

MINUTES OF THE House COMMITTEE ON Federal & State AffairsThe meeting was called to order by Rep. Neal D. Whitaker at
Chairperson1:30 ~~am~~ p.m. on February 28, 1983 in room 526-S of the Capitol.

All members were present except:

Reps. Brady, Sallee, and Hensley, who were excused.

Committee staff present:

Russ Mills, Legislative Research
Mary Torrence, Revisor of Statute's Office
Nora Crouch, Committee Secretary

Conferees appearing before the committee:

Representative Sandy Duncan
Mark Bornyak, Kansas Beer Wholesalers Association
Tom Green, Kansas Retail Liquor Dealers
Tuck Duncan, Kansas Wine & Spirits Wholesalers
Reverend Richard Taylor, Kansans for Life at Its Best
Chris Graves, Associated Students of Kansas
Tom Kennedy, Director, Alcoholic Beverage Control Division
Jim Kaup, League of Kansas Municipalities

Chairman Whitaker called the meeting to order and announced that HB 2418, HB 2330, and HB 2375 were on hearing status.

Rep. Sandy Duncan appeared to explain the provisions of HB 2418 stating the purpose is to solve a problem that has already occurred in cities in Kansas that are allowed to explore for minerals.

Joseph Castle, Attorney for an Oil Company, appeared in support of HB 2418. He stated that most city ordinances provide that units must be pooled. He further recommended a change to the bill on Line 27 by inserting the words "having the right to produce" stating that this language change should take care of everybody.

Jim Kaup, League of Kansas Municipalities, appeared on HB 2418 stating the bill have some strong advantages as state regulation such as this bill would be veneficial to cities. The League is concerned, however, as to the affect of this bill on existing city regulations. He further stated that the KCC and KIOGA have no position and no objection to this bill.

Rep. Sandy Duncan appeared to explain the provisions of HB 2330 stating the original concept came from the Rules and Regulations Committee. He stated that the law now permits discrimination based on marital status. Right now if you get a DWI you lose your license and also right now if your spouse gets a DWI you can still lose your license.

Mark Bornyak, Kansas Beer Wholesalers Association, appeared in support of HB 2330 stating that current law is discriminatory. No other sector is forced to give up their livelihood because their spouse gets a DWI ticket. Enormous amounts of money are spent in setting up their business' and it is unfair that a spouse's infraction of the law is held against them.
(See Attachment A)

Tom Green, Kansas Retail Liquor Dealers, appeared in support of HB 2330.

Tuck Duncan, Kansas Wine & Spirite Wholesalers, appeared in support of HB 2330 stating that persons in no other occupation are forced to give up their livelihood because of their spouse's actions. (See Attachment B)

Jack Milligan, Kansas Association of Private Clubs, appeared in support of HB 2330 stating that this measure goes a long way in eliminating the discrimination against a person holding a license to sell alcoholic beverages and whose spouse is convicted of DWI. (See Attachment C)

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Federal and State Affairs,
 room 526-S, Statehouse, at 1:30 ~~XX~~/p.m. on February 28, 1983.

Tom Kennedy, Director, Alcoholic Beverage Control Division, appeared on HB 2330 stating that the change of policy is strictly a legislative matter and that they will abide by whatever decision is made. (See Attachment D)

Rep. Sandy Duncan appeared to explain the provisions of HB 2375 stating the bill was introduced by a person in Wichita who sees a big problem with his peers using fake ID's. Rep. Duncan presented the Committee with a revised draft of the bill (See Attachment E)

Reverend Richard Taylor, Kansans for Life at Its Best, appeared in support of HB 2375 stating that underage purchase and consumption of alcoholic beverages should not be tolerated. He noted that some states are requiring that profiles of underage drivers be on driver's licenses. (See Attachment F)

Chris Graves, Associated Students of Kansas, appeared in basic support of HB 2375 stating they support the penalties for those who abuse drinking and driving. This bill would go further to insure that the purchaser is really who they say they are. (See Attachment G)

Tom Green, Kansas Retail Liquor Dealers, appeared in support of HB 2375 stating that his group is very concerned with the problem of minors buying liquor. This bill would appear to help curb that problem.

Tom Kennedy, Director, Alcoholic Beverage Control Division, appeared on HB 2375 stating the bill provides specific means to determine the age of a person for the purpose of selling alcoholic liquors and increases the penalty provisions. (See Attachment H)

Jack Milligan, Kansas Association of Private Clubs, appeared in support of the concept of HB 2375 stating they have the philosophy that if you finally penalize minors severely you might finally begin to address the problem.

The Chairman reminded the Committee that the Sub-committee on HB 2327 would meet on March 1st.

The meeting adjourned.

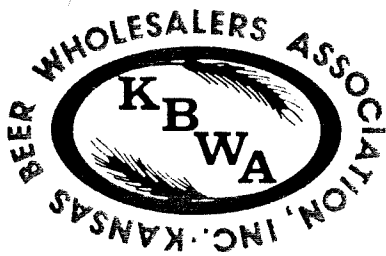
GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE 2-28-31

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
Ann Solomon		Intern
Richard Joylar	Topeka	Life at OS Des
Pat Leuk	Augusta	
James Kastner	Topeka	KFOA
Dennie Eder	RAPC	Topeka
Jack Milligan	Ks. Assn. Priv. Club	Topeka
Chris Evans	Topeka	Assoc. Students of Ks
Dana Hawkins	Topeka	ASK
Alison Gilman	Lawrence	KANU Radio
Kar Rieck	Topeka	SUNflower Club Assn.
Mark Tallman	Topeka	ASK
Jim Kauf	"	League of Ks Municipalities
Wick D. Wells	"	KWSWA
Mark Borangal	"	KBSWA



February 28, 1983

SUMMARY STATEMENT IN SUPPORT OF HOUSE BILL 2330 BY REPRESENTATIVE DUNCAN

WHAT THIS BILL DOES: House Bill 2330, if enacted, would eliminate the provision in current state law that says no alcoholic liquor license of any kind may be issued to a person whose spouse has been found guilty or convicted of driving while intoxicated.

SUMMARY POINTS IN SUPPORT OF THE MEASURE:

I. Current provisions requiring an alcoholic liquor licensee to terminate his/her license if his/her spouse is convicted of DWI is discriminatory. The Kansas Beer Wholesalers Association fully recognizes that the liquor industry is a distinct industry in comparison with others operating within the state. However, there is no valid reason for this discriminatory measure nor is the state or its citizens better served by such a punitive measure. Other business persons such as bankers, newspaper editors, legislators and other professionals whose activities have a profound affect on Kansans everywhere are not subject to the loss of their livelihood if their spouse is convicted of driving while intoxicated. KBWA feels that in this regard there should be no distinction between these and similar professions and the beer wholesaling profession.

II. Alcoholic liquor licensees in general and beer wholesalers in particular have invested enormous amounts in their business operations. For instance, in preparation for hearings on House Bill 2330 a typical beer distributor was contacted and asked what his investment was in his operation. The investment schedule is listed below:

Building	\$ 600,000.00
Trucks, automobiles & other vehicles	300,000.00
Plant equipment	50,000.00
General office equipment	50,000.00
Inventory	200,000.00
Miscellaneous	<u>40,000.00</u>
TOTAL	\$1,240,000.00

It is readily apparent that a large amount of investment in time and capital is required to operate a beer distributorship. The Kansas Beer Wholesalers Association believes that good business practices coupled with credible governmental sanctions should determine whether or not his business succeeds -- not by events totally outside his control.

III. Breweries require that before any franchise agreement is offered to a person that that person have active management in the going concern. If a spouse of that person is convicted of a DWI there is simply no way for the distributor to reincorporate to avoid the loss of his or her license. The brewery at that point will simply terminate the franchise agreement and the distributor will lose his or her business.

IV. By and large, we hold individuals responsible for their own actions. To that extent, if a husband is convicted of driving while intoxicated he suffers the penalties, not he and his wife. The same holds true if a wife is convicted of the charge. In other words, we don't put the wife in jail for 48 hours if a husband is convicted of a driving while intoxicated charge. Again, we hold that individual solely responsible for the infraction of state law. The Kansas Beer Wholesalers Association simply wishes to extend that same principle to the ability of a distributor to hold on to his or her license if his or her spouse is found in violation of Kansas Statutes Annotated 8-1756.

V. Unlike many other pieces of state legislation, this legislation has the support of the entire industry's concern and contains no fiscal note.

K · A · N · S · A · S
WINE & SPIRITS
WHOLESALE ASSOCIATION, INC.

TO: MEMBERS HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS
FROM: R. E. "TUCK" DUNCAN
General Counsel, KWSWA
RE: H. B. 2330

The Kansas Wine and Spirits Wholesalers Association supports H.B. 2330. In no other industry would the actions of one's spouse govern the business destiny of a licensee. Licenses are required for many occupations, lawyers, doctors, plumbers, electricians, realtors, and more; but none of the foregoing will be denied their livelihood because of the misfortune of their spouse. We believe that Representative Duncan's bill is a step in the correct direction. There may be other restrictions directly affecting licensees that could be modified as well, but being aware that caution in this area is appropriate we would urge your favorable consideration of this measure.



Kansas Association of Private Clubs

(913) 357-7642 • 117 W. 10TH ST. • TOPEKA, KS 66612

February 24, 1983
HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
HB 2330 & HB 2375

Mr. Chairman, members of the committee, my name is Jack Milligan. I appear this afternoon in behalf of the Kansas Association of Private Clubs in support of HB 2330.

The Kansas Association of Private Clubs views this measure as an opportunity to erase what is obviously discrimination against a person who holds a license to sell alcoholic beverages at retail and whose spouse is convicted of a driving under the influence charge. Preventing a person from holding a license to sell alcoholic beverages is certainly no safeguard against any improprieties that may be committed on the part of the licensee's spouse. The Legislature may have felt a prohibition of this sort was useful many, many years ago. However, we certainly cannot find any justification for this type of rationale or regulation during present times.

We view HB 2330 as an appropriate vehicle to permit a licensee to pursue their profession without being unfairly penalized for the actions of his or her spouse.

Mr. Chairman, I also wish to appear in support of HB 2375. Any action taken to improve a better and uniform identification system used to prevent minors from unlawfully entering establishments serving alcoholic beverages is welcomed. However, I would encourage the committee to seriously enact language that would provide severe penalties for minors who use any form of false identification to

Atk b. C

February 24, 1983

gain unlawful entry. Only then will minors be genuinely hesitant before acting foolishly. Strong action of this sort will also command the attention and cooperation of many parents who currently causally dismiss such violations as mischievous behavior by teenagers.

Thank you for the opportunity to appear this afternoon. I will be happy to address any questions the committee might have.

Jack Milligan
Kansas Association of Private Clubs

MEMORANDUM

TO: Honorable Neal Whitaker
Chairman, House Federal and State Affairs Committee

FROM: THOMAS J. KENNEDY, Director, ABC Division

RE: House Bill 2330

DATE: February 24, 1983

PURPOSE

House Bill 2330, as introduced, is an act concerning intoxicating liquors and beverages; relating to classes of persons to whom licenses not issued; amending K.S.A. 1982 Supp. 41-311 and repealing existing sections.

PERSPECTIVE

K.S.A. 1982 Supp. 41-311 presently states that "No license of any kind shall be issued to any person if the spouse of such person would be ineligible to receive such a license hereunder for any reason other than citizenship and residence requirement or age."

House Bill 2330, if enacted, would change the language to read: "No license of any kind shall be issued to any person if the spouse of such person would be ineligible to receive such a license hereunder for any reason other than citizenship, residence requirements, age or conviction of or pleading guilty to a violation of K.S.A. 8-1567 and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute, or forfeiture of bond to appear in court to answer charges for any such violation."

This amendment authorizes the holder of a retail liquor store license or a wholesalers license to continue holding their license even if their spouse has been convicted or plead guilty of violating K.S.A. 8-1567 (D.W.I.).

Further, an applicant for a retail liquor store license or a distributors license would be authorized to obtain a license even if their spouse has been convicted or plead guilty of violating K.S.A. 8-1567 (D.W.I.).

Atch. D

Presently we have a regulation, K.A.R. 14-2-6, which states that no person shall be employed by a retail licensee in a managerial capacity or as a sales clerk who has been convicted of or has plead guilty to a violation of intoxicating liquor laws or D.W.I. within the last 10 years.

The reason for this rule is to stay in compliance with K.S.A. 41-311(c) which states that:

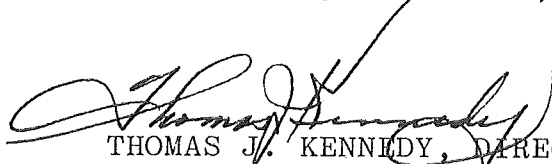
"No license of any kind shall be issued to: '(c) A person who has been convicted of or has pleaded guilty to a violation of intoxicating liquor laws of any state or the alcoholic beverage control laws of the United States, or shall have forfeited bond to appear in court to answer charges for any such violation, within the ten (10) years immediately prior to the date of such person's application for a license'."

This restriction is similar to the age restriction where a licensee has a spouse who is 20 years old and is prohibited from working in the store.

COMMENTS AND/OR RECOMMENDATIONS

This amendment is strictly a legislative policy decision. We have no objections to the amendment.

Respectfully submitted,



THOMAS J. KENNEDY, DIRECTOR
Alcoholic Beverage Control Division

TJK:cjk

HOUSE BILL No. 2375

By Representatives Duncan, Farrar and L. Johnson

(By Request)

2-9

0018 AN ACT concerning proof of age for purchase of alcoholic liquors and cereal malt
0019 beverages.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. No retailer of alcoholic beverages, private club
0022 licensee, person licensed to sell cereal malt beverages or any other
0023 person or corporation shall sell any alcoholic beverage to or for a
0024 person under 18 years of age or in violation of K.S.A. 21-3610,
0025 21-3610a, 41-2615, 41-2704 or 41-2721 and amendments thereto.
0026 When determining the age of any person for the purpose of
0027 complying with this section or any section specified herein, the
0028 only evidence acceptable for such purpose is a current driver's
0029 license or a current nondriver's identification card issued by the
0030 state.

0031 Violation of this section is a class A misdemeanor.

0032 Sec. 2. This act shall take effect and be in force from and after
0033 its publication in the statute book.

(a) Any retailer may require that a purchaser of alcoholic liquor or cereal malt beverage present to the retailer a current driver's license or current nondriver's identification card, issued to the purchaser by any state, for the purpose of proving that the purchaser is old enough to legally purchase the liquor or beverage.

(b) As used in this section, "retailer" means any retailer, as defined by K.S.A. 41-102 or 41-2701, and amendments thereto, or any club, as defined by K.S.A. 41-2601 and amendments thereto.

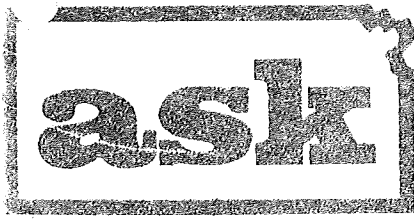
Atch. E

February 28, 1983 Hearing on HB 2375
House Federal and State Affairs Committee

Richard Taylor
KANSANS FOR LIFE AT ITS BEST!

Alcohol is the major drug problem for Kansas youth. More absolute alcohol is consumed in Kansas from beer than from wine and distilled spirits combined. Underage purchase and consumption should not be tolerated. HB 2375 seems to be a step in the right direction. Recently I noted that another state required profile pictures to be used on a driver's license for those under the legal drinking age. Altering the birth date is now done in Kansas. Altering the picture from side view to front view would be more difficult.

Alch. F



ASSOCIATED STUDENTS OF KANSAS

1700 College
Topeka, Kansas 66621
(913) 354-1394

Statement by

CHRIS GRAVES

ASSOCIATED STUDENTS OF KANSAS
(ASK)

Before the

HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

on

HB 2375

An act concerning proof of age for purchase of alcoholic beverages

February 28, 1983

Representing the Students of:

Emporia State • Fort Hays State • Kansas State • Pittsburg State • University of Kansas • Washburn University • Wichita State

Atch. G

INTRODUCTORY REMARKS

Mr. Chairman and members of the House Federal and State Affairs Committee, my name is Chris Graves and I am the Legislative Director for the Associated Students of Kansas, the state student association which represents the over 83,000 students at the 7 public 4 year universities in Kansas. I am here today to express our support for HB 2375.

COMMENTS

Committeemen, let me once again assure you of ASK's concern about public health and safety and how the abuse of alcohol impacts on that and our willingness to work with you to respond to the existing flaws in the system. We support measures which would severely penalize persons who abuse the privilege of drinking by driving while intoxicated or manufacturing, bending or presenting false identification to purchase beer or alcohol. Laws passed last session to toughen penalties for driving while intoxicated have curbed the abuse of that law and your action last week on HB 2382, which would severely limit the number of acceptable IDs in obtaining duplicate driver's licenses or nondriver's identification cards, will also go a long way in insuring that the ID a person presents is valid. HB 2375 would be a further step in insuring that the purchaser is who they claim to be and are of legal age. However, we would suggest going a step further.

SUGGESTIONS FOR HB 2375

Now that we can be reasonably assured that a person's ID is valid, we must insure that the ID will be checked. HB 2375 lacks in this respect in that it is left to the discretion of the retailer whether or not presentation of proper ID is required. We are sure that responsible stores, clubs and bars already do check a person's identification; however, we know that a great number of irresponsible stores, clubs and bars exist which do not make any effort to check the age of the purchaser.

We realize that there may be some serious problems in requiring identification be checked. We realize that there may be great opposition to such a law by the segment of the population obviously over the legal age. We understand the criticisms that such a law would slow down the checkout operator at the grocery, convenience or liquor store. We understand the concern that such a law would cause economic hardship on the owner of a small bar or tavern in necessitating the hiring of another individual to check the IDs of persons entering or at the bar (Although I might note that several bars already do this).

Let me assure you that we mean no economic hardship on anyone; however we come forward with these suggestions in response to the problems and abuse we have seen. In addition, a person already knows that they may be asked to prove that they are of legal age and so should be carrying the proper identification, and if they are planning to pay for the purchase with a check, stores often require a person show their driver's license or other ID.

CONCLUSION

In conclusion, ASK supports HB 2375 and urges your adoption of the measure. We also ask that some consideration be given to the suggestions we have made.

Thank you for your time and consideration. I will be happy to answer any questions you may have.

MEMORANDUM

TO: Honorable Neal Whitaker
Chairman, House Federal and State Affairs Committee

FROM: THOMAS J. KENNEDY, Director, ABC Division

RE: House Bill 2375

DATE: February 24, 1983

PURPOSE

House Bill 2375, as introduced, is an act concerning proof of age for purchase of alcoholic beverages.

PERSPECTIVE

This act, if enacted in its present form, states that no retailer of alcoholic beverages, private club licensee, persons licensed to sell cereal malt beverages or any other person or corporation shall sell any alcoholic beverage to or for a person under 18 years of age or in violation of K.S.A. 21-3610, 21-3610a, 41-2615, 41-2704 or 41-2721 and amendments thereto. When determining the age of any person for the purpose of complying with this section or any section specified herein, the only evidence acceptable for such purpose is a current driver's license or a current nondriver's identification card issued by the state.

K.S.A. 21-3610 concerning furnishing intoxicants to a minor states:

- (1) Furnishing intoxicants to a minor is directly or indirectly, selling to, buying for, giving or furnishing any intoxicating liquor to any person under the age of twenty-one (21) years.
- (2) Furnishing intoxicants to a minor is a class B misdemeanor.

K.S.A. 21-3610a concerning furnishing cereal malt beverage to a minor states:

- (a) Furnishing cereal malt beverages to a minor is buying for or selling, giving or furnishing, whether directly or indirectly, any cereal malt beverage to any person under 18 years of age.
- (b) Furnishing cereal malt beverage to a minor is a class B misdemeanor.

Atk. H.

K.S.A. 41-2615 concerning consumption of liquor or cereal malt beverage by minor prohibited; penalty, states:

"No club licensed hereunder shall knowingly or unknowingly permit the consumption of alcoholic liquor or cereal malt beverage on its premises by a minor and no minor shall consume or attempt to consume any alcoholic liquor or cereal malt beverage while in or upon the premises of a club licensed hereunder or as prohibited by K.S.A. 41-715 and any amendments thereto. The owner of any club, any officer or any employee thereof, who shall permit the consumption of alcoholic liquor or cereal malt beverage on the premises of the club by a minor shall be deemed guilty of a misdemeanor and upon conviction shall be subject to the same penalty as prescribed by K.S.A. 41-715 for violation of that section."

K.S.A. 41-2601 concerning definitions, as it pertains to private clubs, defines "Minor" as "any person under twenty-one (21) years of age."

COMMENTS AND/OR RECOMMENDATIONS

1. The purpose of this bill, according to Representative Duncan is not to change the age to 18 years as shown in the bill but to provide a specific means to determine the age of a person for the purpose of selling alcoholic liquors and cereal malt beverage to that person in a private club and for the purpose of selling cereal malt beverages to that person in 3.2 outlets.

2. The penalties under this bill have been increased from class B to class A misdemeanor.

3. The bill, as presently written, is in conflict with criminal statutes K.S.A. 21-3610 and 21-3610a, therefore, recommend that:

On line No. 24 of the bill, that the words: "Under 18 years of age or" be deleted. If this change is made, the age of consumption or attempting to consume alcoholic liquors or cereal malt beverage in private clubs will not be changed from 21 years and the age for cereal malt beverages in 3.2 outlets will not be changed from 18 years.

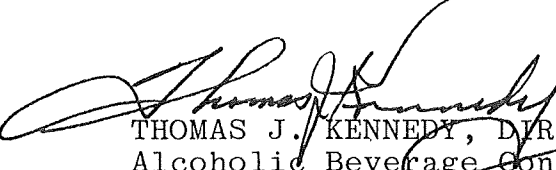
4. Recommend that the term "alcoholic beverages" be defined under K.S.A. 41-2601 as:

"Alcoholic beverage" means alcoholic liquor as defined by K.S.A. 41-102 and amendments thereto or cereal malt beverage as defined by K.S.A. 41-2701 and amendments thereto." The reason for this recommendation

is that the term "alcoholic beverage" is frequently used and yet there is no place that it is defined.

5. This is a good bill and recommend its approval if amended as indicated above.

Respectfully submitted,



THOMAS J. KENNEDY, DIRECTOR
Alcoholic Beverage Control Division

TJK:cjk