

# Journal of the Senate

FORTY-NINTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Monday, March 19, 2001—2:30 p.m.

The Senate was called to order by President Dave Kerr.  
The roll was called with forty senators present.  
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

March Madness reminds us that just like basketball teams we politicians like to win. We want our bills to pass, our issues to prevail, and our philosophy to be believed. Having said that, we should have learned by now. . . .

It is better to lose with truth than to win with lies.

It is better to lose with honor than to win in dishonor.

It is better to lose with dignity than to win in disgrace.

It is better to lose with integrity than to win with deception.

It is better to lose playing fair than to win cheating.

It is better to lose shooting straight than to win with cheap shots.

It is better to lose with respect than to win as a suspect.

Don't get me wrong, Lord, I had rather win than lose, but I remember well that what seemed to be your worst loss on Good Friday turned out to be your greatest victory Easter Sunday.

So help me to overcome the temptation to steal victories, because I have learned from you that regardless of how many times I lose playing fair, You have a way of turning losses into ultimate victory.

For that assurance I thank You in the Name of Christ,

AMEN

## MESSAGE FROM THE GOVERNOR

**SB 60, SB 71, SB 86, SB 87, SB 148, SB 242** approved on March 15, 2001.

## MESSAGE FROM THE HOUSE

Announcing, the House nonconcur in Senate amendments to **HB 2015**, requests a conference and has appointed Representatives Boston, Jim Morrison and Showalter as conferees on the part of the House.

The House nonconcur in Senate amendments to **HB 2127**, requests a conference and has appointed Representatives Boston, Jim Morrison and Showalter as conferees on the part of the House.

The House nonconcur in Senate amendments to Substitute **HB 2129**, requests a conference and has appointed Representatives T. Powell, Powers and Wilson as conferees on the part of the House.

The House accedes to the request of the Senate for a conference on **SB 37** and has appointed Representatives Freeborn, Myers and Flora as conferees on the part of the House.

Announcing passage of **HB 2067, HB 2473, Substitute HB 2532.**  
Also, passage of **SB 47, SB 73, SB 212.**

#### INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

**HB 2067, HB 2473, Substitute HB 2532** were thereupon introduced and read by title.

#### ORIGINAL MOTION

On motion of Senator Harrington, the Senate acceded to the request of the House for a conference on **HB 2127.**

The President appointed Senators Harrington, Brungardt and Gooch as conferees on the part of the Senate.

On motion of Senator Morris, the Senate acceded to the request of the House for a conference on **Sub HB 2129.**

The President appointed Senators Morris, Adkins and Feleciano as conferees on the part of the Senate.

#### REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **SB 152** be amended on page 2, by striking all following line 25;

By striking all on pages 3, 4 and 5;

On page 6, by striking all in lines 1 through 26; following line 26, by inserting:

“Sec. 3. K.S.A. 41-311, as amended by section 1 of 2001 Senate Bill No. 178 is hereby amended to read as follows: 41-311.

(a) No license of any kind shall be issued pursuant to the liquor control act to a person:

(1) Who has not been a citizen of the United States for at least 10 years, except that the spouse of a deceased retail licensee may receive and renew a retail license notwithstanding the provisions of this subsection (a)(1) if such spouse is otherwise qualified to hold a retail license and is a United States citizen or becomes a United States citizen within one year after the deceased licensee's death;

(2) who has been convicted of a felony under the laws of this state, any other state or the United States;

(3) who has had a license revoked for cause under the provisions of this act or who has had any license issued under the cereal malt beverage laws of any state revoked for cause except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;

(4) who has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(5) who has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;

(6) who is not at least 21 years of age;

(7) who, other than as a member of the governing body of a city or county, appoints or supervises any law enforcement officer, who is a law enforcement official or who is an employee of the director;

(8) who intends to carry on the business authorized by the license as agent of another;

(9) who at the time of application for renewal of any license issued under this act would not be eligible for the license upon a first application, ~~except as provided by subsection (a)(12);~~

(10) who is the holder of a valid and existing license issued under article 27 of chapter 41 of the Kansas Statutes Annotated unless the person agrees to and does surrender the license to the officer issuing the same upon the issuance to the person of a license under this act, except that a retailer licensed pursuant to K.S.A. 41-2702, and amendments thereto, shall be eligible to receive a retailer's license under the Kansas liquor control act;

(11) who does not own the premises for which a license is sought, or does not have a written lease thereon for at least  $\frac{3}{4}$  of the period for which the license is to be issued; or

~~(12) whose spouse would be ineligible to receive a license under this act for any reason other than citizenship, residence requirements or age, except that this subsection (a)(12) shall not apply in determining eligibility for a renewal license; or~~

~~(13) (12) who does not provide any data or information required by section 2 of 2001 Senate Bill No. 178, and amendments thereto.~~

(b) No retailer's license shall be issued to:

- (1) A person who is not a resident of this state;
- (2) a person who has not been a resident of this state for at least four years immediately preceding the date of application;
- (3) a person who has beneficial interest in the manufacture, preparation or wholesaling of alcoholic beverages;
- (4) a person who has beneficial interest in any other retail establishment licensed under this act, except that the spouse of a licensee may own and hold a retailer's license for another retail establishment;

(5) a copartnership, unless all of the copartners are qualified to obtain a license;

(6) a corporation; or

(7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(c) No manufacturer's license shall be issued to:

(1) A corporation, if any officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a manufacturer's license for any reason other than citizenship and residence requirements;

(2) a copartnership, unless all of the copartners shall have been residents of this state for at least five years immediately preceding the date of application and unless all the members of the copartnership would be eligible to receive a manufacturer's license under this act;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license;

(4) an individual who is not a resident of this state; or

(5) an individual who has not been a resident of this state for at least five years immediately preceding the date of application.

(d) No distributor's license shall be issued to:

(1) A corporation, if any officer, director or stockholder of the corporation would be ineligible to receive a distributor's license for any reason. It shall be unlawful for any stockholder of a corporation licensed as a distributor to transfer any stock in the corporation to any person who would be ineligible to receive a distributor's license for any reason, and any such transfer shall be null and void, except that: (A) If any stockholder owning stock in the corporation dies and an heir or devisee to whom stock of the corporation descends by descent and distribution or by will is ineligible to receive a distributor's license, the legal representatives of the deceased stockholder's estate and the ineligible heir or devisee shall have 14 months from the date of the death of the stockholder within which to sell the stock to a person eligible to receive a distributor's license, any such sale by a legal representative to be made in accordance with the provisions of the probate code; or (B) if the stock in any such corporation is the subject of any trust and any trustee or beneficiary of the trust who is 21 years of age or older is ineligible to receive a distributor's license, the trustee, within 14 months after the effective date of the trust, shall sell the stock to a person eligible to receive a distributor's license and hold and disburse the proceeds in accordance with the terms of the trust. If any legal representatives, heirs, devisees or trustees fail, refuse or neglect to sell any stock as required by this subsection, the stock shall revert to and become the property of the corporation, and the corporation shall pay to the legal representatives, heirs, devisees or trustees the book value of the stock. During the period of 14 months prescribed by this subsection, the corporation shall not be denied a distributor's license or have its distributor's license revoked if the corporation meets all of the other requirements necessary to have a distributor's license;

(2) a copartnership, unless all of the copartners are eligible to receive a distributor's license; or

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(e) No nonbeverage user's license shall be issued to a corporation, if any officer, manager or director of the corporation or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a nonbeverage user's license for any reason other than citizenship and residence requirements.

(f) No microbrewery license or farm winery license shall be issued to a:

(1) Person who is not a resident of this state;

(2) person who has not been a resident of this state for at least four years immediately preceding the date of application;

(3) person who has beneficial interest in the manufacture, preparation or wholesaling of alcoholic beverages other than that produced by such brewery or winery;

(4) person, copartnership or association which has beneficial interest in any retailer licensed under this act or under K.S.A. 41-2702, and amendments thereto;

(5) copartnership, unless all of the copartners are qualified to obtain a license;

(6) corporation, unless stockholders owning in the aggregate 50% or more of the stock of the corporation would be eligible to receive such license and all other stockholders would be eligible to receive such license except for reason of citizenship or residency; or

(7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3), ~~(d)(4)~~, (f)(1) and (f)(2) shall not apply in determining eligibility for the 10th, or a subsequent, consecutive renewal of a license if the applicant has appointed a citizen of the United States who is a resident of Kansas as the applicant's agent and filed with the director a duly authenticated copy of a duly executed power of attorney, authorizing the agent to accept service of process from the director and the courts of this state and to exercise full authority, control and responsibility for the conduct of all business and transactions within the state relative to alcoholic liquor and the business licensed. The agent must be satisfactory to and approved by the director, except that the director shall not approve as an agent any person who:

(1) Has been convicted of a felony under the laws of this state, any other state or the United States;

(2) has had a license issued under the alcoholic liquor or cereal malt beverage laws of this or any other state revoked for cause, except that a person may be appointed as an agent if the person's license was revoked for the conviction of a misdemeanor and 10 years have lapsed since the date of the revocation;

(3) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(4) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes; or

(5) is less than 21 years of age.

Sec. 4. K.S.A. 41-2623 is hereby amended to read as follows: 41-2623. (a) No license shall be issued under the provisions of this act to:

(1) Any person described in subsection (a)(1), (2), (4), (5), (6), (7), (8), ~~(9)~~ ~~or (12)~~ or (9) of K.S.A. 41-311, and amendments thereto, except that the provisions of subsection (a)(7) of such section shall not apply to nor prohibit the issuance of a license for a class A club to an officer of a post home of a congressionally chartered service or fraternal organization, or a benevolent association or society thereof.

(2) A person who has had the person's license revoked for cause under the provisions of this act.

(3) A person who has not been a resident of this state for a period of at least one year immediately preceding the date of application.

(4) A person who has a beneficial interest in the manufacture, preparation or wholesaling or the retail sale of alcoholic liquors or a beneficial interest in any other club, drinking establishment or caterer licensed hereunder, except that:

(A) A license for premises located in a hotel may be granted to a person who has a beneficial interest in one or more other clubs or drinking establishments licensed hereunder if such other clubs or establishments are located in hotels.

(B) A license for a club or drinking establishment which is a restaurant may be issued to a person who has a beneficial interest in other clubs or drinking establishments which are restaurants.

(C) A caterer's license may be issued to a person who has a beneficial interest in a club or drinking establishment and a license for a club or drinking establishment may be issued to a person who has a beneficial interest in a caterer.

(D) A license for a class A club may be granted to an organization of which an officer, director or board member is a distributor or retailer licensed under the liquor control act if such distributor or retailer sells no alcoholic liquor to such club.

(E) On and after January 1, 1988, a license for a class B club or drinking establishment may be granted to a person who has a beneficial interest in a microbrewery or farm winery licensed pursuant to the Kansas liquor control act.

(5) A copartnership, unless all of the copartners are qualified to obtain a license.

(6) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than 5% of the common or preferred stock of such corporation would be ineligible to receive a license hereunder for any reason other than citizenship and residence requirements.

(7) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than 5% of the common or preferred stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 5% of the common or preferred stock, of a corporation which:

(A) Has had a license revoked under the provisions of the club and drinking establishment act; or

(B) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(8) A corporation organized under the laws of any state other than this state.

(9) A trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) of K.S.A. 41-311, and amendments thereto shall not apply in determining whether a beneficiary would be eligible for a license.

(b) No club or drinking establishment license shall be issued under the provisions of the club and drinking establishment act to:

(1) A person described in subsection (a)(11) of K.S.A. 41-311, and amendments thereto.

(2) A person who is not a resident of the county in which the premises sought to be licensed are located.”;

By renumbering sections accordingly;

On page 7, by striking all in lines 21 through 24; in line 30, following “41-311” by inserting “, as amended by section 1 of 2001 Senate Bill No. 178, 41-2623”;

In the title, in line 10, following “41-311” by inserting “, as amended by section 1 of 2001 Senate Bill No. 178, 41-2623”; and the bill be passed as amended.

Also **HB 2343**, as amended by House Committee, be amended on page 5, in line 30, by striking the semicolon and inserting “or”; in line 35, by striking “under the following conditions” and inserting “unless”; in line 43, by striking all following “(c)” and inserting “Nothing in subsection (b) shall be construed to preclude the board from: Limiting the scope”;

On page 6, in line 1, by striking the semicolon and inserting “or”; in line 3, by striking the comma and inserting a semicolon; in line 34, following the semicolon, by inserting “and”; in line 35, by striking “examination of prospective financial information” and inserting “engagement, except a compilation,”; in line 37, by striking “; and” and inserting a period; by striking all in lines 38 through 41;

On page 11, following line 14, by inserting:

“Sec. 7. K.S.A. 2000 Supp. 1-202 is hereby amended to read as follows: 1-202. (a) Each year the board shall meet and organize by electing a chairperson and a vice-chairperson from its membership. The board shall appoint a secretary, who need not be a member of the board. The board shall meet at the call of the chairperson but not less than twice each year and shall have a seal. The chairperson and the secretary of the board shall have the power to administer oaths.

(b) The board shall keep records of all proceedings and actions by and before it. In any proceedings in court, civil or criminal, arising out of or founded upon any provisions of this act, copies of such records which are certified as correct by the secretary of the board under the seal of the board shall be admissible in evidence and shall be prima facie evidence of the correctness of the contents thereof.

(c) The board may:

(1) provide for certification, notification and registration and issue permits to practice in accordance with the provisions of this act;

(2) adopt, amend and revoke rules and regulations governing its administration and enforcement of this act, including but not limited to: (A) Educational qualifications required under K.S.A. 1-302a and amendments thereto; (B) experience qualifications required under K.S.A. 1-302b and amendments thereto; (C) continuing professional education qualifications required under K.S.A. 1-310 and amendments thereto; (D) professional conduct directed to controlling the quality of services by licensees, and dealing among other things with independence, integrity and objectivity, competence and technical standards, responsibilities to the public and clients, commissions and referral fees, contingent fees, advertising, firm names, discreditable acts and communication with the board; (E) professional standards applicable to licensees; (F) the manner and circumstances of use of the titles “certified public accountant” and “C.P.A.”; (G) peer reviews required in K.S.A. 1-501 and amendments thereto; (H) the definition of substantial equivalency for purposes of K.S.A. 2000 Supp. 1-322 and amendments thereto; and (I) such other rules and regulations as the board may deem necessary to regulate the practice of certified public accountancy.

(d) The board shall:

(1) Keep accounts of its receipts and disbursements;

(2) keep a register of Kansas certificates issued by the board;

(3) deny, revoke, suspend and reinstate certificates, notifications, firm registrations and permits; and

(4) initiate proceedings, hold hearings and do all things necessary to regulate the practice of certified public accountancy.

(e) *Any statements on standards and guides imposed by the board shall meet the standards or guides developed for general application either by the American institute of certified public accountants or the division of accounts and reports which are in effect on July 1, 2001, or any later version as adopted by the board in rules and regulations.*

~~(e)~~ (f) A majority of the board shall constitute a quorum for the transaction of any business at any meeting of the board.”;

By renumbering sections 7 and 8 as sections 8 and 9;

Also on page 11, in line 15, following “Supp.” by inserting “1-202.”;

In the title, in line 10, by striking “related” and inserting “relating to the board of accountancy; relating”; in line 11, following “Supp.” by inserting “1-202.”; and the bill be passed as amended.

Committee on **Natural Resources** recommends **HB 2048**; **HB 2133**, **HB 2234**, both as amended by House Committee, be passed.

Also **HCR 5008** be adopted.

**HB 2047**, as amended by House Committee, be amended on page 2, in line 40, by striking “may” and inserting “shall”;

On page 3, in line 26, by striking “and”; in line 29, by striking the period and inserting: “; and

(9) the operation of safe deposit accounts by the bank shall not result in an increase in the amount of net consumptive use of water in any hydrologic unit, computed on a long-term rolling average compared to a representative past period.”;

On page 4, in line 36, by striking all after "bank"; by striking all in lines 37 and 38; in line 39, by striking all before the semicolon;

On page 5, in line 4, after the semicolon, by inserting "and"; by striking all in lines 7 through 21; in line 26, by striking the period and inserting: "; and

(11) the charter provides a procedure for the dissolution of the bank, specifically stating how the remaining deposits and safe deposit accounts will be distributed.";

Also on page 5, in line 36, by striking "shall" where it appears for the first time and inserting "may";

On page 6, in line 31, by striking "geological survey" and inserting "water office"; in line 33, by striking "geological survey" and inserting "water office"; in line 35, by striking "two" and inserting: "the director of the Kansas geological survey, or the director's designee;

(3) four";

Also on page 6, in line 37, by striking "and"; in line 38, by striking "(3)" and inserting "(4)"; also in line 38, by striking "Two mem-"; by striking all in lines 39 and 40; in line 41, by striking all before "member" and inserting "A"; in line 42, by striking "(C)" and inserting "(B)"; in line 43, by striking "(D)" and inserting "(C)";

On page 7, in line 2, by striking "(E)"; in line 3, by striking "one" and inserting the following:

"(5) one";

Also on page 7, in line 4, by striking "; and (F) one" and inserting: "selected by the board of directors of such district; and

(6) one";

Also on page 7, in line 6, before the period, by inserting: "selected by the board of directors of such district"; in line 7, by striking "geological survey" and inserting "water office"; in line 26, by striking "and"; in line 27, after "(5)" by inserting: "the bank's impact on the entire area of all hydrologic units any parts of which are encompassed in the bank's boundary; and

(6)";

On page 8, in line 15, by striking all before "for"; by striking all in lines 38 through 43;

On page 9, by striking all in lines 1 through 15;

And by renumbering the remaining section accordingly; and the bill be passed as amended.

**HB 2098**, as further amended by House Committee, be amended on page 7, in line 24, after the stricken "or" by inserting "or";

On page 9, in line 33, before "been" by inserting the following: "been convicted of a felony involving the use of violence or the use of weapons;

(4)";

Also on page 9, in line 33, before "felony", by striking "a" and inserting "any other"; in line 35, by striking "(4)" and inserting "(5)"; by striking all in lines 36 through 41; in line 42, by striking "(q)" and inserting "(p)";

On page 10, in line 4, by striking "(r)" and inserting "(q)"; and the bill be passed as amended.

**HB 2134**, as amended by House Committee, be amended on page 12, in line 4, after the period, by inserting "The secretary may deny such division."; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 85** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL No. 85," as follows:

"Substitute for SENATE BILL No. 85

By Committee on Ways and Means

"AN ACT concerning docket fees; relating to compensation for certain nonjudicial employees in the judicial branch; amending K.S.A. 21-4610a, 28-170 and 60-3005 and K.S.A. 2000 Supp. 20-1a14, 20-367, 21-4619, 22-2410, 59-104, 60-1621, 60-2001 and 60-4001 and repealing the existing sections; also repealing K.S.A. 2000 Supp. 20-367b and 61-2501.";

and the substitute bill be passed.

Also **HB 2017** be amended by substituting a new bill to be designated as "Substitute for HOUSE BILL No. 2017," as follows:

“SENATE Substitute for HOUSE BILL No. 2017

By Committee on Ways and Means

“AN ACT establishing the Kansas postsecondary education savings expense fund; amending K.S.A. 2000 Supp. 75-648 and repealing the existing section.”;

and the substitute bill be passed.

**SB 304** be amended on page 3, in line 36, by striking “\$2,311,050” and inserting “\$2,110,070”;

On page 5, in line 36, by striking “(A)” where it appears for the last time;

On page 7, in line 42, after “after” by inserting “June 10, 2001, and”; and the bill be passed as amended.

**HB 2189**, as amended by House Committee, be amended on page 2, in line 9, by striking “or suffered a fatal”; in line 10, by striking all before “while” and inserting: “as the result of injury sustained”; in line 18, by striking “or permanently and totally disabled”; and the bill be passed as amended.

#### REPORT ON ENGROSSED BILLS

**SB 110, SB 129, SB 178, SB 191, SB 322, SB 333** reported correctly engrossed March 16, 2001.

#### REPORT ON ENROLLED BILLS

**SB 5, SB 59, SB 70, SB 130, SB 142, SB 162, SB 196** reported correctly enrolled, properly signed and presented to the Governor on March 16, 2001.

On motion of Senator Oleen the Senate adjourned until 2:30 p.m., Tuesday, March 20, 2001.

HELEN A. MORELAND, *Journal Clerk.*

PAT SAVILLE, *Secretary of Senate.*

