

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE.

The meeting was called to order by Chairperson Senator Nancey Harrington Upon 1st Adjournment on April 2, 2002 in Room 245-N of the Capitol.

All members were present.

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

Conferees appearing before the committee:

John Davis, President, KABR
Amy Campbell, Kansas Association of Beverage Retailers
Dan Hermes, Alcohol Safety Action Project
Neal Whitaker, Kansas Beer Wholesalers Association
Theresa Walters, Executive Director, Emporians for Drug Awareness
Michelle Voth, Executive Director, Kansas Family Partnership, Inc.
Tuck Duncan, Kansas Wine and Spirits Wholesalers Association
Phillip Bradley, Executive Director, KS Licensed Beverage Association

Others attending: Please see attached

Chairperson continued the hearing on:

SB 636—Alcoholic beverages; one-strength beer

John Davis, President, KABR, presented testimony in opposition to the bill. (Attachment 1)

Senator Vrail asked Mr. Davis about a statement in the latter's testimony stating that Alcoholic Beverage Control did not keep track of the number of cereal malt beverage licenses which had been issued in the state of Kansas, or to whom they were issued..

Bob Longino, Director, ABC, stated that Mr. Davis was not entirely correct. He stated that there was a file of the licenses, they have just not been organized.

Amy Campbell, Kansas Association of Beverage Retailers, presented written testimony in opposition to the bill. (Attachment 2)

Dan Hermes, Alcohol Safety Action Project, presented testimony in opposition to the bill. (Attachment 3)

Neal Whitaker, Kansas Beer Wholesalers Association, presented testimony in opposition to the bill. (Attachment 4)

Theresa Walters, Executive Director, Emporians for Drug Awareness, presented testimony in opposition to the bill. (Attachment 5)

Michelle Voth, Executive Director, Kansas Family Partnership, Inc., presented written testimony in opposition to the bill. (Attachment 6)

Tuck Duncan, Kansas Wine and Spirits Wholesalers Association, presented testimony in opposition to the bill. (Attachment 7) Mr. Duncan also submitted a chart in opposition to the bill. (Attachment 8)

Ms. Campbell presented testimony in opposition to the bill. (Attachment 9) Ms. Campbell also presented written testimony from Jim Scott, past President of KABR, in opposition to the bill. (Attachment 10)

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at on April 2, 2002 in Room 245-N of the Capitol.

Phillip Bradley, Executive Director, KS Licensed Beverage Association, presented testimony in opposition to the bill. ([Attachment 11](#))

In response to a question from Senator Gooch, Mr. Duncan stated that there are two reasons to have dry counties: no alcohol sales, or no liquor by the drink. He stated that in those counties which ruled not to have liquor by the drink, they did so knowing that they could still have 3.2 beer in taverns and Pizza Huts.

John Davis, President of the Kansas Association of Beverage Retailers, submitted written testimony in opposition to the bill. ([Attachment 12](#))

Ray Morgan, Undersheriff, Lakin, Kansas, submitted written testimony in opposition to the bill. ([Attachment 13](#))

Dave Dvorak, Flinthills Wine and Spirits, submitted written testimony in opposition to the bill. ([Attachment 14](#))

Marge Roberson, Roberson's Retail Liquor Store, submitted written testimony in opposition to the bill. ([Attachment 15](#))

Gary Winget, President, Kansans for Addiction Prevention, submitted written testimony in opposition to the bill. ([Attachment 16](#))

The meeting was adjourned at 11:45 a.m. The next meeting will be held at 10:30 a.m. on April 8, 2002 in Room 245-N.

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE GUEST LIST

DATE: April 2, 2002

NAME	REPRESENTING
DAVE DWORAK	FUNT HILLS WINE & SPIRITS - ANDOVER
Bart REEB	REEB'S Retail Liquor Tapco.
Kristi REEB	" " "
MARCEL Bly	Bly's RETAIL LIQUOR - WOOD.
Cheryl Bly	" " "
BOB ANDERSON	CASEY'S GENERAL STORES
Frances Kastner	Ks Food Dealers Assn
Whitney Dauron	Distilled Spirits Council of the U.S.
Steve Johnson	FS Gas Service
Mike Taylor	city of Wichita
Joshua Lewis	Senator Teichman
Becca Vaughn	KS. Disability Rights Action Coalition in Fort Hsg
John Davis	President, KABA
R Longmire	KCROR / ABC
MARTIN PLATT	PLATT LIQUOR WICHITA, KS.
Phil BRADLEY	KLBA

in Fort Hsg
1102020

SB 636

Senator,

My name is John Davis, I have been a State Licensed Liquor dealer for twenty-five years. I have raised my family in Kansas where my wife and I have lived our entire lives. Our children went to Universities in Kansas one graduating from Wichita State University in 1998. That daughter and my son both have chosen to follow me in to the Retail liquor business they each have been subjected to the rigorous state licensing procedure and are better retailers for it. This year when each of us went to renew our Wichita City license we were told that they no longer issued a city liquor license. State law:

KSA 41-310-1-#1 states. Any city in which the licensed premises are located shall levy and collect an annual occupation or license tax on the licensee in an amount not less than \$100. nor more than \$300, but no other occupation or excise tax or license fee shall be levied by any city against or collected from the licensee.

The reason I have brought this to your attention is to illustrate how the licensing procedure would or could be handled if you choose to give even more power to the municipalities. SB 636 would do just that if you were to vote yes to change the definition of CMB as defined in KSA 41-2701 to read that 3.2% or less beer now be 5% or less (a 56% increase in alcohol). This license is issued by the municipality it costs a minimum of \$25, and not more than \$75. The state rubber stamps the license and keeps no records of how many and to whom they are issued. The state (Alcoholic Beverage Control <ABC>) might be able to tell you how many licenses they have issued by dividing the number of dollars by the \$25 fee. Ask Mr. Longino the ABC director. These licenses are mostly self compliant, which means that they do sting operations on their own stores and report nothing to the ABC. When ask about this they say that they do quite well in the compliance field.

I think my store would do very well if I were to do my own controlled buys (stings). Please vote no on SB-636 when it comes up for a vote in your committee. I know that you are a long time resident of Kansas and want the best for the future of the youthful drinkers in this state. If you vote yes on this issue you will be putting 56% stronger beer into the hands of 18 year olds to control the sale to 21-year-olds. More outlets mean more access to alcohol. All studies that I have ever read indicate that **the only way to control youthful drinking is to make alcohol less available.** A study done by WSU in 1999 for the Kansas Department of Transportation, also a study just released about state universities from across the country (see Wichita Eagle March 2002)

You should also consider what this would do to the state franchise laws for beer. **Please vote NO on SB-636 as it is currently written.**

Senator,

I have included below my suggested legislation, which would work well as an amendment to SB-636. My proposition would put all forms of alcohol, CMB and strong in the state licensed liquor stores.

Please consider making an amendment to SB-636 to make it read as written below.

Sn Fed St
04/02/02
Attach # 1

CMB only in Liquor stores.

To those most interested;

KSA 41-103. Declaration of public policy; separate retail sale of 3.2 beer and alcoholic liquors; retail sales in cities only, exceptions.

The legislature hereby declares the public policy of this state to be that: (a) Cereal malt beverage shall be sold at retail *separately from sales of alcoholic liquor at retail*; (b) cereal malt beverage shall be sold and dispensed at retail *in rooms or* premises separate and distinct from rooms or premises where *alcoholic liquor* is sold; and (c) no retailer's license for the sale of alcoholic liquor shall be granted to any applicant making application therefor if the premises sought to be licensed are located outside the corporate limits of any city within this state, except as provided in K.S.A. 41-303 and amendments thereto.

I PROPOSE THAT WE CHANGE THE ABOVE TO READ AS FOLLOWS.

K.S.A. 41-103. Declaration of public policy; separate retail sale of 3.2 beer and alcoholic liquors; retail sales in cities only, exceptions.

The legislature hereby declares the public policy of this state to be that: (a) Cereal malt beverage shall be sold at retail *only by licensed liquor Retailers*; (b) cereal malt beverage shall be sold and dispensed at retail *only on* premises separate and distinct from rooms or premises where *any other product* is sold; and (c) no retailer's license for the sale of alcoholic liquor shall be granted to any applicant making application therefor *if that license would extend the number of licenses to a total number greater than the number on record as of January 1, 2002 or* if the premises sought to be licensed are located outside the corporate limits of any city within this state, except as provided in K.S.A. 41-303 and amendments thereto.

I think this would still allow the CMB on premise locations to operate as they do now.

Thank you for your consideration,
John Davis
1-316-838-9003
1-316-990-7000
davisliquor@kscable.com

ROBERT E. JOHNSON II
STEVENS COUNTY ATTORNEY
1024 S. Trindle, P.O. Box 909
Hugoton, KS 67951-0909
(316) 544-2103, Fax: (316) 544-2403
E-mail: johnson@pld.com

COPY FOR YOUR
INFORMATION

February 13, 2001

Doug Mays, Chairman
House Committee on Federal
and State Affairs
State House, 170-W
Topeka, KS 66612

TELEFAXED: (785) 296-1153
ORIGINAL MAILED

Dear Mr. Mays:

Re: House Bill 2330

This letter is in response to a current proposal which would allow convenience stores to sell alcohol in excess of 3.2 percent. As Stevens County Attorney, it would certainly be my belief that any change to the law which would make higher levels of alcohol more available to persons of age and persons under age would be adverse to the well-being of this county as well as the state.

I would urge you to strongly consider the implications of this bill if it were passed and the implications it would have on each county and the state as a whole.

I am sure several items have been pointed out to you in opposition and in support of this proposal. I would like to simply point out that the possibility of having higher levels of alcohol available in a higher number of locations would be adverse to the well-being of my county as well as the state. This availability would also have the effect of giving youngsters increased availability to obtain alcohol.

I appreciate your attention to this matter.

Very truly yours,

Original signed by

Robert E. Johnson II

Robert E. Johnson II

REJ:jlt

SnFed St
04/02/02
Attach # 2

PUBLIC SOLUTIONS

DAN HERMES
315 SW 4TH STREET, SUITE 7
TOPEKA, KS 66603

MANAGEMENT CONSULTING AND
LOBBYING SERVICES

PHONE: 785.234.4306
CELLULAR: 785.221.7419
E-MAIL: HERMES4@MINDSPRING.COM

LEGISLATIVE TESTIMONY

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

DATE: April 2, 2002

SUBJECT: Senate Bill 636

Madam Chair and Members of the Committee, my name is Dan Hermes and I represent the Kansas Coordinators of Alcohol Safety Action Projects (KCASAP). I appear today to express their opposition to the current version of SB 636.

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

The measure in front of you today represents a step backward in the control of the sale of alcohol in our state. This is especially troubling as it relates to efforts in preventing sales to customers who are not old enough to purchase or possess alcohol.

Under current law, sale of "strong" beer is limited to licensed retail liquor stores who are tightly regulated by both the state and routinely "eyeballed" by local law enforcement in attempts to control people under 21 from buying alcohol. Expansion of alcohol sales in grocery stores and convenience stores will make this job more difficult.

Additionally, the retail liquor industry has ongoing and extensive training for outlets in identifying people who attempt to purchase alcohol that are underage. That is all these stores do, they are specialized, they are trained, and they are locally accountable. I would suggest that if this legislation move forward, all sale of alcohol in the state be restricted to licensed retail liquor stores.

Thank you for the opportunity to appear today and I would stand for any questions.

SnFedSt
04/02/02
Attach #3



800 SW JACKSON STREET, SUITE 1017, TOPEKA, KANSAS 66612

**Testimony before the
Senate Federal and State Affairs Committee
April 2, 2002
By
Kansas Beer Wholesalers Association
On Senate Bill 636**

Chairperson Harrington, Members of the Committee, my name is Neal Whitaker and I represent the Kansas Beer Wholesalers Association. The KBWA has appeared in opposition to bills like SB 636 in the past several years because of the unreasonable tax increases contained in the bills.

From the Fiscal Note for Senate Bill 636;

"The bill would make all sales of cereal malt beverages for off-premise consumption subject to the liquor enforcement tax.

Currently, only beer sold in liquor stores with a content of more than 3.2 percent alcohol is subject to the enforcement tax. Passage of SB 636 would make all sales of cereal malt beverages for off-premise consumption subject to the liquor enforcement tax.

SB 636 would also subject all beer, except beer sold in a liquor club, to the state and local sales tax. Currently, only beer with an alcohol content of less than 3.2 percent is subject to sales tax.

The Department of Revenue would have to identify and notify an estimated 3,500 cereal malt beverage retailers of the new filing requirements under the liquor enforcement tax and notify all liquor stores of the new requirement for filing sales tax on cereal malt beverages. The agency states that it would need 4.0 additional FTE positions for these duties.

The Department does not interpret the bill to require the Division of Alcohol Beverage Control (ABC) to take over any licensing or regulatory duties that the agency does not currently perform. However, if that interpretation is wrong, and the ABC is required to license all cereal malt beverage retailers, personnel and funding would have to be doubled."

All retailers who sell regular beer or CMB face serious competition from stores in Missouri who only charge state and local sales taxes.

Sp Fed St
04/02/02
Attach #4

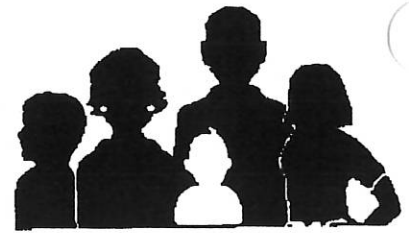
Taxes applied by SB 636 Compared to Missouri

Taxes on Beer	Kansas	Missouri
Gallonage Tax	\$.18/gal	\$.06/gal
Enforcement Tax	8% of retail price	None
State and Local Sales Tax	Applied	Applied

Missouri has a gallonage tax that is 1/3 of the Kansas tax and no enforcement tax.

The 6 pack referred to in the Fiscal Note as \$4.25 actually will cost \$4.59 in Kansas before the State and Local Sales Taxes are added. But in Missouri that same 6 pack will cost only \$4.18 before sales taxes. A difference of \$.41 or \$1.64 per case. It is no wonder that Kansans flock across the state line to buy beer in Missouri.

Emporians for
DRUG AWARENESS



Working for a Safer Community

April 2, 2002

The Honorable Nancey Harrington, Chair
Senate Committee on Federal and State Affairs
Statehouse, Room 143-N
Topeka, Kansas 66612

Senator Harrington:

I am writing in regards to **Senate Bill No. 636** currently under consideration by your committee. Our coalition works to address identified risk factors which exist in the state of Kansas that put our young people at risk for problems with alcohol, specifically age of first use (which in Kansas is currently 12.5 years of age), availability of alcohol, and community laws and norms which promote the use of alcohol by our youth. These risk factors would be negatively influenced by the adoption of this bill as it relates to how alcohol products are sold.

Eliminating the current distinction between 3.2 percent and beer containing not more than 5.0 percent and allowing stores to be able to sell the same strength of beer currently only offered in liquor stores increases the availability of this "strong beer" to our youth and sends a poor message as far as community laws and norms. Beer is the number one drug of choice among our youth. When stronger beer is placed in the same case with milk and juice in a grocery or convenience store where our youth are far more likely to shop, this sends a poor message to our young people as to how available our state and community leaders feel beer with a higher alcohol content should be.

Please reconsider the adoption of this particular portion of the proposed bill in the best interests of our future leaders and our influence on them now. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Teresa Walters".

Teresa Walters
Executive Director

315 So. Market • Emporia, Kansas 66801 • (620) 341-2450, Ext. 211
Fax: (620) 341-2454 • Website: emporia.com/drugawareness

Sn Fed St
04/02/02
Attach # 5

....building partnerships to raise drug-free successful youth

April 2, 2002

Senator Nancey Harrington
Chairperson
Senate Federal and State Affairs Committee

Dear Senator Harrington:

On behalf of the Board of Directors of the Kansas Family Partnership I am here to testify in opposition of Senate Bill 636. As a statewide organization concerned with alcohol and other drug issues there are several reasons that we feel this bill is not in the best interest of Kansans. Our concerns are as follows:

- The likelihood of alcohol sales to minors will increase with this bill. Convenience and grocery stores are typically frequented by families and youth whereas liquor stores are generally frequented only by adults. Unlike retail liquor stores that are required to hire personnel over the age of 21, these stores often hire teenagers. The likelihood of cashier's selling to underage drinkers will be greater in convenience and grocery stores because experience level and temptation to sell to friends will be much greater for this age group.
- The need for monitoring of sales to minors will increase with this bill. Increasing the number of outlets that carry beer with greater than 3.2 % alcohol content will increase the need for monitoring of sales to minors. Alcoholic Beverage Control currently does not have the number of agents to handle the number of outlets it is required to monitor. Adding more than 3,500 more outlets will just compound this problem. If the interpretation that the bill does not require the Division of Alcoholic Beverage Control to take over any licensing or regulatory duties that it does not currently perform is incorrect, funding needed for implementation of SB 636 will double for licensing.
- The availability of lower strength beer will likely decrease or be eliminated. In states where same strength beer has been implemented, the availability of lower strength beer tends to diminish or is eliminated, thus reducing the choice of drinking beer with lower alcohol content. The higher the strength of the beer, the greater the risk for problems related to alcohol consumption.
- The bill does not set up a level playing field for retail liquor store owners and convenience stores or grocery stores. The consequences for a convenience store or grocery store that sells to minors is substantially different than the consequences imposed on a retail liquor store outlet. I do not suggest that a level playing field is the answer to this discrepancy, rather reduced access by not allowing same strength beer across the state.

I urge the committee to not pass Senate Bill 636. There are too many questions about the unintended consequences of this bill for it to go forward. It should not be looked at as another means of generating revenue for the state when the impact is not clearly known.

Respectfully submitted,



Michelle Voth
Executive Director

Sn Fed St
04/02/02
Attach #6

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

April 2, 2002

To: Senate Committee on Federal and State Affairs

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

RE: Cereal Malt Beverages

INTRODUCTORY COMMENTS

The proposal bill change a distinction that has existed since May 1, 1937, twelve years before the repeal of prohibition on November 3, 1948, implemented by the 1949 Legislature.

3.2% Cereal Malt Beverage was re-legalized by Congress on April 7, 1933, under the Cullen-Harrison Act which declared it a non-intoxicating beverage and provided for its sale in all states where it was not prohibited by law. This enactment by Congress preceded by 7 months the final ratification of the federal repeal amendment, the 21st Amendment to the United States Constitution, on November 7, 1933. Consequently, 3.2% cereal malt beverages historically have been understood by the electorate to be something other than an alcoholic liquor.

The change denies consumers the lighter alcohol content product. In 1985 the Kansas Legislature raised the drinking and debated at that time the question of redefining CMB. Wichita Eagle in its 1-24-85 editorial stated:

"...Kansans between 18 & 20 years of age by no means constitute the only market for 3.2 beer. Many an older Kansan prefers 3.2 beer because it has lighter alcohol content. To decide now whether strong beer should be redefined a cereal malt beverage -- to get it out from under the constitution, and to get it into grocery and convenience stores, and restaurants and taverns -- is potentially to deny this constituency a light-alcohol alternative..."

THIS BILL ELIMINATES 3.2 CEREAL MALT BEVERAGES IN KANSAS
[what will remain is beer, called CMB]

This change was made in South Dakota in 1988. A letter I received from the South Dakota Retail Liquor Dealers Association in February, 1989, a prior occasion when the Legislature debated the issue of eliminating 3.2 cereal malt beverages in Kansas, describes what happened, it stated in part: (Cole Letter, 2-17-89)

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Attach #7

"The economic damage to our [retail] industry can never be repaired... What used to be a good family businesses are now empty buildings."

THE CURRENT SYSTEM SERVES KANSAS WELL

The system is not confusing and has been working without disruption for 65 years. The bill does not provide uniformity in licensing because various criteria of K.S.A. 41-311 which apply to retail liquor stores do not apply to CMB retailers. For example, a liquor retailer may not have any felony convictions whereas a CMB retailer may not have been convicted of a felony within two years preceding the date of application. A liquor retailer must be 21 years old. A liquor retailer can't employ a person under 21. A CMB retailer can employ persons 18 and older to dispense or sell cereal malt beverage. If a liquor retailer's license is suspended the entire store is closed whereas the CMB retailer may still operate their non-CMB business if their license is suspended, for example, due to selling to a minor.

This bill would impose on communities which have either not approved a retail liquor store, or rejected one, a higher strength product. Retail liquor stores can only be located in cities after an affirmative vote of the electorate of that municipality.

RETAIL LIQUOR STORES

The last authoritative study on percent of sales by retail liquor stores conducted by the Kansas Department of Revenue in 1982 stated: "Beer, constituting 45% of the total volume of liquor stores, cannot be ignored in analyzing the total profit picture... it has an average mark-up of 19% and ranks second only to spirits in contribution to profit... ***it is the largest single category in volume.***" (emphasis added)

In implementing the recommendations of the December 1982 Sunset Audit Report on the Alcoholic Beverage Control and the Governor's Liquor Law Review Commission, December 1986, the Legislature by codifying the elimination of price controls and affirmation, and by allowing certain advertising and trade practices, including sales of strong beer directly from beer wholesalers to clubs/drinking establishments instead of through retail liquor stores, has created market forces which have brought the number of Kansas retail liquor stores in line with the average in "license states." (Sunset Audit, page 38).

The Daicoff study of the Kansas Retail Liquor Industry commissioned by the Department of Revenue, issued December 1985, found that within Kansas there are a small number of large stores and large number of small stores with yearly profits of 4.1% of sales; and which are less profitable than retail liquor stores nationally. Retailers located in interior counties are the least profitable. At the time of the study (based on tax year 1984) there were 1,078 retail liquor stores in Kansas as compared to the 674 stores operating as of April 1, 2002. (Source: ABC Website)

WHY WE HAVE THE LAWS WE HAVE

We have the laws we have because Kansas over the last half century has declared its public policy to be to strictly regulate the beverage alcohol market in order to (1) restrict access by underage consumers (2) to collect needed state tax revenues and (3) to control vertical integration in the industry (what we refer to as the "three tier system"). This bill represents a significant structural alteration. As one former Secretary of Revenue used to state: the beverage alcohol industry is akin to a spider web, and when you touch one gossamer thread the rest of the system experiences the turbulence as the vibration waves across all the delicate threads spun throughout the years into an intricate pattern. Suggestions that you change hours, allow other products to be sold, and the like, completely contradict the concept adhered to by the Legislature over the years of maintaining an orderly market. Kansas has a fine reputation nationally in the beverage alcohol business. That is not an accident. It is due to the regulatory environment created by the Legislature and the diligence of the ABC.

PROTECTIONISM

The state public policy has been, and continues to be, control -- and to maintain an orderly market. If there was any protection in the industry it was a by-product of the controls implemented pursuant to constitutional mandates. Most of the "protections" have been eliminated, while federal and state taxes have increased. There is no more price control, no affirmation, there is advertising, and increased competition among retailers (for consumer business, club/drinking establishment business and amongst brands). If there was still significant protection we would not have seen the reduction of 400 (38%) retail liquor stores in the past 16 years.

SOCIAL RESPONSIBILITY

As wholesalers we are concerned that if the legislature makes this change and increases availability then there is an increased potential for abuse. When abuse occurs it has negative effects on the entire industry. Long before the term "social responsibility" became fashionable in the lexicons of academia our industry has urged moderation, restraint and temperate use of its products as enjoined by President Roosevelt at the time of federal repeal. The beverage alcohol industry does extensive training and education to dissuade underage purchases. There can be no better assurance against sales to minors than a locally operated liquor retailer who knows the community and cares about its families. There is a less restrictive environment in the sale of CMB at convenience stores and grocery stores. Young cashiers will feel peer pressure to make the sale.

ALCOHOL PRODUCTION AND CONTENT

People do not usually drink pure alcohol but a beverage containing alcohol, specifically ethyl alcohol. Alcoholic beverages include wines, beers, and spirits.

Wines are fermented from the sugars in fruits or berries (most commonly grapes), from various plants or their saps and from honey. Beers are fermented from grains after the starch in them is first converted to sugar. Spirits are distilled. While wines and beers are usually a final product, spirits are most often considered a "concentrate."

The main ingredient that characterizes alcoholic beverages and the chief contributor of the effects sought by people who drink them is ethyl alcohol (hereafter referred to simply as alcohol).

In beers the alcohol content varies from about 2 percent in some mild Scandinavian varieties to about 8 percent in especially strong types; most U.S. beers contain between 4 and 5 percent. Natural or unfortified wines (the so-called dry wines, such as burgundy, chianti, and sauterne) usually contain between 8 and 12 percent alcohol, although most U.S. varieties have a somewhat higher content, ranging from 12 to 14 percent. Vermouths and aperitif wines usually contain 18 percent, and dessert, sweet, and cocktail wines (such as sherry, port, and muscatel) contain 20 to 21 percent. These percentages are by volume; i.e., the proportion of alcohol in the fluid volume of an average American beer is 4.5 percent. This is the product that would be sold everywhere. Since fermentation yields only 14 percent alcohol, the extra strength of fortified wines comes from the addition of alcohol or brandy. Spirits, including vodka, gin, and whiskeys (rye, Scotch, bourbon), rum (distilled from sugarcane or molasses), brandies (distilled from fruit wines), and liqueurs (flavored syrupy spirits) usually contain between 40 and 50 percent alcohol (80 to 90 American proof) . Cordials, made of flavored spirits, such as anisette, blackberry, curacao, maraschino, and sloe gin usually contain between 25 and 40 percent.

The proponents acknowledge there is a difference in the products, they suggest its not much. The difference is, nonetheless, more alcohol in one's system. It is ironic that as this Legislature is reducing the threshold by which to determine impaired driving, it is at the same time considering increasing the alcohol levels in cereal malt beverages. Using the chart provided by the proponents, for example, there is a 23% greater alcohol content in Budweiser beer as opposed to Budweiser CMB, and a 38% greater alcohol content in Heineken Larger strong than Heineken CMB.

CONSTITUTIONALITY

It is incorrect to believe the system was devised just for 18 year olds. As set forth in the introductory comments, the system is an outgrowth of Congressional action and a vote of the people of Kansas in designating products over 3.2 as alcoholic liquors. We would suggest that it is not constitutionally permissible to redefine this product for several reasons: (1) when the people voted for repeal they defined alcoholic liquors as over 3.2; and (2) with the vote on liquor-by-the-drink the voters in dry counties rejected the sale on-premise "by the drink in public places" of products over 3.2. In 1986 a position paper submitted to the Kansas Liquor Law Review Commission stated:

"...a need has been created [by the liquor-by-the-drink constitutional amendment] for cereal malt beverage for on-premise consumption in those establishments in liquor by the drink counties who do not choose to become food service establishments. And in those counties where liquor by the drink is not adopted. In conclusion, when the constitutional amendment's requirements are taken into consideration it would seem that as far as on-premise sales are concerned the present dual system of distribution will have to be maintained."

Thus, it would be unconstitutional to allow a higher content product to be sold in taverns in dry counties.

SUMMARY

It would be inappropriate for the Legislature to reestablish market share after 65 years wherein the current stakeholders have relied upon the existing system. Truly it would be poor public policy ... and if as the proponents suggest this "is not a liquor issue. It is an economic issue," (Alderson, p.6) then good public policy should trump economics.

It appears that this bill has only one motive, not to provide better supervision, or meet consumers' need, but one to alter market share. Yes, there are historical accidents that created the system we have in place today, a history that sets parameters; but, it is a history that needs to be respected to avoid the pictorial representation below that most likely will result.



Thank you for your attention to and consideration of these matters.

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

What is the difference between "alcohol by weight" and "alcohol by volume"?

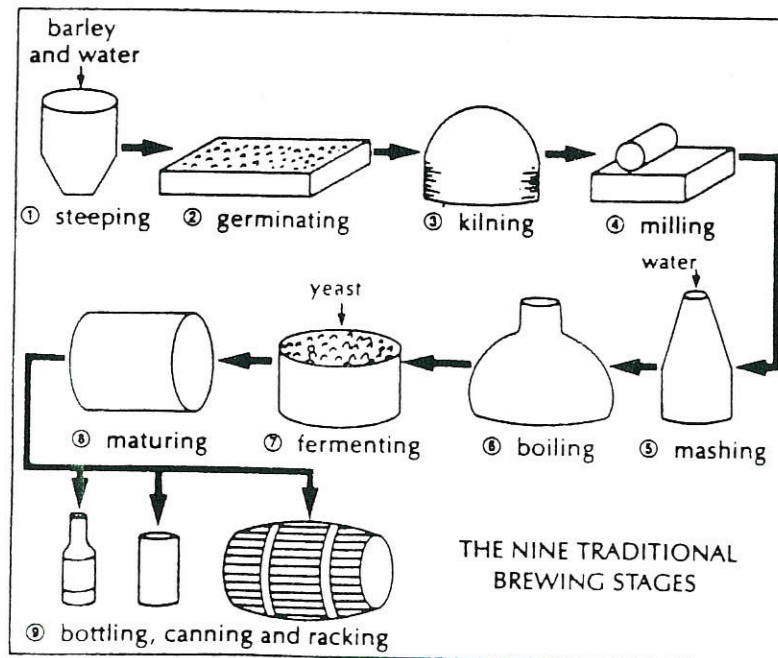
The difference lies in the way the alcohol is measured. The weight figure comes from a device called a hydrometer, which measures the percentage weight of alcohol per volume of beer measured. The volume figure is the percentage volume of alcohol per volume of beer. This figure will always be higher, because alcohol is lighter in weight than water and will occupy more area.

alcohol by volume

A measurement of the alcohol content of a solution in terms of the percentage volume of alcohol per volume of water or beer. To approximately calculate the volumetric alcohol content, subtract the terminal gravity from the original gravity and divide the result by 7.5.

alcohol by weight

A measurement of the alcohol content of a solution in terms of the percentage weight of alcohol per volume of water or beer. The percent of alcohol by weight figure is approximately 20% lower than the "by volume" figure because alcohol weighs less than its equivalent volume of water.



SnFedSt
04/02/02
Atack # 8



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

TESTIMONY PRESENTED TO THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

Re: SB 636
April 2, 2002

By Amy A. Campbell, Executive Director

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

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

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

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

Single store ownership minimizes the commercial pressures placed on wholesalers for special deals or bending the rules. If large grocery chains control the beer market in Kansas, rather than

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the smaller percentage they have now, imagine the increased pricing pressures on the wholesalers who supply the product. This could become a case of "the tail wagging the dog".

The tax structure proposed in this bill will require liquor store owners, who now pay excise taxes on their products, to now pay sales taxes, as well. This is a new administrative burden involving additional tax filings, reports, and payments not currently encountered in this business.

The Kansas Association of Beverage Retailers would respectfully request this Committee consider an amendment to SB 636 that would require all alcohol beverages and cereal malt beverages be sold by licensed retail liquor stores.

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

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

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

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

Thank you, Madam Chair, and members of the Committee for your kind attention.

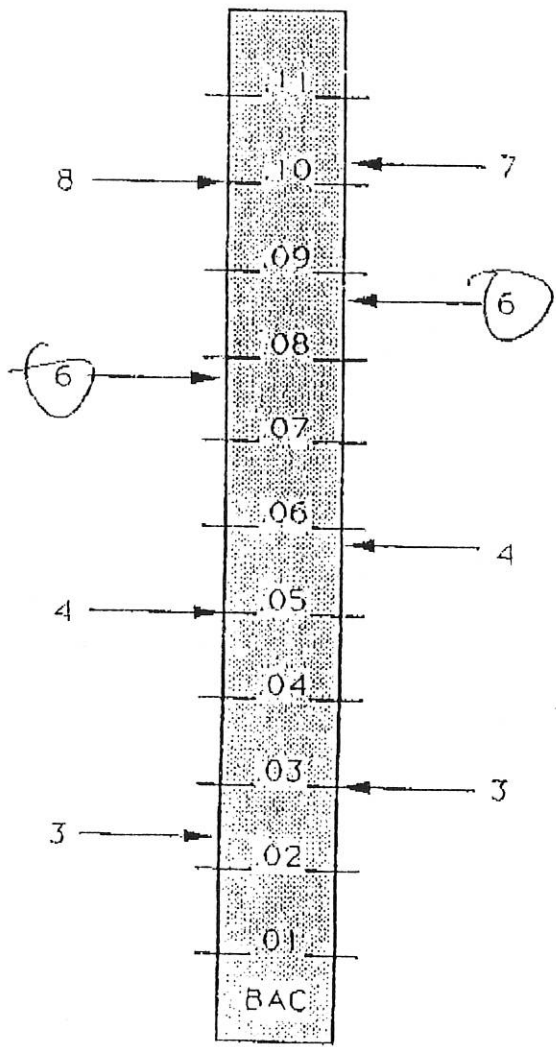
NUMBER OF DRINKS AND RELATED BLOOD ALCOHOL CONCENTRATION IN ONE HOUR OF DRINKING

12 OZ. CANS @ 3.13%/WT

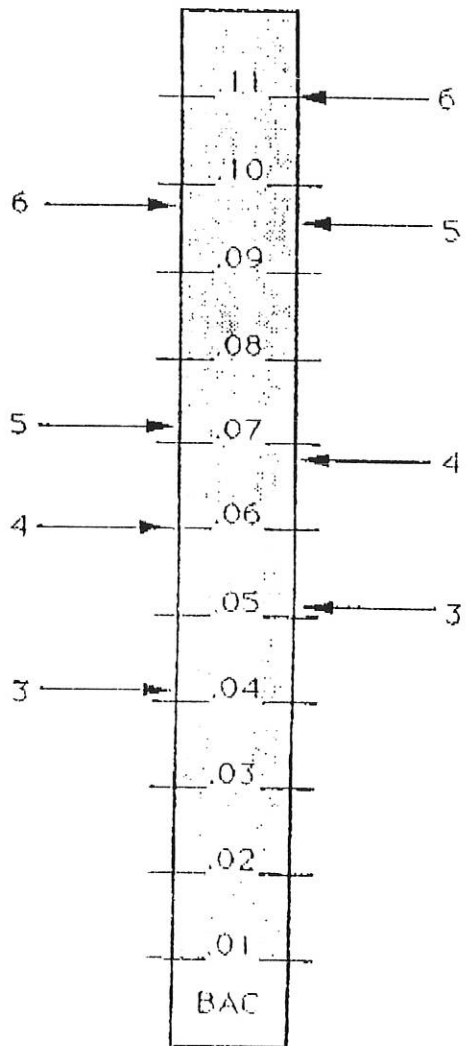
12 OZ. CANS @ 3.71%/WT

12 OZ CANS @ 3.13%/WT

12 OZ. CANS @ 3.71%/WT



160 lb. Male



120 lb Female

	CHB	STRONG
BUDWEISER	3.22	3.96
COORS	3.15	3.56
MILLER	3.01	3.6
AVERAGE	3.13	3.71

ALCOHOL CONTENT - SELECTED BEER

PRODUCT	ALCOHOL % BY WEIGHT		
	CMR	STRONG	
BUDWEISER	3.22	3.99	22.9%
COORS	3.15	3.56	13.0%
MILLER	3.01	3.6	19.6%
BUD LIGHT	3.13	3.33	.06%
COORS LIGHT	3.14	3.29	.04%
MILLER LITE	3.05	3.22	.05%
COLT 45 MALT LIQUOR	N/A	4.98	43.1%
KING COBRA MALT LIQUOR	N/A	4.81	50.3%
SCHLITZ MALT LIQUOR	N/A	4.87	52.1%
CORONA EXTRA BEER	N/A	3.68	11.8%
FOSTERS LAGER	N/A	4.22	31.8%
HEINEKEN LAGER	2.97	4.09	37.7%
MOLSON CANADIAN BEER	N/A	3.87	20.9%
	3.2	5.0	56.2%

ANALYSIS ACCURACY \pm .05%



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

Testimony presented by Jim Scott, Immediate Past President
Re: SB 636

Mr. Chairman and members of the Committee, I thank you for allowing me to testify before you today. My name is Jim Scott. I am the president of the KABR, Kansas Association of Beverage Retailers. I am a retailer in Fort Scott, but when I stand before you it is representing the State licensed retail liquor stores from across Kansas. The 22 directors on our board are all self employed business owners operating liquor stores in Kansas. They are dedicated individuals who work hard to support the cause of Kansas liquor retailers and take seriously our partnership with the State of Kansas in responsibly selling a highly regulated product. None receive any income or expenses for their volunteer work with the association, although their attendance requires travel from the far corners of the state. Many of them and other store owners have braved the weather to be here today due to the seriousness of the proposal before you.

Regardless of where we are located, we have one thing in common – we're carrying on 51 years of Kansas history and tradition. Fifty-thr years ago, legislators came together in this building and repealed prohibition. This was no small matter. Kansas began prohibition in 1881. At that time, there were 90 breweries in Kansas. Only 12 states had more breweries and their population was considerably higher than Kansas. What became known as the "noble experiment" began in Kansas 38 years before the rest of the United States. It ended in Kansas 16 years after the repeal of prohibition in America. Can you imagine what it took to put laws together governing an industry that was banned for 68 years? They were tough. They were high minded.

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

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

The protection of the three tier distribution system for alcoholic products in the State of Kansas is important and necessary. To cripple any level of that system is to jeopardize the State's control of licensing and distribution. Why is that control important? Because of the lessons we learned during prohibition. It is necessary to control the marketing and sale of the product. It is necessary to keep the criminal element out of the business. It is necessary to assure the collection of taxes on the product. It is necessary to control the sale and keep the product away from children. We have faced facing court challenges to residency licensing requirements and State control of liquor distribution. This is one more step in a negative direction.

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ACCOUNTABILITY

The Division of ABC visits our stores regularly. Agents conduct stings, assist with retailer education, and monitor premises for second party sales. Compliance agents conduct business and excise tax audits, as well as reviewing license compliance issues. My records must be ready and available to any agent that enters my store. Is this the case in the convenience stores?

Each and every liquor retailer is held accountable for every sale made from his/her store. We do not hide behind a corporate cloak. Liquor store retailers in Kansas are self employed, living in the community where we do business, paying local and state taxes, employing local adults and spending our profits within the community. We are not trying to put convenience stores and grocery stores out of business. But if it is time to evaluate where the product should be sold, then we would recommend placing all alcohol products in the regulated atmosphere of licensed retail liquor stores.

We do not feel that any place of business that sells alcohol products should employ 18 year olds to sell them, or 16 year olds to handle and stock them. Any alcohol product needs to be sold by responsible businesses held accountable to the State. If I sell to a minor, my store will be fined and closed for business for one or more days. A convenience store will only close the beer cooler for a day – is that accountability?

TAM

Our Association sponsors an education program called Techniques of Alcohol Management. Members attend at no charge. This ABC certified program emphasizes responsible sales of our products. Two-hundred and forty-three owners and employees completed this course in 2000 and we have stepped up our seminar schedule for 2002 across the state. The detection and handling of intoxicated persons or minors is stressed repeatedly. How to deal with the situation, whether it be management or police intervention. KABR supplies ID checking guides to its members, as well as rules and regs from ABC (which we must pay for).

MINORS

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

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

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

Thank you for your time.



*Kansas
Licensed
Beverage
Association*

*President
Tom Intfen*

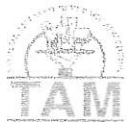
*Secretary/Treasurer
Tammy Davis*

*District Vice Presidents
Kelly Driscoll
Monte Shanks
Rob Farha
Glenda Dewey
Scott Van Gorden*

*Executive Director
Dr. Philip Bradley*

*KLBA
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Email: info@klba.org
www.klba.org*



*Testimony on SB-636 on April 2, 2002
Senate Federal and State Affairs Committee*

Madam Chair, Mr. Vice-Chair, Senators 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, caterers, restaurants and hotels where beverage alcohol are served.

Thank you for the opportunity to speak. I recognize your time limitations and will be brief.

Our members have these concerns with SB-636

Taxes- The thousands of small businesses and service organizations now serving beverage alcohol pay an 8% Enforcement Tax when they purchase products for resale. They are not be exempt as other businesses are for their "raw" products. They collect and remit an additional 10% Drink Tax on the beverage alcohol they sell. These taxes are greater than the sales tax that they replace and the net revenues to the state are greater as well. CMB products are not assessed these taxes. This bill would impose the sales tax *in addition to* the Enforcement and the Drink Tax and would raise taxes. We would not object to having the same sales taxes and opportunities as other businesses instead of the 8 and 10 % compounded as we now do.

Additional Licenses-We would hope that equal treatment would also be afforded all who sell such products. Since there would only be one strength beverage it should require the same application and licensing procedures to the same agency.

We would further ask if this would mean an rule changes such as hours, age of servers, for current beverage alcohol licensees

Thank you for your time.

Philip B. Bradley
Executive Director

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What is the KLBA?

The Kansas Licensed Beverage Association is a non-profit organization representing men and women licensed by the State of Kansas to sell beverage alcohol

We are a group of small business owners who formed to educate ourselves about this industry and in the process help the public to understand as well. We represent the interests of over 3000 establishments, the men and women who as a part of their business hold a license for on premise alcohol service. We are the restaurants, hotels, clubs, bars, and caterers you frequent and enjoy.

We are in the hospitality business. Our customers come to us for service and fun. We advocate safe responsible consumption and are training our servers to practice these principals.

We work with the ABC to educate, train and promote compliance and responsible practices. We are one of only three server-training programs certified by the ABC in Kansas. We also would like to let you know that we are thankful for the cooperation and assistance in the education programs. We believe that education is the single most useful tool in reducing alcohol-related incidents. With the support of the Director we are certified to conduct voluntary server training in our state. We have acquired the rights to use an established nationally recognized program, TAM; Techniques in Alcohol Management developed in 1983 and updated regularly. TAM is designed to teach effective problem solving techniques in a clear and concise manner. By having experienced, trained and certified real life servers training those faced with the same real life problems daily, we have been able to have a positive effect on our industries challenges. Our instructors are licensees or managers of establishments. The "been there done that" credibility has proven effective in reaching the daily server and keeping their attention. We have over ten certified trainers now and are hosting a "train the trainers" session at our annual meeting in November to train new and to refresh existing instructors.

Our founder and immediate past president is Rita Madl (The Sandbar, Lawrence & The Lodge of Baldwin City). Our current president is Tom Intfen (Paddy O'Quigley's; Lenexa & KC and Pat's Blue Ribbon Bar-B-Q; KC, Manhattan, Lawrence, MO, NE and Cofounder of Tanners, Wichita and KC)

Senate Federal & State Affairs Committee
John Davis, President of the Kansas Association of Beverage Retailers
April 2, 2002
Re: SB 636 a bill dealing with the definition of cereal malt beverage

Senator Harrington and the Members of the committee:

I have been a State Licensed Liquor dealer for twenty-five years. I have raised my family in Kansas where my wife and I have lived our entire lives. Our children went to Universities in Kansas one graduating from Wichita State University in 1998. That daughter and my son both have chosen to follow me in to the Retail liquor business they each have been subjected to the rigorous state licensing procedure and are better retailers for it. This year when each of us went to renew our Wichita City license we were told that they no longer issued a city liquor license.

State law:

KSA 41-310-1-#1 states. Any city in which the licensed premises are located shall levy and collect an annual occupation or license tax on the licensee in an amount not less than \$100. nor more than \$300, but no other occupation or excise tax or license fee shall be levied by any city against or collected from the licensee.

The reason I have brought this to your attention is to illustrate how the licensing procedure would or could be handled if you choose to give even more power to the municipalities. SB 636 would do just that if you were to vote yes to change the definition of CMB as defined in KSA 41-2701 to read that 3.2% or less beer now be 5% or less (a 56% increase in alcohol). This license is issued by the municipality it costs a minimum of \$25, and not more than \$75. The state rubber stamps the license and keeps no records of how many and to whom they are issued. The state (Alcoholic Beverage Control <ABC>) might be able to tell you how many licenses they have issued by dividing the number of dollars by the \$25 fee. Ask Mr. Longino the ABC director. These licenses are mostly self compliant, which means that they do sting operations on their own stores and report nothing to the ABC. When ask about this they say that they do quite well in the compliance field.

I think my store would do very well if I were to do my own controlled buys (stings). Please vote no on SB-636 when it comes up for a vote in your committee. I know that you are a long time resident of Kansas and want the best for the future of the youthful drinkers in this state. If you vote yes on this issue you will be putting 56% stronger beer into the hands of 18 year olds to control the sale to 21-year-olds. More outlets mean more access to alcohol. All studies that I have ever read indicate that the only way to control youthful drinking is to make alcohol less available. A study done by WSU in 1999 for the Kansas Department of Transportation, also a study just released about state universities from across the country (see Wichita Eagle March 2002) You should also consider what this would do to the state franchise laws!

Please vote NO on SB-636

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Senators,

I have included below my suggested legislation, which would work well as an amendment to SB-636. My proposition would put all forms of alcohol, CMB and strong in the state licensed liquor stores. Please consider making an amendment to SB-636 to make it read as written below. CMB only in Liquor stores.

To those most interested; KSA 41-103. Declaration of public policy; separate retail sale of 3.2 beer and alcoholic liquors; retail sales in cities only, exceptions.

The legislature hereby declares the public policy of this state to be that: (a) Cereal malt beverage shall be sold at retail separately from sales of alcoholic liquor at retail; (b) cereal malt beverage shall be sold and dispensed at retail in rooms or premises separate and distinct from rooms or premises where alcoholic liquor is sold; and (c) no retailer's license for the sale of alcoholic liquor shall be granted to any applicant making application therefor if the premises sought to be licensed are located outside the corporate limits of any city within this state, except as provided in K.S.A. 41-303 and amendments thereto.

I PROPOSE THAT WE CHANGE THE ABOVE TO READ AS FOLLOWS.

K.S.A. 41-103. Declaration of public policy; separate retail sale of 3.2 beer and alcoholic liquors; retail sales in cities only, exceptions.

The legislature hereby declares the public policy of this state to be that: (a) Cereal malt beverage shall be sold at retail only by licensed liquor Retailers; (b) cereal malt beverage shall be sold and dispensed at retail only on premises separate and distinct from rooms or premises where any other product is sold; and (c) no retailer's license for the sale of alcoholic liquor shall be granted to any applicant making application therefor if that license would extend the number of licenses to a total number greater than the number on record as of January 1, 2002 or if the premises sought to be licensed are located outside the corporate limits of any city within this state, except as provided in K.S.A. 41-303 and amendments thereto.

I think this would still allow the CMB on premise locations to operate as they do now.

Thank you for your consideration,

John Davis

1-316-838-9003

1-316-990-7000

davisliquor@kscable.com

Office of the SheriffP.O. Box P
Lakin, Kansas 67860James F. Jarboe, Jr.
SheriffRay C. Morgan
Undersheriff

Phone 316-355-6211

April 1, 2002

Honorable Nancey Harrington
Chairperson
Senate Committee On Federal & State Affairs
Statehouse, Room 143-N
Topeka, Kansas 66812

RE: SB 636

Dear Senator Harrington:

I have read the fiscal note from Duane Goosen and I question that it accurately reflects what the true costs will be. I also question whether or not four additional agents is enough to handle an increase from approximately 700 liquor stores to 3,500 liquor and cereal malt stores. It appears that the increase in the liquor enforcement tax would amply cover the increased costs of more agents and their expenses if that were necessary. However, there will be a substantial cost to local law enforcement if this bill passes. Local law enforcement will not be receiving any additional revenue from fees as the state will.

Sheriffs and Chiefs will surely have some of the same concerns I will have if this bill becomes law. I offer the following concerns for your committee to consider. As I already have alluded to, ABC will have a monumental task to police approximately 3,500 liquor and cereal malt retailers. ABC dose not have enough staff to take care of what they have now. You have to be age 21 to work in a liquor store. A large number of kids age sixteen (16) years to age twenty (20) are employed by Quick trips, grocery stores and such. The 3,500 businesses, collectively, have several hundred high school and college age kids who are running cash registers throughout the state. Should this bill become law, the number of complaints of minors selling and consuming cereal malt will surely jump sky high.

If this bill passes, it would result in less high school kids getting part time and summer jobs. Because of the frequent inconvenience to the customer, to have an adult employee come to the underage cashiers' register to ring up a cereal malt sale, some business will hire less underage kids. Some businesses only have so many non cashier jobs available to high school age kids. Still, many businesses will continue to use minors to run registers.

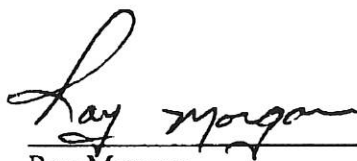
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SB 636

Businesses who allow persons under 21 to run a register will have instances of minors selling cereal malt, not only to adults, but to their underage friends who will come through their check out line. This will result in a substantial increase in the number of minors drinking cereal malt and will surely cause an increase in minors' drinking and driving which will result in increases in injury accidents and traffic fatalities involving minors and innocent citizens.

Finally, local agencies are expected to do more with less. If this bill passes, there will be increased calls for police to investigate businesses for illegal sales, investigate the increased consumption of cereal malt by minors and work more accidents, injury and fatalities, involving minors. This will place an undue burden on local agencies who are expected to do more with less resources. If this bill becomes law, this will add additional responsibilities on local law enforcement and will cause an undue burden on the already overworked and underfunded local law enforcement agencies.

Respectfully,



Ray Morgan
Undersheriff

Flinthills Wine and Spirits

Dave Dvorak

125 W. Hwy 54

Andover, KS 67002

316-733-8333 (Work) ♦ 316-641-5690 (Cell)

Federal and State Affairs,

4/1/02

I am opposed to SB 636, which would allow the sale of strong beer in any other outlet than retail liquor stores.

Allowing more outlets to sell strong beer does not help to limit the access to alcoholic beverages. To control underage drinking one needs to limit access to alcohol, not increase it. If you want to curb underage drinking/access, I feel that all alcohol and 3.2% CMB should be limited for sale in only state licensed liquor stores !!

If you are in any way in agreement with me on this, you should vote no for any bill that attempts to redefine the definition of CMB (Cereal Malt Beverages) and allow for more outlets to sell strong beer.

FURTHER PARTICULARS----

I stand behind the retailers in Kansas when I say that we go through more rigorous requirements to sell the products we sell.

1. Our sales staff/clerks have to be 21. Why would one put strong beer in the hands of a clerk less than 21 to sell to those over 21?
2. They cannot be felons and must have a cleaner record than other outlets require
3. Owners must be residents of the state and have clean records.
4. We as owners have to pay our taxes on time and be current
5. We cannot operate as a Corporation, thus keeping out of state interests out of state and not involved in liquor sales
6. We are highly regulated by the ABC. Any more outlets would undermine the ABC's ability to enforce the laws.
7. We go through compliance reviews to insure underage sales do not happen.
8. We live, pay taxes and vote in our communities across Kansas.
9. CMB outlets pay a \$25 FEE! Vs. Liquor stores which pay \$250 for a LICENSE !
10. CMB outlets are not controlled as tightly as our stores, by the ABC. They issue these stamps in BULK to any fuel outlets, grocery stores, Bait shops, and small convenience stores that apply for them!!
11. We Liquor storeowners could stand to lose 10-50% of our gross sales
12. This is my lifeblood and sole source of income. I do not rely on any other source of income in my business. Departments like; Grocery, Lawn and Garden, Meat, Produce, Fuel, Bakery, Deli, Cards/Magazines, all add up to the profits of other CMB outlets.

CONSIDER THIS----

I don't rest easy until my store closes. My responsibility lasts 14 Hrs/day, 6 days/wk!!

A corporate president couldn't possibly care about their numerous outlets. I would eventually lose my privilege to own a liquor store with numerous infractions. A corporate president will retain his if the ABC pulls the license from one of his stores. He would still have a job.

Thank you for considering my opinion. If you have any further questions, I may be reached at either of the above numbers.

Regards,
Dave Dvorak

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Attach #14

Roberson's Retail Liquor Store

Marge Roberson
115 West 5th St.
Newton, KS 67114
316-283-7629

Federal and State Affairs,

I am writing to ask you to not support SB 636, which is a bill that would change the legal definition of cereal malt beverage, from 3.2% to 5%. This would allow grocery stores, convenience stores, bait shops, etc., to sell the same malt based products (not just beer) in their outlets.

The proponents of this bill will tell you there isn't much difference between "liquor store beer" and CMB. What they are not telling you, is it would give them access to several new products liquor store sell, that are 25% higher in alcohol, than 3.2%. They will also tell you they are willing to pay the 8% enforcement tax we currently pay on all our products, and also add the current state and county taxes onto our products.

What they are not willing to do, is to accept the same rules and regulations that govern liquor stores. They would continue to use underage clerks to sell their products, they would not accept a total store shutdown, in case they are caught selling to an underage person, nor would they accept the same licensing requirements that liquor stores do.

Currently the local law enforcement police the 3.2 outlets. Having talked with our chief of police, he said they are not staffed to pro-actively deal with the 3.2 outlets. They only check them out, if there is a complaint. The ABC is certainly not staffed to take on the additional outlets. In fact, the ABC cannot tell you how many CMB outlets there are in Kansas, because they do not license them.

In 1999 Wichita State University prepared a study for KDOT about underage drinking problems. The study indicated the best way to control the problem is education, and limiting access to alcohol. This bill would do neither. I have been the alcohol education training person for our association for the last three years. We partner with the ABC in seeing that all liquor stores and their employees have access to that training. I have no knowledge that grocery or convenience stores train their clerks.

All liquor licenses issued in Kansas are to Kansans. We work in our communities, pay taxes, and vote, unlike the CEO's of the corporate chains, which are wanted to hijack our products. We undergo a serious background check for the privilege to getting a liquor license for our stores. Our clerks are also subject to a background check. The liquor retailer in Kansas takes very seriously our responsibility to uphold all the liquor laws of Kansas. Most of the grocery/convenience stores don't even know them.

Again, I respectfully request you to vote NO on SB 636.

Marge Roberson
Roberson's Retail Liquor Store

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KANSANS FOR ADDICTION PREVENTION**K A P****FORMERLY****KANSANS FOR LIFE AT IT'S BEST****SENATE BILL ON CHANGING FROM CEREAL MALT BEVERAGE TO
HIGHER PERCENTAGE BEER**

April 2, 2002

On Friday, March 22, 2002, I rode along with the enforcement staff of ABC. This ride along was done in Wichita. First, I congratulate the officers on their professionalism and concern for persons that violate the laws that relate to under age use of alcohol in Kansas. The experience of the evening made some things clearer to me, and several of these things make a difference about how we regulate alcohol in Kansas.

Purchases at convenience stores are less tightly regulated. I have heard testimony that convenience stores can not "afford to" operate under the same laws and procedures as liquor stores. They are presently getting a significant break with their ability to operate longer, and with younger staff. My observation is that their attempt to sell the same beer as liquor stores is a first step in attempting to become liquor stores with a full line of booze.

If there is any change in current laws, it should be to place the same controls on cereal malt beverages as there is on beer. There will be a tremendous increase in alcohol consumption if convenience stores and grocery stores are allowed to expand their sales in any fashion. In our penny wise--pound foolish way of governing Kansas, we lose tens of thousands of dollars and increase the number of addicts because we do not adequately fund enforcement activities. Any changes in laws that increase alcohol consumption **absolutely must** be accompanied by increases in funding for enforcement activities. The proposed changes, if responsibly accompanied by enforcement increases, will increase government costs at a time when we do not have a lot of extra money.

Garry Winget
President
67216

P.O. Box 16774
Wichita, KS

316-681-0122

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