

Approved: \_\_\_\_\_  
Date

4/28/98

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE.

The meeting was called to order by Chairperson Representative Susan Wagle at 12:30 p.m. on March 24, 1999 in Room 313-S of the Capitol.

All members were present except:

Reps. Benlon, Burroughs, Faber, Mason and Peterson, all excused

Committee staff present:

Theresa Kiernan, Revisor of Statutes  
Mary Galligan, Legislative Research  
Russell Mills, Legislative Research  
Judy Swanson, Committee Secretary

Conferees appearing before the committee:

Jim Conant, ABC Director  
Jim Scott, Kansas Retail Liquor Dealers Association  
Lester Lawson, Kansas Clubs Association  
Rita Madl, Kansas Licensed Beverage Association  
Chuck Bredahl, Adjutant General's Office  
Ron Hein, Kansas Restaurant & Hospitality Assn

Others attending:

See attached list

Hearing was opened on **SB 15**, Alcoholic beverages; open container enforcement by ABC officers. Russell Mills, Legislative Research, explained the bill. He said it came about as a result of the interim Federal & State Affairs Committee recommendations.

Jim Conant, ABC Director, testified in favor of **SB 15**. He said they will continue to enforce the open container law. He said no one other than the ABC raised a question about this bill. It came from post audit. He said ABC enforcement officials issue a minimal number of tickets for open containers.

Hearing on **SB 15** was closed.

Hearing on **SB 6** was opened.. Russell Mills, Legislative Research, explained that liquor licensees must be current with state taxes to get a liquor license. The Senate Federal & State Affairs Committee added an amendment to the bill to allow the Kansas National Guard Regional Training Center in Salina to serve liquor.

Jim Scott, Kansas Retail Liquor Dealers Association, testified in opposition to **SB 6**. (Attachment #1)

Lester Lawson, resident of Kansas Clubs and Associates, testified in opposition to the bill. (Attachment #2) He said they believe there are enough methods for collecting taxes already in existence.

Rita Madl, President of Kansas Licensed Beverage Association, testified that they are already more regulated than any other industry. She opposed the bill. (Attachment #3)

Jim Conant, ABC Director, testified in favor of the bill. (Attachment #4) He said this bill is not about liquor taxes, only the collection of taxes. He presented a detailed breakdown of various taxes owed on January 18. The total non-liquor taxes owed were estimated at \$1.8 million. They do have a notification system in place to notify licensees when they have delinquent taxes.

Charles Bredahl, Special Assistant to The Adjutant General, supported the Senate Committee amendment concerning the Kansas Regional Training Center. (Attachment #5)

Ron Hein, Kansas Restaurant & Hospitality Association, expressed several concerns about the bill. (Attachment #6) One concern is that **SB 6** might be applicable to income taxes owed by minority shareholders of corporations, or other entities other than the one person with the license.

Committee discussion followed. In response to Rep. Edmonds, Conant said that he was not sure whether the withholding amounts listed in his report were actual taxes rather penalties. Rep. Franklin expressed concern that this legislation might harm new businesses struggling in first several years of start up. Conant testified that this bill would not apply in a case which was under appeal or if arrangements were made for a payment plan. In response to Rep. Klein, Conant said he did not know how much of the tax amount listed was in litigation with the Indians. Under the Gaming Commission, Indian casinos must be in compliance with state liquor laws to be licensed. Conant did not know if any of the three Indian tribe casinos were in arrears with their tax payments.

Chair Wagle asked Conant how far behind in taxes someone had to be before they go on the list. He said technically the day after the filing date. They first send a notice, then after 30 days if taxes are not paid, a notice from the collection department is sent. Conan said it is not the purpose of the bill to impose sales tax on tribes, and if it has not been determined by the courts that these taxes are due, then this bill will not make it a requirement. Conant said one Indian tribe is paying taxes under protest.

Chair Wagle asked Jim Scott that as a liquor store owner why did he not want the state to have the ability to enforce tax payments against his competition. He said he thought the bill was too encompassing of the many kinds of taxes it included. He testified he was not opposed to business taxes limited only to his liquor store.

Conant said that on the first application for a liquor license a spouse must also be qualify for the license, however not on renewal applications. Rep. Rehorn asked why the bill is not limited to business taxes. Conant said because they just used the last language as last year. All stockholders would have to be current in their taxes of a corporation to keep license which caused concern to Rep. Rehorn. A large corporation such as Applebee's could be denied a liquor license if one of their stockholders was not current with their tax payment. Rehorn felt Hein's concerns were very real. Rep. Edmonds said if this bill were a good idea for the liquor industry, then perhaps the same type legislation should be enacted for licensing of doctors, accountants, hair dressers, etc.

More discussion on **SB 6** will be held at a later meeting

Chair Wagle presented a balloon amendment to **SB 19**, veteran cemeteries which would make each cemetery subject to 100% financing from the Federal government and would limit the bill to three locations suggested in the committee hearing. Rep Mayans made a motion to adopt the amendment presented. Rep. Vining seconded the motion. The motion carried.

Rep. Vickery made a motion to report **SB 19** as amended favorable for passage. Rep. Hutchins seconded the motion. The motion passed.

Rep. Klein made a motion to conceptually amend **SB 238** to make it possible for a coroner to be paid travel expenses. Rep. Mayans seconded the motion. The motion passed.

Rep. Franklin made a motion to report **SB 238** as amended favorable for passage. Rep. Vickery seconded the motion. The motion carried.

Rep. Cox moved to approve the minutes of March 22 and March 23 Committee meetings. Rep. Vining seconded the motion. The motion carried.

The meeting adjourned at 1:35 P.M.

HOUSE FEDERAL & STATE AFFAIRS  
GUEST LIST

DATE: 03-24-99

NAME	REPRESENTING
Chuck Bredahl	Adjutant General's Dept-
Rebecca F	KRLDA & KSC Clubs & Assoc
Martha Scott	KRLDA
Jim Scott	KRLDA
Ronald Payton	KRLDA
Dita Madl	Kansas Licensed Beverage Ass.
Lester Lawra	Kansas Clubs and
Pete Bodyk	KDOR
Dean Reynoldson	KS Dept. of Revenue
Lamy Sisson	Kearney Law Office
Pat Lehman	KS Firemen's Alliance
Kelly Keltala	City of Overland Park
Tyrone D. D. D.	Kingsway
Amy Campbell	KRLDA



Testimony presented to the  
House Committee on Federal and State Affairs  
March 24, 1999

Jim Scott, 1st Vice President  
Kansas Retail Liquor Dealers Association

Thank you, Madam Chair and members of the Committee. My name is Jim Scott. I am 1st Vice-President and President-Elect of the Kansas Retail Liquor Dealers Association (KRLDA).

Thank you for allowing me the time to represent my association. In addition, I'm the owner, chief clerk, stock boy, and maintenance person for Scotty's Liquor of Fort Scott, the biggest little liquor store in Kansas.

This is the first time I've testified before you, so please allow me to tell you about myself. Seven years ago I was attending an Elders meeting at Trinity Lutheran Church in Fort Scott. The president of the congregation came to me, and said he and his wife were going to Africa for five years to work for the Lutheran Ministry. He needed to sell his liquor store and thought of me first because of my enjoyment of good wines. That's how I became a Kansas Retailer.

In the years that I've been a Kansan, I've been active in my community. I've been on dozens of committees, worked more fund raisers than I can remember including chairman of the United Way. I'm a past president of everything from the Jaycees to Rotary. I've been an officer or board member for seemingly half the organizations in our community.

I'm proud to say that last year my store was named Small Business of the Year by the Fort Scott/Bourbon County Chamber of Commerce — believe me when I tell you it was no small feat for this award to be given to a liquor store, even in a place called Bourbon County.

I work hard on economic development, including bringing businesses to town and the equally difficult challenges of KEEPING businesses in town. Much of the rest of the time is spent figuring out how to get tourists into Fort Scott while leaving some of their entertainment dollars with us as they return home. (Incidentally, should any comprehensive highway bill come your way, its support would be a wonderful thing.)

Now, why did I tell you all this? I can assure you I'm not running for office. My liquor license prevents me from running for anything, including city councilman.

I said all of this to tell you what liquor store owners, that I know, do. We are an active part of our community. We are concerned about our children and our neighbors and friends. We're not franchises, we're not chains, we're not absentee owners. Usually our only partners in this business are the bank and the IRS, and we hope that they remain silent partners.

There are 645 liquor retailers in Kansas, 95% of us being "Mom and Pop" businesses. I know — I'm a "Pop." This gives me the unique opportunity to work as many hours as I wish without any interference except possibly when my spouse calls telling me, "dinner is ready, can you make it home

House Federal & State  
03-24-99  
Attachment #1-1

or should I bring it to the store?"

When anything happens that affects our business, such as the bill being introduced, it's not just theory, it's not just a line on a financial statement. We look at it and say, "How will this change our daily work?", "Will it affect the survival of my business?", and, finally, "Does it make sense?" Today I feel I must add one more, "Is it fair?"

This brings me to my testimony regarding the tax collection policy being promoted by the Kansas Department of Revenue. The KRLDA has always offered to work with the Department to address any problems with tax collection from liquor retailers, but we oppose the unfairness of allowing the state to implement a tax collection enforcement tool that threatens the livelihood of only one category of licensees.

The issue isn't taxes. Our retailers pay liquor taxes, sales taxes, payroll taxes, and income taxes, as well as license fees to federal, state and local agencies. We WANT the Department to enforce tax collection. This gives us a level playing field for all liquor licensees. There is nothing worse than working to comply with the regulations of the liquor business, only to find that your competitor is not doing the same. I already have that problem with competitors five miles away, just over the Missouri border.

The Division of ABC reviews license applications annually and already has the right to deny liquor licenses on the basis of a number of criteria. Likewise, local agencies have the opportunity to review licenses for compliance as well. We have always considered payment of liquor and business related taxes to be just another part of doing business.

But to which taxes does this bill apply? We have been told that it would only apply to "business related" taxes, but that doesn't make any sense because they already have laws in effect that allow for that.

So when we remind the Department of Revenue about this, they tell us this bill really wasn't designed for us, it was to assist with collection problems that developed in 1998 regarding gaming facilities, but by the time this bill got out of the Senate it had little to do with gaming facilities and everything to do with everybody else in Kansas that has a liquor license.

To this date we have not received any statistics from the Department that would suggest our members are ignoring their tax responsibilities. We would certainly be interested in those numbers and would cooperate with the Department to bring delinquent licensees into compliance, but the numbers presented in the Senate showed that package liquor stores are doing a good job of paying their taxes. The ABC instead highlighted a number of drinking establishments which are behind in paying their sales taxes. Are we to believe that the Department does not have the authority to pull a sales tax number?

If retailers are ignoring their tax responsibilities (and we're told this isn't true) and a statutory change is truly necessary to collect revenue due to the State (we're also told this isn't true), we encourage the Committee to consider amending this bill to include only business related taxes.

We are unsure how this law would be implemented and enforced. We are concerned about potential

use of the law to remove an individual's source of income as a result of some unrelated dispute. Some will argue that many liquor licensees are already subject to a similar law as a lottery licensee.

Please allow me to remind the Committee that the threat of losing a lottery license due to mistaken identity or a divorce dispute is nothing compared to losing the license for an entire business. How do you pay your taxes after losing your source of income?

As retail liquor store owners, we are willing to accept increased responsibility for the legal execution of our business. It just seems to come with the territory. Liquor licensees are subject to a long list of rules and regulations governing the way we do business. KRLDA supports the highly regulated three tier liquor distribution system, which is designed to control and monitor the sale of liquor in this state.

The Department of Revenue has the same ability to collect taxes from liquor licensees as any other taxpayer in the state, with the added benefit of much closer scrutiny in the form of increasingly regular audits. We do appreciate the steps taken by the Department to keep us informed of changes, even though most of our regulations were implemented during the first half of the 20th century when Kansas repealed prohibition.

As a liquor licensee, I am very concerned that bypassing current legal procedure and implementing this policy will result in an inequitable system of applying tax enforcement. This policy could be implemented today with the understanding that the current Department of Revenue would only use this tool to collect taxes in extreme circumstances, as we've been told. But what will be the agenda of future administrations?

If this committee decides that it is important to provide the Department with this collection tool then, in all fairness, legislation should be broadened to include all businesses and individuals licensed by the State of Kansas. To me, fairness is what it's all about.

Madame Chairman, where will it all end? How many ways can we be legislated into making a mistake? I won't carry lottery tickets because there's already too many state and federal agencies wanting to tell me my parking lot isn't striped properly and whether or not I can allow customers to use my store bathroom. I refuse to spend any more of my tax dollars so that one more agency can buy another pair of binoculars to sit and watch my store from two blocks away.

I'm grateful and proud to have the opportunity to own my own business. I consider myself an average American. I'm not thrilled to pay taxes — but I do. And I understand the need for them. I feel like I've done all the things I'm supposed to do. I was raised with a sense of obligation...that's why I volunteered for three tours of duty in a combat zone many years ago, and I've continued to do my share. All I ask is...don't put such a burden on us that I start falling behind.

Thank you for allowing me to be here today.

Kansas Retail Liquor Dealers Association  
P.O. Box 3842  
Topeka, KS 66604-6842  
785-266-3963

Date: March 24, 1999

To: Members of the Special Committee on Federal and State Affairs

From: Lester Lawson, President of Kansas Clubs and Associates

Re: SB6

Madame Chairperson and committee members, thank you for allowing me to present our reasons for opposing Senate Bill 6.

The members of Kansas Clubs and Associates firmly believe that everyone should pay their taxes; however, we believe that enough methods for collecting taxes are already in existence to insure that taxes are paid. For example, when people in the liquor industry apply for a license, we must post a security bond or CD to insure three-month's payment of the 10% excise tax. Those who are behind three months or more in paying their taxes may have their licenses revoked.

No other businesses must meet such strict requirements. In fact, field agents of the Alcohol Beverage Control division check licensees for filing and payment of state taxes (prior to SB 6).

In our opinion, the additional checking the bill calls for should apply to all Kansas businesses if it applies to anyone.

Another concern we have with the bill is with the timeliness of notification. If license renewal depends on the payment of taxes, we would hope that all liquor license holders would receive adequate notification. This notification, which should include an itemized listing of all taxes due, should be sent out with the license renewal notice. And because letters are sometimes misdirected or lost, we would ask for a grace period to allow for payments that are late due to problems with mis-communication.

Thank you very much for your attention.

House Fed + State  
03-24-99  
Attachment #2



**Kansas Licensed Beverage Association**

March 23, 1999

Representative Susan Wagle, Chairperson  
House Committee Federal and State Affairs  
State Capital Room 313-S  
Topeka, KS 66612

Dear Honorable Chair,

On Behalf of the Kansas Licensed Beverage Association, I would like to express our concern in regards to Senate Bill 6.

The Alcohol Beverage Industry is more regulated than any other industry. Our licenses are held accountable at many different times during the year.

1. When we apply for our initial license, the Department of Revenue requires us to post bonds, which may range from \$5000.00 to \$15,000.00. Many licensees have put up cash and CDs up for these bonds.
2. At the time of our license renewal, we must have a clearance with the Department of Revenue before we receive our license. This notice may be received as late as within the week of our license renewal.
3. At the time of our license renewal our current tax bonds are reviewed. Any increases must be made before license is renewed.

Very often any penalty amounts occurred throughout the year (starting at one day late), are not known until license renewal time. At this time we must pay them or we will not have our license renewed.

Isn't this enough regulation?

The State of Missouri refunds tax bonds after you have been in business for two years and have kept your taxes current. This is a positive way to ensure that taxes are paid. The vast majority of our license holders do keep their taxes current. Why do we need more regulation?

Thank you very much for your time and consideration.

Sincerely,

Rita Madl  
President KLBA

117 East 8th Street  
Lawrence, Kansas 66044



Memberships available. Inquiries invited.  
Phone: 785-331-4282

House Fed & State  
03-24-99  
Attachment #3



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



(785) 296-7015  
FAX (785) 296-0922

Division of Alcoholic Beverage Control

Memorandum

**TO:** Representative Susan Wagle, Chairperson  
House Committee on Federal & State Affairs

**FROM:** Jim Conant

**RE:** Senate Bill 6

**DATE:** March 24, 1999

---

Thank you for the opportunity to appear before the committee in support of Senate Bill 6. Senate Bill 6, as amended, would require applicants for state liquor licenses to be current in payment of all taxes owed to the state. It has long been the policy of this state to require businesses engaged in the selling of alcoholic liquor to be current in the payment of liquor taxes as a condition of continued licensure. Licensees generally adhere to this requirement, with citations issued by the ABC Division against those who become delinquent and do not submit required returns or payments upon request from the Division of Taxation. Unfortunately, even those who routinely pay their liquor taxes on time often remain delinquent in taxes related to the business such as sales, withholding or income taxes. Senate Bill 6 will provide a tool to ensure that each licensee is paying their fair share, rather than placing those who pay all their taxes at a disadvantage to those who subsidize their operations by paying only liquor taxes in order to retain the license.

The fiscal note prepared for this bill indicates that the most significant impact is in the area of sales taxes due from on-premise establishments. Of 1,976 active liquor excise (drink tax) accounts, 265 have outstanding liquor tax balances in the amount of \$539,000. Of these same 265 accounts, 175 have outstanding balances for other taxes, primarily sales tax, in the amount of \$876,000. In addition, there are another 143 accounts who do not have a liquor excise balance, but owe other taxes totaling nearly \$946,000. Total non-liquor taxes owed by both on-premise and package licensees are estimated at \$1,828,000. A detailed breakdown of these accounts by tax-type is attached.

At the request of the department and other conferees, the Senate committee amended the bill to remove language requiring a "willful" action by an applicant for a license or an existing licensee to be denied a license or to have their license revoked. Our current collections procedures for delinquent liquor taxes provide for a written notice and 30-day period to cure the delinquency before citations are issued against the license. This practice provides those who have inadvertently failed to file a timely return or payment an opportunity to correct the deficiency without the potential for a charge of intentional failure to file or pay.

Thank you for your consideration of this important "fair share" legislation. I would be happy to attempt to answer any questions the committee may have.

House Fed + State  
03-24-99  
Attachment #4-1

# LIQUOR COMPLIANCE DATA

## Report as of 1/18/99

4-2

	# Accts	\$ Owed - liquor only	# SA Accts	SA \$	# WH Accts	WH \$	# Consumer Comp Accts	CC \$	# Retailer Comp Accts	RC \$	# Transient Guest Accts	TG \$	# Eingo Accts	BI \$	# Corp Accts	CI \$	Total Cases	Total \$ for Other taxes
LE Owe	85	\$ 265,784.68	5	\$ 3,433.07	3	\$ 1,965.95	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	8	\$ 5,399.02
LE Don't	636	\$ (202.27)	8	\$ 210.61	5	\$ 564.69	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	13	\$ 775.30
LE NF	24	\$ -	0	\$ -	1	\$ 31.80	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	1	\$ 31.80
Total LE Registrants	745																	
RL Owe	265	\$ 538,654.83	128	\$ 773,963.90	35	\$ 77,446.64	1	\$ 491.72	0	\$ -	0	\$ -	2	\$ 205.02	9	\$ 24,150.61	175	\$ 876,257.89
RL Don't	1356	\$ -	100	\$ 581,614.70	25	\$ 8,455.86	1	\$ 290.89	0	\$ -	4	\$ 85,788.64	4	\$ 432.31	9	\$ 3,130.21	143	\$ 679,712.61
RL NF	346	\$ (385.85)	41	\$ 264,500.44	8	\$ 993.33	1	\$ 222.62	0	\$ -	0	\$ -	2	\$ 47.48	1	\$ 2.40	53	\$ 265.00
Total RL Registrants	1976																	
Subtotals																		
Owe	350	\$ 804,439.51	133	\$ 777,396.97	38	\$ 79,412.59	1	\$ 491.72	0	\$ -	0	\$ -	2	\$ 205.02	9	\$ 24,150.61	183	\$ 881,656.91
Don't Owe/NF	2362	\$ (588.12)	149	\$ 846,325.75	39	\$ 10,045.68	2	\$ 513.51	0	\$ -	4	\$ 85,788.64	6	\$ 479.79	10	\$ 3,132.61	210	\$ 946,285.98
Grand Total	2712	\$ 803,851.39	282	\$ 1,623,722.72	77	\$ 89,458.27	3	\$ 1,005.23	0	\$ -	4	\$ 85,788.64	8	\$ 684.81	19	\$ 27,283.22	393	\$ 1,827,942.89

Total Liquor owed & all other taxes \$ 2,631,794.28

**Legend:**

LE Owe      Number of accounts in Liquor Enforcement with a balance greater than 0 and balance due in other taxes.  
 LE Don't    Number of accounts in Liquor Enforcement with no balance due and no non-filed periods but a balance due in other taxes.  
 LE NF      Number of accounts in Liquor Enforcement with non-filed periods with no balance due.

RL Owe      Number of accounts in Liquor Excise with a balance greater than 0 and balance due in other taxes.  
 RL Don't    Number of accounts in Liquor Excise with no balance due and no non-filed periods but a balance due in other taxes.  
 RL NF      Number of accounts in Liquor Excise with non-filed periods with no balance.

4-2

# KANSAS HOUSE

## FEDERAL & STATE AFFAIRS COMMITTEE

MARCH 24, 1999

Reference: Amendment to Senate Bill 6, Proposed change  
To K.S.A. 41-719

Madam Chairperson and Committee Members:

The Adjutant General's Department operates the Kansas Regional Training Center located in Salina, Kansas. This facility trains reserve component and active personnel from across the United States in their military occupational specialties along with a regional officer candidate school. The facility is located on State property.

Due to the central location of Salina within Kansas and the availability of rooms for personnel, the training center has hosted many banquets and dinners honoring: lineage of military units; military personnel; civilian personnel supporting the military; organizations supporting the military.

The Adjutant General's Department respectfully requests consideration of the proposed change to Kansas statutes allowing the consumption of alcoholic liquor at the training center under rules and regulations of the Adjutant General and consented to by the Kansas Military Board.

Charles G. Bredahl  
Special Assistant to  
The Adjutant General  
2800 S W Topeka Blvd  
Topeka, Kansas 66611  
(785) 274-1004

*House Fed + State  
03-24-99  
Attachment 5*

**HEIN AND WEIR, CHAMBERED**

*ATTORNEYS AT LAW*

5845 S.W. 29th Street, Topeka, KS 66614-2462

Telephone: (785) 273-1441

Telefax: (785) 273-9243

*Ronald R. Hein*

*Stephen P. Weir*

**SENATE FEDERAL & STATE AFFAIRS COMMITTEE**

**TESTIMONY RE: Senate Bill 6**

**Presented by Ronald R. Hein**

**on behalf of**

**Kansas Restaurant & Hospitality Association**

**February 1, 1999**

Madam Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Restaurant and Hospitality Association. The KRHA is the trade association for approximately 1,200 restaurant and hospitality businesses in Kansas.

The KRHA applauds the concept of this type of legislation. When some taxpayers do not pay their taxes, the burden falls upon those people who do pay their taxes to make up any short falls. In that respect, the concept behind this type of legislation is very meritorious.

We testified in the Senate about several concerns which I understand have been addressed through better understanding and interpretation of the bill.

First of all, we were concerned in the Senate about whether this bill impacts payment of property tax, because SB 6 talks about taxes owed to the state. As you all know, the state imposes a property tax (20 mills) for education, and another 1.5 mills for educational and institutional buildings. We are under the assumption that SB 6 does not apply to payment of such property taxes because they are remitted locally.

We also were concerned that SB 6 might be applicable to income taxes owned by minority shareholders of corporations, or other entities other than the one person (individual or corporation) with the license. Once again, we have been assured that only the entity that has the license must have their income taxes paid or current.

The KRHA also expressed concern that licensees under the Liquor Control Act are, with a handful of others, the only ones to be separated out for this type of legislation. The concept of requiring individuals or businesses who receive a license, or privilege, from the state to first pay their obligations (taxes) to the state is an admirable one. However, the KRHA has decided not to oppose the legislation on that basis only.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

*House Fed & State  
03-24-99  
Attachment #6*