

Approved: February 20, 1996  
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 February 14, 1996 in Room 519-S of the Capitol.

All members were present except: Representative David Adkins, Excused  
Representative John Ballou, Excused  
Representative Steve Lloyd, Excused  
Representative William G. Mason, Excused  
Representative Edward Pugh, Excused

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

Conferees appearing before the committee: Jim Conant, Chief Administrative Officer, Alcoholic Beverage Control Division  
R. E. "Tuck" Duncan, Kansas Wine & Spirits Wholesalers  
Rebecca Rice, Kansas Retail Liquor Dealers Assn.

Others attending: See attached list

Representative Cox moved and Representative Vickrey seconded to request introduction of legislation concerning persons who are 16 or more years of age; relating to prosecution as an adult. The motion carried.

Representative Samuelson moved and Representative Swenson seconded to request introduction of legislation of Article 5 of the Uniform Commercial Code relating to letters of credit. The motion carried.

**Hearing: HB 2560 - Concerning alcoholic beverage licenses, limited liability companies and limited liability partnerships.**

The Chairman opened the hearing.

Jim Conant, Chief Administrative Officer, Alcoholic Beverage Control Division, testified neither as a proponent or an opponent stating this bill was introduced during the 1995 Session as the result of a request from the House Appropriations Committee that ABC identify any issues which were currently impacting their ability to provide service in an efficient manner. It is important to note that the ABC Division simply identified the issues addressed in the bill, but did not recommend specific solutions in all cases. Certain issues raised in **HB 2560** have since been resolved via **HB 2675**.

There are some unresolved issues that are outlined in the attachment (See Attachment #1)

R. E. "Tuck" Duncan testified on **HB 2560** neither as a proponent or an opponent, stating the bill updates certain licensing provisions to allow new forms of ownership created by the Kansas Legislature in recent years, to wit: limited liability companies, limited partnerships and limited liability partnerships, to hold certain licenses. Mr. Duncan recommended some amendments and stated the bill would repeal **K.S.A. 41-711**. (See Attachment #2)

Rebecca Rice, Kansas Retail Liquor Dealers Association testified neither as a proponent or an opponent, stating the Association is supportive of the language which prohibits limited liability companies from having a retail liquor license. They are cautious about limited liability partnerships also being allowed to have a retail liquor license. The Association doesn't know they are opposed to that idea, but simply wants to remind the committee that extending liability coverage due to artificial business structures should be examined very carefully before that liability is extended when it is for a retail liquor license. The section of the bill which strikes the language which requires an outside entrance to the licensed retail liquor premises is troublesome. Several members have had numerous problems with the "vestibule" requirements between their party shop and their liquor store. (See Attachment #3)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE FEDERAL AND STATE AFFAIRS, Room 519-S  
Statehouse, at 1:30 p.m. on February 14, 1996.

The Chairman closed the hearing and stated final action would be taken at a later date.

The meeting adjourned at 2:20 p.m.

The next meeting is scheduled for February 20, 1996.



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Division of Alcoholic Beverage Control

MEMORANDUM

**TO:** Representative Garry Boston, Chairman  
House Committee on Federal & State Affairs

**FROM:** Jim Conant, Chief Administrative Officer  
Alcoholic Beverage Control Division

**DATE:** February 14, 1996

**SUBJECT:** House Bill 2560

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Thank you for the opportunity to appear before the committee today regarding House Bill 2560. This bill was introduced during the 1995 Session as the result of a request from the House Appropriations Committee that ABC identify any issues which were currently impacting our ability to provide service in an efficient manner. It is important to note that the ABC Division simply identified the issues addressed in the bill, but did not recommend specific solutions in all cases. Certain issues raised in House Bill 2560 have since been resolved via House Bill 2675, and my testimony today will focus on the remaining unresolved issues.

Issue #1 - Licensing qualifications for limited liability companies (LLC), limited partnerships (LP) and limited liability partnerships (LLP).

Although the current liquor laws do not specifically address qualifying factors for licensure of these newer types of business entities, the statutes authorizing these entities generally specify that they may conduct any business which more common business entities, i.e., partnerships, corporations, etc., may conduct. ABC policy has been to apply the least restrictive qualifying factors for a particular license type in determining the eligibility of an LLC, LP or LLP. For example, an LLC, LP or LLP applying for a drinking establishment license is held to the qualifying standards currently imposed on a corporation (all members, partners, etc. with greater than 5% interest fully qualified except for citizenship and residency). The same entity applying for a retail liquor store license is held to the current standards for a partnership (all members, partners, etc. fully qualified), since no lesser restrictions are available.

As introduced, House Bill 2560 applies a slightly different set of standards (Sections 3, 15 & 19), as follows:

- LLCs are subjected to the same qualifying standards as corporations
- LPs are subjected to the same qualifying standards as partnerships
- LLPs are subjected to the same qualifying standards as partnerships (general partner and any limited partner which participates in control of the business)

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The bill also specifically prohibits the issuance of a retail liquor license to an LLC (page 5, line 42). Under the ABC policy outlined above, there are currently three LLCs licensed as retail liquor stores. Also, any LP or LLP licensed under the ABC policy would be subject under the bill to the stricter requirements imposed on partnerships.

Issue #2 - Framing of licenses

This has been addressed in House Bill 2675. Section 6 (page 10, lines 13-15) and Section 14 (page 18, lines 8-11) should be stricken from the bill.

Issue #3 - Inside entrance or opening from liquor store to another place of business.

Section 20, in addition to repealing statutes amended by the bill, also repeals K.S.A. 41-711, which reads as follows:

**41-711. Sale at retail forbidden on certain premises.** No alcoholic liquor shall be sold at retail upon any premises which have an inside entrance or opening which connects with any other place of business. **History:** L. 1949, ch. 242, § 74; March 9.

The Division proposed repeal of this statute based on the expense to licensees to comply with this provision and expense to the division to monitor compliance with the same. Many retailers have chosen to operate convenience stores, party shops and similar businesses adjacent to their liquor store. In order to comply with the requirements of 41-711, most create a non-business area or vestibule as a common entryway to both businesses. Considerable time is usually spent evaluating the structure and layout of these vestibules, followed closely by the construction expense to a person who owns both businesses but must separate them due to the statute. The Division simply sees no practical merit in this provision from an enforcement standpoint, particularly with most retailers attempting to defeat the apparent intent of the statute by way of vestibules.

Finally, should the committee choose to move the bill favorably, a number of technical amendments are in order, as follows:

- Page 8, line 30, (c)(5) should be replaced with (c)(7) and (d)(5) should be replaced with (d)(7).
- Page 16, line 32, insert the word *a* after the word "means."
- Page 21, lines 3-27 (Section 17) should be stricken. This statute has been amended by House Bill 2675 and does not need the definition changes.

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**WINE & SPIRITS**  
WHOLESALE ASSOCIATION, INC.

To: House Committee on Federal and State Affairs  
From: R.E. "Tuck" Duncan  
RE: HB 2560

This bill was introduced in 1995 as a result of a review of the Alcoholic Beverage Control laws by the House Committee on Appropriations. The bill includes these components:

(A) The bill updates certain licensing provisions to allow new forms of ownership created by the Kansas Legislature in recent years, to wit: limited liability companies, limited partnerships and limited liability partnerships, to hold certain licenses. What we would encourage the Committee in this regard is to amend the bill so that it provides as follows:

\* Retailers: L.L.C.s, L.L.P.s and L.P.s should meet the criteria for partnerships for the purposes of issuing a retailers license.

\* All others: L.L.C.s L.L.P.s and L.P.s should meet the criteria already established for corporations for all other licenses.

To accomplish the foregoing, on page 5, the words limited liability company should be inserted at line 37 and deleted at line 42.

(B) Sections 6 (page 10) and 14 (page 18) of the bill relating to licenses being hung in a frame are no longer required as that matter has been addressed in HB 2675, the recodification of the Liquor Control Act, and should be deleted.

(C) The bill would repeal K.S.A. 41-711, which reads as follows:

**41-711.** Sale at retail forbidden on certain premises. No alcoholic liquor shall be sold at retail upon any premises which have an inside entrance or opening which connects with any other place of business.

History: L. 1949, ch. 242, § 74; March 9.

This matter was discussed by the Beverage Alcohol Advisory Task Force and rejected. We oppose the repeal, and ask that Section 20 (page 24) be amended accordingly. Thank you for your attention to and consideration of these matters.

**TESTIMONY PRESENTED TO THE  
HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE  
re: HB 2560**

**February 14, 1996**

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

Mr. Chairman, I am Rebecca Rice, representing the Kansas Retail Liquor Dealers Association. We are neither an opponent nor a proponent of HB 2560. However, because it does affect retail liquor dealers, I felt it would be helpful to the committee to express why we have no definitive position on the bill.

We are supportive of the language which prohibits limited liability companies from having a retail liquor license. We are cautious about limited liability partnerships also being allowed to have a retail liquor license. We don't know that we are opposed to that idea. We simply want to remind the committee that extending liability coverage due to artificial business structures should be examined very carefully before that liability is extended when it is for a retail liquor license.

The section of the bill which strikes the language which requires an outside entrance to the licensed retail liquor premises is troublesome for us. I have many members who have had numerous problems with the "vestibule" requirements between their party shop and their liquor store. It has caused innumerable problems for the ABC and my clients to determine compliance. I have other members who are absolutely adamant that the vestibule requirement must remain in place to avoid a situation where the grocery store and the liquor store have separate licensed premises, but there is no wall separating the two. Our association has attempted, with the assistance of the ABC, to determine a way to solve the vestibule problem while not eliminating the prohibition which retains the wall between the grocery store and the liquor store. We have not yet found that solution. Therefore, some of my members, in order to eliminate the chronic vestibule problem, would probably support this repealer language. I have others who would vehemently oppose this repealer.

Thank you, Mr. Chairman. I would be happy to stand for questions.

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