

Approved: March 10, 1998  
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 February 18, 1998 in Room 526-S of the Capitol.

All members were present except: Representative Steve Lloyd, Excused

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

Conferees appearing before the committee:

Others attending: See attached list

The Chairman announced Representative Dahl would replace Representative Franklin on the Sub-Committee on HB 2244.

Chairman Boston moved and Representative Ruff seconded a request to introduce of a bill that would change the way Highway Patrol officers are paid overtime. The motion carried.

The Chairman announced final action would be taken on HB 2463, HB 2739, and HB 2740.

**HB 2463 - Amending K.S.A. 21-3439 Concerning Crimes and Punishment.**

Representative Mays moved and Representative Mason seconded to move HB 2463 out favorably. The motion carried. The following members voted "NO" -- Representative Gilbert, Representative Kuether and Representative Samuelson.

**HB 2739 - An Act Concerning Crimes and Punishment; Relating to Identity Theft.**

Representative Vickrey questioned what the punishment and fine would be for a severity level 10 personal felony. Staff replied all convictions until the 3rd conviction would be presumptive probation then presumptive in prison and the fine would be up to \$100,000.

Representative Ballou moved and Representative Faber seconded to amend on line 14 after "documents" and add "or personal identification number". The motion carried.

Representative Sharp moved and Representative Gilbert seconded to move HB 2739 out as amended. The motion carried.

**HB 2740 - Intoxicating Liquors, Relating to Sales by Retailers.**

Representative Mason move and Representative Vining seconded to move HB 2740 out adversely.

Representative Mason stated the only reason for this bill was for the retailers to sell more alcohol in Kansas.

Representative Cox stated that not all stores would want to stay open and would not choose to do so; however, the stores in bordering areas could benefit and should have the opportunity to do so. This would keep the tax dollars in Kansas.

Representative Cox stated he had requested statistics of how Kansas and Nebraska fatalities compared on these holidays as Nebraska does allow liquor sales on Memorial Day, Independence Day and Labor Day.

Whitney Damron provided information provided by the Nebraska Department of Transportation that showed Nebraska had fewer fatalities on these three holidays in 1996 than Kansas. (Attachment 1)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE FEDERAL AND STATE AFFAIRS, Room 526-S  
Statehouse, at 1:30 p.m. on February 18, 1998.

Representative Vining stated this is a people issue not a dollar issue.

Representative Kuether stated that people in their community have the right to vote on local issues and they should be given that right in their local community. This process gives the people the right to vote.

Representative Tanner stated at one time county option was an issue but believes that has been erased by the improvement of roads, automobiles and the tendency of folks to drive without much attention as to where the county line is.

Representative Grant moved and Representative Cox seconded a substitute motion to adopt a balloon that would delete on page 1, lines 15 and 16 "between the hours of 1 p.m. and 11 p.m." and replace with "open during normal business hours except when Independence Day is a Sunday". The motion carried. 12 Yes and 7 Nos.

Representative Grant moved and Representative Ruff seconded to pass out **HB 2740** as amended with no recommendation.

Representative Vickrey moved a substitute motion deleting on page 1, line 16 and 17 "the board of county commissioners by resolution has permitted such sales on where" strike lines 20 thru 23 after "may" and on line 24 change "submission" to "submit" and strike "of".

The Chairman stated back on Representative Grant's motion to move the bill out as amended with no recommendation.

Representative Mason stated if this goes forward there is a chance that other holiday sales and Sunday sales may be a part of that process.

Representative Gilbert stated there would not be any more drinking because people would buy alcohol the day before.

Representative Tanner stated he was working on a bill regarding drunken driving laws and would do all he could to enforce drunken driving laws.

Representative Faber stated if this bill were passed, on the Floor there would be many more liberal liquor laws and there would be more issues to face.

Representative Grant stated it was time for the people to decide and for the people to accept responsibility.

There was a Question called to move out **HB 2740** as amended without recommendation. A vote by show of hands was called. 10 Yes and 9 Nos - The Chairman voted "No" which tied the motion 10 to 10. The motion lost.

Representative Faber moved and Representative Samuelson seconded to Table **HB 2740**. A Division was called - 9 Yes and 10 Nos. The motion failed.

The Chairman stated we were back on the bill.

Representative Ballou moved and Representative Ruff seconded on page 1, lines 16 and 17, strike "the board of county commissioners by resolution has permitted such sales on where" and line 20 strike everything after "may", strike lines 21, 22, and 23, and change "submission" to "submit" on line 24 and change "5%" to "15%" in line 32. The motion carried.

Representative Ruff moved and Representative Grant seconded to move **HB 2740** out favorably as amended without recommendation.

Representative Ballou moved and Representative Dahl offered a substitute motion to move **HB 2740** out adversely - 8 Yes and 11 Nos. The motion failed.

The Chairman stated the Committee was back on Representative Ruff's motion to move **HB 2740** out favorably as amended without recommendation. 11 Yes and 8 Nos. The motion carried.

The meeting adjourned at 2:30 p.m. The next meeting is scheduled for February 23, 1998.



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**TO:** The Honorable Garry Boston, Chairman  
and members of the  
House Federal and State Affairs Committee

**FROM:** Whitney Damron  
on behalf of  
Lukas Liquor Super Store  
Overland Park, Kansas

**RE:** HB 2740 Selected Holiday Sales of Liquor by County Option.

During committee hearings on HB 2740 held yesterday, Representative Cox requested information regarding holiday sales in Nebraska as compared to Kansas. Pursuant to that request for information, we have contacted several state agencies in Kansas and Nebraska in efforts to provide additional information to the Committee.

**Year: 1996**

**State of Nebraska**

Total Fatalities:	293
Alcohol Related Fatalities:	88
Memorial Day	01
Independence Day	00
Labor Day	00

Nebraska Dept. of Transportation

**State of Kansas**

Total Fatalities:	490
(Alcohol Related not Available)	
Memorial Day	07
Independence Day	08
Labor Day	06

Kansas Dept. of Transportation

This morning I spoke with Ms. Margaret Frankfurter, Administrative Assistant for the Legal Department of the Nebraska Liquor Control Commission regarding Holiday Sales in that state [(402) 471-2571]. She indicated that Holiday Sales have never been an issue in Nebraska for as long as she remembers. A number of years ago, which she described as more than ten, the Legislature addressed the issue of Sunday Sales, which are allowed in the state. Liquor stores in Nebraska are generally open seven days per week. However, cities can require stores be closed on certain holidays which fall on a Sunday, but they can also be opened through local approval as well. Her example was New Year's Eve falling on a Sunday.

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I would note for the Committee that these figures are raw data and do not compare and contrast highway miles, population and other demographic information which may better explain these figures. However, I would suggest that holiday sales are not a significant safety issue due to seven day per week liquor sales in Nebraska.

Attached to these comments is a copy of the Nebraska statute on this issue: 53-179.

And finally, a question was raised during committee hearings by Representative Vickrey regarding amending the bill to require a vote of the people prior to the authorization of Holiday Sales. We would respectfully suggest that the bill before you would provide for adequate notice to the electorate through a public hearing process at the county level similar to local consideration regarding food requirement provisions for drinking establishments (50 percent/30 percent/zero percent of sales).

We would not anticipate that county commissioners would bring this issue up for consideration absent a request by local retailers to do so. Where there are retailers located in counties of the state which are at a competitive disadvantage due to neighboring state laws, there may be general public consensus on such issues, making an election burdensome and inappropriate. However, in other counties of the state where the issue may be more contentious, county commissioners would likely be more inclined to direct proponents to seek placement of this issue on the ballot for consideration rather than through a resolution.

In summary, we believe the notice, publication and election requirements contained in the bill are adequate to provide local input and control.

On behalf of Lukas Liquor Super Store, I respectfully request your favorable consideration of this legislation, including the balloon amendment regarding hours of operation which were included with my testimony yesterday.

Thank you again for your consideration of this issue.

Attachment

NEBRASKA LIQUOR CONTROL ACT

§ 53-179

Source: Laws 1965, c. 318, § 17, p. 903; Laws 1973, LB 111, § 7; Laws 1978, LB 386, § 7; R.S.1943, (1984), § 53-160.08; Laws 1991, LB 344, § 60.

53-179. Sale or dispensing of alcoholic liquor; forbidden during certain hours; exceptions; alcoholic liquor in open containers; unlawful after hours. (1) No alcoholic liquor, including beer, shall be sold at retail or dispensed on any day between the hours of 1 a.m. and 6 a.m. The local governing body of any city or village with respect to area inside the corporate limits of such city or village, or the county board with respect to area outside the corporate limits of any city or village, may by ordinance or resolution require closing prior to 1 a.m. on any day.

(2) Except as provided for and allowed by ordinance of a local governing body applicable to area inside the corporate limits of a city or village or by resolution of a county board applicable to area inside such county and outside the corporate limits of any city or village, no alcoholic liquor, including beer, shall be sold at retail or dispensed between the hours of 6 a.m. Sunday and 1 a.m. Monday. No ordinance or resolution allowed by this subsection shall permit alcoholic liquor, other than beer and wine, to be sold at retail or dispensed between the hours of 6 a.m. Sunday and 12 noon Sunday. This subsection shall not apply after 12 noon on Sunday to a licensee which is a nonprofit corporation and the holder of a Class C license or a Class H license issued pursuant to subdivision (5) of section 53-124.

(3) It shall be unlawful on property licensed to sell alcoholic liquor at retail to allow alcoholic liquor in open containers to remain or be in possession or control of any person for purposes of consumption between the hours of 1:15 a.m. and 6 a.m. on any day. When any city or village provides by ordinance or any county provides by resolution for an earlier closing hour, the provisions of this subsection shall become effective fifteen minutes after such closing hour instead of 1:15 a.m.

(4) Nothing in this section shall prohibit licensed premises from being open for other business on days and hours during which the sale or dispensing of alcoholic liquor is prohibited by this section.

Source: Laws 1935, c. 116, § 37, p. 399; Laws 1941, c. 107, § 1, p. 429; C.S.Supp.,1941, § 53-337; R.S.1943, § 53-179; Laws 1955, c. 202, § 2, p. 579; Laws 1957, c. 232, § 1, p. 791; Laws 1963, c. 310, § 12, p. 934; Laws 1963, Spec. Sess., c. 5, § 4, p. 82; Laws 1965, c. 318, § 10, p. 900; Laws 1967, c. 336, § 2, p. 902; Laws 1974, LB 681, § 7; Laws 1976, LB 204, § 6; Laws 1978, LB 386, § 8; Laws 1979, LB 514, § 1; Laws 1981, LB 217, § 1; Laws 1983, LB 213, § 19; Laws 1991, LB 354, § 1; Laws 1991, LB 344, § 61.

Amendment to this section, made by Chapter 5, Seventy-fourth Extraordinary Session of the Legislature, 1963, was unconstitutional because not within the Governor's call. Arrow Club, Inc.