

Approved: 3-28-95
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Garry Boston at 10:30 a.m. on March 17, 1995 in Room 527-S of the Capitol.

All members were present except: Representative David Adkins, Absent
Representative Don Smith, Absent

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

SB 27 - Repeal of statute abolishing state lottery in 1996

The Chairperson stated that this time of year there would be some alterations in the schedule and that is expected this time of year. Yesterday it was announced that **SB 27** would be worked on Monday, but after having two meetings yesterday with the Governor, the last one at 4:00 p.m., he expressed his desire to move **SB 27** forward as quickly as possible. I invited the Governor to be with us this morning, but he was unable to do that; however, he did send some testimony and will read that then will distribute copies.
(See Attachment #1)

Representative Nichols moved and Representative Ballou seconded to move **SB 27** out favorably in the form it moved out March 15 with the sunset provision.

Representative Packer moved and Representative Spangler seconded a substitute motion to remove the sunset provision in **SB 27**. A Division was called for: Yeas 10 and Nays 9. The motion carried. The sunset was removed.

There was discussion regarding the sunset provision; some feeling the Lottery needs reviewing and it would be best to review in an Interim Committee when passed.

Representative Franklin felt it wise to look at every 5 years.

Representative Lloyd moved and Representative Ballou seconded to move **SB 27** out unfavorably. The motion failed.

Representative Lawrence moved and Representative Cox seconded a substitute motion to move **SB 27** out without recommendation. A Division was called for: Yeas 12 and Nays 7. The motion carried.

The Chairperson stated the bill was moved out without recommendation in the original form without a sunset.

Representative Packer moved to pass **HB 2541** out favorably.

HB 2544 - Cigarettes and Tobacco Products; Regulation and Taxation

The Chairperson stated the motion was not in order and are working **HB 2544**.

Representative Standifer moved and Representative Lawrence seconded an amendment to **HB 2544** on page 10, after line 39. The motion carried. (See Attachment #2)

Representative Lawrence moved to amend **HB 2544** and add to Representative Standifer's Amendment "is under the direct and continuous supervision of agents or employees of the proprietor of the establishment". A

Division was called: Yeas 7 and Nays 12. The motion failed. (See Attachment #3)

Representative Lawrence moved and Representative Standifer seconded to amend on page 14, after line 34 "New Section 16". (See Attachment #4)

It was questioned if (a) & (b) could be divided?

There was a vote on portion (b), "No person shall engage or direct a minor to violate any provision of this act for purposes of determining compliance with provisions of this act unless such person is an officer having authority to enforce the provisions of this act and has procured the written consent of a parent or guardian of the minor to so engage or direct the minor." The motion carried.

There was a vote on portion (a), "Unannounced inspections of dealer establishments or vending machine locations for purposes of determining compliance with the provisions of this act shall be conducted only by officers having authority to enforce the provisions of this act." The motion failed.

Representative Samuelson moved and Representative Gilbert seconded to amend **HB 2544**. (See Attachment #5) The motion carried.

Representative Samuelson moved and Representative Standifer seconded to move **HB 2544** out as amended. The motion carried.

HB 2541 - State Preemption and Standardisation of firearms regulation

Representative Swenson moved and Representative Nichols seconded to amend **HB 2541** on line 27 and insert "and or criminal" between civil and penalty. The motion carried.

Representative Packer moved and Representative Cox seconded to move **HB 2541** out of committee as amended. The motion carried.

Representatives Standifer, Gilbert and Aldritt wished to be recorded as voting NO on **HB 2541**.

A copy of the Enforcement Bureau Policy by the Department of Revenue, Division of Alcoholic Beverage Control, was distributed for information. (See Attachment #6)

The meeting adjourned at 12:00 noon and the next meeting will be March 20.

TESTIMONY
of GOVERNOR BILL GRAVES
provided to
THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

MARCH 17, 1995

Mr. Chairman and Members of the Committee,

Thank you for the opportunity to provide this statement in support of the Kansas Lottery.

Last fiscal year, the lottery generated for the state nearly 50 million dollars in revenue. Most of that money was used to enhance job creation through economic development in both rural and urban parts of the state. These additional jobs broaden the state's tax base, which in turn, allows us to provide more tax relief.

Budget responsibility means not taking unneeded risks with state revenues now, or several years from now under a sunset provision. At a time when the people of Kansas are asking for lower taxes and controlled spending, we should not throw away much needed revenue for the state ... revenue invested in Kansas to make this state a better place to live.

I urge you to move forward and give the full House an opportunity to debate and vote on this issue, since uncertainty about the future of the lottery and of revenue for existing programs creates difficulty in making important tax reduction decisions.

I appreciate the fine work of this committee, and I urge you to act on this bill as quickly as possible.

*F & SA
3-17-95
Atch #1*

Subs

Proposed Amendment to House Bill No. 2544

Reinsert provisions providing for licensure and regulation of vending machines and on page 10, after line 39, by inserting:

"(s) To sell cigarettes or tobacco products by means of a vending machine in any establishment, or portion of an establishment, which is open to minors, except that this subsection shall not apply to:

(1) The installation and use by the proprietor of the establishment, or by the proprietor's agents or employees, of vending machines behind a counter, or in some place in such establishment, or portion thereof, to which minors are prohibited by law from having access;

(2) the installation and use of a vending machine in a commercial building or industrial plant, or portions thereof, where the public is not customarily admitted and where machines are intended for the sole use of adult employees employed in the building or plant; or

(3) a vending machine which has a lock-out device which is inoperable in the continuous standby mode and which requires manual activation by the person supervising the operation of the machine each time cigarettes or tobacco products are purchased from the machine."

*F & SA
3-17-95
Atch #2*

Proposed Amendment to House Bill No. 2544

Reinsert all provisions providing for licensure and regulation of vending machines and on page 10, after line 39, by inserting:

"(s) To sell cigarettes or tobacco products by means of a vending machine in any establishment, or any portion of an establishment, which is open to minors, unless the vending machine:

(1) Is in a location where only agents or employees of the proprietor of the establishment have access to operate the machine;

(2) has a lock-out device which is inoperable in the continuous standby mode and which requires manual activation by the person supervising the operation of the machine each time cigarettes or tobacco products are purchased from the machine; or

(3) is under the direct and continuous supervision of agents or employees of the proprietor of the establishment."

Proposed Amendment to House Bill No. 2544

On page 14, after line 34, by inserting:

"New Sec. 16. (a) Unannounced inspections of dealer establishments or vending machine locations for purposes of determining compliance with the provisions of this act shall be conducted only by officers having authority to enforce the provisions of this act.

(b) No person shall engage or direct a minor to violate any provision of this act for purposes of determining compliance with provisions of this act unless such person is an officer having authority to enforce the provisions of this act and has procured the written consent of a parent or guardian of the minor to so engage or direct the minor.";

By renumbering the remaining sections accordingly

HOUSE BILL No. 2544

By Committee on Federal and State Affairs

2-21

Amulson
F & SA
3-17-95
Atch #5

9 AN ACT concerning cigarettes and tobacco products; relating to regula-
10 tion and taxation thereof; prohibiting certain acts and providing pena-
11 lties for violations; amending K.S.A. 79-3301, 79-3302, 79-3303, 79-
12 3304, 79-3309, 79-3316, 79-3321, 79-3322, 79-3323, 79-3326, 79-3373,
13 79-3377 and 79-3387 and repealing the existing sections; also repealing
14 K.S.A. 79-3305, 79-3310b, 79-3318, 79-3370, 79-3372, 79-3376, 79-
15 3380 through 79-3386 and 79-3390.

and K.S.A. 1994 Supp. 38-1502

16
17 *Be it enacted by the Legislature of the State of Kansas:*

18 Section 1. K.S.A. 79-3301 is hereby amended to read as follows: 79-
19 3301. ~~The following words, terms and phrases~~ As used in this act, ~~are~~
20 hereby defined as follows:

21 (a) "Carrier" means one who transports cigarettes from a manufac-
22 turer to a wholesale dealer or from one wholesale dealer to another.

23 (b) "Carton" means the container used by the manufacturer of ciga-
24 rettes in which no more than 10 packages of cigarettes are placed prior
25 to shipment from such manufacturer.

26 (c) "Cigarettes," "Cigarette" means any roll for smoking, made
27 wholly or in part of tobacco, irrespective of size or shape, and irrespective
28 of tobacco being flavored, adulterated or mixed with any other ingredient
29 if the wrapper is in greater part made of any material except tobacco;

30 (b) "Person" means any individual, partnership, society, association,
31 joint stock company, corporation, estate, receiver, trustee, assignee, ref-
32 erree or any other person acting in a fiduciary or representative capacity
33 whether appointed by a court or otherwise and any combination of in-
34 dividuals;

35 (e) (d) "Consumer" means that the person purchasing or receiving
36 cigarettes or tobacco products for final use;

37 (d) (e) "Dealer" means every person, firm, corporation, or association
38 of persons who shall sell any person who engages in the sale or manufac-
39 ture of cigarettes in the state of Kansas, and who is required to be licensed
40 under the provisions of this act;

41 (e) "Wholesale dealer" means those persons who sell cigarettes to
other wholesale dealers, retail dealers, vending machine operators and
manufacturers' salesmen for the purpose of resale in the state of Kansas;

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1 be kept and preserved.

2 (h) To wholesale cigarettes to any person, other than a manufacturer's
3 ~~salesman~~ salesperson, retail dealer or wholesaler who is:

4 (1) Duly licensed by the state where such manufacturer's salesperson,
5 retail dealer or wholesaler is located, or

6 (2) exempt from state licensing under applicable state or federal laws
7 or court decisions including any such person operating as a retail dealer
8 upon land allotted to or held in trust for an Indian tribe recognized by
9 the United States bureau of Indian affairs.

10 (i) To have in possession any evidence of tax indicia provided for
11 herein not purchased from the director.

12 (j) To fail or refuse to permit the director or any officer or agent
13 authorized by law to inspect a carrier transporting cigarettes.

14 (k) To vend small cigars, or any products so wrapped as to be con-
15 fused with cigarettes, from a machine vending cigarettes, nor shall a vend-
16 ing machine be so built to vend cigars or products that may be confused
17 with cigarettes, be attached to a cigarette vending machine.

18 (l) To sell, furnish or distribute cigarettes or tobacco products to any
19 person under 18 years of age.

20 (m) ~~For any person who is under 18 years of age to purchase or~~
21 ~~possess, or attempt to purchase or possess,~~ cigarettes or tobacco products.

attempt to purchase cigarettes or tobacco products;

22 ~~(n) To sell cigarettes to a retailer or at retail that do not bear Kansas~~
23 ~~tax indicia or upon which the Kansas cigarette tax has not been paid.~~

(n) Who is under 18 years of age to possess or attempt to possess

24 ~~(o) To sell cigarettes without having a license for such sale as provided~~
25 ~~herein.~~

(o)

26 ~~(p) To sell cigarette vending machines without having a license as~~
27 ~~provided herein for sale of vending machines cigarettes or tobacco prod-~~
28 ~~ucts from a vending machine.~~

(p)

29 ~~(q) Who is a retail dealer to fail to post and maintain in a conspicuous~~
30 ~~place in the dealer's establishment the following notice: "By law, cigarettes~~
31 ~~and tobacco products may be sold only to persons 18 years of age and~~
32 ~~older."~~

(q)

33 ~~(r) To distribute samples within 500 feet of any school when such~~
34 ~~facility is being used primarily by persons under 18 years of age unless~~
35 ~~the sampling is: (1) In an area to which persons under 18 years of age~~
36 ~~are denied access; (2) in or at a retail location where cigarettes and to-~~
37 ~~bacco products are the primary commodity offered for sale at retail; or~~
38 ~~(3) at or adjacent to an outdoor production, repair or construction site or~~
39 ~~facility.~~

(r)

40 Sec. 8. K.S.A. 79-3322 is hereby amended to read as follows: 79-
3322. (a) Any person who violates any of the provisions of this act, except
as otherwise provided in this act, shall be guilty of a misdemeanor and
upon conviction shall be punished by a fine of not more than \$1,000 or

(s)

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1 imprisonment for not more than one year, or by both. In addition thereto
2 any person found liable for any license or permit fee or tax imposed under
3 the provisions of this act shall be personally liable for such license or
4 permit fee or tax plus a penalty in an amount equal to 100% thereof.

5 (b) Any person who violates this act by selling, furnishing or distrib-
6 uting sample cigarettes or sample smokeless tobacco cigarettes or tobacco
7 products to any person under 18 years of age shall be guilty of a misde-
8 meanor and upon conviction shall be punished by a fine of not less than
9 \$500 nor more than \$2,500 or imprisonment for not more than one year,
10 or by both.

11 It shall be a defense to a prosecution under this subsection if: (1) The
12 defendant is a licensed retail dealer or a person authorized by law to
13 distribute samples; (2) the defendant sold, furnished or distributed the
14 cigarettes or tobacco products to the person under 18 years of age with
15 reasonable cause to believe the person was of legal age to purchase or
16 receive cigarettes or tobacco products; and (3) to purchase or receive the
17 cigarettes or tobacco products, the person under 18 years of age exhibited
18 to the defendant a driver's license, Kansas nondriver's identification card
19 or other official or apparently official document containing a photograph
20 of the person and purporting to establish that the person was of legal age
21 to purchase or receive cigarettes or tobacco products.

22 (c) Any agent, employees or others who aid, abet or otherwise partic-
23 ipate in any way in the violation of this act or in any of the offenses
24 hereunder punishable shall be guilty and punished as principals to the
25 same extent as any person violating the this act.

26 Sec. 9. K.S.A. 79-3323 is hereby amended to read as follows: 79-
27 3323. (a) The following are declared to be common nuisances and con-
28 traband:

29 (1) All packages of cigarettes, in quantities of ~~twenty (20)~~ 20 packages
30 or more, not bearing indicia of tax payment as required in this act and all
31 devices for vending cigarettes in which unstamped packages are found;
32 and;

33 (2) ~~all property and paraphernalia, other than vehicles, used in the~~
34 ~~retail sale of such unstamped packages, other than vehicles, are hereby~~
35 ~~declared to be common nuisances and contraband unstamped packages~~
36 ~~of cigarettes; and~~

37 ~~(3) all vending machines used to dispense cigarettes or tobacco prod-~~
38 ~~ucts.~~

39 Cigarettes in vending machines and exposed to view not showing in-
40 dicia of tax payment required by this act to be visible from the outside of
41 the vending machine shall be presumed to be unstamped.

42 (b) Any cigarettes or property constituting a common nuisance and
43 contraband as herein provided by this section may be seized by the di-

A person who violates subsection (n) of K.S.A. 79-3221 and amendments
thereto shall not be subject to punishment by fine or imprisonment.
(d)

all cigarettes or tobacco products in the possession of a minor;
(3)

(4)

4
5

1 state treasurer and by him or her credited remitted daily to the state
2 treasurer, who shall deposit the entire amount in the state treasury and
3 credit it to the state general fund.

4 (b) All moneys received from license fees imposed by this act shall be
5 collected by the director and shall be remitted daily to the state treasurer
6 who shall deposit the entire amount in the state treasury and credit it to
7 the cigarette and tobacco products regulation fund created by section 14.

8 New Sec. 14. (a) In addition to or in lieu of any other civil or criminal
9 penalty provided by law, the secretary of revenue or the secretary's des-
10 ignee, upon a finding that a licensee under this act has violated any pro-
11 vision of this act or any provision of any rule and regulation of the sec-
12 retary of revenue adopted pursuant to this act shall impose on such
13 licensee a civil fine not exceeding \$1,000 for each violation.

14 (b) No fine shall be imposed pursuant to this section except upon the
15 written order of the secretary of revenue or the secretary's designee to
16 the licensee who committed the violation. Such order shall state the vi-
17 olation, the fine to be imposed and the right of the licensee to appeal the
18 order. Such order shall be subject to appeal and review in the manner
19 provided by the Kansas administrative procedure act.

20 (c) Any fine collected pursuant to this section shall be paid to the
21 state treasurer, who shall deposit the entire amount in the state treasury
22 and credit it to the cigarette and tobacco products regulation fund.

23 (d) There is hereby created, in the state treasury, the cigarette and
24 tobacco products regulation fund. Moneys in the fund shall be expended
25 only for the enforcement of this act and rules and regulations adopted
26 pursuant to this act. Such expenditures shall be made in accordance with
27 appropriation acts upon warrants of the director of accounts and reports
28 issued pursuant to vouchers approved by the secretary of revenue or a
29 person designated by the secretary.

30 New Sec. 15. The provisions of K.S.A. 79-3610, 79-3611, 79-3612,
31 79-3613, 79-3614, 79-3615 and 79-3617, and amendments thereto, relat-
32 ing to the assessment, collection, appeal and administration of the retail-
33 ers' sales tax, insofar as practical, shall have full force and effect with
34 respect to taxes imposed by this act.

35 Sec. 16. K.S.A. 79-3301, 79-3302, 79-3303, 79-3304, 79-3305, 79-
36 3309, 79-3310b, 79-3316, 79-3318, 79-3321, 79-3322, 79-3323, 79-3326,
37 79-3370, 79-3372, 79-3373, 79-3376, 79-3377, 79-3380 through 79-3387
38 and 79-3390 are hereby repealed.

39 Sec. 17. This act shall take effect and be in force from and after its
40 publication in the statute book.

Insert section 16, attached, and renumber remaining sections accordingly

and K.S.A. 1994 Supp. 38-1502

Sec. 16. K.S.A. 1994 Supp. 38-1502 is hereby amended to read as follows: 38-1502. As used in this code, unless the context otherwise indicates:

(a) "Child in need of care" means a person less than 18 years of age who:

(1) Is without adequate parental care, control or subsistence and the condition is not due solely to the lack of financial means of the child's parents or other custodian;

(2) is without the care or control necessary for the child's physical, mental or emotional health;

(3) has been physically, mentally or emotionally abused or neglected or sexually abused;

(4) has been placed for care or adoption in violation of law;

(5) has been abandoned or does not have a known living parent;

(6) is not attending school as required by K.S.A. 72-977 or 72-1111, and amendments thereto;

(7) except in the case of a violation of K.S.A. 41-727 or subsection (j) of K.S.A. 74-8810 or subsection (n) of K.S.A. 79-3322, and amendments thereto, or, except as provided in subsection (a)(12) of K.S.A. 1994 Supp. 21-4204a and amendments thereto, does an act which, when committed by a person under 18 years of age, is prohibited by state law, city ordinance or county resolution but which is not prohibited when done by an adult;

(8) while less than 10 years of age, commits any act which if done by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 21-3105 and amendments thereto;

(9) is willfully and voluntarily absent from the child's home without the consent of the child's parent or other custodian;

(10) is willfully and voluntarily absent at least a second time from a court ordered or designated placement, or a placement

pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility, without the consent of the person in charge of such facility or such person's designee;

(11) has been residing in the same residence with a sibling or another person under 18 years of age, who has been physically, mentally or emotionally abused or neglected, or sexually abused; or

(12) while less than 10 years of age commits the offense defined in K.S.A. 1994 Supp. 21-4204a and amendments thereto.

(b) "Physical, mental or emotional abuse or neglect" means the infliction of physical, mental or emotional injury or the causing of a deterioration of a child and may include, but shall not be limited to, failing to maintain reasonable care and treatment, negligent treatment or maltreatment or exploiting a child to the extent that the child's health or emotional well-being is endangered. A parent legitimately practicing religious beliefs who does not provide specified medical treatment for a child because of religious beliefs shall not for that reason be considered a negligent parent; however, this exception shall not preclude a court from entering an order pursuant to subsection (a)(2) of K.S.A. 38-1513 and amendments thereto.

(c) "Sexual abuse" means any act committed with a child which is described in article 35, chapter 21 of the Kansas Statutes Annotated and those acts described in K.S.A. 21-3602 or 21-3603, and amendments thereto, regardless of the age of the child.

(d) "Parent," when used in relation to a child or children, includes a guardian, conservator and every person who is by law liable to maintain, care for or support the child.

(e) "Interested party" means the state, the petitioner, the child, any parent and any person found to be an interested party pursuant to K.S.A. 38-1541 and amendments thereto.

(f) "Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that

luty extends to all crimes or is limited to specific crimes.

(g) "Youth residential facility" means any home, foster home or structure which provides 24-hour-a-day care for children and which is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated.

(h) "Shelter facility" means any public or private facility or home other than a juvenile detention facility that may be used in accordance with this code for the purpose of providing either temporary placement for the care of children in need of care prior to the issuance of a dispositional order or longer term care under a dispositional order.

(i) "Juvenile detention facility" means any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders which must not be a jail.

(j) "Adult correction facility" means any public or private facility, secure or nonsecure, which is used for the lawful custody of accused or convicted adult criminal offenders.

(k) "Secure facility" means a facility which is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences or physical restraint in order to control behavior of its residents. No secure facility shall be in a city or county jail.

(l) "Ward of the court" means a child over whom the court has acquired jurisdiction by the filing of a petition pursuant to this code and who continues subject to that jurisdiction until the petition is dismissed or the child is discharged as provided in K.S.A. 38-1503 and amendments thereto.

(m) "Custody," whether temporary, protective or legal, means the status created by court order or statute which vests in a custodian, whether an individual or an agency, the right to physical possession of the child and the right to determine placement of the child, subject to restrictions placed by the court.

(n) "Placement" means the designation by the individual or

agency having custody of where and with whom the child will live.

(o) "Secretary" means the secretary of social and rehabilitation services.

(p) "Relative" means a person related by blood, marriage or adoption but, when referring to a relative of a child's parent, does not include the child's other parent.

(q) "Court-appointed special advocate" means a responsible adult other than an attorney guardian ad litem who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 38-1505a and amendments thereto, in a proceeding pursuant to this code.

(r) "Multidisciplinary team" means a group of persons, appointed by the court or by the state department of social and rehabilitation services under K.S.A. 38-1523a and amendments thereto, which has knowledge of the circumstances of a child in need of care.

(s) "Jail" means:

(1) An adult jail or lockup; or

(2) a facility in the same building or on the same grounds as an adult jail or lockup, unless the facility meets all applicable standards and licensure requirements under law and there is (A) total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

(t) "Kinship care" means the placement of a child in the home of the child's relative or in the home of another adult with whom the child or the child's parent already has a close emotional attachment.

**DEPARTMENT OF REVENUE
DIVISION OF ALCOHOLIC BEVERAGE CONTROL**

ENFORCEMENT BUREAU POLICY

**The Use of Informants and Cooperating Individuals
in Tobacco Enforcement Operations**

RESTRICTIONS ON USE OF UNDERAGE COOPERATING INDIVIDUALS

The following requirements must be met when using a CI in enforcement operations:

1. Individuals between the ages of 15 and 17 years may be used as a CI within the following guidelines:
 - a. The CI, and parent or legal guardian, must sign a Memorandum of Agreement form.
 - b. The CI will not wear, exhibit or carry any ABC or Department of Revenue identification or indicia and will not represent himself/herself as an ABC or Department of Revenue employee at any time.
 - c. The CI will not be present during execution of warrants, issuance of N.T.A.'s, or arrests (except in an emergency situation.)
2. The Revenue Enforcement Agent, who will work with the CI, will conduct a background investigation sufficient to document the candidate's reputation in the community for truth and honesty. Such investigation should include the parents, County Attorney, and local law enforcement officers familiar with the CI candidate. No individual who has been arrested or convicted of a criminal offense will be used, unless approved by the County Attorney.
3. In order to be utilized as a CI, the candidate must exhibit a youthful appearance.
4. At the time a CI candidate is approved for participation in tobacco law enforcement investigations a CI number, for reporting purposes, will be issued by the Enforcement Bureau office staff.

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5. Prior to using the CI, a photo copy of the CI's photograph, Memorandum of Agreement, and background investigation report (with CI # noted on all documents) will be sent to the Topeka ABC Bureau Office.
6. Before beginning an operation with a CI, the Revenue Enforcement Agent who will work with the CI will brief the local County Attorney or District Attorney on the idea of using a CI to attempt to purchase tobacco products from licensees. If the County or District Attorney does not approve of the technique, no such operations will be performed in that county.
7. On each day the CI is to be used in the investigation, the agent will photograph the CI. The photograph shall accurately represent the CI's physical appearance and clothing on the date of the investigation or law enforcement operation. The date, time, CI number, CI age, and case agent's name will be printed on each photograph. These photographs will be retained in the agents case file.
8. The Revenue Enforcement Agent will explain to the CI about possible future obligations to attend administrative/criminal hearings. If this is a problem for the CI, he/she will not be used for the operation.
9. Prior to the start of the enforcement operation the agent will ensure that the CI is in possession of only his/her actual drivers license (and/or identification) and adequate cash for the investigative operation on that date.
- 10.A Surveillance Report form documenting each target location (whether successful or not) will be prepared and submitted to the Topeka ABC Office after each enforcement operation.
- 11.The CI will be instructed to answer, if asked, with his/her true date of birth and/or age, and to answer all questions, except those concerning a possible law enforcement mission, truthfully.

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12. The CI will shall be instructed not to make statements designed to trick, encourage, or confuse the target employees.
13. The Revenue Enforcement Agent will take a photograph of the CI into the licensed premises after a purchase is made for the purpose of notifying the licensee of the violation. Notification must be made the same day, or the next business day, following the investigation. No information about the CI will be given to the licensee except his/her age. If in the opinion of the Enforcement Agent, immediate disclosure of the operation will jeopardize continued investigations in the same geographic area, notification of the violations may be postponed until the end of the enforcement operation.
14. The CI will use buy funds provided to him/her by the Revenue Enforcement Agent.
15. When the Revenue Enforcement Agent contacts the violator, the agent will also retrieve any buy funds used, if possible. Serial numbers of buy funds used in purchasing tobacco products will be matched with currency in the licensee's possession to facilitate the retrieval. If the denominations which were used in the illegal purchase cannot be located, the agent will note this in the investigation report.
16. The CI will not participate in investigative operations in the immediate geographic area of his/her place of residence. The CI will not be allowed to conduct any investigations, purchases, or attempted purchases when not under the direct supervision of a Revenue Enforcement Agent.
17. All CI's used in investigations or law enforcement operations who are successful in purchasing tobacco products from a retailer, and at the discretion of the case agent, will be required to write a brief narrative report of the sale or events.