

Approved 3-4-92
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 Tuesday, March 3, 1992 in room 526-S of the Capitol.

All members were present except:
Representative Rand Rock - Excused Representative Dale Sprague - Excused
Representative Dick Edlund - Excused
Representative Joan Wagnon - Excused

Committee staff present:
Mary Torrence, Office of the Revisor
Lynne Holt, Kansas Legislative Research
Mary Galligan, Kansas Legislative Research
Connie Craig, Secretary to the Committee

Conferees appearing before the committee:
Jim Conant, C.A.O., Alcoholic Beverage Control Division, Kansas
R.E. "Tuck" Duncan, Kansas Wine & Spirits Wholesalers Assoc., Inc.
Neal Whitaker, Kansas Beer Wholesalers Association
Rebecca Rice, Kansas Retail Liquor Dealers Association
Dr. Ramon Powers, Executive Director, Kansas State Historical Society
Nancy Peterson, Intern for Senator Lana Oleen

Chair Sebelius began the Committee meeting with the public hearing for HB 2840.

Jim Conant appeared before the Committee as a proponent for HB 2840, and briefed them on the bill, Attachment #1.

R.E. "Tuck" Duncan appeared before the Committee as a proponent of HB 2840, Attachment #2.

Neal Whitaker testified in favor of HB 2840, Attachment #3.

Rebecca Rice submitted testimony in favor of HB 2840, Attachment #4.

Questions to conferees from Committee members on HB 2840 are as follows:
- Does the change from 5 years to 1 year have any impact on Alcoholic Beverage Control?
- What happens to the gift part of a package including liquor, does the manufacturer keep those or does the wholesaler keep them?
- Is the price of the gifts that are removed from a gift package passed on to the consumer?
Can a wholesaler buy from a manufacturer the liquor without buying in a gift package?

HB 2716
Dr. Ramon Powers appeared as a proponent of HB 2716, Attachment #5.

Nancy Peterson appeared on behalf of Senator Oleen as a proponent of HB 2716, Attachment #6.

Questions to the Conferees from Committee members are as follows:
- Wasn't legislation passed already to allow charging a rental fee at events, and this bill would be the next step?
- This new provision indicates surrounding premises, what is considered "surrounding premises"?

Representative Elizabeth Baker moved to report HB 2716 favorable for passage. Representative Gilbert made a second to the motion, which passed on a voice vote.

Representative Baker made a motion to report HB 2840 favorable for passage. Representative Hamilton made a second to the motion, which passed on a voice vote.

Chair Sebelius adjourned the meeting.
Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

GUEST LIST

DATE 3-3-92

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
Neal Whitaker	Topeka	K BWA
Jim Conant	"	ABC
Kathy Siesler	Topeka	ABC
Robert Engler	"	ABC
Janis ^{Miranda}	Topeka	Observer
Albert D. Lollar	TOPEKA	Ks. Reg. Region Educ. Co.
Peggy Lane	M.H.	
Marcy Peterson	Manhattan	Sen. Olson
Ramon Powers	Topeka	Ks. State Historical Soc.
Jack Duncad	Topeka	KWSWA
John Rittenberg	Topeka	KWSWA
John Peterson	Tyrch	Arthur Busch

STATE OF KANSAS



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Department of Revenue
Division of Alcoholic Beverage Control

TO: Rep. Kathleen Sebelius, Chairperson
House Committee on Federal and State Affairs

FROM: Jim Conant, Chief Administrative Officer
Alcoholic Beverage Control Division

DATE: March 3, 1992

SUBJECT: House Bill 2840

I appreciate the opportunity to appear before the committee today regarding House Bill 2840. The bill addresses two statutes concerning the rights of retail liquor licensees and residency requirements for beer distributors. The ABC Division appears as a proponent based primarily on that portion of the bill which would allow retailers to handle consumer advertising specialties.

K.S.A. 1991 Supp. 41-308 generally prohibits a retail liquor licensee from offering any service or thing of value from the licensed premises other than alcoholic liquor, subject to a limited list of exceptions. Section 1 of the bill would provide for two additional exceptions:

1. Retailers would be allowed to pass along to the consumer items which are packaged with containers of alcoholic liquor by the manufacturer. Example: champagne glass boxed together with a bottle of champagne.
2. Retailers would be allowed to distribute, without charge, consumer advertising specialties which bear advertising matter. The form and distribution of these items would be limited by regulations of the secretary so that they are not conditioned on or and inducement to the purchase of alcoholic liquor. Example: These items are currently defined in an ABC regulation which limits those things a distributor may furnish to its customers as follows: **K.A.R. 14-10-10 (e).** *Consumer advertising specialties, including ash trays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, post cards, and pencils, which bear advertising matter may be furnished, given or sold to a club, drinking establishment or caterer for unconditional distribution by the club, drinking establishment or caterer to the general public. The club, drinking establishment or caterer shall not be paid or credited in any manner, directly or indirectly, for this distribution service.*

The Division has interpreted items such as those described above to be things of value as prohibited by 41-308. In a recent opinion requested by the Division, the Attorney General's office concurred with this interpretation, ruling that under current standards retailers may not offer these items to consumers.

(over)

House Federal & State Affairs
March 3, 1992
Attachment #1

The strict controls placed on goods and services offered by retail liquor stores have been in place since the inception of the Liquor Control Act in 1949. While the exact legislative intent at that time is unclear, it is reasonable to believe that items other than liquor were prohibited to preclude their use as inducements to purchase liquor. As the liquor laws have been modernized in recent years, merchandising and advertising restrictions on most other levels of the industry have been liberalized or completely removed. Clubs, drinking establishments and cereal malt beverage retailers may freely distribute consumer advertising specialties to the public. Where these licensees are concerned, ABC is able to focus enforcement efforts in priority areas such as sales to minors and improved tax collection. The continuing restrictions on retail liquor stores require that ABC devote inspection and investigative time to ensuring compliance with K.S.A. 41-308. In order to maintain statewide consistency, all 750+ retailers in the state are routinely monitored for illegal distribution of advertising specialties such as drink-related recipe cards and baseball schedules. It is the agency's position that the current restrictions found in K.S.A. 41-308 are no longer practical or cost-effective to enforce.

The provisions of the bill dealing with combination packaging and distributor residency requirements have no significant impact on the Division. As such, we find no grounds to adopt a stance as a proponent or opponent on these issues. I thank you again for your attention, and would be happy to answer questions about any aspect of the bill.

HF 2840
3/3/92
1-2

February 26, 1992

To: House Committee on Federal and State Affairs
 From: R.E. "Tuck" Duncan
 RE: House Bill 2840

The Kansas Wine and Spirits Wholesalers Association supports House Bill 2840. This bill makes three modifications to current law.

One modification would allow the sale of "gift packs" to consumers by a licensed Kansas retail liquor dealer. There are, particularly at various holidays, packages available which combine certain non-alcoholic items, such as glassware, with the beverage alcohol container. Kansas consumers may not purchase these packages currently because of the existing "original container" language in the statute. Missouri, Oklahoma, Nebraska and Colorado all permit the sale of these packages. It is our understanding that the Alcoholic Beverage Control does not oppose this modification and that Kansas retailers support this provision.



Gift Pack

Another modification allows the distribution of recipes, sports schedules and other consumer advertising items that originate with suppliers, are provided to retailers at no charge and distributed to consumers at no charge. Distribution of these items occurred for several years without difficulty until the issuance of an Attorney General's opinion last year. It is our understanding that the Alcoholic Beverage Control does not oppose this modification and that Kansas retailers support this provision.

The third modification reduces the residency requirement for persons seeking a beer distributors license. The KWSWA, whose members also possess beer distributors licenses, have no objection to the proposed modification.

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



TESTIMONY
by
NEAL WHITAKER
KANSAS BEER WHOLESALERS ASSOCIATION
MARCH 3, 1992

House Bill 2840 addresses several adjustments that need to be made in the Liquor Control Act. First, as the result of an Attorney General's Opinion this past summer items such as baseball schedules, recipe cards and posters that had been available in licensed liquor retailers' establishments were ruled to be a thing of value and, therefore, no longer allowed to be passed out by retailers. Collectively the industry, retailers, spirits wholesalers and ourselves, are asking the legislature to allow consumer advertising specialties such as these to be distributed to the public without charge. This amendment to the Act is found on Page 1, Line 37 of the bill.

The other item that beer wholesalers are specifically interested in is the matter of residency. K.S.A. 41-311, qualifications for licensure, has been amended 13 times since the original Liquor Control Act was passed in 1949. As times have changed the Legislature has seen the need to amend the qualifications for licensure to address changing business operations. Presently, in order to secure a beer distributors license you not only must have been a United States citizen for at least 10 years but you also must have been a resident of the state for five years immediately preceding the date of application for the beer distributors license. Today, ABC has the ability to do an electronic background check on almost any person in the United States and therefore the need for lengthy residency requirements has been eliminated. In addition, when one decides to sell their business the five year residency requirement becomes a limiting factor for many persons who might wish to invest in a beer distributorship. More than once beer distributors, in an attempt to attract qualified management personnel, have offered as part of a prospective employee's compensation a percentage of ownership in the business. This is a common business practice in other industries. However, in Kansas unless the prospective employee has lived within the state for more than five years, they would not qualify to become a licensed owner. The current law could even keep an owner from passing the business on to his or her children if the children had not been continuous residents. Therefore, we recommend that the residency requirement be reduced to one (1) year as it is stated in **House Bill 2840**.

KBWA also supports the packaging amendment to the bill.

TESTIMONY PRESENTED
TO THE
HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
Re: HB 2840

March 3, 1992

by Rebecca Rice, Legislative Counsel to the
Kansas Retail Liquor Dealers Association

Thank you, Madam Chairman and members of the committee. I appear before you today on behalf of the Kansas Retail Liquor Dealers Association in support of HB 2840.

Retail liquor dealers have been struggling with the ambiguity of current advertising standards pertaining to liquor. The advertising component of HB 2840 provides the clarification that is needed. We support the balance of the proposed statutory amendments as well, although they have a lesser effect on our industry, and, therefore, will not address those amendments.

We would appreciate your support on this legislation.

Thank you, Madam Chairman.

*House Federal & State Affairs
March 3, 1992
attachment #4*

Testimony on H.B. 2716 to the House Federal and State Affairs
Committee, March 3, 1991, 1:30 p.m., Rm 526, Capitol Building

Representative Sebelius and members of the Committee, I am Ramon Powers, Executive Director of the Kansas State Historical Society. I appear before you in support of H.B. 2716, a bill that, if enacted, would allow alcoholic beverages to be served on the premises of any state-owned historic site under the jurisdiction of the Kansas State Historical Society. H.B. 2716 was recommended for introduction by the Joint Committee on Arts and Cultural Resources.

Authority to serve alcoholic beverages at the Kansas Museum of History was provided with the enactment of legislation in the 1990 session. Many special event activities are scheduled each month at the Museum. Alcoholic beverages are served at some special events, however, alcohol is not served at most special events. Although the statutes authorize the Society to draft rules and regulations to implement this provision, we have not found it necessary to draft such regulations.

The amendment in H.B. 2716 will allow the Society to host receptions at which alcohol might be served at a historic site. Or, we might initiate special events use for other groups at a historic site similar to the special events use at the Kansas Museum of History. Initially, special events use would probably be implemented only at one or two sites such as Shawnee Methodist Mission in Fairway or Fort Hays.

*House Federal & State Affairs
March 3, 1992
Attachment #5*

Special events use is one way the Society can draw diverse groups to the Museum and historic sites. Such exposure to the Society and its resources will promote our heritage to many who normally do not visit such facilities. Society receptions at historic sites provide ways to promote Kansas history and seek private support of our activities from groups and corporations.

We ask your support for H.B. 2716.

HF §SA
3/3/92
5-2

STATE OF KANSAS

LANA OLEEN
SENATOR, 22ND DISTRICT
RILEY AND GEARY COUNTIES



TOPEKA

SENATE CHAMBER

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LEGISLATIVE HOTLINE
1-800-432-3924

March 3, 1992

TESTIMONY ON HOUSE BILL 2716

Chairman Sebelius & Members of the Committee:

Thank you for the opportunity to have my intern, Nancy Peterson, appear before you today to express my support of HB 2716.

As a member of the Joint Committee on the Arts and Cultural Resources, I have become more aware of the continued need for dollars to maintain the historical property which belongs to the citizens of our state.

Private sector dollars and the "widening of opportunities" for fund raising activities at state-owned historic sites, would be enhanced by passage of this bill. The State Historical Society would oversee the activity (ies), and their rules and regulations would be in effect. The bill would work well in concert with various friends organizations across the state who help to maintain historic sites.

Thank you for the opportunity to have Ms. Peterson appear. I urge your favorable consideration of HB 2716.

Senator Lana Oleen

House Federal & State Affairs

March 3, 1992

Attachment #6