

Approved: February 22, 1999
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Senator Lana Oleen at 11:10 a.m. on February 16, 1999 in Room 254-E of the Capitol.

All members were present:

Committee staff present: Mary Galligan, Legislative Research Department
Russell Mills, Legislative Research Department
Theresa Kiernan, Revisors of Statutes
Judy Glasgow, Committee Secretary

Conferees appearing before the committee:

Jane Nohr, Assistant Attorney General
Jim Conant, ABC Director
Gene Johnson, Kansas Community Alcohol Safety Action Project Assoc.
Ron Eisenbarth, Kansas Alcoholism and Drug Addiction Counselors Assoc.
Sgt. Stan Conkwright, Kansas Peace Officers
Randy Rogers, Kansas Sheriffs Association

Others attending: See Attached List

Chairman Oleen called for introduction of bills. Senator Oleen introduced a bill concerning pupils and the withholding of records brought by Senator Goodwin. Senator Becker moved for introduction of the bill. Senator Harrington seconded the motion. The motion carried.

Chairman Oleen opened hearing on **SB 197- requiring certain licensees to maintain records of purchasers of certain containers of beer or cereal malt beverage.**

Mary Galligan, Legislative Research Department gave a review of the bill for the committee. Section 1 would address beer sales and Section 2 addresses cereal and malt beverages. Any sale of a container of four or more gallons would have to be registered at the time of sale by affixing a keg identification on the container by the retailer and the records must be retained by the retailer for a period of six months. The penalty for a violation will be a class B nonperson misdemeanor.

Chairman Oleen recognized Jane Nohr, Assistant Attorney General. Jane Nohr appeared before the committee as a proponent for **SB 197**. This bill is the result of Far-Reaching Alteration of Traffic and Alcohol Laws (FATAL) Task Force. (Attachment 1) One of the committee's recommendation was to propose keg registration as an important way to prevent the purchase of alcohol or cereal malt beverage for illegal use. The Attorney General's office requests that the committee amend the proposed bill in Section 1 to exclude sales made by retailers to licensed clubs, drinking establishments and caterers from the keg identification requirements. Nationally, thirteen states have enacted keg registration provisions aimed at preventing underage consumption of alcohol. This legislation sends a strong deterrent message to those over 21 years of from providing underage individuals with alcohol. She urged favorable consideration of **SB 197**.

Chairman Oleen called on Jim Conant, Director of ABC. Mr. Conant presented testimony as a proponent for **SB 197**. (Attachment 2) There are two aspects of the bill that he addressed. 1) The deterrent aspect at the time of purchase making the person think twice if the intent is to pass the beer along to minors 2) the information retained at the retail point of sale is of great investigative value to law enforcement. He ask the committee's favorable consideration of the bill.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E
Statehouse, at 11:10 a.m. on February 16, 1999.

Chairman Oleen recognized Gene Johnson, of the Kansas Community Alcohol Safety Action Project Coordinators Association. (Attachment 3) Mr. Johnson stated that a long standing problem is individuals under the legal age of 21 consuming alcoholic beverages. The idea of "keg parties" has become popular with young adults who are under legal age to consume, purchase or possess alcohol. These parties are held in rural, remote location, out of sight of law enforcement officers. **SB 197** takes positive steps in eliminating the illegal consumption of alcoholic beverages for those people under the ages of 21 in our state. He asked for support of the bill.

Chairman Oleen called on Ron Eisenbarth, Kansas Alcoholism and Drug Addiction Counselors Association. (KADACA). (Attachment 4) Mr. Eisenbarth stated that it is KADACA believes that the issue of keg registration is a most meaningful issue for legislation. "Keg parties" among the under age youth has been a problem in Kansas for many years. He believes **SB 197** has the capacity to significantly reduce the incidence of "Keg parties" by underage persons by placing the responsibility of the sale of the keg directly on adults responsible for selling the keg. He ask for support of the bill.

Chairman Oleen recognized Sgt. Stan Conkwright, of the Riley County Police Department representing Kansas Peace Officers. (Attachment 5). The Riley County Police Department does support **SB 197**. This bill gives law enforcement another tool to enforce the under age drinking laws, hold those who furnish alcohol to under age drinkers responsible for their actions and save lives.

Chairman Oleen called on Randy L. Rogers, Kansas Sheriffs Association. Randy Rogers stated that he is sheriff of Coffey County and is testifying as a proponent of **SB 197**. (Attachment 6). Sheriff Rogers stated that other serious crimes have to be considered that take place at these "Keg parties" when young people consume alcohol and those persons should be held accountable.

Chairman Oleen noted that the committee had written testimony in favor of **SB 197** from Rosalie Thornburgh, Bureau Chief of Traffic Safety in the Department of Transportation. (Attachment 7)

The proponents were questioned about whether or not there were any studies showing the keg registration had been a deterrent. Jane Nohr state there were no studies from the 13 states that had keg registration that shows this. How does law enforcement determine who is in possession of a keg if it is located in a field without any number on it? Sheriff Rogers stated that at the present time there is no way to do so.

Chairman Oleen stated that she had received a fax from Brian Dawson, Community Prevention Consultant, Hays, Kansas in support of **SB 197**. She stated that this fax will be entered into the official record. (Attachment 8)

Chairman Oleen recognized Neal Whitaker, Kansas Beer Wholesalers Association as an opponent to **SB 197**. (Attachment 9) **SB 197** will create an impossible enforcement situation. Mr. Whitaker stated that whatever is put on the keg, it will not be there when law enforcement shows up. Members of the Kansas Beer Wholesalers Association do not condone or in any way support underage consumption of beer or cereal malt beverage. One of the concerns that he had about the bill was the list maintained by retailers detailing citizens who made purchase of lawful products. He does not believe that this bill will solve underage drinking.

The chair ask if municipalities could develop their own keg registration laws. Staff responded yes.

Chairman called on Jim Scott, President elect of the Kansas Retail Liquor Dealers Association. Mr. Scott stated that he is here as an opponent to **SB 197**. (Attachment 10). This bill places the retailer in a position of policing its customers and creating a civil liability situation. Liquor retailers will become an extension of law enforcement by creating this paper trail.

The chair closed hearing on **SB 197**.

The adjourned at 12:03 p.m. The next meeting for this committee will be February 17, 1999.

SENATE FEDERAL & STATE AFFAIRS COMMITTEE GUEST LIST

DATE: FEBRUARY 16, 1999

NAME	REPRESENTING
Judy Donovan	Ses / Alcohol + Drug
Bob Eisenbath	KADACA
Steve Johnson	Ko ASAP
Craig Collins	KADACA
Jane Nohr	Attorney General
Margaret Thornburgh	KDAD
Jim Cook	ABC
Stanley Cookwright	Riley County Police Dept.
Jim Scott	KRLDA
Ann A. Campbell	KRLDA
MARGARET HARBFIELD	KRLDA
Bill Speed	KPOA / KSA
James Korman	Oleco
Jim Wilson	Oleco
Pat Struelings	Citizen / Campbell ^{Distro} Distributors
John Wilson	Citizen
Rebecca Pi	KRLDA
Don Taylor	KRLDA
James A. Carson	KRLDA

SHANNON McLEWIS
 STEVE KEARNEY
 Neal Whitaker
 Matt Strathman
 Rita and Ted Madl
 Nancy Swalberg

KDAD / ABC
 PMA
 KBWA
 Stationer Silver & In.
 Kansas Personal Dev. Ass.
 Ad office



State of Kansas

Office of the Attorney General

301 S.W. 10th Avenue, Topeka 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

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TESTIMONY OF
ASSISTANT ATTORNEY GENERAL JANE E. NOHR
BEFORE THE SENATE FEDERAL & STATE AFFAIRS COMMITTEE
RE: SENATE BILL 197
FEBRUARY 16, 1999

Madam Chairperson and Members of the Committee:

I am appearing before you today on behalf of Attorney General Carla J. Stovall and members of the Far-Reaching Alteration of Traffic and Alcohol Laws (FATAL) Task Force to ask for your support of Senate Bill 197. This bill requires the registration of all kegs and other large containers of alcoholic or cereal malt beverages when purchased to assist in identifying persons who purchase and provide to underage individuals. We would respectfully ask the committee to amend the proposed bill in Section 1 to exclude sales made by retailers to licensed clubs, drinking establishments and caterers from the keg identification requirements. This language was inadvertently omitted from the proposed bill.

Attorney General Stovall created the Task Force in June 1998 to conduct a comprehensive examination of current traffic and alcohol laws and provide recommendations to change these laws. Members on the Task Force included representatives from the legislature, judiciary, law enforcement, prosecution, defense bar, victim rights, alcohol treatment providers, insurance industry as well as officials from Kansas Department of Health and Environment, Kansas Department of Transportation/ Bureau of Traffic Safety and the Kansas Department of Revenue. The Task Force was divided into three subcommittees to concentrate on areas of prevention, administrative hearings and criminal penalties.

The prevention subcommittee focused on finding measures which would prevent persons from drinking and driving while under the influence of alcohol or drugs. One of the subcommittee's recommendation was to propose keg registration as an important way to prevent the purchase of alcohol or cereal malt beverage for illegal use. Law enforcement officials throughout the state continue to have tremendous difficulty when keg parties occur and underage individuals are allowed access to large quantities of beer. Keg registration would allow law enforcement officials to easily determine who purchased and provided the keg to underage individuals.

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Kansas Mothers Against Drunk Driving (MADD) conducted an informal survey of all law enforcement agencies regarding keg parties occurring within their jurisdiction. Seventy-one percent of the reporting 98 agencies responded that keg parties are a problem within their jurisdiction. Seventy-eight agencies reported that an estimated 624 to 701 keg parties occurred in 1998 and 69 agencies estimated at 9,213 to 10,260 minors were present at these parties. Twenty-one agencies reported 7 fatalities and 79 to 86 injuries occurred at keg parties within their jurisdiction.

Nationally, thirteen states have enacted keg registration provisions aimed at preventing underage consumption of alcohol. This legislation sends a strong deterrent message to those over 21 years of age from providing underage individuals with alcohol. This is an important preventive step which will help save lives in the future.

On behalf of Attorney General Stovall and the FATAL Task Force, I would urge your favorable consideration of Senate Bill 197.



State of Kansas

Office of the Attorney General

301 S.W. 10th Avenue, Topeka 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

Attorney General Carla Stovall's
Far-reaching Alteration of Traffic and Alcohol Laws
(FATAL) Task Force

MAIN PHONE: (785) 296-2215
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Criminal:

Brian Leininger, Kansas Highway Patrol, Topeka
Brad Ambrosier, Attorney, Elkhart
Tim Holmes, Russell County Sheriff, Russell
Don Kaufman, Moundridge
Terry Malone, Dodge City City Attorney, Dodge City
Craig Spomer, Wabaunsee County Attorney, Alma
Max Sutherland, MADD, Topeka

Administrative:

Mike Watson, Wichita Police Chief, Wichita
Jim Keller, Department of Revenue, Topeka
Mary Ann Khoury, DUI Victim Center of Kansas, Wichita
Sergeant Charlie Kohler, Kansas Highway Patrol, Salina
Senator Lana Oleen, Manhattan
Honorable John Sanderson, District Court Judge, Emporia
Stan Sutton, Kansas Department of Health and Environment, Topeka

Prevention:

Rosalie Thornburgh, Bureau of Traffic Safety, Topeka
Captain Gayle Beth, Kansas City Police Department, Kansas City
R.E. "Tuck" Duncan, Topeka
Representative David Haley, Kansas City
Gene Johnson, Sunflower Alcohol Safety Action Project, Inc., Topeka
David Nance, City Council, Pittsburg
Rick Wilborn, Alliance Insurance, McPherson

Staff:

Julienne Maska, Victims' Rights Coordinator, Topeka
Jane Nohr, Assistant Attorney General, Topeka
Nancy Lindberg, Assistant to the Attorney General, Topeka

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: Senator Lana Oleen, Chairperson
Senate Committee on Federal & State Affairs

FROM: Jim Conant, Director

RE: Senate Bill 197

DATE: February 16, 1999

Thank you for the opportunity to appear before the committee in support of Senate Bill 197. Senate Bill 197, as introduced, would provide an effective deterrent against adults purchasing beer to be furnished to underage persons. The bill would require retailers to record and retain certain information from individuals purchasing beer in kegs, including the person's name, the number from a photo ID of the person and a unique number linking that person to the keg being purchased.

The registration requirements imposed by this bill attack the problem of underage access to large quantities of beer in two significant ways. First, the recording of the purchaser's personal information prior to the sale should cause the individual to think twice if it is their intent to pass the beer along to minors. As a side benefit, this requirement also ensures that the retailer makes a careful check of the purchaser's ID and helps protect the retailer by documenting that the purchaser was of legal age. Second, the information retained at the retail point of sale is of great investigative value to law enforcement when minors are found at "keg parties," regardless of whether the keg markings remain intact.

Several arguments have historically been raised in opposition to the concept of keg registration. Retailers have voiced concern that they may bear some additional liability when product purchased at their establishment ultimately finds its way into the possession of minors. In fact, as mentioned above, the documented evidence of the purchaser's name, address and ID number would serve as proof that the retailer made a legal sale. Another argument is that minors and those adults who choose to purchase beer for them will simply switch to cans and bottles to avoid the tracking requirements imposed on kegs. Even if this is the case, the deterrent aspect is still strong, requiring much greater expense and handling to purchase the same quantities.

Keg registration is not the final answer to underage access to beer, but rather an effective tool to be used as part of a comprehensive approach in supporting retailer efforts to make only legal sales and enforcement efforts to identify adults who furnish alcohol to minors. This tool comes at minimal cost to all involved and deserves your serious consideration. I would be happy to attempt to answer any questions the committee may have.

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Testimony
Senate Federal and State Affairs Committee
Senate Bill 197
February 16, 1999

Good Morning Chairperson Senator Oleen, and Members of the Committee,

My name is Gene Johnson and I represent the Kansas Community Alcohol Safety Action Project Coordinators Association. Our organization provides 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.

We have been aware of a long-standing problem concerning individuals under the legal age of 21, who consume alcoholic beverages. This committee knows, 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 parent or guardian.

A number of unscrupulous individuals have come up with the 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 target our young adults, (often Juniors and Seniors in high school) and often younger teenagers, who are under the legal age to consume, purchase or possess alcohol in the State of Kansas. These parties, for the most part, are held in some rural, remote location, out of sight of law enforcement officers of the inquisitive public eye.

As you can surmise, 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.

There are three serious problems for underage drinking in our State of Kansas:

(1). The American Public Health Association estimates that two-thirds of the high school seniors consume alcohol, with one-third of those being binge drinkers.

(2) Underage drinking is a deadly problem for our Kansas teenagers. It is believed that last year there were at least seven fatalities directly connected with "keg parties." More teenagers die from alcohol overdose or drunk driving crashes than from all other causes combined. Also, a high proportion of teen suicides/homicides/assaults/drownings and recreational deaths and injuries, involve alcohol.

(3) There is considerable evidence supporting those who drink at a younger age are more likely to develop addiction or drinking problems later on in their lives. Reducing underage drinking will prevent future tragedies.

Unfortunately, our society seems to be sending mixed messages to our young people. They have been informed that consuming alcohol is against the law in the State of Kansas, but it is okay to

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pay and participate in consuming alcoholic beverages at keg parties presently being held in our State.

These parties encourage alcohol consumption for a young adult under the age of 21. It doesn't take a rocket scientist to figure out if there is a flat fee for an individual to attend a party, he or she will drink as much as they can to get a "good deal".

Senate Bill 197 is an excellent piece of legislation, which is taking a positive step in eliminating the illegal consumption of alcoholic beverages for those people under the ages of 21 in our State. This legislation also develops an excellent tracking device for the Alcohol Beverage Control Agency and local law enforcement to determine who purchased the alcohol to be sold or offered to people under the age of 21.

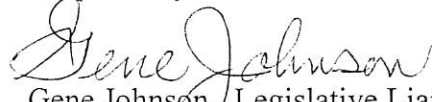
These individuals who are supporting these keg parties in order to make a fast buck, by selling alcoholic beverages to our Kansas citizens under the age of 21, should be prosecuted to the fullest extent of the Law. It is our opinion that those people out to make money by breaking the law should pay a penalty when they are apprehended.

I am attaching the latest figures provided by the organization Kansas Communities That Care Student Survey that indicates the use of alcohol by students in Kansas. As you can see by the 12th grade a majority of those persons who are students in our State schools, are using alcohol. In addition, those individuals for the most part, may have a restricted or full privilege drivers license. This combination does not work as far as traffic safety is concerned in Kansas.

Again, our organizations hope that this committee will act favorably on this piece of legislation which will help eliminate underage drinking in the State of Kansas.

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

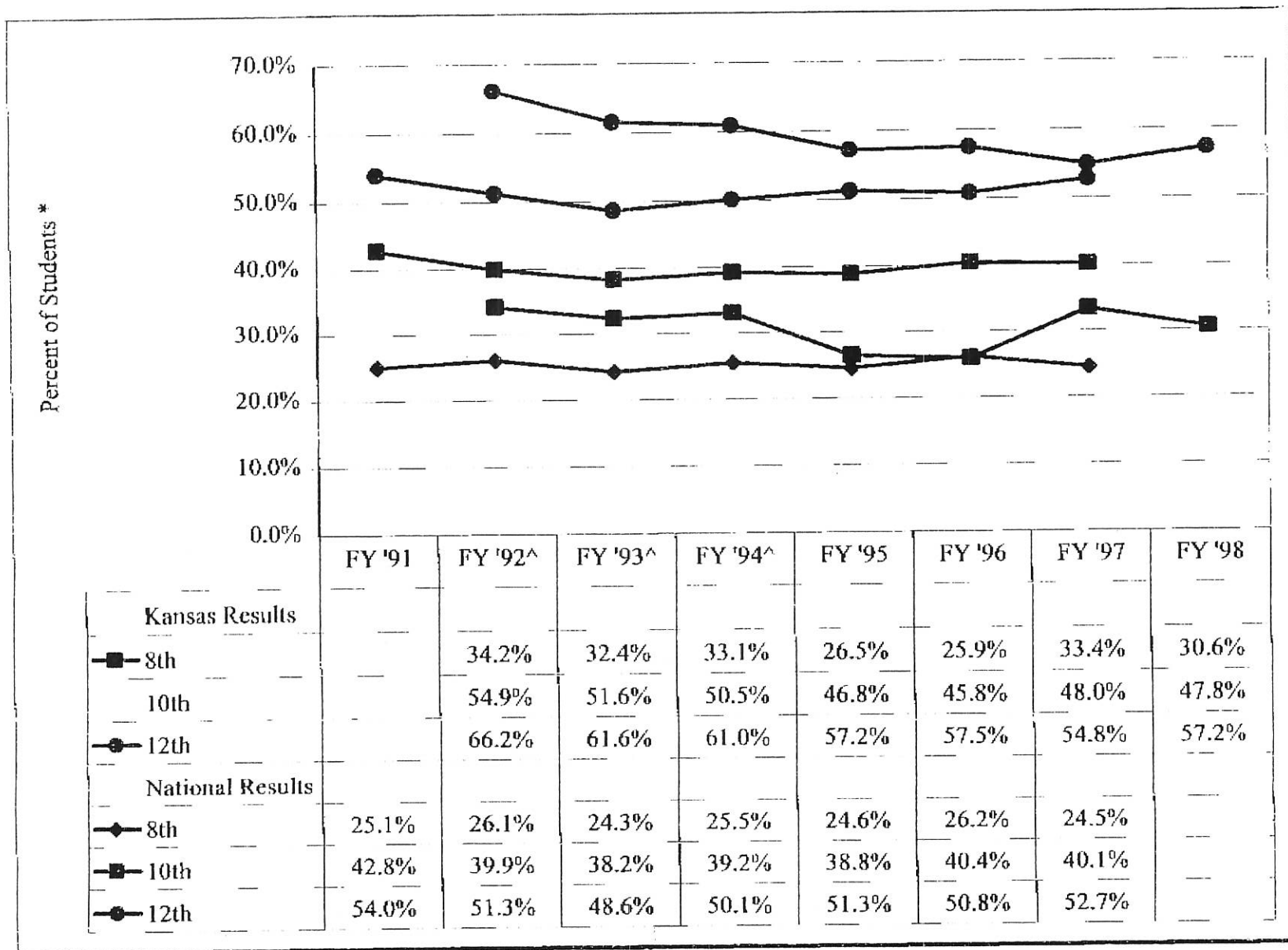
Respectfully,



Gene Johnson, Legislative Liaison
Kansas Community Alcohol Safety Action Project Coordinators Association

Usage Levels of Alcohol by Students

Kansas Communities That Care Student Survey of 6th, 8th, 10th, and 12th Graders, Public and Private School Students



* Percent of 8th, 10th, and 12th graders who indicated that they have used alcohol at least once in the last 30 days.

TESTIMONY IN SUPPORT OF SB 197 (KEG REGISTRATION)
PREPARED FOR PRESENTATION BEFORE THE KANSAS SENATE COMMITTEE ON
FEDERAL AND STATE AFFAIRS
FEBRUARY 16, 1999

Good morning.

Thank you, Madam Chairwoman and members of the committee for affording me the opportunity to provide testimony in support of what we in the alcohol and drug prevention and treatment field feel is very meaningful legislation—Senate Bill 197.

I am Ron Eisenbarth. I am appearing before you in my capacity as Chair of the Legislative Committee of the Kansas Alcoholism and Drug Addiction Counselors Association—KADACA. KADACA represents the professional interests of approximately 500 alcohol/drug counselors who work in a variety of settings across Kansas. Over the years, KADACA has supported considerable legislation involving issues of alcohol and drugs and it is our belief that the issue of keg registration is a most meaningful issue for legislation.

“Keg parties” among the under age youth, particularly at graduation and senior prom events, have been a problem in Kansas for many years. There are two main ways that underage individuals can generally obtain a keg of beer: they have an adult buy it for them or they are able to buy it for themselves from a retailer who fails to follow the law, either intentionally or accidentally, or who is deceived by false identification presented by the purchasers.

We believe SB 197 has the capacity to significantly reduce the incidence of “Keg parties” by underage persons by placing the responsibility of the sale of the keg directly on adults responsible for selling the keg.

I stand for any questions you may have regarding this brief testimony.



RILEY COUNTY POLICE DEPARTMENT

MANHATTAN, KANSAS 66502

ADMINISTRATION, TRAINING • 115 N. 4TH • (785) 537-6100 • FAX 565-6525
INVESTIGATIONS • 115 N. 4TH (785) 537-2108 • FAX 537-3640
PATROL, RECORDS • 600 COLORADO (785) 537-2112 • FAX 537-4930
JAIL • 600 COLORADO (785) 537-2112 • FAX 537-3810

ALVAN D. JOHNSON
DIRECTOR

The Riley County Police Department does support House Bill 197 dealing with the Registration of Kegs. Manhattan / Riley County like all communities in Kansas, is working to prevent under age drinking. In 1998 the Riley County Police Department made 332 alcohol violation arrests, not including 525 D.U.I. arrests.

A lot of the alcohol consumption takes place at private parties. The under age drinker knows that law enforcement checks for violations in licensed establishments. We do break up private parties and confiscate kegs for evidence where violations are taking place. At the present time we have 26 kegs in evidence. The difficult part of the follow up investigation is determining where the keg was purchased and who purchased the keg. This makes it difficult to hold the person who furnished the beer responsible for their actions.

Our reason for supporting this bill, is that it will give law enforcement another tool to enforce the under age drinking laws, hold those who furnish alcohol to under age drinkers responsible for their actions, and save lives.

Thank you for the opportunity to speak in support of this bill..



CLAY COUNTY SHERIFF'S OFFICE
605 NEOSHO ST., PO BOX 226
BURLINGTON, KANSAS 66839
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FAX (316) 364-5758
IN KANSAS TOLL FREE (800) 362-0638



LAW ENFORCEMENT BEYOND 2000

RANDY L. ROGER
SHERIFF
KENNETH RONEY, UNDERSHERIFF
JOHN LIDDELL, CHIEF DEPUTY

Senate Bill 197

As a representative of the Kansas Sheriff's Association I am testifying on behalf of the Kansas Sheriff's Association and our support of the keg registration bill. I would state that there is a significant amount of underage drinking taking place in Kansas. Routinely what will happen is that the underage drinkers will pool their money and pay someone of legal age to purchase the alcohol. The majority of the time the alcohol purchased is keg beer. Another type of situation that law enforcement is encountering is that Individuals of legal age are purchasing the keg's and having the parties. They in turn charge admission to the party and the right to drink from the keg. When law enforcement encounters these parties it is often difficult to determine who purchased the kegs and hold them accountable. Many times we simply seize the kegs and eventually the kegs are returned to distributors.

I am a Sheriff in a rural county and have 3 liquor stores in the county. When we seize kegs and are unable to determine who is responsible we contact the local liquor stores and ask for their cooperation in the investigation. The general reaction from the liquor store is that they do not wish to reveal who purchased the keg(s). When they are asked about a register or log book for the kegs they simply state that they don't maintain one.

The concern is not solely focused around the underage drinking but perhaps it would be more important to shift our focus to the many crimes and tragedies that occur as a result of these keg parties and underage drinking. I would like to give an example of a tragic situation that my Sheriff's Office recently encountered. We located a keg party of significant size and upon making contact with those at the party we observed a young man lying on the ground, unconscious, lying in his vomit and obviously intoxicated. Deputies tried to wake the young man, but were unsuccessful. An ambulance was summoned to the location for fear of the young man having alcohol poisoning. The boy was 15 years old. The same night the local hospital contacted the Sheriff's Office and advised that there was a young man in the emergency room who was receiving emergency care for injuries that were a result of a beating he had taken at the same keg party. Upon interviewing the boy he stated that he was drinking and there were 4 guys who picked a fight with him and they began to beat on him all at once and he was unable to defend himself. This boy was 16 years old. The most tragic of all is that we later discovered that a 14 year old girl that had attended the party was raped. An older boy had taken and basically fed the girl beer. She became so intoxicated that the boy forcefully had sex with the girl. When the girl got home her mother noticed that she was drunk and vomiting. The girl eventually broke down and told her mother what happened. She and her family was so embarrassed that she did not report the crime nor did they wish to pursue it.

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COFFEY COUNTY SHERIFF'S OFFICE
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LAW ENFORCEMENT BEYOND 2000

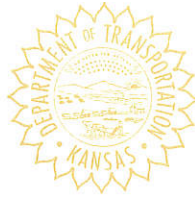
RANDY L. ROGERS
SHERIFF
KENNETH RONEY, UNDERSHERIFF
JOHN LIDDELL, CHIEF DEPUTY

We seized 3 kegs from this party. We interviewed numerous people at the party, none of which knew where the kegs came from. To date we have been unable to determine who purchased and supplied the kegs. We went to the liquor store where they were purchased and requested his assistance in determining who had purchased the kegs. He was unwilling to do so. We asked if he maintained any records as to who purchased the kegs and had his tappers for the kegs. His reply was that he didn't need any records and that he would not cooperate any further because it would effect his business.

The argument made by the liquor Industry is that it would cost to much and that it would be to difficult to enact. I disagree that through legislation and working with the many agency that would be Involved in the Implementation together we can make a difference and hold those accountable that furnish alcohol, specifically kegs to minors.

I would urge that this bill be given serious thought and focus on the needs and future of Kansas youth.

*Randy L. Rogers
Coffey County Sheriff*



**KANSAS DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY OF TRANSPORTATION**

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E. Dean Carlson
SECRETARY OF TRANSPORTATION

Bill Graves
GOVERNOR

**TESTIMONY SUBMITTED TO THE SENATE COMMITTEE ON
FEDERAL AND STATE AFFAIRS**

**REGARDING SENATE BILL 197
KEG REGISTRATION**

February 16, 1999

Madam Chairman and Committee Members:

I am Rosalie Thornburgh, Bureau Chief of Traffic Safety in the Department of Transportation. On behalf of the Department of Transportation, I am submitting testimony on Senate Bill 197 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 1997, in Kansas, young drivers accounted for twenty-one (21) percent of all alcohol-related motor vehicle crashes, as reported by police. These young drivers were involved in more than 600 alcohol-related crashes.

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.

Sen. Federal & State Affairs Comr
Date: 2-16-99
Attachment: # 7-1

FAX Message

HB- 2796 - 1996
Session
SB
197
was heard by house & died in
committee

from: *look like same bill as*

Brian Dawson
Community Prevention Consultant

Regional Prevention Center
Smoky Hill Foundation
1106 E. 27th, Suite 10
Hays, KS 67601
(785) 625-5521
Fax (785) 625-5596



*for committee
records*

Date: 2/15/99

Total # of Pages: 6 (including cover page)

Please call (785) 625-5521 if you do not receive all the pages.

To: Senator Lana Oleen
Rm. 136 - N
Fax #: 537-9194

SB - 117

COMMENTS: Dear Senator Oleen - I am faxing you my support for passing SB 197 in committee. I believe the State of Kansas needs a Keg Registration Law. Keg Registration would ease the process of tracking down the purchaser by law enforcement officials. It would take the blame off of a liquor store owner for providing alcohol to minors and would place the responsibility back on to the purchaser of the Keg. A Keg Registration Law would deter adults from buying kegs for minors. Keg Registration would help keep underage drivers from drinking and getting behind the wheel. Keg registration needs to be at the state level, which would create consistency. If passed at the state level the Alcohol and Beverage Control Agents could easily monitor the new law.

I am sending copies of petitions signed by community members who supported the last Keg Registration Bill, HB 2796. Our community knows how important a Keg Registration Law would be in making the purchase of a Keg of Beer a safer and more responsible action. Therefore, I support SB 197 and I ask that you please consider passing SB 197. Thank you for your time and consideration.

Sincerely -- Brian Dawson,

Sen. Federal & State Affairs Comm
Date: 2-16-99
Attachment: # 8-1



TESTIMONY
Senate Bill 197
Neal Whitaker, Executive Director
Kansas Beer Wholesalers Association
February 16, 1999

In the Fifties our government compiled lists of names of persons suspected of being communists. A decade later, lists were being made of persons who demonstrated for civil rights and equal rights and against the war in Vietnam. Now we are at the close of the century and the drafters of **Senate Bill 197** want to gather lists of persons who purchase less than two cases of beer in one container.

Background information provided to the FATAL Prevention Subcommittee even begins with, "While there appears to be no validated studies of the effect of keg registration legislation in reducing underage access to beer. . . November 1997 (NHTSA)", a statement that appears to be attributed to the National Highway Transportation Safety Agency, my colleagues from other states that have enacted keg registration confirm this information, saying they saw no difference in total gallons sold at retail before and after the enactment of keg registration legislation.

Members of the Kansas Beer Wholesalers Association do not condone or in any way support underage consumption of beer or cereal malt beverage. If fact, all are involved in or support community service programs designed to discourage underage consumption.

It appears that **Senate Bill 197** will create an impossible enforcement situation. Regardless of the penalty, the keg identification numbers will be removed and it will be difficult or almost impossible for law enforcement to prove who actually had possession of the container. In addition, there is nothing stopping persons who are already violating the law from buying cases rather than kegs.

Paragraph (e) also provides the Secretary of Revenue with new rules and regulation authority which says in addition that the regulations may include but shall not be limited to the provisions of establishing standards. What do the drafters of this legislation have in mind as falling under the category of *shall not be limited to*? Finally, there are the lists of names. What happens to these records? Do law enforcement agencies routinely ask licensed liquor retailers for photocopies so they can compile a list of who buys beer in kegs in their community and with what frequency? Do those lists become public record? Can local news organizations secure the information once law enforcement has copies? This amounts to an invasion of privacy of law abiding adults who consume a legal product at wedding receptions, family reunions, super bowl parties, or summer holiday events in the back yard.

Members of the Kansas Beer Wholesalers Association oppose **Senate Bill 197** because it will not solve a problem that arises in large part because young people in our society have so little oversight by their parents.

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**TESTIMONY PRESENTED TO THE
SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS
FEBRUARY 16, 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.

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, 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, and been an officer or board member for seemingly half the organizations in town. I've worked 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 figuring out how to get tourists to come to Fort Scott while leaving some of their entertainment dollars with us as they return home.

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 any office, including city councilman.

I said all of this to tell you what the 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, our only desire is that they be "silent" partners with very little hands-on participation.

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 the spouse calls telling me, "dinner is ready, can you make it home or should I bring it to the store?"

When anything happens that affects our business, such as the bill being introduced, it's not theory, it's not just a line on a financial statement. We look at it and say, "How does this affect our daily work?", "Will it affect the survival of my business?", and, finally, "Does it make sense?"

That brings us to this Keg Registration bill. The concept of the bill is, I think, fair and with good intent. But as a hands on "enactor" of this bill, I see flaws. Many of them should never have happened. Two years ago a similar bill never made it out of committee. KRLDA agreed to a request from the Committee Chair that we sit down with law enforcement entities to work out a possible solution to our differences. That invitation has not been forthcoming. When we learned the FATAL Task Force was interested in this issue, we contacted the Attorney General's office and had several telephone conversations with staff regarding the merits of the bill.

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KRLDA representatives observed a meeting of the task force and offered to cooperate to develop alternative legislation. Although the Attorney General's staff seemed optimistic, these meetings have not materialized. It never happened. The businesses most directly involved were not consulted.

If they had asked my opinion, I would have started asking them questions: What do you want to accomplish with this bill? As written, the only thing I see it doing is an attempt to lay blame and find a recipient for litigation and heaven knows Mom & Pops can't afford much of that — we can go broke just proving we didn't do anything wrong.

Does it make sense? If one of our clerks makes a clerical error in the registration of a Keg, my family business is closed for five days. I don't know how many of you know retail, but it can take months for a business to recover. I can assure you my competitors would appreciate it — until it happens to them. And my biggest competitors don't participate in any income for the state of Kansas because they are across the border in Missouri — and they don't have to worry about keg registration.

My next question relates to being a border community: Do you want Missouri kegs in Kansas? When our police or sheriff's department breaks up a keg party, they attempt to find the keg purchaser. The 100 people at the party usually all mumble that they don't know who it belongs to. And since many of these parties take place at a lake, in a field, or in someone's home who's not even at the party, there's no one to take responsibility. So the enforcement agency comes to my store. I try to help them by showing them who has recently paid a deposit on kegs. Trouble is, lots of customers never return their kegs, they just give up their deposit, because they know they can trade it for another one later. So here's my question: If we do a paper trail on that keg, how long will it take for purchasers to wise up, go buy their kegs in Missouri, and eliminate any trail that puts blame on them? The Missouri keg will not have any identification, so again the officers are without the person they want to find. By the way, if you don't believe this part about them not finding responsibility, just ask our former head of the Department of Revenue if anyone took responsibility when kegs of beer were found in his driveway in the possession of teenagers, some of which were his family members.

The bottom line is that the liquor retailer will become an extension of law enforcement by creating this paper trail to supposedly keep underage persons from acquiring kegs. Senate Bill 197 hopes to place a burden of responsibility on the purchaser. Instead, it places the retailer in a position of policing its customers and creating a civil liability situation. Even the Task Force acknowledges that there are not validated studies of the effect of keg registration legislation in reducing underage access to beer or DUI in the 12 states having some form of keg regulation.

There's other questions — if you're going to register kegs, why do it at the retail level? Am I supposed to create my own numbering system? What means do all 645 of us (as well as the thousands of convenience stores and bars) have of affixing some permanent I.D. on a keg, that someone can't just tear off and absolve themselves of any responsibility? Kegs belong to the brewery. Why not when it's brought into the state to begin with or when it's filled at a Kansas brewery? If you're determined to have a paper trail, why not begin at the beginning?

My final question is, just where does it 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

expend 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.

The retail liquor dealer may choose not to carry kegs, rather than risk a violation, or worse yet, a civil suit. The five day store closing penalty is completely out of line with the penalty structure in place for selling to an underage person.

All of my keg sales include purchase records, which are for my information and for the use of law enforcement at my discretion. If those records are to be viewed by law enforcement at any time, we believe language should be included to absolutely protect the identity of my customers until such time as criminal action is filed. Records should only be accessed in the course of an official investigation. We are very concerned about the precedent being set of recording the names of purchasers of alcoholic beverages for whatever reason. We should never be willing to invade adults' privacy rights for the sake of police action under the name of "efficiency" and "deterrence".

I'm grateful to have an opportunity to own my own business. I consider myself an average American; however, I may be the only liquor store in Kansas with a 30 foot flagpole with the American flag out front. 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.

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