

Approved 2/24/89
Date

MINUTES OF THE Senate COMMITTEE ON Federal & State Affairs

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

11:08 a.m. ~~p.m.~~ on February 22, 1989 in room 254-E of the Capitol.

All members were present except:

Senator Vidricksen who was excused.

Committee staff present:

Mary Ann Torrence, Revisor of Statutes Office
Marty Robison, Secretary

Conferees appearing before the committee:

Jim Conant, Department of Revenue
Frances Kastner, Kansas Food Dealers' Association, Inc.
Ron Males, QuikTrip
Ken Bahr, Kansas C.M.B.
Don Moler, Attorney, League of Kansas Municipalities
Neal Whitaker, Kansas Beer Wholesalers Association
Ed Roitz, Fleming Petroleum Corporation
Patricia Oppitz, President, Kansas Retail Liquor Dealers Assoc.
Rich Ferguson, Ferguson Liquor Store, Overland Park
John A. Webb, Kansas Alcoholic Beverage Dealers Association
Rebecca Rice, Kansas Retail Liquor Dealers Association
Rev. Richard Taylor, Kansans for Life at its Best

Chairman Reilly called the meeting to order.

A hearing was held for SB 90 which deals with Sunday sales of cereal malt beverages for off-premise consumption.

Jim Conant said the concerns of the Department would be with the increasing opportunity for violations, such as sales to minors, and with the extra level of control needed for seven days a week (Attachment 1).

Frances Kastner pointed out to members that SB 90 does not require the local authorities to expand their CMB licenses because this would not be mandatory. Her organization believes consumers should have the choice to purchase CMB and take it home for consumption (Attachment 2).

Ron Males told the committee their employees are trained to responsibly sell beer and he asked support for this bill for free enterprise (Attachment 3). In response to a question, he said that 6% of his total gross comes from the sale of 3.2 beer.

Ken Bahr stressed the importance of being consistent with liquor laws and said consumption will not increase with Sunday sales. He said that laws and vigilance in selling to minors have provided a comprehensive approach to alcohol sales and if beer consumption is allowed on any day of the week, it should also be allowed for off-premise use on those same days (Attachment 4).

Don Moler said the League is supportive of actions to clarify whether premises duly licensed and permitted to sell CMB on Sundays for on-premises consumption may also sell CMB for off-premises consumption on Sundays if they hold a license allowing off-premises sale. They are not taking a position on allowing Sunday sales. While they have no specific suggested language, he said if it is not meant for off-premise consumption, they would like a single sentence saying so (Attachment 5).

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Federal & State Affairs,
room 254-E Statehouse, at 11:08 a.m./~~pm~~ on February 22, 19 89

Neal Whitaker reiterated support for the county and city option for Sunday sales of cereal malt beverages. He also told members how other state's handle the Sunday sale of malt beverages. He urged the committee to realize this is a convenience issue and not a consumption issue (Attachment 6).

In response to a question, staff was directed to look at language which would clarify whether a county resolution applied only to unincorporated areas or allowed the county to preempt city authority with regard to authorizing Sunday sales.

Ed Roitz said this is an economic question because our bordering states have a distinct advantage over us. He also supported raising the beer content level from 3.2% to 5% (Attachment 7).

Patricia Oppitz appeared in opposition to SB 90 because it will cause local law enforcement agencies more problems and cost. She stressed the unfairness of allowing CMB outlets to be open 52 more days of the year when liquor dealers are limited on their days of sale (Attachment 8).

Rich Ferguson opposed the bill based on the track record of CMB outlets selling to minors. He believes this bill would lead to more consumption and thinks it goes against the system of free enterprise (Attachment 9).

John Webb testified that beer should be defined as an alcoholic beverage and then it would be appropriate to determine where and when it should be sold. He included several facts regarding beer in his testimony (Attachment 10).

Rebecca Rice opposed further liberalization of restrictions on alcohol distribution. She expressed concern for the inconsistencies she observes when penalties are made more stringent while products with a greater alcohol content are more readily available. She said that if this legislation passes, they will ask for an amendment to allow liquor stores to be open on Sunday so there is no differential (Attachment 11).

Rev. Taylor said the problem is the product and that the issue centers around the dollars for alcohol, the most abused drug. He believes this bill would make it easier to qualify for Sunday on premise consumption by allowing the 30% food requirement to include beverages. If we are to be consistent, he would suggest eliminating all Sunday sales in any place (Attachment 12).

A pamphlet entitled "We Want You to Succeed..." is on file in Senator Reilly's office.

The meeting was adjourned at 12:00.

GUEST LIST

COMMITTEE: Senate Federal & State Affairs

DATE: 2/22/89

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
ALAN WIEST	4701 Mission RD ^{Westwood} _{Ks}	Westwood United Super
LEONARD B MCKENZIE	8701 W 95th ^{O.P.} _{KAS}	CHEROKEE UNITED SUPER
Jim Castleberry	6561 Johnson Dr. ^{MISSION} _{KS}	Mission United Super
DON GIPSON	2815 State Kcs	Dons United Super
KEN KNESE	12050 MACKAY	KNESE'S FOOD INC
FRANCES KASTNER	Topeka	Ks Food Dealers Assn
Robert L Wiggins	4901 Mission Rd ^{Westwood} _{KS}	Westwood United Super
Ku Babu	Topeka	KCMB
John WEBB	Lawrence	KABDA
Paul J. Bassett	Topeka	Bassett's Retail Lq.
Richard B. Ferguson	Overland Park, Ks	Ferguson Lq. Store
Howard Wilcott	Leavenworth Ks	Retailer
Joy Berger	Topeka	Homes Simplifica Club Assoc.
Wesley Munn	Opaqe City	Munn & O. Bros., Inc.
Robert Engler	Topeka	Engler Liquor Store
Don Mohr	Topeka	League of Ks Merchants
Albert D. Lollar	Topeka	Lollar Liquor store
Charleen J. Kesar	Olathe	
Dean Reynoldson	Topeka	Dept. of Revenue
Jim Conant	Top.	ABC
Neel W. Whitman	Topeka	Kans. Beer Wholesale
Tom Strickland	W.P. Bond	////
Jerry Frakes	Junction City	Junction City Dist & Inc.
London B. Kayler	Manhattan	B&B Dist, Inc.
Steve Frammer	KSNT-TV	TOPEKA

MEMORANDUM

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

FROM: Mark E. Wettig
Special Assistant to the Secretary of Revenue

DATE: February 22, 1989

SUBJECT: Senate Bill 90, As Introduced

I appreciate the opportunity to appear before you today to discuss Senate Bill 90.

The bill would allow the sale of cereal malt beverage by the package for consumption away from the premises on Sunday. Current law regarding sales of alcohol on Sunday is as follows:

LIQUOR (SPIRITS, WINE AND STRONG BEER)

On-Premise - Permitted at ABC-licensed drinking establishments, private clubs, catered events and temporary permit events.

Off-Premise - Prohibited.

CEREAL MALT BEVERAGE (3.2 BEER)

On-Premise - May be permitted by county resolution or city ordinance for establishments which derive at least 30% of their gross receipts from the sale of food for consumption on the premises.

Off-Premise - Prohibited.

Enforcement Ramifications

The additional day of off-premise sales of cereal malt beverage has the potential effect of increasing the opportunity for violations such as sales to minors. Although the majority of law enforcement efforts directed at cereal malt beverage establishments comes from local agencies rather than ABC, the same level of control would need to be in place seven days a week instead of the current six.

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2-22-89

Attachment 1



Kansas Food Dealers' Association, Inc.

2809 WEST 47th STREET SHAWNEE MISSION, KANSAS 66205

PHONE: (913) 384-3838

February 22, 1989

OFFICERS

PRESIDENT
MIKE DONELAN
Colby

VICE-PRESIDENT
J.R. WAYMIRE
Leavenworth

TREASURER
SKIP KLEIER
Carbondale

CHAIRMAN OF THE BOARD
LEONARD MCKINZIE
Overland Park

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STAN HAYES
Manhattan

CHUCK MALLORY
Topeka

JOHN McKEEVER
Louisberg

BILL WEST
Ablene

JOE WHITE
Kingman

DIRECTOR OF GOVERNMENTAL AFFAIRS

FRANCES KASTNER

SENATE FEDERAL & STATE AFFAIRS COMM.

SUPPORTING SB 90

EXECUTIVE DIRECTOR
JIM SHEEHAN
Shawnee Mission

I am Frances Kastner, Director of Governmental Affairs for the Kansas Food Dealers Association. Our membership includes manufacturers, wholesalers, distributors and retailers of food products.

We want to thank this Committee for introducing SB 90, and for giving us this opportunity to explain our support.

Following the recommendation of the Liquor Law Review Commission's report to the 1987 Legislature, it became possible for local authorities to permit the sale of cereal malt beverage for consumption on premises on Sunday afternoon in those establishments that derive 30% of their gross receipts from the sale of food. That law was passed in 1987.

Last year we asked this committee to introduce a bill (SB 544) which allowed Sunday afternoon sales of cereal malt beverage for OFF PREMISE CONSUMPTION. We regret that the bill got lost in the log jam of legislation, and we thank you for introducing an identical bill this year.

Passage of SB 90 will NOT affect any community that does not want to permit the sale of CMB for OFF-PREMISE consumption. The bill does NOT REQUIRE the local authorities to expand their CMB licenses in any manner. It is completely permissive, NOT mandatory.

Under present law, city or county officials must adopt an ordinance or resolution for the sale of ON-PREMISE consumption of CMB on Sunday afternoon. The same would hold true for selling CMB in original and unopened containers for OFF-PREMISE CONSUMPTION.

SF & SA
2-22-89

Attachment 2

It bothers our members that Kansans are permitted to CONSUME CMB on premises on Sunday, yet are denied the right to buy a six-pack and take it home for consumption. The passage of SB 90 will give consumers the choice we believe they are entitled to have.

Thanks to the hard work done by this Committee, we saw some badly needed legislation enacted in 1987 and 1988 dealing with our antiquated liquor laws. We commend you for it, and now ask you to move Kansas forward on cereal malt beverage laws.

I appreciated the opportunity of appearing before you today and will be happy to answer any questions you may have.

Frances Kastner, Director
Governmental Affairs, KFSA

(913) 232-3310



Mr. Chairman and Members of the Committee:

My name is Ron Males, I am the Vice-President of QuikTrip Corporation. We operate 70 stores in the state of Kansas and employ over 300 people in Kansas. Currently, Kansas law allows for the purchase and consumption on premises, of any type of alcoholic beverage in a club, or restaurant on Sunday, if the county so allows. But we don't allow that same Kansan, who can drink any amount of beer in a club or a restaurant on Sunday, to purchase beer at a convenience or a grocery store on Sunday, and take it home to drink.

Convenience and grocery stores in Kansas have worked hard over the past years to establish training procedures for their employees, and other measures which emphasize the responsible selling of beer. In addition to training programs, most convenience stores, and particularly QuikTrip, have installed programs such as "I.D. Please," or "5 for 25" in which any purchaser of beer, age 25 or younger receives a \$5 gift certificate, if they are not asked for their proof of age. We also donate \$2 to MADD for each \$5 gift certificate redeemed. Training of all of our personnel covers not only how not to sell beer to minors, but also how to recognize and not sell beer to persons who are intoxicated. We do this through a formal in-store training program as well as two videos which have been developed to better emphasize the procedures.

Passage of Senate Bill 90 would allow Kansans who drink beer on Sunday to purchase the beer and take it home, to be consumed, as opposed to going to a club or restaurant to drink. The whole basis for our philosophy and for our advocacy is free enterprise and modernization of our archaic liquor legislation. Therefore, we seek your assistance in removing this restriction and allow convenience and grocery stores to sell beer, on Sundays, with the House Rule, which gives that opportunity to counties of people desiring so.

Thank you for your time and consideration.

SF & SA
2-22-89
Attachment 3

Kansas C.M.B.
1200 W. 10th Street
Topeka, Kansas 66604-1291
(913) 233-1903

TESTIMONY OF KEN BAHR
KANSAS C.M.B.

February 22, 1989

Mr. Chairman; members of the Committee. I am Ken Bahr representing Kansas C.M.B., an organization composed of convenience stores including Quik-Trip, Town-N-Country, 7-11's, and Kwik Shops, as well as the Kansas Food Dealers Association, the Kansas Beer Wholesalers Association, and the Kansas Oil Marketeers.

Kansas C.M.B. supports Senate Bill 90 allowing convenience stores and grocery stores to sell cereal malt beverages on Sundays. We also support the provision allowing local city or county authorities to determine whether their C.M.B. licensees would be allowed to sell beer on Sundays and the hours during which they could.

The arguments against Sunday beer sales sound increasingly hollow each year. Will Sunday sales increase consumption? Let me answer that question with one. Does stocking up on Saturday suggest anything other than the realization that to consume any amount of beer on Sunday one has to increase his beer purchases the day before? It's the same amount of consumption, over seven days, with just six to buy it in. It's all right to drink beer on Sunday, while at home

SF & SA
2-22-89

Attachment 4

watching a football game or enjoying a barbecue with friends, but you can't buy it. There is no consistency here.

It seems as though the more serious of the two actions, of buying beer or drinking beer, the latter deserves and has received the appropriate response. Alcohol and drug treatment programs have received an increasing amount of funds from both the state and federal governments. More people are aware of possible drinking problems and more are receiving help through these programs.

DUI laws and laws discouraging minors from attempting to purchase alcoholic beverages have been toughened. A February 6, 1989 article in the Wichita Eagle-Beacon indicated that Kansas met 18 of 19 guidelines developed by the National Commission Against Drunk Driving. Kansas C.M.B. totally supports these tougher laws and strives through employee seminars to eliminate any sales to minors.

There is a further inconsistency in allowing on-premises consumption of beer, wine or cocktails at a restaurant or club, but not allowing the same individual to buy a six-pack of beer at a convenience or grocery store for off-premises consumption at home.

Let's be consistent with our liquor laws. The DUI laws recently enacted, together with an increased vigilance in

-3-

preventing sales to minors, have provided as reasonable and as comprehensive an approach to responsible alcohol sales as possible. If we allow beer consumption on any day of the week. We should similarly allow beer to be purchased for off-premises use on those same days.

We hope that you will support Senate Bill 90.

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4-3



**League
of Kansas
Municipalities**

**Municipal
Legislative
Testimony**

An Instrumentality of its Member Kansas Cities. 112 West Seventh Street, Topeka, Kansas 66603 Area 913-354-9565

TO: Committee on Federal and State Affairs
FROM: Don Moler, Attorney
RE: SB 90 -- Sunday Sale of CMB
DATE: February 22, 1989

The comments presented in this statement are based on the League's convention-adopted Statement of Municipal Policy section dealing with cereal malt beverages, which is presented at the end of this statement.

General Support of Concept. As noted in our convention policy statement, the League is supportive of actions which will clarify whether premises duly licensed and permitted to sell CMB on Sundays for on-premises consumption may also sell CMB for off-premises consumption on Sundays if they hold a license allowing off-premises sale. While the League is supportive of clarifying this aspect of the state law, we are not taking any position on the further goals of SB 90 which are to allow Sunday sale by any business licensed to sell CMB for off-premises consumption if allowed by county resolution, or city ordinance.

Clarifying the Intent. We are well aware that SB 90 would allow sale by any premises licensed for off-premises consumption if allowed by local ordinance or resolution. The League's primary concern revolves around the ambiguous nature of the language which has drawn conflicting opinions concerning the precise interpretation of K.S.A. Supp. 41-2704. Specifically, current law allows Sunday sale of CMB in a place of business which is licensed to sell CMB for consumption on the premises, which derives not less than 30 percent of its gross receipts from the sale of food for consumption on the licensed premises and which is located in a county where such sales on Sunday have been authorized by resolution of the board of county commissioners of the county or in a city where such sales have been authorized by ordinance of the governing body of the city. The problem arises when an establishment meets these requirements and holds a CMB license for off-premises sale. Since there is no language prohibiting off-premises sale, and the language allows sale of CMB in any establishment meeting the above mentioned criteria, it has been interpreted to allow establishments licensed to sell CMB on Sunday, who also hold an off-premises consumption license, to sell CMB for off-premises consumption on Sunday. This is in conflict with Attorney General Opinion No. 87-111 which reaches exactly the opposite conclusion.

Conclusion. In conclusion, the League supports efforts to clarify K.S.A. Supp. 41-2704 to determine whether premises licensed to sell CMB on Sundays for on-premises consumption may also sell CMB for off-premises consumption on Sundays if they hold an off-premises consumption license. We take no position on the further provisions of SB 90 which would extend the ability to sell on Sunday to any premises licensed for off-premises

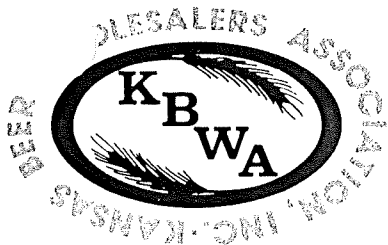
SFOSA
2-22-89

Attachment 5

*President: Douglas S. Wright, Mayor, Topeka * Vice President: Irene B. French, Mayor, Merriam * Past President: Carl Dean Holmes, Mayor, Plains
 * Directors: Margo Boulanger, Mayor, Sedan * Nancy R. Denning, Commissioner, Manhattan * Ed Eiert, Mayor, Overland Park * Greg Ferris, Councilmember, Wichita * Frances J. Garcia, Commissioner, Hutchinson * William J. Goering, City Clerk/Administrator, McPherson * Jesse Jackson, Commissioner, Chanute * Richard U. Nienstedt, City Manager, Concordia * David E. Retter, City Attorney, Concordia * Judy M. Sargent, City Manager, Russell * Joseph E. Steineger, Mayor, Kansas City * Bonnie Talley, Commissioner, Garden City * Executive Director: E.A. Mosher*

consumption and in which Sunday sale for off-premises consumption is specifically allowed by local ordinance or resolution.

Excerpt from 1988 - 1989 Statement of Municipal Policy, League of Kansas Municipalities: "L-5. Beverages. (b) State laws should be clarified as to whether premises duly licensed and permitted to sell CMB on Sundays for on-premises consumption may also sell CMB for off-premises consumption on Sundays."



TESTIMONY ON SENATE BILL 90 - SUNDAY SALES OF CMB

February 22, 1989

before the

Senate Committee on Federal and State Affairs

by

Neal Whitaker, Executive Director

Kansas Beer Wholesalers Association

Mr. Chairman, Members of the Committee:

I appear today in support of Senate Bill 90 which allows for the sale of cereal malt beverage in Kansas on Sunday by the package for off-premise consumption. As a result of the debates over liquor by the drink and the sale of cereal malt beverage in food service establishments on Sunday, the legislature established a policy decision of allowing cities and counties to play a role in the decision making process. Senate Bill 90 allows Sunday sales of cereal malt beverage only after a county commission or city commission has passed a resolution allowing such sale. As a result, only those areas of the state that want Sunday sales by the package of cereal malt beverage will have that right.

Today in Kansas a citizen may buy beer, wine, and spirits by the drink on Sunday without any local regulation whatsoever in Class A and Class B private clubs. In counties that have passed liquor by the drink, they can buy beer, wine, and spirits in drinking establishments, and in cities or counties that have passed the appropriate resolution restaurants holding a cereal malt beverage license may sell it by the drink.

Once you recognize that throughout this state cereal malt beverage, beer, wine, and spirits are all available for purchase as long as the customer goes to a private club, drinking establishment, or food service establishment, you have to ask the question, "What is wrong with allowing a customer the right to purchase a six pack at his grocery store and take it home for his own personal enjoyment?"

How do other states handle the sale of malt beverages on Sunday? In Missouri, cereal malt beverage is for sale on Sunday by the package in grocery stores holding a special license. Elsewhere in that state restaurants that have 51% of their business in the sale of food may sell by the package beer, wine, and spirits.

Nebraska handles their situation differently. The state law allows local units to make a determination on what products may be sold at what time. Options include beer only by the package in grocery stores, or beer and wine, or beer, wine, and spirits.

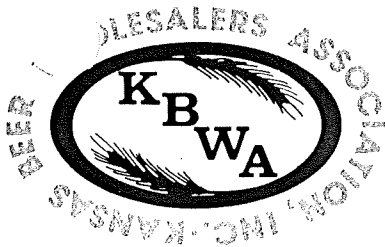
Colorado allows for the sale of cereal malt beverages seven days a week from 5:00 o'clock AM to midnight for off-premise consumption.

Oklahoma law provides for the sale of cereal malt beverage by the package for off-premise consumption -- that's buying the six-pack and taking it home -- seven days a week, 24 hours a day. Now there are those who will say that the sale of cereal malt beverage on Sunday will dramatically increase the consumption of beer in Kansas. I would like to point out that in Oklahoma, where it is for sale 24 hours a day, seven days a week, without restriction, per capita consumption of malt beverages is 18.2 gallons. In Kansas where sale is restricted, per capita consumption is 19.7 gallons. Practically everywhere in this state alcoholic beverages, beer, and cereal malt beverages are available for sale on Sunday as long as you go out to consume them. We ask the committee to allow Kansas consumers the convenience of being able to purchase cereal malt beverage in their grocery stores seven days a week.

When Kansans voted in 1986 to amend the constitution allowing for liquor by the drink, they demonstrated that the majority were interested in a modern approach to laws concerning the sale, distribution and consumption of alcoholic beverages. We urge the committee to continue to take this approach and allow Kansas consumers the convenience of purchasing cereal malt beverage on Sunday.

There are others in the room who would say that if grocery stores are allowed to sell beer on Sunday then they should be allowed to sell those products as well. I would like to call to your attention a letter I circulated to the committee two weeks ago which indicated KBWA's support of that industry's interest. For your convenience I have enclosed another copy of the letter with my testimony.

Senate Bill 90 is a convenience issue with the general public. We urge you when making a decision about this bill not to considerate it as a consumption issue. I think if you look at Oklahoma's per capita consumption of 18.2 gallons in 1987 where the hours of sale are around the clock, seven days a week, and compare that to Kansas with its restrictions and a per capita consumption of 19.7, you will realize that whether or not the product is for sale on Sunday has no relationship to the amount of it that is consumed. Thank you.



February 2, 1989

Pat Oppitz
Albert Lollar
Kansas Retail Liquor Dealers Association
400 SW Croix
Topeka, Kansas 66611

Dear Pat and Al:

I am sure that you are aware of our request for introduction of a bill to allow for the Sunday sales of cereal malt beverage by the package in Kansas. This idea should come as no surprise since the Kansas Beer Wholesalers Association has been on record publicly since 1983 in support of Sunday sales of beer and cereal malt beverage by the package in Kansas. During the debates over these past few years, representatives of your organization have testified consistently that if grocery stores are allowed to sell beer on Sunday, liquor retailers should be allowed to be open as well. As an organization we have always supported that option for Kansas retail liquor dealers and we encourage you to continue with your request.

Since the sale of spirits and wine on Sunday is an entirely different issue in the public eye than the sale of cereal malt beverage, we as an organization urge you to appear before the Senate Federal and State Affairs Committee and request the introduction of a bill allowing Kansas liquor retailers the option of being open on Sunday provided the county commission or city commission in which the retailer is located has passed the appropriate resolution.

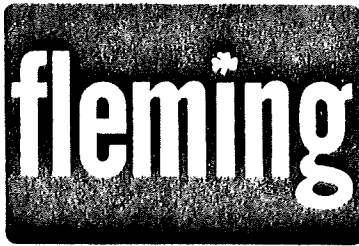
We encourage you and support you in this effort and truly hope you will take the opportunity of the public debate on Sunday sales to make a positive statement before the committee on behalf of your members.

Sincerely,

Neal Whitaker
Executive Director

cc: Chairman Edward F. Reilly and members of the Senate
Federal and State Affairs Committee

NW/km



FLEMING PETROLEUM CORPORATION • 4000 PARKVIEW DRIVE • P.O. BOX 1 • PITTSBURG, KANSAS 66762 • (316) 231-3400

TESTIMONY - SENATE FEDERAL & STATE AFFAIRS COMMITTEE

Senate Bills 90 & 93

Ed Roitz, President, February 22, 1989

Mr. Chairman and members of the committee, my name is Ed Roitz, and I wish to speak before the Federal & State Affairs Committee today as President of Fleming Petroleum Corporation. Fleming is based in Pittsburg, Kansas, and owns and/or operates 17 convenience stores and service stations in Eastern Kansas and Western Missouri.

First, I will speak to Senate Bill 90, which would allow beer to be purchased on Sunday from both full-line and convenience grocery stores. Marketing all along the Kansas-Missouri border, I can testify to the fact that if they haven't already made their beer purchases on Saturday for consumption on Sunday, that Kansans do actually drive to Missouri and buy beer for whatever reason, be it for hunting and fishing expeditions, sporting events, or even family picnics. Also, it is obviously an economic question, which it gives our counterparts in Missouri a distinct advantage over us. A competitive advantage that allows the State of Missouri to collect sales, beer, and also income taxes it that business should show a profit at the end of the year.

SF & SA
2-22-89
Attachment 7

Secondly, I would like to comment on Senate Bill 93, which would simplify choices people have when they go to buy beer. The only point that I will stress is that just a few years ago, Kansas raised its legal drinking age from 18 to 21. Before that time, people from 18 to 21 years old could buy beer, but only the 3.2% cereal malt beverage variety. Kansans could obtain 5 percent, or strong, beer, but had to be at least 21 years old to be able to buy it. With the drinking age being raised, I can no longer see why the need to penalize my customers with a lesser product when they choose to shop at my stores. Reducing the levels of inventory for wholesalers would also be a plus. We would be doing the Kansas consumer a favor by eliminating the confusion about where to purchase his or her favorite beverage. I believe the people of Kansas prefer to make their purchases where they want to and that continued manipulative regulations of the retail beer market are no longer necessary.

Thank you, and I would stand for any questions.

SENATOR REILLY, MEMBERS OF THE SENATE FEDERAL & STATE AFFAIRS COMMITTEE ...

I AM PATRICIA OPPITZ, PRESIDENT OF THE KANSAS RETAIL LIQUOR DEALERS ASSOCIATION. I OWN A NEIGHBORHOOD STORE HERE IN TOPEKA. I AM HERE TO TELL YOU THAT OUR ASSOCIATION WISHES ME TO SPEAK IN OPPOSITION TO SENATE BILL 90.

WHY DO GROCERY AND CONVENIENCE STORES...MARINAS...GAS STATIONS...BAIT SHOPS...ETC. WANT TO SELL BEER ON SUNDAYS FOR OFF-PREMISE CONSUMPTION? TO EARN A FEW EXTRA BUCKS...I SUSPECT. WILL OFF-PREMISE SUNDAY BEER SALES CAUSE OUR LOCAL LAW ENFORCEMENT AGENCIES MORE PROBLEMS? THE SUPERVISOR IN CHARGE OF VICE AT THE TOPEKA POLICE DEPARTMENT THINKS SO. WHEN I SPOKE TO HIM ON MONDAY, HE SAID HE WOULD HAVE TO HAVE EXTRA MAN POWER ON DUTY ON SUNDAYS, IF THIS BILL PASSES. HE SAID I COULD QUOTE HIM AS BEING AGAINST THIS BILL AND SENATE BILL 93.

I AM SEEING MORE YOUNG PEOPLE UNDER 21, TRYING TO BUY MY BEER. WHERE DO UNDER 21 YEAR OLDS PRIMARILY GO NOW TO BUY BEER? JOHN LAMB, FORMER ABC DIRECTOR, HAS BEEN QUOTED MANY TIMES AS STATING THAT THE MAJORITY OF ILLEGAL SALES OF BEER ARE MADE BY 3.2 CMB OUTLETS. SALES PEOPLE ONLY HAVE TO BE 18 YRS. OF AGE TO SELL CMB.

KANSAS RETAIL LIQUOR DEALERS KNOW WHAT KIND OF PRODUCTS WE ARE SELLING. WE ARE LICENSED...WE HAVE TO BE OVER 21 TO SELL...WE HAVE TO BE RESPONSIBLE.. WE ARE CLOSELY WATCHED BY THE ABC...AND WE ARE NOT FOREVER COMING TO THE LEGISLATURE ASKING THAT WE BE GRANTED MORE DAYS OF SELLING OUR PRODUCTS.

SINCE 1949, LIQUOR STORES HAVE BEEN ALLOWED TO SELL ONLY CERTAIN ALCOHOLIC PRODUCTS AT CERTAIN TIMES ON CERTAIN DAYS. IS IT FAIR TO ALLOW CMB OUTLETS TO BE OPEN 52 MORE DAYS OF THE YEAR SELLING AN ALCOHOL PRODUCT?

JOHN LAMB REMARKED THAT KANSAS HAS GOTTEN ALONG WELL WITH PRESENT BEER SALES LAWS. WHY FIX A SYSTEM THAT ISN'T BROKEN?

SF & SA
2-22-89
Attachment 8

FERGUSON LIQUOR STORE

Rich Ferguson - Owner

In light of today's stiffer drinking and driving laws and with the knowledge that cereal malt beverage outlets sell to minors more often than anyone else, why would it ever be conceived that these outlets be open on Sunday. Their track record of selling to minors is well known. By allowing these outlets to be open on Sunday, it will afford them more opportunity to sell to minors than ever before. Generally on Sunday, a lesser experienced employee will be working the cash register as well as more minors out looking for an easy mark at which to purchase cereal malt beverage. What easier place than a CMB outlet where a friend is working; where there isn't much activity and where the policing will be at a minimum.

Also I look at it as a liquor store owner. I'm not allowed to be open on Sunday. I can't even have the option of doing so and neither can I have the option of selling my off-premise consumption goods on holidays. Cereal Malt Beverage outlets have this option. So, what is the reason for them to sell their beer 52 days more a year? My belief: More CMB consumption and more sales to minors.

I believe and I speak for the Kansas Retailer Liquor Dealers Association, that CMB outlets should not be allowed to sell CMB on Sundays because of the increased purchasing and drinking especially my minors that would result.

But should this law be passed, then liquor stores should also be allowed to sell their items as well. Should I be denied free enterprise just because it is Sunday or just because it is a holiday while my neighbor next door is selling CMB to consumers, many of whom will be minors?

Thank you for your time and support.

10333 Mastin
Overland Park, KS 66212
(913) 888-4029



SFASA
2-22-89

Attachment 9

Olathe finds liquor being sold to minors

By SEAN REILLY

Daily News Reporter

An Olathe police undercover operation has stung a number of employees who are accused of selling beer and liquor to underage minors.

Olathe Det. Mark Jarvis organized the investigation in which young girls were used to purchase items from grocery, convenience and liquor stores. A total of 53 citations are to be issued, Jarvis said.

The actual investigation began the first week of December and concluded in mid-January, Jarvis said. It began after telephone police received calls from people claiming sales were being made to minors, Jarvis said.

All stores in Olathe that sell liquor and beer were visited by the females, totaling 100 attempts, he said.

The girls were equipped with a concealed tape recorder and city funds. Each carried her own driver's license, which displayed the proper birthdates, Jarvis said.

Jarvis would not release information on the girls who made the purchases.

A typical scenario was that the girls would enter a grocery or convenience store and grab either a six-pack or a quart bottle of beer. In the liquor stores the girls would ask for a small bottle of an item, Jarvis said.

There were a few cases in which a

clerk carded the girls and told them they were not old enough to buy, but still sold the liquor, Jarvis said. In other cases the girls' identification was not checked.

Convenience stores were the biggest perpetrators, Jarvis said. Liquor stores "seem to be doing a decent job," he said.

Fines for 21 people who received a total of 27 tickets have been levied by a municipal judge, Pat Hearn, city prosecutor, said. Punishments have ranged from attending an alcohol school to a maximum \$200 fine per incident.

The Olathe City Council last summer revised an ordinance dealing with people convicted with selling liquor to minors. The minimum fine was raised to \$200.

In some cases, fines of \$100 to \$150 were levied before it was discovered the ordinance had been amended.

Fifteen other tickets have been issued, but the cases are still pending. Seven other people, with a total of nine tickets, have not been arraigned.

Hardest hit were 7-Eleven convenience stores. Twelve employees from seven stores were cited for violations.

"We are aware of the situation that happened in the Olathe area," said Lauri Weinstein, human resource manager for 7-Eleven. "All steps have been taken so it won't happen again."

Weinstein would not comment on whether any of the employees had been

(Continued to page 2A)

Olathe finds liquor being sold to minors

(Continued from page 1A)

fired.

Other stores involved include Dillons, 16665 West 151st; Circle K, at several locations; Price Chopper, K-7 and Parker Street; E-Z Shop, at two locations; Convenient Food Mart, 1805 South Ridgeview; Hocott Liquor Store, 2135 East Santa Fe; East Liquor Store, 16663 West 151st; Winter's Liquor Store, 1493 East 151st; and Riggs Liquor Store, 2121 East 151st.

"I don't agree with it. Why are they wasting the taxpayers money," Ken Winter, owner of Winter's, said. "They are paying somebody to break the law. I think that is wrong."

An employee of Winter's was cited for the violation.

"We have done a review with

each individual employee on a one-on-one basis," Bob Maib, manager of Dillons, said. Three people at his store were cited.

Underage minors purchasing beer from Dillons is not a serious problem, Maib said. He was not upset with efforts by Olathe police officers.

9-2

Opinions

Page 4A

Wednesday, February 22, 1989

Selling liquor to kids

It's not only illegal to sell liquor to minors, it's also wrong.

There's nothing too bold nor dramatic about that statement. Yet, judging from the results of an Olathe police undercover operation, a large number of local merchants don't seem to understand it.

From early December to mid January, the Olathe police used underage minors to visit local grocery, convenience and liquor stores to purchase alcoholic beverages. All stores in Olathe that sell liquor and beer were approached by the girls, totaling 100 attempts.

The girls used their own drivers licenses, which indicated they were too young to purchase booze.

The result? A total of 53 citations are to be issued to clerks who sold alcoholic beverages to the girls. The worst offenders were convenience stores.

According to Olathe Det. Mark Jarvis, in some cases the girls were carded by store clerks, told they weren't old enough to buy li-

quor, but were allowed to buy it anyway.

The undercover operation was successful because it pointed out clearly that we have a problem.

Teens and underage minors certainly have access to liquor — even without turning to older “friends” or relatives to buy it for them.

Nevertheless, some angry liquor vendors and residents are attempting to divert the heat away from the merchants and turn it back onto the police. They are crying “foul” because the police used underage minors to setup the retailers.

“Unfair” they say.

But their argument falls flat, when compared to the fact that some of these local merchants were selling booze to kids — Olathe's children — with little or no regard for their age, for the law, or for a sense of right and wrong.

Selling liquor to kids is wrong. Stopping the perpetrators is right.

Kansas Alcoholic Beverage Dealers Association

February 20, 1988

Dear Senator:

I am writing to you today concerning two Senate Bills. Senate Bill #90 which would allow grocery and convenience stores to sell beer on Sunday, and Senate Bill #93 which would redefine Cereal Malt Beverage as all beer under 5% alcohol content by weight, as opposed to the current definition of less than 3.2% by weight.

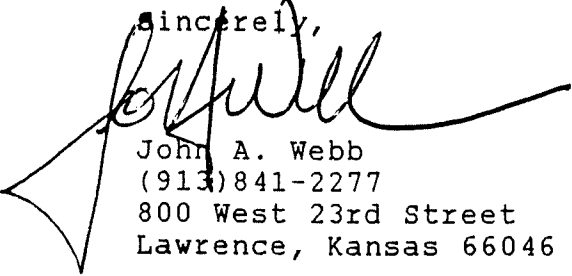
I think it might be appropriate to discuss Senate Bill #93 first because it would have a great deal to do with any decisions on Senate Bill #90. Because of the wide spread lack of understanding about beer and how Kansas sells it, I have enclosed some basic, factual material for reference.

The first decision that needs to be made is whether Kansas is ready to admit beer (all strengths) is an alcoholic beverage. (Under current Kansas Law Cereal Malt Beverage is not considered an alcoholic beverage). Here lies the basis for most of the inconsistencies of Kansas Alcoholic Beverage Law. Kansans have lived this lie for 50 years. I think it is time to call a beer, a beer and treat it like the Alcoholic Beverage that it is.

Multiplying the number of points of purchase, gasoline being sold in conjunction with alcoholic beverage by underage personnel does not seem consistent with recent public policy. Once the decision has been made to define beer as an alcoholic beverage; by industry standards (alcohol volume) then and only then would it be appropriate to determine where and when it should be sold.

Thank you for your consideration. If there are any questions please feel free to call.

Sincerely,



John A. Webb
(913)841-2277
800 West 23rd Street
Lawrence, Kansas 66046

SFASA
2-22-89
Attachment 10

Important Facts Regarding Beer

1. Present Kansas law does not consider cereal malt beverage (3.2% beer) an alcoholic beverage.
2. Beer--cereal malt beverage (3.2%) and strong, accounts for approximately 60% of the state's alcohol consumption (Reference III).
3. Approximately half the beer sold in the state is cereal malt beverage (3.2% beer).
4. Therefore, approximately 30% of the state's alcohol consumption is done under laws that pertain to a non-alcoholic beverage.
5. Cereal malt beverage (3.2% beer) cannot be more than 3.2% alcohol by weight (alcohol is lighter than water).
6. A cereal malt beverage that is 3.2% by weight is actually 4.0% by volume (Reference II).
7. Strong beer is measured by percent of alcohol by volume as are all other alcoholic beverages (Reference II).
8. The actual alcohol content of the typical serving of wine, mixed drink, and strong beer or cereal malt beverage (3.2% beer) is approximately the same (Reference I).
9. Cereal malt beverage (3.2% beer) can be advertised.
10. Strong beer cannot be advertised.
11. Cereal malt beverage (3.2% beer) can price and brand advertise.
12. Strong beer cannot price and brand advertise.

Industry statistics show that...

- beer accounts for 1-2% of grocery store gross sales.
- beer accounts for 2-4% of convenience store gross sales.
- beer accounts for 40-60% of liquor store gross sales.

Questions to Consider

1. Is it good public policy to advertise alcoholic beverages?
2. Is it consistent public policy to allow cereal malt beverage (3.2% beer) to be advertised and not allow strong beer to do the same?
3. Is it consistent public policy to allow cereal malt beverage (3.2% beer) to advertise brands and prices when strong beer can not be advertised in any manner whatsoever?
4. Is it consistent for 30% of the alcoholic beverages to be marketed and distributed in one way, and the other 70% in another way?
5. Is it good public policy to change the point of purchase of 70% of the alcoholic beverage business from a controlled environment to a virtually uncontrolled environment, where people must go for food?
6. How many liquor stores will be able to survive competing against grocery stores, when beer is 2-4% of their gross sales and 40-60% of a liquor store's gross sales?
7. How will liquor stores compensate for the loss of 40-60% of their gross sales?
8. Will grocery stores, if given the ability to sell strong beer, be able to sell other alcoholic beverages in the future, such as wine and liquor?
9. How will grocery stores be able to consistently monitor underage purchases of alcohol?
10. Is it consistent for liquor stores to be closed on Sundays, federal holidays, and election days while bars and restaurants serving liquor remain open on these days?

Reference I

Major Beer Brand Analysis

			<u>% ethanol by volume</u>	<u>% ethanol by weight</u>
Q1	1 12 oz can	Bud Light (Strong)	4.4	3.5
Q2	1 12 oz can	Bud Light (Cereal Malt)	3.6	2.8
Q3	1 12 oz can	Busch (Strong)	4.9	3.9
Q4	1 12 oz can	Busch (Cereal Malt)	4.1	3.2
Q5	1 12 oz can	Budweiser (Strong)	4.9	3.9
Q6	1 12 oz can	Budweiser (Cereal Malt)	3.9	3.1
Q7	1 12 oz can	Coors (Strong)	4.8	3.8
Q8	1 12 oz can	Coors (Cereal Malt)	4.1	3.2
Q9	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
			<hr/>	
			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 CATEGORIES DIFFERENTLY?

		<u>Actual Amount of Alcohol Consumed</u>
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

Reference II

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 percentage of the overall volume of the alcohol / water mixture or of the beverage.
- **Percent Alcohol by Weight** - The alcohol content is measured as a percentage of the weight as related to the volume using the specific gravity of ethyl alcohol. 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:

<u>Alcohol by Volume</u>		<u>Alcohol by Weight</u>
4% x .8	=	3.2%

Are there good reasons for marketing and selling alcoholic beverages in a different manner than other products? **YES!**

For similar reasons, prescription drugs are marketed and sold in a different manner than other products.

- (1) All alcoholic beverages are intoxicants.**
- (2) All alcoholic beverages are depressants.**
- (3) All alcoholic beverages are thought and mood altering products and therefore should be sold and consumed in a responsible manner.**

Because of the three prior reasons, responsible public policy has deemed it necessary to control the sale and consumption of alcoholic beverages.

Where Kansas public policy is inconsistent, and therefore confusing, is when similar products are sold and treated differently. For example: **cereal malt beverage is not even considered an alcoholic beverage.**

If different products (cereal malt beverage and strong beer) contain for all practical purposes equal amounts of alcohol, then it would seem reasonable to sell and treat both products in the same manner.

Pros of strong beer in grocery and convenience stores

(1) MORE CONVENIENCE

Since grocery and convenience stores are primary points of purchase (all individuals or at least one individual from each living group must go to these locations on a regular basis to purchase food), it would make the purchase of beer (60% of the alcohol consumption in Kansas) much more convenient.

(2) EVENTUAL MAJOR CHANGES IN THE INDUSTRY

With beer accounting for such a large portion of the entire alcoholic beverage industry, once strong beer is allowed to be sold in grocery and convenience stores, it will only be a matter of time until wine and liquor will be sold there also.

Cons of strong beer in grocery and convenience stores

(1) INEFFECTIVE CONTROL

Past experience with grocery and convenience stores has demonstrated that these locations are the least effective in controlling the sale of alcohol.

- One reason for this lack of control is the younger personnel that are allowed to sell alcoholic beverages in grocery and convenience stores.

- Another reason for this lack of control is the multitude of other products (gas, milk, pop, ice, etc.) that are sold at these locations, resulting in a lack of focused attention on alcoholic beverage sales.

(2) NEGATIVE ECONOMIC IMPACT

Beer accounts for 60% of the alcohol consumed in the state, and strong beer is showing a very strong growth trend in comparison to cereal malt beverage. If strong beer is allowed to be sold in grocery and convenience stores, most liquor stores will not be able to survive.

(3) ALCOHOLIC BEVERAGES AS LOST LEADERS

Alcoholic beverages will be used in grocery and convenience stores as lost leaders to draw customers to purchase other, more profitable products.

(4) LOSS OF REVENUE TO STATE

The state's economy will lose money because of grocery and convenience store chain operations transferring monies to out of state headquarters.

(5) INCREASED EXPENSE TO STATE

Allowing grocery and convenience stores to sell strong beer would increase the number of locations the Alcoholic Beverage Control must monitor by three times--**9000 locations in comparison to 3000 at present.**

Pros of alcoholic beverages being sold in liquor stores

Out of all alcoholic beverage outlets, it is a matter of fact that liquor stores have the best record for controlling the sale of alcoholic beverages.

The reasons for this superior record are:

(1) CONTROL OF UNDER AGE SALES

All liquor store personnel must be 21 years of age or older --no adverse peer pressure involved in under age sales.

(2) LIMITED PRODUCT SELECTION

A limited number of products are being sold-- attention is focused on the sale of alcoholic beverages.

(3) PRODUCT FAMILIARITY

There is a familiarity with products being sold-- an understanding of alcoholic beverages and their possible effects.

(4) NO ADVERSE ECONOMIC IMPACT

Since beer is approximately 1-2% of grocery store sales, 2-4% of convenience store sales, and 40-60% of liquor store sales, virtually no grocery or convenience stores will go out of business because of not being able to sell beer.

Cons of alcoholic beverages being sold in liquor stores

(1) LESS CONVENIENCE

The purchase of alcoholic beverages would be less convenient.

(2) LESS PRODUCT SELECTION

Because of current law, liquor stores are not allowed to carry any products other than alcoholic beverages.

**TESTIMONY TO THE
SENATE FEDERAL & STATE AFFAIRS COMMITTEE**

ON

Wednesday, February 22, 1989

SENATE BILLS 90 & 93

Mr. Chairman and Members of the Committee:

My name is Rebecca Rice and I represent the Kansas Retail Liquor Dealers Association. You have heard the testimony of many representatives from retail liquor establishments, grocery stores, convenience stores, wholesalers and those simply philosophically opposed to a further liberalization of restrictions on alcohol distribution in the state of Kansas. I do not intend to cover those issues as they will be more than adequately addressed by others.

I also am enough of a veteran lobbyist to realize that my remarks about this issue, because it has been discussed for numerous years, will, at best, have a negligible impact on your decision. However, I stand before you today anyway because I am concerned and somewhat confused by what I see as an egregious inconsistency.

What I am referring to is this Legislature's propensity to continually increase the criminal penalties for alcohol related crimes.

The bills in my hand are not all of the bills concerning alcohol consumption regulation, but are a list of those located in the bill locator found after a cursory examination. These bills are not necessarily bad legislation. I have no opinion about

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Attachment 11

them. However, I do have an opinion about making criminal penalties more stringent while, at the same time, making products with a greater alcohol content, more readily available.

Here is the message I hear emitting from this Legislature:

Those individuals under the age of 21 are not at a level of maturity to consume alcohol in a responsible manner. However, those individuals under the age of 21 and over the age of 18 are fully responsible for their actions if they consume, possess or purchase alcohol. These individuals are of sufficient maturity to be treated as adults under the criminal code if they possess alcohol products which we believe they are not mature enough to consume. In addition, individuals 18 and over are mature enough to be given the responsibility of selling alcohol to only those 21 and over. This Legislature has determined those individuals are mature enough to not bend to peer pressure to sell this alcohol to underaged individuals.

With consideration of this legislation and these more stringent criminal penalties, the message continues that these adults will be given stricter penalties, more onerous criminal records which will be with them for the rest of their lives, while, at the same time, a stronger product will be made available more often under regulations much less stringent than those required of liquor stores.

This appears to me to be inconsistent and unfair. Realizing the answer is "life is not fair", I would remind us all that our purpose is to attempt to make life more fair. If that purpose is taken lightly, unjust legislation results. If we are going to

punish more quickly and more severely, than I ask that you not add the additional temptations brought about by liberalizing the liquor laws as proposed in SB 90 & 93.

It is unjust to give one segment of a market a decided advantage over another segment of a market. The retail liquor dealers, with this legislation, are being put at a decided disadvantage when attempting to compete with grocery stores and convenience stores who are now going to be open more often, under less regulation while selling the same product. This attempt to further diminish the market share of liquor retailers, whose regulated market was specifically created by this Legislature, is unjust. However, the unjustness of this legislation is being addressed more articulately by others.

My point is that something unfair is also being done to these underaged individuals. You are on the one hand making the criminal punishment more onerous and on the other, making the product for which you are punishing consumption, more available. When I go back to my law practice in May, I will have to attempt to explain to these individuals, some who will be treated as adults under the criminal code, why the legislation is set up in the manner in which it has been created. While they are punished for purchasing the product, those responsible for selling it are allowed to employ underaged individuals who are then not held accountable for selling the product to my client. While the attempt may be made to deny lack of accountability, I contend it is very difficult to determine the "guilty" party in a corporate structure. Those individuals who qualify as juvenile delinquents

are easier because I can assure them the records are closed and if they do not do it again, they will be okay. The adults, however, are not treated as favorably and I am concerned about the three years of college these individuals face with a very real possibility of a second arrest and a mandatory conviction. It may appear that I am straying from the purpose of this legislation as the 3.2% product is available in those businesses Monday through Saturday. However, Saturday and Sunday is a very popular day for the owners and managers of these businesses to not be on the premises. Therefore, these bills will allow a stronger product to be even more available to these underaged individuals. I consider that situation to be inconsistent and illogical.

I can stand for questions about the previous testimony provided regarding the retail liquor industry or the testimony I have provided here today.

Carry-out beer sales on Sundays become Kansas Senate topic

By John Petterson
Kansas Correspondent

TOPEKA — The tipoff for Sunday's pro basketball game is only minutes away, just time enough to grab a cold one from the refrigerator.

But it's empty. And though the corner convenience store has a cooler full of replacement six-packs, Kansas law prohibits the sale of carry-out beer on Sunday.

To eliminate that empty refrigerator problem, a bill has been introduced in the Kansas Senate that would allow Sunday beer sales for off-premises consumption.

Kansans already can belly up to a public bar or sit at a private club on Sunday and order anything from a cold beer to a straight shot of 100-proof sour mash bourbon. They even can stroll into their neighborhood Pizza Hut and order a beer and a pepperoni pizza.

But there's a law that prohibits buying anything containing alcohol on a Sunday and taking it home to drink in front of the TV set.

"No one seems to object to drinking beer on Sunday," said Ken Bahr, a lobbyist representing Kansas CMB, the umbrella organization that supports Sunday sales. "That's as American as apple pie."

But the Rev. Richard Taylor Jr., who heads Kansans

ALCOHOL IS DIRECTLY INVOLVED IN . . .

- 20% of all freezing deaths
- 25% of all choking deaths
- 36% of all pedestrian deaths
- 50% of all deaths from falls
- 50% of all teenage motor vehicle deaths
- 52% of all fire deaths
- 60% of all suicides
- 64% of all murders
- 69% of all drownings
- 76% of all recreational aircraft deaths
- 33% of all motor vehicle injuries
- 34% of all child abuse cases
- 40% of all divorces
- 50% of all fractures
- 50% of all work place problems
- 50% of all rapes
- 65% of all motorcycle crashes
- 69% of all recreational boating injuries
- 72% of all assaults and robberies
- 80% of all criminal court cases

Attachment 12
9-22-89
SFA SA

Change proposed in beer law

Continued from Page B-1

for Life at Its Best!, is opposed to any liberalization of the state's drinking laws.

Although supporters contend that the sale of beer on Sunday is just a convenience issue, Taylor said the real issue was sales.

"If it wouldn't help sales, they wouldn't be working for it every year," Taylor said. "If they won't sell any more on seven days (a week) than they sell on six days, they why would they be working for Sunday sales?"

But Neal Whitaker, lobbyist for the Kansas Beer Wholesalers Association, said: "I really don't think it will increase beer sales. It's a convenience issue with consumers. There's not anybody who can factu-

ally say Sunday sales increases consumption."

Kansas CMB, a coalition of organizations representing beer wholesalers, grocery stores, convenience stores and service stations, is backing the measure, which will be scheduled for hearings later this month before the Senate Federal and State Affairs Committee.

Similar pieces of legislation have popped up in the last four or five legislative sessions but have never been approved.

Bahr said that passage of the bill would create 52 more beer selling days each year, but "whether consumption goes up because of the 52 days is up in the air."

But Taylor, there's no doubt that Sunday sales would boost weekly beer sales.

"In order to help slumping sales,

the rich and powerful beer lobby works every year to legalize Sunday carry-out beer sales in grocery stores, quick shops, filling stations and marinas," he wrote in his organization's publication, *The Kansas Issue*.

Whitaker said that because the four states surrounding Kansas allow beer to be sold on Sunday, Sunday beer sales already are reality for those living in border counties.

"They just go across the border and bring it back," he said.

It's not quite that easy for the rest of the state's population.

"I suppose today a majority of people who want a beer on Sunday buy it on Saturday," Whitaker added. "But why make them jump through that hoop for some phony reason?"

In addition to this detailed information from the brochure distributed by the Kansas Board of Regents we could add: 100% of all fetal alcohol syndrome birth defects, 100% of all alcohol overdose deaths, 100% of all alcoholism cases.

Good results of Saturday closing of liquor outlets in Sweden

The closing of the Alcohol Monopoly outlets in Sweden on Saturdays, which was carried through during the summer months this year on an experimental basis, proved to be a success. All police reports indicate that there was a clear reduction in drunkenness during weekends and that other indications of harm lessened also.

This confirms the experience gained in Finland during a similar experiment. The question of Saturday closing is also being discussed in Norway, where the question will be decided in connection with the pending broad attack on the current alcohol problem. 82 MAG

Not coffee, not Coca Cola, not iced tea, not root beer, NOT APPLE PIE, but ALCOHOL IS DIRECTLY INVOLVED IN . . .

The product is the problem. Sunday beer sales is a drug issue. Under Kansas law, alcohol is a controlled substance, but is exempt from control under that statute.

A step in the right direction would be no carry-out beer on Saturday in addition to Sunday.

This is not just a Sunday carry-out beer bill. Lines 61-69 make it easier to qualify for Sunday on premise consumption by allowing the 30% to include beverages.



Page 9, Topeka Capital-Journal, Thursday, April 9, 1987

—Staff/Bern Ketchum

Sen. Ed Reilly, R-Leavenworth, right, smiled at the remarks of Sen. Joe Warren, D-Maple City, left, Wednesday as the Senate considered acceptance of the conference committee report on a bill allowing liquor by the drink in Kansas. The bill includes a provision for Sunday beer sales

in restaurants, which is opposed by Warren, who offered a motion to send the bill back to conference. The Senate rejected that motion and passed Reilly's motion to accept the committee's report, which pleased Neal Whitaker, center, of the Kansas Beer Wholesalers Association.

Liquor bill passes Senate

Continued from page 1

beverage licensing, restaurants that make at least 30 percent of gross receipts from sale of food to also sell cereal malt beverages on Sunday for on-premises consumption.

Cereal malt beverages are beers with less than 3.2 percent alcohol content, or "grocery store" beer.

Sen. Dave Kerr, R-Hutchinson, baited Reilly briefly.

"When we voted for this liquor by the drink amendment, we were told that nothing would change in counties where the voters didn't approve the amendment, weren't we?" Kerr asked.

Reilly replied in the affirmative, and Kerr said, "Then why are we allowing the Sunday sale of beer statewide?"

Reilly said that the change was

forced on the Senate by the House, which included that provision in its version of the liquor-by-the-drink bill, before the two were married in the conference committee.

Reilly also said there was really nothing very novel in the Sunday beer sales, noting that private clubs statewide can now serve liquor and beer on Sundays.

Sen. Joe Warren, D-Maple City, asked "If this is nothing new, does it mean that the restaurants we all go to after church on Sundays could be selling us beer, but that it just wasn't done?"

Reilly said that those restaurants couldn't now offer Sunday beers with dinner, "but this is going to be a magement decision whether they approach the city council or county commission to seek that license."

"These cereal malt beverage licenses are all approved by local

units of government, and if I ran a restaurant in a county that voted against the amendment, I sure wouldn't go down to the city commission and ask for that license.

"It would be a poor management decision, and would run off all my business," Reilly said.

The Senate later learned that the decision to allow Sunday sales of cereal malt beverages in "wet" and "dry" counties is subject to local control.

Sen. Frank Gaines, D-Augusta, and Sen. Bob Frey, R-Liberal, both lawyers who have represented cities and counties, agreed that it would be up to local units to decide whether to license on-premise beer sales on Sundays.

They agreed that cities and counties could decide, as a generally applicable policy, whether to allow Sunday sales, but that the decision

within each city or county would have to be uniform.

Sen. James Francisco, D-Mulvane, complained that the bill didn't raise much in the way of new tax revenue for the state.

"When our people voted on liquor by the drink, they expected it to yield us some tax money, some increased revenue, and this doesn't," he said.

The conference committee stripped about \$15 million in additional liquor taxes out of the bill that had been placed there by the House.

The only other of the so-called "sin" issues approved by voters yet to be hammered out by the legislature is pari-mutuel wagering. That issue has been passed by the House, and the Senate Federal and State Affairs is expected to continue consideration of the bill today.

Senator Reilly claims the change to permit 3.2 beer sales on Sunday at public restaurants "was forced on the Senate by the House." Why did he not claim the \$15 million in additional liquor taxes was also forced on the Senate by the House? He wanted Sunday beer sales but did not want liquor to be taxed at a higher rate.

In 1987 the argument was made that if private clubs statewide can serve beer on Sunday, restaurants should also be permitted to serve beer on Sunday.

Now in 1989 the argument is made that if restaurants may serve beer on Sunday, grocery stores should also be permitted to push the drug on Sunday.

These arguments are made in the name of "consistency." In the name of "consistency," an argument can be made to eliminate all Sunday sales of our most abused drug in any form at any place. That would be a giant step toward reducing drug suffering.

12-2

But Neal Whitaker, lobbyist for the Kansas Beer Wholesalers Association, said: "I really don't think it will increase beer sales. It's a convenience issue with consumers."

He is half correct. Sunday sales will make it more convenient for more people to buy more beer. But when he claims it will not help sales, he is saying exactly what promoters of liquor by the drink in public places told lawmakers every session. And they were wrong.

According to the Kansas Department of Revenue, gallons of all types of alcoholic liquor shipped into Kansas increased for the first year of liquor by the drink in public places. Gallons of 3.2 beer declined, but Kansas has had 3.2 beer by the drink in public places for many years.

A report just received from California states consumption of beer is down 4.4%, wine is down 3.8%, and hard liquor is down 4.9% for last year.

Alcoholic liquor consumption in Kansas did not go down last year. It did not remain even. It did not go up a little. Alcoholic liquor consumption in Kansas went up a lot for one year!

"It has been amply documented that death, sickness, social disruption, and economic loss result from excess alcohol consumption and that this is in proportion to its relative cost and availability." AMERICAN COLLEGE OF SURGEONS BULLETIN

Will pushing beer in grocery stores 52 more days every year reduce its availability? If NO, vote NO.

"So promising and straightforward is the simple syllogism of reducing alcoholism by reducing total social consumption." AMERICAN JOURNAL OF PUBLIC HEALTH

Will Sunday sales reduce total social consumption and alcoholism? If NO, vote NO.

"There is a close relationship between per capita consumption of alcohol and alcoholism prevalence." ADDICTION RESEARCH FOUNDATION OF ONTARIO

Will Sunday carry-out beer sales reduce per capita consumption and alcoholism prevalence? If NO, vote NO.

"More liberalization means greater use of alcohol, and greater prevalence of disease and death as a consequence. Even though the specific components of liberalization - such as permitting alcohol at sidewalk cafes and park picnics - might seem innocuous in themselves." CHANGING DRINKING PATTERNS IN ONTARIO

Sunday beer sales might seem innocuous, but will it bring less use of alcohol, less disease and death? If NO, vote NO.

Many merchants in other states sell more carry-out beer on Sunday than on any of the other six days. If people run out of beer on Sunday and it causes emotional or mental distress, they should seek early intervention for an alcohol problem.

There is one question before this committee. Do you want to help promote 3.2 beer sales? If YES, vote YES. If NO, vote NO. Beer sales and alcoholism are tied together. Is less alcoholism a phony reason for no Sunday beer sales?

If we could bring people before this committee and say, "Your YES vote will cause these persons to develop alcoholism," how would you vote? Yet that is exactly what research has found. If you vote to promote alcohol sales, additional people will develop alcoholism.

This is a life and death issue. We are in favor of businessmen making a profit, but not at the expense of public health and safety. We are working for less alcoholism and safer highways. When driving by a filling station on Sunday that proclaims COLD BEER TO GO, we can thankfully say, BUT NOT TODAY.

Respectfully yours,
Richard Taylor

12-3