

Approved 3-19-91
Date

MINUTES OF THE Senate COMMITTEE ON Federal and State Affairs

The meeting was called to order by Senator Bill Morris at
VICEChairperson

11:00 a.m./p.m. on March 18, 19 91 in room 254-E of the Capitol.

All members were present ~~except~~:

Committee staff present:

Emalene Correll, Legislative Research Department
Mary Galligan, Legislative Research Department
Mary Torrence, Office of Revisor of Statutes
Deanna Willard, Committee Secretary

Conferees appearing before the committee:

Proponents:

Verner L. Newman, III
Rebecca Rice, Kansas Retail Liquor Dealers Assoc.
Neal Whitaker, Kansas Beer Wholesalers
Tuck Duncan, Kansas Wine and Spirits Wholesalers

Opponents:

John Webb, Kansas Alcoholic Beverage Dealers Assoc.
Rev. Richard Taylor, Kansans for Life at its Best

Hearing on: Sub for HB 2295 - Permitting sales of non-alcoholic malt beverages on Sunday.

Mr. Verner Newman, III, gave testimony on behalf of the bill, saying NABs should be included as a grocery item as are 101 other food products and non-prescription drugs with more alcohol in their ingredients. (Attachment 1)

A letter was distributed which had been written to Representative Charlton from Mr. Lynn Nelson, Lawrence, which expressed support for the bill, saying non-alcoholic beverages are not beer substitutes and should not be marketed as such. (Attachment 2)

Mr. Neal Whitaker, Kansas Beer Wholesalers, spoke in support of the bill. He explained the original non-alcohol malt beverage act and said this bill just allows grocery stores to sell non-alcoholic malt beverage on Sunday. The "non-alcoholic" label is a federal standard; this product is beer that is brewed until most of the alcohol is gone.

Ms. Rebecca Rice, Kansas Retail Liquor Dealers, offered an amendment to the bill which would allow retail liquor dealers to sell their product on Memorial Day, Independence Day, Labor Day, and election day. (Attachment 3)

Mr. Tuck Duncan, Kansas Wine & Spirits Wholesalers, rose to support the amendment, saying efficiencies in the distribution system are achieved when a regular routine can be designed. (Attachment 4)

Mr. John Webb, Kansas Alcoholic Beverage Dealers Association, spoke in opposition to the bill as just another special interest patch in the Kansas Alcoholic Beverage Law. He suggested that this is an attempt to "get a foot in the door" and that grocery stores, etc., might not provide the degree of controlled sale needed for beverage alcohol. (Attachment 5) Included with his testimony was information showing alcohol content of various drinks and a chart ranking drugs as to their potential addictiveness.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Federal and State Affairs,
room 254-E Statehouse, at 11:00 a.m./~~p.m.~~ on March 18, 19 91

Rev. Richard Taylor, Kansans for Life at its Best, gave testimony against the bill, saying that it passed the House because of erroneous information that without it half percent beer would not be under the control of ABC. (Attachment 6)

A request for a bill introduction was made for the securities commission which would give them enforcement powers to include violations they come across.

A conceptual motion was made by Senator Morris and seconded by Senator Vidricksen to introduce the bill. The motion carried.

Discussion on: SCR 1614 - Use of acid-free paper for printing certain types of state records and other matters.

A replacement resolution was distributed, Draft 1 RS 0438.

There was discussion as to the cost of using acid-free paper. The concurrent resolution provides for a special committee to make a study concerning the advisability and feasibility of using acid-free paper for certain state records.

A motion was made by Senator McClure and seconded by Senator Walker to adopt the replacement resolution. The motion carried.

The minutes of March 13, 1991, were approved.

The meeting was adjourned at 12:00 noon.

Mister Chairman and Members of the Committee:

I am Verner L. Newman III. I am here on behalf of House Bill
No. 2295.

I began drinking Non-alcoholic beer (N.A.B.) eight years ago when I quit drinking all alcohol and cereal malt beverages. In the beginning you could only buy a few varieties of domestic N.A.B.s, which weren't very good, but on a hot day one or two cans were refreshing. With the emergence of the foreign N.A.B.s it got a lot better and more American Companies were producing, but with the strict Kansas laws and import cost, you had to go to Missouri to get the best variety at a lesser cost. I advised the former ABC Director of my purchases of N.A.B. in Missouri and he promptly advised me that this was illegal. As a retired Police Captain, I can assure you that law enforcement have a lot more serious violations to deal with than to be stifled with such frivolous statutes.

Alcohol contributes to the palate experience, to the mouth feel. So as robust as some of the N.A.B.s may be, they are disappointing. It's like - did I miss my mouth, or what? Or, as American humorist Philander Johnson once said, "The man who called it near beer was a bad judge of distance."

Drinking N.A.B. isn't solely about taste. It's about lifestyle. N.A.B.s are being marketed as the thing to drink when you want a beer but don't want alcohol - at a business lunch, at a gathering you will be driving home from, between sets of tennis - even on military duty. N.A.B.s are sometimes used as a part of a post-race

rehydration and carbo-replacement plan. (Each 12-ounce beer provides 10 to 20 grams of carbohydrate.)

As I stated before, I have been drinking N.A.B. for over eight years and, even with the production of new N.A.B. by two of our largest breweries and the improved taste, there is no way N.A.B. is ever going to replace the real thing. If it was readily available and free, it would never be accepted by anyone desiring a good beer or one out to enjoy the evening.

I have drank N.A.B. from California to Maryland, airports, hotel bars, restaurants and nite clubs and nowhere were the laws and restriction as sad as what we have in Kansas. With the price range \$2 - 3.00 per bottle and \$4-6.00 per six-pack I don't believe too many young people will be willing to pay such prices for a non-kick drink, or a more proper name "NON-ALCOHOLIC BEVERAGE." Sauda Arabia, which probably has the strictest laws in reference to alcohol, allowe two American Companies to ship in thousands of cases of their N.A.B. (16,000) to our military forces stationed in their country. We didn' hear any outcry from anyone against this and I am sure that our law makers read about this as I did but probably didn't want the world to know that Kansas has such laws and that our young troops should be denied because of our beliefs.

I think it is about time that you Kansas law maker listen to us, try an N.A.B. and stop imaging the worst. Believe me, anyone desiring a real beer is not going to be satisfied with an N.A.B. N.A.B should be included as a grocery item as 101 other food products and non-prescription drugs with far more alcohol in its ingredients than N.A.B. "Non-Alcoholic Brews are the beer of the future."

25 February 1991

Representative Betty Jo Charleton
46th District
House of Representatives
Topeka, KS 66612-1591

Dear Betty Jo;

First of all, my thanks for taking up the matter of non-alcoholic malt beverages. I am sorry that my schedule prevents me from attending the hearing on House Bill No. 2295 by the Committee on Federal and State Affairs. I would have liked to have testified in support of the bill. I hope that this letter will be of some help in this regard.

I have been a resident of Kansas and a member of the faculty of the University of Kansas since 1963, and a total abstainer from alcohol since 1970. My abstention is a personal matter and I have no desire to press my views on others. Neither do I enjoy others pressing their views on me.

The non-alcoholic malt drink that your committee is considering is, in fact, one of the more innocuous beverages on the market. Consider that the brands I have looked at are salt-free, sugar-free, sugar substitute-free, preservative-free, caffeine-free, free of any other stimulants, low in carbonic acid, low in calories, made of all-natural products, and without any "secret formula" of ingredients. Those of us who choose to drink these beverages are certainly doing ourselves no harm.

The malt drinks are flavored with hops, which give the beverage a lightly bitter taste. Although the great majority of people prefer their beverages sweet, there are some of us who like a bitter flavor. The range of drinks available to us is limited largely to black coffee and various brands of tonic water. The non-alcoholic malt beverages provide a welcome alternative.

In short, there is no inherent reason why the purchase and consumption of these beverages should be regulated by the State to any greater degree than any other soft drink. I have been personally inconvenienced, occasionally embarrassed, and always amused that a non-alcoholic beverage, which is clearly labelled "non-alcoholic" and "contains less than 0.5% alcohol by volume" must, by State law, be treated as an alcoholic beverage with more than 0.5% alcohol by volume. The imposition of alcoholic beverage taxes upon my purchases of non-alcoholic beverages is, of course, less amusing.

I presume that the reason that these drinks were originally treated as alcoholic was that they are labelled as a malt beverage; they are marketed in cans and bottles designed to look like beer; they are given beer-like brand names; and, being based on malt and hops, their flavor and that of beer are similar. I

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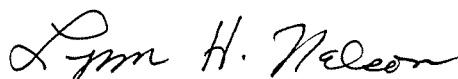
find all of this regrettable and believe that the manufacturers would do better to market their product more honestly and rely upon its actual merit. Nevertheless, it is my understanding that the law is directed toward realities and not appearances. The reality is that the beverages your committee is considering are non-alcoholic, and should be treated as such.

I support the restrictions imposed upon purchase and consumption by minors, although I would hope that they might be lifted some day. In this case, appearance is itself the problem. I do not believe that the manufacturers should be allowed to market their product as a beer look-alike to people who cannot buy beer legally. Non-alcoholic beverages are not beer substitutes and should not be marketed as such. I would hope that, in the future, this sales strategy will be abandoned, and that non-alcoholic beverages will compete simply as an acceptable alternative to other soft drinks on the market.

I might add that I have no financial interests in this product; my position is simply that of a citizen and occasional consumer of the product in question. I complained about this situation to you because of a particular incident. On an election day some time ago, I was shopping, put a pack of non-alcoholic malt beverage in my cart, and waited in the check-out line in the crowded store. When I got to the cashier, she went through my purchases quickly until she got to the malt beverage. Holding it up before placing it on the shelf behind her, she announced in what I remember as having been a very loud and admonishing voice, "We can't let you have this. It's Election Day, and you will have to wait. Come back tonight and we can let you have some." I suddenly felt stubble grow on my face, my clothes became tattered and shabby, and holes developed in my shoes. As I shambled away with my other purchases, I could see looks of sympathy on the faces of some of the other customers, and I knew that they were thinking to themselves, "There but for the grace of God go I."

I suppose that my wife is right when she tells me that it was all my imagination, but I would certainly prefer not to have it happen again. It was unnerving. I urge your committee to act favorably on the bill before them.

Sincerely,



Lynn H. Nelson
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Lawrence KS 66044

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TESTIMONY PRESENTED TO
SENATE COMMITTEE ON FEDERAL
AND STATE AFFAIRS
re: Sub. for HB 2295

03/18/91

by: Rebecca Rice
Legislative Counsel for the
Kansas Retail Liquor Dealers Assoc.

Chairman and members of the committee, my name is Rebecca Rice and I appear before you today representing the Kansas Retail Liquor Dealers Association. Although we have some concerns about this legislation, I do not appear as an opponent but am instead neutral on the proposed legislation. However we do request an amendment to the legislation which we believe is in keeping with its spirit.

The amendment we are requesting would allow retail liquor dealers to sell their product on the following presently prohibited days:

Memorial Day, Independence Day and Labor Day plus election day.

Liquor by the drink is allowed to be served on these holidays and on election day as well as cereal malt beverages. In addition, the holidays are non-religious and, therefore, no logical reason appears to exist to continue to discriminate against my clients in this area. Therefore, a continued prohibition for my clients in value judgment that the product we sell or the manner in which we sell it is somehow more insidious or less desirable than other forms of the same product retailed in a slightly different manner.

Thank you for your attention, Mr. Chairman.

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WINE & SPIRITS
WHOLESALE ASSOCIATION, INC.

March 18, 1991

To: Senate Federal and State Affairs Committee

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

RE: Substitute for House Bill 2295

The Non-alcoholic Malt Beverage Act was enacted in order to provide the availability of a federally designated low alcohol product in the market through all retailers, restaurants, drinking establishments, and clubs that sell beverage alcohol and all retail establishments and restaurants that sell cereal malt beverages. The act provides that the laws and rules governing the sale of regulated products will apply to the sale of the non-alcoholic malt beverages in the licensee's premises.

The bill passed by the house would expand the availability of the non-alcoholic malt beverage by providing that it may also be sold by cereal malt beverage licensees on Sunday from 6:00 a.m. to midnight. The Kansas Wine and Spirits Wholesalers Association does not offer an opinion on whether or not to adopt this change in policy. We do distribute several non-alcoholic malt beverages, as well as low-proof beverage alcohol products and non-alcoholic wine products. We have testified in previous years that a policy of uniformity would be desirable, and that rather than specify certain products for sale at certain locations on certain days, all products at all locations on all days should be permissible. We supported changes in the law to allow farm winery operations on Sunday, and we understand that people do enjoy taking a day-trip to the Fields of Fair winery west of Topeka on Sunday.

We understand, however, that the Kansas Retail Liquor Dealers Association will request that the Committee amend the bill by providing that retail liquor stores be allowed to open their stores on Memorial Day, Labor Day, Independence Day and election days. We rise to support this amendment. Efficiencies in the distribution system are achieved when a regular routine can be designed. Efficiencies means lower costs. When that routine is interrupted by policies that do not allow each business to determine which days they will be open or closed, then distribution routes must be altered, deliveries delayed, and the routine is disrupted such that efficiency cannot be achieved. This is particularly true under the current interpretation of when a retailer must be closed on certain election days. It is our understanding that:

(over)

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"All retail liquor stores must remain closed on the day of any National, State, County or City election in their location during the hours such polls are open in their respective voting area. This includes school board elections in the school district concerned. Elections not involving persons, such as elections on bond issues, do not require closing of retail stores." (from an ABC memorandum)

The Liquor Law Review Commission in December 1986 stated:

"Election Day Sales

Recommendation - The prohibition on the sale of wine, beer, and distilled spirits for off-premise consumption on election days should be eliminated.

Why recommendation was made - The prohibition of off-premise sales while the election polls are open is an outdated concept which was enacted when many taverns were used as polling places."

This type of policy that serves no public purpose of regulating either (1) an orderly market, or (2) preserving the public health and welfare, should be revised to allow sales on these heretofore prohibited days.

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

Kansas Alcoholic Beverage Dealers Association

Presented to the Kansas Senate
Federal & State Affairs Committee
18 March 1991

This "Near Beer" Issue would be just another special interest "patch" in the inconsistent, irrational and therefore ineffective patchwork that we call our Kansas Alcoholic Beverage Law.

Bills like this are the reason the Kansas Alcoholic Beverage Industry has an image of being inconsistent, irrational and therefore backward.

Special Interest Bills that are made into laws without knowledge or consideration of the entire industry being affected ends up sending the public a mixture of messages that really doesn't make much sense and therefore doesn't deserve respect or compliance.

A few examples:

Why, in the State of Kansas is 3.2% beer not considered an alcoholic beverage?

Its alcohol content for all practical purposes, as beverage alcohol, is equivalent to all other alcoholic beverages that are marketed and distributed in a completely different manner.

Is it because 3.2% beer does not have alcohol in it?

Is it because the alcohol in 3.2% beer is measured in a different way so as to make it appear to have considerably less alcohol content?

(Alcohol is lighter than water therefore 3.2% by weight and strong by volume)

Could Special Interest Politics have anything to do with these inconsistent policies?

Is "Near Beer" a big enough factor in the market to change our policy on Sunday Beverage Alcohol Sales. Maybe this is just another "Special Interest" attempt to "get their foot in the door" on Sunday Sales of all beverage alcohol in grocery stores, convenience stores, gas stations and bait shops. Is that type of distribution good public policy? Do these businesses provide the degree of controlled sale that is needed for beverage alcohol.

Is there a need to change our Alcoholic Beverage Law to accommodate such an insignificant product in the market. Will "Near Beer" be used for something other than Quasi Beverage Alcohol use? ie: shoe cleaner or shampoo. Is HR 2295 a step in the right direction? Does it parallel socially responsible public policy?

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WEBB'S FINE WINE AND SPIRITS

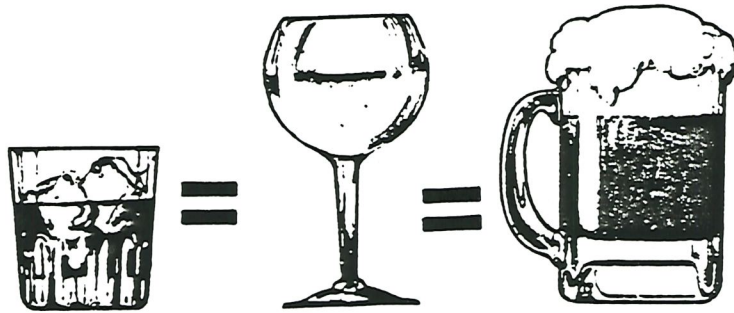
This quotation on the ills and virtues of alcohol is from U.S. Senator Henry William Blair of New Hampshire and was excerpted from a speech the Senator made on the floor of the United States Senate in 1886. Senator Blair's remarks are as follows:

"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."



How aware are you of Alcohol Equivalence?

- Q. Typical servings of beer, wine and liquor:
- contain the same volume of liquid;
 - vary in alcohol content;
 - are equal in alcohol content.

A. Typical servings of wine, beer and liquor contain equal amounts of alcohol (c). A standard serving of a 12-ounce bottle or can of beer, a 5-ounce glass of wine and a drink containing 1¼ ounces of liquor all contain the same amount of alcohol: 0.5 ounces.

A public service message from

Webb's Fine Wine & Spirits

Across From McDonald's
800 west 23rd

841-2277

Traditional Serving 5 oz GLASS OF WINE
11% by Volume
 $5 \text{ oz} \times .11 = .55 \text{ oz of}$
actual alcohol consumption

Traditional Serving 12 oz SERVING OF
STRONG BEER
4.28 by Volume
 $12 \text{ oz} \times .0428 = .514 \text{ oz of}$
actual alcohol consumption

Traditional Serving 1.25 oz MIXED DRINK
.40% by Volume
 $1.25 \times .40 = .50 \text{ oz of}$
actual alcohol consumption

Traditional Serving 12 oz SERVING of
CEREAL MALT
.0360 by Volume
 $12 \text{ oz} \times .0360 = .432 \text{ oz of}$
actual alcohol consumption

Easy to Get Hooked On, Hard to Get Off

TO RANK today's commonly used drugs by their addictiveness, we asked experts to consider two questions: How easy is it to get hooked on these substances and how hard is it to stop using them? Although a person's vulnerability to a drug also depends on individual traits—physiology, psychology, and social and economic pressures—these rankings reflect only the addictive potential inherent in the drug. The numbers below are relative rankings, based on the experts' scores for each substance.



March 18, 1991 11:00 a.m.
Hearing on Substitute for HB 2295
Senate Federal & State Affairs Committee

Rev. Richard Taylor
KANSANS FOR LIFE AT ITS BEST!

On final action in the House, this measure received 61 YES votes and would have died. But a Representative came to the mike to explain a YES vote, saying we must pass this bill to keep half percent beer under the control of ABC and to continue receiving the taxes.

Not so. If this measure is killed, half percent beer will continue under the full control of ABC and taxes will be collected in full.

Then the House member said if this does not pass, we will see another bill that will look upon half percent beer the same as soda pop. That is exactly what 2295 did. After the House committee hearing on that bill, they adopted this substitute.

Substitute for House Bill 2295 does one thing - permits Sunday carry out half percent beer sales. Why is that needed? Liquor stores will not be permitted to sell it on Sunday. Why permit others?

If a person can not remember to buy enough on Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday, maybe they should not be drinking the stuff.

Because of wrong information given House members on final action, causing five of them to change from NO to YES, this committee can correct that error by letting SB 2295 die an unmourned death.

Respectfully yours,

Richard Taylor

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