

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS

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

1:30 a.m./p.m. on February 25, 1985 in room 526S of the Capitol

All members were present except:
Representative Peterson

Representatives Ramirez, Roenbaugh, Long, Sprague, Brady, Gjerstad, Grotewiel,
Hensely & Roy - E

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

Conferees appearing before the committee:

Reverend Richard Taylor, Kansans For Life at its Best
Chris Edmonds, Tavern League of Kansas
Mark Tallman, Associated Students of Kansas
John Lamb, Alcoholic Beverage Control
John Smith, Motor Vehicle Department
Ken Wallace, Lawrence Jahawk Cafe

The meeting was called to order by Chairman Miller.

Representative Roe made a motion, seconded by Representative Barr, to approve the minutes of the February 20 meeting. The motion carried.

SB126 - Suspension or revocation of minor's driver's license
for alcoholic beverage violations

Representative Barr explained the sub-committee recommendations and distributed a balloon of the bill with recommended amendments. See attachment A.

Reverend Taylor, Kansans for Life at its Best, gave testimony in support of the bill and any legislation to toughen the liquor laws. He said the driver's license provision was a good one and should be in the bill.

Chris Edmonds, Tavern League of Kansas, gave testimony in support of the bill and also thought the driver's license provision acted as a deterrent and asked the committee to retain this in the bill.

Mark Tallman, ASK, told the committee they had no formal position on the bill but would ask that the driver's license provision be taken out. He felt that community service would have a better effect.

John Lamb, Alcoholic Beverage Control, told the committee his agency has a problem with New Sec. 2 (c) and believes the entire section should be stricken. He feels there is an automatic loophole being built in in this section. They are also not in favor of lowering the penalty for possession and consumption and would prefer to have this penalty left in with the community service provision added.

John Smith, Motor Vehicle Department, expressed to the committee that the penalty might be too severe. The penalty is more severe than being convicted of vehicular homicide. If the penalty is too stiff, it won't work.

Hearings were concluded on SB126 with discussion and possible action as early as Wednesday.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS,
room 526S, Statehouse, at 1:30 a.m./p.m. on February 25, 1985

SB128 - Limitations on sales practices relating to alcoholic beverages

HB2093 - Prohibiting sales practices which encourage drinking of alcoholic beverages

Chairman Miller explained the sub-committee recommendations and distributed a balloon of the bill with recommended amendments. Since the two bill are identical, SB128 was used in the balloon. The only policy change was in placing the private function provision back into the bill in line 36. See attachment B.

Reverend Taylor, Kansans for Life at its Best, gave testimony in support of the bill.

Chris Edmonds, Tavern League of Kansas, gave testimony in support of the concept of SB128 and any legislation that will reduce the abuse of alcohol consumption. He pointed out the problems connected with proportionate pricing and suggested that the committee eliminate advertising of happy hours. See attachment C.

Ken Wallace, Owner of the Lawrence Jayhawk Cafe in Lawrence, expressed to the committee some recommendations. Mr. Wallace had questions about the free drink provision and about serving more than two drinks at one time. He supported the discontinuing of unlimited number of drinks for one price. Mr. Wallace demonstrated that using two 10 oz. glasses of different shapes, there could be as much as 40% difference in how much beer is actually in the glass according to how the beer is drawn and how much head is on the beer. Mr. Wallace said he would submit written suggestions to the committee. There was discussion as to how many states have prohibited happy hours. There are five states at this time.

Hearings were concluded on SB128 & HB2093 with discussion and possible action as early as Wednesday.

The meeting was adjourned.

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE: 2-25-85

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
Kim Dugger	2405 Wisconsin	KANSAS CAPITAL MADD
Candy Norwood	2200 W 25, Lawrence	Kansas ASAP
Ken Wallace	1337 Kentucky, Lawrence	Jayhawk Cafe, Lawrence
John Lamb	Topoka	ABC
TUCK DUNN	TOPOKA	Ks wine & spirit, wholesaler
Mark Tallman	Topoka	ASK
Jim MURPHY	Topoka	Governor's Office
STU SHELDON	Wichita 2301 EDWARDS ^{Wichita} 40 EAST HIGH	EAST HIGH STUDENT GOVERNMENT
JEFF Marcus	Wichita 1415 Spring Drive	S.E High Student government
Harriet Lange	Topoka	Ks Assn of Broadcasters
Ron Leupp	Dodge City	SELF
JULIE STAPLETON	DODGE CITY	D.C.S.H. STUDENT GOV.
NICOLE LEUPP	DODGE CITY	D.C.S.H. STUDENT GOV
Ron Bates	Topoka	SELF
Denise Everhart	Topoka	Gov. Office
Doug Brehm	Topoka	Intern-Atty General
Bernie Koch	Wichita	RAKE-TV
Richard Hodges	Lawrence, Mo.	ABC
Neal Whitaker	Topoka	KCBWA
CARIS EDWARDS	Topoka	TLOK
Dave Toplikar	Lawrence	Lawrence Journal-World
Tim McHenry, Jr.	Topoka	SRS/ADAS
John W Smith	Topoka	Dept of Revenue

SENATE BILL No. 126

By Committee on Federal and State Affairs

1-31

ATTACH A

0018 AN ACT concerning crimes and punishments; relating to penal-
0019 ties for certain crimes involving alcoholic beverages; amend-
0020 ing K.S.A. 41-715 and K.S.A. 1984 Supp. 41-2721 and repeal-
0021 ing the existing sections.

0022 *Be it enacted by the Legislature of the State of Kansas:*

0023 Section 1. K.S.A. 41-715 is hereby amended to read as fol-
0024 lows: 41-715. ~~(a) No minor shall represent that he is:~~

0025 ~~(1) Claim to be 21 or more years of age for the purpose of~~
0026 ~~asking for, purchasing or receiving obtaining or attempting to~~
0027 ~~obtain alcoholic liquor from any person except in cases autho-~~
0028 ~~rized by law. No minor shall,~~

0029 ~~(2) attempt to purchase or purchase alcoholic liquor from any~~
0030 ~~person. No minor shall, or~~

0031 ~~(3) possess or consume any alcoholic liquor.~~

0032 ~~(b) ¶ No person shall knowingly sell, give away, dispose of,~~ (a)
0033 ~~exchange or deliver, or permit the sale, gift or procuring of any~~
0034 ~~alcoholic liquor to or for any person who is an incapacitated~~
0035 ~~person, or any person who is physically or mentally incapaci-~~
0036 ~~tated by the consumption of such liquor. Any person violating~~
0037 ~~any of the provisions of this section shall be deemed guilty of a~~
0038 ~~misdemeanor, and upon conviction thereof shall be punished by~~
0039 ~~a fine of not more than two hundred dollars (\$200) or by impris-~~
0040 ~~onment for not to exceed thirty (30) days, or both such fine and~~
0041 ~~imprisonment in the discretion of the court.~~

0042 ~~(c) ¶ Violation of this section is a misdemeanor punishable by~~ (b)
0043 ~~a fine of not less than \$100 and not exceeding \$200 \$250 or~~
0044 ~~imprisonment not exceeding 30 days, or both.~~

0045 ~~(d) Upon a conviction or adjudication of a violation of sub-~~
0046 ~~section (a), the court, in addition to any other penalty or dispo-~~

Att. b. A
2/25/85

0047 sition provided by law, shall suspend the driver's license of the
 0048 offender for one year. Upon suspension, the court shall require
 0049 that the license be surrendered to the court. The court shall
 0050 transmit the license to the division of vehicles of the department
 0051 of revenue, together with a copy of the court's order suspending
 0052 the license. Upon expiration of the year's suspension, the li-
 0053 censee may apply to the division for return of the license. If the
 0054 license has expired, the person may apply to the division for a
 0055 new license, which shall be issued by the division upon payment
 0056 of the proper fee and satisfaction of the other conditions es-
 0057 tablished by law, unless the person's privilege to operate a
 0058 motor vehicle on the highways of this state has been otherwise
 0059 suspended or revoked prior to expiration.

0060 If the offender is not old enough to qualify for a driver's
 0061 license, the court shall order that no driver's license be issued to
 0062 the offender until one year after the offender reaches the age to
 0063 qualify for a driver's license. Upon entering the order, the court
 0064 shall transmit a copy of it to the division of vehicles of the
 0065 department of revenue, which shall not issue any driver's li-
 0066 cense to the offender until one year after the offender reaches
 0067 the age to qualify for such a license.

0068 (e) Subsection (a) of this section shall not apply to the
 0069 possession and consumption of alcoholic liquor by a person
 0070 under 21 years of age when such possession and consumption is
 0071 permitted, and such liquor is furnished, by the person's parent
 0072 or legal guardian.

0073 Sec. 27 K.S.A. 1984 Supp. 41-2721 is hereby amended to read
 0074 as follows: 41-2721. (a) No person under 18 years of age shall

0075 (1) Claim to be 18 or more years of age for the purpose of
 0076 obtaining or attempting to obtain any cereal malt beverage from
 0077 any person;

0078 (2) purchase or attempt to purchase any cereal malt beverage
 0079 from any person; or

0080 (3) possess or consume any cereal malt beverage.

0081 (b) Any person who violates this section, upon adjudication
 0082 thereof, shall be deemed a juvenile offender under the Kansas
 0083 juvenile offenders code.

126

New Sec. 2. (a) No person under 21 years of age shall obtain or purchase, or attempt to obtain or purchase, alcoholic liquor from any person except as authorized by law.

(b) No person under 21 years of age shall possess or consume alcoholic liquor except as authorized by law.

(c) This section shall not apply to the possession and consumption of alcoholic liquor by a person under 21 years of age when such possession and consumption is permitted and supervised, and such liquor is furnished, by the person's parent or legal guardian.

(d) Violation of subsection (a) by a person more than 18 but less than 21 years of age is a misdemeanor punishable by a fine of not less than \$100 and not more than \$250 or by 40 hours of public service, or by both. Violation of subsection (b) is a misdemeanor punishable by a fine of not less than \$25 and not more than \$250 or by 10 hours of public service, or by both.

(e) Any person less than 18 years of age who violates this section is a juvenile offender under the Kansas juvenile offenders code and, upon adjudication thereof, shall be required as a condition of disposition to pay the fine or perform the public service, or both, specified as punishment for the offense under subsection (d).

(f) This section shall be part of and supplemental to the Kansas liquor control act.

91 (b) Upon an adjudication of a violation of this section, the
 0085 court, in addition to any other penalty or disposition provided
 0086 by law, shall suspend the driver's license of the offender for one
 0087 year. Upon suspension, the court shall require that the license
 0088 be surrendered to the court. The court shall transmit the license
 0089 to the division of vehicles of the department of revenue, together
 0090 with a copy of the court's order suspending the license. Upon
 0091 expiration of the year's suspension, the licensee may apply to
 0092 the division for return of the license. If the license has expired,
 0093 the person may apply to the division for a new license, which
 0094 shall be issued by the division upon payment of the proper fee
 0095 and satisfaction of the other conditions established by law,
 0096 unless the person's privilege to operate a motor vehicle on the
 0097 highways of this state has been otherwise suspended or revoked
 0098 prior to expiration.

0099 If the offender is not old enough to qualify for a driver's
 0100 license, the court shall order that no driver's license be issued to
 0101 the offender until one year after the offender reaches the age to
 0102 qualify for a driver's license. Upon entering the order, the court
 0103 shall transmit a copy of it to the division of vehicles of the
 0104 department of revenue, which shall not issue any driver's li-
 0105 cense to the offender until one year after the offender reaches
 0106 the age to qualify for such a license.

0107 (d) This section shall not apply to the possession and con-
 0108 sumption of cereal malt beverage by a person under 18 years of
 0109 age when such possession and consumption is permitted, and
 0110 such beverage is furnished, by the person's parent or legal
 0111 guardian.

0112 (e) This section shall be part of and supplemental to
 0113 article 27 of chapter 41 of the Kansas Statutes Annotated.

0114 Sec. 3. K.S.A. 41-715 and K.S.A. 1984 Supp. 41-2721 are
 0115 hereby repealed.

0116 Sec. 4. This act shall take effect and be in force from and
 0117 after its publication in the statute book.

(a) No person under 18 years of age shall obtain or purchase, or attempt to obtain or purchase, cereal malt beverage from any person except as authorized by law.

(b) No person under 18 years of age shall possess or consume cereal malt beverage except as authorized by law.

(c)

and supervised

(d) Any person who violates this section is a juvenile offender under the Kansas juvenile offender code and, upon adjudication thereof, shall be required as a condition of disposition:

(1) To pay a fine not less than \$100 and not more than \$250 or to perform 40 hours of public service, or both, for violation of subsection (a); or

(2) to pay a fine of not less than \$25 and not more than \$250 or to perform 10 hours of public service, or both, for violation of subsection (b).

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[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 1985

SENATE BILL No. 128

By Committee on Federal and State Affairs

1-31

0021 AN ACT concerning alcoholic beverages; prohibiting certain
0022 practices with relation to sales thereof; providing penalties for
0023 violations.

0024 *Be it enacted by the Legislature of the State of Kansas:*

0025 Section 1. (a) No club ~~licensee holding a license for the~~
0026 ~~retail sale of alcoholic liquor~~, or employee or agent of a club
0027 ~~[such licensee]~~, shall:

0028 (1) Offer or serve any free drink to any person;

0029 (2) serve more than two drinks to one person at one time;

0030 (3) ~~sell, offer to sell or serve to any person any drink at a price~~
0031 ~~less than the price regularly charged for such drink during that~~
0032 ~~calendar week, except at private functions not open to the gen-~~
0033 ~~eral club membership;~~

0034 (4) (3) ~~sell, offer to sell or serve to any person an unlimited~~
0035 ~~number of drinks during any set period of time for a fixed price,~~
0036 ~~except at private functions not open to the general club mem-~~
0037 ~~bership;~~

0038 (5) (4) ~~sell, offer to sell or serve any drink to any person on~~
0039 ~~any one day at a price less than that charged the general mem-~~
0040 ~~bership [all other purchasers of drinks] on that day, except at~~
0041 ~~private functions not open to the general club membership;~~

0042 (6) ~~sell, offer to sell or serve drinks by the pitcher or similar~~
0043 ~~quantity ; except to two or more persons at any one time;~~

0044 (7) (5) ~~increase the volume of alcoholic liquor contained in a~~
0045 ~~drink or the size of a serving of cereal malt beverage without~~
0046 ~~increasing proportionately the price regularly charged for the~~
0047 ~~drink during that calendar week;~~

club licensed pursuant to article 26 of
chapter 41 of the Kansas Statutes Annotated

a club

, except at private functions not open to
the general club membership

on that day

clean-up private clubs

attach B

*Attach. B
2/25/85*

0048 (8) (6) encourage or permit, on the licensed premises, any
0049 game or contest which involves drinking alcoholic liquor or
0050 cereal malt beverage or the awarding of drinks as prizes; or
0051 (9) (7) advertise or promote in any way, whether on or off the
0052 licensed premises, any of the practices prohibited under sub-
0053 sections (a)(1) through (8) (6).

0054 (b) Every club shall maintain on the licensed premises a
0055 schedule of the prices charged for all drinks to be served and
0056 consumed on the licensed premises or in any room or part
0057 thereof. Such prices shall be effective for not less than one
0058 calendar week.

0059 (e) (b) Nothing in subsection (a) shall be construed to pro-
0060 hibit a club [licensee] from:

- 0061 (1) Offering free food or entertainment at any time;
- 0062 (2) including a drink as part of a meal package; or
- 0063 (3) selling or delivering wine by the bottle or carafe if sold or
0064 delivered with a meal or to two or more persons.

0065 (d) (c) Violation of any provision of this section is a misde-
0066 meanor punishable as provided by K.S.A. 41-2633 and amend-
0067 ments thereto.

0068 (e) (d) Violation of any provision of this section shall be
0069 grounds for suspension or revocation of the club's [licensee's]
0070 license as provided by K.S.A. 41-2609 and amendments thereto
0071 and for imposition of a civil fine as provided by K.S.A. 41-2633a
0072 and amendments thereto.

0073 (f) (e) As used in this section, "drink" means an individual
0074 serving of any beverage containing alcoholic liquor or an indi-
0075 vidual serving of cereal malt beverage.

0076 (g) (f) This section shall be part of and supplemental to
0077 K.S.A. 41-2601 through 41-2639, and amendments thereto.

0078 Sec. 2. (a) No retailer, or employee or agent of a retailer,
0079 licensed to sell cereal malt beverage for consumption on the
0080 licensed premises shall:

- 0081 (1) Offer or serve any free drink to any person;
- 0082 (2) serve more than two drinks to one person at one time;
- 0083 (3) sell, offer to sell or serve to any person any drink at a price
0084 less than the price regularly charged for such drink during that

club

*licensee
private
clubs*

technical

(f) This section shall be part of and supplemental to K.S.A. 41-2601 through 41-2639 and amendments thereto.

0085 calendar week, except at private functions not open to the gen-
0086 eral public;

0087 (4) (3) sell, offer to sell or serve to any person an unlimited
0088 number of drinks during any set period of time for a fixed price,
0089 except at private functions not open to the general public;

0090 (5) (4) sell, offer to sell or serve any drink to any person on
0091 any one day at a price less than that charged the general public
0092 on that day, ~~except at private functions not open to the general~~
0093 ~~public;~~

0094 (6) ~~sell, offer to sell or serve malt beverage by the pitcher or~~
0095 ~~similar quantity except to two or more persons at any one time;~~

0096 (7) (5) increase the size of a ~~serving~~ of cereal malt beverage
0097 without increasing proportionately the price regularly charged
0098 for the drink ~~during that calendar week;~~

0099 (8) (6) encourage or permit, on the licensed premises, any
0100 game or contest which involves drinking cereal malt beverage or
0101 the awarding of drinks as prizes; or

0102 (9) (7) advertise or promote in any way, whether on or off the
0103 licensed premises, any of the practices prohibited under sub-
0104 sections (a)(1) through (8) (6).

0105 (b) Every retailer shall maintain on the licensed premises a
0106 schedule of the prices charged for all drinks to be served and
0107 consumed on the licensed premises or in any room or part
0108 thereof. Such prices shall be effective for not less than one
0109 calendar week.

0110 (e) (b) Nothing in subsection (a) shall be construed to pro-
0111 hibit a retailer from:

0112 (1) Offering free food or entertainment at any time; or

0113 (2) including a drink as part of a meal package.

0114 (d) (c) Violation of any provisions of this section is a mis-
0115 demeanor punishable as provided by K.S.A. 41-2711 and
0116 amendments thereto.

0117 (e) (d) Violation of any provision of this act shall be grounds
0118 for suspension or revocation of the retailer's license as provided
0119 by K.S.A. 41-2708 and amendments thereto.

0120 (f) (e) As used in this section, "drink" means an individual
0121 serving of cereal malt beverage.

drink

on that day

0122 ~~(g)~~ (f) This section shall be part of and supplemental to
0123 K.S.A. 41-2701 through 41-2721, and amendments thereto.
0124 Sec. 3. This act shall take effect and be in force from and
0125 after its publication in the statute book.

Tavern League of Kansas

719 Massachusetts
Lawrence, Kansas 66044
(913) 841-8470

3330 Randolph
Topeka, Kansas 66611
(913) 267-2514

Christopher S. Edmonds
Executive Director

PREPARED STATEMENT OF

CHRISTOPHER S. EDMONDS
EXECUTIVE DIRECTOR
TAVERN LEAGUE OF KANSAS

BEFORE THE KANSAS HOUSE OF REPRESENTATIVES
FEDERAL AND STATE AFFAIRS COMMITTEE

ROBERT H. MILLER, CHAIRPERSON

IN REGARDS TO:

SB 126
SB 128
HB 2093

FEBRUARY 25, 1985
1:30 pm

2/25/85
Attach c

Mr. Chairman, members of the House Federal and State Affairs Committee, I would like to take this opportunity to thank you for this chance to appear before you today on the three measures before the committee. My name is Christopher S. Edmonds and I am the executive director of the Tavern League of Kansas. The Tavern League represents on-premise cereal malt beverage retailers across the state of Kansas.

The problem of underage alcohol abuse and illegal practices in regards to alcohol in the state of Kansas is truly a serious one. There is no question that should a minor wish to purchase alcoholic liquor or cereal malt beverages he or she would have no trouble in finding a place ready and willing to do so. In most instances such a person will have a false identification card readily available. The youngster enters the establishment, picks up what he or she wishes to purchase and approaches the counter. Similarly, in most instances, the minor is questioned by the clerk or bartender, shows a false identification, and is allowed, because of this fake I.D, to purchase alcoholic liquor or cereal malt beverage.

The on-premise cereal malt retailers across the state have made a serious effort to crack down on underage purchase and consumption of their products on-premise. However, such a task is near impossible with the professional proliferation of false identification and the lack of a uniform punishment for minors apprehended purchasing underage. Presently, no uniform punishment exists for the purchase of alcoholic liquor or cereal malt beverages by a minor.

Senate Bill 126 addresses this lack of uniformity. The Tavern League of Kansas is in strong support of such a measure. The suspension of a minor's driver's license as a penalty for underage purchase and consumption of cereal malt beverages and alcoholic liquor will serve, in our estimation, as a positive deterrent to the minor considering the purchase of any alcoholic liquor or cereal malt beverage.

A survey conducted by Professors Jessor and Jessor at the University of Colorado found that driving and the privileges and responsibilities that accompany it are the most highly valued actions by high school students, ages 16-18. It would seem that, if this is the case, such a penalty would be a very powerful deterrent to underage purchase.

Similarly, most underage purchases are made in package or liquor stores and are then consumed in the cars of the youngsters while driving, or cruising, the town. It seems since the two -- drinking and driving -- are acutely connected for that age group, that such a penalty is only just. We feel that such a penalty will serve as a catalyst for the reduction of underage drinking and driving.

Finally, it seems only appropriate that the penalty be placed on the party that is to blame. With the proliferation of false identification and the professionalism surrounding this activity, punishment is due for the offender. Presently, the offender is slapped on the wrist while the owner who sells to a person with what seems to be a valid Kansas Driver's License can be closed and even lose his or her license. A partial shift of the blame seems only to be reasonable.

I now wish to focus your attention on SB 128 and HB 2093. As the subcommittee has stated, we will focus on the provisions of Senate Bill 128. This legislation is an attempt to regulate promotions of both private clubs and taverns.

To begin, the Tavern League of Kansas is in support of any action that will reduce the abuse of alcohol consumption and the results of such abuse. We wish only to promote those activities that are responsible and moderate in the consumption of cereal malt beverages in our establishments. As a result of that policy, we have adopted a voluntary industry prohibition of the sale of an unlimited quantity of cereal malt beverages for a fixed price, otherwise known as "drink and drown" promotions. The members of this industry, in an attempt to promote moderation and responsibility have taken it upon themselves to begin the elimination of such abusive practices.

Philosophically, we are in support of the concepts in SB 128. The elimination of any promotions that induce excessive consumption and abuse of alcohol place a bad image on otherwise responsible and caring club and tavern owners. However, there seem to be many pragmatic and technical problems with this legislation.

Initially, we are ambivalent about the elimination of a tavern owner's option to "buy" a drink for a good, regular customer. It is common practice to occasionally buy your regular customers a "drink" or a "beer" as a type of "thanks" for exclusively patronizing a certain establishment. Similarly, regular customers and clientele is developed in this manner. Such a practice is no different than a restaurant offering a free meal occasionally to regular customers to express their appreciation for the business or a clothing store giving a free shirt and tie to a regular customer who purchases his wardrobe exclusively at such a business.

There certainly is good reason to eliminate free drinks to every John and Jane Doe in this legislation. Without such a provision, this legislation would be worthless. However, it would be possible to serve the intent of such legislation by amending this provision to contain the language of the private club laws to indicate that: "No free drink shall be served to any person other than one which is not a mere acquaintance or total stranger."

Such language would allow for a tavern owner or club owner to build a steady clientele through the use of his business without creating a loophole in this legislation.

The other provision of this legislation that seems to cause a great deal of concern is found on line 0090 on page three. This provision would prohibit the incentive pricing in taverns. Presently, due to economies of scale, a pitcher of cereal malt beverage is sold at a price slightly less than an individual serving of cereal malt beverage. However, no tavern in this state seems to abuse this practice by offering a larger quantity at a price similar to an individual serving. The economic realities of the industry will not allow that to happen.

Technically, every tavern in the state would have to standardize the size of their individual servings, their pitchers, and other servings to be in compliance with this portion of the legislation. Such a provision will make "lawbreakers" out of otherwise legal members of this business. Such a provision also seems unenforceable and almost impossible to comply with. The ABC would be placed in the position of an enforcement official for the office of weights and measures with his tablespoons and once glasses to determine which tavern or club is not in compliance with this section.

Such a comment would lead to a final observation. Should one sit back and think about this legislation, it is a law enforcement officer's nightmare. Even members of the subcommittee sat around in meetings and thought of the simplest ways to circumvent the legislation.

A provision that allows not more than two drinks to be served to one person at one time is easily overcome. Should a person wish to order more than that, he orders two the first time, and the waiter delivers. At such a point he orders two more and, legally, the waiter delivers. Such a practice continues until such time as there is no room left on the table to place another drink. Perfectly legal.

The same is true with other sections of this legislation. It is a very noble attempt on the part of government to attempt to control such practices, but one that will surely fail.

Members of the staff of the Alcoholic Beverage Control suggested an alternative that is enforceable and will eliminate a great deal of the abuse from such promotions. Instead of an outright prohibition on such activities, the legislature should move to prohibit the advertising of any such promotions. Such a prohibition would be enforceable and would also curtail the great majority of such practices. Most of these promotions survive on the clientele lured by the advertising. Such a restriction would be in the best interest of economy for enforcement and compliance by members of the industry.

Similarly, such a regulation would seem to withstand a challenge as it has in Massachusetts and Texas. This type of advertising regulation would fall within the standards established in cigarette advertising restrictions (e.g. time, place and manner) as outlined in the U.S. Supreme Court opinion in Banzhaff v. Federal Communications Commission.

Members of this committee, a noble and good faith attempt is being made by all parties to stop the rash of alcohol and drug abuse by all members of the industry. Senate Bill 126 is a great step by the Kansas Legislature to control such problems with underage purchase and abuse. Senate Bill 128 is an attempt in good faith but, very possibly, a futile attempt.

While we support such concepts, we feel they are best left to the industry as we are moving in that direction. We feel, the best and most enforceable action that could be taken in this area is a restriction of advertising practices, as such would serve an identical purpose and be a feasible alternative to the proposed legislation. Should the industry reverse its trend in moving away from such practices, the legislature certainly could consider such action in future years.

Chairman Miller, I appreciate the opportunity to appear before you today and also wish to thank you for your openness in allowing us to participate vocally in the subcommittee action. I would be happy to entertain any questions at this time.