

Approved 3/16/83
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 March 15, 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
Emalene Correll, Legislative Research
June Windscheffel, Secretary to the Committee

Conferees appearing before the committee: Bill Schutte, General Counsel, Kansas Securities Commission
Jon Josserand, Assistant Secretary of State

The Chairman introduced Bill Schutte, who presented a draft of proposed legislation from the Kansas Securities Commission, which contains "a couple of changes in the Kansas Securities Act." Senator Morris moved that the proposed legislation be introduced as a committee bill. 2d by Senator Gannon. Motion carried. Copy of draft is a part of the record. (Attachment #1)

HB2520 - relating to secretary of state providing certain copies, documents and services to state and federal agencies.

Jon Josserand appeared concerning HB2520. He stated the bill is necessary as a result of SB7, to allow the secretary of state's office to charge fees to federal and state agencies who request photo copies. Senator Winter moved that the bill be recommended favorably for passage. 2d by Senator Parrish. Motion carried.

SB101 - relating to enacting the self-service storage act.

The Chairman called the committee's attention to SB101. A copy of the suggested amendments to the bill were distributed for the attention of the committee. Senator Morris moved to delete paragraph No. 5 from the proposed amendments, and to strike "certified" in item No. 8 of the proposed amendments, and that the amendment be adopted as amended. 2d by Senator Pomeroy. Motion carried.

Senator Winter made a conceptual motion that paragraph No. 5 be approved as an amendment to the bill with some change to make it agree with the concept of the landlord-tenant act.

Senator Pomeroy moved to adopt the amendment in paragraph #5. 2d by Senator Winter. No action was taken on the motion.

Senator Pomeroy suggested that staff balloon out the bill as it would be amended for the committee to consider, and that the committee then proceed from there.

Senator Francisco moved that a license fee of \$100 be attached to each business. 2d by Senator Gannon. Motion failed.

Senator Pomeroy moved that the owner be able to enter leased spaces. 2d by Senator Daniels. Motion carried.

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

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS,
room 254-E, Statehouse, at 11:00 a.m./~~p.m.~~ on March 15, 19 83

SB133 - relating to issuance of licenses to retail dealers of intoxicating liquors whose spouses employed in clubs licensed by the directors.

Director Kennedy appeared for the Alcoholic Beverage Control concerning SB133, and distributed a Memorandum dated February 23, 1983, concerning SB133, to the committee (Attachment #2) and made a part of the record. He called the committee's attention to page 2 of the memorandum which recommends that the bill be amended to prohibit the spouse of a retailer from being the person who makes the actual club purchase for the club and the actual delivery of the club order from the retailer.

Bill Strukel said that they had acted as suggested by the committee and had come back to make the suggested changes, and that this is it.

Senator Morris moved to accept the conceptual amendment concerning SB133. 2d by Senator Gannon. Motion carried. Senator Pomeroy asked that he be recorded as voting "no."

Senator Pomeroy moved that the bill be reported favorably as amended. 2d by Senator Morris. Motion carried.

SB186 - relating to exemption of wind surfers from life jacket requirements.

Senator Morris moved that the bill be reported unfavorably. 2d by Senator Roitz. Motion failed.

Senator Francisco moved that SB186 be reported favorably for passage. 2d by Senator Winter. Motion carried.

SB305 - liquor retailers license, residency requirements.

Director Kennedy appeared concerning SB305. He distributed material which is a part of the record. (Attachment #3)

Senator Pomeroy moved to reconsider action on SB133 as amended because it amends the same statute section. 2d by Senator Parrish. Motion carried.

Senator Gannon moved to amend SB305 by including SB133 as amended in it. 2d by Senator Pomeroy. Motion carried.

Senator Vidricksen moved that SB305 be reported favorably for passage. 2d by Senator Daniels. Motion carried.

Senator Pomeroy moved to report SB133 adversely. 2d by Sen. Francisco. Motion carried.

The meeting adjourned at 12:00 noon.

17-1262. Exempt transactions. Except as hereinafter in this section expressly provided, K.S.A. 17-1254, 17-1255, 17-1256, 17-1257, 17-1258, 17-1259 and 17-1260, and any amendments to such sections, shall not apply to any of the following transactions:

(a) . . .

(h) The issue of stock of a domestic corporation to not more than 15 incorporators . . . ~~Subsequent transfers of such stock by the owners thereof shall be subject to the provisions of the securities act, except to such extent that the same may be exempt under terms of subsection (a) of this section.~~

(m) Any ~~The~~ offer or sale by a Kansas corporation formed under the laws of the State of Kansas of any of its securities ~~within any period of 12 consecutive months to not more than 15 individuals, a husband and wife shall be considered one individual for the subsection~~ to a purchaser if the aggregate number of sales by the corporation in the twelve-month period ending on the date of the sale does not exceed 15 sales, if: (1) ~~The offerer~~ seller believes that ~~all of the purchasers are~~ is purchasing for investment; and (2) no commissions or other remuneration is paid or given, directly or indirectly, for soliciting ~~any~~ the purchaser ; and (3) neither the corporation nor any person acting on its behalf shall offer or sell the securities by any form of general solicitation

or general advertising, including, but not limited to, the following: (i) Any advertisement, article, notice or other communication published in any newspaper, magazine, or similar media or broadcast over television or radio; and (ii) Any seminar or meeting whose attendees have been invited by any general solicitation or general advertising.

In calculating the number of sales in a twelve-month period, sales made in violation of K.S.A. 17-1255, and sales exempt from registration pursuant to paragraphs (a), (h), or (m), of K.S.A. 17-1262, shall be taken into account.

For purposes of this exemption, a husband and wife shall be considered as one purchaser. A corporation, partnership, association, joint stock company, trust, or other unincorporated organization shall be considered as one purchaser unless it was organized for the purpose of acquiring the purchased securities. In such case each beneficial owner of equity interest or equity securities in the entity shall be considered a separate purchaser. The commissioner may withdraw this exemption or impose conditions upon its use. ~~The exemption provided by this section shall not be cumulative to or used in conjunction with any other exemption provided under this section. . .~~

(p) The offer or sale of units in a limited Kansas partnership formed under the laws of the State of Kansas where the number of limited partners does not exceed 15, and ~~each individual partner~~

~~and each individual in a partnership which is a limited partner in such partnership shall be counted toward the limit of 15, and a husband and wife shall be considered one individual for purposes of this subsection, and~~ if: (1) The offeror seller believes that all of the purchasers are purchasing for investment; and (2) ~~no advertising has been published in connection with any such sale~~ neither the issuer nor any person acting on its behalf shall offer or sell the securities by any form of general solicitation or general advertising, including, but not limited to the following: (i) Any advertisement, article, notice or other communication published in any newspaper, magazine, or similar media or broadcast over television or radio; and (ii) Any seminar or meeting whose attendees have been invited by any general solicitation or general advertising.

For the purpose of this exemption, a husband and wife shall be considered as one limited partner. A corporation, partnership, association, joint stock company, trust, or other unincorporated organization shall be considered as one limited partner unless it was organized for the purpose of acquiring the purchased securities. In such case each beneficial owner of equity interest or equity securities in the entity shall be considered a separate limited partner. Subsequent transfers of such units by the owners thereof shall be subject to the provisions of the securities act, except to such extent that the same may be exempt under the terms of subsection (a) of this section.

17-1262. Exempt transactions. Except as hereinafter in this section expressly provided, K.S.A. 17-1254, 17-1255, 17-1256, 17-1257, 17-1258, 17-1259 and 17-1260, and any amendments to such sections, shall not apply to any of the following transactions:

(a) . . .

(h) The issue of stock of a domestic corporation to not more than 15 incorporators . . . ~~Subsequent-transfers-of-such-stock by-the-owners-thereof-shall-be-subject-to-the-provisions-of-the securities-act, except-to-such-extent-that-the-same-may-be-exempt under-terms-of-subsection-(a)-of-this-section.~~

(m) ~~Any~~ The offer or sale by a Kansas corporation formed under the laws of the State of Kansas of any of its securities within any period of 12 consecutive months to not more than 15 individuals, a husband and wife shall be considered one individual for the subsection to a purchaser if the aggregate number of sales by the corporation in the twelve-month period ending on the date of the sale does not exceed 15 sales, if: (1) ~~The offerer~~ seller believes that ~~all-of~~ the ~~purchasers-are~~ is purchasing for investment; and (2) no commissions or other remuneration is paid or given, directly or indirectly, for soliciting ~~any~~ the purchaser ; and (3) neither the corporation nor any person acting on its behalf shall offer or sell the securities by any form of general solicitation

or general advertising, including, but not limited to, the following: (i) Any advertisement, article, notice or other communication published in any newspaper, magazine, or similar media or broadcast over television or radio; and (ii) Any seminar or meeting whose attendees have been invited by any general solicitation or general advertising.

In calculating the number of sales in a twelve-month period, sales made in violation of K.S.A. 17-1255, and sales exempt from registration pursuant to paragraphs (a), (h), or (m), of K.S.A. 17-1262, shall be taken into account.

For purposes of this exemption, a husband and wife shall be considered as one purchaser. A corporation, partnership, association, joint stock company, trust, or other unincorporated organization shall be considered as one purchaser unless it was organized for the purpose of acquiring the purchased securities. In such case each beneficial owner of equity interest or equity securities in the entity shall be considered a separate purchaser. The commissioner may withdraw this exemption or impose conditions upon its use. ~~The exemption provided by this section shall not be cumulative to or used in conjunction with any other exemption provided under this section. . .~~

(p) The offer or sale of units in a limited Kansas partnership formed under the laws of the State of Kansas where the number of limited partners does not exceed 15, and each individual partner

~~and each individual in a partnership which is a limited partner in such partnership shall be counted toward the limit of 15, and a husband and wife shall be considered one individual for purposes of this subsection,~~ and if: (1) The offeror seller believes that all of the purchasers are purchasing for investment; and (2) ~~no advertising has been published in connection with any such sale~~ neither the issuer nor any person acting on its behalf shall offer or sell the securities by any form of general solicitation or general advertising, including, but not limited to the following: (i) Any advertisement, article, notice or other communication published in any newspaper, magazine, or similar media or broadcast over television or radio; and (ii) Any seminar or meeting whose attendees have been invited by any general solicitation or general advertising.

For the purpose of this exemption, a husband and wife shall be considered as one limited partner. A corporation, partnership, association, joint stock company, trust, or other unincorporated organization shall be considered as one limited partner unless it was organized for the purpose of acquiring the purchased securities. In such case each beneficial owner of equity interest or equity securities in the entity shall be considered a separate limited partner. Subsequent transfers of such units by the owners thereof shall be subject to the provisions of the securities act, except to such extent that the same may be exempt under the terms of subsection (a) of this section.

MEMORANDUM

3/15/83
Attachment #2

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

FROM: THOMAS J. KENNEDY, Director, ABC Division

RE: Senate Bill No. 133

DATE: February 23, 1983

PURPOSE

Senate Bill 133, if enacted, is an act concerning alcoholic liquors and beverages; relating to licenses; amending K.S.A. 1982 Supp. 41-311 and repealing the existing section.

PERSPECTIVE

Senate Bill 133, if enacted in its present form, would authorize the spouse of a retail liquor store licensee to work in a licensed private club as a mixing, serving, selling or dispensing employee.

It would also authorize the spouse of a retail liquor store licensee to work in a club as the person who orders alcoholic liquors for the club and as a person who goes to the retail liquor store to pick up alcoholic liquors for the club.

K.S.A. 41-308 states that a retailer's license shall allow the licensee to sell and offer for sale at retail and deliver in the original package only in the premises specified in such license, alcoholic liquor including beer for use or consumption off of and away from the retailer's premises. The holder of a retailer's license shall not give away from the license premises any service or thing of value whatsoever except alcoholic liquor in the original package.

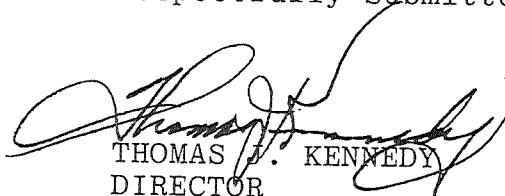
If this bill is enacted in its present form, it would permit the retail liquor store licensee to do something indirectly which he is otherwise prohibited from doing.

COMMENTS AND/OR RECOMMENDATIONS

Recommend that Senate Bill 133 be amended to prohibit the spouse of a retailer from being the person who makes the actual club purchase for the club and the actual delivery of the club order from the retailer.

The Director of Alcoholic Beverage Control is neither a proponent nor an opponent of this bill.

Respectfully submitted



THOMAS J. KENNEDY
DIRECTOR

Alcoholic Beverage Control Division

TJK:cjk

MEMORANDUM

3/15/83
Attachment #3

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

FROM: THOMAS J. KENNEDY, Director, ABC Division

RE: Senate Bill 305

DATE: March 9, 1983

PURPOSE

Senate Bill 305, if enacted in its present form, is an act concerning the Kansas Liquor Control Act; persons not to receive retailer's license; amending K.S.A. 1982 Supp. 41-311 and repealing the existing section.

PERSPECTIVE

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

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

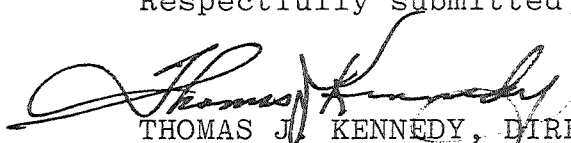
Presently, the residency requirement for an applicant for a retail liquor store license is five (5) years in the county immediately preceding date of application and ten (10) years in the state preceding date of application.

COMMENTS AND/OR RECOMMENDATIONS

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

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

Respectfully submitted,



THOMAS J. KENNEDY, DIRECTOR
Alcoholic Beverage Control Division