

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE.

The meeting was called to order by Chairperson Senator Nancey Harrington at 10:30 a.m. on February 20, 2001 in Room 245-N of the Capitol.

All members were present.

Committee staff present:      Russell Mills, Legislative Research Department  
   Dennis Hodgins, Legislative Research Department  
   Theresa Kiernan, Office of the Revisor  
   Nikki Kraus, Committee Secretary

Conferees appearing before the committee:    Ron Hein, Kansas Restaurant and Hospitality Assoc.  
   Tuck Duncan, Kansas Wine and Spirits Wholesalers Assoc.  
   Philip Bradley, Kansas Licensed Beverage Assoc.

Others attending:      See Attached List

Chairman Harrington opened the meeting by telling the committee that they had been provided with information which she had referenced the day before when Tracey Diel, Acting Director, KS Racing and Gaming Commission had spoken to the committee.

Senator Gooch then stated that he would like to introduce a bill so that chronically ill people would be able to get a release from prison based on the crime they committed so that some people would not have to die in prison.

Senator Brungardt asked if it was only for people who were chronically ill or terminally ill, and Senator Gooch said that it was for those who were going to die, just so that they would die outside of prison.

Senator Gooch made a motion to introduce the bill. Senator Gilstrap seconded that motion. The motion passed.

Russell Mills, Legislative Research Department, presented the subcommittee report on **SB 152—An act relating to the regulation of alcoholic beverages**. Mr. Mills stated that there were three major points in the bill. He stated that the first point was that there were currently two statutes which prohibited providing alcoholic liquor or 3.2 percent beer to minors and the bill would combine the two into one crime of providing alcoholic liquor to a minor. He stated that this would simplify prosecution of violators. Mr. Mills stated that the second main point in the bill concerned the residency requirements for ABC employees. He stated that the bill changed the current law which required a certain number of years of Kansas residency to simply requiring residency to the United States and Kansas. He stated that the third main point referred to the requirements for renewal licenses concerning ineligible spouses. He stated that the conferees would go into greater detail on that point but that those three points were essentially the bill.

Senator Brungardt stated that in the subcommittee meeting, there were few concerns over the first two sections of the bill, but that the third part was the policy part of the bill. He stated that the ABC Director, Bob Longino, wanted to close a small loophole in the question of licensing certain people to sell alcoholic beverages. He stated that if someone was a felon, or had been involved in prostitution or gambling, anyone related to the individual, or his or her spouse, would not be allowed to get a license to sell alcohol, but could renew a license, and ABC wanted to close that window to felons whose spouses could renew under their name. He stated that there was a question as to whether or not one should be held responsible for his or her spouse.

Senator Gooch stated that if a single person was planning to marry someone with a felony on their record, they would not be able to without losing their license.

CONTINUATION SHEET  
MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE  
February 20, 2001

Senator Barnett stated that he was interested if the fact that parents were allowed to buy or provide their children with alcohol would be a part of the discussion, and if not, then he would like to express that he felt that it ought to be discussed at a later time.

Chairman Harrington opened the hearing on:

**SB 152—An act relating to the regulation of alcoholic beverages**

Bob Longino, Acting Director, Kansas Department of Alcoholic Beverage Control, stated that there were a significant number of qualifications for obtaining a liquor license in Kansas and that the workers at ABC try very hard to uphold those requirements. He stated that originally the spouse had to meet all of the qualifications for licensure except for citizenship, residency, and age. After the original license, the licensee's spouse was not held to the same qualifications. He stated that the situation that Senator Gooch pointed out concerning marriage to a felon would not apply under current law, so there would not be a choice between marriage and the license.

Mr. Longino stated that the loophole was that if a licensee was charged but not yet convicted of a crime, they could surrender their license and the spouse could have the license renewed in his or her name and thereby keep it. Reading from a letter, Mr. Longino stated that a liquor store had been a front for a drug operation, but that by changing hands, it had been allowed to stay open despite drug charges against the licensee.

Mr. Longino stated that historically speaking, liquor has drawn bad elements. He stated that the legalization of alcohol in 1949 was an attempt to get rid of the criminals which had been so involved with it. He stated that in the past that ABC wants the spouse to meet the same requirements as the licensee in order to help keep out those same type of criminal elements. He stated that having a liquor license is a privilege, not a right. He stated that the qualifications were designed to keep out certain elements, and removing such requirements would harm the industry.

Ron Hein, Kansas Restaurant and Hospitality Association presented testimony in opposition to **SB 152**. (Attachment 1). He stated that his organization would like to amend the language to make it better.

Senator Gooch stated that he wanted to know how it would work in terms of responsibility with a partner or minority partner rather than a spouse. Mr. Hein responded that if they did not pay their taxes they might lose their license, but that basically the senior partner would have to buy out the junior or do something else to get them out of the business.

Senator O'Connor stated that a person should not be subject to the behavior of another person and that she was curious if there were laws to deal with a misbehaving spouse. Mr. Longino replied that he was not sure. Senator O'Connor stated that unless the spouse had been directly involved with the business and had done something wrong concerning it, then the licensee should not be held responsible and the spouse should just be excluded from the business if that were the case. Russell Mills stated that he did not know of any other industry which had a provision like this.

Senator Barnett stated that he would like an idea of the numbers of real-life cases or real-life circumstances in which there were business transfers. Mr. Hein replied that he did not know a number but he was sure that this sort of thing did happen. An enforcement officer for ABC stated that this has happened 20-25 times. He stated that the places that policemen have to deal with are places that law enforcement officers are at all the time and that, as a result, there is a concern with demeaning violations of the law because of this repetition.

Theresa Kiernen stated that spouses are often held responsible and that in the lottery law, for example, if you are married or in the same household of someone, it would affect your ability to play the lottery.

Mr. Hein stated that he wanted the committee to understand that his group was not supportive of anyone who does anything illegal or misleading, and that they did not support people who were licensed in name only but really had nothing to do with the business and were never there.

CONTINUATION SHEET  
MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE  
February 20, 2001

Tuck Duncan, Kansas Wine and Spirits Wholesalers Association, presented testimony in opposition to the bill. (Attachment 2). Mr. Duncan stated that he had been the Assistant Attorney General for Alcohol Beverage Control. He stated that in response to questions about keeping a spouse out of business, he stated that if anyone had committed a felony or had been convicted of a morals charge or a violation of a liquor control act, it was illegal to employ them in the business. He also stated that he was in favor of ABC's amendment.

After further discussion among committee members and conferees, Chairman Harrington stated that in situations in which parents buy alcohol for their teenagers, who then have parties, law enforcement had a very hard time trying to go after the parents.

Philip Bradley, Kansas Licensed Beverage Association, presented testimony in opposition to the bill. (Attachment 3).

Chairman Harrington stated that three amendments had been offered, so she wanted to reassign the bill to the subcommittee to rework and present to the committee at a later date.

Senators Brungardt and Vratil stated that they were both in favor of not allowing people who had committed crimes involving alcohol have licenses. Senator Barnett stated that the spouse was still a concern because alcohol is a regulated substance, more crimes are linked with it than other industries, and, as a result, there is more concern.

Chairman Harrington stated that over the weekend, there had been an article in the Emporia Gazette which quoted the Director of the Kansas Lottery, Ed Van Petten, talking about the shorter renewal term of the Kansas lottery, creating an additional 10-15 million dollar cost for the state. She stated that she had asked her secretary, Nikki Kraus, to try to visit with the lottery director. Chairman Harrington asked Ms. Kraus to state to the committee what the lottery director had said in her conversation with Mr. Van Petten.

Ms. Kraus stated that Mr. Van Petten said that he had stated to the committee that a shorter renewal time for the lottery might be more expensive. Ms. Kraus stated that she had no records of Mr. Van Petten telling the committee that a shorter extension would cost 10-15 million dollars more, nor did Chairman Harrington nor Senator Barnett have any recollection of any such statement. Ms. Kraus stated that Mr. Van Petten had said that he had not given that figure to the committee because he did not know that they would be proposing only a two-year renewal. Ms. Kraus stated that he had not explained why he had been represented in the article as having made such statements to the committee. Ms. Kraus stated that Mr. Van Petten was willing to come before the committee again to answer questions if necessary.

The meeting was adjourned at 11:50 a.m. The next meeting is scheduled for 10:30 a.m. on February 21, 2001.