

SESSION OF 2010

**CONFERENCE COMMITTEE REPORT BRIEF  
HOUSE SUBSTITUTE FOR SENATE BILL NO. 269**

As Agreed to March 29, 2010

**Brief\***

House Sub. for SB 269 would amend the Kansas Consumer Protection Act (KCPA) to add veterans as a protected consumer and to add provisions concerning the Musical Performance Advertising Act.

*Veterans*

The bill would amend the Kansas Consumer Protection Act (KCPA) to define the terms:

- “Immediate family member” to mean a parent, child, stepchild, or spouse;
- “Member of the military” to mean a member of the armed forces or national guard on active duty, or a member of an active reserve unit in the armed forces or national guard;
- “Protected consumer” to mean an elder person, a disabled person, a veteran, the surviving spouse of a veteran, and an immediate family member of a member of the military; and
- “Veteran” to mean a person who has served in the armed forces of the United States and separated from the armed forces under honorable conditions.

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\*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

The bill also replaces the term “elder or disabled person” where it appears in the KCPA with the term “protected consumer.”

#### *Musical Performance Advertising Act*

The bill would prohibit any person from advertising or conducting a live musical performance or production in the state through the use of a false, deceptive, or misleading affiliation, connection, or association between a performing group and a recording group. The bill would permit the Attorney General or a county or district attorney to seek a temporary or permanent injunction in such cases. When issuing a permanent injunction, the court may direct that the defendant repay or restore any money or property acquired by means of a violation of the Act. Any person who violates this act would be liable for a civil penalties pursuant to the KCPA. Each performance or production declared unlawful would constitute a separate violation.

Additionally, the bill would not apply if:

- The performing group is an authorized registrant and owner of a federal service mark for that group registered in the United States Patent and Trademark Office;
- At least one member of the performing group was a member of the recording group and has a legal right of use or operation under the group name;
- The advertising does not relate to a live musical performance or production taking place in this state;
- The performance or production is expressly authorized by the recording group; or
- The newspaper, magazine, news wire service, television station, or radio station which advertises or promotes the live musical performance or production and is not aware

that such performance or production is using a false, deceptive or misleading affiliation, connection or association with another group.

### **Conference Committee Action**

The Conference Committee deleted the provisions of House Sub. for SB 269 concerning compensation awards under the Eminent Domain Procedure Act and inserted the provisions of SB 370, as amended by the Senate Committee on Judiciary, concerning enhanced civil penalties for KCPA violations where the victim is a veteran; and the provisions of HB 2082, as amended by House Committee on Judiciary, concerning the Musical Performance Advertising Act as part of KCPA.

### **Background**

House Sub. for SB 269 would have amended the Eminent Domain Procedure Act and was deleted by the agreement of the Conference Committee.

SB 370, was amended by the Senate Committee on Judiciary, at the request of the proponents, to expand the definition of immediate family member to include parent and to provide a definition of "member of the military." The bill was passed as amended by the Senate Committee on Judiciary and the Senate Committee of the Whole. The bill was referred to the House Committee on Judiciary. According to the fiscal note on the bill, as introduced, passage of this bill would have no fiscal effect.

HB 2082, was amended by the House Committee on Judiciary to make the Musical Performance Advertising Act part of the Kansas Consumer Protection Act. The House Committee of the Whole inserted provisions regarding an affirmative defense to a violation of the Act. The bill was referred to the Senate Committee on Judiciary and was withdrawn and referred to the Senate Committee on Ethics and

Elections. The Senate Committee on Ethics and Elections passed a substitute bill which would have added a new section to the Campaign Finance Act that would require reporting on electioneering communications.

The fiscal note prepared on SB 269 is no longer applicable.

Consumer Protection Act; Veterans; Protected Consumer; Musical Performance Advertising Act