

Approved: 3-12-97  
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Lana Oleen at 11:00 a.m. on February 26, 1997 in Room 254-E of the Capitol.

All members were present.

Committee staff present: Mary Galligan, Legislative Research Department  
Theresa Kiernan, Revisor of Statutes  
Midge Donohue, Committee Secretary

Conferees appearing before the committee:

Mr. Donald L. Peyton, Peyton Liquor, Topeka  
Mr. Kurt J. Bossert, Bossert Retail Liquor Store, Topeka  
R. E. "Tuck" Duncan, Kansas Wine & Spirits Wholesalers Association, Topeka  
Mr. Stephen L. Jennings, Smoky Hill Vineyards & Winery, Salina

Others attending: See attached list

**SB 176 An act concerning intoxicating liquors and beverages; relating to farm wineries; amending K.S.A. 41-308a and repealing the existing section**

Mr. Stephen L. Jennings, Smoky Hill Vineyards and Winery, Salina, addressed the committee as a proponent of **SB 176**. Mr. Jennings explained that the Wine and Grape Growers Association requested the bill to permit the manufacture and distribution of spirits for blending certain wines because, currently, manufacturers are not permitted to use spirits in their production of wines. He said the bill was also requested to permit on-premise serving, by the glass, of wine produced by the winery and to allow for the winery to conduct tasting in businesses off-premise, as well as off-site sales.

Senator Vidricksen asked Mr. Jennings to tell the committee about the organization that is part of the Department of Agriculture attached to Kansas State University. Mr. Jennings explained that, three years ago, the legislature created the Grape and Wine Industry Advisory Committee to coordinate grape and wine production in the state.

Mr. Donald L. Peyton, Topeka, a Kansas retail wine dealer for twenty-five years and former member of the Kansas Department of Agriculture Farm Winery Advisory Committee, spoke in opposition to **SB 176 (Attachment #1)**. Mr. Peyton said he did not think the wineries needed exceptions to sell their product. He said he considered himself knowledgeable in their problems and believes they already have more leeway in marketing their products than other wine merchants. Additionally, he stated he believes the bill would allow them almost unlimited tasting and merchandising opportunities, and that the language in the bill relating to public celebrations is too broad to allow for sufficient supervision of such an arrangement.

Senator Oleen asked the Director of the Alcohol Beverage Control Division if the bill, as written, would allow for a caterer or temporary license, and Mr. Norwood replied there was a possibility a temporary permit would suffice for a public celebration but he did not know if it would satisfy what the Association was trying to do; that the beverage would have to be consumed on the premises and unbroken packages could not be sold to go. Mr. Norwood told the committee a temporary permit costs \$25.00 per day for up to three days for one occurrence and for no more than four occurrences per year, which could allow twelve days of special permitting.

Mr. Kurt J. Bossert, owner of Bossert Retail Liquor Store, Topeka, addressed the committee in opposition to **SB 176 (Attachment #2)**. Mr. Bossert told the committee he was appearing to tell the retailer's side of the issue. He stated that during the last ten years a number of changes in Kansas liquor laws resulted in the demise of family owned businesses. Mr. Bossert said Kansas is currently well regulated with controls in

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL & STATE AFFAIRS COMMITTEE, Room 254-E-Statehouse, at 11:00 a.m. on February 26, 1997.

place for proper and moderate consumption of alcoholic beverages and he believes it would be a step backward if **SB 176** is passed. He mentioned the difficulty and cost associated with enforcement, referencing underage consumption and public intoxication.

Mr. Bossert listed advantages he feels farm wineries already have over liquor stores and strongly urged the committee to vote against this measure.

Mr. R. E. "Tuck" Duncan, Topeka, representing the Kansas Wine and Spirits Association, appeared in opposition to **SB 176 (Attachment #3)**. Mr. Duncan listed modifications to laws in recent years which expanded the privileges of farm winery licensees and discussed provisions of **SB 176** which the Association believes are contrary to legislative intent in order to foster and develop the Kansas farm wineries. He cited portions of the bill which he said were unnecessary because acquiring a temporary permit could accomplish the intent. Further, he stated the Association feels the bill is broad in its definitions. For those reasons, he suggested that the committee report **SB 176** adversely.

Senator Oleen closed the hearings on the bill, and the meeting adjourned at 11:40. The next meeting is scheduled for February 27.

SENATE FEDERAL & STATE AFFAIRS COMMITTEE  
GUEST LIST

DATE: 2-26-97

NAME	REPRESENTING
Kurt J. Bossert	Bossert Liquor Store
Donald S. Womery	Peyton Pluck Liquors
Harold Robinson	Ks Retail Liquor Dealers Assn.
Dr. John A. Brewer	Wildwood Cellars Winery
Stephen L. Jennings	Smoky Hill Vineyards
Sam [unclear]	ABC KDOR
Dean Reynolds	ABC KDOR
Rebecca R. [unclear]	KRLDA

MAR 5 1997

Senate Bill 176 concerning amending Kansas Farm Winery Law.

Senate Federal & State Affairs Committee:

11 A.M. Wednesday, February 26, 1997

By:

Donald L. Peyton  
203 Cottonwood St.  
Topeka, Kansas 66609

Qualifications:

Served on the Kansas Department of Agriculture Farm Winery Advisory Committee for one year.

Kansas Retail Wine Dealer for 25 years. Up until last year when health reasons forced selling the store was one of the largest volume wine stores in Kansas. Now have a smaller store.

Stocked Wines from 4 Kansas wineries and dealt directly with them.

At present Second Vice President of the Kansas Retail Liquor Dealers Assn. and A Director of the National Alcoholic Beverage Assn.

Generally considered one of the best wine merchandisers in the state.

Testimony:

Would prefer to be the last to testify to clear up any conflicting statements and to make sure that specific things are brought up. I am definitely not antagonistic against farm wineries. I consider myself to be somewhat knowledgeable of their problems and wish them success. They already have considerable more leeway in marketing their products than other wine merchants, which I do not object to, but it seems to me that this bill would allow them almost unlimited tasting and merchandising opportunities which would perhaps make the playing field too Unlevel.

The term "Public Celebration" and its inclusions, in my opinion, are just too broad. We must remember that we are talking about an "alcohol beverage" which I and practically everyone in our industry feels needs considerable control which this bill seems to lack. As I see it there could be wine tasted and sold at football games and other sporting events as well as about any where else that the public is invited. I just can't see that.

Also I don't like to see antagonism between different segments of the wine industry and there is some now because to the unlevelled field. I think this would make it worse. I would like to the the Kansas Winery Assn. become more involved through normal channels through cooperation with Kansas Retail Assn. and other functions. I feel that the Kansas products have the merits and quality to compete favorably with wines from California or anywhere else. I proved that in my store.

Too, I just can't see where there could be sufficient supervision of such a loose arrangement.

Sen. Federal & State Affairs Comm  
Date: 2-26-97  
Attachment: #1

February 26, 1997

*Testimony Submitted on Senate Bill No. 176*

Testimony Submitted By:

**Kurt J. Bossert**

Owner

Bossert Retail Liquor Store

2121 SW Wanamaker Rd.

Topeka, KS.

**I am submitting this in opposition to Senate Bill No. 176.** I started my business 10 years ago under a certain set of laws. During those past 10 years there have been a number of changes in Kansas liquor laws resulting in the demise of four hundred (400) family owned businesses. In 1987 there was approximately 1000 family owned stores, today there is just over 600. In other words the changes have put four hundred families out of work, out of business and seeking other ways to make a living not to mention the employees of those stores.

*Kansas is currently a well regulated state. Kansas has controls in place for the proper and moderate consumption of alcoholic beverages.* By adopting Senate Bill 176 Kansas would be stepping backwards in the proper control of alcoholic beverages. The state would find it very difficult and costly to enforce of its current laws, mainly underage consumption and public intoxication leading to more DUI's.

**Farm Wineries currently have several advantages over liquor stores...**

- ) Can have up to three (3) outlets.
- ) All outlets are part of one License and one license fee.
- ) Can give away free samples.
- ) Have extended hours 6:00 a.m. - 12:00 midnight Monday through Saturday  
12:00 noon - 6:00 p.m. Sunday.
- ) Can employ minors (18, 19 and 20 year olds).
- ) No price controls: Can sell to a consumer at a price lower than they sell to licensed liquor stores.

Now to allow any type of Alcoholic sales at "public celebrations" is definitely a major step backwards in the proper sale and control over those sales by our Great State of Kansas. If anything our state should be looking to place stricter controls on sales such as these.

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

February 26, 1997

To: Senate Committee on Federal and State Affairs

From: R.E. "Tuck" Duncan *R.E.D.*  
Kansas Wine and Spirits Wholesalers Association

RE: SB 176, an act relating to farm wineries.

The Kansas Wine and Spirits Wholesalers Association (KWSWA) appears in opposition to SB 176. The K.W.S.W.A. has supported Kansas' farm winery industry from its inception. As legislative staff indicated last week in 1983 the Legislature authorized farm wineries to manufacture and sell table wine made from *Kansas grown products*. In 1988 the law was amended to permit sales directly to other licensees. In 1992 the law was amended to allow additional sale outlets. Other modifications to expand the rights of the farm winery licensees occurred in 1985, 1987, and 1990.

We believe the provision on page 1, lines 16-18, are contrary to the legislative intent to foster and develop **Kansas** farm wineries. We believe that the provisions on page 1, lines 24-27, and on page 2, lines 15-17, are contrary to the constitutional amendment that allows voters in a particular county to determine whether liquor-by-the-drink may be sold. It is already permissible to sell wine-by-the-drink in countries where authorized; however, this provision appears to allow for "go-cups," which is contrary to sound public policy.

Further we believe that the provision on page 2, lines 37-43, and page 3, lines 1-2, is (a) unnecessary as acquiring a temporary permit could accomplish the intent of this amendment, (b) over broad in its definitions, and (c) establishes a deleterious public policy of a "floating" license.

For the reasons stated we respectfully suggest that the committee report SB 176 adversely. Thank you for your attention to and consideration of these matters.

(9)SB176.KWS

Sen. Federal & State Affairs Comm  
Date: *2-26-97*  
Attachment: #*3*