

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman William Mason at 1:30 p.m. on February 9, 2004 in Room 313-S of the Capitol.

All members were present.

Committee staff present:

Russell Mills, Legislative Research Department
Mary Torrence, Revisor of Statutes Office
Dennis Hodgins, Legislative Research Department
Rose Marie Glatt, Secretary

Conferees appearing before the committee:

Representative Stanley Dreher
Tom Groneman, Executive Director, Alcoholic Beverage Control
Amy Campbell, KS Association of Beverage Retailers
Richard Cram, Director of Policy and Research, KS Dept. Of Revenue
John Davis, KS Association of Beverage Retailers
Rebecca Rice, Kansas Clubs and Associates
Ron Hein, Kansas Restaurant & Hospitality Association
Phil Bradley, Kansas Licenses Beverage Association

Others attending:

See Attached List.

Without objection, Representative Novascone introduced three bills. Two regarding the fairness in construction act for public and private works and the third relating to the bond requirement for public works contracts over \$40,000.

Without objection, Representative Brunk introduced two bills. The first bill would provide an extension to the 20 year time limit placed on environmental TIF districts and the financing of environmental TIF projects. The second recommends changes to the definition of conviction for purposes of sentencing for domestic battery.

HB 2656 - Issuance of liquor retailer licenses in townships regardless of size

Russell Mills, Legislative Research, briefed the Committee on the contents of the bill. **HB 2656** is an act concerning alcoholic liquor; relating to retail sales outside the corporate limits of cities. The bill would amend and repeal the existing section relating to townships having a population of more than 5,000.

PROPOSERS:

Representative Dreher, a prime sponsor of the bill, stated that the bill would allow liquor stores to keep their liquor license if they were located inside a township having a population less than 5,000 or an unincorporated city (Attachment 1). The Bill requires a resolution by the County Commissioners before a license could be issued.

Chairman Mason noted that the fiscal note on **HB 2656** was \$700 in 2005. The Department would have to revise its tax forms, however could absorb the cost within its existing resources.

Tom Groneman, Executive Director, Alcoholic Beverage Control, rose in support of the bill stating the agency had inadvertently issued off-premise licenses in townships that did not meet the population requirements (Attachment 2). Deleting the population requirement would allow them to renew the applications as they come due.

CONTINUATION SHEET

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE at 1:30 p.m. on February 9, 2004 in Room 313-S of the Capitol.

OPPONENTS:

Amy Campbell, KS Association of Beverage Retailers, appeared in opposition to **HB 2656** (Attachment 3). KABR does not support changes to the liquor control act and suggests the Committee consider the following four points.

- The five licenses that were issued due to an agency oversight should be protected, not punished.
- The implications for cities which do not have liquor stores
- The cities which have elected to not allow the sale of packaged liquor would be faced with the possibility of a liquor store sitting just outside the city limits.
- The implications if local option Sunday sales are passed

She suggested that more research is needed to determine the full impact of the bill. Discussion followed regarding the ramifications of Sunday sales and the recourse of businesses that would be put out of business due to the agency's error.

The Chairman closed the hearing on **HB 2656**.

HB 2680 - Delinquent taxes precluding renewal of licenses under liquor control act and club drinking establishment act

Russell Mills, Legislative Research, briefed the Committee on the contents **HB 2680**. It contains two policy changes, the first regarding the issuance of a license to anyone who is not current in the payment of all taxes imposed, and the second deals with the Club and Drinking Establishment Act regarding corporations organized under laws other than this state.

PROPONENTS:

Richard Cram, Director of Policy & Research, testified on behalf of Secretary Joan Wagnon. He introduced Laura Graham, Assistant Attorney General with ABC, Jeff Scott, Executive Manager of Compliance and Enforcement and Dedra Platt, Civil Tax Enforcement Manager for the Division of Taxation in attendance.

Mr. Cram explained that **HB 2680** was proposed to step up the department's tax compliance efforts, in order to minimize the amount of delinquent tax liability (Attachment 4). He gave examples of liquor licensee noncompliance citing that 16 states require some sort of tax clearance before issuing or renewing liquor licenses. He discussed the advantages to the department as well as licensees if the corporate applicant were no longer required to be organized under the laws of Kansas.

The fiscal effect would be negligible as the cost of issuing new or renewal liquor licenses could be absorbed within the agency's current budget. There is no anticipated fiscal effect to revenues because the amounts owed are already accounted for in the agency's budget.

He answered questions regarding the processes the Department followed, in their attempt to collect delinquent taxes including the notification procedure regarding delinquent taxes. In response to questions about the actual number of businesses that are or have been delinquent in their tax payments, Mr. Cram agreed to provide an upcoming report reflecting those figures. Currently there are 3,667 licensees in Kansas.

John Davis, Kansas Association of Beverage Retailers, stated that KABR supports the collection of tax revenues, however he questioned why **HB 2680** only targets liquor stores. There does not seem to be a distinct reason for the oversight so they requested that all licensees be held to the same standard for the collection of taxes (Attachment 5).

CONTINUATION SHEET

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE at 1:30 p.m. on February 9, 2004 in Room 313-S of the Capitol.

OPPONENTS:

Rebecca Rice, Legal Counsel, Kansas Clubs and Associates, expressed opposition to **HB 2680** stating that there is no evidence that supports identifying liquor licensees as more likely than other state licensees to fail to pay taxes owed (Attachment 6).

Ron Hein, Kansas Restaurant and Hospitality Association, stated that they support the concept of the bill, provided that the provisions of **HB 2680** are *only* applicable to the taxes on the business which operates a club or drinking establishment (Attachment 7). Attached was suggested language from SB 465(2002) that would address that issue. He encouraged the legislature to apply similar standards for other business licensees of the state.

Technicalities of the bill were discussed and Mr. Cram stated that the intent of the bill was to collect delinquent sales and withholding taxes. They would be agreeable to clarifying language.

Philip Bradley, Executive Director, Kansas Licensed Beverage Association, raised three concerns on **HB 2680** (Attachment 8). Remedies that the Senators adopted to address those concerns were delineated in his testimony. He raised a technical question on page 5, lines 24-29 regarding the implied exemption of military and fraternal organizations from paying taxes.

The Chairman closed the hearing on **HB 2680**. The meeting adjourned at 2:55 p.m. The next meeting is February 12, 2004.

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HOUSE OF
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UTILITIES
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FINANCIAL INSTITUTION
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February 9, 2004

Chairman Mason, Committee Members:

Thanks for the opportunity to appear before you today in support of House Bill 2656. House Bill 2656 would allow liquor stores to keep their liquor license if they are located inside a township having a population less than 5,000 or an unincorporated city. Current law requires one of those requirements to be met, even though ABC granted some liquor licenses in the past to those who didn't qualify.

One in my district has had a license since 2001 and without this change could lose their license and their business.

The Bill requires a resolution by the County Commissioner's before a license could be issued.

Testimony on House Bill No. 2656
Concerning Alcoholic Liquor; Relating to Retail Sales Outside Corporate
City Limits

To

The House Committee on Federal and State Affairs

By

Tom Groneman, Director
Alcoholic Beverage Control

February 9, 2004

Mr. Chairman, members of the committee, thank you for the opportunity to appear this afternoon in support of House Bill 2656. The ABC is interested in this bill because there have been several off-premise licenses inadvertently issued in townships that did not meet the population requirements. In these instances, the applications were accompanied by a zoning certification, signed by the respective county clerks, approving the zoning, and we did not note that the licensed premises were in townships with populations less than 5,000. Deleting the population requirement would allow us to renew these applications as they come due. There still will be the requirement that before a license can be granted, the Board of County Commissioners must adopt a resolution approving the issuance of such license.

Again, we strongly support the passage of House Bill 2656 and request your favorable consideration.

Thank you.



The Kansas Association of Beverage Retailers

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Martin Platt, President

Amy A. Campbell, Executive Director

House Federal and State Affairs Committee

January 9, 2004

Amy A. Campbell, Executive Director

Mr. Chairman and Members of the Committee, I am speaking to you today on behalf of the Kansas Association of Beverage Retailers in reluctant opposition to HB 2656.

This bill was introduced as a response to retailers receiving notices from the Division of ABC that their licenses will not be renewed due to the population of their townships. It is not clear why these licenses were issued in the first place. It is my understanding that there are five liquor stores affected by these administrative errors. Clearly, it is unfair to punish those business owners for the oversight of the department.

We ask you to consider the following:

- To protect the five licenses would be fair. It would not seem to create a non-uniformity problem, because townships are not eligible for "home rule".
- What are the implications for cities which do not have liquor stores?
- Cities which have elected to not allow the sale of packaged liquor - some voting it down as recently as last year - would be faced with the possibility of a liquor store sitting just outside the city limits. Generally, these are relatively small towns such as Hillsboro, Anthony, Winfield, Cherryvale, Stafford...
- What are the implications if local option Sunday sales are passed - such as that passed by the House last year in Substitute for SB 2 ?

Frankly, in order to truly understand the full impact of this bill, we would need to research the current locations of liquor stores, the cities which have elected to not allow liquor stores, and the potential impact of statutes which are designed to regulate liquor stores under the current law.

KABR does not support making changes to the liquor control act to respond to errors made by agency staff. If the act is to be altered, the impact of such language must be reviewed and considered on the basis of its policy objective.

Please do not punish the liquor stores which have been caught in the middle of this situation.

Please do not alter the township language in the liquor control act without consideration of the unforeseen consequences.

Thank you for your kind attention.



K A N S A S

JOAN WAGNON, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

DEPARTMENT OF REVENUE
OFFICE OF POLICY AND RESEARCH

Testimony to the House Committee on Federal and State Affairs
✓Richard Cram, Director of Policy & Research

February 9, 2004
House Bill 2680

Chairman Mason and Members of the Committee:

The Department of Revenue strongly supports House Bill 2860. Secretary Wagon intended to testify in person and sends her regards to the Committee. She had a prior commitment to speak in Olathe to roll out our new electronic database for implementation of Streamlined Sales Tax. With me today to address questions are Tom Groneman, Director of the Alcohol Beverage Control (ABC) Division, Laura Graham, Assistant Attorney General with ABC, Jeff Scott, Executive Manager of Compliance and Enforcement, and Dedra Platt, Civil Tax Enforcement Manager for the Division of Taxation.

The Department recently concluded a successful tax amnesty program; Phase II has netted \$31 million in past due taxes, \$11.5 million above the projected \$19.5 million. With completion of the amnesty program, we are stepping up our compliance efforts, in order minimize the amount delinquent tax liability. House Bill 2680 is one of several Department proposals to meet that objective.

Section 1

Section 1 amends K.S.A. 2003 Supp. 41-311 to require a liquor licensee to be current in payment of withholding, sales and liquor taxes relating to the liquor-licensed business before the license can be issued or renewed. Current law requires liquor licensees be current only in liquor tax payment. Requiring liquor licensees to remain current in payment of withholding and sales tax will significantly improve tax compliance, increase tax revenue, and enable the Department of Revenue to maintain a more level playing field among liquor licensees.

Sales tax is a trust tax. For the privilege of making retail sales in this state, businesses must register with the Department to collect on behalf of the state sales tax from purchasers and remit it on the 25th day following the month of the sale. Similarly, businesses are required to withhold a percentage of their employees' wages and remit those employer withholding taxes to the state on behalf of their employees. Licensees that pocket the sales tax collected from consumers or wages withheld from their employees rather than remitting it to the Department of Revenue are not only stealing from the state. They give themselves an artificial competitive advantage over compliant liquor licensees.

renewal of professional licenses, such as for architects, engineers, accountants, doctors, nurses, pharmacists, real estate agents, insurance agents, veterinarians, among others. States such as California, Oregon, Washington, Minnesota, and Missouri (to name a few) effectively utilize similar statutes which assist, and provide excellent compliance.

Section 2

Section 2 amends K.S.A. 2003 Supp. 41-2623 in the Club and Drinking Establishment Act to add the sales tax and withholding tax clearance requirement for issuance or renewal of a club or drinking establishment license.

This section also eliminates the requirement that a corporate applicant for a club or drinking establishment license be a Kansas corporation. Under current law, if an out-of-state corporation, such as a large restaurant chain, wishes to obtain a club or drinking establishment license in order to serve alcoholic drinks with meals, the out-of-state corporation must set up a separate entity as a Kansas corporation to hold the club or drinking establishment license. The same restaurant business has to artificially exist as two entities, both with different FEIN's, with the food sales business holding one FEIN and the alcoholic drink business holding another FEIN. This creates needless complexity and opportunity for confusion and error for both the taxpayer and the licensee. For example, the liquor entity might register for liquor taxes but not for sales tax, while the food business entity will register only for sales tax. One entity may consider the employer and report the withholding taxes on the employees that are working for both entities.

The Kansas entity issue complicates the food sales requirement when a restaurant must set up two entities for liquor licensing purposes. For restaurant clubs, not less than 50% of their gross receipts must be from sales of food for consumption. For drinking establishments subject to the food sales requirement, not less than 30% of the gross receipts must be from sales of food for consumption. If a restaurant's food sales business and liquor business are separate entities with different FEIN's and reporting sales tax from food and liquor tax from drinks under different FEIN's, technically, it becomes impossible for the restaurant to meet the food sales requirements.

Having the liquor tax account and the sales tax account or withholding tax account for the same business under different FEIN's also makes it difficult for the Department to determine the tax compliance status of the business. The liquor entity may be current in liquor taxes, but the food sales entity may be delinquent in withholding taxes, or vice versa.

A business could attempt to employ someone disqualified to work for a liquor licensee, but could pay the employee and file withholding taxes under another FEIN on the theory that the person technically is not employed by the entity that holds the liquor license.

The Department's goal is to reduce the number of separate FEIN's and tax accounts to a minimum, for administrative efficiency. Elimination of the Kansas Corporation requirement for a liquor license will simplify liquor and tax law administration for the licensee and the Department. An out-of-state corporate restaurant chain will no longer need to artificially create a separate Kansas entity for licensing purposes. All taxes (liquor, sales and withholding) can be reported under one FEIN number, the Department can track compliance easier, and there will be much less paperwork for everyone.



The Kansas Association of Beverage Retailers

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Martin Platt, President

Amy A. Campbell, Executive Director

House Federal and State Affairs Committee

January 9, 2004

John Davis, Imm. Past President

Mr. Chairman and Members of the Committee, I am speaking to you today on behalf of the Kansas Association of Beverage Retailers. Although there are parts of HB 2680 which have been improved since 2002, it is unfortunate that we are still unable to support passage of this bill.

KABR fully supports the collection of these revenues. Retailers expect the agency to assist the industry in maintaining an even playing field in the marketplace by enforcing the laws equally. The members of KABR support efforts which strengthen the relationship between the licensee and the State. As retailers support the State by collecting and remitting various categories of taxes, the State should support retailers by promoting positive communication and education and applying enforcement policies evenly.

This bill is an improvement over the one proposed in 2002. KABR supports the language which specifies the taxes to be collected are directly related to the business for which the license has been issued. It would not be proper to place a license renewal in jeopardy for unrelated debts. We have been assured that this is the intent of the legislation. Unfortunately, not all of our concerns about this proposed statutory requirement have been addressed by the drafters of the bill.

It is unfair that this proposal does not attempt to reject all State issued licenses for nonpayment of taxes. If this is an attempt to target liquor stores for collections, then we are interested in the numbers which show that collections from liquor stores have become a problem for the department.

Retail liquor stores have been through detailed audits which served to bring the stores into excellent compliance. In fact, several stores were rightfully shut down. Liquor stores have been through more extensive examination than any other retail operation as far as tax records are concerned. We should not be punished for delinquencies by other types of licensees.

Have these audit efforts been made for other types of licensed businesses?

Sharing department data will also assist our association in educating our members to meet their obligations. KABR works very closely with the Division to maintain our positive position as the responsible sellers of alcoholic beverages. The last time we were able to review a report, the liquor stores were doing a good job keeping their accounts current. We request the department's support to be able to maintain those positive numbers in the future. Viewing tax payment reports by license and tax categories and distributing this information to our members can go a long way in maintaining awareness for licensees.

KABR respectfully requests that all licensees be held to the same standard for the collection of taxes. The bill does not include licensees which sell cereal malt beverages. There does not seem to be a distinct reason for this omission. KABR would support the addition of language permitting the Department of Revenue to enforce similar requirements for other licenses.

We want to thank the agency for visiting with us about this bill - unfortunately, we did not have the opportunity to work with the agency prior to the bill be introduced and scheduled for hearing.

HS Federal & State Affairs
February 9, 2004
Attachment 5

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**TESTIMONY PRESENTED
TO
THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
re: HB 2680**

February 9, 2004

**by: Rebecca Rice, Legislative Counsel
Kansas Clubs and Associates**

Mr. Chairman and members of the committee, my name is Rebecca Rice and I appear before you today on behalf of the Kansas Clubs and Associates to express opposition to HB 2680.

We have opposed similar legislation in the past for this reason: There is no evidence – of which we are aware – that supports identifying liquor licensees as more likely than other state licensees to fail to pay taxes owed. We believe that liquor licensees are being selected for this deferential treatment because it is popular to segregate these business people with harsh legislative action. We believe this legislation the distinction is unwarranted and will lessen the trust between two partners – the state and the licensee - who have the same goal: maintenance of an orderly marketplace for products that are occasionally controversial for some people and organizations.

We are told it is current ABC practice to withhold liquor licenses if liquor taxes are not current.

Unlike previous legislation, HB 2680 is more narrow in scope and we appreciate the acknowledgment that requiring all taxes, regardless of type, creates undue problems. However, HB 2680 ignores the nexus between the tax levied and the license issued. HB 2680 appears to require that all withholding or sales taxes owed by any 25% stockholder or spouse of a liquor licensee, must be current.

It is sometimes – if not regularly - impossible to control the business and personal decisions of business associates and spouses. Unless the state intends to grant licensees the authority to control the personal and business finances of business associates – some of who might be siblings, parents or other relatives – and spouses, the state will be granting undue power to those same associates and spouses over the licensee. It is never wise to grant a third party undue power over individuals who are licensed to maintain the orderly sale of alcoholic beverages.

In Sect. 2 on page 5, HB 2680 eliminates the requirement to be current on liquor tax payments before Class A club licenses are issued to military liquor establishments, fraternal and benevolent organizations. That exception appears to limit the Department's

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February 9, 2004
Attachment 6

ability to collect taxes, not expand the ability. We believe it is current ABC practice to prohibit issuance of licenses if liquor taxes are not current, regardless of location or the type of organization applying. This distinction only highlights the discriminatory nature of this legislation. The Department appears to be promoting a position that it is more important that some licensees continue to sell alcohol whether or not tax payments are current. We are uncertain how this exception adds to an orderly marketplace for alcohol beverage sales.

We ask that you vote no on HB 2680. If there is a rational basis for withholding state-issued licenses when unrelated taxes are not current, we believe it is appropriate for liquor licensees to be included in legislation that includes all state-issued licensees – hospitals, nursing homes, CPA's, realtors, etc. – rather than be segregated and held out as less worthy than other state-issued licensees.

Thank you, Mr. Chairman. We will remain available for questions.

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Testimony Re: HB 2680
House Federal and State Affairs Committee
Presented by Ronald R. Hein
on behalf of
Kansas Restaurant and Hospitality Association
February 9, 2004

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 Kansas trade association for restaurant, hotel, lodging and hospitality businesses in Kansas.

KRHA is neutral on HB 2680 provided that the provisions of this bill are **only** applicable to the taxes on the business which operates a club or drinking establishment. As written, the bill provides that no liquor license shall be issued to a person who is not current on the taxes enumerated in the bill. We have no objection as long as the bill is applicable for taxes that are due by the facility alone and is limited to those itemized in the bill.

However, the KRHA is concerned about the situations which could arise where a minority stockholder, or certain other individuals tied to the business could be delinquent in paying taxes, and the majority stockholder or the individual facility could be penalized for actions over which they have no control. For example, we would be concerned if HB 2680 permits the Department of Revenue to reject or not renew a license if a minority stockholder of a corporation seeking a license owed sales taxes for another business.

We have testified previously to committees of the Legislature about this particular problem, and in 2002, SB 465 passed the Senate but died in the House. SB 465 as amended addressed our concerns, but that bill contained language which is not in HB 2680, specifically Section 1(b)(2) and (4), attached hereto, which made it clear that the obligation to have taxes paid and current is applicable only to the specific business obtaining the license. Since that language is not in HB 2680, we would want the bill amended, or a clarification that the language is only applicable to the business itself.

Liquor licensees should not be the only businesses targeted, and we would encourage the legislature to apply similar standards for other business licensees of the state.

Lastly, on technical note only, all of the amendment set out in Section 1, relating to K.S.A. 41-311(a)(15) should be in italics. This appears to be a typographical error only. We note that the Senate companion bill, SB 414, appears correct.

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

HS Federal & State Affairs
February 9, 2004
Attachment 7

Substitute for SENATE BILL No. 465

By Committee on Federal and State Affairs

2-20

AN ACT concerning the liquor control act and the club and drinking establishment act; relating to renewal of licenses issued thereunder; amending K.S.A. 41-327 and repealing the existing section.

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

Section 1. K.S.A. 41-327 is hereby amended to read as follows: 41-327. ~~Any licensee may renew his license at the expiration thereof if he is then~~

(a) A license may be renewed at the expiration thereof, if the applicant for renewal is qualified to receive a license and the premises for which such renewal license is sought are suitable for such purpose.

(b) (1) Except as specifically provided by this subsection, no license shall be renewed unless, at the time of renewal, the licensee seeking renewal of the license is current in the payment of all taxes imposed pursuant to K.S.A. 41-501 et seq., 79-3294 et seq., 79-3601 et seq., 79-4101 et seq. and 79-41a01 et seq., and amendments thereto.

(2) The provisions of paragraph (1) of this subsection shall apply only to taxes related directly to the business for which the license is issued.

(3) The provisions of paragraph (1) of this subsection shall not apply to taxes which are under formal appeal or for which an agreement for the payment of such taxes has been entered into by the licensee and the department of revenue and the licensee is current in the payments under such agreement.

(4) If the licensee is a corporation, partnership, trust or association, the individual officers, directors, stockholders, partners, managers or other individual members shall not be required to be current in the payment of the taxes specified in paragraph (1) of this subsection.

New Sec. 2. (a) A license may be renewed at the expiration thereof, if the applicant for renewal is qualified to receive a license and the premises for which such renewal license is sought are suitable for such purpose.

(b) (1) Except as specifically provided by this subsection, no license shall be renewed unless, at the time of renewal, the licensee seeking renewal of the license is current in the payment of all taxes imposed pursuant to K.S.A. 41-501 et seq., 79-3294 et seq., 79-3601 et seq., 79-4101 et seq. and 79-41a01 et seq., and amendments thereto.

(2) The provisions of paragraph (1) of this subsection shall apply only



*Kansas
Licensed
Beverage
Association*

*President
Tom Intfen*

*Secretary/Treasurer
Tammy Davis*

*Vice Presidents
Robert Farha
Glenda Dewey
Jim Hendricks
James Fager
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House Federal and State Affairs- HB-2680
Chairman Mason, Representatives and Staff,

February 9, 2004

HB-2680 has a worthy purpose; to recover taxes rightfully owed our State. The KLBA supports that goal. In fact, SB-345 was introduced in the 2001/2002 Session to accomplish this very purpose. In our associations testimony at that time we raised 2 points that the Senate Federal and State Affairs committee found to have merit and acted upon.

First that the delinquent taxes in question must be those that apply directly to this business which holds this license.

Second, that this condition for renewal of licenses and permits, controlled by the state, should apply to all of the businesses and individuals that the state issues licenses/permits to, and further that these should be treated equally, enacted at the same time and in the same manner.

A third concern was raised and the Committee determined it to also have merit. That if only one stockholder in a corporation operating this license, was delinquent that he not penalize the entire business.

The remedies that the Senators adopted follow;

For the First they added this clause,

The provisions of paragraph (1) of this subsection shall apply only to taxes related directly to the business for which the license is issued.

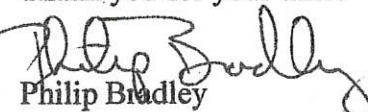
For the second they requested that a new bill be drafted to include all businesses or individuals that receive licenses/permits from the State. That bill did not appear in the last session. We ask you to include these in one bill.

And third they adopted this language.

If the licensee is a corporation, partnership, trust or association, the individual officers, directors, stockholders, partners, managers or other individual members shall not be required to be current in the payment of the taxes specified in paragraph (1) of this subsection.

We support these corrections and would ask the committee to do the same. We support all taxes owed being paid on time and in full by all of our citizens. I have attached the bill and supplemental from 2001/2002 session for your convenience.

Thank you for your time.


Philip Bradley
Executive Director

HS Federal & State Affairs
February 9, 2004
Attachment 8

Session of 2002 Substitute for SENATE BILL No. 465
By Committee on Federal and State Affairs 2-20

AN ACT concerning the liquor control act and the club and drinking establishment act; relating to renewal of licenses issued thereunder; amending K.S.A. 41-327 and repealing the existing section.

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

Section 1. K.S.A. 41-327 is hereby amended to read as follows: 41- 327. Any licensee may renew his license at the expiration thereof if he is then (a) A license may be renewed at the expiration thereof, if the applicant for renewal is qualified to receive a license and the premises for which such renewal license is sought are suitable for such purpose.

(b) (1) Except as specifically provided by this subsection, no license shall be renewed unless, at the time of renewal, the licensee seeking renewal of the license is current in the payment of all taxes imposed pursuant to K.S.A. 41-501 et seq., 79-3294 et seq., 79-3601 et seq., 79-4101 et seq. and 79-41a01 et seq., and amendments thereto.

(2) The provisions of paragraph (1) of this subsection shall apply only to taxes related directly to the business for which the license is issued.

(3) The provisions of paragraph (1) of this subsection shall not apply to taxes which are under formal appeal or for which an agreement for the payment of such taxes has been entered into by the licensee and the department of revenue and the licensee is current in the payments under such agreement.

(4) If the licensee is a corporation, partnership, trust or association, the individual officers, directors, stockholders, partners, managers or other individual members shall not be required to be current in the payment of the taxes specified in paragraph (1) of this subsection.

New Sec. 2. (a) A license may be renewed at the expiration thereof,

if the applicant for renewal is qualified to receive a license and the premises for which such renewal license is sought are suitable for such purpose.

(b) (1) Except as specifically provided by this subsection, no license shall be renewed unless, at the time of renewal, the licensee seeking renewal of the license is current in the payment of all taxes imposed pursuant to K.S.A. 41-501 et seq., 79-3294 et seq., 79-3601 et seq., 79- 4101 et seq. and 79-41a01 et seq., and amendments thereto.

(2) The provisions of paragraph (1) of this subsection shall apply only to taxes related directly to the business for which the license is issued.

(3) The provisions of paragraph (1) of this subsection shall not apply to taxes which are under formal appeal or for which an agreement for the payment of such taxes has been entered into by the licensee and the department of revenue and the licensee is current in the payments under such agreement.

(4) If the licensee is a corporation, partnership, trust or association, the individual officers, directors, stockholders, partners, managers or other individual members shall not be required to be current in the payment of the taxes specified in paragraph (1) of this subsection.

(c) This section shall be part of and supplemental to the club and drinking establishment act.

Sec. 3. K.S.A. 41-327 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

SESSION OF 2002 SUPPLEMENTAL NOTE ON SUBSTITUTE FOR SENATE BILL NO. 465

As Recommended by Senate Committee on Federal and State Affairs

Brief*

Sub. for SB 465 would amend the Liquor Control Act to require that liquor licensees must be current in the payment of withholding, sales, and liquor taxes related to the licensed liquor business before the license can be renewed. Current law requires that liquor licensees must be current only in the payment of liquor taxes. The provision would apply only to taxes related directly to the business for which the license is issued. The provision would not apply to taxes under formal appeal or a payment agreement, or to the taxes of individual members of a corporation, partnership, trust, or association.

The Senate Committee introduced a substitute bill to include language of an agreement between the Director of Alcoholic Beverage Control (ABC) and liquor industry members.

Background

The Director of ABC requested SB 465 (and the language of the substitute bill) to improve tax compliance, increase tax revenues, and better enable ABC to regulate the liquor industry.

The fiscal note prepared by the Division of the Budget states that passage of the bill would have a negligible fiscal effect on state revenues.