

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on March 14, 2007 in Room 231-N of the Capitol.

All members were present.

Committee staff present:

Kathie Sparks, Kansas Legislative Research Department  
Dennis Hodgins, Kansas Legislative Research Department  
Ken Wilke, Revisor of Statutes Office  
Connie Burns, Committee Assistant

Conferees appearing before the committee:

Others attending:

See attached list.

**Final Action:**

**HB 2390 - Drivers' licenses and identification cards**

A balloon was provided by staff. (Attachment 1) This balloon deletes KSA 8-260 and the associated sections with it. It also has a technical change on page 9, lines 21 and 22 , and renumbering the sections on page 30.

Senator Reitz moved the amendment. Senator Barnett seconded the motion. The motion carried.

Senator Vratil requested that the Senate Committee of Federal and State Affairs be added to page 2 lines 18 or 19 and left the wording up to the Revisor.

Senator Vratil moved the amendment. Senator Lynn seconded the motion. The motion carried.

Senator Barnett moved to pass **HB 2390** out favorably as amended. Senator Reitz seconded the motion. The motion carried.

**HB 2202 - Farm wineries; catering licenses**

Revisor provided an amendment that would also include micro breweries, and KSA 410308a. and 41-312. (Attachment 2)

Senator Ostmeyer moved the amendment. Senator Reitz seconded the motion. The motion carried.

Senator Reitz moved to pass **HB 2202** out favorably as amended. Senator Gilstrap seconded the motion. The motion carried

**HB 2270 - Official Firefighters Museum; Official Firefighter Memorial**

Senator Reitz moved to pass **HB 2270** out favorably. Senator Barnett seconded the motion. The motion carried

**HB 2140 - English official language of the State of Kansas**

An amendment was provided by staff that inserts the word "common" instead of "official". (Attachment 3)

Senator Brungardt moved the amendment. Senator Vratil seconded the motion. The motion to move the amendment failed on a tie vote.

Senator Reitz made a motion to delete the \$500,000. Senator Vratil moved a substitute motion to remove all of Section 7 on page 3, and to include the deletion of the \$500,000 on page 4 lines 1-3. Senator Reitz

## CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:30 a.m. on March 14, 2007 in Room 231-N of the Capitol.

seconded the motion. The substitute motion carried.

Senator Brownlee moved to pass **HB 2140** out favorably as amended. Senator Ostmeyer seconded the motion. The motion carried.

### **HB 2068 - Adjutant general, security officers**

Staff provided the balloon that was provided at the time of the hearing, inserting law enforcement officer in place of security official, a new section 4 and renumbering of sections, and adding KSA 22-2401a. (Attachment 4)

Senator Reitz moved the amendment. Senator Brownlee seconded the motion. The motion carried.

Senator Barnett moved to pass **HB 2068** out favorably as amended. Senator Lynn seconded the motion. The motion carried

### **Sub HB 2067 - Kansas Commission on Veterans Affairs; criminal history records.**

Senator Ostmeyer moved to pass **Sub HB 2067** out favorably as amended. Senator Brownlee seconded the motion. The motion carried

### **HB 2295 - Effect of criminal convictions on licensure of real estate brokers and salesperson**

Staff explained that there was a technical error on page 6 in new language for section (2) it should be licensees' honesty instead of applicant's honesty. (Attachment 5)

Senator Barnett moved the amendment. Senator Reitz seconded the motion. The motion carried.

The balloon provided by staff, Senator Vratil explained that the amendment would tie up the inconsistencies and policy changes in the bill, the amendment would reduce from 15 years to 10 years for an applicant that has registered on the offender register, and 10 years to 5 years for crime and fraud from the date of conviction.

Senator Vratil moved the amendment. Sn Barnett seconded the motion.

Senator Brownlee offered a substitute motion to 5 years to start at discharge from post release conditions instead of conviction date on sex offenders and violent offenders that are required to register.

Senator Ostmeyer seconded the motion. The motion carried.

Senator Vratil moved to pass **the substitute bill for HB 2295** out favorably. Senator Reitz seconded the motion. The motion carried.

The meeting was adjourned at 11:25 am. The next scheduled meeting is March 15, 2007.

DATE 3-14-07

[illegible]

## HOUSE BILL No. 2390

By Committee on Veterans, Military and Homeland Security

2-5

12 AN ACT providing for improved security for drivers' licenses and iden-  
13 tification cards in compliance with the federal REAL ID Act of 2005;  
14 giving the secretary of revenue authority to appoint law enforcement  
15 officers to enforce certain laws; giving the secretary of revenue au-  
16 thority to issue subpoenas in the investigation of driver's or identifi-  
17 cation card fraud; amending K.S.A. 8-234a, 8-246, 8-249, 8-250, ~~8-~~  
18 ~~260~~ 8-1326 and 8-1332 and K.S.A. 2006 Supp. 8-240, 8-243, 8-247,  
19 8-2,135, 8-1324, 8-1325, 74-2012 and 74-5602 and repealing the ex-  
20 isting sections.

21

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

23 New Section 1. (a) The division of vehicles of the department of  
24 revenue shall subject all persons and examiners authorized to manufac-  
25 ture, produce or issue drivers' licenses and identification cards to appro-  
26 priate security clearance requirements, as defined by rules and regula-  
27 tions adopted by the secretary of revenue. To insure appropriate security  
28 clearance requirements, the division of vehicles may require fingerprint-  
29 ing of any person authorized to manufacture, produce or issue drivers'  
30 licenses and identification cards. The division of vehicles may submit such  
31 fingerprints to the Kansas bureau of investigation, federal bureau of in-  
32 vestigation or other law enforcement agency for the purposes of verifying  
33 identity, level of security risk and obtaining records of criminal arrests  
34 and convictions. Any person who is determined to be a security risk by  
35 the division of vehicles shall not be eligible to manufacture, produce or  
36 issue drivers' licenses or identification cards.

37 (b) The division of vehicles shall establish ~~fraudulent document rec-~~  
38 ~~ognition~~ training programs for employees who engage in the issuance of  
39 drivers' license and identification cards **regarding document recogni-**  
40 **tion and federal rules used to determine lawful presence.**

41 (c) The division of vehicles shall ensure the physical security of lo-  
42 cations where drivers' licenses and identification cards are produced and  
43 the security of document materials and papers from which drivers' li-



Reg. by Dept. of Revenue  
1-2

(4) "address of principal residence" means: (A) The place where a person makes his or her permanent principal home; (B) place where a person resides, has an intention to remain and where they intend to return following an absence; or (C) place of habitation to which, whenever the person is absent, the person intends to return. If a person eats at one place and sleeps at another, the place where the person sleeps shall be considered the person's address of principal residence.

; and

(5) "state" means a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands

(b) As used in this act, the words and phrases defined by the sections in article 14 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, shall have the meanings respectively ascribed to them therein, unless a different meaning is ascribed to any such word or phrase by subsection (a) of this section.

Sec. 4. K.S.A. 2006 Supp. 8-240 is hereby amended to read as follows: 8-240. (a) Every application for an instruction permit shall be made upon a form furnished by the division of vehicles and accompanied by a fee of \$2 for class A, B, C or M and \$5 for all commercial classes. Every other application shall be made upon a form furnished by the division and accompanied by an examination fee of \$3, unless a different fee is required by K.S.A. 8-241, and amendments thereto, and by the proper fee for the license for which the application is made. ~~The applicant also shall be required to pay for the costs associated with the production of the license or instruction permit.~~ If the applicant is not required to take an examination the examination fee shall not be required. The examination shall consist of three tests, as follows: (1) Vision; (2) written; and (3) driving. If the applicant fails the vision test, the applicant may have correction of vision made and take the vision test again without any additional fee. If an applicant fails the written test, the applicant may take such test again upon the payment of an additional examination fee of \$1.50. If an applicant fails the driving test, the applicant may take such test again upon the payment of an additional examination fee of \$1.50. If an applicant fails to pass all three of the tests within a period of six months from the date of original application and desires to take additional tests, the applicant shall file an application for reexamination upon a form furnished by the division, which shall be accompanied by a reexamination fee of \$3, except that any applicant who fails to pass the written or driving portion of an examination four times within a six-month period, shall be required to wait a period of six months from the date of the last failed examination before additional examinations may be given. Upon the filing of such application and the payment of such reexamination fee, the applicant shall be entitled to reexamination in like manner and subject to the additional fees and time limitation as provided for examination on an original application. If the applicant passes the reexamination, the applicant shall be issued the classified driver's license for which the applicant originally ap-

side the state and for whom the division provides for renewal of the driver's license by mail is exempt from the requirement to have a colored photograph of such person placed on such person's driver's license. Any person belonging to a religious organization which has a basic objection to having their picture taken may sign a statement to that effect and such person shall then be exempt from the picture requirements of this section.

**A driver's license which does not contain a colored photograph of the licensee as required may be issued to persons exempted from such requirement. Any such license shall be valid for the purposes of the motor vehicle drivers' license act and the division shall set forth upon such driver's license the words "valid without photo."**

Any person who is outside the state and for whom the division provides for renewal of the driver's license by mail is exempt from the requirement to have a colored photograph of such person placed on such person's driver's license. Any person belonging to a religious organization which has a basic objection to having their picture taken may sign a statement to that effect and such person shall then be exempt from the picture requirements of this section.

**A driver's license which does not contain the principal address as required may be issued to persons who are program participants pursuant to K.S.A. 2006 Supp. 75-455, and amendments thereto, plus payment of the fee required by K.S.A. 8-246, and amendments thereto.**

*All Kansas drivers' licenses and identification cards shall have physical security features designed to prevent tampering, counterfeiting or duplication of the document for fraudulent purposes. The secretary of revenue shall incorporate common machine-readable technology into all Kansas drivers' licenses and identification cards.*

(b) All Kansas drivers' licenses issued to any person 16 years of age or older shall contain a form which provides a statement for making a gift of all or any part of the body of the licensee in accordance with the uniform anatomical gift act, except as otherwise provided by this subsection. The statement to be effective shall be signed by the licensee in the presence of two witnesses who shall sign the statement in the presence of the donor. The gift becomes effective upon the death of the donor. Delivery of the license during the donor's lifetime is not necessary to make a valid gift. Any valid gift statement executed prior to July 1, 1994, shall remain effective until invalidated. The word "Donor" shall be placed on the front of a licensee's driver's license, indicating that the statement for making an anatomical gift under this subsection has been executed by such licensee.

(c) Any person who is deaf or hard of hearing may request that the division issue to such person a driver's license which is readily distinguishable from drivers' licenses issued to other drivers and upon such request

*delete*

*technical change*

[ , upon

1 ~~109-13, §§ 201 through 205, shall be required to secure a new driver's~~  
 2 ~~license, pay required fees and costs, and verify age, identity and lawful~~  
 3 ~~presence as required by K.S.A. 8-240, and amendments thereto.~~

4 ~~—(j) The secretary of revenue may adopt such rules and regulations as~~  
 5 ~~are necessary to establish an effective procedure to confirm or verify a~~  
 6 ~~renewing applicant's information.~~

7 Sec. 8. K.S.A. 8-249 is hereby amended to read as follows: 8-249. (a)  
 8 The division shall file every application for a driver's license received by  
 9 it and shall maintain suitable records from which information showing  
 10 the following may be obtained:

11 (1) All applications denied and the reason for such denial;

12 (2) all applications granted;

13 (3) the name of every licensee whose driver's license has been sus-  
 14 pended or revoked by the division and after each such name note the  
 15 reasons for such action; and

16 (4) all data fields printed on drivers' licenses and identification cards  
 17 issued by the state.

18 (b) The division also shall file all accident reports and abstracts of  
 19 court records of convictions received by it under the laws of the state  
 20 and, in connection therewith, maintain convenient records or make suit-  
 21 able notations in order that an individual record of each licensee showing  
 22 the convictions of moving violations, as defined by rules and regulations  
 23 adopted by the secretary of revenue, of such licensee and the traffic ac-  
 24 cidents in which such licensee has been involved shall be readily ascer-  
 25 tainable and available for the consideration of the division upon any ap-  
 26 plication for renewal of a driver's license and at other suitable times.

27 ~~(c) The division shall retain images of source documents presented for~~  
 28 ~~a minimum of ten years with regard to the application for and issuance~~  
 29 ~~of drivers' licenses and identification cards.~~

30 Sec. 9. K.S.A. 8-250 is hereby amended to read as follows: 8-250. (a)  
 31 The division is hereby authorized to cancel any driver's license **for iden-**  
 32 **tification card** upon determining that the licensee **person** was not en-  
 33 titled to the issuance thereof or ~~that said licensee~~ failed to give the re-  
 34 quired or correct information in his or her application or committed any  
 35 fraud in making such application. *If the division determines that a licensee*  
 36 **person is not lawfully present in the United States, the division shall have**  
 37 **the authority to cancel the licensee's person's driver's license for iden-**  
 38 **tification card.**

39 (b) Upon cancellation of a driver's license **for identification card** or  
 40 *loss of lawful presence in the United States, the licensee person* must  
 41 surrender the driver's license **for identification card** so canceled to the  
 42 division.

43 Sec. 10. K.S.A. 2006 Supp. 8-2,135 is hereby amended to read as

*delete identification card*

1 elected official, other than a sheriff, serving in the capacity of a law en-  
2 forcement or police officer solely by virtue of such official's elected po-  
3 sition; any attorney-at-law having responsibility for law enforcement and  
4 discharging such responsibility solely in the capacity of an attorney; any  
5 employee of the commissioner of juvenile justice, the secretary of cor-  
6 rections or the secretary of social and rehabilitation services; any deputy  
7 conservation officer of the Kansas department of wildlife and parks; or  
8 any employee of a city or county who is employed solely to perform  
9 correctional duties related to jail inmates and the administration and op-  
10 eration of a jail; or any full-time or part-time salaried officer or employee  
11 whose duties include the issuance of a citation or notice to appear pro-  
12 vided such officer or employee is not vested by law with the authority to  
13 make an arrest for violation of the laws of this state or any municipality  
14 thereof, and is not authorized to carry firearms when discharging the  
15 duties of such person's office or employment. Such term shall include  
16 any officer appointed or elected on a provisional basis.

17 (h) "Full-time" means employment requiring at least 1,000 hours of  
18 law enforcement related work per year.

19 (i) "Part-time" means employment on a regular schedule or employ-  
20 ment which requires a minimum number of hours each payroll period,  
21 but in any case requiring less than 1,000 hours of law enforcement related  
22 work per year.

23 (j) "Misdemeanor crime of domestic violence" means a violation of  
24 domestic battery as provided by K.S.A. 2006 Supp. 21-3412a and amend-  
25 ments thereto, or any other misdemeanor under federal, municipal or  
26 state law that has as an element the use or attempted use of physical  
27 force, or the threatened use of a deadly weapon, committed by a current  
28 or former spouse, parent, or guardian of the victim, by a person with  
29 whom the victim shares a child in common, by a person who is cohabiting  
30 with or has cohabited with the victim as a spouse, parent or guardian, or  
31 by a person similarly situated to a spouse, parent or guardian of the victim.

32 (k) "Auxiliary personnel" means members of organized nonsalaried  
33 groups which operate as an adjunct to a police or sheriff's department,  
34 including reserve officers, posses and search and rescue groups.

35 (l) "Active law enforcement certificate" means a certificate which at-  
36 tests to the qualification of a person to perform the duties of a law en-  
37 forcement officer and which has not been suspended or revoked by action  
38 of the Kansas commission on peace officers' standards and training and  
39 has not lapsed by operation of law as provided in K.S.A. 74-5622, and  
40 amendments thereto.

41 **Sec. 17. K.S.A. 8-260 is hereby amended to read as follows:**  
42 **8-260. (a) It shall be unlawful for any person, for any purpose, to:**

43 **(1) Display or cause or permit to be displayed or have in pos-**

*deleted*

[ session any fictitious or fraudulently altered driver's license or identification card.

(2) Lend any driver's license or identification card to any other person or knowingly permit the use thereof by another.

(3) Display or represent as the person's own, any driver's license or identification card not issued to the person.

(4) Fail or refuse to surrender to the division upon its lawful demand any driver's license or identification card which has been suspended, revoked, or canceled.

(5) Use a false or fictitious name in any application for a driver's license or identification card, or any renewal or replacement thereof, or knowingly conceal a material fact, or otherwise commit a fraud in any such application.

(6) Permit any unlawful use of a driver's license or identification card issued to the person.

(7) Photograph, photostat, duplicate or in any way reproduce any driver's license or identification card or facsimile thereof in such a manner that it could be mistaken for a valid driver's license or identification card or display or have in possession any such photograph, photostat, duplicate, reproduction or facsimile unless authorized by law.

(8) Display or possess any photograph, photostat, duplicate or facsimile of a driver's license or identification card unless authorized by law.

(9) Display or cause or permit to be displayed any ~~canceled~~, revoked or suspended driver's license or ~~canceled driver's license~~ or identification card.

(b) Violation of paragraphs (1) or (9) of subsection (a) is a class B nonperson misdemeanor. Violation of paragraphs (2), (3), (4), (6), (7) or (8) of subsection (a) is a class A nonperson misdemeanor. Violation of paragraph (5) of subsection (a) is a severity level 9, nonperson felony.

(c) It shall be unlawful for any person to:

(1) Lend any driver's license or identification card to or knowingly permit the use of any driver's license by any person under 21 years of age for use in the purchase of any alcoholic liquor.

(2) Lend any driver's license or identification card to or knowingly permit the use of any driver's license by a person under the legal age for consumption of cereal malt beverage for use in the purchase of any cereal malt beverage.

(3) Lend any driver's license, nondriver's identification card or other form of identification to aid another person in wrongfully obtaining a driver's license or replacement driver's license.]



[ (4) Display or cause to be displayed or have in possession any fictitious or fraudulently altered driver's license or identification card by any person under 21 years of age for use in the purchase of any alcoholic liquor or cereal malt beverage.

(d) (1) Upon a first conviction of a violation of any provision of subsection (c) a person shall be guilty of a class B nonperson misdemeanor and shall be sentenced to not less than 100 hours of public service and fined not less than \$200 nor more than \$500.

(2) On a second or subsequent conviction of a violation of any provision of subsection (c), a person shall be guilty of a class A nonperson misdemeanor.

(e) The provisions of this section shall apply to any driver's license, nondriver's identification card or other form of identification whether issued under the laws of this state or issued under the laws of another state or jurisdiction.]

[New Sec. 19.] The secretary of revenue shall provide procedures for persons to make complaints regarding allegations of discrimination, or other complaint topics, relating to the issuance of driver's licenses and identification cards and shall provide for the investigation of such complaints. In January of each year, the secretary of revenue shall report to the house committee on veterans, military and homeland security regarding complaints made pursuant to this section and the disposition thereof.]

Sec. 17-18-19. K.S.A. 8-234a, 8-246, 8-249, 8-250, 8-260, 8-1326 and 8-1332 and K.S.A. 2006 Supp. 8-240, 8-243, 8-247, 8-2,135, 8-1324, 8-1325, 74-2012 and 74-5602 are hereby repealed.

Sec. 18-19-20. This act shall take effect and be in force from and after March 1, 2008, and its publication in the statute book, except that if the federal secretary of transportation grants Kansas an extension of time beyond March 1, 2008, to meet requirements of the federal REAL ID ACT of 2005 and notice of such extension is published in the Kansas register, then this act shall take effect and be in force upon the expiration of the secretary's extension.

## HOUSE BILL No. 2202

By Committee on Federal and State Affairs

1-25

9 AN ACT concerning ~~alcoholic liquors; relating to farm wineries; amend-~~  
10 ing K.S.A. 2006 Supp. 41-2623 and repealing the existing ~~section~~;

[ 41-308a, 41-312 and  
] sections

11  
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 2006 Supp. 41-2623 is hereby amended to read as  
14 follows: 41-2623. (a) No license shall be issued under the provisions of  
15 this act to:

16 (1) Any person described in subsection (a)(1), (2), (4), (5), (6), (7),  
17 (8), (9), (12) or (13) of K.S.A. 41-311, and amendments thereto, except  
18 that the provisions of subsection (a)(7) of such section shall not apply to  
19 nor prohibit the issuance of a license for a class A club to an officer of a  
20 post home of a congressionally chartered service or fraternal organization,  
21 or a benevolent association or society thereof.

22 (2) A person who has had the person's license revoked for cause un-  
23 der the provisions of this act.

24 (3) A person who has not been a resident of this state for a period of  
25 at least one year immediately preceding the date of application.

26 (4) A person who has a beneficial interest in the manufacture, prep-  
27 aration or wholesaling or the retail sale of alcoholic liquors or a beneficial  
28 interest in any other club, drinking establishment or caterer licensed here-  
29 under, except that:

30 (A) A license for premises located in a hotel may be granted to a  
31 person who has a beneficial interest in one or more other clubs or drinking  
32 establishments licensed hereunder if such other clubs or establishments  
33 are located in hotels.

34 (B) A license for a club or drinking establishment which is a restau-  
35 rant may be issued to a person who has a beneficial interest in other clubs  
36 or drinking establishments which are restaurants.

37 (C) A caterer's license may be issued to a person who has a beneficial  
38 interest in a club or drinking establishment and a license for a club or  
39 drinking establishment may be issued to a person who has a beneficial  
40 interest in a caterer.

41 (D) A license for a class A club may be granted to an organization of  
42 which an officer, director or board member is a distributor or retailer  
43 licensed under the liquor control act if such distributor or retailer sells

1 no alcoholic liquor to such club.

2 (E) On and after January 1, 1988, ~~a license for a class B club or~~  
 3 ~~drinking establishment may be granted to a person who has a beneficial~~  
 4 ~~interest in a microbrewery or farm winery licensed pursuant to the Kansas~~  
 5 ~~liquor control act any person who has a beneficial interest in a micro-~~  
 6 ~~brewery or farm winery licensed pursuant to the Kansas liquor control~~  
 7 ~~act may be granted any or all of the following: (1) Class B club license;~~  
 8 ~~(2) drinking establishment license; (3) caterer's license.~~

9 (5) A copartnership, unless all of the copartners are qualified to ob-  
 10 tain a license.

11 (6) A corporation, if any officer, manager or director thereof, or any  
 12 stockholder owning in the aggregate more than 5% of the common or  
 13 preferred stock of such corporation would be ineligible to receive a li-  
 14 cense hereunder for any reason other than citizenship and residence  
 15 requirements.

16 (7) A corporation, if any officer, manager or director thereof, or any  
 17 stockholder owning in the aggregate more than 5% of the common or  
 18 preferred stock of such corporation, has been an officer, manager or di-  
 19 rector, or a stockholder owning in the aggregate more than 5% of the  
 20 common or preferred stock, of a corporation which:

21 (A) Has had a license revoked under the provisions of the club and  
 22 drinking establishment act; or

23 (B) has been convicted of a violation of the club and drinking estab-  
 24 lishment act or the cereal malt beverage laws of this state.

25 (8) A corporation organized under the laws of any state other than  
 26 this state.

27 (9) A trust, if any grantor, beneficiary or trustee would be ineligible  
 28 to receive a license under this act for any reason, except that the provi-  
 29 sions of subsection (a)(6) of K.S.A. 41-311, and amendments thereto shall  
 30 not apply in determining whether a beneficiary would be eligible for a  
 31 license.

32 (b) No club or drinking establishment license shall be issued under  
 33 the provisions of the club and drinking establishment act to:

34 (1) A person described in subsection (a)(11) of K.S.A. 41-311, and  
 35 amendments thereto.

36 (2) A person who is not a resident of the county in which the premises  
 37 sought to be licensed are located.

38 Sec. ~~12~~ K.S.A. 2006 Supp. ~~41-2623~~ is hereby repealed.

39 Sec. ~~13~~ This act shall take effect and be in force from and after its  
 40 publication in the statute book.

2-2  
 Sec. 2 K.S.A. 2006 Supp. 41-308a is hereby amended to  
 read as follows:

**41-308a. ~~Farm winery license, rights of~~**  
**~~licensee.~~** (a) A farm winery license shall allow:

(1) The manufacture of domestic table wine  
 and domestic fortified wine in a quantity not ex-  
 ceeding 100,000 gallons per year and the storage  
 thereof;

(2) the sale of wine, manufactured by the li-  
 censee, to licensed wine distributors, retailers,  
 clubs, drinking establishments and caterers;

(3) the sale, on the licensed premises in the  
 original unopened container to consumers for  
 consumption off the licensed premises, of wine  
 manufactured by the licensee;

(4) the serving free of charge on the licensed  
 premises and at special events, monitored and  
 regulated by the division of alcoholic beverage  
 control, of samples of wine manufactured by the  
 licensee or imported under subsection (f), if the  
 premises are located in a county where the sale of  
 alcoholic liquor is permitted by law in licensed  
 drinking establishments;

(5) if the licensee is also licensed as a club or  
 drinking establishment, the sale of domestic wine,  
 domestic fortified wine and other alcoholic liquor  
 for consumption on the licensed premises as au-  
 thorized by the club and drinking establishment  
 act;

(6) the sale and shipping, in the original un-  
 opened container, to consumers outside this state  
 of wine manufactured by the licensee, provided  
 that the licensee complies with applicable law

if the licensee is also licensed as a caterer, the sale of  
 domestic wine, domestic fortified wine and other  
 alcoholic liquor for consumption on the unlicensed  
 premises as authorized by the club and drinking  
 establishment act.

(7)

41-308a, 41-312 and 41-2623 are

and rules and regulations of the jurisdiction to which the wine is shipped; and

~~[(7)]~~ the sale and shipping of wine within this state pursuant to a permit issued pursuant to K.S.A. 2006 Supp. 41-348, and amendments thereto.

(b) Upon application and payment of the fee prescribed by K.S.A. 41-310, and amendments thereto, by a farm winery licensee, the director may issue not to exceed three winery outlet licenses to the farm winery licensee. A winery outlet license shall allow:

(1) The sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of wine manufactured by the licensee; and

(2) the serving on the licensed premises of samples of wine manufactured by the licensee or imported under subsection (f), if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments.

(c) Not less than 60% of the products utilized in the manufacture of domestic table wine and domestic fortified wine by a farm winery shall be grown in Kansas except when a lesser proportion is authorized by the director based upon the director's findings and judgment. The label of domestic wine and domestic fortified wine shall indicate that a majority of the products utilized in the manufacture of the wine at such winery were grown in Kansas.

(d) A farm winery or winery outlet may sell domestic wine and domestic fortified wine in the original unopened container to consumers for consumption off the licensed premises at any time between 6 a.m. and 12 midnight on any day except Sunday and between 12 noon and 6 p.m. on Sunday. If authorized by subsection (a), a farm winery may serve samples of domestic wine, domestic fortified wine and wine imported under subsection (e) and serve and sell domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor. If authorized by subsection (b), a winery outlet may serve samples of domestic wine, domestic fortified wine and wine imported under subsection (e) at any time when the winery outlet is authorized to sell domestic wine and domestic fortified wine.

(e) The director may issue to the Kansas state fair or any bona fide group of grape growers or

wine makers a permit to import into this state small quantities of wines. Such wine shall be used only for bona fide educational and scientific tasting programs and shall not be resold. Such wine shall not be subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The permit shall identify specifically the brand and type of wine to be imported, the quantity to be imported, the tasting programs for which the wine is to be used and the times and locations of such programs. The secretary shall adopt rules and regulations governing the importation of wine pursuant to this subsection and the conduct of tasting programs for which such wine is imported.

(f) A farm winery license or winery outlet license shall apply only to the premises described in the application and in the license issued and only one location shall be described in the license.

(g) No farm winery or winery outlet shall:

(1) Employ any person under the age of 18 years in connection with the manufacture, sale or serving of any alcoholic liquor;

(2) permit any employee of the licensee who is under the age of 21 years to work on the licensed premises at any time when not under the on-premise supervision of either the licensee or an employee of the licensee who is 21 years of age or over;

(3) employ any person under 21 years of age in connection with mixing or dispensing alcoholic liquor; or

(4) employ any person in connection with the manufacture or sale of alcoholic liquor if the person has been convicted of a felony.

(h) Whenever a farm winery or winery outlet licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and order forfeiture of all fees paid for the license, after a hearing before the director for that purpose in accordance with the provisions of the Kansas administrative procedure act.

(i) This section shall be part of and supplemental to the Kansas liquor control act.

**History:** L. 1983, ch. 161, § 3; L. 1985, ch. 170, § 25; L. 1987, ch. 182, § 141; L. 1988, ch. 165, § 1; L. 1990, ch. 178, § 1; L. 1992, ch. 201, § 2; L. 1998, ch. 191, § 3; L. 2005, ch. 201, § 14; L. 2006, ch. 206, § 5; July 1.

Sec. 3. K.S.A. 41-312 is hereby amended  
to read as follows: 41-312. No person holding  
a manufacturer's or distributor's license  
shall be permitted to receive any retailer's,  
microbrewery or farm winery license. No  
person holding a retailer's, microbrewery or  
farm winery license shall be permitted to  
receive any manufacturer's or distributor's  
license or another retailer's [ microbrewery ]  
or farm winery license.



## HOUSE BILL No. 2140

By Representatives Myers, Beamer, Carlson, Crum, Dahl, Faber,  
Grange, M. Holmes, Humerickhouse, Kelsey, Kiegerl, McLeland,  
Judy Morrison, Jim Morrison, Peck, Ruff and Schroeder

1-19

common

14 AN ACT designating English as the [official] language of the state of Kan-  
15 sas and concerning its use by state agencies and political or taxing  
16 subdivisions[; **establishing the English as the [official] language**  
17 **competitive grant program and making appropriations**  
18 **therefor**].

common

19  
20 *Be it enacted by the Legislature of the State of Kansas:*

21 Section 1. (a) English shall be designated as the [official] language of  
22 the state of Kansas.

common

23 (b) The [official] language is designated as the language of any official  
24 public document or record and any official public meeting:

25 (1) An official public document or record is any document officially  
26 compiled, published or recorded by the state including deeds, publicly  
27 probated wills, ~~records of births, deaths and marriages~~ and any other  
28 document or record required to be kept open for public inspection pur-  
29 suant to the open records act.

30 (2) An official public meeting is any meeting required to be open  
31 pursuant to K.S.A. 75-4317 et seq., and amendments thereto.

32 (c) Except as otherwise provided by law, no state agency or political  
33 or taxing subdivision of the state shall be required to provide any docu-  
34 ments, information, literature or other written materials in any language  
35 other than English. **Nothing shall prohibit state agencies or political**  
36 **or taxing subdivisions from: (1) Publishing any official public doc-**  
37 **ument or record in languages other than English at their discre-**  
38 **tion, so long as the document or record is also published in English;**  
39 **or (2) permitting a person who does not speak English to speak or**  
40 **communicate at an official public meeting with the assistance of**  
41 **an interpreter.**

42 Sec. 2. A state agency or political or taxing subdivision, or its officers  
43 or employees, may use a language other than the English language to:

common

1 of regents] to offer such services shall seek the assistance of local  
 2 political subdivisions, community-based agencies and organiza-  
 3 tions, migrant worker groups, refugee resettlement programs,  
 4 schools, churches and others in making non-native speakers aware  
 5 of the availability of such services [classes and training] and en-  
 6 suring their continuation and expansion.

7 [Sec. 7. (a) As used in this section:

8 [(1) "State board" means the state board of regents.

9 [(2) "Entity" means a political subdivision, community-based  
 10 agency or organization, migrant worker group, refugee resettle-  
 11 ment program, school, church or other not for profit organization  
 12 which provides English language classes, English language train-  
 13 ing or citizenship classes for non-native speakers.

14 [(b) There is hereby established the English as the [official] lan-  
 15 guage competitive grant program. Subject to the limitations of ap-  
 16 propriations therefor, any entity which has established a program  
 17 which provides English language classes, English language train-  
 18 ing or citizenship classes for non-native speakers or which desires  
 19 to establish or expand such a program may submit an application  
 20 for a competitive grant of moneys in an amount to be determined  
 21 by the board for the purpose of paying the costs of establishing or  
 22 expanding such program and any operating expenses related  
 23 thereto. The application shall be prepared in such form and man-  
 24 ner as required by the state board and shall be submitted at a time  
 25 to be determined and specified by the state board.

26 [(c) The board shall establish standards and criteria for review-  
 27 ing, evaluating and approving applications for grants submitted  
 28 pursuant to this section. All grants shall be awarded by the board  
 29 in accordance with the standards and criteria established by the  
 30 board. Within the limitations of appropriations therefor, the state  
 31 board shall determine the amount and number of grants and shall  
 32 be responsible for payment of grants. When awarding such grants,  
 33 the state board shall give first priority to existing programs which  
 34 have the highest numbers of persons on waiting lists to attend such  
 35 program. Second priority shall be given to areas of the state where  
 36 there is the greatest need for such programs.

37 [(d) Any entity which is awarded a grant under this section shall  
 38 make such periodic and special reports to the state board as it may  
 39 request.

40 [Sec. 8.

#### 41 [STATE BOARD OF REGENTS

42 [(a) Subject to appropriation for the above agency from the state  
 43 general fund for the fiscal year ending June 30, 2008, the

7-43  
 entire sec. 7

[common

1 following:

2 [English as the ~~official~~ language competitive grant  
3 program ..... \$500,000]

common

4 Sec. ~~6~~ ~~7~~ [9.] The provisions of this act are severable and any pro-  
5 vision held invalid shall not affect or impair any of the remaining provi-  
6 sions of this act.

7 Sec. ~~7~~ ~~8~~ [10.] This act shall take effect and be in force from and  
8 after its publication in the statute book.

3-3

## HOUSE BILL No. 2068

By Committee on Veterans, Military and Homeland Security

1-16

AN ACT concerning security officers appointed by the adjutant general;  
relating to powers as law enforcement officers; amending K.S.A. 48-  
204 and K.S.A. 2006 Supp. 74-5602 and repealing the existing sections.

22-2401a and

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

Section 1. K.S.A. 48-204 is hereby amended to read as follows: 48-  
204. (a) The adjutant general shall:

(1) Be in control of the military department of the state and subor-  
dinate only to the governor in matters pertaining to the department;

(2) have general supervision over all the subordinate military depart-  
ments, to include the department of the army national guard and the  
department of the air national guard;

(3) perform such duties as pertain to the adjutant general's depart-  
ment under the regulations and usage of the army of the United States;

(4) superintend the preparation of all returns and reports required  
by the United States from the state;

(5) require a certificate of the military service to be furnished, in  
accordance with K.S.A. 73-209 and amendments thereto, to any soldier  
who has served in the army in any of the state military organizations; and

(6) audit and pass upon all claims of a military character against the  
state, and no contract of a military nature against the state shall be valid  
or paid until approved by the adjutant general.

(b) The adjutant general is authorized to:

(1) Adopt regulations pertaining to the preparation and rendering of  
reports and returns and to the care and preservation of public property  
as in the adjutant general's opinion the conditions demand, which regu-  
lations shall be operative and in force when promulgated in the form of  
general orders, circulars or circular letters;

(2) administer oaths in matters pertaining to the duties of the office  
as relates to: (A) Claims against the state; (B) the organization of boards  
of survey, courts-martial and courts of inquiry; (C) affidavits covering loss  
of military property belonging to the state or the United States; (D) oaths  
of office of officers of the Kansas national guard; (E) statements and  
reports required from officers pertaining to property and money account-

ability and expenditures; and (F) any other official military matters coming before the adjutant general; ~~and~~

(3) adopt an appropriate seal for use in the office, to be affixed to all oaths that the adjutant general administers under authority of law, and to authenticate all certificates required of the adjutant general; ~~and~~

(4) appoint such officers as necessary as security officers for the protection of all national guard property and equipment, owned by or under the control of the Kansas national guard wherever located in the state of Kansas, including when transported over public roads or located on temporary national guard sites, and for the protection of persons and property associated with the national guard.

~~(c) 1) Any security officer appointed pursuant to the provisions of subsection (b)(4) who successfully completes a training program in law enforcement as provided in K.S.A. 74-5607a, and amendments thereto, shall be deemed to have met all the requirements for certification as a law enforcement officer. Those members of the adjutant general's department who are appointed as security officers and who have successfully completed such training pursuant to K.S.A. 74-5607a, and amendments thereto, are hereby empowered: (A) While on duty, to make arrests on the property owned by or under the control of the Kansas national guard for any violations of the law of this state or of the United States; and (B) to cooperate with state and local authorities in detecting and apprehending any person or persons engaged in or suspected of the commission of any crime, misdemeanor or offense against the law of this state or of the United States, or of any ordinance of any municipality of this state, if such is committed or attempted to be committed on any Kansas national guard property.~~

(2) A security officer engaged in the protective functions specified in subsection (b)(4) shall possess and exercise all general law enforcement powers, rights, privileges, protections and immunities in every county where there is located any Kansas national guard property. All persons arrested by a security officer shall be turned over to the appropriate local police or county sheriff in whose jurisdiction the offense was committed to be processed in the same manner as other persons turned over to such police or sheriff.

(3) While on duty, security officers appointed pursuant to subsection (b)(4) shall wear and display publicly a badge of office.

Sec. 2. K.S.A. 2006 Supp. 74-5602 is hereby amended to read as follows: 74-5602. As used in the Kansas law enforcement training act:

(a) "Training center" means the law enforcement training center within the division of continuing education of the university of Kansas, created by K.S.A. 74-5603 and amendments thereto.

(b) "Commission" means the Kansas commission on peace officers'

; and

(5) appoint law enforcement officers to serve under the command of the adjutant general

law enforcement officers must meet the requirements of the Kansas law enforcement training act, K.S.A. 74-5601 through K.S.A. 74-5623 and amendments thereto

law enforcement

law enforcement officer may

or may book such arrested person at the jail in the jurisdiction of the arrest. Such law enforcement officer shall complete any required reports, arrest affidavits, and other documents associated with the arrest. These reports shall be kept on file with the office of the adjutant general, unless a memorandum of agreement with the local law enforcement agency specifies otherwise

or (b)(5), as applicable,

or law enforcement officers



1 standards and training, created by K.S.A. 74-5606 and amendments  
2 thereto.

3 (c) "Dean" means the dean of continuing education of the university  
4 of Kansas.

5 (d) "Director of police training" means the director of police training  
6 at the law enforcement training center.

7 (e) "Director" means the executive director of the Kansas commis-  
8 sion on peace officers' standards and training.

9 (f) "Law enforcement" means the prevention or detection of crime  
10 and the enforcement of the criminal or traffic laws of this state or of any  
11 municipality thereof.

12 (g) "Police officer" or "law enforcement officer" means a full-time or  
13 part-time salaried officer or employee of the state, a county or a city,  
14 whose duties include the prevention or detection of crime and the en-  
15 forcement of the criminal or traffic laws of this state or of any municipality  
16 thereof. Such terms shall include, but not be limited to, the sheriff, un-  
17 dersheriff and full-time or part-time salaried deputies in the sheriff's of-  
18 fice in each county; deputy sheriffs deputized pursuant to K.S.A. 19-2858  
19 and amendments thereto; conservation officers of the Kansas department  
20 of wildlife and parks; university police officers, as defined in K.S.A. 22-  
21 2401a, and amendments thereto; campus police officers, as defined in  
22 K.S.A. 22-2401a, and amendments thereto; law enforcement agents of  
23 the director of alcoholic beverage control; law enforcement agents of the  
24 Kansas lottery; law enforcement agents of the Kansas racing commission;  
25 deputies and assistants of the state fire marshal having law enforcement  
26 authority; capitol police, existing under the authority of K.S.A. 75-4503  
27 and amendments thereto; ~~and security officers appointed by the adjutant~~  
28 ~~general pursuant to K.S.A. 48-204 and amendments thereto.~~ Such terms  
29 shall also include railroad policemen appointed pursuant to K.S.A. 66-  
30 524 and amendments thereto; school security officers designated as  
31 school law enforcement officers pursuant to K.S.A. 72-8222 and amend-  
32 ments thereto; and the director of the Kansas commission on peace of-  
33 ficers' standards and training and any other employee of such commission  
34 designated by the director pursuant to K.S.A. 74-5603, and amendments  
35 thereto, as a law enforcement officer. Such terms shall not include any  
36 elected official, other than a sheriff, serving in the capacity of a law en-  
37 forcement or police officer solely by virtue of such official's elected po-  
38 sition; any attorney-at-law having responsibility for law enforcement and  
39 discharging such responsibility solely in the capacity of an attorney; any  
40 employee of the commissioner of juvenile justice, the secretary of cor-  
41 rections or the secretary of social and rehabilitation services; any deputy  
42 conservation officer of the Kansas department of wildlife and parks; or  
43 any employee of a city or county who is employed solely to perform

[ law enforcement

1 correctional duties related to jail inmates and the administration and op-  
 2 eration of a jail; or any full-time or part-time salaried officer or employee  
 3 whose duties include the issuance of a citation or notice to appear pro-  
 4 vided such officer or employee is not vested by law with the authority to  
 5 make an arrest for violation of the laws of this state or any municipality  
 6 thereof, and is not authorized to carry firearms when discharging the  
 7 duties of such person's office or employment. Such term shall include  
 8 any officer appointed or elected on a provisional basis.

9 (h) "Full-time" means employment requiring at least 1,000 hours of  
 10 law enforcement related work per year.

11 (i) "Part-time" means employment on a regular schedule or employ-  
 12 ment which requires a minimum number of hours each payroll period,  
 13 but in any case requiring less than 1,000 hours of law enforcement related  
 14 work per year.

15 (j) "Misdemeanor crime of domestic violence" means a violation of  
 16 domestic battery as provided by K.S.A. 2006 Supp. 21-3412a and amend-  
 17 ments thereto, or any other misdemeanor under federal, municipal or  
 18 state law that has as an element the use or attempted use of physical  
 19 force, or the threatened use of a deadly weapon, committed by a current  
 20 or former spouse, parent, or guardian of the victim, by a person with  
 21 whom the victim shares a child in common, by a person who is cohabiting  
 22 with or has cohabited with the victim as a spouse, parent or guardian, or  
 23 by a person similarly situated to a spouse, parent or guardian of the victim.

24 (k) "Auxiliary personnel" means members of organized nonsalaried  
 25 groups which operate as an adjunct to a police or sheriff's department,  
 26 including reserve officers, posses and search and rescue groups.

27 (l) "Active law enforcement certificate" means a certificate which at-  
 28 tests to the qualification of a person to perform the duties of a law en-  
 29 forcement officer and which has not been suspended or revoked by action  
 30 of the Kansas commission on peace officers' standards and training and  
 31 has not lapsed by operation of law as provided in K.S.A. 74-5622, and  
 32 amendments thereto.

33 Sec. ~~25~~ K.S.A. 48-204 and K.S.A. 2006 Supp. 74-5602 are hereby  
 34 repealed.

35 Sec. ~~16~~ This act shall take effect and be in force from and after its  
 36 publication in the statute book.

Insert Section 4 and renumber the remaining sections  
 accordingly.

22-2401a and

22-2401a 4

Sec. 1. K.S.A. 2006 Supp. 22-2401a is hereby amended to read as follows: 22-2401a.

(1) Law enforcement officers employed by consolidated county law enforcement agencies or departments and sheriffs and their deputies may exercise their powers as law enforcement officers:

(a) Anywhere within their county; and  
(b) in any other place when a request for assistance has been made by law enforcement officers from that place or when in fresh pursuit of a person.

(2) Law enforcement officers employed by any city may exercise their powers as law enforcement officers:

(a) Anywhere within the city limits of the city employing them and outside of such city when on property owned or under the control of such city; and

(b) in any other place when a request for assistance has been made by law enforcement officers from that place or when in fresh pursuit of a person.

(3) (a) Law enforcement officers employed by a Native American Indian Tribe may exercise powers of law enforcement officers anywhere within the exterior limits of the reservation of the tribe employing such tribal law enforcement officer, subject to the following:

(i) The provisions of subsection (3)(a) shall be applicable only if such Native American Indian Tribe has entered into a valid and binding agreement with an insurance carrier to provide liability insurance coverage for damages assessed in state or federal court and arising from the acts, errors or omissions of such tribal law enforcement agency or officer while acting pursuant to this section. Such insurance policy shall be in an amount not less than \$500,000 for any one person and \$2,000,000 for any one occurrence for personal injury and \$1,000,000 for any one occurrence for property damage and shall carry an endorsement to

provide coverage for mutual aid assistance. Such insurance policy shall be subject to verification by the attorney general. Such insurance policy shall include an endorsement providing that the insurer may not invoke tribal sovereign immunity up to the limits of the policy set forth herein.

(ii) The provisions of subsection (3)(a) shall be applicable only if such Native American Indian Tribe has filed with the county clerk a map clearly showing the boundaries of the Tribe's reservation as defined in this section.

(b) If a claim is brought against any tribal law enforcement agency or officer for acts committed by such agency or officer while acting pursuant to this section, such claim shall be subject to disposition as if the tribe was the state pursuant to the Kansas tort claims act, provided that such act shall not govern the tribe's purchase of insurance. The tribe shall waive its sovereign immunity solely to the extent necessary to permit recovery under the liability insurance, but not to exceed the policy limits.

(c) Nothing in this subsection (3) shall be construed to prohibit any agreement between any state, county or city law enforcement agency and any Native American Indian Tribe.

(d) Nothing in this subsection (3) shall be construed to affect the provision of law enforcement services outside the exterior boundaries of reservations so as to affect in any way the criteria by which the United States department of the interior makes a determination regarding placement of land into trust.

(e) Neither the state nor any political subdivision of the state shall be liable for any act or failure to act by any tribal law enforcement officer.

(4) University police officers employed by the chief executive officer of any state educational institution or municipal university may exercise their powers as university police officers anywhere:

(a) On property owned or operated by the state educational institution or municipal university, by a board of trustees of the state educational institution, an endowment association, an athletic association, a fraternity, sorority or other student group associated with the state educational institution or municipal university;

(b) on the streets, property and highways immediately adjacent to the campus of the state educational institution or municipal university;

(c) within the city where such property as described in this subsection is located, as necessary to protect the health, safety and welfare of students and faculty of the state educational institution or municipal university, with appropriate agreement by the local law enforcement agencies. Such agreements shall include provisions defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Any agreement entered into pursuant to this provision shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the chief executive officer of the state educational institution or municipal university involved before such agreement may take effect; and

(d) additionally, when there is reason to believe that a violation of a state law, a county resolution, or a city ordinance has occurred on property described in subsection (4)(a) or (b), such officers with appropriate



notification of, and coordination with, local law enforcement agencies or departments, may investigate and arrest persons for such a violation anywhere within the city where such property, streets and highways are located. Such officers also may exercise such powers in any other place when in fresh pursuit of a person. University police officers shall also have authority to transport persons in custody to an appropriate facility, wherever it may be located. University police officers at the university of Kansas medical center may provide emergency transportation of medical supplies and transplant organs.

(5) In addition to the areas where law enforcement officers may exercise their powers pursuant to subsection (2), law enforcement officers of any jurisdiction within Johnson or Sedgwick county may exercise their powers as law enforcement officers in any area within the respective county when executing a valid arrest warrant or search warrant, to the extent necessary to execute such warrants.

(6) In addition to the areas where university police officers may exercise their powers pursuant to subsection (4), university police officers may exercise the powers of law enforcement officers in any area outside their normal jurisdiction when a request for assistance has been made by law enforcement officers from the area for which assistance is requested.

(7) In addition to the areas where law enforcement officers may exercise their powers pursuant to subsection (2), law enforcement officers of any jurisdiction within Johnson county may exercise their powers as law enforcement officers in any adjoining city within Johnson county when any crime, including a traffic infraction, has been or is being committed by a person in view of the law

enforcement officer. A law enforcement officer shall be considered to be exercising such officer's powers pursuant to subsection (2), when such officer is responding to the scene of a crime, even if such officer exits the city limits of the city employing the officer and further reenters the city limits of the city employing the officer to respond to such scene.

(8) Campus police officers employed by a community college or school district may exercise the power and authority of law enforcement officers anywhere:

(a) On property owned, occupied or operated by the school district or community college or at the site of a function sponsored by the school district or community college;

(b) on the streets, property and highways immediately adjacent to and coterminous with property described in subsection (8)(a);

(c) within the city or county where property described in subsection (8)(a) is located, as necessary to protect the health, safety and welfare of students and faculty of the school district or community college, with appropriate agreement by local law enforcement agencies. Such agreements shall include provisions, defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Before any agreement entered into pursuant to this section shall take effect, it shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the board of education or board of trustees involved;

(d) with appropriate notification of and coordination with local law enforcement agencies, within the city or county where property described in subsection (8)(a) or (8)(b) is located, when there is reason to

believe that a violation of a state law, county resolution or city ordinance has occurred on such property, as necessary to investigate and arrest persons for such a violation;

(e) when in fresh pursuit of a person; and

(f) when transporting persons in custody to an appropriate facility, wherever it may be located.

[10] (9) As used in this section:

(a) "Law enforcement officer" means: (1) Any law enforcement officer as defined in K.S.A. 22-2202, and amendments thereto; or (2) any tribal law enforcement officer who is employed by a Native American Indian Tribe and has completed successfully the initial and any subsequent law enforcement training required under the Kansas law enforcement training act.

(b) "University police officer" means a police officer employed by the chief executive officer of: (1) Any state educational institution under the control and supervision of the state board of regents; or (2) a municipal university.

(c) "Campus police officer" means a school security officer designated as a campus police officer pursuant to K.S.A. 72-8222, and amendments thereto.

(d) "Fresh pursuit" means pursuit, without unnecessary delay, of a person who has committed a crime, or who is reasonably suspected of having committed a crime.

(e) "Native American Indian Tribe" means the Prairie Band Potawatomi Nation, Kickapoo Tribe in Kansas, Sac and Fox Nation of Missouri and the Iowa Tribe of Kansas and Nebraska.

(f) "Reservation" means:

(i) With respect to the Iowa Tribe of Kansas and Nebraska, the reservation established by treaties with the United States concluded May 17, 1854, and March 6, 1861;

(ii) with respect to the Kickapoo Nation,

(9) TAG law enforcement officers employed by the adjutant general may exercise their powers as police officers anywhere:

(a) On property owned or under the control of the Kansas national guard or any component under the command of the adjutant general;

(b) on the streets, property and highways immediately adjacent to property owned or under the control of the Kansas national guard; within the city or county where such property as described in subsection (9)(a) or (b) is located, as necessary to protect such property; or to protect the health, safety and welfare of members of the national guard, reserve, or employees of the United States department of defense, the United States department of homeland security, or any branch of the United States military with appropriate agreement by the local law enforcement agencies. Such agreements shall include provisions defining the geographical scope of the jurisdiction conferred, circumstances requiring the extended jurisdiction, scope of law enforcement powers and duration of the agreement. Any agreement entered into pursuant to this provision shall be approved by the governing body of the city or county, or both, having jurisdiction where such property is located, and the adjutant general before such agreement may take effect. In addition, when there is reason to believe that a violation of a state law, a county resolution, or a city ordinance has occurred on property described in subsection (9)(a) or (b), after providing appropriate notification to, and coordination with, local law enforcement agencies or departments, such officers may investigate and arrest persons for such a violation anywhere within the city or county where such property, streets and highways are located. Such officers also may exercise such powers in any other place when in fresh pursuit of a person. TAG law enforcement officers shall also have authority to transport persons in custody to an appropriate facility, wherever it may be located.

0-1

the reservation established by treaty with the United States concluded June 28, 1862;

(iii) with respect to the Prairie Band Potawatomi Nation in Kansas, the reservation established by treaties with the United States concluded June 5, 1846, November 15, 1861, and February 27, 1867; and

(iv) with respect to the Sac and Fox Nation of Missouri in Kansas and Nebraska: (A) the reservation established by treaties with the United States concluded May 18, 1854, and March 6, 1861, and by acts of Congress of June 10, 1872 (17 Stat. 391), and August 15, 1876 (19 Stat. 208), and (B) the premises of the gaming facility established pursuant to the gaming compact entered into between such nation and the state of Kansas, and the surrounding parcel of land held in trust which lies adjacent to and east of U.S. Highway 75 and adjacent to and north of Kansas Highway 20, as identified in such compact.

11 ~~[(10)]~~ The provisions of subsection (3) and subsections (9)(a)(2), (9)(d) and (9)(e) shall expire on July 1, 2009.

(g) "TAG law enforcement officer" means a police officer employed by the adjutant general pursuant to K.S.A. 48-204 and amendments thereto.

3/13/07

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 2007

## HOUSE BILL No. 2295

By Committee on Commerce and Labor

1-30

AN ACT concerning real estate brokers and salespersons; relating to the effect of criminal convictions on the issuance, renewal or revocation of licenses; amending K.S.A. 58-3043 and 58-3050 and K.S.A. 2006 Supp. 58-3039 and 58-3063 and repealing the existing sections.

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

Section 1. K.S.A. 2006 Supp. 58-3039 is hereby amended to read as follows: 58-3039. (a) Any person desiring to act as a broker or salesperson must file a written application for a license with the commission or, if required by the commission, with the testing service designated by the commission. The application shall be in such form and detail as the commission shall prescribe and shall be accompanied by application and license fees prescribed by K.S.A. 58-3063, and amendments thereto.

~~(b) [As part of an application pursuant to subsection (a) or in connection with any investigation of any holder of a license, the commission may shall require a person to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of criminal history in this state or other jurisdictions. The commission is authorized shall require the applicant to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The commission may shall use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or to maintain a license. Local and state law enforcement officers and agencies shall assist the commission in the taking and processing of fingerprints of applicants for and holders of any license and shall release all records of adult and juvenile convictions, adjudications, expungements and nonconvictions to the commission.]~~

b)(c) A license to engage in business as a broker or salesperson shall granted only to a person who is 18 or more years of age and who has

(b)(1) As part of an application for an original license or in connection with any investigation of any holder of a license, the commission shall require a person to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of criminal history in this state or other jurisdiction. The commission shall require the applicant to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The commission shall use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or to maintain a license.

(2) Local and state law enforcement officers and agencies shall assist the commission in taking and processing fingerprints of applicants for and holders of any license and shall release all records of adult convictions to the commission.

(3) The commission may fix and collect a fee in an amount necessary to reimburse the board for the cost of fingerprinting and the criminal history record check. Such fee shall be established by rule and regulation in accordance with section 4 and amendments thereto. Any moneys collected under this subsection shall be deposited in the state treasury and credited to the real estate fee fund.

Sen Fed & State

Attachment 5

3-14-07



1 K.S.A. 58-3046a, and amendments thereto. The commission shall issue a  
2 salesperson's license to a person who complies with the provisions of this  
3 paragraph. The issuance date of the salesperson's license shall be the day  
4 following the expiration date of the temporary license. The expiration date  
5 of the license shall be determined in accordance with a schedule estab-  
6 lished by rules and regulations of the commission.

7 (3) Failure to comply with the provisions of paragraph (2) shall au-  
8 tomatically cancel the temporary license on its expiration date.

9 (4) A person whose temporary salesperson's license was canceled  
10 pursuant to paragraph (3) may apply for a salesperson's license if such  
11 application, the license fee prescribed by K.S.A. 58-3063, and amend-  
12 ments thereto, plus a late fee of \$50 and evidence of attendance of 30  
13 hours of instruction received after issuance of the temporary license pur-  
14 suant to subsection (f)(1) of K.S.A. 58-3046a, and amendments thereto,  
15 are received by the commission within three months after the expiration  
16 date of the temporary license. The commission shall issue a salesperson's  
17 license to a person who complies with the provisions of this paragraph.  
18 The expiration date of the license shall be determined in accordance with  
19 a schedule established by rules and regulations of the commission.

20 (g) (h) The commission, prior to granting an original license, shall  
21 require proof that the applicant has a good reputation for honesty, trust-  
22 worthiness, integrity and competence to transact the business of broker  
23 or salesperson in such manner as to safeguard the public interest.

24 (h) (i) An application for an original license as a salesperson shall be  
25 accompanied by the recommendation of the broker with whom the sales-  
26 person is to be associated, or by whom the salesperson is to be em-  
27 ployed, certifying that the applicant is honest, trustworthy and of good  
28 reputation.

29 Sec. 2. K.S.A. 58-3043 is hereby amended to read as follows: 58-  
30 3043. (a) *[Except as provided in subsection (a) of K.S.A. 58-3050, and*  
31 *amendments thereto]* in determining whether to grant or renew a license  
32 the commission shall consider:

33 (1) Any revocation or suspension of a prior real estate license;

34 (2) whether an applicant has committed any of the practices enu-  
35 merated in K.S.A. 58-3062, and amendments thereto, or has violated this  
36 act or rules and regulations adopted hereunder during the term of any  
37 prior license;

38 (3) ~~any plea of guilty or nolo contendere to, or any conviction of: (A)~~  
39 ~~Forgery, embezzlement, obtaining money under false pretenses, larceny,~~  
40 ~~extortion, conspiracy to defraud or any other similar offense; (B) a crime~~  
41 ~~involving moral turpitude, or (C) any felony charge;~~

42 ~~any plea of guilty or nolo contendere to, or any conviction of: (A)~~  
43 ~~Forgery, embezzlement, obtaining money under false pretenses,]~~



any misdemeanor which reflects on the applicant's honesty, trustworthiness, integrity or competence to transact the business of real estate

(d) The commission shall refuse to grant a license to an applicant if:

(1) Within the last 10 years preceding the date of application, the applicant has entered a plea of guilty or nolo contendere to, or has been convicted of:

(A) Any offense that is comparable to any crime which would require the applicant to register as provided in the Kansas offender registration act; or  
(B) any federal, military or other state conviction for an offense that is comparable to any crime under the laws of this state which would require the applicant to register as provided in the Kansas offender registration act.

(2) within the last five years preceding the date of application, the applicant has entered a plea of guilty or nolo contendere to, has been convicted of:

(A) Any felony; or

(B) any federal, military or other state conviction for an offense that is comparable to any felony under the laws of this state.

(e)(1) The commission may grant a license to an applicant who has entered a plea of guilty or nolo contendere to, or has been convicted of any crime listed in paragraphs (1) or (2) of subsection (d) if the applicant presents to the commission satisfactory proof that the applicant now bears a good reputation for honesty, trustworthiness, integrity and competence to transact the business of real estate in such a manner as to safeguard the interest of the public. The burden of proof shall be on the applicant to present such evidence to the commission.

(2) In addition to the factors listed in subsection (a), in determining whether or not the applicant presently has a good reputation as required in subsection (e), the commission shall consider the following additional factors:

(A) The extent and nature of the applicant's past criminal activity;

(B) the age of the applicant at the time of the commission of the crime or crimes;

~~[larceny, extortion, conspiracy to defraud or any other similar offense; (B) a crime involving moral turpitude; or (C) any felony charge]~~

(4) (4) any conduct of the applicant which reflects on the applicant's honesty, trustworthiness, integrity or competence to transact the business of real estate; and

(5) (4) (5) such other matters as the commission deems pertinent.

In its consideration of any such prior revocation; or conduct or conviction, the commission shall take into account the nature of the offense; any aggravating or extenuating circumstances; the time elapsed since such revocation; or conduct or conviction; the rehabilitation or restitution performed by the applicant; and such other factors as the commission deems relevant.

(b) The commission may deny a license to any person who, without a license, has engaged in a real estate activity for which a license was required.

(c) When an applicant has made a false statement of material fact on the application, such false statement may be sufficient reason for refusal of a license.

Sec. 3. K.S.A. 58-3050 is hereby amended to read as follows: 58-

3050. (a) ~~[The commission shall refuse to renew a license, and the license of any licensee shall be revoked, if the licensee has entered a plea of guilty or nolo contendere to, or been convicted of, any felony charge.]~~

(b) The commission shall refuse to grant a license to an applicant if:

(1) ~~The Except as provided further, within the last 15 years, the applicant has entered a plea of guilty or nolo contendere to, or has been convicted of: (A) Any offense that is comparable to any crime which would require the applicant to register as provided in the Kansas offender registration act; or (B) any federal, military or other state conviction for an offense that is comparable to any crime under the laws of this state which would require the applicant to register as provided in the Kansas offender registration act; or~~

(2) ~~except as provided further, within the last 10 years, the applicant has entered a plea of guilty or nolo contendere to, has been convicted of, sentenced, or has completed serving a sentence, whichever is later, for:~~

(A) ~~Forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any other similar offense or offenses; or~~

(B) ~~any federal, military or other state conviction for an offense that is comparable to any crime listed in subsection (b)(2)(A).~~

(3) ~~Except as provided further, within the last five years, the applicant has entered a plea of guilty or nolo contendere to, or has been convicted of, sentenced, or has completed serving a sentence, whichever is later, for:~~

(C) the amount of time elapsed since the applicant's last criminal activity;  
(D) the conduct and work activity of the applicant prior to and following the criminal activity; and  
(E) evidence of the applicant's rehabilitation or rehabilitative effort; and  
(6) all other evidence of the applicant's present fitness for a license.

- 1 ~~(A) Any other felony charge not included under subsections (b)(1) and~~  
 2 ~~(b)(2); or~~  
 3 ~~(B) any federal, military or other state conviction for an offense that~~  
 4 ~~is comparable to any crime listed in subsection (b)(3)(A).~~  
 5 ~~(c) The commission may grant a license to an applicant who has entered~~  
 6 ~~a plea of guilty or nolo contendere to, or has been convicted of the~~  
 7 ~~crimes: (1) (A) In subsection (b) (1) only if at least 15 years have~~  
 8 ~~passed since the applicant entered a plea of guilty or nolo contendere to,~~  
 9 ~~has been convicted of, or has completed serving a sentence~~  
 10 ~~for the crimes in subsection (b)(1), whichever is later; (B) in subsection~~  
 11 ~~(b)(2) only if at least 10 years have passed since the applicant~~  
 12 ~~entered a plea of guilty or nolo contendere to, has been convicted of, or~~  
 13 ~~has completed serving a sentence for the crimes in subsection (b)(2),~~  
 14 ~~whichever is later; or (B) (C) in subsection (b)(3) only if at least five years~~  
 15 ~~have passed since the applicant entered a plea of guilty or nolo contendere~~  
 16 ~~to, has been convicted of, or has completed serving a sentence for the~~  
 17 ~~crimes in subsection (b)(3), whichever is later; and~~  
 18 ~~(2) no felony charges are currently pending against the applicant; and~~  
 19 ~~(3) the applicant presents to the commission satisfactory proof that~~  
 20 ~~the applicant now bears a good reputation for honesty, trustworthiness,~~  
 21 ~~integrity and competence to transact the business of real estate in such a~~  
 22 ~~manner as to safeguard the interest of the public. The burden of proof is~~  
 23 ~~on the applicant to present such evidence to the commission.~~  
 24 ~~(d) The commission, in determining whether or not the applicant~~  
 25 ~~presently has a good reputation as required in subsection (c), shall consider~~  
 26 ~~the following evidence:~~  
 27 ~~(1) The extent and nature of the applicant's past criminal activity;~~  
 28 ~~(2) the age of the applicant at the time of the commission of the crime~~  
 29 ~~or crimes;~~  
 30 ~~(3) the amount of time elapsed since the applicant's last criminal~~  
 31 ~~activity;~~  
 32 ~~(4) the conduct and work activity of the applicant prior to and following~~  
 33 ~~the criminal activity;~~  
 34 ~~(5) evidence of the applicant's rehabilitation or rehabilitative effort;~~  
 35 ~~and~~  
 36 ~~(6) all other evidence of the applicant's present fitness.~~  
 37 ~~(f) The commission may refuse to grant or renew a license and the~~  
 38 ~~license of any licensee may be revoked, suspended, conditioned or restricted~~  
 39 ~~or a licensee may be censured, if:~~  
 40 ~~(1) The licensee has committed a violation of this act or rules and~~  
 41 ~~regulations adopted hereunder, or the brokerage relationships in real estate~~  
~~transactions act or rules and regulations adopted thereunder, whether~~  
~~the licensee acted as an agent or a principal in the real estate transaction;~~

Except as provided in subsections (b) and (c), the

licensee's

any misdemeanor which reflects on the applicant's honesty, trustworthiness, integrity or competence to transact the business of real estate

(2) the licensee has entered a plea of guilty or *nolo contendere* to, or has been convicted of: (A) Forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any other similar offense; (B) a crime involving moral turpitude, or (C) any felony charge;

the licensee has entered a plea of guilty or *nolo contendere* to, or has been convicted of: ~~(A) Forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any other similar offense; (B) a crime involving moral turpitude; or (C) any felony charge;~~

(3) ~~(3)~~ the licensee has been finally adjudicated and found to be guilty of violation of the federal fair housing act (42 U.S.C. 3601 et seq.) or K.S.A. 44-1015 through 44-1029, and amendments thereto;

(4) ~~(3)~~ (4) the licensee has obtained a license by false or fraudulent representation;

(5) ~~(4)~~ (5) the licensee has violated any lawful order or directive of the commission; or

(6) ~~(5)~~ (6) the licensee has committed a violation in another state and disciplinary action taken against such licensee resulted in the suspension, probation or revocation of such licensee's real estate license in such other state.

(d) ~~(b)~~ ~~(g)~~ In addition to or in lieu of any other administrative, civil or criminal remedy provided by law, the commission, in accordance with the Kansas administrative procedure act and upon a finding that a licensee has violated a provision of this act or rules and regulations adopted hereunder, or the brokerage relationships in real estate transactions act or rules and regulations adopted thereunder, may impose on such licensee a civil fine not exceeding \$500 for each violation.

(e) ~~(e)~~ ~~(h)~~ If a broker or salesperson has been declared disabled by a court of competent jurisdiction, the commission shall suspend the broker's or salesperson's license for the period of disability.

(f) ~~(d)~~ ~~(i)~~ (1) Except as provided by paragraph (2) of this subsection, no complaint alleging violation of this act or rules and regulations adopted hereunder, or the brokerage relationships in real estate transactions act or rules and regulations adopted thereunder, shall be commenced more than three years from the date of the occurrence which is the subject of the complaint.

(2) Unless the violation is not reasonably ascertainable, complaints alleging violation of subsection ~~(a)(4) or (a)(5)~~ ~~[(f)(4) or (f)(5)]~~ shall be commenced within three years from the date of the occurrence of the violation. If the violation is not reasonably ascertainable, complaints alleging violation of subsection ~~(a)(4) or (a)(5)~~ ~~[(f)(4) or (f)(5)]~~ shall be commenced within three years from the date of violation is ascertained

(b) Except as provided in subsection (c), the commission shall suspend or revoke the license of any licensee who has entered a plea of guilty or *nolo contendere* to, or has been convicted of any felony.

(c) The provision of subsection (b) shall not apply to any person who:

(1) Is currently licensed under this act;

(2) has entered a plea of guilty or *nolo contendere* to,

or has been convicted of convicted of any offense specified in subsection (b); and

(3) has disclosed such plea or conviction in such person's application for any license or renewal thereof on or before July 1, 2007, prior to the commission's action on such application.

(a)(4) or (a)(5)

(a)(4) or (a)(5)

by the commission.

(e) ~~(j)~~, All administrative proceedings pursuant to this section shall be conducted in accordance with the Kansas administrative procedure act.

(k) ~~(k)~~, Notwithstanding any provision of this act or the brokerage relationships in real estate transactions act to the contrary, the commission may use emergency adjudicative proceedings, as provided by K.S.A. 77-536, and amendments thereto, to summarily suspend the license of any licensee if the commission has reasonable cause to believe that the licensee's trust account is in unsound condition or that the licensee is misappropriating funds belonging to other persons.

(g) ~~(g)~~, If a licensee has entered a plea of guilty or *nolo contendere* to, or has been convicted of, any felony charge, the commission may use emergency adjudicative proceedings, as provided by K.S.A. 77-536, and amendments thereto, to ~~suspend, revoke, condition or restrict~~ the licensee's license.

suspend or

(h) ~~(m)~~, When the real estate license of an individual is revoked and that individual's name is included in the trade or business name of a real estate brokerage business, the commission may deny continued use of the trade or business name if, in the opinion of the commission, it would be confusing or misleading to the public.

If the revocation of the individual's license is appealed to district court and a stay of the commission's order is granted by the court, the commission may not deny continued use of the trade or business name until such time as the district court upholds the order of the commission.

~~(e) For purposes of this section, "sentence" means incarceration, confinement in a county jail, confinement in a community correctional services program, house arrest, probation, parole and post-release supervision.~~

~~(o) Nothing in this section shall require revocation or nonrenewal of any individual's license on the basis of any plea of guilty or nolo contendere to, or conviction of, any felony which existed at the time such license was issued and was disclosed to the commission in the individual's application for such license.~~

Sec. 4. K.S.A. 2006 Supp. 58-3063 is hereby amended to read as follows: 58-3063. (a) The commission shall adopt rules and regulations fixing the amounts of the fees provided for by this act, subject to the following:

(1) For any examination required for licensure, a fee in an amount equal to the actual cost of the examination and the administration thereof.

(2) For any criminal history record check required for licensure, a fee in the amount necessary to reimburse the ~~board~~ commission for the cost of fingerprinting and administering the criminal history record check.

(3) For submission of an application for an original salesperson's li-