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Testimony Re: SB 35
Senate Federal and State Affairs Committee
Presented by Ronald R. Hein
on behalf of
Kansas Restaurant and Hospitality Association
January 24, 2012

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 requested introduction of and strongly supports SB 35. The State of Kansas has adopted legislation imposing qualifications that are expected on employees hired by drinking establishments, and the KRHA believes that these qualifications should be fair and appropriate to the circumstances.

It is currently illegal to hire an employee for certain positions where that individual has been convicted of a DUI within two years. One can be President of the United States with a DUI; or a state legislator; or even a Director of the ABC without meeting that standard. To require such a standard simply to be a waiter or waitress at a restaurant licensed as a drinking establishment is, we believe, a requirement that does not appropriately meet the standard designed to protect the general welfare of the public. Here, the requirement seems to be substituting the decision that should be more properly made by the employer, by usurpation of that responsibility by the state government.

The KRHA believes that business owners engaged in running restaurants where alcoholic beverages are sold should be permitted to run their businesses based upon their good judgment, without state government putting restrictions on them that do not properly protect the public from harm, and are, instead, simply rules and regulations that make it more difficult for the business owners to operate their businesses.

In 2012, the Senate struck the provisions of subsections (b) and (c) of K.S.A. 41-2610, but the House did not want to go that far. At that time, the KRHA, the Kansas Licensed Beverage Association, then Director of the Alcoholic Beverage Control Division of the Kansas Department of Revenue, and the lobbyist for multiple law enforcement groups, Ed

Klumpp, met and reached a compromise on language which we felt would protect the public while still permitting individuals with lesser violations being able to obtain jobs in restaurants and other businesses.

The compromise language is set out in the proposed amendments in SB 35.

We understand that current ABC director Dean Reynoldson would like to modify this language in new subsection (c) by reducing the three to two. The KRHA opposes that modification and believes we should continue the compromise agreement that was reached last year.

Not all violations of the liquor control act are serious violations. Some are simply administrative and some can be easily violated without having true intent of malfeasance. It would not be unusual for an individual to have a minor in possession charge when they are under age, and then to have a DUI when they are an adult, and for 5 years they would be prohibited from having employment at a restaurant such as Chili's or Applebees which are licensed drinking establishments. It is one thing to provide punishment for the violation which is established to meet the seriousness of the offense, but prohibiting a person from gainful employment in a given business for 5 years is a punishment which is not imposed on any other business.

If the ABC would like to propose a limitation for 2 violations within 5 years of specific infractions which are of a very serious nature, then we might consider that, but not for any and all violations of the liquor control act which might be much less serious.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.