

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on February 21, 2007 in Room 231-N of the Capitol.

All members were present.

Committee staff present:

Kathie Sparks, Kansas Legislative Research Department  
Dennis Hodgins, Kansas Legislative Research Department  
Ken Wilke, Revisor of Statutes Office  
Connie Burns, Committee Assistant

Conferees appearing before the committee:

Tuck Duncan  
Dale Goter, City of Wichita

Others attending:

See attached list.

Dale Goter, City of Wichita, requested a bill introduction that concerns a traffic officer having the ability to give a moving violation ticket and could also "give" the fail to comply notice. (Attachment 1)

Senator Barnett moved that this request should be introduced as a committee bill. Senator Brownlee seconded the motion. The motion carried.

**Final Action:**

**SB 226 - Cereal malt beverages; discretion regarding suspension or revocation of license**

A balloon was provided by staff. (Attachment 2) The balloon strikes the italicized language on page 1 in 17 and 18 thru (b), then a capital T for "The" striking section (b) on page 1 lines 20 and 21 and to read "no retailer's license shall be issued to:". Striking all of section 8 on page 2 and renumbering. Inserting new language in section © on page 2 lines 19 - 29. Striking the language on page 3 lines 37 - 39, starting with "In case."

Tuck Duncan stated that after talking with the City Attorney of Salina, that this would amend the bill to maintain uniformity and still allow a board of county commissioners more discretionary powers in granting, suspending, or revoking licenses to sell cereal malt beverage.

Senator Barnett moved to adopt the amendment and to pass SB 226 out favorably as amended. Senator Brownlee seconded the motion. The motion carried.

The meeting was adjourned at 11:00 am.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE  
GUEST LIST

DATE 2-21-07

NAME	REPRESENTING
Drew Boren	Sen. Lynn
Joan Murkin	Sen. Lynn
Hendra Nre McDonald	Sen. Lynn
Ben Reynolds	Sen. Pine
Jack Reynolds	Sen. Pine
Luke Bell	KAR
Marla Jean Smith	KMHA
Ken Secker	Her Law Firm
Bill Brady	Capitol Strategist

## Mailed Notice for Failure to Comply

When a person fails to comply with a traffic citation, the Municipal Court is required to "mail" a notice stating that if the person does not appear or pay the fine within 30 days, that person's driver's license will be suspended (KSA 8-2110). One-half of these "failure to comply" notices are returned undeliverable. If the officer giving a moving violation ticket could also "give" this notice, it would save the cost of postage. It would also reduce the perception that violators are not being given a notice of the suspension.

### DRAFT

Municipal Court legislative proposal to amend K.S.A. 8-2110. **Failure to comply with traffic citation; misdemeanor; suspension of driver's license; reinstatement fee; disposition of reinstatement fees.** (a) Failure to comply with a traffic citation means failure either to (1) appear before any district or municipal court in response to a traffic citation and pay in full any fine and court costs imposed or (2) otherwise comply with a traffic citation as provided in K.S.A. 8-2118 and amendments thereto. Failure to comply with a traffic citation is a misdemeanor, regardless of the disposition of the charge for which such citation was originally issued.

(b) In addition to penalties of law applicable under subsection (a), when a person fails to comply with a traffic citation, except for illegal parking, standing, or stopping, the district or municipal court in which the person should have complied with the citation shall mail and/or give notice to the person that if the person does not appear in district or municipal court or pay all fines, court costs and any penalties within 30 days from the date of mailing or giving notice, the division of vehicles will be notified to suspend the person's driving privileges. Upon the person's failure to comply within such 30 days, the district or municipal court shall notify the division of vehicles. Upon receipt of a report of a failure to comply with a traffic citation under this subsection, pursuant to K.S.A. 8-255, and amendments thereto, the division of vehicles shall notify the violator and suspend the license of the violator until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the informing court. Upon receipt of notification of such compliance from the informing court, the division of vehicles shall terminate the suspension or suspension action.

(c) Except as provided in subsection (d), when the district or municipal court notifies the division of vehicles of a failure to comply with a traffic citation pursuant to subsection (b), the court shall assess a reinstatement fee of \$50 for each charge on which the person failed to make satisfaction regardless of the disposition of the charge for which such citation was originally issued. Such reinstatement fee shall be in addition to any fine, district or municipal court costs and other penalties. The court shall remit all reinstatement fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments

thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit 50% of such moneys to the division of vehicles operating fund, 37.5% to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, and 12.5% to the juvenile detention facilities capital improvements fund created by K.S.A. 1990 Supp. 38-556 and amendments thereto.

(d) The district court or municipal court shall waive the reinstatement fee provided for in subsection (c), if the failure to comply with a traffic citation was the result of such person enlisting in or being drafted into the armed services of the United States, being called into service as a member of a reserve component of the military service of the United States, or volunteering for such active duty, or being called into service as a member of the state of Kansas national guard, or volunteering for such active duty, and being absent from Kansas because of such military service. In any of a failure to comply with a traffic citation which occurred on or after August 1, 1990, and prior to the effective date of this act, in which a person was assessed and paid a reinstatement fee and the person failed to comply with a traffic citation because the person was absent from Kansas because of any such military service, the reinstatement fee shall be reimbursed to such person upon application therefore. The state treasurer and the director of accounts and reports shall prescribe procedures for all such reimbursement payments and shall create appropriate accounts, make appropriate accounting entries and issue such appropriate vouchers and warrants as may be required to make such reimbursement payments.

SENATE BILL No. 226

By Committee on Federal and State Affairs

1-30

9 AN ACT cereal malt beverages; relating to discretion by cities in granting  
10 and suspending or revoking a retailer's license; amending K.S.A. 2006  
11 Supp. 41-2703 and 41-2708 and repealing the existing sections.

12  
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2006 Supp. 41-2703 is hereby amended to read as  
15 follows: 41-2703. (a) After examination of an application for a retailer's  
16 license, the board of county commissioners or the director shall, if they  
17 approve the same, issue a license to the applicant. ~~Except as provided in~~  
18 ~~subsection (b),~~ the governing body of the city shall, if the applicant is  
19 qualified as provided by law, issue a license to such applicant.

20 (b) ~~No retailer's license shall be issued~~ *Don't remove.*  
21 ~~The board of county commis-~~ *remove*  
22 ~~sioners shall not be required to issue a retailer's license to:~~

23 (1) A person who is not a resident of the county in which the place  
24 of business covered by the license is located, has not been a resident of  
25 such county for at least six months or has not been a resident in good  
26 faith of the state of Kansas.

27 (2) A person who has not been a resident of this state for at least one  
28 year immediately preceding application for a retailer's license.

29 (3) A person who is not of good character and reputation in the com-  
30 munity in which the person resides.

31 (4) A person who is not a citizen of the United States.

32 (5) A person who, within two years immediately preceding the date  
33 of application, has been convicted of a felony or any crime involving moral  
34 turpitude, drunkenness, driving a motor vehicle while under the influence  
35 of intoxicating liquor or violation of any other intoxicating liquor law of  
36 any state or of the United States.

37 (6) A partnership, unless all the members of the partnership are oth-  
38 erwise qualified to obtain a license.

39 (7) A corporation, if any manager, officer or director thereof, or any  
40 stockholder owning in the aggregate more than 25% of the stock of such  
41 corporation, would be ineligible to receive a license hereunder for any  
42 reason other than the citizenship and residency requirements.

43 (8) ~~[A corporation, if any manager, officer or director thereof, or any~~  
~~stockholder owning in the aggregate more than 25% of the stock of such]~~

1 [corporation, has been an officer, manager or director, or a stockholder  
2 owning in the aggregate more than 25% of the stock, of a corporation  
3 which: (A) Has had a retailer's license revoked under K.S.A. 41-2708, and  
4 amendments thereto; or (B) has been convicted of a violation of the drink-  
5 ing establishment act or the cereal malt beverage laws of this state.

6 (9) (9) A person whose place of business is conducted by a manager or  
7 agent unless the manager or agent possesses all the qualifications of a  
8 licensee.

(9) 9 [(10)] A person whose spouse would be ineligible to receive a retailer's  
10 license for any reason other than citizenship, residence requirements or  
11 age, except that this subsection (b) [(10)] shall not apply in determining (9)  
12 eligibility for a renewal license.

(10) 13 [(11)] A person whose spouse has been convicted of a felony or other  
14 crime which would disqualify a person from licensure under this section  
15 and such felony or other crime was committed during the time that the  
16 spouse held a license under this act.

17 (c) Retailers' licenses shall be issued either on an annual basis or for  
18 the calendar year. If such licenses are issued on an annual basis, the board  
19 of county commissioners or the governing body of the city shall notify the  
20 distributors supplying the county or city on or before April 1 of the year  
21 if a retailer's license is not renewed.

22 Sec. 2. K.S.A. 2006 Supp. 41-2708 is hereby amended to read as  
23 follows: 41-2708. (a) The board of county commissioners or the governing  
24 body of any city, upon five days' notice to the persons holding a license,  
25 shall may revoke or suspend the license for any one of the following  
26 reasons:

27 (1) The licensee has fraudulently obtained the license by giving false  
28 information in the application therefor;

29 (2) the licensee has violated any of the provisions of K.S.A. 41-2701  
30 et seq., and amendments thereto, or any rules or regulations made by the  
31 board or the city, as the case may be;

32 (3) the licensee has become ineligible to obtain a license under this  
33 act;

34 (4) drunkenness of the licensee or permitting any intoxicated person  
35 to remain in or upon the licensee's place of business;

36 (5) the sale of cereal malt beverages to any person under the legal  
37 age for consumption of cereal malt beverage;

38 (6) the nonpayment of any license fees;

39 (7) permitting any gambling in or upon the licensee's place of  
40 business;

41 (8) permitting any person to mix drinks with materials purchased in  
42 or upon the place of business or brought in for that purpose;

43 (9) the employment of persons under 18 years of age in dispensing

After examination of an application for a retailer's license, the board of county commissioners or the governing body of a city may deny a license to a person, partnership or corporation if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 25% of the stock, of a corporation which has:  
(A) Had a retailer's license revoked under K.S.A. 41-2708 and amendments thereto; or  
(B) Been convicted of a violation of the drinking establishment act or the cereal malt beverage laws of this state.

(d)

1 or selling cereal malt beverages;

2 (10) the employment or continuation in employment of a person in  
3 connection with the sale, serving or dispensing of cereal malt beverages  
4 if the licensee knows such person has been, within the preceding two  
5 years, adjudged guilty of a felony or of any violation of the intoxicating  
6 liquor laws of this state, another state or the United States;

7 (11) the sale or possession of, or permitting any person to use or  
8 consume on the licensed premises, any alcoholic liquor as defined by  
9 K.S.A. 41-102, and amendments thereto;

10 (12) the licensee has been convicted of a violation of the beer and  
11 cereal malt beverage keg registration act; or

12 (13) there has been a violation of K.S.A. 21-4106 or 21-4107, and  
13 amendments thereto, in or upon the licensee's place of business.

14 (b) The provisions of subsections (a)(8) and (11) shall not apply if the  
15 place of business or premises also are currently licensed as a club or  
16 drinking establishment pursuant to the club and drinking establishment  
17 act.

18 (c) Within 20 days after the order of the board revoking or suspending  
19 any license, the licensee may appeal to the district court and the district  
20 court shall proceed to hear such appeal as though such court had original  
21 jurisdiction of the matter. Any appeal taken from an order revoking or  
22 suspending the license shall not suspend the order of revocation or sus-  
23 pension during the pendency of any such appeal. ~~In case of the revocation~~  
24 ~~of the license of any licensee, no new license shall be issued to the former~~  
25 ~~licensee, or to any person acting for or on the former licensee's behalf,~~  
26 ~~for a period of six months thereafter.]~~

27 Sec. 3. K.S.A. 2006 Supp. 41-2703 and 41-2708 are hereby repealed.

28 Sec. 4. This act shall take effect and be in force from and after its  
29 publication in the statute book.