

MINUTES OF THE House COMMITTEE ON Federal and State Affairs

The meeting was called to order by Rep. Neal D. Whitaker at
Chairperson

1:30 ~~am~~/p.m. on March 15, 1983 in room 526-S of the Capitol.

All members were present except: Reps. Hensley and Peterson, 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:

Rep. Steve Cloud
Jack Milligan, Kansas Association of Private Clubs
Mike Larimore, Ray Enterprises
Ace Johnson, Sanctuary, Lawrence, Kansas
Reverend Richard Taylor
Tom Kennedy, Director, Alcoholic Beverage Control
John Crofoot
Bob Bruckman
Tom Green, Kansas Retail Liquor Dealers
John Miller, Progressive Retailers in Kansas

Chairman Whitaker called the meeting to order and reminded the Committee that when the meeting adjourned yesterday there was a motion on the table by Rep. Vancrum on HB 2541 to amend in Sections (a), (b), and (c), the words "civil disorder" be stricken and the words "an assault or damage to property" be added, and that the language on Lines 37 to 41 be stricken.

Rep. Vancrum advised the Committee that the Revisor had come up with two separate proposals on HB 2541 for consideration. (See Attachment A & B) He stated that Alternative A was the original motion. Rep. Vancrum's original motion with Rep. Ediger seconding, was voted upon. The motion carried. A division was called for. 11 voted yes. Rep. Smith moved conceptually, Rep. Eckert seconding, that a new Sec. 2 be added stating that nothing in this act will be construed to prohibit training in fire arms for lawful defense, hunting and sport shooting. The motion carried. Rep. Hensley moved, Rep. Vancrum seconding, that HB 2541 be reported favorably for passage as amended. The motion failed. A division was called for. 8 voted yes and 9 voted no.

Jack Milligan, Kansas Association of Private Clubs, appeared in support of HB 2527 and lowering the percentage of a club's gross sales be tied to food sales. He believes the results of the decrease will result in more reciprocal privileges and convenience to the public. (See Attachment C)

Mike Larimore, Director of Operations for Ray Enterprises, Manhattan, Kansas, appeared in support of HB 2527 stating the 50% food sales requirement for reciprocation is unworkable. He stated the majority of club owners are small operators and do not always have the resources or clientele to have high price menu items. (See Attachment D)

Rep. Steve Cloud appeared to explain the provisions of HB 2527 stating the sub-committee reviewed the sunset report on the Revenue Department and found 4 or 5 pages that explained the costs involved in the audits. The responsibility of the audit is to evaluate the activity, analyze the cost and compare that with the benefit to the citizens.

Ace Johnson, Sanctually, Lawrence, Kansas, appeared in support of HB 2527 stating a more acceptable figure for food sales would be 30%. He stated that the tourism division states we are not taking care of our own customers let alone the customers that come in for meetings, tournaments, etc.

Rev. Richard Taylor, Kansans for Life at Its Best, appeared in opposition to HB 2527. (See Attach.

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

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Federal and State Affairs,

room 526-S, Statehouse, at 1:30 ~~xxx~~ p.m. on March 15, 1983

Tom Kennedy, Director, ABC Division, appeared on HB 2527 stating he favored a expiration date on all club cards but further stating that if all clubs can reciprocate the work of the office will quadruple and if a club quits or goes out of business all clubs will have to be notified. (See Attach. F)

Rep. Steve Cloud appeared to explain the provisions of HB 2530 stating this is a result of the sunset audit on ABC. This is an attempt to clean up liquor laws and make it more convenient for the customer.

John Crowfoot, independent businessman appeared in support of HB 2527 stating it gives them an opportunity to get additional customers with advertizing materials. He expressed concerns with (e) on Line 53.

Bob Bruckman, Appreciator Advertizing, Kansas City, Kansas, appeared in support of HB 2530 stating liquor stores should be able to buy calendars, matches, ballpoint pens, etc., and give to their customers.

Jack Milligan, Executive Director, Kansas Association of Private Clubs, appeared in support of HB 2530 stating the ability to deliver a produce to entities who provide direct sale of products to the public is a convenience the private club industry has long desired. (See Attachment G)

Mike Larimore, Ray Enterprises, appeared in support of HB 2530 stating he makes substantial liquor orders every Monday and then I pick it up. They would be more than happy to deliver it to me just to get my business.

Ace Johnson, Sanctuary, Lawrence, appeared in support of HB 2530 stating that all three of the liquor stores I buy from are on 27th and I am on 3rd. My wife picks up the orders and she gets tired of the job. The stores would be more than happy to deliver to me.

Tom Green, Kansas Retail Liquor Dealers Assn., appeared on HB 2530 stating they support delivery of liquor to the private clubs. He further recommended that subsections d, c, & h be deleted.

John Miller, Progressive Retailers in Kansas, appeared in support of HB 2530. He stated that he has been selling liquor to private clubs since 1965. Deliveries would cut down on the practice of driving to another state to save 15% on the cost of what is bought. It should also be the privilege of any retailer to give away merchandise.

Tom Kennedy, Director, ABC, appeared on HB 2530 with comments and recommendation on various parts of the bill. (See Attachment H)

The meeting adjourned.

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE 3-15-83

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
John Craft	Cedar Point, Ka	Western Associates
BOB BRUCHMAN	KANSAS CITY, KS.	APPRECIATED ADVERTISING
Joy D. Cole	Topeka, Ka	The Adjutant General's Dept.
Richard Joyla	Topeka	Life or Best!
Michael Cardmore	Manhattan	Ray Enterprises
Jessie Kader	Topeka	Ka Assoc of Pri Clubs
Gee Plunson	Lawrence	KAPC Chamber of Commerce
Loretta M. Zisch	Hanston	Hanston High School
Scott J. Salmons	Hanston	Hanston High School
Jony Salmons	Hanston	Hanston High School
WARREN HASTINGS	BURDETTE	HANSTON HIGH SCHOOL
John Dasmogor	Burdett	Hanston High School
N. Eugene Zimmie	216 E 29th	Hays, Kansas
Hert Bode	Box 123	Hanston High School
Donna Waster	Hanston	Hanston High School
Ronma T. Jaska	Hanston	Hanston High School
Suzanne Vogel	Hanston	Hanston High School
John Miller	Shawnee	PROGRESSIVE RETAILERS IN KANSAS
Mark Boramyal	Topeka	Ks. Bee Wholesaler Co
Richard Hodson	Lawrence	ABC
TOM KENNEDY	TOPEKA	ABC
Scott Miller	Hanston	Hanston High School
Melanie McElroy	Hanston	Hanston High School
Barbara Neumann	Hanston	Hanston High School
Rodney J. Curce	Hanston	Hanston High School
Pamela O. Salmons	Hanston	Hanston High School
William C. Price		

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE _____

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
Debbie Eder	Topeka	KAPC
Jim Flaherty	Topeka	KCC
Charles Simmons	Topeka	DOC
Paul Barclay	"	DOC
Mary Ellen Sims	Topeka	LAVIC
Jan Junk	Lawrence	Intern - AG
Bob Harris	CAIRN UTB	KAN. Press Assoc.
Tom Watter	Hillsboro, KS	Lamb Graphics & Comm.
Mark Jost	Hillsboro, KS	Lamb Graphics & Comm.
Pat Goodson	Shawnee	Right To Life
Mary Ann Gehrig	3340 N 66 th St	KCKS 86104
Bill Hicks	Wichita	USA-259
Ed Schaub	Topeka	SWBT
Lynn Hellbust	Topeka	-
Bob Kuhn		Insurance Dept

HOUSE BILL No. 2541

By Committee on Federal and State Affairs

3-4

0017 AN ACT concerning crimes and punishments; defining and
0018 classifying the crime of unlawful promotion of ~~civil disorder~~ violence

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. (1) Unlawful promotion of ~~civil disorder~~ is: violence

0021 (a) Teaching or demonstrating to another the use, application
0022 or making of any firearm, explosive device, incendiary device or
0023 technique capable of causing injury or death to persons, knowing
0024 or intending that it will be used unlawfully in, or in furtherance
0025 of, ~~a civil disorder~~; an assault of a person or damage to property

0026 (b) assembling with one or more persons for the purpose of
0027 training with, practicing with or being instructed in the use of
0028 any firearm, explosive device, incendiary device or technique
0029 capable of causing injury or death to persons, with intent to use it
0030 unlawfully in, or in furtherance of, ~~a civil disorder~~; or an assault of a person or damage to property

0031 (c) transporting or manufacturing for transportation in this
0032 state any firearm, explosive device or incendiary device, know-
0033 ing or intending that it will be used unlawfully in, or in further-
0034 ance of, ~~a civil disorder~~. an assault of a person or damage to property

0035 (2) Unlawful promotion of ~~civil disorder~~ is a class E felony. violence

0036 (3) As used in this section:

0037 ~~(a) "Civil disorder" means any public disturbance which~~
0038 ~~involves acts of violence by assemblages of three or more indi-~~
0039 ~~viduals and which causes an immediate danger of or results in~~
0040 ~~damage or injury to the property or person of any other individ-~~
0041 ~~ual.~~

0042 ~~(b)~~ "Firearm" means any weapon which is designed to or (a)
0043 may readily be converted to expel any projectile by the action of
0044 an explosive; or the frame or receiver of any such weapon.

0045 ~~(c)~~ "Explosive device" or "incendiary device" means dyna- (b)

Atch. A

HOUSE BILL No. 2541

By Committee on Federal and State Affairs

3-4

0017 AN ACT concerning crimes and punishments; defining and
0018 classifying the crime of unlawful promotion of civil disorder.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. (1) Unlawful promotion of civil disorder is:

0021 (a) Teaching or demonstrating to another the use, application
0022 or making of any firearm, explosive device, incendiary device or
0023 technique capable of causing injury or death to persons, knowing
0024 or intending that it will be used unlawfully in, or in furtherance
0025 of, a civil disorder;

0026 (b) assembling with one or more persons for the purpose of
0027 training with, practicing with or being instructed in the use of
0028 any firearm, explosive device, incendiary device or technique
0029 capable of causing injury or death to persons, with intent to use it
0030 unlawfully in, or in furtherance of, a civil disorder; or

0031 (c) transporting or manufacturing for transportation in this
0032 state any firearm, explosive device or incendiary device, know-
0033 ing or intending that it will be used unlawfully in, or in further-
0034 ance of, a civil disorder.

0035 (2) Unlawful promotion of civil disorder is a class E felony.

0036 (3) As used in this section:

0037 (a) "Civil disorder" means any ~~public disturbance which~~
0038 ~~involves acts of violence by assemblages of three or more indi-~~
0039 ~~viduals and which causes an immediate danger of or results in~~
0040 ~~damage or injury to the property or person of any other individ-~~
0041 ~~ual.~~

0042 (b) "Firearm" means any weapon which is designed to or
0043 may readily be converted to expel any projectile by the action of
0044 an explosive; or the frame or receiver of any such weapon.

0045 (c) "Explosive device" or "incendiary device" means dyna-

assault of a person or damage to property by a group
of three or more individuals

Atch. B

0046 mite, plastique and all other forms of high explosives; any
0047 explosive bomb, grenade, missile or similar device; and any
0048 incendiary bomb, grenade, fire bomb or similar device, includ-
0049 ing any device which (i) consists of or includes a breakable
0050 container including a flammable liquid or compound and a wick
0051 composed of any material which, when ignited, is capable of
0052 igniting the flammable liquid or compound and (ii) can be
0053 carried or thrown by one individual acting alone.

0054 Sec. 2. This act shall take effect and be in force from and
0055 after its publication in the statute book.

NEW SEC 2

Nothing contained in sec 1
shall be construed to prohibit
the training or teaching of
the use of weapons for sporting,
recreational, or self-defense
purposes or for any other
lawful purpose.



Kansas Association of Private Clubs

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

HB 2527

MARCH 15, 1983

HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

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 2527.

The Legislature amended the private club laws a few years ago to permit clubs with 50% of their gross receipts predicated on food sales to reciprocate membership privileges with other clubs.

I am confident when I say a very large portion of Kansas citizens viewed this as a progressive step long overdue in our state. Finally, some semblance of normalcy and pragmatism prevailed! No longer was it necessary to purchase many individual and expensive club memberships just to enjoy a variety of dining establishments throughout our state. Whether you were an out-of-state guest, a Kansan traveling across the state for business or vacation, or simply desirous of dining at an eating establishment across town, the burden and expense of having to purchase memberships in all these instances was dramatically reduced with the advent of reciprocal membership privileges.

The difficult part was determining just which clubs should be permitted to reciprocate. With a lack of sufficient data to make its decision, the Legislature did the best it could and settled on the "50% of gross receipts predicated on food sales" provision. Needless to say, this decision was partly arbitrary.

Jack C.

Several years later we have the luxury of "hind sight" and find a substantial number of eating establishments genuinely struggling to meet the 50% level. No doubt the reciprocating establishments overwhelmingly approve of reciprocal privileges and certainly the public enjoys the benefits of such privileges. However, many, many of the establishments enjoying these arrangements find themselves struggling to meet the 50% level and in danger of losing their reciprocal privileges. When this happens, the public is the real loser!

Realistically a substantial number of dinning establishments are struggling to survive. And survival being what it is sometimes places an establishment in the unenviable and tempting position of reporting food and liquor sales in less than an accurate manner.

Two bad things can result in an unfortunate case such as this:

1. Clubs may attempt to report a percentage of their liquor sales as food sales. Please remember food sales are subject to a 3% sales tax and liquor sold at clubs is subject to a 10% excise tax. Thus, potentially costing the state large amounts of excise tax it should otherwise be collecting on the sale of liquor.

2. Item #1 makes it extremely difficult for the Department of Revenue to perform its tax collecting responsibilities, as well as routine audits to determine tax liability.

I wish to assure you I know of no one in the club business who wants to be in the unfortunate position I just outlined. However, survival and reality being what they are have placed a sizable number of establishments in these unfortunate circumstances.

Current law presents a situation where food sales must compete with the receipts generated by liquor sales, beer sales and membership sales.

Current law also predicates reciprocal privileges upon food sales constituting a "percentage" of a club's gross sales. We believe this discriminates against a modestly decorated, well-run club that serves the finest \$3.00 sandwich or hors d'oeuvres in town as opposed to a gourmet dining establishment who serves expensive menu items, such as filet mignon, prime rib or chateaubriand.

I am confident lowering the food sales requirement will dramatically lessen the number of dining establishments desirous of reciprocal privileges who are currently struggling or unable to achieve the 50% level. SB 328 will reduce the 50% requirement to 40% and is awaiting action in the Senate Federal and State Affairs Committee.

I am confident the results of such action will be more reciprocal privileges and convenience enjoyed by the public, and much less temptation for clubs to consider circumvention of the law for the sake of survival, and fewer collection and enforcement problems incurred by the Department of Revenue and the Alcoholic Beverage Control.

Therefore, the Kansas Association of Private Clubs vigorously encourages your support of lowering the 50% requirement via HB 2527.

Thank you! I will be happy to address any questions the committee members might have.

Jack Milligan
Executive Director
Kansas Association of Private Clubs

I am Mike Larimore, director of operations for Ray Enterprises, Manhattan, Kansas. I oversee the management of two private clubs, Aggie Station and the Last Chance Restaurant. Both have full-scale kitchens and dining rooms, as well as bar areas.

It is my experience that in the private club business in Kansas, the fifty percent food sales requirement for reciprocation can be unworkable, and, by nature, unreasonable. The fifty percent figure was arrived at arbitrarily, with the desired effect of preventing the private club system from operating, in fact, as an open-saloon system. While the fifty percent food sales figure (based upon total gross sales) was designed to prevent reciprocation among clubs which are basically "bars only," it is my view that the same effect would be evidenced if the minimum requirement was lowered into the thirty percent range. Several factors should be considered.

Many clubs which have full kitchen/dining room facilities have to struggle to hit the fifty percent food requirement. In the situation where the average menu item price is in the three to six dollar range, selling one menu item and two beverages would make it virtually impossible to have fifty percent of the total gross sales made up of food sales. It is not very practical to expect a club owner to limit his customers to one drink per food order, just to keep his food sales above fifty percent. Nor is it a very healthy situation where a club owner might be tempted to either lower his beverage prices (which would probably only increase beverage sales) or raise his menu prices (which would tend to discourage food sales) just to achieve some semblance of a fifty percent food share.

Taking one segment of the gross sales, namely food sales, and requiring them to be equal to or greater than all other combined segments of the gross sales, has no practical foundation. There are private clubs across the state which are neither large in size, nor aligned with a chain operation or a large hotel. The majority of club owners are small operators, and we do not always have the resources nor the

Atch. D

clientele to have high menu prices and large dining rooms. Nor do the majority of clubs have large banquet facilities, where several hundred people can be fed at one time. I see no logic in penalizing club owners because their members spend more for beverages and memberships than they do for food. Many clubs serve as a social activity center, possibly the only one in an area. Members may frequent these clubs once per week to socialize, but only consume beverages; they may dine in these clubs only once or twice per month. Many restaurant/bar club operations, which have a high volume in food sales, by nature have an even higher volume of beverage sales. Beverages may be consumed before, during, and after meals, along with beverages sold to customers patronizing the bar facilities. The fifty percent requirement becomes a mathematical burden that has no relationship to the nature of the private club business.

The reality of our economy has as much bearing here as anything. It is increasingly difficult to build dining room sales, and many business trade publications advocate increasing beverage sales as a method to improve the profitability of our operations. With many people being less and less frequent in their dining-out activity, many club owners are forced to limit beverage sales just to maintain a fifty percent food share. This does not make good business sense.

Expecting less than fifty percent of the business activity to provide more than fifty percent of the total gross sales seems unrealistic and unjustified. While the intent of the law is to not allow open saloon operations, it is not intended to inhibit or limit the operation of private clubs. The arbitrary fifty percent figure can be lowered and still maintain this same intent. While the fifty percent figure was arrived at with little real background or foundation, we are now at a point where hind-sight can be utilized. In fact, it would require an operation to have full kitchen facilities to have thirty percent of gross sales be food sales. I am not advocating removing the minimum requirement altogether, but I feel that a reasonable figure of thirty percent would be fair and considerate

of the reality of operating a private club with both kitchen and bar facilities. It seems unfair to restrict a club from reciprocating because the dining room, however large a volume it has, does not match the volume of the bar. Few businesses in our state face such complications hindering success. Reciprocation helps clubs maintain a possibly large group of potential customers, a necessary factor for the clubs to have food and beverage sales of any kind.

All in all, reciprocation is to the benefit of the consumers, allowing them to enjoy numerous clubs without having to spend ten or more dollars per year for every club they would like to patronize. Limiting the number of clubs they can enter on a single membership has absolutely no effect on the frequency or quantity of their dining and drinking. Enabling more clubs to reciprocate will not cause members to necessarily eat or drink more, it just provides them with more places to enjoy themselves.

I would strongly urge this body to recommend lowering the minimum food sales percentage requirement to 30%. It will greatly help the majority of small private club operations which are trying to operate profitably within the nature and intent of our current laws. Thirty percent would reflect a fair and reasonable figure. Promoting reciprocation instead of inhibiting it can only improve the situation for all parties involved, especially the small operators and their customers, who would feel less regulatory complications in their business and social activities.

The well known lawyer, Mr. Clarence Darrow, was opposed to prohibition of the social drug alcohol, but a few years after repeal wrote, "I cannot recall a situation that so tended to invite consumption of liquor. It seems as if I had never seen such display. There is nowhere any effort to place restrictions on sale. I do not believe legislation should encourage the consumption of alcohol. This is being done to an alarming extent."

"Laws that chip away at alcohol regulation augment an increasing liquor problem in the United States. . . Though innocuous by themselves, such laws combine to potentially increase the nation's alcohol problem." (See attached clipping from the Topeka Capital-Journal, January 21, 1979)

"More liberalization means greater use of alcohol, and greater prevalence of disease and death as a consequence. Even though the specific components of liberalization - such as permitting alcohol at sidewalk cafes and park picnics - might seem innocuous in themselves, they add up to a pattern that predisposes to saturation." (See attached sheet)

The Kansas Supreme Court filed a decision on December 5, 1978, which declared unconstitutional a law voted on in 45 counties which would permit the sale of liquor by the drink to the public in restaurants doing 50% or more of their business in food.

It is informative to read what was said in a dissenting opinion. Justice Holmes, with Justices Prager and Miller joining in his dissent, said the "OPEN SALOON. . . DOES PROHIBIT A CERTAIN TYPE OF PREMISES OR BUSINESS OPERATION, THAT IS, A PUBLIC BAR WHOSE PRINCIPAL BUSINESS IS THE SALE OF LIQUOR FOR CONSUMPTION ON THE PREMISES" which is different from "RESTAURANTS, WHOSE PRINCIPAL FUNCTION IS THE SALE OF FOOD."

If the legislature grants reciprocal privileges to clubs WHOSE PRINCIPAL BUSINESS IS THE SALE OF LIQUOR FOR CONSUMPTION ON THE PREMISES, WHOSE PRINCIPAL FUNCTION IS not THE SALE OF FOOD, even the dissenters of the 1978 decision may find such a new law unconstitutional.

My drinking friends tell me they want to know which private club makes its money pushing alcohol and which clubs make food their principal function. Therefore it would be good to go in the other direction, require 60% of gross receipts for reciprocal clubs.

I understand other states have a solution to the enforcement problem. We could require the customers bill to have two columns for each item line. The price of alcoholic beverages would be in one column, food items in the other. The bill would have two totals and one grand total. An audit would determine if the 60% food and 10% tax requirement was fulfilled.

It is difficult to understand why dealers in this chemical crutch are concerned about being so close to the minimum that they might lose their reciprocal privileges. If they were genuine in their concern to not promote this popular social drug, they would make every effort to not even come near the minimum.

I am told the Utah system permits persons to have a drink with their meal, but alcohol consumption is not promoted because the private club does not make any profit on the drink. Persons are permitted to buy mini-bottles from a state operated outlet which they may take to their table and drink. The private club does not make any money on the drink so there is no motive for promoting consumption.

For the sake of public health and safety it would be good if Kansas private club laws moved in this direction - take the profit out of pushing alcohol.

Atch. E


Alcohol causes more human misery than all other drugs combined. The public is the loser when use of this popular brain depresser increases. Why should lawmakers vote to accommodate those who deal in this chemical crutch? Lobbyists for private drinking clubs claim a change is progressive if control laws are relaxed so their clients can make more money selling more alcohol to more people. Advertising specialties are to promote sales.

The person addicted to alcohol will get the drug no matter what the law. But prevention of alcohol problems is, at heart, a political issue. Concerned lawmakers refuse to vote for legislation that encourages consumption. Changes in law that chip away at alcohol regulation increase alcohol suffering. More liberalization means greater use of alcohol, and greater prevalence of disease and death as a consequence.

On television, the Attorney General recently stated that a law should not be relaxed just because some lawbreakers circumvent the law. If that immature argument was used on every law, we would erase most laws from the books. When drinking clubs operated for profit were first granted reciprocal agreements, the reason given was the 50% requirement would limit such agreements to clubs where their principal function was the sale of food and drinking alcohol was incidental to eating. Those who want to eliminate the 50% requirement believe eating is incidental to drinking.

Law makes a difference in total social consumption and the development of new alcoholics. According to guidelines contained in House Concurrent Resolution 5023, it would seem that House Bill 2527 and 2530 deserve your NO vote.

Respectfully yours,



Richard Taylor

PREVENTION OF ALCOHOL PROBLEMS IS POLITICAL ISSUE

David Robinson, senior lecturer in sociology at London's Institute of Psychiatry, said in a paper published by the London Council of Alcoholism: "The time is well past to expect research or sweet reason to make any impression on the problem. They have, of course, provided us with the facts and suggested the goals, but to use the former to reach the latter requires action. It requires coordinated political action, because the prevention of alcohol problems is, at heart, a political issue."

"The fact that alcohol is still getting cheaper year by year is a scandal of political irresponsibility, as is the fact that European Economic Community policies on production, distribution, and taxation of alcohol have been pursued without any consideration of their effects on health and welfare," Dr. Robinson said.

The Journal, November 1, 1980
Addiction Research Foundation
Toronto, Ontario, Canada

Alcohol problem greater than cancer, says doctor

By LESLIE CHAMPLIN
Health Writer

Laws that chip away at alcohol regulation augment an increasing liquor problem in the United States.

That was the word Saturday from Dr. Ernest Noble, immediate past president of the Institute of Alcohol Abuse and Alcoholism, who spent the day in Topeka visiting with local congregations.



Dr. Ernest Noble

Noble said lawmakers should refuse passage of legislation that will make alcohol more available to the public. Though innocuous by themselves, he said, such laws combine to potentially increase the nation's alcohol problem, which already "is really the third major health problem in the United States, behind heart disease and cancer," Noble said. "In terms of its pervasiveness, alcohol is worse, when you think of the traffic deaths, child abuse and crime, which heart disease and cancer don't affect."

Bills such as one that would allow liquor stores to have entrances onto shopping malls or interior hallways of hotels benefit retailers by heightening the temptation to enter the store, Noble said.

"If the stuff is more available, people will begin to use it and they begin to use more of it," Noble said. "Then abuse comes. It's a chain of things."

Since Prohibition was lifted, Noble said, Americans' use of alcohol has reached an all-time high.

"If it's more available and cheaper, chances are you'll buy it. And the price of alcohol compared to personal income is lower today than it was a few years ago," Noble said. "But all the laws seem to go toward more liberalization."

"We need to reverse that trend, the whole attitude (toward alcohol), the whole legal system. That doesn't mean we need Prohibition. I think that was a mistake because alcohol is not only a legal problem but a health problem. We need to look at the laws and how they can be modified so people's health can be protected."

Reversing the trend to which Noble referred includes

educating all segments of society. Noble agreed that quoting statistics or prophesying medical doom to those who drink will not alter society's outlook on alcohol use.

"It's going to come about by society's knowing that alcohol — the drug that it is — is causing harm," Noble said. "Alcohol is still seen by many people as 'not a' drug. People tend to isolate their thinking. They think alcoholism is only a skid row phenomena. But that's the end stage."

In its third special report to Congress, the Department of Health, Education and Welfare said research indicated that alcohol consumption may be related to cancer, especially of the mouth, tongue, pharynx and larynx.

"It's even higher than cigarette smoking," Noble said of the relationship. "And newer disorders are being found where alcohol is implicated."

The age of persons suffering from alcohol-related problems has dropped from 40s to late 30s, Noble said. Even more alarming, he added, is the higher incidence of juvenile drinking.

"What we're seeing is it's becoming younger and younger," he said. "Children are drinking at an earlier age, more often, in greater amounts and getting into more problems with alcohol. The youth problem is serious."

Noble urged implementation of programs that would prevent alcoholism among all ages. Such programs should address the personal and emotional needs of potential alcoholics in addition to educating the public of the risks involved in alcohol use, Noble said.

"We need to design programs for children of alcoholics. They are very susceptible. And we need women's programs," Noble said. "Prevention and early identification are very important."

Many businesses and industries are taking steps toward identifying and helping employees who have alcohol-related problems, Noble said. Employers who notice a drop in a worker's productivity are beginning to recommend that the employee consult a counselor about any personal problems. About half of the reasons for deteriorating workmanship are related to alcohol abuse, Noble said.

If cancer was arrested and prevented by omitting one not-needed item from the diet, would concerned persons promote and defend the use of that item? Alcoholism is arrested and prevented by omitting alcoholic beverages from the diet.

The Addiction Research Foundation, established in 1949, is financed by annual provincial grants. Representatives from the business and professional community, appointed by the Lieutenant-Governor in Council, establish all Foundation policies. The Foundation's Professional Advisory Board is responsible for advising on scientific development and professional programs.

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C. R. Myers, Ph.D.
H. R. S. Ryan, Q.C.

Foundation offices located throughout Ontario offer advice and assistance on drug-related problems. Consult your telephone book for the office nearest you, or call the Information Centre located at the Foundation's provincial headquarters, 33 Russell Street, Toronto (416) 595-6100.

Mr. Archibald is Executive Director of the Addiction Research Foundation. This article is adapted from the keynote address to the Foundation's Advanced Summer Course, Toronto, August 12, 1973, and originally appeared in *Addictions*, Fall 1973.

I believe our course is clear: if we are to serve society in the most responsible manner possible we must take a more active role in the development of future social policy and this means going well beyond the collection and dispensation of data. People must know the consequences they will face in terms of economic, health, and social costs if we continue on our present course to make alcohol an essential component of our everyday lives.

In all the vast scientific literature concerning alcohol and its use, there is no more thoroughly researched area than that showing the relationships between alcohol consumption levels and the alcohol-related damage.

Without exception, nations that have high alcohol consumption levels have the greatest prevalence of alcohol-related illness. The more people there are in any society who drink—even though most may drink moderately—the more alcoholics there will be, and the greater the incidence of alcohol-related damage. There is simply no country in the world where this equation has been upset.

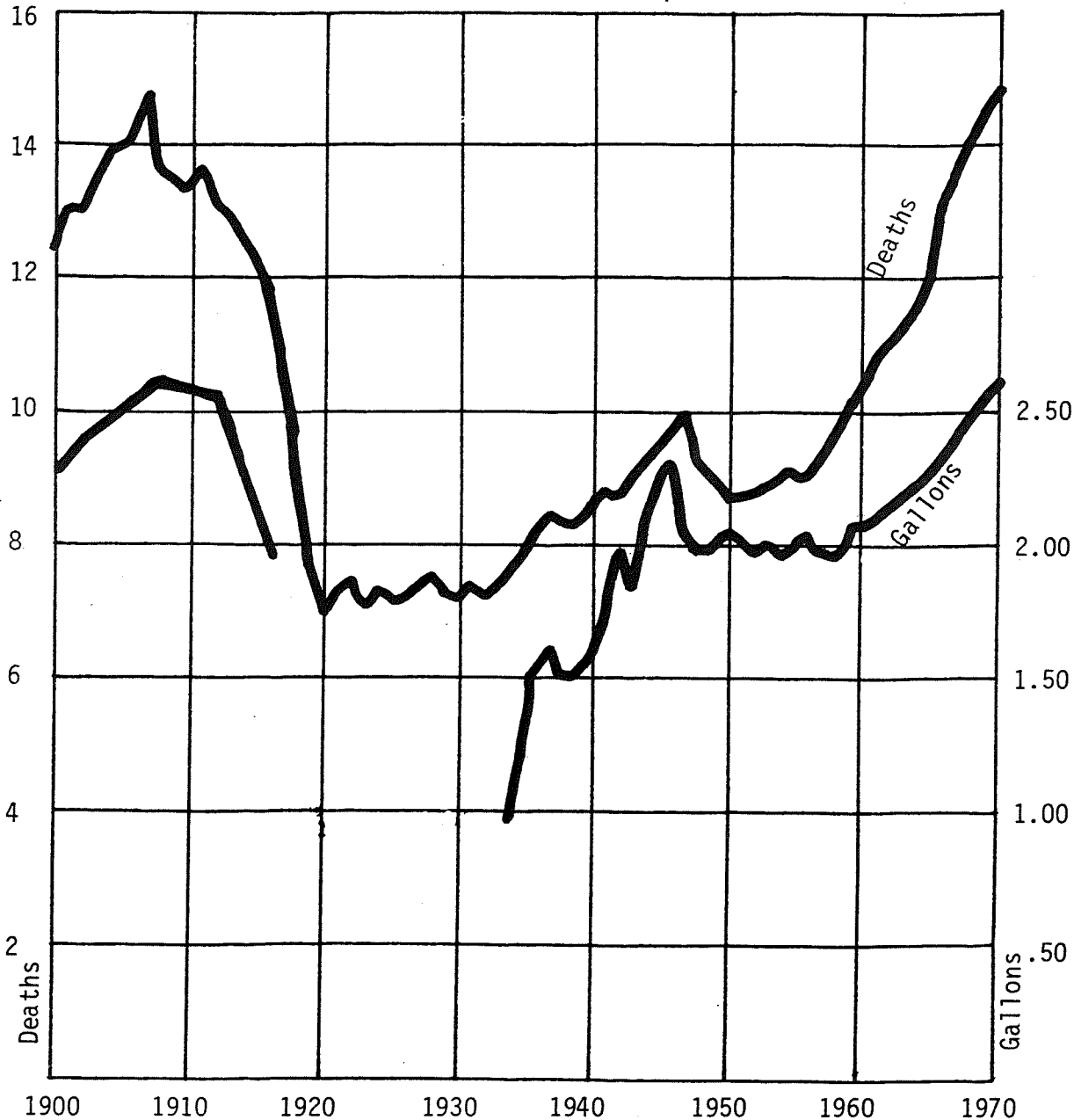
More liberalization means greater use of alcohol, and greater prevalence of disease and death as a consequence. Even though the specific components of liberalization—such as permitting alcohol at sidewalk cafes and park picnics—might seem innocuous in themselves, they add up to a pattern that predisposes to saturation.

The development of social policy does not begin and end with isolated actions such as licensing one specific social club to serve beer or liquor. But it is dependent upon an integration of all these actions into a discernible pattern and into a clearly developed thrust.

Consequently, though it may seem backward to hold the line at extending liberalization in certain isolated cases, we must look at the whole picture and we must decide what it is we want relative to the role that alcohol is to play in our lives.

It is imperative that now, with so many decisions about control legislation facing us and with a public still largely unaware of the potential consequences of these decisions, we stop and look around us and decide what we want for ourselves and our children. And if that means placing a moratorium on further steps toward liberalization until we can make these decisions on the basis of information, and sound judgment, then we should not be afraid of making that proposal.

Cirrhosis Deaths and Absolute Alcohol Consumption in the United States



Cirrhosis Deaths per 100,000 population. (Age Adjusted)

National Center for Health Statistics. (Source)

The Jellinek Estimation Formula bases cases of alcoholism in direct proportion to deaths from cirrhosis.

Note the close relationship of consumption to deaths.

Cirrhosis deaths reached a high of 14.8 in 1907, dropped to an all time low of 7.1 in 1920 and 1923. During 1970 cirrhosis deaths were 14.7 and in 1973 reached an all time high in our nation's history.

Annual Consumption of Absolute Alcohol from Beer, Wine, & Spirits.

Gallons per person. Age 15 and older.

ALCOHOL & HEALTH
Third Special Report to U. S. Congress (Source)

After 1910 a number of states adopted prohibition. This caused the national average per person consumption rate and cirrhosis deaths to drop sharply before nationwide prohibition.

Consumption reached a high of 2.60 during 1906-10. It was at an all time low of .97 following national Prohibition. In 1970 it hit 2.61, a new high in our nation's history.

Social drinkers who hate hypocrisy will not be offended with this simple statement of fact. Prohibition of heroin and marijuana is opposed by those who like the way it makes them feel and by those who profit from pushing the drug. Prohibition of alcohol is opposed by those who like the way it makes them feel and by those who profit from pushing the drug, but there is little doubt that from 1920 to 1933, per person consumption and alcoholism was at the lowest level in our nation's history.

MEMORANDUM

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

FROM: THOMAS J. KENNEDY, Director, ABC Division

RE: House Bill 2527

DATE: March 15, 1983

PURPOSE

House Bill 2527, if enacted in its present form, is an act relating to the regulation of clubs in which alcoholic liquor may be consumed, concerning reciprocal agreements entered into thereby; amending K.S.A. 41-2601, 41-2602, 41 -2624 and K.S.A. 1982 Supp. 41-2637, and repealing the existing sections.

PERSPECTIVE

House Bill 2527, if enacted in its present form, provides that a class "B" club, upon granting membership to an applicant after the ten (10) day waiting period, must issue as evidence of membership, a card which bears the name of the member and the expiration date of membership. This requirement for issuance of a membership card is not applicable to temporary members in class "B" clubs located on hotel premises or clubs located on property which is owned or operated by a municipal airport authority. In addition, the definition of "Food" has been deleted from this statute and restaurant has been redefined as a food service establishment. Amended K.S.A. 41-2601 further deletes the requirement, under the definition of "Restaurant" that a licensed food service establishment as defined by K.S.A. 36-501, derives not less than 50% of its gross receipts in each calendar year from the sale of food for consumption on the club premises.

Presently, there is no requirement in the statutes that a membership card be issued by the club licensees, however, many clubs do. In addition, we have a regulation, K.A.R. 14-20-4, which addresses distribution of cards but no requirement for issuance of cards. Clubs, participating in reciprocals, issue cards for the convenience of their members for identification when visiting other clubs.

Presently, food is defined in K.S.A. 41-2601 under definitions and is referred to in other statutes.

Also, K.S.A. 41-2637 presently requires that any two or more class "A" clubs or any two or more class "B" clubs which are restaurants may permit by an agreement filed with and approved by the Director, the members of each such club to have access to all other clubs which are parties to such agreement. In other words, restaurant club members may use other restaurant clubs if they have agreed to and have been approved to reciprocate.

Atch. F

K.S.A. 41-2602, as amended, eliminates the term restaurant and substitutes the term food service establishment. Food service establishment means a licensed food service establishment as defined by K.S.A. 36-501 and amendments thereto.

Presently, K.S.A. 41-2602 provides that the consumption of alcoholic liquor by any person shall be authorized in a private dining room of a hotel, motel or restaurant when the dining room is rented or made available on a special occasion to an individual or organization for a private party and if no sale of alcoholic liquor takes place at the private party.

K.S.A. 41-2623, as amended, eliminates the five (5) year residency requirement in the state for a person applying for a class "B" private club license. This amended statute further states that a license for a club located in a licensed food service establishment may be issued to a person who has a beneficial interest in other clubs located in licensed food service establishments.

Presently, for a person to have more than one (1) club license, 50% gross receipts in each club and food service establishment are to be derived from the sale of food for consumption on the premises of such club and food service establishment.

K.S.A. 41-2624, as amended, eliminates the multiple licensing requirement that 50% of the gross receipts of each club and food service establishment are derived from the sale of food for consumption on the premises of the club or food service establishment.

Under the present statutes, a class "B" club wishing to participate in multiple licensing, that is have more than one (1) club license, each club must have gross receipts from the sale of food in the entire licensed food service establishment, licensed club premises and in public area, of not less than fifty percent (50%) from the sale of food. Food, as defined in K.S.A. 41-2601 is defined to mean any raw, cooked or processed edible substance or ingredient, other than alcoholic liquor or cereal malt beverage, used or intended for use or for sale, in whole or in part, for human consumption.

K.S.A. 41-2637, as amended, provides that any two (2) or more class "A" clubs or any two (2) or more class "B" clubs, may permit by an agreement filed with and approved by the Director, the members of each such club to have access to all other clubs which are parties to such agreement.

Presently, a class "B" club must be a restaurant and doing not less than fifty percent (50%) of its gross receipts in each calendar year from the sale of food for consumption on the club premises to participate in reciprocals.

COMMENTS AND/OR RECOMMENDATIONS

1. In regard to amending K.S.A. 41-2601 to provide that class "B" club licensees issue a membership card bearing the name of the member and an expiration date of membership:

Comment #1: If nothing else is enacted in this bill, we feel this is a very good amendment, especially the part about an expiration date on the membership card.

Comment #2: A problem I see is that some clubs may not wish to participate in the reciprocal arrangement. If this happened and I am sure it will, then that club would need to post a sign on their entrance stating they do not reciprocate. Because the law says they may, this doesn't require them to reciprocate.

2. In regard to amending K.S.A. 41-2601 to delete the definition of food, this is strictly a legislative policy decision and I have no comments.

3. In regard to amending K.S.A. 41-2601 to change restaurant to food service establishment and deleting the 50% requirement, I feel this is strictly a legislative policy decision and I have no comments on this.

4. In the matter of deleting the five (5) year state residency requirement, I have no problems with this. The one (1) year residency in the county immediately preceding date of application is adequate in my opinion, because if they don't have the one (1) year in the county, they will incorporate.

5. In the matter of amending K.S.A. 41-2637, to permit all class "B" clubs to reciprocate regardless of whether they are restaurants or not, we have some concerns.

The present language of the statute as amended provides that any two or more class "A" clubs or any two or more class "B" clubs may permit, by an agreement filed with and approved by the director, the members of each such club to have access to all other clubs which are parties to such agreements.

As of February 28, 1983, we had 248 class "B" clubs participating in reciprocals and they have executed 10,181 agreements.

If this bill is amended to provide that all clubs can reciprocate and if 1,000 of the 1,200 plus do reciprocate, the work of the ABC office will quadruple. Further, when we have a club quit or go out of business, all 1,000 clubs will have to be notified. Thus, the administrative workload and the postage bill will increase significantly.

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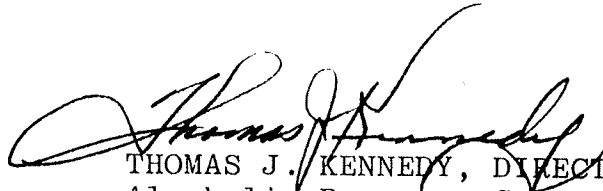
Recommend that the requirement that an agreement be filed with and approved by the Director be deleted. This will give all class "B" clubs blanket authority to reciprocate.

6. A real problem that we see in this bill is the matter of clubs issuing a membership card, then after three to six months operation, the club goes out of business for whatever reason, all of the club members still hold valid club cards and will probably use them in the other clubs.

If it is the legislature intent to use a membership club card which has not expired for a club that is no longer in business, then this will solve a very serious enforcement problem.

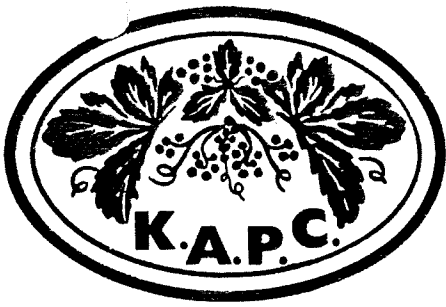
Presently, we notify all clubs that are reciprocating that a certain club is no longer in business or is no longer reciprocating. With only 248 clubs, we feel we have minimal abuse.

Respectfully submitted,



THOMAS J. KENNEDY, DIRECTOR
Alcoholic Beverage Control Division

TJK:cjk



Kansas Association of Private Clubs

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

HB 2530
MARCH 15, 1983
HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

Mr. Chairman, Members of the Committee. My name is Jack Milligan and I appear this afternoon in behalf of the Kansas Association of Private Clubs and in support of HB 2530.

Section 1, Subsection (c) amends K.S.A. 41-308 to permit liquor retail dealers to deliver original package alcoholic liquor and strong beer to private clubs.

The private clubs in Kansas and a substantial number of retail liquor dealers in our state vigorously support this effort.

Private clubs and liquor retailers develop normal business relationships just as any two segments of the business community do. The ability to deliver a product to entities who provide direct sale of products to the public is a convenience the private club industry has long desired.

The Kansas Association of Private Clubs does not wish to make the delivery to private clubs mandatory. We prefer to leave the delivery optional on the part of the retailer.

Thank you. I will be happy to respond to any questions the committee members might have.

Jack Milligan
Executive Director
Kansas Association of Private Clubs

Atch. G

MEMORANDUM

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

FROM: THOMAS J. KENNEDY, Director, ABC Division

RE: House Bill 2530

DATE: March 15, 1983

PURPOSE

House Bill 2530, if enacted, is an act concerning the Kansas liquor control act; relating to retailers of alcoholic liquor; authorizing the giving away and sale of certain services and items; making certain acts unlawful and providing penalties for conviction thereof; amending K.S.A. 41-308 and repealing the existing section.

PERSPECTIVE

House Bill 2530, if enacted in its present form, amends K.S.A. 41-308 to provide that:

1. A licensed retailer may deliver in the original package alcoholic liquor, including beer containing more than 3.2% of alcohol by weight, from the retailers licensed premises to a private club licensed premises and may accept payment for the sale of the alcoholic liquor at the point of delivery or the club premises.

2. A retail liquor store licensee may sell and deliver on the liquor store premises the following items: Ice, can and bottle openers, including corkscrews, and any substance commonly used in the mixing and consumption of drinks containing alcoholic liquor.

3. A retail liquor store licensee may give away advertising specialty items and other items which have a fair market value not exceeding \$1. Advertising specialty items given away by a licensed retailer may have the name, address and telephone number of the licensed retailer printed on them, and

4. No retail liquor store licensee shall give away or sell to a minor any of the items specified above. A minor means any person under twenty-one (21) years of age. Any retail liquor store licensee who violates the provisions of this subsection is guilty of a misdemeanor and upon conviction of any such violation shall be subject to the penalties provided in K.S.A. 41-901 and amendments thereto.

Alc. H

COMMENTS AND/OR RECOMMENDATIONS

The Director of Alcoholic Beverage Control is neither a proponent nor an opponent of this bill. The following are some comments and/or recommendations.

1. As to retailers being authorized to deliver alcoholic liquor to include strong beer to the premises of a private club and receive payment from the club at the club, we see minimal problems with this.

2. As to retailers being able to sell and deliver on the liquor store premises items such as ice, can and bottle openers including corkscrews and any substance commonly used in the mixing and consumption of drinks containing alcoholic liquor, we would recommend that a provision be added to subsection (d) that none of the above items shall be sold below their actual cost. If this provision is not included, a retailer could, in effect, use these items as loss leaders to attract customers.

3. By the provisions of this bill, retail licensees cannot deliver the non-alcohol items specified in (d) to clubs. Our recommendation to prohibit sales of these items below cost would combine with the prohibition against delivery to clubs to prevent the use of mixes, ice, etc. as loss leaders in unfair competition for club business.

4. The allowance for giving away advertising specialty items in (e) as written has two problems. It fails to designate how fair market value is to be determined and it places no limits on the number or quantity of items that can be given away. We would recommend the following added provisions:

That fair market value is to be determined by the director based on actual retail prices for the same or similar items in other retail outlets.

That advertising specialty items be limited to one per customer per transaction or be limited to a fair market value of \$1 per customer per transaction.

5. The provisions that no specialty items and no ice, can and bottle openers and substances can be sold to minors is a good one and we strongly endorse this provision. There will be no excuse for a minor to be in the store.

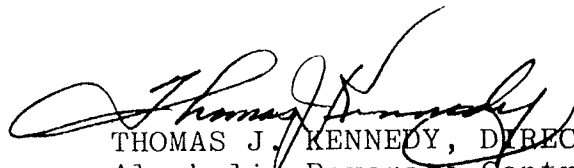
Recommend that the bill be amended to provide that minors can only be in the retail liquor store if they are accompanied by a parent or guardian.

6. As a general consideration, the changes embodied in in HB 2530 carry a significant potential for damaging the minimum pricing structure as now embodied in the Liquor Control Act. One of the major purposes behind this pricing structure has been to discourage cutthroat competition among retail sellers of alcoholic liquor. The introduction of non-alcoholic goods and advertising

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March 15, 1983

specialties to be given away, if not strictly controlled, could result in exactly the type of competition that the Liquor Control Act presently seeks to prevent, that is, no inducements, no gadgets, no tie-in sales, etc.

Respectfully submitted,



THOMAS J. KENNEDY, DIRECTOR
Alcoholic Beverage Control Division

TJK:cjk