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STATE OF KANSAS

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October 21, 1982

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ATTORNEY GENERAL OPINION NO. 82- 222

The Honorable Jane Eldredge  
State Senator, Second District  
839 1/2 Massachusetts  
Lawrence, Kansas 66044

Re: Taxation -- Sales of Liquor by Clubs -- Local  
Alcoholic Liquor Fund; Use of Revenues for Special  
Alcohol Programs

Synopsis: Pursuant to K.S.A. 1981 Supp. 79-41a04 (as amended  
by L. 1982, ch. 424, §5), a county is entitled to re-  
ceive certain moneys from the local alcoholic  
liquor fund, which fund is disbursed by the state  
after having been collected by private clubs lo-  
cated in the county. The moneys so distributed,  
which are to be credited to a special alcohol and drug  
programs fund, may be expended only for specified  
purposes set out by subsection (e) of the statute,  
as amended. As one of the listed purposes is  
"intervention in alcohol or drug abuse," such  
moneys may be distributed for programs that seek  
to deal with domestic violence, provided it can  
be shown that the individuals receiving the services  
are the victims of alcohol or drug abuse by them-  
selves or others. Cited herein: K.S.A. 1981 Supp.  
79-41a02, 79-41a03, K.S.A. 1981 Supp. 79-41a04  
(as amended by L. 1982, ch. 424, §5).

\* \* \*

Dear Senator Eldredge:

As State Senator for the second district, which consists of a  
portion of Douglas County, including the City of Lawrence,  
you request our opinion on a question regarding the local

alcoholic liquor fund established pursuant to K.S.A. 1981 Supp. 79-41a04, as amended by L. 1982, ch. 424, §5. Specifically, you wish to know whether moneys from the special alcohol and drug programs fund may be used for domestic violence programs, such as shelter houses or safe houses. You further inform us that, because of the way in which the statute is worded, Kansas cities and counties have come to different conclusions as to whether such a use is permissible.

The local alcoholic liquor fund is created by K.S.A. 1981 Supp. 79-41a04 (as amended), which statute is a portion of a law enacted in 1979 (L. 1979, ch. 152). Section 12 of that act (now K.S.A. 1981 Supp. 79-41a02) imposes a ten percent tax upon the gross receipts derived from the sale of alcoholic liquor by private clubs in this state. Moneys thus collected are paid to the secretary of revenue (K.S.A. 1981 Supp. 79-41a03), placed in the local alcoholic liquor fund, and then disbursed to cities and counties according to K.S.A. 1981 Supp. 79-41a04(b). The share of a county such as Douglas County in the local alcoholic liquor fund represents that amount which is collected and paid in by clubs located in the county, and, to a lesser extent, in cities in the county with a population of less than 10,000, as provided by K.S.A. 1981 Supp. 79-41a04(e), as amended.

Of these moneys, a portion is to be paid into the special alcohol and drug programs fund. While this fund has existed in the act from its original passage in 1979, the provisions including drugs were added in 1982. As amended, K.S.A. 1981 Supp. 79-41a04(e) now reads, in pertinent part:

"Moneys in the special alcohol and drug programs fund shall be expended only for the purchase, establishment, maintenance or expansion of services or programs of alcoholism and drug abuse prevention and education, alcohol and drug detoxification, intervention in alcohol and drug abuse or treatment of persons who are alcoholics or drug abusers or are in danger of becoming alcoholics or drug abusers.  
In any county in which there has been organized an alcohol and drug advisory committee, the board of county commissioners shall request and obtain, prior to making any expenditures from the special alcohol and drug programs fund, the recommendations of the advisory committee concerning such expenditures. The board of county commissioners shall adopt the

recommendations of the advisory committee concerning such expenditures unless the board, by unanimous vote of all commissioners, adopts a different plan for such expenditures." (Emphasis added.)

As may be seen from the above-underscored provisions, the legislature has placed explicit restrictions on the use of that portion of the tax moneys earmarked for such programs. Each of the purposes which are set out therein are expressly linked with alcoholism or drug abuse. Accordingly, as the wording of the statute is plain and unambiguous, there is little, if any, justification to read more into the statute than what is set forth there. Johnson v. McArthur, 226 Kan. 128 (1979).

Prior opinions of this office have examined several different requests for funds from this program in light of the explicit wording of the statute. Accordingly, while a request for funds for an alcoholism prevention and education program was permissible (Attorney General Opinion No. 82-24), the use of such funds for drug-related problems was not, prior to the 1982 amendments. (Opinion No. 82-26.) Further, as the statute is couched in terms of funding "services or programs," the use of these moneys for capital improvements to an alcoholism treatment facility is proscribed. (Opinion No. 81-221.)

In the situation you present, in which services or programs dealing with the victims of domestic violence are considered for funding, it would appear at first glance that the use of such funds would be impermissible. However, the statute does speak, as you note, to services or programs of "intervention in alcohol and drug abuse." If an organization dealing generally with domestic violence could show that a certain percentage of its clients had also been the victims of alcohol or drug abuse, either by their own hands or the hands of others, in our opinion it would qualify for receipt of funds from the special alcohol and drug programs fund. As it is our information that Douglas County has an alcohol and drug advisory committee of the type mentioned in the statute, this body could make such determinations of fact for submission to the county commission.

Again, it should be emphasized that a demonstrable link need be shown with the funds requested and the alcohol or drug related problems or needs which would be addressed. The grant of a lump sum which would fund the general operating budget

The Honorable Jane Eldredge  
Page Four

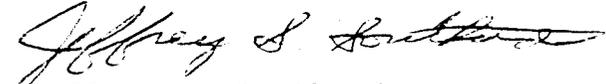
of the organization would not be consonant with the intent of the statute to see that only certain types of programs and services are funded.

In conclusion, pursuant to K.S.A. 1981 Supp. 79-41a04 (as amended by L. 1982, ch. 424, §5), a county is entitled to receive certain moneys from the local alcoholic liquor fund, which fund is disbursed by the state after having been collected by private clubs located in the county. The moneys so distributed, which are credited to a special alcohol and drug programs fund, may be expended only for specified purposes set out by subsection (e) of the statute, as amended. As one of the listed purposes is "intervention in alcohol or drug abuse," such moneys may be distributed for programs that seek to deal with domestic violence, provided it can be shown that the individuals receiving the services are the victims of alcohol or drug abuse by themselves or others.

Very truly yours,



ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS



Jeffrey S. Southard  
Assistant Attorney General

RTS:BJS:JSS:hle