

Approved _____
Date 2/24/87

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 18, 1987 in room 254-E of the Capitol.

All members were present ~~except~~

Committee staff present:

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

Conferees appearing before the committee:

Mr. Thomas A. Whitaker, Kansas Motor Carriers Association (KMCA)

The Minutes of the Meeting of February 17, 1987, were approved on a motion _____
by Senator Strick. The motion was seconded by Senator Morris. The motion carried.

Senator Vidricksen had two proposals for consideration for the Committee to introduce
as Committee bills: 7 RS 0879 (Attachment #1) concerning the suspension and
expulsion of pupils; and 7 RS 0985 (Attachment #2) concerning authorizing publication
of official notices by radio or television broadcast. Senator Vidricksen
moved they be introduced. The motion was seconded by Senator Morris. The motion
carried.

Mr. Thomas A. Whitaker, Governmental Relations Director of the Kansas Motor
Carriers Association appeared to present their request for a bill concerning
transportation of alcoholic liquor. (Attachment #3) Senator Morris moved a
bill be introduced. Seconded by Senator Martin. The motion carried.

The Chairman referred the Committee to resume with the Report of the Kansas Liquor
Law Review Commission, to give directions to the staff. Staff will draft these
measures, depending on how germane they are to the subject. The Committee
then will have to decide what is controversial by hearing conferees as to take
those elements out or leave them.

Senator Morris moved that the recommendation of the Commission concerning the
licensee's spouse and eligibility be put in the legislation. (p. 12 of Report)
Senator Martin seconded the motion. The motion carried.

Concerning the mandatory minimum penalty for purchases by minors, Senator
Bond moved it be included in the legislation. The motion was seconded by Senator
Morris. The motion carried. (p. 12 of Report)

Senator Vidricksen moved that the recommendation that the Alcoholic Beverage
Control Board should be increased from the current three members to five members,
and that the Board be with not more than three members from any one political
party, be included. Seconded by Senator Morris. Senator Martin said he would
add to the motion that the Secretary of Revenue have the discretion to reimburse
board members. Senator Daniels seconded that motion. The motion failed.
Senator Morris moved to accept the recommendation of the Liquor Law Review
Commission to increase the number to five members, without reference to
Congressional Districts. The motion was seconded by Senator Vidricksen. The motion
carried. (p. 12 of Report)

Senator Morris moved that the recommendation be adopted that (1) K.S.A. 41-206
should be amended to remove restrictions placed on the Director of the Alcoholic
Beverage Control concerning his involvement in conventions, trade shows, et cetera.
Seconded by Senator Bond. The motion carried. (p. 13 of Report)

Senator Morris moved that the recommendations of the Commission concerning the
residency requirement for ABC employees be accepted. Seconded by Senator Martin. The
motion carried. (p. 13 of Report.)

Unless specifically noted, the individual remarks recorded herein have not
been transcribed verbatim. Individual remarks as reported herein have not
been submitted to the individuals appearing before the committee for
editing or corrections.

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 18, 1987

Liquor establishments, private clubs was discussed by the Committee. Senator Bond moved that membership fees, less a handling fee, should be paid to the state, and to not touch the reciprocity, and to allow the state to have the opportunity to go back to January 1, 1989, to get rid of it, the proposal to allow the sate to receive the fees less the handling charge. The motion was seconded by Senator Morris. The motion failed. (p. 15-16 of Report)

Senator Morris moved that the reciprocals continue as class "B" private clubs until January 1, 1989, and at that point if they have not voted to go wet (in the county) the club would no longer have a reciprocal agreement. The motion was seconded by Senator Vidricksen. The motion failed. (p. 15-16 of Report)

Senator Bond moved that the alcoholic beverage handler training and licensing be included for "A" and "B" clubs and drinking establishments, as well as caterers and taverns, as of July 1, 1988. The motion was seconded by Senator Anderson. (p. 17 of the Report) The motion carried.

Senator Bond moved the recommendation concerning promotional activities be included in the legislation. Seconded by Senator Anderson. The motion carried. (p. 18 of Report)

Senator Morris moved that the residency requirements for retailers as recommended by the Commission be included in the bill. Seconded by Senator Bond. The motion carried. (p. 19 of Report.)

Senator Morris moved that the state stamp and review system for CMB outlets recommendation be included. Seconded by Senator Anderson. The motion carried.

There was discussion concerning the licensure requirement for convicted felons. Senator Morris moved to remove the exception which applies to felons convicted more than nine years/^{ago} as recommended by the Commission. Seconded by Senator Vidricksen. The motion carried. (p. 19 of Report)

Establishments other than retail liquor stores selling liquor were considered next. Senator Vidricksen moved that staff prepare as part of this package, legislation concerning going out and in through a different door. Seconded by Senator Morris. The motion carried.

Senator Bond moved, seconded by Senator Vidricksen, that the recommendation be included concerning the sale of non-liquor products at retail liquor stores. The motion carried. (p. 21 of Report)

Senator Bond moved to accept the recommendation of the Commission that liquor retailers be allowed to accept credit cards from customers. Seconded by Senator Martin. The motion carried. (p. 21 of Report)

Senator Morris moved to accept the recommendation of the Commission concerning point-of-sale merchandise. Seconded by Senator Anderson. The motion carried. (p. 22 of Report)

Senator Morris moved that the recommendations be included concerning restrictions on the solicitation of business. Seconded by Senator Vidricksen. The motion carried.

Concerning election day sales, Senator Morris moved that the recommendation of the Commission be included, and that it include CMB and retailers on election day sales. Seconded by Senator Anderson. The motion carried. (p. 22 of Report)

Senator Bond moved to adopt the policy of one-strength beer philosophy in Kansas. The motion was seconded by Senator Morris. The motion carried.

Referring back to service of wholesalers and retailers, concerning limitation of retailers and wholesalers in public/^{service} Senator Morris moved to adopt the recommendation of the KLLRC. Seconded by Senator Anderson. The motion carried.

Staff presented a bill draft concerning the Kansas Real Estate Commission. (Attachment #4) Senator Martin moved that it be introduced. Seconded by Senator Anderson. The motion carried.

The meeting was adjourned at noon.

SENATE BILL NO. _____

AN ACT concerning the suspension and expulsion of pupils;
relating to grounds therefor; amending K.S.A. 72-8901 and
repealing the existing section.

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

Section 1. K.S.A. 72-8901 is hereby amended to read as follows: 72-8901. (a) The board of education of any school district may suspend or expel, or by regulation authorize any certificated employee or committee of certificated employees to suspend or expel, any pupil or student guilty of any of the following:

{a} (1) Willful violation of any published regulation for student conduct adopted or approved by the board of education;
~~or;~~

{b} (2) conduct which substantially disrupts, impedes or interferes with the operation of any public school;
~~or;~~

{c} (3) conduct which substantially impinges upon or invades the rights of others;
~~or;~~

{d} (4) conduct which has resulted in conviction of the pupil or student of any offense specified in chapter 21 of the Kansas Statutes Annotated, any offense specified in the uniform controlled substances act or any criminal statute of the United States;
~~or;~~

(5) possession or use of tobacco products while on the campus of a public school or under the authority of school personnel;

(6) unlawful possession, use, selling or otherwise furnishing, or being under the influence of, a controlled substance, as defined under the uniform controlled substances act, an alcoholic beverage or an intoxicant of any kind while on

the campus of a public school or under the authority of school personnel;

(7) unlawful possession of or unlawfully offering, arranging or negotiating to sell any drug paraphernalia, as defined in K.S.A. 65-4150 and amendments thereto while on the campus of a public school or under the authority of school personnel; or

(e) (8) disobedience of an order of a teacher, peace officer, school security officer or other school authority, when such disobedience can reasonably be anticipated to result in disorder, disruption or interference with the operation of any public school or substantial and material impingement upon or invasion of the rights of others.

(b) No board of education of any school district shall allow any area on the campus of a public school to be set aside for the purpose of allowing pupils to possess or use tobacco products within such area.

Sec. 2. K.S.A. 72-8901 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

2/18/87
Attachment #2

7 RS 0985

SENATE BILL NO. _____

By Committee on

AN ACT authorizing publication of official notices by radio or television broadcast.

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

Section 1. Any official of the state or any of its political subdivisions who is required by law to publish any notice required by law may supplement publication thereof by radio or television broadcast, or both, when such official determines the public interest will be served thereby, except that the time, place and nature of such notice only shall be read or shown and no reference shall be made to any person by name who is at the time of notice a candidate for political office. Such broadcasts shall be made only by duly employed personnel of the station from which such broadcasts emanate, and notices by political subdivisions may be made only by stations situated within the county of origin of the legal notice.

Sec. 2. (a) Each radio or television station broadcasting any legal notice or notice of event shall for a period of six months subsequent to such broadcast retain at its office a copy or transcription of the text of the notice as actually broadcast which shall be available for public inspection.

(b) Proof of publication of legal notice or notice of event by radio or television broadcast shall be by affidavit of the manager, an assistant manager or a program director of the station broadcasting the same.

Sec. 3. (a) The secretary of state shall supplement publication of legal notice of proposed constitutional amendments by radio and television broadcast as provided under section 1.

(b) The notice provided for in subsection (a) shall set forth the following information:

Attachment #2
FSA 2/18/87

(1) A legal identification of the constitutional amendment to be voted upon;

(2) the official ballot title of such constitutional amendment;

(3) a brief statement explaining the constitutional provision as it presently exists;

(4) a brief statement explaining the effect of the constitutional amendment should it be approved; and

(5) the total number of votes cast for and against the constitutional amendment in both the state senate and house of representatives.

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

FSA
2/18/87
Attachment #3

KANSAS MOTOR **KMCA** CARRIERS ASSOCIATION

February 18, 1987

MEMO TO: Senator Bill Morris
Vice Chairman
Senate Federal & State Affairs Committee

The Kansas Motor Carriers Association is requesting a bill that parallels the recommendation of the Kansas Liquor Review Commission to eliminate the requirement that commercial transporters of alcoholic liquor be bonded as required by K.S.A. 41-408.

KMCA requests that the bill also eliminate the requirement for the carrier to secure a permit from the Alcoholic Beverage Commission to transport alcoholic liquor so long as such carrier is properly registered with the Kansas Corporation Commission.

Additionally, we request that the proposed legislation eliminate the requirement that such carrier report monthly the amount of alcoholic liquor being transported and provide the ABC with duplicate bills of lading. Current law requires the licensed warehouse to report such shipments and supply duplicate bills of lading to ABC. These warehouse reports control product transactions.

We will appreciate the committee's consideration of this request.

Sincerely,



Thomas A. Whitaker
Governmental Relations Director

TAW/sc

Attachment #3
FSA 2/18/87

DRAFT

7 RS 0961

2/18/87

Attachment #4

SENATE BILL NO. _____

By Committee on Federal and State Affairs

AN ACT amending the real estate brokers' and salespersons' license act; amending K.S.A. 1986 Supp. 58-3035, 58-3039, 58-3050 and 58-3063 and repealing the existing sections.

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

Section 1. K.S.A. 1986 Supp. 58-3035 is hereby amended to read as follows: 58-3035. As used in this act, unless the context otherwise requires:

(a) "Advance listing fee" means any fee charged for services related to promoting the sale or lease of real estate and paid in advance of the rendering of such services, including any fees charged for listing, advertising or offering for sale or lease any real estate, but excluding any fees paid solely for advertisement or for listing in a publication issued for the sole purpose of promoting the sale or lease of real estate wherein inquiries are directed to the owner of the real estate or to real estate brokers and not to unlicensed persons who publish the listing.

(b) "Associate broker" means an individual who has a broker's license and who is employed by another broker or is associated with another broker as an independent contractor and participates in any activity described in subsection (e).

(c) "Branch broker" means an individual who has a broker's license and who has been designated to supervise a branch office and the activities of salespersons and associate brokers assigned to the branch office.

(d) "Branch office" means a place of business other than the principal place of business of a broker.

(e) "Broker" means an individual, other than a salesperson, who advertises or represents that such individual engages in the

S.F.S.A

2/18/87 Attachment #4

business of buying, selling, exchanging or leasing real estate or who, for compensation, engages in any of the following activities as an employee of, or on behalf of, the owner, purchaser, lessor or lessee of real estate:

- (1) Sells, exchanges, purchases or leases real estate.
- (2) Offers to sell, exchange, purchase or lease real estate.
- (3) Negotiates or offers, attempts or agrees to negotiate the sale, exchange, purchase or leasing of real estate.
- (4) Lists or offers, attempts or agrees to list real estate for sale, lease or exchange.
- (5) Auctions or offers, attempts or agrees to auction real estate or assists an auctioneer by procuring bids at a real estate auction.
- (6) Buys, sells, offers to buy or sell or otherwise deals in options on real estate.
- (7) Assists or directs in the procuring of prospects calculated to result in the sale, exchange or lease of real estate.
- (8) Assists in or directs the negotiation of any transaction calculated or intended to result in the sale, exchange or lease of real estate.
- (9) Engages in the business of charging an advance listing fee.
- (10) ~~Assists--in--or--directs---the---procurement---of---or arrangement--for--mortgage--financing--on--real--estate--while--not acting--in--the--capacity--of--a--mortgagee--or--a--mortgagee's--agent--who is--authorized--to--make--real--estate--loans--under--state--or--federal authority.~~
- {11} Provides lists of real estate as being available for sale or lease, other than lists provided for the sole purpose of promoting the sale or lease of real estate wherein inquiries are directed to the owner of the real estate or to real estate brokers and not to unlicensed persons who publish the list.
- (f) "Commission" means the Kansas real estate commission.

(g) "Lease" means rent or lease for nonresidential use.

(h) "Licensee" means any person licensed under this act as a broker or salesperson.

(i) "Office" means a broker's place of business, where records may be maintained and licenses displayed, whether or not it is the broker's principal place of business.

(j) "Person" means any individual or any foreign or domestic corporation, partnership or association.

(k) "Real estate" means any interest or estate in land, including any leasehold or condominium, whether corporeal, incorporeal, freehold or nonfreehold and whether the real estate is situated in this state or elsewhere, but does not include oil and gas leases, royalties and other mineral interests.

(l) "Salesperson" means an individual, other than an associate broker, who is employed by a broker or is associated with a broker as an independent contractor and participates in any activity described in subsection (e).

(m) "Supervising broker" means an individual, other than a branch broker, who has a broker's license and who has been designated as the broker who is responsible for the supervision of the primary office of a broker and the activities of salespersons and associate brokers who are assigned to such office and all of whom are licensed pursuant to subsection (b) of K.S.A. 58-3042 and amendments thereto. "Supervising broker" also means a broker who operates a sole proprietorship and with whom associate brokers or salespersons are affiliated as employees or independent contractors.

Sec. 2. K.S.A. 1986 Supp. 58-3039 is hereby amended to read as follows: 58-3039. (a) Any person desiring to act as a broker or salesperson must file a written application for a license with the commission or, if required by the commission, with the testing service designated by the commission. The application shall be in such form and detail as the commission shall prescribe and shall be accompanied by the appropriate license-fee application and license fees.

(b) A license to engage in business as a broker or salesperson shall be granted only to a person who is 18 or more years of age and who has a high school diploma or its equivalent.

(c) In addition to the requirements of subsection (b), each applicant for an original license as a broker shall have been licensed as a salesperson in this or another state and shall have been actively engaged in any of the activities described in subsection (e) of K.S.A. 58-3035 and amendments thereto for a period of at least two years during the five years immediately preceding the date of the application for a license. The commission may accept proof of experience in the real estate or a related business or a combination of such experience and education which the commission believes qualifies the applicant to act as a broker.

(d) Except as provided in K.S.A. 58-3040 and amendments thereto, each applicant for an original license shall be required to pass a written examination covering generally the matters confronting brokers or salespersons, and no license shall be issued on the basis of such an examination either or both sections of which were administered more than four months prior to the date that the applicant's application is filed with the commission. The examination may be given by the commission or any person designated by the commission. Each person taking the examination shall pay the examination fee prescribed pursuant to K.S.A. 58-3063 and amendments thereto, which fee the commission may require to be paid to it or directly to the testing service designated by the commission. The examination for a broker's license shall be different from or in addition to that for a salesperson's license.

(e) The commission, prior to granting an original license, shall require proof that the applicant has a good reputation for honesty, trustworthiness, integrity and competence to transact the business of broker or salesperson in such manner as to safeguard the public interest.

(f) An application for an original license as a salesperson

shall be accompanied by the recommendation of the broker with whom the salesperson is to be associated, or by whom the salesperson is to be employed, certifying that the applicant is honest, trustworthy and of good reputation.

Sec. 3. K.S.A. 1986 Supp. 58-3050 is hereby amended to read as follows: 58-3050. (a) The license of any licensee may be revoked, suspended or restricted or a licensee may be censured, if:

(1) The commission finds that the license has been obtained by false or fraudulent representation or that the licensee has committed a violation of this act or rules and regulations adopted hereunder;

(2) the licensee has entered a plea of guilty or nolo contendere to, or has been convicted of: (A) Forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any other similar offense; (B) a crime involving moral turpitude; or (C) any felony charge; or

(3) the licensee has been finally adjudicated and found to be guilty of refusing to show, sell or lease any real estate to a qualified purchaser or lessee because of such purchaser's or lessee's race, color, religion, national origin, sex or ethnic group.

(b) If a broker or salesperson has been declared incompetent by a court of competent jurisdiction, the commission shall suspend the broker's or salesperson's license for the period of disability.

(c) No complaint alleging violation of this act or rules and regulations adopted hereunder shall be commenced more than: (1) One year after the occurrence complained of or, or one year after the conclusion of litigation involving the occurrence complained of, whichever is later; or (2) if the charge involves fraud, misrepresentation or a false promise, more than two years after the date of its discovery by the aggrieved party. In no case shall a complaint be commenced more than five years from the

date of the occurrence which is the subject of the complaint.

(d) Except as provided in subsection (f), all administrative proceedings pursuant to this section shall be conducted in accordance with the Kansas administrative procedure act.

(e) Notwithstanding any provision of this act to the contrary, the commission may use emergency adjudicative proceedings, as provided by K.S.A. 1985 1986 Supp. 77-536 and amendments thereto, to summarily suspend the license of any licensee if the commission has reasonable cause to believe that the licensee's trust account is in unsound condition or that the licensee is misappropriating funds belonging to other persons.

(f) If a licensee has entered a plea of guilty or nolo contendere to, or has been convicted of: (1) Forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any other similar offense; (2) a crime involving moral turpitude; or (3) any felony charge, the commission may review the findings of the court and determine (A) to conduct an administrative proceeding in accordance with the Kansas administrative procedure act or (B) to issue an order of revocation, suspension or restriction, to be effective when rendered. If an order of revocation, suspension or restriction is rendered without an administrative proceeding having been conducted in accordance with the Kansas administrative procedure act, the order may be appealed in accordance with the act for judicial review and civil enforcement of agency actions.

(g) When the real estate license of an individual is revoked and that individual's name is included in the trade or business name of a real estate brokerage business, the commission may deny continued use of the trade or business name if, in the opinion of the commission, it would be confusing or misleading to the public.

If the revocation of the individual's license is appealed to district court and a stay of the commission's order is granted by the court, the commission may not deny continued use of the trade

or business name until such time as the district court upholds the order of the commission.

Sec. 4. K.S.A. 1986 Supp. 58-3063 is hereby amended to read as follows: 58-3063. (a) The commission shall adopt rules and regulations fixing the amounts of the fees provided for by this act, subject to the following:

(1) For any examination required for licensure, a fee in an amount equal to the actual cost of the examination and the administration thereof.

(2) For submission of an application for an original salesperson's or broker's license, an amount not exceeding \$15.

(3) For an original salesperson's license, a fee based on an annual amount not exceeding \$30.

~~(3)~~ (4) For an original broker's ~~or-associate-broker's~~ license, a fee based on an annual amount not exceeding \$50.

~~(4)~~ (5) For renewal of a salesperson's license, a fee based on an annual amount not exceeding \$30.

~~(5)~~ (6) For renewal of a broker's ~~or--associate--broker's~~ license, a fee based on an annual amount not exceeding \$50.

~~(6)~~ (7) For reinstatement of a license which has been deactivated or which has been canceled pursuant to subsection (d) of K.S.A. 58-3047, and amendments thereto, or by reason of termination of a salesperson ~~or-associate-broker~~, an amount not exceeding \$15.

~~(7)~~ (8) For reinstatement of all licenses canceled pursuant to subsection (e) of K.S.A. 58-3047, and amendments thereto, an amount not exceeding ~~\$15~~ \$7.50 for each license canceled ~~or-an amount-not-exceeding-\$100-for-all-licenses-canceled,-whichever-is less.~~

(9) For issuance of a duplicate license, an amount not exceeding \$10.

(10) For certification of licensure to another jurisdiction, an amount not exceeding \$10.

(11) For approval of a course of instruction pursuant to K.S.A. 58-3046a and amendments thereto, an amount not exceeding

\$50.

(12) For renewal of an approved course of instruction pursuant to K.S.A. 58-3046a and amendments thereto, an amount not exceeding \$15.

(13) For approval of an instructor pursuant to K.S.A. 58-3046a and amendments thereto, an amount not exceeding \$50.

(14) For renewal of an approved instructor pursuant to K.S.A. 58-3046a and amendments thereto, an amount not exceeding \$15.

(b) Subject to the limitations of this section, the commission shall fix the fees provided for by this section in the amounts necessary to administer and enforce this act.

(c) The fees provided for by this section shall be applicable regardless of the type of license.

Sec. 5. K.S.A. 1986 Supp. 58-3035, 58-3039, 58-3050 and 58-3063 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.