

Journal of the Senate

THIRTY-EIGHTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Friday, March 5, 2010—8:00 a.m.

The Senate was called to order by President Stephen Morris.
The roll was called with twenty-eight senators present.
Senators Abrams, Barnett, Brownlee, Brungardt, Colyer, Huelskamp, Kelsey, Masterson,
Pyle, Steineger, Teichman and Wagle were excused.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

If You should ask us for prayer requests,
I wonder which one would be the best?

Request of President Morris:

“The prayer that would mean the most to me
Is that the Speaker and I would always agree.”

Request of the Majority Leader:

“Some wealthy person with lots of talents
Will promise to make each budget balance.”

Request of the Minority Leader:

“In the next election there’ll be lots of ‘buzzin’,
And the number of Democrats will increase by a dozen.”

Request of the Senate Secretary:

“That my staff continues to show up on time,
And the Reader will read and the Chaplain will rhyme.”

Request of the Sergeant-at-Arms:

“That none of my guys go asleep in their chairs,
And none of them ever fall down the stairs.”

Request of the Security Guard:

“When one of the Senators breaks all the rules,
Please let it happen on April Fool.”

Request of the Reader:

“Help me not to skip any names.
And not mispronounce Mr. Coppinmacgrame.”

Request of the Chaplain:

“Help me never ever to play hooky,
Especially when I miss some chocolate cookies.”

I close with this plea, Lord:

Assure me that it’s just a rumor
That You don’t have a sense of humor.

(Because I'm still praying
in the Name of Christ)

AMEN

The Pledge of Allegiance was led by President Stephen Morris.

PRESENTATION OF PETITIONS

The following petition was presented, read and filed:

SP 1, by Senator Roger Reitz: A petition submitted by Nila Ridings, Resident, Quivira Falls, Overland Park, Kansas, stating support of Senate Bill 470 - Kansas uniform common interest owners bill of rights, signed by 100 citizens of the greater Kansas City area.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Federal and State Affairs: **HB 2649**.

Local Government: **HB 2698**.

Ways and Means: **SB 564; HB 2544**.

REPORT ON ENROLLED BILLS

SR 1827, SR 1829, SR 1830, SR 1831, SR 1832 reported correctly enrolled, properly signed and presented to the Secretary of the Senate on March 5, 2010.

REPORTS OF STANDING COMMITTEES

Committee on **Federal and State Affairs** recommends **SB 454** be amended on page 1, after line 14, by inserting the following:

“New Section 1. (a) The director shall issue a drinking establishment license to any municipal corporation that qualifies under K.S.A. 41-2601 et seq., and amendments thereto, for the premises specified in the license application.

(b) Municipal corporations applying for a drinking establishment license shall not be subject to the provisions of subsection (a)(1) or (a)(3) through (9) of K.S.A. 41-2623, and amendments thereto.”;

And by renumbering the remaining sections accordingly;

On page 3, in line 33, by striking “\$6,000” and inserting “\$5,000”; in line 36, by striking “\$500” and inserting “\$400”; in line 37, by striking “\$1,000” and inserting “\$800”; in line 38, by striking “\$2,000” and inserting “\$1,400”; in line 39, by striking “\$3,000” and inserting “\$2,000”; in line 40, by striking “\$4,000” and inserting “\$2,600”; in line 41, by striking “\$5,000” and inserting “\$2,800”; in line 42, by striking “\$6,000” and inserting “\$3,200”;

On page 4, in line 4, by striking “\$3,000” and inserting “\$2,000”; in line 6, by striking “\$1,500” and inserting “\$1,000”; in line 8, by striking “\$600” and inserting “\$500”; in line 9, by striking “\$300” and inserting “\$100”; in line 11, by striking “\$300” and inserting “\$200”; in line 14, by striking “\$3,000” and inserting “\$2,000”; in line 17, by striking “\$3,000” and inserting “\$2,000”; in line 21, by striking “\$3,000” and inserting “\$2,000”; in line 23, by striking “\$50” and inserting “\$20”; in line 24, by striking “\$150” and inserting “\$100”; in line 25, by striking “\$300” and inserting “\$200”; in line 26, by striking “\$500” and inserting “\$400”; in line 27, by striking “\$1,500” and inserting “\$1,000”; in line 31, by striking “an annual” and inserting “a biennial”; in line 36, by striking “an annual” and inserting “a biennial”;

On page 5, in line 1, by striking “\$1,000” and inserting “\$500”; in line 3, by striking “shall” and inserting “may”; in line 4, by striking “an annual” and inserting “a biennial”; in line 5, by striking “\$100 nor more than \$300” and inserting “\$200 nor more than \$600”; in line 8, by striking “shall” and inserting “may”; in line 9, by striking “an annual” and inserting “a biennial”; in line 10, by striking “\$100 nor more than \$300” and inserting “\$200 nor more than \$600”; in line 20, after the period, by inserting “Any extension of the license term by the director pursuant to this section shall automatically extend the due date for payment by the licensee of any occupation or license tax levied by a city or township pursuant to this section by the same number of days the director has extended the license term.”;

On page 9, in line 31, by striking "\$100" and inserting "\$50"; also in line 31, by striking "\$50" and inserting "\$10";

On page 10, in line 3, by striking all after "(b)"; by striking all in lines 4 through 23 and inserting the following: "Each applicant shall submit to the division of alcoholic beverage control the full amount of the application fee and:

(1) The full amount of the license fee required to be paid for the kind of license specified in the application; or

(2) one-half of the full amount of the license fee required to be paid for the kind of license specified in the application.

(c) If the applicant elects to pay only one-half of the license fee pursuant to subsection (b)(2), the remaining one-half of the license fee plus 10% of such remaining balance shall be due and payable one year from the date of issuance of the license. Notwithstanding any other provision of law, failure to pay the full amount due under this paragraph on the date it is due shall result in the automatic cancellation of such license for the remainder of the license term. The director may, at the director's sole discretion and after examination of the circumstances, extend the date payment is due pursuant to this paragraph for not more than 30 days beyond the date such payment is originally due.

(d) Any license fee paid by an applicant shall be returned to the applicant if the application is denied.

(e) Payment of all fees required to be paid pursuant to this section may be made by personal, certified or cashier's check, United States post office money order, debit or credit card or cash, or by electronic payment authorized by the applicant in a manner prescribed by the director.;

And by redesignating the remaining subsections accordingly;

On page 11, by striking all in lines 31 and 32; in line 33, by striking all before "The" and inserting "When the licensee pays the full amount of the license fee upon application and is prevented from operating under such license in accordance with the provisions of this act for the entire second year of the license term, a refund shall be made of one-half of the license fee paid by such licensee.;" in line 36, by striking all after "of" where it appears for the first time and inserting "one-half of the license fee paid when"; in line 37, after "license" by inserting "for the entire second year of the license term";

On page 13, after line 30, by inserting the following:

"Sec. 8. K.S.A. 41-2601 is hereby amended to read as follows: 41-2601. As used in the club and drinking establishment act:

(a) The following terms shall have the meanings provided by K.S.A. 41-102 and amendments thereto: (1) "Alcoholic liquor"; (2) "director"; (3) "original package"; (4) "person"; (5) "sale"; and (6) "to sell."

(b) "Beneficial interest" shall not include any interest a person may have as owner, operator, lessee or franchise holder of a licensed hotel or motel on the premises of which a club or drinking establishment is located.

(c) "Caterer" means an individual, partnership or corporation which sells alcoholic liquor by the individual drink, and provides services related to the serving thereof, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit, selling alcoholic liquor in accordance with the terms of such permit.

(d) "Cereal malt beverage" has the meaning provided by K.S.A. 41-2701 and amendments thereto.

(e) "Class A club" means a premises which is owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the director, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members) and their families and guests accompanying them.

(f) "Class B club" means a premises operated for profit by a corporation, partnership or individual, to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment.

(g) "Club" means a class A or class B club.

(h) "Minibar" means a closed cabinet, whether nonrefrigerated or wholly or partially refrigerated, access to the interior of which is restricted by means of a locking device which requires the use of a key, magnetic card or similar device.

(i) "Drinking establishment" means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold.

(j) "Food" means any raw, cooked or processed edible substance or ingredient, other than alcoholic liquor or cereal malt beverage, used or intended for use or for sale, in whole or in part, for human consumption.

(k) "Food service establishment" has the meaning provided by K.S.A. 36-501 and amendments thereto.

(l) "Hotel" has the meaning provided by K.S.A. 36-501 and amendments thereto.

(m) "Minor" means a person under 21 years of age.

(n) "Morals charge" means a charge involving prostitution; procuring any person; soliciting of a child under 18 years of age for any immoral act involving sex; possession or sale of narcotics, marijuana, amphetamines or barbiturates; rape; incest; gambling; illegal cohabitation; adultery; bigamy; or a crime against nature.

(o) "*Municipal corporation*" means the governing body of any county or city.

~~(p)~~ (p) "Restaurant" means:

(1) In the case of a club, a licensed food service establishment which, as determined by the director, derives from sales of food for consumption on the licensed club premises not less than 50% of its gross receipts from all sales of food and beverages on such premises in a 12-month period;

(2) in the case of a drinking establishment subject to a food sales requirement under K.S.A. 41-2642 and amendments thereto, a licensed food service establishment which, as determined by the director, derives from sales of food for consumption on the licensed drinking establishment premises not less than 30% of its gross receipts from all sales of food and beverages on such premises in a 12-month period; and

(3) in the case of a drinking establishment subject to no food sales requirement under K.S.A. 41-2642 and amendments thereto, a licensed food service establishment.

~~(q)~~ (q) "RV resort" means premises where a place to park recreational vehicles, as defined in K.S.A. 75-1212 and amendments thereto, is offered for pay, primarily to transient guests, for overnight or longer use while such recreational vehicles are used as sleeping or living accommodations.

~~(r)~~ (r) "Secretary" means the secretary of revenue.

~~(s)~~ (s) "Temporary permit" means a temporary permit issued pursuant to K.S.A. 41-2645 and amendments thereto.

Sec. 9. K.S.A. 41-2605 is hereby amended to read as follows: 41-2605. The director shall issue ~~an annual~~ a license to each applicant for licensure which qualifies under this act. Such license shall be issued in the name of the corporation, *municipal corporation*, partners, trustees, association officers or individual applying.;

And by renumbering the remaining sections accordingly;

Also on page 13, in line 36, by striking "\$100" and inserting "\$50"; in line 37, by striking "\$50" and inserting "\$10";

On page 14, in line 5, by striking all after "(c)"; by striking all in lines 6 through 25 and inserting the following: "Each applicant shall submit to the division of alcoholic beverage control the full amount of the application fee and:

(1) The full amount of the license fee required to be paid for the kind of license specified in the application; or

(2) one-half of the full amount of the license fee required to be paid for the kind of license specified in the application.

(d) If the applicant elects to pay only one-half of the license fee pursuant to subsection (c)(2), the remaining one-half of the license fee plus 10% of such remaining balance shall be due and payable one year from the date of issuance of the license. Notwithstanding any other provision of law, failure to pay the full amount due under this paragraph on the date it is due shall result in the automatic cancellation of such license for the remainder of the license term. The director may, at the director's sole discretion and after examination of the

circumstances, extend the date payment is due pursuant to this paragraph for not more than 30 days beyond the date such payment is originally due.

(e) Any license fee paid by an applicant shall be returned to the applicant if the application is denied.

(f) Payment of all fees required to be paid pursuant to this section may be made by personal, certified or cashier's check, United States post office money order, debit or credit card or cash, or by electronic payment authorized by the applicant in a manner prescribed by the director.;

And by redesignating the remaining subsection accordingly;

Also on page 14, in line 38, by striking "A refund may be made of that portion of the"; by striking all in lines 39 and 40; in line 41, by striking all before "The" and inserting "When the licensee pays the full amount of the license fee upon application and is prevented from operating under such license in accordance with the provisions of this act for the entire second year of the license term, a refund shall be made of one-half of the license fee paid by such licensee."; in line 43, by striking "the" where it appears for the last time;

On page 15, in line 1, by striking all before "the" and inserting "one-half of the license fee paid when"; in line 2, after "license" where it appears for the first time, by inserting "for the entire second year of the license term"; in line 7, after the period, by inserting "Any extension of the license term by the director pursuant to this section shall automatically extend the due date for payment by the licensee of any occupation or license tax levied by a city or township pursuant to K.S.A. 41-2622, and amendments thereto, by the same number of days the director has extended the license term."; in line 15, by striking "\$600" and inserting "\$500"; in line 18, by striking "\$1,500" and inserting "\$1,000"; in line 21, by striking "\$3,000" and inserting "\$2,000"; in line 22, by striking "\$3,000" and inserting "\$2,000"; in line 23, by striking "\$1,500" and inserting "\$1,000"; in line 25, by striking "\$4,000" and inserting "\$3,000"; in line 26, by striking "\$1,500" and inserting "\$1,000"; in line 27, by striking "\$2,000" and inserting "\$1,500"; in line 30, by striking "\$5,000" and inserting "\$3,500"; in line 38, by striking "\$3,000" and inserting "\$2,000"; in line 40, by striking "\$8,000" and inserting "\$6,000"; in line 41, by striking "\$4,000" and inserting "\$3,000";

On page 16, in line 1, by striking "\$10,000" and inserting "\$7,000"; in line 6, by striking "an annual" and inserting "a biennial"; in line 7, by striking "\$100"; in line 8, by striking all before the period and inserting "\$200 nor more than \$500";

On page 18, in line 24, after the period, by inserting "Any extension of the license term by the director pursuant to this section shall automatically extend the due date for payment by the licensee of any occupation or license tax levied by a city or township pursuant to K.S.A. 41-2622, and amendments thereto, by the same number of days the director has extended the license term."; in line 42, by striking all after "(f)"; by striking all in line 43;

On page 19, by striking all in line 1; in line 2, by striking all before "The" and inserting "When the licensee pays the full amount of the license fee upon application and is prevented from operating under such license in accordance with the provisions of this act for the entire second year of the license term, a refund shall be made of one-half of the license fee paid by such licensee."; in line 4, by striking all after "of" where it appears for the last time; in line 5, by striking all before "the" and inserting "one-half of the license fee paid when"; in line 6, before "as" by inserting "for the entire second year of the license term"; in line 9, after "41-326," by inserting "41-2601, 41-2605,";

In the title, in line 10, after "41-326," by inserting "41-2601, 41-2605,"; and the bill be passed as amended.

On motion of Senator D. Schmidt the Senate adjourned until 2:30 p.m., Monday, March 8, 2010.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks.*
PAT SAVILLE, *Secretary of the Senate.*

