

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairperson Nancey Harrington at 10:45 a.m. on March 19, 2003 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:

Bob Longino, Director, Alcoholic Beverage Control
Sandy Jacquot, Legal Counsel, League of Kansas Municipalities
Karl McNorton, Kansas Fire Marshal's Office
Ron Hein, Kansas Restaurant and Hospitality Association
Tuck Duncan, Kansas Wine and Spirits Wholesalers Association
Philip Bradley, Kansas Licensed Beverage Association

Others attending: Please see attached.

Chairperson Harrington invited Mr. Longino to come before the committee to brief them on the recent court case regarding Home Rule.

Mr. Longino explained the court case briefly to the committee. The committee discussed the situation with the Attorney General's office and whether or not the decision would be appealed.

Senator Vratil stated that he thought the decision is beyond Sunday sales, and that the integrity of the whole act was at stake because the ability to charter out left open the question of what they might do; this decision affects the entire act.

Ms. Kiernan stated that they might be able to Home Rule out of criminals acts because it would affect every nonuniform in any stature.

After comments from Sandy Jacquot, League of Kansas Municipalities, Chairperson Harrington stated that she was in the process of setting up a meeting with Representative Mason and the Attorney General's office.

Chairperson Harrington opened the public hearing on:

SB 254—An act concerning alcoholic beverages; relating to the revocation or suspension of licenses of certain licensees

Senator Barnett presented testimony in favor of the bill. (Attachment 1) He warned the committee that the tragedy in Rhode Island, referring to the club fire, could happen in Kansas. He stated that the three main concerns he wanted to address in the bill were paying attention to the issue and putting some teeth in it, laying down rules for pyrotechnic displays, and addressing why this would pick out only clubs and drinking establishments.

Ms. Kiernan explained the bill amendments, including a balloon amendment (Attachment 2) and another amendment (Attachment 3), explaining that this would serve to expand coverage to any building using pyrotechnics under the definition of common nuisance.

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Senator Brungardt asked if the circus that was recently in town would be covered in the amendment.

Tuck Duncan replied that the Kansas ExpoCenter was under Provision II because it is a steel structure and concrete building so it would be accepted.

Mr. Longino presented testimony in favor of the bill. ([Attachment 4](#))

Following further discussion of candles and incense, Mr. McNorton replied that these would not be covered under the bill because they were not pyrotechnic and did not contain explosive black powder.

Mr. McNorton presented testimony in favor of the bill. ([Attachment 5](#))

Senator Vratil expressed concern over the exact definition of pyrotechnics in the bill, referencing section three in the uniform building codes as a “controlled exothermic reaction.”

Ms. Jacquot presented testimony in favor of the bill. ([Attachment 6](#)) She stated that her organization were in support of the bill in its original form because it had more teeth. She stated that the issue is if we want to effect change and address public change, then they needed to create legislation. She addressed the issue of clubs versus taverns and emphasized the need for local governmental control.

Ms. Jacquot submitted an amendment to the bill to emphasize the aspect of local control. ([Attachment 7](#))

Mr. Hein presented testimony in favor of the bill, and emphasized that his written testimony was no longer valid because in discussions, they had been able to come up with a good definition of pyrotechnics to distinguish them from candles etc. ([Attachment 8](#))

Mr. Duncan presented testimony in opposition to the bill, stating that cities do not have the right to regulate the Club and Drinking Establishment Act. ([Attachment 9](#)) He stated that this issue has nothing to do with liquor; he did not want the committee to think that he was coming before them as a shylock liquor lobbyist, and that although he appreciated the direction the committee was going, the bill was not quite there yet. He stated that life safety is an ongoing issue, but that the date on this bill would not work.. He emphasized the importance of prevention and the need to create an expedited civil process and a temporary restraining order on violators, making an analogy to eviction notices and their expedited process. He explained that the authority to punish or close violators’ properties were already in place but un-enforced. He expressed concern with giving local authorities power over things like fire codes because they were not properly upholding these codes, and the need for the bill to more clearly define pyrotechnics.

Senator O’Connor replied that it seemed that a public safety threat should be justification for pulling a license.

Mr. Duncan replied that it did not matter about the owner’s license because he should be shut down totally for no business; the issue is not the liquor license but the area people are occupying which would be as much at risk at places without liquor licenses.

Chairperson Harrington expressed a shared concern with Mr. Duncan’s comments, commenting that she wanted her own college age sons to be safe at concerts and events.

Mr. Bradley presented testimony in opposition to the bill. ([Attachment 10](#)) He stated that he represented small business owners who were concerned with public safety at their own and others facilities. He emphasized that the Legislature is after stopping business, not the liquor license, and that the building was the problem and local authorities should be given rights to enforce codes that were already in existence. He stated that in the cases of both Chicago and Rhode Island, laws were already in existence but not properly enforced. He stated that if a real estate business did not meet its requirements, the state would not take away the real estate license. He concluded by stating that he appreciated Senator Barnett and the committee addressing this issue because it was better to do things in advance instead of after the fact.

Chairperson Harrington stated that they would not work the bill today.

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Senator Barnett stated that he appreciated the chance to have an open dialogue and receive some direction from the committee.

Senator Vratil asked Mr. McNorton if pyrotechnics were currently prohibited.

Mr. McNorton replied that there are building codes for 75% of fire safety features, and that they issue permits for that use. He stated that buildings were restricted at a 300 person occupancy for sprinklers.

Senator Vratil asked him if he thought the current codes were adequate, and Mr. McNorton replied that in some municipalities, yes

Senator Barnett stated that under 300 people required sprinklers; the language of the bill restricts use of pyrotechnics until there is change on the Federal level.

Chairperson Harrington stated that she was willing to work the bill and amendment next week.

The meeting adjourned at 11:50 a.m.