

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 3, 2010, in Room 144-S of the Capitol.

All members were present except:
Senator Steve Morris- excused

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

Conferees appearing before the Committee:
Commissioner Russ Jennings, Juvenile Justice Authority
Sarah Byrne, Assistant Attorney General
Tuck Duncan, Attorney at Law
Rebecca Rice, Kansas Beer Wholesalers Association
Don Saylor, Kansas Restaurant & Hospitality Association
Amy Campbell, Kansas Association of Beverage Retailers
Phil Bradley, Kansas License Beverage Association

Others attending:
See attached list.

Introduction of Bills:

Whitney Damron, Lukas Liquor Super Store, requested a bill introduction concerning alcoholic beverages, relating to licenses and eligibility. (Attachment 1)

Senator Faust-Goudeau moved that this request should be introduced as a committee bill. Senator Reitz seconded the motion. The motion carried.

Senator Brungardt on behalf of Senator Donovan requested a bill introduction concerning vehicle identification number inspection fees.

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

SB 452 - Purchase or consumption of alcoholic beverage by person less than 18 years of age; detention

Chairman Brungardt opened the hearing on **SB 452**.

Staff provided an overview of the bill.

Commissioner Russ Jennings, Juvenile Justice Authority, (JJA) appeared in favor of the bill. (Attachment 2) JJA supports the proposed changes found in the bill that seek to align state law with federal law and regulation. The bill will make three specific changes that will bring Kansas into statutory compliance with JJDPA and subsequent re-authorizations.

1. Prohibit the placement of a youth under the age of 18 in a jail when arrested for the offense of possession or consumption of alcohol.
2. Prohibit the placement of a youth under the age of 18 in a juvenile detention center for a period in excess of 24 hours exclusive of weekends and holidays when the only offense upon which the youth is arrested is for possession or consumption of alcohol.
3. Prohibits the use of juvenile detention center or sanction house placement as an option at the time of disposition when a youth is adjudicated a juvenile offender for the offense of possession or consumption of alcohol.

CONTINUATION SHEET

Minutes of the Senate Federal and State Affairs Committee at 10:30 a.m. on February 3, 2010, in Room 144-S of the Capitol.

The Commissioner provided an amendment to the bill that includes adding Juvenile Correction Facility to line one page 3 after the word facility. (Attachment 3)

Garry Winget, Kansans for Addiction Prevention provided written testimony in opposition to the bill. (Attachment 4)

Chairman Brungardt closed the hearing on **SB 452**.

SB 453 - Alcoholic beverages; permit for packaging and warehousing facilities

Chairman Brungardt opened the hearing on **SB 453**.

Sarah Byrne, Assistant Attorney General, spoke in favor of the bill. (Attachment 5) The bill creates a new "packaging and warehousing facility" permit that will give liquor manufacturers and suppliers, whether licensed in Kansas or elsewhere, the option of using Kansas as a central warehousing area and give the ABC regulatory authority over the warehouse facility; and clarifies the responsibility for paying the gallonage tax on alcoholic liquor and cereal malt beverage imported into this state under a packaging and warehousing facility permit and sold to a distributor for sale at wholesale. The bill could generate business for Kansas, encouraging packagers of alcoholic liquors to use Kansas as a central hub for the packaging, storage, and distribution of products. It would also reduce paperwork for both licensee and department associates.

Tuck Duncan, Attorney at Law, appeared in favor of the bill with an amendment. (Attachment 6) Mr. Duncan supports the Agency's request for a new permit category for "packaging and warehousing" and requested in the amendment adding broker; which would be "a person within this State, other than a retail licensee who solicits or accepts orders for alcoholic liquor to be shipped from this State and delivered to residents outside of this State."

Rebecca Rice, Kansas Beer Wholesalers Association, spoke in opposition to the bill. (Attachment 7) Ms. Rice requested that the issue receive further study and alternative solutions be sought; as proven in the past what appears on the surface as a "simple technical change" when adopted, typically causes ripple changes throughout the Liquor Control Act.

Phil Bradley, Kansas Viticulture and Farm Winery Association, appeared neutral and asked that the requirements under this act not apply to Farm Winery licensees or Micro brewery licensees on behalf of the Craft Brewers Guild. (Attachment 8)

Chairman Brungardt closed the hearing on **SB 453**.

SB 454 - License to sell alcoholic beverages; fees, term and eligibility

Chairman Brungardt opened the hearing on **SB 454**.

Staff provided an overview of the bill. (Attachment 9)

Sarah Byrne, Assistant Attorney General, spoke in favor of the bill. (Attachment 10) The bill addresses many issues: license and application fees; license term; discretionary extension of the license term; venue licensing and more. All of the proposals will greatly benefit the state and may well benefit the licensees. ABC acknowledges the industry's opposition to the fee increases, but feels the industry will receive the benefits of the other provisions of the bill in sufficient quantity to justify the increase. No license fee has been raised in over 22 years, and many have never been raised. In the state's current financial situation, no source of increased revenue should be disregarded without serious consideration.

Amy Campbell, Kansas Association of Beverage Retailers,(KABR) appeared as a proponent on the bill. (Attachment 11) KABR did oppose sections that dealt with expedited license fees for individuals who fail to submit their license application 20 days in advance, and asked that the language in section 8 and 11 that changes "shall" to "may". The member of KABR support a fully staffed licensing division and would really

CONTINUATION SHEET

Minutes of the Senate Federal and State Affairs Committee at 10:30 a.m. on February 3, 2010, in Room 144-S of the Capitol.

like to see funds committed to improving the agency's technology resources; and requested the Committee to consider amending the Liquor Control Act to include language that would allow a retail liquor store licensee the same privilege extended to on premise clubs and drinking establishments to forego a bond if the retailer has maintained tax payments in good standing.

Garry Winget, Kansans for Addiction Prevention provided written testimony in support of the bill. (Attachment 12)

Opponents:

Tuck Duncan, Attorney at Law, appeared in opposition of the bill. (Attachment 13) Adopting these changes is self-defeating to the current efforts by the department of Revenue to streamline the renewal process and take the system online. Going digital will provide all the benefits of a one-year renewal process faster, simpler and more efficient; and requested deleting those provisions that change from a one year renewal process to a two year renewal process.

Don Sayler, CEO, Kansas Restaurant & Hospitality Association, (KRHA) stood in opposition to the bill. (Attachment 14) KRHA strongly opposed the proposed fee increases and asked the committee to consider the negative impact that the proposed fee increases will have and oppose this legislation.

Phil Bradley, Kansas License Beverage Association, (KRHA) spoke in opposition of the bill. (Attachment 15) Mr. Bradley, also representing The Craft Brewers Guild and Kansas Viticulture and Farm Winery Association stated that the members oppose the bill and asked the committee not forward to the Senate without amendments.

Michael Phipps, Kansans for Addiction Prevention provided written testimony in opposition to the bill. (Attachment 16)

Stephen Stewart, Kansans for Addiction Prevention provided written testimony in opposition to the bill. (Attachment 17)

The Kansas Chamber provided written testimony in opposition to the bill. (Attachment 18)

Chairman Brungardt closed the hearing on **SB 454**.

The next meeting is scheduled for February 4, 2010. The meeting was adjourned at 11:57 a.m.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST

DATE 2-3-10

NAME	REPRESENTING
DICK CARTER	TIAK
Phil Bradley	KLBA, KVFWA
Breanna Rice	KBWA
TED HEVREL	CAPTOR STRATEGIES
Joe Mosimann	PMCA
Ann Zinn	KDOR ABC
TUCK DUNCAN	KWOWA
Russ Kasper	JJA
Spencer Duncan	Capitol Connection LLC
Fern Bonare	Wykewood Sellers-
Dan Christoffer	JJA
SARAH BYRNE	KDOR ABC
Charles Brackett	AAPS/SRS



REQUEST FOR BILL INTRODUCTION

TO: The Honorable Pete Brungardt, Chair
And Members of the Senate Committee on Federal and State Affairs

FROM: Whitney Damron
On behalf of Lukas Liquor Super Store

RE: Request for amendment to K.S.A. 43-311; Intoxicating Liquors and Beverages

DATE: February 3, 2010

Good morning Chairman Brungardt and Members of the Senate Committee on Federal and State Affairs. I am Whitney Damron and I appear before you this morning to request introduction of a bill to allow the spouse of a retail liquor store licensee to hold a farm winery license if they are not a retail licensee as currently allowed under law.

Current law does typically does not allow a licensee to have a beneficial interest in another retail liquor store or other licenses, such as a farm winery, microbrewery, manufacturer or distributor. In 1996 the Legislature made provisions for a spouse of a retail licensee to obtain their own license and store.

My client, Harry Lukas, is the owner of Lukas Liquor Super Store in Overland Park, Kansas. His wife has developed a vineyard in Miami County during the past few years and the maturity of the vineyard is at a stage where it can become a viable farm winery. However, under current law, a spouse, even if they have no business interest in a retail store (or other license) cannot obtain a farm winery license.

We believe the law is unduly discriminatory to a spouse, who is an individual person under the law and should be allowed to be obtain a farm winery license if all other requirements of state law are met.

Accordingly, we have provided the Revisor and the Committee with a proposed bill draft that would allow for a license to be granted in this circumstance.

I would be happy to stand for questions at this time.

WBD

Attachment

919 South Kansas Avenue ■ Topeka, Kansas 66612-1210

(785) 354-1354 (O) ■ (785) 354-8092 (F) ■ (785) 224-6666 (M)

www.wbdpa.com ■ wbdamron@aol.com

Sn Fed & State
Attachment 1

2-3-10

Kansas Legislature

[Home](#) > [Statutes](#) > Statute[Previous](#)[Next](#)**41-311****Chapter 41.--INTOXICATING LIQUORS AND BEVERAGES
Article 3.--LICENSING AND RELATED PROVISIONS; CITY OPTION**

41-311. Persons and entities ineligible for licensure. (a) No license of any kind shall be issued pursuant to the liquor control act to a person:

- (1) Who has not been a citizen of the United States for at least 10 years, except that the spouse of a deceased retail licensee may receive and renew a retail license notwithstanding the provisions of this subsection (a)(1) if such spouse is otherwise qualified to hold a retail license and is a United States citizen or becomes a United States citizen within one year after the deceased licensee's death;
- (2) who has been convicted of a felony under the laws of this state, any other state or the United States;
- (3) who has had a license revoked for cause under the provisions of the liquor control act, the beer and cereal malt beverage keg registration act or who has had any license issued under the cereal malt beverage laws of any state revoked for cause except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;
- (4) who has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;
- (5) who has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;
- (6) who is not at least 21 years of age;
- (7) who, other than as a member of the governing body of a city or county, appoints or supervises any law enforcement officer, who is a law enforcement official or who is an employee of the director;
- (8) who intends to carry on the business authorized by the license as agent of another;
- (9) who at the time of application for renewal of any license issued under this act would not be eligible for the license upon a first application, except as provided by subsection (a)(12);
- (10) who is the holder of a valid and existing license issued under article 27 of chapter 41 of the Kansas Statutes Annotated unless the person agrees to and does surrender the license to the officer issuing the same upon the issuance of a license under this act, except that a retailer licensed pursuant to K.S.A. 41-2702, and amendments thereto, shall be eligible to receive a retailer's license under the Kansas liquor control act;
- (11) who does not own the premises for which a license is sought, or does not have a written lease thereon for at least 3/4 of the period for which the license is to be issued;
- (12) whose spouse would be ineligible to receive a license under this act for any reason other than citizenship, residence requirements or age, except that this subsection (a)(12) shall not apply in determining eligibility for a renewal license;
- (13) whose spouse has been convicted of a felony or other crime which would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under this act; or
- (14) who does not provide any data or information required by K.S.A. 2008 Supp. 41-311b, and amendments thereto.
 - (b) No retailer's license shall be issued to:
 - (1) A person who is not a resident of this state;
 - (2) a person who has not been a resident of this state for at least four years immediately preceding the date of application;
 - (3) a person who has a beneficial interest in a manufacturer, distributor, farm winery or microbrewery licensed under this act;
 - (4) a person who has a beneficial interest in any other retail establishment licensed under this act, except that the spouse of a licensee may own and hold a retailer's license for another retail establishment;
 - (5) a copartnership, unless all of the copartners are qualified to obtain a license;
 - (6) a corporation; or
 - (7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.
 - (c) No manufacturer's license shall be issued to:
 - (1) A corporation, if any officer or director thereof, or any stockholder owning in the

, except that the spouse of a licensee may own and hold a farm winery license if they do not hold a retailer's license issued under this act

aggregate more than 25% of the stock of the corporation would be ineligible to receive a manufacturer's license for any reason other than citizenship and residence requirements;

(2) a copartnership, unless all of the copartners shall have been residents of this state for at least five years immediately preceding the date of application and unless all the members of the copartnership would be eligible to receive a manufacturer's license under this act;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license;

(4) an individual who is not a resident of this state;

(5) an individual who has not been a resident of this state for at least five years immediately preceding the date of application; or

(6) a person who has a beneficial interest in a distributor, retailer, farm winery or microbrewery licensed under this act.

(d) No distributor's license shall be issued to:

(1) A corporation, if any officer, director or stockholder of the corporation would be ineligible to receive a distributor's license for any reason. It shall be unlawful for any stockholder of a corporation licensed as a distributor to transfer any stock in the corporation to any person who would be ineligible to receive a distributor's license for any reason, and any such transfer shall be null and void, except that: (A) If any stockholder owning stock in the corporation dies and an heir or devisee to whom stock of the corporation descends by descent and distribution or by will is ineligible to receive a distributor's license, the legal representatives of the deceased stockholder's estate and the ineligible heir or devisee shall have 14 months from the date of the death of the stockholder within which to sell the stock to a person eligible to receive a distributor's license, any such sale by a legal representative to be made in accordance with the provisions of the probate code; or (B) if the stock in any such corporation is the subject of any trust and any trustee or beneficiary of the trust who is 21 years of age or older is ineligible to receive a distributor's license, the trustee, within 14 months after the effective date of the trust, shall sell the stock to a person eligible to receive a distributor's license and hold and disburse the proceeds in accordance with the terms of the trust. If any legal representatives, heirs, devisees or trustees fail, refuse or neglect to sell any stock as required by this subsection, the stock shall revert to and become the property of the corporation, and the corporation shall pay to the legal representatives, heirs, devisees or trustees the book value of the stock. During the period of 14 months prescribed by this subsection, the corporation shall not be denied a distributor's license or have its distributor's license revoked if the corporation meets all of the other requirements necessary to have a distributor's license;

(2) a copartnership, unless all of the copartners are eligible to receive a distributor's license;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license; or

(4) a person who has a beneficial interest in a manufacturer, retailer, farm winery or microbrewery licensed under this act.

(e) No nonbeverage user's license shall be issued to a corporation, if any officer, manager or director of the corporation or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a nonbeverage user's license for any reason other than citizenship and residence requirements.

(f) No microbrewery license or farm winery license shall be issued to a:

(1) Person who is not a resident of this state;

(2) person who has not been a resident of this state for at least four years immediately preceding the date of application;

(3) person who has a beneficial interest in a manufacturer or distributor licensed under this act or a person who currently has a beneficial interest in a farm winery;

(4) person, copartnership or association which has a beneficial interest in any retailer licensed under this act or under K.S.A. 41-2702, and amendments thereto;

(5) copartnership, unless all of the copartners are qualified to obtain a license;

(6) corporation, unless stockholders owning in the aggregate 50% or more of the stock of the corporation would be eligible to receive such license and all other stockholders would be eligible to receive such license except for reason of citizenship or residency; or

(7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3), (f)(1), (f)(2) and K.S.A. 2008 Supp. 41-311b, and amendments thereto, shall not apply in determining eligibility for the 10th, or a subsequent, consecutive renewal of a license if the applicant has appointed a citizen of the United States who is a resident of Kansas as the applicant's agent and filed with the director a duly authenticated copy of a duly executed power of attorney, authorizing the agent to accept service of process from the director and the courts of this state and to exercise full authority, control and responsibility for the conduct of all business and transactions within the state relative to alcoholic liquor and the business licensed. The agent must be satisfactory to and approved by the director, except that the director shall not approve as an agent any person who:

(1) Has been convicted of a felony under the laws of this state, any other state or the

United States;

(2) has had a license issued under the alcoholic liquor or cereal malt beverage laws of this or any other state revoked for cause, except that a person may be appointed as an agent if the person's license was revoked for the conviction of a misdemeanor and 10 years have lapsed since the date of the revocation;

(3) has been convicted of being the keeper or is keeping a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(4) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes; or

(5) is less than 21 years of age.

History: L. 1949, ch. 242, § 27; L. 1953, ch. 238, § 3; L. 1963, ch. 266, § 1; L. 1970, ch. 186, § 1; L. 1973, ch. 199, § 1; L. 1975, ch. 249, § 1; L. 1982, ch. 210, § 1; L. 1983, ch. 161, § 5; L. 1985, ch. 171, § 9; L. 1985, ch. 170, § 27; L. 1987, ch. 182, § 21; L. 1987, ch. 182, § 22; L. 1992, ch. 201, § 5; L. 1995, ch. 258, § 2; L. 1996, ch. 154, § 4; L. 2001, ch. 55, § 1; L. 2001, ch. 189, § 3; L. 2002, ch. 44, § 7; L. 2007, ch. 178, § 4; L. 2008, ch. 126, § 2; July 1.

TESTIMONY ON SB 452
TO THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
BY COMMISSIONER J. RUSSELL JENNINGS
KANSAS JUVENILE JUSTICE AUTHORITY
FEBRUARY 3, 2010



J. Russell Jennings
Commissioner
785-296-0042
rjennings@jja.ks.gov

The Juvenile Justice and Delinquency Prevention Act (JJDP) of 1974 and subsequent re-authorizations provides a significant source of federal funding to improve Kansas' juvenile justice system. The JJDP was developed with a broad consensus that children should not have contact with adults in jails and other institutional settings and that status offenders should not be placed in secure detention. Under the JJDP and its subsequent re-authorizations, in order to receive federal funds, states are required to maintain these core protections for children:

Deinstitutionalization of Status Offenders (DSO)

Status offenders may not be held in secure detention or confinement. There are, however, several exceptions to this rule, including allowing some status offenders to be detained for up to 24 hours. The DSO provision seeks to ensure that status offenders who have not committed a criminal offense are not held in secure juvenile facilities for extended periods of time or in secure adult facilities for any length of time. These youth, instead, should receive community-based services, such as day treatment or residential home treatment, counseling, mentoring, alternative education and job development support. Status offenders are youth under the age of 18 years who commit an offense that if committed by an adult would not be a violation of law. Examples of such offenses include runaways, truants, curfew violations, truancy, tobacco violations and liquor violations for possession or consumption.

Adult Jail and Lock-up Removal

Juvenile status offenders may not be detained in adult jails and lock-ups. Juvenile offenders may be held for purposes of processing for limited times before or after a court hearing (6 hours). This provision does not apply to youth who are tried or convicted in adult criminal court of a felony level offense. This provision is designed to protect youth from psychological abuse, physical assault and isolation. Youth housed in adult jails and lock-ups have been found to be eight times more likely to commit suicide, five times more likely to be sexually assaulted, two times more likely to be assaulted by staff, and 50 percent more likely to be attacked with a weapon than youth in juvenile facilities.

"Sight and Sound" Separation and Disproportionate Minority Contact, overrepresentation of minority youth within the juvenile justice system, are the other two core requirements of JJDP.

JJA supports the proposed changes found in SB 452 that seek to align state law with federal law and regulations. SB 452 will make three specific changes that will bring Kansas into statutory compliance with JJDP and subsequent re-authorizations.

- 1.) Prohibit the placement of a youth under the age of 18 in a jail when arrested for the offense of possession or consumption of alcohol.**
- 2.) Prohibit the placement of a youth under the age of 18 in a juvenile detention center for a period in excess of 24 hours exclusive of weekends and holidays when the only offense upon which the youth is arrested is for possession or consumption of alcohol.**
- 3.) Prohibits the use of juvenile detention center or sanction house placement as an option at the time of disposition when a youth is adjudicated a juvenile offender for the offense of possession or consumption of alcohol.**

SENATE BILL No. 452

By Committee on Federal and State Affairs

1-26

9 AN ACT concerning minors; relating to purchase or consumption of al-
10 coholic beverages by a person less than 18 years of age; detention;
11 amending K.S.A. 2009 Supp. 41-727 and repealing the existing section.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2009 Supp. 41-727 is hereby amended to read as
15 follows: 41-727. (a) Except with regard to serving of alcoholic liquor or
16 cereal malt beverage as permitted by K.S.A. 41-308a, 41-308b, 41-727a,
17 41-2610, 41-2652, 41-2704 and 41-2727, and amendments thereto, and
18 subject to any rules and regulations adopted pursuant to such statutes,
19 no person under 21 years of age shall possess, consume, obtain, purchase
20 or attempt to obtain or purchase alcoholic liquor or cereal malt beverage
21 except as authorized by law.

22 (b) Violation of this section by a person 18 or more years of age but
23 less than 21 years of age is a class C misdemeanor for which the minimum
24 fine is \$200.

25 (c) Any person less than 18 years of age who violates this section is a
26 juvenile offender under the revised Kansas juvenile justice code. Upon
27 adjudication thereof and as a condition of disposition, the court shall re-
28 quire the offender to pay a fine of not less than \$200 nor more than \$500.

29 (d) In addition to any other penalty provided for a violation of this
30 section: (1) The court may order the offender to do either or both of the
31 following:

- 32 (A) Perform 40 hours of public service; or
- 33 (B) attend and satisfactorily complete a suitable educational or train-
34 ing program dealing with the effects of alcohol or other chemical sub-
35 stances when ingested by humans.

36 (2) Upon a first conviction of a violation of this section, the court shall
37 order the division of vehicles to suspend the driving privilege of such
38 offender for 30 days. Upon receipt of the court order, the division shall
39 notify the violator and suspend the driving privileges of the violator for
40 30 days whether or not that person has a driver's license.

41 (3) Upon a second conviction of a violation of this section, the court
42 shall order the division of vehicles to suspend the driving privilege of such
43 offender for 90 days. Upon receipt of the court order, the division shall

1 notify the violator and suspend the driving privileges of the violator for
2 90 days whether or not that person has a driver's license.

3 (4) Upon a third or subsequent conviction of a violation of this sec-
4 tion, the court shall order the division of vehicles to suspend the driving
5 privilege of such offender for one year. Upon receipt of the court order,
6 the division shall notify the violator and suspend the driving privileges of
7 the violator for one year whether or not that person has a driver's license.

8 (e) This section shall not apply to the possession and consumption of
9 cereal malt beverage by a person under the legal age for consumption of
10 cereal malt beverage when such possession and consumption is permitted
11 and supervised, and such beverage is furnished, by the person's parent
12 or legal guardian.

13 (f) Any city ordinance or county resolution prohibiting the acts pro-
14 hibited by this section shall provide a minimum penalty which is not less
15 than the minimum penalty prescribed by this section.

16 (g) A law enforcement officer may request a person under 21 years
17 of age to submit to a preliminary screening test of the person's breath to
18 determine if alcohol has been consumed by such person if the officer has
19 reasonable grounds to believe that the person has alcohol in the person's
20 body except that, if the officer has reasonable grounds to believe the
21 person has been operating or attempting to operate a vehicle under the
22 influence of alcohol, the provisions of K.S.A. 8-1012, and amendments
23 thereto, shall apply. No waiting period shall apply to the use of a prelim-
24 inary breath test under this subsection. If the person submits to the test,
25 the results shall be used for the purpose of assisting law enforcement
26 officers in determining whether an arrest should be made for violation of
27 this section. A law enforcement officer may arrest a person based in whole
28 or in part upon the results of a preliminary screening test. Such results
29 or a refusal to submit to a preliminary breath test shall be admissible in
30 court in any criminal action, but are not *per se* proof that the person has
31 violated this section. The person may present to the court evidence to
32 establish the positive preliminary screening test was not the result of a
33 violation of this section.

34 (h) (1) *Any person less than 18 years of age who violates this section*
35 *shall not be detained or placed in a jail, as defined in K.S.A. 2009 Supp.*
36 *38-2302, and amendments thereto.*

37 (2) *Any person less than 18 years of age who is arrested only for a*
38 *violation of this section shall not be detained or placed in a juvenile de-*
39 *tention facility, as defined in K.S.A. 2009 Supp. 38-2302, and amendments*
40 *thereto, for a period exceeding 24 hours, excluding Saturdays, Sundays*
41 *and legal holidays.*

42 (3) *Any person less than 18 years of age at the time of the offense who*
43 *is adjudicated of a violation of this section shall not be detained in a jail,*

Juvenile correctional facility

SB 452

3

- 1 *juvenile detention facility* or *sanctions house*, as defined in K.S.A. 2009
2 *Supp. 38-2302, and amendments thereto.*
3 (i) This section shall be part of and supplemental to the Kansas liquor
4 control act.
5 Sec. 2. K.S.A. 2009 Supp. 41-727 is hereby repealed.
6 Sec. 3. This act shall take effect and be in force from and after its
7 publication in the statute book.

KANSANS FOR ADDICTION PREVENTION

P.O. Box 16774, Wichita, Kansas 67216

Phone 316-681-0122

SUBJECT: SENATE BILL No. 452

Federal and State Affairs Committee 3 Feb 10

Kansans for Addiction Prevention files this testimony in opposition to the changes in Senate Bill 452. To completely remove any possibility of detention for the listed offenses greatly reduces the deterrent needed to keep persons under 18 years of age from drinking. There will be repeat offenders that will need stronger deterrence. Yes, there are persons under the age of 18 that are alcoholics. Our interest is in preventing teenagers from consuming alcohol, and if the threat of detention helps in that effort, it should be continued.

We wish to make an additional comment about paragraph (e) on page 2 of the bill that makes an exception for alcohol that is provided by a parent or legal guardian. No responsible individual provides alcohol to a person that is under 21 years of age.

Garry Winget

President

Kansans for Addiction Prevention

Sn Fed & State
Attachment 4

2-3-10

Senate Federal & State Affairs Committee
SB 453

Testimony of
Sarah Byrne
Assistant Attorney General, Alcoholic Beverage Control

February 3, 2010

Good morning Mr. Chairman and members of the committee. I thank you for the opportunity to appear here today to present testimony in support of SB 453.

Some manufacturers and suppliers of alcoholic liquor use Kansas as a storage area for alcoholic liquor or cereal malt beverage to be distributed in Kansas or shipped into other states. At present, there is no license or permit that specifically allows only the packaging and/or storage of alcoholic liquor. ABC has been issuing manufacturer's licenses to these suppliers as it is the only license type that addresses both storage and packaging. However, the applicants for a license to store liquor in Kansas are not "manufacturers" as the term is used in the liquor control act.

A manufacturer's license allows the manufacture and storage of alcoholic liquor and cereal malt beverage. Manufacturer is defined by K.S.A. 41-101(o) as "every...person who fills or refills an original package and others engaged in...bottling alcoholic liquor, beer or cereal malt beverage." The suppliers that use Kansas as a distribution hub do not manufacture anything in the state. They simply use us as a central storage area for distribution to Kansas distributors and wholesalers in surrounding states. Occasionally, they assemble value-added packages of alcoholic liquor at the warehouse.

This bill creates a new "packaging and warehousing facility" permit that will give liquor manufacturers and suppliers, whether licensed in Kansas or elsewhere, the option of using Kansas as a central warehousing area and give the ABC regulatory authority over the warehouse facility.

The bill also clarifies the responsibility for paying the gallonage tax on alcoholic liquor and cereal malt beverage imported into this state under a packaging and warehousing facility permit and sold to a distributor for sale at wholesale. Currently, the licensee warehousing the product pays the gallonage tax on all alcoholic liquor and cereal malt beverage imported into Kansas, then takes a credit for that gallonage tax when it ships the product out of state, resulting in unnecessary reporting and filing for the licensee and unnecessary processing for the department. With this bill, no gallonage tax will be reported and paid unless and until a Kansas distributor purchases the imported alcoholic liquor or cereal malt beverage for sale at wholesale in this state.

There are currently three manufacturer's licenses issued to a supplier solely to store and package alcoholic liquor for export to other states. We anticipate other suppliers will be interested in a packaging and warehousing facility permit, as the applicant would no longer be required to post the \$25,000 bond required for a manufacturer's license or file the monthly gallonage tax returns and reports.

The passage of SB 453 could generate business for Kansas, encouraging packagers of alcoholic liquors to use Kansas as a central hub for the packaging, storage, and distribution of products. It would also reduce paperwork for both licensee and department associates. Please consider favorably the passage of SB 453.

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Robert E. Duncan, II
Attorney at Law
212 SW 8th Avenue, Suite 202
Topeka, Kansas 66603
785.233.2265
www.tuckducanlaw.com

To: Senate Committee on Federal and State Affairs:

From: R.E. "Tuck" Duncan

RE: SB 453

As an attorney I represent numerous beverage alcohol licensees in Kansas, and support the Agency's request for a new permit category for "packaging and warehousing." One of my clients is Dean & Deluca. www.DeanDeluca.com They have a warehouse in Wichita, Kansas for catalog sales of food products.

We ask that you amend the bill as follows:

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) Any manufacturer or supplier or broker of alcoholic liquor or cereal malt beverage, whether licensed in this state or any other state, may apply for an annual packaging and warehousing facility permit. The application shall be on a form prescribed by the director and shall include all information the director deems necessary. For purposes of this section a "broker" is a person within this State, other than a retail licensee, who solicits or accepts orders for alcoholic liquor to be shipped from this State and delivered to residents outside of this State.

K.S.A. 40-401 *et. seq.* regarding bonded warehouses should probably be amended to include this category of permit as well.

Thank you for your attention to and consideration of this matter.

Sn Fed & State
Attachment 6

2-3-10

To: Senate Federal & State Affairs Committee
By: Statement by Rebecca Rice, Legal Counsel
For: Kansas Beer Wholesalers Association
Date: February 3, 2010
Re: SB 453

The Kansas Beer Wholesalers Association is unconvinced that a need for an additional liquor license has been adequately proven. Of particular note is that we are unaware that Kansas has experienced any difficulty with its authority to "regulate, license and tax" alcoholic liquor. Additionally, we are unaware that the Kansas public has experienced any difficulty in obtaining alcoholic liquor. We do not support creating an additional class of liquor licensee unless there is a proven need that is experienced and expressed by many.

Too many times, we have made changes to the liquor statutes for an individual or a very small group seeking "small, technical" changes. But those statutory changes have not improved or strengthened the Kansas government's regulatory authority. In too many instances it has been weakened. These changes have typically weakened the traditional – and we believe appropriate and desirable - licensing structure. However, we also are aware that government agencies rarely request introduction of legislation that isn't specifically needed by that agency to improve performance of the task they've been assigned. So, we assume ABC has encountered some problem with performing its regulatory assignments or there would not have been a request for this legislation.

However, unless the need is urgent, definite and expansive, we request that the issue receive further study and alternative solutions be sought. As we have proven in the past, what might appear on the surface as a "simple technical change" when adopted, typically causes ripple changes throughout the Liquor Control Act.

Kansas Viticulture and
Farm Winery Association

785-766-7492
pbb@sunflower.com



February 3, 2010

Testimony on SB 453
Senate Federal and State Affairs Committee

Chairman Brungardt and Senators of the Committee

We have no problems with the intent of this bill as explained to us. We just ask that the requirements under this act not apply to Farm Winery licensees or Microbrewery licensees on behalf of the Craft Brewers Guild. Some of the terms in this act are used or similar terms are used in the statutes, rules and regulations covering these two licenses and the functions that they do.

Thank you for your time and service,

Philip Bradley
Representing the
Kansas Viticulture and Farm Winery Association

KVFWA -- Kansas Viticulture and Farm Winery Association:

We began our journey in 2004. Our mission is the promotion of the production of wine from Kansas grapes, the science and practice of viticulture in the State of Kansas, and the development of Kansas Farm Wineries. We include farm wineries (such as Blue Jacket, Davenport, Holy-Field, Stone Pillar and White Tail Run and numerous growers of fine grapes.

Sn Fed & State
Attachment 8

2-3-10

MARY ANN TORRENCE, ATTORNEY
REVISOR OF STATUTES
JAMES A. WILSON III, ATTORNEY
FIRST ASSISTANT REVISOR
GORDON L. SELF, ATTORNEY
FIRST ASSISTANT REVISOR



OFFICE OF REVISOR OF STATUTES
KANSAS LEGISLATURE

Legal Consultation—
Legislative Committees and Legislators
Legislative Bill Drafting
Legislative Committee Staff
Secretary—
Legislative Coordinating Council
Kansas Commission on
Interstate Cooperation
Kansas Statutes Annotated
Editing and Publication
Legislative Information System

Brief on Senate Bill 454

Jason B. Long
Assistant Revisor
Office of Revisor of Statutes

February 3, 2010

SB 454 amends various provisions of the Kansas Liquor Control Act and the Club and Drinking Establishment Act to establish a two-year term for such licenses, and to increase the fee for such licenses. The bill also makes certain amendments with respect to who is eligible to obtain a liquor license or a club and drinking establishment license.

Section 2 of the bill amends K.S.A. 41-310 to make all licenses issued under the Kansas Liquor Control Act two-year licenses. The bill also amends the fee for such licenses by increasing each fee established by the statute. Section 5 provides a corresponding amendment to K.S.A. 41-326 making all liquor licenses two-year licenses.

In conjunction with these amendments, section 4 amends K.S.A. 41-317 to modify the license application process. This section also increases the original application fee and renewal fee for such applications. Additionally, a new subsection (b) is added to the statute to allow licensees to pay an additional fee for expedited service if their renewal application is filed less than a month before the license is set to expire. The additional fee increases in relation to the number of days left before the license expires. There is also no guarantee that payment of the additional fee will result in renewal of the license prior to its expiration.

There are similar amendments in sections 7, 8, 9 and 11 governing licensing for club and drinking establishments. The primary difference is that drinking establishment licenses will remain one-year licenses for an additional year. Starting on July 1, 2011, all drinking establishment licenses will be two-year licenses. Thus, in section 9 new subsection (b) contains a separate set of license fees that become effective July 1, 2011 for drinking establishments. Likewise, section 11 contains a new subsection (b) providing the switch from one-year to two-year licenses for drinking establishments.

Finally, the bill makes amendments to allow individuals leasing a premises to obtain a liquor or club and drinking establishment license. Section 3 amends K.S.A. 41-311 with respect to liquor licenses. Section 10 makes a similar amendment to K.S.A. 41-2623 for clubs and drinking establishments. Section 10 also provides that when the premises is owned by a city or county or is a stadium, arena, convention center, theater, museum, amphitheater or similar premises and an executed agreement to provide alcoholic beverages at such premises is in place, then such agreement may be submitted in lieu of a lease agreement.

Senate Federal & State Affairs Committee
SB 454

Testimony of
Sarah Byrne
Assistant Attorney General, Alcoholic Beverage Control

February 3, 2010

Good morning Mr. Chairman and members of the committee. I thank you for the opportunity to appear here today to present testimony in support of SB 454.

In 1999, twelve ABC associates processed less than 1,300 liquor license applications. Last year, six associates processed approximately 4,350 applications. K.S.A. 41-319 allows ABC thirty days to process an application for liquor licensure and either issue the license or deny the application. While improved processes have allowed ABC to continue meeting this deadline, it is becoming clear that, without some sort of relief, we will be unable to keep up the pace. Many associated tasks performed by the licensing segment have gone undone for months and even years, and backlogs that affect the efficient performance of ABC's regulatory function go unaddressed.

Amending the license term from one year to two years as proposed by sections 2, 6, 8 and 11 of the bill will reduce the number of renewal applications processed by the licensing segment by about half every year. All license types except drinking establishment licenses would go to a two-year term upon the effective date of this bill. Drinking establishment licenses would go to a two-year term on and after July 1, 2011. Drinking establishment licenses account for about half of all licenses issued annually. The postponement until 2011 of a two-year license term on the drinking establishment licenses will keep the number of renewal applications processed each year fairly consistent. New applications will continue to arrive at a rate of about 370 per year, but the reduction in annual renewals will allow the licensing segment to efficiently perform its function and complete all tasks necessary for the issuance, maintenance, and regulation of all liquor licenses.

Sections 2, 8 and 11 of the bill also include a thirty-day extension, at the director's discretion, of the license term. Many licensees fail to file their renewal applications timely, causing a lapse between the expiration of the current license and the issuance of the renewal license. In the past, a licensee that filed its renewal application late would likely be without a liquor license for a brief period after its current license expired. With this discretionary extension, that problem will be solved for most late filers. Also, Sections 4 and 7 of the bill propose a new "expedited service" fee that a licensee may

pay to receive expedited service of its application. The application would, in effect "go to the front of the line", causing the license to be issued much faster than normal. The expedited service fee is completely voluntary on the licensee's part.

Sections 5, 8 and 11 amend the refund provision for unused license fees. The amendment from "shall" to "may" allows discretion in the payment of refunds for unused license fees. Regulations will be promulgated to require the payment of a refund if all conditions established by the regulations are met. Such conditions will include the surrender of the license and its return to ABC, written request by the licensee for the refund, and payment of all fines, fees and taxes that may be due by the licensee. Current law does not require a licensee to be current in all taxes, fees or fines in order to receive a refund. This amendment would allow ABC to correct that oversight.

Sections 3 and 10 of the bill amend the licensing requirements for licenses issued under the liquor control act and the club and drinking establishment act. Current law requires the applicant to own the premises for which a license is sought or have a lease on such premises for at least three-fourths of the license term. Many commercial leases are year-to-year, and if license terms go to two years, some applicants would be disqualified for licensure by this lease requirement. The amendment allows an applicant to qualify for licensure if the applicant has a valid lease at the time of application.

Section 10 also allows the applicant for a club or drinking establishment license to qualify for licensure with a management contract in lieu of a lease in limited instances. Some properties owned by municipalities or other governmental bodies cannot be leased due to bond or tax issues, or other reasons. In some properties, a lease is simply unworkable for the type of venue because of franchise, physical layout or other issues. The amendment will allow applicants for a license in these limited instances where a lease is impractical or impossible to qualify for licensure with a contract to provide alcoholic beverage services.

Sections 2 and 9 of the bill raise the license fees for all licenses under the liquor control act and the club and drinking establishment act. Sections 4 and 6 also raise the application fees for all new and renewal applications for licensure under the liquor control act and the club and drinking establishment act.

Application fees for licenses issued under the liquor control act have not been raised since 1958, when they went from \$5 per application to the current \$50 for initial applications and \$10 for renewals. Application fees for licenses issued under the club and drinking establishment act were enacted at the current level in 1965. If indeed the intent of the application fee was to offset the cost of processing the application, then the amendment is absolutely necessary to meet that intent. Since 1965, wages, overhead and systems costs have risen dramatically. This amendment is a reasonable increase, reflecting the two-year license term, and minimally increases revenue through increased renewal application fees.

The state is in dire financial hardship, as we are all aware. One source of revenue for the state is license fees. No liquor license fee has been increased since 1987. The following chart shows the history of liquor license fees:

License type	Initial fee	Year est.	Amended fee	Year amd.	Proposed (per 12 months)
Manufacturer (spirits)	\$2,500	1949			\$3,000
Manufacturer (beer - 1 to 100 B*)	\$200	1949			\$500
Manufacturer (beer - 100 to 150 B)	\$400	1949			\$1,000
Manufacturer (beer - 150 to 200 B)	\$700	1949			\$2,000
Manufacturer (beer - 200 to 300 B)	\$1,000	1949			\$3,000
Manufacturer (beer - 300 to 400 B)	\$1,300	1949			\$4,000
Manufacturer (beer - 400 to 500 B)	\$1,400	1949			\$5,000
Manufacturer (beer --> 500 B)	\$1,600	1949			\$6,000
Manufacturer (wine)	\$500	1949			\$750
Farm winery	\$1,100	1983	\$250	1985	\$300
Microbrewery	\$250	1987			\$300
Farm Winery Outlet	\$50	1992			\$150
Microbrewery pack. & warehousing	\$100	2005			\$150
Spirits Distributor	\$1,250	1949	\$1,000	1987	\$1,500
Wine Distributor	\$1,250	1949	\$1,000	1987	\$1,500
Beer Distributor	\$150	1949	\$1,000	1987	\$1,500
Nonbeverage User (class 1)	\$10	1949			\$50
Nonbeverage User (class 2)	\$50	1949			\$150
Nonbeverage User (class 3)	\$100	1949			\$300
Nonbeverage User (class 4)	\$200	1949			\$500
Nonbeverage User (class 5)	\$500	1949			\$1,500
Retailer	\$100	1949	\$250	1987	\$500
Class A fraternal or veterans club	\$250	1965			\$300
Class A social club (under 500)	\$250	1965	\$500	1987	\$750
Class A social club (more than 500)	\$250	1965	\$1,000	1987	\$1,500
Class B club	\$250	1965	\$1,000	1987	\$1,500
Caterer	\$500	1987			\$750
Drinking establishment	\$1,000	1987			\$1,500
DE/Caterer	\$1,500	1987			\$2,000
Hotel/DE	\$3,000	1987			\$4,000
Hotel/DE/Caterer	\$3,500	1987			\$5,000

* - B= barrel daily capacity

The license fee increases included in the bill will result in an average increase to state revenues of \$1,355,650. While the proposed increase of the license fees appears to be abnormally large, remember the proposed fee is for a **two-year license**. The chart above shows the fee per *twelve-month* period. However, **in order to avoid lost revenue through the lengthened license term, the license fees must be doubled.**

SB 454 addresses many issues: license and application fees; license term; discretionary extension of the license term; venue licensing and more. All of these proposals will greatly benefit the state and many will benefit the licensees. While ABC acknowledges the industry's opposition to the fee increases, we feel the industry will receive the benefits of the other provisions of the bill in sufficient quantity to justify the increase. Furthermore, as the chart above shows, no license fee has been raised in over 22 years, and many have never been raised. In the state's current financial situation, no source of increased revenue should be disregarded without serious consideration.

Please consider favorably the passage of SB 454.

Kansas Association of Beverage Retailers

P.O. Box 3842, Topeka, KS 66604
785-969-1617 campbell525@sbcglobal.net

Senate Federal and State Affairs Committee
February 3, 2010
SB 454 – ABC Licensing

The Kansas Association of Beverage Retailers represents the retail liquor stores licensed by the State of Kansas. Liquor stores are owned by Kansas citizens and are independent businesses.

KABR supports the following sections of SB 454:

- Biennial licenses – would like to see an option for annual payments.
- Verifying the Director's authority to extend licenses up to 30 days.

KABR requests amendments to the following:

- It is unfair to double the license fee for retail liquor stores, in addition to increasing the application fee from \$10 to \$50
 - Liquor stores do not oppose a reasonable fee increase, particularly if it is implemented gradually. However, it is unrealistic to expect a family owned business to come up with \$1050 on their next renewal date, when their budget had anticipated a \$260 expense.
 - Recently, the Division of ABC implemented new policy and the agency no longer sends application packets to licensees in advance of their renewal. License processing has become slower and telephone assistance is less responsive.
 - In addition, the agency has increased the penalties for first time violations from \$100 to \$500.
 - Added to the expected increases in unemployment payments, utility expenses, and other overhead, this increase will have a significant impact on licensees.

KABR opposes the following sections of SB 454:

- Expedited license fees for individuals who fail to submit their license application 30 days in advance
 - First, this provision promises to move a late application to the top of the stack for processing – which is absolutely unfair to the licensee who has submitted a timely application.
 - Second, the statute does not promise to complete the “expedited” license application before the due date – so, it does not serve the purpose requested by those late applicants.
- The language in section 8 and section 11 that changes “shall” to “may”.
 - The statute should state that “a refund SHALL be made of that portion of the license fee...”
 - We support adding language to clarify that the refund begins on the date of notification that the licensee is giving up his or her license, and that the State may withhold funds for taxes owed.
 - We do not support leaving the language open-ended as written.

The licensed liquor industry in Kansas contributed \$115,398,840 in fiscal year 2009 through fees, permits, taxes and fines. KABR is very concerned that the Division of Alcoholic Beverage Control is struggling to meet its licensing and regulation functions due to reduced staffing. Our members support a fully staffed licensing division and would really like to see funds committed to improving the agency's technology resources.

In addition, we respectfully request the Committee to consider amending the Liquor Control Act to include language that would allow a retail liquor store licensee the same privilege extended to on premise clubs and drinking establishments to forego a bond if the retailer has maintained tax payments in good standing.

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KANSANS FOR ADDICTION PREVENTION

P.O. Box 16774, Wichita, Kansas 67216

Phone 316-681-0122

SUBJECT: SENATE BILL No. 454

Federal and State Affairs Committee 3 Feb 10

Kansans for Addiction Prevention is in favor of increasing the various fees covered under this bill.

Garry Winget

President

Kansans for Addiction Prevention

Robert E. Duncan, II
Attorney at Law
212 SW 8th Avenue, Suite 202
Topeka, Kansas 66603
785.233.2265
www.tuckducanlaw.com

To: Senate Committee on Federal and State Affairs:
From: R.E. "Tuck" Duncan
RE: SB 454

As an attorney I represent numerous beverage alcohol licensees in Kansas, and support in part certain provisions of SB 454 and oppose other aspects of same.

The concept of expedited processing in section 4 has merit.

Obviously, no licensee wants to have their fees increased.

Affording the Director in section 8 the authority to extend a license thirty (30) days has merit.

The provision in section 10 at lines 43, pg. 17 and lines 1- 6 for an agreement in lieu of a lease for certain public venues is a very positive step. As a drafting matter, I would prefer the law define a "public venue" and then apply the agreement provision accordingly. Thus, if additional facilities become such venues they can be added to the definition. However, it should be clarified that the Director may issue more than one license concurrently for the same public venue premises.

The change from an annual to two year license presents problems. Efforts to change liquor licensing renewal to two (2) years instead of the current one (1) year process, in my judgment, will not save Kansas money and may cause delays in liquor-tax collection. Generally, despite the lack of manpower, and the licensing folks do great work, the current license-renewal system in Kansas is pretty efficient and provides the state with constant licensee oversight.

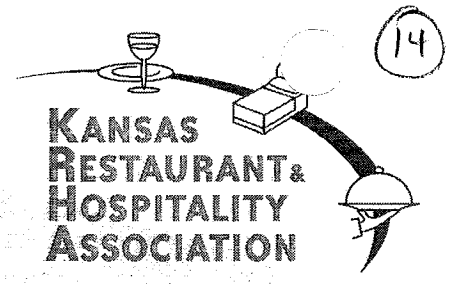
Currently, a license is not renewed unless a licensee is current on payment of liquor taxes and provides a tax clearance. If this legislation passes it will push this yearly collection into a two-year process which will have a negative impact on all parties involved. This is also true for the annual tax bond adjustments. For

example, recently I had a client who had to have their bond increased by \$18,000.00

The annual processing ensures that changes of owners and officers are updated so that appropriate background checks can be made. A clubs see changes in officers regularly. Annual processing guarantees an updated employee registration and provides for reporting on the 30% food requirement that is necessary to hold a license in certain counties. Sixty counties require 30% food sales.

Adopting this change is self-defeating to the current efforts by the Department of Revenue to streamline the renewal process and take the system online. Going digital will provide all the benefits of a one-year renewal process outlined here (tax collection and regulatory oversight). In fact, going digital will make the one year renewal process faster, simpler and more efficient.

Please delete from SB 454 those provisions that change from a one (1) year renewal process to a two (2) year renewal process. *Thank you for your attention to and consideration of these matters.*



**Testimony Re: SB 454 – License to Sell Alcoholic Beverages Fees
Senate Federal & State Affairs
February 3, 2010**

Chairman Brungardt and Members of the Committee:

My name is Don Sayler and I am the CEO for the Kansas Restaurant & Hospitality Association (KRHA). KRHA is the leading business association for restaurants, hotels, motels, country clubs and allied business in Kansas. Along with the KRHA Educational Foundation, the association works to represent, educate and promote the growing industry of hospitality in Kansas.

While we understand the budget constraints the Dept. of ABC has and appreciate their efforts to look at efficiency issues, we have several concerns with the changes proposed by SB 454.

The proposed changes indicate that a renewal application shall be submitted not less than 30 days prior to expiration. However, we have members that, due to renewal problems in the past, began their renewal 90 days prior to expiration. They were told that ABC would not accept them until 30 days prior. Now, ABC is proposing additional fees if renewal applications are submitted 29 days or less from expiration. This seems like a problem that renewal applications need to be submitted exactly on the 30th day before license expiration. This additional fee is progressive depending on the number of days prior to expiration, up to \$1,000. Also, the payment of this additional fee, per the proposed changes, does not guarantee the issuance of the renewed license before expiration. We question whether there needs to be changes in the renewal process rather than the assessment of additional fees.

There are provisions in the proposed changes that will allow the Director, in the Director's sole discretion, to grant a 30 day extension of the current license. While this may solve urgency issues within the ABC, this will no doubt create other issues for the licensee. This would not extend the licensee's city license, leaving them unable to serve liquor. It can take a year or more to recoup business lost due to being unable to serve liquor for a few days, or worse, having to close for two or three days while waiting on the liquor license.

We are at a loss with regards to the proposed fee increases in Sec. 9. We can understand an increase since the license will move to a bi-annual license. However, even to double the fee would seem to be a stretch since staff time requirements should be cut in half. The increases in this section will currently range from a 50% increase to 200%. Additionally, after July 1, 2011, all fees will increase an additional 100%.

Currently, there are four taxes and fees that are collected against liquor.

- Gallonage tax
- License fees
- Liquor enforcement tax
- Liquor excise tax

While these are paid by different parties, ultimately the consumer is the one paying the tax and any fee increases. In today's struggling economy, we have to ask how much more can we expect the consumer to continue to pay so that we can stay in business? KDHE is currently taking the position that the consumer paying higher taxes will discourage cigarette smoking. Is that the message we are trying to send by this proposed increase?

KRHA strongly opposes these proposed fee increases. We ask that you consider the negative impact that the proposed fee increases will have and oppose this legislation. Thank you for allowing me to provide testimony on this important issue.



*Kansas
Licensed
Beverage
Association*

*CEO
Philip Bradley*

*P.O. Box 442066
Lawrence, KS
66044*

*785.766.7492
www.klba.org
info@klba.org*



February 3, 2010
Testimony on SB 454
Senate Federal & State Affairs Committee

Mr. Chairman, and Senators of the Committee,

I am Philip Bradley representing the **Kansas Licensed Beverage Association**. The **KLBA** represents the interests of the men and women in the hospitality industry, who own, manage and work in Kansas bars, breweries, clubs, caterers, hotels, and restaurants. These are the places you frequent and enjoy with the tens of thousands of employees that are glad to serve you. Thank you for the opportunity to speak today and I will be brief.

In addition today, **The Craft Brewers Guild**, (Kansas microbrewers & brewpubs) and **Kansas Viticulture and Farm Winery Association** (grape growers and wine makers) have asked me to represent them and their concerns.

Our members ask you to oppose SB 454 and not forward to the Senate without amendments to alter the parts explained below.

In general we support multiyear licenses and have been asking for them to be offered in past sessions. We thank the ABC for their work towards this goal. However this measure only offers a **two year** license and most objectionable and confusing it would **require the equivalent of 3 years fees(DE license)**. A 50% increase for these license holders. We ask what the justification for such an increase is and also what is the reasons and process for the uneven increases across differing licenses and classes? And there is a second increase of fees on July 2011 that makes them even higher. The same questions apply here.(pg 15 L.33)

Confusing because one of the main reasons for multiyear licenses is that it **reduces the resources needed** to process (in this case half the effort needed) and therefore reduces costs for both the regulators (ABC/KDOR) and the applicants. And we have been told that the whole application process is heading toward a fully on line process. As soon as that is in place, then the process will be more efficient for all involved and therefore should be less costly.

In addition this bill proposes an expedited process for substantial additional fees. While it would be advantageous to have the ability to have applications processed in less time it seems patently unfair that a government agency would charge additional fees for such a service. It begs the questions 1) Is it possible for more applications to be processed at these accelerated rates is the current 30 days in advance application time needed?, and 2) Is it proper to put an application that is less than the 30 days in advance that pays more money be put in line ahead of one that was submitted as asked 30 days or more in advance? 3) And how are applications processed? If one submits 60 days or 90 days in advance is it processed then or delayed to start till the 30 day mark?

This proposal includes the ability of the Director to extend for up to 30 days a license. We appreciate and support this concept however that alone would not be functional for this bill does not address the local city stamp that also runs concurrently with the license. An amendment would be necessary to extend that as well.

**Drink Responsibly.
Drive Responsibly.**

Sn Fed & State
Attachment 15

2-3-10

There is also an increase in the application fee. We feel that the license fee is an application fee and is unnecessary as an added fee.

If the committee decides to amend this statute we would also ask them to address why a certified check/money order is required. The DOR accepts check from these licensees each month as payment for taxes. And applications submitted on time are 30 days in advance which would be ample time to clear and ensure the state receives their funds. This requirement makes for another fee for the licensee as they have to purchase these items or bring cash.

If these concerns are addressed then we could support multiyear licenses.

Thank you for your time.

Philip Bradley



Drink Responsibly.
Drive Responsibly.



Hilton
Wichita Airport
Executive Conference Center

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Testimony Re: SB 454 – License to Sell Alcoholic Beverage Fees
Senate Federal and State Affairs
February 3, 2010

Chairman Brungardt and Members of the Committee

My name is Michael Phipps and I am the General Manager of the Hilton Wichita Airport, a full service hotel in Wichita. I have been the General Manager of this Hotel since 1986 and am responsible for the entire operation of the property.

2009 was an extremely difficult year for our hotel caused by the climate of the overall economy as well as the shape of the aircraft industry in Wichita. It was also a year that we were committed to doing an \$8 million renovation. In 2009 we experienced an approximate reduction in revenue of 20% over 2008. In an industry with extremely small profit margins, this tended to put a huge strain on our business while trying to maintain a quality service and product for our guests while trying to maintain quality employees.

Over the past decade, the laws regarding the responsible drinking of alcohol have continued to lower revenues in our restaurant, banquet and lounge facilities. As with our overall reduction in revenue from 2008, we saw an equal reduction of alcohol revenue in 2009. Our liquor fees have not changed while we have seen our revenues decline. To increase our liquor license cost by 43% will continue to put added stress on an already declining revenue source. This on top of wanting to use our money for an additional 12 months by paying for 2 years each time will also add further burden to our operation.

While I understand that reducing paper work to the State by renewing licenses every two years instead of every year would save man hours and labor, their should be consideration for sharing that saving with those establishments requiring a liquor license rather than looking at those same establishments to penalize and increase costs during hard times.

I would ask this committee to reconsider this matter and consider those of us trying to run a business and keep employees working.

Thank you.....



Official Sponsor of the U.S. Olympic Team

P.O. Box 12690, 2098 Airport Road, Wichita, KS 67277-2
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Reservations: www.hilton.com or 1-800-HILTONS

Sn Fed & State
Attachment 16

2-3-10



Hyatt Regency Wichita
400 West Waterman
Wichita Kansas 67202

Direct (316) 613-6215
Hotel Phone (316) 293-1234
Fax (316) 293-1200

February 1, 2010

Chairman Brungardt and Members of the Committee:

I am writing to you today to share concerns for Senate Bill no. 454 – License to Sell Alcoholic Beverage; Fees. Additionally, I am taking time to review my recent experience renewing our license and the lack of proper administration to handle my request.

In September 2009 our controller spoke with the office of Alcoholic Beverage Control Licensing Unit to inquire of any new forms for our renewal (we do this every year). At that time we were informed not to send any documents until December 1, 2009 as “they will not be reviewed until then”.

On December 1, 2009 proper documents were sent to the proper state department and approval of renewal was not granted until January 6, 2010. Please note that this was one day before our license expired and the City approvals were still required! Now, I purposely left out the many phone calls that were made from December 1, 2009 to January 6, 2010 that literally entailed begging and pleading to get the proper attention for our license. Needless to say this was exhausting, time consuming and quite honestly, unacceptable.

That said, I now reflect on your increased fee proposals and how unfair they seem to be. I realize there are establishments that are not as organized as ours and “wait until the last minute”. However, what is your rationale for the tiered increase proposal to assess late fees? It seems the true problem lies within the Administration of the Alcoholic Beverage Control Licensing Unit, yes? Also, we have been told time and time again that the staffing levels of this unit have been reduced. If this is true, are these late fees reflective of your effort to employ more staff?

Lastly, I ask your reasoning for increasing license fees 30% in 2010 and another 100% in 2011? This is absurd and cannot possibly be justified nor has it been properly detailed at this time. It would seem the Beverage Control Unit should be more concerned with its’ own efficiencies and correcting current deficiencies before spending time creating a new licensing fee schedule.

Thank you for your time and attention reviewing my concerns.

Stephen Stewart
General Manager
Hyatt Regency Wichita

SS/kh

Legislative Testimony

February 3, 2010

Written Testimony before the Senate Federal and State Affairs Committee
SB 454

Jeff Glendening, Vice President of Political Affairs
The Kansas Chamber

Thank you Mr. Chairman and members of the committee for the opportunity to voice the Kansas Chamber's opposition to SB 454.

Kansas currently ranks 32nd for business climate according to the non-partisan Tax Foundation. Kansas business leaders in the Chamber's most recent annual CEO Poll responded that the most important way to improve the profitability of their business is to lower taxes on businesses. Forty-three percent of respondents indicated that lowering taxes on business is a top issue facing their profitability. Fifty-seven percent said they pay too much in taxes while only one percent suggested they do not pay enough.

In a time when the state should be finding ways to expand our tax base by growing the economy, SB 454 seeks to grow the tax burden which will further shrink our economy.

While it may be well and good that the liquor license be applied for on a biannual basis as SB 454 prescribes, instead of the current annual basis, paying a fee associated with the license application that is more than twice the current amount is unacceptable. Increasing these fees by up to 5 times the current amount does not send a welcoming message to those looking to open a business in Kansas nor is it an appropriate "thank you" to those businesses employing Kansans.

Conversely, the fee should be less than twice the current amount because the reduced labor costs born by the state for processing the licenses is reduced if the amount of applications is essentially cut in half over the two year period.

SB 454 compounds the burden Kansas businesses already bear making it more difficult to create jobs in a time of increased unemployment. Thank you again for the opportunity to address our opposition to SB 454 which increases the cost of doing business in Kansas.

