

Approved: March 11, 1999
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Senator Lana Oleen at 12:00 a.m. on February 24, 1999 in Room 254-E of the Capitol.

All members were present except: Senator Bleeker, Excused
Senator Vidricksen, Excused

Committee staff present: Mary Galligan, Legislative Research Department
Russell Mills, Legislative Research Department
Theresa Kiernan, Revisors of Statutes
Judy Glasgow, Committee Secretary

Conferees appearing before the committee: Jim Conant, Director ABC
Chuck Bredahl, Assistant to Adjutant General

Others attending: See Attached Sheet

Chairman Oleen called committee members attention to a copy of a letter received from Harold A. Pfalzgraf responding to the committee's letter of appreciation for The Kansas Bar Foundation's contribution to the Kansas Human Rights Commission. Mr. Pfalzgraf anticipates that the mediation services of the Human Rights Commission will continue to receive favorable consideration for Foundation IOLTA funds as well as direct member contributions. (Attachment 1). Senator Vratil indicated that he too is a member of the Kansas Bar Foundation.

Chairman Oleen directed members attention to handout on talking points on **SB 16**. (Attachment 2). In 1996 ABC and the liquor industry came with a proposal to clean up and rationalize the state's liquor laws. The original goal of recodification of 1996 was to make the liquor laws more understandable to licensees and enforcement personnel alike. The bill contains a policy change in the bill's uniformity and granting of local authority in specific areas. The bill attempts to recognize in statute the dual licensing system that has emerged, not to significantly change it. Theresa Kiernan reviewed the bill and proposed amendments for the committee.

Chairman Oleen asked for committee action on minutes of the committee meetings for February 17 and 18 and a meeting at the rail on February 19, 1999. Senator Jones moved the minutes be approved. Senator Harrington seconded the motion. The motion carried.

Chairman Oleen requested that the committee look at **SB 6** Alcoholic beverages relating to certain licensees. Chairman Oleen opened discussion on the bill. There was committee discussion previously on the bill concerning income tax. Jim Conant, Director of Alcoholic Beverage Control, (ABC) provided committee members with a memo answering questions concerning other business or professional licensees required to remain current in payment of state taxes. (Attachment 3). Discussion by committee members followed concerning state income taxes due by individuals, partners or by corporations and how this would effect corporations and partnerships. Senator Vratil stated that he didn't believe that the law was intended to look at shareholders, only the entity that held the liquor license to be current. Senator Biggs brought up the committee's previous discussion of the wording "willfully" and Senator Vratil's concern that it would be difficult if not impossible to show that a person willfully intentionally and with aforethought failed to file a tax return. Senator Vratil stated that he recommended removing the word willfully in line 18. Senator Becker moved that the word "willfully" be removed throughout the bill. Senator Biggs seconded the motion. The motion carried.

Chairman Oleen recognized Chuck Bredahl, Special Assistant to the Adjutant General who offered an amendment to **SB 6**. This amendment would allow the consumption of alcohol at the Salina Training Center. (Attachment 4). Senator Jones moved that the amendment offered by the Adjutant General's office be added to SB 6. Senator Vratil seconded the motion. The motion carried.

The meeting adjourned at 12:33 p.m. Chairman Oleen announced that the next meeting for this committee will be on adjournment of the Senate at the rail.

PFALZGRAF LAW OFFICES

522 NORTH WASHINGTON
P.O. BOX 668
WELLINGTON, KS 67152-0668

HAROLD A. PFALZGRAF
H. DOUGLAS PFALZGRAF

February 22, 1999

TELEPHONE: (316) 326-8961
TELEFACSIMILE: (316) 326-6073

Senator Lana Oleen
State Capitol, Room 136-N
Topeka, Kansas 66612

Dear Senator Oleen:

Thank you for the gracious comments in your letter of February 19, 1999.

The Kansas Bar Foundation is committed to serving the citizens of Kansas through funding projects which enhance the accessibility of the legal system to all. The outstanding dedication of the Kansas Human Rights Commission provides the Foundation with an avenue within which it may achieve its commitment. I, therefore, would anticipate that the mediation services of the Human Rights Commission will continue to receive favorable consideration for Foundation IOLTA funds as well as direct member contributions.

The Bar Foundation is confident that it is serving its purpose, however, to receive such kind words from you and the Senate Federal and State Affairs Committee is most reassuring.

Wishing you a successful legislative session, I am,

Very truly yours,



Harold A. Pfalzgraf

HAP:ds

cc: Dennis P. Harwick
Art Thompson
Frank C. Norton

FEB 23

Sen. Federal & State Affairs Comm.
Date: 2-24-99
Attachment: # 1-1

LANA OLEEN
 SENATOR, 22ND DISTRICT
 GEARY AND RILEY COUNTIES



TOPEKA

SENATE CHAMBER

CHAIR: FEDERAL AND STATE AFFAIRS
 CHAIR: CORRECTIONS/JUVENILE JUSTICE
 CHAIR: LEGISLATIVE POST AUDIT
 VICE CHAIR: JUDICIARY
 MEMBER: EDUCATION
 CONFIRMATION OVERSIGHT
 LEG. EDUCATIONAL PLANNING
 KANSAS SENTENCING COMMISSION

LEGISLATIVE HOTLINE
 1-800-432-3924

SB 16 TALKING POINTS

- When the ABC and the liquor industry came forward in 1996 with a proposal to clean up and rationalize the state's liquor laws, it seemed like an innocent and practical recommendation. Who could have expected the firestorm of protest that came from the cities?
- We discovered over two years later, during the last interim, that the protest was a legitimate concern about the potential loss of cities' and counties' ability to wield the ultimate enforcement tool - liquor license revocation. Cities and counties have not found the enforcement authority granted to them in various liquor laws to be adequate to protect the community against irresponsible club and bar operators. As a result, they have used their constitutional home rule authority - in connection with statutory authority - to establish their own licensing schemes. So, Kansas has in fact, a dual licensing scheme that is not recognized in statute, and which further confuses and complicates discussion of liquor regulation in the state.
- It is safe to say that the legislature did not anticipate this dual system when the Liquor Control Act was enacted in the late 1940s. Evidence in more recently enacted liquor laws shows that the Legislature believed it was carving out some specific, important areas for local regulation, for example, in allowing locals to charge certain fees, requiring liquor licensees to be in properly zoned areas, allowing fines within statutory limits, and so on.

C:\TEMP\16 talk1.wpd

1 of 3

HOME
 3000 STAGG HILL ROAD
 MANHATTAN, KANSAS 66502
 (785) 537-3300

DISTRICT OFFICE
 1619 POYNTZ AVENUE
 MANHATTAN, KANSAS 66502
 (785) 537-9194—PHONE
 (785) 537-9198—FAX

Sen. Federal & State Affairs Comm.
 Date: 2-24-99
 Attachment: # 2-1

- However, the liquor laws contain preemption language that makes it patently clear that former legislatures always thought that ultimate licensing authority and control was reserved to the state. As a result of subsequent constitutional amendments and court cases, we have discovered that the preemption language was not precise enough, yet that does not negate the intent of those prior legislatures.
- However, a full-blown dual licensure scheme doesn't seem to have been the goal of any of the liquor laws. That may have been an oversight. It may have been a lack of understanding of home rule on the part of former Federal and State Affairs Committees.
- Regardless of how it came to be, it is time to recognize the dual licensure scheme in statute so everyone can understand how state and local regulation works in tandem.
- The original goal of recodification in 1996 was to make the liquor laws more understandable to licensees and enforcement personnel alike. The discussion that has resulted from that effort has been enlightening and continues with the proposed amendments Theresa will review today.
- As we work this bill, this Committee should bear in mind that:
 - The bill did not set out to make major policy changes – that is, major license fee changes are not made here, nor are there major changes in penalties, the structure of the industry, or the types of licensees and their rights. Some may see that as a shortcoming of the bill. Any or all of those issues can be discussed outside the context of the goal of making these laws usable and understandable.

- The bill does contain what the local units of government have characterized as a major policy change in the bill's uniformity and granting of local authority in specific areas. That is something this Legislature must consider carefully.
- By making the laws uniform and by granting specific authority to local units, this bill attempts to recognize in statute the dual licensing system that has emerged – not to significantly change it. The proposed amendments that Theresa will review are the outgrowth of many hours of staff time spent pouring over city liquor ordinances in an effort to identify the requirements cities currently impose on local liquor licensees. I am confident that these amendments address all the concerns raised – and anticipate some that were not raised -- in the hearings this summer and fall.
- If the Legislature does not want to make the liquor laws uniform and grant local authority in specific areas, the liquor laws can still be recodified in the interest of all who must deal with them. If that is the Legislature's decision, this will not have been a futile effort, because all of us who must work in this area are much, much smarter for the experience.

Jim Conant, Director
Division of Alcoholic Beverage Control
4 Townsite Plaza, Suite 210
200 S.E. 6th Street
Topeka, KS 66603-3512



(785) 296-7015
FAX (785) 296-0922

Division of Alcoholic Beverage Control

Memorandum

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

FROM: Jim Conant, Director

RE: Additional information re: Senate Bill 6

DATE: February 16, 1999

During the hearing held February 1 on Senate Bill 6, committee members requested additional information as follows:

1. **Are businesses who contract with the state required to be current in taxes owed to the state?** Yes, this requirement is a standard element of state contracts with external vendors of goods and services.
2. **What other business or professional licensees are required to remain current in payment of state taxes as a condition of continued licensure?** Cigarette, bingo, lottery and parimutuel licensees are required to remain current in payment of some or all state taxes as a condition for holding the license.

Sen. Federal & State Affairs Comm.
Date: 2-24-99
Attachment: # 3-1

KANSAS STATE SENATE

FEDERAL & STATE AFFAIRS COMMITTEE

February 24, 1999

Reference: Amendment to Senate Bill 16, Proposed change to K.S.A. 41-719

Madam Chairperson and Committee Members:

The Adjutant General's Department operates the Kansas Regional Training Center located in Salina, Kansas. This facility trains reserve component and active personnel from across the United States in their military occupational specialties along with a regional officer candidate school. The facility is located on State property.

Due to the central location of Salina within Kansas and the availability of rooms for personnel, the training center has hosted many banquets and dinners honoring: lineage of military units; military personnel; civilian personnel supporting the military; organizations supporting the military.

The Adjutant General's Department respectfully requests consideration of the proposed change to Kansas statutes allowing the consumption of alcoholic liquor at the training center under rules and regulations of the Adjutant General and consented to by the Kansas Military Board.

Sen. Federal & State Affairs Comm.
Date: 2-24-99
Attachment: # 4-1