



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

July 23, 1976

ATTORNEY GENERAL OPINION NO. 76-228

Mr. Bernard V. Borst
Senior Assistant City Attorney
Department of Law
City Hall - 13th Floor
455 North Main
Wichita, Kansas 67202

Re: Food Service and Lodging--Restroom Facilities

Synopsis: Section 4 of ch. 205, L. 1976, requires that food service and lodging establishments, as defined by K.S.A. 1975 Supp. 36-601, which maintain restroom facilities for the public, make such facilities available free of cost, and does not apply otherwise.

* * *

Dear Mr. Borst:

As counsel for the Wichita Airport Authority, you inquire concerning the construction of ch. 205, § 4, L. 1976. You advise that the Authority, which owns and operates Wichita Mid-Continent Airport, was on July 1, 1976, a party to a contract with Nik-O-Lok Company, which contract provides for the installation and maintenance of coin-operated doors in restrooms at the Airport. The restroom facilities which are subject to this contract are located in the Main Terminal Building, and you advise that they are not directly associated with a hotel, lodging house or restaurant. On July 1, 1976, the Authority removed the coin-operated locks which were installed there previously in accordance with the outstanding contract with Nik-O-Lok, pursuant to the cited 1976 act of the Kansas Legislature. Since that time, Nik-O-Lok has demanded performance under the contract, under threat of litigation. As a result, the Authority is concerned whether section 4 of ch. 205, L. 1976, may constitutionally be construed to apply to the restroom facilities in question.

Mr. Bernard V. Borst
Page Two
July 23, 1976

The cited section states thus:

"Every establishment, public and private, which serves or caters to the public and which maintains therein restroom facilities for the public shall make its restroom facilities available without cost or charge to the patrons, guests or invitees of such establishment."

The title of this act is as follows:

"An Act relating to food service and lodging establishments; providing for certain application fees and for the maintenance of free public restroom facilities; amending K.S.A. 1975 Supp. 36-503, 36-504 and 36-510 and repealing the existing sections."

The scope of the act is defined by the first clause of its title: "An Act relating to food service and lodging establishments." Section 1 of the act amends K.S.A. 1975 Supp. 36-503, relating to licensure of food service establishments. Section 2 amends K.S.A. 1975 Supp. 36-504, relating to licensure of food service vending machine companies. Section 3 amends K.S.A. 1975 Supp. 36-510 relating to the responsibility of the Secretary of Health and Environment to enforce lodging and food service standards. Under section 5, the Secretary is empowered to adopt rules and regulations and to bring necessary proceedings for the enforcement of section 4, concerning the scope of which you inquire here.

Article 2, § 16 of the Kansas Constitution states thus in pertinent part:

"No bill shall contain more than one subject, except appropriation bills and bills for revision or codification of statutes. The subject of each bill shall be expressed in its title."

The scope of the bill in question here is necessarily limited by the subject expressed in its title. The title defines the act as relating only to food service and lodging establishments. Those terms are defined by K.S.A. 1975 Supp. 36-501, which states in pertinent part thus:

Mr. Bernard V. Borst
Page Three
July 23, 1976

"As used in K.S.A. 1975 Supp. 36-501 to 36-515, inclusive, the following words and phrases shall have the meanings respectively ascribed to them herein:

* * *

(d) 'Lodging establishment' means a hotel, rooming house or boarding house.

(e) 'Food service establishment' means any place in which food is served or is prepared for sale or service on the premises or elsewhere. Such term shall include, but not be limited to, fixed or mobile restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, grill, tea room, sandwich shop, soda fountain, tavern, private club, roadside stand, industrial-feeding establishment, catering kitchen, commissary and any other private, public or nonprofit organization or institution routinely serving food and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge."

Clearly, the terms "lodging establishment" and "food service establishment" as used in the title refer to those definitions. The term "establishment" in section 4 is used without express reference to "lodging" or "food service;" accordingly, the kind of establishment to which the section applies must be determined from the title of the bill, which in turn must necessarily refer to K.S.A. 1975 Supp. 36-501(d) and (e).

Accordingly, it is my opinion that section 4 applies to restroom facilities maintained by food service and lodging establishments, as those terms are defined by K.S.A. 1975 Supp. 36-501(d) and (e), and not to other restroom facilities.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj