



KANSAS

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SB 37
The Senate Committee on Judiciary

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Sen. Vratil and members of the Senate Judiciary Committee, thank you for the opportunity to appear before you today. I am Joann Corpstein, chief legal counsel for the Kansas Department on Aging. KDOA appears as a neutral conferee.

We appreciate the acknowledgment that residents have rights, the recognition of the resident's room as part of their home, and that some residents are life-long smokers. We applaud the intent of SB 37 to make Kansas public areas free of cigarette smoke, but we have concerns about impact of Sec. 2(a)(11) on nursing facilities and their residents.

As written, Section 2(a)(11) states that "no person shall smoke in any indoor area, including, but not limited to: . . . (11) *the common areas of retirement facilities, publicly owned housing facilities and nursing homes, not including any resident's private residential quarters; . . .*"

Currently, adult care homes can elect to allow smoking or not allow smoking in the facility. Residents are **not** allowed to smoke in their individual rooms. If an adult care home allows smoking, the facility is required to provide a designated smoking area for residents where smoke is exhausted to the outside. SB 37 would allow residents to smoke in their own room which may not be designed to filter and exhaust the smoke in such a way to keep the rest of the facility smoke free. As written, SB 37 would now allow residents even in non-smoking facilities to smoke in their rooms.

Adult care homes are also required to ensure that residents who desire to live in a smoke-free environment may do so. This would be an issue in semi-private rooms where one resident smokes, and the other does not.

Adult care homes are also required to provide direct supervision of each resident, when smoking, who has been identified as having a mental, psychosocial or physical impairment that could make unsupervised smoking dangerous to the individual and/or to others. As stated in SB 37, nursing home residents would be allowed to smoke in their rooms. Many adult care homes will

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not be able to provide the direct supervision that will be necessary to keep not only the resident who wants to smoke safe but other residents as well.

The bill also uses the term “retirement facilities.” However, this term is not defined. “Retirement facilities” are not among the various types of adult care homes as defined in K.S.A. 39-923. It is unclear how SB 37 will impact other types of adult care homes such as assisted living, residential health care, home plus, boarding care and adult day care facilities. Some home plus facilities are located in private homes.

KDOA currently requires designated well-ventilated smoking areas for residents who smoke as a way to strike a balance between providing a smoke-free environment for non-smokers and recognizing the rights and safety of residents who continue to smoke.

Thank you for the opportunity to offer our concerns regarding SB 37. We request the Committee revise this section as to exempt adult care homes from this bill.