

Approved _____

As corrected
2/24/87
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Senator Bill Morris at
Chairperson

11:00 a.m./~~p.m.~~ on February 19, 1987 in room 254-E of the Capitol.

All members were present ~~except:~~

Committee staff present:

Mary Galligan, Legislative Research
June Windscheffel, Secretary to the Committee

Conferees appearing before the committee:

Copies of a statement from Mr. Joe Berger, of the Kansas Sunflower Club Association, were distributed to the Committee, which included suggestions. (Attachment #1)

The Chairman stated that the Committee is going to continue reviewing those items from the Liquor Law Review Commission to be included in other bills. Staff has been asked to go through the areas that remain, and a sheet which enumerates those was handed out for the Committee. (Attachment #2)

Senator Martin moved to include the recommendation from the Kansas Liquor Law Review Commission (KLLRC) concerning other licensing requirements for suppliers (p.23 of Report). Seconded by Senator Strick. The motion carried.

In other licensing requirements for wholesalers, Senator Martin moved that licensed operations should have the ability to handle non-alcoholic products and services. (p. 23 of Report) Senator Strick seconded the motion. The motion carried.

Concerning employee licensing, Senator Martin moved to include that wholesaler sales personnel should be licensed on an annual basis with a \$25 fee. Seconded by Senator Bond. (p. 24 of Report) The motion carried.

Senator Vidricksen moved that in the gallonage tax payments recommendation that (1) and (2) be put in the bill. Seconded by Sen. Anderson. The motion carried.(p.24)

Senator Martin moved that micro breweries be included as a separate bill. Seconded by Senator Bond. (p. 24 of Report) The motion carried.

Concerning supplier beneficial interest, it was moved by Senator Bond to include that suppliers be permitted to have a stock portfolio interest, not to exceed 5%, in a retail establishment. Seconded by Senator Vidricksen. (p. 24 of Report). The motion carried.

Senator Vidricksen moved that in wholesaler beneficial interest that a (p. 25 of Report) stock portfolio interest, not to exceed 5%, in a retailer or supplier operation be permitted for the wholesaler. Seconded by Senator Bond. The motion carried.

It was moved by Senator Vidricksen, in supplier ability to do business in Kansas, that (2) in the recommendation be included with a clause there for micro brewers. (p. 25 of Report). Seconded by Senator Bond. The motion carried.

It was moved by Senator Martin, and seconded by Senator Bond, that the recommendation in the section concerning supplier and wholesaler employee activities, be included. (p. 26 of Report) The motion carried.

Concerning seminars and samplings (p. 26 of Report), Senator Bond moved that the recommendation be included. Seconded by Senator Vidricksen. 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 February 19, 1987.

Senator Martin moved, seconded by Senator Strick, that the recommendation on sales on credit (p. 27 and 28) be accepted for (5) on p. 28. The motion carried.

Senator Vidricksen moved the acceptance of the recommendation concerning point of sale materials and product display. Seconded by Senator Bond. The motion carried. (p. 28 of Report)

Concerning supplier and wholesaler advertising, Senator Martin moved that the recommendation be included as a separate bill, to remove the restrictions. Seconded by Senator Strick. The motion carried. (p. 28 and 29 of Report)

In the recommendation concerning Uniform FOB & Billing, Senator Bond moved that the recommendation on case discounts be included. Seconded by Senator Martin. The motion carried. (p. 29 of Report)

Case discounts was next for consideration. It was moved by Senator Bond, seconded by Senator Martin, that the recommendation on case discounts be included. The motion carried. (p. 29 of Report)

The Chairman said that concluded going through the items not addressed. He said there were a couple of other items.

Senator Martin moved that the recommendation concerning price and brand advertising be included. Seconded by Senator Strick. (p.21 of Report) The motion carried.

Concerning the minimum price markup, Senator Hoferer moved that a bill be drafted to eliminate the minimum price markup. Seconded by Senator Bond. The motion carried.

Senator Anderson moved that a separate bill be drafted making the franchise system different than at the present time for wholesalers of beer, wine and spirits. Seconded by Senator Daniels. The motion carried. Senator Martin voted "no."

The Committee adjourned at noon.



Kansas Sunflower Club Association

1314 Topeka Ave. Topeka, Kansas 66612

Attachment #1
2-19-87

February 19, 1987

Joe Berger, President

Moose

Don Herbert, Vice President

Elks

Chuck Yunker, Sec./Tres.

American Legion

Directors:

Lyle Eraas

County and Town Clubs

Alfred Skeet

Eagles

Clarence Malone

Knights of Columbus

Forrest Lindsey

Shrine

Barney Aldridge

Veterans of Foreign Wars

Senator Edward Reilly, Jr.

State Capitol Building

Topeka, Kansas 66612

Dear Senator Reilly:

I am Joe Berger, President of the Kansas Sunflower Club Association. Our Association is made up of bona fide Class A N.P. Clubs such as the American Legion, V.F.W., Knights of Columbus, Shrine, Eagles, Elks, Moose, City and Country Clubs. Our organizations represent a membership of about 225,000 Kansas families.

There are several issues we would like for you and the Senate Federal and State Affairs Committee to consider.

(1) We would like to have a separate classification for the bona fide N.P. Fraternal and War Veterans organizations which come under the internal Revenue Code 501 Section C; have a national headquarters and a state headquarters here in Kansas and are approved as bonafide non-profit fraternal and war veterans organizations by the A.B.C. Director. Our organizations do a lot of charitable and community work.

(2) We would like to have you consider the 10% per drink tax. Let's get rid of it and put the tax on the gallonage tax and let everyone who buys liquor pay their fair share. 33.1/3% of this tax goes to community alcoholism and intoxication programs. It's not fair for the people who drink in clubs to have to pay an extra 10% for their drinks, and the people who have alcoholic problems do not have to pay the 10%--People with alcoholic problems drink at home not in the clubs. Enclosed is a copy of the 1982 Post Audit report of the A.B.C. You will notice that the excise tax revenues for 1981 were projected to be \$11.4 million, but only \$6.8 million was collected, a difference of \$4.6 million. One of the problems was that some clubs were not paying all of their 10% excise tax. If this tax was put on the gallonage tax, collected by the Wholesaler, everybody would pay and the state would collect all the money. The A.B.C. would only have to watch 5 Wholesalers instead of 1100 clubs. I know the Post Audit Report is 6 years old, but I'm sure the same problem is still with us.

Attachment #1
FSA 2/19/87

February 19, 1987

Page 2

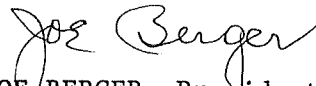
(3) We feel that the country clubs and town clubs should be allowed to make their own reciprocal arrangements with other country and town clubs and not have to file the reciprocal arrangements with the A.B.C.

(4) We agree that an alcoholic beverage handler training and licensing program is good and is needed. We have a problem with everyone who is employed having to complete a state mandated and supervised training program. We have a lot of volunteers who work in our clubs and on a busy night we may have a food waitress serve drinks. A lot of times a member will bar back for the bartender etc. We would like to see a training and licensing program for the club manager and head bartender and then they in turn train the others in the club. There should be at least one registered alcoholic beverage handler in the club at all times. Do you realize how many people will be involved if all the bartenders, bar backs, waitresses, bus boys, hostesses, etc. must take the training? Then there is the question of turn over--new help can't go to work until they take the training program and become registered. If 3 or 4 people quit work a club may have to close down until they get new trained and registered help. We think the program is good, but let's not go overboard.

(5) Delivery is very important--The pop company delivers, no extra charge--the beer company delivers, no extra charge--the bread company delivers, no extra charge--the milk company delivers, no extra charge-- the list is endless. Why should the Liquor people be allowed to charge extra for these deliveries??

I want to thank you for taking the time to read this letter and considering our thoughts on some of these issues.

Sincerely,



JOE BERGER, President
Kansas Sunflower Club Association

WHOLESALEERS AND SUPPLIERS

*Attachment # 2
2-19-87*

- (1) Residency - 5 years in state (p. 23)
- (2) Permit for suppliers; temporary permit; resident agent (p. 23)
- (3) Three distributor licenses: wine, spirits, beer/CMB (p. 23)
- (4) Handling of non-liquor products and services (p. 23)
- (5) Delete requirement that officer, director or manager be qualified for license (p. 23)
- (6) Distributors' salespersons' permits (p. 24)
- (7) Gallonage tax to be paid by distributor (p. 24)
- (8) Microbreweries (p. 24)
- (9) Supplier's interest in tavern, club or drinking establishment (p. 24)
- (10) Distributor's interest in retail establishment or supplier (p. 25)
- (11) Distribution by brewers (p. 25)
- (12) Termination of beer/CMB franchise agreement (p. 25)
- (13) Suppliers' salespersons' permits (p. 26)
- (14) Seminars and samplings by suppliers and distributors (p. 26)
- (15) Service of retailer at liquor distributor premises (p. 27)
- (16) Sales of equipment by distributor to retailer at no less than cost (p. 27)
- (17) Distributor deliveries at 7 a.m. (p. 27)
- (18) Distributor responsibility for damaged, defective products (p. 28)
- (19) Allow distributor to provide interior decorations or signs (p. 28)
- (20) Military purchases; through franchised distributor; no gallonage tax; no transfer of liquor (p. 28)
- (21) Cooperative supplier/distributor advertising (p. 28)
- (22) Uniform FOB price for CMB (p. 29)
- (23) Prohibit multiple case discount (p. 29)

MISCELLANEOUS

Minimum retail mark-ups (pp. 8, 21)

*Attachment # 2
FSA 2/19/87*

Collection and Enforcement of the Liquor Excise Tax

During the 1982 legislative session, the liquor excise tax was the subject of considerable discussion. According to the Director of Alcoholic Beverage Control, liquor excise tax revenues for fiscal year 1981 were projected to be \$11.4 million, but only \$6.8 million was collected, a difference of \$4.6 million. Legislative Post Audit's examination of the liquor excise tax collection and enforcement process addressed three primary questions: Do collection procedures ensure that delinquent taxes owed on reported liquor sales are paid? Is the Division's estimate of excise taxes owed but not paid accurate? And do audits of tax collections in private clubs show that clubs are circumventing the tax by not reporting all liquor sales?

The auditors found that most private clubs subject to enforcement action because they are late in paying liquor excise taxes on reported drink sales do eventually pay the taxes they owe. Thus, if the Division's estimate is accurate, the shortfall of tax revenues would apparently have to represent taxes due on unreported sales of alcoholic drinks. For such a shortfall to have occurred, the auditors estimated that each private club in the State would have owed taxes on an additional \$39,000 in unreported drink sales in 1981. Their actual reported sales subject to the tax averaged only \$58,500 that year.

The amount of liquor excise taxes owed by private clubs is based on the amount of liquor they sell in a year. The Division's method for projecting liquor excise tax revenues relies on an earlier Department of Revenue estimate of the amount of liquor consumed in private clubs in 1978. The auditors used two additional methods for projecting these tax revenues that relied on estimates of the amount of liquor purchased by private clubs for resale to consumers. These estimates came from a recent Department of Revenue survey showing retail liquor sales to private clubs for calendar year 1980, and from the auditors' survey of a sample of retailers, who reported their average sales to clubs for fiscal year 1982. When these figures were "plugged into" the rest of the formula for projecting the excise taxes owed for those two years, the results came much closer to matching actual collections than the Division's estimates. Thus, Legislative Post Audit concluded that the Division's method may be outdated and may be overstating the liquor excise tax revenues owed to the State.

The 1982 Legislature funded seven new auditor positions in the Department to audit liquor excise tax collections in private clubs. Legislative Post Audit reviewed the results of the first 21 audits completed, and conducted its own audits of 10 additional clubs. (One other club denied Legislative Post Audit access to verify its records of gross receipts for liquor and food. This case is currently under litigation.) These audits showed that nine of the 31 clubs apparently owed additional excise taxes on unreported drink sales for fiscal year 1982. One owed an estimated \$30,000, and the other eight owed an estimated average of \$1,072 each. The remaining 22 clubs apparently owed no additional taxes. Legislative Post Audit also found that some clubs kept inadequate accounting records and made errors in calculating the amount of taxes due.

Although these initial audits show that some taxable liquor sales are not being reported, so far the magnitude of the revenue shortfall indicated by the Department's estimate for fiscal year 1981 has not been substantiated. The Department's tax auditors will need to complete a full round of audits of all private clubs before definitive conclusions regarding liquor excise tax collections can be reached.