

Approved 3/18/83  
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Senator Bill Morris at  
Vice - Chairperson

11:00 a.m./~~p.m.~~<sup>XX</sup> on March 16, 1983 in room 254-E of the Capitol.

All members were present except: Senator Reilly, who was excused.

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

Conferees appearing before the committee: Thomas J. Kennedy, Director, Alcoholic Beverage Control

SB327 - relating to alcoholic liquors and beverages license and registration fee.

Chairman Morris directed the committee's attention to SB327, and Director Kennedy appeared to answer any questions from the committee. (Copies of his Memorandum concerning the bill are a part of the Minutes of March 3, 1983, as Attachment #4.) *Attch. 1*

Senator Gannon made the conceptual motion to increase the registration fee for private clubs from \$50 to \$100, and the annual renewal fee for private clubs from \$10 to \$50. 2d by Senator Francisco. Motion carried.

Senator Winter moved that SB327 be reported favorably for passage as amended. 2d by Senator Parrish. Motion carried.

SB328 - relating to class B private club reciprocity; standard to qualify.

Director Kennedy presented an overview of SB328 for the committee. (Copies of his Memorandum concerning the bill are a part of the Minutes of March 4, 1983, as Attachment #1.) *Attch. 2*

Senator Francisco moved to adopt the amendments with the exception that six months be changed to three months. (In the amendments in the attachments to Director Kennedy's Memorandum.) 2d by Senator Roitz. Motion carried.

Senator Roitz moved to conceptually remove all references to changing the requirements of gross receipts in food to 40% and take the percentage back to 50% where it appears. 2d by Senator Francisco. Motion carried.

Senator Winter moved that the bill be conceptually amended to include a definition of gross receipts that limited the gross receipts to only food and alcoholic beverages. 2d by Senator Pomeroy. Motion carried.

Senator Roitz moved that SB328 be recommended favorably for passage as amended. 2d by Senator Winter. Motion carried.

The Chairman announced that there was not enough time to consider SB329, and it would be taken up at a later date.

Senator Pomeroy moved that the Minutes of March 14 and 15, 1983, be approved. 2d by Senator Francisco. Motion carried.

Staff has prepared a balloon form for SB401. Also a sub-committee report will be taken up later.

The meeting adjourned at 12:00 noon.

Minutes of March 16, 1983  
Attachment #1

MEMORANDUM

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

FROM: THOMAS J. KENNEDY, Director, ABC Division

RE: Senate Bill 327

DATE: March 3, 1983

PURPOSE

Senate Bill 327, if enacted in its present form, is an act concerning alcoholic liquors and beverages; license and registration fees; amending K.S.A. 41-310 and 41-317 repealing the existing sections.

PERSPECTIVE

1. K.S.A. 41-310 concerns the annual license fees an applicant must pay for a license. This bill will:

- A. Increase a beer distributor's license for the first and each additional distributing place of business operated in this state by the same licensee and wholesaling or jobbing beer, containing more than 3.2% of alcohol by weight from \$150 to \$300.

Presently, there are 79 beer distributors in the state, therefore the amount collected from beer distributors for annual license fees will increase from \$11,850 to \$23,700.

- B. Increase retail liquor store license fees from \$100 to \$200.

Presently, there are 1,113 retail liquor store licensees in the state, therefore the amount collected from retail liquor stores for annual fees will increase from \$111,300 to \$222,600.

2. K.S.A. 41-317 concerns the amount of the state registration fee which must accompany each initial application for a license and the amount of renewal fees which must accompany each renewal application for a license under the provisions of the Liquor Control Act.

This bill, increased the registration fee from \$50 to \$100 and the renewal fee from \$10 to \$50.

3. All monies collected by the Director of Alcoholic Beverage Control are deposited to the State General Fund.

COMMENTS AND/OR RECOMMENDATIONS

The Legislative Post Audit stated: "A general fiscal policy applied to nearly every state fee-funded regulatory agency is that the cost of an agency's operations should be funded by the license fees and other receipts imposed on the regulated profession or industry. The Division of Alcoholic Beverage Control is not a fee-funded agency, but it seems reasonable that its fee structure should bear some relationship to its actual costs."

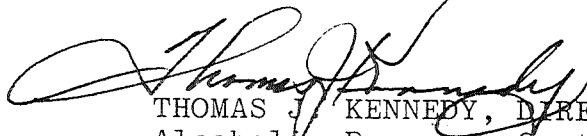
The Post Audit Report further states: "Part of the fees collected by the Division of Alcoholic Beverage Control are transferred to fund community alcoholism treatment programs. As a result, fee receipts fall short of covering the Division's regulatory program costs by a fairly substantial amount. In fiscal year 1981, this shortfall totaled \$382,740, or 35 percent of the Division's operating costs. The report recommends that the Legislature consider whether alcohol license and permit fee receipts should cover all costs of the regulatory program, including those moneys channeled to finance other funds."

As to increasing the annual license fees of beer distributor's and retail liquor store licensees, this is strictly a legislative policy matter and the Director of Alcoholic Beverage Control is neither a proponent nor an opponent of this matter.

The Director of Alcoholic Beverage Control strongly recommends approval of the increase in registration fees and renewal fees for licenses under the Liquor Control Act. The present fee structure has been in effect since 1949 and the costs of processing applications have increased significantly as shown on enclosure #1 of this memorandum.

The Director further recommends that Senate Bill No. 327 be amended to include private clubs under the provisions of K.S.A. 41-2606 as it relates to registration fees and renewal fees, by increasing the registration fee from \$50 to \$100 and the renewal fee from \$10 to \$50. The same amount of work is involved in processing an application for a private club license as it is for a license under the Liquor Control Act. (K.S.A. 41-317).

Respectfully submitted,



THOMAS J. KENNEDY, DIRECTOR  
Alcoholic Beverage Control Division

## Reasons for increasing Registration fees:

<u>Processing Cost of NEW Applications for License</u>	<u>Cost for Labor</u>	<u>Postage</u>	<u>Total</u>
1. Mail Application to Applicant 5 min. @ 5.28	\$ .45	\$ .80	\$ 1.25
2. Cost of handling application in Fiscal & Quality and Control 10 min. @ 6.27	1.00		1.00
3. Enter in Ledger and Check Application 15 min @ 5.28	1.35		1.35
4. Lease Checked by Law Clerk 20 min. @ 6.73	2.20		2.20
5. Write Correction Letter and File Some require 3 letters 15 min @ 5.28	1.35	.60	1.95
6. When Correction is read, request is checked 10 min @ 5.28	.90		.90
7. Type hearing notices Mail to Applicant, City Clerk, County Attorney 10 min. @ 5.28	.90	.60	1.50
8. Type Investigation Notice and Mail to Agent 5 min. @ 5.28	.45	.20	.65
9. Agents time required to check Applicant 2 hours @ 9.28 Time and Mileage	18.56 9.00		18.56 9.00
10. Cost to hold hearing Administrative Personnel	20.00		20.00
11. License Typed & Documents filed 15 min. @ 5.28	1.35		1.35
12. Cost of delivery by Agent Time and Mileage	9.28 9.00		9.28 9.00
13. Type Insurance Notice of Effective Bond Date 5 min. @ 5.28 Postage	.45		.45
		<u>.20</u>	<u>.20</u>
TOTALS	\$76.24	\$ 2.40	\$78.64

Renewal costs would be slightly over half this amount.

*Minutes of March 16, 1983  
Attachment #2*

MEMORANDUM

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

FROM: THOMAS J. KENNEDY, Director, ABC Division

RE: Senate Bill 328

DATE: March 4, 1983

PURPOSE

Senate Bill 328, if enacted in its present form, is an act concerning licensing and regulation of certain clubs; reciprocal privileges; amending K.S.A. 41-2601 and 41-2624 and repealing the existing sections.

PERSPECTIVE

1. K.S.A. 41-2601 relating to Definitions, defines "Restaurant" to mean a licensed food service establishment, as defined by K.S.A. 1979 Supp. 36-501 and amendments thereto, which, as determined by the director, derives not less than fifty percent (50%) of its gross receipts in each calendar year from the sale of food for consumption on the club premises.

Senate Bill 328 amends this definition of restaurant as used in K.S.A. 41-2637, the 50% standard of gross receipts in food shall be reduced to 40%.

K.S.A. 41-2637 states: "any two or more class A clubs, or any two or more class B clubs which are restaurants, may permit, by an agreement filed with and approved by the director, the members of each such club to have access to all other clubs which are parties to such agreement. The privileges extended to the visiting members of other clubs under such an agreement shall be determined by the agreement, and, if the agreement so provides, any club which is a party to such agreement may sell and offer for sale, to any person who is a member of another club which is a party to such agreement, alcoholic liquor for consumption on the licensed premises by such person or by guests accompanying such person."

2. K.S.A. 41-2624 relates to multiple licensing for class "B" clubs. This statute states that 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. 36-501 and amendments thereto, may be issued to a person who holds licenses for other class "B" clubs located in licensed food service establishments, if not less than 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.

Senate Bill 328 reduces this 50% requirement to 40%.

COMMENTS AND/OR RECOMMENDATIONS


Senate Bill 328 is a good bill and we recommend it be favorably considered.

The Director of Alcoholic Beverage Control recommends that K.S.A. 41-2637 be amended to provide that class B clubs are prohibited from forming new corporations, which they presently are doing, to circumvent the intent and spirit of the gross receipts from food requirements.

The Director further recommends that language be added to K.S.A. 41-2637 to authorize the Director to review gross receipts from food sales quarterly or bi-annually so that we could legally take appropriate remedial action against those clubs who frequently abuse the privilege of reciprocity.

Attached hereto is sample language for amending K.S.A. 41-2637 by adding new section c and d to implement the above proposals.

Respectfully submitted,

  
THOMAS J. KENNEDY, DIRECTOR  
Alcoholic Beverage Control Division

TJK:cjk

Amendments to K.S.A. 41-2637

- c. After ~~six months~~ <sup>3 months</sup> of reciprocity, if a class "B" club's percentage of food sales is not within 10% of the annual required percentage of food sales to gross sales, the director may revoke the club's reciprocity status. Nothing contained herein prevents the director from revoking the club's reciprocity status at any time should the director determine that a club has failed to make a good faith effort to meet the requirements of reciprocity.
- d. No class "B" club is eligible to participate in reciprocity agreements if any stockholder owning more than 5% of the outstanding shares of the corporation holding the club license, or if any officer or director of the corporation holding the club license was a stockholder, officer, or director of any other corporation holding a club license under this act for the same premises, address, or location, which filed a gross receipts affidavit and failed to meet the requirements of reciprocity within the two years previous to the date of the filing of a current gross receipts affidavit.