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ATTORNEY GENERAL OPINION NO. 87- 90

The Honorable Joe Knopp
Majority Leader, House of Representatives
Room 381-W, State Capitol
Topeka, Kansas 66612-1591

Re: State Boards, Commissions and Authorities--
Athletic Commission; All-Sports Hall of Fame--
Surcharge on Tickets for Certain Intercollegiate
Athletic Events

Synopsis: Student activities passes purchased by a
nonoptional activity fee and which provide
admission to activities or events in addition to
intercollegiate athletic events are exempt from
the surcharge required in K.S.A. 1986 Supp.
74-2915, as amended by 1987 Senate Bill No. 183.
Other student activities passes providing admission
to intercollegiate athletic events and season
tickets to such events are subject to the
surcharge. Cited herein: K.S.A. 1986 Supp.
74-2915, as amended by 1987 Senate Bill No. 183.

* * *

Dear Representative Knopp:

As Majority Leader of the House of Representatives you ask our
opinion regarding a surcharge on ticket prices for athletic
events at Kansas public colleges and universities (K.S.A. 1986
Supp. 74-2915, as amended by 1987 Senate Bill No. 183).
Specifically you inquire whether season tickets or student
activities passes would be subject to the surcharge. You
indicate that questions have arisen despite specific statutory

language that deals with surcharges on season tickets and student passes.

Section 2 of 1987 Senate Bill No. 183 amended K.S.A. 1986 Supp. 74-2915 by adding a new section c:

"(a) Except as otherwise provided by this section, in addition to any other excise tax imposed by law, there is hereby imposed for the purpose of providing funds for the all-sports hall of fame a surcharge of \$.25 added to the sale price of each ticket which is sold during the period beginning July 1, 1987, and ending June 30, 1988, for each intercollegiate athletic event or contest which is sponsored by an institution of higher education. In the case of a season ticket, the surcharge imposed by this section shall be computed on the basis of \$.25 for each such event or contest for which admission is provided by the season ticket. Each activity card or ticket, which is issued to students of an institution of higher education upon paying a nonoptional activity fee charged and collected by the institution of higher education and which provides admission to activities or events in addition to intercollegiate athletic events or contracts, is exempt from the surcharge imposed by this section.

"(b) . . . each institution of higher education shall collect and remit not less often than monthly the total amount of such surcharge collected under this section to the state treasurer who shall deposit the entire amount of each such remittance in the state treasury to the credit of the all-sports hall of fame trust fund.

"(c) In lieu of the provisions of subsections (a) and (b), an institution of higher education may remit an amount equal to the amount that would have been collected under the provisions of

subsections (a) and (b) if such provisions had been in effect for the period of July 1, 1986, through July 1, 1987, and no tax shall be collected under this section for intercollegiate athletic events and contests sponsored by such institution of higher education during the period from July 1, 1987, through June 30, 1988, if such institution of higher education makes such remittance. Such amount shall be remitted to the state treasurer prior to January 1, 1988, and shall be remitted from nonstate funds. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the all-sports hall of fame trust fund.

"(d) As used in this section, 'institution of higher education' means any institution under the supervision and control of the state board of regents, any community college organized and operating under the laws of this state and Washburn university of Topeka."
(Emphasis added.)

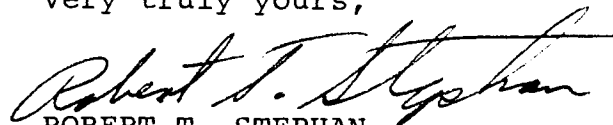
A statute is not subject to statutory construction if the clear intent of the legislature appears from plain and unambiguous language. State v. Haug, 237 Kan. 390 (1985). Szoboszlay v. Glessner, 233 Kan. 475 (1983). Randall v. Seemann, 228 Kan. 395 (1980). The underscored language in the statute clearly and unambiguously states that student activities passes are not subject to the surcharge by exemption if such activities passes are not an optional purchase and provide admittance to activities or events in addition to intercollegiate athletic events. Season tickets are subject to the surcharge, computed at \$.25 for each event for which admission is provided by the season ticket.

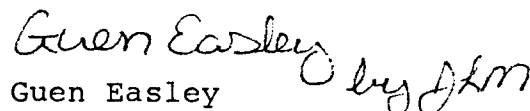
We note however that the confusion may have arisen from the language of subsection (c). Subsection (c) provides an alternative to the monthly collection of the surcharge by the state. In lieu of a monthly collection, an educational institution can remit an amount equal to that amount that would have been collected between July 1, 1986 through June

30, 1987 had the provisions of the act been in effect during that time. Again, the language in subsection (c) is clear and unambiguous providing simply an alternative method of collection, rather than bearing on whether any specific type of athletic event ticket is subject to the tax.

Accordingly, it is our opinion that certain student activities passes are not subject to the surcharge, by exemption, and that season tickets are subject to the surcharge as computed at \$.25 per event for which admission is provided by the season ticket.

Very truly yours,


ROBERT T. STEPHAN
Attorney General of Kansas


Guen Easley
Assistant Attorney General

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