

Journal of the Senate

SIXTY-EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, May 19, 2015, 10:00 a.m.

The Senate was called to order by President Susan Wagle.
The roll was called with 38 senators present.
Senators Arpke and Haley were excused.
Invocation by Reverend Cecil T. Washington:

Heavenly Father,

It was 41 years ago, and it was on this day, May 19th, that one of the most baffling puzzles ever contrived was introduced. Erno Rubik, the one who engineered and developed it said "IF you are curious, you'll find the puzzles around you and IF you are determined, you will solve them." Lord, puzzles and challenges are being engineered and constantly developing around us, even without looking for them. And we've found that determination by itself, just isn't enough. I twisted it and turned it with all the determination I could muster but It didn't help me solve that puzzle. After struggling with it and failing, I discovered there was someone who could show me how to solve it. As we tackle the things that puzzle us...the things that test us...as we look at the problems of life and government, give us the determination that we need, but also give us answers. Many of us have discovered that You have the answers because You're the Divine Engineer and You know exactly what we need to do. You are the Ultimate Resolver of our problems. You allow them and bring good out of them. When the puzzling difficulties of life come upon us, You said in James 1:3-4 that our faith would be tested and our endurance would be given a chance to grow. Help us remember to lean and depend on You for answers. We'll always need Your guidance to resolve the quandaries of our "Rubics Cube" dilemmas. Thanks again Lord, for hearing our plea. In Jesus name. Amen

The Pledge of Allegiance was led by President Susan Wagle.

MESSAGES FROM THE GOVERNOR

May 18, 2015

Senate Bill **154** has been signed into law.

May 19, 2015

Senate Bills **14, 52, 105, 276** and **290** have been signed into law.

MESSAGE FROM THE HOUSE

The House adopts the Conference Committee report on **S Sub Sub HB 2170**.
 The House adopts the Conference Committee report on **HB 2395**.

On motion of Senator Bruce, the Senate recessed until 2:00 p.m.

The Senate met pursuant to recess with President Wagle in the chair.

MESSAGE FROM THE HOUSE

The House adopts the Conference Committee report on **SB 101**.

The House nonconcurrs in Senate amendments to **HB 2223**, requests a conference and has appointed Representatives Brunk, Couture-Lovelady and Tietze as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2331**, requests a conference and has appointed Representatives Brunk, Couture-Lovelady and Tietze as conferees on the part of the House.

The House nonconcurrs in Senate amendments to **HB 2352**, requests a conference and has appointed Representatives Schwab, Bruchman and Houston as conferees on the part of the House.

The House announced the appointment of Reps. Huebert, Phillips and Alcalá to replace Reps. Schwartz, Boldra and Victors as conferees on **HB 2364**.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator McGinn introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1751—

A RESOLUTION recognizing Tick-Borne Disease Awareness Month
and supporting further Lyme disease research.

WHEREAS, The Centers for Disease Control (CDC) states that neurological borreliosis cases are increasing tenfold as the fastest growing vector-borne disease in the nation and is significantly under-reported and misdiagnosed; and

WHEREAS, Lyme disease is the most commonly reported tick-transmitted disease in the

United States, yet the CDC acknowledges that the number of cases reported annually represents only about one-tenth of the true number of cases. Approximately 30,000 cases of Lyme disease are reported to the CDC by state health departments each year. However, other studies of the disease suggest that the number of people actually diagnosed with Lyme disease each year is around 300,000, leaving approximately 270,000 cases unreported; and

WHEREAS, Lyme disease is most common among boys aged five to 19, with this age group

being affected at three times the average rate of all other age groups. Around 25% of all reported cases

of Lyme disease are children; and

WHEREAS, Lyme disease is undiagnosed in many Americans due to the lack of an accurate

screening test, no standard presentation, a lack of reliable tick and tick-borne disease studies and many

other reasons; and

WHEREAS, New research by the Infectious Disease Society of America states, "Sensitivity of the two-tier testing for early Lyme disease samples ranged from 43% to 48%," meaning the current blood testing used for diagnosis is inadequate for over 52% of those tested; and

WHEREAS, Lyme disease can present in a variety of ways. One common sign of Lyme disease

is the presentation of a red bull's-eye rash on the skin near the tick bite mark. However, only approximately 30% of Lyme disease patients present with this symptom. Lyme disease is known as

"The New Great Imitator" because it can be misdiagnosed as fibromyalgia, multiple sclerosis,

Parkinson's disease, chronic fatigue syndrome, Lou Gehrig's disease, cardiac problems, Alzheimer's

disease, attention deficit disorder, vision and hearing problems and other conditions, including

psychiatric disorders; and

WHEREAS, Lyme disease can affect almost any part of the body and produces a wide range of

symptoms, including skin lesions, meningitis, progressive muscular and joint pain, mood changes and

behavioral problems. If left untreated, Lyme disease can become an incurable and lifelong debilitating

illness characterized by neurological disorders, emotional and mental disorders, serious pain syndromes

in the bone and muscles, fatal heart disease and respiratory failure; and

WHEREAS, In Kansas, we encourage all Kansans to recognize that tick-borne infections are a public health threat. We recognize the importance of early detection, accurate testing and encourage equal access to the International Lyme and Associated Diseases Standard of Care and Physician Training; and

WHEREAS, May is Lyme Disease Awareness Month. The ticks that transmit Lyme disease to

humans are most active during May through July: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize Tick-Borne Disease Awareness Month and acknowledge that Lyme disease is significantly underdiagnosed in the United States and support further research of the disease, its symptoms and its treatment; and

Be it further resolved: That the Secretary of the Senate shall send an enrolled copy of this

resolution to each member of the Kansas Congressional Delegation; the Chair and Ranking Member of

the United States Senate Committee on Health, Education, Labor and Pensions; the Chair, Vice Chair

and Ranking Member of the United States House Energy Subcommittee on Health; the Chair, Vice

Chair and Ranking Member of the United States House Appropriations Subcommittee on Labor, Health

and Human Services, Education and Related Agencies; and the Chair, Vice Chair and Ranking Member

of the United States House Ways and Means Subcommittee on Health.

On emergency motion of Senator McGinn **SR 1751** was adopted unanimously.

Guests introduced were Peggy Blumhagen, Kathy White and Ila Hutlely.

The Senate honored the guests with a standing ovation.

ORIGINAL MOTION

Senator Bruce moved that subsection 4(k) of the Joint Rules of the Senate and House of Representatives be suspended for the purpose of considering the following bills: **SB 101; HB 2025, HB 2055; S Sub HB 2124.**

ORIGINAL MOTION

On motion of Senator Ostmeyer, the Senate acceded to the request of the House for a conference on **HB 2223.**

The President appointed Senators Ostmeyer, LaTurner and Faust-Goudeau as conferees on the part of the Senate.

On motion of Senator Ostmeyer, the Senate acceded to the request of the House for a conference on **HB 2331.**

The President appointed Senators Ostmeyer, LaTurner and Faust-Goudeau as conferees on the part of the Senate.

On motion of Senator Longbine, the Senate acceded to the request of the House for a conference on **HB 2352.**

The President appointed Senators Longbine, Bowers and Hawk as conferees on the part of the Senate.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2005** submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

And your committee on conference recommends the adoption of this report.

TY MASTERSOON

JEFF KING

Conferees on part of Senate

RON RYCKMAN

JOHN BARKER

Conferees on part of House

On motion of Senator King the Senate adopted the conference committee report on **HB 2005**, and requested a new conference be appointed.

The President appointed Senators Masterson, King and Kelly as a second Conference Committee on the part of the Senate on **HB 2005.**

On motion of Senator Bruce, the Senate recessed until the sound of the gavel.

The Senate met pursuant to recess with President Wagle in the chair.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 101** submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed with House Committee amendments, as follows:

On page 1, by striking all in lines 7 through 34;

By striking all on pages 2 through 8;

On page 9, by striking all in lines 1 through 27; following line 27, by inserting:

"New Section 1. (a) Consistent with the limitations of K.S.A. 50-704, and amendments thereto, the TNC shall not permit an individual to act as a driver on its digital network who:

(1) Has been convicted of:

(A) Any person felony as described in any section of article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto;

(B) any sex offense as described in any section of article 35 of chapter 21 of the Kansas Statutes Annotated, prior to its repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 2014 Supp. 21-6419 through 21-6422, and amendments thereto;

(C) identity theft, as described in K.S.A. 21 - 4018, prior to its repeal, or K.S.A. 2014 Supp. 21-6107, and amendments thereto;

(D) any attempt, conspiracy or solicitation of any crime described in this paragraph; or

(E) a crime under the law of another jurisdiction which is substantially the same as the crimes described in this paragraph;

(2) is registered on the national sex offender registry, the Kansas offender registry or any similar registry of any other jurisdiction;

(3) has had a combined total of more than three moving violations in Kansas or any other jurisdiction within the past three years;

(4) has had a traffic violation in Kansas or any other jurisdiction within the past three years of attempting to evade the police, reckless driving or driving on a suspended license;

(5) has been convicted, adjudicated or placed on diversion, within the past seven years, of:

(A) Driving under the influence of drugs or alcohol in Kansas or any other jurisdiction;

(B) any crime involving controlled substances, as described in K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or any violation of any provision of the uniform controlled substances act prior to July 1, 2009;

(C) theft, as described in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2014 Supp. 21-5801, and amendments thereto;

(D) any crime involving fraud, dishonesty or deceit, as described by the Kansas criminal code;

(E) any attempt, conspiracy or solicitation of any crime described in this subsection; or

(F) a violation of the law or ordinance of another jurisdiction, including any municipality, which is substantially the same as the crimes described in this subsection;

(6) does not possess a valid driver's license;

(7) does not possess proof of registration for the motor vehicle or motor vehicles used to provide a prearranged ride;

(8) does not possess proof of automobile liability insurance for the personal vehicle or personal vehicles used to provide a prearranged ride; or

(9) is not at least 19 years of age.

(b) The provisions of this section shall be a part of and supplemental to the Kansas transportation network company services act.

Sec. 2. Section 2 of 2015 House Substitute for Senate Bill No. 117 is hereby amended to read as follows: Sec. 2. Except as otherwise provided, as used in the Kansas transportation network company services act:

(a) "Act" means the Kansas transportation network company services act.

(b) "Digital network" means any online-enabled application, software, website or system offered or utilized by a transportation network company that enables the prearrangement of rides with transportation network company drivers.

(c) "Personal vehicle" means a vehicle that is used by a transportation network company driver in connection with providing a prearranged ride and is:

(1) Owned, leased or otherwise authorized for use by the transportation network company driver; and

(2) not a taxicab, limousine or for-hire vehicle.

(d) "Prearranged ride" means the provision of transportation by a driver to a rider, beginning when a driver accepts a ride requested by a rider through a digital network controlled by a transportation network company, continuing while the driver transports a requesting rider, and ending when the last requesting rider departs from the personal vehicle. A "prearranged ride" does not include transportation provided using a taxi, limousine or other for-hire vehicle.

(e) "Transportation network company" or "TNC" means a corporation, partnership, sole proprietorship or other entity ~~that is licensed pursuant to this act~~ and operating in Kansas that uses a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides. A transportation network company shall not be deemed to control, direct or manage the personal vehicles or transportation network company drivers that connect to its digital network, except where agreed to by written contract.

(f) "Transportation network company driver" or "driver" means an individual who:

(1) Receives connections to potential passengers and related services from a transportation network company in exchange for payment of a fee to the transportation network company; and

(2) uses a personal vehicle to provide services for riders matched through a digital network controlled by a transportation network company and receives, in exchange for

providing the passenger a ride, compensation that exceeds the individual's cost to provide the ride.

(g) "Transportation network company rider" or "rider" means an individual or persons who use a transportation network company's digital network to connect with a transportation network driver who provides prearranged rides to the rider in the driver's personal vehicle between points chosen by the rider.

(h) "Vehicle owner" means the owner of a personal vehicle.

Sec. 3. Section 12 of 2015 House Substitute for Senate Bill No. 117 is hereby amended to read as follows: Sec. 12. ~~(a)~~ Prior to permitting an individual to act as a driver on its digital network, the TNC shall:

~~(1)~~ (a) Require the individual to submit an application to the TNC, which includes information regarding the applicant's address, age, driver's license, driving history, motor vehicle registration, automobile liability insurance and other information required by the TNC; and

~~(2)~~ obtain a local and national criminal background check on the individual, conducted by the Kansas bureau of investigation;

~~(A)~~ fingerprints submitted pursuant to this section shall be released by the attorney general to the Kansas bureau of investigation for the purpose of conducting criminal history records checks, utilizing the files and records of the Kansas bureau of investigation and the federal bureau of investigation; and

~~(B)~~ each individual shall be subject to a state and national criminal history records check which conforms to applicable federal standards for the purpose of verifying the identity of the individual and whether the individual has been convicted of any crime that would disqualify the individual from being a transportation network driver under this act;

~~(3)~~ (b) obtain and review a driving history research report for such individual; and

~~(4)~~ require the individual, if such individual's personal vehicle is subject to a lien, to provide proof of comprehensive and collision insurance coverage for such personal vehicle that covers the period when the individual is logged on to a TNC's digital network but not engaged in a prearranged ride and when the individual is engaged in a prearranged ride to the lien holder of such personal vehicle and to the TNC.

~~(b)~~ The TNC shall not permit an individual to act as a driver on its digital network who:

~~(1)~~ Has had more than three moving violations in the prior three-year period, or one major violation in the prior three-year period, including, but not limited to, attempting to evade the police, reckless driving, or driving on a suspended or revoked license;

~~(2)~~ has been convicted, within the past seven years, of driving under the influence of drugs or alcohol, fraud, sexual offenses, use of a motor vehicle to commit a felony, a crime involving property damage, or theft, acts of violence, or acts of terror;

~~(3)~~ is a match in the national sex offender registry database;

~~(4)~~ does not possess a valid driver's license;

~~(5)~~ does not possess proof of registration for the motor vehicle or motor vehicles used to provide a prearranged ride;

~~(6)~~ does not possess proof of automobile liability insurance for the personal vehicle or personal vehicles used to provide a prearranged ride; or

~~(7)~~ is not at least 19 years of age.

Sec. 4. Section 19 of 2015 House Substitute for Senate Bill No. 117 is hereby

amended to read as follows: Sec. 19. (a) A TNC shall disclose prominently, with a separate acknowledgment of acceptance, to its TNC drivers in the prospective TNC drivers' written terms of service the following before the drivers are allowed to accept a request for TNC services on the TNC's digital network or software application:

"If the vehicle that you plan to use to provide transportation network company services has a lien against it, using the vehicle for transportation network company services may violate the terms of your contract with the lienholder. If you are required by agreement with the lienholder to maintain comprehensive and collision insurance on the vehicle, using the vehicle for TNC services without such insurance coverage may violate your legal obligation to the lienholder under Kansas law."

(b) If a TNC's insurer makes a payment for a claim covered under comprehensive coverage or collision coverage, the TNC shall cause its insurer to issue the payment directly to the business repairing the vehicle or jointly to the owner of the vehicle and the primary lienholder on the covered vehicle. ~~The commission shall not assess any fines as a result of a violation of this subsection.~~

(c) If the vehicle used by a transportation network driver is subject to a lien and the lienholder requires comprehensive and collision insurance in its agreement, the transportation network driver shall ensure that comprehensive and collision insurance that covers the periods when the transportation network driver is logged on to a TNC's digital network but not engaged in a prearranged ride and when the transportation network driver is engaged in a prearranged ride is in effect.

(d) This section shall take effect on and after January 1, 2016.

Sec. 5. Sections 2, 12 and 19 of 2015 House Substitute for Senate Bill No. 117 are hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; by striking lines 2 and 3; in line 4, by striking all before the period and inserting "the Kansas transportation network company services act; relating to certain definitions; relating to transportation network company requirements; relating to transportation network company drivers; relating to liens on personal vehicles; amending sections 2, 12 and 19 of 2015 House Substitute for Senate Bill No. 117 and repealing the existing sections";

And your committee on conference recommends the adoption of this report.

SCOTT SCHWAB

ROB BRUCHMAN

RODERICK HOUSTON

Conferees on part of House

JEFF LONGBINE

ELAINE BOWERS

LAURA KELLY

Conferees on part of Senate

Senator Longbine moved the Senate adopt the Conference Committee Report on **SB 101**.

On roll call, the vote was: Yeas 37; Nays 0; Present and Passing 0; Absent or Not Voting 3.

Yeas: Abrams, Baumgardner, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox,

LaTurner, Longbine, Love, Lynn, Masterson, McGinn, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf.

Absent or Not Voting: Arpke, Haley, Melcher.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2025** submits the following report:

The Senate recesses from all of its amendments to the bill, and your committee on conference further agrees to amend the bill as introduced, as follows:

On page 3, following line 26, by inserting:

"New Sec. 3. (a) For the purposes of this section:

(1) "Emergency services personnel" means any employee or volunteer of an emergency services provider who is engaged in providing or supporting firefighting, dispatching services and emergency medical services.

(2) "Emergency services provider" means any public employer that employs persons to provide firefighting, dispatching services and emergency medical services.

(3) "Employee assistance program" means a program established by a law enforcement agency or emergency services provider to provide professional counseling or support services to employees of a law enforcement agency, emergency services provider or a professional mental health provider associated with a peer support team.

(4) "Law enforcement agency" means any public agency that employs law enforcement officers.

(5) "Law enforcement personnel" means a law enforcement officer, as defined in K.S.A. 22-2202 or 74-5602, and amendments thereto, an employee or volunteer of a law enforcement agency.

(6) "Peer support counseling session" means any session conducted by a peer support specialist that is called or requested in response to a critical incident or traumatic event involving the personnel of the law enforcement agency or emergency services provider.

(7) "Peer support specialist" is a person:

(A) Designated by a law enforcement agency, emergency services provider, employee assistance program or peer support team leader to lead, moderate or assist in a peer support counseling session;

(B) who is a member of a peer support team; and

(C) has received training in counseling and providing emotional and moral support to law enforcement officers or emergency services personnel who have been involved in emotionally traumatic incidents by reason of their employment.

(8) "Peer support team" means a group of peer support specialists serving one or more law enforcement providers or emergency services providers.

(b) Any communication made by a participant or peer support specialist in a peer support counseling session pursuant to this section, and any oral or written information conveyed in or as the result of the peer support counseling session, are confidential and may not be disclosed by any person participating in the peer support counseling session.

(c) Any communication relating to a peer support counseling session made

confidential under subsection (b) that is made between peer support specialists, between peer support specialists and the supervisors or staff of an employee assistance program, or between the supervisors or staff of an employee assistance program, is confidential and may not be disclosed.

(d) The provisions of this section apply only to peer support counseling sessions conducted by a peer support specialist.

(e) (1) The provisions of this section apply to all oral communications, notes, records and reports arising out of a peer support counseling session.

(2) Any notes, records or reports arising out of a peer support counseling session shall not be public records and shall not be subject to the open records act, K.S.A. 45-215 et seq., and amendments thereto. The provisions of this paragraph shall expire on July 1, 2020, unless the legislature acts to reenact such provisions. The provisions of this paragraph shall be reviewed by the legislature prior to July 1, 2020.

(f) Any communication made by a participant or peer support specialist in a peer support counseling session subject to this section, and any oral or written information conveyed in a peer support counseling session subject to this section, are not admissible in any judicial proceeding, administrative proceeding, arbitration proceeding or other adjudicatory proceeding. Communications and information made confidential under this section shall not be disclosed by the participants in any judicial proceeding, administrative proceeding, arbitration proceeding or other adjudicatory proceeding. The limitations on disclosure imposed by this subsection include disclosure during any discovery conducted as part of an adjudicatory proceeding.

(g) Nothing in this section limits the discovery or introduction into evidence of knowledge acquired by any law enforcement personnel or emergency services personnel from observation made during the course of employment, or material or information acquired during the course of employment, that is otherwise subject to discovery or introduction into evidence.

(h) This section does not apply to any:

(1) Threat of suicide or criminal act made by a participant in a peer support counseling session, or any information conveyed in a peer support counseling session relating to a threat of suicide or criminal act;

(2) information relating to abuse of spouses, children or the elderly, or other information that is required to be reported by law;

(3) admission of criminal conduct;

(4) disclosure of testimony by a participant who received peer support counseling services and expressly consented to such disclosure; or

(5) disclosure of testimony by the surviving spouse or executor or administrator of the estate of a deceased participant who received peer support counseling services and such surviving spouse or executor or administrator expressly consented to such disclosure.

(i) This section does not prohibit any communications between peer support specialists who conduct peer support counseling sessions, or any communications between peer support specialists and the supervisors or staff of an employee assistance program.

(j) This section does not prohibit communications regarding fitness of an employee for duty between an employee assistance program and an employer.

(k) This section shall be part of and supplemental to article 4 of chapter 60 of the

Kansas Statutes Annotated, and amendments thereto.

Sec. 4. K.S.A. 22-2202 is hereby amended to read as follows: 22-2202. ~~(+)~~ (a) "Appellate court" means the supreme court or court of appeals, depending on the context in which the term is used and the respective jurisdiction of those courts over appeals in criminal cases, as provided in K.S.A. 22-3601, and amendments thereto.

~~(2)~~ (b) "Appearance bond" means an agreement, with or without security, entered into by a person in custody by which the person is bound to comply with the conditions specified in the agreement.

~~(3)~~ (c) "Arraignment" means the formal act of calling the defendant before a court having jurisdiction to impose sentence for the offense charged, informing the defendant of the offense with which the defendant is charged, and asking the defendant whether the defendant is guilty or not guilty.

~~(4)~~ (d) "Arrest" means the taking of a person into custody in order that the person may be forthcoming to answer for the commission of a crime. The giving of a notice to appear is not an arrest.

~~(5)~~ (e) "Bail" means the security given for the purpose of insuring compliance with the terms of an appearance bond.

~~(6)~~ (f) "Bind over" means require a defendant to appear and answer before a district judge having jurisdiction to try the defendant for the felony with which the defendant is charged.

~~(7)~~ (g) "Charge" means a written statement presented to a court accusing a person of the commission of a crime and includes a complaint, information or indictment.

~~(8)~~ (h) "Complaint" means a written statement under oath of the essential facts constituting a crime, except that a citation or notice to appear issued by a law enforcement officer pursuant to and in compliance with K.S.A. 8-2106, and amendments thereto, or a citation or notice to appear issued pursuant to and in compliance with K.S.A. 32-1049, and amendments thereto, shall be deemed a valid complaint if it is signed by the law enforcement officer.

~~(9)~~ (i) "Custody" means the restraint of a person pursuant to an arrest or the order of a court or magistrate.

~~(10)~~ (j) "Detention" means the temporary restraint of a person by a law enforcement officer.

~~(11)~~ (k) "Indictment" means a written statement, presented by a grand jury to a court, which charges the commission of a crime.

~~(12)~~ (l) "Information" means a verified written statement signed by a county attorney or other authorized representative of the state of Kansas presented to a court, which charges the commission of a crime. An information verified upon information and belief by the county attorney or other authorized representative of the state of Kansas shall be sufficient.

~~(13)~~ (m) "Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for violation of the laws of the state of Kansas or ordinances of any municipality thereof or with a duty to maintain or assert custody or supervision over persons accused or convicted of crime, and includes court services officers, community corrections officers, parole officers and directors, security personnel and keepers of correctional institutions, jails or other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority.

(14) (n) "Magistrate" means an officer having power to issue a warrant for the arrest of a person charged with a crime and includes justices of the supreme court, judges of the court of appeals and judges of district courts.

(15) (o) "Notice to appear" means a written request, issued by a law enforcement officer, that a person appear before a designated court at a stated time and place.

(16) (p) "Preliminary examination" means a hearing before a magistrate on a complaint or information to determine if a felony has been committed and if there is probable cause to believe that the person charged committed it.

(17) (q) "Prosecuting attorney" means any attorney who is authorized by law to appear for and on behalf of the state of Kansas in a criminal case, and includes the attorney general, an assistant attorney general, the county or district attorney, an assistant county or district attorney and any special prosecutor whose appearance is approved by the court. In the case of prosecution for violation of a city ordinance, also, "prosecuting attorney" means the city attorney or any assistant city attorney.

(18) (r) "Search warrant" means a written order made by a magistrate directed to a law enforcement officer commanding the officer to search the premises described in the search warrant and to seize property described or identified in the search warrant.

(19) (s) "Summons" means a written order issued by a magistrate directing that a person appear before a designated court at a stated time and place and answer to a charge pending against the person.

(20) (t) "Warrant" means a written order made by a magistrate directed to any law enforcement officer commanding the officer to arrest the person named or described in the warrant.";

Also on page 3, in line 27, before "K.S.A." by inserting "K.S.A. 22-2202 and";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "concerning" by inserting "public safety; relating to peer support counseling sessions for emergency services personnel and law enforcement personnel,"; in line 2, before "K.S.A." by inserting "K.S.A. 22-2202 and";

And your committee on conference recommends the adoption of this report.

JEFF KING
GREG SMITH
PAT PETTEY

Conferees on part of Senate

JOHN BARKER
CHARLES MACHEERS
JOHN CARMICHAEL

Conferees on part of House

Senator King moved the Senate adopt the Conference Committee Report on **HB 2025**.

On roll call, the vote was: Yeas 37; Nays 0; Present and Passing 0; Absent or Not Voting 3.

Yeas: Abrams, Baumgardner, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, Schmidt, Smith, Tyson, Wagle, Wilborn,

Wolf.

Absent or Not Voting: Arpke, Haley, Melcher.
The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2055** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee amendments, as follows:

On page 1, by striking all in lines 11 through 34;

By striking all on pages 2 and 3;

On page 4, by striking all in lines 1 through 9; following line 9 by inserting:

"Section 1. K.S.A. 2014 Supp. 21-5413 is hereby amended to read as follows: 21-5413. (a) Battery is:

(1) Knowingly or recklessly causing bodily harm to another person; or

(2) knowingly causing physical contact with another person when done in a rude, insulting or angry manner;

(b) Aggravated battery is:

(1) (A) Knowingly causing great bodily harm to another person or disfigurement of another person;

(B) knowingly causing bodily harm to another person with a deadly weapon, or in any manner whereby great bodily harm, disfigurement or death can be inflicted; or

(C) knowingly causing physical contact with another person when done in a rude, insulting or angry manner with a deadly weapon, or in any manner whereby great bodily harm, disfigurement or death can be inflicted;

(2) (A) recklessly causing great bodily harm to another person or disfigurement of another person; or

(B) recklessly causing bodily harm to another person with a deadly weapon, or in any manner whereby great bodily harm, disfigurement or death can be inflicted; or

(3) (A) committing an act described in K.S.A. 8-1567, and amendments thereto, when great bodily harm to another person or disfigurement of another person results from such act; or

(B) committing an act described in K.S.A. 8-1567, and amendments thereto, when bodily harm to another person results from such act under circumstances whereby great bodily harm, disfigurement or death can result from such act.

(c) Battery against a law enforcement officer is:

(1) Battery, as defined in subsection (a)(2), committed against a:

(A) Uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty; ~~or~~

(B) uniformed or properly identified state, county or city law enforcement officer, other than a state correctional officer or employee, a city or county correctional officer or employee, ~~a juvenile correctional facility officer or employee or a juvenile detention facility officer, or employee, while such officer is engaged in the performance of such officer's duty; or~~

(C) judge, while such judge is engaged in the performance of such judge's duty;

(D) attorney, while such attorney is engaged in the performance of such attorney's

duty; or

(E) community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty;

(2) battery, as defined in subsection (a)(1), committed against a:

(A) Uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty; or

(B) uniformed or properly identified state, county or city law enforcement officer, other than a state correctional officer or employee, a city or county correctional officer or employee, ~~a juvenile correctional facility officer or employee~~ or a juvenile detention facility officer, or employee, while such officer is engaged in the performance of such officer's duty; ~~or~~

(C) judge, while such judge is engaged in the performance of such judge's duty;

(D) attorney, while such attorney is engaged in the performance of such attorney's duty; or

(E) community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty; or

(3) battery, as defined in subsection (a) committed against a:

(A) State correctional officer or employee by a person in custody of the secretary of corrections, while such officer or employee is engaged in the performance of such officer's or employee's duty;

(B) ~~juvenile correctional facility~~ state correctional officer or employee by a person confined in such juvenile correctional facility, while such officer or employee is engaged in the performance of such officer's or employee's duty;

(C) juvenile detention facility officer or employee by a person confined in such juvenile detention facility, while such officer or employee is engaged in the performance of such officer's or employee's duty; or

(D) city or county correctional officer or employee by a person confined in a city holding facility or county jail facility, while such officer or employee is engaged in the performance of such officer's or employee's duty.

(d) Aggravated battery against a law enforcement officer is:

(1) An aggravated battery, as defined in subsection (b)(1)(A) committed against a:

(A) Uniformed or properly identified state, county or city law enforcement officer while the officer is engaged in the performance of the officer's duty; ~~or~~

(B) uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty;

(C) judge, while such judge is engaged in the performance of such judge's duty;

(D) attorney, while such attorney is engaged in the performance of such attorney's duty; or

(E) community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty;

(2) an aggravated battery, as defined in subsection (b)(1)(B) or (b)(1)(C), committed against a:

(A) Uniformed or properly identified state, county or city law enforcement officer while the officer is engaged in the performance of the officer's duty; ~~or~~

(B) uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty; ~~or~~

(C) judge, while such judge is engaged in the performance of such judge's duty;

(D) attorney, while such attorney is engaged in the performance of such attorney's duty; or

(E) community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty; or

(3) knowingly causing, with a motor vehicle, bodily harm to a:

(A) Uniformed or properly identified state, county or city law enforcement officer while the officer is engaged in the performance of the officer's duty; or

(B) uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty.

(e) Battery against a school employee is a battery, as defined in subsection (a), committed against a school employee in or on any school property or grounds upon which is located a building or structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12 or at any regularly scheduled school sponsored activity or event, while such employee is engaged in the performance of such employee's duty.

(f) Battery against a mental health employee is a battery, as defined in subsection (a), committed against a mental health employee by a person in the custody of the secretary for aging and disability services, while such employee is engaged in the performance of such employee's duty.

(g) (1) Battery is a class B person misdemeanor.

(2) Aggravated battery as defined in:

(A) Subsection (b)(1)(A) is a severity level 4, person felony;

(B) subsection (b)(1)(B) or (b)(1)(C) is a severity level 7, person felony;

(C) subsection (b)(2)(A) or (b)(3)(A) is a severity level 5, person felony; and

(D) subsection (b)(2)(B) or (b)(3)(B) is a severity level 8, person felony.

(3) Battery against a law enforcement officer as defined in:

(A) Subsection (c)(1) is a class A person misdemeanor;

(B) subsection (c)(2) is a severity level 7, person felony; and

(C) subsection (c)(3) is a severity level 5, person felony.

(4) Aggravated battery against a law enforcement officer as defined in:

(A) Subsection (d)(1) or (d)(3) is a severity level 3, person felony; and

(B) subsection (d)(2) is a severity level 4, person felony.

(5) Battery against a school employee is a class A person misdemeanor.

(6) Battery against a mental health employee is a severity level 7, person felony.

(h) As used in this section:

(1) "Correctional institution" means any institution or facility under the supervision and control of the secretary of corrections;

(2) "state correctional officer or employee" means any officer or employee of the Kansas department of corrections or any independent contractor, or any employee of such contractor, whose duties include working at a correctional institution;

~~(3) "juvenile correctional facility officer or employee" means any officer or employee of the juvenile justice authority or any independent contractor, or any employee of such contractor, working at a juvenile correctional facility, as defined in K.S.A. 2014 Supp. 38-2302, and amendments thereto;~~

~~(4) (3) "juvenile detention facility officer or employee" means any officer or employee of a juvenile detention facility as defined in K.S.A. 2014 Supp. 38-2302, and~~

amendments thereto;

~~(5)~~ (4) "city or county correctional officer or employee" means any correctional officer or employee of the city or county or any independent contractor, or any employee of such contractor, whose duties include working at a city holding facility or county jail facility;

~~(6)~~ (5) "school employee" means any employee of a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12; ~~and~~

~~(7)~~ (6) "mental health employee" means: (A) An employee of the Kansas department for aging and disability services working at Larned state hospital, Osawatomic state hospital and Rainbow mental health facility, Kansas neurological institute and Parsons state hospital and training center and the treatment staff as defined in K.S.A. 59-29a02, and amendments thereto; and (B) contractors and employees of contractors under contract to provide services to the Kansas department for aging and disability services working at any such institution or facility;

(7) "judge" means a duly elected or appointed justice of the supreme court, judge of the court of appeals, judge of any district court of Kansas, district magistrate judge or municipal court judge;

(8) "attorney" means a: (A) County attorney, assistant county attorney, special assistant county attorney, district attorney, assistant district attorney, special assistant district attorney, attorney general, assistant attorney general or special assistant attorney general; and (B) public defender, assistant public defender, contract counsel for the state board of indigents' defense services or an attorney who is appointed by the court to perform services for an indigent person as provided by article 45 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto;

(9) "community corrections officer" means an employee of a community correctional services program responsible for supervision of adults or juveniles as assigned by the court to community corrections supervision and any other employee of a community correctional services program that provides enhanced supervision of offenders such as house arrest and surveillance programs; and

(10) "court services officer" means an employee of the Kansas judicial branch or local judicial district responsible for supervising, monitoring or writing reports relating to adults or juveniles as assigned by the court, or performing related duties as assigned by the court.

Sec. 2. K.S.A. 2014 Supp. 21-6811, as amended by section 2 of 2015 House Bill No. 2053, is hereby amended to read as follows: 21-6811. In addition to the provisions of K.S.A. 2014 Supp. 21-6810, and amendments thereto, the following shall apply in determining an offender's criminal history classification as contained in the presumptive sentencing guidelines grids:

(a) Every three prior adult convictions or juvenile adjudications of class A and class B person misdemeanors in the offender's criminal history, or any combination thereof, shall be rated as one adult conviction or one juvenile adjudication of a person felony for criminal history purposes. Every three prior adult convictions or juvenile adjudications of assault as defined in K.S.A. 21-3408, prior to its repeal, or K.S.A. 2014 Supp. 21-5412(a), and amendments thereto, occurring within a period commencing three years prior to the date of conviction for the current crime of conviction shall be rated as one adult conviction or one juvenile adjudication of a person felony for criminal history

purposes.

(b) A conviction of criminal possession of a firearm as defined in K.S.A. 21-4204(a)(1) or (a)(5), prior to its repeal, criminal use of weapons as defined in K.S.A. 2014 Supp. 21-6301(a)(10) or (a)(11), and amendments thereto, or unlawful possession of a firearm as in effect on June 30, 2005, and as defined in K.S.A. 21-4218, prior to its repeal, will be scored as a select class B nonperson misdemeanor conviction or adjudication and shall not be scored as a person misdemeanor for criminal history purposes.

(c) (1) If the current crime of conviction was committed before July 1, 1996, and is for K.S.A. 21-3404(b), as in effect on June 30, 1996, involuntary manslaughter in the commission of driving under the influence, then, each prior adult conviction or juvenile adjudication for K.S.A. 8-1567, and amendments thereto, shall count as one person felony for criminal history purposes.

(2) If the current crime of conviction was committed on or after July 1, 1996, and is for a violation of K.S.A. 2014 Supp. 21-5405(a)(3), and amendments thereto, each prior adult conviction, diversion in lieu of criminal prosecution or juvenile adjudication for: (A) ~~Any~~ Any act described in K.S.A. 8-2,144 or 8-1567 or K.S.A. 2014 Supp. 8-1025, and amendments thereto; or (B) a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits ~~the~~ any act described in K.S.A. 8-2,144 or 8-1567 or K.S.A. 2014 Supp. 8-1025, and amendments thereto, shall count as one person felony for criminal history purposes.

(3) If the current crime of conviction is for a violation of K.S.A. 2014 Supp. 21-5413(b)(3), and amendments thereto:

(A) The first prior adult conviction, diversion in lieu of criminal prosecution or juvenile adjudication for the following shall count as one nonperson felony for criminal history purposes: (i) Any act described in K.S.A. 8-2,144 or 8-1567 or K.S.A. 2014 Supp. 8-1025, and amendments thereto; or (ii) a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits any act described in K.S.A. 8-2,144 or 8-1567 or K.S.A. 2014 Supp. 8-1025, and amendments thereto; and

(B) each second or subsequent prior adult conviction, diversion in lieu of criminal prosecution or juvenile adjudication for the following shall count as one person felony for criminal history purposes: (i) Any act described in K.S.A. 8-2,144 or 8-1567 or K.S.A. 2014 Supp. 8-1025, and amendments thereto; or (ii) a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits any act described in K.S.A. 8-2,144 or 8-1567 or K.S.A. 2014 Supp. 8-1025, and amendments thereto.

(d) Prior burglary adult convictions and juvenile adjudications will be scored for criminal history purposes as follows:

(1) As a prior person felony if the prior conviction or adjudication was classified as a burglary as defined in K.S.A. 21-3715(a), prior to its repeal, or K.S.A. 2014 Supp. 21-5807(a)(1), and amendments thereto.

(2) As a prior nonperson felony if the prior conviction or adjudication was classified as a burglary as defined in K.S.A. 21-3715(b) or (c), prior to its repeal, or K.S.A. 2014 Supp. 21-5807(a)(2) or (a)(3), and amendments thereto.

The facts required to classify prior burglary adult convictions and juvenile adjudications shall be established by the state by a preponderance of the evidence.

(e) (1) Out-of-state convictions and juvenile adjudications shall be used in

classifying the offender's criminal history.

(2) An out-of-state crime will be classified as either a felony or a misdemeanor according to the convicting jurisdiction.

(A) If a crime is a felony in another state, it will be counted as a felony in Kansas.

(B) If a crime is a misdemeanor in another state, the state of Kansas shall refer to the comparable offense in order to classify the out-of-state crime as a class A, B or C misdemeanor. If the comparable misdemeanor crime in the state of Kansas is a felony, the out-of-state crime shall be classified as a class A misdemeanor. If the state of Kansas does not have a comparable crime, the out-of-state crime shall not be used in classifying the offender's criminal history.

(3) The state of Kansas shall classify the crime as person or nonperson. In designating a crime as person or nonperson, comparable offenses under the Kansas criminal code in effect on the date the current crime of conviction was committed shall be referred to. If the state of Kansas does not have a comparable offense in effect on the date the current crime of conviction was committed, the out-of-state conviction shall be classified as a nonperson crime.

(4) Convictions or adjudications occurring within the federal system, other state systems, the District of Columbia, foreign, tribal or military courts are considered out-of-state convictions or adjudications.

(5) The facts required to classify out-of-state adult convictions and juvenile adjudications shall be established by the state by a preponderance of the evidence.

(f) Except as provided in K.S.A. 21-4710(d)(4), (d)(5) and (d)(6), prior to its repeal, or K.S.A. 2014 Supp. 21-6810(d)(3)(B), (d)(3)(C), (d)(3)(D) and (d)(4), and amendments thereto, juvenile adjudications will be applied in the same manner as adult convictions. Out-of-state juvenile adjudications will be treated as juvenile adjudications in Kansas.

(g) A prior felony conviction of an attempt, a conspiracy or a solicitation as provided in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2014 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, to commit a crime shall be treated as a person or nonperson crime in accordance with the designation assigned to the underlying crime.

(h) Drug crimes are designated as nonperson crimes for criminal history scoring.

(i) If the current crime of conviction is for a violation of K.S.A. 8-1602(b)(3) through (b)(5), and amendments thereto, each of the following prior convictions for offenses committed on or after July 1, 2011, shall count as a person felony for criminal history purposes: K.S.A. 8-235, 8-262, 8-287, 8-291, 8-1566, 8-1567, 8-1568, 8-1602, 8-1605 and 40-3104, and amendments thereto, and K.S.A. 2014 Supp. 21-5405(a)(3) and 21-5406, and amendments thereto, or a violation of a city ordinance or law of another state which would also constitute a violation of such sections.

(j) The amendments made to this section by ~~this act~~ 2015 House Bill No. 2053 are procedural in nature and shall be construed and applied retroactively.

Sec. 3. K.S.A. 2014 Supp. 22-2502 is hereby amended to read as follows: 22-2502.

(a) A search warrant shall be issued only upon the oral or written statement, including those conveyed or received by electronic communication, of any person under oath or affirmation which states facts sufficient to show probable cause that a crime has been, is being or is about to be committed and which particularly describes a person, place or means of conveyance to be searched and things to be seized. Any statement which is

made orally shall be either taken down by a certified shorthand reporter, sworn to under oath and made part of the application for a search warrant, or recorded before the magistrate from whom the search warrant is requested and sworn to under oath. Any statement orally made shall be reduced to writing as soon thereafter as possible. If the magistrate is satisfied that grounds for the application exist or that there is probable cause to believe that they exist, the magistrate may issue a search warrant for:

(1) The search or seizure of the following:

(A) Any thing that can be seized under the fourth amendment of the United States constitution;

~~(A)(B)~~ any thing which has been used in the commission of a crime, or any contraband or any property which constitutes or may be considered a part of the evidence, fruits or instrumentalities of a crime under the laws of this state, any other state or of the United States. The term "fruits" as used in this act shall be interpreted to include any property into which the thing or things unlawfully taken or possessed may have been converted;

~~(B)(C)~~ any person who has been kidnapped in violation of the laws of this state or who has been kidnapped in another jurisdiction and is now concealed within this state;

~~(C)(D)~~ any human fetus or human corpse;

(E) any biological material, DNA, cellular material, blood, hair or fingerprints;

~~(D)(F)~~ any person for whom a valid felony arrest warrant has been issued in this state or in another jurisdiction; or

~~(E)(G)~~ (i) any information concerning the user of an electronic communication service; any information concerning the location of electronic communications systems, including, but not limited to, towers transmitting cellular signals involved in any wire communication; and any other information made through an electronic communications system; or

(ii) the jurisdiction granted in this paragraph shall extend to information held by entities registered to do business in the state of Kansas, submitting to the jurisdiction thereof, and entities primarily located outside the state of Kansas if the jurisdiction in which the entity is primarily located recognizes the authority of the magistrate to issue the search warrant; or

(2) the installation, maintenance and use of a tracking device.

(b) (1) The search warrant under subsection (a)(2) shall authorize the installation and use of the tracking device to track and collect tracking data relating to a person or property for a specified period of time, not to exceed 30 days from the date of the installation of the device.

(2) The search warrant under subsection (a)(2) may authorize the retrieval of the tracking data recorded by the tracking device during the specified period of time for authorized use of such tracking device within a reasonable time after the expiration of such warrant, for good cause shown.

(3) The magistrate may, for good cause shown, grant one or more extensions of a search warrant under subsection (a)(2) for the use of a tracking device, not to exceed 30 days each.

(c) Before ruling on a request for a search warrant, the magistrate may require the affiant to appear personally and may examine under oath the affiant and any witnesses that the affiant may produce. Such proceeding shall be taken down by a certified shorthand reporter or recording equipment and made part of the application for a search

warrant.

(d) For a warrant executed prior to July 1, 2014, affidavits or sworn testimony in support of the probable cause requirement of this section or search warrants for tracking devices shall not be made available for examination without a written order of the court, except that such affidavits or testimony when requested shall be made available to the defendant or the defendant's counsel for such disposition as either may desire.

(e) (1) For a warrant executed on or after July 1, 2014, affidavits or sworn testimony in support of the probable cause requirement of this section or search warrants for tracking devices shall not be open to the public until the warrant has been executed. After the warrant has been executed, such affidavits or sworn testimony shall be made available to:

(A) The defendant or the defendant's counsel, when requested, for such disposition as either may desire; and

(B) any person, when requested, in accordance with the requirements of this subsection.

(2) Any person may request that affidavits or sworn testimony be disclosed by filing such request with the clerk of the court. The clerk of the court shall promptly notify the defendant or the defendant's counsel, the prosecutor and the magistrate that such request was filed.

(3) Within five business days after receiving notice of a request for disclosure from the clerk of the court, the defendant or the defendant's counsel and the prosecutor may submit to the magistrate, under seal, either:

(A) Proposed redactions, if any, to the affidavits or sworn testimony and the reasons supporting such proposed redactions; or

(B) a motion to seal the affidavits or sworn testimony and the reasons supporting such proposed seal.

(4) The magistrate shall review the requested affidavits or sworn testimony and any proposed redactions or motion to seal submitted by the defendant, the defendant's counsel or the prosecutor. The magistrate shall make appropriate redactions, or seal the affidavits or sworn testimony, as necessary to prevent public disclosure of information that would:

(A) Jeopardize the safety or well being of a victim, witness, confidential source or undercover agent, or cause the destruction of evidence;

(B) reveal information obtained from a court-ordered wiretap or from a search warrant for a tracking device that has not expired;

(C) interfere with any prospective law enforcement action, criminal investigation or prosecution;

(D) reveal the identity of any confidential source or undercover agent;

(E) reveal confidential investigative techniques or procedures not known to the general public;

(F) endanger the life or physical safety of any person;

(G) reveal the name, address, telephone number or any other information which specifically and individually identifies the victim of any sexual offense described in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated or K.S.A. 2014 Supp. 21-6419 through 21-6422, and amendments thereto;

(H) reveal the name of any minor; or

(l) reveal any date of birth, personal or business telephone number, driver's license number, nondriver's identification number, social security number, employee identification number, taxpayer identification number, vehicle identification number or financial account information.

(5) Within five business days after receiving proposed redactions or a motion to seal from the defendant, the defendant's counsel or the prosecutor, or within 10 business days after receiving notice of a request for disclosure, whichever is earlier, the magistrate shall either:

(A) Order disclosure of the affidavits or sworn testimony with appropriate redactions, if any; or

(B) order the affidavits or sworn testimony sealed and not subject to public disclosure.

(f) As used in this section:

(1) "Electronic communication" means the use of electronic equipment to send or transfer a copy of an original document;

(2) "electronic communication service" and "electronic communication system" have the meaning as defined in K.S.A. 22-2514, and amendments thereto;

(3) "tracking data" means information gathered or recorded by a tracking device; and

(4) "tracking device" means an electronic or mechanical device that permits a person to remotely determine or track the position or movement of a person or object. "Tracking device" includes, but is not limited to, a device that stores geographic data for subsequent access or analysis and a device that allows for the real-time monitoring of movement.

(g) Nothing in this section shall be construed as requiring a search warrant for cellular location information in an emergency situation pursuant to K.S.A. 22-4615, and amendments thereto.;

On page 4, in line 10, after "Supp." by inserting "21-5413, 22-2502 and"; also in line 10, by striking "is" and inserting ", as amended by section 2 of 2015 House Bill No. 2053, are";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after "to" by inserting "battery;"; in line 3, after "misdemeanors;" by inserting "search warrants;"; also in line 3, after "Supp." by inserting "21-5413, 22-2502 and"; also in line 3, after "21-6811" by inserting ", as amended by section 2 of 2015 House Bill No. 2053;"; in line 4, by striking "section" and inserting "sections";

And your committee on conference recommends the adoption of this report.

GREG SMITH
FOREST KNOX
PAT PETTEY

Conferees on part of Senate

JOHN BARKER
CHARLES MACHEERS
JOHN CARMICHAEL

Conferees on part of House

Senator Smith moved the Senate adopt the Conference Committee Report on **HB 2055**.

On roll call, the vote was: Yeas 37; Nays 0; Present and Passing 0; Absent or Not Voting 3.

Yeas: Abrams, Baumgardner, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf.

Absent or Not Voting: Arpke, Haley, Melcher.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2124** submits the following report:

The Senate recesses from all of its amendments to the bill, and your committee on conference further agrees to amend the bill, as introduced, as follows:

On page 1, by striking all in lines 6 through 19 and inserting:

"Section 1. K.S.A. 2014 Supp. 21-6110 is hereby amended to read as follows: 21-6110. (a) It shall be unlawful, with no requirement of a culpable mental state, to smoke in an enclosed area or at a public meeting including, but not limited to:

- (1) Public places;
- (2) taxicabs and limousines;
- (3) restrooms, lobbies, hallways and other common areas in public and private buildings, condominiums and other multiple-residential facilities;
- (4) restrooms, lobbies and other common areas in hotels and motels and in at least 80% of the sleeping quarters within a hotel or motel that may be rented to guests;
- (5) access points of all buildings and facilities not exempted pursuant to subsection (d); and

(6) any place of employment.

(b) Each employer having a place of employment that is an enclosed area shall provide a smoke-free workplace for all employees. Such employer shall also adopt and maintain a written smoking policy which shall prohibit smoking without exception in all areas of the place of employment. Such policy shall be communicated to all current employees within one week of its adoption and shall be communicated to all new employees upon hiring. Each employer shall provide a written copy of the smoking policy upon request to any current or prospective employee.

(c) Notwithstanding any other provision of this section, K.S.A. 2014 Supp. 21-6111 or 21-6112, and amendments thereto, the proprietor or other person in charge of an adult care home, as defined in K.S.A. 39-923, and amendments thereto, or a medical care facility, may designate a portion of such adult care home, or the licensed long-term care unit of such medical care facility, as a smoking area, and smoking may be permitted within such designated smoking area.

(d) The provisions of this section shall not apply to:

- (1) The outdoor areas of any building or facility beyond the access points of such building or facility;

(2) private homes or residences, except when such home or residence is used as a day care home, as defined in K.S.A. 65-530, and amendments thereto;

(3) a hotel or motel room rented to one or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed 20%;

(4) the gaming floor of a lottery gaming facility or racetrack gaming facility, as those terms are defined in K.S.A. 74-8702, and amendments thereto;

(5) that portion of an adult care home, as defined in K.S.A. 39-923, and amendments thereto, that is expressly designated as a smoking area by the proprietor or other person in charge of such adult care home pursuant to subsection (c) and that is fully enclosed and ventilated;

(6) that portion of a licensed long-term care unit of a medical care facility that is expressly designated as a smoking area by the proprietor or other person in charge of such medical care facility pursuant to subsection (c) and that is fully enclosed and ventilated and to which access is restricted to the residents and their guests;

(7) tobacco shops;

(8) a class A or class B club defined in K.S.A. 41-2601, and amendments thereto, which: (A) Held a license pursuant to K.S.A. 41-2606 et seq., and amendments thereto, as of January 1, 2009; and (B) notifies the secretary of health and environment in writing, not later than 90 days after the effective date of this act, that it wishes to continue to allow smoking on its premises;

(9) a private club in designated areas where minors are prohibited; ~~and~~

(10) any benefit cigar dinner or other cigar dinner of a substantially similar nature that:

(A) Is conducted specifically and exclusively for charitable purposes by a nonprofit organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(B) is conducted no more than once per calendar year by such organization; and

(C) has been held during each of the previous three years prior to January 1, 2011; ~~and~~

(11) that portion of a medical or clinical research facility constituting a separately ventilated, secure smoking room dedicated and used solely and exclusively for clinical research activities conducted in accordance with regulatory authority of the United States or the state of Kansas, as determined by the director of alcoholic beverage control of the department of revenue.

Sec. 2. K.S.A. 50-6a02 is hereby amended to read as follows: 50-6a02. As used in this act:

(a) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in exhibit C to the master settlement agreement.

(b) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned" and "ownership" mean ownership of an equity interest, or the equivalent thereof, of 10% or more, and the term "person" means an individual, partnership, committee, association, corporation or any other organization or group of persons.

(c) "Allocable share" means allocable share as that term is defined in the master settlement agreement.

(d) "Cigarette" means any product that contains nicotine, is intended to be burned

or heated under ordinary conditions of use and consists of or contains: (1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco; ~~or~~ (2) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (3) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in ~~clause (1) of this subsection (d)(1).~~ The term "cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its appearance, type, packaging or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette," 0.09 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette."

(e) "Master settlement agreement" means the settlement agreement (and related documents) entered into on November 23, 1998, by the state and leading United States tobacco product manufacturers.

(f) "Qualified escrow fund" means an escrow arrangement with a federally or state chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least \$1,000,000,000 where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing or directing the use of the funds' principal except as consistent with ~~subsection (b)(2) of K.S.A. 50-6a03(b)(2), and amendments thereto.~~

(g) "Released claims" means released claims as that term is defined in the master settlement agreement.

(h) "Releasing parties" means releasing parties as that term is defined in the master settlement agreement.

(i) "Tobacco product manufacturer" means an entity that after the date of enactment of this act directly (and not exclusively through any affiliate):

(1) Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer, as that term is defined in the master settlement agreement, that will be responsible for the payments under the master settlement agreement with respect to such cigarettes as a result of the provisions of subsections II(mm) of the master settlement agreement and that pays the taxes specified in subsection II(z) of the master settlement agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States);

(2) is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(3) becomes a successor of an entity described in paragraph (1) or (2). The term "tobacco product manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of ~~parts (1)-(3) of subsection (i) (1) through (3) above.~~

(j) "Units sold" means, with respect to a particular tobacco product manufacturer for a particular year, the number of individual cigarettes sold in the state, including,

without limitation, any cigarettes sold on any qualified tribal land within the state, by the applicable tobacco product manufacturer (whether directly or through a distributor, retailer or similar intermediary or intermediaries), during the year in question, as measured by excise taxes collected by the state on packs (or "roll-your-own" tobacco containers) bearing the excise tax stamp of the state for which the state has the authority under federal law to impose excise or a similar tax or to collect escrow deposits, regardless of whether such taxes were imposed or collected by the state. The department of revenue and the attorney general shall promulgate such rules and regulations as are necessary to ascertain the amount number of state excise tax paid on the cigarettes units sold of such tobacco product manufacturer for each year.

Sec. 3. K.S.A. 2014 Supp. 50-6a04 is hereby amended to read as follows: 50-6a04.

(a) No person may:

(1) Affix, or cause to be affixed, tax indicia to a package of cigarettes, or otherwise pay the tax due upon such cigarettes, of a tobacco product manufacturer brand family not included in the directory; or

(2) sell, offer, possess for sale or import ~~for personal consumption in~~ into this state, cigarettes of a tobacco product manufacturer brand family not included in the directory.

(b) (1) Not later than July 1, 2009, the attorney general shall develop a directory, to be posted on the attorney general's website. Except as otherwise provided, the directory shall list all tobacco product manufacturers and brand families of such tobacco product manufacturers that have provided current and accurate certifications conforming to the requirements of subsection (c).

(2) The attorney general shall not include or retain in the directory any non-participating manufacturer, or non-participating manufacturer's brand family, that has failed to provide the required certification, or whose certification the attorney general determines is not in compliance with subsection (c), unless such failure or noncompliance has been cured to the satisfaction of the attorney general.

(3) In the case of a non-participating manufacturer, neither the tobacco product manufacturer nor a brand family shall be included or retained in the directory if the attorney general concludes:

(A) That an escrow payment required pursuant to K.S.A. 50-6a03, and amendments thereto, for any period for any brand family, whether or not listed by such non-participating manufacturer, has not been fully paid into a qualified escrow fund governed by an escrow agreement that has been approved by the attorney general;

(B) that an outstanding final judgment, including interest thereon, for a violation of K.S.A. 50-6a03, and amendments thereto, has not been fully satisfied for such tobacco product manufacturer; or

(C) that, within three calendar years prior to the date of submission or approval of the most recent certification, such tobacco product manufacturer has defaulted on escrow payments in any other state or jurisdiction that is a party to the master settlement agreement and the default has not been cured within 90 calendar days of such default.

(4) The attorney general shall update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand family so as to keep the directory in conformity with the requirements of this act.

(5) The attorney general shall promptly post in the directory and transmit by electronic mail to each stamping agent that has provided an electronic mail address, notice of removal from the directory of a tobacco product manufacturer or brand family.

(6) Unless otherwise provided by agreement between a stamping agent and a tobacco product manufacturer, the stamping agent shall be entitled to a refund from a tobacco product manufacturer for any money paid by the stamping agent to the tobacco product manufacturer for any cigarettes of the tobacco product manufacturer in the possession of the stamping agent on the effective date of removal from the directory of that tobacco product manufacturer or brand family.

(7) Unless otherwise provided by agreement between a retail dealer or a vending machine operator and a tobacco product manufacturer, a retail dealer or a vending machine operator shall be entitled to a refund from a tobacco product manufacturer for any money paid by the retail dealer or vending machine operator to a stamping agent for any cigarettes of the tobacco product manufacturer still in the possession of the retail dealer or vending machine operator on the effective date of removal from the directory of that tobacco product manufacturer or brand family.

(8) The attorney general may remove from the state directory a tobacco product manufacturer or brand family if the attorney general concludes that:

(A) (i) The tobacco product manufacturer or any of the tobacco product manufacturer's affiliates, sales entity affiliates, officers or directors had pleaded guilty or nolo contendere to or been found guilty of a felony crime relating to the sale or taxation of cigarettes or tobacco products; or

(ii) the tobacco product manufacturer and the tobacco product manufacturer's brand families have been removed from the directory of another state based on acts or omissions that would, if done in this state, serve as a basis for removal from the directory maintained by the attorney general under this section, unless the manufacturer demonstrates that its removal from the other state's directory was effected without due process.

(B) (i) A tobacco product manufacturer that is removed from the state directory under this subsection (b) shall be eligible for relisting in the directory described in this subsection (b) on the earlier of the date on which the tobacco product manufacturer cures the violation or the date on which the tobacco product manufacturer is reinstated to the directory in the other state; or

(ii) in the case of a non-participating manufacturer deemed an elevated risk pursuant to K.S.A. 50-6a09, and amendments thereto, the attorney general may require such non-participating manufacturer to post a bond in accordance with that section.

(c) (1) On or before April 30 of each year, every tobacco product manufacturer whose cigarettes are sold in this state, whether directly or through a stamping agent or similar intermediary or intermediaries, shall execute and deliver in the manner prescribed by the attorney general a certification to the attorney general certifying under penalty of perjury that, as of the date of such certification, such tobacco product manufacturer either is:

(A) A participating manufacturer; or

(B) in full compliance with K.S.A. 50-6a03, and amendments thereto, including payment of all quarterly installment payments as may be required by subsection (d).

(2) A participating manufacturer shall include in its certification a list of its brand families. The participating manufacturer shall update such list 30 calendar days prior to any addition to, or modification of its brand families by executing and delivering a supplemental certification to the attorney general.

(3) A non-participating manufacturer shall include in its certification:

(A) The number of units sold for each brand family sold in the state during the preceding calendar year;

(B) a list of all of its brand families sold in the state at any time during the current calendar year, including any brand family sold in the state during the preceding calendar year that is no longer being sold in the state as of the date of such certification;

(C) the identity, by name and address, of any other tobacco product manufacturer who manufactured such brand families in the preceding or current calendar year;

(D) a declaration that such non-participating manufacturer is registered to do business in the state, or has appointed a resident agent for service of process, and provided notice thereof as required by K.S.A. 2014 Supp. 50-6a08, and amendments thereto;

(E) a declaration that such non-participating manufacturer:

(i) Has established and continues to maintain a qualified escrow fund; and

(ii) has executed an escrow agreement that governs the qualified escrow fund and that such escrow agreement has been reviewed and approved by the attorney general;

(F) a declaration that such non-participating manufacturer consents to the jurisdiction of the district court of the third judicial district, Shawnee county, Kansas, for purposes of enforcing this act, or rules or regulations promulgated pursuant thereto, as required by ~~subsection (e) of~~ K.S.A. 2014 Supp. 50-6a08(c), and amendments thereto;

(G) a declaration that such non-participating manufacturer is in full compliance with ~~subsection (b) of~~ K.S.A. 50-6a03(b), and amendments thereto, and any rules or regulations promulgated pursuant to this act;

(H) (i) the name, address and telephone number of the financial institution where the non-participating manufacturer has established such qualified escrow fund required pursuant to ~~subsection (b) of~~ K.S.A. 50-6a03(b), and amendments thereto;

(ii) the account number of such qualified escrow fund and any sub-account number for the state of Kansas;

(iii) the amount such non-participating manufacturer placed in such qualified escrow fund for cigarettes sold in this state during the preceding calendar year, the date and amount of each such deposit and such evidence or verification as may be deemed necessary by the attorney general to confirm the foregoing; and

(iv) the amount and date of any withdrawal or transfer of funds the non-participating manufacturer made at any time from such qualified escrow fund or from any other qualified escrow fund into which it ever made escrow payments pursuant to ~~subsection (b) of~~ K.S.A. 50-6a03(b), and amendments thereto; ~~and~~

(I) in the case of a non-participating manufacturer located outside of the United States, a declaration from each of its importers to the United States of any of its brand families to be sold in Kansas that such importer accepts joint and several liability with the non-participating manufacturer for:

(i) All escrow deposits due under ~~subsection (b) of~~ K.S.A. 50-6a03(b), and amendments thereto;

(ii) all penalties assessed under ~~subsection (b) of~~ K.S.A. 50-6a03(b), and amendments thereto; and

(iii) payment of all costs and attorney fees pursuant to any successful action under this act against ~~said such~~ manufacturer.

Such declarations by importers of a non-participating manufacturer shall appoint for

the declarant a resident agent for service of process in Kansas in accordance with K.S.A. 2014 Supp. 50-6a08, and amendments thereto, and consent to jurisdiction in accordance with K.S.A. 2014 Supp. 50-6a08, and amendments thereto;

(J) the identity of all stamping agents, wholesalers and distributors, by name and address, to whom the non-participating manufacturer or its importer sold cigarettes to or that the manufacturer or importer believes or has reason to believe purchased or received any of the manufacturer's cigarettes from another source during the preceding calendar year, and those for which the manufacturer or its importer plan to sell to or believe or has reason to believe will purchase or receive any of the manufacturer's cigarettes from another source during the certifying calendar year; and

(K) a declaration that all sales or shipments made by the non-participating manufacturer or its affiliates, including, but not limited to, its importers and stamping agents provided for certification under this section, within or into this state are made to a stamping agent, wholesaler, distributor or retailer that is licensed in this state.

(4) A tobacco product manufacturer may not include a brand family in its certification unless:

(A) In the case of a participating manufacturer, said participating manufacturer affirms that the brand family shall be deemed to be its cigarettes for purposes of calculating its payments under the master settlement agreement for the relevant year in the volume and shares determined pursuant to the master settlement agreement; or

(B) in the case of a non-participating manufacturer, said non-participating manufacturer affirms that the brand family shall be deemed to be its cigarettes for purposes of ~~subsection (b) of~~ K.S.A. 50-6a03(b), and amendments thereto.

Nothing in this paragraph shall be construed as limiting or otherwise affecting the state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the master settlement agreement or ~~subsection (b) of~~ K.S.A. 50-6a03(b), and amendments thereto.

(5) Invoices and documentation of sales and other such information relied upon for such certification shall be maintained by tobacco product manufacturers for a period of at least five years.

(6) As a condition to being listed and having its brand families listed in the directory, a tobacco product manufacturer shall also:

(A) Certify annually that such manufacturer or its importer holds a valid permit under 26 U.S.C. § 5713 and provide a copy of such permit to the attorney general;

(B) certify annually that it is in compliance with all reporting and registration requirements of 15 U.S.C. § 375 et seq. and provide monthly to the director and the attorney general, regardless of sales or shipments, a copy of all reports required pursuant to 15 U.S.C. §§ 376 and 376a, to be filed electronically in a manner prescribed by the director and attorney general; and

(C) pay annually a \$500 directory fee to the attorney general which shall be deposited in the tobacco master settlement agreement compliance fund.

(d) The attorney general may require a tobacco product manufacturer subject to the requirements of subsection (c) to make the escrow deposits required by ~~subsection (b) of~~ K.S.A. 50-6a03(b), and amendments thereto, in quarterly installments during the calendar year in which the sales covered by such deposits are made. The attorney general may require production of information sufficient to enable the attorney general to determine the adequacy of the amount of the installment deposit.

Sec. 4. K.S.A. 2014 Supp. 50-6a07 is hereby amended to read as follows: 50-6a07. As used in this act:

(a) "Act" means the provisions of K.S.A. 50-6a01 through 50-6a06, and amendments thereto, and the provisions of K.S.A. 2014 Supp. 50-6a07 through 50-6a21, and amendments thereto.

(b) "Brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, "menthol," "lights," "kings," and "100s," and includes any brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors or any other indicia of product identification identical, similar to or identifiable with a previously known brand of cigarettes.

(c) "Cigarette" has the same meaning given that term in ~~subsection (d)~~ of K.S.A. 50-6a02(~~d~~), and amendments thereto.

(d) "Director" means the director of taxation.

(e) "Indian tribe" means any Indian tribe, band, nation or other organized group or community that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians under the laws of the United States.

~~(e)-(f)~~ "Master settlement agreement" has the same meaning given that term in ~~subsection (e)~~ of K.S.A. 50-6a02(~~e~~), and amendments thereto.

~~(f)-(g)~~ "Non-participating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.

~~(g)-(h)~~ "Participating manufacturer" has the meaning given that term in ~~subsection (f)~~ of K.S.A. 50-6a02(~~f~~), and amendments thereto.

~~(h)-(i)~~ "Qualified escrow fund" has the same meaning given that term in ~~subsection (g)~~ of K.S.A. 50-6a02(~~g~~), and amendments thereto.

~~(i)-(j)~~ "Resident agent" means a domestic corporation, a domestic limited partnership, a domestic limited liability company or a domestic business trust or a foreign corporation, a foreign limited partnership, a foreign limited liability company or a foreign business trust authorized to transact business in this state, and which is generally open during regular business hours to accept service of process on behalf of a non-participating manufacturer.

~~(j)-(k)~~ "Retail dealer" has the same meaning given that term in ~~subsection (h)~~ of K.S.A. 79-3301(~~h~~), and amendments thereto.

~~(k)-(l)~~ "Stamping agent" means a person who is authorized to affix tax indicia to packages of cigarettes pursuant to K.S.A. 79-3311, and amendments thereto, or any person who is required to pay the tax on the privilege of selling or dealing in roll-your-own tobacco products pursuant to K.S.A. 79-3371, and amendments thereto.

~~(l)-(m)~~ "Tax indicia" has the same meaning given that term in ~~subsection (i)~~ of K.S.A. 79-3301(~~i~~), and amendments thereto.

~~(m)-(n)~~ "Tobacco product manufacturer" has the same meaning given that term in ~~subsection (j)~~ of K.S.A. 50-6a02(~~j~~), and amendments thereto.

(o) "Qualified tribal land" means:

(1) All land within the borders of this state that is within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, including rights-of-way running through the reservation;

(2) all dependent Indian communities within the borders of this state;

(3) all Indian allotments within the borders of this state, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments; and

(4) any lands within the borders of this state, the title to which is either held in trust by the United States for the benefit of any Indian tribe or individual, or held by any Indian tribe or individual subject to restriction by the United States against alienation, and over which an Indian tribe exercises governmental power.

~~(p)~~ "Units sold" has the same meaning given that term in ~~subsection (j)~~ of K.S.A. 50-6a02(j), and amendments thereto.

~~(q)~~ "Vending machine operator" has the same meaning given that term in ~~subsection (y)~~ of K.S.A. 79-3301(y), and amendments thereto.

Sec. 5. K.S.A. 2014 Supp. 50-6a10 is hereby amended to read as follows: 50-6a10.
 (a) (1) No later than 10 calendar days after the end of each calendar month, and more frequently if so directed by the attorney general or director, each stamping agent authorized to affix tax indicia to packages of cigarettes pursuant to K.S.A. 79-3311, and amendments thereto, shall submit such information as the attorney general or director requires. No later than 20 calendar days after the end of each calendar month, and more frequently if so directed by the attorney general or director, each stamping agent who is required to pay the tax on the privilege of selling or dealing in roll-your-own tobacco products pursuant to K.S.A. 79-3371, and amendments thereto, shall submit such information as the attorney general or director requires.

(2) Invoices and documentation of sales of all non-participating manufacturer cigarettes, and any other information relied upon in reporting to the director shall, upon request, be made available to the director or the attorney general. Such invoices and documents shall be maintained for a period of at least three years.

(b) At any time, the attorney general may request from the non-participating manufacturer or the financial institution at which such manufacturer has established a qualified escrow fund for the purpose of compliance with ~~subsection (b)~~ of K.S.A. 50-6a03(b), and amendments thereto, proof of the amount of money in such fund, exclusive of interest, the amount and date of each deposit to such fund and the amount and date of each withdrawal from such fund.

(c) In addition to the information required to be submitted pursuant to subsections (a) and (b) and ~~subsection (e)~~ of K.S.A. 50-6a04(c), and amendments thereto, the attorney general or the director may require a stamping agent or tobacco product manufacturer to submit any additional information including, but not limited to, samples of the packaging or labeling of each brand family as is necessary to enable the attorney general to determine whether a tobacco product manufacturer is in compliance with this act.

(d) A stamping agent or non-participating manufacturer receiving a request pursuant to ~~subsection (e)~~ this section shall provide the requested information within 30 calendar days from receipt of the request.

Sec. 6. K.S.A. 2014 Supp. 50-6a11 is hereby amended to read as follows: 50-6a11.
 (a) The director is authorized to disclose to the attorney general any information received under this act, as requested by the attorney general for purposes of determining compliance with or enforcing the provisions of this act. The director and attorney general shall share with each other information received under this act and the director

and the attorney general may share such information with federal agencies, attorneys general of other states or directors of taxation or their equivalents of other states, for purposes of enforcement of this act, the corresponding federal laws or the corresponding laws of other states. The director and attorney general may share the information specified under this subsection with any of the following:

(1) Federal, state or local agencies for the purposes of enforcement of corresponding laws of other states.

(2) A court, arbitrator, data clearinghouse or similar entity for the purpose of assessing compliance with or making calculations required by the master settlement agreement or agreements regarding disputes under the master settlement agreement, and with counsel for the parties or expert witnesses in any such proceeding, if the information otherwise remains confidential.

(b) Except as otherwise provided, any information provided to the attorney general or director for purposes of enforcement of this act may be shared between the attorney general and the director and shall not be disclosed publicly by the attorney general or the director except when necessary to facilitate compliance with and enforcement of this act.

(c) On a quarterly basis, and upon request made in writing by a tobacco product manufacturer, the attorney general or the director may provide the name of any stamping agent who reports selling the tobacco product manufacturer's products.

(d) On a quarterly basis, and upon request made in writing by a tobacco product manufacturer, a stamping agent shall provide to the requesting tobacco product manufacturer the total number of cigarettes, by brand family, which the stamping agent reported to the attorney general or director pursuant to K.S.A. 2014 Supp. 50-6a10, and amendments thereto, provided that such information provided by the stamping agent to a tobacco product manufacturer shall be limited to the brand families of that manufacturer as listed in the directory established in ~~subsection (b) of K.S.A. 50-6a04(b)~~, and amendments thereto.

(e) Unless disclosure is authorized under this section, all information obtained by the director and disclosed to the attorney general or shared with federal agencies, attorneys general of other states or directors of taxation or their equivalents of other states for purposes of enforcement of this act, the corresponding federal laws or the corresponding laws of other states, shall be confidential. The penalties provided under K.S.A. 75-5133, and amendments thereto, shall not apply when information is lawfully disclosed pursuant to this section.

(f) Any tobacco sales data provided to the director, attorney general or data clearinghouse for the purpose of assessing compliance with or making calculations required by the master settlement agreement or related agreements, shall be confidential. The provisions of this subsection shall expire on July 1, 2020, unless the legislature reviews this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2020.

Sec. 7. K.S.A. 2014 Supp. 50-6a16 is hereby amended to read as follows: 50-6a16. (a) It shall be unlawful for a person to sell or distribute cigarettes, or acquire, hold, own, possess, transport, import or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in this state in violation of ~~subsection (a) of K.S.A. 50-6a04(a)~~, and amendments thereto. ~~A violation of this subsection shall be a class B misdemeanor or 50-6a13(a), and amendments thereto.~~

(1) Upon a first conviction for a violation of subsection (a), a person shall be guilty of a class A nonperson misdemeanor and sentenced to no more than one year in confinement and fined not less than \$1,000, nor more than \$2,500.

(2) On a second conviction for a violation of subsection (a), a person shall be guilty of a severity level 9 nonperson felony and fined a sum of not less than \$10,000, nor more than \$100,000, and sentenced according to the provisions of K.S.A. 2014 Supp. 21-6804, and amendments thereto.

(3) On a third or subsequent conviction for a violation of subsection (a), a person shall be guilty of a severity level 9 nonperson felony and fined a sum of no less than \$50,000, nor more than \$100,000, and sentenced according to the provisions of K.S.A. 2014 Supp. 21-6804, and amendments thereto.

(4) The penalties provided hereunder are cumulative to the remedies or penalties, including all civil penalties, under all other laws of this state.

(b) It shall be unlawful for a non-participating manufacturer, directly or indirectly, to falsely represent to any person in Kansas:

- (1) Any information about a brand family listed on the directory;
- (2) that it is a participating manufacturer;
- (3) that it has made all required escrow payments; or
- (4) that it has satisfied any other requirements imposed pursuant to this act.

A violation of this subsection is a class A nonperson misdemeanor.

(c) The attorney general shall have concurrent authority with any county or district attorney to prosecute any violation of this section.

Sec. 8. K.S.A. 2014 Supp. 75-5133 is hereby amended to read as follows: 75-5133.

(a) Except as otherwise more specifically provided by law, all information received by the secretary of revenue, the director of taxation or the director of alcoholic beverage control from returns, reports, license applications or registration documents made or filed under the provisions of any law imposing any sales, use or other excise tax administered by the secretary of revenue, the director of taxation, or the director of alcoholic beverage control, or from any investigation conducted under such provisions, shall be confidential, and it shall be unlawful for any officer or employee of the department of revenue to divulge any such information except in accordance with other provisions of law respecting the enforcement and collection of such tax, in accordance with proper judicial order or as provided in K.S.A. 74-2424, and amendments thereto.

(b) The secretary of revenue or the secretary's designee may:

(1) Publish statistics, so classified as to prevent identification of particular reports or returns and the items thereof;

(2) allow the inspection of returns by the attorney general or the attorney general's designee;

(3) provide the post auditor access to all such excise tax reports or returns in accordance with and subject to the provisions of ~~subsection (g)~~ of K.S.A. 46-1106(g), and amendments thereto;

(4) disclose taxpayer information from excise tax returns to persons or entities contracting with the secretary of revenue where the secretary has determined disclosure of such information is essential for completion of the contract and has taken appropriate steps to preserve confidentiality;

(5) provide information from returns and reports filed under article 42 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, to county appraisers as is

necessary to insure proper valuations of property. Information from such returns and reports may also be exchanged with any other state agency administering and collecting conservation or other taxes and fees imposed on or measured by mineral production;

(6) provide, upon request by a city or county clerk or treasurer or finance officer of any city or county receiving distributions from a local excise tax, monthly reports identifying each retailer doing business in such city or county or making taxable sales sourced to such city or county, setting forth the tax liability and the amount of such tax remitted by each retailer during the preceding month, and identifying each business location maintained by the retailer and such retailer's sales or use tax registration or account number;

(7) provide information from returns and applications for registration filed pursuant to K.S.A. 12-187, and amendments thereto, and K.S.A. 79-3601, and amendments thereto, to a city or county treasurer or clerk or finance officer to explain the basis of statistics contained in reports provided by subsection (b)(6);

(8) disclose the following oil and gas production statistics received by the department of revenue in accordance with K.S.A. 79-4216 et seq., and amendments thereto: Volumes of production by well name, well number, operator's name and identification number assigned by the state corporation commission, lease name, leasehold property description, county of production or zone of production, name of purchaser and purchaser's tax identification number assigned by the department of revenue, name of transporter, field code number or lease code, tax period, exempt production volumes by well name or lease, or any combination of this information;

(9) release or publish liquor brand registration information provided by suppliers, farm wineries, microdistilleries and microbreweries in accordance with the liquor control act. The information to be released is limited to: Item number, universal numeric code, type status, product description, alcohol percentage, selling units, unit size, unit of measurement, supplier number, supplier name, distributor number and distributor name;

(10) release or publish liquor license information provided by liquor licensees, distributors, suppliers, farm wineries, microdistilleries and microbreweries in accordance with the liquor control act. The information to be released is limited to: County name, owner, business name, address, license type, license number, license expiration date and the process agent contact information;

(11) release or publish cigarette and tobacco license information obtained from cigarette and tobacco licensees in accordance with the Kansas cigarette and tobacco products act. The information to be released is limited to: County name, owner, business name, address, license type and license number;

(12) provide environmental surcharge or solvent fee, or both, information from returns and applications for registration filed pursuant to K.S.A. 65-34,150 and 65-34,151, and amendments thereto, to the secretary of health and environment or the secretary's designee for the sole purpose of ensuring that retailers collect the environmental surcharge tax or solvent fee, or both;

(13) provide water protection fee information from returns and applications for registration filed pursuant to K.S.A. 82a-954, and amendments thereto, to the secretary of the state board of agriculture or the secretary's designee and the secretary of the Kansas water office or the secretary's designee for the sole purpose of verifying revenues deposited to the state water plan fund;

(14) provide to the secretary of commerce copies of applications for project

exemption certificates sought by any taxpayer under the enterprise zone sales tax exemption pursuant to ~~subsection (cc)~~ of K.S.A. 79-3606(cc), and amendments thereto;

(15) disclose information received pursuant to the Kansas cigarette and tobacco act and subject to the confidentiality provisions of this act to any criminal justice agency, as defined in ~~subsection (c)~~ of K.S.A. 22-4701(c), and amendments thereto, or to any law enforcement officer, as defined in K.S.A. 2014 Supp. 21-5111, and amendments thereto, on behalf of a criminal justice agency, when requested in writing in conjunction with a pending investigation;

(16) provide to retailers tax exemption information for the sole purpose of verifying the authenticity of tax exemption numbers issued by the department;

(17) provide information concerning remittance by sellers, as defined in K.S.A. 2014 Supp. 12-5363, and amendments thereto, of prepaid wireless 911 fees from returns to the local collection point administrator, as defined in K.S.A. 2014 Supp. 12-5363, and amendments thereto, for purposes of verifying seller compliance with collection and remittance of such fees; ~~and~~

(18) release or publish charitable gaming information obtained in bingo licensee and registration applications and renewals in accordance with the bingo act, K.S.A. 79-4701 et seq., and amendments thereto. The information to be released is limited to: The name, address, phone number, license registration number and email address of the organization, distributor or of premises; ~~and~~

(19) provide to the attorney general confidential information for purposes of determining compliance with or enforcing K.S.A. 50-6a01 et seq., and amendments thereto, the master settlement agreement referred to therein and all agreements regarding disputes under the master settlement agreement. The secretary and the attorney general may share the information specified under this subsection with any of the following:

(A) Federal, state or local agencies for the purposes of enforcement of corresponding laws of other states; and

(B) a court, arbitrator, data clearinghouse or similar entity for the purpose of assessing compliance with or making calculations required by the master settlement agreement or agreements regarding disputes under the master settlement agreement, and with counsel for the parties or expert witnesses in any such proceeding, if the information otherwise remains confidential.

(c) Any person receiving any information under the provisions of subsection (b) shall be subject to the confidentiality provisions of subsection (a) and to the penalty provisions of subsection (d).

(d) Any violation of this section shall be a class A, nonperson misdemeanor, and if the offender is an officer or employee of this state, such officer or employee shall be dismissed from office. Reports of violations of this paragraph shall be investigated by the attorney general. The district attorney or county attorney and the attorney general shall have authority to prosecute any violation of this section if the offender is a city or county clerk or treasurer or finance officer of a city or county.

Sec. 9. K.S.A. 50-6a02 and K.S.A. 2014 Supp. 21-6110, 50-6a04, 50-6a07, 50-6a10, 50-6a11, 50-6a16 and 75-5133 are hereby repealed.;

Also on page 1, in line 21, by striking "statute book" and inserting "Kansas register"; And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; by striking all in

line 2; in line 3, by striking all before the period and inserting "cigarettes and tobacco products; relating to smoking; the directory and certification of tobacco product manufacturers; disclosure of information and criminal penalties; amending K.S.A. 50-6a02 and K.S.A. 2014 Supp. 21-6110, 50-6a04, 50-6a07, 50-6a10, 50-6a11, 50-6a16 and 75-5133 and repealing the existing sections";

And your committee on conference recommends the adoption of this report.

JEFF KING
GREG SMITH
PAT PETTEY

Conferees on part of Senate

JOHN BARKER
CHARLES MACHEERS
JOHN CARMICHAEL

Conferees on part of House

Senator King moved the Senate adopt the Conference Committee Report on **S Sub HB 2124**.

On roll call, the vote was: Yeas 37; Nays 0; Present and Passing 0; Absent or Not Voting 3.

Yeas: Abrams, Baumgardner, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf.

Absent or Not Voting: Arpke, Haley, Melcher.

The Conference Committee Report was adopted.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Governor:

State Civil Service Board, Member: K.S.A. 75-2929a

Henry Cox, to fill a term expiring on March 15, 2017

Committee on **Ways and Means** begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Governor:

University of Kansas Hospital Authority, Member: K.S.A. 76-3304

Charles Sunderland, to fill a term of four years

Also, Committee on **Ways and Means** begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Governor:

Kansas Development Finance Authority, Member: K.S.A. 74-8903

Donald Linville, to fill a term of four years

STRICKEN FROM THE CALENDAR

On motion of Senator Bruce, the following bills were stricken from the calendar under the heading of **General Orders: SB 84, SB 170, SB 303.**

SPECIAL REMARKS

President Wagle recognized Kendall Kaut, Senate Reading Clerk, on his last day in the Senate. He will begin an internship with the Johnson County District Attorney later in the week and will graduate with his law degree from the University of Kansas May 2016.

REPORT ON ENROLLED BILLS

Sub SB 38 reported correctly enrolled, properly signed and presented to the Governor on May 19, 2015.

On motion of Senator Bruce, the Senate adjourned until 10:00 a.m., Wednesday, May 20, 2015.

ROSE MARIE GLATT, CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*
COREY CARNAHAN, *Secretary of the Senate.*

