

Approved

Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Senator Edward F. Reilly, Jr. at
Chairperson

11:00 a.m./p.m. on January 18, 1983 in room 254-E of the Capitol.

All members were present ~~except~~

Committee staff present: Fred Carman, Assistant Revisor of Statutes
Russell Mills, Legislative Research Department
June Windscheffel, Secretary to the Committee

Conferees appearing before the committee:

Mrs. Trudy Racine, Senior Auditor, Post Audit Division
Glenn Deck, Director of Performance Audits, Post Audit Division
General Thomas J. Kennedy, Director, Alcoholic Beverage Control
Tom Coleman, Alcoholic Beverage Control
Bill Strukel, Alcoholic Beverage Control

The Chairman welcomed returning committee members, as well as new members, Senator Jan Meyers and Senator Wint Winter, Jr. He also introduced staff members: Fred Carman, Assistant Revisor of Statutes; Russell Mills, Legislative Research Department; and June Windscheffel, Secretary to the Committee. Emalene Correll, Legislative Research Department, will also serve on staff.

The Chairman announced that this meeting concerned the Sunset Audit Report of The Post Audit Division on the Alcoholic Beverage Control Division.

Trudy Racine appeared and stated that this audit of the Division of Alcoholic Beverage Control is the second in a series of sunset audits of the Department of Revenue. The audit focused on the regulation of retail stores and private clubs. There were 1,114 retail stores and 1,182 private clubs in the fiscal year 1982. The audit also examined the liquor excise tax collection and enforcement process. It concluded that there is a need for the Division to continue regulating alcoholic beverages in Kansas.

The report recommended that the Legislature review a number of regulatory restrictions on the operations of liquor-related business. Areas suggested for review were: 1. Residency requirement for licensees; 2. Regulation of advertising; 3. Private business practices; and 4. Minimum retail mark-up of alcoholic beverage prices.

The Post Audit Division also reviewed the ABC performance in administering the regulatory program. This included "reciprocal" clubs and inspections and investigations. The audit also dealt with the collection and enforcement of the liquor excise tax.

The audit concluded there is a need for the Alcoholic Beverage Control to continue and recommended that the Legislature take action to re-establish the Alcoholic Beverage Control Division.

Mrs. Racine's statement is attached. (Attachment #1). Mr. Deck also assisted in answering questions in the discussion which followed.

General Tom Kennedy, Director of the Alcoholic Beverage Control Division was the next conferee. Director Kennedy's statement is attached. (Attachment #2). He presented an overview of the Kansas Alcoholic Beverage Control Division, the liquor industry in Kansas today and comments and recommendations on concerns and problem areas being experienced. His comments were designed to inform and establish a better understanding of what is taking place in Kansas at this time. His statement included policy declarations, license qualifications and fees, three-tier system of distribution, retail operation, price control, age of purchase and consumption, private clubs, goals and priorities.

CONTINUATION SHEET

Minutes of the Senate Committee on FSA, January 18,, 1983

General Kennedy also included in his remarks the formal reply to the Legislative Post Audit Report, presented to the Post Audit Committee on December 3, 1982. (Attachment #3). Also attached is a copy of the Memorandum to retail liquor store licensees and liquor wholesaler licensees, dated November 18, 1982, (Attachment #4), concerning Quarterly Notification of Minimum Percentage Markups and Caselot Discounts; and Memorandum to licensees and distributors and others concerning the January meeting of Alcoholic Beverage Control Board of Review, dated December 29, 1982, (Attachment #5). An Index of State Laws of Couponing (Attachment #6) is also attached, as well as Concerns or proposals for Legislative Action, dated January 18, 1983 (Attachment #7) and Comparison of Case Changes, (Attachment #8), for December 1, 1980, through November 30, 1982.

Tom Coleman and Bill Strukel, of the ABC staff, assisted during the discussion.

The Chairman announced that tomorrow's meeting will continue with more of the review and comments by General Kennedy.

The meeting adjourned at 12:00 noon.

1/18/83 - #1

ALCOHOLIC BEVERAGE CONTROL

COMMITTEE PRESENTATION

Mr. Chairman, Members of the Committee:

This audit of the Division of Alcoholic Beverage Control is the second in a series of sunset audits of the Department of Revenue.

The industry regulated by the Division had combined wholesale, retail, and private club sales of approximately \$372 million in 1981. This audit focused on the regulation of retail liquor stores and private clubs. There were 1,114 retail liquor stores and 1,182 private clubs in fiscal year 1982. These are the liquor-related businesses that the public has the most contact with. At the direction of the Legislative Post Audit Committee, we also examined the liquor excise tax collection and enforcement process.

We concluded that there is a need for the Division to continue regulating alcoholic beverages in Kansas. Kansas' consumption of alcoholic beverages ranks near the bottom of all states, but alcohol-related health and safety problems can, and do, harm Kansas citizens. In addition, violations of State liquor laws and regulations are occurring even with regulation. We could identify no less restrictive mechanism for handling regulation of liquor suppliers, wholesalers, and retailers. For these reasons, we recommend that the Legislature take action to re-establish the State's alcoholic beverage control regulatory program.

In addition, we determined that the benefits of the regulatory program justify its cost, but the regulatory fee structure should be reviewed to determine whether license and permit fees should be increased. Kansas' fees have not been increased in over 30 years. They are well below the average for other license states and do not cover the cost of both the regulatory program and the community alcohol treatment programs funded from those fees.

We also found that several aspects of the regulatory program do not serve to protect the public. These fell into two major categories: statutes and regulations that appear to be designed to benefit or protect the industry and not the public, and Division practices and procedures that have hampered the program's effectiveness.

In re-establishing the regulatory program, we recommend that the Legislature review a number of regulatory restrictions on the operations of liquor-related businesses. The major problem areas can be described briefly as follows:

First, —**Residency requirements for licensees.** Kansas' one-to-ten year residency requirements for liquor wholesalers, stores, and clubs are stricter than those in all other states we reviewed. They are also inconsistent. For example, individuals who own private clubs must have lived in the State for five years and the county for one, but there are no residency requirements for corporate owners of private clubs. The primary effect of strict residency requirements is to protect the industry from new competition.

Second, —**Regulation of advertising.** Kansas' restrictions on advertising of alcoholic beverages are also among the most restrictive in comparison to other states. Examples of restrictions that appear to have no direct relationship to protecting the public's interest are prohibitions against price and brand name advertising, matchbook cover advertising, the use of dummy display bottles and price tags, and references to certain holidays.

Third, —**Private business practices.** To provide for an "orderly market," regulatory restrictions have been imposed on certain retail sales, on building specifications, on deliveries and transportation of alcohol, and on business credit and the collection of bad checks. Our review of several of these regulations showed that they were designed to protect the industry rather than the public.

And Finally,

—**Minimum retail mark-up of alcoholic beverage prices.** Kansas is one of only three states that have a minimum retail mark-up. We found little evidence that retail price maintenance helps prevent alcohol abuse. We did find, however, that it guarantees retailers a minimum profit, and thus helps to subsidize many small and inefficient retail liquor stores. Also, because Kansas' liquor prices are 3% higher than the national average, and 14% higher than the surrounding states' average, minimum mark-ups

may be costing consumers between \$2.6 million and \$12.0 million more for the liquor they buy in Kansas each year. Further, price controls stimulate out-of-State purchases, and potentially decreased the State's liquor tax revenues in 1981 by an estimated \$800,000.

We recommend that the Legislature review and consider eliminating restrictions in each of these areas.

In reviewing their performance in administering the program, we found several areas in which the Division could improve the regulatory program's effectiveness

First, we found that some private clubs were able to operate as "reciprocal" clubs without meeting the statutory minimum food sales requirement of 50% per calendar year. This "loophole" exists because the Division does not independently verify clubs' reciprocal eligibility, has lenient eligibility requirements, and does not require private clubs in hotels and motels to maintain records of food sales separately from those of public restaurants on the same premises.

To close this "loophole", we recommend that the Department use information from gross receipts and sales tax returns to verify and monitor private clubs' eligibility for reciprocal status, tighten its eligibility requirements so that clubs are not able to circumvent them, and issue regulations

requiring private clubs on hotel and motel premises to maintain separate records of food sales.

Second, we found that the Division's inspection and investigation process was hampered because the content and timing of routine inspections were not designed to detect serious violations of State liquor laws and regulations, and because investigative resources were not being used as efficiently as possible. Most of the items checked during routine inspections relate to minor administrative compliance matters. In addition, most such inspections are conducted during "slack" hours and days when violations are less likely to occur. Substantial enforcement resources are also expended in criminal background investigations of licensees, with limited results.

To improve effectiveness and efficiency in these areas, we recommend that the Department consider readjusting liquor control investigators' work hours, examine inspection priorities, and consider eliminating and expediting certain investigations and examinations of licensees.

In this same area, we found that enforcement actions are not analyzed to pinpoint areas of the State where enforcement is lacking or inconsistent. We analyzed citations issued to liquor stores and private clubs on a geographic basis. This analysis revealed a wide disparity of citations per store and per club. For example, in Shawnee County only five citations were issued against the 61 class B clubs located there for the

whole of calendar year 1981, while in Wyandotte County 37 citations were issued against 89 stores. Such variations could indicate that enforcement activities are not equally vigorous in all areas of the State. To detect such variations, and more effectively target enforcement resources, we recommend that the Department monitor Statewide enforcement actions by geographic area or by agent.

We also found that the penalties being assessed for different types of violations sometimes seemed inequitable, and that the Division sometimes allows penalized retailers and private club owners to choose between a fine and a suspension. Allowing licensees to participate in the penalty-setting process would seem to undermine its deterrent value.

In this area, we recommend that the Department make greater efforts to assure that the penalties assessed bear a reasonable relationship to the seriousness of the offense, and no longer allow licensees to participate in the penalty-setting process.

The remainder of the audit dealt with the collection and enforcement of the liquor excise tax. During the 1982 legislative session, the liquor excise tax was the subject of considerable discussion. According to the Director of Alcoholic Beverage Control, liquor excise tax revenues for fiscal year 1981 were projected to be \$11.4 million, but only \$6.8 million was collected, a difference of \$4.6 million. Our examination included a review of collection procedures, of the accuracy of the Division's esti-

mating procedures, and of audits conducted of tax collections in private clubs.

First, by reviewing collection procedures, we found that most private clubs subject to enforcement action because they are late in paying liquor excise taxes on reported drink sales do eventually pay the taxes they owe.

Second, in reviewing estimating procedures, we determined that the amount of excise taxes owed may have been overstated. We used information from two surveys and added up retail liquor store sales to private clubs to develop our own estimates for 1980 and 1982. In both cases, our estimates were considerably lower than the Division's. For example, based on a Legislative Post Audit survey in June, 1982, taxes due for 1982 were estimated to be between \$7.5 and \$7.9 million. Actual collections for 1982 were \$7.7 million.

Third, we reviewed the results of the first 21 audits completed by the seven new auditors whose positions were funded by the 1982 Legislature to audit liquor excise tax collections in private clubs. We also conducted audits of 10 additional clubs. (One other club denied us access to verify its records of gross receipts for liquor and food. This matter is currently before the District Court in Shawnee County.) These audits showed that nine of the 31 clubs apparently owed additional excise taxes on unreported drink sales. One owed an estimated \$30,000, and the other eight owed an estimated average of \$1,072 each. The remaining 22 clubs apparently owed no additional taxes. We also found that some clubs kept inadequate accounting records and made errors in calculating the amount of taxes due.

Although these initial audits do show that some taxable liquor sales are not being reported, so far the magnitude of the revenue shortfall indicated by the Department's estimate for fiscal year 1981 has not been substantiated. In order for a shortfall of \$4.6 million to have occurred, each private club would have to owe approximately \$3,900 on unreported sales. The Department's tax auditors will need to complete a full round of audits of all private clubs before definitive conclusions regarding liquor excise tax collections can be reached.

To further improve the liquor excise tax collection and auditing procedures, we recommend that the Department monitor the amount of monthly sales to private clubs by liquor stores, analyze information on the ratio of sales to the cost of liquor purchased, and revise the estimate of liquor tax shortfall. The Legislature should review the Department's revised estimate and additional information about the results of the liquor excise tax audits during the 1984 session to determine if the auditing effort is cost-effective. The Department should also provide clearer guidance to private clubs on calculating the sales and excise taxes which clubs must collect and pay.

In its response to the draft report, the Department generally agreed to the recommendations or said it would welcome legislative review and clarification of intent in these areas. However, they disagreed that they had a problem in the area of penalty setting.

This concludes my presentation. I will be glad to answer any questions you may have.

MEMORANDUM

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

FROM: THOMAS J. KENNEDY, Director, ABC Division

RE: Overview of Alcoholic Beverage Control

DATE: January 18, 1983

The purpose of this paper is to provide an overview of Kansas Alcoholic Beverage Control Division, the liquor industry in Kansas today and to provide comments and/or recommendations on concerns or problem areas we are experiencing today. Hopefully all of this will contribute to a better understanding by you of what is taking place in Kansas today.

It has long been recognized in this state that alcoholic liquor occupies a special position with respect to the exercise of the state's police power. For years the court and legislature have stated that liquor is wrought with such contagious peril to society, that it occupies a different status from other kinds of businesses and one upon which heavier burdens in its traffic have been placed. That same legislative concern remains today since it is settled that the excessive use of alcohol causes manifold social problems. It should also be remembered that because of its social concern, Kansas liquor laws have been one of the country's strictest.

In 1880, Kansas became the first state to constitutionally ban the manufacture and sale of alcoholic liquor. Of course, this constitutional amendment preceded by many years the Eighteenth Amendment to the Federal Constitution which was in effect from 1919 until 1933. The state's "bone-dry" policy was modified by a vote of the people on November 2, 1948. The new language stated, as it does today, that the legislature may regulate, license and tax the manufacture and sale of alcoholic liquor and regulate the possession and transportation thereof. The amendment also provided that the open saloon shall be and is hereby forever prohibited.

This Constitutional amendment brought about the enactment of the Kansas Liquor Control Act found in Chapter 41 of the Kansas Statutes Annotated.

ALB. 2

Generally speaking, the intent of this act was to channelize the traffic of alcoholic liquor to create a comprehensive scheme of regulating, licensing and taxing of alcoholic liquor from the time of its manufacture or importation into the state until its ultimate sale by a licensed retailer. To this end, the manufacture, sale, transportation and possession of alcoholic liquor is permitted only under carefully prescribed conditions and subject to constant control by the state.

POLICY DECLARATIONS

The act has certain specific policy declarations. K.S.A. 41-104 declares that the manufacture, sale, transportation and possession of alcoholic liquor is illegal unless specifically authorized by the Act. This is a departure from most criminal provisions which authorizes all not prohibited.

K.S.A. 41-208 declares the power to regulate and control all phases of the manufacture, distribution, sale, possession and traffic of alcoholic liquor, except as specifically delegated in the act, which is vested exclusively in the state. The effect of this provision is to preempt the field and to give the act uniform state-wide application.

The act declares at K.S.A. 41-210 that the director shall be clothed with broad discretionary powers to govern the traffic in alcoholic liquor and to enforce strictly the Act in such a manner as will generally promote the public health and welfare.

When Kansas did finally authorize the sale of alcoholic liquor, it did not follow the lead of some states (presently 18 in number) that exercised the sovereign power of the state in the fullest manner by operating the industry itself. These so-called monopoly states prohibited all but the state from bringing alcoholic liquor into the state. They monopolized the strategic wholesale function and sometimes the retail function, as a state agency. Kansas thus became an open state (presently 32 states have similar laws) by permitting the sale and traffic of liquor by licensed private enterprise.

LICENSE QUALIFICATIONS AND FEES

The Act set out five types of licenses (manufacturer's license; alcoholic liquor distributor's license (except beer); beer distributor's license; retailer's license; and non-beverage user's license); the qualifications for which are provided for at K.S.A. 41-311. A review of the statute reveals the legislative intent that all licensees have impeccable backgrounds. This intent is manifested by the requirement that no licenses of any kind shall be issued to persons who have been convicted of a felony, or who have violated any liquor laws for ten (10) years immediately preceding the application or to any person who has a record of certain moral convictions.

It was also the intent of the legislature that the liquor industry in this state be run by citizens of the United States for at least ten (10) years. Wholesale ownership is restricted to persons who have been residents of the state for ten (10) years. The exception is beer and CMB distributor ownership which is five (5) years. Retail licenses are issued only to those individuals who have been residents of Kansas for ten (10) years and a resident of the county in which the business is to be located for at least five (5) years immediately preceding the date of application.

The long residency requirements were to insure against "fly-by-night" operations, and to simplify inquiry into the fitness of persons applying for licenses. It was also felt that residents of long-standing would be much more sensitive to the need to observe all the states laws and regulations and would be more responsive to local social influences, than would a non-resident or a resident of shorter duration.

THREE-TIER SYSTEM OF DISTRIBUTION

Since 1949, the Kansas Legislature has been committed to a three-tier system of distribution. This system recognizes three levels of business enterprise. The uppermost level consists of various distillers, vintners, importers, exclusive agents, and brand owners that are for the most part out-of-state concerns, who are unlicensed and are only permitted to do business

in the state if they agree in writing that they will comply with our distribution system. The second level consists of the licensed distributors; the third, licensed retailers. A combination of several requirements found at K.S.A. 41-312, 41-701, 41-702, 41-703, 41-704, and 41-705, which can collectively be called anti-tied house provisions, completely divorce the respective levels from one another and ban any vertical integration. The suppliers can only sell their merchandise to the distributors. Suppliers and distributors are prohibited from giving a retailer any gifts, premiums, rebates, credit, goods and other things of value (K.S.A. 41-702).

The object of all this legislative concern was to avoid certain evils associated with tied houses, which are retail establishments owned, controlled or obligated to a particular distiller or brewer. Such establishments thrived prior to prohibition and had all the vices of absence ownership. All the manufacturer wanted was sales and had no respect for a community's social concerns or laws. The three-tier system, by providing for an independent licensed wholesaler, effectively separated the manufacturer from the retailer and acted as a buttress to the statutory prohibitions against tied-house outlets. The three-tier system has grown in popularity, with similar laws to that of Kansas being found in twenty-three (23) states plus the District of Columbia.

RETAIL OPERATION

As with the other levels, the legislature has only permitted the sale of alcoholic liquor at retail under carefully prescribed conditions. A retail license only permits the sale of package liquor for off-premises consumption. Except for the new restaurants-club act, they cannot sell for resale. Unlike many other states, retailers can sell no other merchandise from within the store to include ice and mix, etc. Nor can they deliver, since the Act provides that the sale and delivery must take place within the store. As mentioned before, the licensee cannot incorporate and cannot hold more than one license. Their exterior signs and their mode of advertising are limited by statute and regulation.

Evidently the legislature felt that enforcement of the retail trade would be enhanced if only alcoholic liquors were sold and that the licensees would be more responsible if they were only in the liquor business. Further, the legislature wanted these stores to remain small with no excess sales stimulation. These goals have been accomplished.

PRICE CONTROL

Liquor price regulation has been a long-standing aspect of the Kansas liquor industry. From its inception until 1959, retail price maintenance was controlled by means of an administrative regulation which required liquor distributors to publish and distribute to retailers price lists of merchandise which the distributor had to offer for sale, together with suggested retail selling prices. Evidently these suggested prices were "carefully followed by retail dealers" (Brief of Appellee, State ex rel. Anderson v. Mermis, 187 Kan. 611 (1961)). Beginning in 1956, the Director, by issuance of memoranda, required suppliers to file suggested prices for distributors to retailers and suggested prices for retailers to customers. The Director required by administrative regulation, that these suggested prices be adhered to. In 1958, an Emporia retailer challenged the regulation in district court and had it declared invalid for want of legislative authority. The Director did not appeal that decision, evidently feeling his regulation was undefensible.

In response to this challenge to the authority of the Director to bring about price maintenance, the 1959 legislature passed the first liquor minimum price law (ch. 217, L.1959). This law required suppliers to file suggested wholesale and retail prices with the director. The law further stated that these prices would be the minimum prices, if the Director determined that such price regulation was in the public interest. Not unexpectedly, this law was short-lived as the Supreme Court found in the 1961 case of State ex rel. v. Mermis (supra), that such a fundamental legislative question could not be delegated to an administrator.

The 1961 legislature enacted quickly to restore price control when it passed the minimum price law, which declares at K.S.A. 41-1111, that it is in the public interest that minimum wholesale and retail prices shall be determined and regulated by law.

Under that law, suppliers did not set minimum prices. This determination was made by the state, through the auspices of the Alcoholic Beverage Control Board of Review, using guidelines set out by the legislature. The law stated that the prices established were

to be fair and reasonable to licensed distributors and retailers, and to the ultimate consumer. Further, the price must be in the public interest and they should not unduly stimulate the sale and consumption of alcoholic liquor or tend to disrupt the orderly sale and distribution of liquor.

In 1979, the Legislature enacted House Bill 2020, which stated that the board shall establish minimum markups which shall be charged by retailers on sales of alcoholic liquor to consumers. (K.S.A. 41-1114). The board, in exercising its powers and duties shall establish the minimum markup by retailers on sales of cases, bottles and mixed cases to consumers (K.S.A. 41-1115). The minimum markup established by the board shall be fair and reasonable to licensed retailers and the ultimate consumer. Such markups must be in the public interest and such that they do not unduly stimulate the sale and consumption of alcoholic liquor or tend to disrupt the orderly sale and distribution of alcoholic liquor. The board in establishing minimum markups shall take into consideration and be guided by the following: (a) The mean of acquisition costs of licensed retailers; (b) federal, state and local taxes and license fees which are paid by retailers and are levied or imposed in connection with their business of selling alcoholic liquor in this state; (c) the mean of selling costs of licensed retailers; (d) the mean of any legitimate, reasonable expense not hereinbefore specified, incurred in the legal conduct of licensed retailers' businesses; and (e) a reasonable profit for licensed retailers. The board may base its determination of the mean of retailers' acquisition costs, selling costs and operating expenses on a sampling of retailers generally representative of all retailers in the state. (K.S.A. 41-1116).

In addition, the 1979 Legislature replaced the "Open Wholesaling System" with an "Exclusive Franchise" System for liquor distributors and removed the percentage markup guaranteed to wholesalers.

As can be seen during the almost thirty-three (33) years in which the sale of liquor has been legal in this state, the usual rule of trade, aimed at preserved free and unfettered competition, has been the orderly sale of alcoholic liquor.

Whether the goal of temperance has been advanced by our minimum price policy is a difficult and debatable question. Certainly the consumption of beer, wine and distilled spirits has increased over the years. There is probably no evidence as to whether the increase would have been greater, if not for price control.

What is more obvious is that we have more retail outlets because of price control. Guaranteeing a certain profit for each bottle sold, coupled with a relative small amount of capital to get into the business and the physically not-so-demanding nature of the work has caused Kansas to have an above average amount of retail stores in relation to our population. Some may argue that having all these stores has had a counter-temperance effect.

Whether the goal of an orderly market has been advanced by price control is also a difficult and debatable question. Certainly, Kansas has an orderly market. This may well have been caused by price control or by other factors such as our licensee requirements. The more important question is whether an unorderly market would result if the price control provision was repealed? Without question, many stores would go out of business.

Another question to ask is whether our liquor prices are now so unreasonable that, in balancing the public interest of free trade against temperance and an orderly market, the weight should now shift to free trade.

Debate concerning this same question is taking place throughout the country. Liquor prices are set by the state in eighteen (18) monopoly states.

AGE OF PURCHASE AND CONSUMPTION

The State of Kansas has long been of the opinion that certain people, because of their tendered age, should not possess or consume alcoholic liquor. Thus the state has set the age of twenty-one (21) as the minimum age of purchase and possession.

Whether twenty-one (21) years of age is the most appropriate designation is a highly philosophical question.

PRIVATE CLUBS

For 68 years, the Constitution of Kansas prohibited the manufacture and sale of alcoholic liquor. In 1948, the people of Kansas modified the constitutional prohibition to allow the sale of alcoholic liquor, but provided that "the open saloon shall be and is hereby forever prohibited". The following year the legislature enacted the Liquor Control Act. Not only does the Act prohibit the sale of alcoholic liquor by the drink at any place, public or private (K.S.A. 41-803), but also makes it illegal to "consume alcoholic liquor" in "places to which the general public has access" (K.S.A. 41-719). The enforcement of these two provisions was woefully taxed between 1949 and 1965 as "schemes and devices" to dispense alcoholic liquor to the members of those clubs; which amounted to a subterfuge, if not actual sale of alcoholic liquor for consumption on the premises. The problem was not that the "clubs" in the ordinary sense of the word, organized, managed and conducted by and for the members, such as country clubs, veterans clubs, and fraternal organizations, were by their very nature legally private, but were commercially operated drinking establishments operating for the benefit of management.

Reacting to this enforcement problem the legislature in 1965, enacted the Private Club Act with the express purpose to define and regulate places where alcoholic liquor might lawfully be consumed in the state. One significant regulation was the requirement that no individual could become a member of a class "B" club until he or she, had paid a \$10.00 minimum annual membership fee and waited a period of at least 30 days (now 10 days) after application. [K.S.A. 41-2601(b)(3)]. The intent of such statutory requirement was "to insure that premises of a club operated for profit was not a place to which the general public had access, but was a legally private place".

The 1965 legislature provided one exception to the \$10.00-ten day" requirement when it granted to certain class "B" clubs, located on the premises of hotels or motels, the privilege of issuing temporary membership to registered guests of the hotels and motels. The guests may not be residents of the county in which the club is located, and the membership is valid only for the period of time the non-county guests are bona fide registered guests of the

hotel or motel. With respect to all other applicants for membership, these are class B clubs, i.e. the imposition of a \$10.00 annual membership fee and a ten-day waiting period.

The 1978 legislature passed Senate Bill 975 which amended K.S.A. 41-102 and K.S.A. 41-2634 to remove the provisions that an organization or association determined to be exempt from the payment of federal income taxes under section 501(c), (7), (8) or (19) of the internal revenue code shall qualify for a class "A" club license. Instead, organizations or associations would only qualify if they were determined by the Director of Alcoholic Beverage Control Division to be a bona fide non-profit social, fraternal or war veterans club pursuant to criteria established in regulations by the Secretary of Revenue.

Senate Bill 975 also provides that:

"No club license shall be issued under the provisions of this act: (d) A person who has a beneficial interest in...any other club licensed hereunder except:...(2) A license for a club located in a licensed food service establishment, as defined in K.S.A. 1977 Supp. 36-501, may be issued to a person who has a beneficial interest in other clubs located in licensed food service establishments, if not less than fifty percent (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 such club and food service establishment."

K.S.A. 41-2624 was also amended to state:

"No person holding a class "B" club license shall be permitted to receive another class "B" club license, except that a license for a class "B" club located in a licensed food service establishment, as defined in K.S.A. 1977 Supp. 36-501, may be issued to a person who holds a license for other class "B" clubs located in licensed food service establishment, if not less than fifty percent (50%) of the gross receipts of each such club and food service establishment are derived from the sale of food for consumption on the premises of such club and food service establishment."

"Food" is defined at section 2 of the bill to mean:

"Any raw, cooked or processed edible substance or ingredient other than a beverage, used or intended for use or sale, in whole or in part, for human consumption."

The intent of this law was to give certain multiple licensed "A" club restaurants, assurance that they would not be inhibited from holding more than one "B" club license if the requirements for class "A" licenses changed.

The 1979 legislature enacted Senate Bill 467, which authorizes all class "A" and class "B" clubs to sell liquor by the drink to their members and bona fide guests. This bill totally eliminated liquor pools and liquor pool procedures which had previously been the mechanism that many private clubs had used to dispense liquor. The bill permitted class "A" clubs to continue to enter into reciprocal agreements between each other and extended that reciprocal privilege to class "B" clubs, termed "restaurant clubs" having gross receipts greater than 50% from the sale of food. All private clubs would be required to obtain a Federal Retailers Tax Stamp in order to sell liquor in their clubs and retail liquor stores, who sold to private clubs, would be required to purchase a Federal Wholesale Liquor Dealer's Basic Permit. The new law established a 10% Gross Receipts Tax on the sale of alcoholic liquor. It included spirits, wine and strong beer and the tax was to be applied to the cost of any ingredient mixed with or added to the alcoholic liquors.

The 1981 legislature enacted House Bill 2582 which authorized the licensing of private clubs on property owned or operated by the county in counties having a population of 150,000. Additionally, the bill created a new category of temporary members for clubs located on airport property owned or operated by a municipal authority. Persons possessing an air traveler's ticket may receive temporary memberships in such clubs for the date or dates that such ticket is valid.

This bill authorized air travelers, who were holders of a current airline ticket, to file application for temporary membership in a class "B" club, located at an airport facility, for the day such air traveler's ticket is valid. Such temporary membership shall not be subject to the ten (10) day waiting period or the annual dues of at least \$10.00

1982 legislature enacted Senate Bill 865 and House Substitute for Senate Bill 888. These bills provided as follows:

1. Senate Bill 865 concerned sale of cereal malt beverages in private clubs. The bill provided that any sales of cereal malt beverages made in private clubs must be for on-premise consumption only; and that cereal malt beverages may be sold in a private club at any time when alcoholic liquors are allowed by law to be served.

2. House Substitute for Senate Bill 888 was an act concerning alcoholic liquors, relating to taxation of gross receipts derived from sales of alcoholic liquor; providing for enforcement procedrues relating to the collection thereof; relating to distribution of revenues therefrom, providing limitations on sales by certain manufacturers and suppliers of alcoholic liquors; amending K.S.A. 1981 Supp. 79-41a03 and 79-41a04 and repealing the existing sections.

To update you further on the liquor industry in Kansas today, we have provided packets to each member of the committee. The packets contain memorandums about the following

1. Status report of licensees (1,110 retailers)
2. Liquor Distributors (15)
3. Beer Distributors (63-CMB, 79-Strong, = 142)
4. Survey of Private Clubs (411-A, 799-B = 1,210)
5. Reciprocal (242 clubs = 9,617 agreements)
6. Sales and Revenue (Sales up 15.3 million) (Revenue to state almost 28 million)
7. Line Items (14,595) (172 suppliers)
8. Distributor case sales to retail & Military and market share
9. Consumption and how we compare with surrounding states
10. Tax Flow charts
11. Alcoholic liquor and CMB Supply Channels

GOALS

The goals of the Office of the Director of Alcoholic Beverage Control are:

1. To insure an orderly market for the distribution and sale of alcoholic beverages.
2. To conduct effective surveillance of the operations and individuals involved in all phases of the marketing of alcoholic beverages.
3. To collect taxes both gallonage and enforcement, and
4. Not to legislate but to administer the laws.

PRIORITIES

As Director of the ABC Division, I feel, like my predecessors, that my priorities are:

1. To maintain an orderly market.
2. To collect taxes.
3. To protect the public welfare by investigating applicants for licenses.
4. To regulate the market; and given time and money
5. To watch industry trade practices.

In summary, legislators supporting the original Kansas Liquor Control Act apparently envisioned a Kansas liquor market free from political and criminal influence. The law stifled the development of a "wheeling and dealing" liquor market. It is felt that the original legislative intent has been carried out.

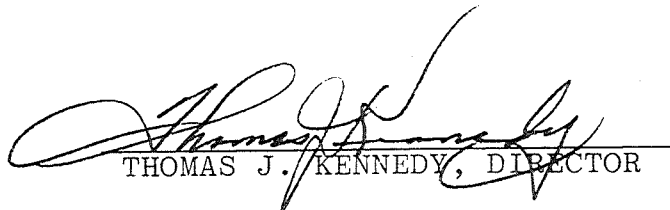
Wholesalers and retailers handle most brands of alcoholic liquor. Liquor franchises are now authorized for the sale of both alcoholic liquors by liquor distributors and strong beer by liquor distributors and beer distributors. It should be noted that some liquor wholesalers do handle beer, however, beer wholesalers do not handle liquor. Beer wholesalers have operated under a franchise type system since before the end of prohibition. In 1982, an exclusive beer franchise law was enacted. The competitive factor among liquor wholesaler as well as beer

distributors is now brand competition. Price discrimination and the giving of inducements and the giving of things of value to wholesalers and retail liquor customers is not allowed. Price cutting, wheeling and dealing, and other traditional means of stimulating liquor sales are inconsistent with the Kansas control system.

Liquor laws are always controversial, especially at the point of consumption. It should be absolutely clear, however, as long as the present concept of liquor control exists, the Office of the Director will be concerned with maintaining an orderly liquor market. All Directors experience the extreme sensitivity that results from any violation of the element of "equal opportunity" afforded all liquor dealers to compete under the law. Whenever "equal opportunity" is threatened, disruption of the orderly market may result. When a liquor market becomes disorderly, there is a strong possibility that law violations will occur. Any such disruption would necessarily be opposed by the Director, who is sworn to uphold the law as stated.

Attached hereto are concerns, questions and/or recommendatations.

Respectfully submitted,


THOMAS J. KENNEDY, DIRECTOR

TJK:cjs

Enclosures: As stated

1-18-83 Attachment #3

MEMORANDUM

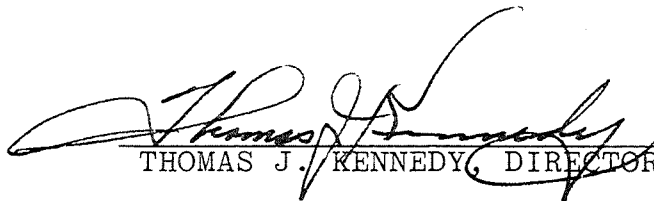
TO: Senator Edward F. Reilly
Chairman
Senate Federal and State Affairs Committee

FROM: THOMAS J. KENNEDY, Director, ABC Division

RE: Legislative Post Audit Report

DATE: January 18, 1983

Transmitted herewith is our reply to the
Legislative Post Audit Report which we presented to
the Legislative Post Audit Committee.


THOMAS J. KENNEDY, DIRECTOR

TJK:cjs

Attch. 3

Mr. Chairman, Distinguished Members of the Legislature Post Audit Committee,
Ladies and Gentlemen:

Thank you for the opportunity to appear this morning to comment on the Sunset Audit of the Division of Alcoholic Beverage Control of the Department of Revenue.

At the outset, we wish to compliment the Post Audit Committee, headed by Trudy Racine, for the courteous and professional manner in which the audit was conducted. We would also acknowledge that certain recommendations contained in the report are sound and we concur with them. However, it is clear from our response to the draft report, the Division and Department disagree with some aspects of the Post Audit Division's findings.

We would offer the following general observations which hopefully will contribute to a better understanding of what is taking place in Kansas today.

It has long been recognized in Kansas that alcoholic liquor occupies a special position with respect to the exercise of the State's police power. For years the court and legislature have stated that liquor is wrought with such contagious peril to society, that it occupies a different status from other kinds of businesses and one upon which heavier burdens in its traffic have been placed. Some legislative concern remains today, so far as we know, since it is settled that the excessive use of alcohol causes manifold social problems.

In 1880, Kansas became the first state to constitutionally ban the manufacture and sale of alcoholic liquor. This "bone-dry" policy remained in effect until November 2, 1948, when it was modified by a vote of the people. The new language stated, as it does today, that the legislature may regulate, license and tax the manufacture and sale of alcoholic liquor and regulate the possession and transportation thereof. The amendment also provided that the open saloon shall be and is hereby forever prohibited.

This Constitutional Amendment brought about the enactment of the Kansas Liquor Control Act found in chapter 41 of the Kansas Statutes Annotated. The intent of this act was to channelize the traffic of alcoholic liquor to create a comprehensive scheme of regulating, licensing and taxing of alcoholic liquor from the time of its manufacture or importation into the State until its ultimate sale by a licensed retailer. To this end, the manufacture, sale, transportation and possession of alcoholic liquor is permitted only under carefully prescribed conditions and subject to constant control by the State.

The 1965 Legislative Session passed the Kansas Club Licensing Act which placed private clubs under the jurisdiction of the Director of ABC.

The 1975 Legislative Session passed the act concerning bingo and the Secretary of Revenue charged the ABC Director with the responsibility of policing all bingo activities conducted on licensed private club premises.

The 1978 Legislature transferred the licensing and policing of sixty-eight cereal malt beverage distributors from the Director of Taxation to the Director of ABC and transferred the determination of who gets a class A club license from the Federal government to the Director of ABC.

The 1979 Legislature enacted two significant bills which affected the ABC Division and industry. It authorized class A and class B private clubs to sell alcoholic liquors, authorized class B clubs to participate in reciprocals under certain conditions, and replaced the "Open Wholesaling System" with an Exclusive Franchise System.

Other changes were made in 1981 and 1982 and all of this is contributed to the overall patch work act we have today.

Our comments on specific recommendations of the Post Audit Committee are as follows:

AUDIT RECOMMENDATION--Reviewing the Regulatory Program's Fee Structure (Page 23)

AGENCY RESPONSE: The fee structure has been an area of concern for several years. Most fees presently charged for licensing and renewal were originally set in 1949 and may not be adequate to cover the administrative costs incurred by the Division today.

As you know, a joint committee of the legislature studied liquor laws in 1978 and made many recommendations, the fee structure being one of these. We testified in 1979 in support of an increase; however, no legislative action was taken.

We do concur with Legislative Post Audit's recommendation that the legislature should reievew the regulatory fee structure to determine if the level of fees set by statute is adequate.

AUDIT RECOMMENDATION--Reducing or Eliminating Residency Requirements (Page 26-27)

AGENCY RESPONSE: Kansas liquor license residency requirements have been a subject of discussion and concern among the public and legislature alike for many years. A review of licensee qualifications revealed that the legislature intended that each licensee have an impeccable background. Clearly, the stringent residency requirements imposed upon an applicant insured 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 considerably more recent data. Thus, the lengthy state residence required by statute may serve no significant enforcement purpose. Moreover, inconsistent and ineffectual requirements such as mandating a five-year residence in the state and one year in the county for an individual private club license applicant and no residency requirement whatsoever for a corporate private club license applicant should be rectified.

While the legislature has considered this issue in some fashion during recent sessions, notably in 1980 and 1982, the Department and the Division concur with the Legislative Post Audit's recommendation that this area is once again in need of legislative review and possible revision.

AUDIT RECOMMENDATION--Reviewing Liquor Advertising Restrictions (Page 29)

AGENCY RESPONSE: The statutory framework in which the Division of Alcoholic Beverage Control operates must be viewed and evaluated from an historical perspective. As the Post Audit Report points out, Kansas has a long tradition of promoting temperance by strict regulatory control. A key provision of this approach has been a ban on most forms of advertising.

Through the years, statutory and regulatory changes have been made which reflect a less restrictive view, but often these changes have created inconsistency regarding the state's approach to liquor advertising. It should be noted that the Joint Committee on Rules and Regulations completed a five (5) year review of the Division's rules and regulations in July, 1982, and their concerns have been addressed.

Presently, Kansas advertising regulations are under study by the Division, which hopefully will eliminate these possible inconsistencies. Considering recent court decisions and the class of perspective which is evidenced by the present statutory and regulatory framework, the ABC Division has no objections to the Post Auditor's recommendation that the entire area of advertising of liquor in the state be reevaluated. A reaffirmation or revision by the legislature would assist the ABC Division in carrying out legislative intent.

AUDIT RECOMMENDATION--Eliminating Regulatory Restrictions on Business Operations in the liquor industry. (Page 32)

AGENCY RESPONSE: The Post Audit draft report recognized that the underlying structure of liquor regulation in Kansas is based on the three-tier system. This system controls transactions in alcohol by clearly separating the supplier, distributor and retailer and closely monitoring any interaction between these tiers. Many of the statutes and regulations which appear to only protect the industry serve the important purpose of supporting and regulating this three-tier structure. Any discussion of a specific regulation alleged to solely "protect the industry" must begin by an evaluation of its effect in maintaining the delicate balance which presently exists in this complex system of state control. The consumer and the citizens of Kansas are benefited by the state's maintenance of an orderly liquor market, even if that benefit is not obvious in a cursory review.

However, some regulations and statutory revisions should be reevaluated to determine whether or not they contribute significantly to the state's maintenance of an orderly market. This includes transportation of alcoholic liquor by distributors (2:00 PM cutoff for placing orders, one (1) day delivery within seven (7) day period at minimum poundage), credit between licensees, insufficient fund checks, advertising, price marking on shelving and point of sale material, consumer rebates by suppliers, to mention a few. The Division would welcome any legislative guidance in this area.

AUDIT RECOMMENDATION--Eliminating the State's Retail Price Maintenance Program. (Page 42)

AGENCY RESPONSE: During the nearly thirty-three (33) years in which the sale of liquor has been legal in this state, the usual rule of trade aimed at preserving free and unfettered competition has been subservient to price maintenance in the interest of temperance and the orderly sale of alcoholic liquor.

Whether the goal of temperance has been advanced by our minimum price policy is a difficult and debatable question. Certainly the consumption of beer, wine and distilled spirits has increased over the years. There is probably no evidence available as to whether the increase would have been greater, if not for price control. However, studies are available which indicate that even relatively small changes in prices may influence the quantity of alcohol consumption.

What is more obvious is that we have more retail outlets because of price control. Guaranteeing a certain profit for each bottle sold, coupled with a relative small amount of capital to get into the business and the physically not-so-demanding nature of the work has caused Kansas to have an above average amount of retail stores in relation to our population. Some may argue that having all these stores has had a counter-temperance effect.

Whether the goal of an orderly market has been advanced by price control is also a difficult and debatable question. Certainly, Kansas has an orderly market. This may well have been caused by price control or by other factors such as our licensee requirements. The more important question is whether a disorderly market would result if the price control provision was repealed? Without question, many stores would go out of business.

Another question to ask is whether our liquor prices are not so unreasonable that, in balancing the public interest of free trade against temperance and an orderly market, the weight should now shift to free trade.

Debate concerning this same question continues to take place throughout the country. As the Post Audit draft report indicates, this matter is strictly a policy decision for the legislature.

AUDIT RECOMMENDATION--Improving the Monitoring of Reciprocal Agreements (Page 47-48)

AGENCY RESPONSE: With respect to the first recommendation, it should be noted that the Department of Revenue currently has a computer report produced monthly which calculates the ratio of liquor sales to gross sales for each private club. Any club having liquor sales in excess of 50 percent of its gross sales for any one month is closely monitored.

The second recommendation presumes that the Division has no flexibility in granting reciprocal status to restaurant-clubs. When the legislature authorized reciprocal arrangements between certain private clubs, its apparent intent was to grant bona fide restaurants the ability to provide their customers the opportunity to have alcoholic liquor with their meals. It is also apparent from a reading of the relevant statutes that the Director of Alcoholic Beverage Control has not been given specific guidelines in determining eligibility for reciprocal status and has, in fact, been given some discretion in determining the application of the statutory requirements.

It is also important to realize that, under the strict interpretation of the law urged by the Post Auditor's report, reciprocal status could only be granted upon presentation of records of actual experience. In the event a year of operation did not qualify the club in question, such club could never qualify. In other words, reciprocity is needed by many clubs to meet the 50 percent food sales requirement; and without an opportunity to achieve that figure by operating under reciprocal agreements, clubs would be caught in a classic Catch-22 situation.

Prior to July of 1982, lack of manpower and auditing capability prevented an effective evaluation of the veracity of gross receipts affidavit submitted by clubs in order to meet reciprocity requirements. As a result of the recent addition of private club auditors in the Department of Revenue, the Department and the Division are gaining new information with regard to the actual status of gross receipts received by clubs claiming the reciprocal privilege. As a result of receiving the information now being obtained, the Division is not only in a better position to pass judgment on an application for reciprocity, but will also be better able to adopt regulations clarifying the law in this area.

Because the statutory requirements for reciprocity are somewhat vague and because, as the Post Audit Report pointed out, a strict interpretation of these statutes would force private clubs to reincorporate in order to become entitled to a new period in which to establish qualifying food sales, the Department and the Division feel that this area needs a thorough review by the legislature as well in order to clarify legislative intent.

AUDIT RECOMMENDATION--Improving the Effectiveness and Efficiency of Routine Inspections. (Page 57-58)

AGENCY RESPONSE: It is not accurate to imply that clubs and liquor stores are not being investigated during busy hours. Most undercover assignments are made during "busy" times--nights and weekends--when violations of state liquor laws and regulations may be more likely to occur. In line with the Post Auditor's draft report, the Division is reviewing priorities and work hours with the objective of reducing the frequency and scope of routine inspections, presently averaging three or more inspections a year for each licensee, and possibly increasing undercover operations to insure compliance with the law, providing adequate funds are provided.

The Division has reviewed the agents' reports with respect to the significance of running routine interviews and criminal background checks on licensees. The Post Audit Report (on page 52) states: "Despite the high number of criminal background investigations, these activities seldom result in the discovery of circumstances leading to the denial of a license application. Only one application was denied in 1981, and that was for a sales representative's permit..." This statement is not accurate.

Division records indicate that during 1981, eighteen (18) convictions were discovered which resulted in either applicants withdrawing their application, resigning as corporate officers, or having the conviction expunged or annulled or resulting in a citation.

Also, during the year 1982, the Division found seventeen (17) similar disqualifying convictions which were surfaced as a result of criminal background investigations. In 1981, forty-three (43) licenses or permits were either denied, withdrawn or revoked.

This office has consistently worked on improving the retail and club inspection procedures, revising inspection forms as necessary to obtain necessary information and insure a degree of uniformity and compliance for all concerned.

With respect to the need of a statewide enforcement trend analysis, the Department and the Division agree that the volume of investigations being made is nearly impossible to analyze manually. Such information with respect to investigations and dispositions would be a meaningful enforcement "tool" if automated through a computer report.

The Division of Alcoholic Beverage Control and the Department of Revenue are convinced that penalties assessed for violations of liquor laws and regulations consistently bear a reasonable relationship to the seriousness of the offense.

The Director assigns a penalty to a licensee based on the circumstances surrounding the violation. Every case is evaluated on its own merits. Accordingly, the Director, having both extensive experience as well as access to the details of the occurrence, is best qualified to make a determination as to the effect of a violation on the industry and the public.

The Department and the Division disagree with the Post Auditor's recommendation that the option of fine or suspension no longer be provided to a licensee in violation. The Division feels that the option, when offered to licensees with relatively violation-free records, is an equitable exercise of administrative judgment.

Often clubs which have a marginal financial base would be forced out of business if not given the choice between the fine or suspension when deemed equivalent by the Division. In these circumstances, the licensee is best suited to make an appropriate choice between equal penalties. Clearly, flexibility must continue to be available to the Director to evaluate each case on its merits. Further, such options are not always provided but are given when the circumstances warrant.

AUDIT RECOMMENDATION--Recommendations Relating to Collection and Enforcement of the Liquor Excise Tax (Page 67-68)

AGENCY RESPONSE: Effective July 1, 1982, all retail liquor stores holding a federal wholesaler's basic permit are required to submit to the Division of Alcoholic Beverage Control a monthly summary recap of all sales to private clubs. This summary must be submitted to the Division by the fifteenth day of the month following such club sales. With the employment of seven (7) auditors pursuant to the 1982 legislative's appropriation, retail liquor excise tax audits are now being conducted. The results of these audits are being accumulated and such data will be furnished to the legislature.

On October 25, 1982, new retail liquor excise tax regulations were promulgated to assist private clubs in complying with the requirements of K.S.A. 1981 Supp. 74-41a03. Included in these regulations were instructions regarding the calculation of sales and liquor excise taxes. Further, on November 22, 1982, various members of the private club industry met with representatives of this Department in an effort to resolve questions above recordkeeping requirements and possible alternatives in computing the applicable retail liquor excise tax due--i.e. complimentary drinks, overage, spillage, theft, and two or more drinks for the price of one.

The Department will continue to work in this area to achieve overall appropriate retail liquor excise tax collections to the state. It should be pointed out that on July 9, 1979, an informational notice was sent to all private club licensees concerning the provisions of Senate Bill 467, which implemented the retail liquor excise tax. Also, on November 1, 1982, an informational letter, a copy of the retail liquor excise tax regulations, and a printed sign indicating that the retail liquor excise tax is included in the price of a drink, was sent to all private clubs licensees.

In summary, the Legislative Post Audit draft report, which required approximately seven (7) months to compile and which we had about two (2) weeks to respond is generally constructive and reflective of the liquor industry in Kansas today.

There are many sweeping changes being proposed nationally as reflected in the reference throughout the report to the Model Alcoholic Beverage Control Act and are primarily associated with "deregulation". Recent court decisions have overturned areas which were thought to be sanctified--notably in the areas of price maintenance and price and brand advertising.

Possibly an alternate approach would be "regulation modernization" given that production, distribution and sale of beverage alcohol should remain a uniquely regulated business. There is no evidence that human nature and society have changed in ways which warrant alteration of history's verdict that the products of the distillers, wine makers, and brewer's art merit a unique cultural and religious status, subject to special controls. Regulatory modernization should serve the public's general interests and not the interests of a few.

I feel that the Legislative Post Audit report raises questions about the overall state approach to alcohol regulation. The Division of Alcoholic Beverage Control's role is to regulate not legislate; therefore, we would request clarification of legislative intent if it has changed. Areas I would direct the Legislature's attention to are:

1. Alcoholic liquor advertising restrictions
2. Retail price maintenance program
3. Residency requirements
4. Transportation and business operations in the liquor industry
5. Credit between licensees
6. Insufficient fund checks
7. Price marking and other industry trade practices, not affecting the public

The liquor industry in Kansas is growing as shown by retail liquor store sales, which were up fifteen million dollars in 1982 over 1981, from 204 million to 219.3 million. Revenue to the state increased from 26.8 million in 1981 to 27.9 million plus in 1982. The number of line items in the state has increased from 3,833 in 1978 to 17,501 in October of this year.

The effect of all this on the ABC Division, which is charged with insuring an orderly market for the distribution and sale of alcoholic beverages, conducting effective surveillance of the operations and individuals involved in all phases of the marketing of alcoholic beverages, and collecting gallonage and enforcement taxes is to stretch our resources and manpower to the maximum.

We concur that a re-examination of our priorities in enforcement is in order, that a reaffirmation of legislative intent would be appropriate and a review of the liquor laws and regulations that appear oriented toward protection of the public and eliminating some concerns about protecting the industry might be appropriate.

Legislators supporting the original Kansas Liquor Control Act apparently envisioned a Kansas liquor market free from political and criminal influence. The law stifled the development of a "wheeling and dealing" liquor market. It is felt that the original legislative intent as modified by changes since that time, has been carried out.

Liquor laws are always controversial, especially at the point of consumption. It should be absolutely clear, however, that as the present concept of liquor control exists, the Office of the Director will be concerned with maintaining an orderly liquor market. All Directors experienced the same sensitivity that results from any violation of the element of "equal opportunity" afforded all liquor dealers to compete under the law. Whenever "equal opportunity" is threatened, disruption of the orderly market may result. When a liquor market becomes disorderly, there is a strong possibility that law violations will occur. Any such disruption would necessarily be opposed by the Director, who is sworn to uphold the law as stated!

We feel this has been a very constructive audit and concur with the Legislative Post Audit committee's recommendation that the Division be re-established.

Thank you for the opportunity to appear before you today.

Respectfully submitted,

THOMAS J. KENNEDY
DIRECTOR
Alcoholic Beverage Control Division

1/18/83 #4

MEMORANDUM

TO: All Retail Liquor Store Licensees
All Liquor Wholesaler licensees

FROM: THOMAS J. KENNEDY, Director, ABC Division

RE: Quarterly Notification of Minimum Percentage Markups
and Caselot Discounts

DATE: November 18, 1982

1. The purpose of this memorandum is to notify all retail liquor store licensees and all liquor distributor licensees that the ABC Board of Review met on Thursday, November 18, 1982, to review the percentage retail markup currently authorized for use by retail liquor store licensees. The Board quarterly reviews the markup percentage and the caselot discount. The Board determined that the percentage markup and the caselot discount which was effective July 1, 1980, and which was re-examined on November 18, 1982, should continue through the 1st quarter, January, February and March, 1983. The Director was so notified.
2. The ABC Board of Review will again review the percentage retail markup used by retail liquor store licensees at the February Board Meeting with reference to the percentage markup which is to be applicable during the 2nd quarter of 1983 (April, May and June). The hearing will be held at 10:00 A.M., Thursday, February 24, 1983, State Office Building, 5th Floor, Topeka, Kansas. Retail licensees, wholesaler licensees and other interested parties, who wish to make comments to the Board about the percentage markup and the caselot discount, should either appear at this hearing or write comments to the Chairman, ABC Board of Review, Room 521S, State Office Building, Topeka, Kansas 66625.
3. The following markups shall be effective January 1, 1983:

	<u>Minimum Percent Markup</u>
CATEGORY I (Spirits)	28.5%
CATEGORY II (Specialties)	36.5%
CATEGORY III (Wines)	45.5%

Category I consists of Bourbon Whiskey; Blended Whiskey; Bonded Whiskey; Corn Whiskey; Rye Whiskey; Scotch Whiskey; Canadian Whiskey; Irish Whiskey; Vodka; Flavored Gin; Vodka and Whiskey; Gin; Rum; Tequila; American Brandy; Imported Brandy; Cognac; Alcohol; Prepared Cocktails.

Category II consists of American Cordials, Specialties and Liqueurs; Imported Cordials, Specialties and Liqueurs.

Category III consists of American Vermouth; Imported Vermouth; American Wine; Imported Wine; American Sparkling Wine; Imported Sparkling Wine.

K.S.A. 41-1117(2) - No retailer shall sell, directly or indirectly, any alcoholic liquor at less than its current posted bottle cost plus minimum markup without first having obtained from the director a permit so to do; and the director is authorized to issue such a permit in certain cases: [See KSA 41-1117(a)(b)(c)].

4. CASELOT DISCOUNTS: The ABC Board of Review said that there should continue to be authorized the giving of a 10% case discount on case sales of like size and category products as defined herein. However, the Board desires the record reveal its concern on the abuse reported to it by retailers of this discount authorization. It is the desire of the Board that the Director monitor discount practices and report to it regarding those practices in order to discern whether or not the case discount should be eliminated.

Atch. #

With regard to caselot discounts, retailers will use the minimum markups above on all bottles. However, whenever a customer purchases a full case of alcoholic beverages within any one of the categories listed above, a retailer may allow a 10% discount on the case. A customer who purchases a caselot of the same size bottles within a category and at the same time purchases any other item in any category in the store (except beer), may receive a 10% discount on the additional item or items if the retailer desires to allow the discount.

The 10% discount is permitted only at the time of a caselot sale. Under no circumstances is a retailer authorized to give the discount to a customer who purchases less than a full case.

A full case of spirits (but not beer and wine) will be one of the following combinations, regardless of the manner in which the items are packaged by the supplier:

Three (3) gallon (128 oz.) bottles; six (6) half-gallon (64 oz.) bottles; six (6) 1.75 liter (59.2 oz.) bottles; twelve (12) quart (32 oz.) or twelve (12) 1.00 liter (33.8 oz.) bottles; twelve (12) fifth (25.6 oz.) or twelve (12) 750 milliliter (25.4 oz.) bottles; twenty-four (24) pint (16 oz.) or twenty-four (24) 500 milliliter (16.9 oz.) bottles; twenty-four (24) tenth (12.8 oz.) bottles; forty-eight (48) half-pint (8 oz.) bottles or forty-eight (48) 200 milliliter (6.8 oz.) bottles.

A full case of wine will be of the following combinations, regardless of the manner in which the items are shipped by the supplier:

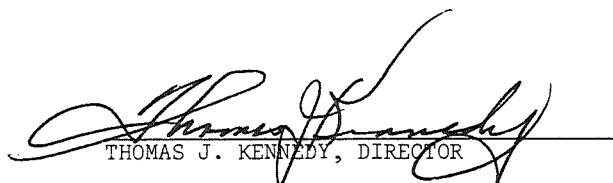
Four (4) 4.00 liter (135.02 oz.) containers; four (4) 5.00 liter (169 oz.) containers; two (2) 6.00 liter (202.8 oz.) containers; two (2) 7.00 liter (236.6 oz.) containers; two (2) 8.00 liter (270.4 oz.) containers; two (2) 9.00 liter (304.2 oz.) containers; two (2) 10.00 liter (338 oz.) containers; one (1) 11.00 liter (371.8 oz.) container; one (1) 12.00 liter (405.6 oz.) container; one (1) 13.00 liter (439.4 oz.) container; one (1) 14.00 liter (473.2 oz.) container; one (1) 15.00 liter (507 oz.) container; one (1) 16.00 liter (540.8 oz.) container; one (1) 17.00 liter (574.6 oz.) container; one (1) 18.00 liter (608.4 oz.) container; four (4) gallon (128 oz.) bottles; four (4) 3.00 liter (101 oz.) bottles; six (6) half-gallon (64 oz.) bottles; six (6) two-fifth gallon (51.2 oz.) or six (6) 1.50 liter (50.7 oz.) bottles; twelve (12) quart (32 oz.) or twelve (12) 1.00 liter (33.8 oz.) bottles; twelve (12) fifth (25.6 oz.) or twelve (12) 750 milliliter (25.4 oz.) bottles; twenty-four (24) tenth (12.8 oz.) or twenty-four (24) 375 milliliter (12.7 oz.) bottles.

Canned cocktails are packaged twenty-four (24) to a shipping case. For discount purposes, it is required that two of these shipping cases be sold in order to make a case of forty-eight (48) half-pints of canned cocktails, thus permitting a discount. Also, a customer may buy forty-eight (48) half-pints consisting of a mixture of half-pints of Category 1 items to include some canned cocktails and receive a discount. A case of fifths in Category 3 may be a mixture of vermouth and different types of wine. A case of Category 1 may be a mixture of whiskeys and other items in Category 1 of the same size bottles.

With regard to Category 1 products, it is permissible for a retailer to commingle in order to produce a case sale of fifths, quarts, liters and 750 milliliter sizes.

The key to discounting 10% is a case, as defined above, of the same size bottles within the same category. Retailers are not authorized to mix items from two or three categories in order to make a case.

5. The above percentage markup and caselot discount procedure shall remain in effect until notified otherwise by the Director.


THOMAS J. KENNEDY, DIRECTOR

TJK:cjs
cc: All private club licensees
ABC Board of Review
Secretary of Revenue

MEMORANDUM

TO: Retail Liquor Store Licensees
 Private Club Licensees
 Liquor Wholesalers
 Beer Distributors
 Other interested parties requesting notification

FROM: THOMAS J. KENNEDY, Director, ABC Division

RE: January Meeting of Alcoholic Beverage Control Board of Review

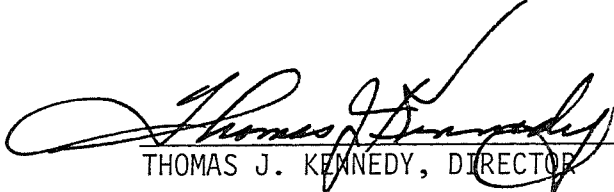
DATE: December 29, 1982

This memorandum is sent as a notification to all addressees of the January Meeting of the Alcoholic Beverage Control Board of Review, which will be held at 10:00 A.M., Thursday, January 27, 1983, Cafeteria Auditorium, Basement, State Office Building, Topeka, Kansas.

According to Mr. Campbell, Chairman of the Board, the Meeting on Thursday, January 27, 1983, will be devoted to further discussion of the minimum percentage markup and caselot discount with emphasis on the proposal of an additional discount for private clubs and possibly a reduction in the markup on specialties and wines.

Any addressee desiring to provide additional information should submit it to Mr. Albert Campbell, Chairman of the Board, Alcoholic Beverage Control Division, Room 521S, State Office Building, Topeka, Kansas 66625, prior to the hearing.

In addition, an opportunity for making comments concerning these proposals will be afforded attendees on the hearing date.


 THOMAS J. KENNEDY, DIRECTOR

TJK:bf

cc: Albert D. Campbell, Chairman of the Board
 Richard D. Martens, Board Member
 Michael P. Sarras, Board Member

INDEX OF STATE LAWS ON COUPONING

Along with the national trend toward deregulation of state laws governing the sale of alcoholic beverages have come many changes in the area of couponing. A recent study undertaken by the law firm of Buchman, Buchman & O'Brien, New York, details where cents-off and consumer refunds are allowed and offers related comments. This list supersedes the listing published on page 6 of the April 1982 issue of Market Watch. Please be sure to note this amendment in your April issue.

STATE	CENTS-OFF Redeemable at retail store. Retailer receives customary handling fee	CONSUMER REFUND Redeemable by consumer mailing to supplier or redemption house.	COMMENTS
Alabama	no	yes	— Coupon must state that Alabama is not responsible for the offer.
Alaska	yes	yes	
Arizona	yes	yes	
Arkansas	no	no	
California	no	no	
Colorado	yes	yes	
Connecticut	no	yes	
District of Columbia	no	yes	— \$1.00 face value maximum. Need prior approval. P.O.S. material permitted on
Delaware	no	yes	licensed premises.
Florida	no	yes	
Georgia	no	yes	— Only for wine & malt beverages. P.O.S. advertising prohibited.
Hawaii	no	no	
Idaho	no	yes	
Illinois	yes	yes	— For cents off maximum handling fee is 5 cents. For consumer refund, refund amount can't constitute the entire purchase price.
Indiana	no	no	
Iowa	no	yes	— Pad form or pre-attached (i.e. by a no. 1 tag would require federal approval). P.O.S. advertising prohibited. Coupon cannot be in newspaper. Prior approval needed.
Kansas	no	no	
Kentucky	no	no	
Louisiana	—	—	— No formal response. Indication is both types permissible.
Maine	no	no	
Maryland	no	no	
Massachusetts	yes	yes	— Need prior approval. May not use label as proof of purchase. Coupons must bear expiration date. No media advertising permitted. The offer may only be advertised in licensed premises.
Michigan	no	yes	
Minnesota	yes	yes	
Mississippi	no	no	
Missouri	no	no	
Montana	yes	yes	— "Cents off" not permitted in state operated stores.
Nebraska	no	yes	
Nevada	yes	yes	
New Hampshire	no	yes	— May not be distributed at retail store.
New Jersey	no	no	
New Mexico	yes	yes	
New York	no	yes	
North Carolina	no	no	
North Dakota	no	yes	
Ohio	no	no	
Oklahoma	no	no	
Oregon	no	no	
Pennsylvania	no	no	— Media advertising must contain no language regarding discount pricing, product price or amount of money to be refunded. (price advertising OK only on retail premises).
Rhode Island	no	yes	
South Carolina	yes	yes	— Beer & Wine only.
South Dakota	no	yes	
Tennessee	—	—	— No formal response. Indication is negative for all coupons.
Texas	no	no	
Utah	no	no	
Vermont	no	yes	
Virginia	yes	no	— No P.O.S. advertising. Media adv OK but must be in connection with non-alcoholic products.
Washington	no	no	
W. Virginia	no	yes	— Need prior approval.
Wisconsin	yes	yes	
Wyoming	yes	yes	

ENTERING A NEW REALM OF MARKETING

For years coupons and refunds were just one more realm of marketing largely forbidden to the wine and spirits industry. The Bureau of Alcohol, Tobacco and Firearms (BATF) permitted consumer coupons per se, but in a "catch 22" regulation forbade suppliers from giving retailers anything of value — including reimbursement for handling. While the federal government did not prohibit refunds that went directly from supplier to consumer, the myriad of state regulations was daunting enough to inhibit much refund activity.

But the situation is rapidly changing. A groundswell of pressure from suppliers, trade associations, and consumer groups persuaded the BATF to liberalize its regulations late in 1980, and many states have followed suit, creating a new marketing atmosphere for the industry.

Along with new opportunities, however, new controversies have arisen. Suppliers are asking themselves if couponing can be used on premium products without irreparably damaging their image. What can management realistically accomplish with a coupon or refund effort, and at what price? Is the vast amount of experience accumulated by the packaged goods industry applicable to wine and spirits marketing, or are there fundamental differences that will change the most basic of ground rules?

At the very least, alcoholic beverage marketers are finding the terminology established by the packaged goods industry useful. Whereas cents off coupons are redeemed by the retailer at the time of purchase, a consumer refund or rebate must be sent, along with proof of purchase, to the supplier or his agent for redemption. Refunds are allowed in many states which prohibit cents off coupons on alcoholic beverages (see chart page 10), so they are used much more frequently. But refunds also have a much lower rate of redemp-

tion and, therefore, have less effectiveness than cents off coupons — a verity of packaged goods couponing that applies to this industry as well.

No one claims that is where the similarity ends, but there is a strong feeling that the importance of imagery, particularly in spirits, may require a more delicate approach than is commonly used by packaged goods marketers. While couponing and refunding are powerful marketing tools, they also have the ability to send a message about a product that may not fit into the positioning that has taken years to build. For that reason, some suppliers are altogether eschewing the couponing approach on their premium and super-premium lines.

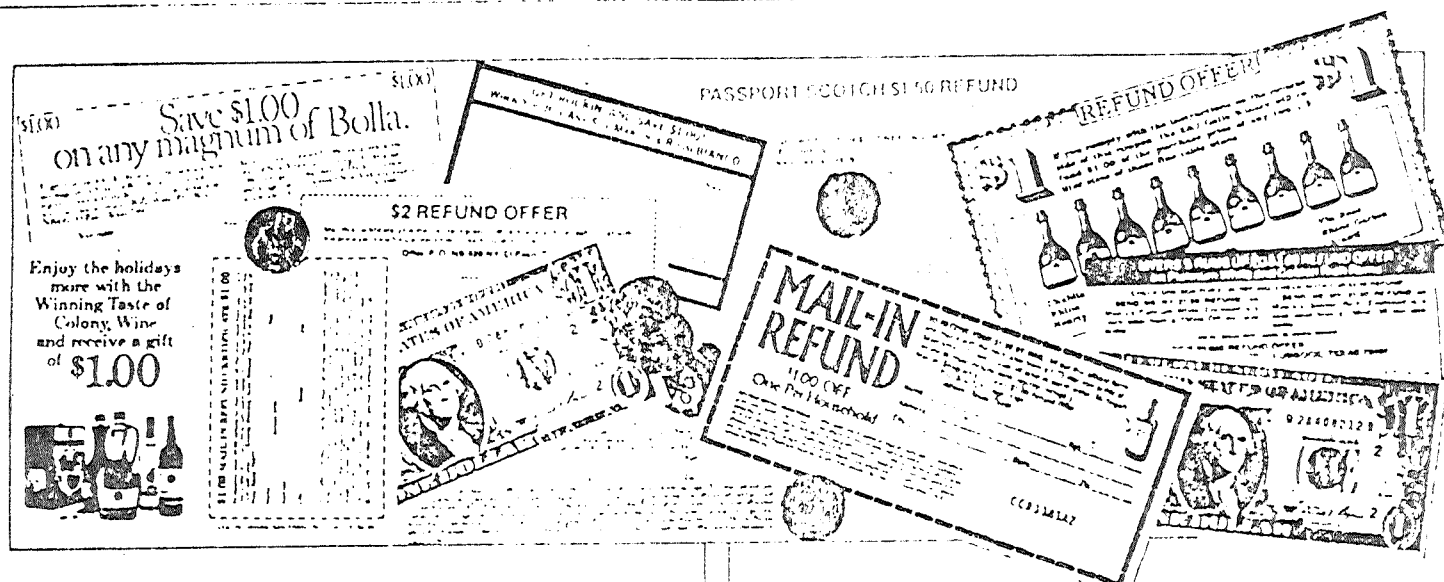
Somerset Importers, Ltd., for example, is promoting Weller Reserve premium bourbon in Louisiana, New Mexico, and Arizona by offering a \$2 rebate on liters and 750 ml's., and a \$4 rebate on 1.75 liters. Even though depletions in the first month of the promotion were three to four times what they had been the previous year, Richard Vreeland, vice-president, director of marketing, is cautious about expanding the concept.

THE VULNERABILITY OF IMAGERY

"We're still apprehensive of couponing most of our brands, which are premium, unless it is as an introductory offer," he said. "So much of what we sell is imagery, and we haven't quite got the answer yet as to what dollars off means to image." Vreeland also questions the motivational effect of coupons and refunds since a large part of what is being sold in the wine and spirits business is perception and/or prestige.

John Holley, vice-president of marketing at Austin Nichols, feels that couponing might be appropriate to stimulate trial usage on a new product or to build volume on a brand that's in trouble, but there is no doubt in his mind that it can cheapen a brand's image in certain situations. Two years ago Austin Nichols delivered a \$5 rebate on Wild Turkey in order to make further inroads into a market that was already on a growth trend. "Believe me, we've had some definite problems in that market ever since," Holley said. "I know it was directly related to the couponing effort because the brand was growing nicely before it took place."

A Chicago retailer who recalls a \$5 refund offer on Wild Turkey, Lynn Armanetti of Armanetti Liquors, said "there's no doubt it hurt them badly. It gave consumers a false idea of the profit in the liquor industry." Armanetti said the item had tremendous movement at \$5 a bottle, but it just sat



there when the price went back up to \$10.49. "Nobody's picking it up anymore. They're buying Jack Daniels."

AN OVERLY CAUTIOUS INDUSTRY

While there seems little doubt that coupons and refunds can hurt a brand's image when not carefully handled, some marketers think the industry as a whole may be overly cautious in its approach to new opportunities. They point out that industry nervousness about discounting well-known brands flies in the face of the experience accumulated by packaged goods marketers.

"The American consumer has been taught to believe over the last 30 years that promotional techniques like couponing are employed by good brands," said Mark Walsh, director of marketing for Renfield Importers, Ltd. The company has run several coupon offers in various markets, including refunds on Henkell sparkling wine, Gordon's Gin, and Martini & Rossi vermouth. "Brands which don't use couponing are the unheard of, unsophisticated brands," he continued. "Gordon's Gin can coupon endlessly. Old Bellywash Gin can't coupon at all. That's the essence of it."

A strong brand identity imparts the idea of real value to the consumer, according to The Buckingham Corporation's senior vice-president of marketing, Brian Dunn, and value is crucial to carrying out a successful couponing effort that doesn't damage a premium brand's image. "In an industry where we're selling a lot of sizzle and very little steak, you have to be careful to maintain your image. The coupon offer has to be treated as a real value, and if offering dollars off a product does not constitute consumer value it can denigrate an

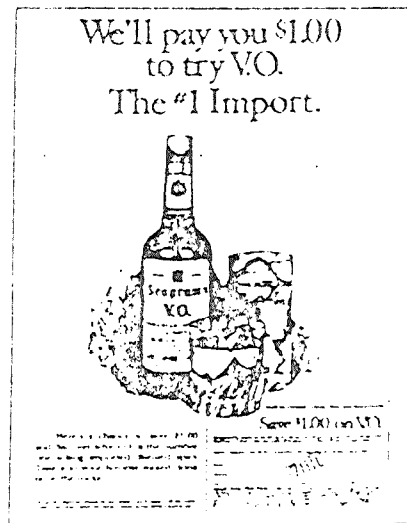
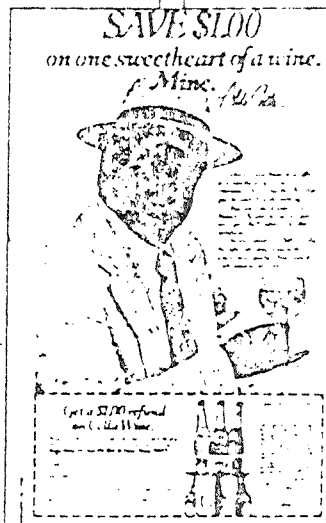
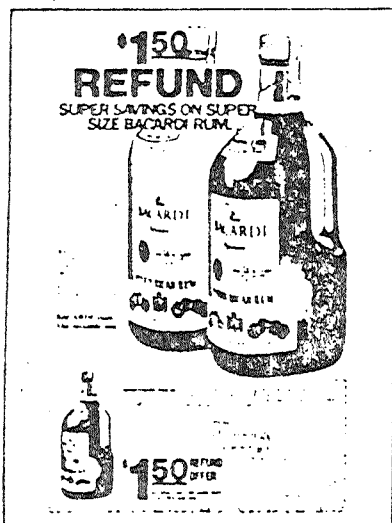
image. But generalizations of destroying a brand image through couponing are just that — generalizations."

One way of communicating the idea of real value is in the way the coupon or refund is offered. Buckingham is breaking a refund offer on Finlandia Vodka in New York and Chicago, where consumers will receive \$2 for sending in the cap from a 750 ml. or one liter bottle, and \$5 for sending in two caps. But instead of simply offering money back on a purchase, the ad reads, "How to console yourself when the Finlandia's gone. Just this once, running out of the world's finest vodka isn't so bad. Because even when the bottle's empty, you can still get something valuable out of it."

When Schieffelin & Co. tested a \$1 refund offer on Blue Nun in the Phoenix market, management took a tongue-in-cheek approach to divert consumers from the fact that they were discounting the product. Ray Strong, vice-president and product group manager, explained that "instead of saying in the Sunday supplements 'please buy our wine, here's a dollar,' we ran an ad that read 'When was the last time a nun gave you a dollar?' Then it went on to say that Blue Nun will, because if you try our product you'll probably like it. It was a way of overcoming any potential image problem."

USING COUPONS IN THE MARKET PLACE

While there may be some disagreement as to how and under what circumstances to use coupons and refunds, very few people rule them out altogether as a marketing tool. They are one of the strongest incentives available for encouraging trial use, which can be particularly important to a new and growing category that benefits from trial, like



cream liqueurs. But they can also be used to encourage a consumer to trade up, to steal market share, to reach a new consumer profile, or to maintain brand loyalty, especially when the price is increasing.

For example, Ray Strong of Schieffelin said the primary goal of their refund offer was to get mass market wine drinkers to trade up to Blue Nun. "The consumption of domestic wine is very high, and we want to turn wine drinkers into imported wine drinkers. The dollar refund offer is a way to do that."

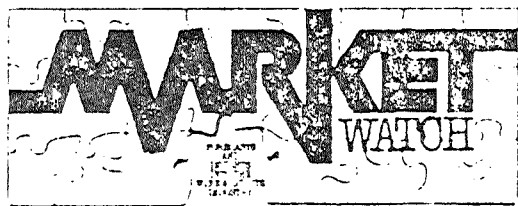
John Holley of Austin Nichols, who would not use it on a growing brand like Wild Turkey, would

consider using coupons or refunds on a product like Pernod. "At \$9 or \$10 a bottle, it's an expensive product that most people don't know how to use, so I might use couponing in conjunction with a message on how to drink and serve the product," he said. Another Austin Nichols product which might be appropriate for couponing is Remy-Pannier, a French wine that is priced below domestic premiums, but above domestic jug wines. "That might be an opportunity to get the price temporarily down so it would compete against domestic table wines and give the consumer an incentive to try the product." Austin-Nichols has no current plans to coupon or refund either of these products, however.

Couponing is also an effective way of moving up the front line price, according to Jim Fitzgerald of Flair Merchandising Agency, Inc., based in Chicago. "Through couponing you give the consumer an opportunity to buy not at the old price, but somewhere in between. You move yourself up gradually and generate a new shelf price."

But couponing is not done just to generate higher prices or garner a larger share of a growing market. Many companies are using them to shore up brands and categories that are slipping, or to make inroads in a market where performance has been particularly soft. In some cases a refund offer is reluctantly made to counter an aggressive move by a competitor.

Hiram Walker, Inc., for example, ran refund offers on Lauder's Scotch, Ten High Bourbon, and various cordials in areas where management felt the products weren't getting adequate share of market, according to Doug Wright, marketing services manager. "There's really no advantage to couponing any brand that's doing well sales-wise in a particular market, because it's an extra cost," he said. Wright also thinks the general state of the economy has a lot to do with the growing level of couponing in the wine and spirits industry. "All



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How to console yourself when the Finlandia's gone

Henkell is popping \$2 off the top.

THE GREAT LOUISIANA FORTIFASE

you have to do is take a look at the food business — as the economy turns down, couponing forges ahead," he said. It's a strategy the company probably would not use in fatter times.

As the best selling distilled spirit in the country, Bacardi rum might seem an unlikely candidate for couponing. But when General Wine & Spirits Company (Seagram) broke with a refund offer on Ronrico rum in Chicago, Bacardi came back with its own \$1 refund on its 1.75 liter size. "It's not something we want to do on an ongoing basis," said Tom Valdes, Bacardi's director of advertising and sales promotion, "But realistically, you don't want to give your competitor an edge."

INFLUENCING THE TRADE

Suppliers are trying to affect more than the consumer's purchasing decision, however, when they launch a refund program. This spring Geysler Peak Winery of Geyserville, California will run a 50 cent refund on the four-liter Summit wine box and 1.5 liter bottle, and offer a \$1 refund on its varietal wines. Wayne Downey, president and chief executive officer, admits that the effort is as much to reach the trade as consumers. "We all realize that coupons are pretty low on the redemption side, but if they're running in newspapers, the buyers feel obligated to have the display and distribution."

Brian Dunn said Buckingham ran a refund program on Finlandia specifically to improve distribution and placement in the New Orleans area. "When you look at a market where your distribution is not as good as it should be, you really want to give not only the distributor trade a reason to work on the brand, but you want to give the retailer a reason to stock it."

A sampling of retailers, however, seems to indi-

cate that such supplier promotions have only a marginal effect on ordering, placement, and display. "It influences our positioning very little," said Lynn Armanetti in a typical reply. "Most of our displays are on the ends of aisles anyway, where the highest traffic is."

Retailers are lukewarm on devoting mass displays to refund offers partially because statistics show that the delay of payment significantly decreases its appeal to consumers. While a sales increase of 1% or 2% might be substantial to suppliers or wholesalers, it's hardly enough for retailers to notice in their overall sales figures.

Because they handle the redemption, retailers can trace the effect cents off coupons have on sales, and their admittedly limited experience to date indicates that redemption at the point of purchase is a much stronger consumer incentive. E & J Gallo Winery mailed a 50¢ coupon on its varietals to households in the Chicago area last September with an expiration date set for approximately six months later.

It was one of the Chicago areas most successful promotions, according to John Malloy of Malloy's Sav-Way Store. "We continued to get a steady stream of those right up until the cutoff date," he said. Armanetti's altered its store policy to redeem Gallo's coupons on the varietals, and sold three to four times the normal volume for a week, according to Lynn Armanetti. But is it still increasing sales by that amount?

"Definitely not," he said. "It's a short term increase, especially in the midwestern wine market where the education isn't there on the varietals." Response was so high to the Gallo offer partly because it was direct mailed, which is an extremely expensive way to deliver a coupon. "I'm sure they picked up a few customers," Armanetti observed, "but I don't think they got anywhere near the number they would have liked."

OFFER VOID WHERE PROHIBITED . . .

State	Refund Certificate	Cents Off Coupon
Alabama	yes	yes
Alaska	yes	yes
Arizona	yes	yes
Arkansas	no	no
California	no	no
Colorado	yes	yes
Connecticut	yes	no
Delaware	yes	no
District of Columbia	yes	no
Florida	yes	yes
Georgia	no	no
Hawaii	no	no
Idaho	yes	yes
Illinois	yes	yes
Indiana	yes	yes
Iowa	yes	no
Kansas	no	no
Kentucky	no	no
Louisiana	yes	yes
Maine	yes	no
Maryland	no	no
Massachusetts	yes	yes
Michigan	yes	no
Minnesota	yes (P-O-P)	no
Mississippi	no	no
Missouri	no	no
Montana	yes	yes
Nebraska	yes	no
Nevada	yes	yes
New Hampshire	yes	yes
New Jersey	no	no
New Mexico	yes	yes
New York	yes	yes
North Carolina	no	no
North Dakota	yes	no
Ohio	no	no
Oklahoma	no	no
Oregon	no	no
Pennsylvania	no	no
Rhode Island	no	yes
South Carolina	yes (wine)	yes (wine)
South Dakota	yes	no
Tennessee	no	no
Texas	no	no
Utah	no	no
Vermont	yes	yes
Virginia	no	no
Washington	no	yes
West Virginia	yes	no
Wisconsin	no	no
Wyoming	yes	yes

Source: Distilled Spirits Council of the United States, Inc.
(DISCUS)

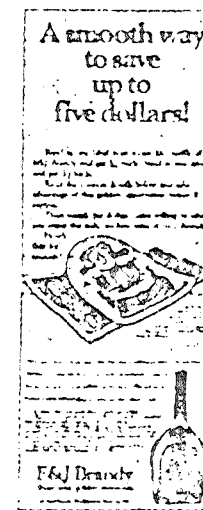
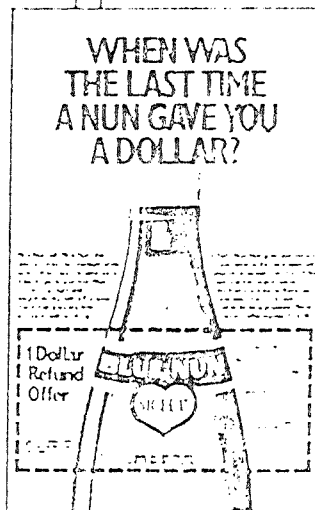
IS COUPONING COST EFFECTIVE?

This poses one of the most difficult questions facing suppliers -- whether the money spent in a coupon or refund effort is worth it in building the brand both short and long term. While they can accurately project cost, the lack of applicable data within the wine and spirits industry makes it more difficult to project rates of redemption, repeat purchase, and conversion to regular brand use. A.C. Nielsen's Clearing House Services Group, which redeems the vast majority of coupons issued in the United States, is handling many wine and spirits accounts, but has not yet collected enough data to extrapolate on general trends within the industry. A company spokesman estimates that such data may be available as soon as this year, depending on the amount of supplier activity.

Jim Fitzgerald said Flair Merchandising Agency, Inc., has done follow up studies for their wine and spirits accounts which indicate that, on average, 30% to 40% of those redeeming coupons on alcoholic beverages were not regular users, and of those non-regular users, 30% to 40% (approximately 12% of the original group) repeated the purchase.

While the exact impact of a coupon drop may be difficult to measure, there is a feeling in the industry that coupons are a strong brand building tool that may be more effective than other available options. Richard Vreeland of Somerset said that if he were to forego the expense of electronic advertising in a new market and use print and billboards only, it would take substantial amounts of money and time to achieve a significant level of consumer awareness. With couponing, he said, "... you seem to get higher awareness because people are coupon oriented, especially in these tough times."

Tom Valdes of Bacardi thinks that it's a much more pointed way of reaching your target audience than some other promotional techniques. "With a sweepstakes like Johnnie Walker Red sponsors, you get a lot of interest from people trying to win something, but the majority of people aren't Scotch drinkers, so it generates a lot of awareness as opposed to trial. With refunding, you're getting the people who are interested in trying your product." Doug Wright said Hiram Walker's last refund offer was in the Florida market last fall, and "from the sales point of view, the feeling down there was that it was successful enough to give up some advertising money to keep the program going."



OVERCOMING THE OBSTACLES

The success stories can not be repeated in markets that prohibit coupon and refund activity; however, and some industry figures regard this as a serious limitation. In looking at the three largest markets for alcoholic beverages, the difficulties become obvious. In Chicago, both refunds and coupons are allowed. In New York, refunds are allowed, but cents off coupons are prohibited. In Los Angeles, both coupons and refunds are prohibited.

"It's a big problem," said John Holley. While it's not particularly difficult to plan around the regulations that vary from state to state, he says they make it harder to get maximum impact from your program. "For example, it's very difficult to get a magazine that is only distributed in New York state, so if I want to do a coupon program I would have to use specific editions. Then I lose a lot of effectiveness because the coupon can't be redeemed in New Jersey, Pennsylvania, or Vermont. It's something that's discouraging."

But, as Mark Walsh points out, "the ground rules are changing almost as we speak." As more states liberalize their laws to bring them closer to BATF regulations, which is happening at a rapid pace, a freer marketing atmosphere will undoubtedly develop. Suppliers will then have to convince retailers who are not used to making cash outlays that it may be in their best interests to start handling coupons.

That may be quite a job. "I don't want to fool with it," said a retailer from a market where both coupons and refunds are allowed. His cash registers are computerized and automatically call up a price based on the product code, and "it would kill me as far as time is concerned."

That's a common sentiment, according to most suppliers, and for now they are content to accommodate it. But as competition heats up, retailers may be forced to develop systems for handling coupons or lose business to food chains or more flexible retailers.

"They don't want to tie their money up and take the risk of losing those coupons, which is cash," said Ben Klein, executive vice-president, sales and marketing, of Federated Distributors, Inc., of Chicago. "They see them as an administrative problem," he noted. But not all retailers feel that way. "Walgreen does a tremendous job promoting manufacturer rebates in their advertising, and in January they started in-store redemptions of their own coupons. That has been working extremely well for them."

EYE ON THE FUTURE

At this stage of the game it's extremely unusual for a retailer to issue his own coupons, but it may be an important hint at what's to come. If the number of coupon offers continues to grow at a rapid rate, what will that do to their ability to excite both consumers and the trade?

"What was translated into enthusiastic action on the part of the retailer last year might fall on deaf ears this year," said a spokesman for one major California vintner heavily involved in couponing. "With the proliferation of coupons, my guess is that the ante is going to have to go up to keep the consumer as interested as they were in the beginning. What you could do with a \$1 coupon before may now take a \$3 coupon to achieve the same results."

It may be a problem just to get your coupon or rebate offer to stand out from all the rest, as

(Cont'd on page 16)

THE VERY FRIENDLY SKIES

Very few people would turn down a free bottle of Chivas Regal or Jack Daniel's, right? That's the assumption Pacific Express Airline made when it came up a promotion to increase occupancy on \$69 flights between San Francisco and Portland. Each passenger who flew that route between Feb. 17 and March 31 received a 750 ml. bottle of super-premium spirits, and it was so successful that people with tickets for other airlines defected at the boarding gates.

"We offered passengers who were ticketed on other airlines the opportunity to walk over and join on board with us," said Bob Deuel, Pacific Express' promotions director. "We had a lot of people walking over to our ticket counter."

"It was a successful attempt to fill seats in a recessionary period, and Pacific is considering extending the concept to other routes that are heavily traveled by businessmen. Management is unsure whether the premium spirits giveaway will continue on the Portland/San Francisco route. They're going to review and see how it helped our sales, and see if it stays at the same level without the promotion," Deuel said.

**Why we're giving
each of our
passengers a free
fifth of Chivas or
Jack Daniels on
every \$69 flight to
Portland.**

Pacific Express flies to Portland every day for \$69. So do United and Western. But United and Western aren't giving each of their passengers a free fifth of Jack Daniels or Chivas Regal.

We are. And here's why.

Pacific Express gives you more legroom. More baggage space. And much better service. Which is what other airlines promise. But we're prepared to back that up. With a free fifth when you fly to Portland. And another one when you return to San Francisco.

Just call 360-0678 for reservations. Or bring your United or Western ticket to the Pacific Express ticket counter at the airport. We'll exchange it for one of ours — along with a free fifth of your choice, when you fly the Pacific Express way.



905' Stores

(Continued from page 12)

The warehouse store has fulfilled all expectations. Within two months, 905 converted its Springfield, Mo., unit to a warehouse market. In 1982, Stores Inc. plans to open two more warehouse stores, in Granite City and Springfield, Ill.

Since Missouri state law does not allow discounting as in Illinois, 905 management is not yet sure whether a warehouse approach would work in metropolitan St. Louis. Plans for 1982 call for a party center to be opened in the St. Louis suburbs. The company plans to stick with the concept that has made them one of the most powerful liquor chains in the country.

Although 905 Stores Inc. will follow their concepts in general, they will nevertheless improve both the party center and warehouse concepts. By day, the formats and merchandising will be tested. A leader does not rest on his laurels.

Coupons

(Continued from page 8)

illustrated by another supplier's experience in an Orlando, Florida outlet for wine and spirits. "They had about ten refund offers for different liquors," said Ray Strong of Schieffelin. Besides diminishing the impact, such abundance made it seem like all the brands were in trouble, he said.

Despite some concern about what impact couponing and refunding will have on the industry, the overwhelming feeling is that this new opportunity brings wine and spirits closer to the mainstream of marketing. "It positions the alcoholic beverage industry more closely akin to what the consumer knows as packaged goods," said one industry spokesman. "I suppose it's very hard to measure the results of that, but long range, and even short range, it's a desirable thing." *

HARVEYS BRISTOL CREAM
SHERRY

\$1⁰⁰ REFUND ON 750 ML &
LITER SIZES

To receive your check for \$1.00 send us the neckwrap from either a 750 ml or Liter bottle of Harveys Bristol Cream. Also send us your cash register receipt with the Bristol Cream price circled along with your name and address to:

HARVEYS BRISTOL CREAM \$1.00 REFUND OFFER
P.O. BOX P.M. 610
EL PASO, TEXAS 79966

Reproduction prohibited. Only one refund allowed per household name or address. Please allow 6 to 8 weeks for refund delivery. Offer valid only in New York, Massachusetts, Florida, Michigan, Louisiana, Connecticut, Georgia, Wisconsin, Washington, D.C. to adults of legal drinking age. Offer not open to licensed wholesalers and retailers, or their employees. Offer expires Sept. 30, 1982. Harveys® Bristol Cream® Sherry. © 1982. Heublein, Inc., Hartford, Conn.

HARVEYS BRISTOL CREAM
IT'S DOWNRIGHT SOCIABLE

Shelf Talker..... MICH.

Save up to \$2⁰⁰ on Black Velvet!

\$2⁰⁰ Savings on the 1.75 Litre party size bottle!

\$1⁵⁰ Savings on the 750ml size bottle!

To get your Black Velvet refund, use warm water to soak off the complete neck label indicating the size and with the cash register receipt, mail to:

Velvet Refund
P.O. Box NB-509
El Paso, Texas 79977

This official request form must accompany your request and may not be reproduced in any way.

Name _____
Address _____
City _____ State _____ Zip _____

Note: Offer valid only to Michigan residents of legal drinking age. One refund per household name or address. Employees of Heublein, Inc., its affiliated companies, agencies and licensed retailers, and wholesalers are not eligible. Postmark must be no later than August 31, 1982. Void where prohibited, taxed or restricted. Offer not transferable or assignable. Please allow 6-8 weeks for delivery of refund check.

BLACK VELVET* BLENDED CANADIAN WHISKY, 80 PROOF, IMPORTED BY © 1982 HEUBLEIN, INC., HARTFORD, CONN



Premium. Canadian.

THE Club \$1.00 REFUND

To get your Club Refund, first buy any three 200ml. size bottles of The Club. Next, starting with a corner simply peel back the labels from each bottle and mail them along with the cash register receipt(s)

to:

**Club Cocktails Refund Offer
P.O. Box 608, El Paso, Texas 79966**

This official request form must accompany your request and may not be reproduced in any way.

Name _____

Address _____

City _____ State _____ Zip _____

Note: Offer valid only to Florida residents of legal drinking age. Limited to one refund per customer. Employees of Heublein, Inc., and their families, its affiliated companies, agencies and licensed retailers and wholesalers are not eligible. Postmark must be no later than September 30, 1982. Void where prohibited, taxed or restricted. Offer not transferable or assignable. Please allow 6 - 8 weeks for delivery of refund check.

The Club® Cocktails, 25-42 proof, © 1982, The Club Distilling Co., Hartford, Conn.

STOCK UP ON *Smirnoff* QUALITY and SAVE UP TO \$2⁰⁰

To receive refund check, fill out coupon and mail with proper neck labels, including clearly marked cash register receipt.

(CHECK ONE)

- \$2.00 REFUND: One neck label from 1.75 Liter Bottle
- \$1.50 REFUND: One neck label from Liter Bottle
- \$1.00 REFUND: One neck label from 750 ml Bottle

MAIL TO: SMIRNOFF REFUND OFFER, P.O. BOX PM 612 EL PASO, TX 79966

NAME _____

PRINT CLEARLY

ADDRESS _____

CITY _____

STATE _____

ZIP _____

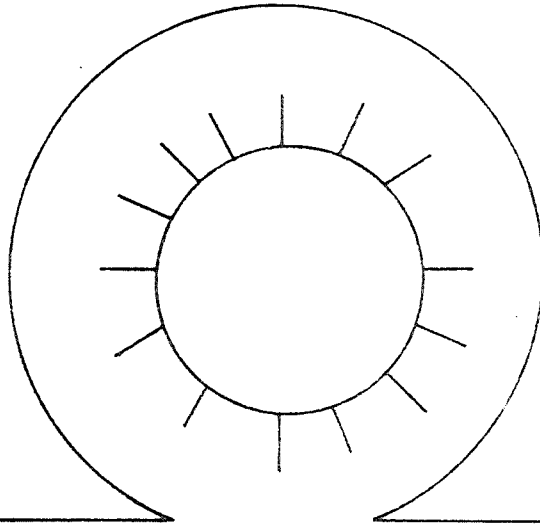
Offer void where prohibited. Offer expires Oct. 31, 1982. Offer limited to Illinois residents of legal drinking age. Limit one redemption per household name or address. Offer not transferrable or assignable. Employees of Heublein, Inc, their relatives, its affiliated companies, agencies or licensed retailers and wholesalers are not eligible. No label or coupon facsimiles acceptable. Allow 6-8 weeks for receipt of refund check.



UP TO \$2⁰⁰ REFUND

0019182

SMIRNOFF Vodka Imported from Poland. © 1982 Heublein, Inc. El Paso, TX 79966. All rights reserved. Made in U.S.A.



Neck Hanger
CONN.

Save up to \$2⁰⁰ on Black Velvet!

\$2⁰⁰ Savings on the
1.75 Litre party
size bottle!

\$1⁵⁰ Savings on
the Litre size
bottle!



Premium.
Canadian.

To get your Black Velvet refund, use warm water to
soak off the complete neck label indicating the size
and with the cash register receipt, mail to:

Velvet Refund
P.O. Box NB-509
El Paso, Texas 79977

This official request form must accompany your re-
quest and may not be reproduced in any way.

Name _____
Address _____
City _____ State _____ Zip _____

Note: Offer valid only to Connecticut residents of
legal drinking age. One refund per household name or
address. Employees of Heublein, Inc., its affiliated
companies, agencies and licensed retailers, and
wholesalers are not eligible. Postmark must be no
later than August 31, 1982. Void where prohibited tax-
ed or restricted. Offer not transferable or assignable.
Please allow 6-8 weeks for delivery of refund check.

BLACK VELVET* BLENDED CANADIAN WHISKY.
80 PROOF, IMPORTED BY © 1982 HEUBLEIN, INC.,
HARTFORD, CONN.

0409192

January 18, 1983

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Attachment #7

Concerns or proposals for Legislative Action

The following are concerns or proposals for legislative action:

Number	Concern or proposal	Action
1.	Should residency requirements for liquor manufacturers, distributors, retailers and private clubs be reduced, or eliminated?	<p>A recommendation of the Legislative Post Audit Committee.</p> <p>Kansas liquor license residency requirements have been a subject of discussion and concern among the public and legislature alike for many years. A review of licensee qualifications revealed that the legislature intended that each licensee have an impeccable background. Clearly, the stringent residency requirements imposed upon an applicant insured 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 considerably more recent data. Thus, the lengthy state residence required by statute may serve no significant enforcement purpose. Moreover, inconsistent and ineffectual requirements such as mandating a five-year residence in the state and one year in the county for an individual private club license applicant and no residency requirement whatsoever for a corporate private club license applicant should be rectified.</p>
2.	Is the level of fees (License & Registration) set by statute adequate?	<p>A recommendation of the Legislative Post Audit Committee.</p> <p>The fee structure has been an area of concern for several years. Most fees presently charged for licensing and renewal were originally set in 1949 and may not be adequate to cover the administrative costs incurred by the Division today.</p> <p>As you know, a joint committee of the legislature studied liquor laws in 1978 and made many recommendations, the fee structure being one of these. We testified in 1979 in support of an increase; however, no legislative action was taken.</p> <p>We do concur with Legislative Post Audit's recommendation that the legislature should review the regulatory fee structure to determine if the level of fees set by statute is adequate.</p> <p><i>Generally low on some of license fees -</i></p>

Atch. 7

ALCOHOLIC BEVERAGE CONTROL DIVISION

DEPARTMENT OF REVENUE

January 18, 1983

Concerns or proposals for Legislative Action

The following are concerns or proposals for legislative action:

Number	Concern or proposal	Action
3.	Should the Legislature consider eliminating the States retail price maintenance program?	<p>A recommendation of the Legislative Post Audit Committee.</p> <p>During the nearly thirty-three (33) years in which the sale of liquor has been legal in this state, the usual rule of trade aimed at preserving free and unfettered competition has been subservient to price maintenance in the interest of temperance and the orderly sale of alcoholic liquor.</p> <p>Whether the goal of temperance has been advanced by our minimum price policy is a difficult and debatable question. Certainly the consumption of beer, wine and distilled spirits has increased over the years. There is probably no evidence available as to whether the increase would have been greater, if not for price control. However, studies are available which indicate that even relatively small changes in prices may influence the quantity of alcohol consumption.</p> <p>What is more obvious is that we have more retail outlets because of price control. Guaranteeing a certain profit for each bottle sold, coupled with a relative small amount of capital to get into the business and the physically not-so-demanding nature of the work has caused Kansas to have an above average amount of retail stores in relation to our population. Some may argue that having all these stores has had a counter-temperance effect.</p> <p>Whether the goal of an orderly market has been advanced by price control is also a difficult and debatable question. Certainly, Kansas has an orderly market. This may well have been caused by price control or by other factors such as our licensee requirements. The more important question is whether a disorderly market would result if the price control provision was repealed? Without question, many stores would go out of business.</p> <p>Another question to ask is whether our liquor prices are not so unreasonable that, in balancing the public interest of free trade against temperance and an orderly market, the weight should now shift to free trade.</p> <p>Debate concerning this same question continues to take place throughout the country. As the Post Audit draft report indicates, this matter is strictly a policy decision for the legislature.</p>

January 18, 1983

Concerns or proposals for Legislative Action

The following are concerns or proposals for legislative action:

Number	Concern or proposal	Action
4.	<p>Should the 50% gross receipts requirement for class B Private Clubs to participate in reciprocal be reduced?</p> <p>Should more flexibility be granted to the ABC Division to evaluate a clubs compliance with food percentage of gross receipts of reciprocity requirements?</p> <p>Should the loophole, which allows clubs who fail to meet requirements to reciprocate, thereby gaining an additional year of operations under the statutes, be closed?</p>	<p>A recommendation of the Legislative Post Audit Committee.</p> <p>With respect to the recommendation, of the Legislative Post Audit Committee, it should be noted that the Department of Revenue currently has a computer report produced monthly which calculates the ration of liquor sales to gross sales for each private club. Any club having liquor sales in excess of 50 percent of its gross sales for any one month is closely monitored.</p> <p>The second recommendation, of the Committee, presumes that the Division has no flexibility in granting reciprocal status to restaurant-clubs. When the legislature authorized reciprocal arrangements between certain private clubs, its apparent intent was to grant bona fide restaurants the ability to provide their customers the opportunity to have alcoholic liquor with their meals. It is also apparent from a reading of the relevant statutes that the Director of Alcoholic Beverage Control has not been given specific guidelines in determining eligibility for reciprocal status and has, in fact, been given some discretion in determining the application of the statutory requirements.</p> <p>It is also important to realize that, under the strict interpretation of the law urged by the Post Auditor's report, reciprocal status could only be granted upon presentation of records of actual experience. In the event a year of operation did not qualify the club in question, such club could never qualify. In other words, reciprocity is needed by many clubs to meet the 50 percent food sales requirement; and without an opportunity to achieve that figure by operating under reciprocal agreements, clubs would be caught in a classic Catch-22 situation.</p> <p>Prior to July of 1982, lack of manpower and auditing capability prevented an effective evaluation of the veracity of gross receipts affidavit submitted by clubs in order to meet reciprocity requirements. As a result of the recent addition of private club auditors in the Department of Revenue, the Department and the Division are gaining new information with regard to the actual status of gross receipts received by clubs claiming the reciprocal privilege. As a result of receiving the information now being obtained, the Division is not only in a better position to pass judgment on an application for reciprocity, but will also be better able to adopt regulations clarifying the law in this area.</p>

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Concerns or proposals for Legislative Action

The following are concerns or proposals for legislative action:

Number	Concern or proposal	Action
4. (cont'd)		<p>Because the statutory requirements for reciprocity are somewhat vague and because, as the Post Audit Report pointed out, a strict interpretation of these statutes would force private clubs to reincorporate in order to become entitled to a new period in which to establish qualifying food sales, the Department and the Division feel that this area needs a thorough review by the legislature as well in order to clarify legislative intent.</p>
5.	<p>Should Liquor Advertising laws and regulations be revised to eliminate Price and Brand Advertising?</p> <p>Should K.S.A. 41-714 be revised?</p>	<p>A recommendation of the Legislative Post Audit Committee.</p> <p>The statutory framework in which the Division of Alcoholic Beverage Control operates must be viewed and evaluated from an historical perspective. As the Post Audit Report points out, Kansas has a long tradition of promoting temperance by strict regulatory control. A key provision of this approach has been a ban on most forms of advertising.</p> <p>Through the years, statutory and regulatory changes have been made which reflect a less restrictive view, but often these changes have created inconsistency regarding the state's approach to liquor advertising. It should be noted that the Joint Committee on Rules and Regulations completed a five (5) year review of the Division's rules and regulations in July, 1982, and their concerns have been addressed.</p> <p>Presently, Kansas advertising regulations are under study by the Division, which hopefully will eliminate these possible inconsistencies. Considering recent court decisions and the class of perspective which is evidenced by the present statutory and regulatory framework, the ABC Division has no objections to the Post Auditor's recommendation that the entire area of advertising of liquor in the state be reevaluated. A reaffirmation or revision by the legislature would assist the ABC Division in carrying out legislative intent.</p>

ALCOHOLIC BEVERAGE CONTROL DIVISION

DEPARTMENT OF REVENUE

January 18, 1983

Concerns or proposals for Legislative Action

The following are concerns or proposals for legislative action:

Number	Concern or proposal	Action
5. (cont'd)		<p>The matter of Price and Brand Advertising is of particular concern. Kansas Administrative Regulation 14-8-2 promulgated in 1949, authorized by 1949 Substitute for Senate Bill No. 9, states: "No advertisement of alcoholic liquor shall contain (c) any statement concerning the brand of alcoholic liquor that is inconsistent with any statement on the labeling thereof; and (d) any statement of the price of such alcoholic liquor if the advertisement is directed to the public." This is the same language in Kansas Administrative Regulation 14-8-2 today.</p> <p>In the last six or seven years, decisions by numerous State and Federal courts have struck down similar regulation in other locales. The Courts rejection of Statutes and Regulations prohibiting Price and Brand Advertising is premised on an ever growing recognition of the rights of commercial free speech. Kansas has yet to face a direct 1st amendment challenge to our regulations but considering the success of such challenges in other states, it seems certain that court action in this area is imminent. It is our recommendation that the Senate Federal and State affairs committee introduce a Concurrent Resolution striking the above language from Kansas Administrative Regulation 14-8-2. This will, in effect, bring the matter before the legislature for a thorough review, a reaffirmation or a revision of legislative intent.</p> <p>It is our further recommendation that Kansas Statute Annotated 41-714 should be reviewed, as it applies to signs, billboards, and handbills.</p>
6.	Should restrictions on business operations in the liquor industry that appear to be designed to protect the industry, not the public, be eliminated?	<p>A recommendation of the Legislative Post Audit Committee.</p> <p>The Post Audit draft report recognized that the underlying structure of liquor regulation in Kansas is based on the three-tier system. This system controls transactions in alcohol by clearly separating the supplier, distributor and retailer and closely monitoring any interaction between these tiers. Many of the statutes and regulations which appear to only protect the industry serve the important purpose of supporting and regulating this three-tier structure.</p>

ALCOHOLIC BEVERAGE CONTROL DIVISION

DEPARTMENT OF REVENUE

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Concerns or proposals for Legislative Action

The following are concerns or proposals for legislative action:

Number	Concern or proposal	Action
6. (cont'd)		<p>Any discussion of a specific regulation alleged to solely "protect the industry" must begin by an evaluation of its effect in maintaining the delicate balance which presently exists in this complex system of state control. The consumer and the citizens of Kansas are benefited by the state's maintenance of an orderly liquor market, even if that benefit is not obvious in a cursory review.</p> <p>However, some regulations and statutory revisions should be reevaluated to determine whether or not they contribute significantly to the state's maintenance of an orderly market. This includes transportation of alcoholic liquor by distributors (2:00 PM cutoff for placing orders, one (1) day delivery within seven (7) day period at minimum poundage), credit between licensees, insufficient fund checks, advertising, price marking on shelving and point of sale material, consumer rebates by suppliers, to mention a few. The Division would welcome any legislative guidance in this area.</p>
7.	Should the Liquor Control Investigators be brought under the Police and Fireman's Retirement Act?	<p>There appears to be no rational reason for the exclusion of Kansas Liquor Control Investigators from being included under the Police and Firearm's Retirement Act.</p> <p>The ABC agents are defined as police officers and receive 320 hours of mandatory police training at the Kansas Law Enforcement Training Center. In addition, each agent is required to receive 40 hours refresher training annually.</p> <p>We strongly recommend favorable consideration of this proposal.</p>
8.	Beer Distributor selling outside his designated Geographis territory.	<p>The problem is K.S.A 41-1101 which specifically excludes beer under discrimination. Sub-paragraph (3) of K.S.A 41-1101 should be amended to include beer distributors.</p>

ALCOHOLIC BEVERAGE CONTROL DIVISION

DEPARTMENT OF REVENUE

January 18, 1983

Concerns or proposals for Legislative Action

The following are concerns or proposals for legislative action:

Number	Concern or proposal	Action
9.	Should Supplier Refund coupons be authorized in Kansas?	<p>In the past year we have received several requests to approve Consumer refund coupons on Alcoholic Liquor. Our interpretation of the law is that supplier refund coupons, in connection with purchases, are not authorized. Refund coupons do induce and entice individuals to buy certain brands and possibly serve as a promotional tool to create more sales.</p> <p>At the present time, over half of the states authorize some type Consumer refund. (See Index of State Laws on Couponing).</p>
10.	Should Kansas Statutes be amended to allow the purchase of alcoholic liquor with Credit cards?	This is strictly a legislative matter, K.S.A. 41-717 prohibits the use of credit cards.
11.	Should Kansas Statutes be amended to allow for special or temporary permits or licenses for fund raisers, etc.?	<p>Political groups, fund raising organizations, conventioners and others are constantly wanting to host public orientated activities where liquor would be sold by the drink.</p> <p>While the constitutional prohibition against the "Open Saloon" must be kept in mind, it may be possible to draft legislation to allow the state more flexibility in this area.</p>
12.	Should Kansas statutes be amended to allow limited purchases of alcoholic liquors from out of state?	Prior to 1957, Kansas citizens were authorized to purchase and possess two (2) quarts of out-of-state liquor for their own family and personal use. K.S.A. 41-407 presently prohibits that practice.

ALCOHOLIC BEVERAGE CONTROL DIVISION

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Concerns or proposals for Legislative Action

The following are concerns or proposals for legislative action:

Number	Concern or proposal	Action
13.	Should the ABC Division be authorized an analyst to operate the Division information system and enforcement data center?	A recommendation of the Legislative Post Audit Committee. The ABC Division concurs that an analyst should be hired to sort and analyze the raw material gathered in the field by the ABC agents. This information would be a valuable tool for the enforcement bureau and would be used on a daily basis to monitor kinds of violations and when violations are occurring. Presently the KBI, Highway Patrol and other enforcement organizations have an analyst, such as was recommended by the Legislative Post Audit Committee.

COMPARISON OF CASE CHANGES - SPIRITS, WINE AND GRAND TOTALS

December 1, 1980 through November 30, 1981
through
December 1, 1981 through November 30, 1982

	Spirits Dec. 1, 1981 through Nov. 30, 1982	Spirits Dec., 1, 1980 through Nov. 30, 1981	Change in Spirits	Wine Dec. 1, 1981 through Nov. 30, 1982	Wine Dec. 1, 1980 through Nov. 30, 1981	Change in Wine	Total Dec. 1, 1981 through Nov. 30, 1982	Total Dec. 1, 1980 through Nov. 30, 1981	Change in Totals
A-B Sales, Inc. - Hutchinson	18,101	16,036	2,065	20,206	21,218	-(1,012)	38,307	37,254	1,053
A-B Sales, Inc. - Wichita	73,556	59,610	13,946	103,878	107,612	-(3,734)	177,434	167,222	10,212
Eastern - Overland Park	97,099	87,144	9,955	111,642	114,442	-(2,800)	208,741	201,586	7,155
Famous - Dodge City	9,449	31,810	-(22,361)	2,225	6,435	-(4,210)	11,674	38,245	-(26,571)
Famous - Lenexa	73,307	69,152	4,155	43,650	40,637	2,993	116,937	109,789	7,148
Famous - Salina	44,540	39,555	4,985	11,025	8,112	2,913	55,565	47,667	7,898
Famous - Topeka	75,842	72,840	3,002	37,592	33,258	4,334	113,434	106,098	7,336
Famous - Wichita	94,317	78,701	15,616	37,535	26,801	10,734	131,852	105,502	26,350
Grant-Billingsley - Wichita	35,890	41,321	-(5,431)	4,891	4,918	-(27)	40,781	46,239	-(5,458)
Kansas Distributors-Kansas City		18,071	-(18,071)		5,533	-(5,533)		23,604	-(23,604)
Standard - Dodge City	60,322	45,448	14,874	14,054	9,661	4,393	74,376	55,109	19,267
Standard - Great Bend	25,353	55,149	-(29,796)	7,213	14,463	-(7,250)	32,566	69,612	-(37,046)
Standard - Lenexa	105,835	110,919	-(5,084)	55,263	53,093	2,170	161,098	164,012	-(2,914)
Standard - Topeka	94,845	96,716	-(1,871)	48,716	47,450	1,266	143,561	144,166	-(605)
Standard - Wichita	164,332	162,637	1,696	72,839	70,251	2,588	237,172	232,888	4,284
State - Hays	43,597	42,518	1,079	45,201	44,330	871	88,798	86,848	1,950
State - Junction City	24,809	23,457	1,352	44,444	45,205	-(761)	69,253	68,662	591
Sunflower - Topeka	62,109	56,338	5,771	77,670	80,045	-(2,375)	139,779	136,383	3,396
TOTALS	1,103,304	1,107,442	-(4,138)	738,024	733,464	4,560	1,841,328	1,840,886	442