

Approved May 5, 1991
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Representative Kathleen Sebelius at
Chairperson

1:30 ~~xxx~~ p.m. on Monday, March 18, 1991 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Mary Galligan - Kansas Legislative Research Department
Lynne Holt - Kansas Legislative Research Department
Mary Torrence - Office Of The Revisor
Connie Craig - Secretary to the Committee

Conferees appearing before the committee:

Representative Mark Parkinson
Ed Klumpp, Kansans For Highway Safety
Bill Fuller, Kansas Farm Bureau
Mike Beam, Kansas Livestock Association
John Webb, Lawrence, Kansas
Jim Conant, Acting Director, Alcoholic Beverage Control
R.E. "Tuck" Duncan, Kansas Wine & Spirits Wholesalers Association
Reverend Richard Taylor, Kansans For Life At Its Best
Patricia Oppitz, President, Kansas Retail Liquor Dealers Association
Neal Whitaker, Kansas Beer Wholesalers Association
Don Peyton, Topeka, Kansas

Chair Sebelius called the meeting to order.

HB 2452

Representative Mark Parkinson came before the Committee with testimony that explained that HB 2452 is an attempt to compromise the rural-urban split on restricting driving for 14 and 15 year old persons. He added that there is in this bill a proposed agricultural exemption that would provide that if a person lives or works on a farm, and is involved in farming activity, and passed the driver's education class, they would be able to drive at 14 and 15 solely for the purpose of farm work. He included with his written testimony, a newspaper article concerning 14 and 15 year old drivers, Attachment #1.

Ed Klumpp, President of Kansans for Highway Safety, gave testimony that explained his organization's position as not opposed to HB 2452, but rather that they feel that HB 2130 as better addressing the concern of 14 and 15 year old drivers. He added that his written testimony included statistics on 14 and 15 year old drivers, Attachment #2.

Bill Fuller, Kansas Farm Bureau, thanked the Committee for the opportunity to testify in opposition to HB 2452. His written testimony included a resolution adopted by 439 Voting Delegates representing 105 County Farm Bureaus, Attachment #3.

Mike Beam came before the Committee as an opponent for the Kansas Livestock Association. His testimony stated that his organization had reservations about lowering the driver's license age restrictions and asked the Committee to consider this issue very carefully, Attachment #4.

Chair Sebelius turned the Committee's attention minutes for February 14th, February 19, and 20th, 1991.

Representative Long moved that the minutes for the 14th, the 19th, and the 20th of February, 1991, be approved. Representative Smith asked made a second to the motion, which passed on a voice vote.

Representative Rock moved that legislation be introduced for the Kansas Commission on Blind and Visually Impaired to set a separate agency dealing specifically with those areas of problems. Representative Roper made a second to the motion, which passed on a voice vote.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS,

room 526-S, Statehouse, at 1:30 ~~xxx~~/p.m. on Monday, March 18, 1991

HB 2552

Jim Conant, Alcoholic Beverage Control, came before the Committee to give background information on the bill which is the result of an ABC proposal aimed at eliminating the statutory price posting requirements for liquor. He added that this is strictly a matter of reducing their operating costs, and not a major policy issue. The second portion of the bill is a proposed brand registration system to replace this. When a company does not post prices or change prices, there is a flat fee of \$10 a month just for maintaining an active listing. Under the proposal, as set out in his testimony, Attachment #5, a \$25 label registration fee would be imposed annually.

R.E. "Tuck" Duncan explained to the Committee that the Kansas Wine and Spirits Wholesalers Association does not oppose the A.B.C.'s request to eliminate price posting, however, we do believe that several amendments are necessary to define certain terms in the law that are currently defined by operation of the law through the act of price posting. He presented these suggested amendments as set out in the written version of his testimony, Attachment #6.

John Webb came before the Committee to presented a situation in the market that relates to quantity discounts, Attachment #7, which he feels is unavailable to retailers in Kansas. He also felt that the cash payment provisions of the law are also a problem, and are not addressed correctly by rules and regulations as set up by the Commission.

One Committee member suggested that Mr. Webb could make this a court case to rectify this problem.

HB 2571

Jim Conant gave background information on HB 2571 and stated that this bill deals with advertising alcoholic liquor. He added that his department does not have a position on this issue, but at this point the statute in the liquor control act that they are bound to enforce is unenforceable. He asked the Committee to address this existing problem in whatever manner is appropriate. His written testimony included an industry newsletter from A.B.C. on this issue, Attachment #8.

Attachment #9 is written testimony from Reverend Richard Taylor in support of HB 2571.

Pat Oppitz came before the Committee as an opponent to HB 2571, saying that this was not equitable legislation in regards to the retail liquor dealers and their advertising. She read from her written testimony and asked the Committee to not support this bill, Attachment #10.

Jim Conant replied in response to a question from a Committee member that if nothing is done by the Legislature in this area, that A.B.C. could either operate under the Attorney General's opinion, or they could choose to make a case, prosecute it, and test it through the courts. He added that technically retail liquor dealers' signs are illegal, they are in violation of the statute, but the Attorney General has examined this and decided it is unenforceable.

R.E. "Tuck" Duncan asked the Committee to oppose this bill, saying that the Attorney General's opinion has authorized retail liquor dealers outdoor advertising with price and brand name on the sign for a year and nine months. He added that this has not been a problem, and that the law does not need to be changed. He submitted written testimony to this affect, Attachment #11.

Neal Whitaker, Kansas Beer Wholesalers Association, stood in opposition of HB 2571.

Don Peyton, a Topeka retail liquor store owner, explained that some retail liquor stores need the opportunity to advertise outdoor and asked the Committee to oppose the bill.

Chair Sebelius adjourned the Committee meeting.

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE 3-18-91

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
John Webb	Lawrence	KABDA
Burda Hingers	Haven	Close-up Kansas
Christine LaPinta	Haven	Close-up Kansas
Jacy Korny	Haven	Close-up Kansas
Kim Schmidt	Haven	Close-up Kansas
Patrick R. O'Neal	Haven	Close-up - Kansas
Tim Bondy	Haven	Close-up Kansas
John Strunk	Topeka	KRLDA
Patricia Appert	Topeka	KRLDA
Drilla Highfill Stott	Topeka	United School Admin
Clint Phillips	Dexter	Close-up Kansas
Clinton Skater	Dexter	Close-up Kansas
Jim Conant	Topeka	Ks. ABC
DICK TAYLOR	TOPEKA	LIFE AT ITS BEST
Becky McCreedy	Bernington	Close-up Kansas
Chad Morgan	Bernington	Close-up Kansas
Grant Ross	Bernington	Close-up K.S.
Solie Gruffie	Hanston	Government Class
Rebecca Hirstup	Hanston	Government Class
Dick W.H.	Sparville	Gov't Class Hanston
Nathan Markham T.	Hanston	Government class HANSTON HIGH
Treva Beltz	Hanston	Government Class Hanston High
Matt Cure	Hanston	Government Class / Hanston
Tara Salmans	Hanston	Government Class / Hanston
Trina Korp	Hanston	Hanston Gov't Class
Justin Salmans	Hanston	Hanston Gov't Class
Jon Gleason	Kinsley	High School Driving Authority

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE 3-18-91

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
Travis Lee	Hanston	Hanston High
Clinton Thomas	Hanston	Hanston High
Jim Halling	Hanston	Hanston High
Jarrett Slaton	Hanston	Higher High School Driving Abstract
Abraham Lincoln	R.A.	Party on Dude
Steve SENFF	Hanston, KS	HHS
Joseph Emmons	Topeka	Ks Dept. of Education
JOE DICIC	TOPEKA	DIP. MOTOR VEHICLES
John C. Bottenberg	Topeka	Ks Wine/Spirits
Dammy Deewe	Kingman	Kingman High
Kelli Heatherman	Kingman	Kingman High
Don Harling	Topeka	KRLDA
Don Harling	Topeka	Rayton Liquors
Jeff DeBattore	RPOA	Topeka, KS

PROPOSED AMENDMENT TO HB 2130

New Section 1. (a) Any person who is under the age of 16 years, but who is at least 14 years of age and resides upon a farm in this state or is employed for compensation upon a farm in this state may apply to the division of vehicles for a farm permit authorizing the operation of: (1) Farm tractors and other motorized implement of husbandry upon the highways of this state; or (2) motor vehicles registered as farm vehicles under K.S.A. 8-143, and amendments thereto, only while engaged in farming or farm-related activities.

(b) A farm permit shall be issued only if:

(1) The applicant can prove that such applicant resides or works on a farm;

(2) the applicant has successfully completed an approved course in driver training; and

(3) the applicant has a signed affidavit, by either a parent or guardian, stating that they meet the requirements to be a farm. If the applicant is applying for the farm permit for farm employment purposes, the employer and parent or guardian shall sign an affidavit attesting to such employment.

(c) As used in this section, "farm" means any parcel of land larger than 20 acres not located in any incorporated city which is owned by an individual and used in farming operations carried on by the owner at any time.

MARK PARKINSON
REPRESENTATIVE, 14TH DISTRICT
REPRESENTING OLATHE AND OVERLAND PARK
16000 W. 136TH TERRACE
OLATHE, KANSAS 66062
913-829-5044



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: ELECTIONS
JUDICIARY
TRANSPORTATION

TESTIMONY ON HOUSE BILL 2452

A BILL TO RESTRICT DRIVING BY YOUNG PERSONS

I appreciate the opportunity to testify on House Bill 2452. I am pleased that this committee is continuing to take an interest in the very important subject of restricting driving among 14 and 15 year old persons.

I am neither a proponent or opponent of House Bill 2452. Instead, I would like to briefly point out three items that I hope will benefit the committee as it reviews this legislation in House Bill 2130, which is the complete ban on 14 and 15 year old driving.

The first point that I would like to make is that while House Bill 2452 restricts driving among 14 year olds, it actually expands it for 15 year olds. Under current law, 14 and 15 year olds can receive a restricted driver's license. That license allows them to drive to and from school, and to and from and during work. House Bill 2452 takes the very positive step of banning all driving of 14 year olds. Unfortunately, it gives 15 year olds more privileges. While they are restricted to driving only between 6:00 a.m. and 10:00 p.m., there is no restriction during those time

frames. The to and from school and work provisions do not exist in House Bill 2452 and for that reason, this legislation could actually lead to increased driving among 15 year olds.

The second point that I would like to make is that it is possible to ban driving among 14 and 15 year olds and still address the farming issue. The hearing on House Bill 2130 demonstrated a need on the part of persons in farm communities to have young people driving while in the course of farm operations. House Bill 2452 attempts to deal with that need by allowing 15 year olds to drive between 6:00 a.m. and 10:00 p.m. A better approach would be the Nebraska approach. Under Nebraska law, 14 and 15 year olds can drive only upon receiving a special farm permit and under no other circumstances. I suggest that such a farm permit be attached to House Bill 2130. Under that approach, we would eliminate most 14 and 15 year old driving, still recognize the problems of the farm communities, and not open up driving among 15 year olds as is done in House Bill 2452. Attached you will find a copy of my proposed farm exemption.

The final point that I would like to make is that it is important that we do something quickly. Every year that we wait is another year of senseless death and serious injury among 14 and 15 year olds. The most recent death that I am aware of occurred on the second day of this committee's hearing on House Bill 2130. Jason Bates was a 15 year old passenger in a vehicle driven by a 14 year old licensed

driver. While driving along County Line Road in Kansas City, Kansas, the 14 year old driver lost control of the vehicle, the car flipped, and Jason Bates was killed.

Jason Bates' parents would like to have been here today to express their support for this bill, but for a couple of reasons could not appear. The first is that the case is currently in criminal and civil litigation, and their attorney was reluctant to have them appear before this committee. Even if it had not been for that problem, I do not believe that they have the emotional stability at this point to testify. To talk with them about their loss is overpowering.

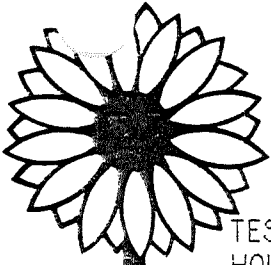
I urge this committee to take quick action and end the senseless deaths of our 14 and 15 year old children.



This accident on County Line east of Quivira left a local 15-year-old boy dead Thursday.

Teen dies in one-car crash

HOUSE FEDERAL AND STATE AFFAIRS
March 18, 1991
Attachment #1 - Page 5



Kansans for Highway Safety

March 18, 1991

TESTIMONY BEFORE THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
HOUSE BILL 2452 MINIMUM DRIVING AGE

Kansans for Highway Safety supports raising the minimum driving age. Raising the minimum driving age will result in reducing injuries and the loss of life. It will also reduce the loss of the future productivity of our states most vital resource, its youth. The Kansas 14 year old driver is more than two and a half times as likely to be involved in a fatal or incapacitating injury accident as a 17 year old driver. And a 15 year old driver is more than one and a half times as likely to be involved in a fatal or incapacitating injury accident as a 17 year old driver.

It is important to get the proper perspective of the accident statistics. It is not accurate to look at just the raw numbers of accidents or insurance claims in these age groups because the miles driven by those under age 18 vary dramatically which gives them greatly differing exposure rates. To look at raw numbers is like saying that we should license ten year olds because the statistics say that ten year olds do not have accidents. To give the accident statistics validity in looking at this problem, our organization conducted a survey of students currently licensed to drive to determine and understand the needs of Kansas youths today. This survey also gives us accurate data on the estimated miles driven at the different age levels. The results of that survey are attached.

It is our belief that **this high accident rate is not due to inexperience** since two thirds of the 15 year old drivers are new drivers and one third of the 16 year old drivers are new drivers. The accident rates in Iowa and Nebraska, both states that do not have 14 and 15 year old drivers, show that their 16 and 17 year old drivers are having fewer accidents than their 18 year old drivers. See the attached chart.

The problem is real. In Kansas, every 48 minutes a driver under the age of 18 is involved in a motor vehicle collision. One in six of those persons will be under the age of 16. Once every two weeks a driver under the age of 18 will be involved in a fatal accident. Three in ten of these will be under the age of 16. More than 400 drivers under the age of 18 each year will be involved in an accident resulting in a fatality or incapacitating injury. One fourth of these will be under the age of 16. Nearly 250 collisions every year involve drivers under 18 who were drinking and nearly 8% of those involve drivers under the age of 16.

The current restrictions for drivers under 16 years of age are not enforceable. It is nearly impossible to prove in court that a driver is not driving "To, from, or during work." As a result, many of the drivers under age 16 drive all hours of the day and night despite the restrictions imposed by the current law. There is also widespread confusion among young drivers and parents about when the licensed driver under age 16 can and can not legally operate a motor vehicle. This is evidenced by numerous Attorney General opinions and interpretations by law enforcement agencies. In deed many courts and attorneys around the state disagree on the interpretation of this important law.

WHICH BILL IS BEST, HB2130 OR HB2452?

The statistics clearly indicate that the accident rate of 14 and 15 year old drivers in Kansas is high enough to warrant raising the driver age to 16 and eliminating the 14 and 15 year old driver, as provided in HB 2130. To further support that, the study of the hour of the day of those accidents shows that the 14 and 15 year olds are

from school. Any restriction that allows driving to and from school does not address the problem. HB2130 is the approach that our organization prefers. The elimination of the 14 year old driver in Kansas would save 36 fatal and serious accidents per year. The elimination of the 15 year old driver in Kansas would save 98 fatal and serious accidents per year. The provisions of HB2452 will address about 27% of the area of concern. **We are not opposed to HB2452 since it does provide for some positive steps in protecting our youth, but we feel that HB2130 better addresses the concerns.** However, we are realists and we understand that there are other issues involved. The elimination of the 14 year old driver would be a step forward. HB2452 provides for a change in the restriction to a time style of restriction. It also provides for a method of removing the privilege from those that abuse it by requiring the suspension of the license for the commission of serious or repeated violations. It encourages our youth to take a drivers education course by rewarding them with an unrestricted license at an earlier age upon completion of such a course.

The time restriction.

Kansas currently has the most lenient licensing laws in the country for 14 and 15 year old drivers. We do not want to expand that and make them even more lenient in this age group. Current law does not allow 14 and 15 year olds to drive to late evening school activities. The decision to do this was sound since this age group is prime for being subjected to peer pressure to do things they know are not right, while being weak to reject such peer pressure. To allow them to drive to late evening school functions is to put them in a position of greater exposure to this peer pressure. Federal law provides that those under 16 years of age cannot work past 7 pm during the school year. A restriction of 6 am to 8 pm would allow for those that need to work while not allowing them to drive to late evening school activities. Such a restriction would also allow them to drive after school to attend to other needs when both parents are working. For example, music lessons, sports practices away from the school grounds, or even to go pick up the parent in a one car family.

If the current restrictions are left in place or if the 10 pm time restriction is implemented we would recommend that they both be utilized so that at least we would have an enforceable restriction after 10 pm while discouraging driving that is not work related or not necessary to attend classes.

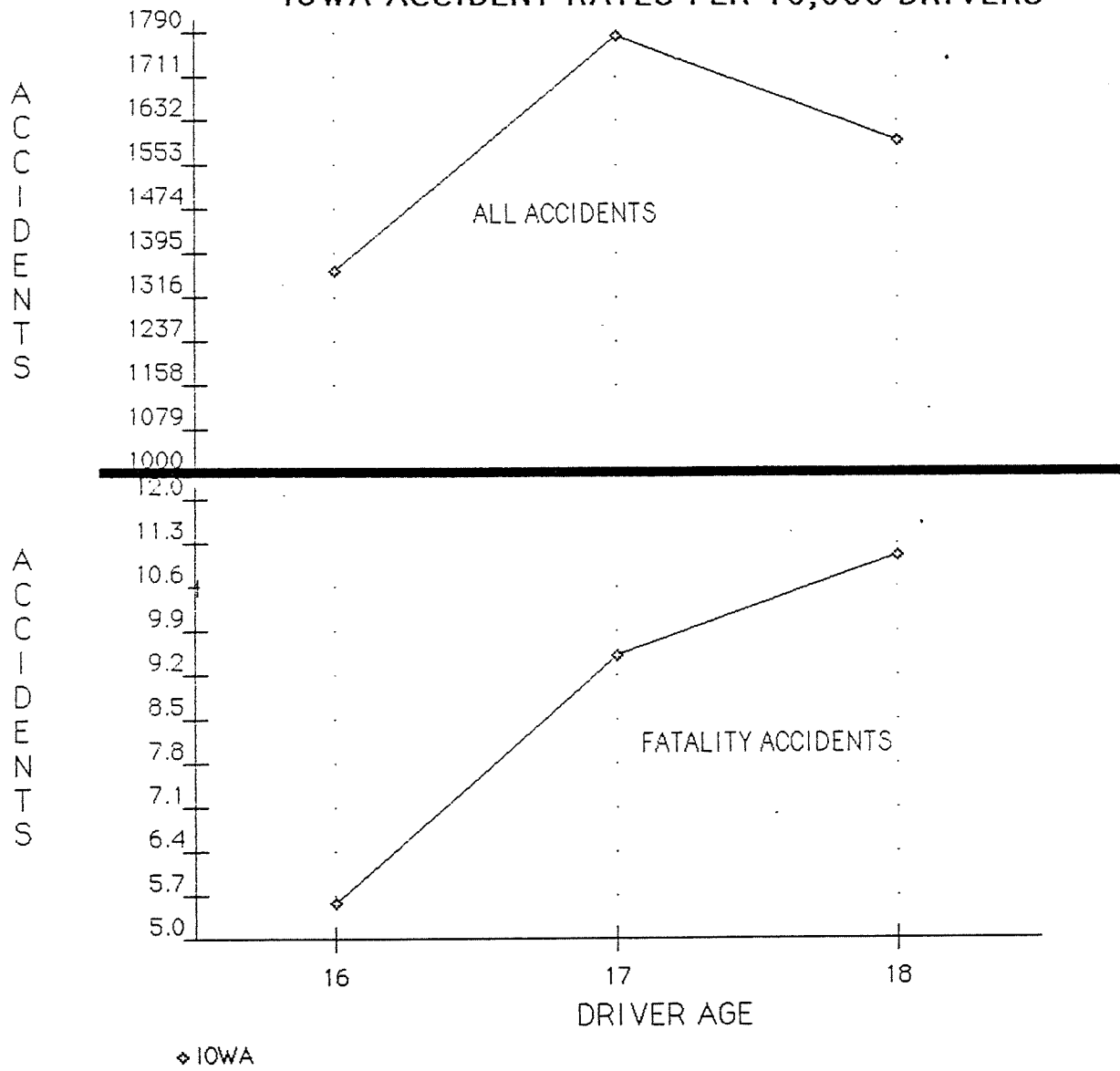
Is a farm exemption the right choice?

One of the first issues that always comes to mind is that the Kansas farmer needs the 14 and 15 year old drivers in order to operate. We believe this is a matter of what the Kansas farmer is accustomed to and not one of need since the farmers in Nebraska and Iowa appear to be able to function without 14 and 15 year olds driving. If the committee chooses to pass HB2130 and move the age to 16, we feel that this could be answered with a reasonable farm exemption for 14 and 15 year old drivers. In order to be effective, any such exemption must provide for a restriction that will allow the 14 and 15 year old to drive only during farm related activity. Also any application for the restricted license must be an affidavit signed by the parent saying that the applicant resides on a farm and that there is a need for the applicant to drive to operate the farm. An application could also be possible for those working on a farm if an affidavit states that the applicant works on a farm and it is signed by both the employer and the parent.

Ed Klumpp, President
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Work: 913-354-9450

HOUSE FEDERAL AND STATE AFFAIRS
March 18, 1991
Attachment #2 - Page 2

IOWA ACCIDENT RATES PER 10,000 DRIVERS



TIME	ALL ACCIDENTS		FATAL & INJ. ACCIDENTS	
	AGE 14	AGE 15	AGE 14	AGE 15
MIDNIGHT-1AM	22	86	11	23
1AM-2AM	12	65	3	21
2AM-3AM	4	29	1	13
3AM-4AM	7	24	2	5
4AM-5AM	4	10	1	4
5AM-6AM	4	11	1	3
6AM-7AM	16	43	6	13
7AM-8AM	82	436	17	88
9AM-10AM	55	224	15	38
10AM-11AM	31	99	9	24
11AM-NOON	44	127	13	33
NOON-1PM	67	214	20	52
1PM-2PM	80	301	29	57
2PM-3PM	75	230	15	56
3PM-4PM	80	324	25	83
4PM-5PM	223	933	54	187
5PM-6PM	177	592	56	156
6PM-7PM	136	508	48	128
7PM-8PM	109	347	36	85
8PM-9PM	91	279	24	83
9PM-10PM	68	228	26	60
10PM-11PM	61	226	19	55
11PM-MIDNIGHT	32	202	7	45
TOTAL	1480	5538	438	1312
8PM-6AM	305 20.6%	1160 20.9%	95 21.7%	312 23.8%
10PM-6AM	146 9.9%	653 11.8%	45 10.3%	169 12.9%

1986-1989 Kansas accidents.

Data furnished by the Kansas Department of Transportation.

Prepared by Kansans for Highway Safety.

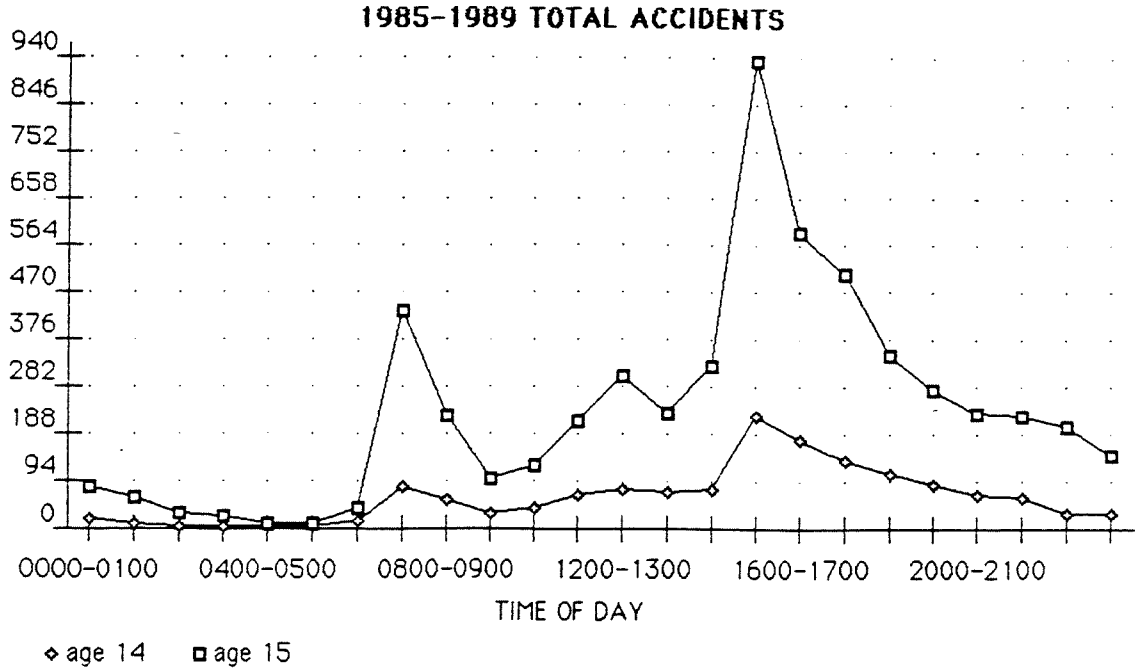
HOUSE FEDERAL AND STATE AFFAIRS

March 18, 1991

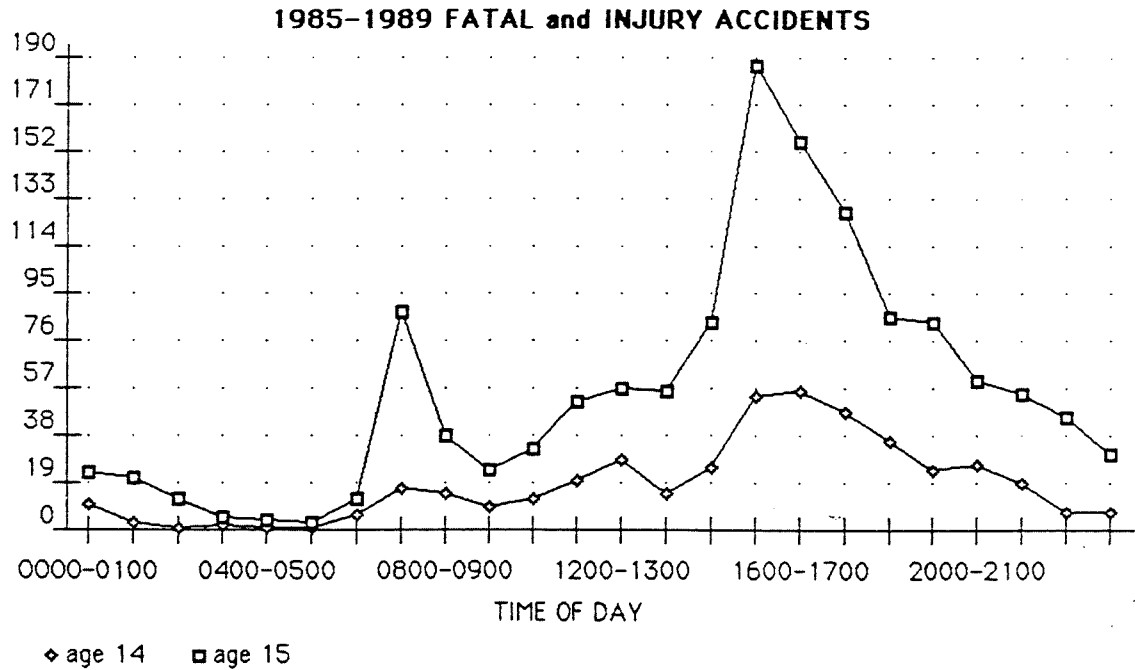
Attachment #2 - Page 4

KANSAS MOTOR VEHICLE ACCIDENTS BY TIME OF DAY 14 AND 15 YEAR OLD DRIVERS

NUMBER OF ACCIDENTS



NUMBER OF ACCIDENTS



PREPARED BY KANSAS FOR HIGHWAY SAFETY 3/91

HOUSE FEDERAL AND STATE AFFAIRS
March 18, 1991
Attachment #2 - Page 5



PUBLIC POLICY STATEMENT

HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

**RE: H.B. 2452 - Minimum Age of Applicants for Drivers'
Licenses and Instructional Permits**

March 18, 1991
Topeka, Kansas

Presented by:
Bill Fuller, Assistant Director
Public Affairs Division
Kansas Farm Bureau

Madam Chair and Members of the Committee:

My name is Bill Fuller. I am the Assistant Director of the Public Affairs Division for Kansas Farm Bureau. We appreciate this opportunity to testify in opposition to H.B. 2452. My comments will be based upon policy developed by the farmers and ranchers who are members of the 105 County Farm Bureaus in Kansas.

After the House Transportation Committee, last session, debated proposals to increase the age for acquiring a drivers license, our membership directed staff to develop a research paper on the issue. We have attached a copy for your review. The responses were reviewed by our Resolutions Committee. They proposed a tentative resolution to our membership last fall for their consideration. On December 8, 1990, the following resolution was adopted by the 439 Voting Delegates representing the 105 County Farm Bureaus at the 72nd Annual Meeting of Kansas Farm Bureau in Wichita:

Drivers Licenses

Driving age: We believe Kansas youth should continue to have the opportunity to acquire a restricted drivers license at age 14. The use of a restricted license should be limited to driving to and from work, driving on business related or agricultural errands, and driving to and from school using the most direct route. We do not believe letter grades received in school should be a criterion for receiving a restricted drivers license.

We believe successful completion of a Drivers Education course by age 16 should be a requirement for obtaining a drivers license.

Suspension: We support legislation to require written notification by certified mail to be given to persons whenever their drivers licenses are suspended or reinstated.

Commercial Drivers License: We believe persons 16 years old and older should be permitted to operate trucks for harvesting operations. These drivers should be allowed to test for and receive a Commercial Drivers License and should be exempt from age requirements in Part 391 of Federal Motor Carriers Standards, Title 49.

The opportunity for teenagers to run agricultural errands, assist with harvest and drive to and from school where buses are not provided is vital to many rural families. While we cannot document a significant economic impact on agriculture in Kansas, there is a significant impact on those families that need teenage drivers to assist with the farming operation. We believe increased enforcement of the current law and providing more students the opportunity to take drivers education are better alternatives to the proposed legislation. While H.B. 2452 proposes to eliminate only 14 year old drivers rather than 14 and 15 year olds as proposed in H.B. 2130 this plan continues to be in conflict with the policy developed by our membership. Therefore, we respectfully ask you to vote "no" on H.B. 2452. We would attempt to respond to any questions from the Committee. Thank you!

ISSUE ANALYSIS....

INFORMATION on PUBLIC POLICY

Prepared as a Service to Members by the
Public Affairs Division, Kansas Farm Bureau



DRIVERS LICENSES

JANUARY, 1991

THE ISSUE

Two issues related to drivers license requirements have surfaced as major issues for lawmakers during the 1991 legislative year. The Kansas Legislature gave serious consideration to raising the minimum driving age in 1990. The debate is likely to continue during this session. The second issue Farm Bureau members are interested in pertains to a custom harvesters exemption from federal commercial driver's license requirements. Those requirements take effect April 1, 1992.

Driver's License Requirements

The 1990 Legislature examined two bills that would make major changes in the requirements for young people acquiring Kansas driver's licenses. Sub. for HB 2298 proposed to:

- Repeal provisions permitting 14 year olds to have a restricted license;
- Provide an instruction permit at age 15...allow operation of auto or motorcycle when accompanied by an adult who is at least 21 years of age and holds a valid driver's license;
- Issue a restricted Class C or D license at age 16...to operate a vehicle from 7 a.m. to 7 p.m.;
- Provide a full driver's license at age 17, if successfully completed driver's training course; otherwise
- Issue a full driver's license at age 18.

A Subcommittee recommended and the House Transportation Committee adopted amendments:

- Require students to have a "B" grade average or better for 17 year olds to get full licenses:

- Repeal current restrictions and replace by limiting driving between the hours of 6 a.m. to 10 p.m. only;
- Revoke driver's license for a year if holder of restricted license is convicted of any alcohol or drug charges or had 3 moving traffic violations in a year.

HB 2298 would have denied a driver's license or instruction permit to any person under age 18 without a diploma from a high school unless the person was:

- Enrolled in a secondary school;
- Making satisfactory progress toward a GED certificate; or
- Excused due to circumstances beyond their control.

Currently Kansas law permits 14 to 16 year olds who have a restricted license to drive with the following restrictions:

- Any time while going to, from or in connection with any job or employment, or farm related work.
- Days when school is in session, over the most direct and accessible route between the driver's home and the school in which he or she is enrolled, for the purpose of attendance.
- When the licensee is operating a passenger car at anytime when accompanied by an adult licensed to operate Class A, B, or C vehicles, is in the seat beside the driver.

A number of problems have been outlined concerning the enforcement of current Kansas law. Law enforcement officials have noted the difficulty in enforcing the restriction mandating travel over the "most direct route between home and school". School activities are not generally considered acceptable travel because

the restriction states "for the purpose of attendance". Also, it was reported 14 to 16 year old drivers sometimes carry a bag of feed or seed in their vehicle at all times so they may claim they are on an "agricultural errand".

Twelve states, in addition to Kansas, allow 14 year olds to drive with restrictions. The restrictions vary from state to state, and include:

- Driver's education required
- Daylight hours only
- Only with a licensed adult
- Only with parent or guardian
- Parental consent required
- Hardship cases only

All other state laws are considered more restrictive than the current Kansas law.

Minnesota is the only other state with a "farm exemption". It only applies to 15 year olds and is allowed only with a showing of need.

COMMERCIAL DRIVERS LICENSE (CDL) REQUIREMENTS

In 1986, the 99th Congress passed the Commercial Motor Vehicle Safety Act. This federal legislation was part of the comprehensive anti-drug legislation, Public Law 99-570. Among the Act's provisions are requirements dealing with commercial driver's licenses which must be issued by states effective April 1, 1992. State noncompliance with new federal requirements may result in the loss of federal highway funds to noncomplying states. The statutory provisions and regulatory interpretations of current law do not allow any exemption for custom harvesting operations from CDL requirements. However, the regulations provide for

DISCUSSION QUESTIONS

A KANSAS DRIVERS LICENSE: Minimum Age?

1. Should Farm Bureau in Kansas **develop** policy on the minimum driving age?

48 YES 2 NO

2. What should be the **minimum** driving age in Kansas?

<u>49</u>	14 years
<u>3</u>	15 years
<u>6</u>	16 years
<u>0</u>	17 years
<u>0</u>	18 years
<u>0</u>	other

3. Should **restrictions** be placed on young drivers?

52 YES 1 NO

4. If your answer to Question #3 above is "Yes", what **age** drivers should have restrictions? (check one or more)

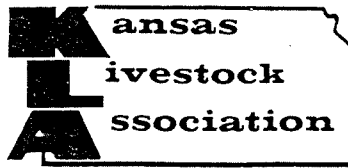
<u>51</u>	14 years
<u>48</u>	15 years
<u>14</u>	16 years
<u>2</u>	17 years
<u>0</u>	18 years

5. **Which** restriction do you believe is more enforceable and most appropriate? (check one)

- a. The **current law** that permits driving 46
to and from work, on agricultural
errands and using the most direct
route between home and school;

OR

- b. A **new policy** allowing driving for any 5
purpose during certain hours of the day,
for example between 7 a.m. to 7 p.m.?



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Owns and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

March 18, 1991

TO: House, Federal and State Affairs Committee
Representative Kathleen Sebelius, Chairperson

FROM: Mike Beam, Executive Secretary, Cow-Calf/Stocker Division

RE: House Bill 2452

Madame Chairperson and committee members I'm Mike Beam with the Kansas Livestock Association. Our membership consists of approximately 10,000 individuals and most of these are farmers and ranchers involved in farming and livestock operations. KLA is opposed to lowering the driver's license age restrictions as outlined in this bill.

You may recall, we did not appear before this committee when you held a hearing on HB 2130. Since that time, our members at our legislative and board meetings last month reviewed this legislation and voted to oppose such change in the age requirements.

I feel this committee understands the role that teenagers play in family agriculture operations. Those of us who grew up on a farm feel proud that we were able to help in many of the tasks including the driving of motor vehicles for errands, chores and other farming activities.

As stated in earlier testimony before this committee, 14 year olds and older provide their own transportation for many school activities. This is an important part of the rural life and one which many of our members are reluctant to change.

I'm not unsympathetic to the concerns and safety of our youth which is the emphasis of this bill. We have reservations, however, about lowering the age requirements and hope you will consider this issue very carefully. Thank you.

MB:bkc

HOUSE FEDERAL AND STATE AFFAIRS
March 18, 1991
Attachment #4 - Page 1



KANSAS DEPARTMENT OF REVENUE
Division of Alcoholic Beverage Control
Topeka, Kansas 66612-1584

MEMORANDUM

TO: The Honorable Kathleen Sebelius, Chairperson
House Committee on Federal and State Affairs

FROM: Jim Conant, Acting Director
Alcoholic Beverage Control

DATE: March 18, 1991

SUBJECT: House Bill 2552

I appreciate the opportunity to appear before you today in support of House Bill 2552. This bill is the result of an ABC proposal to modify certain statutes in the Liquor Control Act regarding the posting of prices by suppliers and distributors of alcoholic liquor. The ABC Division maintains an active process of internal review and evaluation of all operating procedures in order to ensure maximum efficiency at the lowest possible cost. The statutory requirements for price posting have been identified as obsolete and it is our desire to eliminate the administrative costs associated with maintaining the system.

K.S.A. 1990 Supp. 41-1101 requires a supplier who wishes to sell to a licensed distributor to "file price lists showing the current prices of spirits and wine in the office of the director as often as may be necessary or required by the director but at least once each three months." This process had merit under the old system of price affirmation, but no longer serves any useful purpose. A similar price posting requirement is imposed by the same statute on distributors who wish to sell their products to retail liquor stores. Again, there was merit to this requirement when the state needed to know the wholesale price in order to exercise control over retail pricing. However, no practical purpose is now served by continuing to require that distributors post their prices with the state. This statute also mandates that suppliers and distributors offer the same current price to their customers without discrimination. Removal of the posting requirements will not hamper our ability to monitor the marketplace for discriminatory pricing.

In both posting situations described above, there is a considerable amount of administrative expense associated with checking, filing and maintaining the required price listings, both for the agency (estimated \$22,000/yr) and the industry. The posting system generated \$64,106 in fees to the state general fund in FY 1990. As a break-even measure, we are proposing that an annual brand registration system be implemented at the rate of \$25 per label. There are currently 169 suppliers with approximately 1700 labels, which would result in registration fees of \$42,500 annually. This amount, combined with the reduction in administrative expense, is equivalent to the \$64,106 which would be lost by removing price posting.

Your support of this measure is appreciated, and I would be happy to answer any questions you may have.

HOUSE FEDERAL AND STATE AFFAIRS

March 18, 1991

Attachment #5 - Page 1

K · A · N · S · A · S
WINE & SPIRITS
WHOLESALE ASSOCIATION, INC.

March 18, 1991

To: House Federal and State Affairs Committee

From: R.E. "Tuck" Duncan and John Bottenberg
Kansas Wine and Spirits Wholesalers Association

RE: House Bill 2552

From the time of the repeal of prohibition until 1959 there were administrative regulations which required the industry to publish prices. Beginning in 1956 suppliers have been required to file prices. A court challenge struck down the administrative regulations, and in 1959 the legislature enacted the first price maintenance law in the nation which required, among other measures, that suppliers and wholesalers post prices with the state (ch. 217, L.1959). This law was also challenged, and after the Kansas Supreme Court found defects in this law, the Legislature quickly corrected those defects in 1961 (ch. 241, L.1961). Thus price posting in Kansas had its origin as a mechanism to provide to the state information necessary to regulate policies of price affirmation and minimum mark-ups, both of which have been declared unlawful by the United States Supreme Court in recent years.*

Kansas continues a lawful policy of providing that suppliers shall not discriminate against wholesalers, and wholesalers shall not discriminate against retailers in the price of goods sold during a specified period of time. Some believe that price posting continues to assure that such an anti-discrimination policy is enforceable. The Alcoholic Beverage Control does not believe such reporting is necessary. The Kansas Wine and Spirits Wholesalers Association does not oppose the A.B.C.'s request to eliminate price posting. However, we believe several amendments are necessary to define certain terms in the law that are currently defined by operation of the law through the act of price posting.

Even in light of actions by the United States Supreme Court regarding interstate regulation of prices, litigation under the anti-trust laws and several opinions of our Attorney General conclude that the State may regulate certain pricing activities to eliminate price discrimination. (Reference A.G. Opinion 89-34)

(over)

* With regard to Affirmation reference Attorney General's Opinion 86-114 and with regard to Price Maintenance reference Attorney General's Opinion 87-26

HOUSE FEDERAL AND STATE AFFAIRS
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H.B. 2552, page two

Suppliers of alcoholic beverages, except beer, currently post prices forty-five days in advance of the date on which the new price is to be effective. Wholesalers thence post their prices and notify retailers of the prices for a designated period. In order to provide non-discriminatory prices for a specified period two amendments are required.

First, On page 2 at line 15 after the period we suggest the Committee amend the bill by adding:

"Each manufacturer, owner, exclusive agent, microbrewery or farm winery shall provide to each distributor licensed to sell spirits or wine distributing their product a written notice forty-five days in advance of any change in their current price."

Secondly, at page 3 line 19 after the period we suggest that the Committee amend the bill by adding:

"For purposes of this sub-section the 'same current bottle and case price' for alcoholic liquor, except beer, shall be a price effective for a specified period as designated by a distributor on or before the first day of each month."

These amendments will allow the elimination of price posting as requested by the Alcoholic Beverage Control, and thus allow the agency to achieve further efficiency, while preserving the anti-discrimination provisions of the law.

Additionally, we do not believe the fee set forth in the bill on page one is revenue neutral to the general fund, and therefore should be applied for "each label and size proposed for sale in this state." (line 33).

Thank you for your attention to and consideration of these matters.

Kansas Alcoholic Beverage Dealers Association

Presented to the Kansas House of Representatives
Federal & State Affairs Committee
18 March 1991

Since the committee is considering HB 2552 and I am aware of a situation that relates directly to this same area of the law, I am asking the committee to consider and advise me as to what should be done to correct the situation.

In reading the laws that pertain to pricing alcohol beverages I see nothing that forbids quantity discounts. The disallowance of quantity discounts is only mentioned in the Rules & Regulations in Article 14-14-11. Since the title of this Rule & Regulation is "Prohibited Conduct of Licenses" it would seem, to construe this language to forbid quantity discounts, would be taking that language out of its correct context.

The law states that there should be no discrimination in pricing. I agree completely.

When a merchant spends a certain amount of money and purchases one bottle or one case of beer there should be a fair price for that sale. Likewise, if a merchant purchases a full case of liquor or twenty cases of beer there should be a fair price that reflects a lower @ unit cost than the previous sale. In the same respect the merchant who, by law is required to pay cash at the time of delivery, purchases ten cases of liquor, one brand and one size or 500 or 1000 cases of beer, one brand one package, should be allowed to pay a significantly lower price so as to realize a significantly lower per unit cost.

This volume discount procedure seems to be common in all other industries and businesses that I know of. I am not sure I understand why the Kansas Liquor Industry should be any different.

Since the legislature has complete control of the Kansas Liquor Industry and all Alcoholic Beverage Legislation is routed through the House and Senate Federal & State Affairs Committees, I am asking for your help with this matter.

Any suggestions to rectify this situation will be greatly appreciated.

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WEBB'S FINE WINE AND SPIRITS

This quotation on the ills and virtues of alcohol is from U.S. Senator Henry William Blair of New Hampshire and was excerpted from a speech the Senator made on the floor of the United States Senate in 1886. Senator Blair's remarks are as follows:

"I had not intended to discuss this controversial issue at this time. However, I want you to know that I do not shun a controversy. On the contrary, I'll take a stand on any issue at any time regardless of how fraught with controversy it may be.

"You ask me how I feel about whiskey. Well, Brother, here is how I stand on this question. If, when you say whiskey, you mean the Devil's brew, the bloody monster that destroys the home, creates misery and poverty, and takes the bread from the mouths of little children--if you mean the evil drink that tempts man and woman from righteous and gracious living, casts them into the pit of degradation and despair--then certainly, I'm against it with all my heart.

"But, if when you say whiskey, you mean the oil of conversation--the philosophic wine, the ale that is consumed with good fellowship together, that puts a song into the hearts and laughter on the lips--the warm glow of contentment arrives. If you mean Christmas cheer, the stimulating drink that puts spring into an old man's footsteps on a frosty morning--if you mean the drink whose sale puts untoward millions of dollars into our Treasury and is used to provide tender care to our little crippled children, our blind, our dumb, our pitifully aged and infirm; to build highways and hospitals--well then, certainly, I am for it.

"That is my stand, and I will not compromise it."

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41-210. Rules and regulations; procedure for adoption; powers of director. (a) The director shall propose such rules and regulations as necessary to carry out the intent and purposes of this act. After the hearing on a proposed rule and regulation has been held as required by law, the director shall submit the proposed rule and regulation to the secretary of revenue who, if the secretary approves it, shall adopt the rule and regulation.

(b) It is intended by this act that the director of alcoholic beverage control shall have broad discretionary powers to govern the traffic in alcoholic liquors and to enforce strictly all the provisions of this act in the interest of sanitation, purity of products, truthful representation and honest dealings in such manner as generally will promote the public health and welfare. All valid rules and regulations adopted under the provisions of this act shall be absolutely binding upon all licensees and enforceable by the director of alcoholic beverage control through the power of suspension or revocation of licenses.

History: L. 1949, ch. 242, § 15; L. 1965, ch. 506, § 23; L. 1972, ch. 342, § 119; L. 1985, ch. 170, § 2; L. 1987, ch. 182, § 10; July 1.

41-702. Gifts and credit from manufacturer or distributor prohibited. (a) Except to the extent permitted pursuant to K.S.A. 41-703 and amendments thereto, no licensed retailer, club, drinking establishment or caterer, or any officer, associate, member, representative or agent thereof, shall accept, receive or borrow money or anything else of value, or accept or receive credit, directly or indirectly, from: (1) Any manufacturer or distributor; (2) any person connected with, in any way representing or a member of the family of a manufacturer or distributor; (3) any stockholders in a manufacturer or distributor; or (4) any officer, manager, agent or representative of a manufacturer or distributor.

(b) Except to the extent permitted pursuant to K.S.A. 41-703 and amendments thereto, no manufacturer or distributor shall give or lend money or anything of value or otherwise loan or extend credit, directly or indirectly, to any retailer licensed under this act or under K.S.A. 41-2702 and amendments thereto, or to any licensed club, drinking establishment or caterer, or to the manager, representative, agent, officer or director thereof.

(c) If any licensed retailer, distributor, manufacturer, club, drinking establishment or caterer violates any provision of this section, the license of such retailer, distributor, manufacturer, club, drinking establishment or caterer shall be suspended or revoked by the director in the manner provided by law for revocation or suspension for other violations of this act.

History: L. 1949, ch. 242, § 65; L. 1987, ch. 182, § 47; July 1.

41-703. Gifts, loans and interest in customer's business by manufacturer or distributor prohibited, exceptions. (a) Except as provided by subsection (d), no manufacturer or distributor shall directly or indirectly: (1) Sell, supply, furnish, give, pay for, loan or lease any furnishing, fixture or equipment on the premises of a place of business of a licensee under the club and drinking establishment act or a retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702 and amendments thereto; (2) pay for any such licensee's or retailer's license, or advance, furnish, lend or give money for payment of such license; (3) purchase or become the owner of any note, mortgage or other evidence of indebtedness of any such licensee or retailer or any form of security therefor; (4) be interested in the ownership, conduct or operation of the business of any such licensee or retailer; or (5) be interested, directly or indirectly, or as owner, part owner, lessee or lessor thereof, in the licensed premises of any such licensee or retailer.

(b) Except as provided by subsection (d), no manufacturer or distributor shall, directly or indirectly, or through a subsidiary or affiliate or by any officer, director or firm of such manufacturer or distributor, furnish, give, lend or rent any interior decorations or any signs, for inside or outside use, for use in or about or in connection with the licensed premises of a licensee under the club and drinking establishment act, or a retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702 and amendments thereto products of the manufacturer or distributor are sold.

(c) No manufacturer or distributor shall directly or indirectly pay for or advance, furnish or lend money for the payment of any license of another under the club and drinking establishment act, the Kansas liquor control act or K.S.A. 41-2702 and amendments thereto.

(d) A manufacturer or distributor may furnish things of value to a licensee under the club and drinking establishment act or to a retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702 and amendments thereto to the extent permitted by rules and regulations adopted by the secretary pursuant to subsection (e).

(e) The secretary shall adopt rules and regulations permitting manufacturers and distributors to furnish equipment, signs, supplies or similar things of value to licensees under the club and drinking establishment act or to a retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702 and amendments thereto. Such rules and regulations shall limit the furnishing of such things of value so that they are not conditioned on or an inducement to the purchase of any alcoholic liquor or cereal malt beverage. In adopting such rules and regulations, the secretary shall consider and, to the extent the secretary determines suitable, base such rules and regulations on the standards of the bureau of alcohol, tobacco and firearms of the United States treasury.

History: L. 1949, ch. 242, § 66; L. 1987, ch. 182, § 48, July 1.

41-1101. Discrimination in sales, services or prices unlawful; filing of statement; exceptions. (a) No distributor licensed under this act shall purchase any alcoholic liquor from any manufacturer, owner of alcoholic liquor at the time it becomes a marketable product, exclusive agent of such manufacturer or owner, microbrewery, farm winery or distributor of alcoholic liquor bottled in a foreign country either within or without this state, unless the manufacturer, owner, exclusive agent, microbrewery, farm winery or distributor files with the director a written statement sworn to by the manufacturer, owner, exclusive agent, microbrewery, farm winery or distributor or, in case of a corporation, one of its principal officers, agreeing to sell any of the brands or kinds of alcoholic liquor manufactured or distributed by the manufacturer, owner, exclusive agent, microbrewery, farm winery or distributor to any distributor licensed in this state and having a franchise to distribute the alcoholic liquor pursuant to K.S.A. 41-410 and amendments thereto or K.S.A. 1987 Supp. 41-306a; to make such sales to all such licensed distributors in this state at the same current price and without discrimination; and to file price lists showing the current prices of spirits and wine in the office of the director as often as may be necessary or required by the director but at least once each three months. If any manufacturer, owner, exclusive agent, microbrewery, farm winery or distributor making the agreement violates the agreement by refusing to sell such alcoholic liquor to any such franchised licensed distributor in this state or discriminates in current prices among such franchised licensed distributors making or attempting to make purchases of alcoholic liquor from the manufacturer, owner, exclusive agent, microbrewery, farm winery or distributor, the director shall notify, by registered mail, each such franchised licensed distributor in this state of the violation. Thereupon, it shall be unlawful for a franchised licensed distributor in this state to purchase any alcoholic liquor from the manufacturer, owner, exclusive agent, microbrewery, farm winery or distributor. If thereafter such a franchised licensed distributor purchases any alcoholic liquor from the manufacturer, owner, exclusive agent, microbrewery, farm winery or distributor, such franchised distributor's license shall be revoked by the director. If any manufacturer, owner, exclusive agent, microbrewery, farm winery or distributor of alcoholic liquor bottled in a foreign country, making any agreement hereunder, does not have a sufficient supply of alcoholic liquor of any of the brands or kinds which the manufacturer, owner, exclusive agent, microbrewery, farm winery or distributor manufactures or distributes to supply the demands of all licensed distributors having a franchise to distribute such alcoholic liquor, the manufacturer, owner, exclusive agent, microbrewery, farm winery or distributor may ration such alcoholic liquor and apportion the available supply among such franchised licensed distributors purchasing or attempting to purchase it, in accordance with a plan which shall be subject to the approval of the director. The provisions of this subsection relating to the filing of price lists with the director shall not apply to any manufacturer with respect to spirits or wine manufactured or bottled in a foreign country.

(b) No retailer licensed under this act shall purchase any alcoholic liquor from any distributor licensed under this act unless the distributor files with the director a written statement sworn to by the distributor, or in case of a corporation by one of its principal officers, agreeing to sell any of the brands or kinds of alcoholic liquor distributed by the distributor and to provide service in connection therewith to any licensed retailer whose licensed premises are located within the geographic territory of the distributor's franchise for the alcoholic liquor, unless written approval to do otherwise is obtained from the director; to make such sales to all such licensed retailers at the same current bottle and case price and without discrimination; and to file price lists showing the current bottle and case price of spirits and wine in the office of the director as often as may be necessary or required by the director but at least once each three months. If any distributor making the agreement violates the agreement by refusing to sell or provide service to any such licensed retailer in this state without written approval of the director or discriminates in current prices among such licensed retailers making or attempting to make purchases of alcoholic liquor from the distributor, the director may revoke the license of the distributor. If any licensed distributor making any agreement hereunder does not have a sufficient supply of alcoholic liquor of any of the brands or kinds which the distributor distributes to supply the demands of all such licensed retailers, the distributor may ration such alcoholic liquor and apportion the available supply among such licensed retailers purchasing or attempting to purchase the same, in accordance with a plan which shall be subject to the approval of the director.

(c) No club or drinking establishment licensed in this state shall purchase any wine or beer from any distributor licensed under this act unless the distributor files with the director a written statement sworn to by the distributor, or in case of a corporation by one of its principal officers, agreeing to sell any of the brands or kinds of wine or beer distributed by the distributor to those clubs and drinking establishments to which the distributor is authorized to sell such wine or beer and to which the distributor desires to sell such wine or beer, unless written approval to do otherwise is obtained from the director; to make such sales to all such licensed clubs or drinking establishments at the same current bottle and case price and without discrimination; and to file price lists showing the current bottle and case price of wine in the office of the director as often as may be necessary or required by

the director but at least once each three months. If any distributor making the agreement violates the agreement by refusing to sell to any such licensed club or drinking establishment in this state without written approval of the director or discriminates in current prices among such licensed clubs or drinking establishments making or attempting to make purchases of wine or beer from the distributor, the director may revoke the license of the distributor. If any licensed distributor making any agreement hereunder does not have a sufficient supply of wine or beer of any of the brands or kinds which the distributor distributes to supply the demands of all such licensed clubs or drinking establishments, the distributor may ration such wine or beer and apportion the available supply among such licensed clubs or drinking establishments purchasing or attempting to purchase the same, in accordance with a plan which shall be subject to the approval of the director.

For the purposes of this subsection, a delivery charge shall not be considered a part of the price of wine or beer sold by a distributor.

History: L. 1949, ch. 242, § 110; L. 1953, ch. 238, § 9; L. 1978, ch. 185, § 3; L. 1979, ch. 153, § 5; L. 1983, ch. 161, § 21; L. 1987, ch. 182, § 58; L. 1987, ch. 182, § 59; Jan. 1, 1988.

ARTICLE 14 - MANUFACTURERS; DISTRIBUTORS;
NONBEVERAGE USERS; FARM WINERIES; MICROBREWERIES

14-14-11. Prohibited conduct of licensees. (a) Each manufacturer of alcoholic liquor, holding a manufacturer's license issued by the director, each manufacturer of alcoholic liquor outside of this state manufacturing alcoholic liquor for sale and distribution within the state, each licensed distributor within the state, and their agents, salesmen or representatives shall not, directly or indirectly, offer, give or furnish any gifts, prizes, coupons, premiums, rebates, quantity discounts, entertainment decorations or services of any employee, including errands and administrative services or any other inducement or thing of value of any kind to a licensed retailer or to an applicant for a retail liquor license who has submitted an application to the director, except as provided in Article 10;

(b) Each manufacturer, including a manufacturer outside of this state, that manufactures alcoholic liquor for sale and distribution within this state shall not, directly or indirectly, offer, furnish or give any rebates to any distributor, distributor's spouse, agent, salesperson or representative.

(c) A licensee shall not, as a condition for the sale or delivery of alcoholic liquor to any other licensee or to customer, require that the other licensee or customer purchase or contract to purchase alcoholic liquor of another form, quantity or brand in addition to, or partially in lieu of, that specifically ordered or desired by the licensee or customer. Licensees of any class shall not sell or deliver alcoholic liquor in any form or quantity or of any brand to another licensee or to a customer, under any arrangement, agreement or understanding, direct or implied, that the sale or delivery will be made only if the other licensee or customer also buys or accepts delivery of a quantity of alcoholic liquor of another form or brand.

(d) If any licensee refuses to permit the director or any agent or employee of the director to inspect the licensed premises and any alcoholic liquor owned or controlled by the licensee upon the licensed premises or upon any other premises where the licensee may have liquor stored, the refusal shall be grounds for the revocation of the license.

(e) A manufacturer shall be deemed to have discriminated against licensed distributors, including those possessing a franchise to distribute a brand or brands in a geographical territory, if the manufacturer directly or indirectly, or through any agent or employee:

(1) Offers to sell or sells to a distributor alcoholic liquor, except beer, in any manner that results in a price less than the listed current price which the manufacturer has filed with the director;

(2) requires a licensed distributor to purchase in excess of one case lot of any brand, or kind, or container size of that alcoholic liquor that is sold by the case;

(3) refuses to sell any brand or kind of alcoholic liquor, except beer, to a licensed distributor in any quantity ordered by a distributor in lots of one or more cases when alcoholic liquor is sold to distributors by the case;

(4) refuses to sell for cash at the listed current price any alcoholic liquor, except beer, to a licensed distributor, if such alcoholic liquor is ordered in a lot of one case or more and the price listed to distributors is by the case;

(5) refuses to sell any brand or kind of alcoholic liquor to a licensed distributor unless the licensed distributor purchases or agrees to purchase alcoholic liquor of another kind, form, quantity or brand in addition to, or partially in lieu of, the brand or kind of alcoholic liquor specifically ordered by the licensed distributor; or

(6) fails to fill orders of distributors for alcoholic liquor, other than beer, in the chronological sequence in which orders from distributors are received. This paragraph shall not apply when the manufacturer is operating under a rationing plan approved by the director.

(f) A licensee shall not sell, offer for sale or deliver to any licensee any alcoholic beverage unless a schedule of prices for those alcoholic beverages has been filed in the office of the director if required by K.A.R. 14-14-9.

(g) A distributor shall not sell or offer for sale at wholesale, directly or indirectly, any alcoholic beverage listed in the schedule of minimum prices to retailers, in effect at that time, at less than its listed price. Special permission to do so may be granted by the director for special cause shown.

(h) A distributor shall be deemed to have discriminated against licensed retailers if it either directly or indirectly, or by any agent or employee:

(1) Makes an offer to make any secret rebate to or enters into any transaction in any manner whatsoever with any licensed retailer which would result in, or which has as its purpose the purchase of any alcoholic liquor by a licensed retailer at a price less than the current price which is filed with the director;

(2) requires a licensed retailer to purchase in one-case lot of any brand, or kind, or container size of alcoholic liquor, except beer;

(3) refuses to sell any brand or kind of alcoholic liquor, except beer, to a licensed retailer for cash at the listed current price in any quantity ordered by the licensed retailer;

(4) refuses to sell any brand or kind of alcoholic liquor to a licensed retailer unless the licensed retailer purchases or agrees to purchase alcoholic liquor of another kind, quantity, or brand in addition to, or partially in lieu of the brand or kind of alcoholic liquor specifically ordered by the licensed retailer.

(i) This regulation shall take effect on or after October 1, 1988. (Authorized by K.S.A. 1987 Supp. 41-210; implementing K.S.A. 1987 Supp. 41-702, 41-703, 41-1101; effective, T-89-2, Jan. 7, 1988; effective P-October 1, 1988.)



KANSAS DEPARTMENT OF REVENUE
Division of Alcoholic Beverage Control
Topeka, Kansas 66612-1584

MEMORANDUM

TO: The Honorable Kathleen Sebelius, Chairperson
House Committee on Federal and State Affairs

FROM: Jim Conant, Acting Director
Alcoholic Beverage Control

DATE: March 18, 1991

SUBJECT: House Bill 2571

I appreciate the opportunity to appear before you today with background information regarding House Bill 2571. This bill is similar to a bill previously considered by this committee, House Bill 2063, which was intended to modify K.S.A. 1990 Supp. 41-714 by removing all restrictions on the size, content and quantity of signs which may be displayed on retail liquor premises. That bill was rather narrowly focused on retail signs, and did not address the larger problems that exist with this statute. House Bill 2751 clarifies the statute and confirms the prohibition against billboards, handbills and any sign other than the retailer's name, license number and the words "Retail Liquor Store" in four inch by three inch letters.

K.S.A. 41-714 was last amended by the 1987 Legislature, providing for the advertising of alcoholic liquor by price and brand name. This practice had previously been prohibited by ABC rules and regulations. The existing statutory prohibitions against billboards and handbills were not addressed by the 1987 Session and were believed ABC to remain intact. However, an Attorney General's opinion (#89-89) was issued which stated, in part:

"A strict construction of K.S.A. 1988 Supp. 41-714 leads us to conclude that after July 1, 1989, advertising the price and brand name of alcoholic liquor through any medium may no longer be prosecuted. However, since legislative intent appears to be to allow advertising of price and brand name of alcoholic liquor only in mediums other than those listed in K.S.A. 1988 Supp. 41-714, the liquor industry may wish to consider honoring that apparent intent until such time as it can be clarified.

The practical effect of this ruling has been that ABC is unable to enforce any of the provisions of this statute regarding prohibited means of advertising so long as price and brand information is present. House Bill 2063 did not really open the door for a new wave of signs - in fact, many liquor stores are already covered with signs which must only contain a brand name in order to get around 41-714. What that bill would have done is make all signs on retail premises legal, without the need for brand names. After passage out of committee, the bill was amended by the House Committee of the Whole to

include language which would clarify the intent of the change made in 1987. The amendment confirmed the prohibition on billboard and handbill advertising, but left intact the original amendment to allow additional signs on retail premises. As you are aware, the bill was not moved favorably for passage.

ABC does not have a position on whether billboards, handbills and signs on retail premises should be allowed. We do have a very sincere desire to see this statute either fixed (as House Bill 2571 would do), modified with enforceable language (as House Bill 2063 would have done) or repealed (remove all restrictions on advertising). The current situation is confusing to the agency and the industry alike, and does not contribute in any way to our mandate to maintain an orderly market. I have attached copies of agency mailings which outlined our interpretation of this issue before and after July of 1989.

I would appreciate any effort to reconcile this unfortunate situation and would be happy to answer any questions you may have.

OFFICE LOCATION: 512 S.W. 6th St., 2nd Fl., Topeka, Kansas 66603

Phone (913) 296-3946 • FAX (913) 296-0922

HOUSE FEDERAL AND STATE AFFAIRS

March 18, 1991

Attachment #8 - Page 2



KANSAS DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL DIVISION

Tom Hanna, Director

* INDUSTRY BULLETIN *

No. 89-1

May 8, 1989

ADVERTISING

Effective July 1, 1989, statutory restrictions on the use of brand names and prices in liquor advertising in Kansas have been removed. While this represents a significant change, it is important to remember that no other changes have been made to advertising restrictions in general. The statute involved is reprinted below with the specific reference to price and brand highlighted.

K.S.A. 41-714. Advertising and display of liquor; restrictions. (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); 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) 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) 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) The secretary of revenue may 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 in this section shall be construed as limiting the secretary's power to adopt such rules and regulations not in conflict with this act.

It is important to note that the current restrictions on use of handbills, billboards, signs on retail liquor store premises and display of liquor remain in place.

(over)

HOUSE FEDERAL AND STATE AFFAIRS

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The effect of section (d) (highlighted above) is to allow the addition of brand names and prices to currently approved forms of advertising such as newspaper ads, radio spots, etc. Items such as billboards, handbills and signs on retail liquor stores will not become legal on July 1.

Article 8 of the current ABC regulations, which deals with advertising, will remain in effect after July 1 and will be enforced in all respects other than the prohibition on the use of pricing found in K.A.R. 14-8-2 (a) (4). Article 8, in its current form, provides very limited coverage of the wide variety of advertising formats available to businesses today. With this in mind, an in-depth review of all federal and state laws and regulations pertaining to advertisement of liquor has been instituted by the division. This study will include input from all levels of the liquor industry and will result in the proposal of comprehensive regulations dealing with all modes of advertising available to Kansas licensees and permittees. More information will be provided as this project advances.

FEDERAL TAXES DUE

All licensees are reminded that July 1 is the due date for payment of federal special occupational taxes. Licensed Kansas retailers, clubs, drinking establishments and caterers must pay \$250. Wholesalers, which includes licensed Kansas distributors and retail liquor stores who sell to on-premise licensees, must pay \$500. Forms will be mailed to you by the Bureau of Alcohol, Tobacco and Firearms (ATF) between May 15 and June 1. Failure to pay the required tax before July 1 may result in penalties and interest being assessed against the licensee.

Please remember that ABC regulations require that all licensees display a current federal tax stamp or be able to provide proof that payment for same has been sent to ATF. Citations and fines for failure to maintain and display current federal permits are being issued by the division in increasing numbers. Federal penalties and interest and state-imposed fines can easily be avoided by prompt payment of these required taxes. Kansas licensees who have not received new application forms by June 1 should contact the Kansas City ATF office at (816) 426-2464 for further assistance.

KANSAS DEPARTMENT OF REVENUE
Division of Alcoholic Beverage Control
Topeka, Kansas 66612-1584 • Phone (913) 296-3946
OFFICE LOCATION: 512 S.W. 6th St., 2nd Fl., Topeka, Kansas 66603

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KANSAS DEPARTMENT OF REVENUE
ALCOHOLIC BEVERAGE CONTROL DIVISION

Tom Hanna, Director

* INDUSTRY BULLETIN *

No. 89-3

July 27, 1989

ADVERTISING

Recent Industry Bulletins issued by this office have outlined the current ABC interpretation of K.S.A. 1988 Supp. 41-714, and provided guidelines for advertising alcoholic liquor within the framework of this statute. In light of a recently issued Attorney General's opinion, it has been determined that certain ABC policies and regulations concerning advertising of alcoholic liquor may not be enforceable without further legislative clarification of the statute involved.

Attorney General's opinion No. 89-89, issued at the request of Representative Ben Foster, concerns the appropriate interpretation to be applied to K.S.A. 1988 Supp. 41-714. The request specifically inquires about the use of outdoor advertising of price and brand name beginning July 1, 1989. The following excerpt from the Attorney General's opinion summarizes the substance of the ruling:

"A strict construction of K.S.A. 1988 Supp. 41-714 leads us to conclude that after July 1, 1989, advertising the price and brand name of alcoholic liquor through any medium may no longer be prosecuted. However, since legislative intent appears to be to allow advertising of price and brand name of alcoholic liquor only in mediums other than those listed in K.S.A. 1988 Supp. 41-714, the liquor industry may wish to consider honoring that apparent intent until such time as it can be clarified."

The statute in question, K.S.A. 1988 Supp. 41-714 (see Industry Bulletin No. 89-1 for a complete reprint of this statute), specifically prohibits the use of billboards and handbills to advertise alcoholic liquor and limits the size and content of signs which may be used on retail liquor store premises. Industry Bulletin No. 89-2 provided working definitions of billboards (any outside sign on unlicensed premises) and handbills (any publication or printed material containing only advertising matter), and further addressed the issue of a retail liquor store using price and brand name signs so long as they were clearly intended to advertise to persons inside the store. The guidelines and interpretations set forth in both of the referenced Industry Bulletins continue to represent the position of the ABC concerning the appropriate interpretation of K.S.A. 1988 Supp. 41-714. However, we acknowledge the Attorney

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General's statement that "advertising the price and brand name of alcoholic liquor through any medium may no longer be prosecuted." Effective immediately, no citations will be issued by this agency for activity involving the advertising of alcoholic liquor by price and brand name. This policy will remain in effect until further clarification of the statute is made available.

It should be remembered that some advertising-related restrictions continue to apply. A supplier or distributor may not pay for or assist in paying for any licensee's advertising. The limitations on a supplier or distributor supplying inside signs, displays and specialty items (K.A.R. 14-10-10) also remain in effect. Retailers are still prohibited from redeeming any coupon or rebate offer, and are not allowed to give away anything from the licensed premises, regardless of advertising content.

The Attorney General's opinion, as it relates to exterior signs, refers only to price and brand advertising. Signs on retail liquor store premises which do not contain price and brand references or do not fall within the size and placement limitations found in K.S.A. 1988 Supp. 41-714 are still prohibited. The placement of price and brand advertising on existing "party shop" signs, portable signs (check local ordinances) and on the windows of a retail liquor store will not be cited. It is the opinion of this office, however, that the purchase of additional permanent signs, marquees and other exterior fixtures may be unwise until legislative clarification of this issue is received. This temporary moratorium on enforcement of K.S.A. 1988 Supp. 41-714, as it relates to price and brand advertising, should not be interpreted as ABC approval of any and all outdoor signs. Any future costs associated with removing signs or other advertising which may be ruled illegal will be the responsibility of the licensee.

KANSAS DEPARTMENT OF REVENUE
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March 18, 1991 1:30 p.m.
Hearing on House Bill 2571
House Federal & State Affairs Committee

Rev. Richard Taylor
KANSANS FOR LIFE AT ITS BEST!

When the bill to permit price and brand advertising passed the legislature, it was never said such law would include billboards and neon signs all over liquor stores. HB 2571 does what everyone thought the law would continue to do.

Since 1971 some liquor and sign people have tried to pass legislation permitting billboard advertising of alcoholic liquor. Such efforts failed year after year.

Because a majority of lawmakers opposed such signs, if any ONE lawmaker had any idea that price and brand legislation would permit billboards and neon signs in liquor stores, the question would have been asked during floor debate.

Concerned citizens in Kansas do not want our state to be like Missouri with all their obnoxious, blaring, bright, gaudy signs pushing our most abused drug. A concern for aesthetics calls for a YES vote on 2571.

Kansas liquor stores with their uniform and modest sign are accepted in good taste as they promote in moderation a controversial product.

Concerned drinkers and non drinkers are united in saying NO to more advertising for the drug that causes more human misery than all other drugs combined. Please approve this excellent piece of legislation.

Respectfully yours,

Richard Taylor

KANSAS RETAIL LIQUOR DEALERS ASSOCIATION INC.

400 SW CROIX
TOPEKA, KS. 66611
(913) 266-3963

PATRICIA A. OPPITZ
PRESIDENT

ALBERT LOLLAR, *1st Vice-President*
TRACY MOODY, *2nd Vice-President*
MAXINE STROTHMAN, *Secretary-Treasurer*

March 18, 1991

Madame Chairman, Members of the Committee on Federal and State Affairs:

I am Patricia Oppitz, President of the Kansas Retail Liquor Dealers Association, and I am speaking in opposition to House Bill 2571.

Just a few weeks ago, I came before you to ask for equity for our retailers in the way we can conduct our business of selling legal products. This Committee did vote to let the full House make a decision on our bills. All our bills were defeated. This tells our retailers that the House of Representatives does not feel that we are responsible in the way we sell alcoholic products. Taverns, bars and restaurants have all the business freedom they need to advertise.

We are not willing to be told by the House that we cannot now keep the signage that was given to us only a couple of years ago. After all, our stores generated almost twenty million dollars in revenue in fiscal year 1990.

For the most part, our customers buy their products from us for home consumption. The voters do not seem to think that we are causing an alcohol problem. We are not ready to give up our signage. Taverns and bars have not been asked to give up anything, nor are grocery stores.

K · A · N · S · A · S
WINE & SPIRITS
WHOLESALE ASSOCIATION, INC.

March 18, 1991

To: House Federal and State Affairs Committee

From: R.E. "Tuck" Duncan and John Bottenberg
Kansas Wine and Spirits Wholesalers Association

RE: House Bill 2571

"If it ain't broke...don't fix it!"

On July 10, 1989 the Attorney General of Kansas said:

"Thus in our opinion, subsection (d) of this statute [K.S.A. 1988 Supp. 41-714] should be interpreted to authorize outdoor advertising of the price and brand name of alcoholic liquor beginning July 1, 1989."

Now, 1 year, 9 months later, a bill is submitted to eliminate a practice that has been lawful for this period of time. First one should ask: "Is there a problem?" We contend there is not a problem.

We understand that there is some concern that the current policy is confusing. However, we believe the Attorney General's opinion is clear, and provided advertising (newspaper, electronic, and outdoor) contains a reference to prices or brands, it is lawful.

Determinations in other states a decade ago found that prohibitions of price and brand advertising are in violation of the federal and state constitutional guarantees of free speech. Courts have opined that the United States Constitution afforded a qualified protection to commercial speech. Virginia Board of Pharmacy v. Virginia Citizens Consumer Council 425 U.S. 748 (1976) As such, since state liquor controls are subject to a balancing of federal interests (constitutional and otherwise) and state interests (under the Twenty-first Amendment of the U.S. Constitution) California Liquor Dealers v. Midcal 445 U.S. 97 (1980) constitutional guarantees of freedom of commercial speech cannot be suppressed. A state it was found in one case "cannot, however, completely suppress truthful information about this lawful product...[A] ban on publication of prices of alcoholic

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beverages is an unconstitutional infringement of the liquor retailer's freedom of commercial speech and of the consumer's right to receive truthful pricing information about a legal product." (emphasis added).

We would submit that to adopt House Bill 2571 would be to deny consumers truthful information they have been receiving by means of outdoor and other advertising. This information may effect purchasing decisions particularly in the border counties. Kansas retailers by these means can economically demonstrate that Kansas is competitive with her neighbors and thus preserve sales in state (thereby protecting state tax revenues).

If there is a perceived problem, for there is no evidence of an actual problem in the market place, we would suggest (1) that since outdoor advertising is subject to local zoning regulations local authorities can enact regulations uniformly applicable to all businesses and (2) this Committee could amend the bill to make it consistent with Attorney General Opinion 89-89.

Thank you for your attention to and consideration of these matters.