

Approved: 3-17-96
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 March 5, 1996 in Room 519-S of the Capitol.

All members were present except: Representative David Adkins, Absent
Representative William G. Mason, Absent
Representative Doug Spangler, Absent

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

Conferees appearing before the committee: Representative Danny Jones
Jim Conant, Chief Administrative Officer, ABC
Gene Johnson, Kansas Community Alcohol Safety Action
Project Coordinators Association
Rhonda Mongold, SAAD
Canda Byrne, Kansas Mental Health Coalition and Kansas
Alliance on Alcohol and Other Drug Services, Inc.
Bob Wilson, Citizens Group, Arkansas City
Pat Stenger, MAAD
Rosalie Thornburgh, Kansas Department of Transportation
Dr. Jean Snell, Superintendent, USD 470, Arkansas City
Frances Wood, Womens Christian Temperance Union
David Schneider, Kansas for Life at its Best
Gayle Edwards, LEAD, Barton County
Helen Stephens, Kansas Peace Officers
Rebecca Rice, Retail Liquor Dealers
Representative Jim Lowther
John Gilbert, Mirror, Inc., Newton, Kansas
Kim Gulley, League of Municipalities

Others attending: See attached list:

The Chairperson stated there would be hearings on **HB 2796** and **HB 2344**. There are many conferees appearing, therefore, time would be limited in order to try to conclude to hearings.

The Chairperson opened the hearing on **HB 2796 - Beer and Cereal Malt Beverage Keg Registration.**

Mary Torrence, Revisor of Statutes Office, gave a briefing on **HB 2796**, stating the bill requires beer retailers and cereal malt beverage retailers to put a keg identification number on each container of beer or cereal malt beverage that is sold by the retailer that has a capacity of four or more gallons. This does include party balls. At the time of selling the container, the retailer would record the keg number, the date of the sale, purchaser's name and address and signature and show a piece of identification that has both the purchaser's picture and purchaser's signature on it. That record would be required to be kept by the retailer for six months and would be available for inspection by law enforcement officers during business hours and any other reasonable time. If a retailer violates any provision of the Act the retailer's license would be suspended for a period of 5 business days. The bill also makes it a Class B non-person misdemeanor to remove the keg identification number from the container or make the identification number unreadable or to possess a beer container that doesn't have a keg identification number on it.

Representative Danny Jones testified in support of **HB 2796**, stating that underage drinking is a serious problem. Hardly a day passes that you do not read of death and injuries caused by drinking among our youth. Keg parties are particularly popular with the youth, although this Bill would not stop underage drinking, it

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would send a message to irresponsible adults that legislators are becoming more serious in their efforts to protect our young people from the consequences of drinking. (See Attachment #1)

Jim Conant, Chief Administrative Officer, Alcoholic Beverage Control Division, testified as a proponent for HB 2796, stating the ABC is generally supportive of any measure intended to reduce underage access to alcoholic beverages. HB 2796 addresses this concern by encouraging the responsible handling of large quantities of beer after it is in the hands of the consumer. Law enforcement officials throughout the state routinely must deal with "keg parties" where individuals under the age of 21 are allowed access to large quantities of beer. In many cases, the beer has been legally purchased by a person 21 or over, and then passed along or made available to the underage drinker. The identification and recordkeeping requirements in this bill would serve as a tool in identifying individuals who furnish large quantities of beer to minors.

Mr. Conant suggested an amendment to Section 1 on page 2 by adding paragraph (f). (See Attachment #2)

Gene Johnson, Kansas Community Alcohol Safety Action Project Coordinators Association, testified as a proponent for HB 2796, stating the bill would help solve a long-standing problem concerning individuals under the legal age of 21 who consume alcoholic beverages. Some unscrupulous individuals have come up with an idea of "keg parties" where a flat fee is charged to those attending. These parties are held mostly during the spring and summer months and are targeted to our young adults who are under the legal age to consume, purchase or possess alcohol in the state. These parties are mostly held in some rural, remote location, out of the sight of law enforcement officers or the inquisitive public eye. (See Attachment #3)

Robert L. Wilson, USD 470 School Board Member, Arkansas City, Kansas, testified in support of HB 2796, stating there was a very serious problem that society has with consumption of alcohol by adolescents. The Kansas Adolescent Health Alliance's 1995 report states that the United States has the highest incidence of chemical abuse of all industrialized countries. National surveys indicate one third of girls and one half of boys have tried alcohol by age 12. Among teenagers alcohol usage directly contributes to the three leading causes of adolescent mortality: unintentional injury, homicide and suicide. (See Attachment #4)

Jean R. Snell, Ph.D., USD 470 Superintendent of Schools, Arkansas City, was a proponent to HB 2796, stating some assumptions underlying this legislative effort include: "Kegggers" are an open invitation to drink to excess, the impaired judgment associated with alcohol consumption is directly connected to teen pregnancy and registering kegs so that the purchaser and seller can be identified would reduce the availability of kegs to the underage drinker. (See Attachment #5)

Gayle Edwards, LEAD Project Coordinator, Barton County, Kansas, testified in support of HB 2796, stating the LEAD Partnership is a community based coalition for the prevention of youth high risk behaviors. The prevention of youth substance abuse has been a primary focus of the Partnership's work. In Barton County, alcohol is the second most abused drug. It is not uncommon for elementary and middle school children to drink on a monthly basis. Research has made it clear that the earlier a child begins to drink, the greater the risk that this child will develop a chemical dependency later in life. (See Attachment #6)

Rhonda Mongold, President, Students Against Drunk Driving, testified in support of HB 2796, stating they promote a strong no-use message among teenagers. Teenagers are not of legal age to consume alcohol. Secondly, and even more importantly, we want to eliminate drunk drivers and save lives. Many teenagers are able to obtain alcohol quite easily. Older brothers and sisters, fake ID's, lenient store owners, and even some parents provide alcohol to minors. A great number of high school parties involve teenagers drinking alcohol. Afterwards, many young people get behind the wheel of a car without any regard to the dangers they may be facing. In Kansas, a person is involved in an alcohol related crash every three hours. That means two out of every five Kansans will be in an alcohol related crash sometime during their lives. The worst part is that 50% of the people killed in alcohol related accidents are not the drunk drivers. Teens have to get the message that underage drinking is not an option and that drinking and driving will not be tolerated. A law requiring the registration of kegs might discourage this from happening. (See Attachment #7)

Canda Byrne, Legislative Representative, Kansas Alcoholism and Drug Addictions Counselors Association, testified in support of HB 2796, stating that keg identification would provide some responsibility in the purchase of this amount of alcohol. (See Attachment #8)

Pat Stenger, Mothers Against Drunk Driving, testified in support of HB 2796, stating keg beer has been a prevalent source of alcohol for minors, and keg parties expose large numbers of minors to the availability of alcohol at any one given time. It is imperative to provide a means of tracking those irresponsible adults who are purchasing alcohol for underage drinkers, as well as those purchasers, still under age themselves, who are purchasing alcohol with the use of fake ID's. (See Attachment #9)

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Rosalie Thornburgh, Bureau Chief of Traffic Safety, Kansas Department of Transportation, testified in support of **HB 2796**, stating the agency supports the concept of keg registration as a strategy to be used in the prevention of underage drinking as it relates to drinking and driving. Keg registration not only provides a tool to assist law enforcement officers in determining who may be responsible for allowing youth to obtain alcohol, it also provides an intervention that minimizes alcohol availability. Large congregations of drinking youths at events such as keg parties present unique challenges to police in enforcing alcohol laws. There may not be enough officers available to respond and the drinkers and drivers may scatter when they arrive. A keg registration law could provide the necessary deterrent to the potential purchaser and prevent these situations from occurring. (See Attachment #10)

Francis Wood, Woman's Christian Temperance Union of Kansas, testified in support of **HB 2796**, stating it is felt this law would help determine responsibility for underage drinking. (See Attachment #11)

Dave Schneider, President, Kansans For Life At Its Best, testified as a proponent for **HB 2796**. (See Attachment #12)

Helen Stephens, representing the Kansas Peace Officers Association and Kansas Sheriffs Association, testified in support of **HB 2796**. On a weekly basis the media reports underage drug and alcohol abuse of young adults being killed in auto accidents where alcohol was involved. Beer is the number one choice of young adults - mainly due to the ease with which it can be purchased. Many adults would not purchase hard liquor for their children and their friends, but do purchase beer. (See Attachment #13)

A letter was distributed by Carla J. Stovall, Attorney General, supporting **HB 2796**. The requirements of this bill are minimal compared to the benefits to society. It is hoped that by requiring personal identification for the purchase of kegs that more individuals refuse to make these purchases on behalf of minors and refuse those under the age of 21 access to this source of alcohol. (See Attachment #14)

Rebecca Rice, Kansas Retail Liquor Dealers Association, testified opposing **HB 2796** as they object to the requirement that the retailer or an employee must record at the time of sale, the container identification number, the date of sale, the purchaser's name, address and signature and the number from the photo identification presented. The record of the transaction must be maintained for not less than six months.

The apparent rationale is that such a record would enable law enforcement officers to locate any individual who purchases a keg of beer for consumption. Although this rationale may seem logical, retailers are extremely concerned about the increasing efforts by this Legislature to move them into a law enforcement role. Kansas retail liquor dealers are not law enforcement officers and should not be required to operate their business and subject themselves to greater civil liability for the convenience of law enforcement.

The civil liability consequences of this amendment, coupled with the extremely punitive nature of the sanctions imposed by this bill for violation, cause this legislation to be unacceptable to the Kansas Retail Liquor Dealers Association. There is concern this legislation could be used to argue retailers should be held liable under a dram shop liability theory. (See Attachment #15)

The Chairman closed the hearing on **HB 2796**.

The Chairman opened the hearing on **HB 2344 - Drug and alcohol programs eligible for drink tax revenues**.

Representative Jim Lowther testified in support of **HB 2344**. The purpose of the bill is to clarify how the drink tax moneys are to be utilized locally.

A portion of the revenues from drink tax has gone to support park and recreation programs and alcohol and drug treatment programs. The original distribution of the tax money has been altered several times over the years, but alcohol treatment and recreational programs always have been included.

The Post Audit noted that about 11% of the money was used to cover costs of programs whose principal purpose was not alcoholism and drug abuse treatment, education or prevention. In addition another 4% of the money was questionable. Last March, the Attorney General in a letter to the mayor of Lawrence on the use of the drink tax revenue, voiced concern over the city's use of the moneys as found in the performance audit report. (See Attachment #16)

John Gilbert, Mirror Inc., Newton, Kansas, testified as a proponent for **HB 2344**, stating he has been employed in the field of Alcoholism and Drug Addiction for over thirteen years. Historically, the City of Newton Substance Abuse Advisory Board has funded Harvey County Big Brothers and Big Sisters projects,

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Halstead High School Senior Graduation Party, Unified School District 373 Parents As Teachers program, local self-help group projects. Newton Police Department's purchase of "drug dogs" and "drug surveillance" equipment, and a "summer enrichment program" (a six week period) for six to eight at-risk school age children run by two local school teachers. There have been attempts to clarify this issue on numerous occasions with the local advisory board with limited success. The heart of the matter is to ensure liquor tax money is spent on programs as the law intended since there is only a limited amount of dollars and resources available to alcohol/drug prevention, intervention or treatment providers. (See Attachment #17)

Gene Johnson, Kansas Community Alcohol Safety Action Project Coordinators Association, appeared as a proponent for HB 2344. The Alcohol Liquor Fund money was established in the 1979 session of the Kansas Legislature and has been amended at least six times, prior to this 1996 Session. In addition, the Kansas Attorney General has been asked on twelve different occasions to issue opinions on various provisions of this legislature. The 1979 Legislature passed this legislation in order to get local communities involved in the annual "billion dollar hangover" which comes from the misuse and abuse of alcoholic beverages in Kansas. Local City and County Governments were given the opportunity to grant this money to local programs for the purchase, establishment, or maintenance or expansion of services or programs whose principal purpose is alcoholism and drug abuse, prevention and education, alcohol and drug detoxification, intervention in alcohol or other drug abuse, or treatment of persons who are alcoholic or drug abusers or in danger of becoming alcoholics or drug abusers. (See Attachment #18)

The Chairperson announced the hearing on HB 2344 would be continued on March 6.

The following testimony was distributed in support of HB 2344: Joan McCarthy, Executive Director, New Chance, Inc., Dodge City (See Attachment #19), Clarence Thompson, Director, Dickinson County Council on Alcohol and other Drugs (See Attachment #20), Steve Hageman, CADC III, Director, Alcohol & Drug Services (See Attachment #21) Canda Byrne, Kansas Alcoholism and Drug Addiction Counselors Association (See Attachment #22)

The meeting adjourned at 3:10 p.m.

The next meeting is scheduled for March 6, 1996.

FEDERAL & STATE AFFAIRS COMMITTEE GUEST LIST

DATE: March 5, 1996

| NAME | REPRESENTING |
|---------------------|------------------------------------|
| Gene Johnson | Ks ASAP ASSN |
| Pat Stengen | Ks MOOD |
| CANDIA Byrne | KADACA & Ks Alliance on A&D Ser. |
| Frances Wood | women's Christian Temperance Union |
| Carolyn a David | office of the Attorney General |
| Jim Conat | ABC |
| Jim Karasick | ABC |
| JOHN F. GILBERT | MISSION INC. |
| Rosalie Thornburgh | KDOT |
| Kent Kennedy | KASAP |
| George Hopkins | City of Garden City |
| M. Hauver | Hauver's Capitol Reports |
| Neal Whitaker | Ks Beer Wholesalers Assn |
| Rhonda Mongold | Seaman High School SADD |
| Jessica Metzger | Seaman High School SADD |
| Susan M. Sittenauer | " " " " |
| Gary Haulmark | Lukas Liquor Super Store |
| Jan Anell | USD470 Arkansas City |
| Alvin L Wilson | USD 470 |

DANNY P. JONES
REPRESENTATIVE, SEVENTY-NINTH DISTRICT
212 HIGHLAND DRIVE
ARKANSAS CITY, KANSAS 67005
(316) 441-0338
OFFICE:
STATE CAPITOL, 175-W
TOPEKA, KANSAS 66612-1504
(913) 296-7696



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: FEDERAL AND STATE AFFAIRS
JUDICIARY

Testimony Before the
House Federal & State Affairs Committee
HB 2796
March 5, 1996

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you in support of HB 2796 - commonly referred to as Beer Keg Registration.

As all of you are aware, underage drinking is a serious problem in our nation and state. Hardly a day passes that you do not read of death and injuries caused by drinking among our youth.

Our young people are especially vulnerable to the problem of alcohol consumption because they lack the maturity and wisdom to realize the dangers. In addition, they are subjected to peer pressure and media advertising that encourages us to "Go for the Gusto" and points out that we "only go around once".

It is a disturbing fact that much of the beer consumed by minors is being purchased for them by adults.

Keg parties are particularly popular with our youth. The following police report was published in The Traveler, the local Arkansas City newspaper, on February 16, 1996.

"...At 11:45 p.m. Friday, there was a report of a large keg party on the beach behind Total Petroleum. When the sheriff's department arrived, large numbers scattered in the woods and didn't return.

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One subject was located in the woods. He was drunk and would not obey orders when told to come out of the woods. He was removed from the area and taken to the Cowley County Jail where he was booked for consumption by a minor.

The keg was confiscated and taken in as evidence.”

These types of parties are very prevalent across Kansas.

House Bill 2796 is written to require that the retailers affix a keg identification number to the beer container. A record of this identification number will be recorded by the retailer. These records will aid law enforcement officers in tracing the origin of kegs when they are found in the possession of minors. The bill provides for a five day suspension of the retailer’s liquor license if the retailer fails to affix the identification tag.

It will also be a Class B non-person misdemeanor to remove or make unreadable the identification number or possess a beer container that does not have the identification number affixed.

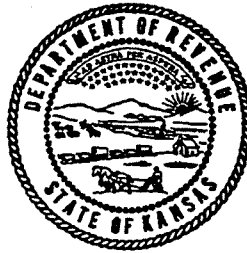
Will this bill stop underage drinking? Obviously it will not, but as we are so fond of saying, it will “send a message” to irresponsible adults that we are becoming more serious in our efforts to protect our young people from the consequences of drinking.

I trust that this committee will see the benefits of this bill and report it out favorable for passage. I will stand for questions.

Danny P. Jones
Representative, 79th District

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Bernie Norwood, Director
Division of Alcoholic Beverage Control
4 Townsite Plaza, Suite 210
200 S.E. 6th Street
Topeka, KS 66603-3512



(913) 296-3946
FAX (913) 296-0922

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: March 5, 1996

SUBJECT: House Bill 2796

Thank you for the opportunity to appear before the committee today regarding House Bill 2796. The ABC Division is generally supportive of any measure intended to reduce underage access to alcoholic beverages. House Bill 2796 addresses this concern by encouraging the responsible handling of large quantities of beer after it is in the hands of the consumer. Law enforcement officials throughout the state routinely must deal with "keg parties" where individuals under the age of 21 are allowed access to large quantities of beer. In many cases, the beer has been legally purchased by a person 21 or over, and then passed along or made available to the underage drinker. The identification and recordkeeping requirements in this bill would serve as a tool in identifying individuals who furnish large quantities of beer to minors.

In previous debates of this registration concept, certain issues have been raised regarding its impact on the industry and effectiveness in deterring underage access. Arguments have been made that keg registration places an additional burden on the retail licensee responsible for maintaining the records. It is our experience that most licensees who deal in kegs already maintain recordkeeping systems of varying complexity. With the exception of a limited number of high-volume retailers, it is not common practice to maintain an on-hand stock of kegs. Many retailers require advance notice from the consumer so that they may place an order with the distributor. Some even require a deposit from the consumer before placing an order with the distributor. Nearly all retailers require a deposit on the keg and tapping equipment when the product is sold to the consumer, in some cases with ID requirements nearly as complete as those imposed by House Bill 2796. Regardless of an individual licensee's procedures, it is fair to say that retailers typically know who they are selling a keg to and have a means to identify that person and recoup any loss should the customer fail to return the keg and related equipment. The only new burden of responsibility under this bill is placed on the purchaser, who must think carefully about the risks involved in allowing illegal use of a keg which can be traced back to the point of purchase.

It has also been predicted that keg registration would simply result in minors attempting to purchase more bottles and cans and less kegs. If the intent of keg registration is to make it harder for underage individuals to get large quantities of beer, this should not be an undesirable result. Bottles and cans are more expensive and, in quantities comparable to kegs, more troublesome to

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transport and handle. A person intending to use a keg legally is not penalized by the registration process. A person intending to allow underage access to beer must weigh the increased risk of detection against the higher cost in terms of dollars and convenience to buy smaller containers in lieu of the keg. Whichever choice is made, more negative factors have been added when illegal use of beer is contemplated.

The division would respectfully recommend that the committee consider an amendment in Section 1 to remove sales made by retailers to licensed clubs, drinking establishments and caterers from the marking requirements. These transactions are well-documented via existing invoicing and record keeping requirements. Only sales of specified containers to consumers for consumption away from licensed premises should require marking.

Keg registration has been utilized as an enforcement method in reducing the problems associated with underage consumption in other states and localities around the nation. It is not the final solution to underage drinking, but does serve as a cost-effective tool in assisting law enforcement agencies to track and identify those individuals who choose to ignore the law.

1 for marking and handling containers which are required to be registered
2 under this section.

3 ~~(g)~~ This section shall be part of and supplemental to the Kansas liquor
4 control act.

5 Sec. 2. Prior to the sale by a retailer, or a retailer's employee or agent,
6 of any cereal malt beverage in a container having a liquid capacity of four
7 or more gallons, the retailer, or the retailer's employee or agent, shall
8 affix to the cereal malt beverage container a keg identification number.
9 At the time of sale of any such container of cereal malt beverage, the
10 retailer, or the retailer's employee or agent, shall record the keg number;
11 the date of the sale; the purchaser's name, address and signature; and the
12 number of a piece of identification bearing both the purchaser's picture
13 and the purchaser's signature. Such record shall be kept by the retailer
14 for not less than six months at the premises where the purchase was made.

15 (b) Records required to be kept pursuant to this section shall be avail-
16 able for inspection by any law enforcement officer during normal business
17 hours or at any other reasonable time.

18 (c) Upon a determination, in a proceeding pursuant to K.S.A. 41-2708
19 and amendments thereto, that a retailer, or a retailer's employee or agent,
20 has violated this section or any rules and regulations adopted pursuant to
21 this section, the board of county commissioners or city governing body
22 that issued the retailer's retail cereal malt license shall suspend the re-
23 tailer's license for five business days.

24 (d) It is a class B nonperson misdemeanor to: (1) Remove from a
25 cereal malt beverage container all or part of a keg identification number
26 required pursuant to this section; (2) make unreadable all or any part of
27 a keg identification number required by this section to be affixed to a
28 cereal malt beverage container; or (3) possess a cereal malt beverage
29 container that does not have the keg identification number required by
30 this section.

31 (e) The secretary of revenue, pursuant to K.S.A. 41-210, and amend-
32 ments thereto, shall adopt such rules and regulations as necessary to carry
33 out the intent and purposes of this section. Such rules and regulations
34 may include, but shall not be limited to, provisions establishing standards
35 for marking and handling of containers which are required to be regis-
36 tered under this section.

37 (f) This section shall be part of and supplemental to K.S.A. 41-2701
38 *et seq.*, and amendments thereto.

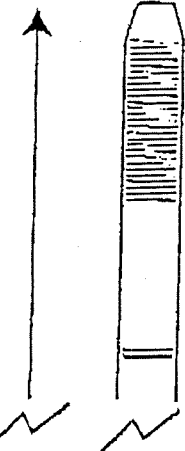
39 Sec. 3. This act shall take effect and be in force from and after its
40 publication in the statute book.

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(f) The provisions of this section shall not apply to sales made by a retailer, or a retailer's employee or agent, to licensed clubs, drinking establishments or caterers or the holder of a temporary permit.

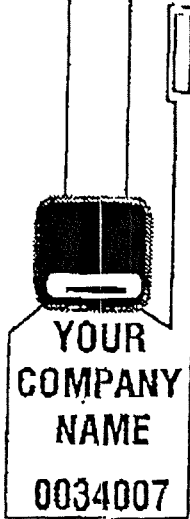
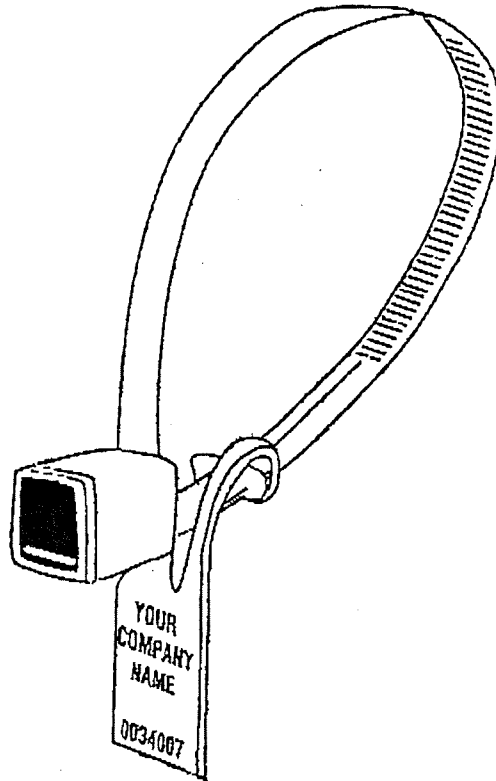
MODEL: PS360

6000

← .360" Wide →



9.873" Long



KANSAS
KEG
I. D.

DESCRIPTION OF SEAL

Bagguard Seal
All Plastic Heavy-Duty Bag Seal

STANDARD PRINTING

Seals are supplied with up to three lines of printing (eight spaces per line) and one line of consecutive numbers up to seven digits.

LOGOS & SPECIAL PRINT AVAILABLE

As required

ALL COLORS AVAILABLE

Red, Green, Blue, Brown, Black, Gray, Yellow, Orange, White

MATERIAL

Standard:
High Density Polyethylene Grade 2200J
Optional: Nylon

STANDARD PACKING

10 Seals to a mat
100 Seals to a bag
1,000 Seals to a carton

OPTIONAL PACKING

Upon request

CARTON SIZE

Carton of 1,000 Seals measures approximately 14" x 14" x 22"

SHIPPING WEIGHT

19 lbs. per 1,000 seals

Actual Size Shown except for length which is 9.873"

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House Federal and State Affairs Committee

**Testimony
House Bill 2796
February 27, 1996**

Good Afternoon, Mr. Chairman and Members the Committee,

My name is Gene Johnson and I represent the Kansas Community Alcohol Safety Action Project Coordinators Association. Our organization provides the alcohol and drug evaluations and monitoring services for all thirty-one Judicial Districts in the State of Kansas for those persons who have been arrested for DUI and other alcohol and drug offenses.

House Bill 2796 will help solve a long-standing problem concerning individuals under the legal age of 21 who consume alcoholic beverages. Several years ago Kansas law made it illegal for persons under the age of 21 to consume or possess alcoholic beverages, except under the direct supervision of a parent or guardian.

Some unscrupulous individuals have come up with an idea of "keg parties" where a flat fee is charged to those attending. These parties are held mostly during the Spring and Summer months and are targeted to our young adults, (often Juniors and Seniors in high school) and younger teenagers, who are under the legal age to consume, purchase or possess alcohol in the State of Kansas. These parties are mostly held in some rural, remote location, out of the sight of law enforcement officers or the inquisitive Public eye.

As you can surmise, these young people attending these parties must operate or occupy a motor vehicle to get there and hopefully, will be able to return to their homes without becoming involved in an alcohol related crash.

Unfortunately, our Society seems to be sending two messages to our young people: (1) They have been informed that consuming alcohol is against the law, and (2) that it is O.K. to pay and participate in consuming alcoholic beverages at keg parties.

The latest survey conducted by the Kansas Communities That Care Survey in conjunction with the Alcohol and Drug Abuse Section in the State of Kansas, has indicated the following results in Kansas:

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For individuals, age 12 or more, 41% have tried consuming intoxicating beverages on at least one occasion.

At age 14, 66% of those individuals have consumed intoxicating beverages on at least one occasion.

At age 16, 80% of those individuals have consumed intoxicating beverages.

At age 18, 88% of those persons in that age group have consumed alcoholic beverages.

The same survey did not have any figures for those individuals age 18 to 21 but one can presume the percentage of individuals consuming intoxicating beverages would be at least as high as the percentages surveyed for those of age 18.

In 1993 the Kansas Department of Health and Environment conducted a survey to assess the prevalence of health behaviors on adult Kansans, age 18 or older. The survey identified binge drinking as five or more drinks on an occasion, one or more times in a 30 day-period. In that survey, one out of four individuals, in the age bracket of 18 to 24, had been involved in binge drinking. Again, we can only assume that a like number is applicable to those individuals under the age of 21, who involve themselves in binge drinking, on at least one occasion.

These keg parties are presently being held in our State and such parties encourage binge drinking for our young people, under the age of 21.

With House Bill 2796, we are taking a positive step in eliminating the illegal consumption of alcohol by those persons under the age of 21 in the State of Kansas. This legislation also develops an excellent tracking device for Alcohol Beverage Control Agency and local law enforcement to determine who purchased this alcohol to be sold or offered to persons under the age of 21.

Again, our association supports House Bill 2796 as another step in eliminating the consumption and possession of alcohol by our young people under the age of 21 in the State of Kansas.

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Thank you for allowing me to appear today in support of this Bill. I will attempt to answer any questions.

Respectfully,



Gene Johnson

Legislative Liaison

Kansas Community Alcohol Safety Action Project Coordinators Association

LEGISLATIVE TESTIMONY

TO: House Federal and State Affairs Committee

FROM: Robert L. Wilson - USD 470 School Board Member

RE: Support for HB 2796

DATE: March 5, 1996

I would first like to thank you for the opportunity to address this committee in support of this very important and timely bill.

My name is Robert L. Wilson and I am a banker and CPA and a third term member of USD 470 Board of Education at Arkansas City, Kansas.

I think this important piece of legislation will be of assistance in addressing a very serious problem that society has with consumption of alcohol by adolescents. The Kansas Adolescent Health Alliance's 1995 report states that the United States has the highest incidence of chemical abuse of all industrialized countries. National surveys indicate one third of girls and one half of boys have tried alcohol by age 12. Among teenagers alcohol usage directly contributes to the three leading causes of adolescent mortality: unintentional injury, homicide and suicide.

According to the 1994 Kansas Youth Risk Behavior Survey (YRBS) 16.2% of 6th graders reported using alcohol on more than two occasions and 75.8% of 12th graders on more than two occasions. During 1992, 27% of all fatal car injuries in Kansas were alcohol related and 17.6% of drivers were under age 21. Also:

- 20.1% of 6-12 graders reported they had attended school while under the influence of alcohol or drugs.
- 22.9% of 11th graders reported riding in a vehicle (between 2-3 times) driven by someone who had been drinking alcohol.
- 16.2% of 6th graders reported using alcohol on more than 2 occasions.

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- In 1988 the KBI reported 262 juvenile arrests (10-17 years of age) for DUI. In 1992 the number increased to 304. Of these 195 were under 17 years of age.
- In 1992, 1,450 juveniles were arrested for liquor violations.

Closer to home, in Cowley County since 1986 a few of the tragedies we have experienced include:

- a student drowned at Winfield Lake while at a drinking party.
- a student died of acute alcohol poisoning at a drinking party under the Arkansas River bridge west of Arkansas City.
- a boy attending a party was drunk and passed out lying on his back and drowned in his own vomit.
- a boy setting drunk in his car was killed when his car burned.
- a student drinking and taking drugs has a seizure and died.
- another was drinking and killed in a house fire.
- a 16 year old girl who was drinking committed suicide.
- a student who was drinking accidentally shot himself through the chin and into his brain.

All this in Cowley County in the recent past and we have not even looked at the traffic accidents and fatalities.

Up to 4 or 5 years ago there was an ongoing tradition in one area of the county to have a big beer party out in the country for the seniors. In the year in question a student was killed on the way home when his auto hit a bridge abatement. The investigation revealed that about a dozen parents were involved in purchasing the kegs of beer, acting as gate keepers to let in only seniors to the keg party and other involvement. It was a very difficult time for the county attorney, law enforcement and the district judge to handle this problem with intense media coverage.

As a side item, I was visiting my daughter in Littleton, Colorado in April of 1995. In the April 9, 1995 Denver Post there is a picture of a 1993 Volvo that had been hit by a 116 car coal train. Here were 6

students killed in this car when it was hit broad side, carried 400 feet down the track and burned. They had just left a "kegger" on Titan Road and were trying to beat the train at the crossing.

But, here in Kansas if there had been a law similar to the proposed HB 2796 much of what I have related may not have happened . . . and many of our youth would be alive today.

The beer and liquor industry says and advertises that it does not want adolescents to drink. I would hope and certainly expect that they would support this bill as I do. The people of Cowley County and the State of Kansas need this bill passed.

Thank you for your concern.

Robert L. Wilson
Robert L. Wilson

Source of data for this testimony:

Chief Oren Skiles and Captain James Lazelle of the Arkansas City Police Department

Jim Pringle - County Attorney for Cowley County, Kansas

Denver Post - April 9, 1995, Denver, Colorado

Kansas Department of Health and Environment - Adolescent Health Kansas Profile 1995

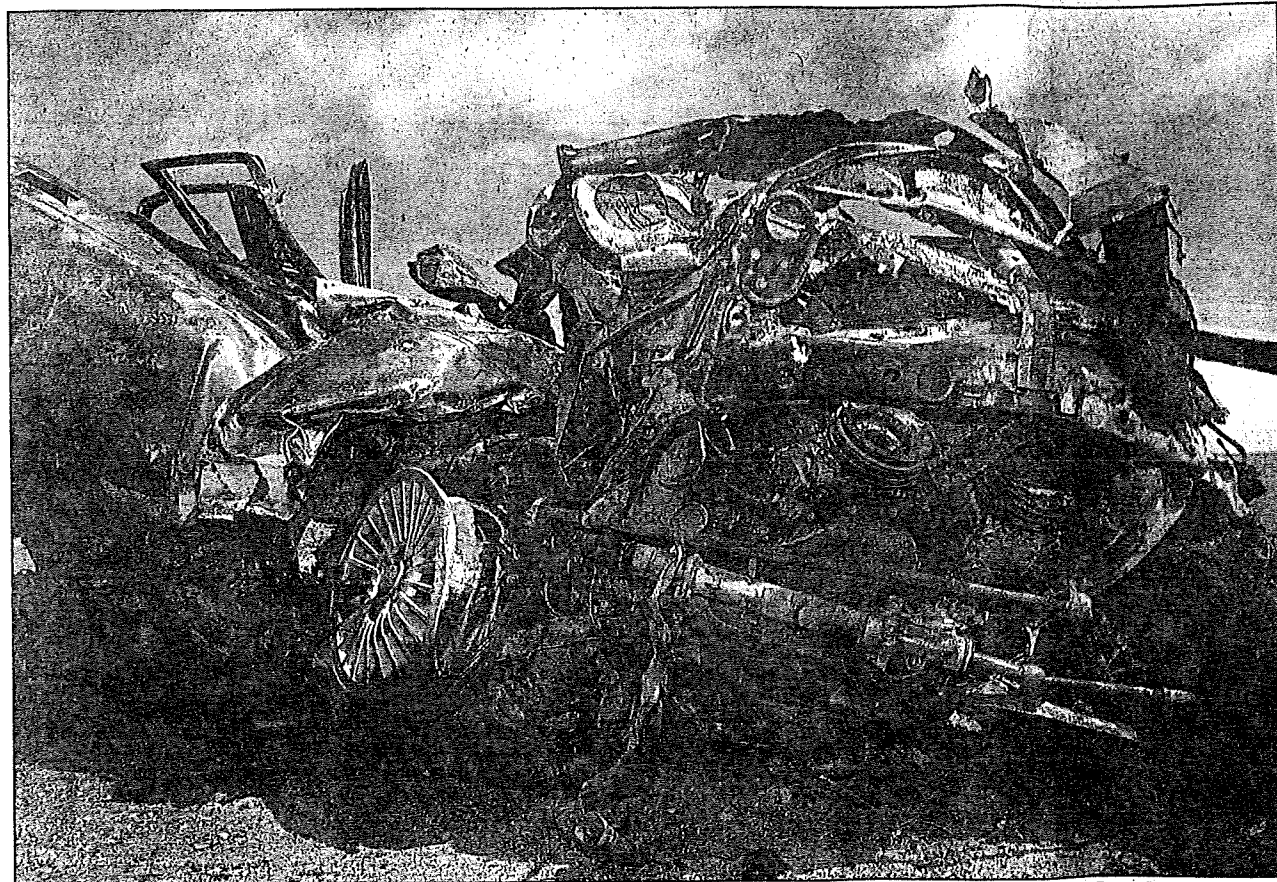
THE SUNDAY DENVER POST

April 9, 1995

Voice of the Rocky Mountain Empire

Final Edition
★★★★ 50¢ — Prices may vary outside metropolitan Denver

6 teens die in train-car crash



The Denver Post / Dominic Chavez

A twisted pile of metal is all that remains of the 1983 Volvo in which six young people were riding when the vehicle was broadsided by a train.



The victims, who were all from Littleton, from left: Tom Maestas, 17, Nathan Gladwin, 16; Mike Deboo, 17; Mike Budinger, 17; Tera Reifschneider, 17; and Beth Linton, 15. The teens may have been at a 'kegger' party about a mile south of Titan Road, a state trooper said last night. For more on the crash, see PAGE 20A

Heritage students killed at crossing

By Steve Wilmsen, Mark Eddy and Tracy Seipel

Denver Post Staff Writers

DOUGLAS COUNTY — Marcia and Richard Budinger never got the call every parent dreads. They woke instead to find an empty bed where their son should have been and the morning news, which said six Heritage High School students had been killed when a 116-car coal train slammed into their car.

The bodies were so badly burned that authorities at first thought there was only one person in the car.

The Budingers' son Mike, a Heritage student, had been "to some kind of party." They didn't know where.

"All we know is what we've heard from TV," Richard Budinger said.

Marcia had a "bad feeling, an intuition," he said, so she called the police and the coroner's office.

"They said it's a possibility, so we got all the dental records and brought them down there," he said.

By late afternoon the identities still hadn't been confirmed. "We're still hoping," Richard said. "It doesn't look real good, does it? I wish he would walk through the door alive right now."

He never did.

Mike and five of his friends were crushed shortly after midnight when the 1983 Volvo they were in apparently tried to beat the train across a lonely intersection near Titan Road and Santa Fe Drive in Douglas County.

The dead are Tom Maestas, 17, Nathan Gladwin, 16, Mike Deboo, 17, Mike Budinger, 17, Beth Lin-

ton, 15, Tera Reifschneider, 17, all of Littleton.

Richard Budinger

Red signal lights were flashing, said the Colorado State Patrol, and there were no skid marks or other "signs of evasive action," leaving investigators to assume the driver tried to race the mile-long train.

The car was broadsided. The train's engineers told investigators they were coming north on the tracks at about 40 mph. As they approached the crossing, they said, they noticed the crossing signs were working, the lights were flashing, and the bell was ringing.

One engineer said he saw "a brief flash of light as we hit something," and they immediately put the train into emergency stop.

But with four massive engines and 116 cars, brakes don't work instantly.

It took 400 feet for the train to stop.

The co-engineer looked back and saw a car on fire, said William Holt, the first state trooper on the scene. They grabbed a fire extinguisher "went back and tried to do the best they could to put the fire out."

The car's wheels probably dug into the rocks of the railroad bed and pushed it back into the loco-

Please see TRAIN on 20A

To: State and Federal Affairs Committee
Kansas House of Representatives
Representative Gary Boston, Chair

From: Jean R. Snell, Ph.D.
USD 470 Superintendent of Schools

Re: Support for HB 2796

Date: March 5, 1996

My name is Jean Snell, Superintendent of Schools in Arkansas City. I am here today to speak in support of HB 2796 which would require the registration of beer kegs in volumes of four or more gallons.

Thank you for the opportunity to share some thoughts as well as information gathered by a five-member Arkansas City school group which visited Kennewick WA in 1994. The trip was made in search of answers to community and school concerns about alcohol consumption and teen pregnancy.

The Kennewick area was chosen due to its nationally recognized efforts in parent involvement, substance abuse education, and pioneering ideas to curtail alcohol consumption including "keggers."

The ready access to kegs of beer and the large number of known keg parties in the Kennewick community led the community task force to concentrate on teen involvement with alcohol. Bill Dixson, President of the Kennewick Parent Network, stated that their community had effectively eliminated keggers.

Some assumptions underlying this legislative effort include:

1. "Keggers" are an open invitation to drink to excess.
2. The impaired judgment associated with alcohol consumption is directly connected to teen pregnancy.
3. Registering kegs so that the purchaser and seller can be identified will reduce the availability of kegs to the underage drinker.

These are supported with empirical as well as anecdotal evidence.

According to Carter Mitchell, with the Washington Liquor Control Board, keg registration was done on a local basis initially and in thirteen different jurisdictions prior to the statewide registration program. He states that the multiple jurisdictions was not effective in controlling access to kegs, but that the statewide registration has had a definite impact.

He also noted that the Washington State experience with keg registration has not resulted in an end to underage drinking, but rather it has altered the container of choice with keg sales dropping and bottle and can sales increasing. He suggests there was reduced 'binge' drinking since there was no longer a perceived need to 'drink it all' as in the instance of the keg, and that teens were saving some of their supply for the next party. His conclusion is that "kids are going to drink, but they can be forced to so more moderately."

Law enforcement has come to this same conclusion with the number of underage drivers stopped with packaged beer in their possession. Marc Harden, Kennewick Chief of Police cited a dramatic reduction in "keggers" with the registration of kegs in Washington state.

Teen pregnancy is a problem statewide in Kansas, but it is a particularly difficult problem in Cowley County. Statistics support the idea that 'impaired judgment' was involved in 80% of the sexual encounter of teens.

Dr. Gary Fields, Kennewick Superintendent of Schools and Marlis Lindbloom, Director of Student Services of Kennewick noted a direct link between alcohol abuse and teen pregnancy.

The Troubled Journey: A Profile of American Youth by Dr. Peter Benson, a survey of 46,799 students in grades 6-12 in eleven states, clearly shows patterns of co-occurrence of at-risk behaviors. For instance, if a student is at-risk in the area of alcohol use it increases the risk of sexual activity by 70%.

The same study supports the co-occurrence among at-risk behaviors and clearly outlines the specific correlation between alcohol and other drugs and volatile behavior, violence, sexual assault, teen pregnancy, Satanism, suicide, vandalism, and academic failure.

Given the near impossibility of eliminating teen drinking, moderation seems an achievable goal. Even the cereal malt beverage industry endorses designated drivers, drinking sensibly and similar themes in its advertising.

Keg beer is not consistent with 'sensible' drinking when you consider that the popular half barrel (15.5 gallons) contains 1,984 ounces of beer or the equivalent of 165 bottles or cans. That is nearly seven cases of beer which would require a very sizable gathering for any "sensible" consumption.

On the assumption that the purchaser of kegs for teens, whether it be a parent, friend, or just a supplier, can be identified and charged with providing alcoholic beverages to minors will reduce access to large quantities of beer, I support HB 2796.

Sources:

THE SEARCH INSTITUTE: The Troubled Journey: A Profile of American Youth by Dr. Peter Benson

Personal conversation with Marc Harmon (March 8, 1994)

Personal meetings with Dr. Gary Fields and Marlis Lindbloom (March 9, 1994)

Telephone conversation with Carter Mitchell (June 22 1995)



Other research supports the risk focused model from **THE SEARCH INSTITUTE: The Troubled Journey: A Profile of American Youth** by Dr. Peter Benson, a survey of 46,799 students in grades 6-12 in 11 states, identifies how at-risk behaviors clearly show patterns of co-occurrence.

If a student is at risk in the area of alcohol use it increases the risk of vehicle safety problems by 86%.

At risk for alcohol increases the risk of school problems by 23%.

At risk for alcohol increases the risk of anti-social behavior by 49%.

At risk for alcohol increases the risk of depression or suicide by 33%.

At risk for alcohol increases the risk of sexual activity by 70%.

At risk for alcohol increases the risk of illicit drug use by 27%.

At risk for alcohol increases the risk of tobacco use by 42%.

Conversely, if a student is at risk in school, it increases the risk for alcohol use by 62%; other drug use by 74%; anti-social behavior by 53%, etc.

Alcohol and other drugs, individually or combined, is the single most risk factor contributing to higher risk for school failure.

The Search Institute studies support the co-occurrence among at-risk behaviors and clearly outlines the specific correlation between alcohol and other drugs and volatile behavior, violence, sexual assault, teen pregnancy, satanism, suicide, vandalism and academic failure.

**Testimony before the Kansas Legislative Committee on HB 2796
March 5, 1995**

Dear Chairman Boston and Committee Members,

As Director of the 140 member LEAD Partnership of Barton County, I have been directed to communicate the LEAD Partnership's support for this bill.

The LEAD Partnership is a community based coalition for the prevention of youth high risk behaviors. The prevention of youth substance abuse has been a primary focus of the Partnership's work.

The LEAD Partnership has worked aggressively to prevent the youth alcohol consumption. The regular use of alcohol by minors constitutes a significant threat to children's health and social development. In Barton County, alcohol is the second most abused drug. It is not uncommon for elementary and middle school children to drink on a monthly basis. Research has made it clear that the earlier a child begins to drink, the greater the risk that this child will develop a chemical dependency later in life.

Among Barton County youth (grades 6 through 12), twenty-eight percent drink four or more drinks in a row at least once a month. In the last county-wide student survey, forty-nine percent of the students reported it was very easy for them to get alcohol.

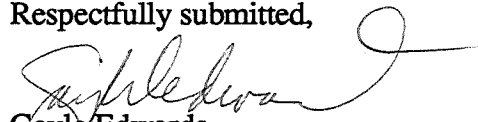
Despite the LEAD Partnership's efforts to educate parents, youth and the community, to provide drug-free activities, and to pass a county-wide curfew, the problem of youth alcohol abuse persists. In part, it persists because of ignorant or uncaring adults who provide alcohol to minors. This bill will help identify and hopefully lead to the prosecution of adults who supply alcohol to minors at keg parties. This bill

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sends an important message to irresponsible adults--the community will hold you accountable.

On behalf of the parents, youth, grandparents, health care providers, law enforcement officers, school administration, business people and social service providers that belong to the LEAD Partnership, I ask you to pass HB 2796.

Respectfully submitted,



Gayle Edwards
LEAD Project Director

Students Against Drunk Driving

Good afternoon and thank you for allowing me to come and speak with you today on behalf of the Students Against Drunk Driving organization. My name is Rhonda Mongold. I am a Senior at Seaman High School and President of the Kansas SADD chapter of the year. Let me share with you two of the main goals our organization believes in. First of all, we promote a strong no-use message among teenagers. Teenagers are not of legal age to consume alcohol. Secondly, and even more importantly, we want to eliminate drunk drivers and save lives. Our group strives to keep high school students and the community aware of the dangers of drinking and driving. We sponsor events, distribute literature, and work diligently throughout the year to combat this problem.

Consumption of alcohol by minors is all too common. Many teenagers are able to obtain alcohol quite easily. Older brothers and sisters, fake ID's, lenient store owners, and even some parents will provide alcohol to minors. A great number of high school parties involve teenagers drinking alcohol. Afterwards, many young people get behind the wheel of a car without any regard to the dangers they may be facing. In Kansas, a person is involved in an alcohol related crash every three hours. That means two out of every five Kansans will be in an alcohol related crash sometime during their lives. The worst part is that 50% of the people killed in alcohol related accidents are not the drunk drivers. Teens have to get the message that underage drinking is not an option and that drinking and driving will not be tolerated. A law requiring the registration of kegs might discourage this from happening.

Alcohol is still the number one drug choice among America's youth and still continues to be the number one killer between the ages of 16 and 24. In an ideal world we could believe that teens won't drink alcohol, but the reality of the situation is that they do and they will use whatever means necessary to obtain it.

High school keg parties occur quite often. The fact that it's relatively easy for minors to obtain alcohol is a major concern. The State of Kansas needs to be a leader in the fight against underage drinking. House Bill # 2796 is a step in the right direction. It provides a legal foundation to help prevent this problem. Requiring the registration of kegs would discourage many older brothers, sisters, and even parents from purchasing alcohol for minors. The chance of being caught and suffering a legal consequence might deter many people from this practice.

I don't drink alcohol and therefore I don't drink and drive. But, I've been to high school parties and frequent alcohol consumption is a problem. After these parties, I've seen many teenagers drink and get in their cars and drive home. I and others in my organization can only stop so many from endangering their lives and the lives of others. We need help, and the State Legislature needs to get involved. I urge you to fully consider House Bill # 2796 and see its way to passage. If even one high school keg party is prevented as a result of this legislation, then it must be passed.

Feds State
3-7-96
Atch # 7



For More Information Contact:
Canda Byrne, MSN, ARNP, CS
Legislative Representative
P. O. Box 1732
Topeka, Kansas 66601
(913) 233-0755
March 2, 1996

HB 2796: An Act concerning alcoholic beverages; requiring certain licensees to maintain records of purchasers of certain containers of beer or cereal malt beverage.

Representative Boston and members of the Federal and State Affairs Committee, my name is Canda Byrne. I am the Legislative Representative for the Kansas Alcoholism and Drug Addictions Counselors Association (KADACA) and the Kansas Alliance on Alcohol and Other Drug Services, Inc. The Kansas Alcoholism and Drug Addictions Counselors Association is a membership organization that represents over 500 alcoholism and drug addiction counselors around the state of Kansas, their primary task is the certification of addiction counselors. The Alliance on Alcohol and Other Drug Services, Inc. is representative of groups including the Kansas Multi-Cultural Association on Substance Abuse, The Regional Prevention Centers Directors Association, Mothers Against Drunk Drivers and KADACA.

I am here today to speak in support of HB 2796. We do feel that a "keg identification" will provide some responsibility in the purchase of this amount of alcohol.

I have a daughter, not too long out of high school, and I have friends with children still in high school. I often hear of parties for high schoolers where a keg will be provided, either purchased by the parents or an older sibling. Perhaps this form of identification and registration will assist adults in thinking about the seriousness of their purchase.

Thank you for allowing me to provide testimony in support of HB 2796.



Mothers Against Drunk Driving

3601 SW 29th Street • Topeka, KS 66614 • (913) 271-7525 • 1 (800) 228-6233

KANSAS STATE OFFICE

February 27, 1996

Dear House State and Federal Affairs Committee Members:

My name is Pat Stenger and I'm here on behalf of MADD in support of HB 2796. As a victim of a drunk driving crash, parent, former law enforcement officer and owner/operator of an insurance adjusting firm, I have seen first hand the results of "keg parties".

In speaking with parents, school administrators, teachers and law enforcement officials, all question the easy access that teenagers have to alcoholic beverages for parties.

Throughout my years of experience keg beer has been a prevalent source of alcohol for minors, and keg parties expose large numbers of minors to the availability of alcohol at any one given time. It is imperative that we provide a means of tracking those irresponsible adults who are purchasing alcohol for underage drinkers, as well as those purchasers, still under age themselves, who are purchasing alcohol with the use of fake ID's.

Statistics provided to me by the Kansas MADD State Office show that 26% of all fatal traffic crashes involving drivers ages 15 - 17 and 46% of drivers ages 18 - 20 are alcohol-related. Seventy-five percent of those drivers ages 15 - 17 and 85% of those drivers 18 - 20 involved in alcohol-related traffic crashes were drinking drivers.

A keg registration survey was conducted by the Kansas MADD State Office during December 1993 and January 1994 to all 352 Kansas law enforcement agencies. Their office received responses from 128 of the agencies (36%) with 105 of those agencies indicating that a "Keg Registration Law" would provide an effective deterrent to illegal sales, purchase and consumption of keg beer by minors.

Attached to my letter of testimony herein is a sheet listing the 14 states that currently have keg registration laws and the objectives of a keg registration law.

Once again, I ask that we make retailers and adults be held accountable for the irresponsible selling and purchasing of keg beer to minors and vote for HB 2796. Thank you.

Pat Stenger

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Atch #9

KEG REGISTRATION

The following states have keg registration laws:

1. Alaska
2. California
3. Idaho
4. Maine
5. Maryland
6. Massachusetts
7. Nebraska
8. New Mexico
9. North Dakota
10. Oregon
11. Vermont
12. Virginia
13. Washington, DC
14. Washington State

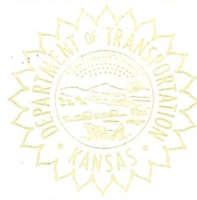
The following states have keg registration bills pending:

1. Kansas
2. South Carolina

OBJECTIVES:

The objectives of a Keg Registration Law include:

- * Reducing problems related to underage drinking such as:
 - Driving under the influence,
 - Violence and crime,
 - Situations regarding sex while consuming alcohol which can lead to problems such as date rape, sexually transmitted diseases including HIV/AIDS and unplanned pregnancies.
- * Encouraging and supporting the enforcement of underage consumption and possession laws by providing law enforcement with a tool to use to trace individuals who provide alcohol to minors.
- * Encouraging retailers to comply with the law of obtaining proper identification when selling a keg to someone.
- * Placing the responsibility for acts committed by a minor on the purchaser of kegs when the contents of the keg are consumed by a minor.
- * Using the regulation as a deterrent to those over 21 years of age from providing minors with alcohol.



KANSAS DEPARTMENT OF TRANSPORTATION

E. Dean Carlson
Secretary of Transportation

Docking State Office Building
Topeka 66612-1568
(913) 296-3566
TTY (913) 296-3585
FAX (913) 296-1095

Bill Graves
Governor of Kansas

TESTIMONY BEFORE
HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

REGARDING HOUSE BILL 2796
KEG REGISTRATION

March 5, 1996

Mr. Chairman and Committee Members:

Mr. Chairman and members of the committee, I am Rosalie Thornburgh, Bureau Chief of Traffic Safety. On behalf of the Department of Transportation, I am here today to provide support and testify on House Bill 2796 regarding the registration of beer kegs. Keg registration requires the retailer to affix an identification number to the beer container, along with registering each sale and certain purchaser information.

The agency supports the concept of keg registration as a strategy to be used in the prevention of underage drinking as it relates to drinking and driving. Keg registration not only provides a tool to assist law enforcement officers in determining who may be responsible for allowing youth to obtain alcohol, it also provides an intervention that minimizes alcohol availability. Large congregations of drinking youths at events such as keg parties present unique challenges to police in enforcing alcohol laws. There may not be enough officers available to respond and the drinkers and drivers may scatter when they arrive. A keg registration law could provide the necessary deterrent to the potential purchaser and prevent these situations from occurring.

In 1994, in Kansas, young drivers accounted for fifteen percent of all alcohol-related motor vehicle crashes, as reported by police. These young drivers were involved in more than 500 alcohol-related crashes. A fact sheet is attached for your information.

In summary, keg registration, when used as part of a comprehensive program for underage prevention, could prove to be an effective deterrent to underage drinking and driving and result in the reduction of injuries and fatalities to our young people.

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KANSAS TRAFFIC SAFETY FACTS 1994 YOUNG DRIVERS - 15-20 YEARS OLD

- In 1994, young drivers accounted for 30 percent of all motor vehicle crashes while making up only 10 percent of the driving public. Young drivers were involved in almost 20,000 crashes.
- This age group accounted for 21 percent of all motor vehicle deaths. Of the 442 total fatalities in 1994, 92 were between the ages of 15 and 20 years.

ALCOHOL RELATED

- In 1994, young drivers accounted for 15 percent of all alcohol-related motor vehicle crashes, as reported by police. These young drivers were involved in more than 500 alcohol-related crashes.
- This age group accounted for 17 percent of all alcohol-related motor vehicle deaths. Of the 109 total alcohol-related fatalities in 1994, 19 fatalities were between the age of 15 and 20 years.
- 380 people in this age group were injured in alcohol-related motor vehicle crashes. This accounted for 12 percent of the total alcohol-related injuries, or 3,084.
- In 1994, the alcohol involvement rate for these young drivers, based on the total licensed driver population, was about twice that of the over 21 age driver.

YOUNG DRIVER CRASH CAUSATION/CHARACTERISTICS

- Most commonly reported driver error-related causes of crashes were carelessness or inattention, failure to yield right-of-way, and speed.
- Most crashes occurred between 2:00 P.M. and 6:00 P.M., on Friday or Saturday, on local streets, in an urban setting, and on dry pavement.
- Male drivers are more likely than female drivers to be involved.
- Most young drivers killed were not wearing safety belts.

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

I am Frances Wood, volunteer lobbyist for the Woman's Christian Temperance Union of Kansas. Our organization supports passage of HB 2796 and is grateful for the 15 representatives sponsoring this bill. We feel this law would help determine responsibility of underage drinking. I am including two documents with my testimony to support the belief that underage drinking is out of control.

The 1994 survey of 46,372 Kansas students was provided by the Kansas Department of SRS, Alcohol and Drug Abuse Services. The information on traffic safety was provided by KDOT-Bureau of Traffic Safety.

We urge you to pass this bill.

1994 Student Survey Alcohol, Tobacco and Other Drug Usage

The school survey collected information based on incidence and prevalence of drug usage for several drugs. Both lifetime and 30-day usage was asked in order to separate out incidence and prevalence.

As Table 4 indicates, there are a number of gender differences in substance use. Males are overwhelmingly more likely to use smokeless tobacco, marijuana, LSD, cocaine/crack, and inhalants. Although males also indicate a higher use of cigarettes and alcohol, female usage is not significantly lower.

| Substance Use by Gender (Percentage) | | | | | | | | |
|---|------|--------|------|--------|------|--------|------|--------|
| | 6th | | 8th | | 10th | | 12th | |
| | Male | Female | Male | Female | Male | Female | Male | Female |
| Smokeless Tobacco | | | | | | | | |
| Lifetime | 20.3 | 4.3 | 38.6 | 10.8 | 53.2 | 16.1 | 63.7 | 18.2 |
| Past Month | 2.2 | 0.5 | 7.4 | 1.0 | 15.5 | 1.7 | 22.3 | 1.0 |
| Cigarettes | | | | | | | | |
| Lifetime | 25.0 | 17.5 | 48.7 | 41.5 | 59.1 | 55.7 | 66.2 | 61.0 |
| Past Month | 2.9 | 1.4 | 10.0 | 7.0 | 17.4 | 16.4 | 22.0 | 20.9 |
| Alcohol | | | | | | | | |
| Lifetime | 43.7 | 30.9 | 67.6 | 60.6 | 80.1 | 79.7 | 88.0 | 86.2 |
| Past Month | 4.3 | 1.8 | 14.8 | 9.6 | 28.4 | 21.9 | 40.6 | 28.3 |
| Marijuana | | | | | | | | |
| Lifetime | 4.2 | 1.9 | 15.1 | 10.2 | 24.7 | 19.2 | 30.9 | 23.0 |
| Past Month | 1.5 | 0.6 | 6.8 | 3.5 | 11.8 | 6.5 | 13.0 | 7.3 |
| LSD/Psychedelics | | | | | | | | |
| Lifetime | 1.9 | 0.7 | 5.9 | 2.6 | 9.1 | 5.2 | 11.5 | 5.9 |
| Past Month | 1.0 | 0.3 | 2.8 | 0.9 | 3.8 | 1.2 | 3.6 | 1.0 |
| Crack/Cocaine | | | | | | | | |
| Lifetime | 2.1 | 0.9 | 5.7 | 2.7 | 7.3 | 4.5 | 8.6 | 4.1 |
| Past Month | 1.0 | 0.3 | 2.7 | 0.7 | 3.6 | 1.1 | 3.3 | 0.8 |
| Inhalants | | | | | | | | |
| Lifetime | 13.0 | 7.0 | 21.7 | 16.1 | 21.0 | 15.7 | 18.2 | 10.5 |
| Past Month | 3.3 | 1.2 | 6.4 | 3.2 | 6.1 | 2.3 | 4.2 | 1.1 |

Table 4
The survey collected information based on incidence and prevalence of drug usage for several drugs.

Frances Wood, 4724 S.E. 37th St., Topeka, KS 66605

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Atch #11

KANSAS TRAFFIC SAFETY FACTS 1994 YOUNG DRIVERS - 15-20 YEARS OLD

- In 1994, young drivers accounted for 30 percent of all motor vehicle crashes while making up only 10 percent of the driving public. Young drivers were involved in almost 20,000 crashes.
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ALCOHOL RELATED

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- In 1994, the alcohol involvement rate for these young drivers, based on the total licensed driver population, was about twice that of the over 21 age driver.

YOUNG DRIVER CRASH CAUSATION/CHARACTERISTICS

- Most commonly reported driver error-related causes of crashes were carelessness or inattention, failure to yield right-of-way, and speed.
- Most crashes occurred between 2:00 P.M. and 6:00 P.M., on Friday or Saturday, on local streets, in an urban setting, and on dry pavement.
- Male drivers are more likely than female drivers to be involved.
- Most young drivers killed were not wearing safety belts.

Testimony on HB 2796
Before the House Federal and State Affairs Committee
March 5, 1996

Dave Schneider
President, Kansans For
Life At Its Best

Kenneth Polk, *When Men Kill*, Cambridge University Press, 1994.

To summarise, this form of homicide [confrontational homicide] involves behaviour which is essentially a contest of honour between males. In the initial stages of the encounter, what the participants in a confrontational killing intend is first to argue, then to fight. The argument which produces that fight is spontaneous, as are the events which follow. These conflicts typically occur in leisure scenes, especially scenes where males predominate. The venue most often is a public setting, including in and around pubs, in streets or laneways, in public parks or reserves, parties or barbecues, and in public transport settings such as bus stops, railway stations, or even on the train carriages or buses themselves. In most such settings, an active role is played by the social audience, particularly male peers. The social nature of such scenes is reinforced by the role of alcohol, whose use has been found to be a feature of a great majority of these homicides. (p.91)

Here's some interesting testimony from former members of the Crips and the Bloods, which comes from *Uprising: Crips and Bloods Tell The Story of America's Youth In The Crossfire*, by Yusuf Jah and Sister Shah'Keyah (New York: Scribner, 1995). (Emphasis added.)

Q: Talk about how alcohol affects the Black community, and how it affected you?

G[General Robert Lee, former Blood.]: Personally, I can honestly say that if I had never drank, I would have never went to jail. Drinking has gotten me in so much trouble, man, I mean terrible trouble. **I did terrible things when I was on alcohol**, things that I wouldn't have done if I was just on a natural high like I am now. I know there are millions of other brothers that can relate to the same thing. That liquor has hurt us more than drugs have. Believe me, that liquor is the "king" drug. Alcohol is the king drug in the neighborhood. Everything comes after that.

Q: Does alcohol and drugs have anything to do with the gang bangers' cycle of violence and retaliation?

S[Big Ship, former Crip.]: Yeah, that has a lot to do with it. They are not really focused. Some are and some are not. **In the majority of drive-bys I would say that the person was intoxicated, because they drink before they go anyway.** They get that buzz on, and the "Tiger" or the "Bull" comes up out of them. Back then it was that Sherm and that Red Devil that would do it. With the Mad Dog 20/20 or with any alcoholic beverages you get amped.

F&SA
3-5-96
Atch #12

KANSAS PEACE OFFICERS ASSOCIATION
AND
KANSAS SHERIFFS ASSOCIATION

February 27, 1996

House Committee on Federal and State Affairs
HB 2796

Mr. Chairman and Members of the Committee:

My name is Helen Stephens, representing the Kansas Peace Officers Association and the Kansas Sheriffs Association. We are here to support passage of HB 2796.

On a weekly basis, we have media tell us about underage drug and alcohol abuse - of young adults being killed in auto accidents where alcohol was involved. Beer is the #1 choice of young adults - mainly due to the ease with which it can be gotten. Many adults would not purchase hard liquor for their children and their friends, but do purchase beer.

Law enforcement officers around that state have been called to "keg parties" to break them up, or they have been called to an accident scene that resulted from a "keg party". A near impossible task is to determine where it was purchased, and more importantly, **who purchased it**.

We believe passage of HB 2796 would discourage adults from purchasing kegs for underage persons and, if purchased, would give law enforcement an additional tool to finding the source of purchase.

We strongly support passage of HB 2796.

F.S.A.
3-5-96
Atch #13



State of Kansas

Office of the Attorney General

301 S.W. 10TH AVENUE, TOPEKA 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
FAX: 296-6296

March 5, 1996

Representative Garry Boston, Chair
House Federal and State Affairs Committee
State Capitol
Topeka, Kansas 66612-1504

Dear Chairman Boston and Members of the House Federal and State Affairs Committee:

I support and would urge the Committee's support of House Bill 2796. This bill would require that containers which have a capacity of containing four or more gallons of beer or cereal malt beverage have affixed to the container an identification number.

According to the National Highway Traffic Safety Administration (NHTSA), more than 35% of all deaths of 15 to 20 year olds result from motor vehicle crashes. In 1994, 37.6% of the 6,226 traffic fatalities of 15 to 20 year olds were alcohol-related. This means that 2,343 traffic fatalities in this age group were caused by alcohol. These 2,343 deaths that could have been prevented.

The NHTSA also noted that in 1994, 22% of the 15 to 20 year old drivers involved in fatal crashes had some alcohol in their blood. This report further stated that, based on the total licensed driver population, the alcohol involvement rate for young drivers is about twice that of the over 21 age driver.

Like adults, the minor who consumes alcohol and then drives poses a life-endangering threat to himself or herself, to the passengers in the vehicle, as well as innocent individuals who happen to be on the same road.

One of the ways that minors obtain beer is at keg parties. This bill would require those purchasing kegs of beer to furnish proper identification. The keg would have an identification number so it could be traced if it later was found in the possession of minors. In this manner, those individuals who furnish or make available beer to minors can be identified and held responsible for their actions.

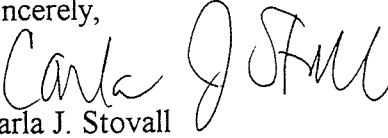
F.S.A
3-5-96
Atch #14

Page 2

The requirements of this bill are minimal compared to the benefits to society. We hope that by requiring personal identification for the purchase of kegs that more individuals refuse to make these purchases on behalf of minors and refuse those under the age of 21 access to this source of alcohol.

I strongly urge you to take this important step to protect our young drivers, their passengers, and innocent travelers on the roads and highways of Kansas. Please feel free to call me or my legislative liaison, Nancy Lindberg, if you should have any questions about H.B. 2796. Thank you.

Sincerely,



Carla J. Stovall
Attorney General

14-2

TESTIMONY PRESENTED
TO THE
HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
Re: HB 2796

February 27, 1996

by Rebecca Rice, Legislative Counsel to the
Kansas Retail Liquor Dealers Association

Thank you, Mr. Chairman and members of the committee. I appear before you today on behalf of the Kansas Retail Liquor Dealers Association in opposition to HB 2796.

We have appeared in front of this committee opposing similar legislation in years past. **This legislation** requires a retailer to place an identification number on any beer container having a capacity of four or more gallons which is a smaller capacity than previously considered. This would apply, basically, to all beer sold unless sold in cans.

We object to the requirement that the retailer or an employee must record, at the time of sale, the container identification number; the date of sale; the purchaser's name, address and signature, and the number from the photo identification presented. The record of the transaction must be maintained for not less than six months.

The apparent rationale is that such a record will enable law enforcement officers to locate any individual who purchases a keg of beer for consumption. Although this rationale may seem logical, retailers are extremely concerned about the increasing efforts by this Legislature to move them into a *law enforcement role*. Kansas retail liquor dealers are not law enforcement officers and should not be required to operate their business and subject themselves to greater civil liability for the convenience of law enforcement.

The civil liability consequences of this amendment, coupled with the extremely punitive nature of the sanctions imposed by this bill for violation, cause this legislation to be unacceptable to the Kansas Retail Liquor Dealers Association. Additionally, we are concerned this legislation could be used to argue retailers should be held liable under a *dram shop* liability theory. In other words, if the dealer "should have known" that the keg was being purchased by an individual for possible illegal consumption and harm was realized by an individual because of such illegal consumption, this legislation might be utilized to attempt to prove the legislature intends for liability to accrue to the individual retailer. We are concerned that it may raise insurance rates due to the increased threat of litigation.

If a false I.D. is used, it will be untraceable. What are the civil consequences of the false identifications? What is the burden of proof in determining an I.D. was acceptable if it is untraceable? At the present time, liquor dealers have an absolute defense for selling based upon a false identification which the retailer could not determine was false. However, the identification can usually be confiscated at the time the underaged individual is apprehended. How will we prove the false identification was acceptable as presented when it will be nearly impossible to locate?

However, we would be much more accepting of this type of law enforcement role, if this committee would agree to amend the bill granting liquor stores complete immunity from civil liability for incorrect reporting and specify the law is not to be allowed for the use in civil liability actions for harm realized in consumption. Additionally, we would request that the ABC be allowed to determine the appropriate penalty basing it upon the nature and severity of the breach.

F. SA
3-5-96
Atch #15

The threat of civil litigation coupled with the automatic five-day suspension of the retailer's license indicate that perhaps the intended but not realized purpose of the amendment is to eliminate the sale of kegs to individuals other than taverns or other liquor by the drink establishments. We think that the legislature can decide to prohibit the sale of kegs. Perhaps that would be a simpler solution for all interested parties. Clearly some retailers will simply refuse to sell kegs. However, because we have customers which we try to accommodate, it will be very difficult to refuse to special order the kegs when requested. It does put us in a difficult situation.

We do not believe that minors will simply stop having parties where alcohol is served due to restrictions placed on kegs. We believe that most minors are not so easily dissuaded. Most individuals under the age of 21 can figure out that beer is sold in other containers. Or, perhaps a worse consequence, figure out quit quickly that neither the risk nor the cost is any greater for purchasing, or securing the purchase, of stronger alcoholic beverages which will not have recording requirements.

We do not understand how this is going to influence the consumption of alcohol by minors. We do not know how this will assist in the prosecution of adults purchasing for minors when it will be simple to pass the kegs through another adult to avoid the liability or simply claim it was taken without knowledge. Any number of excuses seem readily available.

Mr. Chairman, thank you for allowing me to testify. We respectfully request that this committee defeat this legislation or amend it as we have requested.



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

CHAIRMAN: LEGISLATIVE POST AUDIT COMMITTEE

MEMBER: APPROPRIATIONS

APPROPRIATIONS SUBCOMMITTEES:

KPERs AND RETIREMENT ISSUES—CHAIRMAN

BUDGET REFORM AND GOVERNMENT IMPACT

STATE HOSPITALS AND GENERAL GOVERNMENT

JAMES E. LOWTHER
 REPRESENTATIVE, 60TH DISTRICT
 LYON COUNTY
 1549 BERKELEY ROAD
 EMPORIA, KANSAS 66801
 ROOM 183-W
 STATE CAPITOL, TOPEKA 66612

HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
 TESTIMONY IN SUPPORT OF HB2344 BY REP. JIM LOWTHER 3/5/96

Thank you Mr. Chairman, members of the committee. You have brief summaries from last year's Post Audit report of the drink tax law which HB2344 would amend. The purpose of the bill is to clarify how the drink tax moneys are to be utilized locally.

From the time the drink tax was enacted, a portion of the revenue has gone to support park and recreation programs and alcohol and drug treatment programs. The original distribution of the tax money has been altered several times over the years, but alcohol treatment and recreational programs always have been included.

Over the years, as this source of revenue became more well known and more groups became aware of the funds, applications to city commissions increased. The demand for the funds grew and sometimes this placed city commissioners in the unenviable position of having to turn some applicants down and/or dividing the funds into more and smaller grants.

All the applicants, according to the Post Audit, have been legitimate and have sought funding for worthwhile projects. If they don't qualify, or if it is questionable, it is difficult to turn these folks down. A result of this situation is that some alcohol and drug abuse programs found that sometimes funds were being siphoned off into programs that did not appear to qualify according to the statute and the original intent of the law. City and County Commissions were simply accommodating worthy programs.

The Post Audit noted that about 11% of the money was used to cover costs of programs whose principal purpose was not alcoholism and drug abuse treatment, education or prevention. In addition another 4% of the money was questionable. Last March, the Attorney General in a letter to the mayor of Lawrence on the use of the drink tax revenue, voiced concern over the city's use of the moneys as found in the performance audit report. I have supplied copies of the letter and I think it explains the problem and the reason the bill is needed: to make it clear that the drink tax moneys shall be expended only for programs whose principal purpose is alcoholism and drug abuse prevention, education and treatment.

The AG's letter noted that past attorney general opinions have concluded that special alcohol and drug fund moneys may not be used for alcohol and drug law enforcement. It also stated that programs should have as their "principal purpose" alcohol/drug treatment, education or prevention. The Post Audit report also lists specific incidences of improper use of the money that includes administrative expenses. The language in the bill is to make clear the use of the money and make the job of administering the funds easier for local commissioners when they are besieged by laudable programs in need of funds.

F + SA
 3-5-96
 Atch #16

Use of Alcoholic Liquor Fund Moneys By Local Units of Government

State law imposes a 10% tax on the gross receipts from the sale of alcoholic beverages by clubs, caterers, drinking establishments, or temporary permit holders. In calendar year 1994, more than \$18 million was collected from this tax. Although the tax is remitted to the Department of Revenue, 70% of the money collected is placed in the Local Alcoholic Liquor Fund and returned to the cities and counties where the tax was initially generated.

State law specifies how cities and counties may use this revenue. Generally, the money must be split between a local unit's General Fund, Special Parks and Recreation Fund, and Special Alcohol and Drug Program Fund. Money in the Special Alcohol and Drug Program Fund can be used only for the purchase, establishment, maintenance, or expansion of services or programs whose principal purpose is alcohol and drug abuse prevention, education, detoxification, intervention, or treatment.

In 1986, the Legislative Post Audit Committee authorized an audit to address legislators' concerns that local moneys intended for alcohol and drug abuse programs were being spent for other purposes. That audit found that localities spent these moneys on a variety of programs and services, but that most of the money was appropriately spent on substance abuse treatment and education programs.

Legislators again have raised concerns that some cities and counties may be using moneys from their Special Alcohol and Drug Program Funds for programs and activities that are not directly related to the treatment or prevention of alcohol or drug abuse. This performance audit answers the following question:

Are local units of government spending the money in their Special Alcohol and Drug Program Funds for unauthorized purposes?

To answer this question, we reviewed statutes regarding the use of local Special Alcohol and Drug Program moneys and legal opinions issued by the Attorney General interpreting those statutes. We obtained information about the amounts paid to local governments from the Department of Administration. We also visited a sample of five cities and five counties to interview local officials and review expenditures from local Special Alcohol and Drug Program Funds. In conducting this audit, we followed all applicable government auditing standards set forth by the U.S. General Accounting Office.

From our sample, we found that most expenditures of Special Alcohol and Drug Program moneys complied with the requirements of current State law. The cities and counties we audited committed about 85% of their 1994 Special Alcohol and Drug Program moneys to programs that were concerned primarily with substance abuse. However, about 11% of the moneys were used to cover costs whose principal purpose was not alcoholism and drug abuse prevention, education, detoxification, intervention, or treatment. Finally, for about 4% of the moneys, we could not make a determination because sufficient documentation wasn't available at the local jurisdiction. These and other findings are discussed in more detail following an overview of the State's liquor drink tax.

Overview of the Kansas Liquor Drink Tax

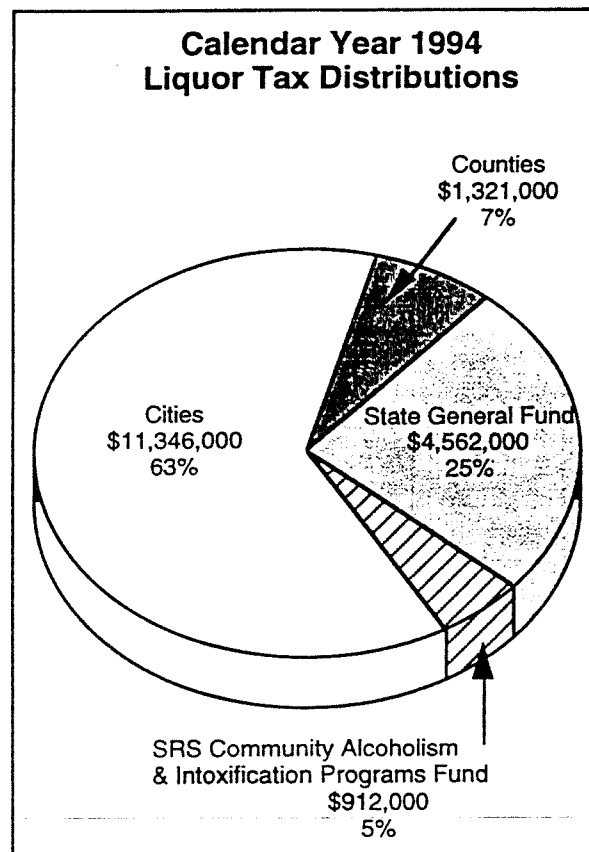
In 1979, the Legislature imposed a 10% tax on the gross receipts derived from the sale of alcoholic liquor by any club, caterer, drinking establishment, or temporary permit holder. Consumers pay the tax to the vendor, and the vendor remits the tax to the Department of Revenue. The Department of Revenue deposits the liquor tax receipts in the State Treasury as follows: 25% to the State General Fund, 5% to the Department of Social and Rehabilitation Services' Community Alcoholism and Intoxification Programs Fund, and 70% to the Local Alcoholic Liquor Fund.

Moneys in the Local Alcoholic Liquor Fund are returned to city and county governments quarterly by the State Treasurer. The graphic on the next page shows how the tax receipts are collected and distributed.

As the graphic shows, cities and counties generally get back 70% of the tax moneys collected within their respective jurisdictions. With one exception, the law requires local units of government to deposit those moneys equally into three funds—their General Funds, their Parks and Recreation Funds, and their Special Alcohol and Drug Program Funds. The exception is for cities with populations of 6,000 or less. Because these cities are too small to fund their own alcohol and drug programs, the portion of the money that normally would go into their Special Alcohol and Drug Program Fund is paid directly to the county and combined with the county's Special Alcohol and Drug Program moneys.

In calendar year 1994, the Department of Revenue collected about \$18.2 million in drink taxes, and the State Treasurer distributed about \$18.1 million. Collections and distributions differ because distributions to the cities and counties lag about three months behind actual collections.

As the accompanying pie chart shows, cities received more than \$11.3 million, or about 63%, of the total amount distributed. Counties received \$1.3 million, or about 7% of the total. The State's General Fund received more than \$4.5 million. The remainder, about \$900,000, was deposited in the Department of Social and Rehabilitation Services' Community Alcoholism and Intoxification Programs Fund. (Appendix A provides a listing of the amounts disbursed to individual cities and counties in 1994.)





State of Kansas

Office of the Attorney General

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

March 13, 1995

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
FAX: 296-6296

Jolene Andersen, Mayor
City of Lawrence
City Hall
P.O. Box 708
Lawrence, KS 66044

Re: Performance Audit Report/Use of Alcoholic Liquor Moneys
by Local Units of Government

Dear Mayor Andersen:

The purpose of this letter is to voice our concern about the conclusion of the performance audit report that the city's use of the moneys in the special alcohol and drug fund are not being used for the purposes stated in K.S.A. 1994 Supp. 79-41a04. That statute provides that the moneys "shall be expended only for the purchase, establishment, maintenance or expansion of services or programs whose principal purpose is alcoholism and drug abuse prevention and education, alcohol and drug detoxification, intervention in alcohol and drug abuse or treatment of persons who are alcoholics or drug abusers or are in danger of becoming alcoholics or drug abusers."

The performance audit focused on the following uses of special alcohol and drug fund moneys by the city:

- 1. \$38,374 for law enforcement projects such as patrol cars, mountain bikes and breath units. (P. 10-11)

According to the report these items are associated with the police department's alcohol safety action project. The report indicated that this program's emphasis is on alcohol and drug law enforcement. Past attorney general opinions have concluded that special alcohol and drug fund moneys may not be used for alcohol and drug law enforcement. Copies of those opinions are attached for your review.

| | | | | | |
|-------------------|---------------|------|---------|------------|---|
| Post-it™ Fax Note | 7671 | Date | 3-16 | # of pages | ▶ |
| To | Scott Clausen | | From | | |
| Co./Dept. | | | Co. | | |
| Phone # | | | Phone # | | |
| Fax # | | | Fax # | | |

Mayor Jolene Andersen
Page 2

2. \$19,758 for a work program that places criminal defendants in nonprofit agencies to perform community service. (P. 10-12)

Our understanding is that all defendants (who may or may not have alcohol or drug problems) are placed into this program regardless of whether they've been convicted of alcohol or drug related offenses. In short, this program does not appear to have as its "principal purpose" alcohol/drug treatment, education or prevention.

3. \$10,500 for the court-appointed special advocate program (CASA). (P. 12)

The principal purpose of the CASA program is to provide community volunteers to advocate for children in the court system. While some of these children may come from families that have alcohol and/or drug problems, the principal purpose of CASA is not alcohol/drug treatment, education or prevention.

4. \$3,150 for an emergency shelter for battered women. (P. 12)

According to the report, moneys from the fund were used for "transportation to referral services, a youth program and for general operating expenses."

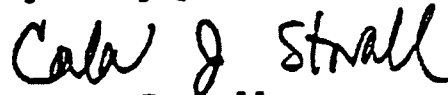
In Attorney General Opinion Number 87-103, (a copy of which is attached), Attorney General Stephan concluded that "programs dealing with domestic violence generally may only tangentially involve alcohol and drug abuse prevention and education . . . these types of programs would probably not fall within the statute. . . ."

The principal purpose of a shelter is to provide temporary housing for women and their children who are victims of domestic violence. However, we are aware that a domestic violence agency may create programs that address drug and alcohol problems and, therefore, the use of special alcohol and drug fund moneys may be appropriate because the statute does allow for the "establishment" of programs whose principal purpose is alcoholism and drug abuse prevention, treatment or education. Without more information concerning the nature of the referral services and the youth program we are unable to determine whether the funds are being used appropriately, however, the funds may not be used for the general operating expenses of the shelter.

Mayor Jolene Andersen
Page 3

We hasten to add that all of the programs cited in the performance audit report are laudable and our only concern is whether the use of special alcohol and drug fund moneys to fund these programs is authorized by statute. When you have had an opportunity to review the attorney general opinions, please feel free to contact me, or Mary Feighny, Assistant Attorney General, if you have any questions.

Very truly yours,



Carla J. Stovall
Attorney General of Kansas

CJS:MF:jm
Enclosure



MIRROR INC.

Chemical Dependency Services
Prevention and Treatment

Box 711 - 130 E. 5th
Newton, KS 67114
316/283-6743
FAX: 316/283-6830

MEMORANDUM:

TO: REPRESENTATIVE GARRY BOSTON, CHAIRPERSON, AND OTHER MEMBERS OF THE HOUSE COMMITTEE FEDERAL AND STATE AFFAIRS.

FROM: JOHN F. GILBERT, ASSISTANT DIRECTOR

RE: HOUSE BILL 2344

- Administrative
- Outpatient/
- Continuing Care
- Alcohol/Drug
- Information School
- South Central Kansas
- Regional Prevention
- Center
- Men's Intermediate &
- Reintegration Treatment
- Women and Children's
- Comprehensive
- Treatment Services
- Mirror Inc. of Hutchinson
- 2100 N. Jackson/Box 1702
- Hutchinson, KS 67504-1702
- 316-665-7750
- FAX: 316-665-1402

- Intermediate/Reintegration
- Treatment
- Day Treatment/Outpatient
- Continuing Care
- Mirror Inc. of Topeka
- 2201 S. E. 25th
- Topeka, KS 66605
- 913-267-0561
- FAX: 913-267-0573

- Intermediate/Reintegration
- Treatment

Outpatient Treatment Services

- 116 E. Chestnut
- Suite 107
- Garden City, KS 67846
- 316-276-3697
- FAX: 316-276-4046

- 504 N. Kansas
- Suite B4
- Liberal, KS 67901
- 316-624-9122
- FAX: 316-626-3279

- 901 B. East Prescott
- Salina, KS 67401
- 913-827-2584
- FAX: 913-827-0711

- 1123 N. 5th St.
- Kansas City
- KS 66101
- 913-621-1830
- FAX: 913-621-0201

- 210 N. St. Francis
- Wichita, KS 67202
- 316-262-5127
- FAX: 316-352-6066

- 3400 S. W. Van Buren
- Lower Level
- Topeka, KS 66611-2228
- 913-296-2712
- FAX: 913-296-0744

I would like to begin by introducing myself. I am John F. Gilbert, Assistant Director of Mirror Inc. I have been employed in the field of Alcoholism and Drug Addiction for over thirteen years. I hold a Master of Science degree in Clinical Psychology from Emporia State University and am a State and Nationally Certified Alcoholism and Drug Addiction Counselor. (*) I am a former President of Kansas Alcoholism and Drug Addiction Counselors Association, a board member of the Kansas Institute on Alcohol and Drug Abuse Studies in Higher Education and served on the Registered Alcohol and Other Drug Abuse Counselor Advisory Committee under the (State of Kansas) Behavioral Science Regulatory Board as legislated by Senate Bill 458. I am here today to testify in support of House Bill 2344 that would seek to strengthen the legislative intent regarding the monies collected via the local alcoholic liquor tax fund.

Historically, for example, the City of Newton Substance Abuse Advisory Board has funded Harvey County Big Brothers and Big Sisters projects, Halstead High School Senior Graduation Party, Unified School District 373 Parents As Teachers program, local self-help group projects, Newton Police Department's purchase of "drug dogs" and "drug surveillance" equipment, and a "summer enrichment program" (a six week period) for six to eight at-risk school age children run by two local school teachers. We have attempted to clarify this issue on numerous occasions with our local advisory board with limited success.

It has always been our understanding that local governments or appointed city boards were to allocate liquor tax monies to programs (agencies) whose "primary purpose was the prevention, intervention or treatment of alcoholism and/or other drug abuse". Referencing the expenditures cited above, even though these projects, as with many of our societal problems may have a relationship to alcohol and drugs, they are not administered by agencies (programs) whose primary purpose meets with the language or spirit of law.

In closing, the heart of the matter for us is to ensure liquor tax money is spent on programs as the law intended since there is only a limited amount of dollars and resources available to alcohol/drug prevention, intervention or treatment providers. We would hope today's legislative action will help local units of government to understand the benefits these funds could have on the maintenance or expansion of services or programs whose purpose it is to prevent, educate, detoxify, intervene or treat persons suffering from alcohol or other drug abuse as prescribed by the proposed law.

Thank you for allowing me to testify.

* State Certification through Kansas Alcoholism and Drug Addiction Counselors Association. National certification through the National Association of Alcohol and Drug Abuse Counselors. Certified by Chapter 13 in the SRS/ADAS Licensure Standards for staff requirements of a counselor. Eligible for Registered Alcohol and Other Drug Abuse Counselor status via the State of Kansas (Behavioral Sciences Regulatory Board).

F & SA
3-5-96
Atch # 17

House Federal State Affairs Committee

February 27, 1996

Testimony

House Bill 2344

Good Afternoon Chairman Boston, and Members of the Committee,

My name is Gene Johnson and I represent Kansas Community Alcohol Safety Action Project Coordinators Association. We heartily endorse House Bill 2344 as a means of providing proper channeling of Alcohol Liquor Fund moneys by local units of government.

The Alcohol Liquor Fund money was established in the 1979 session of the Kansas Legislature and has been amended at least six times, prior to this 1996 Session. In addition, the Kansas Attorney General has been asked on twelve different occasions to issue opinions on various provisions of this legislature.

The 1979 Legislature passed this legislation in order to get local communities involved in the annual "billion dollar hangover" which comes from the misuse and abuse of alcoholic beverages in Kansas. Local City and County governments were given the opportunity to grant this money to local programs for the purchase, establishment, or maintenance or expansion of services or programs whose principal purpose is alcoholism and drug abuse, prevention and education, alcohol and drug detoxification, intervention in alcohol or other drug abuse, or treatment of persons who are alcoholic or drug abusers or in danger of becoming alcoholics or drug abusers.

Throughout the years, due to local politics and certain special interest groups, we in the alcohol and drug field have found many programs, who are somewhat related to alcohol and drug abuse, have been approaching their city or county governments, either directly or through organized alcohol and drug advisory committees, in search of funds for their programs, which do not have as their principal purpose, alcohol and drug abuse.

We respectfully ask this committee to approve the language changes appearing on page 2, lines 33 and 34. And again on page 2, lines 38 through lines 40.

The same changes are found on page 3, lines 23 and 24 and on lines 28 and 29.

In 1995, at the request of several legislative members, a post-audit was conducted by the Legislative Post-Audit Committee. That committee examined ten localities throughout the State and found that about 85% was being allocated

FSA
3-5-96
Atch #18

Testimony
HB2344
February 27, 1996
page 2

properly. Of the remaining 15%, 11% of these expenditures were for purposes, in the opinion of the Legislative Post-Audit Committee, did not fit the criteria outlined by the Law. For about 4% of these moneys, the local government did not have sufficient documentation to determine whether programs fulfilled the criteria set out in the Statute.

The audit did not include expending of these funds in such communities as Newton, Abilene, Coffeyville, Great Bend, Garden City, Barton County and Finney County. These committees (communities) responded to the legislative Post Audit Committee as to their concerns about the spending of these Alcohol and Drug Funds in their localities.

One of these concerns which comes to mind is that one local communities allowed over \$2,600 of these funds for the support of the police department narcotic dog.

Other questionable programs were: safe night after a prom, domestic abuse shelter, family crisis hotline, Big Brothers/Big Sisters, retired senior volunteer programs, and parents as teachers programs.

Although these programs are all beneficial to their communities, it is our belief that they do not meet the statutory guidelines as "their principal purpose is alcohol and drug abuse."

Please remember that 30% of the Alcohol Liquor Fund Money stays with the State Government. Only 70% is returned to the local governments. Of this 70%, one third of that money can be used in the General Fund, one third in special Parks and Recreation Funds and the remaining one-third in the special alcohol and drug funds.

Worthwhile programs at the local community level certainly can have funds made available of the one-third allocated to the local governments in the General Fund category.

In reviewing the Legislative Post Audit Committee's report, which was circulated to the Legislative Audit Committee and other interested individuals, in February of 1995, the conclusion of that report is as follows:

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February 27, 1996
page 3

"Although we did not find major abuses, considerable disagreement exists about how Special Alcohol and Drug Program moneys can be used. The law says that these moneys can be use only for services or programs whose principal purpose is alcoholism and drug abuse prevention, education, detoxification, intervention, or treatment. However, the law does not define these terms. The Attorney General has issued a series of opinions that discuss how these moneys may be used. Administrative and law enforcement costs are two areas where significant amounts of money are being spent, and where legislative intent needs to be more clearly spelled out. Until the law is clarified, significant areas of disagreement will continue to exist about whether certain uses of these moneys are appropriate."

The Legislative Post-Audit Committee did make the following recommendations:

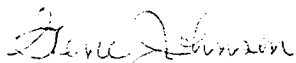
"To better ensure that Special Alcohol and Drug Program moneys are used in accordance with the criteria set forth in State law, the Legislature should modify K.S.A. 79-41A04 to:

- a. State whether agencies or organizations whose principal purpose is not alcohol and drug abuse prevention, education, detoxification, intervention, or treatment can get these moneys and if so, under what conditions.
- b. State whether administrative costs, or law enforcement costs including prosecution, are appropriate uses of these moneys."

Again, the Kansas Community Alcohol Safety Action Project Coordinators Association hopes that this committee will support the language as proposed in House Bill 2344 and move this legislation to passage during the 1996 legislative session.

Thank you for allowing me to appear before this Committee today. I will now attempt to answer any questions.

Respectfully,



Gene Johnson

Legislative Liaison

Kansas Community Alcohol Safety Action Project Coordinators Association



NEW CHANCE, INC.

Community Alcoholism & Drug Abuse Treatment Center

Box 43, Dodge City, Kansas 67801-0043

316-225-0476 • 24-Hour service

February 23, 1996

To Whom It May Concern:

I am writing to express my agreement with the new wording in House Bill No. 2344, which clarifies the use of local alcohol liquor tax monies for nonprofit agencies who have as their "primary purpose, alcoholism and drug abuse prevention and education, alcohol and drug detoxification, intervention in alcohol and drug abuse or treatment of persons who are alcoholics or drug abusers or are in danger of becoming alcoholics or drug abusers; and, offer such services or programs at one or more locations where such services or programs are available year round."

In prior years we have found that there has been some misunderstanding as to how these local alcohol liquor tax monies should be dispensed. The new wording should go a long way in a better understanding of useage of "said" monies.

Over the past years, we at New Chance, have believed that some of these funds were not properly given (i.e., after prom parties, bonding DUI offenders out of jail, putting a new roof on an area jail, etc.). Because of this, we also feel strongly that the primary purposes for the monies --areas which our agency has toiled for over 20-years -- have been neglected.

Funding is always a tremendous "crunch" for nonprofit alcohol/drug treatment centers such as New Chance. When monies, which we believed to be " earmarked " for our services, are not forthcoming, our services suffer.

Thank you for allowing us to express our concerns on this topic which is of "utmost importance" to New Chance, and other agencies such as ours throughout the state.

Sincerely,

Joan McCarthy
Executive Director

FUSA
3-5-96
Atch # 19
TOWARD A
DRUG-FREE

H.B. 2344
GARRY BOSTON, CHAIRMAN
FEDERAL AND STATE AFFAIRS

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

AS THE DIRECTOR OF THE DICKINSON COUNTY COUNCIL ON ALCOHOL AND OTHER DRUGS. ABILENE, KS, I AM CONCERNED ABOUT THE USE OF FUNDS CREATED BY TAX ON LIQUOR BY THE DRINK IN KANSAS CLUBS. THIS TAX WAS ORIGINALLY INTENDED TO SUPPORT LOCAL ALCOHOL/DRUG AGENCY EFFORTS TO PROVIDE SERVICES TO CLIENTS IN LOCAL COMMUNITIES.

NOW THESE FUNDS GIVEN TO THE DISCRETION OF CITY AND COUNTY COMMISSIONERS ARE BEING USED FOR PROJECTS THAT HAVE NOTHING TO DO WITH CLIENT SERVICES. THIS PAST THURSDAY, I VISITED WITH THE CITY MANAGER OF THE CITY OF ABILENE. THEY ANTICIPATE \$8300 IN 1996 DERIVED FROM THIS FUND. THEY HAVE ESSENTIALLY BUDGETED ALL THAT MONEY TO GO TOWARDS THE "DARE" PROGRAM. HE ALSO INDICATED TO ME THAT A MAJOR PART OF THAT WAS TO SUBSIDIZE THE SALARY OF THE DARE OFFICER IN ABILENE.

AS A MATTER OF INTEREST, TWO YEARS AGO, ABILENE SPENT \$8000 ON THE DARE PROGRAM, \$2652 IN SUPPORT OF A NARCOTIC DOG. ANOTHER \$500 WAS CONTRIBUTED TO THE LOCAL PARENTS OF THOSE JUNIORS AND SENIORS FOR THE PROM PLUS ANOTHER \$550 FOR DRUG PREVENTION MATERIALS AND ADVERTISING.

THE CITY OF ABILENE HAS NOT CONTRIBUTED ANY OF THIS LIQUOR TAX MONEY IN SUPPORT OF ANY DIRECT SERVICES FOR APPROXIMATELY THE LAST TEN YEARS. IN THIS AGENCY, WE CERTAINLY HOPE THAT THIS LANGUAGE CAN BE CHANGED AND THOSE FUNDS BE DIRECTED SO THAT WE MAY HELP THE PEOPLE IN OUR COMMUNITY WHO ARE UNABLE TO HELP THEMSELVES.

I CERTAINLY HOPE THAT THIS COMMITTEE CAN LOOK FAVORABLY UPON THIS LEGISLATION.

THANK YOU.


CLARENCE THOMPSON

FISA
3-5-96
Atch #20

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February 26, 1996

Mr. Gary Boston
Chairperson, Federal and State Affairs Committee
Capitol Building
Topeka, Kansas 66612

Re: House Bill 2344

Dear Sir:

The undersigned is writing in support of HB 2344 which as you are aware changes some of the language in the present law.

These changes are necessary in order to keep the original intent of the legislation which was to fund alcohol and other drug treatment and prevention programs.

The latest legislative audit of monies distributed under this legislature shows that programs that are not really alcohol and drug treatment, prevention or even educational programs are able to request and receive allocations of these limited dollars from their county and city commissions.

The audit also shows that an inappropriate amount of these limited dollars are used to fund "administration" of the funds.

The undersigned asks that your committee act favorably on this bill.

Please feel free to contact me at any time on this matter.

Sincerely yours,

Steve Hageman, CADC III
Director, Alcohol & Drug Services

SJH/SJ

FUSA
3-5-96
Atch #20



For More Information Contact:
Canda Byrne, MSN, ARNP, CS
Legislative Representative
P. O. Box 1732
Topeka, Kansas 66601
(913) 233-0755
March 2, 1996

HB 2344: An Act Concerning certain taxes on alcoholic beverages

Representative Boston and members of the Federal and State Affairs Committee, my name is Canda Byrne. I am the Legislative Representative for the Kansas Alcoholism and Drug Addictions Counselors Association (KADACA) and the Kansas Alliance on Alcohol and Other Drug Services, Inc. The Kansas Alcoholism and Drug Addictions Counselors Association is a membership organization that represents over 500 alcoholism and drug addiction counselors around the state of Kansas, their primary task is the certification of addiction counselors. The Alliance on Alcohol and Other Drug Services, Inc. is representative of groups including the Kansas Multi-Cultural Association on Substance Abuse, the Regional Prevention Centers Directors Association, Mothers Against Drunk Drivers and KADACA.

I am here today to speak in support of HB 2344. We agree that it is important that the money in the special alcohol and drug programs fund be spent for the purchase, establishment, maintenance or expansion of services of programs offered by non-profit agencies. It is important that these programs have as their principal purpose alcoholism and drug abuse prevention and education, detoxification, intervention and treatment. It is also important that these services are offered on a permanent basis.

In the Performance Audit Report on the Use of Alcoholic Liquor Fund Moneys by Local Unit of Government in February, 1995, it was reported that 85% of this money was used appropriately and in accordance with the legal requirements. HB 2344 fulfills the recommendation of this audit report in clarifying more directly the way this money may be used. It also clarifies that this money may not be used for brief workshops that do not provide education and services on an on-going basis.

We feel that HB 2344 provides needed structure and support in the use of money provided through the Local Alcohol Liquor Fund. Thank you for allowing me to provide testimony in support of HB 2344.