

MINUTES OF THE HOUSE COMMERCE, LABOR AND ECONOMIC DEVELOPMENT
COMMITTEE

The meeting was called to order by Chairperson Mark Hutton at 1:30 pm on Tuesday, January 27, 2015, 346-S of the Capitol.

All members were present except:

Representative Gene Suellentrop – Excused
Representative Marvin Kleebe – Excused
Representative Steve Brunk – Excused
Representative J. Basil-Dannebohm – Excused

Committee staff present:

Reed Holwegner, Legislative Research Department
Linda Herrick, Kansas Legislative Committee Assistant
Jason Thompson, Office of Revisor of Statutes
Chuck Reimer, Office of Revisor of Statutes

Conferees appearing before the Committee:

Dean Reynoldson, Director, Alcohol Beverage Control

Others in attendance:

[See Attached List](#)

Presentation on:

Overview of Kansas Alcohol/Liquor Laws

Dean Reynoldson, Director, Alcohol Beverage Control (ABC) gave an overview of regulation of alcohol in Kansas ([Attachment 1](#)).

Mr. Reynoldson noted that in 1880, Kansas was the very first state in which voters passed prohibition, and it was another forty years before other states followed suit. In the decades that followed, there was uneven enforcement of prohibition from one part of the state to another. Governor Capper signed the "bone dry" bill in 1917 that went further than prohibiting the distribution and sale of alcohol. It also criminalized the possession of alcohol and also made the alcohol prescription for medicinal purposes illegal.

The prohibition movement grew around the country and in December 1919, the thirty-sixth state passed a prohibition amendment, which became effective in 1920. Organized crime was fast to begin, and Congress was looking for a way to get around prohibition. A 3.2 beer came into being, and thus the reason for the separation today by the types of alcohol.

In 1933, Congress passed the Cullen-Harrison Act which defined any beer that is less than 3.2% alcohol by weight as a non-intoxicating law so it could be sold without violation. Later that year, national prohibition was actually lifted. No states had enacted laws to prohibit the distribution and sale of alcohol, and some states had never passed prohibition laws so it became legalized.

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After it was lifted nationally, Kansas voters in 1934 decided to retain prohibition, 66% for and 44% against. The Legislature in 1937, in trying to find a way around prohibition, enacted the Malt Liquor Beverage Act. It defined 3.2 beer as being a non-intoxicating beverage, so it didn't violate the State Constitution. The drinking age was set at 18, and the licenses were issued by cities and counties, which is still in place today.

Mr. Reynoldson continued. In 1948, Kansas voters lifted prohibition, 54% to 46%. In the following year, ABC was created, and the only license type was that which allowed the consumer to purchase alcohol from retail liquor stores. The subsequent constitutional amendment prohibited the open saloon, so there was no license for on-premise consumption. On-premises sales are drinking establishments, caterers, and private clubs while off-premises are licensed retail liquor stores.

In 1959, the Legislature focused on package sales, and passed a minimum markup law for distilled spirits and wines. At that point in time there were 1,021 liquor stores, and the number peaked in 1979 at 1,194.

In 1987, there was an Attorney General's opinion that the minimum price markup was unconstitutional, and so ABC ceased to enforce it at that point. There were 1,037 liquor stores.

A couple of laws affected liquor stores. In 1983, the liquor enforcement tax was increased from 4% to 8%. In 1985, the drinking age for 3.2 beer was raised from 18 to 21, so the drinking age for both 3.2 beer and liquor became the same for the first time.

The types of alcohol are liquor, cereal malt beverage, and non-alcoholic beer. The types of alcoholic liquor are distilled spirits, wines, and strong beer, all products regulated by Alcoholic Beverage Control.

In 1949, Kansas instituted a three-tier distribution system that exists today. Most states have the same system. There are supplier, distributor, and the retail store licenses. When alcohol first arrives from an out-of-state supplier a gallonage tax becomes due from the licensed Kansas distributor which ranges from \$2.50 to \$0.15 depending on the type of alcoholic beverage. Gallonage tax is paid by producers in the state, licensed Kansas manufacturers, microbreweries, and farm wineries.

At the retail liquor store, the tax is the liquor enforcement tax. It was created to fund the enforcement liquor law. The liquor drink tax at bars and private clubs is 10% on the price of a drink. The sale of 3.2 beer is subject to state sales tax. The liquor enforcement tax is considered a trust tax because the retailer is entrusted to collect it for the state.

Mr. Reynoldson gave the following response to questions asked by Committee members:

--To apply for a new license, KSA 41-311 has a wide range of qualifications. Article 26 address on-

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premise with another set of requirements. For a new application, there is a form with a series of questions to be answered by checking boxes, a review to determine if there is a criminal record, determine if the applicant is the true owner, source for the funding, and in most cases, process the application in the normal course of doing business. If the licensing representative sees red flags, the application is referred to Enforcement for a full investigation in the field. For renewals, the procedure is more simple. The business has to be current with taxes and have no outstanding fines. On-line licensing has recently been implemented which coaches the business on steps to be followed.

-- Relating to types of leases, the only restriction is the landlord cannot have an interest in the business. There is no restriction on location other than the city approving the liquor store in general.

-- To be eligible for a retail liquor license, a person must be a Kansas resident for 4 years.

-- The cost for a license for one year is \$250 or \$500 for two years. There is a \$25 fee for a cereal malt beverage outlet, and a stamp from the state must be purchased.

-- Mr. Reynoldson did not know if there was a difference in tax rate between Missouri and Kansas. It was later noted the Missouri gallonage tax is \$0.25, so there is a big difference between state taxes.

-- A liquor license cannot be transferred from person to person. A person can purchase an LLC but must meet all the qualifications to obtain a license.

-- The prohibition on percentage base leases is statutory. It was intended to ensure that people who are not qualified to be licensed do not become indirect owners through the property lease.

-- It may take only a matter of days to qualify for a liquor license.

Possible bill introductions

Chairperson Hutton asked if there were bills to be introduced. There were none.

Adjournment

The meeting adjourned at 1:57 p.m. The next meeting will be Wednesday, January 28.