

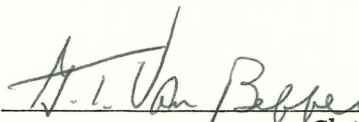
MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

Held in Room 510-S, at the Statehouse at 2:45 ~~a.m.~~/p. m., on February 25, 1975.

All members were present ~~except~~

The next meeting of the Committee will be held at 2:45 ~~a.m.~~/p. m., on February 26, 1975.

These minutes of the meeting held on February 24, 1975 were considered, ~~corrected~~ and approved.



Chairman

The conferees appearing before the Committee were:

- Rep. Neal Whitaker
- Rev. Richard Taylor
- Mr. Ray Weide, Hiawatha
- Rep. Glee Jones
- Rep. David Heinemann

The meeting was called to order by the Chairman, who introduced Rep. Whitaker to discuss his HB 2367. He explained that the existing law is unenforceable according to the ABC, and the problem will become increasingly unenforceable because 501 (c) exemptions are going to be withdrawn and shortly there will be no Class A clubs. He distributed articles to substantiate his allegations. See Exhibit. Mr. Whitaker also distributed a proposed amendment to the bill, which he explained would still allow the consumption of alcoholic beverages in residences and motel rooms. He stated that Kansas has a hypocritical situation and chose to cite Mitchell County as an example. He stated that the people voted 1397 to 2248 against the Constitutional amendment, so that it could be assumed that area is "dry". In fact, he stated there are seven Class A clubs operating in the area and there is no way the 1397 people who voted "wet" could keep these clubs solvent, so obviously some of the others are supporting them too.

It was moved by Mr. Hayes and seconded by Mr. Cooper, that the proposed amendment be adopted. Motion carried without dissent.

Mr. Morris inquired if Mr. Whitaker had an outcry from the dry forces wanting this, and he replied that he had received two letters from people who had written him previously, and that he had received several telephone calls.

The Rev. Richard Taylor testified that the problem with this kind of bill is that prior to 1948 everyone said prohibition was unenforceable and bottle stores were legalized. In 1965 everyone said private club laws were unenforceable, and there was the vote to legalize liquor by the drink. He stated that he believes the only way these people would be law abiding is if there was no law. A member inquired if Mr. Taylor supported this bill and Mr. Taylor stated that if by its passage, it is the intention of relaxing consumption, he is not in favor.

Mr. Ray Weide, Hiawatha, Kansas, appeared in support of HB 2444. He stated that he has been an educator for many years and that the drinking problem among high school students has become increasingly worse. He

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

gave statistics concerning the drinking habits of high school seniors, and stated that he believes the age of 18 for purchase of beer is too young. He stated that tavern owners have told him that they take the attitude that they just as well sell directly to those under 18 because someone else will buy it for them. Also, he stated that students tell him that if they have the money they can get beer without any problem. He explained that his concern is that these young people do not yet have the maturity to deal with drinking.

Mr. D. Miller inquired if Mr. Weide would support legislation exempting people under 21 from the draft, incurring debts, voting and getting married. Mr. Weide stated that he felt drafting 18 year olds was a cruel hoax; but further, Mr. Weide stated that these other subjects were not for consideration at this time.

Rep. Jones appeared in support of her bill, explaining that she had introduced it at the request of several persons in her area--people who work full time with youth. She quoted David Levinson who claims that while parents are worrying about their children becoming "potheads" they are quietly becoming alcoholics. Mr. R. Miller inquired if Rep. Jones would support not licensing drivers until the age of 18, and Mrs. Jones asked to postpone her reply.

The Chairman stated that both witnesses have overlooked the law enforcement problem that the law has created in border counties; that Missouri has a 21 year limit and members should see what week-ends are like in for example Wathena.

Rep. Heinemann appeared to discuss his HB 2336. He explained this is a statute relating to architects; that it affects the building of homes and buildings of various kinds. He stated that if a building exceeds the cost of \$30,000 they must have an architects seal; that some communities are getting around this by saying the costs are \$29,999 and then they sell for \$50,000. He explained that the other changes came from the Revisor's office; that the law is very difficult to understand and this is an effort to clarify the statutes. Rep. Hayes stated that he felt there is more to be looked at than the bill alone, and Mr. Heinemann stated he would not object to the Committee undertaking alteration; that this was a last minute drafting job.

The Chairman stated that HB 2180 has had previous committee discussion and called for action. It was moved by Mr. Hayes and seconded by Mr. Feleciano that the bill be reported adversely. Motion carried by a majority vote.

Mr. Sellers inquired about the Committee action concerning the Fire Marshall's Rules and Regulations, and the Chairman explained that the Revisor is working on it.

Mr. R. Miller inquired about the fiscal note on HB 2468, the proposed Futures Commission, and although no fiscal note was available, it was estimated to be around \$1400.00 per annum for expenses and per diem.

Members expressed sympathy with the concerns of the sponsor but felt that a good many things are "in the mill" now and that the Governor has recommended cutting down on new commissions and agencies, and that it may not be a good time to initiate a new program.

It was moved by Mr. Feleciano that an interim study be conducted, which motion was seconded by Mr. Cooper. After additional discussion, Mr. Lindahl made a substitute motion that HB 2468 be reported adversely. Motion was seconded by Mr. Sellers. Motion carried 11 yes to 7 no.

With regard to HB 2425, Mr. Morris stated he had the impression that there might be some amendments to be considered. The Chairman agreed that it might be more practical to provide for court rather than criminal relief. Mr. Morris explained that this was one of the things that was done at the deadline and he would welcome suggestions.

Mr. D. Miller inquired if discussion could be had on HB 2236. Mr. R. Miller stated he was going to vote against the bill, because people would be coming forward with a "state" everything. Mr. Morris stated that this can get so involved, and while he was impressed with the research the young people had done, he felt it inappropriate to pass such a bill.

It was moved by Mr. Cooper that HB 2236 be tabled, and a Resolution be introduced commending the young people for their research and interest in state government. Motion was seconded by Mr. Mikesic and carried by a majority vote.

It was moved by Mr. Ward and seconded by D. Miller that the minutes as presented be approved. Motion carried.

The meeting was adjourned.

2-25

Committee on Federal and State Affairs

Proposed amendment to House Bill No. 2367

On page 1, in line 4, after the word "property", by inserting
", used primarily for residential purposes,"; also in line 1, by
striking the word "occupying" and inserting in lieu thereof
"residing on"; by striking all of line 19;

On page 2, by striking all of lines 1 to 4, inclusive; and
In the title, line 4, by striking "41-2602,".

Liquor by Drink Available

In an attempt to determine if Class B clubs in Wichita comply with state regulations, three Wichita Eagle-Beacon staff writers visited the clubs and sought memberships. Roberta French visited two clubs, Jane Floerchinger, three, and Betty Wells the remainder. Following is what they found.

By BETTY WELLS
Staff Writer

Liquor by the drink is available in Wichita.

So is immediate membership to Class B private clubs.

More than half the city's Class B clubs granted reporters required memberships and drinks. Many do not charge the membership fee.

Customers must provide the liquor in Class B clubs, rather than buy into a liquor pool, as is the law in Class A clubs.

Two Class B clubs served drinks when no liquor was provided by the customer.

Wichita has 31 Class B clubs. By state law, Class B clubs — or commercial clubs — must require applicants to pay a minimum \$10 membership fee. The law also requires that anyone joining a Class B club must wait at least 30 days before purchasing a drink in that club.

In an effort to discover how many of the 31 clubs comply with these regulations, Eagle-Beacon reporters acted as customers. All clubs, except three which were closed upon at least four attempted visits, were checked.

Club bartenders were simply asked if a membership and a drink were available.

A check of the clubs shows that:

- A total of 14 granted memberships and sold drinks immediately upon request.

- Free memberships were given at eight of the clubs.

- Two of the clubs accepted the customer as a "guest" for 30 days, but said it would not be required that the new member attend with a regular member.

- Five clubs charged the required membership fee.

Liquor by the drink was sold at the T-Bird Club, 2440 S. Oliver, and Gertie's Rendezvous, 1030 S. Broadway. The customer initially provided the liquor for the drinks at the clubs. Visits later proved the bottle was unnecessary. "Do you know anyone who belongs to the club?" asked the bartender at the T-Bird.

"No."

"Well, you know me, now. So if anyone asks you tell them that. The reason you need to know someone is that if you do, our memberships are only \$3. But if you don't know anybody, it costs \$10."

The customer ordered a drink. "That's twenty-five cents," the bartender said.

"Isn't that a little cheap?"

"Well, it's fifty cents if you don't have your own bottle with you."

At Gertie's the conversation went much the same.

A membership was purchased for \$2.30. (The bartender didn't know why that amount was required.) A drink was requested.

"Uh, that's thirty-five cents," she said. "If you don't have your own bottle it's eighty-five cents. So you don't have to worry if you want to come in sometime without one. Of course it is a little more expensive if you drink off the bar."

Two days later the customer purchased a drink, mix and liquor, at the Thunderbird for 50 cents; at Gertie's for 35 cents.

"Guest" memberships were granted at the Driftwood Club, 1204 E. MacArthur, and the Alibi Club, 1552 S. Broadway.

State law allows the manager or employes of a Class B club to have guests — and serve them drinks at no charge — if the customer is known by those persons.

At the Driftwood the manager treated the customer — a total stranger — to a beer. No fee was charged.

At the Alibi the customer paid the \$10 fee and purchased a drink. The manager said the reporter could return as a guest during the 30-day period.

A similar situation occurred at Angelo's Annex, 2710 Amidon. The reporter was not known by employes there. A \$10 fee was paid, and two drinks given. The bartender said the new member would not be able to purchase a drink for 30 days.

At least one of the clubs attempted to screen applicants before giving immediate memberships.

"Can I get a membership and a drink here?" was asked at The Place, 4859 E. Harry.

"After I ask you three questions," the bartender said. "Are you a member of the vice squad?"

"No."

"The police department?"

"No."

"The ABC (Alcoholic Beverage and Control)?"

"No."

No fee was charged for membership.

"Since you're single, you can come in and get your setups free," the bartender

said. "But if you come in with a guy, or if a guy comes over and sits by you, he has to pay."

A free setup, or mix for the drink, also was provided at the Troubadour Club, 9100 E. Kellogg. The club, located in the Ramada Inn Tudor East, is allowed by law to grant temporary memberships to registered guests — because the club is in a motel.

Guests there are not subject to a waiting period or fee, unless those rules are established by the individual club.

Guests must provide the liquor.

But the customer, a resident of Wichita, was charged a \$10 membership fee. The setup was free, "because we don't get enough women in here," the bartender said.

A bartender at Dick's Lounge, 1506 W. Douglas, said the owner of the club pays applicants \$7 for advertising.

"You only need to pay \$3 for the card, because we pay you \$7 for advertising — telling someone about the club."

One club that granted a membership and served a drink to a reporter has since been suspended because of the practice.

The state division of Alcoholic Beverage Control suspended the license of Frontier Supper Club, 3803 W. Maple, on Nov. 8, for 10 days. The suspension was for failure to require the fee or waiting period.

The supper club charged the reporter the \$10 fee, but served a drink immediately.

Other clubs which granted immediate memberships and charged the full fee include Jazz Oasis, 3348 N. Broadway; Jack's by the Tracks, 1534 Ida, and the Bus Station, 1117 E. Pawnee.

The clubs which were closed upon repeated visits were Tijuana Club, 3103 N. Broadway, Zodiac Supper Club, 1802 E. 13th, and the Boogie Down Club, 2459 N. Hillside.

The clubs which did not grant memberships were the Pheasant Lounge, 115 E. Murdock; Crown Too Club, 3231 S. Exposition; Edge Inn, 2009 S. Oliver; N&O's Club, 925 E. Mt. Vernon; El Tenampa Bar, 2255 N. Broadway; The Clubhouse, 1106 Pattie; Olympic Club, 1008 S. Meridian; Bourbon Barrel, 319 E. Kellogg, and Carousel Club, 1450 S. Washington.

A man at the Olympic Club, apparently the manager or owner, apologized for refusing immediate membership.

"You can come back in 30 days, and I'm sorry for the delay. But I can't let you in for a drink, because it's against state law."

2-25

Laws Don't Work, ABC Director Says

Kansas' liquor laws just don't work.

Or at least E.V.D. Murphy says they don't work — and he's director of the Alcoholic Beverage Control (ABC) division of the state department of revenue.

As told by Murphy, the state's private club law provides for two type of clubs.

There are Class A (nonprofit) and Class B (commercial).

The nonprofit clubs have liquor pooling privileges. Such clubs do not have to charge a membership fee and do not have to require applicants wait before becoming members.

A member buys into a "pool" at Class A clubs and pays the club to mix him a drink with his own liquor.

Class B clubs, in comparison, are required by law to charge a minimum \$10 membership fee and must require prospective members wait 30 days before purchasing a drink.

Class B clubs are called bottle clubs, because members must bring with them each type of liquor they plan to consume.

Legitimate nonprofit clubs must have a purpose for existing and members must have a common interest. Examples are veteran's groups, lodges and country clubs, Murphy said.

The tax-exempt nonprofit status of the state's Class A clubs is being scrutinized by the ABC and the IRS.

But Murphy said if the "bogies" or illegitimate Class

A clubs disappear, the laws pertaining to Class B clubs will be doubly hard to enforce.

"It's almost impossible for anyone to get a Class A license now," Murphy said. "They're turning to Class B clubs. And we can't enforce the regulations for Class B clubs."

Murphy said he was not surprised more than half of Wichita's Class B clubs granted reporters immediate membership.

"I don't think that's a high percentage for Wichita," he said. "I've never been impressed with a lot of these small club operators. A lot of them have trouble making it and are ignorant of the law."

The only way to enforce the Class B law is to use undercover men, Murphy said.

"We just do not have the staff to enforce them effectively," he said. "We don't have the staff and the local police don't have the staff."

"The regulatory 30-day waiting period is practically unenforceable anyway. The club people back date the membership cards."

Bill Schutte, ABC attorney, said bottle clubs are allowed to have guests. The manager or employes may serve a guest as long as he is registered as such and as long as the acquaintance is established.

"They can't treat someone as a guest if the person has just walked in off the street," Schutte said. "But how do you prove they never knew each other?"

Guests of the manager or employe must be given a full drink, too, he said. "They cannot just give the setup and charge for liquor. The whole thing has to be free."

Class B clubs in motels or hotels may elect to do away with the waiting period and membership fee, he said.

"They can give temporary membership to a registered guest, and can charge or not, whichever is their rule. But the guest still must go out and purchase his liquor, then bring it back into the club."

Class B clubs are required to register members, so the \$10 paid by each member can be taxed.

"Because of that, some clubs will charge members, then not register them. But if they register the member and don't charge them, they're paying taxes on money they never got," Murphy said.

"But these laws will be violated as long as we have them," Murphy said. "The club people will violate them because the public is with them. As long as we have these type laws we'll have these type violations."

"Nobody seems to be too concerned with these laws but us."

Murphy said recent revocation of Class A licenses might bring about a change.

Most of the clubs in the state are nonprofit, but the legality of their status is being questioned.

The "nonprofit" clubs are run to enhance a commercial business, Murphy said.

Many times a restaurant, hotel or motel will form an associated corporation, obtain an IRS tax exemption status and then seek a nonprofit class A license.

The private club won't show a profit, but the commercial business will, Murphy said.

"Another thing we're fighting is the spin-off concept," Murphy said. "We're moving against these associations, as they're called, that have two or more businesses going."

Murphy said the tax-exempt status of many clubs is being withdrawn by the IRS. "And it's going to be impossible for anyone to get one, unless it truly is a nonprofit organization."

2-25

Beloit--Mitchell County

THE BELOIT COUNTRY CLUB, INC. Beloit Township	"A"	Yes 1,397
THE BELOIT ELKS CLUB, INC. 121 W. Court	"A"	NO 2,248
SOLOMON VALLEY AERIE #3507 F.O.E. 212 S. Mill Box 93	"A"	
GOLDEN OX CLUB, INC. RR #2 Asherville Rd.	"A"	
THE BELOIT KNIGHTS OF COLUMBUS HOME ASSOC., INC. 123 W. Court	"A"	
XXXXXX MITCHELL COUNTY POST #6242 V.F.W. 102 E. South	"A"	
AMERICAN LEGION CLUB, Post #57 Route 1	"A"	