

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE.

The meeting was called to order by Chairperson David Corbin at 10:40 a.m. on January 28, 2002, in Room 519-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee: Dan Hermes, Kansas Alcohol & Drug Service Providers Assn.  
Tuck Duncan, Kansas Wine & Spirits Wholesalers Assn.  
Philip Bradley, Kansas Licensed Beverage Assn  
Neal Whitaker, Kansas Beer Wholesalers Assn.  
Terry Presta, Petroleum Marketers & Convenience Store Assn.  
Mike Thornbrugh, Quik Trip  
Scott Van Gorden, Danny's Bar & Grill  
Ron Hein, R.J. Reynolds Tobacco Co. & Kansas Restayrabt  
& Hospitality Assn.  
Russell Loub, Little Apple Brewing Company  
Scott Redler, Timberline  
John Davis, Kansas Assn. of Beverage Retailers  
Frances Kastner, Kansas Food Dealers Assn.  
Mark Desetti, Kansas National Education Assn.

Others attending: See attached list.

The minutes of the January 23 and 24, 2002, meetings were approved.

**SB 425—Relating to government financing; providing tax revenue enhancements.**

For the Committee's information, Senator Lee distributed a handout entitled, "State of Health in Kansas," which was prepared by the Kansas Department of Health and Environment for a national health care conference in Florida which she attended. She called attention to information regarding the leading causes of death in Kansas and the rate of unhealthy behavior patterns in Kansas. Tobacco and alcohol were at the top of the list of causes of death in Kansas. (Attachment 1)

Dan Hermes, Kansas Alcohol and Drug Service Providers Association, testified in support of **SB 425**. He noted that state liquor taxes have not been increased in years, and because taxes are levied on quantity and not price, receipts have not kept pace with inflation. In addition, he noted that many studies indicate that an increase in the tax rate reduces consumption, especially for those underage. Mr. Hermes also suggested that the bill be amended to retain a portion of the current distribution formula. (Attachment 2)

Tuck Duncan, Kansas Wine & Spirits Wholesalers Association, testified in opposition to **SB 425**. (Attachment 3) At the outset, he called attention to a copy of his 2001 testimony in strong opposition to increasing taxes on alcoholic beverages attached to his written testimony on **SB 425**. He noted that his 2001 testimony points out that excise taxes are regressive and discriminatory, that the alcohol industry already contributes significantly to federal, state, and local taxes, and that proposed tax increases may not generate the anticipated revenues. In response to Mr. Hermes' comment that liquor taxes are not staying up with inflation, he distributed copies of a chart entitled, "Have Liquor Taxes Kept Up?" (Attachment 4) He noted that the statistics in the chart show that liquor taxes have exceeded the inflationary curve. Mr. Duncan went

## CONTINUATION SHEET

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE at 10:40 a.m. on January 28, 2002, in Room 519-S of the Capitol.

on to address the budgetary and taxation policies for 2002. He questioned the necessity of enacting revenue increases before the Legislature has established its Fiscal Year 2003 priorities. He noted that, with the exception of inventory taxes, the tax increases proposed in **SB 425** do not bring revenues into the state treasury until the next fiscal year. He pointed out that, if the bill is passed, retail liquor dealers will have to pay approximately \$500,000 in inventory taxes in June and also will incur significant costs in conducting the inventory. With regard to the contention that new revenues are necessary to fund education, Mr. Duncan said every effort should be made to ascertain whether additional revenues are really required rather than continuing to pour money into the educational pipeline. In his opinion, if it is determined that more funding for education is needed, all Kansans should be asked to contribute, not just one segment. He urged the Committee not to shackle consumers and businesses with more taxes at a time when the economy is already suffering. In his opinion, the Legislature should establish budget priorities and make appropriate reductions and organizational changes before considering tax increases.

Philip Bradley, Kansas Licensed Beverage Association, testified in opposition to **SB 425**, contending that the proposed increase in taxes is a defacto increase in sales tax. He pointed out that the proposed tax increase creates compounded taxation for the liquor industry. He said that the proposed increase in taxes is asking for more from a hard hit, economically depressed sector of the business community. In closing, he reiterated Mr. Duncan's sentiment that the proposed increase in taxes is asking for the needs of all Kansans to be carried on the backs of a very few. (Attachment 5)

Neal Whitaker, Kansas Beer Wholesalers Association, testified in opposition to **SB 425**, noting that Kansas' taxing system already taxes alcoholic beverages at three levels. He pointed out that the bill raises the gallonage tax on beer by 28 percent and then increases the two sales taxes collected at liquor stores and drinking establishments by an additional 20 percent. He contended that the proposed increase in taxation will result in a reduction in the number of retail outlets. As to the claim that an increase in cost will reduce consumption, Mr. Whitaker reminded the Committee that the statement is historically inaccurate. He informed the Committee that the hospitality industry has seen a five to fifteen percent decline in sales during the last six months, and some well-known chain restaurants have recently filed for bankruptcy. He emphasized that passage of the bill will cause additional loss of jobs at a time when the Kansas economy is not strong. (Attachment 6)

Terry Presta, Chairman of the Petroleum Marketers and Convenience Store Association of Kansas, testified in opposition to the provision in **SB 425** which would increase the cigarette tax. He pointed out that today's business market is challenging due to competitive pressures from unregulated areas such as the flourishing cigarette trade on the Internet wherein no Kansas tax is collected. In addition, Kansas is surrounded by states with lower taxes on cigarettes. In his opinion, tobacco is being unfairly singled out to bear the brunt of the current revenue shortfall. He noted that persons who smoke are persons who are working, raising a family, and trying to make ends meet just as any other Kansas citizen. Rather than supporting any proposal to raise money from a tax increase, Mr. Presta would support a proposal which would expand the number of games offered by the Kansas Lottery. (Attachment 7)

Mike Thornbrugh testified on behalf of Quick Trip, a privately owned corporation based in Tulsa, Oklahoma. He noted that, last year, Quick Trip's sales amounted to approximately \$3 billion and that there are currently 374 Quick Trip locations, 60 of which are in Kansas. He explained that he has mixed emotions on **SB 425** because Quick Trip has a large presence across the border in Kansas City, Missouri. While passage of the bill will cause a decrease in sales of tobacco and a decline in motor fuel sales at Kansas Quik Trip stores, sales in Missouri stores will increase. He noted that Quick Trip operates in nine states, and all of the states have experienced a revenue shortfall. He commented that a tax increase on cigarettes is the first approach suggested by all states to address revenue shortfalls because only 25 to 30 percent of the population is affected. He informed the Committee that one to two percent of tobacco sales occur through the Internet. He explained that tobacco products are stored for long periods of time in underground caverns and shipped anywhere in the United States, and there is no way to make sure that taxes have been collected and remitted to the state. He noted that he could support the portion of the bill which equalizes the tax on CMB and single strength beer.

CONTINUATION SHEET

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE at 10:40 a.m. on January 28, 2002, in Room 519-S of the Capitol.

Scott VanGorden, general manger of Danny's Bar and Grill in Lenexa, discussed the effect that **SB 425** would have on a typical small business such as his. He said that the new taxes which would be imposed on breweries, distilleries, wineries, wholesalers, and distributorships would most likely be paid by retailers and drinking establishments in the form of higher prices. The increased cost of doing business would be compounded by the proposed increase in enforcement and excise taxes. The combined total impact of all proposed taxes would increase the 2002 tax liability for Danny's Bar and Grill in excess of \$31,000. That increase in the cost of doing business would leave Danny's with two options. One option would be to increase the prices of alcoholic beverages, which would be detrimental to sales. The other option would be to reduce costs in other areas in an attempt to cover the additional taxes. He noted that the most obvious area to reduce costs is in hourly labor, and, in that case, Danny's would lose one to two employees. In conclusion, he echoed other conferees who maintained that the burden of paying for state's economic shortfalls should be shared by all Kansans. (Attachment 8)

Ron Hein testified in opposition to **SB 425** on behalf of the R.J. Reynolds Tobacco Company. He contended that the argument that Kansas smokers have not had a tax increase for cigarettes in years is not accurate. He noted that the cost of cigarettes has significantly increased since the Kansas excise tax was last increased. Due to the increased cost of cigarettes, smokers are paying an increased amount of sales tax. He commented that much of that tax increase goes to the state as a result of the Master Settlement Agreement (MSA) between the state attorneys general and the tobacco industry, and Kansas will receive approximately \$65 million per year in MSA payments. Mr. Hein further noted that the federal tax on smokers has increased substantially over the past 15 years. He said that, all together, Kansas smokers are currently financing the federal and state governments to the tune of \$1.33 per pack. He emphasized that, with the 35 cent tax increase proposed in **SB 425**, the total tax would rise to \$1.68 per pack. He pointed out that Kansas retailers would be confronted with a competitive challenge due to the low cigarette tax in border states (Missouri, Colorado, and Oklahoma). He explained that some of the price margins come close to or exceed the bootleg "flashpoint" of \$3.80 per carton. He commented that tax differences above the "flashpoint" are likely to encourage investments in cigarette smuggling. Mr. Hein noted that his written testimony includes information on the impact on border sales in New York and California after those states increased their cigarette tax. Also included is a chart which illustrates that government revenue is the largest portion of the cost of tobacco. (Attachment 9)

Mr. Hein followed with testimony in opposition to **SB 425** on behalf of the Kansas Restaurant and Hospitality Association. He contended that the proposed gallonage and enforcement increases are excessive for the businesses who will be asked to pay them. He noted that the increases will impact sales because, ultimately, consumers will be asked to bear the burden of the increased cost of doing business. In his opinion, the proposed tax increases are punitive. (Attachment 10)

Russell Loub, owner of the Little Apple Brewing Company in Manhattan, expressed his concern about the the increase in gallonage taxes proposed in **SB 425**. He called attention to a spreadsheet which illustrates that microbreweries and brewpubs in Kansas are already triple taxed on production and sales due to a combination of federal and state taxes. He noted that, currently, \$16.98 is dedicated to taxes on a 15.5 gallon keg of beer priced at \$55. The increases called for in the bill would raise the amount to \$19.63, or 36 percent of his selling price. He believes the bill would only serve to further widen the competitive advantage major breweries have over microbreweries and, ultimately, stifle growth of the industry. In conclusion, he commented that, in his 25 years of experience in the restaurant industry, he has found that increased regulation and taxing reduce demand and subsequently tax revenues. (Attachment 11)

Scott Redler, the co-founder of Timberline Steakhouse, testified in opposition to **SB 425**. He commented that the hospitality industry has been struggling in recent months, and when taxes go up, only a certain amount can be passed on to the consumer. In his experience, he has never seen other states tax liquor three times before it hits the consumer. He noted that increased taxes on alcohol will contribute to a further decline in he hospitality industry which is currently facing other issues such as real estate taxes and increased license costs. He commented that the accumulation of these costs will force many businesses to go out of business or decrease the number of employees.

John Davis gave final testimony in opposition of **SB 425** on behalf of the Kansas Association of Beverage

CONTINUATION SHEET

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE at 10:40 a.m. on January 28, 2002, in Room 519-S of the Capitol.

Retailers and as a owner of a retail liquor store in Wichita. (Attachment 12) He contended that the proposed 20 percent increase in taxes will result in a 20 percent decrease in stores. To illustrate his point, he noted that in 1983 there were approximately 1,200 liquor stores when the state enforcement tax on liquor products went from four percent to eight percent. Currently, there there are only 700 stores. He reasoned that the state will not collect more revenue when the increased taxation contributes to the further reduction in the number of liquor stores.

Senator Corbin called the Committee's attention to written testimony in opposition to **SB 425** submitted by Tom Palace, Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas. (Attachment 13)

Frances Kastner, Kansas Food Dealers Association, commented that businesses statewide are experiencing economic difficulties, and increasing taxes on the products they sell may not be the way to help them. She encouraged the Committee to consider all the ramifications of **SB 425**. (Attachment 14)

Mark Desetti, spoke on behalf of the Kansas Association of School Boards, Schools for Quality Education, the Kansas National Education Association (KNEA), and U.S.D. 500 in Kansas City, noting that none of the groups he represents is an opponent to tax increases as revenue enhancements are necessary to fund the obligations of state government. However, the groups are not proponents of **SB 425** because it is not known how the funds will be used, and the amount of funding is not enough to solve the shortfall. Mr. Desetti suggested that the Committee amend the bill to include a comprehensive package of revenue enhancements to assist the state in funding all of its needed programs. (Attachment 15)

Senator Donovan quoted national statistics on the smoking habits of youth included in a report from the National Center for Tobacco Free Kids dated November 15, 2001. The report indicates that the national youth smoking rate is 28.1 percent, which is higher than the adult rate. The State of Rhode Island has a cigarette tax of \$1.00 per pack, and the percent of youth who smoke is 25 percent higher than the nation as a whole. North Dakota's cigarette tax is 44 cents, and 40.6 percent of the youth in the state smoke. Washington has the highest cigarette tax (\$1.42), and 28 percent of the youth smoke. Senator Donovan noted that the percent of youth who smoke is near the national average in states which have the lowest tax on cigarettes. He said that Kansas is one of the states with a lower than average tax on cigarettes (24 cents), and 26.1 percent of its youth smoke.

The hearing on **SB 425** was closed, and the meeting was adjourned at 11:55 a.m.

The next meeting is scheduled for January 29, 2002.

SENATE ASSESSMENT AND TAXATION COMMITTEE  
GUEST LIST

DATE: January 28, 2002

NAME	REPRESENTING
SCOTT VAN GORDON	Danny's Bar and Grill/KLBA
DAVE DVORAK	FLINT HILLS WINE & SPIRITS /KABR
Amy Campbell	KS Association of Bev. Retailers
John Davis	Ks. Ass. of Bev. Retailers
PHILIP BRADLEY	KLBA
MARCEL BLY	Ks Ass. of Bev. Retailers
Cheryl Bly	Ks Ass of Bev Retailers
Pat Stevenson	Harvest Office Wichita, KS
Don Nemo	KASAA
MARK DEBETTI	KNEA
Lisa Elliott	KNEA
Bob Martinez	KNEA
Tom Whitaker	Ks Motor Carrier Assn.
Deann Williams	KS MOTOR CARRIERS ASSOC.
SANDRA C BUTLER	KNEA
Bob Long	KDOR /ABC
Steven Brunken	KDOR
Richard Crum	KDOR
Dave Olson	KNEA - Lawrence

SENATE ASSESSMENT AND TAXATION COMMITTEE  
GUEST LIST

DATE: Jan. 28, 2007

NAME	REPRESENTING
Kevin Walker	American Heart Assn.
Marychene Hollehurst	Kansas Smokeless Kids Initiative
Stephanie Sharp	Amer. Cancer Society
John Peterson	Arkansas Busch
Thomas J. [unclear]	Ks Beer Wholesalers Assn
Neal Whitaker	Ks Beer Wholesalers Assn
Met + Strathman	Strathman Sols to Inc
KIRK LAMBRIGHT	CLASSIC EAGLE DISTRIBUTING CO
DENNY KOCH	UST PUBLIC AFFAIRS INC.
F. Donaldson	UST Public Affairs Inc.
Dancy Dietz	KNEA - USD497 Lawrence
Barbara Thompson	KNEA - USD497 Lawrence
Ani Hyten	JUDICIAL BRANCH
Jim Carson	KABA
Dodie Wellshear Johnson	Pat Hurley & Co.
Bill Brady	Ks Gov't Consulting
Marlee Carpenter	KCCI
Martha Lee Smith	KMHA
Betty J. Morgan	KNEA - Retired

# SENATE ASSESSMENT AND TAXATION COMMITTEE GUEST LIST

DATE: 1-28-02

NAME	REPRESENTING
Sandy Hampton	KNEA
Tom Bruno	LBBA
Dave Holsham	KRHA
LARRY R BARR	LKM
BILL YANEK	KS Assn. of REALTORS
GEORGE PETERSEN	Ks Taxpayers Network
Jo Musselwhite	KNEA USD 805
Dennis Carpenter	KS Restaurant & Hospitality Assn.
Scott Redler	Timberline Steakhouse & Grill
Russ Loub	LITTLE APPLE BREWING Co.
Ron Hein	RJR & Ks Restaurant & Hospitality Assoc
Frances Kastner	Ks Food Dealers Assn
Jim Sheehan	Kan Food Dealers Assn
Bill Watts	KDOT
Diane Gjerstad	Wichita Public Schools
Andy Shaw	PMCA
Tekey Presta	PMCA / Presta Oil Inc.
Tom Parnce	PMCA
Todd Duncan	KS wine & spirits wholesalers Assn.





# State of Health in Kansas

Volume I, Issue I

January 2002

## 2000 Demographics

- Estimated population: 2,688,418
- Median age: 35.2 years
- Percent of population below poverty (1999) 12.2
- 39,664 live births compared to 38,748 in 1999
- Infant mortality rate: 6.7 deaths per 1,000 live births (the lowest ever recorded in Kansas)
- 24,676 deaths compared to 24,380 in 1999
- Average age at death 74.7 years



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Kansas Department of Health and Environment

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## Public Health in Kansas

The Department of Health and Environment attempts to prevent disease and injury by protecting, promoting, and improving Kansans' health through a variety of public health service delivery and regulatory programs at both the state and local level.

These programs are designed to protect Kansans from communicable diseases, ensure safe adult and child care facilities, inspect food services for proper sanitation, assess environmental health risks, improve access to medical care, and promote healthy lifestyles which may help in diminishing chronic diseases.

Over the long-term, preventive health services

reduce costs and save money. Treating problems is not enough, we must also invest in proven methods of reducing the demand for medical services.

As an example, reducing the number of premature and low birth weight babies has an important fiscal impact. Although most babies born in Kansas are healthy, those that are not cost

the state millions in the Medicaid

*(Continued on page 3)*  
budget each year. The average baby born weigh-

### Public Health Funding Low in Kansas\*

- Kansas ranks **47th** in total public health expenditures per capita.
- Kansas ranks **44th** in public health expenditures per capita that come from SGF.
- Kansas spends 3.3% of its total health care expenditures on public health, ranking **45th**.
- Approximately 67% of the Division of Health's expenditures are from **federal funding**.
- \$58.3 million of the Division of Health's expenditures are in the form of **aid to local governments** or grants to agencies and individuals.

\*1999 data

## Leading Causes of Death in Kansas

Since 1900, the life expectancy of Americans has increased from 45 to 75 years. Public health interventions, such as improved nutrition, safe drinking water, and sanitation, have been the most important factors in this improvement in our health status. Other types of

health care are important but none have contributed as significantly as public health to the health gains we benefit from today.

During 2000, 24,676 resident deaths occurred. The number of Kansas resident deaths represented a

1.2 percent increase from the 1999 total of 24,380.

The average age at death of Kansas residents in 2000 was 74.7 years. This figure is 2 percent higher than the average age at death of 73.2 years in 1990. The average age at

*(Continued on page 2)*

Senate Assessment + Taxation  
1-28-02  
Attachment 1

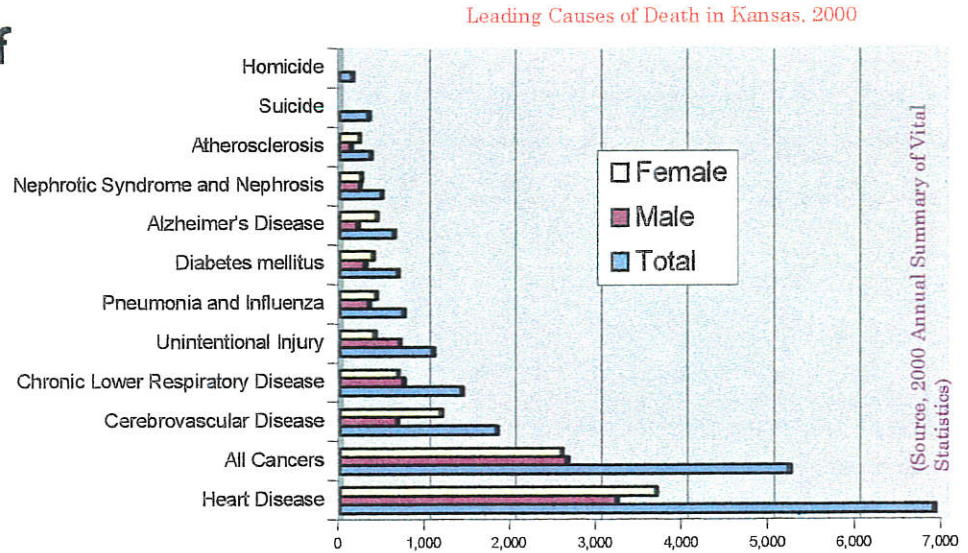
# Leading Causes of Death

(Continued from page 1)

death for males in 2000 was 70.8 years and for females 78.3. The average age at death for blacks was 64.7 years, compared to 75.4 for whites.

In 1900, the leading causes of death in the United States were pneumonia, tuberculosis, and infectious diarrhea and enteritis, which together caused one third of all deaths. In 2000 the leading causes of death in Kansas were heart disease and cancers, which together accounted for 49% of all deaths.

Effective public health measures, in combination with effective antibiotics, produced a steady decrease in many types of infectious diseases during the 20th century. These infectious diseases are kept in check



(Source, 2000 Annual Summary of Vital Statistics)

by a mostly invisible mesh of public health and medical control measures. Public health constantly monitors the occurrence of critical infections to be sure that those control measures are working.

The leading causes of death at the

start of the 21st century are caused by a complex mix of behavior and biology. Public health efforts to reduce unhealthy behaviors have already had significant impact on the toll of illness and death from these diseases.

# Health Behaviors and Risk Factors

While Kansans are fairly healthy, compared to residents of other states, many of us still engage in a number of unhealthy behaviors. State and national surveys indicate that Kansans report high rates of the following unhealthy behavior patterns:

- 82% are physically inactive (less than 30 minutes a day, five days a week)
- 59% are overweight or obese
- 45% fail to use a seat belt
- 21% are regular cigarette smokers
- 13% regularly use alcohol or tobacco

Unhealthy behaviors are markers for a higher probability of disease. The leading killers of our time are

felt to be caused by combinations of factors; unhealthy behaviors are often part of the lethal combination, but they are also the part that is most readily removed. Where un-

healthy behavior is part of the cause of a disease such as heart disease or cancer, reduction or elimination of the unhealthy behavior has the potential to save thousands of lives

Cause	Estimated Number of Deaths	Percent of Total Deaths
Tobacco	4600	19.0
Diet/Inactivity	3500	14.3
Alcohol	1200	4.8
Certain Infections	1050	4.3
Toxic Agents	700	2.9
Firearms	400	1.7
Sexual Behavior	350	1.4
Motor Vehicles	300	1.2
Drug Use	250	1.0
<b>Total</b>	<b>12,350</b>	<b>50.5%</b>

each year, as well as reducing suffering and the cost of medical care. Some unhealthy behaviors are so important in the development of certain diseases that they can be thought of as the cause in the more usual sense of that word. For example, cigarette smoking is strongly linked to occurrence of emphysema in that way. In Kansas, more than \$500 million in direct and indirect health care costs each year are attributable to smoking.

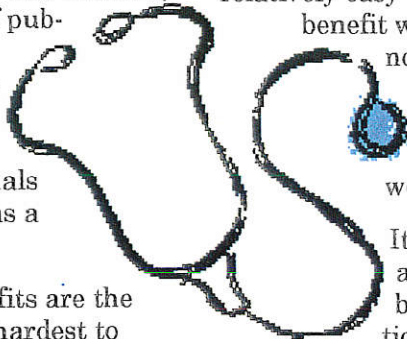
Another important factor in health status is access to care. Access to primary care plays an important role in the prevention of complications or death due to dis-

(Continued on page 3)

# The Role of Local Health Departments In Improving the Health of Kansans

Prevention of disease and disability is the central focus of public health. To accomplish disease prevention, public health agencies deliver services both to individuals and to communities as a whole.

The community benefits are the largest, but also the hardest to measure or even understand. It is



relatively easy to understand the benefit when children do not get measles, whooping cough and diphtheria because they were immunized.

It can be harder to appreciate the benefits of prevention activities directed at the chronic conditions

that are today's leading causes of death. Such conditions include heart attack, stroke, cancer, diabetes, obesity and unintended injuries.

The most effective preventive measures for these conditions are not clinical interventions. According to scientific research, comprehensive blends of individual and

*(Continued on page 4)*

## Public Health in Kansas

*(Continued from page 1)*

ing less than 2 pounds, 4 ounces will stay in the hospital 112 days at a cost of approximately \$285,000. Prenatal care provided through local health departments to low income women emphasizes the reduction of risks such as substance abuse, late or no prenatal care, environmental and psychosocial stresses, and nutritional needs. Services often include family planning, child health assessments and immunizations, supplemental food and nutrition programs, substance abuse counseling, and parenting education.

Another example of the impact that public health initiatives have on reducing medical costs is in senior health care. Kansas tops the US Census Bureau's list of twenty-five counties in the United States with the oldest populations having 8 of the 25 oldest counties. This shift in demographics will have a direct impact on future Medicaid and Medicare costs.

Kansas is well below the national goal of 90% of all adults over age 65 immunized against influenza and pneumonia. Kansas immunizes 68% for influenza and 59% for pneumo-

nia. Each year almost 800 Kansans will die from pneumonia and influenza alone. A direct medical care cost savings of \$73 per person could be realized by simply providing an influenza vaccination to senior citizens.

Faced with funding these health care costs, it is essential that our Kansas communities have adequate preventive health services such as communicable disease control to minimize these future cost increases.

## Health Behaviors and Risk Factors

*(Continued from page 2)*

ease. Approximately 11% of Kansans go without health insurance. Lack of insurance is most prevalent among young adults, low-income families, the unemployed and self-employed, and non-whites and Hispanics. Adults who lack health insurance are more likely to forego primary care due

to costs.

Socio-economic factors and demographics also play a part in health status. For example, increased economic well-being is associated with increased positive health behaviors such as use of seat-belts, better nutrition, and lower use of cigarettes and alcohol. Each factor, age, gender, income, educa-

tion attainment, and population density, can be implicated as its own risk factor in a number of behaviors. Thus, investments in changing one factor may be leveraged into a positive pay-off in a number of other behaviors associated with that factor.

# The Role of Local Health Departments In Improving The Health of Kansans

*(Continued from page 3)*

population services are the most effective ways to reduce these problems. Effective prevention of these conditions in communities and states depends on prevention activities spread across one's entire life span. Local health departments are irreplaceable elements of an effective community response to these needs.

The 99 local health departments in Kansas provide prevention services in all 105 counties across the state. The services they provide encompass everything from immunizations to health education to restaurant inspections to enforcement of sanitation codes.

Local health departments are the direct interface between the citizens and the public health system. They provide a tremendous resource to the community and do a tremendous job providing services in their communities.

However, many local health departments are not prepared to handle the global health threats of the 21st century. The lack of preparedness is largely due to gaps in workforce capacity, the lack of specialized training, and the organizational capacities of local and state health departments and laboratories.

The shortage of resources has a direct impact on the health of our population. Kansas continues to fall behind in preventive health services due to stagnant and, in some cases, decreasing funding. The state formula funding is only \$0.3 M more than it was in 1984. We can no longer afford to be 45th in the nation.

## Anthrax Response Since October 1, 2002

- A total of **1150** phone calls to KDHE about anthrax and/or bio-terrorism.
- Of those calls over **813** were received on the toll-free disease reporting hotline.
- **202** nasal swabs collected from members of a Topeka group that were visiting in the Hart Senate Office Building when the letter was received by Sen. Daschle.
- **96** monitoring samples collected at the Docking building from the Department of Revenue mail machines.
- Over **60** environmental samples consisting of pieces of mail, suspicious powders and other miscellaneous specimens including cash from KTA toll booths, mail carts, posters, cassette tapes and file cabinets.
- Almost **400** samples tested in Kansas; **all** samples tested negative for anthrax.



# New Threats in the 21st Century

Recently, all of our lives were touched by the threat of bio-terrorism. The deliberate contamination of letters with anthrax on the East Coast produced a heightened awareness across the nation of the danger of bio-terrorism.

No cases of anthrax have occurred in Kansas as a result of the recent outbreaks. In fact, the last reported case of anthrax in Kansas occurred in 1972.

After the first diagnosis of anthrax in Florida, KDHE began receiving inquiries from local health depart-

ments, law enforcement agencies, physicians, businesses, and members of the public. KDHE staff maintained constant communication with federal health officials and assured that critical information was transmitted to Kansas health care providers and health departments.

KDHE began preparing for bio-terrorism in 1999. The Kansas Health Alert Network, combined with, enhanced capacity at the State Health and Environment Laboratory, and trained epidemiology staff were some of the re-

sults of that preparation that allowed KDHE to deal adequately with the information and laboratory needs that emerged from the anthrax problems. KDHE staff are continuing to improve public health preparedness for bio-terrorism in Kansas.


This preparation is a partnership involving state and local health departments, law enforcement, emergency management agencies, and health providers across the state.

# KADSPA

## *Kansas Alcohol and Drug Service Providers Association, Inc.*

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TO: Chairman David Corbin and Members of the Senate Committee on Assessment and Taxation

FROM: Dan Hermes 

DATE: January 28, 2002

SUBJECT: Excise Taxes on Alcoholic Beverages (SB 425)

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Mr. Chairman and Members of the Committee, my name is Dan Hermes and I represent the Kansas Alcohol and Drug Service Providers Association (KADSPA). The Association is comprised of about 30 organizations across the state that provide education, prevention and treatment services related to alcohol and drug use and dependence.

The Association has adopted, as its top priority for the 2002 legislative session, support for increases in the state excise taxes on alcoholic beverages. State liquor taxes have not been increased in years, and as the taxes are levied on quantity and not price, receipts have not kept pace with inflation. An increase in tax rate has been proven in many studies to reduce consumption, especially for those underage. In addition to providing funds during a tight budget year for the state, the increase can allow for the financing for services that are currently provided but not reimbursed.

I would request that the committee consider an amendment that would retain a portion of the current distribution formula in place. Provisions of SB 425 modify the distribution to:

	<u>Current</u>	<u>SB 425</u>
State general fund	25 percent	37.5 percent
Community alcoholism and intoxication fund	5 percent	4.2 percent
Local alcoholic liquor fund	70 percent	58.3 percent

Retaining the five percent allocation for the community alcoholism and intoxication fund and slightly reducing the increased portion for the state general fund, would provide about \$300,000 for use by SRS to fund treatment programs.

I thank the committee for its time and attention and would stand for any questions. I have provided a draft of the amendment for staff.

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700 S.W. Harrison, Suite 1420, Topeka, Kansas 66603 \* Telephone 785-234-4160 \* Fax 785-234-3189

Milt Fowler, President \* Natalie Meugniot, Managing Officer \* Dan Hermes, Governmental Relations Officer  
Senate Assessment & Taxation  
1-28-02 Attachment 2

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

To: Senate Committee on Assessment and Taxation  
From: R.E. "Tuck" Duncan  
RE: SB 425  
DATE: January 28, 2002

*Our past is the prelude to the present. History: our teacher regarding tomorrow.* The matters before you today must be viewed in the context of past lessons and how you respond will dictate the manner in which you undertake public policy in the future.

I have provided you with a copy of my testimony from last year on the subject of the impact increased beverage alcohol taxes. I am not going to repeat it. You may recall I reminded you that by any other name an excise taxes is still a tax, that excise taxes are regressive and discriminatory, that beverage alcohol already contributes significant federal, state and local taxes (remember my bottle of "Old Duncan"), that based on the federal experience the proposed increases may not generate the anticipated revenues, and that cross border purchasing will be exacerbated.

What I want to address this year is the process of the making of public policy, and specifically as it relates to budgetary and taxation policy. I am suited to address these issues having served as a public official and as having been an observer in this building for a number of year. I can empathize with the difficulty of attempting to satisfy numerous interest groups, with wrestling with your own conscience as to what is right and with the job of having to meet the needs of those who sent you here.

However, I do question the necessity of enacting revenue increases before the Legislature has established its FY2003 priorities. At this point of the session we know not whether you will need the additional taxes nor do we know how much. With the exception of the inventory taxes included in SB 425, the tax increases proposed in this bill do not bring revenues into the state treasury until the next fiscal year.

And let me digress for just a moment, the inventory tax would result in my segment of the industry in having to write a check to the

*Senate Assessment & Taxation  
1-28-02  
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State on June 25<sup>th</sup> in an approximate amount just shy of \$500,000. Additionally we would incur significant costs in programming and labor to do the inventory. I have no way at this time of ascertaining the cost to Kansas retail liquor dealers. Nonetheless, we most likely would have to finance this one time tax payment (in essence re-capitalize our businesses) in order to pay these taxes.

With respect to the current fiscal year the Legislature has several choices. If you do nothing, the ending balances will be spent down to approximately 4%. For each per cent it requires about \$45 million to restore. So, what level of ending balance you decide is acceptable will dramatically impact how much revenue you need. If you enact the recession bill proposed Friday by the Senate Committee on Ways & Means and adjust the ending balance requirement to 5%, you will not need any new revenue to restore those balances.

The Topeka Housing Authority of which I am Chairman was confronted with a similar fiscal crisis 2 ½ years ago. THA was nearly ½ million in debt. As of the close of business last year we restored our reserves to just shy of \$1 million. We did this by significantly reducing staff, reorganizing our management structure, privatizing certain functions and implementing many private sector business practices. Oh, and we now are providing better housing services to more families than we were when I became Chairman. It is a painful process, but it was the right thing to do. So when I suggest that you should look at areas by which to reduce spending and apply efficient practices before you raise more revenues -- I speak from experience. It can be done.

Some are suggesting that these new revenues are necessary to fund education. This Legislature has before it a post audit report regarding K-12 education expenditures. I told a House committee last year, and I repeat to you this year, that the solution is not to continue to pour money into the educational pipeline until you have addressed structural issues such as consolidation, reduction of administration, cooperative agreements and shifting resources to the frontlines in the classroom. As a former school board member I know that that can be done as well. Do not ask my industry to extract more taxes from its consumers until you have made every effort to

ascertain whether those additional revenues are really required. And inasmuch as education is the responsibility of all Kansans, then all Kansans should be asked to contribute ... not just one segment.

In the 1986 work KANSAS POLICY CHOICES, edited by H. Edward Flentje, it was stated that:

***“Excise taxes on alcohol, tobacco, and motor fuel constitute relatively minor sources of revenue for most states and have major disadvantages. They have little growth potential, fall heavily upon low-income persons, and are susceptible to tax evasions. . . State and local governments should use restraint in setting excise tax rates. Tax rates that are substantially higher than in neighboring states will encourage tax evasion.”***

That work also challenged the Legislature as follows:

“Other issues in state and local finance, often related to the major themes discussed above, will face Kansas in the years ahead. Among these are the following:

1. What percentage of total revenue should come from each of the major taxes – property, income, and sales?
2. By what criteria should tax exemptions be judged? How should low-income people be protected against unreasonable tax burdens?
3. How should financial responsibility be divided among state and local governments? Should changes be made in the organization and structure of local governments? In the way the state deals with local governments?
4. What should be the role of the “minor” taxes? Should specific unit rates be changed to ad valorem rates? To what extent should the state promote the lottery, if approved, as a revenue source?
5. Should user fees be expanded as a means of raising revenue or discouraging consumption of government services?
6. Should administrative procedures be improved to insure that the revenue due is collected and that taxpayers have confidence that others are paying their share?



Obviously, these questions are not exhaustive. Answering them would provide a good start toward defining the kind of revenue structure that would maintain a reasonable level of services, prevent undue discouragement of economic growth, and not impose unreasonable burdens on any taxpayer.”

I respectfully that in the 15 years hence the Legislature has not examined in detail these questions of budgetary and tax policy. I suggest that enacting annual budgets rather than two-year budgets creates the potential for an ongoing fiscal crisis, such as the one you now are confronted with, susceptible to economic swings. In short you have much work to do before you decide to raise taxes, whether it be on my industry, on another industry or a general tax increase.

Adam Smith, the 18<sup>th</sup> century philosopher and founder of modern economics told us that all economic growth blossoms in a political environment that protects private property, free exchange, and the justly deserved fruits of labor. Countries reap poverty and despair, Smith said, when they discourage business and punish productive activities. At a time when the economy is already suffering, do not shackle consumers and business with more taxes. It is punishment.

And do not be fooled that because SB 425 raises excise taxes that you are not raising sales taxes. The Drink tax, proposed for increase from 10% to 12% and the Enforcement Tax (a tax on the retail sale of liquor), proposed for increase from 8% to 10% is nothing more than a sales tax by another name. *Those who say they do not favor increasing sales taxes, but vote for these increases, will be doing that which they abhor.*

Finally, SB 425 represents what I term the **M&M** method of budgetary policy. I have a granddaughter, and if I put a bowl of M&Ms out, she will eat all the “nummies” in the bowl. If I refill the bowl, she will eat as many more as I place in it. As a good grandfather I have to know when not to refill the bowl, and sometimes I have to know when to remove some of the **M&Ms** from the bowl. Otherwise my granddaughter might get ill from over-consumption.

I challenge you to address the public policy issues first, to establish budget priorities first, to make appropriate reductions and organizational changes first, and not to keep filling the bowl with **M&Ms**, otherwise Kansas might become afflicted.

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

February 27, 2001

To: Senate Committee on Assessment and Taxation

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

RE: Taxes on Beverage Alcohol

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

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

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

Current Excise Taxes are Important to State and Local Governments

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

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

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

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

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

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

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

TABLE OR-5

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

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

\*Money Income - 1978

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

3-8

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

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

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

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



TAX ON AN AVERAGE \$10.49 LITER

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

10% DRINK TAX

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

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

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

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



# EXCISE TAX COLLECTIONS

## DISTILLED SPIRITS

3-12

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

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

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

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

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

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

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

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

## EXCISE TAX COLLECTIONS

### WINE

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

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

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

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

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

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

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

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

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

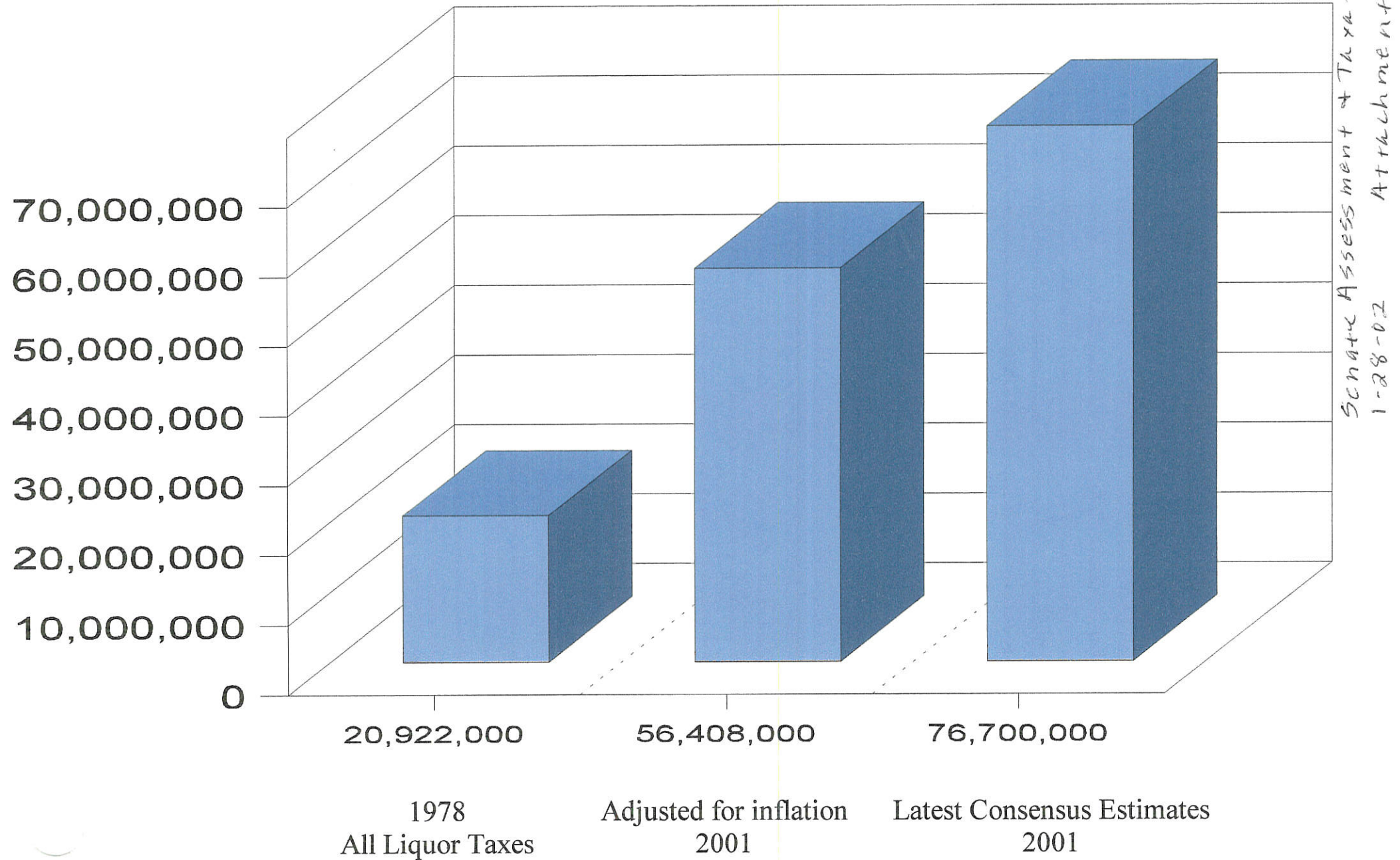
**The beverage alcohol industry in Kansas with the combination of federal and state excise taxes now levied plus the 10 per cent drink tax in addition to all other business taxes paid, cannot bear these proposed increases.**

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

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

3-14

# Have Liquor Taxes Kept Up?





**Kansas  
Licensed  
Beverage  
Association**

*President*  
Tom Intfen

*Secretary/Treasurer*  
Tammy Davis

*District Vice Presidents*  
Kelly Driscoll  
Monte Shanks  
Rob Farha  
Glenda Dewey  
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Testimony on SB-425  
Senate Assessment and Taxation Committee  
January 28, 2002

Mr. Chairman, Members of the Committee,

I am Philip Bradley representing the Kansas Licensed Beverage Assn., a group of men and women, in the hospitality industry, who own and manage bars, clubs, restaurants and hotels where alcoholic beverages are served.

I recognize your time limitations and will be brief.

We oppose SB-425 and ask for your no vote on this measure.

This proposed increase in taxes is a de facto **increase in sales tax.**  
***A sales tax by any other name still smells the same!***

This proposed increase in taxes is asking for **more from a hard hit, economically depressed sector of the business community.**  
***Post 9-11 and recessionary economy hits this business first.***

This proposed increase in taxes is in this industry a **compounded tax.**  
***No exemption at any level!***

This proposed increase in taxes is asking for the  
***Needs of all Kansans to be carried on the backs of a very few.***

This proposed increase in taxes is inappropriate and ill advised.

Thank you for your time.

Philip B. Bradley  
Director of Public Affairs  
Kansas Licensed Beverage Assn.  
785.766.7492  
phil@KLBA.org

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This proposed increase in taxes is a defacto **increase in sales tax.**  
*A sales tax by any other name still smells the same!*

This proposed increase in taxes is in this industry a **compounded tax.**  
*No exemption at any level!*

We are the businesses who are the last link to the public in the chain of the three tier system of beverage sales in Kansas. As such we pay the taxes at all levels and those taxes are reflected in the price our customers pay. The Enforcement tax (8%) and the Drink tax (10%) are those we pay instead of the state sales tax (4.9%). So these are our sales tax. In addition to being almost double and 2 1/2 times as high respectively these taxes are compounded. By that I mean we cannot be exempt until the final sale. Unlike other businesses we cannot purchase the "raw" materials to conduct our trade without sales tax and only collect sales tax on the end user.

This proposed increase in taxes is asking for **more from a hard hit economically depressed sector of the business community.**  
*Post 9-11 and reessionary economy hits this business first.*

"All over the country, wine-related businesses have experienced a "significant" downturn in restaurant, hotel and other sales over the past several weeks, according to a survey by *Wine Market Report*, an industry newsletter. The majority of the 258 respondents said they don't expect sales volumes to return to preattack levels until at least the spring of 2002.

More than one-third of the businesses polled reported their sales down 20% to 30% in the fourth quarter, compared with the same period a year ago. Another 40% said sales would be flat, or either slightly up or down. Before Sept. 11, many of the same respondents hoped for a 20% sales gain. "

This proposed increase in taxes is asking for the  
*Needs of all Kansans to be carried on the backs of a very few.*

There is a growing consensus for the need of more dollars at the classroom level of K-12 education. And our State has an obligation to the less fortunate and ill. We are told that Kansans understand and accept there responsibility in this. So all attempt to fund these needs should be in the form of a broad based effort and not targeted to a small segment of our business community.



**Testimony on SB 425**  
**By the**  
**Kansas Beer Wholesalers Association**  
**Neal Whitaker**  
January 28, 2002

Chairman Corbin and members of the Senate Assessment and Taxation Committee:

No other state in the country taxes beer and alcoholic beverages the way Kansas does. This taxing system already places *a tax, on a tax, on a tax*. This complex taxing system makes Kansas taxes much higher than the published rates. The legislature has passed taxes on the product at three levels and the Kansas consumer pays a sales tax on all previously levied taxes.

Senate Bill 425, referred to as the Senate Republican Leadership Tax Increase Plan, raises the gallonage tax on Beer by 28% and then increases the two sales taxes collected at liquor stores and clubs and drinking establishments by an additional 20% each.

One would assume from these aggressive tax rate increases that hospitality is a rapidly growing and expanding industry. What other industry in Kansas or anywhere for that matter could absorb a 20% increase in taxes. The answer is none. And the hospitality market will suffer in the same manner as any other consumer product market. This tax increase will create winners and losers. The number of retail outlets will diminish, which the industry does not think is a positive outcome in *any* market and certainly not in the hospitality market. Although some may claim an increase in costs will reduce consumption, we are reminding the committee that such statements are historically inaccurate. Consumers do not consume less. They either purchase a lower cost brand to offset the tax increase, or buy out of state or over the internet, if such purchasing is both convenient and a cost saving. And we all know that Kansas is *losing* a large amount of business to Missouri.

I recently surveyed Kansas Beer Wholesalers on the economic conditions they find their customers. Every day they are in thousands of Kansas restaurants, clubs, drinking establishments, liquor stores, grocery stores. Most responded that their customers businesses were seeing a decline in sales from 5 to 15% over the last six months. I can tell you that 80% of the beer wholesalers are looking at their daily operations with an eye toward making changes to reduce costs.

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As an example of how serious the economic situation has become for the hospitality industry, please note the Bankruptcy filing last week of Houlihan's, a chain of 52 upscale restaurants in 17 states. Or, here in Topeka, the closing of Annie's Santa Fe - a fixture in West Ridge mall. So it isn't just a tax increase. Passage of this legislation will cause additional loss of jobs at a time when the economy in Kansas is not strong. How can spending *more* tax money, on *more* government, be *more* important, than allowing small Kansas businesses to compete with out of state and internet sales. Except for government employment, Kansas' small & locally owned businesses are the employment backbone of this state. Jeopardizing a segment of that backbone does not seem prudent during these difficult economic times.

Recessionary times are not the time to increase the tax burden on the hospitality industry. This dramatic increase in alcohol taxes and costs will hurt the stated goal of some Kansas officials to increase "tourism" which we assume means visitors from "out-of-state".

And finally, we find the idea of a floor tax imposed by SB 425 nothing more than a legalized hold up by the state government. On June 1<sup>st</sup> there will be about 1.8 million cases of beer in our members warehouses requiring a check to the state of Kansas of more than \$200,000 by June 25<sup>th</sup> even though it may take all summer to sell the inventory.

We urge you to reject SB 425 as bad public policy.







MEMO TO: SENATE COMMITTEE ON ASSESSMENT AND TAXATION  
FROM: TERRY PRESTA, LEGISLATIVE CHAIRMAN PMCA  
DATE: JANUARY 28, 2002  
RE: SB 425

I am Terry Presta, President of Presta Oil Inc. Today I am appearing before you as the legislative Chairman of the Petroleum Marketers and Convenience Store Association of Kansas (PMCA). PMCA represents mostly small and medium sized marketers who run thousands of convenience stores and gas stations throughout Kansas.

I appear today in opposition to SB 425 and specifically the cigarette tax that is contained within this bill. Today's business environment is very challenging indeed. We have competitive pressures from all sorts of new and unregulated areas. You should be aware that there is a flourishing cigarette trade on the internet that pays no Kansas tax whatsoever. ~~In addition, the tribes north of Topeka and south in Oklahoma pay no taxes on their cigarettes or gasoline for that matter.~~ *correction*  
In addition, Missouri to our east, has only a 17 cents/pack State tax on cigarettes. We are already surrounded by lower taxed alternatives on cigarettes. To further widen this price disparity with a tax increase will create a rapid shift away from traditional retailers, (ie. our members) and to sources that escape the Kansas tax. *Dopay taxes*

Tobacco, which today is already relatively the most expensive and regulated product we sell, is being unfairly singled out to bare the brunt of the current revenue shortfall. It took 100 years to get the rate from 0 to 24 cents per pack and this year we hear suggestions to double, triple, or even quadruple that rate. Please remember that no matter what you think of smoking as an activity, there is a real person on the receiving end of this tax increase who is most likely working, raising a family, and trying to make ends meet just like the rest of us. Tax increases and the so called "tobacco settlement" have already doubled the price of this product in the last 4 years.

The PMCA membership is vigorously opposed to this increase as a solution. We have on our legislative agenda a proposal to expand the Kansas Lottery's number of games offered. A proposal, which by all accounts, would raise more money than any of the proposed tax increases we have read about so far. This proposal would collect money from the consumer voluntarily by tapping into the vast entertainment dollar. (Dollars which are most likely already being spent at venues from which the State of Kansas is enjoying no current revenue.) Thank you.

Terry Presta  
Legislative Chairman, PMCA

Petroleum Marketers and Convenience Store Association of Kansas  
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## EFFECTS OF SB425 ON ONE SMALL BUSINESS

SENATE BILL 425 PROPOSES TO RAISE TAXES ON ALL LEVELS OF ALCOHOL SALES. NEW TAXES IMPOSED ON BREWERIES, DISTILLERIES, WINERIES, WHOLESALERS, AND DISTRIBUTORSHIPS WOULD, MOST LIKELY, BE PAID BY RETAILERS AND DRINKING ESTABLISHMENTS IN THE FORM OF HIGHER PRICES. THE INCREASED COST OF DOING BUSINESS WOULD BE COMPOUNDED BY THE PROPOSED INCREASE IN ENFORCEMENT AND EXISE TAXES.

THE COMBINED IMPACT OF SB425 ON A TYPICAL SMALL BUSINESS IS STAGGERING. FOR EXAMPLE, DANNY'S BAR AND GRILL IS LOCATED IN LENEXA, KANSAS AND HAS BEEN IN BUSINESS SINCE 1988. AS WITH ANY BUSINESS, TURNING A PROFIT IS SOMETIMES A STRUGGLE. WITH SHRINKING MARGINS AND ECONOMIC HARDSHIPS BEGINNING TO SURFACE IN OUR LOCAL ECONOMY, PROFITABILITY IS AN INCREASINGLY DIFFICULT GOAL TO ACHIEVE. ASSUMING THAT THE PROPOSED TAXES ON GALLONAGE OF BEER, WINE AND SPIRITS ARE PASSED ON THE RETAILER, COMBINED WITH THE 20% INCREASE IN EXCISE TAX AND 25% INCREASE IN ENFORCEMENT TAX PLACES THE PROSPECTS OF PROFITABILITY IN REAL JEAPORDY. THE COMBINED TOTAL IMPACT OF ALL PROPOSED TAXES WOULD MEAN TO DANNY'S BAR AND GRILL AN INCREASED TAX LIABILITY IN EXCESS OF \$31,000 IN 2002.

A \$31,000 INCREASE IN THE COST OF DOING BUSINESS WOULD LEAVE DANNY'S WITH TWO OPTIONS. FIRST, PRICES OF ALCOHOLIC BEVERAGES COULD BE INCREASED. RISKS INVOLVED WITH THIS STRATEGY WOULD INCLUDE REDUCED SALES LEVELS AND CUSTOMER DISSATISFACTION. IN AN ALREADY SLOWING ECONOMY, WE FEEL IT WOULD BE UNWISE TO INCREASE PRICES AT THIS TIME. IN A COMPETITIVE ENVIRONMENT, SUCH AS THE RESTAURANT INDUSTRY, INCREASING PRICES WHEN YOUR COMPETITOR DOES NOT WOULD BE DETRIMENTAL TO SALES LEVELS.

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THE SECOND OPTION WOULD BE TO REDUCE COSTS IN OTHER AREAS IN AN ATTEMPT TO COVER THE ADDITIONAL TAXES. THE MOST OBVIOUS AREA TO REDUCE COSTS IS IN HOURLY LABOR. \$31,000 WORTH OF LABOR WOULD ALMOST SURELY MEAN LOSING ONE AND POSSIBLY TWO EMPLOYEES. ONE OR TWO PEOPLE UNEMPLOYED MAY SEEM INCONSEQUENTIAL. HOWEVER, THIS DECISION PROCESS WOULD BE REPEATED BY EVERY SMALL BUSINESS THAT IS INVOLVED IN THE SALE OF ALCOHOLIC BEVERAGES. THE NEGATIVE IMPACT ON THE STATE'S ECONOMY FROM INCREASED UNEMPLOYMENT BENEFITS AND REDUCED CONSUMER SPENDING WOULD BE, IN MY ESTIMATION, REAL AND SUBSTANTIAL.

THE ECONOMIC SHORTFALLS EXPERIENCED BY OUR STATE'S GOVERNMENT BELONG TO ALL KANSANS. THE PROGRAMS SET FORTH BY THIS GOVERNMENT SERVE ALL KANSANS. THE BURDEN OF PAYING FOR THESE PROGRAMS SHOULD BE SHARED BY ALL KANSANS.

# HEIN AND WEIR, CHARTERED

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**Testimony re: SB 425  
Senate Assessment and Taxation Committee  
Presented by Ronald R. Hein  
on behalf of  
R. J. Reynolds Tobacco Company  
January 28, 2002**

Mr. Chairman, Members of the Committee:

RJR opposes SB 425, which would increase the Kansas cigarette tax from 24¢ to 59¢ per pack, because it would hurt consumers and retailers alike.

**Current tax rate and past tax increases**

Supporters of increasing the cigarette tax in Kansas have cited frequently that the current state excise tax on cigarettes has not been raised in a number of years. However, this does not tell the entire story.

Since the Kansas excise tax was last increased, Kansas smokers have seen significant increases in the cost of cigarettes, some of that increase goes to the federal government because of excise tax increases, much of that increase goes to the state of Kansas as a result of the Master Settlement Agreement (MSA) between the state attorneys general and the tobacco industry, and smokers pay increased sales tax on the increases in the cost of cigarettes.

The federal tax on smokers has increased substantially over the past 15 years. Since 2000, federal taxes on a pack of cigarettes have increased 62.5%, including an additional federal tax of 5 cents beginning January 1, 2002.

Under the MSA, Kansas will collect \$1.6 billion over the next 25 years from the nations' largest cigarette manufacturers. (Although payments are calculated over a 25-year time-frame, in fact they go on for perpetuity.) This means that Kansas smokers will pay approximately \$1.6 billion over the next 25 years to the state of Kansas in addition to the excise taxes and sales taxes they are paying on cigarettes.

Kansas will receive approximately \$65 million per year in annual MSA payments. This amounts to a payment to Kansas that is more than the amount that Kansas derives from its 24¢ per pack cigarette tax.

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Lastly, Kansas imposes a sales tax on cigarette sales. The 4.9% state sales tax is also imposed on the excise taxes and MSA payments built into the cost of a pack of cigarettes. Since the cost of a pack has gone up substantially as a result of the MSA, Kansas is taxing smokers much more with the additional sales tax. Nationally, from 1998 to 2001, the average price per pack rose from \$2.04 to \$3.28. If this national average was also true in Kansas, the amount of state sales tax imposed on smokers would have increased greater than 50% during that three-year period.

All together Kansas smokers are financing federal and state governments to the tune of \$1.33 per pack. The typical Kansas smoker now pays about \$700 in total cigarette taxes per year, larger than the average income liability for the bottom half of federal income tax filers (about \$540 in 1998.) After a 35¢ Kansas tax hike the total tax would rise to a stupendous \$1.68 per pack. A Kansas smoker would be paying about \$800 per year.

**The argument that Kansas smokers have not had a tax increase in years is simply not accurate**, as seen by the above information.

#### **Effect on Kansas Retailers.**

Kansas retailers should also be concerned. The new 59¢ tax would be **almost double** the rate in Nebraska (34¢), **more than triple** the existing Missouri tax (17¢), **almost triple** the tax in Colorado (20¢), and **almost triple** the Oklahoma rate (23¢). If the Governor's proposal of increasing the cigarette tax 65¢, to a total of 89¢ were to pass, that would mean Kansans could save money simply by crossing borders. Colorado also does not impose a sales tax on cigarettes, making the differential even higher.

Cigarette purchasing patterns have changed dramatically since 1989. High-tax states have seen tax reported sales plunge, while low-tax states have seen a corresponding increase.

With low tax Missouri, Colorado and Oklahoma on its borders, Kansas' retailers could confront a competitive challenge. Nearly 25% of Kansas' population lives in the greater Kansas City area, which borders Missouri. Kansas consumers could save as much as \$5.90 per carton purchasing in Missouri, assuming their existing tax rate. Some of these margins come close or exceed the Advisory Commission on Intergovernmental Relation's bootleg "flashpoint" of \$3.80 per carton. Tax differences above the "flashpoint" are likely to encourage serious investments in cigarette smuggling. Kansas retailers, and ultimately state law enforcement budgets, would be vulnerable to smuggling.

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

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

Loss in Cigarette Sales Volume – Assuming no changes in tax rates of surrounding states, it is projected that a 65¢ per pack tax increase will reduce Kansas cigarette sales by approximately 24%. Although due to the lateness of the 35¢ proposal, I do not have a projection on that for this testimony. I will supply that information to the committee when it is available. Most of this would be due to lost sales to low-tax states and zones.

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

Lost Jobs - It is estimated that nearly 400 Kansas jobs would be lost as a result of a 65¢ tax increase. Once again, I will supply the information of the affect of a 35¢ increase.

It is estimated that a 65¢ per pack tax hike will lead to about a \$152 million reduction in cigarette sales for Kansas' businesses. Sundry product losses would be about \$46 million. Again, a 35¢ increase will be different, but it is obvious that Kansas businesses will lose revenue, and the state will lose corresponding excise and sales taxes from the cigarettes and other sundry items.

### The Cross Border Threat

Cigarette purchasing patterns have changed dramatically due to more than 70 state cigarette tax increases since 1989. High-tax states have seen tax reported sales plunge, while low-tax states have seen a corresponding increase. The Tax Foundation examined this shift in a 1996 study, The Effect of Excise Tax Differentials on Smuggling and Cross Border Cigarette Sales. They discovered that tax differentials between high and low-tax states were creating substantial increases in both casual cross-border purchases and the organized smuggling of cigarettes. In a subsequent study, the Tax Foundation estimated that cross-border sales represented nearly 14% of total U.S. sales in 1997.

The Tax Foundation noted that the following high-tax block of states -- California, Massachusetts, Michigan, and New York -- with an average tax of 73¢ per pack, sell fewer cigarettes than the following low-tax states -- Indiana, Kentucky, Missouri, New Hampshire, North Carolina, Tennessee, and Virginia -- with an average tax of 13¢ per

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pack. Yet the four high-tax states have a population (65.4 million) nearly double that of the low-tax states (34.4 million).

In 1995, for the first time in history, the low-tax block sold more cigarettes (4.4 billion packs) than the high-tax block (4.3 billion packs). Since then, the gap has widened. In FY 2000, tax-reported sales in the low-tax block were 20% greater than such sales in the high-tax block. Kansas could easily be swept up in the cigarette smuggling epidemic that now plagues some other states.

Consider the case of Michigan. After it increased its cigarette tax from 25¢ to 75¢ per pack in May of 1994, annual Michigan cigarette sales nose-dived by 27 percent. On the other hand, annual cigarette sales went up by 8 percent in Kentucky, 14 percent in South Carolina, 12 percent in Indiana, 7 percent in Tennessee, 6 percent in North Carolina, 4 percent in Missouri, and 2 percent in Ohio. The sales volume gain in the low-tax states more than matched the 200 million-pack loss in Michigan.

In the words of Robert Manes, head of the Michigan State Police Treasury Enforcement Division, “[E]fforts to get around the tax increase are a growing problem. With the amount of money that can be made now, everybody who has an avenue is getting into it.” (Associated Press, December 13, 1994).

More recent cross border episodes include:

New York - The Empire State cigarette tax increased by 55¢ (from 56¢ to \$1.11 per pack) on March 1, 2000. During the following 12 months, New York tax-paid cigarette volume packs nose-dived by 24%. Neighboring Vermont (44¢) and Pennsylvania (31¢) have seen their sales volume rise over this time. It has been estimated that contraband and cross border cigarette sales now take nearly 25% of the New York market.

California – The Golden State’s cigarette tax increased by 50¢ (from 37¢ to 87¢) on January 1, 1999. California tax paid cigarette sales volume has fallen by nearly 25%. California State officials now estimate that cigarette excise tax losses due to tax evasion exceed \$150 million per year. This means that tax-evading sales take more than 12% of the entire California cigarette market. According to state tax officials, “illegal and untaxed sales have mushroomed.”<sup>1</sup> According to state officials, counterfeit stamps can be found throughout the state and appear to be a growing problem. Internet sales have grown as well, and are now estimated to be beyond \$60 million per year in California.

<sup>1</sup> “State Officials Fear Big Drop in Tariff Revenue,” *San Diego Times-Union*, April 19, 2001.

**Regressivity**

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

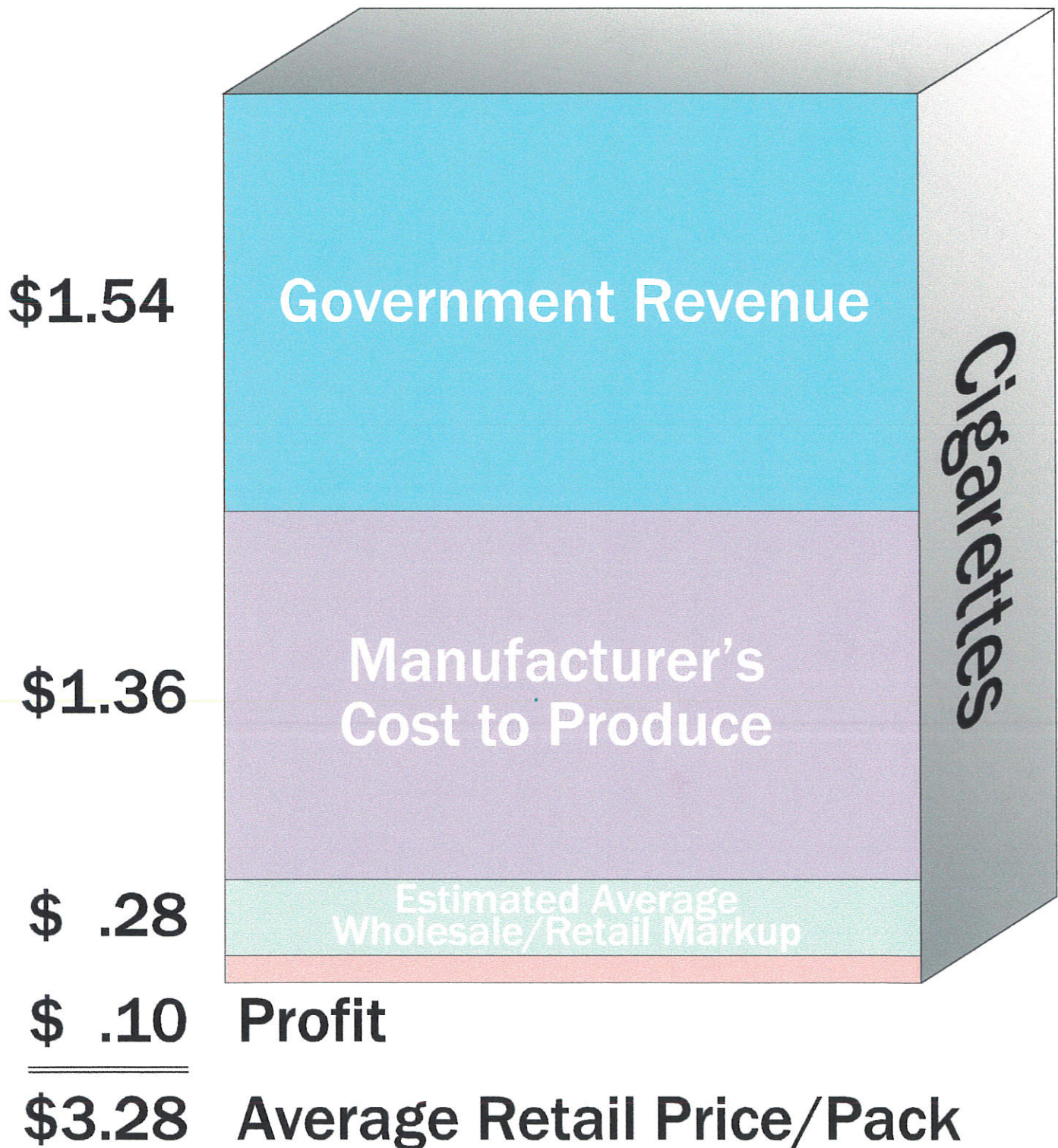
Barents looked at U.S. families in the bottom half of the income distribution, those earning approximately \$30,000 a year or less. While this group represents roughly 50% of all households in the country, it earns only 16% of all income generated. This group pays about 15.3% of all federal income and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

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

Thank you very much for permitting me to testify and I will yield for any questions.



# Cigarette Cost Components



Source: R. J. Reynolds Tobacco Co.

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**Testimony re: SB 425  
Senate Assessment and Taxation Committee  
Presented by Ronald R. Hein  
on behalf of  
Kansas Restaurant and Hospitality Association  
January 28, 2002**

Mr. Chairman, Members of the Committee:

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

KRHA opposes SB 425 that increases the three state taxes that are imposed on alcohol. SB 425 increases the gallonage tax anywhere from 27% to 33%, depending upon the type of product; increases the liquor enforcement tax from 8% to 10% (a 25% increase); and increases the drink tax from 10% to 12% (a 20% increase). These increases are made even worse by the compounding effect of these three taxes which are layered on each other before the drink is finally sold at retail to the ultimate consumer.

Supporters of an increase in alcohol taxes have pointed to the gallonage tax and have said that it hasn't been increased since 1977. The proponents are not telling the whole story. They are not mentioning that in 1979, a new tax (the drink tax) was imposed as a gross receipts tax at a rate of 10%. They are not mentioning that in 1983, the enforcement tax was increased from 4% to 8%, a 100% increase. Nor are they mentioning that the enforcement tax and the drink tax are both based upon a percentage of the value, so although the rate has not been increased, the amount of tax paid per unit of sales has increased every year with inflation. Nor are they mentioning the compounding effect of these three pyramided taxes, which generate additional taxes by applying percentages of tax upon the taxes themselves.

The proposed gallonage and enforcement increases are excessive to the businesses who will be asked to pay it. These increases will certainly affect the consumers who will ultimately be asked to bear the burden of the tax increase. But they will also impact our businesses by increasing costs and by impacting sales. The increase in the drink tax from 10% to 12%, although it will be charged directly to the consumers, will also impact restaurants, hotels, and motels to the extent that the tax increase affects sales.

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As an association, we are very concerned about the expenses that are borne by our members, and taxes are no different than any other expense. We understand that the legislature has a legitimate police power to impose taxes on our businesses and our customers. However, everyone understands the concept that the power to tax is also the power to destroy. The new tax imposed on our industry, the increase in rate of tax imposed on our industry, and now the proposed excessively high percentage rate of increases in all of these taxes seems punitive and excessive to our members and our customers.

Although resources appear tight for the State right now with a declining or, at least, slower moving economy, our businesses are subject to the same economy. If our taxes are increased when the economy is turning down, our options are to cut costs, increase the costs to our consumers if we can do so without affecting sales, or go out of business.

It is unclear to me why the Governor or the Legislature is of the opinion that every individual and every business in this state are somehow able to cut back their spending on their needs to absorb tax increases, when many of them have already suffered revenue cuts to their businesses or salaries, or, worse yet, job eliminations, yet the government is not able to do the same thing.

Of even greater concern to our industry is the fact that the government in the last couple of years has been focusing its attention on targeted tax increases to fund general government functions. If the public generally supports higher taxes to pay for increased governmental services or to make up for decreased revenues during economic downturns, then the general public would certainly support increases in general taxes, rather than attempting to impose taxes on selected individuals, selected businesses, or those who consume specific products.

Thank you very much for permitting me to testify and I will be happy to yield to questions.

HANDCRAFTED BEER



CERTIFIED ANGUS BEEF

January 26, 2002

Senate Assessment and Taxation Committee  
300 SW 10<sup>th</sup> Street  
Topeka, KS 66612-1504

RE: SB 425

Dear Mr. Chairman, Members of the Committee:

My name is Russell Loub, I am the Owner/Manager of the Little Apple Brewing Co. in Manhattan, Kansas. The Little Apple Brewing Co. is a microbrewery/steakhouse employing approximately 80 persons with an annual payroll of \$700,000+. Our business generates over \$400,000 annually in Federal, State and local sales, payroll, excise, property and income taxes. Additionally, I serve on the Board of Directors of the Kansas Restaurant and Hospitality Association in the present capacity of Treasurer.

I am writing today to express my concerns with SB 425, which seeks to increase all taxes associated with alcohol production and sales. My specific concern is with the increase in gallonage taxes proposed in this legislation. As illustrated in the attached spreadsheet, microbreweries and brewpubs in the State of Kansas are already triple taxed on their production and sales due to a combination of federal and state taxes. These taxes include the federal excise tax of \$7.00 per barrel, the state gallonage tax of \$5.58 per barrel (\$.18/gal.) and the subsequent excise (10%) or enforcement (8%) tax as they apply. Presently, on a standard 15.5-gallon keg of beer priced at \$55, \$16.98 of that revenue is dedicated toward taxes. The increases called for in SB 425 would raise that by 16% to \$19.63, or 36% of my selling price.

Unfortunately, as an independent operator, I don't enjoy the economy of scale that the major breweries do. In order to make our products competitive in the marketplace I, and other microbrewers, must settle for reduced profit margins. The effects of SB 425 will only serve to further widen the competitive advantage major breweries have over microbreweries and, ultimately, stifle growth in our industry. As additional information I have included a review of tax rates of our neighboring states. While I can't conclusively prove that higher tax rates inhibit industry growth, I can, both on a regional and national level, illustrate that lower tax levels encourage growth.

As regards the increases in Excise and Enforcement taxes called for in SB 425 I would offer the following observations as a 25-year veteran of the restaurant industry:

1. Increased regulation and taxing will reduce demand and subsequently tax revenues.
2. Eating and drinking places, an integral component of the Travel and Tourism industry, will be placed at a competitive disadvantage with our neighboring states.
3. Further investment and job creation by national chains will be slowed.

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**HANDCRAFTED BEER**

**CERTIFIED ANGUS BEEF**

Further, aside from my own business, I am concerned about how increasing waves of regulatory efforts (Food Safety, Liquor laws and Wage issues) will affect the small independent operator working with limited resources and a slim profit margin.

I appreciate your consideration of my position on this issue and would be happy to make myself available to answer any questions you may have. Thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read "Russ Loub", with a long, sweeping flourish extending to the right.

Russ Loub  
Owner/Manager  
Little Apple Brewing Co.

**TAXES GENERATED ON ONE BARREL BEER PRODUCED (31 U.S. GALS.)**

<b>PER BARREL PRODUCTION TAXES</b>	<b>Present rate</b>	<b>Proposed rate</b>	<b>+/- %</b>
Federal Excise Tax (\$/bbl.)	\$7.00	\$7.00	0%
State Gallonage tax (.18/gal@31gals)	<b>\$5.58</b>	<b>\$7.13</b>	<b>27%</b>
<b>Total production taxes</b>	<b>\$12.58</b>	<b>\$14.13</b>	<b>12%</b>
<b>State Excise Tax, per drink basis</b>			
Drinks (pints) per barrel (includes 5% loss)	235.00	235.00	
Retail Price per drink Excise Tax included	\$2.50	\$2.50	
Gross Sales	\$587.50	\$587.50	
State Excise Tax generated	<b>\$58.75</b>	<b>\$70.50</b>	<b>20%</b>
<b>State Enforcement Tax, per keg basis</b>			
Retail price per keg	\$55.00	\$55.00	
State Enforcement Tax	<b>\$4.40</b>	<b>\$5.50</b>	<b>25%</b>
<b>Total Taxes generated by per drink sales</b>	<b>\$71.33</b>	<b>\$84.63</b>	<b>19%</b>
<b>Total Taxes generated by sales per keg</b>	<b>\$16.98</b>	<b>\$19.63</b>	<b>16%</b>
<b>Net Sales per drink</b>	<b>\$516.17</b>	<b>\$502.87</b>	<b>-3%</b>
<b>Net Sales per keg</b>	<b>\$38.02</b>	<b>\$35.37</b>	<b>-7%</b>

Cigarette Tax -\$.34  
 Spirits Tax -\$3.00  
 Wine Tax -\$.75  
 Beer Tax -\$.23  
**5 Microbreweries**

Cigarette Tax -\$.20  
 Spirits Tax -\$2.28  
 Wine Tax -\$.28  
 Beer Tax -\$.08  
**84 Microbreweries**

<b>Present</b>	<b>Proposed</b>
Cigarette Tax -\$.24	Cigarette Tax -\$.59
Spirits Tax -\$2.50	Spirits Tax -\$3.25
Wine Tax -\$.30	Wine Tax -\$.40
Beer Tax -\$.18	Beer Tax -\$.23
<b>6 Microbreweries</b>	

Cigarette Tax -\$.17  
 Spirits Tax -\$2.00  
 Wine Tax -\$.30  
 Beer Tax -\$.06  
**24 Microbreweries**

Cigarette Tax -\$.23  
 Spirits Tax -\$5.56  
 Wine Tax -\$.72  
 Beer Tax -\$.40  
**0 Microbreweries**



# 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

*John Davis, President*

*Amy A. Campbell, Executive Director*

## SENATE BILL 425

Senate Committee on Assessment and Taxation  
by John Davis, President

Mr. Chairman and members of the committee, thank you for allowing me to testify today. My name is John Davis, and I have just begun my term as the president of the Kansas Association of Beverage Retailers as of January 1. I own a retail liquor store in Wichita, but today I am speaking to you on behalf of the state-licensed retail liquor store owners from all corners of the state. I can tell you, there are many other subjects I would rather bring to you in my first public speech as KABR president.

Last year, my predecessor spoke to you on a similar tax increase proposal which you wisely rejected. I can only tell you that the economic situation for retailers today is much more grim.

The privilege of a Kansas retail liquor license is hard-earned. The days and hours my store can be open, the products I can sell, the location and floor plans of the store, and the identity and background record of my employees are strictly regulated by the State of Kansas. The State further restricts who is eligible to purchase my product, and it is my responsibility to carefully control that sale. A crucial element of this partnership is the collection of taxes on these products. Finally, the State restricts my business to a single store license, meaning that all retail liquor store owners are small business owners, Kansas citizens, and entrepreneurs. Meeting all of these requirements earns me the renewal of my state license and a continuing partnership between my business and the State of Kansas. The safe and legal sale of these products is my business, and ultimately, it is a partnership that I take very seriously.

Therefore, it is a shock to me that this proposal suggests that my business collect an additional 20% in taxes on the product I sell. Are the proponents suggesting that my store is somehow more able to absorb such a significant tax increase than other businesses? Are they suggesting that the survival of my store is somehow less important than the survival of other businesses?

I am told this proposal would collect an additional 28% gallonage tax on beer, 33% gallonage tax on wine, and 30% gallonage tax on spirits. These are taxes that are applied to the product before it reaches my store and are included in the wholesale prices I must pay. I am also told that this proposal will require me to write a one time check to the State of Kansas on the inventory in my store on June 1. This is an inventory tax I have not paid before -- and so far, no one has told me how I am supposed to afford this new one-time expense on product which hasn't yet been sold. For a retailer, cash flow is a very important consideration, especially because I am not permitted to purchase my inventory on credit - only cash.

Then, this bill increases the sales taxes on the product 20%. Twice.

The sale of alcohol products in this state earns around \$76,000,000 in tax revenue as a result of gallonage taxes collected at the wholesale level, enforcement taxes collected at the off-premise retail level, and drink taxes collected at the on-premise retail level. This product is literally taxed three times before it reaches the public, at sales tax levels much higher than sales taxes paid on other products. These taxes are all part of the equation and part of the business -- even though they result in a significant price difference between Kansas retailers and those just across our state borders. There are KABR members who must already

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compete with stores a few miles away across the state line who can sell a case of beer for almost \$3.00 less regardless of profit margin. What will be the competitive disadvantage for those stores after this proposal is put in place?

Ask Wyandotte and Johnson County businesses how they're already getting slammed by Missouri because of lower cost and more selling hours. The price of beer is already 44% tax. Some may think that increasing the price of these products will reduce consumption, and they may believe that such a reduction would be a benefit to Kansas communities. However, I would bet that it only sends the customer somewhere else to buy, to another state where the payroll taxes and sales taxes will benefit someone else.

And what about the customers? After all, they're the ones who would bear the weight of this massive tax proposal. Many of them are a segment of Kansas society that has no one here to represent their interest, except for you folks facing me. They don't have a lobbyist. Some of them don't even know what a lobbyist is. They are relying on you to do what is right.

Make no mistake - this is a tax on working people. It is a 20% increase on sales taxes that are applied twice to a product that many people enjoy as their weekend entertainment of choice. On Saturday night, they don't want to think about the layoffs that happened that Friday or the bald tires that need replacing on their car. It's their time. They get with another couple, buy some beer, and watch a movie on TV or play cards. I know this because they tell me what they're doing that night.

The entertainment industry - dining out in restaurants or dancing in clubs or traveling to exotic locations - is clearly in financial trouble already. I would suggest to you that passing a prohibitive tax increase on the products sold in my store will have a major effect on the individual who couldn't regularly afford those things in the first place. It will result in Kansas owned businesses facing even greater hardship than what they have already been dealt by the current economy. It will result in the loss of jobs.

Our members value their licenses, value their businesses, and value their role as partners with the State. We are willing to do our part. But the increases proposed here are not fairly distributed. Collecting 29% more tax income from a single industry in a single year is not fair. *(Based on the estimated additional \$22 million collected by this bill.)*

During the last round of elections and even the past few weeks, I have heard plenty of promises from campaigns and politicians that there would be no tax increases. The last thing the slowing economy needs is increased taxes. Yet, the promises are being changed to say there won't be increased sales taxes or property taxes, but a tax on alcohol or tobacco might be okay. This places the burden on an even smaller segment of the population and requires a steeper increase than one spread across the entire population.

Members of the Committee, to quote my predecessor: "A tax by any other name smells the same."  
Thank you.



MEMO TO: Senate Committee on Assessment and Taxation  
FROM: Thomas M. Palace, Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas  
DATE: January 28, 2002  
RE: SB 425

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

I appreciate the opportunity to appear before you today in opposition to SB 425.

Convenience store owners in Kansas who compete with bordering states will be at a tremendous competitive disadvantage if SB 425 were to become law. It is interesting to note that although tobacco has been deemed bad, the state of Kansas and the convenience store industry have a common bond with tobacco. Both rely on the revenues from the sale of cigarettes to meet budget demands. Smokers have been hit hard over the past 3-4 years, seeing tremendous price increases largely due to the Master Settlement Agreement (MSA). Today's 24 cent per pack tax already puts Kansas above 3 of the 4 bordering states; Missouri 17 cents; Colorado 20 cents; Oklahoma 23 cents and Nebraska 34 cents. The increase will negatively impact every tobacco retailer on Kansas borders by pushing the smoking consumer into neighboring states.

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

Over the past few years tobacco increases have been proposed in the legislature as a way to STOP people from smoking. If this is true, how can the state rely on tobacco revenue to fund new government programs? How will the money the state receives from the MSA be impacted? I would assume the state will see a reduction should tobacco sales decline. Also, Internet sales have become a factor. It is a sure bet that with an increase in cigarette taxes, the consumer will be motivated to use the Internet in ever-increasing numbers to purchase tobacco products. As a note of interest I accessed the Internet to look for sites that sell tobacco products. I found 18 sites that sell tobacco at discounted prices. I checked further into two eastern Native American tribes on the Web site and discover the following enticements:

Petroleum Marketers and Convenience Store Association of Kansas

201 NW Highway 24 • Suite 320 • PO Box 8479

Topeka, KS 66608-0479

785-233-9655 Fax: 785-354-4374

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

And also -

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

SenecaSmokes.com -

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

Clearly smokers have options when it comes to purchasing cigarettes. As I mentioned earlier, smokers who have been hit hard with price increases are accustomed to making decisions as to what brand they will buy because of the cost, and where they can find the best price. The tax increase provided in SB 425 will surely change buying habits once again. And it appears the surrounding states and the Internet may be the benefactors.

Mr. Chairman, competition in the convenience store industry is fierce. Add a 35 cent tax increase on cigarettes, and not only will the retail marketers be affected, but the state will lose revenue as well.

Thank you.

## Shopping

## This Month's Selections

### Brands

#### Premium

- ▶ Barclay
- ▶ Belair
- ▶ Benson&Hedges
- ▶ Camel
- ▶ Capri
- ▶ Carlton
- ▶ Century
- ▶ Chesterfield
- ▶ Dunhill Intl
- ▶ Kent
- ▶ Kool
- ▶ L&M
- ▶ Lark
- ▶ Lucky Strike
- ▶ Marlboro
- ▶ Max
- ▶ Merit
- ▶ More 120
- ▶ Newport
- ▶ Now
- ▶ Parliament
- ▶ Philip Morris
- ▶ Raleigh
- ▶ Salem
- ▶ Saratoga
- ▶ Satin
- ▶ Silva
- ▶ Tall
- ▶ Tareyton
- ▶ True
- ▶ Vantage
- ▶ Virginia Slims
- ▶ Winston

#### Value

- ▶ Bailey's
- ▶ Basic
- ▶ Best Value
- ▶ Bristol
- ▶ Bucks
- ▶ Cambridge
- ▶ Doral
- ▶ GPC
- ▶ Liggett Select
- ▶ Magna
- ▶ Malibu
- ▶ Maverick
- ▶ Misty
- ▶ Monarch
- ▶ Montclair
- ▶ Natural Blend
- ▶ Old Gold
- ▶ Pall Mall
- ▶ Private Stock
- ▶ Pyramid
- ▶ Raleigh Extra
- ▶ Richland
- ▶ Royale Classic
- ▶ Slim Price
- ▶ Sonoma
- ▶ Sterling
- ▶ Viceroy

#### Ultra Value

- ▶ Bronco
- ▶ Carlie
- ▶ Coronas
- ▶ Cowboys
- ▶ GSmoke
- ▶ Golden
- ▶ GR
- ▶ GT One
- ▶ Hi Val
- ▶ Kentucky's Best
- ▶ Optiva

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
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**NEWPORT®**  
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 per carton.

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**PARLIAMENT®**  
**\$29.99**  
 per carton. Note: you will receive Soft or Hard pack depending upon availability. No Guarantees (sorry, Charlie...)

Qty.

Choose Type:

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

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GOVERNMENTAL AFFAIRS

FRANCES KASTNER

SENATE ASSESSMENT AND TAX COMMITTEE

SB 425 January 28, 2001

I am Frances Kastner, Director of Governmental Affairs for the Kansas Food Dealers Association. Our members include manufacturers, distributors and retailers of food products throughout Kansas.

Businesses all over the state are experiencing the same economic difficulties and increasing taxes on the products they sell may not be the way to help them through this period.

Our members need to stay competitive in pricing their products. This is especially true for stores along the borders. For example the cigarette tax in Missouri is 17 cents a pack; in Oklahoma 23 cents, and in Nebraska 24.

If our members can't be competitive in the market place, and lose sales, it becomes an expensive proposition for the state and local government. Lost sales affects sales tax, business and personal income tax, and property tax at the local level.

We respectfully request that you consider all the ramifications of SB 425 before you recommend it favorably.

Thank you for the opportunity to express our concerns.

*Frances Kastner*

Frances Kastner, Director  
Governmental Affairs KFPA



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

Mark Desetti Testimony  
Senate Assessment and Taxation Committee  
Monday, January 28, 2002

Thank you, Mr. Chairman. I am Mark Desetti and I represent Kansas NEA. Today I speak for the Kansas Association of School Boards, Schools for Quality Education, and KNEA in my testimony on the tax measure before you today. *2 USP 500 KCR*

The group is not listed as an opponent to these tax increases as we do not want to indicate that we do not favor these types of taxes. We believe that if we are to fund the obligations of state government, including our commitments to public education, we must have revenue enhancements. These types of taxes – the cigarette and liquor taxes – certainly are acceptable to us as a source of revenue.

We are, however, not listed as a proponent to the bill for the following reasons:

1. The funds, although the news reports have indicated that the revenue will go to fill the hole in K-12 and higher education, are not dedicated and we do not know how they will be used. This revenue enhancement does not raise enough funding for the state to escape the budget shortfall. These funds have most likely been promised to many different groups from adult care to social services to corrections to education.
2. This amount of funding in this measure is not enough to solve the funding shortfall. It might be a short-term solution to a few budgets; however, the long-term financial stability of state services, especially the education budgets, continues to be in jeopardy. We need considerably more revenue to meet the challenges of school improvement that the public wants us to continue. We need funding to recruit, retain, and adequately compensate employees; to improve the performance of our students; and to modernize our classrooms to meet the 21<sup>st</sup> century demands.

Because of our concerns, we would suggest that the committee amend the bill to provide for significantly more tax enhancements so the state can meet the needs of its many divisions, including education. Other taxes, such as the sales tax increase recommended by the Governor, should be included in a comprehensive package of revenue enhancements to assist the state in funding its needed programs.

Thank you for listening to our concerns.

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