

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Vice-Chairperson Senator Vicki Schmidt at 1:30 P.M. on March 6, 2008 in Room 136-N of the Capitol.

Senator Barnett was excused.

Committee staff present:

Emalene Correll, Kansas Legislative Research Department  
Sara Zafar, Kansas Legislative Research Department  
Nobuko Folmsbee, Revisor of Statutes  
Jan Lunn, Committee Secretary

Conferees appearing before the committee:

Angela Kohls, Director, Food Safety and Consumer Protection Program  
Jack Maybee, Director, Johnson County Environmental Department, Sanitation Division, Olathe  
Ron Hein, representing Kansas Restaurant and Hospitality Association  
Don Saylor, President and CEO, Kansas Restaurant and Hospitality Association  
Bill Goodlatte, Senior Vice President of Human Resource, LDF Companies - Wendy's Restaurants  
Debra Billingsley, Executive Secretary, Kansas Board of Pharmacy

Others attending:

See attached list.

**HB 2207 - Relating to the Kansas board of pharmacy, authorizing emergency proceedings under subsections (d), (e) and (f) of K.S.A. 65-1627**

Chairperson Schmidt recognized Nobuko Folmsbee from the Revisor of Statutes office who briefed committee members on HB 2207. Ms. Folmsbee indicated the bill allows for emergency proceedings against a registrant or permittee of the board of pharmacy when the board of pharmacy determines the immediate protection of the public interest requires expedited proceedings under KSA 77-536. It was also noted that the fiscal note for Substitute HB 2207 does not apply. (Attachment 1)

Deb Billingsley, Executive Secretary of the Kansas Board of Pharmacy, spoke in support of the bill noting its importance in clarifying whether a temporary emergency suspension can occur with a pharmacy. The bill distinguishes between licensees and registrants; a licensee is defined as a pharmacy, all other entities (distributor, manufacturer, pharmacy technician) are registrants. (Attachment 2)

Following an opportunity for discussion and questions, Senator Schmidt closed the hearing on HB 2207.

**SB 643 - Licensing requirements for food service establishments**

Ms. Nobuko explained the bill deals with licensing requirements and application fees. The bill provides that all persons in the business of conducting a food service establishment are required to be licensed resulting in a license fee and an application (for license) fee. Application and license fees may be adjusted based on the type of establishment, however, the bill places a cap of \$300 for application fees and a \$500 cap for license fees. The increase in fees is to assist in defraying the expense of food service establishment inspections and licensure activities of the Secretary. Department of Health and Environment.

Angela Kohls, Kansas Department of Health and Environment Program Director for Food Safety, spoke as a proponent for SB 643. Ms. Kohls testimony is attached and, therefore, is incorporated into this record (Attachment 3). Ms. Kohls provided an overview of the program, inspections, and its contributions to food safety. In addition, Ms. Kohls reviewed the current fee structure and the proposed fee structure (table of fee structure appears in Attachment 3). Ms. Kohls indicated there are seven (7) contracted counties who administer the KDHE Food Safety/Inspection Program, and

## CONTINUATION SHEET

MINUTES OF THE Senate Public Health and Welfare Committee at 1:30 P.M. on March 6, 2008 in Room 136-N of the Capitol.

at the current time, there are zero (or minimal funds) in the budget for operating the program.

Senator Wagle questioned whether fees are charged on seasonal food businesses? Ms. Kohls responded in the affirmative, indicating if the business operates seven (7) days in a calendar year, they are required to be licensed. If the business operates at two separate locations, there is only one (1) license fee required.

Senator Jordan asked how fees are split with contracted counties and how the fee fund could decrease to zero. Ms. Kohls indicated the county receives eighty percent (80%) of the fee, and KDHE receives twenty percent (20%). Ms. Kohls indicated, the cash flow is fairly constant with all licenses expiring on December 31<sup>st</sup>.

Senator Journey asked if the current shortfall was caused by sweeping funds in 2002-03. Ms. Kohls indicated she had no knowledge of that.

Senator Schmidt recognized Jack Maybee, Director of the Johnson County Environmental Department, Sanitation Division, in Olathe, Kansas. He is the supervisor of the agency contracting with KDHE for food inspections in Johnson County. Mr. Maybee spoke in support of SB 643, indicating that at the current time, only 41% of the fees received cover actual program administration total costs. He encouraged favorable passage of the legislation in order to ensure the safety of the public.

Senator Journey questioned how many inspections have been made in Johnson County within the last year, the outcome of those inspections, and reported illnesses. Mr. Maybee indicated that with a staff of seven (7) in the field and two (2) supervisors, there had been over 3000 inspections resulting in thirty-nine (39) voluntary closures, ninety (90) establishments requiring administrative action, and four hundred eleven (411) notices of non-compliance. Mr. Maybee reported that in his jurisdiction, there were three hundred fifty-one (351) reported illnesses.

Senator Schmidt recognized Ron Hein, representing the Kansas Restaurant and Hospitality Association (KRHA). Mr. Hein provided a history of food service licensure fees from 2001 when the cap was raised from \$100 to \$200 (supported by KRHA). Mr. Hein indicated the KRHA has attempted to collaborate with KDHE to produce reasonable mutually beneficial outcomes, however, it is unclear to KRHA why KDHE has waited until this year to deal with cash-flow deficiencies. Mr. Hein cited several examples that concerns the restaurant and hospitality industry, noting the industry would be more comfortable with incremental increases. In addition, in an economic downturn, the legislation, if successful, significantly burdens the KRHA membership. Mr. Hein's testimony is attached and becomes part of this record. (Attachments 4 & 5).

Don Saylor, President and CEO of Kansas Restaurant and Hospitality Association, expressed appreciation regarding participation with KDHE, however, he also expressed concern regarding the financial numbers submitted by the Department. Mr. Saylor indicated that within the industry, many establishments are struggling to meet costs and payroll expenses; such an increase will adversely impact the industry. (Attachment 6)

Bill Goodlatte who operates 20 Wendy's throughout state spoke in opposition to SB 643. Mr. Goodlatte stated under the proposed legislation, it will cost Wendy's \$6,000 annually (without opening another store). Mr. Goodlatte indicated Wendy's employees enjoy health insurance, a 401K plan, tuition reimbursement, etc., he questioned what benefit KDHE's increases will be to Wendy's and its customers. Mr. Goodlatte's testimony is attached and is considered to be part of these minutes. (Attachment 7)

Senator Schmidt closed the hearing on SB 643. The meeting was adjourned at 2:32pm