

Approved: 3-17-97  
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Lana Oleen at 11:05 a.m. on February 27, 1997 in Room 254-E of the Capitol.

All members were present except:

Senator Sherman Jones, Excused  
Senator Ben Vidricksen, Excused

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

Conferees appearing before the committee:

Mr. R. E. "Tuck" Duncan, Kansas Wine & Spirits Wholesalers Association, Topeka  
Ms. Marjorie L. Roberson, President, Kansas Retail Liquor Dealers Association,  
Newton  
Mr. John Webb, Webb's Fine Wine & Spirits, Lawrence

Others attending: See attached list

Prior to opening the hearing on **SB 159** which relates to certain distributors of alcoholic liquor, Senator Oleen requested a brief review of the tenets of the bill, and Ms. Galligan told the committee the bill would authorize spirit wholesalers to sell directly to clubs and drinking establishments, which is not authorized under current law. She said the bill would also authorize wine wholesalers to sell direct to clubs and drinking establishments; that, under current law, clubs and drinking establishments purchase spirits and wines from liquor stores, with the exception of bulk wine which can be purchased from wholesalers.

**SB 159 An act concerning alcoholic liquor; relating to certain distributors; amending K.S.A. 1996 Supp. 41-306 and 41-306a and repealing the existing sections.**

Senator Oleen opened the hearings and there were no proponents to testify in favor of the bill.

Mr. R. E. "Tuck" Duncan, Topeka, appeared on behalf of the Kansas Wine and Spirits Wholesalers Association in opposition to **SB 159 (Attachment #1)**. Mr. Duncan gave a brief history of current liquor laws and said that Kansas has an efficient system currently in place that does not require modification. He stated it could not be discerned that there would be any real cost benefits to drinking establishments or consumers if this bill is enacted, but retail liquor dealers providing beverage alcohol to drinking establishments would suffer economically. For those reasons, he urged the committee to report **SB 159** adversely.

Mrs. Marjorie L. Roberson, Newton, President of the Kansas Retail Liquor Dealers Association, addressed the committee as an opponent to **SB 159 (Attachment #2)**. She pointed out that liquor stores in Kansas are highly regulated and limited by law as to the types of products they are able to sell. This bill she said would take away part of their market, giving it to wholesalers and resulting in retail customers and clubs seeing higher prices. Mrs. Roberson asked the committee to defeat this bill.

Mr. John Webb of Webb's Fine Wine and Spirits, Lawrence, appeared in opposition to **SB 159 (Attachment #3)**. Mr. Webb presented exhibits comparing sales and purchase costs of retailers with those of wholesalers and discussed direct wholesale delivery to on-premise accounts. He said on-premise acquisition costs are not the problem, but off-premise acquisition costs needed to be addressed. Mr. Webb stressed that the business was highly competitive and if this bill is passed, he acknowledged he would not be able to compete. He urged the committee not to consider this legislation because of the monopolistic situation and product and tax accountability problems it would create.

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL & STATE AFFAIRS COMMITTEE, Room 254-E-Statehouse, at 11:05 a.m. on February 27, 1997.

Senator Oleen again inquired if anyone present wished to speak in favor of the bill. No one responded and the hearings on **SB 159** were closed.

In regard to **SB 176** pertaining to farm wineries, Senator Oleen advised there was an apparent misinterpretation of information concerning what farm wineries could do at the present time, particularly in the areas of drinking establishments and liquor by the drink. She indicated wineries could now sell their products, within existing city ordinances through the use of a temporary permit, at a variety of places and events, and the Advisory Task Force on Wine was not aware of that when **SB 176** was introduced.

Senator Oleen suggested it might be beneficial to have the Division of Alcoholic Beverage Control prepare a letter clarifying existing statutes to address the problems perceived by the Advisory Task Force on Wine. It was the consensus of the committee that this be done and Mr. Norwood, Director of the ABC, was asked to prepare the information for the committee.

Senator Biggs moved that **SB 176** be reported adversely to the full Senate. Senator Gooch seconded the motion and the motion carried.

The meeting adjourned at 11:55. The next meeting is scheduled for February 28, 1997.

SENATE FEDERAL & STATE AFFAIRS COMMITTEE  
GUEST LIST

DATE: 2-27-97

| NAME            | REPRESENTING              |
|-----------------|---------------------------|
| Margie Kolbe    | Ks Retail Dealers Assn.   |
| PAUL WEBB       | WACAPENGE, KANSAS         |
| Art T. Bossert  | Bossert Liquor Store      |
| Gayle Nash      | Ks Retail Dealers Assn    |
| Tom Jacob       | SPURS LIQUOR WICHITA      |
| Jim Hamilton    | Leadership Barber County  |
| Emie Fuchanova  | "                         |
| Jeanne Barrett  | "                         |
| Marianna Farney | "                         |
| Jenny Cantrell  | "                         |
| Phillip Garrett | "                         |
| Dean Reynolds   | KDOR-ABC                  |
| Mukul Miller    | Barber county, Leadership |
| Annare Williams | "                         |
| Ed Demel        | "                         |
| Whitney Damon   | LUKAS LIQUOR Super Store  |
| HELEN ROBERTSON | Ks. LOGGING ASSN.         |
| Russ Flynn      | Famous Brands Distributor |
| Jim DORSEY      | Famous Brands Distributor |



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

February 27, 1997

To: Senate Committee on Federal and State Affairs

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

RE: SB 159

The Kansas Wine & Spirits Wholesalers Association appears in opposition to Senate Bill 159. We sincerely believe that Kansas has an efficient system currently in effect that does not require modification. We can not discern that there will be any real cost benefits to drinking establishments or consumers; however, we conclude that retail liquor dealers providing beverage alcohol to drinking establishments would suffer detrimental economic consequences. To that end, we respectfully suggest that the committee report SB 159 adversely.

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Sen. Federal & State Affairs Comm  
Date: *2-27-97*  
Attachment: #1



TESTIMONY PRESENTED TO  
THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE RE: SB 159  
FEBRUARY 27, 1997  
by Marjorie L. Roberson, President  
Kansas Retail Liquor Dealers Association

Thank you Ms Chairman and members of the committee. I appear before you today on behalf of the Kansas Retail Liquor Dealers Association in opposition to Senate Bill No. 159.

As all of you are aware, the liquor stores of Kansas are highly regulated, and limited by law as to the types of products we are able to sell. We have no purchasing power, except that which each individual store can handle. We have no choice of where to buy our products, and our customers are limited by virtue of age restrictions. We have an obligation to our state, and our customers, to be aware of, and follow the laws governing the sale of alcoholic beverages. We do not compete with other types of retail businesses, but only among ourselves. All of these things make us a highly specialized and regulated market.

Senate Bill #159 would take away part of our market, selling to clubs and restaurants, and give it to wholesalers, who have stated that they don't want it. I personally do about 12% of our volume in club sales, and I'm from a small town. There are stores in metropolitan areas that do over 50% of their volume in club sales. The various stores negotiate with their clubs, as to the percentage the stores markup their products to the clubs. In Wichita, there are stores selling for as little as 3% above cost, and rarely does a store get more than 10%. An article in the on-premise issue of the Beverage News stated that the clubs believed they could save up to 15%, by buying directly from the wholesalers. I know of no liquor store that charges their club customers anything like 15%, so I wonder if the clubs think that the 8% enforcement tax is a part of the retailers markup. Perhaps they do not realize that they must pay the 8% enforcement tax, regardless of whether they are buying product from retailers or wholesalers.

The majority of us offer free delivery, no minimum order, and are even willing to let the clubs do two or three orders a week. Obviously club sales mean larger inventories, more work, and lower margins for the retailer. The advantages that come with selling to clubs are it helps our buying power, it helps us introduce new products, that we hope people will then purchase in our stores at regular retail, and some margin of profit. Is it fair to take away, what could be a large share of our market, and give it to the wholesalers, who actually already have those same clubs and restaurants as customers, through us.

I'm sure the clubs, like all of us, want to pay the least amount of money they possibly can, but the bottle cost, isn't the only way to look at a sale. For some of the larger chain restaurants, who operate on a much larger scale, and are open many more hours, they

might realize some savings, but what about the small clubs and restaurants, who can't carry a large inventory, who don't have a substantial cash flow, and who don't even open, until after the wholesalers are finished making deliveries. All the services that the clubs receive from liquor retailers, just might have a higher price to clubs overall when they are delivered by a wholesaler.

A major concern about changing the system and losing the club sales for retailers then will that result in higher prices to retailers, because the wholesalers discover that to sell and deliver to clubs costs money, and the only way to make money in a market where they must sell to all customers at the same price, is to raise those prices to all their customers? I'm sure that someone is going to say...well the clubs have a choice, and probably the smaller ones, the ones in markets that aren't serviced except once every 10 days, will continue to buy from the retailer, rather than the wholesaler. That's all well and good, but the only way I can offer a considerably reduced price to a club, is if I am moving large volumes of products, and if you cut into my club sales, you cut into my volume. I keep back stock to be able to cover all my clubs, but if I loose a majority of those sales, I won't have the backstock, and if I have to make a choice between selling to a club at a lower price, and selling to a retailer customer, at regular markup, I'm afraid the club isn't going to get as good a deal as he did. I won't be able to afford it and my interest in providing the best deal will diminish.

On the surface this looks like the only "loser" in the bill is the retailer that is selling to the clubs, but the reality is, if the wholesalers have to raise the cost of goods, it also means both retail customers and clubs could see higher prices. Do we really need to change a system that has worked well for a lot of years, just to appease a large chain restaurant?

Thank you Madam Chairman for allowing me to testify. We respectfully request that this committee defeat this legislation.

KANSAS SENATE  
FEDERAL AND STATE AFFAIRS

27 FEBRUARY 1997

RE: DIRECT WHOLESALE DELIVERY TO "ON PREMISE" ACCOUNTS

What is the intent of the proposed legislation?

Is it socially responsible legislation?

Is it consistent with the evolution of the State's Beverage Alcohol Industry?

Are we going in the right direction?

Should "on premise" accounts be given pricing and promotional advantages over "off premise" accounts?

How much accountability would be lost by allowing direct delivery from Kansas Wholesalers to national chain "on premise" accounts?

Wouldn't this legislation just enhance the already dominant market position of this State's largest Beverage Alcohol Wholesaler? The answer is YES!

"On premise" acquisition costs are not the problem in this market. "Off premise" acquisition costs, ie: CASH TERMS AND DISALLOWANCE OF QUANTITY DISCOUNTS, AND UNUSUAL BUSINESS PROCEDURES ARE THE MAIN PROBLEMS THAT NEED TO BE ADDRESSED AT THIS TIME.

Because of the inevitable monopolistic wholesale situation and the State's product and tax accountability problem, this legislation should not be considered further.

Respectfully submitted,

  
John Webb

Sen. Federal & State Affairs Comm.  
Date: 2-27-97  
Attachment: #3





## ■ Superpremium Liquor Surge Lifts Retailers' Spirits

DEBRA LUCKE-BEACHNER, A liquor store operator in Overland Park, Kansas, is upbeat about year-end 1996 sales. The owner of Beachner Retail Liquor reports that for the last year or so, she has noticed an increase in distilled spirits sales at her store, particularly in the Tequila category. But even more importantly, liquor sales growth is being fueled by fast-moving super-premium products. "Before, it used to be [José] Cuervo and a few other brands that would sell. Now, there are more specialty Tequilas. Some customers come in here just for that," Lucke-Beachner says.

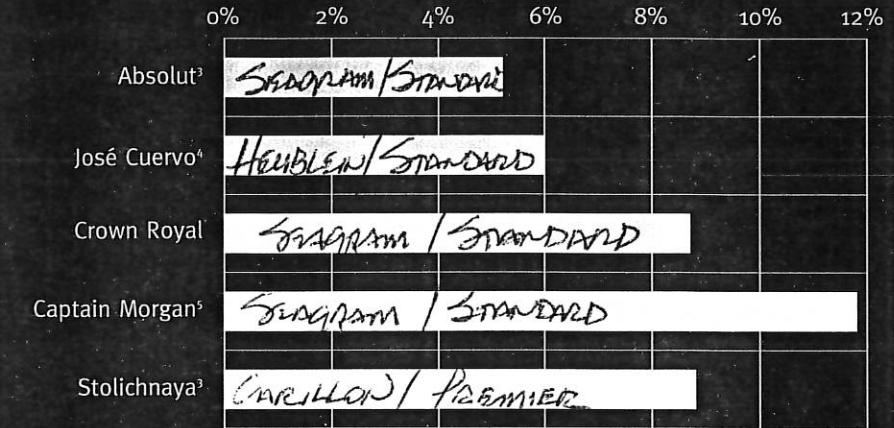
As a result of the higher demand, Beachner Retail Liquor expanded its selection of specialty Tequilas, products that can fetch up to \$50 or \$60 per bottle. Moreover, the owner reports, "Now, I don't even have to hand sell them. They sell themselves."

A similar trend is being spotted on-premise. According to Michelle Rosales, food and beverage manager at McCormick & Kuleto's Seafood Restaurant in San Francisco, "People are drinking more premium products, whether it's single-malt Scotch or premium vodkas. They're not drinking more but better."

*Deja vu?* Could the mantra that epitomized spirits-consumption trends of the early to mid-1980s be true once again? Yes, but even better. While estimates on spirits brands' sales for 1996 reveal that several superpremium brands are showing strong—in many cases, even double-digit—growth, overall spirits sales are expected to be up for the first time in 15 years.

Spirits marketers, predictably, are thrilled. Arthur Shapiro, executive vice president of marketing and strategy at Seagram Americas, believes that

**1996E Top 5 Premium/Super-Premium Distilled Spirit Growth Brands<sup>1,2</sup>**  
(1995-1996E percent change)



<sup>1</sup>Ranked by depletions. <sup>2</sup>Brands with estimated retail price of at least \$10 per 750 ml bottle. <sup>3</sup>Includes flavored vodkas. <sup>4</sup>Includes Cuervo 1800 <sup>5</sup>Includes Coconut

Source: IMPACT DATABANK @1997

demographics and increased consumer permissiveness are at least partly responsible. "There is a more receptive consumer [today] who won't preclude any products," he says. "People are changing."

Tom Wandersee would agree. The owner of Austin-Tacious Liquors in Austin, Texas, has seen an increase in the popularity of "high dollar" spirits brands.

At Kappy's Liquors in Massachusetts, Bob Selby says that imported vodka, Cognac, Tequila, flavored rum and certain cordials and liqueurs are selling well.

But not all retailers relate improved spirits sales. At Raley's Supermarkets, with 84 stores in California and Nevada, "Liquor sales will be down for the year," reports Bob Jennings, beverage merchandising director. Still, he says there has been an "upward swing" in sales of both vodka and Tequila. But Jennings says whiskey continues to languish.

Brown goods sales are "bad," he notes, with no sign of improvement. Not so in Kansas. "What sells in this market is small-batch Bourbon and single-malt Scotch," says Lucke-Beachner.

Of course, savvy merchandising by retailers can make a big difference. "Rather than bring in a bunch of cases of beer for a floor display, I'd rather [devote the space to] a fancy display," says Lucke-Beachner. Her recent addition of cigars has been another successful strategy.

Product merchandising at McCormick & Kuleto's, located at Fisherman's Wharf, comes via an impressive brand-laden backbar, a tactic that appears to be working. "More people are calling their drinks," says Rosales, "not just drinking from the well."

—Terri Allan

Terri Allan is a contributing editor of MARKET WATCH.