

2/11/88

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRSThe meeting was called to order by Senator Edward F. Reilly, Jr. at
Chairperson11:00 a.m. ~~xxxx~~ on January 22, 1988 in room 254-E of the Capitol.All members were present ~~except~~

Committee staff present:

Mary Galligan, Legislative Research
 Emalene Correll, Legislative Research
 Dr. William Wolff, Legislative Research
 June Windscheffel, Committee Secretary

Conferees appearing before the committee:

Senator Alicia Salisbury
 Mr. Dan Walstrom, Department of Revenue

The Chairman welcomed Senator Alicia Salisbury, who appeared concerning two bills: SB471 and SB478. SB471, by the Joint Committee on Economic Development, concerns state agencies and their administrative rules and regulations. SB478, by the Joint Committee on Administrative Rules and Regulations, concerns filing requirements for rules and regulations.

Senator Salisbury said that the rules and regulations in SB471 can be of great interest to those in the private sector, and the issue is that the regulations may from time to time impose an impediment to economic development. At an earlier time, the Joint Committee on Rules and Regulations could revoke and modify regulations. However, after a Supreme Court Ruling the Legislature can no longer do that. Now after the rules and regulations are adopted by an agency they have the force of law. The Legislature cannot do anything about that.

Senator Salisbury said that the Economic Development Committee tried to look at what was possible in Kansas. One thing required of a state agency when it publishes its hearing is that it publish a fiscal impact statement. That fiscal impact statement is to reveal the impact on government, state agencies, and the public. In some respects, the Legislature creates the fiscal impact when it enacts the legislation. The Legislature can, at that time, ask what the fiscal impact is and the agency can give a ballpark figure.

The agency can implement that legislation through regulations and how it decides to do that will frequently affect the fiscal impact statement. When talking about an impediment to economic development, the Committee was talking about an economic impact statement, what is the quantitative as well as qualitative affect. SB471 provides an additional dimension to "economic impact." The fiscal impact the Joint Committee on Administrative Rules and Regulations sees is not always truly reflective of the financial impact. The Joint Committee on Administrative Rules and Regulations (JCARR) thought that more information was needed than just a fiscal note. Senator Salisbury said that if this Committee does recommend this bill, she hopes it will substitute "economic impact" for "fiscal and financial impact" throughout the bill.

At the bottom of page 7, in line 77, there is a section that could be cut out, because the information being requested is included.

The Chairman asked if a lot of people appeared this summer concerning this legislation. The conferee said that not a lot appeared, but groups let their support of this concept be known.

Senator Salisbury said that SB478 amends the Filing Act. She explained that all agencies file their regulations between May 1, and December 15. This date was set at a time when the Legislature could revoke or modify a regulation. This gave time before the Session to allow the

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Legislature to consider the regulations. Now, since the Supreme Court decision that the Legislature can no longer do this, the filing dates have less meaning and create difficulty for legislative oversight. It is most common that about December 15, the Joint Committee on Administrative Rules and Regulations gets a huge stack of regulations. This makes it almost impossible to review them substantively. The Committee feels there is no reason to have a "dead" period when agencies cannot adopt rules and regulations, and would like to have year-round filing.

She said there was substantial input from administrative agencies. They did not consider it a hardship, and supported open filing.

The second recommendation in SB478 was to transfer filing from the Revisor of Statutes to the Secretary of State. The Revisor works in a legislative capacity. This is an administrative procedure. The Committee felt this was a better manner for the filing of rules and regulations.

At this time a member suggested there might be some advantage for some of the groups being regulated to have a time certain that they could count on new regulations coming down, instead of being subject to the entire year. It was pointed out that some of the largest agencies file monthly.

Dr. Bill Wolff assisted in answering questions. Dr. Wolff said there is a minimum of 45 days from the time the public receives notice until the actual implementation, and more than likely it will be 60-90 days when submitted to the Secretary of State. Senator Salisbury said that some of the business community would like to have a longer notice before a hearing.

The Chairman thanked the Senator and Dr. Wolff for their appearing.

The next matter before the Committee was a briefing on SB479, concerning the polygraphists. This bill was introduced at the request of the Joint Committee on Administrative Rules and Regulations. Last year the Legislature directed that polygraphists be licensed. They now are through the Attorney General's office. When their rules and regulations were reviewed by the Joint Committee on Administrative Rules and Regulations, one of the things made known was that in order to be a licensed polygraphist one also had to hold a license as a private detective. There is an Attorney General opinion that polygraphy is an ongoing kind of investigative work. The Committee could see no merit for both licenses. This bill addresses that.*

SB480, from the Joint Committee on Rules and Regulations, was then briefed for the Committee by Mary Torrence of the Revisor's Office. She said there was considerable discussion based upon the definition of "bulk wine" brought to the JCARR. Following that Committee's hearing the conferees on both sides, this bill was introduced, and the matter is again with the Senate Committee on Federal and State Affairs. The Chairman stated that he will want to have a hearing concerning this matter this Session.

The staff then briefed the Committee on SB481, by the Joint Committee on Administrative Rules and Regulations. That Committee had asked that "morals charge" be defined more specifically.

The Chairman welcomed the next conferee, Mr. Dan Walstrom, of the Department of Revenue. Mr. Walstrom had two handouts for the Committee. (Attachment # 2 and Attachment # 3). One was a Memorandum, dated January 20, 1988, from Secretary Harley T. Duncan, concerning Response to Questions Raised by the Committee. The other was a flow chart of how the current system of sale and delivery of alcoholic beverages would be affected by SB480. They asked for certain changes in the legislation.

A member asked if the Department is taking any action towards those who could seek a temporary permit. The conferee said there have been

*Attachment #1, from the Kansas Board of Polygraphists.

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a few instances where there is concern. The feeling at this point is to allow a little more time to see if there will be some validation of the overall concern. The Department is proposing nothing at this time.

A member said he would like to go back to the Senate language on "temporary permits" in not for profit and for political. He asked staff how to get back to the language of the Senate. Staff to look at this. The member, Senator Bond, also expressed his concern at the potential for abuse when it is not limited to a certain type of situation. He also said he does not agree with the "waiting" philosophy.

The Chairman thanked Mr. Walstrom for appearing.

Senator Hoferer was recognized by the Chairman. She had a proposed bill draft (7 RS 1761), Attachment #4. It concerns sterilization of certain dogs and cats. Senator Hoferer moved that the bill be introduced. The motion was seconded by Senator Bond. The motion carried.

The meeting was adjourned at noon.



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

January 20, 1988

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

Senator Edward F. Reilly, Jr.
State Capitol, Room 255E
Topeka, Kansas 66612

Dear Senator Reilly:

The Kansas Board of Polygraphists received notice of a hearing on Senate Bill No. 479 set for 11:00 a.m., January 21. The board has reviewed the proposed amendment to K.S.A. 75-7b03 and favors the amendment.

I am enclosing for your information a copy of the Board's proposed revision to the polygraphists licensing act, K.S.A. 1987 Supp. 75-740 et seq. Rep. Brown sponsored the original bill and is aware of the proposed revisions.

Steve Starr, one of our board members, plans to attend the January 21 hearing.

If I can be of any assistance or provide additional information, please contact me at 296-2215.

Very truly yours,

OFFICE OF THE ATTORNEY GENERAL
ROBERT T. STEPHAN

Mary Beth Mudrick

Mary Beth Mudrick
Executive Director
Kansas Board of Polygraphists

MBM:lmw
Enc.

*Senate FSA
1/22/88
Attachment #1*



KANSAS DEPARTMENT OF REVENUE

Office of the Secretary

Robert B. Docking State Office Building

Topeka, Kansas 66612-1588

MEMORANDUM

TO: The Honorable Edward F. Reilly, Chairman
Senate Committee on Federal and State Affairs

FROM: Harley T. Duncan
Secretary of Revenue

DATE: January 20, 1988

RE: Response to Questions Raised by the Committee

During testimony presented on January 14, 1988 on requested legislation in the area of alcoholic beverage control, the following questions were raised:

1. If legislation is proposed requiring caterers to contact ABC prior to catering an event, should a specific time period be prescribed?

Yes, the department recommends the adoption of the same time period proposed for temporary permit event notification; 14 days.

2. What is the breakdown of licenses issued by the ABC as of December 31, 1987?

<u>License Type</u>	<u>Number Issued</u>
On-Premise Licensees	
Class B Clubs	563
Drinking Establishments	494
Class A Clubs	398
Hotels	26
Drinking Establishment/Caterers	13
Caterers	2
Hotel/Caterers	2
Total	1,455
Off-Premise Licensees	
Liquor Retailers	972
Distributors	
Beer	61
Wine	53
Spirits	9
Total	123

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Attachment #2

3. What is the maximum fine for bringing in untaxed liquor into the state? .

The maximum fine is \$500 and/or up to 6 months imprisonment. There is no minimum penalty.

4. Has there been abuse of temporary permits?

There has not been any wide spread abuse thus far. A couple of organizations have been identified as abusing temporary permits by obtaining more than the limit by changing the name of the applicant. For instance, the organization obtains four permits and then each individual within the organization obtains four permits and so on. While we are concerned over the potential for wider abuse, it appears the problem is with us as long as we have temporary permits. ABC enforcement will continue to closely monitor the use of the permits.

5. Can public agencies obtain drinking establishment licenses?

Yes. The issue was addressed by the Joint Committee on Administrative Rules and Regulations (14-21-3(f)). Section 4 (b)(2) of Senate Bill 481 redefines "beneficial interest" for purposes of licensing to specifically omit the state and taxing subdivisions of the state which lease premises on which a club or drinking establishment is located or on which a caterer sells alcoholic liquor.

MEMORANDUM

TO: The Honorable Edward F. Reilly, Chairman
Senate Committee on Federal and State Affairs

FROM: Harley T. Duncan, Secretary of Revenue

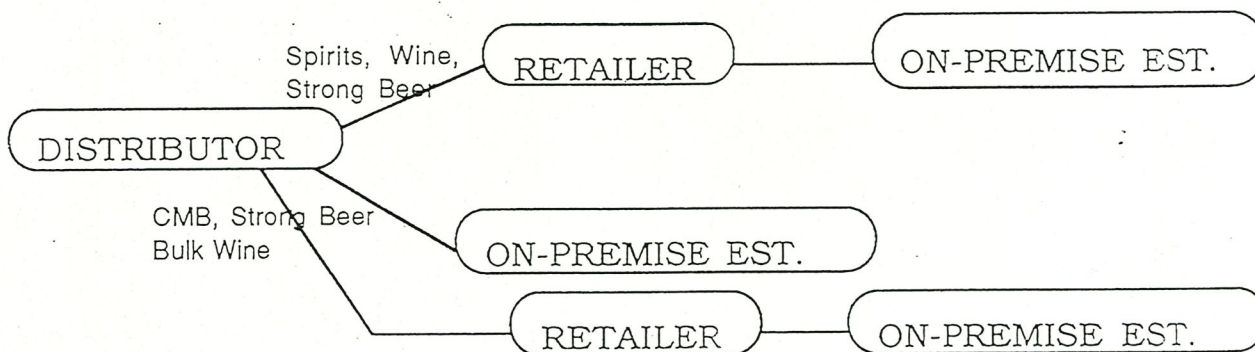
DATE: January 22, 1988

SUBJECT: Senate Bill 480

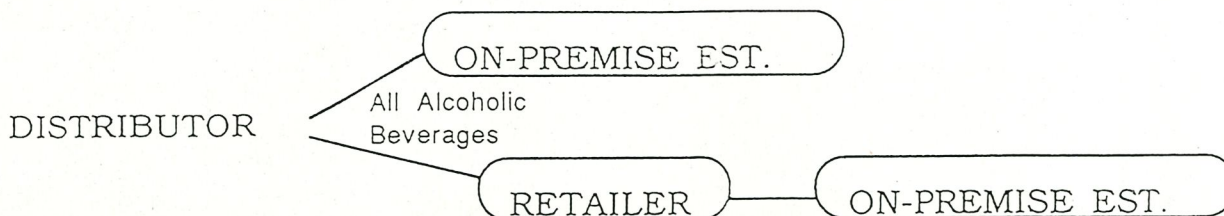
Senate Bill 480 represents a major change to the current system of sale and delivery of alcoholic beverages. Presently only cereal malt beverage (CMB), strong beer and wine sold in bulk containers may be sold and delivered directly from distributors to on-premise establishments (drinking establishments, private clubs, and caterers). The remaining beverages, spirits, nonbulk wine and strong beer must be sold to a retail liquor store before an on-premise establishment may purchase them.

The bill would enable an on-premise establishment to purchase all alcoholic beverages directly from a distributor. The current delivery system and the system proposed under Senate Bill 480 are graphically depicted below.

CURRENT DELIVERY SYSTEM



DELIVERY SYSTEM UNDER SENATE BILL 480



*Senate FSA
1/22/88
Attachment #3*

PROPOSED BILL NO. _____

By

AN ACT relating to animals; relating to sterilization of certain dogs and cats.

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

Section 1. (a) No dog or cat may be released for adoption from any pound or animal shelter, as defined by K.S.A. 47-1701 and amendments thereto, unless:

(1) Such dog or cat has been first surgically spayed or neutered; or

(2) the adopting party signs an agreement to have the dog or cat spayed or neutered and deposits with the pound or animal shelter funds sufficient to ensure that the dog or cat will be sterilized. Any funds deposited pursuant to such an agreement shall be refunded to the adopting party upon presentation of a written statement signed by a licensed veterinarian that the adopted dog or cat has been spayed or neutered.

(b) Nothing in this section shall be construed to require sterilization of a dog or cat which is being held by a pound or animal shelter and which may be claimed by its rightful owner.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

Senate FSA
1/22/88
Attachment #4