

Approved: 4-26-95
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Lana Oleen at 11:05 a.m. on March 17, 1995 in Room 254-E of the Capitol.

All members were present except: Sen. Hensley

Committee staff present: Mary Galligan, Legislative Research Department
Kim Perkins, Committee Secretary

Conferees appearing before the committee: Representative Greta Goodwin
Jim Conant, Alcoholic Beverage Control
Trish Pfannenstiel, Division of Post Audit
Senator Lana Oleen
Janet Chubb, Office of the Secretary of State

Others attending: See attached list

Sen. Oleen opened the hearing on **HB 2527**, an act concerning cereal malt beverages; relating to revocation or suspension of a retailer's license, and introduced Rep. Greta Goodwin to speak as a proponent to the bill (Attachment 1). Rep. Goodwin distributed a letter from Ronald K. Gould, Chief of Police in Winfield, Kansas, in support of **HB 2527** (Attachment 2), and stood for questions from the committee.

Sen. Oleen asked if a juvenile or an adult who is charged for having an open container, as an example, can be hired in an establishment where alcohol is sold. Jim Conant, Alcoholic Beverage Control, answered that currently a person with a violation of the intoxicating liquor law cannot work in a convenience store, grocery store, or anywhere beer is sold.

Sen. Oleen introduced Jim Conant, Alcoholic Beverage Control to speak as an opponent to **HB 2527** (Attachment 3). Jim Conant stated that he better understood the position of Rep. Goodwin after hearing her testimony and stated that the opposition by Alcoholic Beverage Control (ABC) was to the lack of consistency of standards between all licensees. ABC most opposes the recent amended version of **HB 2527**, which only prohibits the initial hiring of an individual with a violation. With the new language, a current staff member who receives a violation can remain in employment. Jim Conant continued to say that ABC would support the original bill. Sen. Tillotson asked the sponsor of the bill, Rep. Goodwin, if she would also support that position and she stated that she would.

Sen. Oleen asked Jim Conant if a liquor store owner who had never been convicted of a felony but did have liquor convictions, could still own a liquor store. Jim Conant answered that a person could still own a store with a liquor conviction. Sen. Oleen stated that it would appear that the law holds employees to a higher level than the employer. Sen. Oleen asked Jim Conant if he knew why there were so many inconsistencies in the liquor laws and he stated that the laws were drafted through different legislative sessions throughout the years.

Sen. Oleen called for other conferees on **HB 2527**. John Peterson spoke to the bill on behalf of Pizza Hut Restaurants.

Sen. Oleen clarified again that the poultry employee of Dillons would lose his or her job if picked up for an intoxicating liquor violation. Jim Conant stated that the law for a club and drinking establishment placed those restrictions only on persons who dispense or serve liquor, while cereal malt beverage license places the restrictions on all employees of any establishment which sells beer.

Sen. Vidricksen stated that the law is outdated and perhaps no restrictions would be placed on a person who simply works at an establishment which sells beer. Sen. Oleen stated that the committee would look at the

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E
Statehouse, at 11:00 a.m. on March 17, 1995.

issues discussed and would work the bill at a later date. Sen. Oleen called for further discussion, and seeing none, closed the hearing on HB 2527.

Sen. Parkinson stated that he would like to make a comment which is unrelated to the discussion which concerns mini-bars in hotels and motels. Sen. Parkinson stated that he believed that the law is outdated in this area and that he sees no reason why hotels and motels should not be allowed to place locked mini-bars, with certain restrictions, in their rooms.

Sen. Oleen opened the hearing on SB 375, an act relating to the Kansas Statutes Annotated; concerning the distribution thereof and introduced Trish Pfannenstiel, Division of Post Audit, to discuss the post audit report entitled "Reviewing the Provision of Statute Books to Legislators" (Available from Legislative Research Department).

Mary Galligan asked Trish Pfannenstiel if the people who are purchasing statute books were actually paying for the costs of the books distributed to legislators and Trish Pfannenstiel answered affirmatively. Sen. Parkinson asked if the Division of Post Audit looked at marginal costs and Trish Pfannenstiel answered that they looked at actual costs and that currently over 300 sets were being over-produced and discarded. Sen. Parkinson asked how much money would be saved with the adoption of the bill and Trish Pfannenstiel answered that the cost savings was about \$29,000 per year.

Sen. Vidricksen asked if the audit only examined the legislators and Sen. Oleen answered that the audit was only a 100-hour audit which only looked at the legislature but that the office of the Secretary of State would provide the committee with a break down on the books received by each department. Janet Chubb, Office of the Secretary of State, stated that she would prepare the information for the committee for the meeting on Monday, March 20, 1995.

Sen. Oleen called for further discussion, and seeing none, the meeting was adjourned at 11:50 a.m.

The next meeting is scheduled for March 20, 1995.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST

DATE: March 17, 1995

NAME	REPRESENTING
Trish Pfannenstiel	LPA
Leo Napier	LPA
J. Chubb	SOS
Brad Bryant	Sec. of State
John Peterson	Pizza Hut
Don Schmitt	LGJGA
Meredith Jones	KMTA

STATE OF KANSAS

GRETA H. GOODWIN
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STATE CAPITOL—RM. 281-W
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TOPEKA

HOUSE OF
REPRESENTATIVES

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MEMBER:
JUDICIARY
HEALTH & HUMAN SERVICES
TAXATION
JOINT COMMITTEE ON HEALTH CARE OVERSIGHT
KANSAS PUBLIC EMPLOYEES RETIREMENT
STUDY COMMISSION

TESTIMONY BEFORE THE COMMITTEE
OF
SENATE FEDERAL AND STATE AFFAIRS
March 16, 1995

H.B. 2527

Thank you for the opportunity to testify today in support of H.B. 2527.

Current statutory law concerning the licensing of businesses to sell cereal malt beverages states that a licensee shall have his liquor license suspended or revoked "for the employment of persons who have been adjudged guilty of a felony or of any violation of the intoxicating liquor law" (K.S.A. 41-2708(a)(10)). This means that if any person has been found guilty of the simple possession of beer underage, open container in a vehicle or even possession of beer in places where prohibited such as on a public street, that individual could not lawfully work in a convenience store, grocery store, or anywhere beer is sold. We have many businesses in our town which employ high school students in jobs such as grocery store carryouts or clerks, convenience store clerks, etc. which sell packaged beer. Under current law students who were ever found guilty of any of the above references offenses would never be able to be employed in such establishments according to present law.

In retrospect, our current law sets out the criteria for obtaining a liquor license to sell cereal malt beverages wherein, "a person who, within **two** years immediately preceding the date of application, has been convicted of a felony or any crime involving moral turpitude, drunkenness, driving a motor vehicle while under the influence of intoxicating liquor or violation of any other intoxicating liquor law shall not have the retailer's license issued." (K.S.A. 41-2703(b)(5)).

I have attached to my testimony a copy of a letter received from the Winfield Chief of Police in which he states it has come to his attention that there are grocery and convenience stores managers who are having a problem with the current law as they employ many students. To bring light to this concern, our Police Chief asked for an attorney general's opinion on this issue and the opinion basically stated that the law would have to be enforced the way it is written. We believe most retailers in

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Attachment 1

most cities in the state are ignoring the statute by employing students in violation of the law and some employers are not comfortable with that.

I do not believe it reasonable to assume that there is a **two** year limitation on the license holder if that person is convicted of a felony or any crime involving a violation of an intoxicating liquor law and yet, there appears to be a lifetime ban for that individual with the same violation who simply works for the licensee.

Under this bill, Section 1(10) would bring into line the same language that the licensee shall have his license suspended or revoked should that employer hire an employee who such licensee knows to have been, within the preceding **two** years, adjudged guilty of a felony or of any violation of the intoxicating liquor laws of this state, which would put in place the same language used in the issuing of a retailer's license. We believe the **two** year period should be parallel in both areas of the statutes.

I would be glad to stand for questions at the direction of the Chair.

WINFIELD POLICE DEPARTMENT

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Ronald K. Gould, Chief of Police

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February 1, 1995

Representative Greta Goodwin
State Capitol, 281 West
Topeka, Kansas 66612

Dear Greta,

I missed you at our joint law enforcement-county attorney's legislative reception in Topeka last week. I did find out that you apparently are going to have a very busy session. I know it takes a tremendous amount of work and energy just to stay abreast of all the pending legislation and we truly appreciate your efforts in Winfield.

I won't burden you with my opinion on all the bills affecting law enforcement because I think you'll have ample opportunity to hear adequate testimony from law enforcement representatives on the crucial issues. I would certainly be glad; however, to visit with you about any particular bill if you need a law enforcement perspective.

I'm writing in particular at this time about a peculiarity in a state liquor statute that has come to light in Winfield. I'd like to bring to your attention K.S.A. 41-2708(a)(10). This statute concerns the licensing of businesses to sell cereal malt beverage. Section (a)(10) states that a licensee shall have his license suspended or revoked for "the employment of persons who have been adjudged guilty of felony or of any violation of the intoxicating liquor law,". This, in fact, means that if any person has been found guilty of simple possession of beer underage, open container in a vehicle, or even possession of beer in places where prohibited such as on a public street, they could not work in a convenience store, grocery store, or anywhere beer is sold. I find it hard to believe that the legislature intended this severe a penalty for a minor violation and I believe it is just an oversight.

In support of this belief, I would like to direct you to K.S.A. 41-2703(b)(5), which gives the criteria for obtaining a license to sell cereal malt beverage. Section (b)(5) states that (b) No retailer's license shall be issued to: (5) "A person who, within two years immediately preceding the date of application, has been convicted of a felony or any crime involving moral turpitude, drunkenness, driving a motor vehicle while under the influence of intoxicating liquor or violation of any other intoxicating liquor law of any state or of the United States."

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Attachment 2

Representative Greta Goodwin

February 1, 1995

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It does not seem reasonable to assume that there is a two year limitation on the license-holder and yet there seems to be a lifetime ban on those who simply work for the licensee.

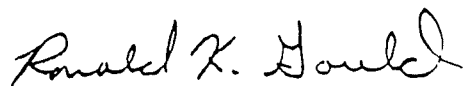
This may at first seem minor but it was brought to our attention by a retailer and we do not feel comfortable ignoring this statute and enforcing all the others. If we did, in fact, enforce this statute, there are many persons currently working in grocery stores and convenience stores who would lose their jobs. We asked for an attorney general's opinion and they basically stated that we would have to enforce the law the way it is written. I have enclosed a copy of that opinion for your reference.

I think that a more reasonable approach would be to limit the restriction for employees of license-holders to two years, or even better to eliminate it altogether for those employees who are not selling CMB for consumption on premises as in a tavern or bar.

I hope you'll have an opportunity to review this statute and make any suggestions you feel are warranted. If I can be of help in any way, please feel free to contact me at work or at home (221-5545 / 221-3089).

Thank you very much for your assistance.

Sincerely,



Ronald K. Gould
Chief of Police

RKG/reb

Encls. (3)

STATE OF KANSAS



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Department of Revenue
Division of Alcoholic Beverage Control

MEMORANDUM

TO: The Honorable Lana Oleen, Chairperson
Senate Committee on Federal & State Affairs

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

DATE: March 16, 1995

SUBJECT: House Bill 2527

Thank you for the opportunity to appear before the committee today regarding House Bill 2527. Although the division has not adopted a specific position regarding the employment of felons by liquor or cereal malt beverage licensees, we do have a concern with consistent application of these standards to all licensees.

House Bill 2527 adds another twist to the already complicated and too often inconsistent regulatory structure imposed on the beverage alcohol industry. Standards for employment by licensees vary as follows:

Retail liquor stores	no felony conviction liquor convictions not addressed
Clubs/drinking est.	no felony conviction no liquor conviction in past two years
CMB licensee	no felony conviction no liquor conviction
<i>HB 2527 - Proposed</i> CMB licensee	no hiring* if felony conviction in past two years no hiring* if liquor conviction in past two years

* Continued employment after a conviction would not be prohibited

The division would recommend that any changes made to these employment standards be done with an eye towards consistency among all license types. Since clubs and drinking establishments may also hold a CMB license, there would appear to be merit in adopting the same standards for both.

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Attachment 3