

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairperson Ralph Ostmeyer at 10:30 am on Tuesday, March 31, 2015, 346-S of the Capitol.

All members were present

Committee staff present:

Heather O'Hara, Legislative Research Department  
Connie Burns, Kansas Legislative Committee Assistant  
Joanna Wochner, Legislative Research Department  
Mike Heim, Office of Revisor of Statutes  
Jason Long, Kansas Legislative Research Department

Conferees appearing before the Committee:

Tom Palace, Petroleum Marketers and Convenience Store Assoc. of Kansas  
Mike O'Neal, Kansas Chamber  
Ken Delucca, Dillons Food Store  
Mike Moon, Moon's Hometown Market  
Jessica Lucas, Uncork Kansas  
Karen Washburn, Lenexa, Kansas  
Curt Wright, Taylor Oil  
Whitney Damron, Kansas Association for Responsible Liquor Laws, Inc  
Tuck Duncan, Kansas Wine and Spirits Wholesalers Assn  
Steve Faust, MDI, Wine & Spirits  
Frances Wood, National Women's Christian Temperance Union  
Ron McDowell, Wichita, Kansas  
Brandon Plaschka, Plaschka and Kramer Liquor  
Seth Fox, High Plains Distillery  
Jeff Grantham, Central Wine and Spirits  
Amy Campbell, Kansas Association of Beverage Retailers  
Dean Reynoldson, Kansas Alcoholic Beverage Control  
Philip Bradley, Kansas Licensed Beverage Association

Others in attendance:

[See Attached List](#)

**Discussion and Final Action:**

**HB 2331 Consumption of alcoholic liquor on public property at a catered event.**

Senator LaTurner with permission from the second withdrew his motion from the bill, back on the bill.

*Senator LaTurner moved the State Fair Amendment. Senator Olson seconded the motion. The motion carried. (Attachment 1)*

CONTINUATION SHEET

MINUTES of the Committee on Federal and State Affairs at 10:30 am on Tuesday, March 31, 2015, 346-S of the Capitol.

Senator Faust-Goudeau moved a conceptual amendment to restrict the hours of operation for businesses without liquor licenses where patrons bring their own liquor to midnight. Senator LaTurner seconded the motion. The motion carried.

Staff provided a copy of **HB 2413** that was requested by the ABC Director to be considered that would limit BYOB to only art studios.

Senator Longbine moved the language of **HB 2413** into the bill. Senator Faust-Goudeau seconded the motion. The motion carried. Staff stated that the insertion of this language into **HB 2331** will address the Faust-Goudeau amendment.

Senator Ostmeyer offered the Traveling Vineyard amendment. (see Attachment 1) Senator LaTurner seconded the motion. The motion carried.

Senator Olson moved the Bradley amendment. (Attachment 2) Senator LaTurner seconded the motion. The motion carried.

Senator LaTurner moved to pass **HB 2331** out favorably as amended. Senator Olson seconded the motion. The motion carried.

**SB 298 Alcoholic beverages; enacting the county option retailer's act**

Chairman Ostmeyer opened the hearing on **SB 298**.

Staff provided an overview of the bill.

Proponent:

Tom Palace, Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas, (PMCA of Kansas) appeared before the committee as a proponent on the bill. [\(Attachment 3\)](#)  
The bill after a three year waiting period:

- Allows grocery stores and convenience stores to sell non-3.2 beer
- Permanently freezes retail liquor licenses. Only individuals who meet ABC requirements, liquor store owners or grocery store owners are eligible to purchase licenses. C-store cannot sell wine and spirits
- The transfer of a liquor license shall be located in the same county as the licensed premises. Grocery stores must purchase one of three closest liquor stores in proximity to the grocery store. If no one wants to sell, the grocery store must wait three (3) years and then could buy a

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## CONTINUATION SHEET

MINUTES of the Committee on Federal and State Affairs at 10:30 am on Tuesday, March 31, 2015, 346-S of the Capitol.

license from another store in the same county.

- Allows corporations to own a liquor license. Each store must have a liquor license to sell adult beverages. Class A licenses will be available three years from the date when the county approves proposition.
- Permits liquor stores to sell non-alcoholic products, and liquor store owners can own multiple liquor stores
- 3% of the liquor enforcement excise tax is remitted to cities and counties and sets the guidelines for a County Option vote
- Does not allow for volume discounts and liquor cannot be sold under cost

Mike O'Neal, CEO, The Kansas Chamber, testified in favor of the bill. ([Attachment 4](#)) The Kansas Chamber supports free enterprise and encourages competition; this bill will update the laws and continue to meet the needs of the citizens and encourage competition.

Ken DeLuca, Professor, Vice President of Merchandising, Dillon Food Store, spoke in favor of the bill. ([Attachment 5](#)) The bill is a consumer friendly bill that promotes less government regulation, embraces free market principles, and most importantly advocates for consumer choice.

Mike Moon, Moons Hometown Market, appeared before the committee as a proponent on the bill. ([Attachment 6](#)) Granting liquor stores the exclusive right to sell adult beverages puts small-town grocers in Kansas at a disadvantage and limits the ability to compete in a free marketplace.

Jessica Lucas, Uncork Kansas, testified in favor of the bill. ([Attachment 7](#)) Ms. Lucas stated that the bill is indeed a consumer bill, and that the majority of Kansans desire a change in how adult beverages are retailed.

Curt Wright, Vice President Operation, Taylor Oil, Inc., spoke in favor of the bill. ([Attachment 8](#)) The legislation as first presented 25 years ago; stated that legal age adults should be able to buy alcoholic beverages from where they choose. Mr. Wright is asking the committee to let the voters decide.

Karen Washburn, Lenexa, Kansas, testified in favor of the bill. ([Attachment 9](#)) Ms. Washburn stated that women make up 60% of the wine sales and consumption of the product, and that most women don't feel comfortable entering liquor stores which is typically a male bastion. Ms. Washburn urged the committee to pass this reasonable legislation and move Kansas closer to a promise of a free market business climate.

Written testimony was provided in support of the bill by:

Loren Lance, Owner, Mildred Grocery, Moran, Kansas ([Attachment 10](#))

Patrick Craven, self, Topeka, Kansas ([Attachment 11](#))

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Gary Krueger, Krueger BP, Overland Park, and Garys BP, Kansas City, Missouri ([Attachment 12](#))

Jeff Kraus, Kraus Foods, Colwich, Kansas ([Attachment 13](#))

Bill, Kim, and Ben Carrico, MaMa Cs Grocery, Thayer, Kansas ([Attachment 14](#))

Marty Klenda, Fast Stop Convenience Stores, Kansas City, Missouri ([Attachment 15](#))

Amy Conner, self, Manhattan, Kansas ([Attachment 16](#))

Robert Melcher, Halftime Liquor, Shawnee, Kansas ([Attachment 17](#))

Bob Queen, Liberty Liquor, Hutchinson, Kansas ([Attachment 18](#))

Megan Halstead, self, Topeka, Kansas ([Attachment 19](#))

Aaron Monihen, Alta Vista Market, Alta Vista, Kansas ([Attachment 20](#))

Dwight Gooch, Goochs Food, Tribune and Jerad Gooch, Leoti Foods, Leoti, Kansas ([Attachment 21](#))

Katrina and Scott Miller, Millers Food Store, Sharon Springs, Kansas ([Attachment 22](#))

Kim Rounsley, Manager, Mr. Ks Food Town, Plainville, Kansas ([Attachment 23](#))

Gratz Peters, Pumpn Petes, Parsons, Kansas ([Attachment 24](#))

James Holland, General Counsel, Associated Wholesale Grocers, Inc. ([Attachment 25](#))

Jeff Glendening, Director, Americans for Prosperity ([Attachment 26](#))

The proponents addressed questions and comments from the Committee. Chairman Ostmeyer stated the schedule for the afternoon session.

The meeting was recessed at 12:00 p.m. and reconvened at 1:35 p.m.

**Discussion and Final Action:**

**HB 2097 State fire marshal; search and rescue teams and hazardous materials response teams; tort claims immunity; emergency response fund**

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Chairman Ostmeyer opened the hearing on **HB 2097**; and stated that this is the exact same bill as **SB 62** that had hearings and passed the Senate 40-0 on February 25, 2015.

Staff provided an overview of the bill for the committee.

Chairman Ostmeyer closed the hearing on **HB 2097**.

The Chairman called for a motion.

*Senator Olson moved to pass **HB 2097** out favorably. Senator Faust-Goudeau seconded the motion. The motion carried.*

**SB 298 Alcoholic beverages; enacting the county option retailer's act**

Chairman Ostmeyer continued the hearing on **SB 298**.

Neutral:

Dean Reynoldson, Director of Kansas Alcoholic Beverage Control, (ABC) appeared neutral on the bill. ([Attachment 27](#)) The Director stated that ABC had a technical amendment to the bill, in Section 9; the bill adds definitions for "convenience store, grocery store, and liquor store," and it appears the Director of ABC would have to promulgate rules and regulations to further define what the three stores are and to determine whether a particular business would qualify as such. This has the potential of becoming continuous. Section 18 calls for the Secretary of Revenue, rather than the ABC Director, to revoke a retailer's license when the retail business has failed to operate for a period of 180 days (dormancy clause); the authority rests, under current law, exclusively with the ABC Director.

Philip Bradley, Kansas Licensed Beverage Association, (KLBA) appeared neutral on the bill with concerns and amendments. ([Attachment 28](#)) The bill addresses an issue that KLBA has a vested interest in; the laws governing the retail alcohol sales in Kansas. The on-premised licensees are required to purchase most all their alcohol supplies from a retail liquor store that has acquired a federal wholesaler's permit. The concern is that there is ample supply of places for on-premised licensees to purchase from, and the product mix that will be available to on-premise establishments in rural areas of Kansas.

Nicole Proulx, Aiken, Legal Counsel, League of Kansas Municipalities, provided neutral written testimony on the bill. ([Attachment 29](#))

Melissa Wangemann, General Counsel, Kansas Association of Counties, provided neutral written testimony on the bill. ([Attachment 30](#))

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### Opponent:

Whitney Damron, on behalf of Kansas Association for Responsible Liquor Laws, Inc., (KARLL) appeared in opposition to the bill. ([Attachment 31](#)) KARLL is an association of 30 retailers from across Kansas who created this organization in 2011 to oppose the efforts of Uncork. The retail sale of intoxicating liquors is and should be a state issue and one not delegated to the county level, which will result in unequal enforcement, consumer confusion and devastating consequences for retailers first in the urban markets, but eventually throughout Kansas. County Option is nothing more than a first step for Uncorks agenda, which has been demonstrated year over year expand in new market area and export profits back to their home offices.

Tuck Duncan, General Counsel, Kansas Wine and Spirits Wholesalers Association, spoke in opposition to the bill. ([Attachment 32](#)) The bill will deconstruct the efficient, safe, orderly market of selling package liquor to the general public. It is a system that has consistently provided a stable source of revenue to the state general fund.

Steve Faust, MDL Wine and Spirits, appeared as an opponent on the bill. ([Attachment 33](#)) There are only 20 states that allow the sale of distilled spirits in grocery and big box stores; all of these states have their own set of restrictions on these sales. Some don't allow for separate ingress/egress, others don't allow for the sale of chilled products. This bill has no limits, making Kansas one of the most liberal states concerning distribution and availability of alcoholic products.

Frances Wood, National Woman's Christian Temperance Union Legislative Director, spoke in opposition to the bill. ([Attachment 34](#)) Selling alcohol is NOT like selling lettuce, and she urged the committee to keep in mind the research on more outlets means more consumption of this killer product.

Ron McDowell, self, Wichita, Kansas, spoke in opposition to the bill. ([Attachment 35](#)) As a customer Mr. McDowell does not favor passing a bill to change the laws to benefit big businesses over the family owned liquor stores.

Brandon Plaschka, Plaschka & Kramer Retail Liquor, spoke in opposition to the bill. ([Attachment 36](#)) Many liquor stores represent a family business, which have been in the same place for decades; these businesses are their livelihood and lifelong investment.

Seth Fox, High Plains Distillery, spoke in opposition to the bill. ([Attachment 37](#)) High Plains Distillery in Atchison is a family owned and operated company and the first bottling distillery in Kansas since 1881. Mr. Fox stated that if this bill passes, his products will not be as available to Kansas consumers as the liquor business will be dominated by retailers that focus on large national brands.

Jeff Grantham, Central Wine and Spirits, Wichita, spoke in opposition to the bill. ([Attachment 38](#))

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Every bill that has been developed by the Uncork group has been made to benefit the big box stores and grocery stores, and not the small businesses that have entire families relying on the income from these liquor stores. Liquor store owners are Kansas residents that respect the industry and take pride in being good stewards of the retail liquor industry. For the big box stores and grocery stores this is a category; for the Kansas liquor store owners this is their livelihood.

Amy Campbell, Kansas Association of Beverage Retailers, spoke in opposition to the bill. ([Attachment 39](#)) The cost to Kansas if this bill is passed is:

- Sales tax reduction \$1.9 million (from lost sales of CMB)
- Reduces revenue to local governments and to the State Highway Fund
- State General Fund loss unless sales are increased Impact county by county is impossible to predict
- \$657,967 FY 18 expenditure for ABC
- \$1,293,494 FY 19 expenditure for ABC, offset by license fees, but not appropriated for enforcement
- This does not include lost property taxes, payroll taxes and other direct revenue from the businesses that will close
- Indirect loss to the small businesses that serve current stores

Written testimony was provided in opposition to the bill:

Tom Jacob, Jacob Liquor exchange, Wichita ([Attachment 40](#))

Spencer Duncan, Keep Kansas in Business ([Attachment 41](#))

Pamela Fair, Kansas Families Against Liberal Liquor Laws ([Attachment 42](#))

Michelle Meyer, Kansas Viticulture and Farm Winery Association ([Attachment 43](#))

Jason Watkins, Executive Director, Kansas Beer Wholesalers Association ([Attachment 44](#))

Dave Dvorak, Flint Hills Wine & Spirits, Andover ([Attachment 45](#))

Claudia Peebler, self, Derby ([Attachment 46](#))

Matt Jabara, JTs Liquor, Wichita ([Attachment 47](#))

Stacey Harlow, Twisted H Liquor, Hugoton ([Attachment 48](#))

Jack Matchette and Wally Harris, EZSpirits, Lake Quivira ([Attachment 49](#))

Joyce Jabara, co-owner of a liquor store in Sedgwick County ([Attachment 50](#))

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Detective Sergeant Chris Williams, Montgomery County Sheriffs Office ([Attachment 51](#))

John Stang, Customer and Attorney, Wichita ([Attachment 52](#))

Chad Rolofson, Worldwide Wine and Spirits, Inc. independent Kansas-owned distributor ([Attachment 53](#))

Jason Redden, Accountant, Coffeyville ([Attachment 54](#))

Ross Schimmels, Vice President, External Affairs, Standard Beverage Corporation ([Attachment 55](#))

Tim Liesman, Customer and Attorney, Topeka ([Attachment 56](#))

Chairman Ostmeyer closed the hearing on **SB 298**.

The next meeting is scheduled April 30, 2015. The meeting was adjourned at 2:45 p.m.