

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on February 21, 2008 in Room 526-S of the Capitol.

All members were present.

Committee staff present:

Dennis Hodgins, Kansas Legislative Research Department  
Theresa Kiernan, Revisor of Statutes Office  
Connie Burns, Committee Assistant

Conferees appearing before the committee:

Tuck Duncan, Kansas Wine & Spirits Wholesalers Association  
Neal Whitaker, Kansas Beer Wholesalers Association  
Rebecca Rice, Kansas Beer Wholesalers Association  
Amy Campbell Kansas Association of Beverage Retailers  
Stacy Harlow, 2 Bags Brew  
Brandon Plaschka, Plaschka Retail Liquor  
Ken Volen, Bubba's Liquor  
Jim Reitz, Pony Express Liquor

Others attending:

See attached list.

**SB 622 - Cereal malt beverages; alcohol content, by ABC, retailers authorized to sale, taxation**

Chairman Brungardt opened the hearing on **SB 622**

Tuck Duncan, Kansas Wine & Spirits Wholesalers Association, appeared in opposition to the bill. (Attachment 1) The proposal to redefine CMB imposes on communities which have either not approved retail liquor by the drink or it disenfranchises that vote by legislatively imposing a category of products they rejected at the ballot box.

Neal Whitaker, Kansas Beer Wholesalers Association, spoke in opposition to the bill. (Attachment 2) The bill appears to contain a severability clause that retains the changes to the CMB Act and Liquor Control Act embodied in the bill, even if the Court rules the legislature's new definitions violate the Constitution. A new requirement that distributors provide "services" to CMB retailers, and to levy a new tax, a 10% tax on gross receipts for on-premise CMB licensees.

Rebecca Rice, Kansas Beer Wholesalers Association, appeared in opposition to the bill. (Attachment 3) The bill raises the question: Is legislation that changes the constitutional definition of intoxicating liquor, from all alcoholic beverages containing measurable alcohol except for malt beverages containing no more than 3.2% alcohol to all alcoholic beverages containing alcohol except malt beverages containing no more than 5% alcohol, constitutional? The 1987 AG Opinion states that the Court has not found that classifying CMB as a non-intoxicating liquor is unconstitutional; neither has the court ruled that such classification is constitutional.

Ken Volen, Bubba's Liquor, Olathe, spoke in opposition to the bill. (Attachment 4) When cereal malt beverage is less than 5% of the big chains' business, and the liquor stores would be forced into an economic situation that would be crippling, losing between 30% to 50% of the current stores in the state if this legislation is passed.

Brandon Plaschka, Plaschka Retail Liquor, Princeton, appeared in opposition to the bill. (Attachment 5) The beer revenue for these stores usually runs between 55% - 70% of their gross receipts, so any redistribution of beer revenue will have a profoundly negative economic impact that reaches through their landlords' and bankers' pockets into the local economy. The study by the Distilled Spirits Council says retail liquor stores would lose 45% of their income and 217 liquor stores would close.

Jim Reitz, Pony Express Liquor, Seneca, spoke in opposition to the bill. (Attachment 6) The bill would cause

## CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:30 a.m. on February 21, 2008 in Room 526-S of the Capitol.

a major change in the way alcohol is sold in Kansas.

Stacy Harlow, 2 Bags Brew, Satanta, appeared in opposition to the bill. (Attachment 7) This bill makes major changes to the way taverns are regulated and the taxes they pay.

Amy Campbell, Kansas Association of Beverage Retailers, (KABR) spoke in opposition to the bill. (Attachment 8) If the committee wishes to change how alcohol is sold in Kansas, KABR would respectfully request an amendment to the bill that would require all alcohol beverages and cereal malt beverages be sold by licensed retail liquor stores and simply delete all references to cereal malt beverage retailers and replace them with licensed retail liquor stores. An article about alcohol being banned in supermarkets in Ireland was provided.

Whitney Damron, Distilled Spirits Council of the United States, provided written testimony in opposition to the bill. (Attachment 9)

Sandy Jacquot, General Counsel, League of Kansas Municipalities, provided written testimony in opposition to the bill. (Attachment 10) The two basic points of concern are eliminating the procedure for local licensing and conferring the regulatory power with the state, and the conversion of sales tax charged on CMB to a gallonage tax.

Chairman Brungardt closed the hearing on **SB 622**

The meeting was adjourned at 11:35 am. The next scheduled meeting is February 26, 2008.