

INTERIM JOINT COMMITTEE ON LICENSING, OCCUPATIONS, AND ADMINISTRATIVE REGULATIONS

Minutes of the 2nd Meeting of the 2023 Interim

July 31, 2023

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Monday, July 31, 2023, at 11:00 AM, in Room 154 of the Capitol Annex. Representative Matthew Koch, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Matthew Koch, Co-Chair; Senators Julie Raque Adams, Donald Douglas, Denise Harper Angel, Jimmy Higdon, Jason Howell, Amanda Mays Bledsoe, Christian McDaniel, Michael J. Nemes, Damon Thayer, and Reginald Thomas; Representatives Kim Banta, Kevin D. Bratcher, Emily Callaway, Mike Clines, Jonathan Dixon, Daniel Fister, Patrick Flannery, Al Gentry, Samara Heavrin, Keturah Herron, Thomas Huff, Kevin Jackson, Michael Meredith, Ruth Ann Palumbo, Phillip Pratt, Tom Smith, and Killian Timoney.

Guests: Shannon Stiglitz, Senior Vice President, Government Affairs, Kentucky Retail Federation; Ahmed Young, Director of Public and Government Affairs, Walmart; Kyle Elliott, PLS, Executive Director; Donald Pedigo, Chair, Kentucky State Board for Licensure for Professional Engineers and Land Surveyors; Ben Shinabery, PLS, Kentucky Professional Surveyors; State Senator Robin Webb; Wayne Needham, President and Certified Equine Dental Provider, International Association of Equine Dentistry; Michelle Shane, Dr. John Park, Ernie Martinez, and Phil Prater, Kentucky Board of Veterinary Examiners; John-Mark Hack, Thoroughbred; Mark Litkenhus, Lawrenceburg; Rachel Ball, Paint Lick; and Mike Stone, Executive Director, Kentucky Council on Problem Gambling.

LRC Staff: Bryce Amburgey, Jasmine Williams, Wendy Craig, CaraBell Preece, and Lisa W. Moore

Approval of June 22, 2023, Meeting Minutes

Representative Banta motioned to approve the June 22, 2023, meeting minutes and Senator Douglas seconded the motion. Motion carried and the minutes were approved by voice vote.

Alcohol Delivery and License Quota

Ms. Stiglitz, Senior Vice President, Government Affairs, said the Kentucky Retail Federation, is seeking to exempt alcoholic beverage delivery vehicles from displaying the name and license number of the retail licensee. Any retailer transporting alcoholic beverages does so in a vehicle marked in conformity with the administrative regulations of the board. She noted this has become more of an issue since the passage of cocktails to go during the Covid-19 pandemic and all delivery drivers were not required to display a physical signage on the outside of the vehicle. Uniform requirements across the board are essential for the safety of the drivers as well as the logistics of how retailers are utilizing delivery partners to deliver alcohol to the consumer. There will be strict adherence to laws concerning checking identification and not selling to consumers under the age of 21.

Mr. Ahmed Young, Director of Public and Government Affairs, Walmart, said Walmart's emphasizes that its drivers deliver all products in a safe, secure, and transparent environment in accordance with all laws of the Commonwealth of Kentucky. Alcohol should always be delivered to the appropriate consumer, and drivers should always have correct identification and be able to show it quickly.

According to Ms. Stiglitz, there are not enough quota retail package licenses for business applicants in Lexington. The Kentucky Retail Federation is not requesting removal of the quota from statute, but the demand is growing for retail package licenses among retailers and restaurants. The Kentucky League of Cities is amicable to amending the statute to allow for any city, county, or merged government to request an increase in quota retail package licensing. Current statute states that a city must have a quota on retail package licenses if it is located within a dry county.

The Kentucky Retail Federation is supportive of all entities expanding to allow alcohol, such as florist shops offering champagne and nail salons serving wine to customers. The limit of one license per 2,300 residents was established based on traditional quota retail package licensees. Lexington retailers want more opportunities to obtain these licenses; however, this problem is not unique to Lexington.

Senator Higdon said a common-sense approach to fixing the issue would be to redefine what a retail package license is, and have businesses reapply for the license. He does not agree with increasing quotas for businesses whose primary sales are not alcohol. Ms. Stiglitz said the number of license quotas were created based on liquor stores. The Kentucky Retail Federation is open to all options and hopes to find consensus with all entities and the General Assembly prior to the legislative session in January 2024.

Land Surveyors

Kyle Elliott, PLS, Executive Director, Kentucky State Board for Licensure for Professional Engineers and Land Surveyors, said in the early 2000s the Board of Licensure, along with the Kentucky Association of Professional Surveyors, the Kentucky Society of Professional Engineers, and the American Council of Engineering Companies began the process of moving away from an experience-only route to becoming a licensed land

surveyor. In 2005, by another act of the General Assembly, Kentucky began requiring a four-year degree to become licensed as a professional land surveyor. Kentucky was decades behind other states, taking this action.

A six-year sunset period allowed those who had already begun the experience-only path to still become licensed. That sunset period ended in June 2011. The board and the three professional societies knew there would be a downward trend in surveying licensing for about ten years. In 2019, prior to the pandemic, surveying licensing in Kentucky began an upward trend that continues to this day. In 2005, when the four-year degree requirement was first enacted, Kentucky had 1,031 licensed land surveyors. In 2011, when the experience-only route to licensure ended, Kentucky had 956 licensed land surveyors. Today, Kentucky has 1,442 licensed land surveyors. That is an almost 40% increase in licensed professional land surveyors compared to 2005, and a 66% increase from 2011. Kentucky still needs more professional land surveyors.

So far this year, Kentucky has 34 individuals registered to take the Fundamentals of Surveying exam, which is the first of two national exams a surveyor must take to become licensed. There are 24 individuals registered to take the Principles and Practice of Surveying exam, the second of the two national exams. Kentucky has not had this many surveying exam registrations in over a decade.

Mr. Elliott said a four-year degree in surveying and a two-year degree in surveying will almost always teach the same core surveying competencies. A two-year degree focuses on training practitioners for an industry standard. In addition, the four year degree at a university prepares individuals with soft skills like communication, professional responsibility and ethics, societal awareness, business and financial consequences of land surveying practice, and awareness for the need for lifelong learning. Because job experiences can be so different, it is unwise to assume that lengthening the experience requirements, like House Bill 151 proposed, will make up for the difference of a two-year degree.

Since Kentucky moved to the four-year degree requirements for land surveying licensing, the pass rates on the national surveying exams have moved from the 30 to 40 percent range to the 70 to 80 percent range. Kentucky's licensed land surveyors' numbers are up and increasing, the surveying exam registrations are up, and the pass rates for Kentuckians taking the surveying exams have more than doubled since the four-year degree requirement. For all these reasons, the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors is opposed to regressing to a two-year degree path for surveying licensure.

Chairman Koch said farmers waiting long periods and absorbing expensive costs to obtain a land surveyor led to the need for a discussion. John-Mark Hack, Chief Strategy Officer, Thoroughbred, said as an employer of land surveyors, it is not in anyone's interest

to derogate the profession. The biggest threat could be the lack of folks entering the profession. Kentucky is short on professional land surveyors and more land surveyor licensure flexibility is needed. One barrier can be the high costs of earning a four-year degree for some surveyors. Pathways need to be sought for men and women to obtain their license based on real world experiences and not dependent on the burden and cost of a four-year college degree.

Responding to questions from Senator Nemes, Ben Shinabery, Kentucky Professional Land Surveyors, said the four-year degree provides for a competent professional and technical abilities that may not have been needed 20 years ago in the land surveyor profession. The equipment necessary to perform the job is precise and run by software and hardware that provides for precise measurement. The job encompasses more than the skills training in a two-year degree. The required technological skills correlate to a four-year degree regardless of whether the person has passed the land surveyor exam.

Mr. Hack noted that he is not a professional land surveyor, but the compromise offered in the 2023 legislative session included the six-year apprenticeship in addition to the two-year college requirement. He believes the soft skills needed to perform the job can be obtained through the apprenticeship and observation of professional licensed surveyors.

Responding to a question from Representative Dixon regarding success in the profession through real life experience, Mr. Elliott said the four-year degree helps provide public speaking skills which are necessary for speeches at planning commissions, legislative committees, and zoning and adjustment boards. Representative Dixon and Chairman Koch indicated that college is a great resource for some people, but they do not believe it translates to a surveyor having better communication or business skills. Representative Dixon said a college education does not have more value than real world on-the-job experience and does not believe it improves public speaking skills.

Responding to questions from Senator Higdon regarding the policies in surrounding states concerning land surveyors, Mr. Elliott said Illinois, Indiana, and Ohio require a four-year degree for land surveyors. West Virginia uses the experience-only pathway. Kentucky only allows out-of-state surveyors with a Kentucky license to work in the state. There is a reciprocity agreement to grant a Kentucky license.

Responding to questions from Senator Howell regarding apprenticeship and changes in the industry, Mr. Shinabery said apprenticeship is offered by surveyors who see it as a priority for hiring students who are interested in a professional licensure track. The Kentucky Professional Surveyors also provide students with tuition assistance in some cases because an educated individual is more well-rounded. Field and office experience is also provided prior to students obtaining their license. There are no customized public speaking classes offered, but four-year degrees require general public speaking courses.

Responding to a question from Representative Meredith, Donald Pedigo, Chair, Kentucky State Board for Licensure for Professional Engineers and Land Surveyors, said two and four-year degrees can have the same curricula requirements. Mr. Elliott said the pandemic did not diminish the need for land surveyors as people realized they wanted to add fences to their property while sitting out on their porches. Representative Meredith said there was a shortage of land surveyors before the COVID-19 pandemic and said it can take six to eight weeks to get a land surveyor to a customer's property. He learned more in real world work experiences than he did receiving his bachelor's degree in college, and wants flexibility in addressing the land surveyor shortage in order to better serve constituents' needs.

Responding to a question from Senator Douglas, Mr. Elliott said continued professional development is required for surveyors and engineers. Land surveyors must receive 8 hours per year of professional development, while engineers receive 15 hours per year.

Representative Clines said it is a very challenging time to require a four-year degree to become a land surveyor. Pathways, credentials, and experience all can provide flexibility in achieving the license and ending the critical shortage of land surveyors.

Veterinarian Allied Health

Chairman Koch said House Bill 167 that was passed in the 2023 Regular Session of the General Assembly modernized veterinarian licensure in Kentucky and mandated licensure for the professions of veterinary medicine, ensuring public protection for animal owners across Kentucky.

Senator Webb said equine dentistry is important for the health and protection of all horses across the Commonwealth. She discussed the large animal veterinary shortage and how it affects rural animal owners. Equine dentistry needs to be reclassified as routine animal husbandry, and an avenue provided to legally work in Kentucky. Horse owners need the right to choose their preferred practitioner.

Wayne Needham, President and Certified Equine Dental Provider, International Association of Equine Dentistry, showed the committee a PowerPoint that demonstrates the need for horse equine dentistry. Kentucky has 72 out of 120 counties with a large animal veterinary shortage. The American Association of Equine Practitioners reports six percent of the annual 4,000 veterinary graduates pursue equine practice, and 50 percent leave within five years. There are 240 new equine vets annually in the United States. The trend is 60 equine vets retire annually and 24 quit treating horses. Most equine vets are too busy or dislike performing equine dental examinations, and this gives little hope for rural Kentucky.

Justin Talip, Certified Equine Dental Provider, said equine dentistry is a basic, routine, and accepted animal husbandry practice. Unless an extraction is required, the procedure is safe and painless. Kentucky equine dentistry falls under the definition of veterinary medicine. No training or performance standards are required or accepted. There are an estimated 50-75 equine dental providers in Kentucky. Dentistry is safe and veterinary board complaints involving animal harm during dentistry are almost nonexistent in Kentucky.

Responding to a question from Senator Bledsoe about sedation and teeth cleaning in horses, Mr. Needham said Oklahoma and Texas go through the veterinarian for sedation and can do this at the vet clinic. Senator Webb said the Veterinary Modernization Act also allows for telehealth appointments, which can be beneficial for resolving these issues. Mr. Needham said sedation and drug policies stay the same, but they want to ensure that the procedures remain legal.

Responding to questions from Chairman Koch, Mr. Talip said there are equine dental schools in Virginia, Texas, and Idaho. Equine dentists are licensed in Texas the same as a veterinarian and are regulated by the Texas Veterinary Board. They are supervised and continuing education credits are required. Senator Webb said the Kentucky Veterinary Board needs to look at other state models and is looking for input from all entities on the issue on best practices.

Dr. John Park, Equine Veterinarian, Kentucky Board of Vet Examiners, and Michelle Shane, Executive Director, Kentucky Board of Veterinary Examiners, concurred that protection of horses and the public is of utmost importance. Ms. Shane said there needs to be an avenue of recourse when problems arise outside of the scope and expertise of the equine dentist. A big concern of veterinarians remains drug access and transportation, but they are open to finding a legal path forward.

Dr. Park said the modernization of the Veterinary Practice Act was instrumental in the equine industry. He said the infrastructure is in place for the Allied Health Professional and the board is willing to address all the issues and find a solution amicable to all parties. Sedation is an important procedure for providing a thorough oral exam of the horse and providing an accurate diagnosis. The board remains committed to the protection of the animal and citizens' rights, but stressed there needs to be regulation, accountability, and fairness. Chairman Koch said there is agreement between the groups and they should start there and build upon that moving forward.

Public Services for Problem and Addicted Gambling

Mike Stone, Executive Director, Kentucky Council on Problem Gambling, addressed the committee on behalf of the council, a 501(c)(3) non-profit organization

whose mission is to increase awareness of problem gambling, promote prevention and research, and advocate for the availability of treatment. He expressed gratitude for the General Assembly including language in House Bill 551 to establish a publicly funded problem and addicted gambling awareness, education, prevention, and treatment program in Kentucky. The council has advocated for such a program for more than 20 years. Kentucky joins 42 other states and districts, as well as the rest of the world, in the recognition of disordered gambling as an important public health issue.

Mr. Stone said a publicly funded program to address problem and addicted gambling is needed. Research by academics and the latest statistics by the survey firm IPSOS showed that 78 percent of Kentucky adults gambled over the past year, an equivalent to 3.2 million Kentucky citizens. As many as 165,000 Kentucky adults exhibit problem gambling traits, and as many as 64,000 have a gambling addiction. Using a median of \$9,000 that academic research indicates is the average annual social cost per addicted gambler, Kentucky's addicted gambler cost is \$576 million.

In Kentucky, a stigma is attached to problem and addicted gambling. People are fearful of self-identifying due to embarrassment, and often gambling addiction is seen as a hidden addiction. State recognition will drive public awareness and increase messaging by the gambling industry. The hope is, as with other states, this will increase demand for services to help individuals recover from the addiction and recognize the warning signs and avoid problems.

It is a false narrative that awareness of the problem of addicted gambling and providing services for problem and addicted gamblers will decrease gambling participation, thus harming gambling businesses and lowering the revenue accruing to the state. This has not happened in other jurisdictions, and a self-exclusion policy or system such as in Indiana and Ohio is recommended for Kentucky. Kentucky can adopt the many best-practice initiatives from other states and countries as it forms its problem and addicted gambling programs.

Mr. Stone said the council does have some concerns. One is diversion of resources to other addiction prevention and treatment programs. House Bill 551 did not specify the funds raised are solely to address gambling problems and addictions. Clearly, it was the General Assembly's intent, but history from other states shows funds purportedly earmarked for problem gambling services were diverted to other uses. The council asks for General Assembly oversight on this issue.

Secondly, a concern is offering problem and addicted gambling services before the awareness, education, prevention, and treatment infrastructure is ready for the influx of individuals seeking services. The council has volunteered to use its accrued grants and donations to pay for counselor training prior to the public program's implementation. They

can also seek certifications as gambling counselors by the International Gambling Counselor Certification Board.

The final concern is cost. House Bill 551 is projected to raise \$500,000 for problem and gambling services. Research provided by the National Association of Administrators of Disordered Gambling Services reports the average expenditure on problem and addicted gambling services among the 42 states and jurisdictions with publicly funded programs is 28 cents per capita. Using U.S. Census Bureau data, it computes to \$1.2 million for Kentucky. The council stands by the total per capita number because of the need for youth services.

House Bill 551 provides a critical and significant first step to funding Kentucky's first treatment program of problem and addicted gambling. Examples from other states show the demand for services soon will eclipse the funds available. It is recommended that when additional funding is directed to the program, all legally sanctioned gambling in Kentucky should share in the cost of the program. Each gambling entity contributes to the problem and should share in the cost.

Representative Meredith said the emergency regulations promulgated by the Kentucky Horse Racing Commission include self-exclusion language. The intent of the bill was to utilize the funds for problem gambling, and he hopes the committee will continue to look for other funds and believes it could be a shared cost from other forms of gaming across the state.

Responding to a question from Representative Gentry, Mr. Stone said other states and Canada are providing successful problem gambling treatment programs for their citizens. He mentioned Massachusetts, Connecticut, and New York as good examples of established programs with best practices to draw from in Kentucky. Representative Gentry is an advocate for expanded gaming and providing a program to treat problem gambling.

Adjournment

With no further business before the committee, the meeting adjourned at 12:25 p.m.