

Approved: MARCH 24, 1993
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Chairman Lana Oleen at 11:05 a.m. on February 3, 1993 in Room 254-E of the Capitol.

All members were present

Committee staff present: Mary Galligan, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
Jeanne Eudaley, Committee Secretary

Conferees appearing before the committee:

Jim Conant, ABC
Tuck Duncan, Wine and Spirits Wholesalers Assoc.
Tim Schultz, Kansans for Life at Its Best
Ron Thornburgh, Assistant Secretary of State
Bruce Rimbo, The Woodlands

Others attending: See attached list

Sen. Oleen called the committee's attention to SB 82 and the following proponents presented testimony:

Jim Conant (Attachment 1):
Tuck Duncan (Attachment 2):
Tim Schultz

Mr. Schultz did not submit written testimony. He referred to Sections 1 and 2 and emphasized the need to require photo identification; restrict college identifications and urged the committee to restrict 18 to 21 year olds from working and serving in establishments where liquor is sold. Mr. Schultz stated an exemption might be to allow 18 to 21 year olds to serve liquor in a restaurant - where the majority of its sales are for food. Sen. Vidricksen stated the reason the law was changed was to permit college students to serve liquor, since they need the income; that is why it is called the "pizza hut" amendment.

Sen. Oleen directed the committees' attention to SCR 1608, and called on Ron Thornburgh to advise the committee on the deadline for legislation to reach the Secretary of State's office for election purposes (Attachment 3). Sen. Parkinson raised questions regarding who bears the cost for this election, and Mr. Thornburgh stated the county would pay the cost of this election; the county bears the cost of a national and state election; the city/school districts bear the cost if the election issues involve the city/school districts. Mr. Thornburgh stated that budgeting by the counties has been done; the Preferential Primary is estimated to have cost between \$1.2 to \$1.5 million dollars, since it was a special election. Sen. Parkinson repeated his concern for the cost of putting this question on the ballot.

Sen. Jones explained an amendment to SCR 1608 (Attachment 4), which provides for land-based casinos on or adjacent to all racetracks licensed on July 1, 1993, if the casino is approved by the racetrack owner and the organization conducting races and the voters of the county where the racetrack is located. Sen. Oleen clarified that the three racetracks would be those in Wichita, Pittsburg, and Kansas City, Kansas. She questioned if this means the agreement would have to be approved by the racing facility, the not-for-profit organization and the voters. Sen. Jones moved for adoption of the amendment, and it was seconded by Sen. Vidricksen. The motion passed. Sen. Gooch stated he has a question on decisions being made by out-of-state people which would affect Kansas citizens. He stated he thought the agreement was to include all counties. Sen. Gooch went on to explain that the City Council in Wichita yesterday approved a plan to develop city-owned property for casinos and submit the plan to the voters. He objected to the restriction and permitting out-of-state owners to make the decision. He also stated this would mean Wichita would be asked to vote on this question twice. Sen. Parkinson stated it would not require a second vote and that he supports Sen. Gooch and getting the city/county involved in this question. He does not approve of the owners of the racetracks making policy

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E
Statehouse, at 11:05 a.m. on February 3, 1993.

decisions. Sen. Vidricksen pointed out that licensing and operating parimutuel is a state function and that they have to operate under certain rules. Sen. Oleen asked Ms. Torrence for clarification on the question that a vote on the constitutional amendment is the only vote required, and she answered that it was. Sen. Jones stated the not-for-profit organizations are a local entity (private citizens) so that control would be on the local level. He stated he is not afraid to give people the right to vote. Sen. Gooch stated he supports the amendment to let the people vote, and that he feels the people need to have a say after the constitutional amendment passes. Sen. Oleen asked who makes up the not-for-profit groups and if that is set out by statute, and Ms. Torrence replied it varies from track to track. Mr. Rimbo stated the not-for-profit group holds the license for each track and that the track cannot operate without approval from that group. The licensing must have approval from the Racing Commission and that the track has no say who is on the board..

Sen. Walker made a substitute motion that included the original motion but would establish that the casino be approved by the city/county where it is located to give it local control; Sen., Parkinson seconded the motion. Ms. Torrence clarified that means if a casino were located in the city, it must have both city/county approval. The motion passed, and the Resolution is amended.

Sen. Vidricksen stated he has worked toward economic development for this state for a number of years and he believes a proposal such as this one will not come to the state again. He stated this gives a real tax break to businesses, with 2,000 jobs created, where 90% of the revenue will come from out of state, and they are asking for no tax abatements. He said this will be an activity that families can enjoy and that we need to let the people decide if it is a good proposal. Sen. Ramirez asked each senator to view the tape provided by the City of Kansas City and then make a decision.

Sen. Oleen reminded the committee, since there are a number of new members, that if a member of the committee feels strongly on a vote, he/she may ask to have a vote recorded by the secretary for the record. Sen. Hensley asked the revisor, since there are a considerable number of amendments on the Resolution, what the procedure for a substitute resolution is. Ms. Torrence answered that she did not know if its possible to have a substitute SCR; that the committee may have to introduce a new Resolution. Sen. Hensley then made a motion to incorporate all amendments into Substitute SCR 1608 and send it to the Senate floor if possible; if not possible to substitute, the new Resolution be drafted and sent to the Senate floor; it was seconded by Sen. Ramirez. The motion passed. Sen. Parkinson requested he be recorded as voting "No". Sen. Tillotson stated she did not understand the motion, and Sen. Gooch asked for clarification. After clarification, Sen. Oleen repeated the motion - Sen. Hensley made a motion to incorporate all amendments into Substitute SCR 1608 and send it to the Senate and recommend it favorably; if not possible to make a substitute Resolution, that a new Resolution be drafted and send to the Senate floor with a favorable recommendation; it was seconded by Sen. Ramirez. The motion passed, with two senators requesting recorded votes: Sens. Tillotson and Parkinson voted "No".

Committee adjourned at 12:05.

GUEST LIST

COMMITTEE: Senate Federal & State Affairs

DATE:

[illegible]

GUEST LIST

COMMITTEE: Senate Federal & State Affairs

DATE: Feb. 3, 1993

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Ralph Decker	Topeka, Ks.	Kansas Lottery
Jim Giordano	Topeka	Kansas Lottery
Brian Naheim	Lawrence	Pat Hubbell Assoc.
Steve Patten	Topeka	Potawatomie Indian Deal
John Patten	"	K.C. Star
Engene Sherman	Topeka	Sheskin
Whitney S. Jarrow	Topeka	Pete McGill Assoc.
Bar Grove	Lawrence	University Daily Kansan
Matt Travel	Topeka	AP
Tim Shultz	Topeka	Kansans for Life At Its Best
Kevin Larson	Topeka	Baker & Associates
Lonna Dunnington	Topeka	Pinegar Smith Assoc.
Neal Whitaker	Topeka	Ks Beer Wholesale
Pat Scherzer	KC	SCHATZ, DIST
Jim Conant	Top	Ks. ABC
Tuck Duncan	Topeka	KWSWA
Bruce Rimbo	KC	The Woodlands
Brent Bengtson	Topeka	Gov's off of Drug Abuse Programs
Mary Jane Johnson	KC/Ks	KCKs
Nancy Benson	Horton, Ks	Kickapoo Nation in Kansas
John Thomas	Horton, Ks	Kickapoo Nation
Barbara Holzman	Leawood	NCJW - Ks Choice
Ken Pahr	Topeka	Ankeny - Brush
Deborah Cox	Topeka	Asst. Atty. General - KRC
Karielle Noe	Topeka	CCG Potawatomie Indians

STATE OF KANSAS



Robert A. Engler, Director
512 S.W. 6th, 2nd Fl.
Topeka, Kansas 66603-3150

(913) 296-3946
FAX (913) 296-0922

Department of Revenue
Division of Alcoholic Beverage Control

MEMORANDUM

TO: The Honorable Lana Oleen, Chairperson
Senate Committee on Federal & State Affairs

FROM: Jim Conant, Chief Administrative Officer
Alcoholic Beverage Control Division

DATE: February 3, 1993

SUBJECT: Senate Bill 82

Thank you for the opportunity to appear before the committee today in support of Senate Bill 82.

The ABC Division places the highest priority on enforcement of laws which relate to the possession or consumption of alcoholic beverages by persons under the age of 21. These efforts are focused primarily on ensuring that all liquor licensees operate in a manner which restricts the ability of minors to gain access to alcoholic beverages. Senate Bill 82 was introduced at the request of the Division in an effort to address specific weaknesses in three statutes which provide incentives for licensees to operate in a responsible manner.

Sections 1 & 2 of the bill amend two statutes which make it a crime to furnish alcoholic liquor or cereal malt beverage to a minor, K.S.A. 1992 Supp. 21-3610 and 21-3610a, respectively. Legislation was passed in 1989 creating a defense to prosecution under these two sections for licensees. A key element in utilizing the defense requires that the minor use a "draft card, driver's license, birth certificate or other official or apparently official document" in making the purchase. This provides a considerable incentive for licensees to require identification when the purchaser is not obviously of legal age. The Division believes that this incentive can be greatly strengthened by requiring identification documents to contain a photo of the bearer in order to qualify as an element in building this defense. Draft cards, birth certificates and other non-photo IDs are too easily passed from person to person, and cannot be reliably used to verify that the bearer is the person named on the face of the document. Both sections are amended to require the use of a photo ID in order to qualify for the defense.

(over)

Sen. 7 & SA.
2-3-93
att 1

Section 3 amends K.S.A. 1992 Supp. 41-2615, regarding a licensee's responsibility for violations involving minors on the licensed premises. Under Kansas law, it is illegal for a minor to "possess, consume, obtain, purchase or attempt to obtain or purchase alcoholic liquor or cereal malt beverage." (K.S.A. 1992 Supp. 41-727, emphasis added) The statutes referred to in sections 1 & 2 above make it illegal to directly or indirectly furnish alcoholic liquor or cereal malt beverage to a minor. These three statutes reflect a fundamental policy of the Kansas legislature to prohibit underage drinking. As an enforcement tool, the legislature has given cities and counties the statutory ability to punish cereal malt beverage licensees who allow minors to possess or consume cereal malt beverages on locally licensed premises. (K.S.A. 1992 Supp. 41-2704) K.S.A. 1992 Supp. 41-2615 authorizes the ABC Division to penalize bar owners who allow minors to consume alcoholic liquor on state licensed premises. Unfortunately, this statute refers only to underage consumption, and does not mention underage possession. Because of this apparent oversight, the Division of Alcoholic Beverage Control has adopted regulations as a mechanism for issuing citations to bar owners for allowing minors to be in possession of alcoholic beverages on state licensed premises. The Division is requesting that this oversight be corrected, clarifying the Legislature's intent to hold licensees responsible for ensuring that underage persons do not gain access to alcoholic beverages.

I would be happy to answer any questions the committee may have.

Attach. 2

K • A • N • S • A • S
WINE & SPIRITS
WHOLESALE ASSOCIATION, INC.

February 3, 1993

To: Senate Committee on Federal and State Affairs

From: R.E. "Tuck" Duncan
Kansas Wine & Spirits Wholesalers Association

RE: Senate Bill 82

The K.W.S.W.A. supports the proposals of the Alcoholic Beverage Control as set forth in Senate Bill 82. We supported the inclusion of the provision in the law that would provide a defense where a licensee relied upon what appeared to be a bona fide ID, but recognize that a photo identification would be preferable. Additionally, the change in the language of the law to include the provision "possession" is consistent with what we understand to be the common law of this state.

I would also like to take this opportunity to advise the Committee that this association is not just concerned with these issues while you meet in Topeka. Provided herewith is a report on the efforts the K.W.S.W.A. has made in the last year to dissuade minors from making purchases at retail liquor stores, and our efforts in curbing drinking and driving.

I also want to publicly acknowledge the support we have received from the Alcoholic Beverage Control in conducting these educational campaigns.

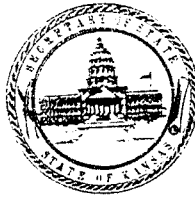
We are also distributing to you examples of some of the various materials we have provided to retail liquor stores, clubs and drinking establishments. We support responsible consumption. To that end we have conducted these public education programs and we plan to continue these efforts.

Thank you for your kind attention to and consideration of these matters.

K.W.S.W.A. 214 S.W. 7th Street, Topeka, Kansas 66603-3700 (913) 233-9370

S.F. & SA
2-3-93
Att 2

Attach. 3



Bill Graves
Secretary of State

2nd Floor, State Capitol
Topeka, KS 66612-1594
(913) 296-2236

STATE OF KANSAS

February 3, 1993

The Honorable Lana Oleen, Chair
Senate Federal and State Affairs Committee

Dear Senator Oleen:

February 26 is the latest that the legislature can act and still ensure that a constitutional question on casino gambling could be placed on the April 6 general election ballot.

If such a late deadline is used, a final copy of the legislation must reach the Secretary of State's office by the morning of March 1. It is absolutely essential we receive the final copy at this time so that we may begin to send copies of the bill to all 105 counties.

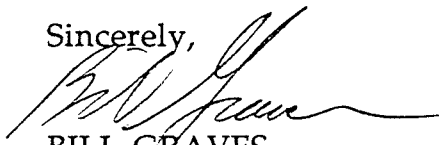
We will FAX the bill to those counties with FAX machines. However, it may be necessary to have the Kansas Highway Patrol deliver the copies to those counties that do not have FAX machines.

We were able to extend the deadline from our original estimate of February 15 after consultation with the county election officers and thoughtful consideration of the impact upon requirements of the Federal Voting Assistance Program (FVAP).

County election officers prefer 45 days in which to prepare for the election. The FVAP also recommends ballots be sent 45 days prior to the election.

Although they will be hurried, county election officers have indicated that 35 days will give them adequate preparation time. The February 26 deadline allows this office to send ballots to United States military personnel serving overseas within 30 days of the election. This allows us to comply with state law and should forestall a federal lawsuit due to delays in sending ballots.

Sincerely,


BILL GRAVES
Secretary of State

Sen 7 & 8a.
2-3-93
att 3

Senate Concurrent Resolution No. 1608

By Committee on Federal and State Affairs

1-28

PROPOSITION to amend article 15 of the constitution of the state of Kansas by adding a new section thereto, relating to the operation of a casino gaming establishment ~~in the city of Kansas City.~~

it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Article 15 of the constitution of the state of Kansas is amended by adding a new section thereto to read as follows:

"§ 3d. Regulation, licensing and taxation of casino gaming ~~a city of Kansas City~~ authorized. Notwithstanding the provisions of section 3 of article 15 of the constitution of the state of Kansas, the legislature may provide for a ~~single casino gaming establishment to be located only within the corporate limits of the city of Kansas City on or adjacent to a parimutuel racetrack facility licensed by the state of Kansas and in operation on July 1, 1993.~~ The legislature may regulate and license such casino gaming establishment and tax, at a rate of 6.25% of gross gaming revenues, the operation of such establishment. The revenues derived from such tax shall be annually appropriated by the legislature and a portion of the revenues from such tax shall be used to support horse and dog racing ~~in the state of Kansas.~~"

Sec. 2. The following statement shall be printed on the ballot on the amendment as a whole:

"Explanatory statement. This amendment would authorize the operation of a casino ~~in the city of Kansas City, Kansas.~~

"A vote for this proposition would permit the operation of ~~a single casino gaming establishment located within the corporate limits of Kansas City.~~ It would authorize the legislature to enact laws providing for the licensure and regulation of such

on or adjacent to certain parimutuel racetrack facilities

casino gaming establishment to be located on or adjacent to any parimutuel racetrack facility which is licensed by the state of Kansas on July 1, 1993, if: (a) The establishment is approved by both the racetrack facility owner and the nonprofit organization operating or conducting racing with parimutuel wagering at the racetrack facility; and (b) a majority of the qualified electors of the county where the racetrack facility is located approve this proposed amendment

at the parimutuel racetrack facility where the casino gaming establishment is located

on or adjacent to certain parimutuel racetrack facilities

casino located on or adjacent to a parimutuel racetrack licensed on July 1, 1993, if: (1) The casino is approved by the racetrack owner and the organization conducting races at the racetrack; and (2) the voters of the county where the racetrack is located approve this amendment

Subst. MC
(Attach. 4)

Sen 7480.
2-3-93
Oct 4

1 a casino establishment and imposition of a tax on the revenues
2 of the establishment. A portion of the tax revenues would be _____ at the racetrack where the casino is located
3 used to support horse and dog racing.
4 "A vote against this proposition would continue the current
5 prohibitions applying to casino gaming."
6 Sec. 3. This resolution, if approved by two-thirds of the members
7 elected (or appointed) and qualified to the Senate and two-thirds of
8 the members elected (or appointed) and qualified to the House of
9 Representatives, shall be entered on the journals, together with the
10 yeas and nays. The secretary of state shall cause this resolution to
11 be published as provided by law and shall cause the proposed amend-
12 ment to be submitted to the electors of the state at a special election,
13 which is hereby called for that purpose, to be held April 6, 1993,
14 pursuant to section 1 of article 14 of the constitution of the state of
15 Kansas.

4-7