Written

Testimony on House Bill 2282 - VOTE NO! *February 14, 2017*
House Commerce, Labor and Economic Development Committee
Presented by Spencer Duncan, M.B.A

The fundamental question before you is: If, as an elected official, you don't look out for the interests of Kansas small businesses and local economies, who will? You are not a government protectionist or anti-free marketer when you reinforce public policy that supports Kansan-owned businesses. Elected officials who reaffirm policy supporting locally-owned businesses have the support of citizens. More importantly, it is economic fact that local-based policies keep money in the economy, generate the most revenue and strengthen communities. For example:

- Since the dominance of big-box retailers in 1999, grocery cashier wages have dropped 4% nationally.
- Local retailers return more than 52% of their revenue to the local economy, and in some cases as much as 70%, compared to just 14% for national chain retailers.
- Local businesses re-circulate dollars in a community. Small businesses spend more on local labor, procure local services (insurance, lawyer, accountant, banks, printing, etc.), and procure more goods locally for resale. This means a much larger share of money spent locally stays in a local economy, supporting other businesses and jobs.

Subsidies and tax breaks are an integral part of a big-box retail model. Incentives and subsides are used in Kansas and never proportionally offered to small businesses. **This should concern free-market legislators:** providing big-box retailers with incentives and subsidies not available to small businesses creates a situation in which the government provides big-box retailers a significant advantage – which they traditionally don't need – over small businesses. Talk about picking winners!

When it is suggested a legislator should support small-business needs over big-box retailer wants, critics respond this is anti-competitive and goes against the nature of a free-enterprise system. However, the opposite is true: big-box retailers dominate a market, push out local competition and threaten healthy competition necessary for strong neighborhood economies. Legislators must recognize the skewed playing field created by big-box stores that makes real competition illusory.

As more small businesses are put out-of-business, competition declines as big-box retailers and grocers become the only stores still standing. The results are monopolistic and three situations manifest: **big-box retailers dictate the acquisition costs of goods; they eventually set higher prices for consumers; and community economies become increasingly reliant on these few big-box establishments for sales tax revenue and employment trends.** This contradicts the free-market principles of a diverse and competitive market and the expansion of community tax bases.

Communities with strong small-business environments view individuals less as cash commodities (a lens through which many big-box retailers view consumers), and more as neighborhood consumers. These communities overcome isolation and create a real sense of community and these community environments are essential to preserving and advocating strong values and vibrant economies.

There is no contradiction in being a Legislator who champions the free market, while also understanding the importance of small businesses to Kansas principles and supporting small business policies that strengthen those principles.

Job Loss

The average Kansas liquor store has 8.5 employees*(1)*. Some as few as 3, while large stores employ more than 30. Estimates are at least 340 local stores close upon implementation of this legislation*(2)*. Just allowing for the sale of strong beer in grocery and convenience stores will close as many as 217 liquor stores*(3)*. **That is nearly 3,000 people HB 2282 puts out of work.**

Big-box, grocery and convenience stores will **not** make up these lost jobs. In most cases, grocery/convenience stores have the staff they need. Adding a product then making dozens of new hires is counterproductive. New income and new expenses rise proportionally.

This is especially true with beer and wine - low-margin products that must be sold in high volumes to produce a cost benefit. Profit is maximized from these low margin items by hiring as few individuals as possible. National chains also demand - and get - assistance from suppliers and distributors in ordering, stocking, shelving and marketing, which decreases the need for new staff.

It's a Practical, Not Theoretical, Problem

The average liquor store in Kansas is 3,000 square feet*(1)*. SB298 allows liquor stores to sell other products. Where will they put them? Big-box and grocery stores can clear shelves and stack product in other sections.

Many liquor stores are landlocked in shopping centers or areas where permitting and zoning issues make it impossible to expand. If a current liquor-store owner wants to move or expand, where will the resources come from? Lending to small businesses is low and these local business owns do not have access to the capital they need to expand. Passage of this legislation tells bankers half of these stores will go out-of-business, making them poor investments. Banks are also bullish on lending dollars to purchase consumable items, especially local businesses. This is a real-world, practical problem that must be addressed.

HB2282 is bad economic policy and we encourage you to support the current retail liquor system.

Sources

(1) Capitol Connection, LLC. *Statewide survey of more than 250 Kansas liquor stores*, 2016. www.capitolconnectionks.com

(2) *"An Economic Case for Increased Competition in the sale of Beer, Wine and Spirits in the State of Kansas"* Dr. Art Hall, PhD, January 2011

(3) *"Distilled Spirits Council of America, Kansas Fiscal Analysis of Strong Beer Sales'"* 2008. www.discus.org

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Kansas' Retail Alcohol System is Not a Monopoly

An Explanation

Kansas' retail alcohol industry is in compliance with the U.S. and Kansas Constitutions, violates no federal laws, is open to all Kansas residents, and is an open marketplace. Here is why Kansas' retail alcohol industry is not a monopoly:

1) The 21st Amendment to the United States Constitution

Section 2 of the 21st Amendment to the U.S. Constitution establishes the rights of each state to determine its own alcohol laws. The 21st amendment is specific to alcohol in this regard.

2) Kansas Retail Liquor Stores Do Not Meet the Definition of a Monopoly

Anticompetitive monopolization includes a variety of acts which are illegal. Kansas liquor stores are not committing, creating or encouraging these illegal acts. These include:

- Price Fixing
- Price Discrimination
- Exclusive Dealings
- Group Boycotts
- Tying Contracts

Calling Kansas retail liquor stores monopolies implies they are committing illegal acts. Calling Kansas retail liquor stores monopolies, while knowing they are not committing these acts, is slanderous.

3) Kansas' Retail Liquor Stores Violate No Federal Antitrust Laws

There are two primary federal laws relating to antitrust and monopolies. They are:

- Sherman Antitrust Act
- Clayton Antitrust Act

Kansas retail liquor stores do not meet any criteria as offenders of the provisions of any of these acts. Simply put: Kansas retail liquor stores do not meet federal definitions for antitrust violations or monopolies.

4) Kansas Has an Open Market

Kansas' current retail liquor market allows for open trade, provides any Kansan the freedom to enter the marketplace, adheres to free market pricing principles, provides wide accessibility to those of legal age, has localized trade providing consumers a direct voice in the marketplace and has forged an economic model that benefits the citizens of Kansas.

5) Alcohol Is Intended to be Regulated

Alcohol is not milk, toilet paper or toothpaste. Misuse, mistreatment & unregulated sale has social & economic consequences. Alcohol contributes to drunk driving accidents & death, violence, underage binge drinking, addiction & other problems. Kansans, like the majority of states and Federal Government, have determined alcohol should be available to citizens of drinking age but continuously regulated.

The 21st Amendment to the U.S. Constitution and **Article 15, Section 10 of the Kansas Constitution** specifically address alcohol to affirm that this product can and should be regulated. The current retail alcohol system is the method Kansans have decided best regulates alcohol sales.

Kansas' retail alcohol system is not a monopoly, does not meet the standards of a monopoly and should not be referred to as a monopoly.

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