

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.~~^{XXX} on February 10, 1984 in room 254-E of the Capitol.

All members were present except: Senators Daniels and Gannon, who were excused.

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:

Colonel Bert Cantwell, Superintendent, Kansas Highway Patrol
Michael Byington, Kansas Association for the Blind and Visually Impaired, Topeka
Robert L. Tabor, Member, Association for the Blind and Visually Impaired; guide dog user, Topeka
Jim Yonally, National Federation of Independent Business
Representative Elizabeth Baker
Thomas J. Kennedy, Director, Alcoholic Beverage Control

The Chairman introduced Colonel Bert Cantwell, who appeared before the Committee to ask the introduction of a bill that would amend K.S.A. 74-3223. It concerns uniformity with hiring requirements contained in related statutes and would also set out policies and practices already employed in the hiring procedure for troopers. The bill would also amend the minimum age to 21 and eliminate the maximum age requirement. His remarks and proposed amendment are a part of these Minutes as Attachment #1. Senator Pomeroy moved that the proposed bill be drafted and introduced. 2d by Senator Francisco. Motion carried.

The Chairman introduced Michael Byington, who introduced Robert L. Tabor and his guide dog, Sherry. Mr. Tabor asked that a bill be introduced to amend K.S.A. 39-1101(2). This concerns making the statute more specific in giving blind persons the right to be accompanied by a guide dog when in a food service establishment or establishments selling food, in the public accomodation part of these statutes. Mr. Tabor's prepared statement is part of these Minutes as Attachment #2. Senator Francisco moved that the proposed bill be drafted and introduced and be referred back to this Committee. 2d by Senator Meyers. Motion carried.

Jim Yonally was introduced by the Chairman. He appeared to state that in the Kansas Chapter of the NFIB there is a situation in which one member has cemetery land and would like to un-dedicate a portion of it. He said that the City of Wichita has some similarity of land that was abandoned. If the proposed bill were introduced and passed the proceeds would go into the permanent maintenance fund of the cemetery and the land would go back on the tax rolls. Senator Winter moved the drafting of the proposed bill and its introduction. 2d by Senator Roitz. Motion carried.

The Chairman introduced Representative Elizabeth Baker who appeared at the request of a constituent who is concerned in not having a reciprocal agreement between hotels and motels and private clubs on non-contiguous premises. The constituent feels that the present situation is detrimental to her business.

There was Committee discussion on HB2504, which is in a Conference Committee, and SB404, which is now in House Federal and State Affairs Committee to where it has been re-referred.

Mr. Mills said that HB2504 contains all the things contained in SB404, as well as increases the penalties for minors who purchase liquor.

Senator Morris made a conceptual motion that the Committee introduce as a committee bill proposed legislation dealing with temporary membership

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS,

room 254-E, Statehouse, at 11:00 a.m./~~p.m.~~ on February 10, 1984

in private clubs and sales on non-contiguous premises. 2d by Senator Francisco. Motion carried.

Senator Winter made a conceptual motion that the committee introduce a bill concerning an excursion train which would be for hire by private groups for social outings, where the ticket on the train would be the temporary club membership as in a class B club. 2d by Senator Vidricksen. Motion carried.

Senator Winter said that there is a statute now that says that alcohol shall not be consumed on state-owned premises and then states further exemptions-- one has to do with residences of presidents of universities. He said that functions are now being held in non-academic buildings, such as for the performing arts or museums, where they would like to serve wine for fund-raising events for non state-related activities. He said that he was making a conceptual motion to introduce a bill that would make such events possible. Motion failed for lack of a second.

Concerning SB585, pertaining to denial of membership in private clubs based on military status, Senator Reilly distributed a letter he had received from Rick Schneider, a student at K-State, who stated: "In regard to the discrimination of military in private clubs, I find your asses(s)ment or question to be very true. Several times in Aggieville bars I've witnessed gross misconduct on the part of our soldiers, and honestly believe that it has contributed to their denial of memberships."

Copies of a Memorandum from Thomas J. Kennedy to Senator Morris were distributed to the Committee. Director Kennedy answered questions from the Committee. The Memorandum is dated January 24, 1984, and a part of these Minutes as Attachment #3. Senator Vidricksen pointed out that this Memorandum had been requested primarily because of the "102 social clubs." Senator Vidricksen moved that legislation be introduced to raise the annual fees for these clubs to be the same as class B restaurant clubs. Motion carried. Senator Meyers asked to be recorded as voting "no."

The Chairman distributed copies of a letter of James W. Mayer, President of the Kansas Association of Realtors, dated February 3, 1984, concerning SB531. A copy of the letter is a part of the record and these Minutes as Attachment #4. The Chairman said that it has come to his attention that there was a lot of confusion last year concerning testimony from the lobbyist for the Kansas Association of Realtors and the position of that organization. He said that a dilemma still seems to exist among the various organized groups, and that he suggests that in view of the controversy which exists that those involved get together in the next week or so to arrive at a consensus that would be acceptable to them and to the Legislature. Senator Morris reminded the Committee that this is what the groups had been told last Session.

The Chairman stated that action would be taken on SB325, SB405 and SB585 next week, all of which had been heard this week. Monday the Committee will meet to hear about inmate furloughs.

The meeting adjourned at noon.

KANSAS HIGHWAY PATROL

Service—Courtesy—Protection

2/10/84
Attachment #1

John Carlin
Governor



Col. David Hornbaker
Superintendent

February 9, 1984

The Honorable Edward F. Reilly, Jr.
Chairman
Federal and State Affairs Committee
Statehouse, Room 255-E
Topeka, Kansas 66612

Dear Ed

This is in response to our telephone conversation yesterday relative to the amendment of K.S.A. 74-2113.

Our purpose in seeking the amendments is uniformity with hiring requirements contained in related statutes. The amendments would also set out in the statutes those policies and practices already employed in the hiring procedure for troopers and vital to the selection process. K.S.A. 74-2113 (c) is the only affected portion of the statute.

The statute presently contains a minimum/maximum hiring age for trooper candidates and we propose to amend the minimum age to 21 and eliminate the maximum age requirement. We are presently involved in a discrimination complaint filed in regard to maximum age and propose abolishment on the advice of the Attorney General's Office.

There are other prerequisites to appointment incorporated which would parallel the requirements in K.S.A. 74-5605 and 5605a in the interest of uniformity.

Our proposal is respectfully submitted and your assistance in introducing the measure would be greatly appreciated.

Sincerely


BERT CANTWELL
Superintendent

ATTACHMENT #1 - 2/10/84

BC:DP:md

Enclosure

cc: Captain Donald L. Pickert
Mr. Chuck Mason

122 SW SEVENTH STREET
TOPEKA, KANSAS 66603 (913) 232-9200

74-2113. Patrol created; appointment and salary of superintendent; appointment and qualifications of assistant superintendent, officers and troopers; restrictions. (a) There is hereby created a Kansas highway patrol. The patrol shall consist of: (1) A superintendent, who shall have the rank of colonel and who shall have special training and qualifications for such position; (2) an assistant superintendent, who shall have the rank of lieutenant colonel; and (3) officers and troopers who are appointed in accordance with appropriation acts and as provided in this section. The superintendent shall be within the unclassified service under the Kansas civil service act. If a person appointed as superintendent is a member of the patrol when appointed, such person, upon termination of the term as superintendent, shall be returned to a rank not lower than the rank such person held when appointed as superintendent. If such rank is filled at that time, a temporary additional position shall be created in such rank until a vacancy occurs in such rank. The assistant superintendent and all other officers, troopers and employees shall be within the classified service under the Kansas state civil service.

(b) The superintendent of the patrol shall be appointed by the governor, subject to confirmation by the senate as provided in K.S.A. 1982 Supp. 75-4315b, and shall receive an annual salary fixed by the governor.

(c) All other members of the patrol shall be appointed by the superintendent in accordance with appropriation acts and with the Kansas civil service act. No person shall be appointed as an officer of the patrol, other than superintendent, unless the person has had at least five years of service in the patrol as an officer or trooper. No person shall be appointed as a trooper unless he or she meets the following requirements:

- (1) Is a citizen of the United States;
- (2) at least 21 years of age at the time of appointment;
- (3) has not been convicted by any state or the federal government of a crime which is a felony or its equivalent under the uniform code of military justice;
- (4) has been fingerprinted and a search of local, state and national fingerprint files has been made to determine whether the applicant has a criminal record;
- (5) is of good moral character;
- (6) is the holder of a high-school diploma or furnishes evidence of successful completion of an examination indicating an equivalent achievement; and
- (7) is free of any physical or mental condition which might adversely affect the applicant's performance of a trooper's duties and whose physical health has been certified by an examining physician appointed by the superintendent.

(d) No member of the patrol shall hold any other elective or appointive commission or office, except in the Kansas national guard or in the organized reserve of the United States army, air force or navy, or accept any other employment while a member of the patrol. No member of the patrol shall accept any compensation, reward or gift other than the member's regular salary and expenses as provided by this act except with the written permission of the superintendent.

(e) No member of the patrol, including the superintendent, shall in any way be active or participate in any political contest in any primary, general or special election or participate in politics, except to cast such member's ballot. For any violation of this provision, the offender shall be summarily removed by the superintendent from the patrol.

Kansas Association for the Blind
and Visually Impaired, Inc.

2/10/84
Attachment #2

January 30, 1984

TO: Federal and State Affairs Committee, Kansas Senate

FROM: Legislative Committee, Mary Adams, Chair
Michael J. Byington, Lobby
Robert L. Tabor, Member and guide dog user

PROBLEM: K.S.A. 39-1102 gives blind persons the right to be accompanied by a guide dog, especially trained for the purpose, in or upon any of the places listed in K.S.A. 39-1101 without being required to pay an extra charge for the guide dog: Provided, That such person shall be liable for any damage done to the premises or facilities by such dog.

The places listed in K.S.A. 39-1101 are: (1) All common carriers, airplanes, motor vehicles, railroad trains, motor buses, street cars, boats, or any other conveyances of transportation; (2) hotels, lodging places, places of public accommodation, amusement, or resort; and (3) other places to which the general public is invited, subject only to the conditions and limitations established by law and applicable alike to all persons.

The above "laundry list" implies that eating establishments and food sales establishments would be included, but does not specifically state such. In fact these establishments are included as has been affirmed by Kansas Department of Health and Environment regulations and a court test. The problem is, however, that some eating establishment and food sales establishment employees do not realize that guide dogs may be admitted. Confusion and delay is often the result. The fact of the guide dog's right to admission thus needs to be more visible within the law. As most guide dog users carry K.S.A. 39-1101 and 1102 with them to resolve questions of access, addition of the words "eating establishments and food sales establishments in K.S.A. 39-1101 would clear up unnecessary confusion.

PROPOSED SOLUTION THROUGH LEGISLATIVE CHANGE: Amend K.S.A. 39-1101 (2) to read as follows, "hotels, lodging places, places of public accommodation, amusement, or resort, including eating establishments and food sales establishments".

The proposed addition requested is underlined above. Thank you for your time and consideration of these matters.

ATTACHMENT #2

2/10/84

SPECIAL REPORT: PRELIMINARY RESULTS FROM THE
 "DISABLED KANSANS' CONCERNS INDEX"

In September and October of 1983, the Kansas Advisory Committee on Employment of the Handicapped (KACEH) coordinated the distribution of approximately 12,000 survey questionnaires addressing thirty issue areas of concern to disabled individuals. It is estimated that approximately 10,000 disabled people received at least one questionnaire. The return of nearly 1,400 was remarkable, since no return envelope nor postage was provided. Based on this 14% return, the preliminary results of the survey indicate priorities to be:

Priority Rank	Issue	Imp.* Rating	Sat.** Rating	Priority Base
01	Public buildings are accessible to disabled consumers.	86%	33%	53
02	Affordable transportation services are available as needed.	86%	42%	44
03	Affordable housing is available to all types of disabled residents.	85%	41%	44
04	Qualified disabled and nondisabled persons are given the same opportunity at any available job.	84%	40%	44
05	Adequate employment opportunities are available to disabled persons.	86%	43%	43
06	Handicapped parking ordinances are strictly enforced.	89%	50%	39
07	Guide dogs are permitted in public buildings (e.g., restaurants, theaters, grocery stores).	88%	49%	39
08	Health care for disabled persons is available through public and private insurance.	84%	45%	39
09	Adequate services are available to permit independent living.	90%	52%	38

Priority Rank	Issue	Imp.* Rating	Sat.** Rating	Priority Base
10	Local agencies assist disabled persons in finding jobs.	83%	35%	45
11	Financial assistance in hiring personal care assistants is available.	88%	51%	37
12	Assistance (e.g., recreation, PCA, rides) is available from friends and neighbors.	87%	50%	37
13	Public services are provided on an equal basis to disabled and non-disabled persons.	87%	51%	36
14	Disability categories (i.e., visual, hearing, speech, physical, mental) used by the state civil service system are adequate.	86%	50%	36
15	Employment agencies and prospective employers focus on the strengths and abilities, rather than the deficiencies and disabilities of a disabled applicant.	84%	48%	36
16	Determination of eligibility for services (e.g., SSI, SSDI, General Assistance, Vocational Rehabilitation) is fair and reasonable.	85%	50%	35
17	Qualified interpreters are available to deaf persons to permit use of public services.	83%	48%	35
18	Qualified disabled employees are not laid off due to their disability.	80%	45%	35
19	Disabled persons applying for state civil service jobs are given reasonable accommodation.	86%	52%	34
20	Utility bills are affordable.	85%	51%	34%

Priority Rank	Issue	Imp.* Rating	Sat.** Rating	Priority Base
21	Financial assistance is available to adapt personal transportation.	91%	58%	33
22	State of Kansas government is responsive to the needs of persons with disabilities.	83%	50%	33
23	The media portray disabled persons in a realistic and positive way.	81%	48%	33
24	Available counseling services are accessible and helpful to disabled consumers.	78%	45%	33
25	Financial assistance is available to help purchase an assistive device (e.g., wheelchairs, hearing aids, artificial limbs).	77%	44%	33
26	Performance of disabled employees is evaluated on the same basis as non-disabled employees.	84%	53%	31
27	Social agencies treat disabled persons with dignity and respect.	84%	56%	28
28	Adequate job training programs are available to disabled persons.	89%	66%	23
29	Families accept all members equally, regardless of disability.	77%	56%	21
30	Help is available for solving problems with landlords, employers, utility companies, etc.	81%	61%	20

These results are only preliminary and may change after the data have been verified. Verification is expected to be completed by the end of January, 1984.

However, the top priority, access to public buildings, is substantially ahead of the second-ranked priority. Therefore, KACEH will proceed with efforts to address this issue, as it is not expected to be affected by the verification of data.

The issue of public access was discussed at the KACEH conference, "Issues & Images", in Hays on November 6.

The issue was also the subject of a special meeting of representatives from disability organizations on November 17, 1983.

Based on these discussions, KACEH anticipates taking the following actions:

1. Hold three additional public meetings to gather more information on remedying the issue.
2. Publicize the state accessibility law to county and city officials responsible for enforcement.
3. Publicize the accessibility law to interested groups.
4. Produce a handbook on initiating legal action against inaccessible construction in progress.
5. Seek an executive order from the governor which would mandate all public meetings by state agencies in the executive branch to be held in accessible sites.
6. Continue to pursue amendments to the Kansas Act Against Discrimination which would permit physically and mentally disabled persons to rent or buy private residences.

MEMORANDUM

2/13/84
Attachment #3

TO: Honorable Bill Morris
Assistant Chairman, Senate Federal and State Affairs Committee

FROM: Thomas J. Kennedy
Director, Alcoholic Beverage Control Division

RE: Answers to your questions posed at the hearing this morning.

DATE: January 24, 1984

This morning during the Senate Federal and State Affairs Committee Meeting, you asked a number of questions to which I responded that I would get back to you with the answers. The questions were:

1. We have 405 class "A" clubs in the state. How many are social, how many are fraternal and how many are War Veteran clubs?

A. How many are social clubs?

Answer: 102

B. How many are fraternal clubs?

Answer: 119

The breakdown is: 40 - Fraternal Order of Eagles
40 - Paternal Order of Elks
1 - Redmen
22 - Knights of Columbus
13 - Fraternal Order of Moose
3 - Arab Shrine

C. How many are War Veteran clubs?

Answer: 183

The breakdown is: 95 - American Legion
3 - AMVETS
85 - Veterans of Foreign Wars

2. Is the provision included in Senate Bill 404 for temporary members in a class "B" club from Hotels with no club?

Senate Bill 404, as originally introduced, provided for temporary membership in private clubs and sales on noncontiguous premises. It did not include the provision for temporary members in class "B" clubs for people registered in Hotels which do not have a private club. I was under the impression it was in 404.

This provision for temporary members is found in HB 2504, as amended by Senate Committee, Section 2(b)(3)(B), line 82 through line 94. It reads as follows:

"(B) Any class B Club may enter into an agreement with a hotel, as defined in K.S.A. 36-501 and amendments thereto, whereby a guest who is registered at the hotel and who is not a resident of the county in which the club is located may file application for temporary membership in the club. The temporary membership, if granted, shall be valid for only the period of time that the guest is a bona fide registered guest at the hotel and shall not be subject to the waiting period or dues requirement of this section. A club may enter into an agreement with a hotel pursuant to this provision only if (i) the hotel is located in the same county as the club, (ii) there is no club located on the premises of the hotel and (iii) no other club has entered into an agreement with the hotel pursuant to this section."

We feel this change has merit and would recommend SB 404 be so amended.

3. Your third question had to do with our reasons for wanting to reduce the residency requirements for Retail Liquor Store applicants or licensees found in SB 305.

This reduction in residency requirement will still maintain the intent of the legislature that licensees have an impeccable background and that a personal history would be available for investigation by the Division. Experience has shown that an appropriate evaluation of an application can be made by investigators utilizing modern means as well as standard investigative procedures. Also, it has been the Alcoholic Beverage Control Division's observation that the current long residency requirements have no correlation to stability in the retail liquor business. The proposed shorter residency requirements would greatly increase the number of people who qualify for a retail liquor license, but should not increase the actual number of retail liquor stores. Like other retail businesses, retail liquor stores survive by the law of supply and demand. The number of stores will still depend upon the actual demand for alcoholic liquor. The vast majority of new applicants for retail liquor licenses are for the purpose of taking over existing stores, not establishing new ones.

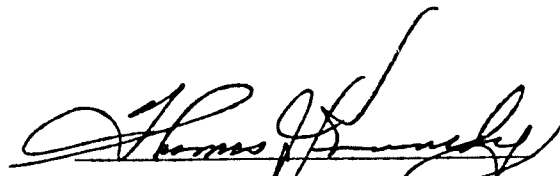
An additional consideration that the Division has found to be of some significance is the disparity between residency requirements for private club licensees and the current requirements for retail liquor store licensees. K.S.A. 41-2623(c) requires one (1) year immediately preceding the

Honorable Bill Morris
January 24, 1984

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date of application in the county and five (5) years in the state. Also, any applicant who cannot meet those residency requirements can get around them by incorporating. A retail liquor licensee has no alternative to meeting the full five (5) and ten (10) year residency requirements. The current statutory scheme that prevents a corporation from holding a retail license is intended to keep large chains from taking over the retail liquor business in Kansas. As such it is a beneficial statute that should not be changed. Since a retail liquor store licensee cannot incorporate to avoid the residency requirements, the Division is of the opinion that a reduction in the current residency requirements would reduce the disparity between the requirements for a private club licensee.

If we can be of further assistance to you, please let us know.



THOMAS J. KENNEDY, DIRECTOR

TJK:bf



2/10/84
Attachment #4

February 3, 1984

The Honorable Edward F. Reilly, Chairperson
Senate Federal and State Affairs Committee
Room 225-E
State Capitol
Topeka, KS 66612

RE: Senate Bill 531-Builders Exemption

Dear Senator Reilly:

As a REALTOR® for 25 years and as the Executive Vice President of the Kansas Association of REALTORS® for the past three years, it is with deep concern and with some embarrassment that I write this letter.

After viewing the recorded testimony of our former lobbyist I can easily understand why you feel that we are changing our position for exempting Home Builders and their employees from the requirements of the Real Estate Brokers and Salespersons License Act. I must take full responsibility for this as the old saying goes "The Buck Stops Here."

Regardless of the testimony given, I can assure you the intent of such testimony as approved by the Executive Committee and as approved by myself was to attempt to provide a vehicle by which the savings and loans, banks, and all lending institutions could be exempt from the license law to market "only such properties" which they had acquired through foreclosure of a mortgage, or had accepted title to in lieu of payment of a lien.

I told Janet Stubbs and Jim Miner, with the Homebuilders Association, the exact above statements in a meeting requested by them in mid-summer of 1983.

It was never the intention of this Association to "Open Pandora's Box" and sacrifice the protection of the public to persons whom would not be held accountable to to the governmental agency that was established for such protection. Such an exemption would also take away the protecton of the real estate recovery fund. This places each citizen of this state that purchases a new home that much closer to resolving disputes or violation of common law, to civil trials, and as we all know the adversary process is expensive, time-consuming, and often leaves a trail of stress and frustrations.

It has always been the concern of this Association that each buyer or seller of real property be protected to the highest degree; in most instances, we are working with people's life savings. The life savings of a new home buyer should be viewed no differently than that of a resale home buyer.

-con't-

Attachment #4

Page 2

The Honorable Edward F. Reilly, Chairperson
February 3, 1984

Due to the fact the "Buck Stops Here," I have no choice but to eat crow and tell you that we just flat "goofed" in our testimony. I can also say that eating crow is a small price to pay for the protection of the home buyers of this state.

As the Chairperson of the Senate Federal and State Affairs Committee, I ask that you please vote against Senate Bill 531.

Should your Committee have any questions of me, I would be happy to appear and, if necessary, eat a little more crow.

Sincerely,



James W. Mayer
Executive Vice President

JWM/kgm