

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 Friday, March 11, 2016, 346-S of the Capitol.

All members were present except:

Representative J. R. Claeys – Excused
Representative Gene Suellentrop – Excused

Committee staff present:

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

Conferees appearing before the Committee:

Jason Watkins, Kansas Beer Wholesalers
Allison Leiszler Bridges, Leiszler Oil Company, Clay Center and President PMCA of Kansas
Mike Moon, Moon's Hometown Market, Osawatomie
Mike Thornbrugh, Manager, Public and Govt. Affairs, QuikTrip Corporation
Tom Palace, Executive Director, Petroleum Marketers and Convenience Store Assn. of Kansas
Whitney Damron, Kansas Association for Responsible Liquor Laws
Stacey Harlow, Twisted H Liquor, Satanta
Aaron Rosenow, Owner, Vern's Retail Liquor, Topeka
Brian Davis, President, Kansas Association of Beverage Retailers, Wichita
Tuck Duncan, Kansas Wine and Spirits Wholesalers Assn.
Amy Campbell, Kansas Association of Beverage Retailers
Ross Schimmels, Vice President, External Affairs, Standard Beverage
Phillis Setchell for Donna Lippoldt, Culture Shield Network
Debbi Beavers, Interim Director, Kansas Alcohol Beverage Control
Larry Baer, League of Kansas Municipalities

Others in attendance:

[See Attached List](#)

Reconsideration of HB2665 - City and county inspections of rental properties; limitations.

Chairperson Hutton asked if the Committee would like to reconsider this bill.

Representative Carpenter moved, seconded by Representative Ruiz, that this bill be reconsidered. The motion passed.

This bill will be discussed on Monday, March 14.

CONTINUATION SHEET

MINUTES of the Committee on Commerce, Labor and Economic Development at 1:30 pm on Friday, March 11, 2016 in Room 346-S of the Capitol.

Hearing on: HB2718 — Beer sales by grocery stores and convenience stores if cereal malt beverage is no longer available.

The hearing was opened on this bill.

Chuck Reimer, Revisor, gave an overview on beer licensing ([Attachment 1](#)). This bill permits persons licensed to sell 3.2% beer (cereal malt beverage - CMB) and engaged in a convenience store or grocery store business to sell full strength beer if, as a result of reduced manufacture of CMB, the tax revenue declines by 25% for CMB from the previous year's calendar month.

Mr. Reimer also addressed the applicable statutes, K.S.A. 41-713 ([Attachment 2](#)), K.S.A. 41-311 ([Attachment 3](#)), and K.S.A. 41-313 ([Attachment 4](#)). Also distributed was the North American Industry Classification System definitions ([Attachment 5](#)) for convenience stores and grocery stores.

Jason Watkins gave proponent testimony ([Attachment 6](#)) and noted this bill ensures Kansans can buy beer where they have always bought it. Five states have proposed laws or constitutional amendments relating to cereal malt beverage.

If the trigger, based on projected CMB tax revenue, is activated, convenience and grocery stores could apply for a license from the Kansas Alcoholic Beverage Control. Mr. Watkins noted the largest single year decline has been 9%, and the formula is adjusted for seasonal decreases.

Allison Leiszler Bridges, Leiszler Oil Company, provided proponent testimony ([Attachment 7](#)), and that company operates 16 convenience stores where beer sales represent 11% of total inside sales. This bill assures the products customers want continue to be available.

Mike Moon, Moon's Hometown Market, Osawatomie, gave proponent testimony ([Attachment 8](#)). Mr. Moon noted he strives to find ways to increase his sales as he loses sales to competitors everyday. Having beer products in his store is important to his customer base. Mr. Moon added it is time to lift restrictions and allow the sale of full-strength beer, wine and spirits in grocery and convenience stores.

Mike Thornbrugh, QuikTrip Corporation, provided proponent testimony ([Attachment 9](#)) and is watching activity in neighboring states. Oklahoma has a bill that has passed the Senate and will have a hearing in the House shortly. Colorado is likely to change this year as well.

Tom Palace, PMCA of Kansas, gave proponent testimony ([Attachment 10](#)). Convenience stores have for years initiated legislation in order to allow them to sell strong beer. This bill, on behalf of the Beer Wholesalers, is in response to efforts in Oklahoma and Colorado that would permit sales in those states. CMB sales generate over \$2 million in sales tax and total beer sales generate over \$5 million in gallonage tax annually.

Proponent written-only testimony was provided by:

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CONTINUATION SHEET

MINUTES of the Committee on Commerce, Labor and Economic Development at 1:30 pm on Friday, March 11, 2016 in Room 346-S of the Capitol.

Mike O'Neal, CEO, The Kansas Chamber ([Attachment 11](#))
Rodger Woods, Americans for Prosperity ([Attachment 12](#))
Barry Queen, Queen's Price Chopper, Paola ([Attachment 13](#))
Gratz Peters, Pete's Stores, Parsons ([Attachment 14](#))
Mike Murphy, Affiliated Foods Midwest, Elwood ([Attachment 15](#))
James Holland, Associated Wholesale Grocers ([Attachment 16](#))

Whitney Damron provided opponent testimony ([Attachment 17](#)) on behalf of the Kansas Association for Responsible Liquor Laws. Based upon efforts in Oklahoma and Colorado, that may or may not be on the ballot this fall, is not a basis for setting legislation in motion in Kansas to eliminate cereal malt beverage products in Kansas. Kansas should wait to see what happens in these states.

Mr. Damron added it is important to note the trigger in this bill does not happen if the product is no longer manufactured but rather as tax revenue benchmarks are met. Cereal malt beverage sales have declined but this had been made up in the sale of strong beer.

Stacey Harlow, Twisted H Liquor, Satanta provided opposing testimony ([Attachment 18](#)) and noted local businesses will be hurt. Approximately 70% of her store's monthly sales are beer sales. She added that she has agreement with the state to uphold the rules and values of state statutes, and to change the rules does not sound fair. Liquor stores cannot sell anything before 9:00 a.m. or after 11:00 p.m., but there are longer hours for convenience and grocery stores.

Aaron Rosenow, Vern's Retail Liquor, provided opponent testimony ([Attachment 19](#)) and noted the 25% trigger can be manipulated by businesses in Kansas. If grocery stores decided to cut their CMB orders by half, that would result in less CMB being brought into the state and would set the trigger. This would happen without legislation being passed in other states.

Brian Davis, President, Kansas Association of Beverage Retailers, provided opponent testimony ([Attachment 20](#)) noting the trigger language is unclear and no matter what other states do, Kansas could change its licensing: 1) if a beer manufacturer tells Kansas they will reduce production; and 2) if the estimated CMB gallonage tax falls by 25%.

Tuck Duncan provided opponent testimony ([Attachment 21](#)) noting there are \$90,715,395 collected gallonage taxes related to beer and CMB. This tax is paid by the wholesaler at the time the product comes into the warehouse. Of that \$8,149,000 is collected for strong beer and the remainder for CMB. Nothing will happen in other states until October 2018, two legislative sessions away.

Amy Campbell, Kansas Association of Beverage Retailers (KABR), gave opposing testimony ([Attachment 22](#)) noting the Kansas Alcoholic Beverage Control estimates 1,775 eligible businesses will begin selling strong beer if this bill passes. A significant number of the 761 liquor stores will fail and their license will be returned to the state with no bidding war to inflate the value of surviving licenses.

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KABR sees no reason to pass HB2718. There is no current crisis nor reasonable motivation.

Ross Schimmels, Standard Beverage Corporation, provided opposing testimony ([Attachment 23](#)) noted the estimate is that 300 retailers will lose their businesses and 2,000 employees would lose their jobs if this bill passes. Also, many products have an alcohol content exceeding 10%. As a wholesale distributor of spirits, wine and beer, they are opposed to this bill.

Phillis Setchell gave opposing testimony for Donna Lippoldt, Culture Shield Network ([Attachment 24](#)) noting expanding sales could increase youth usage. She referenced a study by the Kansas Health Institute and asked that Kansas not start down this slippery slope into life threatening accidents, addictions, or poor judgment.

Opponent written-only testimony was furnished by:

Spencer Duncan, Keep Kansans in Business ([Attachment 25](#)) ; and Brad Smoot, Legislative Counsel, Distilled Spirits Council of the United States ([Attachment 26](#)).

Neutral testimony ([Attachment 27](#)) was provided by Debbi Beavers, Interim Director, Kansas Alcohol Beverage Control (ABC). It was noted that the bill as written requires notification at least 30 days prior to ceasing the manufacture of a "brand" registered in Kansas. It is not the brand but rather the 3.2% version of that brand. ABC would like clarification on the 25% trigger. Also, the license bond needs to be addressed, and ABC requests necessary time to hire and train staff to issue licenses and enforce the liquor laws.

Larry Baer, League of Kansas Municipalities, provided neutral testimony ([Attachment 28](#)) and noted LKM has no position, but wished to express concern that cities and counties will lose revenue currently received from CMB sales tax collected.

Neutral written-only testimony was provided by Phil Bradley for Kansas Licensed Beverage Association([Attachment 29](#)); and Phil Bradley for Craft Brewers Guild of Kansas ([Attachment 30](#)).

Presenters stood for questions.

The hearing was closed.

Adjournment

The meeting adjourned at 3:27 p.m.