

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on March 9, 2005 in Room 313-S of the Capitol.

All members were present except:
Michael Peterson- excused

Committee staff present:
Jerry Ann Donaldson, Kansas Legislative Research
Jill Wolters, Office of Revisor of Statutes
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:
Ron Hein, Kansas Restaurant & Hospitality Association
Marlee Carpenter, Kansas Chamber of Commerce
Terry Holdren, Kansas Farm Bureau
Brent Haden, Kansas Livestock Association
Callie Denton, Kansas Trial Lawyers Association
Debbie Riggs, Citizen
Tuck Duncan, Kansas Wine & Spirits Wholesalers Association

The hearing on **SB 75 - creating liability for claims relating to obesity or weight gain**, were opened.

Ron Hein, Kansas Restaurant & Hospitality Association, requested the proposed bill, which is narrowly written. It was based on the National Restaurant Association's Model Act. Kansas Trial Lawyers Association (KTLA) had concerns with the bill as it was originally drafted, but the two groups worked together to address most of their concerns (Attachment 1).

They are opposed to two proposed amendments by the KTLA:

- striking "associated with" and replacing with "arising from". The term "associated with" is used by the National Academy of Sciences in dealing with medical conditions.
- strike "or other generally known condition allegedly caused by or allegedly". KTLA testified that this language is too broad and would include food additives that could harm a plaintiff. So an agreement was met to remove food additives from the definition of food.

Marlee Carpenter, Kansas Chamber of Commerce, appeared in support of the proposed bill stating that more than 10 states have passed this type of legislation that safeguards companies against attorney's who see the food industry as their next cash cow (Attachment 2)

Terry Holdren, Kansas Farm Bureau, appeared as an proponent of the bill and supported the changes made as the result of compromise with KTLA (Attachment 3).

Brent Haden, Kansas Livestock Association, stated that most people believe that these types of lawsuits are frivolous but companies are concerned because courts don't always think the same way. (Attachment 4)

Written testimony in support of the bill was provided by:

Kansas Beverage Association (Attachment 5)
Kansas Cooperative Council (Attachment 6)
Petroleum Marketers & Convenience Store Association (Attachment 7)
Kansas Grain & Feed Association (Attachment 8)

Callie Denton, Kansas Trial Lawyers Association, appeared as an opponent to the bill. Their primary concern is with the number of immunity bills introduced this legislative session, and trying to cut off access to the courts. (Attachment 9)

Chairman O'Neal directed staff to obtain the definitions of: food, additives, & dietary supplements.

The hearing on **SB 75** was closed.

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on March 9, 2005 in Room 313-S of the Capitol.

The hearing on **SB 144 - social host liability**, were opened.

Debbie Riggs, Citizen, told the committee her son was at a home where the parents served alcohol and upon leaving the party wrecked his car and died. There is nothing in state statutes that address civil liability for the parents who served the alcohol to underage drinkers. She wants there to be a deterrent to those who serve alcohol to underage drinkers and wants them to be held responsible. (Attachment 10)

Chairman O'Neal pointed out that if there is a criminal conviction then there would be no insurance coverage under a civil award.

Tuck Duncan, Kansas Wine & Spirits Wholesalers Association, agreed that underage drinking needs to be curbed but didn't believe the proposed bill would have any affect on that. K.S.A. 38-120 already provides for recovery from parents for malicious or willful acts by children. They can recover actual damages in an amount not to exceed \$5,000 and actual medical expenses. (Attachment 11)

The hearing on **SB 144** was closed.

The committee meeting adjourned at 5:00 p.m. The next meeting was scheduled for March 14, 3:30 p.m. in room 313-S.