

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on February 3, 2004 in Room 231-N of the Capitol.

All members were present.

Committee staff present:

Russell Mills, Legislative Research
Dennis Hodgins, Legislative Research
Theresa Kiernan, Revisor of Statutes' Office
John Beverlin, Committee Secretary

Others attending:

See Attached List.

Chairperson Brungardt called the meeting to order and asked the committee to take action on **SB 305, Liquor control act and cereal malt beverage laws; uniformity, Sunday sales.**

Senator Vratil asked the committee to consider some amendments to **SB 305**. His first amendment concerned severability of the bill (Attachment 1).

Chairperson Brungardt asked the committee for questions.

Senator Barnett asked Senator Vratil to explain to the committee any possible scenarios for the amendment.

Senator Vratil stated that he did not have any specific scenarios. He explained that if the Supreme Court found a part of **SB 305** unconstitutional, they would have to retain the remainder of the bill.

Senator Vratil made a motion for the adoption of the amendment. The motion was seconded by Senator O' Connor. The motion to amend passed.

Senator Vratil asked the committee to consider his second amendment concerning the ability of cities and counties to make more restrictive and supplemental provisions to the bill (Attachment 2). He asked Sandy Jacquot if the amendment was satisfactory to the League of Kansas Municipalities.

Ms. Jacquot answered the amendment was satisfactory.

Senator Vratil made a motion for the adoption of the amendment. The motion was seconded by Senator Gilstrap. The motion to amend passed.

Senator Vratil asked the committee to consider his third amendment concerning the operating hours of farm wineries.

Theresa Kiernan stated that Senator Vratil's amendment was a part of Senator Brungardt's amendment (Attachment 3).

Senator Vratil stated that his part of the amendment was on page two and page five. The amendment would expand operating hours by two hours for farm wineries.

Senator Barnett made a motion to divide the bill into separate issues dealing with uniformity, Sunday sales, and wine. The motion was seconded by Senator Lyon.

Senator Brungardt stated that he would disagree. He stated the three issues were of the same subject matter.

Senator Vratil stated the Interim Judiciary Committee did not feel like it was necessary to separate out the three issues. He further stated the committee had believed that uniformity and Sunday sales were a package.

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:30 a.m. on February 3, 2004 in Room 231-N of the Capitol.

Chairperson Brungardt called for a vote on Senator Barnett's motion. The motion passed 5 - 4.
Ms. Kiernan explained that each issue now had to be voted on separately.

Senator Vratil made a motion to amend the wineries portion of SB 305 to extend operating hours of farm wineries.

Senator Teichman asked for the reason for increasing the operating hours of farm wineries to eight.

Senator Vratil answered that it is the operating hours of other alcoholic beverage retail outlets.

Chairperson Brungardt called for a vote on Senator Vratil's motion. The motion to amend passed.

Senator Vratil asked the committee to consider another amendment to increase the gallonage taxes on beer, fortified wine, white wine, and spirits. He explained that the gallonage taxes had not been increased since 1977. He further explained the current rate for cereal malt beverages is 18 cents per gallon. He proposed to increase the rate to 30 cents per gallon. The current rate on strong beer is 18 cents per gallon. He proposed increasing that rate to 30 cents per gallon. The two increases, Senator Vratil stated, would raise an additional 6.7 million dollars. The current rate on fortified wine is 75 cents per gallon. He proposed to increase the rate to 1.5 dollars per gallon, which would raise 75,000 dollars. The current rate for white wine is 30 cents per gallon. He proposed increasing that rate to 60 cents per gallon, which, he stated would raise 734,000 dollars. The current rate on spirits and alcohol is 2.50 dollars per gallon. He proposed increasing that rate to 4 dollars per gallon, which would raise 3.6 million dollars. Senator Vratil explained that total additional revenue would be about 11.1 million dollars. He further explained that the increases would put Kansas in the middle of surrounding states' rates on alcoholic beverages.

Senator Vratil made a motion for the adoption of the amendment.

Senator Barnett stated that he had a substitute amendment. He passed around a hand out titled School Finance Plan (Attachment 4) and explained his tax increases. Senator Barnett then explained that 250,000 dollars of the new revenue would go to the Fetal Alcohol Syndrome Diagnostic and Prevention Network Program.

Senator Barnett made a motion for the adoption of the substitution amendment. The motion was seconded by Senator Clark.

Senator Lyon asked which of the three issues would a tax increase fall under.

Senator Brungardt stated that it would be a new section of SB 305.

Senator O' Connor asked how Senator Barnett's proposed tax increased compared to neighboring states.

Senator Barnett deferred the question to Senator Vratil.

Senator Vratil explained that in neighboring states, the tax rate for beer ranged from six cents per gallon to 40 cents per gallon.

Senator Barnett explained it would be about 50 cents per six pack of beer.

Senator O' Connor explained the state would lose money because of the increase in taxes proposed by Senator Barnett. She asked Senator Vratil to provide more information concerning tax rates of neighboring states.

Senator Vratil stated gallonage tax on wine ranges from 32 cents per gallon to 75 cents per gallon. Spirits range from two dollars per gallon to 5.56 dollars per gallon.

Senator Barnett explained that when he worked with the Legislative Research Department to come up with numbers for his proposed tax increases, they took into account slippage. He stated there would be a positive gain with his proposed tax increase.

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:30 a.m. on February 3, 2004 in Room 231-N of the Capitol.

Senator Barnett explained to the committee that the division he proposed retained uniformity in **SB 305**, but the other two issues of Sunday sales and wine are taken out and would have to have separate bill numbers for further consideration.

Senator O' Connor asked Senator Barnett why he proposed a 388.9 percent increase for cereal malt beverages and strong beer while only proposing a 20 percent increase for other alcoholic beverages.

Senator Barnett explained that the tax rate for CMB and strong beer was so low to begin with.

Chairperson Brungardt called for a vote on Senator Barnett's substitution amendment. The motion was defeated.

Senator Barnett asked if Senator Vratil would add the Fetal Alcohol Syndrome Diagnostic and Prevention Network Program provision to his amendment of increased tax rates.

Senator Vratil stated the revenue raised by his amendment would be placed in the state general fund. He explained that he felt the fetal alcohol syndrome provision was a separate issue.

Chairperson Brungardt called for a vote on Senator Vratil's proposed amendment to SB 305. The motion to amend passed. Senator Gilstrap voted against the motion to amend.

Senator Barnett asked the committee to consider an amendment for dram shop liability to the uniformity law (Attachment 5).

Senator Vratil stated he would oppose the amendment offered by Senator Barnett. He stated that the topic of dram shop was an unrelated topic. He explained that the time was inappropriate because of the lack of testimony and knowledge possessed by the committee concerning the topic.

Senator Brungardt agreed with Senator Vratil. He stated that while dram shop legislation is not contained with in the topic of the bill, he would entertain a vote from the committee on the amendment.

Senator Barnett made a motion for the adoption of the dram shop amendment. The motion was seconded by Senator Clark.

Senator O' Connor explained that testimony was needed before the committee could take a vote on the proposed amendment. She stated that she did not believe the Senate Federal and State Affairs Committee was the type of committee that should be handling dram shop legislation.

Chairperson Brungardt called for a vote on the proposed dram shop legislation. The motion to amend was defeated.

Senator Clark asked for a show of division.

The motion to amend was defeated 5-4.

Senator Barnett asked the committee to consider an amendment concerning compliance checks (Attachment 6). He also presented to the committee a chart showing compliance rates for various areas within the state of Kansas (Attachment 7). He explained that the amendment would require at least a quarterly compliance check for all outlets.

Senator O' Connor asked what the ability would be of the ABC to comply and what would it cost.

Senator Barnett stated the amendment would allow for either the local government to establish their own program or to coordinate with the ABC. He explained that he could not address the cost, but explained that if the program collected fines, it could be self-supported.

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:30 a.m. on February 3, 2004 in Room 231-N of the Capitol.

Senator Barnett made a motion for the adoption of the compliance amendment. The motion was seconded by Senator Lyon. The amendment passed 5-4.

Senator Gilstrap made a motion to place the issue of Sunday sales back into **SB 305**. The motion was seconded by Senator Betts. The motion passed.

Senator Barnett asked for a show of division.

The motion passed 6-3.

Chairperson Brungardt asked Ms. Kiernan to review for the committee what had been done.

Ms. Kiernan stated that the amendment for severability and the amendment to delete preemption language were added to **SB 305**. The provision to increase tax rates was approved. The amendment calling for compliance checks was approved. Sunday sales were placed back into **SB 305**. And the provision calling for the increase in hours of operation for farm wineries was approved, but is not part of **SB 305**.

Chairperson Brungardt asked the committee for additional amendments.

Ms. Kiernan presented amendments proposed by the Alcoholic Beverage Control (Attachment 8). She explained the first amendment called for the striking of the word resolution and the substitution of the word ordinance on page 13. The second amendment, she explained, concerned the retainment of certain wine records by the retailers of alcoholic beverages.

Senator Clark stated that the wine issue had been separated from **SB 305**.

Ms. Kieran stated Senator Clark was correct, that only the first amendment proposed by the ABC would effect **SB 305**.

Senator Clark made a motion for the adoption for the amendment that would change the word resolution to ordinance, as proposed by the ABC. The motion was seconded by Senator Teichman. The motion to amend passed.

Chairperson Brungardt asked the committee to consider an amendment that would allow the sale of alcohol on Labor Day, Memorial Day, and the Fourth of July (Attachment 9).

Chairperson Brungardt made a motion of the adoption of the amendment. The motion was seconded by Senator Gilstrap. The motion to amend was defeated 4-5.

Chairperson Brungardt asked the committee for additional amendments.

Senator O' Connor asked if there had been an amendment proposed that would strike the community population requirement.

Tom Groneman stated the amendment would strike the 5,000 population requirement from section five of **SB 305**.

Senator O' Connor made a conceptual motion for the adoption of an amendment that would strike the population requirement from **SB 305**. The motion was seconded by Senator Betts. The motion to amend was passed.

Senator Vratil made a motion to place the wine issue back into **SB 305**. The motion was seconded by Senator Gilstrap. The motion was defeated 4-5.

Senator Vratil made a motion to recommend **SB 305** favorable for passage as amended. The motion was seconded by Senator O'Connor.

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:30 a.m. on February 3, 2004 in Room 231-N of the Capitol.

Senator Lyon spoke against the motion to recommend **SB 305** favorable for passage as amended.

Chairperson Brungardt asked for a vote on **SB 305, Liquor control act and cereal malt beverage laws; uniformity, Sunday sales. SB 305** was recommended favorable for passage as amended 5-4.

Chairperson Brungardt thanked the committee.

The meeting was adjourned at 11:50 a.m. The next meeting is scheduled for February 4, 2004, at 10:30 a.m. in room 231-N.

Senate Federal and State Affairs Committee

Date: FEBRUARY 3, 2009

Name:

Representing:

Ron Seiber

Hein Law Firm

Sandi Raines

MADD

Dawn Windmeyer

MADD

Kelly Greemore

MADD

Sandy Jacquot

LKM

Janna Durbar

Commerce

Norm Jennings

KGCWMA

Tom Palace

PMCA of KANSAS

Charles E. McGRIBB

WINE INSTITUTE

Roger Lewis

M.A.D.D.

Dawn Macqua

MADD

Tom Groneman

ABC

Andy Shaw

ISSHE

PMCA of KS

Tuck Duxard

KS, Wine & spirits wholesalers ASSN

Whitney Darran

Distilled Spirits Council of the U.S.

Neal Whitaker

KBWA

Rebecca Finn

KBWA

Bud Burke

City of Clatsco

VRATIL
(1)

Senate Federal and State Affairs Com.
Date: FEBRUARY 3, 2004
Attachment: # 1

1 (c) Any resolution adopted by a county which conflicts with the re-
2 strictions in subsection (a) is null and void.

3 • Sec. 2. K.S.A. 41-208 is hereby amended to read as follows: 41-208.
4 *Except as specifically delegated in the Kansas liquor control act*, the power
5 to regulate all phases of ~~the control of~~ the manufacture, distribution, sale,
6 possession, transportation and traffic in alcoholic liquor and the manu-
7 facture of beer regardless of its alcoholic content, ~~except as specifically~~
8 ~~delegated in this act~~, is hereby vested exclusively in the state and shall be
9 exercised as provided in ~~this act~~. ~~No city shall enact any ordinance in~~
10 ~~conflict with or contrary to the provisions of this act and any ordinance~~
11 ~~of any city in effect at the time this act takes effect or thereafter enacted~~
12 ~~which is in conflict with or contrary to the provisions of this~~ *the Kansas*
13 *liquor control act. Any ordinance or resolution enacted by a city or county*
14 *which is more restrictive than, conflicting with or contrary or supple-*
15 *mental to the provisions of the Kansas liquor control act shall be null and*
16 *void.*

17 Nothing contained in this section shall be construed as preventing any
18 city from enacting ordinances declaring acts prohibited or made unlawful
19 by this act as unlawful or prohibited in such city and prescribing penalties
20 for violation thereof, but the minimum penalty in any such ordinance
21 shall not ~~exceed~~ *be less than* the minimum penalty prescribed by this act
22 for the same violation, nor shall the maximum penalty in any such ordi-
23 nance exceed the maximum penalty prescribed by this act for the same
24 violation.

25 Sec. 3. K.S.A. 41-301 is hereby amended to read as follows: 41-301.
26 (a) *Except as provided by subsection (b)*, the director shall issue to qual-
27 ified applicants, who have filed the bond and paid the registration and
28 license fees required by this act, licenses to sell *at retail* alcoholic liquor
29 ~~at retail~~ in the original package *at premises* within the corporate limits of
30 ~~cities and outside the corporate limits of cities in certain townships as~~
31 ~~provided in this act. Provided, That no such retailer's license shall be~~
32 ~~issued for any premises within any city of the first or second class wherein~~
33 ~~a majority of the qualified electors of such city who voted on the propo-~~
34 ~~sition to amend section 10 of article 15 of the constitution of the state of~~
35 ~~Kansas at the general election held in November, 1948, shall have voted~~
36 ~~against the adoption of such proposition or in cities of the third class~~
37 ~~located in a township, or townships, wherein a majority of the qualified~~
38 ~~electors of such township, or townships, who voted on said proposition~~
39 ~~to amend the constitution at said election shall have voted against its~~
40 ~~adoption, until a majority of the qualified electors of such city voting at~~
41 ~~an election held as provided by K.S.A. 41-302, and amendments thereto,~~
42 ~~shall have declared by their votes to be in favor of the licensing of the~~
43 ~~sale of alcoholic liquor by the package in such city~~ *any city.*

The provisions of this act are severable. If any provision of this act is held to be invalid or unconstitutional, it shall be presumed conclusively that the legislature would have enacted the remainder of this act without such invalid or unconstitutional provision.

1 coordinating council, as provided by K.S.A. 75-3682, and amendments
2 thereto.

3 (10) On the premises of *any Kansas national guard armory or the*
4 *Kansas national guard regional training center located in Saline county,*
5 *and any building on such premises, as authorized by rules and regulations*
6 *of the adjutant general and upon approval of the Kansas military board.*

7 (11) On property exempted from this subsection (c) pursuant to sub-
8 section (d), (e), (f), (g), ~~(h) or (i)~~ or (h).

9 (d) Any city may exempt, by ordinance, from the provisions of sub-
10 section (c) specified property the title of which is vested in such city.

11 (e) The board of county commissioners of any county may exempt,
12 by resolution, from the provisions of subsection (c) specified property the
13 title of which is vested in such county.

14 (f) The state board of regents may exempt from the provisions of
15 subsection (c) the Sternberg museum on the campus of Fort Hays state
16 university, or other specified property which is under the control of such
17 board and which is not used for classroom instruction, where alcoholic
18 liquor may be consumed in accordance with policies adopted by such
19 board.

20 (g) The board of regents of Washburn university may exempt from
21 the provisions of subsection (c) the Mulvane art center and the Bradbury
22 Thompson alumni center on the campus of Washburn university, and
23 other specified property the title of which is vested in such board and
24 which is not used for classroom instruction, where alcoholic liquor may
25 be consumed in accordance with policies adopted by such board.

26 ~~(h) Any city may exempt, by ordinance, from the provisions of sub-~~
27 ~~section (c) any national guard armory in which such city has a leasehold~~
28 ~~interest, if the Kansas military board consents to the exemption.~~

29 ~~(i) The board of trustees of a community college may exempt from~~
30 ~~the provisions of subsection (c) specified property which is under the~~
31 ~~control of such board and which is not used for classroom instruction,~~
32 ~~where alcoholic liquor may be consumed in accordance with policies~~
33 ~~adopted by such board.~~

34 ~~(j) (i) Violation of any provision of this section is a misdemeanor pun-~~
35 ~~ishable by a fine of not less than \$50 or more than \$200 or by impris-~~
36 ~~onment for not more than six months, or both.~~

37 New Sec. 13. (a) K.S.A. 41-2701 through 41-2727 and section 15,
38 and amendments thereto, shall be known and may be cited as the Kansas
39 cereal malt beverage act.

40 (b) Except as specifically provided in the Kansas cereal malt beverage
41 act, the power to regulate all phases of the manufacture, distribution,
42 sale, possession, transportation and traffic in cereal malt beverages is
43 vested exclusively in the state and shall be exercised as provided in the

1 Kansas cereal malt beverage act. Any ordinance or resolution enacted by
 2 a city or county which is more restrictive than, conflicting with or contrary
 3 or supplemental to the provisions of the Kansas cereal malt beverage act
 4 shall be null and void.

5 Sec. 14. K.S.A. 41-2704 is hereby amended to read as follows: 41-
 6 2704. (a) In addition to and consistent with the requirements of ~~this act~~
 7 *the cereal malt beverage act*, the board of county commissioners of any
 8 county or the governing body of any city may prescribe hours of closing,
 9 standards of conduct and rules and regulations concerning the moral,
 10 sanitary and health conditions of places licensed pursuant to this act and
 11 may establish zones within which no such place may be located.

12 (b) Except as provided by ~~subsection (g)~~ *subsections (g) and (h)*, no
 13 cereal malt beverages may be sold:

- 14 (1) Between the hours of 12 midnight and 6 a.m.; or
 15 (2) on Sunday, except in a place of business which is licensed to sell
 16 cereal malt beverage for consumption on the premises, which derives not
 17 less than 30% of its gross receipts from the sale of food for consumption
 18 on the licensed premises and which is located in a county where such
 19 sales on Sunday have been authorized by resolution of the board of county
 20 commissioners of the county or in a city where such sales on Sunday have
 21 been authorized by ordinance of the governing body of the city.

22 (c) No private rooms or closed booths shall be operated in a place of
 23 business, but this provision shall not apply if the licensed premises ~~are~~
 24 ~~also currently~~ *also are* licensed as a club pursuant to the club and drinking
 25 establishment act.

26 (d) Each place of business shall be open to the public and to law
 27 enforcement officers at all times during business hours, except that a
 28 premises licensed as a club pursuant to the club and drinking establish-
 29 ment act shall be open to law enforcement officers and not to the public.

30 (e) *Except as provided by this subsection*, no licensee shall permit a
 31 person under the legal age for consumption of cereal malt beverage to
 32 *possess*, consume or purchase any cereal malt beverage in or about a place
 33 of business, ~~and no licensee shall permit a person under the legal age for~~
 34 ~~consumption of cereal malt beverage to possess cereal malt beverage in~~
 35 ~~or about a place of business, except that~~ A licensee's employee who is
 36 not less than 18 years of age may dispense or sell cereal malt beverage,
 37 if:

38 (1) The licensee's place of business is licensed only to sell *at retail*
 39 cereal malt beverage ~~at retail in the original and unopened containers~~
 40 *package* and not for consumption on the premises; or

41 (2) the licensee's place of business is a licensed food service estab-
 42 lishment, as defined by K.S.A. 36-501 and amendments thereto, and not
 43 less than 50% of the gross receipts from the licensee's place of business

(c) The provisions of this act are severable. If any provision of this act is held to be invalid or unconstitutional, it shall be presumed conclusively that the legislature would have enacted the remainder of this act without such invalid or unconstitutional provision.

1 Kansas Statutes Annotated and any rules and regulations adopted pur-
 2 suant thereto. Counties may not require any license or permit for the
 3 drilling or production of oil and gas wells. Counties may not impose any
 4 fee or charge for the drilling or production of any oil or gas well.

5 (23) Counties may not exempt from or effect changes in K.S.A. 79-
 6 41a04, and amendments thereto.

7 (24) Counties may not exempt from or effect changes in K.S.A. 79-
 8 1611, and amendments thereto.

9 (25) Counties may not exempt from or effect changes in K.S.A. 79-
 10 1494, and amendments thereto.

11 (26) Counties may not exempt from or effect changes in subsection
 12 (b) of K.S.A. 19-202, and amendments thereto.

13 (27) Counties may not exempt from or effect changes in subsection
 14 (b) of K.S.A. 19-204, and amendments thereto.

15 (28) Counties may not levy or impose an excise, severance or any
 16 other tax in the nature of an excise tax upon the physical severance and
 17 production of any mineral or other material from the earth or water.

18 (29) Counties may not exempt from or effect changes in K.S.A. 79-
 19 2017 or 79-2101, and amendments thereto.

20 (30) Counties may not exempt from or effect changes in K.S.A. 2-
 21 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d; or
 22 65-1,178 through 65-1,199 ~~or K.S.A. 2003 Supp. 17-5909~~, and amend-
 23 ments thereto.

24 (31) Counties may not exempt from or effect changes in K.S.A. 2003
 25 Supp. 80-121, and amendments thereto.

26 (32) Counties may not exempt from or effect changes in K.S.A. 19-
 27 228, and amendments thereto.

28 (33) ~~Counties may not exempt from or effect changes in the Kansas~~
 29 ~~liquor control act.~~

30 (34) ~~Counties may not exempt from or effect changes in the Kansas~~
 31 ~~cereal malt beverage act.~~

32 (b) Counties shall apply the powers of local legislation granted in
 33 subsection (a) by resolution of the board of county commissioners. If no
 34 statutory authority exists for such local legislation other than that set forth
 35 in subsection (a) and the local legislation proposed under the authority
 36 of such subsection is not contrary to any act of the legislature, such local
 37 legislation shall become effective upon passage of a resolution of the
 38 board and publication in the official county newspaper. If the legislation
 39 proposed by the board under authority of subsection (a) is contrary to an
 40 act of the legislature which is applicable to the particular county but not
 41 uniformly applicable to all counties, such legislation shall become effec-
 42 tive by passage of a charter resolution in the manner provided in K.S.A.
 43 19-101b, and amendments thereto.

AMENDMENT - SENATOR
 JOHN VRATIC

(33)(A) Counties may not exempt from or effect changes in the
 Kansas liquor control act, except as provided by paragraph (B).

(B) Counties may adopt resolutions which do not conflict
 with or are more restrictive than or supplemental to the Kansas
 liquor control act.

(34)(A) Counties may not exempt from or effect changes in the
 Kansas cereal malt beverage act, except as provided by paragraph (B).

(B) Counties may adopt resolutions which do not conflict
 with or are more restrictive than or supplemental to the Kansas
 cereal malt beverage act.

VRATIC (7)

Senate Federal and State Affairs Com

Date: FEBRUARY 3, 2004

Attachment: # 2

1 (c) Any resolution adopted by a county which conflicts with the re-
2 strictions in subsection (a) is null and void.

3 Sec. 2. K.S.A. 41-208 is hereby amended to read as follows: 41-208.
4 ~~Except as specifically delegated in the Kansas liquor control act, the power~~
5 ~~to regulate all phases of the control of the manufacture, distribution, sale,~~
6 ~~possession, transportation and traffic in alcoholic liquor and the manu-~~
7 ~~facture of beer regardless of its alcoholic content, except as specifically~~
8 ~~delegated in this act, is hereby vested exclusively in the state and shall be~~
9 ~~exercised as provided in this act. No city shall enact any ordinance in~~
10 ~~conflict with or contrary to the provisions of this act and any ordinance~~
11 ~~of any city in effect at the time this act takes effect or thereafter enacted~~
12 ~~which is in conflict with or contrary to the provisions of this the Kansas~~
13 ~~liquor control act. Any ordinance or resolution enacted by a city or county~~
14 ~~which is more restrictive than, conflicting with or contrary or supple-~~
15 ~~mental to the provisions of the Kansas liquor control act shall be null and~~
16 ~~void.~~

17 Nothing contained in this section shall be construed as preventing any
18 city from enacting ordinances declaring acts prohibited or made unlawful
19 by this act as unlawful or prohibited in such city and prescribing penalties
20 for violation thereof, but the minimum penalty in any such ordinance
21 shall not exceed *be less than* the minimum penalty prescribed by this act
22 for the same violation, nor shall the maximum penalty in any such ordi-
23 nance exceed the maximum penalty prescribed by this act for the same
24 violation.

25 Sec. 3. K.S.A. 41-301 is hereby amended to read as follows: 41-301.
26 (a) ~~Except as provided by subsection (b), the director shall issue to qual-~~
27 ~~ified applicants, who have filed the bond and paid the registration and~~
28 ~~license fees required by this act, licenses to sell at retail alcoholic liquor~~
29 ~~at retail in the original package at premises within the corporate limits of~~
30 ~~cities and outside the corporate limits of cities in certain townships as~~
31 ~~provided in this act. Provided, That no such retailer's license shall be~~
32 ~~issued for any premises within any city of the first or second class wherein~~
33 ~~a majority of the qualified electors of such city who voted on the propo-~~
34 ~~sition to amend section 10 of article 15 of the constitution of the state of~~
35 ~~Kansas at the general election held in November, 1948, shall have voted~~
36 ~~against the adoption of such proposition or in cities of the third class~~
37 ~~located in a township, or townships, wherein a majority of the qualified~~
38 ~~electors of such township, or townships, who voted on said proposition~~
39 ~~to amend the constitution at said election shall have voted against its~~
40 ~~adoption, until a majority of the qualified electors of such city voting at~~
41 ~~an election held as provided by K.S.A. 41-302, and amendments thereto,~~
42 ~~shall have declared by their votes to be in favor of the licensing of the~~
43 ~~sale of alcoholic liquor by the package in such city any city.~~

Nothing in this section shall be construed as prohibiting cities and counties from enacting ordinances and resolutions which are not in conflict with or more restrictive than or supplemental to the Kansas liquor control act.

in conflict with or contrary to

1 Kansas cereal malt beverage act. Any ordinance or resolution enacted by
 2 a city or county which is ~~more restrictive than, conflicting with or contrary~~
 3 ~~or supplemental~~ to the provisions of the Kansas cereal malt beverage act
 4 shall be null and void.

Nothing in this section shall be construed as prohibiting cities and counties from enacting ordinances and resolutions which are not in conflict with or more restrictive than or supplemental to the Kansas cereal malt beverage act.

5 Sec. 14. K.S.A. 41-2704 is hereby amended to read as follows: 41-
 6 2704. (a) In addition to and consistent with the requirements of ~~this act~~
 7 *the cereal malt beverage act*, the board of county commissioners of any
 8 county or the governing body of any city may prescribe hours of closing,
 9 standards of conduct and rules and regulations concerning the moral,
 10 sanitary and health conditions of places licensed pursuant to this act and
 11 may establish zones within which no such place may be located.

in conflict with or contrary to

12 (b) Except as provided by ~~subsection (g)~~ *subsections (g) and (h)*, no
 13 cereal malt beverages may be sold:

- 14 (1) Between the hours of 12 midnight and 6 a.m.; or
- 15 (2) on Sunday, except in a place of business which is licensed to sell
 16 cereal malt beverage for consumption on the premises, which derives not
 17 less than 30% of its gross receipts from the sale of food for consumption
 18 on the licensed premises and which is located in a county where such
 19 sales on Sunday have been authorized by resolution of the board of county
 20 commissioners of the county or in a city where such sales on Sunday have
 21 been authorized by ordinance of the governing body of the city.

22 (c) No private rooms or closed booths shall be operated in a place of
 23 business, but this provision shall not apply if the licensed premises ~~are~~
 24 ~~also currently~~ *also are* licensed as a club pursuant to the club and drinking
 25 establishment act.

26 (d) Each place of business shall be open to the public and to law
 27 enforcement officers at all times during business hours, except that a
 28 premises licensed as a club pursuant to the club and drinking establish-
 29 ment act shall be open to law enforcement officers and not to the public.

30 (e) *Except as provided by this subsection*, no licensee shall permit a
 31 person under the legal age for consumption of cereal malt beverage to
 32 possess, consume or purchase any cereal malt beverage in or about a place
 33 of business, ~~and no licensee shall permit a person under the legal age for~~
 34 ~~consumption of cereal malt beverage to possess cereal malt beverage in~~
 35 ~~or about a place of business, except that~~ A licensee's employee who is
 36 not less than 18 years of age may dispense or sell cereal malt beverage,
 37 if:

- 38 (1) The licensee's place of business is licensed only to sell *at retail*
 39 cereal malt beverage ~~at retail in the original and unopened containers~~
 40 *package* and not for consumption on the premises; or

- 41 (2) the licensee's place of business is a licensed food service estab-
 42 lishment, as defined by K.S.A. 36-501 and amendments thereto, and not
 43 less than 50% of the gross receipts from the licensee's place of business

Proposed Amendment to Senate Bill No. 305

AMENDMENT — SENATOR PETER BRUNGAARDT
SENATOR JOHN VRATIL

On page 19, following line 12, by inserting:

"Sec. 17. K.S.A. 41-308a is hereby amended to read as follows: 41-308a. (a) A farm winery license shall allow:

(1) The manufacture of domestic table wine and domestic fortified wine and the storage thereof;

(2) the sale of wine, manufactured by the licensee, to licensed wine distributors, retailers, clubs, drinking establishments and caterers;

(3) the sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of wine manufactured by the licensee;

(4) the serving on the licensed premises of samples of wine manufactured by the licensee or imported under subsection (f) (d), if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments; and

(5) if the licensee is also licensed as a club or drinking establishment, the sale of domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act;

(6) the donation of wine produced by farm wineries to nonprofit, charitable and government sponsored fundraising events;

(7) the serving of samples and the sale in the original unopened containers of wine manufactured by the licensee at festivals, trade shows and charitable events including the Kansas state fair, if the event is located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments; and

(8) the sale of wine manufactured by the licensee by the glass, carafe or the opened bottle in a restaurant owned by the

licensee if the restaurant is located on the farm winery or on property contiguous to the farm winery.

(b) Upon application and payment of the fee prescribed by K.S.A. 41-310, and amendments thereto, by a farm winery licensee, the director may issue not to exceed two winery outlet licenses to the farm winery licensee. A winery outlet license shall allow:

(1) The sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of wine manufactured by the licensee; and

(2) the serving on the licensed premises of samples of wine manufactured by the licensee or imported under subsection (f) (d), if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments.

~~(c) Not less than 60% of the products utilized in the manufacture of domestic table wine and domestic fortified wine by a farm winery shall be grown in Kansas except when a lesser proportion is authorized by the director based upon the director's findings and judgment. The label of domestic wine and domestic fortified wine shall indicate that a majority of the products utilized in the manufacture of the wine at such winery were grown in Kansas.~~

~~(d) A farm winery having a capacity of 50,000 gallons per year or more which sells wine to any distributor shall be required to comply with all provisions of article 4 of chapter 41 of the Kansas Statutes Annotated and of K.S.A. 41-701 through 41-705 and 41-709, and amendments thereto, in the same manner and subject to the same penalties as a manufacturer.~~

(e) (c) A farm winery or winery outlet may sell domestic wine and domestic fortified wine in the original unopened container to consumers for consumption off the licensed premises at any time between 6 a.m. and 12 midnight on any day except Sunday and between 12 noon and 6 8 p.m. on Sunday. If authorized by subsection (a), a farm winery may serve samples of domestic wine, domestic fortified wine and wine imported under subsection

~~(f)~~ (d) and serve and sell domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor. If authorized by subsection (b), a winery outlet may serve samples of domestic wine, domestic fortified wine and wine imported under subsection ~~(f)~~ (d) at any time when the winery outlet is authorized to sell domestic wine and domestic fortified wine.

~~(f)~~ (d) The director may issue to the Kansas state fair or any bona fide group of grape growers or wine makers a permit to import into this state small quantities of wines. Such wine shall be used only for bona fide educational and scientific tasting programs and shall not be resold. Such wine shall not be subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The permit shall identify specifically the brand and type of wine to be imported, the quantity to be imported, the tasting programs for which the wine is to be used and the times and locations of such programs. The secretary shall adopt rules and regulations governing the importation of wine pursuant to this subsection and the conduct of tasting programs for which such wine is imported.

~~(g)~~ (e) A farm winery license or winery outlet license shall apply only to the premises described in the application and in the license issued and only one location shall be described in the license.

~~(h)~~ (f) No farm winery or winery outlet shall:

(1) Employ any person under the age of 18 years in connection with the manufacture, sale or serving of any alcoholic liquor;

(2) permit any employee of the licensee who is under the age of 21 years to work on the licensed premises at any time when not under the on-premise supervision of either the licensee or an employee of the licensee who is 21 years of age or over;

(3) employ any person under 21 years of age in connection with mixing or dispensing alcoholic liquor; or

(4) employ any person in connection with the manufacture or

sale of alcoholic liquor if the person has been convicted of a felony.

~~(i)~~ (g) Whenever a farm winery or winery outlet licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and order forfeiture of all fees paid for the license, after a hearing before the director for that purpose in accordance with the provisions of the Kansas administrative procedure act.

~~(j)~~ (h) This section shall be part of and supplemental to the Kansas liquor control act.

Sec. 18. K.S.A. 41-308b is hereby amended to read as follows: 41-308b. (a) A microbrewery license shall allow:

(1) The manufacture of not less than 100 nor more than 15,000 barrels of domestic beer during the license year and the storage thereof;

(2) the sale to beer distributors of beer, manufactured by the licensee;

(3) the sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of beer manufactured by the licensee;

(4) the serving on the premises of samples of beer manufactured by the licensee, if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments;

(5) if the licensee is also licensed as a club or drinking establishment, the sale of domestic beer and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act; and

(6) if the licensee is also licensed as a caterer, the sale of domestic beer and other alcoholic liquor for consumption on unlicensed premises as authorized by the club and drinking establishment act.

(b) Not less than 50% of the products utilized in the manufacture of domestic beer by a microbrewery shall be grown in Kansas except when a greater proportion of products grown outside

this state is authorized by the director based upon findings that such products are not available in this state. The label of each container of domestic beer shall clearly set forth the proportion of the products utilized in the manufacture of the beer which was from agricultural products grown in Kansas.

(c) A microbrewery may sell domestic beer in the original unopened container to consumers for consumption off the licensed premises at any time between 6 a.m. and 12 midnight on any day except Sunday and between 12 noon and 6 8 p.m. on Sunday. If authorized by subsection (a), a microbrewery may serve samples of domestic beer and serve and sell domestic beer and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor.

(d) A microbrewery license shall apply only to the premises described in the application and in the license issued and only one location shall be described in the license.

(e) No microbrewery shall:

(1) Employ any person under the age of 18 years in connection with the manufacture, sale or serving of any alcoholic liquor;

(2) permit any employee of the licensee who is under the age of 21 years to work on the licensed premises at any time when not under the on-premises supervision of either the licensee or an employee of the licensee who is 21 years of age or over;

(3) employ any person under 21 years of age in connection with mixing or dispensing alcoholic liquor; or

(4) employ any person in connection with the manufacture or sale of alcoholic liquor if the person has been convicted of a felony.

(f) Whenever a microbrewery licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and all fees paid for the license in accordance with the Kansas administrative procedure act.

Sec. 19. K.S.A. 41-312 is hereby amended to read as follows:

41-312. (a) No person holding a manufacturer's or distributor's license shall be permitted to receive any retailer's, microbrewery or farm winery license. Except as provided by subsection (b), no person holding a retailer's, microbrewery or farm winery license shall be permitted to receive any manufacturer's or distributor's license or another retailer's, microbrewery or farm winery license.

(b) A farm winery licensee may own an interest in another farm winery as long as such ownership interest is less than 50%.

New Sec. 20. (a) Any person holding a farm winery license under 41-308a, and amendments thereto or a comparable license in another state which affords Kansas farm winery licensees or adult residents an equal reciprocal shipping privilege may ship, for personal use and not for resale, not more than two cases of wine, each case containing not more than nine liters, per year to any adult resident of this state. Delivery of a shipment pursuant to this section shall not be deemed to constitute a sale in this state.

(b) The shipping container of any wine sent into or out of this state under this section shall be labeled clearly to indicate that the package shall not be delivered to a person under the age of 21 years or to an intoxicated person.

(c) No person within this state may solicit consumers to engage in interstate reciprocal wine shipments under this section. No shipper located outside this state may advertise such interstate reciprocal wine shipments in this state.";

Renumber; title; repealer

BARNETT

SCHOOL FINANCE PLAN

(following Court Case)

AMENDMENT - SENATOR
JIM BARNETT

Program	2003-04 Current Law	2004-05 Est. Increase	2005-06 Est. Increase	2006-07 Est. Increase	2007-08 Est. Increase	2008-09 Est. In
At-Risk Weighting	10%	20% \$ 51,400,000	20% \$ 52,350,000	20% \$ 53,250,000	20% \$ 53,750,000	20% \$ 54,000,000
Bilingual Weighting	20%	25% 2,750,000	26% 3,300,000	27% 3,900,000	28.5% 4,900,000	30% 5,900,000
Teacher Mentoring (Fund Current Law over First two years)		1,850,000	1,850,000	1,850,000	1,850,000	1,850,000
Est. Cost Per Year		\$ 56,000,000	\$ 57,500,000	\$ 59,000,000	\$ 60,500,000	\$ 62,000,000

Senate Federal and State Affairs Com.

Date: FEBRUARY 3, 2004

Attachment: # 4

0459

\$ in millions) **Liquor Tax Proposal (1/26/2004)**

	Liq Excise June 1 Incr from 10 to 12	Liq Enf June 1 Incr from 8 to 10%	Liq Gallon June 1 Incr Strong Beer \$0.18 to \$0.98	CMB Gallon June 1 Incr CMB \$0.18 to \$0.98	Liq Gallon June 1 Incr Fortified Wine \$0.75 to \$0.90	Liq Gallon June 1 Incr Light Wine \$0.30 to \$0.36	Liq Gallon June 1 Incr Alc & Spirits \$2.50 to \$3	<u>Total</u>
FY 05	\$4.670	\$8.520	\$33.030	\$9.040	\$0.015	\$0.148	\$1.120	\$56.543
06	\$4.870	\$8.930	\$35.210	\$9.140	\$0.016	\$0.151	\$1.100	\$59.417
07	\$5.040	\$9.280	\$36.090	\$8.860	\$0.016	\$0.154	\$1.080	\$60.520
08	\$5.220	\$9.650	\$37.000	\$8.600	\$0.017	\$0.157	\$1.060	\$61.704
09	\$5.400	\$10.040	\$37.920	\$8.340	\$0.017	\$0.160	\$1.040	\$62.917
5-Yr Total	\$25.200	\$46.420	\$179.250	\$43.980	\$0.081	\$0.770	\$5.400	\$301.101
% Rate Incr	20.00%	25.00%	388.89%	388.89%	20.00%	20.00%	20.00%	
Last Increase	1979	1983	1977	1977	1977	1977	1977	

305 - Underway

chr

BARNETT

1 ance with rules and regulations of the secretary.
 2 (3) At the time of delivery to the purchaser, make a record of the
 3 delivery on a form approved by the director. The record shall be retained
 4 by the retailer for at least two years and shall include the following in-
 5 formation: (A) The business name, address and license number of the
 6 retailer; (B) the date and time of delivery to the purchaser; (C) the type,
 7 brand and amount of wine delivered to the purchaser; and (D) the age,
 8 printed name and signature of the purchaser.

9 (d) The secretary may adopt rules and regulations to implement and
 10 enforce the provisions of this section.

11 (e) This section shall be part of and supplemental to the Kansas liquor
 12 control act.

13 Sec. 17. ~~K.S.A. 41-208, 41-301, 41-302, 41-303, 41-710, 41-712, 41-~~
 14 ~~714, 41-1111, 41-1112, 41-1114 through 41-1121 and 41-2704 and K.S.A.~~
 15 ~~2003 Supp. 19-101a, 41-347, 41-501 and 41-719 are hereby repealed.~~

16 Sec. 18. This act shall take effect and be in force from and after its
 17 publication in the statute book.

Insert attached

Senate Federal and State Affairs Com.

Date: FEBRUARY 31, 2004

Attachment: # 5

Insert for page 19:

New Sec. 17. (a) An aggrieved party shall have a cause of action against a licensee for breach of the duties imposed by K.S.A. 21-3610, 41-715 or section 18, and amendments thereto, if a jury or court finds the following that:

(1) The person causing the harm consumed alcoholic liquor or cereal malt beverage furnished by the licensee and such alcoholic liquor or cereal malt beverage was consumed on the premises of the licensee;

(2) the consumption of such alcoholic liquor or cereal malt beverage was a proximate cause of the harm sustained by the aggrieved party; and

(3) the harm was a foreseeable consequence of the negligent furnishing of alcoholic liquor or cereal malt beverage by the licensee.

(b) In any action brought pursuant to this section, evidence of acts or conduct by the licensee in violation of K.S.A. 21-3610, 41-715 or section 18, and amendments thereto, may be admissible. Any action under this section shall survive death for purposes of K.S.A. 60-1801, and amendments thereto, and may be maintained in a wrongful death action under K.S.A. 60-1901, and amendments thereto.

(c) Any action under subsection (a) shall be subject to K.S.A. 60-258a, and amendments thereto.

(d) In any action under subsection (a) for breach of the duties imposed by K.S.A. 21-3610, and amendments thereto, evidence of any defense provided in of K.S.A. 21-3610, and amendments thereto, as applicable, may be admissible for the purpose of determining comparative negligence under K.S.A. 60-258a, and amendments thereto.

(e) Except as expressly provided in subsections (a) and (c), there shall be no claim under K.S.A. 60-258a, and amendments thereto, for breach of the duties imposed by K.S.A. 21-3610, 41-715 or section 18, and amendments thereto. Any alleged negligence or fault for furnishing alcoholic liquor or cereal malt beverages shall not be admissible in an action under K.S.A. 60-258a, and amendments thereto.

(f) Nothing in this section shall be construed to provide a cause of action by a person who suffers harm proximately caused by such person's voluntary consumption of any alcoholic liquor or cereal malt beverage unless the person is under the age of 21. No person over the age of 21 or any dependant, representative, heir or assign of such person may have a cause of action against a licensee for harm arising out of such person's voluntary consumption of alcoholic liquor or cereal malt beverage.

(g) As used in this section:

(1) "Aggrieved party" means a person who sustains harm as a consequence of the acts or conduct of an incapacitated person or a minor, but shall not include: (A) Such minor or incapacitated person, absent clear and convincing evidence that the furnishing of the alcoholic liquor or cereal malt beverage was knowing or intentional; or (B) any person who aided or abetted in the furnishing of the alcoholic liquor or cereal malt beverage to the minor or incapacitated person.

(2) "Harm" has the meaning provided by subsection (d) of K.S.A. 60-3302, and amendments thereto.

(3) "Licensee" means a licensee under the Kansas liquor control act, the club and drinking establishment act or the Kansas cereal malt beverage act, and amendments thereto.

(4) "Furnish" means directly or indirectly to sell, give, procure or deliver or directly or indirectly permit a sale, gift, procurement or delivery.

(5) Any other terms shall have the meanings provided by K.S.A. 21-3610, 41-102, 41-2601 and 41-2401, and amendments thereto.

New Sec. 18. (a) No person knowingly shall sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any cereal malt beverage to or for any person who is an incapacitated person, or any person who is physically or mentally incapacitated by the consumption of alcoholic liquor or cereal malt beverage.

(b) Violation of this section is a misdemeanor punishable by a fine of not less than \$100 and not exceeding \$250 or imprisonment not exceeding 30 days, or both.

AMENDMENT - SENATOR JIM BARNETT
Proposed Amendment to Senate Bill No. 305

On page 19, following line 12, by inserting:

"Sec. 1. K.S.A. 41-2727 is hereby amended to read as follows: 41-2727. (a) Any person listed in subsections (b)(1), (b)(2) or (b)(3) may engage or direct a person under the legal age for consumption of cereal malt beverage to violate the provisions of ~~K.S.A. 41-2701, et seq.~~ the Kansas cereal malt beverage act, and amendments thereto, in order to develop a program or system which determines and encourages compliance with the provisions thereof prohibiting the furnishing or sale of cereal malt beverages to a person under the legal age for consumption of cereal malt beverage or the consumption of cereal malt beverages by such persons.

(b) No person shall engage or direct a person under the legal age for consumption of cereal malt beverage to violate any provision of ~~K.S.A. 41-2701 et seq.~~ the Kansas cereal malt beverage act, and amendments thereto, for purposes of determining compliance therewith unless such person is:

(1) An officer having authority to enforce the provisions of ~~K.S.A. 41-2701 et seq.~~ the Kansas cereal malt beverage act, and amendments thereto;

(2) an authorized representative of the attorney general, a county attorney or a district attorney; or

(3) a licensee under the provisions of ~~K.S.A. 41-2701, et seq.~~ the Kansas cereal malt beverage act, and amendments thereto, or such licensee's designee pursuant to a self-compliance program designed to increase compliance with the provisions of ~~K.S.A. 41-2701 et seq.~~ the Kansas cereal malt beverage act, and amendments thereto, if such program has been approved by the

Senate Federal and State Affairs Com.

Date: FEBRUARY 3, 2004

Attachment: # 6

director.

(c) The governing body of any city and the board of county commissioners of any county which issues or renews licenses under the Kansas cereal malt beverage act shall develop and implement a program or system which determines and encourages compliance with the provisions of the Kansas cereal malt beverage act prohibiting the furnishing to or sale of cereal malt beverages to a person under the legal age for consumption of cereal malt beverage or the consumption of cereal malt beverages by such persons. Under such program or system, each retailer shall be subject to at least one compliance check each calendar quarter. Compliance checks may be conducted in concert with the division of alcoholic beverage control or with the retailer under a self-compliance program approved by the governing body of the city or the board of county commissioners."

Title; repealer; internal ref. in new sec. 13

CMB Controlled Buys

County/City	Name of business (1) on-premise (2) off-premise	Sold (Yes/No)	Checked ID sold anyway	Compliance Rate
Sedgwick/ Wichita	The Cedar (1)	YES	NO	
	Taco Tico (1)	YES	NO	
	Kum & Go #326 (2)	NO	N/A	
	C-Mart (2)	YES	NO	
	Total 4	3	0	25.0%
Butler/ El Dorado	Blue Goose Tavern (1)	NO	N/A	
	Cook's Tavern (1)	NO	N/A	
	Casey's General Store (2)	YES	YES	
	Wayman Bro.'s Retreat (2)	YES	NO	
	Total 4	2	1	50.0%
	Cumulative 8	5	1	37.5%
Lyon/ Emporia	The Dugout (1)	YES	NO	
	Turtle's Tavern (1)	NO	N/A	
	Johnnie's Tavern (1)	YES	NO	
	Amoco (2)	NO	N/A	
	C-Mart (2)	YES	YES	
	Total 5	3	1	40.0%
	Cumulative 13	8	2	38.7%

Senate Federal and State Affairs Com.

Date: FEBRUARY 3, 2004

Attachment: # 7

CMB Controlled Buys

County/City	Name of business	Sold (Yes/No)	Checked ID sold anyway	Compliance Rate
Shawnee/Topeka	Godfather's (1)	YES	YES	
	Pizza Hut (1)	YES	NO	
	Imperial Gardens (1)	YES	NO	
	Conoco Foodmart (2)	YES	NO	
	E-Z Shop (2)	NO	N/A	
	Miller Mart (2)	YES	NO	
	Total	6	5	1
Cumulative	47	21	7	16.7%
Saline/ Salina	Silver Bullet II (1)	YES	YES	
	Las Angelas (1)	YES	NO	
	Pizza Hut (1)	YES	NO	
	Kwik Shop #723 (2)	YES	NO	
	Kwik Shop #739 (2)	NO	N/A	
	The Pit Shop (2)	YES	YES	
	Total	6	5	2
Cumulative	53	26	9	16.7%
Harvey/ Newton	Prime Time #132 (2)	YES	YES	
	Prime Time #125 (2)	NO	N/A	
	Bill's Bar (1)	YES	NO	
	Pizza Hut (1)	YES	YES	
	Total	4	3	2
Cumulative	57	29	11	25.0%
				49.1%

ABC

1 where the sale at retail of alcoholic liquor in the original package on
2 Sunday has been approved as provided by K.S.A. 41-303, and amend-
3 ments thereto.

4 New Sec. 10. (a) The governing body of any city may adopt ~~a reso-~~ an ordinance
5 ~~lution~~ permitting the sale at retail of alcoholic liquor or cereal malt bev-
6 erage, or both, in the original package on Sunday between the hours of
7 12 noon and 8 p.m. Such ~~resolution~~ shall be published at least once each
8 week for two consecutive weeks in the official city newspaper. Such ~~res-~~
9 ~~olution~~ shall not become effective until at least 30 days following the date
10 of the last publication thereof. If within 30 days following the last publi-
11 cation of the ~~resolution~~, a petition requesting that the proposition be
12 submitted for approval by the voters is filed in accordance with subsection
13 (b), such ~~resolution~~ shall not become effective until the proposition is
14 submitted to and approved at an election as provided by this section.

15 (b) A petition to submit a proposition to the qualified voters of a city
16 pursuant to this section shall be filed with the city clerk. The petition
17 shall be signed by qualified voters of the city equal in number to not less
18 than 10% of the voters of the city who voted for the office of secretary
19 of state at the last preceding general election of such office.

20 (c) Upon the filing of a sufficient petition pursuant to this section,
21 the governing body shall cause the proposition to be placed on the ballot
22 at the next succeeding primary or general election which occurs after the
23 petition is filed with the city clerk or at a special election called and held
24 thereon. Such election shall be called and held in the manner provided
25 by law for question submitted elections.

26 (d) If a majority of the voters voting at any election pursuant to this
27 section votes in favor of the proposition, the governing body shall transmit
28 a copy of the results to the director.

29 (e) Nothing in this section shall be construed as authorizing a retailer
30 as defined by K.S.A. 41-102, and amendments thereto, to sell cereal malt
31 beverages.

32 Nothing in this section shall be construed to authorize a retailer as
33 defined by K.S.A. 41-2701, and amendments thereto, to sell alcoholic
34 liquor.

35 Sec. 11. K.S.A. 41-714 is hereby amended to read as follows: 41-714.

36 (a) It shall be unlawful for:

37 (1) Any person to advertise any alcoholic liquor by means of handbills;
38 or

39 (2) any retailer of alcoholic liquor to advertise any alcoholic liquor by
40 means of billboards along public highways, roads and streets or to have
41 on the retailer's licensed premises any billboard advertising alcoholic li-
42 quor; or

43 ~~(3) any licensee to display alcoholic liquor in any window of the li-~~

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Date: FEBRUARY 3, 2004

Attachment: # 8

1 ance with rules and regulations of the secretary.

2 (3) At the time of delivery to the purchaser, make a record of the
3 delivery on a form approved by the director. ~~The record shall be retained~~
4 ~~by the retailer for at least two years~~ and shall include the following in-
5 formation: (A) The business name, address and license number of the
6 retailer; (B) the date and time of delivery to the purchaser; (C) the type,
7 brand and amount of wine delivered to the purchaser; and (D) the age,
8 printed name and signature of the purchaser.

9 (d) The secretary may adopt rules and regulations to implement and
10 enforce the provisions of this section.

11 (e) This section shall be part of and supplemental to the Kansas liquor
12 control act.

13 Sec. 17. K.S.A. 41-208, 41-301, 41-302, 41-303, 41-710, 41-712, 41-
14 714, 41-1111, 41-1112, 41-1114 through 41-1121 and 41-2704 and K.S.A.
15 2003 Supp. 19-101a, 41-347, 41-501 and 41-719 are hereby repealed.

16 Sec. 18. This act shall take effect and be in force from and after its
17 publication in the statute book.

and maintain a copy of the bill of lading or invoice included
in the wine shipment from the out-of-state shipper. Such
documentation shall be retained by the retailer for at least three

1 the school, college, hospital or sanatorium ordering it shall file a report
 2 in the office of the director upon forms furnished by the director, showing
 3 the amount of alcohol or wine received, the place where it is to be stored,
 4 from whom it was received, the purpose for which it is to be used and
 5 such other information as required by the director. Any school, college,
 6 hospital, sanatorium or institution caring for the sick, which complies with
 7 the provisions of this subsection, shall not be required to have any other
 8 license to purchase alcohol or wine from a microbrewery, farm winery,
 9 manufacturer or distributor.

10 Sec. 8. K.S.A. 41-710 is hereby amended to read as follows: 41-710.
 11 (a) No retailer's license shall be issued for premises ~~which are located in~~
 12 ~~areas not zoned for general commercial or business purposes, if the city~~
 13 ~~or township in which the premises are located is zoned or are not ap-~~
 14 ~~proved by the director, if the premises sought to be licensed are located~~
 15 ~~outside an incorporated city in a township which is not zoned unless such~~
 16 ~~premises comply with all applicable zoning regulations.~~

17 (b) No microbrewery license or farm winery license shall be issued
 18 for premises which are zoned for any purpose except agricultural, com-
 19 mercial or business purposes.

20 (c) No retailer's, microbrewery or farm winery license shall be issued
 21 for premises which:

22 (1) Are located within 200 feet of any public or parochial school or
 23 college or church, except that if any such school, college or church is
 24 established within 200 feet of any licensed premises after the premises
 25 have been licensed, the premises shall be an eligible location for retail
 26 licensing; and or

27 (2) do not conform to the building ordinances or laws of the state or
 28 city or, in the absence of such ordinances or laws, are not structurally in
 29 good condition or are in a dilapidated condition all applicable building
 30 regulations.

31 Sec. 9. K.S.A. 41-712 is hereby amended to read as follows: 41-712.

32 (a) Except as authorized by this section, no person shall sell at retail any
 33 alcoholic liquor in the original package: (1) On Sunday; (2) on ~~Memorial~~
 34 ~~Day, Independence Day, Labor Day, Thanksgiving Day or Christmas~~
 35 ~~Day; or (3) before 9 a.m. or after 11 p.m. on any day when the sale is~~
 36 ~~permitted, except that~~ The governing body of any city, by ordinance, may
 37 require the closing of premises prior to 11 p.m., but such ordinance shall
 38 not require closing prior to 8 p.m.

39 (b) A retailer may sell at retail alcoholic liquor in the original package
 40 on Sunday between the hours of 12 noon and 8 p.m. within: (1) The
 41 corporate limits of any city where the sale at retail of alcoholic liquor in
 42 the original package on Sunday has been approved as provided by section
 43 10, and amendments thereto; and (2) the boundaries of any township