

M I N U T E S

SPECIAL COMMITTEE ON FEDERAL AND STATE AFFAIRS

August 24-25, 1976
Room 519-S

Members Present:

Representative Lloyd D. Buzzi, Chairman
Senator Neil H. Arasmith, Vice Chairman
Senator Arden Booth
Senator James Parrish
Representative Fred Harris
Representative Joseph Mikesic
Representative Earl Ward
Representative Tom Slattery
Representative Jack Rodrock
Representative Ken Marshall
Senator Ed Reilly was excused.

Staff Present:

J. Russell Mills, Jr., Kansas Legislative Research Department
Don Jacka, Kansas Legislative Research Department
Mary Torrence, Revisor of Statutes Office

Others Present:

Mr. E.V.D. Murphy, Alcoholic Beverage Control Division, Topeka
Mr. John A. Webb, Lawrence
Mr. William M. Schutte, Assistant Attorney General, Topeka
Mr. Gene Baird, Liquor Wholesaler, Johnson County
Mr. Gary Kershner, Kansas Wine and Spirits Wholesalers Association, Topeka
Mr. Samuel E. Lux, III, Wholesale Distributor, Topeka
Mr. William J. McNeive, Wholesale Distributors, Topeka
Mr. Tim M. O'Hara, Jack Daniels Distillery, Prairie Village
Mr. William H. Abram, U.S. Brewers Association, St. Louis
Mr. Mark Boranyak, Kansas Wholesalers of Malt Beverages, Topeka
Mr. Albert Lollar, Kansas Retail Liquor Dealers Association, Topeka
Mr. Joe L. Martin, Kansas Retail Liquor Dealers Association, Salina
Ms. Sue Bradford, Kansas Retail Liquor Dealers Association, Topeka
Mr. Bill Underwood, Kansas Retail Liquor Dealers Association, Lawrence
Dr. Darwin Daicoff, University of Kansas, Lawrence
Mr. Robert Tilton, Seagrams Company
Mr. Terry Schlemeier, Distilled Spirits Council of the U.S.
Mr. Charles Hamm, Department of Social and Rehabilitation Services
Mr. Raymond Rathert, Insurance Department
Mr. Ron Todd, Insurance Department
Mr. Mark Bennett, American Insurance Association
Mr. Robert Howley, Architectural Services Division
Mr. Bruce Roby, Department of Social and Rehabilitation Services

August 24, 1976
Morning Session

The meeting was called to order by the Chairman at 10:00 a.m. Chairman Buzzi introduced Mr. E.V.D. Murphy, Director of the Alcoholic Beverage Control Division, Department of Revenue. Mr. Murphy called attention to his memorandum which had previously been sent to the Committee as background information concerning the price affirmation situation in Kansas (Attachment I). He advised members that the October 6, 1975, memorandum had been sent to all suppliers doing business in the State of Kansas in an effort to correct the few suppliers who were attempting to twist the law.

A member inquired concerning the number of suppliers in the state. Mr. Murphy stated that there are approximately 85, including beer suppliers, manufacturers, wine vendors, and importers of both spirits and wine.

Another member inquired concerning the few suppliers who had attempted to violate the spirit of the law. Mr. Murphy stated that several suppliers had informed him that the posted F.O.B. prices were not the lowest prices that the merchandise was sold in the United States, as required by the statute. In fact, the posted prices were the F.O.B. plant prices plus a shipping charge from the plant to Oklahoma City and a handling charge for warehousing in Oklahoma City. Mr. Murphy felt that this is a violation or, at best, a misinterpretation of the statute.

Mr. Murphy explained that the retail price is determined by the F.O.B. price plus acquisition cost plus a percentage markup, which is determined by the A.B.C. Board of Review. Freight rates, which are also set by the Board of Review, are periodically adjusted. This adjustment accounts for some of the fluctuation in shelf prices. Mr. Murphy stated that there are about 2,300 different brands approved for sale in the state. He contrasted this number of brands with the 500 brands approved for sale in Oregon, a control state in which the state maintains a monopoly over the sale of alcoholic beverages.

The Vice Chairman inquired whether A.B.C. was proposing any change in the affirmation law. Mr. Murphy stated that it was his opinion that the affirmation statute should not be changed and he felt that repeal of the affirmation law would be harmful to the state.

Mr. Mills noted that the October 6, 1975, memorandum mentioned previously (Attachment I) had become the subject of litigation as several suppliers have challenged the Director's interpretation of the statute. Mr. William Schutte, Assistant Attorney General, stated that the case was now in Shawnee County District Court.

Dr. Darwin W. Daicoff, professor of economics at the University of Kansas, presented a prepared statement (Attachment II). Dr. Daicoff reviewed the present affirmation situation and cited several examples of its operation.

Mr. John Webb, Lawrence, stated that he had not realized the question under discussion was to be strictly on the matter of price affirmation, and explained that he had wanted to comment on the total price structure in the state. The Vice Chairman inquired whether Mr. Webb represented retailers or wholesalers. Mr. Webb explained that he was speaking as an individual and at the present time he is a clerk in a retail liquor store.

Mr. Webb distributed a comparative schedule encompassing F.O.B. prices, freight rates, taxes, and approved mark ups (Attachment III). He stated that his figures show the retail price to be high when compared to the tax revenue generated. He urged that the system of distribution be considered since, in Kansas, there are nine principal wholesalers handling basically the same product line. Mr. Webb stated that he believes there are ways to make the distribution system more efficient.

A member noted that the schedule shows that Oklahoma has the lowest price per case and inquired if it is an affirmation state. Mr. Webb deferred to Mr. Murphy who explained that Oklahoma is an affirmation state in which wholesalers are supposed to pay the same amount of money per case F.O.B. as in Kansas, but thereafter any similarity in the two states' laws ceases. He stated that many of the retailers are going broke in

Oklahoma because they do not have state price control. As a result, they depend on volume and the large dealer can and does force the small retailer out of business. The Vice Chairman inquired if Kansas has had any experience of business failures. Mr. Murphy stated that suppliers have never lost any money in Kansas. He mentioned that four years ago a wholesaler failed in Lawrence, but that in liquidating, all outstanding bills were paid and, with the cooperation of the wholesalers, the only people who lost money were the stockholders.

Mr. Gary Kershner, Executive Director of the Kansas Wine and Spirits Wholesalers Association, presented a prepared statement (Attachment IV). He stated that the wholesale industry in Kansas accepts the responsibility to protect the public interest and he feels this is best achieved through regulation as provided under the present law. Mr. Kershner opposed any change in the present law.

Mr. Terry Schlemeier, representing the Distilled Spirits Council of the U.S., urged the Committee to recommend changes in the present Kansas system. He felt that affirmation is a matter of philosophy in that Kansas law states that suppliers shall sell their product in a certain way regardless of any other consideration and at a particular price. He stated that Kansas law does not allow an open competitive market and that A.B.C. does not believe that free enterprise will have any effect on the price of alcoholic beverages. He explained the risk in anticipating the market in the future: for example, a bourbon must be kept in a bonded warehouse for ten years and that, at the time it was placed there, the distiller had to predict the market ten years in the future. If the distiller makes a bad estimate of the market, there will be a lot of bourbon left in warehouses. In such instances, he testified, the distiller might sell the excess to non-affirmation states at as low as \$1.00 per case over actual cost. This cannot be done in affirmation states, thereby barring a benefit to the consumer. Mr. Schlemeier felt that a free enterprise market would benefit both the industry and the consumer.

The Chairman asked members if they had examined the minutes of the July meeting. It was moved by Senator Arasmith that they be approved. Motion was seconded by Representative Ward and carried.

Mr. Gene Baird, a liquor wholesaler from Johnson County, testified that Kansas did not have affirmation until 1961 and that the law went into effect fully in 1968. He stated that, prior to that time, the prices were higher than in many of the states surrounding Kansas. He pointed out that when affirmation went into effect, prices went down across the board. Mr. Baird believed that if the affirmation law were repealed, prices would rise again.

The meeting was recessed until 1:30 p.m.

Afternoon Session

The meeting was reconvened by the Vice Chairman. Mr. Bill Underwood stated that the Kansas Retail Liquor Dealers Association had no formal position on the affirmation issue. He stated that varied opinions existed among the association's membership.

A member inquired what kind of turnover is experienced in liquor store ownership. Mr. Underwood stated that there is very little turnover and that many stores have been in business for 25 or 30 years. He stated that most turnover occurs where there is an investment-type ownership, not in the family-owned stores which are predominant in Kansas.

Mr. Robert Tilton, representing the Seagrams Company, addressed the Committee and presented a prepared statement (Attachment V). Mr. Tilton stated that, in hearings before the A.B.C., there is no one present to represent the consumer; those present usually represent suppliers and wholesalers. He stated that there are approximately 1,180 retail liquor stores in Kansas, with 86 in Topeka. Supplying these retail stores are 30 wholesale distribution companies which are owned by only ten families. Mr. Tilton said that these distributors are reaping large profits through artificial freight rates. He stated that the affirmation law is intended to make prices lower in Kansas, while they are, in fact, higher than in other states. He urged the Committee to consider changes in the law because it is clear that affirmation is not serving the Kansas consumer.

A member inquired if Mr. Tilton is in favor of doing away with the affirmation statute. Mr. Tilton offered a proposed amendment to K.S.A. 41-1112 to permit inclusion of delivery and warehousing costs (Attachment VI).

Another member inquired if Mr. Tilton proposed treating this commodity like the grocery business. Mr. Tilton stated that he felt some controls are needed, but that by removing price controls and allowing competition, the consumer would benefit.

Mr. Gary Kershner stated that it is contended that wholesalers are reaping huge profits but that A.B.C. had conducted a rate study which showed that half of the wholesalers did not make a profit. Following the study, some price mark ups were granted, but those mark ups do not allow windfall profits.

The Chairman announced that tomorrow the Committee would consider Proposal No. 18, dealing with open meetings. Miss Torrence distributed a draft copy of a bill which members were asked to study (Attachment VII).

Representative Marshall stated that he had discussed the steam boiler insurance issue with several businessmen who informed him that the insurance was much more expensive than the Committee had been led to believe by the insurance industry conferees during the testimony at the July meeting. Representative Marshall also stated that the insurance executive from Hartford, Connecticut, told him that the company would not insure all boilers even if they were inspected by the state. At the request of Representative Farrar, Mr. Mills distributed several letters which dealt with the steam boiler insurance issue (Attachment VIII).

The meeting was recessed until 9:00 a.m., August 25, 1976.

August 25, 1976
Morning Session

The Committee discussed the draft bill on Proposal No. 18 -- Open Meetings Act (Attachment VII).

It was moved by Representative Harris and seconded by Representative Ward that the proposed new subsection (c) in Section 1, be approved. Motion carried.

It was moved by Senator Parrish and seconded by Senator Booth that the proposed change in subsection (d) of Section 2 be approved. Motion carried.

It was moved by Representative Harris and seconded by Representative Ward that the proposed changes in Section 3 be approved. Motion carried.

It was moved by Senator Parrish and seconded by Senator Booth that the proposed changes in subsection (b) of Section 3 be approved. Motion carried.

Thereupon, it was moved by Representative Harris and seconded by Representative Ward that the draft be introduced as a Committee bill. Senator Parrish stated that he and Senator Booth would be happy to have the bill originate in the Senate. There was a consensus that this would be satisfactory. Representatives Harris and Ward agreed to amend their motion to recommend that the bill go to the Senate. Motion carried.

Senator Booth recommended that it be made clear in the Committee report that the Committee had considered language to the effect that such legislation should not be a barrier between an elected official and a constituent.

The Chairman stated that the report should emphasize the desire of the Committee that all public bodies observe both the letter and the spirit of the Kansas Open Meetings Act.

The Chairman announced that he and some of the members had met with the Insurance Commissioner concerning the boiler insurance problem and that the Commissioner had suggested some changes.

Miss Torrence reviewed the draft bill on Proposal No. 22 (Attachment IX). She explained that, with regard to the hearing procedure prior to release, the Committee had asked that the same procedure be applicable when patients are transferred from one facility to another. This was accomplished in subsection (4) of Section 1.

She noted that the draft makes numerous technical amendments, and on page 2 there is a provision for the various types of orders which the court can make following the hearing. She suggested that a change be made on page 2, line 2, after "district court" where the following phrase should be inserted: "of the county from which the person was committed."

The Vice Chairman inquired whether this draft resolves the problem regarding jurisdiction which was brought to the attention of the Committee. Miss Torrence stated that she felt it did.

The Vice Chairman stated that it bothered him to say "not guilty by reason of insanity" and inquired whether the bill could read "guilty as charged but adjudged insane." A member pointed out that in a criminal trial it is necessary that the state prove "criminal intent", which is impossible if the person was insane at the time the act was committed. Another member suggested that eventually it may be necessary to adopt a two-stage trial, the first stage to determine guilt and then a second stage to determine sanity and sentencing.

It was suggested that the court, in addition to the county attorney, be authorized to initiate the hearing. It was moved by Representative Ward and seconded by Senator Arasmith that the draft be amended to permit the court to order the hearing. Motion carried. Miss Torrence stated that she would make the necessary amendments in the appropriate sections of the draft.

It was moved by Representative Ward and seconded by Senator Arasmith that the draft be approved for introduction. (However, no vote was taken on this motion.)

Mr. Charles Hamm, Chief of Legal Services for the Department of Social and Rehabilitation Services, noted several of his concerns regarding the proposed draft. He questioned the need for a defense of insanity, discussed the role of the custodial hospital, and noted the distinction between "mentally ill persons" and "dangerous persons." Mr. Hamm argued that a dangerous person who is not mentally ill could, in effect, be confined for life under this statute. He pointed out that the Social and Rehabilitation Services hospitals like to think of themselves as treatment facilities, but this bill emphasizes that the State Security Hospital is really part of a prison system. A court, upon finding "dangerousness", could order a person confined until he is no longer dangerous, and "dangerous" has not been statutorily defined.

The Chairman inquired whether this situation would apply to many people or to only a few exceptions. Mr. Hamm stated that he did not know what the statistics would show concerning the number who plead guilty by reason of insanity. Mr. Hamm also stated that a person could be a dangerous individual but a "sane dangerous individual."

A member suggested that these concerns be mentioned in the Committee report. The Committee agreed that discussion of this issue should be continued later in the meeting.

Miss Torrence distributed a draft bill concerning Proposal No. 60 -- Steam Boiler Insurance (Attachment X). The Chairman introduced Mr. Raymond Rathert of the Insurance Department who discussed several alternatives concerning the steam boiler insurance problem (Attachment XI). Mr. Rathert discussed the three suggested alternatives:

1. Retain Senate Bill 531 and the mandatory insurance requirement but add inspection standards.
2. Repeal the compulsory insurance as provided for in Senate Bill 531 but retain the mandatory inspection for boilers and reinstate a State Inspection Program.

3. Retain the compulsory insurance and inspection requirements but add an option for a boiler owner to become a "Self-Insurer."

Mr. Rathert stated that the Committee should decide whether the thrust of new legislation should be to maintain high levels of boiler safety or to require mandatory insurance and financial responsibility.

A member inquired whether public liability insurance on a building would also extend to boiler accidents. Mr. Rathert stated that, in most cases, the accident would be covered. Mr. Ron Todd, Insurance Department, agreed that this is probably correct but noted that some people will have to pay more because public liability insurance is not required by state law, whereas boiler insurance is mandatory under Senate Bill 531.

Mr. Todd stated that most of the complaints received by the Insurance Department are from people who, prior to the passage of Senate Bill 531, carried no insurance. The only cost they incurred previously was for the state inspection which was considerably less costly than the insurance. The Chairman stated he believed the Committee was working toward a preventive approach which emphasizes boiler safety.

Mr. Mark Bennett, representing the American Insurance Association, testified that the association is not interested in the matter from the standpoint of mandatory insurance, but in increased safety. He noted fears that Kansas could become a dumping ground for equipment of low quality if safety and construction standards are not established.

Mr. Bennett supported a program of state inspections with adequate standards which are strictly enforced.

Afternoon Session

Mr. Robert Howley, Division of Architectural Services, discussed the boiler inspection program conducted by the Department of Labor prior to the enactment of Senate Bill 531 in 1975. He stated that qualified boiler inspectors are very hard to find. He also discussed the boiler inspection program conducted by the Architectural Services Division which applies only to state-owned boilers in state agencies.

The Committee resumed discussion of Proposals No. 21 and 22. It was suggested that standards for defining "insanity" and "dangerousness" be developed. It was also suggested that a clear procedure be established for determining "dangerousness." Mr. Hamm stated that the determination of "dangerous to self or others" involves medical evaluations, judicial questions, and legislative guidelines. He also reported that the filing of habeas corpus actions by mental patients was becoming increasingly commonplace.

Mr. Hamm discussed the problems encountered by the hospital staff when they determine that the person acquitted by reason of insanity is neither mentally ill nor in need of treatment. The staff must then decide whether to release the person, transfer him to another institution, place him on convalescent leave, or discharge him.

A member suggested that the Committee might consider mandatory hospitalization for perhaps one to five years to see if there is a recurrence of the insanity.

Staff reminded the Committee that recent U.S. Supreme Court rulings required a different commitment standard for mentally retarded offenders. Miss Torrence briefly discussed a memorandum she had prepared which lists possible amendments relating to the commitment of incompetent and insane criminal defendants (Attachment XII).

The Chairman stated that he felt the Committee had reached the point at which it is necessary to formulate suggestions in writing and discuss the proposal again at the next meeting.

The Chairman stated that the Committee would consider Proposal No. 19, Rural Airport Development, and Proposal No. 61, Statewide Building Codes, at the next meeting on September 15 and 16.

The meeting was adjourned.

Prepared by J. Russell Mills, Jr.

Approved by the Committee on:

September 15, 1976
(Date)

TRANSMITTAL MEMORANDUM

TO: Special Committee on Federal and State Affairs
 FROM: Kansas Legislative Research Department
 RE: Statement Concerning Proposal No. 20 -
 Alcoholic Liquor Price Affirmation

August 9, 1976

Enclosed are copies of two memoranda prepared by E. V. D. Murphy, Director of the Alcoholic Beverage Control Division, pertaining to alcoholic liquor price affirmation. Please note that the memorandum dated October 6, 1975, highlights the problem which, directly or indirectly, brought about this interim study proposal.

The Committee will hear testimony concerning this proposal at the August 24-25 meeting.

Memorandum to: Rep. Lloyd Buzzi, Chairman of Special Committee on Federal and State Affairs

From: E.V.D. Murphy, Director, ABC Division

Subject: General Statement Regarding Affirmation

The following statement is provided you and members of your Committee as a supplement to the background material contained in my memorandum of October 6, 1975, which was sent to all suppliers posting spirits and wine for sale in the state of Kansas. A copy of this memorandum is provided for your information.

Price affirmation laws require suppliers to sell to wholesalers at the lowest prices they sell to any other buyers in other states. In the case of Kansas, this requirement applies only to states located in the Continental United States. The primary purpose of such laws is to prevent discrimination against consumers in the state by securing the lowest prices to the state's wholesalers. The affirmation laws have another effect. By requiring the supplier to sell at his lowest available price, the law eliminates the practice of selling to the wholesaler at an inflated and unrealistic front price from which the supplier can give discounts and arrange for these to be passed on to favored buyers as an unlawful inducement to buy the supplier's brands.

This practice defeats the purpose of the three-tier system (distiller, brewer, importer, and winery; the wholesaler; and the retailer) to remove the supplier one level from the retailer, and it constitutes a subterfuge by which the supplier can grant unreasonable discounts to favored buyers thus frustrating tied-house laws.

Another effect of the affirmation law is to shore up the independence of the wholesaler. It protects the wholesaler from vicious practices of the supplier who makes in-step price increases to the wholesaler whenever the latter is required by business necessity to increase his price to the retailer. This weakens the independence of the wholesaler which is the mainstay of effective liquor control under the three-tier system of distribution.

Of the 50 states, 35 have price affirmation laws. The 18 monopoly states (state-owned distribution and retail facilities) have affirmation laws. Seventeen of the 32 "open" or free enterprise states have price affirmation laws.

Attachment 7

Memorandum - 2


17 open or free enterprise states that have price affirmation laws are:

Connecticut	New Mexico
Delaware	New York
Georgia	Oklahoma
Kansas	Rhode Island
Louisiana	South Carolina
Maryland	Florida
Massachusetts	Nebraska
Minnesota	Tennessee
New Jersey	

Florida, Nebraska and Tennessee have had affirmation only since 1975. Of the above states, Kansas, Massachusetts, Rhode Island and Tennessee are the only ones having affirmation applying to wine. No state has affirmation applying to beer.

All the monopoly states have affirmation laws and they are:

Alabama	Ohio
Idaho	Oregon
Iowa	Pennsylvania
Maine	Utah
Michigan	Vermont
Mississippi	Virginia
Montana	Washington
New Hampshire	West Virginia
North Carolina	Wyoming


 E.V. D. MURPHY, DIRECTOR
 Alcoholic Beverage Control Div.

EVDM:bb

Memorandum To: All Suppliers Posting Spirits and Wine in the State of Kansas

From: E.V.D. Murphy, Director, Alcoholic Beverage Control Division

Subject: Affirmation of F.O.B. Prices

The purpose of this memorandum is to correct illegal practices on the part of suppliers in posting F.O.B. prices for sale of merchandise to Kansas licensed distributors.

K.S.A. 41-1111 states: "In the public interest and in order to promote the orderly sale and distribution of alcoholic liquor, to foster temperance and to promote the public welfare, in the state of Kansas, the legislature finds; (a) That sales prices of alcoholic liquor sold by manufacturers and others to distributors licensed in this state should be no higher than the lowest price for which the same is sold to distributors anywhere in the continental United States; and (b) that minimum sale prices for alcoholic liquor sold by distributors and retailers licensed in this state should be determined and regulated by law."

K.S.A. 41-1112 states: "The prices filed by manufacturers and others authorized to sell alcoholic liquors to licensed distributors, pursuant to subsection (1) of section 41-1101 of the General Statutes Supplement of 1959, shall be the current prices, F.O.B. point of shipment, and said price as filed by each manufacturer or vendor shall be as low as the lowest price for which the item is sold anywhere in any state in the continental United States by such manufacturer or vendor: Provided, That in determining the lowest price for which an item of alcoholic liquor is sold in any such state there shall be taken into consideration all advertising, depletion and promotional allowances and rebates of every kind whatsoever made to purchasers in such state by the vendor."

K.S.A. 41-1115 states: "The board, in exercising its powers and duties under the provisions of this act, shall establish and determine: (a) The minimum "case prices" and the minimum "bottle sale prices" from distributor to retailer; and (b) the minimum "case prices," the minimum "bottle sale prices," and the minimum "mixed case sale prices" from retailer to consumer."

K.S.A. 41-1116 states: "The prices so established and fixed by the board shall be fair and reasonable to licensed distributors, licensed retailers, and the ultimate consumer. Said prices must be in the public interest and such that they do not unduly stimulate the sale and consumption of alcoholic liquor or tend to disrupt the orderly sale and distribution of alcoholic liquor. The board in establishing and fixing such sales prices shall take into consideration and be guided by the following: (a) The acquisition costs to licensed distributors and retailers. The acquisition costs shall be the "case price" to distributors and the "minimum bottle sale price" to retailers; (b) federal, state, and local taxes and license fees paid by distributors and retailers which are levied or imposed in connection with their business of distributing or selling alcoholic liquor in this state; (c) selling costs of licensed distributors and retailers;

(d) cost of transportation to distributors from the F.O.B. shipping point to a base point in the state of Kansas; and delivery charges in connection with the shipment of alcoholic liquor; (e) any legitimate, reasonable expense not hereinbefore specified, incurred in the legal conduct of their businesses as licensed distributors and retailers; and (f) a reasonable markup or profit for the licensed distributors and retailers."

Rule 14-4-11 states, among other things that: "At the time of the filing of said prices every manufacturer or vendor who has filed prices of alcoholic liquor on the fifteenth day of said month shall file an affirmation that the price of each and every item of alcoholic liquor so filed is as low as the lowest price (determined as hereinbefore provided) for which said item of alcoholic liquor will be sold in any other state in the continental United States by the manufacturer of the item and by any vendor of the item who sells the item under any contract or arrangement with said manufacturer or vendor during the period in which such filing is in effect."

The provisions of this rule was brought to the attention of the industry in Memorandum No. S-1, dated June 1, 1973, Annex A, Page 3. Memorandum S-1 was subsequently provided every supplier who after June 1, 1973 came into the Kansas market.

Without exception every manufacturer, importer, vendor or winery has filed an affidavit with the Director of Alcoholic Beverage Control Division to the effect that the items filed for sale in the State of Kansas for a given month was as low as the lowest price said item was sold anywhere in any state in the Continental United States as determined in accordance with K.S.A. 41-1111 through 41-1121 and Regulation 14-4-11 of the Rules and Regulations of the State Director of the Alcoholic Beverage Control of the State of Kansas. Recently two suppliers informed the Director that the posted F.O.B. prices were in fact not the lowest prices that the merchandise was sold in the Continental United States, but were in fact the F.O.B. plant prices plus a shipping charge from the plant to Oklahoma City and a handling charge for warehousing in Oklahoma City. Further investigation has brought out the fact that other firms were operating in a similar fashion in the state of Missouri. There are indications that still other firms operate in this manner from other states.

It would appear that some suppliers are misinterpreting the law or ignoring it in the interest of having their merchandise sold at the retail level at competitive prices. In short, by consolidating merchandise at a point such as Kansas City, Oklahoma City or other places, the suppliers would hope that the freight rates applied by the ABC Board of Review to the laid-in cost would make their merchandise sell at more attractive prices rather than would be the case if a freight rate from the plant to Kansas was used.

One supplier stated that by posting a stock of merchandise in Oklahoma City the following advantages would accrue to the Kansas distributor:

1. Goods will be available in any quantity on very short notice.
2. Kansas wholesalers will not have to lay out large sums of money to buy truck loads of goods but will buy merchandise as they turn it over.

3. Distributors may order only that merchandise which they need immediately.

4. Having goods in the warehouse (at Oklahoma City) will insure that that with easy availability there will be no out of stock items.

5. Distributors' money will not be tied up as long (as it is now) so they will actually save money on interest borrowing.

6. Distributor trucks will no longer have to make long trips to Kentucky, Indiana or wherever.

7. The orders will not be held up in credit for lengthy periods.

As a result of the above rationalizations, we have some suppliers providing an affidavit that the F.O.B. prices posted are as low as the merchandise is sold anywhere in the Continental United States, while simultaneously the suppliers concerned are admitting that there is an add-on freight charge and handling charge at the intermediate point between the normal plant supply point and the distributor.

The Kansas law is quite specific. While not limiting the number of F.O.B. points a supplier may have, the F.O.B. prices posted for Kansas must be as low as those at any other F.O.B. point that the supplier may have at his plants or at any vendor's warehouse who sells the item under any contract or arrangement with him. The title to the merchandise passes from the supplier to the Kansas distributor at the F.O.B. point concerned. Legally, the freight charges supplied by the ABC Board of Review from the F.O.B. point to Wichita, Kansas, the credit and administrative problems facing the Kansas distributor in picking up the merchandise at the F.O.B. point, and the inconvenience of stocking his inventory from F.O.B. points at a great distance from Kansas is not of concern to the supplier. Further from a legal viewpoint, the shelf price of merchandise in Kansas is not properly the business of the supplier, but is the responsibility of the ABC Board of Review. Any laid-in cost factors applied to the acquisition costs to the wholesaler are legally a matter pertaining to the ABC Board of Review, as the legal concern of a supplier ceases at the F.O.B. point.

In discussing this situation with some supplier representatives, the rationale of the suppliers has been primarily sales oriented and has no legal basis. Some suppliers emphasize that they are only interested in assisting the wholesalers in their operations and accommodating the Kansas consumer. It is the opinion of the Director that the problems of the wholesalers and the interest of the Kansas consumers are a matter pertaining to the Director and the ABC Board of Review and legally are not of proper concern to the suppliers.

The Director recognizes the goals of the suppliers in a highly competitive business, but he further recognizes that it is paramount that he carry out the expressed intent of the Legislature. The Director finds the intent contained in the aforementioned statutes to be clear and unambiguous, and he can not add language that is not contained therein to meet the operational philosophy

and desire suppliers, distributors, retailers and consumers. Inregard-
less of any ship involved, the Director finds that the Kansas affirmation
laws mean exactly what they say, that the F.O.B. price quoted Kansas
distributors must be as low as the lowest prices quoted any wholesalers in
other states in the Continental United States.

Therefore in order not to discriminate against suppliers who may
inadvertently be in violation of the law, this memorandum serves notice to
all concerned that effective with merchandise posted November 15, 1975,
for sale to distributors in January 1976, the prices posted in Kansas will be
in conformity with the law mentioned above. This will give all those who are
not in compliance an equal opportunity to correct the situation. If subsequent
to the posting of November 15, 1975, it is found that some suppliers are not
acting in good faith, the supplier concerned may expect to lose the privilege
of selling his merchandise in Kansas and/or be confronted by such legal
action as the Attorney General of the State of Kansas deems fit and proper.
The deadline selected for corrective action gives suppliers ample time to
rearrange their stocks and to specify proper F.O.B. points. Further, this
course of action will not cause undue financial hardship during the holiday
season and disrupt the orderly marketing of merchandise.

In conclusion the Director is asking each supplier in good faith to
correct on his own initiative any price posting which is not in compliance
with the Kansas law. If there are any questions, please feel free to write
for clarification. Your cooperation in this matter will be greatly appreciated.


E. V. D. MURPHY, DIRECTOR

EVDM:bb

Attachment

Alcoholic Liquor Price Affirmation

Proposal No. 20

A Presentation to the
SPECIAL COMMITTEE ON FEDERAL AND STATE AFFAIRS
State of Kansas

by

Dr. Darwin W. Daicoff

August 24, 1976

I am Dr. Darwin W. Daicoff, professor of economics at The University of Kansas--I have been at K.U. for 16 years. I served as the first chief economist of the Kansas Office of Economic Analysis under Governors Anderson and Avery. I am the owner of the consulting firm, Daicoff Associates.

I do a considerable amount of research and consulting on economic matters, particularly in the transportation field. In 1973, I performed a comprehensive Study of Freight Rates for the Alcoholic Beverage Control Board of Review, Department of Revenue. The next year, I conducted another study of Wholesale and Retail Liquor Markups in Kansas for the same Board. For the last three years, I have been an economic/transportation consultant for the Alcoholic Beverage Division of the Department of Revenue.

As I understand Proposal No. 20, the Committee's concern is with the issue of alcoholic liquor price affirmation. Let me address my brief remarks to that issue. As you know, affirmation requires that producers or vendors of alcoholic liquor offer their products for sale to licensed Kansas wholesalers at a price "no higher than the lowest price for which the same is sold to distributors anywhere in the continental United States" (K.S.A. 41-1111) An additional statute, K.S.A. 41-1112, requires that these prices "shall be the current prices, F.O.B. point of shipment." This system worked when liquor manufacturers or vendors were affirming their prices at manufacturing plants or the ports of import and the appropriate freight allowances as determined by the Alcoholic Beverage Control Board of Review were included in the acquisition price to Kansas wholesalers.

It now seems that some producers or vendors have adopted F.O.B. locations nearer Kansas (i.e., Oklahoma City and Kansas City) and have added handling and freight charges to their posted prices at the points of manufacture. If these producers had not added these charges, they would be in closer compliance with the affirmation statutes and rules. In this situation, the producer could affirm that their prices were equal to or lower than the prices offered to other purchasers; of course, this would require the producer to absorb the transportation and handling costs.

There are examples of just this situation. Cutty Stark Scotch is an imported product which has a number of F.O.B. points. While most of the product enters the nation at the east coast Cutty Stark employs the same F.O.B. posted price in Kansas City as it employs in New York City. The company does not have different prices at different locations and is thus in conformity with the affirmation statutes and rules.

Let me give you one example of a successful resolution of the problem involved when a producer has different posting prices at different locations. Bicardi Rum is manufactured in Puerto Rico. Most of the product enters the United States through Jacksonville, Florida. Bicardi was employing a number of F.O.B. points with different prices at these locations. For Kansas, the F.O.B. point was Chicago, Illinois, and the posted price at that city was higher than at Jacksonville. Director Murphy ordered the firm to use Jacksonville, the port of entry, which had the lowest posted price as the proper F.O.B. point. Bicardi is now in compliance with the affirmation statutes and rules.

Not all the problems have been solved. In at least one instance, these matters are now in the courts where the October, 1975, order of Director Murphy is under consideration.

If the court rules in favor of the State, the producers and others would presumably be ordered back to their original points of manufacture or import--that is, out of Oklahoma City and back to Indiana and Kentucky or would have to establish an F.O.B. price for Kansas shipments equal to the Indiana or Kentucky price. The Kansas Legislature may decide to make changes in the affirmation statutes prior to the court's decision or it may conclude that it would be better to wait for the decisions in the current court cases.

Pertinent Affirmation Law Concerning Distribution
and
Pricing of Alcoholic Beverages - Kansas

- 41-1111. REGULATION OF SALES PRICES OF ALCOHOLIC LIQUORS SOLD BY MANUFACTURERS, DISTRIBUTORS AND RETAILERS; LEGISLATIVE FINDINGS. IN THE PUBLIC INTEREST AND IN ORDER TO PROMOTE THE ORDERLY SALE AND DISTRIBUTION OF ALCOHOLIC LIQUOR, TO FOSTER TEMPERANCE AND TO PROMOTE THE PUBLIC WELFARE, in the state of Kansas, the legislature finds: (a) THAT SALES PRICES OF ALCOHOLIC LIQUOR SOLD BY MANUFACTURERS AND OTHERS TO DISTRIBUTORS LICENSED IN THIS STATE SHOULD BE NO HIGHER THAN THE LOWEST PRICE FOR WHICH THE SAME IS SOLD TO DISTRIBUTORS ANYWHERE IN THE CONTINENTAL UNITED STATES; and (b) that minimum sale prices for alcoholic liquor sold by distributors and retailers licensed in this state should be determined and regulated by law. (L. 1961, ch. 241, 1; April 10).
- 41-1112. SAME; PRICES FILED BY MANUFACTURERS AND OTHERS TO BE AS LOW AS IN ANY OTHER STATE; DETERMINATION. The prices filed by manufacturers and others authorized to sell alcoholic liquors to licensed distributors, pursuant to subsection (1) of section 41-1101 of the General Statutes Supplement of 1959, shall be the current prices, F.O.B. point of shipment, and said price as filed by each manufacturer or vendor shall be as low as the lowest price for which the item is sold anywhere in any state in the continental United States by such manufacturer or vendor: PROVIDED, That in determining the lowest price for which an item of alcoholic liquor is sold in any such state there shall be taken into consideration all advertising, depletion and promotional allowances and rebates of every kind whatsoever made to purchasers in such state by the vendor. (L. 1961, ch. 241, 2; April 10)
- 41-1113. SAME; PRICES FILED BY DISTRIBUTORS TO BE NOT LESS THAN MINIMUM ESTABLISHED BY BOARD. The prices filed by a licensed distributor pursuant to subsection (2) of section 41-1101 of the General Statutes Supplement of 1959, shall be not less than the minimum sales prices established by the state alcoholic beverage control board of review pursuant to the provisions of this act. (L. 1961, ch. 241, 3; April 10)
- 41-1116. SAME; PRICES TO BE FAIR AND IN PUBLIC INTEREST; GUIDES. THE PRICES SO ESTABLISHED AND FIXED BY THE BOARD SHALL BE FAIR AND REASONABLE TO LICENSED DISTRIBUTORS, LICENSED RETAILERS, AND THE ULTIMATE CONSUMER. SAID PRICES MUST BE IN THE PUBLIC INTEREST AND SUCH THAT THEY DO NOT UNDULY STIMULATE THE SALE AND CONSUMPTION OF ALCOHOLIC LIQUOR OR TEND TO DISRUPT THE ORDERLY SALE AND DISTRIBUTION OF ALCOHOLIC LIQUOR. The board in establishing and fixing such sales prices shall take into consideration and be guided by the following: (a) THE ACQUISITION COSTS TO LICENSED DISTRIBUTORS and retailers. The acquisition costs shall be the "case price" to distributors and the "minimum bottle sale price" to retailers; (b) FEDERAL, STATE, AND LOCAL TAXES AND LICENSE FEES PAID BY DISTRIBUTORS and retailers which are levied or imposed in connection with their business of distributing or selling alcoholic liquor in this state; (c) SELLING COSTS OF LICENSED DISTRIBUTORS and retailers; (d) COST OF TRANSPORTATION TO DISTRIBUTORS FROM THE F.O.B. SHIPPING POINT TO A BASE POINT IN THE STATE OF KANSAS; AND DELIVERY CHARGES IN CONNECTION WITH THE SHIPMENT OF ALCOHOLIC LIQUOR; (e) any legitimate, reasonable expense not hereinbefore specified, incurred in the legal conduct of their businesses as licensed distributors and retailers; and (f) A REASONABLE MARKUP OR PROFIT FOR THE LICENSED DISTRIBUTORS and retailers. (L. 1961, ch. 241, 6; April 10)

PRICE PER FIFTH FOR SELECTED TYPES & BRANDS*

FOR LICENSE STATES BORDERING KANSAS, 1973**

<u>STATES</u>	<u>BLEND</u> Seagrams 7-Crown	<u>BOURBON</u> Old Crow 86°	<u>BOND</u> Old Grand Dad 100°	<u>SCOTCH</u> Dewer's	<u>VODKA</u> Smirnoff 80°	<u>RUM</u> Bacardi	<u>CANADIAN</u> Canadian Club	<u>GIN</u> Beef- eater	<u>APPLICABLE STATE SALES OR ENFORCE- MENT TAX</u>
Kansas	4.94	4.94	6.93	7.25	4.64	5.02	6.60	6.47	4.0%
Colorado	4.48	<u>4.99</u>	<u>7.29</u>	<u>7.49</u>	4.47	NA	6.45	6.29	3.0%
Missouri	4.75	4.66	6.53	6.93	4.54	4.58	6.34	5.93	3.0%
Nebraska	4.65	4.85	6.70	<u>7.55</u>	<u>4.65</u>	4.85	6.39	6.05	2.5%
Oklahoma	4.29	4.29	5.59	5.97	3.87	4.27	5.47	5.27	2.0%

*Figures taken from Public Revenue from Alcohol Beverages 1973.

**Prices as listed are exclusive of Sales or Enforcement Taxes where applicable.

NA - Price not available.

HIGH RETAIL BOTTLE COST

REVENUE FROM ALCOHOL BEVERAGES - 1973

	KANSAS	COLORADO	MISSOURI	NEBRASKA	OKLAHOMA
State & Local Revenue	\$15,994,599	\$24,595,822	\$47,322,216	\$15,466,892	\$31,993,774
Estimated Population	2,279,000	2,437,000	4,757,000	1,542,000	2,663,000
Per Capita Revenue	\$7.02 ⁷⁴ \$7.53	\$10.09 ⁷⁴ \$11.10	\$9.95 ⁷⁴ \$9.09	\$10.03 ⁷⁴ \$11.21	\$12.01 ⁷⁴ \$12.21

KANSAS - LOWEST PER CAPITA REVENUE FROM ALCOHOLIC BEVERAGES OF THE FIFTY STATES

National Average Per Capita State and Local Revenue from Alcohol Beverages-1973

National Average	\$16.42	1974
Control State Average	\$19.25	\$17.97
License State Average	\$15.20	\$19.86
Kansas State Average	\$7.02	\$17.16
		\$7.53

NATIONAL AND STATE REVENUE COMPARISON

Federal Excise Tax Rates - Distilled Spirits	\$10.50 per proof gallon
National Average State Excise Tax, 1972-1973	\$2.59 per proof gallon
Kansas Excise Tax, 1972-1973	\$1.50 per proof gallon
National Average State and Federal Excise Tax, 1972 - 1973	\$13.09 per proof gallon
Kansas and Federal Excise Tax, 1972-1973	\$12.00 per proof gallon

Public Revenue from Alcohol Beverages - 1973

Distilled Spirits Council of the United States, Inc./Washington, D. C. 20004

Estimated population as of July 1, 1973 - Series P-25, No. 508

STATE PER CAPITA REVENUE FROM ALCOHOL BEVERAGES - 1973

State	Estimated Population In Thousands*	State and Local Revenue	Per Capita Revenue	
1 Alabama.....	3,539	70,967,596	20.05	1
2 Alaska.....	330	5,936,564	17.99	2
3 Arizona.....	2,058	27,505,851	13.37	3
4 Arkansas.....	2,037	17,120,522	8.40	4
5 California.....	20,601	277,039,624	13.45	5
6 Colorado.....	2,437	24,595,822	10.09	6
7 Connecticut.....	3,076	61,738,401	20.07	7
8 Delaware.....	576	4,581,256	7.95	8
9 District of Columbia..	746	25,629,084	34.36	9
10 Florida.....	7,678	199,817,271	26.02	10
11 Georgia.....	4,786	115,367,565	24.11	11
12 Hawaii.....	832	16,030,210	19.27	12
13 Idaho.....	770	16,189,719	21.03	13
14 Illinois.....	11,236	149,512,082	13.31	14
15 Indiana.....	5,316	39,504,560	7.43	15
16 Iowa.....	2,904	48,867,851	16.83	16
17 KANSAS.....	2,279	15,994,599	7.02	17
18 Kentucky.....	3,342	37,045,650	11.08	18
19 Louisiana.....	3,764	62,210,294	16.53	19
20 Maine.....	1,028	23,991,804	23.34	20
21 Maryland.....	4,070	58,391,022	14.35	21
22 Massachusetts.....	5,818	98,340,674	16.90	22
23 Michigan.....	9,044	181,608,746	20.08	23
24 Minnesota.....	3,897	77,807,126	19.97	24
25 Mississippi.....	2,281	37,813,662	16.58	25
26 Missouri.....	4,757	47,322,216	9.95	26
27 Montana.....	721	17,173,890	23.82	27
28 Nebraska.....	1,542	15,466,892	10.03	28
29 Nevada.....	548	19,597,158	35.76	29
30 New Hampshire.....	791	26,417,129	33.40	30
31 New Jersey.....	7,361	75,388,519	10.38	31
32 New Mexico.....	1,106	12,051,016	10.90	32
33 New York.....	18,265	353,493,421	19.35	33
34 North Carolina.....	5,273	101,321,280	19.22	34
35 North Dakota.....	640	10,735,539	16.77	35
36 Ohio.....	10,731	200,898,889	18.72	36
37 Oklahoma.....	2,663	31,993,774	12.01	37
38 Oregon.....	2,225	42,167,515	18.95	38
39 Pennsylvania.....	11,902	186,355,203	15.66	39
40 Rhode Island.....	973	17,022,530	17.49	40
41 South Carolina.....	2,726	66,149,815	24.27	41
42 South Dakota.....	685	7,988,546	11.66	42
43 Tennessee.....	4,126	66,685,072	16.16	43
44 Texas.....	11,794	121,710,974	10.32	44
45 Utah.....	1,157	15,332,623	13.25	45
46 Vermont.....	464	14,026,711	30.23	46
47 Virginia.....	4,811	91,033,870	18.92	47
48 Washington.....	3,429	109,358,994	31.89	48
49 West Virginia.....	1,794	29,287,395	16.33	49
50 Wisconsin.....	4,569	68,640,369	15.02	50
51 Wyoming.....	353	4,269,781	12.10	51
GRAND TOTAL.....	209,851	\$3,446,496,676	\$16.42	

*Public Revenue from Alcohol Beverages - 1973

**Estimated Population as of July 1, 1973 - Series P-25, No. 508

PUBLIC REVENUES from ALCOHOL BEVERAGES

STATE PER CAPITA REVENUE FROM ALCOHOL BEVERAGES - 1974

	State	Estimated Population In Thousands ^a	State and Local Revenue	Per Capita Revenue	
1	Alabama	3577	\$ 76,325,209	\$21.34	1
2	Alaska	337	6,234,321	18.50	2
3	Arizona	2,153	29,782,626	13.83	3
4	Arkansas	2,062	18,056,464	8.76	4
5	California	20,907	323,084,722	15.45	5
6	Colorado	2,496	27,701,128	11.10	6
7	Connecticut	3,088	63,100,280	20.43	7
8	Delaware	573	4,634,384	8.09	8
9	District of Columbia	723	24,685,584	34.14	9
10	Florida	8,090	218,311,387	26.99	10
11	Georgia	4,882	132,425,029	27.13	11
12	Hawaii	847	17,638,931	20.83	12
13	Idaho	799	16,746,755	20.96	13
14	Illinois	11,131	158,659,822	14.25	14
15	Indiana	5,330	52,641,485	9.88	15
16	Iowa	2,855	52,786,135	18.49	16
17	Kansas	2,270	17,097,617	7.53	17
18	Kentucky	3,357	37,426,291	11.15	18
19	Louisiana	3,764	64,835,512	17.23	19
20	Maine	1,047	24,334,353	23.24	20
21	Maryland	4,094	60,599,942	14.80	21
22	Massachusetts	5,800	101,725,436	17.54	22
23	Michigan	9,098	192,044,634	21.11	23
24	Minnesota	3,917	80,486,097	20.55	24
25	Mississippi	2,324	42,569,915	18.32	25
26	Missouri	4,777	43,406,285	9.09	26
27	Montana	735	16,656,299	22.66	27
28	Nebraska	1,543	17,303,600	11.21	28
29	Nevada	573	21,441,005	37.42	29
30	New Hampshire	808	26,684,730	33.03	30
31	New Jersey	7,330	118,003,901	16.10	31
32	New Mexico	1,122	15,901,285	14.17	32
33	New York	18,111	394,962,168	21.81	33
34	North Carolina	5,363	110,424,104	20.59	34
35	North Dakota	637	11,517,734	18.08	35
36	Ohio	10,737	203,542,039	18.96	36
37	Oklahoma	2,709	33,706,275	12.44	37
38	Oregon	2,266	45,357,585	20.02	38
39	Pennsylvania	11,835	177,375,173	14.99	39
40	Rhode Island	937	17,275,257	18.44	40
41	South Carolina	2,784	77,946,911	28.00	41
42	South Dakota	682	11,322,965	16.60	42
43	Tennessee	4,129	76,658,509	18.57	43
44	Texas	12,050	182,260,075	15.13	44
45	Utah	1,173	16,178,783	13.79	45
46	Vermont	470	13,270,927	28.24	46
47	Virginia	4,908	93,837,457	19.12	47
48	Washington	3,476	119,271,508	34.31	48
49	West Virginia	1,791	31,669,683	17.68	49
50	Wisconsin	4,566	74,745,823	16.37	50
51	Wyoming	359	4,736,162	13.19	51
	Total License States	147,771	\$2,535,578,851	\$17.16	
	Total Control States	63,621	\$1,263,811,451	\$19.86	
	GRAND TOTAL	211,390	\$3,799,390,302	\$17.97	

^aEstimated Population as of July 1, 1974 - Series P-25, No. 539.

COMPARISON OF THE EXISTING STATE FORMULA & TWO ALTERNATIVE FORMULAS: WITH STATE ALLOCATED
& COMMON CARRIER FREIGHT RATE CONSIDERATIONS

Distilled Spirits/Case/ (12) Quarts/Old Taylor/86

State Allocated

Freight Rate $\$50.70 + \$1.81 + \$4.50 = \57.01 $\$57.01 \times 15.5\% = \8.84 $\$8.84 + \$57.01 = \$65.85$
 (1) (2) (3) (4) (4) (5) (6) (6) (4) (7)

Common Carrier

Freight Rate $\$50.70 + \$1.02 + \$4.50 = \56.22 $\$56.22 \times 15.5\% = \8.72 $\$8.72 + \$56.22 = \$64.94$ $-\$.91$
 (1) (2a) (3) (4) (4) (5) (6) (6) (4) (7) (9)

State Allocated

Freight Rate $\$50.70 + \$1.81 = \$52.51$ $\$52.51 \times 15.5\% = \8.14 $\$52.51 + \$8.14 + \$4.50 = \65.15 $-\$.70$
 (1) (2) (4) (4) (5) (6) (4) (6) (3) (7) (9)

Common Carrier

Freight Rate $\$50.70 + \$1.02 = \$51.72$ $\$51.72 \times 15.5\% = \8.02 $\$51.72 + \$8.02 + \$4.50 = \64.24 $-\$1.61$
 (1) (2a) (4) (4) (5) (6) (4) (6) (3) (7) (9)

State Allocated

Freight Rate $\$50.70 \times 15.5\% = \7.86 $\$50.70 + \$7.86 = \$58.56$ $\$58.56 + \$1.81 + \$4.50 = \64.87 $-\$.98$
 (1) (5) (6) (1) (6) (8) (8) (2) (3) (7) (9)

Common Carrier

Freight Rate $\$50.70 \times 15.5\% = \7.86 $\$50.70 + \$7.86 = \$58.56$ $\$58.56 + \$1.02 + \$4.50 = \64.08 $-\$1.77$
 (1) (5) (6) (1) (6) (8) (8) (2a) (3) (7) (9)

(1) F.O.B. Price 1 Case/12 Quarts/Old Taylor/86

(2) State Allocated Freight Rate

(2a) Common Carrier Freight Rate

(3) State Excise Tax \$1.50 @ proof gallon (Distilled Spirits)

(4) Laid in Cost to Kansas Wholesaler

(5) State Approved Wholesale Mark-up

(6) Actual Amount of Wholesale Mark-up

(7) Case Price to Kansas Retailer

(8) F.O.B. Price Plus Kansas Wholesale Mark-up

(9) Difference between existing state formula
and proposed state formulas

KANSAS DISTRIBUTORS PERCENTAGES OF CASE VOLUME

	<u>1965</u>	<u>1966</u>	<u>1967</u>	<u>1968</u>	<u>1969</u>	<u>1970</u>	<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>1974</u>
A-B Sales, Inc.	7.69	8.32	8.28	8.01	7.63	7.61	7.72	7.90	8.49	9.35
Billingsley	3.39	3.19	2.08	--	--	--	--	--	--	--
C-K Distributors	3.00	2.52	2.44	2.76	3.32	3.35	3.50	3.25	2.72	2.67
Colby Distributors	6.14	6.14	5.77	5.53	5.28	4.94	4.53	4.32	4.38	4.47
Eastern	5.21	5.42	5.66	5.92	5.82	5.54	5.85	5.43	5.59	9.38
(Eastern State, Sunflower, Parsons)									15.60	16.38
Famous Brands	15.23	15.16	14.86	15.17	15.52	15.67	15.42	15.55	15.30	15.12
General Wares	---	---	---	---	.47	1.18	---	---	---	---
Grant-Billingsley	4.98	5.13	5.12	5.21	5.04	6.06	7.38	8.44	8.71	8.61
Jayhawk	3.50	3.66	3.85	3.92	3.69	3.70	3.64	3.63	3.78	3.66
Kansas Distributors	13.49	13.48	14.45	15.28	14.58	13.38	12.92	12.20	11.40	10.07
Standard Mercantile	11.29	11.22	12.20	13.02	13.94	13.94	15.14	15.52	15.88	16.53
State Distributors	6.80	6.66	6.48	6.71	6.76	6.88	6.84	6.88	7.06	5.26
Sunflower - Parson	3.98	3.94	3.90	3.76	3.60	3.44	3.29	3.12	2.95	1.74
Sunflower - Topeka	3.75	3.87	3.81	3.71	3.67	3.64	3.65	3.75	3.85	4.04
Superior	6.43	6.24	6.06	5.85	5.81	5.90	5.64	5.71	5.88	5.77
D.A. Winters	5.12	5.05	5.04	5.15	4.87	4.77	4.48	4.30	4.01	3.33

DISTRIBUTOR SALES

TOTAL CASES

	<u>Spirits</u>	<u>Wines</u>	<u>Both</u>
1965.....	716,013	254,059	970,072
1966.....	722,833	250,204	973,037
1967.....	780,106	270,585	1,050,691
1968.....	832,800	285,505	1,118,305
1969.....	872,666	305,291	1,177,957
1970.....	901,748	339,519	1,241,267
1971.....	932,548	402,677	1,335,225
1972.....	968,405	492,208	1,460,613
1973.....	1,005,750	502,736	1,508,486
1974.....	1,040,414	494,780	1,535,194

KANSAS

NEW FREIGHT RATES (PER CWT) — Effective December 1, 1975

	<u>OLD RATE</u>	<u>NEW RATE</u>
<u>ZONE 1</u>	\$ 2.28	\$ 1.93
Kansas City, Missouri		
 <u>ZONE 2</u>	 \$ 4.20	 \$ 4.20 (no change)
Louisville, Ky.	Lynchberg, Tenn.	
Bardstown	Allen Park, Mich.	
Clermont	Detroit, Mich.	
Loretto	Cincinnati	
Owensboro	Silverton, Ohio	
Frankfort	Lawrenceburg, Ind.	
Lawrenceburg	St. Louis, Mo.	
 <u>ZONE 3</u>	 \$ 3.14	 \$ 2.79
Chicago, Ill.		
Lemont		
Plainfield		
Peoria		
Pekin		
 <u>ZONE 4</u>	 \$11.36	 \$13.54
New York City		
Farmingdale		
Fairless Hills, Pa.		
New Jersey		
 <u>ZONE 5</u>	 \$ 3.49	 \$ 3.42
Modesto, Calif.		
Madera		
 <u>ZONE 6</u>	 \$ 4.88	 \$ 2.62
Tulsa		
Oklahoma City		
 <u>ZONE 7</u>	 \$ 6.65	 \$ 7.22
Dallas		

Kansas

9 076-9333
276-0111

NEW FREIGHT RATES (PER CWT) - effective May 1, 1975

ZONE 1 \$2.28 per cwt.

Kansas City, Missouri

ZONE 2 \$4.20 per cwt.

Louisville, Ky.	Lynchberg, Tenn.
Bardstown	Allen Park, Mich. ✓
Clermont	Detroit, Mich.
Loretto	Cincinnati
Owensboro	Silverton, Ohio
Frankfort	Lawrenceburg, Ind.
Lawrenceburg	St. Louis, Mo.

ZONE 3 \$3.14 per cwt

Chicago, Ill. ✓
Lemont
Plainfield
Peoria
Pekin

ZONE 4 \$11.36 per cwt

New York City ✓
Farmingdale
Fairless Hills, Pa. ✓
New Jersey

ZONE 5 \$4.88 per cwt

Tulsa
Oklahoma City ✓

ZONE 6 \$3.49 per cwt

Modesto, Calif. ✓
Madera

OTHER

Dallas \$6.65 per cwt =
Seattle \$14.44 per cwt =

PRIVATE SECTOR FREIGHT RATES

State Allocation Zone & F.O.B. Point	Existing State Allocated Freight Rate	Distilled Spirits		Wine (Carbonated)		Wine (Non-Carbonated)	
Zone #1		*Truck	**Rail	*Truck	**Rail	*Truck	**Rail
Kansas City, Mo.	\$2.28 <i>193</i>	\$1.77-24M	\$1.25-30M \$1.03 excess	\$1.77-24M	\$1.25-30M \$1.10 excess	\$1.77-24M	\$1.25-30M \$1.10 excess
Zone #2	\$4.20						
Louisville, Ky.		\$3.39-24M \$2.55-36M	\$2.37-30M \$2.00 excess	\$3.39-24M \$2.55-36M	\$2.37-30M \$2.00 excess	\$3.39-24M \$2.55-36M	\$2.37-30M \$2.00 excess
Bardstown.....		\$2.71-20M	\$2.32-30M \$1.96 excess	\$2.71-20M	\$2.32-30M \$1.96 excess	\$2.71-20M	\$2.32-30M \$1.96 excess
Clermont.....		\$2.71-20M	\$2.32-30M \$1.96 excess	\$2.71-20M	\$2.32-30M \$1.96 excess	\$2.71-20M	\$2.32-30M \$1.96 excess
Loretto.....		\$3.19-24M	\$2.43-30M \$2.04 excess	\$3.19-24M	\$2.43-30M \$2.04 excess	\$3.19-24M	\$2.43-30M \$2.04 excess
Owensboro.....		\$2.41-20M \$2.14-30M	\$2.18-30M \$1.83 excess	\$2.41-20M \$2.14-30M	\$2.18-30M \$1.83 excess	\$2.41-20M \$2.14-30M	\$2.18-30M \$1.83 excess
Frankfort.....		\$2.71-20M	\$2.41-30M \$1.96 excess	\$2.71-20M	\$2.41-30M \$1.96 excess	\$2.71-20M	\$2.41-30M \$1.96 excess
Lawrenceburg.....		\$3.19-24M	\$2.40-30M \$1.96 excess	\$3.19-24M	\$2.40-30M \$1.96 excess	\$3.19-24M	\$2.40-30M \$1.96 excess
Lynchburg, Tenn.		\$3.25-24M	\$2.43-30M \$2.04 excess	\$3.25-24M	\$2.43-30M \$2.04 excess	\$3.25-24M	\$2.43-30M \$2.04 excess
Allen Park, Mich.		\$3.56-24M \$2.69-36M	\$2.68-30M \$2.30 excess	\$3.56-24M \$2.69-36M	\$2.68-30M \$2.30 excess	\$3.56-24M \$2.69-36M	\$2.68-30M \$2.30 excess
Detroit, Mich.		\$3.56-24M \$2.69-36M	\$2.68-30M \$2.30 excess	\$3.56-24M \$2.69-36M	\$2.68-30M \$2.30 excess	\$3.56-24M \$2.69-36M	\$2.68-30M \$2.30 excess
Cincinnati, Ohio.....		\$3.39-24M \$2.55-36M	\$2.52-30M \$2.06 excess	\$3.39-24M \$2.55-36M	\$2.52-30M \$2.06 excess	\$3.39-24M \$2.55-36M	\$2.52-30M \$2.06 excess
Silverton, Ohio.....		\$3.39-24M \$2.55-36M	\$2.52-30M \$2.06 excess	\$3.39-24M \$2.55-36M	\$2.52-30M \$2.06 excess	\$3.39-24M \$2.55-36M	\$2.52-30M \$2.06 excess
Lawrenceburg, Ind.		\$3.39-24M \$2.55-36M	\$2.44-30M \$2.06 excess	\$3.39-24M \$2.55-36M	\$2.44-30M \$2.06 excess	\$3.39-24M \$2.55-36M	\$2.44-30M \$2.06 excess
St. Louis, Mo.		\$2.46-24M	\$1.90-30M \$1.56 excess	\$2.46-24M	\$1.90-30M \$1.65 excess	\$2.46-24M	\$1.90-30M \$1.65 excess
Zone #3	\$3.14 <i>279</i>						
Chicago, Ill.		\$2.90-24M \$2.36-30M	\$2.26-30M \$1.90 excess	\$2.90-24M \$2.36-30M	\$2.25-30M \$2.00 excess	\$2.90-24M \$2.36-30M	\$2.25-30M \$2.00 excess
Lemont.....		\$2.90-24M \$2.36-30M	\$2.26-30M \$1.90 excess	\$2.90-24M \$2.36-30M	\$2.25-30M \$2.00 excess	\$2.90-24M \$2.36-30M	\$2.25-30M \$2.00 excess

PRIVATE SECTOR FREIGHT RATES (Cont.)

State Allocation Zone & F.O.B. Point	Existing State Allocated Freight Rate	Distilled Spirits		Wine (Carbonated)		Wine (Non-Carbonated)	
		*Truck	**Rail	*Truck	**Rail	*Truck	**Rail
Plainfield.....		\$2.83-24M	\$2.10-30M	\$2.83-24M	\$2.10-30M	\$2.83-24M	\$2.10-30M
		\$1.87-34M	\$1.80 excess	\$1.87-34M	\$1.90 excess	\$1.87-34M	\$1.90 excess
Peoria.....		\$2.67-24M	\$2.00-30M	\$2.67-24M	\$2.00-30M	\$2.67-24M	\$2.00-30M
		\$2.04-30M	\$1.67 excess	\$2.04-30M	\$1.80 excess	\$2.04-30M	\$1.80 excess
Pekin.....		\$2.67-24M	\$2.00-30M	\$2.67-24M	\$2.00-30M	\$2.67-24M	\$2.00-30M
		\$2.04-30M	\$1.67 excess	\$2.04-30M	\$1.80 excess	\$2.04-30M	\$1.80 excess
Zone #4	\$11.36						
New York, N.Y.	<i>1354</i>	\$4.82-24M	\$4.11-30M		\$4.11-30M		\$4.11-30M
		\$3.89-35M	\$3.48 excess		\$3.48 excess		\$3.48 excess
Farmingdale, N.Y.		\$5.07-24M	\$4.11-30M	\$5.07-24M	\$4.11-30M	\$5.07-24M	\$4.11-30M
(Nassau County)			\$3.48 excess		\$3.48 excess		\$3.48 excess
Fairless Hills, Pa.		\$4.70-24M	\$3.97-30M	\$4.70-24M	\$3.97-30M	\$4.70-24M	\$3.97-30M
			\$3.38 excess		\$3.38 excess		\$3.38 excess
Hawthorne, N.J.		\$4.73-24M	\$4.11-30M	\$4.73-24M	\$4.11-30M	\$4.73-24M	\$4.11-30M
			\$3.48 excess		\$3.48 excess		\$3.48 excess
Zone #5	\$4.88						
Tulsa, Okla.	<i>262</i>	\$1.58-24M	\$1.20-30M	\$1.58-24M	\$1.20-30M	\$1.58-24M	\$1.20-30M
			\$.99 excess		\$.99 excess		\$.99 excess
Oklahoma City, Okla.		\$1.60-24M	\$1.20-30M	\$1.60-24M	\$1.20-30M	\$1.60-24M	\$1.20-30M
			\$.99 excess		\$.99 excess		\$.99 excess
Zone #6	\$3.49						
Modesto, Calif.	<i>342</i>	\$5.65-24M	\$1.76-85M	\$4.16-30M	\$1.76-85M	\$4.16-30M	\$1.76-85M
		\$4.11-40M	\$1.70-95M	\$4.11-40M	\$1.70-95M	\$4.11-40M	\$1.70-95M
Madera, Calif.		\$5.65-24M	\$1.76-85M	\$4.16-30M	\$1.76-85M	\$4.16-30M	\$1.76-85M
		\$4.11-40M	\$1.70-95M	\$4.11-40M	\$1.70-95M	\$4.11-40M	\$1.70-95M
Other							
Dallas, Texas.....	<i>5722</i>	\$2.31-24M	\$1.68-30M	\$2.31-24M	\$1.68-30M	\$2.31-24M	\$1.68-30M
			\$1.44 excess		\$1.44 excess		\$1.44 excess
Seattle, Washington...	\$14.44	\$5.65-24M	\$1.76-85M	\$4.16-30M	\$1.76-85M	\$4.16-30M	\$1.76-85M
		\$4.11-40M	\$1.70-95M	\$4.11-40M	\$1.70-95M	\$4.11-40M	\$1.70-95M

* Truck freight rates furnished by Yellow Freight Systems

**Rail freight rates furnished by Missouri-Pacific Railroad and Santa Fe Railroads

Rates effective October 15, 1975.

INDIVIDUAL MARKET SEGMENT PERCENTAGE OF TOTAL SALES REVENUE - MAY 1, 1974

1 CASE/BOURBON SUPREME/80 PROOF/QUARTS/39.75 LBS.

	<u>RETAIL BOTTLE BUY</u> <u>RETAIL CASE SALE</u>	<u>RETAIL BOTTLE BUY</u> <u>RETAIL BOTTLE SALE</u>	<u>RETAIL CASE BUY</u> <u>RETAIL CASE SALE</u>	<u>RETAIL CASE BUY</u> <u>RETAIL BOTTLE SALE</u>
Federal Excise Tax Revenue (10.50 per proof gallon)	37.9	34.1	38.4	34.1
American Distilling Gross Revenue	24.4	21.9	24.8	21.9
State Tax Revenue Excise Tax (1.50 per gallon/Spirits) Enforcement Tax (4% of Cost to Consumer)	10.6	10.0	10.7	10.0
Wholesale Level Gross Revenue Freight Allocation (CWT Cost Assigned by Zone) Pekin, Ill. 3.14 per CWT Mark-Up Spirits & Prepared Cocktails - 15.5% Cordial - 17.5% Wine - 26.5% Individual Bottle Charge 1 Gallon-16¢ 18 1 Fifth 2 5¢ 60 ½ Gallon- 8¢ 10 1 Pint 2 4¢ 96 1 Quart - 5¢ 60 ½ Pint - 3¢ 144	13.8	12.4	13.1	11.6
Retail Level Gross Revenue Mark-Up Spirits & Prepared Cocktails - 28.5% Cordial - 36.5% Wine - 45.5%	13.3	21.6	13.0	22.4
TOTAL	100.0%	100.0%	100.0%	100.0%

DISTRIBUTOR-SALES TO RETAILERS AND MILITARY
December 1, 1973 thru November 30, 1974

		INDIVIDUAL HOUSE % OF MARKET	GROUP % OF MARKET	RUNNING TOTAL PERCENTAGE OF MARKET
FAMOUS BRANDS DISTRIBUTOR, INC.	Topeka <i>Allied Realty</i>	8.45		
Famous Brands Distributor, Inc.	Merriam	4.27		
Famous Brands Distributor, Inc.	Salina	2.40		
Jayhawk Distributors, Inc.	Independence	3.66		
Superior Liquors, Inc.	Wichita	2.87		
Superior Liquors, Inc.	Hutchinson	1.53		
Superior Liquors, Inc.	Dodge City	1.38	24.56	24.56
EASTERN DISTRIBUTING				
C-K Distributors, Inc.	Kansas City	6.50		
State Distributors, Inc.	Junction City	2.67		
State Distributors, Inc.	Junction City	3.91		
State Distributors, Inc.	Hays	3.10		
Sunflower Sales Co., Inc.	Parsons	2.87	19.05	43.61
STANDARD LIQUOR CORP.				
Standard Liquor Corp.	Wichita <i>lty</i>	5.83		
Standard Liquor Corp.	Lenexa	4.71		
Standard Liquor Corp.	Topeka	2.60		
Standard Liquor Corp.	Great Bend	3.39	16.53	60.14
KANSAS DISTRIBUTORS, INC.				
Kansas Distributors, Inc.	Kansas City <i>realty</i>	4.62		
Kansas Distributors, Inc.	Hutchinson	1.11		
Kansas Distributors, Inc.	Salina	1.48		
Kansas Distributors, Inc.	Topeka	1.36		
Kansas Distributors, Inc.	Wichita	1.49	10.06	70.20
A-B SALES, INC.				
A-B Sales, Inc.	Wichita	7.30		
A-B Sales, Inc.	Great Bend	.65		
A-B Sales, Inc.	Hutchinson	1.39	9.34	79.54
GRANT-BILLINGSLEY LIQUOR CO.				
Grant-Billingsley Liquor Co.	Wichita	5.43		
Grant-Billingsley Liquor Co.	Merriam	3.18	8.61	88.15
COLBY DISTRIBUTING, INC.				
Colby Distributing, Inc.	Colby	1.64		
Colby Distributing, Inc.	Dodge City	2.83	4.47	92.62
SUNFLOWER SALES OF TOPEKA				
	Topeka	4.04	4.04	96.66
D. A. WINTERS CO.				
D. A. Winters Co.	Wichita	2.54		
D. A. Winters	Arkansas City	.08		
D. A. Winters	Topeka	.72	3.34	100.00

COST OF ADMINISTRATION & ENFORCEMENT - 1973

	<u>KANSAS</u>	<u>COLORADO</u>	<u>MISSOURI</u>	<u>NEBRASKA</u>	<u>OKLAHOMA</u>
Cost of State Administration Collections, etc.	\$688,709	\$330,477	\$908,494	\$357,367	\$586,293
Estimated Population	2,279,000	2,437,000	4,757,000	1,542,000	2,663,000
Per Capita Cost of Administration & Enforcement	30.2¢	13.6¢	19.1¢	23.2¢	22.0¢

HIGH COST OF ADMINISTRATION & ENFORCEMENT

Public Revenue from Alcohol Beverages - 1973

Distilled Spirits Council of the United States, Inc./Washington, D. C., 20004

Estimated population as of July 1, 1973 - Series P-25, No. 508

MERRY CHRISTMAS &
A HAPPY NEW YEAR!
P. H. H. H. H.

TRANSMITTAL MEMORANDUM

TO: Federal and State Affairs Committee August 20, 1976
FROM: Kansas Legislative Research Department
RE: Conferee's Statement on Proposal No. 20 -
Alcoholic Liquor Price Affirmation

The enclosed statement by Gary J. Kershner, Kansas Wine and Spirits Wholesalers Association, is being sent at the request of Chairman Buzzi for your consideration.

MEMORANDUM

TO: Federal and State Affairs Interim Study Committee
FROM: Kansas Wine & Spirits Wholesalers Association, Inc.
RE: Liquor Price Affirmation Law

INTRODUCTION

As a result of the question which arose during the 1976 session of the Kansas Legislature, your committee has undertaken the study of the liquor affirmation law of our state.

The following information is presented in an effort to aid in an understanding and interpretation of said law, and its purpose and effect.

LEGAL

One feature of the Kansas system of liquor distribution is the Price Affirmation Law, which requires suppliers (distilleries, wineries, importers) to offer all brands or kinds of liquor or wine to all wholesalers and at the same price. It requires the supplier to sell his merchandise to Kansas wholesalers at as low a price as he sells the same merchandise to wholesalers in any other state.

In addition, wholesalers are required to offer all merchandise to all retailers and at the same price, thus preventing any favoritism, "deals" or otherwise unfair competitive advantages within the state. All Kansas licensed wholesalers and retailers are prohibited from accepting "deals" -- promotional gimmicks, rebates,

Attachment IV

advertising allowances, etc.

This is, in effect, a consumer protection law. The law prevents suppliers from using high prices to Kansas wholesalers to offset losses or lower profits in another state where the suppliers sell at lower prices for promotional purposes. If wholesalers have to pay more for the merchandise, it is obvious that the consumer will then have to pay more. Thus, the Kansas consumer saves money as a result of this law. After passage of the Kansas affirmation law figures were compiled on a one year basis which reflected the following:

- (1) Because of our price affirmation law, the Kansas consumer saved approximately \$190,000.00 on the purchase of the more popular brands of wines for the year.
- (2) Again, because of our price affirmation law, and for the same year, the Kansas consumer saved on the purchase of the top seven selling brands of whiskey, gin and vodka an amount in excess of \$300,000.00.

The Kansas statutes dealing with affirmation are as follows:

K.S.A. 41-1111. Regulation of sales prices of alcoholic liquors sold by manufacturers, distributors and retailers; legislative findings. In the public interest and in order to promote the orderly sale and distribution of alcoholic liquor, to foster temperance and to promote the public welfare, in the state of Kansas, the legislative finds: (a) That sales prices of alcoholic liquor sold by manufacturers and others to distributors licensed in this state should be no higher than the lowest price for which the same is sold to distributors anywhere in the continental United States.. (emphasis supplied)

K.S.A. 41-1112. Same; prices filed by manufacturers and others to be as low as in any other state; determination. Prices filed by manufacturers and others authorized to sell alcoholic liquors to licensed distributors, pursuant to subsection (1) of section 41-1101 of the General Statutes Supplement of 1959, shall be the current prices. F.O.B. point of shipment, and said price as filed by each manufacturer or vendor shall be as low as the lowest price for which the item is sold anywhere in any state of the continental United States by such manufacturer or vendor; Provided, that in determining the lowest price for which an item of alcoholic liquor is sold in any such state there shall be taken into consideration all advertising, depletion and promotional allowances and rebates of every kind whatsoever made to purchasers in such state by the vendor. (emphasis supplied)

K.S.A. 41-1116. Same; prices to be fair and in public interest; guides. The prices so established and fixed by the board shall be fair and reasonable to licensed distributors, licensed retailers, and the ultimate consumer. Said prices must be in the public interest and such that they do not unduly stimulate the sale and consumption of alcoholic liquor or tend to disrupt the orderly sale and distribution of alcoholic liquor... (emphasis supplied)

BACKGROUND INFORMATION

You are aware that the sale of alcoholic liquor in our state is strictly regulated by law, rules and regulations.

The history of liquor control in Kansas begins in July, 1949, when the legal sale of alcoholic beverages was reintroduced into Kansas after 69 years of constitutional prohibition.

The citizens of our state, like most other Americans, recognized the failure of the "noble experiment". We had seen that prohibition neither ended the consumption of alcoholic beverages nor eliminated their sale. We all could see that prohibition had spawned a vast empire of crime which preyed on the public's desire to continue normal drinking customs and habits. The "blind pig" and the bootlegger were the furtive symbols of the failure of prohibition in our state. Repeal ended those conditions, enabling the reborn alcoholic beverage industry -- operating under Federal and strict state supervision and control -- to develop as a symbol of common sense.

Prohibition was brought on, in part, by abuses in the system of distribution, sale and consumption of alcoholic beverages. After repeal of prohibition, the basic approach of state legislatures was to establish controls and to regulate the channels of distribution from the state borders to the consumer. This was accomplished in two ways by the states:

1. Monopoly States - Eighteen states prohibit anyone, except the state, from bringing alcoholic beverages into the state. The state is the wholesaler. Some states operate retail outlets, others license retailers.
1. License States - (including Kansas) - The majority of the states opted for a method based on the free enterprise system.

These license states provide a three-tier system of distribution from supplier (or manufacturer) to wholesaler to retailer. Of the thirty two (32) license states, twenty three (23) of the license states (including Kansas) require suppliers to sell only to licensed wholesalers, and further prohibit suppliers from having interests in wholesalers or retailers. Retailers are licensed and may not be owned or operated by wholesalers. Thus, each tier, supplier, wholesaler and retailer, has no tie to another tier. Particle integration is prohibited.

Interestingly enough, the monopoly states were the first states to adopt affirmation and to enact similar uniform policies with regard to price postings by suppliers.

The Kansas affirmation law was an outgrowth of that activity by the monopoly states, and was enacted by the legislature in 1961.

It should be noted that Kansas was the first "license" state to enact an affirmation law, but has since been followed by a growing number (17) of other states.

WHAT THE LAW DOES

As stated, the present affirmation provisions of our law require manufacturers and vendors of alcoholic liquor to file prices and to sell their products to Kansas wholesalers at a price as low as the lowest price for which the item is sold by manufacturers and vendors in any state in the continental United States, based on an F.O.B. point of shipment.

The s affirmation law prohibits manufacturers and suppliers from using high prices to Kansas wholesalers to offset losses or lower profits in another state where they sell at low profits for promotional purposes.

THE PRESENT ISSUE

The issue of affirmation was raised by the ABC Director, in a directive issued by his office, in October of 1975, as a result of certain actions by the Seagram's Companies, and a few other manufacturers.

The topic is presently before the Shawnee County District Court. It should be noted that in the case of Laird v Cheney 414 P. 2918 (1966), the Kansas Supreme Court upheld the validity of the Kansas affirmation law.

The facts leading to the present dispute, in simplified fashion, and to use one company as an example are as follows: Seagram's customarily (since 1949) posted its products for all states from its plants in Lawrenceburg, Indiana and Louisville, Kentucky. They wished, for motives known only to themselves, to post from Oklahoma City, but only for the states of Kansas and Oklahoma. It should be noted that a supplier may post from as many points as they desire, so long as they comply with the affirmation law.

In posting from Oklahoma City, however, Seagram's did not comply with the affirmation law (posting at a price as low as the lowest prices that the merchandise was sold in the continental

United States). They did not comply because their led F.O.F prices from Oklahoma City are higher than their prices from Lawrenceburg, Indiana and Louisville, Kentucky. (See attached Exhibit A).

The ABC office informed them this was not permissible under the Kansas affirmation law. Seagram's sought and obtained an injunction in the Shawnee County District Court and the matter is presently in litigation.

Seagram's argument in posting from Oklahoma City in the manner in which they did was that prices would be lower to Kansas consumers. The attached exhibit demonstrates that quite the opposite occurs. (See attached Exhibit B)

The committee may be interested to know that Oklahoma has an affirmation statute similar to Kansas', and that the Oklahoma Attorney General recently ruled in an opinion against Seagram's in this matter, stating: "...this opinion reaches the same result found by the Kansas Supreme Court when it construed the Kansas affirmation law, to-wit, absent statutory direction to the contrary, the affirmation law looks to the amount of money paid by wholesalers to their suppliers for spirits..."

CONCLUSION

The wholesale liquor industry in Kansas accepts its responsibility to protect the public interest. It is our considered opinion that this can best be achieved in an orderly market -- made orderly by proper regulation. We believe that such proper regulation is well provided under present Kansas law, which our

industry supported since its inception.

Kansas at this time has the reputation of having one of the best -- if not the best -- liquor laws in the nation. The Kansas law has worked for 27 years. Our liquor market is recognized as one of the cleanest -- and perhaps the cleanest -- market in the United States.

We are attempting in this statement to review the Kansas affirmation law, how it came to be, and why it has worked so well. The Kansas Wine and Spirits Wholesalers Association, Inc., has at all times in the past supported the Kansas affirmation law and has at all times extended its complete cooperation in all pertinent studies and considerations undertaken by our State Legislature and its appropriate committees. This support and cooperation will continue in the future in the interest of maintaining and strengthening the best form of liquor laws for the residents of Kansas.

For these reasons, we are opposed to amendment of the affirmation law in any fashion.

We wish to express our appreciation to the Committee for the opportunity to express our viewpoint on this matter.

Respectfully submitted,

Gary J. Kershner
Executive Secretary
KWSWA

EXHIBIT A

SEAGRAM'S PRODUCTS

F.O.B. Price Increases due to
Posting of Products From Oklahoma City, Oklahoma

	<u>F.O.B. Price</u> <u>Louisville, Ky. (Sept. 1975)</u>	<u>F.O.B. Price</u> <u>O.K. City, Okla. (sept 75)</u>
<u>Benchmark Bourbon</u>		
H. Gal.	\$ 53.00	\$ 54.52
Quarts	56.10	57.65
5ths	45.00	46.46
Pints	56.50	58.11
H/Pints	56.85	58.55
<u>Seagram 7 Crown</u>		
	<u>Lawrenceburg, Ind. (Sept. '75)</u>	<u>O.K. City, Okla. (Oct. '75)</u>
Gal.	\$ 45.30	\$ 47.04
H/Gal.	42.62	44.21
Quarts	45.33	46.88
5ths	36.40	37.85
Pints	45.91	47.58
H/Pints	45.98	43.73 *
*Special Discount Price		
<u>Seagrams V.O.</u>		
Gal.	\$ 20.15	\$ 20.72
H/Gal	62.48	64.05
Quarts	64.14	63.69 *
5ths	51.39	52.85
Pints	64.34	66.04
H/Pints	64.49	66.26
*Special Discount Price		
<u>Seagrams Gin</u>		
H/Gal.	\$ 36.78	\$ 38.38
Quarts	38.41	39.97
5ths	31.58	33.04
Pints	39.65	41.36
H/Pints	40.11	41.87 *
*Special Discount Price		
<u>Seagrams Crown Royal</u>		
H/Gal.	\$ 88.50	\$ 90.10
Quarts	91.37	93.01
5ths	73.26	74.81
Pints	92.59	94.30
H/Pints	93.66	95.43
<u>Wolfschmidt Vodka</u>		
H/Gal.	\$ 33.50	\$ 35.09
Quarts	32.65	35.70
5ths	27.18	28.64
Pints	35.78	37.45
H/Pints	36.36	38.12

* F.O.B. PRICES EXPRESSED AS PER CASE COSTS

EXHIBIT A (continued)

Christian Brothers Brandy

H/Gal.
Quarts
5ths
Pints
H/Pints

F.O.B. Price
San Francisco, Calif.
(May, 1976)

\$ 46.55
47.80
39.80
40.75
53.80

O. City, O.
(May, 1976)

\$ 46.80
46.19
41.04
42.11
54.55

* F.O.B. PRICES EXPRESSED AS PER CASE COSTS

EXHIBIT B (Continued)

PRODUCT	Consumer Price Per Bottle From Customary Shipping Point*	Consumer Price Per Bottle From Oklahoma City Shipping Point	Increased Difference Per Bottle	No. of Bottles In One Year Period Based On ABC Shipment Reports	Total Increase To Kansas Consumer
<u>Seagrams Gin</u> Lawrenceburg, Ind. (Sept. 75) (Oct. 1975)					
H/Gal.	\$ 10.80	\$ 11.03	\$.23	2,220	\$ 510.60
Quarts	5.61	5.72	.11	11,880	1,306.80
5ths	4.61	4.72	.11	20,304	2,233.44
Pints	2.93	2.99	.06	45,552	2,733.12
H/Pints	1.51	1.44 *	.02	200,640	4,012.80
* Special Discount Price - Regular Price of \$1.53				Total	\$10,796.76
<u>Seagrams Crown Royal</u>					
H/Gal.	\$ 23.60	\$ 23.83	\$.23	780	\$ 179.40
Quarts	12.19	12.30	.11	3,216	353.76
5ths	9.80	9.91	.11	15,384	1,692.24
Pints	6.21	6.26	.05	7,968	398.40
H/Pints	3.17	3.19	.02	9,936	198.72
				Total	\$ 2,822.52
<u>Wolfschmidt Vodka</u>					
H/Gal.	\$ 9.98	10.21	\$.23	528	\$ 121.44
Quarts	4.89	5.18	.29	3,012	873.48
5ths	4.07	4.18	.11	1,932	212.52
Pints	2.69	2.74	.05	744	37.20
H/Pints	1.39	1.42	.03	1,008	30.24
				Total	\$ 1,274.88
<u>Christian Brothers Brandy</u> (San Francisco, Calif-May 1976) (May 1976)					
H/Gal.	\$ 13.09	\$ 13.07	\$ ---		---
Quarts	6.73	6.49	---		---
5ths	5.61	5.72	.11	29,064	\$ 3,197.04
Pints	2.90	2.96	.06	23,376	1,402.56
H/Pints	1.92	1.92	---		---
				Total	\$ 4,599.60
TOTAL OF ALL ITEMS:					\$90,470.70

EXHIBIT B

SEAGRAM'S PRODUCTS

Consumer Price Increases Due To Posting of Products From Oklahoma City, Oklahoma

PRODUCT	Consumer Price Per Bottle From Customary Shipping Point	Consumer Price Per Bottle From Oklahoma City Shipping Point	Increased Difference Per Bottle	No. of Bottles In One Year Period Based On ABC Shipment Reports	Total Increase To Kansas Consumer
<u>Benchmark Bourbon</u> (Louisville, Ky.-Sept. 1975) (Sept. 1975)					
H/Gal	\$ 14.81	\$ 15.03	\$.22	606	\$ 133.32
Quarts	7.82	7.92	.10	3,612	361.20
5ths	6.30	6.40	.10	8,772	877.20
Pints	3.98	4.03	.05	7,272	363.60
H/Pints	2.02	2.05	.03	6,528	195.84
				Total	\$1,931.16
<u>Seagram 7 Crown</u> Lawrenceburg, Inc. (Sept. 1975) (Oct. 1975)					
Gal.	\$ 25.91	\$ 26.37	\$.46	984	\$ 452.64
H/Gal.	12.24	12.47	.23	17,760	4,084.80
Quarts	6.46	6.57	.11	71,880	7,906.80
5ths	5.20	5.31	.11	118,152	12,996.72
Pints	3.31	3.37	.06	152,568	9,154.08
H/Pints	1.69	1.59 *	.02	199,824	3,996.48
				Total	\$38,591.52
* Special Discount Price - Regular Price \$1.71				Total	\$38,591.52
<u>Seagram's V.O.</u>					
Gal.	\$ 33.38	\$ 33.84	\$.46	1,095	\$ 503.70
H/Gal	17.13	17.37	.24	5,112	1,226.88
Quarts	8.78	8.65 *	.12	75,756	9,090.72
5ths	7.06	7.18	.12	99,696	11,963.52
Pints	4.45	4.52	.07	63,264	4,428.48
H/Pints	2.25	2.29	.04	81,024	3,240.96
				Total	\$30,454.26
* Special Discount Price - Regular Price Now \$8.90				Total	\$30,454.26

Bob Tilton

Attachment I

Selected brands of liquor in Kansas cost the consumer more than they do in many other states. One might wonder why this is so if affirmation is working since the distillers must sell their products to the Kansas Wholesaler at the lowest F.O.B. point price it is sold anywhere in the United States but, K.S.A. 41-1111 states:

"In the public interest and in order to promote the orderly sale and distribution of alcoholic liquor, to foster temperance and to promote the public welfare, in the state of Kansas, the legislature finds: (a) That sales prices of alcoholic liquor sold by manufacturers and others to distributors licensed in this state should be no higher than the lowest price for which the same is sold to distributors anywhere in the continental United States; and (b) that minimum sale prices for alcoholic liquor sold by distributors and retailers licensed in this state should be determined and regulated by law."

And K.S.A. 41-1112 states:

"The prices filed by manufacturers and others authorized to sell alcoholic liquors to licensed distributors, pursuant to subsection (1) of section 41-1101 of the General Statutes Supplement of 1959, shall be the current prices, F.O.B. point of shipment, and said price as filed by each manufacturer or vendor shall be as low as the lowest price for which the item is sold anywhere in any state in the continental United States by such manufacturer or vendor: Provided, That in determining the lowest price for which an item of alcoholic liquor is sold in any such state there shall be taken into consideration all advertising, depletion and promotional allowances and rebates of every kind whatsoever made to purchasers in such state by the vendor."

The director, E. V. D. Murphy, has said:

"Here we protect the rights of the little man in business better than any other state. Besides we don't have the scandals other states have in the liquor industry."

It would seem that the issue for these hearings is what effect does the Kansas liquor laws have on the consumer and the citizens of the State of Kansas.

There are 1,180 retail liquor stores in Kansas, including 86 in Topeka. There are 30 wholesale distributors in Kansas owned by 10 families which are reaping a large windfall through phantom freight rates.

Most affirmation in control states allow freight and warehousing costs to the F.O.B. point to be included in the price filed as the lowest price. The director of

the Alcoholic Beverage Control Division of the State Department of Revenue has made a ruling not allowing the distillers to add on their freight charges to their F.O.B. point and any warehouse charges.

Distillers can buy bulk shipping to move their product from distillery to F.O.B. points closer to Kansas such as Kansas City much cheaper freight wise than the wholesalers can, who must often pool shipments and by making less than truckload shipments get a much greater freight rate.

Kansas has the unique position of being controlled by Alcoholic Beverage laws that award inefficiency as far as the wholesaler is concerned.

The more inefficient the wholesaler can operate the greater his profits.

This seems strange but one only has to look at the practice that now exists in the State of Kansas.

The wholesalers have found ways to make substantial windfall profits from phantom freight rates which reading of the General Statutes of Kansas would indicate are not the intent of the legislature.

The wholesalers have established a trucking company known as Distributors, Inc., which hauls freight into Kansas with the sole purpose of making profits from the freight allowed by the Alcoholic Beverage Control Division.

A good example would be to look at the freight rates effective July 1, 1976, from New York City to Kansas. The rate is \$13.54 a hundred. Our sources indicate that the Distributors, Inc. can pool shipments and have a stop off in Kansas for the rate of \$4.65 a hundred.

This results in a profit to the wholesalers of \$8.89 a hundred. When one multiplies \$8.89 a hundred times 400, it is apparent that the wholesalers on every 40,000 pound truckload have a profit from freight of \$355~~6.00~~.

It might be helpful to the committee if they can compare the price charged by Kansas, Missouri, Colorado, Oklahoma and Nebraska.

An independent consumer group makes a periodic survey of prices charged in various states and we have set forth a schedule which shows the average retail price paid by consumers in each state. (Schedule 1.)

Some states are higher such as Nebraska in some commodities, but lower in others.

When one looks at the State of Missouri, it is apparent that Missourians are buying their liquor much cheaper than Kansans are.

The reason that Missouri citizens are buying their liquor at substantially reduced prices is due to competition in the liquor industry.

The State of Missouri does not control the prices that a retailer can sell nor does it control the prices that a wholesaler can sell at.

A survey of the liquor industry shows that the 13 affirmation states on an average show a few cents greater cost to the consumer than in the other states when averages are compared.

This will come as a surprise to many because the purpose of affirmation, of course, is to see that the citizen gets his liquor and spirits at a price as cheap as they are sold anywhere else in the United States by the distiller.

The wholesalers have found many ways in which to circumvent the purpose of the affirmation law.

One of their practices is to have private labels and I attach a copy of a letter from one of the wholesalers to their retailers setting forth the evils of this practice. (Schedule 2.)

During the last session of the legislature, my client Seagrams, attempted to have enacted Senate Bill 824, which needed some amendments. The purpose of this proposed bill was to allow the distillers to select their F.O.B. point closest to the State of Kansas.

The wholesalers opposed this bill because it, of course, would eliminate the profits they make on freight rates.

The distillers sponsored this bill for the following reasons:

1. Goods will be available in any quantity on very short notice.
2. Kansas Wholesalers will not have to lay out large sums of money to buy truckloads of goods but will buy merchandise as they turn it over.
3. Distributors may order only that merchandise which they need immediately.
4. Having goods in the warehouse at Oklahoma City or Kansas City will insure them that easy availability there would be no out-of-stock items.
5. Distributors' money will not be tied up as long (as it is now) so they will actually save money on interest borrowing.
6. Distributors' trucks will no longer have to make long trips to Kentucky, Indiana, or wherever. They will have overnight service from Oklahoma City or Kansas City available to them.
7. Orders will not be held up on credit for lengthy periods.

The distillers need a law which will allow them to add on to their lowest F.O.B. price any freight or handling charges at accomodation warehouses between the point of the distillery and the accommodation warehouse.

It is hard to understand why anybody would be opposed to the allowing a distiller to add on his freight rates and handling charges to an accommodation warehouse because the freight rate would be the lowest rate available due to the fact that the distillers would ship volume shipments which are made at the lowest possible freight rate.

Attached to this paper is a schedule entitled "Cutty Sark Monthly Comparison of Sales." (Schedule 3.)

In 1973, the wholesalers sold the A.B.C. Review Board a proposal to allow them to have increased freight rates based upon a formula.

The result of this formula on the sales of some name brand products was devastating.

One only has to look at the record in the case of Cutty Sark to see what a devastating effect the administration of the laws have had on this company.

You are all probably aware of the fact that Cutty Sark is a name brand Scotch and is very popular.

In 1973, sales of Cutty Sark were 21,250 cases and in 1975, they were down to 16,730 cases, and in 1976, sales were off a third.

In July of 1975, Cutty Sark, based upon the practice of their competitors moved their F.O.B. point to Kansas City, Kansas.

Shortly thereafter, Colonel Murphy promulgated a Memorandum warning all distillers that adding their freight charges onto an accommodational warehouse closer to Kansas was in violation of the affirmation law.

This was Colonel Murphy's interpretation and a lawsuit was filed seek an injunction to restrain him from his interpretation of Kansas affirmation law.

Cutty Sark then moved their F.O.B. point back to New York, the first 6 months of 1976, in order to comply with Colonel Murphy's ruling. You can look at the schedule and see that this had a devastating effect on their business.

The reason that Cutty Sark's business fell off so greatly was due to the increased costs of their product to the consumer.

With the F.O.B. point moved back to New York, the Kansas wholesalers started hauling the product from New York to Kansas City at a freight rate of \$13.54 a hundred as compared to a freight and handling charge of \$1.31 that Cutty Sark added on to their lowest price sold anywhere in the United States.

The freight and handling charge of \$1.31, of course, was charged to the wholesaler.

Cutty Sark could move their Scotch from Houston for less than \$1.00 a hundred whereas to move the same Scotch from New York City by wholesalers cost \$13.54 a hundred which the consumer has to pick up.

The increased freight rate, of course, is not only a windfall to the wholesalers but they get a mark-up on the increased freight charge of 15 1/2%. It is small wonder that the wholesalers do not want to see these laws changed.

Attached hereto is a schedule entitled Comparison July to August, 1976. (Schedule 4.)

In June of 1976, Cutty Sark joined the suit enjoining the Director from his interpretation of the affirmation law, and in August, 1976, started selling from their Kansas City F.O.B. point.

The result in savings to the consumer is set forth in this schedule showing the net results of savings to the consumer if the supplier pays the freight as compared to the wholesaler being allowed his fictitious freight rate as promulgated by the Alcoholic Beverage Control Division.

Attached to this paper is a comparison of Oklahoma and Kansas retailers' costs by Christian Brothers Brandy. (Schedule 5.)

I thought it might be enlightening to the committee to see that Oklahoma tax is \$9.60 a case as compared to the State of Kansas tax, \$3.60 a case, and yet when the product finally gets to the retail stores, it costs more in Kansas for this product even though there is a \$6.00 difference in taxes per case.

Clearly something must be wrong with the Kansas system if these differentials exist.

This study was done during the 1976 legislature while it was in session and I do not know if these figures would be current today, but at least at that date this was a bona fide comparison.

Another interesting study I have made concerns the freight rates on wine from Modesto, California to Kansas. Attached is a schedule which shows that the wholesalers can make on a 64,000 pound rail car, a profit of \$1.18 a hundred, and the cars run up to 95,000 pounds and the profits, of course, would increase the larger the car. (Schedule 6.)

The wholesalers naturally want to protect their interest and will claim that the present affirmation law is to the best interest of the consumers.

A look at Schedule 7. shows that Kansas consumers are on an average paying more for their liquor and spirits than many other states, and it is therefore evident when one looks at the facts that affirmation does not necessarily mean that the consumer is getting a fair shake.

If one will compare the prices of the State of Missouri which has a free competitive market which our society is founded upon, it becomes apparent that free competition is the best possible system for the consumer.

If the statute is not amended to allow the accommodation warehouses, it is quite apparent that many popular brands of liquor and wines will not longer be able to be sold in the State of Kansas.

Should the case in the Shawnee County District Court now pending which enjoins the Director of the Alcoholic Beverage Control Division be lost, then many companies will no longer be able to do business in Kansas.

The State of Missouri now offers its consumers 1,456 different brands of distilled spirits. The State of Kansas only offers its consumers 661 different brands of distilled spirits.

There are various ethnic and religious groups that no doubt cannot buy spirits that they would like to buy.

Free competition would result in greater tax income to the State of Kansas. Everyone is familiar with the fact that many people in Johnson County and Wyandotte County buy their liquor in the State of Missouri at a substantial savings when compared to the prices in Kansas.

It would be obvious that at least many dollars in taxes are lost annually from these sales.

The Kansas retailer is at a great disadvantage in competing with the Missouri retailer and for this reason it is felt that the affirmation law is not working

in the State of Kansas.

Your committee's consideration of a free, competitive liquor industry would be greatly appreciated and would most benefit the consumer and citizens of the State of Kansas.

Affirmation laws only protect the wholesaler and any savings that he receives under the law normally are not passed onto the consumer.

A good example is post offs wherein the suppliers reduce their case cost to the wholesalers as much as \$2.00 a case. Frequently the wholesaler will buy thousands of cases prior to the end of the month and then when the cost price goes up the following month, he takes advantage of the post off savings and it is not passed on to the consumer.

Understandably the wholesalers and those administering the law feel that it is a good law as they would like to maintain the status quo.

We feel that after so many years of experience and the clear factual evidence that affirmation is not saving the Kansas consumer money that the committee should consider some changes.

Respectfully yours,

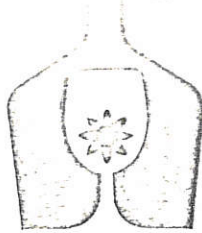


Robert E. Tilton

SCHEDULE 1.

Survey started 3 or 4 years ago and on average prices. Independent Consumer Group.

	<u>Colo.</u>	<u>Kans.</u>	<u>Mo.</u>	<u>Nebr.</u>	<u>Okla.</u>
Seagrams 7 80 Proof	5.24	5.62	5.25	5.73	4.75
Old Crow Straight 80 Proof	5.03	5.24	5.00	5.83	4.75
Old Granddad 100 Proof in bond	8.33	7.72	7.62	7.98	6.60
DeWar's Scotch	8.85	8.34	8.09	8.50	6.97
Smirnoff Vodka	5.14	5.20	5.00	5.18	4.59
Bacardi Rum	5.55	5.46	4.45	5.32	4.87
Canadian Club	7.41	7.28	7.06	7.06	6.39
Beefeaters Gin	7.20	7.69	7.16	6.30	6.29



Eastern Distributing Company · State Distributors, Incorporated · Sunflower Sales Company of Parsons

GENE BAIRD
President

TO: All Salesmen

FROM: Gene Baird, President

I am writing to discuss our private label brand Vodka - VIAKA. We are proud of this label and the volume of business it has developed during it's first year of existence.

Although, we have followed the pattern established by other wholesalers, actually, I don't believe in wholesaler private labels as they are presently used in Kansas. I think they are an improper and illegal circumvention of our Kansas Laws which prohibit Franchises.

We all know that private labels, (our labels included) are used only to tie a customer to the wholesale house. That is the way every wholesaler who has private labels uses them. That is the basic reason they developed them in the first place, and we use our labels the same way.

Almost without exception, wholesalers net less percentage profit on their private labels than they do on nationally advertised brands, however, if a wholesaler can create a demand for a product which he has exclusively, then he is assured that he will get a minimum order when a retailer is compelled to order some of that particular private label. I think private labels have a place in the Kansas market only if every wholesaler can handle them like any other brand.

It is my opinion that the present practice is an absolute violation of the intent, if not the letter, of the no-franchise provisions of our Kansas Law. We at Eastern are just as guilty as the others, we recognized the advantages, of using private labels to control some retail business, so we did it -, it works very well, and we have been unusually successful with our VIAKA label. It is easily the fastest growing label in Kansas.

However, I continue to disagree with this practice.

The Sunflower Sales Company of Topeka has recently announced that their labels of Jayhawk Bourbon, Green Gables Scotch and Rostov Vodka are now available to all Kansas Wholesalers. We applaud this action by Sunflower and we agree that retailers should be able to purchase any label available in Kansas from whatever wholesaler they prefer, therefore, Eastern will agree publicly that we will offer our labels in exchange to any wholesaler who will make his labels available to us. If all wholesalers carry all brands, the retailers need, it's easier and simpler for the retailers to order, and eliminates the controlled account concept. This plan would re-affirm the basic principle of our no-franchise law.

Retailers can join the fight by refusing to handle any wholesaler private label that can only be purchased from one wholesaler. Why let any wholesaler control their orders? The no-franchise provisions of our Kansas law provide a benefit for Kansas retailers that they should strive hard to protect. One other wholesaler is already handling VIAKA, and we are willing to make VIAKA available to every Kansas Wholesaler, we think this label is so strong that it will continue to grow no matter what marketing method is used.

If your retailer friends feel that there is a demand for some of the private labels, and don't want to be without them when a customer requests a specific label, (and I can sympathize with this thinking), then the retailer, to indicate his vigorous objection to exclusive control labels could simply take the item off the shelf and stock it under the counter for sale on a request basis only. This method protects the sale but doesn't help promote a brand which only increases the amount of control the wholesaler owner of the brand can exert over the retailer.

If the idea of eliminating all exclusive wholesaler private labels from their shelves or taking them off of display doesn't appeal to an aggressive retailer, then I suggest a third alternative that is sure to get the attention of the owner of any wholesaler exclusive control label. I suggest that every retailer floor stock and mass display our label VIAKA VODKA, or one of the labels owned by the Sunflower Sales Company. If other wholesalers who own private labels begin to see non-exclusive private labels like VIAKA-VODKA occupying the best shelf position in the store, and with large floor stackings, along with a display near the cash register, I am certain they would soon get the idea that they should join in this program for the ultimate benefit of all of the Kansas Liquor industry.

CUTTY SARK
MONTHLY COMPARISON SALES
1973 Thru July, 1976

(Number is Amount of Cases)

	January	February	March	April	May	June	July	August	September	October	November	December
1973	1223	1056	1888	1037	1579	1815	772	1172	1498	3427	2529	3459
1974	1068	1563	1091	1661	538	1004	423	482	725	3527	1988	899
1975	1158	297	780	984	726	1271	1088	905	1550	1529	3122	3320
1976	651	5	800	538	818	1195	330					

SCHEDULE 3.

TOTAL SALES

1973	21,250
1974	14,987
1975	16,730
1976	Off 1/3

MISSOURI - NEW JERSEY

January - July 1975	6304
January - July 1976	4337 (- 1967)
July - December 1974	8044
July - December 1975	11514 (+ 3470)

SCHEDULE 4.

COMPARISON JULY TO AUGUST, 1976
PRICE DIFFERENTIALS

Consumer Case Cost

CUTTY SARK:

	<u>July</u>	<u>August</u>	<u>Dif.</u>
Gallon	90.57	87.55	- 3.02
Half-Gallon	85.73	81.72	- 4.01
Quart	95.94	92.46	- 3.28
Fifth	76.22	72.39	- 2.84
Tenth	80.45	76.84	- 3.61
Half-Pint	104.64	97.08	- 7.56

CUTTY 12:

Quart	132.47	126.71	- 5.76
Fifth	106.13	101.90	- 4.23
Half-Pint	140.85	133.75	- 7.10

Consumer Bottle Cost

CUTTY SARK:

Gallon	39.00	37.72	- 1.28
Half-Gallon	18.47	17.61	- 0.86
Quart	10.35	9.98	- 0.37
Fifth	8.25	7.95	- 0.30
Tenth	4.37	4.18	- 0.19
Half-Pint	2.84	2.65	- 0.19

CUTTY 12:

Quart	14.26	13.64	- 0.62
Fifth	11.44	10.99	- 0.45
Half-Pint	3.82	3.63	- 0.19

SCHEDULE 5.

Comparison of Oklahoma and Kansas Retailers Cost
5th Sized Bottles
Christian Brothers Brandy

Oklahoma

Wholesalers cost per case	\$41.04
Oklahoma Tax	9.60
Mark-Up 2% allowed wholesaler	<u>1.01</u>
Retail Stores Cost	\$51.65

Kansas

Wholesalers cost per case	\$41.04
State Tax	3.60
Freight	0.94
Mark-Up 15 1/2% allowed wholesaler	<u>7.07</u>
Retail Stores Cost	\$52.65

Kansas Freight Rate from Oklahoma City was \$4.88 cwt but has been reduced to \$2.62 cwt. The wholesaler can get an actual rate much lower thus added to his profit.

Oklahoma Tax	\$9.60
Kansas Tax	<u>- 3.60</u>
	\$6.00

SCHEDULE 6.

Freight Rates on Wine from Modesto, California to Kansas

Motor Carrier Rate A.B.C. Allowed	3.42 cwt
64,000 lb. rail car rate	<u>2.24 cwt</u>
Wholesaler makes	\$1.18 cwt

These profits increase as the car weights go up. I do not have the rail commodity rates for 105,000 lb. cars.

64,000 lb.	2.24 cwt
85,000 lb.	1.88 cwt
95,000 lb.	1.78 cwt

PRICE^A PER FIFTH FOR SELECTED TYPES AND BRANDS

IN LICENSE STATES, 1975

TYPE AND BRAND

STATES	BLEND		BOND		SCOTCH DEWAR'S	VODKA SMIRNOFF 80°	RUM BACARDI	CANADIAN CANADIAN CLUB	GIN BEEFEATER	8-BRAND AVERAGE	APPLICABLE STATE SALES TAX
	SEAGRAM'S 7-CROWN	BOURBON OLD CROW 80°	OLD GRAND-DAD 100°								
ALASKA	\$ 4.78	\$ 5.75	\$ 8.45	\$ 7.97	\$ 5.12	\$ 5.17	\$ 7.68	\$ 6.52	\$ 6.43	- %	
ARIZONA	5.69	5.39	8.25	7.77	5.39	6.92	7.45	7.69	6.82	3.0	
ARKANSAS	5.33	5.52 ^B	7.74	8.11	5.37	5.33	7.22	7.41	6.50	6.0 ^D	
CALIFORNIA	4.99	4.99 ^C	7.99	7.55	6.10	5.35	7.35	7.55	6.48	6.0	
COLORADO	5.09	4.88 ^C	8.09	8.59	4.99	5.39	7.19	6.99	6.55	3.0	
CONNECTICUT	5.22	5.37	7.75	7.85	5.47	5.33	7.24	7.06	6.41	7.0	
DELAWARE	5.15	5.19	7.65	7.85	5.00	5.29	7.05	6.99	6.27	-	
D. C.	4.85 ^C	4.55	6.95	7.39	4.99	4.99 ^C	6.59	6.59	5.86	6.0	
FLORIDA	4.00 ^C	4.41	4.39	6.59	4.24 ^C	4.29 ^C	6.09	6.22	5.03	4.0	
GEORGIA	5.23	5.26	7.76	8.09	5.24	5.63	7.20	7.78	6.52	3.0	
HAWAII	5.75	5.85	8.89	9.18	5.89	5.65	8.20	8.39	7.22	4.0 ^F	
ILLINOIS	4.53	5.52 ^B	7.02	8.53	5.00	5.08	6.81	6.42	6.11	4.0	
INDIANA	5.35	5.13 ^B	7.69	8.12	5.10	5.40	7.21	7.26	6.41	4.0	
KANSAS	5.40	5.04 ^B	7.42	8.02	5.00	5.25	7.00	7.39	6.32	4.0 ^F	
KENTUCKY	5.35	5.29 ^B	7.48	8.49	5.09	5.17	7.09	7.39	6.42	5.0	
LOUISIANA	5.08	5.19	7.06	7.45	4.75	4.84	6.84	6.31	5.94	3.0	
MARYLAND	4.59	4.35	6.75	6.99	4.35	4.39	6.25	6.09	5.47	4.0	
MASSACHUSETTS	5.85	5.79	8.39	8.59	5.85	5.70	7.60	7.25	6.88	5.0 ^G	
MINNESOTA	5.34	5.28	7.45	8.12	5.17	5.34	6.99	7.05	6.34	4.0	
MISSOURI	5.10	4.85	7.40	7.85	4.85	4.32	6.85	6.95	6.02	3.0	
NEBRASKA	5.59	5.69	7.79	8.29	5.05	5.19	6.89	6.15	6.33	2.5	
NEVADA	4.79	4.79	5.89	6.85	4.59	4.79	6.99	5.89	5.57	3.0	
NEW JERSEY	5.49	5.61	8.09	8.59	5.45	5.65	7.59	7.45	6.74	5.0	
NEW MEXICO	4.99	4.09 ^B	7.39	8.25	4.69	5.09	7.29	6.89	6.09	4.0	
NEW YORK	5.08	5.19 ^B	7.06	7.43	5.78	4.98	6.76	6.59	6.11	4.0	
NORTH DAKOTA	5.45	5.08	7.94	8.13	5.39	5.49	7.31	7.65	6.56	4.0	
OKLAHOMA	4.66	4.66	6.47	6.83	4.50	4.77	6.26	6.17	5.54	2.0	
RHODE ISLAND	5.35	5.23	7.89	8.35	5.35	5.20	7.23	6.90	6.44	5.0	
SOUTH CAROLINA	5.48	5.53	7.45	8.17	5.58	5.53	7.40	7.64	6.60	4.0	
SOUTH DAKOTA	5.66	5.77	8.37	9.03	5.71	5.90	7.62	7.97	7.00	4.0	
TENNESSEE	5.93	5.75	8.45	8.65	5.85	5.83	7.85	7.85	7.02	3.5	
TEXAS	4.79	4.79	7.49	7.89	4.65	4.65	6.48	6.69	5.93	4.0	
WISCONSIN	5.20	4.79	7.16	8.33	5.08	5.06	6.52	6.69	6.10	4.0	

^A EXCEPT WHERE NOTED, INDICATED PRICES EXCLUDE STATE SALES TAXES.^B EIGHTY-SIX PROOF.^C PRICE IS ESTIMATED FROM LISTED QUART PRICE.^D INCLUDES 3% STATE SALES TAX AND 3% SPECIAL LIQUOR TAX.^E RETAILER HAS THE OPTION OF ADDING AT THE CASH REGISTER.^F SPECIAL LIQUOR SALES TAX IMPOSED IN LIEU OF A SALES TAX.^G STATE SALES TAX NOT APPLIED TO PACKAGE LIQUOR SALES.

NOTE: BOTTLE PRICES IN MOST STATES VARY AMONG OUTLETS WITHIN ONE CITY, AND AMONG MARKETING AREAS. IN SUCH INSTANCES, QUOTED PRICES ARE EITHER AN AVERAGE OF SEVERAL PRICES, OR ARE QUOTES WHICH REPRESENT THE "PREVAILING" PRICES.

PRICE PER FIFTH FOR SELECTED TYPES AND BRANDS

IN CONTROL STATES, 1975

STATES	TYPE AND BRAND										APPLICABLE STATE SALES TAX
	BLEND SEAGRAM'S 7-CROWN	BOURBON OLD CROW 80°	BOND OLD GRAND-DAD 100°	SCOTCH DEWAR'S	VODKA SMIRNOFF 80°	RUM BACARDI	CANADIAN CANADIAN CLUB	GIN BEEFEATER	8-BRAND AVERAGE		
ALABAMA	\$ 5.55	\$ 5.00	\$ N.A.	\$ 8.65	\$ 5.35	\$ 6.45 ^A	\$ 7.85	\$ 9.45 ^A	\$ -	4.0 ^B %	
IDAHO	5.60	5.50	8.20	8.75	5.40	5.50	7.65	7.95	6.82	3.0 ^C	
IOWA	4.80	4.60	7.10	7.60	4.60	4.70	6.60	6.50	5.81	3.0 ^D	
MAINE	5.50	5.30	8.20	8.60	5.15	5.30	7.85	7.35	6.66	5.0 ^C	
MICHIGAN	5.15	5.00	7.77	8.11	4.89	5.00	7.13	6.98	6.25	4.0 ^B	
MISSISSIPPI	4.95	4.90	7.55	7.65	5.00	5.25	6.63	7.23	6.15	5.0 ^E	
MONTANA	5.45	5.25	8.00	8.85	5.20	5.25	7.60	7.75	6.67	-	
NEW HAMPSHIRE	4.35	4.25	6.45	6.70	4.15	4.25	5.95	5.90	5.25	-	
NORTH CAROLINA	5.15	5.00	7.65	8.05	4.95	5.00	7.20	7.00	6.25	4.0 ^C	
OHIO	5.45	5.30	7.95	8.25	5.20	5.30	7.40	7.15	6.50	4.0 ^B	
OREGON	6.05	5.85	8.95	9.45	5.70	5.90	8.35	8.10	7.29	-	
PENNSYLVANIA	5.73	5.58	8.57	8.99	5.51	5.56	8.03	7.69	6.96	6.0 ^B	
UTAH	5.60	5.45	8.25	8.75	5.25	5.35	7.75	7.90	6.79	4.0 ^B	
VERMONT	4.60	4.55	6.25	6.45	4.45	4.55	5.95	5.75	5.32	3.0 ^C	
VIRGINIA	4.85	4.70	7.20	7.60	4.70	4.70	6.75	6.65	5.89	14.0 ^F	
WASHINGTON	6.35	6.20	8.90	9.25	6.05	6.20	8.40	8.05	7.43	15.0 ^F	
WEST VIRGINIA	5.15	4.98	7.74	8.43	4.93	4.98	7.37	6.43	6.25	6.0 ^G	
WYOMING	5.30	5.35	8.00	8.59	5.25	5.40	7.50	7.80	6.65	3.0 ^C	

^A QUART

^B SALES TAX INCLUDED IN FORMAL PRICING PROCEDURE OF THE STATE.

^C TAX IS NOT APPLIED TO STATE STORE SALES.

^D TAX IS ADDED AT THE CASH REGISTER, AND EXCLUDED FROM INDICATED PRICES.

^E APPLIED TO WHOLESALE VALUE, AND INCLUDED IN INDICATED PRICES.

^F SPECIAL SALES TAX RATE FOR STATE STORE SALES OF DISTILLED SPIRITS, AND IS INCLUDED IN THE INDICATED PRICE.

^G INCLUDES 3% STATE TAX, AND 3% COUNTY TAX; BOTH ARE INCLUDED IN FORMAL PRICE LISTS AND ARE INCLUDED IN THE INDICATED PRICES.

Bob Tilton

Attachment I

AN ACT relating to intoxicating liquors and beverages; concerning prices filed by manufacturers and others; amending K.S.A. 41-1112, and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 41-1112 is hereby amended to read as follows:

41-1112. The prices filed by manufacturers and others authorized to sell alcoholic liquors to licensed distributors, pursuant to subsection (1) of section K.S.A. 41-1101 of the General Statutes Supplement of 1959, shall be the current prices, F.O.B. point of shipment, and said price as filed by each manufacturer or vendor shall be as low as the lowest price for which the item is sold anywhere in any state in the continental United States by such manufacturer or vendor: Provided, That, except Provided that differences in the actual cost of delivery or and warehousing incurred to the F.O.B. point of shipment shall be included in added into the prices filed. In determining the lowest price for which an item of alcoholic liquor is sold in any such state there shall be taken into consideration all advertising, depletion and promotional allowances and rebates of every kind whatsoever made to purchasers in such state by the vendor.

Sec. 2. K.S.A. 41-1112 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Attachment v II

PROPOSED BILL NO. _____

By Special Committee on Federal and State Affairs

Re Proposal No. 18

AN ACT relating to open public meetings; amending K. S. A. 1976 Supp. 75-4317, 75-4318 and 75-4319 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1976 Supp. 75-4317 is hereby amended to read as follows: 75-4317. (a) In recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be the policy of this state that meetings for the conduct of governmental affairs and the transaction of governmental business be open to the public.

(b) It is declared hereby to be against the public policy of this state for any such meeting to be adjourned to another time or place in order to subvert the policy of open public meetings as pronounced in subsection (a).

(c) No chance meeting, social meeting or electronic or written communication shall be used in circumvention of the spirit or requirements of this act.

Sec. 2. K.S.A. 1976 Supp. 75-4318 is hereby amended to read as follows: 75-4318. (a) Except as otherwise provided by law, all meetings for the conduct of the affairs of, and the transaction of business by, all legislative and administrative bodies and agencies of the state and political and taxing subdivisions thereof, including boards, commissions, authorities, councils, committees, subcommittees and other subordinate groups thereof, receiving or expending and supported in whole or in part by public funds shall be open to the public and no binding action by such bodies shall be by secret ballot.

(b) Notice of the date, time and place of any regular meeting

of any public body designated hereinabove shall be furnished to any person requesting such information.

(c) Prior to any meeting hereinabove mentioned, any agenda relating to the business to be transacted at such meeting shall be made available to any person requesting said agenda.

(d) The use of cameras, photographic lights and recording devices shall not be prohibited at any meeting mentioned by subsection (a) of this section, but such use shall be subject to reasonable rules designed to insure the orderly conduct of the proceedings at such meeting.

Sec. 3. K.S.A. 1976 Supp. 75-4319 is hereby amended to read as follows: 75-4319. (a) Upon formal motion made, seconded and carried, all bodies and agencies subject to this act may recess, to a specified time, but not adjourn, open meetings for closed or executive meetings provided. Any motion to recess for a closed or executive meeting shall include a statement of (1) the justification for closing the meeting, (2) the specific subjects to be discussed during the closed or executive meeting and (3) the time and place at which the open meeting shall resume. Discussion during the closed or executive meeting shall be limited to those subjects stated in the motion. The motion to recess and the subjects discussed during the closed or executive meeting shall be recorded in the minutes of the meeting.

(b) No binding action shall be taken during such closed or executive recesses, and that they such recesses shall not be used as a subterfuge to defeat the purposes of this act. The justification for closing any meeting must be stated.

Sec. 4. K.S.A. 1976 Supp. 75-4317, 75-4318 and 75-4319 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

117 WEST GRANT

352. 3369
PHONE FL 6-~~1443~~

NU-WAY CLEANERS

ULYSSES, KANSAS 67880

January 20, 1976

House of Representatives
State House
Topeka, Kansas 66600

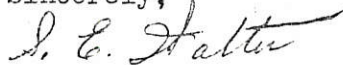
Attn: Representative Keith Farrar

Dear Mr. Farrar:

I am writing with reference to the new law passed dispensing with the State inspection of boilers and the requirement to purchase boiler insurance. I feel the difference in cost is unwarranted. I was paying \$15.00 a year to the State to inspect and assure our boiler to be in safe operating condition. Upon checking with the insurance company, the annual insurance rate is \$185.00 on our boiler also an undetermined additional amount of expense to meet the requirements of the insurance company that is not required by the State. It will probably cost an estimated \$150.00 to \$200.00 to meet the insurance company requirements, This seems unreasonable and unjustified. There must be a better solution.

I am writing in hope that this situation can be corrected. Thank you for consideration in this matter.

Sincerely,



S. E. Walter

cc

Also, the insurance co. wants us to keep a daily log and mail to them, which is added paper work & expense. We are desperately trying to reduce our paper work in every area, and keep to the business of dry-cleaning & laundry. Jack is in bad health, has a crippled leg, and we may have to quit business quicker than we think, but in the meantime, we are in there pitching. We will probably have to close our shop when we are ready to quit, as there are no educated dry cleaners & laundry people to take our place. In this instance, there will be no boiler to inspect.

Hugoton used to have 4 dry cleaners which had 4 boilers. Now, we are the only one. Perma-press clothes and washers & dryers in every home caused this situation. We merged our dry-cleaning shop with one of the other four (which was a laundry) 8 years ago. We decided to do uniforms, mops, entry mats & shop towels in a small way to use the laundry equipment, as the laundry business was gone. So, thru our own initiative, we have managed to survive. So we don't need any more kick-in-the-pants at this stage of the game.

We can give you another reason why we don't have more small businesses of our type. There are five Industrial Laundry Trucks still coming into Hugoton - Western from Amarillo, American, Must, Misco from Wichita and a new one from Garden City. We have felt for a long time that if every town would stand up & keep their dry cleaners & laundries, that these trucks would be unnecessary (and quit using our precious fuel). But most people do not want to fight all of the hard work, paper work & worry of running a small business. And this is one of the things that keeps us worrying. We get letters all of the time from other laundries & dry cleaners going out of business, and wanting to sell their old equipment. We got one this last month from Syracuse, Ks.

This is handwriting on the wall!

I'm sorry I got so windy, but I could write a book on the last 25 years.

I have contacted some of the other small dry cleaners at my own expense, and they seemed to be grateful. So we hope you will hear from them too.

Gratefully yours,

Mr. & Mrs. Jack Lamont

Lamont Cleaners & Laundry
Mr. & Mrs. Jack Lamont

*Lamont's
Parker's*

Nu-Way Laundry & Dry Cleaners

PHONE LI 4-2708 4-4681

HUGOTON, KANSAS 67951

1-20-76

Mr. Keith Farrar, Representative
State House, 124th District
Topeka, Kansas

Dear Mr. Farrar:

Re: Boiler Insurance

First of all, Jack & I would like to thank you very much for working so diligently on this boiler insurance problem for us.

On May 30, 1975, we received a letter from the Dept. of Labor, informing us we had to buy boiler insurance under Senate Bill #581. We thought it was just to be liability. We contacted our 3 local insurance agents. Pyramid Ins. Co. reported to us a \$342.00 ann. premium, not itemized. We about fainted. The Citizen State Bank reported the same thing, \$22.00 liability plus \$160.00 for each boiler for replacement, etc. The total premium for three years was \$1,026.00. 25 years ago we bought a brand new boiler for this amount. We did not go against the law, so we paid a quarterly premium with the Citizen State Bank, St. Paul Fire & Marine Insurance Co., and hoping in the meantime we could do something to reverse this decision.

We have two boilers, one used for back-up which we purchased for \$700.00 from a dairy that went out of business, about two years ago. We had it connected for about three hours last year while we were working on our other boiler. Our first boiler cost \$2000.00. It is about 15 years old. We take very good care of our boilers, in fact, Jack is going down tomorrow, on Sunday, and clean the lime from one of them. We just had some tubes replaced this last year. We do all of our own work, mainly because we cannot afford employees and all of the paper work involved in hiring and the responsibility of them. We are celebrating our 25th year in business this year, and our local paper is going to give us a write-up as soon as we care to get together with them. Jack works from 6:00 a.m. til 6:00 p.m. five days a week, and I work from 8:00^{am} til 2:00^{am} in the morning every day. I mention this because I don't think we can work many more hours of the day to pay any new bills. Jack is 54 years old and I am 50 years old. We are working entirely too hard as it is.

We paid \$12.00 ann. inspection fee last year 1975, which included both boilers. We were very fond of Mr. Claude Shriver, State Boiler Inspector, who was always very helpful, and even inspected our boiler on Sundays, so he wouldn't bother us on working days. We are sorry he had to retire. We also understand the State was trying to cut down on regulations, and get private business into boiler inspection more. We couldn't agree more on this one point, but we got the shaft in the process. This new premium for both boilers is unreal, and we cannot afford it. We would not mind paying the \$22.00 ann. prem. for liab. ins. (which is higher than we were paying), but where are we to get the additional \$320.00 without raising our prices.

When you pass this type of legislation in favor of the ins. co., you are feeding inflation and favoritism. This, in our opinion, is similar to malpractice ins., which the Drs. are fighting.

The Honorable Keith Farrar
September 10, 1975
Page 2

7. Commercial Union Insurance Company
8. Royal Globe Insurance
9. Employers Fire Insurance Company
10. Travelers Indemnity
11. St. Paul Fire & Marine Insurance
12. Zurich Insurance Company

In reply to the final question contained in your letter, to the best of my knowledge, there were no cost comparison studies developed prior to the effective date of the new law which would indicate what additional cost, if any, might be incurred by a boiler owner. Therefore, I am unable to provide you with this information.

However, I have been informed by the Kansas State Department of Labor that their records indicate there are approximately 2,300 boilers within Kansas to which the new law applies. You may also wish to note that the minimum amount of insurance for which an insurance company will insure any particular boiler is, in most cases, \$5,000. The manual for Boiler and Machinery insurance as filed by the Insurance Services Office in Kansas provides for a minimum of \$5,000 limit per accident. The ISO is a rating bureau authorized to file rules, rates and forms in Kansas on behalf of various insurance companies which have elected to become associated with them. Therefore, companies which use the ISO Boiler and Machinery Manual without exception cannot provide this insurance at a limit less than \$5,000. This minimum limit has been determined by the underwriting procedures of the insurance companies. (Nine of the twelve companies listed above are associated with the ISO for the Boiler and Machinery line of insurance.)

If I may be of any further service to you, please do not hesitate to contact my office.

Very truly yours,



Fletcher Bell
Commissioner of Insurance

FB:11c
Enclosure



FLETCHER BELL

COMMISSIONER OF INSURANCE

September 10, 1975

The Honorable Keith Farrar
State Representative
124th District
Route Two
Hugoton, Kansas 67951

Dear Representative Farrar:

Thank you for your letter of inquiry dated September 4, 1975, regarding the new Boiler Insurance Law (Senate Bill No. 531) which became effective July 1, 1975. I have enclosed a copy of S.B. 531 for your convenience and immediate reference.

S.B. 531 contains two basic requirements: (1) it is mandatory for every person, partnership, firm, corporation or other association of persons owning a steam boiler within this state to maintain boiler insurance, (2) such insurance must provide for the inspection of the particular boiler(s) being covered, at least annually.

The basic Boiler and Machinery insurance policy agrees to pay for loss resulting from accident as described in the policy to property of the insured. In addition, the basic policy provides for Property Damage Liability coverage which will protect the insured for amounts he may become obligated to pay because of his liability for loss to the property of others directly damaged by an accident. Bodily Injury Liability is available on an optional basis in connection with the basic Boiler policy.

The list of insurance companies authorized to write Boiler and Machinery insurance in the state of Kansas is extensive. However, this department's most recent data indicates that the following twelve (12) companies were the largest writers of Boiler and Machinery insurance in the state for the year 1973:

1. Hartford Steam Boiler Inspection & Insurance
2. Mutual Boiler & Machinery Insurance
3. Allendale Mutual Insurance
4. Arkwright-Boston Manufacturers Mutual Insurance
5. Continental Insurance Company
6. Maryland Casualty Company

The Honorable Keith Farrar
September 19, 1975
Page 2

Coverage E. Defense, Settlement, Supplementary Payments. Similar to that of Liability policies, this section provides legal defense, court and other defense costs, interest on judgments rendered.

Coverage F. Automatic Coverage. Any object similar to those described in the schedule, which the insured may install at any location described in the schedule and any object existing in property newly acquired within the continental United States, except Alaska, is automatically covered from the time of its first operation. The insured has to notify the company in writing within 90 days after the operation begins and, of course, must pay an additional premium.

If I may be of any further service to you, please do not hesitate to contact my office.

Very truly yours,


Fletcher Bell
Commissioner of Insurance

FB:lda



FLETCHER BELL
COMMISSIONER OF INSURANCE

September 19, 1975

The Honorable Keith Farrar
State Representative
124th District
Route Two
Hugoton, Kansas 67951

Dear Representative Farrar:

This will supplement my letter dated September 10, 1975, which was in regard to the new Boiler Insurance Law (Senate Bill No. 531). I wish to provide you with an explicit description of the basic Boiler and Machinery insurance policy.

There are six coverages in the Boiler and Machinery policy. Except for Bodily Injury Liability insurance, all of these coverages are mandatory. This policy is not like a schedule contract, such as the Comprehensive General Liability policy, where the insured can purchase only the coverages he desires.

Coverages are as follows:

Coverage A. Loss on Property of Insured. This is the Property insurance of the Boiler and Machinery policy. Protection applies to the insured object, as defined, and to all other property--real or personal--damaged in an insured accident.

Coverage B. Expediting Expenses. This feature covers the reasonable cost of temporary repair and of expediting--speeding up--permanent repair.

Coverage C. Property Damage Liability. This section protects the insured against liability for property of others directly damaged by an insured accident.

Coverage D. Bodily Injury Liability. Liability protection for bodily injury arising out of an accident is provided under this feature of the policy. Immediate medical and surgical relief rendered to others at the time of an accident is provided regardless of liability and irrespective of the limit per accident.

PROPOSED BILL NO. _____

By Special Committee on Federal and State Affairs

Re: Proposal No. 22

AN ACT relating to criminal procedure; concerning persons acquitted on the ground of insanity; amending K.S.A. 1976 Supp. 22-3428 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Sec. 1. K.S.A. 1976 Supp. 22-3428 is hereby amended to read as follows: 22-3428. (1) When a person is acquitted on the ground that he or she was insane at the time of the commission of the alleged crime the verdict shall be "not guilty because of insanity," and the person so acquitted shall be committed to the state security hospital for safekeeping and treatment.

(2) Subject to the provisions of subsection (4) of this section, whenever it appears to the chief medical officer of the state security hospital that a person committed under this section is not dangerous to other patients, he or she may transfer such person to any other state hospital.

(3) Subject to the provisions of subsection (4) of this section, any person committed under this section may be granted convalescent leave or discharge as an involuntary patient ~~after thirty--(30)--days notice shall have been given to the district or county attorney, sheriff and district court of the county from which such person was committed.~~

~~(3)~~ (4) Prior to the transfer of or the grant of convalescent leave or discharge to any person committed under this section, thirty (30) days notice shall be given to the district or county attorney, sheriff and district court of the county from which such person was committed. Within fifteen (15) days after the receipt of the such notice ~~provided for in subsection (2),~~ ^{OR THE COURT MAY ORDER} ~~the county or district attorney may request~~ ^{be held} that a hearing on the

proposed transfer, leave or discharge ~~be held~~. Upon receiving any such request the district court shall order that a hearing be held on the proposed transfer, leave or discharge, giving notice thereof to the state hospital where the ~~patient--was--transferred~~ person is currently under commitment, and the court shall order ~~the-involuntary-patient~~ such person to undergo a mental evaluation by a person designated by the court. A copy of all orders of the court shall be sent to the ~~involuntary--patient~~ committed person and such ~~patient's~~ person's attorney. The report of the court-ordered mental evaluation shall be given to the county or district attorney, the ~~involuntary-patient~~ committed person and such ~~patient's~~ person's attorney at least five (5) days prior to the hearing. The hearing shall be held within thirty (30) days after the receipt by the court of the county or district attorney's request. The ~~involuntary--patient~~ committed person shall remain in the state hospital where such person is currently under commitment until the hearing on the proposed transfer, leave or discharge is to be held. ~~At such hearing the court shall determine whether the involuntary patient continues to be a danger to himself, herself or others.~~ The patient committed person shall have the right to present evidence at ~~such~~ the hearing and to cross-examine any witnesses called by the county or district attorney. At the conclusion of the hearing, ~~if the court finds that the patient continues to be a danger to himself, herself or others~~ the court shall ~~order the patient to remain in the state hospital, otherwise the court shall order the patient discharged.~~ make one of the following orders:

(a) If the hearing is held prior to the time that the maximum sentence for the crime committed by the person would have expired if such person had not been acquitted:

(i) An order that the committed person be transferred from the state security hospital to another state hospital, if the court finds beyond a reasonable doubt that such person is not dangerous to other patients;

(ii) an order that the committed person be granted con-

valescent leave or discharge, if the court finds beyond a reasonable doubt that such person is not dangerous to self or others;
or

(iii) an order that the committed person remain in the state hospital where such person is currently under commitment, if the court does not find beyond a reasonable doubt that such person is not dangerous to other patients or to self or others.

(b) If the hearing is held after the time that the maximum sentence for the crime committed by the person would have expired if such person had not been acquitted:

(i) An order that the committed person be transferred from the state security hospital to another state hospital, if the court does not find beyond a reasonable doubt that such person is dangerous to other patients;

(ii) an order that the committed person be granted convalescent leave or discharge, if the court does not find beyond a reasonable doubt that such person is dangerous to self or others;
or

(iii) an order that the committed person remain in the state hospital where such person is currently under commitment, if the court finds beyond a reasonable doubt that such person is dangerous to other patients or to self or others.

(5) The costs of all proceedings and the mental evaluation authorized by this section shall be paid by the county from which ~~such~~ the person was committed.

~~(4)~~ (6) In any case where the defense of insanity is relied on the court shall instruct the jury on the substance of this section.

Sec. 2. K. S. A. 1976 Supp. 22-3428 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

PROPOSED BILL NO. _____

By Special Committee on Federal and State Affairs

Re: Proposal No. 60

AN ACT

Be it enacted by the Legislature of the State of Kansas:

Section 1. This act shall be known and may be cited as the boiler safety act, and, except as otherwise herein provided, shall apply to all boilers in this state.

Sec. 2. As used in this act, unless the context otherwise requires:

(a) "Boiler" means a closed vessel in which water or other liquid is heated, steam or vapor is generated or steam is superheated, or in which any combination of these functions is accomplished, under pressure or vacuum, for use external to itself, by the direct application of energy from the combustion of fuels or of electric, solar or nuclear energy. The term boiler shall include fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and are complete within themselves.

(b) "Certificate inspection" means an inspection, the report of which is used by the chief inspector to determine whether or not an inspection certificate shall be issued as provided by section 12.

(c) "Heating boiler" means a steam or vapor boiler operating at pressures not exceeding fifteen (15) pounds per square inch guage or a hot water boiler operating at pressures not exceeding one hundred sixty (160) pounds per square inch guage or temperatures not exceeding two hundred fifty degrees (250°) Fahrenheit.

(d) "High pressure, high temperature water boiler" means a water boiler operating at pressures exceeding one hundred sixty (160) pounds per square inch guage or temperatures exceeding two

hundred fifty degrees (250°) Fahrenheit.

(e) "Power boiler" means a boiler in which steam or other vapor is generated at a pressure of more than fifteen (15) pounds per square inch guage.

(f) "Secretary" means the secretary of human resources.

Sec. 3. (a) The provisions of this act shall not apply to:

(1) Boilers under the control of the United States government and

(2) hot water supply boilers which are directly fired with oil, gas or electricity and are equipped with safety relief valves approved by the national board of the American society of mechanical engineers, if none of the following limitations is exceeded:

(A) Heat input of two hundred thousand (200,000) BTU per hour,

(B) water temperature of two hundred degrees (200°) Fahrenheit and

(C) nominal water capacity of one hundred twenty (120) gallons.

(b) The provisions of subsections (b) and (c) of section 11 and the provisions of sections 12, 13 and 14 shall not apply to:

(1) Boilers located on farms and used solely for agriculture or horticultural purposes and

(2) heating boilers which are located in private residences or in apartment houses of less than six (6) family units.

Sec. 4. (a) The secretary shall adopt rules and regulations, consistent with the provisions of this act, for the safe construction, installation, inspection, maintenance and repair of boilers in this state.

(b) Rules and regulations adopted hereunder for construction of new boilers shall be based upon and at all times follow generally accepted nationwide engineering standards, formulae and practices established and pertaining to boiler construction and safety. Such rules and regulations may incorporate by reference specific editions, or portions thereof, of the boiler and pres-

sure vessel code of the American society of mechanical engineers.

(c) Rules and regulations adopted hereunder for the inspection, maintenance and repair of boilers shall be based upon and at all times follow generally accepted nationwide engineering standards. Such rules and regulations may incorporate by reference specific editions, or portions thereof, of the inspection code of the national board of boiler and pressure vessel inspectors and may require the use of such board's "R" stamp for repairs.

(d) All rules and regulations adopted hereunder shall be subject to the provisions of article 4 of chapter 77 of the Kansas Statutes Annotated, except that rules and regulations applying to the construction and installation of new boilers shall not become effective until twelve (12) months after their adoption by the secretary.

Sec. 5. (a) No new boiler which does not conform to the rules and regulations governing new construction and installation shall be installed and operated in this state unless the boiler is of special design or construction which is not inconsistent with the spirit and safety objectives of such rules and regulations, in which case a special installation and operating permit may be granted by the secretary, at his or her discretion.

(b) The maximum allowable pressure of a boiler carrying the American society of mechanical engineers code symbol shall be determined by the applicable sections of the code under which it was constructed and stamped.

(c) The maximum allowable working pressure of a boiler which does not carry the American society of mechanical engineers code symbol shall be computed in accordance with the inspection code of the national board of boiler and pressure vessel inspectors.

(d) This act shall not be construed as in any way preventing the use, sale or reinstallation of a boiler previously installed in this state, provided it has been made to conform to the rules and regulations governing existing installations and provided it has not been found upon inspection to be in an unsafe condition.

Sec. 6. (a) The secretary shall appoint a chief inspector within sixty (60) days after the effective date of this act and at any time thereafter that the office of the chief inspector may become vacant. Such chief inspector shall be a citizen of this state, or, if not available, a citizen of another state, who shall have at the time of appointment not less than five (5) years experience in the construction, installation, inspection, operation, maintenance or repair of high pressure boilers as a mechanical engineer, steam operating engineer, boiler maker or boiler inspector and who shall hold a commission issued by the national board of boiler and pressure vessel inspectors. The chief inspector shall be in the unclassified civil service and shall receive such compensation as prescribed by the secretary, subject to the approval of the governor.

(b) The chief inspector, if authorized by the secretary, is hereby charged, directed and empowered:

(1) To take action necessary for the enforcement of this act and of the rules and regulations adopted hereunder;

(2) to maintain a complete record of all boilers to which this act applies, which record shall include the name and address of each owner or user and the type, dimensions, maximum allowable working pressure, age and last recorded inspection of each such boiler;

(3) to publish and make available copies of rules and regulations adopted hereunder to any person requesting them;

(4) to issue, or to suspend or revoke for cause, inspection certificates as provided in section 12; and

(5) to cause the prosecution of all violators of the provisions of this act or of the rules and regulations adopted hereunder.

Sec. 7. The secretary shall employ deputy inspectors who shall be responsible to the chief inspector. Each deputy inspector shall have at the time of appointment not less than three (3) years experience in the construction, installation, inspection, operation, maintenance or repair of high pressure boilers as a

mechanical engineer, steam operating engineer, boilermaker or boiler inspector and shall hold a commission issued by the national board of boiler and pressure vessel inspectors. Deputy inspectors shall be in the unclassified civil service and shall receive such compensation as prescribed by the secretary, subject to the approval of the governor.

Sec. 8. (a) In addition to the deputy inspectors authorized by section 7, the secretary, upon the request of any company licensed to insure and insuring boilers in this state, shall issue to any inspectors of such insurance company certificates of competency as special inspectors, provided that each such inspector shall hold a commission issued by the national board of boiler and pressure vessel inspectors.

(b) Special inspectors shall receive no salary from, nor shall any of their expenses be paid by, the state, and the continuance of their certificates of competency shall be conditioned upon their continuing in the employ of the boiler insurance company duly authorized as aforesaid and upon their maintenance of the standards imposed by this act and by rules and regulations adopted hereunder.

(c) Special inspectors shall inspect all boilers insured by their respective companies and, when so inspected, the owners and users of such boilers shall be exempt from the payment to the state of the inspection fees provided for in subsection (a) of section 14.

Sec. 9. (a) A special inspector's certificate of competency may be suspended by the secretary, after due investigation, for the incompetence or untrustworthiness of the holder thereof or for wilful falsification of any matter or statement contained in such inspector's application or in a report of any inspection made by such inspector. Written notice of any such suspension shall be given by the secretary within not more than ten (10) days thereof to the inspector and the inspector's employer.

(b) A person whose certificate of competency has been suspended shall be entitled to apply, after ninety (90) days from

the date of such suspension, for reinstatement of such certificate of competency.

(c) If the secretary has reason to believe that an inspector is no longer qualified to hold a certificate of competency, the secretary, upon not less than fifteen (15) days written notice to the inspector and his or her employer, shall hold a hearing as provided in section 16 at which such inspector and his or her employer shall have an opportunity to be heard. If, as a result of such hearing, the secretary finds that such inspector is no longer qualified to hold his or her certificate of competency, the secretary shall thereupon revoke such certificate of competency.

Sec. 10. If a certificate of competency is lost or destroyed, a new certificate of competency shall be issued in its place without another examination.

Sec. 11. (a) The secretary, the chief inspector or any deputy inspector shall have free access, during reasonable hours, to any premises in the state where a boiler is being installed or is being constructed for use in this state, for the purpose of ascertaining whether such boiler is being constructed and installed in accordance with the provisions of this act and rules and regulations adopted hereunder.

(b) Each boiler used or proposed to be used within this state, except for boilers exempt under section 3 (owners and users may request to waive this exemption), shall be thoroughly inspected as to construction, installation and condition as follows:

(1) Power boilers and high pressure, high temperature water boilers shall receive an annual certificate inspection which shall be an internal inspection, where construction permits, or as complete an inspection as possible, where construction does not permit internal inspection. Such boilers shall also be externally inspected while under pressure, if possible.

(2) Heating boilers shall receive an annual certificate inspection with an internal inspection every three (3) years

where construction permits.

(3) All other boilers subject to this section, except those provided for in subdivision 4 of this subsection, shall receive an annual certificate inspection with an internal inspection at the discretion of the inspector.

(4) Boilers utilizing nuclear energy shall be inspected and reported in such form and with such appropriate information as the secretary shall designate.

(5) A grace period of two (2) months beyond the periods specified in subdivisions (1), (2) and (3) of this subsection may elapse between certificate inspections.

(6) The secretary may provide, by rules and regulations, for longer periods between certificate inspections.

(c) The inspections herein required shall be made by the chief inspector, by a deputy inspector or by a special inspector provided for in this act.

(d) If, at the discretion of the inspector, a hydrostatic test shall be deemed necessary, it shall be made by the owner or user of the boiler.

(e) All boilers, other than cast iron sectional boilers, to be installed in this state after the effective date of the first rules and regulations adopted hereunder applying to the construction and installation of new boilers shall be inspected during construction as required by the applicable rules and regulations by an inspector authorized to inspect boilers in this state, or, if constructed outside of the state, by an inspector holding a commission issued by the national board of boiler and pressure vessel inspectors.

Sec. 12. (a) The chief inspector, each deputy inspector and each company employing a special inspector, within thirty (30) days following each certificate inspection made by such inspector, shall file a report of such inspection in the office of the chief inspector upon the appropriate form as promulgated by the national board of boiler and pressure vessel inspectors. The filing of reports of external inspections, other than certif-

icate inspections, shall not be required except when such inspections disclose that the boiler is in a dangerous condition.

(b) If a report filed pursuant to subsection (a) of this section shows that a boiler is found to comply with the rules and regulations adopted hereunder, the owner or user thereof shall pay directly to the chief inspector the certificate fee prescribed by subsection (b) of section 14, and the chief inspector or the chief inspector's duly authorized representative shall issue to such owner or user an inspection certificate bearing the date of inspection and specifying the maximum pressure under which the boiler may be operated. Such inspection certificate shall be valid for not more than fourteen (14) months from its date. In the case of those boilers covered by subdivision (1), (2) or (3) of subsection (b) of section 11 for which the secretary has established or extended the operating period between required inspections pursuant to the provisions of subdivision 6 of subsection (b) of section 11, the certificate shall be valid for a period of not more than two (2) months beyond the period set by the secretary. Certificates shall be posted under glass, or similarly protected, in the room containing the boiler.

(c) No inspection certificate issued for an insured boiler based upon a report of a special inspector shall be valid after the boiler for which it was issued shall cease to be insured by a company duly authorized by this state to provide such insurance.

(d) The secretary or the secretary's authorized representative may at any time suspend an inspection certificate if the boiler for which it was issued cannot be operated without menace to the public safety or is found not to comply with the rules and regulations adopted hereunder. The suspension of the inspection certificate shall continue in effect until such boiler shall have been made to conform to the rules and regulations, and until said inspection certificate shall have been reinstated.

Sec. 13. (a) From and after July 1, 1978, it shall be unlawful for any person, firm, partnership or corporation to operate in this state a boiler without a valid inspection certif-

icate, and the operation of a boiler without such inspect. certificate or at a pressure exceeding that specified in such inspection certificate shall constitute a class C misdemeanor. Each day of such unlawful operation shall be deemed a separate offense.

(b) It shall be unlawful for any person, firm, partnership or corporation to install or operate any boiler in this state or to construct any boiler for use in this state in violation of this act or the rules and regulations adopted hereunder, and any such unlawful installation, operation or construction shall constitute a class C misdemeanor. Each day of unlawful installation, operation or construction shall be deemed a separate offense.

Sec. 14. (a) The owner or user of a boiler required by this act to be inspected by the chief inspector or a deputy inspector shall pay directly to the chief inspector, upon completion of inspection, inspection fees in accordance with the following schedule:

(1) Power boilers and high pressure, high temperature water boilers:

Certificate Inspections

Boilers of 50 sq. ft. of heating surface or less	\$10.00
Boilers over 50 sq. ft. of heating surface and less than 4,000 sq. ft. of heating surface	15.00
Boilers of 4,000 sq. ft. of heating surface or more and less than 10,000 sq. ft. of heating surface	20.00
Boilers of \$10,000 sq. ft. of heating surface or more	30.00

External Inspections

Boilers of 50 sq. ft. of heating surface or less	\$8.00
Boilers over 50 sq. ft. of heating surface	10.00

Not more than the equivalent of the certificate and external inspection fees shall be charged or collected for any and all inspections as above of any boiler in any one year.

(2) Heating boilers:

Certificate Inspections

tions adopted hereunder, may request a hearing thereon. Such hearing shall be conducted by the secretary. The person requesting the hearing shall be entitled to be present at such hearing and to be represented by counsel. The secretary, within thirty (30) days of such hearing, shall issue an order approving, disapproving or modifying the original act or determination, and shall give written notice of such order to the person who requested the hearing.

(b) Any person aggrieved by an order of the secretary made pursuant to subsection (a) of this section, within thirty (30) days of notice of such order, may appeal such order in the manner provided by law.

Sec. 17. No city, county or other political subdivision of this state shall have the power to make any laws, ordinances or resolutions providing for the construction, installation, inspection, maintenance and repair of boilers within the limits of such city, county or political subdivision, and any such laws, ordinances or resolutions heretofore made or passed shall be void and of no effect.

Sec. 18. If any provisions of this act or the application thereof to any person or circumstances is held invalid the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provisions or application and to this end the provisions of this act are severable.

Sec. 19. This act shall take effect and be in force from and after its publication in the statute book.

Heating boilers without a manhole	\$8.00
Heating boilers with a manhole	12.00
Hot water supply boilers	8.00

Not more than one fee shall be charged or collected for any and all inspections as above of any heating boiler in any required inspection period.

(3) Hydrostatic tests:

When it is necessary to make a special trip to witness the application of a hydrostatic test, an additional fee based on the scale of fees applicable to a certificate inspection of the boiler shall be charged.

(4) All other inspections, including shop inspections, special inspections, of secondhand or used boilers made by the chief or deputy inspector shall be charged for at the rate of not less than \$75 for one half day of four hours, and \$125 for one full day of eight hours, plus all expenses, including traveling and hotel.

"Secondhand" shall mean an object which has changed ownership and location after primary use.

(b) The owner or user of a boiler for which an inspection certificate is to be issued pursuant to subsection (b) of section 12 shall pay directly to the chief inspector, before issuance of such certificate, a certificate fee of five dollars (\$5).

(c) The chief inspector shall pay daily to the secretary all moneys received from the fees established hereunder, and the secretary shall remit all such moneys to the state treasurer at least monthly. Upon receipt of such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury to the credit of the state general fund.

Sec. 15. The chief inspector and each deputy inspector shall be required to furnish bond under the provisions of article 41 of chapter 75 of the Kansas Statutes Annotated.

Sec. 16. (a) Any person aggrieved by any act or determination of the secretary or of the chief inspector, performed or made pursuant to the provisions of this act or rules and regula-

Insurance Dept.

Attachment I

ALTERNATIVES

1. Retain Senate Bill 531 and the mandatory insurance requirement but add inspection standards. Also stipulate or name the agency responsible for adopting and enforcing the standards.
2. Repeal the compulsory insurance as provided for in Senate Bill 531 but retain the mandatory inspection for boilers and reinstate a State Inspection Program. This could alleviate the insurance market problem and, more particularly, permit the owners of "boilers" to comply with minimum safety and inspection requirements without incurring the additional costs of insurance protection.
3. Retain the compulsory insurance and inspection requirements but add an option for a boiler owner to become a "Self-Insurer". This concept is available in Workers' Compensation and the "No-Fault" Law. Standards for self-insurers could be determined by an agency of the state who could also be the same agency responsible for establishing standards of safety for boilers.

MEMORANDUM

To: Special Committee on Federal and State Affairs

From: Mary Torrence, Revisor of Statutes Office

Re: Proposal No. 21 - Due Process Requirements for Defendants Found not Guilty by Reason of Insanity

The following are possible amendments which would meet some of the due process and equal protection problems of the Kansas statutes relating to commitment of incompetent and insane criminal defendants.

Defendants Incompetent to Stand Trial

1. An amendment making the standards and procedures for commitment of an incompetent defendant the same as those provided for civil commitments. (This would require, at a minimum, a jury determination that the defendant is dangerous to self or others.)
2. An amendment requiring civil commitment procedures to be instituted if, after a reasonable time, there is not a substantial probability that the defendant will become competent in the foreseeable future.
3. An amendment requiring civil commitment procedures to be instituted at the time a defendant is found incompetent. (This is an alternative to suggestions 1 and 2 and would make those amendments unnecessary.)

Defendants not Guilty by Reason of Insanity

1. An amendment providing that, after the maximum sentence for the crime has expired, the defendant may apply for discharge in the same manner and under the same procedures and standards as a civilly-committed person.
2. An amendment requiring that, after the maximum sentence for the crime has expired, there shall be periodic court review of the need for continued confinement, such review to be conducted in the same manner and under the procedures and standards as review of civil commitments.
3. An amendment requiring civil commitment procedures to be instituted when the maximum sentence for the crime has expired. (This is an alternative to suggestions 1 and 2 and would make those amendments unnecessary.)