

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE.

The meeting was called to order by Chairperson Senator Nancey Harrington at 10:30 a.m. on February 21, 2001 in Room 245-N of the Capitol.

All members were present.

Committee staff present: Russell Mills, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Theresa Kiernan, Office of the Revisor
Nikki Kraus, Committee Secretary

Conferees appearing before the committee: Senator Sandy Praeger
Senator Jim Barnett
Theresa Walters, Emporians for Drug Awareness
Michelle Voth, Kansas Family Partnership
Rosalie Thornburgh, Bureau Chief of Traffic Safety, KDOT
Dan Hermes, Kansas Community Alcohol Safety Action
Projects
Robert Longino, Director, Alcoholic Beverage Control
Amy Campbell, Kansas Association of Beverage Retailers

Others attending: See Attached List

Chairman Harrington opened the hearing on:

SB 328—Concerning registration of certain alcoholic beverage containers

Chairman Harrington recognized Senator Sandy Praeger, who presented testimony in favor of the bill. (Attachment 1).

Senator Barnett presented testimony in favor of the bill. (Attachment 2).

Theresa Walters, Emporians for Drug Awareness, presented testimony in favor of the bill. (Attachment 3). Ms. Walters also presented written testimony from Hope Sullivan, Regional Prevention Center of the Flint Hills (Attachment 4), Jeffrey M. Lees, Program Coordinator, Regional Prevention Center of Northeast Kansas (Attachment 5), and Lisa Smith, Allen County Chairperson (Attachment 6) all in support of **SB 328**.

Michelle Voth, Executive Director, Kansas Family Partnership, presented testimony in favor of the bill. (Attachment 7).

Rosalie Thornburgh, Bureau Chief of Traffic Safety in the Department of Transportation, presented testimony in favor of the bill. (Attachment 8).

Dan Hermes, Kansas Coordinators of Alcohol Safety Action Projects Association (KCASAP), presented testimony in favor of the bill. (Attachment 9).

Robert Longino, Acting Director, Division of Alcoholic Beverage Control, presented testimony in favor of the bill. (Attachment 10).

Senator Teichman stated that since she was a new Senator, she was curious about the history of the bill and why it had not been passed in the past.

CONTINUATION SHEET
MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
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Chairman Harrington stated that the interim study was explanatory, but that there had not been a vote in the committee.

Senator O'Connor asked Mr. Longino whether the beer keg producers would not just create a slightly smaller keg in an effort to get around the part of the bill which says four gallons or more. Mr. Longino stated that he was not sure and that it was possible that there were some kegs which were smaller.

Amy Campbell, Executive Director, The Kansas Association of Beverage Retailers, presented testimony in opposition to the bill. (Attachment 11). She also stated that written testimony submitted by Kurt J. Bossert, Bossert Liquor Store, was in opposition to the bill. (Attachment 12).

Ms. Campbell stated that if the legislature wanted to enact this legislation without statistics nor effects showing that it actually makes any difference in the community, then that was the authority of the state, but that her organization wanted to be a partner in that. She stated that her industry had been under extreme attack over the last year and a half. She stated that they were under attack from out of state wholesalers who want to come into the state and not comply with the licensing regulations in this state, from cereal malt beverage retailers who want to sell beer of one strength and think that stronger product ought to be sold by them even though it would take away between 30-60% of retail liquor store sales, and from those who want to change the days of the week on which alcohol can be sold.

Ms. Campbell stated that keg registration would change buying habits, but that it had not been proven to lessen consumption by underage individuals. She stated that it would possibly lead to the unintended consequence of underage drinkers consuming beverages of a higher alcoholic content or other illegal drugs. She stated that under current laws, minors in the possession of alcohol may or may not be prosecuted. She stated that the laws are in place but that people are breaking the laws.

In response to a question from Senator Barnett, Ms. Campbell stated that anyone can come up with any statistics they want to in order to make a point in front of a legislative committee. She stated that she wanted to point out that it was the cooperative efforts of communities which were involved in anti-underage drinking issues which made a difference. She stated that there were many areas on which retailers do work on issues and agree with law enforcement, and there was no excuse for picking out one element in which that particular entity was not being served.

In response to further questioning from Senator Barnett, Ms. Campbell stated that her organization supported providing information about keg purchases for the purpose of law enforcement investigations, but that she was concerned about citizens' rights to privacy. She requested that the bill specifically refer to the Liquor Control Act.

Sandy Jacquot, League of Kansas Municipalities, stated that her organization would oppose preemptive language. She stated that cities and counties currently have the right to have keg registration because it allows them to legislate themselves. She stated that many cities regulate the hours of liquor stores to be more restrictive.

Senator Barnett stated that he would not be able to support language that Ms. Campbell wanted because he believed that it would kill the bill. Ms. Campbell stated that there was a similar court case going on in the city of Wichita. She stated that the issue of state-wide preemption in the state of Kansas was not a new one, nor was the issue of keg registration, but that the laws were messy because of local rejection of laws.

Senator Barnett stated that the court case in Wichita did not apply to the keg registration bill. Mr. Longino stated that there needed to be more research done on that. In response to comments from Senator Gooch, Mr. Longino stated that it is very difficult and time-consuming as it is now for law enforcement officers to track down exactly who and where a keg came from without identification.

The committee continued discussion; Ms. Jacquot stated that the League of Kansas Municipalities would not oppose a state-wide law because a neighboring community might not have the keg registration bill and would therefore allow people to simply travel to get them.

CONTINUATION SHEET
MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
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Senator Vratil asked if "pony kegs" were included in the bill, and an ABC representative stated that they are because they are still over four gallons.

Senator O'Connor stated that she was concerned about what would happen if someone took off the tag or left the keg abandoned somewhere, and Mr. Longino stated that they would be giving up their deposit on the keg or be in violation of the law if in the possession of an untagged keg. Senator Gooch asked if there would be some people who would not have tagged kegs, and Mr. Longino stated that caterers and bars will not have tagged kegs.

Chairman Harrington stated that the untagged kegs of bars and caterers would not be showing up in fields where young people have access, but in controlled areas. Senator Gooch stated that the greater number of kegs out there would not have tags on them, and Mr. Longino agreed.

Senator Gilstrap stated that he had a question for Michelle Voth about a statement in her testimony which said that keg registration was a place to start and what she meant by that. Ms. Voth stated that the keg registration bill had been in front of the Legislature for at least five years, but that no action had been taken on it. She stated that she was not looking for further punitive damages for alcohol, but merely keg registration itself. She stated that she wanted kids to realize that alcohol was not a right of passage and that it was dangerous. She stated that her interests were in protecting kids and that she felt this was a good way to go.

Chairman Harrington stated that Senator Barnett might want to look at some possible language change in the bill, and after discussion, the committee decided that they would then look at the bill again the following week.

Dee Meyer, State Chairperson, Kansas Mothers Against Drunk Driving, submitted written testimony in favor of the bill. ([Attachment 13](#)).

Janey Worthy, Project Director for Community Awareness Team, submitted written testimony in favor of the bill. ([Attachment 14](#)).

Liz Shuman, Colby High School Senior and member of Community Awareness Team, submitted written testimony in favor of the bill. ([Attachment 15](#)).

Ron Eisenbarth, Topeka Shawnee County Alcohol/Drug Abuse Advisory Council, submitted written testimony in favor of the bill. ([Attachment 16](#)).

Craig Collins, J.D., Executive Director, Kansas Association of Addiction Professionals, submitted written testimony in favor of the bill. ([Attachment 17](#)).

Carla J. Stovall, Attorney General, State of Kansas, submitted written testimony in favor of the bill. ([Attachment 18](#)).

Randy L. Rogers, Coffey County Sheriff, submitted written testimony in favor of the bill. ([Attachment 19](#)).

Chairman Harrington pointed out an interim study done by the Federal and State Affairs Committee on the subject of beer keg registration from the summer of 2000 for the 2001 Legislature. ([Attachment 20](#)).

The committee adjourned at 12:00 p.m. The next meeting is scheduled for 10:30 a.m. February 22, 2001.

**SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST**

DATE: February 21, 2001

NAME	REPRESENTING
Nea / White Ken	Ks Beer Wholesalers Assn
MARK RITTER	Ks Beer Wholesalers Assn
SHANNON McMANIS	KDOR / ABC
Bob Weingarten	Ks Beer Wholesalers Assoc
Casey Mussatto	Ks Beer Wholesalers Assoc.
Joe Boyer	Ks Beer Wholesalers Assn.
Jerry Ruder	Ks Beer Wholesalers Assn.
BILL Brady	Anheuser/Busch
Michelle Volk	Kansas Family Partnership
Pete Bodyk	KDOR / ABC
Rosalie Shortbrugh	KDOT
Joe Schepers	ICBSWA
Ming Poertner Secretary to	Sen. Jim Barnett
Bob Longino	KDOR / ABC
Teresa Walters	Emporians for Drug Awareness
Dan Maurer	Kansas Family Partnership
Judy Shaw	PMCA
Therese Strahm	CAAT of Mo.
Corrie Kangas	Sen. Brownlee

**SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST**

DATE: February 21, 2001

NAME	REPRESENTING
Rebecca Zapick	Sen. Barnett
Bogetreuze	KGE
Nancy Lindberg	A6
John Peterson	Ar. House Busch
Martin Hauver	Hauver's Capital Repair
Amy A. Campbell	KABD
Rebecca Rice	KS Beer Wholesalers Assn.
TUCK DON CAN	KS wine & spirits wholesalers Assn.

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FINANCIAL INSTITUTIONS AND INSURANCE
LONG TERM CARE TASK FORCE
HEALTH CARE REFORM LEGISLATIVE
OVERSIGHT COMMITTEE

MEMBER:
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CONFIRMATIONS
INTERSTATE COOPERATION
ORGANIZATION, CALENDAR AND RULES
PUBLIC HEALTH AND WELFARE

SANDY PRAEGER

VICE PRESIDENT • KANSAS SENATE

TESTIMONY ON SB 328
SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
February 21, 2001

Madame Chair and members of the Committee:

I appear before you today in support of SB 328 and the enactment of a statewide keg registration.

The Lawrence Police Department frequently responds to problems associated with house parties and other gatherings where beer is provided. Kegs are a frequent means of dispensing the beer at larger gatherings. Many of these activities include underage individuals at parties who are drinking beer. While law enforcement attempts to determine who is responsible for the keg and ensuring that no minors are using it, the keg is suddenly an "orphan" – with no one claiming responsibility for it. Without anyone claiming the keg, proper enforcement of our underage drinking laws in this situation is made much more difficult. Keg registration, providing an affixed identification on kegs which can be traced back to both the retailer and then the purchaser, is viewed as a helpful means of locating the responsible individual or individuals using the keg.

While keg registration is seen as a useful tool for the enforcement of underage drinking laws, when the Lawrence City Commission considered this issue last year, a number of opponents questioned whether a local ordinance would be effective because neighboring cities and counties, without the law, could still sell kegs without registration. I support the City Commission's position of a statewide keg registration law which does not preempt the authority of other communities to enact their own local keg registration law as well as SB 328.

Thank you for your consideration of the bill.

Senator Sandy Praeger

Senate Fed + State
2-21-01
Attachment 1-1



TOPEKA

SENATE CHAMBER

JAMES A. BARNETT

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COUNTIES

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LYON, MARION, MORRIS,
OSAGE AND WABAUNSEE

COMMITTEE ASSIGNMENTS

VICE CHAIR: PUBLIC HEALTH AND WELFARE
MEMBER: FEDERAL AND STATE AFFAIRS
FINANCIAL INSTITUTIONS AND
INSURANCE**TESTIMONY SB 328**

Madam Chair and members of the Senate Federal and State Affairs Committee. Thank you for the opportunity to speak in support of SB328.

The intent of this bill is to reduce high risk underage drinking. The pattern of underage drinking is often to drink until all of the alcohol has been consumed or one passes out.

A keg of beer provides a large quantity of alcohol that can be easily purchased by an adult. Due to a lack of appropriate labeling on the keg, the adult procuring the keg cannot be easily held responsible for their actions. That issue represents another important aspect of this bill - personal responsibility.

Youthful drinkers can easily find someone age 21 or over who will purchase a keg of beer. They freely do so, knowing they will not be identified as the purchaser. A keg of beer contains approximately 174 cans. Finding someone to purchase that many cans, cases, or 6-packs becomes more difficult.

There is also a preventive aspect of this bill. During 1998, MADD surveyed law enforcement agencies throughout the state. Seven deaths and approximately 80 injuries were attributed to keg parties. Although this legislation will not prevent all of those, I do believe we can prevent some.

I have spoken with a number of retail liquor store dealers regarding this issue. Most of them already have a very detailed form that they complete when selling a keg. The identification on the particular keg is the lacking piece. I commend the retail liquor dealers for their efforts to reduce underage sales. When listened to, they actually are asking for greater enforcement and greater oversight by the state of Kansas.

We have the opportunity to work together to increase personal responsibility and to reduce the number of deaths associated with high risk underage drinking.

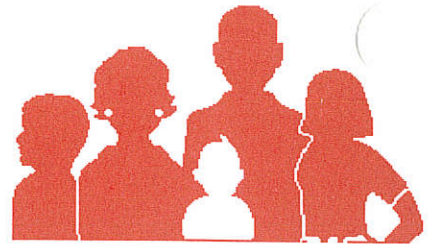
I ask for your support of SB328.

Senator Jim Barnett

JAB/gkp

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2-21-01
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Emporians for **DRUG AWARENESS**



Working for a Safer Community

February 21, 2001

Honorable Nancey Harrington, Chair
Federal and State Affairs Committee
Room 245N, State Capital
Topeka, Kansas 66612

RE: Senate Bill No. 328

Honorable Senator Harrington and Members of the Committee:

On October 15, 1999 at a regular meeting of their City Commission, Emporia became the first community in Kansas to pass keg registration legislation. The next day the Lyon County Commission passed similar legislation. In both instances, the legislation became effective on January 1, 2000. Within the last year, 6 other counties in Kansas have adopted legislation locally. Those counties are Morris, Marion, Greenwood, Wabaunsee, Geary, and Coffey, and I am aware of at least 11 other counties, as well as two communities in Western Kansas, who are working to implement this legislation. We all did this out of concern for our youth, and the unfortunate reality that some adults, either through ignorance or willful disobedience of the law, choose to provide alcohol to minors. Until we implemented keg registration there was no way for law enforcement to identify these adult providers and hold them responsible for their actions.

Young people are not social drinkers; they either drink until the alcohol is gone or until they're drunk, whichever happens first. Kegs provide a large, easily available source of alcohol for youth, and alcohol is a factor in the leading causes of death for 15-24 year olds: car crashes, homicides and suicides (Centers for Disease Control, "Monthly Vital Statistics Report," Vol. 43, No 6, p. 23, March 22, 1995). Our youth also engage in a number of other risky behaviors while under the influence of alcohol, one being unplanned, unprotected sex which can result in the risk of sexually transmitted infections and/or unplanned pregnancy. In addition, young women who continue to binge drink when they're pregnant may give birth to a child with Fetal Alcohol Syndrome, the leading preventable cause of mental retardation.

What many may view as simply a rite of passage – the consumption of alcohol – makes our youth vulnerable to situations which we would not want any of our kids to experience, such as date rape, violence, alcohol poisoning, car crashes, vandalism and academic failure and/or school dropout in addition to the risks already mentioned of sexually transmitted diseases and teen pregnancy. Reducing teen access to alcohol is one way to prevent this from happening, and tagging beer kegs is one way to address access and availability.

WHAT KEG REGISTRATION IS:

- (1) A way for retailers to prove that they have sold alcohol to someone of legal age
- (2) Easily implemented because much of the information required is already collected. The only difference is attaching the tag.
- (3) A system of record keeping that assists law enforcement in the investigation of the crime of providing alcohol to minors to hold the adult providers accountable.
- (4) One strategy to address availability of alcohol to minors.

WHAT KEG REGISTRATION IS **NOT**:

- (1) A way to punish retailers
- (2) Time consuming for the retailer or consumer
- (3) A method for “rogue” police officers to track the buying habits of community members.
- (4) The “silver bullet” that will stop all underage drinking.

There will be those who will find fault with this strategy and, as with any law, there will be adults and youth who will be able to find a way around the law. Unfortunately, some adults who are providing alcohol to our youth need the perceived risk of being caught that this regulation represents. As of this date, three adults have been caught and convicted in Emporia for providing kegs to minors.

Our coalition respectfully requests your support of Senate Bill No. 328. Thank you for your time and consideration.

Respectfully,



Teresa Walters
Executive Director



REGIONAL PREVENTION CENTER OF THE FLINT HILLS
Strengthening Individuals, Families & Communities

TESTIMONY IN SUPPORT OF KEG REGISTRATION - SENATE BILL 328

February 21, 2001

Senator Nancey Harrington and members of the Federal and State Affairs Committee:

Recently the issue of alcohol use among children and youth below the minimum legal drinking age of 21 has received substantial attention at local, state, and national levels. Reducing underage alcohol use is an important issue for many reasons – not least are those relating to the health, safety, and success of the young people throughout the state of Kansas. We ask you to help us in our efforts to reduce the unacceptably high incidence of alcohol use among our children and youth below the minimum legal drinking age by supporting Senate Bill 328 requiring that kegs be registered at the point of purchase. ***Keg registration is a prime example of an environmental strategy addressing community-based risk factors for adolescent substance abuse.***

Environmental strategies (e.g., law and policy changes) are far more effective than individual strategies (e.g., Red Ribbon Week, DARE, and substance abuse prevention curriculums) because they impact a broader population and influence the norms and context in which children live, learn, and grow.

Just as medical researchers have found risk factors for heart disease such as diets high in fat, lack of exercise, and smoking, researchers have also found a set of risk factors for adolescent alcohol and other drug abuse. We know that the more risk factors for heart disease are present, the greater the likelihood a person will suffer a heart attack. This is also true with risk factors for alcohol and other drug use, in that the more risk factors are present, the greater the likelihood that an adolescent will become involved in alcohol, drug abuse, and other problem behaviors (i.e., violence, delinquency, school drop out, and teen pregnancy). ***Currently, three risk factors strongly associated with underage alcohol use face adolescents and youth throughout Kansas. These are 1) availability of alcohol and drugs, 2) early age of first alcohol use, and 3) community laws and norms favorable toward alcohol use.*** Legislation mandating keg registration is one strategy capable of mitigating the effects of all three of these targeted risk factors.

Easy availability can make all the difference between drinking and not drinking for the young person who has not quite decided whether he or she is going to experiment with alcohol use. ***Research conclusively shows that if alcohol is easy to obtain, or is simply perceived as being easy to obtain, youth will be significantly more likely to seek it out and experiment with drinking.*** Simply by requiring the registration of kegs of beer, we



A Program of the Mental Health Center of East Central Kansas

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would be making headway toward the reduction of this risk factor for our children and youth.

Another risk factor that places children at risk for later alcohol and drug problems is early age of first use of alcohol. We now know that the earlier a young person begins to drink alcohol, the greater the likelihood of developing an alcohol or drug problem in the future, because the process of addiction occurs much quicker in youth than it does for older adults. The majority of our alcohol and drug treatment centers are filled with patients under the age of 25 who began drinking before they turned 21. The minimum legal drinking age of 21 was established with sound underlying physiological reasons. The last part of the brain to mature is the prefrontal area, the section that controls decision-making, critical-thinking, and problem solving. This is an area of the brain that is not fully developed until a young person is well into their 20's, and is an area that is susceptible to the effects of early alcohol use. ***The pattern of binge drinking adolescents are notorious for, in conjunction with the availability of large quantities of alcohol at "keggers" and "field parties" are a recipe for disaster, physically, socially, and developmentally.***

No health problem in this country has ever been solved by treating individual cases.

While it is both necessary and appropriate to hold youth accountable when they are caught illegally consuming alcohol, ***it is equally necessary and appropriate to have environmental barriers in place that reduces their access to alcohol in the first place.***

Simply fining the few individuals who get caught is not enough to reduce a community-wide issue; that requires intervention at a broader level beyond the individual.

Addressing public laws, policies, and norms in order to make sure that they send a "no tolerance" message concerning underage drinking is critical. Communities which send mixed messages concerning the availability of alcohol run the risk of directly conflicting with the "just say no" message our children our hearing in school and at home. Such conflicting messages make it difficult for youth to decide which norm to follow, particularly when faced with significant peer pressure.

In my capacity as a prevention consultant serving eleven counties throughout the Flint Hills, I am fortunate to have had an opportunity to learn about research-based prevention strategies – those things that truly work to protect kids from becoming involved from alcohol and other drug use. It is readily evident that the only effective prevention approaches are those that include multiple strategies in multiple areas of a child's life. Prevention strategies must go beyond the individual and extend to the environment. This means making certain that strategies are in place in our schools, our homes, and our community as a whole to reduce the factors that place kids at risk for underage alcohol use. Only by involving the entire community can we expect a reduction in the abuse of alcohol among our children and youth. We need to continue implementing a comprehensive K-12 prevention curriculum. We need to continue educating our parents

about what it takes to raise healthy children in a risk-filled world. We need to continue providing healthy alternative activities and opportunities for positive contributions by our children and young adults. But we must not overlook the need to continue examining our community laws and policies to ensure that they too support the prevention effort. We ask for your support today toward that goal by strongly considering the adoption of Senate Bill 328 requiring the registration of kegs or other large containers of alcohol at the point of purchase.

Respectfully,

A handwritten signature in black ink, appearing to read 'Hope Sullivan', with a long horizontal flourish extending to the right.

Hope Sullivan
Regional Prevention Center of the Flint Hills

February 20, 2001

Dear Honorable Nancey Harrington:

I am writing to the Federal and State Affairs Committee to discuss the issue of keg registration. My name is Jeffrey M. Lees and I am the Program Coordinator for the Regional Prevention Center of Northeast Kansas. We represent eight different counties in the Northeast region. We have worked hard and diligently to try and pass a keg registration through each of these counties.

The Regional Prevention Center of Northeast Kansas strongly supports the re-introduction of keg registration at the state level to benefit the counties that have the dire need and desire, but not the support for keg registration. I have heard people say, "the kids will just travel ten miles to the next county to get it" or "... at least I know where my kid is getting it and doesn't have to drive two or three counties away to get it". As you can see, these statements hold no validity for the concern of underage drinking.

The issue of underage drinking in the state of Kansas is a deep concern for many citizens who want to see a change. We do not want underage drinking to appear to be so much of a rite of passage but rather an experience that is unbecoming. I hope you can appreciate the magnitude of this letter and take heed to a state level keg registration versus a local one.

Thank you for your time and consideration, if you have any questions or comments please do not hesitate to contact me at 785-587-4372.

Regards,

Jeffrey M. Lees
Program Coordinator

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2-21-01
Attachment 5-1

To The Honorable Senator Nancy Harrington
Chair for Federal & State Affairs
245 North State Capital
Topeka KS, 66617

I am writing to inform you of the support from the Allen County Coalition for the KEG Registration Program. We see this program as a step in the right direction for our county. We fully support and are trying to implement this program in Allen County. If there is anything that we can do or support that we can give, please do not hesitate to let me know. Thanks again for your support for this program.

Sincerely

Lisa Smith, Allen County Coalition Chair person
Lisa Smith
Allen County Chair person

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2-21-01
Attachment 6-1

February 21, 2001
Special Committee on Federal and State Affairs
RE: Underage Drinking in Kansas

Senator Herrington and members of the Special Committee on Federal and State Affairs, my name is Michelle Voth, Executive Director of the Kansas Family Partnership. Today I am speaking as a member of the Kansas Leadership To Keep Children Alcohol Free Statewide Committee and as a member of the State Incentive Cooperative Agreement Executive Advisory Committee.

Primary goals of these two groups are to assist the state in realizing three state outcomes that have been adopted by the state of Kansas. These major outcomes are to:

- 1) Reduce alcohol, tobacco and other drug use among youth;
- 2) Delay the first use of alcohol, tobacco and other drug use among youth;
- 3) Increase attitudes opposed to alcohol, tobacco and other drug use by youth, especially availability and accessibility.

Our primary focus today is underage drinking. To put this issue in perspective consider the following:

- Alcohol is the most widely used and abused drug. It kills more teenagers than all other drugs combined and is a factor in the three leading causes of death among 15-24 year olds; accidents, homicides and suicides.
- Alcohol is the most important "gateway drug". More than 67% of individuals who start drinking before the age of fifteen end up using an illicit drug.
- 80% of high school seniors and dropouts report getting drunk, binge drinking, or drinking and driving within the preceding year.
- Drinking at an early age has different health consequences than drinking later on. The earlier one drinks, the more likely one is to end up using other drugs and the more likely one is to have serious brain damage in the form of impaired memory and learning ability.

Kansas youth on average begin to drink by the age of 12.6. That is sixth grade. Kansas youth who report drinking alcohol within the last 30 days include 12.7% of sixth graders, 31.2% of 8th graders, 49.6% of 10th graders, and 61.1% of 12th graders. These statistics illustrate that Kansas communities have a serious problem with underage drinking.

Communities all over Kansas, community leaders, law enforcement and parents report that keg parties, whether they are in fields or in homes, are a major problem. Eight Kansas counties have enacted keg registration and at least 14 states have adopted this legislative option to help their communities reduce the number of keg parties, reduce underage drinking, and reduce alcohol poisonings. Some of these states made this bold move nearly twenty years ago. This was before the Office of Juvenile Justice and Delinquency Prevention listed keg registration as a promising approach. States that enacted this legislation have found this to be an effective tool in reducing access to alcohol.

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Massachusetts experienced a 32% drop in drunk driving and 18% decrease in fatal crashes since keg registration was implemented along with increased enforcement and educational programs. The objectives of a Keg Registration law include:

- Reducing problems related to underage drinking such as:
 - Driving under the influence,
 - Violence and crime,
 - Situation regarding sex while consuming alcohol that can lead to problems such as date rape, sexually transmitted diseases including HIV/AIDS and unplanned pregnancies.
- Encouraging and supporting the enforcement of underage consumption and possession laws by providing law enforcement with a tool to use to trace individual who provide alcohol to minors.
- Encouraging retailers to comply with the law of obtaining proper identification when selling a keg to someone.
- Placing the responsibility for acts committed by a minor on the purchase of kegs when a minor consumes the contents of the keg.
- Using the regulation as a deterrent to those over 21 years of age from providing minors with alcohol.

There are those that argue that this type of regulation would merely re-direct teens to bottle and can purchases of alcohol. While this may occur, it is a place to start and it sends a message of concern and determination by community members. Drinking from a keg is a relatively cheap way for a lot of people to get drunk fast. Research shows that as the price of alcohol increases, consumption, particularly among teens, decreases. A keg contains about 16 gallons of beer, or about 165- 12-ounce drinks. At an average price of \$74.00 per keg, that comes to about 45 cents per drink, as opposed to an average cost of a 24 pack of beer, which comes to about 70 cents for a 12-ounce can or bottle. If cost truly is a consideration as research shows, then alcohol consumption by youth can be reduced by keg registration.

This legislative approach is not designed to be a punitive measure against legitimate business people in Kansas. It will however, send a powerful message to adults that the legislature is willing to take action that will assist communities in developing community norms that say it is not OK to drink when you are underage and it is not OK to purchase alcohol for minors

This is about protecting kids and holding adults accountable. I urge this committee to consider this strategy to reduce access to alcohol to our youth.

Thank you,

Michelle Voth
Executive Director
Kansas Family Partnership



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

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Bill Graves
Governor

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

**REGARDING SENATE BILL 328
KEG REGISTRATION**

February 21, 2001

Madam Chairperson and Committee Members:

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

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

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

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

Senate Fed + State
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Attachment 8-1



**Kansas Coordinators
of Alcohol Safety Action
Projects Association**

LEGISLATIVE TESTIMONY

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

DATE: February 21, 2001

SUBJECT: SB 328

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

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

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

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

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

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

(785) 841-2880
Fax (785) 841-5777

3312 Clinton Parkway
Lawrence, Kansas 66047

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STATE OF KANSAS
Bill Graves, Governor

Robert Longino, Acting Director
Division of Alcoholic Beverage Control
Kansas Department of Revenue
915 SW Harrison
Topeka, KS 66625-3512



DEPARTMENT OF REVENUE
Stephen S. Richards, Secretary

(785) 296-7015
FAX (785) 296-7185
Email: abc_mail@kdor.state.ks.us
Internet: www.ink.org/public/kdor/abc

Division of Alcoholic Beverage Control

TO: Senator Nancey Harrington, Chairperson, Senate Federal and State Affairs Committee

FROM: Robert Longino

RE: Senate Bill 328

DATE: February 21, 2001

Madame Chairperson and Members of the Committee - Good Morning.

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

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

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

I have just a few comments about the bill as drafted that I need to bring to your attention.

1. Section 1 (c). For clarity sake, we recommend deleting the phrase "to such person" in line 31 and 32. Currently there is some confusion as to whether it refers to the underage person(s) or the purchaser of the keg. The investigation involves underage possession or consumption but the transaction with the retailer involved who purchased the product and furnished it to the minor. The reasonable suspicion must be addressing the purchaser. At issue here is the purchaser and we want to ensure that is very clear.

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2. Section 1 (g) and section 2 (h). These sections state there “shall be no charge for such forms, tags or labels provided by the secretary.” It goes on to state, “Any tag or label which requires the same information required on the tag or label designed by the secretary may be used by a retailer to comply with the requirements of this section.” The first point to make is there will be some cost to implement this program. I believe the department added that to the fiscal note. On a side note, if SB13 passed, I would not have a problem covering all the costs with the increase funding available to the division.

The second point concerns the use of “any tag or label which requires the same information... maybe used by a retailer...” We need the capability of tracking kegs via a standardized numbering system from the state to cities and counties who in turn could track it down to the local retailers. With the current language we might have individual tag schemes being developed and used. This would defeat the purpose of a statewide system capable of tracking where a keg was purchased.

3. Section 2 (c). I would just like to point out a policy change here as currently 18 year olds, that are being supervised by someone 21 or older, may conduct off premise transactions with cereal malt beverage. The language here would require someone to be 21 to handle keg transactions.

4. Section 2 (g). The director currently does not have the authority to suspend or revoke a cereal malt beverage retailer’s license. The city and county licensing the establishment is the organization with that authority. If giving such authority to the ABC director is the intent of this bill, we would need at least limited authority in K.S.A. 41-2708 to take such action.

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

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

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



The Kansas Association of Beverage Retailers

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

Phone 785-266-3963
Fax 785-234-9718
kabr@amycampbell.com

Jim Scott, President

Amy A. Campbell, Executive Director

Testimony presented to the
Senate Committee on Federal and State Affairs
Re: Senate Bill 328

February 21, 2001
Amy A. Campbell, Executive Director

Madame Chair and Members of the Committee, I am speaking to you today on behalf of the Kansas Association of Beverage Retailers (KABR). Thank you for allowing me to appear and provide information regarding SB 328 which would require liquor retailers to create and maintain records documenting the buying habits of certain customers.

Upon original introduction of this bill, I was genuinely hopeful that the proponents of keg registration had finally introduced a keg registration bill that was cooperative with the licensed retailers of Kansas. Last year, considerable time and effort was spent on behalf of the members of our association in an effort to create a compromise bill that would accomplish the goals of the proponents, yet incorporate the real concerns of the businesses required to implement the legislation.

Senate Bill 328 includes several of the provisions that were discussed at that time, and the KABR is pleased that these issues were finally addressed in bill language. Unfortunately, the bill does not solve our number one concern: liability. By passing this type of legislation, the State is asking licensed retail liquor stores to assist further in enforcing the laws of the State, and to do so by gathering, maintaining, and providing to law enforcement personal information regarding their customers. This exposes the retailer to a very specific type of liability in relation to the ultimate use of the product -- as it pertains to those who would break the law, as well as those consumers who may or may not want their personal information to end up in the newspaper.

Some suggest that because Kansas does not have "dram shop" statutes, retailers have nothing to worry about. And yet, such liability has been created in Missouri without any legislative action at all. Further, history shows that initiatives which promote retailer liability over personal responsibility are often a part of the political agenda soon after programs like keg registration.

Documents provided by the Alcohol Epidemiology Program of the School of Public Health, University of Minnesota, address this issue specifically. This public policy paper which advocates keg registration assures members of the liquor industry that "...Keg registration holds liable adults who illegally supply alcohol to underage youth. Establishments that legally sell alcohol to adults and follow correct keg registration procedures are not breaking the law, and will not be held liable."

Beer Keg Registration: A public policy to reduce access to alcohol by underage people

Yet, this legislation does not contain language to assure retailers that this is true. We appreciate the intent of adding language to the bill regarding a defense for retailers who conduct legal sales, yet this is something that already exists for licensees. We would respectfully request that, if it is the will of the Committee to forward this legislation, an amendment be added to the language which would create an "absolute" defense under Section 1 (h) and Section 2 (i). This would indicate some intent of creating a cooperative partnership for the implementation of this policy.

Although we are disappointed at the lack of liability protection in the bill, the KABR is very supportive of other portions of the bill. Specifically, KABR supports the following:

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1. Section 1 (c) and Section 2 (d) *"For the purpose of investigating violations of laws"*
We believe this language may require the law enforcement officer requesting access to keg registration records to be investigating a specific violation, which we hope will provide some protection for the consumers whose information is being recorded. This language is absolutely necessary, if not as specific as we might hope.

While liquor stores currently record names and identifying information of keg purchasers, primarily to have the equipment returned, there is no precedent for local officials to review those records. This infringes on the privacy of the customer by putting his name on a list with no statutory controls regarding when and why the list could be used. Our members are encouraged to share their sales records voluntarily with officers pursuing an investigation, however, to have these records open to regular review to anyone besides the ABC and the Department of Revenue is something new.

2. Section 1 (a) (d) and (g) and Section 2 (a) (e) (g) and (h)
Authority for penalty determination rests with the Division of ABC and local ordinances inconsistent with state law are pre-empted.. The Division of ABC shall enforce a penalty structure which is consistent between all liquor licensees including cereal malt beverages. Additionally, the Department of Revenue shall provide the standards and required tools for recording sales and marking kegs. The State's authority in this area must be retained and supported. This may help to encourage consistency with current enforcement of these licenses, as well as establishing a standard statewide system which is the best method for licensees across the State to lawfully comply with this program.
3. Section 2 (c) *"No person under the age of 21 shall sell at retail any cereal malt beverage in a container having a liquid capacity of four or more gallons."*
In cooperation with the Department of Transportation, I represented the KABR as a participant in their anti-underage drinking conference last spring. Although keg registration was not one of the recommendations of the conference, the final report did stress the importance of reducing underage access to alcohol. We know from studies conducted as a part of that program and others that kids get alcohol first from other kids, and second from adult relatives or friends. Although the bill does not keep 18 year olds from selling cereal malt beverages in smaller portions, it does attempt to address the problem as it may pertain to the sale of kegs.

Keg registration does not deter underage consumption and may simply change buying habits, increasing the consumption of other products besides beer. Statistical evidence that government mandated recording of liquor customers buying habits lessens underage consumption has not been documented.

A special run of data from the National Highway Traffic Safety Administration was requested to ascertain the number of fatalities in teen drunk driving crashes, by state, for each year from 1982 to 1998. The average percentage decline in fatalities in teen drunk driving crashes between 1982 and 1998 for state with keg registration was 54.8%. However the decline in the average percentage in the other 37 states that did not have keg registration was significantly higher at 65.4%. This was also done utilizing a weighted average, which showed the states without keg registration having a slightly higher decrease in teen drunk driving crashes than the states with keg registration.

KABR is committed to deterring underage drinking and encourages prosecution of those who would break current law...there is no advantage for licensees to promote illegal consumption of their only source of income -- only serious risk. We commit our time and financial resources to providing education through seminars and our conventions, while also teaching retailers to be involved with local enforcement programs like JUDGE in Wichita and mutually cooperative relationships with local law enforcement such as the program in place in Great Bend.

We appreciate the crucial elements which appear in the current Senate Bill 328 and which have not been put into language before. If you choose to pass the bill, please add our amendment and protect the language set out above. Perhaps this is an indication that KABR will have further opportunities to work with proponents in the future to address the many other issues of illegal purchases, enforcement, and licensing on which we do agree.

BOSSERT LIQUOR STORE

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

February 21, 2001

RE: SENATE BILL 328

Dear Committee Members:

I am a retailer in the state of Kansas and have been in business since 1987. I am opposing Senate Bill 328 as written.

With two amendments to this bill I would be in full support of it as a retailer.

1. Section 1, Subsection (h) and Section 2, Subsection (i) insert the word "absolute"

* As subsection (h) and (i) reads they have no meaning. Of course if a retailer made a legal sale in compliance with the provisions of the law it would be a defense. As written it does not benefit this bill. In other words, if subsection (h) and (i) were removed all together it would not change this bill. *Therefore to add the word "absolute" would give this bill what is needed to get the support of retailers.*

2. Section 2, Subsection (c) insert "as defined in K.S.A. 41-2701" and delete the words "in a container having a liquid capacity of four or more gallons".

* This would clear up any confusion of the age requirement to sell this alcoholic beverage.

I have always and will always support legislation that properly addresses the concerns of minors possessing and consuming alcoholic beverages. With these amendments I would be in full support of the bill and would think the industry would come together and support it too.

Respectfully submitted,



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

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2-21-01
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SENATE BILL No. 328

By Committee on Federal and State Affairs

2-15

AN ACT concerning alcoholic and cereal malt beverages; requiring certain licensees to maintain records of purchasers of certain containers of beer or cereal malt beverage.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) The sale at retail of any beer in a container having a liquid capacity of four or more gallons through the registration of such containers shall be regulated in the manner provided by this section. Any ordinance or resolution adopted by a city or county which is in conflict with or contrary to the provisions of this section shall be null and void.

(b) Except as provided by this section, prior to the sale at retail of any beer in a container having a liquid capacity of four or more gallons, the retailer or the retailer's employee or agent shall affix to the beer container a keg identification number. At the time of sale at retail of any such container of beer, the retailer or the retailer's employee or agent shall record the keg number; the date of the sale; the purchaser's name, address and signature; and the number of a piece of identification bearing both the purchaser's picture and the purchaser's signature. Such record shall be kept by the retailer for not less than six months at the premises where the purchase was made.

(c) For the purpose of investigating violations of laws prohibiting the possession or consumption of beer by persons under age 21 and if there is reason to believe that such retailer provided the beer container to such person, records required to be kept by this section shall be available for inspection by any law enforcement officer during normal business hours of the retailer or at any other reasonable time.

(d) Upon a determination that a retailer or a retailer's employee or agent has violated this section or any rules and regulations adopted pursuant to this section, the director may suspend or revoke the retailer's license in the manner provided by K.S.A. 41-320, and amendments thereto, and may impose a fine as provided by K.S.A. 41-328, and amendments thereto.

(e) It is a class B nonperson misdemeanor to: (1) Remove from a beer container all or part of a keg identification number required pursuant to this section; (2) make unreadable all or any part of a keg identification

1 number required by this section to be affixed to a beer container; or (3)
2 possess a beer container that does not have the keg identification number
3 required by this section.

4 (f) The secretary of revenue shall adopt any rules and regulations
5 necessary to implement the provisions of this section. Such rules and
6 regulations may include, but shall not be limited to, provisions establish-
7 ing standards for marking and handling containers which are required to
8 be registered under this section.

9 (g) The secretary of revenue shall provide any forms and keg iden-
10 tification tags or labels necessary under the provisions of this section.
11 There shall be no charge for such forms, tags or labels provided by the
12 secretary. Any tag or label which requires the same information required
13 on the tag or label designed by the secretary may be used by a retailer to
14 comply with the requirements of this section.

15 (h) It shall be a defense to any criminal prosecution or civil action
16 under this section if the defendant sold beer in compliance with the pro-
17 visions of this section and any rules and regulations adopted pursuant
18 thereto.

19 (i) The provisions of this section shall not apply to sales by retailers
20 to clubs, drinking establishments and caterers licensed under the club
21 and drinking establishment act.

22 (j) This section shall be part of and supplemental to the Kansas liquor
23 control act. Words or phrases used in this section shall have the meaning
24 ascribed thereto by K.S.A. 41-102, and amendments thereto.

25 Sec. 2. (a) The sale at retail of any cereal malt beverage in a container
26 having a liquid capacity of four or more gallons through the registration
27 of such containers shall be regulated in the manner provided by this
28 section. Any ordinance or resolution adopted by a city or county which is
29 in conflict with or contrary to the provisions of this section shall be null
30 and void.

31 (b) Prior to the sale by a retailer or a retailer's employee or agent of
32 any cereal malt beverage in a container having a liquid capacity of four
33 or more gallons, the retailer or the retailer's employee or agent shall affix
34 to the cereal malt beverage container a keg identification number. At the
35 time of sale of any such container of cereal malt beverage, the retailer,
36 or the retailer's employee or agent, shall record the keg number; the date
37 of the sale; the purchaser's name, address and signature; and the number
38 of a piece of identification bearing both the purchaser's picture and the
39 purchaser's signature. Such record shall be kept by the retailer for not
40 less than six months at the premises where the purchase was made.

41 (c) No person under the age of 21 shall sell at retail any cereal malt
42 beverage in a container having a liquid capacity of four or more gallons.

43 (d) For the purpose of investigating violations of laws prohibiting the

(h) It shall be an absolute defense to any criminal prosecution or civil
action under this section if the defendant sold beer in compliance with the
provisions of this section and any rules and regulations adopted pursuant
thereto.

(c) No person under the age of 21 shall sell at retail any cereal malt
beverage as defined in K.S.A. 41-2701.

1 possession or consumption of cereal malt beverage by persons under age
2 21 and if there is reason to believe that such retailer provided the cereal
3 malt beverage container to such person, records required to be kept pur-
4 suant to this section shall be available for inspection by any law enforce-
5 ment officer during normal business hours or at any other reasonable
6 time.

7 (e) Upon a determination that a retailer or a retailer's employee or
8 agent has violated this section or any rules and regulations adopted pur-
9 suant to this section, the director may suspend or revoke the retailer's
10 license in the manner provided by K.S.A. 41-2708, and amendments
11 thereto, and may impose a fine pursuant to K.S.A. 41-2711, and amend-
12 ments thereto.

13 (f) It is a class B nonperson misdemeanor to: (1) Remove from a
14 cereal malt beverage container all or part of a keg identification number
15 required pursuant to this section; (2) make unreadable all or any part of
16 a keg identification number required by this section to be affixed to a
17 cereal malt beverage container; or (3) possess a cereal malt beverage
18 container that does not have the keg identification number required by
19 this section.

20 (g) The secretary of revenue shall adopt any rules and regulations
21 necessary to implement the provisions of this section. Such rules and
22 regulations may include, but shall not be limited to, provisions establish-
23 ing standards for marking and handling of containers which are required
24 to be registered under this section.

25 (h) The secretary of revenue shall provide any forms and keg iden-
26 tification tags or labels necessary under the provisions of this act. There
27 shall be no charge for such forms, tags or labels provided by the secretary.
28 Any tag or label which requires the same information required on the tag
29 or label designed by the secretary may be used by a retailer to comply
30 with the requirements of this section.

31 (i) It shall be a defense to any criminal prosecution or civil action
32 under this section if the defendant sold ceral malt beverage in compliance
33 with the provisions of this section and any rules and regulations adopted
34 pursuant thereto.

35 (j) This section shall be part of and supplemental to K.S.A. 41-2701
36 *et seq.*, and amendments thereto. Words and phrases used in this section
37 shall have the meaning ascribed thereto by K.S.A. 41-2701, and amend-
38 ments thereto.

39 Sec. 3. This act shall take effect and be in force from and after its
40 publication in the statute book.

41
42
43

(i) It shall be an absolute defense to any criminal prosecution or civil action under this section if the defendant sold cereal malt beverage in compliance with the provisions of this section and any rules and regulations adopted pursuant thereto.



Mothers Against Drunk Driving

3601 SW 29th Street • Topeka, KS 66614 • (785) 271-7525 • Fax (785) 271-0797 • 1 (800) 228-6233

KANSAS STATE OFFICE

January 21, 2001

Senator Nancy Harrington, Chairperson
Senate Federal and State Affairs Committee
Room 143 - N, State Capital
Topeka, Kansas 66612

Dear Senator Harrington and Committe Members;

MADD supports the requirement that all kegs and other large containers of alcoholic beverages be registered at point of purchase in order to facilitate identification of those who purchase illegally or to provide to youth under the age of twenty-one. MADD supports Senate Bill 328.

Keg beer is a prevalent source of alcohol for minors, and keg parties expose large numbers of minors to the availability of alcohol at any one given time. This was substantiated in a survey conducted by Kansas MADD of Kansas law enforcement agencies.

During November 1998, Kansas MADD conducted a Keg Registration survey of all Kansas law enforcement agencies. Four hundred and eighteen law enforcement agencies received the questionnaire. Ninety-eight responded, which representy twenty-three percent of all Kansas law enforcement agencies. More than thirty-six percent of Kansas Sheriff's Departments responded in comparison to the nineteen percent of the Police Departments. The lower response rate from Police Departments may be attributed to the perception that keg parties are generally held outside of their jurisdiction in the counties.

A summary of the questionnaire reveals the following:

- * Seventy percent of all law enforcement agencies responding to the survey identified beer keg parties as a problem in their jurisdiction.
- * Seventy-eight law enforcement agencies indicated responding to 624 to 701 keg parties involving minors during 1998. Twenty agencies could not provide estimates.

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* Sixty-five agencies reported estimates of kegs observed or confiscated at all keg parties involving minors during 1998 between 295 and 334. Thirty-three agencies could not provide estimates.

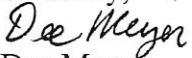
* Sixty-nine agencies reported estimates of the number of minors present at all keg parties during 1998 between 9,213 and 10,260. (Figures do not represent unduplicated participants).

* Twenty-one agencies estimated a total of 7 deaths and between 79 and 86 injuries of individuals under the age of twenty-one as a result of their participation at a keg party.

It is imperative to provide a means of identifying or "tracking" those irresponsible adults who are purchasing alcohol for underage drinkers as well as those purchasers, still under the age of majority themselves, who are purchasing alcohol with the use of fake ID's.

MADD has been a proponent of keg registration legislation for the last several years. It is MADD's belief that such legislation would reinforce the efforts of Kansas Alcohol Beverage Control in their endeavor to deter illegal sales, purchases, and consumption of keg beer by minors. Our goal as an organization is to promote laws which increase safety on our streets and highways, support legislation that affects the health and well-being of our youth and provide programs that will deter driving after drinking and develop skills for their adult years.

Kansas MADD supports Senate Bill 328, and would appreciate your support of this legislation.

Sincerely,

Dee Meyer
State Chairperson
Kansas MADD

KANSAS - 1999 ALCOHOL-RELATED MOTOR VEHICLE CRASH INVOLVEMENT PERSONS AGE 10 - 20

13-3

ALL ALCOHOL-RELATED CRASHES	3,273	TOTAL NUMBER OF PERSONS INVOLVED IN ALL ALCOHOL-RELATED CRASHES	6,890	100%
		TOTAL NUMBER OF PERSONS AGE 10-20 INVOLVED IN ALL ALCOHOL-RELATED CRASHES	1,635	24%
		*Drinking Drivers	611	37%
		*Passengers of Drinking Drivers	496	30%
		*Others	528	33%
		Total	1,635	100%
ALL ALCOHOL-RELATED INJURY CRASHES	1,585	TOTAL NUMBER OF PERSON INJURED IN ALL ALCOHOL-RELATED CRASHES	2,437	100%
		TOTAL NUMBER OF PERSONS AGE 10-20 INJURED IN ALL ALCOHOL-RELATED CRASHES	608	25%
		*Drinking Drivers	249	41%
		*Passengers of Drinking Drivers	198	33%
		*Others	161	26%
		Total	608	100%
ALL ALCOHOL-RELATED FATALITY CRASHES	72	TOTAL NUMBER OF PERSONS KILLED IN ALL ALCOHOL-RELATED CRASHES	83	100%
		TOTAL NUMBER OF PERSONS AGE 10-20 KILLED IN ALL ALCOHOL-RELATED CRASHES	18	22%
		*Drinking Drivers	8	44%
		*Passengers of Drinking Drivers	7	39%
		*Others	3	17%
		Total	18	100%

Source: Kansas Department of Transportation-"State of Kansas Alcohol Involvement in Motor Vehicle Accidents 1990-1999"

Kansas MADD 2/7/01

Percentages are rounded off.


3



COMMUNITY AWARENESS TEAM

c/o Regional Prevention Center
of Northwest Kansas
990 South Range, Suite 7
Colby, Kansas 67701

(785) 462-8152

DATE: February 20, 2001
TO: Committee on Federal and State Affairs
FROM: Janet Worthy, Project Director for Community Awareness Team 
RE: Senate Bill No. 328

As Project Director for the Community Awareness Team, a grassroots coalition working on substance abuse prevention issues, I work with 51 high school members, 63 college members, and 52 adult members. On behalf of our team, I urge you to give your support to Senate Bill No. 328 requiring licensees to maintain records of purchasers of certain containers of beer or cereal malt beverage.

In addition to my work with the Community Awareness Team, I am the advisor for the Colby High School SADD (Students Against Destructive Decisions) Group, which has 55 student members. In my extensive work with youth, I have become aware of the popularity of keg parties in our rural northwest Kansas area. The young people I work with have expressed their opinion that it's easy for underage drinkers to get someone to buy a keg or two of beer for a "pasture party" or a "sand pit party." Many of the young people I work with have told me that they wish this were not so, because they worry about their friends making decisions under the influence of alcohol which could put them at risk of harm or even death.

The adult members of our coalition are also concerned about the availability of alcohol to our youth. This area has lost several young lives to drinking and driving in the recent past, and we don't want to lose one more life.

Yes, maintaining records for keg registration would take a few extra minutes of a retailer's time. Ask a parent who has lost a child or has a child who is handicapped for life because of decisions made while drinking at a keg party; ask a youngster who has lost his big brother, or a teenager who has lost her best friend--ask any of them if they feel it would be worth a few extra minutes of a retailer's time and I think you know what the answer would be.

Please support this bill. Kansas needs to do more to prevent underage drinking and all the heartache it can cause. Kansas legislators need to listen to the people, not the lobbyists representing those who make money from the sale of alcohol.

Thank you for your time and consideration. Please support this bill.

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2-21-01
Attachment 14-1

February 21, 2001

Senate Federal and State Affairs Committee

Hello,

My name is Liz Shuman. I am a senior at Colby High School in Colby Kansas and a member of our Community Awareness Team. This fall I represented young people across the Sunflower State as a delegate at the Mothers Against Drunk Driving National Youth Summit in Washington D.C. As a student, a voter, and a young person concerned for my friends, I ask for your support on the keg registration bill, Senate Bill # 328.

Drinking has become a serious problem among young people in our state, and we can no longer neglect to take responsibility. Many people would be shocked to find out just how easy it is for minors to obtain alcohol. Unfortunately, few are aware of the availability of alcohol, and of these few, most are concerned solely about the profits. I ask you to be concerned about the young people in each of your hometowns. Their health, their future, and their lives depend on it. I assure you that honest retailers would not mind the additional paperwork.

By implementing keg registration, you would be sending a positive message to me and my peers. A message that we desperately need to hear: Kansans will take responsibility.

Thank you for your time and support.

Sincerely,

Liz Shuman

elizabeth_ann@hotmail.com

Senate Fed + State
2-21-01
Attachment 15-1



Topeka-Shawnee County
Alcohol-Drug Abuse
Advisory Council

1000 South Kansas Avenue, Suite 103
Topeka, KS 66612-1359
(913) 233-1365



**Testimony In Support of Keg Registration
Senate Bill 328**

Date: February 21, 2001

To: Senate Committee on Federal & State Affairs --
Senator Nancey Harrington, Chairperson

From: Ron Eisenbarth, Topeka Shawnee County Alcohol-Drug
Abuse Advisory Council

Good morning Chairperson and Committee Members,
My name is Ron Eisenbarth. I represent the Topeka Shawnee County Alcohol/Drug Abuse Advisory Council whose primary purpose is to reduce the incidence and social cost of alcohol/drug abuse in Shawnee County. This council has approximately 35 members and for the past 25 years has been recognized by both Shawnee County and the City of Topeka as the planning group for alcohol/drug services and recommendation to both units of government regarding the expenditure of Special Alcohol-Drug Program (SADP) funds. I want to thank you for providing me the opportunity to express our support of passage of Keg Registration legislation.

During the past several years the council has become increasingly aware of incidents of teenage drinking resulting in traffic accidents, school suspensions, family discord, and other issues. Due to this awareness, the council in recent years has assisted local youth agencies in providing Alcohol free holiday parties, dances and other events.

Our youth are able to obtain alcoholic beverages from many sources, but somehow, adults are always involved. Our youth drink many forms of alcoholic beverages, but due to the many areas of availability of beer and the incorrect public perception that beer is not as dangerous as distilled spirits, youth often tend to drink mostly beer.

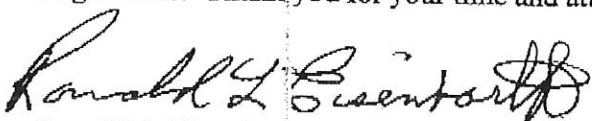
There are certainly several areas of concern regarding underage drinking. However, we do know from local information and data from other areas of Kansas as well as national statistics that keg parties are a popular means of consumption of beer by teens. The City of Emporia & Lyon County passed keg registration ordinances in 1999 followed by 8 other Kansas counties, most of them close to Emporia. Fourteen states have passed keg registration in recent years. The Topeka Shawnee County Alcohol/Drug Abuse Advisory

1.

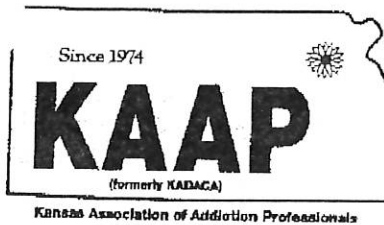
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Attachment 16-1
P. 02

Council voted this past summer to coordinate efforts locally to pass keg registration in Topeka and Shawnee County.

I have intentionally kept this testimony brief as other groups and individuals in support of keg registration have provided detailed information and data about the need for keg registration. Due to the national trend as well as the several counties in Kansas that have passed keg registration, it seems obvious that the time is now for Kansas to have keg registration statewide. We urge the passage of such by the 2001 session of the Kansas Legislature. Thank you for your time and attention.



Ronald L. Eisenbarth
Topeka Shawnee County Alcohol/Drug Abuse Advisory Council



Kansas Association of Addiction Professionals

**TESTIMONY REGARDING SB 328
COMMITTEE ON FEDERAL & STATE AFFAIRS
Submitted by Craig Collins, J.D.
KAAP Executive Director
Wednesday, February 21, 2001**

TO: Chairperson Harrington and Committee Members

Thank you for the opportunity to appear and present testimony regarding our concern over the issue of underage drinking and allowing us to state our support for passage of SB 328, keg registration legislation. My name is Craig Collins and I am the Executive Director of the Kansas Association of Addiction Professionals (formerly Kansas Alcoholism and Drug Addiction Counselors Association). KAAP is an umbrella association that has an addiction counselor section comprised of nearly 500 certified alcohol and drug counselors and now includes a compulsive gambling section that contains the Kansas Coalition on Problem Gambling.

Underage drinking has been and continues to be a major concern due to its linkage with the progressive disease of alcoholism. This testimony will focus on the single issue of keg registration that can be a tool to curb beer consumption by people under 21 years of age. We support legislation requiring retail dealers to maintain records of sales of beer in which the product is contained in kegs showing the name of the purchaser and other such information required to track such sales if initiated by a suspected violation of laws prohibiting the consumption of alcoholic beverages by minors.

Quite simply, keg registration is legislation we feel is needed to curtail or sharply limit purchases of kegs of beer by minors or by adults purchasing the kegs for consumption by minors. By registering the kegs, a paper trail is established that leads directly back to individuals buying the kegs. Kegs sales of beer for "pasture parties" to celebrate high school graduation or in conjunction with other adolescent activities have been tolerated by much of the state's population, its lawmakers and law enforcers. But the tragic accidents and other events that have injured and claimed the lives of many of our teenage children requires us to ask our state legislators to take action in the forthcoming session.

What is being asked? Not a lot, actually. We support SB 328 that will provide a tool to help law enforcement agencies identify individuals who by their actions help teenagers violate Kansas laws

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Proposed keg registration bills has been brought before the legislature in past years but has failed to become law. Supporters of the legislation say a primary reason for the failure of the legislation to move forward is that it is strongly opposed by the state's liquor interests. It is difficult to see how the keg law could seriously jeopardize revenues brought about by keg sales under a registration law - since presumably legal sales would continue to occur. I would imagine dealers routinely get purchaser information for the purpose of tracking the equipment that accompanies kegs sold so they know where the equipment can be located if not returned or for the purpose of returning deposits taken on kegs and/or equipment.

In the absence of a state law, local units of government have this past year enacted their own ordinances under the Home Rule authority. Other cities and counties are looking into the adoption of keg registration ordinances. Where those ordinances have been in effect for several months, supports report no violations. They are convinced the threat of prosecution under the ordinance has had the desired effect. The passage of SB 328 would provide uniform statewide coverage and adds a layer of accountability to individuals purchasing keg beer.

Again, thank you for the opportunity to appear before you. I stand for any questions.



State of Kansas

Office of the Attorney General

120 S.W. 10th Avenue, 2ND FLOOR, TOPEKA, KANSAS 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

February 21, 2001

MAIN PHONE: (785) 296-2215
FAX: 296-6296

Senator Nancey Harrington, Chair
Senate Federal & State Affairs Committee
143-N, State Capitol
Topeka, KS 66612

RE: Support of Senate Bill 328 - Keg Registration

Dear Senator Harrington and Members of the Senate Federal and State Affairs Committee:

Senate Bill 328 requires retailers to affix an identification number to beer kegs, obtain purchaser information and record each sale in order to identify purchasers who illegally provide alcohol to underage persons. While we are not the principal sponsor of this bill, we support the proposed bill.

In 1999 my office introduced and testified on a similar bill relating to keg registration which was proposed by the Far-Reaching Alteration of Traffic and Alcohol Laws (FATAL) Task Force created in June 1998. The goal of this Task Force was to conduct a comprehensive examination of current traffic and alcohol laws and provide recommendations to change these laws. Members of the Task Force included representatives from the legislature, judiciary, law enforcement, prosecution, defense bar, victim rights, alcohol treatment providers, insurance industry as well as officials from the Kansas Department of Health and Environment, Kansas Department of Transportation/Bureau of Traffic Safety and the Kansas Department of Revenue. (See attached list) The Task Force was divided into three subcommittees to concentrate on areas of prevention, administrative hearings and criminal penalties.

The prevention subcommittee focused on finding measures which would prevent persons from drinking and driving while under the influence of alcohol or drugs. One recommendation from this subcommittee proposed keg registration as a deterrent measure to help reduce the number of individuals purchasing alcohol or cereal malt beverages for illegal use.

Since the FATAL Task Force recommended keg registration in 1997, several counties including Lyon, Coffey, Marion, Morris and Chase counties have all adopted county resolutions mandating keg registration. At this time, several other counties are closely looking at adopting similar resolutions. We believe that state legislation is needed to ensure uniformity in the registration process

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as well as to prevent purchasers from traveling to other jurisdictions to obtain kegs in an attempt to circumvent county resolutions.

Law enforcement officers throughout the state continue to have difficulties anytime keg parties occur where underage individuals are allowed access to large quantities of beer. Officers are often called to keg parties when fights, vandalism, sexual crimes are committed or traffic accidents occur due to underage individuals driving under the influence of alcohol. Keg registration would provide law enforcement officials a valuable investigative tool in which to determine who purchased and provided the keg to underage individuals when crimes occur.

Keg registration holds purchasers of kegs accountable for providing alcohol to underage individuals. This legislation sends a strong deterrent message, causing persons over 21 years of age to think twice before providing kegs for illegal consumption. This is an important preventive step which we believe will help save lives in the future.

On behalf of the FATAL Task Force, I would urge your favorable consideration of Senate Bill 328.

Very truly yours,



Carla J. Stovall
Attorney General

COFFEY COUNTY SHERIFF'S OFFICE
605 NEDSHO ST., PO BOX 226
BURLINGTON, KANSAS 66839
PHONE (316) 364-2123
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LAW ENFORCEMENT BEYOND 2000

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

February 20, 2001

Dear Senators,

I am pleased to testify before you today in support of Keg Registration Legislation. I have testified in the past and have lobbied in support of this legislation. I would like to simply recap or cover issues that have arisen. Keg Registration will not stop or cure underage drinking however, Keg registration does serve 2 distinct purposes. The first is that Keg registration serves as a deterrent for those that would purchase Kegs for parties and would allow minors to consume alcohol. The second benefit would be that Keg Registration serves as a very valuable Investigative tool for Law Enforcement when we do have the misfortune to have to Investigate violations of the law involving kegs.

Currently there are many counties that have taken the Initiative to create county Keg registration Resolutions. I am fortunate to have the support of the Coffey County Attorney and the Coffey County Commission and was the first county to pass a Keg registration resolution. Since we enacted the resolution we have seen a drastic decrease in the Pasture Keg Parties and a significant decrease in the number of alcohol violations dealing with minors.

Our success is limited at this point for the fact that if an Individual in my county truly wants to purchase a Keg for minors they can simply go to an adjoining county where they do not have Keg registration and they can purchase a keg.

The only way that we can truly be effective and have an overall impact would be to pass state legislation that addresses this issue. I believe that if we all come together on this issue for the welfare of our children we can be successful in battling underage drinking and the horrible incidents that we read and hear about everyday.

Thank You,

Randy L. Rogers
Coffey County Sheriff

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Reports of the
Special Committee on Federal and
State Affairs
to the
2001 Kansas Legislature

CHAIRPERSON: Senator Lana Oleen

VICE-CHAIRPERSON: Representative Tony Powell

RANKING MINORITY MEMBER: Senator Sherman Jones

OTHER MEMBERS: Senators U. L. "Rip" Gooch, Nancey Harrington, and Ben Vidricksen; Representatives Joann Freeborn, Ruby Gilbert, Gary Hayzlett, Broderick Henderson, Becky Hutchins, Lloyd Stone, and Dan Thimesch

STUDY TOPICS

- The reduced role and importance of the duties of the Division of Alcoholic Beverage Control of the Department of Revenue and liquor enforcement efforts in recent years
- Gambling policy—fiscal, law enforcement, and social ramifications, including especially Indian gambling in Northeast Kansas and "Lucky Shamrock" machines
- Handicapped accessibility for dwellings
- Mediation and alternative dispute resolution
- Review of the policy contained in SB 666, which would have enacted the Plumbing, Mechanical, Heating, Refrigeration, Air-Conditioning, and Ventilation Certification Law and Protection Act
- Underage drinking generally, including beer keg registration

December 2000

Senate Fed + State
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Attachment 20-1

SPECIAL COMMITTEE ON FEDERAL AND STATE AFFAIRS

ALCOHOLIC BEVERAGE CONTROL

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends that liquor law enforcement efforts be enhanced through the addition of new enforcement positions to handle the increased workload of Alcoholic Beverage Control (ABC). To finance this expansion, the Committee recommends that a fee increase be enacted on six specific license fees and that the additional revenues be earmarked exclusively for liquor law enforcement efforts. The Committee also recommends that the refund system for liquor licensees be eliminated; that the Director of ABC become a member of the Governor's Substance Abuse Prevention Council; and that the Legislative Post Audit Committee consider approving a follow-up audit concerning expenditures from the Local Alcoholic Liquor Fund by cities and counties.

Proposed Legislation: The Committee recommends one bill on this topic.

BACKGROUND

The Legislative Coordinating Council (LCC) charged the Special Committee on Federal and State Affairs to examine "the reduced role and importance of the duties of the Division of Alcoholic Beverage Control (ABC) of the Department of Revenue and liquor enforcement efforts in recent years."

COMMITTEE ACTIVITY

The Committee received briefings by staff regarding the organization and funding of the ABC Division of the Kansas Department of Revenue (KDOR). The staff memorandum reviewed the evolution of the agency since the late 1940s and noted that the agency grew to 78.0 FTE positions by 1954. Five years later in FY 1960, ABC had been reduced to 55.0

FTE positions, a count that was maintained until the FY 1980 when the staffing level was 50.0 FTE positions. Another growth in staffing occurred throughout the 1980s and early 1990s as nonalcoholic beverage duties (bingo and the drug tax) were assigned to ABC and revised liquor laws were passed (such as county option liquor by the drink). During the 1990s, reductions and transfers of staff out of ABC reduced the staffing level to 32.0 FTE positions by FY 2001. For FY 2001, the approved ABC budget is \$2.047 million with 32.0 FTE positions authorized. For FY 2001, the Governor recommended and the Legislature approved a restructuring of the tax fraud unit in ABC, resulting in the elimination of 4.0 FTE positions.

The Committee also received a briefing by staff of the Division of Legislative Post Audit who reviewed a 1998 perfor-

mance audit entitled *Reviewing the Regulatory Activities of the Division of Alcoholic Beverage Control* (No. 98-41). The 1998 audit reached three main conclusions regarding the enforcement efforts of the ABC Division:

- Because of the many non-liquor-related duties assigned to liquor control agents in recent years, agents now spend much less time on liquor enforcement.
- Given the new duties and the decrease in staff time devoted to liquor enforcement, some things have suffered while efforts to identify sales to minors has improved.
- Kansas liquor licensees' high noncompliance rates with laws prohibiting sales to minors suggest that additional enforcement efforts could or should be taken to identify and penalize violators.

The Committee also received a detailed briefing by the Acting Director of Alcoholic Beverage Control and members of his staff, as well as comments by the Secretary of Revenue. In his presentations, the Acting Director reviewed the mission of ABC and provided a history of the organization and staffing of the agency. The Acting Director also discussed the current organization and structure of the ABC Division, as well as the liquor-related duties of ABC. These liquor-related duties include licensing, industry regulation, underage enforcement, brand registration/gallonage tax, licensee administrative actions, and administrative hearings. The Acting Director noted that enforcement activities include controlled buy investigations, Cops In Shops, bar checks, licensee contacts, routine inspections, complaint investigations, license application investi-

gations, training, and delinquent tax collection efforts. The Acting Director also reviewed the compliance and licensing activities of ABC, as well as the current budget of the Division. Lastly, the Acting Director discussed the additional duties assigned to ABC, which include tobacco regulation, bingo regulation, the drug tax program, and the criminal tax fraud program.

The Committee also received testimony from representatives of the liquor industry, as well as other interested conferees. The testimony of representatives of the liquor industry generally indicated a dissatisfaction with the restructuring of ABC by various Secretaries of Revenue and the assignment of non-liquor-related duties to ABC enforcement agents. Several industry representatives mentioned problems with the Department of Revenue's telephone system, lack of computer services, delays in processing and renewing the various licenses and permits, and a shortage of appropriate funding to allow ABC to properly carry out its assigned duties.

The Chairman also appointed a three-member Subcommittee on ABC to receive input from both the ABC Director and staff, and representatives of the liquor industry. The Subcommittee met on two occasions to hear testimony. The Acting Director of ABC compared Kansas liquor enforcement efforts to those in the surrounding states, as well as the various taxes and fees generated in those states. The Acting Director also reviewed the various Kansas liquor taxes which generate approximately \$73.5 million annually, while the various license fees generate about \$2.5 million annually, although some \$900,000 of this is transferred to the Department of Social and Rehabilitation Services. At the request of the Chairman, the Acting Director had prepared a budget

proposal which would add 19.0 FTE positions to ABC. The Acting Director stated that these additional positions would allow the Division to function at a high level of efficiency.

Representatives of the liquor industry presented a proposed "Restructuring Plan" regarding the ABC Division for review by the Subcommittee. The proposed restructuring plan contained three major components:

- The creation of a liquor licensee fee fund to fund statutorily-assigned ABC functions, and the return of ABC to its previous independent status, under the KDOR umbrella;
- It is estimated by the Department that additional funds from industry taxes might be necessary to perform the required statutory functions because such functions exceed traditional licensee services by including general public health and welfare services, *i.e.*, underage consumption and industry tax collections; the additional operating revenues would originate from a state dollar-for-dollar match of licensee fees; and
- The use of ABC agents on duties not assigned by statute only when statutory authority is obtained and funding is placed in the fee fund to offset the costs of providing this service.

CONCLUSIONS AND RECOMMENDATIONS

The Committee concludes that ABC has, in recent years, experienced a reduced role and importance of its duties and liquor enforcement efforts. This reduced role has come about as a result of two actions:

- Staff reductions and transfers of staff out of ABC reduced the staffing level to 32.0 FTE positions in FY 2001; and
- The assignment of additional duties to ABC agents, including tobacco regulation, bingo regulation, the drug tax program, and the criminal tax fraud program.

The first action (staff reductions) was reviewed and approved by the Legislature through the appropriation process. The second action (assignment of additional duties) was largely the result of administrative decisions by the various Secretaries of Revenue. As a result of these two actions, the enforcement efforts of the ABC agents have been diluted and liquor law enforcement efforts have suffered.

The Committee recommends that liquor law enforcement efforts be enhanced through the addition of new enforcement positions to handle the increased workload of ABC. To finance this expansion, the Committee recommends that a fee increase be enacted on six specific license fees and the additional revenues be earmarked exclusively for liquor law enforcement efforts. The Committee also recommends that the refund system for liquor licensees be eliminated; that the Director of ABC become a member of the Governor's Substance Abuse Prevention Council; and that the Legislative Post Audit Committee consider approving a follow-up audit concerning expenditures from the Local Alcoholic Liquor Fund by cities and counties. The Committee recommendations are discussed in detail in the following paragraphs.

Additional Revenues for Enforcement. The Committee believes that additional revenue is necessary to allow for enhanced enforcement efforts regarding the liquor laws and an expansion of the

enforcement staff positions. The Committee recommends that the additional staff be devoted exclusively to enforcement of the liquor laws. The Committee also recommends a fee increase be enacted for six of the liquor license fees, as follows:

- Liquor license application fee:
 - Initial—from \$50 to \$100
 - Renewal—from \$10 to \$100
- Supplier's permit fee—from \$25 to \$100
- Brand registration fee—from \$25 to \$50
- Salesman's permit fee—from \$10 to \$25
- Cereal malt beverage license stamp fee—from \$25 to \$50

The Committee proposal is estimated to result in additional license fee revenue of \$661,315 which would be earmarked for enhanced enforcement of the liquor laws. Under current law, all license fee revenues go into the State General Fund. Under the Committee recommendation, the current license fees would continue to be deposited in the State General Fund; however, the new revenues resulting from the fee increase would flow into a new ABC General Fees Fund to be used for liquor enforcement efforts. There would be no loss to State General Fund receipts.

The Committee also became aware that most liquor licensees are eligible for a refund of the license fee should they decide to cease operations at some point during the license period. The Committee believes that such a system of license fee refunds is not needed and creates additional work for the license staff. The Committee proposal will eliminate this refund system.

Expansion of Liquor by the Drink.

The Committee notes that five counties approved liquor by the drink at the November 7, 2000, election, which will result in an additional enforcement workload for the Division of Alcoholic Beverage Control.

Allen, Cheyenne, Pratt, and Rooks counties approved the sale of liquor by the drink with the stipulation that establishments must make at least 30 percent of their money from food sales. Brown County approved liquor by the drink with no food sale requirement.

Kansas now has 51 counties authorized to sell liquor by the drink with a food sales requirements, 13 counties serving liquor with no other requirements and 41 dry counties.

Governor's Substance Abuse Prevention Council. The Committee received a briefing on the role of the Governor's Substance Abuse Prevention Council, which was created by Executive Order No. 98-9 by the Governor on October 14, 1998. The mission of the Council is to promote the development, implementation, maintenance, and evaluation of a coordinated interagency system in order to maximize resources and encourage partnerships, both public and private, for the purpose of eliminating the abuse of alcohol and drugs. The Council, which is co-chaired by the Secretary of Social and Rehabilitation Services and the Commission of Juvenile Justice Authority, includes the agency heads of the Departments of Corrections, Health and Environment, Transportation, and other agencies as requested by the co-chairs. The Commissioner of Education and the Attorney General are requested to serve on the Council.

The Committee recommends to the Governor and the co-chairs that the Director of ABC be invited to serve on the Council and provide an additional resource for input into this area.

Liquor Taxes Earmarked for Treatment and Prevention. The Committee notes that current law presently earmarks a portion of several of the liquor taxes for treatment and prevention purposes. For example, 10 percent of the gallonage tax on spirits and 5 percent of the drink tax (clubs and drinking establishments) are earmarked for the Community Alcoholism and Intoxication Programs Fund; receipts to this fund in FY 2000 were \$695,000 and \$1.13 million, respectively. This fund is expended by the Secretary of SRS to provide financial assistance to community-based alcoholism and intoxication treatment programs.

In addition, 70 percent of the drink tax (clubs and drinking establishments) is earmarked for the Local Alcoholic Liquor Fund; receipts to this fund in FY 2000 were \$15.9 million. This funding is distributed back to local cities and counties and is to be used, as directed by statute, in three areas: general fund, parks and recreation, and special alcohol and drug programs funds. The Committee notes that a 1995 audit (No. 95-45) conducted by the Division of Post Audit found that about 11 percent of the expenditures made by local units did not fit the criteria outlined in the law. The Committee recommends that the Legislative Post Audit Committee consider whether a follow-up audit in this area may be warranted.

Also, any revenues generated by a local option sales tax imposed on liquor retailers by cities or townships goes into the local unit's general fund. Lastly, 50 percent of the revenue generated by the

Club, Drinking Establishment, and Caterer Annual License Fees goes into the Alcoholism Treatment Fund; FY 2000 receipts to this fund were \$1.0 million. This funding is used by the Secretary of SRS to implement the Secretary's responsibilities to establish, coordinate, and fund programs for the prevention and treatment of alcohol abuse.

Education and Training. The Committee is aware that most of the programs for education and training for retailers and servers are conducted by the industry. The Committee believes that these educational effort should remain in the private sector. While the ABC Division does offer some assistance to these programs, the Committee recommends that the state agency not become directly involved in education and training programs.

ABC Memorandum of Agreement. The Committee became aware that a memorandum of agreement had been drafted to delineate and define the duties and responsibilities of the Division of ABC and the Customer Relations Core Process of Tax Operations of the Department of Revenue (CR). The agreement sets forth in some detail the relationship between ABC and CR with regard to various duties and licensing responsibilities. Of particular interest to the Committee are provisions in the agreement transferring the Licensing Segment from CR to the ABC Division. The location of the Licensing Segment in CR was a source of concern for many representatives of the liquor industry. The agreement also specifies that the Brand Registration Marketing Section will transfer from the Licensing Segment and will report directly to the Director of ABC. The Committee notes that the agreement was signed by the Secretary of Revenue, the Director of ABC, and the CR Core Process

Manager on December 8, 2000. The Committee also notes that the Secretary of Revenue has since resigned. The Committee expresses its support for this agreement which realigns some duties and

gives ABC more control over the licensing process. The Committee urges the new Secretary of Revenue to follow both the letter and spirit of the agreement.

GAMBLING POLICY

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends the introduction of legislation to establish registration for "Lucky Shamrock" machines similar to the registration requirements for cigarette and tobacco vending machines.

Proposed Legislation: The Committee recommends one bill on this topic.

BACKGROUND

At its meeting on August 23, 2000, the Legislative Coordinating Council (LCC) transferred a study topic from the Legislative Budget Committee to the Special Committee on Federal and State Affairs. A portion of the transfer relating to "Lucky Shamrock" machines had been requested by Chairman Oleen and Vice Chairman Powell. The LCC took action to allow the Special Committee to study the following charge:

Gambling policy—fiscal, law enforcement, and social ramifications, including especially Indian gambling in Northeast Kansas and "Lucky Shamrock" machines.

COMMITTEE ACTIVITY

The Special Committee determined that, because of time constraints and the number of assigned topics, the Committee would not be able to conduct a broad study of gambling policy in Kansas. The

Special Committee decided to limit the scope of this study to the issue of "Lucky Shamrock" machines. The Committee received a briefing on this topic from Committee staff and from a Deputy Attorney General.

The material below is summarized from Attorney General Opinion No. 97-26, which discussed the legality of a machine known as the "Lucky Shamrock Phone Card Dispenser." According to the opinion, Lucky Shamrock Emergency Phone Cards are sold in dispensing machines around the state. A patron wanting to purchase a Lucky Shamrock Emergency Phone Card inserts \$1 into the machine and receives a card good for one minute of long distance telephone time. In addition to receiving the telephone card, *and for no additional cost*, the purchaser may participate in a Lucky Shamrock sweepstakes promotion. Such phone card contains nine symbols which entitle winning combinations to receive money prizes ranging in value from \$1 to \$1,000. The symbols also are coded on

the back of the card and can be read by the dispensing machine. The opinion noted that a person does not have to purchase the phone card in order to play the sweepstakes, as sweepstakes tickets are available free from the retail outlet and also through the mail.

The Deputy Attorney General who drafted Attorney General Opinion No. 97-26 reviewed the opinion for the Special Committee. The opinion, dated March 17, 1997, contains the following synopsis: *If the element of consideration is absent from the Lucky Shamrock Phone Card game in that no purchase is necessary for participation in this sweepstakes promotion, it is our opinion that the game is not a lottery. Furthermore, the Lucky Shamrock Phone Card Dispenser, as described herein, does not meet the statutory definition of a gambling device. This conclusion assumes that the machine and the game will be operated as described herein and not used in an illegal way. (Citations omitted.)*

The opinion notes that there are three essential elements of a lottery: (1) consideration; (2) prize; and (3) chance. The opinion relies heavily on the notion that, because no purchase is necessary to play the sweepstakes, there is no element of consideration present. The opinion also concluded, under the facts presented to the Attorney General's office, that the Lucky Shamrock machines do not meet the statutory definition of a gambling device. The opinion noted that any deviation from the facts presented could result in a different conclusion.

The Committee also was advised that there have been two requests asking the Attorney General to reconsider and revise or withdraw the opinion. These requests were made by a county attorney (December 9, 1997), and a state Senator (March

31, 2000). The Attorney General has declined to either revise or withdraw the opinion because of her belief that the opinion states the law accurately. However, the Attorney General in a letter dated June 12, 2000, states that:

I have since learned that not all retailers are offering free tickets as I was informed they would, yet the distributor of the machine has taken portions of my opinion, possibly out of context, and placed it on the machine making it appear to be an endorsement of the machine.

A listing was developed of known locations of these machines in Kansas. This listing was forwarded to the Kansas Department of Revenue (KDOR) with the Committee's request that KDOR investigate to determine whether the appropriate taxes are being paid on these machines.

The Special Committee also received testimony from a distributor who has provided for the placement of Lucky Shamrock machines in Kansas since March of 1997. The distributor stated that the machines have a payout of 60 to 70 percent of gross receipts; that the manufacturer and distributors do police the operation of the games at the retail locations; that there are approximately 150 Lucky Shamrock machines in Kansas; that the retail store owner is responsible for paying sales tax on the tickets; and that the retail store owner usually splits the net profit 50/50 with the distributor.

Representatives of the Kansas Department of Revenue (KDOR) presented a report on the inquiry which the Committee had requested on the operation of these games in Kansas. The report by the KDOR representatives concluded that:

- The tickets are supposed to be available for free, but the investigators did find locations where the retailers' employees were not complying with this;
- The machines and tickets are manufactured by a California company, Diamond Game Enterprises, Inc., and have been placed in truck stops, bars, bingo parlors, and restaurants throughout the state;
- The retailers generally have the keys and handle all the money from the machines, and the company that owns the machines makes money by selling rolls of tickets (prepaid phone cards) to the retail locations;
- The retailers collecting money from the machines should be remitting sales tax on those gross receipts, and most retail outlets contacted appeared to be remitting the sales tax;
- Some retailers were remitting sales tax on net proceeds, which is improper, or were not remitting the appropriate sales tax, but, in those instances, the discrepancies appeared to be due to lack of knowledge and not any attempt to evade taxes; and

- The parties contacted were generally cooperative with the investigators and the Kansas Truck Stop Association stated that it is willing to help make sure that its members are in compliance with Kansas tax laws.

CONCLUSIONS AND RECOMMENDATIONS

The Committee concludes that a higher degree of state regulation than that which exists today is needed with regard to the Lucky Shamrock and other similar machines. The Committee believes that, at the least, KDOR should know the locations of these machines in order to conduct investigations and audits to determine whether the appropriate taxes are being paid.

The Committee recommends that legislation be introduced to establish registration requirements for these machines similar to the registration requirements for tobacco and cigarette vending machines. The registration requirements also would include accessibility restrictions to keep underage youth from "playing" these machines. The legislation would include any type of vending machine operation which includes a cash "prize."

HANDICAPPED ACCESSIBILITY FOR DWELLINGS

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends the introduction of a new bill, similar to 2000 Sub. for SB 304, to establish accessibility standards for certain publicly-funded dwellings.

Proposed Legislation: The Committee recommends one bill on this topic.

BACKGROUND

The request to study the topic of handicapped accessibility for publicly-funded dwellings was made by Representative Powell. The House Federal and State Affairs Committee held hearings on Sub. for SB 304 during the 2000 Session. The bill became very controversial because of concerns about the actual costs of implementing the proposal. In his letter to the Legislative Coordinating Council, Representative Powell stated, "Because of the seriousness of this issue, and the sensitivity we must have towards accessibility in public housing for the disabled, I believe that further study of this issue was warranted. Specifically, the Legislature needs to have definitive information with regard to the true costs of this proposal."

2000 Sub. for SB 304

Sub. for SB 304 would have established accessibility standards for certain dwellings. The bill would have required that any single family residence and each individual living unit in a duplex or triplex which is constructed, reconstructed or structurally remodeled or rehabilitated with public financial assistance would have to meet certain accessibility standards. The required accessibility standards include an accessible entrance on an accessible route, accessible doors and doorways, accessible routes within the dwelling, reinforcement in

walls for future installation of grab bars and accessible light switches, electrical outlets and other controls.

Subject to the exclusions provided by the act, the term "public financial assistance" is defined to include:

- A building contract with any state agency;
- Any real estate received by the owner through a donation by the state;
- Tax credits, exemptions, or rebates;
- Grant assistance from state funds;
- State loan guarantees; and
- Federal funds administered by the state or a state agency.

The act would not apply to a:

- Private residence which is owner-occupied;
- Private residence for which an individual tax credit or rebate is received;
- Private residence which is financed under certain specified federal housing programs;

- Private residence for which rental vouchers or certificates are accepted under a specific federal program; or
- Dwelling which is financed with public funds other than state or federal funds.

The bill also would have established accessibility standards for the structural reconstruction, rehabilitation or remodeling of certain dwellings which were constructed prior to July 1, 2000. However, the term "reconstruction, rehabilitation or remodeling" would not include replacement of roofs or gutters, painting, siding work, plumbing work, weatherization or storm windows or other remodeling work excluded pursuant to rules and regulations adopted by the Secretary of Administration.

Persons receiving public financial assistance for dwellings covered by this act would be required to sign an affidavit of intent to comply with the requirements of the act. Any person who accepts public financial assistance and fails to comply with the act would be ineligible to receive public financial assistance in the future.

The Secretary of Administration is authorized to waive any requirement of the act, upon application for such waiver. If the Secretary determines that compliance with the act is financially or environmentally impractical, the Secretary may waive the requirement. The Secretary must render a decision on any requested waiver within 60 days. The Secretary is directed to adopt rules and regulations for the implementation of this section.

The Senate Committee of the Whole amended the bill during the 2000 Session to:

- Require the Secretary of Administration to give notice of all waiver applications to the Secretary of Commerce and Housing, who is authorized to submit recommendations and comments concerning the waiver requests to the Secretary of Administration;
- Provide that proceedings to consider a waiver request will be conducted in accordance with the Kansas Administrative Procedures Act and appeals from the decisions of the Secretary of Administration will be governed by the act for Judicial Review and Civil Enforcement of Agency Actions; and
- Exempt from the act
 - Any dwelling which is under contract for occupation by the owner; or
 - Any dwelling the design or construction of which commenced prior to July 1, 2000.

2000 for SB 304 passed the Senate and was referred to the House Committee on Federal and State Affairs. That Committee held hearings on the bill and several members expressed concerns about the actual costs of implementing the proposal and its financial impact on construction costs for dwellings. The bill died in the House Committee.

COMMITTEE ACTIVITIES

Proponents who presented testimony in favor of the bill included representatives of the Kansas Disability Rights Action Coalition for Housing (KDRACH); Living Independently in Northwest Kansas (LINK); the Topeka Independent Living Resource Center (TILRC); Tenants to Homeowners, Inc; the Wichita Independ-

ent Living Resource Center; and Stardusters Crime Prevention. A representative of the Department of Administration, while neutral on the bill, expressed several concerns and recommendations. A representative of the Kansas Manufactured Housing Association provided information on manufactured housing and accessibility. A representative of the Kansas Building Industry Association expressed opposition to a state mandate for a housing code of any type and pointed out a number of concerns with specific provisions of the bill. The Director of Community Development for the City of Parsons expressed the concern that the city would have to increase the price of its new homes in order to comply with the requirements contained in the bill. A representative of the Department of Commerce and Housing also provided requested information to the Committee. Estimates of the additional costs of complying with the new requirements contained in 2000 Sub. for SB 304 ranged from minimal (T. Wilkinson, LLC) to \$5,000 (City of Parsons).

CONCLUSIONS AND RECOMMENDATIONS

The Committee concludes that there is a need for legislation in Kansas to ensure that certain dwellings which include public funding should meet the five minimal "visitability" standards contained in 2000 Sub. for SB 304.

The Committee approved, without dissent, a motion to introduce a new bill essentially similar to 2000 Sub. for SB 304 to require that certain dwellings meet these accessibility standards. The new bill contains essentially the same provisions as Sub. for SB 304 with one change: the waiver procedure will be the responsibility of the Department of Commerce and Housing and the waiver provision applies only to the requirement of an accessible entrance. Other changes in the new bill are technical and clarifying in nature. (A detailed explanation of the provisions of Sub. for SB 304 is found in the front of this report.)

MEDIATION AND ALTERNATIVE DISPUTE RESOLUTION

CONCLUSIONS AND RECOMMENDATIONS

The Committee supports the concept of mandatory mediation that can be ordered by the court under the Dispute Resolution Act. Further, the Committee concludes that a provision of law should be enacted to deal with the avoidance of mediation, when ordered, and the consequences of bad faith in complying with an order of mediation which can result in the award of reasonable attorney fees to the other party.

In the area of labor disputes, the Committee recommends an amendment to allow the Secretary of Human Resources to pay for the costs of mediation.

The Committee further directs that statutory language be drafted to direct the Kansas Supreme Court to adopt rules regarding standards for mediation.

All three of these recommendations are to be incorporated into one bill.

Proposed Legislation: The Committee recommends one bill on this topic.

BACKGROUND

Early in the 2000 Interim the topic of mediation and alternative dispute resolution was submitted to and approved for study by the Legislative Coordinating Council. The topic was then assigned to the 2000 Interim Committee on Federal and State Affairs to do the following:

- Analyze current practices in this area;
- Explore the possibility of legislative expansion in mediation and in alternative dispute resolution;
- Review what other states are doing with these issues; and
- Consider other specific issues that may develop regarding mediation and alternative dispute resolution.

In addition, the 2000 Legislature passed SB 150 which deals with domestic

relations, including parenting and child custody matters.

One of the provisions in SB 150 allowed courts to order mediation for the division of property, typically the family home. Custody can hinge on which party gets the house. Until this time, courts could only order mediation for child custody, residency, and parenting arrangements.

In general, mediation and alternative dispute resolution measures are defined and scattered throughout the Kansas statutes, specifically, in Chapter 5, the Dispute Resolution Act, and Chapter 23 dealing with domestic relations.

Statutorily, the types of cases that may be accepted for dispute resolution include the following:

- Civil claims and disputes, including, but not limited to, consumer and commercial complaints and disputes:

involving allegations of shoplifting, between neighbors, between business associates, between landlords and tenants, involving matters under the Small Claims Procedure Act, involving farmers-lenders within communities;

- Disputes concerning child custody and visitation rights and other areas of domestic relations;
- Juvenile offenses and disputes involving juveniles;
- Disputes between victims and offenders, in which the victims voluntarily agree to participate in mediation;
- Disputes involving allegations of unlawful discrimination under state or federal laws;
- Disputes referred by county attorneys or district attorneys;
- Disputes involving employer and employee relations under KSA 72-5413 through 72-5432, and amendments thereto, or KSA 75-4321 through 75-4337, and amendments thereto; and
- Disputes referred by a court, an attorney, a law enforcement officer, a social service agency, a school or any other interested person or agency, including the request of the parties involved.

COMMITTEE ACTIVITIES

The Committee heard from several individuals experienced in mediation. These included Art Thompson, the Dispute Resolution Coordinator with the Office of Judicial Administration (OJA);

Larry Rute, the Director of Litigation for Kansas Legal Services, Inc. (KLS); District Court Judge Robert W. Fairchild; Jeanne Erickson, mediator; George Wolf, Chief of Appeals and Alternative Dispute Resolution, Kansas Department of Human Resources; Tom Laing, InterHab and Martha Hodgesmith, Director of Community Supports and Services, Department of Social and Rehabilitation Services (SRS).

Mr. Thompson informed the Committee about the requirements of the Dispute Resolution Act and the major projects by the Advisory Council on Dispute Resolution currently underway. One project, which includes a survey of judges, mediators, and a random sample of attorneys is intended to lead to recommendations to the Supreme Court on ways to improve and expand the use of dispute resolution. The Council also is conducting a series of meetings to determine how to proceed with the development of mediation centers as contained in the act. Further, in cooperation with the University of Kansas, the OJA is conducting a research project on the effects of child custody and parenting time mediation on courts. OJA is also at work, with other organizations, on the use of kinship care mediation with an effort to place children in extended family placements who otherwise might have been placed in foster care.

Mr. Thompson indicated efforts are underway to expand the use of mediation in western Kansas. He further acknowledged that the Council has approved a small grant to train judges in the use of settlement conferences and to offer training to provide more mediators, especially bilingual mediators, in the domestic relations area. Finally, Mr. Thompson explained that the Council is developing a dispute resolution training program to be offered to court employees to assist in addressing disputes with parties who

frequent local courts. He provided information regarding the importance of confidentiality in mediation and dispute resolution. According to Mr. Thompson, states using mediation in an expanded capacity include Texas, Oklahoma, Colorado, and Nebraska. Mr. Thompson recommended legislation to expand the ability of the court to order mediation in specific cases labeled as "bad faith" deliberate and intentional avoidance of ordered mediation. A party found to be acting in bad faith could be subjected to pay the reasonable attorney fees of the other party.

Mr. Thompson recommended a statutory amendment to provide that, in labor disputes, the costs of mediation and related factfinding services would be covered by the Secretary of the Department of Human Resources, when officially requested to do so.

Mr. Rute presented testimony about mediation services for the low-income population and on behalf of the Kansas Human Rights Commission. He recommended the Legislature provide funding to permit one or more mediation centers, as a pilot project, to serve as a one stop service provider, to those persons involved in family law matters.

District Court Judge Robert W. Fairchild, Lawrence, a judge/mediator explained that he was one of the first attorneys in Kansas to use mediation frequently in his practice. Judge Fairchild is currently the Chairman of the Dispute Resolution Council for the Kansas Supreme Court. He was supportive of efforts to expand the use of mediation.

Jeanne Erickson, a nonjudge mediator, addressed the Committee regarding the merits of mediation as well as some of the problems inherent in the mediation process.

George Wolf, Chief of Appeals and Alternative Dispute Resolution, Kansas Department of Human Resources, focused on how mediation can be used effectively in government. The conferee shared information regarding the varied measures that can be used in problem solving activities within communities. He stated that his staff could be effective in educating other state agency personnel how to resolve conflict.

CONCLUSIONS AND RECOMMENDATIONS

The Committee supports the concept of mandatory mediation that can be ordered by the court under the Dispute Resolution Act. Further, the Committee concluded that a provision should be enacted to deal with the avoidance of mediation, when ordered, and the consequences of bad faith in complying with an order of mediation which could result in the award of reasonable attorney fees to the other party.

In the area of labor disputes, the Committee recommends an amendment to allow the Secretary of Human Resources to pay for the costs of mediation.

The Committee further directs that statutory language be drafted to direct the Kansas Supreme Court to adopt rules regarding standards for mediation.

**PLUMBING, MECHANICAL, HEATING, REFRIGERATION,
AIR-CONDITIONING, AND VENTILATION
CERTIFICATION LAW AND PROTECTION ACT**

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends the Plumbing, Mechanical, Heating, Refrigeration, Air Conditioning, and Ventilation Certification Law and Protection Act not be enacted.

The Committee further recommends that community colleges and area vocational technical schools, in conjunction with plumbing and mechanical trades' associations and professions, develop a statewide training program for these trades and professions.

Proposed Legislation: None.

BACKGROUND

2000 SB 666

The Special Committee on Federal and State Affairs was charged by the Legislative Coordinating Committee (LCC) to review the policy contained in SB 666, which would have enacted the Plumbing, Mechanical, Heating, Refrigeration, Air Conditioning, and Ventilation Certification Law and Protection Act.

SB 666 was introduced by the Senate Committee on Federal and State Affairs during the 2000 Legislative Session. The Committee took no action on the bill after its hearing. The bill's subject was suggested as an interim topic by Senator Oleen.

The bill would require the Board of Technical Professions to certify plumbers, mechanical, heating, ventilation, and air conditioning (HVAC) contractors, and refrigeration contractors. The Board of

Technical Professions would establish requirements for master and journeyman certifications, including a certification fee, examination, and continuing education programs.

The bill would establish an advisory board to advise the State Board of Technical Professions regarding the plumbing and mechanical system contracting trades. The advisory board would consist of 13 members appointed by the Governor for three year terms. The Board would be composed of: four certified masters and journeyman plumbers; four mechanical system contractors with at least five years of experience; one vocational educator; two plumbing and mechanical system code inspectors; one mechanical engineer; and one ex officio member.

Violations of the act could result in a \$500 fine for each act of violation and for each day of such violation.

The Board of Technical Professions estimated an annual revenue generated from fees of \$5,000,000 and a total operating budget of \$416,907.

COMMITTEE ACTIVITIES

The Special Committee heard from representatives of Kansas Department of Health and Environment, the Kansas State Board of Technical Professions, the League of Kansas Municipalities, the American Institute of Architects in Kansas, the Kansas Society of Professional Engineers, and the Kansas Consulting Engineers, all of whom spoke in opposition to the state regulation of these trades and professions. They cited the loss of local government's authority to license and regulate these trades and professions, the lack of resources of the Board of Technical Professions to handle the increased workload for certification, the financial cost required to regulate these professions, and the additional bureaucracy that would be created, as the main reasons for opposing the enactment of the provisions of 2000 SB 666.

Representatives from the Kansas/Missouri Chapter of the International Association of Plumbing and Mechanical Officials, the City of Wellington, and the Kansas Plumbing, Heating, Cooling Contractors Association spoke in favor of statewide regulation of the plumbing and mechanical trades. They cited the dis-

crepancies in the qualifications of plumbers and mechanical contractors due to the lack of required minimum apprenticeship training, especially in small towns and counties where licenses are not required, and the lack of uniformity in standards to insure safe and accurate work as reasons to support the enactment of the provisions of 2000 SB 666. They also supported the creation of a stand-alone plumbing/mechanical board or a General Board of Building Trades to administer a uniform state certification for these trades and professions.

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends the Plumbing, Mechanical, Heating, Refrigeration, Air Conditioning, and Ventilation Certification law and Protection Act not be enacted.

The Committee further recommends that community colleges and area vocational technical schools with plumbing and mechanical trades' associations and professions develop a statewide training program for these trades and professions.

UNDERAGE DRINKING—INCLUDING KEG REGISTRATION

CONCLUSIONS AND RECOMMENDATIONS

The Committee concludes that underage drinking is a problem which is prevalent throughout the state. The Committee recommends that education efforts, prevention efforts, and law enforcement efforts should be enhanced and coordinated. The Committee took no action on the issue of beer keg registration.

Proposed Legislation: None.

BACKGROUND

The Legislative Coordinating Council (LCC) charged the Special Committee on Federal and State Affairs to conduct an interim study on the topic of “underage drinking, including keg registration.” The original request for this study came from Representative Tony Powell on behalf of the House Committee on Federal and State Affairs. That Committee had held hearings on the topic of beer keg registration during the 2000 Session. In his request letter, Chairman Powell noted that:

This study should take a broad view of the topic, including an assessment of the enforcement efforts of the Division of Alcoholic Beverage Control, a review of the educational and drug resistance programs operated by state agencies and private entities, and hearings to receive input from officials of the Kansas Department of Revenue and liquor licensees who are regulated by the ABC. One component of this study should be to examine the policy of beer keg registration.

Representative Lloyd Stone also submitted a request that a task force or interim study committee be appointed to

study the issue of underage drinking.

The Legal Drinking Age in Kansas

In 1880, the voters approved an amendment to the *Kansas Constitution* prohibiting the manufacture and sale of intoxicating liquors in Kansas (Article 15, Sec. 10). That provision remained unchanged in the *Constitution* for 68 years.

In 1937, the Kansas Legislature enacted a new law that categorized beer with an alcoholic content of 3.2 percent or less by weight as cereal malt beverage (CMB). This law authorized the sale of CMB for both on- and off-premise consumption throughout the state. This law set the minimum legal age for the purchase and consumption of CMB at 18 years.

In 1948, the voters approved a constitutional amendment that authorized the Legislature to “. . . regulate, license and tax the manufacture and sale of intoxicating liquor . . . (and) regulate the possession and transportation of intoxicating liquor.” (Article 15, Sec. 10) The amendment also “forever prohibited” the open saloon. The amendment meant that package liquor sales could be authorized and regulated, but that the sale of liquor by the drink in public places was prohibited.

In response to the 1948 amendment, the 1949 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 Office of State Director of Alcoholic Beverage Control—which latter became the Division of Alcoholic Beverage Control (ABC)—was created to enforce the act. The act prohibited the sale to or consumption of liquor by any minor, which was defined in other statutes as a person under the age of 21 years.

In response to a federal mandate which required states to adopt a uniform minimum drinking age of 21 or face the possible loss of federal highway funding, the 1985 Legislature raised the minimum age for consumption of cereal malt beverage to 21 for persons born after July 1, 1966. The increased minimum drinking age was actually phased-in over a three-year period. Persons born before July 1, 1966, were able to consume CMB at age 19. Another bill enacted in 1985 created new penalties for the underage purchase or consumption of alcoholic liquor or CMB.

The Minimum Age for Employment

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. The following summarizes the age requirements for several types of employment.

A liquor retailer (liquor store) must be 21 years of age to be eligible for licensure.

A person must be 18 to work in an establishment selling CMB for off-premise

consumption. For on-premise sales of CMB, an employee must be 18 in a restaurant, but 21 to work in a bar.

In clubs and drinking establishments, an employee must be 18 for the serving of liquor, and 21 for the mixing and dispensing of liquor. Both must be under the supervision of a person over the age of 21. The same provisions apply to employment in a microbrewery or farm winery.

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

Beer Keg Registration Bills

In recent years, the Kansas Legislature has considered several bills which would have established a requirement for the registration of beer kegs by the retailer. Two such bills were considered by the 2000 Legislature: SB 394 by Senator Stephens and HB 2604 by Representative Stone. The two bills are briefly summarized below.

SB 394. The bill would have established a new requirement on beer and cereal malt beverage retailers that the retailer affix an identification number to all kegs having a capacity of four or more gallons. The bill would have required the retailer to maintain certain records to establish the identity of the purchaser. The bill would have provided for the suspension, by the Director of ABC or by the licensing city or county, of a retailer's license for five business days upon violation of the new requirement. The bill would have created a penalty of a class B nonperson misdemeanor to possess an unregistered beer keg or to remove or deface the required keg identification number. The bill would have allowed for inspections by law enforcement personnel at any reasonable times. The Depart-

ment of Revenue indicates that the bill would have had no fiscal impact.

HB 2604. The bill is identical to SB 394 with one additional provision. HB 2604 contained a provision not found in SB 394 which provided that it shall be a defense to any criminal prosecution or civil action if the defendant sold beer or CMB in compliance with the requirements of the bill. The Department of Revenue indicates that the bill would have had no fiscal impact.

Local Action by Cities and Counties

It appears that at least five counties have enacted county resolutions mandating keg registration. These counties are Lyon, Coffey, Marion, Morris, and Chase. Several cities, including Emporia, have also adopted local ordinances which mandate keg registration. In addition, the League of Kansas Municipalities has developed a sample ordinance to be used by cities in adopting keg registration requirements.

COMMITTEE ACTIVITIES

The Special Committee received testimony from representatives of the following groups and organizations:

- Law enforcement organizations;
- Providers of alcohol education programs and alcohol safety action programs;
- The Department of Social and Rehabilitation Services;
- Academics who have conducted studies on the issue especially the study commissioned by the Kansas Department of Transportation;

- The liquor industry, including retailers and wholesalers; and
- The Kansas Department of Revenue's Division of ABC;

The Committee also received several briefings by Committee staff on the legal issues associated with the topic of underage drinking.

The Director of ABC stated that there are three areas of agency focus: industry regulation, revenue collection, and underage enforcement. He noted that the ABC enforcement activities with regard to underage drinking include controlled buy investigations, Cops in Shops, bar checks, licensee contacts, routine inspections, complaint investigations, and training for both the industry and law enforcement. He stated that underage drinking is prevalent and a problem in the state. He also discussed a proposed "Underage Drinking Reduction Initiative" which will be included in the ABC FY 2002 budget request.

Various representatives of the liquor industry reviewed their efforts to combat underage drinking, which include education programs and cooperation with the ABC. Many industry representatives noted the increasing problem of fake ID cards, many versions of which are available on the Internet. A representative of the brewing industry stated that, while teen drinking rates have declined in recent years, underage drinking generally and illegal drinking on college campuses need sustained attention. Retailer representatives discussed the training program called "Techniques of Alcohol Management" or "TAM" to help licensees and their employees to understand what the alcohol laws are, how to obey them, how to handle the sale of alcohol legally, and

how to minimize the problems faced in refusing an alcohol sale. Representatives of the Kansas Association of Beverage Retailers expressed opposition to legislation on beer keg registration.

A Wichita State University (WSU) professor reviewed a recent study done by WSU for the Kansas Department of Transportation on the issue of underage drinking in Kansas. The professor reviewed a number of the findings contained in the report *Safe, Sound, and Legal: The Kansas Enforcing the Underage Drinking Project: Needs Assessment and Leadership Conference Report*. One of the findings contained in the report states that Kansas has enacted most of the laws recommended by underage drinking enforcement and prevention experts, with the exception of legislation on keg registration. Another finding stated that the establishment of the Governor's Substance Abuse Prevention Council holds promise for the development of coordinated prevention efforts.

A representative of the Juvenile Justice Authority (JJA) stated that JJA approaches the issue of underage drinking in five ways: case management and juvenile intensive supervised probation; juvenile intake and assessment services; prevention block grant programs; federal grants; and placement into custody or juvenile community corrections.

A representative of the Department of Social and Rehabilitation Services (SRS) discussed SRS' concept of prevention and SRS' efforts toward prevention activities in Kansas communities. The Kansas Association of Addiction Professionals

expressed support for beer keg legislation, as did Emporians for Drug Awareness and the Emporia Police Department.

CONCLUSIONS AND RECOMMENDATIONS

The Special Committee concludes that underage drinking is a problem which is prevalent throughout the state. The Committee believes that education efforts, prevention efforts, and law enforcement efforts by the Division of ABC need to be enhanced and coordinated. The Committee is supportive of the appointment of the Governor's Substance Abuse Prevention Council and is optimistic that this Council will enhance the coordination of the various agencies and groups involved in the prevention and education areas.

Regarding enhanced enforcement efforts by the Division of ABC, the Committee is recommending (under its study *Alcoholic Beverage Control*) that several liquor license fees be increased and that the additional revenue be dedicated to liquor law enforcement efforts, including underage drinking enforcement. The fee increase proposal approved by the Committee will generate an additional \$660,000 earmarked for liquor law enforcement efforts. (For a detailed discussion of this proposal, see the Special Committee's report *Alcoholic Beverage Control*).

The Committee took no action on the issue of beer keg registration.