

MINUTES

JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS

September 26, 2011
Room 68-W—Statehouse

Members Present

Representative Carl Holmes, Chairperson
Senator Vicki Schmidt, Vice-chairperson
Representative Jan Pauls
Representative Ed Trimmer

Staff Present

Raney Gilliland, Kansas Legislative Research Department
Jill Shelley, Kansas Legislative Research Department
Sharon Wenger, Kansas Legislative Research Department
Ken Wilke, Office of the Revisor of Statutes
Katherine McBride, Office of the Revisor of Statutes
Eunice Peters, Office of the Revisor of Statutes

Conferees

Rick Scheufler, Kansas Department of Agriculture

Others Present

Adam Inman, Kansas Department of Agriculture
Tawnya Taddiken Johnson, Kansas Department of Agriculture
Nicole Hamm, Kansas Department of Agriculture
Derek Hein, Kansas Hospitality and Restaurant Association
Sean Miller, Capitol Strategies

Senator Vicki Schmidt, Vice-chairperson, called the meeting to order at 9:02 a.m. The Vice-chairperson welcomed those in attendance and indicated that the meeting was called due to a clerical error and thanked those from the Department of Agriculture for being able to accommodate the schedule of the Committee.

The Vice-chairperson welcomed Rick Scheufler to review the proposed rules and regulations noticed for hearing by the Kansas Department of Agriculture. KAR 4-27-1, lodging establishment application fees; and KAR 4-28-7, fees, food service establishment. Mr. Scheufler explained that the first regulation adjusts the fees associated with an application fee for each lodging establishment. Discussion occurred about the fee being used to reinstitute a program of inspection for lodging establishments which was suspended due to budget issues. Staff indicated that the way in which the regulation was drafted makes it appear the fee applies to all regulated lodging establishments. It was noted that the statute, KSA. 2010 Supp. 36-502 as amended by 2011 HB 2282 sec. 2, refers to applying application fees only to lodging

establishments which are newly constructed, newly converted to use as a lodging establishment or have undergone a change in ownership. Staff suggested using the statutory language for clarification. One Committee member had a question about the Economic Impact Statement and another wanted to know the cost of inspecting lodging establishments. One Committee member indicated that there was a bed bug registry where lodging establishments known or suspected of having bed bugs is available on the Internet.

The next rule and regulation reviewed, KAR. 4-28-7, dealt with fees for food service establishments. Representatives of the Department of Agriculture indicated that the fees to be established would apply to senior satellite sites that serve the elderly as long as the site does no on-site food preparation and also to each school satellite site that serves children as long as the site does no on-site food preparation. Staff asked what constituted a satellite site. Staff expressed concern that KSA 36-503(e) may exempt certain food distribution sites from any fees being imposed. Staff suggested that the rule and regulation be reframed to center around the establishment rather than the individual being served.

There being no further questions, the meeting was adjourned.

COMMITTEE COMMENTS ON PROPOSED RULES AND REGULATIONS

Kansas Department of Agriculture. The Joint Committee on Administrative Rules and Regulations reviewed for comment rules and regulations concerning lodging establishment application fees; and fees, food service establishment. After discussion, the Committee had the following comments.

KAR 4-27-1. The Committee believes that the manner in which the rule and regulation is constructed leads the reader to believe that it applies to all lodging establishments. The Committee suggests that the language of the rule and regulation be amended to reflect the language of the statute which makes it clear that an application fee applies only to lodging establishments which are newly constructed, newly converted to use as a lodging establishment or have undergone a change in ownership. The Committee also suggests that the staff of the agency monitor the bed bug registry on the Internet to aid and assist in its regulation of lodging establishments.

Request. The Committee requests information on the agency's cost to inspect lodging establishments.

KAR 4-28-7. The Committee suggests that the agency review statutory requirements which exempt certain food service establishments from the application or license fees to ensure that no fees being imposed by this rule and regulation violate other statutes. The Committee also suggests that the exemption in rule and regulation be framed around the type of establishment that is exempt rather than the type of individual the establishment serves.

Prepared by Raney Gilliland
Edited by Jill Shelley and Sharon Wenger

Approved by Committee on:

October 10, 2011
(Date)