

Approved

Stephen R. Cloud 2-22-83
Date

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Rep. Stephen R. Cloud at
Chairperson

9:08 a.m./p.m. on February 17, 1983 in room 522-S of the Capitol.

All members were present except:

Committee staff present:

Avis Swartzman - Revisor
Carolyn Rampey - Research Dept.
Russ Mills - Research Dept.
Jackie Breymeyer - Secretary

Conferees appearing before the committee:

The meeting of the House Governmental Organization Committee was called to order by Rep. Cloud, Chairman. The minutes of the previous meeting were approved. The Committee continued through the Subcommittee Report of the ABC Subcommittee.

Item 10. The appropriate regulations should be modified by the legislature to eliminate a prescribed time period for deliveries by wholesalers (currently at least once every seven days), and to permit deliveries by wholesalers to retailers on Saturdays.

Committee discussion.

Rep. Matlack moved to reject the first half of Item 10. Rep. Hassler gave a second to the motion. The motion carried.

Rep. Cobb moved to adopt the second part of Item 10 which reads, "to permit deliveries by wholesalers to retailers on Saturdays." Rep. Sughrue gave a second to the motion. The motion carried.

Item 11. Legislation should be enacted to permit retailers to deliver liquor purchases to licensed private clubs.

Committee discussion.

Rep. Cobb moved to adopt Item 11. Rep. Fuller gave a second to the motion the motion carried.

VI. Retail Price Maintenance Program

(Audit Report p. 42)

Item 12. Legislation should be enacted to eliminate the minimum retail price mark-up program. The elimination of the price maintenance program should be phased-in gradually over a three-year period to ensure market stability over the transition period.

Committee discussion.

Rep. Cobb moved to reject Item 12. Rep. Matlack gave a second to the motion. The motion carried.

VII. Reciprocal Agreements

(Audit Report p. 47)

Item 13. The requirement should be eliminated that, in order to enter into reciprocal agreements, class b "restaurant" clubs must derive at least 50 percent of the club's total gross receipts from the sale of food. All licensed private clubs should be allowed to enter into reciprocal agreements.

Committee discussion.

Rep. Fuller moved to adopt Item 13. Rep. Hassler gave a second to the motion. The motion carried.

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

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CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION,
room 9:08, Statehouse, at 522-S a.m./p.m. on February 17, 1983

VIII. Routine Inspections
(Audit Report p. 47)

14. The Chairman should write a letter to the ABC Director urging him to continue the strict enforcement policy which has resulted in an efficiently regulated liquor industry in Kansas. Criminal background investigations should continue to be conducted on prospective licensees.

Committee discussion.

Rep. Cobb moved to adopt Item 14. Rep. Ediger gave a second to the motion. The motion carried.

IX. Other Recommendations

15. K.S.A. 41-715 should be amended to modify the penalty for minors who purchase or attempt to purchase liquor to a minimum fine of \$100 and up to 30 days imprisonment and establish a maximum fine of \$500 or 90 days imprisonment, or both. The minimum fine of \$100 should be mandatory for violators.

Committee discussion.

Rep. Walker moved to amend Item 15 by striking the imprisonment portion of K.S.A. 41-715. Rep. Fuller gave a second to the motion. Motion defeated.

Rep. Louis moved to amend Item 15 by raising the minimum fine from \$100 to \$250. Rep. Ramirez gave a second to the motion. The motion carried.

Rep. Louis moved to amend Item 15 by raising the maximum fine from \$250 to \$1,000. Rep. Smith gave a second to the motion. The motion carried.

Rep. Fuller moved to amend Item 15 by changing 30 days imprisonment to 90 days. Rep. Ediger gave a second to the motion. The motion carried.

Rep. Louis moved to adopt Item 15 as amended. Rep. Cobb gave a second to the motion. The motion carried.

Item 16 The appropriate statute should be amended to provide statutory authority for the Division of Alcoholic Beverage Control to issue permits to salesmen and charge a fee for the permit.

Committee discussion.

Rep. Smith moved to adopt Item 16. Rep. gave a second to the motion. The motion carried.

Item 17. The prohibition against a law enforcement official holding any type of liquor license should be limited to apply only to full-time law enforcement officers as defined in K.S.A. 74-5602.

Committee discussion.

Rep. Sughrue moved to adopt Item 17. Rep. Ediger gave a second to the motion. The motion carried.

Item 18. An interim committee should be appointed to study the Model Liquor Control Act and the regulations of the Bureau of Alcohol, Tobacco, and Firearms in relation to the current Kansas liquor laws.

Committee discussion.

Rep. Love moved to adopt Item 18. Rep. Fuller gave a second to the motion. The motion carried.

Thirteen of the Recommendations of the Report adopted, five rejected.
There will be a meeting tomorrow, the 18th.
Meeting adjourned at 10:35 a.m.

TRANSMITTAL MEMORANDUM

February 14, 1983

TO: House Committee on Governmental Organization
FROM: Kansas Legislative Research Department
RE: ABC Subcommittee Report

Enclosed is a copy of the Subcommittee Report on the Division of Alcoholic Beverage Control. This report will be discussed during the Committee meeting on Tuesday, February 15, 1983.

SUBCOMMITTEE REPORT

TO: House Committee on Governmental Organization

FROM: Subcommittee on Alcoholic Beverage Control

RE: Subcommittee Recommendations

The Subcommittee on Alcoholic Beverage Control of the House Committee on Governmental Organization has thoroughly reviewed the Sunset Audit Report on the Division of Alcoholic Beverage Control, held public hearings with interested parties, and submits the following recommendations for Committee consideration.

I. The Regulatory Program

(Audit Report p. 23)

1. The Division of Alcoholic Beverage Control should be re-established by the Legislature to regulate the liquor industry and to protect the Kansas public from alcohol-related problems.

II. The Regulatory Program's Fee Structure

(Audit Report p. 23)

2. The Legislature should review the regulatory fee structure of ABC to determine whether the level of fees set by statute should be increased. The Subcommittee believes that nearly all of the statutory license fees, which were originally set in 1949 or 1965, should be increased.

III. Residency Requirements

(Audit Report p. 26)

3. The residency requirements for manufacturers, distributors, retailers, and private club owners (individual) should be reduced to one year of residency in Kansas for prospective licensees.

IV. Liquor Advertising Restrictions

(Audit Report p. 29)

4. K.A.R. 14-8-2 should be modified by the Legislature to permit the advertising of liquor by price and brand. K.A.R. 14-8-11 should be modified by the Legislature to permit the advertising of liquor on radio, television, newspapers, and magazines. The current prohibition on advertising on billboards should be continued.

V. Restrictions on Business Operations

(Audit Report p. 32)

5. The appropriate statutes and regulations should be amended to permit liquor retailers to provide gifts of matches and similar advertising items, up to a \$1.00 maximum value per item.

6. Liquor retailers should be allowed to sell the following items in retail stores: (1) ice; (2) any type of substance which is commonly used in conjunction with the consumption of alcoholic liquors (mixes); (3) corkscrews and can and bottle openers; and (4) tobacco products.

7. K.S.A. 41-711 should be amended to permit retail liquor stores to have an entrance which opens into the common area of an enclosed shopping mall or similar public trafficway connecting places of business, such as hotels or motels.

8. The requirements that distributors and retailers report the receipt of an insufficient fund check (from retailers and private clubs, respectively) to the Division of Alcoholic Beverage Control should be eliminated.

9. K.A.R. 14-4-14 should be modified by the Legislature to delete the requirement that retailers must place an order with a distributor by 2:00 p.m. on the day preceding the requested delivery.

10. The appropriate regulations should be modified by the Legislature to eliminate a prescribed time period for deliveries by wholesalers (currently at least once every seven days), and to permit deliveries by wholesalers to retailers on Saturdays.

11. Legislation should be enacted to permit retailers to deliver liquor purchases to licensed private clubs.

VI. Retail Price Maintenance Program

(Audit Report p. 42)

12. Legislation should be enacted to eliminate the minimum retail price mark-up program. The elimination of the price maintenance program should be phased-in gradually over a three-year period to ensure market stability over the transition period.

VII. Reciprocal Agreements

(Audit Report p. 47)

13. The requirement should be eliminated that, in order to enter into reciprocal agreements, class B "restaurant" clubs must derive at least 50 percent of the club's total gross receipts from the sale of food. All licensed private clubs should be allowed to enter into reciprocal agreements.

VIII. Routine Inspections

(Audit Report p. 57)

14. The Chairman should write a letter to the ABC Director urging him to continue the strict enforcement policy which has resulted in an efficiently regulated liquor industry in Kansas. Criminal background investigations should continue to be conducted on prospective licensees.

IX. Other Recommendations

15. K.S.A. 41-715 should be amended to modify the penalty for minors who purchase or attempt to purchase liquor to a minimum fine of \$100 and up to 30 days imprisonment and establish a maximum fine of \$500 or 90 days imprisonment, or both. The minimum fine of \$100 should be mandatory for violators.

16. The appropriate statute should be amended to provide statutory authority for the Division of Alcoholic Beverage Control to issue permits to salesmen and charge a fee for the permit.

17. The prohibition against a law enforcement official holding any type of liquor license should be limited to apply only to full-time law enforcement officers as defined in K.S.A. 74-5602.

18. An interim committee should be appointed to study the Model Liquor Control Act and the regulations of the Bureau of Alcohol, Tobacco, and Firearms in relation to the current Kansas liquor laws.

February 14, 1983

Respectfully submitted,

Representative Wanda Fuller, Chairperson
Representative Stephen Cloud
Representative Clarence Love
Representative Alfred Ramirez
Representative Kathryn Sughrue

MINORITY REPORT

Although I support most of the recommendations made by the Subcommittee, I am opposed to the majority position on the following items:

1. The current reporting system for insufficient fund checks should not be eliminated. This is a valuable enforcement tool to the Division of Alcoholic Beverage Control and contributes to the maintenance of an orderly market.

2. The issue of eliminating the retail minimum price mark-up system should have been discussed before the Subcommittee took action on allowing price and brand advertising and advertising on radio and television.

3. The minimum retail mark-up system should be retained in order to ensure even competition in the retail industry. Elimination of the minimum mark-up will force many small stores out of business and result in a chaotic market system. Some of our state's financial problems stem from reductions in sales and income tax collections; this action will only add to the problem.

4. I have reservations about eliminating the 50 percent food sales requirement for reciprocal clubs. The original intent of the legislation was to permit a drink with the dinner, not some food with several drinks.

5. I have no problem in reducing the residency requirements or in increasing the various license fees.

6. I have some concern with the recommendation that wholesalers be allowed to make deliveries to retailers on Saturdays.

Representative Clarence Love

MINORITY REPORT

I support the concerns expressed by Representative Love on items 2, 3, and 4 of his minority report.

Representative Kathryn Sughrue