

Approved _____

4/9/88
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. ~~xxx~~ on March 21, 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. Leonard Robinson, Assistant Attorney General for the Alcoholic
Beverage Control

The Chairman announced the Committee had a balloon of the Substitute for HB2707 before it, and that the Committee would continue discussion on this bill. Staff reviewed the balloon of the bill with proposed amendments. (Attachment #1)

Senator Bond moved that the drink tax apply to temporary permits. The motion was seconded by Senator Arasmith. The motion carried.

There was discussion of including in the bill a provision permitting retail liquor store licensees to advertize by giving away items valued at less than one dollar, but no action was taken concerning that.

Mr. Leonard Robinson, Assistant Attorney General for the ABC, said he had some problem from a legal standpoint with going too far beyond the things the Legislature passes.

The Chairman called the Committee's attention to The Reverend Richard Taylor's letter of March 16, 1988, which asked if parents should have the right to give "our most abused drug" to their children. (Attachment #2)

Assistant Attorney General Leonard Robinson made a statement to the Committee concerning false identification. He explained the manner in which the system works now and why it works. He said the answer to the problem is not to soften up on the licensees or their agents, but rather to become more strict with the minors. (Attachment #3) Mr. Robinson answered questions from the Committee.

Senator Bond made a conceptual motion to require the trier of fact to determine whether a false I.D. was good enough to be used as a defense against a charge of furnishing liquor to a minor. The motion was seconded by Senator Hoferer. The motion carried.

Senator Vidricksen had a proposed amendment which was given to the Committee. Senator Vidricksen moved that this amendment be included in the bill. It allows certain nonviolent felony offenders to hold licenses and be employed by licensees. Senator Strick seconded the motion. The motion carried. (Attachment #4)

The meeting was adjourned

Substitute for HOUSE BILL No. 2707

By Committee on Federal and State Affairs

2-12

3/21/88 JW
Mary Torrence
Overview
Senate FSA
Attachment #1
3/21/88

0018 AN ACT concerning alcoholic beverages; relating to certain
0019 prohibited acts with regard to persons under 21 years of age
and penalties therefor; amending K.S.A. 21-3610 and K.S.A.
1987 Supp. 21-3610a; ~~41-727 and 41-2721 [and 41-727]~~ and
0022 repealing the existing sections; also repealing K.S.A. 1987
0023 Supp. 41-2721].

41-714, 41-717, 41-727, 41-2601, 41-2641, 41-2642, 41-2643,
41-2645, 79-41a01, 79-41a02, 79-41a03, 79-41a04 and 79-41a08

0024 Be it enacted by the Legislature of the State of Kansas:

0025 Section 1. K.S.A. 21-3610 is hereby amended to read as fol- (a)
0026 lows: 21-3610. (1) Furnishing ~~intoxicants~~ alcoholic liquor to a
0027 minor is directly or indirectly, selling to, buying for, giving or
0028 furnishing any ~~intoxicating~~ alcoholic liquor to any person ~~under~~ who is a minor
0029 ~~the age of twenty one (21) 21 years.~~

0030 (2) Furnishing ~~intoxicants~~ alcoholic liquor to a minor is a
0031 class B misdemeanor ~~[for which the minimum fine is \$200].~~

0032 (3) ~~As used in this section, "alcoholic liquor" has the mean-~~
0033 ~~ing provided by K.S.A. 41-102 and amendments thereto.~~

0034 Sec. 2. K.S.A. 1987 Supp. 21-3610a is hereby amended to
0035 read as follows: 21-3610a. (a) Furnishing cereal malt beverage to
0036 a minor is buying for or selling, giving or furnishing, whether
0037 directly or indirectly, any cereal malt beverage to any person
0038 under the legal age for consumption of cereal malt beverage.

0039 (b) Furnishing cereal malt beverage to a minor is a class B
0040 misdemeanor ~~for which the minimum fine is \$200.~~

0041 (c) This section shall not apply to the furnishing of cereal
0042 malt beverage by a parent or legal guardian to such parent's child
0043 or such guardian's ward.

0044 (d) ~~As used in this section, "cereal malt beverage" and "legal~~
0045 ~~age for consumption of cereal malt beverage" have the meanings~~
0046 ~~provided by K.S.A. 41-2701 and amendments thereto.~~

(b) It shall be a defense to a prosecution under this section if the defendant is a licensed retailer, club, drinking establishment or caterer or a holder of a temporary permit, or an employee or agent thereof, and sold or served alcoholic liquor to the person, not knowing the person to be a minor, after the person had used a false identification document, as defined by K.S.A. 21-3830 and amendments thereto, to purchase or obtain such alcoholic liquor.

(c) As used in this section, terms have the meanings

It shall be a defense to a prosecution under this section if the defendant is a licensed retailer, or an employee or agent thereof, and sold or served cereal malt beverage to the person, not knowing the person to be under the legal age for consumption of cereal malt beverage, after the person had used a false identification document, as defined by K.S.A. 21-3830 and amendments thereto, to purchase or obtain such alcoholic liquor.

(e) As used in this section, terms

(f)

0001 (e) This section shall be part of and supplemental to the
0002 Kansas criminal code.

0049 Sec. 3. K.S.A. 1987 Supp. 41-727 is hereby amended to read
0050 as follows: 41-727. (a) Except with regard to serving of alcoholic
0051 liquor [or cereal malt beverage] as permitted by K.S.A. 41-308a,
0052 ~~or 41-2610~~, 41-2610 or 41-2704] or K.S.A. 1987 Supp. 41-308b,
0053 and amendments thereto, no person under 21 years of age shall
0054 possess, consume, obtain, purchase or attempt to obtain or pur-
0055 chase alcoholic liquor [or cereal malt beverage] except as autho-
0056 rized by law.

0057 (b) Violation of this section by a person 18 or more years of
0058 age but less than 21 years of age is a misdemeanor punishable by
0059 a fine of not less than \$100 nor more than \$250. In addition to
0060 such fine, the court may order the offender to perform 40 hours of
0061 public service class C misdemeanor ~~for which the minimum fine~~
0062 ~~is \$100~~

0063 (c) Any person less than 18 years of age who violates this
0064 section is a juvenile offender under the Kansas juvenile offend-
0065 ers code. Upon adjudication thereof and as a condition of dispo-
0066 sition, the court shall require the offender to pay a fine of not less
0067 than \$100 nor more than \$250. In addition to such fine, the court
0068 may order the offender to perform 40 hours of public service
0069 ~~more than~~ \$500.

0070 (d) In addition to or in lieu of any other penalty provided for
0071 violation of this section, the court may order the offender to do
0072 either or both of the following:

- 0073 (1) Perform 40 hours of public service; or
- 0074 (2) attend and satisfactorily complete a suitable educational
0075 or training program dealing with the effects of alcohol or other
0076 chemical substances when ingested by humans.

0077 [(e) This section shall not apply to the possession and con-
0078 sumption of cereal malt beverage by a person under the legal age
0079 for consumption of cereal malt beverage when such possession
0080 and consumption is permitted and supervised, and such bever-
0081 age is furnished, by the person's parent or legal guardian.]

0082 (e) [(f)] This section shall be part of and supplemental to the
0083 Kansas liquor control act.

0 Sec. 4. K.S.A. 1987 Supp. 41-2721 is hereby amended to read
001 as follows: 41-2721. (a) *Except with regard to dispensing and*
002 *selling of cereal malt beverage as permitted by K.S.A. 41-2704*
003 *and amendments thereto, no person under the legal age for*
004 consumption of cereal malt beverage shall possess, consume,
005 obtain, purchase or attempt to obtain or purchase cereal malt
006 beverage except as authorized by law.

007 (b) Violation of this section by a person 18 or more years of
008 age but less than the legal age for consumption of cereal malt
009 beverage is a misdemeanor punishable by a fine of not less than
010 \$100 nor more than \$250. In addition to such fine, the court may
011 order the offender to perform 40 hours of public service class C
012 misdemeanor for which the minimum fine is \$100.

013 (c) Any person less than 18 years of age who violates this
014 section is a juvenile offender under the Kansas juvenile offend-
015 ers code. Upon adjudication thereof and as a condition of dispo-
016 sition, the court shall require the offender to pay a fine of not less
017 than \$100 nor more than \$250 and, in addition, may order the
018 offender to perform 40 hours of public service \$500.

019 (d) *In addition to or in lieu of any other penalty provided for*
020 *a violation of this section, the court may order the offender to do*
021 *either or both of the following:*

022 (1) *Perform 40 hours of public service; or*

023 (2) *attend and satisfactorily complete a suitable educational*
024 *training program dealing with the effects of alcohol or other*
025 *chemical substances when ingested by humans.*

026 (e) This section shall not apply to the possession and con-
027 sumption of cereal malt beverage by a person under the legal age
028 for consumption of cereal malt beverage when such possession
029 and consumption is permitted and supervised, and such bever-
030 age is furnished, by the person's parent or legal guardian.

031 (f) This section shall be part of and supplemental to article 27
032 of chapter 41 of the Kansas Statutes Annotated.

033 ~~Sec. 5 [4]. K.S.A. 21-3610 and K.S.A. 1987 Supp. 21-3610a,~~
034 ~~41-727 and 41-2721 are hereby repealed.~~

Insert §§ 4-17, attached

035 ~~Sec. 6 [5]. This act shall take effect and be in force from and~~
036 ~~after its publication in the statute book.~~

Sec. 4. K.S.A. 1987 Supp. 41-714 is hereby amended to read as follows: 41-714. (a) It shall be unlawful for:

(1) Any person to advertise any alcoholic liquor by means of handbills;

(2) any person to advertise any alcoholic liquor by means of billboards along public highways, roads and streets or for any owner or occupant of any property to permit any billboard advertising alcoholic liquor to remain on the property;

(3) any retailer of alcoholic liquor to have any sign on the licensed premises in violation of ~~subsection (b)~~ rules and regulations adopted by the secretary of revenue pursuant to subsection (d); or

(4) any licensee to display alcoholic liquor in any window of the licensed premises.

~~(b) No retailer shall have more than one sign on the licensed premises. The sign shall contain nothing but the license number, the name of the retailer and the words "Retail Liquor Store." No letter or figure in the sign shall be more than four inches high or three inches wide. If more than one line is used, the lines shall be not more than one inch apart. The sign shall be placed on the corner of a window or on the door.~~

~~(c)~~ (e) The provisions of this section shall not be interpreted to prohibit the advertising of a microbrewery or farm winery, but before July 1, 1989, no advertising of a farm winery shall advertise the sale of wines by the winery or the prices of those wines and before July 1, 1989, no advertising of a microbrewery shall advertise the sale of beer by the brewery or the prices of that beer. Any advertising of a farm winery or microbrewery shall be subject to approval by the director prior to its dissemination.

~~(d)~~ (c) On and after July 1, 1989, the provisions of this section shall not be interpreted to prohibit advertising of the price of any alcoholic liquor or advertising of any alcoholic liquor by brand name, and no rule and regulation adopted

hereunder shall prohibit such advertising.

~~(e)~~ (d) The secretary of revenue may shall adopt, in accordance with K.S.A. 41-210 and amendments thereto, rules and regulations necessary to regulate and control the advertising, in any form, and display of alcoholic liquor and nothing contained in this section shall be construed as limiting the secretary's power to adopt such rules and regulations not in conflict with this act. Such rules and regulations shall include such restrictions as to the size, content, number and placement of signs that a retailer may have on the retailer's licensed premises as the secretary considers necessary to facilitate enforcement of the Kansas liquor control act, prevent unduly stimulating consumption of alcoholic liquor and otherwise promote the public health, safety and welfare.

Sec. 5. K.S.A. 1987 Supp. 41-717 is hereby amended to read as follows: 41-717. (a) Except as provided by subsection (b), no person shall sell or furnish at retail and no microbrewery or farm winery shall sell to any consumer any alcoholic liquor on credit; on a passbook; on order on a store; in exchange for any goods, wares or merchandise; or in payment for any services rendered. If any person extends credit in violation of this subsection, the debt attempted to be created shall not be recoverable at law.

(b) A licensed retailer, microbrewery or farm winery may sell alcoholic liquor on credit pursuant to a credit card, as defined by K.S.A. 16a-1-301 and amendments thereto, and the debt created shall be recoverable in accordance with law.

(c) No microbrewery, farm winery or retailer of alcoholic liquor shall accept a check for payment for alcoholic liquors sold by the winery or retailer to a consumer, other than the personal check of the person making the purchase.

Sec. 6. K.S.A. 1987 Supp. 41-2601 is hereby amended to read as follows: 41-2601. As used in the club and drinking establishment act:

(a) The following terms shall have the meanings provided by

K.S.A. 41-102 and amendments thereto: (1) "Alcoholic liquor"; (2) "director"; (3) "original package"; (4) "person"; (5) "sale"; and (6) "to sell."

(b) "Beneficial interest" shall not include any interest that: (1) A person may have as owner, operator, lessee or franchise holder of a licensed hotel or motel on the premises of which a club or drinking establishment is located; or (2) a person may have as a lessor of premises on which a licensed club or drinking establishment is located or on which a licensed caterer sells alcoholic liquor if such person receives as lessor an amount not exceeding that percentage of the receipts of such club, drinking establishment or caterer which is established by rules and regulations adopted by the secretary as a reasonable rent not amounting to a beneficial interest in the licensee.

(c) "Caterer" means an individual, partnership or corporation which sells alcoholic liquor by the individual drink, and provides services related to the serving thereof, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit, selling alcoholic liquor in accordance with the terms of such permit.

(d) "Cereal malt beverage" has the meaning provided by K.S.A. 41-2701 and amendments thereto.

(e) "Class A club" means a premises which is owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the director, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members) and their families and guests accompanying them.

(f) "Class B club" means a premises operated for profit by a corporation, partnership or individual, to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment.

(g) "Club" means a class A or class B club.

(h) "Drinking establishment" means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold.

(i) "Food" means any raw, cooked or processed edible substance or ingredient, other than alcoholic liquor or cereal malt beverage, used or intended for use or for sale, in whole or in part, for human consumption.

(j) "Hotel" has the meaning provided by K.S.A. 36-501 and amendments thereto.

(k) "Minor" means a person under 21 years of age.

(l) "Morals charge" means a charge involving prostitution; procuring any person; soliciting of a child under 18 years of age for any immoral act involving sex; possession or sale of narcotics, marijuana, amphetamines or barbiturates; rape; incest; gambling; illegal cohabitation; adultery; bigamy; or a crime against nature.

(m) "Restaurant" means a licensed food service establishment, as defined by K.S.A. 36-501 and amendments thereto, which, as determined by the director, derives not-less than-50%-of-its-gross-receipts-in-each--calendar--year--from--the sale--of--food-for-consumption-on-the-premises from sales of food for consumption on the licensed premises not less than 30% of all its gross receipts from sales of food and beverages on such premises in any 90-day period, or such longer period as provided by the secretary when, in the secretary's discretion, such longer period is warranted by the circumstances.

(n) "Secretary" means the secretary of revenue.

(o) "Temporary permit" means a temporary permit issued pursuant to K.S.A. 1987 Supp. 41-2645 and amendments thereto.

Sec. 7. K.S.A. 1987 Supp. 41-2641 is hereby amended to read as follows: 41-2641. (a) A license for a class B club shall allow the licensee to offer for sale, sell and serve alcoholic liquor for consumption on the licensed premises by members of such club and guests accompanying them.

(b) Any two or more class B clubs which are restaurants may

permit, by an agreement filed with and approved by the director, the members of each such club to have access to all other clubs which are parties to such agreement. The privileges extended to the visiting members of other clubs under such an agreement shall be determined by the agreement and, if the agreement so provides, any club which is a party to such agreement may sell, offer for sale and serve, to any person who is a member of another club which is a party to such agreement, alcoholic liquor for consumption on the licensed premises by such person and such person's family, and guests accompanying them.

(c) Except as provided by subsection (d), an applicant for membership in a class B club shall, before becoming a member of such club:

- (1) Be screened by the club for good moral character;
- (2) pay an annual membership fee of not less than \$10; and
- (3) wait for a period of 10 days after completion of the application form and payment of the membership fee.

(d) Notwithstanding the membership fee and waiting period requirement of subsection (c):

(1) Any class B club located on the premises of a hotel may establish rules whereby a guest, who registered at the hotel and who is not a resident of the county in which the club is located, may file application for temporary membership in such club. The membership, if granted, shall be valid only for the period of time that the guest is a bona fide registered guest at the hotel and such temporary membership shall not be subject to the waiting period or fee requirement of this section.

(2) Any class B club located on property which is owned or operated by a municipal airport authority and upon which consumption of alcoholic liquor is authorized by law may establish rules whereby an air traveler who is a holder of a current airline ticket may file application for temporary membership in such club for the day such air traveler's ticket is valid, and such temporary membership shall not be subject to the waiting period or fee requirement of this section.

(3) Any class B club may establish rules whereby military personnel of the armed forces of the United States on temporary duty and housed at or near any military installation located within the exterior boundaries of the state of Kansas may file application for temporary membership in such club. The membership, if granted, shall be valid only for the period of the training, not to exceed 20 weeks. Any person wishing to make application for temporary membership in a class B club under this subsection (d)(3) shall present the temporary duty orders to the club. Temporary membership issued under this subsection (d)(3) shall not be subject to the waiting period or fee requirements of this section.

(4) Any class B club may enter into a written agreement with a hotel whereby a guest who is registered at the hotel and who is not a resident of the county in which the club is located may file application for temporary membership in such club. The temporary membership, if granted, shall be valid only for the period of time that the guest is a bona fide registered guest at the hotel and shall not be subject to the waiting period or dues requirement of this section. A club may enter into a written agreement with a hotel pursuant to this provision only if (A) the hotel is located in the same county as the club, (B) there is no class B club located on the premises of the hotel and (C) no other club has entered into a written agreement with the hotel pursuant to this section.

(5) Any class B club located on a train may establish rules whereby a passenger with a current ticket to be on such train may file application for temporary membership in such club for the period of time that the passenger is a bona fide ticketed passenger on the train, and such temporary membership shall not be subject to the waiting period or dues requirement of this section.

Sec. 8. K.S.A. 1987 Supp. 41-2642 is hereby amended to read as follows: 41-2642. (a) A license for a drinking establishment shall allow the licensee to offer for sale, sell and serve

alcoholic liquor for consumption on the licensed premises which may be open to the public, but only if such premises are located in a county where the qualified electors of the county:

(1) (A) Approved, by a majority vote of those voting thereon, the proposition to amend section 10 of article 15 of the constitution of the state of Kansas at the general election in November, 1986, or (B) have approved a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county at an election pursuant to K.S.A. 1987 Supp. 41-2646 and amendments thereto; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 1987 Supp. 41-2646 and amendments thereto.

(b) A drinking establishment shall be required to derive ~~from sales of food for consumption on the licensed premises not less than 30% of all the establishment's gross receipts from sales of food and beverages on such premises~~ be a restaurant unless the licensed premises are located in a county where the qualified electors of the county:

(1) Have approved, at an election pursuant to K.S.A. 1987 Supp. 41-2646 and amendments thereto, a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county without a requirement that any portion of their gross receipts be derived from the sale of food; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 1987 Supp. 41-2646 and amendments thereto.

(c) A drinking establishment shall specify in the application for a license or renewal of a license the premises to be licensed, which may include all premises which are in close proximity and are under the control of the applicant or licensee.

Sec. 9. K.S.A. 1987 Supp. 41-2643 is hereby amended to read as follows: 41-2643. (a) A caterer's license shall allow the licensee to offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises, which may be open to the

public, but only if such premises are located in a county where the qualified electors of the county:

(1) (A) Approved, by a majority vote of those voting thereon, the proposition to amend section 10 of article 15 of the constitution of the state of Kansas at the general election in November, 1986, or (B) have approved a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county at an election pursuant to K.S.A. 1987 Supp. 41-2646 and amendments thereto; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 1987 Supp. 41-2646 and amendments thereto.

(b) A caterer shall be required to derive from sales of food for consumption at each catered event not less than 30% of all the caterer's gross receipts from ~~all~~ sales of food and beverages at such event unless the caterer offers for sale, sells and serves alcoholic liquor only in counties where the qualified electors of the county:

(1) Have approved, at an election pursuant to K.S.A. 1987 Supp. 41-2646 and amendments thereto, a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county without a requirement that any portion of their gross receipts be derived from the sale of food; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 1987 Supp. 41-2646 and amendments thereto.

(c) Each caterer shall maintain the caterer's principal place of business in a county in this state where the caterer is authorized by this section to sell alcoholic liquor by the individual drink in a public place. All records of the caterer relating to the caterer's licensed business and the caterer's license shall be kept at such place of business. The caterer's principal place of business shall be stated in the application for a caterer's license and the caterer shall notify the director of any change in its location within 10 days after such change.

(d) Prior to any event at which a caterer will sell alcoholic liquor by the individual drink, the caterer shall notify:

(1) The director; and

(2) the police chief of the city where the event will take place, if the event will take place within the corporate limits of a city, or (2) the county sheriff of the county where the event will take place, if the event will be outside the corporate limits of any city.

(e) A caterer may rebate a portion of the caterer's receipts from the sale of alcoholic liquor at an event to the person or organization contracting with the caterer to sell alcoholic liquor at such event.

Sec. 10. K.S.A. 1987 Supp. 41-2645 is hereby amended to read as follows: 41-2645. (a) A temporary permit shall allow the permit holder to offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises, which may be open to the public, subject to the terms of such permit.

(b) The director may issue a temporary permit to any one or more persons or organizations applying for such a permit, in accordance with rules and regulations of the secretary. The permit shall be issued in the names of the persons or organizations to which it is issued.

(c) Applications for temporary permits shall be required to be filed with the director not less than seven 14 days before the event for which the permit is sought unless the director waives such requirement for good cause. Each application shall state the purposes for which the proceeds of the event will be used. The application shall be upon a form prescribed and furnished by the director and shall be filed with the director in duplicate. Each application shall be accompanied by a permit fee of \$25 for each day for which the permit is issued, which fee shall be paid by a certified or cashier's check of a bank within this state, United States post office money order or cash in the full amount thereof. All permit fees collected by the director pursuant to

this section shall be remitted to the state treasurer, who shall deposit the entire amount in the state treasury and credit it to the state general fund.

(d) Temporary permits shall specify the premises for which they are issued and shall be issued only for premises where the city, county or township zoning code allows use for which the permit is issued. No temporary permit shall be issued for premises which are not located in a county where the qualified electors of the county:

(1) (A) Approved, by a majority vote of those voting thereon, to adopt the proposition amending section 10 of article 15 of the constitution of the state of Kansas at the general election in November, 1986; or (B) have approved a proposition to allow the sale of liquor by the individual drink in public places within the county at an election pursuant to K.S.A. 1987 Supp. 41-2646 and amendments thereto; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 1987 Supp. 41-2646 and amendments thereto.

(e) A temporary permit shall be issued for a period of time not to exceed three consecutive days, the dates and hours of which shall be specified in the permit. Not more than four temporary permits may be issued to any one applicant in a calendar year.

(f) All proceeds from an event for which a temporary permit is issued shall be used only for the purposes stated in the application for such permit.

(g) A temporary permit shall not be transferable or assignable.

(h) The director may refuse to issue a temporary permit to any person or organization which has violated any provision of the Kansas liquor control act, the drinking establishment act or K.S.A. 79-41a01 et seq., and amendments thereto.

Sec. 11. K.S.A. 1987 Supp. 79-41a01 is hereby amended to read as follows: 79-41a01. As used in K.S.A. 79-41a01 through

79-41a04, and amendments thereto:

(a) "Alcoholic liquor" means alcoholic liquor, as defined by K.S.A. 41-102 and amendments thereto, and cereal malt beverage, as defined by K.S.A. 41-2701, and amendments thereto.

(b) "Caterer," "club," and "drinking establishment" and "temporary permit" have the meanings provided by K.S.A. 41-2601 and amendments thereto.

(c) "Gross receipts derived from the sale of alcoholic liquor" means the amount charged the consumer for a drink containing alcoholic liquor, including any portion of that amount attributable to the cost of any ingredient mixed with or added to the alcoholic liquor contained in such drink.

Sec. 12. K.S.A. 1987 Supp. 79-41a02 is hereby amended to read as follows: 79-41a02. (a) There is hereby imposed, for the privilege of selling alcoholic liquor, a tax at the rate of 10% upon the gross receipts derived from the sale of alcoholic liquor by any club, caterer or drinking establishment or holder of a temporary permit.

(b) The tax imposed by this section shall be paid by the consumer to the club, caterer or drinking establishment or holder of a temporary permit and it shall be the duty of each and every club, caterer or drinking establishment or holder of a temporary permit subject to this section to collect from the consumer the full amount of such tax, or an amount equal as nearly as possible or practicable to the average equivalent thereto. Each club, caterer or drinking establishment or holder of a temporary permit collecting the tax imposed hereunder shall be responsible for paying over the same to the state department of revenue in the manner prescribed by K.S.A. 79-41a03 and amendments thereto and the state department of revenue shall administer and enforce the collection of such tax.

Sec. 13. K.S.A. 1987 Supp. 79-41a03 is hereby amended to read as follows: 79-41a03. (a) The tax levied and collected pursuant to K.S.A. 79-41a02 and amendments thereto shall become due and payable by the club, caterer or drinking establishment

or holder of a temporary permit monthly, or on or before the last day of the month immediately succeeding the month in which it is collected, but any club, caterer or, drinking establishment or holder of a temporary permit filing an annual or quarterly return under the Kansas retailers' sales tax act, as prescribed in K.S.A. 79-3607 and amendments thereto, shall, upon such conditions as the secretary of revenue may prescribe, pay the tax required by this act on the same basis and at the same time the club, caterer or, drinking establishment or holder of a temporary permit pays such retailers' sales tax. Each club, caterer or, drinking establishment or holder of a temporary permit shall make a true report to the department of revenue, on a form prescribed by the secretary of revenue, providing such information as may be necessary to determine the amounts to which any such tax shall apply for all gross receipts derived from the sale of alcoholic liquor by the club, caterer or, drinking establishment or holder of a temporary permit for the applicable month or months, which report shall be accompanied by the tax disclosed thereby. Records of gross receipts derived from the sale of alcoholic liquor shall be kept separate and apart from the records of other retail sales made by a club, caterer or, drinking establishment or holder of a temporary permit in order to facilitate the examination of books and records as provided herein.

(b) The secretary of revenue or the secretary's authorized representative shall have the right at all reasonable times during business hours to make such examination and inspection of the books and records of a club, caterer or, drinking establishment or holder of a temporary permit as may be necessary to determine the accuracy of such reports required hereunder.

(c) The secretary of revenue is hereby authorized to administer and collect the tax imposed hereunder and to adopt such rules and regulations as may be necessary for the efficient and effective administration and enforcement of the collection thereof. Whenever any club, caterer or, drinking establishment or holder of a temporary permit liable to pay the tax imposed

hereunder refuses or neglects to pay the same, the amount, including any penalty, shall be collected in the manner prescribed for the collection of the retailers' sales tax by K.S.A. 79-3617 and amendments thereto.

(d) The secretary of revenue shall remit daily to the state treasurer all revenue collected under the provisions of this act. The state treasurer shall deposit the entire amount of each remittance in the state treasury. Subject to the maintenance requirements of the local alcoholic liquor refund fund created under K.S.A. 79-41a09 and amendments thereto, 25% of the remittance shall be credited to the state general fund, 5% shall be credited to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126 and amendments thereto and the balance shall be credited to the local alcoholic liquor fund created by K.S.A. 79-41a04 and amendments thereto.

(e) Whenever, in the judgment of the secretary of revenue, it is necessary, in order to secure the collection of any tax, penalties or interest due, or to become due, under the provisions of this act, the secretary may require any person subject to such tax to file a bond with the director of taxation under conditions established by and in such form and amount as prescribed by rules and regulations adopted by the secretary.

Sec. 14. K.S.A. 1987 Supp. 79-41a04 is hereby amended to read as follows: 79-41a04. (a) There is hereby created, in the state treasury, the local alcoholic liquor fund. Moneys credited to such fund pursuant to this act or any other law shall be expended only for the purpose and in the manner provided by this act.

(b) All moneys credited to the local alcoholic liquor fund shall be allocated to the several cities and counties of the state as follows:

(1) Each city that has a population of more than 6,000 shall receive 70% of the amount which is collected pursuant to this act from clubs or drinking establishments located in such city, or from caterers whose principal places of business are so

located, or from holders of temporary permits covering premises so located and which is paid into the state treasury during the period for which the allocation is made.

(2) Each city that has a population of 6,000 or less shall receive 46 2/3% of the amount which is collected pursuant to this act from clubs or drinking establishments located in such city, or from caterers whose principal places of business are so located, or from holders of temporary permits covering premises so located and which is paid into the state treasury during the period for which the allocation is made.

(3) Each county shall receive: (A) 70% of the amount which is collected pursuant to this act from clubs or drinking establishments located in such county and outside the corporate limits of any city, or from caterers whose principal places of business are so located, or from holders of temporary permits covering premises so located and which is paid into the state treasury during the period for which the allocation is made; and (B) 23 1/3% of the amount which is collected pursuant to this act from clubs or drinking establishments located in the county and within a city that has a population of 6,000 or less, or from caterers whose principal places of business are so located, or from holders of temporary permits covering premises so located and which is paid into the state treasury during the period for which the allocation is made.

(c) The state treasurer shall make distributions from the local alcoholic liquor fund in accordance with the allocation formula prescribed by subsection (b) on March 15, June 15, September 15 and December 15 of each year. The director of accounts and reports shall draw warrants on the state treasurer in favor of the several county treasurers and city treasurers on the dates and in the amounts determined under this section. Such distributions shall be paid directly by mail to the several county treasurers and city treasurers.

(d) Each city treasurer of a city that has a population of more than 6,000, upon receipt of any moneys distributed under

this section, shall deposit the full amount in the city treasury and shall credit 1/3 of the deposit to the general fund of the city, 1/3 to a special parks and recreation fund in the city treasury and 1/3 to a special alcohol and drug programs fund in the city treasury. Each city treasurer of a city that has a population of 6,000 or less, upon receipt of any moneys distributed under this section, shall deposit the full amount in the city treasury and shall credit 1/2 of the deposit to the general fund of the city and 1/2 to a special parks and recreation fund in the city treasury. Moneys in such special funds shall be under the direction and control of the governing body of the city. Moneys in the special parks and recreation fund shall be expended only for the purchase, establishment, maintenance or expansion of park and recreational services, programs and facilities. Moneys in the special alcohol and drug programs fund shall be expended only for the purchase, establishment, maintenance or expansion of services or programs whose principal purpose is alcoholism and drug abuse prevention and education, alcohol and drug detoxification, intervention in alcohol and drug abuse or treatment of persons who are alcoholics or drug abusers or are in danger of becoming alcoholics or drug abusers.

(e) Each county treasurer, upon receipt of any moneys distributed under this section, shall deposit the full amount in the county treasury and shall credit to a special alcohol and drug programs fund in the county treasury 23 1/3% of the amount which is collected pursuant to this act from clubs or drinking establishments located in the county and within a city that has a population of 6,000 or less, ~~or~~ from caterers whose principal place of business is so located, or from holders of temporary permits covering premises so located and which is paid into the state treasury during the period for which the allocation is made; of the remainder, the treasurer shall credit 1/3 to the general fund of the county, 1/3 to a special parks and recreation fund in the county treasury and 1/3 to the special alcohol and

drug programs fund. Moneys in such special funds shall be under the direction and control of the board of county commissioners. Moneys in the special parks and recreation fund shall be expended only for the purchase, establishment, maintenance or expansion of park and recreational services, programs and facilities. Moneys in the special alcohol and drug programs fund shall be expended only for the purchase, establishment, maintenance or expansion of services or programs whose principal purpose is alcoholism and drug abuse prevention and education, alcohol and drug detoxification, intervention in alcohol and drug abuse or treatment of persons who are alcoholics or drug abusers or are in danger of becoming alcoholics or drug abusers. In any county in which there has been organized an alcohol and drug advisory committee, the board of county commissioners shall request and obtain, prior to making any expenditures from the special alcohol and drug programs fund, the recommendations of the advisory committee concerning such expenditures. The board of county commissioners shall adopt the recommendations of the advisory committee concerning such expenditures unless the board, by unanimous vote of all commissioners, adopts a different plan for such expenditures.

(f) Each year, the county treasurer shall estimate the amount of money the county and each city in the county will receive from the local alcoholic liquor fund and from distributions pursuant to K.S.A. 79-41a05 and amendments thereto. The state treasurer shall advise each county treasurer, prior to June 1 of each year of the amount in the local alcoholic liquor fund that the state treasurer estimates, using the most recent available information, will be allocated to such county in the following year. The county treasurer shall, before June 15 of each year, notify the treasurer of each city of the estimated amount in dollars of the distribution to be made from the local alcoholic liquor fund and pursuant to K.S.A. 79-41a05 and amendments thereto.

Sec. 15. K.S.A. 1987 Supp. 79-41a08 is hereby amended to

read as follows: 79-41a08. The tax imposed by this act shall be a lien upon the business and any property of the club, drinking establishment or, caterer or holder of a temporary permit which may be sold. The person acquiring such business or property shall withhold a sufficient amount of the purchase price thereof to cover the amount of any taxes due and unpaid by the seller, until the seller shall furnish the purchaser with a receipt from the secretary of revenue, as herein provided, showing that such taxes have been paid. The purchaser shall be personally liable for the payment of any unpaid taxes of the seller, to the extent of the value of the business or property received by the purchaser, and if a receipt is not furnished by such seller within 20 days from the date of sale of such business or property, the purchaser shall remit the amount of such unpaid taxes to the secretary on or before the 20th day of the month succeeding that in which such purchaser acquired such business or property.

New Sec. 16. (a) Notwithstanding the provisions of K.S.A. 41-501 and amendments thereto, any spirits distributor may claim and receive from the director a credit toward future tax liabilities for taxes imposed by K.S.A. 41-501 and amendments thereto on spirits sold to a federal military installation in a federal area.

(b) this section shall be part of and supplemental to the Kansas liquor control act.

Sec. 17. K.S.A. 21-3610 and K.S.A. 1987 Supp. 21-3610a, 41-714, 41-717, 41-727, 41-2601, 41-2641, 41-2642, 41-2643, 41-2645, 41-2721, 79-41a01, 79-41a02, 79-41a03, 79-41a04 and 79-41a08 are hereby repealed.

KANSANS FOR LIFE AT ITS BEST!

Rev. Richard Taylor, Box 888, Topeka, Kansas 66601

Phone (913) 235-1866 Office 1273 Harrison
(3 Blocks South of Statehouse)



March 16, 1988

A Proud Land

Senator Edward F. Reilly, Jr, Chairman
Committee on Federal and State Affairs
The State House
Topeka KS 66612

Dear Senator Reilly,

Here is my corrected suggested amendment for Substitute HOUSE BILL 2707,
as amended by House Committee of the Whole.

Should parents be permitted to poison their own children? Please
delete lines 0041 through 0043 and lines 0077 through 0081. This
is a child abuse issue.

Some will argue that parents have the right to give our most abused
drug to their children. But what message is given a child if parents
are permitted to provide for them a mind altering chemical that others
may not give them? Concerned persons believe every young person
has the right to develop a healthy body and sound mind.

Alcohol is toxic and impairs the development of a healthy body and
a sound mind. That is why the drug is illegal for persons under
21 and should not be consumed by them.

Members of your committee who are concerned for youth will want to
support this amendment.

Respectfully yours,

Richard Taylor

Rev. Richard Taylor

RT:sdm

*Senate FSA
3/21/88
Attachment #2*

"Of our political revolution of 1776 we are all justly proud," said Abraham Lincoln on Washington's birthday in 1842. He went on to say "how proud the title of that land" where persons declare their freedom from alcoholic beverages because they "shall find a stronger bondage broken, a viler slavery manumitted, a greater tyrant deposed. . . perfect liberty!" With per-person consumption at nearly half the national average, thousands of Kansans enjoy that perfect liberty. Concerned users and non-users are united in this R-E-A-L effort to prevent alcoholism, highway tragedy, and other suffering caused by our most abused recreational drug.

Rehabilitation — Help alcohol-dependent persons adjust to life without the drug.

Education — Inform children, youth & adults of effect of alcohol on mind & body.

Amount — Encourage persons to be non-users and encourage users to use less.

Law — Pass and enforce laws that reduce consumption and suffering.

Rapid drinking led to freshman's death

(Related editorial, page 4.)

By CAROLYN LAYTON
and JOHN EPPERHEIMER

Dennis D. Rodenbeck and members of the fraternity he was pledged to went to an Ames disco-bar Saturday night.

Rodenbeck, a freshman from Charles City drank eight beers "real rapidly," according to the medical examiner's report. The group then returned to Phi Gamma Delta fraternity at 325 Ash Ave.

There Rodenbeck very rapidly drank "a large amount of vodka, tequila and brandy" before going to bed, the report states.

He never woke up.

The victim of acute alcoholic intoxication, Rodenbeck died at approximately 7 a.m. Sunday. The amount of alcohol he consumed caused his brain to stop sending signals to his lungs, which filled up with fluid.

Dr. D. W. Powers, Story County medical examiner, lists the probable cause of death as respiratory depression secondary to acute alcoholic intoxication.

Rodenbeck, 18, was in good health. He was 6-2 and weighed approximately 180 pounds.

Dr. Powers' autopsy showed Rodenbeck's blood alcohol level was .357 mg.

The generally accepted fatal blood alcohol level is .50, but Dr. Powers said there is such a variation in the individual person and how the liquor was consumed that the blood level figures are largely meaningless.

Both Powers and Story County Regional Alcoholism counselor, Joene Ellis, said a person almost has to be "chug-a-lugging" the

Ames, Iowa Ames Daily Tribune, Thursday, Dec. 9, 1976



Dennis
Rodenbeck

alcohol to get enough in his system to be fatal. Normally a person would vomit before that much liquor got into his stomach.

"Usually if they drink it slower, they vomit and get rid of it," Dr. Powers said. "If they pass out, they get a huge amount in the stomach, and the body continues to absorb it."

Dr. Powers said an overdose of alcohol is the same as an overdose of drugs. The respiratory center in the brain in either case becomes so depressed a person doesn't breathe properly and the lungs fill up with fluid.

Referring to Rodenbeck, Dr. Powers said he was making so much noise snoring at 5:30 a.m. Sunday his fraternity brothers tried to wake him up or roll him over to get him to be quiet so they could sleep. He said the people who were being bothered were probably hearing fluid rattling in Rodenbeck's lungs.

"He rolled out of bed and vomited, and they left him lay," Dr. Powers said. He said if an ambulance had been called, or Rodenbeck had been brought in to the hospital at that time he might possibly have survived.

There are many variables as to how much alcohol it takes to affect a person: How fast it is drunk, how much food has been eaten, how experienced a drinker the person is, if other drugs have been taken.

"If there is food in the stomach it slows down the speed at which the alcohol gets into the blood stream," Ellis said. "Alcohol doesn't have to be digested, it goes directly into the blood from the intestine and stomach."

"I think they were drinking it on an empty stomach," Dr. Powers said, referring to Rodenbeck. "All I can tell is there was no food in the stomach to speak of."

Many times death from alcohol consumption comes from other things like choking on vomit or accidents, Ellis said.

The Ames Police Department conducted an extensive investigation of the events surrounding Rodenbeck's death, but refused to release any details.

Police Chief A.E. Siedelmann did say there was no evidence of criminal activity, and no evidence that fraternity hazing of the pledge was involved.

A spokesman for the fraternity also told The Tribune there was no hazing incident. "That kind of thing went out about 15 years ago," he said.

Rodenbeck's death has focused attention on alcohol abuse in Ames, which Siedelmann and Mayor Lee Fellingner called the major drug abuse problem just last month.

Dr. Powers believes an 18-year-old drinking age is too young. "I think it would help a lot if they could get it up to 19," he said. "They think they are so mature at 18 they think

they can drink like a person who has been drinking for 20 years."

"I think a few of our legislators should get an idea of this," Dr. Powers emphasized. "I think some of them don't appreciate the seriousness of the drinking problem."

Iowa State University has been involved since the beginning of the school year investigating problems in terms of alcohol abuse, John C. Dalton, associate dean of students in the student life office, said Thursday.

He said a task group of eight has been involved in gathering information and talking about problems connected with alcohol. The task group is largely involved in problem identification at this time, Dalton said, but has received many suggestions of what sort of action should be taken.

He said a staff person from the Office of Student Life in the area of Greek affairs has met with the president of Phi Gamma Delta fraternity and the fraternity counsel in an effort to find out just where problems exist with alcohol.

"I don't think we want to initiate something that will have high visibility at the moment and no long-term effectiveness," Dalton said.

There has been a return to the same kinds of values and behavior among college students that were popular 10 or 20 years ago in terms of a "beer culture," Dalton said. He said the use of alcohol among college students is commonly accepted and incidents like the death of Rodenbeck brings a concern and focus on the use and abuse of alcohol.

WASHINGTON (AP) — Fifteen-year-old Stephen O'Donnell wanted to join two friends in the camaraderie of a makeshift fort but he balked at the initiation rites they had proposed. It was a fatal decision.

For instance, Stephen didn't like their idea of standing on a log over a pool of water while the other two 15-year-olds shook it. And he didn't want to drink a shot of beer every three seconds for one minute — a rite portrayed on the TV show "Happy Days."

Instead, he volunteered to drink vodka for his initiation. After downing nearly a quart in a short period of time, Stephen fell unconscious.

That was last Friday. On Tuesday, Stephen's body was found under a bush. This is how police reconstructed the tragedy:

The boys, who live in the Virginia suburbs of Washington, went to one of their homes and the 13-year-old brother of one poured vodka in 8-ounce glasses for Stephen to drink. One of the 15-year-olds, becoming scared, left before Stephen lost consciousness.

The other two tried to revive him. They took off his shirt and undershirt and put him under the shower. It didn't work.

Finally they wrapped a blanket around the him and put Stephen in a wooden shed behind their home. They checked on him Friday night several times and said he was alive.

But on Saturday morning, the 13-year-old found Stephen dead. The brothers telephoned the other 15-year-old and told him. Later that morning, while the brothers were shopping with their father, the friend looked into the shed and, like the brothers, was convinced Stephen was dead.

He went home and told his 11-year-old sister what happened. The girl also looked into the shed but none of the four youngsters told anyone else.

The O'Donnell boy's parents went to county juvenile authorities to report their son missing. He had run away in the past, so the parents didn't notify police.

On Monday the brothers put Stephen's body in a wheelbarrow, took it down the street to neighbor's house, and placed it under some shrubbery.

Meanwhile, the friend — unaware the body had been moved — told a classmate about the weekend's activities. The classmate telephoned police, anonymously, and told them about the body in the shed.

The report was registered as "unfounded" after a police officer looked in the shed.

On Tuesday the friend told a school counselor. Homicide detectives interviewed the boy, checked his story with his sister, but still found no body.

Then the youngsters told about the two brothers who were involved. They led police to the body.

So far, none of the boys is being held and no charges have been placed.

LIQUOR DANGERS Children and liquor don't mix. Keep them away from each other. The Health Insurance Institute points out that alcohol is a deadly poison without an antidote.

Authorities say it doesn't take much alcohol to kill a child; a few ounces can do it.

Dr. Richard Moriarty, director of the National Poison Center Network in Pittsburgh, Pa., recommends the following safety rules:

(1) After a party, empty all glasses and place liquor bottles out of children's reach.

(2) If a child drinks alcohol, call a physician, a poison center, or a hospital emergency room immediately and give full details.

(3) Unless told to do so, do not induce vomiting.

December 31, 1976 PAGL

Hays Daily News

The mouth's enemy and stolen brains

Thank you for printing the guest editorial, "Booze: not necessary for Christmas cheer." In 1842 Abraham Lincoln said America was living in slavery to beverage alcohol. Those who believe it is needed for social and recreational occasions are modern day slaves to the drug.

Because of the student population in your city, it is very important for them to know the truth about alcohol. Most people puke when they drink too much. The defense mechanism of the body is trying to get rid of the poison. But the first drink of alcohol depresses brain function, and in the case of the Iowa student, the brain was so impaired by drinking it was unable to send the message to the stomach.

When Abraham Lincoln visited Kansas in 1859, most everyone at a Leavenworth reception were drinking. Lincoln never drank. When Captain J.R. Fitch asked why, Lincoln used his knowledge of Shakespeare and said, "My young friend, do not put an enemy in your mouth to steal away your brains." (Othello.)

Promotion of responsible drinking in moderation has failed because the alcohol impaired brain is unable to make a responsible decision to quit drinking when such is needed.

The only way to reduce alcohol-related suffering is to reduce alcohol consumption. The only way to reduce consumption is to encourage persons to enjoy freedom from recreational drug use and encourage users to use less.

Why do we permit legal pushers grossing \$35 billion a year to promote increased sales through advertising that does not tell about the effect on mind and body of their not-needed recreational drug?

Richard E. Taylor, Jr.,
218½ West 6th,
Topeka

Liquor Caution Asked

From the Topeka Bureau

TOPEKA—Reacting to the death of a 15-year-old suburban Washington youth who downed nearly a quart of vodka, the head of the Kansas United Dry Forces said Thursday that liquor labels should contain the word "Poison."

The Rev. Richard E. Taylor Jr. said charges should be filed against liquor advertisers, including the news media, that omit the disclaimer.

"I cannot understand the Washington bureaucracy that will ban the dye that makes jelly beans black and maraschino cherries red . . . and yet refuses to require that alcoholic beverage bottles carry the word, 'POISON,'" the Methodist minister complained.

The youth lost consciousness Friday after drinking vodka as part of an initiation rite. His body was discovered Tuesday

Alcohol can kill

The death of an 18-year-old Iowa State University freshman from acute alcohol intoxication last Sunday must become an example and a lesson for many people.

Alcohol use is the biggest drug problem in Ames and Story County, and much of that use is by young people, police and social service officials say.

The student's death is a shocking reminder that alcohol is not to be abused, no matter what social pressures are involved.

Alcohol is a drug. It can kill. That must be remembered.

Summary of Testimony of Leonard M. Robinson, Assistant Attorney General, assigned to the Alcoholic Beverage Control Division, State of Kansas, relative to Substitute for HOUSE BILL No. 2707, on March 21, 1988, in opposition to amendments to K.S.A. 21-3610 and K.S.A. 21-3610a and additional comments.

Senate Bill 404 was prepared by me last year and was resubmitted this year to attempt to deter the minors from using, altering or loaning or borrowing driver licenses or other identification documents in the purchase of liquor by establishing minimum mandatory penalties.

This bill is an attempt to see that the initial perpetrators (minors) are punished proportionally with the one who sells, gives or furnishes. The answer to the problem is not to soften up on the licensees or their agents, but rather to become more strict with the minors.

When a good fake or altered I.D. is used, our agents do not criminally cite the licensee or the agent of the licensee. The system works now because the police officer initially uses discretion as to whether to cite the licensee, or his employee or agent. Then the District Attorney or County Attorney uses discretion as to whether to prosecute and finally the Judge makes a decision. It should not be forgotten that either the person charged or that person's attorney gets involved as an advocate to argue if a fake, altered, borrowed I.D. is used through the various checks and balances.

The question is asked, "Are the laws enforced uniformly?" The answer is "no", but this law is enforced more uniformly than many. All criminal laws up to and including murder involve discretion on the part of police officers, prosecutors and Judges and no law is uniformly enforced.

LAWS

There are ~~also~~ laws which strictly prohibited certain acts such as speed limits. These laws require not proof of intent. Sale, buying for, giving or furnishing alcoholic liquor to minors is a problem that, if not a more important issue than speeding, at least one that is more at the fore front now and I do believe it to be a more important issue. The analogy being that we would not require the State to prove intent in speeding and yet the proposed amendment would in essence require proving intent. Any kind of I.D., even a college I.D., which is acquired by the individual by furnishing the information to the school without verification would be a defense.

What if the I.D. was used last week, last month, etc. This would be a defense. The amendment defines "False identification document" by referring to K.S.A. 21-3820, which includes "any card, certificate or document which identifies or purports to identify the bearer of such document, whether or not intended for use as identification and included, but is not limited to, documents purporting to be driver licenses, nondriver identification cards, birth certificates, social security cards and employee identification cards". This is all inclusive and any poor obviously fake or altered I.D. would be the basis for a complete defense under the proposed amendments.

Senate FSA
3/21/88
Attachment #3

I was asked by Senator Bond if a middle ground could be reached to resolve the problem. My reply is that the system the way it is, because of the checks and balances of the police officers, prosecutors and Judge's work and should not be changed with an amendment, but from a technical stand point I could offer a suggestion to amend the amendment and still be opposed to any amendment.

Being opposed to any amendment giving a defense for use of false identification documents, I offer the following only because of being asked:

(b) and (d) at the end of each proposed amendment, the following should be inserted: "...the burden of proof of the foregoing defense shall be upon the party asserting the defense and there must be a finding by the trier of fact that the false identification was of such quality that a reasonable person would not have detected that it was a false identification document before the defense is valid."

I could also suggest that without verifying production of the false identification, it is almost impossible to determine the quality of the document.

It was pointed out that police officers, including liquor control investigators (A.B.C. Agents), do not routinely frisk minors if the minor does not voluntarily surrender the false identification. To allow a defense to the licensees and their agents the use of a false identification document without the state's right to examine the document, is a mockery of Justice.

Respectfully submitted,



Leonard M. Robinson
Assistant Attorney General
Alcoholic Beverage Control Division

LMR:bf

cc: Attorney General Stephan

Sec. 13. K.S.A. 1987 Supp. 41-2610 is hereby amended to read as follows: 41-2610. It shall be unlawful for any licensee or holder of a temporary permit under this act to:

(a) Employ any person under the age of 18 years in connection with the serving of alcoholic liquor.

(b) Employ knowingly or continue in employment any person in connection with the dispensing or serving of alcoholic liquor or the mixing of drinks containing alcoholic liquor who has been adjudged guilty of a felony or of any crime involving a morals charge in this or any other state, or of the United States except that this subsection shall not prohibit employment of a person solely by reason of conviction of a nonviolent felony under the laws of this state, any other state or the United States if the person was sentenced to probation for such felony not less than 15 years immediately preceding such person's application for employment and if the person is determined by the director to be habilitated.

(c) Employ knowingly or to continue in employment any person in connection with the dispensing or serving of alcoholic liquor or mixing of drinks containing alcoholic liquor who has been adjudged guilty of a violation of any intoxicating liquor law of this or any other state, or of the United States, during the two-year period immediately following such adjudging.

(d) In the case of a club, fail to maintain at the licensed premises a current list of all members and their residence addresses or refuse to allow the director, any of the director's authorized agents or any law enforcement officer to inspect such list.

(e) Purchase alcoholic liquor from any person except from a person authorized by law to sell such alcoholic liquor to such licensee or permit holder.

(f) Permit any employee of the licensee or permit holder who is under the age of 21 years to work on premises where alcoholic liquor is sold by such licensee or permit holder at any

3/21/88
Attachment #4

time when not under the on-premises supervision of either the licensee or permit holder, or an employee who is 21 years of age or over.

(g) Employ any person under 21 years of age in connection with the mixing or dispensing of drinks containing alcoholic liquor.