

Approved: March 22, 1999
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Senator Lana Oleen at 11:15 a.m. on March 11, 1999 in Room 254-E of the Capitol.

All members were present except: 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: Rebecca Rice, Kansas Retail Liquor Dealers Association
Cathy Ambler, Kansas State Historical Society
Richard Ross, Chief Landscape Architect,
Kansas Department of Transportation

Others attending: See Attached sheet

Chairman Oleen announced continued hearings on **SB 16- liquor recodification**

Chairman Oleen recognized Rebecca Rice, Legislative Counsel, Kansas Retail Liquor Dealers Association, (KRLDA) a proponent of **SB 16**. Rebecca Rice stated that KRLDA does support the **SB 16** even with the balloon, but ask that the committee not adopt amendments proposed in yesterday's testimony. (Attachment 1).

Chairman Oleen noted that additional written testimony has been provided by City of Lawrence concerning **SB 16** clarifying enabling statute authority and Home Rule Authority for the committee. (Attachment 2)

Chairman Oleen closed the hearing on **SB 16**, and placed the bill in a subcommittee with Senator Vratil, Senator Jones and Chairman Oleen.

Chairman Oleen opened hearings on **SB 331, Kansas Historical Markers**

Chairman Oleen recognized Senator Jones, a proponent on **SB 331**. Senator Jones stated that his interest in historical markers began while traveling throughout Kansas with his family. (Attachment 3). He visited small towns around Kansas and became very interested in where former governors, Secretaries of State, military leaders, other important Kansans were buried. This led to contact with the chairman of the cemetery association of Senator Jones' family cemetery. He met with Ramon Powers and Cathy Ambler of the Kansas Historical Society and the result was the introduction of **SB 331**.

Chairman Oleen called Cathy Ambler, Assistant Division Director of Cultural Resources for the Kansas State Historical Society to testify as a proponent to **SB 331**. Ms. Ambler stated that a Markers Commission would provide a much needed customer-service orientation to the program and facilitate coordination for the public. (Attachment 4). In addition, the current program does not provide for other types of markers, such as markers for valued and esteemed historic cemeteries, heritage farms and barns, historical churches, ghost towns or rural school sites. Under a Historical Marker Commission, different categories of markers could be placed at a variety of locations, not just along the state highway system. Several amendments to **SB 331** have been proposed by the Kansas Historical Society to address implementation language and change in the expiration date from 2001 to 2006. She ask the committee support of **SB 331**.

In response to an inquiry from Senator Oleen, Cathy Ambler stated that the Indian Burial Commission is still active and was established because of a federal mandate.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E
Statehouse at 11:15 a.m. on March 11, 1999

Chairman Oleen called Richard Ross, Chief Landscape Architect, Kansas Department of Transportation (KDOT) as a proponent to **SB 331**. Mr. Ross stated that one of his current duties is to administer and coordinate activities associated with placing historical markers on the State Highway System. (Attachment 5). KDOT cannot legally commit highway dollars to the upkeep of these markers which are off the state highway system. The Secretary of KDOT is willing to transfer control of the historical markers program to the State Historical Society. The KDOT representative would still provide active guidance for locations of markers and their access from the highway. By allowing the State Historical Society to take the leadership role, the program gains flexibility on locating markers off the state highway system.

In response to questions concerning current financing of signs, Mr. Ross stated that the last several were paid for by private donations. At the present time there are no funding available from KDOT. At this time the cost for one sign is approximately \$2800.00.

Senator Harrington ask for clarification of the \$17 million that Mr. Ross stated was available for this project and the fact that each sign cost approximately \$2800.00 and there was an average of 95 requests per year. Mr. Ross stated that the \$17 million was for all highway enhancements, these include bike trails, beautification projects as well as historical markers. Mr. Ross stated that the historical society had requested \$179,000 for the current project of this 80% would be federal dollars and 20% would be split between KDOT and Kansas State Historical Society.

Chairman Oleen stated that the committee would take the bill under advisement.

Chairman Oleen stated that **SB 299, SB 304, SB 313** had been heard by the committee and that she has asked a group of the concerned parties to meet in regard to these and make some recommendations to the committee and ask that Anthony Fadale chair this group. They will report back to the committee.

Chairman Oleen notified the committee that she had spoken with Senator Biggs regarding **SB 239, SB 278 and SB 279** which had been heard previously by this committee. Senator Biggs stated he recognized the difficulty in moving **SB 239** so he would like to see **SB 278** in an amended version pass out of the committee. Chairman Oleen stated that the committee would look to this bill and try to obtain language to further clarify the bill and bring something back to the committee in a draft form by midweek.

Chairman Oleen requested action on committee minutes for February 24, and February 25 regular meeting and February 24 and 25 at the rail. Senator Becker moved the minutes be approved. Senator Harrington seconded the motion. The motion carried.

The meeting adjourned at 12:05 p.m. The next meeting of this committee will be March 16, 1999.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST

DATE: March 11, 1999

NAME	REPRESENTING
Mark Barce / Ling	KDOCH
Jim Conant	ABC
Cathy Amblee	KSHS
Ramon Powers	KSHS
Richard D. Ross	KDOT - Design
Nancy Bogina	KDOT
Jawra Maham	KDOR/ABC
Billy Kuitala	City of Overland Park
Neal Whitaker	Ks Beer Wholesalers
Amy A. Campbell	KRLDA
Tuck Duncan	KWSA
Don Mober	LKM
Denny Koch	UST PUBLIC AFFAIRS INC
Eric Donaldson	UST Public Affairs INC.
Anthony C. Fardale	DEPT OF ADMIN/AAA coord.
Judy Melin	Ks. Assn of Counties
Lauren Albright	PBP Nation
Michelle Peterson	Peterson Public Affairs Group

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**TESTIMONY PRESENTED TO THE
SPECIAL COMMITTEE ON FEDERAL AND STATE AFFAIRS
MARCH 10, 1999**

REBECCA RICE, LEGISLATIVE COUNSEL
KANSAS RETAIL LIQUOR DEALERS ASSOCIATION

Thank you, Madam Chair, for permitting me to speak to the committee regarding the recodification of state liquor statutes. The Kansas Retail Liquor Dealers Association supports the recodification of state liquor statutes. KRLDA was represented on the Beverage Alcohol Advisory Task Force in 1996 and in discussions last fall. We support this issue as presented in the form of Senate Bill 16.

As legislators, you are periodically exposed to the complicated network of statutes and regulations that govern the liquor industry. The laws may have confused you from time to time, but imagine the frustration of running a highly regulated business based on these laws and regulations.

KRLDA representatives volunteered to serve on the Beverage Alcohol Advisory Task Force, which spent months sorting through the state liquor laws to eliminate unnecessary laws and regulations. Led by the Director of the Alcoholic Beverage Control, the Task Force discovered duplication, as well as statutes which were simply unenforceable. The Task Force intentionally avoided recommending policy changes in the resulting bill, and we support this effort.

The recodification bill benefits both the regulators and the regulated businesses by clarifying the statutes which shape the three tiered distribution system that is so important to our industry. KRLDA supports the bill language and hopes that the committee will avoid adding amendments which would complicate the intention of the recodification.

HB 2675 did not get far in the 1996 Legislature due to the opposition of local government representatives. KRLDA members support the compromise put forth in Senate Bill 16 and hope that it clarifies the relationship between state and local enforcement.

Thank you for your attention and consideration of this matter.

Kansas Retail Liquor Dealers Association
P.O. Box 3842
Topeka, KS 66604-6842
785-266-3963

Sen. Federal & State Affairs Comm.
Date: 3-11-99
Attachment: # 1-1



City of Lawrence KANSAS

CITY COMMISSION

MAYOR
MARTIN A. KENNEDY

COMMISSIONERS
ERVIN E. HODGES
BONNIE AUGUSTINE
BOB MOODY
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March 11, 1999

Senator Lana Oleen
Chair, Federal and State Affairs Committee
& Committee Members

I recognized yesterday that the questions you asked deserve a better response. A key question I believe you were focusing on is: If all of Lawrence's current regulations can be accomplished under the grant of authority found in Section 125 (with proposed amendments), why does Lawrence and the other cities insist upon retaining their home rule authority versus Section 125? What follows below is my attempt to articulate the differences between home rule authority and enabling statutory authority (as seen in Section 125 with amendments). Other city officials could add comments or say it differently. I believe the differences between home rule and enabling authority are real and genuine, but I also respect the argument that the State should delegate specific powers to local government on the topic of liquor control. While respecting that argument, I must join other city officials in respectfully disagreeing that enabling authority is preferred to home rule authority.

Issue	City Regulations under enabling statute authority (Section 125)	City Regulations relying on Home Rule Authority
Ability to Restrict or Remove City Regulations in the future	It is easier for the Legislature to justify future restrictions on City regulations if City authority is solely dependent upon enabling statute authority.	More difficult because Legislature must address home rule issue if it seeks to restrict local regulations.



We are committed to providing excellent city services that enhance the quality of life

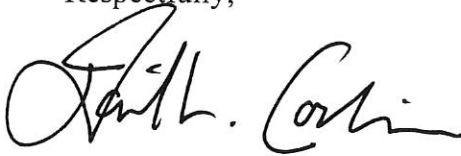
Sen. Federal & State Affairs Comm
Date: 3-11-99
Attachment: # 2-1

Issue	City Regulations under enabling statute authority (Section 125)	City Regulations relying on Home Rule Authority
Interpretation Issues	There will be the issue of whether proposed regulations fall under the term "operating standards." Is the proposed regulation an operating standard? Is local keg registration an operating standard? Is a special food sales requirement for downtown DE's an operating standard? Are all possible license conditions fair game under the term "operating standards?" Reliance will be placed on State legislative intent.	City home rule powers not subject to State legislative intent issues. No future questions whether City regulations are "operating standards."
Flexibility	Cities must rely on legislative grant of authority. Seek legislative changes during 5 month legislative session.	Maximum flexibility because there is no reliance on Legislature. If a local problem arises, City has ability to adopt ordinance at weekly governing body meeting without waiting for State legislative changes.
Precedent on other matters under Home Rule	Section 125 -- without home rule -- is possibly a precedent for other Legislature action on matters of local interest. Why have home rule powers if all city powers can be legislatively granted?	Affirms home rule powers as appropriate legal vehicle to address matters of local concern.
Recognition by ABC and Industry	Section 125 would remove arguments made that cities do not have any power to license and regulate.	Cities will continue to work to convince ABC and others that home rule licensure authority is legitimate and appropriate.

Uniformity of Legislation	SB 16 and Section 125, with pending amendments, assumes all cities should be treated the same.	There is a strong case to be made that State liquor laws should be non-uniform to allow for maximum home rule flexibility -- an important value in a diverse state.
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Thank you for the opportunity to participate in this important process.

Respectfully,



David L. Corliss
Director of Legal Services

c: Don Moler, League of Kansas Municipalities

STATE OF KANSAS

SHERMAN J. JONES
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**Testimony of Senator Sherman J. Jones
Federal and State Affairs Committee
Thursday March 11, 1999**

Madam Chairman, Members of the Committee;

My remarks will be brief as I'd prefer the other conferees to have their allotted time to explain the contents of **SB 331** and the needed amendments.

My interest in this subject of cemetery identification and markers, came about over the past ten or fifteen years and more recently last year. Kansas is my adopted home state. I'm originally from North Carolina and knew very little about my home state when I left forty-five years ago. I wanted my children to know more about their state, Kansas; so I took them on vacations across Kansas using "off beaten" county and township roads so they could see the small towns and hamlets. Occasionally I would visit a cemetery to learn who the leaders were, who had the money, and who might be famous. My children initially thought I was nuts, but soon began to understand and became very interested in this type of research. We found former governors, Secretaries of State, military leaders, professors, criminals, women leaders, etc. My oldest daughter asked me two years ago if there were "important" or "famous" people buried in our family cemetery. This led me to contact the chairman of that cemetery association and further led me to visit with Dr. Ramon Powers and Cathy Ambler of the Kansas Historical Society. They actually came to an association meeting of this group and visited the cemetery and the result was the eventual introduction of **SB 331**, which creates the marker program. I might add that Dr. Powers and Mrs. Ambler enjoyed the great country cooking the ladies brought to the meeting. With the sunset provision, there is no fiscal note.

Thanks

Sen. Federal & State Affairs Comm.
Date: 3-11-99
Attachment: # 3-1

Testimony to the Senate Committee on Federal and State Affairs March 11, 1999 on S. B. 331

Chair Oleen and members of the committee; I am Cathy Ambler, Asst. Division Director of Cultural Resources for the Kansas State Historical Society. The Kansas State Historical Society worked closely with Senator Sherman Jones in drafting this bill and we are pleased to support SB331. We are suggesting some modifications which are attached and these have been discussed with Senator Jones. The additions address implementation language and change the expiration date to 2006, instead of 2002. The change in expiration date is proposed based on our assumption that funding for the program will be available under the federal Transportation Equity Act for the 21st Century (TEA-21), which is authorized through 2006.

Historical markers, the large brown signs alongside highways and rest stops so familiar to all of us, celebrate important events in the history of the state, the people of Kansas and their cultural heritage. The historical highway marker program is among one of the most the popular ways that Kansans convey their heritage to travelers, but it is also a difficult program for the public to access because groups and individuals have a difficult time knowing whom to contact and how to secure approval for new signs. The program has functioned well in the past because of the good working relationship between the Kansas Department of Transportation and the State Historical Society. Each has done an admirable job but it takes a frustratingly large amount of time for groups or individuals when two agencies must double check, coordinate, and approve markers. At times, these agencies may work with a particular group only to find that the other agency has had similar contact about signage with the same group. A Markers Commission will provide a much needed customer-service orientation to the program and facilitate coordination for the public.

In addition, the current program does not provide for other types of markers, such as markers for valued and esteemed historic cemeteries, heritage farms and barns, historical churches, ghost towns or rural school sites. Most of these sites do not reach a level of significance that merits a roadside marker; yet they are worthy of recognition, and, if appropriately marked, and would provide important information for travelers around our state. Our agency receives requests almost daily from Kansans wanting to know the approval process for a sign that would pay tribute in some way to their cultural heritage. Under a Historical Marker Commission, different categories of markers could be placed at a variety of locations, not just along the state highway system. The proposed legislation will establish a commission that provides better customer service for the public and new marker categories on thematic topics and landscapes of significance that distinguish the rich historical and cultural heritage of our state.

Sen. Federal & State Affairs Comm.
Date: 3-11-99
Attachment: # 4-1

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Proposed amendments to SB331

Page 1, line 43

(5) meet, review applications, approve new signs and recommend their purchase, and otherwise assist the state historical society in **implementing the program.**

Page 2, line 4

(e) should read:

The provisions of this section shall expire on July 1, **2006.**

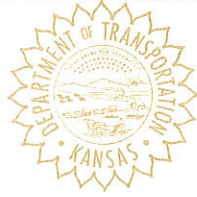
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New Material

The state historical society shall have the following powers and duties to **implement** recommendations of the historical markers committee:

- (1) prepare, maintain and disseminate lists of the state historical markers; publish and disseminate the criteria for selecting sites for the marking programs, and prepare applications which the public may use to propose markers;
- (2) cooperate with federal, state, and local agencies as well as county and local historical societies in implementing the program;
- (3) seek funding and implement the program from all possible funding sources;
- (4) expend funds available to the agency for the markers program for costs associated with publicizing the program, selecting sites for markers, their repair or refurbishing, purchase; installation and dedication of markers;
- (5) hire staff or contract for the administration/implementation of the program;
- (6) enter into contracts and agreement with individuals, municipalities, government agencies to implement the marker committee's recommendations, and
- (7) engage in any other necessary activities to implement a successful historical markers program.

STATE OF KANSAS



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E. Dean Carlson
SECRETARY OF TRANSPORTATION

Bill Graves
GOVERNOR

**SENATE FEDERAL & STATE AFFAIRS COMMITTEE
SENATE BILL 331
KANSAS HISTORICAL MARKER COMMITTEE
March 11, 1999**

Chair Oleen and Committee Members:

I am Richard Ross, Chief Landscape Architect, Kansas Department of Transportation. I am here today to speak in support of Senate Bill 331. One of my current duties is to administer and coordinate activities associated with placing historical markers on the State Highway System.

The first historical marker was erected in 1938 with help from the State Chamber of Commerce, the State Historical Society, and the State Highway Commission in order to give a brief and accurate account of historical highlights for highway travelers. They were originally made of wood with text burned in, but these were costly to maintain and were replaced with cast metal markers after World War II. There are now approximately 150 historical markers across the State.

Many of our existing historical markers have been "left by the wayside" so to speak, as new highways are constructed and the older highways, including turn-outs and historical markers, are dropped from the State Highway System (SHS). This has caused confusion as to the responsibility of these bypassed markers. Normally the responsibility lies with the governmental entity that maintains the highway; however, the markers read, "erected by Kansas State Historical Society and Kansas Department of Transportation." KDOT gets the calls for weathered or worn markers in most all cases. The KDOT cannot legally commit highway dollars to the upkeep of these markers which are off the SHS.

The Secretary has recommended and is willing to transfer control of the historical markers program to the State Historical Society. Acting as a voting member of the new committee, the KDOT representative would still provide active guidance for locations of markers and their access from the highway. In addition, the KDOT representative would interpret safety criteria in the placement of markers within highway rights-of-way. By allowing the State Historical Society to take the leadership role, the program gains flexibility on locating markers off the SHS, as well as creates opportunities for different types of interpretation.

Sen. Federal & State Affairs Comm
Date: 3-11-99
Attachment: # 5-1