

Approved 2/25/85  
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 20, 1985 in room 254-E of the Capitol.

All members were present ~~except~~:

Committee staff present:

Fred Carman, Assistant Revisor of Statutes  
Russell Mills, Legislative Research  
Emalene Correll, Legislative Research  
June Windschefel, Committee Secretary

Conferees appearing before the committee:

John Lamb, Director, Alcoholic Beverage Control  
Tuck Duncan, Kansas Wine & Spirits Wholesalers  
Darb Ratner, Kansas Retail Dealers Association  
Neal Whitaker, Kansas Beer Wholesalers Association

The Chairman called the Committee's attention to the bills that were introduced by the Committee for the Alcoholic Beverage Control recently which are to be reviewed today by John Lamb, Alcoholic Beverage Control Director, and for possible action by the Committee.

SB268 - concerning powers of director, employees and agents of Alcoholic Beverage Control.

The Chairman recognized Mr. Lamb on SB268. He referred to a letter from Lowell Long, Case Management Specialist for the Judicial Administrator. It is Attachment #1 of these Minutes. In the letter Mr. Long requests that the bill be amended to specifically identify ABC agents as having authority to issue written notice to appear. Attachment #2 shows the suggested change.

SB269 - concerning alcoholic beverages individually purchased in foreign countries; tax payment.

Mr. Lamb distributed copies of his Memorandum to the Committee concerning SB269. It is Attachment #3 of these Minutes. Mr. Lamb said this is to bring this matter to the Committee's attention, and that the Committee may wish to place a limitation on the amount of liquor that can be imported at any one time for personal use without having to pay taxes. Part of the Attachment is a Summary of State Regulations showing the quantity of spirits which may be imported by individuals for personal use without tax or permit. Mr. Lamb said that a gallon "duty free" would do away with the problem of collecting taxes for small amounts; if individuals were to bring more than the specified amount they would be required to pay the taxes.

SB271 - concerning the Kansas liquor control act and persons not to receive retailer's license.

Mr. Lamb said SB271 basically does one thing: it changes the current residency requirements of a person who wants to obtain a retail liquor license. The ABC is suggesting the statutes be amended to show residency of one year in the county and two in the state and that would bring it more into conformity with the terms of some of the private club requirements. The ABC feels the time suggested gives them adequate time to check out someone's criminal history and for them to have a credible record established with the state. Director Lamb said that in rural areas it is difficult for individuals to sell their stores to people that meet residence requirements, and the ABC does not feel this proposed legislation would increase the number of liquor stores in the state.

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 20, 1985.

The next conferee was Tuck Duncan, Kansas Wine and Spirits Wholesalers Association. Mr. Duncan recommended that subparts (3) and (4) of subsection (a) and part of subpart (14) be deleted and that a new section patterned after 41-314 include these provisions. Mr. Duncan's testimony is Attachment #4.

Darb Ratner, Kansas Retail Dealers' Association, was recognized by the Chairman. He said that they would concur, that the majority of the retail liquor stores are owned by people who are proud of being in the industry, but it is a highly regulated industry. Also, they feel that according to an Attorney General's Opinion that diversion works for everyone except for them.

Neal Whitaker, Kansas Beer Wholesalers Association, appeared to say that their organization supports Mr. Duncan's proposal.

Senator Martin said that he would make a conceptual motion to adopt the amendment that Tuck Duncan proposed. 2d by Senator Strick. Motion carried.

Senator Martin moved that SB271 be recommended for passage favorably as amended. 2d by Senator Anderson. Motion carried.

Senator Anderson moved conceptually to offer the amendment of SB269 to accept the amount of one gallon per person duty-free or the equivalent in liters. 2d by Senator Walker. Motion carried.

Senator Strick moved that SB269 be recommended favorably as amended 2d by Senator Anderson. Motion carried.

Senator Daniels moved that the Committee adopt the amendment to SB268 as proposed by the Office of the Judicial Administrator. 2d by Senator Anderson. Motion carried.

Senator Anderson moved that SB268 be recommended favorably for passage as amended. 2d by Senator Walker. Motion carried.

Senator Arasmith moved that the Minutes of February 4, 13 and 14, 1985, be approved. 2d by Senator Strick. Motion carried.

The meeting was adjourned.



Hodson 2/20/85  
Attachment #1

State of Kansas

# Office of Judicial Administration

Kansas Judicial Center  
301 West 10th  
Topeka, Kansas 66612

(913) 296-2256

February 14, 1985

Mr. Richard Hodson  
Assistant Attorney General  
Office of Attorney General  
Judicial Center  
Topeka, Kansas 66612

SB 268  
↓

Dear Mr. Hodson:

If your proposed new statute, 41-201a, is adopted with the language you propose, it would be our opinion that this would permit ABC agents to use the NTA short forms for liquor law violations that are misdemeanors.

A preferable addition in the view of our attorney would be to track the language of K.S.A. 22-2408 and specifically identify ABC agents as having authority to issue a written notice to appear.

Thank you for the opportunity to look at the draft language.

Sincerely yours,

Lowell Long  
Case Management Specialist

LL:dm

cc: Howard Schwartz  
Marjorie Van Buren

2/20/85  
Attachment #2

MEMORANDUM

RE: Senate Bill 268  
Judicial Administrator's Comments

Add to line 0040 after "duties." The following sentence, "In addition to or in lieu of the above, the director and his agents and employees shall have the authority to issue notices to appear pursuant to K.S.A. 22-2408 and amendments thereto."

2/20/85  
Attachment #3

MEMORANDUM


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

FROM: JOHN A. LAMB, Director, ABC Division

RE: Senate Bill 269

I have attached a summary prepared by our office from information supplied by the Distilled Spirits Council of the United States. The summary outlines state requirements of the quantity of spirits which may be imported by individuals for personal use without tax or permit.

The committee may want to consider placing a limitation on the amount that can be imported at any one time for personal use. The Federal regulations allow one liter duty free.



JOHN A. LAMB, DIRECTOR

JAL:cjk

MEMORANDUM

TO: Director

FROM: Julie Fletcher

RE: Summary of State Regulations of the Quantity of Spirits Which May be Imported by Individuals for Personal Use Without Tax or Permit.

ALABAMA	- None
ALASKA	- "reasonable quantity"
ARIZONA	- amount admitted U.S. duty free if from a foreign country and brought in by an adult.
ARKANSAS	- None
CALIFORNIA	- amount exempt from duty by U.S. if in possession of adult from without the U.S.; exceptions: certain members of the armed forces may ship to the U.S. 1 gallon tax free; an adult on a charter flight originating and terminating in U.S. may import not over 1 quart per year.
COLORADO	- 1 gallon or 4 liters by a passenger 21 or older arriving on a plane from a foreign country and clearing customs at Colorado port.
CONNECTICUT:	- 4 gallons in possession; 5 gallons every 60 days with payment of state sales tax.
DELAWARE	- amount that does not exceed the amount allowed by federal statutes governing importation into the U.S.; 1 quart per day per person if imported via automobile across state line.
DISTRICT OF COLUMBIA	- 1 quart per month if by public or common carrier; 1 gallon any one time if by other means.
FLORIDA	- 1 gallon in possession (cannot ship in).
GEORGIA	- $\frac{1}{2}$ gallon or nearest metric equivalent.
HAWAII	- 1 gallon in possession.
IDAHO	- 2 quarts
ILLINOIS	- 1 gallon per year.
INDIANA	- 1 quart in possession.
IOWA	- 1 quart U.S. or 1 gallon.

- KANSAS - None
- KENTUCKY - None
- LOUISIANA - None
- MAINE - 4 quarts
- MARYLAND - 1 quart at a time, but not over 2 quarts a month; 1 gallon in possession; 1 gallon from the U.S., Virgin Islands, American Samoa or Guam.
- MASSACHUSETTS - None
- MICHIGAN - 1 quart; by adult re-entering state from abroad after 48 hours, in possession, amount admitted U.S. duty free.
- MINNESOTA - 1 quart from another state; 1 gallon from a foreign country.
- MISSISSIPPI - None
- MISSOURI - 5 gallons
- MONTANA - 3 gallons in possession.
- NEBRASKA - No limitation.
- NEVADA - 1 gallon a month from another state; any which is exempted from federal import duty.
- NEW HAMPSHIRE - 3 quarts in possession.
- NEW JERSEY - 2 quarts distilled spirits or 1 gallon wine each 24 hours; Special permit at \$5.00 fee to import more, plus state tax.
- NEW MEXICO - "reasonable" amount by an adult.
- NEW YORK - 1 quart
- NORTH CAROLINA - 4 liters in possession.
- NORTH DAKOTA - None
- OHIO - 1 quart (or 1 gallon if from Virgin Islands, Guam, or American Samoa) the month in possession by 21 year old person if a resident or a member of U.S. Armed Forces, or if outside U.S. for over 48 hours.
- OKLAHOMA - 750 ml
- OREGON - 2 liters in possession.

- PENNSYLVANIA - 1 gallon in possession if purchased personally in a foreign country if admitted U.S. duty free.
- RHODE ISLAND - 3 gallons, but must be declared to and approved by the Administrator (of Liquor Control).
- SOUTH CAROLINA - to value of \$20 cost in possession from outside continental U.S.
- SOUTH DAKOTA - 1 gallon or less per person for personal use if 21 or over.
- TENNESSEE - None
- TEXAS - 1 quart may be imported for personal use without a permit, but not without tax liability.
- UTAH - None
- VERMONT - 2 gallons in possession.
- VIRGINIA - 1 gallon in possession.
- WASHINGTON - from without U.S. by adult in possession amount admitted U.S. duty free.
- WEST VIRGINIA - 1 gallon in possession.
- WISCONSIN - 1 gallon by adult in possession arriving from a foreign country after 48 hours.
- WYOMING - 3 quarts.

  
\_\_\_\_\_  
JULIE FLETCHER

JF:bf



COMMENTS TO SENATE FEDERAL & STATE AFFAIRS COMMITTEE REGARDING  
S.B. 271 by R.E. "TUCK" DUNCAN

It is our recommendation to the Committee that it amend K.S.A. 41-311 (SB 271) by deleting (a)(3) and (4) and all language after the word "age" in 41-311(14) and enact a new section akin to K.S.A. 41-314 as follows:

"Whenever any licensee shall have been convicted by any court of a violation of the intoxicating liquor laws of any state or the alcoholic beverage control laws of the United States or has forfeited bond to appear in court to answer charges for any such violation or who has been convicted of a violation of any of the laws of any state relating to cereal malt beverages, the Director may in addition to the penalties imposed by law for such offense, suspend, revoke or impose a fine in an original proceeding brought before him for that purpose."

The purpose of this proposal is to afford to licensees due process. There are times when the now automatic revocation of the license is not appropriate because the nature of the conviction is so minor.

This provision, which I have reviewed with the Director, will accomplish the same concerns as expressed in 41-311 (3) and (4), but will place with the administrative officer a meaningful due process review, now not available. All segments of the industry support this proposal and we urge its favorable consideration.