

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson David Corbin at 10:40 a.m. on February 27, 2001, in Room 519-S of the Capitol.

All members were present except: Senators Clark, Lee, and Taddiken – Excused

Committee staff present: Chris Courtwright, Legislative Research Department  
April Holman, Legislative Research Department  
Don Hayward, Revisor of Statutes Office  
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Senator James Barnett  
Craig Grant, KNEA  
Teresa Walters, Emporians for Drug Awareness  
Nancy Lusk, Johnson County citizen  
Neal Whitaker, Kansas Beer Wholesalers  
Jim Scott, Kansas Association of Beverage Retailers  
Tuck Duncan, Kansas Wine & Spirits Wholesale Association  
Philip Bradley, Kansas Licensed Beverage Association  
Chuck Magerl, Free State Brewing Company  
Karl Peterjohn, Kansas Taxpayers Network  
Dan Ogilvie, Ranch Mart Wine and Spirits  
Magi Grimwood, Safe and Drug Free Schools, Emporia  
Greg Watt, Emporia State University  
Tom Laing, InterHab  
Col. Don Brownlee, Superintendent, Kansas Highway Patrol  
Kevin Walker, Tobacco Free Kansas Coalition, Inc.  
Tom Palace, Petroleum Marketers & Convenience Store  
Association of Kansas

Others attending: See attached list.

**SB 312–School finance; providing revenue by increasing tax rates imposed upon alcoholic liquor and cereal malt beverages.**

**SB 318–Increasing the rate of taxation imposed on cigarettes and tobacco products and providing for the disposition of revenue received therefrom.**

Senator James Barnett explained that he requested the introduction of **SB 312** as a means of obtaining additional K-12 funding and that he considers the increase in taxation as a “fairness tax” to the citizens of Kansas. He noted that the last increase in most alcohol taxes occurred in 1977. He outlined six negative impacts of alcohol consumption, noting that he is particularly concerned about the impact on youth. He reasoned that public policy should be considered when children can buy a can of beer at much less than one-third the price of a bottle of juice and less than one-half the price of a bottle of water. He pointed out that beer taxes have been maintained at an extremely low rate, and at the same time, researchers have found that beer consumption is associated with those who are more likely to drive while intoxicated and that beer is disproportionately preferred by youth and those who drink a lot during a typical drinking session. As to the argument that passage of the bill will cause a decrease in state revenue, Senator Barnett noted that beer consumption would have to decrease by 82 percent for that to occur. He said the proposed tax increase would cost the consumer only eight cents a can. He emphasized that alcohol kills over 6.5 times the number of youth than all illicit drugs combined. He believes that, unless the problem is addressed, the enormous costs of alcohol abuse in both human and economic terms will continue to increase. In conclusion, he said the bill answers the call for additional revenues to increase school funding as it would bring approximately \$61 million in the first year with growth to \$71 million a year over five years. He urged the Committee to move the bill out of committee to allow debate by the full Senate. (Attachment 1)

## CONTINUATION SHEET

Craig Grant, KNEA, testified in support of **SB 312**, noting that current resources are not sufficient to provide an adequate or suitable education for Kansas students. He pointed out that schools need increased funding in order to be able to spend more time with students who are not able to meet the high standards set for school children, and school districts could use extra funding to increase teachers' salaries. He observed, if the bill has an additional effect of decreasing alcohol consumption, it will have accomplished a second positive goal. (Attachment 2)

Teresa Walters, Emporians for Drug Awareness, Inc., testified in support of **SB 312**. She outlined how alcohol abuse affects all age groups. She noted that her coalition is concerned with the K-12 age group and that habits which start during those years can affect youth throughout their adulthood. She noted that one in eight American drinkers is an alcoholic or experiences problems due to the use of alcohol. She commented that the relatively static alcohol tax rates have resulted in the prices of alcoholic beverages increasing far less than those of other consumer goods. She contended that price increases reduce consumption rates among adult heavy drinkers as well as underage drinkers, and a tax increase will hardly be noticed by consumers who drink minimally. She said that the bulk of the tax increase will be paid by the relatively small percentage of drinkers who consume most of the alcohol. In her opinion, higher taxes will force the abusers to bear a more equitable share of the costs for the problems they cause, and the increase would allow the state to reclaim a valuable source of revenue that has declined dramatically over the years. (Attachment 3)

Nancy Lusk, a parent of school children in Johnson County, testified in support of **SB 312**, noting that there is no more important task than educating children. She said the bill provides funding for education in a way that poses no hardship upon anyone's ability to obtain the necessities of life. She observed that the choice is between a few cents more for a beer or other alcoholic beverage as opposed to a better education for Kansas children. In her opinion, the increased taxation would not significantly impact merchants whose stores are located near the Missouri state line. In conclusion, she called attention to attachments to her written testimony which include comments from Johnson County citizens in support of adequate funding for public education, including an increase in alcohol taxes. (Attachment 4)

Senator Allen inquired if there is any evidence that raising the price of alcohol affects the amount purchased. In response, Senator Barnett stated that studies of states with higher excise tax rates on alcohol show strong evidence that youth consumption goes down, consumption by those who drink and drive goes down, college graduation rates go up, sexually transmitted infections go down, and there are lower fatality rates on alcohol related automobile crashes. He offered to supply copies of these studies to committee members. He agreed with Senator Allen's statement that there is a definite preventative component in the bill, but noted that the primary purpose is to increase funding for education.

Neal Whitaker, Kansas Beer Wholesalers Association, testified in opposition to **SB 312**. He contended that the nearly 600 percent proposed increase in taxes on beer is an outrageous increase to taxes that are already too high. He noted that no other state taxes alcoholic beverages as Kansas does, explaining that there is a tax on gallonage when it comes into Kansas, an enforcement tax as it is sold by the retailer, and a tax on drinks sold on premise. He contended that the bill singles out the alcoholic beverage industry with a taxing system that could easily make Kansas the state with the highest taxes on beer. In his opinion, **SB 312** places prohibition in effect without a vote of the people. He commented that, if the goal is to eliminate consumption, a constitutional amendment should be drafted. He went on to say that there are statistics which clearly indicate that abusive drinkers are not the ones who cut back when the price of alcohol increases and that the price of beer is not a factor which influences teenage consumption. In conclusion, he said beer taxes are regressive, unfair, divisive, and ineffective. (Attachment 5)

Jim Scott, Kansas Association of Beverage Retailers, testified in opposition to **SB 312**, noting that he was also speaking on behalf of 700 "Mom and Pop" individual liquor stores. He pointed out the laws relating to alcohol have been on the books for 52 years and those laws are part of licensees' daily lives. He noted that, as a retailer, he has abided with the laws although he may not totally agree with all of them. He followed with a list of complaints from Kansas liquor retailers with regard to perceptions of their type of business. He believes that burdening one industry heavily is in total disregard of the negative consequences. He pointed out that Wyandotte and Johnson County businesses are already getting "slammed" by Missouri businesses which have lower prices due to lower taxation and more selling hours. In his opinion, increasing the price of beer with increased taxation will not reduce consumption by Kansans but rather will send the customer

CONTINUATION SHEET

across the state line where the price is lower. In conclusion, Mr. Scott emphasized that increased taxation on beer is a tax on working people who are already struggling financially. (Attachment 6)

R.E. "Tuck" Duncan, Kansas Wine & Spirits Wholesalers Association, Inc., testified in strong opposition to **SB 312**. He noted that the bill concerns three questions; (1) the advisability of a tax increase, (2) what the tax rate should be; and (3) where the money should go. He pointed out that an increase in excise taxes is just as much a tax increase as an increase in the personal income tax or any other type of tax. He feels that excise taxes are regressive, weighing most heavily on low and middle income families. He noted that a study in 1989 estimates that states lost revenue in the amount of \$3.7 billion as a result of increases in federal alcohol, tobacco, and gasoline taxes in 1983 and 1985. He contended that an increase in the alcohol beverage taxes for the purpose of supplementing education would be unfair and arbitrary as there is no justification for making one group of taxpayers finance government activities which affect everyone. In his opinion, the bill taxes the behavior of individuals, and the question becomes, as a matter of public policy, what is the appropriate level to tax that behavior. He noted that, during the past several years, the industry has been engaged in activities to dissuade persons who should not be purchasing alcohol from purchasing it and to try to effect the hard core drunk driving issues in the state. He believes that **SB 312** is not the way to address these issues. Mr. Duncan called attention to tables extracted from a study on the burden of taxation by income group conducted by a professor of economics at the University of Kansas. He pointed out that the tables clearly indicate that alcohol taxes are very regressive. (Attachment 7)

Mr. Duncan noted that, in prior papers, the Kansas Legislative Research Department indicated, "Increases in prices will, among other things remaining equal, decrease the quantity sold. Increases in taxes, which lead to increases in prices of goods or services may as a result of a decrease in the base lead to less than proportional increase in receipts. Thus, proposals to increase taxes by a substantial amount will probably result in significantly less revenue than might be projected on the assumption of zero elasticity of demand, that is, that price will not effect demand." In this regard, Mr. Duncan called the Committee's attention to a report on Kansas liquor laws prepared by the Kansas Legislative Research Department. (Attachment 8) He noted that Table 8 on page 23 of the report demonstrates that Kansas has already earmarked taxes on liquor. He pointed out that the percentages, in order to hold those harmless, are based upon zero elasticity of demand. He emphasized that the national experience indicates that an increase in taxes on alcoholic beverages will not provide the increase of tax receipts as anticipated by proponents of the bill.

Philip Bradley, Kansas Licensed Beverage Association (KLBA), testified in opposition to **SB 312** and **SB 318**. He noted that KLBA advocates safe, responsible alcohol consumption, and trains its servers to practice these principals. He said KLBA acknowledges that the state has a role in providing funding to schools and noted that, to date, the Legislature has determined that education is the responsibility of all citizens and has avoided earmarking taxes, thereby allowing them to bypass the appropriations process. He believes this is a sound principal, and measures which violate it should not be passed. In conclusion, he pointed out that alcohol industry already generates over \$76 million annually to the state and is taxed at higher rates than other businesses. (Attachment 9)

Chuck Magerl, the proprietor of Free State Brewing Company in Lawrence, testified in opposition to **SB 312**. He noted that he and his colleagues reintroduced the quality of fresh, flavorful beer that was once the pride of small brewers in Kansas prior to prohibition, and their community is proud of their attention to quality. He itemized the donations Free State Brewing has made to several charitable and relief organizations in the Lawrence community. He noted that he pays federal, state, and local governments over \$790,000 per year in taxes and explained that his tax burden is greater than other businesses because he sells both wine and beer. He pointed out that wine and beer are taxed at a more aggressive rate than any other purchase in a healthy adult's life, yet **SB 312** increases that tax by 500 percent. In his opinion, the state should not count on the Kansans who drink beer to secure the public educational system. Mr. Magerl said he fears that passage of the proposal will mean the end of the line for all that he has built with his business, including the contributions to charitable organizations. He went on to note that alcohol abusers are not rational in their choices and do not stop drinking for economic reasons. He said his restaurant caters to moderate drinkers, and a typical restaurant has a net profit of 3.5 percent of sales. The proposed 500 percent increase will result in a direct attack on the life of his business and others. In conclusion, Mr. Magerl emphasized that the bill does not have fairness at its heart and would hurt many Kansans. (Attachment 10)

## CONTINUATION SHEET

Karl Peterjohn, Kansas Taxpayers Network, testified in opposition to **SB 312** and **SB 318**. At the outset, he distributed copies of a table from the publication, "Tax Foundation," which breaks down various state tax rates, including cigarette taxes, spirits tax, table wine tax, and beer tax. He pointed out that, although Missouri and Colorado are on the lower end for beer taxation, the lowest beer tax is in Wyoming. (Attachment 11) In his opinion, **SB 312** should be called the western Missouri retail liquor development act because a dramatic increase in alcohol taxes by the amounts proposed would significantly increase the amount of cross border traffic at the edges of the state, particularly in eastern Kansas. He believes that Kansans are currently going to lower sales tax areas (such as Missouri) for their food purchases, and raising the tax as provided in **SB 312** and **SB 318** will raise similar tax avoidance problems for the state. (Attachment 12 and Attachment 13)

With regard to the issue of the need for money for public schools, Mr. Peterjohn noted that for the first seven months of this fiscal year, state revenues are almost \$164 million above the same period last year. He noted that proponents indicate that passage of the bills would generate \$71 million in additional alcohol taxes and approximately \$10 million in cigarette taxes. He pointed out that the state of Kansas is currently spending over \$2 billion on K-12, and the combined revenue from the proposals are well under that amount. Therefore, he feels that the proposals would not have a significant effect on solving school finance. He also pointed out that there is an interesting distribution effect in **SB 312**. Raising the beer tax from 18 cents to 98 cents is a much larger percentage increase than increasing tax on spirits and hard liquor from \$2.50 to \$3.00. In his opinion, that would result in an increase in consumption of hard liquor because the tax increase for beer is not proportional. In his opinion, both bills are fatally flawed, and raising taxes on alcohol and tobacco is not the solution to the problem.

Dan Oglivie, owner of Ranch Mart Wine and Spirits in Leawood, testified in opposition to **SB 312**. He stated that he currently has many loyal customers; however, there is a limit on what a person will spend before heading for a better deal. Missouri liquor is already significantly less expensive, and an increase in tax would send a large percentage of faithful Kansas customers to Missouri. He noted that, if the bill is enacted, he will have to charge at least \$2.15 more per case of beer simply to cover taxes, with no additional mark up for the wholesaler or his store. This would be devastating to his business as well as to every other liquor store in Johnson County. (Attachment 14)

Chairman Corbin called attention to written testimony in opposition to **SB 312** submitted by Ron Hein on behalf of Kansas Restaurant and Hospitality Association (Attachment 15) and Lester Lawson on behalf of Kansas Clubs and Associates (Attachment 16). With this, the hearing on **SB 312** was closed.

Senator Barnett testified in support of **SB 318**, explaining that he requested its introduction as a means to increase state revenues for funding of specific state programs. He explained that the bill would increase the tobacco products tax from 10 percent to 12 percent and would add a dime to a package of cigarettes. The revenue generated in the first year would equal approximately \$23 million and would be distributed to regents institutions, the Kansas Highway Patrol, the Department of Corrections, student tuition relief, and care of the developmentally disabled (HCBS-DD waiver). During subsequent years, the money would be split between the regents institutions and used for targeted state employee salary enhancements. (Attachment 17)

Margi Grimwood, Safe and Drug Free Schools Coordinator in Emporia, testified in support of **SE 318**, noting that tobacco use is a major health and economic problem, and tobacco addicts a whole new crop of youthful customers each year. She said tobacco related health costs in Kansas are estimated at \$630 million per year, and the tax revenue that Kansas currently receives from tobacco products does not begin to compensate for those costs. She noted that strong evidence and success stories from other states show that raising the tax on tobacco products can significantly reduce tobacco use, especially among youth. In her opinion, the impact of an increased excise tax on cigarettes will encourage teenagers to stop smoking, and it may also discourage children from starting to smoke. In conclusion, she reasoned that higher tobacco taxes will force tobacco users to pay more of their fair share to alleviate the tax burden of all Kansans. (Attachment 18)

Greg Watt, an Emporia State University student, testified in support of **SB 318**. He reported that extrapolated information from the Board of Regent's Office indicates that there is a need for \$14.7 million above what the governor has recommended to maintain a current level of service and performance. Mr. Watt said he has only positive things to say about his experiences as a student and ambassador for governmental relations, and every dollar raised for higher education, regardless of the means, is a dollar well spent. (Attachment 19)

## CONTINUATION SHEET

Tom Laing, representing InterHab for Kansans with Disabilities, testified in support of the efforts embodied in **SB 318** to address the funding shortfall for vital state programs. With regard to an increase in cigarette taxes, Mr. Laing noted that InterHab has never been officially asked to identify which revenue source should be increased, and instead, urges the Legislature to examine all options. He further noted that InterHab has not asked for earmarked revenue in the past, however, applauds the sponsor's initiative because InterHab's budget challenge is among the most under-addressed issues in the current budget. Although he finds **SB 318** encouraging, he believes the solution falls short of the needs. He pointed out that the direct care staffing crisis in the community is driven by the long-term inadequacy of the state rates. Mr. Laing explained that bringing DD workers to a comparable level with state workers in the same occupational classes would require more than \$40 million, of which only 40 percent of the total would be required from the State General Fund to match federal Medicaid dollars. (Attachment 20)

Colonel Don Brownlee, Kansas Highway Patrol (KHP) Superintendent, testified in support of **SB 318**. He noted that KHP has been working with the Legislature to fund much needed increases in both manpower and salaries for uniformed members for approximately two and one-half years, and Governor Graves recommended pay increases for KHP in his state-of-the-state address this year. Col. Brownlee commented that the dilemma of finding a resolution to the problem has come down to funding sources. He said, although KHP is not in a position to recommend tax policy, it would gratefully accept the funding provided by **SB 318** for salary enhancements if the Legislature feels it is the appropriate mechanism. (Attachment 21)

Kevin Walker, representing the Tobacco Free Kansas Coalition, offered qualified support of **SB 318** as he believes it attempts to use a major tool in the reduction of tobacco usage without using it to its fullest extent. He urged the Committee to consider redirecting a percentage of the funds towards a comprehensive tobacco control program in order to help break the cycle of addiction for many Kansas youth. He noted that economic research on the relationship between cigarette prices and youth tobacco consumption indicates that, for every 10 percent increase in tobacco prices, it can reasonably be expected that youth consumption will decrease by 7 percent. Additionally, a 4 percent decrease in adult consumption can be expected. He noted that Kansas ranks 32<sup>nd</sup> in the country in the amount of excise tax levied on cigarettes. He called attention to statistics attached to his written testimony which indicated that, in the states where cigarette taxes were increased, cigarette tax revenues increased despite the reduction in smoking and cigarette sales. He reported that a statewide pole of Kansas adults indicated that a 50 cent per pack increase in excise taxes on cigarettes is acceptable to an overwhelming majority of Kansans. (Attachment 22)

Chairman Corbin called attention to written testimony in support of **SB 318** submitted by Josie Torrez on behalf of the Kansas Council on Developmental Disabilities. (Attachment 23)

Tom Palace, Petroleum Marketers and Convenience Store Association of Kansas, testified in opposition to **SB 318**. He noted that smokers have been hard hit over the past three to four years due to tremendous price increases largely due to the Master Settlement Agreement between the state attorneys general and the tobacco industry. He contended that convenience store owners in Kansas who compete with bordering states, which have lower taxes, will be at a tremendous competitive disadvantage if the bill is enacted. He pointed out that cigarette sales make up approximately 23 percent of the gross sales in convenience stores. In addition, cigarette sales lead to the purchase of other products such as pop, coffee, and sandwiches; therefore, an increase in the price has the potential of reducing store revenues for all products. He noted that Kansas is already at a competitive disadvantage on the gasoline tax with two of the four contiguous states, and adding a 30 to 40 percent tax increase to cigarettes will have a negative impact both on convenience store marketers and on state revenues. (Attachment 24)

Chairman Corbin called attention to written testimony in opposition to **SB 318** submitted by Ron Hein on behalf of R.J. Reynolds Tobacco Company. (Attachment 25) With this, the hearing on **SB 318** was closed.

The meeting was adjourned at 12:30 p.m.

The next meeting is scheduled for February 28, 2001.

# SENATE ASSESSMENT AND TAXATION COMMITTEE GUEST LIST

DATE: February 27, 2001

NAME	REPRESENTING
Neal Whitaker	Ks Beer Wholesalers Assn.
Nantha Scott	Scottys liquor
Jim Scott	KABR
Dan Ogilvie	Ranch mart wine & spirit shop
Kent Beisner	Jayhawk Bev, Inc. & DeBauge Bros.
Karl Peteripha	Ks Taxpayers Network
Josie Terrez	Ks Council on Developmental Disabilities
Midy. Whit	Kearney Law Office
Craig Grant	KWETA
JIM CARSON	KABR
BILL Brody	Anheuser-Busch
Casq Massatto	Ks. Beer Wholes
Jeff Jones	Strathman Sales Co.
Matt Strathman	Ks Beer wh. lers
Patrick Sheerley	STP
DENNY ROCH	UST PUBLIC AFFAIRS INC
Phil Bradley	KLBA
Chuck Magerl	Free State Brewing Co
SHERRY - mize	USD 501

SENATE ASSESSMENT AND TAXATION COMMITTEE  
GUEST LIST

DATE: 2/27/01

NAME	REPRESENTING
Tom Laing	Interhab
Erik Sartorius	K.C. Regional Assoc. of Realtors
Gina Peartner Secretary to Sen. Jim Barnett	
<b>SAVE PETERSON</b>	<b>K-STATE</b>
John Talarack	Brig
JOE EFFERTZ JR	PONY EXPRESS BREWING Co.
Pat Wubbell	Kansas Speedway Inc.
Herschel Rose	Lib.
Jim Dorsey	Famous Brands Distributors
Marlee Carpenter	KCCI
Ed O'Malley	OP Chamber
Danielle Noe	DOFA
Karen Watney	DoFA
Carol Niles Henderson	united grandmothers
Nancy Niles Lusk	parent and taxpayer
Spacy Farmer	KASB
Jacquie Oaks	IOE
Ann Spiess	KALFA
Stephanie Karp	Amer. Cancer Soc.





JAMES A. BARNETT  
 SENATOR, 17TH DISTRICT  
 HOME ADDRESS: 1400 LINCOLN  
 EMPORIA, KS 66801  
 OFFICE: STATE CAPITOL BUILDING—136-N  
 TOPEKA, KANSAS 66612-1504  
 785 296-7384  
 1-800-432-3924



TOPEKA

SENATE CHAMBER  
**TESTIMONY FOR SB312**

COUNTIES  
 CHASE, COFFEY, GEARY,  
 LYON, MARION, MORRIS,  
 OSAGE AND WABAUNSEE

COMMITTEE ASSIGNMENTS  
 VICE CHAIR: PUBLIC HEALTH AND WELFARE  
 MEMBER: FEDERAL AND STATE AFFAIRS  
 FINANCIAL INSTITUTIONS AND  
 INSURANCE

Mr. Chairman and members of the Assessment and Taxation Committee, thank you for the opportunity to testify in support of Senate Bill 312.

As you are aware, I have introduced this legislation as a means of obtaining additional K-12 funding. This legislation has been referred to as a "sin tax" or "vice tax." I share with you that I have not chosen those words. This initiative is much better termed a "fairness tax" to the citizens of Kansas.

The last time that most alcohol taxes were increased occurred in 1977. This represents nearly 1/4 of a century. The federal government went 40 years without raising taxes on alcohol. When I researched previous increases in tax rates in our state, only two taxes appeared to have avoided significant increases. Those two taxes include liquor and tobacco. Sales taxes were increased in 1986, 1989, and 1992. At the same time, the public has become increasingly aware of social costs. The United States Department of Justice and the Office of Juvenile Justice and Delinquency Prevention commissioned the study of the costs of alcohol use by youth. The cost is equivalent to \$216.22 for every man, woman, and child in the United States. Using those figures, the cost to society for youth consumption in Kansas is equal to \$570, 745, 772.00. To cover that cost alone, the price of a 6-pack of beer would have to be increased \$5.61. This figure does not include the costs related to consumption of the entire population. That figure would almost triple. Please consider these additional costs and reflect upon our current budget:

1. The leading known cause of mental retardation in America is Fetal Alcohol Syndrome (K-12 education).
2. For college students, 40% of academic problems and 28% of dropouts are related to alcohol (Regents institutions).
3. 40% of all violent crime is committed while under the influence (Court system).
4. 80% of all individuals incarcerations are related to the use of alcohol and other drugs, most prominently alcohol (Department of Corrections).
5. The leading cause of death for 18-25 year olds is an alcohol-related car crash (Department of Revenue).
6. Nearly 7 out of 10 cases of child abuse and neglect are related to alcohol (SRS).

I did not come here today asking for a \$5.61 increase on a 6-pack of beer. Senate Bill 312 will call for an average of a 50-cent increase. 87% of Americans could accept a 50 cent increase in the tax of a 6-pack of beer (Wall Street Journal). The average increase for a bottle of wine is 21 cents, and for a bottle of bourbon, 31 cents.

I am particularly concerned about the impact of alcohol consumption by youth. As you know, I have been fairly outspoken on this issue. I want to make it clear to you today that I do not believe there is anything wrong with legal and responsible drinking. I do have great concerns regarding the impact of alcohol on our society, and in particular, our youth.

*Senate Assessment & Taxation  
 2-27-01  
 Attachment 1*

I have the prices of several bottles of beverages that I would like to compare. I went shopping Sunday and bought a bottle of juice for \$1.39. I purchased a bottle of pop and a bottle of water for \$1.09 each. An average cost for a can of beer is 67 cents. On sale, the price can drop as low as 37 cents. Surely, public policy should be considered when children can buy a can of beer at much less than 1/3 the price of a bottle of juice and less than half the price of a bottle of water or pop. In real dollars, alcohol costs less today than in 1981, because excise taxes have failed to keep up with inflation. Any fair increase in the excise tax on beer will appear quite large on a percentage basis. For some time, beer has incorrectly been viewed as less intoxicating. Beer taxes have been maintained at an extremely low rate. At the same time, researchers note that beer consumption is associated with those who are more likely to drive while intoxicated and is disproportionately preferred by higher risk groups that include youth and those who drink a lot during a typical session.

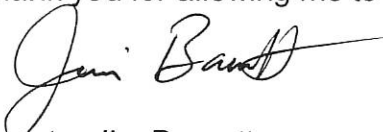
There will be many reasons given to explain why this legislation should not be enacted. One will be that slippage will occur. I have no doubt that some slippage will occur. However, for there to be a decrease in revenue from SB312, consumption of beer would have to decrease by 82%. I am doubtful that will happen. I have read about Joe and Jane Sixpack from the web site from Anheuser-Busch. References are made to a 6-pack of beer paying 70% state and federal tax already. Review of the amount of current federal and state excise tax, a can of beer pays 7 cents total tax. I do not want to interfere with Joe and Jane Sixpack from enjoying their evening. The proposed increase would cost only 8 cents a can.

The publication, Drug Strategies, sponsored by the Carnegie Corporation, Robert Wood Johnson Foundation, and Kansas Health Foundation states that the alcohol industry pays careful attention to the legislative process and commits considerable resources to those efforts. Those industries include the Distilled Spirits Council of the United States, the National Beer Wholesalers Association, and the Wine and Spirits Wholesalers of America. They contribute as much to the political process as the tobacco industry. I find it no surprise that the federal policy of the United States that deals with drug use remains silent about alcohol use. This silence persists despite the fact that alcohol kills over 6.5 times the number of youth than all illicit drugs combined. We can no longer remain silent. Without leadership, the enormous costs of alcohol abuse in both human and economic terms will continue to increase.

I listened carefully to Governor Graves' State of the State Address calling for additional revenues to increase school funding. This legislation answers that call and will bring approximately \$61 million in the first year, with growth to \$71 million a year over 5 years. That amount of funding would add \$105.00 to the base state aid per pupil.

This is a fair tax, and one that will save Kansas taxpayers in the long run. I ask that you give this issue fair and careful consideration and then move this bill out of committee to allow the full Senate the opportunity for debate.

Thank you for allowing me to come before you today.



Senator Jim Barnett

JAB/gkp

# WHAT PEOPLE SAY

**By Casey Wilson**

The Emporia Gazette

**"Would you support raising tobacco and alcohol taxes to increase funding for education?"**  
(Asked at the Flinthills Mall)



**Aaron Boos  
Topeka**

"It's no big deal to me. It wouldn't mean that much to me either way."



**Zila Sadler  
Emporia**

"Yes, it would go toward a good cause."



**Charren Deetz  
Buhler**

"Yes, schools need more funding and it would be a good way to get extra money."



**Emma Tovar  
Emporia**

"Yes, because the people that smoke will keep buying the cigarettes anyway."



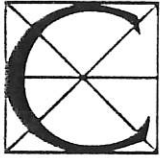
**Daisy Oliva  
Emporia**

"Yes, it sounds like a good thing to do and it might help the younger kids not to start smoking because of the cost."



**Ann Rogers  
Emporia**

"Yes, education is far more important than people's bad habits."



## Costs of Underage Drinking\*

Raising the minimum purchase age for alcohol to 21 throughout the country has been a successful strategy for reducing alcohol use and preventing related problems. For example, since 1975 minimum purchase age laws have prevented more than 17,000 traffic fatalities.<sup>1</sup> However, it is clear that young people still drink—and their drinking all too often results in serious health and social problems. For the first time, estimates are available of the costs associated with underage alcohol consumption. The cost estimates summarized in this document can be useful in supporting decisions by planners and policymakers to take strong and deliberate action to reduce underage drinking. Of course, regardless of the economic costs associated with underage drinking, those who care about youth should be motivated to prevent the tragic consequences associated with underage alcohol use.

### Costs of Alcohol Use by Youth

The total cost of alcohol use by youth is \$58.379 billion per year.<sup>2</sup>

- This is the equivalent of \$216.22 for every man, woman, and child in the United States.
- This also equals \$577.91 per year for every household in the United States.<sup>3</sup>
- If this cost were shared equally by each congressional district, the amount would total more than \$134 million per district.
- Each year, the Federal Government spends \$932.2 million on alcohol prevention services for people of all ages.<sup>4</sup> This total is less than 1.6 percent of the annual costs of alcohol use by youth alone.

\* A more complete description of the estimation methodology used here can be found in Center for Substance Abuse Prevention. (1996). *Costs of alcohol-involved and alcohol-connected crime*, by the Pacific Institute for Research and Evaluation. Manuscript submitted for publication. (Available from Pacific Institute, 11140 Rockville Pike, Suite 600, Rockville, MD 20852.)

population  
2,639,653

social costs of  
underage drinking  
\$216.22  
times population  
\$570,745,772

each \$0.10 increase in gallonage tax  
yields  
\$5,725,513

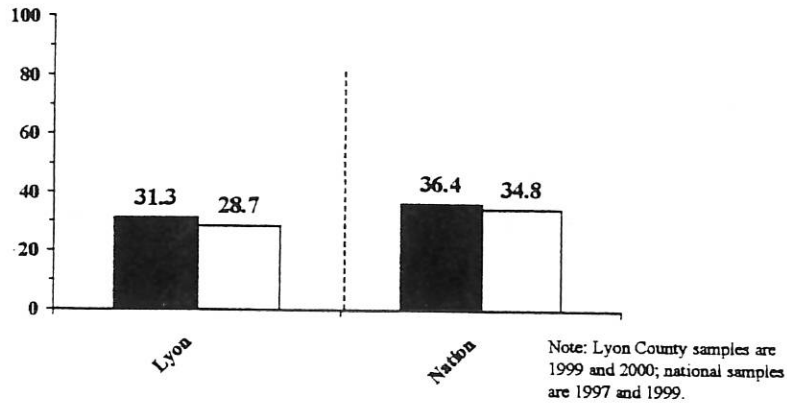
so would have to take  
99.6846559971  
times \$0.10 to get

a \$9.97 per gallon tax increase would be needed  
to raise the \$570 million in "social costs"

this would equate to \$5.61 on a six-pack of  
beer, which is 72/128ths of a gallon

### Lyon County vs. United States

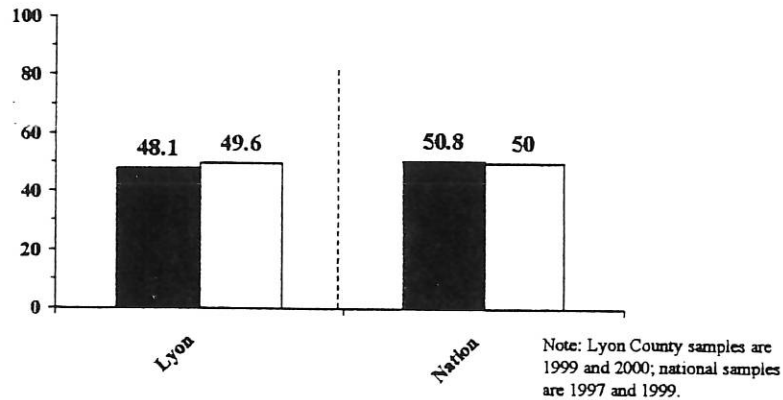
Percentage of students who smoked cigarettes on 1 or more of the past 30 days



Question 29. During the past 30 days, on how many days did you smoke cigarettes?

### Lyon County vs. United States

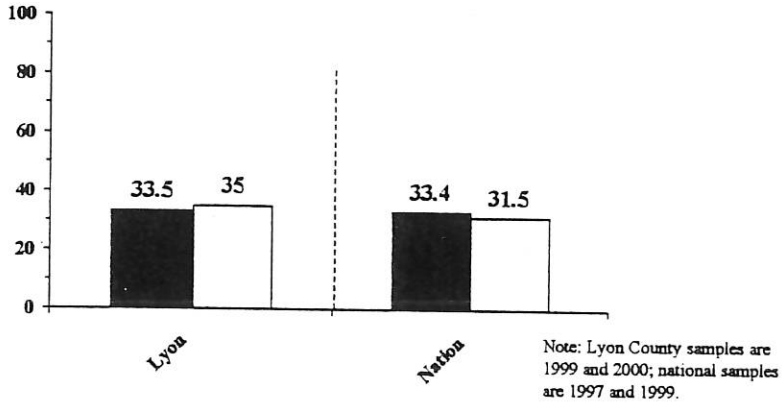
Percentage of students who had at least 1 drink of alcohol on 1 or more of the past 30 days



Question 41. During the past 30 days, on how many days did you have at least one drink of alcohol?

### Lyon County vs. United States

Percentage of students who had 5 or more drinks of alcohol in a row on 1 or more of the past 30 days

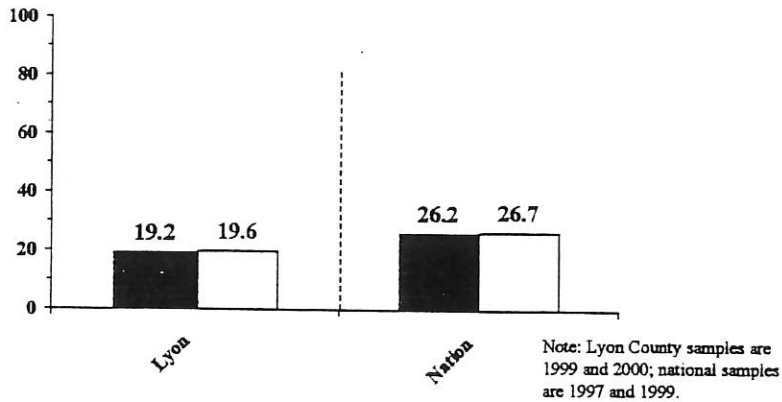


Question 42. During the past 30 days, on how many days did you have 5 or more drinks of alcohol in a row, that is within a couple of hours?

7

### Lyon County vs. United States

Percentage of students who used marijuana 1 or more times during the past 30 days



Question 46. During the past 30 days, how many times did you use marijuana?

8

# BRIEFING PAPER: EXCISE TAXES

## *The relationship between beer excise taxes and alcohol consumption among youth:*

- **Studies demonstrate that increased beer prices lead to reductions in the levels and frequency of drinking and heavy drinking among youth and that higher taxes on beer are associated with lower traffic crash fatality rates, especially among young drivers** (*National Institute on Alcohol Abuse and Alcoholism [NIAAA], Alcohol Alert No. 34, 9/96*).
- **Researchers have estimated that even a small increase in the price of beer (10 cents per package of six 12 oz. cans) would reduce the number of 16- to 21-year olds who drink by approximately 11 percent, the number who drink two or three times per week by 8 percent, and the number who consume three to five cans of beer on a typical drinking day by 15 percent** (*NIAAA, Seventh Special Report to US Congress on Alcohol and Health from the Secretary of Health and Human Services, 1/90, p. 210*).
- **When other variables were held constant in one study, States that had relatively high excise taxes on beer were found to have lower death rates in alcohol-related car crashes for 15- to 24-year-olds** (*Ibid., p. 211*).

## *Public support for excise tax increases:*

- **85% of Americans favor alcohol excise tax** (*USA Today/CNN/Gallup poll, 3/1/93*).
- **87% of Americans could accept a 50-cent increase in the tax on a six-pack of beer and 85% said they could accept a \$1 increase in the tax on distilled spirits or wine** (*Wall Street Journal/NBC-TV News poll, 3/12/93*).

## *Current federal excise taxes on alcoholic beverages:*

- **Although standard servings of distilled spirits, wine and beer all contain the same amount of ethanol, currently these alcoholic beverages are taxed at different rates by the federal government: \$.11 per oz. of ethanol for wine; \$.14 for beer; and \$.28 for spirits.** (*NIAAA, Eighth Special Report to the US Congress on Alcohol and Health, 9/93, p. 258*).



Relative to Gallonage Tax Increases alone,  
(1) consumption of beer would have to decrease by 82%  
for there to be no new revenue under SB 312  
(2) consumption of alcohol and spirits, and wines would have to  
decrease by 17% for there to be no new revenue under SB 312

a: There are other occupational type taxes imposed on beer and liquor brewers, wholesalers, and retailers by federal law.)

A barrel is apparently 31 gallons. So \$18 per barrel is a tax of  
\$0.58 per gallon

The state tax, of course, is \$0.18 per gallon

The combined federal and state gallonage tax rate is thus  
\$0.76

Since there are 72/128ths of a gallon in a six-pack, each such six pack inherently carries a combined gallonage tax burden of

\$0.43 combined  
\$0.33 federal  
\$0.10 state

Per can would equate to 1/6 of these amounts, or  
\$0.07 combined  
\$0.05 federal  
\$0.02 state

Assuming a six-pack of CMB is sold at a grocery store for \$4.00, state and local sales taxes would apply - an additional 6.4 percent in Emporia -----> \$4.26

Assuming a six-pack of strong beer is sold at a liquor store, an additional 8 percent enforcement tax would apply, making the price \$4.32

Note: No cross-price elasticity reductions in revenue stream

**A** Revenue increase from this proposal, which includes Liquor Drink Tax increases and other gallonage taxes would be \$21.644 million in FY 2002.

**Liquor-Store Strong Beer**

If beer is sold at \$4.00 per six-pack, each one percent increase in the enforcement tax raises the tax by \$0.04 per six-pack. Since there are 128 oz in a gallon and 72 oz in a six-pack, each \$0.10 increase in gallonage tax raises \$0.056 per six-pack. Enforcement from 8 to 10 percent, plus \$0.10 per gallon (from \$0.18 to \$0.28) would raise 13.6 cents per six-pack.

**Grocery or Convenience--Store 3.2 Beer**

Such sales are subject to state and local sales tax and NOT enforcement, so no impact from enf tax increase. Since there are 128 oz in a gallon and 72 oz in a six-pack, each \$0.10 increase in gallonage tax raises \$0.056 per six-pack. Increase limited to gallonage tax increase of 5.6 cents per six-pack.

**B** Revenue increase from this proposal, which includes Liquor Drink Tax increases and other gallonage taxes would be \$33.095 million in FY 2002.

**Liquor-Store Strong Beer**

If beer is sold at \$4.00 per six-pack, each one percent increase in the enforcement tax raises the tax by \$0.04 per six-pack. Since there are 128 oz in a gallon and 72 oz in a six-pack, each \$0.10 increase in gallonage tax raises \$0.056 per six-pack. Enforcement from 8 to 10 percent, plus \$0.30 per gallon (from \$0.18 to \$0.48) would raise 24.8 cents per six-pack.

**Grocery or Convenience--Store 3.2 Beer**

Such sales are subject to state and local sales tax and NOT enforcement, so no impact from enf tax increase. Since there are 128 oz in a gallon and 72 oz in a six-pack, each \$0.10 increase in gallonage tax raises \$0.056 per six-pack. Increase limited to gallonage tax increase of 16.8 cents per six-pack.

**C** Revenue increase from this proposal, which includes Liquor Drink Tax increases and other gallonage taxes would be \$61.722 million in FY 2002.

**Liquor-Store Strong Beer**

If beer is sold at \$4.00 per six-pack, each one percent increase in the enforcement tax raises the tax by \$0.04 per six-pack. Since there are 128 oz in a gallon and 72 oz in a six-pack, each \$0.10 increase in gallonage tax raises \$0.056 per six-pack. Enforcement from 8 to 10 percent, plus \$0.80 per gallon (from \$0.18 to \$0.98) would raise 52.8 cents per six-pack.

**Grocery or Convenience--Store 3.2 Beer**

Such sales are subject to state and local sales tax and NOT enforcement, so no impact from enf tax increase. Since there are 128 oz in a gallon and 72 oz in a six-pack, each \$0.10 increase in gallonage tax raises \$0.056 per six-pack. Increase limited to gallonage tax increase of 44.8 cents per six-pack.

12-12

(\$ in millions) Proposal "A"

	Liq Excise June 1 Incr from 10 to 12%	Liq Enf June 1 Incr from 8 to 10%	Liq Gallon June 1 Incr Strong Beer \$0.18 to \$0.28	CMB Gallon June 1 Incr CMB \$0.18 to \$0.28	Liq Gallon June 1 Incr Fortified Wine \$0.75 to \$0.90	Liq Gallon June 1 Incr Light Wine \$0.30 to \$0.36	Liq Gallon June 1 Incr Alc & Spirits \$2.50 to \$3	<u>Total</u>
FY 02	\$4.903	\$9.364	\$4.292	\$1.433	\$0.013	\$0.162	\$1.476	\$21.644
03	\$5.099	\$9.926	\$4.421	\$1.476	\$0.013	\$0.167	\$1.520	\$22.623
04	\$5.303	\$10.521	\$4.554	\$1.520	\$0.014	\$0.172	\$1.566	\$23.650
05	\$5.515	\$11.153	\$4.691	\$1.566	\$0.014	\$0.177	\$1.613	\$24.729
06	\$5.736	\$11.822	\$4.831	\$1.613	\$0.014	\$0.182	\$1.661	\$25.860
% Rate Incr	20.00%	25.00%	55.56%	55.56%	20.00%	20.00%	20.00%	
Last Increase	1979	1983	1977	1977	1977	1977	1977	

(\$ in millions) Proposal "B"

	Liq Excise June 1 Incr from 10 to 12%	Liq Enf June 1 Incr from 8 to 10%	Liq Gallon June 1 Incr Strong Beer \$0.18 to \$0.48	CMB Gallon June 1 Incr CMB \$0.18 to \$0.48	Liq Gallon June 1 Incr Fortified Wine \$0.75 to \$0.90	Liq Gallon June 1 Incr Light Wine \$0.30 to \$0.36	Liq Gallon June 1 Incr Alc & Spirits \$2.50 to \$3	<u>Total</u>
FY 02	\$4.903	\$9.364	\$12.877	\$4.299	\$0.013	\$0.162	\$1.476	\$33.095
03	\$5.099	\$9.926	\$13.264	\$4.428	\$0.013	\$0.167	\$1.520	\$34.417
04	\$5.303	\$10.521	\$13.662	\$4.561	\$0.014	\$0.172	\$1.566	\$35.799
05	\$5.515	\$11.153	\$14.072	\$4.698	\$0.014	\$0.177	\$1.613	\$37.241
06	\$5.736	\$11.822	\$14.494	\$4.839	\$0.014	\$0.182	\$1.661	\$38.748
% Rate Incr	20.00%	25.00%	166.67%	166.67%	20.00%	20.00%	20.00%	
Last Increase	1979	1983	1977	1977	1977	1977	1977	

(\$ in millions) Proposal "C"

	Liq Excise June 1 Incr from 10 to 12%	Liq Enf June 1 Incr from 8 to 10%	Liq Gallon June 1 Incr Strong Beer \$0.18 to \$0.98	CMB Gallon June 1 Incr CMB \$0.18 to \$0.98	Liq Gallon June 1 Incr Fortified Wine \$0.75 to \$0.90	Liq Gallon June 1 Incr Light Wine \$0.30 to \$0.36	Liq Gallon June 1 Incr Alc & Spirits \$2.50 to \$3	<u>Total</u>
FY 02	\$4.903	\$9.364	\$34.340	\$11.464	\$0.013	\$0.162	\$1.476	\$61.722
03	\$5.099	\$9.926	\$35.370	\$11.808	\$0.013	\$0.167	\$1.520	\$63.904
04	\$5.303	\$10.521	\$36.431	\$12.162	\$0.014	\$0.172	\$1.566	\$66.170
05	\$5.515	\$11.153	\$37.524	\$12.527	\$0.014	\$0.177	\$1.613	\$68.523
06	\$5.736	\$11.822	\$38.650	\$12.903	\$0.014	\$0.182	\$1.661	\$70.969
% Rate Incr	20.00%	25.00%	388.89%	388.89%	20.00%	20.00%	20.00%	
Last Increase	1979	1983	1977	1977	1977	1977	1977	

1-12



KANSAS NATIONAL EDUCATION ASSOCIATION / 715 SW 10TH AVENUE / TOPEKA, KANSAS 66612-1686

Craig Grant Testimony  
Senate Taxation Committee  
Tuesday, February 27, 2001

Thank you, Mr. Chairman. I am Craig Grant and I represent Kansas NEA. I appreciate this opportunity to visit with the Senate Taxation Committee about SB 312.

Kansas NEA applauds the authors of this bill that realize current resources are not sufficient to provide an adequate or suitable education for our schools. We have been outlining problem situations in our schools that need to be addressed if we are to continue to improve the education we provide Kansas' students. Most dramatic of the needs can be met by increasing the base budget and/or correlation weighting for our schools. Districts could use this money to increase salaries for teachers to help retain our good teachers.

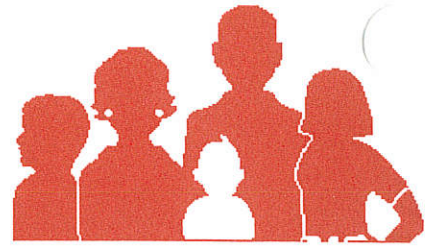
Districts may also be able to fund programs to assist our at-risk students, especially those in the early parts of their school life. We have found that our test scores are increasing for our students. We are improving those scores; however, the gap between high and low socioeconomic students continues to be too great. We need to be able to spend more time with the students who are not able to meet the high standards we have set for our school children. That extra time-on-task costs money.

We have testified a number of times about increases for our schools. At times we have been chastised for not suggesting a revenue source for our requests. That is why we were pleased to see SB 312 presented which would provide a source of revenue for our schools. If the bill has an additional effect of decreasing alcohol consumption, then it will have accomplished a second positive goal.

I do not have the tax expertise to talk intelligently about how much income for the schools this will create. The numbers I have read from Legislative Research indicate that the number is significant. I can only indicate that the schools are in need of additional funding and would continue to utilize the money allocated to them in wise ways designed to improve the education of our students.

Kansas NEA, as part of the School Finance Coalition, supports funding increases for our schools that the current resources of the state cannot afford. We support efforts, such as SB 312, to increase resources for our schools. Thank you for listening to the concerns of our members.

# Emporians for DRUG AWARENESS



*Working for a Safer Community*

February 27, 2001

Senator Dave Corbin, Chair  
Senate Assessment and Taxation Committee  
Room 519 S, State Capital  
Topeka, Kansas 66612

Honorable Senator Corbin and Committee Members:

Alcohol is a major cause of premature death in the United States and a primary contributor to a wide array of economic costs and social problems, including lost productivity, health care expenditures, motor vehicle crashes, violence, crime, spousal and child abuse, falls, fires, drownings, and suicides.

The National Association of Children of Alcoholics reports that alcohol is a key factor in 44% of burglaries, 68% of manslaughters, 54% of murders and attempted murders, and 48% of robberies. And, it's not only the perpetrator of these crimes who may be under the influence, as intoxicated people are more likely to be victimized.

Alcohol abuse affects all age groups:

- In 1998, about 10.4 million current drinkers were between the ages of 12 and 20.<sup>1</sup> More than five million of these individuals were binge drinkers, defined as those consuming five or more drinks at one setting for men, four or more for women.<sup>2</sup> One study estimates the total economic cost of alcohol use by underage drinkers in America amounts to more than \$58 billion a year. (See Figure 1.)
- Alcohol on college campuses is a factor in 40% of all academic problems and 28% of all dropouts.<sup>3</sup>
- Roughly one in eight American adult drinkers is alcoholic or experiences problems due to the use of alcohol.<sup>4</sup>
- An estimated 2.5 million older adults (60 and older) have problems related to alcohol.<sup>5</sup>

<sup>1</sup> (Substance Abuse and Mental Health Services Administration. Summary of Findings from the 1998 National Household Survey on Drug Abuse. U.S. Department of Health and Human Services, August 1999).

<sup>2</sup> Ibid

<sup>3</sup> Anderson, David. "Breaking the Tradition on College Campuses: Reducing Drug and Alcohol Misuse", George Mason University, Fairfax, VA. 1994)

<sup>4</sup> National Association for Children of Alcoholics

<sup>5</sup> Substance Abuse and Mental Health Services Administration Newsletter, Spring 1998

*Senate Assessment & Taxation*

315 So. Market • Emporia, Kansas 66801 • (316) 341-2450, Ext. 211  
Fax: (316) 341-2454 • Website: [emporia.com/drugawareness](http://emporia.com/drugawareness)

2-27-01 Attachment 3

In addressing alcohol problems, the trend has often been to promote a variety of education, law enforcement and rehabilitation programs that focus on a few highly visible issues related to alcohol, such as drinking and driving, youth alcohol use, and alcohol dependence. States have been slow to look at alcohol for additional revenue even though numerous studies have demonstrated that raising alcohol excise taxes is one of the most effective means of saving young lives and reducing the incidence of alcohol-related health problems.

There is a significant disparity between the amount spent on costs associated with alcohol and tax revenues from alcoholic beverages. The revenue collected from all federal, state and local alcohol beverage sources in 1995 totaled *\$17 billion* while the annual national economic costs of alcohol consumption for the same year topped *\$100 billion*.<sup>6</sup> Much of this disparity is due simply to the failure of alcohol tax rates to keep up with inflation. If federal and state tax rates had kept up with inflation between 1970 and 1995, alcohol taxes would have contributed billions of dollars more than they actually did. Relatively static tax rates, in turn, have resulted in the prices of alcoholic beverages increasing far less than those of other consumer goods. In real dollars, alcohol costs less today than in 1981 because alcohol excise tax rates have failed to keep up with inflation. With a cost as low as \$4.00, the average teenager can easily afford to buy a six-pack of beer.

Underage drinkers are not the only consumers affected by the cost of alcohol. Price increases reduce consumption rates among adult heavy drinkers, as well. For most consumers who drink minimally if at all, a tax increase will hardly be noticed. Consumers will pay in proportion to how much they drink, and the bulk of the tax hikes will be paid by the relatively small percentage of drinkers who consume most of the alcohol. These same drinkers, by the way, are responsible for the highest concentration of alcohol-related problems and societal costs.

Alcohol abuse is costing our state and its citizens dearly. The taxpayers are being robbed because we are all asked to shell out for the problems of those abusing the product. Higher taxes will force the abusers to bear a more equitable share of the costs for the problems they cause and help discourage some excessive alcohol consumption.

Increased taxes on alcohol products have the power to prevent alcohol abuse and generate revenue. It will allow our state to reclaim a valuable source of revenue that has declined dramatically over the years. (See Figure 2.)

Respectfully,



Teresa Walters  
Executive Director  
Emporians for Drug Awareness, Inc.

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<sup>6</sup> Rice, Dorothy. "The Economic Cost of Alcohol Abuse and Alcohol Dependence," *Alcohol Health & Research World*, v. 17, n.1, p. 10-11, Public Health Service, National Institutes of Health.

FIGURE 1.  
 COST OF UNDERAGE DRINKING <sup>1</sup>  
*(in millions)*

Violent Crime	\$35,937
Traffic Crashes	\$18,242
Suicide Attempts	\$1,512
Treatment	\$1,008
Drowning	\$532
Fetal Alcohol Syndrome	\$493
Alcohol Poisonings	\$340
Burns	\$315
<i>Total</i>	\$58,379

<sup>1</sup> Levy, D.T., Miller, T.R., Spicer, R., & Stewart, K. *Underage Drinking: Intermediate Consequences and Their Costs*, Pacific Institute for Research and Evaluation working paper, June 1999.



FIGURE 2

EXCERPT FROM  
“ALCOHOL POLICIES IN THE UNITED STATES:  
HIGHLIGHTS FROM THE 50 STATES”

Prepared by Alcohol Epidemiology Program, University of Minnesota,  
School of Public Health, November 2000  
Alexander C. Wagenaar, Ph.D., Professor and Director

Selected State Alcohol Policies as of January 1, 2000



**Distribution System**

**Licensure state:** all wholesale and retail made by private licensed entities. State does not directly control any part of the distribution system, but indirectly regulates all sales through placing conditions on the licenses.

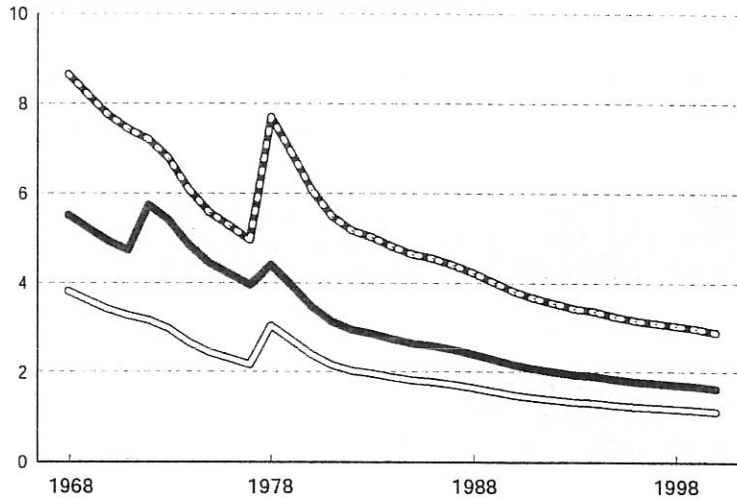
**Purchase and Sales**

- Keg Registration** None statewide
- Server Training** None statewide

**Taxes**

Trend of Taxes 1968-2000 (adjusted for inflation; 2000 dollars)

**Cents Per Drink**



**Current Alcoholic Beverage Taxes**

- Beer** **\$0.13** per gallon  
cents per drink: **1.69**
- Spirits** **\$2.50** per gallon  
cents per drink: **2.93**
- Wine** **\$0.30** per gallon  
cents per drink: **1.17**

Cents per drink = 12 oz. beer, 1.5 oz. spirits, and 5 oz. wine

**Drinking and Driving**

**Blood Alcohol Content Limits**

<b>General BAC</b>	<b>Youth BAC</b>	<b>Boating BAC</b>
0.08	0.02	0.08
		<b>Snowmobile BAC</b>
		-

**Penalties for Violating General BAC Limits**

	Fine (\$)		Jail (days)		License Suspension/Revocation (days)				Vehicle	
	Min.	Max.	Min.	Max.	Pre-Conviction		Post-Conviction		Ignition Interlock	Impound or Seize
1st Offense	200	500	2	180	30*	30	30*	30	yes	-
2nd Offense	500*	1000	90*	365	365*	365	365*	365	yes	-
3rd Offense	1000*	2500	90*	365	365*	365	365*	365	yes	-

\* mandatory minimum

**TO: Senate Assessment and Taxation Committee**

**FROM: Nancy Lusk, parent of Kansas school children  
7700 W. 83rd., Overland Park, KS 66204; 913-648-2616**

**DATE: February 27, 2001**

**RE: Testimony on S.B. 312 -- Proposed Liquor Tax to Support Public Education Funding**

Mr. Chairman and Members of the Committee:

I would like to thank you for taking a moment to let me voice my support for SB 312. I hope you agree that there is no more important task than educating our children, and I urge your support for this bill.

Education is in a crisis in Kansas, and we must look to all possible financing solutions. SB 312 provides funds in a way that poses no hardship upon anyone's ability to obtain the necessities of life.

The burden imposed by an added sales tax is modest compared to the benefits. While this will pose an inconvenience of less than a dime per beer for our beer drinkers, it will greatly benefit our schools. If the choice is between a few cents more for a beer or other drink as opposed to a better education for our children, the choice is clear.

Some may feel that this may put our merchants at a competitive disadvantage. Of course, this concern only applies to the Kansas City metro area. However, there are only a couple of liquor stores near the Missouri state line from Kansas City, Kansas, to the southern Johnson County line, so the impact can only be slight.

In addition, given the cost of gasoline, no sane person will spend the money necessary to drive to Missouri to save a few cents. In fact, common sense tells us price is not a great factor in determining whether to buy a drink, as the high prices for beer at professional sporting events demonstrate.

We all share a great concern about substance abuse in our society, but doctors, law enforcement officials and other experts all agree that education is the best preventative against substance abuse. It makes sense, then, that alcohol, which is so widely abused, should bear some cost toward remedying substance abuse.

Quality schools are especially important in Johnson County. They play a key role in our county's economic prosperity. This is the reason why so many business and civic leaders have been speaking out for the state to increase funding for education. These groups include the Kansas Chamber of Commerce, the Overland Park Chamber of Commerce, and the cities of Overland Park, Lenexa, Olathe and even Salina and Wichita in the central parts of the state.

Thank you for your attention to this matter, and I appreciate the opportunity to share my thoughts with you.

*Senate Assessment & Taxation  
2-27-01  
Attachment 4*

**TO: Senate Assessment and Taxation Committee**  
**FROM: Johnson County taxpayers in support of adequate funding for public education**  
**DATE: February 27, 2001**

**RE: Testimony on S.B. 312 -- Proposed Liquor Tax to Support Public Education Funding**

"We have got to do something to support education, whether it is an increase in alcohol taxes or a sales tax increase. We need to give up something for the greater good, to show we are serious about improving education.

"As a special education teacher, who realizes how expensive special education is, I am concerned when we see the funding continue to be nibbled away because these kids are really going to be in big trouble.

"Dealing with children with fetal alcohol syndrome, I see the difficulties they have with behavior academically and socially. Alcohol, usually, plays a role in their home lives being dysfunctional."

**Mrs. Beth Lee**  
**12409 Delmar**  
**Leawood, KS 66209-2242**  
**913-345-0819**

"The appropriate funding of education is critical to the future of our society. I will never go across the state line to buy beer or wine."

**Hillary Duderstadt**  
**8729 Marty**  
**Overland Park, KS 66212**  
**913-649-9394**

"I am willing to invest in the future. We need money for education. I have no problem with paying more taxes to fund education. We need to get our priorities straight."

**Susan Lohman**  
**8501 Valley View**  
**Overland Park, KS 66212**  
**913-648-8631**

"The sales tax on food is less in Missouri, but I don't buy groceries in Missouri. I prefer to keep my business in Kansas. I would do the same thing with alcohol products."

**Susan Hoher**  
**8417 West 86th Terr.**  
**Overland Park, KS 66212**  
**913-385-0526**

"I commend Sen. Barnett and others for taking the bold step to propose such an initiative to help adequately fund public education. S.B. 312 is a step in the right direction for the state to innovatively look for a combination of ways to generate the revenue needed to fund public education at the level it needs to be funded. I believe the revenue that S.B. 312 will generate for public education will nicely compliment other ideas being proposed to generate more money for the education of Kansas youth.

"As a mother, wife and business owner, my time is important and I will not be willing to drive 10 to 15 minutes across the state line to purchase alcohol that is just 50 cents cheaper. If it were legal and I wanted to drive to Missouri to purchase alcohol, I would probably spend more money in gas driving to and from a liquor store than I would be saving in the price of the product. And, because I want to support public education in any way I can, I would not mind paying extra money when I occasionally purchase beer or alcohol.

"While this bill will generate more money for education, most importantly, it will hopefully deter substance abuse, especially among our youth. Because I have personally witnessed the adverse effects substance abuse (primarily alcohol and tobacco use) have on people, I will always support taxes that serve to deter such uses.

"Please consider this bill as one way to generate the needed funds for public education. And, as Kansas legislators, please consider other proposals in the 2001 legislative session that will provide more money for education. The future of our children ... and the future of Kansas ... depend on adequate funding for public education."

**Judi Reilly**  
**8517 W. 90th St.**  
**Overland Park, KS 66212**  
**913-648-0631**

Lin Fennell,  
9742, Eby Street,  
Overland Park,  
Kansas 66212-4040.  
(913) 383-9336

February 23<sup>rd</sup> 2001

To The Kansas Senate Committee on Assessment and Taxation.

My name is Lin Fennell, and I have been a practicing Registered Nurse for over twenty-five years. During this time I have been unfortunate to witness the effects of alcohol on adults, children, newborn infants, and even the unborn fetus.

'Fetal Alcohol Syndrome' is not just some fancy name dreamed up by a group of scientists, it is the agonizing withdrawal that infants go through when their mother abuses alcohol during her pregnancy. Not only do these infants require specialized medical assistance at birth, but they are also at higher risk for seizures, brain damage, and subsequent candidates for special education needs as they get older.

The medical profession already recognizes the 'burden of cost' related to alcohol incidents, and the community needs to realize that these are all indirect costs to them. Raising the State Alcohol Tax to support Public School Education could offset a portion of these indirect costs by giving them back to those who 'Choose to Abuse!'

Thank-you for your time and consideration in this matter.

Sincerely,

*Lin Fennell*

Lin Fennell



**TESTIMONY**  
**SENATE BILL 312**  
**SENATE TAXATION COMMITTEE**  
**Neal Whitaker, Executive Director**  
**Kansas Beer Wholesalers Association**

Mr. Chairman and Members of the Committee:

My name is Neal Whitaker and I represent the Kansas Beer Wholesalers Association and, as you probably already know, we are appearing here today in **opposition** to **Senate Bill 312**. We believe that a nearly 600% proposed increase in taxes on beer sold in Kansas is an outrageous increase to taxes that are already too high. No other state in the country taxes alcoholic beverages the way we do in Kansas where there is a tax when it comes into the state – gallonage, an enforcement tax as it is sold by retail and a tax on drinks as it is sold on-premise.

It has always been the philosophy of this legislature that essential services provided by state government are paid by all of the people. In other words, a general tax for the general good. But Senate Bill 312 is a different kind of tax because it singles out the alcoholic beverage industry, and the beer consumer in particular, with a taxing system that could easily make Kansas the highest state in the nation for taxes on beer.

Is the goal here, other than the stated purpose, to decrease consumption? Is its purpose to adopt a tax policy to place in effect prohibition without a vote of the people, but rather by legislative sleight of hand? If the goal is to eliminate consumption, then an amendment to the constitution should be drafted to eliminate alcohol from the state, an experiment that failed miserably around the turn of the last century.

We keep hearing proponents say that higher taxes will reduce underage consumption. Well, it is a given that raising beer taxes will increase prices and force some to drink less. The important question is who will drink less and who won't? Both common sense and scientific evidence make it clear that abusive drinkers are not the ones who cut back. In addition, teens who are notorious for paying high prices for the latest clothing and electronic gear, will pay no attention to higher prices as stated in Thomas Dee's State Alcohol Policies, Teen Drinking and Traffic Fatalities article in the *Journal of Public Economics* of last year. A small group of econometric studies is often cited in support of the view that higher taxes can combat abuse.



At least five more recent studies, which utilize longer time series, stronger statistical techniques and more recent data have found no impact from beer taxes on reducing teen drinking or drunk driving.

The claim that higher taxes fight underage drinking misses the fact that teenagers, unlike adults, must actually break the law when they attempt to buy beer. It's true in Kansas today that if teens are caught and prosecuted they risk steep penalties for attempting to purchase beer or alcoholic beverages. If underage drinkers are willing to break the law and take these kinds of risks just to buy a beer it is extremely unlikely that beer taxes can be used as a way to stop their delinquent behavior. It is clear that teens' decisions about drinking are quite removed from shelf prices.

At the federal level, beer taxes were levied to help pay for the enormous cost of fighting wars. The first such tax was for the Civil War. Next the tax was raised to help pay for the Korean War. Unfortunately these taxes have a tendency to take on a life of their own and live on even after the national emergency is long passed. In 1900, 50% of the federal revenues were collected through excise taxes. But, policy makers have come to recognize that excise taxes are an antiquated way to levy taxes. By 1950, only 19% of the federal revenues were collected in excise taxes and, as recently as 1997, excise taxes represented well below 5% of the federal revenues. It is time to stop thinking of beer taxes as simple, painless solutions to budgetary problems or a way to deal with alcohol abuse. In reality, beer taxes are regressive and destructive, eliminating jobs, and hurting working men and women. They are unfair and divisive, tagging one group of consumers to pay for government services that benefit all. And, finally, they are ineffective, failing to have any real impact on alcohol abuse.

Please vote **NO** on **Senate Bill 312**. Kansas taxes on beer and alcoholic beverages are too high already.





# The Kansas Association of Beverage Retailers

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*Jim Scott, President*

*Amy A. Campbell, Executive Director*

## SENATE BILL 312

Testimony for Tuesday, February 27, 2001  
Senate Committee on Assessment and Taxation  
Jim Scott, President

Mr. Chairman and members of the committee, thank you for allowing me to testify before you today. My name is Jim Scott, and I serve as the president of the Kansas Association of Beverage Retailers. KABR was formerly known as the Kansas Retail Liquor Dealers Association, KRLDA. I am a retailer in Fort Scott, but as I speak to you today I do it on behalf of 700 Mom and Pop individual liquor stores. There are 23 members on our board - they come from as close as 3 miles away at 21st and Fairlawn and as far away as Hugoton, whose closest large city is Amarillo, Texas. No one on our board receives any pay, not even to cover expenses- we pay our own motel, meals and gasoline.

This board made a decision at the end of last year. We didn't want to ask you for anything. It was to be a quiet year for us, a year of perhaps educating new legislators regarding Kansas laws and alcohol. We find that our laws of take people by surprise. We're used to them. Most of them have been on the books since legislators in this building came together 52 years ago and repealed 68 years of prohibition. To some that's part of Kansas history. But to us licensees it's part of our daily lives:

- They told me when I can open up in the morning.
- They told me what I can sell and to whom.
- They told me when to lock up and go home.
- They even told me when my day off is.
- And they made me an offer I couldn't refuse: they said I could run my store as long as I was willing to collect taxes for the state and sell the product legally and safely.

I don't agree with everything they did, but I agreed to play under their rules.

And that's ok too, because they also said that if the rules become unfair I'm allowed to come to Topeka and tell Kansans sitting in their chairs just how I feel. I feel like all the other liquor retailers in the state. We're just plain tired:

- We're tired of explaining that we're honorable people in an honorable business. Unlike most businesses in Kansas, we can't own our business and be felons.
- We're tired of defending our products. They're rich in history and tradition around the world since biblical times and before.
- We're tired of being included with tobacco, gambling and illegal drugs.
- We're tired of people saying we pay a "sin" tax. I was an elder in my church when I bought my store. I bought it from the president of our congregation who was going to do missionary work in Nigeria. My business is not a sin in any way.
- We're tired of a segment of law enforcement that is slow to assist us, but quick to condemn us.
- We're tired of being blamed for alcoholism - whatever happened to personal responsibility?
- We're tired of new bills being introduced when enforcement was the real issue.
- We're tired of people calling our products, "controlled substances" thus showing a distinct ignorance of the law.
- And finally, we're tired of being the whipping boy every time someone wants to raise taxes.

*Senate Assessment & Taxation*

*2-27-01*

*Attachment 6*

Throw in the "Feds" and we feel like we're taxed, licensed, and "certificated" to death. Our industry is already responsible for \$76,000,000 in Kansas revenues, reaching beyond even the lottery.

Then, here comes SB 312 - what an offensive bill. When I saw this bill, my first thought was, "Good grief, how does anyone even have the nerve to put something this extreme in print!" My next thought was - excuse the expression - "more sobering". I suddenly realized there are people out there that will take this seriously.

After all, we've just had a revenue shortfall so everyone's looking for income. And we all agree there's nothing more important than taking care of education, except perhaps helping the elderly and people who can't take care of themselves, so that seems reasonable. But to burden one industry so heavily is, in my opinion, a total disregard of negative consequences.

I'm 6 miles from my Missouri competitor who undersells me by \$3.00/case. And none of that \$3.00 is because I have a greater markup or profit.

Ask Wyandotte and Johnson County businesses how they're already getting slammed by Missouri because of lower cost and more selling hours. And they're not 6 miles away, some are just across the street on State Line. Take SB 312 which adds more than \$2.00/case of beer and then what? The price of beer is already 44% tax. Did someone sit there and actually think, "Well, that's not enough - let's take her on up another 544%!"

Some may think that increasing the price will reduce consumption. I would bet that it only sends the customer somewhere else to buy.

Some of you may not think a few bucks make a difference. Anheuser Busch tells me that southeast Kansas, my home, is the only area in the United States that Busch outsells Budweiser. You know why? Because southeast Kansas has a depressed economy and Busch is \$2.00 cheaper for a 12-pack. Cross the line into Missouri and Budweiser is again King.

And finally, I'd like to speak on behalf of my customers. After all, they're the ones who would bear the weight of this massive tax proposal. Many of them are a segment of Kansas society that has no one here to represent their interest, except for you folks facing me.

They don't have a lobbyist. Some of them don't even know what a lobbyist is. There's no one coming in and saying, "Hi, committee, I'm the lobbyist for the working people of Kansas." Just doesn't happen.

Make no mistake - this is a tax on working people. These are people just trying to exist. They hope 5 bucks will get them over 3 gallons of gas. They hope their heating bill doesn't hit them the same time property tax does, or they're in trouble.

And on Saturday night they don't want to think about the layoffs that happened that Friday or the bald tires that need replacing on their car. It's their time. They get with another couple, buy some beer, and watch a movie on TV or play cards. I know this because they tell me what they're doing that night.

During the last elections and even the past few weeks, I have heard plenty of promises from campaigns and politicians that there would be no tax increases. The last thing the slowing economy needs is increased taxes. Yet, the promises are being changed to say there won't be increased sales taxes or property taxes, but a tax on alcohol or tobacco might be okay.

Members of the Committee, I submit to you that a tax by any other name smells the same. Thank you.

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

February 27, 2001

To: Senate Committee on Assessment and Taxation

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

RE: Taxes on Beverage Alcohol

**KWSWA strongly opposes any increase in beverage alcohol taxes.**

Excise Taxes are Taxes - An increase in excise taxes is just as much a tax increase as an increase in the personal income tax or any other type of tax. This is the case whether they are argued on the basis of so-called "user fees" or for program enhancement (such as education). The fact is that excise taxes are taxes.

Excise Taxes are Regressive - Excise taxes weigh most heavily on low and middle income families making the tax structure less progressive or fair. Studies by the Coalition Against Regressive Taxation (CART) show that increased excise taxes negate the benefits of the 1986 Tax Reform Act for lower income people.

*Senate Assessment & Taxation  
2-27-01  
Attachment 7*

Current Excise Taxes are Important to State and Local Governments

The alcohol beverage industry now contributes to the state and local governments through excise taxes. Increases in beverage alcohol taxes may decrease current state revenue sources and would further hamper state fiscal options. The National Conference State Legislatures released a study in March of 1989 which estimates that the states lost revenue in the amount of \$3.7 billion as a result of increases in federal alcohol, tobacco and gasoline taxes in 1983 and 1985.

Excise Taxes are Unfair and Discriminatory - An increase in the beverage alcohol taxes for the purpose of bridging the state's revenue shortfall or supplementing education would be unfair and arbitrary. Whatever the merits of the particular outlays to be financed, it is clear that all Kansans have a stake in them, not just individuals who consume certain products. There is no justification for making one group of taxpayers finance government activities which affect everyone. Earmarking taxes is bad public policy.

For the reasons summarized above and discussed in further detail herein, the Kansas Wine and Spirits Wholesalers Association respectfully requests that the committee report Senate Bill 312 unfavorably.

Tax Burden and Incidence As part of the overview of Kansas state and local taxes, the Kansas Tax Review Commission in 1985 was interested in which taxpayers, by income group, actually bear the burden of Kansas taxes. That is, what is the economic incidence of the Kansas tax burden after all tax shifting and tax exportation are taken into account.

Dr. Darwin Daicoff, Professor of Economics at the University of Kansas, had done considerable research in this area and presented some of this information to the Commission, extracted from his November, 1978 study, Who Pays Kansas Taxes?

(A report to the Special Committee on Assessment and Taxation, Legislative Coordinating Council, State of Kansas; Darwin W. Daicoff and Robert H. Glass, Institute for Economic and Business Research, the University of Kansas, Lawrence, Kansas, November, 1978.)

The following Table 0R-5 contains effective tax rates for 1978 by money income classes for each of the Kansas local and state taxes and fees. The effective tax rate represents total taxes paid divided by income. It serves as a measure of tax burden. If the effective rate increases as income increases, the tax structure is said to be "progressive." Conversely, if the effective rate decreases as income increases, the tax is said to be "regressive." An effective tax rate which is constant throughout the entire range of income is known as "proportional." As shown, **alcohol taxes are very regressive.**

TABLE OR-5

EFFECTIVE TAX RATE BY INCOME CLASS, KANSAS LOCAL, STATE AND FEDERAL TAXES, EXPRESSED AS A PERCENTAGE OF INCOME, TRADITIONAL MODEL

Source	Income Class*												TOTAL
	Under 3,000	3,000-3,999	4,000-4,999	5,000-5,999	6,000-6,999	7,000-7,999	8,000-9,999	10,000-11,999	12,000-14,999	15,000-19,999	20,000-24,999	25,000 & Over	
<b>Kansas Local Taxes</b>													
Property	12.35	8.36	7.75	7.60	6.55	6.33	5.83	5.71	5.66	5.23	5.55	5.17	5.62
Inheritance	.01	.01	.01	.01	.01	.01	.01	--	--	.01	--	--	--
Sales	.39	.25	.22	.20	.18	.18	.17	.16	.15	.14	.12	.09	.14
Vehicle Registration	.03	.02	.02	.02	.02	.02	.01	.02	.01	.01	.01	.01	.01
Mortgage Registration	.12	.08	.08	.08	.07	.06	.06	.06	.06	.05	.06	.05	.06
Intangibles	.07	.09	.09	.08	.10	.08	.06	.04	.04	.04	.07	.11	.07
Other	--	--	--	--	--	--	--	--	--	--	--	--	--
<b>Total Local Taxes</b>	<b>13.00</b>	<b>8.83</b>	<b>8.18</b>	<b>8.01</b>	<b>6.94</b>	<b>6.69</b>	<b>6.14</b>	<b>5.98</b>	<b>5.92</b>	<b>5.48</b>	<b>5.82</b>	<b>5.44</b>	<b>5.91</b>
<b>Kansas State Taxes</b>													
Property	.21	.14	.14	.13	.11	.11	.10	.09	.09	.09	.09	.09	.10
Motor Carrier	.04	.03	.02	.02	.02	.02	.02	.02	.02	.02	.02	.02	.02
Individual Income	.20	.50	.69	.92	1.10	1.33	1.38	1.59	1.58	1.73	2.09	1.80	1.68
Corporate Income	.80	.71	.65	.64	.69	.61	.51	.43	.41	.43	.52	.69	.55
Financial Institutions	.07	.07	.06	.06	.07	.06	.05	.04	.04	.05	.05	.07	.06
Inheritance	.14	.17	.16	.16	.19	.15	.10	.07	.07	.08	.12	.05	.09
Sales and Use	7.45	4.77	4.01	3.93	3.51	3.34	3.13	2.94	2.76	2.52	2.33	1.71	2.50
Cigarette and Tobacco	.82	.73	.59	.53	.57	.53	.46	.40	.35	.26	.20	.12	.28
Motor Fuel	1.84	1.44	1.40	1.45	1.47	1.40	1.30	1.22	1.00	.94	.75	.54	.89
Vehicle Registration	1.10	.84	.80	.76	.65	.63	.54	.46	.41	.36	.36	.37	.43
Liquor and Beer	.35	.31	.23	.31	.20	.25	.27	.24	.22	.20	.21	.14	.20
Corporate Franchise	.03	.03	.03	.03	.03	.02	.02	.02	.02	.02	.02	.03	.02
Insurance	.37	.23	.22	.19	.20	.22	.23	.24	.24	.23	.23	.25	.24
Unemployment Compensation	.60	.62	.67	.82	.93	.90	.79	.66	.57	.47	.44	.40	.53
Other	--	--	--	--	--	--	--	--	--	--	--	--	--
<b>Total State Taxes</b>	<b>14.05</b>	<b>10.60</b>	<b>9.69</b>	<b>9.97</b>	<b>9.76</b>	<b>9.60</b>	<b>8.93</b>	<b>8.45</b>	<b>7.79</b>	<b>7.41</b>	<b>7.45</b>	<b>6.31</b>	<b>7.59</b>
<b>Total State and Local Taxes</b>	<b>27.05</b>	<b>19.44</b>	<b>17.86</b>	<b>17.98</b>	<b>16.70</b>	<b>16.28</b>	<b>15.07</b>	<b>14.43</b>	<b>13.71</b>	<b>12.89</b>	<b>13.26</b>	<b>11.75</b>	<b>13.50</b>

\*Money Income - 1978

Source: Daicoff & Glass, Who Pays Kansas Taxes?, The University of Kansas, November, 1978

4-4

The alcohol beverage industry is a major source of federal, state and local money. A significant percentage of the price a consumer pays is for taxes.

The 1977 session of the Kansas legislature saw fit to raise the gallonage tax in Kansas from \$1.50 to \$2.50 per gallon. Unfortunately the legislature also elected to "ear-mark" a portion of the tax money raised for the treatment and prevention of alcoholism.

Any student of good government knows that "tagged" funds to government agencies can result in inefficiencies. We are not suggesting that the tax be lowered, or that alcoholism is not worthy of the attention and concern of all. We are advocating, however, that this committee recommend a change in the law to the legislature as it applies to the "ear-marked" tax dollars and that no additional revenues be "earmarked". It would be far more advisable to place that money in the state general fund for distribution in accordance with legislatively determined priorities.

The industry bears an exorbitant and totally discriminatory tax burden. The theory of diminishing returns threatens the industry. As Chief Justice John Marshall pointed out, "The power to tax is the power to destroy."



TAX ON AN AVERAGE \$10.49 LITER

Federal excise tax \$13.50 100 proof gal. 80 proof liter 10.80 x .264172	=	2.85
State Gallonage tax = 2.50 vol. gal. \$2.50 x .264172	=	.66
Enforcement Tax at 8%	=	.84
TOTAL TAX OR	=	4.35 41.5%

10% DRINK TAX

33 DRINKS PER BOTTLE AVERAGE DRINK AT \$3.50 = \$115.50 @ 10%	=	\$11.55
TOTAL FEDERAL & STATE TAXES COLLECTED	=	\$15.90



Elasticity of demand: The Kansas Legislative Research Department during previous discussions of beverage alcohol taxes has stated: "Increases in prices will, other things remaining equal, decrease the quantity sold. Increases in taxes which lead to increases in prices of goods or services, may as a result of a decrease in the base, lead to less than proportional increases in receipts...thus, proposals to increase taxes by a substantial amount will probably result in significantly less revenue than might be projected on the assumption of zero elasticity of demand (that price will not effect demand)."

Experience tells us when there has been an increase in the federal excise tax, collections are not have not increased proportionally. See the charts that follow showing federal experience following FET increases.

CROSS BORDER PURCHASES: Further we believe that higher taxes on beer, wine and spirits would result in an "elasticity of demand" dilemma as well as shift in sales across the border to Missouri. Taxes are lower in surrounding states such as Missouri and Colorado. Missouri is a particular problem because of the metropolitan area on the state line. An increase in taxes will cause

# EXCISE TAX COLLECTIONS

## DISTILLED SPIRITS

YEAR	TAXES COLLECTED	\$ INCREASE/ DECREASE	% INCREASE/ DECREASE	100 PROOF GALLONS	INCREASE/ DECREASE	% INCREASE/ DECREASE
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\*Tax rates on distilled spirits: \$10.50 per 100 proof gallon from November 1, 1951 through September 30, 1985

1984	\$3,566,482,000			339,664,952		
1985	\$3,520,697,000	(\$45,785,000)	-1.28%	335,304,476	(4,360,476)	-1.28%

\*Tax rates on distilled spirits: \$12.50 per 100 proof gallon from October 1, 1985 through December 31, 1990

1986	\$3,731,368,000	\$210,671,000	5.98%	298,509,440	(36,795,036)	-10.97%
1987	\$3,799,226,000	\$67,858,000	1.82%	303,938,080	5,428,640	1.82%
1988	\$3,844,421,000	\$45,195,000	1.19%	307,553,680	3,615,600	1.19%
1989	\$3,862,326,000	\$17,905,000	0.47%	308,986,080	1,432,400	0.47%
1990	\$3,850,266,000	(\$12,060,000)	-0.31%	308,021,280	(964,800)	-0.31%

\*Tax rates on distilled spirits: \$13.50 per 100 proof gallon from January 1, 1991

1991	\$3,764,405,000	(\$85,861,000)	-2.23%	278,844,815	(29,176,465)	-9.47%
1992	\$3,889,720,000	\$125,315,000	3.33%	288,127,407	9,282,593	3.33%
1993	\$3,797,200,000	(\$92,520,000)	-2.38%	281,274,074	(6,852,973)	-2.38%

— The Tax Collection figures are for the fiscal years ended September 30

— Source of information: U.S. Department of Treasury — Bureau of Alcohol, Tobacco and Firearms

7-9

## EXCISE TAX COLLECTIONS

### WINE

YEAR	TAXES COLLECTED	\$ INCREASE/DECREASE	% INCREASE/DECREASE	WINE GALLONS	INCREASE/DECREASE	% INCREASE/DECREASE
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\*Tax rates on Table Wine: \$0.17 per wine gallon from November 1, 1951 through December 31, 1990

1984	\$319,920,000					
1985	\$305,966,000	(\$13,954,000)	-4.36%			
1986	\$415,196,000	\$109,230,000	35.70%			
1987	\$316,457,000	(\$98,739,000)	-23.78%			
1988	\$299,819,000	(\$16,638,000)	-5.26%			
1989	\$270,061,000	(\$29,758,000)	-9.93%			
1990	\$259,969,000	(\$10,092,000)	-3.74%			

\*Tax rates on Table Wine: \$1.07 per wine gallon from January 1, 1991

1991	\$500,597,000	\$240,628,000	92.56%			
1992	\$615,696,000	\$115,099,000	22.99%			
1993	\$578,013,000	(\$37,683,000)	-6.12%			

— The Tax Collection figures are for the fiscal years ended September 30

— Source of information: U.S. Department of Treasury — Bureau of Alcohol, Tobacco and Firearms

Kansans to go across the border to make purchases, reducing sales (but not necessarily consumption).

Currently spirits are taxed at \$2.50 per gallon in Kansas. Missouri is at \$2.00 and Colorado is at \$2.28. Beer is currently taxed at 18 cents in Kansas and 8 cents in Missouri. The bill proposes increasing spirits to \$3.00 and beer to 98 cents aggravating the difference. In addition to the tax per gallon, Kansas also imposes an 8 percent excise tax.

According to the 2001 Beverage Marketing Directory, which tracks the U.S. market, Kansas is 33rd in malt-beverage consumption, 39th in wine consumption and 34th in spirits consumption.

**The beverage alcohol industry in Kansas with the combination of federal and state excise taxes now levied plus the 10 per cent drink tax in addition to all other business taxes paid, cannot bear these proposed increases.**

We respectfully request that you reject SB 312. Thank you for your attention to and consideration of these matters.

-- Tuck Duncan  
K.W.S.W.A.

December 30, 1999

## KANSAS LIQUOR LAWS

### How Has Kansas Policy Regarding Regulation of Alcohol Evolved?

Some major events in the evolution of liquor policy in Kansas are listed below.

- 1880 Voters approved (92,302 to 84,304) an amendment to the *Kansas Constitution* prohibiting the manufacture and sale of intoxicating liquors (Article 15, §10).
- 1934 Voters rejected (347,644 to 436,688) a proposed constitutional amendment to authorize the Legislature to regulate and tax liquor.
- 1937 The Legislature enacted the law that categorizes beer with an alcohol content of 3.2 percent or less alcohol by weight as cereal malt beverage (CMB) which was excluded from the definition of intoxicating liquor. The law authorized sale of CMB for both on- and off-premise consumption throughout the state.
- 1948 Voters approved (422,294 to 358,310) an amendment to the *Kansas Constitution* that authorized the Legislature to ". . . regulate, license and tax the manufacture and sale of intoxicating liquor . . . regulate the possession and transportation of intoxicating liquor." (Art. 15, §10) The amendment also "forever prohibited" the open saloon. The amendment meant that package liquor sales could be authorized and regulated, but that sale of liquor by the drink in public places was prohibited.
- 1949 The Legislature enacted the Liquor Control Act. The Act authorized package 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. The Division of Alcoholic Beverage Control (ABC) was created to enforce the Act.
- 1959 The Legislature enacted the "minimum price law" which required manufacturers and suppliers to sell liquor to distributors in Kansas at the same price and without discrimination. Manufacturers' price lists were to be filed with the Director of ABC. Manufacturers also were required to file suggested wholesale and retail price lists with the Director. Distributors were required to file current price lists with the Director and were prohibited from selling liquor to retailers at any price other than that posted with the Director. The Director of ABC was authorized to promulgate rules and regulations prohibiting distributors and retailers from selling liquor below manufacturers' suggested case and bottle prices filed with the Director of ABC.

Prior to enactment of statutes regulating liquor pricing, prices were controlled by regulation. The regulation was overturned by the courts in 1958.

Senate Assessment & Taxation  
2-27-01  
Attachment 8

- 1961 Amendment of the minimum price law established guidelines for the ABC Board of Review to use to set minimum wholesale and retail liquor prices.
- 1965 The Legislature enacted laws providing for licensure and regulation of liquor sales in private clubs. Such clubs were allowed under the constitutional prohibition because they were not open to the public.
- 1970 Blood alcohol level at which a driver was presumed to be under the influence of alcohol was lowered from 0.15 percent to 0.1 percent.

Proposition to remove "open saloon" prohibition from *Constitution* rejected by voters 335,094 to 346,423.

- 1978 Restaurants were authorized to sell liquor if they derived at least 50 percent of gross receipts from the sale of food and are located in counties that approved such sales at the 1978 general election. These establishments were not subject to the ten-day waiting period and membership dues requirements of the private club law. (Law struck down by court.)
- 1979 Private clubs were statutorily authorized to sell liquor by the drink to members and guests. The law eliminated "liquor pools" and permitted class B clubs that derived a minimum of 50 percent of their gross receipts from the sale of food to establish reciprocal relationships with other similar clubs. Those agreements provided members of one participating club with access to all participating clubs. Class A clubs also were authorized to enter into reciprocal agreements

The 10 percent "drink tax" was imposed in lieu of the retail sales tax on sales of liquor by clubs. Revenue from the tax was credited to the Local Alcoholic Liquor Fund from which allocations were made to cities and counties based on the amount collected from clubs located in that jurisdiction. A city or county receiving an allocation must credit moneys as follows:

- one-third to the general fund
- one-third to a special parks and recreation fund
- one-third to a special alcohol programs fund

An exclusive territorial franchise system for liquor wholesalers was established. Under the system, each liquor wholesaler was required to file with the ABC the territory agreed upon by the wholesaler and the manufacturer, within which the wholesaler will sell the manufacturer's products to retailers. A manufacturer cannot grant a franchise for a particular territory to more than one wholesaler.

Minimum wholesale prices were no longer established by the state. Minimum price mark-ups for retailers were to be determined by the ABC Board of Review.

- 1982 Private clubs were authorized to sell CMB for on-premise consumption only at any time liquor is sold (prior law provided for different hours of sale for liquor and CMB at clubs). Authority for clubs to sell CMB for off-premise consumption was repealed.

Blood alcohol content of 0.1 percent becomes *prima facie* evidence that a driver is under the influence of alcohol to a degree that renders the person incapable of driving safely.

One-fourth of receipts from "drink tax" to be allocated to the State General Fund.

- 1983 Farm wineries were permitted to manufacture and sell table wine containing 14 percent or less alcohol made from Kansas-grown products. Farm wineries were authorized to sell their products to wholesalers and to consumers for off-premise consumption.

Liquor enforcement tax rate increased from 4 percent to 8 percent of the retail sales price of liquor sold for off-premise consumption.

- 1985 The minimum legal age for possession and consumption of CMB was raised to 21 for persons born after July 1, 1966.

CMB sold in private clubs was subject to the 10 percent "drink tax." Five percent of "drink tax" receipts credited to the Community Alcoholism and Intoxication Programs Fund administered by SRS. The amendment reduced the amount allocated directly to cities and counties.

"Happy hour ban" enacted. Certain promotional practices by clubs and CMB retailers were prohibited (see Table 5).

Hotels were permitted to enter into agreements with class B clubs whereby hotel guests could be issued temporary memberships in the club.

The Legislature approved the resolution proposing to amend the *Constitution* to permit the sale of liquor by the drink in public places.

The Liquor Law Review Commission was appointed by Governor Carlin to conduct a comprehensive review of Kansas' liquor laws and to make recommendations for amendments.

- 1986 Voters approved (489,646 to 325,505) the constitutional amendment permitting sale of liquor by the drink in establishments open to the public.

The Liquor Law Review Commission issued its report with recommendations for changes in statutes and rules and regulations.

- 1987 Drinking establishments were created as a category of licensee permitted to sell liquor by the drink. The bill also provided for sale of liquor by the drink on unlicensed premises by licensed caterers and by persons holding temporary permits.

Liquor and beer wholesalers were permitted to sell bulk wine directly to caterers, clubs, and drinking establishments. Beer distributors were permitted to sell beer directly to caterers, clubs, and drinking establishments. Liquor retailers were permitted to deliver products to caterers, clubs, and drinking establishments located in the same or adjacent counties.

The Attorney General issued an opinion that minimum price mark-ups are illegal.

Retail sale of liquor at less than acquisition cost was prohibited by statute.

Microbreweries were created as a category of licensee. Microbreweries manufacture beer with 8 percent or less alcohol content and have capacities of 5,000 or fewer barrels per year.

The ABC Board of Review was abolished.

Price and brand advertising of liquor was permitted.

Sunday sale of CMB was permitted in restaurants that derive 30 percent or more of gross receipts from sale of food if they were located in a city or county that authorized such sales by ordinance or resolution.

Boating under the influence of alcohol (blood alcohol content of 0.1 percent or greater) was made a misdemeanor.

1988 Farm wineries were permitted to sell directly to clubs, drinking establishments, and retailers.

1990 The 10 percent "drink tax" was imposed on sale of liquor by the drink by persons holding temporary permits.

The Nonalcoholic Malt Beverages Act authorized distribution, sale, and taxation of malt beverages containing less than one-half of 1 percent alcohol. Those beverages may be sold by liquor retailers, clubs, drinking establishments, and CMB retailers. Nonalcoholic malt beverages (NAMB) were subject to the same taxes as CMB.

1991 Required periodic price posting by suppliers and wholesalers was replaced by registration.

1992 Farm wineries were permitted to operate a maximum of two licensed outlets for off-premise sale of domestic wine and for wine tasting if the outlet is located in a county where liquor can be sold by the drink.

Microbrewery licensees were authorized to obtain caterer licenses.

Liquor retailers were authorized to sell nonalcohol items included by manufacturers in packages of liquor. Retailers also were authorized to distribute free advertising specialties.

1993 The blood alcohol content at which a person is found to be driving or operating a boat under the influence of alcohol was lowered from 0.1 percent to 0.08 percent.

Minimum liquor container size law was repealed.

1994 Election day sales of liquor and CMB for off-premise consumption legalized.

On-premise consumption of CMB in taverns on election days legalized.

Class A clubs and Class B clubs that are restaurants permitted to enter into reciprocal agreements.

1995 The maximum number of barrels of beer that can be produced by a microbrewery increased from 5,000 to 15,000.

State residency requirement for a beer distributor's license reduced from five years to one year.

Distributors prohibited from selling CMB at a discount for multiple case lots.



ABC authorized to issue temporary permits to charitable organizations to sell liquor at auction.

ABC authorized to issue temporary permits to individuals to sell limited issue porcelain containers of alcohol.

Consumption of CMB in or on the grounds of the Capitol Building prohibited.

CMB retailers permitted to employ persons to sell, serve, or dispense CMB who become convicted of a felony or violation of liquor laws more than two years prior to employment.

Hotels licensed as drinking establishments or caterers authorized to have minibars in guest rooms.

Liquor and CMB retailers, microbreweries, and farm wineries authorized to accept certain credit cards for the sale of alcoholic beverages.

1996 Liquor, wine, and beer distributors authorized to use the warehouses of another licensed distributor for storage and delivery of liquor to retailers.

Liquor, wine, and beer distributors authorized to use products from their inventories as samples in the course of business or at industry seminars.

The spouse of a retail liquor license permitted to have a license for a separate retail liquor establishment.

Beer manufacturers in Kansas prohibited from selling beer directly to liquor retailers.

Price or service discrimination between CMB retailers by CMB wholesalers prohibited.

Off-premise CMB retailers prohibited from selling CMB at less than acquisition cost.

1998 City residents authorized to vote on the question of whether to allow retail liquor stores to operate in the city limits at any regular general city election (every two years). Prior law allowed such a vote only once every four years.

Licensed farm wineries allowed to produce and sell "domestic fortified wine" (which contains between 14 percent and 20 percent alcohol by volume) under the same conditions as they sell domestic table wine.

The Hiram Price Dillon House and surrounding property exempted from the general prohibition against consuming liquor on public property. Policies regarding the consumption of liquor in the Dillon House will be established by the Legislative Coordinating Council.

Consumption of alcoholic beverages at lake resorts at state parks allowed, should any such lake resorts be developed.

1999 Consumption of alcoholic liquor authorized: (1) at the Kansas National Guard Regional Training Center in Salina pursuant to rules and regulations adopted by the Adjutant General; (2) in the State Capitol Building and on the Capitol grounds on 12-31-99 and 1-1-2000 under

policies adopted by the Secretary of Administration; and (3) at the Sternberg Museum at Fort Hays State University under policies adopted by the Kansas Board of Regents.

The Attorney General is required to appoint a Statewide Drug Abuse Resistance Education (DARE) coordinator.

Boating Under the Influence (BUI) laws amended to be more consistent with the Driving Under the Influence (DUI) laws.

### **What Types of Alcoholic Beverages are Available in Kansas?**

*Alcoholic liquor* in Kansas law includes spirits, wine, and beer containing over 3.2 percent alcohol by weight. Spirits are defined in statute to be any distilled alcoholic beverage including brandy, rum, whiskey, and gin, among others.

*Cereal Malt Beverage* (CMB or 3.2 beer) is beer containing 3.2 percent or less alcohol by weight.

*Nonalcoholic Malt Beverage* (nonalcohol beer or NAMB) is beer containing 0.5 percent or less alcohol by weight.

*Domestic Table Wine* contains 14 percent or less alcohol by volume and is manufactured by farm wineries from Kansas-grown agricultural products.

*Domestic Fortified Wine* contains between 14 percent and 20 percent alcohol by volume and is manufactured by farm wineries from Kansas—grown agricultural products.

*Domestic Beer* contains 8 percent or less alcohol by weight and is manufactured by microbreweries from Kansas-grown agricultural products.

### **What State Agency is Responsible for Regulating the Liquor Industry in Kansas?**

The Division of Alcoholic Beverage Control of the Department of Revenue was created by enactment of the Liquor Control Act to license and regulate the liquor industry and enforce liquor laws. The Division has broad rule-making authority.

### **Who Can Legally Buy and Sell Liquor in Kansas?**

The *Kansas Constitution* authorizes the Legislature to prohibit intoxicating liquor in certain areas. The Legislature also is authorized by the *Constitution* to regulate, license, and tax the manufacture and sale of liquor and to regulate the possession and transportation of liquor. The Legislature has done so through enactment of the Liquor Control Act and the Club and Drinking Establishment Act.

The liquor distribution system in Kansas is referred to as a "three tier system" because by statute liquor and CMB are distributed from manufacturer to distributor (commonly called wholesaler) to retailer. There are exceptions to that generalization.

1. Farm wineries may sell directly to retailers, clubs, drinking establishments, caterers, and consumers.
2. Microbreweries also may sell their products directly to consumers but must sell to retailers, clubs, and drinking establishments through licensed distributors.
3. Farm wineries and microbreweries also may be licensed as clubs or drinking establishments, and microbreweries may be licensed as caterers for sale of liquor by the drink to consumers.
4. Clubs, drinking establishments, and caterers may purchase beer and bulk wine directly from wholesalers, but must purchase all other liquor from a liquor retailer.

Table 1 displays current categories of liquor licensees and the market niche occupied by each. Table 2 displays major statutory provisions that govern the sale of beer and CMB for off-premise consumption. Tables 3 and 4 display qualifications individuals and businesses must meet to obtain a liquor license.

TABLE 1

Liquor Licensees, Their Suppliers, and Their Markets

Licensee/Permittee	Buys From	Sells To
Manufacturer	N/A	Distributors and nonbeverage users
Distributor (wholesalers)	Manufacturer	Retail liquor stores; other distributors; beer and bulk wine only to clubs, drinking establishments, and caterers
Retail Liquor Store	Distributor	Consumers (off-premise), clubs, drinking establishments, caterers, and temporary permit holders (may deliver to clubs and drinking establishments in the same or adjacent counties)
Farm Winery	N/A	Wine distributors, retail liquor stores, clubs, drinking establishments, caterers, and consumers (off-premise)
Microbrewery	N/A	Beer distributors and consumers (off-premise)
Club	Distributor (beer and bulk wine only), retail liquor store, farm winery	Members, their families, and guests (on-premise only)
Drinking Establishment	Distributor (beer and bulk wine only), retail liquor store, farm winery	General public (on-premise only)
Caterer	Distributor (beer and bulk wine only), retail liquor store, farm winery	General public (by the drink only)
CMB Retailer Off-Premise	Beer distributor	General public (off-premise only)
On-Premise	Beer distributor	General public (on-premise only)

TABLE 2

BUSINESSES LICENSED TO SELL BEER AND CMB FOR OFF-PREMISE CONSUMPTION

Statutory Provision	Retail Liquor Store	Microbrewery	CMB Retailer (off-premise)
License Issued By	State	● Same	City or County
Licensee Qualification	<ul style="list-style-type: none"> <li>● 10 year U.S. Citizen<sup>1</sup></li> <li>● 4 year Kansas Resident<sup>2</sup></li>   <li>● No felons; no persons convicted of prostitution, gambling/morals violations</li> <li>● No prior license revocations<sup>3</sup></li> <li>● 21 years of age</li> <li>● May not be, appoint, or supervise any law enforcement official<sup>4</sup> or be employed by ABC</li> <li>● May be a licensed CMB retailer<sup>5</sup></li> <li>● Must own premises or have a valid lease for at least 3/4 of license period</li> <li>● Upon initial application, the applicant's spouse also must meet qualifications for licensure other than citizenship, residency, and age</li> </ul>	<ul style="list-style-type: none"> <li>● Same</li> <li>● Same</li> <li>● Same</li> <li>● Same</li> <li>● Same</li> <li>● Same</li> <li>● Cannot have CMB License</li> <li>● Same</li> <li>● Same</li> </ul>	<ul style="list-style-type: none"> <li>● U.S. Citizen</li> <li>● 1 year Kansas Resident</li> <li>● 6 months resident of county where business is located; good character reputation in community where resident</li> <li>● No felony conviction in preceding 2 years; no conviction for moral turpitude, drunkenness, DUI, or any liquor violation</li> <li>● N/A</li> <li>● Same</li> <li>● N/A</li> <li>● N/A</li> <li>● Same</li> </ul>
Business Arrangements Eligible for License	<u>Partnerships</u> -- All partners qualify as individuals	Same	<u>Partnerships</u> , if all partners qualify as individuals
	<u>Corporations</u> -- Not eligible for licensure	<u>Corporations</u> , Stockholder owning aggregate 50% must be fully qualified as individuals, all others must be fully qualified except for citizenship or residency	<u>Corporations</u> , if all officers, managers, directors, and stockholders with >25% of stock would qualify as individuals <sup>6</sup>
	<u>Trust</u> -- All grantors, beneficiaries, and trustees must meet qualifications, except for age of beneficiary, as individuals	Same	Business may be operated by an agent if the agent qualifies as an individual
License and Application Fees	License Fee: \$250, annually	Same	License Fee: \$25-50, annually
	Application Fee: \$50, initial; \$10, renewal	Same	Application Fee: \$25, annually
	Local License Tax: \$100-300, annually	N/A	State Stamp: \$25

TABLE 2 (CONTINUED)

Statutory Provision	Retail Liquor Store	Microbrewery	CMB Retailer (off-premise)
Products	Total: \$400-600, initial \$360-560, renewal Beer, wine, spirits, NAMB	Total: \$350, initial \$260, renewal Domestic beer	Total: \$75-100, annually CMB, NAMB
Days of Sale	No sales on: Sunday, certain holidays <sup>7</sup>	Any days	No sales on Sundays
Hours	No sales between 11:00 p.m. and 9:00 a.m. <sup>8</sup>	No sales between midnight and 6:00 a.m., Sunday sales permitted between noon and 6:00 p.m.	No sales between midnight and 6:00 a.m.
Discounts	No sales at less than cost <sup>9</sup>	N/A	Same as retail liquor stores
Credit Card Sales	Yes <sup>10</sup>	Same	Same
Advertising	No hand bills, bill boards <sup>11</sup> , or window displays of liquor	All advertising subject to approval by ABC	No restrictions
Employee Age	Must be 21 or older	Must be 18 to manufacture, sell, or serve with supervision of someone 21 or older	Must be 18 or older
Buys From	Licensed wholesalers No credit purchases	N/A	Same
Sells To	<ul style="list-style-type: none"> <li>● Consumers, clubs, drinking establishments, caterers, and holders of temporary permits</li> <li>● May deliver product to clubs, drinking establishments, and caterers in the same or adjacent counties</li> </ul>	<ul style="list-style-type: none"> <li>● Consumers, beer distributors</li> </ul>	Consumers
Location of Licensed Premises	<ul style="list-style-type: none"> <li>● Must be in areas zoned for commercial use if jurisdiction is zoned</li> <li>● Cannot be in city that does not permit retail liquor stores</li> <li>● Cannot be within 200 feet of school, college, or church</li> <li>● Cannot have inside entrance or opening that connects with another business</li> </ul>	<ul style="list-style-type: none"> <li>● Must be zoned for agricultural, commercial, or business purposes</li> <li>● Cannot be within 200 feet of a school, college, or church</li> </ul>	<ul style="list-style-type: none"> <li>● City or county may establish zones in which CMB retailers may not be located</li> </ul>

TABLE 2 (CONTINUED)

11-8

Statutory Provision	Retail Liquor Store	Microbrewery	CMB Retailer (off-premise)
Other Sales	<ul style="list-style-type: none"> <li>● May <u>not</u> sell any products other than liquor, products or materials included by the manufacturer in the package, and nonalcoholic beer, except lottery tickets</li> <li>● May give away advertising specialties</li> <li>● May charge a delivery fee</li> <li>● May <u>not</u> provide entertainment nor have pinball machines, or games of skill or chance on the premises</li> </ul>	<ul style="list-style-type: none"> <li>● No limitations regarding sale of nonalcoholic products</li> </ul>	<ul style="list-style-type: none"> <li>● Same</li> </ul>
<ol style="list-style-type: none"> <li>1) Spouse of deceased licensee may be licensed if a U.S. citizen for less than ten years or if that person becomes a citizen within one year of the licensee's death.</li> <li>2) The requirement does not apply upon the tenth and subsequent renewals if a resident agent has been appointed.</li> <li>3) A license may be issued after ten years from revocation if the previous license was revoked for conviction of a misdemeanor.</li> <li>4) An exception to the supervision provision is provided for members of a city or county governing body.</li> <li>5) CMB and liquor cannot be sold for off-premise consumption at the same location.</li> <li>6) If any manager, officer, director, or stockholder owning more than 25% of the corporate stock has had a CMB license revoked or has been convicted of a violation of the Kansas Drinking Establishment Act or CMB laws, the corporation could not receive a CMB retailer license.</li> <li>7) Holidays on which liquor stores must be closed: Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas.</li> <li>8) By ordinance, a city may require liquor stores to close prior to 11:00 p.m., but not before 8:00 p.m.</li> <li>9) Wholesalers cannot grant retailers quantity discounts. Sales at less than cost are permitted when a retailer is closing out stock, selling damaged or deteriorated stock, or selling under court order.</li> <li>10) Credit card sales are permitted if the credit card entitles the user to purchase goods or services from at least 100 persons not related to the issuer of the credit card.</li> <li>11) In a 1992 opinion (92-14) the Attorney General stated that the statute that attempts to prohibit liquor retailers from advertising by means of billboards (K.S.A. 1992 Supp. 41-714) is so vague as to be unenforceable.</li> </ol>			

TABLE 3

## LICENSEE QUALIFICATIONS—INDIVIDUAL APPLICANT

	U.S. Citizen	Kansas Resident	Record	Age	Other Employment	Hold 3.2 License?	Control of Premise?	Spouse	Beneficial Interests
Manufacturer	10 year	5 year <sup>d</sup>	No felony, prostitution, gambling, or morals conviction. No license revocation <sup>2</sup>	21	May not be, appoint, or supervise any law enforcement official <sup>3</sup> or be employed by the director of ABC.	no	Proof of ownership or valid lease for at least 3/4 of license period	Initial application: must be fully qualified other than citizenship, residency, and age. Renewal: N/A	N/A
Nonbeverage User	10 year	N/A	No felony, prostitution, gambling, or morals conviction. No license revocation <sup>2</sup>	21	May not be, appoint, or supervise any law enforcement official <sup>3</sup> or be employed by the director of ABC.	no	Proof of ownership or valid lease for at least 3/4 of license period	Initial application: must be fully qualified other than citizenship, residency, and age. Renewal: N/A	N/A
Spirits Distributor	10 year	10 year <sup>d</sup>	No felony, prostitution, gambling, or morals conviction. No license revocation <sup>2</sup>	21	May not be, appoint, or supervise any law enforcement official <sup>3</sup> or be employed by the director of ABC.	no	Proof of ownership or valid lease for at least 3/4 of license period	Initial application: must be fully qualified other than citizenship, residency, and age. Renewal: N/A	May hold more than one distributor's license. No other interest allowed.
Wine Distributor	10 year	10 year <sup>d</sup>	No felony, prostitution, gambling, or morals conviction. No license revocation <sup>2</sup>	21	May not be, appoint, or supervise any law enforcement official <sup>3</sup> or be employed by the director of ABC.	no	Proof of ownership or valid lease for at least 3/4 of license period	Initial application: must be fully qualified other than citizenship, residency, and age. Renewal: N/A	May hold more than one distributor's license. No other interest allowed.
Beer Distributor	10 year	1 year <sup>d</sup>	No felony, prostitution, gambling, or morals conviction. No license revocation <sup>2</sup>	21	May not be, appoint, or supervise any law enforcement official <sup>3</sup> or be employed by the director of ABC.	no	Proof of ownership or valid lease for at least 3/4 of license period	Initial application: must be fully qualified other than citizenship, residency, and age. Renewal: N/A	May hold more than one distributor's license. No other interest allowed.
Farm Winery	10 year	4 year <sup>d</sup>	No felony, prostitution, gambling, or morals conviction. No license revocation <sup>2</sup>	21	May not be, appoint, or supervise any law enforcement official <sup>3</sup> or be employed by the director of ABC.	no	Proof of ownership or valid lease for at least 3/4 of license period	Initial application: must be fully qualified other than citizenship, residency, and age. Renewal: N/A	May hold club or D.E. license. No other interest allowed.
Microbrewery	10 year	4 year <sup>d</sup>	No felony, prostitution, gambling, or morals conviction. No license revocation <sup>2</sup>	21	May not be, appoint, or supervise any law enforcement official <sup>3</sup> or be employed by the director of ABC.	no	Proof of ownership or valid lease for at least 3/4 of license period	Initial application: must be fully qualified other than citizenship, residency, and age. Renewal: N/A	May hold club, D.E., or caterer license. No other interest allowed.
Retailer	10 year <sup>1</sup>	4 year <sup>d</sup>	No felony, prostitution, gambling, or morals conviction. No license revocation <sup>2</sup>	21	May not be, appoint, or supervise any law enforcement official <sup>3</sup> or be employed by the director of ABC.	yes	Proof of ownership or valid lease for at least 3/4 of license period	Initial application: must be fully qualified other than citizenship, residency, and age. Renewal: N/A	No beneficial interest in any other state license except that spouses may each hold licenses for separate retail establishments.
Class A Club	10 year	1 year + current resident of county	No felony, prostitution, gambling, or morals conviction. No license revocation <sup>2</sup>	21	May not be, appoint, or supervise any law enforcement official <sup>3</sup> or be employed by the director of ABC.	yes	Proof of ownership or valid lease for at least 3/4 of license period	Initial application: must be fully qualified other than citizenship, residency, and age. Renewal: N/A	May hold caterer license or other club/D.E. license if restaurants or in hotels. No other interest allowed. <sup>5</sup>
CMB Retailer (local license)	Yes	1 year/ 6 months county	No felony in 2 years; no conviction for moral turpitude, drunkenness, DUI, or any liquor violation	21	N/A	N/A	N/A	Initial application: must be fully qualified other than citizenship, residency, and age. Renewal: N/A	N/A
Class B Club	10 year	1 year + current resident of county	No felony, prostitution, gambling, or morals conviction. No license revocation <sup>2</sup>	21	May not be, appoint, or supervise any law enforcement official <sup>3</sup> or be employed by the director of ABC.	yes	Proof of ownership or valid lease for at least 3/4 of license period	Initial application: must be fully qualified other than citizenship, residency, and age. Renewal: N/A	May hold caterer license or other club/D.E. license if restaurants or in hotels. No other interest allowed.
Drinking Estab. Caterer Hotel	10 year	1 year + current resident of county	No felony, prostitution, gambling, or morals conviction. No license revocation <sup>2</sup>	21	May not be, appoint, or supervise any law enforcement official <sup>3</sup> or be employed by the director of ABC.	yes	Proof of ownership or valid lease for at least 3/4 of license period	Initial application: must be fully qualified other than citizenship, residency, and age. Renewal: N/A	May hold caterer license or other club/D.E. license if restaurants or in hotels. No other interest allowed.

1) Spouse of deceased retail licensee may be licensed if U.S. citizen or becomes U.S. citizen within one year of licensee's death.

2) License may be issued after lapse of ten years from date of revocation if license was revoked for conviction of a misdemeanor.

3) Except as member of city or county governing body.

4) Does not apply upon tenth and subsequent renewals if resident agent has been appointed.

5) Class A club officer, director, or board member may be a distributor or retailer if they do not sell to the club.

SOURCE: Division of Alcoholic Beverage Control as formatted and updated 2/17/97 by Kansas Legislative Research Department

21-8



## BUSINESS TYPES ELIGIBLE FOR LICENSE

8-13

	Individual	Partnership	Corporation	Trust
Manufacturer	fully qualified as described in Table 3	all partners fully qualified as individuals	all officers and directors, or stockholders holding more than 25% must be fully qualified as individuals except for citizenship or residence	all grantors, beneficiaries and trustees must be fully qualified as individuals except for age of beneficiary
Nonbeverage User	fully qualified as described in Table 3	all partners fully qualified as individuals	all officers and directors, or stockholders holding more than 25% must be fully qualified as individuals except for citizenship or residence	all grantors, beneficiaries and trustees must be fully qualified as individuals except for age of beneficiary
Spirits Distributor	fully qualified as described in Table 3	all partners fully qualified as individuals	all officers, directors, and stockholders must be fully qualified as individuals	all grantors, beneficiaries and trustees must be fully qualified as individuals except for age of beneficiary
Wine Distributor	fully qualified as described in Table 3	all partners fully qualified as individuals	all officers, directors, and stockholders must be fully qualified as individuals	all grantors, beneficiaries and trustees must be fully qualified as individuals except for age of beneficiary
Beer Distributor	fully qualified as described in Table 3	all partners fully qualified as individuals	all officers, directors, and stockholders must be fully qualified as individuals	all grantors, beneficiaries and trustees must be fully qualified as individuals except for age of beneficiary
Farm Winery	fully qualified as described in Table 3	all partners fully qualified as individuals	stockholders owning aggregate 50% must be fully qualified as individuals, all others must be fully qualified except for citizenship or residency	all grantors, beneficiaries and trustees must be fully qualified as individuals except for age of beneficiary
Microbrewery	fully qualified as described in Table 3	all partners fully qualified as individuals	stockholders owning aggregate 50% must be fully qualified as individuals, all others must be fully qualified except for citizenship or residency	all grantors, beneficiaries and trustees must be fully qualified as individuals except for age of beneficiary
Retailer	fully qualified as described in Table 3	all partners fully qualified as individuals	may not hold retail liquor license <sup>1</sup>	all grantors, beneficiaries and trustees must be fully qualified as individuals except for age of beneficiary
CMB Retailer	fully qualified as described in Table 3; manager or agent conducting business must also be fully qualified	all partners fully qualified as individuals	all managers, officers, and directors and any stockholders owning more than 25% of the corporate stock must be fully qualified except for citizenship and residency requirements, none may have had a CMB license revoked or have been convicted of a violation of the drinking establishment or CMB laws of Kansas	NA
Class A Club (nonprofit social, fraternal, or veterans)	may not hold Class A club license	all partners fully qualified as individuals	all officers, managers and directors, or stockholders holding more than 5% must be fully qualified as individuals except for citizenship or residence; must be a Kansas corporation	all grantors, beneficiaries and trustees must be fully qualified as individuals except for age of beneficiary
Class B Club	fully qualified as described in Table 3	all partners fully qualified as individuals	all officers, managers and directors, or stockholders holding more than 5% must be fully qualified as individuals except for citizenship or residence; must be a Kansas corporation	all grantors, beneficiaries and trustees must be fully qualified as individuals except for age of beneficiary
Drinking Estab. Caterer Hotel	fully qualified as described in Table 3	all partners fully qualified as individuals	all officers, managers and directors, or stockholders holding more than 5% must be fully qualified as individuals except for citizenship or residence; must be a Kansas corporation	all grantors, beneficiaries and trustees must be fully qualified as individuals except for age of beneficiary

**Source:** Division of Alcoholic Beverage Control, as edited by the Kansas Legislative Research Department

1) Attorney General Opinion No. 94-90 (July 20, 1994) holds that limited liability companies are not corporations under Kansas law, so may hold a retail liquor license.

## Where Can Consumers Legally Purchase Alcoholic Beverages in Kansas?

Beer, wine, and spirits for off-premise consumption (package sales) must be purchased at a retail liquor store. Retail liquor stores also may sell NAB. Farm wineries and microbreweries may sell their products, domestic wine and domestic beer, to the public for off-premise consumption. CMB may be purchased from any locally licensed CMB retailer. In the case of off-premise sales, licensed CMB retailers are commonly grocery and convenience stores. State law requires that CMB and alcoholic liquor be sold at retail for off-premise consumption in separate places. In 1995 the Legislature authorized issuance of temporary permits to charitable organizations to sell liquor at an auction and to individuals to sell limited issue porcelain containers of alcohol.

Liquor may be purchased for consumption on the licensed premises of Class A or B clubs, and drinking establishments. CMB may be purchased for on-premise consumption at locally licensed bars and restaurants and in clubs and drinking establishments that also hold a local CMB license. Farm wineries and microbreweries may serve samples of their products on the licensed premises if they are located in a county that has approved liquor by the drink. Farm wineries and microbreweries also may be licensed as clubs or drinking establishments in which case they can sell liquor by the drink in accordance with those licenses. Licensed caterers and temporary permit holders may sell liquor by the drink in public places that are not licensed premises.

Except in clubs, liquor by the drink is specifically prohibited except where voters have approved its sale. A 1986 amendment of the *Kansas Constitution* authorized the Legislature to provide for liquor by the drink in establishments that derive 30 percent or more of gross receipts from the sale of all food and beverages from food. The amendment also authorized the Legislature to provide for temporary permits to serve liquor by the drink at public places. Temporary permits can only be issued in those counties that have approved liquor by the drink. Finally, the amendment authorized the Legislature to provide for a subsequent county referendum in which voters may:

- prohibit liquor by the drink in that county;
- remove the minimum food sale requirement; or
- permit liquor by the drink in places that meet the 30 percent minimum food sale requirement

The statute that provides for exercise of the county option permits a county commission to initiate the referendum by resolution. Alternatively, the question may be placed on the ballot in response to an initiative petition signed by a number of electors equal to at least 10 percent of the voters who voted for the office of Secretary of State at the last preceding general election for that office.

Attachments 1 and 1a display counties in which liquor by the drink is legal in Kansas. Table 5 displays some restrictions that apply to package and by-the-drink sales of liquor and CMB by licensees that have permanent premises. Attachments 2 and 3 summarize rights and restrictions that apply to licensed caterers and temporary permit holders.

insert liquor by drink table

**ATTACHMENT 1a**  
**LIQUOR BY THE DRINK**

<u>Counties Where Liquor by the Drink Has Not Been Approved as of 11/98</u>		<u>Counties where Liquor by the Drink Has Been Approved as of 11/98</u>		
		<u>With 30% Food Sales Requirement</u>	<u>No Food Sales Requirement</u>	
Allen	Kingman	Anderson	Nemaha	Cowley
Barber	Kiowa	Atchison	Neosho	Crawford
Brown	Lane	Barton	Norton	Douglas
Chautauqua	Linn	Bourbon	Osage	Ellis
Cherokee	Logan	Butler	Pawnee	Geary
Cheyenne	Marion	Chase	Phillips	Graham
Clark	Meade	Cloud	Pottawatomie	Lyon
Clay	Morton	Dickinson	Reno	Montgomery
Coffey	Ness	Edwards	Republic	Saline
Comanche	Osborne	Ellsworth	Riley	Sedgwick
Decatur	Ottawa	Finney	Rush	Shawnee
Doniphan	Pratt	Ford	Russell	Wyandotte
Elk	Rawlins	Franklin	Seward	
Gove	Rice	Greenwood	Sherman	<b>TOTAL:</b>
Grant	Rooks	Harvey	Smith	<b>12 Counties</b>
Gray	Scott	Jefferson	Sumner	
Greeley	Sheridan	Johnson	Thomas	
Hamilton	Stafford	Kearny	Trego	
Harper	Stanton	Leaven worth	Wabaunsee	
Haskell	Stevens	Labette	Washington	
Hodgeman	Wallace	Lincoln	Wilson	
Jackson	Wichita	Marshall		
Jewell	Woodson	McPherson		
		Miami	<b>TOTAL:</b>	
		Mitchell	<b>47 Counties</b>	
<b>TOTAL:</b>		Morris		
<b>46 Counties</b>				

Source: Department of Revenue, Division of Alcoholic Beverage Control

**TABLE 5**  
**WHERE, WHEN, AND HOW IS LIQUOR SOLD TO THE PUBLIC?**

TYPE OF SALES	PRODUCTS	DAYS	HOURS	DISCOUNTS	CREDIT CARD SALES	ADVERTISING	EMPLOYEE AGE
<b>PACKAGE SALES</b>							
Retail Liquor Stores	Beer, wine, spirits, non-alcohol beer (NAMB)	No sales on Sunday, certain holidays <sup>1</sup>	No sales between 11 p.m. and 9 a.m. <sup>2</sup>	No sales at less than cost <sup>3</sup>	Permitted	No handbills, billboards, or window displays of liquor	Must be 21 or older
CMB Retailers (off-premise)	CMB, NAMB	No sales on Sunday	No sales between midnight and 6 a.m. <sup>4</sup>	May sell at less than cost	Permitted	No restrictions	Must be 18 or older to sell CMB
Farm Wineries, outlets, and Microbreweries	Domestic wine (farm wineries) Domestic beer (microbreweries)	Any days. Limited Sunday hours	No sales between midnight and 6 a.m. Sunday sales permitted between noon and 6 p.m.	NA	Permitted	Advertising is subject to approval by the Director of ABC	Persons employed in manufacture, sale, or serving must be 18 or older. Those under 21 must be supervised by someone 21 or older.
<b>BY THE DRINK</b>							
Clubs & Drinking Establishments Microbreweries and Farm Wineries <sup>5</sup>	Beer, wine, spirits, NAMB, CMB <sup>6</sup>	Any days	No sales between 12 and 9 a.m.	No free drinks. No sales at less than cost. No public "all you can drink" for one price promotions. No sales at price less than that charged the general public. Cannot offer drinks as prizes. No "happy hour" promotions. Increased alcohol content in drink must result in proportional increase in price. Free food and entertainment permitted at any time.	Permitted	No advertising of prohibited promotions (see "Discounts")	Must be 21 or older to mix and dispense drinks. Must be 18 or older to serve drinks.
CMB retailers (on-premise)	CMB, NAMB	No sales on Sunday in bars. Restaurants may sell on Sunday if authorized by local governing body. No election day sales.	No sales between midnight and 6 a.m. except in clubs and drinking establishments.		Permitted		Must be 18 or older to serve and dispense CMB in restaurants. Must be 21 in "taverns."

1. Malt beverage containing more than 3.2 percent alcohol by weight.
2. Malt beverage containing not more than 0.5 percent alcohol by weight.
3. Holidays on which liquor stores must be closed: Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas.
4. By ordinance, a city may require liquor stores to close prior to 11:00 p.m., but not before 8:00 p.m.
5. Wholesalers cannot grant retailers quantity discounts. Sales at less than cost are permitted when a retailer is closing out stock, selling damaged or deteriorated stock, or selling under court order.
6. In a 1992 opinion (92-14), the Attorney General stated that the statute that prohibits liquor retailers from advertising by means of billboards (K.S.A. 1992 Supp. 41-714) is so vague as to be unenforceable.
7. City or county governing bodies may, by ordinance or resolution, prescribe hours of closing, standards of conduct and rules and regulations concerning the moral, sanitary, and health conditions of CMB licensees and may establish zones within which CMB retailers may not be located.
8. Microbreweries and farm wineries located in counties that permit liquor by the drink may offer free samples of their product. In order to sell liquor by the drink, microbreweries and farm wineries must be licensed as clubs or drinking establishments, in which case they must adhere to requirements for those licenses. Microbreweries also may be licensed as caterers and, if so, would follow those statutes.
9. Clubs and drinking establishments may also have a locally issued license to sell CMB. Microbreweries and farm wineries must be licensed as a drinking establishment in order to sell liquor by the drink.

**ATTACHMENT 2**

**CATERERS**

Caterers are authorized to sell liquor by the drink on unlicensed premises that may be open to the public. Caterers may only sell liquor by the drink in counties where those sales have been approved by voters.

Caterers must:

- meet the minimum food sales requirement that applies to drinking establishments in the county
- maintain a principal place of business in a county that permits liquor by the drink
- notify the ABC Division a minimum of ten days prior to an event at which liquor will be sold
- notify the police chief or county sheriff with jurisdiction over the location of the catered event

Caterers may share a portion of their receipts with person who hires them.

Prohibitions against special promotions, such as "happy hour," that apply to on-premise licensees also apply to caterers (see "Discounts" on Table 5).

License requirements are the same as for clubs and drinking establishments except for the requirement to conduct business only on licensed premises (see Tables 3 and 4).

Retailers may deliver liquor to caterers.

Caterers must collect the 10 percent drink tax on sales of liquor.

**ATTACHMENT 3**

**TEMPORARY PERMITS FOR LIQUOR BY THE DRINK SALES**

The Secretary of Revenue is authorized to issue temporary permits which allow permit holders to sell liquor by the drink in public, unlicensed places in counties where voters have approved liquor by the drink. Holders of temporary permits need not be caterers and caterers do not need to secure temporary permits for catered events.

Applicants for temporary permits must:

- make application for the permit at least 14 days prior to the event
- use proceeds from sale of liquor only for purposes stated in the permit application
- sell liquor only on premises located where city and county zoning permit the sale of liquor by the drink
- limit liquor sale activity to three consecutive days

Applicants are limited to four temporary permits per year.

Prohibitions against special promotions, such as "happy hour," that apply to on-premise licensees and caterers also apply to holders of temporary permits (see "Discounts" on Table 5).

Employees of temporary permit holders must meet the same requirements as employees of licensees in regard to age and criminal background.

Temporary permit holders must purchase liquor from licensed retailers.

Liquor sold by holders of temporary permits is subject to the 10 percent drink tax.

## Who Can Work in Licensed Liquor Establishments in Kansas?

Individuals who sell and dispense alcoholic liquor generally must be 18 years of age or older. Persons under 21 must, in most cases, be under the supervision of someone who is 21 or older. Felons generally cannot work in licensed establishments. Table 6 summarizes statutory restrictions on employment by various types of licensees.

Statutes do not impose any restrictions on employees of liquor manufacturers or distributors.

TABLE 6

### QUALIFICATIONS FOR EMPLOYMENT

<u>Licensee/Employer</u>	<u>Minimum Age</u>	<u>Supervision Required</u>	<u>Other</u>
Liquor Retailer	21	N/A	No convicted felons
CMB Off-Premise Retailer	18	N/A	No person can be employed to sell, serve, or dispense CMB if, within the preceding two years, the person was found guilty of a felony or violation of a liquor law.
CMB On-Premise Retailer	18 in restaurants (>=50% food sales) 21 in bars	N/A	No convicted felons, or perpetrators of morals violations; no persons found guilty of violation of liquor laws for 2 years after adjudication
Clubs and Drinking Establishments	18 for serving of liquor 21 for mixing or dispensing	Licensee, permit holder, or employee who is 21 or older	No convicted felons employed in connection with manufacture or sale of alcohol.
Microbrewery and Farm Winery	18 for manufacture, sale, or serving  21 for mixing or dispensing	Licensee or employee 21 or older	No convicted felons employed in connection with manufacture or sale of alcohol.

**What Fees are Charged to Obtain and Renew Liquor and CMB Licenses?**

**TABLE 7**

Licensee	License Fee	Application/Registration Fee	Local License Tax
<b>CLUB</b>			
<u>Class A</u>		\$50 initial application \$10 renewal application	Optional annual tax: \$100-\$250 (no other tax or license fee authorized)
Fraternal or War Veterans Social Club ≤ 500 members	\$250		
Social Club > 500 members	\$500		
	\$1,000		
<u>Class B</u>	\$1,000		
<b>Drinking Establishment</b>	\$1,000		
<b>Hotel (entire premises)</b>	\$3,000		
<b>Caterer</b>	\$500		N/A
<b>Temporary Permittee</b>	\$25/day	N/A	N/A
<b>Manufacturer</b>		\$50 initial application \$10 renewal application	Optional annual tax not to exceed amount of state license fee
Spirits	\$2,500		
Wine	\$500		
Beer	\$200-\$1,600		
<b>Distributor</b>	\$1,000		
Spirits Wine Beer			
<b>Microbrewery</b>	\$250		N/A
<b>Farm Winery</b>			
Outlet	\$50		
<b>Liquor Retailer</b>	\$250		Mandatory annual license tax \$100-\$300
<b>CMB Retailer</b>	\$25-\$50	\$25 <sup>(a)</sup>	N/A
Off Premise			
<b>CMB Retailer</b>	\$25-\$200		N/A
On Premise			

a) Applicants for new and renewal of CMB retailer licenses must submit the application and \$25 to the Director of ABC as well as to the local licensing entity. Upon receipt of the application and fee, the Director must authorize a state stamp be placed on the license. No license may be issued or renewed without a state stamp. The statute does not give the Director of ABC any authority to approve or reject applications for licensure.



## How is Liquor Taxed in Kansas?

Gallonage Tax	
Spirits	\$2.50
Wine (14% alcohol or less)	0.30
Wine (over 14% alcohol)	0.75
Beer and CMB	0.18

Gallonage tax is paid by the Kansas manufacturer or by the first person in the state who receives the product. Since there currently are no licensed manufacturers in Kansas, the gallonage tax is paid by farm wineries, microbreweries, and by distributors.

Gallonage tax is not applied to amounts of a gallon or less brought into the country by a private citizen for personal use. Other exceptions include sacramental wine and alcohol sold to nonbeverage user licensees.

### Liquor Enforcement

This 8 percent tax is paid by the consumer in lieu of retail sales tax on liquor and NAMB purchased from licensed liquor retailers, farm wineries, and microbreweries. The tax is also paid by clubs and drinking establishments on purchases they make from retail liquor stores and from wholesalers.

Since 1987, the enforcement tax has been collected on sales of CMB by wholesalers directly to clubs, drinking establishments, and caterers. Prior to that, the enforcement tax was not applied to any CMB sales. The enforcement tax rate was increased from 4 percent to the current 8 percent in 1983.

### Drink Tax

The drink tax at the rate of 10 percent of gross receipts is imposed on sales of liquor and CMB by clubs, drinking establishments, caterers, and holders of temporary permits. The tax is paid by the consumer to the licensee or permit holder. Like the enforcement tax, this tax is paid in lieu of retail sales tax. Drink tax is collected on sales of CMB only by on-premise CMB licensees who are also liquor licensees.

### Retail Sales Tax

The state retail sales tax of 4.9 percent, plus applicable local sales tax, is collected on CMB sales by CMB licensees who are not also liquor licensees, e.g., CMB taverns, restaurants, and grocery stores. Sale of CMB by clubs was subject to retail sales tax until 1985 when those sales became subject to the drink tax.

Table 8 displays the allocation of state taxes and fees levied on liquor and liquor licensees. The table also includes amounts credited to each state fund during FY 1998.

TABLE 8

## HOW ARE STATE LIQUOR TAXES AND FEES DISTRIBUTED?

22-8

Tax/Fee	SGF	Community Alcoholism & Intoxication Programs Fund <sup>1</sup>	Alcoholism Treatment Fund <sup>2</sup>	Local Alcoholic Liquor Fund <sup>3</sup>	Local Unit General Fund
<b>TAXES</b>					
Gallonage Tax (Beer, CMB, Wine)	100%	--	--	--	--
FY 1999 Receipts	\$10,242,823				
Gallonage Tax (Spirits)	90%	10%	--	--	--
FY 1999 Receipts	\$ 6,030,717	\$670,080			
Enforcement Tax (in lieu of sales tax on retail liquor sales)	100%	--	--	--	--
FY 1999 Receipts	\$30,796,928				
Drink Tax (in lieu of sales tax on sales by clubs, drinking establishments, and caterers)	25%	5%	--	70%	
FY 1999 Receipts	\$5,458,136	\$1,091,627		\$15,282,781	
Retailer Sales Tax (on CMB sales by retailers who are not also liquor licensees)	100% (state rate 4.9%)	--	--	--	
City and Township License Tax on Liquor Retailers (required by state law)	--	--	--	--	100% of local option sales tax \$69,000 to \$207,000
<b>FEES</b>					
Club, Drinking Establishment, and Caterer Annual License Fees	50%	--	50%	--	
FY 1999 Receipts	\$876,234		\$876,234		
Club, Drinking Establishment, and Caterer Application Fees; Temporary Permit Fee; Manufacturer, Wholesaler, Retailer, etc. Registration and License Fees	100%	--	--	--	
FY 1999 Receipts	\$325,826				
CMB Retailer Application Fee (state stamp)	100%	--	--	--	
FY 1999 Receipts	\$88,549				
Other Fees and Fines	\$337,628				

1) Revenue to the fund is expended by the Secretary of SRS to provide financial assistance to community-based alcoholism and intoxication treatment programs. Funds may be used to match federal Title XX funds to purchase treatment services; provide start-up or expansion grants for halfway houses or rehabilitation centers, purchase services from treatment facilities for low-income persons who are not eligible for Medicare or Medicaid assistance, and assist with development programs for prevention, education, early identification, and facility assistance and review team. Alcohol treatment programs at Topeka, Osawatomie, and Larned State Hospitals and programs at Rainbow Mental Health Facility may not receive support from this fund.

2) Revenue to the fund is to be used by the Secretary of SRS to implement the Secretary's responsibilities to establish, coordinate, and fund programs for prevention and treatment of alcohol abuse.

3) Each city with a population of over 6,000 and each county receives 70 percent of the amount of drink tax collected in that jurisdiction. In addition counties receive 23 1/3 percent of the amount collected in cities with populations under 6,000. Counties and the larger cities must divide their receipts equally between their general funds, parks and recreation funds, and special alcohol and drug programs funds. Small cities must divide their receipts equally between their general funds and parks and recreation funds. Counties receiving receipts attributable to taxes collected in smaller cities must credit those moneys to the county's special alcohol and drug programs fund. The statute (K.S.A. 79-41a04) contains special provisions for use of drink tax revenue received by Butler County and cities in that county. Half of the revenue distributed to cities in Butler County and one-third of revenue to the county may be used for establishment and operation of a domestic violence program operated by a private nonprofit organization.

Source: Kansas Department of Revenue, Office of Policy and Research

## What is the Role of Local Units of Government in Regard to Liquor Sales in Their Jurisdictions?

Local governments have some statutory power to regulate cereal malt beverage and liquor sales in their jurisdictions. In addition, cities under their constitutional home rule authority and counties under their statutory home rule power also may adopt regulations in this area. The most extensive statutory authority for local units of government in regulating sale of alcoholic beverages is in the licensure and regulation of the sale of CMB. Cities and counties are the sole issuers of CMB licenses. City and county governing bodies have authority to dictate hours of closing, standards of conduct, and rules and regulations regarding the moral, sanitary and health conditions of CMB retailers and to establish zones in which CMB may not be sold. CMB-only retail establishments are regulated by and their license requirements are enforced by localities, not by the ABC.

Local units of government, by statute, also have some role in the process of granting retail liquor store licenses. City or township governing bodies by statute may make advisory recommendations to the Secretary of Revenue relative to the granting or refusal to grant a retail liquor license. The Secretary is not bound to follow those recommendations. Since the Liquor Control Act is nonuniform, cities may, by charter ordinance, regulate other aspects of retail liquor sales.

As outlined in *Kansas Local Government Law*, cities may:

- provide more stringent closing hours for private clubs than state law requires;
- prohibit open containers of cereal malt beverages;
- adopt city ordinances which declare as unlawful or prohibit the same acts that are proscribed under the Kansas Liquor Control Act;
- authorize liquor consumption on the premises of municipally-owned buildings;
- hold a drinking establishment license under certain circumstances;
- regulate conduct and entertainment where cereal malt beverages are sold;
- exempt themselves from statutory limits on cereal malt beverage license fees;
- prohibit licensure under the Drinking Establishment Act only if the premises are located in an inappropriately zoned area.

Approximately 100 cities have enacted ordinances under their constitutional home rule authority that require local licensure of establishments that sell liquor. For example, the city of Lawrence requires a local license for each caterer, Class A Club, Class B Club, drinking establishment, alcoholic liquor retailer and temporary alcoholic liquor permit holder. The local ordinance also prohibits nudity in licensed premises. The city of Wichita under its home rule authority as part of its licensing scheme, prohibits minors to be on the premises of establishments that sell liquor by the drink unless 30 percent of the gross revenues of the establishment is derived from food sales.

Voters in Kansas have some ability to limit liquor, but not CMB, sales in localities. By statute, retail liquor store licenses cannot be issued for stores located in first or second class cities or in third class cities located in a township where the voters did not approve the 1948 constitutional amendment that permitted the Legislature to legalize retail liquor sales in Kansas unless voters subsequently authorized such sales in that locality. Currently, retail liquor sales are permitted in 101 counties in Kansas.

Retail liquor stores cannot be located in cities in Haskell, Kiowa, Linn, and Stanton counties. (Voters in those four counties also have not approved the sale of liquor by the drink.) The *Constitution* prohibits sale of liquor by the drink in public places in counties where voters did not approve the 1986 constitutional amendment, unless voters subsequently voted to permit liquor by the drink. Currently, 46 counties in Kansas do not permit sale of liquor by the drink in public (sale of liquor by the drink in clubs is legal in those counties). The *Constitution* also permits voters to remove or impose a 30 percent food sales requirement on public places that sell liquor by the drink in their county.

As indicated in Table 7, above, cities and townships may levy an annual occupation or license tax on manufacturers and distributors at a rate that does not exceed the annual state license fee. Cities and townships are required to levy an annual \$100 to \$300 occupation or license tax on liquor retailers. Other local license and occupation taxes on these licensees are prohibited by statute. Cities and counties are authorized to levy an annual \$100 to \$250 occupation or license tax on clubs and drinking establishments.

Licensed liquor establishments and events at which liquor is sold under the authority of a temporary permit must be in locations that are properly zoned for those businesses, if they are located in a jurisdiction that is zoned. Liquor retailers, farm wineries, and microbreweries cannot be established within 200 feet of any existing public or parochial school or college or church. Those businesses must be in buildings that conform to local building ordinances. Licensees also must conform to local ordinances and resolutions regarding signs and outdoor advertising of their businesses. Cities may require retail liquor stores to close prior to 11:00 p.m., but cannot require closing prior to 8:00 p.m.

Cities are prohibited from enacting ordinances that conflict with the Club and Drinking Establishment Act. Cities may enact ordinances that conform with the Act, but the minimum penalty imposed by those ordinances cannot exceed the minimum penalty imposed by the Act. Cities and counties may enact local ordinances and resolutions that impose penalties that are more stringent than state law for possession and consumption of liquor by minors.



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To: Senate Assessment And Taxation Committee

From: Philip Bradley on behalf of KLBA (Kansas Licensed Beverage Assn.)

RE: Testimony on SB-312 and SB 318

Chairman and Senators of the Committee,

Thank you for allowing me to appear today. I am Philip Bradley, Director of Public Affairs for the KLBA, Kansas Licensed Beverage Assn. We are a group of small business owners who formed to educate the public and ourselves about our industry. We are in the hospitality business. Our customers come to us for service and fun. As a part of this service we offer alcoholic beverages. We advocate safe responsible consumption and are training our servers to practice these principals.

We work with the ABC to educate, train and promote compliance and responsible practices. We are one of only three server-training programs certified by the ABC in Kansas.

We represent the interests of over 3000 businesses, the men and women who as a part of their business hold a license for on premise alcohol service. We are the restaurants, hotels, clubs, bars, and caterers you frequent and enjoy.

**The KLBA is in opposition to SB-312 and SB-318.**

We support education in Kansas and believe that the state has a role in providing funding to our schools. Wisely the legislature has always determined that Education is the responsibility of all our citizens and levied taxes to support our schools across the broadest tax bases (Property, Sales and Income). It has not been the practice to unfairly target individual businesses that may be easy targets. The legislature has also wisely avoided earmarking taxes to specific groups and thereby making them able to bypass the appropriations process. It has not been the practice to make Education dependant on the success of specific industries for their funds. We believe that these are sound principals and that these measures violate them and should not be passed.

We are already one of the most taxed and regulated businesses in our state. We generate over 76 million dollars revenue annually to the state. Unlike other businesses we must pay the tax on our "raw materials" (8%) and on our finished product (10%), both at higher rates than those paid by other businesses. We also believe in the value of your time and therefore will keep this brief. Thank you for your time.

*Senate Assessment & Taxation*  
*2-27-01 Attachment 9*

Thank you Senator Corbin and members of the Committee. I appreciate having the opportunity to address your group and present my concerns about SB 312 and the very personal impact it would have on me and my small business. My name is Chuck Magerl, I am the proprietor of Free State Brewing Company in Lawrence Kansas. Fourteen years ago I had the valuable experience of working with some of your predecessors and colleagues in the Federal and State Affairs Committee and we were able to craft legislation to allow the return of small breweries to Kansas after decades of high minded but truly misguided attempts at prohibition. The brewery and restaurant that I opened in Lawrence has been followed by a dozen similar businesses that others have opened in many parts of our State. Although I don't claim to speak for them, I'm sure this bill will affect them every bit as much as me, as it will a vast number of proud, hard working and honorable restaurant owners from Pittsburgh to Goodland.

Of equal importance by way of introduction, I'm the proud father of two grade school daughters in Lawrence public schools. Prior to my business career, I was a scholarship student at the University of Kansas in pre med and water resource management. I am proud to have been a member of the Executive Board of the Lawrence Chamber of Commerce, the Lawrence Convention and Visitors Bureau and the University of Kansas Anthropology Museum Advisory Board. I have been appointed by the Mayor to serve on the Lawrence Alcohol Issues Task Force and the Economic Development Incentives Task Force. The lessons I've learned volunteering with these organizations and the twenty five years in business in this State have helped craft the wisdom that I find I need to keep a business thriving in a challenging and incredibly competitive time.

I'm very proud of what my colleagues and I have been able to achieve at the Free State Brewery. We've reintroduced the quality of fresh, flavorful and wonderfully characterful beer to our State, a skill and craft that was once the pride and joy of over 100 small brewers in Kansas prior to the 19th century prohibition. Our dedication and attention to quality has won us repeated awards from the readers of the Lawrence Journal World who have voted us the best restaurant in Lawrence and the best beers in Lawrence.

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Senate Assessment & Taxation  
2-27-01  
Attachment 10

Our community is proud of us, and we're very happy to honor that with our actions and our donations. You won't find any restaurant in Lawrence that's a bigger supporter of the 4-H auction at the fair each year. We've helped organize the disaster relief food assistance of the Red Cross. We donate dinners to recognize outstanding teachers in our school district. Our reputation for being a caring member of our community has resulted in us receiving 3 to 4 requests every day for charitable and relief organizations. I wish we were able to give more, but we recognize that to sustain our efforts we must be wise enough to remain in business.

Although we're here to address taxation issues, and the involvement of government in private businesses, I want to assure you I'm not averse nor intimidated by forms and compliance issues. I started a credit union when I was 20 years old, and experienced the responsibility of caring for and protecting money that was being held for others. I'm used to forms, I'm used to compiling government reports. That's not an issue for me. In fact with my one business, Free State Brewery, I'm responsible for the collection and payment to federal, state and local governments of over \$790,000 per year. That's just from one small business. \$790,000 per year. Across the country, the governments make 7 times more in beer taxes than brewers do in profits. Many people don't realize the size of the tax system burden on simple businesses like mine. Of course, the tax burden is greater on my business than some others, because I sell wine and beer. And wine and beer is taxed at a more aggressive rate than nearly any other purchase in a healthy adult's life. Yet this proposal calls to increase that already skewed tax by 500 percent.

In a slightly odd way, I'm proud to think that the author of this bill thinks that the people of Kansas who drink beer are more concerned about the education of our children in public schools than the population in general, I'm sure that's why he wants to give us the chance to contribute a greater share. And truth be known, from my experience I think he's right. The folks of this State that I've had the chance to sit down and have a beer with impress me. There's a wisdom out there in the cafes and neighborhood taverns, at the church picnics and the harvest festivals. The complexities of life, the ironies and current events are all topics of discussion, and with a beer in hand, the recognition that simple answers are rarely the guide for the wisest actions.

Should we count on the Kansans who drink beer to bail us out of the difficult choices needed to secure a caring and wise system to educate our children? I hope not. I hope the children of our state are valued by all Kansans: young and old, rich and poor, Democrats and Republicans, beer drinkers and teetotalers. We must honor our schools by sharing the effort across all divisions and groups.

We strive to set high standards for our public education in Kansas. We want to compare favorably with our neighbors in the Midwest. They have not had to resort to asking their beer drinkers to pay for public education as if everyone else had dropped the ball. For comparisons sake, we currently pay .18 per gallon of beer in excise tax to the State. Our neighbors in Missouri and Colorado pay .06 and .08 respectively. But, of course, for many reasons we would chose not to look to those states as peers, and I'm sure Anheuser Busch and Coors have some influence in those two states. The home state of our president, down in Texas, is .19. The good folks up in Nebraska have decided on .23. The one state that I think most likely compares to Kansas, Iowa, has set their level at .19. Nobody begins to think this proposal, .98 is a good idea. And without exception, these states tax wine and hard liquor at a higher alcohol equivalency rate than beer, something that Kansas has held close to over the years, but would be turned topsy turvy by this proposal. Since the mid 1800's beer has been recognized as the beverage of moderation, and in most states, the public policy has been true to that wisdom.

As a proud Kansan, this proposal saddens me for another reason. It's so completely out of the bounds of reason when we compare it with our peers. I reminds me of an article that appeared in the Washington Post about 10 years ago. The writer was a native Kansan and his article was in the form of a lament. The incident prompting the article, that many of you may remember, was the embarrassment of the sheriff in Council Grove who left the video tape of his marital frolics in the camera that he returned to the rental counter. Copies soon made their way through town and the news onto the national papers. The Post writer bemoaned the fact that for all of our values and attributes, Kansas usually makes the national news when someone does something particularly stupid. I hate to see that played out time and again. We haven't had the greatest results by going out on a limb, setting extreme examples



and hoping our peers will follow. We've just gotten past the science and evolution fire storm. I can see the next headline resulting from this proposal: The Carrie Nation plan for Kansas Schools!

This proposal truly scares me. I'm afraid if it is enacted it will mean the end of the line for all that I've built with my business. The 4-H and the Red Cross, Audio Reader and the Lawrence Arts Center will lose our contributions. Over 100 employees will be looking for jobs. An extreme reaction? I don't think so. Here's the numbers that worry me.

The last increase in Federal excise tax (which curiously enough came in the last recession of 90-91) was merely a 100 percent increase, nothing near the 500 percent suggested here. That resulted in a 3 percent drop in beer sales. Of course, the drop, as studies have shown, was primarily in moderate drinkers, those who reasoned their decisions enough to recoil from the price increases. The problem drinkers, the alcohol abusers are not rational in their choices and don't stop for economic reasons. My business, like most restaurants, caters to the moderate beer drinkers, the ones like you and me who find ourselves having to make reasoned choices everyday. A typical restaurant squeaks by on a net profit of 3.5% of sales. Keep that figure in mind. If a 100 percent increase in the last recession resulted in a 3 percent drop, try to factor what a 500 percent increase today could mean. It's not fuzzy math. Our businesses will suffer. This is a direct attack on the life of my business and all that I've worked over these years to create. As a small local brewer we'll feel the hit the hardest. All our sales are to Kansans. We can't spread our expenses over a regional or national expanse. We'll suffer first and we'll suffer worst.

This bill is a poorly conceived social agenda masquerading as a public finance issue. It threatens a huge tax increase to put me and many other Kansans out of business. I cannot begin to see any wisdom hidden in such action.

Last night, over dinner, I was discussing this proposal with my wife. We talked about the huge tax increase over our already inflated tax level. We talked about the strange twist of taxing Everclear grain alcohol and Mad Dog wine at a rate so far below the rate on beer. When my wife commented that this proposal is just not fair,

I asked her, "Sure, but is that important?" From over the back of the sofa my 4th grade daughter turned from the book she was reading and simply said "I think being fair is very important." I think she is right. And I'm thankful that her clear thinking suggests our schools must be doing many things well.

Whether you are young or old, rich or poor, Democrat or Republican, beer drinker or teetotaler, Wildcat or Jayhawk, I hope you will hold firm to what we all learned long ago, "I think being fair is very important."

This proposal does not have fairness at its heart. It would hurt many of us in Kansas. As people who have pride in our State, we can do much better than this.

Thank you for granting me this time.

Chuck Magerl  
Free State Brewing Co  
636 Massachusetts St  
Lawrence, Kansas 66044  
(785)843-4555  
info@freestatebrewing.com

**Table 7**  
**Various State Tax Rates**  
**As of December 31, 2000**  
*(2000's noteworthy changes in bold)*

	General Sales and Use Tax	Gasoline Tax (Cents per Gallon)	Cigarette Tax (Cents per 20-pack)	Spirits Tax (Dollars per Gallon)	Table Wine Tax (Dollars per Gallon)	Beer Tax (Dollars per Gallon)
Alabama	4%	16¢	16.5¢	(b)	\$ 1.7	\$ 0.53
Alaska	None	8	100	\$ 5.60	0.85	0.35
Arizona	5	18	58	3.00	0.84	0.16
Arkansas	4.625	19.5	31.5	2.50	0.75	0.23
<b>California</b>	<b>5.75</b>	18	87	3.30	0.20	0.20
Colorado	3% (h)	22¢	20¢	\$ 2.28	\$ .32 (c)	\$ 0.08
<b>Connecticut</b>	6	<b>25</b>	50	4.50	0.60	0.194
Delaware	None	23	24	3.75	0.97	0.156
Florida	6	4	33.9	6.50	2.25	0.48
Georgia	4	7.5	12	3.79	1.51	0.48
Hawaii	4%	16¢	100¢	\$ 5.98	\$ 1.38	\$ 0.93
Idaho	5	25	28	(b)	0.45	0.15
Illinois	6.25	19	58	4.50	0.73	0.185
Indiana	5	15	15.5	2.68	0.47	0.115
Iowa	5	20	36	(b)	1.75	0.19
Kansas	4.9%	20¢	24¢	\$ 2.50	\$ 0.30	\$ 0.18
Kentucky	6	15	3	1.92	0.50	0.08
<b>Louisiana</b>	4	20	<b>24</b>	2.50	0.11	0.32
<b>Maine</b>	<b>5 (l)</b>	<b>22</b>	74	(b)	0.60	0.35
Maryland	5	23.5	66	1.50	0.40	0.09
Massachusetts	5%	21¢	76¢	\$ 4.05	\$ 0.55	\$ 0.106
Michigan	6	19	75	(b)	0.51	0.20
Minnesota	6.5	20	48	5.03	0.30	0.15
Mississippi	7	18	18	(b)	0.35	0.427
Missouri	4.225	17	17	2.00	0.36 (d)	0.06
Montana	None	27¢	18¢	(b)	\$ 1.02	\$ 0.139
Nebraska	5%	23.9 (a)	34	3.00	0.75	0.23
Nevada	6.5	23	35	2.05	0.40	0.09
New Hampshire	None	18	52	(b)	0.30	0.30
New Jersey	6	10.5	80	4.40	0.70	0.12
New Mexico	5%	17¢	21¢	\$ 6.06	\$ 1.70	\$ 0.41
<b>New York</b>	4	8	<b>1.11 (j)</b>	6.43	0.19	0.135
North Carolina	4	23.1 (a) (k)	5	(b)	0.79	(f)
North Dakota	5	21	44	2.50	0.50	0.16
Ohio	5	22	24	2.25 (b)	0.30	0.18
Oklahoma	4.5%	16¢	23¢	\$ 5.56	\$ 0.72	\$ 0.40
Oregon	None	24	68	(b)	0.67	0.08
Pennsylvania	6	12	30	(b)	(b)	0.08
Rhode Island	7	28	71	3.75	0.6	0.10
South Carolina	5	16	7	2.72 (g)	1.08 (f)	.77 (f)
South Dakota	4%	22¢	33¢	\$ 3.93	\$ 0.93	\$ 0.27
Tennessee	6	20	13	4.00	1.10	0.125
Texas	6.25	20	41	2.40	0.20	0.198
Utah	4.75	24.5	51.5	(b)	13% (b)	0.355
Vermont	5	19	44	(b)	0.55	0.265
Virginia	3.5%	17.5¢	2.5¢	(b)	\$ 1.51	\$ 0.256
Washington	6.5	23	82.5	(b)	0.78	0.15 (g)
West Virginia	6	20.5	17	(b)	1.00	0.177
Wisconsin	5	26.4 (a) (l)	59	3.25	0.25	0.065
Wyoming	4	14 (m)	12	(b)	(b)	0.02
District of Columbia	5.75%	20¢	65¢	\$ 1.50	\$ 0.30	\$ 0.09

Note: Bold, Italics indicate notable tax changes.

- (a) Indexed for inflation. Nebraska's indexed rate is revised quarterly. North Carolina's indexed rate is revised every six months. Wisconsin's indexed rate is revised every April 1.
- (b) Control states.
- (c) Effective through June 30, 2000; otherwise the rate is 27.5 cents per gallon.
- (d) Through September 30, 2001, rate includes additional 6 cents tax on wine.
- (e) 0.48387 per gallon in barrels holding at least 7.75 gallons. 0.53376 per gallon in barrels holding less than 7.75 gallons.
- (f) Includes 18 cents additional tax.

- (g) Plus \$4.78 per barrel beginning July 1, 1997.
  - (h) The rate will fall to 2.9 percent after January 1, 2001.
  - (i) Effective July 1, 2000.
  - (j) Effective March 1, 2000.
  - (k) Motor fuel rate between January 1, 2000 and June 30, 2000 was 22 cents per gallon, current rate in effect since July 1, 2000.
  - (l) Effective April 1, 2000.
  - (m) The rate is lowered by 1 cent per gallon if certain environmental funds are adequately funded.
- Source: Respective State Revenue Departments, Commerce Clearing House, Federation of Tax Administrators.



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**KANSAS TAXPAYERS NETWORK**

**P.O. Box 20050  
Wichita, KS 67208  
27 February 2001**

**www2.southwind.net/~ktn  
316-684-0082  
FAX 316-684-7527**

Testimony Opposing SB 312  
Karl Peterjohn  
Exec. Dir.

The Kansas Taxpayers Network has always testified against any statewide tax hike like SB 312. Kansas taxes are already the highest in the region according to the federal government.

See the U.S. Census Department web site: [www.census.gov/ftp/pub/govs/statetax/99tax.txt](http://www.census.gov/ftp/pub/govs/statetax/99tax.txt). State taxes in Kansas are higher than in all our surrounding states according to these federal figures.

State	Per Capita State Taxes
Kansas	\$1,729.23
Colorado	\$1,476.07
Missouri	\$1,566.03
Nebraska	\$1,597.87
Oklahoma	\$1,613.21

This 1999 figure does not fully factor in the tax hike enacted in 1999 on motor vehicle fuels and the bracket creep in personal income, corporate income, and statewide property taxes that has been occurring annually in the two years since these figures were compiled.

If there is any good news in these figures it is that Kansas is still slightly below the U.S. average which is \$1,835.27.

The dramatic increases in alcohol taxes proposed in this bill would range from 20 percent (\$2.50 to \$3) on alcohol and spirits to over 400 percent (.18 cents to .98 cents) on beer.

**GEOGRAPHY**

This legislation should be called the western Missouri retail liquor development act. Dramatically increasing alcohol taxes by the amounts proposed in this bill would significantly increase the amount of cross border traffic at the edges of this state. This is particularly true in eastern Kansas. Kansas Taxpayers Network believes that Kansans are voting with their wallets and purses by going into lower tax areas for their purchases (MO state rate is 1.225% or 3.675% less than Kansas). We believe this is already occurring with the disparity between the state sales tax rates on food for folks living within 5-to-10 miles of the Missouri border and is negatively impacting Kansas sales tax receipts. Missouri started reducing their statewide sales tax on food (which was 4.225%) in 1996.

Alcohol can also be sold inside Kansas without state taxation (federal bases/reservations) and raising this tax will raise similar tax evasion/avoidance problems.

*Senate Assessment & Taxation  
2-27-01  
Attachment 12*

# KANSAS TAXPAYERS NETWORK

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Wichita, KS 67208

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20 February 2001

## An Open Letter to Kansas Legislators:

The volume and quantity of proposals to raise state taxes in 2001 is growing at a rate that KTN is not able to keep track of each and every proposal that has already been introduced. Kansas state taxes are already the highest in our region and there is strong opposition among taxpayers to raising taxes in this state. Kansas Taxpayers Network is adamantly opposed to any Kansas tax hike in 2001. Our supporters are solidly opposed to any and all efforts to raise Kansas taxes.

We are opposed to efforts to raise sales taxes (regardless of which of the many spending lobbies it will benefit), telephone (911) taxes, statewide property taxes, the cigarette tax, taxes on alcoholic beverages, raising hunting and fishing licenses through expanding the authorization for the license fee setting group within the Wildlife Department, higher state fees for items like an additional charge for Kansas birth certificates, as well as any other revenue expansion proposal which we have not yet detected. We are also opposed to any and all efforts to raise taxes that were reduced between 1995 and 1998. This is particularly true of efforts to raise the statewide property tax.


Legislators need to be aware that higher taxes are driving productive Kansans out of this state and into nearby states which are much more friendly to the private sector. That is why population growth in Kansas lagged well below the national average in the 2000 census figures. That is why Kansas has one of the highest percentages of senior citizens to the total population among all 50 states.

We are opposed to all legislation that would raise property taxes without a vote of the people. This should be held at a regularly scheduled election. Voter approval of tax hikes is current public policy in three of the four states surrounding Kansas: Missouri, Oklahoma, and Colorado.

Current Kansas property appraisal statutes and state income taxes impose automatic tax hikes on Kansans without the vote of any elected official. This is wrong.

Instead of trying to raise Kansas taxes the legislature should be working to stop these automatic tax hikes and start trying to eliminate our position as the high tax point on the prairie. The federal census department figures document Kansas' high tax position among our neighboring states. After all, despite the well publicized "revenue shortfalls," state tax collections as of the end of January, 2001 are 7.0 percent or almost \$164 million above the same period last year.

Sincerely,



Karl Peterjohn  
Exec. Dir.

**KANSAS TAXPAYERS NETWORK**

**P.O. Box 20050  
Wichita, KS 67208  
27 February 2001**

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316-684-0082  
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Testimony Opposing SB 318  
Karl Peterjohn  
Exec. Dir.

The Kansas Taxpayers Network has always testified against any statewide tax hike like SB 318. Kansas taxes are already the highest in the region according to the federal government.

See the U.S. Census Department web site: [www.census.gov/ftp/pub/govs/statetax/99tax.txt](http://www.census.gov/ftp/pub/govs/statetax/99tax.txt). State taxes in Kansas are higher than in all our surrounding states according to these federal figures.

State	Per Capita State Taxes
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Oklahoma	\$1,613.21

This 1999 figure does not fully factor in the tax hike enacted in 1999 on motor vehicle fuels and the bracket creep in personal income, corporate income, and statewide property taxes which has been occurring annually in the two years since these figures were compiled.

If there is any good news in these figures it is that Kansas is still slightly below the U.S. average which is \$1,835.27.

The dramatic increase in tobacco taxes proposed in this bill is a 41.7 percent tax hike. This is in addition to the dramatic increase in tobacco taxes imposed indirectly by the tobacco litigation settlement. Cigarette tax collections dropped 4 percent or roughly \$2 million in FY 2000 which I believe reflects the litigation taxes' impact.

**GEOGRAPHY**

This legislation should be called the western Missouri retail tobacco sales development act. Dramatically increasing tobacco taxes by the amounts proposed in this bill would increase the amount of cross border traffic at the edges of this state. This is particularly true in eastern Kansas. Kansas Taxpayers Network believes that Kansans are already voting with their wallets and purses by going into lower tax areas for their purchases. We believe this is already occurring with the growing disparity between the state sales tax rates on food for folks living within 5-to-10 miles of the Missouri border and is negatively impacting Kansas sales tax receipts. Missouri has been gradually phasing down its state sales tax on food.

Tobacco can also be sold inside Kansas without state taxation (federal bases/reservations) and raising this tax will raise similar tax evasion/avoidance problems in this area. Attached is a copy of KTN's open letter to all Kansas legislators opposing a statewide tax hike.

*Senate Assessment & Taxation  
2-27-01  
Attachment 13*

**DANIEL J. OGILVIE**  
RANCH MART WINE AND SPIRITS  
3748 WEST 95<sup>TH</sup> STREET  
LEAWOOD, KS 66206

Testimony Re: Senate Bill 312  
February 27, 2001

Thank you, Mr. Chairman, for the opportunity to speak to you about Senate Bill 312. My name is Dan Ogilvie and I own a retail liquor store. My store is less than 2 miles from the Missouri state line and I believe the liquor retailers on the Missouri side are my biggest competitors.

At this time, I feel I have a lot of loyal customers that shop my store because of my good customer service and they would like to spend their tax money where they live. However, there is a limit on what a person will spend before heading for the better deal. We are at that limit right now.

Missouri liquor is already significantly less expensive. Also, they have the opportunity to sell liquor as a loss leader to sell other things in their store. In Kansas, the retail liquor store does not sell other products - and can not sell liquor below cost. I feel any increase in tax would send a large percentage of customers to Missouri who have faithfully been purchasing their liquor in Kansas. Will we enforce the laws against transporting the product back to Kansas? Will we begin to enforce the laws against internet and mail order sales?

With the legislation before you, I would have to charge at least \$2.15 more per case of beer, simply to cover the taxes - with no additional mark-up for the wholesaler or for my store. Add this to the current price difference across the border, and I'm certain to lose business. While in Missouri what would stop them from buying groceries and other items on that side of the line? Why not stop at the Missouri restaurant where a bottle of beer is 50 cents cheaper? How many stores, restaurants and clubs would need to shut down or face serious losses before the State of Kansas and the counties near the state line would feel the consequences?

This would be devastating to my business and every liquor store in Johnson County. Johnson County is the top sales tax paying county and second highest enforcement tax paying county in the state. Before accepting Senate Bill 312, please consider the impact it would have on my business and others.

Respectfully,

Dan Ogilvie

*Senate Assessment & Taxation  
2-27-01  
Attachment 14*

# HEIN AND WEIR, CHARTERED

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**Testimony re: SB 312  
Senate Assessment and Taxation Committee  
Presented by Ronald R. Hein  
on behalf of  
Kansas Restaurant and Hospitality Association  
February 27, 2001**

Mr. Chairman, Members of the Committee:

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

KRHA opposes the provisions of SB 312 that increase the percentage rate of the liquor enforcement tax from 8% to 10%. This 25% increase in the rate applied seems excessive to the businesses who will be asked to pay it, and will certainly affect the consumers who will ultimately be asked to bear the burden of the tax increase. The increase in the drink tax from 10% to 12%, although it will be charged directly against the state's consumers, will also impact restaurants, hotels, and motels to the extent that the tax increases in this bill affect sales. Other provisions of the bill also impact our micro-brewery members.

The subsequent earmarking of such increase to the state school district finance fund seems arbitrary to the KRHA,. We see no correlation between these taxes and the designation of the funds.

As an association, we are very concerned about the expenses that are borne by our members, and taxes are no different than any other expense. We understand that the legislature has a legitimate police power to impose taxes on our businesses and our customers. As a general rule, we feel that such taxes should either be used to support programs that have a direct correlation with our industry or the use of the state's police power related to our industry, or should be put in the State General Fund as part of a comprehensive taxation system.

It is incumbent upon the KRHA to monitor any efforts to increase taxes on the members of our association and their customers. Although resources appear tight for the State right now with a declining or, at least, slower moving economy, our businesses are subject to the same economy. If our taxes are increased when the economy is turning down, our options are to cut costs, increase the costs to our consumers if we can do so without affecting sales, or go out of business. Many businesses who would pay this tax are also facing license fee increases and other tax increases, so the addition of this tax will compound the cost increases to our members.

Thank you very much for permitting me to submit this testimony.

*Senate Assessment & Taxation  
2-27-01  
Attachment 15*



Testimony Presented to the  
Senate Federal and State Affairs Committee  
re: SB 312

by Lester Lawson, President  
Kansas Clubs and Associates

Mister Chairman and Members of the Committee. My name is Lester Lawson, and I appear before you today on behalf of Kansas Clubs and Associates to express our opposition to SB 312.

Having taught for thirty years in the Kansas City, Kansas public schools, I realize how important adequate funding is to education. However, our association believes we are already paying more than our fair amount of taxes. While other businesses only are required to pay sales tax to the state, we must pay an 8% tax on the purchase price, which no other business pays, and a 10% tax on resale, higher than other businesses pay. This bill would increase those amounts to 10% and 12% respectively.

In addition to those taxes, we must pay high license fees. In my case that amounts to about \$2,105 annually. I have itemized below the cost of licenses I must purchase to stay in business.

<b>Federal License</b>	<b>State License</b>	<b>City Licenses</b>
ATF.....\$250.00	State liquor license .....\$1010.00	City liquor license....\$250.00
	Kansas Dept. of Health ..100.00	Amusement license... 400.00
		Occupation license.... 95.00

If SB 312 is enacted, the result will be to increase the discrepancy in what Kansas liquor retailers must pay compared to Missouri retailers. Currently there is approximately a \$2.00 difference, which will on passage be increased to at least a \$4.50 difference on a case of Budweiser; the new difference will amount to at least \$15.00 per keg of Budweiser. Such a difference will give the advantage to Missouri retailers whose businesses are near the state line.

In the past, the liquor industry in Kansas has suffered numerous setbacks. The racetracks have hurt small businesses, and when small businesses found ways to recover from that damage, those businesses in eastern Kansas were set back by Indian casinos within the state and the big casinos opening in Missouri. When taxes were reduced two years ago, we saw no benefits.

New proposals coming before the state legislature seem destined to hit us again SB 312 would increase our taxes, though we are already taxed disproportionately. SB 13 would raise our license fee. And if slot machines are permitted at the racetracks, this will certainly hurt us because the tracks will be able to offer cheaper prices on their drinks, since their primary revenue will come through gambling. Many small taverns and bars may find recovery impossible. We ask you to consider the burden posed by SB 312 and other forthcoming proposals and to reject SB 312.

*Senate Assessment & Taxation*  
*2-27-01*  
*Attachment 16*

JAMES A. BARNETT  
 SENATOR, 17TH DISTRICT  
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 EMPORIA, KS 66801  
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TOPEKA

SENATE CHAMBER

COUNTIES  
 CHASE, COFFEY, GEARY,  
 LYON, MARION, MORRIS,  
 OSAGE AND WABAUNSEE

COMMITTEE ASSIGNMENTS  
 VICE CHAIR: PUBLIC HEALTH AND WELFARE  
 MEMBER: FEDERAL AND STATE AFFAIRS  
 FINANCIAL INSTITUTIONS AND  
 INSURANCE

## TESTIMONY FOR SB318

Mr. Chairman and members of the Assessment and Taxation Committee, thank you for the opportunity to testify in support of Senate Bill 318. As you are well aware, there are many requests made to the Legislature for increased funding of state programs. We are faced with unlimited needs and limited resources. I have introduced SB 318 to increase state revenues for some of those important needs.

The current budget proposal for the Board of Regents institutions has an approximate \$9 million deficit. We are also aware of the significant need for salary enhancement for the Kansas Highway Patrol. I have visited with individuals from with the Department of Corrections and have significant concerns regarding their ability to attract and maintain adequate staffing in our correctional facilities. We also hear frequently of concerns related to those Kansans who are on a fixed income. I would also like to share a concern with you for individuals who are on no income. Those are college students. Last year, they received a double hit with two tuition hikes. I was fortunate to be able to graduate from college without debt. Fewer and fewer students are able to do that today. Part of this bill is targeted for tuition relief for those students and their parents. I have also included additional state funding that could be leveraged against federal dollars to increase payments for those taking care of the developmentally disabled.

The source of the tax revenue would come from tobacco taxes. State tobacco product taxes were last increased in 1972. State cigarette taxes were last increased in 1985. Our current tax rate is 24 cents per package. The rate in Iowa is 36 cents, and 34 cents in Nebraska. Missouri's tax rate is 17 cents, however, cities and counties may add additional local taxes.

SB 318 would increase the tobacco products tax from 10% to 12% and would add a dime to a package of cigarettes, or \$1 per carton. I have spoken with the Attorney General's office and this bill will have no impact on the tobacco settlement. The revenues generated in the first year would equal approximately \$23 million with the revenues distributed as follows:

1. Regents institutions, \$9 million.
2. Kansas Highway Patrol, \$2 million.
3. Department of Corrections, \$5 million.
4. Student tuition relief, \$5 million.
5. HCBS-DD waiver, \$2 million.

*Senate Assessment & Taxation  
 2-27-01  
 Attachment 17*

During subsequent years, the money would be split between the Regents institutions and money that could be used for targeted state employee salary enhancements. As this year demonstrates, there are often pockets of greater need for state salary enhancements. The Judiciary Department is another example. This pool of money would allow the Legislature and Governor the opportunity to provide greater funding to those special areas of need. Currently, across the board increases may create unfair competition in the labor market for private business and private enterprise.

During our earlier testimony regarding liquor taxes, we discussed social costs. In the state of Kansas, annual health care expenditures directly related to tobacco use totaled \$630 million. A pack of cigarettes would have to be increased \$3.09 to generate \$630 million. We are asking for a dime.

I sincerely appreciate your consideration today and respectfully request that the full Senate have the opportunity to debate this issue.

A handwritten signature in cursive script that reads "Jim Barnett". The signature is written in black ink and is positioned above the printed name.

Senator Jim Barnett

JAB/gkp

February 27, 2001

Senator Dave Corbin, Chair  
Senate Assessment and Taxation Committee  
Room 519 S, State Capitol  
Topeka, KS 66612

Honorable Senator Corbin and Committee Members:

Thank you for allowing me to testify in support of Senate Bill No. 318. Tobacco use is a major health and economic problem in Kansas. It drains hundreds of millions of dollars annually from our economy, reduces productivity in our businesses and industries, and robs families of their loved ones and resources. And it addicts a whole new crop of youthful customers each year.

Smoking is the number one preventable cause of death and illness in the United States, claiming more lives than alcohol, car crashes, homicides, suicides, fires, AIDS, and other drug use combined. In 1996, smoking-related diseases killed 4,326 Kansans, almost one in five deaths. (*Smoking Costs Lives and Money*, April 14, 1998, News Release, Kansas Dept. of Health and Environment) Though this statistic is alarming, what is even more disturbing is the fact that over 49,999 Kansas children currently younger than 18 will die prematurely from tobacco use. (*Projected Smoking-Related Deaths among Youth*, November 8, 1996, United States, *Morbidity and Mortality Weekly Report*, pp. 971-974)

The tobacco-caused health costs in Kansas are estimated at \$630 million per year. (*L. Miller, et al., State Estimates of Total Medical expenditures Attributable to Cigarette Smoking, 1993 Public Health Reports 113*) The tax revenue that Kansas already receives from tobacco products (estimated in 1999 at \$51,180,746) does not begin to compensate for tobacco-related expenditures. (Policy and Research Bureau, Kansas department of Revenue, 1999)

Youth smoking for some grade levels is still rising. And even where smoking rates are leveling off, they are still too high. Experimental tobacco use can eventually lead to addiction and death. Almost all cigarette addiction starts during the teen years. Early addiction can lead to years of smoking and the potential development of deadly diseases such as lung cancer. The earlier a person starts to smoke, the harder it is to quit. These early youthful smokers are more likely to develop more severe levels of nicotine addiction than those who start at a later age, making it more difficult to quit smoking.

In Emporia, the average age of first use of cigarettes is 11 years, 9 months. Among 6<sup>th</sup> graders in the year 2000, 19% experimented with cigarettes, which is down from 30% in 1998, but still above the state average. Among 8<sup>th</sup> graders, 41% experimented with cigarettes, which is down from 52% in 1998, but still above the state average. Among 10<sup>th</sup> graders, 49% have experimented with tobacco, which is down from 59% in 1998. 12<sup>th</sup> grade use has also dropped significantly from 72% in 1998 to 57% experimental use in 2000. Even though Emporia teen tobacco use rates are dropping and we are making progress in tobacco prevention, these usage rates are unacceptably high. The fact that 26% of our 12<sup>th</sup> graders report that they regularly use tobacco products means that these 18 year olds have probably been using tobacco products for awhile, and if they continue to use, will only increase the health and economic burden to the state of Kansas as they get older. (Emporia, Kansas Communities that Care Survey, 2000)

Senate Assessment & Taxation  
2-27-01  
Attachment 18

How can we solve this problem in Kansas? Strong evidence and success stories from other states show that raising the tax on tobacco products can significantly reduce tobacco use – especially among youth. When a higher excise tax is put into place, especially when used in tandem with a comprehensive statewide strategy which includes school and community based education, counter marketing, cessation assistance, and strictly enforced youth access provisions, youth tobacco use will decrease. California, Massachusetts and Oregon have all recently increased their tobacco taxes and have documented reductions in adult use, and at least stabilization in youth use. California and Massachusetts voters approved ballot initiatives that increased the state cigarette tax by 25 cents per pack. In both states, the cigarette consumption by adults declined. While teenage smoking increased significantly throughout the country from 1990 to 1993, smoking among California teenagers remained constant. Also the proportion of California children and adolescents exposed to secondhand smoke in the home decreased from 29% in 1992 to 12% in 1996. In Massachusetts, between 1995 and 1999, current smoking among Massachusetts high school students was reduced by 15%. Since 1993, the use of spit tobacco by high school males has declined by over 50%.

An increase in cigarette tax may be the single most effective approach to reducing tobacco use by youth. The impact of an increased excise tax can be expected to encourage teenagers to stop smoking, and it may also discourage children from even starting. According to the American Lung Association, youth consumption may be three times more sensitive to price increases than adult consumption. This may be explained by the fact that children and teenagers are usually less addicted than many adult smokers and, therefore, more able to stop smoking when prices increase. The largest group of cigarette buyers consist of older, habitual smokers, who will continue to smoke despite the higher costs. However, in the group of younger smokers – both young smokers who have less firmly established habits and less money available, and young people who haven't started smoking – the price increase will significantly dampen cigarette consumption. If we can prevent youth from smoking in the first place, or get them to stop smoking now before the addiction is set in stone, we can save many lives and stop the constant bleed on tax dollars to pay for the damage caused by smoking. However, we must be cognizant of the fact that inflation will soon erode the effectiveness of a modest tax increase. Legislators can maintain the real value of the tax by setting it to increase automatically with inflation.

While I fully support Senator Barnett's proposal to fund worthy causes from a tax increase on tobacco products, my personal and professional interest is to reduce youth smoking. We have all seen a loved one die as a result of smoking. My own mother passed away in November. She started smoking as a teenager in the late 1930's, and smoked off and on for over 50 years with many attempts to quit before successfully quitting. She battled 3 different types of cancer before finally succumbing to leukemia. Her doctors said that because of her long history with smoking, she was at higher risk for developing the cancers she developed.

Since the last increase in Kansas on tobacco tax was in 1985, an increased tax is long overdue. Higher tobacco taxes will be a deterrent to teens, and will force tobacco users to pay more of their fair share to alleviate the tax burden of all Kansans.

Respectfully submitted,



Margi Grimwood  
Safe and Drug Free Schools Coordinator

Testimony by Greg Watt

Emporia State Student

Ladies and gentlemen of the committee, I am here to testify on behalf of Senate Bill 318. I come to you as both a concerned student and a concerned Kansan. Let me come right to the point when I voice my concerns for the regent's universities. I am now a senior and have been given an opportunity to work for Emporia State as an ambassador for governmental relations. I spend Tuesday's and Thursday's right here in the capitol following both committees and legislation that would be of importance to my beloved institution. I have found in my work as a liaison that we are facing budget issues and concerns that touch regent's universities both large and small.

Until recent years I have cared little about what was happening in the halls of my institution, let alone what was going on in the halls of the State Capitol. Now, having been immersed in this sea of funding issues, I have been soaked with knowledge that I can't seem to dry myself from. Now all of you are saying to yourself, "I think this kid has used a nice analogy considering he is still wet behind the ears," and I can appreciate that. However, as new as this is all to me I want to share what we are facing and how Senator Barnett's proposal could help.

Extrapolated information from the board of regent's office indicates, that there is a need for \$14.7 million above what the governor has recommended to maintain a current level of service and performance. In my own very humble opinion, I feel that by cutting the two for one technology initiative along with every institution's base budget that we are not acting in the best long-term interests of our students.

Senator Barnett has taken a look at this issue facing us and with this proposed bill has given an opportunity to raise money for the Board of Regents. Let me conclude that I have nothing but

*Senate Assessment + Taxation  
2-27-01  
Attachment 19*

positive things to say about my experience as a student in Kansas. I have been challenged academically and have been blessed with a wide array of technological resources. As a student ambassador giving tours of campus, I am never hesitant to point out the many computer labs available and how many of the classrooms are fitted with state of the art Internet projectors. I, as a student, have much to be thankful for and want to take this time to thank you for all that you have done and currently do. Every dollar raised for higher education regardless of the means is a dollar well spent.

## Funding the Governor's FY 2002 Budget Policy Recommendations for State Universities

The foundation of the Governor's FY 2002 recommendation is the Current Service Budget, intended to allow the institutions to maintain the current level of service delivery and performance. In addition, the Governor has recommended a salary plan for all employees which, on an annualized basis, provides an average 3 percent increase. Embodied in the Governor's recommendations are the following major systemwide policy recommendations for FY 2002:

- Annualization of FY 2001 classified step increases.
- Elimination of classified steps 1 – 3, effective February, 2001.
- Annualized 3% salary increase in FY 2002, with 1.5% effective at the beginning of the fiscal year and 1.5% effective mid-fiscal year. (Additional funding would be required in FY 2003 to annualize the increase. The effective FY 2002 increase would be 2.26%.)
- Payment of the employer's share of health insurance, retirement contributions, FICA and other fringe benefits at specified rates.
- 1% increase in Other Operating Expenditures.
- Elimination of the state technology funding program, which the Governor had supported for fiscal years FY 1999 through FY 2001.

**The Governor's recommended funding levels do not include sufficient new funds to implement these policy recommendations:**

- Funding deficiency of **\$6.1 million** in the Governor's Current Service budget allocations, largely due to unfunded fringe benefit rate increases.
- No funding provided for elimination of classified steps 1 – 3, estimated to cost **\$1 million**.

**The Governor's recommended funding levels further erode the institutions' ability to maintain current service and performance levels:**

- Elimination of **\$3.9 million** in state funding for technology equipment, which the institutions have built into their instructional technology plans for the past three years.
- No funding for an estimated **\$3 million** increase in utilities costs due to natural gas rate increases.
- No funding for the cost of servicing new buildings coming on line in FY 2002 - **\$.7 million**.

**The total cost above the Governor's recommended funding level, to maintain a current level of service and performance is \$14.7 million.**

**Alternatives for addressing the funding shortfall include:**

- Increasing state appropriations (most desirable).
- Increasing student tuition (less desirable).
- Reducing the base budget by reducing current services and performance levels (least desirable).

**Unless state funding is increased, this funding shortfall, together with the Governor's recommended package of unclassified salary increases and operating grant budget methodology, will hinder rather than promote institutional advancement and management flexibility.**





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Testimony – February 27, 2001

TO: The Senate Assessment and Taxation Committee  
FR: Tom Laing, Executive Director  
InterHab: The Resource Network for Kansans with Disabilities  
RE: Senate Bill 318

Thank you Mr. Chair, and members of the Committee for your hearing on this bill. I represent the state-wide association of community service providers who would utilize the earmarked funding for HCBS/DD funding, as envisioned in this bill. We support the efforts embodied in SB 318 to address the funding shortfall for vital State programs.

As regards the increase in cigarette taxes:

We have never been officially asked to identify which revenue source should be increased to meet State budget needs, and we therefore have no fundamental opposition, nor special preference for tobacco products as a revenue target. We urge, instead that the legislature examine all options, and make decisions that are fair and that will raise sufficient revenue for the State to pay its bills.

As to the targeting of resources for certain programs:

InterHab has never asked for earmarked revenues in the past, and would therefore not insist on earmarking today. As a practical matter, however, we applaud the sponsor's initiative, because our budget challenge is among the most significantly under-addressed issues in the current budget, as illustrated below:

The Direct Care staffing crisis in the community is driven by the long-term inadequacy of the State rates:

*Senate Assessment & Taxation  
2-27-01  
Attachment 20*

Since 1993 (when current Medicaid rate structures were adopted) – *the total increase in the wage base of the rate structure has been 7%*. From a pay rate of ~~\$7.14~~ ~~+0~~ \$7.68

In that same time period, from 1993 to the present, according to the Kansas Legislative Research Department:

The Consumer Price Index has increased 23%.

The average wages for state workers has increased 38%.

The average wages in the private sector has increased 36%.

Kansas cannot continue to claim that we value our citizens who have disabilities if we devalue the workers in the community who serve and support those citizens with disabilities.

For those of us who have worked hard to address the service staffing crises in Kansas, the proposal in SB 318 is encouraging. However, to be fair and honest to you (and as I have advised the sponsor) this solution falls short of the needs, and thus can only be viewed as a “part “ of the solution.

Both SRS and InterHab are examining the community rate issues. Information from both studies will be presented to the legislature when the information becomes available. But, to examine SB 318 in context, consider a simple comparison of wage information that produced the number we recently presented to the Senate Ways and Means Committee:

*To bring community DD workers to a comparable level with state workers in the same occupational classes (direct care staffing) would require more than \$40 million dollars (of which only 40% of the total would be required from SGF to match federal Medicaid dollars).*

Summary:

Please consider and take seriously the two initiatives embodied in SB 318:

- The State’s revenue base must be strengthened
- Community direct care workers deserve fair wages

As you and your colleagues and the Governor examine budget decisions in the coming weeks, please examine SB 318 and all other initiatives with open minds.

Please have as one of your guiding principles that those needs that are the most pressing in Kansas will be among the first to be addressed.

# KANSAS HIGHWAY PATROL

*Service—Courtesy—Protection*

Bill Graves  
Governor



Col. Donald W. Brownlee  
Superintendent

## Summary of Testimony on SB 318 Senate Assessment and Taxation

Presented by  
Colonel Don Brownlee  
February 27, 2001

Good morning Mr. Chairman and members of the committee. My name is Colonel Don Brownlee and I appear before you on behalf of the Kansas Highway Patrol to comment on Senate Bill 318.

As most of you are aware, the Kansas Highway Patrol continues to work diligently with the Kansas Legislature to fund much needed increases in both manpower and salaries for uniformed members. Both of these issues have gained widespread attention through the media during recent years.

Two and a half years ago, a 1998 Legislative Post Audit report showed our agency was short 93 troopers across the state. In recognizing this shortage, the 1999 Legislature graciously funded 16 additional troopers toward our 93-trooper deficit. We remain approximately 77 troopers short of Post Audit's recommended staffing. After starting our current basic training class in January, we were 50 positions short of filling our established trooper FTE's. Additionally, we have approximately 105 troopers that are eligible to retire between the years 2000 and 2005. Needless to say, we are aggressively looking for quality individuals wishing to become troopers. Unfortunately, attracting these individuals has become somewhat of an obstacle.

Like most law enforcement agencies across the country, the Patrol is currently

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*Senate Assessment & Taxation  
2-27-01 Attachment 21*

experiencing difficulty in recruiting and retaining qualified applicants for the position of trooper. The number of individuals wishing to enter the law enforcement profession has decreased over the years. This has left law enforcement agencies across this country competing for a smaller number of outstanding individuals wishing to become police officers.

Salaries and benefits continue to be very important factors to applicants wishing to enter any profession. Regrettably, the Kansas Highway Patrol has not been able to effectively compete in this arena. When comparing the Patrol's salaries for law enforcement positions with other similar law enforcement agencies locally and across the Midwest, the Patrol consistently ranks close to the bottom. In his State of the State Address, Governor Graves recognized our need and recommended several pay adjustments that will assist in attracting applicants to the Highway Patrol.

The Patrol continues to work with Governor Graves and the Legislature for resolution to our issues. We have received a lot of positive sentiment from Kansas' leaders for our pay issues. During the past few years, the dilemma in accomplishing resolution has come down to funding sources. Senate Bill 318 provides an avenue to deal with that dilemma.

The Highway Patrol is not in a position to recommend tax policy. Those issues are obviously better left to Governor Graves and the Legislature. That said however, the Patrol is appreciative of the efforts and would gratefully accept the funding provided by SB 318 for salary enhancement if it is deemed the appropriate funding mechanism.

I want to thank you for allowing me the time to speak on SB 318. I will stand for questions.

#####



Tobacco *Free* Kansas Coalition, Inc.

**Tobacco Free Kansas Coalition  
Testimony on SB 318  
Senate Assessment and Taxation Committee  
February 27, 2001**

My name is Kevin Walker and I am Chairman of the Tobacco Free Kansas Coalition Policy Committee. The Tobacco Free Kansas Coalition is comprised of more than 60 state and regional organizations concerned about tobacco use in Kansas. Our partners include the American Heart Association, the American Cancer Society, the American Lung Association, the Kansas Public Health Association and the Kansas State Nurses Association.

I am here today to offer *qualified* support for the proposed increase in the excise tax increase on cigarettes. Our qualified support stems from the fact that this bill attempts to use a major tool in the reduction of tobacco usage without using it to its fullest extent.

We applaud the legislature for looking at excise taxes, but would urge you to consider the public health aspects of this effort and support a more substantial increase. We also urge you to consider redirecting a percentage of the funds towards a comprehensive tobacco control program.

By doing so, you will not only generate much needed revenue for state supported programs and entities such as schools, economic development and health care, but you will also help break the cycle of addiction for many Kansas youth. With more than 16-percent of Kansas 6<sup>th</sup> through 8<sup>th</sup> graders reporting

2-27-01 Attachment 22

Senate Assessment + Taxation

2-27-01

TOBACCO FREE KANSAS COALITION, INCORPORATED OFFICERS

Renee Kelley

Terri Roberts, J.D., R.N.

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DIRECTOR OF PUBLIC RELATIONS AND MARKETING  
AMERICAN CANCER SOCIETY,  
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ATTACHMENT 22

that they smoked at least once in the past 30 days isn't it important that we attempt to do something about it?

A significant increase in the state's cigarette excise tax would be a major boost to the State's current inadequately funded tobacco control efforts. In one study, Kansas is ranked 40<sup>th</sup> in the nation in spending on tobacco control while a second study marks our efforts at 44th. Outside of a one-time appropriation of \$500,000 from the proceeds of the Master Settlement Agreement, the sum total of state dollars being spent on tobacco control is negligible.

Economic research on the relationship between cigarettes prices and youth tobacco consumption indicates that for every 10-percent increase in tobacco prices, it can reasonably be expected that youth consumption will decrease by 7-percent. Additionally, it can also be expected that a 4-percent decrease in adult consumption will be realized.

A spot check of area retailers on Friday of last week indicated that prices for the most popular brands – including the number one brand smoked by youth, Marlboro – are in the neighborhood of \$3.00 per pack. Using the elasticity formula between price and consumption it is reasonable to expect that a \$.10 per pack increase in price will yield only slightly more than a 2-percent reduction in youth smoking rates. This of course is a start but hardly the type of impact that could be achieved by a more substantial increase of perhaps \$.50 per pack.

The Kansas Children's Cabinet, in their January 2000 report to the Kansas Legislature, urged a significant increase in the excise tax. "It is strongly recommended by the Cabinet that the excise tax on cigarettes be substantially increased to reduce tobacco usage and raise funds for the state," the report stated. We couldn't agree more.

Kansas is below the national average for excise tax levied on cigarettes and the \$.10 increase will still leave us short of the national average of \$.42 per pack and far short of what the top ten states are doing. In fact, at \$.24 per pack, Kansas ranks 32<sup>nd</sup> in the country in the amount of excise tax being levied on cigarettes.

Some will argue that a substantial increase in the excise tax and the subsequent reduction in consumption rates will reduce revenue to the state. This is not the case. That attachment shows the impact of recent excise tax increases both in terms of consumption and revenue. In every case study on the attached document you will see reductions in consumption coupled with dramatic increases in revenue to the state.

Furthermore, a statewide poll of Kansas adults indicates that a \$.50 per pack increase in excise taxes on cigarettes is acceptable to an overwhelming majority of Kansans. 66-percent of all Kansans and 76-percent of non-smokers find this acceptable. Interestingly enough, even 37-percent of smokers indicated an increase in excise tax as acceptable.

You have before you an opportunity not only to generate funds for much needed programs, but to also make a dramatic improvement in the lives of thousands of Kansans – both young and old. The short-term benefit is that thousands of Kansans will stop smoking or never begin in the first place. The long-term benefit is a healthier population with a lower cost of providing medical care in the future.

Will \$.10 per pack have some impact – yes it will. Will the increase be substantial enough to aid in breaking the cycle of nicotine addiction – not really. The tools for improving the lives of Kansans are available to you. How you choose to use them is your decision.

## STATE CIGARETTE TAX RATES AND DATE OF LAST INCREASE

36 states have not increased their cigarette tax rate for at least five years. Of these, 17 have not increased their cigarette taxes in at least ten years. And six states have not increased their taxes in at least twenty years. Virginia and Tennessee have not increased their state cigarette taxes since the 1960s.

State	Current Cigarette Tax (per pack)	National Rank	Date of Last State Tax Increase	Cig. Tax Revenue in FY 1999 (millions)	Cig. Pack Sales FY 1999 (millions)	Adult Smoking Rate (percentage)	Youth Smoking Rate (percentage)
<i>State Average</i>	0.42	///	///	\$150.8	422.3	23.2	32.6
Alabama	0.165	43	7/1/84	\$65.4	435.1	24.6	36.6
Alaska	1.00	2	10/1/97	\$42.9	42.9	26.0	33.9
Arizona	0.58	15	11/29/94	\$163.1	281.1	21.9	15.0
Arkansas	0.315	29	7/1/93	\$81.5	264.5	26.0	39.6
California	0.87	4	1/1/99	\$841.9	1523	19.2	26.6
Colorado	0.20	37	7/1/86	\$59.5	309.9	22.8	36.6
Connecticut	0.50	19	7/1/94	\$118.8	240	21.1	31.2
Delaware	0.24	32	1/1/91	\$24.3	102.2	24.5	32.2
Washington, DC	0.65	13	7/1/93	\$17.4	26.9	21.6	22.7
Florida	0.339	27	7/1/90	\$428.5	1292.7	22.0	27.4
Georgia	0.12	46	4/1/71	\$85.7	726.6	23.7	35.3
Hawaii	1.00	2	7/1/98	\$38.9	38.6	19.5	27.9
Idaho	0.28	31	7/1/94	\$24.2	90.9	20.3	27.0
Illinois	0.58	15	12/16/97	\$485.6	858.8	23.1	34.0
Indiana	0.155	44	7/1/87	\$116.3	781.6	26.0	36.1
Iowa	0.36	24	6/1/91	\$92.3	261.6	23.4	35.8
Kansas	0.24	32	10/1/85	\$51.0	216.2	21.2	42.1
Kentucky	0.03	50	7/1/70	\$17.6	646.2	30.8	41.5
Louisiana	0.20	37	8/1/90	\$82.8	439.6	25.5	33.3
Maine	0.74	9	11/1/97	\$76.9	106.2	22.4	31.2
Maryland	0.66	12	7/1/99	\$129.6	363.5	22.4	32.0
Massachusetts	0.76	7	10/1/96	\$279.6	369.4	20.9	30.3
Michigan	0.75	8	5/1/94	\$597.2	798.5	27.4	34.1
Minnesota	0.48	20	7/1/92	\$177.3	378.3	18.0	35.4
Mississippi	0.18	39	6/1/85	\$47.2	283.8	24.1	31.5
Missouri	0.17	41	10/1/93	\$105.0	637.5	26.3	32.8

22-4



22-5

State	Current Cigarette Tax (per pack)	National Rank	Date of Last State Tax Increase	Cig. Tax Revenue in FY 1999 (millions)	Cig. Pack Sales FY 1999 (millions)	Adult Smoking Rate (percentage)	Youth Smoking Rate (percentage)
Montana	0.18	39	8/15/93	\$12.7	72.6	21.5	35.0
Nebraska	0.34	26	7/1/93	\$47.3	143.5	22.1	37.3
Nevada	0.35	25	7/1/89	\$59.1	174.2	30.4	32.6
New Hampshire	0.52	17	7/1/99	\$72.0	201.4	23.3	34.1
New Jersey	0.80	6	1/1/98	\$409.7	511.8	19.2	36.2
New Mexico	0.21	36	7/1/93	\$21.1	103.3	22.6	24.7
New York	1.11	1	3/1/00	\$637.0	1140.8	24.3	31.8
North Carolina	0.05	49	8/1/91	\$41.8	839.8	24.7	35.8
North Dakota	0.44	21	7/1/93	\$21.0	47.9	20.0	40.6
Ohio	0.24	32	1/1/93	\$269.3	1163.8	26.2	40.3
Oklahoma	0.23	35	6/1/87	\$64.2	369.7	23.8	29.0
Oregon	0.68	11	2/1/97	\$173.4	259.1	21.1	23.0
Pennsylvania	0.31	30	8/19/91	\$333.3	1095.1	23.8	35.0
Rhode Island	0.71	10	7/1/97	\$60.2	85.8	22.7	35.4
South Carolina	0.07	48	7/1/77	\$27.6	411.2	24.7	36.0
South Dakota	0.33	28	7/1/95	\$19.4	61.6	27.3	43.6
Tennessee	0.13	45	6/1/69	\$78.7	620.7	26.1	37.5
Texas	0.41	23	7/1/90	\$524.2	1314.7	22.0	24.6
Utah	0.515	18	7/1/97	\$46.5	90.4	14.2	11.9
Vermont	0.44	21	7/1/95	\$23.7	55.4	22.3	33.4
Virginia	0.025	51	9/1/66	\$15.5	687.8	22.9	29.0
Washington	0.825	5	7/1/96	\$252.2	309.1	21.4	22.3
West Virginia	0.17	41	8/1/78	\$33.3	204.1	27.9	42.2
Wisconsin	0.59	14	11/1/97	\$257.4	443.4	23.4	38.1
Wyoming	0.12	46	7/1/89	\$5.7	50.3	22.8	35.2
State Average	0.42	///	///	\$150.8	422.3	23.2	32.6

Sources: Tax data from *Tax Burden on Tobacco* (2000). Adult smoking data from the U.S. Centers for Disease Control and Prevention (CDC), *1998 Behavioral Risk Factor Surveillance System* (1999). Youth smoking rates from CDC, *Youth Risk Behavior Surveillance -- United States, 1999* (2000) and from the most comparable data available from those states not participating in the YRBS.

### III. Statewide Program Structure

- administrative expenses: tracking expenditures, monitoring contracts, ensuring fiscal integrity
- surveillance and evaluation: statewide assessment of youth tobacco use, evaluation of impact of local interventions
- contracts with state level organizations that reach high risk populations

### IV. Counter-marketing

- paid and PSA television ads
- paid and PSA radio ads
- paid Billboard ads
- paid print ads

The tobacco control experts' offered persuasive information which linked the price of tobacco products with usage. It is strongly recommended by the Cabinet that the excise tax on cigarettes be substantially increased to reduce tobacco usage and raise funds for the State.

**Total Budget \$2,500,000.00**

### D. Research and planning to determine process for making funding decisions

The tobacco settlement funding and the commitment to the Kansas Children's Cabinet provide the opportunity to create a world-class system of services to support children and youth. In order to ensure the resources are spent in the most effective way, at both the state and local level, the Children's Cabinet recommends that two studies be commissioned.

First, the Cabinet is clearly directed by the statute to review, assess and evaluate Children's Initiatives Fund expenditures and to measure the efficiency and effectiveness of practices used in programs, projects, improvements, services or other purposes funded by the Children's Initiatives Fund. In order to best meet this responsibility, a comprehensive nationwide study is recommended by the Cabinet to determine the criteria for evaluating and recommending funding for programs. This information will

# CAMPAIGN For TOBACCO-FREE Kids®

## RAISING STATE TOBACCO TAXES ALWAYS REDUCES TOBACCO USE (AND ALWAYS INCREASES STATE REVENUES)

For over 15 years, economic research studies have consistently documented the fact that cigarette price increases reduce smoking, especially among kids. These studies currently conclude that every 10 percent increase in the real price of cigarettes will reduce the total amount of adult smoking by about four percent and reduce teen smoking by roughly seven percent.<sup>1</sup> Over the past decade or so, many states have raised their cigarette tax rates and, as the economic research predicts, the tax increases reduced cigarette consumption in each of these states below what it would otherwise have been. Nevertheless, every single one of these states also enjoyed increased cigarette tax revenues, despite the reductions in smoking and cigarette sales. Put simply, in every state the revenue losses from fewer cigarette sales were more than made up for by the increased state revenues per pack.

### Recent State Experiences With Tobacco Tax Increases

State	Date	Tax Increase Amount (per pack)	New Tax (per pack)	Consumption Decline (percent)	Revenue Increase (percent)	New Revenues (millions)
Alaska	1997	71¢	\$1.00	-13.5%	+202%	\$28.7
Hawaii	1998	20¢	\$1.00	-8.1%	+19.9%	\$6.4
Illinois	1997	14¢	58¢	-8.9%	+19.0%	\$77.4
Maine	1997	37¢	74¢	-15.5%	+66.7%	\$30.8
Maryland	1999	30¢	66¢	-16.3%	+53.9%	\$69.0
Massachusetts	1996	25¢	76¢	-14.3%	+28.0%	\$64.1
Michigan	1994	50¢	75¢	-20.8%	+139.9%	\$341.0
New Jersey	1998	40¢	80¢	-16.8%	+68.5%	\$166.6
Oregon	1997	30¢	78¢	-8.3%	+77.0%	\$79.8
Rhode Island	1997	10¢	71¢	-1.5%	+16.2%	\$8.6
South Dakota	1995	10¢	33¢	-5.6%	+40.4%	\$6.1
Utah	1997	25¢	51.5¢	-25.7%	+42.4%	\$12.7
Vermont	1995	24¢	44¢	-16.3%	+84.2%	\$11.7
Wisconsin	1997	15¢	59¢	-6.5%	+25.8%	\$52.9

Sources: Orzechowski & Walker, *Tax Burden on Tobacco* (2000) [a tobacco industry funded compilation of state tobacco tax, price, and revenue data]; Maryland data from State Comptroller's Office. Consumption declines and revenue increases calculated from the full fiscal year before the tax increase to the full year after the tax increase.

Complete data from California and New Hampshire, which increased their cigarette taxes in 1999, are not yet available. But newspaper reports noted that in the six months after California raised its tax by an additional 50 cents per pack (to 87 cents per pack), state cigarette sales fell by 30 percent compared to same six months in 1998 while revenues increased.<sup>2</sup> In addition, the early evidence from New York state -- which raised its cigarette taxes by 55 cents to \$1.11 per pack (the highest rate in the country) in March 2000 -- shows that state cigarette sales had dropped by more than 48 percent in the second month after the tax increase compared to the same month a year earlier but the state's cigarette tax revenues had still increased by \$1.5 million.<sup>3</sup>

## Cigarette Company Attacks on State Tobacco Tax Increases

Internal tobacco industry documents that have been made public in the various lawsuits against the cigarette companies show that since at least the early 1980s the companies have fully accepted the fact that cigarette tax increases reduce their sales, especially among kids (their replacement customers).<sup>4</sup> Accordingly, it is not surprising that the companies spend millions of dollars to oppose any proposed state tobacco tax increases. But when the cigarette companies argue that state cigarette tax increases will not reduce smoking or that state tobacco revenues will be eroded by cigarette smuggling and cross-border purchases they are ignoring the firmly established fact that *every single state that has significantly increased its cigarette taxes has experienced both reduced cigarette sales and increased state revenues.*

Despite this fact, 36 states have not increased their cigarette tax rates for at least five years, and 17 of those states not having increased their cigarette taxes for ten years or more. Six states have not increased their cigarette taxes since the 1970s or 1960s. In most cases, state cigarette tax rates have been substantially eroded by inflation -- and now constitute a much smaller percentage of the total price of a pack of cigarettes -- compared to when they were first passed into law.

*The National Center for Tobacco-Free Kids, September 11, 2000*

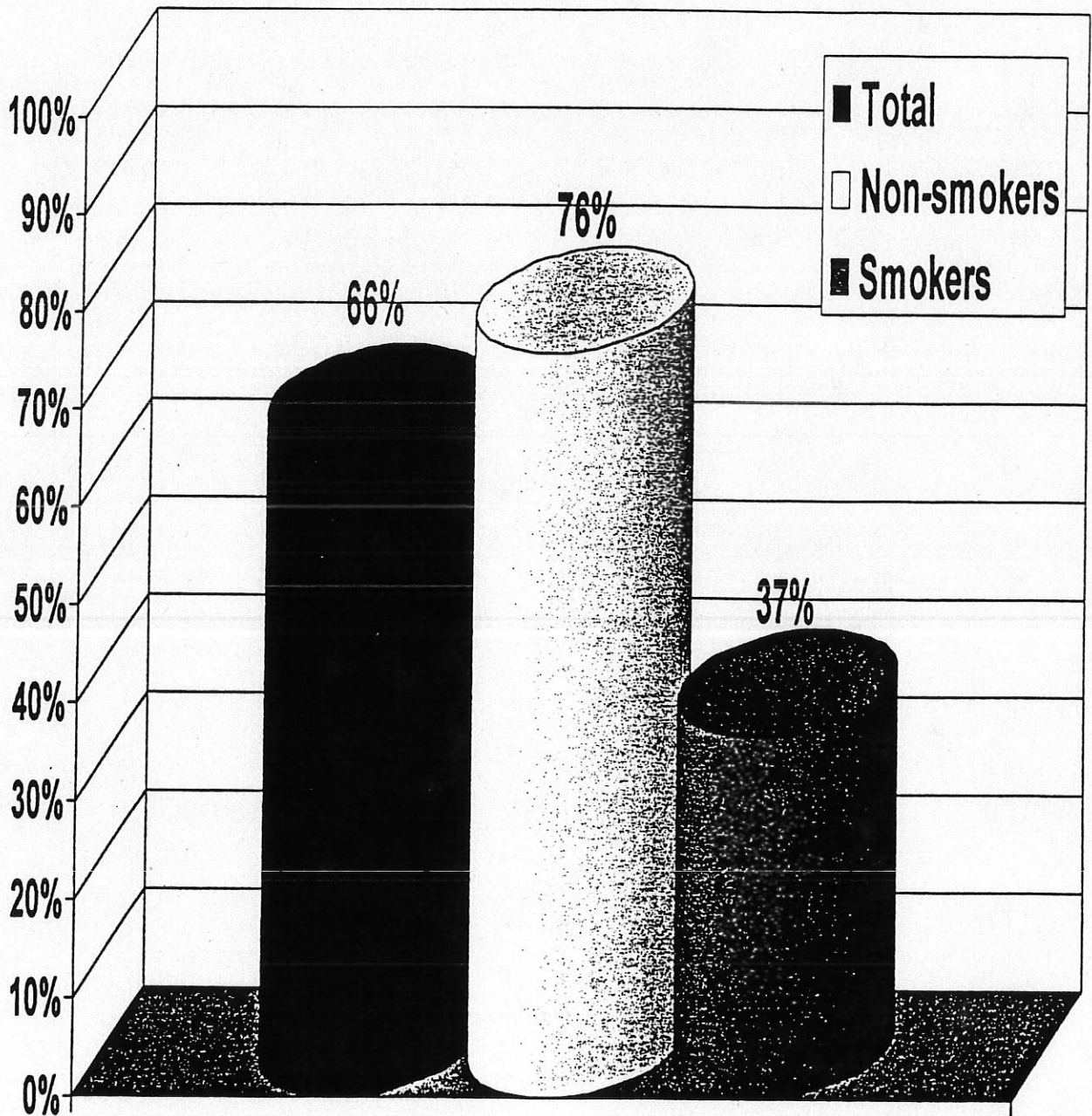
<sup>1</sup> See, e.g., Chaloupka, F. J., "Macro-Social Influences: The Effects of Prices and Tobacco Control Policies on the Demand for Tobacco Products," *Nicotine and Tobacco Research* (forthcoming); Chaloupka, F. J. & R. Pacula, *An Examination of Gender and Race Differences in Youth Smoking Responsiveness to Price and Tobacco Control Policies*, National Bureau of Economic Research, Working Paper 6541 (April 1998). See, also, Gruber, J. & J. Zinman, "Youth Smoking in the U.S.: Evidence and Implications," National Bureau of Economic Research Working Paper No. 7780 (July 2000); Purcell, W. D., *Changing Prices, Changing Cigarette Consumption*, Virginia Tech Rural Economic Analysis Program (May 1999); Evans, W.N., and L.X Huang, "Cigarette Taxes and Teen Smoking: New Evidence from Panels of Repeated Cross-Sections," Manuscript, Department of Economics, University of Maryland (1998); Credit Suisse, "Sensitivity Analysis on Cigarette Price Elasticity," First Boston Corporation (December 1998); Evans, W. N. & L. X. Huang, *Cigarette Taxes and Teen Smoking: New Evidence from Panels of Repeated Cross-Sections*, working paper (April 15, 1998); Harris, J. E. & S. W. Chan, "The Continuum-of-Addiction: Cigarette Smoking in Relation to Price Among Americans Aged 15-29," *Health Economics Letters* 2(2) 3-12 (February 1998); U.S. Centers for Disease Control and Prevention (CDC), "Responses to Cigarette Prices By Race/Ethnicity, Income, and Age Groups - United States 1976-1993," *Morbidity and Mortality Weekly Report* 47(29): 605-609 July 31, 1998); Institute of Medicine, *Taking Action to Reduce Tobacco Use*, the National Academy of Sciences (1998); Chaloupka, F. J. & M. Grossman, "Cigarette Taxes: The Straw to Break the Camel's Back," *Public Health Reports* 112(4): 291-97 (July/August 1997); Lewitt, E.M., A. Huland, N. Kerrebrock, and K.M. Cummings, "Price, Public Policy and Smoking in Young People," *Tobacco Control*, 6(S2)17-24 (1997); Chaloupka, F.J., and M. Grossman, "Price, Tobacco Control Policies, and Youth Smoking," National Bureau of Economic Research Working paper Number 5740 (1996); National Cancer Institute, *The Impact of Cigarette Excise Taxes on Smoking Among Children and Adults: Summary Report of a National Cancer Institute Expert Panel* (1993); Lewit, E.M., and D. Coate, "The Potential for Using Excise Taxes to Reduce Smoking," *Journal of Health Economics*, 1(2):121-54 (1982).

<sup>2</sup> See, e.g., Reuters, "California Cigarette Sales Plunge After New Tax" (September 13, 1999).

<sup>3</sup> Odato, J., "Cigarette Sales Sink Under Hefty Tax," *Albany Times Union* (May 25, 2000).

<sup>4</sup> See, e.g., Philip Morris Executive Jon Zoler, "Handling An Excise Tax Increase," (September 3, 1987), PM Bates Number: 2058122240/2241; R.J. Reynolds Executive D. S. Burrows, "Estimated Change In Industry Trend Following Federal Excise Tax Increase" (September 20, 1982), RJR Bates Number 500045052 -5132; Philip Morris Research Executive Myron Johnston, "Teenage Smoking and the Federal Excise Tax on Cigarettes" (September 17, 1981), PM Bates Number: 2001255224/5227.

# Support for smokers paying higher cigarette taxes



Survey by  
Mathematic Policy  
Research, Inc., 1998



# KANSAS

## DEPARTMENT OF HEALTH & ENVIRONMENT

BILL GRAVES, GOVERNOR

Gary R. Mitchell, Secretary

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January 15, 1998

Terri Roberts JD, RN  
Executive Director  
Kansas State Nurses Association  
700 SW Jackson, Suite 601  
Topeka, KS 66603-3731

Dear Ms. Roberts:

I am writing to respond to your letter of 1/15/98 requesting 1) a calculation of the expected change in cigarette usage among Kansas adolescents and adults following changes in the Kansas excise tax on cigarettes which you submitted to us, and 2) a calculation of the expected changes in cigarette tax receipts in Kansas from the sale of cigarettes following a change in the excise tax. I asked Dr. Stephen Pickard in the Bureau for Disease Prevention and Health Promotion to prepare the information for you. Tables 1A and 1B outline the analysis of cigarette usage change for adults and adolescents respectively, and Table 2 gives the expected change in tax receipts. However, please note the following issues in interpreting the data.

Published data from the scientific literature have consistently found that an increase in the sale price for tobacco is associated with a decrease in consumption. However, the size of that decrease depends on the "elasticity" (defined as the percent change in tobacco consumption associated with a 1% change in sale price). Two-thirds of this change in consumption is expected to be due to either quitting or not starting, and the other one-third due to a decrease in the number of cigarettes used by those who continue to smoke. Many factors are expected to affect the elasticity following a tax increase including the following: size of any single tax increase, age of the smoker, cost of other tobacco products used as replacement (e.g., oral tobacco), cost of cigarettes in neighboring states, and income of the population. Published articles which have examined changes in cigarette usage following a price increase report a range of elasticity values for both adults and youth.

Because of the number of different factors which effect change in consumption following a price increase, no single value for elasticity can be assumed. The expected decrease in cigarette usage in Kansas presented in the Tables 1A and 1B are calculated using three elasticity values derived from the literature (a typical value, as well as high and low estimates). A review of the available research regarding tobacco price elasticity can be

found in the Surgeon General's report "Strategies to Control Tobacco Use in the United States: A Blueprint for Public Health Action in the 1990's". Additional references from recent analyses are listed following Table 2. The fourth column of Table 1A and Table 1B give the most likely estimate for the percent decrease in use following a tax increase, based on a typical value for elasticity for adults and adolescents. The expected change has been calculated separately for tax increases of \$0.25, \$0.50, \$0.75, and \$1.00.

TABLE 1A

Expected Change in Kansas Tobacco Usage associated with a Variable Increase in Per Pack Cigarette Tax, Adults

Tax Increase	% change in price*	Expected Elasticity‡ (E)	Expected % ↓ in use	Min % ↓ (E=-0.2)	Max % ↓ (E=-0.5)
\$0.25	14%	-0.4	5.6	2.8	7.0
\$0.50	28%	-0.4	11.2	5.6	14.0
\$0.75	42%	-0.4	16.9	8.4	21.0
\$1.00	56%	-0.4	22.4	11.2	28.0

\* Assumes a price per package of 20 cigarettes=\$1.79

‡ Percent change in tobacco consumption associated with a 1% change in sale price

TABLE 1B

Expected Change in Kansas Tobacco Usage associated with a Variable Increase in Per Pack Cigarette Tax, Adolescents

Tax Increase	% change in price*	Expected Elasticity‡ (E)	Expected % ↓ in use	Min % ↓ (E=-0.4)	Max % ↓ (E=-1.4)
\$0.25	14%	-0.76	10.6	5.6	19.6
\$0.50	28%	-0.76	21.3	11.2	39.2
\$0.75	42%	-0.76	31.9	16.8	58.8
\$1.00	56%	-0.76	42.6	22.4	78.4

\* Assumes a price per package of 20 cigarettes=\$1.79

‡ Percent change in tobacco consumption associated with a 1% change in sale price

Table 2 demonstrates the expected tax revenue arising from an increase in the tax on a pack of cigarettes. Although an excise tax increase of between \$0.25 to \$1.0 per pack is expected to result in increased revenue collection, the increase due to the rise in price per pack is partially offset by the expected decrease in consumption. The first row of Table 2 represents the current revenue collection at \$0.24 per pack. The minimum and maximum values for revenue collection were calculated using the minimum and maximum decreases in consumption reported in Table 1.

TABLE 2

Actual or Expected Tax Receipts on Cigarette Sales by Change in Sales Tax, Kansas ~

Change in Tax (\$/pack)	Total Tax (\$/pack)	Actual or Expected Total Revenue in \$*	Minimum Exp Revenue in \$**	Maximum Exp Revenue in \$***
0.0	0.24	53,000,000	53,000,000	53,000,000
0.25	0.49	99,000,000	96,000,000	103,000,000
0.50	0.74	140,000,000	129,000,000	150,000,000
0.75	0.99	173,000,000	153,000,000	194,000,000
1.00	1.24	199,000,000	163,000,000	233,000,000

- ~ Current tax collection estimates sales of 170 million packs to adults and 48 million packs to children  
 \* Assumes Elasticity of -0.4 for adults and -0.76 for children  
 \*\* Assumes Elasticity of -0.5 for adults and -1.4 for children  
 \*\*\* Assumes Elasticity of -0.2 for adults and -0.4 for children

References reviewed included the following:

Becker GS, Grossman M, Murphy KM. *An Empirical Analysis of Cigarette Addiction*. National Bureau of Economic Research, Working Paper No 3322. Cambridge, MA: 1992.

Centers for Disease Control and Prevention. *Cigarette Smoking Before and After an Excise Tax Increase and an Antismoking Campaign*. MMWR 45(44): 1996.

HHS. *Strategies to Control Tobacco Use in the United States: A Blueprint for Public Health Action in the 1990's*. National Institutes of Health Publication 92-3316: October, 1991.

Institute of Medicine. *Growing Up Tobacco Free: Preventing Nicotine Addiction in Children and Youth*. Lynch BS, Bonnie RJ (eds.). National Academy Press, Washington. 1994.



Keeler TE, Hut, Barnett PG, Manning WG. *Taxation, Regulation and Addiction: A Demand Function for Cigarettes Based on Time-Series Evidence*. University of California at Berkeley, Working Paper No. 91-173: 1992.

Lewit EM, Coate D. *The Potential for Using Excise Taxes to Reduce Smoking*. Journal of Health Economics. 1: 1982.

Yours truly,



Gary R. Mitchell

Secretary

Kansas Department of Health and Environment

pc: Senator Sandy Praeger  
Representative Carlos Mayans  
Dan Hermes, Office of the Governor  
Don Brown, KDHE



# **Kansas Council on Developmental Disabilities**

BILL GRAVES, Governor  
DAVE HEDERSTEDT, Chairperson  
JANE RHYS, Ph. D., Executive Director

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Phone (785) 296-2608, FAX (785) 296-2861

*"To ensure the opportunity to make choices regarding participation in society and quality of life for individuals with developmental disabilities"*

## **Senate Assessment & Taxation Committee**

**February 27, 2001**

Testimony in Regard to SB 318 – Increasing rate of taxation on cigarettes & tobacco

*To ensure the opportunity to make choices regarding participation in society and quality of life for individuals with developmental disabilities.*

Mr. Chairman, Members of the Committee, I am appearing today on behalf of the Kansas Council on Developmental Disabilities regarding increasing the rate of taxation imposed on cigarettes and tobacco products and providing for the disposition of revenue received therefrom.

The Kansas Council is a federally mandated, federally funded council composed of individuals who are appointed by the Governor, and include representatives of the major agencies who provide services for individuals with developmental disabilities. At least half of the membership is composed of individuals who are persons with developmental disabilities or their immediate relatives. Our mission is to advocate for individuals with developmental disabilities, to see that they have choices in life about where they wish to live, work, and what leisure activities they wish to participate in.

We support this bill to increase revenue that will allocate \$2 million to the Home and Community Based Services for those with Developmental Disabilities fund.

Josie Torrez  
Kansas Council on Developmental Disabilities  
Partners in Policymaking, Coordinator  
915 SW Harrison, Room 141  
Topeka, Kansas 66612  
785-296-2608 (V & TDD)

*Senate Assessment & Taxation  
2-27-01  
Attachment 23*



MEMO TO: Senate Committee on Assessment and Taxation  
FROM: Thomas M. Palace, Executive Director of the Petroleum Marketers and  
Convenience Store Association of Kansas  
DATE: February 27, 2001  
RE: Comments on SB 318

Mr. Chairman and members of the Senate Committee on Assessment and Taxation: My name is Tom Palace and I am the Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas (PMCA), a statewide trade association that represents over 360 independent petroleum marketers and convenience stores throughout Kansas.

I appreciate the opportunity to appear before you today in opposition to SB 318.

Convenience store owners in Kansas who compete with bordering states will be at a tremendous competitive disadvantage if SB 318 were to become law. It is interesting to note that although tobacco has been deemed bad, the state of Kansas and the convenience store industry have a common bond with tobacco. Both rely on the revenues from the sale of cigarettes to meet budget demands. Smokers have been hit hard over the past 3-4 years, seeing tremendous price increases largely due to the Master Settlement Agreement (MSA) between the state attorneys general and the tobacco industry. National cigarette prices have risen over \$1 per pack to finance the payment to the states. It was estimated that the annual cost to a typical Kansas smoker is nearly \$375. The MSA has impacted every smoker in every state; however, the proposed 10 cent cigarette tax increase would be almost double the Missouri tax (17 cents), and would be as much as 14 cents higher than the cigarette taxes of Colorado and Oklahoma. The increase will negatively impact every tobacco retailer on Kansas borders.

Tobacco sales and gas sales are the "bread and butter" of the convenience store industry. Consumers usually stop at a convenience store because service is quick, and the customer can be in and out of the store in under 5 minutes. Cigarette sales are an important product for convenience stores, not only because cigarette sales make up approximately 23% of gross sales, but also because these sales lead to other sales such as pop, coffee, sandwiches, etc. The increased price of cigarettes has the potential of changing peoples' buying patterns, thus reducing store revenues for all products sold in convenience stores. I have heard conservative estimates of up to a 5% reduction in tobacco sales if the tobacco tax is increased.

Over the past few years tobacco increases have been proposed in the legislature as a way to STOP people from smoking. If this is true, how can the state rely on tobacco revenue to fund new government programs? How will the money the state receives from the MSA be impacted? I would assume the state will see a reduction should tobacco sales decline. Also, Internet sales are a factor. It is a sure bet that with an increase in cigarette taxes, the consumer will be motivated to use the Internet in ever-increasing numbers to purchase tobacco products.

Petroleum Marketers and Convenience Store Association of Kansas  
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*Senate Assessment & Taxation  
2-27-01 Attachment 24*

As a note of interest I accessed the Internet to look for sites that sell tobacco products. I found 18 sites that sell tobacco at discounted prices. I checked further into two eastern Native American tribes on the Web site and discover the following enticements:

“We have regulatory advantages that allow us to sell cigarettes at discounted prices.”

And also -

“CigaretteExpress.com does not report any sales activity to any State taxing authority and is not required to do so.”

SenecaSmokes.com -

“SenecaSmokes.com/Long Trails DOES NOT report to ANY state taxation or tobacco department.”

Clearly smokers have options when it comes to purchasing cigarettes. As I mentioned earlier, smokers who have been hit hard with price increases are accustomed to making decisions as to what brand they will buy because of the cost, and where they can find the best price. The tax increase provided in SB 318 will surely change buying habits once again. And it appears the surrounding states and the Internet may be the benefactors.

Mr. Chairman, I won't get into the discussion regarding how a tax increase will affect those consumers that can least afford it. The “Joe six pack” citizen. If the state is truly looking for ways to fund the programs listed in the bill, we should be reviewing a tax decrease as opposed to a tax increase so that more product can be sold. Competition in the convenience store industry is fierce. Two of the major revenue items convenience stores rely on are gas and tobacco products. Kansas is already at a competitive disadvantage on the gasoline tax with two of the four contiguous states, Missouri and Oklahoma having a lower state excise tax. Add a 30-40% price increase on cigarettes, and not only will the retail marketers be affected, but the state will lose revenue as well.

Thank you.

# HEIN AND WEIR, CHARTERED

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**Testimony re: SB 318**

**Senate Assessment and Taxation Committee**

**Presented by Ronald R. Hein**

**on behalf of**

**R. J. Reynolds Tobacco Company**

**February 27, 2001**

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for R. J. Reynolds Tobacco Company.

RJR opposes SB 318, which would increase the Kansas cigarette tax from 24¢ to 34¢ per pack, because it would hurt consumers and retailers alike.

Kansas smokers are already getting hit hard by the price effect of the Master Settlement Agreement (MSA) between the state attorneys general and the tobacco industry. Under the MSA, Kansas will collect about \$1.6 billion over 25 years from the nations' largest cigarette manufacturers.<sup>1</sup> Kansas will receive about \$65 million in annual MSA payments. This is more than the amount that Kansas derives from its 24¢ per pack cigarette tax (\$50.9 million in FY 2000.)

National cigarette prices have risen by over \$1 per pack compared to prices at the end of 1997, mostly to finance these payments to the states. It is estimated that the cost of the MSA boosts the annual cost to the typical Kansas smoker by nearly \$375 per year. Moreover, Kansas' smokers are also paying an additional 10¢ per pack due to a rise in the federal excise tax on tobacco.<sup>2</sup> The 10¢ tax increase would cost the typical smoker an additional \$50 in new state taxes per year. Along with the settlement cost, this means a \$425 annual cost increase for Kansas' smokers.

Kansas retailers should also be concerned. The new 34¢ tax would be **double** the existing Missouri tax (17¢), and higher than Colorado (20¢), and Oklahoma (23¢). Kansans could save money simply by crossing borders.

<sup>1</sup> Although payments are calculated over a 25-year timeframe, in fact they go on for perpetuity.

<sup>2</sup> The Federal Excise Tax on tobacco rose from 24¢ per pack to 34¢ per pack on January 1, 2000.

*Senate Assessment & Taxation  
2-27-01  
Attachment 25*

Cigarette purchasing patterns have changed dramatically since 1989. High-tax states have seen tax reported sales plunge, while low-tax states have seen a corresponding increase. The Tax Foundation examined this shift in a 1996 study, The Effect of Excise Tax Differentials on Smuggling and Cross Border Cigarette Sales. They discovered that tax differentials between high and low-tax states were creating substantial increases in both casual cross-border purchases and the organized smuggling of cigarettes. In a subsequent study, the Tax Foundation estimated that cross-border sales represented nearly 14% of total U.S. sales in 1997.

With low tax Missouri, Colorado and Oklahoma on its borders, Kansas' retailers could confront a competitive challenge. Nearly 25% of Kansas' population lives in the greater Kansas City area, which borders Missouri. Kansas consumers could save as much as \$1.70/carton purchasing in Missouri, assuming their existing tax rate.

Tobacco products are sold in many types of stores including convenience stores, gas stations, supermarkets, tobacco stores, drug and proprietary stores. These sales had a gross retail value of nearly \$630 million in FY. According to a 1998 study by the American Economics Group (AEG), nearly 11,000 jobs were directly and indirectly created due to such activities.

Tobacco sales have an especially magnified impact on smaller establishments. This is because cigarette sales comprise such a large share of their sales. In 2000, The National Association of Convenience Stores reported that tobacco sales in such stores accounted for nearly 30% of merchandise sales. Over 50% of all tobacco products are sold through convenience stores nationwide.

Loss in Cigarette Sales Volume – Assuming no changes in tax rates of surrounding states, it is projected that the 10¢ per pack tax increase will reduce Kansas cigarette sales by approximately 5%. Cigarette volume is likely to fall by about 10 million packs in FY 2002. Most of this would be due to lost sales to low-tax states and zones.

Loss in Retail Sales - The gross retail value of lost cigarette sales would be approximately \$30 million (10 million packs evaluated at a final retail price of \$3.00 per pack). Sundry product sales, or products normally bought in conjunction with tobacco products, would fall by about \$12 million (based on past estimates of this phenomenon by Price Waterhouse).

Lost Jobs - It is estimated that nearly 180 Kansas jobs could be displaced due to the tax increase (based on a 1998 study of the tobacco industry by AEG).

According to the National Association of Convenience Stores there are 1,220 convenience stores operating in Kansas. Each store, on average, registers about \$260,000 in cigarette sales on an annual basis. It is estimated that the 10¢ per pack tax hike will

February 27, 2001

lead to about a \$15 million reduction in cigarette sales for Kansas' convenience stores. Sundry product losses would be about \$5 million.

A recent study by the Barents Group of KPMG Peat Marwick shows that cigarette taxes are incredibly regressive, extracting a far greater percentage of income from modest wage earners compared to those with high incomes.

Barents looked at U.S. families in the bottom half of the income distribution, those earning approximately \$30,000 a year or less. While this group represents roughly 50% of all households in the country, it earns only 16% of all income generated. This group pays about 15.3% of all federal income and FICA taxes, but pays over **47% of all tobacco taxes.**

Barents found that while most excise taxes are regressive, tobacco excise taxes are the most regressive of all. While the bottom half of U.S. households only reaped 16% of all income, they paid 47% of tobacco taxes, 17% of wine taxes, 30% of gas taxes, 30% of distilled spirits taxes and 34% of beer taxes. Clearly, the Kansas cigarette 10¢ tax hike will harm those with modest incomes the most.

SB 318 earmarks the tax raised for certain purposes. The cigarette tax has been a declining revenue source. Earmarking of taxes in general has been opposed by many legislators in the past. Tying on-going programs to a declining revenue source seems especially inappropriate.

Thank you very much for permitting me to submit this testimony in opposition to SB 318..