

INTERIM JOINT COMMITTEE ON LICENSING, OCCUPATIONS, AND ADMINISTRATIVE REGULATIONS

Minutes of the 1st Meeting of the 2020 Interim

June 26, 2020

Call to Order and Roll Call

The 1st meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Friday, June 26, 2020, at 11:00 AM, in Room 171 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 Julie Raque Adams, Tom Buford, Denise Harper Angel, Jimmy Higdon, Paul Hornback, Christian McDaniel, Michael J. Nemes, Damon Thayer, and Reginald Thomas; Representatives Kim Banta, Tom Burch, Al Gentry, Thomas Huff, Matthew Koch, Nima Kulkarni, C. Ed Massey, Michael Meredith, Jerry T. Miller, Kimberly Poore Moser, Ruth Ann Palumbo, Phillip Pratt, Rachel Roberts, Sal Santoro, John Sims Jr, Susan Westrom, and Buddy Wheatley.

Guests: Terri Bradshaw, President/CEO, Kentucky Capital Development Corporation; Keith Parker, Frankfort City Manager; Ted Mitzlaff, Goodwood Brewing; Taylor Marshall, Bourbon on Main & Holy Man Saloon; Representative Bobby McCool; Virgil Holland, Welding Technology Program Coordinator, Western Kentucky Community & Technical College; Bill Woodward, Vice President, Iron Workers Union; Jerald Adkins, Legislative Agent, Iron Workers Union; Shad Sletto, Building Industry Association of Northern Kentucky; and Philip Stupp, Executive Vice President, Stupp Brothers, Incorporated; Shelby Williams, Director of Governmental Affairs, Kentucky Society of CPA's; and Joe Donahue, Acting Executive Director, State Board of Accountancy.

LRC Staff: Tom Hewlett, Jasmine Williams, Melissa McQueen, Bryce Amburgey, and Lisa W. Moore

Retail Package Sales of Alcoholic Beverages

Senator Paul Hornback explained draft legislation for the retail package sales of alcoholic beverages. As a corn grower, he said this proposed legislation is a vehicle to enhance economic development for Kentucky's bourbon industry. Similar legislation passed the House of Representatives last session. Ms. Bradshaw said the Covid-19

pandemic has affected the bourbon industry negatively, and retailers need all the assistance they can get. She emphasized that local business leaders have plans to generate growth and new business and avoid increased taxes to fix budget problems.

Mr. Parker said there is interest from new investors and existing businesses to offer a more unique bourbon experience. The increasing popularity of small batch and vintage bourbons, along with craft beers and breweries, has resulted in an increased demand for small volume, high quality sales of packaged spirits. The demand has exceeded the supply of quota retail package licenses, and threatens the ability to attract and retain businesses that want to supplement sales with low-volume offerings. Mr. Parker is committed to working with the Kentucky Retail Federation, and any other interested parties, to obtain support for increased retail sales.

Mr. Marshall testified on behalf of Bourbon on Main located in Frankfort, Kentucky. Retailers have been hit especially hard during the pandemic due to restaurants being shut down for months. New businesses can generate the revenue required to open up in Frankfort if they have access to the bourbon package market. It also helps existing businesses that are struggling with finances as the tourism industry is strong in Frankfort, and provides the tourist with a better experience. It provides another tool in the toolbox for businesses to survive during these pandemic times. Current regulations for alcohol sales limit the ability to grow and create new jobs, which ultimately decreases new revenue for local communities.

Mr. Mitzlaff, owner of Goodwood Brewery in Louisville and Frankfort, testified that he would like to sell his own craft bourbon by the bottle in his Frankfort restaurant location. The primary function is a brewery, but they also produce bourbon through various collaborations with different distilleries. Tourism is thriving at the Frankfort facility, but tourists can only buy the bourbon by the glass, and not the bottle. He believes this should be changed.

Mr. Parker said two years ago language was added into the law that allowed distillery gift shops to sell craft beers. He would like that language reciprocated this year to allow microbreweries to sell craft bourbons. They are happy to work the Kentucky League of Cities, the Kentucky Retail Federation, the Kentucky Distilleries Association, and the Brewers Organization, in order to ensure that all entities are comfortable with the new language, and any changes to quota retail package licenses. Frankfort wants to promote business, growth, and development instead of taxing its way out of the pandemic financial situation. Frankfort is 60 percent reliant on occupational based revenues, and they are anticipating huge budget shortfalls.

Chairman Schickel said the committee has been working diligently since 2011 to remove barriers for small businesses, and he looks forward to bringing this legislation to a

vote on the Senate floor. He expressed disappointment that representatives from the ABC Board were not in attendance at the meeting to testify.

Senator Thayer said he is always pleased to facilitate removing artificial barriers to free enterprise. He said this is a good bill, and deserves strong consideration in the next upcoming legislative session, but feels that distilleries should be included in the legislation. It can help small businesses increase cash flow and opportunities for profit, and help distillery tourism that has been shut down for months.

Responding to a question from Senator Thayer, Senator Hornback said, as the bill's primary sponsor, he is more than happy to include the distilleries. Small sales help our small retail associations, and he would like to take care of it in one piece of legislation that will not need any amendments. The Kentucky League of Cities is in favor of this proposed legislation and understand the growth it can bring to the cities and communities throughout the state.

Chairman Koenig said the ABC Board will be at the Licensing, Occupations, and Administrative Regulations meeting in July. He asked Senator Hornback to check with the Kentucky Guild of Brewers to ensure they are in support of the new language, and also discussed the need for eliminating quota licenses to reach some of these goals. Mr. Parker said quota licenses need to be raised or eliminated.

Senator Higdon said he does not think eliminating quota licenses is the answer to the issue. All communities are not alike and this could be the opening of Pandora's Box for some places outside Franklin County. He said census reporting could provide a way to increase quota licenses.

Senator Hornback said he is not interested in eliminating quota licenses statewide, as he is interested in increasing the number for the small retail associations and small volume sales under 2,000 bottles per year. All entities, including the Kentucky Guild of Brewers, are in support of the proposed legislation and increasing tourism.

Certification of Welders (similar to 2020 RS HB 306)

Representative Bobby McCool testified regarding a safety bill. This bill ensures welding is performed in a proper manner, and requires that operators have the credentials to ensure that buildings and bridges are assembled properly. It does not apply to all welding instances, but focuses on buildings and bridges when the design engineer requires it. The legislation is bi-partisan, and has passed the House of Representatives twice in a 95-0 vote, but stalled in a senate committee. Concerns have been addressed.

Mr. Holland said the Western Kentucky Community & Technical College is one of two certified, accredited test facilities that would be mandated in the legislation for people to use for accreditation. Many other states have similar laws and processes for welding

certification. This bill would keep welding standards systematic across the board and increase safety.

Mr. Woodward testified in favor of the legislation. This is good, solid public safety legislation that has been discussed in depth for several years now. It saves taxpayers money by ensuring that projects are completed responsibly and efficiently. Mr. Woodward indicated that JD Chaney, Kentucky League of Cities, does not have any problems with the bill. They have worked with many interested entities in order to find common ground and language that is acceptable to all.

Responding to a question from Representative Pratt, Mr. Woodward said there are four certified testing facilities for welders. The primary locations are in Northeast Kentucky in Flemingsburg, a private contractor in Louisville, Elizabethtown Community and Technical College, and West Kentucky Community and Technical College. There is a letter in the meeting materials from Dr. Jay Box, President, Kentucky Community and Technical College System (KCTCS). KCTCS is in support of the Welding Certification bill, formerly House Bill 306.

Responding to Representative Burch, Mr. Woodward said the welding certification certificate requires that you perform the welding, and not just pass a written test. The American Welding Society (AWS) has a code book that outlines all the guidelines and specifications. It is a performance test.

Responding to Senator Nemes, Mr. Woodward said he wanted some teeth in this legislation, and felt a bill draft was more appropriate than being enforced by regulation through the Public Protection Cabinet.

Mr. Shad Sletto and Mr. Philp Stupp testified remotely in opposition to the legislation. Mr. Sletto is opposed to the bill as it stands, although he is not against certifications. Mr. Stupp feels that existing building codes already cover these safety issues, and there are more than enough safeguards. It was also noted that employees would miss more days with fewer testing sites and longer drives to be certified.

Senator Schickel thanked everyone for testifying and said dialogue would continue between all entities until a bill language is agreed upon that can move forward successfully in the General Assembly.

CPA Licensure Issues (similar to 2020 RS HB 383)

Representative Kim Banta explained proposed legislation on CPA Licensure. She said the State Board of Accountancy, along with the Kentucky Society of CPAs, is requesting to enact two changes to KRS 325.240 and one change to 325.280. First, the language would authorize their board to adopt regulations so they can issue scholarships

using their own money. The purpose is to boost enrollment in accounting programs, because the number of CPAs retiring is outpacing those coming into the profession.

Secondly, they want to grant immunity to state board members, employees and agents from lawsuits while acting in good faith in performing their normal duties. A number of other Kentucky professional licensing boards have similar language including the Medical Licensure Board, Board of Pharmacy, Board of Dentistry, Board of Psychology, and the Board of Physical Therapy.

Representative Banta said although the board already has a layer of protection in case law, they believe this statute should be updated to bring the board in line with other licensing boards in the state. They have discussed and agreed upon the appropriate language with all stakeholders. If adopted, the current authority to purchase insurance would be deleted.

Representative Banta said thirdly, the statute would authorize the board to grant licensure to CPAs for out of state licensed CPAs who relocate to Kentucky without retaking the CPA exam. The requirement that CPAs seeking a license via reciprocity must have obtained a CPA license within five years after passing the CPA exam in their home state would be eliminated. This requirement is currently in the licensing statute for Kentucky based CPAs, but was not intended to affect those seeking a license via reciprocity.

Representative Banta said they believe if a CPA has a current and valid license in their current state, they should be able to get a Kentucky license via reciprocity. The way it is written now puts an unintended burden on CPAs trying to relocate to Kentucky. During the 2020 session, the legislation passed out of the House of Representatives with an 85-1 vote. Due to the unique circumstances during session, the bill stalled as time ran out to get it through the Senate.

Responding to a question from Co-Chair Koenig, Mr. Joe Donahue, newly appointed Executive Director, State Board of Accountancy, said they are in full support of this legislation. Senator Schickel said he is not aware of any entity opposed to the bill.

Responding to concerns raised by Co-Chair Koenig regarding the use of licensure fees for scholarships, Ms. Williams said the Kentucky Society of CPAs does have a scholarship fund. People can voluntarily contribute to the educational fund and the scholarships are awarded for students on the accountant track in Kentucky colleges or universities.

Ms. Williams said the proposed legislation would generate funds for scholarships that are derived from fees generated from people taking the CPA exam, and not licensure fees. They are hoping this starts the dialogue for a scholarship, but they are open for ideas on how to alter or improve the language.

Chairman Koenig discussed the differences in reciprocity and recognition. Mr. Donahue said Kentucky is utilizing reciprocity.

Responding to a question from Representative Moser concerning CPA exams and knowledge of Kentucky tax laws and reciprocity issues, Mr. Donahue said a uniform CPA exam is given nationwide and all CPAs from every state are required to take that test. He said it is not implicated in any new language to change the exam.

Responding to a question from Representative Meredith, Mr. Donahue said specific Kentucky tax law training would be administered through continuing education credits on a bi-annual basis. This knowledge would not be required during the initial CPA exam taken upon licensure.

Senator Schickel discussed the meetings and times for the remainder of the interim. He noted the August 25th meeting that he chairs will be solely dedicated to conversion therapy.

The meeting adjourned at 12:00 p.m.