Approved _____
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS.

The meeting was called to order by Representative Robert H. Miller at
Chairperson

1:30 a.m./p.m. on February 15, 1984 in room 526S of the Capitol.

All members were present except:

Committee staff present:

Russ Mills, Research Department
Mary Torrence, Revisor's Office

Conferees appearing before the committee:

Representative Vic Miller
Ken Smith, Attorney General's Office
Kathleen Sebelius, Kansas Trial Lawyer's Association
Dan Lykens, Topeka Attorney
Reverend Taylor, Kansans for Life at it's Best
Jim Clark, Kansas County and District Attorney's Association
Frances Kastner, Kansas Food Dealers Association
Bob Storey, Kansas Beer Retailers Association
Tuck Duncan, Kansas Wine & Spirits Wholesaler's Association
Jack Milligan, Kansas Association of Private Clubs
Darb Ratner, Kansas Retail Liquor Association
Neal Whittaker, Kansas Beer Wholesalers
Chris Graves, Associated Students of Kansas

The meeting was called to order by Chairman Miller.

Representative Vancrum made a motion, seconded by Representative Sallee, that the minutes of the February 9, 13 & 14 be approved. The motion carried.

HB2661 - Liability for furnishing alcohol to minors if damage results

Representative Vic Miller explained the bill and why he introduced it. He suggested an amendment on line 26 to change the "shall" to "may". There was discussion as to who is "negligent" and to what extent. See attachment A.

Ken Smith, Attorney General's Office, gave testimony in support of the bill which will help in reducing alcohol-related accidents and improve compensation to victims. See attachment B.

Kathleen Sebelius, Kansas Trial Lawyers Association, told the committee that this was a positive first step. She introduced Dan Lykens, a Topeka attorney.

Mr. Lykens gave examples of why this bill is needed. He presented a copy of a judgement and news article concerning one of the examples he cited. See attachment C.

There was discussion about putting joint and several liability in the bill.

Reverend Taylor presented testimony in favor of the bill and distributed a news article and a pamphlet. See attachment D & E.

Jim Clark, Kansas County and District Attorney's Association, gave testimony in support of the concept of HB2661.

Frances Kastner, Kansas Food Dealers, gave testimony in opposition to the bill. See attachment F.

Bob Storey, Kansas Beer Retailers Association, gave testimony in opposition to the bill and said that the enforcibility of this bill would be next to impossible. He stated that joint and several liability should be in the law not just in this bill. Attach G

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS,

room 526S, Statehouse, at 1:30 a.m./p.m. on February 15, 1984

Tuck Duncan, Kansas Wine & Spirits Association, gave testimony in opposition to the bill. Each of these situations is a case by case problem and should not try to make a broad statement of liability by statute - should be handled in the court room.

Jack Milligan, Executive Director Kansas Association of Private Clubs, appeared in opposition to HB2661. The law clearly provides sufficient deterrents for club personnel to do everything possible to prevent minors from entering their establishments; there seem to be less deterrents to discourage minors from attempting unlawful entry. See attachment H.

Darb Ratner, Kansas Retail Liquor Association, gave testimony in opposition to the bill. He said that their association has seminars and annual meetings to compaign against selling to minors. Most owners and operators are honest sincere people under the constant threat of license removal.

Hearings on HB2661 were concluded.

HB2660 - Limitations on sales of 3.2 beer
HB2790 - Limitations on sales of 3.2 beer and alcoholic liquor

Representative Vic Miller explained his bill and why he introduced it. Both bills deal with "Drink & Drown" nights.

Neal Whittaker, Kansas Beer Wholesalers, gave testimony in support of the concept of the bills. There is no place in the marketplace for these and they should be eliminated in provate clubs as well. See attached amendment I.

Chris Graves, Associated Students of Kansas, gave testimony in support of these two bills. Both of these bills attempt to address the problems of alcohol abuse and drunk driving of all individuals. See attachment J.

Tuck Duncan, Kansas Wine & Spirits Wholesalers Association, gave testimony in opposition to these bills. Mr. Duncan said these bills would be unenforcable and that they do encourage moderation in their Association.

Hearings on HB2660 and HB2790 were concluded .

A

Session of 1984

HOUSE BILL No. 2661

By Representatives V. Miller and Laird

1-9

AN ACT imposing liability for certain damages on persons selling or furnishing alcoholic beverages to a minor.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) As used in this section, "alcoholic beverage" means alcoholic liquor as defined by K.S.A. 41-102 and amendments thereto or cereal malt beverage as defined by K.S.A. 41-2701 and amendments thereto.

(b) If a minor, while under the influence of alcoholic beverage, causes death, personal injury or property damage to another, the sale or furnishing of any alcoholic beverage to the minor shall be considered to have been causal negligence to the extent that the influence of the alcoholic beverage contributed to the death, injury or damage.

(c) The provisions of this section shall not apply in actions brought by or on behalf of a parent or guardian of the minor.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

the

may

A

Atch. A

B

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

February 15, 1984

The Honorable Robert H. Miller
Chairman, Federal and State Affairs Committee
Room 115-S State Capitol
Topeka, Kansas 66612

Dear Representative Miller:

I would like to thank the committee for the opportunity to express my views on House Bill No. 2661. I support the measure. I support the measure because I believe it will help in reducing alcohol-related accidents and improve compensation to victims.

The measure proposed would place an added incentive to comply with present law, on those in the alcoholic beverage business. The measure proposed would also ensure that choosing to ignore the law and wink at underage drinking and driving will no longer be cost effective. I consider the proposal both practical and wise.

Underage drinking drivers are overrepresented in accident statistics and it is reasonable to reduce the availability of alcoholic beverages to minors by reducing commercial incentive.

When the law is ignored and alcohol sold or furnished to a minor, the risk to all Kansas citizens using the roadway is increased. It is only fair that those who place society in danger be held accountable for the carnage to which they contribute.

Atch. B

In short, I believe the proposal will contribute to saving lives and more fairly apportion responsibility to those who are in the best position to prevent tragedy and choose to ignore the problem. By applying only to those who break the law, the proposal would also reward the responsible and the careful. I believe the measure under consideration is worthy of support and urge its passage.

Very truly yours,

Robert T. Stephan
Attorney General

RTS:may

Youth given one to five years for five-fatality Perry crash

By The Capital-Journal staff

OSKALOOSA — An 18-year-old Topeka man was sentenced Thursday to 1-5 years in the custody of the secretary of corrections for his part in a five-fatality traffic accident last May west of Perry.

Larry D. Haggerman, 1836 G. St., was ordered to surrender Monday to Jefferson County Sheriff Carl Eisenhower to begin serving his sentence.

District Judge John Brookens allowed Haggerman to remain free on bond until Monday to get his personal affairs in order before beginning the prison term.

Brookens rejected arguments by Haggerman's attorney, Charles S. Fisher Jr., Topeka, for probation.

"He's got to live with this a long time," Fisher said. "He's got an emotional scar that will be with him a long time. There is plenty of room for remorse, plenty of room for society getting even with him without sending him to jail."

Jefferson County District Attorney John Bork argued that Haggerman should serve time in jail because of the seriousness of the crime.

Late last month Haggerman pleaded no contest to a single charge of involuntary manslaughter and was then found guilty. The state dismissed four other counts of involuntary manslaughter and three traffic charges, including one of driving while intoxicated.

Haggerman was the driver of a car which collided with a small pickup May 12 on US-24 near Perry.

Killed were Frankie N. Crouch, 29, Burlington, the driver of the truck; Heidi M. Brouhard, 11, and Wendy A. Brouhard, 3, both of Lecompton passengers in the truck; and two passengers in Haggerman's car, Sandra Hardy, 13, 1812 F. St., Topeka, and Virginia E. Collyge, 13, 1535 N. Harrison, Topeka.

Haggerman and two other passengers in his car, Cindy Hardy, 15, 1812 F. St., Topeka, and Sam Edmonds, 20, 1314 E. 23rd, Topeka, were injured.

Five civil lawsuits have been filed in Shawnee County District on behalf of persons involved in the crash.

Atch. C

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION THREE

CINDY HARDY, et al, Plaintiffs, vs LARRY D. HAGGERMAN, et al, Defendants. (Defendant Dechand and Defendant Kelly)	)	Nos. 82CV639, 82CV653, 82CV685, 82CV690, 82CV730, 82CV748, 82CV863

MEMORANDUM DECISION AND ORDER

This case comes before the Court on the defendant Dechand's motion for summary judgment and the defendant Kelly's separate motion for summary judgment. Both summary judgment motions raise the same issues and will be dealt with together. After due consideration of the record, the Court denies the motions for summary judgment for the following reasons:

1. "Summary judgment is proper only if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. K.S.A. 60-256(c)." Panhandle Agri-Service, Inc. v. Becker, 231 Kan. 291, 295, 644 P.2d 413 (1982).

2. The pleadings show that the claims against both defendant Dechand and defendant Kelly are based upon negligence.

3. The plaintiffs claim that the sale of liquor to a minor in violation of the criminal statute, K.S.A. 21-3610, is negligence per se. The Court does not agree for the following reasons:

Kansas enacted a statutory Dram Shop Act in 1868. (G.S. 1868 Ch. 35 Sec. 10). In 1949 the Dram Shop statute was repealed and the same act of the legislature prohibited the sale of liquor to minors. (L. 1949 Ch. 242 Sec. 115 and 78). Since the repeal of the Dram Shop statute in 1949 no Kansas Appellate Court decisions have dealt with the issue of civil liability for the sale of liquor.

By their repeal of the Dram Shop statute the legislature clearly intended that there no longer be strict liability upon those who sell

liquor. The Dram Shop statute allowed recovery for "all damages actually sustained" by the acts of an intoxicated person. This was a strict liability standard since no negligent conduct on the part of the liquor seller needed to be shown.

The Act of the 1949 legislature in repealing the Dram Shop statute does not preclude the use of ordinary negligence standards (not strict liability) to govern the conduct of those who sell liquor. Violation of K.S.A. 21-3610 by selling liquor to a minor is evidence of negligence that a jury may consider in reaching its decision. Whether or not the defendants Dechand and Kelly sold liquor to Haggerman in violation of K.S.A. 21-3610 is a material question of fact. This factual question is not conclusively resolved by reading the record. The cash register tape and Dechand's deposition show no such sale but the statements of Edmonds and Cindy Hardy are evidence that the sale took place. Since the depositions on file in the Clerk's Office show that a dispute exists as to this material fact the motions for summary judgment must be denied.

4. The jury is not limited to the possible violation of K.S.A. 21-3610 in determining whether defendants Dechand and Kelly acted negligently, but they can consider all evidence tending to show negligence. The pleadings raise the following issues which are based upon disputed facts. Whether Dechand Liquor Store or Frank Kelly was in the custom of selling liquor to minors? Whether Dechand negligently hired, trained and supervised his employee Frank Kelly? Facts dealing with these issues should be considered by a jury in deciding upon defendant Dechand's and Kelly's possible negligence.

5. The question of causation is also in dispute. Did the sale (if it actually happened) of liquor to Haggerman contribute to the cause of the accident or was it caused by separate and unforeseen circumstances? This is a factual question for the jury.

6. The Court recognizes that a trend exists towards harsher treatment of alcohol related offenses. This trend is evidenced by the new Kansas D.W.I statute and the many alcohol related bills that

have been introduced in the Kansas legislature. By this Court's count over 35 states now have a Dram Shop statute or have judicial case law allowing liability. The recent trend is in favor of allowing liability and is evidenced by the fact that within the past 13 months Alaska, Arizona, South Dakota and Wyoming have all judicially opened the door for liability based upon liquor sales in violation of a statute.

The Court by its decision today does not seek to judicially impose a Dram Shop Act. Imposition of a Dram Shop Act providing liability without fault is best left to the Kansas Legislature or the Kansas Supreme Court. The Court merely finds that under ordinary common law negligence standards, a liquor store owner or employee could be guilty of negligence in selling liquor to a minor. Kansas' Comparative Negligence System requires a jury to weigh the negligence of all persons involved and determine the percentage that each is at fault. The negligence, if any, of defendants Dechand and Kelly should be compared to the negligence of the other parties.

This decision will be the Order of the Court and no Journal Entry will be required.

Dated this 17 day of January, 1984.

E. Newton Vickers
District Judge
Division Three

TO:
Mr. Dan Lykins
Mr. Cary Standiferd
Mr. James Nordstrom
Mr. Wm. Larson
Mr. Eugene Ralston
Ms. Sondra Newsom
Mr. Dean Burkhead
Mr. Frank Forbes
Mr. J. H. Eschmann
Mr. Robert Duncan

Saddest fact of all is that Wichita leads the nation, in cities of its size, as a convention center. Apparently it's the fine convention facilities instead of more booze (although frankly I haven't really noticed conventioneers going thirsty).

Now some people say it's hard to enforce the present laws. So they propose selling liquor in cafes, restaurants and hamburger stands. That will make it a lot easier, because there's only 8000 places that sell food in Kansas. It will give a lot of jobs to enforcement people, too--deciding how old all the kids have to be, what time the places have to close, how much food they can sell and still be called a restaurant, instead of a saloon.

Push our most abused drug. Push liquor by the drink. Elect lawmakers who will vote for submission of a drug pushing amendment. That is the only way we can catch up with the rest of the nation!

- -

There is a close relationship between per capita consumption of alcohol and alcoholism prevalence.

Addiction Research Foundation
Toronto, Ontario, Canada

- -

Persons who push and defend alcohol refer to us scornfully as a "single issue special interest group." That is correct. Our special interest is the single issue of reduced human misery.

- -

KANSANS FOR FREEDOM FROM DRUG SUFFERING
218½ West 6th Avenue, Topeka, KS 66603
(Please reprint part or all of this material, hand or mail it to others, or request extra copies from Topeka.)

Atch. D

This explanation of a NO vote on submitting a liquor by the drink amendment is the position of a Wichita Senator who is concerned for people. (Clipping from THE WICHITA INDEPENDENT, February 14, 1975, page 3.)

Sen. Billy McCray, 29th district, who voted for the proposal five years ago, said no this year. "Five years is quite a while to think about a lot of things and I have some personal convictions about liquor by the drink," he told *The Independent*.

"I do believe that if you make it more available, there will be more liquor consumed. And I believe that more places for people to get liquor, for example, bars or clubs or what have you, restaurants, drug stores or wherever you have it, there's a chance that more people will become involved with drinking. Since I believe that alcohol in itself is a drug and that it's not good for human consumption, then I had to vote against it.

"One thing that caused me to change my mind," McCray continued, "is that I'm serving on the Kansas Commission on Drug Abuse and we're going pretty thoroughly into the liquor thing. And alcohol is probably the most abused drug that there is. And if I'm to be consistent in my thinking, and hopefully trying to do something for the people, then when I made this judgment, I think I had to make it to be opposed to liquor by the drink.

"Some of the voters will probably wonder why, some of them will be unhappy with me because they didn't have the opportunity to vote on it, but we don't send all the issues back to the people to vote on. Sometimes we have to make major decisions. This is a decision I made and I'll stand by it. It's just a personal conviction."

RELAXED LAWS PROMOTE ALCOHOLISM

Wednesday, January 21, 1976
MEDICAL TRIBUNE

EDITORIAL CAPSULES

. . . brief summaries of editorials or comments in current medical and scientific journals.

Alcohol Control

". . . Students of alcohol usage and alcohol control often point with distaste to the enormous, and seemingly random, variation of regulations and prohibitions embodied in the laws of this country's 50 states and thousands of political subdivisions. It has generally been agreed that a uniform national policy of alcohol control would be substantially neater and more sensible. Yet, given the present state of knowledge about the effectiveness of control mechanisms, greater uniformity has only neatness to recommend it. . .

"So promising and straightforward is the simple syllogism of reducing alcoholism by reducing total social consumption that it is painful to realize that there appears to be no way to make it work in the near future. Over the longer run, however, the prospect is so appealing that future research and experimentation should be strongly supported. Systematic research into alcohol control policy is only beginning, but its ultimate potential is too great to ignore. . ." *(Editorial, Bruce C. Vladeck, Ph.D., Am. J. Public Health 65:1340, Dec., 1975).*

(Clipping from Dr. James Ruble, Jr., Overbrook)

Kansans are thankful for legislators who vote to maintain our restrictive control laws-the best in the nation. With per capita consumption cut to half the national average, Kansas is the leader in reducing alcoholism by reducing total social consumption.

b

The average social drinker is not profitable enough to the beverage alcohol indu cy. Harvard nutritionist Jean Mayer called for Americans to limit themselves to one drink at cocktail parties so more grain could be used to feed starving children around the world. The industry called a news conference - MODERATION WOULD BE BAD FOR BUSINESS!

Getting persons drunk is profitable because increased numbers become addicted or dependent. These problem drinkers consume some 80% of total volume sold. If users limited themselves to one drink, new alcoholics would not develop and the industry would lose 80% of future sales.

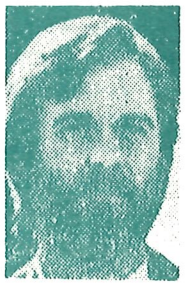
Alcoholism will be reduced when getting persons drunk is no longer profitable, as in the James Stacy case.

2A THE KANSAS CITY TIMES Monday, June 21, 1976

Judge Won't Cut Damages

A Superior Court judge has refused to reduce the $1.9 million in damages to be collected from a Beverly Hills bar in connection with an accident that maimed James Stacy, actor.

Stacy won the settlement from the Chopping Block Bar after he lost his left arm and leg in a motorcycle accident involving a patron of the bar. The patron, Carter B. Gordon, pleaded no contest to charges of drunk driving and manslaughter and is serving a 5-year term in prison.



STACY

Judge Charles Church said the case has implications that "cast a very heavy burden on bars and restaurants which serve alcoholic erages."

(Clipping from Vearl Jones, Jr., K.C.K.)

Thursday, June 24, 1976 Houston Chronicle Section 1, Page 21

Rand alcoholism report called 'cruel'

Evanston, Ill. (AP) — A Michigan authority on the treatment of alcoholism assailed a study by the Rand Corp. which found that some alcoholics can return to normal drinking.

"It is cruel to bring out a report that is so much at variance with wide experience," said Dr. Richard C. Bates of Lansing, an internist who has treated alcoholism and other addictions for 18 years.

Bates is also chairman of the Michigan state medical society's committee on alcoholism and drug addiction.

Bates said there is no scientific way to determine whether an alcoholic can drink safely, and that the recent Rand study followed alcoholics for only 18 months.

"It suggests to alcoholics that they have been sold a bill of goods" by those who have been treating them, he said.

He said also that it "frightens all of us" in the area of alcoholism treatment because it leads alcoholics to believe that they can drink socially.

At best, he said, only 3 to 5 per cent can drink on this level without reverting to excessive drinking. It is like cigarette smoking, Bates said, in that it is extremely difficult for a person who smokes a pack a day to smoke only three cigarettes.

Beverage alcohol is a popular drug because persons like the way it makes them feel. The beverage alcohol industry appreciates this sort of report. Alcohol addicts consume some 80% of total volume sold. Quitting cuts deeply into sales.

If an alcoholic believes moderate drinking can be practiced, the industry profits greatly as most become drinking alcoholics again.

Those who personally profit from promoting gambling or pushing alcohol tell us it will solve problems. New York has most forms of legalized gambling. Alcohol is sold and consumed in most places. It has not solved their problems.

KANSAS FALLS BEHIND NATION IN DRINKING

By Richard B. Wilke, Pastor
First United Methodist Church, Wichita

We're falling away behind the rest of the nation. Some people might think we have plenty as it is, what with package stores and private clubs. But actually we're not drinking near enough.

Did you know that in the USA 50 percent of all highway fatalities involve alcohol impaired drivers, but in Kansas only 22 percent involve alcohol. We need to have our restaurants, motels, and cafes pushing alcohol if we ever hope to catch up.

Did you know that we Kansans don't pay as much for automobile insurance premiums as other folks. In fact we're 46th lowest in the country. If we would drink more we could raise those premiums.

We're not dying fast enough either. Deaths by cirrhosis of the liver were 1 in 60 in the U.S.; in Kansas only 1 in 103. Our whole consumption level needs to be increased. We only consume 2.16 gallons per person a year compared to the contry-wide average of 4.76 gallons. And our health is so doggone good it's embarrassing. Why only Hawaii has less deaths due to heart disease, cancer, stroke and motor vehicle accidents.

We're not experiencing our fair share of economic loss due to alcohol abuse and alcoholism. We do not have enough alcohol impaired workers to cut our productivity down to the national average. We do not have our share of job absenteeism. We're saving $150 million a year and more because per capita consumption in Kansas is half the national average.

Laws crack down on liquor servers

By TIMOTHY HARPER
Associated Press Writer

It is well after midnight. The hugging, hollering and horn-blowing are over. One of the serious drinkers staggers up to the bar, thrusts forward an empty glass, and slurs, "C'mon, buddy. One more for the road."

It is a scene that will be repeated many times tonight: in nightclubs, taverns, fraternal halls, as well as suburban rec rooms.

"This is normally the worst night of the year for drunken driving," said Clay Hall, a spokesman for the National Highway Traffic Assn. He said more than 200 people will die in New Year's Eve traffic accidents related to drunken driving.

But more and more people behind the bar, professional or otherwise, will refuse to pour that last drink because of the growing public outrage against drunken driving — and the growing number of lawsuits against bartenders and hosts who serve drinks to drunks who drive.

Perhaps the biggest of those cases was decided last May, when a chain of convenience stores agreed to pay $10.5 million to a 17-year-old San Rafael, Calif., girl left in a coma after the car in which she was riding struck a tree. Her family claimed the driver, who was killed, was obviously drunk and should not have been sold beer by a store clerk earlier in the evening.

CALIFORNIA AND 34 other states have "dram shop" laws which make it easier to sue people who serve alcohol to drunks and easier to collect money damages for injuries the drunks cause.

"Dram shop laws are intended to cover the bartender who just keeps serving, who never checks on how drunk someone is," said Bob Reeder, an attorney for the Northwest Traffic Institute in Chicago.

Ron Beitman, a Falmouth, Mass., attorney who edits a newsletter called the "Dram Shop Reporter," said about half those states allow only injured third parties to sue bartenders, but about half allow drunks to sue for their injuries, too.

He cited a Massachusetts case in which a bartender kept serving martinis to a man who was obviously drunk. The man tried to dance on the bar, and the bartender had to pay the medical bills for the man's broken leg.

In a recent case in Ohio, an 18-year-old woman was awarded $700,000 for the brain damage and paralysis she suffered in an auto accident following an Ohio State University fraternity party at a Columbus hotel. She got $550,000 from the hotel, $137,500 from the fraternity and $12,500 from the 19-year-old fraternity member driving the car.

COURTS HAVE also held bars and bartenders liable in connection with assaults and robberies committed by drunks, and a recent New Jersey case said a bar owner had to pay damages after serving a drunk pilot who got into his plane, buzzed the tavern a few times and then crashed.

Beitman said most dram shop laws were written in the 1930s, after Prohibition ended, but some, like New York's are more than a century old. However, he said, the number of dram shop lawsuits across the country has tripled in the last three years, and typical damages are $100,000 or more.

"Since the anti-drunk driving movement has been at the forefront, more lawyers are using these laws," Beitman said.

He said it is still rare for a "social host," a private person giving a party for friends, to be held liable for damages.

"BUT THERE are some laws in some states that apply to the hosts of private parties," said Brian O'Neill, senior vice president of the Insurance Institute for Highway Safety in Washington.

Michigan has a state law holding "any person" responsible for "selling or serving" alcohol to anyone who is already intoxicated. In one Michigan case, a company hosting a business luncheon in a restaurant was ordered to pay damages for an accident caused by two visiting businessmen who got drunk.

In New Jersey, a 1976 case said a homeowner throwing a party was liable for serving alcohol to minors but not to adults, and a 1982 case said an off-duty bartender was liable for a private party in which he allowed a guest to drink 12 gin-and-tonics and then drive away.

There have also been cases where people who didn't even serve a drink got into trouble. In Colorado, a man who helped a drunk jump-start his car was held responsible for damages when the drunk later had an accident. And in New Hampshire, a man faced criminal charges of negligent homicide after loaning his car to a drunken friend who was subsequently involved in a fatal accident.

When a Minnesota snowmobiler died in a collision with a drunken teen-ager's car after a private party, a court said the homeowner was not liable because the under-age driver had brought his own liquor. The court left open the question of whether the homeowner would have been liable if his 16-year-old daughter, who was throwing the party while the parents were away, had provided the alcohol.

Atch. E

Court rules bartenders liable for drunk patrons

ST. LOUIS (AP) — In a decision stemming from a policeman's death in a hit-and-run accident, the Missouri Court of Appeals has ruled that tavern operators are responsible for the actions of their intoxicated customers.

"One would have to be a hermit to be unaware of the carnage caused by drunken motorists," the three-judge panel said in its ruling Tuesday.

The judges ruled in favor of Susan Reifschneider, whose husband was killed in 1977 while standing on the shoulder of Interstate 270. The driver of the car that hit him was sentenced to six years in prison after pleading guilty to manslaughter.

The ruling overturns the dismissal of a $500,000 lawsuit Mrs. Reifschneider filed against the driver and two taverns.

Courier Journal---Feb. 10, 1983
LOUISVILLE, KENTUCKY

TAVERN OWNER FINED $452,500

The owners of an Eastampton Township, New Jersey tavern agreed to pay the bulk of a $468,200 out-of-court settlement to the widow and daughter of a man who was killed when his car was struck by a drunk driver three years ago.

All but $15,700 will be paid by the Corral Bar, according to Cherry Hill attorney M. Craig Aronberg, who represented Sandra J. Williams of Mount Holly.

The balance of the settlement will be paid by the insurance carrier for George McMullen of Atco, who was driving a pickup truck that crashed into Donald William's car around 2:30 a.m. on June 14,, 1980. Williams, age 21, was pronounced dead at the scene of the accident.

The out-of-court settlement was approved by Superior Court Judge Mary Ellen Talbott.

According to documents filed in the case, McMullen was among several men completing a two-week tour of duty with the New Jersey National Guard on June 13, 1980.

After being dismissed, the men drank for several hours at a bar at Fox Dix and then drove, in McMullen's truck, to The Corral Bar, where they remained until 2 a.m.

The complaint filed by Aronberg charged the owners of the bar with continuing to serve drinks to McMullen after he was drunk, thereby failing to take reasonable steps to protect McMullen and the public.

Williams was stopped in his car at a red light at Eastampton Road and Hanover Street in Pemberton Township when McMullen's truck hit him. In addition to his wife, Williams was survived by a daughter, now 4 years old.

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Kansas Food Dealers' Association, Inc.

2809 WEST 47th STREET SHAWNEE MISSION, KANSAS 66205
PHONE: (913) 384-3838

February 15, 1984

HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

OPPOSING HB 2661

Thank you for the opportunity to appear before you and to be able to bring you our views on HB 2661. Our OPPOSITION to HB 2661 has to be philosophical since we have stressed to all our members that is ILLEGAL to sell cereal malt beverages to a minor. We also urge them to check ID's in cases where they are in doubt as to the age of their customer.

As you are all aware, there is no great difficulty in obtaining a false ID. If one of our grocers did happen to sell to a minor, UNKNOWINGLY, because of the false ID card used by the purchaser, we DO NOT BELIEVE that the grocer should be held responsible for what happens AFTER the purchase is paid for and the customer has left his place of business.

I can't believe that our grocers, who are usually members of various civic organizations interested in promoting a better community, would sell beer to a minor. But, on the premise that the minor DID purchase the beer with a false ID, and was completely sober at that time, how can you then say that by merely selling that cereal malt beverage at an EARLIER TIME would make the grocer partially responsible for the accident caused by his customer?

The bill makes no provision as to the time frame involved in the sale insofar as the consumption of the beverage and the time an accident was caused while under the influence of an alcoholic beverage. I know of no way to determine if the person became intoxicated on beer bought at a grocery store, or alcohol purchase at a liquor store that could have been purchased by someone over 21.

We see passage of HB 2661 as setting a dangerous precedent, and urge you to NOT recommend HB 2661 for passage. Thanks you.

****

Atch. F

TESTIMONY REGARDING HOUSE BILL 2661
BEFORE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
BY BOB W. STOREY
REPRESENTING KANSAS BEER RETAILERS ASSOCIATION

MEMBERS OF THE COMMITTEE:

First, I would like to say to the committee that the idea of legislation such as House Bill 2661, commonly referred to as the "dramshop" act, has been proposed by the legislature over a long period of years.

The idea, or at least the hoped-for result, of a dramshop act is to prevent the sale of alcoholic beverages to those persons who are intoxicated (whatever that term may refer to) and minors. House Bill 2661 attempts to place the liability for any damages caused by a minor to a third party, upon a licensee, retailer, tavern owner, or any person who sells, gives, or serves any alcoholic beverage to that intoxicated minor.

There are many legal implications raised by the proposal of House Bill 2661, as there have been in the past by all proposed dramshop legislation.

First, the bill proposes to make a person who sells or furnishes alcoholic beverage to a minor completely responsible (and under the language it shall be considered to have been "causal negligence") for any damage done to a third party by a minor to the extent that the influence of the alcoholic beverage contributed to the death, injury or damage. This would be

clearly unenforceable in a court of law, since the burden of proof to show which person furnished the alcoholic beverage which contributed to the alcoholic state of the minor who caused the damage cannot be sustained, and a judge or jury would be completely confused by the language contained in the legislation.

Let's take the example that a minor is served beer at a certain tavern illegally at the beginning of the evening, and then proceeds to go to six or seven different taverns, which is not unusual, and obtains beer. Later that evening the minor injures another person, either by an automobile accident or other means, and an action is brought to recover damages because of the injury. Whom in the world does the plaintiff sue to show that there was a causal connection between the alcohol served and the injury? If in fact the plaintiff sued all six taverns, then he or she would have the burden of proof of showing that they all contributed to the causal negligence related to the accident. Or in fact does the plaintiff sue only the last tavern wherein the minor had a drink, and state that as a result of the last bottle of beer the minor is responsible for the injury to the other person?

What you are really saying in House Bill 2661 is that if a minor is sold or furnished alcoholic beverage and later causes death or injury to a person or property, then that person who sold or furnished the alcoholic beverage is guilty per se. This would be a ridiculous assumption in our law, since our law as developed through the English common law directly into this country states that there has to be a direct causal relationship

between negligence of a person and damage to another before recovery can be had against the defendant. In this case you are stating that simply because a minor is served alcoholic beverage, the person furnishing the alcoholic beverage is guilty regardless of whether or not the sale or furnishing of the alcoholic beverage was a contributing factor to the accident. Taking this a little bit further, if a minor had a beer at twenty different places, then all twenty of the taverns, clubs, or retailers would have to be sued, since they all could have a causal connection between the minor and the damage. As you can readily see, there is no way this could be enforced in a court of law.

Let's take another example which would be in the instance of a nonprofit club which is a religious, fraternal, or country club. If this act refers to a minor being served by an employee of one of these organizations, does this mean that the nonprofit organization, such as a country club, Elks, American Legion, Knights of Columbus, and others would be liable for any damage done by a minor who was served by one of those organizations? In the case of a nonprofit club, it would be very difficult to determine liability. There is no ownership of an organization such as this; it is only a membership club which operates as a nonprofit organization and is normally regulated by a Board of Directors. Who then would share the responsibility if the terms of this act were violated? There is no known person or entity that owns the club; therefore, it would be difficult to impose liability upon the organization.

Again, let's take the case of a private party wherein a group of individuals are asked to attend a function. The host or hostess is having a party to help further business interests or for promotional purposes. The individual or entity hosting the party is not charging for any of the alcoholic beverages served, but unknowingly serves alcoholic beverage to a minor. The minor either is present with another individual or is there maybe with his or her parents, and of course the host or hostess has no obligation or even any compunction to check for an identification card. If in this case the minor after consuming alcoholic beverage, leaves and damages another party, then that host or hostess would be responsible for all damage and injury caused by the minor, simply because they served an alcoholic beverage to said minor.

We could go on and on with this matter. As stated above, let's take the case of a charitable event. I am sure that each of the committee is fully aware that there are many charitable events at which money is attempted to be raised for good causes, and which events usually result in the serving of cocktails. Or, let's take another example of a political rally, such as those popular throughout the state and in all other states in the union, where cocktail parties are thrown for the benefit of a particular candidate or candidates, either by a group or by an individual, in a private home or on premises leased or donated for these purposes. In either one of these two cases, either charitable or political, there is liability imposed by House Bill 2661 on an individual or entity serving alcoholic

beverages to a minor if he or she causes damage to a third party after the consumption of said alcohol.

One of the ingredients which is left out of House Bill 2661, which appears in much of the legislation in this state, is the word "knowingly." In this day and age with the fake identification cards and the altered identification cards which minors now use, and with the physical appearance that minors have which commonly could pass them as adults, you would be placing a burden upon one who gives or sells an alcoholic beverage, even a beer, to a minor by making that person liable for damages if the minor later is involved in an accident or causes damage to another person or property, even if the individual selling or furnishing the alcoholic beverage may have truly believed that the individual involved was 18 years of age or older. You are placing a person in the possible position of selling a 17-year-old a bottle of beer, when the person selling the same may have thought the purchaser was 18; and later if the purchaser has an accident and causes damage to another, the person furnishing the beer or cereal malt beverage could be found liable. How in the world can you distinguish between a 17- and 18-year-old in this day and age? Or a 20- and 21-year-old, for that matter?

Let's take another very obvious example of how this bill could work to the detriment of anyone in the business of dispensing cereal malt beverage. As this committee is well aware, it is not against the law for a minor to be present in a tavern in the state of Kansas which dispenses 3.2% beer. Let's

say that a 19-year-old takes a 17-year-old into a tavern within the state of Kansas and orders a pitcher of beer for himself and later serves that beer to the 17-year-old. You can see immediately that the tavern owner did not serve the beer to the 17-year-old or did not sell the same to him. Yet if the 17-year-old became intoxicated upon the beer provided to him by the adult and later caused an accident, then it would follow that the tavern owner would most likely be sued, since it would be alleged that he or she served cereal malt beverage to a minor.

As pointed out above and as you can readily see, this bill would be a nightmare to law enforcement officials and would heavily burden them with lawsuits joining as a party defendant the licensee, retailer, tavern, or club owner in all lawsuits where a minor causes damage to a third party.

There is no question but that this bill would be a great boon to insurance companies and to a certain segment of our legal profession who thrive on all plaintiff's lawsuits and file on each and every opportunity afforded to them. I submit to you that one of the problems with this legislation is that all individuals, tavern owners, charitable organizations, country clubs, and any other entities which may sell, dispense, or give away alcoholic beverages would have to have a large insurance policy in order to protect themselves in this possible lawsuit.

I am the first to realize, and I am sure this committee can understand, that this bill would be a great boon to the insurance companies and to those who classify themselves as plaintiff's attorneys. It would place an individual in the

position that if in fact he or she had any cocktail parties for personal, charitable, or political reasons and served alcoholic beverages to a minor, that individual would have to carry insurance for the particular purpose, since he or she might be sued later if that minor is involved in an accident and does damage to a third party. Also, a tavern owner, a charitable organization, or a religious organization such as a church, also would have to be insured, since they could be sued for the same reason. I know as a practical matter that there are many members of my profession who would file a lawsuit if the defendant were covered by insurance, and would not file the same if there was not insurance. This is simply because that attorney would determine there was no reason to file a lawsuit if there were no insurance, since there would be no way to recover damages. I am sure most of you know that because of the high cost of litigation, many lawsuits are filed in anticipation of settlement. As a matter of fact an insurance company does settle those cases rather than try the same, which results in higher premiums to those of us who are not even involved in the lawsuits. If House Bill 2661 were enacted into law it would have the effect of filling the courts with lawsuits for damages, since it presupposes that if an alcoholic beverage is given or served to a minor and that minor later is in an accident, then the implication would be great that because he or she was served this beverage, he or she was the cause of the accident.

I know that the authors of this legislation are trying to solve problems such as those which arose in Shawnee County in

a couple of bad accidents in 1983. However, this type of legislation does not accomplish that feat, but only further muddles the courts with lawsuits which should not have been filed in the first instance. It will not solve the problem of a minor who wants to consume alcoholic beverage and drive, since that is one of the problems that we have to live with in this society.

Finally, I want to point out to the committee that although other states have dramshop laws, there is still the case law within the state of Kansas that any person who is proved to be negligent and has a causal relationship to damage done to a third party, may be sued in our court of law today and damages recovered if the plaintiff sustains the burden or proof. This means that if a tavern owner today in Kansas sells or gives an alcoholic beverage to a minor and that minor later causes damage to a third party, and it can be shown in a court of law that the sale or giving of the alcoholic beverage was the cause of the accident, and that the person who sold or gave the beverage was negligent, then the person is entitled to an award from a judge or a jury. The dramshop law and the passage of this legislation would not change that law, and as a matter of fact would only make it more confusing.

I hope the committee in its wisdom reports House Bill 2661 unfavorable to the full House of Representatives.

Thank you for your consideration.

Respectfully submitted,

BOB W. STOREY

unilateral adoption of a grievance, discipline and discharge procedure by an employer may give rise to a legally enforceable reliance interest." Novosel "should have been permitted discovery and the development of this point since Pennsylvania cases have held that whether the parties formed a complete contract is a question for the jury."

(*Novosel v. Nationwide Insurance Co.*, Oct. 26, 1983, No. 83-5101.)

Sale of alcohol to minor considered negligent conduct

THE sale of alcoholic beverages to a minor is evidence of negligence even if the minor is not intoxicated at the time of the transaction, the Supreme Judicial Court of Massachusetts has held. It is the sale or furnishing of alcohol itself that is critical, the court concluded.

This case arose when a liquor store sold a six-pack of beer to a 17-year-old without asking for proof of age. The youth drank several beers and then proceeded to drive a car that killed a bicyclist. The wife of the deceased bicyclist brought this action against the store to recover compensation for her husband's injuries and death. The jury found for the wife, and the intermediate appellate court affirmed, determining that there was evidence supporting the store's liability under the theory that the injuries inflicted by the minor were a foreseeable consequence of the negligent sale of alcoholic beverages to him.

On appeal to the supreme judicial court, the store contended that it was liable only if the minor was intoxicated at the time of the sale. The court did not agree. In upholding a damage award against the store, Justice Abrams, speaking for the court, thought that the risk of selling alcohol to minors is foreseeable. She emphasized that the rule in Massachusetts is that "negligence on the part of a seller or supplier of alcoholic beverages may be shown by a sale or the furnishing of those beverages to a minor, as well as to an inebriated person, as each is proscribed by statute."

Justice Abrams noted that "the legislature has in explicit terms prohibited sales to minors as a class because it recognizes their very special susceptibilities and the intensification of the otherwise inherent dangers when persons lacking in maturity and responsibility partake of alcoholic beverages. . . . It seems clear . . . that [the statute's] broadly expressed restrictions were not narrowly intended to benefit the minors and intoxicated persons alone but were wisely intended for the protection of members of the general public as well. . . . Once a vendor places liquor in the hands of a minor, it may set in motion the very harm the legislature has attempted to prevent. . . .

"In order to comply with the legislature's objective to protect the public and minors through its prohibition of sales to underage buyers, vendors must exercise the care of a reasonably prudent person. . . .Thus, if a vendor fails to exercise due care and sells liquor to a minor, it is responsible for all proximately caused injuries."

(*Michnik-Zilberman v. Gordon's Liquor*, Aug. 23, 1983, 453 N.E. 2d 430.)

H

TESTIMONY ON HB 2661
HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

February 15, 1984

Jack Milligan, Executive Director
Kansas Association of Private Clubs

Mr. Chairman and Members of the Committee. My name is Jack Milligan. I appear this afternoon in behalf of the Kansas Association of Private Clubs in opposition to HB 2661.

HB 2661 appears to be a "dram shop" proposal designed to minimize unlawful entry of minors into establishments licensed to serve alcoholic beverages.

The Kansas Association of Private Clubs shares the concerns of Representatives Vic Miller and Charles Laird. However, as we pointed out a year ago, arbitrary language prohibiting certain acts will not generate the desired results.

The law clearly provides sufficient deterrents for club personnel to do everything possible to prevent minors from entering their establishments. However, there seems to be less than adequate deterrents to discourage minors from attepting unlawful entry.

We believe the only way to adequately discourage minors from using false identification to gain entry to private clubs is to strictly enforce penalties presently provided by Kansas law. Unfortunately, too many violators receive a casual slap on the wrist and/or nominal fine. Possibly mandatory minimum sentences would help solve this problem.

The Kansas Association of Private Clubs is opposed to any dram proposal for several reasons.

First, this type of legislation is discriminatory. It would place liability on private clubs, taverns and retail liquor store personnel for the actions of individuals who consumed their products.

If this sort of rationale is deemed appropriate, then maybe you should also consider holding automobile dealers liable for selling vehicles to persons who operate them in an unsafe or reckless manner. Or possibly, you should consider making the service station attendant liable who sells fuel to a driver who may or may not seem to be under the influence of alcohol or cereal malt beverage. Possibly, this same rationale should be applied to the retail store clerk who sells ammunition to someone who uses the annunition in an illegal, harmful or deadly manner. Or, even the party host who permits his or her guest to consume too much alcoholic beverage.

Secondly, HB 2661 would generate a dramatic if not disastrous jump in liability insurance premiums for private clubs, taverns and retail liquor stores. Unnecessary and excessive costs to club, tavern or store proprietors will ultimately generate much higher food and beverage prices.

Thirdly, HB 2661 will not solve the problem of alcoholism or even the problem of driving under the influence of alcohol. We are convinced the Legislature took a positive step towards solving the DWI problem two years ago when you implemented stiff

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penalties for DWI violations. We are also convinced the problems of alcoholism will remain a problem to our society until our school systems provide accurate and effective education about alcohol and its negative effects if consumed in excess.

Fourthly, we believe HB 2661 would make it impossible for a court of law to determine an accurate or equitable allocation of liability if an individual stopped for a cocktail or beer in several establishments before causing damage to persons or property. Consider the individual who stopped in a tavern where he or she consumed alcoholic liquor, a retail liquor store when he or she consumed even more alcoholic liquor, and finally stopped by a friend's party where he or she consumed even more alcoholic liquor, and possibly even drugs, which further impaired the driver's ability to operate a motor vehicle. Needless to say, a situation of this nature could get incredibly complex and virtually impossible to litigate.

Fifthly, we believe it is unfair and unrealistic to expect anyone working in a tavern, club or retail liquor store to determine just when a patron may be approaching the point of intoxication. I am confident we have all witnessed an individual who could consume large amounts of alcoholic beverages and appear to be totally unaffected, even though the individual is well past the point of intoxication.

Finally, legislation comparable to HB 2661 represents less than a mandate for national public policy.

According to the figures obtained from the United States Brewers Association, there are 29 states and the District of Columbia that do not have any form of "dram law". Nine states have repealed their dram laws in the past ten years. And, only four or five have full dram laws where the establishment owner, employees and even private party hosts are liable for their patrons or guests.

The state of California presents an interesting study in the unworkability of dram laws. A California Supreme Court decision imposed a dram law on the food and beverage establishments that ultimately caused liability insurance premiums to skyrocket to $30,000 to $40,000 per year. This appears reminiscent of four or five years ago, when the Kansas Legislature was attempting to control runaway medical malpractice insurance premiums.

Eventually, the California Legislature moved to repeal their state's dram law when it was deemed to be applicable for citizens who wished to invite his or her friends to social gatherings where alcoholic beverages could be consumed.

It should be noted several of the approximate 15 states that have some form of dram liability law only applies to products sold or service granted to habitual drunkards or the visably intoxicated. It should also be noted two states had to subsequently pass legislation to protect food and beverage establishment proprietors in cases where they refused to serve someone because they appeared intoxicated. Needless to say, this presents a "catch twenty-two" for the food and beverage business.

Thank you for the opportunity to appear this afternoon. I will be happy to address any questions the committee might have.

of all club members and their residence addresses.

(e) ~~To~~ Refuse to allow the director or any of the director's authorized agents or any law enforcement officer to inspect the current list of the members of the club.

(f) ~~To~~ Purchase alcoholic liquor from any person except from a person holding a valid license to sell alcoholic liquor at retail.

(g) Sell or dispense any alcoholic liquor or cereal malt beverage to any person ~~for a price less than the cost of the liquor or beverage to the licensee, for no charge or~~ in an unlimited quantity for a set price.

Sec. 2. K.S.A. 1983 Supp. 41-2704 is hereby amended to read as follows: 41-2704. (a) In addition to and consistent with the requirements of this act, the board of county commissioners of any county or the governing body of any city may prescribe hours of closing, standards of conduct and rules and regulations concerning the moral, sanitary and health conditions of places licensed pursuant to this act and may establish zones within which no such place may be located.

(b) Except as provided by subsection ~~(g)~~ *(h)*, no cereal malt beverages may be sold:

(1) Between the hours of 12:00 midnight and 6:00 a.m.;

(2) on Sunday; or

(3) on the day of any national, state, county or city elections, including primary elections, during the hours the polls are open, within the political area in which such election is being held.

(c) No private rooms or closed booths shall be operated in a place of business, but this provision shall not apply if the licensed premises are also currently licensed as a club under a license issued by the director.

(d) Each place of business shall be open to the public and to the police at all times during business hours, except that a premises licensed as a club under a license issued by the director shall be open to the police and not to the public.

(e) No licensee shall permit a person under 18 years of age to consume, purchase or possess any cereal malt beverage in or about a place of business.

(f) No person shall have any alcoholic liquor in such person's possession while in a place of business, unless the premises are currently licensed as a club by the director.

(g) No licensee shall sell or dispense any cereal malt beverages for consumption on the licensed premises ~~for a price less than the cost of the cereal malt beverage to the licensee, for no charge or~~ in an unlimited quantity for a set price.

(h) Cereal malt beverages may be sold on premises which are both licensed pursuant to the acts contained in article 27 of chapter 41 of the Kansas Statutes Annotated and licensed as a club by the director at any time when alcoholic liquor is allowed by law to be served on the premises.

Sec. 3. K.S.A. 41-2610 and K.S.A. 1983 Supp. 41-2704 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

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Statement by

CHRIS GRAVES

ASSOCIATED STUDENTS OF KANSAS

(ASK)

Before the

HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

on

HB 2661, HB 2660 and HB 2790

Limitations on sales of 3.2 beer and alcoholic liquor and liability for furnishing alcohol to minors if damage results.

February 15, 1984

Atch. J

Mr. Chairman, members of the Committee, my name is Chris Graves and I am the Legislative Director of the Associated Students of Kansas, which represents the student governments of the seven public universities in Kansas, and the 80,000 students they serve. I am here to express our support for all three pieces of legislation before you today and I would like to compliment the Committee on the timing of conducting hearings on the measures. For the past two days, you have been considering the issue of the drinking age. Each side has presented their arguments on how best to address the problems of alcohol abuse, particularly by youth. Some support an age increase - we do not - and instead, support appropriate measures to deal with the abuse of alcohol - not simply its use.

I am here today to express our support for the three pieces of legislation for all the reasons we oppose an increase in the drinking age for 3.2 beer. As we said yesterday, everyone wants to reduce the problems of alcohol abuse and drunk driving among people. But we must keep in mind that these problems are not limited to young people, and solutions should not be limited to the young. Both of the drink and drown bills before you today attempt to address the problems of alcohol abuse and drunk driving of all individuals.

By their very promotional titles, "Drink and Drown" promotes the over-indulgence and consumption of beer or alcohol. It encourages people to drink, for one set price, as much as they can. And in these times, when people are so conscious and attracted to "specials", "deals", "sales","getting the most for their money,"the biggest bang for their buck,"some individuals view drink and drown specials in economic terms - if they pay, for example, the $4.00 cover charge and drink 10 drinks, each drink costs 40¢ a piece. And if they drink 20 drinks at such a promotion, the perceived savings is much greater - each drink costs only 20¢ a piece. Unfortunately, that person who has drunk 20 drinks, or even 10 drinks, whether he or she be 20 years old or 30 years old, is a hazard to himself and everyone else there at the bar or club and even more a hazard when they get into their car to drive home.

But let's not forget, bar and club owners set Drink and Drown cover charges high enough so that they, the owners, make a substantial profit on almost everyone. This point arose when we discussed this issue with our Board of Directors. We heard that many students and young people go to Drink and Drown specials with no intention of drinking, or drinking to excess, but go, instead, to socialize with friends. Nevertheless, they are forced to pay the cover charge while only drinking very little, if at all. In these cases, consumers are getting ripped off.

We therefore see no societal good or benefit from Drink and Drownspecials and support legislation to do away with such promotions at both bars and private clubs.

In regards to HB 2661, the bill imposing liability for certain damages on perso selling or furnishing alcoholic beverages to minors, our position on several occasions has been that there are already laws on the books which prohibit underage persons from buying or obtaining alcoholic beverages. However Committee members have heard, as we have ourselves from high school students, that there is a tremendous problem with high school students being able to purchase beer and other alcoholic beverages. As one student told us, most high school students don't go to the expense or bother of obtaining a fake ID or of trying to convince someone else to buy it for them as they can <u>easily</u> buy it themselves - IDs are <u>not</u> being checked. Perhaps HB 2661 is needed so that there is a greater incentive to the vendor to check for proper identification and penalty if they fail to do so.

In conclusion, we support the three pieces of legislation before you today because they all address the abuse and misuse of alcoholic beverages by individuals of all ages.

Thank you for this opportunity to appear before you today. I will be happy to answer any questions.