

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Steven Brunk at 1:30 p.m. on February 15, 2011, in Room 346-S of the Capitol.

All members were present except:

Representative Rocky Fund – Excused
Representative Mitch Holmes – Excused
Representative Mike Kiegerl - Excused
Representative Charlotte O'Hara – Excused
Representative Mike Peterson - Excused

Committee staff present:

Mike Heim, Office of the Revisor of Statutes
Doug Taylor, Office of the Revisor of Statutes
Julian Efird, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Stephen Bainum, Committee Assistant

Conferees appearing before the Committee:

Clancy Holeman, Riley County Counselor
Monty Wedel, Riley County Planning & Development
Laura Scott
Alaina Lamphear
Joseph Suber
Philip Bradley, Equal Entertainment Group
Michael W. Merriam Written Only
Cecil & Teresa Kingsley Written Only
Charley Upton Written Only
Kevin O'Malley Written Only
Al Hack Written Only
Jan Sheridan Written Only
Lance E. Malmstrom Written Only
Pastor Donnie Miller Written Only
Michael Scribner Written Only
Donna Follick Written Only
Larry W. Meeks Written Only
Lindsay M. Ewing Written Only
John Samples Written Only
Corey Brown Written Only

Others attending: See attached list.

The Chairman called for bill introductions. Representative Patton introduced a bill concerning gambling and the Expanded Lottery Act. It was received without objection.

The Chairman opened the hearing on **HB 2107 Community defense act, sexually oriented business regulations**

Clancy Holeman, Riley County Counselor, testified as an opponent of **HB 2107 (Attachment 1)**. Riley County has strict zoning regulations on the subject of sexually oriented businesses and as a result Riley County does not have even one sexually oriented business. While this bill would be good for counties without such regulations it is not needed in Riley County. He suggested that an opt out exception be allowed for counties with strict regulation.

Representative Rubin asked who would make the decision whether or not a municipal ordinance or county resolution is stricter or not inconsistent with this bill? Clancy said he thought that a court would decide that.

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Representative Loganbill said that perhaps your fifth reason would be to kill the bill. Clancy said yes.

Representative Boman asked if he would be satisfied if this bill was worded such that this bill would not affect anything that was stricter than this bill. Clancy agreed that an amendment was need to state that.

Representative Brunk asked if we need to tweak the language. Could you give some language to staff?

Mike Heim said that we should rephrase or eliminate Section 12.

Representative Goico asked a question for staff. How would home rule affect this bill? Mike Heim said that the city is bound by what the uniform law is but it can supplement what the law provides. It can do something which is more strict that what the uniform law is.

Representative Brunk asked if Section 12 was changed so that you could have stricter enforcement, would that change your position on the bill. Clancy said it would move him closer to neutral.

Representative Grosserode asked if the stricter regulations that Riley County had applied to hours of business or the sale of alcohol. Clancy was not sure about the hours of service but said the alcohol regulations did apply.

Representative Patton asked how long they had the alcohol regulation. Clancy said it was since 2004.

Monty Wedel, Director, AICP, presented testimony as an opponent of **HB 2107** ([Attachment 2](#)). He said that he thought that the language "stricter than but not inconsistent with" meant that if the Riley County regulations were "just as" strict as the provisions of **HB 2107**, then the Riley Counties regulatory system is void.

Representative Patton asked when they passed their regulation and if they had any SOB's since that time. Monty said that they have had no applications since the regulations were passed.

Representative Knox said he was surprised that they suggested an opt-out because it would be a poison pill for the bill. Is Riley County not concerned with protecting rural areas? Mike Heim asked if we drop out the Section you are having trouble with would that enable you to be more strict, would that solve the problem? Monty asked if they could be just as strict and be in conformance? Mike Heim said if that Section was not in there then that language would not be there at all.

Representative Gatewood asked what costs were associated when they enacted their regulations in 2004? Monty said that the only costs was staff time and the lawyer they consulted for the language of the regulation.

Representative Carlson said that he certainly understood their viewpoint and perhaps there is something we can do to make it work out.

Laura Scott presented testimony as an opponent of **HB 2107** ([Attachment 3](#)). She stated that she opposed the bill because the adverse secondary effects of sexually oriented businesses does not exist.

Representative Knox asked if she had any opinions about the patrons of the clubs. Do you see positive affects from the gentlemen who are in these clubs, or do you see negative affects to their families? She said she saw both positive and negative affects.

Alaina Lamphear presented testimony as an opponent of **HB 2107** ([Attachment 4](#)). The loss of revenue and the cost to patrol the businesses of the adult oriented businesses was her concern.

Representative Knox said this was expendable income and if there were no adult oriented businesses where would that money be spent? She thought the businesses would be driven underground.

Representative Grosserode asked if she knew of any underground sexually oriented businesses. She did not know of any.

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Representative Wolfe Moore asked if there had been a demand for this legislation. Representative Brunk said this bill had been heard in previous years. You can judge the interest by the number of people that show up and the cameras here recording it for the news.

Joseph Suber presented testimony as an opponent of **HB 2107** (Attachment 5). He said that in a free society toleration is only suspended when a grave threat to public health or order is posed. The free state of economic arrangements allows more people to find the niche they are most comfortable and productive in.

Representative Brunk asked if there were more than just anecdotal evidence and there were case studies done with compelling reasons to restrict this kind of activity in a certain way, would that move you from an opponent to a neutral or proponent of this bill? Joseph said he would need a more recent study and one that applied to Kansas sexually oriented businesses.

Philip Bradley presented testimony as an opponent of **HB 2107** (Attachment 6). He said that local control was preferred to state or national regulation. He said that this bill was an attempt to seize control from the communities and overrule community actions. He was especially opposed to the banning of alcohol in new section 8b and hours of operation in 8a which would require changes to the interiors of the buildings.

Representative Seiwert asked what was the amount of people who attend one of these cabaret functions, are they business people that come into town for a convention? Philip said yes but the primary group is local people. The convention business is not large enough to support these businesses.

Representative Grosserode asked if he could disclose what the current regulations are for alcohol sales within the state of Kansas in reference to the hours in which it can be served in establishments. Philip said that it depended upon the type of license you have. If you have an on premise license you are required to be closed between the hours of 2:00 a.m. and 9:00 a.m.

Representative Boman said that people have come to us for protection for themselves and their children, do you agree that they have a right to a standard. Philip agreed that they do.

Representative Gregory asked if he would like his niece to be a dancer. Philip said absolutely not and the behavior she mentioned was reprehensible.

The following presented written only testimony as opponents of **HB 2107**:

Michael W. Merriam (Attachment 7),
Cecil and Teresa Kingsley (Attachment 8),
Charlie Upton (Attachment 9),
Kevin O'Malley (Attachment 10),
Al Hack (Attachment 11),
Jan Sheridan (Attachment 12),
Lance E. Malmstrom (Attachment 13),
Donnie Miller (Attachment 14),
Michael Scribner (Attachment 15),
Donna Follick (Attachment 16),
Larry W. Meeks (Attachment 17),
Lindsay M. Ewing (Attachment 18),
John Samples (Attachment 19)
and Corey Brown (Attachment 20).

The Chairman closed the hearing on **HB 2107**.

The next meeting is scheduled for February 16, 2011.

The meeting was adjourned at 2:45 p.m.