

Approved: April 27, 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 March 10, 1994 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:
See attached agenda

Others attending: See attached list

Sen. Oleen opened the hearing for SB 826 and asked Mary Galligan to brief the bill. Proponents giving testimony are as follows:

Tuck Duncan, (Attachment 1);
Steve Kearney, (Attachment 2);
Mary Helmer, (Attachment 3);
Jim Conant, (Attachment 4);
Rebecca Rice, (Attachment 5).

Sen. Hensley questioned Mr. Duncan on the past activity of a similar bill, and Mr. Duncan answered the House Judiciary did adopt the dram shop bill, and they have endorsed the concept contained in SB 826. However, the other bill also contains a provision relating to serving alcoholic beverages to minors and third party action. Sen. Ramirez remarked the dram act provision has not been accepted, and Mr. Duncan agreed, saying it is difficult to know who to prosecute. Mr. Duncan outlined four categories of employees who would be affected by the bill: 1. On-premise, which includes bars, clubs, restaurants; 2. Off-premise, which includes retail liquor stores; 3. On-premise, which includes Pizza Hut and others; 4. Off-premise, which includes grocery and convenience stores. Mr. Duncan stated he would like to see all four categories included in the bill; however, he is aware the convenience and grocery stores may oppose the bill. In this case, he would agree to exclude the fourth category. Mr. Kearney stated his support for the concept, as long as the difference between a seller and server is outlined. Mr. Conant stated Alcoholic Beverage Control has limited educational/training programs, as their resources are directed to enforcement and tax collection efforts. He stated existing programs, such as the one described by Mary Helmer, could come into compliance with this law. Mr. Conant also emphasized an additional plus for this bill, and that is it makes compliance with the law a condition for continued employment in the liquor industry. He did caution the committee of the costs involved in implementing such a program, but stated that is offset somewhat by the \$10 fee. He said his agency would look to existing programs in other states before implementing the program. Ms. Rice stated the Retail Liquor Dealers strongly support training programs and are willing to assist in implementing the program. Frances Kastner gave testimony (Attachment 6) opposing the bill. Sen. Oleen closed the hearing on SB 826.

Sen. Oleen referred to SB 827 and stated the bill came as a result of the Flood Task Force meetings and successors to the governor were discussed. She announced Rep. Holmes is unable to appear before the committee today, but will submit written testimony at a later date. Mary Torrence briefed the committee on the bill. She stated there is a section at the end of KSA 48-1204, which specifies this act shall take place only if there an attack on the U.S; therefore, it would not apply in the case of a natural disaster. She stated the current law is unclear, but could be amended and clarified. Sen. Gooch stated he is concerned the law specifies how long a successor will serve. Ms. Torrence stated current law is unclear, and Sen. Oleen requested staff draft an amendment to clarify successors.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E
Statehouse, at 11:05 a.m. on March 10, 1994.

Sen. Oleen announced the distribution of written testimony of the following proponents of SCR 1622 from the hearing on March 9:

Vivian Smith, (Attachment 7);
Clarence Zoglman, (Attachment 8);
Rochelle Scott, (Attachment 9);
Mary Lou Ann Law, (Attachment 10).

Sen. Oleen called attention to SB 658, relating to gubernatorial inaugurations; contributions and expenditures, and announced the distribution of written testimony (Attachment 11) of Carol Duffy McDowell and a statement from Carmel Hinkle (Attachment 12). Sen. Jones made a motion on Page 2, Line 17, the word, reported" be stricken and the word "known" be inserted in its place. The motion was seconded by Sen. Parkinson; the motion passed.

Sen. Parkinson made a motion the \$500 on Page 2, Line 10, be changed to \$2,000, and it was seconded by Sen. Hensley; the motion passed. Sen. Jones asked if the \$10.00 per day, not to exceed \$300 penalty, is consistent with other campaign laws, and Ms. Williams indicated it was. Ms. Torrence pointed out a technical change on Page 1, Line 16, the words, "or committee" should be stricken. Sen. Tillotson made a motion to amend the bill to include the technical change, and it was seconded by Sen. Praeger; the motion passed

Sen. Walker made a motion to amend the bill to provide the excess money, after the inaugural expenses had been paid, go to the Adjutant General's office to reimburse for services given during the inaugural; any additional money would go to the General Fund. The motion was seconded by Sen. Praeger. Sen. Tillotson stated her concern that agencies receiving additional moneys are often penalized the next year. Sen. Oleen stated it is her understanding there is a request from the Adjutant General's office for an appropriation for the next inaugural, but that the money has not been appropriated; consequently, the Adjutant General's office will have to fund inaugural expenses from within the department. Sen. Walker's motion passed. Sen. Oleen called attention to Page 3, Line 11, and a committee members' concern on the penalty. Sen. Praeger stated she believes it should be left as the bill reads now, as the treasurer serves just for the inaugural event. Sen. Parkinson stated concern with requiring the treasurer of the fund to file a report three times. Ms. Williams stated the bill is patterned after the New Jersey law. Sen. Parkinson made a motion to eliminate the middle reporting time, and it was seconded by Sen. Praeger; the motion passed. Sen. Hensley made a motion the bill be reported favorably as amended, and it was seconded by Sen. Gooch; the motion passed. (See Committee Report, (Attachment 13))

Sen. Oleen called attention to SB 497, designating the barred tiger salamander as the official state amphibian. Sen. Hensley made a motion the bill be reported favorably, and it was seconded by Sen. Jones; the motion passed.

Meeting adjourned at 12:10.

DATE: MARCH 10, 1994

Attachment 1

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

To: Senate Committee on Federal and State Affairs

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

RE: Server/Seller Training

The primary purpose behind the concept of server/seller training is to improve the skills of persons who sell or serve spirits, wine and malt beverages. As a server/seller, that individual is on the "front lines" and may be the last contact with a consumer who could get behind the wheel intoxicated. By increasing their awareness of industry laws and other skills the server/seller can assist in promoting responsible drinking. Our industry encourages responsible behavior and this training is a step that has been implemented by several states to meet that goal.

The bill will have a secondary positive effect for the alcoholic beverage control. It will supplement their current educational efforts. It will eliminate the necessity of the licensee to constantly submit the names of employees. It will reduce certain costs associated with background checks, and the modest fee of \$10.00 per server/seller will be sufficient to cover A.B.C.'s costs associated with the implementation of the plan.

Highlights of the bill:

A permit is not required until after July 1, 1995. This will allow the A.B.C. to implement rules and regulations, for instructors to be certified, and to approve programs (many of which are already in existence) to be offered. A permit expires on the anniversary date of the permittee's birthday three years after the date of issuance of the permit.

An applicant for a server permit must be 18 years of age or over. The applicant must authorize a criminal records check to be conducted by the Kansas Bureau of Investigation, tender the appropriate fee (\$10.00), and authorize the release of the information to the instructor, subject to applicable laws, rules and regulations regarding disclosure of said records.

The alcoholic beverage control may revoke or suspend a server permit, or impose a civil penalty and may bring a proceeding, in accordance with the Kansas Administrative Procedures Act. If a server permit is lost, mutilated or destroyed, the permittee may receive a duplicate permit from the alcoholic beverage control.

-over-

Senate Fed + State
March 10, 1994
Attachment 1

A permittee must take the alcohol server education program and examination every three (3) years unless a probationary extension is granted for hardship reasons. The alcoholic beverage control by rule may exempt licensees who do not participate in the management of the business.

The standards and curriculum of alcohol server education programs would include:

- * Alcohol's effects on the body and behavior, especially driving ability. Instruction shall include information regarding: physiological and behavioral effects of alcohol use, and strategies for dealing with problem situations.
- * Effects of alcohol on combination with commonly used, legal prescription or nonprescription, drugs and illegal drugs.
- * Recognizing the problem drinker and community treatment programs and agencies.
- * State alcohol beverage laws such as prohibition of sale to minors and sale to intoxicated persons, sale for on-premises or off-premises consumption, hours of operation and penalties for violation of the laws.
- * Drunk driving laws and liquor or cereal malt beverage liability statutes.
- * Intervention with the problem customer including ways to cut off server, ways to deal with the belligerent customer and alternative means of transportation to get the customer safely home, including
- * focus on how to assess and evaluate situations and behavior and
- * discussion of both effective and ineffective intervention techniques.
- * Advertising and marketing for safe and responsible drinking patterns and standard operating procedures for dealing with customers.

The alcoholic beverage control would provide the program through independent contractors, private persons or private or public schools certified by the alcoholic beverage control, and will adopt rules and regulations for the administration of the alcohol server education program, for the issuance of server permits and for the certification of instructors. The rules and regulations shall establish the length of training programs, the qualifications for "instructor" certification, maintenance of "instructor" certification, permittee and instructor certification examinations, program administration quality control, and for such other matters as required to implement the provisions of this act.



Thank you for your attention to and consideration of this matter. We encourage you to recommend the bill favorably for passage.



KANSAS OIL MARKETERS ASSOCIATION

Convenience Store Association of Kansas

Madam Chair and members of the committee thank you for the opportunity to appear before you concerning Senate Bill 826. I am Steve Kearney appearing on behalf of the Convenience Store Association of Kansas, a division of the Kansas Oil Marketers Association. Employee training in the area of alcohol management has long been a reality for the convenience store industry and we applaud the attempt to heighten awareness concerning this issue.

The bill before you is sweeping in it's scope and has raised several concerns on the part of our members. The language contained in the bill pertaining to the standards and curriculum of the alcohol server training program go beyond what we believe is appropriate for package sales of alcohol or cereal malt beverage. For example, instruction mandates the inclusion of such topics as "absorption rate factors" and "recognition of the problem drinker and community treatment programs and agencies."

This language appears to be applicable to only on-premises consumption where the "server" has the opportunity to interact with and view the customer for an extended period of time while serving him or her drinks and judge their behavior based on the amount of alcohol consumed. For package sales, we see our customers for the brief amount of time it takes to transact the sale. We question the usefulness of such standards as "absorption rate factors" when we are not serving drinks to the customer.

Several other considerations we would request that the committee look into before adopting such a measure include the following:

1. Would the training programs already in existence in the package retail industry suffice for package sales?
2. If so, would those already employed be grandfathered in and receive a permit without repeating the training that has already been provided?
3. How many thousand Kansans are effected by this bill and how long will it take to implement the program?
4. Would it be more appropriate to implement legislation of this type in stages to gain more knowledge about the impact and cost?
5. Should package retailers of alcohol and cereal malt beverage be subject to the same training as on-premises licensees, even though no alcohol is consumed at the package retailers place of business, nor does the package retailer serve drinks to the customer?

Senate Fed + State
March 10, 1994
Attachment 2

We believe that the industry has already undertaken steps toward the necessary training and precautionary measures to address the package sale of alcohol and cereal malt beverage. A measure of this magnitude should work in concert with the already existing efforts of the private sector. While the concept embraced by this bill is a meritorious one, we feel that this bill poses as many questions as it answers and needs further study and careful consideration before passing out of committee. Thank you for the opportunity to appear today.

#1

KANSAS STATE REGULATIONS FOR
CEREAL MALT BEVERAGES

(Full Set)
Mary Helmer
Kwik Shop
ATTACH. 3

As a Kwik Shop employee, you are responsible for complying with the regulations as they apply to the selling of cereal malt beverages in your area. A summary of these regulations as they apply to you follows:

41-2702 A license is required to sell cereal malt beverages. Your division manager and secretary are responsible for maintaining a current and valid license for your store.

The license shall be kept posted in a conspicuous place in your store. Be sure that the license is posted in the designated place in your store.

41-2704 Hours for the sale of cereal malt beverages are restricted to between the hours of 6 A.M. and 12 MIDNIGHT, excluding Sunday, or on the day of any national, state, county, or city election, including primary elections, during the hours that the polls are open.

It is unlawful for any person under 21 years of age to consume, purchase, or possess cereal malt beverages.

41-2706 No person shall sell or furnish (beer) at retail on credit, (VISA, Mastercard, etc.).

41-2708 Licenses may be revoked or suspended for any of the following reasons:

1. If the employee has violated any provisions of the act;
2. Drunkenness of employees while on duty, or permitting an intoxicated person to remain in the store;
3. Selling beer to anyone under legal age;
4. Employing anyone under 18 years of age to sell beer.
5. Employing anyone who has been convicted of a felony or any violation of the intoxicating liquor law;
6. Permitting anyone to drink beer on the premises.

A violation causing the revocation of a liquor license would be very costly to Kwik Shop, due to loss of revenue (profits) and unfavorable publicity to the company. We must, as a company and individually, understand and comply with these regulations.

If an employee is cited or arrested for a violation of beer regulations, either through a state or local agency or through an in-house shoppers' audit, they will be suspended without pay until the case has been finalized. If found guilty or if the employee pleads "no contest," they are subject to termination, and are responsible for all fines, attorney's fees and imprisonment as per state laws.

If a problem develops, immediate communication with the store manager must take place to enable proper action and support by the company.

Senate Fed + State
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Attachment 3

BEER REGULATIONS

Reasons why you should refuse a beer sale:

1. Under legal age:
You can sell beer at 18, but you cannot buy until the age of 21.
2. Before or after hours:
Cover the election days, hours to sell, and holiday sales.
3. Appears to be drunk:
Use M.A.A.M. technique to deal with those customers.
(See steps below.)
4. Second party sale:
Person buying the beer is of age, but you know that they will give the beer to a minor.

To help you understand beer sales and how important they are to the store and also to you as a new clerk, we have listed below some training words to help you to be more aware.

- S. Size up your customer
- I. Interview your customer
- R. Rate your customer

If the customer looks under the age of 25, then card him. If the I.D. looks fake, ask him for his address and date of birth. Stay firm with your decision.

You have made a decision not to sell beer to a customer. The next word, M.A.A.M., will help you with the customer.

- M. Move the alcohol from sight of the customer, to the opposite side of the counter.
- A. Present a positive attitude to the customer. Be firm with the customer and stay pleasant.
- A. Assert the law. Quote law to the customer. Tell the customer you are only doing your job. Follow the law.
- M. Move on to the next customer. Don't turn your back on your customer, but let them know that you are not going to make the beer sale.

A customer has left your store with beer that they have not paid for. S.T.O.P. will help you with this problem.

- S. Stay in the store. Never go outside of the store.
- T. Keep your temper in check. If you get upset, it will not solve the problem. Some one must stay in charge of the situation, and that person must be you.
- O. Observe in what direction the customer went when they left your store. Also note their description. Get license plate number, if possible.
- P. Post in your store log or store notebook that beer has been stolen from your store. Call the police and report the problem and complete an incident report.

BEER REGULATIONS

REMEMBER if the customer looks under the age of 25 I.D. them.

The Age Requirements For The Purchase of Beer Is 21.

The Required I.D. To Sell Beer Is A Pictured State Issued Driver License. Or a Military I.D.

I.D.'s you should not accept social security card, school I.D., Any employee cited or arrested for a violation of beer regulations, either through a state or local agency or through an in-house shoppers' audit, will be suspended without pay until the case has been finalized. If found guilty or if the employee pleads "no contest," they are subject to termination, and are responsible for all fines, of no more then \$10,000.00 and (1) one year in jail.

REMEMBER, THE EMPLOYEE IS RESPONSIBLE FOR ALL FINES AND COURT COSTS!



USE OF ALCOHOLIC BEVERAGES:

The consumption of alcoholic beverages by any employee while on company property is strictly forbidden. This includes the parking lot and the rear of the store. Employees who report for work under the influence of alcoholic beverages will not be permitted to work and will be subject to disciplinary action.

K W I K S H O P I N C .

E M P L O Y E E A C K N O W L E D G E M E N T S
=====

I have read, been thoroughly trained and received a copy of the following regulation summaries:

☐ CEREAL MALT BEVERAGE

☐ TOBACCO

☐ USDA FOOD STAMP

I agree to personally comply with these regulations and recognize that failure to do so may result in disciplinary action up to and including discharge.

☐ I have read, received training in shoplifting and robbery deterrents and agree to use these deterrents to help provide a safer place for myself, co-workers and customers.

☐ I have read and understand Kwik Shop's Sanitation and Fast Food Training Guide and agree to comply with these guidelines.

EMPLOYEE SIGNATURE

DATE

MANAGER / TRAINER

DATE

[Original is to be sent to the general office and the copy is to be retained by the employee.]

Employee Awareness Acknowledgement (Cont'd)

_____ **PERSONAL BELONGINGS:** I understand that Kwik Shop will not be responsible for personal items, lost or stolen while employees are on duty.

_____ **PERSONAL APPEARANCE:** As a representative of Kwik Shop, I am expected to conform to the required dress code. Smocks or approved Kwik shop attire and name tags must be worn while on duty. I am expected to be clean and neatly groomed with clean hands and fingernails, and be free of offensive body odor.

_____ **SMOKING:** I understand that there is absolutely NO SMOKING ALLOWED in the checkstand area of any Kwik Shop store.

_____ **VISITORS:** I understand that friends and/or relatives may not wait or loiter at the store while I am working.

_____ **GAME MACHINES AND MAGAZINES:** I understand that using the game machines and reading magazines while on duty is prohibited.

_____ **PERSONAL PURCHASES:** I understand that if merchandise is purchased for personal use, it must be rung up on the register and paid for at that time. The register receipt must be attached to the purchase. I am not allowed to do personal shopping, including lottery and lotto, until after my shift is over and I have clocked out. I will be careful not to consume food or soft drinks in the obvious view of the customer.

_____ **FOUNTAIN DRINKS:** I understand that Kwik Shop provides drink products from the dispensing machines in our fast food bars at no charge to their employees. (Fountain drinks, juice, coffee, hot chocolate and iced tea are included.) These free drinks are for the person who is working, only, while they are on the time clock, and using the cup issued to them in orientation.

_____ **ALCOHOL AND SUBSTANCE ABUSE:** I understand that consumption and/or possession of alcoholic beverages and/or illegal substances by any employee while on company time or property is strictly forbidden, as is reporting to work under the residual effect of alcohol and/or illegal substances.

_____ **SALE OF ALCOHOLIC BEVERAGES OR TOBACCO PRODUCTS:** I understand that Kwik Shop strongly believes in the responsible marketing of alcohol and tobacco products. For this reason, any employee who sells alcoholic beverages or tobacco products to minors, or any employee who fails to follow the Kwik Shop procedures for the selling of these products, will be subject to immediate dismissal or suspension.

_____ **WEAPONS IN THE STORE:** I understand that the presence of firearms or weapons of any kind are strictly prohibited in the store.

_____ **WORKING OFF THE CLOCK:** I understand that I am not to perform any job duties until I have clocked in for my scheduled shift. Also, I may not continue working after I have clocked out.

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: March 10, 1994

SUBJECT: Senate Bill 826

I appreciate the opportunity to appear before the committee today in support of Senate Bill 826. This bill would impose certain education and testing requirements on liquor licensees and persons employed in positions which involve the selling, serving or dispensing of alcoholic beverages. The bill covers all businesses which sell alcoholic beverages to the consumer, whether for on-premise or off-premise consumption.

The Division supports this bill because of the broad educational provisions applied to all persons who sell alcoholic beverages to the public. Current state resources are directed primarily toward enforcement and tax collection efforts. Although some educational opportunities are available, both within the industry and upon request from the ABC Division, no minimum standards are in place on a consistent statewide basis. Senate Bill 826 would ensure that all persons who serve or sell alcoholic beverages have an opportunity to understand the laws and utilize sound marketing and customer relations principles related to the sale of the product.

The bill has additional merit in that it makes careful compliance with the law a condition for continued employment in the liquor industry. Currently, only the licensee can expect to be penalized each and every time a violation is detected. Properly educated employees will take much greater care each time they interact with a customer when their continued employment rests on responsible compliance with the law. Placing individual responsibility precisely at the point of sale will benefit the consuming public and the industry as a whole.

Senate Bill 826 places primary responsibility for implementation and administration of the server training program on the Alcoholic Beverage Control Division. The Division would propose rules and regulations governing all aspects of the program and would certify and monitor the performance of trainers authorized to issue permits. We believe that this will be a fairly large-scale undertaking due to the number of persons who would be subject to the permit requirements. In FY 1993, on a base of approximately 2,400 licenses, the Division conducted record checks on 3,622 new license applicants and 13,226 new persons to be employed as retail liquor clerks, bartenders or servers. This equates to a turnover rate of 7 persons per license per year. While the Division does not conduct record checks on cereal malt beverage (CMB) applicants or employees, it is known that there were 3,950 active licenses in place during FY 93. Assuming an equivalent turnover rate for CMB licenses, 27,650 CMB license applicants and employees would be subject to the server permit requirements on an annual basis. Total new server permit applicants for all license types covered under the bill would be approximately 44,478 per year.

Senate File State
March 10, 1994
Attachment 4

While exact estimates of additional ABC staff needed to implement the bill have not yet been finalized, it is clear that the funding mechanism provided for in the bill is sufficient to cover any additional operational costs. Existing programs in other states would be reviewed prior to implementation of rules and regulations governing the proposed Kansas server training program. Several states have had similar programs in place for a number of years, which should allow us to identify successful practices and incorporate them into a viable program for the Kansas liquor industry.

TESTIMONY PRESENTED TO THE
SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
re: SB 826

March 10, 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 826.

The Association supports the establishment of requirements for mandatory server training of any individual selling, mixing, or serving alcohol beverages. We accept responsibility to take reasonable action to prevent purchases by underage or intoxicated individuals. The wholesalers and retailers work together to educate both the public and the servers regarding illegal or inappropriate purchases. This legislation addresses the issue from the standpoint of prevention and education as opposed to criminal sanctions and litigation.

The Kansas Retail Liquor Dealers Association operates a server training program for its members and encourages member licensees to enroll their employees. A Topeka retailer, Mr. Albert Lollar, has been instrumental in promoting and presenting these sessions. The program has been unable to achieve 100% participation among retailers. We believe a mandatory educational program will result in much greater statutory compliance for all sellers of alcoholic beverages.

I appreciate this opportunity to present our support of Senate Bill 826 and am willing to answer any questions you may have.

Thank you.

Senate Fed. & State
March 10, 1994
Attachment 5



EXECUTIVE DIRECTOR
JIM SHEEHAN
Shawnee Mission

OPPOSING SB 826 SEN. FEDERAL & STATE AFFAIRS 3-10-94

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DIRECTOR OF
GOVERNMENTAL AFFAIRS

FRANCES KASTNER

I appreciate the opportunity to share some of our concerns with you, regarding our opposition to SB 826.

We are opposed to the portion of SB 826 requiring a cashier in a grocery store being certified under a server-training program. Simply seeing the person long enough to check them out certainly is different than observing a customer who is consuming alcoholic beverages ON THE PREMISES, as you would in a tavern or drinking establishment. If a customer's hands shake while paying for a purchase, would you expect a checker to be able to determine if the customer has palsy, multiple sclerosis, or simply had too much to drink?

How much time do you normally spend in a check-out lane? Would you want the checker to run over a mental check-list he or she received in their training program each time a six-pack of beer comes through the line?

We are a service-oriented industry. If we offend our customers by segregating them in any manner, we would soon be out of business. We do not ask those who use food stamps to use a separate check stand; or those who want to make an electronic fund transfer or write a personal check. But it has been suggested that grocers set up a separate check-out lane for those who purchase cereal malt beverage for off-premises consumption.

If you believe that it is your duty to protect those who overindulge then please limit SB 826 to those servers WHERE ALCOHOLIC BEVERAGES ARE CONSUMED, rather than include employees who sell cereal malt beverages for OFF PREMISE CONSUMPTION IN UNOPENED CONTAINERS.

Thank you for the opportunity to share our views and concerns with you.

Frances Kastner, Director
Governmental Affairs, KFPA

Senate Fed. State
March 10, 1994
Attachment 6

Testimony of Vivian Smith
Senate Federal and State Affairs Committee
March 9, 1994
Proponent of SCR 1622

Thank you Senator Oleen, and members of this committee for hearing me today.

My name is Vivian Smith. I live in Wichita.

While exercising my parental rights, I experienced many difficulties with the Wichita public school system. After a year fraught with problems, we decided to leave the public school. However, this conflict left me with the question, "If the school and the parent disagree, who decides for the child?"

At the beginning of my children's 1992-93 school year, the students in my son's class were handed a two page paper to complete. This paper had 58 statements with boxes for the students to indicate whether the answers were "like" or "unlike" themselves. Statements such as:

"No one pays much attention to me at home."

"My parents expect too much of me."

"I have a low opinion of myself."

"I really feel as if my parents are pushing me."

These had nothing to do with teaching my child academics but were a blatant invasion into our privacy. No notice was given to me, the parent, about this test. As a result, I began observing and questioning what was going on educationally in my children's classrooms. Today, I wish to share a few examples of incidents where my beliefs and decisions as a parent collided with the "authority" of the Wichita public school system--a government agency.

1. Throughout the school year, my husband and I continually had problems communicating with the school. When we had a question or concern about various activities, we first talked with the teacher then the principal. My son complained that whenever we became involved at the school there was a backlash against him. At one point the principal informed my son that if there was a problem at school, there was no requirement for the school to inform his parents.

It is not right that our child be caught between the school officials and his parents over differences in opinion about activities.

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Attachment 7

2. It was shocking to discover from my children that a counselor visited the classrooms of the students for a 30 minute session each week. After becoming aware of this practice, I met with the counselor. I told her I would visit my son's classroom to observe one of the sessions. At the session, students were asked to discuss conflicts in their families and how they were handled. Some students were telling about personal things that happened in their homes.

Since I did not agree with what I had witnessed and this did not involve teaching academics, my child was not to participate in anything that required sharing personal family matters. The counselor informed me that she was trying to identify the students with family problems and then teach the children how to handle them. This was a group activity that ALL children participated in without parental knowledge. For a school official to "counsel" all children in case a few are having problems is as illogical as providing insulin to all students in the classroom in case one may have diabetes.

Also, it is the responsibility of parents to handle personal family problems and the parents, not the school, should instigate counseling if a need arises. The school, an agency of the government, has no right to intervene in a family's personal life nor provide regular "counseling or group therapy sessions" without prior written permission from the parent.

Some will say that the school must find out if the child is "at risk". My children, purely on the basis of being "children of color" according to our school district, are automatically designated as "at risk". This labeling puts our family under the threat of "government intervention" into our privacy for no reason except the color of our skin. Current laws provide for government intervention when there is justifiable cause to suspect abuse or neglect with due process for parents. No other intervention should occur.

3. Where are the rights of the parents in the public school system? My son told me about the paper that he had to do as a homework assignment. He did not feel comfortable about doing it. I read it and told him that we would substitute something else. This really upset the school. When reading assignments were made of books that were not acceptable to us because of personal family values and beliefs, it was very difficult to obtain an alternative assignment.

There was a constant battle between the school that said "they are the experts" and our authority as parents with our own values and beliefs...our children, again, caught in the middle.

Again the question, "If the school and you, the parent disagree, who will decide for your children...for my children?" As a parent, I ask that you give the citizens of Kansas a right to answer this question. No government official will ever love my children as I do. No government agency will ever understand my child or sacrifice as I do. Please, let parents retain our fundamental right to exercise primary control in raising our children.

Thank you.

Attach. 8

To: Chairman/Committee

From: Clarence Zoglman/ Wellington, Sumner Co. Home School Rep.

Subject: Amendment " 21 "

Why Amendment " 21?" Because it seems the Kansas State Board of Education has some misconceptions about it's role in the "general supervision" of public education and other educational interest.

With the attempt to begin regulating homeschools, it is felt that they the board have more then the best interest of children at heart.

In our own experience with talking to local school superintendent, Ron Fagan, about the conditions in the Wellington Schools it seemed his main concern wasn't the class size or safe conditions but the amount of money the district would be losing if our children were not enrolled.

Because of the latest attacks on our freedoms by legislative actions, "H.R. 6" and Ms. Baker and Mr. Garret's attempt at control of homeschoolers, we feel that it is necessary that Amendment 21 be passed to insure the freedoms that we now enjoy.

Thank You.
Clarence Zoglman
519 East 9th Street
Wellington, Ks 67152



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I am Rochelle Scott from Winfield, Kansas. I have three children and have been involved in the local school system for 19 years. My husband and I still retain the hope that we can, once again, place our trust in the educational system which, at one time, served us well.

I would like to take a few moments to relate some experiences we have had which we feel exemplify the need for Amendment 21.

The federally funded drug curriculum being taught in our school district should have been used **only after** parental notification and consent. When parents began to ask questions, the Superintendent warned teachers that there were parents seeking to deny them their academic freedom in the classroom.

When parents asked to see the material, we were told there was no material to view. Only after filing grievances were we afforded the opportunity to view the material.

I am personally acquainted with a parent in our school district who was ushered out of an elementary school and told not to return because she had written a letter to our Superintendent concerning experimental programs and techniques being used. In the letter she requested support data to justify the use of mental health techniques in the classroom. She was appalled that these would be utilized without parental consent.

Despite parents writing a letter requesting they be notified and be able to preview psychological, attitudinal tests and surveys, their request was ignored. When their son was to take a psychological test, he refused, requesting that his Mom be contacted first. He was sent to the principal for insubordination.

The parent was told by a school psychologist, "You give your consent for whatever we deem necessary when you enroll your child." The enrollment process should not be construed as a blanket parental consent.

Parental notification and consent is of vital importance in any experimental program, attitudinal surveys, or psychological testing. The Hatch Amendment, which was intended to be a safeguard in these areas, has not made a difference, in our experience.

We have been asked to be involved as parents, but my involvement has left me feeling as if I have been penalized and discredited in my school district.

Part of the discrediting process took the form of our Superintendent reading an alleged, anonymous threat letter at a School Board meeting, followed by his confronting, in general, parents in the audience, intimating that they had knowledge of said letter. Parents feel that this was a move to intimidate and discourage parents from speaking out. Parents were also told that contacting teachers with questions would be viewed as harassment.

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These are just a few examples of the need for Amendment 21. Parents have well-founded, grave concerns. My government, whether it be local, state, or federal, was established to protect our freedoms, I respectfully urge your help in preserving our freedoms as parents by voting to place Amendment 21 on the ballot.

My name is Mary Lou Ann Law from Winfield, Kansas. I am a wife and mother of four. I provide licensed child care in my home evenings and weekends, and work as a certified teacher at the secondary level.

I appreciate the opportunity to speak before you today on a very important and timely issue, that being your support of, what I believe to be, the fundamental right of parents and guardians to exercise primary control of the care and raising of their children.

When I held my first child in my arms, I was struck by the awesome responsibility which my husband and I were about to take on in the care and guidance of our precious, new gift.

Although we have not been perfect parents, we feel secure in the fact that we have done the best job possible in raising our four children. No one knows our children like we do. No one knows their heart like we do. No one knows the varied methods of instruction and discipline that have been useful in raising our children to be sensitive, productive young people nor which method works with each child in any given situation like we do.

I never dreamed when I held my first child in my arms that I would have to fight to be included in their education, fight to be informed of what they would be taught at school, fight to be informed when my children were to be taken off-campus, and fight to have my permission secured. I never dreamed I would have to fight to retain my rights as a parent after my children crossed the school threshold.

I believed the educational system which seemed to promote parental involvement. Yet when we, out of concern for our children, attempted to become involved beyond the pat on the back which the administration and educators appear to endorse as parental involvement, we were ridiculed, misinterpreted, and discredited before others. Our experience has been a difficult one, yet we have persevered because we believe that our children need and deserve our involvement.

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As parents, taxpayers, and constituents we look to you for concrete support. When the Hatch Amendment was passed, parents felt encouraged, yet when parents have tried to point to it in support of valid concerns, we have been told by School Boards, Administrators, and others that "the Hatch Amendment does not apply."

I have seen an alarming trend in educational and governmental programs which appears to suggest that parents cannot properly raise their children, are not doing a good enough job, or should turn over the responsibility of the care and upbringing of their children to the government or school system. Perhaps this is not your intent, but the perception is there nonetheless, and is perpetuated on a daily basis.

You have the opportunity to set the record straight and give credence to the belief that the family is the foundation of our nation and that the rights of parents MUST be preserved. I urge you to do this by supporting Amendment 21.

Thank you.

CAROL DUFFY McDOWELL
ATTORNEY AT LAW

Attach 11

41 SW PEPPER TREE LANE
TOPEKA, KANSAS 66611-0255
TELEPHONE
913-266-6346

800 SW JACKSON, SUITE 1120
TOPEKA, KANSAS 66612-1292
TELEPHONE
913-235-2324
FACSIMILE
913-357-3390

March 1, 1994

The Honorable Lana Oleen, Chair
Senate Committee on Federal
and State Affairs
Room 143-N - State Capitol
Topeka, Kansas 66612

Dear Madam Chair,

Thank you for giving me the opportunity to appear
before your committee on behalf of former Governor,
John Carlin, and myself, to express support for S.B. 658.

Your bill would help to ensure public accountability;
provide a needed structure for inaugural fundraising and
accounting; and create an historical record for use by the
public and by future inaugural committees.

While I share your concern that contributions be
limited to specified amounts, I think the \$500.00 cap
contained in the bill may be so low that ticket prices will
be out of the reach of many Kansans. Increasing the cap to
\$2,000.00 (the maximum amount which may be contributed to a
candidate for Governor, per election) should permit
inaugural planners to raise sufficient funds between the
general election and the inaugural to significantly
underwrite the costs of traditional inaugural activities.

Thank you again for permitting me to appear before your
committee, for your introduction and support of this
legislation, and for the many courtesies you have extended
to me.

Sincerely,

Carol McDowell

Carol Duffy McDowell

CDMc/hma

cc: John Carlin

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Attachment 11



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Attach. 12

Senate Bill No. 658
(An Act Concerning Kansas Inaugurations)

Senate Committee on Federal and State Affairs

The Honorable Lana Oleen - Chairwoman

Statement of Carmel Hinkle

March 7, 1994

Thank you Madam Chairwoman and members of the Committee for inviting me to provide information concerning Senate Bill No. 658. I want to make it clear that I am providing this information as an individual citizen of Kansas. I am not representing any business or political organization. The information and opinions I am providing are based exclusively on my experience in organizing two Kansas inaugurals. I was the Director of Inaugural Activities for the 1979 Inaugural and I served as Chairperson for the 1991 Inaugural Finance Committee. I also served in several other capacities during the 1991 Inaugural but due to the fact that this was the first Inaugural Ball in the history of Kansas which was free and open to all citizens, my primary focus was on fundraising.

Many people view Inaugurals in the context of the Governor-elect being inaugurated. In Kansas, Inaugurals are bipartisan celebrations. In addition to the Governor-elect, the Oath of Office is administered to:

- all other statewide constitutional officers
- members of the statewide Board of Education
- members of the Kansas Senate
- members of the Kansas House of Representatives
- selected members of the Judiciary including the Kansas Court of Appeals

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In addition, special recognition is provided to former Governors of Kansas, both Democrat and Republican, who are in attendance for the Inaugural Oath of Office Ceremony.

The Governor-elect does play the lead role in appointing both an honorary and working Inaugural Committee to accomplish the demanding organizational effort necessary to successfully conduct two to three days of official Inaugural festivities for the people of Kansas.

The Governor-elect also determines the philosophical theme and message for the Inaugural. For example, for the 1991 Inaugural, Governor-elect Finney chose "The Future is Now" as the overall theme. She also directed the Inaugural Committee to make the 1991 Inaugural the most inclusive ever - both in participation and attendance from people of all walks of life who reflect the diversity of the people of Kansas. She asked that the Inaugural be designed so it would be enjoyed especially by children, by young and older Kansans of both genders, by Native Americans, by people of all races, by members of both political parties, by people from all geographic areas of Kansas, and most importantly, that the 1991 Inaugural Ball should be accessible to Kansans of all socio-economic backgrounds.

This challenge from Governor-elect Finney to the 1991 Inaugural Committee resulted in the first free and open Inaugural Ball in the history of Kansas. It was truly a populist celebration of democracy. Over 16,000 people attended the five free Inaugural Balls in the Topeka, Kansas Expocentre complex.

This free and open Inaugural Ball would not have been possible without the support of hundreds of volunteers and the generosity of the many contributors who participated in the 1991 Inaugural Banquet.

The 1991 Inaugural Banquet was attended by approximately 2,400 individuals whose small, medium and large contributions underwrote all other public events including the free and open Inaugural Ball for its 16,000 celebrants.

S.B. 658 provides for public disclosures of the names of the contributors to Inaugural Committees. This is compatible with the 1991 Inaugural Committee's belief that it was important to disclose the names of all individuals and organizations who contributed \$100.00 or more by publishing their names in the Official Inaugural Program. In keeping with the history and protocol of the Inaugural the actual dollar amount contributed by each contributor was not published in the program. However, each contributor was listed in accordance with a pre-designated funding level which corresponded to their respective category of support. The funding levels associated with each category of support have been widely reported by the media prior to, during, and after the 1991 Inaugural. I know of no problem or irregularities associated with the financing of any previous Inaugural; nevertheless, disclosure of this type of funding information is simply good public policy. I support the provisions of S.C. 658 which statutorily formalizes the procedures for such disclosure of both contributions and expenditures.

The important philosophy of making Inaugural events affordable and accessible to all Kansans does make Inaugurals more expensive. As long as no tax dollars are spent, the only limitations on pursuing the goal of a free and open Inaugural should be based on the creativity of the Inaugural Committee and the generosity of the contributing organizations. The law should not place a financial limit on the pursuit of public participation.

The strong disclosure requirements of S.B. 658 should serve to eliminate the necessity for the proposed contribution maximum of no more than \$500 per person. The proposed contribution limitation is a potentially fatal flaw in the bill in that it would have the unfortunate, and hopefully unintended effect of severely restricting participation in and access to Inaugural events by the general public. Large sponsorship level contributions are necessary to fund the myriad of special events, exhibits and associated activities

leading to and including the Inaugural Ball. A limitation on the contribution size of those who can most afford to contribute will limit the participation of those least able to pay. Participation in an event like the Inaugural which is in fact a celebration of democracy should in no way be limited by economic status. With the limitation in place if passed S.B. 658 could turn the Inaugural Ball into the exclusive domain of the financial and political elite.

Unless the contribution limitation is completely removed, S.B. 658 should not be passed.

I would additionally recommend amending S.B. 658 on page 2, line 19, subsection (f) which states "No person shall copy any name of a contributor from any report filed under this section and use such name for any commercial purpose,...under this section."

After the word "commercial" on line 20 and 21 I would recommend the inclusion of "or political." This would protect individuals who have contributed to a bipartisan event such as the Inaugural from being solicited for contributions to support partisan candidates or causes as a result of their name appearing on a legally required disclosure list.

The final recommendation I hope you will consider pertains to the disposition of any residual funds which may be available after all inaugural expenses have been paid. Currently, S.B. 658 would return any residual funds to the state general fund. As a more appropriate use for any residual funds I would recommend that the entire amount be credited to the Kansas Historical Society to establish and support a historical exhibit of Kansas Inaugurals at the Museum of History. Approximately 140,000 people a year visit the Museum of History. This is simply another way to increase the public's interest in participating in the democratic process, which the Inaugural celebrates.

In summary, I would reiterate my support for the public disclosure provisions of S.B. 658. The public disclosure requirement is strong enough to eliminate the need for the maximum contribution limitation now included in the bill. Unless the contribution limitation is deleted the bill should not be passed because it will limit access to and

participation in many special inaugural events for everyone but the financial and political elite.

Every previous Inaugural which I have helped organize or which I have attended has been a positive, bipartisan celebration of the democratic process.

If S.B. 658 becomes law with the amendments I have recommended, I am confident that future Kansas Inaugurals will also serve to symbolize the strength and the commitment to good government of the people Inaugurals are really designed for - the people of Kansas.

Again, Madam Chairwoman thank you for inviting my input on S.B. 658. I hope the information I have provided will be beneficial to the process.

Carmel Hinkle

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

Your Committee on Federal and State Affairs

Recommends that Senate Bill No. 658

"AN ACT concerning gubernatorial inaugurations; relating to contributions and expenditures therefor; requiring certain reports and prohibiting certain acts and providing penalties for violations.

Be amended:

On page 1, in line 16, by striking "or committee"; in line 39, by striking ", May 10"; in line 41, by striking all after "28"; in line 42, by striking all before the last "and"; in line 43, after "period", by inserting "beginning on March 1 and";

On page 2, in line 10, by striking "\$500" and inserting "\$2,000"; in line 17, by striking "reported" and inserting "known"; in line 43, by striking "it to the state general fund" and inserting ":

(1) To the inaugural expense fund created by section 2: (A) An amount equal to the amount certified to the director of accounts and reports by the adjutant general as the amount expended by the adjutant general for expenses incurred in connection with the gubernatorial inauguration; or (B) if the amount of residual funds is less than the amount certified, the entire amount of the deposit; and

(2) to the Kansas commission on governmental standards and conduct fee fund created by K.S.A. 25-4119e and amendments thereto, any remaining balance";

On page 3, after line 28, by inserting:

"Sec. 2. (a) There is hereby created in the state treasury the inaugural expense fund. Expenditures from the fund shall be made in accordance with appropriation acts upon warrants of the director of the accounts and reports issued pursuant to vouchers

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approved by the adjutant general or a person designated by the adjutant general.

(b) Moneys credited to the inaugural expense fund shall be expended only to reimburse the adjutant general for expenses incurred by the adjutant general in connection with a gubernatorial inauguration.";

By renumbering section 2 as section 3;

And the bill be passed as amended.

_____Chairperson