

Approved 2-11-87
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./~~p.m.~~ on February 5, 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

Conferees appearing before the committee:

Mr. Bob W. Storey, Premier Wine & Spirits, Inc.
Mr. Adrian Farver, Kansas Hospitality Industry for Progressive Liquor Laws
Mr. George Puckett, The Kansas Restaurant Association
Mr. Albert Lollar, Kansas Retail Liquor Dealers Association
The Reverend Richard Taylor, Kansans for Life at Its Best
Mr. John Webb, Kansas Alcoholic Beverage Dealers Association
Mr. Neal Whitaker, Kansas Beer Wholesalers Association
Mr. R. E. "Tuck" Duncan, Kansas Wine & Spirits Wholesalers Association

The Minutes of January 14, 26, and February 3, and 4, were approved on motion of Senator Morris, seconded by Senator Martin.

The Chairman announced that conferees who are interested in testifying about SB141, concerning liquor by the drink, are present. He welcomed the first conferee.

Mr. Bob E. Storey, representing Premier Wine & Spirits, Inc., spoke to the Committee. His testimony is part of these Minutes. (Attachment #1)

The next conferee was Mr. Adrian Farver, of the Kansas Hospitality Industry for Progressive Liquor Laws. Mr. Farver had a proposed amendment, which he explained to the Committee, (Attachment #2), along with other comments.

Mr. George Puckett, of The Kansas Restaurant Association was the next conferee. A copy of his written statement was handed out prior to his speaking to speaking to the Committee. (Attachment #3).

The Kansas Retail Liquor Dealers Association was represented by Mr. Albert Lollar. He said he will prepare a written statement to be attached to these Minutes, reflecting his comments at this time. (Attachment #4)

The Reverend Richard Taylor, of Kansans for Life at Its Best, was the next conferee. A copy of his statement is part of these Minutes. (Attachment #5)

The Chairman then welcomed Mr. John Webb, of the Kansas Alcoholic Beverage Dealers Association for his comments to the Committee. Mr. Webb will furnish a written statement of his remarks for these Minutes. (Attachment #6)

Mr. Neal Whitaker, of the Kansas Beer Wholesalers Association, was the next conferee. His statement is an attachment. (Attachment #7)

Mr. R. E. "Tuck" Duncan was the next conferee. The written statement from him will be supplied for Committee, and labeled for these Minutes. (Attachment #8)

The Chairman thanked all for appearing. He said the Committee will meet tomorrow to continue work on SB141, and to entertain motions by the Committee for any amendments and changes by staff.

The meeting was adjourned at noon.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

2/5/87
Attachment #1

TESTIMONY CONCERNING SENATE BILL 141
BEFORE THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
PRESENTED BY BOB W. STOREY
REPRESENTING PREMIER WINE & SPIRITS, INC.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I appreciate the opportunity to appear before your Committee today and testify concerning Senate Bill 141 on behalf of Premier Wine & Spirits, Inc.

For your information, Premier Wine & Spirits, Inc. was formerly known as Eastern Distributing, and is a licensed wholesaler of alcoholic beverages located in Johnson County, Kansas. In 1986 Eastern merged with State Distributing out of Junction City, Kansas, to form Premier Wine & Spirits, Inc. That entity has certain contracts with manufacturers of alcoholic beverages to market their products throughout the state of Kansas.

Premier Wine & Spirits, Inc. strongly supports the concept of implementing the liquor by the drink legislation as quickly as possible within the state of Kansas. However, it does have some serious thoughts and objections to certain portions of Senate Bill 141. More specifically, it objects to the provision in the bill which authorizes the delivery of alcoholic products by wholesalers directly to a drinking establishment, which is not allowed under present law.

First, it is not the intent of wholesalers to get into the delivery business. It would be a burden upon the wholesalers to add personnel and equipment in order to deliver to the

Attachment #1
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drinking establishments. Such equipment would be in addition to that which is now being used to deliver directly to retail liquor stores. Also, Premier does not believe that it would be in the best interest of the three-tier system to provide that the wholesalers, rather than retail liquor stores, have direct access to drinking establishments. If such establishments desire to have alcoholic beverage products delivered directly to them, then that authority should be given to the retailer and not to the wholesaler. Again, that would preserve the three-tier system, which Premier believes in very strongly.

But, more important than these reasons is the underlying concern that implementation of liquor by the drink should be by a clean bill, to implement the intent of the voters in the state of Kansas when liquor by the drink was voted on in the 1986 fall elections.

Premier's concern is that there are still those who are opposed to liquor by the drink. That opposition will look for many opportunities to vote against the implementing legislation, which will affect only the counties which voted wet in the fall elections. If in fact this bill contains provisions which allow delivery by wholesalers to drinking establishments, then obviously it is going to be opposed by the retail dealers' association. Also, it will be opposed by some wholesalers, such as my client. There certainly will be lobbying to the members of the legislature to vote against the bill. One reason for this is that it will put some liquor stores in financial jeopardy, that now depend on their sales to drinking establishments.

Another reason is that some of the "Ma and Pa" liquor stores in the state of Kansas will fear that at a future time delivery may be extended to any customer, and that also would put the retail stores in jeopardy. And, again this will give some of the legislators an opportunity to vote in favor of their constituents, i.e., the retail liquor establishments, voting no on the legislation.

If the issue of delivery to drinking establishments by wholesalers, or the issue of delivery by retail dealers to drinking establishments, is going to be addressed, it should be addressed in a separate bill, not in the bill for implementation of liquor by the drink, since, as previously stated, that bill should be addressed immediately and passed by the legislature to comply with the wishes of the voters in the fall election.

Thank you for your consideration in this matter. We hope the Committee will give strong consideration to deleting the references to delivery of alcoholic beverages in this bill before it is committed favorably for passage to the full Senate.

Respectfully submitted,

BOB W. STOREY

0084 ducted, and the votes counted and canvassed, in the manner
 0085 provided by law for question submitted elections of the county.
 0086 New Sec. 52. (a) The secretary shall adopt, in accordance
 0087 with K.S.A. 41-210 and amendments thereto, rules and regula-
 0088 tions establishing standards for alcoholic liquor server education
 0089 programs and criteria for approval of such programs by the
 0090 director. Such standards shall include standards for:

0091 (1) Curriculum and materials;
 0092 (2) examination of servers and examination procedures; and
 0093 (3) certification of instructors.

0094 (b) Standards for the curriculum of alcohol server education
 0095 programs shall include, but not be limited to:

0096 (1) Alcohol as a drug and its effects on the body and behavior,
 0097 especially driving ability;

0098 (2) the effects of alcohol in combination with commonly used
 0099 legal drugs and illegal drugs;

0100 (3) recognition of the problem drinker and community treat-
 0101 ment programs and agencies;

0102 (4) state alcohol beverage laws such as prohibition of sale to
 0103 minors, sale to intoxicated persons, sale for on-premises con-
 0104 sumption, hours of operation and penalties for violations of the
 0105 laws;

0106 (5) drunk driving and liquor liability laws;

0107 (6) intervention with problem customers including ways to
 0108 cut off service, ways to deal with the belligerent customer and
 0109 alternative means of transportation to get the customer safely
 0110 home; and

0111 (7) advertising and marketing for safe and responsible drink-
 0112 ing patterns and standard operating procedures for dealing with
 0113 customers.

0114 (c) The director shall publish at least quarterly a list of
 0115 alcohol server education programs approved by the director in
 0116 accordance with rules and regulations adopted pursuant to this
 0117 section.

0118 (d) On and after July 1, 1988, ~~each applicant for an original or~~
 0119 ~~renewal license as a class C establishment or caterer under this~~
 0120 ~~act shall submit to the director evidence, satisfactory to the~~

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Attachment #2

Adrian M. Farver
 KANSAS HOSPITALITY INDUSTRY FOR PROGRESSIVE
 LIQUOR LAWS Committee

Attachment #2
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any person who serves alcoholic liquor, or drinks containing alcoholic liquor, as an officer, employee or agent of any drinking establishment, caterer or holder of a temporary permit shall be licensed by the director as an alcoholic liquor server.

Licenses as alcoholic liquor servers shall be issued annually only to persons 21 or more years of age who have successfully completed an alcoholic liquor server education program approved by the director, and who have not been adjudged guilty of a felony or of any crime involving a morals charge in this or any other state, or of the United States.

The annual fee for an alcoholic liquor server shall be in the amount of \$10.00.

0121 ~~director, that all officers, employees or agents of the licensee~~
0122 ~~who serve alcoholic liquor, or drinks containing alcoholic liquor,~~
0123 ~~have successfully completed an alcoholic liquor server educa-~~
0124 ~~tion program approved by the director.~~

0125 Sec. 53. K.S.A. 41-2640 is hereby amended to read as fol-
0126 lows: 41-2640. (a) No ~~club licensed pursuant to article 26 of~~
0127 ~~chapter 41 of the Kansas Statutes Annotated, or drinking estab-~~
0128 ~~lishment, caterer or holder of a temporary permit, nor any~~
0129 ~~employee or agent of such a club thereof, shall:~~

0130 (1) Offer or serve any free cereal malt beverage or alcoholic
0131 liquor in any form to any person;

0132 (2) offer or serve to any person a drink at a price that is less
0133 than the acquisition cost of the drink to the licensee *or permit*
0134 *holder;*

0135 (3) sell, offer to sell or serve to any person an unlimited
0136 number of drinks during any set period of time for a fixed price,
0137 except at private functions not open to the general ~~club mem-~~
0138 ~~bership public or to the general membership of a drinking~~
0139 *establishment;*

0140 (4) sell, offer to sell or serve any drink to any person at any
0141 time at a price less than that charged all other purchasers of
0142 drinks on that day;

0143 (5) increase the volume of alcoholic liquor contained in a
0144 drink or the size of a drink of cereal malt beverage without
0145 increasing proportionately the price regularly charged for the
0146 drink on that day;

0147 (6) encourage or permit, on the licensed premises, any game
0148 or contest which involves drinking alcoholic liquor or cereal malt
0149 beverage or the awarding of drinks as prizes; or

0150 (7) advertise or promote in any way, whether on or off the
0151 licensed premises, any of the practices prohibited under sub-
0152 sections (a)(1) through (6).

0153 (b) Nothing in subsection (a) shall be construed to prohibit a
0154 ~~club drinking establishment, caterer or holder of a temporary~~
0155 *permit from:*

0156 (1) Offering free food or entertainment at any time; or

0157 (2) selling or delivering wine by the bottle or carafe.

2/5/87
Attachment #3



The Kansas Restaurant Association

359 South Hydraulic, Wichita, Kansas 67211 (316)267-8383

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 PRIVATE CLUBS.

THE ASSOCIATION, WITH THE EXCEPTION OF A FEW POINTS, SUPPORTS S.B. 141, AS A WORKABLE BILL TOWARD ESTABLISHING PROGRESSIVE LIQUOR LAWS IN KANSAS. THE ASSOCIATION DISAGREES WITH THE \$2,000 LIQUOR-BY-THE-DRINK LICENSE FEE PROPOSED BY S.B.141, AND BELIEVES IT IS NECESSARY THAT A MORE EQUITABLE FEE BE ESTABLISHED THAN THE FLAT \$2,000 FEE. SMALL BUSINESSES WOULD SUFFER UNDER SUCH A LARGE FEE, AND KRA BELIEVES THAT A LOWER FEE OR A SLIDING SCALE IS NECESSARY TO BE FAIR TO SMALL BUSINESS. PERHAPS A METHOD SIMILAR TO OUR ASSOCIATION DUES STRUCTURE COULD BE UTILIZED, WHICH IS ALSO A SLIDING SCALE, BASED ON TOTAL FOOD AND BEVERAGE SALES OF EACH FOODSERVICE BUSINESS. THE SCALE RANGES FROM AS LOW AS \$80 FOR THOSE RESTAURANTS WHOSE VOLUMES ARE LESS THAN \$250,000 PER YEAR, TO A HIGH OF \$325 PER YEAR FOR MULTIPLE UNITS WHOSE VOLUME EXCEEDS \$1,000,000, WHICH ENTITLES THEM TO FOUR MAILINGS FROM THE KRA OFFICE.

THE ASSOCIATION AGAIN, SUPPORTS THE SERVER TRAINING PROGRAM AND HAS AT ITS AVAILABILITY, ONE OF THE MOST PROFESSIONALLY DEVELOPED SERVING TRAINING PROGRAMS IN USE IN THE COUNTRY, TODAY. OUR PROGRAM WAS DEVELOPED BY THE NATIONAL RESTAURANT ASSOCIATION, AND INCLUDES A THREE-PART VIDEOTAPE, DESIGNED TO PROPERLY PREPARE AND TRAIN A SERVER OF ALCOHOL. KRA BELIEVES, THAT THE ABC SHOULD MAINTAIN THE SAME STRICT CERTIFICATION THAT, FOR EXAMPLE, THE KANSAS REAL ESTATE COMMISSION REQUIRES, IN ORDER FOR AN INSTRUCTOR OR A SEMINAR TO BE CERTIFIED BY THE STATE. A REAL ESTATE INSTRUCTOR TEACHING A COURSE APPROVED BY THE KANSAS REAL ESTATE COMMISSION MUST BE: A COLLEGE GRADUATE, AN ATTORNEY, OR, HAVE SERVED A SPECIFIED NUMBER OF YEARS ACTIVELY ENGAGED IN THE TOPIC HE/SHE IS TEACHING. THE SERVER TRAINING WILL BE EXTREMELY BENEFICIAL TO THE SERVER, THE BUSINESS OWNER, AND THE CONSUMER, IF PROPERLY TAUGHT. THE KRA WOULD BE HONORED TO PARTICIPATE IN THIS TYPE OF TRAINING, AS WE REPRESENT THE PRIVATE CLUB TRADE.

(CONTINUED)

"Promoting Excellence in Foodservice Since 1933"

Attachment #3
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PAGE TWO--

THE ASSOCIATION SUPPORTS THE POINT OF PURCHASE AND DELIVERY AS SET OUT IN S.B. 141, WHICH WILL ALLOW THE PURCHASE AND/OR DELIVERY FROM THE WHOLESALER OR THE RETAIL DEALER OF THE OWNER'S CHOICE. WE ALSO SUPPORT THE "ONE LICENSE PER PREMISE" CONCEPT. WE ALSO BELIEVE THAT ALL ROOMS SERVING ALCOHOL ON THE SAME PIECE OF PROPERTY, ^{OPERATED} OWNED BY THE SAME OWNERS, SHOULD BE ALLOWED TO OPERATE ON ONE LICENSE.

THE KANSAS RESTAURANT ASSOCIATION WOULD BE HONORED TO EXTEND OUR SERVICES IN ANY WAY WE MIGHT BE OF SERVICE IN ESTABLISHING PROGRESSIVE LIQUOR LAWS IN KANSAS.

K R I D A

KANSAS RETAIL LIQUOR DEALERS ASSOCIATION INC.

2/5/87
Attachment #4

1950 W. 21st St.
WICHITA, KS. 67203
(316) 832 - 1155

CARL L. MITCHELL
PRESIDENT

TRACY MOODY, 1st Vice - President
AL FIFFE, 2nd Vice - President
WAYNE BENNETT, Secretary - Treasurer

February 5, 1987

Senate Federal & State Affairs Committee

RE: Senate Bill 141

My name is Albert Lollar and I am representing the Kansas Retail Liquor Dealers Association. I am sorry but our Lobbyist Ken Bahr called me this morning that he is sick and unable to be here so I do not have any written testimony but rushed up here from my store to say a few words about this Bill.

Our position was pretty well covered by my testimony the last time I was here. As you have already heard any type of delivery to the Clubs or On-Premise establishments is going to be expensive. I honestly do not think the Club operators realize how convenient it is to place one phone call to receive all their Spirits, Wine and Strong Beer. If they are permitted to buy from the Wholesalers it may take as many as 7 or 8 phone calls.

Taxation is another issue which is not addressed in this Bill but will have to be dealt with later. There is the 8% Enforcement tax and the 10% excise or drink tax at the Club level.

The record will speak for its self that the Wholesalers and Retailers have always paid their taxes to the State. It seems most problems on tax evasion has been at the Club level. I will say the Retailers could be of further service to the State in collecting taxes in whatever way that is needed in the future. However, I must stress there will be better controls and less enforcement problems for the A.B.C. Division if all the Club and On-Premise liquor continues to go thru the Retail Liquor Stores. Any Retail liquor store that sells to a private club today must buy a Federal Wholesalers permit and report all the Club sales to A.B.C.

I have talked to many of the Club operators and their main desire is to get delivery from someone.

I urge you to consider requiring all purchases by Clubs or On-Premise to be placed thru the Retail Liquor Store and allow the Retailer and Club operators to work out the delivery between them.

Thank you

Albert D. Lollar
Lobbyist & Director

Attachment #4
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Attachment # 5

KANSANS FOR LIFE AT ITS BEST!

Rev. Richard Taylor, Box 888, Topeka, Kansas 66601

Phone (913) 235-1866 Office 1273 Harrison
(3 Blocks South of Statehouse)



A Proud Land

February 5, 1987 Hearing on SB 141
Senate Federal & State Affairs Committee

Morning TV informed us of a leader in the cocaine traffic brought to America from Columbia to stand trial. Cocaine is a drug problem. Alcohol is a drug problem. Why do we treat these drug problems so differently? Less use of any drug brings less drug abuse.

Alcoholism authorities concerned for prevention say food should be pushed along side liquor. A 50% food requirement for public liquor by the drink outlets would be a step in that direction.

In a recent news story, Governor Hayden said he did not know where the 30% figure came from. It came from liquor dealers who want to make more money selling more liquor.

Should the legislature serve the public good, or should the legislature serve special interest lobbyists with a first concern for the pocketbook of their clients?

A YES vote for the constitutional amendment was promoted by those who said the issue was out of state businessmen and tourists who wanted a drink with their meal, the issue was new restaurants coming to Kansas if they could sell liquor by the drink to the public, and the issue was getting rid of private club cards.

All three of those campaign goals are fulfilled with a 50% food requirement. Current reciprocal clubs must do 50% of their business in food and drinkers are having no problem getting enough to drink. Counties that voted YES did not vote for 30% food, they voted to get rid of private club cards.

The amendment does not require you pass legislation permitting public liquor by the drink with a 30% food requirement. The amendment allows you to do so. Why not exercise concern for prevention of alcoholism and require 50% food?

There was one issue on the ballot: Vote for liquor by the drink in public places or vote to maintain the status quo which is liquor by the drink in private homes, Liquor by the drink in private clubs, and no liquor by the drink in public places.

Concerned drinkers and non drinkers in counties that voted NO because liquor is available enough, who voted to maintain the status quo, thank you for this committee bill that does not make any changes in the private club law. Liquor is permitted in Kansas but not promoted as in other states. This results in less alcoholism.

Because they will be pushing liquor by the drink to the public, making it more convenient for more people to drink more liquor in more places on more occasions and drive away, the license for class C establishments and caterers on page 33 should be greatly increased.

"Of our political revolution of 1776 we are all justly proud," said Abraham Lincoln on Washington's birthday in 1842. He went on to say "how proud the title of that land" where persons declare their freedom from alcoholic beverages because they "shall find a stronger bondage broken, a viler slavery manumitted, a greater tyrant deposed. . . perfect liberty!" With per-person consumption at nearly half the national average, thousands of Kansans enjoy that perfect liberty. Concerned users and non-users are united in this R-E-A-L effort to prevent alcoholism, highway tragedy, and other suffering caused by our most abused recreational drug.

- Rehabilitation — Help alcohol-dependent persons adjust to life without the drug.
- Education — Inform children, youth & adults of effect of alcohol on mind & body.
- Amount — Encourage persons to be non-users and encourage users to use less.
- Law — Pass and enforce laws that reduce consumption and suffering.

Attachment #5
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According to federal government figures, for each \$1.00 revenue received on beer, wine, and spirits, at the federal, state, and local level, \$10 is taken from the public in higher prices, higher insurance premiums, and higher taxes.

Higher fees would offset this loss of \$10 for \$1. Higher fees would also mean fewer places and occasions for the public to drink liquor and drive away.

Kansans are now being injured and killed by drivers who have been drinking liquor in private homes and in private clubs. In addition to this, Kansans will now be injured and killed by drivers who have been drinking liquor in public places. Please minimize increased death and destruction with a 50% food requirement and higher fees.

Respectfully yours,

Richard Taylor

Rev. Richard E. Taylor, Jr.

If Kansas received revenue per gallon consumed equal to the three highest states, an additional \$83 million would be available to offset the current fiscal crisis.

People voted for liquor by the drink in public places because they believed it would bring additional revenue. Liquor promoters claimed public liquor by the drink will not increase consumption.

Therefore the only way increased revenue can be realized without an increase in drinking is for the legislature to vote an increase in revenue per gallon consumed. Missouri has liquor by the drink in public places, yet collects less revenue. Lawmakers who vote for this increase are voting to make liquor promoters honest!

1984	DISTILLED SPIRITS			(\$1,000)		
Revenue per wine gallon received	Kansas Increase	New rate	Revenue now	New revenue	Total Revenue with new rate	
Kansas	\$ 6.64	\$13.33	\$19.97	\$19,641	\$39,430	\$ 59,017
Washington	\$19.97					
	WINE					
Kansas	\$ 1.48	\$ 3.63	\$ 5.11	\$ 3,337	\$ 8,185	\$ 11,522
Utah	\$ 5.11					
	BEER					
Kansas	\$ 0.49	\$ 0.70	\$ 1.19	\$24,845	\$35,493	\$ 60,338
Georgia	\$ 1.19					
			TOTAL	\$47,823	\$83,108	\$130,877

REVENUE RECEIVED FROM ALCOHOLIC BEVERAGES SHOULD BE INCREASED TEN TIMES FOR THE PUBLIC TO BREAK EVEN.

If all costs were calculated it would be much more than this, but a conservative estimate by Dr. Robert G. Niven of the National Institute on Alcohol Abuse and Alcoholism of the economic cost of alcohol problems in 1983 was \$116.7 billion taken from nondrinkers and drinkers in

HIGHER PRICES for goods and services caused by alcohol impaired workers;

HIGHER PREMIUMS for hospital-medical-auto-fire insurance to cover alcohol-related losses; and

HIGHER TAXES for criminal justice, law enforcement, welfare, and treatment for the alcoholic.

The liquor industry reports \$12.1 billion revenue was received in 1983 from beer, wine, and spirits, at the federal, state, and local level. For each \$1 of revenue, \$10 was taken from the public pocket.

KABDA

800 WEST 23rd • LAWRENCE, KANSAS 66046

Kansas Alcoholic Beverage Dealers Association

POSITION PAPER

Kansas has a unique opportunity to start developing a model alcoholic beverage industry during the 1987 legislative session. With the majority vote for liquor by the drink and the 2 year revote provision, the legislature has been given a direction and the mechanism to build one of the finest alcoholic beverage industries in the nation. Many of our existing laws form the necessary structure to work from. Whatever is done, the laws and the rules and regulations must be consistent for all product categories. The rules and regulations must be effective in accomplishing the desired goals of voluntary compliance, accountability and enforcability and yet allow responsible efficient business practices to prevail where they do not conflict with the aforementioned goals.

CEREAL MALT BEVERAGES

The single major inconsistency in our alcoholic beverage industry is the way we market, tax and advertise beer. Reference # 1 demonstrates that there is very little difference in alcohol content between what we call "Cereal Malt Beverage" and "Strong Beer." Further illustrated is the fact that there is no significant difference in alcohol content between typical servings of wine, liquor and beer. At this point I must ask some obvious questions:

1. Since there is NO SIGNIFICANT DIFFERENCE in the alcohol content of "Cereal Malt Beverage" and "Strong Beer", why do we distribute, market, and advertise these products differently?
2. If "Cereal Malt Beverage" and "Strong Beer" account for nearly 60% of the total alcohol consumption in the state and "Cereal Malt Beverage" is approximately half of that, (30%), why is alcohol consumed under the name of "Cereal Malt Beverage" not controlled and taxed like "Strong Beer", liquor and wine?

John Webb
Attachment #6
February 5, 1987

3. Why is the alcohol in "Cereal Malt Beverage" and "Strong Beer" taxed at a lower level than the alcohol in wine and liquor?
4. Why is "Cereal Malt Beverage" allowed to advertise where "Strong Beer", liquor and wine cannot?

As these questions demonstrate, the Kansas beer market has a few discrepancies. The only way to avoid these inconsistencies is to market all alcoholic beverages in the same way. The ideal point of purchase, from a responsible public policy point of view, is the Kansas alcoholic beverage store. Until the legislature addresses these inconsistencies, the image of this states' alcoholic beverage industry will not be favorable.

*John Webb
Attachment #6
February 5, 1987*

REFERENCE I

MAJOR BEER BRAND ANALYSIS

						% Ethanol By Volume	% Ethanol By Weight
Q 1	1	12 oz	Can	Bud Light	(Strong)	4.4	3.5
Q 2	1	12 oz	Can	Bud Light	(Cereal Malt)	3.6	2.8
Q 3	1	12 oz	Can	Busch	(Strong)	4.9	3.9
Q 4	1	12 oz	Can	Busch	(Cereal Malt)	4.1	3.2
Q 5	1	12 oz	Can	Budweiser	(Strong)	4.9	3.9
Q 6	1	12 oz	Can	Budweiser	(Cereal Malt)	3.9	3.1
Q 7	1	12 oz	Can	Coors	(Strong)	4.8	3.8
Q 8	1	12 oz	Can	Coors	(Cereal Malt)	4.1	3.2
Q 9	1	12 oz	Bottle	Miller	(Strong)	4.8	3.8
Q10	1	12 oz	Bottle	Miller	(Cereal Malt)	3.9	3.2
Q11	1	12 oz	Bottle	Michelob	(Strong)	5.2	4.1
Q12	1	12 oz	Bottle	Michelob	(Cereal Malt)	4.1	3.2
						29.0	23.7

Strong Alcohol by Volume Average

$$29.0 \div 6 = 4.83\%$$

Cereal Malt Alcohol by Volume Average

$$23.7 \div 6 = 3.95\%$$

WHY DO WE TREAT THE DIFFERENT ALCOHOLIC BEVERAGE CATAGORIES DIFFERENTLY?

			Actual Amount of Alcohol Consumed
Typical Serving	5.00 oz	GLASS OF WINE	
		11% by Volume	
		$5.00 \text{ oz} \times .11$	= .55 oz
Typical Serving	1.25 oz	MIXED DRINK	
		40% by Volume	
		$1.25 \text{ oz} \times .40$	= .50 oz
Typical Serving	12 oz	STRONG BEER	
		4.83% by Volume	
		$12 \text{ oz} \times .0483$	= .58 oz
Typical Serving	12 oz	CEREAL MALT BEVERAGE	
		3.95% by Volume	
		$12 \text{ oz} \times .0395$	= .47 oz

*John Webb
Attachment #6
February 5, 1987*

REFERENCE 2

ALCOHOL CONTENT

The alcohol content of a beverage may be expressed in three different ways:

- * Proof Spirits - Proof spirits is measured as an alcohol/water mixture of a beverage containing a standard amount of alcohol. (The U.S. standard is 100 proof.)
- * Percent Alcohol by Volume - The alcohol content is measured as a percent of the overall volume of the alcohol/water mixture or of the beverage.
- * Percent Alcohol by Weight - The alcohol content is measured as a percent of the weight as related to the volume using the specific gravity of ethyl alcohol. The specific gravity of ethyl alcohol is equal to .8 that of an equal volume of distilled water at four degrees Centigrade.

The use of these measures is not standardized. Several countries use proof spirits to measure all alcoholic beverages, including beer and wine.

Conversion Formula

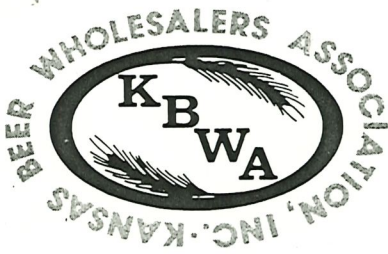
Given any one of the three measures of alcohol content, the other two can be found by applying the following formula:

$$\text{Proof} \div 2 = \frac{\text{Alcohol by Volume}}{\text{Volume}} \times .8 = \frac{\text{Alcohol by Weight}}{\text{Weight}}$$

"Strong" and "Weak" Beer - This table shows the relationship between regular "full strength" or "strong" beer and so-called "weak" beer:

Alcohol by Volume		Alcohol by Weight
4% X .8	=	3.2%

*John Webb
Attachment #6
February 5, 1957*



2/5/87
Attachment #7

TESTIMONY

by

NEAL WHITAKER
Executive Director, Kansas Beer Wholesalers Association

SENATE BILL 141

February 5, 1987

I want to begin by commending the committee for the diligence with which you have approached your task. History will find that you have been presented a unique challenge of balancing over 100 years of prohibition in Kansas against a popular vote that resulted in 73% of the citizens of this state residing in counties that passed liquor by the drink.

Senate Bill 141 is an excellent balance of those interests. By leaving the private club law intact, you have done what several have testified here should be done. Creating classes of licenses for drinking establishments and caterers will let liquor by the drink establishments operate with a minimum amount of regulation and providing for a temporary permit completes the system envisioned by the drafters of the constitutional amendment.

The only issue we believe needs refining is that of point of purchase and delivery of products.

Class A, B and C establishments are retailers in every sense of the word. They sell at retail their products to their members or, in the case of liquor by the drink establishments after July 1, to the general public. These business people have the same privilege of buying at wholesale for resale most of the items that they sell just like anybody else on main street, except for beer and alcoholic beverages. It is our contention that they should not be required to pay an additional markup as a penalty for selling liquor by the drink, either in a private club or a liquor by the drink establishment. From the beer wholesalers point of view our members deal in a perishable product. Every container has on it a code date that represents the date it is to be pulled from the marketplace. This varies from 90 days to 120 days from the brewing process. Our suppliers require as a condition of their contracts that the wholesaler be responsible for all the beer he distributes in his market. If that product is outdated it begins to degrade in quality. As you might guess, both the supplier and the wholesaler want the best quality product possible in the marketplace. Therefore, it is incumbent on the wholesaler to remove any old beer from the retailer shelf. When a beer wholesaler is selling to the ultimate retailer this rotation is not a problem. However, when you have a four tier system such as you have in Kansas the wholesaler becomes responsible for a product that he has not sold to the final retailer even tho his contract with the brewery requires it. Yesterday you

Attachment #7

Testimony by Neal Whitaker
Executive Director, Kansas Beer Wholesalers Association
February 5, 1987
Page 2

were told emphatically by my colleague that no other state had done what you are considering here. However, that is not necessarily the case. Oklahoma, which we all know passed liquor by the drink two years ago, had a system where the liquor retailer sold alcoholic beverages to the private clubs. When the system went to liquor by the drink, the wholesalers in that state became the suppliers of the drinking establishments and, as a matter of fact, that is the trend around the United States where the vast majority of delivery systems are exclusive delivery from the wholesaler to the licensed liquor retailer. One addition you should make to the delivery system is a requirement that retailers be allowed to sell to class A, B & C establishments in the county their business is located in or an adjoining county if that county has no licensed liquor retailer establishments.

Finally, I would like to point out to you that the proposal given to you by the Liquor Law Review Commission which allows for optional delivery either by retailers or wholesalers allows for a free market system to exist but also provides the state with the ability to track the product for taxation purposes. The commission worked its way through a number of delivery systems and in the final vote the two spirits wholesalers on the commission supported this system. Therefore, Kansas Beer Wholesalers Association urges you to adopt this delivery system.

NW/km

K · A · N · S · A · S
WINE & SPIRITS
WHOLESALE ASSOCIATION, INC.

2/5/87
Attachment #8

Testimony - February 5, 1987

To: Senate Federal and State Affairs Committee
From: R.E. "Tuck" Duncan
RE: Senate Bill 141

We encourage the Committee to implement the mandate of the Kansas voters by providing for liquor-by-the-drink in public places without including the provisions regarding wholesaler selling and delivering to "drinking establishments."

The wine and spirits distribution system has been developed in Kansas during the past 37 years as a result of independent business decisions, and regulatory controls. The state's interest has been, and should continue to be, to ensure that there is an orderly market and flow of product, and that consumers have an opportunity to purchase goods at reasonable prices. Increased costs mean increased prices. Efficiencies in the distribution system mean reduced or stabilized costs.

The Kansas wine and spirits market is not different from other markets with regard to finding efficiencies in methods of distribution. However, the Kansas market is different when one considers the small volume of sales and the vast geographical distances which are covered. More miles, more stops, more deliveries means more costs. Should the state be concerned with costs? Yes, inasmuch as the state has an interest in ensuring a viable industry from which to continue to collect needed tax revenues. State policies which create inefficiencies, increase costs, and ultimately unstable businesses should be avoided.

The transition from the open wholesaling system to a franchise wholesale system was aimed at eliminating an unstable business climate. The Myers-Stauffer Report conducted in 1978 initiated the legislative study which eliminated open wholesaling, because it was determined that there existed an unstable economic climate. Now that the environment has been changed-- to revert to creating an inefficient delivery system is contrary to the state's interest and contrary to earlier economic studies.

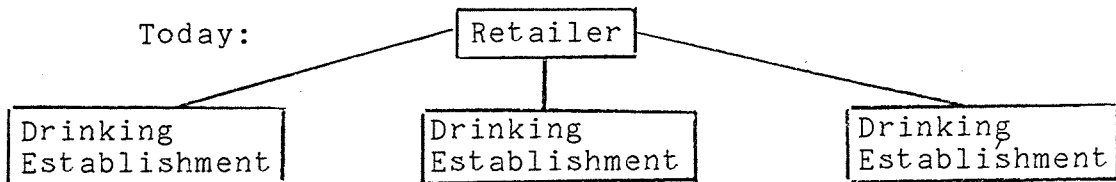
Why are direct deliveries unadvisable? With liquor by the drink the number of new delivery points may exceed 1200. There will not be a substantial increase, if any, of units

Attachment #8

FSA 2/5/87

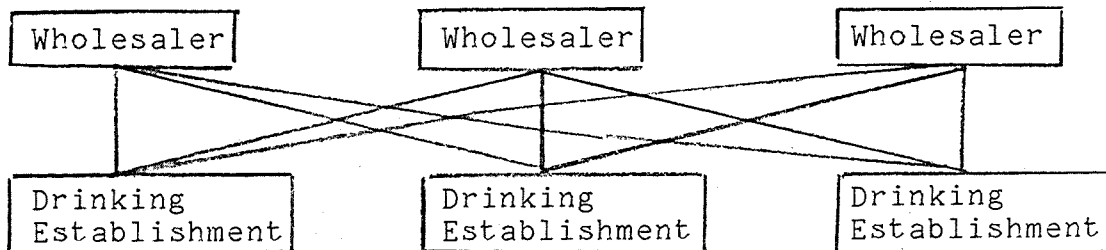
of product sold, but costs will be increased. (See chart attached showing anticipated new costs). These costs will be absorbed into the cost of the entire distribution network UNLESS a 2 tier pricing system (1 for retailers, 1 for drinking establishments) is authorized. The existing retailer will lose a share of market. We estimate that 25% of current retail sales are sales to clubs (drinking establishments). As their sales decrease, their percentage of cost of sales increases (certain fixed costs remain unchanged) and their profitability, i.e. stability is threatened. Service to clubs is reduced. Clubs now have the ability to purchase all their beverage alcohol at a single source. These retailers, acting as "wholesalers under federal law" are in essence "depots" for the delivery of drinking establishment goods AND the availability of product is geographically closer so retailers can meet unexpected needs.

The following charts illustrate several of these points:



Proposed System:

(There are at least 3 wine and spirits wholesalers for each drinking establishment)



Each of the above lines represents a delivery transaction and thus a cost. From "Today" to the "Proposal" represents a significant cost increase (Again, see attached chart on new costs).

We would note, that if delivery is to be implemented

then the Committee should adopt the recommendation of the Liquor Law Review Commission and not make it effective until July 1, 1988.

It is important to remember that we are not designing a system for the first time, but we are attempting to redesign a system. The existing realities must be considered and incorporated within...not thrown out.

Your attention to and consideration of these matters will be greatly appreciated.

* * * *

E X H I B I T

New Costs Associated with Wholesaler Delivery (5 companies, 9 warehouses statewide)

New Equipment Acquisitions.....	\$480,000
Additional Ongoing Expenses:	
Truck (maintenance, repair, fuel etc).....	660,000
Office (invoices, computer, clerical).....	252,000
Phone (watts).....	117,000
Warehouse (personnel, operations).....	276,000
Sales Cost (personnel, travel, etc.).....	390,000
TOTAL NEW COSTS.....	\$2,175,000

* * * *