

Approved 3-31-89 Ginger Barr, Chair
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Representative Ginger Barr at
Chairperson

1:35 ~~xxx~~/p.m. on March 21, 1989 in room 526-S of the Capitol.

All members were present except:

Representative Long
Representative Schauf

Committee staff present:

Mary Torrence, Revisor of Statutes Office
Mary Galligan, Kansas Department of Legislative Research
Juel Bennewitz, Secretary to the Committee

Conferees appearing before the committee:

Mark Wettig, Kansas Department of Revenue (KDR)
Neal Whitaker, Kansas Beer Wholesalers
Ed Van Petten, Attorney General's Task Force on Drugs
Jon Brax, Kansans for Life at Its Best

HB 2228

Representative Peterson moved to report the bill adversely, seconded by Representative Gjerstad.

Representative Charlton opposed the motion noting the bill states .05 declares the person under the influence and should not drive; additionally that some are just as drunk at .05 as others are at .10.

Attachment No. 1 is a position statement from the Kansas Coalition for Drug-Free Driving. The motion carried on a voice vote.

SB 86

Mark Wettig supplied background of the appeal process for liquor violations and the senate amendment in regard to current bonding requirements for distributors of alcoholic beverages, Attachment No. 2.

Neal Whitaker spoke in support of the bill, specifically the bonding change, Attachment No. 3.

There were no opponents to the bill.

Jim Conant, Department of Revenue, Alcohol Beverage Control (ABC) was present as a resource person.

SB 87

Mark Wettig explained the reason for KDR's recommendation to make the one-time fee for a supplier an annual fee, Attachment No. 4.

There were no opponents to the bill.

SB 152

Ed Van Petten was a proponent of the bill enhancing the classification for second and subsequent convictions in violating K.S.A. 21-3610a, Attachment No. 5; Attachment No. 5A is the membership of the Attorney General's Task Force on Drugs.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS,
room 526-S, Statehouse, at 1:35 ~~xx~~ p.m. on March 21, 1989

Committee discussion established:

1. The bill is at the request of the Attorney General's Task Force on Drug Abuse. The minimum penalties were deleted for two reasons:
 - a. If there is a minimum penalty for one classification, there should be one for both. The attorney general's office would have no objection to a minimum for both classifications.
 - b. A suggestion was made at this bill's hearing before the Senate Judiciary Committee to replace the minimum with regard to the first violation (\$200) as well as in raising the penalty for the second violation to \$500. It passed that committee without the addition.
2. Class B misdemeanor is 6 months in the county jail with a \$1,000 fine. Class A misdemeanor is up to a year in the county jail with a \$2,500 fine. One representative noted that without the minimum penalty there might not be a fine.
3. The inequity of penalties between CMB and liquor retailers was addressed. Mr. Van Petten suggested this bill does not address a negligence situation (failing to check an I.D.) but knowingly furnishing CMB. An employee guilty of such action would be punished as described in #2 above. The employer would be subject to sanctions on his license.
4. Youth sharing CMB with an underage friend would be subject to the penalties. It is an issue of rights versus privileges.
5. Furnishing CMB to a minor at a family gathering would be "arguably exempt" under subsection (c).
6. There was some discussion if this addresses the same provision as K.S.A. 21-2610 and 21-3610a enacted July 1, 1988.

Jon Brax opposed the bill as well as SB 153 because it deletes the minimum penalties, Attachment No. 6. His testimony includes suggested amendments for reinstating the penalties and if this were done, there would be no objections to the bills.

SB 153

Ed Van Petten spoke in favor of the bill on the basis that the threat of an enhanced penalty for a second or subsequent offense would be a deterrent, Attachment No. 7.

There were no opponents to the bill.

The meeting adjourned at 2:08 p.m.

The next meeting of the committee is scheduled for March 22, 1989, 1:30 p.m. in Room 526-S.

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE March 21, 1989

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
Mickey Bogart	5204 Terra Hts. Dr. Manhattan	Ks Close Up
Terry Fehrenbach	506 E. 2nd Haven, Kansas	Ks Close Up
Tyler Franz	Rt 4 Hutchinson K.S.	Ks Close up
Corey Eagles	Rd 4 Box 330 Hutchinson, KS	Ks. Close Up
RYAN BRANNAN	RR # 2 HUTCHINSON	Ks. Close-Up
STEPHANI SOMERS	P.O. Box 484, Mt. Hope	Ks Close-Up
Amber Elly	P.O. Box 477, Haven	KS. Close-Up
Stephanie Moano	P.O. Box 488 Mt. Hope	KS Close-Up
Kristy Ford	8 Stadium, Haven	Close-Up - Kansas
MARK EVANS	RR # 2 HUTCHINSON	CloseUp Kansas
Christie Reichert	Topeka	Dept. of Revenue
Jim Gardner	1675 Montana, El Dorado	Close-Up Kansas
Kristin Kostman	1753 W 3rd, El Dorado	Close-Up KS
Stepi Peters	1208 Park Ave El Dorado	Close-up
Brandi Beaudel	116 N. Summit El Dorado	Close-Up Ks-
Lisa Cox	Rt. 1 Box 52B Towanda	close-up 175.
Al Reynolds	1309 Joyce El Dorado	close-up
Dean Reynoldson	Topeka	KDOR
Jim Conant	Topeka	ABC
Jon Brass	Topeka	Life at its Best
Pat Dick Joyler	Topeka	Life at its Best
Kathy Shaw	Hutchinson	Close-Up Kansas
Michelle Skelton	Hutchinson	Close-Up Kansas
Neal Whitaker	Topeka	Kansas Beer & Wine Assoc
JOHN C. BOTTENBERG	TOPEKA	KS WINE/SPIRITS W/WHOLESALE
ED VAN PATTEN	TOPEKA	ATTY GEN. OFFICE Assoc

Kansas Coalition for Drug-Free Driving

2212 BRIAR PRAIRIE VILLAGE, KANSAS, 66206 913-649-1177

Representative Ginger Barr
Chairperson of Federal and State Affairs
Room 115 S, Capitol Building
Topeka Kansas, 66612

Dear Representative Barr

I am writing in regards to HB 2228, driving with blood alcohol of .05.

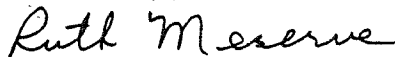
My name is Ruth Meserve, Registered Lobbyist for the Kansas Coalition for Drug-Free Driving.

I called and asked for my name to be removed from the hearing list on the above bill.

I had talked to Rev. Taylor and told him the Coalition would support .08 blood alcohol but not .05.

We, as concerned citizens, would rather see the law stand as it is or, preferably, go to .08 with no other changes in the law. The DUI law is good as it stands now.

Sincerely,



Ruth Meserve

Ruth N. Meserve

KANSAS COALITION FOR
DRUG FREE DRIVING

REGISTERED
LOBBYIST

PRAIRIE VILLAGE, KS
913-649-1177

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 1
3/21/89

MEMORANDUM

TO: The Honorable Ginger Barr, Chairwoman
House Committee on Federal and State Affairs

FROM: Mark E. Wettig,
Special Assistant to the Secretary

DATE: March 21, 1989

SUBJECT: Senate Bill 86

I appreciate the opportunity to appear before you today in support of Senate Bill 86, which is the result of a Department recommendation to amend the administrative appeal process for liquor violations, coupled with a Senate Committee amendment concerning distributor bonding.

BACKGROUND

Appeal Process

Anytime the Director of the ABC issues an order denying, suspending or revoking a license or assessing a civil monetary penalty, the Director's order may be appealed to the Secretary of Revenue. There were 9 appeal cases heard by the Secretary in Calendar Year 1988 and 3 thus far this year. K.S.A. 41-321 requires the Secretary to hold a hearing within 30 days of the date of filing of the appeal. The schedules of the Secretary, ABC's Assistant Attorney General, the appellant, the appellant's attorney, the court reporter and all witnesses must be coordinated within this 30-day period. The Department proposed amending K.S.A. 41-321 in order to allow a scheduled hearing to occur despite an emergency type situation which would prevent the Secretary from attending. The amendment would also have the effect of allowing the Secretary to excuse himself due to a conflict of interest, either on his own motion or that of the appellant's counsel.

Distributor Bonding

This bill also addresses what the Senate Federal and State Affairs Committee felt were inequities in current bonding requirements for distributors of alcoholic beverages. An applicant for a distributor's license would be required to post a bond in an amount equal to the highest monthly gallonage tax liability generated by the distributor in the 12 months immediately prior to the license renewal. Minimum bonds would be established at \$15,000 for a spirits distributor and \$5,000 for a beer or wine distributor.

I would be happy to answer any questions which you may have.

Thank you.



TESTIMONY

BEFORE

THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

ON

SENATE BILL 86

(as amended by the Senate Federal and State Affairs Committee)

Madame Chairperson, Members of the Committee:

Kansas Beer Wholesalers Association appears today in support of Senate Bill 86 as amended by the Senate Committee on Federal and State Affairs.

During the debate on Senate Bill 141, liquor by the drink, bonding provisions were discussed. It was my understanding at that time that the intent was to consolidate all bonds into one bond for wholesalers for licensure and taxation. What actually happened was wholesalers became covered by K.S.A. 41-317, which requires a \$2,000 or \$15,000 bond; K.S.A. 41-409, which requires a beer wholesaler to provide a bond of \$5,000 or three times the highest months excise tax liability; and K.A.R. 14-7-4, which requires spirits wholesalers to provide a bond in the amount of one time the highest months tax liability, but not less than \$15,000. The regulation is supported by K.S.A. 41-501, which gives the director the authority to require a bond.

As you well know, in the insurance industry times have changed and bonds have become increasingly difficult to secure.

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 3
3/21/89

What once was a \$25.00 bond now costs in excess of \$450.00. One KBWA member, because of the statute requiring three times his highest monthly tax, will have to provide a bond of \$250,000 at a cost of \$2,500 annually, plus face the requirement of a complete annual accountant's audit. The requirement by the insurance companies that a firm be audited on an annual basis is estimated to cost \$50,000 per year.

The bill will now require one bond of \$5,000 or, at least, one times the highest months taxes during the past 12 months. This simplifies the process for the agency and provides adequate protection for the state.

3/21/89

NW/km

MEMORANDUM

TO: The Honorable Ginger Barr, Chairwoman
House Committee on Federal and State
Affairs

FROM: Mark E. Wettig,
Special Assistant to the Secretary of
Revenue

DATE: March 21, 1989

SUBJECT: Senate Bill 87

I appreciate the opportunity to appear before you today in support of legislation requested by the Department of Revenue. Senate Bill 87 is the result of a Department recommendation to make the one-time fee for a supplier permit, an annual fee.

BACKGROUND

Before importing alcohol into Kansas, a manufacturer must obtain a permit from the Alcoholic Beverage Control Division. The supplier permit was established by the 1987 Legislature (K.S.A. 41-331) as an effort to give the Director more control over out-of-state manufacturers. Because the fee of \$25 is a one-time fee which does not have to be renewed, it does not cover the yearly administrative costs of corresponding with the 231 suppliers currently authorized to do business in Kansas.

WHY RECOMMENDATION WAS MADE

The Department's proposal is an effort to cover the administrative costs of communicating with the manufacturers of alcoholic beverages. Telephone, postage and personnel costs continue to increase in response to daily supplier legal inquiries and requests for approval of marketing programs. The one-time \$25 fee currently in place does not cover the costs of these contacts, and in the long run allows out-of-state businesses full access to ABC resources at no cost, while in-state licensees pay annually for the same services.

Thank you for your attention. I will be glad to answer any questions the committee may have.



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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STATEMENT OF
DEPUTY ATTORNEY GENERAL EDWIN A. VAN PETTEN
BEFORE THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
RE: S.B. 152
MARCH 21, 1989

On behalf of the Attorney General's Task Force on Drugs, I ask for your favorable consideration of Senate Bill 152, which enhances the classification for second and subsequent convictions in violating K.S.A. 21-3610a.

This is one of the steps requested by the task force, based upon society's realization that "narcotics" is not an all encompassing term for "dangerous drug."

More and more we are faced with drug abuse by our young people, which quite often results in harm, sometimes in nightmare. It is obvious by merely looking around that the easiest drug to obtain is alcohol, and therefore is the most abused drug by young people today. Passage of Senate Bill 152 would let people know that we consider the furnishing of cereal malt beverages to those who are not of legal age to be a serious matter and hopefully will discourage further violations.

Society has made great strides in recent years in coming to grips with drug abuse. We ask that you assist the task force by discouraging those who provide one of the most plentiful and widely abused drug to our youth.

HOUSE FEDERAL & STATE AFFAIRS
Attachment No.5
3/21/89

ATTORNEY GENERAL BOB STEPHAN'S TASK FORCE ON DRUGS

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-over-

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-over-

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STAFF

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Deputy Attorney General
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Nancy Lindberg
Assistant to the Attorney General
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Kansas Judicial Center, 2nd Floor
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Office: 913/296-2215 Home: 913/271-5527

GOVERNOR'S LIAISON

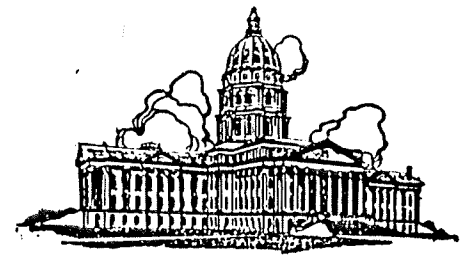
Galen Davis
Coordinator, Drug Abuse Programs
Office of Administration - Room 263-E
State Capitol Building
Topeka, Kansas 66612-1572
Office: 913/296-3011

January, 1989

KANSANS FOR LIFE AT ITS BEST!

Richard Taylor, Box 888, Topeka, Kansas 66601

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



A Proud Land

March 21, 1989
Hearing on SB 152, 153
Providing alcohol to minors

House Federal and State Affairs Committee
Jon Brax
KANSANS FOR LIFE AT ITS BEST!

KANSANS FOR LIFE AT ITS BEST! opposes Senate Bills 152 and 153 in their current forms. These bills strengthen the penalty for a second or subsequent violation of these statutes, but they also remove the minimum fines for a first violation. Our goal is that there be no second or subsequent violations. By addressing a first offense with a minimum fine, we believe that in many cases second and subsequent offenses could be avoided. It appears that the only reason to delete the minimum fines currently in the statutes is to allow for lesser fines to be prescribed. Judges still have the option of assessing higher fines if necessary.

Attached please find our proposed amendments. The amendments would simply retain the minimum fines for a first offense and also establish a minimum fine for a second offense. If these amendments are adopted, we could give our strong support to Senate Bills 152 and 153.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jon Brax". The signature is written in dark ink and is positioned above the printed name.

Jon Brax
KANSANS FOR LIFE AT ITS BEST!

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 6
3/21/89

"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 vile 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.

SENATE BILL No. 152

By Committee on Judiciary

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AN ACT concerning crimes and punishments; relating to the crime of furnishing cereal malt beverage to a minor; increasing penalty; amending K.S.A. 21-3610a and repealing the existing section.

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

Section 1. K.S.A. 21-3610a is hereby amended to read as follows:
21-3610a. (a) Furnishing cereal malt beverage to a minor is buying for or selling, giving or furnishing, whether directly or indirectly, any cereal malt beverage to any person under the legal age for consumption of cereal malt beverage.

(b) Furnishing cereal malt beverage to a minor is a class B misdemeanor ~~for which the minimum fine is \$200; except that the second or subsequent conviction is a class A misdemeanor;~~

for which the minimum fine is \$200

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

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

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

for which the minimum fine is \$400

Sec. 2. K.S.A. 21-3610a is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

SENATE BILL No. 153

By Committee on Judiciary

2-3

15 AN ACT concerning the purchase or consumption of liquor by a
16 minor; increasing penalty; amending K.S.A. 1988 Supp. 41-727
17 and repealing the existing section.
18

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

20 Section 1. K.S.A. 1988 Supp. 41-727 is hereby amended to read
21 as follows: 41-727. (a) Except with regard to serving of alcoholic
22 liquor or cereal malt beverage as permitted by K.S.A. 41-308a, 41-
23 2610 or 41-2704 or K.S.A. ~~1987~~ 1988 Supp. 41-308b, and amend-
24 ments thereto, no person under 21 years of age shall possess, con-
25 sume, obtain, purchase or attempt to obtain or purchase alcoholic
26 liquor or cereal malt beverage except as authorized by law.

27 (b) Violation of this section by a person 18 or more years of age
28 but less than 21 years of age is a class C misdemeanor ~~for which~~
29 ~~the minimum fine is \$100, except that the second or subsequent~~
30 ~~conviction is a class B misdemeanor.~~

for which the minimum fine is \$100

31 (c) Any person less than 18 years of age who violates this section
32 is a juvenile offender under the Kansas juvenile offenders code. Upon
33 adjudication thereof and as a condition of disposition, the court shall
34 require the offender to pay a fine ~~of not less than \$100 nor more~~
35 ~~than ~~not exceeding~~ \$500.~~

for which the minimum fine is \$200.

of not less than \$100 nor more than

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

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

43 (e) This section shall not apply to the possession and consumption



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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STATEMENT OF
DEPUTY ATTORNEY GENERAL EDWIN A. VAN PETTEN
BEFORE THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
RE: S.B. 153
MARCH 21, 1989

The Attorney General's Task Force on Drugs requests your further assistance in stopping the abuse of alcohol by our young people by approving Senate Bill 153.

We feel that increasing the classification of this violation for repeat offenders will act as a deterrent to our youth, and hopefully prevent this continued abuse. It is my experience that the first contact with the court system, makes a very big impact on most young people, especially juveniles, and the threat of enhanced penalties will be constantly present with the individuals that are convicted of an initial violation. Hopefully this threat will then be communicated to the surrounding peer group.

I am sure that you do not need additional lectures on the evils of early drinking or of drug abuse in any form. My fear is that you will let the flood of information available take the place of legislative action. This bill will not affect those who listen and learn when the opportunity presents itself. The fact is, some do not care. Our job is to protect society from those who do not care.

I ask that you approve Senate Bill 153 as one more step toward that goal.

HOUSE FEDERAL & STATE AFFAIRS
Attachment No. 7
3/21/89