

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 18, 2011, in Room 346-S of the Capitol.

All members were present except:

Representative Fund – Excused  
Representative Kiegerl – Excused  
Representative 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:

Others attending:

See attached list.

The Chairman called for the committee to work **HB 2218 Abortion regulation based on capacity of unborn child to feel pain.**

Representative Holmes made a motion to pass the bill out favorably, seconded by Representative Rubin.

Representative Brunk made a motion to add “or induced” wherever the word “perform” appears and the revisors technical amendment to change the numbering of sections, seconded by Representative Patton. The motion carried.

Representative Loganbill offered an amendment to add an exception for fetal anomaly. Representative Gatewood seconded the motion.

Representative Patton said that he opposed the amendment.

Representative Gregory said that she would also oppose the amendment.

Representative Rubin asked Representative Loganbill for a definition of anomaly. She mentioned the fetal anomalies that were mentioned in yesterdays testimony. Representative Rubin said the definition would be very important to your amendment and that he also opposed the amendment.

Representative Knox said that he would oppose the amendment on the basis that it is a human life and I would not think it is in the interest of the state to define a condition where we would take a human life.

Representative Gregory shared with the committee that she had two friends who were told that their child would be born with severe anomalies but there were no anomalies. So there are missed diagnosis to.

Representative Brunk said that he would oppose the amendment based on personal experience. We have a daughter who was borne with spina bifida. She would fall into this category of a fetus with an anomaly. The doctors told they that she would not have any kind of a normal life. Today she is 33 years old and has been married for a couple of years and is employed. Sometimes life is difficult, life is hard and things happen beyond our control that we wouldn't want to happen. But in my personal opinion the difficulties of life do not negate the fact life at its core is good.

Representative Goico asked if a fetus having an anomaly feels pain. The issue we are considering is fetal pain and an anomaly does not affect fetal pain so I also stand opposed to this amendment.

Representative Loganbill said that this was a very emotional issue and moved her amendment.

CONTINUATION SHEET

The minutes of the House Federal and State Affairs Committee at 1:30 p.m. on February 18, 2011, in Room 346-S of the Capitol.

The motion failed. We are back on the bill.

Representative Patton made a motion that the bill be passed as amended. Representative Goico seconded the motion. The motion carried.

Representative Henderson requested to be recorded as a no vote.

The Chairman called for the committee to work **HB 2107 Community defense act, sexually oriented business regulations.**

Representative Knox made a motion to move the bill out favorably, Representative Ruben seconded.

The Chairman said that there was an amendment on New Section 12. The gentlemen from Riley County felt that Section 12 would keep them from doing something stronger than what this bill would call for.

Mike Heim provided copies of the amendment to the committee (Attachment 1). The amendment is on page 8, line 7 and it clarifies that a city or country can enact their own local ordinance or resolution concerning sexually oriented businesses as long as they are not in conflict with the state law. This means they could adopt something that was the same or more stringent. Basically the courts have established that if it is the same as, there is no conflict, and if it is more stringent, there is no conflict.

The Chairman said that the intent of this amendment is to allow cities and counties to pass ordinances or resolutions that are just as strict or stricter than this bill.

Representative Goico asked a question of the advisor. If you have home rule that came into affect after the Supreme Court decision, would this put us in a position that home rule could be applied again or is the statute open for any city to do whatever they want to? Mike clarified that constitutional home rule had an amendment adopted by the people of the State of Kansas back in 1960, effective July 1, 1961, that granted cities home rule power in Article 12, Section 5 of the Kansas Constitution. Counties got home rule by statute by this legislative body in 1974. The cities are able to act if the legislature has not done anything. In this case the legislature has not regulated adult businesses at the statewide level.

Representative Rubin said that this bill had a lot of different regulations. Mike said if this bill passes they will have to review their local ordinances to conform to state law.

The amendment carried.

Representative Rubin made a motion to amend on page 7, lines 23 to 25 of the bill, New Section 8 by deleting sub (c) in its entirety. Representative Grosserode seconded the motion.

Representative Rubin said that we are addressing several different kinds of businesses in this bill and this provision would affect some of them differently than the others and would drive them out of business or cause them to go underground. My purpose is to prevent that.

Representative Knox said that the State of Missouri passed a very similar bill and they included the alcohol ban. Is the purpose to make this bill easier to pass or is it to remove the ban on alcohol?

Representative Rubin said he was not aware of any successful challenge to the Missouri provision. So that is not my primary motive. It is my concern that this would completely shut down one type of business. Representative Knox said that he would oppose this amendment.

Representative Holmes asked Representative Rubin. By striking sub (c) does it make the section above it about the age of 18 a moot point or do you want to strike it also? Representative Rubin said that sub (b) should stay in the bill. Representative Holmes said the reason for the question is that if we have alcohol the age limit would have to be raised to 21. They agreed that at age 18 they could go in but they could not drink until age 21.

Representative Gregory asked if some of these businesses do not sell alcohol and Representative Rubin

## CONTINUATION SHEET

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agreed that some did not sell alcohol. Representative Gregory said she would be neutral on the amendment.

Representative Goico said that some of these businesses are bars and selling alcohol is their business.

Representative Loganbill said she would oppose the amendment.

Representative Patton said that he opposed the amendment. He said that the regulations in the bill were narrowly drawn and the Supreme Court said that these are reasonable regulations. The courts have said that these regulations are reasonably related to deal with the negative secondary affects. They draw crime in and alcohol is a significant part of the problem. The argument that it will shut down their business is not true.

There was no further discussion on the amendment. Representative Rubin's motion carried.

Representative Rubin requested another amendment that he said would strengthen the proximity limitations. He proposed to strike the word "portion" and add the words "property line" on page 6, lines 8-9. Representative O'Hara seconded the motion. He said that the property line would be some distance further than the building line and that will provide even greater separation.

Representative Loganbill asked if that would help the folks in Meridan? The words "property line" should take care of that problem.

The motion carried. We are back on the bill.

Representative Knox made a motion to pass the bill favorably as amended. Representative Rubin seconded the motion.

Representative Loganbill suggested that we do a substitute bill to clean it up. Mike Heim said that he did not think the amendments were extensive enough to warrant that. The Chairman said that he thought we were OK without it.

Representative Goico made a motion to interpolate the language from the revisor into the bill. Seconded by Representative Gregory. The motion carried.

The next meeting is scheduled for March 02, 2011.

The meeting was adjourned at 2:37 p.m.