

Approved April 4, 1983
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

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

11:00 a.m./~~p.m.~~ on March 29, 1983 in room 254-E of the Capitol.

All members were present ~~except~~:

Committee staff present: Arden Ensley, Revisor of Statutes
Russell Mills, Legislative Research
Emalene Correll, Legislative Research
June Windscheffel, Committee Secretary

Conferees appearing before the committee: Rep. Stephen R. Cloud, Chairman, Governmental Organization
Thomas J. Kennedy, Director, Alcoholic Beverage Control
Floyd Rogers, American Legion
John Peterson, Wine Institute
Bob Tilton, Wine Institute

HB2504 - relating to alcoholic liquor, purchase or possession, unlawful acts, penalties.

The Chairman introduced Rep. Cloud, who had been unable to attend yesterday's meeting. As HB2504 emanated from House Governmental Organization, Rep. Cloud was interested in addressing it. He stated that as the law now stands that if a juvenile is caught purchasing liquor he often gets off without any penalty if he is willing to testify before an ABC hearing in an attempt to revoke the license. The committee felt that this legislation is a middle ground, and will make it tougher on the buyer. Rep. Cloud said that he carried it on the floor of the House and there was overwhelming favor.

HB2505 - alcoholic beverages, license fees.

Rep. Cloud also appeared in favor of HB 2505

General Kennedy distributed a Memorandum concerning HB2505, dated March 29, 1983, which is a part of the record. (Attachment #1) He said that he strongly recommends approval of the increase in registration fees and renewal fees for both licenses under the Liquor Control Act and the Club Licensing Act. He is neither a proponent or opponent of increasing class "A" club license fees, and feels this is strictly a legislative matter.

The Chairman recognized Tom Green. He said that his organization does not oppose the increase in registration and renewal fees; however, if the legislature is going to look at license fees as a way of raising revenue they think this is getting into a whole new ball game.

Floyd Rogers appeared as an opponent of HB2505. He stated that raising the license from \$250 is a bit strong for his organization, The American Legion. He said that many of their posts throughout the state are small posts, trying to abide by the rules and regulations of the ABC, and the posts are encouraged to have class "A" licenses if they are going to serve drinks. Many of them operate only on Friday and Saturday. Therefore, they are in opposition to raising the license fees.

John Peterson was recognized, and distributed information concerning the Wine Institute (Attachment #2) and a proposed amendment to HB2505 (Attachment #3), both of which are a part of the record. The proposed amendment inserts K.S.A. 41-502 and it further amends 41-502 by adding "and brandy" to wine as being exempt from having to have state tax stamps attached thereto. Bob Tilton also answered questions from the committee concerning the amendment.

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 29, 1983.

Senator Meyers moved that the amendment be adopted and to make it conform to the language and style prescribed by the Legislative Coordinating Council, 2d by Senator Parrish.

Senator Winter moved to amend HB2505 to put in the same provisions that were in SB327. 2d by Senator Vidricksen. Discussion by the committee.

The meeting adjourned at 12:00 noon.

MEMORANDUM

Attachment #1
3/29/81

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

FROM: THOMAS J. KENNEDY, Director, ABC Division

RE: House Bill No. 2505

DATE: March 29, 1983

PURPOSE

House Bill 2505, if enacted in its present form, is an act concerning alcoholic beverages; relating to fees charged for certain licenses; amending K.S.A. 41-317, 41-2606 and 41-2622 and repealing the existing sections.

PERSPECTIVE

K.S.A. 41-317 concerns the amount of the State registration fees 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 increases the registration fee to \$100 and the renewal fee to \$50.

Presently, registration fees are \$50 and renewal fees are \$10.

K.S.A. 41-2606 concerns the amount of the State registration fee which must accompany each initial application for a private club license and the amount of renewal fees which must accompany each renewal application for a private club license under the provisions of the Club Licensing Act. This bill increases the registration fee to \$100 and the renewal fee to \$50.

Presently, registration fees are \$50 and renewal fees are \$10.

K.S.A. 41-2622 concerns the annual license fee for a Class "A" club license. This bill will increase the annual license fee for a Class "A" club license to \$500.

Presently, the annual license fee for a Class "A" club license is \$250.

COMMENTS AND/OR RECOMMENDATIONS

The Director of Alcoholic Beverage Control strongly recommends approval of the increase in registration fees and renewal fees for both licenses under the Liquor Control Act and the Club Licensing Act.

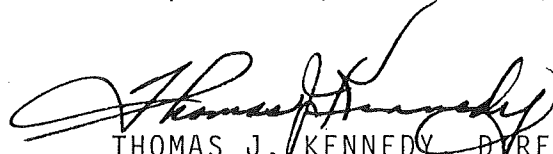
The present fee structure has been in effect since 1949 and the costs of processing applications have increased significantly. Reasons for increasing registration and renewal fees are shown on enclosure #1 of this memorandum.

As to increasing the annual license fee of Class "A" clubs, this is strictly a legislative matter. The Legislative Post Audit Report pointed out that: "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."

The Director of Alcoholic Beverage Control is neither a proponent or opponent of that portion of the bill pertaining to increasing Class "A" club license fees.

Respectfully submitted,



THOMAS J. KENNEDY, DIRECTOR
Alcoholic Beverage Control Division

TJK:bf
Encl.

Enclosure #1 for HB 2505

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.

Attachment #2
3/29/83

WINE INSTITUTE

Kansas currently does not require tax stamps on wine. When wine stamps were removed through an oversight brandy was not included.

Brandy is made by wineries and requiring tax stamps to be affixed manually is very costly to the wineries.

In fiscal year 1982, sales of brandy amounted to 12,354 cases in Kansas.

1. Bottle stamps on brandy, while ineffective, are costly to the industry and states.

* Costs to suppliers and the states are increased by thousands of dollars due to:

- purchasing stamp supplies from the stamp manufacturer, currently costing approximately \$1.50 per 1,000 stamps
- recording receipt and disbursement of stamps
- storing of stamp inventories
- hand-affixing stamps on individual bottles
- maintaining separate inventories for stamped bottles

2. Bottle stamps reduce the efficiency of modern production methods and therefore the industry's competitiveness.

- * Stamps require hand-affixing which interferes with automated processes, special scheduling, special personnel and special handling to separate stamped from general inventory bottles prior to shipping.
- * Stamps delay shipments because they cannot be filled from a common inventory but require a special inventory and possibly special production runs.

3. Bottle stamps place unnecessary burdens on wholesalers, retailers and consumers.

* Because orders requiring stamps need special production, storage, shipment, and so forth, a regulated and steady flow of products cannot be maintained by suppliers. The result is that wholesalers and retailers will not have the inventory they need to supply the general public.

* Large wholesalers, such as control states, particularly depend upon a steady flow of product to maintain inventories at reasonable levels to satisfy customer demand. Any disruption in the ordering and shipping process throws their inventories out of balance.

-- These can only be rebalanced by over-ordering to ensure adequate supply of all products which will result in overall higher prices;

-- or by limiting selection, causing consumer problems by keeping certain products unavailable to them for a time.

To insert K.S.A. 41-502 and amend as follows:

Attachment #3
3/29/83

41-502. Tax stamps or crowns to be affixed to packages; alternative methods authorized; greater bond, when; taxation of wine; procedures prescribed. Payment of the tax provided for in K.S.A. 41-501 shall be evidenced by tax stamps or crowns to be affixed to each original package of alcoholic liquor, except wine, for use in this state. It is the duty of each manufacturer and distributor at wholesale before delivery of any alcoholic liquor, except wine, to a licensed purchaser to affix a stamp or crown firmly to each original package at the rate of gallonage

and brandy

provided for in said section, in such amounts as the contents of each original package bears to one gallon, subject to all the conditions of K.S.A. 41-401 to 41-409, both sections inclusive, or any amendments thereto: *Provided*, That the director may, by rule, require that such tax stamps or crowns be affixed to each original package of alcoholic liquor, except wine, at the place where such original package is manufactured or filled: *And provided further*, That the director may also, by rule, permit the cancellation of attached stamps or crowns by the distributor, and may permit credit or replacement to be issued to such distributor for stamps or crowns so canceled or destroyed: *And provided further*, That in lieu of the affixture of stamps to each original package as the means of payment or evidencing payment of any of the taxes imposed by K.S.A. 41-501, the director of alcoholic beverage control, with the approval of the alcoholic beverage control board of review, may prescribe, by rules and regulations designed to protect the revenue of the state of Kansas, a method of reporting, paying and collecting such tax on any alcoholic liquors without the use of stamps. Such rules and regulations may provide that a distributor shall file a bond greater in amount than that now prescribed by law, the exact amount to be fixed by the director, conditioned that the distributor will comply with the provisions of the act, and that all taxes, fines and forfeitures which may be assessed against him will be paid.

and brandy

If the director prescribes a method other than the affixture to original packages of alcoholic liquor of stamps or other visible evidence of the payment of such tax, the tax imposed upon such alcoholic liquor by K.S.A. 41-501 shall be paid on or before the fifteenth day of the calendar month next succeeding the month in which the distributor acquires possession of such alcoholic liquors made taxable by the provisions of K.S.A. 41-501; and the reporting and payment thereof within the time prescribed by this section and in the manner prescribed by the director of alcoholic beverage control shall constitute a compliance with the provisions of K.S.A. 41-501: *And provided further*, That in the event the director adopts a method of reporting, paying and collecting such tax on alcoholic liquors without the use of stamps, he shall, by rules and regulations promulgated and adopted prior to putting

such method into effect, require each original container to be marked or identified in some distinctive manner to reflect that said original package was filled and first offered for sale in the state of Kansas: *And provided further*, That on and after the effective date of the rules and regulations adopted by the director and approved by the alcoholic beverage control board of review authorizing the payment of the tax as herein provided, it shall not be unlawful for the holder of a retailer's license to receive or possess any alcoholic liquor in any original package upon which the stamps evidencing the payment of such tax are not affixed: *Provided*, That in the case of wine, the tax imposed upon such wine by K.S.A. 41-501 shall be paid on or before the fifteenth day of the calendar month next succeeding the month in which the distributor acquires possession of such wine made taxable by the provisions of said statute; and the recording and payment thereof, within the time prescribed by this section and in the manner prescribed by the director, shall constitute compliance with the provisions of said statute. Notwithstanding any other provision of this act to the contrary, the affixation of stamps or crowns shall not be required, nor shall it be required that either the original package or shipping container of wine be marked in a distinctive manner to reflect that said original package or shipping container was filled and first offered for sale in this state. and brandy

History: L. 1949, ch. 242, § 54; L. 1953, ch. 238, § 7; L. 1958, ch. 14, § 3 (Special Session); L. 1973, ch. 200, § 1; July 1.

Research and Practice Aids:

Intoxicating Liquors—92.

Hatcher's Digest, Intoxicating Liquors §§ 120, 123.

C.J.S. Intoxicating Liquors § 185.