



March 24, 2015

To: Senate Committee on Federal and State Affairs
From: R.E. "Tuck" Duncan, co-owner
Kansas Wine & Beer Garden LLC
RE: HB2331

The Kansas Wine & Beer Garden LLC currently has a contract with the Kansas State Fair to sell wines and beers *conditioned on the requirement that we offer for each label of non-Kansas product Kansas made wines and beers*. When the legislature approved this single permit in 2006, at the request of the Fair Board, there was a request for proposals (RFP) process. We were the successful bidder. Since that time we have invested over tens of thousands of dollars in equipment and fixtures and building and garden improvements. Vendors at the Fair provide all such improvements necessary to operate. Also, the Fair receives 25% of our gross sales. In addition to this permit issued and monitored by the Kansas Alcoholic Beverage Control there are several cereal malt beverage vendors with licenses issued by the City of Hutchinson. They sell national brands.

The Kansas State Fair Board did not ask for this legislation. We oppose this provision in Section 5 as drafted.

The primary reason the Kansas Wine & Beer Garden exists is to promote the wine and beer industry in Kansas. Many wineries and breweries over the years have had displays in the Wine & Beer Garden in order to visit with fairgoers about their products. We work with many of them to market their products and make business decisions not always profitable to meet this goal. How does this legislation fit into the Fair's goal of alcohol not being a prominent feature at the fair?

We are not opposed to meeting with the Fair Board and other vendors to discuss any possible changes in the law. As stated, however, we have a contract for 2015. The Fair Board is well aware that we are willing at any time to discuss operational changes, but no one has asked that all affected parties meet and confer on this proposal. This legislation would have a significant impact on the Kansas Wine & Beer Garden, particularly if the contractual restraints imposed on it are not also imposed on the other vendors.

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We think that before the Legislature proceeds the Fair Board should have an opportunity to convene a meeting of all affected parties with the expectation that we will return with amendments satisfactory to all.

Is the intent of the legislation that it is mandatory that all vendors switch to strong beer? How does the expansion of strong beer and wine products on the fairgrounds as a whole impact the Fairgrounds insurance policy? We pay a separate and larger premium than most other vendors

This bill will change the manner in which local distributors operate. Strong beer kegs must be tagged for temporary permit holders, not for CMB licensees, and can only be purchased from a liquor store – not directly from the distributor. How does this effect inventories necessary to meet Fair needs? These are questions that can be answered but have not been examined.

This legislation shifts monitoring of vendors from local to state control. That includes: keg tags, purchasing through a local liquor store, tax collection, licensing and regulation. We already deal with these issues but we don't know if the other vendors are fully aware of these changes, have they had time to consider them for their operation and has the State Fair Board had time to understand how it may or may not impact not just the vendors, but the Fair itself?

Under this bill it changes tax collection: For instance, CMB vendors simply collect sales tax on all items sold, whether it is food or beer. Under this legislation, and how we currently operate, is that three taxes are collected: sales tax on food, drink tax on individual drinks, enforcement tax on Kansas wine bottle sales. We submit separate forms from the one currently used by the Fair to calculate daily sales, a percentage of which is remitted to the Fair every morning. Have vendors had an opportunity to consider how this reporting change impacts their operations? Has the Fair had a chance to figure out how this impacts daily calculations and payment from these vendors?

Since we already have a contract for 2015 this legislation should not be effective this year if it is to move forward. We already have begun preparations for this year's Fair. Candidly, it would be difficult to change some of those arrangements. Our business model has been predicated on these requirements and on promoting Kansas products. If requirements are altered there should be a transition period for us to adapt to this change.

We respectfully ask that you take no action on this legislation at this time and afford us the opportunity to meet and confer with the Fair Board and other affected parties with the expectation that we will return with amendments satisfactory to all. There is a bill in the House Committee on this subject, HB2385, that has not yet been acted upon.

Thank you for your attention to this matter.