

Approved \_\_\_\_\_

2/8/84  
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 February 7, 1984 in room 254-E of the Capitol.

All members were present ~~except~~

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

Conferees appearing before the committee:

Senator Merrill Werts  
Colonel John E. Sobraske, Deputy Post Commander, Fort Riley, Kansas  
Thomas J. Kennedy, Director, Alcoholic Beverage Control  
The Reverend Richard E. Taylor, Jr.; Kansans for Life at its Best!

SB585 - Concerning licensing and regulation of certain clubs; denial of membership based on military status prohibited.

The Chairman recognized Senator Merrill Werts, who spoke in favor of SB585. The Chairman stated that the bill had been introduced by the Committee at the request of Senator Werts. Senator Werts said that the bill had been drafted at the request of the Commander at Fort Riley. Senator Werts introduced Colonel John E. Sobraske, who read his prepared statement which is part of these Minutes, as Attachment #1. The Colonel stated that enlisted soldiers in Kansas often have been denied acceptance into private clubs and that this bill would make it unlawful for a club licensee to deny application for membership to a Class B club because of an applicant's military status or rank. The Colonel answered questions from Committee members.

Thomas J. Kennedy was the next proponent of the bill. He submitted written testimony, which is a part of these Minutes, as Attachment #2. The ABC strongly supports the purpose of this bill. There were questions and Committee discussion of the bill. No action was taken.

SB325 - Concerning residence requirements for private club licensees.

The Chairman recognized Thomas J. Kennedy on SB325. Director Kennedy presented testimony and a written copy of his statement, which is attached as a part of these Minutes, as Attachment #3. It states that the ABC is not opposed to adjustments in the amount of time specified in the residency requirements but that they feel total elimination of residence requirements would not serve the best interests of the people of Kansas or the club industry. There was discussion but no action was taken.

SB405 - Concerning private club membership for military personnel on temporary duty.

Director Kennedy presented testimony on SB405, a copy of which is attached as a part of these Minutes, as Attachment #4. The memorandum states that the Director is neither a proponent nor an opponent but does feel it would have a positive impact on both the visitors and the state. No action was taken.

The Chairman introduced The Reverend Richard E. Taylor, who addressed SB325, SB405 and SB585, with a brief statement, copy of which is a part of these Minutes, as Attachment #5. His concern deals with what his organization feels is continued relaxation of the liquor control laws.

The Minutes of the Meeting of February 6, were distributed, and upon motion of Senator Gannon, 2d by Senator Daniels, they were approved. Motion carried.

The meeting was adjourned at noon.

2/7/84  
Attachment #1

STATEMENT IN SUPPORT OF SB 585, CONCERNING  
LICENSING AND REGULATION OF CERTAIN CLUBS;  
DENIAL OF MEMBERSHIP BASED ON MILITARY STATUS  
PROHIBITED. SUBMITTED TO THE SENATE COMMITTEE  
ON FEDERAL AND STATE AFFAIRS, STATE OF KANSAS

Enlisted soldiers stationed in Kansas, and in particular at Fort Riley, often have been denied acceptance into private clubs serving alcoholic beverages solely on the basis of their status as enlisted men. This discrimination has taken place during the tenure of the current Commanding General of Fort Riley and the previous two commanders. In each case it was dealt with on a local basis without assurance of a permanent solution. Perhaps the situation can best be illustrated by an example. Recently, a senior noncommissioned officer from Fort Riley applied for membership to a private club. This person is a command sergeant major, the highest enlisted rank. He has served in the U.S. Army for 27 years. He has served three tours in Germany, two tours at Fort Riley, and a tour in Vietnam. He is a highly decorated soldier, who received three awards of the Bronze Star, nine Good Conduct Medals, the Vietnam Campaign Ribbon with five battle stars, and several other medals reflecting his outstanding performance of duty. Yet when this soldier applied for club membership he was informed that membership is not open to those in the military who are not officers. This situation is clearly unfair. Moreover, this situation adversely affects the morale and welfare of our soldiers.

Although all enlisted soldiers are volunteers, not all our soldiers are in Kansas by choice. They were assigned to military installations in Kansas so that the Army might have fully trained, combat ready soldiers, equipped and trained to deploy and fight, if necessary, to protect U.S. national interests. These soldiers are contributing members of the community and should be able to enjoy the recreational and social establishments in this state. It is only fair that our soldiers, who stand ready to defend the State of Kansas, have the same access to social establishments as do its citizens.

In order to correct this inequity, a change in state law is recommended. The proposed law would make it unlawful for a club licensee to deny an

Attachment #1

application for a membership to a Class B club by reason of the applicants military status or rank. Nothing could be simpler or more fair.

There are presently some federal laws designed to prevent discrimination against military members. For example, 18 U.S.C. § 244 makes it unlawful for a proprietor of a public place of entertainment in the United States to discriminate against any person wearing a U.S. military uniform, just because of the uniform. But these laws do not go far enough to protect service members. Some states have also recognized that current laws do not go far enough to protect service members from discrimination. California, for example, has enacted legislation that prohibits any person from discriminating against any service member because of his membership in the service. We ask that Kansas join the forefront of states that have recognized the inequity of discrimination against service members, and that have recognized the detrimental effect on soldier's morale and welfare that such discrimination promotes. We ask that you take this step toward elimination of such discrimination against service members by passing the proposed bill that would make it unlawful to deny an application for membership in a Class B club because of the applicant's military status or rank. Thank you for the opportunity to testify on behalf of the U.S. armed forces stationed in Kansas.

Submitted by: John E. Sobraske  
Colonel, USA  
Deputy Post Commander  
Fort Riley, Kansas

MEMORANDUM

2/7/84  
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 585

DATE: February 7, 1984

PURPOSE

The purpose of Senate Bill 585 is to prohibit discrimination in the granting of class "B" club memberships based on military status or rank.

PERSPECTIVE

Complaints have been received by the Commander, Fort Riley, the Director of ABC and others about private clubs that have consistently denied memberships to military personnel such as enlisted personnel.

Currently, there are no statutes or regulations that prohibit this practice.

We have two statutes that speak to membership qualifications.

First is K.S.A. 41-2601 which requires the management of class "B" private clubs to screen applicants for membership for "good moral character."

The second is K.S.A. 44-1009, which prohibits discrimination in places of public accommodation because of race, religion, color, sex, physical handicap, national origin, or ancestry. Regulations adopted under this statute classify class "B" private clubs as places of public accommodation.

Private clubs are by definition not open to the general public. They are required to exclude from membership people who lack good moral character; and they can legally exclude potential members for any reason not included in the list of suspect classifications in K.S.A. 44-1009. As a result, a class "B" private club may, if it chooses, discriminate against all or some military personnel without violating any statutes or regulations.

Attachment #2

COMMENTS AND/OR RECOMMENDATIONS

The purpose of Senate Bill 585 is one that we totally agree with. However, we have certain reservations about the bill in its present form.

First, the bill places primary responsibility for investigation and enforcement on the Director of Alcoholic Beverage Control yet does not specify in any way what evidence is needed to prove discrimination against military personnel. Is one incident of a serviceperson being denied a club membership enough? Five such incidents? Ten? or What?

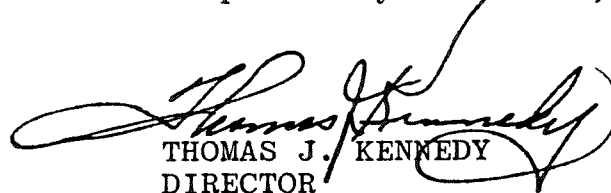
Perhaps, the bill should place primary responsibility on the Commission of Civil Rights which has, as its primary function, the investigation and enforcement of the anti-discrimination statutes. As such, they have the expertise to recognize, investigate, and prove the actual occurrence of discrimination.

K.S.A. 41-2611 empowers the Director of ABC to suspend or revoke a club license for a violation of article 10 of chapter 44 of the Kansas Statutes if the violation is found to have occurred by the Civil Rights Commission. For all types of discrimination that are now prohibited, the Civil Rights Commission is given primary jurisdiction to identify, investigate, and prosecute alleged incidents of discrimination. If the Commission finds a violation, then the more stringent penalties that the Director of ABC may impose under article 26 of chapter 41 may be invoked.

The Director of Alcoholic Beverage Control is in favor of the purpose of this bill and is in favor of the passage of some form of remedial legislation to correct this situation.

The Director of Alcoholic Beverage Control strongly supports the purpose of this bill.

Respectfully submitted,

  
THOMAS J. KENNEDY  
DIRECTOR

MEMORANDUM

2/7/84  
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 325

DATE: February 7, 1984

PURPOSE

Senate Bill 325, if enacted in its present form is an act concerning licensing and regulation of certain clubs; residency requirements; amending K.S.A. 41-2623 and repealing the existing section.

PERSPECTIVE

Senate Bill 325, if enacted in its present form will eliminate the one (1) year requirement for individuals who are attempting to obtain class "B" private club licenses. It would also eliminate the five (5) year total state residency.

Presently, an individual applying for a class "B" private club license must have residency in the county in which the premises are located at least one (1) year preceding the date of the application and must have resided in the state for a total of five (5) years.

COMMENTS AND/OR RECOMMENDATIONS

Under the current Private Club Licensing Act, individuals who cannot meet the residency requirements simply form a corporation, and if they meet the other qualifications for a license, they can receive it. As a result, the residency requirements by themselves will not prevent a person who wants a club license badly enough from getting one.

By way of comparison, it should be noted that other retail licenses also carry residency requirements. The requirement for a retail liquor store licensee is 10 years in the state and 5 years immediately preceding the date of application in the county. Retail liquor store license applicants do not have the option of incorporating if they cannot meet the residency requirements. For a cereal malt beverage retailer's license, the residency is 6 months in the county and one year in the State of Kansas prior to application. Under the current law, the residency requirement for a private club licensee is much

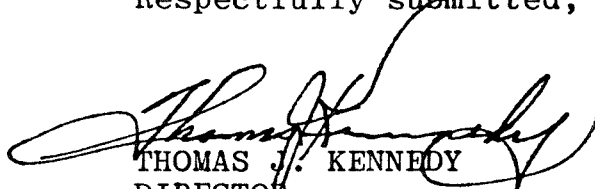
Attachment #3

less stringent than it is for a retail liquor store licensee, even though both sell alcoholic liquor at retail. To further reduce or eliminate the residency requirement for private club licensees would make the residency requirements for retail liquor store licensees appear to be even more unfair.

One of the major purposes behind the residency requirements is to assure that only people who have demonstrated stability and some level of local commitment will be able to secure a club license. It is also intended to prevent slick operators from coming into an area, leasing or renting a building, going into operation for a short period of time and then disappearing, leaving behind the State of Kansas and many other creditors to fight over minimal assets. Arguably, the corporation alternative, while eliminating the residency requirements, sets up enough other safeguards to also discourage the shady operators.

The Alcoholic Beverage Control Division is not opposed to adjustments in the amount of time specified in the residency requirements, but we are of the opinion that a total elimination of those requirements would not serve the best interests of the people of Kansas or the club industry as a whole, therefore, we would recommend a minimum of three to six months residency to permit individual or partnership to establish themselves, survey the market and the community before investing in a private club.

Respectfully submitted,



THOMAS J. KENNEDY  
DIRECTOR

Alcoholic Beverage Control Division

TJK:cjk

MEMORANDUM

2/7/84  
Attachment #4

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

FROM: THOMAS J. KENNEDY, Director, ABC Division

RE: Senate Bill 405

DATE: February 7, 1984

PURPOSE

The purpose of this proposal is to permit military personnel of the Armed Forces of the United States in a temporary duty status to have temporary membership in class "B" private clubs.

PERSPECTIVE

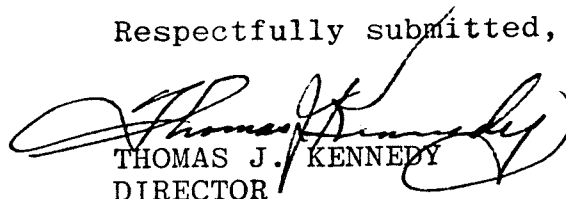
The State of Kansas has three (3) military installations within its exterior boundaries: Fort Riley, Fort Leavenworth, and McConnell Air Force Base. At each installation and particularly at Fort Leavenworth and McConnell Air Force Base, military personnel of the Armed Forces of the United States attend special training and/or schools. Military personnel attending this training or schools are in a temporary duty status not to exceed twenty (20) weeks. Temporary duty status means the military personnel do not bring their families and the individual is quartered either on or off the military installation in bachelor quarters. The purpose of this proposal is to grant these people temporary membership in class "B" private clubs during their TDY status in Kansas.

COMMENTS AND/OR RECOMMENDATIONS

If Senate Bill 405 is enacted in its present form, we see no problems with implementing. Military personnel utilizing temporary membership privileges would either use the guest book or a special military guest book would be required.

The Director is neither a proponent nor an opponent of this bill, however, I feel the amendment would have a positive impact both on the visitors and on the state.

Respectfully submitted,

  
THOMAS J. KENNEDY  
DIRECTOR

TJK:cjk

Attachment #4

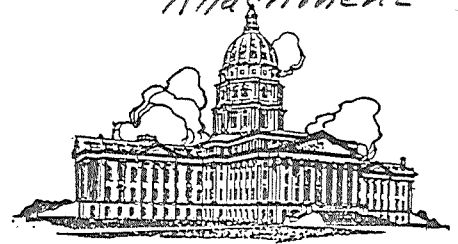


**KANSANS FOR LIFE AT ITS BEST!**

Rev. Richard Taylor, Box 888, Topeka, Kansas 66601

Phone (913) 235-1866 Office 1273 Harrison  
(3 Blocks South of Statehouse)

2/7/84  
Attachment 5



*A Proud Land*

February 7, 1984 Hearing on SB 325, SB 405, SB 585  
Senate Federal and State Affairs Committee

As a life long non-smoker who has lost a vocal chord to cancer, I hate suffering caused by cancer. I don't see anything funny about cancer. If omitting one item from the diet would absolutely and totally prevent all cancer, would lawmakers joke about consumption of that item? Alcoholism is absolutely and totally prevented by omitting one item from the diet.

The nation has just been subject to a great big scare from EDB. Headlines indicate EDB has been known to cause cancer in laboratory rats. Where are the scare headlines saying alcohol has been known to cause alcoholism in laboratory rats?

Alcoholism is totally preventable, yet session after session bill after bill is passed by the Kansas legislature promoting and defending alcohol consumption. My concern is not laboratory rats. My concern is life, health, and safety of Kansans.

I hate suffering caused by alcoholic beverages. But for some lawmakers this takes the back seat to pleasing dealers in this deadly drug.

Respectfully,

Rev. Richard E. Taylor, Jr.

"Of our political revolution of 1776 we are all justly proud," said Abraham Lincoln on Washington's birthday in 1842. He went on to say "how proud the title of that land" where persons declare their freedom from alcoholic beverages because they "shall find a stronger bondage broken, a viler slavery manumitted, a greater tyrant deposed. . .perfect liberty!" With per-person consumption at nearly half the national average, thousands of Kansans enjoy that perfect liberty. Concerned users and non-users are united in this R-E-A-L effort to prevent alcoholism, highway tragedy, and other suffering caused by our most abused recreational drug.

Rehabilitation — Help alcohol-dependent persons adjust to life without the drug.

Education — Inform children, youth & adults of effect of alcohol on mind & body.

Amount — Encourage persons to be non-users and encourage users to use less.

Law — Pass and enforce laws that reduce consumption and suffering.

Attachment # 5