

Approved: 1-27-98
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 13, 1998 in Room 519-S of the Capitol.

All members were present except: Representative John Ballou, Excused
Representative Steve Lloyd, Excused
Representative Galen Weiland, Excused

Committee staff present: Mary Galligan, Legislative Research Department
Jill Wolters, Revisor of Statutes
June Evans, Committee Secretary

Conferees appearing before the committee: R. E. "Tuck" Duncan

Others attending: See attached list

Chairperson Boston welcomed the members back to committee plus two new members. Representative Billie Vining was introduced as a new member to the committee replacing Representative Peggy Long. Jill Wolters, Revisor of Statutes Office, was introduced.

The Committee Rules were distributed. (See Attachment 1)

Chairperson Boston requested suggestions for an acknowledgement to Representative Lloyd that would be meaningful and stated ideas and suggestions would be discussed at a later meeting.

R. E. "Tuck" Duncan requested a bill relating to the unlawful sale, purchase, and possession of alcoholic beverages; to provide for the crime of unlawful shipments of beverage alcohol to Kansas consumers under certain circumstances; to provide for registration and for payment of fees and taxes on authorized shipments; and to provide for related matter. (See Attachment 2)

Representative Mays moved and Representative Sharp seconded to accept requested bill introduction as a committee bill. The motion carried.

The meeting adjourned at 1:45 p.m.

HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE RULES

1. A substitute motion is in order, but no additional substitute motion shall be in order until the prior substitute motion is disposed.
2. Amendments to motions are not in order.
3. A motion requires a second to be in order.
4. A motion to take from the table shall be in order only when such item is on the agenda or is taken up by the chair. The motion requires a simple majority and is non-debatable.
5. No conferee shall be interrupted during presentation of their testimony, except with the permission of the chair.
6. Questioning of a conferee shall be limited to the subject matter of the agenda for the day.
7. Granting excused absences is reserved to the chair.
8. A request from any member that their own vote be recorded shall be granted.
9. All conferees are requested to submit enough copies of written testimony for all committee members and staff.
10. Encourage use of unanimous consent motion on non-controversial items. Motion should be: "Mr/Madam Chairman, I ask unanimous consent that:" The chair's response should be to repeat the motion then say, "Without objection (slight pause) it is so ordered."
11. Adjournment is reserved to the chair.
12. In any case where committee rules do not apply, House Rules shall govern. All powers, duties and responsibilities not addressed above are reserved to the chair.

The committee meetings will start promptly at 1:30 and it will be very much appreciated for everyone to be on time.

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AN ACT

An act relating to the unlawful sale, purchase, and possession of alcoholic beverages; to provide for the crime of unlawful shipments of beverage alcohol to Kansas consumers under certain circumstances; to provide for registration and for payment of fees and taxes on authorized shipments; and to provide for related matters.

Section 1. It is unlawful for any person domiciled outside the state of Kansas to ship alcoholic beverages or cereal malt beverages to Kansas consumers, except as otherwise provided herein.

Section 2. It is unlawful for any manufacturer of alcoholic beverages domiciled outside the state of Kansas to ship directly to any consumer less than twenty-one years of age.

Section 3. Notwithstanding any law, rule or regulation to the contrary, any person currently licensed in its state of domicile as an alcoholic beverage manufacturer who obtains an out-of-state shipper's license, as provided herein, may ship no more than twenty-four (24) individual containers of not more than one liter each of any non-registered alcoholic beverage directly to a household in this state in a 12-month period, provided that the consumer does not resell or attempt to resell the alcoholic beverages for pecuniary gain, and further provided that the consumer is twenty-one years of age or older and the shipment is for that consumer's personal consumption.

Section 4. Before sending any shipment of non-registered alcoholic beverages to a household in this state, the out-of-state shipper must:

- (a) file an application with the Alcoholic Beverage Control;
- (b) pay a registration/license fee of \$25.00;
- (c) provide the Alcoholic Beverage Control with a true copy of its current alcohol beverage license issued in its state of domicile;
- (d) provide such other information as may be required by the Alcoholic Beverage Control; and
- (e) obtain from the Alcoholic Beverage Control an out-of-state shipper's license, after the Alcoholic Beverage Control conducts such investigation as it deems necessary.

Section 5. All out-of-state shippers licensed pursuant to this Section shall:

- (a) not ship more than 24 individual containers of non-registered alcoholic beverages of not more than one liter each to any household in this state during any 12-month period;
- (b) ship only to an individual who is at least 21 years of age for such individual's personal use and not for resale individual's personal use and not for resale;

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(c) ensure that all shipping containers of alcoholic beverages shipped pursuant to this Section are conspicuously labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES. 'ADULT (OVER 21) SIGNATURE REQUIRED FOR DELIVERY"; and are accompanied by a bill of lading describing the contents of the shipping package;

(d) ensure that all shipments into this state are made by a duly licensed carrier and further ensure that such carriers comply with the requirement to obtain an adult signature;

(e) file such reports as may be required by the Alcoholic Beverage Control on a quarterly basis concerning the amount, type and brand of alcoholic beverages shipped pursuant to the license;

(f) file a quarterly report with the director of alcoholic beverage control showing the total number of bottle or cases shipped into the state, the type of alcoholic beverage or cereal malt beverage shipped and the name brands of such shipments.

(g) pay to the Alcoholic Beverage Control on a quarterly basis all sales and excise taxes due on sales to residents of this state during the preceding quarter, the amount of such taxes to be calculated as if the sale took place at the location where the delivery is made;

(h) maintain such records for at least three years as will permit the Alcoholic Beverage Control to ascertain the truthfulness of the information filed and permit the Alcoholic Beverage Control to perform an audit of the licensee's records upon reasonable request; and

(i) be deemed to have consented to the personal jurisdiction of the Alcoholic Beverage Control or any other state agency and the courts of this state concerning enforcement of this Section and any related laws, rules or regulations.

Section 6. The out-of-state shipper must annually renew its license with the Alcoholic Beverage Control by paying a renewal fee of \$25.00, providing a true copy of its current alcohol beverage license issued in its state of domicile, and further providing such information as may be required.

Section 7. The Alcoholic Beverage Control may promulgate such rules and regulations as may be necessary to effectuate the purposes of this Section.

Section 8. Any person who makes, participates in, transports, imports or receives a shipment in violation of this Act shall be guilty of a Class E felony and further may be subject to a civil penalty of up to \$500.00 for the first offense and up to \$1000.00 for each subsequent offense, or imprisonment for a period not to exceed one (1) year, or both. Where the person holds an out-of-state shipper's license, license suspension or revocation may be in addition to or in lieu of the foregoing penalties.

Section 9. Upon determination by the director of the Alcoholic Beverage Control that a manufacturer holding a basic permit from the Bureau of Alcohol, Tobacco and Firearms has made an illegal shipment to consumers in Kansas, the director of alcoholic beverage control shall notify the Bureau of Alcohol, Tobacco and Firearms in writing and by certified mail of his official determination that state law has been violated and request the bureau to take appropriate action.

Section 10. No person under 21 years of age shall purchase, obtain or attempt to purchase alcoholic liquor or cereal malt beverage from out-of-state sources, whether by mail, telephone, or other electronic means. Violation of this Section by a person 18 or more years of age but less than 21 years of age is a Class C misdemeanor. Any person less than 18 years of age who violates this Section is a Juvenile Offender under the Kansas Juvenile Offenders Code.

Section 11. This act shall be part of the Liquor Control Act.

Section 12. This enactment shall be in full force and effect upon its publication in Register.