Approved 2/3/87
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 January 28, 1987 in room 254-E of the Capitol.

All members were present except:

Senator Ehrlich was excused.

Committee staff present:

Mary Galligan, Legislative Research
Mary Torrence, Assistant Revisor of Statutes
June Windscheffel, Committee Secretary

Conferees appearing before the committee:

The Chairman asked the Committee to turn its attention to the continuing discussion and implementation of liquor by the drink. He pointed out that there were two hand-outs for the Committee: a letter from Mr. Donald L. Peyton, Peyton Liquor Store, of Topeka (Attachment #1); and a statement from Mr. Tom McCaskill, Manager of the Wichita Royale Hotel (Attachment #2). He suggested the Committee review these statements at their leisure. He said that the Committee is beginning with instructing staff to prepare a proposed bill, upon which he anticipates action will be taken next week.

Issue Paper 1, concerning the Distinction between CMB and Strong Beer (Minutes of January 27, 1987), was the first matter for the Committee. Senator Arasmith made the motion that a separate bill be drafted to abolish CMB distinction. Senator Martin said the Committee ought to debate whether it wants to have a distinction between CMB and strong. The motion was seconded by Senator Vidricksen. The motion carried.

The Chairman said it is his desire to go through all the issues and see what the Committee wants in the liquor by the drink legislation and what it wants in separate legislation.

Issue Paper 2 was considered next by the Committee. Senator Arasmith moved that this particular issue be set aside pending the Attorney General's opinion which will be forthcoming. Seconded by Senator Morris. The motion carried. This paper concerns the Minimum Price Markup.

Issue Paper 3, concerning Point of Purchase and Delivery of Product, was next for consideration by the Committee. The Chairman pointed out that the issue is delivery of the product. Senator Vidricksen moved conceptually to introduce provisions of point of purchase and delivery of product in the implementing legislation. Seconded by Senator Hoferer. The Chairman pointed out that would provide that the retailers and wholesalers could deliver. The motion carried.

Issue Paper 4, Taxation of Alcoholic Beverages and Distribution of Tax Revenue, was next. Senator Bond has made a request from Senator Fred Kerr to get information, and there was a memorandum from Senator Kerr to Legislative Research requesting a comparison of revenues.

Senator Morris asked if the Committee might like to have the paper from Secretary Duncan concerning revenues, and staff will ask for that.

Senator Vidricksen moved that on page 10 of the final recommendations that the taxation be as a part of the liquor by the drink bill. Seconded by Senator Hoferer. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS,

room 254-E, Statehouse, at 11:00 a.m./p.m. on January 28, 1987.

Senator Vidricksen moved that the allocation provision of the tax revenue be in a separate proposal to be considered. Seconded by Senator Martin. The motion carried.

Issue Paper 5 concerns Sunday Sales. Senator Martin moved to include Sunday and election day sales in the liquor by the drink bill. A motion that would permit Sunday Sunday sales, election day sales, from 9:00 a.m. to 2:00 a.m. every day, for liquor by the drink establishments. Seconded by Senator Bond. The motion carried.

Issue Paper 6 concerns Alcoholic Beverage Handler Training. Senator Morris moved that the recommendation of the advisory committee in regard to liquor handlers learning for liquor by the drink establishment employees be adopted, with the addition that the effective date of this provision be January 1, 1988, for compliance. Seconded by Senator Bond. The motion carried.

Issue Paper 7, which deals with License Fees, was next for consideration. Senator Martin moved to include the fees in the liquor by the drink implementing legislation. Seconded by Senator Anderson. Senator Martin amended the motion, seconded by Senator Anderson, that the legislation to only include the liquor by the drink, caterers and temporary, fees. The motion carried.

The question was asked by the Chairman if the Committee wants a bill drafted to have the other fee recommendations of the commission brought back to the Committee. Senator Anderson moved that be done. Seconded by Senator Arasmith. The motion carried.

Issue Paper 8 deals with the Private Club Liquor Tax. The Committee is waiting for the Memorandum on it.

The Chairman said that the Committee will also go through those items in the report that have not been covered. Then the staff will be in the position to go ahead and draft the legislation in the hope that action may be taken on it next week.

The meeting was adjourned at noon.

1/28/87
JW
Attachment #1

Donald L. Peyton
Peyton Liquor Store
4001 S.W. 10th St.
Topeka, Kansas 66604

January 23, 1986

Senator Ed Reilly
State House
Topeka, Kansas 66626

Dear Senator:

As chairman of the committee to study the recommendations of the governors commission of alcolic beverage reforms I realize the great responibilities this put on you and the other members of the committee. I have given this considerable thought and would like to offer my conclusions.

First of all the make-up of the committee makes it subject to doubt of its sincerity. There were thirteen members and although at present all of the liquor in the state is funneled through liquor stores there was only one retail liquor dealer on the committee. It appeared that it was stacked with wholesale beer distributors and private club owners with even the so called "disinterested party" with connections to the private club industry. I attended two of these meeting and would have thought it a joke had not the possible consequences of their decisions been so consequential. It appeared that both the beer wholesalers and the club owners were only trying to improve their individual situations without regard to the overall picture including the state and the consumer. I suggest that possibly the commission was only formed to create publicity beneficial to passage of the liquor by the drink issue.

First of all I own one of the larger liquor stores in the state and would possibly benefit from many of the changes the commission suggests but I think that I as well as you and others must look for the best interest of the industry, the state and the consumer in considering any changes. In traveling to conventions and talking to retailers from other states I can say without reservation that Kansas has at present probably the finest liquor laws in the nation. Out prices are very fair considering the taxes paid. We have convenience to the consumer unparalleled, we have very adequate state control with practically no possibility of untaxed liquor being sold and very little temptation too try, and underworld involvement is non existent. Note, I do not say it is perfect. Some changes would be an improvement but mostly these were not considered.

Some think that removal of all price controls would be an improvement. From a retailers viewpoint I agree that our present system is somewhat cumbersome to the retailer since there are no controls on the wholesaler. These problems however are a result of the change to the franchise system of wholesaling created a few years ago. Even so, the removal of price controls at the retail level would not improve the situation. It would be disastrous to the retail industry as a whole unless the wholesale situation was changed drastically eliminating the franchise system, allowing the retailer to create buying groups, buying anywhere from the lowest price wholesaler, creating co-ops, drop shipment buying, etc. You must also keep in mind that in the process it would eliminate probably 75% of the present retailers and the property taxes, personal property taxes, hundreds of employees and all of the other revenues they created. And for what? It certainly wouldn't result in lower prices to

Attachment #1
FSA 1/28/87

the consumer. It wouldn't mean more revenue to the state. It certainly would be harder to control and result in more volations. No, I dont think in would be beneficial, it is too big a step to take and this is not the time for it. Keep in mind I say this when I have one of the larger stores and would be in a position to benefit from it, at least in the forseeable future.

It is said that without price controls prices would drop to the consumer. This is absolutely not so. Present mark-ups are 28.5% on Liquors, 30.5% on Cordials, and 40% on Wines. There is no set mark-up on Beer. I have one of the highest percentage of wine sale stores in the state and we get about 8% higher mark-up on beer than most stores amd our gross profit is only about 26% of sales with very little club sales. I assure you that this is not high. Also consider we have no access to other sources of income such as quantity and other rebates, display allowances, etc. These are available in other states and illegal in Kansas. Again, I dont suggest they be allowed as thay can lead to other problems. I can assure you that if price controls were eliminated, and two thirds of the present stores eliminated the remaining stores would get higher prices. Sure, there would be a few "loss leaders" to confuse the public but I can assure you the overall price would be higher. With the use of computers such merchandising is very easy to control. The consumer would be the loser along with the state in lost revenue. Our price control at present is nothing more than a minimum suggested price which is below anybodys actual cost of doing business using normal accounting procedures. Sure some think it is if they own their own business and don't consider rent, or dont consider their own labor, or dont consider interest on their investment.

Changing club sales is another situation. Club owners would like to save the 12% mark-up they pay to retailers and get delivery of their merchandise. Considering the service they require, being able to buy all merchandise from one source, instead of from possibly 8 or 10 is actually a bargain. The time alone in ordering would more than offset the 12%. Too all of thje liquor to the wtqte is being delivered to retailers in about 1000 stops for the wholesalers. To add the clubs would add anouther 3500 stops or 4500 all together with no more merchandise sold. It is easy to see where thier claim that this would cost them far more than the 12%. This would have to be passed on to all consumers and result in higher prices to everyone. Also consider that clubs operate on a 400 to 500% mark-up on liquor purchses and it is difficult to see where a 12% savings is significant. From a retailers viewpoint I cant see where the 12% mark-up is sufficient for retailers to service these buyers. I have been keeping as accurate records as possible on this by computer and it is indicating that it is not profitable. Recently a store which I have access to records lost a club account which amounted to about 40% of it sales due to the club owners aquiring thier own liquor store. By changing inventory to more consumer attractive stock instead of merchandise to service the club sales were increased 12% leaving a net loss in volume of 28%. Gross profit decreased only about $100 per month. With the decreased labor, investment, etc. the net profit was probably an increase. Conclusion, I dont think this store either needs, wants, or can afford club business at 12%. This is an average volume store so the same should be applicable to a lot of stores. Club owners have a heck of a deal and just dont realize it. Some are never satisfied.

One Strength Beer is another situation. It is actually simple. Brewers and some beer distributers would like to see it for the selfish reason of simplifying inventory without consideration of any one else or any other factors. I contend that such a change would not be in the interests of anyone, even including them. Actually they have the best of both worlds now. They have grocery stores. taverns, convenience stores, etc. promoting thier 3.2 beer. They have liquor stores promoting their strong beer. Any change would only result in a loss of sales. A substantial percentage of their sales is through liquor stores at present. If everyone had strong beer liquor stores would lessen their effort and switch to brands which will be available only to liquor stores (and there will be some). Recently they have been stressing that strong beer sometimes only is 3.5% to 4.0%. While this could be true is some cases and actually varies greatly even among different batches of the same brand, we must keep in mind that imported beers are becoming an increasing factor in beer sales and some of these are much higher alcohol content. Consumer trends are going away from the "drink a whole six-pack of domestic beer" to savoring a single bottle or two of what the rest of the world has to offer. Included in this is the resurrection of many domestic"micro breweries" making some very good product. They, in their selfishness are ignoring this aspect. Personally, I dont think this would be the end of the world for liquor stores if this happened, certainly not for my operation, but on the other hand I cant see where anyone would benefit. Certainly not the consumer.

Which brings up another point. No where in any of the commissions considerations did I ever see or hear where the consumer was taken into consideration. Take off our pricing structure and you put 600 stores out of business with the resulting consequences including less competition and loss of convenience to the consumer. You raise overall prices to the consumer. Go to one strength beer you deprive the consumer of the choice of 3.2 or strong beer and create all the problems of conflicting enforcement rules and laws. Allow wholesalers to deliver to clubs and you create an impossible situation for everyone and surely higher prices to all.

My suggestion is to move only in very small, well thought out steps and do nothing at all unless you are sure it will improve the overall situation and not just one segment of it. Kansas has one of if not the best laws in the country. Lets dont screw it up the way Oklahoma, Texas, Arkansas, New York, California nd others have.

I know you are from a border area and this causes some unusual problems but I can assure you that removing controls will not solve the problems. Good agressive Kansas merchants are competing satisfactorily against Missouri competition. Proof is that they are in business today. I take off controls and they will disappear. I know of one retailer in Kansas City who is one of the biggest supporters of removing price controls on the supposition that he would be in a better position to compete with Missouri retailers. Hell, he cant even compete with a competitor a few blocks down the street, let alone Berbiglia. I have a large wine selection and exert a lot of effort in promoting wines and I have a large clientel in Johnson County. I sell most wines higher than Kansas minimum price and beat Berbiglia, Gomers and Happy Hollow prices on many. In many cases our regular prices are less than their special prices.

If I can be of any assistance call me at 273-6146.

Sincerely

Donald L Peyton

1-28-87

MY NAME IS TOM McCASKILL, AND I AM GENERAL MANAGER OF THE WICHITA ROYALE HOTEL.

Attachment #2

LODGING INDUSTRY'S RECOMMENDATIONS FOR LICENSING

THE PRESENT SYSTEM OF LICENSING FOR THE LODGING INDUSTRY IS AS FOLLOWS: MULTIPLE LICENSES HAVE TO BE BOUGHT FOR ALL ROOMS THE LIQUOR WILL BE CONSUMED IN. THIS MEANS THAT MANY PROPERTIES HAVE TO BUY TWO, THREE, FOUR, AND SOMETIMES MORE LICENSES. THIS INHIBITS THE PROFITABILITY AND ALSO RESTRICTS CONSUMPTION OUTSIDE OF THE ROOMS LICENSED. SERVING ALCOHOLIC BEVERAGES HAVE BEEN ECONOMICALLY IMPOSSIBLE TO SERVE IN THE GUEST ROOMS OR OTHER AREAS OF THE PROPERTY. WE IN THE LODGING INDUSTRY WOULD LIKE TO SUGGEST ONE LICENSE FOR EACH FACILITY, TO HAVE THE ABILITY TO SERVE ALCOHOLIC BEVERAGES TO THE ROOMS IN COMPLIANCE WITH THE STATE LAWS. THIS WILL PROMOTE ECONOMIC DEVELOPMENT IN THE STATE IN MANY AREAS, SUCH AS CONVENTIONS, BUSINESS TRAVEL, TOURISM, TO NAME ONLY A FEW. NOW IS THE TIME FOR KANSAS TO FACE THE REALITY THAT OUR LAWS CONERNING THE ALCOHOL INDUSTRY IS A HINDERANCE TO MANY AREAS OF THIS STATE'S ECONOMIC DEVELOPMENT.

To committee,

Am sorry these facts were not given to you in person at the hearing on Monday. Time ran out and I was not allowed to speak. Please consider these facts when drafting this bill

Attachment #2
FSA 1/28/87

Tom McCaskill

LICENSING STRUCTURE

WHOLESALER - ONE LICENSE AT $1,250.00

RETAILER - ONE LICENSE AT $100.00

HOTEL (OR INN) - ONE LICENSE FOR EVERY ROOM THAT LIQUOR IS GOING TO BE CONSUMED IN - $1,000.00

EXAMPLE -

FIVE WHOLESALERS IN THE STATE OF KANSAS PAY IN TOTAL LICENSING REVENUE, $6,000.00.

WICHITA ROYALE - 3 licenses

AIRPORT HILTON - 5 licenses

WICHITA MARRIOTT - 5 licenses

HILTON EAST - 5 licenses

TOTAL LICENSE REVENUE FOR THE STATE: $18,000.00

THE COMPARISON BETWEEN THE TWO INDUSTRIES, WHEN PLACED WITH THE FACTS, SEEMS TO BE STRUCTURED IMPROPERLY.