

Approved: Feb. 16, 1994
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 1, 1994 in Room 254-E of the Capitol.

All members were present except:
Sens. Jones and Walker were excused

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

Conferees appearing before the committee:
See attached list

Others attending: See attached list

Sen. Oleen announced the hearing for SB 544 and introduced the following proponents:

Jim Conant, (Attachment 1);
Francis Kastner (Attachment 2);
Rebecca Rice, (Attachment 3);
Bryan Beaver, (Attachment 4);
Tuck Duncan, (Attachment 5);
Neal Whitaker, (Attachment 6)

One opponent appeared, Don Bird, and presented testimony (Attachment 7) to the committee. Mr. Bird stated if the committee is going to be consistent, then it should ban all sales of alcoholic beverages on Election day; that the voters should go to the polls with unimpaired judgment when voting. He also asked if law enforcement is a problem, should that be a reason to change the law? He stated he was not prepared to comment on removing the ban on Sunday or holiday sales, but recalled from previous testimony, the highest crime rate time reaches from 6 o'clock on Friday through Monday a.m.

Committee members questioned proponents regarding what establishments are required to close on Election day. In answer to a question from Sen. Oleen, Mr. Conant stated on occasions when an election involves local issues only, such as local option budget and school boards, the law provides the liquor stores do not have to close. Sen. Oleen also asked if a package liquor store remains open in violation of the law, what happens? Mr. Conant answered if a package liquor store remains open in violation of the law on Election day, a citation would be issued, an administrative hearing scheduled, and a fine could be brought against the owners, depending upon whether the violation was intentional or accidental. He said the matter would be handled locally by a prosecutor and tried in local courts. Sen. Praeger asked if this applies to package retail liquor stores only, and Mr. Conant replied it did. Another confusion, he pointed out, is that for on-premise sales, if an establishment has a state license, it can sell 3.2 beer on election day; however, a tavern, licensed by the city, selling 3.2 beer, would have to shut down. Sen. Praeger also asked statistics from other states, and Mr. Conant replied that Oklahoma prohibits sales on election day, while there is no prohibition in the other border states. Sen. Parkinson then asked Mr. Conant statistics regarding Sunday and holiday sales of liquor, and Mr. Conant stated Oklahoma and Colorado prohibit sales on Sunday and holidays, while the other border states are allowed to sell.

Mr. Beaver was questioned about remarks in his testimony regarding competing with Missouri liquor sales, and he emphasized he would like their stores in Kansas to have the same advantages as their stores in Missouri. He stated that Missouri repealed their prohibition of Sunday sales last year, and his company's stores in Missouri are reporting high Sunday sales, which means increased revenue to the State of Missouri. Sen. Oleen questioned Mr. Duncan regarding the survey he conducted before the last municipal/school board elections to get a list of the various types of elections. When the League of Municipalities and County Association did not know, he inquired of the Secretary of States' office for a list, and found no one in state government knows when elections were taking place in various places in the state. He emphasized how

disruptive being closed on Election day is to the cycle of the delivery of products and results in inventory problems. He stated the wholesalers' position is that there should be consistency - everyone should be treated the same. In answer to a question, he stated it is not against the law to deliver liquor products on Election day; however, it would mean personnel would have to be present to accept deliveries and also results in law enforcement problems when perceived activity occurs during a delivery. He stated frustrations by the businesses he represents because there is no reporting mechanism to track where and when elections are going to take place. Mr. Whitaker stated his association would support Sunday sales, but asked the committee to make it a separate issue. He also stated the State of Oklahoma permits the sale of 3.2 beer in grocery stores 24 hours a day, 7 days a week. Sen. Oleen referred to the fiscal note (Attachment 8), which states the bill has no fiscal impact.

Sen. Oleen announced a change in the agenda for Thursday and Friday of this week: the committee will not meet Thursday, but will hold the hearing scheduled for then on Friday. Sen. Praeger introduced pages from her district who are assisting the committee today.

Meeting adjourned at 11:50.

GUEST LIST

COMMITTEE: Senate Federal & State Affairs

DATE: Feb. 1, 1994

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Kim Perkins	6735 SW 27th Topeka 66614	
Douglas Johnston	Wichita	Planned Parenthood
RYAN DEAYER	140426 View OP KS	Carter Oil Co
Charles Ainsley	Topeka	KOMA
Bill Blockenship	Topeka Capital Journal	
Don Bird	Topeka	KFLAIB
Robert Engler	Topeka	ABC
Jim Conant	Top.	ABC
Anthony Gutierrez	SOS Topeka	SOS
Neal Whitaker	K Topeka	KBWA
Kurt Bossert	Topeka	Bossert Liquor Store
R Rian	Topeka	KRLDA
John C. Bateman	Topeka	- KWSWA -
Bruce Fox	Topeka	KPOA
FRANCIS KASTNER	topeka	KS Food Dealers Assn
Whitney Dawson	Topeka	Mich. H. Assn / Coastal
Kevin Tipton	Denver	Distilled Spirits Council
Betty Rottman	Topeka	Distilled Spirits Council
Ken Bahr	"	Anheuser-Busch
Steve Montgomery	Topeka	Casey's

Attach. 1

STATE OF KANSAS

Robert A. Engler, Director
4 Townsite Plaza Suite 210
200 S.E. 6th Street
Topeka, Kansas 66603-3512



(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 1, 1994

SUBJECT: Senate Bill 544

I appreciate the opportunity to appear before the committee today in support of Senate Bill 544. As introduced, this bill would standardize the sale of alcoholic beverages on election days for all licensees. This bill was requested by the ABC Division in an effort to address what has become a recurring enforcement concern for the Division and local law enforcement agencies. Although the bill is drafted to allow all sales on election days, the Division's concern is with consistency, whether that means allowing all sales or banning all sales.

The laws governing the sale of alcoholic beverages on election days date back to 1937 in the case of cereal malt beverage (CMB), and 1949 in the case of alcoholic liquor. We believe these laws were enacted to deal with situations where bars and taverns were also used as polling places, and to deter attempts by unscrupulous candidates and their supporters to "buy votes" with liquor. Prior to the advent of private clubs and, subsequently, full liquor by the drink, these laws had the effect of halting all liquor sales during the time the polls were open in the state or a particular jurisdiction. Under current law, however, all alcoholic beverages may be sold for consumption on state-licensed premises, while package sales and on-premise CMB sales must be stopped while the polls are open.

The inconsistent treatment of package sales vs. on-premise sales creates confusion for local governing bodies and law enforcement agencies as well as licensees. Uncertainty exists as to the type of election covered by the laws (school-board elections, for example, do not require a halt in liquor sales) and which licensees are affected (clubs and drinking establishments may sell CMB during elections, locally-licensed taverns may not). These differences make the laws hard to enforce on a consistent basis across the state, resulting in unnecessary efforts by local law enforcement and inappropriate closures of businesses due to misinterpretation of the laws. The state and local resources which must be diverted to interpret and enforce this confusing prohibition would be much better utilized if directed at more serious violations which threaten the public health and welfare.

Thank you for your consideration of this bill. I would be happy to answer any questions the committee may have.

Senate Fed + State Affairs
Feb. 1, 1994
Attachment #1



EXECUTIVE DIRECTOR
JIM SHEEHAN
Shawnee Mission

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

2-1-94

OFFICERS

SUPPORTING SB 544

PRESIDENT
SKIP KLEIER
Carbondale

I am Frances Kastner, Director of Governmental Affairs for the Kansas Food Dealers Association. Our membership consists of manufacturers, wholesalers and retailers of food products.

1st VICE-PRESIDENT
MIKE BRAXMEYER
Atwood

2nd VICE-PRESIDENT
TREASURER
DUANE CROSIER
Seneca

Our members have always agreed with the premise that prohibiting the sale of intoxicating beverages on an election day is archaic, and we support SB 544.

ASST. TREASURER
JOHN CUNNINGHAM
Shawnee Mission

On January 27 this committee heard a lot of testimony about level playing fields and equal opportunities with regard to credit card purchases at Farm Wineries, Liquor Retail stores, and CMB retail outlets. We agree that credit card purchases are becoming more prevalent in all segments of the retail business and everyone should have the opportunity to decide when and where to use their credit cards.

BOARD OF DIRECTORS

CHAIRMAN
J. R. WAYMIRE
Leavenworth

GLEN CATLIN
Herington

TOM FLOERSCH
Fredonia

ROY FRIESEN
Syracuse

ARNIE GRAHAM
Emporia

STAN HAYES
Manhattan

However, by just allowing one narrow aspect of retail sales, such as the use of credit cards, does not create a level playing field. Our members see an even more important element in creating the "level playing field" Sunday Sales. Between noon and 6 p.m. on Sundays, micro-breweries and farm wineries are permitted to be open and sell their products.

BOB McCREARY
Goddard

JOHN McKEEVER
Louisburg

LEONARD McKINZIE
Overland Park

CLIFF O'BRYHIM
Overbrook

Our members fail to see the logic in permitting Sunday sales of products with higher alcoholic content than cereal malt beverage and at the same time prohibit CMB sales. We also have no problem with retail liquor stores being open on Sunday in order to keep Kansans from crossing over into Missouri to buy whatever items they desire in retail liquor stores that are open on Sunday afternoons.

BILL REUST
Parsons

LEROY WARREN
Colby

We are asking this Committee to create a "more level playing field" by permitting Sunday sales between the hours of noon and 6 p.m., for all retailers regulated or licensed by the ABC Director.

BILL WEST
Abilene

We respectfully request that you amend SB 544 to include Sunday Sales, and support this measure.

DIRECTOR OF
GOVERNMENTAL AFFAIRS

FRANCES KASTNER

Frances Kastner

Frances Kastner, Director
Governmental Affairs, KFPA

Senate F+S Affairs 2-1-94

Attachment #2

TESTIMONY PRESENTED TO THE
SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
re: SB 544

February 1, 1994

by: Rebecca Rice
Legislative Counsel for Kansas Retail Liquor Dealers Association

Thank you Madam Chair and members of the committee. My name is Rebecca Rice and I appear before you today on behalf of the Kansas Retail Liquor Dealers Association in support of Senate Bill 544.

The Association supports Senate Bill 544, which clarifies the laws regarding Election Day sales. The Kansas Retail Liquor Dealers Association continues to support most legislation which eliminates the inconsistencies in laws between alcohol beverage licensees, and, in addition, allows the retailer greater flexibility in operating the business in a responsible and competitive manner.

I appreciate this opportunity to present our support of Senate Bill 544 and am willing to answer any questions you may have.

Thank you, Madam Chair.

Senate Fed + State Affairs
Feb. 1, 1994
Attachment # 3

Attach. 4
Bryan + Ver

Madam Chair and members of the Senate Federal and State affairs Committee, thank you for the opportunity to appear before you today in support of Senate Bill 544. I am Bryan Beaver and I reside at 14042 Grandview in Overland Park. I am the legislative chairperson of the Convenience Store Association of Kansas. Our company, Carter Oil, has four stores in Kansas and eight in Missouri.

On behalf of CSAK I applaud the consideration by this committee of broadening the days of sale for alcohol products and specifically in our industry, cereal malt beverage. Election day sales prohibitions on the sale of such products has been appropriately brought before this committee at the request of the ABC. The laws in Kansas governing the sale of alcohol products, on election days, is difficult for convenience store operators because of jurisdictions and possibly for local law enforcement agencies as well.

While we support elimination of the election day prohibition, we also believe that this committee has the opportunity to strengthen our home States position next to Missouri by also eliminating the prohibition of holiday sales and Sunday sales. Along the Kansas/Missouri border, we are experiencing a greater competitive disadvantage with the elimination last year by Missouri of their Sunday sales prohibition.

In addition to the loss of sales to Kansas businesses following Missouri's action, we believe there must be a corresponding loss of sales tax and enforcement tax revenue to Missouri.

Also, please keep in mind, election day, holiday and Sunday sales of alcoholic beverages in Kansas are currently allowed in private clubs and public restaurants. This creates an advantage for some and a disadvantage for others who retail the same products.

We therefore encourage this committee to eliminate the election day prohibition as currently contemplated and go one step further in assisting Kansas businesses in their fight for economic survival, by also eliminating the prohibition of holiday and Sunday sales.

Again, Thank You

Senate F & S Affairs
Feb. 1, 1994
Attachment # 4

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

Attach. 5

February 1, 1994

To: Senate Committee on Federal and State Affairs
From: R.E. "Tuck" Duncan
John Bottenberg
Kansas Wine & Spirits Wholesalers Association
RE: Senate Bill 544

The Kansas Wine and Spirits Wholesalers Association supports Senate Bill 544. During the last municipal/school board elections the KSWA attempted to acquire a list of the various types of elections and in which cities each was being held. First, we asked the League of Kansas Municipalities and the Kansas County Association. They were unable to tell us so KSWA then inquired of the office of Secretary of State, likewise without success. It was impossible to ascertain to whom the law applied and to whom it did not. As a result, the current law caused wholesalers disruption in their delivery patterns. As a general rule a retailer receives delivery on the same day each delivery cycle. The same disruption which occurs for various holidays in municipal services, is created by the current state of the law. Therefore, we support the uniformity as proposed by SB 544 and encourage the committee to recommend this bill favorably for passage.

Thank you for your attention to and consideration of this matter.

Senate Federal State
Feb. 1, 1994
Attachment # 5



Attach 6

Testimony

before the

Senate Federal and State Affairs Committee

on Senate Bill 544

February 1, 1994

Kansas Beer Wholesalers Association **supports** ABC's effort to make election day sales laws uniform. There is some irony in Kansas law today because the very establishments that election day closing laws were aimed at - open saloons - are now allowed to be open in the form of public drinking establishments.

Election day closing creates a real distribution problem for beer wholesalers outside of the metropolitan areas. Most wholesalers send one truck to a community on a weekly basis. When some establishments in a town are open and some are closed it causes problems with the delivery schedule, creates additional costs in the form of overtime and fuel to service the closed accounts at another time.

In addition, there is no uniformity in enforcement of the law. During a recent school bond election in Smith Center the county attorney told a 3.2 on-premise establishment that he must close during the time the polls were open, even though the law refers to only national, state, county or city elections.

We encourage you to report **Senate Bill 544** favorably to the whole Senate.

Neal Whitaker
Executive Director
Kansas Beer Wholesalers Association

Senate Fed and State
Feb. 1, 1994
Attachment # 6



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

FROM: Don Bird
Kansans For Life At Its Best

DATE: February 1, 1994

RE: Senate Bill No. 544

Upon initial inquiry, it seems that the policy under consideration has been the practice of the State of Kansas for well over 100 years. Kansas statutes have not allowed the sale of alcoholic liquor on election days since 1880. Immediately following the repeal of prohibition in Kansas in 1948, the state legislature in 1949 enacted K.S.A. 41-712 as it currently reads.

In a day when concentrated efforts are being made to encourage the American public to participate more fully in the honored democratic privilege of voting, the proposal to eliminate such a longstanding tradition raises some questions.

- 1) Why should the legislature even consider changing a policy that promotes unimpaired judgment when its citizenry enters the voting booth?
- 2) Does the difficulty of monitoring a law by an enforcement agency necessarily stand as sufficient reason for government to reverse a practice that communicates such a valued message to its citizens?
- 3) Is it the assumption that a vast majority of these businesses are showing disregard for the law? Shouldn't we assume that most owners are law-abiding citizens who practice voluntary compliance with the law? If not, other questions are in order; if so, then enforcement should not be the issue.

If consistency in the law is the need, then we encourage you to bring other statutes in accord with this one.

Acceptance of this bill would, we believe, raise questions about government's initiative to urge its citizenry to vote with as much good reason and judgment as possible.

Considering the tradition in the state of Kansas for well over a century to promote sobriety in its citizens on election day, let's not eliminate a policy that conveys to American society the sacredness of the voting privilege granted its citizens.

Senate Fed and State
Feb 1, 1994
Attachment # 7

JAN 31 1994

STATE OF KANSAS

Attach 8



DIVISION OF THE BUDGET

Room 152-E

State Capitol Building

Topeka, Kansas 66612-1504

(913) 296-2436

FAX (913) 296-0231

Joan Finney
Governor

Gloria M. Timmer
Director

January 31, 1994

The Honorable Lana Oleen, Chairperson
Senate Committee on Federal and State Affairs
Statehouse, Room 136-N
Topeka, Kansas 66612

Dear Senator Oleen:

SUBJECT: Fiscal Note for SB 544 by Senate Committee on
Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note
concerning SB 544 is respectfully submitted to your committee.

SB 544 amends current law to permit the retail sale of
alcoholic liquor and cereal malt beverages on election days. The
bill makes other technical changes to current law.

The bill has no fiscal impact.

Sincerely,

A handwritten signature in cursive script that reads "Gloria M. Timmer".

Gloria M. Timmer
Director of the Budget

cc: Steve Stotts, Revenue

544.fn

Senate Fed and State Affairs
Feb. 1, 1994
Attachment # 2