

Approved 4/7/83
Date

MINUTES OF THE House COMMITTEE ON Federal and State Affairs

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

12:30 xxx
a.m./p.m. on April 5, 1983 in room 526-S of the Capitol.

All members were present except: Rep. Hensley, who was excused.

Committee staff present:

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

Conferees appearing before the committee:

Tom Kennedy, Director ABC Division
Mark Bornyak, Kansas Beer Wholesalers
Reverend Richard Taylor
Representative George Teagarden
Mike Beam, Kansas Livestock Association

Chairman Whitaker called the meeting to order and advised that a number of bills remained to be heard and acted upon.

Tom Kennedy, Director, ABC Division, appeared on SB 305 explaining the bill will change the residency requirement for an applicant for a retail liquor store license. This reduction will still maintain the intent of the legislature that licensees have an impeccable background. (See Attachment A)

Tom Kennedy, Director, ABC Division, appeared on SB 329 stating the intent of the bill is to make it unlawful for any retailer to purchase alcoholic liquor including beer from any distributor unless the distributor agrees in writing to make such sales to all retailers at the same cost. (See Attachment B)

Mark Bornyak, Kansas Beer Wholesalers stated that they have no written policy for or against SB 329 but they do not have a problem with it.

Tom Kennedy, Director, ABC Division, appeared on SB 404 and spoke to temporary memberships in clubs for guests of a hotel that has no club and to temporary membership in a club for private parties, and clubs located on trains. They see no problems with the bill. (See Attachment C)

Reverend Richard Taylor appeared in opposition to SB 404 stating this is another attempt to circumvent the constitution. (See Attachment D)

Rep. George Teagarden appeared in opposition to SB 409 stating the Chief Engineer is hired by the Board which is made up of members who are elected by their peers in the State. As there is no one in that department today who is being confirmed there is no reason to confirm the Chief Engineer. This man was hired in good faith and would have no reason to stand for Senate Confirmation.

Mike Beam, Kansas Livestock Association, appeared in opposition to SB 409 stating there are no problems with the Chief Engineer now nor has there been. The system has worked well and change is unnecessary.

The Chairman advised that there were concerns on SB 101 about the money recouped being sent to the state. Rep. Matlack moved conceptually, Rep. Sughrue seconding, that on SB 101 the proceeds of the sale less the cost be transmitted to the State Treasurer under the Unclaimed Property Act. The motion carried. Rep. Peterson moved, Rep. Matlack seconding, that AB 101 be reported favorably for passage as amended. Rep. Vancrum made a substitute motion, Rep. Smith seconding, that on Line 114 the advertisement for disposal of property be advertized in the classified section of the paper. The motion carried. Rep. Smith moved, Rep. Goossen seconding,

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Federal and State Affairs,
room 526-S Statehouse, at 12:30 ~~xx~~ p.m. on April 5, 1983

that on Line 94 the notification process be restored to certified mail. The motion carried. Rep. Matlack moved, Rep. Peterson seconding, that SB 101 be reported favorably for passage as amended. The motion carried.

Rep. Sughrue moved, Rep. Brady seconding, that SB 305 be reported favorably for passage. The motion carried.

Rep. Eckert moved, Rep. Ott seconding, that SB 329 be reported favorably for passage. The motion carried.

Rep. Ott moved, Rep. Peterson, seconding, that SB 404 be reported favorably for passage. Mary Torrence of the Revisor's Office advised that SB 404 needed some technical amendments to it on Lines 122 through 125 and on Lines 76, 77, and 78. Rep. Peterson moved, Rep. Runnels seconding, that the technical amendments be accepted. The motion carried. Rep. Sughrue made a substitute motion, Rep. Matlack seconding, that SB 404 be tabled. The motion failed. Rep. Ott moved, Rep. Peterson seconding, that SB 404 be reported favorably for passage as amended. The motion carried.

The Chairman advised the Committee that SB 319 had been re-referred to the Committee on Monday and the bill needs to go back to the Floor. After considerable discussion, Rep. Peterson moved, Rep. Roe seconding, that SB 319 be amended by the original House Committee be reported favorably for passage. The motion carried.

Rep. Peterson moved, Rep. Roe seconding, that SB 409 be reported adversely. Rep. Smith made a substitute motion, Rep. Ott seconding, that SB 409 be tabled. The motion carried.

The Chairman appointed a Sub-committee of Reps. Eckert, Chairman, Sallee, Runnels, and Matlack to work out problems on SB 401.

Rep. Peterson moved, Rep. Roe seconding, that the minutes of March 24, 28, and April 4, 1983, be approved. The motion carried.

The meeting adjourned.

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE 4-5-83

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
Tom Kennedy	TOPENA	ABC
Richard Taylor	Taylor	Life at Best
Ken Ressler	Taylor	Sunflower Club Assn.
Cliff Clappell	Taylor	The American Legion
Mark Beaumont	"	KBWA
Mike Bean	Taylor	KLA

MEMORANDUM

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

FROM: THOMAS J. KENNEDY, Director, ABC Division

RE: Senate Bill 305, as amended by the Senate Committee of the Whole

DATE: April 4, 1983

PURPOSE

Senate Bill 305, as amended by the Senate Committee of the Whole, is an act concerning the Kansas Liquor Control Act; persons not to receive retailer's license; amending K.S.A. 1982 Supp. 41-311 and repealing the existing section.

PERSPECTIVE

K.S.A. 41-311 concerns eligibility for a Kansas Liquor Control Act license.

This bill, if enacted in its present form, will change the residency requirement for an applicant for a retail liquor store license to one (1) year immediately preceding the date of application in the county in which the premises covered by the license are located and five (5) years in the state preceding date of application.

Presently, the residency requirement for an applicant for a retail liquor store license is five (5) years in the county immediately preceding date of application and ten (10) years in the state preceding date of application.

Senate Bill 305 has been amended to allow a retailer's spouse to work in a club only if the spouse has nothing to do with purchasing or delivering of alcoholic liquor for the club.

COMMENTS AND/OR RECOMMENDATIONS

Changing the residency requirement for an applicant for a retail liquor store license from five (5) years to one (1) year in the county immediately preceding date of application and from ten (10) years to five (5) years in the state preceding date of application is a good change and we recommend approval of this amendment.

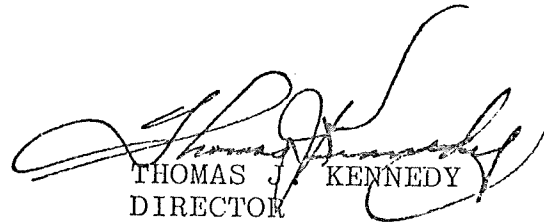
This reduction in residency requirement will still maintain the intent of the legislature that licensees have an impeccable background and that a personal history would be available for investigation by the Division. Experience has shown that an appropriate evaluation of an applicant can be made by investigators utilizing modern means as well as standard investigative procedures.

Atch. A

SB 305
Page 2
April 4, 1983

As to the spouse of a retailer working in a club, we have no problems with this and recommend approval of the amendment.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Thomas J. Kennedy", is written over the typed name and title.

THOMAS J. KENNEDY
DIRECTOR
Alcoholic Beverage Control Division

TJK:cjk

MEMORANDUM

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

FROM: THOMAS J. KENNEDY, Director, ABC Division

RE: Senate Bill 329

DATE: April 4, 1983

PURPOSE

Senate Bill 329, if enacted in its present form, is an act concerning intoxicating liquors and beverages; discrimination by suppliers and distributors prohibited; amending K.S.A. 41-1101 and repealing existing section.

PERSPECTIVE

Senate Bill 329, if enacted in its present form, amends K.S.A. 41-1101 to provide:

1. That it is unlawful for a distributor to purchase alcoholic liquor to include beer from a supplier unless the supplier agrees in writing to make such sales to all licensed distributors at the same price without discrimination.
2. That it is unlawful for any retailer to purchase any alcoholic liquor to include beer from any distributor unless the distributor agrees in writing to make such sales to all retailers at the same current bottle and case cost without discrimination.
3. That the provisions of section 1 which require distributors to file price lists showing current bottle and case price in the office of the director shall not apply to any distributor of beer.

COMMENTS AND/OR RECOMMENDATIONS

Senate Bill 329, in its present form is a good bill and the Director of Alcoholic Beverage Control recommends favorable consideration of this bill.

Respectfully submitted,



THOMAS J. KENNEDY, DIRECTOR
Alcoholic Beverage Control Division

TJK:cjk

Atch. B

MEMORANDUM

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

FROM: THOMAS J. KENNEDY, Director, ABC Division

RE: Senate Bill 404 as amended by Senate Committee of the Whole

DATE: April 5, 1983

PURPOSE

Senate Bill 404 as amended by the Senate Committee of the Whole, if enacted in its present form, is an act concerning licensure of private clubs; temporary memberships; noncontiguous premises; train clubs; amending K.S.A. 41-2601, 41-2606, 41-2608, and 41-2627 and repealing the existing sections.

PERSPECTIVE

Senate Bill 404, as amended by the Senate Committee of the Whole, provides that:

1. Any class B club may enter into an agreement with a hotel, as defined in K.S.A. 36-501 and amendments thereto, whereby a guest who is registered at the hotel and who is not a resident of the county in which the club is located may file application for temporary membership in the club. The temporary membership, if granted, shall be valid for only the period of time that the guest is a bona fide registered guest at the hotel and shall not be subject to the waiting period or dues requirement of this section. A club may enter into an agreement with a hotel pursuant to this provision only if (1) the hotel is located in the same county as the club, (2) there is no club located on the premises of the hotel and (3) no other club has entered into an agreement with the hotel pursuant to this section.
2. Any class B club licensed under the provisions of this act may establish rules where a guest at a bona fide private party held on the premises of the licensed club may file application for temporary membership in the club for the period of the private party, and such temporary membership shall not be subject to the waiting period or dues requirement of this section. A list consisting of the name and address of each private party guest shall be submitted to the club management at least three days in advance of the function and only a person whose name appears on this list may be authorized temporary membership status. Any club intending to issue temporary memberships as authorized under this section

Atch. c

must notify the alcoholic beverage control of the name of the organization, and the date and time of the function at least seven days prior to the function. Rules and regulations may be adopted, in the manner provided by K.S.A. 41-2634 and amendments thereto, specifying criteria for the extension of the club license over noncontiguous premises and the controlling of functions on such premises.

3. Any class B club located on a train may establish rules whereby a guest with a ticket to be on such train may file application for temporary membership in the club, which membership, if granted, shall only be valid for the period of time that the guest is a bona fide ticketed guest on the train, and such temporary membership shall not be subject to the waiting period or dues requirement of this section.

In the case of a train, the premises shall be stated as provided in K.S.A. 41-2627 and amendments thereto, and zoning of any city, township or county shall not apply thereto.

The provisions of K.S.A. 41-315 and amendments thereto relating to retail licenses under the Kansas liquor control act are hereby made applicable to club licenses issued under the provisions of this act, except that premises may consist of a train, either standing or moving, in which case the route or routes of the train shall be described and the train shall be based in Kansas at a location described in the application of the licensee. The base location of a train club shall be the equivalent of premises location of other clubs for the purpose of payment of alcoholic liquor taxes, local licensure, state inspection and all other laws which can reasonably be made to apply thereto. Rules and regulations may be adopted as provided in K.S.A. 41-2634 and amendments thereto, to provide for regulation, administration, record keeping and reporting applicable to train clubs.

Applications for a train club license shall include a memorandum of record and agreement signed by the applicant and the director containing such matters and terms as are appropriate in the opinion of the director to implement the administration of the club licensing act in the setting of a train as premises and other matters the director determines are appropriate.

4. Any class B club licensed under the provisions of this act may establish rules whereby military personnel of the armed forces of the United States on temporary duty and housed at or near any military installation located within the exterior boundaries of the state of Kansas, may file application for temporary membership in the club, which membership, if granted, shall only be valid for the period of the training, not to exceed 20 weeks. Any person wishing to make application for temporary membership in a class B private club under this paragraph (C) shall present the temporary duty orders to the club management. Temporary membership issued under this paragraph (C) shall not be subject to the waiting period or dues requirements of this section.

COMMENTS AND/OR RECOMMENDATIONS

1. With reference to temporary memberships for guests of a hotel which has no club, recommend that:
 - a. The requirement for an agreement be deleted.
 - b. The hotel guest may file application for a temporary membership in any class B club, provided that the guest furnished proof of registration in a hotel.
 - c. That subparagraph (3) as it appears on line 77 and 78 of the bill be deleted.
2. With reference to temporary membership in a club for a private party:

The enactment of this portion of Senate Bill 404 is not to be interpreted to mean the private party group will be taking over the class "B" private club or that the club will be loaning their license to the group. The club licensee is responsible at all times for the conduct of employees and members on the premises as are all other club licensees.

It is envisioned that the private party group may sell tickets to invited guests prior to the event, then when the guest arrives at the club, their name is checked off the roster and they are admitted as a temporary member with the privilege of purchasing alcoholic beverages, purchasing food or other items, or that the club licensee would charge a cover charge at the door, sell alcoholic beverages as well as food to the private party group, and then after expenses are deducted, the club licensee will make a contribution or donation to the fund raising group.

Based on requests being made daily by groups wishing to conduct fund raising functions, we anticipate a large number of these private party functions.

The provisions of this section of this bill has merit and we recommend its enactment.

3. With reference to a class B club located on a train:

If this portion of Senate Bill 404 is enacted in its present form, it would appear to be enforceable and would create minimal problems for the division.

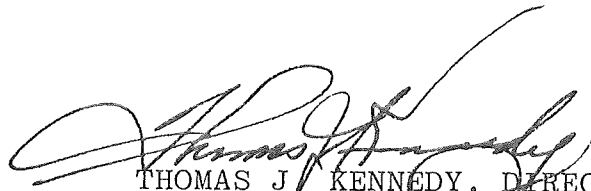
Attached hereto at Enclosure #1, is additional information about Senate Bill 250 (Class B club located on a train) requested by Senator Reilly.

4. With reference to permitting military personnel of the Armed Forces of the United States in a temporary duty status to have temporary membership in class B clubs:

The State of Kansas has three (3) military installations within its exterior boundaries: Fort Riley, Fort Leavenworth, and McConnell Air Force Base. At each installation and particularly at Fort Leavenworth and McConnell Air Force Base, military personnel of the Armed Forces of the United States attend special training and/or schools. Military personnel attending this training or schools are in a temporary duty status not to exceed twenty (20) weeks. Temporary duty status means the military personnel do not bring their families and the individual is quartered either on or off the military installation in bachelor quarters. The purpose of this proposal is to grant these people temporary membership in class "B" private clubs during their TDY status in Kansas.

If this portion of SB 404 is enacted in its present form, we see minimal problems with implementing it.

Respectfully submitted,



THOMAS J. KENNEDY, DIRECTOR
Alcoholic Beverage Control Division

MEMORANDUM

ENCLOSURE #1

TO: Honorable Edward F. Reilly, Jr.
Chairman, Senate Federal and State Affairs Committee

FROM: THOMAS J. KENNEDY, Director, ABC Division

RE: Senate Bill 250

DATE: March 7, 1983

PURPOSE

The purpose of this memorandum is to provide follow-up information about Senate Bill 250.

PERSPECTIVE

Per your request, we have contacted Senator Bogina and Mr. D.J. Roberts (913/236-5711) Merriam, Kansas, the owner of the train. We also contacted the Federal Bureau of Alcohol Tobacco and Firearms in Kansas City, Mo. and the Nebraska Alcoholic Beverage Control.

It would appear that Senate Bill 250, with a few amendments, could be a workable piece of legislation. According to Dave Bateman, BATF, a train similar to the one referred to in this bill, would be required to purchase the same type of federal license as do the airlines, that being a Federal Retail Liquor Dealer's Stamp at large. The IRS Form #11 is the application form used and the cost is \$54.00 a year and is applicable for multi-state use.

The Nebraska Alcoholic Beverage Control spokesman stated they sell a railroad license to corporations for \$100 plus a registration fee, plus an additional charge of \$1 per car. This license is good from May 1 to April 30 and is not sold on a pro-rata basis. The holder of the Nebraska railroad license is the operator and authorized to allow consumption, selling and purchasing. Nebraska has no law which would prohibit the selling of Kansas liquor on railroad cars. No liquor tax is collected by Nebraska for sales which are made on railroad cars.

Mr. D.J. Roberts informed us that he would actually own all of the railroad cars and equipment. He will be leasing the engine and the engine crew from a railroad. At the present time, he is not sure where the train will be located, however, he could possibly enter into an agreement with the Rosedale Burlington Yard located at 36 Southwest Blvd., Kansas City, Kansas. Mr. Roberts also discussed the possibility of locating the train and equipment in Kansas City, Missouri.

COMMENTS AND/OR RECOMMENDATIONS

1. Recommend that the train cars be located somewhere in the State of Kansas. The reason for this recommendation is that the train car premises would be available for inspection.

2. Recommend that Senate Bill 250 be amended to state that any and all alcoholic liquor taxes due the state be paid from the county in which the train cars are located. This will solve the 10% excise tax distribution problem.

For example, if the train is parked at the Rosedale Burlington yards in Kansas City, Kansas, Wyandotte County, would receive that portion of the 10% excise tax money which is returned to the city or county where the club is located.

3. Recommend that a provision be included in the bill that would authorize rules and regulations to be promulgated to take care of records and reports, collection and payment of taxes for this train or trains.

5. Recommend that the Director of Alcoholic Beverage Control be authorized to enter into a Memorandum of Record and Agreement with the licensee with respect to other provisions of the Kansas Club Licensing Act and related rules and regulations. For example, the state class "B" club license, the local license (county or city) as well as the Federal Retail Dealer's Stamp at large, should all be displayed prominently in the main club car.

That alcoholic liquors be purchased from a Kansas retail liquor dealer, who possesses the Federal Wholesaler's Basic Permit.

That ABC Agents have the right to make routine inspections.

That all employees engaged in selling, dispensing or serving alcoholic liquor will be registered with the Director.

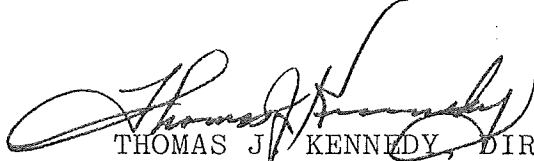
That the temporary membership roster is available for inspection as well as liquor store receipts of purchases. These receipts must be kept on the premises with written authorization, receipts older than for the current month could be kept in Mr. Robert's main office, a place available to our inspectors.

That the club, like all other class "B" clubs be required to make monthly reports pertaining to liquor purchases, sales and excise tax payments, etc.

That the licensee submit a monthly list of all trips planned to include destination, time of departure, expected time of arrival and expected time of return.

COMMENT: Such a Memorandum of Record and Agreement of this nature, signed by the Director of ABC and the licensee, would bring these matters to the attention of the licensee thus avoiding misunderstandings, etc.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Thomas J. Kennedy".

THOMAS J. KENNEDY, DIRECTOR
Alcoholic Beverage Control Division

TJK:cjk

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

Lawmakers who want more people to drink more alcohol in more places on more occasions will vote YES on SB 404.

Kansas laws were never intended to accomodate those who use this popular social drug.

Concerned persons who want less alcohol consumption and related suffering support making the private drinking club law more restrictive, not more relaxed.

Temporary membership in private clubs so those attending bona fide private parties in places noncontagious with licensed premises is a law promoted by persons who believe alcohol is little different than a glass of milk.

4—Topeka Capital-Journal, Sunday, January 21, 1979

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.

Atch. D