

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 3, 2004 in Room 231-N of the Capitol.

All members were present.

Committee staff present:

Russell Mills, Legislative Research
Dennis Hodgins, Legislative Research
Theresa Kiernan, Revisor of Statutes' Office
John Beverlin, Committee Secretary

Others attending:

See Attached List.

Chairperson Brungardt called the meeting to order and asked the committee to take action on **SB 305–Liquor control act and cereal malt beverage laws; uniformity, Sunday sales.**

Senator Vratil asked the committee to consider some amendments to **SB 305**. His first amendment concerned severability of the bill (Attachment 1).

Chairperson Brungardt asked the committee for questions.

Senator Barnett asked Senator Vratil to explain to the committee any possible scenarios for the amendment.

Senator Vratil stated that he did not have any specific scenarios. He explained that if the Supreme Court found a part of **SB 305** unconstitutional, they would have to retain the remainder of the bill.

Senator Vratil made a motion for the adoption of the amendment. The motion was seconded by Senator O' Connor. The motion to amend passed.

Senator Vratil asked the committee to consider his second amendment concerning the ability of cities and counties to make more restrictive and supplemental provisions to the bill (Attachment 2). He asked Sandy Jacquot if the amendment was satisfactory to the League of Kansas Municipalities.

Ms. Jacquot answered the amendment was satisfactory.

Senator Vratil made a motion for the adoption of the amendment. The motion was seconded by Senator Gilstrap. The motion to amend passed.

Senator Vratil asked the committee to consider his third amendment concerning the operating hours of farm wineries.

Theresa Kiernan stated that Senator Vratil's amendment was a part of Senator Brungardt's amendment (Attachment 3).

Senator Vratil stated that his part of the amendment was on page 2 and page 5. The amendment would expand operating hours by two hours for farm wineries.

Senator Barnett made a motion to divide the bill into separate issues dealing with uniformity, Sunday sales, and wine. The motion was seconded by Senator Lyon.

Senator Brungardt stated that he would disagree. He stated the three issues were of the same subject matter.

Senator Vratil stated the Interim Judiciary Committee did not feel like it was necessary to separate out the three issues. He further stated the committee had believed that uniformity and Sunday sales were a package.

Chairperson Brungardt called for a vote on Senator Barnett's motion. The motion passed 5 - 4.

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:30 a.m. on February 3, 2004 in Room 231-N of the Capitol.

Ms. Kiernan explained that each issue now had to be voted on separately.

Senator Vratil made a motion to amend the wineries portion of SB 305 to extend operating hours of farm wineries.

Senator Teichman asked for the reason for increasing the operating hours of farm wineries to eight.

Senator Vratil answered that it is the operating hours of other alcoholic beverage retail outlets.

Chairperson Brungardt called for a vote on Senator Vratil's motion. The motion to amend passed.

Senator Vratil asked the committee to consider another amendment to increase the gallonage taxes on beer, fortified wine, white wine, and spirits. He explained that the gallonage taxes had not been increased since 1977. He further explained the current rate for cereal malt beverages is 18 cents per gallon. He proposed to increase the rate to 30 cents per gallon. The current rate on strong beer is 18 cents per gallon. He proposed increasing that rate to 30 cents per gallon. The two increases, Senator Vratil stated, would raise an additional 6.7 million dollars. The current rate on fortified wine is 75 cents per gallon. He proposed to increase the rate to 1.5 dollars per gallon, which would raise 75,000 dollars. The current rate for white wine is 30 cents per gallon. He proposed increasing that rate to 60 cents per gallon, which, he stated would raise 734,000 dollars. The current rate on spirits and alcohol is 2.50 dollars per gallon. He proposed increasing that rate to 4 dollars per gallon, which would raise 3.6 million dollars. Senator Vratil explained that total additional revenue would be about 11.1 million dollars. He further explained that the increases would put Kansas in the middle of surrounding states' rates on alcoholic beverages.

Senator Vratil made a motion for the adoption of the amendment.

Senator Barnett stated that he had a substitute amendment. He passed around a hand out titled School Finance Plan (Attachment 4) and explained his tax increases. Senator Barnett then explained that 250,000 dollars of the new revenue would go to the Fetal Alcohol Syndrome Diagnostic and Prevention Network Program.

Senator Barnett made a motion for the adoption of the substitution amendment. The motion was seconded by Senator Clark.

Senator Lyon asked which of the three issues would a tax increase fall under.

Senator Brungardt stated that it would be a new section of **SB 305**.

Senator O' Connor asked how Senator Barnett's proposed tax increased compared to neighboring states.

Senator Barnett deferred the question to Senator Vratil.

Senator Vratil explained that in neighboring states, the tax rate for beer ranged from six cents per gallon to 40 cents per gallon.

Senator Barnett explained it would be about 50 cents per six pack of beer.

Senator O' Connor explained the state would lose money because of the increase in taxes proposed by Senator Barnett. She asked Senator Vratil to provide more information concerning tax rates of neighboring states.

Senator Vratil stated gallonage tax on wine ranges from 32 cents per gallon to 75 cents per gallon. Spirits range from two dollars per gallon to 5.56 dollars per gallon.

Senator Barnett explained that when he worked with the Legislative Research Department to come up with numbers for his proposed tax increases, they took into account slippage. He stated there would be a positive gain with his proposed tax increase.

Senator Barnett explained to the committee that the division he proposed retained uniformity in **SB 305**, but

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:30 a.m. on February 3, 2004 in Room 231-N of the Capitol.

the other two issues of Sunday sales and wine are taken out and would have to have separate bill numbers for further consideration.

Senator O' Connor asked Senator Barnett why he proposed a 388.9 percent increase for cereal malt beverages and strong beer while only proposing a 20 percent increase for other alcoholic beverages.

Senator Barnett explained that the tax rate for CMB and strong beer was so low to begin with.

Chairperson Brungardt called for a vote on Senator Barnett's substitution amendment. The motion was defeated.

Senator Barnett asked if Senator Vratil would add the Fetal Alcohol Syndrome Diagnostic and Prevention Network Program provision to his amendment of increased tax rates.

Senator Vratil stated the revenue raised by his amendment would be placed in the state general fund. He explained that he felt the fetal alcohol syndrome provision was a separate issue.

Chairperson Brungardt called for a vote on Senator Vratil's proposed amendment to SB 305. The motion to amend passed. Senator Gilstrap voted against the motion to amend.

Senator Barnett asked the committee to consider an amendment for dram shop liability to the uniformity law (Attachment 5).

Senator Vratil stated he would oppose the amendment offered by Senator Barnett. He stated that the topic of dram shop was an unrelated topic. He explained that the time was inappropriate because of the lack of testimony and knowledge possessed by the committee concerning the topic.

Senator Brungardt agreed with Senator Vratil. He stated that while dram shop legislation is not contained within the topic of the bill, he would entertain a vote from the committee on the amendment.

Senator Barnett made a motion for the adoption of the dram shop amendment. The motion was seconded by Senator Clark.

Senator O' Connor explained that testimony was needed before the committee could take a vote on the proposed amendment. She stated that she did not believe the Senate Federal and State Affairs Committee was the type of committee that should be handling dram shop legislation.

Chairperson Brungardt called for a vote on the proposed dram shop legislation. The motion to amend was defeated.

Senator Clark asked for a show of division.

The motion to amend was defeated 5-4.

Senator Barnett asked the committee to consider an amendment concerning compliance checks (Attachment 6). He also presented to the committee a chart showing compliance rates for various areas within the state of Kansas (Attachment 7). He explained that the amendment would require at least a quarterly compliance check for all outlets.

Senator O' Connor asked what the ability would be of the ABC to comply and what would it cost.

Senator Barnett stated the amendment would allow for either the local government to establish their own program or to coordinate with the ABC. He explained that he could not address the cost, but explained that if the program collected fines, it could be self-supported.

Senator Barnett made a motion for the adoption of the compliance amendment. The motion was seconded by Senator Lyon. The amendment passed 5-4.

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:30 a.m. on February 3, 2004 in Room 231-N of the Capitol.

Senator Gilstrap made a motion to place the issue of Sunday sales back into **SB 305**. The motion was seconded by Senator Betts. The motion passed.

Senator Barnett asked for a show of division.

The motion passed 6-3.

Chairperson Brungardt asked Ms. Kiernan to review for the committee what had been done.

Ms. Kiernan stated that the amendment for severability and the amendment to delete preemption language were added to **SB 305**. The provision to increase tax rates was approved. The amendment calling for compliance checks was approved. Sunday sales were placed back into **SB 305**. And the provision calling for the increase in hours of operation for farm wineries was approved, but is not part of **SB 305**.

Chairperson Brungardt asked the committee for additional amendments.

Ms. Kiernan presented amendments proposed by the Alcoholic Beverage Control (Attachment 8). She explained the first amendment called for the striking of the word resolution and the substitution of the word ordinance on page 13. The second amendment, she explained, concerned the retainment of certain wine records by the retailers of alcoholic beverages.

Senator Clark stated that the wine issue had been separated from **SB 305**.

Ms. Kieran stated Senator Clark was correct, that only the first amendment proposed by the ABC would effect **SB 305**.

Senator Clark made a motion for the adoption for the amendment that would change the word resolution to ordinance, as proposed by the ABC. The motion was seconded by Senator Teichman. The motion to amend passed.

Chairperson Brungardt asked the committee to consider an amendment that would allow the sale of alcohol on Labor Day, Memorial Day, and the Fourth of July (Attachment 9).

Chairperson Brungardt made a motion of the adoption of the amendment. The motion was seconded by Senator Gilstrap. The motion to amend was defeated 4-5.

Chairperson Brungardt asked the committee for additional amendments.

Senator O' Connor asked if there had been an amendment proposed that would strike the community population requirement.

Tom Groneman stated the amendment would strike the 5,000 population requirement from section five of **SB 305**.

Senator O' Connor made a conceptual motion for the adoption of an amendment that would strike the population requirement from **SB 305**. The motion was seconded by Senator Betts. The motion to amend was passed.

Senator Vratil made a motion to place the wine issue back into **SB 305**. The motion was seconded by Senator Gilstrap. The motion was defeated 4-5.

Senator Vratil made a motion to recommend **SB 305** favorable for passage as amended. The motion was seconded by Senator O'Connor.

Senator Lyon spoke against the motion to recommend **SB 305** favorable for passage as amended.

Chairperson Brungardt asked for a vote on **SB 305–Liquor control act and cereal malt beverage laws**;

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:30 a.m. on February 3, 2004 in Room 231-N of the Capitol.

uniformity, Sunday sales. SB 305 was recommended favorable for passage as amended 5-4.

Chairperson Brungardt thanked the committee.

The meeting was adjourned at 11:50 a.m. The next meeting is scheduled for February 4, 2004, at 10:30 a.m. in room 231-N.