors were often sent to be trained by those in Kansas. Mr. Garrett stated that his clients were in favor of additional inspections because they felt it was good for the industry.

In response to a questions from Senator Gooch, Mr. Garrett stated that there were two major organizations which certified inspectors: The National Association of Amusement Safety Rides Inspection and the Amusement Industry Factory and Supplies.

Chairman Harrington instructed the committee to note written testimony submitted by Representative Tom

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Sloan in support of the bill. (Attachment 7).

Chairman Harrington opened the hearing on:

**SB 152—Regulation of Alcoholic Beverages**

Senator Brungardt then read and explained the subcommittee report to the committee. (Attachment 8).

Philip Bradley, Kansas Licensed Beverage Association, stated that his organization was interested in a change in the bond issue, but that his organization was waiting for a change in regulation language. He stated that the Secretary of Revenue had spoken with him and committed to a regulation change which made his request for an amendment unnecessary.

Senator Brungardt continued to explain the subcommittee report. Senator Vratil stated that he was concerned with the Glazure lawsuit currently undergoing litigation which concerned the ten-year residency requirement in the Liquor Control Act. He stated that the Governor suggested that the Senate might want to consider changing the requirement to one year; that would get rid of the litigation and save the State Attorney General's Office the need to pursue an appeal. He stated that it would also give the Legislature the ability to retain a residency requirement whereas if the appeal goes through the court and fails, the state would have none whatsoever. He stated that this may be the state's only opportunity to retain such a requirement.

Chairman Harrington stated that the Attorney General's Office had already filed for the appeal. She stated that the Governor's Office could provide information and the committee would address that.

In response to a question from Senator Gooch, Mr. Longino stated that the spouse of a license applicant had to meet the initial qualifications to get the license. He stated that the law was changed fifteen years ago and that the loophole needed to be closed in the bill so that a license could not be transferred to a spouse between the time that the license holder is charged with a felony and the time that he or she is convicted.

In response to a question from Senator Brungardt, Mr. Longino stated that current law in Kansas only allows for background checks on Kansas residents. Rebecca Rice, Kansas Beer Wholesalers Association, stated that the requirement for Kansas residency gave Kansas many rights, including the ability to sue for damages without having to chase a company to another state.

Chairman Harrington stated that Kansas requires background checks and has residency issues for licensing, and that she did not think that it was unreasonable to expect a background check on out-of-state companies who want to come into Kansas.

In response to a question from Senator Vratil, Mr. Longino stated that his department could not do background checks on non-Kansas residents, but that other state agencies did have that ability.

Senator Barnett stated that he would like a statement from the Attorney General's Office regarding the Glazure lawsuit. Theresa Kiernan stated that there is a requirement for residency for out of state companies. Ms. Rice stated that the bill was really close to what the industry and the director of the agency wanted.

Chairman Harrington stated that about a week ago, every member of the committee had been provided a copy of the Glazure lawsuit which Senator Vratil had referenced. Chairman Harrington stated that the committee would request a letter from the Attorney General's Office. She stated that the subcommittee had done a very good job.

Senator Gilstrap moved to introduce a bill concerning legal publications. Senator Brungardt seconded the motion. The bill was introduced.

The meeting was adjourned at 11:37 a.m. The next meeting is scheduled for 10:30 a.m. on March 7, 2001.