

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 March 13, 2001 in Room 245-N of the Capitol.

All members were present except: Senator John Vratil, Excused

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

Others attending: See Attached List

Chairman Harrington recognized Theresa Kiernan, Office of the Revisor of Statutes, who presented a memorandum concerning "Home Rules Powers". (Attachment 1).

Chairman Harrington stated that the committee had expressed concern which she thought had been addressed in SB 178-Notifying members of the Legislature of the availability of agency reports, but that Ms. Jolene Miller, Attorney General's Office, might want to give the committee an update on the Glazer's Wholesale Drug Co., Inc. vs. State of Kansas lawsuit currently being litigated. Ms. Miller stated that the Attorney General's Office had filed an appeal on the district court's ruling that the residency requirement was unconstitutional. She stated that whether or not her office was able to get a stay might affect what the committee would want to do legislatively. She stated that the state of Kansas was unable to do background checks on out of state companies, and that the intent of her office was to maintain the status quo, which required residency so that background checks were possible.

Chairman Harrington asked the committee for questions, and there were none. She thanked Ms. Miller on behalf of the committee.

Chairman Harrington opened the hearing again on:

SB 152-An act relating to the regulation of alcoholic beverages

Chairman Harrington stated that Bob Longino, Director of Alcoholic Beverage Control, was in the audience to answer any questions from the committee.

Senator Brungardt reviewed the subcommittee report. (Attachment 2). He stated that there had been a request for bond relief for those who had been good taxpayers and license holders for at least two years. He stated that the Director of ABC stated that he was going to do that through Rules and Regulations so that the amendment would not be necessary. Senator Gooch asked Senator Brungardt if the subcommittee had come to a conclusion whether all or only liquor taxes had to be current for licensees; Senator Brungardt stated that there had been discussion, and if it was all taxes it would be a matter of cross-referencing with the Department of Revenue. He stated that the entire question may be moot if Rules and Regulations handled the issue.

Chairman Harrington stated that she believed that Rules and Regulations could handle that issue, and Mr. Longino agreed.

Mr. Longino stood to answer questions from the committee; Senator Brungardt asked him what the conclusion was concerning bond issues. Mr. Longino stated that there were three bond requirements in statutes for liquor licensees and explained those to the committee.

Senator Gooch stated that he still felt that the spouse issue was too extreme. Mr. Longino stated that initially, spouses were required to meet the qualifications of the licensee, but in all renewals thereafter, they were no

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longer required to meet those specifications. Senator Gooch stated that he was concerned about businesses with multiple partners being responsible for spouses. Mr. Longino stated that if all of the spouses met the requirements at the time of initial application and granting, changes later on would be irrelevant.

Senator Brungardt stated that he was concerned that this restriction only referred to spouses and not for parents, children, siblings, etc. Mr. Longino stated that he would be speculating to some degree, but there was a propensity for criminal elements to become involved with the liquor industry, and this might be an attempt to regulate that element more.

Chairman Harrington asked Phillip Bradley, Kansas Licensed Beverage Association, if he was satisfied with the bond issue being handled through Rules and Regulations instead of being made into an amendment, and he stated that he had the word of the Director and the Secretary, so as long as they were in office, he was satisfied.

Senator O'Connor stated that she had a concern about page five, lines 9-11, which she had marked. Chairman Harrington stated that altering that part of the bill would create a problem because if an applicant was not a resident of the state, then it was not possible for Alcoholic Beverage Control to carry out a background check.

Mr. Longino stated that Senator O'Connor's concern was being addressed in **SB 178**. Theresa Kiernan stated that there was a conflict with that bill, but that the conflict could be resolved at a later time. Ms. Kiernan stated that she would be able to make changes so that the bill was consistent throughout and with **SB 178**. Chairman Harrington stated that the committee might want to hold over actually working the bill until the next day. She also stated that **SB 178** had not been read in yet, nor the conference committee assigned.

Ms. Kiernan stated that **SB 178** had to do with the Glazer's Wholesale Drug Co., Inc. case. Senator Brungardt stated that it would make the appeal moot.

Senator Gooch asked why the committee did not have **SB 178**, and Chairman Harrington stated it was because the House just passed it the day before. She also stated that **SB 178** addressed another issue dealing with the lawsuit.

Ms. Miller stated that the Attorney General's Office did not want the committee to feel obligated to make this decision at this time unless the committee felt that it was a good policy decision. She stated that if the residency requirement were eliminated totally, it would make the litigation moot, but if it were only reduced, the case may remain as a question of constitutionality. In response to a question from Senator Gooch, she stated that the state needed to be able to at least do NCIC checks on applicants who were non-residents, in addition to other requirements.

Chairman Harrington stated that since **SB 178** was amended on the floor of the House yesterday, that until it was put into conference committee, she thought that the committee would not work the bill until after the conference committee. She told the committee to write their concerns down, and after **SB 178** was finished, then concerns with **SB 152** could be addressed. Chairman Harrington asked the committee for further discussion and recognized Senator Barnett.

Senator Barnett stated that he would like to follow up the comments made by Senator Gooch, and ask again why residency was important beside the background check. Ms. Miller stated that the state was able to do a lot more in terms of Liquor Control with the residency requirement than without it. She stated that she was not fully informed because she had only recently had the case turned over to her.

Chairman Harrington stated that the House passed the bill yesterday and that there were some conflicts over its amended version, so it would probably be placed in conference committee.

Chairman Harrington stated that if the committee was assigned Senator Schodorf's bill during session that it would be announced from the floor and placed on the schedule for the committee.

The meeting adjourned at 11:23 a.m. The next meeting is scheduled for 10:30 a.m. on March 14, 2001.