

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS

The meeting was called to order by CHAIRMAN MILLER at \_\_\_\_\_  
Chairperson

1:30 a.m./p.m. on March 2, 1987 in room 526S of the Capitol.

All members were present except:  
Representative Roy - E  
Representative Rolfs

Committee staff present:  
Lynda Hutfles, Secretary  
Mary Galligan, Research  
Mary Torrance, Revisor  
Raney Gilliland, Research

Conferees appearing before the committee:  
John Lamb, ABC  
Neal Whittaker, Kansas Beer Wholesalers  
Tuck Duncan, Kansas Wine & Spirits Wholesalers  
George Pucket, Kansas Restaurant Association  
Adrian Farver, Kansas Hospitality Industry for Progressive Liquor Laws  
Ken Bahr, Kansas Retail Liquor Dealers Association  
Gene Johnson, Kansas Community Alcohol Safety Action Project Coordinators  
Association  
Reverend Taylor, Kansan's for Life at its Best  
Joe Berger, Sunflower Club Association

The meeting was called to order by Chairman Miller.

Representative Long made a motion, seconded by Representative Sughrue, to approve the minutes of the February 25 meeting. The motion carried.

Representative Roe made a motion, seconded by Representative Walker, to introduce as a committee bill a bill dealing with the Secretary of Corrections. The motion carried.

SB141 - Liquor by the drink

Mary Galligan, Legislative Research, explained the bill section by section. See attachment A.

John Lamb, Alcoholic Beverage Control, gave testimony expressing their concerns regarding license fees, penalties, minimum food requirements, reciprocity, membership fees and caters and temporary permits. See attachment B & C.

There was discussion of what the license fee should be and what clubs should be eligible for these licenses. Also discussed was whether alcohol could be given away at fundraisers, open house at a new business, etc.

Neal Whittaker, Kansas Beer Wholesalers, explained the current delivery system. This bill allows beer wholesalers the option of delivering strong beer and bulk wine products directly to liquor by the drink establishments. See attachment D.

There was discussion of the tax on strong beer and 3.2 beer and the shelf life of domestic beer (90-150 days).

Tuck Duncan, Kansas Wine & Spirits Wholesalers, spoke to the delivery issue. This bill is a fair compromise between distributors of beer, wine & spirits and liquor retailers. Delivery should remain optional.

George Pucket, Kansas Restaurant Association, gave testimony in support of the bill. He told the committee the bill was not exactly what they had hoped for, but that it was a workable one and a good one. See attachment E.

There was discussion of the annual fee and its effect on how many private clubs will file for an application. Also discussed was the uniformity of

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Federal & State Affairs,  
room 526S, Statehouse, at 1:30 a.m./p.m. on March 2, 1987.

minimum food requirements.

Adrian Farver, Kansas Hospitality Industry for Progressive Liquor Laws, gave testimony in support of the bill. His association consists of A & B Clubs such as American Legion, Moose and hotels.

Ken Bahr, Kansas Retail Liquor Dealers Association, addressed the delivery process and the taxes paid by the private clubs. See attachment F.

Gene Johnson, Kansas Community Alcohol Safety Action Project Coordinators Association, suggested that the taxing structure of the 10% tax should be studied in an interim committee telling where the tax should be collected and how it is expended through local governments. See attachment G.

Reverend Taylor, Kansan's For Life at its best, gave testimony in support of the bill and suggested moving the minimum food requirement up to 50%. He also suggested that the section dealing with caterers needed some tightening up. See attachment H.

There was discussion of lines 506-510 and whether liquor could be given away and could be open to the public.

Joe Berger, Sunflower Club Association, representing Class A non-profit clubs and associations made some suggestions to the committee. He noted that wholesale and retail liquor stores should be allowed to charge a delivery fee. The 10% excise tax collected by the clubs should be eliminated and this should be added to the gallonage tax. Wholesalers should collect this gallonage tax and pay it to the state. Class A clubs should be reciprocal with each other.

Hearings were concluded on SB141.

The meeting was adjourned.

MEMORANDUM

March 2, 1987

FROM: Kansas Legislative Research Department  
RE: Substitute for Senate Bill No. 141, As Amended by  
the Senate Committee of the Whole

The following paragraphs provide a section-by-section summary of the provisions of the liquor by the drink bill as amended by the Senate Committee of the Whole.

Section 1 -- Includes references to the definitions of caterer, cereal malt beverage, club, drinking establishment and temporary permit in the Kansas Liquor Control Act. The definitions are found in Section 10 of the bill.

Section 2 -- Would permit entities governed by the Club and Drinking Establishments Act to engage in otherwise prohibited activities in regard to liquor.

Section 3 -- The Senate Committee of the Whole amended existing law to allow liquor distributors to sell bulk wine to clubs or drinking establishments located within their franchise area. Liquor distributors would also be allowed to sell bulk wine to caterers.

Section 4 -- Would allow beer distributors to sell beer to clubs, caterers, or drinking establishments within the distributor's franchise area.

Section 5 -- Would allow liquor retailers to sell and deliver alcoholic liquor to caterers, clubs, or drinking establishments in the county where the retailer's premises are located or in adjacent counties. Liquor retailers would be authorized to charge a delivery fee.

Section 6 -- Technical.

Section 7 -- Would allow beer or cereal malt beverage (CMB) manufacturers or distributors to sell to clubs and drinking establishments within the distributor's franchise area.

Section 8 -- Technical.

Section 9 -- Prohibits liquor and beer distributors from selling to retailers, clubs or drinking establishments outside the distributor's franchise area. Allows distributors to sell bulk wine to caterers, clubs and drinking establishments.

Section 10 -- Permits consumption of alcoholic liquor in licensed clubs and drinking establishments and on private property where no charge is made for drinks. Consumption of alcoholic liquor would also be permitted on the state fairgrounds on race days designated by the Kansas Racing Commission, on city or county property pursuant to a resolution or ordinance of the appropriate governing body, in nonclassroom space on property under the control of the State Board of Regents pursuant to policies of the Board, and on Washburn University property pursuant to policies of the Washburn University Board of Regents.

Section 11 -- Provides liquor and beer distributors with discretion in regard to which clubs and drinking establishments they serve within their franchise area. The distributors would be prohibited from discriminating among clubs and drinking establishments within their franchise area in regard to price charged for products. Delivery charges would not be considered part of the price of beer. Distributors that violate the prohibition would have their licenses revoked.

Section 12 -- Defines caterer to include individuals, partnerships, or corporations that sell liquor by the drink and provide services related to serving liquor on unlicensed premises open to the public. The definition does not include holders of temporary permits.

Language regarding Class B club membership and reciprocity is stricken here and reinserted in New Section 38.

Defines club to mean Class A or B clubs.

Defines drinking establishment as premises open to the general public where alcoholic liquor is sold by the drink.

Incorporates the definition of morals charge stricken in Section 17.

References the definition of temporary permit found in Section 42.

Section 13 -- Technical.

Section 14 -- Technical.

Section 15 -- Local zoning requirements -- amends existing law to make it applicable to drinking establishments as well as clubs.

Section 16 -- Procedure for revocation and suspension of licenses -- amends existing law to make it applicable to drinking establishments and temporary permit holders.

Section 17 -- Prohibited acts -- amends existing law to make it applicable to drinking establishments and temporary permit holders.

Section 18 -- Grounds for revocation or suspension of licenses -- amends existing law to make it applicable to any licensee.

Section 19 -- Display of license -- amends existing law to make it applicable to drinking establishments as well as clubs.

Section 20 -- Right of entry by Alcohol Beverage Control (ABC) or law enforcement officials -- amends existing law to make it applicable to any licensee or holder of a temporary permit.

Section 21 -- Would allow clubs and drinking establishments to sell liquor any day between the hours of 9:00 a.m. and 2:00 a.m.

Section 22 -- Prohibition of consumption by minors -- amends existing law to make it applicable to any licensee or holder of a temporary permit.

Section 23 -- Probable cause for issuance of a search warrant -- amends existing law to make it applicable to any licensee or holder of a temporary permit.

Section 24 -- Requires drinking establishments, caterers, and organizations conducting activities that require a temporary permit to have the applicable license or permit.

Section 25 -- Operation of club or drinking establishment allowed only at the premises specified on the license.

Section 26 -- Establishes the fees for drinking establishment, caterer, combined caterer/drinking establishment, and hotel liquor by the drink licenses. The license fees in second and subsequent years would be based upon the establishments gross receipts. The fees for Class A and B clubs would not be changed.

Amends the remainder of the existing statute to make it applicable to drinking establishments.

Section 27 -- Persons eligible for a license -- amends existing law to make it applicable to caterers and drinking establishments as well as clubs.

Would allow a caterer to have a beneficial interest in a drinking establishment and a holder of a drinking establishment license to have a beneficial interest in a caterer.

Section 28 -- Requirements for corporations and partnerships seeking licenses -- amends existing law to make it applicable to drinking establishments and caterers as well as clubs.

Section 29 -- Revocation upon conviction of violation of the act -- amends existing law to make it applicable to drinking establishments and caterers.

Sections 30 and 31 -- Provisions of Liquor Control Act -- amends existing law to make it applicable to drinking establishments as well as clubs.

Section 32 -- Property status of license -- amends existing law to make it applicable to drinking establishments and caterers as well as clubs.

Section 33 -- Powers of Attorney General or county or district attorney to enjoin operation -- amends existing law to make it applicable to drinking establishments and caterers as well as clubs.

Section 34 -- Liquor distributors prohibited from influencing licensees regarding brands or types of liquor or purchase from a particular retailer -- amends existing law to make it applicable to drinking establishments and caterers.

Section 35 -- Penalty for violation of law or rules and regulations -- amends existing law to make it applicable to drinking establishments, holders of temporary permits, and caterers.

Section 36 -- Civil fine for violation of act or rules and regulations -- amends existing law to make it applicable to drinking establishments, holders of temporary permits, and caterers.

Section 37 -- Technical.

New Section 38 -- Recodifies existing law regarding reciprocity of Class B clubs.

New Section 39 -- Prohibits the location of drinking establishments in counties that did not approve the liquor by the drink constitutional amendment at the general election in November, 1986; counties that do not subsequently vote to allow liquor by the drink; and counties that subsequently vote to prohibit liquor by the drink. Requires that drinking establishments derive at least 30 percent of their gross receipts from food unless the requirement is removed by the voters. For the purpose licensing, premises may include those in close proximity and under the control of the licensee.

New Section 40 -- Places the same requirements on caterers that are placed on drinking establishments in regard to being located in "wet" counties and deriving at least 30 percent of gross receipts from food.

Requires that caterers notify local law enforcement officials prior to events at which the caterer will sell liquor by the drink.

Permits caterers to share receipts with the person or organization that sponsored the event.

New Section 41 -- Defines the rights and privileges of a drinking establishment/caterer licensee to be the same as those of drinking establishments and licensed caterers.

New Section 42 -- Authorizes the holder of a temporary permit to sell and serve liquor on unlicensed premises.

Temporary permits would only be issued to political parties, or non-profit charitable, fraternal, religious, or veterans' organizations.

The temporary permit fee would be \$25 per day.

Temporary permits would only be issued for premises where the local zoning code allows the use.

Temporary permits would only be issued for use in "wet" counties.

A temporary permit would only be valid for three consecutive days and no more than four temporary permits per year would be issued to any applicant.

A cash bond to cover the applicant's tax liability may be required by the Director of the ABC.

Proceeds from the event for which the temporary permit is issued could only be used for the purpose for which the organization is formed.

Temporary permits would not be assignable or transferable.

Organizations that have violated the Liquor Control Act, the Drinking Establishment Act, or that have not paid applicable liquor taxes may not be eligible to receive a temporary permit.

New Section 43 -- The county option questions regarding liquor by the drink may be placed on the ballot at any state general election either by a resolution of the county commission or by petition. The petition would have to be signed by a number of qualified voters equal to at least 10 percent of the voters in the county who voted for the Office of Secretary of State at the preceding election for that office.

Counties would be able to vote to:

- prohibit the sale of liquor by the drink;
- permit the sale of liquor by the drink with a 30 percent food requirement; or
- permit the sale of liquor by the drink with no food requirement.

Section 44 -- Prohibited liquor promotions -- amends existing law to make it applicable to drinking establishments, holders of temporary permits, and caterers.

New Section 45 -- Drinking establishment and caterer's licenses and temporary permits could be issued beginning July 1, 1987. The Director of ABC would be authorized to convert a Class B club license to a drinking establishment license or a drinking establishment/caterer license.

New Section 46 -- Names the act the Club and Drinking Establishments Act.

Section 47 -- Technical.

Section 48 -- Technical.

Section 49 -- Would allow CMB wholesalers or distributors to sell bulk wine to caterers, clubs, and drinking establishments within the distributor's franchise area.

Section 50 -- Prohibits CMB wholesalers and distributors that sell wine to clubs and drinking establishments from discriminating among customers in regard to price. The Senate Committee of the Whole amendment would allow distributors to choose the clubs and drinking establishment to which they would sell wine. Delivery charges would not be considered part of the price of the wine for purposes of this section.

Section 51 -- Retail sales tax -- amends existing law to make it applicable to drinking establishments and caterers.

Section 52 -- Technical.

Section 53 -- 10 percent drink tax -- amends existing law to make it applicable to drinking establishments, holders of temporary permits, and caterers.

Section 54 -- Technical.

Section 55 -- Distribution of drink tax receipts -- would use the location of the principal place of business of drinking establishments and caterers and the location of events sponsored by holders of temporary permits for the purpose of distributing the drink tax revenue using the existing formula.

Section 56 -- Technical.

Section 57 -- Technical.

Section 58 -- Technical.

Section 59 -- Repealer.



Section 60 -- The Act would be effective upon publication in the Kansas Register.

F87-54/MG



B

**KANSAS DEPARTMENT OF REVENUE**  
*Division of Alcoholic Beverage Control*  
Topeka, Kansas 66612-1584 · Phone (913) 296-3946

MEMORANDUM

TO: Robert H. Miller, Chairman  
House Federal and State Affairs Committee

FROM: JOHN A. LAMB, DIRECTOR, ABC DIVISION *JAL*

RE: Substitute for SB 141

DATE: March 2, 1987

Attached please find information pertaining to Substitute  
for Senate Bill 141.

JAL/cjk

CONCERNS ABOUT SENATE BILL 141

License fees

Senate Bill 141 would establish a \$1000 annual license fee for drinking establishments which earn more than \$250,000 in gross sales. Drinking establishments which generate less than \$250,000 in gross sales would pay \$500. The first time license fee would be \$1000 for all drinking establishments.

There are basically three problems with this fee structure.

1) By associating the license fee with gross sales, the fee takes on the characteristics of a tax rather than that of the conventional license fee. License fees have traditionally been administered to cover enforcement and administrative costs and have been designed to reflect the value of owning the license.

2) By establishing a cutoff (\$250,000 gross sales), drinking establishment licensees would be encouraged to cheat. If gross sales were just over \$250,000, a licensee could save \$500 by failing to report a portion of its sales.

*250,000  
drinking place  
license fee*

3) The \$1000 fee would be equal to the fee currently charged for class B (for profit) private clubs despite the fact that a drinking establishment would enjoy a broader base (the general public) from which to draw business. The \$500 fee would be half of the private club fee.

Contrasting the fees established by Senate Bill 141, the Liquor Law Review Commission recommended a \$2000 fee for drinking establishment licensees (see attached "Revenue from license fees").

We recently performed a study of the effects of the fees set by Senate Bill 141. A sampling of class B private clubs in wet counties were used to make projections. The sampling produced the following facts:

1) 59 percent of class B clubs in wet counties report at least 30 percent of gross sales in the sale of food, thus qualifying to become a drinking establishment. Since there are 824 class B clubs currently in wet counties, 486 would be eligible to become drinking establishments (824 \* .59).

2) Of those clubs that are eligible to become drinking establishments, 38 percent grossed more than \$250,000 over the last 12 months.

FY 1988 license fee revenue:	486 * \$1000 =	\$486,000
FY 1989 license fee revenue:	185 * \$1000 =	\$185,000
	301 * \$500 =	+\$150,500
		<b>\$335,500</b>

License fee revenue based on the Liquor Law Review Commission recommendation: 486 \* \$2000 = \$972,000 annually.

- Other figures uncovered by the study indicate -
- Average gross sales of clubs in wet counties: \$258,794
- Median gross sales of clubs in wet counties: \$113,119

- Percent of clubs in wet counties grossing more than \$250,000: 27.3%
- Percent of clubs in wet counties grossing less than \$250,000: 72.7
- Percent of reciprocating clubs that gross more than \$250,000: 44%
- Percent of non-reciprocating clubs grossing more than \$250,000: 15%
- Average gross for non-reciprocating clubs: \$143,614
- Average gross for reciprocating clubs: \$427,506
- Median gross for non-reciprocating clubs: \$92,117
- Median gross for reciprocating clubs: \$205,430

### Penalties

There is a lack of consistency in the various misdemeanor penalty sections of Senate Bill 141. Having one penalty for all such violations would establish consistency and simplicity. A fine up to \$1000 and/or imprisonment up to six months would seem appropriate for such violations.

### Minimum food requirement

Senate Bill 141 maintains reciprocity and 50 percent food requirement among private clubs. Enforcing the food provisions for class A and B club licensees and drinking establishments would be easier if the requirements were uniform.

### Reciprocity

Senate Bill 141 leaves reciprocity for class B clubs in place, contrary to the recommendation of the Liquor Law Review Commission. If reciprocity is maintained, a fee should be charged for each reciprocal agreement filed in order to cover administrative costs of processing such agreements.

### Membership fees

Senate Bill 141 maintains the status-quo in regard to clubs controlling own memberships, contrary to the Liquor Law Review Commission recommendation that memberships be first purchases by the club from the State.

### Caterers and temporary permits

There does not seem to be anything in Senate Bill 141 that would prohibit a caterer from setting up a liquor-by-the-drink booth without catering to a contracted event.

## **REPORT COMPLETED FOR SENATE FEDERAL AND STATE AFFAIRS COMMITTEE**

**Other states** - The dozen or so states which were looked at were all fairly general in specifying requirements, restrictions and fees for caterer's and/or temporary permits. Generally, the statutes of the other states give the alcoholic beverage control broad regulatory authority in handling these licenses.

### **OPTIONS**

1. A caterer's license, which could be obtained by a liquor-by-the-drink (LBD) licensee, would enable a licensee to obtain a temporary permit to handle a special function. Under this proposal, an organization wishing to sponsor a special event would be required to obtain the services of a caterer. This proposal: 1) is fairly enforceable; 2) would minimize paperwork and necessary lead time for sponsoring organizations; 3) would simplify the collection of taxes (if the drink tax remains).

2. A liquor-by-the-drink licensee would have the ability, on behalf of the sponsoring organization, to apply for a temporary permit to cater a special event. This is similar to proposal number 1 but would not require a caterer's license. This proposal: 1) is fairly enforceable; 2) would minimize paperwork and necessary lead time for sponsoring organizations; 3) would simplify the collection of taxes (if the drink tax remains). This proposal does not, however, require a liquor-by-the-drink establishment to pay for the privilege of catering.

3. A liquor-by-the-drink licensee could obtain a caterer's license. With a caterer's license, a person could cater to an event and would not be required to obtain a temporary permit. A caterer would only have to notify the ABC of the event. This proposal, too, would minimize paperwork and collection of taxes.

4. A temporary permit would be issued to anyone who meets certain qualifications. This could be restricted to nonprofit or political organizations. This permit, which would be covered by a small fee, could not last perpetually. The number of permits issued to an organization would be restricted on a yearly basis. In this scenario, neither a caterer's license or a liquor-by-the-drink license would be required. This proposal would entail more paperwork and would require an applicant to apply well in advance of the event so the ABC could ensure that the applicant is qualified to hold an event.

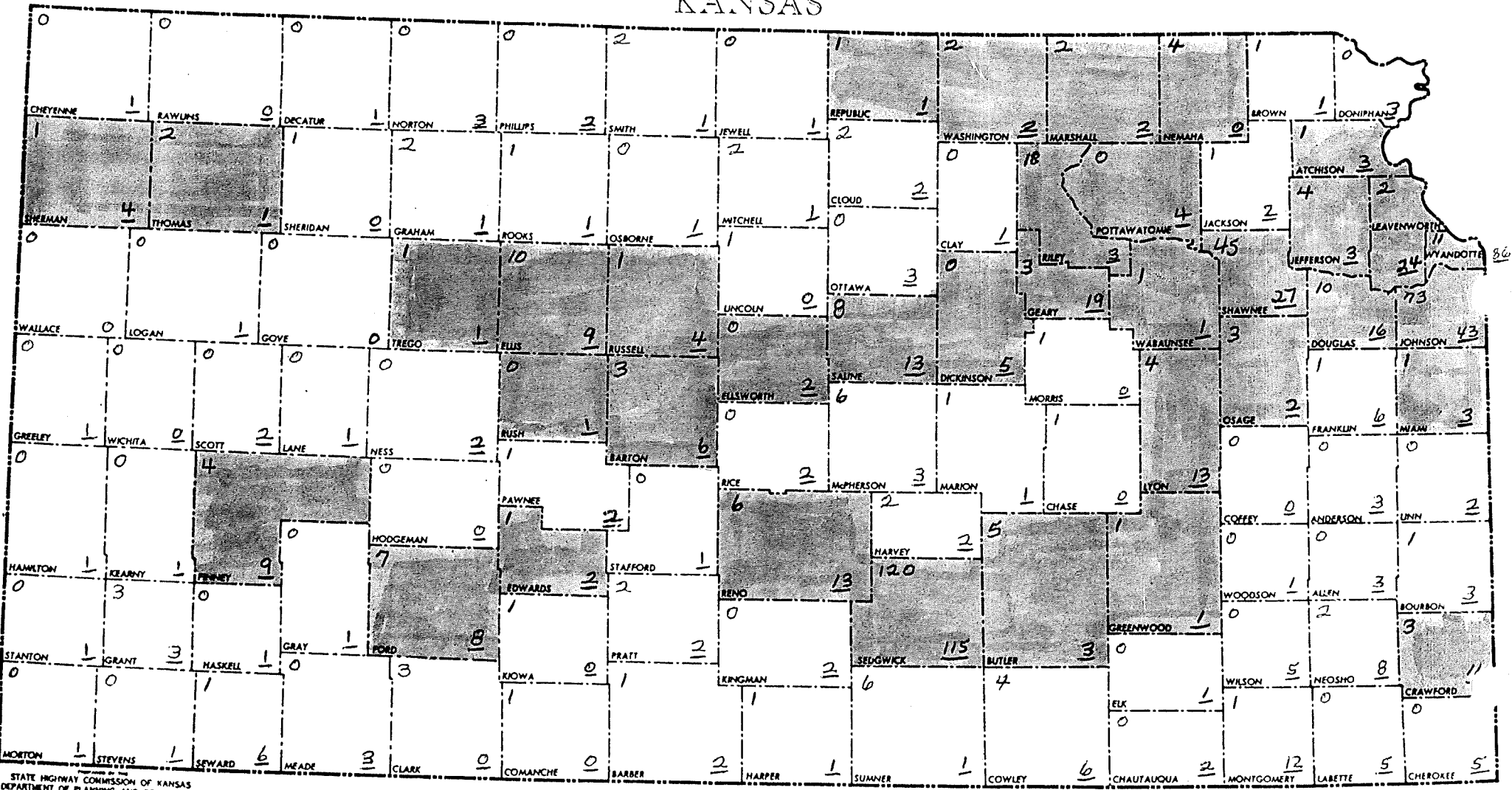
5. The **Texas** system. A mixed beverage (liquor-by-the-drink) license, enables a person to sell alcoholic beverages at "picnics, celebrations, or similar events, or to a political party or political association supporting a candidate for public office, to an organization in existence for over five years with a regular membership, or to a religious organization." No more than two temporary permits can be issued to the same person in one year. A caterer's license is available in wet counties and the provisions of the license are spelled out in regulations.

6. The **Missouri** system. Any holder of a license can obtain a temporary permit. The length of time for the permit corresponds with the duration of the event but cannot last over 120 consecutive hours. The fee is \$10 a day.

7. The **Arizona** system. A special events license is issued to a political organization, a charitable organization, or a fraternal organization which has been in existence for more than five years. Special event licensees must buy their products at retail package stores. The issuance of this license is subject to approval by the governing body of a city or county. The fee is \$25 a day. Other requirements and restrictions are outlined in regulations.

8. The Connecticut system. A temporary permit is issued to noncommercial organizations. No more than four permits may be issued to one organization in a year. The permit fee is \$25. Other restrictions are outlined by regulations.

# KANSAS



Number in upper left corner is the number of reciprocal clubs in the county.  
 Number in lower right corner is the number of non-reciprocal clubs in the county.

Shaded Area = Wet Counties

Attachment 2

<i>WET COUNTIES</i>	<i>Reciprocal</i>	<i>Non-Reciprocal</i>
<i>Sherman</i>	1	4
<i>Thomas</i>	2	1
<i>Trego</i>	1	1
<i>Ellis</i>	10	9
<i>Russell</i>	1	4
<i>Rush</i>	0	1
<i>Barton</i>	3	6
<i>Ellsworth</i>	0	2
<i>Saline</i>	8	13
<i>Dickinson</i>	0	5
<i>Geary</i>	3	19
<i>Republic</i>	1	1
<i>Washington</i>	2	2
<i>Marshall</i>	2	2
<i>Nemaha</i>	4	0
<i>Pottawatomie</i>	0	4
<i>Atchison</i>	1	3
<i>Jefferson</i>	4	3
<i>Leavenworth</i>	2	24
<i>Wyandotte</i>	11	86
<i>Johnson</i>	73	43
<i>Miami</i>	1	3
<i>Douglas</i>	10	16
<i>Shawnee</i>	45	27
<i>Wabaunsee</i>	1	1
<i>Osage</i>	3	2
<i>Lyon</i>	4	13
<i>Greenwood</i>	1	1
<i>Butler</i>	5	3
<i>Sedgwick</i>	120	115
<i>Reno</i>	6	13
<i>Edwards</i>	1	3
<i>Ford</i>	7	8
<i>Finney</i>	4	9
<i>Riley</i>	18	3
<i>Crawford</i>	3	16



DRY COUNTIES

Reciprocal

Non-Reciprocal

Cheyene	0	1
Rawlins	0	0
Decatur	0	1
Morton	0	3
Phillips	0	2
Smith	2	1
Jewell	0	1
Brown	1	1
Doniphan	0	3
Sheridan	1	0
Graham	2	1
Rooks	1	1
Osborne	0	1
Mitchell	2	1
Cloud	2	2
Clay	0	1
Ottawa	9	3
Lincoln	1	0
Jackson	1	2
Wallace	0	0
Logan	0	1
Gove	0	0
Greeley	0	1
Wichita	0	0
Scott	0	2
Lane	0	1
Ness	0	2
Hodgeman	0	0
Pawnee	1	2
Hamilton	0	1
Kearny	0	1
Stanton	0	1
Grant	3	3
Haskell	0	1
Gray	0	1
Morton	0	1
Stevens	0	1
Seward	1	6
Meade	0	3
Clark	3	0
Kiowa	1	0
Comanche	1	0
Stafford	0	1
Pratt	2	2
Barber	1	2
Rice	0	2
Kingman	0	2
Harper	1	1
McPherson	6	3
Harvey	2	2
Sumner	6	1
Marion	1	1
Morris	1	0
Chase	1	0
Cowley	4	6
Elk	0	1
Chautauqua	0	2

*DRY COUNTIES*

*Reciprocal*

*Non-Reciprocal*

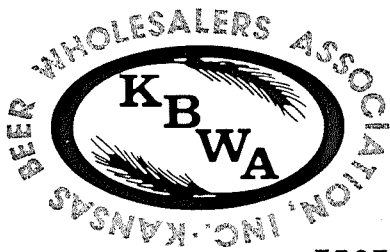
<i>Coffey</i>	<i>0</i>	<i>0</i>
<i>Woodson</i>	<i>0</i>	<i>1</i>
<i>Wilson</i>	<i>0</i>	<i>5</i>
<i>Montgomery</i>	<i>1</i>	<i>12</i>
<i>Franklin</i>	<i>1</i>	<i>6</i>
<i>Anderson</i>	<i>0</i>	<i>3</i>
<i>Allen</i>	<i>0</i>	<i>3</i>
<i>Neosho</i>	<i>2</i>	<i>8</i>
<i>Labette</i>	<i>0</i>	<i>5</i>
<i>Linn</i>	<i>0</i>	<i>2</i>
<i>Bourbon</i>	<i>1</i>	<i>3</i>
<i>Cherokee</i>	<i>0</i>	<i>5</i>

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*69*

*62*

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TESTIMONY ON SUBSTITUTE FOR SENATE BILL 141

BEFORE THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

by Neal Whitaker, Executive Director, Kansas Beer Wholesalers Association

MARCH 2, 1987

Chairman Miller and Members of the Committee: Before explaining why the Kansas Beer Wholesalers Association supports the delivery provisions of Senate Substitute for Senate Bill 141 I must explain the current delivery system.

Today beer wholesalers deliver 3.2% beer or cereal malt beverage to cereal malt beverage retailers for off premise consumption as well as on premise establishments such as restaurants, taverns, bowling alleys and class A and class B clubs. We also deliver strong beer only to licensed liquor retailers, thus private clubs must arrange for delivery. The vast majority of private clubs in Kansas sell some cereal malt beverage because of the convenience of delivery.

Beer is considered a perishable product. Every package of domestic beer carries a product dating code. Some breweries use the Julian dating system and others print the month, day and year on the package. These are the dates that the product is to be pulled from the shelves and destroyed by the wholesaler if it has not been sold. Breweries are very conscious today of quality control and every major brewer's contract with the wholesaler includes the provision that if old beer is allowed to exist in the market place it is grounds for cancellation of the distribution contract. Therefore beer wholesalers are constantly watching and rotating stock in retail establishments. Under the present system, because we lose control of strong beer sold in class A and class B private clubs and now liquor by the drink establishments, we are not able to rotate the product and maintain the quality standards demanded by our suppliers.

Senate Bill 141 solves this problem by allowing beer wholesalers the option of delivering strong beer and bulk wine products directly to liquor by the drink establishments.

This provision allows liquor by the drink establishments the convenience of having bulky packages and kegs delivered just as they would have their meat and vegetable products delivered. This is a system in use in most states around the country.

Mr. Chairman and members of the committee, we encourage you to support this modernization of Kansas liquor laws and urge its passage.



The Kansas Restaurant Association

359 South Hydraulic, Wichita, Kansas 67211 (316)267-8383

My name is George Puckett, and I represent the **KANSAS RESTAURANT ASSOCIATION**, a statewide group representing the foodservice and hospitality industry. Many of our members own and operate private clubs.

KRA commends all who were involved with SB 141, including the hard working Kansas Liquor Law Review Commission, and the Senate Federal and State Affairs Committee, resulting in substitute SB 141. The KRA has actively followed the proposed liquor laws from the beginning, and I have had the honor of testifying on a number of occasions, making recommendations on behalf of the Kansas Restaurant Association. As with any bill of interest to a certain group, substitute SB 141 is not **exactly** as we hoped for, however, we do believe the bill is a workable one, and a good one, as is.

Therefore, the Kansas Restaurant Association supports substitute SB 141, as amended and passed by the full Senate.

# KANSAS RETAIL LIQUOR DEALERS ASSOCIATION INC.

1950 W. 21st St.  
WICHITA , KS. 67203  
(316) 832 - 1155

CARL L. MITCHELL  
PRESIDENT

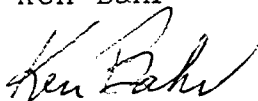
TRACY MOODY , 1st Vice - President  
AL FIFFE , 2nd Vice - President  
WAYNE BENNETT , Secretary - Treasurer

March 2, 1987

Mr. Chairman, members of the Committee, I am Ken Bahr representing the Kansas Retail Liquor Dealers Association. The KRLDA has tracked the SB141 through the Senate Federal and State committee and favors the bill as passed by the Senate with one exception. My point of reference is the delivery process. SB141 allows Wholesalers and Retailers to deliver to private clubs which is as the Liquor Law Review Commission recommended. However, the bill does not address the taxes paid by the private clubs. As the law now provides, the private clubs will pay the retail liquor stores an 8% enforcement tax as opposed to no tax paid to the Wholesaler. Not only does this give the Wholesaler an unfair advantage in selling to the private clubs, but the State loses tax revenue under the existing law. The KRLDA recognizes the benefits that the Wholesaler, especially the Beer Wholesaler, derives by broadening their market from only selling 3.2 beer to now being allowed to sell 3.2 and strong beer as well as bulk wine. Nevertheless the taxes are not equal to that paid to the Retailer liquor stores for the delivery of the same products. If the State wishes to make delivery optional amongst the Retailer and Wholesaler, the rules of the game, in this case the taxes paid by the private club, should be equal, not giving the Wholesaler an unfair advantage while at the same time reducing tax revenue to the State. The KRLDA recommends than an 8% tax be charged the private clubs regardless whether the Wholesaler or Retailer makes the sale.

I would be happy to respond to any questions or concerns you may have.

Ken Bahr



TESTIMONY ON SUBSTITUTE SENATE BILL NO. 141  
Before the House Federal and State Affairs Committee

Mr. Chairman and members of the committee we, with the Kansas Community Alcohol Safety Action Project Coordinator's Association, support Substitute Senate Bill No. 141. Our programs, which provide the evaluation, referral and monitoring services to all D.U.I offenders in the state of Kansas, receive no state funds for this service and must rely on what is paid by the offender through the evaluation fee. Most of our programs find it necessary to rely on local alcohol funding to supplement their budgets. Those funds are provided by the ten percent alcohol liquor tax as outlined in KSA 79-41a02. Any change in that formula at this point would seriously impair the Alcohol Safety Action Projects statewide effort to reduce alcohol related crashes.

We are quite comfortable with the language in the law at the present time and hope that it will be passed in its present form. However, we would suggest that the taxing structure of the ten percent tax be studied in an interim committee in the near future inasmuch as where the tax should be collected and how it is expended through the local governments.

Respectfully

*Gene Johnson*  
Gene Johnson  
Legislative Liaison  
Kansas Community Alcohol Safety  
Action Project Coordinator's  
Association

It is difficult to count the large number of liquor and gambling lobbyists pressuring you morning, noon, and night to pass relaxed laws. Clients of these lobbyists will make millions of dollars if you do as they want you to do.

Parimutuel gambling was promoted as good for the state because we would have only non-profit tracks. Now the voters know those non-profit tracks will put millions of dollars into pockets of developers and operators, and many of those dollars will come from public revenue.

Lottery gambling was promoted by those who claimed it was just a voluntary expenditure of discretionary money on a state operated lottery ticket operation. Now the public knows the door is open for a multi-state operated lottery with casino gambling thrown in.

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Section 10 of article 15 of the constitution of the state of Kansas is amended to read as follows:

"§ 10. Intoxicating liquors. (a) The legislature may provide for the prohibition of intoxicating liquors in certain areas. ~~Subject to the foregoing,~~

"(b) The legislature may regulate, license and tax the manufacture and sale of intoxicating liquors, and may regulate the possession and transportation of intoxicating liquors. ~~The open saloon shall be and is hereby forever prohibited.~~

"(c) *The sale of intoxicating liquor by the individual drink in public places is prohibited, except that the legislature may permit, regulate, license and tax the sale of intoxicating liquor by the drink in public places in a county where the qualified electors of the county approve, by a majority vote of those voting on this proposition, to adopt this proposition, but such sales shall be limited to: (1) Public places where gross receipts from sales of food for consumption on the premises constitute not less than 30% of the gross receipts from all sales of food and beverages on such premises; or (2) public places for which a temporary permit has been issued as authorized by law.*

"*At any subsequent general election, the legislature may provide by law for the submission of propositions to qualified electors of counties for: (1) The prohibition of sales of intoxicating liquor by the individual drink in public places within the county; (2) the regulation, licensing, taxing and sale of intoxicating liquor by the drink in public places within the county without a requirement that any portion of their gross receipts be derived from the sale of food; or (3) the regulation, licensing, taxing and sale of intoxicating liquor by the drink in public places within the county which derive not less than 30% of their gross receipts from the sale of food for consumption on the premises. Temporary permits for the sale of intoxicating liquor may be issued in any county in which the regulation, licensing, taxation and sale of intoxicating liquor by the drink in public places is approved pursuant to this section, but no temporary permit shall be issued for the sale of intoxicating liquor by the drink within any county in which the regulation, licensing, taxation and sale of intoxicating liquor by the drink in public places is prohibited.*"

The public liquor constitutional amendment approved by voters provides for two kinds of outlets:

(1) Public places where gross receipts from sales of food for consumption on the premises constitute not less than 30% of the gross receipts from all sales of food and beverages on such premises; or

(2) Public places for which a temporary permit has been issued as authorized by law.

But substitute for SENATE BILL No. 141, page 3, lines 0118-19, provides for three kinds of public liquor by the drink outlets. This is continued through the entire bill.

It was promoted as a constitutional amendment to permit the sale of liquor by the drink in public restaurants. In debates across Kansas, liquor promoters never claimed a YES vote would permit caterers unlimited freedom to go anywhere, anytime, without a permit and push in unlicensed public places the one drug that causes more suffering than all other drugs combined.

Without concern for an image problem, and for the sake of public health and welfare, Aspen, Colorado does not permit smoking in public places. Beverly Hills, California, is following that lead.

How sad it is that conce... for an image problem caused Kansas to take a backward step and permit liquor by the drink in public places. Non smoking reduces the risk but does not prevent cancer. The benefits of non drinking are more dramatic in that alcoholism is absolutely prevented and arrested.

For the sake of public health and safety, let us keep to a minimum the places and occasions where liquor by the drink is pushed to the public. Allowing caterers to go only where a temporary permit has been issued is a step in the right direction.

Does page 14, lines 0506-10, permit every and all business establishments to give liquor by the drink to the public at any time or place? And that in all counties, even those that voted NO?

When there is a nationwide campaign calling for youth to say NO to drugs, it is sad that page 15 permits our most abused drug to be promoted on state board of regents and Washburn University property.

Page 41, line 0635, allows the board of county commissioners to call for a vote on liquor by the drink in public places. That might make calling for a vote too easy. This can work both ways, for those who want less liquor consumed and for those who want more liquor consumed. Most people thought the legislature would provide for such vote by petition only. Providing for such a vote every 4 years would give the public a better opportunity to experience the results of such an election.

"Alcohol is a drug. It is the No. 1 drug of abuse in our society. Its only close rival is tobacco."  
JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION  
October 12, 1984 (Page 1911)

"it has been amply documented that death, sickness, social disruption, and economic loss result from excess alcohol consumption and that this is in proportion to its relative cost and availability."  
AMERICAN COLLEGE OF SURGEONS BULLETIN  
October, 1983

"Alcoholism prevalence in a population is intimately related to the overall level of alcohol consumption. It follows, therefore, that any factor that affects the volume of consumption inevitable affects the alcoholism prevalence rate and vice versa."  
- ADDICTIONS, Volume 18, Number 2  
Addiction Research Foundation of Toronto, Ontario

Kansas had 2,591 alcoholics per 100,000 population age 15 and older in 1977, while the national average was 6,919 per 100,000. (This indicates there were 4,328 Kansans per 100,000 population who would be alcoholic if the consumption rate in Kansas equaled the national average.)  
-REPORTS from Single State Alcoholism Authorities

"So promising and straightforward is the simple syllogism of reducing alcoholism by reducing total social consumption."  
AMERICAN JOURNAL OF PUBLIC HEALTH, Dec. 1975

"The quantity of alcohol consumption and the rates of problems varying with consumption can, however, be markedly reduced by substantial increases in real price and reductions in the ease of availability." (Page 64)  
ALCOHOL & PUBLIC POLICY: Beyond the Shadow of Prohibition  
National Academy Press, Washington, D. C. 1981

"More liberalization means greater use of alcohol, and greater prevalence of disease and death as a consequence. Even though the specific components of liberalization - such as permitting alcohol at sidewalk cafes and park picnics - might seem innocuous in themselves."  
CHANGING DRINKING PATTERNS IN ONTARIO  
Addiction Research Foundation of Ontario