

Approved \_\_\_\_\_

3/28/83  
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 22, 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: General Thomas J. Kennedy, Director, Alcoholic  
Beverage Control

With the agreement of Senator Winter and Senator Francisco, who had motions pending on SB401, the committee agreed that the previous motions would be withdrawn and matters dealing with SB401 would be expunged from the Minutes of March 21, 1983.

SB101 - relating to the self-service storage act.

The Chairman called the committee's attention to SB101, which had last been considered on March 15, 1983. Staff had prepared a balloon of the bill for the committee, and it was distributed and discussed. (Attachment #A-1)

Senator Pomeroy moved that SB101 be recommended favorably for passage as amended. 2d by Senator Parrish. Motion carried.

SB401 - relating to revising bingo statutes for greater regulation and clarifying enforcement.

Senator Winter moved to delete on page 6 of SB401 the limitations, on lines 226, 227, and 228. 2d by Senator Pomeroy. Motion carried.

Then Senator Winter distributed a balloon showing amendments on page 2 of SB401 and moved they be approved. 2d by Senator Francisco. Motion carried. (Attachment #A-2)

Senator Pomeroy moved to amend the balloon by excluding the rules and regulations requirement in sub-part 2. 2d by Senator Gannon. Motion carried.

Senator Pomeroy moved that the bill be amended by adopting the amendments shown in the balloon. 2d by Senator Winter. Motion carried.

Senator Winter moved that the \$1.00 per card charges specified in the bill in sub-section (i) on page 5 be reduced from \$1.00 to fifty cents in all four instances. 2d by Senator Meyers. Motion carried.

Senator Pomeroy moved that the bill be amended for general clean-up by the Revisor of Statutes. 2d by Senator Francisco. Motion carried.

Senator Meyers moved that SB401 be reported favorably for passage as amended. 2d by Senator Francisco. Motion carried.

SB264 - relating to amendments to the real estate brokers' and salespersons' license act.

Senator Pomeroy moved to reconsider the committee action on SB264. 2d by Senator Parrish. Motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS,  
room 254-E, Statehouse, at 11:00 a.m./~~xxxx~~ p.m. on March 22, 1983

Senator Pomeroy moved to further amend SB264 by restoring the requirements in subsection (c) 58-3049, relating to requirements when a license has been deactivated. 2d by Senator Morris. Motion carried.

Senator Pomeroy moved to report SB264 favorably for passage as amended. 2d by Senator Gannon. Motion carried.

SCR 1613 - relating to modifying rules and regulation of secretary of revenue, alcoholic beverages, trade practices.

The Chairman requested General Kennedy to appear on the matter and General Kennedy's comments were distributed to the committee. They are a part of the record (Attachment #1). and (Attachment #2).

Time ran out and the meeting adjourned at 12:00 noon.

SENATE BILL No. 101

By Senator Rehorn

1-26

Meeting of 3/22/83  
Attachment #A-1

0017 AN ACT enacting the self-service storage act; amending K.S.A.  
0018 84-7-101 and repealing the existing section.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. K.S.A. 84-7-101 is hereby amended to read as fol-  
0021 lows: 84-7-101. This article shall be known and may be cited as  
0022 uniform commercial code — documents of title. *To the extent that*  
0023 *article 7 of chapter 84 of Kansas Statutes Annotated is in conflict*  
0024 *with the other sections of this act, the other sections of this act*  
0025 *shall control in respect to the matters covered by the self-service*  
0026 *storage act.*

0027 New Sec. 2. Sections 2 to 7, inclusive, of this act shall be  
0028 known and may be cited as the self-service storage act.

0029 New Sec. 3. In the self-service storage act the following  
0030 words shall mean the following:

0031 (a) "Self-service storage facility" means any real property  
0032 used for renting or leasing individual storage spaces in which the  
0033 occupants themselves customarily store and remove their own  
0034 personal property on a self-service basis.

0035 (b) "Rental agreement" means any written statement that es-  
0036 tablishes or modifies the terms, conditions or rules concerning  
0037 the use and occupancy of a self-service storage facility.

0038 (c) "Leased space" means the individual storage space at the  
0039 self-service facility which is rented to an occupant pursuant to a  
0040 rental agreement.

0041 (d) "Occupant" means a person, a sublessee, successor or  
0042 assign, entitled to the use of a leased space at a self-service storage  
0043 facility under a rental agreement.

0044 (e) "Operator" means the owner, operator, lessor or sublessor  
0045 of a self-service storage facility, an agent or any other person

0046 authorized to manage the facility, except that "operator" does not  
 0047 mean a warehouseman, unless the operator issues a warehouse  
 0048 receipt, bill of lading, or other document of title for the personal  
 0049 property stored.

0050 (f) "Personal property" means movable property, not affixed  
 0051 to land, and "personal property" includes, but is not limited to,  
 0052 goods, wares, merchandise, motor vehicles, watercraft, household  
 0053 items and furnishings.

0054 (g) "Default" means the failure to perform on time any obli-  
 0055 gation or duty set forth in the rental agreement.

0056 (h) "Last-known address" means that address provided by the  
 0057 occupant in the rental agreement or the address provided by the  
 0058 occupant in a subsequent written notice of a change of address.

0059 New Sec. 4. (a) An operator may not knowingly permit a  
 0060 leased space at a self-service storage facility to be used for  
 0061 residential purposes.

0062 (b) An occupant may not use a leased space for residential  
 0063 purposes.

0064 New Sec. 5. (a) The operator of a self-service storage facility  
 0065 has a lien on all personal property stored within each leased space  
 0066 for rent, labor or other charges, and for expenses reasonably  
 0067 incurred in its sale, as provided in the self-service storage act.

0068 (b) The rental agreement shall contain a statement, in bold  
 0069 type, advising the occupant:

0070 (1) Of the existence of the lien; and

0071 (2) that property stored in the leased space may be sold to  
 0072 satisfy the lien if the occupant is in default.

0073 New Sec. 6. (a) (1) If the occupant is in default for a period of  
 0074 more than 60 days, the operator may enforce the lien by selling  
 0075 the property stored in the leased space ~~at a public sale~~ for cash.

0076 (2) The proceeds of such sale shall then be applied to satisfy  
 0077 the lien, with any surplus disbursed as provided in subsection (e).

0078 (b) Before conducting a sale under subsection (a), the operator  
 0079 shall:

0080 (1) Notify the occupant of the default by regular mail at the  
 0081 occupant's last-known address;

0082 (2) send a second notice of default by ~~certified~~ mail to the

(c) An operator may enter leased space at times reasonably necessary.

45

Sale of the property stored on the premises may be by public or private proceedings and may also be as a unit or in parcels, or by way of one or more contracts and at any time or place, and on any terms as long as the sale is commercially reasonable. The operator may otherwise dispose of any property which has no commercial value.

0083 occupant at the occupant's last-known address which includes:

0084 (A) A statement that the contents of the occupant's leased  
0085 space are subject to the operator's lien;

0086 (B) a statement of the operator's claim, indicating the charges  
0087 due on the date of the notice, the amount of any additional  
0088 charges which shall become due before the date of sale and the  
0089 date those additional charges shall become due;

release for

0090 (C) a demand for payment of the charges due within a speci-  
0091 fied time, not less than 14 days after the date of the notice;

10

0092 (D) a statement that unless the claim is paid within the time  
0093 stated, the contents of the occupant's space will be sold ~~at a~~  
0094 ~~specified time and place~~; and

after a specified time

0095 (E) the name, street address and telephone number of the  
0096 operator, or a designated agent whom the occupant may contact to  
0097 respond to the notice.

0098 (3) At least ~~three~~ days before the sale, advertise the time, place  
0099 and terms of the sale in a newspaper of general circulation in the  
0100 jurisdiction where the sale is to be held.

seven

0101 (c) At any time before a sale under this section, the occupant  
0102 may pay the amount necessary to satisfy the lien and redeem the  
0103 occupant's personal property.

Such advertisement shall be in the classified section of the newspaper under the heading "personals". The ad shall state that the items will be released for sale.

0104 ~~(d) The sale under this section shall be held at the self-service~~  
0105 ~~storage facility where the personal property is stored.~~

0106 ~~(e)~~ If a sale is held under this section, the operator shall:

(d)

0107 (1) Satisfy the lien from the proceeds of the sale; and

0108 (2) hold the balance, if any, for delivery on demand to the  
0109 occupant or any other recorded lienholders.

for a period of six months after receipt of proceeds of the sale and payment of all costs

0110 ~~(f)~~ A purchaser in good faith of any personal property sold  
0111 under the self-service storage act takes the property free and clear  
0112 of any rights of:

(e)

0113 (1) Persons against whom the lien was valid; and

0114 (2) other lienholders.

0115 ~~(g)~~ If the operator complies with the provisions of the self-  
0116 service storage act, the operator's liability:

(f)

0117 (1) To the occupant shall be limited to the net proceeds  
0118 received from the sale of the personal property, and

0119 (2) to other lienholders shall be limited to the net proceeds

0119 received from the sale of any personal property covered by the  
0121 other lien.

0122 ~~(h)~~ If an occupant is in default, the operator may deny the  
0123 occupant access to the leased space. (g)

0124 ~~(i)~~ Unless otherwise specifically provided, all notices re-  
0125 quired by the self-service storage act shall be sent by certified  
0126 mail. Notices sent to the operator shall be sent to the self-service  
0127 storage facility where the occupant's property is stored. Notices to  
0128 the occupant shall be sent to the occupant at the occupant's  
0129 last-known address. Notices shall be deemed delivered when  
0130 deposited with the United States postal service, properly ad-  
0131 dressed as provided in subsection (b), with postage prepaid.

0132 New Sec. 7. Unless the rental agreement specifically pro-  
0133 vides otherwise and until a lien sale under the self-service storage  
0134 act, the exclusive care, custody and control of all personal prop-  
0135 erty stored in the leased self-service storage space remains vested  
0136 in the occupant.

0137 New Sec. 8. All rental agreements, entered into before July 1,  
0138 1983, which have not been extended or renewed after that date,  
0139 shall remain valid and may be enforced or terminated in accord-  
0140 ance with their terms or as permitted by any other statute or law  
0141 of this state.

0142 Sec. 9. K.S.A. 84-7-101 is hereby repealed.

0143 Sec. 10. This act shall take effect and be in force from and  
0144 after its publication in the statute book.

Meeting of 3/22/83  
Attachment #A-2

0046 bond to appear in court to answer charges for any such violation,  
0047 within the five years immediately prior to the date of such  
0048 organization's application for a license;

0049 (2) at the time of application for renewal of a bingo license  
0050 issued hereunder would not be eligible for such license upon a  
0051 first application.

0052 (c) An application for a license required under the provisions  
0053 of this act shall be accompanied by a fee of \$25 and if such  
0054 organization is to conduct bingo on any leased premises, the  
0055 terms of the lease shall be reduced to writing and a copy of the  
0056 lease shall be submitted to the secretary of revenue. The secre-  
0057 tary of revenue shall have the power and authority to approve or  
0058 disapprove any lease submitted. No lease, which has been ap-  
0059 proved by the secretary of revenue, shall be amended, modified  
0060 or renewed in any manner until such amendments, modifications  
0061 or renewals of such lease have been approved by and are on file  
0062 with the secretary of revenue. ~~No lease shall have a rental cost  
0063 more than the fair and reasonable rental value as determined by  
0064 the secretary of revenue. In no event shall the rental cost for any  
0065 session of bingo exceed 50% of the net proceeds for such session  
0066 after payment of prizes and taxes or the fair and reasonable rental  
0067 value determined by the secretary of revenue for any session of  
0068 bingo, whichever is the lesser, but such 50% restriction shall be  
0069 waived by the secretary if the restriction would result in a rental  
0070 amount substantially lower than the fair and reasonable rental  
0071 value as determined by the secretary. Any rent beyond that  
0072 which is fair and reasonable for rental of a premises for the  
0073 purpose of managing, operating or conducting games of bingo as  
0074 determined by the secretary of revenue shall not be approved.~~  
0075 Each license issued shall expire at midnight on June 30 follow-  
0076 ing its date of issuance. A licensee may hold only one license and  
0077 that license is valid for only one location. However, any licensee  
0078 may operate or conduct games of bingo, not to exceed five days  
0079 in any one year, at locations other than that specified in the  
0080 license and if any licensee does operate or conduct games of  
0081 bingo under this provision at a location other than that specified  
0082 in the license, such licensee shall submit a written notification to

No lease submitted to the secretary of revenue shall be approved unless:

(1) The rental cost of the premises itself is fair and reasonable and, in no event, shall the rent charged be based upon proceeds from bingo games. The rental costs so charged shall be substantiated to the secretary of revenue under rules and regulations adopted by the secretary.

(2) Any costs additional to the costs under paragraph (1) of this subsection (c) which are to be borne by the lessee shall reflect the actual costs incurred by the lessor and shall first be substantiated to the secretary of revenue in accordance with rules and regulations adopted by the secretary.

(3) No costs shall be borne by the lessee unless such costs are enumerated in the lease submitted to the secretary of revenue.

*Minutes of 3/22/83  
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 Concurrent Resolution No. 1613

DATE: February 25, 1983

PURPOSE

Senate Concurrent Resolution No. 1613, if enacted, concerns trade practices for alcoholic beverages; modifying Kansas Administrative Regulation 14-10-1a, which will be effective May 1, 1983.

PERSPECTIVE

This concurrent resolution corrects a double meaning as it pertains to product display and point of sale materials furnished by a distributor to a retailer.

Your attention is invited to lines 28, 29, 30 and 31 which states: "The total value of all product displays furnished by a distributor to any one retailer, which are in use at any one time, shall not exceed \$109 per brand per calendar year." The words "in use at any one time" and "per calendar year" have opposite meanings, therefore, the words "per calendar year" should be deleted to correspond to applicable federal regulations.

Your attention is further invited to lines 44, 45, 46 and 47 which states: "The total value of all point of sale material furnished by a distributor to any one retailer, which is in use at any one time, shall not exceed \$109 per brand per calendar". The words "in use at any one time" and "per calendar year" have opposite meanings, therefore, the words "in use at any one time" should be deleted to correspond to applicable federal regulations. In addition, the word "year" should be added after "per calendar" to read "per calendar year".

Additionally, your attention is invited to lines 37 and 53 which state: "\$109 per brand per calendar year." The words "per calendar year" should be deleted as this refers to pooling or combining of the dollar limitation.

COMMENTS AND/OR RECOMMENDATIONS

The Joint Committee of the Legislature and the Director of Alcoholic Beverage Control both recognized the conflict in the above statements and agreed that a change should be made in the regulation to correspond to applicable federal regulations.

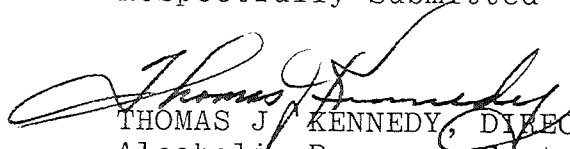


Recommend that:

- a. On line 31, the words "per calendar year" should be deleted.
- b. On line 37, the words "per calendar year" should be deleted.
- c. On line 53, the words "per calendar year" should be deleted.
- d. On lines 46 and 47, that the words "which is in use at any one time" should be deleted and the words "per calendar" to include "year" be added.

The reason for this recommendation is that the above language will then parallel the Federal Bureau of Alcohol, Tobacco and Firearms Regulations.

Respectfully submitted

  
THOMAS J. KENNEDY, DIRECTOR  
Alcoholic Beverage Control Division

TJK:cjk

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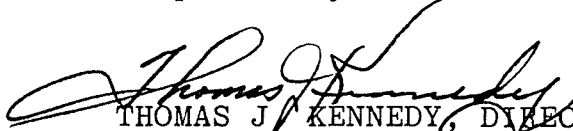
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Alcoholic Beverage Control Division

TJK:cjk

14-1-1. Definitions. As used in these rules and regulations, unless the context clearly requires otherwise, the following words and phrases shall have the meanings ascribed to them in this section: (1) (a) "Church" means a building owned or leased by a religious organization and used exclusively as a place for religious worship and other activities ordinarily conducted by a religious organization.

(2) (b) "Public bonded liquor warehouse" shall-mean means a public bonded warehouse bonded and licensed as-provided in accordance with K.S.A. 82-161 through 82-171, both sections inclusive, within-the-state-of-Kansas and any amendments to those statutes. and-which-warehouse-shall-have-filed-with the-director-a-corporate-surety-bond-in-the-amount-to-be-fixed-by the-director,-but-never-less-than-\$15,000.00,-executed-by-a company-authorized-to-do-business-in-this-state-and-signed-by a-resident-agent,-conditioned-that-said-licensed-and-bonded warehouse-will-in-all-respects-comply-with-the-provisions-of-the Kansas-liquor-control-act-and-the-rules-and-regulations-of-the director-insofar-as-the-same-are-applicable-to-said-warehouse.

(3) (c) "Premises" shall-mean means only-the-area-contained within-the-upright-structure,-or-portion-thereof,-being the room or rooms contained within the upright structure and specifically designated in the diagram in the application for license wherein the applicant desires authorization to conduct the licensed business and not the surrounding real estate owned or leased by the licensee.

**APPROVED**

ATTORNEY GENERAL

By RJB Asst.  
11-12-82

DEPT. OF ADMINISTRATION APPROVED

BY FJH DATE 11/02/82

(4) (d) "Intoxicated" means the state or condition of being under the influence of alcoholic liquor, cereal malt beverage, narcotics or other drugs to the extent that the individual does not have the normal use of physical or mental faculties; in this condition the individual is rendered incapable of acting in the manner in which an ordinary, prudent, and cautious person who is in full possession of their faculties, and who is using reasonable care, would act under like conditions.

(5) (e) "Incapacitated" means impaired by reason of mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of alcoholic liquor, cereal malt beverage or other drugs to the extent that sufficient understanding or capacity to make or communicate responsible decisions is lacking.

(f) "Furnishings, fixtures or equipment" means counters, permanent shelves, cash registers, carpeting, televisions, radios, desks, chairs, stools, refrigerators, coolers or any other durable item. Furnishing, fixtures or equipment shall not include any product display.

(g) "Interior decoration" means any durable ornament, picture, plaque, mechanical device or other item intended to adorn or beautify the interior of any licensed retailer liquor premises. Interior decoration shall not include any point of sale material.

(h) "Product display" means any nondurable device, including temporary shelves, stackers, poles, bins and racks, in or upon which containers of alcoholic liquor may be placed, and which identifies specifically any manufacturer's brand and bears conspicuous and substantial advertising matter.

DEPT. OF ADMINISTRATION APPROVED  
BY JH DATE 1/2/10

APPROVED  
ATTORNEY GENERAL  
R. S. S.

(i) "Point of sale material" means any poster, plaque, picture or similar item made of paper, cardboard, or plastic, which identifies specifically any manufacturer's brand. Point of sale material shall not include advertising specialities such as trays, coasters, mats, name cards, meal checks, paper napkins, foam scrapers, back bar mats, thermometers, cameras, binoculars, mirrors, clocks, calendars, ash trays, bottle or can openers, corkscrews, umbrellas, shopping bags, matches, pamphlets, cards, leaflets, blotters, postcards, pencils and other similar items. (Authorized by K.S.A. 41-210, 41-211; implementing K.S.A. 41-401, 41-402, 41-403, 41-404, 41-405, 41-406, 41-409, 41-701, 41-703, 41-710, 41-713, 41-714, 41-715, 41-803, 41-1126; effective Jan. 1, 1966; amended Feb. 15, 1977; amended May 1, 1983.)

**APPROVED**

ATTORNEY GENERAL

By RJB Asst.  
11-12-82

DEPT. OF ADMINISTRATION APPROVED  
BY FJL DATE 11/10/82

Attachment #2  
3/22/83

MEMORANDUM

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Chairman, Senate Federal and State Affairs Committee

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DATE: February 25, 1983

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COMMENTS AND/OR RECOMMENDATIONS

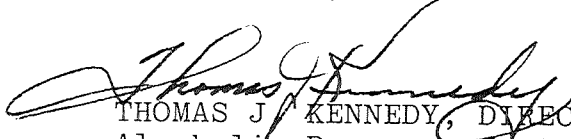
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Respectfully submitted



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Alcoholic Beverage Control Division

TJK:cjk



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**APPROVED**

ATTORNEY GENERAL

By RJB Asst.  
11-12-82

DEPT. OF ADMINISTRATION APPROVED

BY FJH DATE 11/12/82

(4) (d) "Intoxicated" means the state or condition of being under the influence of alcoholic liquor, cereal malt beverage, narcotics or other drugs to the extent that the individual does not have the normal use of physical or mental faculties; in this condition the individual is rendered incapable of acting in the manner in which an ordinary, prudent, and cautious person who is in full possession of their faculties, and who is using reasonable care, would act under like conditions.

(5) (e) "Incapacitated" means impaired by reason of mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of alcoholic liquor, cereal malt beverage or other drugs to the extent that sufficient understanding or capacity to make or communicate responsible decisions is lacking.

(f) "Furnishings, fixtures or equipment" means counters, permanent shelves, cash registers, carpeting, televisions, radios, desks, chairs, stools, refrigerators, coolers or any other durable item. Furnishing, fixtures or equipment shall not include any product display.

(g) "Interior decoration" means any durable ornament, picture, plaque, mechanical device or other item intended to adorn or beautify the interior of any licensed retailer liquor premises. Interior decoration shall not include any point of sale material.

(h) "Product display" means any nondurable device, including temporary shelves, stackers, poles, bins and racks, in or upon which containers of alcoholic liquor may be placed, and which identifies specifically any manufacturer's brand and bears conspicuous and substantial advertising matter.

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(i) "Point of sale material" means any poster, plaque, picture or similar item made of paper, cardboard, or plastic, which identifies specifically any manufacturer's brand. Point of sale material shall not include advertising specialities such as trays, coasters, mats, name cards, meal checks, paper napkins, foam scrapers, back bar mats, thermometers, cameras, binoculars, mirrors, clocks, calendars, ash trays, bottle or can openers, corkscrews, umbrellas, shopping bags, matches, pamphlets, cards, leaflets, blotters, postcards, pencils and other similar items. (Authorized by K.S.A. 41-210, 41-211; implementing K.S.A. 41-401, 41-402, 41-403, 41-404, 41-405, 41-406, 41-409, 41-701, 41-703, 41-710, 41-713, 41-714, 41-715, 41-803, 41-1126; effective Jan. 1, 1966; amended Feb. 15, 1977; amended May 1, 1983.)

**APPROVED**

ATTORNEY GENERAL

By RJB Asst.  
11-12-82

DEPT. OF ADMINISTRATION APPROVED  
BY FJL DATE 11/10/82