

Approved: 5-1-93
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Chairman Lana Oleen at 11:05 a.m. on March 4, 1993 in Room 254-E of the Capitol.

All members were present

Committee staff present: Mary Galligan, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
Jeanne Eudaley, Committee Secretary

Conferees appearing before the committee:
See attached list

Others attending: See attached list

The Chairman, Sen. Oleen, announced the hearing for SB 382, amending the Charitable Organizations and Solicitations Act and introduced David C. Wetzler, who gave testimony (Attachment 1) as a proponent. Sen. Oleen asked Mr. Wetzler for the name of the advisory group who recommended provisions in the bill, and Mr. Wetzler explained the name of the group is Consumer Protection Advisory Panel. That panel studied the issues for approximately 2 years before making the recommendation for this legislation; the consensus was that the consumer needs to be protected from illegitimate organizations without being a burden to those who want to donate to charitable organizations. The information required by this legislation is necessary for the Attorney General to determine if organizations are legitimate. Sen. Oleen stated the bill is the result of a request from the Attorney General and asked if anyone was present from the Secretary of State's Office. She recognized Jennifer Chaulk Wentz who stated the bill is supported by the Secretary of State's office. Sen. Gooch asked if the Attorney General publishes a list advising consumers what organizations are legitimate, and Mr. Wetzler responded there is no list published, but they do file a law suit against organizations that are not legitimate. Sen. Praeger made a motion SB 382 be passed, and the motion was seconded by Sen. Tillotson. Members discussed the fact that smaller organizations may have difficulty complying with some requirements, and Mr. Wetzler stated that groups with less than \$10,000 in contributions are exempt. Sen. Parkinson stated he is concerned about language on Page 2, and he made a substitute motion that on Page 2, Line 35, after "down" the words be stricken to Line 36, after "project"; and the motion was seconded by Sen. Papay. Sen. Oleen pointed out that requirement can be taken care of by Rules and Regulations set out by the Secretary of State's Office, and Ms. Wentz agreed that it can be covered by their Rules and Regulations and the forms which will be developed to report that information. Sen. Jones stated that the purpose of the bill is to require out of state fund raisers and professional fund raisers to account and report contributions. Sen. Parkinson withdrew his motion, and Sen. Papay withdrew her second to his motion. Sen. Oleen asked for action on SB 382, and the motion passed. Sen. Praeger will carry the bill on the Senate floor.

Sen. Oleen announced the committee will hear testimony on HB 2126, concerning fire safety and prevention and notice of violations, and introduced Jim Coder who was the only conferee to offer testimony (Attachment 2). Mr. Coder stated the Fire Marshal's Office originally requested the bill; however, due to amendments added in the House, he asked the Committee to remove the amendments or kill the bill. Sen. Hensley asked for clarification on the amendments requested by Mr. Coder, and Sen. Oleen asked Mr. Coder to review the procedure for serving the notice when a violation is found, and he explained the notice of violation is given to the responsible party at the time the violation is found. Sen. Oleen stated the committee will take this bill and amendments under advisement.

Sen. Oleen directed the committees' attention to SB 284 and one amendment recommended by the Association of School Boards and one from the KCCI (Attachment 3). Ms. Torrence explained the school board amendment would exempt unified school districts and other educational facilities and the KCCI amendment would limit the definition of unlawful products. Sen. Oleen read the fiscal note (Attachment 5) to the committee. Sen. Hensley made a motion to adopt the amendments, and it was seconded by Sen. Parkinson; the motion passed. Sen. Oleen also called attention to a clarifying amendment (Attachment 4). Sen. Hensley

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E
Statehouse, at 11:05 a.m. on March 4, 1993.

made a motion the amendment be adopted, and Sen. Parkinson seconded the motion; the motion passed. Sen. Vidricksen made a motion the bill be passed as amended favorably, and it was seconded by Sen. Tillotson; the motion passed.

Sen. Oleen called committees' attention to SB 151, requiring reports concerning terminations of pregnancies, and action on the bill. Sen. Tillotson made a motion the bill be reported adversely, and it was seconded by Sen. Papay; the motion passed.

Sen. Jones introduced four pages from his district who have assisted the committee today.

The Chairman, Sen. Oleen, asked for committee action on approving Committee Minutes for the Joint Committee Meeting on January 29 and Senate Committee Meeting on February 2. Sen. Jones made a motion the Minutes be approved, and it was seconded by Sen. Hensley; the motion passed.

Meeting adjourned at 12:05

GUEST LIST

COMMITTEE: Senate Federal & State Affairs

DATE: March 4, 1993

[illegible]

SENATE FEDERAL AND STATE AFFAIRS

AGENDA

March 4, 1993

SENATE BILL 382

Proponents:

David Wetzler, Asst. Attorney General, Consumer Protection

HOUSE BILL 2126

Proponents:

Jim Coder, Asst. Attorney General, Fire Marshall

ACTION - - - BILLS

SB 151 - Abortion - BNP
284 - Privacy Act - BPA

? HCR 5006 - Flag Desecration - Hold



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

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Testimony of
Assistant Attorney General David C. Wetzler
On Behalf of Attorney General Robert T. Stephan
Before the Senate Committee on Federal and State Affairs
RE: 1993 Senate Bill No. 382
March 4, 1993

Madam Chairperson and Members of the Committee:

Thank you for the opportunity to appear before this committee on behalf of Attorney General Bob Stephan. I appear before this committee to offer testimony in support of Senate Bill 382 which proposes to amend the Kansas Charitable Organizations and Solicitations Act.

The Attorney General is proposing four basic changes to the Charitable Organizations and Solicitations Act. First, the Attorney General would amend K.S.A. 17-1763 to require organizations to report specific fiscal information in their financial statements filed with the Secretary of State. Some of the information outlined in lines 32 through 43 of this bill is currently being reported on forms issued by the Secretary of State. This bill would merely require by statute that specific information be reported to the Secretary of State.

Second, this bill would allow the Secretary of State to accept executed copies of federal Internal Revenue returns and reports in lieu of a financial statement. The federal forms provide extensive and useful information regarding charitable organizations' fiscal operations. Many of the larger charitable organizations currently file their federal return with the Secretary of State in addition to the financial statement required by the Act.

*Sen. F. & S. A.
3-4-93
att 1*

Third, in addition to the statement required by subsection (b), Senate Bill 382 would require organizations that raise more than \$100,000.00 during its most recent fiscal year to file with the Secretary of State an audited financial statement and the opinion of an independent certified public accountant on the financial statement.

Finally, we are proposing to amend K.S.A. 1992 Supp. 17-1767 to mirror the subpoena powers afforded the Attorney General in the Kansas Consumer Protection Act. Most importantly, the Act would be amended to allow the Attorney General to serve subpoenas by certified mail. Under the present statute, the Attorney General can only serve subpoenas by personal service. This restriction hinders our ability to investigate nonresident charitable organizations and persons.

The Attorney General believes Senate Bill 382 will enhance his ability to investigate violators of the Charitable Organizations and Solicitations Act. More importantly, however, Attorney General Stephan believes this bill will make charitable organizations' fiscal information more available to consumers. Such information should assist consumers in making informed and educated decisions when they are solicited by charities for a donation.

Att 4.2



"Where Fire Safety Is A Way Of Life"

Kansas State Fire Marshal Department
700 Jackson, Suite 600
Topeka, Kansas 66603-3714
Phone (913) 296-3401
FAX (913) 296-0151

Joan Finney
Governor

Edward C. Redmon
Fire Marshal

TESTIMONY OF JIM CODER
ASSISTANT ATTORNEY GENERAL
BEFORE SENATE FEDERAL & STATE AFFAIRS
MARCH 4, 1993
HB 2126

The State Fire Marshal's Office had originally requested this bill. A version identical to that which was introduced in the House passed the Senate last year unanimously.

The bill was intended to provide another alternative to service of the notice of violations of the Kansas Fire Prevention Code. The law as it currently stands requires that before the clock would start running on any enforcement action, the person in violation of the Fire Prevention Code must receive notice by registered mail. We simply wanted to add as an alternative that notice could be provided personally by our Deputy State Fire Marshals. We wanted to be able to put enforcement action for some extremely serious fire code violations on the fast track.

The House Committee made a 2 part amendment to this legislation. The first part is unnecessary and the second defeats the whole purpose of why we asked for the bill.

The unnecessary amendment is the language on line 28 regarding service on the responsible party. Before we would be able to obtain any type of judicial assistance in enforcing an order of the State Fire Marshal, we have to prove that we had perfected notice. Had we not served the responsible party, the court would not entertain any kind of request for enforcement action. Although I believe it is unnecessary, we can live with that if it makes people feel better about this legislation.

The second part of the amendment defeats the whole purpose of our request, which again was to speed up the process in order to more quickly deal with imminent fire and safety hazards. This amendment requires notice to be served as authorized by the code of civil procedure. Under this statute there are 4 ways to serve notice. The first is to get the sheriff to serve notice. That certainly wouldn't speed anything up. Second is to have the attorney serve notice. Again we have a problem with the time factor plus that would be an incredibly stupid and inefficient use of our travel budget. The third way to serve notice is through registered mail, which we already can do. The final way is to have special process

Sen. F. & S.A.
3-4-93
Att 2



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Fire Marshal

servers serve the notice personally. The problem is that we would have to petition the court probably in each judicial district to name our Deputy State Fire Marshals as special process servers. This would totally defeat the purpose of our proposed legislation.

Our inspectors are already in the facility. It only makes sense to allow them to serve notice in order to get the enforcement clock running.

We would ask one of two things. Amend this bill to get back to its original intent. That amendment would be simply to eliminate the language on lines 28 and 29 that the House Committee added. If you choose not to amend it, we would ask that you kill the entire bill. We would rather live with the current law even given the concerns about the time factors than the proposal passed in the House.

SENATE BILL No. 284

By Committee on Federal and State Affairs

2-10

AN ACT concerning employment; prohibiting certain acts by employers and providing a remedy for violations.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) As used in this section, ~~“lawful”~~ consumable products” means ~~[products the use or enjoyment of which is lawful and~~ which are consumed during use or enjoyment, including ~~] food, alcoholic or nonalcoholic beverages and tobacco.~~

(b) No employer shall:

(1) Discharge or refuse to hire any individual, or otherwise disadvantage any individual with respect to compensation, terms, conditions or privileges of employment, because the individual uses lawful consumable products off the premises of the employer during nonworking hours; or

(2) require as a condition of employment that any employee or applicant for employment abstain from using lawful consumable products off the premises of the employer during nonworking hours.

(c) It is not a practice to disadvantage any individual pursuant to this section for an employer to offer, impose or have in effect a health or life insurance policy that makes distinctions between employees for the type of coverage or the cost of coverage based upon the employees use of lawful consumable products.

(d) The provisions of this section shall not be deemed to protect any use of a lawful consumable product which materially:

(1) Threatens an employer's legitimate conflict of interest policy reasonably designed to protect the employer's trade secrets, proprietary information or other proprietary interests; or

(2) relates to a bona fide occupational requirement and is reasonably and rationally related to the employment activities and responsibilities of a particular employee or a particular group of employees rather than to all employees of the employer.

(e) Violation of this section shall render the employer liable to the aggrieved individual for the payment of a civil penalty in an amount not to exceed \$2,500, as fixed by the secretary of human resources. Such penalty shall be imposed only after notice and opportunity for hearing in accordance with the provisions of the Kansas

(1) "Educational entity" means any unified school district, community college, area vocational-technical school or educational service center or cooperative.

(2) "Lawful

strike bracketed language

Sen. 7.4 S.A.
3-4-93
Att 3

1 administrative procedure act, to the extent applicable. Any order of
2 the secretary of human resources imposing such penalty shall be
3 subject to review in accordance with the act for judicial review and
4 civil enforcement of agency actions.

5 (f) Nothing in this section shall be construed to prohibit an em-
6 ployer from making available to employees who use lawful consum-
7 able products, programs, free of charge or at reduced rates, which
8 encourage the reduction or cessation of the use of lawful consumable
9 products.

10 (g) The provisions of this section shall not be construed to pro-
11 hibit ~~unified school district policies that forbid use of legal consum-~~
12 ~~able products by district employees at official school district events~~
13 ~~or at any time when the employee is performing duties as an~~
14 ~~employee.~~

15 Sec. 2. This act shall take effect and be in force from and after
16 its publication in the statute book.

policies of an education entity

the entity's employees at: (1) Events conducted by
the entity; (2) any time when the employee is
performing duties as an employee of the entity; or
(3) any social or casual gathering of any employee
and any student of the entity, unless the student
is a member of the employee's household

SENATE BILL No. 284

By Committee on Federal and State Affairs

2-10

AN ACT concerning employment; prohibiting certain acts by employers and providing a remedy for violations.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) As used in this section, "lawful consumable products" means products the use or enjoyment of which is lawful and which are consumed during use or enjoyment, including food, alcoholic or nonalcoholic beverages and tobacco.

(b) No employer shall:

(1) Discharge or refuse to hire any individual, or otherwise disadvantage any individual with respect to compensation, terms, conditions or privileges of employment, because the individual uses lawful consumable products off the premises of the employer during nonworking hours; or

(2) require as a condition of employment that any employee or applicant for employment abstain from using lawful consumable products off the premises of the employer during nonworking hours.

(c) ~~It is not a practice to disadvantage any individual pursuant to this section for an employer to offer, impose or have in effect a~~ health or life insurance policy that makes distinctions between employees for the type of coverage or the cost of coverage based upon the employees use of lawful consumable products.

(d) The provisions of this section shall not be deemed to protect any use of a lawful consumable product which materially:

(1) Threatens an employer's legitimate conflict of interest policy reasonably designed to protect the employer's trade secrets, proprietary information or other proprietary interests; or

(2) relates to a bona fide occupational requirement and is reasonably and rationally related to the employment activities and responsibilities of a particular employee or a particular group of employees rather than to all employees of the employer.

(e) Violation of this section shall render the employer liable to the aggrieved individual for the payment of a civil penalty in an amount not to exceed \$2,500, as fixed by the secretary of human resources. Such penalty shall be imposed only after notice and opportunity for hearing in accordance with the provisions of the Kansas

Nothing in this section shall be construed to prohibit an employer from offering, imposing or having

Sen. 7.4 S.A.
2-4-93
CSC 4

KCC

AMENDMENT TO S.B. 284

Section 1. (a) As used in this section, "lawful consumable products" means food, alcoholic or nonalcoholic beverages and tobacco.



DIVISION OF THE BUDGET

Room 152-E

State Capitol Building

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Joan Finney
GovernorGloria M. Timmer
Director

February 24, 1993

The Honorable Lana Oleen, Chairperson
Committee on Federal and State Affairs
Statehouse, Room 136-N
Topeka, Kansas 66612

Dear Senator Oleen:

SUBJECT: Fiscal Note for SB 284 by Senate Committee on
Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note
concerning SB 284 is respectfully submitted to your committee.

SB 284 would prohibit employers from using an individual's known use of lawful consumable products during non-working hours as a basis for discharging or refusing to hire that individual or for determining an individual's compensation and privileges of employment. Employers who violate the bill's provisions would be liable for civil penalties of up to \$2,500 as assessed by the Department of Human Resources. Under the bill, an employer may apply rules to specific instances or specific individuals in which the use of certain lawful products would constitute a conflict of interest or in which a limit or ban on certain products relates to a justified occupational requirement.

For FY 1994, SB 284 would increase State General Fund expenditures by \$80,294 above the amounts included in the FY 1994 Governor's Budget Report, as amended. The Department of Human Resources estimates an increase of 50 to 75 complaint investigations per year as a result of this bill. In order to meet the increased demand for investigations, the Department foresees the need to add 1.0 Labor Conciliator I and 1.0 Office Assistant III to the Labor Relations and Employment Standards Program. The total estimated FY 1994 cost for salaries and fringe benefits would be \$54,694 from the State General Fund. The Department estimates

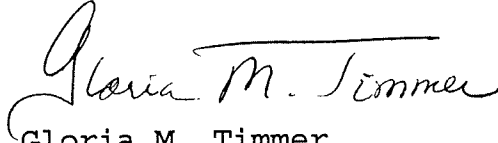
Sen. F. & SA,
2-4-93
Att 5

The Honorable Lana Oleen, Chairperson
February 24, 1993
Page 2

\$25,600 for FY 1994 other operating expenditures, which includes \$5,000 in one-time capital outlay purchases.

SB 284, Section 1(c), states that "it is not a practice to disadvantage" if an employer were to impose a difference in cost or type of coverage for health or life insurance based upon an employee's use of lawful consumable products. Therefore, the discount offered to non-smokers within the state health insurance plan would not appear to be prohibited by SB 284.

Sincerely,

A handwritten signature in cursive script that reads "Gloria M. Timmer". The signature is written in dark ink and is positioned above the printed name and title.

Gloria M. Timmer
Director of the Budget

cc: Sid Snider, Human Resources
Nancy Echols, Division of Personnel Services

284.fn