

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Vice Chairperson Jacob LaTurner at 10:30 am on Wednesday, January 14, 2015, 144-S of the Capitol.

All members were present except:

Senator Ralph Ostmeier – Excused

Senator Tom Holland – Excused

Committee staff present:

Heather O'Hara, Legislative Research Department

Connie Burns, Kansas Legislative Committee Assistant

Joanna Wochner, Legislative Research Department

Matt Sterling, Office of Revisor of Statutes

Mike Heim, Office of Revisor of Statutes

Conferees appearing before the Committee:

Loren Stanton, Brady Campaign to Prevent Gun Violence

Mary Leigh Dyck, Kansas Board of Technical Professions

Major General Lee Tafarielli, Kansas Adjutant General

Dean Reynoldson, Alcoholic Beverage Control

Others in attendance:

[See Attached List](#)

Introduction of bills

Loren Stanton, Brady Campaign to Prevent Gun Violence, requested a committee bill introduction concerning firearms transfers at gun shows; requiring background checks; establishing criminal penalties.

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

Mary Leigh Dyck, Executive Director, Kansas Board of Technical Professions, requested a committee bill introduction concerning technical professions.

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

Kansas National Guard

Major General Lee Tafarielli, Kansas Adjutant General, provided the committee with information and legislative update on the Kansas National Guard. ([Attachment 1](#)) Currently 93 Kansas National Guard Soldiers and Airmen are deployed around the world. This number follows a decreasing deployment trend; however, that in spite of the drawdown of operations in Southwest Asia the Kansas National

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guard is preparing to deploy an additional 142 Soldiers and Airmen with the next 90 days to various locations throughout the world.

This past year, the Kansas National Guard provided direct support to three different theaters of operation. The 190th Air Refueling Wing provided aerial refueling support in the Pacific theater, acting as a force multiplier and extending our nations presence in the region. The 35th Infantry Division deployed to Kosovo as part of a NATO Support Element team, filling key positions in the NATO and Kosovo Force headquarters and soldiers from Company G, 2nd Battalion, 135th Aviation Regiment were welcomed home from their deployment to Afghanistan this past September.

Through tremendous work on the part of Kansas Army and Air National Guard units, readiness metrics continue to be sustained at high levels. These are import metrics which the Departments of the Army and Air Force will make future force structure decisions based on; and that the Kansas National Guard units are manned, mission ready, and able to take on expanded force structure and mission sets. Their decisions and plans determine whether we lose certain units and missions, keep what we have or gain new units and new missions. This directly affects the number of National Guard soldiers and facilities we have. Fewer units mean fewer jobs, fewer formations across the state, and fewer manpower and equipment resources to assist with floods, tornadoes and other disasters. Major General Tafarielli stated he is very pleased with their overall improvement, but must and will continue to do more to try and minimize force structure reductions.

Additional efforts to stabilize the department include moving the Headquarters element of the Kansas National Guard to Forbes Field. The department is currently in the final stages of preparing to relocate to the 190th Air Refueling Wind in an effort to reduce costs, help stabilized the long term prospects of a Kansas National Guard presence at Forbes Field and gain operational efficiencies.

Major General Tafarielli gave his word that the Adjutant Generals Department will do its best to innovate and find new and improved ways to provide military, homeland security and emergency management services well into the future; and will continue to examine current and future challenges, develop high value actions within their control, and then carry out those actions in the most effective way possible.

Major General Tafarielli addressed questions and concerns from the committee.

Alcoholic Beverage Control

Dean Reynoldson, Director, Alcoholic Beverage Control Division, provided a legislative briefing on the Agency. ([Attachment 2](#)) Alcoholic Beverage Control Divisions (ABC) mission is to promote, serve and protect the health, safety and welfare of Kansans by regulating the liquor industry and enforcing liquor laws.

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ABC priorities/initiatives being pursued by the agency include:

1. Make it as easy as possible for liquor licensees to comply with liquor laws
 - Enforcement agents are delivering new licenses and educating new business owners/managers on how to comply with liquor laws, sharing best practices and answering questions.
 - Posting everything a liquor licensee needs to understand about how to comply with liquor laws on the website
 - Improved interaction with liquor licensees and ABC stakeholders via social media through the ABC Facebook page.
 - Conducting routine meetings with liquor industry representatives to help ensure understanding and open communication
2. Increase compliance with liquor laws, enforcement-related activities are generally being re-allocated with an emphasis on changing the behavior of repeat violators. Follow-up visits/investigations are being conducted with the goal of reducing the rate of recidivism.
3. Identify best practices being used in liquor administrative agencies in other states. Diminishing resources over the years has challenged the agency to maintain levels of service acceptable to the public and to the liquor industry.

Successful implementation of the new computer system for the agency this last year; the new system, POSSE ABC allows liquor license candidates to apply for new licenses online and existing licensees to renew licenses via an online portal. Feedback received from licensees has been universally positive so far. POSSE ABC also consolidates several previously disparate subsystems, making internal ABC operations more efficient and effective.

ABC efforts to make it as easy as possible for licensees to comply with liquor laws is paying off as measure by anonymous surveys (administered via Survey Monkey) emailed to 125 randomly-selected licensees each quarter. Questions covered customer service, how well staff made the process and requirements understandable and responsiveness/timeliness. The results for:

Customer Service:

2013 2014

97% of **new licensees** responded favorably 98% of **new licensees** responded favorably
3% of **new licensees** responded unfavorably 2% of **new licensees** responded unfavorably

86% of **current licensees** responding favorably 91% of **current licensees** responding favorably
14% of **current licensees** responding unfavorably 9% of **current licensees** responding unfavorably

Improvement of agency service:

2013

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85% of current licensees reporting that the quality of service has improved over the last 2 to 3 years
2014

89% of current licensees reporting that the quality of service has improved over the last 2 to 3 years

Enforcement related questions:

88.0% of licensees agreeing that ABC ensures that licensees who fail to comply with liquor laws do not get a competitive advantage over complying licensees in 2014.

93% of licensees agreeing that ABC ensures that licensees who fail to comply with liquor laws do not get a competitive advantage over complying licensees in 2014.

76.0% agreeing that penalties are fair, effective and reasonable in 2013, and 85% in 2014.

79.2% agreeing that licensees who violate liquor laws are held accountable in 2013, 95% in 2014.

The 2014 Legislature passed **HB 2223**, changes are:

- Homemade fermented beverage maybe provided to guests and judges at a contest or competition.
- The production cap on microbreweries is raised from the current 15,000 barrels per year to 30,000 barrels.
- Farm wineries are allowed to participate in free tastings at retail liquor stores
- The U.S. citizenship requirement to be eligible for a liquor licenses is modified to merely require citizenship rather than requiring it for 10 years.

Recent court ruling prevents ABC from issuing citations based on local law enforcement reports, since the court decision was issued in June 2014, ABC has been unable to issue administrative citations on violations documented by local law enforcement agencies, and, in fact, was forced to dismiss dozens of pending citations and decline prosecution on dozens more. Because ABC believes legislative intent is for ABC to issue citations when notified of violations observed by local law enforcement agencies, ABC has prepared a legislative proposal that would allow them to resume this practice.

The ABC is divided into five organizational units: administration/LLA (legal), licensing, enforcement, tobacco, and Office of Special Investigations; the Office of Special Investigations (OSI) is being removed organizationally from ABC and is returning to the Office of Secretary and Dean Reynoldson is returning to the former position as Chief Investigator of OSI and a new ABC Director will assume the position.

There currently are 4,741 active liquor licenses and permits for retail liquor stores, distributors, manufacturers, farm wineries, microbreweries, on-premise establishments (class A clubs, class B clubs and drinking establishments), caterers, special order shippers, suppliers and temporary permit holders. Additionally, 235 temporary liquor permits have been issued to date in FY2015. Charts were provided that summarized active licenses by license type for 2010 through 2015, Gallonage Tax Rates per Gallon, and other related revenue collected by ABC for FY10 - FY14.

The Liquor Enforcement Unit provides investigative services for the agency to effectively enforce the

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liquor laws. There are currently 18 agent positions, of which one is vacant. Enforcement agents are certified law enforcement officers. They conduct criminal and administrative investigations to determine compliance with liquor laws. In addition, agents provide training to licensees, local law enforcement officers, Regional Prevention Centers (RPC) and other interested coalitions; conduct hidden ownership investigations when there is reason to believe the licensee of record is not the true owner, conduct underage enforcement including controlled-buy investigations, bar checks, furnisher checks, investigate complaints, and perform routine compliance checks. Investigations resulting in alleged violations are presented to the County or District Attorney for criminal prosecution against the individual suspect and/or the ABC Assistant Attorney General (AAG) for possible administrative action against the licensee.

The Licensee Administrative Action Unit (LAA) is staffed by the Assistant Attorney General (AAG) assigned to the ABC, a legal assistant and one administrative specialist. The AAG reviews the cases presented by the enforcement section and local law enforcement agencies to determine the appropriateness of the charges and administratively prosecutes violations of the liquor laws before the Director. A table of activity for FY2011 thru the first six months of FY2015 was included.

ABC has accepted the following responsibilities in addition to its statutory requirements:

Cigarette and Tobacco Enforcement (CATE) CATE inspectors perform statewide cigarette and tobacco enforcement activities to reduce sales of cigarettes and tobacco products to minors and ensure compliance with cigarette and tobacco laws. In addition to State CATE objectives, CATE conducts the compliance checks required under the Federal Synar Amendment. Under Synar, the state must maintain a minimum compliance rate of 80% for sales of cigarettes to minors or risk losing a portion of the block grant monies allocated to the Kansas Department for Aging and Disability Services (KDADS) for substance abuse programs.

ABC enforcement agents work with other law enforcement agencies that are conducting illegal drug investigations to ensure proper assessment of the state drug tax and penalty. Three quarters (75%) of drug taxes collected is distributed to the local law enforcement agency that conducted the drug investigation, while the remaining 25% is deposited into the State General Fund.

ABC provided a table of liquor license and permit fees and current 2015 Maps of:

Retailer Licenses

On-Premise Licenses

Liquor-by-the-drink (wet/dry counties)

Dry Cities (No Retail Sales)

Active Distributors Licenses

Farm Wineries and Outlet Licenses

Microbreweries Licenses

Micro-distillery Licenses

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Manufacturers Licenses

Cereal Malt Beverage Licenses On-Premise Retailers licensed & regulated by counties

Cereal Malt Beverage Licenses Off-Premise Retailers licensed & regulated by counties

The next meeting is scheduled January 22, 2015. The meeting was adjourned at 11:25 a.m.