

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 February 2, 1987 in room 254-E of the Capitol.

All members were present, ~~except~~

Committee staff present:

Mary Galligan, Legislative Research
Emalene Correll, Legislative Research
Mary Torrence, Assistant Revisor of Statutes
June Windscheffel, Secretary to the Committee

Conferees appearing before the committee:

The Chairman called the meeting to order and called the Committee's attention to the Report of the Subcommittee which had been appointed by the Chairman. Members were: Senator Morris, Chairman; and Senator Vidricksen and Senator Martin, Members. The Chairman asked Senator Morris to make the report to the full Committee.

Senator Morris said the report is contained in the paper before the Committee. (Attachment #1). He explained that they dealt with two things. The caterer's license and the temporary permits. Senator Morris walked the Committee through the Report. There was Committee discussion. The Chairman thanked the members who served. He said that this was complicated, and he appreciated their doing such a thorough job.

It was pointed out that in talking about special events or temporary permits, the Committee needs to address two matters that have been mentioned. One is the selling of alcoholic beverages during the racing season and the other is the Spencer Museum at the University of Kansas. There was Committee discussion.

The Chairman asked the Committee's pleasure concerning the Subcommittee Report. Senator Vidricksen moved to accept the Subcommittee Report, and that it become a part of the implementing legislation. The motion was seconded by Senator Bond. The motion carried.

The Chairman asked staff what other elements there are that have not yet been addressed that need to be considered. Staff said the election provision doing away with the 30% food provision would be one.

There was Committee discussion concerning the petition system call for a referendum as opposed to county commission implementation of the vote. Senator Bond made the motion that both questions regarding elections be included in the first enabling bill. Senator Morris seconded the motion. The motion carried.

Senator Morris said there is another point that needs to be included. He made the conceptual motion that it is important that a date certain be set so the department will have enough lead time after the legislation has been enacted and rules and regulations know where they are going. He said July 1, 1987, is the first possible, and that ought to be in the bill: that the bill would go in effect upon publication in the statute book. The motion was seconded by Senator Vidricksen. The motion carried.

Director John Lamb, of the Alcoholic Beverage Control said that the key to the whole process is the date of it. The Chairman asked if they had not been working on some of the initial work on the implementation. Mr. Lamb explained what must be done once the legislation passes, a procedure which is quite involved. He said that once the law passes the pressure is on to do it as quickly as possible, and they want to be sure they do it right.

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 2, 1987.

Staff asked for direction from the Committee for percentages on the petition for election. Senator Morris said he would move it be 10% of those who voted for Secretary of State in that county at the previous general election. Senator Vidricksen seconded the motion. The motion carried.

There was more Committee discussion, following which the Chairman stated that the Committee has given staff direction as to what language it will take up tomorrow.

The meeting was adjourned at noon.

SUBCOMMITTEE REPORT

The subcommittee appointed by the Chairman of the Senate Federal and State Affairs Committee to review caterer licenses and temporary permits in liquor-by-the-drink counties met on the morning of January 30, 1987, with Senators Morris, Vidricksen, and Martin present.

The subcommittee reviewed a paper relating to the regulatory schemes of other states and options for handling caterers' licenses and temporary permits prepared by ABC staff (see Attachment No. 1) and a listing of issues prepared by Tuck Duncan (see Attachment No. 2).

After discussion the subcommittee agreed on the following recommendations concerning the licensing of caterers:

1. A caterer's license would be considered to be a type of liquor-by-the-drink license, and might be purchased as a separate license if the individual engages only in the business of catering or might be a combined liquor-by-the-drink and catering license if application were made by an LBD establishment also wishing to engage in catering.
2. The applicant for a caterer's license would be required to have a principal place of business.
3. The licensee would be required to hold a food service license issued pursuant to the Food, Drug, and Lodging Act.
4. An applicant for a caterer's license would be required to meet the statutory requirements required of applicants for club license.
5. The holder of a caterer's license would be required to submit a monthly report to Alcohol Beverage Control in the same manner as all on-premise licensees.
6. The holder of a caterer's license could operate in any "wet" county.
7. The caterer would be responsible for the collection of the "drink" tax based on the gross liquor receipts and, such tax would be collected at the caterer's principal place of business.

It was also proposed that the caterer be required to notify local law enforcement authorities prior to catering an event.

The subcommittee also makes the following recommendations regarding temporary liquor-by-the-drink permits:

1. The issuing of temporary permits should be limited to nonprofit religious, charitable, fraternal, educational, and veterans' organizations.
2. Any profits resulting from sale under a temporary permit could accrue only to the organization securing the permit, i.e., prohibit the sharing of proceeds with other organizations or individuals.
3. Permits should be issued for a maximum of three consecutive days, and an organization should be limited to four permits a year.
4. Holders of temporary permits should be required to purchase liquor from retail dealers.
5. The fee for a temporary permit should be \$25.00 per day.

Senator Bill Morris, Chairman
Senator Phil Martin
Senator Ben Vidricksen

subcom-rpt/bd

CATERER LICENSE AND TEMPORARY PERMITS

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 non-commercial 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.

Talking Points

Implementation of Liquor-by-the-Drink

Caterers

- ✓ - should have a principal place of business (where records kept, liquor stored, service of process can be made even tho not a "premises" per se.)
- ✓ - should have a "food handlers" certification from state
- ✓ - would have to meet licensee criteria as set out in KSA 41-311 for all liquor licensees (EXCEPT may contract with "sponsor" or "host" to rebate a percentage of the profits from the sale of alcoholic beverages at the function they are catering). Residency only for county of principal place.
- ✓ - would make monthly reports to the ABC as would any other club or liquor-by-the-drink establishment licensee.
- ✓ - ISSUE: must they report every location they work at ?? How about last minute functions ?? burdensome ? privacy ?
- ✓ - Could operate in any county that has approved Liquor-by-the drink.

- Catering could be a "privilege." by itself or as part of LBD establishment licensee (SEE PROPOSAL ON CLASS OF LICENSES BELOW)

See 7/12/11 --- ISSUE: DRINK TAXES (collected, paid, allocated to where?)
~~Should be collected by caterer in a direct sales relationship with the licensee~~

Temporary Permits

- Constitution provides that these may be issued without food requirement.
- Would be issued to responsible organization (might designate a responsible person who must meet KSA 41-311 criteria) for particular function (fundraiser for example) or event. Should be limited to time period. Thus allows sales to general public.
- fee, perhaps \$25 per day ?
- Should be issued to organization that has a primary purpose OTHER THAN solely sale of liquor. Proceeds from sale of alcoholic beverages should enure only to benefit of the permittee (this avoids an organization fronting for someone).
- ABC Director should be granted authority to issue regs on when application must be made (so investigation etc. can be accomplished), type of information required-- location, who's responsible, etc), and what the organization does with unused liquor.

Temporary Permit (cont.)

- ISSUE: residency for responsible person required ?
- ISSUE: do you limit the number of such permits that can be issued each year ? Would this be best handled by specifically delegating to ABC the authority to make such a regulation such that it can be changed as experience dictates. May not want to "lock" this type of limitation in statute.
- ISSUE: Since local authorities have power to also license clubs and LBD establishments, will they be involved in these permits. If it is determined they should not be so involved, then should so state in statute. (Might provide that ABC notify city or county officials when such a permit is issued).

CLASSES OF LICENSES

Since each of the above constitutes a privilege, might want to consider the following classes of license to accomodate these types of priviledges:

PRIVATE CLUB LICENSES

Class A	Class B	(no change from current law)
---------	---------	------------------------------

LIQUOR BY THE DRINK LICENSES

Class 1	Class 2	Class 3
on-premise licensee ONLY	Caterer (as above described)	on-premise licensee AND Caterer.
Fee= \$X	Fee = \$X	Fee = \$X plus

By having three (3) classes of LBD licenses, the licensee makes ONE application for the type of privileges he is seeking.

NOTE: A Caterer would not have to get a Temporary Permit, AND someone with a temporary permit (they are selling the liquor)..would not contract with a caterer. This avoids abuse of Temporary Permits being issued to circumvent other types of licensing.