

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on February 5, 2009, in Room 136-N of the Capitol.

All members were present except:
Senator Steve Morris- excused

Committee staff present:
Jason Long, Office of the Revisor of Statutes
Dennis Hodgins, Kansas Legislative Research Department
Connie Burns, Committee Assistant

Conferees appearing before the committee:
Sandy Jacquot, League of Kansas Municipalities
Mandy Miller, Staff, Majority Leader's Office
Patsy Congrove, Kansas Department of Revenue
Tuck Duncan, Kansas Wine & Spirits Wholesaler's Association
Rebecca Rice, Kansas Beer Wholesaler's Association
Amy Campbell, Kansas Association of Beverage Retailers
Stacy Harlow, 2 Bags Liquor, Satanta, KS
Brandon Plaschka, Plaschka & Kramer Liquor, Princeton, KS
Jim Reitz, Reitz Retail Liquor, Seneca, KS
Dave Dvorak, Flint Hills Retail Liquor
Jennifer Vogel, Roger's Liquor, Kansas City, KS

Others attending:
See attached list.

The Committee Minutes for January 13, 14, 21, and 22 distributed on January 30, 2009, with no changes stand approved.

Introduction of Bills:

Mandy Miller, Majority Leaders, requested a bill introduction that would make technical changes to SB 21 from the 2008 session with regards to the confirmations process. (Attachment 1)

Senator Ostmeyer moved that this request should be introduced as a committee bill. Senator Abrams seconded the motion. The motion carried.

Sandy Jacquot, League of Kansas Municipalities, requested a bill introduction that would make technical changes to SB 21 from the 2008 session with regards to the confirmations process. (Attachment 2)

Senator Ostmeyer moved that this request should be introduced as a committee bill. Senator Abrams seconded the motion. The motion carried.

SB 107 Bingo games; increasing the prize limits, time and location for conducting games.

Chairman Brungardt continued the hearing on **SB 107**.

Patsy Congrove, Kansas Department of Revenue, testified in favor of the bill. (Attachment 3) The majority of changes request by the organizations primarily allow for more flexibility in administering bingo and an update in the value of prize limits set in the mid 1970's.

Chairman Brungardt closed the hearing on **SB 107**.

SB 76 - Cereal malt beverages; alcohol content, regulation by ABC, retailers authorized to sell, taxation.

CONTINUATION SHEET

Minutes of the Senate Federal And State Affairs Committee at 10:30 a.m. on February 5, 2009, in Room 136-N of the Capitol.

Chairman Brungardt opened the hearing on **SB 76**.

Opponents:

Sandy Jacquot, League of Kansas Municipalities, (LKM) testified in opposition to the bill. (Attachment 4) The LKM has no position on the single strength beer provisions of the bill, but does oppose other provisions. The bill would overturn many decades of regulation of cereal malt beverage (CMB) by municipalities, vesting such regulation in the State. The current system of regulation works well and has for many years, and LKM urges this committee to reject the approach being offered in **SB 76**.

Tuck Duncan, Kansas Wine & Spirits Wholesaler's Association, appeared as an opponent of the bill. (Attachment 5) Mr. Duncan stated that it would be inappropriate for the Legislature to reallocate market share after 60 years wherein the current stakeholders have relied upon the existing system; it would be poor public policy, if the only rationale for redefining cereal malt beverages is to alter market share. It is historical accidents that have created the system, but it is a history that needs to be respected to avoid economic dislocation to Kansas' retail liquor dealers who serve other state policies well and to maintain an orderly market. Also included are charts that:

- 1) Category of stores that benefit from the bill
- 2) Revenues - Public Companies
- 3) Map of Active Kansas Off-Premise Licenses

Rebecca Rice, Kansas Beer Wholesalers Association, spoke in opposition to the bill. (Attachment 6) Ms. Rice stated that while the 1987 Attorney General Opinion states that the Court has not ruled that classifying CMB as a non-intoxicating liquor is unconstitutional, of greater importance is that the court has not ruled that such classification *is* constitutional.

Amy Campbell, Kansas Association of Beverage Retailers, appeared in opposition to the bill. (Attachment 7) Ms. Campbell stated that the bill is complex and written to achieve one purpose: to allow the sale of strong beer by cereal malt beverage retailers, with the perception that strong beer legislation will modernize our state and promote positive change by eliminating an outdated product.

Stacy Harlow, 2 Bags Brew, Satanta, KS, spoke in opposition to the bill. (Attachment 8) As the Vice President for the Kansas Association of Beverage Retailers, Ms Harlow has been involved in staying on top of the laws and regulations that must be followed, and collaborating with ABC on offering training programs to licensees and their employees. Ms Harlow stated that by passing this bill, it would be taking business away from Kansas small businesses to give to chains and corporations, often sending those profits out of state. The loss of business would close her store.

Brandon Plaschka, Plaschka & Kramer Liquor, Princeton, KS, appeared as an opponent of the bill. (Attachment 9) The bill allows large corporations to sell strong beer, and it is an economic fact that large retail chains/corporations sell products at a lower cost. Mr. Plaschka stated that his family is active in their community and their small business is an important part of their community; and that he also owns and operates a convenience store. A study by the distilled Spirits Council states that retail liquor stores would lose 45% of their income and 217 liquor stores would close, and he urged the committee to vote no to allowing strong beer in any convenience or grocery store.

Jim Reitz, Reitz Retail Liquor, Seneca, KS, spoke in opposition to the bill. (Attachment 10) The bill would cause a major change in the way alcohol is sold in Kansas.

Dave Dvorak, Flint Hills Retail Liquor, appeared as an opponent of the bill. (Attachment 11) Mr. Dvorak stated that his primary goal in operating his business is the safe and legal sale of adult beverages; ABC does not send in agents for controlled buys and does not sit in their parking lot to observe potential illegal activities, and does not have statewide statistics to measure their performance. If local law enforcement should catch a violation at a CMB store, the beer cooler may be closed temporarily - but not the entire business. State law also requires that a retail liquor owner be an independent business owner.

Jennifer Vogel, Roger's Liquor, Kansas City, KS, spoke in opposition to the bill. (Attachment 12) Ms. Vogel stated by allowing strong beer to be sold by the grocery and convenience stores:

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- Over 200 stores may go out of business
- Profits will go out of state
- Jobs will be lost
- Store fronts will be vacant
- Our youth will have more access

Michael Towne, Library Discount Liquor, Manhattan, Kansas, ([Attachment 13](#)) and Michael and Karen Heberger, Mike's Discount Liquor, Kansas City, and Heberger Retail Liquor, Olathe, ([Attachment 14](#)) provided written testimony in opposition to the bill.

Chairman Brungardt closed the hearing on **SB 76**.

John Ellis provided information for the Kansas Association of Private Investigators for **SB 116 - Private detectives; permit to carry a concealed firearm.** ([Attachment 15](#))

The next meeting is scheduled for February 10, 2009. The meeting was adjourned at 11:40 am