

Approved: February 2, 1995
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Garry Boston at 1:30 p.m. on January 19, 1995 in Room 526-S of the Capitol.

All members were present except: Representative Douglass Lawrence. Excused

Committee staff present: Mary Galligan, Legislative Research Department
Lynne Holt, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
June Evans, Committee Secretary

Conferees appearing before the committee: Bryan Beaver, Kansas Oil Marketers Association,
Convenience Store Association of Kansas
Richard B. Ferguson, Ferguson Liquor Store
Frances Kastner, Kansas Food Dealers Association
Whitney Damron, The Coastal Corporation and Total
Petroleum
Kathy Peterson, Distilled Spirits Council of the U.S.
John A. Webb, Webb's Fine Wine and Spirits
R. E. "Tuck" Duncan, Kansas Wine and Spirits Assn.
Rebecca Rice, Legislative Counsel for Kansas Retail
Liquor Dealers Association

Others attending: See attached list

Jim Conant, Chief Administrative Officer, Department of Revenue, Division of Alcohol Beverage Control distributed a chart showing the gasoline and diesel fuel state tax rates in the Five-State Region which was requested by the committee on January 18. (See Attachment #1)

HB 2105: Concerning alcoholic beverages; concerning certain restrictions on retail sales; amending K.S.A. 41-717 and 41-2706 and K.S.A. 1994 Supp. 41-712 and 41-2704 and repealing the existing sections.

Bryan Beaver, Convenience Store Association of Kansas, testified in support of **HB 2105**, stating credit cards are the payment method of choice by the American consumer. Over two billion dollars were spent on consumer goods during the recent holiday season using credit cards. Business is made up of 30% to 50% credit card sales depending on the location. Alcoholic beverages and cereal malt beverage can be purchased on a credit card today in many retail businesses across the state. It is not reasonable for some retailers to be able to sell these beverages on credit cards and not others.

The ability purchase these beverages on holidays or Sundays is an anticompetitive issue. The bordering states all allow sales on Sunday, consequently Kansas is losing enforcement tax and sales tax revenues. (See Attachment #2)

Richard B. Ferguson, Ferguson Liquor Store, Overland Park, Kansas, testified in support of **HB 2105**, stating Sunday sales represents a chance to increase revenue for Kansas and its retailers. Kansas is currently losing millions of dollars annually in bordering states. (See Attachment #3)

Frances Kastner, Director, Governmental Affairs, Kansas Food Dealers Association, testified in support of **HB 2105**, which allows Sunday sales of cereal malt beverages for off premise consumption and requiring the county commissioners to adopt a resolution, or by a county-wide vote approving Sunday sales.

Ms. Kastner further stated that credit card use in all segments of the retailing business is more prevalent than ever, and everyone should have the opportunity to decide when and where to use their own credit cards. (See

Attachment #4)

Whitney Damron, Pete McGill and Associates, testified on behalf of the Coastal Corporation and Total Petroleum, in support of **HB 2105** which authorizes Sunday and selected holiday sales of alcoholic liquor and cereal malt beverages as well as credit card sales of cereal malt beverages and farm winery products. This proposed legislation is supported as a convenience to their customers. (See Attachment #5)

It was asked how many stores Coastal Corporation and Total Petroleum have in Kansas?

Mr. Damron stated he would furnish this information.

Kathy Peterson, Distilled Spirits Council of the United States, testified supporting **HB 2105**. DISCUS is the national trade association representing the manufacturers and marketers of 90% of all liquor sold in the United States. Sunday sales and credit card use are forbidden to purchase beer, wine or spirits in its unopened original containers. This is a competitive disadvantage that current law imposes for Kansas businesses and consumers. Kansas sales and its tax revenues are being lost to border states. (See Attachment #6)

John A. Webb, Webb's Fine Wine and Spirits, Lawrence, Kansas, testified in support of **HB 2105**, stating the beverage alcohol law has a tremendous amount of inconsistency. (See Attachment #7)

R. E. "Tuck" Duncan, Kansas Wine & Spirits Wholesalers Association, Inc., testified in support of various provisions of **HB 2105**. The provisions of allowing sales of beverage alcohol on Memorial Day, July 4 and Labor Day is supported. The use of credit cards has become common place for a wide variety of purchases, including those at grocery stores and at gas stations. A farm winery selling Kansas wine to tourists would benefit by being able to use credit cards.

With respect to the provision regarding Sunday sales the following amendment is suggested: "Change the closing hour for sales from 11:00 p.m. to 8:00 p.m." It is also proposed that the provisions of Section 5 be parallel to the provisions for electing liquor by the drink in a county, e.g. the question could be placed on the ballot either by a petition of qualified electors or be placed on the ballot by the Board of Commissioners. On page 4, lines 4-6 be: "Shall the sale of alcoholic liquor and cereal malt beverages by the unopened package at retail be permitted on Sundays in _____ County?" (See Attachment #8)

Rebecca Rice, Legislative Counsel for Kansas Retail Liquor Dealers Association, opposed the portion of **HB 2105** which allows Sunday sales of all alcoholic liquor. The KRLDA requests **HB 2105** be amended to remove the portion allowing Sunday sales and adopt the balance of the legislation. The retailers are not united on Sunday sales and the same amount of alcohol would be sold. (See Attachment #9)

The Chairperson asked if there were any other wishing to testify and Mr. Donn Harling, KRLDA stated this was not a religious issue, but a personal preference if stores wished to be open on Sunday.

After discussion, the Chairperson closed the hearings.

Representative Smith moved and Representative Donovan seconded that the minutes of January 18 be approved. The motion carried.

The meeting adjourned at 3:00 p.m.

The next meeting will be January 24, 1995.

HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST

DATE: January 19, 1995

NAME	REPRESENTING
Sam Halvick	KRLDA
John Petersen	Arheuser Busch
Frances Kastner	Ks Food Dealers Assn
Kurt J. Bossert	Bossert Liquor Store
Patricia Oppitz	KRLDA, pres
Joe Bummer	visitor
Jared Bummer	visitor
Sandra McDowell	KRLDA
Matt Strathman	Strathman S. & Co Inc
Neal Whitaker	Ks Beer Wholesalers Assn.
Steve Montgomery	Carays General Stores
Rich McCarroll	Intern for Rep. Ballou
Jack Gates	visitor
Dorinda Gates	Visitor
Russ Flynn	Famous Brands Distributors
Jim Dorsey	Famous Brands Distributors
Curt Baird	Premier Wine & Spirits, Inc.
Clay Ruffly	Ks Retail Council
Keith Peterson	Distilled Spirits Council

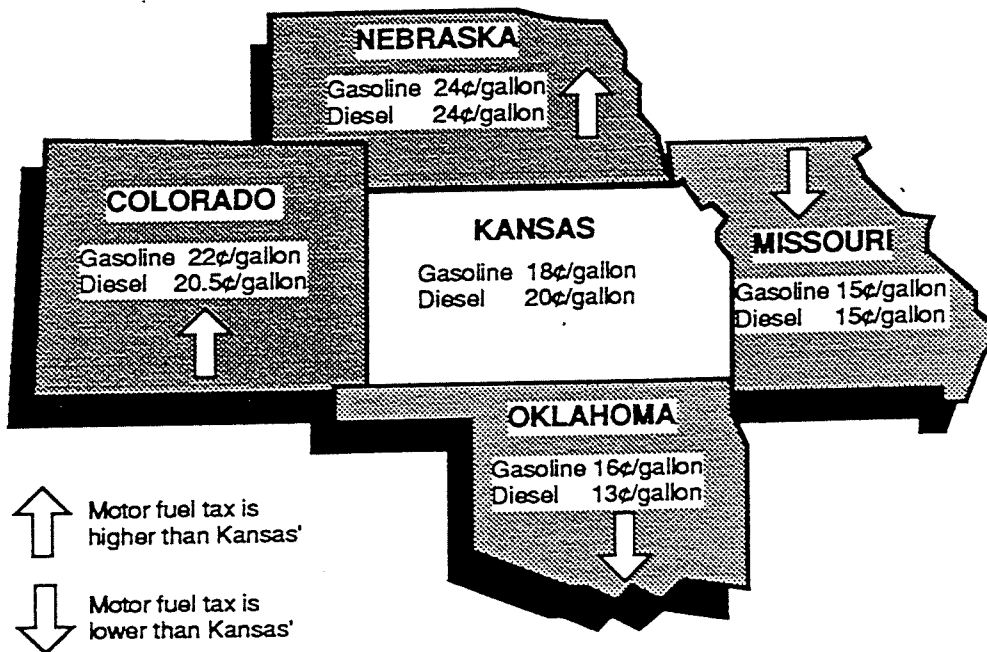
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Motor fuels taxes can be evaded in a number of ways, but most evasion schemes fall into one of the following categories:

- failure to file required reports or returns (attempting to operate completely outside the system)
- filing false information that either misrepresents taxes as having been paid, or that underestimates tax liability
- falsely claiming an exemption from taxes
- failure to pay taxes that have been assessed

Department officials and industry representatives think the biggest problem in Kansas comes from distributors falsely claiming exemptions to which they are not entitled. For example, a distributor may report to the Department of Revenue that a load of gasoline is being exported to a retail station in Missouri, pay the tax on that load to the State of Missouri, but actually sell the fuel to a retail station in Kansas. The distributor is paying Missouri tax of 15 cents per gallon on the load instead of the Kansas tax of 18 cents per gallon, thus realizing a savings of 3 cents per gallon. On a typical 8,500-gallon load of gasoline, the distributor would evade \$255 in motor fuels tax. (Before April 1, 1994, Missouri tax was only 13 cents per gallon, which would have allowed unethical distributors to evade \$425 in taxes on a typical load.)

Gasoline and Diesel Fuel State Tax Rates in the Five-State Region



As the map shows, Missouri and Oklahoma have lower tax rates than Kansas. This provides a financial benefit to distributors who falsely claim to be exporting fuel to these states, pay the lower tax in these states, but actually sell the fuel in Kansas. Similarly, distributors in Nebraska and Colorado could defraud their state governments of motor fuels tax revenues by falsely reporting exports to Kansas, because Kansas has a lower tax rate than either of those two states.

FISA
1-19-95
Atch # 1



KANSAS OIL MARKETERS ASSOCIATION

Convenience Store Association of Kansas

January 19, 1995

TO: House Federal and State Affairs Committee
FROM: Bryan Beaver
RE: HB 2105

Honorable Chairman and Members of the House Federal and State Affairs Committee.

Thank you for the opportunity to appear before you today. My name is Bryan Beaver. I reside at 14042 Grandview, Overland Park, Kansas. I am here today representing the Convenience Store Association of Kansas. I am employed by the Carter Companies who own and operate four convenience stores in Kansas.

I appear before you in strong support of H.B. 2105.

I would ask you to give consideration to the following points relative to this issue:

Credit cards are the payment method of choice by the American consumer. They recently spent over two billion dollars on consumer goods during our recent holiday season using credit cards. Our business today is made up of 30% to 50% credit card sales depending on the location. Alcoholic beverages and cereal malt beverage can be purchased on a credit card today in many retail businesses across our state. We don't believe it is reasonable for some retailers to be able to sell these beverages on credit cards and not others.

Please consider the thousands of entry level people we employ in the convenience store industry in Kansas. Until we reform this law, our cashiers must be trained and remember to ask our customers for two

F+SA
1-19-95
Atch #2

different methods of payment, for one transaction, when their purchase includes beer. The consumers we serve think this is very "inconvenient."

The ability to purchase these beverages on holidays or Sundays is an anti-competitive issue. The bordering states all allow sales on Sunday, consequently our state is losing enforcement tax and sales tax revenues. At a time of tight state budgeting, it seems we could use all revenues due our state.

This experience is well documented along the Kansas/Missouri border where liquor retailers in Missouri are posting increases, while retailers in Johnson and Wyandotte counties are posting losses in sales. Because our company operates along this border, we have first hand experience.

TODAY we can consume alcohol in restaurants and taverns on Sunday (pay for it with a credit card), and drive home, but we cannot purchase these beverages in their unopened container and take them home for our consumption.

I believe it is easy to see the inconsistencies in our current statute and again, urge you to pass this legislation.

Thank you. I would be happy to answer any questions.

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FERGUSON LIQUOR STORE

Rich Ferguson - Owner

Mr. Chairman:
Members of the Committee:

1/19/95

RE: HB 2105:

My name is Richard B Ferguson, of Ferguson Liquor Store in Overland Park. HB. 2105 represents a chance to increase revenue for Kansas and its retailers.

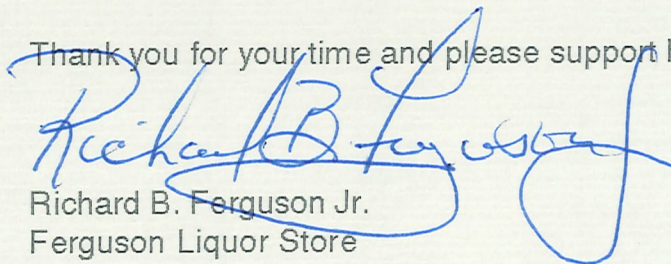
Currently Kansas is loosing millions of dollars annually to bordering states. Kansas City Missouri is now realizing a 52 million dollar increase in sales on Sundays alone, with one million dollars plus coming form Kansas.

Sunday currently represents one of the largest selling days to Missouri retailers.

Credit cards also has increased revenue by a 10% in KC MO. Kansans, at anytime or day may, consume their favorite alcohol beverage at any bar or restaurant ,and pay by credit card. Kansas retailers may not offer this service so their patrons can consume within the safety and confines of their own homes. This to drives consumers to Missouri.

Your support of HB. 2105 will move Kansas forward for a gain to all involved. Kansans will spend more monies within the boarders of Kansas.

Thank you for your time and please support HB. 2105


Richard B. Ferguson Jr.
Ferguson Liquor Store
Overland Park, Kansas

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



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1-19-95
Atch #3



EXECUTIVE DIRECTOR
JIM SHEEHAN
Shawnee Mission

HOUSE FEDERAL & STATE AFFAIRS COMM. Jan. 19, 1995

OFFICERS

SUPPORTING HB 2105

PRESIDENT
SKIP KLEIER
Carbondale

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 throughout the State of Kansas.

1st VICE-PRESIDENT
MIKE BRAXMEYER
Atwood

2nd VICE-PRESIDENT
TREASURER
DUANE CROSIER
Seneca

ASST. TREASURER
JOHN CUNNINGHAM
Shawnee Mission

We appear in favor of HB 2105 allowing Sunday sales of cereal malt beverages for OFF PREMISE consumption. By requiring the County Commissioners to adopt a resolution, or by a county-wide vote approving Sunday Sales, this bill gives absolute control to local authorities. This negates any argument that the State is imposing unwanted laws upon communities.

BOARD OF DIRECTORS

CHAIRMAN
J. R. WAYMIRE
Leavenworth

Last year there was a good deal of discussion of credit card sales for purchases of alcoholic beverages and CMB for off premise consumption. It is NOW, and has been for a long time, possible to purchase alcoholic beverages on a credit card for ON PREMISE consumption. We believe the consumer should have the opportunity to decide whether to pay for purchases by cash, by credit card, or any other debit card method.

GLEN CATLIN
Herington

TOM FLOERSCH
Fredonia

ROY FRIESEN
Syracuse

ARNIE GRAHAM
Emporia

There is a possibility that Kansas will be joining other states in issuing Food Stamps recipients a type of credit card for Electronic Benefit Transfer. When that happens, our retailers will be using EBT cards to deduct the amount of their food purchases instead of dealing with paper Food Stamps.

STAN HAYES
Manhattan

JOHN McKEEVER
Louisburg

Credit card use in all segments of the retailing business is more prevalent than ever, and everyone should have the opportunity to decide when and where to use their own credit cards.

LEONARD McKINZIE
Overland Park

CLIFF O'BRYHIM
Overbrook

BILL REUST
Parsons

We respectfully request that you permit Sunday sales of CMB Sunday afternoons, and allow credit card purchases for alcoholic beverage and CMB purchases for OFF PREMISE consumption.

LEROY WARREN
Colby

BILL WEST
Abilene

DIRECTOR OF
GOVERNMENTAL AFFAIRS

Frances Kastner
Frances Kastner, Director
Governmental Affairs, KFDA

FRANCES KASTNER

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1-19-95
Atch #4

TESTIMONY
OF
WHITNEY DAMRON
OF
PETE MCGILL & ASSOCIATES
ON BEHALF OF
THE COASTAL CORPORATION
AND
TOTAL PETROLEUM

PRESENTED BEFORE THE
HOUSE FEDERAL & STATE
AFFAIRS COMMITTEE

JANUARY 19, 1995

RE: HB 2105

*FUSA
1-19-95
Atch #5*

Good afternoon Chairman Boston and Members of the House Federal & State
Affairs Committee,

I am Whitney Damron of Pete McGill & Associates appearing before you this
afternoon on behalf of The Coastal Corporation and Total Petroleum in support of
HB 2105 authorizing Sunday and selected holiday sales of alcoholic liquor and cereal
malt beverages as well as credit card sales of cereal malt beverages and farm winery
products.

Coastal and Total both operate convenience stores throughout Kansas and
strongly support this proposed legislation as a convenience for our customers. Both
companies have supported this legislation in years past and join once again with
proponents of this bill asking for your support of HB 2105.

We had hoped to be able to provide selected demographic information for the
Committee on both of these companies regarding number of stores, employees and
annual payroll. However, this information was not readily available prior to this
hearing. We hope to distribute that information to the Committee in the near
future.

I would be pleased to stand for questions at the appropriate time.

F&SA
1-19-95
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Kathy
Peterson

(913) 235-2525
(913) 435-3390 FAX

Mercantile Bank
800 Jackson, Suite 1120

Topeka, Kansas 66612

STATEMENT of
Distilled Spirits Council of the United States

Proponent for House Bill 2105
Presented by Kathy Peterson

To the House Federal and State Affairs Committee
The Honorable Garry Boston, Chairman
January 19, 1995

Room 526-S - Statehouse
Topeka, Kansas

Mr. Chairman and members of the committee:

I appreciate having this opportunity to voice the support of the Distilled Spirits Council for House Bill 2105. DISCUS is the national trade association representing the manufacturers and marketers of 90% of all liquor sold in the United States. My name is Kathy Peterson and I serve as the Kansas DISCUS representative.

DISCUS joins the other industry and retail representatives you've heard from today in urging your favorable consideration of this measure.

The provisions contained in HB 2105 are not new. These elements have been discussed for years. Perhaps 1995 will be the year in which they're enacted - giving business and industry more latitude and less government interference in running their operations, selling products to Kansas consumers.

Another strong policy argument in support of HB 2105 can be made for adding some long overdue consistency to Kansas liquor laws. On Sunday, it is perfectly legal for us to drive to a local restaurant or drinking establishment, consume alcohol, putting the drinks on our credit cards and then drive home.

But, it is forbidden by law that we purchase beer, wine or spirits on Sunday or use a credit card for our purchase in its unopened original container to then be consumed in our homes.

A third policy argument to be made in support of this legislation is the competitive disadvantage current law imposes for Kansas businesses and consumers.

Nebraska, Missouri and Oklahoma all have Sunday sales. Clearly, Kansas sales and its tax revenues are being lost to border states. In addition, credit cards are accepted in all of the surrounding states in retail liquor stores, grocery stores and convenience stores which sell beer.

In closing, it should be underscored that the provisions of this bill are not consumption issues. Rather, they are issues of the proper role of government regulating the sale of a consumer product by Kansas businesses. The Distilled Spirits Council respectfully urges your support for its passage.

Encl.

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Kansas Economic Fact Sheet, 1994

Kansas' distilled spirits tax burden is very high:

- o Federal, state and local taxes now account for 38% of the 1993 retail price of a typical bottle of distilled spirits (\$3.38 of the \$8.98 price for a 750 ml bottle at 80 proof).
- o State and local taxes alone account for 14% (\$1.23) of the Kansas price. Federal taxes account for 24% (\$2.15), including the 1991 federal excise tax (FET) increase.
- o Distilled spirits taxes constitute 34% of state revenues from all beverage alcohol, although spirits products account for less than 31% of total alcohol consumed in the state. The 1992 distilled spirits state revenue burden per gallon of actual alcohol is \$20.24.

Historically, distilled spirits tax hikes have caused sales to fall, affecting state revenues:

- o The 1991 8% federal distilled spirits excise tax hike caused nationwide sales to fall sharply. As a result, employment generated by the industry declined. Kansas lost \$270 thousand in state and local direct and indirect revenue, 220 jobs and \$12 million in gross state output.
- o The federal excise tax on distilled spirits increased by a total of 29% in 1985 and 1991. Between 1984 and 1992 Kansas' distilled spirits volume sales declined 10%, affecting state revenues. After the 1991 FET hike, Kansas' consumers paid an additional \$4.1 million to the federal government in higher distilled spirits taxes.
- o The 19% distilled spirits FET increase of October 1985 was followed by a 5.6% decline in the tax base nationwide. Kansas lost \$430 thousand in state direct revenue while its citizens paid an additional \$3.5 million to the federal government in higher distilled spirits taxes.

Kansas' distilled spirits industry is in a persistent downturn:

- o Apparent consumption of distilled spirits is down 17% in Kansas over the last 11 years, an average of 1.7% per year. Nationwide, distilled spirits apparent consumption declined 7.5% in 1991 following that year's FET increase.

Industry's contributions to the state treasury are significant:

- o Direct state revenues from the alcohol beverage industry yielded \$63 million to the Kansas treasury in 1992, with 34% (\$21 million) from distilled spirits alone.
- o Directly and indirectly the alcohol beverage industry generated \$210 million in state and local revenues for Kansas during 1992.
- o Corporate and personal income taxes paid by the beverage alcohol industry add substantially to state tax revenues.

The alcohol beverage industry plays an important role in the state economy:

- o The alcohol beverage industry contributed \$2.5 billion to Kansas' gross state product in 1992.
- o Kansas' beverage alcohol industry generates \$760 million in wages annually, and accounts for 46 thousand direct and indirect employment opportunities.
- o Alcohol beverage sales are important to small business.
 - Eating and drinking places, small retail establishments and convenience stores employ large numbers of lower skilled workers in Kansas.
 - Statewide, 69% of on-premise drinking places and 84% of beverage alcohol stores are small establishments employing four or fewer people.
- o Midwest Grain Products, Inc., a distilled spirits producer, plays an important role in the economy of Kansas' Atchinson County.

Further raising Kansas' distilled spirits taxes would be poor fiscal policy:

- o Distilled spirits demand in Kansas is declining and unstable, making distilled spirits sales an unreliable tax base.
- o Demand would shrink significantly if higher distilled spirits taxes were imposed. This would depress sales, reducing the expected revenue gain from the tax hike.
- o A distilled spirits tax increase would ripple through Kansas' economy. By reducing retail sales, a distilled spirits tax hike would reduce employment, payroll and indirect revenues as well as increase state unemployment outlays.

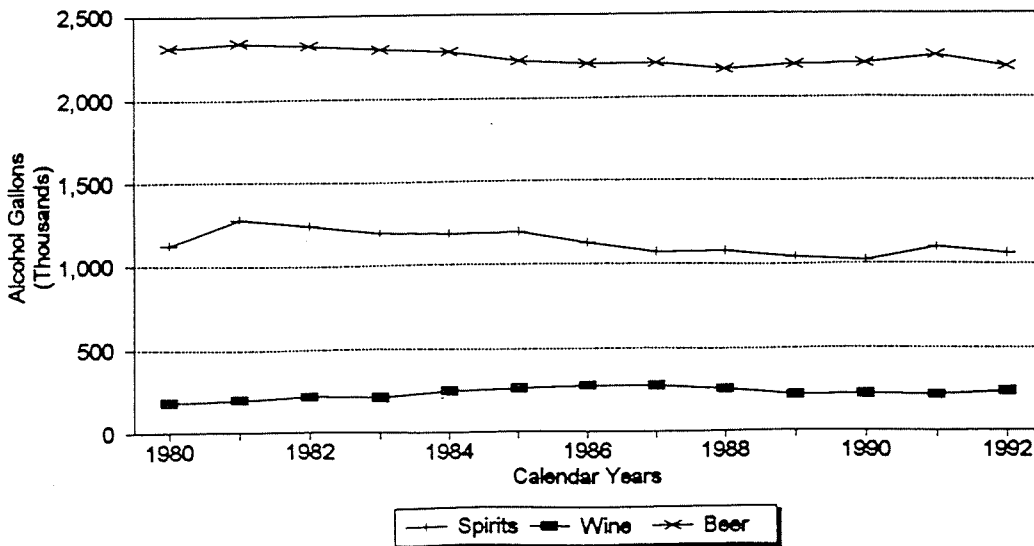
CONTRIBUTION OF ALCOHOL BEVERAGES TO KANSAS TAX REVENUES

Fiscal Year	Excise Tax Revenues (\$million)		As Percent of All Excise		Sales Tax, Licenses, etc. (\$million)		Total Alcohol Bev. Revenue (\$million)		As Percent of Total Tax Revenues	
	All Bev.		All Bev.		All Bev.		All Bev.		All Bev.	
	Spirits	Alcohol	Spirits	Alcohol	Spirits	Alcohol	Spirits	Alcohol	Spirits	Alcohol
1988	19.7	46.9	5.6	13.3	0.7	6.0	20.4	52.9	0.8	2.1
1989	19.0	47.8	5.4	13.5	0.6	5.6	19.6	53.4	0.8	2.1
1990	19.3	50.0	4.7	12.2	0.6	5.6	20.0	55.6	0.7	2.1
1991	20.2	52.3	4.7	12.2	0.7	6.1	20.9	58.4	0.7	2.1
1992	20.8	55.7	4.5	12.1	0.7	6.8	21.4	62.6	0.8	2.2

KANSAS ALCOHOL BEVERAGE CONSUMPTION AND RETAIL SALES

Calendar Year	Retail Sales (\$M)		Apparent Consumption (1,000 gal.)							
	Sales	Percent Change	Spirits		Wine		Beer		Percent Change	
				Percent Change		Percent Change		Percent Change		Percent Change
1980	299	-	2,808	-	1,655	-	51,335	-		
1981	336	12.4%	3,195	13.8%	1,810	9.4%	51,965	1.2%		
1982	352	4.9%	3,109	-2.7%	1,954	8.0%	51,519	-0.9%		
1983	375	6.3%	2,982	-4.1%	1,898	-2.9%	50,943	-1.1%		
1984	399	6.4%	2,958	-0.8%	2,247	18.4%	50,587	-0.7%		
1985	426	6.9%	2,982	0.8%	2,389	6.3%	49,341	-2.5%		
1986	451	5.8%	2,809	-5.8%	2,509	5.0%	48,932	-0.8%		
1987	465	3.0%	2,671	-4.9%	2,490	-0.8%	48,899	-0.1%		
1988	497	7.0%	2,688	0.6%	2,307	-7.3%	48,051	-1.7%		
1989	532	7.0%	2,604	-3.2%	1,966	-14.8%	48,725	1.4%		
1990	572	7.6%	2,546	-2.2%	2,003	1.9%	48,827	0.2%		
1991	665	16.2%	2,734	7.4%	1,949	-2.7%	49,870	2.1%		
1992	674	1.3%	2,648	-3.1%	2,141	9.9%	48,407	-2.9%		
Average:		7.0%		-0.5%		2.2%		-0.5%		

KANSAS ALCOHOL BEVERAGE CONSUMPTION (Alcohol Gallons)



Sources: Available upon request.

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**Kansas House of Representatives
Federal and State Affairs Committee
19 January 1995**

KANSAS BEVERAGE ALCOHOL LAW HAS A TREMENDOUS AMOUNT OF INCONSISTENCY.

A more stable and profitable retail market would promote a more socially responsible market with voluntary compliance.

When the United States Government realized that prohibition was a failure, most all responsibility for the distribution and sale of beverage alcohol was given to the individual states with basic BATF rules and regulation guidelines.

Kansas first allowed beverage alcohol under the name of "Cereal Malt Beverage" in the mid 1930's. There are now approximately 4000 cereal malt beverage licenses in the state of Kansas.

The sale of beverage alcohol in Kansas, as such, was first allowed in 1949. There are approximately 735 retail liquor licenses in the state of Kansas at this time.

In the last 8 years, we have lost over 500 retail liquor stores!

Kansas liquor stores are NOT allowed to sell items other than beverage alcohol.

Cereal malt beverage licenses ARE allowed to sell all other items and cereal malt beverages.

Cereal malt beverages are allowed to be sold in gas stations, bait shops, convenience stores, grocery stores, and virtually anywhere.

To arrive at a socially responsible, stable and profitable retail beverage alcohol market, the following inconsistencies will need to be addressed:

- * What constitutes a beverage being considered beverage alcohol?
- * Which locations will be the most socially responsible outlets to the public?
- * What are the most socially responsible days and times of day to sell beverage alcohol?

These statements and questions respectfully submitted for consideration.

John A. Webb
Webb's Fine Wine and Spirits
800 West 23rd Street
Lawrence, KS 66046-4407
(913) 841-2277

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Gallons of Alcoholic Beverages Shipped into Kansas

Alcohol Type	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92	9 Year Trend
Spirits	3,037,866	3,002,683	2,919,682	2,710,292	2,718,939	2,654,234	2,584,771	2,557,744	2,615,724	-13.90%
Fortified Wine	160,074	148,707	171,337	152,377	159,477	147,307	150,897	153,987	122,817	-23.27%
Light Wine	1,799,085	2,125,134	2,207,896	2,567,727	2,290,187	1,906,735	1,868,130	1,864,873	1,919,016	6.67%
Strong Beer	22,324,246	21,978,266	23,130,470	24,534,916	26,092,762	29,492,634	30,035,550	32,082,816	33,099,056	48.27%
3.2 Beer	28,474,112	28,203,908	25,678,264	23,799,929	19,833,758	18,445,885	17,667,211	17,211,138	16,367,011	-42.52%
Gallonage Revenue	\$17,298,150	\$17,288,570	\$16,567,205	\$16,360,604	\$16,170,785	\$15,947,018	\$15,772,037	\$15,942,224	\$16,111,020	-6.86%
Alcohol Type	% Chng 84	% Chng 85	% Chng 86	% Chng 87	% Chng 88	% Chng 89	% Chng 90	% Chng 91	% Chng 92	
Spirits	0.51%	-1.16%	-2.76%	-7.17%	0.32%	-2.38%	-2.62%	-1.05%	2.27%	
Fortified Wine	-6.31%	-7.10%	15.22%	-11.07%	4.66%	-7.63%	2.44%	2.05%	-20.24%	
Light Wine	3.47%	18.12%	3.89%	16.30%	-10.81%	-16.74%	-2.02%	-0.17%	2.90%	
Strong Beer	-1.57%	-1.55%	5.24%	6.07%	6.35%	13.03%	1.84%	6.82%	3.17%	
3.2 Beer	2.94%	-0.95%	-8.95%	-7.31%	-16.66%	-7.00%	-4.22%	-2.58%	-4.90%	

WINE & SPIRITS
WHOLESALE ASSOCIATION, INC.

January 19, 1995

To: House Committee on Federal and State Affairs
From: R.E. "Tuck" Duncan
Kansas Wine & Spirits Wholesalers Association
RE: House Bill 2105

I appear here today to support various provisions of House Bill 2105. The Kansas Wine & Spirits Wholesalers Association supports the provision of allowing sales of beverage alcohol on Memorial Day, July 4 and Labor Day in order to conform the allowable days of sales to those currently allowable for cereal malt beverages.

The use of credit cards in our society has become common place for a wide variety of purchases, including those at grocery stores and at gas stations. As one State Senator commented last year, he uses a credit card to keep track of various purchases. We have a farm winery that would benefit by selling Kansas wine to tourists provided the tourist could use a credit card. You may use a credit card to make purchases in drinking establishments, why not for purchases you intend to take home?

With respect to the provision regarding Sunday sales KSWA makes the following suggestions for amendment. Inasmuch as licensed Kansas retail liquor dealers are not currently operating on Sundays, we suggest the closing hour for sales alcoholic liquor and cereal malt beverages be 8 P.M. rather than 11 P.M. This means only one work shift for a retailer if a county elections the Sunday option, and we believe the public would support such a policy. With respect to the manner of electing the Sunday option, we propose that the provisions of section 5 be parallel to the provisions for electing liquor by the drink in a county, e.g. the question could be placed on the ballot either by a petition of qualified electors or be placed on the ballot by the Board of Commissioners. This revised methodology will provide consistency in the law. Further, the question to be placed before the voters should be revised. We suggest that the proposition (page 4 lines 4-6) be: "*Shall the sale of alcoholic liquor and cereal malt beverages by the unopened package at retail be permitted on Sundays in _____ county?*" This question we believe will better define the proposition for the electorate.

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

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Atch #8

"We request an election to determine whether the sale of alcoholic liquor by the individual drink in _____ county shall be (prohibited in public places) (allowed in public places where at least 30% of the gross receipts are from sales of food for consumption on the premises) (allowed in public places without a requirement that any portion of their gross receipts be from sales of food)."

(c) Upon the adoption of a resolution or the submission of a valid petition calling for an election pursuant to this section, the county election officer shall cause the appropriate version of the following proposition to be placed on the ballot at the next succeeding state general election which occurs more than 90 days after the resolution is adopted or the petition is filed with the county election officer:

"Shall sale of alcoholic liquor by the individual drink in _____ county be (prohibited) (allowed in public places where at least 30% of the gross receipts are from sales of food for consumption on the premises and prohibited in all other public places) (allowed in public places without a requirement that any portion of their gross receipts be from sales of food)?"

(d) If a majority of the votes cast and counted is in favor of the proposition, the county election officer shall transmit a copy of the results to the director, who shall issue or refuse to issue temporary permits and licenses for drinking establishments and caterers within the county accordingly and the rights of licensees holding licenses on the date of the election shall be modified in accordance with the result of the election as provided by rules and regulations of the secretary.

(e) The election provided for by this section shall be conducted, and the votes counted and canvassed, in the manner provided by law for question submitted elections of the county.

History: L. 1987, ch. 182, § 92; April 30.

41-2646. Sale of liquor by the drink in public places; election to prohibit or permit.

(a) The board of county commissioners may, by resolution, or shall, upon a petition filed in accordance with subsection (b), submit to the qualified electors of the county at any state general election a proposition to:

(1) Prohibit the sale of alcoholic liquor by the individual drink in public places within the county;

(2) permit the sale of alcoholic liquor by the individual drink in public places within the county which derive not less than 30% of their gross receipts from the sale of food for consumption on the premises; or

(3) permit the sale of alcoholic liquor by the individual drink in public places within the county without a requirement that any portion of their gross receipts be derived from the sale of food.

(b) A petition to submit a proposition to the qualified voters of a county pursuant to this section shall be filed with the county election officer. The petition shall be signed by qualified electors of the county equal in number to not less than 10% of the electors of the county who voted for the office of secretary of state at the last preceding general election at which such office was elected. The appropriate version following shall appear on the petition:

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J-2

TESTIMONY PRESENTED TO THE
HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
re: HB 2105

January 19, 1995

by: Rebecca Rice
Legislative Counsel for Kansas Retail Liquor Dealers Association

Mr. Chairman and members of the committee. My name is Rebecca Rice and I appear before you today as an opponent to this legislation on behalf of the Kansas Retail Liquor Dealers Association. We are opposed only to the portion of the legislation which allows for Sunday sales of all alcoholic liquor. We respectfully request you amend the legislation to remove that component and adopt the balance of the legislation.

The Sunday sales issue has been around since I first began working for the KRLDA. The arguments remain the same, the parties involved remain the same and the result remains the same - the legislation doesn't become law. Of course this year, that result remains to be determined.

Although this legislation contains many components supported by the KRLDA, the official position taken by the association is to oppose this legislation in its present form. Although the temptation is great to concede Sunday sales in order to enhance chances for obtaining the balance of the bill, the KRLDA members have rejected this attempt to "sweeten" the Sunday sales component.

The KRLDA has traditionally opposed Sunday sales for several reasons. The primary reason is that the retailers do not want to be open on Sundays and have never been convinced there is a public outcry or need for Sunday alcohol sales.

You will hear testimony that citizens are crossing the border into Missouri to buy alcohol on Sunday. We do not question such occurs. However, the tax statistics provided to us by the ABC would indicate Kansas is not losing business as tax revenues have remained steady (see attachment). Therefore, if the sales in Missouri have actually increased it would appear it is not due to loss of Kansas sales but to increased consumption. We question whether it is the goal of this legislature to adopt legislation which, if the assertions regarding the increase of Missouri sales are correct, may lead to increased consumption.

You will be told by constituent retailers and from proponents of the bill, that the retail liquor dealers are not united on this issue. That is true. Members and non-members of our association are on both sides of this issue. In fact, like most associations, our members are rarely in unanimous agreement on legislative issues. We decide our positions under a democratic model, like most associations. Those who join, get involved, and show up to vote at meetings, get to decide the position of this association. We have regional and personal biases much like the Legislature. So, yes, you will hear a dissenting view from some retailers. But if history is any indication, most of the retailers and private citizens who care deeply enough about the Sunday sales issue to call their legislator, will call to oppose the bill.

As a state, we will always face the issue of whether our laws allow us to "compete" with bordering states. We face the "competition" issue with taxes, liquor, gambling, education, and the list goes on. At some point, we must look to what is right for Kansas and let other states do what they believe is right for them.

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KRLDA Testimony

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KRLDA does support the other components of the legislation. The credit card issue is not a "border county" nor a consumer issue. The credit card issue is one of (a) incorrect interpretation of present law and (b) permitting retailers to utilize a form of payment accepted almost everywhere in the world except in Kansas liquor stores. Although we have presented this testimony to this committee in years past, I would like to briefly remind the committee that this legislature did pass laws to allow liquor by the drink establishments to sell unlimited amounts of alcohol by credit card. However, due to attorney general opinions, retailers have been barred by ABC from utilizing credit cards as an acceptable form of payment.

Last year, the legislature took action to correct, in my opinion, inaccurate attorney general opinions which (1) interpreted present law as prohibiting credit card sales and (2) ruled present law is constitutional despite the competitive advantage given to liquor by the drink establishments. Certainly, the ABC could, at any time, choose to disregard these AG opinions. Unfortunately, no Director to date has chosen to take that position. That leaves the responsibility of correcting the situation to the legislature or the courts.

We request that you correct this antiquated and unfair system by removing the Sunday sales provision from this legislation and adopting the balance of the bill.

Thank you, Mr. Chairman and members of the committee. I would be happy to answer any questions.

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9-2

