

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 17, 2009, in Room 136-N of the Capitol.

All members were present except:
Senator Steve Morris- excused

Committee staff present:
Jason Long, Office of the Revisor of Statutes
Dennis Hodgins, Kansas Legislative Research Department
Connie Burns, Committee Assistant

Conferees appearing before the committee:
Mayor Carl Brewer, City of Wichita
Don Moler, League of Kansas Municipalities
Jason Dilts, ROK ICT
Philip Bradley, Kansas Licensed Beverage Association
Frances Wood, Kansans for Addiction Prevention
Larrie Ann Lower, Wine Institute
Amy Campbell, Kansas Association of Beverage Retailers
Senator Chris Steineger

Others attending:
See attached list.

Introduction of Bills:

Senator Faust-Goudeau requested a bill introduction concerning involuntary manslaughter while driving under the influence of alcohol and drugs.

Senator Faust-Goudeau moved that this request should be introduced as a committee bill. Senator Reitz seconded the motion. The motion carried.

SB 213 - Consumption of alcoholic liquor in entertainment and arts and cultural districts.

Chairman Brungardt opened the hearing on **SB 213**.

Mayor Carl Brewer, City of Wichita, appeared in support of the bill. (Attachment 1) The bill would create the opportunity for local communities to create specific locations where consumption of alcoholic beverages on public streets, sidewalks and rights-of-way. The success and continuation of this option will depend on its appropriate use; abuse of the opportunity would result in a discontinuance of the practice. Current policing practices should provide the same level of public safety enjoyed throughout the community.

Don Moler, League of Kansas municipalities, spoke in support of the bill. (Attachment 2) The bill would be a positive improvement statewide, and state law does not allow the carrying of open containers anywhere in Kansas on the public rights-of-way.

Jason Dilts, ROK ICT, appeared in support of the bill. (Attachment 3) The passage of the bill will allow the entertainment districts where adults can freely, but responsibly, consume alcohol outside and would do much to foster the kind of growth desperately needed in the downtown area.

Philip Bradley, Kansas Licensed Beverage Association, (KLBA) spoke in favor of the bill. (Attachment 4) Mr. Bradley did request that the bill be amended to allow the businesses to participate; that would allow KLBA patrons to purchase from their businesses and then join the festivities.

Lawrence City Commission, (Attachment 5) Janet Wright, President/CEO, Wichita Festivals, Inc.

CONTINUATION SHEET

Minutes of the Senate Federal And State Affairs Committee at 10:30 a.m. on February 17, 2009, in Room 136-N of the Capitol.

([Attachment 6](#)) Jason Gage, Salina City Manger ([Attachment 7](#)) and Jeffrey C. Fluhr, Wichita Downtown Development Corporation, ([Attachment 8](#)) provided written testimony in support of the bill.

Staff provided an overview of the bill.

Frances Wood, Kansans for Addiction Prevention, spoke in opposition to the bill. ([Attachment 9](#))The bill encourages the consumption of an unwholesome product.

Chairman Brungardt closed the hearing on **SB 213**

SB 212 - Wine shipments, certain persons; licensure; limitations.

Chairman Brungardt opened the hearing on **SB 212**

Staff provided the committee an overview of the bill. ([Attachment 10](#))

Larrie Ann Lower, Wine Institute, spoke in favor of the bill. ([Attachment 11](#)) The bill will enable wineries to make direct shipments of wine in a limited quantity to Kansas consumers. The winery must obtain a special order shipping license from the Kansas Secretary of Revenue and pay a license fee. Each winery can ship up to 12 standard cases of wine of one brand or a combination of brands to one consumer or address per calendar year.

Kansas Viticulture and Farm Winery Association, provided written testimony in support of the bill. ([Attachment 12](#))

Philip Bradley, Kansas Licensed Beverage Association, (KLBA) appeared neutral with concerns on the bill. ([Attachment 13](#)) The concerns for an underage person accessing their product, knowingly or unknowingly, the same standards should be applied to these direct sales or the standard should be modified, and would request language be added "approved by the Director of the Alcohol Beverage Control or their designate."

Amy Campbell, Kansas Association of Beverage Retailers, (KABR) spoke as neutral on the bill. ([Attachment 14](#)) KABR respectfully asks that any shipping legislation contain the following:

- Provide for the safe and legal sale of the product to someone of legal age.
- Provide for the reliable collection of revenue due to the state.
- Provide for equal licenising requirements

It is very important that the bill creates an incentive for manufacturers who sell their products in Kansas legally now, to suddenly change their marketing plan to bypass State regulation and taxation.

Chairman Brungardt closed the hearing on **SB 212**

SB 113 - Legislature; reducing size of Senate, House.

Chairman Brungardt opened the hearing on **SB 113**.

Senator Chris Steineger spoke in favor of the bill. ([Attachment 15](#)) The bill would downsize Kansas government, this would be accomplished after redistricting in 2010, and would save money with 25% few Legislators.

Chairman Brungardt closed the hearing on **SB 113**.

The next meeting is scheduled for February 18, 2009. The meeting was adjourned at 11:42 am

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

DATE 2-17-09

NAME	REPRESENTING
Ryan Engelson	CAPITOL LOBBY GRP, LLC
Spencer Duncan	Capitol Connection KS
Don Moler	LKM
Joe Allen Lang	City of Wichita
Frances Wood	Kansas for Addiction Prevention
Dick Stoffer	Ay-Vee, Inc.
Tina Wood	Faust-Goudeau
Amy Cunniff	KABR
Rubena Rice	KBWA
Neal Whitaker	KBWA
Pam Irish	House of Schwan, Inc
Ramona Lower	Wine Institute
John D'Angelo	City of Wichita
Tom Groneman	ABC
Ann Zippin	ABC
Chris E. McKinley	WINE INSTITUTE
Michelle Johnson	Duron Court Reliefs
Olysin	Kansas Liberty
Adam Hartke	ROK ICT
JARED BREKMAN	ROK ICT!
Ligh Keck	Hein law firm
Doug Clark	Self
Phil Bradley	KLBA



Dale Goter
Government Relations Manager

TESTIMONY

City of Wichita
455 N Main, Wichita, KS. 67202
Wichita Phone: 316.268.4351
dgoter@wichita.gov

**Wichita Mayor Carl Brewer
Testimony on SB213
ENTERTAINMENT DISTRICT OVERLAY
Senate Federal and State Affairs Committee Feb. 17, 2009**

The proposal for an Entertainment Overlay would create the opportunity for local communities to create specific locations where consumption of alcoholic beverages on public streets, sidewalks and rights-of-way.

As the 50th largest city in the United States, the City of Wichita competes with other urban communities such as Oklahoma City, Kansas City and Fort Worth, all of whom actively seek to create a social environment that is attractive to a young, progressive demographic.

We firmly believe that proper regulation, licensing and oversight will ensure a responsible use of this opportunity. Large urban environments such as Wichita require the option of self-regulation to meet the needs and expectations of our population.

This option would reinforce current plans and developments, such as the Intrust Arena, Old Town, and Kennedy Plaza and appropriate other social events. The parameters of its application would be the sole authority of the governing body and would reflect the standards of the entire community.

The intent is not to facilitate greater alcohol consumption, but to allow its use in a controlled and responsible setting in selected public venues.

The success and continuation of this option will depend on its appropriate use. Abuse of the opportunity would result in a discontinuance of the practice. Current policing practices should provide the same level of public safety enjoyed throughout our community.

The kinds of discretionary regulatory decisions to be considered by the governing body as part of the licensing process could include:

- Hours of operation
- Types of containers
- Location of point of sale
- Appropriate events and audience

Sen Fed & State

Attachment 1
2-17-09



League of Kansas Municipalities

300 SW 8th Avenue, S 00
Topeka, Kansas 66603-3951
Phone: (785) 354-9565
Fax: (785) 354-4186

To: Senate Federal and State Affairs Committee
From: Don Moler, Executive Director
Re: Support for SB 213
Date: February 17, 2009

First I would like to thank the Committee for allowing the League to testify today in favor of SB 213. This bill, which was requested by the City of Wichita, would be a positive improvement statewide and I am here today to tell you why it would be better than the current law. Over my almost quarter century with the League, I have personally fielded dozens and dozens of questions from cities asking the question that this bill answers. Specifically, they want to know if they can allow alcoholic consumption at a street festival, fair, or other civic gathering which is sponsored by the city. Ultimately they want to know how to allow individuals to carry alcoholic liquor openly on public streets and sidewalks within an enclosed area. The League answer, as always, has been that state law does not allow the carrying of open containers anywhere in Kansas on the public rights-of-way.

It seems to us that SB 213 makes a tremendous amount of sense in that it allows for the appropriate licensure of alcoholic liquor, and at the same time allows communities to further local festivals by allowing a regulated and controlled source of alcoholic liquor. We would strongly encourage the committee to favorably report SB 213. I will be very happy to answer any questions the committee may have on this subject.

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Testimony on SB213 Entertainment District
Senate Federal and State Affairs Committee of the Kansas Legislature
Presented by Jason Dilts, ROK ICT
Feb. 17, 2009

ROK ICT enthusiastically endorses SB 213 and believes that its passage is a necessary and vital part of developing the downtown area of Wichita, KS.

As a grassroots arts organization whose aim is to promote art and culture within the city, we see a strong downtown area with thriving businesses and multiple venues as a key component for success in arts community. We also strongly believe that people should invest in Wichita and enjoy the multitude of talent our city has to offer. We support efforts to encourage young people to make Wichita their home and invest their futures in the community.

We feel that passage of SB 213 is key in moving our vision for a stronger Wichita forward. Allowing entertainment districts where adults can freely, but responsibly, consume alcoholic outside would do much to foster the kind of growth we desperately need in the downtown area. Thousands of people already enjoy the Final Friday art crawl that takes place on the last Friday of each month. Dozens of galleries are opened to display some of the most unique and visually stimulating pieces of work. Many of the galleries that participate offer complimentary glasses of wine or cash bars to visitors. Given the mobile nature of the crawl, having the ability to take drinks outside and between venues would enhance the experience.

ROK ICT will soon be launching a First Friday music crawl that is similar to the Final Friday art crawl concept. We will be highlighting not only the multitude of musical talent in our city, but also showcasing some of the best venues in the downtown area. The First Friday experience will also be extremely mobile, and we feel enhanced by the ability of participants to move more freely while consuming adult beverages. As the weather warms, we have plans for live, outdoor music throughout the spring and summer. Again, it would be a boost to our efforts if we didn't have to hassle with beer gardens and could simply buy drinks from nearby venues.

ROK ICT very much sees SB 213 as an economic development issue, and believes it can be an important competent to lifting our city out of these economic doldrums. In tough times, innovation is often the key to success. In this difficult economy, we have to support local businesses and give people incentives to spend their hard earned dollars. Businesses in the downtown would see an increase in sales as a result of this bill. More people of all ages would come to the downtown area to enjoy the vast amount of entertainment we have to offer. Over time, more people would open restaurants and venues. Musicians and artists would then have more opportunities to get known and build successful careers within the city. People from all walks of life would enjoy living in a better, strong Wichita.

ROK ICT, representing a grassroots movement of artists, musicians, and fans, hopes that members of this committee will move toward speedy passage of SB 213. We have a growing arts scene that is developing in Wichita. We care about our city and want to see it grow and prosper. Our vision and efforts would only be enhanced by passage of this bill.



*Kansas
Licensed
Beverage
Association*

Feb 17, 2009
Testimony on SB-213
Senate Federal & State Affairs Committee

Mr. Chairman, and Senators of the Committee,

I am Philip Bradley representing the Kansas Licensed Beverage Association. The KLBA represents the interests of the men and women in the hospitality industry, who own, manage and work in Kansas bars, breweries, clubs, caterers, hotels, and restaurants. These are the places you frequent and enjoy with the tens of thousands of employees that are glad to serve you. Thank you for the opportunity to speak today and I will be brief.

We support normalizing this heavily regulated industry and encourage responsible consumption. We believe the ability to create a district such as outlined in a SB 217 is a positive step. We would ask that if a city takes the access to our businesses by closing streets and public ways that we be allowed to participate. There does not appear to be any language that would allow our patrons to purchase from our businesses and then join the festivities. We would ask for that correction.

Thank you for your time and consideration.

Philip Bradley

*CEO
Philip Bradley*

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66044*

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www.klba.org
info@klba.org*



Drink Responsibly.
Drive Responsibly

Sen Fed & State

Attachment 4
2-17-09



DAVID L. CORLISS
CITY MANAGER

City of Lawrence KANSAS

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CITY COMMISSION

MAYOR
MICHAEL DEVER

COMMISSIONERS
ROBERT CHESTNUT
DENNIS "BOOG" HIGHBERGER
MIKE AMYX
SUE HACK

February 12, 2009

Senator Pete Brungardt, Chairman
Committee on Federal and State Affairs
Room 121-E
Kansas State Capitol
300 SW 10th Street
Topeka, KS 66612

RE: TESTIMONY IN SUPPORT OF SENATE BILL No. 213

Dear Chairman Brungardt and Members of the Committee:

On behalf of the Lawrence City Commission, I am writing to urge you to consider recommending favorably Senate Bill No. 213, which would allow the consumption of alcoholic liquor on public streets, roads, alleys and highways during festivals, community events and other special events. The bill rightfully preserves local control over this use of the public rights-of-way by requiring that the governing body of any locality affected approve each proposed use by resolution or ordinance.

The City of Lawrence prides itself on the many festivals and community gatherings that it hosts each year. These events stimulate our economy by attracting visitors, and their spending, to our community. They also enrich the lives of our citizens, making Lawrence a more desirable place to live and work. The City believes that the proposed bill, by allowing for the responsible use of alcoholic beverages, would enhance the attractiveness of these community events to a significant number of visitors and community members without mortgaging the public's security or wellbeing.

Therefore, I would respectfully request that each of you recommend the passage of Senate Bill No. 213.

Sincerely,

Michael Dever
Mayor

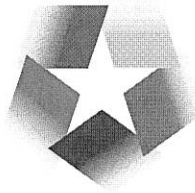
cc: City Commission
David L. Corliss, City Manager



We are committed to providing excellent city services that enhance the quality of life for the Lawrence

Sen Fed & State

Attachment 5
2-17-09



WICHITA
FESTIVALS INC

Testimony Regarding SB213
Entertainment District Overlay
Senate Federal and State Affairs Committee
February 17, 2009
Wichita Festivals, Inc.
Janet Wright, President/CEO

Wichita Festivals, Inc. has produced the Wichita River Festival® since 1972. Now in its 38th year, the Festival is the largest special event in the State of Kansas, drawing more than 325,000 people annually to the streets and parks of downtown Wichita. The Festival begins the Friday before Mothers' Day and lasts nine days. It brings people from across the state of Kansas and the Midwest to enjoy sporting events, concerts, children's activities, cultural events and national touring exhibits.

The Festival includes several food courts with both local and traveling vendors. A wide variety of menu options are offered from meal-type entrees to funnel cakes, turkey legs and ears of corn. Adjacent to the food courts are beer gardens operated by a licensed local vendor.

As required by law, the areas are fenced, not allowing customers to take their beer outside the designated space. The size of these areas is limited, as is the seating capacity. As a result, few people bring food into the area, making the beer garden primarily a place for drinking. Outside the beer gardens, there are multiple places Festival-goers can sit and enjoy their food and a drink. This restricted environment results in alcohol consumption with no balancing consumption of food.

These restrictions also limit Festival-goers from enjoying the activities and musical entertainment offered at other Festival venues. The balance of Riverfest activities are located in a three-block area surrounding our convention center, Century II. Within this area we have at least two musical stages operating at all times, concert entertainment, inter-active exhibits, family activities, plays and many other participatory activities. Those who want to have a beer while enjoying these other components of the Festival are restricted from doing so.

As an organization, we believe lifting this restriction will both enhance the Festival experience for those who attend and reduce expenses associated with creating a fenced beer garden. Allowing people to walk from place to place while drinking an alcoholic beverage can help prevent over-consumption, which results from a stationary, bar-type environment. It also makes it easier for them to listen to a concert, enjoy a play and interact with their family.

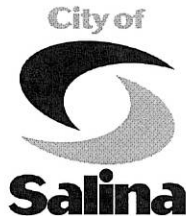
Those who attend Riverfest do not come to sit and drink beer. They come to experience the activities and events we provide. However, limiting their ability to enjoy the beverage of their choice while also taking part in Festival activities seems incongruent.

I have attended special events and street Festivals in several places outside Kansas. The majority of them allow attendees to enjoy a cocktail or beer while also taking part in other Festival activities. One nearby example is the Plaza Art Fair in Kansas City, Missouri. Held on the streets of the Country Club Plaza, attendees are allowed to purchase beer, wine and mixed drinks from festival restaurateurs and enjoy them while exploring the art displayed for sale. All ages attend this event from families with small children to seniors. The atmosphere is fun, friendly and festive.

We need to be able to create this same environment in Kansas communities both for special events and in current entertainment districts where people come to enjoy food, music, entertainment and friends. I'm confident our Festival attendees would welcome the change!

Respectfully submitted,
Janet Wright
President/CEO

CITY MANAGER'S OFFICE
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City Manager
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SB 213 Testimony to Senate Committee on Federal and State Affairs

By: Jason A. Gage – February 17, 2009

The City of Salina respectfully supports the consideration and resulting passage of SB 213. This bill proposes language that would allow cities to utilize a responsible permitting process to allow individuals to consume alcoholic liquor in outdoor, public places when associated with a special event.

As you are aware, cities are responsible for applying broad discretion regarding policies and services every day. Cities are a front line protector of civil rights, economic developer, daily service provider, quality of life enhancer, 24-hour protector and personal responsibility regulator. This discretion currently includes the regulation of rights-of-way and public outdoor places. With this in mind, it would certainly make sense that cities be given limited discretion to provide for outdoor consumption of alcoholic liquor when proper judgment is applied in an equitable and managed way, and the public's safety is fully taken into consideration.

We believe that SB 213 would provide cities with the proper amount of discretion to respond to their constituents' social and event expectations, while at the same time ensuring the public's well being. The recommended permitting process included within the bill provides cities with both a reasonable and accountable tool to apply this discretion.

We believe this clarification language amendment is needed and responsibly addresses a statewide, community need. As a result, we fully support the approval of SB 213. Thank you for considering SB 213 and providing an opportunity for the City of Salina to submit testimony on its behalf.

Sen Fed & State

Attachment 7
2-17-09



February 17, 2009

Testimony Regarding SB213
Entertainment District
Senate Federal and State Affairs Committee
Wichita Downtown Development Corporation
Jeffrey C. Fluhr, President

Dear Committee Members:

The Wichita Downtown Development Corporation appreciates your consideration of SB213. This bill will greatly assist cities throughout Kansas in further clarifying special event environments. Downtown Wichita is pleased to host over fifty annual community events; this bill will contribute to the continued success of the events.

Events and Entertainment Districts are a critical component to the economic development of city centers. They provide not only an opportunity to attend a special event, but they also provide exposure to other opportunities a downtown may have to offer; which in turn may foster return visits. Downtown is the natural location where a community gathers to celebrate the arts and conduct special events. As Wichita and other Kansas cities further develop their downtown areas, this bill would provide a framework in which each city may create an environment reflective of its community.

Thank you for your consideration in providing local communities guidelines to assist in providing safe and economically vibrant special event environments.

Sincerely,

Jeffrey C. Fluhr
President

Sen Fed & State

Attachment 8
2-17-09

(9)

Senate Federal and State Affairs
SB 213
2-17-2009
Testimony from Frances Wood,
3342 SW Chelsea Circle,
Topeka, KS 66614
Phone 785-271-9320
E-mail franwood@cox.net
Representing Kansans For Addiction Prevention

If SB 213 concerned a wholesome product, would there be any need for special permission to make this product available? No, of course not. You could serve any number of beverages and not need special permission. So, why this bill? It is because the product that is being requested to be made available is not a wholesome product. Alcoholic beverages are mind-altering products, in fact a drug. Now I ask you, does it make sense to ask permission to sell or give away a drug?

As I was writing the rough draft of my testimony I glanced down at the pen I happened to be using. It had the numbers 17078 on it. Does anyone know what those #'s mean? It is the amount of deaths in the United States several years ago that were attributed to alcohol related accidents – 17,078. The Woman's Christian Temperance Union of Pennsylvania sponsored those pens. And, SB 213 is asking for more alcohol to be made available. I ask you, does that make sense?

Currently the Food and Drug Administration has been frantically tracing the source of salmonella poisoning from peanuts. How many deaths are we talking about? As of now there have been nine. We're almost afraid to touch peanut butter and there have been only nine deaths in the United States.

In this bill there are those wanting to increase availability of a product that has caused 12,068 traffic deaths in the United States in the year 2007. (Copy attached - Statistics for 2008 won't be out until around July) And, more closely to home, there have been 108 alcohol related traffic deaths in 2007 in Kansas. That is approximately 1 every 3 days. I ask you with all the sincerity that I can muster – does it make any sense to make alcohol more available?

Please do not pass SB 213 out of committee.

Table 14: Total, Alcohol-Impaired Drivers and Alcohol-Impaired Motorcycle Riders Involved in Fatal Crashes, Change, and Percent Change, 2006-2007

State	2006				2007				2006 to 2007 Change (% Change)		
	Total	Alcohol-Impaired Drivers		MC Riders	Total	Alcohol-Impaired Drivers		MC Riders	Total	Alcohol-Impaired Drivers	
		All Drivers				All Drivers				All Drivers	MC Riders
		Num	%			Num	%				
Alabama	1,583	344	21.7	25	1,470	361	24.6	16	-113 (-7.1%)	17 (4.9%)	-9 (-36%)
Alaska	108	21	19.4	0	117	27	23.1	3	9 (8.3%)	6 (28.6%)	3 (-)
Arizona	1,720	359	20.9	40	1,421	306	21.5	29	-299 (-17.4%)	-53 (-14.8%)	-11 (-27.5%)
Arkansas	885	176	19.9	16	858	167	19.5	20	-27 (-3.1%)	-9 (-5.1%)	4 (25.0%)
California	5,774	1,147	19.9	125	5,465	1,072	19.6	121	-309 (-5.4%)	-75 (-6.5%)	-4 (-3.2%)
Colorado	721	164	22.7	24	789	163	20.7	26	68 (9.4%)	-1 (-0.6%)	2 (8.3%)
Connecticut	452	113	25	16	378	95	25.1	10	-74 (-16.4%)	-18 (-15.9%)	-6 (-37.5%)
Delaware	206	39	18.9	5	159	42	26.4	3	-47 (-22.8%)	3 (7.7%)	-2 (-40.0%)
Dist. of Columbia	49	11	22.4	0	48	11	22.9	1	-1 (-2.0%)	0 (0%)	1 (-)
Florida	4,813	868	18	125	4,551	826	18.1	136	-262 (-5.4%)	-42 (-4.8%)	11 (8.8%)
Georgia	2,422	421	17.4	37	2,296	407	17.7	30	-126 (-5.2%)	-14 (-3.3%)	-7 (-18.9%)
Hawaii	203	57	28.1	8	171	42	24.6	7	-32 (-15.8%)	-15 (-26.3%)	-1 (-12.5%)
Idaho	332	80	24.1	9	289	62	21.5	6	-43 (-13.0%)	-18 (-22.5%)	-3 (-33.3%)
Illinois	1,729	415	24	45	1,710	406	23.7	59	-19 (-1.1%)	-9 (-2.2%)	14 (31.1%)
Indiana	1,251	236	18.9	32	1,238	209	16.9	39	-13 (-1.0%)	-27 (-11.4%)	7 (21.9%)
Iowa	582	104	17.9	18	577	98	17	15	-5 (-0.9%)	-6 (-5.8%)	-3 (-16.7%)
Kansas	627	120	19.1	10	622	108	17.4	10	-5 (-0.8%)	-12 (-10.0%)	0 (0%)
Kentucky	1,263	200	15.8	20	1,187	200	16.8	28	-76 (-6.0%)	0 (0%)	8 (40.0%)
Louisiana	1,334	336	25.2	23	1,295	338	26.1	27	-39 (-2.9%)	2 (0.6%)	4 (17.4%)
Maine	246	47	19.1	4	232	60	25.9	5	-14 (-5.7%)	13 (27.7%)	1 (25.0%)
Maryland	936	172	18.4	23	848	166	19.6	21	-88 (-9.4%)	-6 (-3.5%)	-2 (-8.7%)
Massachusetts	568	140	24.6	11	551	140	25.4	20	-17 (-3.0%)	0 (0%)	9 (81.8%)
Michigan	1,514	315	20.8	33	1,536	280	18.2	27	22 (1.5%)	-35 (-11.1%)	-6 (-18.2%)
Minnesota	684	143	20.9	20	781	149	19.1	15	97 (14.2%)	6 (4.2%)	-5 (-25.0%)
Mississippi	1,156	309	26.7	19	1,117	282	25.2	14	-39 (-3.4%)	-27 (-8.7%)	-5 (-26.3%)
Missouri	1,461	361	24.7	29	1,325	315	23.8	27	-136 (-9.3%)	-46 (-12.7%)	-2 (-6.9%)
Montana	293	92	31.4	6	323	100	31	9	30 (10.2%)	8 (8.7%)	3 (50.0%)
Nebraska	330	64	19.4	7	356	71	19.9	6	26 (7.9%)	7 (10.9%)	-1 (-14.3%)
Nevada	618	131	21.2	13	514	109	21.2	16	-104 (-16.8%)	-22 (-16.8%)	3 (23.1%)
New Hampshire	179	45	25.1	10	181	31	17.1	5	2 (1.1%)	-14 (-31.1%)	-5 (-50.0%)
New Jersey	1,078	211	19.6	24	996	187	18.8	23	-82 (-7.6%)	-24 (-11.4%)	-1 (-4.2%)
New Mexico	572	125	21.9	13	494	114	23.1	20	-78 (-13.6%)	-11 (-8.8%)	7 (53.8%)
New York	1,965	408	20.8	48	1,842	360	19.5	43	-123 (-6.3%)	-48 (-11.8%)	-5 (-10.4%)
North Carolina	2,106	395	18.8	37	2,214	452	20.4	52	108 (5.1%)	57 (14.4%)	15 (40.5%)
North Dakota	134	39	29.1	2	120	47	39.2	1	-14 (-10.4%)	8 (20.5%)	-1 (-50.0%)
Ohio	1,736	373	21.5	50	1,742	367	21.1	56	6 (0.3%)	-6 (-1.6%)	6 (12%)
Oklahoma	1,013	188	18.6	16	978	185	18.9	20	-35 (-3.5%)	-3 (-1.6%)	4 (25%)
Oregon	600	133	22.2	14	584	136	23.3	13	-16 (-2.7%)	3 (2.3%)	-1 (-7.1%)
Pennsylvania	2,073	467	22.5	51	2,159	471	21.8	76	86 (4.1%)	4 (0.9%)	25 (49.0%)
Rhode Island	99	28	28.3	5	78	23	29.5	8	-21 (-21.2%)	-5 (-17.9%)	3 (60.0%)
South Carolina	1,399	407	29.1	43	1,395	441	31.6	51	-4 (-0.3%)	34 (8.4%)	8 (18.6%)
South Dakota	236	65	27.5	6	172	42	24.4	4	-64 (-27.1%)	-23 (-35.4%)	-2 (-33.3%)
Tennessee	1,719	382	22.2	34	1,639	364	22.2	40	-80 (-4.7%)	-18 (-4.7%)	6 (17.6%)
Texas	4,741	1,312	27.7	129	4,555	1,213	26.6	153	-186 (-3.9%)	-99 (-7.5%)	24 (18.6%)
Utah	364	46	12.6	1	372	46	12.4	3	8 (2.2%)	0 (0%)	2 (200.0%)
Vermont	105	23	21.9	1	85	21	24.7	1	-20 (-19%)	-2 (-8.7%)	0 (0%)
Virginia	1,243	275	22.1	12	1,345	311	23.1	37	102 (8.2%)	36 (13.1%)	25 (208.3%)
Washington	862	205	23.8	16	784	183	23.3	24	-78 (-9.0%)	-22 (-10.7%)	8 (50.0%)
West Virginia	546	97	17.8	10	544	129	23.7	9	-2 (-0.4%)	32 (33%)	-1 (-10.0%)
Wisconsin	962	291	30.2	30	1,001	291	29.1	40	39 (4.1%)	0 (0%)	10 (33.3%)
Wyoming	254	55	21.7	5	177	46	26	5	-77 (-30.3%)	-9 (-16.4%)	0 (0%)
United States	57,846	12,551	21.7	1,299	55,681	12,068	21.7	1,431	-2,165 (-3.7%)	-483 (-3.8%)	132 (10.2%)
Puerto Rico	658	135	20.5	28	613	140	22.8	28	-45 (-6.8%)	5 (3.7%)	0 (0%)

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OFFICE OF REVISOR OF STATUTES
KANSAS LEGISLATURE

Legal Consultation—
Legislative Committees and Legislators
Legislative Bill Drafting
Legislative Committee Staff
Secretary—
Legislative Coordinating Council
Kansas Commission on
Interstate Cooperation
Kansas Statutes Annotated
Editing and Publication
Legislative Information System

Briefing on Senate Bill 212

Jason B. Long
Assistant Revisor
Office of Revisor of Statutes

February 17, 2009

Senate Bill 212 is intended to replace current law governing the shipment of wine to consumers in Kansas. Currently, there are two statutes that govern the shipment of wine. K.S.A. 41-348 governs wine manufactures that produce less than 100,000 gallons annually (small wineries). K.S.A. 41-349 governs wine manufactures that produce 100,000 or more gallons annually (large wineries). The two statutes contain virtually identical provisions with the main difference being that the small winery law governs in-state wineries, while the large winery law pertains only to out-of-state wineries. This is due to the fact that Kansas law limits in-state winery production to only 100,000 gallons per year.

Under current law wine manufactures must have either a farm winery license or an out-of-state manufacturers license to be eligible for a wine shipment permit. SB 212 would simply require a federal basic wine manufacturing permit. The fee for a special shipping order license under SB 212 would be \$50, which is the same amount charged for a shipping permit under current law. Current law requires a \$10 fee for renewal. SB 212 is silent on any renewal fee.

Current law has various restrictions on the shipment of the wine. The purchaser must be 21 and must purchase the wine for personal use only. The purchaser must pay the purchase price and shipping costs directly to the permit holder. The permit holder must ship the wine to a

licensed retailer designated by the purchaser to receive the wine. The purchaser must then pick up the wine at the licensed retailer. The licensed retailer must verify the purchaser is at least 21 and collect any enforcement taxes on the sale. The licensed retailer may charge a \$5 handling fee for each delivery.

Under SB 212 there would no longer be a requirement to ship the wine to a licensed retailer. The licensee can ship the wine directly to the purchaser. The licensee is still required to verify the age of the purchaser. Also, the package must be clearly marked "Alcoholic Beverages. Adult Signature Required." and the carrier is responsible for obtaining the signature of a person who is at least 21. Similar to current law the purchaser pays the purchase price and shipping costs directly to the licensee and the purchase must be for personal or household use only. The bill provides an additional restriction in that the licensee may not ship more than 12 standard cases of wine to any one purchaser or address per year.

Like current law under SB 212 all applicable gallonage taxes are to be paid by the licensee. Since there is no licensed retailer involved, the licensee is also responsible for collecting and remitting all applicable enforcement taxes on the sale. The bill provides that enforcement taxes are only paid on the purchase price of the wine and not on the shipping costs.

The bill does not authorize the shipment of wine to any licensed retailer or any premises licensed under the club and drinking establishment act. If a license is revoked then the wine manufacturer can not be issued a new license for a period of one year from the date of revocation. The director may take disciplinary action against a licensee for failure to comply with statutory or regulatory requirements. This is the same as in current law. Additionally, if the licensee is an out-of-state manufacturer then it must agree to appoint the secretary of state as its resident agent for service of process. This is also currently required by law.

Since SB 212 is intended to replace existing law regarding wine shipments, the committee should considered amending the bill to repeal existing law, specifically K.S.A. 41-348 and 41-349.

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Testimony before the Senate Federal and State Affairs Committee
SB 212
Wine Institute
February 17, 2009

Mister Chair and members of the Committee. Thank you for allowing me to appear before you today. I am here today representing the Wine Institute. Established in 1934, the Wine Institute is the public policy advocacy group of 1,100 California wineries and affiliated businesses that initiate and advocate state, federal and international public policy to enhance the environment for the responsible production, consumption and enjoyment of wine. The Wine Institute membership represents 85 percent of U.S. production and 95 percent of U.S. wine exports. For more information about Wine Institute, go to www.wineinstitute.org.

The Wine Institute appears today in support of SB 212. SB 212 will enable wineries to make direct shipments of wine in a limited quantity to Kansas consumers. The winery must obtain a special order shipping license from the Kansas Secretary of Revenue and pay a license fee. Each winery can ship up to 12 standard cases of wine of one brand or a combination of brands to one consumer or address per calendar year. Before shipping the wine, the winery must clearly label the shipment as "alcoholic beverages, adult signature required." The winery must verify the age of the person placing the order both by an affirmative statement made by the consumer and verifying the age by either a physical examination of an approved government issued ID or by utilizing an internet based age and ID service. These services are available through websites such as ChoicePoint or IDology. Both of these companies and their websites have been approved by other state's regulators such as the Michigan Liquor Control Commission. In addition, the winery is responsible for collecting all gallonage and enforcement taxes and remitting them to the Kansas Department of Revenue.

The issue of shipping wine both into and out of state has been around for many years. It has a long legislative history and has been the issue of several court cases around the country. This bill will simplify the current shipping laws in Kansas; allow Kansas law to be consistent with court rulings addressing this issue and allow your fellow Kansans the same purchasing options allowed to other Americans in many other states. Thank you for your consideration and I'll be happy to answer any questions you may have.

Kansas Viticulture and
Farm Winery Association

785-766-7492
pbb@sunflower.com



February 17, 2009

Testimony on SB 212
Senate Federal and State Affairs Committee

Chairman Brungardt and Senators of the Committee

We support SB 212 and urge you to pass this measure.
We believe it gives access to wines not otherwise available.

Also we believe this measure continues to elevate and
promote Kansas as a wine state.

Thank you for your time and service,

Philip Bradley

***Representing the
Kansas Viticulture and Farm Winery Association***

Sen Fed & State

Attachment 12
2-17-09



*Kansas
Licensed
Beverage
Association*

Feb 17, 2009
Testimony on SB-212
Senate Federal & State Affairs Committee

Mr. Chairman, and Senators of the Committee,

I am Philip Bradley representing the Kansas Licensed Beverage Association. The KLBA represents the interests of the men and women in the hospitality industry, who own, manage and work in Kansas bars, breweries, clubs, caterers, hotels, and restaurants. These are the places you frequent and enjoy with the tens of thousands of employees that are glad to serve you. Thank you for the opportunity to speak today and I will be brief.

In general we support normalizing alcohol sales and greater access to products. Although this bill addresses an issue that we are neutral on, we have concerns we would ask to be resolved satisfactorily before this bill could advance.

We support a workable legal bill that would allow for state control, equal regulation on underage access, appropriate tax collection and access to all sectors.

A level playing field for those who sell alcohol is essential. Currently a seller/server of beverage alcohol in your favorite restaurant is held criminally responsible for an underage person accessing their product, ***knowingly or unknowingly***. The same **standards should be applied** to these direct sales or the standard should be modified. In this bill the age verification language reads as follows:

Sec 1 d pg 1 lines 33-39

(d) (1) Before accepting an order from a consumer in this state, the holder of a special order shipping license shall require that the person placing the order to state affirmatively that he or she is 21 years of age or older and shall verify the age of such person placing the order either by the physical examination of an approved government issued form of identification or by utilizing an internet based age and identification service.

At the very least I ask that this language be added at the end to the above paragraph:
approved by the Director of the Alcohol Beverage Control or their designate.
This still does not equal the on premise standard but is a workable improvement.

We also urge you to create access to unavailable products to those licensees who wish to feature a particular label for a small batch purchase. Many of our fine Kansas hospitality venues have customers that are requesting these products and would like to promote small vineyards for their patrons. We are only asking for product that is not otherwise available through the Kansas four tiered system. This issue is one that many are uninformed about and therefore I understand that it may need to be addressed in future sessions.

Thank you for your time.

Philip Bradley

*CEO
Philip Bradley*

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**Drink Responsibly.
Drive Responsibly.**

Sen Fed & State

Attachment 13
2-17-09



The Kansas Association of Beverage Retailers

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Brian Flanery, President

Amy A. Campbell, Executive Director

TESTIMONY PRESENTED TO THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

Feb. 17, 2009

Thank you for the opportunity to represent the Kansas Association of Beverage Retailers regarding Senate Bill 212. The Association represents Kansas licensed retail liquor store owners. Our members are Kansas citizens who own Kansas businesses.

Retailers are happy to seek new solutions to provide access to more products for our customers. We are aware that there is great interest in passing some kind of wine legislation. Kansas liquor stores have happily played a role in bringing wines to Kansas customers wines that would otherwise not be available.

KABR respectfully asks that any shipping legislation contain the following:

Provide for the safe and legal sale of the product to someone of legal age. We are unfamiliar with the age verification systems recommended by the proponents, but would suggest that the Division of ABC be provided any necessary enforcement power to determine appropriate steps for verifying the age of the purchaser. Also, what is the penalty for failing to do so? Will the "furnishing to a minor" statute be in effect?

Provide for the reliable collection of revenue due to the State. It appears this bill requires the payment of appropriate taxes by the shippers. Legislation should also insure the Department of Revenue has the same authority to audit and to revoke licenses for non-payment as are applied to other Liquor Control Act licensees.

Provide for equal licensing requirements. It is important that a winery outside the state is not granted permission to sell to Kansas customers with fewer requirements than a licensee within the state. Therefore, license fees and bonding requirements should be equal.

It is very important that we do not create an incentive for manufacturers who sell their products in Kansas legally now to suddenly change their marketing plan to bypass State regulation and taxation. We support and need a healthy market for wines, but do not want to implement policy which could make it harder to put some brands on our shelves. It would create a disadvantage for those Kansas owned businesses who make their living under Kansas laws.

SB 212 pertains to wineries. If at any time the legislation would be amended to include out of state retailers, we would be forced to oppose the bill. Federal court rulings have ordered that a state must provide equal regulation for in state and out of state businesses – therefore, allowing out of state retailers to ship to Kansas customers would violate that provision.

Thank you again for the opportunity to speak to this issue. As you consider this and other legislation which will change the way adult beverages are sold in the state of Kansas, please keep in mind the Kansas owned, Kansas licensed retail liquor businesses.

Amy A. Campbell Mobile: 785-969-1617

Sen Fed & State

Attachment 14
2-17-09

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SB 113

Downsizing the Legislature

1. SB 113 downsizes Kansas Government at the point where most big government and big tax ideas come from: The Legislature.
2. Kansas is a small population state; we need a smaller sized Legislature to match. Other western oriented, small population states, such as Colorado, Nebraska, Idaho, Arizona, Oregon, and Wyoming, have smaller Legislatures.
3. Kansas was founded in the early years of the Populist movement, which wanted many, smaller, localized units of government. That's why we have a large number of counties, cities, unified school districts, etc. and a large Legislature to match.
4. SB 113 accomplishes this goal in the least painful manner, by waiting until after the 2010 redistricting goes into effect.
5. SB 113 saves money because with 25 percent fewer Legislators, we would need fewer statute books, state budgets, printed bills, copy paper, printed Agency reports, and office supplies.
6. Although SB 113 is silent on this issue, I would suggest that savings realized be allocated for an approximate 25 percent Legislative pay raise and a Session Secretary for every Legislator.