

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on February 17,2005 in Room 519-S of the Capitol.

All members were present except:
Dean Newton- excused

Committee staff present:
Jerry Ann Donaldson, Kansas Legislative Research
Jill Wolters, Office of Revisor of Statutes
Cindy O'Neal, Committee Secretary

HB 2104 - UCC securities interest in oil & gas productions

Representative Loyd made the motion to report HB 2104 favorably for passage. Representative Jack seconded the motion. The motion carried.

The committee recessed at 3:45 till 4:15 so the subcommittee on **HB 2114** could meet.

HB 2114 - Dram shop law; liquor licensee liability

Representative Kinzer provided the committee with two reports: #1 being the majority report (Attachment 1) and #2 (Attachment 2) being the consenting report. Both reports have the following:

- references to other sections have been deleted and the language found in those sections have been inserted into the bill
- package liquor stores are not included in the bill
- the term "visibly intoxicated is defined in (f)(3)
- absolute defense language for minors who use fake identification
- include safe harbor provision

In #1 the safe harbor provision applies to the action of the employee not being attributable to the employer if they have attended and passed a certified server training program.

In #2 the safe harbor provision provides for a rebuttable presumption that the actions of an employee shall not be attributable to the employer of they have attended and passed a certified server training program.

It was the goal of the sub committee to draft a narrower bill than the original which would provide protection for owners and prevent instances like we heard about during the hearing.

Representative Kinzer made the motion to adopt the sub committee #1 report. Representative Pilcher-Cook seconded the motion.

Discussion centered around the server training program. It was explained that the programs are monitored by the state but each program is provided by a private entity. Some were concerned that once a person got hired they would have to wait to go to work until they attended the program. Others wondered how long a server training certificate was good.

Representative Pauls wanted to clarify in section (2) that the act shall not apply to liquor stores. Chairman O'Neal commented that the intent was for it not to apply to package liquor stores and those who sell cereal malt beverages which are in packages and not consumed on the premises.

Representative Jack questioned the word "encouraged" in section (c)(3). Representative Kinzer responded that the word came from the Texas dram shop statute. Representative Jack preferred the word "permitted". Representative Colloton stated that they didn't want a standard where the employer would have to keep an eye on the employee at all times.

The motion to adopt the sub committee report #1 carried.

CONTINUATION SHEET

MINUTES OF THE House Judiciary Committee at 3:30 P.M. on February 17,2005 in Room 313-S of the Capitol.

Representative Pauls made the motion to clarify that the bill does not apply to licensees who sell, at retail, alcoholic liquor and cereal malt beverages. Representative Garcia seconded the motion. The motion carried.

Representative Kinzer made the motion to report **Substitute for HB 2114** favorably for passage. Representative Kelley seconded the motion. The motion carried 12-5.

The committee meeting adjourned at 5:00 p.m. The next meeting was scheduled for February 21, 2005 in room 313-S at 3:30 p.m.

Committee minutes from February 14 & 15 were distributed via e-mail with the notification that if no changes were requested by February 22, 2005 the minutes would stand approved.