

Approved: February 2, 1995
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 24, 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:

Others attending: See attached list

The Chairperson announced that minutes would be approved on Thursdays.

The Chairperson announced there would be a joint Senate/House meeting on Tuesday, January 31 at 12 Noon in Room 313-S on SB 78 and SCR 1602.

Dave Schneider, Kansans For Life At Its Best, distributed testimony opposing **HB 2105** which stated this would translate into increased consumption on Sundays and there is real concern about the young people consuming more alcohol as the optimum time for teen drinking is the weekend. (See Attachment #1)

At the January 19th meeting it was requested how many employees the Costal Corporation and Convenience Total Petroleum, Inc., have and that information was provided by Whitney Damron. (See Attachment #2)

Mary Ann Torrence, Assistant Revisor of Statutes, gave a briefing on the Tenth Amendment to the United States Constitution. (See Attachment #3)

The Chairperson asked the members if they wanted to take any action on **HB 2105**.

Representative Cox moved and Representative Ruff seconded that on Page 3, line 20 "11 p.m." be amended to "8 p.m." The motion carried.

Representative Adkins moved and Representative Nichols seconded that on Page 3, lines 41, 42 and 43 after the word "Petition" be amended and on Page 4, lines 4-6, be amended to read: "Shall the sale of alcoholic liquor and cereal malt beverages by the unopened package, for consumption, at retail be permitted on Sundays in _____ county? The motion carried.

Representative Nichols moved and Representative Lloyd seconded to amend **HB 2105** to conform the election provisions to those for liquor by the drink. Change New Sec. 5 (a) Sales of alcoholic liquor in the original unopened package, for consumption off the licensed premises, by retailers licensed under the Kansas liquor control act and sales of cereal malt beverage in the original unopened package, for consumption off the licensed premises, 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 8 p.m. in any county where, in accordance with this section the qualified voters of the county have voted to permit such sales. Strike paragraphs (b), (c), (d), (e), and (f), and replace with (b) The Board of county commissioners may, by resolution, or shall, upon a petition filed in accordance with subsection (c), submit to the qualified electors of the county at any state general election a proposition to: (1) Prohibit sales provided for by subsection (a); or (2) permit sales provided for by subsection (a). (c) A petition to submit a proposition to the qualified voters of a county pursuant to this section shall be filed with the county election officer. The petition shall be signed by qualified electors of the county equal in number to not less than 10% of the electors of the county who voted for the office of secretary of state at the last preceding general election at which such office was elected.

The appropriate version of the following shall appear on the petition: "We request an election to determine whether Sunday sales of alcoholic liquor and cereal malt beverage by the unopened package at retail shall be (prohibited) (allowed) in _____ county." (d) Upon the adoption of a resolution or the submission of a valid petition calling for an election pursuant to this section, the county election officer shall cause the appropriate version of the following proposition to be placed on the ballot at the next succeeding state general election held more than 90 days after the resolution is adopted or the petition is filed with the county election officer "Shall Sunday sales of alcoholic liquor and cereal malt beverage by the unopened package at retail be (prohibited) (allowed) in _____ county?" (e) If a majority of the votes cast and counted at an election under this section is against sales provided for by subsection (a), such sales shall be prohibited in the county. If a majority of the votes cast and counted at such election is in favor of sales provided for by subsection (a), such sales shall be permitted in the county. The county election officer shall transmit a copy of the election results to the director. Change (g) to (f) and add new (g) "As used in this section, terms have the meanings provided by K.S.A. 41-102 and amendments thereto."

There was discussion as to whether the public should have the opportunity to vote to have Sunday sales of alcohol and CMB or should the County Commissioners make the decision. Some members felt this was important to the retailers now rather than waiting until the next general election when it could be voted on. Some members felt this issue was much too important to consider the time frame of when the law would take effect. Some members felt there were more important issues that were enacted by the legislature without the voters voting. The dry counties will probably remain dry and those counties wet at this time, particularly the border counties, will enact this option. This does not speak to whether alcohol sales will or will not exist but talking about an additional day that sales will be available.

Representative Packer stated he represented his constituents and this is a major matter that should be placed on the ballot.

Representative Ballou stated he supported Representative Nichols' motion as the people do have the right to vote on alcohol and CMB being sold on Sunday.

The Chairperson called for a vote on Representative Nichols motion to amend and the Chair was in doubt. A Division was called for: 10 yeas and 9 nays. The motion carried.

Representative Cox moved and Representative Ruff seconded that **HB 2105** be moved out favorably as amended. A Division was called for: 13 yeas and 5 nays. The motion carried.

Representatives Lloyd, Ballou, Samuelson, Gilbert and Swenson asked to be recorded as voting No.

The meeting adjourned at 2:50 p.m. and the next meeting will be January 25.

HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE GUEST LIST

DATE: January 24, 1995

NAME	REPRESENTING
Chuck Nicolay	Ks Oil Marketers & Conv. Store Assn
Sharon & Shawn	Ray Cox
Cindy Kelly	KASB
Frances Kastner	Ks Food Dealers Assn
John (D) WEBB	(D) WEBB LIQUOR
Sandra Dowell	Dowell LIQUOR - KRLDA
Patricia Oppitz	KRLDA
Whitney Samson	Pete McMill & Associates
STEVE KEARNEY	KOMA / CSAK
Rebecca Rin	KRLDA
Don Harling	KRLDA
Jimmy Unruh	Overland Park Chamber of Commerce
Dave Schneider	KFWAIB
BOB ADERSON	Casey's GENERAL STORES
Truck DUDAK	KWSWA
Neal Whitaker	Ks Beer Wholesalers Assn.
Steve Montgomery	Casey's General Stores
Kurt J. Bossert	Bossert Liquor Store
Kathy J. Heron	Dept. of Revenue
Dan Stewart	Texaco Inc.

MEMORANDUM

To: House Federal and State Affairs Committee
From: Dave Schneider, Kansans For Life At Its Best
Re: HB 2501
Date: January 24, 1995

Please forgive me for not being present to testify on HB 2501 this past week. I was relying on the date printed in the House Calendar and was not aware of the change in plans until after the committee held its hearing. If it's not too late, I'd like to offer a summary of our opposition to the bill.

We assume that this bill is being promoted because the liquor folks figure they can sell a lot of alcohol on Sunday. And we think they are right. Those sales, of course, will translate into increased consumption on Sundays. If there are more folks drinking on Sundays, there will be more folks drinking and driving on Sundays. And since so many folks are on the road on Sundays returning from visiting friends and families or trips out to the lakes, we can figure that more of those trips will end in tragedy. Because weekend travel knows no county boundaries, this is truly a state-wide issue, not a county option one.

It's also an issue which concerns the young people of our state. I doubt there would be much argument against the proposition that alcohol consumption was one of the major problems plaguing our youth. In fact, the Kansas City Star, on January 17th of this year, published the results of a questionnaire they had printed last fall in their TeenStar section. It revealed that "drinking remains one of the most prevalent issues in teen life. A majority, almost 51 percent, of the 929 teens who filled out the questionnaire ranked drinking ahead of violence as a pressing problem among teens."

The results also show:

"The optimum time for teen drinking is the weekend, according to respondents. In all, nearly 63 percent said they confined their imbibing to weekends."

If teenagers are drinking mainly on the weekends, why make it even more available to them?

It also sure doesn't fit with what we are trying to do in the area of juvenile crime. A memo was submitted on June 14, 1994 by legislative research to the Legislative Coordinating Council which stated, "Drugs and alcohol are implicated in three-fourths of homicides, suicides, assaults, and child molestations." And if you've read much of the literature on gangs, you'll know the role alcohol plays in their often-violent behavior.


We would also urge you to keep the controls on credit card sales. We question whether it is wise public policy to allow a highly addictive and highly destructive drug to be sold on credit.

Finally, wouldn't it be possible to think about this in a new way? Instead of seeing these controls on alcohol as excess baggage from the past, why not instead see them as a leftover blessing?

F&SA
1-24-95
Atch #1

MEMORANDUM

TO: The Honorable Garry Boston
Chairman
House Federal and State Affairs Committee
Room 156 - East
State Capitol Building
Topeka, Kansas 66612

FROM: Whitney Damron 

RE: HB 2105 Sunday, Selected Holiday and Credit Card Sales of Beer
and Alcoholic Beverages

DATE: January 23, 1995

At hearings on HB 2105 before the House Federal and State Affairs Committee on Thursday, January 19 1995, we appeared on behalf of The Coastal Corporation and Total Petroleum in support of the bill. At that time we did not have Kansas statistical information on these two companies for the Committee. However, since that time we have been able to obtain these facts for your information:

The Coastal Corporation

Kansas Operations: 111 Coastal Mart Convenience Stores
2,541 Employees
Gross Payroll: \$9,274,288

Source: Coastal Mart/1994

Total Petroleum, Inc.

Kansas Operations: See Attached.

Source: Total Petroleum, Inc./1994

FUSA
1-24-95
Atch #2

The Honorable Garry Boston
Page Two

On behalf of The Coastal Corporation and Total Petroleum, we thank you and your Committee for your consideration of HB 2105 and ask for your support.

Please feel free to contact our office if you have any questions over this information.

WBD:jd

Enclosures

CC: Members and Staff of the House Federal & State Affairs Committee

2-2

STATISTICS FOR THE STATE OF KANSAS

Total Number of Employees in Kansas 720 (May '94) 422 (May '93) 426 (May '92)

Corporate Office Total Tower
900 19th Street
Denver, Colorado 80202
(303) 291-2000

Crude Oil, Processed Barrels per day: 56,000

Refinery Location Arkansas City Refinery
1400 South M Street
Arkansas City, Kansas 67005
(316) 442-5100
219 employees (May '94)
(46 managers, 178 FT/hourly union, 2 PT)

Refining Capacity 1 of 7 refineries, 17% of barrel per day capacity.

Crude Oil Transportation & Product Supply Distribution Offices: Kansas/Oklahoma Division
1400 South M Street
Arkansas City, Kansas 67005
(316) 442-5100 Ext. 5695

Rocky Mountain Retail Division 5590 Havana Street
Denver, Colorado 80239
(303) 373-6000

Retail Outlets 62 Company-Owned *
237 Jobber-operated stores

Branded Market Share 9.5% Branded under Total or Apco

Kansas Tax Information:

Franchise/Income	\$2,500
Petroleum Excise	\$11,400,864
Arkansas City Property	\$550,602
Other Property	\$381,571
1993 State & Local Taxes:	\$1,223,912 (State)

1993 Federal Taxes:

Income/Franchise	\$5,900,000
Petroleum Excise	\$333,319,141

* 97 in Kansas Region (62 in State of Kansas, 35 in Missouri)



Total Petroleum, inc.

Environment, Safety & Public Affairs Department

Total Tower
900 19th Street
Denver, Colorado 80202

2-3

Office of Revisor of Statutes

300 S.W. 10th Avenue
Suite 322, Statehouse
Topeka, Kansas 66612-1592
Telephone (913) 296-2321 FAX (913) 296-6668

MEMORANDUM

To: House Committee on Federal and State Affairs
From: Mary Torrence, Assistant Revisor of Statutes
Date: January 24, 1995
Subject: Tenth Amendment to the United States Constitution

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

---Tenth Amendment, U.S. Constitution

The underlying theory of American government is that the people are the source of governmental power. Within the sphere of all governmental power, the federal government possesses only that power granted to it by the people through the United States Constitution. All other power remains with the states or the people.

Federal Powers

To determine whether a power is delegated to the federal government, one must first look to the provisions of the Constitution for those specific powers enumerated as belonging to the federal government. For instance, the Constitution specifically delegates to Congress authority over bankruptcy, foreign and international affairs, interstate and international commerce, copyrights and patents, national defense, naturalization, counterfeiting and postal service. However, the courts have held that the Constitution also grants to the federal

F&SA
1-24-95
Atch #3

government all powers not specifically expressed but necessary to exercise express powers and all powers necessary to function as a sovereign. These additional "resulting", "inherent" or "implied" powers have often been interpreted broadly by the courts.

State Powers

Contrasting to the delegation of powers to the federal government, the U.S. Constitution imposes specific limitations on the powers of states. Among those powers limited or prohibited are the power to enter treaties, issue money, adopt ex post facto laws, enact laws impairing contracts, impose tariffs, engage in war, deny privileges and immunities to citizens of other states, establish qualifications of U.S. senators and representatives, deny due process or equal protection to any person or deny persons the right to vote. In the exercise of all powers, the states are subject to the constitutional protections afforded individual rights. In addition, the grant of specific powers to the federal government in some instances has been interpreted as prohibiting the states from exercising power in that area.

Conflicts

One of the areas where there is great potential for state-federal conflict over governmental power is interstate commerce. The courts have held that the federal government has very broad exclusive powers under the commerce clause of the U.S. Constitution, construing local governments to be in interstate commerce, for instance. Many cases that rely on the federal power to regulate interstate commerce become high profile because of the sensitivity of the issues involved, most recently solid waste and radioactive waste.

At times the question of conflicting powers arises from what is referred to as "federal mandates". These mandates often take the form of conditioning federal financial assistance on the a state's adoption and enforcement of certain standards or prohibitions. This approach has been upheld by the U.S. Supreme Court on the theory that a state has the option to forego the

federal assistance. In other cases where the Court has found that federal mandates merely offer the state a choice of unconstitutional alternatives the court has struck down the law, for example a law requiring states to either take ownership of radioactive waste generated in the state or assume all the generator's liability. In addition, the Court has indicated that, even in cases involving the constitutional alternative of rejecting federal assistance, at some point the amount involved might be such that the state would effectively be coerced into compliance, in violation of the 10th amendment.