

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS.

The meeting was called to order by Chairman Tony Powell at 1:30 p.m. on January 24, 2000 in Room 313-S of the Capitol.

All members were present.

Committee staff present: Theresa Kiernan, Revisor of Statutes
Russell Mills, Legislative Research
Mary Galligan, Legislative Research
Winnie Crapson, Secretary

Conferees appearing before the committee:
Rep. Jenkins
Lisa Stubbs
Ron Smith, Prince of Peace Lutheran Church
Whitney Damron, Lucas Liquor Superstore

Others attending: See attached list.

Chairman Powell opened the hearing on
HB 2637, Location of Liquor Retailers.

Representative Jenkins testified in support of the bill (Attachment #1). She stated its purpose was to provide an adequate buffer between liquor and children. Although the issue was brought to her attention by constituents, she is aware of similar concerns in other parts of the state. The development in her district is across the street from a day care operated by a church. The bill proposes to extend the present requirement of a 200-foot buffer zone to 200 yards and change the measurement from the present "premise to premise" to "property line to property line." She believes the State has accepted its responsibility to set minimum standards and this bill makes no change for local governments. She Jenkins proposed an amendment to the bill to include bars and drinking establishments (Attachment 1).

Lisa Stubbs, a resident of the 37th and Wanamaker neighborhood in Topeka and a 10-year member of Prince of Peace Lutheran Church, testified in support of the bill (Attachment #2). She believes it is absolutely necessary to provide a reasonable alcohol-free zone around churches and schools; that children and their educational and religious activities do not mix with the sale of alcohol; and that adequate restrictions need to be placed on their proximity to children and churches. In response to questions she said residents had tried their best with the local government on other issues and based upon that experience believed this should be dealt with at the state level which has the larger picture. **HB 2637** sets a minimum requirement and which local governments could change..

Ron Smith presented a resolution adopted by the Executive Board of Prince of Peace Lutheran Church of which he is President-elect (Attachment #3). The Church does not have a traditional sanctuary but a large community room which is used by a number of organizations. A nearby Catholic school uses it as their gymnasium.

Amy Campbell, Executive Director of the Retail Liquor Dealers Association, presented written questions (Attachment #4), some of which she said had been answered in the testimony of the proponents. She understands the proposed restriction would apply not only to new businesses but licensed establishments would not continue to be exempt from the restriction. The Association has taken no position on the bill.

Whitney Damron, testified in opposition to **HB 2637** on behalf of Lukas Liquor Super Store, Overland Park (Attachment #5). He stated that while this bill is about Topeka, it will affect everyone in the liquor business and urged the committee to exercise caution before more than tripling the minimum distance between liquor licensees and schools, colleges and churches. Property and property rights will be affected. The bill does nothing the Topeka City Council cannot already do.

CONTINUATION SHEET

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In response to questions as to why this should not be a local control matter, Representative Jenkins said state statute currently sets what the state believes is minimum and local governments can extend it further.

In response to questions about application of the law, Theresa Kiernan, Revisor, said this language applies to bars and drinking establishments and mirrors the language in the section that deals with liquor stores.

Representative Burroughs asked if there was objection to including other places regularly visited by children such as public libraries. Representative Jenkins said for the present situation she would like to keep this bill as clean as possible and would object to an amendment to add public libraries although she would be happy to support such legislation in the future. When asked if she had talked to members of the City Council, she responded that she had not, that it was not easy to deal with the city.

Representative Edmonds asked about including hospitals and clinics which conduct alcohol rehabilitation programs. Representative Jenkins reasserted her objection to further amendments because the developer is ready to move forward to locate a bar in the development and needs to have the opportunity to move it to the other end. **HB 2637** has to do only with minimum distance from churches and schools as a buffer area and would not prevent a sports bar or liquor store from going in at the other end of the strip mall.

Representative Klein said he was sympathetic with the particular situation Representative Jenkins was addressing and asked why “colleges” was included. Revisor Kiernan said that, too, is existing language.

Representative Rehorn said he thinks mayors are also accountable to people. Representative Jenkins said she believes the state has the responsibility to provide continuity on this issue and the responsibility to provide the base line of the minimum requirements.

No other proponent or opponent witnesses appearing, the hearing on **HB 2637** was closed and the committee began consideration of the bill.

Representative Morrison reported she had received a letter from a constituent expressing deep concern about a liquor store opening. Shortly before Thanksgiving she started to get a number of calls from people in the neighborhood concerned about the school and the Johnson Co. Mental Health Center located on this corner which treats alcoholics and drug addicts. They see people walk by the school with open containers. Over 200 people met with the Mayor and two members of the City Council.

For purposes of discussion Representative Klein moved adoption of **HB 2637** . Representative Mason seconded.

Representative Klein proposed amendment to sub-section 1(d) of **HB 2637** to state “provisions of this subsection shall not apply to premises located on property on which a licensed premise is or has been located prior to the effective date of this act.” Rep. Vickrey seconded.

Representative Klein explained he wants to protect people within the increased zone when the distance is expanded. Representative Mays said use should go with the property and not with the owner in accordance with most zoning laws.

The amendment to **HB 2637** passed 11-7.

Representative Edmonds moved an amendment to add pediatric clinics, drug and alcohol treatment centers. Rep. Burroughs seconded.

Representative Dahl: I offer a substitute motion to move this bill out favorably as amended.

Rep. Edmonds said he had concerns about items in the **HB 2637**. There are a number of items in this bill that are of some concern. I would vote against the substitute motion.

CONTINUATION SHEET

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Chairman Powell said he believed there should be a vote on Representative Edmonds' amendment.

Representative Dahl withdrew his substitute motion.

The amendment by Representative Edmonds failed.

In response to question Theresa Kiernan, Revisor, stated "church" is not defined in the Act..

Representative Mayans believes this bill is micro-managing local government and he would abstain from voting.

Representative Mason said he does not believe that this is a waste of time, that we do need space, that we are not compromising business by saying close them down. He stated he supports the bill and Representative Dahl's motion.

Representative Edmonds stated this is an important issue but this is the wrong venue. Representative Powell noted that if this was purely an issue of local control, the statute would not be in existence.

Representative Dahl moved to pass **HB 2637** the bill as amended favorable for passage. Seconded by Rep. Vining. The Motion passed 11-10.

Meeting adjourned. Next meeting will be January 25, 2000.

HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

COMMITTEE GUEST LIST

DATE: 1/24/00

NAME	REPRESENTING
Dorlene M. Lunge	Prince of Peace Hill Church
Don Lunge	"
Deon Cook	"
Ruth E. Cook	"
Sandra C. Chiles	homeowners
Harvey J. Chiles	" "
Jane J. Harmon p. ms	" "
Lisa D. Statler	" " + Prince of Peace
Mina Atencio	KSWA
Jae m. Hume	Prince of Peace Church
Mary Hume	Prince of Peace Church
Pete Bodyk	KDOR / ABC
Klasi J. Pitt	homeowner + concerned parent
Lori Schile	homeowner + concerned parent
Carol Kitta	"
Nichole Orbat	homeowner & concerned parent
Crista Seals	homeowner & concerned parent
Denny Oliver	"
Mike Bellan	"

HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

COMMITTEE GUEST LIST

DATE: 1/24/00

NAME	REPRESENTING
Carla Norcott - Nathan	PPKM
Jan Pratt	Children/neighborhood
Bridget Wood	" "
Tom Star	" "
Jackie Hunderby	neighborhood
Wendy A. Canaway	Neighborhood
RG Longino	KDOR/ABC
Neal Whitehorn	Ks Beer Wholesalers
Anne Fiess	Peterson Public Affairs Group
Laurie Williams	Governor's Office
TUCK DUKAN	Ks. wine/spirts wholesalers
Walter Dammann	Lukas Liquor Super Store
JANET K. STAMPER	KANSAS NOW

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STATE OF KANSAS

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LYNN JENKINS

REPRESENTATIVE, FIFTY-SECOND DISTRICT
5940 SW CLARION LANE
TOPEKA, KANSAS 66610
(785) 271-6585

STATE CAPITOL, ROOM 182-W
TOPEKA, KANSAS 66612-1504
(785) 296-7637



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
GOVERNMENTAL ORGANIZATION
AND ELECTIONS
INSURANCE
KANSAS 2000 SELECT
LEGISLATIVE POST AUDIT
TAXATION

DATE: January 24, 2000

TO: House Federal and State Affairs Committee

FROM: Lynn Jenkins

RE: HB #2637

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Mr. Chairman, members of the Committee, thank you for the opportunity to testify before you today in support of House Bill #2637. The purpose of this proposed legislation is simply to provide an adequate buffer between liquor and children.

This issue was brought to my attention by constituents who are concerned about a development in our district. However, this is not about Topeka. The concerns associated with this issue are not unique to our district. I am aware of similar concerns in other parts of our State.

The situation in our area is a development that is to be located across the street from a church. This church is also home to a preschool. Like most churches in Kansas, there is a lot of community activity at the church - both during the day and evening hours. In this particular case, they have an active children's and youth program, utilizing their building most every night of the week.

Under current law the premise of a liquor retailer must be at least 200 feet away from the premise of a church or a school. We feel that this is insufficient space. Also of concern, is the fact that the law indicates the measurement is from "premise to premise". This could result in a liquor store being located right next door to a church or a school, with only 200 feet of parking lot or playground as a buffer.

The proposed legislation seeks to extend this buffer to 200 yards. It also would change the measurement from "premise to premise," to "property line to property line," in an attempt to provide something other than concrete pavement as protection.

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Our intent with this legislation was to include all future retail liquor establishments, including bars that sell liquor by the drink. It is these drinking establishments that present by far the most dangerous situation if they are within close proximity to our children. However, it was recently brought to my attention that the bill's reference to "retailers" does not include such businesses. Therefore, Mr. Chairman, I would like to propose the attached amendment to the underlying bill, in order to include bars and drinking establishments.

Some may believe that this is an issue to be dealt with at the local level. And I agree. However, I also believe that the State has a right and a responsibility to set minimum standards, as well as to provide for some level of continuity within Kansas. Kansas has already established that limits are appropriate and we have attempted, under current statute, to provide for this. The proposal before you presents no real change for local governments. They will still have the ability to make further restrictions within their communities. I simply believe that the protection in statute today is not adequate. We need to extend the buffer area, and we need to provide consistency by including all establishments serving liquor.

I hope you understand that this bill does not intended to inconvenience the liquor industry in any way. In fact liquor stores and bars currently in operation will not be affected in any way by this provision.

Ensuring the safety and well being of our children is one of the most important responsibilities of this State. Therefore, on behalf of the constituents of southwest Topeka, and the entire State of Kansas, I respectfully request that the Committee pass HB #2637 out favorable for passage.

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PROPOSED AMENDMENT TO HOUSE BILL NO. 2637

On page 2, by striking all in line 6 and inserting:

"Sec. 2. K.S.A. 41-2608 is hereby amended to read as follows: 41-2608. (a) Any club or drinking establishment license issued pursuant to this act shall be for one particular premises which shall be stated in the application and in the license. No license shall be issued for a club or drinking establishment unless the city, township or county zoning code allows a club or drinking establishment at that location.

(b) The provisions of this subsection (b) shall apply to premises for which an original license was issued on or after the effective date of this act.

In addition to the limitations and requirements imposed by subsection (a), no license for a club or drinking establishment shall be issued for premises:

(1) Unless the property line of the property on which such premises are located is at least 200 yards from the property line of property on which is located any public or parochial school or college or church. If any such school, college or church is established on property located within the area described in this paragraph after the premises have been licensed, the premises shall be an eligible location for retail licensing; or

(2) not conforming to the building ordinance or laws of the state or city or, in the absence of such ordinances or laws, are not structurally in good condition or are in a dilapidated condition.

Sec. 3. K.S.A. 41-710 and 41-2608 are hereby repealed.;"

By renumbering section 3 as section 4;

In the title, in line 10, following "41-710" by inserting "and 41-2608"; in line 11, by striking "section" and inserting "sections"

Lisa D. Stubbs
6026 SW 36th St.
Topeka, KS 66614

January 24, 2000

Good afternoon ladies and gentlemen of the House Federal and State Affairs Committee. It is my pleasure to speak to you today on behalf of HB 2637. As a 10 year resident of Topeka, I have become increasingly concerned over the last 2 years at the inability of my neighbors and myself to protect the intersection outside our neighborhood, church and preschool from the encroachment of commercial retail development. These developments are not only seen as unnecessary and unwanted but also a potential safety hazard for our children who travel this road daily to get to and from their respective schools. From my kitchen, I can hear the sirens on what seems like a daily basis, at 7:30a.m. or 3:15p.m.- the time when our inexperienced high school drivers are on this 2-lane, hilly, 45 mph road, traveling to and from school. Even our Rep. Jenkins recently found herself the victim of a rear-ending accident by a high school student after returning from Career Day at the high school.

Located at the NW corner of this intersection, 37th and Wanamaker, is Prince of Peace Lutheran Church. This has been my church home for the last 10 years. Because of this, I was extremely concerned about the latest development of commercial retail directly to the south of our church that includes a proposal for a bar. While the neighbors have resigned themselves to the fact that with the current climate of our city government, we have been unable to prevent the encroachment of commercial retail on 2 of the corners, we cannot accept the encroachment of a bar on our church and preschool. We believe that it is absolutely necessary to provide a reasonable alcohol-free zone around our churches and schools.

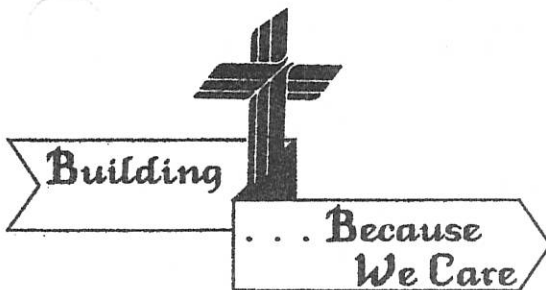
The United States has long known of a need to protect our children from the undo influence of the alcohol sales industry. While the consumption of alcoholic beverages is legal for adults, 21 years and older, even here we have laws to protect the public from too much consumption by individuals. As a teenager, I remember when alcohol ads were taken off of television because of their detrimental effect on impressionable children. Children and their educational or religious activities simply do not mix with the sale of alcohol. We already know that.

We are not implying that the sale of alcohol is an illegitimate business. However, because of the nature of their business, adequate restrictions need to be placed on their proximity to children and churches. Impressionable children and churches deserve an extra measure of protection to maintain an atmosphere that is conducive to education, worship and other religious and community activities.

As a miler on my high school track team, I measured my progress in a race by each 220 yds. that I completed (that's 1/2 a lap around the track). As an average miler, I could run that distance in less than 45 seconds, not sprinting but going at a steady pace. Today, we are talking to you about a distance of only 200 yds.-20 yds. less than the distance I just mentioned. That short of a distance is not too much to ask as an alcohol-free zone around our churches and schools.

My neighbors and I have fought the "good fight" to protect our neighborhood, church and preschool. Now, we are asking for your help. Your help to provide this type of protection, not only for our situation at 37th and Wanamaker, but protection for your communities as well, and throughout Kansas. We believe that what is good for our children and church is good for your children and churches too. We ask for your support of HB 2637. Thank you for this opportunity to voice my concerns with you this afternoon. I look forward to a positive response from your committee and the entire House and Senate.

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Prince of Peace Lutheran Church

3625 SW Wanamaker Road, Topeka, Kansas 66614-4566 (785) 271-0808

Web Page: www.princeofpeacetopeka.org

Dr. Arno H. Meyer
Pastor
271-1923

W.J. Friedrichs
Minister of Outreach
271-6266

Neil F. Buono
Minister of Discipleship & Family Life
228-1729

Kenneth Lueders
Director Christian Education
271-2302

Patty Bullock
Preschool Director
862-2738

January 23, 2000

Hon. Lynn Jenkins
Kansas Capitol Building
Statehouse
Topeka, KS 66612

Re: HB 2637

Dear Rep. Jenkins:

Thank you for introducing this legislation. Prince of Peace Lutheran Church has been at this location for over a decade, and the prospect of having a drinking establishment or retail liquor stores across the street from us is not appealing. At a special board meeting at the church this date, our Board passed the attached resolution. We hope it supports your efforts to enact HB 2637. A two-hundred-yard non-encroachment zone for new liquor or malt beverage licensees is not an undue burden on anyone.

Thanks again for your efforts, which we fully support.

Sincerely,

William E. Hiskey
President, Executive Board
Prince of Peace Lutheran Church

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Resolution

WHEREAS, in February 2000, Prince of Peace Lutheran Church will celebrate its 12th year of existence; and

WHEREAS, the governing board of the church consists of laypersons who live, work, and worship in Topeka; and

WHEREAS, the church has been located at the northwest corner of 37th and Wanamaker Road almost its entire existence; and

WHEREAS, the church has more than a thousand members which attend worship at three different weekend services; and

WHEREAS, during the week, the church offers its facilities to members and nonmembers of the church for a variety of religious, athletic, educational and interdenominational activities, and is a solid member of the southwest Topeka community; and,

WHEREAS, for nine years, the church has operated one of Topeka's better-known, quality preschools servicing over 100 children annually, and,


WHEREAS, developers and businesses continue to try and change the residential character of the 37th and Wanamaker corner into commercial establishments which are incompatible with religious life and values; and

WHEREAS, some commercial development bring to a neighborhood better value systems than other forms of development. The establishment of a business whose drawing card includes the sale of liquor or malt beverages in close confines to a Church or public or private schools, is not good community planning, and should be regulated by law;

NOW BE IT THEREFORE RESOLVED, that the Executive Board of Prince of Peace Lutheran Church hereby resolves to show its wholehearted support for highly desirable legislation establishing a liquor-free zone around a church or public or private schools wherein no commercial establishment requiring a liquor or malt beverage license could operate;

BE IT FURTHER RESOLVED that legislation such as 2000 HB 2637 establishes such a zone without harming existing businesses or licensees.

FURTHER, that the President of the Executive Board or his designee is authorized to present this Resolution, which is adopted on the 23rd day of January 2000, to members of the Kansas Legislature.


President of the Board
For the Board

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Kansas Retail Liquor Dealers Association

P.O. Box 3842
Topeka, KS 66604-6842

Phone 785-266-3963
Fax 785-234-9718

Jim Scott, President

Amy A. Campbell, Executive Director

**Testimony presented to the
House Federal and State Affairs Committee
Re: House Bill No. 2637
by Amy A. Campbell, Executive Director
Kansas Retail Liquor Dealers Association**

January 24, 2000

Mr. Chairman and Members of the Committee, my name is Amy Campbell and I am speaking to you today on behalf of the Kansas Retail Liquor Dealers Association. Members of the Kansas Retail Liquor Dealers Association are licensed owners of retail liquor stores in Kansas.

Regarding the issue before us today, the Association has not elected to oppose or promote the legislation at this time, because we have several questions to ask.

First, what property will be impacted by the legislation? It is our understanding the bill will grandfather the licensed premises of current retail stores, but will that property continue to be exempt from the new restrictions if it is sold to a new owner? What if it is sold or passed on to a family member? Can a current licensee purchase the parking lot next door for expansion?

Second, what facilities are included in the definition of "public or parochial school or college or church"? Could this definition include a day care facility or church owned retirement community? Would it include an outreach class for a community college or technical school? Would the facilities used for community college classes in small towns be included? This question may be particularly important in areas like my own home town, where the city limits barely encompass the distance of two football fields, as specified in this legislation. If a strip mall in a new housing development includes a computer training center for Baker University, must it deny a lease to a wine shop?

Third, what is the purpose of House Bill 2637? The KRLDA hopes to promote legislation which protects public safety or restricts access of underage individuals to liquor. However, we do not see the accomplishment of either purpose in this legislation. If indeed there is an important objective to be accomplished, we hope the sponsors would invite discussion with those directly affected by the bill, the men and women who currently hold these licenses.

House Bill 2637 does not address other retailers of beer and alcoholic beverages including bars, restaurants, convenience stores, and grocery stores. The outlets for 3.2 cereal malt beverages do not operate under the same State regulation as retail liquor stores. Currently, the number of retail liquor store licenses in Kansas number less than 688. This number is dropping steadily, from somewhere around 1088 in 1970 to 850 in 1990. Other retailers of cereal malt beverages and alcoholic beverages number well into the thousands.

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The retail liquor store owner is heavily regulated by the State of Kansas, subject to regular stings and audits by the Department of Revenue and the Division of ABC. Retail liquor store clerks must be of legal age and pass a background check by the Kansas Bureau of Investigation. Members of KRLDA sponsor and participate in the Techniques of Alcohol Management education course designed specifically to deter sales to underage individuals. Our members work and raise their children in the community, serving on school boards, church councils, and chambers of commerce. KRLDA members consider themselves the most responsible and regulated point of sale for alcohol to the public.

The KRLDA is fifty two years old. The Association motto is: Honorable People in an Honorable Business. I hope that you and all of the interested people in this hearing will keep the contact information from this testimony and call our office at any time to discuss questions and concerns you may have. We invite public and private discussion of these issues to achieve our common goals.

Thank you, Mr. Chairman, for permitting me to share our thoughts with you today.

WHITNEY B. DAMRON, P.A.
1100 MERCANTILE BANK TOWER
800 SW JACKSON STREET
TOPEKA, KANSAS 66612-2205
(785) 354-1354 ♦ 354-8092 (FAX)

TESTIMONY

**TO: The Honorable Tony Powell, Chairman
And Members Of The
House Federal and State Affairs Committee**

**FROM: Whitney Damron
One Behalf Of
Lukas Liquor Super Store**

**RE: HB 2637 An Act concerning the location of retail liquor stores,
Microbreweries and farm wineries.**

DATE: January 24, 2000

Good afternoon Chairman Powell and Members of the House Federal and State Affairs Committee. My name is Whitney Damron and I appear before you today on behalf of Lukas Liquor Super Store, located in Overland Park, to offer comments on HB 2637 which seeks to increase the distance between certain liquor licensees and schools, colleges and churches.

As mentioned, Lukas Liquor Super Store is located in Overland Park. As you can see from this morning's newspaper article, this bill is not about Overland Park, it is about Topeka (copy attached). However, HB 2637 is of statewide application and will affect virtually everyone in the liquor business, not just those operating in the City of Topeka.

On behalf of Mr. Lukas and his Kansas investment, which is the largest liquor store in Kansas, we urge the Committee to exercise caution before more than tripling the minimum distance between liquor licensees and schools, colleges and churches. As I

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read the current law, minimum distance requirements are measured “200 feet building-to-building”, while the new bill calls for “200 yards property line-to-property line”. A significant expansion of current law.

I cannot tell you when the 200 feet requirement was placed into statute and this law created, but from my cursory review of the statute being changed, it was at least back to 1988 and perhaps as early as 1949 (K.S.A. 41-710). I would respectfully suggest if this is the first time this issue has come up in recent memory, it isn't a real problem statewide.

Although this bill is prospective in nature, it does have an impact upon property rights for licensees, property owners and landlords. Property and property rights will be affected. Will buildings which become vacant be able to relocate licensees into formerly long-standing liquor establishments? What impact will this bill have upon development and redevelopment plans throughout our state? What impact does this bill have upon local control?

HB 2637 does nothing that the Topeka City Council cannot already do. Location of liquor licensees is a local issue. I am very familiar with the conflicts which have arisen between landowners located primarily in the Clarion Woods subdivision and developers who own property in the 37th and Wanamaker Road area of Topeka. However, we do not believe bad examples or exceptions to the rule make for good law.

The State has prescribed adequate minimum distances for these licensed premises. Local officials are already adequately empowered to address situations where conflict exists, such as the case in question. Therefore, we respectfully request this Committee take no action on HB 2637.

Thank you.

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