

To: The Members of the House Commerce, Labor and Economic Development

From: Mike Thornbrugh, QuikTrip

Date: March 7, 2013

My name is Mike Thornbrugh and I am employed by and represent the QuikTrip Corporation. QuikTrip is a privately-held corporation that was founded in 1958. We currently own and operate 38 locations in Wichita and 24 in Kansas City, KS. We currently have over 1,000 employees at these various locations. QuikTrip would like to grow our presence in Kansas but current antiquated liquor laws and an un-level playing field inhibit us from major growth.

Recently, QuikTrip in Kansas City, Kansas moved one of their million dollar stores a hundred feet into Missouri. The new location in Missouri is a multi-million-dollar building that created new jobs for local contractors, more choices for our customers and better opportunities for our employees. This Missouri location has averaged about a 65 percent increase on inside sales and nearly 80 percent on outside sales. Consumer reaction has been so favorable that QuikTrip is operating a second location on State Line road to help relieve consumer pressure on the first store. We are currently building our 3<sup>rd</sup> location on state line.

I'm here to tell you that current Kansas liquor laws are preventing business expansion in Kansas. By changing antiquated laws and listening to consumer demand, Kansas has the opportunity to give businesses, large and small, the opportunity to grow and expand instead of pushing business across the border to Missouri.

Because of our long history in Kansas, our ongoing desire to meet customer expectations and our experience in other states, I feel I'm in a unique position to address some of the myths that you may have heard concerning updating Kansas liquor laws.

Myth #1 – Youth will have more access to alcohol and it will be easier to attain.

You may hear some say that grocery and convenience stores will not properly police sales to minors. The truth is adult beverages are responsibly sold almost everywhere. All forms of retailers sell adult beverages: restaurant, sporting venues, entertainment venues, etc. You can even get a mixed drink at Disney World. QuikTrip operates in 11 states and in nine of those, we are allowed to sell same strength beer and wine. Age requirements to sell alcohol products vary in these states. In Arizona, Georgia, Iowa, Oklahoma, North Carolina, South Carolina and Texas, our store team employees must be 16 years of age. In Missouri, Illinois and Kansas employees under 18 years old may not ring up sales. In Nebraska, employees must be 19 years of age to sell beer, wine and spirits.

We've been in business for 53 years and despite the age variance by state in allowing employees to sell adult beverages, we are recognized as one of the most responsible retailers of age-sensitive items in the country by our industry, law enforcement, members of the media, public officials and most importantly by our customers.

We continue to find ways to enhance our reputation as a responsible retailer and give our employees more tools.

- We ID anyone who appears to be under the age of 40 for both tobacco and adult beverage sales
- We have signage that notifies the consumer
- We employ technology that eliminates mathematical mistakes
- We use mystery shoppers who provide compliance checks
- All employees are trained and sign documents that they have been made aware of the laws, as well as QuikTrip's expectations and consequences. This training is ongoing through one's career with our corporation.
- We participate with local law enforcement on third party sales. If you frequent QuikTrip you have noticed that law enforcement officers are at our stores 24 hours a day. Law enforcement officers are great customers.
- We are already monitoring sale of beer in Kansas and contrary to what some want you to believe, beer is no different than full strength beer as stated by Judge Herb Rohleder. That statement is included as part of my written submission.

I think it's clear. QuikTrip is serious about controlling sales to minors. Regardless of age, our employees know the rules and consequences and they follow them.

#### Myth #2 – There is a huge difference in alcohol content of domestic beers and so they should be sold and controlled differently

According to the Kansas State Bureau of Investigation and a statement rendered by Judge Herb Rohleder, this is completely inaccurate. There is little difference in the alcoholic content of 3.2 beer and "strong" beer. There should be no distinction made between strengths of beer. If you are going to allow a retailer to sell beer, it shouldn't make a difference if it is 3.2 or full strength beer. The two are for all practical purposes the same.

#### Myth #3 – An updated law will harm small business and put their investment at risk

Nothing is stagnant in business. Federal and state laws have the potential to change every session. Counties and cities enact new ordinances every time they meet. Traffic patterns dictate change. Consumer habits and preferences are in constant flux. Existing competition and new competition get better. To survive in business you must constantly change and look for ways to expand your business and meet consumer

expectations. QuikTrip would love to be protected from competition by the government, and force the consumer to make purchases at select locations, but that is not how the free market works.

There are tens of thousands of small businesses in Kansas that succeed in the marketplace without any form of government protection from competition. If allowing people to choose where they buy products puts some businesses out of business, it's only because consumers freely choose to favor their competitor. It's called free enterprise.

#### Myth #4 – All revenues will go out of state

This is simply not true. Every retailer that supports modernizing Kansas' antiquated liquor laws contributes significantly to the state and local economy.

- Any company that does business in Kansas is subject to corporate income tax
- We pay real estate taxes – we collect and remit all applicable excise and sales tax.
- We purchase the proper permits
- We give charitable contributions to our communities
- Our employees pay state income tax, sales tax & property tax
- Our employees purchase homes, autos and shop in Kansas
- We create much needed jobs.

All of these resources would not be available to the state of Kansas if QuikTrip and tens of thousands of other businesses did not have a presence in Kansas. Does it really make sense to inhibit the expansion of these companies by holding onto outdated laws when these resources are desperately needed in Kansas' communities?

I find it rather ironic that one of the major financial supporters to those that oppose the modernization to adult beverage comes from Glazers, an out-of-state corporation that is based in Texas. Some of you may recall that Glazers wholesale drug company, aka Glazers of Kansas, sued the state of Kansas in the year 2000.

The basis of that lawsuit was the prohibition on a non-resident person or entity such as Glazers from obtaining a license to do business in Kansas as a wholesale distributor of beer, wine and distilled spirits. I find their opposition the height of hypocrisy.

I ask you to support modernizing Kansas' adult beverage laws and by doing so endorse consumer choice, free enterprise and economic development. Thank you for your time and consideration.

*Appendix A*  
**Comparison of Strong Beer and Cereal Malt Beverage by Alcohol Content**

**RESULTS OF EXAMINATION**  
**by K.B.I. LAB**

**% ETHANOL (Alcohol)**  
**BY WEIGHT**

1 - One 12 oz. can Bud Light (strong)	3.5
2 - One 12 oz. can Bud Light (3.2)	<u>2.8</u> - .7
3 - One 12 oz. can Busch (strong)	3.9
4 - One 12 oz. can Busch (3.2)	<u>3.2</u> - .7
5 - One 12 oz. can Budweiser (strong)	3.9
6 - One 12 oz. can Budweiser (3.2)	<u>3.1</u> - .8
7 - One 12 oz. can Coors (strong)	<u>3.8</u> ✓
8 - One 12 oz. can Coors (3.2)	<u>3.2</u> ✓ - .6
9 - One 12 oz. bottle Miller (strong)	3.8
10 - One 12 oz. bottle Miller (3.2)	<u>3.1</u> ✓ - .7
11 - One 12 oz. bottle Michelob (strong)	4.1 ✓
12 - One 12 oz. bottle Michelob (3.2)	<u>3.2</u> ✓ - .9
13 - One 12 oz. can Old Milwaukee (strong)	3.9
14 - One 12 oz. bottle Wiedemann (strong)	3.7
15 - One 16 oz. can Colt 45 (strong)	4.1 ✓
16 - One 12 oz. bottle Corona (Mexican, strong)	3.6.
17 - One 7 oz. bottle Little King (3.2)	3.2 ✓

K.S.A. 41-102 (C) defines "beer" when its meaning is not enlarged, modified, or limited by other words, means a beverage containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content.

K.S.A. 41-2701 (a) defines "Cereal Malt Beverage" as any fermented but undistilled liquor brewed or made from malt or a mixture of malt or malt substitute, but does not include any such liquor which is more than three and two-tenths percent (3.2%) alcohol by weight.

### Statement by Judge Herb Rohleder

The failure of the Commission to recommend elimination of the distinction between cereal malt beverage and so-called strong beer is disappointing. I disagree with the recommendation to maintain the hypocritical distinction. Maintaining the arbitrary distinction serves only to perpetuate a myth that is not grounded in reality. Current law is inconsistent in that it incorrectly defines 3.2 beer as non-intoxicating, and places many more restrictions on "strong" beer, despite the fact that tests prove there is little difference in the alcoholic content of 3.2 beer and "strong" beer. There should be no distinction made between strengths of beer. All strengths of beer should be permitted to be sold at current CMB outlets as well as retail liquor stores.

### Limit on Number of Liquor Retailers

**Recommendation** — There should be no limit placed on the number of CMB or retail liquor licenses issued.

**Why recommendation was made** — The economics of the liquor industry should determine the "appropriate" number of retail liquor stores or other establishments. Limiting the number of licenses would create an artificial value on owning licenses and would also lead to implementation problems.

### Sale of Non-Liquor Products at Retail Liquor Stores

**Recommendation** — Retail liquor stores should be permitted to sell lottery tickets, mixes and drink-related items in addition to liquor.

**Why recommendation was made** — Permitting retail liquor stores to sell drink-related items would give the retailer an opportunity to enhance its products without the need for a "party shop". Customers would no longer need to make an extra trip to another store to pick up drink-related items to go with liquor purchases.

### Use of Credit Cards for Purchase at Retail Liquor Stores

**Recommendation** — Liquor retailers should be allowed to accept credit cards from customers.

**Why recommendation was made** — Allowing customers to use credit cards enhances convenience and modernizes a long-standing restrictive law. Payment by credit card is more reliable than by check and is not seen as a stimulant to consumption.

And my favorite was:

(6) The regulation prohibiting blinking lights except during the Christmas season should be repealed for liquor stores.

