

Approved _____

3/16/88
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 March 14, 1988 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, Committee Secretary

Conferees appearing before the committee:

Mr. Gene Johnson, Kansas Commission Alcohol Safety Action Project
Representative James Lowther
Mr. Terry Ray, Manhattan, Restaurant Owner
Ms. Brenda Braden, Assistant Attorney General
Mr. Ken Bahr, Kansas CMB
Mr. John Lamb, Kansas Retail Liquor Dealers Association
Ms. Frances Kastner, Kansas Food Dealers' Association, Inc.
The Reverend Richard Taylor, Kansans for Life at its Best

The Chairman asked the Committee to turn its attention to the Sub.
for HB2707 by Committee on Federal and State Affairs, concerning
alcoholic beverages; furnishing to and possession by minors, penalties.

Mr. Gene Johnson, from the Kansas Commission on Alcohol Safety Action
Project, was the first conferee. The Chairman welcomed him. Mr. Johnson
stated they are the people who do the evaluation of the DUI offenders
throughout the state of Kansas. They have evaluated over 8,000 evaluations
of these. They support Sub. for 2707, because it gives another opportunity
to provide education for those people who have violated the laws.
Mr. Johnson said they would like to make some suggested changes.
(Attachment #1)

The next conferee was Representative James Lowther, who said he certainly
did support the house bill before the Committee. He was present to
comment in support of a possible amendment to the bill. He said HB2753,
now in the House Committee, provides for a defense for someone who
unknowingly sold liquor to a minor because fraud was used. Where there
was false identification or documentation or something like that. There
should be a defense of someone who gets trapped into a situation where
there has been a falsification. So he requested the inclusion of HB2753
in Sub. for HB2707.

Mr. Terry Ray, of Manhattan, was the next conferee. He handed out copies
of his statement (Attachment #2) for the Committee. He opposed the
\$200.00 minimum fine provision in the bill. He stated that \$200.00 may not
be a large enough fine in some cases. In others, it may well be too large
an amount. He distributed copies of Fake I.D.s for the Committee to
examine. In answer to questions, he also pointed out numerous ways in
which underage customers try to circumvent the law. Some were quite
ingenious. This provided quite a learning experience for the Committee.
Mr. Ray does provide an incentive program for his employees to be more
cognizant of those who try to not abide by the statutes.

Ms. Brenda Braden, an Assistant Attorney General, appeared before the
Committee. She said that the Attorney General's Task Force on Drugs
had proposed the bill before the Committee. She said the \$200.00 was
added so there would be something that would have to be imposed. The
Chairman spoke about the suggestion concerning impounding of automobiles
of minors who are drinking unlawfully. Ms. Braden agreed to research
the constitutionality of that matter for the Committee.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS,
room _____, Statehouse, at 11:00 a.m. ~~xxx~~ on March 14, 1988.

The Reverend Richard Taylor appeared next. A copy of his statement is attached. (Attachment #3) He appeared as a proponent of the bill, with some proposed amendments. He also spoke of a man who gives his two-year old child beer, and requested the bill be made stronger so adults such as this might be subject to legislation for such indiscretions. The Reverend Taylor said it is good to see so many groups in support of this bill.

Mr. Ken Bahr, of Kansas CMB, a coalition of convenience stores, was the next speaker. Mr. Bahr said they are in support of this legislation and think it is a necessary deterrent. He will furnish his written statement for these Minutes. (Attachment #4) Also support Rep. Lowther's position.

The conferee to speak next was Mr. John Lamb, of the Kansas Retail Liquor Dealers Association. He said that he would echo the comments of Mr. Bahr in supporting Representative Lowther's suggestion. Mr. Lamb mentioned that HB2819, passed the House last week and is similar to alcohol and drug related problems except in that bill they suspend driving privileges. The testimony in the house was the same that if you want to get the attention of the minors you take their wheels away. This was primarily about taking their licenses away.

Director Hanna and staff were also present to assist in answering any questions.

Ms. Frances Kastner, of the Kansas Food Dealers' Association, Inc., appeared next. A copy of her statement is part of these Minutes. (Attachment #5) They endorse legislation to make it the minor's responsibility for having the CMB or alcoholic beverage in his or her possession. She also referred to, and included a copy of, HB2753, which had been spoken to by Representative Lowther and others.

She was asked how many of the food dealers that she represented had been cited. She said probably very few, if any. She said when the age was changed for the purchase of CMB they had a lot of programs and information sent out to their dealers. Asking the customers not to break the law was one of those matters of their educating the public. She said they have a good record. The Chairman said the convenience stores also have been responsive.

The Chairman said that concludes the hearings on Sub. for HB2707, and he thanked all the conferees for appearing.

Senator Arasmith made the motion that the Minutes of February 25, March 2, March 4, and March 8, 1988, be approved. The motion was seconded by Senator Strick. The motion carried.

Senator Vidricksen introduced some students representing his area from Close-Up Kansas. The Chairman permitted the students to comment on various aspects of today's meeting. The Committee expressed its pleasure to have their presence and expertise.

The meeting was adjourned at noon.

Recommendations & changes

Page 2, line 74

attend and satisfactorily complete a suitable "alcohol and drug" educational or training program "licensed or certified by the Secretary of social rehabilitation services" dealing with the effects of alcohol or other chemical substances when ingested by humans.

Gene Johnson

Senate FSA
3/14/88
Attachment #1

March 1988

JRW

Chairman Riley and members of the committee. My name is Terry Ray. I live in Manhattan and I have been involved in the restaurant industry over 25 years. I operate five restaurants in Manhattan and Kansas City. Four of these restaurants have public drinking licenses. I am here this morning to speak to you in regards to House Bill #2707 and the \$200.00 minimum fine provision in that bill. I oppose that provision of the bill. Let me explain my position to you.

First let me state that \$200.00 may not be a large enough fine in some cases. In others, it may well be too large an amount. I feel that the amount is best left up to a judge as all cases are different.

Today's high tech age not only benefits the good, honest business people, it also benefits those wanting to beat the system. Fake I.D.s are a part of life in the larger communities of Kansas. For as little as \$75.00 you can obtain a fake Kansas drivers license with your current picture and information, but an incorrect birthdate. Here are some examples of fake I.D.s we have confiscated in the past two weeks.

I would also like to point out the difference between a clerk in a liquor store or convenience mart serving one person at a time and a waitress or bartender in a high volume restaurant serving 3000-5000 people per week. This bill does not take that aspect into consideration. A judge could.

I reinterate, I am not against punishment for flagrant offenders, I am opposed to the \$200.00 minimum and suggest you leave the amount to a judge who can weigh the circumstances involving fake I.D.s and other aspects.

Thank you.

*Senate FSA
3/14/88
Attachment #2*

March 14, 1988
Richard Taylor

Because of damage it causes to the brain and body of young people, cocaine is an illegal drug for persons under 21.

Because of the damage it does to the brain and body of teenagers, marijuana is an illegal drug for persons under 21.

Because it hurts the body and brain of youth, heroin is an illegal drug for persons under 21.

Because of permanent brain and body damage caused by our most abused drug, alcohol is an illegal drug for persons under 21.

Substitute for House Bill 2707 is a drug control law that would not be needed if you would amend our controlled substance statute KSA 65-4102 (d) to read, "Authority to control under this section does not extend to distilled spirits, wine, malt beverages or tobacco FOR PERSONS TWENTY ONE YEARS OF AGE AND OLDER".

If you would amend (d) in that way, cocaine, marijuana, heroin, and alcohol would all be controlled by the same laws.

We must do all we can through education and law to help persons under 21 JUST SAY NO to alcohol and other drugs.

Kansas will enjoy these benefits as more and more young people JUST SAY NO to alcohol:

1. Safer highways.
2. Higher scholastic achievement.
3. Fewer teenage alcoholics.
4. Fewer emotionally crippled adults who become social burdens.
5. Fewer school dropouts, less vandalism, reduced school problems.
6. Fewer teenage pregnancies and fewer deformed babies from fetal alcohol syndrome.

We deeply appreciate the JUST SAY NO campaign by our nations FIRST LADY, by our U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, by our GOVERNOR, by our KANSAS ALCOHOL AND DRUG ABUSE SERVICES, and by concerned groups and individuals all across Kansas.

When I was in high school, Dr. Roy L. Smith had his own JUST SAY NO campaign. In schools and colleges all across Kansas, I share his message that helped me a long time ago.

Recently in a Junior High School, we were talking about the serious damage done to babies before birth when the blood of the mother with lots of alcohol is circulated through the small and delicate brain of the fetus.

I explained this for a few minutes saying that is also the reason you should wait until age 21 to drink. You do not want to damage your developing brain. Then a junior high school girl held up her hand and with tears in her eyes asked what could be done when her uncle constantly feeds his 2 year old son beer.

Nothing legally can be done. That is the reason you should delete lines 0039 through 0041 and lines 0102 through 0106 of Sub. 2707.

This is a child abuse issue. If you leave those lines in this bill, the Kansas legislature is promoting child abuse.

KANSANS FOR LIFE AT ITS BEST!

Respectfully yours,
Richard Taylor
Senate FSA
3/14/88
Attachment #3

TESTIMONY FOR
THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

By Ken Bahr
Representing Kansas CMB

Mr. Chairman and members of the Committee. I am Ken Bahr, representing Kansas CMB, a coalition of Quick-Trips, KWIK Shops, Stop-N-Shops, Town and Country, and 7-Eleven stores and several associations, the Kansas Food Dealers, the Kansas Beer Wholesalers and the Kansas Oil Marketers.

The coalition supports the intent of Substitution for HB-2707. In addition to our in-store employee seminars and training concerning the sale of cereal malt beverage to minors and ways to counter the attempted purchases, Kansas CMB believes that the increased penalties described in Substitution for HB-2707 for furnishing cereal malt beverage to minors and those regarding increased penalties to minors attempting to purchase such products would be added deterrents. Kansas CMB believes that increased penalties would aid in discouraging purchases of cereal malt beverages by minors and the furnishing of cereal malt beverage to minors by others.

Kansas CMB would also support the continuation of the penalties in Substitution for HB-2707, "fines of not less than \$200." Reinclusion of that language would allow the judge some discretion while assuming a definite minimum fine.

I would also like to ask the Committee to consider inclusion of the language of HB-2753 dealing with those sales on licensed premises when the seller is without knowledge that the person is a minor and that minor utilizes fake identification.

Thank you for the opportunity to testify.

HHP031480K19

*Senate FSA
3/14/88
Attachment #4*



Kansas Food Dealers' Association, Inc.

2809 WEST 47th STREET SHAWNEE MISSION, KANSAS 66205

PHONE: (913) 384-3838

March 14, 1988

SENATE FEDERAL & STATE AFFAIRS COMM.

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DIRECTOR OF GOVERNMENTAL AFFAIRS

FRANCES KASTNER

SUPPORTING Subst. HB 2707

The members of the Kansas Food Dealers Association have always supported legislation punishing those who violate any law. This certainly includes laws pertaining to the sale or possession of alcoholic beverages or cereal malt beverages.

We endorse legislation to make it the minor's responsibility for having the CMB or alcoholic beverage in his or her possession. This bill appears to partially address that problem.

As the law phasing in the legal age for purchase and consumption of CMB went into effect, we stressed to our members the importance of checking ID's when a purchase was being made by a young adult.

Even though retailers check ID's at the time of purchase, there are times when a good fake ID, is used to verify the purchaser is 21. This could place a retailer in a position of having to defend himself against something which looked perfectly legal.

I have attached a copy of HB 2753 by Repr. Lowther which is still in the House Federal and State Affairs Committee. We heartily endorse Section 1 (b) and Section 2 (d) which provides that it shall be a defense to the prosecution if the defendant is a retailer and UNKOWINGLY sold cereal malt beverage or alcoholic beverages to a minor using a false ID to purchase the product.

We would appreciate it if this provision would be included in the measure you are considering today. We believe this would help place the responsibility for illegal purchases where it belongs. Thank you for the opportunity of expressing our concerns.

*Senate FSA
3/14/88
Attachment #5*

HOUSE BILL No. 2753

By Representative Lowther

2-2

0017 AN ACT concerning crimes and punishments; creating a defense
0018 to selling alcoholic liquor or cereal malt beverages to minors;
0019 amending K.S.A. 21-3610 and K.S.A. 1987 Supp. 21-3610a and
0020 repealing the existing sections.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 Section 1. K.S.A. 21-3610 is hereby amended to read as fol-
0023 lows: 21-3610. (a) (1) Furnishing ~~intoxicants~~ *alcoholic liquor* to a
0024 minor is directly or indirectly, selling to, buying for, giving or
0025 furnishing any ~~intoxicating~~ *alcoholic* liquor to any person under
0026 the age of ~~twenty-one (21)~~ 21 years.

0027 (2) Furnishing ~~intoxicants~~ *alcoholic liquor* to a minor is a
0028 class B misdemeanor.

0029 (b) *It shall be a defense to a prosecution under this section if*
0030 *the defendant is a retailer, club, drinking establishment, caterer*
0031 *or holds a temporary permit as defined in K.S.A. 1987 Supp.*
0032 *41-102, and amendments thereto, and unknowingly sold alco-*
0033 *holic liquor to a minor who used a false identification docu-*
0034 *ment, as defined in K.S.A. 21-3830, and amendments thereto, to*
0035 *purchase such alcoholic liquor.*

0036 Sec. 2. K.S.A. 1987 Supp. 21-3610a is hereby amended to
0037 read as follows: 21-3610a. (a) Furnishing cereal malt beverage to
0038 a minor is buying for or selling, giving or furnishing, whether
0039 directly or indirectly, any cereal malt beverage to any person
0040 under the legal age for consumption of cereal malt beverage.

0041 (b) Furnishing cereal malt beverage to a minor is a class B
0042 misdemeanor.

0043 (c) This section shall not apply to the furnishing of cereal
0044 malt beverage by a parent or legal guardian to such parent's child
0045 or such guardian's ward.

0046 (d) *It shall be a defense to a prosecution under this section if*
0047 *the defendant is a retailer and unknowingly sold cereal malt*
0048 *beverage to a minor who used a false identification document,*
0049 *as defined in K.S.A. 21-3830, and amendments thereto, to pur-*
0050 *chase such cereal malt beverage.*

0051 ~~(d)~~ (e) As used in this section, “cereal malt beverage,” “re-
0052 tailer” and “legal age for consumption of cereal malt beverage”
0053 have the meanings provided by K.S.A. 41-2701 and amendments
0054 thereto.

0055 ~~(e)~~ (f) This section shall be part of and supplemental to the
0056 Kansas criminal code.

0057 Sec. 3. K.S.A. 21-3610 and K.S.A. 1987 Supp. 21-3610a are
0058 hereby repealed.

0059 Sec. 4. This act shall take effect and be in force from and
0060 after its publication in the statute book.