

Approved: 1-18-95
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Garry Boston at 1:30 p.m. on January 17, 1995 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Mary Galligan, Legislative Research Department
Lynne Holt, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
June Evans, Committee Secretary

Conferees appearing before the committee: Bryan Beaver, Convenience Store Association of Kansas

Others attending: See attached list

The Chairperson announced that one member of the committee was absent on January 12th when introductions were made and would like that member to introduce himself at this time.

Representative Doug Lawrence introduced himself and stated this is his third term in the legislature.

Bryan Beaver, Vice President, Carter Company, and Convenience Store Association of Kansas, requested a committee bill concerning sales of beer and CMB on Sundays from 1 p.m. to 11 p.m. with the exception of Easter Sunday with the option of county commissioners and also allows for the sale of the same products on credit card and allows for sale on Memorial Day, Independence Day, and Labor Day. This legislation passed out of both Houses last year, but was vetoed by the Governor. (See Attachment #1)

Representative Packer moved and Representative Lawrence seconded to accept request as a committee bill. The motion carried.

Mary Ann Torrence, Revisor of Statutes Office, gave a briefing concerning the historical background of the bill and stated it was essentially the same bill that passed the legislature last year and vetoed by Governor Finney. The one difference is the Pizza Hut Provision which allows the county commission to permit Sunday sales in their county if an establishment has more than 30% of sales in food sales. This was not a provision last year, but otherwise it is identical.

Representative Vickrey moved and Representative Gilbert seconded that the minutes of January 12 be approved. The motion carried.

The meeting adjourned at 1:45 p.m.

The next meeting will be January 18, 1995.

BILL NO. _____

By Committee on Federal and State Affairs

AN ACT concerning alcoholic beverages; concerning certain restrictions on retail sales; amending K.S.A. 41-717 and 41-2706 and K.S.A. 1994 Supp. 41-712 and 41-2704 and repealing the existing sections.

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

Section 1. K.S.A. 1994 Supp. 41-712 is hereby amended to read as follows: 41-712. (a) Except as provided by section 5, no person shall sell at retail any alcoholic liquor:

- (1) On Sunday;
- (2) on ~~Memorial---Day,---Independence---Day,---Labor---Day,~~ Thanksgiving Day or Christmas Day; or
- (3) before 9 a.m. or after 11 p.m. on any ~~day-when-the-sale-is-permitted,---except-that~~ other day.

(b) The governing body of any city by ordinance may require closing prior to 11 p.m., but such ordinance shall not require closing prior to 8 p.m.

Sec. 2. K.S.A. 41-717 is hereby amended to read as follows: 41-717. (a) (1) Except as provided by subsection (a)(2), no person shall sell or furnish at retail and no microbrewery or farm winery shall sell to any consumer any alcoholic liquor on credit; on a passbook; on order on a store; in exchange for any goods, wares or merchandise; or in payment for any services rendered. If any person extends credit in violation of this subsection, the debt attempted to be created shall not be recoverable at law.

(2) A licensed retailer may sell alcoholic liquor and nonalcoholic malt beverage to a consumer, a licensed microbrewery may sell domestic beer to a consumer and a licensed farm winery may sell domestic wine to a consumer on credit pursuant to a lender credit card, as defined by K.S.A. 16a-1-301 and amendments

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thereto.

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

Sec. 3. K.S.A. 1994 Supp. 41-2704 is hereby amended to read as follows: 41-2704. (a) In addition to and consistent with the requirements of this act, the board of county commissioners of any county or the governing body of any city may prescribe hours of closing, standards of conduct and rules and regulations concerning the moral, sanitary and health conditions of places licensed pursuant to this act and may establish zones within which no such place may be located.

(b) Except as provided by subsection (g) and section 5, no cereal malt beverages may be sold:

(1) Between the hours of 12 midnight and 6 a.m.; or

(2) on Sunday, except in a place of business which is licensed to sell cereal malt beverage for consumption on the premises, which derives not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises and which is located in a county where such sales on Sunday have been authorized by resolution of the board of county commissioners of the county or in a city where such sales on Sunday have been authorized by ordinance of the governing body of the city.

(c) No private rooms or closed booths shall be operated in a place of business, but this provision shall not apply if the licensed premises are also currently licensed as a club pursuant to the club and drinking establishment act.

(d) Each place of business shall be open to the public and to law enforcement officers at all times during business hours, except that a premises licensed as a club pursuant to the club and drinking establishment act shall be open to law enforcement officers and not to the public.

(e) No licensee shall permit a person under the legal age

for consumption of cereal malt beverage to consume or purchase any cereal malt beverage in or about a place of business, and no licensee shall permit a person under the legal age for consumption of cereal malt beverage to possess cereal malt beverage in or about a place of business, except that a licensee's employee who is not less than 18 years of age may dispense or sell cereal malt beverage, if:

(1) The licensee's place of business is licensed only to sell cereal malt beverage at retail in original and unopened containers and not for consumption on the premises; or

(2) the licensee's place of business is a licensed food service establishment, as defined by K.S.A. 36-501 and amendments thereto, and not less than 50% of the gross receipts from the licensee's place of business is derived from the sale of food for consumption on the premises of the licensed place of business.

(f) No person shall have any alcoholic liquor in such person's possession while in a place of business, unless the premises are currently licensed as a club or drinking establishment pursuant to the club and drinking establishment act.

(g) Cereal malt beverages may be sold on premises which are licensed pursuant to both the acts contained in article 27 of chapter 41 of the Kansas Statutes Annotated and the club and drinking establishment act at any time when alcoholic liquor is allowed by law to be served on the premises.

Sec. 4. K.S.A. 41-2706 is hereby amended to read as follows: 41-2706. (a) Except as provided by subsection (b), no person shall sell or furnish cereal malt beverages at retail to any person on credit; on a passbook; on order on a store; in exchange for any goods, wares or merchandise; or in payment for any services rendered. If any person extends credit for such purpose, the debt attempted to be created shall not be recoverable at law and, in addition, such person shall be subject to the penalties provided in K.S.A. 41-2707 and amendments thereto.

(b) A licensed retailer may sell cereal malt beverages to a

consumer on credit pursuant to a lender credit card, as defined by K.S.A. 16a-1-301 and amendments thereto.

New Sec. 5. (a) Sales of alcoholic liquor by retailers licensed under the Kansas liquor control act and sales of cereal malt beverage by retailers licensed under article 27 of chapter 41 of the Kansas Statutes Annotated shall be permitted on any Sunday, other than Easter Sunday, between the hours of 1 p.m. and 11 p.m. in any county where, in accordance with this section, the board of county commissioners by resolution has permitted such sales or where the qualified voters of the county have voted to permit such sales.

(b) The board of county commissioners of any county, by resolution, may permit sales provided for by subsection (a) within the county. Such resolution shall be published once each week for two consecutive weeks in the official county newspaper and shall take effect 60 days after final publication unless within such time a valid petition is filed requesting submission to the qualified voters of the county of a proposition to permit the sales provided for by subsection (a).

(c) Whether or not a resolution is adopted under subsection (b), a petition may be filed at any time requesting submission to the qualified voters of a county of a proposition to permit sales provided for by subsection (a) within the county.

(d) To be valid, a petition provided for by this section shall be filed with the county election officer of the county and shall be signed by qualified voters of the county equal in number to not less than 5% of the qualified voters of the county who voted for all candidates for the office of secretary of state at the last preceding general election at which such office was elected. The following shall appear at the top of each page of the petition: "We request an election to determine whether sales of alcoholic beverages shall be permitted on Sundays in _____ county."

(e) Upon the filing of a valid petition under this section, the county election officer shall cause the following proposition

to be placed on the ballot at the next countywide election which occurs more than 60 days after the petition is filed with the county election officer: "Shall the sale of alcoholic beverages be permitted on Sundays in _____ county?"

(f) If a majority of the votes cast and counted at an election under this section is in favor of the proposition, sales of alcoholic beverages provided for in subsection (a) shall be permitted in the county.

(g) The election provided for by this section shall be conducted, and the votes counted and canvassed, in the manner provided by law for question submitted elections of the county.

Sec. 6. K.S.A. 41-717 and 41-2706 and K.S.A. 1994 Supp. 41-712 and 41-2704 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.