

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:34 A.M. on January 17, 2007, in Room 123-S of the Capitol.

All members were present except:

Terry Bruce arrived, 9:38 A.M.  
Donald Betts arrived, 9:40 A.M.  
David Haley arrived, 9:47 A.M.  
Les Donovan, excused

Committee staff present:

Athena Anadaya, Kansas Legislative Research Department  
Bruce Kinzie, Office of Revisor of Statutes  
Noboko Folmsbee, Office of Revisor of Statutes  
Karen Clowers, Committee Assistant

Conferees appearing before the committee:

Kyle Smith, Deputy Director, KBI  
Karen Arnold-Berger, Judge, Overland Park Municipal Court  
Sandy Jacquot, League of Kansas Municipalities  
Senator David Wysong  
Dr. Jon Hauxwell, President, Tobacco Free Kansas Coalition, Inc.  
Dr. Karen Kelly, Deputy Director, University of Kansas Cancer Center  
Dr. Howard Rodenberg, Director of Health, KDHE  
Dr. James Hamilton, Jr., Chair, Commission on Cancer, Kansas Cancer Partnership  
Dr. Dennis Teitze, Kansas Academy of Family Physicians  
Dr. Stephen Bruner, Clean Air Lawrence  
Kathy Bruner, Chair, Clean Air Lawrence  
Linda De Coursey, Advocacy Director, American Heart Association  
Dan Morin, Director of Government Affairs, Kansas Medical Society  
Terri Roberts, Kansas State Nurses Association  
Lisa Benlon, American Cancer Society  
Ron Heim, Reynolds American, Inc.  
Marlee Carpenter, Vice President of Government Affairs, The Kansas Chamber  
Chuck Magerl, Owner, Wheatfields Bakery & Free State Brewery, Lawrence  
Philip Bradley, Kansas Licensed Beverage Association  
Ed Nelson, President, Kansas City Business Rights Coalition  
Jeff Martin, Operations Manager, Armour Amusement  
Tom Conroy, Owner, Conroy's Pub, Lawrence  
Joann Corpstein, Chief Legal Counsel, Kansas Department on Aging

Others attending:

See attached list.

The hearing on **SB14--Offender registration; convictions for manufacture of controlled substance, possession of certain drugs with intent to manufacture controlled substance required to register** was continued.

Kyle Smith spoke in support, stating registration will provide benefits to law enforcement and the public (Attachment 1). Mr. Smith requested an amendment clarifying that the \$20 fee requirement be specifically designated for the sheriff's department.

There being no further conferees, the hearing on **SB 14** was closed.

The hearing on **SB 31--Jurisdiction of municipal court** was opened.

Karen Arnold-Berger appeared as a proponent indicating the bill is an attempt to clarify the subject matter jurisdiction of municipal courts (Attachment 2). A balloon amendment was submitted which would slightly modify the general language regarding jurisdiction, making it clear that it is an enhancement, not a limitation

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on jurisdiction.

Sandy Jacquot spoke in favor of the bill which would clarify the jurisdiction of municipal courts in certain situations when they adjudicate a crime that later is found to have been a felony due to prior convictions ([Attachment 3](#)).

Written testimony in support of **SB 31** was submitted by:

Mike Taylor, Public Relations Director, Unified Government Public Relations ([Attachment 4](#))

There being no other conferees, the hearing on **SB 31** was closed.

The hearing on **SB 37--Concerning the crime of smoking in indoor areas** was opened.

Dr. Jon Hauxwell spoke as a proponent, emphasizing that the Surgeon General's 2006 report on tobacco smoke pollution indicates that tobacco smoke is a grave health hazard with no known safe level of exposure ([Attachment 5](#)). Dr. Hauxwell indicated his written testimony addresses the need for legislative regulation and the issues of "personal responsibility", merchant autonomy, economics, and smokers' rights.

Dr. Karen Kelly appeared in favor of the bill, relating her experience with the adverse health effects of secondhand smoke ([Attachment 6](#)).

Dr. Howard Rodenberg spoke in support, providing information on tobacco use in Kansas ([Attachment 7](#)). Dr. Rodenberg feels this legislation has the potential to influence the attitudes and behaviors of Kansans, especially adolescents, to either quit smoking or not start smoking. In addition it will impact the number of people who die each year from second hand smoke, while saving health care costs.

Dr. James Hamilton appeared in support of **SB 37** indicating that smoking causes most lung cancers and children are particularly vulnerable to illnesses caused by exposure to secondhand smoke ([Attachment 8](#)). Enactment of this bill will eliminate nonsmokers' exposure to second hand smoke and make a positive impact on reducing cancer in Kansas.

Dr. Dennis Tietze testified in support, presenting information regarding tobacco use and related health issues ([Attachment 9](#)). Dr. Tietz indicated that:

- tobacco use is the leading preventable cause of death in Kansas,
- secondhand smoke is the third leading cause of preventable death in the United States,
- tobacco and secondhand smoke costs the state millions each year in health costs,
- clean indoor air laws help people quit, smoke less & improve their health, and
- enactment would provide a fair business climate across the state.

Dr. Steven Bruner spoke as a proponent, reiterating the health risks associated with smoking and secondhand smoke ([Attachment 10](#)).

Kathy Bruner, proponent, provided information on the smoking ban ordinance in Lawrence, Kansas, and other states ([Attachment 11](#)). Ms. Bruner endorsed the elimination of the private clubs exemption.

Linda De Coursey appeared as a proponent, providing additional information on the effects of secondhand smoke ([Attachment 12](#)).

Dan Morin spoke in favor of the bill, indicating support of all public policies that protect people from the harmful effects of smoking ([Attachment 13](#)).

Terri Roberts appeared in support ,providing background on California's smoking ban ([Attachment 14](#)).

Lisa Benlon testified in support, relating that 17 cities in Kansas currently have smoke-free laws ([Attachment 15](#)). Ms. Benlon also stated, contrary to a popular arguments, workers do not always have the option to choose their place of employment, especially high school and college students who are at especially high risk of becoming smokers.

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Senator David Wysong appeared in support, stating that 19 states have all passed similar laws banning smoking ([Attachment 16](#)). Senator Wysong indicated that enactment of this bill has the potential to save millions of dollars in health care as well as save tens of thousands of lives.

Ron Heim testified in opposition to the bill, indicating restaurant and bar customers have a choice when deciding to patronize an establishment and employees have a choice when seeking employment ([Attachment 17](#)). Mr. Heim also stated that smoking bans have an economic impact on private businesses, especially restaurants and bars and that smoking is virtually non-existent in non-hospitality related workplaces.

Marlee Carpenter spoke in opposition, requesting the committee exercise restraint in setting mandates for businesses and allow the free market to dictate the business environment ([Attachment 18](#)).

Chuck Magerl appeared in opposition stating his experiences with ownership of both a smoking and a non-smoking restaurant in Lawrence, Kansas ([Attachment 19](#)).

Philip Bradley testified in opposition, suggesting the issue is air quality and recommending an air quality bill that would protect all citizens while allowing private businesses to serve their customers ([Attachment 20](#)). Mr. Bradley also requested, should this bill pass, to exempt establishments licensed primarily for on-premise liquor sales or create a class of establishment that would be a "Smoking Establishment".

Ed Nelson, opponent, stated that businesses would be negatively impacted by this bill ([Attachment 21](#)).

Jeff Martin appeared in opposition, relating the negative effect on his business as a result of the smoking ban in Lawrence ([Attachment 22](#)).

Tom Conroy spoke in opposition, providing information on the reduction of revenue in his business due to the smoking ban enacted in Lawrence ([Attachment 23](#)).

Joann Corpstein provided neutral testimony, requesting the committee consider the wording of Section 2(a)(11) which would allow residents to smoke in their rooms ([Attachment 24](#)). Currently, adult care homes that elect to allow smoking are required to provide a designated smoking area for residents where smoke is exhausted to the outside. This ensures that residents who desire to live in a smoke-free environment may do so. Ms. Corpstein also stated that the term "retirement facilities" used in the bill is not defined and not among the various types of adult care homes as defined in K.S.A. 39-923.

Written testimony in support of **SB 37** was submitted by:

Michelle Bernth, Vice President of Marketing & Advocacy, American Lung Assn ([Attachment 25](#))

Written testimony in opposition of **SB 37** was submitted by:

Ron Heim, Kansas Restaurant and Hospitality Association ([Attachment 26](#))

Joe P. Vise, Attorney, Shawnee Mission ([Attachment 27](#))

Tom Intfen, Owner, Paddy O'Quigley's, Leawood ([Attachment 28](#))

Jerry & Sue Nerverve, Owners, Red Lyon Tavern, Lawrence ([Attachment 29](#))

Kim Moffitt, Owner, Twin City Tavern, Kansas City ([Attachment 30](#))

Vic Alfred, Owner, JAZZ, Kansas City ([Attachment 31](#))

Bill Hannegan ([Attachment 32](#))

Joni Bocelewatz, Business owner, Kansas City ([Attachment 33](#))

Joseph T. Boulduc, President & Founder, Kansas Business Rights Association ([Attachment 34](#))

Jim Fager, Manager, Tanner's Bar ([Attachment 35](#))

Alan Cobb, State Director, Americans for Prosperity ([Attachment 36](#))

There being no further conferees, the hearing on **SB 37** was closed.

The meeting adjourned at 10:31 A.M. The next scheduled meeting is January 18, 2007.