

Approved: _____

Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Chair Sandy Praeger at 10:00 a.m. on February 22, 1994 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Norman Furse, Revisor of Statutes
William Wolff, Legislative Research Department
Jo Ann Buntin, Committee Secretary

Conferees appearing before the committee:

Mark Parkinson, Kansas State Senator
Frances Kastner, Director, Kansas Food Dealers Association
Tom Hitchcock, Executive Secretary, Kansas State Board of Pharmacy
Bob Williams, Executive Director, Kansas Pharmacists Association
Joseph F. Kroll, Bureau of Adult and Child Care, Kansas Department of Health and Environment
Tom Bell, Kansas Hospital Association

Others attending: See attached list

Hearing on SB 687 - Sale of nonprescription medicines and drugs by vending machine

Senator Mark Parkinson, sponsor of **SB 687**, addressed the Committee in support of the bill that would allow nonprescription drugs sold in vending machines. He noted that under current law it is illegal to sell medication of any kind from a vending machine and noted that Missouri is an example of a state where vending machines are common. (Attachment 1)

Frances Kastner, KFDA, appeared before the Committee in support of **SB 687** because her association has consistently supported legislation allowing business entities to make their decisions about how they wish to operate and merchandise their products so long as it is within legal parameters. (Attachment 2)

Tom Hitchcock, Kansas State Board of Pharmacy, addressed the Committee in opposition of **SB 687** and noted that over-the-counter drugs such as benzedrex inhalers could at some time be dispensed from a vending machine, broken open and cooked down by a "quasi-chemist" into the drug propylhexedrine which is a schedule V controlled substance. Lack of regulating expiration dates, storage conditions, FDA labeling and general packaging of the product were also mentioned as detriments for dispensing drugs in a vending machine. (Attachment 3) During Committee discussion, Mr. Hitchcock noted stores that sell over-the-counter drugs such as grocery stores and quick shops that do not have a pharmacy need a license or retail dealer permit and are monitored once a year.

Bob Williams, Kansas Pharmacists Association, appeared in opposition to **SB 687** noting that vending machines would be accessible to anyone, and medication such as aspirin could be harmful especially to children if improperly used. (Attachment 4)

During Committee discussion, it was noted by Mr. Williams that it would be helpful if the bill were amended to guarantee child-proof packages or vending machines be inspected, however he still had the same concerns as expressed by Mr. Hitchcock. A member pointed out that questions have been raised in Committee that could be addressed through rules promulgated by the Board of Pharmacy.

Committee Discussion of SB 715 - Uniform controlled substances act schedule changes

The Chair noted that **SB 715** had been taken off of the consent calendar and will be amended on the floor of the Senate. The effect of changing the hydrocodone drug to a Schedule II would mean that a physician who wants to manage pain for their patients could not prescribe this drug over the phone, therefore the amendment would place the drug back to Schedule III.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 526-S
Statehouse, at 10:00 a.m. on February 22, 1994.

Tom Hitchcock, KSBP, read a letter from the Medical Director, Chemical Treatment Services, St. Francis Hospital, Topeka, who supports moving all hydrocodone drugs and related oral narcotics to Schedule II, because this would help physicians understand the seriousness and addictive potential of these drugs. Mr. Hitchcock noted there are five schedules, and that the lower the number, the more abusive and addictive that drug is. Schedule I is not a legal drug in the fact that it cannot be prescribed nor can it be dispensed by a pharmacy, and Schedule II is the most restrictive.

Jerry Slaughter, KMS, commented that moving hydrocodone to Schedule II would make it more difficult for patients to get the drug or would require the physician to write more medication for the patient than may be necessary. He noted that moving the drug back to Schedule III would be beneficial to the patient.

Hearing on SB 716 - Confidentiality of medical care facility licensing information

Joe Kroll, KDHE, testified before the Committee in support of **SB 716** noting that the bill was a joint effort between the Kansas Hospital Association and KDHE to merge two annual surveys that both conduct regarding hospital operations. (Attachment 5)

Tom Bell, KHA, appeared before the Committee noting the support of the joint effort with KDHE as addressed in **SB 716** would be cost effective for everyone.

Action on SB 716

After Committee discussion, Senator Hardenburger made a motion the Committee recommend **SB 716** favorably for passage, seconded by Senator Papay. The motion carried.

Action on SB 575 - Schools, test and inoculations of pupils, alternatives

Concerns were expressed by the Committee regarding language in the bill that would exclude children from school and in particular the use of the word "shall" or "may" when referring to this issue. After Committee discussion, Senator Hardenburger made a motion to strike Section 4 from **SB 575**, seconded by Senator Jones. The motion carried.

Senator Jones made a motion that **SB 575 as amended** be recommended favorably for passage, seconded by Senator Papay. The motion carried.

The meeting was adjourned at 11:00 a.m.

The next meeting is scheduled for February 23, 1994.

GUEST LIST

COMMITTEE: SENATE PUBLIC HEALTH & WELFARE

DATE: 2-22-94

[illegible]

STATE OF KANSAS

MARK PARKINSON
SENATOR, 23RD DISTRICT
REPRESENTING GARDNER, OLATHE,
OVERLAND PARK, SPRING HILL
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OLATHE, KANSAS 66062
913-829-5044



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS
CHAIRMAN: LOCAL GOVERNMENT
MEMBER: JUDICIARY
FEDERAL AND STATE AFFAIRS
ELECTIONS

**TO: Chairperson Sandy Praeger and Members of the
Senate Public Health & Welfare Committee**

FROM: Senator Mark Parkinson

RE: SB 687

DATE: February 22, 1994

At the outset, I would like to thank Chairperson Praeger and the other members of this committee for taking the time to hold a hearing today on SB 687. I know that you are very busy with the major issue of health care reform. For that reason, I am appreciative that you would consider a bill that in the scheme of things may not seem very significant. I assure you that to a few people it is important.

Under current law it is illegal to sell medication of any kind from a vending machine. That includes both prescription and nonprescription medication. Senate Bill 687 would change that by providing that nonprescription drugs could be sold in vending machines.

There are a variety of states where nonprescription drugs are sold in vending machines. Vending businesses have sprung up and placed the machines primarily in bars and restaurants. The nonprescription drug of choice appears to be aspirin, Tylenol, and other medication for headaches. Missouri is an example of a state where

Senate PH&W
Attachment #1
2-22-94

this is legal and the vending machines are common. It is my understanding that even though it is against the law in Kansas, some of these machines are also available in our state.

I was contacted by a constituent who had started a vending machine business to sell aspirin and Tylenol. He had researched the issue and found that it was illegal in Kansas and asked if it could be changed. I agreed to look at the issue and introduce the bill, which ultimately culminated in SB 687. I am not aware of any reason that this is not good public policy. I have given it considerable thought, talked to some people in the drug industry, and am not able to develop any reasons why this could create problems.

Instead, it would provide the private sector with an opportunity to market its products in yet another creative way. In the absence of some public policy argument that is thought up by some committee members or by an opponent to the bill, I would encourage this committee to adopt SB 687. Thank you for your consideration.



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FRANCES KASTNER

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE 2-22-94

SUPPORTING SB 687

I am Frances Kastner, Director of Governmental Affairs for the Kansas Food Dealers Association. Our membership consists of manufactures, distributors and retailers of food products in Kansas.

Our Association has consistently supported legislation allowing business entities to make their decisions about how they wish to operate, and merchandise their products, so long as it is within legal parameters.

As we understand the bill, it would make it perfectly clear that it is not illegal to sell over the counter non-prescription drugs through a vending machine. If our interpretation is accurate, we are in support of SB 687.

We appreciate the opportunity to appear before you today.

Frances Kastner, Director
KFDA, Governmental Affairs

Senate PH&W
Attachment #2
2-22-94

Kansas State Board of Pharmacy

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STATE OF KANSAS



JOAN FINNEY
GOVERNOR

SENATE BILL 687

SENATE PUBLIC HEALTH & WELFARE COMMITTEE

February 22, 1994

MADAM CHAIRPERSON, MEMBERS OF THE COMMITTEE, MY NAME IS TOM HITCHCOCK AND I SERVE AS THE EXECUTIVE SECRETARY FOR THE BOARD OF PHARMACY. I APPEAR BEFORE YOU TODAY ON BEHALF OF THE BOARD IN OPPOSITION OF SB 687.

PASSING THIS BILL WOULD ALLOW THE SALE OF OVER-THE-COUNTER (OTC) DRUGS IN VENDING MACHINES AND IT IS THE OPINION OF THE BOARD OF PHARMACY THAT K.S.A. 65-650 SHOULD REMAIN JUST AS IT IS WITH NO CHANGE OR AMENDMENTS. THERE CONTINUES TO BE A NECESSITY FOR THE BOARD TO REGULATE OTC DRUGS THAT DO NOT REQUIRE A PRESCRIPTION, FOR THE PROTECTION OF THE PUBLIC HEALTH AND WELFARE. THIS REGULATING INVOLVES EXPIRATION DATES, STORAGE CONDITIONS INCLUDING TEMPERATURE AND HUMIDITY, PROPER FDA LABELING, AND GENERAL PACKAGING OF THE PRODUCT. THESE MAY BE CURRENTLY CONTROLLED BY REGULATING A DISTRIBUTOR, RETAIL DEALER AND A PHARMACY, BUT ONCE AN OTC DRUG IS PLACED IN A VENDING MACHINE IT IS OPEN SEASON FOR ANYBODY THAT HAS THE CORRECT CHANGE TO OBTAIN SUCH DRUG FROM THE VENDING MACHINE. THESE INDIVIDUALS COULD BE PRETEENS, TEENAGERS, AND AS WAS PREVIOUSLY NOTED, ANYBODY, INCLUDING YOUR CHILDREN OR MY GRANDCHILDREN.

IF IT WERE LEGAL, SOME OTC DRUGS THAT COULD BE PUT INTO A VENDING MACHINE ARE BENZEDREX INHALERS WHICH CAN BE BROKEN OPEN AND COOKED DOWN BY A "QUASI-CHEMIST" INTO THE DRUG PROPYLHEXEDRINE WHICH IS A SCHEDULE V CONTROLLED SUBSTANCE. ANOTHER IS EPHEDRINE THAT IS A PRECURSOR TO METHCATHINONE, A SCHEDULE I CONTROLLED SUBSTANCE, THE PROCEDURE WHICH IS DESCRIBED IN THE ATTACHED ARTICLE APPEARING JUST LAST YEAR IN THE TOPEKA DAILY CAPITOL. ANOTHER IS PHENYLPROPANOLAMINE THAT IS A FIRST COUSIN TO DEXTROAMPHETAMINE, A SCHEDULE II CONTROLLED SUBSTANCE THAT IS HIGHLY REGULATED UNDER A STATUTE THAT DEALS WITH THE PROPER AND LEGAL PRESCRIBING AND DISPENSING OF AMPHETAMINES AND SYMPATHOMIMETIC AMINES. THESE ARE MENTIONED TO INFORM YOU OF JUST SOME OF THE POTENTIAL ABUSIVE PROBLEMS WITH OTC DRUGS.

IT IS PROBABLY TRUE THAT IF YOU COULD CONTROL TEMPERATURE AND HUMIDITY THERE POSSIBLY WOULD BE NO PROBLEM WITH PLACING ASPIRIN, TYLENOL, ALKA-SELZER, ROLAIDS, TUMS, OR COUGH DROPS INTO A VENDING MACHINE, BUT SHOULD YOU DISCRIMINATE TO NOT ALLOW OTHER OTC DRUGS, AS DESCRIBED ABOVE, INTO THE SAME MACHINE. THE CHANGE WHICH WOULD TRANSPIRE

*Senate PH&W
Attachment #3
2-22-94*

IF THIS BILL WERE PASSED IS SIMPLY NOT NEEDED AND NOT IN THE BEST INTEREST OF THE PUBLIC HEALTH SAFETY AND WELFARE.

THE AMENDMENT OF THE STATUTE, AS PROPOSED IN THIS BILL, TO PROHIBIT THE SALE OF PRESCRIPTION DRUGS IN A VENDING MACHINE IS TOTALLY UNNECESSARY. CURRENTLY A DISTRIBUTOR OF PRESCRIPTION DRUGS MUST BE REGISTERED WITH OUR AGENCY AND MAY ONLY LEGALLY DISTRIBUTE THESE DRUGS WITHIN OR INTO THE STATE TO A PROFESSIONAL OR BUSINESS THAT IS LICENSED OR REGISTERED TO POSSESS SUCH DRUGS. THE PHARMACY THAT IS REGISTERED TO DISPENSE PRESCRIPTION-ONLY DRUGS MUST HAVE A LICENSED PHARMACIST IN CHARGE OF THAT PHARMACY. THE ONLY PEOPLE IN KANSAS THAT ARE LICENSED TO DISPENSE PRESCRIPTION DRUGS ARE A PHARMACIST OR PRACTITIONER. THAT WITHIN ITSELF WOULD NOT ALLOW A VENDING MACHINE TO DISPENSE PRESCRIPTION-ONLY DRUGS REGARDLESS OF THE PASSAGE OF THIS BILL.

THE BOARD OF PHARMACY RESPECTFULLY REQUESTS THAT YOU NOT PASS SB 687 OUT OF COMMITTEE FAVORABLY.

THANK YOU.

August 10, 1993
TOPEKA DAILY CAPITOL

ARTICLE BY; JOHN FLESHER
The Associated Press

MARQUETTE, MICH. - Michigan's Upper Peninsula, a ruggedly beautiful land where deer outnumber people, is the unlikely setting of a battle to head off another nationwide drug epidemic.

In dense hardwood forests and sleepy villages nestled on Great Lakes shores, criminals are manufacturing and peddling methcathinone, an amphetamine with the street name "cat."

The chunky, off-white powder somewhat resembles crack cocaine in appearance and potency. Made in crude laboratories from easily obtained ingredients such as drain cleaner and epsom salts, it can be inhaled, smoked or watered down and injected.

The drug has been "spreading like wildfire" in the Upper Peninsula since the first arrests two years ago, said John Smietanka, U.S. attorney for Michigan's western district. He believes it will go farther.

"Drugs don't stop at geographic boundaries, any more than shipping and commerce and currency," Smietanka said.

"We're very concerned. This drug does have the potential to be a national problem," said James Toliver, a pharmacologist with the U.S. Drug Enforcement Agency in Washington.

There have been busts across the border in northern Wisconsin and at least one - what police say was probably an isolated case - in Washington state.

Like its namesake feline stalking a mouse, cat crept into view so stealthily it took the Michigan Legislature until this spring to enact a state law against it. Previously, charges were brought under federal law.

Where did it all start? Police believe a drug abuser in Ann Arbor stumbled across the recipe while researching amphetamines. He passed it to a student at Northern Michigan University in Marquette, who began manufacturing cat in his apartment.

An informant tipped police, who raided the makeshift lab in 1991. But by then others were making methcathinone.

Cat ingredients vary somewhat but can include battery acid, drain cleaner, paint thinner and lye. A key component is EPHEDRINE, a chemical that can be mail-ordered or derived from a particular over-the-counter stimulant.

Lab equipment is equally commonplace: glass jars, rubber tubing, a burner. The "cooking" takes about four hours. Because it's so simple, it can be done almost anywhere.

"We're finding fragmented labs out in the woods, just like in the old moonshine days," Marquette County Sheriff Joseph Maino said.

A kilogram costs about \$500 to make but has a street value of \$15,000.

"I'm afraid the cocaine and LSD groups will try to get their hands on the recipe," Maino said.

Another concern is the environmental damage caused by abandoned cat labs, which police describe as miniature toxic waste dumps. Cleaning up one lab costs about \$10,000, Maino said.

The drug itself isn't new. Soviet chemical companies are believed to have developed it in the 1930s to treat depression, said Don Simila, supervisor of addiction rehabilitation at Marquette General Hospital. It was outlawed there but remains popular with Russian drug users.

Bad side effects led Western scientists to abandon studies of methcathinone as a possible asthma treatment, Simila said.

"Larry," 25, a rehabilitated addict who spoke on condition that his real name not be used, said he quickly dropped cocaine after boyhood pals introduced him to cat.

"It's more powerful and a lot cheaper," said the unemployed laborer, who awaits sentencing on a guilty plea to manufacturing the drug. "I got a speedish effect, a big rush, right from my first time."

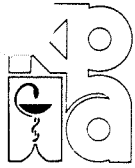
He paid about \$20 per gram before getting the recipe and making his own, though Lt. Richard Killips of the Michigan State Police says most cat sells for \$75 to \$100. Cocaine brings \$125 to \$150 per gram in the Upper Peninsula, he said.

It took Larry about a month to get hooked.

Within a year he was mixing batches and staying high for up to five days at a time, often forgetting to eat. He then would "crash" and sleep for long periods, awaking depressed and craving more cat.

His weight fell from 165 pounds to 145. His nose bled from snorting the drug. His skin was dry and dotted with sores; his perspiration reeked of chemicals.

Unable to think clearly, he did little work and couldn't remember to pay his bills.



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**TESTIMONY
SB 687**

ROBERT R. (BOB) WILLIAMS, M.S., C.A.E.
EXECUTIVE DIRECTOR

**SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
Tuesday, February 22, 1994**

My name is Bob Williams, I am the Executive Director of the Kansas Pharmacists Association. Thank you for this opportunity to address Senate Bill 687.

At first blush SB687 looks innocuous enough. After all, what harm could come from placing such over-the-counter medications aspirin, tums or motrin in vending machines. However, after conferring with my membership they have convinced me that SB 687 is a bad idea.

While it is true that over-the-counter medication can be purchased at a variety of retail markets, such as community pharmacies, grocery stores and Kwik Shops, in each of these retail settings there are individuals who were monitoring the sale of over-the-counter medication. Vending machines are usually in out of the way places accessible by anyone at any age as long as they have change. Even aspirin can be harmful if improperly used.

Annually, the Kansas Pharmacists Association in cooperation with the Kansas Department of Health and Environment sponsors Poison Prevention Week whereby we educate the public regarding accidental poisonings. We teach parents to keep all medication out of the reach of children. Placing medication in vending machines will make it all too accessible to curious children who might have gone to the vending machine for candy but chose the brightly wrapped medication instead.

The Kansas Pharmacists Association respectfully requests that you vote no on SB 687.

Thank you.

*Senate PH&W
Attachment #4
2-22-94*

Poison Lookout Checklist

The areas listed below are the most common sites of accidental poisonings in the home. Follow this checklist to learn how to correct situations that may lead to poisonings. If you answer "No" to any questions, fix the situation quickly.

Kitchen

Yes No

1. Do all harmful products in the cabinets have child-resistant caps?
Products like furniture polishes, drain cleaners, and some oven cleaners should have safety packaging to prevent children from accidentally opening the packages.

☐ ☐

2. Are all potentially harmful products in their original containers?
It is important that products are stored in their original containers for two reasons. Labels on the original containers often give first aid information if someone should swallow the product. If products are stored in containers like drinking glasses or pop bottles, someone may think it is food and swallow it.

☐ ☐

3. Are harmful products stored away from food?
If harmful products are placed next to food, someone may accidentally get a food and a poison mixed up and swallow the poison.

☐ ☐

4. Have all potentially harmful products been put up high and out of reach of children?
The best way to prevent poisoning is making sure it's impossible to find and get at the poisons. Locking all cabinets that hold dangerous products is the best poison prevention.

☐ ☐

Bathroom

1. Did you ever stop to think that medicines could be poison if used improperly?
Many children are poisoned each year by overdoses of aspirin. If aspirin can poison, just think of how many other poisons might be in your medicine cabinet.

☐ ☐

2. Do your aspirins and other potentially harmful products have child-resistant caps?
Aspirins and most prescription drugs come with child-resistant caps. Make sure yours have them.

☐ ☐

3. Have you thrown out all out-of-date prescriptions?

☐ ☐

As medicines get older, the chemicals inside them can change. What was once a good medicine may now be a dangerous poison. Flush all old drugs down the toilet. Rinse the container well and discard it.

4. Are all medicines in their original containers with the original labels?

☐ ☐

Prescription medicines may or may not list ingredients. The prescription number on the label will, however, allow rapid identification by the pharmacist of the ingredients. Without the original label and container, you can't be sure of what you're taking.

Garage & Storage Areas

1. Did you know that many things in your garage and storage areas can be poisons?
Death may occur when people swallow such everyday substances as charcoal lighter, paint thinner and remover, antifreeze, and turpentine.

☐ ☐

2. Do all these poisons have child-resistant caps?

☐ ☐

3. Are they stored in their original containers?

☐ ☐

4. Are the original labels on the containers?

☐ ☐

5. Have you made sure that no poisons are stored in drinking glasses or pop bottles?

☐ ☐

6. Are all these harmful products locked up and out of sight and reach?

☐ ☐

When all your answers are "Yes," then continue this level of poison protection by making sure that whenever you buy potentially harmful products they have child-resistant caps and are kept out of sight and reach.



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Source: US Consumer Product Safety Commission. Provided by: Kansas Department of Health and Environment and the Kansas Pharmacists Association.

State of Kansas

Joan Finney, Governor



Department of Health and Environment

Robert C. Harder, Secretary

TESTIMONY PRESENTED TO
THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

BY

THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

SENATE BILL 716

Thank you for the opportunity to provide testimony this morning related to Senate Bill 716. This bill amends K.S.A. 65-436 (a) to allow disclosure of hospital data, by facility, collected by the Kansas Department of Health and Environment (KDHE).

Background

Historically, KDHE has collected data related to services provided by medical care facilities. The information collected includes data related to the allocation of beds, special care services, patient statistics, surgical facilities, outpatient services, personnel, staffing, etc. During the years KDHE implemented a Certificate of Need (CON) program, this information was analyzed for decision-making purposes related to health planning and Certificate of Need. K.S.A. 65-436 (a) was amended to delete references to use of the collected data in CON context. Since that time, the data collected by KDHE has generally not been available to the public on an individual facility basis. Data has been released on a summary basis. Medical care facilities have been required to complete the survey under the authority of K.S.A. 65-429.

In addition to the KDHE questionnaire, Kansas hospitals have also completed an annual survey generated by the American Hospital Association through the Kansas Hospital Association (KHA). KDHE and KHA staff have reviewed the survey instruments and have concluded that the data categories are so similar that the completion of two separate surveys is an unnecessary duplication of efforts for the two organizations and Kansas hospitals. Therefore, KDHE and KHA have proposed to collaborate on the distribution, collection, editing, follow-up, and publication of data through the use of one survey instrument. The data would be available to each organization.

Currently, K.S.A. 65-436 (a) would not allow this collaboration, or release of the information collected, which would identify "medical care facilities."

Issues

Two issues are involved with Senate Bill 716. The first relates to the public release of specific data related to services offered by Kansas medical care facilities. The recognition of the need for availability of such data continues to increase. The Kansas Health Care Data Commission

*Senate PH&W
Attachment #5
2-22-94*

has been established which will advise the Department on future data needs. Other states are involved with similar collaborative efforts between state and private non-profit data collection entities.

A second issue relates to the availability of information available in KDHE files from other sources. It is our belief that the amendment of K.S.A. 65-436 (a) would not adversely effect program operations of the Department. Other state (Open Records Act) and federal (Freedom of Information Act) statutes related to confidentiality provide guidance regarding disclosure of information in agency files. The protection of information identifying individuals is maintained in the statute.

Conclusion

The Department recommends favorable committee action on Senate Bill 716. The passage of Senate Bill 716 would further enhance Kansas' access to information about services available in licensed medical care facilities.

Presented by: Joseph F. Kroll, Director
Bureau of Adult and Child Care
Kansas Department of Health and Environment

Date: February 21, 1994