

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairperson John Barker at 9:00 am on Monday, March 16, 2020, in room 346-S of the Capitol.

All members were present except:

Representative Tory Arnberger – Excused
Representative Broderick Henderson – Excused

Substitute members:

Representative Stan Frownfelter, appointed substitute member to the committee

Committee staff present:

Connie Bahner, Committee Assistant
Jason Long, Office of Revisor of Statutes
Joanna Dolan, Legislative Research Department
Jordan Milholland, Legislative Research Department

Conferees appearing before the Committee:

Scott Beeler, Lathrop & Gage
Scott Schneider, Kansas Restaurant & Hospitality Association
Amy Campbell, Kansas Association of Beverage Retailers
Bob Alderson, Casey's General Stores, Inc.
Mike O'Neal, Walmart
Tom Palace, PMCA
Debbi Beavers, Director, Alcoholic Beverage Control

Others in attendance:

[See Attached List](#)

Request for bill introductions

Chairperson Barker opened the floor for requests for bill introductions. There were none from the committee members.

Speaker Pro Tem Blaine Finch requested 20RS2684, a bill relating to juvenile offenders and the child in need of care code. This is a cleanup bill containing some changes to what was **SB367** in prior years. Seeing no objection, the request was accepted.

Speaker Pro Tem Finch requested 20RS3285, which clarifies the authority of the State Board of Education and the Commissioner of Education in times of emergency to waive contact hour requirements for students in public schools in Kansas. There being no objection, the request was accepted.

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There were no further requests for bill introductions.

Informational briefing:

Chairperson Barker opened the informational briefing on the mechanics of a re-vote in Sedgwick County, Kansas.

Chairperson Barker recognized Scott Beeler of Lathrop & Gage to provide the briefing ([Attachment 1](#)). In 2007 a special election was held and the measure to allow electronic gaming machines (EGMs) in Sedgwick County failed by a mere 243 votes. Recently surveys were conducted, and they showed that the community favored gaming and the reopening of the Wichita Greyhound Park. 91 percent of the residents favored a vote in Sedgwick County in 2020. Among that 91 percent, almost 70 percent stated they would vote in favor of the measure. He disagrees with the Attorney General opinion that stated only one vote is allowed. The Attorney General also stated that the legislature certainly has the power to change, clarify, modify, amend or replace statutes. Legislation can also be passed to clarify that re-votes on gaming referendums are permissible in compliance with statutory protocol. He stated it's time for this issue to be allowed to move forward in accord with the legislative protocol and enactment. A bill is coming forth that will address these issues, and he is asking the Committee to support it.

Chairperson Barker stated that he received a letter this morning from John Frieden requesting an opportunity to appear before the Committee on behalf of three casinos to provide comment in response to the information provided by Mr. Beeler. He told Mr. Frieden he would allow him to appear before the Committee today if there was time; if not, then on Friday. There is no bill. When and if we have a bill and if we have time and choose to hear it, both sides will be allowed to present testimony.

Hearing on: SB221 — Allowing clubs and drinking establishments to sell beer and cereal malt beverage for consumption off the licensed premises.

Chairperson Barker opened the hearing on **SB221**. The Revisor provided an overview on the bill ([Attachment 2](#)). Questions were asked by Representatives Ruiz and Frownfelter.

Chairperson Barker recognized Scott Schneider who testified in support of **SB221** on behalf of the Kansas Restaurant & Hospitality Association ([Attachment 3](#)). He stated that this bill was introduced last year and it was passed out of the Senate committee. An amendment was added this year by the retailers which they have no objection to. He stated what they are trying to do is capture the interest in their customers' desire to have more craft beer by extending a right and privilege that the microbreweries have to drinking establishments.

Chairperson Barker recognized Amy Campbell who testified as a proponent on behalf of the Kansas Association of Beverage Retailers ([Attachment 4](#)). She stated they represent Kansas licensed retail liquor stores. **SB221** would allow the retail liquor stores that are owned by Kansas citizens the ability to sell growlers and crowlers. This is an opportunity to serve the craft beer public. Craft beers are

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often made in smaller quantities by entities who do not have a bottling or canning line so they have limited ability to get their product out to the public. In many states this opportunity is provided through the growlers and crowlers. Growlers are refillable containers for beer, are usually made of glass and are 64 ounces and resemble a bottle or jug. The 32-ounce versions are called howlers and are sold in microbreweries today. They have logos and screw lids and keep the beer fresh for a limited period of time. Crowlers are cans that can be sealed on sight and can be taken off premises. She stated they believe selling these products in liquor stores could benefit their customers, craft brewers, and small businesses. They do not support expanded sales in the big box or convenience stores

The Chairman stated that there was written proponent testimony from Philip Bradley on behalf of the Kansas Craft Brewers Association; Kansas Viticulture and Farm Winery Association ([Attachment 5](#)); and the Kansas Licensed Beverage Association ([Attachment 6](#)).

Questions were asked by Representatives Ruiz and Highberger to Ms. Campbell.

Chairperson Barker closed the proponent portion of the hearing on **SB221** and stated there were no opponents listed. He asked if there were any opponents. Seeing none, he opened the floor for neutral testimony.

Chairperson Barker recognized Bob Alderson who testified as a neutral on behalf of Casey's General Stores ([Attachment 7](#)). He stated that they are neutral because convenience and grocery stores are not included in the bill at this point, but they would like to be included. He would support the bill if there were an amendment to bring them in.

Chairperson Barker recognized Mike O'Neal, who testified on behalf of Walmart ([Attachment 8](#)). He stated that they concur with the comments and requests of Casey's. They believe these individual stores that sell cereal malt beverages should be added to the bill. If there were an amendment to include them, they would support the bill.

Tom Palace testified as a neutral on behalf of PMCA ([Attachment 9](#)). PMCA represents the independent fuel distributors and independent retailers throughout the state. They also would request that there be an amendment allowing them to be added to the bill. If there were such an amendment, they would support the bill.

Chairperson Barker recognized Debbi Beavers who testified as a neutral on behalf of the Alcoholic Beverage Control (ABC) ([Attachment 10](#)). She stated that the concerns the ABC had were resolved when the bill was heard in the Senate. Those concerns were clarifying the taxation of these products and also limiting the on-premise sales to 11:00 p.m.

Questions were asked by Representative Lusk to Ms. Campbell; Representative Clayton to Ms.

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Campbell and Mr. Palace; Representative Woodard to Mr. Palace; Representative Highberger to Ms. Beavers; and Representative Eplee to Mr. Schneider. With the permission of Chairperson Barker, Tuck Duncan, Kansas Wine and Spirit Wholesalers Association, stated that there is no distribution directly from a microbrewery to a retail account. It goes from the microbrewery to the distributor, and the distributor sells to the retailer, the convenience store, and the on-premises establishment. There is no change in how it is distributed.

There being no further conferees, Chairperson Barker closed the hearing on **SB221**.

Final action on bills previously heard

SB221 -- Allowing clubs and drinking establishments to sell beer and cereal malt beverage for consumption off the licensed premises.

Chairperson Barker stated that if there is no objection, he wants to work **SB221** today. No objection was raised. Chairperson Barker stated that the Revisor has brought to his attention that when the Senate passed this bill out, there was a technical error. He asked the Committee to pull out their folders on **HB2672**. He wants to put **HB2672** into **SB221**.

*Representative Averkamp moved to recommend **SB221** favorably for passage, seconded by Representative Ruiz.*

Chairperson Barker stated that Representative Arnberger is on her way in but has encountered some bad weather, so on her behalf, he has an amendment to offer. The Revisor explained proposed Amendment No. 3 ([Attachment 11](#)). This amendment was suggested by three of the neutral conferees to the bill. It would amend the cereal malt beverage retailer statutes to allow retailers to sell these CMB products and allow their patrons to remove those products from the premises if the retailer is licensed for on-premises consumption under the CMB Retailers Act.

*Chairperson Barker moved to amend **SB221** with Balloon Amendment No. 3, seconded by Representative Thomas.*

Discussion on Balloon Amendment No. 3 followed. Chairperson Barker closed on the amendment. A vote was taken, and Amendment No. 3 did not pass.

*Chairperson Barker moved to add a technical amendment to **SB221**, seconded by Representative Eplee.*

The Revisor stated that the underlying liquor store statute, K.S.A. 41-308, requires licensees to sell at retail and deliver in the original package alcoholic liquor and cereal malt beverage. "Original package" is specifically defined under statute as product that is filled and sealed by the manufacturer,

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not by the retail establishment. Therefore, that language is in direct conflict with the authorization being proposed under **SB221** on page 2, line 14, which allows the retailer to dispense and fill those containers. The Revisor's recommendation is to take the authorization on page 2 and insert it into K.S.A. 41-308(d), which is the current statute authorizing liquor stores to dispense tastings. Since it already authorizes the dispensing of alcoholic liquor on premises, this would simply be a new subsection added to that statute to authorize the dispensing on the licensed premises and sale of these particular products by the liquor store retailer. It basically harmonizes K.S.A. 41-308 with the authority to dispense on the licensed premises beer into these refillable containers.

Following discussion, Chairperson Barker closed on the technical amendment to **SB221**. *Following an oral vote, the technical amendment to **SB221** was approved.*

*Chairperson Barker moved to amend **SB221** by adding in the contents of **HB2672**, seconded by Representative Ruiz.*

Following discussion, Chairperson Barker closed on the amendment and an oral vote was taken. *The amendment to add the contents of **HB2672** into **SB221** was approved.*

*Chairperson Barker moved to amend **SB221** with Balloon Amendment No. 1, seconded by Representative Ruiz.*

The Revisor stated Balloon Amendment No. 1 ([Attachment 12](#)) would add K.S.A. 41-308 back into **SB221** to authorize the liquor store retailers to sell and deliver cereal malt beverages and beer containing not more than 6% alcohol by volume to the licensed premises of a CMB retailer who is licensed for on-premises consumption for resale by that CMB retailer. It also authorizes a retailer to charge a delivery fee for deliveries of that product to the CMB retailer. The same restriction that the CMB premises be located in the same or an adjacent county as the liquor retailer would apply as it applies for the clubs and drinking establishments.

Following discussion, Chairperson Barker closed on the motion and an oral vote was taken. *Balloon Amendment No.1 to **SB221** was approved.*

Chairperson Barker offered Balloon Amendment No. 2 ([Attachment 13](#)) to **SB221**. Representative Long asked for this amendment.

The Revisor stated that Balloon Amendment No. 2 would strike the requirement that the licensed premises for the club or drinking establishment be in the same or an adjacent county as the liquor retailer store. This is an additional amendment to K.S.A. 41-308. Given the last amendment that had the same restriction with regard to sales as to CMB retailers, the Committee may want to apply this amendment to the previous amendment to remove that same county or adjacent county restriction as

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well.

Chairperson Barker stated that Representative Long has a drinking establishment in southwest Kansas. To buy his supplies, he either has to buy them in his county or an adjacent county. His county connects at the corner of Finney County, but he can't buy supplies there because it is not adjacent to his county. There is only one person he can purchase from in his county and there is no one in the adjacent county so he has to pay what the liquor store charges.

Discussion ensued. There was no second to the motion to amend **SB221** with Balloon Amendment No. 2 so the amendment died.

Chairperson Barker moved to recommend **SB221**, as amended, favorably for passage, and to give the Revisor authority to revise the bill to correctly reflect the amendments passed, seconded by Representative Ruiz. An oral vote was taken, and **SB221**, as amended, was favorably passed.

Discussion on: HB2671 — Authorizing sports wagering under the Kansas expanded lottery act.

Chairperson Barker stated that tomorrow he wants to work **HB2671**, the sports wagering bill. He understands there will be a number of amendments. Today he will allow questions and discussion. He has been advised that an agreement has been reached between the Lottery and the Hollywood Casino as to the I-Lottery portion of the bill. The other casinos are neutral. Representative Eplee asked that that amendment be provided to the Committee, and Chairperson Barker stated he would provide it to the Committee Assistant for electronic distribution to the Committee.

Representative Frownfelter stated he will have a few amendments relating to extensions of the licensing and how to reward those who have abided by the intent of the law and penalize those who haven't.

Representative Averkamp may offer an amendment allowing the Lottery to operate the sports wagering at least initially.

There was discussion on the percentages on the sports wagering. Chairperson Barker stated the Leagues would not get a percentage, but that this is something that needs to be worked out in **HB2671**. It will then go to conference committee for negotiation. He stated that having sports betting will stop illegal betting. Currently a lot of money leaves the state due to off-shore gambling. **HB2671** puts money into the Attorney General's Office to hire prosecutors and forensic investigators to find out where the off-shore betting is taking place and to shut it down.

Representative Karleskint stated that he doesn't think dog racing should be included in this bill. Chairperson Barker agreed with him, but he doesn't want to bar anything. He stated that if a parimutuel bill came through the House, he may support it, but he doesn't know that this is the proper forum for

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dog or horse racing.

Representative Kessinger stated if casinos run sports wagering, then all four books should be in competition with each other and not restricted to their gaming areas. He also stated that problem gambling should be looked at since right now those funds are not being used.

Chairperson Barker stated he hopes they can put the house version in a senate bill. The fastest way to do this is run the senate bill on the House floor, it would then go back to the Senate, the Senate would non-concur, and the bill would then go directly to conference committee.

There being no further business, the meeting was adjourned at 10:29 a.m.