

Approved: 3-16-12
Date

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on January 24, 2012, in Room 144-S of the Capitol.

All members were present except:

Senator Steve Abrams - excused
Senator Jeff Longbine - excused
Senator Steve Morris- excused

Committee staff present:

Jason Long, Office of the Revisor of Statutes
Dennis Hodgins, Kansas Legislative Research Department
Connie Burns, Committee Assistant

Conferees appearing before the Committee:

Doug Jorgensen, Alcoholic Beverage Control, Kansas Department of Revenue
Tuck Duncan, Kansas Wine and Spirits Wholesalers Association
Rebecca Rice, Kansas Beer Wholesalers Association
Ron Hein, Kansas Restaurant and Hospitality Association
Philip Bradley, Kansas Beer Wholesalers Association
Amy Campbell, Kansas Association of Beverage Retailers

Others attending:

See attached list.

Introduction of Bills

Senator Haley requested a bill introduction reenacting the cannabis compassion and care act.

Senator Haley moved that this request should be introduced as a committee bill. Senator Brungardt seconded the motion. The motion carried.

SB 275-- Alcoholic beverages; repealing the laws pertaining to salesperson's permits

Chairman Brungardt opened the hearing on **SB 275**.

Staff provided an overview of the bill.

Doug Jorgensen, Director, Alcoholic Beverage Control, appeared as a proponent on the bill. (Attachment 1) In discussions with the industry, neither ABC nor the industry could name any compelling reason to issue or require salesperson's permits. The application and issuance of these permits is burdensome to both industry members and the department and serves no compelling state interest.

Tuck Duncan, Kansas Wine & Spirits Wholesalers Association, provided written testimony in favor of the bill. (Attachment 2)

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Rebecca Rice, General Counsel, Kansas Beer Wholesalers Association provided written testimony in support of the bill. (Attachment 3)

Chairman Brungardt closed the hearing on **SB 275**.

SB 276--Alcoholic beverages; amendments to law prohibiting licensee from hiring certain employees

Chairman Brungardt opened the hearing on **SB 276**.

Doug Jorgensen, Director, Alcoholic Beverage Control, testified in favor of the bill. (Attachment 4) The bill makes it illegal for a licensee under the Club and Drinking Establishment Act to knowingly employ or continue in employments, persons who have certain criminal convictions. Due to dwindling resources, ABC can no longer perform background checks on the employees registered with us. Therefore, ABC proposes an amendment to create an affirmative defense or “safe harbor” clause.

Ron Hein, Kansas Restaurant and Hospitality Association, strongly opposes the bill. (Attachment 5) The State of Kansas has adopted legislation imposing qualifications that are expected on employees hired by drinking establishments, and the KRHA believes it should be the responsibility of the state to pay for and to supply the necessary background checks required to effectuate the provisions of their policies.

Philip Bradley representing The Kansas Licensed Beverage Association, the Kansas Viticulture and Farm Winery Association, Artisan Distillers of Kansas, and Craft Brewers Guild of Kansas, spoke in opposition to the bill. (Attachment 6) The history of actions of the ABC to make or not make background checks has never been about a courtesy to the industry. The changes are about reducing their cost and an attempt to shift the statutory liability and cost to make the licensee guilty even if they were misled by an employee and unknowingly employed such a person.

Tuck Duncan, Kansas Wine & Spirits Wholesalers Association, testified in opposition to the provisions contained in the bill that would remove the requirement for prosecution that a licensee “knowingly” hired a disqualified employee. (Attachment 7)

Rebecca Rice, General Counsel, Kansas Beer Wholesalers Association provided written testimony in opposition of the bill. (Attachment 8) The bill establishes a “strict liability” standard for Club & Drinking Establishment licensees if they unknowingly employ an individual who has been convicted of a morality crime, felony or alcoholic liquor violation.

Chairman Brungardt closed the hearing on **SB 276**.

SB 288 – Alcoholic beverages; repealing the proportionate pricing requirement for sales of liquor by the drink

Chairman Brungardt opened the hearing on **SB 288**.

Doug Jorgensen, Director, Alcoholic Beverage Control, appeared as a proponent on the bill. (Attachment 9) State law currently does not specifically address the sale or service of beer in pitchers or beer towers.

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An amendment specifying that beer and cereal malt beverage may be sold and served in pitchers not exceeding a certain size clarifies the issue, allows licensees to meet the requests of their customers and limits the size of container to avoid public safety hazards.

Ron Hein, Kansas Restaurant and Hospitality Association, support the general content of the bill, but specifically opposes the language on Page 3, lines 33-34 of the bill. ([Attachment 10](#)) KRHA would respectfully request that the issue of proportionate drink pricing be able to rise or fall on its own merits, without adding this controversial provision limited dispenser size to the bill.

Philip Bradley representing The Kansas Licensed Beverage Association, the Kansas Viticulture and Farm Winery Association, Artisan Distillers of Kansas, and Craft Brewers Guild of Kansas, approves of the original expressed intent to repeal the confusing concept of proportionate pricing. ([Attachment 11](#)) Mr. Bradley requested the committee to retain the repeal of Sec. 2 a, 5 on page 3 and not make the other changes.

Chairman Brungardt closed the hearing on **SB 288**.

SB 299 - Alcoholic beverages; creating a public venue license

Chairman Brungardt opened the hearing on **SB 299**.

Doug Jorgensen, Director, Alcoholic Beverage Control, testified in favor of the bill. ([Attachment 12](#)) The bill would amend the Liquor Control Act and the Club and Drinking Establishment Act by adding a "public venue license." A public venue license is defined as "an arena, stadium, hall, or theater, used primarily for athletic or sporting events, live concerts, live theatrical productions, or similar seasonal entertainment events, not operated on a daily basis, and containing: (1) not less than 4,000 permanent seats; and (2) not less than two private suites."

Ron Hein, Kansas Restaurant and Hospitality Association, support the general content of the bill, but expresses concerns regarding the specific provisions of the bill. ([Attachment 13](#)) The concerns that KRHA has are: pursuant to this legislation, it appears that the owner of the premises becomes a guarantor of no minor coming in possession of CMB or alcoholic beverages, does not support the proposed license fees, new section addresses the return of unopened liquor and would want to ensure that unused kegs and/or beer can also be returned to the retailer, and clarification on new section (c (2) venues would not be allowed to serve more than 2 drinks per guest. That last item is already common practice for most venues.

Sandy Jacquot, Director of Law/General Counsel, League of Kansas Municipalities, provided written testimony in support of the bill. ([Attachment 14](#)) The bill addresses a need for issuing what is being called a public venue license; there are specific parameters for the license to ensure that the sale of alcohol is controlled within the particular venue.

Philip Bradley representing The Kansas Licensed Beverage Association, the Kansas Viticulture and Farm Winery Association, Artisan Distillers of Kansas, and Craft Brewers Guild of Kansas, approve of the original concepts allowed in the bill; but believe ABC should be allowed to all qualified licensed establishments. ([Attachment 15](#)) Also requesting for the repeal of all day pricing to end the requirement that sale prices have to last from open to close.

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Amy Campbell, Kansas Association of Beverage Retailers testified as neutral on the bill. (Attachment 16) This policy is inconsistent with the current law that is applied to returns from clubs or drinking establishments or anyone else and inconsistent with the proposed amendment to the bill for temporary licensees. KABR would recommend new policy would include: limited time period for returns to allow reusable product to be immediately marketed, and policy consistent with current law that requires the manufacturer or distributor to order the return, insuring the return relates to quality or emergency issues.

Chairman Brungardt closed the hearing on **SB 299**.

The next meeting is scheduled for January 25, 2012. The meeting was adjourned at 11:58 a.m.