HB 2532
An Act concerning alcoholic beverages;
relating to retailer's licenses under the Kansas liquor control act.

Otherwise known as Liquor in the Grocery and Convenience Store Legislation

What Kansas would accomplish by the enactment of this legislation and other points to consider.

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1. Kansas would destroy more than 50 years of regulatory partnership with its retailers, who have responsibly sold intoxicating liquor products under a highly-regulated framework designed to insure compliance with state liquor laws.

2. The state would sanction the closure of more than half of the retail liquor stores in Kansas, devastating families and communities throughout our state – and this dire prediction is from the proponents own study! *An Economic Case for Increased Competition in the Sale of Beer, Wine and Spirits in the State of Kansas* by Dr. Art Hall (2011).

3. The state would choose sides with the largest corporations in the world against its own small business owners.

   - In 2011, *Fortune* magazine ranked Wal-Mart (Bentonville, AR) as the largest corporation in the United States for the second year in a row with revenues of $421 billion.

   - Kroger, which owns Dillon's (Cincinnati, OH) is ranked 25th largest by *Fortune* with revenues of $81 billion in 2011.

   - Costco (Issaquah, WA) is ranked 28th largest with revenues of $77.9 billion. Costco is one of the most litigious companies in the U.S. in regard to liquor sales and distribution issues.

   - Walgreen's (Deerfield, IL) is ranked 32nd largest with revenues of $67 billion in 2011.

   - QuikTrip (Tulsa, OK) has more than 550 stores with $8.7 billion in revenues in 2011.

   - Hy-Vee (West Des Moines, IA) had nearly $7 billion in annual revenues in 2011.

   - Casey's General Store (Ankeny, IA) has more than 1,638 stores with revenues of $1.8 billion in 2010.

4. Profits from current licensees are reinvested into the Kansas economy. Profits from the proponents of liquor-in-grocery/C-store legislation will by and large leave the state.

5. The state would allow felons to own, invest or otherwise participate in the retail sale of alcoholic liquor products just as long as they did not own more than 25 percent of the licensed business.

6. The state would allow corporate entities to become licensed as a retailer. Under current law, only individuals can be licensed as a retailer to insure licensees do not hide behind a corporate shield or shell companies to hinder or evade compliance with state liquor laws.

7. Teenagers would be allowed to sell and deliver liquor (18 years and older). Current law prohibits minors (under 21 years of age) from working in liquor stores, selling or delivering intoxicating liquors.

8. Kansas would increase the availability of intoxicating liquor products to as many as 3,000 additional locations without increasing the volume of sales. There has been no quantitative analysis as to what the regulatory costs would be for implementing HB 2532 or whether funds lost at the local level will be made up at the state level and furthermore, exactly how the Division of ABC will regulate more than 3,000 retailers effectively without dramatically increasing employees and costs (i.e., enforcement taxes).

9. Increasing the number of potential retailers in Kansas by a factor of 400% or more would appear to be contradictory to the state's investment of three years of study that led to the most comprehensive rewrite of state DUI laws ever undertaken (DUI Commission/2009-2011) and SB 6 implementing certain recommendations of the DUI Commission was approved by the Legislature in 2011 by a vote of 121-0 in the House; 39-0 in the Senate).

10. Similarly, the public's increasing concerns with "social hosting" would appear to be contrary to HB 2532 and related proposals, which would only increase the opportunity for unlawful youth access to liquor products.

11. In Dr. Hall's study cited earlier in this document, proponents claim passage of this legislation will lead to the return of grocery stores in rural Kansas. That is a totally illogical conclusion. If rural grocers cannot compete against Wal-Mart, Costco, Walgreen's and Dillon's now without selling liquor, how can they compete effectively when both are allowed to sell liquor? K-State has studied the plight of rural grocers for years and none of their findings make any reference to the absence of liquor sales as the reason behind their closure. The inability to effectively compete against the largest retailers in the world for product and price is the primary reason (*USDA RBOG Project: Rural Grocery Sustainability Project*).

12. Proponents suggest the larger retailers in the state can effectively compete for business under their legislation. Really? How has Main Street done against Wal-Mart in rural Kansas or anywhere else, for that matter? When the largest corporations in the world want market share and margin, they know how to get it – slash prices to drive traffic until the competition succumb and then they have the market to themselves. The convenience stores know this all too well, as for years in the 1980's and 1990's they unsuccessfully pursued legislation to prohibit the largest gasoline retailers from providing free or reduced cost services in conjunction with the sale of motor fuels (i.e., free car wash with fill-up). The same will be true for liquor products, which these big retailers simply want to market and sell as any other commodity item.

13. Proponents suggest current retailers can sell other products as allowed for under the bill to make up for any lost sales. This is a fallacy, as most retailers have stores that are sized-right for the sale of liquor products. They cannot easily be retrofitted for sales of cigarettes, potato chips, pop and related sundry items. Retailers do not have the ability to contract for shelf space as do the big box retailers and they don't have the national sales and advertising contracts with grocery retailers to help drive traffic to their stores.

14. Given the current state of the economy, even if a retailer wanted to expand or move their store to a better location to compete against Wal-Mart/Sam's, QuikTrip, Walgreen's, Dillon's and the like, can anyone imagine a banker in their right mind would look favorably on a loan application from a liquor retailer who wants to compete against these retailing giants? More likely their current loan would come under review, they would be required to pledge additional capital or security or their loan would be called altogether!

15. How many Kansas retailers are in long-term leased or owned space that cannot be renegotiated with the landlord or lender? How many retailers will not be able to extend their leases that are located within strip malls and shopping centers effectively controlled by the big box retailers that exert market pressure onto the landlord or management company not to renew a lease to a current licensees tenant when the law is changed so they can be the only retailer at the site?

16. Under current law, if a retailer violates the Liquor Control Act, they can be fined, closed for a period of days or lose their license altogether. This enforcement format insures compliance. In corporate America, can we be assured that the ever-increasing pressure to increase margins and profits will insure the same kind of compliance with our liquor laws? Firing a minimum-wage employee or occasionally disciplining an assistant manager may simply be a cost of doing business. But we know full well that no one from Bentonville or Cincinnati will come to Topeka and stand before the ABC Director to explain their company's actions in a liquor enforcement proceeding.

17. Kansas consumers are not clamoring for this legislation. Yes, there are consumers being encouraged to contact their legislators and urge its passage, but by and large that is being driven by a carefully orchestrated effort by the promoters who are spending hundreds of thousands of dollars to purse their never-ending quest for profit and margin. According to the 2011 Annual Report of the Kansas Department of Revenue, there were 764 retailers in Kansas at the end of 2011. There is no cap or limit on the number of retailers, so if consumers are not being served, the free market system can provide the opportunity for additional stores within the state's existing regulatory framework.

18. The Kansas Legislature has made incremental changes to the marketing and sale of intoxicating liquor products over the years, including allowing for Holiday and Sunday sales, direct shipment of wine to a residence, use of credit cards and etc. However, these have been done within the 3-tier system and the broad enforcement powers of the state have been maintained. Changes proposed by the proponents of this legislation would destroy more than 50 years of carefully developed liquor laws that are primarily crafted to protect the public, not insure increased sales for the liquor merchants.

Concluding Remarks.

Kansas has a 3-tier system for the manufacture, distribution and sale of alcoholic liquor products that has been carefully designed to insure compliance with Federal, state and local laws relating to the manufacture and sale of intoxicating liquors. Manufacturers cannot be licensed as wholesalers or retailers; Wholesalers cannot be licensed as manufacturers or retailers; and, retailers cannot be licensed as manufacturers or wholesalers. This structure insures maximum compliance with the state's liquor control act and provides for an orderly market for sale.

The advocates of HB 2532 and similar legislation want the Legislature to consider their proposal as nothing more than a statutory imposition of free market economics on a generic commodity. That may be appropriate for the sale of bread and butter, but it not appropriate for the sale and marketing of a product Kansans have demanded be carefully regulated in its manufacture and sale since 1948. The Legislature has made incremental changes in the sale of alcohol products to address the desire of the consumer, but these changes have been instituted within the 3-tier system.

HB 2532 and related legislative initiatives should be rejected in favor of our current regulatory system for the sale of alcohol products that has served our state and its citizens well for more than fifty years.

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