

Approved \_\_\_\_\_

Date

3/24/88

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 March 1, 1988 in room 254-E of the Capitol.

All members were present except:

Senator Hoferer was excused.

Committee staff present:

Mary Galligan, Legislative Research  
June Windscheffel, Committee Secretary

Conferees appearing before the committee:

Senator Joseph C. Harder  
Dr. R. G. Rizza, of Villarizza Vineyards, Halstead  
Mr. Ken Kraus, Grapegrowers and Winemakers of Kansas  
Mr. Sam Brownback, Secretary, Kansas State Board of Agriculture  
Mr. Wayne Zimmerman, Deputh Secretary, Kansas Department of Commerce  
Ms. Frances Kastner, Kansas Food Dealers' Association, Inc.  
The Reverend Richard Taylor, Kansans for Life at its Best!  
Mr. R. E. "Tuck" Duncan, Kansas Wine & Spirits Wholesalers Association, Inc.  
Mr. Neal Whitaker, Kansas Beer Wholesalers' Association, Inc.

Today's meeting was held for the purpose of hearing proponents and opponents on SB598, concerning farm wineries.

The Chairman welcomed all and the first conferee was Senator Joseph Harder. A copy of Senator Harder's statement is attached. (Attachment #1) He said that SB598 is not a liquor issue, it is an issue more related to agriculture and to economic development.

Senator Harder said he would offer an amendment, on page 3, line 92, to strike the word "shall" and include the word "may." The word "shall" could make a fiscal note for the bill.

The Chairman thanked Senator Harder for his appearance and welcomed the next conferee.

Dr. R. G. Rizza, of the Villarizza Vineyards, of Halstead said because of the farm winery legislation there has been a resurgence of grape growing in the state. In January 1987 a group was formed and incorporated under the laws of the State of Kansas with some thirty to forty members. He told in which areas of the state these are located. He said potentially there could have been three farm wineries this year, but because of last year's legislation the program was stopped and is on hold.

Dr. Rizza reviewed the basic information of wine products as far as the numbers of gallons imported into the state. He said that the wine flowed into the State of Kansas and the money flowed out of the State of Kansas with total disregard for the grapegrowers and wineries in this state. He said SB598 would return the status with which there could be a viable wine business in the state. He said the intent is to develop the agricultural aspects and diversification of products in the state. Leave it to the direction of the Alcoholic Beverage Control Director.

Mr. Ken Kraus, of the Grapegrowers and Winemakers of Kansas, was the next proponent of the bill. He stated that he would reiterate the remarks of Dr. Rizza.

Mr. Sam Brownback, Secretary, of the Kanas State Board of Agriculture, also appeared in favor of SB598. His written statement in support of

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS,  
room \_\_\_\_\_, Statehouse, at 11:00 a.m. ~~p.m.~~ on March 1, 19 88

SB598 is part of these Minutes. (Attachment #2) He said he has met with the Association, that they are an exciting, vivacious group of people who believe they have the potential to substantially impact their own economic situation and this state. They ask for some help from the state in return, and the Kansas State Board of Agriculture is supportive of the Association. The Board would be happy to assist in the rebirth of this industry in the state of Kansas.

Mr. Wayne Zimmerman, Deputy Secretary of the Kansas Department of Commerce, was the next speaker. He appeared to support the bill. He said they have heard a tremendous amount of interest expressed in this subject, both from those growing the grapes and the wineries and the public in general. If adopted this would make it better able for the state of Kansas to take advantage of the potential here for economic development and tourism.

Ms. Frances Kastner, of the Kansas Food Dealers' Association, Inc., was also a proponent of SB598. A copy of Ms. Kastner's testimony is part of these Minutes. (Attachment #3) She said they see this bill as a step towards promoting the products grown in Kansas.

The Reverend Richard Taylor presented his statement next. A copy of the text is attached. (Attachment #4) He said there are three good reasons to oppose this bill. It promotes Sunday sales, sales from a manufacturer direct to retailers, and tax free imported wine.

The next conferee was Mr. R. E. "Tuck" Duncan, stated that the Kansas legislature should not change its long standing policy of maintaining a three-tier system of distribution of alcoholic beverages. His statement is part of these Minutes. (Attachment #5)

The next speaker with reservations concerning the bill was Mr. Neal Whitaker, of the Kansas Beer Wholesalers' Association, Inc. A copy of his statement is part of these Minutes. (Attachment #6)

Mr. Tom Hanna, Alcoholic Beverage Control Division Director, was present. A Memorandum from him to the Chairman was before each member. It is dated March 1, 1988, and concerns the Points of Purchase of Wine. (Attachment #7)

There was some Committee discussion, following which the Chairman thanked all participants.

The meeting was adjourned at noon.

JOSEPH C. HARDER  
 SENATOR, TWENTY-FIFTH DISTRICT  
 MOUNDRIDGE, KANSAS 67107



TOPEKA

SENATE CHAMBER

OFFICE OF  
 VICE PRESIDENT

## COMMITTEE ASSIGNMENTS

CHAIRMAN: EDUCATION  
 CHAIRMAN: JOINT COMMITTEE ON EDUCATIONAL  
 PLANNING  
 CHAIRMAN: JOINT COMMITTEE ON STATE BUILDING  
 CONSTRUCTION  
 VICE-CHAIRMAN: FINANCIAL INSTITUTIONS AND  
 INSURANCE  
 MEMBER: WAYS AND MEANS  
 ORGANIZATION, CALENDAR, AND RULES

TESTIMONY SUBMITTED TO THE FEDERAL AND STATE AFFAIRS COMMITTEE  
 On Senate Bill 598  
 by  
 Senator Joseph C. Harder

Senate Bill 598 is not a liquor issue. It is an issue more related to agriculture and to economic development than to spirits. It is related to agriculture, because developing vineyards, in a sense, introduces a new crop to Kansas. If a number of vineyards would develop, it is conceivable that there would be other uses for the product which could conceivably introduce another industry besides the farm winery. It is related to economic development, because a winery is a tourist attraction.

If we heard that an industry was considering locating in either Oklahoma or Nebraska or Missouri or Kansas, Kansas certainly would try to lure the industry to our state. In fact, I would guess we would spend some dollars trying to get that industry to Kansas.

Today we have an opportunity to help establish a new industry in Kansas and it doesn't involve the expenditure of any money. All that is required is permissive legislation to allow farm wineries to locate and do business in Kansas.

*Senate FSA  
 3/1/88  
 Attachment #1*

Senate Bill 598 would accomplish this purpose. It would allow farm wineries to be established and give this industry the necessary tools to make it feasible to operate. For a farm winery to be successful, the provisions of SB 598 are imperative.

STATEMENT OF SAM BROWNBACK  
SECRETARY OF THE  
KANSAS STATE BOARD OF AGRICULTURE  
BEFORE THE  
SENATE AGRICULTURE COMMITTEE  
ON  
SENATE BILL 598

March 1, 1988

Mr. Chairman and members of the Committee it is a pleasure to address you today in support of Senate Bill 598, an act concerning farm wineries.

The Kansas State Board of Agriculture is supportive of assisting farm wineries to get reestablished in the state of Kansas. I state reestablished in that our records show that in 1900 Kansas had over 6,500 acres planted to grape production which resulted in over 155,000 gallons of wine. This, of course, is not the case today. However, we do see a resurgence of interest in grape growing and farm wineries in the state. The interest is generated by the aspect of raising a higher value crop on smaller acreage and the ability to glean tourism dollars from a farm winery. Farmers in Missouri have done this with some success. Other states have done well by tying in agriculture and tourism to garner more dollars for the individuals and their state.

I do not wish to mislead you into thinking that grape growing or wine production will ever replace the beef or wheat industry in Kansas. It will not. Yet it does represent a realistic opportunity for some people in the state. There is significant production, even over production of wines in the world, however, regional wine markets have proven lucrative in some places and we believe has the potential to do the same in Kansas.

For this rebirth of grape growing and wine production in the state, there will need to be assistance provided. Technical and marketing assistance will be necessary thus, we have attached a fiscal note to this bill in order to provide the necessary services for marketing and technical assistance to grape growers and wine makers for this industry to be revived.

I personally have met with the Kansas Grape Growers and Winemakers Association. They are an exciting, vivacious group of people who believe that individually they have the potential to substantially impact their own economic situation and that of their community and this state. They ask for some help from the state in return.

Mr. Chairman, the Kansas State Board of Agriculture is supportive of the Kansas Grape Growers and Winemakers Association. We support Senate Bill 598 and would be happy to assist in the rebirth of this once, substantial industry in the state of Kansas. I would be happy to respond to any questions.

*Senate FSA  
3/1/88  
Attachment # 2*



# Kansas Food Dealers' Association, Inc.

2809 WEST 47th STREET SHAWNEE MISSION, KANSAS 66205

PHONE: (913) 384-3838

March 1, 1988

## SENATE FEDERAL & STATE AFFAIRS

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Kingman

### DIRECTOR OF GOVERNMENTAL AFFAIRS

FRANCES KASTNER

## SUPPORTING SB 598

EXECUTIVE DIRECTOR  
JIM SHEEHAN  
Shawnee Mission

The Kansas Food Dealers supports SB 598 and any other bill that gives the businessman the right to make an independent decision on how to make a profit.

We see the passage of this bill as a step towards promoting the products grown in Kansas. Expensive advertisements are used by the business community as well as the State trying to improve the image of Kansas as tourists pass through our State. Money has been spent to encourage tourists to "linger longer" as they speed along our highways towards their ultimate destination. Yet state laws prohibit the business community to make important marketing decisions as to whether to remain open on Sunday or later at night to accomodate tourists as well as our own citizens.

In our opinion, the laws should be written in a manner to permit the sale of ANY alcoholic beverage, or cereal malt beverage, so that equality prevails among those businesses offering the beverages for ON or OFF PREMISE consumption.

The expansion of hours for sale of a legal product should be a matter of business judgement, rather than a matter of legislating in favor of a particular segment of any industry of business entity.

Believe me when I say no businessman is going to stay open extra hours if it is not profitable. We have grocers in Kansas who stay open on Sunday, or are open 24 hours a day, but they have that choice. If they find it is not a paying proposition, they change their hours. It is doubtful that a winery would be open between 6 a.m. and 12 midnight during the middle of the winter, but they should have the opportunity to make a business decision to do so during summer months.

As an organization we are firmly in favor of giving consumers the choice of when and where to spend their money for food, wine, or cereal malt beverage, and to decide whether to consume it ON or OFF PREMISES.

*Senate FSA  
3/1/88  
Attachment #3*

People snort cocaine because it makes them feel good.

People shoot heroin because it makes them feel good.

People smoke pot because it makes them feel good.

People drink wine because it makes them feel good.

But the price paid for these good drug feelings is impaired judgment, loss of self control, and aggressive behavior. That is why the drinking driver is so deadly.

Many fine people drink wine. But they limit themselves to one or two drinks in 24 hours and wait one hour per drink before driving. They have no difficulty getting enough to drink under current law. They believe consumption should not be promoted.

Under Kansas law, wine is a controlled substance but is exempt from such control by KSA 65-4102 (d). Therefore it must be controlled by other laws.

Senate Bill 598 relaxes a control law for our most abused drug. Why would any medical doctor want to do that? Money. That is the reason the beer, wine, and liquor lobbyists are in this Statehouse. They want to help their clients make more money. If money was not an issue, they would not be here.

Year after year the legislature has been asked to relax farm winery controls. What is and has been the cost of printing all the bills, the price of legislative time lawmakers have devoted to this issue, the expense of persons in the Revisor of Statutes Office, and the cost for ABC to yearly formulate new rules and regulations for farm wineries?

Why should taxpayers foot the bill for all this foolishness? You should support a measure that would require this farm winery promoter to reimburse the state for what his farm winery legislation has cost taxpayers year after year after year.

Here are three good reasons to oppose this bill. It promotes Sunday sales, sales from a manufacturer direct to retailers, and tax free imported wine.

I guess everyone is supposed to be intelligent enough to understand how importing more wine will help Kansas grape growers and how educational and scientific consumption should qualify for freedom from taxation.

Alcohol is not digested. It is ingested. It goes directly to the cerebral cortex and impairs thinking. The wine does not know if it is being consumed under "bona fide educational and scientific tasting programs". This implies such conditions make the drug harmless to mind and body and therefore it should not be burdened with taxation. How childish?

Respectfully yours,

*Richard Taylor*

*Senate FSA  
3/1/88*

*Attachment #4*

# Topeka man killed, another injured in one-car crash

By STEVE FRY  
Capital-Journal law enforcement writer

A 21-year-old driver was killed early Friday at a south Topeka highway interchange when his car slid off an entry ramp and overturned, dumping him from the vehicle. A passenger suffered minor injuries.

Topeka police identified the dead man as Michael A. Moore, 4916 W. 28th. The passenger, Randy P. Penison, 29, 5212 W. 20th Terr., was treated at St. Francis Hospital and Medical Center, then released.

The accident occurred at 1:15 a.m. Friday at the interchange linking Topeka Boulevard, Interstate 470

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The car overturned from corner to corner an unknown number of times.

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and the Kansas Turnpike.

Topeka police traffic Lt. Ed Klumpp said Moore had driven south on Topeka Boulevard, then onto the ramp leading to the westbound lanes of I-470. The ramp curves to the left at the accident scene.

According to statements taken by police, the Moore car drove through some sand on the right side of the ramp while accelerating, Klumpp said.

"He was going so fast that the car slid off the north side of the ramp," Klumpp said.

Police Sgt. John Sidwell, accident reconstructionist, said the car began sliding sideways when it went through the sand.

"The right rear of the vehicle hit the pole, and he (began) traveling sideways in the grass," Sidwell said. "The tires were digging ruts in the grass deeper and deeper until the tires couldn't slide any more," causing the vehicle to vault, Sidwell said.

The car overturned from corner to corner an unknown number of times before it came to a halt on its wheels facing west 40 to 50 feet from the roadway. Moore, who wasn't wearing a seat belt, was

thrown from the car as it overturned. He was found about 20 feet west of the car.

"If he had stayed with his vehicle, he would have survived," Sidwell said. "The integrity of the passenger compartment wasn't compromised."

Penison, who was wearing a seat belt, remained inside the car. Penison, who police said suffered a cut on the side of the head and bruising all over, was slumped over, holding his head when police arrived.

"I would say that there is a very strong possibility that (the seat belt) is why he is alive," Sidwell said.

According to a witness, Moore was driving approximately 60 mph on the entry ramp, Sidwell said. Police investigators haven't calculated the speed of the car. The speed limit at the accident site is 45 mph.

Moore had been drinking, Klumpp said. The Shawnee County district coroner's office is conducting tests to determine Moore's blood-alcohol level, Klumpp said. Test results are expected within a week.

Sidwell said the accident occurred because the car was traveling too fast on the curve.

When police arrived at the accident scene, officers were unable to detect Moore's pulse, and he wasn't breathing, Klumpp said. Cpl. Richard Meck and a passerby performed cardiopulmonary resuscitation on Moore until he was transported by a Medevac MidAmerica ambulance to St. Francis, where he was pronounced dead in the emergency room at 1:55 a.m. Friday.

Dr. Laurance W. Price, Shawnee County deputy district coroner, said Moore died of injuries to the head and brain. Moore also suffered a fractured knee, a fractured arm and scrapes all over his body.

The car, a 1976 Ford Mustang, was destroyed in the accident.

At the time of the accident, Moore and Penison "were coming from Rainbows," a night spot, Klumpp said.

Moore and Penison had arrived at Rainbows, 133 E. 29th, with a third man, who refused to leave with them when they drove from the private club, Klumpp said.

On Friday, police were attempting to find the man, known only as Allen. Police ask that he call police at 354-9450 to give them information about time preceding the crash.

Police speculated that Moore and Penison were on their way home at the time of the accident.

Moore's death was the fourth Topeka traffic fatality this year.

## Alcohol detected in victims

By The Capital-Journal state staff

LAWRENCE — The three University of Kansas students who were killed last weekend in a head-on collision on the Farmers' Turnpike in northwest Douglas County were legally intoxicated when they died, according to medical information released Friday.

Deputy Douglas County Coroner Dr. Carol Moddrell said an oral report from the Kansas Bureau of Investigation laboratory in Topeka indicates the men's blood alcohol levels ranged from 0.16 to 0.24. In Kansas a blood alcohol content of more than 0.10 is considered legally intoxicated.

Moddrell said the report indicated that Baron O. Schilpp, 21, Wichita, the driver of the eastbound car had a blood alcohol level of 0.16. Darin S. Selby, 20, Wichita, the front seat passenger, had a blood alcohol level of 0.24. Paul T. Apprill, 19, Merriam, who was riding in the rear seat, had a blood alcohol content of 0.19.

Margaret E. Whitmore, 32, LeCompton, the driver of the westbound car who also was killed, had no alcohol in her blood, according to the report.

The accident occurred about 11:17 p.m. Feb. 20 when Schilpp apparently pulled out to pass a vehicle.

The vehicles collided head-on in the westbound lane of County Road 438, just east of its intersection with County Road 700E. The area where the accident occurred was a legal passing zone in the two-lane paved road, according to authorities.

Sheriff's reports show that 11 cans of beer, four intact and seven apparently smashed in the wreck, were found inside Schilpp's car. Three unopened cans were also found in the trunk.

## Pit-bull case

Continued from page 1A



. A . N . S . A . S  
**WINE & SPIRITS**  
WHOLESALE ASSOCIATION, INC.

To: Senate Committee on Federal and State Affairs  
From: R.E. "Tuck" Duncan  
Re: farm wineries

The K.W.S.W.A. has no objection to the modifications in SB 598 set out in lines 39-45 and 54-56. We do, however, oppose the changes set forth in lines 23-25 and 62-69.

The Kansas Legislature should not change its long standing policy of maintaining a three-tier system of distribution of beverage alcohol. This policy, insisted upon by Governor Carlson at the time of repeal, has served Kansas well.

Thank you for your attention to and consideration of these matters.

*Senate FSA  
3/1/88  
Attachment #5*

**TESTIMONY**

by

**Neal Whitaker, Executive Director  
KANSAS BEER WHOLESALERS ASSOCIATION**

concerning Senate Bill 598

Mr. Chairman and members of the Committee: The Kansas Beer Wholesalers Association appears here today in support of provisions in Senate Bill 598 that allow for farm wineries to sell wine by the package to the general public on Sundays between noon and 6:00 PM. This is a step in the right direction of allowing all licensed liquor retailers the opportunity to sell their products seven days a week.

The KBWA must appear in opposition to the violation of the three tier system proposed by Senate Bill 598. The legislature historically has made it very clear that for regulatory purposes it sees the separation of interests between each tier of the distribution system a beneficial concept. Senate Bill 598 allows farm wineries who may be not only manufacturers, suppliers to wholesalers, retailers and in the club and drinking establishment business, the right to distribute their products directly to licensed liquor retailers and clubs and drinking establishments throughout the state.

We also oppose provisions of the bill which require the Department of Agriculture to establish a technical advisory committee and expend promotional funds.


Thank you for the opportunity to express our opinions on this subject.

NW/km  
3/1/88

*Senate FSA  
3/1/88  
Attachment #6*

## MEMORANDUM

TO: The Honorable Edward F. Reilly, Chairman  
Senate Committee on Federal and State Affairs

FROM: Tom Hanna, Director  
Alcoholic Beverage Control Division 

DATE: March 1, 1988

SUBJECT: Senate Bill 598

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### Points of Purchase of Wine

Senate Bill 598 would permit a farm winery<sup>1</sup> to sell its wine to a licensed wine distributor, liquor retailer, private club, drinking establishment and caterer, in addition to selling to consumers for off-premise consumption. Currently a farm winery can only sell to a wine distributor and directly to consumers for off-premise consumption.

Given direct access to all levels of in-state distribution, a farm winery would be able to function as a manufacturer, distributor and retailer under one \$250 license (which is equivalent to the liquor retailer license fee). A farm winery currently enjoys access to statewide distribution networks since it can sell to wine distributors. For these reasons, the Department questions allowing a farm winery to bypass a wine distributor and sell directly to liquor retailers and on-premise licensees.

The Department has no position on expanding the days and hours of operation of a farm winery or any other provision of the bill.

The current distribution of wine produced at farm wineries, along with the proposed system under Senate Bill 598 are graphically depicted on the following page.

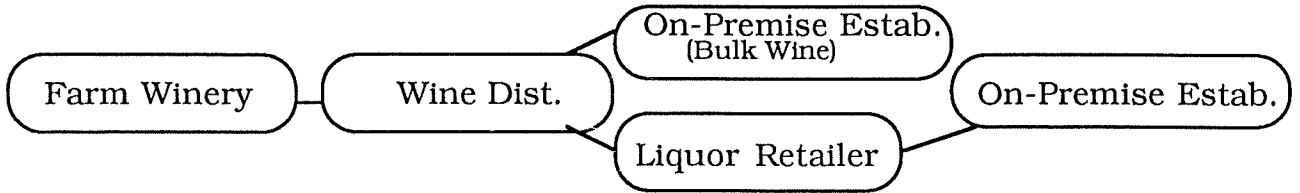
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<sup>1</sup> Currently there are no licensed farm wineries in existence in the state.

3/1/88  
Attachment #4

# DISTRIBUTION OF FARM WINERY PRODUCTS

## Current System



## Senate Bill 598

