

Approved _____

2/5/87
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Senator Edward F. Reilly, Jr. at
Chairperson

11:00 a.m. ~~xxx~~ on January 26, 19⁸⁷ in room 254-E of the Capitol.

All members were present. ~~except~~

Committee staff present:

Mary Galligan, Legislative Research
Emalene Correll, Legislative Research
Mary Torrence, Assistant Revisor of Statutes
June Windscheffel, Secretary to the Committee

Conferees appearing before the committee:

Mr. Harley Duncan, Secretary, Department of Revenue
Mr. Chuck Magerl, Lawrence, Kansas
Mr. George Heckman, Kansas Association of Alcohol and Drug Program
Directors (KAADPD)
Mr. George Puckett, Kansas Restaurant Association
Mr. Richard R. Cobb, McPherson Chamber of Commerce
Mr. Jim Baughman, Stockton, Kansas
Mr. Gene Johnson, Kansas Community Alcohol Safety Action Project Coordinators'
Association
Mr. John L. Myers, Kansas C.M.B.
Mr. Dennis Zehr, Old Mill Restaurant and Wine Bar, Newton, Kansas
Mrs. Nicki Soice, Chemical People, Wichita, Kansas

The Chairman welcomed Mr. Harley Duncan, Secretary of the Department of Revenue, to the Committee. Mr. Duncan distributed copies of an outline of his remarks to the Co-mittee concerning Alcoholic Beverage Taxation (Attachment #1), and went through the hand-out with the Committee. The Chairman pointed out that after a bill is drafted and returned to this Committee, he will continue with public input.

The next conferee was Mr. Chuck Magerl of Lawrence. He spoke concerning his interest in micro brewery legislation. A copy of his statement is a part of these Minutes. (Attachment #2)

Mr. George Heckman, President of the Kansas Association of Alcohol and Drug Program Directors, appeared next. Copies of his statement concerning Changes in the Alcoholic Liquor Tax were distributed to Committee. (Attachment #3)

The Kansas Restaurant Association was then represented by Mr. George Puckett. He stated that many of their members own and operate Class "A" and Class "B" private clubs. A copy of his remarks is attached. (Attachment #4)

Mr. Richard R. Cobb, Chairman, Legislative Affairs Committee, of the McPherson Chamber of Commerce was the next conferee. His statement was handed out to Committee (Attachment #5), and in it he said that he would like to address the question of the new liquor controls proposed by the Kansas Liquor Law Review Commission as they apply to dry counties.

The Chairman then welcomed Mr. Jim Baughman, a retailer from Stockton, Kansas, for his remarks to the Committee. Copies of his statement were distributed to the Committee. (Attachment #6)

Mr. Gene Johnson, of the Kansas Community Alcohol Safety Action Project Coordinators' Association appeared next. His statement is also a part of these Minutes. (Attachment #7)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS,
room 254-E, Statehouse, at 11:00 a.m./~~p.m.~~ on January 26, 1987.

The next appearance was that of Mr. John L. Myers, representing Kansas C.M.B., a coalition of various entities, who agree that when people voted last November on liquor by the drink that they were also expressing strong support for modernizing the laws. His statement is part of these Minutes. (Attachment #8)

Mr. Dennis Zehr, owner and operator of the Old Mill Restaurant and Wine Bar in Newton, Kansas, was the next conferee. His paper and statement to the Committee on recommendations for implementing the liquor by the drink amendment is attached hereto. (Attachment #9)

The last conferee was Mrs. Nicki Soice, representing the Chemical People. She talked about continuing to fund programs as set out in her statement. (Attachment #10)

The Chairman thanked the conferees and asked that those present who had been unable to testify because of the time element please leave copies of their testimony.

The meeting was adjourned.

1/26/87
Attachment #1

OUTLINE OF REMARKS
BEFORE THE
SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

ALCOHOLIC BEVERAGE TAXATION

HARLEY T. DUNCAN
SECRETARY OF REVENUE

JANUARY 26, 1987

Attachment #1
FSA 1-26-87

Senate Committee on
Federal and State Affairs

January 26, 1987

I. Purpose of Remarks

1. Review Current Tax Structure
2. Identify Issues in the Tax Structure
3. Review Liquor Law Review Commission Recommendations

II. Current Tax Structure

1. **Gallonage Taxes** - Excise tax applied to the quantity of alcoholic beverages manufactured, used, sold or purchased in Kansas. The tax is a wholesale level tax imposed on the first receiver in Kansas. The rates applied are as follows:

Spirits	\$2.50 per gallon	Strong Beer	\$.18 per gallon
Wine < 14%	\$.30 per gallon	Cereal Malt	
Wine > 14%	\$.75 per gallon	Beverage	\$.18 per gallon

2. **Liquor Enforcement Tax** - Excise tax applied to the retail selling price of all alcoholic liquors (spirits, wine and strong beer) sold through licensed retail liquor stores. Rate is 8% of the retail price and is in lieu of the state and local retail sales tax. Rate was increased from 4% in 1983.

3. **Liquor Excise Tax** - Commonly referred to as the 10% Drink Tax or the Private Club Tax. Excise tax applied to the retail selling price of alcoholic drinks, including CMB as of 1985) sold in private clubs. Rate is 10% of the retail price.

4. **Retail Sales Tax** - All sales of Cereal Malt Beverage, except those occurring in private clubs, are subject to the state and local retail sales tax. Excise tax applied to the selling price of the beverage. The state rate is 4% and the local rate averages 1% statewide.

5. **FY 1986 Liquor Tax Revenues** - In FY 1986, the state taxes generated the following amounts: (\$ Millions)

Gallonage		Liquor Enforcement	\$16.6
Spirits	\$7.0	Private Club Tax	\$10.5
Wine < 14%	\$0.7		
Wine > 14%	\$0.1		
Strong Beer	\$4.2		
CMB	\$4.6		
Subtotal	\$16.6	GRAND TOTAL	\$44.8

In addition, we estimate that the retail sales tax applied to CMB sales generates about \$4.5 million annually. Of this, about \$3.6 million is state tax and about \$0.9 million is local.

6. **Distribution of Liquor Tax Revenues** - The table below presents the prescribed statutory distribution of liquor-related taxes among various state and local funds along with the FY 1986 receipts to the various funds.

Distribution of Liquor Tax Revenues by Fund

Tax	State General Fund	Community Program Fund	Local Governments
Gallonage			
Spirits	90.0%	10.0%	--
Wine	100.0%	--	---
Strong Beer	100.0%	--	--
CMB	100.0%	--	--
Liquor Enforcement	100.0%	--	--
Private Club	25.0%	5.0%	70.0%

FY 1986 Receipts

Tax	State General Fund	Community Program Fund	Local Governments	Total
Gallonage				
Spirits	\$6,329.0	\$703.2	--	\$7,032.2
Wine	\$824.7	--	--	\$824.7
Strong Beer	\$4,166.9	--	--	\$4,166.9
CMB	\$4,622.1	--	--	\$4,622.1
Liquor Enforcement	\$17,662.8	--	--	\$17,662.8
Private Club	\$2,624.2	\$524.8	\$7,347.3	\$10,496.3
TOTAL	\$36,229.7	\$1,228.0	\$7,347.3	\$44,805.0

Dollar Amounts in Thousands

As shown, most liquor-related tax receipts, with the exception of the Private Club tax, are deposited in the State General Fund. The Private Club Tax is distributed primarily to local governments. At the local level, these funds are divided among alcohol and drug abuse programs, parks and recreation, and local unit general funds. The "community program fund" column denotes receipts to the Community Alcoholism and Intoxication Programs Fund of SRS. This fund also receives 50% of the Class B club licensing fees (about \$500,000 annually) and is used to make grants to local alcoholism programs.

7. **Kansas Taxes Compared to Other States** - Compared to other states, the following are the distinctive features of the Kansas tax structure:

a. Kansas gallonage tax rates tend toward the median of our surrounding states and of all states nationally. They are certainly not out-of-line with national figures.

b. Few states "stack" their taxes as Kansas does with its gallonage tax, enforcement tax and drink tax, all of which may be applied to the same bottle of beverage. Of the surrounding states, only Arkansas has an enforcement tax or special levy other than a gallonage tax applied to alcoholic beverages. Other surrounding states have only the gallonage tax and apply the state and local sales taxes to the sale of beverages at all outlets. (This survey was done prior to the implementation of LBD in Oklahoma.)

c. While comparisons are difficult, it appears that the total of all Kansas Taxes on alcoholic beverages are higher than in surrounding states. Based on 1984 data, Kansas taxes total \$.82 per gallon consumed while in surrounding states, the taxes run from \$.52-\$.65 per gallon. Arkansas taxes, however, exceed the Kansas total, and the Kansas level is essentially equivalent to the average of all license states.

II. Issues In The Kansas Tax Structure

1. **Collectability of the Private Club Tax** - It is difficult and not cost-effective to the State to insure that the 10% Liquor Excise Tax is enforced and collected fully. Features leading to this difficulty include: (a) the tax rate is relatively high; (b) the rate is different from, and higher than, other products being sold simultaneously; (c) the tax can be included in the price of the drink; (d) the effective incidence of the tax is on the club owner even though the legal incidence is on the consumer; and (e) only 25 percent of the tax is deposited to the State General Fund. In short, the opportunity and reward for evasion are greater than with most other taxes. Our estimates are that at least \$500,000 annually goes uncollected, but that the cost to the State General Fund to enforce the tax effectively would exceed the collections.

2. **Discrimination Among Types of Products** - Of the four types of alcohol taxes, only one - gallonage taxes - is applied to all types of products. Taxes applied at the retail level vary depending on the type of product and the place of sale. Further, CMB sold to a club is not subject to any tax other than the gallonage, while strong beer and other products are subject to the enforcement tax. The effects are several: (a) it can favor one type of product over another; (b) it tends to "lock in" the current delivery system because other problems are created if it is changed; and (c) rates must be higher than they otherwise would be because some of the taxes are applied to a relatively small portion of the total market.

3. **Taxation of Liquor By The Drink Establishments** - Under current law, there is no body of statute addressing the taxation of alcoholic beverages sold in liquor by the drink statutes. If the Legislature takes no action, such establishments would be subject only to the applicable state and local retail sales tax.

4. **Allocation of Alcohol Tax Revenues** - Portions of the alcohol-related taxes are earmarked for alcohol and drug abuse prevention, intervention and treatment programs at the state and local levels. These taxes are also earmarked for non-alcohol programs at the local level. As public concern over alcohol and drug abuse has risen, considerable interest has been shown in further earmarking of additional alcohol revenues to alcohol and drug programs.

IV. Recommendations of the Liquor Law Review Commission

1. **Tax System** - The Commission found that the current system contained opportunities for evasion and that it unnecessarily discriminated among types of alcoholic beverages. It recommended the tax system be revised in accord with these principles:

- a. All alcoholic beverages (including CMB) should be treated uniformly;
- b. Special excise levies on limited components of the alcoholic beverage market should be avoided.
- c. Any reform should be revenue neutral.

2. **Allocation of Tax Revenue** - The Commission also presented a recommendation regarding the allocation of tax revenue. It recognized the importance of alcoholic and drug abuse programs. It recommended an expanded State role in the allocation of funds to prevention, intervention and treatment programs and in reviewing the effectiveness of local programs.

3. **Proposals Reviewed** - One subcommittee of the Commission recommended that the private club tax be repealed and an equivalent amount of revenue be generated from the gallonage taxes. This would have required current gallonage taxes to be increased by somewhat more than 100 percent. The full Commission reviewed, but did not endorse, a recommendation from the Department that would have revised the alcohol tax system in accord with the above objectives. The system reviewed included:

- a. Repeal of the liquor excise tax;
- b. Repeal of the liquor enforcement tax;
- c. Impose the retail sales tax on **all retail sales** of alcoholic beverages;
- d. Impose a 4% tax on the sale of beverages from a wholesaler to a retailer;
- e. Increase gallonage rates as follows: Spirits - \$3.50 per 100 proof gallon;
Wine < 14% - \$.30 per gallon; Wine > 14% - \$1.00 per gallon; All Beer - \$.21 per gallon.

V. Conclusion

1. At a minimum, the taxation of liquor by the drink establishments must be addressed.
2. Opportunity for reform of both the tax system and the system of earmarks for those tax revenues. Could bring some simplicity and uniformity to the system.
3. Will not be easy. Will affect who pays and who receives.

1/26/87
Attachment #2

MICRO BREWERY LEGISLATION
CHUCK MAGERL
FEDERAL AND STATE AFFAIRS COMMITTEE
JANUARY 26, 1987

Good morning. My name is Chuck Magerl, and I am here in support of the micro brewery proposal in the Liquor Law Review Commission's report. I own a farm between Lawrence and Eudora, and I've been a Kansan for all of my 31 years. I'm proud of my home state, and I'm excited about the possibilities that liquor law changes offer for Kansas's future. I wish you well in your deliberations.

For the last 12 years I've been a manager of the largest natural foods store in the state. I was the founder of a community credit union. I've also studied biology and engineering at the University of Kansas at Lawrence. Now I'm interested in reviving the small brewery industry in Kansas.

The history of brewing in Kansas is buried under layers of Prohibition heritage. Most people are not aware that small breweries were once very common in Kansas. Though no complete study exists, information I've uncovered at the Historical Society indicate 113 breweries had been in business in Kansas prior to prohibition in 1880. These breweries were spread around the state, from Oswego to Kirwin, Ellinwood to Leavenworth, Salina, Topeka, Wichita, Kansas City, and Lawrence. These were thriving businesses, generally enjoying considerable local support and providing a substantial market for agricultural products. Barley production in the state plummeted after prohibition, even though the last stubborn brewers in Atchison and Kansas City didn't surrender their businesses until 20 years later. Since then, all beer sold to Kansans has come from other states, even other nations.

I believe the laws of such an influential grain producing state as Kansas should encourage the production of grain based beverages. As domestic brewers begin adopting some traditional wheat beer styles of Germany and Belgium, this is a fine opportunity to welcome the potential of this industry to the state, matching the legislation of other states by designating a micro brewery license statute.

In 1983 this committee authorized similar licensing when it passed our existing farm winery legislation. The strict three-tier system of licensing is based on the laudable social goal of preventing monopoly control and fostering

Attachment #2
FSA 1/26/87

competition. With the farm winery statute we've made an exception for sales of wine at the winery, regarding it as generally beneficial to producers and consumers, and it doesn't seem to create any risk of monopoly. While it generally benefits one industry, it does not benefit only one company or producer. This applies generally to brewers selling their own products at the brewery as well.

Small scale breweries, or micro breweries, are a rapidly developing trend in the marketplace. In fact, the Bureau of Alcohol, Tobacco, and Firearms is anticipating a surge in the industry similar to the boom in farm wineries experienced in the 1970's. BATF is adapting their licensing procedures and staffing to handle an increase in filings.

I'm not here requesting any tax breaks. I believe this industry will be advantageous to the state from a revenue outlook. On average, the brewing industry makes more money for the government than it does for its own bank accounts.

I'm not asking for a franchise authorization either. If these small breweries do become popular, as I believe they could, they should be locally-owned to assure a community responsive operation.

My proposal seeks to lessen the barriers to grain beverage production in Kansas by permitting small producers to sell beverage for on-premise consumption and take out, at the location of production. Such restaurants and brew-houses were common prior to prohibition, and have seen a re-emergence in the past 5 to 6 years, following on the success of the small winery trend. An estimated 120 of these new breweries and brew-houses will be in business in the United States and Canada by the end of this year.

Some of the states authorizing such retail sales from breweries have placed production caps on the businesses of 7,000, 10,000, or 12,000 barrels annually. Others place no limit on size.

My concern is being able to sell my product to customers at my business, and allowing them to purchase containers for home consumption. Licensing fees should be similar to farm wineries, \$250. I've included copies of legislation from Iowa and Oregon. Similar legislation has just been introduced in Nebraska, and I can provide statutes from additional states if you request.

I'm excited about the re-development of small scale

brewing in the state. With your action, we can enact a statute that will provide a new market for Kansas grain and agricultural products, aid economic development and enhance our state's image, generate net positive tax revenue for the treasury, and enliven a lost part of our cultural history. Thank you for your attention to this proposal.

Attachments: Iowa Session Law
Oregon Brewery-public house statute
Brew house photographs
Wichita Eagle-Beacon article

CHAPTER 56
DISHONORED CHECKS FOR LIQUOR PURCHASES

H. F. 773

AN ACT relating to the penalty to be imposed on licensees who tender the department of beer and liquor control three or more insufficient funds checks within a twelve-month period for the purchase of alcoholic beverages.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 123.24, subsection 2, Code 1981, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. Paragraphs a and b do not apply if a licensee tenders the department three or more checks during a twelve month period which are dishonored. Following notification to the department of dishonor of any check after the second check so dishonored, the director shall suspend a licensee's liquor control license for not less than three nor more than thirty days, after notice and an opportunity for hearing. Payment of any check whose dishonor subjects the licensee to suspension does not affect the liability of the licensee to suspension.

Approved May 8, 1981

CHAPTER 57
RETAIL SALE OF BEER

S. F. 490

AN ACT relating to the retail sale of beer by manufacturers of beer on the premises of the manufacturing facility for on or off premises consumption.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 123.45, unnumbered paragraph 2, Code 1981, is amended to read as follows:

No person engaged in the business of manufacturing, bottling, or wholesaling alcoholic beverages or beer, nor any jobber or agent of such person, shall directly or indirectly supply, furnish, give, or pay for any furnishings, fixtures, or equipment used in the storage, handling, serving, or dispensing of alcoholic beverages, beer, or food within the place of business of a licensee or permittee authorized under the provisions of this chapter, to sell at retail; nor shall he the person directly or indirectly

extend any credit for alcoholic beverages or beer or pay for any such license or permit, nor directly or indirectly be interested in the ownership, conduct, or operation of the business of another licensee or permittee authorized under the provisions of this chapter to sell at retail, except that a person engaged in the business of manufacturing beer may sell beer at retail for consumption on or off the premises of the manufacturing facility and, notwithstanding any other provision of this chapter or the fact that such a person may be the holder of a class "A" beer permit, may be granted not more than one class "B" permit as defined in section 123.124 for such purpose. Any licensee or permittee who shall permit or assent or be a party in any way to any such violation or infringement of the provisions of this chapter shall be deemed guilty of a violation of the provisions of this chapter.

Approved May 11, 1961

CHAPTER 58

SUBSTANCE ABUSE PROGRAMS

H. F. 821

AN ACT relating to substance abuse programs by making changes in facility licensing and auditing requirements by abolishing the state advisory council on substance abuse, by allowing contracts for education and prevention services, by authorizing inspections, by extending operations of the Iowa department of substance abuse through 1983, by providing for a program evaluation of the department and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 125.2, subsection 2, Code 1961, is amended to read as follows:

2. "Facility" means a hospital, an institution, a detoxification center, or an installation providing care, maintenance and treatment for substance abusers and licensed by the department under section 125.13, hospitals licensed under chapter 135B, or the state mental health institutes designated by chapter 226.

Sec. 2. Section 125.3, Code 1961, is amended to read as follows:
125.3 ESTABLISHED.

1- There is established the Iowa department of substance abuse which shall develop, implement and administer a comprehensive substance abuse program pursuant to sections 125.1 to 125.43. There is established within the department a commission on substance abuse to establish policies governing the performance of the department in the discharge of duties imposed on it by this chapter. The commission shall consist of nine members appointed by the governor. Appointments shall be made on the basis of

bonded wine. Wine may be removed from the licensed premises only for:

- (a) Export;
- (b) Shipment to a wholesale malt beverage and wine licensee;
- (c) Shipment to another wine warehouse licensee; or
- (d) Shipment to a winery licensee.

(2) A license applicant must hold an approved registration for a bonded wine cellar under federal law.

(3) For the purposes of tax reporting, payment and record keeping, the provisions that shall apply to a manufacturer under ORS chapter 473 shall apply to a wine warehouse licensee.

(4) A wine warehouse must be physically secure in an area zoned for the intended use, be physically separated from any other use and shall not occupy the same premises as a licensee licensed under ORS 471.235 or any premises contiguous thereto.

(5) A wine warehouse shall contain only wine that is owned by persons, partnerships, corporations or cooperatives whose principal business is the production of wine.

(6) For purposes of ORS 471.455, a wine warehouse licensee shall be considered a manufacturer. [1985 c.628 §2]

Note: 471.242 was added to and made a part of ORS chapter 471 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

471.245 Bottler license. A bottler license shall allow the licensee to bottle wine containing not more than 21 percent of alcohol by volume or malt beverages containing not more than eight percent of alcohol by weight. Such license shall not be issued to any person unless the commission is satisfied that the person has adequate machinery, equipment and facilities for properly bottling such alcoholic liquors. In no event shall such license be issued to any person who does not hold a wholesale malt beverage and wine license. Amended by 1979 c.236 §7; 1981 c.199 §1]

471.250 Restaurant license. (1) A restaurant license shall allow the licensee to sell malt beverages containing not more than eight percent of alcohol by weight and wine containing not more than 21 percent of alcohol by volume to customers for consumption on the licensed premises and shall permit the patron to remove from the premises a container of wine the contents of which have been only partially consumed.

(2) In the absence of any municipal ordinance or local regulation to the contrary, restaurant licensees shall be permitted to have any proper form of entertainment for customers upon the licensed premises.

(3) Unless otherwise restricted, the privileges granted by any such restaurant license to a hotel shall apply to all portions of the hotel controlled or operated by the person to whom the license is issued. [Amended by 1965 c.280 §2; 1973 c.395 §2; 1977 c.332 §6; 1981 c.328 §1]

471.253 Brewery-public house license.

(1) A brewery-public house license shall allow the licensee:

(a) To manufacture annually on the licensed premises, store, transport, sell to wholesale malt beverage and wine licensees of the commission and export no more than 10,000 barrels of malt beverages containing not more than eight percent of alcohol by weight;

(b) To sell malt beverages manufactured on or off the licensed premises at retail for consumption on the premises;

(c) To sell malt beverages in brewery-sealed packages at retail directly to the consumer for consumption off the premises;

(d) To sell on the licensed premises at retail malt beverages manufactured on the licensed premises in unpasteurized form directly to the consumer for consumption off the premises, delivery of which may be made in a container supplied by the consumer; and

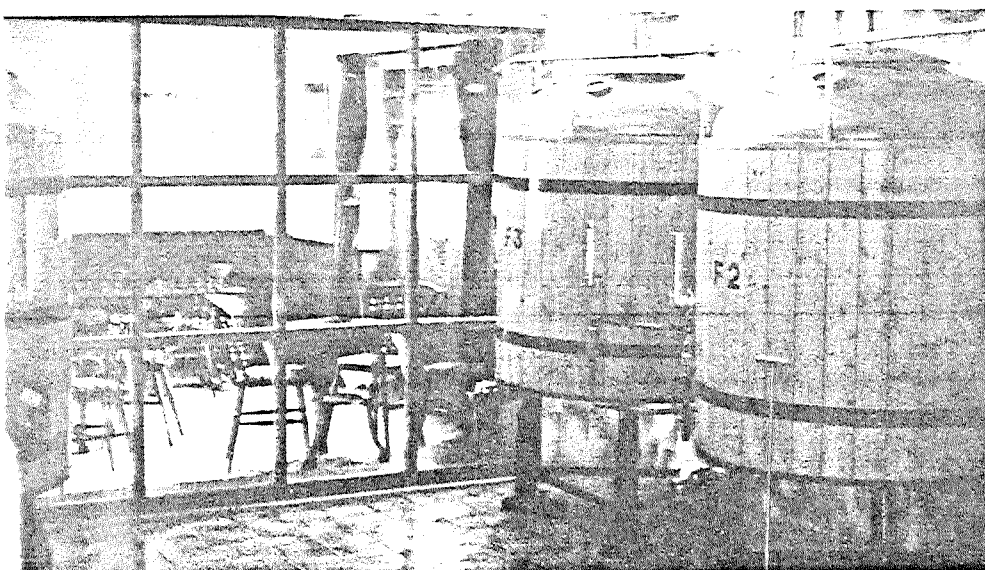
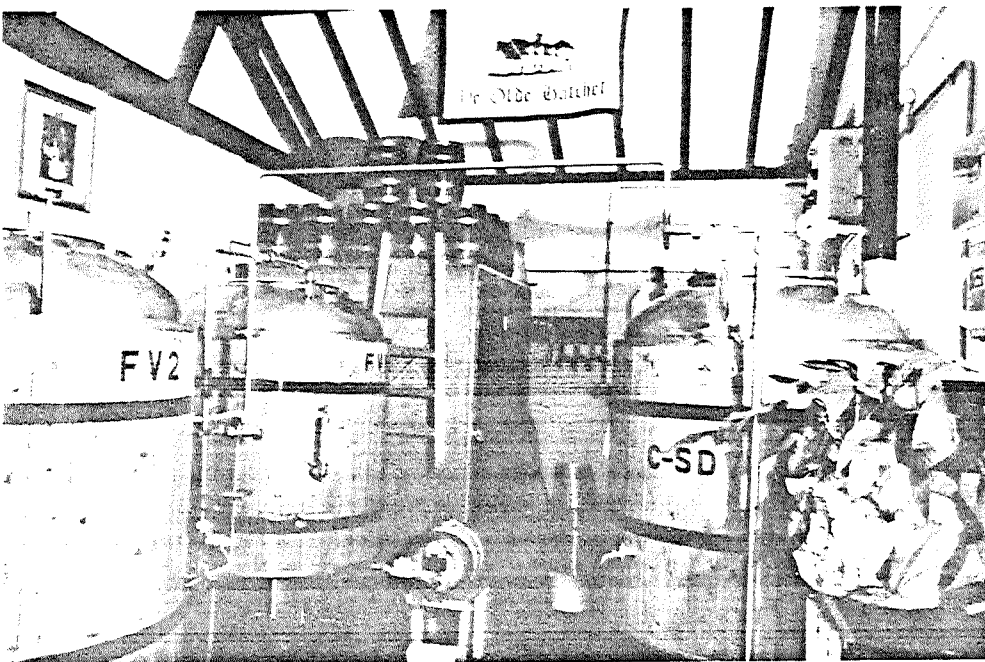
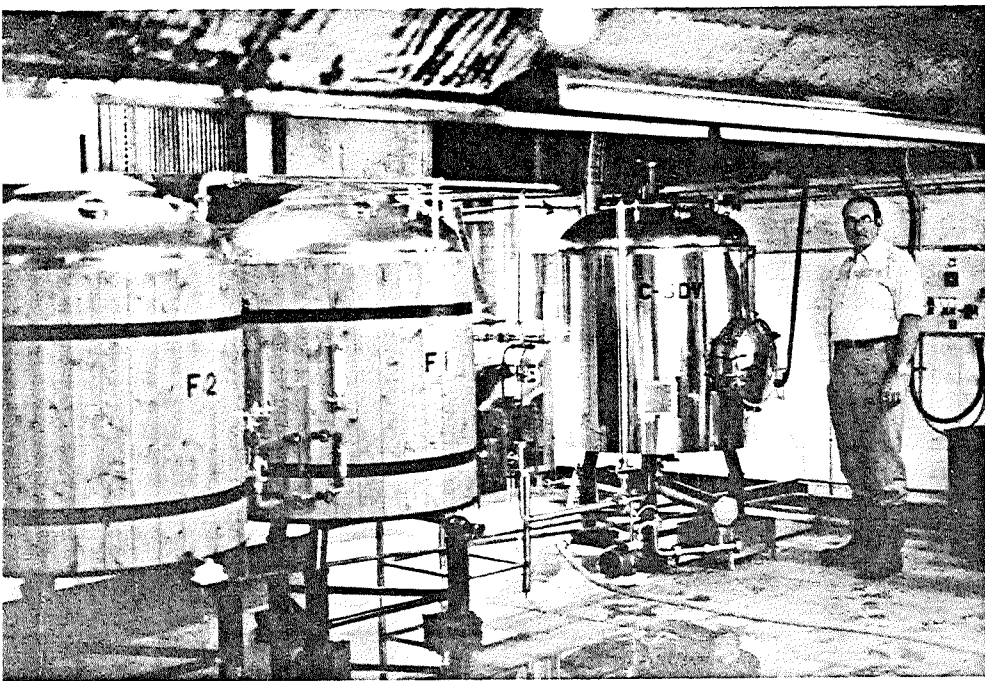
(e) To conduct the activities described in paragraphs (b) to (d) of this subsection at one location other than the premises where the manufacturing occurs.

(2) A brewery-public house licensee, or any person having an interest in the licensee, is not eligible for a brewery license authorized by ORS 471.220 or a wholesale malt beverage and wine license authorized by ORS 471.235.

(3) A brewery-public house licensee, or any person having an interest in the licensee, may also hold a winery license authorized by ORS 471.223.

(4) A brewery-public house licensee is eligible for a retail malt beverage license and for special one-day retail beer licenses. All sales and delivery of malt beverage to the retail malt beverage licensed premises must be made only through a wholesale malt beverage and wine licensee.

(5) For purposes of ORS chapter 473, a brewery-public house licensee shall be considered to be a manufacturer. [1985 c.649 §4]



Entrepreneur Chasing His Dream

Lawrence 'Micro Brewery' Planned — if Law Is Changed

Associated Press

TOPEKA — Chuck Magerl hopes to become the first commercial brewer in Kansas since about the turn of the century, but the 31-year-old Lawrence man says the Legislature first must change the liquor laws to make establishment of "micro breweries" more practical.

"It's one of those things that's been a dream of mine in the last seven or eight years," Magerl said. "And I'm just trying to fit all the pieces together so it works right from the start."

As Magerl envisions it, the brewery would feature a restaurant-bar within easy view of the beer vats — all inside an older commercial building near downtown Lawrence.

IN ADDITION to its role as an alternative nightspot, the business would be aimed at tourists and University of Kansas sports fans. Magerl said the brewery also would offer package sales and would provide a limited amount of beer to liquor stores on a wholesale basis.

The problem is that under current liquor laws, none of Magerl's marketing schemes would be allowed. Kansas' "three-tier" liquor sales system places rigid regulatory barriers between manufacturers, wholesalers and retailers.

However, the 1985 Legislature enacted legislation that allows farm wineries to take part in

"They're (micro brewers' products) hand-crafted, high-end products made of high-cost ingredients."

— Daniel Bradford

all three areas and, after hearing Magerl's plan, the Kansas Liquor Law Review Commission recommended making a similar exception for small commercial breweries. Magerl says he plans to promote the proposal during the coming legislative session.

Micro breweries, most of which produce less than 30,000 gallons of beer annually, originated in the San Francisco Bay area during the late 1970s, according to Magerl. Since then, the concept has spread along both coasts and to many places in between.

IN COMPARISON, large commercial breweries produce about 450 million gallons of beer a year, Magerl said.

Daniel Bradford, marketing director for the Institute of Fermentation and Brewing Studies in Boulder, Colo., says about 80 micro breweries are operating across the United States and that number may grow to 120 next year.

"Micro brewers' products are positioned for

the same market as imported products," Bradford said. "They're hand-crafted, high-end products made of high-cost ingredients."

BRADFORD SAID the cost of starting a micro brewery ranges from \$250,000 to \$2.5 million, with an average of about \$500,000. Magerl, who was among the founders of a local credit union, says he is confident that he can tap investors for start-up capital, but he declined to discuss specifics of his plan, including the projected cost.

Historic research sparked Magerl's interest in the brewing business eight years ago. Magerl said the research was for a story he wrote for a neighborhood newspaper outlining the troubles of John Walruff, owner of a large Lawrence brewery in the 1870s and 1880s.

Walruff tried selling beer for "medicinal purposes" for six years after voters approved statewide prohibition in 1880, but he finally left the state in despair. Magerl said there were 113 commercial breweries in Kansas before prohibition and the last of them — in Atchison and Kansas City — died out shortly after 1900.

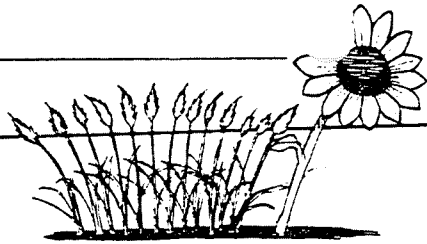
After conducting the research, Magerl said he next took up home brewing. He said he toured a number of micro breweries on the West Coast last year and attended "fermentation studies" and micro brewing workshops at the University of California-Davis.



Associated Press

Chuck Magerl, with beer from other micro breweries, hopes to become Kansas' first commercial brewer in decades.

Wichita Eagle + Beacon Saturday January 3rd, 1987



Kansas Association of Alcohol and Drug Program Directors

January 26, 1987

TO: Senate Federal and State Affairs Members
FROM: George Heckman, KAADPD President *GH*
RE: Changes in the Alcoholic Liquor Tax

The Kansas Association of Alcohol and Drug Program Directors represents more than 40 agencies providing alcohol and drug abuse services in the state. The member agencies operate treatment, prevention and alcohol-drug safety action programs in a variety of settings across our state.

As you are well aware, significant funding is presently available to a variety of alcohol and drug programs across our state from the present 10% tax on drinks in private clubs. Alcohol and drug programs benefit directly from the 5% of the total tax designated to the Community Alcoholism and Intoxication Programs Fund administered by SRS and the 1/3 portion of the 70% returned to municipalities designed for alcohol and drug programs at the local level. Approximately \$11.2 million is estimated for this fiscal year for the total fund.

I would call your attention to the fact that a recent random sample of 507 Kansans indicated that almost $\frac{1}{2}$ (47%) of them believed that alcohol and drug abuse prevention, intervention and treatment programs should get a larger share of liquor tax revenues.

We believe the public supports funding increases to improve the ability of the alcohol and drug abuse service system to provide prevention/education programs and treatment services for people who need them but can't pay for them.

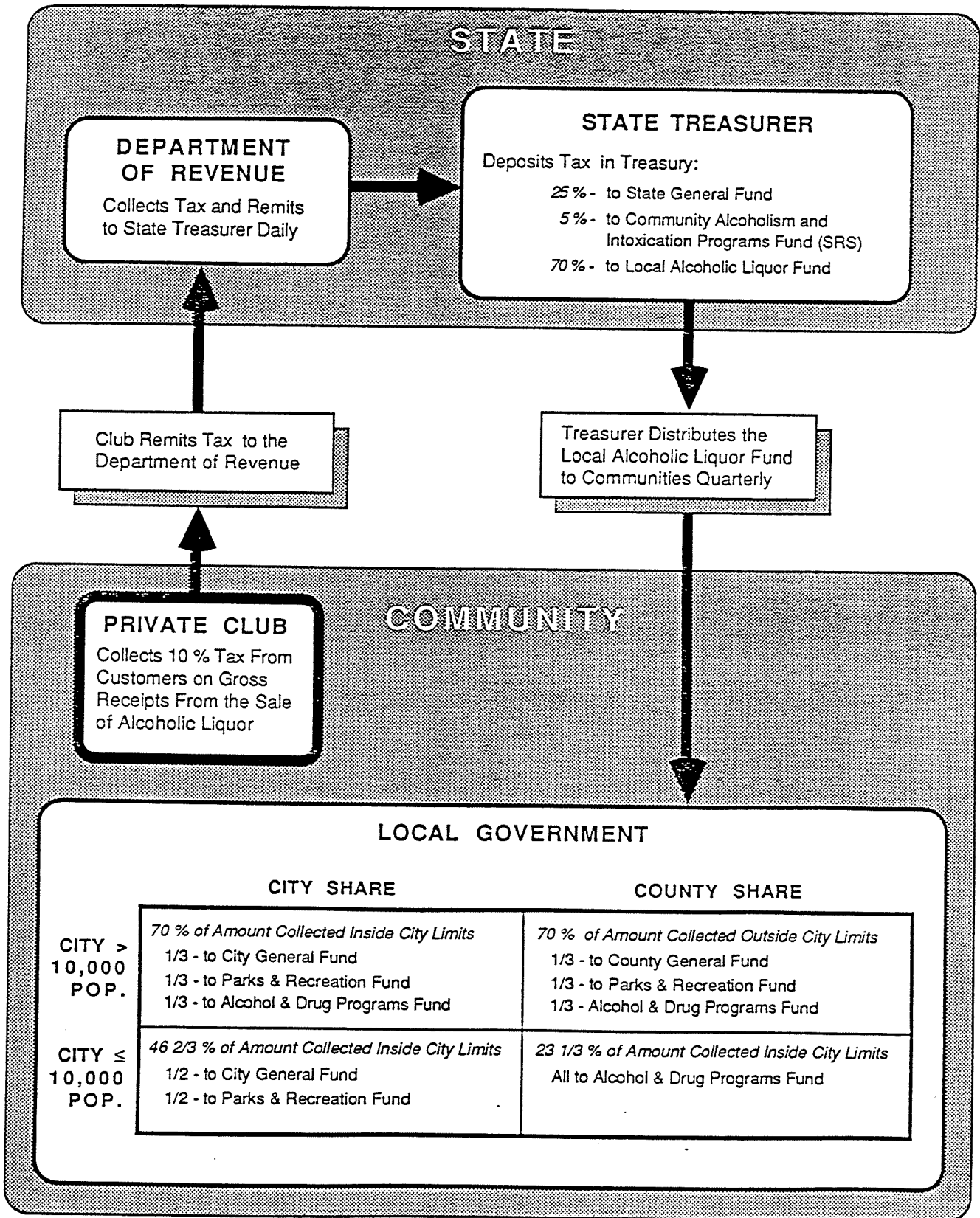
Our association has no position on whether there should be state or local control of the distribution of these funds or a continuation of our present mixed system.

Additionally, our association is on record as supporting the elimination of the designated funds for parks and recreation at the local level.

In these difficult fiscal times, we realize that excise tax revenues will be hotly contested and there are many who will be lobbying for a share of these funds. I would hope that in formulating our public policy for the future, the Committee and the legislature listens to the people of Kansas and supports increased funding for alcohol and other drug programs.

Governor Hayden's state of the State message highlighted his concerns about reducing alcohol and other drug problems in our state. Here is the mechanism to pay for increased programming.

COLLECTION AND DISTRIBUTION OF PRIVATE CLUB LIQUOR TAX





**Kansans Believe Alcohol and Drug Abuse Continuum
Should Receive More Liquor Tax Revenues.**

Many Kansans are interested in increasing alcohol and drug abuse prevention, intervention and treatment's share of liquor tax revenues. The following question and results are from the January, 1987 version of the yearly survey of key legislative issues conducted by Capital Research Services.

The annual public opinion poll is conducted on a scientific random sample. This year SRS Alcohol and Drug Abuse Services sponsored a question in this poll. The question and results from the responses of 507 Kansans follow below.

"Revenues from the state liquor tax are used for a variety of purposes. The new legislature which meets in Topeka next week may decide to increase or decrease the amount spent for some services. Which one of the following would you most like to see get a larger share of the liquor tax revenues?"

Alcohol and drug abuse prevention, intervention and treatment programs	47%
City and county general funds	19%
State general fund	14%
Local parks and recreation services	14%
Not sure	4%
Other	2%
None	0%

Summary compiled by Larry Hinton, SRS/ADAS, January 23, 1987.

LH:kh
-Liquor Tax

1/26/87
Attachment #4



MY NAME IS GEORGE PUCKETT, AND I REPRESENT THE KANSAS RESTAURANT ASSOCIATION, A STATEWIDE GROUP REPRESENTING THE FOODSERVICE AND HOSPITALITY INDUSTRY. MANY OF OUR MEMBERS OWN AND OPERATE CLASS "A" AND CLASS "B" PRIVATE CLUBS.

THE ASSOCIATION COMMENDS THE KANSAS LIQUOR LAW REVIEW COMMISSION, CHAIRED BY JUDGE HERB ROHLEDER, AND THE "ON-PREMISE SALES" SUB-COMMITTEE, CHAIRED BY JEFFREY ELLIS. ALTHOUGH THERE ARE SEVERAL ITEMS OF CONCERN KRA INTENDS TO ADDRESS LATER DEALING WITH LICENSE FEES AND THE MANNER IN WHICH CLASS "A" ~~AND "B"~~ RECIPROCITY ^{AND CLASS "B"} MEMBERSHIP FEES ARE PAID, THE ASSOCIATION BELIEVES THE OVERALL FINAL REPORT OF THE COMMISSION IS AN EXCELLENT SET OF RECOMMENDATIONS THAT SHOULD BE INSTRUMENTAL IN HELPING ESTABLISH PROGRESSIVE LIQUOR LAWS IN KANSAS.

THE ASSOCIATION ENTHUSIASTICALLY SUPPORTS THE POINT OF PURCHASE AND DELIVERY OF PRODUCT RECOMMENDATIONS ON PAGE TEN OF THE REPORT. THESE PROPOSED RECOMMENDATIONS WOULD CORRECT AN OBSOLETE AND UNFAIR PURCHASING SYSTEM, AND IS TRULY A STEP IN THE RIGHT DIRECTION. FOR THOSE WHO DISAGREE, I SIMPLY SAY, (AS PARAGRAPH THREE OF PAGE TEN OF THE REPORT STATES,) "KANSAS IS ONE OF ONLY FIVE LICENSE STATES IN WHICH PRODUCTS MUST FLOW THROUGH RETAIL LIQUOR STORES TO ON-PREMISE RETAILERS.",... THIS FACT SPEAKS FOR ITSELF REGARDING THE FAIRNESS OF THE CURRENT FORCED SYSTEM OF PURCHASE. PRIVATE CLUBS WOULD HONOR THE FREE ENTERPRISE PRIVILEGE OF PURCHASING LIQUOR FROM THE WHOLESALE OR RETAIL DEALER OF THE OWNER'S CHOICE, THE SAME WAY PURCHASES ARE MADE FROM ANY OTHER VENDOR THE OWNER DOES BUSINESS WITH. KRA ALSO SUPPORTS THE MANDATORY SERVER TRAINING CONCEPT TO HELP EDUCATE BARTENDERS AND SERVERS OF ALCOHOL TO BE AS HIGHLY TRAINED AS POSSIBLE REGARDING THE STATE LIQUOR SYSTEM, IDENTIFICATION AND HANDLING OF CUSTOMERS UNDER THE INFLUENCE OF ALCOHOL, AND IDENTIFICATION AND HANDLING OF CUSTOMERS WHO ARE TOO YOUNG. IN FACT, MANY OF YOU WILL REMEMBER THE KRA SEMINARS PRESENTED IN 1985 ENTITLED, "DWI" (DISPENSING ALCOHOL WITH INTELLIGENCE) THAT DEALT WITH THESE VERY SAME PROBLEMS. JUDGE ROHLEDER WAS A GUEST INSTRUCTOR FOR SEVERAL OF OUR "DWI" SEMINARS, AND WE WERE ALSO ASSISTED BY BRUCE BEALE, DIRECTOR, KANSAS COMMUNITY ALCOHOL SAFETY ACTION PROJECT, AND NUMEROUS OTHER QUALIFIED SPEAKERS. THE ASSOCIATION OPPOSES THE RECOMMENDED LICENSE FEE FOR LIQUOR-BY-THE-DRINK ESTABLISHMENTS, PRIMARILY BECAUSE WE FEEL THERE SHOULD BE A LOWER FEE FOR ALL TO HELP THE SMALL BUSINESS, OR PERHAPS A SLIDING SCALE SUCH AS INDIANA USES, BASED ON THE POPULATION CENTER OR POTENTIAL SALES ABILITY OF THE LICENSED ESTABLISHMENT. OTHER MATTERS OF CONCERN WILL BE DEALT WITH AS BILLS ARE INTRODUCED, AND WE COMPILE THE RESULTS OF AN EXTENSIVE SURVEY RECENTLY MAILED OUT.

SEVERAL IN THE ROOM TODAY WERE GUESTS OF KRA FOR THEIR QUARTERLY BOARD MEETING IN TOPEKA JANUARY 14TH. MR. WARREN SPANGLE, EXECUTIVE VICE PRESIDENT, INDIANA RESTAURANT ASSOCIATION, WAS OUR GUEST SPEAKER. INDIANA, AS MANY OF YOU MAY NOT REALIZE, HAS VERY WORKABLE AND PROGRESSIVE LIQUOR LAWS SINCE THAT STATE APPROVED LIQUOR-BY-THE-DRINK. THE ASSOCIATION FELT IT COULD BENEFIT BY AN OUTSIDER, IN THIS CASE MR. SPANGLE, REVIEWING THE FINAL REPORT OF THE KANSAS LIQUOR LAW COMMISSION, AND SUMMARIZING HIS VIEWS ABOUT THE REPORT. MR. SPANGLE, GAVE ME A COPY OF HIS PRESENTATION TO OUR BOARD, AND I HAVE DUPLICATED THE PRESENTATION TO BE DISTRIBUTED TO THE COMMITTEE. I ENCOURAGE YOU TO READ MR. SPANGLE'S CRITIQUE, AND I THINK YOU WILL FIND SOME EXCELLENT POINTS MADE IN THE CRITIQUE.

^{HOSPITALITY} THE KANSAS RESTAURANT ASSOCIATION, WORKING IN CONJUNCTION WITH THE NEWLY FORMED KANSAS INDUSTRY FOR PROGRESSIVE LIQUOR LAWS COMMITTEE, RECENTLY MAILED A COPY OF THE TWELVE MAJOR RECOMMENDATIONS TO ALL LICENSED CLASS "A" AND CLASS "B" CLUBS IN KANSAS. WE HAVE RECEIVED ABOUT 250 RESPONSES BACK TO DATE, AND WE CONTINUE TO RECEIVE 14 TO 20 COMPLETED SURVEYS, DAILY. THE ASSOCIATION AND THE HOSPITALITY INDUSTRY COMMITTEE INTEND TO COMPILE THE RESULTS OF OUR SURVEY FOR ADDITIONAL FEEDBACK FROM THE INDUSTRY, THEREFORE GIVING US A BASIS ON FUTURE TESTIMONY ON BEHALF OF THE HOSPITALITY AND FOODSERVICE INDUSTRY IN KANSAS.

THE KANSAS RESTAURANT ASSOCIATION WOULD BE HONORED TO ASSIST IN THE TRAINING OF THE SERVERS OF ALCOHOL, OR IN ANY OTHER WAY OUR TRADE ASSOCIATION COULD PROVE BENEFICIAL TO THE STATE OF KANSAS. THAT IS, OF COURSE, ONE OF THE MOST IMPORTANT REASONS FOR OUR EXISTENCE.

Attachment #4
FSA 1-26-87

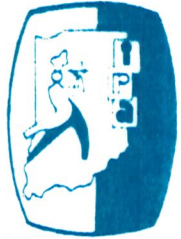
1/26/87
4 "A"



INDIANA RESTAURANT ASSOCIATION BUILDING

2120 NORTH MERIDIAN STREET
INDIANAPOLIS, INDIANA 46202

(317) 924-5106
1-800-533-2120



TO: KANSAS RESTAURANT ASSOCIATION BOARD OF DIRECTORS
FROM: WARREN R. SPANGLE
INDIANA RESTAURANT ASSOCIATION
SUBJECT: LIQUOR BY THE DRINK
DATE: JANUARY 13, 1987

In approaching the discussion of liquor by the drink, I first thought of approaching the subject by commenting on each of the recommendations made by the Study Committee. I figured that would be time-consuming, presumptuous and possibly not too informative or productive.

I also concluded that you have to play with the cards as they are dealt and through the years, 3.2 beer entered the picture as circumvention of the prohibition philosophy, as did the use of private clubs. It is very obvious from experience in Indiana, which undoubtedly is true in Kansas, that economic turf battles have tremendous political ramifications and what is best in practice frequently has to give away to what is "doable".

For the purpose of this paper, I have picked out several points to make comment on as major points of emphasis and would be willing to answer questions on any other points.

First, we must examine why there is control of alcoholic beverages:

1. Control distribution to protect tax revenue sources. Alcoholic beverages carry a higher per unit tax than almost any other commodity sold and distribution must be controlled to assure the collection of taxes and avoiding of bootlegging.
2. Keep alcoholic beverages out of the hands of minors. Public policy nationwide dictates that those under 21 are not psychologically and physiologically prepared to consume and handle alcohol.
3. Deference to that segment of the population which opposes alcoholic beverages morally and religiously. Interestingly enough, surveys made in Indiana in the early 1960's show 42% were opposed to alcoholic beverages in sale and consumption. A statewide survey made by Market Opinion Research in 1986 showed that only 14% objected. Similar surveys might be valuable in Kansas.

4. Keep manufacturer and distribution of alcoholic beverages out of the hands of criminals. This was true primarily after repeal of prohibition because of the heavy bootlegging that had taken place. Now it is primarily applicable to preventing liquor by the drink establishments from being fronts for gambling, prostitution, or dope.

5. Control of consumption and distribution as it may affect the whole problem area of drunk driving.

If these reasons for control are accepted, then one must realistically say alcoholic beverages are not a free enterprise commodity, and are controlled. In principle, if restrictions not applicable to other businesses are placed upon permit holders who sell alcoholic beverages at the retail level, be it by the package or by the drink, then the state is required in fairness to help offset the cost of meeting this responsibility.

For the purpose of this paper, I am dividing comments into three sections:

1. Dealing With Minor Sales, DUI, and liability
2. Administration, Licensing fees
3. Matters relating to merchandising and promotion

Experience has taught that minors are exceedingly shrewd in developing false i.d. or ways in which to secure alcoholic beverages illegally. To place the permittee's investment in his business in total jeopardy through suspension and revocation, has been the common approach that we in Indiana have found as grossly unfair. The legislature has made numerous changes and now heavy penalties are assessed on minors for using false i.d. and we even have cases of civil action taken against minors to recoup damages.

The employee permit was instituted in Indiana so that the employee held a liability in his job for selling to a minor, rather than placing the full burden on the business permittee. This is sound and fair, and in many instances the fines and/or suspensions of permits are levied against the employee and not the permittee if the employer can establish that his policies, training and business conduct is directed at avoiding sales to minors. As you are requiring licensing of employees plus a training program, the sale to a minor may take place by an employee without the knowledge of the employer, thus administrative fines or suspensions levied on the employee in case of violation are in order.

It might be well to consider having the industry do the training using the stick and carrot approach. Any establishment that has all of their employees go through the training program would receive a statutory cap on the amount of liquor liability, thus rewarding efforts to have trained employees plus an incentive to control over consumption.

Driving under the influence of alcohol is a severe problem which has given rise to many organizations such as: MADD, SADD and others. A great deal of funds are spent in this area, but interestingly enough, all the emphasis is placed on getting the consumer and no consideration is given to the distribution and accessibility of alcoholic beverages in the market place. It is very apparent that those organizations rightfully concerned with DUI do not want to be called prohibitionists, therefore, they close their eyes to the distribution problem.

The statewide survey made on alcoholic beverage questions in Indiana showed that 84% of the population felt that the responsibility for accidents related to DUI should be placed on the driver and not the person who served. This question was asked several ways throughout the survey and thus, we were able to determine it was a true feeling, whether it was sales of package goods or sales by the drink.

The whole question of liquor liability has been wrapped up in the emotional and economic argument between the legal profession and the insurance profession, with the businessman caught in the middle. Because of the survey done in Indiana and the overwhelming expression of public opinion, we have adopted legislation that provides that a permittee shall not be liable for any civil action unless it is established that the permittee had actual knowledge that the person served was visibly intoxicated at the time of serving, and was the proximate cause of the accident. In this session it is intended that a cap be applied where the employees have gone through training. This whole question of liability also ties back to the use of the corporate structure for ownership to try to isolate the private holdings of the permittee from liability.

I have examined the recommendations dealing with administration and fees and have several observations. In your law structure, you obviously consider the retailer any enterprise that sells either package or by the drink to the consumer. We in Indiana have used slightly different terminology and relate it to different permits. One who sells package goods only is a dealer; one who sells by the drink is a retailer. The retailer then is divided into clubs, hotels, restaurants, dining car, boats, aircraft, civic centers, and airports. Retailers are further divided into beer, wine, and liquor so we have holders of 1-way, 2-way or 3-way permits.

Frankly, it would be better if the retailer (by the drink) was divided into beer and wine as one class, and beer, wine and liquor as another class. To allow local government influence, we have county boards that are made up of four members who meet monthly to act on applications for new permits or renewals. These are four member boards, two from each political party. The County Commissioner, the County Council and the Mayor make appointments locally and the state commission adds the fourth person who is an excise officer and whose political party affiliation changes according to the make-up of the three local members.

This in effect, is local control but still adds some sanity and fairness to the permit process. If a local board rejects a new application by a vote of 3-1 or 4-0 it is final and cannot be resubmitted until the lapse of one year. A 2-2 vote sends the decision to the state board. On renewals, appeals to the state board are permitted if a 1-3 or 0-4 negative vote takes place, and under certain circumstances appeal to the courts if permitted. If a county wishes to remain dry, it may remain dry, or the door may be opened on a control basis with local authority having a major say. This system may or may not be applicable to Kansas, but does function fairly and acceptably in Indiana.

An examination of the license fees, appear to have a great deal of inequity. Wholesalers obviously can afford to pay much more than is being asked in that they have franchise protection and if they have geographic distribution protection, then they are in a monopolistic situation. It is most important that by the drink establishment have access to supplies either from the wholesaler or from those who sell package liquor.

A straight \$ 2,000 fee for liquor by the drink seems unreasonably high and gives no consideration to the population center or the potential sales. We in Indiana and all indications are it is true for the rest of the country, have experienced a considerable drop-off in sale of spiritous beverage. In fact, the only increase that we have had in our state is in the wine area and this is primarily wine coolers.

Considering the caterer's permit, I would recommend that catering licenses only be available to holders of liquor, beer, and wine by the drink permits and that the mechanism for catering special events be placed on the basis that the caterer shall advise the Commission by registered mail at least two weeks in advance of the event, the place, time and nature of the event and the state commission could reject it, otherwise the event could be held.

In this manner, the Excise Police are informed of any special event to be catered, but in the law providing for the catering license, you allow any establishment to be used as the premise for the event, but still maintain an element of control should it be totally outlandish. We have had experience in Indiana where catholic churches have been used as centers for wedding receptions, but such a proposal in a baptist church would be totally out of the question. By combining the catering license to an established restaurant you have got a point of reference for enforcement and as a rule without exception the restaurant must hold health licenses or permits which are very important from a safe food handling and sanitation standpoint.

To allow an independent caterer to start might bring about a proliferation that would not be controlled.

In the case of stadiums, civic centers, convention centers, and unique places where alcoholic beverages should be served but would not have private ownership, this can be taken care of by allowing the entity, be it airport, convention etc., to hold a civic liquor permit and enter into contracts with companies to provide the food and beverage as a management contract. It is assumed that the entity that receives the management contract would be required to have the proper restaurant license permits and meet the health codes.

The fee structure might also recognize seasonal or resort areas if there be any, that are open only a limited time throughout the year. The question of quotas or limiting permits is a touchy subject as is the equivalency argument between liquor, beer, and wine. Realistically, the bad side of alcoholic beverage is the extent to which it creates intoxication which is directly related to the alcohol. Although controversial, it is generally recognized that liquor, beer, and wine in its consumption or serving pattern is the same intoxicating effect, yet beer outlets are virtually uncontrolled. A recent visit to Iowa City where permits, location, and number are unrestricted revealed that students were being enticed into establishments as low as 25 cents a drink for draft beer.

While it is true that setting quotas creates an artificial value to a permit, the downside of unrestricted outlets might be more serious in its effect on public policy. With a 21 year old drinking restriction, the obvious untapped market is sales to minors. Another way for economic survival in an unlimited market is bootlegging, that is acquiring alcoholic beverages in states that have lower taxes or lower wholesale prices than available in Kansas.

Regarding the use of the corporate structure in issuance of permits, we have the problem of the corporate use as a subterfuge as well as its extreme value in liability protection. If a family builds a business, the transfer of ownership to other members of the family through stock is the most proper way. Also for financing and developing establishment. Corporate permit ownership should be provided. Residency restrictions can be placed on the stock ownership and the question of beneficial ownership of stock can also be introduced.

The third area for discussion deals with promotion and merchandising. It is very difficult to cover this statutorily in that man's creative mind develops all sorts of proposals, thus it is best that the Alcoholic Beverage Control Commission be given the authority to control it by regulation.

I noted the recommendation was made to continue a restriction on no sale below cost. The determinant of cost is of course quite variable unless the New York concept is used where it's invoice price plus a percent markup. That law is currently awaiting a decision by the United States Supreme Court as to whether it is legal. Short of such a method, a prohibition against sales below cost would be virtually impossible to enforce.



*1/26/87 JW
Attachment #5*

Chamber of
Commerce

T E S T I M O N Y

BEFORE THE

SENATE

FEDERAL AND STATE AFFAIRS COMMITTEE

PUBLIC HEARING

ON THE

KANSAS LIQUOR LAW REVIEW COMMISSION

by

Richard R. Cobb

Chairman, Legislative Affairs Committee
McPherson Chamber of Commerce

January 26, 1987

306 N. Main
P.O. Box 616
McPherson,
Kansas
67460

*Attachment #5
FSA 1/26/87*

The McPherson Chamber of Commerce would like to address the question of the new liquor controls proposed by the Kansas Liquor Law Review Commission as they apply to dry counties.

The Kansas State Legislators assumed when they voted to put the amendment on the ballot last session and so did the majority of the citizens who voted "no" in the dry counties on the November 4, 1986 liquor-by-the-drink amendment that the status quo of reciprocity would be preserved. The current report by the Kansas Liquor Law Review Commission cast a large shadow of doubt on this assumption.

We believe the situation faced by McPherson County is representative of the dry counties state wide. McPherson County has in the cities of McPherson and Lindsborg several excellent class B private clubs which serve the business community and the tourist interests of the County.

McPherson County is the location for 10 facilities of Fortune 500 companies: Sterling Drug, Manville Building Materials, CertainTeed, National Cooperative Refinery Association (which has the only corporate headquarters in Kansas of a Fortune 500 company) CENEX, Texaco Transportation and Trading Company, Alumax, Panhandle Industries-Kansas Cylinder Head, MAPCO, and Archer Daniels Midland. These and 35 other industries employ more than 3,000 workers in the manufacturing workforce. In surveys conducted with our industry leaders the three most important factors cited for their success in McPherson is 1) productivity of the work force 2) low energy costs and 3) the quality of the community. The current proposals of the Liquor Law Review Commission would jeopardize this situation.

Another important asset of the economic base is the tourist industry, most notably in Lindsborg. Lindsborg is recognized nationally as a center of Swedish heritage and as such attracts thousands of visitors from across the United States and many foreign countries.

The "visitor dollars" spent in McPherson County for 1985 for example represented \$10.3 million which ranks 22nd amongst the counties in Kansas. These "visitor dollars" also represent a payroll of \$1.9 million and 248 jobs. (Information from Travel Data Industry Survey commissioned by Kansas Department of Economic Development now the Department of Commerce.)

We feel McPherson County has demonstrated and will continue to demonstrate what rural economic efforts can produce. But, like all other Kansas communities, McPherson County cannot afford any loss of jobs or a decline in the tax base.

The economic consequences due to any drastic changes in the status quo would have some of the following effects for dry counties.

1. A loss of revenue from the liquor-by-the drink tax which is used to support city and county Alcohol Rehabilitation programs, Special Park and Recreation Funds, and the County General Fund. There is already a history of declining revenue from this income source. In McPherson County the revenue received in 1984 was \$25,238 which had declined to \$18,569 in 1985. In 1986 these revenues generated only \$14,783. The bulk of these monies go to the Alcohol Rehabilitation programs. In McPherson County there is no other revenue source to supplement these programs. However, the demands placed on the Alcohol Rehabilitation program have increased.

2. The loss of reciprocal arrangements could mean:
 - a. loss of businesses - many class B clubs could go out of business which would then result in:
 - loss of jobs
 - loss of tax revenue
 - loss of visitor dollars

3. In the smaller populated rural counties reciprocity and public seating in class B clubs is vital to keep these clubs operating. If these provisions of the law are not retained the investment by the club owners is in jeopardy.

4. Motels and hotels in the dry counties, which do not provide food and beverage service facilities on premises, have had binding agreements with class B private clubs. To eliminate this provision would not only be a hardship on the private class B club, but would be detrimental to the hotel or motel with the reciprocal agreement. (This is an area not specifically addressed by the Commission Report.)

5. There are many excellent gourmet facilities in the smaller dry counties which are patronized by both individuals and businesses from wet counties. The existing customers would potentially be denied access if reciprocity was not maintained.

We feel the Commission Report should be divided into two areas of legislation: one area would deal only with those issues relating to liquor-by-the-drink and the other area should deal with the mechanics of the liquor distribution system.

We are in favor of the following major recommendations of the Liquor Law Review Commission:

1. Liquor-by-the-drink establishments should be licensed and regulated by the ABC;
2. Ownership and licensing requirements for liquor-by-the-drink establishments should be similar to those now required of Class B private clubs;
3. An annual license fee of \$2,000 should be required of liquor-by-the-drink premises;
4. The private club system should be maintained in both liquor-by-the-drink (wet) counties and non-liquor-by-the-drink counties;
5. A special events license should be established to allow individuals and organizations to serve liquor at special events and fund raisers;
6. A caterer's license, which would not be tied to specific premises, should be established to allow catering to special events;
7. A special events license should be required to be obtained by caterer to serve an event on non-licensed premises;
9. Minimum food requirements for all private clubs should be eliminated;

We feel that recommendation #11 should be changed as follows:

11. Class B club membership fees and fees for reciprocal agreements (class A clubs) should be paid to the State and be used for the enforcement of ABC regulations, with an administrative charge being retained by the club.

We are strongly opposed to the following recommendations:

8. Reciprocity among all class B (for profit) private clubs should be eliminated;

10. Guests of management should be prohibited in private clubs.

This testimony is also endorsed and supported by the Lindsborg Chamber of Commerce.

Jim Baxhman 1/26/87
Attachment #6

As a Western Kansas retailer, I seriously question the objectivity of the recommendations made to this Committee by the Liquor Law Review Commission concerning off premise establishments due to the fact that four distributors were represented versus one retailer, and only one member of the Commission was from Western Kansas.

Failure to address the monopolistic practices of franchise wholesaling can only be expected from a Commission weighed so heavily in favor of the distributors. By continuing this abusive system, the three families controlling the sale of distilled spirits in this State are assured of continued control without fear of competition of any sort. This also holds true for the beer wholesalers where pricing and service vary from distributor to distributor. When a liquor or beer distributor has a locked in, captive market, there is very little incentive for competitive pricing or service.

On the other hand, the Commission would restrict the number of stores a retailer can own to 1. Their reasoning, "Multiple ownership and ownership of more than one retail liquor store would impede competition with the potential of one licensee capturing a large share of the market." It doesn't take a lot of intelligence to see the hypocrisy in this statement. According to the Commission and present law, an individual or a corporation can own multiple distributorships with captive, franchise markets for each distributorship but a retailer is limited to one store! Free enterprise might be alive and well elsewhere but certainly not in the liquor industry in this State!

Their recommendations restricting multiple stores, eliminating minimum mark up, and allowing case discounts would insure the demise of small "Mom and Pop" stores all over the State. How can a store serving a small population base, even if it is the only one in town, compete with stores in more populated areas that can buy in volume thus receiving larger price discounts? This will simply add to the economic burden being felt by our small rural communities, transferring more revenue away from them to larger towns.

By ending minimum mark up, the Commission would have retailers competing in limited markets and doing away with 'surplus' retail stores through a kind of "survival of the fittest" approach. At the same time, the wholesalers would continue to have their competition free franchise market where they could charge whatever mark up they wish, thus insuring "survival of the fattest"!

Attachment #6
FSA 1-26-87

In regard to licensing fees; If the wholesale liquor fee goes from \$1250.00 to \$2000.00 annually for wine and spirits; and beer wholesale licenses go from \$450.00 for C.M.B. and strong beer to \$1000.00, WHY will the retailers' license fee go up five times from \$100.00 to \$500.00? Once again, we see the biased attitude of the Commission come into play!

With the franchise system now in place, when a ^{liquor} wholesale distributor marks up a product 20%, he makes that 20% profit on every bottle of that product sold in the entire State: A retailer, on the other hand, sells at 28% mark up, an extremely small percentage of that product, yet his license fees cost him 1/4th of what the wholesalers license cost him. This increase would be particularly hard on the liquor stores serving small rural communities where sales volume is relatively low.

If the people of Kansas were forced to deal with this kind of marketing in any other product such as food, clothing, automobiles or farm equipment, and such an arrangement was supported by the Legislature, there would be hell to pay on election day!

Because of the disproportionate representation on the Commission, I strongly urge this Committee to view the recommendations of this Commission for what they are; biased and protectionist attitudes that tend to serve wholesale distributors and hinder free enterprise and competition in this State.

Thank you.

TESTIMONY ON KANSAS LIQUOR LAW REVIEW COMMISSION
Before the Federal and State Affairs Committee

1/26/87 JW
#7

Mr. Chairman and members of the committee, we, with the Kansas Community Alcohol Safety Action Project Coordinator's Association, wish to commend the liquor commission for the long hours and hard work that preceeded this report. Now the burden of implementing the liquor laws lies with you, the legislators.

We still support the stiff penalties for the D.U.I. violations and other alcohol related driving offenses. We also support that those offenders be responsible for the cost of their education and/or rehabilitation. Under the D.U.I. law passed by the legislature in 1982, and refined each year since then, the offender is assessed a \$110 evaluation and monitoring fee, in addition to the cost of his education or treatment. We continue to support that philosophy.

For the programs that conduct the evaluations for D.U.I. offenders throughout the state, we find that it is necessary to go to our local units of government to make up the difference between what the offender pays for the evaluation and any other educational fees, to complete our budgetary requirements. We rely on the local liquor excise tax, which has been placed on the private clubs, for the funding to supplement our D.U.I. programs. We support wholeheartedly that some of the revenue derived from liquor sales should be given to local governments to help supplement programs such as ours. Throughout the state, we find that each community is aware of the drinking/driving problem within their own communities. The local units of government, whether it be city or county, should have some funds that are generated in those localities to help supplement any alcohol and drug education and/or rehabilitation measures within their jurisdictions.

We hope this committee will move forth in a positive manner to provide local liquor tax funding for those programs that rely solely on local tax money for the maintenance of the program. At the present time, none of our 25 member programs receive any state funding for the maintenance or expansion of their D.U.I. operations. Each one must rely on the local units of government for survival. We support this concept, as we feel that drinking and driving, and other alcohol related offenses, are a community problem and should be recognized and solved by each individual community.

Thank You

Gene Johnson
Gene Johnson

Kansas Community Alcohol Safety
Action Project Coordinator's
Association

Attachment #7
FSA 1/26/87

1/26/87
Attachment #8

TESTIMONY FOR
THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

by John L. Myers
Representing Kansas C.M.B.

Mr. Chairman and members of the Committee. Thank you for the opportunity to appear today. I am John Myers and I am here representing Quick-Trips, Kwik Shops, Stop-N-Shops, Southland Companies and several associations you are familiar with--the Kansas Food Dealers, the Kansas Beer Wholesalers and the Kansas Oil Marketers.

These concerns and other interested parties have just formed a coalition. The coalition will be known as Kansas C.M.B. Members of the coalition agree that when people voted last November on liquor-by-the-drink, they were also expressing strong support for modernizing our laws. With that principle in mind, I would now like to turn to the Liquor Law Review Commission report. On page 3 of the report it is noted that the Kansas Legislature classified beer with an alcohol content of 3.2% by weight or less as being cereal malt beverage. That was done in 1937. Recently the logic in having two strengths of beer was supported by the differential between the 18 year-olds ability to

Attachment #8
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purchase cereal malt beverage as compared with the need to be 21 years old in order to buy liquor. Since laws have now changed to require purchase of beer by only 21 year-olds, it is time to consider all strength beer for Kansas. We would, therefore, support the comments by the Chairman of the Committee, Judge Rohleder, on page 9 of the report where he says there should be no distinction between strengths of beer, all strengths of beer should be permitted to be sold in current CMB outlets as well as retail liquor stores.

We would also recommend a close look at page 12 of the report which identifies the need for stiff penalties for those under-aged persons attempting to purchase beer. We support such a provision as well as a strong criminal prosecution of those using fake I.D.s.

Finally, on page 17 of the report the Sunday and election day sales provision recommended by the Commission is for on-premise sales. Consistant with that provision our coalition would support such a change for off-premise sales. Although we have only identified a few items that are included in the report, the coalition that I represent is in favor of most items included in the report with exception of those already identified. We

would ask that this Committee introduce all measures raised by the Liquor Law Review Commission's report. Thank you for the opportunity to testify.

KKP01237OK6/7

OLD MILL
RESTAURANT
& WINE BAR

1/26/87
Attachment #9

January 26, 1987

To: The Senate's Federal & State Affairs Committee
Re: Recommendations for implementating the liquor-by-the-drink amendment
From: Dennis Zehr, owner/operator of the Old Mill Restaurant and Wine Bar in Newton, Kansas

My name is Dennis Zehr. For the past 8 years I have owned and operated the Old Mill Restaurant and Wine Bar in Newton, Kansas.

The Old Mill employs approximately 45 people. My business pays about \$18,000 in Liquor Excise Taxes; \$28,000 in State Taxes with a total of \$30-35,000 in Local and State Taxes and \$5,000 in Property Taxes. This represents over \$50,000 annually in various taxes.

In an effort to protect my investment in Newton, I have come here today to address three of the recommendations made by the Liquor Law Review Commission which are presently being studied by this Committee.

1. The no "public dining" recommendation, if enacted, would eliminate 50% of my current business which comes from local and out of town patrons who are not members of my club. This recommendation, in and of itself, would surely put me out of business.
2. The no reciprocity among private clubs recommendation, if enacted, would severely restrict my business. Currently 40% of my dinner trade comes from outside Harvey County. Most of this business comes from patrons living in Sedgwick and Reno Counties. Since these counties have passed liquor-by-the-drink, residents of these counties would have no reason to buy any kind of private membership unless that membership would admit them to most class B clubs in "dry" counties. Without a continued system of reciprocal memberships I could lose 20% or more of my total gross income.
3. The on-premises sales licenses recommendation, if enacted, would require private club membership fees to flow to the state except for administrative costs. Since this would also represent a loss in my current gross income it would provide yet another hardship to my business.

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If these recommendations are enacted, as they currently stand, they could potentially cause the closing of every class B club with a public dining facility in all of the 69 counties that voted to remain "dry". These recommendations unfairly descriminate against counties which did not approve liquor-by-the-drink and seem to be designed to penalize "dry" counties by placing an unreasonable hardship on the backs of private club owners who operate a public dining area.


The purpose of seeking the passage of liquor-by-the-drink was for economic growth. Based on the annual taxes my business pays, if one business (even half the size of mine) in each of the 69 "dry" counties goes out of business the state stands to lose at least 3.5 million dollars annually in local and state tax revenues. This seems an absurd trade off for the new revenues which might be generated in "wet" counties.

Speaking on behalf of every business whose future is being threatened by the three recommendations outlined, I would submit that the Senate's Federal and State Affairs Committee strongly oppose these three recommendations and instead recommend the passage of:

1. Placing no new restrictions on public dining for class B clubs with public dining areas which currently operate in counties that did not approve the liquor-by-the-drink amendment.
2. Maintaining a system of reciprocal memberships for private clubs operated in "dry" counties as legislated statewide prior to the passage of the liquor-by-the-drink amendment.
3. Making no changes in the on-premises sales licenses that force class B club owners to forward membership fees, less administrative costs, to the state.

I would be happy to respond to any questions you may have and would be willing to attend any future hearing to present the recommendations which have been submitted here today.

Most respectfully,



Dennis Zehr, Owner/Operator
Old Mill Restaurant and Wine Bar

1/26/87
Attachment #10

Testimony to the Senate
Drafting of Legislation to Implement Liquor-by-the-Drink

My name is Nicki Soice. I was the coordinator for KPTS/Ch. 8 for the Chemical People in 1983 and am now project coordinator for the Channel 8 area for the Generation at Risk project. I work as a volunteer for the Drug/Alcohol Abuse Prevention Center in Wichita facilitating parent groups, teaching in the classroom, doing teacher in-service training, and assisting community groups.

As I work with each of these groups I have come to know the great need that exists for the drug/alcohol services--treatment for both adults and youth, intervention services for family members, and prevention services for both parents and youth. The more we work to alert communities to the difficulties, to educate them on the issues, the more demand we find for these services.

National data will indicate that there are an estimated 15 million alcoholics. Out of that number, more than 3.3 million are under the age of 17. One out of ten of those American adults who drink, and a significant number do not drink, somewhere between 1/4 to 1/3 of the population, is considered alcoholic. Among our youth, the number is more startling and one out of every five youth is considered alcoholic at the time they leave high school. The professionals in this field are working hard to see that these numbers do not continue to escalate.

As you work to put together the legislation to implement liquor-by-the-drink, please consider the importance of continuing to fund the programs that work so diligently in the state of Kansas to address these issues. I represent those who will benefit the most from these programs; they are the people we work with on a daily basis. Most will hardly notice that a piece of legislation is even being drafted; they do not understand the complexity of funding nor do they wish to--until such a time as they require services and cannot locate them!

Attachment #10
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