

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

The meeting was called to order by Vice Chairman Scott Schwab at 9:00 A.M. on February 15, 2006 in Room 241-N of the Capitol.

All members were present.

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research Department
Norm Furse, Office of Revisor of Statutes
Renaë Jefferies, Office of Revisor of Statutes
June Evans, Committee Secretary

Conferees appearing before the committee:

Hal Hudson, National Federation of Independent Business
Ken Daniel, KS Small Biz.Com
Charlie Gregor, Executive Vice President, Leavenworth-Lansing Area Chamber of Commerce
Ross Markle, President, Harris Bros. Cleaners
Chris Tymeson, Wildlife and Parks
Steve Zink, Director, Industrial Safety and Health, Department of Labor
Terri Roberts, Kansas Coalition for Workplace Safety
Janet Stubbs, Kansas Building Industry Workers Compensation Fund
Larry Magill, Kansas Association of Insurance Agents
Brad Smoot, American Insurance Association
Dennis Carpenter, Kansas Restaurant and Hospitality Assn.

Others attending:

See attached list.

The Vice Chairman opened the hearing on **HB 2821 - Establishing the regulatory flexibility act, relating to small businesses.**

Staff gave a briefing on **HB 2821** concerning rules and regulations; relating to small businesses.

Hal Hudson, Kansas State Director, National Federation of Independent Business, testified as a proponent to **HB 2821**. In Kansas, there is a Joint Rules and Regulations Committee that oversees adoption of new rules and changes in existing rules. There are problems with this process. Some years ago the Kansas Supreme Court ruled that the Legislative branch had no authority over the Executive branch to approve or disapprove rules and regulations - their function is advisory only.

Second, because meetings of the Rules and Regulations Committee often are scheduled on the fly - when members of the House and Senate can find time to meet, affected members of the public, especially small business owners, may not receive adequate notice or may be unable to attend the meetings to voice their concerns (Attachment 1).

Kenneth Daniel, KsSmallBiz.com., testified as a proponent to **HB 2821**. The federal government has long recognized the need for legislation like this. The Office of Advocacy of the Small Business Administration has asked all states to enact this legislation, and the American Legislative Exchange Council has adopted this model (Attachment 2).

Charles H. Gregor, Jr., Executive Vice President, Leavenworth-Lansing Area Chamber of Commerce, testified as a proponent to **HB 2821**. The provisions of **HB 2821** are another critical step to maintain our ongoing effort to fix and improve the Kansas economy. 97% of Kansas businesses are small businesses by federal definition. 94.5% of Kansas businesses employ fewer than 100 workers. 85% employ fewer than 20 workers. They are the economic engine of the state (Attachment 3).

Ross Markle, owner, Harris Bros. Cleaners, Inc., testified in support of **HB 2821**. In 1994, I and five other small business owners (all dry cleaners) realized that EPA had decided our industry had a problem with hazardous waste and ground water pollution. No laws had been broken. No waste had been intentionally

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released into the Kansas environment. Local and state rules were followed for handling by-products. The Federal EPA decided that the major solvent used by our industry, Perchlorethalene, was a “possible” carcinogen, a fact that to this date has not been proven. The Kansas Department of Health and Environment and the small business owners worked together and have achieved phenomenal results in the past few years (Attachment 4).

Christopher J. Tymeson, Chief Legal Counsel, Kansas Department of Wildlife and Parks, testified in opposition to **HB 2821**. This would require each state board, commission, department or officer with regulatory authorization to prepare an economic impact statement, either separate or in conjunction with, the already required economic impact statement during regulatory promulgation, with a specific focus on small businesses, defined as fewer than full time employees or less than \$6,000,000 in gross annual sales. The Department is opposed to adding yet another layer of complication to a process that already contains procedural safeguards designed to allow small businesses more than ample opportunity for input, the opportunity for input, the opportunity to advocate for statutory change if necessary (Attachment 5).

The Chairman closed the hearing on **HB 2821**.

The Chairman opened the hearing on **HB 2202 - Workplace safety incentives**.

Steve Zink, Director, Division of Industrial Safety and Health, Kansas Department of Labor, testified in support of **HB 2202**. This would provide workers compensation premium discounts to employers who voluntarily request a work place safety consultation through the OSHA 21 (d) consultation program and who follow and implement the recommendations of the consultation report. Providing a credit through **HB 2202** would encourage employers throughout the state to both develop and maintain an effective safety and health program. Statistics through the Department of Labor have proven that those employers who have an effective safety and health program have fewer and less severe injuries (Attachment 6).

Terri Roberts, Kansas Coalition for Workplace Safety, testified in support of the concept of **HB 2202**. This allows employers to request a safety consultation and to receive premium discounts on their workers compensation insurance if they follow the recommendations made in the consultation. To the extent that the bill would improve the safety of the workplace and result in fewer injuries, it is believed that the bill would have a positive impact on Kansas workers (Attachment 7).

Janet Stubbs, Administrator of the Kansas Building Industry Workers Compensation Fund, testified in opposition of **HB 2202**. We are not opposed to safety training. Safety rewards are realized by the companies through other methods. This bill eliminates some of the controls underwriters have in rating and evaluating risks. Experience modification factors are given to companies based upon their loss experience (Attachment 8).

Larry Magill, Kansas Association of Insurance Agents, testified in opposition to **HB 2202**. The state should not determine rating plans and underwriting. The bill requires the Insurance Commissioner to develop a system of premium discounts for any employer who voluntarily requests a work place safety consultation under the state administered OSHA voluntary inspection program as long as they follow the recommendations. The Insurance Department only approves or disapproves rates filed by insurance companies and licensed rating organizations like the National Council on Compensation Insurance (NCCI) (Attachment 9).

Brad Smoot, on behalf of the American Insurance Association (AIA), testified in opposition to **HB 2202**. Workers compensation insurance is based on the concept of an “experience modifier” (commonly called an “ex-mod”) which raises or lowers an employer’s premiums depending on the employer’s actual workers compensation claims and cost experience. **HB 2202** proposes to add a new “discount” on top of actual experience, even though sufficient financial incentives already exist for employers to implement workplace safety measures (Attachment 10).

Dennis Carpenter, President/CEO for the Kansas Restaurant and Hospitality Association and its Self Insurance Fund (KRHASIF) testified in opposition to **HB 2202**. KRHA opposes **HB 2202** as the current Experience

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Modification Rating system the Kansas Insurance Department utilizes rewards members with good loss ratios as well as penalizes its members with poor loss ratio. Members currently qualify for a volume discount and elect to obtain yet another discount by choosing to go on a deductible program, which is also set forth in the Kansas Statutes Annotated administered by the Kansas Insurance Department (Attachment 11).

The Chairman closed the hearing on **HB 2202**.

The meeting adjourned at 10:55 a.m. The next meeting will be February 16, 2006.