

Approved 2/7/84
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.~~ on February 6, 1984 in room 254-E of the Capitol.

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

Committee staff present: Russell Mills, Legislative Research
Emalene Correll, Legislative Research
June Windscheffel, Secretary to the Committee

Conferees appearing before the committee:

Thomas J. Kennedy, Director, Alcoholic Beverage Control
Paul Flower, Kansas Real Estate Commission
Todd Sherlock, Kansas Association of Realtors

Senator Morris said that there had been a request for the introduction of a Committee bill by Senator Francisco from the Sheriff of Sedgwick County, as shown on Attachment #1 of these Minutes. Motion by Senator Francisco that the bill be introduced as a Committee bill. 2d by Senator Daniels. Motion carried.

The Chairman said that according to the agenda the first item to be heard would be:

SCR1657 - Concerning rejecting K.A.R., farm wineries, advertisements.

Senator Morris said that in light of the recent Attorney General's opinion concerning actions of the Legislative Committees on Administrative Rules and Regulations that the Committee would want to hear testimony concerning SCR1657 but would want to reserve any final judgment or action on the bill until after the Committee has perused the options.

Thomas J. Kennedy appeared before the Committee. A copy of his remarks were distributed and are a part of these Minutes as Attachment #2. It states that their goal was to allow farm wineries in Kansas to advertise their products....the same way that other manufacturers of alcoholic liquors may advertise and to whatever extent there is inconsistency and confusion between 14-11-13 and 14-11-20 that would be clarified by eliminating 14-11-13, the ABC would then support passage of SCR1657.

Senator Morris said that in visiting with the Speaker of the House it appears there are three possible solutions in dealing with the attorney general's opinion and the matter of the regulations: 1) To have a bill to do it; 2) To give the Governor veto power; and 3) By constitutional amendment. He is certain that all of these options will be looked at.

SB575 - Concerning certification of real estate salesperson instructors.

Paul Flower of the Kansas Real Estate Commission appeared as a proponent of SB575. He stated that the bill would increase certain fee limits and allow licensees to use accumulated hours for three subsequent license renewal periods.

Todd Sherlock of the Kansas Association of Realtors. His written statement is a part of these Minutes as Attachment #3, and is in support of SB575.

The Chairman stated that this concluded the hearing on SB575.

The Minutes of the Meetings of January 19, January 31 and February 1, 1984, were approved on a motion by Senator Pomeroy, 2d by Sen. Daniels. Motion carried.
The meeting adjourned at 11:55 a.m.

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.

JW
2/6/84
Attachment #1

61-2311. Execution; stay of proceedings. The officer to whom the writ is addressed shall, within ten (10) days after receiving the writ, execute the same by restoring the plaintiff to the possession of the premises, and shall levy and collect the money judgment, if any, the costs and make return, as upon other executions. The officer may demand that plaintiff advance all costs required to remove and store defendant's personal property in executing the writ and such costs shall be taxable to the defendant in a supplemental proceeding. If the officer shall receive a notice from the judge that the proceedings have been stayed by appeal, the officer shall immediately delay all further proceedings upon the execution; and if the premises have been restored to the plaintiff, he or she shall immediately place the defendant in the possession thereof, and return the writ with his or her proceedings and costs taxed thereon. The officer may use such reasonable force as is necessary to execute the writ.

2/6/84
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 Concurrent Resolution No. 1657

DATE: February 6, 1984

PURPOSE

The purpose of Senate Concurrent Resolution No. 1657 is to reject Kansas Administrative Regulation 14-11-13.

PERSPECTIVE

Kansas Administrative Regulation 14-11-13 is a new regulation promulgated this year as a result of the enactment of House Bill 2551, the Farm Winery Bill. As such, it is one of a set of new regulations that were promulgated with the intended purpose of treating farm wineries in the same way that other licensed manufacturers and licensed retailers are now treated. Because the Farm Winery Bill amended K.S.A. 41-102 to exclude farm wineries from the definition of "manufacturer" and "retailer", it was our opinion that existing regulations applicable to other licensees would not apply to farm wineries. New regulations were drafted to establish parallel standards for farm wineries by closely following the language of existing ABC regulations.

K.A.R. 14-11-13 defines "advertising". The definition for all practical purposes limits advertising to printed public media. K.A.R. 14-11-20 authorizes advertising by radio, television, motion pictures, film strips, newspapers and magazines. The Joint Committee on Rules and Regulations apparently determined that there is an inconsistency between the two regulations, and that an exact definition of advertising is not necessary.

COMMENTS AND/OR RECOMMENDATIONS

K.A.R. 14-11-13 is one regulation in what was originally a package of 21 proposed new regulations. It was reviewed several times during the adoption process and this alleged inconsistency was not spotted. However, we are in agreement with the Joint Committee on Rules and Regulations that there may be an inconsistency in the language, or at least a real potential for confusion. The Joint Committee also seems to feel that the definition of the word advertising is not necessary. The word

SCR 1657
February 6, 1984

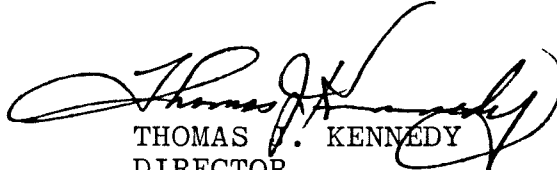
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advertising is such a commonly used and well understood word that there should not be significant confusion as to what it means.

Our goal was to allow farm wineries in Kansas to advertise their products on radio, television, film strips, newspapers and magazines, the same way that other manufacturers of alcoholic liquors may advertise.

To whatever extent there is inconsistency and confusion between 14-11-13 and 14-11-20 that would be clarified by eliminating 14-11-13, then we would support passage of SCR 1657.

Respectfully submitted



THOMAS J. KENNEDY
DIRECTOR

TJK:cjk

2/6/84
Attachment 3



KANSAS ASSOCIATION OF REALTORS®

Executive Offices:
3644 S. W. Burlingame Road
Topeka, Kansas 66611
Telephone 913/267-3610

Todd Sherlock

SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

Mr. Chairman and members of the Committee, thank you for allowing me to testify today on behalf of the Kansas Association of REALTORS concerning Senate Bill 575. We are in favor of the deletion of lines 38-43 of this bill. The deletion of these lines will result in an elimination of accumulated hours of instruction to be applied for credit after three subsequent licensing renewal periods.

The result of the elimination of the pooled hours after three subsequent renewal periods will be to the public's benefit. The way the law reads now, individuals may use "pooled" hours accumulated before January 1, 1983 for an indefinite amount of subsequent renewal periods. Our Association feels a strong commitment towards worthwhile continuing education for all real estate licensees across the state. Worthwhile continuing education does not include, in our estimation, "stale" courses taken a number of years ago. This gradual elimination of the pooled hours is bound to result in a more knowledgeable real estate licensee and a better protected home-buying and selling public.

Our Association has a number of individuals who have pooled a considerable number of hours over the years. However, we are in complete agreement with the Real Estate Commission on this issue as a way to make the real estate industry in the state of Kansas a stronger and more competent business in the eyes of the public.

Let me reiterate that this position is very much consistent with that of our opposition to Senate Bill 531. SB 531's goal is to allow developers to hire unlicensed salespeople to sell new homes to the unsuspecting public. The Kansas

ATTACHMENT #3 2/6/84

Senate Committee on Federal and State Affairs

Page 2

Association of REALTORS is in favor of more, not less, educational requirements for those wishing to sell real estate to the public. For these reasons, Senate Bill 575 is a good, solid bill which will help ensure the public is protected when they seek counsel of a knowledgeable real estate licensee.

I urge your support of Senate Bill 575.