



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

July 16, 1987

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
ANTITRUST: 296-5299

ATTORNEY GENERAL OPINION NO. 87- 103

The Honorable Jeanne Hoferer
State Senator, Eighteenth District
1916 Oakley
Topeka, Kansas 66604

Re: Taxation--Sales of Liquor by Clubs--Qualifications
of Programs for Receipt of Tax Moneys

Synopsis: 1986 House Bill No. 2822, Section 3 raises the standard of K.S.A. 79-41a04(e) to the point that in order to receive moneys from the special alcohol and drug programs fund, a service or program must have at least one of the following as its principal purpose: 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. This language would allow for aid to programs aimed at family members and relatives, as long as the principal purpose of the program is one listed in the statute. Cited herein: K.S.A. 1986 Supp. 79-41a04(e).

* * *

Dear Senator Hoferer:

As Senator for the Eighteenth District, you request our opinion concerning 1986 House Bill No. 2822. Specifically, you inquire as to whether this bill changes the language of K.S.A. 41a04(e) to suggest that a certain percentage of a program's overall activities must be directly related to

alcohol and drug abuse prevention, education, etc. In addition, you inquire whether the new language suggests that for services to qualify, they must necessarily be limited to persons who are themselves alcoholics or drug abusers, as opposed to being services for families or relatives of alcoholics.

As to your initial inquiry, in Attorney General Opinion No. 82-222 this office stated that:

"[I]f 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."

This opinion was based upon the language of K.S.A. 1981 Supp. 79-41a04(e) which read, 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 or becoming alcoholics or drug abusers."

This language was amended by 1986 House Bill No. 2822 to read as follows:

"Moneys in the special alcohol and drug programs fund shall be expended only for the purchase, establishment, maintenance or expansion of services or programs whose principal purpose is 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." (Emphasis added.)

This change would appear to raise the standard used in Attorney General Opinion No. 82-222 from "a certain percentage of [the program's] clients" being the victims of alcohol or drug abuse, to the point where it can be said that the "principal purpose" of the program seeking the funds is that of alcohol and drug abuse prevention, etc.

In light of the above discussion your second inquiry would be answered in the negative. The broad language of the statute concerning prevention and education would allow for programs aimed at family members or relatives of an alcoholic or drug abuser to receive funds, as long as alcoholism and drug abuse prevention or education is the primary purpose of the program. For example, programs for families with an alcoholic member which focus on dealing with problems associated with alcoholism would probably qualify for these funds. On the other hand, programs dealing with domestic violence generally may only tangentially involve alcoholism and drug abuse prevention and education. In our opinion, these types of programs would probably not fall within the statutory language, and therefore would not be entitled to these tax moneys.

It should be noted that the statute grants to the county commission the power to make these determinations, subject to the recommendations of an alcohol and drug advisory committee which may be organized for such purpose. Although this office is not at liberty to make these factual determinations, we can suggest some criteria that a board or commission may wish to consider. These criteria may include any statement of the primary purpose of a program, which may be gleaned from any existing by-laws, brochures, etc., or any evidence of the amount of time a particular program devotes to the prevention, education, treatment, etc. of alcohol and drug abuse, such as employee time sheets.

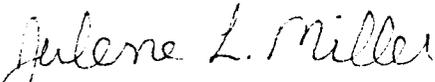
In conclusion, 1986 House Bill No. 2822, Section 3 raises the standard of K.S.A. 79-41a04(e) to the point that in order to receive moneys from the special alcohol and drug programs fund, a service or program must have at least one of the following as its principal purpose: alcoholism and drug abuse prevention 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. This language would

allow for aid to programs aimed at family members and relatives, as long as the principal purpose of the program is one listed in the statute.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Julene L. Miller
Deputy Attorney General

RTS:JLM:jm