

HEIN LAW FIRM, CHARTERED

5845 SW 29th Street, Topeka, KS 66614-2462

Phone: (785) 273-1441

Fax: (785) 273-9243

Ronald R. Hein

Attorney-at-Law

Email: rhein@heinlaw.com

www.heinlaw.com

Testimony Re: SB 7, Sampling at Retail Liquor Stores
House Commerce, Labor and Economic Development Committee
Presented by Ronald R. Hein
on behalf of
Kansas Restaurant and Hospitality Association
February 11, 2013

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Restaurant and Hospitality Association (KRHA). The Kansas Restaurant and Hospitality Association, founded in 1929, is the leading business association for restaurants, hotels, motels, country clubs, private clubs and allied business in Kansas. Along with the Kansas Restaurant and Hospitality Association Education Foundation, the association works to represent, educate and promote the rapidly growing industry of hospitality in Kansas.

KRHA is neutral on SB 7, sampling at retail liquor stores. This bill amends the sampling legislation passed last year to specifically permit retail liquor stores to mix drinks, in addition to their authority approved last year to sample their products to the public.

Pursuant to Kansas law, retail liquor dealers, micro-breweries, farm wineries, and micro-distilleries are permitted to sample their alcoholic beverages to the public. However, restaurants with liquor licenses and other drinking establishments are still not permitted to provide tastings or sampling to our customers, unlike most other states.

SB 7 would now permit retail liquor stores to actually mix drinks prior to sampling their products to the public. The KRHA thinks it ironic that retail liquor stores, with a license for off-premise consumption, are being able to mix drinks and sample those drinks, yet restaurants, who are licensed to mix drinks on-premises and licensed for on-premise consumption, are prohibited from permitting customers to have a taste or a sample of our products. No rational distinction can be made for this disparity in the law.

The Senate Federal and State Affairs Committee introduced, upon KRHA's request, and passed SB 36, which will be debated on the Senate floor this week. SB 36 would permit drinking establishments to perform samplings on the same level playing field that is recognized for these other businesses.

House Commerce & Economic
Development Committee
Date: 2.11.13
Attachment #: 9

So that you will understand how the current prohibition of our businesses providing samplings adversely impacts our businesses, let me give you an example of how current law works.

If a customer orders a wine at a restaurant, and the waiter brings the wine and permits the customer to taste the wine, if the customer does not like the wine, under current law we must still charge the customer the cost of the wine that was poured, since a restaurant cannot give away alcohol, and because alcohol cannot be sold for an amount less than the cost to the restaurant. So the restaurant must determine the percentage of the bottle of wine that was poured, calculate the cost to the restaurant for that bottle, and then **MUST** charge the customer for that amount. Obviously, the customer who didn't even like the product is going to respond in an annoyed manner that they have to pay for something they didn't like. Sometimes the restaurant can offer a free appetizer or some other free food as a means of assuaging the customer's concerns, but ultimately the customer **MUST** pay the charge for the alcohol.

KRHA does not object to retail liquor stores being able to mix drinks and sample, but we do strongly urge the legislature to apply this law to drinking establishments as well. There is no reason for permitting one and denying the other.

Thank you very much for permitting me to submit this written testimony.