

INTERIM JOINT COMMITTEE ON LICENSING, OCCUPATIONS, AND ADMINISTRATIVE REGULATIONS

Minutes of the 5th Meeting of the 2018 Interim

November 9, 2018

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Friday, November 9, 2018, at 10:00 AM, in Room 129 of the Capitol Annex. Senator John Schickel, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Adam Koenig, Co-Chair; Senators Julian M. Carroll, Denise Harper Angel, Jimmy Higdon, Dan "Malano" Seum, and Damon Thayer; Representatives Tom Burch, Al Gentry, Jerry T. Miller, Kimberly Poore Moser, Sal Santoro, Arnold Simpson, Diane St. Onge, Walker Thomas, and Susan Westrom.

Guests: Senator Ralph Alvarado, Michael Rodman, Kentucky Medical Association; Russell Travis, M.D.; Nancy Galvagni, Senior Vice President for the Kentucky Hospital Association; Harold Corder, Board Chair, David Trimble, Board Counsel and Greg Lakes, board member, Kentucky Board of Embalmers and Funeral Directors; Sidney Fogle, Executive Director Kentucky Funeral Directors Association; Bryan Alvey, Senior Director, Governmental and External Affairs, Chris Nolan, MML&K, and Kevin Smith, Vice President of Bourbon Affairs, Beam Suntory, Kentucky Distillers' Association; Julie Campbell, Board Administrator, Kentucky Board of Hairdressers and Cosmetologists.

LRC Staff: Tom Hewlett, Bryce Amburgey, Jasmine Williams, Melissa McQueen, and Susan Cunningham.

Minutes

The minutes of the October 12, 2018, meeting were approved without objection.

18RS SB 153, AN ACT relating to the Interstate Medical Licensure Compact

Senator Ralph Alvarado, sponsor of SB 153 from the 2018 Regular Session told committee members that similar bills have been filed in the past regarding nurses that have led to some concerns. However, this is a straightforward bill addressing interstate medical licensure. This is a legal agreement among states that addresses the licensing of physicians in multiple states. Currently, if you are a Kentucky physician who is licensed to practice

medicine here but want to practice in another state, even for a short period of time, there is a lengthy and expensive application process. The Interstate Medical Licensure Compact (IMLC) corrects this problem and expedites the ability for quality doctors from other states to come to Kentucky, or for Kentucky physicians to practice in other states.

The compact came from a group of state medical board executives, administrators, and attorneys who wrote the compact language during 2013 to 2014. No one owns the compact per-say. It is an expedited pathway to state licensure for experienced physicians who have outstanding practice histories. It sets the qualifications for licensure and outlines the process for physicians to apply and receive licenses in states where they are not currently licensed. The language of the compact must be identical in each state. The compact became active in October of 2015. There are currently 24 states and one territory that are members of the compact. Five others, including Kentucky, have introduced legislation. Senator Alvarado will introduce a bill again in 2019, with a starting implementation date of January 1, 2020. The Kentucky Board of Medical Licensure and the Kentucky Hospital Association are in agreement with the current language. This will help increase access to health care in rural areas. This will also assist in attracting physicians who practice telemedicine and who are out of state but want to perform telemedicine in Kentucky.

Russell Travis, MD, said the state must be a member of the interstate medical licensure compact. The physician applies to his or her medical board and that is forwarded to the state of principal licensure and must meet the requirements of that state. Once the requirements are met there is finger printing, and federal as well as state investigations. The state of principal licensure will issue a letter of qualification to the compact board. There is a \$700 cost for this process. Once the compact board has issued the letter the physician is licensed immediately. These compact licenses are for one year.

In response to a question from Senator Schickel, Dr. Travis said the compact is made up of a commission composed of two representatives from each state board. The commission makes the rules and there is no federal involvement. Senator Alvarado added that ultimately the authority remains in each state.

Michael Rodman, Executive Director of the Kentucky Medical Association said that the compact is not the only way to get a license. Kentucky doctors will still go through the KMA to get a license to practice in the Commonwealth.

In response to a question from Senator Higdon, Dr. Travis said that of \$700 paid to the compact, \$300 comes back to Kentucky to pay for the Kentucky license. The remaining amount goes to the commission.

Nancy Galvagni, Senior Vice President, Kentucky Hospital Association (KHA) said this bill is a high priority for hospitals. It is especially important for rural hospitals who lack access to specialists and need telehealth services from doctors in specialized practices.

In response to a question from Representative Burch, Senator Alvarado said the current process is much slower, with the risk that a bad doctor can move from state to state before there is proper notification to the board. In this compact, if someone goes bad in Indiana, all members of the compact are automatically notified and licenses can be cancelled in all states at once.

Kentucky Board of Embalmers and Funeral Directors

H. E. Porter, Chairman of the Board of the Kentucky Board of Embalmers and Funeral Directors told members that they would like to create a license that will allow retired or off duty EMS workers or someone who has had special blood borne pathogen training to be able to transport bodies. They have had an overwhelming response from people who would like to purchase this license when available. Rural funeral homes are restricted because their licensees must be on the premises when there is a funeral. If there was a call to pick up a body, they are in violation of the law if they leave the funeral home unattended. The transport license will be a relief for these funeral homes, particularly family owned businesses with limited staff.

David Trimble, Counsel for the Board, said this is designed to create an additional license related to transporting of bodies. Currently only a licensed embalmer or funeral director can transport. This new license will allow for trained individuals to be available to the funeral directors to make the transport run as needed.

Sidney Fogle, Executive Director for the Kentucky Funeral Directors Association, said the board has not taken a position on the legislation because they have not seen it. In response to a question from Senator Seum, Mr. Fogle said this legislation will not affect coroners that are not in the funeral home business.

Kentucky Distillers' Association

Kevin Smith, Vice President of Bourbon Affairs for Beam Suntory said that membership in the Kentucky Distillers' Association has grown from six members 20 years ago to 40 members today. Kentucky dominates bourbon production, and this year has filled more than 1.7 million barrels of distilled spirits. Also, the assessed value for taxes is up this year by \$456 million from 2017. The distillers have made capital investments since 2011 in excess of \$485 million and project another \$620 million in the next five years.

This past January worldwide members of the spirits production industry gathered in Louisville to have a summit regarding taxes. Beam Suntory is seeing millions of dollars being lost as a result of tariffs. The company has had to cut back on capital investments.

Over the years this committee has done things to help grow the industry and they are turning to the committee for help again.

Bryan Alvey, Senior Director of Governmental and External Affairs, said the Distillers' Association (KDA) is proud of the industry. A top priority for this coming session is to pursue legislation to bolster the Ignition Interlock Device (IID). Social responsibility is important to the industry. The Kentucky Transportation Cabinet, Administrative Office of the Courts, Mothers Against Drunk Drivers, District Courts and the association have been meeting to find common ground to move this legislation forward.

The association also supports stronger fake ID laws and expanding the DUI court to mirror the one in Jefferson County. It is the industry's belief that these efforts will help public safety as a whole. One responsibility program that the association is proud of is the Safe Ride Kentucky Campaign. The association provided over \$100,000 in funding and partnered with Lyft to deliver 5,000 safe and sober rides in 2018. Last weekend alone during the UK/GA game there was an average of 50 rides an hour during and after the game.

Finally, this industry is the most heavily taxed industry in the state. During this legislative session the association will address the business to business tax. The association will ask to be exempted from this double taxation. As an example, Mr Alvey said when a tour company purchases admission tickets from a distillery to offer to their patrons in a tour package, under the Department of Revenue interpretation, the tour company pays the same distillery tax when they resale them to the consumer. This creates a 12 percent tax increase. The association will also ask for a change in the structure of the barrel tax credit. Kentucky is the only state that has this type of tax.

Additionally, if a distillery wants to locate in a dry territory, the territory has a local option to vote a precinct wet. This allows for sampling and the sale of the product in that precinct. In SB 11, in 2015, there was a provision to allow for this local option election. However, that provision will sunset in 2019. The association will ask that this provision be made permanent in the statutes. Additionally, the association wants to clarify the implementation provisions in HB 400 from the 2017 regular session. These would include allowing distilleries to outsource packaging. The association would also like for Kentucky to become reciprocal with other states in order to ship spirits.

The association is constantly on the lookout for way to bring tourists to Kentucky. Last year there were 1.194 million visitors to the Kentucky Bourbon Trail and the Kentucky Bourbon Trail Craft Tour. This is a great economic impact for the state as well as the distilleries and communities. The association would like to be able to offer exclusive offerings at distillery visitor centers. Craft members are interested in legislation the association is calling HB136 for spirits. This would bring parity to the spirits industry.

There a Kentucky Bourbon Trail welcome center at the Frazier History Museum in Louisville. This is the official starting point for the Bourbon Trail. There is also an entire floor of exhibits dedicated to bourbon.

Senator Higdon commented that half of the world's bourbon is stored in Marion/Nelson County. He toured the Bourbon Trail with Bourbon City Tours and found it impressive.

Senator Thayer thanked the KDA and the Bourbon Trail for the high level of investment in infrastructure and the workforce in the Commonwealth. The leadership of this committee, in eliminating artificial barrier to free enterprise, is doing one of the best things that the legislature can do for businesses in Kentucky. Distilleries should be able to sell special release bottles. The business to business tax issue is a misinterpretation by the Revenue Cabinet and it is the responsibility of the legislature to clean up that language.

In response to a question from Representative Burch. Mr. Nolan said the barrel tax is almost \$24 million in ad valorem property tax on barrels that are stored in warehouses. Mr. Smith said the association is not looking to remove that tax. Rather, the barrel tax credit has become less effective and they are looking to use it as it was designed.

Representative St. Onge asked if the association could meet with the equine industry to see if there are ways to promote both together.

In response to a question from Representative Miller, Mr. Smith said there are roughly 17,500 distillery related jobs with an annual payroll of about \$800 million. Mr. Alvey added that new distilleries are being built, and it is hope that they will join the KDA.

In response to a question from Representative Santoro, Mr. Alvey said the special release bottles are more of a parity issue, with beer and wine being allowed to have special release products. Retailers are also currently allowed to purchase a barrel from Makers Mark and have special release bottles. Mr. Nolan added that this allows more options in the market. Retailers and Distillery Visitor Centers are talking about two different sets of consumers. In response to a question from Representative Moser, Mr. Nolan said retailers have exclusive offerings now. In response to a question from Representative Koenig, Mr. Alvey said distillers are the only business that cannot have special offerings. Beer and wine are allowed as well as retailers to have special offerings.

Proposed Administrative Regulation 201 KAR 012:280

Julie Campbell, Board Administrator for the Kentucky Board of Cosmetology told members that Representative Miller was proposing a committee amendment to update an administrative regulation. The board is in full agreement with the amendment.

Representative Miller commented that he has a constituent that was concerned with the language of the original amendment to the regulation. Representative Miller met with people in the industry as well as Ms. Campbell. All parties are happy with the new amendment.

In response to a question from Representative Burch, Ms. Campbell said this regulation sets parameters for safe practice in the esthetics industry. It adds more training for basic exfoliation during dermaplain techniques and leaves advanced practices to requiring physician oversight.

In response to a question from Representative St. Onge, Ms. Campbell said advanced derma plain techniques mean the blade is going beyond the basic, uppermost layer of dead skin. Representative Miller commented that basic derma plain technique is a common practice.

Representative Miller moved for the adoption of the agency amendment to administrative regulation 201 KAR 012:280. There was a second and the regulation was approved by voice vote.

There being no further business to come before the committee, the meeting was adjourned at 11:11 AM.