

MINUTES OF THE HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairperson Doug Mays at 1:35 p.m. on March 20, 2001 in Room 313-S of the Capitol.

All members were present except: Representative Mary Cook, Excused

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

Conferees appearing before the committee:

Rosalie Thornburg, Bureau Chief Traffic Safety KDOT
Dan Hermes, Kansas Alcohol Safety Action Project Association
Robert Longino, Alcohol Beverage Control Director
Tuck Duncan, Kansas Wine and Spirits Association
Neal Whitaker, Kansas Beer Wholesalers Association
Amy Campbell, Kansas Association of Beverage Retailers

Others attending: See attached list

The Chairman re-opened the hearing on **SB 328 - Beer and cereal malt beverage keg registration act.**

Ms. Thornburg testified for passage of **SB 328** to add a potentially effective deterrent to underage drinking and driving when used as part of a comprehensive program. (Attachment #1) In 1999, young drivers in Kansas were involved in 18 percent of all alcohol-related motor vehicle crashes, as reported by police. Drivers age 14-20 were 15 percent of all DUI arrests are drivers under the age of 21 although this age group is approximately 11 percent of the total licensed driver population.

Mr. Hermes also supported the bill as a mechanism for tracking the kegs back to the legal purchaser which encourage strict enforcement, quality education and treatment for the offender when law enforcement discovers drinking opportunities or underage drinkers. (Attachment #2)

Mr. Longino addressed questions from committee members. Local communities want uniformity in registration laws and standardization procedures. Reasonable suspicion of wrongdoing must exist prior to investigating records with no penalty for first violation but required educational training. The list of purchasers was compared to that of the video store rental list of customers. He stated the agency would be satisfied with less time for the retailer to keep the information as well as a more permanent way to mark the keg to prevent abuse of the plastic tags although various types of tags exist. This bill is not an attempt to "police power" and noted a retailer must accumulate nine violations before revocation of license is executed. He also noted technical amendments would need to be done to **SB 328** in order to comply with K.S.A. 41-311, 41-319 and 41-2623 encompassed in 2001's revised **SB 178**. (Attachment #3)

Mr. Duncan advised the committee he wished to be considered neutral on the bill but offered amendments (Attachment #4) if those issues are not already covered by the recently submitted balloon amendment.

Mr. Whitaker declared his association's opposition to the bill. He noted although the ABC Director cited seven field agents, there are actually eighteen agents in the field. Concern about separate county and/or city requirements in order to have additional sources of revenue were also discussed. He maintained most of the 425,000 kegs sold in Kansas are sold to clubs, drinking establishments, restaurants, and caterers and have low profit margins. (Attachment #5) However, special cooling units are not uncommon in homes of individuals who prefer their alcohol from a keg.

Ms. Campbell also discussed the retailers concern of "dram shop" or retailers responsibilities law and the suggested amendments offered in Jim Scott's written testimony. (Attachment #16 of March 19) Retailers have a need to prohibit local government duplication created by cities and/or counties establishing additional ordinances should this legislation pass. Care about the issue of underage drinking, therefore the

association attends nearly all conferences on this issue.

Representative Mason moved that Committee recommend SB 328 favorable for passage as amended. Representative Benlon seconded the motion. During discussion by several committee members, bill was amended to cure conflict with revised K.S.A 43-111 (SB 178).

Substitute motion by Representative Rehorn to table SB 328. Representative Cox seconded the motion. The motion passed.

Chairman requested committee's attention regarding HB 2020 - Handicapped accessibility standards; certain dwellings.

Representative Rehorn moved that Committee adopt technical amendment to insert "state" before "tax credits". Representative Wilson seconded the motion. The motion passed.

Representative Faber moved that Committee adopt a conceptual amendment exempting remodeling of single-family dwellings. Representative Hutchins seconded the motion. The motion failed 8-11 on requested division.

Representative Benlon moved that Committee adopt technical amendment requested by Revisor to insert "funds" following "state" on page 4 line 15. Representative Rehorn seconded the motion. The motion passed.

Representative Rehorn moved that Committee recommend HB 2020 favorable for passage as amended. Representative Wilson seconded the motion. The motion passed.

The committee meeting adjourned at 3:15 p.m. No additional meetings are scheduled, but Committee may meet on the call of the chair.

House Federal and State Affairs Committee Guest List

DATE: 3/20/01

Bob Longman	KDOK ABC
Tom Rinzburg	KNOR ABC
Phil Bradley	KLBA
Joe Brown	MLA
BILL YANEK	Ks Assn of REACTORS
John Peterson	Arheuser Busch
Rebecca Riatt	KS Beer Wholesalers Assn
Amy Campbell	KABR
Neal White	KBWA
Erik Sartorius	K.C. Regional Assoc. of Realtors
Donna Marie S	KCAKAP
Roger Franke	KGE
John DUNCAN	Ks wine & spirits wholesalers Assn
Whitney Damron	Lukas Liquor Super Store
Spaska Jan Jurek	KMHA



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Bill Graves
Governor

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
FEDERAL AND STATE AFFAIRS**

**REGARDING SUBSTITUTE FOR SENATE BILL 328
KEG REGISTRATION**

March 19, 2001

Mr. Chairman and Committee Members:

I am Rosalie Thornburgh, Bureau Chief of Traffic Safety in the Kansas Department of Transportation. Thank you for the opportunity to testify on Substitute for Senate Bill 328 regarding the registration of beer kegs. Keg registration requires the retailer to affix an identification number to the beer container along with registering each sale and certain purchaser information.

The agency supports the concept of keg registration as a strategy to be used in the prevention of underage drinking as it relates to drinking and driving. Keg registration not only provides a tool to assist law enforcement officers in determining who may be purchasing alcohol for underage consumption, it also provides an intervention that minimizes alcohol availability. A keg registration law could provide the necessary deterrent to the potential purchaser and prevent these situations from occurring. Although there is no research that specifically assesses the impact of this intervention, reports from law enforcement agencies suggest that it substantially reduces keg use by young people (Institute for the Study of Social Change, 1994c).

In 1999, young drivers in Kansas were involved in 18 percent of all alcohol-related motor vehicle crashes, as reported by police. These young drivers, age 14-20, were involved in more than 600 alcohol-related crashes. In addition, 15 percent of all DUI arrests are drivers under the age of 21. Drivers under the age of 21 comprise approximately 11 percent of the total licensed driver population.

In summary, keg registration, when used as part of a comprehensive program for underage prevention, could prove to be an effective deterrent to underage drinking and driving and result in the reduction of injuries and fatalities to our young people.

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Kansas Coordinators of Alcohol Safety Action Projects Association

LEGISLATIVE TESTIMONY

TO: Chairwoman Nancy Harrington and Members of the Senate Federal and State Affairs
Committee

DATE: February 21, 2001

SUBJECT: SB 328

Mr. Chairman and Members of the Committee, my name is Dan Hermes and I represent the Kansas Coordinators of Alcohol Safety Action Projects (KCASAP).

The Association was incorporated in 1981 and consists of member agencies that are primarily responsible for the evaluation, education, treatment or referral of DUI and other alcohol/drug related offenders. The organization promotes effective laws dealing with the drinking driver and underage drinking problems. The association encourages strict enforcement, swift and fair sentencing, and quality education and treatment for the offender.

SB 328, requiring registration of beer kegs, appears to enhance the ability of the state to better enforce underage drinking laws. Agency members have commented in past statewide meetings about the need for such legislation to reduce the number of keg parties that offer unlimited alcohol use for minors.

Currently, there does not appear to have been significant consequences to deter someone from offering the parties for underage drinkers. Member reports indicate that many parties are motivated by a desire to profit from providing drinking opportunities for underage drinkers. Underage offenders in our programs have reported "admission charges" of five dollars a person to learn the location of the event, very often a keg or two in a field with some form of music.

Requiring registration of kegs will allow law enforcement that discovers such events to track the kegs back to the legal purchaser of the keg. This can serve as a deterrent for the adults involved in these activities.

I respectfully request that the committee report SB 328 favorably for passage. I thank the committee for its time and attention and would stand for any questions.

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Attachment No. 2

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Division of Alcoholic Beverage Control

TO: Representative Doug Mays, Chairman, House Federal and State Affairs Committee

FROM: Robert Longino

RE: Senate Bill 328

DATE: March 19, 2001

Mister Chairman and Members of the Committee - Good Afternoon.

Thank you for the opportunity to appear before you today in support of Senate Bill 328. This bill will provide a deterrent against adults purchasing alcoholic beverages and furnishing it to underage persons while simultaneously supporting law enforcement efforts to prevent access of alcoholic liquor and cereal malt beverage by underage persons.

I will not delve into details about what keg registration will and will not accomplish. I think we've been down that road before. As I have alluded to in other hearings, I use the analogy of water rolling down hill as a comparison to underage drinking. The problem exists and the more road blocks and inconveniences we can put in its path, the more we can reduce the current of the water flowing. Keg registration is simply another tool in our kit bag to work on underage access.

As you may already know, several cities and counties around the state have taken up this issue and passed local ordinances and resolutions requiring the registration of kegs in the absence of state action. It appears this trend continues as other key cities in the state are currently reviewing this option. From our perspective, it would be in the best interest of the state to pass this legislation so we can establish standardized procedures for implementation across the entire state rather than have a variety of different procedures being employed piecemeal throughout the state. We strongly support the uniform aspect this law would have.

Keg registration will not solve all problems involving consumption of alcoholic liquor and cereal malt beverage by underage persons. However, it is a positive move to support law enforcement efforts to reduce the sale and consumption of such beverages to minors. The personnel in the field that daily attempt to uphold our laws feel this is an important tool to support their efforts. If we are really serious about curtailing easy access of beer to minors, this bill is a step in the right direction.

We at ABC feel that this legislation sends a strong message of deterrence to those over 21 years of age from providing alcohol to underage persons. It also sends a message of support to the men and women who day in and day out work to ensure our liquor laws are adhered to throughout the state. This "message" comes at minimal cost to all involved and deserves your serious consideration.

I would be happy to attempt and answer any questions the committee may have at this time.

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

March 19, 2001

To: House Federal and State Affairs Committee

From: R.E. "Tuck" Duncan
Kansas Wine & Spirits Wholesalers Association

RE: SB 328

Should the committee consider acting on SB 328, we respectfully request that the following amendment be added to clarify that the provisions of the Act do not apply to transactions between wholesalers and clubs and drinking establishments. *Thank you for your attention to this matter.*

32 (h) The provisions of this section shall not apply to sales by retailers or
33 distributors to clubs, drinking establishments and caterers licensed
34 under the club and drinking establishment act.

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Testimony
Sub Senate Bill 328
House Federal and State Affairs Committee
March 19, 2001
Neal Whitaker
Kansas Beer Wholesalers Association

Senate Bill 328 is feel-good legislation. It represents well-meaning people subjecting adults purchasing a legal product to the peering eyes of police and the public.

The last time we were able to get actual numbers from the state we found that there were more than 425,000 kegs sold in Kansas. Most go to clubs, taverns, drinking establishments, and restaurants. Only a very few go to private citizens.

This bill will register only those kegs that go to private citizens who enjoy beer from a keg. Why? Because it is a different product than canned or bottled beer. It is not pasteurized so it must be kept cold to maintain its quality. A few Senators were surprised that there are many people who consume from kegs at their homes where they have built special cooling units specifically for keg beer. (Their surprise is not unusual. The people who want to control the beer consumption practices of Kansans typically don't drink the product. The problem with this legislation is that it invades the privacy of these beer drinkers.)

Should you be exposed to police scrutiny simply because you serve beer from a keg rather than from cans at a family reunion?

Proponents compare this to video store records. But there is a big difference. Video stores keep records for their protection in the same manner as retailers do now. They don't keep the records because the law requires it. The police do not have specific legal access to the video store's records. Additionally, the video store's records are not easily available through subpoena or other legal compulsion.

This bill is about making lists of beer drinkers to use later. How many police files will be made? Will over zealous enforcement in some communities lead to innocent people being harassed?

The proponents say that this legislation leads to less keg sales. Is that their goal? What is next, recording the names of any person who purchases more than two cases of beer? Yes, two cases contain more than 4 gallons.

Large quantities for a low price? The arithmetic used is bad math -- 6.8 cases of beer can be purchased for \$73.50 at about the same cost as a keg. And the

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claim that cases of beer are a greater hassle is faulty -- kegs are heavy and awkward to handle. In addition, most kegs are not returned completely empty. With cans, anything not opened can be saved for another day.

Liquor retailers are under assault from under-age consumers. You will hear what they are doing to stop illegal purchasers. However, using Emporia as a model, the Emporia police department, when required, presented their report to the city council and it showed only 4 prosecutions. In each situation it was because a keg either wasn't returned or was returned without a tag.

The report noted that no underage consumption violations were involved in any of the violations.

Preemption

The Senate committee determined that the legislation served no purpose unless it had statewide application and uniformity. Once the bill cleared the committee, the sponsor requested the uniformity language be removed to insure that cities and counties could adopt local ordinances so that some retailers will be required to comply with three different regulatory schemes: state, county and city. We oppose removal of the preemption language because:

- ◆ Local ordinances will cause the registration requirements to be non-uniform from county to county and city to city.
- ◆ Some cities and counties will use the Act to raise additional revenue from liquor retailers, which they are prohibited from doing in the liquor control act.
- ◆ Cities and counties will have the authority to require an additional tag. Some retailers will be required to have 3 tags (or labels or marks of some type) and 3 different sets of records. A minimum of two tags will be required in Emporia if this law passes.

Revoking Retailers' Licenses for Failure to Comply

Supporters repeatedly claim that this legislation is not designed to harm retailers, is not designed to discourage legal purchases and is certainly not motivated by a desire to keep lists of beer drinkers. If it is not, then what is it?

It is already illegal to provide beer to underage individuals in Kansas. It is illegal for anyone under 21 to possess beer. It is illegal for anyone under 21 to consume beer, but it still happens. This will not stop one individual—whether 14 or 20—who has made the decision to break the law from obtaining and illegally consuming alcohol. Only education, changing attitudes of parents and changing the attitude of the community will change behavior, not a big government requirement to keep lists of the names of beer drinkers.