

Approved: 3/30/10

Date

MINUTES OF THE HOUSE COMMERCE AND LABOR COMMITTEE

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17

The meeting was called to order by Chairman Steve Brunk at 9:00 a.m. on March 17, 2010, in Room 784 of the Docking State Office Building.

All members were present.

Committee staff present:

Art Griggs, Office of the Revisor of Statutes
Renaë Jefferies, Office of the Revisor of Statutes
Dennis Hodgins, Kansas Legislative Research Department
Stephen Bainum, Committee Assistant

Conferees appearing before the Committee:

R. E. "Tuck" Duncan, KS Wine & Spirits Wholesalers Association
Keith Harris,
Robert DeVader, DeVader Liquor
Camille Murphy, The Thirsty Store
Dave Dvorak,
Bill Wolff, Wolff Liquor
Garry Winget, Kansans for Addiction Prevention
Rodney Robson, Kansas Association of Beverage Retailers
Pamela Erickson, Campaign for a Healthy Alcohol Marketplace
Rebecca Rice, Kansas Beer Wholesalers
Betty Chlumsky, Chlumsky Retail Liquor Store
Spencer Duncan, Wine & Spirits Wholesalers Association
Jeff Breault, R & J Discount Liquor
Amy Campbell, Kansas Association of Beverage Retailers

Others attending:

See attached list.

HB 2697 Alcoholic beverages; amendments to licensure of alcoholic liquor retailers

The following provided written only testimony as opponents of **HB 2697**:

R. E. "Tuck" Duncan, KS Wine & Spirits Wholesalers Association (Attachment 1)
Keith Harris, (Attachment 2)
Robert DeVader, DeVader Liquor (Attachment 3)
Camille Murphy, The Thirsty Store (Attachment 4)
Dave Dvorak, Flint Hills Wine and Spirits (Attachment 5)
Bill Wolff, Wolff Liquor (Attachment 6)
John Davis, Wichita (Attachment 7)
Michael G Town, The Library Discount Liquor (Attachment 8)
Kelly Jennings, Topsy's Liquor (Attachment 9)

Garry Winget, Kansans for Addiction Prevention, presented testimony as an opponent of **HB 2697** (Attachment 10). He said that alcohol is the number one drug problem in America. A proliferation of places that sell alcohol would mean that more people would drink. Numerous studies have shown that expanded sales outlets increase consumption. With so many new outlets for the sale of alcohol, enforcement would need to be quadrupled and taxes would have to be raised on alcohol. More attention would be needed on the proximity rules.

Representative Quigley asked why it would be more difficult to monitor grocery stores. Garry said that in a liquor store there is only one door and they are able to size up an incoming buyer. In these large stores with multiple doors and large sacks of groceries they could not do that.

Rodney Robson, Kansas Association of Beverage Retailers, presented testimony as an opponent of **HB 2697** (Attachment 11).

CONTINUATION SHEET

Minutes of the House Commerce and Labor Committee at 9:00 a.m. on March 17, 2010, in Room 784 of the Docking State Office Building.

Pamela Erickson, Public Action Management, presented testimony as a opponent of HB 2697 (Attachment 12). Most states, including Kansas, structured their retail system to facilitate the consumption of alcohol products with lower alcohol content. Two concerns are that HB 2697 would make all forms of alcohol more available and +bring a lot of cheap alcohol into the marketplace.

Representative Schwab quoted Pamela Erickson as saying that grocery stores will sell it cheaper, but in our state you can not sell it below cost. Pamela said that grocery stores make their profit on volume. Research shows that more outlets cause the market to grow.

Representative Quigley asked what the drinking age was in Europe. Pamela said it was 18 in most countries in Europe. Great Britain has a severe problem with drinking. They are way behind the curve in regulating drinking.

Representative Brunk said that binge drinking is on the rise. Pamela said the binge drinking was youth.

Representative Grant asked if the change of drinking age from 18 to 21 reduced consumption. Pamela said that MRI scans show that adolescent brains do not mature until age 25, and when you add alcohol to a brain that is not fully developed, particularly in judgment, it provides a good argument for the age 21 restriction.

Rebecca Rice, Kansas Beer Wholesalers, presented testimony as a opponent of HB 2697 (Attachment 13). She said that we should not adopt legislation designed to put another locally owned business, out of business.

Betty Chlumsky, Chlumsky Retail Liquor Store, presented testimony as an opponent of HB 2697 (Attachment 14) She said that HB 2697 would put many small businesses out of business and the large grocery stores would send a lot of money out of state.

Spencer Duncan, Wine & Spirits Wholesalers Association, presented testimony as an opponent of HB 2697 (Attachment 15).

Representative Suellentrop said that in your testimony you said that if new outlets were created it would create a real burden on you to meet the demand. Should we have more wholesalers of wine and spirits so that we have the capacity to meet the demand? Spencer said they were not having any trouble with their service now. But if you add 500 outlets overnight it will take time to have the capacity to serve them.

Jeff Breault, R & J Discount Liquor, presented testimony as an opponent of HB 2697 (Attachment 16). He asked how the state can shut down a liquor store for a day for an infraction and not make a grocery store subject to the same penalty. There is no way ABC would be able to adequately inspect hundreds of new outlets for compliance without budget busting increases in spending. The fiscal note only asks for 3 new agents - are we to believe that these 3 new agents would be able to audit the wholesale invoices, review the sales receipts, and inspect 300 grocery stores. Liquor stores can only hire people 21 and over to be in the store. Will a large grocery store with dozens of clerks of all ages be adequately supervised to do the same? We have located our businesses in legal locations, away from churches and schools. This bill would delete the current prohibition against liquor stores within 200 feet of a church or school. It's not freeing up a market when you toss out hundreds of people who have been playing by the rules to benefit a few new entrants.

Amy Campbell, Kansas Association of Beverage Retailers, presented testimony as an opponent of HB 2697 (Attachment 17). The majority of states don't allow liquor in grocery stores.

Representative Schwab asked what about if we zone the sale of alcohol and limit the number of outlets.

The chairman closed the hearing on HB 2697.

The next meeting is scheduled for March 18, 2010.

The meeting was adjourned at 10:41 a.m.

COMMERCE & LABOR COMMITTEE
 DATE: 3-17-10

NAME	REPRESENTING
MARTIN PLATT	PLATT Lic. KABR PAST PRESIDENT
John Davis	Davis Liquor KABR Wichita, KS
Betty Chumsky	Chumsky & Casau Great Blend Kane
Doug Amper	KABR
Tom Kessler	Tom's Wine & Spirits Wichita
Pamela Erickson	Public Action Management
Rebecca Rice	KS Beer & Wholesalers Assn
Spencer Duncan	Capitol Connection
J.P. SMALL	Walmart
Tom PALACE	FMCA OF KS
Rachel Kessler	Tom's Wine & Spirits
Janet Whis	Westcott Liquor Store ^{Okolman} KS
Robby A. Robson	K.A.B.R. Jo's Liquor Store - Caney
Stacy Harlow	2 Bags Brew
Stacey Harlow	KABR 2 Bags Brew Satanta
Larry B. Knackstead	KABR Knackstead 270 WRS - Overland Park KS.
Billy Knackstead	Knackstead Liquors O.P.K.S.
TED HEUER	C.S.
Linda Langston	Eudora Wine & Spirits
Judy Ensminger	ENSMINGER Retail Liquor LLC
Tom Groneman	KDOR/ABC
DAVE DVORAK	FURT HILLS WINE & SPIRITS + KABR
KAREN SHANNON	J.C. RETAIL LIQUOR DEAN ^{ATOMFEKS}
Michelle Breault	R-J Discount Liquor Wichita, KS
Jeff Breault	" " " " " "

COMMERCE & LABOR COMMITTEE

DATE: 3/17/10

NAME	REPRESENTING
JUDITH GARD	KS FOOD DEALERS ASSN.
Mel Minor	KS Food Dealers Assn.
Mike Mervay	KS Food Dealers Assn.
Jon McCormick	KS Food Dealers
Gary Jones	KFDA Ottawa County Meet
Garry Winget	Kansas For Addiction Prevention
Maji Fanimekun	League of KS Municipalities
Brandt Ditzon	Compton Retail Liquor
Sussie Coleman	Carter Energy PMCA
Meredith Poutenberg	KDOL
Mel Bryan	Bryan's Liquor
Dan Bryan	"
Mike Slattery	State Rep
Dick Stoffen	Aly-Vec
Joe VAN DOLAH	PARKWAY LIQUOR

WINE & SPIRITS

WHOLESALE ASSOCIATION

Dear Members of House Commerce Committee:

March 11, 2010

Next week you will conduct hearings on HB2697, the bill to allow the sale of beverage alcohol in grocery stores. There are several matters I would ask that you consider if the committee intends to recommend this bill favorably for passage. Kansas' wine and spirits wholesalers support our current system and KWSWA opposes HB2697; nevertheless:

1. Please **extend the implementation date** (page 10, line 39) from publication in the statute book until January 1, 2012. This will allow small retail stores time to modify their business plans if necessary. Importantly, this will allow wine and spirits wholesalers which currently do not sell to grocery stores the time necessary to put into place the infrastructure to make deliveries to the approximately 500 new licensees anticipated by the Fiscal Note (dated 3.1.2010).

2. The sale of beverage alcohol in groceries should be by **county option**. Liquor-by-the-drink and Sunday Sales are by county option, and initially retail package sales in cities required a vote.

3. There should be a **definition for food**. We suggest this one as used in sales tax laws across the United States: food means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Excluded from the food and food ingredients are the subcategories of (a) alcoholic beverages, (b) tobacco, (c) candy, (d) dietary supplements, (e) soft drinks, and (f) cereal malt beverages.

4. Authority for the issuance of **rules and regulations** should be included with a direction that the department report back to the legislature in 2011 regarding implementation. The devil is in the details, and the regulations will provide the details.

5. There should be **no self service sales**.

6. Due to the economics of the distribution and sale of alcoholic beverages, and anticipating that a number of retail package stores will close (and as such in some communities the grocer may be the only point of sale for beverage alcohol) beer, wine and spirits must be included as items for sale in groceries as the bill is currently written.

You have two policy choices: maintain the current system or enact HB2697. We support our current system, but if you choose the second option we believe including the above matters will maintain an orderly market for the sale and distribution of beverage alcohol in Kansas.

Thank you for your kind attention to and consideration of these matters.

Sincerely,



R.E. "Tuck" Duncan
General Counsel
Kansas Wine & Spirits Wh

House Commerce & Labor

Date: 3-17-10

Attachment # 1

Dear Legislators:

This is a year to try one's soul especially if one is a liquor retailer. First is the bill from the petroleum retailers to establish a new beer category, 4% beer and bypass Kansas CMB laws. This is a category reserved for liquor retailers selling any beer over 3.2% by weight. We as a group are not asking for the right to sell any product other than the ones described by law.

As bad as that was I was blown away by HB2697. In one fell swoop this would change the liquor industry in Kansas totally. As I read the law, all stores in Kansas would fundamentally change the whole liquor business in the state. Hundreds of stores would close and thousands of people would be put out of work, and I don't think I am exaggerating at all. Kansas liquor retailers are not set up to sell other products other than liquor and in most cases don't want to.

This bill changes everything. One does not have to be a Kansas resident. A corporation is allowed to be a license holder, as are chain liquor stores and stores must derive 50% of their sales from food products. How the heck are existing stores going to do this??? How can an elected legislator introduce such a bill that is anti-Kansas business, anti-Kansas employment and anti-Kansas tax collection??? It does not make sense... I smell payoff.

Anti-Kansas Business

Liquor Retailers in Kansas must be residents of the state, this bill would eliminate that requirement.

Liquor Retailers cannot own more than one license. This bill would eliminate this. This provision has enhanced family ownership of multiple stores. Family business' are a plus for Kansas. This bill would eliminate that.

Employment

Hundreds of stores would have to close at once. The stores' employees would not be rehired by the corporate chain stores as they would use existing employees. Again anti-Kansas. As an example, most medium to large stores have employees that are liquor & wine buyers who are well paid and valued. A corporate chain would only need one employee to service many stores. (anti-Kansas)

What advantage does this bill have for Kansas.....more unemployment, more vacant business buildings, reduced tax collections, profits sent out of state. Help me out here...what's the deal? For the fat cat big business it's a great bill but not for Kansas.

Please kill these bills or many Kansas residents will suffer greatly.

Keith Harris

A business owner in Kansas for over 44 years appalled at the thought that the legislature is going to destroy my way of life overnight.

House Commerce & Labor

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Attachment # 2

To Whom it May Concern,

Good morning, my name is Robert DeVader from St. Marys, Kansas. I have owned and operated DeVader Liquor Store in St. Marys, KS. since 1993. My wife and I have two children, Allison & Ethan. Allison is attending Washburn University and Ethan will be attending a junior college in Kansas next fall. The reason I am writing you today is to express my opposition to HB 2697 and HB 2537.

- If grocery stores and convenience stores are able to sell beer at regular strength, our liquor store will see the majority of our sales plummet. We mostly sell beer, and there are two convenience stores and one grocery store in our small town of 2,600 people. We will likely go out of business because of this decrease in revenue.
- The rest of our sales such as wine and liquor, are a strong part of our identity. Our employees and managers are great at what they do and are able to sell these products with great success. We are also able to put a greater mark-up on these items to create a greater profit. Grocery stores and convenience stores would be able to sell these products at cost, forcing us to do the same. In the end, we would not make any money.
- The importance of liquor stores state wide is phenomenal. Liquor stores are able to monitor closely who buys from them to decrease the consumption by minors, they can specialize their products and are experts on what they sell and, especially in small towns, they are a source of jobs and income.
- The increase in expenditures for the state because of an increase in liquor licenses could actually backfire. Even though you will be selling more licenses to convenience stores and grocery stores, you will lose the income of liquor licenses from the liquor stores that are forced to close down.

In conclusion, one of the goals of this bill is to "create competition" but in reality you will decrease it even more. Liquor stores will not be able to compete with large grocery stores such as Wal Mart, Hyvee, and Dillons. They will be able to market to a larger group of people, and they will dominate the beer/liquor market just as they dominate the grocery market now. All in all, I don't believe there is a need for change right now. Please do not try to fix something that is not broken. Our whole lives are built on the success of our liquor store. The cost of losing our store will not come close to the benefit that the convenience stores and grocery stores will endure.

Thank you for your time and consideration.

Sincerely,

Robert DeVader
Owner, DeVader Liquor Store

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Date: 3-17-10
Attachment # 3

Chairman Steve Brunk and Committee Members:

written testimony

I would like to ask you not to support this legislation.

My husband and I have a liquor store in Sharon Springs, Kansas. Our population is 750, give or take. We are fortunate to have a grocery store and a convenience store in our town.

In our store 65-70% of our sales are beer. We cannot sell anything but alcohol in our store. The law, however, does not say I cannot own a grocery store or convenience store. We built our store with provisions to have an entirely separate party shop if desired. Currently the liquor business is all we want to handle at this time, due to finances and time. If my grocer wants to own a liquor store, he should have to go into it as a separate business under current law like we had to, or remodel his store accordingly.

This legislation would not only lose sales for us, I fear it would eliminate our business and leave us with an extreme burden of debt. Our bank would have to take the loss as we would not be able to repay the debt when our business fails.

I also feel like minors would be able to get their hands on alcohol easier if this was to pass due to enforcement and theft issues. I spoke with over 12 local area law enforcement agencies and they thought the ABC enforced all alcohol sales. Only 2 have ever had the ABC assist them on CMB (cereal malt beverage) accounts and when they caught one it had to go through district court and only the clerk was fined NOT the establishment, The ABC only enforces retail liquor stores and tobacco sales.

The state would also lose a great amount of money to unemployment to the people that would no longer be able to work in grocery stores and convenience stores, if they are held to the same employee restrictions that we are, as they should be. I don't see that they will be in the HB 2697, it just states "clerks will be 21". All employees clerks, stockers, janitors, etc. have to be approved by the ABC in a liquor store. We are fined if they have not been approved. They cannot have a felony or alcohol related offense. Also, the expense to the state for the ABC manpower to enforce the expanded number of licensees against minors purchasing alcohol would be extremely increased.

Corporations should not be allowed to be licensed as there won't be any one person to be held accountable. HB 2697 also takes out residency requirements which allows revenue to leave the state via outside ownership. Already with CMB, Walmart in Colby (60 miles from us) has sold 30 packs for cost plus sales tax trying to drive retail liquor stores out of business. Liquor stores statewide cannot compete with Walmart or chain stores, due to revenue generated from other product sales by these businesses. They do not have to rely on liquor sales only, which is all we have.

HB 2697 will not only hurt liquor stores on beer sales, it also allows grocery stores to sell wine which is by federal regulation 7-14% alcohol by volume. It will not be fair to us who have invested into the liquor business under current laws. It already isn't fair as CMB accounts now get to sell some products we can't, not to mention the difference in license fees. Bud Select 55 and MGD 64 are not available in liquor stores because they cannot make them in strong beer. However, CMB accounts are now selling Boones Farm Wine labeled as Malt beverage that have more alcohol content than my Boones Farm wine product available to me in my liquor store. Our local grocery store sells it for 1.99 plus 5.3% sales tax.(2.10 total) Our cost is 3.33 by the single bottle and 2.13 by the case. I cannot compete when mark up and Liquor tax are added. This example of product and cost difference from distributors is a current example for your consideration of what we are facing.

This bill shows they want full market share. This is an effort to control the market and eventually sell stronger products. It is something the state really needs to decide how liquor will be sold in Kansas in time to come.

Sincerely, KB & Camille Murph

Thirsty's Retail Liquor,

camillemurphy@hotmail.com

House Commerce & Labor

Date: 3-17-10

Attachment # 4

Written Testimony

March 17, 2010

Dear Representatives on the Commerce & Labor Committee,

I urge you to vote no on HB 2697.
As a retailer, there are several reasons I feel this way.

The most important reasons are:

Public Safety

Liquor Stores do what they do, best. We are a "Control Point" for the access to alcohol.
Selling Alcohol is not like selling Hamburgers, we are selling a drug and we do so responsibly.

Increasing the availability of alcohol would:

Put it in front of the eyes of minors, increasing the chances of consumption, theft or two party sales.

Make it more accessible to recovering alcoholics. They can choose NOT to come in a liquor store but need to shop in Grocery stores.

Put it in front of shoppers (and their kids) who abstain from or are against alcohol.

Increase the chance that an underage employee would sell to a peer either on purpose or by:

Not checking the ID carefully,
Allowing a 2 party sale,
Allowing an adult to buy for the minor,
Allowing a "cookbook" list of items to be purchased,
Not checking the car they came in or by
Not checking the parking lot.

All of these can best be controlled by a Liquor store.

Rules are Rules

The reason only liquor stores can sell alcohol was decided after prohibition, It was designed to put the sale of alcohol in individual ownership and out of corporations and out of state interests. Don't be pressured into changing a law for convenience or because a big business wants it. Social legislation in this case is not what is best for public safety. Replacing a law that works with one that will weaken the control of alcohol is bad practice.

There are four Sam's Club locations and a few Dillon's stores that have liquor stores now. How did they do that? They did that within the framework of the laws we have now. I am not against a "Free-Market". I would suggest that any store that wants a liquor license, do so as myself and 740 other Kansans have done, within the law.

There are so many fields that are licensed by a state, in order to practice and provide services. Would eliminating or changing the requirements on these professions be good for the public?

Consider these being incorporated into grocery stores;

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Attachment # 5

Lawyers, Doctors, Nurses, Barbers, Hairdressers, Liquor Stores, Insurance agents, Realtors, Banks, Therapists, Day Care Providers, Contractors, Hotels, Gambling Houses, Bingo, & Bars.

Taxes

Increasing the availability won't increase the taxes. It is merely spreading out the product. There are only so many people between the ages of 21 and Dead, that drink.

From experience, I find that increasing the availability or lowering the price doesn't make people drink more. There are two stores in my town and we share this towns business. Not one of us have experienced any more than a 5% growth rate over the years. What I am saying is that of my customer base, people only drink so much and not any more than that. Offering it in two to three more close by locations would only dilute the market and not raise any more appreciable amount of tax base.

I urge you to call me if you have any questions or need something on this issue clarified. I would be glad to help you.

Respectfully Submitted,

Dave Dvorak, Owner
Flint Hills Wine & Spirits
125 W Hwy 54
Andover, KS 67002

ph 316-733-8333
cell 316-641-5690

My name is Bill Wolff, and I own Wolff Liquor in Leawood, Kansas. I hope you will oppose HB 2697. If this bill passes, it will put me out of business. When, I decided to open a liquor store, I knew what the rules and laws were. Some laws were favorable to me and some were not. I based my decision to go into the liquor business based on these laws. And importantly, I based where I would locate my store and how big a store to have on the laws. Like a lot of liquor stores, I have a small 1500 square foot store in a strip mall with a giant grocery store 3 doors down. Every day I send customers to the grocery store so that they can buy soda, tonic water, and cork screws. And I am fine with that because I knew what the rules were when I opened. I invested my entire life savings to open the store and borrowed a bunch of money from a bank down the street (who I still owe some to.) The store is the sole source of income for my family and by far our biggest asset. I have a lease for my store that I have personally guaranteed, so it would be devastating to go out of business and owe the bank and landlord and lose my biggest financial asset and only source of income. I am in my store about 50 hours a week and also employ 5 part-time people who depend on their checks from me.

The current system of selling alcohol in liquor stores is working. I train my employees to sell to only 21 year olds, and our total focus is selling alcohol. I do the grocery shopping for our family on Sunday nights, and a few weeks ago around 9:00 p.m. I was in our grocery store. As I went past the registers, I saw a young checker motion to a manager to ring up some 3.2 beer for a customer. The Manager scanned the beer, and then the manager and I crossed paths. I told the manager, who I somewhat knew, that he should be careful selling beer after 8:00 on Sundays as it is illegal. Well, his mouth dropped, and he ran back to the register and grabbed the beer from the cart. I saw the manager a few minutes later, and he thanked me and told me it had been a really busy day. The manager is a good guy, but I couldn't understand how he could forget about that law. Well, I was in the store for about 45 minutes, and our paths continued to cross. I saw him talking to the worker s shutting down the deli, helping multiple customers find things, talking to an employee about pricing, working over in produce, talking to a stocker. And by the time I left, I understood. The difference between a grocery store and a liquor store is simple. In a liquor store, my total 100% focus is selling alcohol. I know the laws and rules inside and out and have no other distractions. But a grocery store has 100 distractions from the salad bar to the meat department to selling concert or baseball tickets. The grocery store has a lot of employees, many of them under 21. And selling liquor would be just a small part of their business. These stores knew what the laws were when they opened just as I did. The current system is working. Please don't turn it upside down.

Please oppose HB2697. If you have any questions, please feel free to email me or call at 913-244-9460. Thanks.

House Commerce & Labor
Date: 3-17-10
Attachment # 6

House Commerce Committee
Mr. Chairman
HB 2697

February 17, 2010

For the past 35 years I have proudly sold alcohol products as a Licensed Kansas Retail Liquor Dealer. I applied for my license and at that time was required to have a hearing with the Director of Alcoholic Beverage Control in Topeka. I appeared and had an informal meeting with the Director and a member of his staff. He reminded me that it was a privilege not a right to be given a Liquor License. I accepted this responsibility and assumed that this was a CONTRACT between me and the State of Kansas. **If I fulfilled my responsibility in running my business and my personal life (NO FELONIES NO DUI'S, NO CORPORATIONS, PAY ALL OF MY TAXES), the state would honor there contract to allow me a Liquor License and to not allow others with lesser qualifications to hold the same license.**

I have seen many changes over the years;

Going from 1175 (late 1970's) Retailers to 720 (2009)
Lottery sales
Franchise Distribution
Deregulation of prices
Cold Beer (late 1960's)

There have been many Laws and Regulation changes along with numerous Directors' of The ABC over the many years which I have worked in the industry.

Now the proposal to allow corporations to have licenses would completely change (gut the Liquor Laws and would play havoc with the overall Liquor business.

RATHER THAN CHANGING THE LIQUOR LAWS, TO MEET THE REQUESTS OF BIG BUSINESS WITH DEEP POCKETS (\$\$\$\$) JUST ASK THEM TO OPEN ALL THE STORES THAT THE CURRENT LAWS WILL ALLOW.

THEY SHOULD HAVE TO MEET THE RULES AND REGULATIONS (LAWS) THAT EVERY OTHER LIQUOR LICENSE MEETS TODAY.

It would stand to put myself and my (14) employees out of work.
Or at least cause layoffs in my store.
IT WOULD CAUSE NO NEW EMPLOYMENT AT GROCERY STORES
I am required to have only one location (in my given name)
Most Grocery Stores are Corporate Chains (few headquartered in Kansas)
I can not be a Corporation
I hire only 21 year old employees
They hire 16 year olds and up
At this time I Sell to a Minor and the State of Kansas can close my entire store
They sell to a minor and must close Beer Department
My profits stay in the state of Kansas

If the Grocery Stores would like to play on an;

EVEN PLAYING FIELD

Let them give up there Corp Charter.
Have only one location.
Hire only 21 year old clerks for the entire store.
Close entire store if found guilty of a Law infraction.
They should have to be a Kansas Resident.

I ask the committee to deny this request and to spend your valuable time on much more pressing matters.

Thank you
John Davis of Wichita

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Attachment # 7

Mr. Chairman, members of the committee; my name is Michael Towne; I reside at 1009 Overhill Road in Manhattan, Kansas. I wanted to give testimony today, to insure that you would hear from someone that's directly affected by the legislation before you. I'm not a staffer or a lobbyist loaded with facts and figures and statistics to bolster my point of view. I simply find myself at age 54, a licensed liquor retailer.

Please oppose HB 2697. Since retail liquor stores in Kansas are prohibited from becoming 'chains', I can't see how it would be fair to suddenly just flip the switch and give someone with an unlimited number of retail outlets a competitive advantage over established businesses that have been prohibited by state law from owning more than one location. Fair is fair – if you want to grant chains the right to sell alcohol, then you've first got to give the existing alcohol retailers an opportunity to establish multiple outlets.

If you believe that it is in the best interests of Kansans to dramatically increase the number of retailers that can sell alcoholic beverages, then simply amend the current law to first allow existing retail liquor store owners to open multiple store locations, then allow corporations to hold a liquor license under the other restrictions currently in place; but keep alcoholic beverages out of grocery stores, convenience stores, and big box stores which our children frequent often without parental supervision.

Put a liquor store on every corner in every city in Kansas, if that's what Kansans want, but keep alcoholic beverages in retail outlets that can only sell alcoholic beverages, that don't employ anyone under the age of 21, and that aren't patronized by children.

We can provide Kansans with more choice and convenience when shopping for alcoholic beverages, while at the same time we can continue to keep alcohol out of the retail outlets our children frequently shop unsupervised. Please oppose HB 2697.

In closing Mr. Chairman, if your goal is to increase the availability of alcoholic beverages across the state, then do so without putting alcoholic beverages into the businesses our children frequent, often without parental supervision. Keep alcoholic beverages only in licensed retail liquor stores and give those existing retailers an opportunity to own more than one store.

Michael G. Towne
The Library Discount Liquor
1009 Overhill Road
Manhattan, Kansas 66503
785-410-2232 (cell)

House Commerce & Labor
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Attachment # 8

Tipsy's Liquor

6840 Johnson Drive
Mission, KS 66202

Chairman Steve Brunk and members
House Committee on Commerce and Labor

Please reject House Bill 2697. As the owner of Tipsy's Liquor in Mission and a former partner of Brown Bag Liquor in Olathe, I ask you to support locally owned businesses and turn down this request. This bill slashes licensing laws – allowing non-Kansas citizens to get a liquor license. It would now allow liquor stores within 200 feet of a church or school.

I can see the front door of Hy-Vee from my store. Additionally, there are three convenience stores within view. Certainly, these are also valuable businesses to our community – but they do not need to put my business in jeopardy in order to survive.

If my store closes – it will mean the loss of 4 full time jobs and 6 part time jobs for adults – people who are over the age of 21 and are earning a living. These are not after school jobs for teenagers. It is not wise to sacrifice those jobs in order to add a product to the grocery stores which will not add any jobs. The bill is intended to allow me to compete – but it starts with a major disadvantage. I would have to invest tens of thousands of dollars to compete in my current field of choice. The grocery stores can simply add the products to their shelves.

Sales of cereal malt beverage are around 1% of the overall sales of a grocery store. It can be up to 3% of the sales of a convenience store. Cereal malt beverage is not a priority product for these businesses and does not receive the majority of their attention. In my store, beer is around 45% of sales. At the store in Olathe, it is 55% of sales. As a result, we pay close attention to the sales of beer. My clerks are charged with the safe and legal sale of adult beverages and are able to give that task their full attention. Even if you pass this bill – these products will never reach even 10% of their business.

If I or one of my employees violates the law, my store will be fined and can be closed for a day or more. If one of the corporations benefited by this bill commits the same violation – they will simply lock up the beer cooler for short period of time. This does not create an even playing field.

I have worked in the retail business for 10 years. Tipsy's opened two years ago. There are many unique issues and challenges related to running a liquor store. Selling alcoholic liquor is not the same as selling other products. Even the relationships between my retail store and my wholesalers and suppliers are regulated by the State and, at the federal level, by the TTB. The current licensing structure insures that I must be a good partner to the State – collecting and remitting the 8% enforcement tax that is dedicated entirely to the State General Fund.

There is no shortage of availability of beer, wine and liquor to the public. I am unaware of community groups coming forward to request this drastic change in state law. This is legislation designed to fit the corporate grocery store business model and does not create benefits for our state or communities.

We know that liquor stores can exist along with grocery stores that sell liquor – in those states that allow it. But it is important to know that those liquor stores have been working within those regulatory systems for decades. Missouri liquor stores opened their business based on a longtime regulatory model. Even the change in South Dakota that is often touted in this building was not a transformation of the licensing system. It simply allowed more than three liquor licenses per business.

With Kansas unemployment rates at historic highs, we should be looking at measures to retain and add local jobs – not considering legislation that will kill Kansas businesses and jobs.

Thank you for your time.
Kelly Jennings

House Commerce & Labor

Date: 3-17-10

Attachment # 9

KANSANS FOR ADDICTION PREVENTION

P.O. Box 16774, Wichita, Kansas 67216
Phone 316-681-0122

SUBJECT: House Bill 2697

There has been significant erosion of controls of alcohol over the past few years. There has also been a major jump in the number of alcohol related traffic fatalities. Alcohol is the number one drug problem in America. You have expanded access which always increases consumption. House Bill 2697 however is not just an erosion of control; it is a radical shift in policy. This bill should be defeated.

PREVENTION: is our primary focus, and a proliferation of places that sell alcohol would mean that more people would drink. Prevention of access by youth means that fewer persons will become addicted to alcohol. Numerous studies throughout the world have linked expanded number of sales outlets and/or expanded hours to increased consumption and the resulting harmful effects. In Great Britain, the sale of reduced price alcohol in grocery stores is blamed for a dramatic increase in harm done by alcohol. Alcohol takes a terrible economic toll in America. Each one of us spends \$652 to support the economic loss due to alcohol use and abuse. I resent the fact that the infrastructure of our state requires me to pay out the \$652 although I am among the 40% of Kansans who totally abstain from alcohol.

ENFORCEMENT: Under this bill, enforcement would need to be quadrupled. It needs to be vastly increased because you would be adding two to three thousand outlets for stronger alcohol. Would a large national corporation train their staff to the same standard that liquor stores now maintain? I have ridden with ABC officers, and in my opinion it would be very difficult to monitor underage purchases at a grocery store as compared to a current liquor store.

In order to fund the vastly increased enforcement effort needed, it would be important to raise the tax on alcohol significantly. KAP has already proposed tax increases on alcohol in order to solve some of our budget problems, but much more funding would be needed under this bill for the expanded enforcement efforts.

The penalties for sales to minors need to be level. If an infraction would close a liquor store, an equal infraction should close an entire grocery store. It would seem that a well run grocery store would be unwilling to take the risk of improperly selling alcohol because of the potential for severe penalties.

Garry Winget, KAP President

House Commerce & Labor
Date: 3-17-10
Attachment # 10

The following article is a re-print on an article sent out in one of our informational bulletins, but it provides specific research on the issue in this bill.

Adolescents who live within walking distance of a liquor store or other alcohol outlet are more likely to engage in binge drinking or drive drunk, according to researchers from the Pardee RAND Graduate School in Santa Monica, Calif.

The Los Angeles Times reported that drinking rates were higher among 12- to 17-year-olds who lived within a half-mile of an alcohol outlet, and that minority neighborhoods tended to have a higher density of alcohol outlets than predominantly white communities.

(How do alcohol outlets affect communities?)

"Our study suggests that living in close proximity to alcohol outlets is a risk factor for youth," according to the researchers. "In California, retail licenses are not typically approved within 100 feet of a residence or within 600 feet of schools, public playgrounds and nonprofit youth facilities, but proximity by itself is not sufficient to deny a license ... More attention on the proximity rule is needed and environmental interventions need to curb opportunities for youth to get alcohol from commercial sources."

The research was published online ahead of publication in the American Journal of Public Health.

Rodney A. Robson, President

Kansas Association of Beverage Retailers

Jo's Liquor Store, Caney KS

Chairman Brunk and Committee,

First I want to thank each one of you for your service and today for your time in hearing this very important issue. Let me tell you about myself and how I have become involved with this issue and the organization I am representing today.

Approximately seven years ago my wife and I purchased a liquor store in a small town of about 2,000 people. Prior to that I was a police officer for ten years, working the last four years as a narcotics detective.

Now a lot of you might think, "Wow, what a drastic career change from being a police officer to selling liquor." Well the motto of a police officer is to serve and protect. I am still working in that capacity. I still serve and I still protect, and by that I mean I serve customers and protect the public by making sure that the laws of the state of Kansas are adhered to in my liquor store.

Let me tell you about the issues of changing liquor laws. First I believe that allowing strong beer, wine and liquor to be handled, stocked and/or sold by minors or people under the age of 21 will make alcohol more accessible to underage people. You may say that I have no knowledge that this would happen. I beg to differ; also during my career as a law enforcement officer I was involved in stings of sending underage people into grocery stores and convenience stores in an attempt to purchase alcohol and tobacco. During these stings it was common for the clerk in these venues to sell to these under age individuals. These stings would take place with an agent from the ABC. The cooperating individuals whom were attempting to make the purchase were from another local city or town and would travel with us to the location and make these purchases. It is understandable that teens who have a friend working at one of these locations will seek them out when they have a party to attend and want to buy strong beer or liquor for their parties.

Some people like to say that this bill is about deregulation – improving access for the customer – removing a monopoly. In fact, it is just deregulation to the benefit of ONE category of retailer: the grocery store. I can see that Hy-Vee and other national grocery chains want to be able to have the same business structure in every state. I do not think it is right that these businesses have come to Kansas and expect the regulatory system to change for their convenience. These businesses knew the state laws when they came here. They can meet the same licensing requirements that I do if they want to get into the liquor business here. It is amazing to me that some of these businesses now threaten that they will not make any more investment in Kansas if the laws do not change. Kansas laws are not so unusual – just look to our neighbors in Oklahoma and Colorado, where grocery stores do not sell liquor, wine or strong beer. What is next – will Hy-Vee ask us to adopt Iowa's laws allowing 16 year olds to sell liquor?

House Commerce & Labor

Date: 3-17-10

Attachment # 11

Let's take a different look at how allowing the sale of strong beer, liquor or wine in grocery stores would affect the retail liquor stores in the State of Kansas. Locally owned liquor stores that are owned by residents of the State of Kansas would close. Let me repeat that. Locally owned liquor stores that are owned by residents of the STATE of KANSAS would close. Not because they wanted to but because people would start purchasing these items at grocery stores and they would be forced out of business. Once again you might say I have no personal knowledge of that because it has not been done yet.

A 2008 study by the Distilled Spirits Council of the United States (DISCUS) concluded that over 200 retail liquor stores would close if strong beer could be sold in convenience stores and grocery stores. *See attached.* We can assume that allowing 100% of the only products that can be sold in a liquor store to be sold by grocery stores would be even more devastating.

Also please remember that most of these stores are not based in the State of Kansas. Liquor stores in Kansas are owned by Kansans who live in Kansas. That means that the money that is collected in Kansas stays in Kansas. We pay our mortgages in Kansas, we pay our utility bills in Kansas, we have children that live in Kansas, and we are members of organizations in Kansas, we pay taxes in Kansas, and even our lobbyist Amy Campbell lives and works in KANSAS. **If two to three hundred liquor stores close - if you figured each store employs just five workers - that would mean the loss of 1000 - 1500 jobs, and I do not believe that Kansas can afford to lose 1,000 jobs at this point in time.**

The grocery stores are currently able to sell cereal malt beverages and the industry has adapted to put a variety of products in the grocery stores and convenience stores. The flavored malt beverage market has grown. And why is it that people continue to buy 3.2% beer when strong beer is offered? People want a choice and they want to be able to decide if they want 3.2% or strong beer. Additionally, two of the most popular new products on the market are MGD 64 and Bud Select 65 – these are low carb, low calorie 3.2% cereal malt beverages.

Please remember the public safety issues. According to the National Highway Traffic Safety Administration alcohol related fatalities with blood alcohol content (BAC) greater than .08 that compares Kansas and Missouri there were 145 fatalities and 310 fatalities respectively. In fact, in states with greater access to alcohol – more outlets selling the product – alcohol related traffic fatalities are higher.

In closing I would ask you to seriously take a look at the big overall picture and the economy of the State of Kansas. Kansas cannot afford the loss of jobs and we cannot afford to change the liquor laws that have withstood the test of time for years. It is not time for change, it is time to realize that the regulated role of state licensed liquor stores has value. It works and sometimes things are best left just the way they are. Hence the saying, **"If it ain't broke, don't fix it!"** Thank you again for your time and attention in this matter.

For more information, contact me at crrobson@coffeyvilleks.net

MEMORANDUM

To: Courtney Armour

From: David Ozgo

Date: February 9, 2008

Re: Full strength beer in Kansas grocery and convenience stores

You asked me to estimate the impact on the spirits industry if legislation allowing Kansas grocery and convenience stores to carry full strength beer were to become law. This memo makes the following points:

- Since 70% of spirits buyers are also beer buyers there is a danger that many shoppers will forgo or curtail spirits purchases as they begin shopping for beer in stores that do not carry spirits. Many will substitute spirits occasions for beer occasions. Spirits volumes are projected to fall by 107,000 cases as a result.
- While the proposal will increase full strength beer availability by 500%, total full strength beer volume sold through off-premise outlets is projected to increase from 12.8 to 20.2 million cases – an increase of less than 60%. Thus average cases of full strength beer sold per licensee is expected to fall by 13,000 cases annually.
- Beer represents incremental business to food stores. Since most full strength beer sales will be incremental business for food stores, food stores do not need to sell as much volume to make beer sales profitable.
- However, beer sales make up an estimated 55% of total package store revenues – they are a core part of package store business. The reduction in beer sales, along with lost spirits sales will, initially, reduce average package store revenues by 45%.

- As a result of lost revenues, 217 package stores are projected to go out of business. As spirits become less available, an additional 64,000 cases of spirits sales will be lost annually.
- Between beer substitution and a reduction in spirits availability the spirits industry is projected to see a reduction of 169,000 cases worth \$15.2 million to suppliers.

These points are discussed in more detail below.

I. Analysis of Kansas beverage alcohol market.

Full strength beer claims the overwhelming share (79%) of the total beer market in Kansas, despite the fact that only 726 package stores currently carry it. Clearly, consumers prefer full strength beer over 3.2 beer.

Assuming 40% of full strength beer is sold through on-premise outlets would mean that almost 12.8 million cases of full strength beer are sold annually through package stores. These sales would be worth over \$255 million to package store retailers.

**Table 1
Estimation of Off-Premise Volumes**

	Full Strength	3.2	Total Beer	Spirits	Wine
Total Cases (000)	19,668	5,128	24,796	1,393	1,075
Off Premise	12,784	4,872	17,656	1,037	833

Sources: Adams Handbooks, Kansas Dept. of Revenue

The average package store generates an estimated \$352,000 annually from beer sales – roughly 55% of total sales. Clearly, any policy that threatens these revenues also threatens the viability of the package stores themselves.

**Table 2
Estimated Package Store Revenues**

Beverage	Revenue (000)	Per Store (000)
Spirits	\$ 155,612	\$ 214
Wine	\$ 49,988	\$ 69
Beer	\$ 255,683	\$ 352
Total	\$ 461,283	\$ 635

Source: Adams Handbooks, DISCUS Estimates

II. Substituting spirits drinking occasions for beer occasions.

The dangers to the spirits industry are two fold. First, spirits buyers and beer buyers are drawn from similar populations. Some 70% of all spirits consumers also drink beer.¹ Additionally, large numbers of shoppers purchase both beer and spirits when they visit a package store.² Shopping decisions are often driven by customer convenience. If full strength beer is available at grocery and convenience stores many shoppers will opt to visit food stores where spirits are not available. Faced with having to make a special trip to a package store to purchase spirits many will substitute beer consumption for spirits consumption.

Table 3
Kansas Off Premise Retail Outlets, Current and Proposed

	Spirits, Wine & Beer	3.2 Beer Only	Full Strength Beer	Total Spirits	Total Full Strength Beer	Beer Outlets Per Capita
Current	726	3790	726	726	726	0.38
Proposed	726	3790	3790	726	4516	2.34
Increase	0		3064	0	3790	1.96

Source: Adams Liquor Handbook, U.S. Census and DISCUS calculations

Currently, there are 3,790 grocery and convenience stores that sell 3.2 beer and 726 package stores that sell full strength beer, wine and spirits. The number of full strength beer outlets per 1000 adult adults is 0.38. If all of the 3.2 beer stores begin selling full strength beer the number of outlets per 1000 adults would climb over 500% to 2.34.

Table 4
Estimation of New Beer Sales

Increase in Per Capita Beer Outlets	1.96
Per Capital Consumption Reaction ¹	0.1022
Increase in Per Capita Beer Consumption	3.02
Total New Beer Gallons (000)	5,827
Cases (000)	2,590

¹ See Appendix A

¹ Special analysis by Gallup Organization, September 29, 2006.

² The owner of a large "destination" package store estimated that well over 50% of his customers purchase both spirits and beer at the same time. While the figure is likely to vary by state and the size of the package store the percentage will still be significant.

As the number of full strength beer outlets increases, so too will the amount of beer sold. As Table 4 shows, nearly 2.6 million additional cases of beer are projected to be sold as a result. Some of these new beer purchases will be substituted for spirits purchases. As shown in Table 5, these lost sales will amount to an estimated 107,000 9-liter cases worth almost \$16 million to package stores.

Table 5
Lost Retail Spirits Revenue from Increased Beer Sales

New Beer Drinks (000)	62,157
Spirits Equivalent Gallons (000)	728
Spirits Equivalent Cases (000)	306
Estimated Diversion (000) ¹	107
Lost Spirits Retail Revenue (000)	\$ 16,084

¹ See Appendix A

III. Impact on package stores.

The second danger stems from the projected reduction in package stores – the only venue for off premise spirits sales. The package stores rely on beer sales as well as spirits and wine sales to stay in business.

Assuming that all 3.2 beer becomes full strength beer and adding in the 2.6 million new cases estimated in Table 4, total off-premise full strength beer volumes will increase from around 12.8 million cases to 20.2 million cases.

Currently, the 726 package stores allowed to sell full strength beer sell an estimated 17,600 cases per year. Accounting for both the new beer volumes *and* the new number of full strength beer licenses, the average number of cases sold per outlet will decline to around 4,480 cases per year.

Table 6
Volume Impact for Current Licensees

	Full Strength Beer Licensees	Beer Volume (000)	Average Cases Per License (000)
Current	726	12,784	17.61
Proposal	4516	20,246	4.48
Decline in Average Cases			13.13

For the new full strength beer licensees, most of the new volume will be incremental (except that volume which is replacing 3.2 beer sales). Thus, grocery and convenience stores will be able to sell comparatively low volumes of full strength beer profitably. Obviously, this does not preclude large supermarkets from selling tremendous volumes. What it does mean, however, is that the 3,790 convenience and grocery stores in the state will be able to obtain full strength beer licenses and take sales away from traditional package stores.

As sales at traditional package stores decline some will inevitably be forced out of business, making the purchase of distilled spirits less convenient. As spirits become less convenient to purchase sales will suffer.

Table 7
Estimated Package Store Revenues

Beverage	Current		Proposed			Percentage Loss
	Annual Revenue (000)	Per Store (000)	Annual Revenue (000)	Annual Per Store (000)	Lost Revenue Per Store	
Spirits	\$ 155,612	\$ 214	\$ 139,527	\$ 192	\$ (22)	-10%
Wine	\$ 49,988	\$ 69	\$ 49,988	\$ 69	\$ -	0%
Beer	\$ 255,683	\$ 352	\$ 65,095	\$ 90	\$ (263)	-75%
Total	\$ 461,283	\$ 635	\$ 254,610	\$ 351	\$ (285)	-45%

Source: Adams Handbooks, DISCUS Estimates

Accounting for both the lost spirits sales and lost beer sales, total package store revenues would decline from \$461.3 million to \$254.6 million – a 45% reduction. If all package stores were to remain in business, average annual package store revenues would fall from an estimated \$635,000 to \$351,000.

III. Impact from reduced spirits outlets.

Clearly, not all businesses could withstand a 46% decline in revenues. As a result, we would expect a decline in the number of package stores. Assuming that the average package store would need at least \$500,000 in annual revenue to stay solvent, the \$254.6 million in total package stores would support a total of 509 package stores. Thus, 217 package stores are projected to go out of business.

Table 8

Volume Lost From Reduced Availability	
Estimated Loss in Spirits Outlets	217
Decline Per 1k Adults	(0.11)
Decline in per Capita Consumption ¹	-3.2%
Volume Decline (000, Cases)	-62

¹ See Appendix A

Naturally, as the number package stores declines the availability of spirits will decline as well. Because of lost availability, spirits sales are projected to decline by an additional 62,000 cases annually.

IV. Total spirits industry impact.

As a result of the proposal to allow the sale of full strength beer in grocery and convenience stores spirits volumes are projected to decline by a total of 229,000 cases worth \$20.6 million in supplier revenues.

**Table 9
Supplier Impact**

Impact	Cases (000)	Supplier Revenues (000)
Substitution	(107)	\$ (9,651)
Lost Availability	(62)	\$ (5,582)
Total	(169)	\$ (15,233)

Appendix A

A. Per capita beer response to change in outlets.

The natural log of Per capita beer consumption was regressed against the natural log of beer outlets per 1000 adults and median household income, and whether or not the state attracts large amounts of cross border traffic and whether or not more than 25% of the population is Baptist or Mormon. All independent variables were significant.

The coefficient on Beer Outlets/1k adults is equal to the elasticity of per capita consumption to beer outlets. Given the large increase in the number of per capita outlets (521%) that the legislation would allow, the percentage increase in per capita consumption was calculated by the formula:

$$(1 + 5.21)^{0.53224} - 1 = 0.1021$$

Thus, per capital consumption was increased by 10.21%.

SUMMARY OUTPUT

<i>Regression Statistics</i>	
Multiple R	0.666125222
R Square	0.443722811
Adjusted R Square	0.395350882
Standard Error	0.131471016
Observations	51

ANOVA

	<i>df</i>	<i>SS</i>	<i>MS</i>	<i>F</i>	<i>Significance F</i>
Regression	4	0.63421772	0.158554	9.173147	1.55287E-05
Residual	46	0.79509288	0.017285		
Total	50	1.4293106			

	<i>Coefficients</i>	<i>Standard Error</i>	<i>t Stat</i>	<i>P-value</i>	<i>Lower 95%</i>	<i>Upper 95%</i>
Intercept	5.375098259	0.55296714	9.720466	9.95E-13	4.262033147	6.4881634
Beer Outlets/1k Adults	0.053224072	0.02470332	2.154531	0.036469	0.003498871	0.1029493
Median Household Income	-0.50286338	0.14502811	-3.46735	0.001151	-0.79478983	-0.210937
Cross Border or Tourist	0.225037896	0.08029813	2.80253	0.007397	0.063406147	0.3866696
Heavy Mormon or Baptist	-0.14811085	0.05136397	-2.88356	0.005962	-0.25150115	-0.044721

B. Reaction of spirits consumers to increased beer availability.

70% of spirits drinkers also drink spirits. The 500% increase in full strength beer availability will make beer fare more convenient to purchase than spirits. Assuming that the 500% increase in availability will impact the purchase decisions 10% of the time, 50% of consumers who drink both beer and spirits would be impacted. Multiplying 70% (spirits drinkers who also drink beer) by 50% yields 35%. Thus, 35% of all new beer drinking occasions will be taken from spirits drinking occasions.

B. Per capita spirits response to change in outlets.

Per capita spirits consumption was regressed against spirits outlets per 1000 adults, median household income, whether or not the state attracts large amounts of cross border traffic and whether or not more than 25% of the population is Baptist or Mormon.

SUMMARY OUTPUT

<i>Regression Statistics</i>	
Multiple R	0.8647107
R Square	0.74772459
Adjusted R Square	0.7257876
Standard Error	0.37704732
Observations	51

ANOVA

	<i>df</i>	<i>SS</i>	<i>MS</i>	<i>F</i>	<i>Significance F</i>
Regression	4	19.38279	4.845697	34.0851	3.19E-13
Residual	46	6.539575	0.142165		
Total	50	25.92236			

	<i>Coefficients</i>	<i>Standard Error</i>	<i>t Stat</i>	<i>P-value</i>	<i>Lower 95%</i>	<i>Upper 95%</i>
Intercept	0.89500286	0.405713	2.206	0.032418	0.078345	1.711661
Spirits Outlets/1k Adults	0.28582906	0.110512	2.586405	0.012928	0.06338	0.508278
Median Household Income	0.02218339	0.008463	2.621138	0.011839	0.005148	0.039219
Cross Border or Tourist	2.1063314	0.228129	9.233065	4.83E-12	1.647131	2.565532
Heavy Mormon or Baptist	-0.28703618	0.142533	-2.013817	0.0499	-0.573941	-0.000131



Public Action Management

Testimony of Pamela S. Erickson, Former Executive Director of the Oregon Liquor Control Commission and current President/CEO of Public Action

Before the House Committee on Commerce and Labor

On House Bill 2697

March 17, 2010

Mr. Chairman and members of the Committee, my name is Pamela Erickson, President of Public Action Management, based in Scottsdale, Arizona. I speak to you as a national alcohol prevention advocate and former alcohol regulator. After seven years of directing the Oregon Liquor Control Commission, I left to join the alcohol and drug abuse prevention community. By joining the prevention field, I immersed myself in the research concerning how to combat underage drinking and other alcohol problems. What I learned is how effective our alcohol regulatory systems are. I became concerned that we could lose good systems because few people really understand them. In fact, I realized—to my chagrin-- that as a regulator, I didn't have a complete understand of how the system worked and why it is effective. That is why I currently operate a public education program called the "Campaign for a Healthy Alcohol Marketplace" which is available at www.healthyalcoholmarket.com. I offer my expertise as a way to help you make the momentous decisions you have before you today.

House Bill 2697 represents a major overhaul of your alcohol retail system. When considering such a major change, it is important to recall the purpose that guided the original retail structure. That purpose was to foster moderation in alcohol consumption. After Prohibition, our states adopted moderation as the social policy for alcohol. When moderation is practiced, alcohol can be consumed with a minimum of harm and potentially some health benefits. So it is a very good policy to pursue. Most states, including Kansas, structured their retail system to facilitate the consumption of alcohol products with lower alcohol content. In Kansas, that meant more widespread availability of Cereal Malt Beverage and less availability and greater control over strong beer, wine and spirits. With this system, Kansas has maintained adult alcohol rates of consumption, binge drinking and heavy drinking that are lower than the national average. In addition, rates of liver cirrhosis are lower than the national average. These are patterns that you would not want reversed. Kansas also has problems with underage drinking and rates are either at or above the national average. While Kansas' system may not have been as effective with youth as with adults, this is not the time to make a change that could increase underage drinking.

House Commerce & Labor

Date: 3-17-10

Attachment # 12



The changes contained in HB 2697 would do two things that should be of great concern:

First, it would make all forms of alcohol much more available. Research has increasingly found that **an increase in outlets is related to an increase in problems.** For example, a recent study in Cincinnati by two Indiana University professors found that “More alcohol sales sites in a neighborhood equates to more violence, and the highest assault rates are associated with carry-out sites selling alcohol for off-premise consumption...” In fact, they calculated that if alcohol were entirely eliminated in their sample of 302 blocks, “We could expect a reduction of about one-quarter in simple assaults and nearly one-third in aggravated assaults...” According the Fiscal Note for HB 2697, this bill would add an estimated 400-500 new sales sites for all forms of alcohol. An addition of that many new sites would likely result in an increase in violence and other alcohol problems.

Second, and probably more crucial, is what this measure will do for alcohol prices. It will bring a lot of cheap alcohol into your market. Large supermarket chains have the buying power to negotiate reduced prices. In addition, they regularly put some alcohol product on sale to attract customers to their store. While low prices for many commodities can be a good thing, the consequences of cheap alcohol are serious. **Price is the most powerful driver of alcohol consumption.** In a recent analysis of 112 studies, Professor Alexander Wagenaar of the University of Florida College of Medicine concluded, “When prices go down, people drink more, and when prices go up, people drink less.” In addition, this pattern holds for heavy and underage drinkers who actually drink less when prices go up.

I ask that you keep these two points in mind as I walk you through some of the key issues to consider as you review this bill:

1. Why selling alcohol in a “free market” scenario invariably leads to problems.
2. How deregulation of alcohol in the United Kingdom led to an alcohol epidemic.
3. How the grocery supermarket “mass merchandising” model fuels increased alcohol consumption and social problems.
4. The elements of a regulatory system that effectively control problems.
5. How Kansas’s alcohol regulatory system performs.

First: Just why can’t we sell alcohol in a free market setting like other commodities? The simple answer is that several standard business practices—quite legitimate for other products—will likely create social problems when used with alcohol. Let me illustrate: Imagine you decide to purchase a floral business. You would start with a business plan that identified your best customers, i.e. those people that love flowers and buy them often. You would develop methods to keep those customers and get them to buy even more flowers. You would also devise ways to get more people into that “best customer” category. You would use promotions, cost reductions, coupons and other methods to entice people to buy more flowers. And, you would work to gain a new



generation of customers by marketing to young people suggesting they buy flowers for every occasion. Now substitute alcohol for flowers and you can see the problem. A good portion of people who buy a lot of alcohol are alcoholics and heavy drinkers. Enticing more people into this category is not a good idea! Marketing to young people would be fostering underage drinking. You can see that these standard practices are not wise for alcohol. Thus, I ask you to consider the fact that alcohol is a different product that should be sold with care and restraint.

Second: Let's see what happened to a country that deregulated alcohol. I am the author of a report on the United Kingdom entitled "The Danger of Alcohol Deregulation: the United Kingdom Experience." That country had a comprehensive alcohol regulatory system but gradually deregulated to the point where all forms of alcohol are widely available and can be sold in bars, clubs and grocery stores 24 hours a day, 7 days a week. Alcohol is very cheap and often promoted as a "loss leader." Clubs and pubs use sale practices that encourage intoxication.

The result of this deregulation is an alcohol epidemic. The UK now has one of the highest rates of alcohol consumption in the world and they are experiencing major increases in alcohol related disease, death, underage drinking and bar violence. In 10 years, hospital admissions for liver disease and acute intoxication have more than doubled. Underage drinking rates are over twice that of the US and youth as young as 8 are hospitalized for alcohol intoxication. Girls and women are drinking at high rates. Law enforcement is overburdened by excessive bar violence and public nuisance offenses as people drink in bars 24 hours a day. This happened gradually as deregulation began in the 1960's with consumption increases tracking this regulatory change. In January of this year, I visited the United Kingdom and spoke with key alcohol experts and Members of Parliament. They are having a very difficult time getting this epidemic under control which tells you that once you deregulate, it is very hard to backtrack.

Third: Global grocery supermarkets have consolidated and use the "mass merchandising model" to attract shoppers looking for cheap goods. In the UK, the availability of cheap alcohol is widely blamed for the epidemic. This could happen here. It is important to understand is how supermarkets make their money. They have extremely thin margins: less than 2%. In order to make money, they must make it up on volume. They use low prices to attract large numbers of customers to buy large quantities. Heavy promotion and high volume go hand in hand. These strategies are the very things that create problems as low prices, heavy promotion and high volume propel increased consumption particularly for youth who are especially price-sensitive.

The retail market in the US has become extremely competitive as stores try to attract shoppers with low prices. Today, five large chains dominate our grocery market: Walmart/Sam's Club, Kroger, Costco, Supervalu and Safeway. These large chains have been able to capture part of the business of restaurants and bars as more people buy cheap alcohol at stores and drink or entertain at home. Nationwide, off-premise licenses have increased and on-premise licensees have decreased.

12-3



Fourth: The alcohol prevention field has a large body of research to guide policy makers. A good resource is the World Health Organization which has based its recommendations on research from around the world. The World Health Organization recommends that systems be comprehensive addressing issues of price, availability, promotion, the drinking environment, age restrictions and drunk driving. Our states' best defense against an alcohol epidemic is a strong, comprehensive regulatory system. Strong systems are not detrimental to business. In many states, new wine and microbrew industries are flourishing despite strong regulation. Local and global businesses can both operate under such systems as evidenced in many of our states.

Fifth, Kansas has good record of alcohol control with adult consumption and problem drinking rates that are lower than the national average. To maintain these results, the alcohol control system must remain strong. Some things to consider about selling all forms of alcohol in grocery and convenience stores are:

- **Consider the advantages of the current retail system** which facilitates consumption of low-alcohol content products and provides substantial safeguards and controls over higher-alcohol content products.
- **Recognize that increased availability and low prices drive increased consumption** which, in turn, bring greater social problems and taxpayer cost.
- **Review the alcohol market to determine if there is a substantial unmet need for the moderate drinker and whether that need can be met without increasing problems and social costs.** You should understand that about half of your citizens do not drink alcohol. Of those that do drink, a significant percentage of purchases are by problem drinkers.
- **By allowing a large number of new locations to sell all forms of alcohol, you risk market destabilization** through extreme price competition which may drive many of your small local businesses out of the market.

In conclusion, I would reiterate the need to keep in mind the overall social policy of moderate alcohol consumption. A major change in any part of your system should be carefully reviewed and analyzed to determine if it fosters your overall goal. I also caution you that deregulation can happen one regulation at a time and you may not see the cumulative result until it is too late. I appreciate the opportunity to speak with you today. I would be happy to answer any questions and I have listed some helpful resources below for your information. My report on the United Kingdom and other educational materials are available on my campaign website, www.healthyalcoholmarket.com.

Sources:

1. "The Dangers of Alcohol Deregulation: The United Kingdom Experience," Pamela S. Erickson, Public Action Management, available for download at www.healthyalcoholmarket.com.

12-4



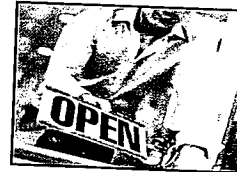
2. Centers for Disease Control, 2008 Behavior Risk Factor Surveillance System survey data for Kansas. Available on CDC/BRFSS website.
3. "What are the most effective and cost-effective interventions in alcohol control?" World Health Organization, February 2004.
4. "Competition and Profit," Food Marketing Institute, Website PDF.
5. "Effects of beverage alcohol price and tax levels on drinking: a meta-analysis of 1003 estimates from 112 studies." Alexander C. Wagenaar, Mathew J. Salois and Kelli A Komro, University of Florida, College of Medicine, Addiction, 2009.
6. "Using Geographic Information systems and Spatial Analysis to Better Understand Patterns and Causes of Violence", William Alex Pridemore and Tony H. Grubestic, Indiana University.

12-5

A Healthy Alcohol Marketplace in Kansas: Why We Can't Sell Alcohol Like Tires and Mayonnaise

By Pamela S. Erickson, M.A., CEO
Public Action Management, PLC,
March 17, 2010
Topeka, Kansas

Why do we need special regulations for businesses that sell alcohol?



› Why can't alcohol be sold in a "free market" like other products?

Because some normal business practices — quite legitimate for other commodities — may produce social harm when alcohol is sold.

As an illustration, imagine you decide to buy a floral business...



Your business plan would include:

1. Efforts to retain and increase customers who are "frequent buyers" of flowers
2. Discounts and promotions to gain new "flower-loving" customers
3. Advertising to young people to build a future customer base

What happens when you substitute alcohol for flowers?

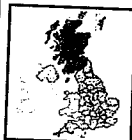
› Your business plan calls for:

1. Marketing to heavy drinkers and alcoholics.
2. Use of volume discounts/incentives to encourage heavy use.
3. Marketing to youth to encourage present and future alcohol use.

› *Estimates indicate the alcohol market includes:*

- › 17.5% underage drinkers
- › 20.1% adult abusive/dependent drinkers
- › (Archives of Pediatrics and Adolescent Medicine, 2006)

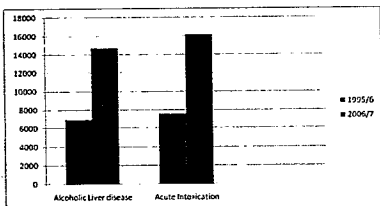
Let's see what happens when alcohol deregulation really occurs...



- › The United Kingdom is an example. Today alcohol is available in bars, clubs and grocery stores 24 hours a day, 7 days a week.
- › They have high taxes, little regulation, poor enforcement and lots of cheap alcohol.
- › They also have an alcohol epidemic on their hands.

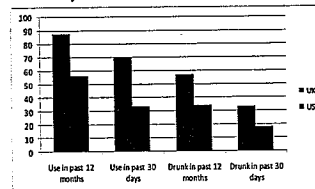
"Quite simply, England is drinking far too much. England has an alcohol problem." Sir Liam Donaldson, Chief Medical Advisor, UK

- › Hospital Admissions have doubled for liver disease and acute intoxication.



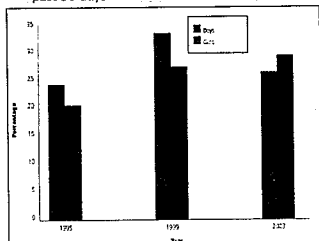
Youth are drinking at twice US rates!

- › Drinking and intoxication of youth 15-16 are at very high rates, according to the European School Survey.



Girls drinking exceeds the boys

Percent of 15-16 years olds consuming 5 or more drinks on 3 or more occasions in the past 30 days



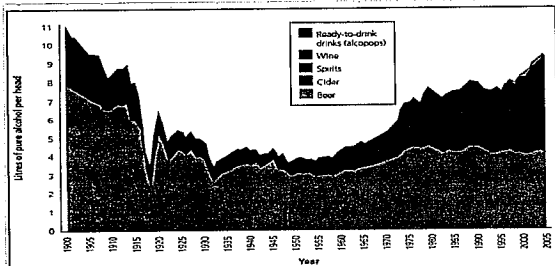
Source: Plant and Partners (2003) Stage 8: How Alcohol and the National Institute on Alcohol Abuse and Alcoholism

Public disorder and violence in town centers

- › Large increase in public disorder crimes around bars (vomiting, urination, fights, vandalism).
- › Serving practices promote rapid intoxication.
- › "Predrinking" at home increases bar intoxication.



UK deregulation begins in the 1960s and is followed by increased consumption and problems



Large grocery chains are widely blamed for the epidemic as prices fall

- Four large chains control 75% of the market.
- Most use alcohol as a "loss leader".
- Drinking at home has increased.
- The large chains are locked in price wars.



Could the US experience a similar epidemic? Two Major Threats.

US Supermarkets have cheap alcohol




Deregulation by Lawsuit

The court found no "persuasive evidence that the purpose of any of the challenged restraints was to promote temperance by raising average beer and wine prices."

• US District Court, Costco v. Hoen

Supermarkets rely on high volume, not mark-up, to generate profits



- ▶ How can supermarkets survive?
- ▶ "To earn a dollar, supermarkets would rather sell a \$1 item 100 times, making a penny on each sale, than 10 times with a dime markup."

▶ Net profit for food retailers is less than two pennies on each dollar of food sales.


Source: Food Marketing Institute

The US grocery market is consolidating with greater use of mass marketing methods


"Top US Supermarket and Grocery Chains" (By 2007 Grocery Sales)

▶ Wal-Mart/Sam's	\$138.2 m	26.4%
▶ Kroger	\$ 65.6 m	12.6%
▶ Safeway	\$42.3 m	8.1%
▶ Costco	\$35.3 m	6.8%
▶ Others	\$241.2 m	46.1%

• Source: Food Marketing Institute



Current retail trends of concern:



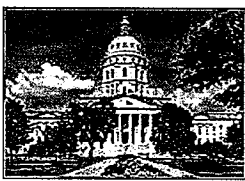
- ▶ Shift to drinking at home: 37% going to bars and clubs less often (Nielson survey)
- ▶ Increase in off-premise locations: 2,392 in August 2009 (Beverage Information Group)
- ▶ Cheap alcohol in stores (sometimes 50 cents a can for beer); private labels
- ▶ Proposals for all forms of alcohol in grocery stores...sold as "Customer Convenience" (privatization, "wine in grocery stores", Sunday sales, etc.)

Our greatest protection is an effective alcohol control system which addresses:

- Price: Increase in price reduces consumption even among heavy drinkers and especially among youth. Increases can occur through taxation, minimum price levels and three-tiered system controls.
- Promotion: restrictions on price-related promotions ("two for one") or "loss leader"
- Availability: hours of sale, limits on number of outlets
- Age restriction: purchase, possession and drinking age
- Drunk driving measures: sobriety checks, random breath testing, BAC limits, driver's license suspensions
- Enforcement: tools for law enforcement and attention to serving practices

• Source: World Health Organization

How does Kansas's alcohol regulatory system stack up?



Kansas' alcohol laws have kept alcohol use low!

Adult Alcohol Consumption:

- Kansas ranks below the national average on 30 day use, binge drinking and heavy drinking.

Chronic Liver Disease Mortality:

- Kansas liver disease rates are below the national average.

Underage Drinking

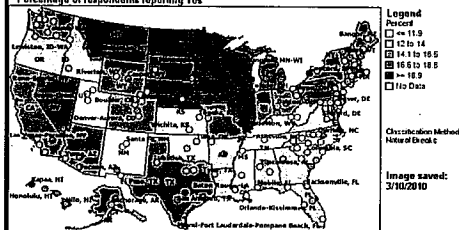
- Alcohol use is lower than the national average, but the binge rate is higher.

◦ Source: Behavior Risk Factor Surveillance System, Centers for Disease Control and Prevention, US Department of Health and Human Services, Website 2007 data.

Kansas has lower drinking rates than most states

BRFSS Maps Year - 2008

Binge drinkers (males having five or more drinks on one occasion, females having four or more drinks on one occasion)
Percentage of respondents reporting Yes



Who are Kansas's alcohol customers?

- › **About half of Kansas adults don't drink!** Only 49.8% of Kansas adults reported drinking in the past 30 days compared to 54.5% in the US as a whole.
- › **Four percent are heavy drinkers and 14% are binge drinkers.** Heavy drinkers are those that drink above recommended levels on a daily basis. Binge drinkers drink 5 or more in one setting (4 or more for females).
- › **Underage drinkers make up a substantial part of the market.**

Source: Behavior Risk Factor Surveillance System; Centers for Disease Control

Likely outcome of selling all forms of alcohol in food stores

- › Alcohol consumption and social problems will likely increase due to a large increase in alcohol availability and lower prices.
- › Enforcement needs and regulatory costs will increase.
- › Large out-of-state supermarket chains will be the primary beneficiaries as they have the ability to offer low prices and undercut everyone else.
- › Grocery stores will be able to stock products attractive to youth (alcopops) and street drinkers (fortified wine and high alcohol content malt liquor).

Conclusion:

1. Kansas has an alcohol regulatory system that has kept adult consumption below the national average. Major change can bring unwanted health problems and cost to taxpayers. Change is often slow, but very hard to reverse.
2. Underage drinking in Kansas is high and could be adversely affected by a major weakening of alcohol regulation.
3. There should be a careful analysis of the impact of any change on price and availability. For alcohol, low prices increase consumption particularly for underage drinkers who are more price-sensitive.
4. Kansas should be very proud of their alcohol control system and the results that have been achieved. Calls for "modernization" and increased customer convenience should be viewed with skepticism.

A few helpful resources used for this presentation:

- › "What are the most effective and cost-effective interventions in alcohol control?" World Health Organization, February 2004
- › "Competition and Profit," Food Marketing Institute Website (PDF about grocery business today)
- › "The Dangers of Alcohol Deregulation: The United Kingdom Experience," by Pamela S. Erickson, available on-line at www.healthyalcoholmarket.com.
- › "Behavior Risk Factor Surveillance System, Centers for Disease Control and Prevention, U.S. Department of Health
- › "State of the State Regarding Underage Drinking in Kansas", KS Leadership to Keep Children Alcohol Free.

For more information contact: Pamela Erickson,
pam@pamaction.com



www.healthyalcoholmarket.com for Healthy Alcohol Marketplace newsletter and resource material

12-10

House Committee on
Commerce and Labor
Re: HB 2697
March 17, 2010

"It's about the consumer."

"It's about jobs."

"It's about competition."

No. It's about alcoholic beverages.

Mr. Chairman and Members of the Committee:

My name is Rebecca Rice and I appear before you today as an opponent to HB 2697 on behalf of the Kansas Beer Wholesalers Association.

Those statements tell us one thing: that the grocers, along with many others, have forgotten why Kansas adopted its current liquor regulatory system; a system that is now regularly disparaged by some members of the public, some businesses and some elected officials. It is disparaged in part because Americans tend to forget the difficult and sometimes painful lessons learned by previous generations.

But, apparently, the three-tier system which was adopted in some form by every state has been remarkably successful because it has allowed people to forget the problems of the "free market" that eventually lead to enacting Prohibition. And, to also forget the remarkable problems caused by Prohibition.

If the proponents are correct, the outcome from this bill would be an expansion in the number of liquor outlets, a dramatic decrease in the price of liquor and, either, increased consumption or retrieval of sales currently being made out of state or a combination of both.

They are correct - Kansas' regulatory system is designed to prevent those things. For very good reasons. The societal problems that resulted from a "free market" in alcoholic beverages caused such grave damage to society and to commerce, that eventually Congress concluded that a total ban was the only method to stop the damage.

During Prohibition, the pre-Prohibition problems were analyzed and studied at great length. The conclusion was that "tied houses" had lead to a marketplace of too many outlets. And, that too many outlets lead to routine price-gouging tactics. And cheap liquor at too many outlets lead to gross over-consumption. And gross overconsumption by so many caused remarkable harm: to society, to families, to businesses.

The problems of a "free market" in alcohol will be the same today as it was then.

Americans' involvement with alcoholic beverages has not "evolved" into something more sophisticated or educated or wise. If you doubt that; if you believe that we have evolved far beyond the days of Prohibition and any need for these "silly" Prohibition-era laws, the proof to my statement occurred about 20 years ago.

House Commerce & Labor

Date: 3-17-10

Attachment # 13

I was in law school when we finally adopted liquor by the drink and we were thrilled that Bennigan's was coming to Topeka. And Bennigan's had a GREAT happy hour. My preference was 2 for 1 margaritas.

It did not take this Legislature long to figure out that extreme competition for customers using cheap liquor as the bait was causing serious problems: to society, to families, to businesses. "Happy hour" was soon banned by statute.

I realize that the grocers are not requesting the demise of the three tier system in this bill. I'm certain there are many benefits of the three tiers that they appreciate and want to maintain. Probably one of those benefits is knowing they will not have to "compete" with a brewer or distiller-owned retail shop next door who is driving price without limitation.

However, because of their position in the industry, they have never had to concern themselves with the details of "why". Therefore, they perhaps do not realize the danger of their efforts to the three tier system.

The Kansas system may seem antiquated and cumbersome but when originally crafted, each piece was interwoven with the next to create a strong, enforceable barrier to: tainted products; prevention of market control by any particular tier or entity; and widespread, recurring over consumption.

When the Legislature eliminates or alters any piece, the typical result is to weaken that barrier.

Unfortunately, many pieces have been altered in the last few years. We don't yet know the extent to which those exceptions have weakened the state's regulatory power.

But, the adoption of this legislation would tear an obvious and immediate hole in it.

Each one of the items that have been changed in this bill causes weakness. Of primary and greatest importance is the elimination of the "one individual, one license" requirement. The requirement that a retailer must be an individual; must be a resident and can not hold more than one license is at the base of our regulatory system.

Once a dominant corporation is allowed unlimited retail licenses, a tectonic shift in the liquor market will occur. The barrier that was so carefully constructed by your predecessors; that has held for so many decades protecting the Kansas consumer from fraud; tainted products; false advertising; "impulse buying"; from regional price preferences; from distributor preferences, and so much more is lost.

Not immediately, but lost soon.

I wanted to tell the man who drove all the way from Atwood that, while we empathize, he is making an error in his calculations. He is assuming the liquor world will stand still for awhile to give him time to become established and develop his market. It won't. The pressure on the distributors from the manufacturers and from the "over-night" dominate retailers, will cause other parts of the barrier to either be removed or further weakened.

He probably assumes that we will retain the mandate that each retail license must be served by the franchised distributor. He probably assumes that the mandate that distributors sell to all retailers at the same price and under the same conditions will be retained.

But, those are all protections built into the franchise law. And, with a few dominant retailers that own the majority of the retail stores, why would they be concerned about maintaining a "fair and orderly market" throughout the state? They have a job to do – increase profits for their shareholders. It makes no difference whether those shareholders are employees, Walton's or grandchildren of the Dillon's. The job is the same.

Our state is simply too small to withstand the pressure that will be brought by these economic giants and we will change our laws to increase their profit.

For years, I watched and eventually lobbied against expanding "gaming" in Kansas. I watched the horse and dog owners come to Topeka to plead for racing and they were compelling. And, they eventually won. Not too many years later they came back to Topeka to plead for casinos and slot machines to "save" their race tracks. Eventually, the yearly effort appeared to be orchestrated almost entirely by out-of-state casino money but the dog and horse owners were the "face" on the effort for casinos.

Anyone who watched that "dance" over all those years can not now be surprised that casino gaming has not made us rich and the racetracks are no longer operating.

The point? I attended Colby Community College many years ago and am a little surprised that an Atwood business man thinks a bill designed for Hy-Vee is going to help him.

If the desire or need is to save or rescue independent grocery stores, don't adopt legislation designed to put another locally owned business, out of business. Give those grocers something that is an advantage over Missouri or Nebraska businesses instead of something that will only hurt other Kansas businesses.

Alcohol is a special item in American culture. The great experiment of Prohibition taught us that a "free market" results in a few controlling the supply and therefore price. And we found that with a product like alcohol, a dominated marketplace was extremely damaging to society. But we also learned that a "closed market" was equally damaging, leading to deaths from tainted products, over consumption and a few, very dangerous people controlling the supply and therefore price in a "black" market.

Kansas – unlike many states – has remained "basically" true to the model three-tier system promoted by the federal government for the purpose of protecting society against the problems caused by the magnet of "easy money" from liquor sales.

We are part of a connected, national system that works together to protect against tainted product and fraud and uncontrolled greed. If we don't respect the power of this product both on the consumer and on the need for greater corporate profit and instead choose to weaken the Kansas barrier, we will eventually have to correct the problems caused by a market controlled by a few with maximum outlets and the cheapest prices selling a product of which we do not know the origin.

Thank you, Mr. Chairman.

Rebecca Rice, Legal Counsel
Kansas Beer Wholesalers Association
785.617.0036
rebecca@kansaslobbyist.com

A LIQUOR SUPER MARKET

CHLUMSKY LIQUORMART

2204 Kansas Street (620) 792-1929
Great Bend, Kansas 67530

Committee Members hearing H.B. #2697

I'm Betty Chlumsky from Great Bend, Kansas. My son and I own and operate Chlumsky Retail Liquor Mart in Great Bend, and I have been in the liquor industry for 37 years. I have invested a lot of time, effort, energy, and money in my community and state. I have served on Great Bend's Chamber of Commerce, Great Bend City Council, and County Commissioner for Barton County. I want you to know that I care deeply about my community and our liquor industry.

Even though it is advantageous to have large businesses in a community it is the small businesses that "pull the load". This is true in Kansas as well as across the Nation. If H.B. #2697 passes it will put many small businesses out of business, and result in the loss of tax dollars. Small businesses spend their money locally and it circulates many times. Large grocery stores have a payroll but most of the money would be sucked out of the state and would benefit other areas.

H.B. #2697 would result in the loss of deregulation of our alcohol industry and the loss of a very successful "Three-Tier System", that we have enjoyed for many years. It would allow corporations from out of state to get liquor licensees, and these entities would not have Kansas's best interest at heart.

I ask that you consider the negative effects that this bill would have and kill H.B. #2697 in committee.

Thank you for your time,

Betty Chlumsky

House Commerce & Labor
Date: 3-17-10
Attachment # 14

"Let Ours Be Your Favorite Store"

K • A • N • S • A • S
WINE & SPIRITS
WHOLESALE ASSOCIATION

March 16, 2010

To: House Committee on Commerce
From: Spencer Duncan and R.E. "Tuck" Duncan
Kansas Wine & Spirits Wholesalers Association
Re: Selling Beverage Alcohol in Grocery Stores

Kansas retail liquor stores are our customers. We have a few observations for your consideration:

First, don't break a fixed system. The current system is not broken. All liquor stores are locally owned, ensuring more dollars stay in Kansas. Changing the law puts hundreds of locally owned liquor stores at risk of going out-of-business.

According to the studies in Appendix "A" locally owned businesses generate 70 percent more local economic impact per square foot than chain stores, three times as much money stays in the local economy when you buy goods and services from locally owned businesses instead of large chain stores, and local stores retain a much larger share of their profits within the local economy.

Many grocery stores use beverage alcohol as a "loss leader." They do this because it accounts for a minimal amount of sales and they sell hundreds, if not thousands, of other products, to offset the lower priced beverage alcohol. An increase of sales at outlets which sell products cheaper could equate to a reduction in tax collections.

Changing current law will significantly increase access to beverage alcohol. Numerous regional and national studies prove the obvious: increased access leads to increased problems. Please consider the following:

◆ The National Research Council Institute of Medicine found 70% of minors nationwide purchase their alcohol from grocery and convenience stores.

◆ A nationwide MADD study revealed the following: underage individuals were able to procure alcohol 70 percent of the time in grocery and convenience

House Commerce & Labor
Date: 3-17-10
Attachment # 15

stores compared to 14 percent of the time in liquor stores.
<http://www.madd.org/Parents/UnderageDrinking.aspx>

◆ Another study on sales to minors concluded convenience and grocery stores have a poorer underage sales compliance rate than liquor stores.*

Nevertheless, there are several matters we would ask that you consider if the committee intends to recommend this bill favorably for passage.

1. Please **extend the implementation date** (page 10, line 39) from publication in the statute book until January 1, 2012. This will allow small retail stores time to modify their business plans if necessary. Importantly, this will allow wine and spirits wholesalers which currently do not sell to grocery stores the time necessary to put into place the infrastructure to make deliveries to the approximately 500 new licensees anticipated by the Fiscal Note (dated 3.1.2010).

2. The sale of beverage alcohol in groceries should be by **county option**. Liquor-by-the-drink and Sunday Sales are by county option, and initially retail package sales in cities required a vote.

3. There should be a **definition for food**. We suggest this one as used in sales tax laws across the United States: food means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Excluded from the food and food ingredients are the subcategories of (a) alcoholic beverages, (b) tobacco, (c) candy, (d) dietary supplements, (e) soft drinks, and (f) cereal malt beverages.

***Alcohol Outlet Sales**, Mallie J. Paschall, Joel W. Grube, Carol Black, Robert L. Flewelling, Christopher L. Ringwalt and Anthony Biglan Accepted: 21 December 2006 Published online: 23 January 2007 **Abstract** Reducing youth access to commercial sources of alcohol is recognized as a necessary component of a comprehensive strategy to reduce underage drinking and alcohol-related problems. ... The present study examines characteristics of off-premise alcohol outlets that may affect alcohol sales to youth. Random alcohol purchase surveys ($N = 385$) were conducted in 45 Oregon communities in 2005. **Underage-looking decoys not carrying IDs were able to purchase alcohol at 34% of the outlets approached. Purchase rates were highest at convenience (38%) and grocery (36%) stores but were relatively low (14%) at other types of outlets (e.g., liquor and drug stores).** Alcohol purchases were less likely at stores that were participating in the Oregon Liquor Control Commission's Responsible Vendor Program (RVP), when salesclerks asked the decoys for their IDs, and at stores with a posted underage alcohol sale warning sign. Findings of this study suggest that more frequent compliance checks by law enforcement agents should target convenience and grocery stores, <http://www.springerlink.com/content/m526083367655103/>, Prevention Research Center, Oregon Research Institute, Pacific Institute for Research and Evaluation

4. Authority for the issuance of **rules and regulations** should be included with a direction that the department report back to the Legislature in 2011 regarding implementation. The devil is in the details, and the regulations will provide the details. This will allow the Legislature to make modifications to the law, if necessary, for smooth implementation.

5. There should be **no self service sales**.

6. Due to the economics of the distribution and sale of alcoholic beverages, and anticipating that a number of retail package stores will close (and as such in some communities the grocer may be the only point-of-sale for beverage alcohol) beer, wine and spirits must all be included as items for sale in groceries as the bill is currently written if the Legislature chooses to extend licenses to these markets.

You have two policy choices: maintain the current system or enact HB2697. We support our current system - - but if you choose the second option we believe including the above matters will maintain an orderly market for the sale and distribution of beverage alcohol in Kansas.

NO ONE GOES OUT OF BUSINESS OR LOSES THEIR JOB IF THE LAW STAYS THE SAME - BUT IF THE LAW IS CHANGED, HUNDREDS OF SMALL BUSINESSES WILL CLOSE AND JOBS WILL BE LOST.

Please vote NO on HB 2697. Thank you.

Attached: **APPENDIX "A"**

ECONOMIC IMPACT OF LOCAL BUSINESSES VS. CHAINS

APPENDIX "A"

ECONOMIC IMPACT OF LOCAL BUSINESSES VS. CHAINS

The following studies have found that locally owned stores generate much greater benefits for the local economy than national chains.

The Andersonville Study of Retail Economics
<http://www.civiceconomics.com/Andersonville>
By Civic Economics, October 2004

This compelling study, commissioned by the Andersonville Development Corporation, finds that **locally owned businesses generate 70 percent more local economic impact per square foot than chain stores.** The study's authors, Dan Houston and Matt Cunningham of Civic Economics, analyzed ten locally owned restaurants, retail stores, and service providers in the Andersonville neighborhood on Chicago's north side and compared them with ten national chains competing in the same categories. They found that spending \$100 at one of the neighborhood's independent businesses creates \$68 in additional local economic activity, while spending \$100 at a chain produces only \$43 worth of local impact. They also found that the local businesses generated slightly more sales per square foot compared to the chains (\$263 versus \$243). Because chains funnel more of this revenue out of the local economy, the study concluded that, for every square foot of space occupied by a chain, the local economic impact is \$105, compared to \$179 for every square foot occupied by an independent business.

The Economic Impact of Locally Owned Businesses vs. Chains: A Case Study in Midcoast Maine
<http://www.newrules.org/retail/midcoaststudy.pdf>

by the Institute for Local Self-Reliance and Friends of Midcoast Maine, September 2003. **Three times as much money stays in the local economy when you buy goods and services from locally owned businesses instead of large chain stores,** according to this analysis, which tracked the revenue and expenditures of eight locally owned businesses in Midcoast Maine. The survey found that the businesses, with had combined sales of \$5.7 million in 2002, spent 44.6 percent of their revenue within the surrounding two counties. Another 8.7 percent was spent elsewhere in the state of Maine. The four largest components of this local spending were: wages and benefits paid to local employees; goods and services purchased from other local businesses; profits that accrued to local owners; and taxes paid to local and state government. Using a variety of sources, the analysis estimates that a national big box retailer operating in Midcoast Maine returns just 14.1 percent of its revenue to the local economy, mostly in the form of payroll. The rest leaves the state, flowing to out-of-state suppliers or back to corporate headquarters. The survey also found that the local businesses contributed more to charity than national chains.

Economic Impact Analysis: A Case Study
<http://www.liveablecity.org/lcfullreport.pdf>
by Civic Economics , December 2002.

This study examines the local economic impact of two locally owned businesses in Austin, Texas--- Waterloo Records and Book People---and compares this with the economic return the community would receive from a Borders Books store. The study finds that spending \$100 at Borders creates \$13 worth of local economic activity, while spending \$100 at the local stores generates \$45 in local economic activity. The difference is attributed to three factors: a higher local payroll at the independent stores (because, unlike Borders, none of their operations are carried out in an out-of-town headquarters office); the local stores purchased more goods and services locally; and the local stores retained a much larger share of their profits within the local economy.

House Commerce and Labor Committee

March 17, 2010

The Honorable Steve Brunk and members of the committee,

I have been a liquor licensee since November of 1999. Before buying my store, I researched and became familiar with the Kansas liquor laws. I went into the business understanding those laws and made a commitment that has grown to several hundred thousand dollars and employs my wife plus 15 other people. You are being lobbied to change those same long standing laws that so many people have planned their lives around for the benefit of grocery stores. A yes vote for passage of a bill like this could erase my investment and my employees jobs overnight.

There are so many problems with this bill that time does not permit me to go into all of them, but suffice it to say, this is a couple large companies trying to pick and choose which part of the statutes they would like to change for their benefit and leave the rest of us playing catch up. My fellow licensees and I take the training of our staff very seriously, understanding that the penalties for not following the law are very serious. How can the state shut down a liquor store for a day for an infraction and not make a grocery store subject to the same penalty? Some in this legislature call for free markets. How is the market free when small businesses across the state have played by these laws for decades and now someone across the street can take your product away and not have to play by the same rules? And what about 24 hour grocery stores? Will there be any requirement to have their liquor departments separate and access restricted? This is a product that needs supervised access.

There is simply no upside in this bill for the state of Kansas. Liquor is certainly a product that needs to be highly regulated in its distribution. There is no way that the ABC would be able to adequately inspect hundreds of new outlets for compliance without budget busting increases in spending. The fiscal note only asks for 3 new agents – are we to believe that these 3 new agents would be able to audit the wholesale invoices, review the sales receipts, and inspect 300 grocery stores, as well as conduct underage controlled buys and appropriate investigations?

Liquor retailers spend much time now on training staff to spot and prohibit underage sales. We can only hire people 21 and over to be in the store. Do you really think that a large grocery store with dozens of clerks of all ages could be adequately supervised to do the same? The grocery chains want you to now let someone out of state, out of reach, hold a liquor license?

I am extremely confused about the corporate license language. Does it really say that only owners of 25% or more would have to meet the license requirements? How many 25% owners are there at Kroger or Hy-Vee? Anyone owning any percentage of my

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business must meet licensing guidelines – including being a U.S. citizen, having no felonies, never having a liquor license revoked, no convictions for keeping a house of prostitution, or gambling house, or any other crime opposed to decency or morality, must be 21, and cannot be a law enforcement officer or ABC employee – or anyone who supervises such officers. Restaurants and bars have to meet a 5% ownership licensing background.

We have located our businesses in legal locations, away from churches and schools. This bill would delete the current prohibition against liquor stores within 200 feet of a church or school. We designed and built their layouts to conform to the narrow confines of the current laws. Neighborhoods have been built under these rules keeping liquor sales in an appropriate place. Now, since the grocery stores don't fit into this model, they would like you to turn decades of planning on its head and look the other way.

The liquor laws in the great state of Kansas work. Yes, it sounds good when an out of state company comes across the border and cries out to free up your market to more competition. Our market is open, transparent, competitive, and functions very well.

We are not a monopoly – we have 754 independently owned and operated liquor stores. We compete on price and everything else. If you pass this bill, an actual monopoly would be legal.

It's not freeing up a market when you toss out hundreds of people who have been playing by the rules to benefit a few new entrants. As the saying goes, if it's not broke, don't fix it. I urge you to vote no on House bill 2697.

Jeff Breault

R & J Discount Liquor, Wichita, KS

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TESTIMONY PRESENTED TO THE HOUSE COMMERCE AND LABOR COMMITTEE

By Amy A. Campbell, Executive Director

Mr. Chairman and members of the committee, my name is Amy Campbell and I appear before you as an opponent to HB 2697 on behalf of the Kansas Association of Beverage Retailers.

There is a perception that legislation to deregulate the sale of alcohol – whether by selling stronger beer in cereal malt beverage outlets, or by allowing liquor, wine and beer in grocery stores - will modernize our state and promote positive change by eliminating an outdated product. Many people look at Missouri as a positive example and suggest our alcohol distribution model should look more like our neighbors to the east. In fact, Missouri drunk driving statistics have regularly exceeded the national averages. (Source: NHTSA, National Center for Statistics and Analysis 2003 - 2006)

What are the license changes represented in HB 2697?

The bill does the following:

- Allows corporations to own liquor stores
- Allows chain liquor stores
- Exempts corporate owners who own less than 25% of the corporation from the majority of license requirements, including U.S. residency, felony convictions, etc. – except that the corporation may not have had a license revoked.
- Removes the Kansas residency requirement to get a license
- Allows the business to sell other products
- Requires a retailer to derive at least 50% of its gross receipts from the sale of food, food products, or alcoholic liquor. (Does not define "food".)
- Would allow retailer to be within 200 feet of a church or school. (Currently prohibited by law.)
- Would require only persons 21 years of age to sell liquor – but doesn't state how that would be done in grocery stores. (Does not define "sell".)

State Regulatory Licensing - There are a wide variety of state policies relating to how liquor is sold, and they reveal both the priorities of that state and the history of how prohibition was repealed in that particular state. Kansas has a particular issue relating to its constitution which makes changes to the definition of cereal malt beverage potentially unconstitutional as it changes the definition of alcoholic liquors / intoxicating liquors – a reference included in our constitution.

- There are 17-18 control states.
- Of those, 6 states have city owned retail liquor stores and rarely allow private providers. 11 states have only state owned retailers, which allow no one but the state to sell spirits and/or wine. This may be paired with the sale of beer through licensed outlets.
- Many states differentiate the sale by packaged stores and convenience stores or grocery stores and the products they may carry, whether it is allowing wine in grocery stores, or 3.2 cereal malt beverages only.
- 6 have separate licensing for 3.2 cereal malt beverage. In fact, some actually differentiate whether or not the product sold may be refrigerated. It is not correct to paint Kansas as the most strictly regulated of these states. In my research, one analysis painted New York as having very lenient liquor laws – and yet, New York does not allow wine or liquor sales in grocery stores.
- In fact, the majority of states do not allow liquor, wine and strong beer to be sold in grocery stores. I found only 16.

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- It is not true that states are rushing to open up their laws. The most recent major structural changes to licensing structures happened in the eighties. South Dakota has been used as an example. That state, much like Missouri, allowed grocery stores to get into the liquor business around 1986.
- Proposals for Strong Beer and Wine sales have been rejected in recent years in Massachusetts, New York, Oklahoma and Colorado. Oklahoma and Colorado have very similar systems to our own.

Kansas represents an excellent balance between the desires of those who would expand access and availability and those who would prefer a more regulated model.

According to the Substance Abuse Policy and Research Program, Investigators at Louisiana State University Health Sciences Center examined the relationship between regulatory practices of alcohol-control agencies and alcohol-related traffic deaths in 107 cities that participate in the National Highway and Traffic Safety Administration's Fatality Analysis Reporting System (FARS).

Investigators surveyed state Alcohol Beverage Control agencies and local city police departments in the 107 cities and interviewed staff from alcohol-enforcement agencies in 20 cities. The investigators reported their findings in an article in the February 2002 issue of *Preventive Medicine*:

- Lower rates of alcohol-related traffic fatalities, were found in states and communities that:
 - Limit alcohol accessibility. (*limiting access includes limiting outlets that sell the product*)
 - Require licensure of outlets selling alcohol.
 - Provide for disciplinary actions against outlets that violate laws...
- The Strong Beer bill and the Grocery Store bill put strong beer and liquor in the hands of underage individuals: to stock it, to sell it, to resist the temptation to provide to their friends or to pick up for themselves.

According to Preventing Underage Alcohol Access: Essential Elements for Policy, Deterrence and Public Support, a public policy guide by the Prevention Research Center, recommends a number of methods to reduce underage access to alcohol with the first being "BEST PRACTICE: Require that all retail alcohol outlet employees who are engaged in the sale or service of alcohol be at least 21 years of age."

- If liquor stores took over the sales of cereal malt beverages from the convenience stores and grocery stores, **not one of them would lose their businesses**. However, the reverse situation would cause irreparable damage to those stores whose sales of beer can be as low as 40% of their sales and as high as 80%. These sales statistics are common for liquor retailers. Is this the reward for liquor store owners who have built their businesses by working within a stringent licensing and regulation system?

What is the motivation to expand sales for these major corporations?

- **Sales Tax Impact.** It appears that strong beer legislation attempts to require all cmb retailers to no longer pay sales tax – which is divided between the State and local entities - pay the 8% enforcement tax now paid by liquor stores. This puts cities and counties into the unenviable position of relying on the State to transfer their portion. The grocery store bill does not make any attempt to replace lost sales tax revenue to the cities/counties – there is no estimate of the funds that would be lost to the local entities.
- **It is not true that this legislation provides a level playing field.** It is my understanding that grocery stores make a portion of their income in selling shelf space and sections of advertising to vendors. Product pricing is kept as low as possible through volume discounts at the wholesale and retail level. Size is everything. These practices are strictly prohibited with alcoholic liquor. Assuming a liquor store owner is financially situated to expand his business to sell these other products, he will not be able to compete at these strategies with a grocery store. Even in a new building, he won't have that kind of space nor that kind of consumer traffic. So, his only profit off of the new products will simply be the straight markup.
- **Likewise, the Strong Beer bill does not provide a level playing field.** Liquor stores must hire 21 year olds, employees must pass a background check, employees can't have felonies on their records, days of sale are more restricted, license requirements are more restrictive. Although this bill attempts to equalize many of the licensing differences, it does not prohibit corporations, it does not require 21 year old sellers, and it continues to allow the cmb retailer to sell beer on Thanksgiving and Christmas.

- If the Committee wishes to change how alcohol is sold in Kansas, KABR would respectfully request this Committee consider an amendment that would require all alcohol beverages and cereal malt beverages be sold by licensed retail liquor stores. Simply delete all references to cereal malt beverage retailers, the cereal malt beverage act, and sell all products under the Liquor Control Act.

Kansas retail liquor stores have proven compliance rates in preventing underage sales – typically ranging from 80% to as high as 88%. There are no statewide compliance rates for grocery and convenience stores.

We can not emphasize enough the negative impact this legislation will have upon the retail liquor stores' business throughout the state. Many may have the harsh opinion the number of retailers lost is an immaterial factor. However, I would submit that this is extremely important, as this Legislature established the business practices and structure under which 754 retail liquor store owners must now operate. Therefore, we assert you should feel a type of fiduciary duty towards these individuals to protect their business from unfair competitive advantages. Why should they need to spend tens of thousands of dollars to simply continue to compete in their current business? What is gained?

The proponents state that they doubt if any liquor stores would go out of business. According to the 2008 fiscal analysis developed by the Distilled Spirits Council of the United States:

"Currently, the 726 package stores allowed to sell full strength beer sell an estimated 17,600 cases per year. Accounting for both the new beer volumes and the new number of full strength beer licenses, the average number of cases sold per outlet will decline to around 4,480 cases per year."

For the new full strength beer licensees, most of the new volume will be incremental (except that volume which is replacing 3.2 beer sales). Thus, grocery and convenience stores will be able to sell comparatively low volumes of .. beer profitably. Obviously, this does not preclude large supermarkets from selling tremendous volumes. What it does mean, however, is that the 3,790 convenience and grocery stores in the state will be able to take sales away from traditional package stores."

"Accounting for both the lost spirits sales and lost beer sales, total package store revenues would decline from \$461.3 million to \$254.6 million – a 45% reduction."

"Clearly, not all businesses could withstand a 46% decline in revenues. As a result, we would expect a decline in the number of package stores."

"The \$254.6 million in total package sales would support a total of 509 package stores. Thus, 217 package stores are projected to go out of business. Naturally, as the number of package stores declines, the availability of spirits will decline as well."

(The analysis relies on Kansas sales statistics, market analysis by Gallup Organization, Sept. 29, 2006; and tax receipts by the Kansas Department of Revenue.)

The proponents have doubted our statements, and if this analysis is not convincing enough for you, we have a copy of an economic impact assessment by Summit Economics, LLC, regarding Colorado economic losses that would occur if strong beer legislation passes there. It states: *"The Colorado Liquor Stores will lose 50 percent of full-strength beer sales to supermarkets and convenience stores in the first year alone. They will lose 70 percent of beer sales within 3 to 5 years. It is estimated that 40 percent or 700 of the stores will be forced to close within the first 3 years. This will result in the loss of 4,830 wage and self-employment jobs. Overall the Colorado Liquor Stores will lose \$700 million in annual revenues, resulting in a permanent \$90 million loss in annual wages and proprietor income earnings. These losses will continue through the fifth year. After the fifth year the new market structure will stabilize with 900 fewer stores. There will be 5,500 fewer jobs in the industry, resulting in a loss of \$120 million annually in employee and proprietor earnings."*

We do not have a current economic analysis based on the factors of HB 2697.

Last, but not least, Mr. Chairman, is the situation we place those 18-20 year old clerks who are treated as adults under the Kansas Criminal Code but as underage for purposes of possessing alcohol. Please consider the importance of not increasing availability to those individuals.

Thank you, Mr. Chairman, and members of the Committee for your kind attention.