TESTIMONY

SB 298
An Act concerning the Kansas liquor control act; enacting the county option retailers act.

Whitney Damron
On behalf of the
Kansas Association for Responsible Liquor Laws, Inc.

Senate Committee on Federal and State Affairs
March 31, 2015

Chairman Ostmeyer and Members of the Committee:

I am Whitney Damron and I appear before you today in opposition to SB 298 on behalf of the Kansas Association for Responsible Liquor Laws, Inc. KARLL is an association of 30 retailers from across Kansas who created this organization in 2011 to oppose the efforts of Uncork. A copy of our membership list is included with this testimony.

It is said a leopard cannot change its spots and the same is true for an Uncork Bill: The words on the page may be different, but the objective remains the same. Uncork's "county option" proposal is simply another iteration of their legislative attempts to convince the state to hand over a significant portion of the retail sale of liquor and the revenues that go with it to some of the largest corporations in the world at the expense of Kansas small business men and women who have responsibly sold intoxicating liquors in our state under a regulatory framework that is more than 60 years old.

Uncork has been advocating for radical changes in our state's liquor law for years and while their proposals have slight differences year in and year out, the bottom line remains the same: Uncork's members stand to take over a substantial portion of retail liquor sales in Kansas and export profits to corporate offices in places like Bentonville, Cincinnati, West Des Moines and Tulsa.

On page one of New Section 2 of SB 298, if a board of county commissioners adopts a resolution or a petition and election for a change for the retail sale of liquor products is successful, a grocery store will immediately be allowed to solicit and purchase a retail liquor license from one of the three closest retailers to their store and after three years, they can obtain a license from any retailer within their county.

We have all been witness to the millions of dollars Uncork has spent in our state for the past five or six years on efforts to advance their legislative agenda through mass media, marketing, hospitality and lobbyists. Does anyone seriously believe a handful of retailers in a given county can successfully stand up to these kinds of efforts in their local communities?

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.

Another suggested selling point by Uncork for their proposal is "value" for existing retailers. Under their bill, a grocery store would be required to purchase a license from one of the three closest retailers to their store. That process will result in an Uncork-designed Dutch Auction to see who will sell their store first and for the cheapest price. But that process ignores the reality of the retail liquor business.

Although the bill says the grocery store has to purchase the inventory of the retailer if they buy their license, this is a very misleading requirement. Retailers that own their buildings or who are in long-term leases, have large inventories of product or who have bank loans will be at a significant competitive disadvantage in selling their business to a grocery store with these liabilities remaining their responsibility versus those who have smaller stores, less inventory, shorter leases, etc.

In three years, grocery stores will be free to purchase a license from anyone willing to sell within their county, which is the same time everyone in the county selling CMB can begin selling high alcohol content beer. By that time, it is incontrovertible that a number of retail liquor stores will be forced out of business by this Act.

The Uncork "buy a license" plan rewards the worst retailers – those with the poorest of locations, those who have failed to reinvest in their businesses over time, perhaps those with the most regulatory citations and those without a succession plan at the expense of the best, most successful retailers who have the greatest investment in stores located in high traffic areas, which in many instances means in close proximity to the very proponents of this legislation. Reward the worst; kill the best.

Another twist in the Uncork bill is the fact it creates a state "takings" in the process of altering the retail sale of liquor products. I call the Committee's attention to New Section 3 (d), found on page three of the bill. If an existing retailer would like to sell or otherwise transfer their store to a friend, family member or any other qualified person for that matter, there is a "tax" associated with the transaction in the amount of $10,000.00 payable to the State.

Another troubling aspect of SB 298 is the fact a retailer really no longer owns their store and will be subject to devastating consequences if they have the misfortune to die without proper estate planning. For example, if a retailer dies unexpectedly and is the sole owner of their retail liquor store, his or her heirs do not "own the license" as it inures back to the state. What they do have is an estate with a building or a lease, inventory and a financial disaster. Under current law, the heirs are allowed to operate the property for a period of time, even if they would not be qualified for a license and the property (i.e., liquor store) could be sold to any other qualified licensee.

Some of you may recall the much touted study by Dr. Art Hall commissioned by Uncork's predecessor organization, the Coalition for Jobs and Consumer Choice, released in January of 2011. Uncork's own study said if their bill were implemented, more than half of the state's retail liquor stores would go out of business and more than 1,500 retailer jobs would be lost (*An Economic Case for Increased Competition in the Sale of Beer, Wine and Spirits in the State of Kansas,* Arthur P. Hall, PhD, January, 2011).

In 2014, my client expended nearly $10,000.00 for a study of HB 2556 by noted economic professor Dr. Kenneth Kriz, the Director of the Kansas Public Finance Center for Wichita State University. Dr. Kriz' study found that HB 2556 would result in a loss of 621 jobs during its initial phase in period and more than 1,800 jobs upon full implementation (*Analysis of the Economic Effects of HB 2556,* Kenneth A. Kriz, PhD, May 2, 2014). I would be pleased to provide that study to the Committee, if you are interested.

Uncork suggests its efforts to take over the sale of hard liquor, high alcohol content beer and wine is nothing more than an exercise in free market principles. Uncork's definition of "free market principles" is substantially different that my understanding of the concept.

First of all, it is noteworthy that Uncork's bill only expands the sale of intoxicating liquors from existing retailers to themselves (grocery stores) and not to other businesses. That limits their competition for obtaining a license from an existing retailer as provided for under SB 298.

Secondly, what about the taxpayer subsidizing the Uncork companies? There are any number of Uncork member stores in Kansas that have received taxpayer subsidies through tax increment financing, community improvement districts and related economic development incentives. The same certainly cannot be said for Kansas liquor retailers. Johnson County legislators may recall in 2014 Hy-Vee sought a special taxing district to subsidize its store at 122nd & State Line Road and when Leawood refused to go along, they simply closed the store and moved down the street to 135th & Roe. This kind of corporate extortion occurs throughout our state on a routine basis.

To illustrate further, Google "Kansas TIF" or "Kansas Tax Increment Financing" and interchange "Dillon's, Wal-Mart and Hy-Vee" and you will find dozens of hits for this subject. You will also find articles highlighting the fact when these corporate giants don't get their way or a store becomes unprofitable, they simply close it down leaving cities and area residents to deal with an abandoned big box store and the crippling effects it has on a retail center (e.g., *Dillon's Closing Two Wichita Stores, Wichita Business Journal*, July 7, 2014; *Hy-Vee Closes its Leawood Store, Kansas City Business Journal*, June 2, 2014).

The current retailer market allows for the greatest competition and market choice. There are approximately 750 retailers in Kansas and no one individual can own more than one store. Under Uncork's proposal, we will see massive market consolidation from these out-of-state corporate giants followed by large chain retail liquor stores, which are prevalent in other states that allow for multi-store, corporate ownership. And as the market consolidates and existing retailers are forced out of business, there will no longer be a need for Uncork's members to buy an existing retailer's license, as they will be there for the taking from ABC as stores close.

It is also important to note the Uncork bill eliminates the restriction on the sale of high alcohol content beer by county option as well. According to KDOR, as of December 1, 2014 there were 1,775 off-premise retailers selling Cereal Malt Beverage (CMB) products. Under SB 298, in counties that adopted a resolution as provided for in the bill, these licensees would be able to sell all beer products, some of which have an alcohol content of 12% or more.

The current regulatory system for the sale of intoxicating liquors in Kansas works. The hype and alleged public outcry for allowing for the sale and promotion of liquor products in grocery stores along with meats, vegetables and sundry items is dramatically overblown by a Madison Avenue-type marketing plan that has clogged up legislator's e-mail SPAM files with technology-driven messages from people blindly following Uncork's suggestions to anyone walling into their store to text a legislator.

County Option is nothing more than a first step for Uncork's agenda, which has been demonstrated year over year – expand in new market areas and export profits back to their home offices.

On behalf of the Kansas Association for Responsible Liquor Laws, we ask you to consider the cost to Kansas business men and women and the impact of allowing for the sale of these adult-only products in grocery and convenience stores and reject SB 298 and all it stands for.

Thank you for your consideration of my remarks.

Whitney Damron

Additional Information:

Fortune 500 (2014 Rankings):

Company	Rank	Corporate HQ	2014 Figures
Wal-Mart	1	Bentonville, AR	$473.1 Billion Net Sales Market Cap: $278.5 Billion*
Kroger (Dillon's)	23	Cincinnati, OH	$98.375 Billion Net Sales Market Cap: $35.23 Billion*
Casey's General Store	389	Accokeek, IA	$6.665 Billion Net Sales Market Cap: $3.5 Billion
			*As of 02/08/15

Forbes Private Companies (2014 Rankings):

Company	Rank	Corporate HQ	2014 Revenue
QuikTrip	27	Tulsa, OK	$11.45 Billion
Hy-Vee	46	West Des Moines, IA	$8 billion

Kansas Association for
Responsible Liquor Laws, Inc.
(KARLL)
2015 Membership List
As of March 1, 2015

DERBY

Derby Wine & Spirits
Dave Binter
(316) 832-5998
Davebinter@gmail.com

GARDNER

Moonlight Liquor
Joe Spinello
(913) 856-5265
spinner24@sbcglobal.net

HAVEN

All Sports Liquor
Ty Miller
(620) 465-2263

HAYS

Kaiser Liquor
Randy Kaiser
(785) 628-2161
rkaiser62@yahoo.com

HUTCHINSON

DJ Liquor
Mike Dick
(620) 665-7483
mjdick10@cox.net

Egbert Liquor
Roy Freeman
(620) 662-4533
kingpin4@cox.net

Knipe Liquor
Stanley's Liquor
Ty Miller
(620) 474-4111
tmiller@team-employment.com

KANSAS CITY

Rogers Liquor
Lance and Jennifer Vogel
(913) 371-7372
rliquors@kc.rr.com

Village West Liquors
Manu Rattan
(913) 721-5288
manu@villagewestliquors.com

LAWRENCE

On The Rocks
Jennie Storm
(816) 616-2713
jcstorm@comcast.net

LEAWOOD

Ranchmart Wine & Spirits
Walter Bethay
(913) 381-9463
ranchmartwine@gmail.com

LENEXA

Valley Wine & Spirits
Leon Roberts
(913) 393-3232
oldcat7@yahoo.com

MANHATTAN

The Fridge Wholesale Liquor
Kevin Neitzel
(785) 539-5052
kdn4040@gmail.com

MISSION

Tipsy's Wine & Spirits
Cathy Hurst
(913) 669-9925
tweetyfin@yahoo.com

Tom Hurst
(913) 669-3655
thurstfc@sbcglobal.net

OLATHE

Brown Bag Liquor
Steve Nelson
(913) 205-2277
steve@brownbagliquor.com

Metcalf Discount Liquor
Brad Faust
(913) 780-4420
bfaust4420@yahoo.com

Party Time Liquor
Jodi Sood
(913) 963-5559
soodjodi@yahoo.com

Top Cellars Wine & Spirits
Chris Johnson
(913) 940-3359
chris.johnson8952@yahoo.com

OVERLAND PARK

Lukas Liquor Super Store
Harry Lukas
(913) 450-8030
boozebiz@aol.com

MDL Wine & Spirits
Steve Faust
(913) 558-7647
sfaust@mdlwineandspirits.com

PITTSBURG

Pairott Head
Richard Pyle
(620) 231-2309
rapco1@cox.net

SALINA

Brooks Liquor
Bret Birdsong
(785) 827-0975
bret@brooksliquor.kscoxmail.com

SHAWNEE

Missie's Discount Liquors
Missie Scott
(913) 962-4893
missiesdiscountliquors@gmail.com

TOPEKA

Devlin's Wine & Spirits
Clayton Devlin
(785) 221-6700
claytondevlin@aol.com

McNeive Retail Liquor, LLC
Sarah McNeive
(785) 286-1245
Sarah1048@msn.com

Vern's Retail Liquor
Aaron Rosenow
(785) 220-5760
rosenowad@gmail.com

WICHITA

ABC Liquor
Rick Daugherty/Jason Webster/Neil Edwards
(316) 304-2262 – Rick
(316) 706-1410 – Jason
(316) 706-5225– Neil
richardcjd@aol.com
jason@abcdiscountliquor.com
neiledwards@cox.net

Burgardt Retail Liquor
Matthew Burgardt
(316) 259-4830
matthewburgardt@gmail.com

Jacob Liquor
Tom Jacob
(316) 636-4566
tom@jacobliquor.com

R & J Discount Liquor
Jeff Breault
(316) 641-1153
jeff@cthb.net