

Approved \_\_\_\_\_

Date

3/20/87

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

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

11:00 a.m./~~p.m.~~ on March 17, 1987 in room 254-E of the Capitol.

All members were present except:

Senator Reilly was excused.

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:

Senator Alicia Salisbury  
Mr. R. E. "Tuck" Duncan, Kansas Wine & Spirits Wholesalers Association  
Mr. Ken Bahr, Kansas Retail Liquor Dealers Association  
Mr. John Lamb, Director, Alcoholic Beverage Control

The Minutes of the meetings of March 9 and March 12, 1987, were before the Committee. Senator Arasmith moved, seconded by Senator Strick, that they be approved. The motion carried.

The first item on the agenda was SB 129, by the Joint Committee on Administrative Rules and Regulations. Senator Salisbury served as Chairman of that Committee during the past year, and appeared as a conferee to explain the bill. The bill dealt with alcoholic beverages, and wholesaler or distributor bond, and guests.

Mr. R. E. Duncan stated that SB 129 as drafted only affects cereal malt beverage wholesalers. They feel the Legislature might want to apply it across the board.

Senator Bond made the conceptual motion that the liquor wholesalers be added to SB 129. Seconded by Senator Strick. The motion carried.

Senator Strick moved that the bill be reported favorably as amended. Seconded by Senator Hoferer. The motion carried.

SB 352, concerning qualifications for alcoholic beverage licenses, was considered by the Committee. Senator Bond moved the adoption of the amendment concerning any convicted felon should be prohibited from obtaining a retail liquor or CMB license, and that the exception should be eliminated. Seconded by Senator Ehrlich. The amendment was adopted. There was more discussion concerning the bill. Director John Lamb appeared, pointing out that he had submitted a memorandum to the Committee this morning regarding CMB licenses. (Attachment #1) Senator Anderson made a conceptual motion in regard to persons holding both CMB and distributor's license that "beneficial" be inserted in Section 1, (10) of the bill.

Senator Martin made the substitute motion to strike the lines 60 through 66 in SB 352. The substitute motion failed for lack of a second. A vote was taken on the original motion and it failed.

Senator Anderson moved that SB 352 be recommended favorably for passage as amended. The motion was seconded by Senator Bond. The motion carried.

The next bill was before the Committee was SB 353, concerning the Division of Alcoholic Beverage Control; residency and conflict of interest. Senator Bond moved conceptually that any board member

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS,  
room 254-E, Statehouse, at 11:00 a.m. ~~xxx~~ on March 17, 1987

or employees of the Alcoholic Beverage Control not have a direct interest in a liquor store. Seconded by Senator Anderson. The motion carried. Discussion concerning K.S.A. 41-206.

Staff suggested running 41-206 into this bill with an addition that says they may adopt rules and regulations to permit conceptually. Senator Bond said he would so move. Senator Anderson seconded the motion. The motion carried.

Senator Bond moved that the bill be recommended favorably as amended. Seconded by Senator Anderson. The motion carried.

The meeting was adjourned.

MEMORANDUM

3/17/87  
Attachment #1

TO: Senate Federal and State Affairs Committee  
FROM: JOHN A. LAMB, DIRECTOR, ABC DIVISION  
RE: CMB License and Liquor License  
DATE: March 17, 1987

As I stated to you during a committee session, I had been reviewing two cases that dealt with liquor licensees who either had an interest in or held a CMB license. Both were resolved in favor of the liquor licensee.

One matter involved Mr. Junghans of Junction City who had a CMB license and a liquor license. Mr. Junghans relinquished his CMB License. You will note that his letter to Senator Werts of February 11, 1987 is on KWIK SACK stationery which might lead one to believe that he still has a beneficial interest in the CMB License. However, K.S.A. 41-311 provides that: No license [liquor] shall be issued to a person who is the holder of a valid and existing CMB license. The key word is holder. The statute does not refer to beneficial interest. Thus someone may have a CMB license obtained by another person such as a relative and escape the requirements of 41-311.

The other matter I speak of deals with an individual who unlike Mr. Junghans did not have a CMB License but has a beneficial interest in a convenience store and merely had another obtain the CMB License. Counsel for the ABC Division dealt with this as an enforcement complaint; gave the opinion that no action should be taken against the liquor licensee and none was taken.

There are liquor licensees who in fact own or have a beneficial interest in CMB licensed establishments but do not themselves hold a CMB license and thus are not disqualified by K.S.A. 41-311 from holding a liquor license. It becomes a question of whether the legislature wants to treat persons who have either ownership or a beneficial interest in an establishment which hold a CMB license the same as ones who hold a CMB license who would be ineligible under the existing law or remove the prohibition. [K.S.A. 41-311(10)].

  
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JOHN A. LAMB, DIRECTOR

JAL/cjk

Attachment

Attachment #1  
FSA 3/17/87



## CONVENIENCE STORES

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February 11, 1987

Senator Merrill Werts  
Senate Chamber  
Capitol Building  
Topeka, KS 66612

Dear Senator Merrill Werts,

A few months ago I visited with John Lamb, Director of Alcoholic Beverage Control, about a conflict with a retail liquor licensee having both a cereal malt beverage license and a liquor license. Presently I own one liquor store and eleven convenience stores. My liquor store and my convenience stores are operated independently. All the convenience stores have cereal malt beverage licenses. My visit with John Lamb presented that state statute 41-311 has been an old regulation effective in the 40's. This statute does not allow an individual in the retail liquor business to obtain the two licenses I need to operate my businesses.

The rules and regulations have since been updated for clubs. Their changes have allowed them to obtain a liquor and cereal malt beverage license. I feel there is no conflict in having both licenses also for a retail liquor licensee.

The liquor laws are in the process of revision, because of this I am hopeful that this license conflict can be resolved. Any efforts on your behalf would be greatly appreciated in helping me with this license problem. If any additional information is required, please contact me at 762-6010.

Sincerely,

A handwritten signature in black ink that reads "GREG Junghans". The signature is written in a cursive style with a large, stylized "G" and "J".

Greg Junghans