



February 27, 2008

2007-2009 Vol. 8

GENERAL SESSION

February 20, 2008

Program Topic: SB211 – ALCOHOLIC BEVERAGE AMENDMENTS

Presented by: Judiciary/Law Enforcement & Criminal Justice/Political Subdivisions/ Revenue & Taxation/Transportation/ Government Operations

Co-chairs: Isabel Cannon & Junko Schimizo

Director: Tibby Milne

**Speakers: Richard Nance – Director, Utah County Division of Substance Abuse
Pat Bird – Utah County Division of Substance Abuse
Jim Olsen – President, Utah Food Industry Association**

SB211 “modifies the Alcoholic Beverage Control Act.”

This bill “addresses presentation of proof of age; enacts the Malted Beverage Act, including: **1)** Providing for the treatment of a flavored malt beverage as a liquor, **2)** addressing approval of the label and packaging of a malt beverage and **3)** providing transition protections.”

It also “**A)** enacts provisions related to criminal background checks, **B)** addresses proximity restrictions, **C)** addresses markups, **D)** adjusts quota requirements for licenses, **E)** prohibits conduct related to controlled substances and drug paraphernalia, **F)** modifies requirements related to price lists and private clubs, **G)** establishes requirements related to the display of beer, **H)** expands provisions prohibiting operation without a license or permit and **I)** makes technical and conforming amendments.”

Richard Nance, who attended though feeling unwell, said he would defer to Pat Bird for much of his presentation time. He briefly explained **SB211**, saying it addressed issues concerning the sweet, fruit-flavored drinks (that look and taste like soda pop, lemonade, punch and tea) known as ‘alcopops’ which contain distilled spirits.

Utah law states distilled spirits must be sold in state liquor stores and taxed as such. Alcopops are sold as beer in grocery stores and are advertised and targeted to youth.

Responding to questions, Mr. Nance said a survey done by the American Medical Association found alcopops are often referred to as “girlie beer” or “cheerleader beer” due to their popularity with adolescent girls. Another national study on youth drug use found alcopops are now more popular than beer among teenage girls, even though alcopops constitute less than 2% of the market.

Pat Bird distributed a packet of written information and made a PowerPoint presentation on the findings of the Trade and Tax Bureau's (TTB) ingredient analysis of alcopops. Of the 114 tested, 105 contained over 76% distilled alcohol.

Currently, the TTB classifies alcopops as beer even though they contain distilled spirits. Misclassifying alcopops as a beer rather than distilled spirits allows alcohol companies to escape normal tax rates and have wider availability to sell their products. Because it is now classified as a beer product, distributors may advertise the product on television.

Alcopops are packaged in a manner similar to soda pop, which makes it difficult for Beverage Control agents and even the businesses that sell these products to distinguish between them. Mr. Bird maintained this is meant to be deceptive. Several examples of alcopops and its packaging were presented.

The Director of New Products for Anheuser-Busch was quoted as saying, "The beauty of this category [alcopops] is that it brings in new drinkers . . . Our goal is to win the entry-level beer drinker." (*Advertising Age, April 22, 2002*)

Responding to questions, Mr. Bird quoted a Utah state study reporting chilled, "consumption-ready" alcoholic beverages on store shelves to be more often involved in Driving Under the Influence (DUI) arrests than those from state liquor stores.

Jim Olsen, speaking against **SB211**, said, "If retailers are breaking the law, they've been doing so for twenty years." Twenty years ago wine coolers dominated the market and beer manufacturers were losing money. Alcopops were created to counter this drop in sales. The question is: Should alcopops properly be classified as distilled

spirits or a beer? He presented information regarding federal guidelines defining what is considered to be a beer, and maintained the position that alcopops adhere to that definition.

Mr. Olsen explained these drinks use flavorings (distilled spirits) which are common to the home. Extracts such as mint and vanilla, as well as cold remedies and mouthwash all contain high levels of alcohol.

Quoting research which indicated two-thirds of the alcohol consumed by underage youth is provided to them by parents or other adults, Mr. Olsen dismissed the idea of alcopops causing a large upsurge in teen drinking.

Not to be underestimated, Mr. Olsen stated, is the fact that Utah would be the only state to take these drinks out of grocery stores and consign them to state liquor stores. He believes our restrictive liquor laws already appear ridiculous to many visitors to our state and we shouldn't add to the perception.

Responding to questions, he defended grocery and convenience store sales clerks as having a better record for carding youth customers. He added such clerks face more stringent disciplinary consequences for infraction, than do state liquor store employees.

Debate between the panelists continued over defining alcohol content, the warehousing of the product (the state representative indicating it would be no problem) and the potential increase of over \$2 million of state revenue from the imposition of a liquor tax on alcopops. Although several other states have taxed these drinks as distilled spirits, the main point of disagreement continued to be identification of alcopops as distilled alcohol under the Utah code.

Reported by Darlene Hutchison

NOTE: The Judiciary Committee presented a Resolution in support of SB211 which stated:

“Resolved, The Women’s State Legislative Council supports Senate Bill 211 and encourages all members of the 2008 Utah State Legislature to vote in favor of its passage.”

Following discussion and vote: **The Resolution passed.**

General Session II

**Program Topic: HB241 – REPEAL of EXEMPTIONS from
NON-RESIDENT TUITION**

Presented by: Education Committee

Co-chairs: Joyce Hansen and Judy Keller

Director: Jean Madsen

**Speakers: Rep. Glenn A. Donaldson (R) Dist. 7, Weber County (North Ogden);
sponsor of HB241
Bill Evans – Education Division Chief, Utah Office of the Attorney
General**

HB241 “modifies eligibility criteria for an exemption from the nonresident portion of total tuition at a state institution of higher education.”

The bill also “provides that an exemption from the nonresident portion of total tuition at a state institution of higher education for students who have attended high school in the state for three years and graduated from a high school in the state or received the equivalent of a high school diploma *shall be restricted to those students who register as an entering student before May 1, 2008.*”

Rep. Donaldson said he has studied this issue for four or five years. The original state bill enabling exemptions was passed in 2002 with the understanding that the Development, Relief, and Education for Alien Minors (DREAM) Act in the U. S.

Senate would pass. The DREAM Act did not pass. The state bill, however, did go into effect.

HB241 will not affect the 200-300 Utah students who are already enrolled in higher education schools. It has no impact on children (of illegal aliens) born in the United States who graduate from Utah high schools.

Stating, “We are giving illegal aliens false hope,” he offered the ‘catch-22’ example of an undocumented college student. This student must face the possibility of being expelled from any college he attends if he is discovered to be undocumented. Or, even having benefited from a nonresident tuition exemption extended to him by the government, he may graduate and then be unable to work due to his undocumented status. Falsifying documents is a felony.

What is this undocumented student to do? It is almost an impossible situation.

Compassion dictates that we not hold out false promises to illegal aliens. We cannot keep many of these promises and are sending far too many mixed messages. In addition, we need to be fair in providing less stringent regulations upon students waiting to immigrate legally.

Bill Evans said the Attorney General's Office believes it is good public policy to allow all residents to access a quality education. If we don't learn from history we are doomed to repeat it. Even so, he said, "The legal history has already been written. A Texas ruling 20 years ago held that the state couldn't deny an education to an undocumented child." We have both a constitutional and moral commitment to educate any child in the state.

Mr. Evans stated both judges and sociologists have indicated the most consistent and reliable indicators of future prison incarceration to be illiteracy and

truancy. If this is so, it does not bode well for what the future holds if we decide to systematically deny education to illegal aliens.

Only 200-300 students in Utah are currently benefiting from the nonresident tuition exemption. To qualify for it, a student must have attended high school for three years and graduated. The nonresident tuition exemption does not mean tuition comes free to these students. Their families must bear the same burden of in-state tuition as any other families. As they are often the least able to afford it, Mr. Evans said we should view their plight with compassion. Our State Motto is "Industry" and we should support all efforts to educate our residents.

Both Rep. Donaldson and Bill Evans agreed the U.S. government needs set the example. Federal legislation must provide a better way for people to legally immigrate to the United States and reside here with dignity.

Reported by JoAnn Neilson

NOTE: The WSLC Exec. Committee and Study Committee Directors were given an audience with Gov. Huntsman in his chambers this morning. Before the governor arrived, they were shown the 'tornado' furniture in the room which was made from trees toppled on Capitol grounds during the 1999 tornado.

Gov. Huntsman was gracious in greeting each member individually. He then commended the work of the organization in carrying out its mission to study state and national issues to bring about legislation beneficial to the state of Utah.

The governor invited comments on any issues of concern. He then responded frankly with his views regarding education (favoring the extended school year incentive and differentiated pay for teachers), health care (supporting the cancer screening bill) and immigration (preferring federal, rather than state regulation).

This Bulletin is a publication of the Women's State Legislative Council of Utah, Inc.

President: Kitty Kaplan
Advisor: Sylvia Rickard
Editor: Pam Grange
Assistant Editor: Amy Jensen
Assistant Editor: Eileen Hallet Stone

Printed by AlphaGraphics
140 South Main Street
Salt Lake City, UT 84111