

Approved: 3-17-93
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Clyde Graeber at 1:30 p.m. on March 15, 1993 in Room 526-S of the Capitol.

All members were present except: Representative Thomas A. Robinett, Jr., Excused
Representative Rand Rock, Excused

Committee staff present: Mary Galligan, Legislative Research Department
Lynne Holt, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
June Evans, Committee Secretary

Conferees appearing before the committee: James Conant, Department of Revenue, Division of Alcoholic Beverage Control
Brent Bengston, Director, Governor's Office of Drug Abuse Programs
Sally Finney, Kansas Department of Health and Environment

Others attending: See attached list

The Chairperson stated he had planned to take final action on HB 2510, but had received a request to take no action on that bill and would honor that request and do nothing with the bill whatsoever today.

The Chairperson opened the hearing on SB 82.

James Conant, Department of Revenue, Division of Alcoholic Beverage Control, testified in support of SB 82. Mr. Conant stated Sections 1 and 2 of the bill amends two statutes which makes it a crime to furnish alcoholic liquor or cereal malt beverage to a minor, K.S.A. 1992 Supp. 21-3610 and 21-3610a, respectively.

The Division of Alcoholic Beverage Control believes a photo should be required on identification documents in Sections 1 and 2.

In Section 3, under Kansas law, it is illegal for a minor to "possess, consume, obtain, purchase or attempt to obtain or purchase alcoholic liquor or cereal malt beverage." As an enforcement tool, the legislature has given cities and counties the statutory ability to punish cereal malt beverage licensees who allow minors to possess or consume cereal malt beverages on locally licensed premises. This statute refers only to underage consumption, and does not mention underage possession. Because of this apparent oversight, the Division of Alcoholic Beverage Control has adopted regulations as a mechanism for issuing citations to bar owners for allowing minors to be in possession of alcoholic beverages on state licensed premises. (See Attachment #1)

Representative Cox moved and Representative Gilbert seconded to amend the bill on line 18 of Section 1 and line 38 of Section 2 to conform to the sentencing guidelines bill that will take effect July 1, 1993. The motion carried.

The Chairperson asked what the wishes were of the committee on SB 82?

Representative Benlon offered a conceptual motion to amend Section I to require a different colored background for ages 21, setting this up with the Drivers License Bureau to have drivers license expire when a person becomes 21 and issue the license with another background color.

Representative Sebelius stated this could have a very large fiscal note because of people moving in and out of the state.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 526-S
Statehouse, at 1:30 p.m. on March 15, 1993.

Chairperson Graeber stated he agreed with Representative Benlon that it was a good idea but could possibly have a severe fiscal note. A fiscal note is needed on this between today and tomorrow's meeting.

The Chairperson stated there would be no action taken on SB 82 and will request a fiscal note.

The Chairperson closed the hearing on SB 82.

The Chairperson opened the hearing on SB 275.

Brent Bengtson, Director, Governor's Office of Drug Abuse Programs, testified in support of SB 275 stating the Governor's Office of Drug Abuse Programs is the Kansas state administrative agency for the Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program of the Federal Bureau of Justice Assistance.

A major purpose of SB 275 is to insure compliance by the State of Kansas with section 1804 of the Crime Control Act of 1990, 42 USC Section 3756 (f). Failure to pass by October 1, 1993, SB 275 that provides HIV testing of convicted individuals at the request of their victims, would result in a 10% loss of approximately \$461,300 in SFY'95. Those states that become in compliance can receive increased allocations from the pooled 10% losses from those states not in compliance. (See Attachment #2)

Sally Finney, Director, AIDS Section, Bureau of Disease Control, Department of Health and Environment, testified in support of SB 275, stating this legislation is necessary for the state to continue receiving full funding for programs that prevent and treat the use of alcohol and other drugs. (See Attachment #3)

Juliene Maska, Office of the Attorney General, distributed testimony on SB 275 stating this bill will assist crime victims in asking the court to have a convicted offender of a crime where bodily fluids have been exchanged to submit to an HIV test. Kansas law already allows adult offenders to be tested at the request of the victim and this bill would include juvenile offenders. (See Attachment #4)

After discussion the Chairperson closed the hearing on SB 275 and asked the committee if they wished to take any action on SB 275 today. The committee responded they did not wish to take any action on the bill.

Representative Gilbert moved and Representative Krehbiel seconded the minutes of March 8, 9 and 10 be approved. The motion carried.

The Chairperson stated there would be a hearing on SB 196 on Wednesday, March 16.

The meeting adjourned at 2:50 PM.

The next meeting is scheduled for March 16, 1993.

Date: 3/15/93

FEDERAL and STATE AFFAIRS COMMITTEE

| NAME | ORGANIZATION | ADDRESS |
|-----------------|--------------------------------|---------------|
| Frances Kastner | Ks Food Dealers Assn | Topoka |
| Oliver Stuller | Topoka | Topoka |
| John W. Babb | W. Babb | Lawrence |
| Jim Stuey | Kansas for Life at the bank | Topoka |
| Donnell Harding | KRLDA | Sepeka |
| Rich Ferguson | KRLDA | Overland Park |
| Brent Bengtson | Gov's office of Drug Abuse | Topoka |
| Paul Shelby | OTA | Topoka |
| Vally Finney | KDHE | Topoka |
| Tom Palace | Topoka | |
| Jim Conant | ABC | T.P. |
| Robert Engler | ABC | Topoka |
| Deenie Nowood | ABC | TOPOKA |
| Neal Whitaker | Ks Beer Wholesalers | Topoka |
| Kathy Peterson | BISCUS | Topoka |

Date: 2/15/93

FEDERAL and STATE AFFAIRS COMMITTEE

[illegible]

STATE OF KANSAS

Robert A. Engler, Director
512 S.W. 6th, 2nd Fl.
Topeka, Kansas 66603-3150



(913) 296-3946
FAX (913) 296-0922

Department of Revenue
Division of Alcoholic Beverage Control

MEMORANDUM

TO: The Honorable Clyde Graeber, Chairperson
House Committee on Federal & State Affairs

FROM: Jim Conant, Chief Administrative Officer
Alcoholic Beverage Control Division

DATE: March 15, 1993

SUBJECT: Senate Bill 82

Thank you for the opportunity to appear before the committee today in support of Senate Bill 82.

The ABC Division places the highest priority on enforcement of laws which relate to the possession or consumption of alcoholic beverages by persons under the age of 21. These efforts are focused primarily on ensuring that all liquor licensees operate in a manner which restricts the ability of minors to gain access to alcoholic beverages. Senate Bill 82 was introduced at the request of the Division in an effort to address specific weaknesses in three statutes which provide incentives for licensees to operate in a responsible manner.

Sections 1 & 2 of the bill amend two statutes which make it a crime to furnish alcoholic liquor or cereal malt beverage to a minor, K.S.A. 1992 Supp. 21-3610 and 21-3610a, respectively. Legislation was passed in 1989 creating a defense to prosecution under these two sections for licensees. A key element in utilizing the defense requires that the minor use a "draft card, driver's license, birth certificate or other official or apparently official document" in making the purchase. This provides a considerable incentive for licensees to require identification when the purchaser is not obviously of legal age. The Division believes that this incentive can be greatly strengthened by requiring identification documents to contain a photo of the bearer in order to qualify as an element in building this defense. Draft cards, birth certificates and other non-photo IDs are too easily passed from person to person, and cannot be reliably used to verify that the bearer is the person named on the face of the document. Both sections are amended to require the use of a photo ID in order to qualify for the defense.

(over)

F & SA
3-15-93

Atch #1

Section 3 amends K.S.A. 1992 Supp. 41-2615, regarding a licensee's responsibility for violations involving minors on the licensed premises. Under Kansas law, it is illegal for a minor to "possess, consume, obtain, purchase or attempt to obtain or purchase alcoholic liquor or cereal malt beverage." (K.S.A. 1992 Supp. 41-727, emphasis added) The statutes referred to in sections 1 & 2 above make it illegal to directly or indirectly furnish alcoholic liquor or cereal malt beverage to a minor. These three statutes reflect a fundamental policy of the Kansas legislature to prohibit underage drinking. As an enforcement tool, the legislature has given cities and counties the statutory ability to punish cereal malt beverage licensees who allow minors to possess or consume cereal malt beverages on locally licensed premises. (K.S.A. 1992 Supp. 41-2704) K.S.A. 1992 Supp. 41-2615 authorizes the ABC Division to penalize bar owners who allow minors to consume alcoholic liquor on state licensed premises. Unfortunately, this statute refers only to underage consumption, and does not mention underage possession. Because of this apparent oversight, the Division of Alcoholic Beverage Control has adopted regulations as a mechanism for issuing citations to bar owners for allowing minors to be in possession of alcoholic beverages on state licensed premises. The Division is requesting that this oversight be corrected, clarifying the Legislature's intent to hold licensees responsible for ensuring that underage persons do not gain access to alcoholic beverages.

I would be happy to answer any questions the committee may have.

STATE OF KANSAS



Joan Finney, Governor

GOVERNOR'S OFFICE
OF DRUG ABUSE PROGRAMS

112 Landon State Office Building
900 Jackson
Topeka, Kansas 66612-1220
(913) 296-2584
Fax (913) 296-0043

MEMORANDUM

TO: Clyde Graeber, Chairman
House of Representatives
Federal & State Affairs Committee

FROM: ^{BB}Brent Bengtson, Director
Governor's Office of Drug Abuse Programs

DATE: March 11, 1993

RE: Senate Bill 275

Thank you for the opportunity to appear before the committee today in support of Senate Bill 275.

The Governor's Office of Drug Abuse Programs is the Kansas State administrative agency for the Edward Byrne Memorial State and Local Law Enforcement Assistance Formula Grant Program of the federal Bureau of Justice Assistance.

Each year since 1987, grants have been awarded to state and local law enforcement agencies. The purpose of these grants is to assist states and units of government in carrying out specific programs which offer a high probability of improving the functioning of the criminal justice system. Special emphasis is placed on a nationwide and multilevel drug control strategy, and more recently, on violent crime intervention.

Some examples of those Kansas programs funded are: D.A.R.E. (Drug Abuse Resistance Education), multijurisdictional drug task forces, prosecutorial funds for special drug prosecutors, SCAT (Special Community Action Teams in Topeka and Wichita), crime lab equipment, KBI Strike Force, Neighborhood Crime Unit (Kansas City) and Community Corrections Day Treatment Centers.

F & SA
3-15-93
Hch #2

Memo-Chairman Graeber
March 11, 1993
Page 2

State allocations are based on population and compliance with guidelines issued by the Bureau of Justice Assistance. Kansas' allocation rose to a high of \$4,637,000 in SFY'93. In SFY'94, Kansas was allocated \$4,613,000.

A major purpose of SB275 is to insure compliance by the State of Kansas with section 1804 of the Crime Control Act of 1990, 42 USC Section 3756 (f). Failure to pass by October 1, 1993, SB275 that provides HIV testing of convicted individuals at the request of their victims, would result in a 10% loss of approximately \$461,300 in SFY'95. To add insult to injury, those states that become in compliance can receive increased allocations from the pooled 10% losses from those states not in compliance.

SB275 would amend KSA 22-2913 providing counseling and testing for victims of sex crimes and crimes during which bodily fluids may have been exchanged and requiring, when requested by victims or at the Court's discretion, HIV testing of individuals convicted of those crimes. SB275 includes a new section creating the same rights for victims of crimes committed by juveniles.

This bill has been reviewed by legal counsel from the Department of Administration, the Department of Corrections and the Department of Health and Environment. They and the Director of the AIDS program of Health and Environment support the bill.

Bill Adams, Central Branch Manager of the Bureau of Justice Assistance, has reviewed the bill, although BJA's legal counsel cannot offer an official opinion at this time. Since the federal government is not to tell state's how to write laws, Mr. Adams believes the bill will be adequate to put Kansas in compliance (see attached memo from Mr. Adams).

I respectfully ask for your favorable consideration of SB275. I would be happy to answer any questions the committee may have. Rogers Brazier, Attorney with the Department of Administration's Legal Section, is present to answer your technical legal questions.

FLSA
3-15-93
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U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

Washington, D.C. 20531

March 12, 1993

Brent Bengtson, Director
Governor's Office of Drug
Abuse Programs
112 Landon State Office Building
900 Jackson
Topeka, Kansas 66612-1214


Dear Mr. ^{Brent}Bengtson:

This is in response to your request, dated February 12, 1993, for the Bureau of Justice Assistance (BJA) and the legal staff of the Office of Justice Programs (OJP), to review your State's Senate Bill 275, relating to the Mandatory HIV Testing Standards.

As we discussed earlier, the legal staff of OJP can only react to a State's Statute after it has been passed by the legislature and placed into law. However, as you requested, I have reviewed the Senate Bill again with the assistance of the BJA Guidance. It appears to me that the Senate Bill 275, as proposed, is in compliance with the Congressional mandate.

If I can assist you further in this matter, please feel free to contact me.

Sincerely,


William S. Adams, Jr.
Chief, Central Branch
State and Local Assistance Division

F+SA
3-15-93
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State of Kansas
Joan Finney, Governor



Department of Health and Environment

Robert C. Harder, Secretary

Reply to:

Testimony presented to

House Committee on Federal and State Affairs

by

The Kansas Department of Health and Environment

SB 275

I am here today to speak in favor of SB 275. Passage of this legislation is necessary for the state to continue receiving full funding for programs that prevent and treat the use of alcohol and other drugs.

As Director of the AIDS Section of the Kansas Department of Health and Environment, I have seen studies that consistently document the linkage between the spread of the Human Immunodeficiency Virus (HIV) and the use of alcohol and other drugs. Fourteen percent of all Kansas AIDS cases have been in persons who self report a history of sharing injection drug paraphernalia. Other forms of drugs, alcohol and cocaine in particular, are playing a significant role in the spread of sexually transmitted diseases (including HIV infection) among Kansans. KDHE estimates that for 70% of persons diagnosed through local health department clinics, alcohol plays a role in their becoming infected. Cocaine is believed to be a factor in 100% of these cases.

Individuals under the influence of drugs are frequently unable to make choices consistent with maintaining good health. They may have unprotected sexual intercourse with an unknown partner who may be at-risk for a sexually transmitted disease. If the substance involved is an illicit one, the user may also trade unprotected sex for drugs or for money to buy drugs.

Drug prevention and treatment programs are crucial if we are to reduce the incidence of sexually transmitted diseases. These programs are important in our efforts to break the linkage between substance use and these diseases.

I ask your support of SB 275 so that Kansas can continue to receive funds to support drug programs in the state.

Testimony presented by: Sally Finney
Director, AIDS Section
Bureau of Disease Control
March 15, 1993

F-5A
3-15-93

Atch #3



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

March 15, 1993

Representative Clyde Graeber, Chair
House Federal and State Affairs Committee
State Capitol, Room 115-S
Topeka, Kansas 66612

Dear Representative Graeber:

This letter is in support of Senate Bill 275. This bill will assist crime victims in asking the court to have a convicted offender of a crime where bodily fluids have been exchanged to submit to an HIV test.

I firmly believe that crime victims should be able to ask the court for this type of testing of the offender. Kansas law already allows adult offenders to be tested at the request of the victim. This bill will also include juvenile offenders who commit offenses where there is transmission of body fluids.

By passing this bill you will ensure compliance with the federal Crime Control Act of 1990 and \$461,300 in federal funds which our state receives. I strongly urge your support of Senate Bill 275.

Sincerely,

A handwritten signature in blue ink that reads "Bob Stephan".

Robert T. Stephan
Attorney General

RTS:mr

Ex 5A
3/15-93
Atch #4