

MINUTES OF THE HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairperson Doug Mays at 1:40 p.m. on February 15, 2001 in Room 313-S of the Capitol.

All members were present except: Representative John Edmonds, Excused  
Representative Joann Freeborn, Excused

Committee staff present: Theresa M. Kiernan, Revisor of Statutes  
Russell Mills, Legislative Research Department  
Shelia Pearman, Committee Secretary

Conferees appearing before the committee:

Robert Alderson, Kansas Food Dealers Association, Casey's General Stores  
Terry Presta, Presto Convenience Stores  
Kim Gulley, Kansas League of Municipalities  
Robert Longino, Alcohol Beverage Control  
Gary Winget, Kansans for Life At Its Best  
R.E. "Tuck" Duncan, Kansas Wine and Spirits Wholesalers Association  
Amy Campbell, Kansas Association of Beverage Retailers  
Jim Scott, Kansas Association of Beverage Retailers President

Others attending: See attached list

Without objection bill will be introduced as requested by Representative Rehorn regarding convention and tourism committees on the local level. [HB 2515]

Without objection bill will be introduced as requested by Representative Hutchins regarding an energy assistance program increasing the poverty level to 150% of the federal guidelines. [HB 2526]

Without objection bill will be introduced as requested by Representative Hutchins regarding advanced ballot distribution at nursing homes. [HB 2531]

Without objection bill will be introduced as requested by Phillip Bradley, Kansas Licensed Beverage Association regarding bond requirements for alcoholic beverages licensees. [HB 2528]

Representative Wilson moved that Committee recommend **HB 2224** favorable for passage. Representative Burroughs seconded the motion. Motion passed.

Representative Dahl moved that Committee recommend **HB 2216** favorable for passage. Representative Benlon seconded the motion. Motion passed.

The hearing on **HB 2330 - Alcoholic beverages; one-strength beer** - was opened.

Mr. Alderson stated there is not an appreciable difference in 3.2 percent beer and 6.0 percent beer and requested reclassification permitting convenience and grocery stores the opportunity to sell the higher strength product. He noted the Attorney General's Opinion No. 87-48 (Attachment #1) stated the Legislature has the power to redefine these products. He also submitted testimony (Attachment #2) for the Petroleum Marketers and Convenience Stores. **HB 2330** would increase equalize the tax on packaged alcohol sales regardless of location purchased.

Mr. Presta discussed the Kansas liquor retailers' loss of revenue on Sunday sales experienced due to neighboring states' laws. He also provided historical information that multiple location ownership was limited since the 1937 Prohibition to prevent organized crime being prevalent in the State (Attachment #3). He requested passage of **HB 2330** to clarify current misconceptions and permit local jurisdictions the decision to increase their revenues on the sale of beer in Kansas.

Ms. Gulley stated the League's governing body agreed that the distinction between 3.2 percent and 5 percent beer is antiquated and supports **HB 2330** provided local licensing and regulatory authority is unaltered. (Attachment # 4)

Mr. Longino provided a chart (Attachment # 5) comparing liquor laws by Cereal Malt Beverage retailers and Retail Liquor stores.

Ms. Campbell noted a similar request to raise the alcohol content of cereal malt beverages also arose in the 1993 and 1994 sessions. (Attachment # 6) She stated Kansas retail liquor owners remained opposed to **HB 2330** as they did in previous session.

Mr. Scott (Attachment # 7) testified the laws are more than history, they are a part of daily lives he and his colleagues. While this bill would require regulation and enforcement to an additional 3,000 off-premise locations, this "Mom and Pop" group of businesses has decreased from nearly 1300 to 700 during the last twenty-three years for a variety of reasons.

Due to time limitations, written testimony was submitted in opposition to **HB 2330** by the following:

- Kurt Bossert - Bossert Liquor, Topeka (Attachment # 8)
- Roberson's Retail Liquor, Newton (Attachment # 9)
- Maggie Harshfield (Attachment # 10)
- Rebecca Rice, Kansas Beer Wholesalers Association (Attachment # 11)
- Whitney Damron - Lukas Liquor Super Store (Attachment # 12)
- Ray Morgan, Undersheriff - Lakin, Kansas (Attachment # 13)
- Adrienne Minton-Myers - Chalfant Liquor, Wichita (Attachment # 14)
- Doug Maryott, Maryott Wine & Spirits, Wichita (Attachment # 15)
- Kim Davis - Kim Davis Liquor Outlet, Wichita (Attachment # 16)
- Karyl J. Parish - Parish Retail Liquor, Wichita (Attachment # 17)
- Martin and Donna Platt - Platt Liquor, Wichita (Attachment # 18)
- Bart Reeb - Reeb's Retail Liquor, Topeka (Attachment # 19)

The hearing on **HB 2330** was closed.

The committee meeting adjourned at 2:45 p.m. The next scheduled meeting is February 19, 2001.

# HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

## COMMITTEE GUEST LIST

DATE: 2/15/07

NAME	REPRESENTING
Pete Bodyk	KDOR/ABC
Kurt Bossert	Bossert Liquor Store
Julie Henry	Henry & Wain
MARGARET HARSHFIELD	MAGGIE'S ADULT BEVERAGES/KASR
Phil Bradley	KLBA
Roger Rande	RGG
Whitney Jannan	Lukas C. Super Super Store
CHARLES MCGRIGG	WFNE INSTITUTE
Kelly Kuitala	City of Overland Park
Ashley Sward	Johnson County
Matt Strathman	Strathman Subs GPs
Carla Nakag	PPKM
MARTIN PLATT	PLATT LIQUOR
DONA PLATT	PLATT LIQUOR
TUCK DUKAN	Ks wine/spirit, whibaleu
Bill Henry	KGC ASSN.

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DARIN M. CONKLIN  
MARK A. BURGHART\*  
DANIEL W. CROW\*\*  
LESLIE M. MILLER  
DEBORAH FRYE STERN

TESTIMONY OF BOB ALDERSON  
ON BEHALF OF THE  
KANSAS FOOD DEALERS ASSOCIATION  
AND  
CASEY'S GENERAL STORES, INC.  
BEFORE THE HOUSE COMMITTEE ON  
FEDERAL AND STATE AFFAIRS

February 8, 2001

Chairman Mays and Members of the Committee:

My name is Bob Alderson, and I am appearing on behalf of Casey's General Stores, Inc. (Casey's) and the Kansas Food Dealers Association (KFDA) in support of House Bill No. 2330. I also am authorized to present testimony in support of this bill on behalf of the Petroleum Marketers and Convenience Store Association of Kansas, Inc., QuikTrip, Dillon's and Kwik Shop. These organizations and businesses have formed a coalition for the purpose of supporting legislation which will enable coalition members to regain an appropriate share of the market for cereal malt products.

Collectively, the coalition of retail grocers and convenience stores has thousands of locations throughout Kansas; employs thousands of Kansans, with an annual payroll in the hundreds of millions of dollars; pays millions of dollars in Kansas property taxes; and also collects and remits millions of tax dollars to the State of Kansas.

BACKGROUND

Currently, grocery stores and convenience stores are licensed to sell cereal malt beverage (CMB) in the original and unopened

House Fed. &  
State Affairs  
Date 2/15/2001  
Attachment No. 1  
Page 1 of 1



containers. CMB is statutorily defined as a cereal malt product containing not more than 3.2% alcohol by weight. CMB is commonly referred to as "3.2 beer."

Substantially all other cereal malt products are defined as "beer" and may be sold by the package only in retail liquor stores.

The law establishing the drinking age for all alcoholic beverages at 21 was passed in 1985. While the sale of beer by retail liquor stores has increased significantly since that time, there has been a corresponding decline in the sale of CMB by grocery stores and convenience stores. These trends in the sales of cereal malt products are primarily the result of a public misperception that CMB products are of a lesser quality than the cereal malt products sold in liquor stores.

This misconception originated during the time when there was a difference in the legal drinking age. Persons between the ages of 18 and 21 were allowed to purchase CMB, but were not allowed to purchase beer or alcoholic liquor. Presumably, the original distinction in creating the separate classifications of cereal malt products was to make available only to "adults" the "strong beer," based on a belief that there was a significant difference in alcoholic content of these classes of cereal malt products. As will be discussed subsequently, the truth of the matter is that there is not an appreciable difference in alcoholic content between these classes of cereal malt products. Notwithstanding, this distinction became translated into a perception that CMB was not of the same quality as beer.

Thus, when the drinking age for all alcoholic beverages was established at 21, not only did retailers of CMB lose a significant number of potential purchasers (i.e., persons who were 18, 19 and 20 years of age), persons who were 21 years of age and older began purchasing "beer" from retail liquor stores, rather than purchasing CMB from licensed CMB retailers, because of the misconception that CMB is of lesser quality than beer.

Because of these factors and the rather artificial distinction between CMB and beer, CMB retailers have lost a significant share of the market for cereal malt products. The purpose of HB 2330 is to provide the opportunity for CMB retailers to regain some of that lost market share.

HOUSE BILL NO. 2330

The coalition sponsoring HB 2330 proposes to resolve some of the confusion attending the sale of cereal malt products by the enactment of this legislation. HB 2330 recognizes that there is not an appreciable difference in alcohol content between most "beers" and CMB, by redefining these statutory terms. As redefined in HB 2330, CMB is defined to include all cereal malt products

House Fed. &  
State Affairs  
Date 2/15/2001  
Attachment No. 1  
Page 2 of 7

containing not more than 5% alcohol by weight, and "beer" will include cereal malt products having an alcohol content greater than 5% by weight.

By this reclassification of cereal malt products, retailers currently licensed to sell CMB will be authorized to sell some of the cereal malt products now available only in retail liquor stores, thereby providing the opportunity for achieving competitive equality with retail liquor stores for these products. The bill includes additional features which are designed to establish a "level playing field" for all retailers of CMB sold in the original and unopened containers. By way of summary, HB 2330 would accomplish the following:

1. As is now the case with "beer" sold by retail liquor stores, all package sales of CMB, regardless of where sold, will be subject to the 8% liquor enforcement tax.
2. Currently, sales of CMB are subject to state and local sales taxes, and HB 2330 will preserve the application of state and local sales taxes to CMB sales, regardless of where sold.
3. As a result of these tax features of HB 2330, not only will there not be a revenue loss by either the state or local units of government, HB 2330 will result in an increase in tax revenues to both the state and local units of government.
4. Establishments which currently sell CMB will continue to be licensed by local units of government. Retail liquor stores, clubs, drinking establishments and caterers, however, will be authorized to sell CMB, without having to obtain a separate CMB license.
5. The days and hours during which grocery stores and convenience stores may sell CMB have been made identical to those applicable to retail liquor stores.
6. Restrictions are imposed on below-cost selling of CMB comparable to those imposed on retail liquor dealers.
7. Retail liquor stores will be authorized to sell soft drinks, mix and various beverage-related, nonfood items.

PUBLIC POLICY CONSIDERATIONS

Throughout the Committee's deliberations regarding this legislation, it is likely that a variety of public policy considerations will be at issue. Based upon information gathered in connection with prior legislative proposals of similar import, as well as concerns we have heard expressed in visiting with legislators and others regarding this proposal, we have attempted to identify as many public policy considerations as we could, and

House Fed. &

State Affairs

Date 2/15/2001

Attachment No. 1

Page 3 of 7

the following represents a summary of these various issues and our responses to them.

**Issue:** Will redefining CMB to include cereal malt products which currently are sold only in retail liquor stores increase the availability or consumption of alcohol?

**Response:** While the proposal is expected to effect a shift in the sales of the various cereal malt products, it will not encourage an increase in the consumption of these products. Cereal malt products will continue to be available from the same retail outlets as they are at present.

As noted previously, contrary to popular perception, there is currently very little difference in alcohol content between the so-called "strong beer," now sold by the package only in retail liquor stores, and CMB. Laboratory comparisons of these two cereal malt products disclose very little difference in their alcoholic content, less than 1% when comparing most domestic products.

To illustrate, I have attached to my testimony the results of an analysis made of random samples of CMB and beer by the Kansas Bureau of Investigation in 1993. Most manufacturers of beer show on the containers of their products the alcohol content of these products, expressed as a volumetric percentage. These percentages are typically much higher than the permitted alcohol content of CMB, thereby giving the impression that beer is much stronger than CMB. However, when beer and CMB are compared for alcohol content on the same basis, as is done on the attachment, it is apparent that there is not a substantial difference in alcohol content.

Thus, the redefinition of CMB will not result in an appreciable increase in the availability of alcohol. Moreover, the proposal will not make alcoholic beverages available to any class of persons who cannot now buy these products. It must be remembered that the current system, which distinguishes between "strong beer" and cereal malt beverage originally was created for the purpose of allowing persons at least 18 years of age to purchase cereal malt beverage, but not permit them to purchase "strong beer." That is no longer true, as the drinking age for all products is 21.

**Issue:** Since the cereal malt products now sold only in retail liquor stores constitute a significant percentage of all sales by these outlets, will the authorization to sell these products at locations currently licensed as CMB retailers result in retail liquor store closings because of the lost revenue?

**Response:** Obviously, the coalition sponsoring this legislation is hoping it will result in CMB retailers recapturing some of the market they lost when the drinking age was changed to 21. However, there is no way to accurately predict the impact of this bill on any particular retail liquor store or the impact

collectively on all retail liquor stores. It should be remembered, though, retail liquor stores will not lose the right to sell any product they are currently selling, and they will continue as the only retail source of wine and other alcoholic liquor in the original and unopened containers. CMB retailers cannot sell these products.

**Issue:** Is it equitable to continue the statutory authority for persons 18 years of age and over to sell CMB, while salespersons in retail liquor stores must be at least 21?

**Response:** This is not really an issue of equity, and the different statutory circumstances attending the business of the various establishments preclude an accurate comparison. Alcoholic beverages are the only products sold by retail liquor stores, while CMB retailers who sell CMB only in the original and unopened containers (i.e., package sales) include grocery stores and convenience stores which sell a wide variety of other products. Not only will retail liquor stores be able to sell CMB, but they will continue to be authorized to sell alcoholic beverages containing much higher alcoholic content than CMB or beer. CMB retailers will not be authorized to sell liquor.

Thus, the disparity in these age levels does not create any inequity or inconsistency. Moreover, if the age level were established at 21 in all instances, it would have a significant, adverse impact on many young people who are employed by convenience stores and grocery stores, not to mention the impact on these employers.

Finally, as previously noted, the change in the nature of the product being sold does not dictate any increase in the age level. The redefined product is not liquor, and even though there will be some increase in the maximum alcoholic content of CMB, the increase is very slight, thereby negating any concern as to the welfare of the young people selling and handling these products.

**Issue:** Is it constitutionally permissible to redefine CMB?

**Response:** Attorney General Opinion No. 87-48 concluded that the Kansas Legislature has the power to define all beer containing less than 5% alcohol by weight as a cereal malt beverage (CMB), and the sponsors of this proposal are unaware of any change in the opinion of that office. Since there are no opinions of any Kansas appellate courts on this specific issue, there can be no guarantee as to this proposal's constitutionality, which is the case with most proposed legislation. However, in the absence of such definitive case law, the above-referenced Attorney General Opinion provides credible authority.



We believe that the foregoing issues represent the primary public policy considerations attending the passage of HB 2330. If the Committee identifies additional policy questions, we will be pleased to respond and provide whatever information the Committee deems pertinent to its consideration. We also trust that the Committee will sift out the "red herrings" from the real issues. For example, the suggestion that allowing CMB sales by a retailer which also sells gasoline increases the potential for drinking and driving is clearly a non-issue. We would respectfully submit that substantially all package sales of beer and CMB, whether made by a liquor store, grocery store or convenience store, are made to persons who travel to and from the point of sale in a motor vehicle. That fact is unaffected by whether the retailer also sells gasoline.

CONCLUSION

In conclusion, we want to emphasize that the real issue involved in HB 2330 is not a liquor issue. It is an economic issue. Raising the drinking age to 21, authorizing liquor by the drink and the persistent misconception by consumers that CMB is of a lesser quality than beer have all combined to produce a dramatic reduction in the sales of CMB. By allowing us to compete with retail liquor dealers on the proverbial "level playing field," HB 2330 will provide CMB retailers the opportunity to regain the share of the cereal malt product market they lost over the past several years.

We appreciate the opportunity to appear before the Committee in support of HB 2330 and I will attempt to answer any questions the Committee may have.

ALCOHOLIC CONTENT - SELECTED BEERS

PRODUCT	ALCOHOL% BY WEIGHT	
	CMB	STRONG
BUDWEISER	3.22	3.96
COORS	3.15	3.56
MILLER	3.01	3.6
BUD LIGHT	3.13	3.33
COORS LIGHT	3.14	3.29
MILLER LITE	3.05	3.22
COLT 45 MALT LIQUOR	N/A	4.58
KING COBRA MALT LIQUOR	N/A	4.81
SCHLITZ MALT LIQUOR	N/A	4.87
CORONA EXTRA BEER	N/A	3.58
FOSTERS LAGER	N/A	4.22
HEINEKEN LAGER	2.97	4.09
MOLSON CANADIAN BEER	N/A	3.87

ANALYSIS ACCURACY ± .05%

Mr. Chairman, and members of the House Federal and State Affairs Committee:

My name is Tom Palace, Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas (PMCA of Kansas), a statewide trade association representing over 360 independent Kansas Petroleum companies and convenience stores throughout Kansas.

We appreciate the opportunity to offer our comments in support of HB 2330.

HB 2330 expands the definition of cereal malt beverage (CMB) from 3.2% to 5% alcohol by weight. Currently liquor stores sell "strong" beer, and convenience stores and grocery outlets sell the "weak" beer. Kansas is one of six states that still offers two strength beers. There is public perception that there is a big difference between the two types of beers. Actually there is very little difference in the alcohol content of the strong and weak beer. The KBI conducted tests in 1993, of malt beverages sold in Kansas stores. Because strong beer and weak beer are measured differently for alcohol content, the KBI test measured the alcohol content by weight, which is how CMB is currently measured. I have included a copy of the test results with my testimony. As you can see, the difference in alcohol content when measured by the same standard is minimal, creating more confusion as to why Kansas needs two different strength beers.

In the early to mid 80's, there was a need for the two types of beers. The drinking age was such that 18 year-old people could drink at locations that sold CMB (3.2 beer), and if a person wanted a beverage that was stronger than 3.2% alcohol, the drinking age was 21. When the federal government raised the drinking age to 21 for all alcohol, the bars that sold 3.2 beer converted to clubs where beer and mixed drinks could be sold. With drinking laws requiring everyone to be 21 to buy alcohol, it makes little sense to me as to why Kansas has two different strengths of beer.

You will hear testimony from the retail liquor dealers that a move to one strength beer will put the liquor industry out of business. I find that very hard to believe. There is no doubt that there will be added pressure on the retail liquor dealers to compete at a higher level. But to change a customer's buying pattern is not something that is done easily. The convenience store industry is extremely competitive. A good customer trades at a location for many reasons. Price, location, good service, safe surroundings and cleanliness are all factors as to why a customer trades at a specific location. Retailers in any industry all compete for the same thing...the customer. Unlike the liquor industry, convenience store owners don't have the ability to legislate who their competition will be.

You will also hear testimony from liquor dealers that the age requirements for employees that serve liquor should be moved to 21. If this were to occur, there would be a dramatic decrease in the work force, negatively impacting adults under 21 and the companies they work for, not to mention the restaurants that employ adults under 21 that serve alcoholic drinks.

House Fed. &  
State Affairs

Date 2/15/2001

Attachment No. 2

Page 1 of 3

With the passage of HB 2330, additional revenues to the state will be available, as this bill includes the 8% liquor enforcement tax and the 4.9% state sales tax, on all CMB beer up to 5% alcohol by weight. Accordingly, beer sold in liquor stores, convenience stores and grocery stores would carry the same 8% liquor enforcement tax, 4.9% state sales tax and any city or county tax, thus providing additional revenues to the state and to local government.

Kansas liquor laws are old and out of date. To drink or purchase alcohol in Kansas, a person is required to be 21 years of age, even if it is non-alcoholic beer! There is NO significant reason why Kansas should continue with two strengths of beer, that is unless the liquor industry should be void of any competition!

I appreciate the opportunity to offer my comments to the committee and urge your support of HB 2330.



ALCOHOL CONTENT -SELECTED BEERS

PRODUCT	ALCOHOL %	BY WEIGHT	ADDITIONAL
	CMB	STRONG	ALCOHOL PER 12 OZ. CAN (STRONG VS. CMB)
BUDWEISER	<u>3.22</u>	<u>3.96</u>	<u>0.089 OZ.</u>
COORS	<u>3.15</u>	<u>3.56</u>	<u>0.049 OZ.</u>
MILLER	<u>3.01</u>	<u>3.6</u>	<u>0.071 OZ.</u>
BUD LIGHT	<u>3.13</u>	<u>3.33</u>	<u>0.024 OZ.</u>
COORS LIGHT	<u>3.14</u>	<u>3.29</u>	<u>0.018 OZ.</u>
MILLER LITE	<u>3.05</u>	<u>3.22</u>	<u>0.020 OZ.</u>
COLT 45 MALT LIQUOR	<u>N/A</u>	<u>4.58</u>	<u>N/A</u>
KING COBRA MALT LIQUOR	<u>N/A</u>	<u>4.81</u>	<u>N/A</u>
SCHLITZ MALT LIQUOR	<u>N/A</u>	<u>4.87</u>	<u>N/A</u>
CORONA EXTRA BEER	<u>N/A</u>	<u>3.58</u>	<u>N/A</u>
FOSTERS LAGER	<u>N/A</u>	<u>4.22</u>	<u>N/A</u>
HEINEKEN LAGER	<u>2.97</u>	<u>4.09</u>	<u>0.134 OZ.</u>
MOLSON CANADIAN BEER	<u>N/A</u>	<u>3.87</u>	<u>N/A</u>

ANALYSIS ACCURACY  $\pm$  .05%



Terry Presta  
President

Douglas Wald  
Executive Vice-President

Scott Anderson  
Supervisor

February 15, 2001

Kansas State House of Representatives  
Federal and State Affairs Committee

Chairman Mays and Members of the Committee:

My name is Terry Presta, I am the President of Presto Convenience Stores of Garden City, KS. We operate ~~convenience stores in Kansas and Missouri.~~ I am here to testify in support of HB 2330, ~~single strength beer in Kansas.~~ The beer issue in Kansas has been shrouded in ~~misconceptions for many years.~~ The biggest ~~misconception is perpetrated on the consumer.~~ Consumers are told that cereal malt beverages (CMB) at 3.2% by weight is "weak" beer and that liquor store beer at 6% by volume is "strong" beer. Consumers naturally assume that liquor store beer has almost twice the alcohol that cereal malt beverage beer does. ~~In fact when comparing both products by weight most liquor store beer is less than 3.5% by weight although some imports are around 3.9% by weight.~~ Another way of looking at it is that ~~11 CMB beers have the same amount of alcohol as 10 liquor store beers.~~ It is virtually the same product.

~~As many of you know this misconception has its roots going back to the days of prohibition. When many states initiated CMB laws and declared the product "non-intoxicating." Kansas did so in 1937. After prohibition was repealed, possibly the only rational for keeping CMB was the fact that it had a legal drinking age of 18 and liquor store beer had a legal age of 21. This distinction was removed over a decade ago when the legal age for the consumption of CMB was raised to 21.~~

Certainly, ~~one can appreciate why this deception was started back in 1937.~~ The whole country was legally dry. But in reality, people were going to drink. But now some 63 years later it is time to ~~retire this deception and honestly tell people that this is virtually the same product and allow beer to be sold under one classification.~~ This bill has been structured to allow ~~both the State of Kansas and local jurisdictions to increase their revenues on the sale of beer in Kansas.~~ I ask this committee to consider this bill on its merit and pass it out of committee favorably. Thank you.

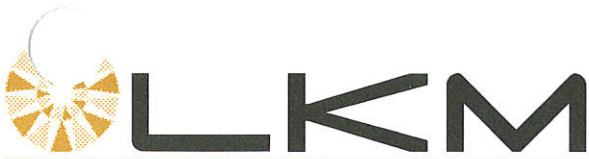
Terry Presta

House Fed. &  
State Affairs

Date 2/15/2001

Attachment No. 3

Page 1 of 1



League of Kansas Municipalities

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Topeka, Kansas 66603-3912  
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To: House Federal & State Affairs Committee  
From: Kim Gulley, Director of Policy Development & Communications  
Date: February 15, 2001  
Re: HB 2330

Thank you for allowing me to appear today on behalf of the League of Kansas Municipalities and our member cities. Because cereal malt beverage (CMB) has traditionally been regulated at the local level, we have a keen interest in this legislation and its ultimate outcome.

Under current law, CMB is basically what we call 3.2% beer. It can be sold in grocery stores, convenience stores, taverns, and restaurants. In all of these cases, the licensing and regulation of the sale of CMB is done by the city. The State does not license or regulate this sale in any way. Package liquor stores, and clubs and drinking establishments operate under a dual licensing mechanism and are licensed and regulated by both the state and the city governments. Cities may enact ordinances and regulate these establishments so long as the local ordinances do not conflict with state law. In other words, cities may be more restrictive, not less restrictive, when regulating in this area.

As we understand it, HB 2330 would redefine CMB as beer and allow it to contain 5% alcoholic content. This would allow 5% beer to be sold in grocery stores, convenience stores, taverns, and restaurants. When sold in these areas, the city would still have the authority to license and regulate such sale. As with current law, the State would not regulate these sales.

HB 2330 would also allow the sale of 5% beer in package liquor stores, and clubs and drinking establishments. When sold in these areas, it would be subject to the same dual licensing mechanism that exists today for these establishments.

The League Governing Body specifically considered the concept of doing away with the distinction between 3.2% and 5% beer at our Legislative Conference in January. They agreed that the distinction is antiquated and support the change as proposed in HB 2330, so long as local licensing and regulatory authority is not altered.

Again, I appreciate the opportunity to discuss this issue. I would be happy to stand for questions at the appropriate time.



**STATE OF KANSAS**

*Bill Graves, Governor*



**DEPARTMENT OF REVENUE**

*Stephen S. Richards, Secretary*

Robert Longino, Acting Director  
Division of Alcoholic Beverage Control  
Kansas Department of Revenue  
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Division of Alcoholic Beverage Control

To: Representative Doug Mays, Chairman House Fed and State Affairs Committee

From: Robert Longino

Date: February 15, 2001

Subj: Testimony in Response to House Bill 2330

Mister Chairman and distinguished committee members, good afternoon. I appreciate the opportunity to appear before you today in response to HB 2330. The Division of Alcoholic Beverage Control is neither a proponent nor opponent of this bill. I am here only to provide information concerning issues that may surface in this hearing and subsequent debate.

First of all I would like to point out a bit of liquor history in Kansas as I feel it is important to note from where we have come as we explore options such as that proposed by this bill.

In 1933 the 21<sup>st</sup> Amendment to the U.S. Constitution was approved and national prohibition was overturned. Each state then had the opportunity to present the issue to its citizens through the ballot. On November 6<sup>th</sup> 1934, Kansas's voters rejected a proposed constitutional amendment authorizing the Legislature to regulate and tax liquor. Although still illegal, alcoholic beverages were produced, transported into and used throughout the state. In 1937 the Legislature enacted the law that categorizes beer with an alcoholic content of 3.2% or less alcohol by weight as cereal malt beverage (CMB) which was excluded from the definition of intoxicating liquor. The law authorized the sale of CMB for both on- and off-premise consumption throughout the state and set the drinking age of CMB at 18. This now legal product was regulated by cities and counties.

Prohibition on alcoholic liquors continued into the 1940s with essentially lip service being played to enforcement. In 1946 the state's Attorney General decided that if laws were on the books, they were going to be enforced. Citizens who purchased, sold or possessed alcoholic liquor were breaking the law and would be arrested and charged. Several distinguished Kansans subsequently undertook an effort to end state prohibition. This campaign led to a proposal to end prohibition being placed on the General Election ballot in November of 1948 that passed by a vote of 422,294 to 358,310. This amendment of the Constitution authorized the legislature to "...regulate, license and tax the manufacture and sale of intoxicating liquor and may regulate the possession and transportation of intoxicating liquor. This amendment also "forever prohibited" the open saloon which meant that packaged liquor could be authorized and regulated, but that the sale of liquor by the drink in public places was prohibited.

House Fed. &  
State Affairs

Date 2/15/2001

Attachment No. 5

Page 1 of 4



The following year, 1949, the Legislature enacted the Liquor Control Act. This Act authorized the sale of liquor in counties in which the 1948 amendment had been approved. The Act created a system of regulating, licensing and taxing those package sales as well as creating the Division of Alcoholic Beverage Control to enforce the act. This was a difficult challenge for the legislature since Kansas was one of the last of the contiguous 48 states to legalize alcoholic liquor. The drinking age for alcoholic liquor was set at 21 in the Act, while the drinking age for cereal malt beverage remained at 18. Additionally, the cities and counties maintained their licensing and regulatory authority over cereal malt beverage establishments.

This new act, "the Liquor Control Act", established a scheme for the licensing and regulating the liquor industry in the state. This new public policy maintained a separation between alcoholic liquor and cereal malt beverage. Retail liquor stores sold beer, or product over 3.2% alcohol by volume, and cereal malt beverage establishments sold only product 3.2% or less alcoholic content by weight. Separate regulatory and taxing schemes were established. The bill before you changes parts of those schemes.

Obviously many changes have occurred over the intervening years, but the basic premise of cereal malt beverage has not changed much in the last 64 years. This bill makes a relatively significant change in how cereal malt beverage is classified and sold. The following chart has been provided to lay out the basic differences and similarities between the two classifications of product as they are currently offered for off-premise sale.

	Cereal Malt Beverage (CMB) Retailer	Retail Liquor Store
Product	Malt based beverage with no more than 3.2% alcohol by weight	Beverage with more than 3.2% alcohol by weight
Age	Legal age for consumption (currently 21yoa). This could change if P.L. 98-363 is ever repealed.	21 yoa
Fee	\$25-\$200 plus \$25 state stamp	\$250 license fee \$10-\$50 registration fee local occupational tax
Qualifications	Citizen Resident No felony convictions (prev. 2 yrs) No liquor law violations (prev. 2 yrs) No moral turpitude violations (prev. 2 yrs) Corporation – all managers, officers, directors and any stockholder with more than 25% meets previously listed qualifications, plus has not had a retailer's license revoked under K.S.A. 41-2708 or been convicted of a violation of the drinking establishment act or the cereal malt beverage laws of this state.	Citizen Resident No felony convictions No revocations of a liquor license No conviction for being a keeper of a house of prostitution No conviction for being the proprietor of a gambling house, pandering or any other crime opposed to decency or morality Must be 21 yoa Cannot be LEO No corporate ownership Spouse must meet eligibility requirements for a new app. (not on renewals) No beneficial interest in another liquor license

Days and hours of sale	No Sunday sales Cannot sell between midnight and 6am	No Sunday sales No sales on Memorial Day No sales on Independence Day No sales on Labor Day No sales on Thanksgiving Day No sales on Christmas Day No sales before 9am or after 11pm
Employee Restrictions	18 yoa to sell, no restriction on age to work on premises	No employees under 21 yoa
Other products licensee may sell	CMB retailer may sell just about any other product except alcoholic liquor	Can only sell alcoholic liquor, non-alcoholic liquor and lottery tickets
Taxes charged	Sales tax rate	8% liquor enforcement tax
Restrictions on sales	Cannot sell CMB below cost	May sell alcoholic liquor below cost under certain conditions. The director may issue a permit to sell below cost if:  The retailer is actually closing out the retailer's stock for the purpose of completely discontinuing sale of the item of alcoholic liquor for a period of not less than 12 months;  The item of alcoholic liquor is damaged or deteriorated in quality and notice is given to the public thereof; or  The sale of the item of alcoholic liquor is by an officer acting under the order of a court.

The following information consists of the changes reflected in the bill.

Changes:

- Both cereal malt beverage (CMB) retailers and retail liquor stores can sell CMB. The definition of beer is changed from a beverage containing more than 3.2% alcohol by weight to more than 5% alcohol by weight.
- Changes the definition of legal age of consumption to 21 yoa and deletes the language concerning P.L. 98-363
- Fees are not changed
- Qualifications for licensure are not changed
- Adds restrictions on when cereal malt beverages may be sold in the original and unopened container by a cereal malt beverage retailer to conform with the restrictions on liquor stores; not before 9:00 am or after 11:00 pm, not on Sunday, and not on the following holidays, Decoration or Memorial Day, Independence Day, Labor Day, Thanksgiving Day or Christmas Day
- Employee restrictions do not change
- Would allow a retailer (licensed liquor store) to sell soft drinks, mix, disposable cups, bottle and can openers, corkscrews, and ice

House Fed. &  
State Affairs

Date 2/15/2001

Attachment No. 5

Page 3 of 4

- Amends K.S.A. 79-4101 concerning the 8% enforcement tax. Language has been changed to reflect certain sales of cereal malt beverage. The bill adds to the collection of the 8% tax the gross receipts received from **(3) the sale of cereal malt beverage retailers (an obvious error that needs to be deleted or language added to clarify)**; and (4) the sale of cereal malt beverage by cereal malt beverage retailers in the original and unopened container for consumption off the premises.
- It also appears that cereal malt beverage retailers who sell cereal malt beverages in the original and unopened container for consumption off the premises would be required to continue to charge the sales tax along with the 8% enforcement tax
- Adds language concerning selling CMB below cost which mirrors current language of selling liquor below cost

Some additional changes:

- Prohibits the holder of a cereal malt beverage retailers license from obtaining any manufacturer's or distributor's license.
- Adds cereal malt beverage to what a club, drinking establishment or caterer cannot allow on its premises during certain times of day, and exempts licensed hotels when it concerns guests in their hotel room.
- Allows caterers to sell cereal malt beverage.
- Allows temporary permit holders to sell cereal malt beverage.

That concludes my formal testimony. I would now stand to respond to any questions you might have.

House Fed. &  
State Affairs

Date 2/15/2001

Attachment No. 5

Page 4 of 4



# The Kansas Association of Beverage Retailers

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*Amy A. Campbell, Executive Director*

TESTIMONY PRESENTED TO THE  
HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE  
Re: HB 2330  
February 15, 2001

By Amy A. Campbell, Executive Director

Mr. Chairman and members of the committee, my name is Amy Campbell and I appear before you as an opponent to this legislation on behalf of the Kansas Association of Beverage Retailers. For those of you who were not members of the Legislature in 1993 and 1994, this request to raise the alcohol content of cereal malt beverages was last raised during that session. At that time, the parties stated their differing opinions before the House Federal and State Affairs Committee. In 1989, the same idea was rejected by the Senate Federal and State Affairs Committee. Kansas business owners of retail liquor stores are disappointed, but not surprised, to be addressing the same issue again.

The same basic arguments are being made by both sides. The Legislature has not adopted any laws to lessen the competitive barriers for liquor dealers since that time, except to permit the posting of signs and the acceptance of credit card sales, which we approve and for which we thank you. Any other attempts to allow liquor retailers to operate in the same basic economic environment as other retailers have been soundly defeated by this Legislature. We are, therefore, somewhat surprised any serious consideration is being given to this legislation, which directly contradicts and conflicts with almost every other liquor related legislation considered in the past eleven years.

This is not about only a six pack of beer. The products involved include malt based coolers, which look like wine coolers; mini-kegs, and kegs. The proliferation of flavored malt based products on the market has exploded in the past ten years and this law would encourage further expansion. But this isn't really about the product at all.

National statistics indicate that beer is a small and insignificant portion of most grocery and convenience stores total sales. Beer is often used as a loss leader or promotional item to sell other merchandise. The sale of liquor store beer in all existing cereal malt beverage outlets would only move those sales from Kansas liquor stores to a multitude of other businesses. Kansas liquor stores have decreased in numbers from 1259 to around 700, and liquor store beer constitutes anywhere from 40% to 60% of most liquor store sales.

Retail liquor store owners have emphasized to this committee the stringent regulations under which they operate their businesses. Although sometimes the restrictions seem overwhelming, our members have a sense of pride in their businesses and in their role within the three tier distribution system of Kansas. Single store ownership may be a burden when trying to reduce inventories or minimize overhead; but single store ownership also minimizes the commercial pressures placed on wholesalers for special deals or bending the rules. If large grocery chains control the beer market in Kansas, rather than the smaller percentage they have now, imagine the increased pricing and advertising pressures on the wholesalers who supply the product. This could become a case of "the tail wagging the dog".

House Fed. &

State Affairs

Date 2/15/2001

Attachment No. 6

Page 1 of 7



The tax structure proposed in this bill will require liquor store owners, who now pay excise taxes on their products, to now pay sales taxes, as well. This is a new administrative burden involving additional tax filings, reports, and payments not currently encountered in this business. And we would submit that the supposed increase in excise tax income would be a limited benefit as far as the regulating agency is concerned, as there is nothing in this bill to suggest that those funds would be dedicated to enforcement.

The Kansas Association of Beverage Retailers would respectfully request this Committee consider an amendment to HB 2330 that would require all alcohol beverages and cereal malt beverages be sold by licensed retail liquor stores.

I appear before you, Mr. Chairman, also to introduce the three individuals who will speak on behalf of the Kansas Association of Beverage Retailers. Following my presentation will be Jim Scott, President of KABR. Jim will discuss with you the efforts retail liquor dealers undertake to insure compliance with underage purchasing prohibitions. He will additionally discuss the implications of enacting this legislation.

Following Jim will be Maggie Harshfield, a member of the Board of Directors from Wichita. Maggie will discuss the practical matter of competing with off-premise cereal malt beverage retailers. The Association's final conferee is Marge Roberson, past president of KABR and certified trainer for our Techniques of Alcohol Management program for retail liquor store owners and their employees. All of these conferees are long time liquor store owners, who are active in the Association and intimately familiar with the laws, rules, and regulations and other aspects of running a retail liquor store.

We can not emphasize enough the negative impact this legislation will have upon the retail liquor stores' business throughout the state. Many may have the harsh opinion the number of retailers lost is an immaterial factor. However, I would submit that this is extremely important, as this Legislature established the business practices and structure under which approximately 700 retail liquor store owners must now operate. Therefore, we assert you should feel a type of fiduciary duty towards these individuals to protect their business from unfair competitive advantages enjoyed by the cereal malt beverage retailers.

Mr. Chairman, I have requested these three conferees be brief as I know that time is precious. I have also asked others in the industry to simply submit written comments. However, we believe it is important to appear and state our case as succinctly as possible so this committee would not, in any manner, underestimate the depth of the opposition to this legislation felt by retail liquor store owners.

In summary, I would respectfully ask this Committee keep two things in mind as you hear testimony today and reflect on the testimony previously received. Ask yourself, what is the public policy being advanced by this legislation? I submit there is none. In addition, ask whether you are giving an unfair competitive advantage to large corporate entities at the expense of small businesses and, if so, what public policy is being advanced. If our projections are correct, and retail liquor store businesses are crippled by this legislation, will the same proponents be back in three years or in five years to ask this Legislature to allow them to sell other alcoholic liquor products because the retail liquor stores are so few and far between they can not serve the Kansas consumer? I submit we are headed down a road of vertical integration of the liquor industry through ownership of large corporations should you continue to erode the public policies upon which the liquor laws are now based.

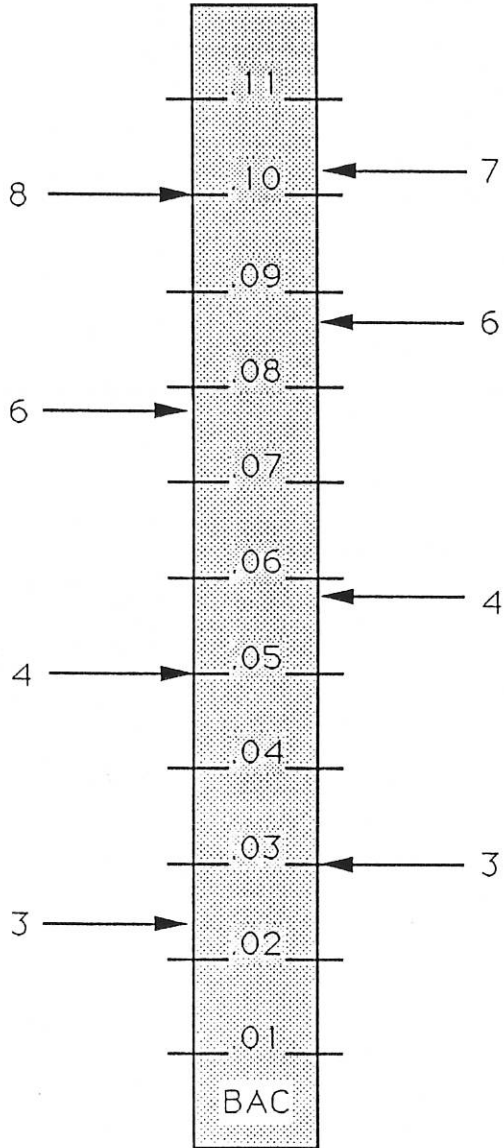
Last, but not least, Mr. Chairman, is the situation we place those 18-21 year olds who are treated as adults under the Kansas Criminal Code but as underage for purposes of purchasing alcohol. Please consider the importance of not increasing availability to those individuals.

Thank you, Mr. Chairman, and members of the Committee for your kind attention.

House Fed. &  
State Affairs  
Date 2/15/2001  
Attachment No. 6  
Page 2 of 7

NUMBER OF DRINKS AND RELATED  
BLOOD ALCOHOL CONCENTRATION  
IN ONE HOUR OF DRINKING

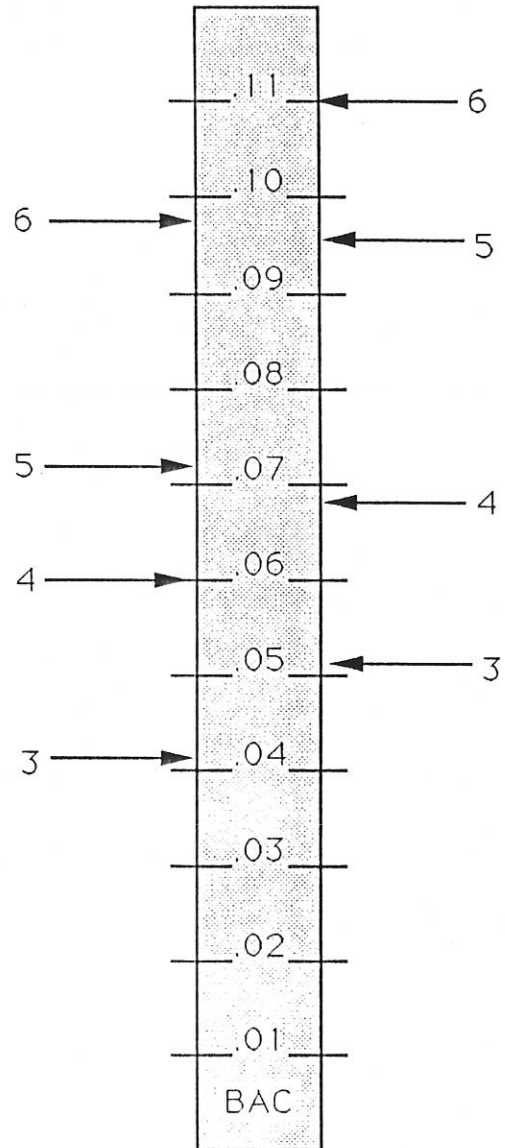
12 OZ. CANS  
@ 3.13%/WT



160 lb. Male

12 OZ. CANS  
@ 3.71%/WT

12 OZ. CANS  
@ 3.13%/WT



120 lb. Female

	CMB	STRONG
BUDWEISER	<u>3.22</u>	<u>3.96</u>
COORS	<u>3.15</u>	<u>3.56</u>
MILLER	<u>3.01</u>	<u>3.6</u>
AVERAGE	<u>3.13</u>	<u>3.71</u>

ALCOHOLIC CONTENT - SELECTED BEER

PRODUCT	ALCOHOL % BY WEIGHT		
	CMB	STRONG	
BUDWEISER	3.22	3.96	22.9%
COORS	3.15	3.56	13.0%
MILLER	3.01	3.6	19.6%
BUD LIGHT	3.13	3.33	.06%
COORS LIGHT	3.14	3.29	.04%
MILLER LITE	3.05	3.22	.05%
COLT 45 MALT LIQUOR	N/A	4.58	43.1%
KING COBRA MALT LIQUOR	N/A	4.81	50.3%
SCHLITZ MALT LIQUOR	N/A	4.87	52.1%
CORONA EXTRA BEER	N/A	3.58	11.8%
FOSTERS LAGER	N/A	4.22	31.8%
HEINEKEN LAGER	2.97	4.09	37.7%
MOLSON CANADIAN BEER	N/A	3.87	20.9%
	3.2	5.0	56.2%

ANALYSIS ACCURACY ± .05%

# MARKETPLACE

## MARKETING

### Low-Alcohol, Brightly Labeled Cocktails Stir Fears They Will Tempt Teenagers

By EBEN SHAPIRO

Staff Reporter of THE WALL STREET JOURNAL  
NEW YORK — The liquor industry is launching a fresh wave of low-alcohol cocktails that critics say will be tempting for teenagers.

Low-alcohol cocktails, bearing such familiar brand names as Jack Daniel's and mixed with fruit juice or soda, are one of the few hot segments in the stagnant spirits industry. New drinks with syrupy-sweet taste, brightly colored labels and such cutesy names as Tahitian Tangerine and Dixie Jazzberry are flooding into grocery stores and liquor outlets.

Brown-Forman Corp., flush with the success of its Jack Daniel's Country Cocktails, recently introduced a line of Southern Comfort cocktails. Grand Metropolitan PLC's Heublein Inc. is adding to its 12-proof Jose Cuervo Margaritas with a test of Smirnoff Quenchers, a lower-power line of fruity, vodka-laced drinks.

The new concoctions amount to a kind of kiddie cocktail, critics of the spirits industry contend. Some are even sold in familiar, 12-ounce aluminum cans complete with pop-tops — just like Coke's and Pepsi's.

All liquor marketers deny they are targeting underage drinkers. But critics maintain that the new mixed drinks will become more accessible for teenagers. Pressed by the deluge of new competition in the category, some spirits makers are tampering with their formulas to move beyond the restrictions of liquor stores and get greater access to thousands of supermarkets and convenience stores.

"It's an easy leap from Coca-Cola to Jim Beam and Cola. These are transitional products deliberately intended to blur the line between soft drinks and alcoholic drinks," says Jean Kibbourne, a frequent critic of the spirits industry who advises federal officials on alcohol abuse.

The low-alcohol category had sales of almost 39 million cases and \$1 billion at retail last year. Wine coolers, on the market since the mid-1980s, accounted for almost three-quarters of that. But the more recent spirits-based drinks, such as Jack Daniel's cocktails and Cuervo margaritas, provided most of the growth.

That business will boom if spirits makers have their way. Bacardi Imports Inc., besieged by late-coming rivals, is leading the move beyond the corner liquor store. In 1990, its Bacardi Breezers revital-

## Controversial Cocktails



*These low-alcohol cocktails are a growth opportunity for the stagnant spirits industry. But critics contend they are a kind of kiddie cocktail that will increase alcohol abuse among teenagers.*

ized the low-alcohol market and sold four million cases, the third-best-selling product in the industry, according to Jobson's Publishing Co. But Breezers declined 12% in shipments to 3.5 million cases last year, losing ground to Jack Daniel's cocktails (two million cases) and Heublein's margaritas (one million), according to M. Shan-ken Communications.

To try to revive sales, Bacardi recently began shipping a new series of stylish cans adorned with inviting illustrations of sliced fruit. It has also quietly remixed its recipe so the low-alcohol cocktail gets its kick from wine rather than rum, letting Bacardi get into thousands of stores that are barred from selling hard liquor.

Bacardi estimates it will gain super-market distribution in 20 new states because of the change. In New York state alone, Breezers can now be sold in 20,000 bodegas, grocery stores and convenience

stores, compared with just 2,900 liquor stores when the product was rum-based. In Texas, the Breezer line's potential distribution increased fivefold to 10,000 stores. Likewise, Seagram Co. has changed some of its coolers from wine to a malt base, the least restricted of all alcohol products, to get into grocery stores in 18 additional states.

Critics say the ultimate result of the various marketing moves will be more problem drinking among teenagers and among two growing markets for the liquor industry — young women and Hispanics.

In New York, state officials say the broader distribution of Bacardi Breezers will lead to increased consumption by minors. Mom-and-pop outlets, for instance, are more lenient than liquor stores in policing sales to underage patrons.

The broader distribution will appeal to  
Please Turn to Page B5, Column 4

2/15/2001  
Attach. 6  
pg 5 of 9

# Wave of Low-Alcohol Cocktails Raises Fears Of Teen Temptations

*Continued From Page B1*

young women, as well. Industry research shows they are more likely to buy the sweet, weak cocktails but have an aversion to shopping in liquor stores. Moving into bodegas could stir sales among Hispanic women, who had been light drinkers but now show a pattern of increased alcohol consumption.

Elva Yanez, co-chairwoman of a California coalition on Hispanic alcohol and drug abuse, calls Bacardi's move "another slimy marketing practice" for "adapting the product to the shopping practices of young women." Hispanic women, in particular, pose "an unexploited market," says Marilyn Aguirre-Molina, president of the Latino Council on Alcohol and Tobacco. "In changing their product, they are really going after the Latino community. It's one more assault on the health and well-being of the Latino community in the interest of profits. Enough is enough."

Bacardi officials say they are being singled out unfairly, given that beer and wine coolers with the same alcohol content are already widely available in grocery stores. "Everybody is there already. It isn't just us," says a spokesman for Miami-based Bacardi Imports, the U.S. marketing arm of Bacardi Ltd., Bermuda.

Distilled-spirits marketers also insist, universally, that they don't aim at underage drinkers and that they are careful in their distribution. The reason the new cocktails come in cans — American Brands Inc.'s Jim Beam unit, for example, is pushing cans of cola spiked with Jim Beam bourbon or Ronrico rum — is simply that legal drinkers prefer it that way, the companies say. About 75% of all beer is bought in cans, they point out.

The spirits companies "are lying, plain and simple," charges Laurie Dorfman, associate director of the Berkeley Media Studies Group, which tracks alcohol marketing. "They are definitely marketing to youth. They have to, from a business perspective."

To further blur the line, Bacardi even makes nonalcoholic versions of its Breezers to pass out to kids at Bacardi-sponsored street fairs and concerts. On a recent weekend, a Connecticut radio station, using two disk jockeys named Beavis and Butt-head, after the dim-bulb teenage cartoon characters that star in MTV's top-rated show, were doling out the non-alcohol Breezers at the beach. The non-alcoholic Breezers come in the same flavors and same bottles as the adult versions. Bacardi does not sell the drink in stores, using them only at company-sponsored events. The company denies that it is trying to prime the pump for its adult cocktails.

In New York City, a recent survey on high-school drinking found that the canned cocktails and such are the drink of choice among girls. (Boys prefer beer.)

Just north of the city, in affluent Harrison, teenage girls overwhelmingly prefer the low-alcohol cocktails, says Julie Lichtstein, a Harrison High School counselor. "They get them at local delis," she says.

Students in nearby Rye routinely buy the liquor-branded drinks at supermarkets where they seldom get "carded." Sandy Acevedo, a counselor at Rye High School, says, "Half the time, the kids behind the cash register are their friends."



# Drinking is high schoolers' No. 1 problem

By Michelle Healy  
USA TODAY

Alcohol remains the most serious problem facing U.S. high schools, out-distancing student apathy and poor discipline by a wide margin, student government leaders say.

Almost half — 45% — of 990 leaders surveyed by USA TODAY identify alcohol abuse as their school's No. 1 problem. In second place: apathy at 18%; discipline is third at 10%.

A similar poll last year also found alcohol the top concern.

But the most recent annual survey of students attending the National Association of Student Councils conference — ending today in Newark, Del. — indicates that teens' use of beer and liquor may be down slightly.

Asked to estimate the percentage of their schoolmates who drink booze regularly, student leaders say:

▶ 58% drink beer at least once a week (student leaders in 1992 estimated 64%).

▶ 47% drink liquor at least once a week (student leaders in 1992 estimated 52%).

But regular use of marijuana may be increasing. The students estimate that 25% of their school's enrollment use the drug at least once a week. In 1992: 20%.

The survey also shows a climb in the percent of students saying they have been physically threatened at

## Profile of a teen leader

The average student leader:

▶ Watches 2.3 movies per month and six videos per month.

▶ Watches TV 2.3 hours per day and music videos .84 hours per day

▶ Listens to music 3.4 hours per day.

▶ Reads 2.5 books per month and a newspaper 3.7 days per week.

▶ Talks on the telephone 2 hours per day.

▶ Wants to get married at age 25 and have an average 2.8 kids.

Forty-two percent have an after-school job, working an average 17 hours per week; 51% have less than \$25 spending money each week.

school, from 16% in the 1992 survey to 18% in 1993.

Boys are more likely than girls (27% vs. 13%) to have been threatened.

Nearly 7 in 10 student leaders — 69% — say they have seen a teacher verbally abused in the past year; 16% say they have seen a teacher physically abused.

▶ Opinion, 11A

House Fed. &  
State Affairs

Date 2/15/2001

Attachment No. 6

Page 7 of 7



# The Kansas Association of Beverage Retailers

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*Jim Scott, President*

*Amy A. Campbell, Executive Director*

## TESTIMONY PRESENTED BY JIM SCOTT, PRESIDENT RE: HB 2330

Mr. Chairman and members of the Committee, I thank you for allowing me to testify before you today. My name is Jim Scott. I am president of the KABR, Kansas Association of Beverage Retailers – formerly the KRLDA, Kansas Retail Liquor Dealers Association. I have a store in Fort Scott, but when I stand before you it is representing the licensed retail liquor stores across the state.

The directors on our board are all individual liquor store owners in Kansas. They are dedicated business men and women, working hard to support the cause of fellow retailers. They do this on their own time at their own expense, including meals, motel and travel. Our directors are located as close as 3 miles from this building at 21st and Fairlawn, and as far away as Hugoton, where the closest large city is Amarillo, Texas. Many of them, as well as other store owners, have braved the weather to be here today due to the seriousness of the proposal before you.

No matter what part of the state we call home, we have one thing in common – the laws governing our business. Fifty-two years ago, legislators came together in this building and repealed prohibition. This was no small exercise. Kansas began prohibition in 1881. At that time, there were 90 breweries in Kansas. Only 12 states had more breweries and each had a much higher population. What became known as the “noble experiment” began in Kansas 38 years before the rest of the United States. It ended in Kansas 16 years after the repeal of prohibition in the rest of America. Imagine what it took to put laws together governing an industry that was banned for 68 years? They were concerned, and therefore set forth very detailed, very specific laws designed to preserve Kansas tradition, while protecting society from mistakes made elsewhere.

To some, those laws they enacted are now a famous part of Kansas history. But to 700 state licensees, they are much more – a part of our daily lives. Those laws exist for a very serious reason, and that reason is the safe and regulated distribution of a legal, but necessarily government controlled product.

In 1993, the Department of Revenue and Division of ABC testified before this group that amending the law to define cereal malt beverage as a malt product of up to 5.0% alcohol content would shift up to 50% of liquor store package sales to grocery or convenience stores.

The protection of the three tier distribution system for alcoholic products in the State of Kansas is important and necessary. To cripple any level of that system is to jeopardize the State’s control of licensing and distribution. Why is that control important? Because of lessons learned during prohibition. It is necessary to control the marketing and sale of the product. It is necessary to keep the criminal element out of the business. It is necessary to assure the collection of taxes on the product. It’s critical that we control the sale and keep the product away from children. We currently face court challenges to residency licensing requirements and State control of liquor distribution. It doesn’t matter that we’ve won one of these issues in court at 2 levels. We continue to defend ourselves at the next level up. This is the type of issue that a lone retailer can’t survive. You can go broke in court just proving you were right.

House Fed. &  
State Affairs

Date 2/15/2001

Attachment No. 7

Page 1 of 5



## ACCOUNTABILITY

The Division of ABC visits our stores regularly. Agents conduct "controlled buys", assist with retailer education and a host of other inspections. Compliance agents conduct business and excise tax audits, as well as reviewing license compliance issues. My records must be ready and available to any agent that enters my store. Is this the case in the convenience stores?

Each and every liquor retailer is held accountable for every sale made from his/her store. We do not hide behind a corporate cloak. Liquor store retailers in Kansas are self-employed, paying local and state taxes, employing local adults and spending profits where we live and work, generating turnover of revenues that every community needs to survive. We are not trying to put convenience stores and grocery stores out of business. We have no interest in selling their gasoline or their Twinkies. They have their area of expertise and so do we. We're the experts in the alcohol business. The appropriate division of retail goods leaves us with an inevitable, reasonable conclusion. Our recommendation is the placing of all alcohol products in the regulated atmosphere of licensed retail liquor stores.

If you believe that there's too much alcohol access to underage Kansas, and we've heard members of this committee express that opinion, then how could you allow 3000 locations that can use 18 year olds to be in charge of their alcohol sales. If I sell to a minor, my store will be fined and closed for business for one or more days. A convenience store will only close the beer cooler for a day or so - is that accountability?

## TAM

Our Association sponsors an education program called Techniques of Alcohol Management. Members attend at no charge. This ABC certified program emphasizes responsible sales of our products. Two hundred forty-three owners and employees completed this course in 2000 and we have stepped up our seminar schedule for 2001 across the state. The detection and handling of intoxicated persons or minors is stressed repeatedly, as well as how to deal with the situation, whether it be management or police intervention. KABR supplies ID checking guides to its members, as well as other documents, including the rules and regs from ABC (which we must pay for).

## MINORS

The attempted purchase, by people under the age of 21, presents a large problem to any retail outlet. Minors have become so brave as to print their own driver's licenses or even order them off the internet. They use cut away pictures or just apply for duplicates, with someone else's birth certificate, to acquire their picture on it. We live with these situations every day we're in business. Our conventions feature anti-underage programs and free posters and materials from the Century Council. This year, we participated with KWSWA in distributing anti-underage materials to all retailers in the state. We cooperate with the Kansas Department of Transportation in their underage drinking prevention conference and programs. What we have learned from the studies conducted by these groups is that underage drinkers do not get their alcohol from liquor stores. They get it from friends who have access or from adults who are willing to purchase it for them.

So here I am, a sole proprietor of a retail store and those big chains who sell hundreds of items feel that they must take away 50% of my beer business to show a profit . . . when beer is such a small percentage of their total profit. The only winners in this picture are the out-of-state corporations, grocery stores and convenience chains. The Kansas liquor industry would be forced into an economic situation that would be chaotic at best and most likely irreversible.

There is no way to "fix" this bill to protect the public interest in the sale of alcohol products . . . or to level the playing field. No one should be able to sell any of these products unless they operate under the exact same statutes, rules and regulations we do.

Are they willing to adhere to state-mandated restrictions on location of a licensed premises?

Excise Fed. &

State Affairs

Date 2/15/2001

Attachment No. 7

Page 2 of 5

Are they willing to give up multi-location ownership?  
Will they give up their right to incorporate?  
Can all of their employees withstand the scrutiny of a background check?  
Will they go along with an inspection of their ownership or leasing rights prior to licensing?  
Are they going to continue under laws that allow felons to own and operate their business?  
Will they insist on selling alcohol and gasoline at the same location?

Members of the committee, please consider other issues.

Will Director Longino's ABC department be able to license, regulate and enforce Kansas regulations for an additional 3,000 off-premise locations?

There are those who will tell you there's no difference between 3.2% CMB and 5% beer. If you believe that to be true, then why wouldn't you demand it be placed in liquor stores under the control of trained professionals who are adult age?

We're the last group of Mom and Pop businesses in Kansas. Who else will assist in the planning of a wedding without charge? Who else will provide convenience, but not at the expense of service? Not the convenience stores. They won't even check your oil or air your tires. They represent a style of management that requires volume of business at the expense of the individual customer. What happened to the milkman? Where's the breadman or as we called him, the "Manor Man"? There was a time when you could have your toaster repaired. Now everyone owns a disposable 27-inch television.

Remember when shopkeepers cared? We still do. We're your local liquor retailers. We sell products that have been an important part of cultures around the world for hundreds of years. We're active in our communities and involved members of Kansas society. We've seen what happens to community participation when an out-of-state owned megastore replaces a dozen locally owned stores whose owners served chili to raise funds to fix up the aging community center.

Twenty years ago there were almost 1300 of us. Now there are 700. It's a tough business. Some of us couldn't keep up with the changes. Others had to get smarter to survive. We've played by the rules in the most regulated business in Kansas. We ask that you consider this when making your decisions. Thank you for this opportunity.

House Fed. &  
State Affairs

Date 2/15/2001

Attachment No. 7

Page 3 of 5

KANSAS TRAFFIC ACCIDENT FACTS  
ALCOHOL-RELATED

(STATISTICS PROVIDED BY LESLIE SPENCER FOWLER, STAFF ATTORNEY &  
OPEN RECORD CUSTODIAN, KDOT)  
(SUMMARY PREPARED BY JIM SCOTT, PRESIDENT- KANSAS ASSOCIATION OF  
BEVERAGE RETAILERS)

ACCIDENTS

YEAR	ALCOHOL-RELATED ACCIDENTS		ALCOHOL-RELATED FATALITY		ALCOHOL-RELATED NON-FATAL INJURY	
	Count	Percentage	Count	Percentage	Count	Percentage
1997	3,205	4.2%	73	17.4%	1,619	7.8%
1998	3,234	4.1%	67	15.2%	1,564	7.6%
1999	3,270	4.2%	71	15.5%	1,583	7.9%

PEOPLE

YEAR	ALCOHOL-RELATED FATALITIES		ALCOHOL-RELATED NON-FATAL INJURIES	
	Count	Percentage	Count	Percentage
1997	86	17.9%	2,508	7.9%
1998	79	16.0%	2,415	7.7%
1999	84	15.6%	2,435	8.0%

1997-4.2% OF ACCIDENTS ARE ALCOHOL-RELATED

1998-4.1% OF ACCIDENTS ARE ALCOHOL-RELATED

1999-4.2% OF ACCIDENTS ARE ALCOHOL-RELATED

(Per Staff Attorney Leslie Spencer Fowler, KDOT does not have documents prior to 1997 that address alcohol-related accidents)



## COMPARITIVE SUMMARY CMB OUTLETS..... LIQUOR STORES

<u>SUBJECT OF COMPARISON</u>	<u>CMB OUTLETS</u>	<u>LIQUOR STORES</u>
Operates under state regulating agency, the ABC	NO	YES
Primary business focus and income is alcohol-related	NO	YES
Location of licensed premise has state-mandated restrictions	NO	YES
Have an ongoing state-approved alcohol training program	NO	YES
Background check of all persons selling alcohol	NO	YES
Must be US Citizen for a minimum of 10 years	NO	YES
Must be a Kansas resident for a minimum of 4 years	NO	YES
Must have no prior license revocations for license issuance	NO	YES
Must own premises or valid lease for 1/2 of licensing period.	NO	YES
Pays \$250 licensing fee	NO	YES
Member of national association for all of retail liquor industry	NO	YES
Currently sells alcohol on federal holidays	YES	NO
May be corporate-owned, both now and as proposed	YES	NO
Owner may have more than one retail outlet selling alcohol	YES	NO
May sell alcoholic beverage and gasoline at the same location	YES	NO
Is allowed to sell product at below cost	YES	NO
Regulations allow felons to own and operate this business	YES	NO
Employees selling alcohol are underage for purchasing alcohol	YES	NO

# BOSSERT LIQUOR STORE

A FULL SERVICE LIQUOR STORE SINCE 1987  
FEDERALLY LICENSED WHOLESALER IN THE STATE OF KANSAS  
2121 SW WANAMAKER RD.  
TOPEKA, KS 66614

February 15, 2001

**RE: OPPOSING HOUSE BILL 2330**

Dear Committee Members:

This is actually a very simple issue....

*Should 18 year olds be responsible for the proper and legal sale of a stronger alcoholic beverage product of which they can not legally possess or consume?*

\_\_\_\_\_ YES                      \_\_\_\_\_ NO

*Should the laws and rules change under which independent business owners have invested their years, money, and is their livelihood that would result in a high percentage of them going out of business? Keep in mind these are businesses owned by Kansas citizens with profits remaining in Kansas.*

\_\_\_\_\_ YES                      \_\_\_\_\_ NO

It seems that if you truthfully answered these two questions you would have answered NO to both of these. Even if you answered NO to only one of these questions you should vote NO to House Bill 2330.

If you are still not convinced to vote no let me give you a little more insight on this issue. **This is the first step for the Convenience Store and Grocery Industries movement to sell all alcoholic beverages.** Common sense will tell you that is their ultimate goal. You just need to look at the other states that allow convenience stores and grocery stores to sell alcoholic beverages and you will find every store elects to sell them. They use alcoholic beverages to draw traffic into their stores by selling alcoholic beverages at or below cost. At numerous times this committee has been presented advertisements from neighboring states proving this advertising practice.

If this bill were to be approved you would see the same supporters in here asking you to allow wine sales, then next they would be in here asking for spirit sales. And once they are allowed to sell Kansas Strong Beer it would only make sense to allow them to

House Fed. &  
State Affairs

Date 2/15/2001

Attachment No. 8

Page 1 of 2

sell wine and spirits. One strong beer equals the alcohol of one glass of wine or the alcohol of one mixed drink. So of course that would be the direction of the convenience stores and grocery stores.

I have been in this business since 1987 as a liquor store owner and want to tell you Kansas has some of the best laws in the United States. It is an industry that needs strict controls and overseeing by an Alcohol Beverage Control Agency. States that have loosened their laws and allowed more freedom in the sale of alcoholic beverages regret such action. ***Keep in mind EVERY PERSON walking out of a liquor store carrying a sack MUST BE 21, we loose that control when we allow other businesses to sell alcoholic beverages.*** A sixteen year old can carry a sack out of a convenience store or a grocery store, but they surely can not from a liquor store.

In 1985 there were 1064 liquor stores in Kansas. In 1990 there were 846 liquor stores. As our state has modified the liquor laws we have seen a continuous decline in the number of these family owned businesses. Today we have approximately 645 liquor stores.

Another issue, should this bill become law, is how is it going to be enforced. The 2001 budget for the Alcoholic Beverage Control is \$2,047,562. The passage of this bill would more than double the number of licenses that would come under their control. It would appear the state would have to come up with at least another \$2,000,000. It would also appear this bill is against the wishes of the Department of Revenue; Division of Alcoholic Beverage Control. On September 26th, 2000 the acting Director, Robert Longino, of the Division of Alcoholic Beverage Control (ABC) presented testimony to the interim joint Federal and State Affairs Committee stating ***"We at ABC only regulate the products defined as 'alcoholic beverages' not Cereal Malt Beverages. I am not soliciting support to challenge this issue, believe me I have enough on my hands than trying to create a monster such as that effort would require."***

If you still feel you must support the expansion of the sales of Alcoholic Beverages then at least amend this bill so that ALL employees must be 21 years old. If you have to be 21 to possess the product and 21 to consume the product it seems only a reasonable request that the employee selling the product be 21 years old.

Respectfully submitted.



Kurt J. Bossert - Owner  
Bossert Liquor Store  
6832 SW 43rd Street  
Topeka, KS 66610  
(785) 478-9999 Fax (785) 478-9998

House Fed. &  
State Affairs  
Date 2/15/2001  
Attachment No. 8  
Page 2 of 2

Testimony Presented to the House Federal and State Affairs Committee  
Marjorie L. Roberson Roberson's Retail Liquor Newton Kansas  
February 15<sup>th</sup>, 2001

Mr. Chairman, Ladies and Gentlemen of the Committee, thank you for allowing me the opportunity to talk with you this afternoon, and ask for your opposition to HB 2330. I will not repeat all the reasons that have been given to you by Mr. Jim Scott, and Ms. Amy Campbell, other than to say they express my own views completely.

I would like to talk with you about a different aspect of HB 2330 that greatly concerns me. To give you some background, I have owned a liquor store in Newton, Kansas for over twenty years. I work very hard at following all the rules and regulations that deal with the sale of alcoholic beverages. Just as important, I see to it that all my employees understand, and follow those rules. Two years ago I chose to take an even more active role in the training of retailers and their employees, and became licensed by our National Association of Beverage Retailers, to teach a program called TAM, or Techniques of Alcohol Management. In partnership with our State ABC I became certified to teach this program to the liquor retailers and their employees.

The purpose of TAM is to teach retailers and their employees how to recognize the signs of intoxication, underage persons, and second party sales, and how to effectively deal with these problems on a daily basis. TAM enhances the cooperation between local and state law enforcement and liquor retailers towards a common goal...the enforcement of state and local liquor laws.

Each class takes a minimum of 2 ½ hours, and ends in a written test, which must be passed in order for the participant to be certified. We have prepared written materials in a notebook which includes the rules and regulations issued by the ABC, an extensive section on how to recognize false ID's, a BAC (blood alcohol content) chart, and several other pages that explain how to deal with problem situations. I encourage much class participation, which leads to productive discussions that actually help us in our stores. The ABC sends an Agent to these classes. This encourages liquor retailers and their employees to interact with an Agent in a more informal setting, opening the door to better communication. The ABC recognizes the value of these classes, and will allow a liquor retailer and all their employees to attend a TAM class in lieu of a fine or a shutdown, for a first violation, of selling to a minor in a ABC Sting operation. **LIQUOR RETAILERS ARE SERIOUS ABOUT FOLLOWING THE RULES AND REGULATIONS GOVERNING ALCOHOLIC BEVERAGES.** At this time 50% of the stores that take TAM sessions are doing so voluntarily, and not because of a sting violation. KABR offers these classes in central locations all over Kansas. This year I have already scheduled six sessions, and will conduct more, if necessary. **I WOULD LOVE TO HAVE ANY OF YOU THAT ARE INTERESTED, ATTEND A CLASS!**

I know of no program that the grocery/convenience store people utilize to train all their employees. Their high turn over in help, especially in convenience stores, would make it very difficult to keep their employees trained. Because liquor retailers take very

House Fed. &

State Affairs

Date 2/15/2001

Attachment No. 9

Page 1 of 2



seriously their responsibility of selling alcoholic beverages, the first thing we train our employees to do, is to follow the rules and regulations set down by the legislature and the ABC. We teach them how to check ID's, and then we teach them how to run registers, stock shelves, and all the other duties their job entails. Will this happen if the sale of alcoholic beverages is left to 18 year old's, that can't even legally buy alcohol? What about the additional burden of peer pressure to sell to their friends? Remember the sale of alcoholic beverages is all the liquor retailers do; it is 100% of our sales. Grocery stores and convenience stores sell many, many more products, and the sale of alcoholic beverages would be a very small portion of their total sales. Will they be as interested in investing the time, money and training to insure that they are selling alcoholic beverages safely, and within the guidelines of the law?

Alcohol is a product that has the potential to be abused. Allowing that product to go to an additional 3400 outlets, that have different priorities, other than the sale of alcoholic beverages would be setting the stage for increasing the possibility that those products get into the hands of our children.

I would ask that you oppose House Bill 2330. Thank you for listening to my views. I would answer any questions you might wish to direct to me.

Marge Roberson

House Fed. &  
State Affairs/

Date 2/15/2001

Attachment No. 9

Page 2 of 2

Testimony on House Bill 2330

By: Margaret Harshfield

February 15, 2001

Mr. Chairman and Members of the Committee:

House Bill 2330 is an attempt at redefining a liquor product to be called a cereal malt beverage so that it is more palatable to the general public so that it can be sold in more locations throughout the state. This Bill is not about beer. This Bill is the first step toward liberalizing the liquor laws of Kansas, and putting me out of business.

I opened my business in 1992 in a vacated convenience store at the corner of Douglas and Meridian in Wichita, directly across the street from a Dillons grocery store. When I made the decision to open my business I knew the law allowed me to only sell alcohol products of strong beer, liquor and wine. I also knew that the liquor industry was an extremely regulated one. I had to pass an extensive KBI background check, register all my employees (no felons can work in a liquor store), own only one store, limit the structure of my business to a sole proprietorship or partnership, and lots of other rules. I accepted all these rules knowing that no other business was allowed to sell these products. If grocery and convenience stores had been able to sell these products I would not have gone into this business. Currently my strong beer sales account for 55 % of my total sales. If I were to lose even a portion of the money from these sales I would have to close my business. I know this to be the case because I have lived with an ongoing street widening project that lasted 3 years, I held on knowing my business would come back when the construction was complete. My sales have finally recovered but I can't stay in business without the money received from strong beer sales.

My monthly payroll includes 8 full time and part time employees, which is the equivalent of 4 full time workers. The grocery stores and convenience stores will not hire additional workers if this bill passes. My employees can at least collect unemployment, which is not available to me since I am self-employed.

This product has been sold for the past 52 years in an extremely regulated environment. This Bill would allow a change in that regulation. What percentage of convenience and grocery store employees are even old enough to purchase this product. All of these businesses can hire anyone older than 16 years. What has changed so that it is now all right to sell this strong liquor product in the dairy case between the milk and the orange juice? To have any checker take the money for the purchase and to have a 16 year old carry it out to your car? The only change that I know is that the large out-of-state corporations want you to change the rules so they can take over another industry. They have already proven their ability to squash other independent businesses, look at the independent flower store, drug store, pharmacy, dry cleaner and gas station to mention just a few.

The difference in these large corporations taking over control of the other industries and now the liquor industry is that this time they need your help. My business is my only source of income. Please don't help these corporations put me out of business.

House Fed. &

State Affairs

Date 2/15/2001

Attachment No. 10

Page 1 of 1



**Testimony before the  
House Federal and State Affairs Committee  
February 15, 2001  
by  
Kansas Beer Wholesalers Association  
Re: House Bill 2330**

Chairman Mays, Members of the Committee, my name is Rebecca Rice and I represent the Kansas Beer Wholesalers Association. The KBWA is opposed to HB 2330 for the following reasons:

- The biggest issue is the substantial tax increase that is proposed by HB2330. Currently licensed liquor retailers collect only the 8% enforcement tax and cereal malt beverage retailers collect state and local sales taxes. If HB 2330 were to pass, licensed retailers would have to collect the state and local sales tax in addition to the 8% enforcement tax. The additional collection would amount to an 85% increase in taxes paid at the cash register. This tax would not be a hidden tax that was included in the price of the product but would be a tax that is delineated on the sales receipt.
- HB 2330 requires cereal malt beverage retailers to collect the 8% enforcement tax, which has never been required. This new tax is not a substitute but is an additional tax added to the state and local sales taxes they are currently collecting. The new tax on CMB will be a 117% tax increase delineated on the cash register receipt.

These increases are, to understate the legislation, a substantial tax increase.

- In addition to the main policy change, which redefines cereal malt beverage as 5% rather than 3.2%, there are several other policy changes. On page 8 line 11, a temporary permit holder is added to the list of licensees to whom a beer distributor may sell. Language on page 9 lines 33 through 38, allows liquor retailers to sell items other than alcoholic beverages. And on page 45 lines 14 and 15, there appears to be an error. The language seems to apply the 8% enforcement tax on all sales of cereal malt beverage retailers rather than on the sale of CMB by CMB retailers. If we are reading the provision correctly, we don't believe that was the intent of the organization requesting the bill.

House Fed. &  
State Affairs  
Date 2/15/2001  
Attachment No. 11  
Page 1 of 2

- The bill seems to intensify the dispute over who ultimately controls the sale of beer and alcoholic beverages – local government or the state. Although this issue could be resolved by the Supreme Court within the month, this language could rekindle the debate
- Thank you for allowing the KBWA to express its opinion on this contentious issue.



**WHITNEY B. DAMRON, P.A.**  
800 SW JACKSON STREET, SUITE 1100  
TOPEKA, KANSAS 66612-2205  
(785) 354-1354 ♦ 354-8092 (FAX)  
E-MAIL: <WBDAMRON@aol.com>

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**SUBMITTED TESTIMONY**

**TO: The Honorable Doug Mays, Chairman  
And Members Of The  
House Federal And State Affairs Committee**

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

**RE: HB 2330 – One-Strength Beer**

**DATE: February 15, 2001**

Mr. Chairman and Members of the Committee:

On behalf of my client, Lukas Liquor Super Store, I would like to provide written comments to the Committee for your consideration when deliberating the merits of HB 2330. By way of information, Lukas Liquor Super Store is the largest liquor in the state of Kansas, located in Overland Park, and is owned and operated by Harry Lukas.

HB 2330 proposes to increase the definition of cereal malt beverage to bring CMB (Cereal Malt Beverage) on par with Strong Beer, which is currently only available for package sale in liquor stores. Lukas Liquor would respectfully suggest that if CMB retailers want to sell strong beer, they should be afforded the opportunity to do so under the same restrictions as retail liquor stores, including:

- Clerks 21 years of age or older;
- Limited hours of operation (9:00 a.m. – 11:00 p.m., in most cases);
- Store sales limited to alcoholic beverages only;
- No holiday sales.
- One store (no multiple store locations).

House Fed. &  
State Affairs  
Date 2/15/2001  
Attachment No. 12  
Page 1 of 2

House Federal and State Affairs Committee  
House Bill 2330  
Page Two of Two  
February 15, 2001

If retailers want to sell alcohol products that are currently only available in liquor stores, we would respectfully suggest they open a liquor store. Liquor stores are heavily regulated by the state, for good reasons. The state has deemed the sale of liquor to be an area requiring strong regulation at the state level. CMB is currently regulated at the local level and laws are enforced at the local level as well. To shift this responsibility to local units of government is inappropriate given the current regulatory framework for liquor stores contrasted with sales and enforcement practices that pertain to CMB establishments.

In summary, Lukas Liquor Super Store believes the current system for the sale of beer in Kansas is appropriate, given the current regulation and oversight of liquor stores for sales of strong beer as compared to enforcement and regulation of CMB establishments. There are reasons strong beer is sold through liquor stores and the desire of CMB retailers to sell products currently only available at liquor stores does not justify a change in state law in this regard.

Thank you for your consideration of these comments.

House Fed. &  
State Affairs  
Date 2/15/2001  
Attachment No. 12  
Page 2 of 2

316-223-0801  
785-234-9910



# Office of the Sheriff

P.O. Box P

Lakin, Kansas 67860

James F. Jarboe, Jr.  
Sheriff

Ray C. Morgan  
Undersheriff

Phone 316-355-6211

Fax 316-355-6680

February 12, 2001

Honorable Doug Mays  
District 54  
State Capitol  
170 West  
Topeka, Kansas 66612-1504

PH: 785-296-7668  
Fax # 785-368-6365

TO: Chairman Doug Mays and all members of the Committee On Federal & State Affairs  
RE: HB # 2330

The above bill is scheduled to be heard by your committee on Thursday, February 15<sup>th</sup>. I am opposed to permitting businesses such as grocery stores, Quick Trips and etc. to sell the stronger beer which currently is sold only in liquor stores.

There are approximately 700 liquor stores, all of which have to employ persons who are at least 21 yrs. of age. There are approximately 3,400 businesses who can sell 3.2 beer. Because these businesses sell a multitude of merchandise in addition to beer, they hire high school age and up to age 20, individuals, to work in their store.

As it is now, there are barely enough ABC agents to police the 700 plus liquor stores in Kansas. Adding approximately 3,400 more businesses to the 700 liquor stores, would make it impossible for ABC to police the sale of alcohol. The approximately 3,400 non liquor stores, collectively, must have hundreds of employees under the age of 21 who would become involved in the sale of strong beer, if this house bill passes.

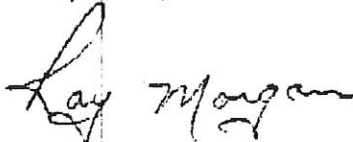
If this house bill passes, I have no doubt that not only some underage employees will be selling strong beer but some will also be selling to underage drinkers. This will substantially increase the number of underage drinkers driving on our highways resulting in more alcohol related injury accidents and traffic deaths.

House Fed. &  
State Affairs  
Date 2/15/2001  
Attachment No. 13  
Page 1 of 2

Page 2  
HB # 2330

For the past several years, local agencies have been expected to do more with less money. If this bill is passed, local agencies will be hard pressed to police the substantial increase in alcohol related crimes.

Respectfully,



Ray Morgan  
Undersheriff

P.S.

Our County attorney:  
has contacted the county chairman  
and others in our support





February 13, 2001

Mrs. Adrienne Minton-Myers  
dba Chalfant Liquor  
1332 W. MacArthur  
Wichita, Kansas 67217-2736

Re: Bill #2330  
Strong beer sales in grocery and convenience stores

To whom it may concern:

This letter is to address the concern of grocery and convenience stores selling strong beer. I would like to say first that I have been in the business for 4 years, while being the owner of this establishment for 2 years. I am a fairly new member working in this industry and have seen few changes that are for the better and some that have been for the worse.

I have a business that is growing. As long as this business is growing, I will be paying more taxes than most. As a liquor storeowner I pay more taxes to the State of Kansas than the average business owner. I don't mind paying these taxes because that is the law and it is the price of being in business.

I like this business and this is the way I support my family and my employees support theirs. If these "big" corporations come in to sell our product (strong beer) it will decrease my beer sales to which results a threat to my livelihood.

The main issue I have with this is the laws that are set upon us to follow as retailers who sell strong beer and other adult beverages.: **K.A.R. 14-13-13**

1. ***No corporations are allowed to sell alcoholic beverages or cannot obtain a license to sell.***
2. ***Cannot carry on a business for another.***
3. ***Cannot sell anything in the store that doesn't at least have a percentage of alcohol in the item.***
4. ***Ice sales must take place outside the store--this is illegal to sell inside.***
5. ***Selling ice, pop, cigarettes, party supplies, and other related items must be in a separate building with a separate entrance.***
6. ***Must have a separate license to sell and carry these products.***

In all honesty, I feel that these stores are already violating these laws. They sell beer, ice, and food products all together. In a liquor store this is against the law. We have to sell just adult beverages in one building, ice outside, and food products cannot be sold. Beer is beer whether or not if it is 3.2 or 6.0. It still contains a percentage of malt and/or alcohol.

The liquor laws of Kansas were set for a reason. These laws are to regulate who can sell and who can't. I believe in these laws and I want my rights as liquor store owner protected. This changes the history of the Kansas liquor laws, and I don't want to see these change just because someone else wants to make another dollar (like they don't make enough as it is) and take away something that is the right as an individual to be able to obtain and operate a retail liquor store. The grocery and convenience stores do not have the right to sell these products and that is why there are liquor stores.

House Rep. &  
State Affairs  
Date 2/15/2001  
Attachment No. 14  
Page 1 of 1

*Adrienne Minton-Myers*  
(316) 522-3510

February 13, 2001

Representative Doug Mays  
Topeka, Kansas

Dear Mr. Mays,

I am the owner of Maryott Wine & Spirits located in Wichita, Kansas. We have been in business almost 16 years.

I have a serious concern about the topics currently being debated in Topeka. More than my livelihood is at stake... Much more. The safety of our children and our highways are at risk. Kansas **cannot** and **must not** liberalize the laws which govern the distribution of "strong" beer. If you significantly multiply the number of distribution points for it, you also significantly increase access to it. By definition this would significantly provide more opportunities for a minor to access strong beer. This is self evident. This is simple math. It is an obvious truth.

For almost 16 years we have worked on a continuous basis to train employees how to **not** sell to minors. Minors have lied to us, threatened us and tried using fake IDs (that look very very real). They always fail, but I'm sure they'll keep trying. We persist as they persist.

Kansas liquor stores are monitored and periodically tested by the ABC in this area. Don't make their job impossible. We have worked with them 100% to ensure control. It is a system that works. We have always been successful limiting strong beer access to minors. Don't change the rules and make it easier for them. Don't send them an invitation.

How can you guarantee the same level of control if our laws change? ...You can't. You would only succeed in providing more opportunities to corrupt minors. That is **not** the direction the people of Kansas want to go. And, I really don't care about the laws in the border states... We are not Oklahoma! Let them mismanage their own affairs. This is Kansas! I am proud to say in Kansas, "we take care of our own".

Thank you for your support.



Doug Maryott  
Maryott Wine and Spirits  
Wichita, Kansas

House Fed. &  
State Affairs

Date 2/15/2001

Attachment No. 15

Page 1 of 1

## Kim Davis Liquor Outlet

3180 South Meridian  
Wichita, Ks 67217  
(316)943-0331

Dear Representative Doug Mays:

I am writing, to you, with concerns about HB 2330—the legislation being promoted by the convenience stores and grocery stores to remove the distinction in the law between cereal malt beverages and “strong” beer. This bill, that the convenience stores and grocery stores has presented, can have several negative effects on liquor store owners and the people in each of our communities. First, if this bill were to be passed, it is estimated that all liquor stores would lose 50% of their beer sales. Second, if it was passed there would be greater access, for minors, to stronger beverage alcohol. And third, there would be no consistent enforcement of the Alcohol Beverage Control.

The first point to discuss, is the effect this bill could have on liquor store owners. It could be devastating. This bill could make several “mom & pop” liquor stores have to close. Beer sales make up more than ½ of all liquor store’s sales volume and income. If it was passed, then I too, could have to close, because beer sales make up 65% of my total sales.

The second point is the accessibility of alcohol to those under the age of 21. It is estimated that by the time Kansas High School students have reached the 12<sup>th</sup> grade, 83% will have tried alcohol (WSU-Psychology Dept. June 2000). This is an alarming number that could only increase if grocery stores and convenience stores are allowed to sell strong beer. The other issue, is that an 18 year old clerk, working at the local convenience store, would now be selling stronger beverage alcohol. The combination of these two could mean more underage drinking. Something that our state has tried to control for so many years.

The third point, is the inconsistency of the ABC in controlling the sell and consumption of alcohol to minors. The ABC already has too many liquor stores and too few agents controlling the sell of alcohol to minors. By adding 600+ convenience stores and grocery stores, there is no way that the ABC and/or the local Police Departments could control the sell and consumption of alcohol.

I am asking, as a 25 year-old entrepreneur, who bought a liquor store, just under two years ago, to reject the convenience store and grocery store proposal. The effects of this proposal could be devastating to me as a small business owner.

Thank you for your time,

Kim Davis, owner

House Fed. &  
State Affairs  
Date 2/15/2011  
Attachment No. 16  
Page 1 of 1

# PARISH RETAIL LIQUOR



1620 S. MERIDIAN ♦ WICHITA KS 67213

Comments Directed to ; Doug Mays Committee Chairman  
Dale Swenson State Rep.

It has been brought to my attention, that you as a committee are considering allowing the sale of beer on Sunday, in convenience stores & grocery stores, as well as allowing those outlets to sell STRONG BEER, which as you may know is only available to Retail Liquor Stores at the present time.

As a State licensed retailer, I am a natural partner with the State of Kansas in regulated sales of Legal liquor Products, this has been my livelihood for the past 20 years & would be detrimental to our business to have the loss of beer to our retail business. Surely you anticipate the problems that making such a move would create, as who will bear the responsibility to see that these products are sold according to existing rules & regulations .

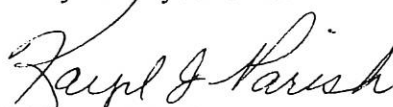
At the present time we , Licensed Retailers , bear the responsibility Of employing only 21 year olds, with clean records, no morals charges, drug or alcohol convictions, & we see that they have proper Training in the sale of alcohol & Beer, as recommended by Alcoholic Beverage Control Division. I assure you as a Liquor Retailer, this is not something to be taken lightly , The fines resulting in noncompliance are hefty & and we are subjected to vigorous sting operations, conducted by the A B C .

Do we have the manpower to enforce rules regulations to over 2000 additional outlets? As I have spoken to A B C agents at TAM sessions , conventions, & other functions around the state, they are frustrated with the overwhelming aspects of underage drinking, enforcement tax, & conducting sting operations to ensure NO underage purchases are made, by minors or allowed by Retail liquor Store .

.How can you possibly give consideration to a bill that would only contribute more to drinking of Strong Beer on Sunday, and creating a situation that would only wind up in the wrong hands,(underage salespersons, selling to underage )?

We have the best & most workable form of control & Enforcement. We all want to keep liquor products under control, & to be used in moderation , Please do not proceed with further consideration of this bill. As Kansans we would all loss if this bill is allowed to proceed further.

Thank you for your time:

  
KAYRL J. PARISH

House Fed. &  
State Affairs

Date 2/15/2001

Attachment No. 17

Page 1 of 1

2/12/01

Dear Rep. Powell:

I appreciated the opportunity to visit with you last night. I'm sorry I had to bother you at home, but I wasn't sure if I would have another chance to catch you before you had to be back in Topeka.

We know HB2330 and HB2195 are horrible ideas for our business (our store sells 60% beer) and we believe these bills are a bad concept for not only our industry, but also our state. We do not need:

1. Stronger beer in more hands.
2. Untrained, unregistered 18 year olds selling stronger beer.
3. If beer is taken away from the Dillons, Wal-Marts, and Quiktrips of the world, these huge corporations would just keep on going; if strong beer is taken away from our "mom and pop" liquor stores of Kansas, a lot of us would be out of business.

There are many other points of contention and concern, but we're sure our position is very clear. Please be sure to let us know if there are any questions we can answer. Thank you for your service to our city and state.

Sincerely,



Martin and Dona Platt  
Platt Liquor  
725 W. 29th St. North  
Wichita, Ks. 67204

Work 316-838-8880  
Home 316-652-0776

cc: Rep. Doug Mays, Chairman  
Rep. Joe McLeland  
Rep. Melany Barnes  
Amy Campbell KABR

Rep. Becky Hutchins, Vice-Chairman  
Rep. Todd Novascone  
Rep. Ruby Gilbert

FEB 13 2001

House Fed. &  
State Affairs

Date 2/15/2001

Attachment No. 18

Page 1 of 1



Mr. Chairman Doug Mays.

My name is Bart Reeb I am a small business owner of liquor store. You have bill this week [2330] that is coming it says that big supermarket chains, small convient stores may sell strong beer . That is 6.0 percent and other related liquors in their store. You see this is my lively hood my little niche in this market of enterprise. I would like you to vote down this bill in favor of the small buiness man I would not be able to compete in this size of market, please Mr. Chairman for a father of two boys and a wife. I'm 41yrs old this is all I have. Thank you for reading my concern Bart Reeb 2718 sw lagito Topeka Ks. Ps I no I'm watch to make sure I'm doing my job right not to sell to minors how can the size of this market be controlled. Let us retailers be watch and controlled. Thank you Sir.

Bart Reeb  
Reeb's Retail Liquor