

INTERIM JOINT COMMITTEE ON LICENSING, OCCUPATIONS, AND ADMINISTRATIVE REGULATIONS

Minutes of the 4th Meeting of the 2024 Interim

September 26, 2024

Call to Order and Roll Call

The fourth meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on September 26, 2024, at 10:00 AM in Room 154 of the Capitol Annex. Representative Matthew Koch, Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Matthew Koch Co-Chair; Senator John Schickel Co-Chair; Senators Donald Douglas, Jimmy Higdon, Jason Howell, Amanda Mays Bledsoe, and Michael J. Nemes; 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, Nima Kulkarni, Michael Meredith, Amy Neighbors, Ruth Ann Palumbo, Phillip Pratt, Tom Smith, and Killian Timoney.

Guests: Joshua Reichert, Fire Protection & Safety Engineering Technology Program Coordinator/Assistant Professor, Eastern Kentucky University; Sean Vizgirda, Lead Fire Protection Engineering Associate of KLH Engineers, Fort Thomas, Kentucky; Tony Cole, Vice President, U.S. Operations, Senex Consulting Fire Science and Engineering, Lexington, Kentucky; Michael Hesterberg, President, Mark Pruitt, Secretary, Kentucky Real Estate Inspectors Association Inc.; Jennifer Doering, General Manager, Chas Seligman Distributing Company; Adam Kline, Founder, Floral Beverages, LLC; Joshua Mulberry, Vice President of Kentucky, Heidelberg Distributing Company; John and Delphia Taylor, Kentucky Hemp Association; and Kyle Elliott, Kentucky Board of Engineers and Land Surveyors.

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

Approval of Minutes of the August 22, 2024, Meeting

Representative Fister motioned to approve the minutes of the August 22, 2024, meeting. Representative Banta seconded the motion. Motion carried and the minutes were adopted by voice vote.

Eastern Kentucky University Fire Safety Engineer Program

Joshua Reichert, Fire Protection & Safety Engineering Technology Program Coordinator/ Assistant Professor, Eastern Kentucky University (EKU), said EKU is one of three ABET accredited programs in the United States to offer a Bachelor of Science degree in fire protection. EKU's fire protection degree is growing and recruits students from across the world. As Kentucky law does not provide a pathway for EKU graduates to become licensed professional engineers, EKU graduates often leave Kentucky. Mr. Reichert highlighted the University of Maryland's Fire Protection Engineering program as the only program in the United States accredited by the Engineering Accreditation Commission (EAC) and ABET, and stated Maryland graduates have an easier path to Kentucky licensure than EKU graduates. In Fall 2023, only 6.6 percent of students in EKU's program were Kentuckians.

Sean Vizgirda, Lead Fire Protection Engineering Associate of KLH Engineers, Fort Thomas, Kentucky, supports a legislative change and works in Kentucky. He will obtain his fire protection PE through California unless there is a change in Kentucky.

Tony Cole, Vice President, U.S. Operations, Senex Consulting Fire Science and Engineering, Lexington, Kentucky, said the statutes should be changed to be more competitive and meet the demand.

Responding to a question from Representative Kulkarni, Mr. Reichert said the programs have existed since 1974 and EKU received its original accreditation in 2015. At the time, only the Engineering Technology Accreditation Commission (ETAC) was available, and not the EAC offered by the University of Maryland.

Kyle Elliott, Executive Director, Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, said there is a need for fire protection engineers across the nation. He explained the differences in ETAC and EAC programs. EKU has taken steps to become EAC accredited, but current and past students cannot become licensed in Kentucky. Mr. Vizgirda said education requirements are important, but being able to pass the test and demonstrate the knowledge is more relevant. Twenty-seven other states recognize engineering technology as a path to licensure, but the experience requirements are more stringent. Co-Chair Koch would like the groups to work together on a solution.

Employment Application and Licensing Process for Convicted Felons

Representative Emily Callaway referred members to her proposed bill draft for the 2025 Regular Session of the General Assembly. She highlighted that research consistently finds that access to gainful employment can be a key factor in reintegrating criminal offenders into society and reducing recidivism. However, burdensome occupational licensing restrictions make it difficult for people with criminal records to find work. The proposed bill draft would reduce barriers while maintaining protections appropriate for ensuring public safety. It could potentially put around 32,000 Kentuckians back to work. There were no

questions from members.

Home Inspection Statute of Limitations

Representative Tom Smith referred members to his working bill draft for the 2025 Regular Session of the General Assembly. The working draft creates a one-year limit on any action for damages based on professional services rendered by a licensed home inspector.

Michael Hesterberg, President, Kentucky Real Estate Inspectors Association Inc. (KREIA), said statutory change is necessary as there is no sunset on liability in statute. A non-technical visual inspection is conducted only in accessible areas of the home. Liability is becoming a barrier for the profession. Mark Pruitt, Secretary, said KREIA is a nonprofit, educational organization and is struggling with decreases in membership. There has been a 37 percent decrease in licensees and KREIA memberships in Kentucky.

Responding to a question from Representative Herron, Mr. Hesterberg said inspections are required for newly built homes and renovations that fall under the purview of the license. He will get the exact statistics on the timing and number of post-inspection lawsuits filed against home inspectors. Representative Herron said inspectors and home owners need to be protected.

Responding to a question from Representative Meredith, Mr. Hesterberg said a five-year lawsuit limit is too long. Other states such as New York and Pennsylvania have changed to the one-year time period. Ohio just adopted this one-year limit and has seen reduced insurance premiums.

Responding to a question from Representative Bratcher, Mr. Hesterberg said home inspections are thorough and beneficial, but inspectors cannot touch personal items, such as washing machines. Insurance companies do not want home inspectors moving items as this could damage the floors or walls of the home and the inspector would be responsible for replacement. Representative Bratcher said personal items can hide problems with the home. KREIA trains inspectors to be diligent and inspect around objects very carefully with tools such as a scope.

Representatives Dixon and Meredith would like to see an average of the liability timeframes in other states across the nation.

Delta 9 Infused Drinks

Jennifer Doering, General Manager, Chas Seligman Distributing Company, described the intoxicating hemp-derived beverages that are legal and being sold in stores across Kentucky. She feels the products need regulations similar to alcohol laws. Some states have enacted laws to regulate or ban the sale of intoxicating hemp-derived products, leading to a patchwork of regulations across the country.

Adam Kline, Founder, Floral Beverages, LLC, said House Bill 544 from the 2023 Regular Session established minimum rules for intoxicating hemp-derived products, such as a 21 and over age restriction and testing and labeling requirements. The Cabinet for Health and Family Services (CHFS) was broadly directed to promulgate regulations. The cabinet has since issued emergency regulations for retailers and distributors, product testing and registration requirements, processing and manufacturing procedures, and labeling and packaging requirements. Kentucky family farms can benefit from growing hemp and bringing back much-needed agricultural jobs to Kentucky.

Joshua Mulberry, Vice President of Kentucky, Heidelberg Distributing Company, said there is very little enforcement of existing regulations. Many new intoxicating hemp-derived products have entered the market, including canned beverages that resemble alcoholic beverages, leaving unregistered products in a "gray" area. Parity with alcohol is vital. Kentuckians need safeguards to protect them from new products quickly arriving in the marketplace.

Co-Chair Koch said the PowerPoint slide that states CBD products have no intoxicating effect is misleading. Ms. Doering said CBD products are different than intoxicating hemp-derived beverages and do not have the same effects.

Responding to a question from Co-Chair Schickel, Ms. Doering said the Alcoholic Beverage Control (ABC) Board has the infrastructure in place to oversee these products. She said they are prepared to oversee licensing issues if rules are not followed.

Responding to a question from Representative Palumbo, Ms. Doering said the products are placed next to the malt beverages in convenience stores. Cashiers are trained not to sell the products to minors.

Responding to a question from Representative Bratcher, Ms. Doering said no license is required, but the business selling the products must be registered with CHFS. Mr. Kline said some companies sell inhalants and edibles. He explained product testing and registration. Representative Bratcher said the issue needs lots of study and heavy oversight.

Responding to questions from Representative Flannery, Mr. Kline said inhalants are the most rapid form of intoxication and edibles are the slowest, sometimes taking over an hour after ingestion to feel the effects. He said all the products will appear in blood and urine testing as metabolites. It is legal federally due to a provision in the 2018 Farm Bill that defined hemp as cannabis containing less than 0.3 percent Delta-9 THC on a dry weight basis. It allows products with Delta-9 THC and other forms of THC, like Delta-8 and Delta-10 THC, to be legally sold if they meet the Delta-9 THC dry weight threshold. Testing

cannot differentiate whether the product was vaped, eaten, or drunk. Metabolites can stay in a person's system for up to 30 days depending on how much and how frequently the product was used.

Responding to a question from Representative Gentry, Mr. Mulberry said the level of 25 mg THC in each canned intoxicating hemp-derived beverage is equivalent to the alcohol level in a can of beer. Some states have much stronger products, and Kentucky wants to keep lower levels of THC for safety. Mr. Kline said people can build a tolerance to the products over time. Representative Gentry said it is a complex issue, and said workers' compensation benefits need to be protected for people who may have metabolites lingering in their system.

Senator Nemes asked how this type of intoxication relates to DUI laws. He would like recommendations on how the legislature should deal with traffic violations and the toxicity levels of these products.

Responding to a question from Senator Higdon, Mr. Kline said the products are legal in Kentucky. Senator Higdon said an agency needs to be identified to provide oversight and enforcement of the products. He noted not all retailers are good actors, and regulation of the products is essential.

Responding to Representative Dixon, Mr. Kline said employees can fail a company drug test for up to 30 days after drinking one can.

Representative Meredith said the products need a strong regulatory structure established for employer and employee issues, as well as motor vehicle safety laws. If there is an accident, a person is at risk of failing a field sobriety or urine test. These products do not metabolize like alcohol in a period of hours, and the issue needs further examination.

Responding to a question regarding warning statements on the products, Co-Chair Koch said the cans do have clear warning statements printed on them.

John and Delphia Taylor, Kentucky Hemp Association, spoke in favor of the intoxicating hemp-derived beverages and said businesses should educate consumers on the products. She does not want the products limited to sales in liquor stores, and feels additional regulations from the ABC Board are unnecessary. She said Indiana provides a more open and friendly regulatory environment to hemp products.

Adjournment

With no further business before the committee, the meeting adjourned at 11:20 AM.