

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 17, 2011, in Room 144-S of the Capitol.

All members were present.

Committee staff present:

Jason Long, Office of the Revisor of Statutes
Doug Taylor, Office of the Revisor of Statutes
Dennis Hodgins, Kansas Legislative Research Department
Julian Efird, Kansas Legislative Research Department
Connie Burns, Committee Assistant

Conferees appearing before the Committee:

Senator Bob Marshall
Representative John Rubin
Stephanie Kaniper, Jefferson County Citizens Group
Phillip Cosby, American Families Association
Michael Schuttloffel, Kansas Catholic Conference
Judy Smith, Concerned Women for America of Kansas
Aronda Kerns
John Samples, Osage City
Philip Bradley, Equal Entrainment Group & Kansas Licensed Beverage Association

Others attending:

See attached list.

Bill Introductions:

Senator Marshall requested a bill introduction regarding the Kansas Expanded Lottery Act; relating to racetrack gaming facilities; creating the Kansas Agricultural Opportunity Act.

Senator Longbine moved that this request should be introduced as a committee bill. Senator Haley seconded the motion. The motion carried.

Senator Marshall requested a bill introduction regarding Amendments to the Kansas expanded lottery act; relating to racetrack gaming facilities.

Senator Owens moved that this request should be introduced as a committee bill. Senator Haley seconded the motion. The motion carried.

HB 2107--Community defense act; sexually oriented businesses regulations

Chairman Brungardt opened the hearing on **HB 2107**.

Representative John Rubin spoke in favor of the bill. (Attachment 1) The bill is not an attempt to legislate morality or regulate sin, nor is it an attempt to prohibit sexually oriented businesses in Kansas or regulate them out of existence. This bill is crafted for proper public policy purposes, to protect the health, safety and welfare of our citizens.

Stephanie Kaniper, Jefferson County Citizens Group, appeared in favor of the bill. (Attachment 2) The bill will change state law to strengthen each community's ordinance/regulation, to fend off the outlandish legal action that is happening in Jefferson County.

Phillip Cosby, State Director, American Family Association of Kansas and Missouri, testified in favor of the bill. (Attachment 3) The bill would regulate the operation and location of sexually oriented businesses and establish uniform regulations to prevent undesirable secondary effects of such businesses. Also provided summaries of negative secondary effect studies of 43 cities, court rulings, a CD containing 1,500

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pages of detailed court upheld studies of 20 cities and 22 court cases all awarding municipalities the constitutional right to regulate sexually oriented businesses reducing negative secondary effects. (The CD and 1,500 pages reside in Kansas Legislative Research Department)

Michael Schuttloffel, Kansas Catholic Conference, spoke in favor of the bill. ([Attachment 4](#)) The Community Defense Act places sensible, constitutional regulations on the operation of sexually oriented businesses.

Judy Smith, Concerned Women for America, appeared in favor of the bill. ([Attachment 5](#)) The fundamental role of government is to protect families and the basic institutions that form the backbone of a stable society. Pornography whether virtual porn or a sexually-oriented business that headlines erotica undermines both marriage and the family and places women at risk.

Arona Kerns presented Scott Berthold's testimony in support of the bill. ([Attachment 6](#)) Mr. Berthold's background is Co-author, *Local Regulation of Adult Businesses*, 2011 Ed. (Thomson West).

Written testimony in support of the bill was provided by Mary Anne Layden, Ph D., Director, Sexual Trauma and Psychopathology Program, Center for Cognitive Therapy, Department of Psychiatry, University of Pennsylvania. ([Attachment 7](#)) Ms. Layden's research and professional experience indicates that the sexual exploitation industry is connected to crimes such as rape and prostitution, psychiatric problems such as substance abuse, and post traumatic stress, relationship problems such as divorce and infidelity, and community problems that reduce the quality of life.

Opponents:

John Samples, Club owner, testified in opposition to the bill. ([Attachment 8](#)) General statements about the legislation:

- Owners will lose substantially all of their investments as clubs close
- The studies provided were dated, not from Kansas, and the damages were not evident in Kansas
- If the clubs are closed, the damage of lost jobs, lost tax revenue to the state, and an increase in SRS and unemployment expenses
- Far fewer police calls than normal bars
- That entertainers are demeaned is inaccurate, security personnel do not allow that to occur in the clubs

Philip Bradley, representing Equal Entertainment Group and Kansas Licensed Beverage Association, appeared in opposition to the bill. ([Attachment 9](#)) The proponents allege this bill is the "community defense act" but what it seeks to do is seize the control from the communities and overrule community actions. The justification is contentions of "secondary effects" that are supported by studies of out of state urban areas and give no evidence that any of these claimed effects have or are occurring in Kansas. This bill has been offered for years and yet there is no Kansas substantiated evidence. Recent events are just proving that local control is working and is best for Kansas. Mr. Bradley urged the committee to not advance the bill.

Written Testimony in Opposition:

Charles A. O'Hara, Attorney at Law, Wichita, Kansas, provided written testimony in opposition of the bill. ([Attachment 10](#))

Laura Scott, Olathe, Kansas, provided written testimony in opposition of the bill. ([Attachment 11](#)) Ms. Scott believes if the bill passes it will have a negative impact on Kansas and its residents, for a problem that doesn't exist in the state.

Alaina Lamphear, St. George, Kansas, provided written testimony in opposition of the bill. ([Attachment 12](#)) With the regulations of this bill; there is potential for millions of dollars of tax revenue to be lost not only from the businesses themselves, but from supplementary taxes including liquor from places that are not generating problems or harming neighborhoods.

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Joseph Suber, Retail Business Owner, Olathe, Kansas, stated in his written testimony in opposition of the bill, that the burden of proof of harm should be on those who wish to limit the free and consensual economic activities of their fellows. ([Attachment 13](#))

Michael W. Merriam, Attorney at Law, Topeka, Kansas, provided written testimony in opposition to the bill. ([Attachment 14](#)) Mr. Merriam stated that the extensive loss of sales, liquor, income and property taxes to the State, increased unemployment and other harmful direct effects of this proposal; that some communities manage perceived secondary effects perfectly well locally. This bill invites not only First Amendment litigation, but lawsuits on Equal Protection grounds as well, with no evidence of ill effects in Kansas; adoption of this legislation is ill-advised.

Cecil and Teresa Kingsley, Lawrence, Kansas, ([Attachment 15](#)) Charlie Upton, Baldwin City, Kansas, ([Attachment 16](#)) Kevin O'Malley, Owner of O'Malley Beverage of Kansas, Inc., ([Attachment 17](#)) Al Hack, Lawrence, Kansas, ([Attachment 18](#)) Jan Sheridan, Lawrence, Kansas, ([Attachment 19](#)) provided written testimony in opposition to the bill; that there are far bigger issues facing our State, than trying to legislate morality. The bill is anti-business, and would cause businesses to close and people to become unemployed.

Lance E. Malmstrom provided written testimony in opposition to the bill. ([Attachment 20](#)) This bill would restrict freedoms, destroy jobs and lower tax revenues, which is reason enough to not pass it.

Pastor Donnie Miller, Trinity Family Church of the Nazarene, Gardner, Kansas, stated in his written testimony that even though there may be obvious differences between himself and the owner of a Gentleman's Club, he is grateful for the opportunity to discover hidden commonalities and working together for a common good i.e. on several service projects, ministry for the rural poor, and partnering to serve needy families at Christmas. ([Attachment 21](#))

Michael Scribner, Overland Park, Kansas, stated in his written testimony in opposition to the bill, that it is the job of government officials not to legislate morality. ([Attachment 22](#))

Donna Follick, Olathe, Kansas, provided written testimony in opposition to the bill. ([Attachment 23](#)) Ms. Follick stated the State of Kansas does not need a higher unemployment rate or additional burdens placed on an already staggering budget deficit, which would happen if this bill is passed.

Brad Persons, Lawrence, Kansas, stated in his written testimony in opposition to the bill, that in respect to the Bill of Rights of the United States of America, this legislation should not move forward. ([Attachment 24](#))

Larry W. Meeks, Owner and Operator, The Gentleman's Club, Great Bend, Kansas, provided written testimony in opposition to the bill. ([Attachment 25](#)) Mr. Meeks asked the committee to re think this bill and understand the negative ramifications this could bring upon the state and how many people would be put out of work.

Lindsay M. Ewing, Lawrence, Kansas, stated in her written testimony in opposition to the bill, that as a massage therapist, her client list includes many people who work in the adult entertainment industry and the bill would do sufficient damage to her income and financial obligations with a loss of those clients. ([Attachment 26](#))

Sarajane Scott Koch, Baldwin City, Kansas, provided written testimony in opposition to the bill. ([Attachment 27](#)) Ms. Koch stated that she wants her legislative voice to work towards a solution, not to waste time on judgment of those businesses that are still contributing to the sagging economy.

Nate Bunnyfield provided written testimony in opposition to the bill. ([Attachment 28](#))

Emily A. Richardson, Lawrence, Kansas, stated in her written testimony in opposition to the bill, that the Proponents of this bill seem to be focusing on the negative potential of these industries as cited from out of state. ([Attachment 29](#))

The Chairman opened the meeting to discussion and possible action on the bill.

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Senator Haley made a motion to not move the bill out of committee. Senator Longbine seconded the motion. The motion carried.

Senator Abrams and Senator Ostmeyer requested to be recorded as a no vote.

The next meeting is scheduled for March 21, 2011. The meeting was adjourned at noon.