

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS

The meeting was called to order by Representative Robert H. Miller at _____
 Chairman

1:30 a.m./p.m. on January 16, 1985 in room 526S of the Capitol

All members were present except
 Representative Hensley - E
 Representative Vancrum - E

Committee staff present:
 Lynda Hutfles, Secretary
 Mary Torrence, Revisor of Statute's Office
 Russ Mills, Research
 Raney Gilliland, Research

Conferees appearing before the committee:

John Koepke, Kansas Association of School Boards
 John Lamb, Alcoholic Beverage Control

John Koepke, Kansas Association of School Boards, asked the committee to introduce a bill which would provide for annual renewal of the meeting notice request for notification of meetings of public bodies found in KSA 75-4318. See attachment A.

Representative Peterson made a motion, seconded by Representative Sughrue, to introduce Mr. Koepke's request as a committee bill to be referred back to committee for hearings. The motion carried.

Representative Roe made a motion, seconded by Representative Ramirez, to approve the minutes of the January 15 meeting. The motion carried.

John Lamb, Director, Alcoholic Beverage Control, distributed a history of the ABC and the Goals of the Director. See attachment B.

Mr. Lamb told the committee there are 1,084 retail liquor stores, 1,324 private clubs, 7 wholesale operations, 200 suppliers into the state, and 70 beer wholesalers in the State of Kansas. There have been forty new private clubs open during the last six months. There are 27 agents who oversee this industry.

Mr. Lamb talked to the committee about spot border checks for persons bringing untaxed liquor into the State of Kansas. There have been 31 individuals arrested in the past year for transporting untaxed liquor into the state. As a result 86.3 gallons of liquor and wine and 31 cases of beer were confiscated. The bulk of the arrests were on the Missouri border. He referred to the state statute which concerns untaxed liquor - 41-407. Mr. Lamb told the committee he would provide them with the number of convictions as requested.

There was discussion of a minimum amount of liquor which could be brought into the state untaxed and of pre-collecting taxes from Missouri stores and the statutes which would be involved in this.

Mr. Lamb told the committee that inspection of clubs, liquor stores, wholesale operations, making sure they are following the statutes; sales to minors; and investigations of clubs concerning tax violations are their top priorities.

There was discussion on how applications for reciprocal clubs are handled and what the qualifications are. An affidavit stating that 50% of the profit is from food is needed as well as a copy of the menu. At times the Department of Revenue is asked to audit certain clubs. Mr. Lamb was asked to supply the committee members with the number of times these audits have been requested and the audit results. He explained that a club just opening will turn in an estimate of their gross food revenue. There is a loophole in the statute which is used frequently. Clubs which turn in a 50% estimate

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS

room 526S, Statehouse, at 1:30 a.m./p.m. on January 16, 1985.

and don't meet the qualification the first year can set up a new corporation with a new name and resubmit their application as a reciprocal club and be granted the new application.

When asked how much additional personnel would be required if the drinking age were raised to 21, Mr. Lamb explained that this would depend on the language in the bill. He estimated six to fifteen additional persons would be needed.

The meeting was adjourned.

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS

5401 S. W. 7th Avenue Topeka, Kansas 66606
913-273-3600

Bill Request
presented to the
House Federal and State Affairs Committee
January 16, 1985

by the
Kansas Association of School Boards
John W. Koepke

The Kansas Association of School Boards was made aware of a problem with compliance with the Kansas Open Public Meetings Act during its legislative review this past summer. The problem arises in the area of the notice to public bodies of a desire to be notified of a public body meeting subject to the Open Meetings Act. No provision exists in the act for removal of names from that list once they have been entered. Taken literally, this means a public body has no authority to remove names from this list, unless requested to do so, even though the affected person may have moved or become deceased.

With this in mind, the Delegate Assembly of the Kansas Association of School Boards adopted the following policy statement on November 25, 1984:

KASB supports legislation which would provide for annual renewal of the meeting notice request for notification of meetings of public bodies found in K.S.A. 75-4318.

We have discussed this solution with representatives of the Kansas Press Association and the Kansas Association of Broadcasters. They have expressed sympathy for the problem and believe the solution offered to be reasonable.

It seems to us that the easiest solution would be to add a new section (e) to 72-4318 and renumber the existing section (e) as section (f). The new section

Attach A
1/16/85

(e) would contain language to the effect that requests for notice under 72-4318 (b) would not extend beyond the end of the current fiscal year of the public body.

We would ask the committee to introduce this measure as a Committee Bill on our behalf and would welcome the opportunity to give fuller testimony at a later scheduled hearing.

MEMORANDUM

TO: Whom It May Concern

FROM: JOHN A. LAMB, Director, ABC Division

RE: History of ABC And Goals of the Director

DATE: January 14, 1985

In November, 1948, the people of Kansas voted to amend Section 10, Article 15, of the Constitution of the State of Kansas. As a result of this election, the state legislature enacted the Kansas Liquor Control Act which provides for the regulation of all phases of the control of manufacture, distribution, sale and traffic in alcoholic liquor and the manufacturing of beer except 3.2% and less.

The Office of the Director of Alcoholic Beverage Control was established to implement the provisions of this Act and to carry out the enforcement.

The Alcoholic Beverage Control Division issued the first distributor's license on June 6, 1949. On July 18, 1949, the first retail liquor licenses were issued.

The 1965 Legislative Session passed the Kansas Club Licensing Act, K.S.A. 41-2601 et seq., as amended, which placed private clubs under the jurisdiction of the Director of Alcoholic Beverage Control. The first licenses were issued on July 31, 1965.

The Division of Alcoholic Beverage Control of the Department of Revenue was created by legislation contained in Chapter 342, Session Laws of 1972, K.S.A. 41-201.

The Director of the Division of Alcoholic Beverage Control appointed by the Secretary of Revenue, administers the Division of Alcoholic Beverage Control. The activities of this office are outlined in Kansas Statutes Annotated.

The 1975 Legislative Session passed the Act concerning bingo. The Secretary of Revenue charged the Director of Alcoholic Beverage Control with the responsibility of policing all bingo activities conducted on licensed private club premises.

The 1978 Legislative Session passed two bills which placed additional responsibilities on the Director of Alcoholic Beverage Control. They are:

- A. Senate Bill 952 transferred the licensing and policing of sixty-eight (68) cereal malt beverage distributors from the Director of Taxation to the Director of Alcoholic Beverage Control. The Director of Alcoholic Beverage Control has continuously licensed and policed strong beer distributors in Kansas since 1949.

Attach B
1/16/85

- B. Senate Bill 975 amended K.S.A. 41-201 and K.S.A. 41-2634 to remove the provisions that an organization or association determined to be exempt from the payment of federal income taxes under section 501(c)(7), (8) or (19) of the Internal Revenue Code shall qualify for a Class A license. Instead, organizations or associations would only qualify if they were determined by the Director of Alcoholic Beverage Control Division to be bona fide nonprofit social, fraternal or war veterans club pursuant to criteria established in rules and regulations.
- C. Senate Bill 975 also provided for multiple licensing of Class B clubs. The requirement is that each club operating under the provisions of multiple licensing must do fifty percent (50%) of their business in food.

The 1979 Legislature enacted two significant bills which affected the Director and the Division of Alcoholic Beverage Control. They are:

- A. Senate Bill 467 which authorizes Class A and Class B clubs to sell liquor by the drink to their members and bona fide guests. The bill extended the reciprocal privilege to Class B clubs, termed "restaurant clubs," having gross receipts greater than fifty percent (50%) from the sale of food. All private clubs were required to obtain a Federal Retailer's Tax Stamp in order to sell liquor in their clubs, and retail liquor stores who sold to private clubs, were required to purchase a Federal Wholesale Liquor Dealer's Basic Permit. The new law established a ten percent (10%) gross receipts tax on the sale of alcoholic liquor, to include spirits, wine and strong beer.
- B. House Bill 2020 replaced the "Open Wholesaling System" with an "Exclusive Franchise System." Passage of this bill increased the number of suppliers doing business in the state from 90 to 180.

The 1981 Legislature enacted two (2) bills which affected the Director and the Division of Alcoholic Beverage Control. They are:

- A. House Bill 2174 which prohibited the retail sale of all metal beverage containers designed so that a part of the container was detachable in opening the container. The bill provided the Director of Alcoholic Beverage Control with responsibility for designating which beverage containers were to be included in the Act. The bill provided a definition of "IN THIS STATE" that included all Federal Territory in the state. The act was effective January 1, 1984.

- B. House Bill 2582 authorized the licensing of private clubs on property in cities having a population of more than two hundred thousand (200,000). Further, it authorized the licensing of private clubs on property owned or operated by the county in counties having a population of 150,000. Additionally, the bill created a new category of temporary members for clubs located on airport property owned or operated by a municipal airport authority. Persons possessing an air traveler's ticket could receive temporary membership in such clubs for the date or dates that such a ticket was valid.

The 1982 Legislature passed 3 bills affecting the Alcoholic Beverage Control Division. They are:

- A. Senate Bill 865 provided that any sales of cereal malt beverages made in private clubs had to be for on-premise consumption only; and that cereal malt beverages could be sold in a private club at any time alcoholic liquor was allowed by law to be served on the premises.
- B. Senate Bill 866 was an act concerning strong beer and cereal malt beverages which related to agreements for distribution of beer and cereal malt beverages to wholesalers. It prohibited "Dual Franchises" for the distribution of strong beer and cereal malt beverage (3.2% beer).
- C. House Substitute for Senate Bill 888 was an act concerning alcoholic liquors. It related to taxation of gross receipts derived from sales of alcoholic liquor; it provided for enforcement procedures relating to the collection thereof; it related to distribution of revenue therefrom and it provided limitations on sales by certain manufacturers and suppliers of alcoholic liquors.

The 1983 Legislature enacted five (5) bills which affected the Alcoholic Beverage Control Division and the Department of Revenue. The bills and actions taken or being taken are:

- A. Senate Bill 43, an act concerning the Kansas Sunset Law continued the Department of Revenue and the Office of Secretary of Revenue in existence until July 1, 1991.
- B. House Bill 2130, an act concerning the liquor enforcement tax increased the enforcement tax upon the gross receipts from the sale of alcoholic liquor at retail from 4% to 8%. Retail liquor store sales in FY 1982 were \$219,352,528. Enforcement tax collected at the rate of 4% amounted to \$8,774,114.

- C. House Bill 2327 was an act which concerned the Kansas Open Records Act. This bill caused the Director to organize a team within the ABC Division to separate each licensee file into two parts to comply with the new law, one part for the public and the other part classified. This team commenced work on Monday, May 16, 1983. The Director's goal was to have all files converted by January 1, 1984, the effective date of the bill. This goal was achieved. The following actions were taken:
1. Space is provided for the visitor to review the record or records.
 2. Individuals, who will obtain records for visitors and be present while records are reviewed to insure nothing is removed, are identified, and
 3. A register to identify visitors, records reviewed, and time required for review was made.
- D. Substitute for House Bill 2382 concerned driver's licenses and non-driver's identification cards. The bill was designed to alleviate the problems of minors using false or copied identification documents when attempting to illegally purchase alcoholic liquor or cereal malt beverages.
- E. Substitute for House Bill 2551 amended the Kansas Liquor Control Act to provide for the following:
1. A "farm winery", licensed by the director, to manufacture, store and sell domestic table wine.
 2. The bill amended K.S.A. 41-311 to provide that a DUI conviction of the spouse of a retail liquor licensee would not be grounds for denial or revocation of a license.
 3. The bill eliminated the requirement for Kansas Identification Stamps to be placed on containers of brandy.

The 1984 Legislature enacted three (3) bills which affected the Alcoholic Beverage Control Division and the Department of Revenue. The bills and actions taken or being taken are:

- A. Senate Bill 401, an act concerning bingo, carried over from the 1983 Legislature created a new enforcement bureau within the Department of Revenue to oversee bingo in this state and placed greater restrictions on commercial parlors in an attempt to make non-profit games more competitive.

NOTE: Subsections (q) and (s) of section 3, Senate Bill 401 (chapter 366, 1984 Session Laws of Kansas) are not currently being enforced. These subsections, reproduced in their entirety below, were declared unconstitutional by the Shawnee County District Court. This matter is now under appeal to the Kansas Supreme Court, tentatively scheduled for oral argument in April. Subsection (r) was also challenged but declared constitutional by the District Judge.

(q) No premises shall be used for the management, operation or conduct of bingo games on more than three calendar days in any one week.

(r) No premises shall be subdivided to provide multiple premises where games of bingo are managed, operated or conducted, whether or not the multiple premises have different addresses.

(s) No game of bingo shall be managed, operated or conducted on leased premises if at any time during the immediately preceding 44 hours the premises, or any premises within 1,000 feet of them, have been used for the management, operation or conduct of a game of bingo.

- B. Senate Bill 494, an act concerning driver's licenses and nondriver's identification cards, requiring the use of different colored background with the photograph for all such cards that are issued to persons under 21 years of age.

NOTE: The state has adopted the color red for the different colored background, therefore all cards issued after July 1, 1984 to persons under 21 years of age will have a red background with the photograph.

- C. House Bill 2630, an act concerning the disposition of revenues derived from the gallonage tax on alcoholic liquor, amends K.S.A. 1983 Supp. 41-501 to restore language that was inadvertently deleted in 1983, and restricts the tax revenue going to the Community Alcoholism and Intoxication Program Fund to 10% of the revenue collected on alcohol and spirits only (excluding wine and beer).

GOALS

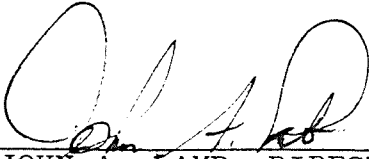
The goals of the Office of the Director of Alcoholic Beverage Control are:

1. To insure an orderly market for the distribution and sale of alcoholic beverages.
2. To conduct effective surveillance of the operations and individuals involved in all phases of the marketing of alcoholic beverages.
3. Assist the Department of Revenue in enforcing the collection of delinquent enforcement and 10% excise taxes.
4. To collect the gallonage tax.

PRIORITIES

As Director of the ABC Division, I feel, like my predecessors, that my priorities are:

1. To maintain an orderly market.
2. To protect the public welfare by investigating applicants for licenses.
3. To regulate the market.
4. To watch industry trade practices.



JOHN A. LAMB, DIRECTOR

JAL:cjk