

Approved: 4-3-09
Date

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 March 10, 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
Julian Efirid, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Connie Burns, Committee Assistant

Conferees appearing before the Committee:
Thomas Groneman, Alcoholic Beverage Control
Sarah Byrne, Alcoholic Beverage Control Division
Sandy Jacquot, League of Kansas Municipalities
Bill Lietzke, Merriam Police Department
Philip Bradley, Kansas License Beverage Association
Whitney Damron, Distilled Spirits Council
Spencer Duncan, Kansas Wine & Spirits Wholesalers Association
Amy Campbell, Kansas Association of Beverage Retailers
Carole Jordan, Department of Commerce
Norman Jennings, Smoky Hill Vineyard & Winery
Dennis Reynolds, Somerset Ridge Vineyard & Winery
Dr. John Brewer, Wyldewood Cellars
Jessica Bowser, Kansas Department of Agriculture
Philip Bradley, Kansas Viticulture and Farm Winery Association

Others attending:
See attached list.

SB 247 - Authorizing requests by local governing bodies for hearings by director to revoke or suspend a club or drinking establishment license.

Chairman Brungardt opened the hearing on **SB 247**.

Staff provided an overview of the bill.

Thomas Groneman, Director, Alcoholic Beverage Control, (ABC) spoke in favor of the bill. (Attachment 1) The bill allows a city or county to request the director of ABC hold a hearing on whether any license issued pursuant to the Club and Drinking establishment act should be revoked or suspended at any time. Currently KSA 41-2651 allows a city or county to request a hearing on licensure of a club or drinking establishment at the time of the initial licensing and yearly thereafter, at renewal.

Sarah Byrne, Assistant Attorney General, Alcoholic Beverage Control Division, appeared in favor of the bill. (Attachment 2) Violence in and around bars and dance clubs is a growing problem in Kansas, as well as other states. This bill gives local governments who have made reasonable efforts to remedy a problem situation another tool to use in combating illegal and violent activities.

Sandy Jacquot, League of Kansas Municipalities, spoke in favor of the bill. (Attachment 3) The bill would allow cities and counties to request that the Director of the ABC hold a hearing on whether it should suspend or revoke the license of a club or drinking establishment.

Bill Lietzke, Chief of Police, Merriam Police Department, appeared as a proponent of the bill. (Attachment 4) The City of Merriam has five drinking establishments and four retail liquor stores under the jurisdiction of ABC, and in the last 24-month period, there have been nineteen (19) violations of selling alcohol to minors at these businesses. Merriam feels passage of this bill will aid the community by allowing us to better

CONTINUATION SHEET

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

4) The City of Merriam has five drinking establishments and four retail liquor stores under the jurisdiction of ABC, and in the last 24-month period, there has been nineteen (19) violations of selling alcohol to minors at these businesses. Merriam feels passage of this bill will aid the community by allowing us to better partnership with ABC in the enforcement of the current State liquor laws.

City of Lawrence, (Attachment 5), Dale Goter, City of Wichita, (Attachment 6), Chief Ronald Miller, City of Topeka, (Attachment 7), Marcy Knight, Assistant City Attorney, City of Lenexa, (Attachment 8), Sheriff Frank Denning, Kansas Sheriff Association, (Attachment 9), Ed Klumpp, Kansas Association of Chiefs of Police and Kansas Peace Officers, (Attachment 10), provided written testimony in support of the bill.

Philip Bradley, Kansas License Beverage Association. Spoke in opposition to the bill. (Attachment 11) The Association opposes the bill unless amended to include standards and steps that local government must complete or meet in order to access these statutory specified current abilities and possibly bypass the current due process.

Philip Bradley, Craft Brewers Guild of Kansas, (Attachment 12) provided written testimony in opposition to the bill.

Chairman Brungardt closed the hearing on **SB 247**.

SB 246 - Allowing the issuance of a special permit to conduct tastings of alcoholic beverages.

Chairman Brungardt opened the hearing on **SB 246**.

Staff provided an overview of the bill.

Whitney Damron, Distilled Spirits Council, spoke in support of the bill. (Attachment 13) Mr. Damron stated that product tastings are an effective means to educate a consumer and perhaps to entice them to try something new. Some kind of product tasting is permitted in most states, and the bill would clarify current law and allow for retail liquor stores to conduct tastings on a limited basis, under the auspices of the ABC. New language was provided.

Spencer Duncan, Kansas Wine & Spirits Wholesalers Association, appeared in favor of the bill. (Attachment 14) The bill would allow a licensed retail liquor dealer to apply to the Director of ABC for an annual special permit to conduct wine, beer, and distilled spirit tastings on the licensed premises.

Philip Bradley, Kansas Association of Beverage Retailers, spoke on the bill. (Attachment 15) Mr. Bradley stated that the Association supports a workable bill that would allow for state control, equal regulation on underage access, appropriate limited amounts and restricted number of samples allowed each person per day.

Amy Campbell, Kansas Association of Beverage Retailers, (KABR) appeared in opposition of the bill. (Attachment 16) Relative to the potential for new retailer obligations, KABR opposes the passage of dram shop legislation that would hold a retailer responsible in civil litigation for the actions of a consumer who purchases (or tastes) liquor at the liquor store and then proceeds to cause harm after leaving the business. The Kansas Legislature has defeated dram shop legislation in past years and would encourage the continued emphasis on personal responsibility.

Thomas Groneman, Director, Alcoholic Beverage Control, appeared as neutral on the bill. (Attachment 17) If the committee acts favorably, ABC would request that an additional restriction limiting the number of samples that can be served to any one individual be considered; and a clarification regarding where sampling can occur. Other statutes concerning sampling allow sampling only in counties that have approved liquor by the drink as the bill is not specific regarding this issue.

New language for section (g) on page 1 was presented, "The licensee shall not provide more than three tastings samples to any one person per tasting session or day."

CONTINUATION SHEET

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

Senator Owens moved the amendment. Senator Reitz seconded the motion. The motion carried.

Chairman Brungardt closed the hearing on **SB 246**.

SB 218 - Farm wineries; allowing farmers' market sales permits, allowing issuance of

Chairman Brungardt opened the hearing on **SB 218**.

Staff provided an overview of the bill.

Carole Jordan, Sr. Director of the Rural Development, Department of Commerce, spoke in favor of the bill. (Attachment 18) This bill would allow the sale of wine at a farmers' market and the manufacturing of wine at a winery outlet.

Norman Jennings, Smoky Hill Vineyard & Winery, appeared in favor of the bill. (Attachment 19) The bill would allow the Director of ABC to issue a permit allowing for sales by the bottle at farmers markets; allows licensed Farm Wineries to hold a manufactures license, allows licensed Farm Wineries to produce wines at their licensed outlets.

Dennis Reynolds, Somerset Ridge Vineyard & Winery, spoke in favor of the bill. (Attachment 20) The bill would amend the Kansas Farm Winery statues to allow three things:

1. Allow Farm Wineries to obtain permits that would allow them to sell their products at bona fide farmer's markets
2. Allow Farm Wineries to conduct winemaking activites at their licensed outlet locations
3. Allow Farm Wineries to also hold a manufacturer's license pursuant KSA 41-305

Dr. John Brewer, Wyldewood Cellars, testified on the bill. (Attachment 21) Dr. Brewer fully supports the ability to sell at Farmers' Markets as described in new section one, but opposes all of the other changes proposed in the bill; and requested support section 1 and eliminate all of the other proposed changes in the bill.

Jessica Bowser, Kansas Department of Agriculture, spoke in favor of the bill. (Attachment 22) The department supports the bill because it will allow farm wineries to sell their products at farmers' markets, to hold manufacturers' licenses and to have to have production facilities at winery outlets.

Philip Bradley, Kansas Viticulture and Farm Winery Association, (KVFWA) appeared in favor of the bill. (Attachment 23) KVFWA supports the bill because it preserves the Kansas content rule and opens farmers' markets to farm wineries, and supports allowing farm winery licensees to hold a manufacture's license as well as their farm winery license.

Thomas Groneman, Director, Alcoholic Beverage Control, appeared neutral on the bill. (Attachment 24) The ABC would ask for clarification regarding what a bona fide farmer'smarket permit would allow; there has been some discussion as to wheter this means "by the drink" or "in the original unopened container for consumption off the permitted premises".

Philip Bradley, Kansas License Beverage Association, provided written testimony in support of the bill. (Attachment 25)

Chairman Brungardt closed the hearing on **SB 218**.

Final Action:

HB 2267 - Requires senate confirmation of KCVA appointees.

Staff provided information regarding the funding for KBI security background checks.

SB 54 - Brown v. Board of Education mural in the capitol.

CONTINUATION SHEET

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

Senator Reitz moved to pass SB 54 out favorably. Senator Francisco seconded the motion. The motion carried.

SB 75 - Municipalities; consolidation and reorganization; political and taxing subdivisions.

Senator Abrams explained his balloon. (Attachment 26) The balloon requires all cities to be consolidated, that whenever petitions requesting a consolidation study commissioner be appointed are filed with at least 75% of the county or city governing bodies with jurisdiction in the county.

Senator Abrams moved the balloon. Senator Pyle seconded the motion. The motion carried.

Senator Abrams explained the second balloon. (Attachment 27) The balloon strikes section 8,9,11, and 12.

Senator Abrams moved the balloon. Senator Pyle seconded the motion. The motion died.

SB 224 - Emergency medical services board authorized to assess civil fines.

A balloon was provided by staff and explained by Senator Francisco. (Attachment 28) The balloon strikes the word *addition* page 1, line 13 and replaces with *lieu of*.

Senator Francisco moved the balloon. Senator Reitz seconded the motion. The motion carried.

Senator Francisco moved to pass SB 54 out favorably as amended. Senator Reitz seconded the motion. The motion carried.

The next meeting is scheduled for March 11, 2009. The meeting was adjourned at noon

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
GUEST LIST

DATE 3-10-09

NAME	REPRESENTING
Sandy Jaquet	LKM
James Reynolds	KGGWA
Norm Jennings	Grape & Wine Council
Carole Jordan	Commerce Dept
Jessica Bowser	KDA
Tom Groneman	ABC
SARAH BYRNE	ABC
Ann Zim	ABC
Steven Hilbert	ABC
Tina Wood	Faust-Goubeaux
Spencer Duncan	Capitol Connection ks
John Brenner	Wildwood Cellars
Dale Motes	City of Wichita
Kevin Beane	Wildwood Cellars
TOM PALACE	PMCA OF KS
Sylvia Chapman	awa of KS
Pam CAMBERS	CITY OF MERRIAM
Bill Hestek	Merriam ks
JEFF CONWAY	DEPT. OF COMMERCE
White Danny	DISCW/KGGWA
Phil Bradley	KLBA
Nick Jordan	Capitol Strategis
Joe Mosimann	Hein Law
Ep Klumper	KACP + KPOA
Amy Campbell	KS Assoc. of Beverage Petitioners

Testimony on Senate Bill 247
to
The Senate Committee on Federal and State Affairs

by Tom Groneman
Director
Alcoholic Beverage Control

March 10, 2009

Mr. Chairman, members of the committee, I appear today in support of Senate Bill 247. The ABC requested introduction of this bill after receiving numerous inquiries from frustrated local governing bodies regarding problem liquor licensees located in their jurisdictions. Currently, K.S.A. 41-2651, allows a city or county to request a hearing on licensure of a club or drinking establishment at the time of the initial licensing and yearly thereafter at renewal. Senate Bill 247 amends K.S.A. 41-2651 to allow a city or county to request the director of ABC hold a hearing on whether any license issued pursuant to the Club and Drinking establishment act should be revoked or suspended at any time. The governing body must provide reasonable cause to ABC to determine a hearing is necessary based upon factors to be included in rules and regulations issued by the department. The ABC may refuse the governing body's request if reasonable cause is not provided. The ABC may refuse to grant a renewal or may revoke or suspend such license based upon the evidence provided at the hearing.

I would be glad to answer any questions.

Senate Federal & State Affairs Committee
SB 247

Testimony of
Sarah Byrne
Assistant Attorney General, Alcoholic Beverage Control

March 10, 2009

Good morning Mr. Chairman and members of the committee. I thank you for the opportunity to appear here today to present testimony in support of SB 247.

Violence in and around bars and dance clubs is a growing problem in Kansas, as well as other states. KIBRS data estimates that approximately 1,500 violent crimes, including homicide, manslaughter, rape, robbery, and assault occurred in and around bars and dance clubs in Kansas in 2007. The violence generally occurs in the parking lot, late at night, resulting in injury or death, as well as collateral damage to property. Many licensees feel that what happens in the parking lots of their bars is not their concern, and fights that begin inside the bars quickly escalate outside, after the participants are expelled from the premises.

Additionally, there are many instances in which a bar has a fairly clean ABC violation history, but still creates a tremendous burden on local government through illegal activity occurring in or around the premises. In the past, there has been little that ABC could do to assist local governments with these problem bars, as ABC's authority is generally limited to violations of the club and drinking establishment act that occur inside the licensed premises.

This amendment gives local governments who have made reasonable efforts to remedy a problem situation another tool to use in combating illegal and violent activities. Instead of waiting up to a year to request a hearing on whether a license should be denied upon renewal, government officials could request a hearing at any time reasonable cause exists to revoke or suspend the license.

Reasonable cause would be shown by presenting evidence showing that the licensed premises and areas around the premises reasonably under the control of the licensee create a danger to public health, safety, and welfare, or create an abnormal and unreasonable burden on local resources. A draft regulation listing factors to be considered by the Director in determining whether the license should be denied, revoked, or suspended is attached.

Proposed New Regulation

Updated 3/05/2009

14-21-21. Denial, revocation, or suspension of license upon request for hearing by governing body of city or county; process for request; evidence considered.

(a) The governing body of a city or county may request a hearing before the director to determine whether a license issued under the club and drinking establishment act shall be denied, revoked, or suspended.

(b) The request shall be made in writing, from the governing body, on city or county letterhead, to the director, and shall be accompanied by such evidence as will indicate reasonable cause exists to conduct a hearing to deny, revoke, or suspend said license.

(c) The director shall review the evidence presented and determine whether reasonable cause exists to conduct a hearing to deny, revoke, or suspend said license. The director shall notify the governing body of the date and time of the hearing, or denial of the request, in writing as soon as reasonably possible.

(d) The hearing shall be conducted in accordance with the provisions of the Kansas Administrative Procedures Act, K.S.A. 77-501, *et seq.* The director shall consider evidence presented at the hearing by the governing body and the licensee and determine whether the license shall be denied, revoked, or suspended.

(e) Evidence considered in determining whether a license shall be denied, revoked, or suspended may include but is not limited to:

(1) A crime of violence has occurred in, on, or about the premises, arising from conduct occurring within the licensed premises;

(2) The licensed premise and surrounding areas under relative control of the licensee constitutes an abnormal and unreasonable drain on public resources to secure the safety of patrons, local residents, and businesses;

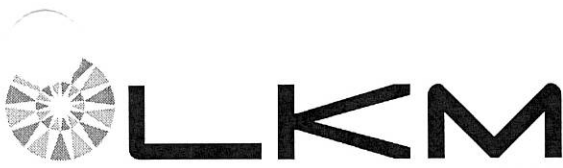
(3) The licensed premise, including surrounding areas under relative control of the licensee, constitutes a threat to public health, safety, and welfare;

(4) The governing body, if authorized by state law or local ordinance, has filed nuisance action(s) against the licensee or the licensed premises; or

(5) The governing body and/or licensee have taken all reasonable remedial steps to remedy the situation.

(f) For purposes of this regulation, "crime of violence" includes arson, murder, manslaughter, rape or sexual assault, armed robbery, assault, battery, or attempt at any such crime.

(Authorized by K.S.A. 41-2651 as amended; effective _____.)



League of Kansas Municipalities

300 SW 8th Avenue
Topeka, Kansas 66603-3912
Phone: (785) 354-9565
Fax: (785) 354-4186

To: Senate Federal and State Affairs Committee
From: Sandy Jacquot, Director of Law/General Counsel
Re: Support for SB 247
Date: March 9, 2009

Thank you for allowing the League of Kansas Municipalities to testify in support of SB 247. This bill would allow cities and counties to request that the Director of the Alcoholic Beverage Control Division (ABC) hold a hearing on whether it should suspend or revoke the license of a club or drinking establishment. Under current law, local governments and the state concurrently license these establishments. The regulatory control, however, is vested in the ABC and the city may not close down a problem establishment by revoking the city license. Cities may now only request a hearing on the initial club or drinking establishment license, or upon renewal of that license by the ABC.

This bill would allow cities to request that the ABC hold a hearing on whether or not to revoke or suspend a license if the city possesses reasonable cause to believe a hearing is necessary under rules and regulations adopted by the ABC. Thus, if a city was in possession of evidence that an establishment was in violation of its license and it rose to the level of reasonable cause under the regulations, the hearing could be held at anytime during the license period. This is a vast improvement over the limitations in the current law and would allow cities more control over problem establishments in their communities.

For all of the above-stated reasons, the League of Kansas Municipalities strongly supports SB 247 and urges this committee to give the bill favorable consideration. Thank you for allowing the League to testify and I will be present to answer any questions the committee might have.

www.lkm.org

Sn Fed & State
Attachment 3
3-10-09



March 6, 2009

Senate Federal & State Affairs committee
Committee Secretary
State House
Attn: Connie Burns
300 SW 10th Ave.
Room 121-E
Topeka KS 66612

Dear Senate Federal & State Affairs committee:

As a representative of the current governing body of the City of Merriam, Kansas, I would like to inform the committee that we are a strong proponent of the passage of Senate Bill No. 247.

The City of Merriam currently has five drinking establishments and four retail liquor stores under the jurisdiction of the Department of Alcohol Beverage Control (ABC). In the last 24-month period, there have been nineteen (19) violations of selling alcohol to minors at these businesses. At six of these locations, they have been guilty of the same offense multiple times.

Because of health and safety concerns for our citizens, the elected representatives of Merriam take a very serious stance regarding liquor law violations. We feel passage of this bill will aid our community by allowing us to better partnership with ABC in the enforcement of the current State liquor laws.

I will be available on March 10, 2009 to address the committee and to answer any questions.
Thank you.

Sincerely,

Bill Lietzke

Chief of Police
Merriam Police Department
Office-913-322-5588



DAVID L. CORLISS
CITY MANAGER

City of Lawrence KANSAS

City Offices
Box 708 66044-0708
TDD 785-832-3205

6 East 6th
785-832-3000
FAX 785-832-3405

www.lawrenceks.org

CITY COMMISSION

MAYOR
MICHAEL DEVER

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

February 23, 2009

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

RE: **TESTIMONY IN SUPPORT OF SENATE BILL No. 247**

Dear Senator Brungardt and Members of the Committee:

Generally, drinking establishments are organized and operated responsibly and do not threaten the health, safety or welfare of the communities in which they are located. There are, however, exceptions to this rule -- businesses that put their quest for profit ahead of the public good, ignoring the serious negative effects that they cause to their surrounding neighborhoods and communities. Under existing Kansas law, cities have no local control over the licensing of drinking establishments and no meaningful way to ask that a state liquor license be revoked on the basis of the damage the licensee is doing to the community and the public's safety.

Therefore, on behalf of the Lawrence City Commission, I am writing in support of Senate Bill 247. For many drinking establishments, the sale of liquor is their primary reason for being and anything that threatens liquor licensure should provide a substantial incentive for good conduct. Senate Bill 247 and Alcoholic Beverage Control's draft regulations provide that incentive and give cities an important administrative tool to address problem drinking establishments by requesting the revocation of their drinking establishment licenses.



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

Sn Fed & State
Attachment 5

3-10-09

Page 2 – February 23, 2009
Senator Pete Brungardt, Chairperson
Senate Committee on Federal and State Affairs

In Lawrence's experience, problem drinking establishments that are left unchecked, as they are far too often under the current laws, can cause increased crime, including violent crime. They also deplete public safety resources due to the sheer number of police calls that they generate and the efforts necessary to adequately supervise the establishments. Right now, there is no administrative disincentive to pursuing this business model, which mortgages the public's welfare for an individual business' success.

Therefore, it is my hope that you will support this legislation, which balances public and private interests and helps to create a liquor licensing process worthy of the public's trust.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Dever", followed by a horizontal line.

Michael Dever
Mayor

cc: City Commission
David L. Corliss, City Manager



Dale Goter
Government Relations Manager

TESTIMONY

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

City of Wichita Testimony on SB247 Club/Drinking Establishment Licensure Hearings Senate Federal and State Affairs Committee March 10, 2009

The City of Wichita supports Senate Bill 247 as a positive measure that addresses significant public safety concerns.

The proposed changes provide a more immediate and comprehensive procedure for the governing body of any city or county to address public safety concerns created by clubs and drinking establishments licensed to sell liquor within their respective jurisdictions.

Local governments would no longer be forced to wait for a hearing with the director of ABC until the license of an establishment comes up for renewal – a wait that can be up to 11 months in duration. Senate Bill #247 also expands the scope of potential action by the director regarding the licensure of establishments as a result of such hearings to include not only recommendations regarding the granting or refusal to grant a liquor license but also whether the license should be revoked or suspended. The basis for any action by the director can be carried out in the interest of protecting the public welfare, which allows local governing bodies to request flexible remedies that can be tailored to address the needs and concerns of individual communities.

When a club threatens the safety and welfare of a community, time is always of the essence in crafting an effective response. Over the past year, at least six drinking establishments within the City of Wichita have posed significant public safety threats within the first few months of operation. In one club, a homicide occurred on the licensed premises within four months of the licensure of the establishment, which would have required the city to wait almost eight months to request a hearing with the director at the time of the license renewal.

Some establishments remain open for only a few months, during which time they generate a significant income for the licensee while having a devastating effect on the safety and welfare of the surrounding neighborhood. The ability of our City Council to request an immediate hearing with the director regarding the liquor license of such establishments at any time, and also to make recommendations regarding the suspension or revocation of a license to the director would no doubt have a significant impact upon the efforts of local licensees to operate their establishments in a safe and lawful manner. This legislation proposes an effective tool for all local governing bodies with which to address potential threats to the welfare of their respective communities. Accordingly, the City of Wichita urges the committee to approve Senate Bill #247 as presented.



CITY OF TOPEKA

DEPARTMENT OF POLICE
320 S. Kansas Ave., Suite 100
Topeka, KS 66603-3640
Tel: (785) 368-9551
Fax: (785) 368-9458
www.topeka.org

An Accredited
Law Enforcement Agency



Senate Federal and State Affairs Committee

March 10, 2009

Testimony in Support of SB 247

Chief Ronald J. Miller
Topeka, Kansas

Chairman Brungardt and Members of the Committee,

SB 247 is a simple bill that will substantially improve public safety, save resources and help local communities across the state.

As Chief of Police for Topeka, and having retired as Chief of Kansas City, Kansas, I am keenly aware of the public safety problems that arise from poorly managed drinking establishments. Fights, killings, drug dealing, minors being served and a host of other problems at such bars impact the safety of citizens, property values, quality of life and are a constant drain on law enforcement resources.

In Topeka we have an active partnership with the owners of such establishments that includes an educational conference we put on each year, to try and prevent problems. If problems arise in a disproportionate level at an establishment, we document the number and type of calls, then meet with the owner to show them the problems, as well as to suggest solutions such as better lighting, or more security. Frequently this approach resolves the problems and everyone is satisfied.

However, there are those few establishments that continue to have violations and whose owners are not inclined to correct problems. Unless each city adopts it's own city licensing procedure for alcohol establishments, a totally redundant procedure, cities are dependant on Alcohol Beverage Control (ABC) to take any administrative action. We can have extensively documented violations, which we will share with ABC, but a city's only hope is that the understaffed personnel at ABC will eventually find time to look into the matter and take action against the licensee. In the meantime, the problems go on.

SB 247 would allow cities and counties to be the complaining witness and so initiate a hearing in appropriate cases: This makes sense as we have the evidence and we are suffering the damage from the violations. This legislation would save resources of ABC, local communities and law enforcement while enhancing public safety. We urge passage of SB 247.

Thank you for your time and consideration.



TESTIMONY IN SUPPORT OF SENATE BILL NO. 247

To: The Honorable Pete Brungardt, Chairperson
Members of the Senate Committee on Federal and State Affairs

From: Marcy Knight, Assistant City Attorney

Date: March 10, 2009

RE: Senate Bill 247

The City of Lenexa supports SB 247, which provides cities a voice concerning the licensure of clubs or drinking establishments in their jurisdictions.

Currently, a city has limited input regarding the licensing of a club or drinking establishment located within its jurisdiction. However, cities are often the best source of information regarding persistent problems at clubs and drinking establishments, such as repeated calls for service involving violence, drunkenness, and other criminal acts. Under this proposed legislation, cities would have the right *at any time* to request a hearing before the Alcoholic Beverage Control (ABC) on the issue of whether a club's liquor license should be revoked or suspended. This legislation would greatly enhance both the ability of the ABC and of cities to make certain that clubs and drinking establishments are compliant with all applicable rules, regulations and laws.

Although Lenexa does not have a recent example of problems with any club or drinking establishment, we are aware that several of our neighboring cities have dealt with this issue. This legislation would be a pro-active step toward ensuring that cities have a voice in the licensing process for these businesses in their jurisdiction, should the need arise. We believe this legislation can help keep our communities a safe and enjoyable place to live, work, and socialize.

For these reasons, the City of Lenexa urges your support of SB 247. Thank you for your consideration.

City of Lenexa / 12350 West 87th Street Parkway / Lenexa, Kansas 66215-2882
City of Lenexa / P.O. Box 14888 / Lenexa, Kansas 66285-4888
Telephone (913) 477-7500 / Fax (913) 477-7504



Kansas Sheriffs Association

P.O. Box 1853
Salina, Kansas 67402-1853
785-827-2222
Fax 785-827-5215
ksa@ks-sheriff.org

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To: Chairperson Brungardt, Vice-chairperson Reitz and distinguished members of the Committee on Federal and State Affairs

From: Kansas Sheriff's Association (KSA)
Date: March 10, 2009

My name is Sheriff Frank Denning and on behalf of the KSA, I am submitting written testimony to the committee today in support of Senate Bill No. 247.

Senate Bill 247 would allow the governing body of any city or county to request the director of ABC to hold a hearing on whether any license to operate a club or drinking establishment should be revoked or suspended.

Passage of this bill would assist local communities and law enforcement agencies deal more effectively with any clubs or drinking establishments which cause ongoing problems. The governing body of any city or county could bring these problems to the attention of the Alcohol Beverage Control director as soon as the problems develop. This will assist in insuring that these clubs and drinking establishments provide a safe environment for their customers and protect the public welfare.

This bill would also insure the local governing bodies would have some type of input when a license is up for renewal. Prior to any license being renewed the local governing bodies would be notified and have the opportunity to voice any opposition to this renewal.

The director of the Alcohol Beverage Control would be able to have all the information in regards to a club or drinking establishment prior to deciding if a license should be renewed or granted. Additionally Senate Bill 247 would allow the director of ABC to address of any ongoing problems with a club or drinking establishment even when their license is not up for renewal.

Another important provision of this bill is that it requires the local governing body to show some type of reasonable cause when requesting a hearing. If there is no reasonable cause shown the ABC director can refuse this request for a hearing. This provision provides a system of checks and balances.

In closing, passage of Senate Bill 247 provides local communities with more input into the licensing of clubs and drinking establishments. I urge you to support this bill and provide the local governing bodies a voice in these decisions which affect their communities.

Sheriff Frank Denning
Legislative Chair
Kansas Sheriff's Association

Executive Director Darrell Wilson Officer Manager Carol Wilson Legal Counsel Bob Stephan



Kansas Association of Chiefs of Police
PO Box 780603, Wichita, KS 67278 (316)733-7301

Kansas Peace Officers Association
PO Box 2592, Wichita, KS 67201 (316)722-8433



March 10, 2009

**Testimony to the Senate Federal and State Affairs Committee
In Support of SB 247**

Chairman Brungardt and committee members,

The Kansas Association of Chiefs of Police and the Kansas Peace Officers Association supports the provisions of SB 247.

The Problem

A great deal of local law enforcement resources go into enforcement efforts around state licensed drinking establishments. While fights and general disturbances are somewhat expected around clubs and bars, some problem clubs create far worse conditions for a neighborhood. Law enforcement in most any community can tell you of repeated illegal activity directly related to particular drinking establishments and violent crimes occurring in and around those businesses on a regular basis. Such activities endanger public safety directly and indirectly. Directly, these activities endanger law abiding citizens patronizing these businesses and even those who unwittingly find themselves in the vicinity of these crimes. Indirectly, public safety in other areas of cities and counties are denied the law enforcement attention they need as limited law enforcement resources are pulled away to handle these club related events. Some clubs work hard to curb these problematic activities. But we often find establishments who try to deal with the problems by simply pushing them out of their business and into public areas, ignore the problems, or in some cases even encourage the illegal activity.

The Solution

The solution to the problems above is to create a cooperative approach utilizing both local and state resources. Many clubs believe local law enforcement cannot do much, if anything, to their license. The proposals in this bill will create such a cooperative effort utilizing the resources of local law enforcement and the licensing authority.

This bill contains the avenue for local governments to request hearings to consider state licensing action. (See lines 25-30 on page 1.) It also establishes the protection of public welfare as a factor which can be used as a basis for license suspension or revocation. (See lines 1-3 on page 2.) And it also retains the due process avenues for the licensee to appeal any adverse decision. (See lines 31-34 on page 1.) Local governments should have the opportunity to present their case to the state licensing authority to help address these issues and to enhance public safety in their communities.

We encourage you to recommend this bill favorably for passage.

Ed Klumpp
Kansas Association of Chiefs of Police—Legislative Committee Chair
Kansas Peace Officers Association—Legislative Committee Chair
eklumpp@cox.net
(785)640-1102



*Kansas
Licensed
Beverage
Association*

*CEO
Philip Bradley*

*P.O. Box 442066
Lawrence, KS
66044*

*785.766.7492
www.klba.org
info@klba.org*



March 10, 2009

Testimony on SB-247
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 the current system that allows the State through the ABC to call and conduct hearings and to ensure compliance. We support the revocation of "bad actors" after due process and work to help our members and all licensees to follow the statutes, rules and regulations. We believe that local government has methods to address problem businesses whether alcohol licensees or not. We strongly believe that those methods should be used and exhausted by local government before they attempt to move responsibility to another agency. We believe that in chapter 41 KSA and in KSR Chapter 14 that the Director of the ABC has the authority to call a hearing on any licensee after a violation and/or citation. And we believe that any city, county, organization or individual has the right to communicate with the Director and ask him to review any licensee at any time. And we believe that the Director has statutory ability to weigh and act upon such a request as we stated above.

We therefore oppose SB 247 unless amended to include standards and steps that local government must complete or meet in order to access these statutory specified current abilities and possibly bypass the current due process.

There have been a few examples in the past years that clearly illustrate that if all the local options are utilized then it is appropriate to access these steps. But in many of those same cases the local units did not use the methods they had in a timely manner or at all. And in some cases the problem activities are not associated with an alcohol licensee and this bill would not address those businesses. We feel that this bill without those steps specified in an amendment will encourage similar actions or even less by the local entities in the future. And if the local units feel that those methods are cumbersome or difficult then what should be proposed and considered on their merits is the amending of those statutes and ordinances (including but not limited to nuisance laws).

We trust that the ABC has the tools currently to properly regulate and assure compliance and safety.

Thank you for your time.

Philip Bradley

**Drink Responsibly.
Drive Responsibly.**

Sn Fed & State
Attachment 11

3-10-09

March 10, 2009

Testimony on SB-247
Senate Federal & State Affairs Committee

Mr. Chairman, and Senators of the Committee,

I am Philip Bradley representing the Craft Brewers Guild of Kansas. Thank you for the opportunity to present written testimony today.

We oppose any efforts to circumvent the current due process procedures. We support the current system that allows the State through the ABC to call and conduct hearings and to ensure compliance.

We oppose SB 247. If this measure was amended to include standards and steps that local government must complete or meet in order to access these statutory specified current abilities then we would be more supportive.

We trust that the ABC has the tools currently to properly regulate and assure compliance and safety.

Thank you for your time.

Philip Bradley



**CRAFT
BREWERS
GUILD OF
KANSAS**

REPRESENTED BY

PHILIP BRADLEY

PBB@SUNFLOWER.COM

785-766-7492



TESTIMONY

**TO: The Honorable Pete Brungardt, Chair
And Members of the Senate Committee on Federal and State Affairs**

**FROM: Whitney Damron
On behalf of the Distilled Spirits Council of the United States**

**RE: SB 246 - An Act concerning alcoholic beverages; authorizing the
issuance of a special permit to conduct tastings of alcoholic
beverages.**

DATE: March 10, 2009

Good morning Chairman Brungardt and Members of the Senate Committee on Federal and State Affairs. I am Whitney Damron and I appear before you today in support of SB 246 allowing tastings under a special permit from the Director of ABC of wine, spirits, malt beverage and other products offered for sale at retail liquor stores on behalf of the Distilled Spirits Council of the United States, or DISCUS, as it is known in the industry.

By way of information to the Committee, DISCUS is the national trade association representing America's leading distillers and nearly 70% of all distilled spirits brands sold in this country.

There are currently more than 4,000 brands of distilled spirits on the market in the United States and hundreds of new brands introduced each year. Tastings provide a consumer with the ability to try a small portion of a product to help them make a decision as to whether to purchase the product. This is particularly helpful to the consumer when evaluating products that are considered premium in quality and price.

Product tastings are an effective means to educate a consumer and perhaps entice them to try something new. One can't walk through a local grocery store on a weekend without encountering a number of product sampling stations and what DISCUS is proposing in SB 246 has the same purpose, although under strict control from the Division of Alcoholic Beverage Control.

Some kind of product tasting is permitted in most states. Under certain circumstances, product tasting is permitted in Kansas, although the process is cumbersome and requires a third party licensee to conduct the tasting.

SB 246 would clarify current law and allow for a retail liquor store to conduct tastings on a limited basis, under the auspices of the ABC.

I would like to note the limitations in SB 246:

1. First and foremost, a retailer would be required to obtain an annual permit from the Director in order to host a tasting.
2. SB 246 limits a retailer to no more than 1 tasting per week, with advance notice to the Director.
3. A retailer must take their product for tasting out of their inventory, which must therefore be paid for by the retailer, including all taxes collected and remitted.
4. Tastings are done in limited quantities. SB 246 does not place a limit on the number of tastings a patron can consume, but attached to my testimony is a proposed amendment to limit the tasting to no more than three samples. Under the size limitations contained in SB 246, this would total approximately one drink.
5. Obviously minors are not permitted to sample products.
6. Kansas already permits tastings of wine products at Kansas Farm Wineries and wine festivals (i.e., The Grape Escape held annually to benefit the Topeka Performing Arts Center). History has proven these events and venues can and do provide tastings to the adult consumer in a responsible manner.

Other states that have allowed for tastings, more than 25 so far, have not experienced enforcement-related issues. We believe the experience in Kansas will be no different and retailers who choose to be licensed for tasting will implement the law in a responsible manner, as to do otherwise will jeopardize their retailer's license. Furthermore, the Director of ABC is authorized under the bill to adopt rules and regulations to implement the provisions of SB 246, if necessary.

If adopted, DISCUS expects that distillers, wineries and breweries will seek to utilize tastings as a means to introduce seasonal products, new offerings and existing brand marketing opportunities for the consumer. We believe it can and will be done in a responsible and appropriate manner and would ask for the Legislature's approval of SB 246.

On behalf of the Distilled Spirits Council of the United States, I thank you for your consideration SB 246 and would be available to respond to questions at the appropriate time.

For more information on DISCUS, including their efforts to promote responsible consumption, you can refer to their website:

www.discus.org

WBD

SENATE BILL No. 246

By Committee on Federal and State Affairs

2-9

9 AN ACT concerning alcoholic beverages; authorizing the issuance of a
10 special permit to conduct tastings of alcoholic beverages.

11

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

13 Section 1. (a) Notwithstanding any other provisions of the Kansas
14 liquor control act, the club and drinking establishment act or the Kansas
15 cereal malt beverage act, any person who is licensed to sell alcoholic liquor
16 in the original package at retail pursuant to K.S.A. 41-308, and amend-
17 ments thereto, may apply to the director for an annual special permit to
18 conduct wine, malt beverage and distilled spirit tastings on the licensed
19 premises.

20 (b) In addition to any other license fees required by law, a licensee
21 applying for a special permit under this section shall at the time of such
22 application pay to the director a fee of \$50. Special permits issued under
23 this section shall be valid for one year from the date of issuance.

24 (c) Nothing in this section shall be construed to permit the licensee
25 to sell wine, malt beverage or distilled spirits for on-premises
26 consumption.

27 (d) Tasting samples must be from products in the inventory of the
28 licensee, and must be of beverages that are otherwise for sale by the
29 licensee.

30 (e) Tasting sample sizes are limited to the following:

- 31 (1) 100 milliliters for malt liquor;
- 32 (2) 50 milliliters for wine;
- 33 (3) 25 milliliters for liqueur or cordial; and
- 34 (4) 15 milliliters for distilled spirit.

35 (f) The licensee may only conduct tastings one day of the week and
36 must provide notice to the director no less than one week in advance of
37 its intent to conduct a tasting.

38 ~~(g)~~ The secretary may adopt rules and regulations as necessary to
39 implement the provisions of this section.

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

42 Sec. 2. This act shall take effect and be in force from and after its
43 publication in the statute book.

(g) The licensee shall not provide more than three
tasting samples to any one person per tasting session
or day.

(h)

(i)

13-3

K • A • N • S • A • S
WINE & SPIRITS
WHOLESALE ASSOCIATION

March 10, 2009

To: Senate Committee on Federal & State Affairs
From: Kansas Wine & Spirits Wholesalers Association
RE: Senate Bill 246

The Kansas Wine & Spirits Wholesalers Association supports SB246.

SB 246 allows a licensed retail liquor dealer to apply to the Director of Alcoholic Beverage Control for an annual special permit to conduct wine, beer, and distilled spirit tastings on the licensed premises. The permit would be valid for one year and the retailer would be required to pay a \$50 fee, conduct tastings only one day of the week, notify the Director no less than one week in advance of its intent to conduct a tasting, and use tasting samples from only products in inventory. The retailer would be prohibited from selling wine, beer, or spirits for on-premise consumption. In addition, tasting samples would be limited to 100 milliliters for malt liquor; 50 milliliters for wine; 25 milliliters for liqueur or cordial; and 15 milliliters for distilled spirit.

We join with others who propose that the bill be amended to provide that there be a limit of three samples per person.

Currently retailers are conducting unregulated tastings on unlicensed premises (generally in space adjacent to their store). This has led to much confusion in the marketplace such that this law is needed to provide consistency and uniformity, as well as to maintain an orderly market.

Thank you for your consideration of this matter.



*Kansas
Licensed
Beverage
Association*

March 10, 2009

Testimony on SB-246
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 have concerns about we have worked with the proponents to resolve satisfactorily most of those concerns. **We therefore support SB 246.**

We support a workable legal bill that would allow for state control, equal regulation on underage access, appropriate limited amounts and restricted number of samples allowed each person per day.

A level playing field for those who sell or serve alcohol is essential. Currently a seller/server of beverage alcohol in your favorite restaurant or bar is held criminally responsible for an underage person accessing their product, *knowingly or unknowingly*. The same standards should be applied to these employees serving alcohol to the public or the standard should be modified. This measure limits the amounts of the serving but **needs a cap** on the number of samples an individual may have. **We ask for that amendment and understand the sponsoring group considers it a friendly amendment.** This still does not equal the on-premise standard but is a workable improvement. In current law the licensee is responsible for all of their employees' actions in regards to service. With the passage of this act and the new ability of off-premise retailers to serve on-premise will require new training and responsibilities for the licensee. We trust the ABC to properly regulate and assure compliance and safety.

The passage of this bill will blur the line of on and off premise. This issue is one that has complex ramifications and one that will need careful consideration in the future.

Thank you for your time.

Philip Bradley

*CEO
Philip Bradley*

*P.O. Box 442066
Lawrence, KS
66044*

*785.766.7492
www.klba.org
info@klba.org*



**Drink Responsibly.
Drive Responsibly**

Sn Fed & State
Attachment 15
3-10-09

Kansas Association of Beverage Retailers

P.O. Box 3842, Topeka, KS 66604
785-969-1617 *campbell525@sbcglobal.net*

SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
March 10, 2009

Thank you for the opportunity to speak to you regarding SB 246. The Kansas Association of Beverage Retailers represents the state licensed retail liquor store owners of Kansas. Liquor store licensees are Kansas owned small businesses.

Senate Bill 246 would provide for consumer tastings of alcoholic liquor on the licensed premises of the retail liquor store. KABR has reviewed this proposal for in-store tastings and does not support passage of legislation at this time. Many states provide for consumer tastings, but do so under a wide variety of models. KABR has reviewed some state laws to evaluate the options that might most appropriately be implemented in Kansas if the Legislature were to endorse tastings as a marketing option for liquor stores. At this time, there is not consensus.

We have been approached by some legislators who view tastings as a trade-off to benefit liquor stores that might make up for passing the Strong Beer bill or other legislation opposed by KABR. We want to be on record that this is not the case.

Historically, KABR has opposed legalizing tastings because of the many unanswered questions surrounding implementation.

- KABR did not request the introduction of this legislation and did not provide input to its drafting. We are not certain that the Missouri model is indeed the best model for Kansas or the best option for retail liquor stores, but will be pursuing further research into how other states approach consumer sampling by licensees.
- SB 246 is silent as to the legal participation of manufacturers and distributors in conducting and promoting in-store tastings. Since the bill was introduced and supported by the manufacturers and distributors, we would hope that the legislation would offer a clear role for their members and that their participation would require non-discriminatory treatment of retailers.
- What are the implications of serving liquor in an off premise liquor store as it relates to on premise responsibilities? On premise licensees are subject to different requirements for their employees and what they can and can not do on their licensed premises. They also have certain responsibilities relating to the behavior and actions of their customers. Off premise retailers do not have requirements relating to serving alcoholic liquor and are cautious about entering into a practice that might create new responsibilities and/or penalties.

There are also specific questions about the language in SB 246.

- Are all liquor stores eligible for the special permit, regardless of the county where they are located?
- The Liquor Control Act does not define "malt beverage" or "malt liquor". Are these terms intended to be interchangeable? Do they include beer and flavored malt beverages? The Liquor Control Act also does not define "liqueur" or "cordial".
- Most states that allow consumer sampling impose limits on the number of samples.
- SB 246 speaks to the volume of samples allowed for various products. The legislation measures the volume in milliliters. Retailers are accustomed to exacting standards of operation, but milliliters seem extremely specific. Would ounces be a more common form of measuring beverages? Are cups available with milliliter measurements?
- There may need to be some guidance regarding open containers, as liquor stores are currently fined for having an open container on the premises. (Broken or returned items are explicitly marked and stored in a designated area.)
- The fiscal note for the bill predicts costs of \$7200 for implementation. Is this only for issuing permits or also for regulation?

Relative to the potential for new retailer obligations, please note that KABR opposes the passage of dram shop legislation that would hold a retailer responsible in civil litigation for the actions of a consumer who purchases (or tastes) liquor at the liquor store and then proceeds to cause harm after leaving the business. The Kansas Legislature has defeated dram shop legislation in past years and we would encourage your continued emphasis on personal responsibility.

Thank you for the opportunity to speak to you today. Please feel free to contact us to discuss this or any other matter.

Sn Fed & State
Attachment 16

3-10-09

Testimony on Senate Bill 246
to
The Senate Committee on Federal and State Affairs

by Tom Groneman
Director
Alcoholic Beverage Control

March 10, 2009

Mr. Chairman, members of the committee, The ABC Division is neutral regarding Senate Bill 246. This bill would amend the liquor control act to allow retailers to provide samples of wine, malt beverages and alcoholic liquor to consumers on their licensed premises subject to certain restrictions. If the committee acts favorably, we would request that an additional restriction limiting the number of samples that can be served to any one individual be considered. Also, we would like clarification regarding where sampling can occur. Other statutes concerning sampling allow sampling only in counties that have approved liquor by the drink. This bill is not specific regarding this issue.

I would be glad to answer any questions.



*Kathleen Sebelius, Governor
David D. Kerr, Secretary*

www.kansascommerce.com

Testimony to the Senate Federal and State Affairs Committee

**Carole Jordan, Director, Division of Rural Development
Kansas Department of Commerce
March 10, 2009**

Chairman Brungardt and members of the committee: I am Carole Jordan, Director of the Rural Development Division within the Kansas Department of Commerce, here to testify as a proponent of SB 218.

The Kansas Department of Commerce has long been supportive of our state's grape growers and winemakers. This value-added agriculture business continues to grow in Kansas, with 22 licensed farm wineries and 97 farms producing 299 acres of grapes in Kansas.

This bill would allow the sale of wine at a farmers' market and the manufacturing of wine at a winery outlet. Selling Kansas-made wine by the bottle at local markets would give the small wineries an opportunity for further marketing of their products. It would give the vintner greater opportunity to educate consumers on their products. Combining sales of our wines with sales of other locally grown food products lets consumers learn about Kansas wines and can increase consumer traffic at the farmers' markets. Consumer interest in local foods and experiences continues to grow, and allowing consumers to purchase local wines at a hometown farmers' market is part of this growing trend.

Manufacturing of wine at farm winery outlets would also be beneficial. It allows the expansion of tourism opportunities for rural communities where these outlets are housed, like Paxico, Wilson and Winfield. Tourists can buy wine at these outlets, but they like the experience of seeing wine being made and grapes being grown or harvested. Expanding manufacturing to outlets gives the Kansas traveler a greater chance to see the wine being made, further adding to the value of their experience. These rural communities can build more tourism opportunities around their local wine outlets.

Testimony

March 10, 2009

To: The Honorable Pete Brungardt, Chair
and Members of Senate Federal & State Affairs Committee

From: Norman M. Jennings
29725 Somerset Road
Somerset, Kansas 66071
(913) 491-0038

RE: SB218

Mr. Chairman and members of the committee, thank you for the opportunity to offer this testimony. As you have heard over the past few years the grape and wine industries in Kansas have the potential to be a major contributors to the state agritourism and value-added agricultural industries, as well as state tax revenue sources. The items contained in SB218, if enacted have the opportunity to impact the success and growth of our industries. These items will give new income opportunities for many Farm Wineries during these difficult financial times.

SB 218 addresses the following issues that when implemented will have a positive impact on our industry growth.

1. Allows the Director of the ABC to issue a permit allowing for sales by the bottle at farmers markets. There are some Farm Wineries that grow fruit and sell at farmers markets. They sell their fruits, vegetables, jellies, etc... and would like to be able to sell their wines at the same venues.
2. Allows licensed Farm Wineries to hold a manufactures license. The wines produced under the manufactures license would only be sold through the 3-tier system. The Farm Winery license requires the use of at least 60% Kansas fruit. Wines produced under the manufactures license would not have this requirement and therefore elevate the in state fruit issue.
3. Allows licensed Farm Wineries to produce wines at their licensed outlets. This will provide more tourism opportunities, increased processing efficiency and labor utilization.

The Grape & Wine Advisory Council facilitated discussions for this bill. Input was gathered from both the Kansas Grape Growers and Wine Maker Association and the Kansas Farm Winery and Viticulture Association. The council voted in support of this bill.

The membership of the Kansas Grape Growers and Winemaker Association has voted on record as being in support of these items. This association currently represents the majority of commercial growers and farm wineries in Kansas. The members of this association look forward to the possibilities that will exist if this bill passes during this session.

We thank the committee for hearing this bill and offer to answer any questions you may have at this time.

Sincerely,

Norman M. Jennings

President – Smoky Hill Vineyards & Winery
President - Kansas Grape Growers & Wine Makers Association
Chairman – Grape & Wine Advisory Council



TESTIMONY

**To: The Honorable Pete Brungardt, Chairman
and the Members of the Senate Committee for Federal & State Affairs**

**From: Dennis Reynolds, on behalf of Somerset Ridge Vineyard & Winery
and The Kansas Grape Growers & Winemakers Association**

**Re: SB 218, Farm wineries; allowing farmers' market sales permits, allowing issuance of
manufacturer's license, allowing manufacture by wine outlet licensees**

Date: March 10, 2009

Good morning Chairman Brungardt and members of the Senate Committee for Federal and State Affairs. My name is Dennis Reynolds. I am the owner of Somerset Ridge Vineyard & Winery in Miami County. I am also the Legislative Chairman for the Kansas Grape Growers and Winemakers Association and the Vice-Chairman of the Kansas Grape and Wine Council. I am here this morning to offer testimony in support of SB 218.

This bill would amend the Kansas Farm Winery Statutes to allow three things:

1. Allow Farm Wineries to obtain permits that would allow them to sell their products at bona fide farmer's markets;
2. Allow Farm Wineries to conduct winemaking activities at their licensed outlet locations; and
3. Allow Farm Wineries to also hold a manufacturer's license pursuant K.S.A. 41-305.

These amendments would provide additional sales channels for Farm Wineries and would also allow greater production efficiencies, cost savings and opportunities for expansion.

This bill is a product of the Kansas Grape and Wine Council, resulting from a multi-month process where all interested parties were represented, including the groups that represent all of the licensed farm wineries and commercial vineyards in the state, as well as representatives of the liquor distributors and retailers, government and citizenry.

The Kansas Grape and Wine industry is a growing, thriving industry. This bill will help us continue to grow and provide new jobs and tax dollars to Kansas.

www.somersetrIDGE.com
29725 Somerset Road, Somerset, Kansas

In these tough economic times, it is important to encourage home-grown Kansas businesses. Our winery was established in 2001. Due to our presence in Miami County and the success that we have had, we have seen in Miami County alone the addition of three more wineries either established or in the licensing phase and the planting of numerous vineyards consisting of over 32,000 grapevines. Last year Somerset Ridge by itself added eight new employees. These are local jobs that are much needed in our community.

We are seeing growth like this in wineries and vineyards throughout the state. I respectfully urge the Committee to recommend passage of this bill that will help our industry to expand.

Sincerely,

Dennis J. Reynolds

Wyldewood Cellars Winery

P.O. Box 45 Mulvane, Kansas 67110
 (316) 554-9463 (316) 554-9191 fax
 Dr. John A. Brewer, President 3-2-09

Testimony on Senate Bill No. 218

Good morning Mr. Chairman and Distinguished Committee Members. I am Dr. John Brewer the owner and operator of Wyldewood Cellars Winery in Mulvane, Kansas. I want to thank you for the opportunity to testify on Senate Bill No. 218. I fully support the ability to sell at Farmers' Markets as describe in new section one, and oppose all of the other changes proposed in SB218.

As the owner of the largest winery in Kansas, I know full well how hard it is to generate interest in Kansas wines. Ninety percent of the wine sold in Kansas comes from California and is produced from grapes that do not grow well here. Kansas wineries have an uphill battle to get customers to try (and hopefully purchase) wine varieties that are not familiar to them. The result is that, at present, all of the Kansas wineries combined provide less than one percent of the wine sold in Kansas. The new section 1 of SB218 will help Kansas wineries compete with the millions of dollars spent each year on advertising California wines by allowing Kansas wineries to sample and sell their wines at "bona fide farmers' markets" like other Kansas agricultural crops. Kansas wineries can have up to three sales outlets to allow them to "take their wares to market". A permanent sales outlet is very expensive to operate, with rent and personnel costs every day. Many of our Kansas wineries do not produce enough wine to be able to afford the expense of an outlet. The ability to sample and sell at "bona fide farmers' markets" helps them to bridge the gap between sales only at the winery (where customers have to come to you) and a permanent outlet that takes your wine to the customer. This addition to our Kansas wine law will definitely help promote Kansas wines.

In regards to section 2 of SB218: In the states that have substantial wine industries, there does not exist wine manufacturer licenses and farm winery licenses, they only have winery licenses. This dual class of licenses was set up to prevent wineries like Gallo from starting a winery in Kansas and circumventing the Liquor Distributors. The ABC Director's interpretation of the principle differences between the two licenses are: the origin of the fruit and to whom you can sell your wine. A wine manufacturer can use fruit from anywhere but must sell its wine only to wholesale distributors. A farm winery must use 60% of its fruit from Kansas, but can sell its wine at retail or wholesale. The Graham-Holm Supreme Court decision has made this double wine license scheme unconstitutional, since a percentage of in state grown fruit is not required for all wines selling in Kansas, just Kansas farm wines. In every state where the in state fruit content has been challenged, it has been eliminated as unconstitutional. No one, Gallo or any other mega-winery has set up a winery and circumvented its existing wholesale distribution system in these states. Also, the proposed change does not contain any mechanism (reasonable or otherwise) to monitor what wine is sold to wholesale distributors versus at retail. This proposal is totally without merit and would set up a regulatory and reporting nightmare.

In regards to the change in section 3, sub B, sub 3 of SB218 which would allow the manufacture of wine at Kansas winery outlets. The Federal Trade and Tax Bureau licenses wineries and regulates wine production. State law allows the winery to sell its wine in the state. For a winery outlet to produce wine legally, it must be licensed by the Federal Government as a separate producing winery. Therefore; for Kansas farm wineries to have more than one fermentation facility, we would need the ability to hold multiple farm winery licenses, which is allowed and required by Federal Law. The above proposal is contrary to Federal Law.

Thank you for your time and this opportunity to testify. Please support the proposed section 1 and eliminate all of the other proposed changes in Senate Bill no.218.

Dr. John Brewer

Testimony on SB 218
to
the Senate Federal and State Affairs Committee

by **Jessica R. Bowser**
Rural Development and Outreach Coordinator
Kansas Department of Agriculture

March 10, 2009

Good morning, Chairman Brungardt and members of the committee. I am Jessica Bowser, rural development and outreach coordinator with the Kansas Department of Agriculture. This bill reflects the consensus of the Kansas Grape and Wine Industry Advisory Council.

Secretary Adrian Polansky first appointed members to the council in 2004 to advise him and other agencies on issues facing the wine industry. The council supports growth in the grape and wine industry through legislative initiatives, research and education, and by promoting tourism and value-added, sustainable and environmentally responsible agriculture. Since 2004, the council has brought forward several initiatives to help move the industry forward.

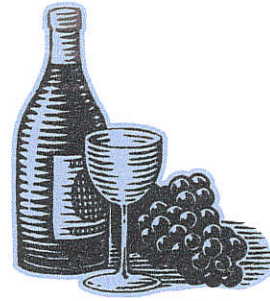
The department supports Senate Bill 218 because it will allow farm wineries to sell their products at farmers' markets, to hold manufacturers' licenses and to have production facilities at winery outlets. This bill gives farm winery owners access to more markets and more opportunities to produce value-added products. It also creates more agritourism opportunities throughout the state. We believe that SB 218 will help the farm winery industry continue to develop and prosper.

Specialty crops are an important part of Kansas agriculture. In 2006, the grape and wine industry had \$1.5 million in sales. Passing SB 218 will give our state's 22 licensed farm wineries more marketing and development opportunities.

Thank you. I will stand for questions at the appropriate time.

Kansas Viticulture
and Farm Winery
Association

785-766-7492
pbb@sunflower.com



March 10, 2009

Testimony on SB 218

Senate Federal and State Affairs Committee

Chairman Brungardt and Senators of the Committee

We support SB 218 because it preserves the Kansas content rule and opens farmers' markets to farm wineries, both of which the KVFWA membership has always favored. We also support allowing farm winery licensees to hold a manufacture's license as well as their farm winery license. We thank the Secretary of Agriculture and his Advisory council for involving us in the meetings that culminated with this measure. We were able to input during the process and assisted in modifying these proposals to craft an agreeable compromise. We look forward to being able to participate even earlier and to having representation on this council.

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

Thank you for your time, service and consideration,

Philip Bradley

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

Testimony on Senate Bill 218
to
The Senate Committee on Federal and State Affairs

by Tom Groneman
Director
Alcoholic Beverage Control

March 10, 2009

Mr. Chairman, members of the committee, the ABC is neutral on Senate Bill 218. However, we would ask for clarification regarding what a bona fide farmer's market permit would allow. The bill reads in part "Such permit shall authorizethe licensee to sell wine produced and bottled by the licensee at a bona fide farmer's market....." . There has been some discussion as to whether this means "by the drink" or "in the original unopened container for consumption off the permitted premises".

I would be glad to answer any questions.



*Kansas
Licensed
Beverage
Association*

March 10, 2009

Testimony on SB-218
Senate Federal & State Affairs Committee

Mr. Chairman, and Senators of the Committee,

I am Philip Bradley representing the Kansas Licensed Beverage Association. Thank you for the opportunity to submit testimony today.

We **support SB 218** and urge you to pass this measure with a positive recommendation.

Thank you for your time.

Philip Bradley

*CEO
Philip Bradley*

*P.O. Box 442066
Lawrence, KS
66044*

*785.766.7492
www.klba.org
info@klba.org*

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.



**Drink Responsibly.
Drive Responsibly.**

Sn Fed & State
Attachment 25

3-10-09

SENATE BILL No. 75

By Committee on Federal and State Affairs

1-22

Senate Federal and State Affairs
Requiring all cities to be consolidated

Sn Fed & State
Attachment 26
3-10-09

9 AN ACT concerning governmental consolidation and reorganization;
10 amending K.S.A. 12-3901, 12-3902, 12-3903, 12-3904, 12-3909 and
11 19-205 and repealing the existing sections.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. As used in this act:

- 15 (a) "Board" means the board of county commissioners.
- 16 (b) "City" means any city.
- 17 (c) "Commission" means a consolidation study commission selected
- 18 pursuant to section 2, and amendments thereto.
- 19 (d) "County" means any county.

20 (e) "Political and taxing subdivision" means those subdivisions listed
21 in K.S.A. 12-3902, and amendments thereto, which are located entirely
22 within a county.

23 New Sec. 2. (a) The board of county commissioners of a county ~~and~~
24 the governing body of any city or cities located within such county may
25 adopt a joint resolution providing for the establishment of a consolidation
26 study commission to prepare a plan for the reorganization of the county
27 and ~~such city or~~ cities located in such county. ~~If the governing body of a~~
28 ~~city within the county does not adopt such joint resolution, such city shall~~
29 ~~not be included within nor subject to the provisions of any reorganization~~
30 ~~plan in regard to the status of such city as a separate entity from the~~
31 ~~county.~~

or

with the board of county commissioners or any city or cities located therein

all

Such joint resolution shall be adopted by at least 75% of the governing bodies of the county and the cities located therein.

32 (b) As an alternative to subsection (a), the board of county commis-
33 sioners of a county ~~and~~ the governing body of any city or cities located
34 therein shall adopt a joint resolution providing for the establishment of a
35 consolidation study commission to prepare a plan as provided in subsec-
36 tion (a) whenever ~~the county election officer is presented with a petition~~
37 ~~signed by not less than 10% of the qualified electors of the county re-~~
38 ~~questing a consolidation study commission be appointed. The governing~~
39 ~~body of any city shall be required to adopt the joint resolution whenever~~
40 ~~the petition presented to the county clerk contains signatures of not less~~
41 ~~than 10% of the qualified electors of the city.]~~ The petition shall contain
42 the method to be used for the appointment and the number of members
43 of the consolidation study commission.

or

with the board of county commissioners or any city or cities located therein

petitions requesting a consolidation study commissioner be appointed are filed with at least 75% of the county or city governing bodies with jurisdiction in the county. Such petitions shall be signed by not less than 2% of the registered voters of: (1) the county, if filed with the county election officer; or (2) the city, if filed with the city clerk.

26-2

1 (c) Any resolution adopted pursuant to subsections (a) or (b) shall
 2 provide for the establishment of a consolidation study commission and
 3 shall ~~provide for~~ the method of appointment and the number of members
 4 of the commission. ~~[At least 1/4 of the membership of a consolidation study~~
 5 ~~commission shall be residents of the unincorporated area of the county.]~~

contain

6 New Sec. 3. (a) Within 30 days following appointment of members
 7 of the consolidation study commission, the chairperson of the board of
 8 county commissioners, acting as the temporary chairperson of the com-
 9 mission, shall call and hold an organizational meeting of the commission.
 10 The commission shall elect a chairperson, vice-chairperson and other of-
 11 ficers deemed necessary. The commission may adopt rules governing the
 12 conduct of its meetings.

(d) The membership of the commission shall consist of the following:
 (1) Four members shall be appointed by the board of county
 commissioners to represent the unincorporated area of the county; and
 (2) one member shall be appointed by the governing body of each city to
 represent such city.

13 (b) The commission shall be subject to the Kansas open meetings act
 14 and the Kansas open records act.

15 (c) Members of the commission may be reimbursed for the actual
 16 and necessary expenses incurred in the performance of their official
 17 duties.

18 (d) The commission may appoint an executive director of the com-
 19 mission. The executive director may receive compensation established by
 20 the commission. The executive director may employ other staff and may
 21 contract with consultants, as the executive director deems necessary to
 22 carry out the functions of the commission. Staff employed by the exec-
 23 utive director may receive compensation established by the executive di-
 24 rector and approved by the commission.

25 (e) The commission shall prepare and adopt a budget for the oper-
 26 ation and functions of the commission and commission activities.

27 New Sec. 4. (a) The commission shall prepare and adopt a plan ad-
 28 dressing the consolidation of the city or cities and the county and other
 29 political or taxing subdivisions or consolidation of certain city, county and
 30 other political and taxing subdivision offices, functions, services and op-
 31 erations. The commission shall conduct such studies and investigations as
 32 it deems appropriate to complete its work. Such studies and investigations
 33 shall include, but not be limited to:

34 (1) Studies of the efficiency and effectiveness of the administrative
 35 operations of the city or cities and the county and other political and taxing
 36 subdivisions.

37 (2) Studies of the costs and benefits of consolidating the city or cities
 38 and the county and other political and taxing subdivisions or consolidating
 39 certain city or cities and county and other political and taxing subdivision
 40 offices, functions, services and operations.

41 (b) The commission shall hold public hearings for the purpose of
 42 receiving information and materials which will aid in the drafting of the
 43 plan.

26-3

1 (c) For the purposes of performing its studies and investigations, the
 2 commission or its executive director may administer oaths and affirma-
 3 tions, subpoena witnesses, compel their attendance, take evidence, re-
 4 quire the production of any books, papers, correspondence, memoranda,
 5 agreements or other documents or records which the commission or ex-
 6 ecutive director deems relevant or material to its studies and investigation.

7 (d) The commission shall prepare and adopt a preliminary plan ad-
 8 dressing the consolidation of the city or cities and the county and other
 9 political and taxing subdivisions or the consolidation of certain city and
 10 county and other political and taxing subdivision offices, functions, serv-
 11 ices and operations it deems advisable.

12 The preliminary plan, if it recommends the consolidation of the county
 13 with ~~one or more cities, shall address:~~ (1) The issue of the abolishment
 14 of other political and taxing subdivisions located entirely within the county
 15 and the transfer of the functions of the above political subdivisions to the
 16 reorganized city-county ~~and, (2) the issue of whether a vote of the elec-~~
 17 ~~torate shall be required countywide or whether separate votes of the~~
 18 ~~electorate will be required in the unincorporated area of the county and~~
 19 ~~within each city proposed to be consolidated.~~

all of the cities located therein, shall address the

20 Copies of the preliminary plan shall be filed with the county election
 21 officer, city clerk of each city to be reorganized and each public library
 22 within the county and shall be available to members of the public for
 23 inspection upon request. The commission shall hold at least two public
 24 hearings to obtain citizen views concerning the preliminary plan. At least
 25 seven days shall elapse between the holding of the hearings. Notice of
 26 the hearings shall be published at least once in a newspaper of general
 27 circulation within the county. Following the public hearings on the pre-
 28 liminary plan, the commission may adopt, or modify and adopt, the pre-
 29 liminary plan as the final plan.

30 (e) The final plan shall include the full text and an explanation of the
 31 proposed plan, and comments deemed desirable by the commission, a
 32 written opinion by an attorney admitted to practice law in the state of
 33 Kansas and retained by the executive director for such purpose that the
 34 proposed plan is not in conflict with the constitution or the laws of the
 35 state, and any minority reports.

36 Copies of the final plan shall be filed with the county election officer,
 37 city clerk of each city to be reorganized and each public library within
 38 the county and shall be available to members of the public for inspection
 39 upon request. The commission shall continue in existence at least 90 days
 40 following the submission of the final plan for approval at an election as
 41 provided by subsection (f).

42 (f) The final plan shall be submitted to the qualified electors of the
 43 county at the next general election of the county held at least 45 days

1 following the adoption of the final plan by the commission. Such election
2 shall be called and held by the county election officer in the manner
3 provided by the general bond law. A summary of the final plan shall be
4 prepared by the commission and shall be published at least once each
5 week for two consecutive weeks in a newspaper of general circulation
6 within the county.

7 If the final plan calls for the consolidation of the county with ~~one or~~
8 ~~more cities~~ and the consolidation of other political and taxing subdivisions
9 ~~and the final plan calls for a countywide election~~, the ballot shall contain
10 two questions worded substantially as follows:

all of the cities located therein

11 (1) Shall the county of _____ be consolidated with the city or
12 cities of _____?

13 (2) If the consolidation is approved, shall the following political and
14 taxing subdivisions located entirely within the county be abolished and
15 the functions of these subdivisions transferred to the consolidated city-
16 county: _____?

17 ~~If a majority of the qualified electors of the county voting on the plan~~
18 ~~vote in favor thereof, the reorganization plan shall be implemented in the~~
19 ~~manner provided by the plan except that no city shall be consolidated~~
20 ~~with the county and no offices, functions, services or operations of a city~~
21 ~~shall be consolidated with the county unless such consolidation plan is~~
22 ~~approved by a majority of the qualified electors of such city voting at the~~
23 ~~election held on such plan.~~

24 If such a majority of the electors vote against such plan, the proposed
25 consolidation plan shall not be implemented.

26 If the final plan calls for separate votes of the electorate in the unin-
27 corporated area of the county and within each city to be consolidated,
28 the final plan shall contain the ballot questions which shall be submitted
29 to the electorate.]

The final plan shall be voted on in separate votes of the electorate in the unincorporated area of the county and within each city located within such county. The final plan shall be implemented in the manner provided by the plan only if a majority of the qualified electors in each election approve such plan. If a majority of the qualified electors in any one election vote against such plan, then the proposed final plan shall not be implemented.

30 If the commission submits a final plan which does not recommend the
31 consolidation of the city or cities and the county and other political and
32 taxing subdivisions or the consolidation of certain city, county and other
33 political and taxing subdivision offices, functions, services and operations,
34 the provisions of this subsection shall not apply.

35 New Sec. 5. (a) Any plan submitted by the commission shall provide
36 for the exercise of powers of local legislation and administration not in-
37 consistent with the constitution or other laws of this state.

38 (b) If the commission submits a plan providing for the consolidation
39 of certain city and county offices, functions, services and operations, the
40 plan shall:

41 (1) Include a description of the form, structure, functions, powers
42 and officers and the duties of such officers recommended in the plan;

43 (2) provide for the method of amendment or abandonment of the

1 plan;

2 (3) authorize the election or appointment of officers;

3 (4) authorize the elimination of offices;

4 (5) specify the effective date of the consolidation; _____ and

5 (6) ~~in the case of multi city consolidation with a county, the plan shall~~
6 ~~include provisions addressing the situation if the plan is approved by the~~
7 ~~electors of one city, but not all cities to be consolidated under the plan;~~
8 ~~and~~

9 (7) include other provisions determined necessary by the
10 commission.

11 (c) If the plan provides for the consolidation of the city or cities and
12 county, in addition to the requirements of subsection (b) the plan shall:

13 (1) Fix the boundaries of the governing body's election districts, pro-
14 vide a method for changing the boundaries from time-to-time, provide
15 any at-large positions on the governing body, fix the number, term and
16 initial compensation of the governing body of the consolidated city-county
17 and the method of election;

18 (2) determine whether elections of the governing body of the reor-
19 ganized city-county shall be partisan or nonpartisan elections and the time
20 at which such elections shall be held;

21 (3) determine the distribution of legislative and administrative duties
22 of the consolidated city-county officials, provide for consolidation or ex-
23 pansion of services as necessary, authorize the appointment of a consol-
24 idated city-county administrator or a city-county manager, if deemed ad-
25 visable, and prescribe the general structure of the consolidated
26 city-county government;

27 (4) provide for the official name of the consolidated city-county;

28 (5) provide for the transfer or other disposition of property and other
29 rights, claims and assets of the county, the city or cities, and other political
30 and taxing subdivisions; and

31 (6) provide for the transfer of the functions of any political or taxing
32 subdivisions approved by voters for consolidation.

33 New Sec. 6. (a) If the voters approve a plan which provides for the
34 consolidation of the city or cities and the county, such consolidated city-
35 county shall be subject to the provisions of this section.

36 (b) The consolidated city-county shall be subject to the cash-basis and
37 budget laws of the state of Kansas.

38 (c) Except as provided in subsection (d), and in any other statute
39 which specifically exempts bonds from the statutory limitations on bonded
40 indebtedness, the limitation on bonded indebtedness of a consolidated
41 city-county under this act shall be determined by the commission in the
42 plan, but shall not exceed 30% of the assessed value of all tangible taxable
43 property within the county on the preceding August 25.

1 (d) The following shall not be included in computing the total bonded
2 indebtedness of the consolidated city-county for the purposes of deter-
3 mining the limitations on bonded indebtedness:

4 (1) Bonds issued for the purpose of refunding outstanding debt, in-
5 cluding outstanding bonds and matured coupons thereof, or judgments
6 thereon;

7 (2) bonds issued pursuant to the provisions of article 46 of chapter
8 19 of the Kansas Statutes Annotated, and amendments thereto;

9 (3) bonds issued for the purpose of financing the construction or re-
10 modeling of a courthouse, jail or law enforcement center facility, which
11 bonds are payable from the proceeds of a retailer's sales tax;

12 (4) bonds issued for the purpose of acquiring, enlarging, extending
13 or improving any storm or sanitary sewer system;

14 (5) bonds issued for the purpose of acquiring, enlarging, extending
15 or improving any municipal utility; and

16 (6) bonds issued to pay the cost of improvements to intersections of
17 streets and alleys or that portion of any street immediately in front of city
18 or school district property.

19 (e) Any bonded indebtedness and interest thereon incurred by the
20 city or cities or county prior to consolidation or refunded thereafter shall
21 remain an obligation of the property subject to taxation for the payment
22 thereof prior to such consolidation.

23 (f) Upon the effective date of the consolidation of the city or cities
24 and county, any retailers' sales tax levied by the city or cities or county in
25 accordance with K.S.A. 12-187 et seq., and amendments thereto, prior to
26 such date shall remain in full force and effect, except that part of the rate
27 attributable to the city or cities to be consolidated shall not apply to retail
28 sales in the cities which are not consolidated with the county.

29 (g) Upon the effective date of the consolidation of the city or cities
30 and county, the territory of the consolidated city-county shall include:

31 (1) All of the territory of the county for purposes of exercising the
32 powers, duties and functions of a county; and

33 (2) all of the territory of the county, except ~~the territory of the cities~~
34 ~~which are not consolidated with the county and~~ the unincorporated area
35 of the county, for purposes of exercising the powers, duties and functions
36 of a city.

37 (h) For the purposes of section 1 of article 5 of the constitution of
38 the state of Kansas, the "voting area" for the governing body of the con-
39 solidated city-county shall include all the territory within the county.

40 (i) Unless otherwise provided by law, the consolidated city-county
41 shall be eligible for the distribution of any funds from the state and federal
42 government as if no consolidation had occurred. Except as provided in
43 this subsection, the population and assessed valuation of the territory of

1 *or the consolidation of the operations, procedures and functions of any*
2 *two or more subdivisions shall be expressed in general terms. If the prop-*
3 *osition is approved by a majority of the electors voting thereon, the gov-*
4 *erning body or governing bodies shall develop and implement a plan for*
5 *the consolidation consistent with the intent of the proposition. If such*
6 *proposition eliminates an elective office by consolidation, the governing*
7 *body of such subdivision or subdivisions shall provide for the hearing*
8 *required by K.S.A. 12-3903, and amendments thereto. The governing*
9 *body shall submit, in accordance with K.S.A. 12-3903, and amendments*
10 *thereto, such proposition at the next regular general election of the county*
11 *in which the office of governor is elected in accordance with K.S.A. 12-*
12 *3903, and amendments thereto held in November of an even-numbered*
13 *year.*

14 Sec. 12. K.S.A. 12-3909 is hereby amended to read as follows: 12-
15 3909. ~~Nothing in this act shall be construed as authorizing the consoli-~~
16 ~~ation of any political or taxing subdivision with any other political or~~
17 ~~taxing subdivision.~~ Nothing in this act shall be construed to authorize the
18 closing or the change of use of any school or attendance facility.

19 Sec. 13. K.S.A. 12-3901, 12-3902, 12-3903, 12-3904, 12-3909 and 19-
20 205 are hereby repealed.

21 Sec. 14. This act shall take effect and be in force from and after its
22 publication in the statute book.

SENATE BILL No. 75

By Committee on Federal and State Affairs

1-22

Senate Federal and State Affairs
Removing the elimination of elected offices from the bill

Sn Fed & State
Attachment 27
3-10-09

9 AN ACT concerning governmental consolidation and reorganization
10 amending K.S.A. 12-3901, 12-3902, 12-3903, 12-3904, 12-3909 and
11 10-205 and repealing the existing sections.
12

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

14 New Section 1. As used in this act:

15 (a) "Board" means the board of county commissioners.

16 (b) "City" means any city.

17 (c) "Commission" means a consolidation study commission selected
18 pursuant to section 2, and amendments thereto.

19 (d) "County" means any county.

20 (e) "Political and taxing subdivision" means those subdivisions listed
21 in K.S.A. 12-3902, and amendments thereto, which are located entirely
22 within a county.

23 New Sec. 2. (a) The board of county commissioners of a county and
24 the governing body of any city or cities located within such county may
25 adopt a joint resolution providing for the establishment of a consolidation
26 study commission to prepare a plan for the reorganization of the county
27 and such city or cities located in such county. If the governing body of a
28 city within the county does not adopt such joint resolution, such city shall
29 not be included within nor subject to the provisions of any reorganization
30 plan in regard to the status of such city as a separate entity from the
31 county.

32 (b) As an alternative to subsection (a), the board of county commis-
33 sioners of a county and the governing body of any city or cities located
34 therein shall adopt a joint resolution providing for the establishment of a
35 consolidation study commission to prepare a plan as provided in subsec-
36 tion (a) whenever the county election officer is presented with a petition
37 signed by not less than 10% of the qualified electors of the county re-
38 questing a consolidation study commission be appointed. The governing
39 body of any city shall be required to adopt the joint resolution whenever
40 the petition presented to the county clerk contains signatures of not less
41 than 10% of the qualified electors of the city. The petition shall contain
42 the method to be used for the appointment and the number of members
43 of the consolidation study commission.

1 the consolidated city-county shall be considered its population and as-
2 sessed valuation for purposes of the distribution of moneys from the state
3 or federal government.

4 (j) The consolidated city-county shall be a county. The governing
5 body of the consolidated city-county shall be considered county commis-
6 sioners for the purposes of section 2 of article 4 of the constitution of the
7 state of Kansas and shall have all the powers, functions and duties of a
8 county and may exercise home rule powers in the manner and subject to
9 the limitations provided by K.S.A. 19-101a, and amendments thereto, and
10 other laws of this state.

11 The governing body of the consolidated city-county shall be responsible
12 for any duties or functions imposed by the constitution of the state of
13 Kansas and other laws of this state upon any county office abolished by
14 the consolidation plan. Such duties may be delegated by the governing
15 body or as provided in the consolidation plan.

16 (k) The consolidated city-county shall be a city of the class as deter-
17 mined by the commission in the plan. The governing body of the con-
18 solidated city-county shall have all the powers, functions and duties of a
19 city of such class and may exercise home rule powers in the manner and
20 subject to the limitations provided by article 12 of section 5 of the con-
21 stitution of the state of Kansas and other laws of this state.

22 (l) The governing body of the consolidated city-county may create
23 special service districts within the city-county and may levy taxes for serv-
24 ices provided in such districts.

25 ~~See. 7. K.S.A. 19-205 is hereby amended to read as follows: 19-205.~~
26 ~~Except as provided by K.S.A. 12-344, 12-345, K.S.A. 2008 Supp. 12-363~~
27 ~~and 12-365, and amendments thereto, and under provisions of this act,~~
28 ~~and amendments thereto, no person holding any state, county, township~~
29 ~~or city office shall be eligible to the office of county commissioner in any~~
30 ~~county in this state.~~

31 Nothing in this section shall prohibit the appointment of any county
32 commissioner to any state board, committee, council, commission or sim-
33 ilar body which is established pursuant to statutory authority, so long as
34 any county commissioner so appointed is not entitled to receive any pay,
35 compensation, subsistence, mileage or expenses for serving on such body
36 other than that which is provided by law to be paid in accordance with
37 the provisions of K.S.A. 75-3223, and amendments thereto.

38 ~~See. 8. K.S.A. 12-3901 is hereby amended to read as follows: 12-~~
39 ~~3901. This act is an alternative to all other laws which authorize the~~
40 ~~consolidation of political and taxing subdivisions of this state or the con-~~
41 ~~solidation of the operations, procedures and functions of offices and agen-~~
42 ~~cies of such subdivisions. It is the purpose of this act to authorize and~~
43 ~~permit political and taxing subdivisions of this state to more efficiently~~

1 ~~and effectively serve the needs of their constituents by consolidating or~~
2 ~~cooperating in the consolidation of such subdivisions or the consolidation~~
3 ~~of the operations, procedures and functions of offices and agencies of~~
4 ~~such subdivisions which may be more efficiently and effectively exercised~~
5 ~~or provided by a single subdivision, office or agency.~~

6 Sec. 9. K.S.A. 12-3902 is hereby amended to read as follows: 12-
7 3902. For the purposes of this act all references to "political and taxing
8 subdivisions of this state" shall mean and include counties, townships,
9 cities, school districts, library districts, park districts, road districts, drain-
10 age or levee districts, sewer districts, water districts, fire districts and
11 taxing subdivisions created and established under the laws of the state of
12 Kansas.

13 *The terms "like subdivisions" or "like political and taxing subdivisions"*
14 *shall mean subdivisions of the same type and function.*

15 Sec. 10. K.S.A. 12-3903 is hereby amended to read as follows: 12-
16 3903. (a) ~~Whenever the governing body of any political or taxing sub-~~
17 ~~division of this state shall by resolution determine that duplication exists~~
18 ~~in the operations, procedures or functions of any of the offices or agencies~~
19 ~~of such subdivision or that the operations, procedures or functions of any~~
20 ~~of the offices or agencies thereof can be more efficiently and effectively~~
21 ~~exercised or provided as a consolidated activity performed by a single~~
22 ~~office or agency, or whenever the governing body of any two or more~~
23 ~~political or taxing subdivisions of this state shall by the passage of identical~~
24 ~~resolutions determine that duplication exists in the operations, procedu-~~
25 ~~res or functions of offices or agencies of such subdivisions or that the~~
26 ~~operations, procedures or functions of any of the offices or agencies~~
27 ~~thereof can be more efficiently and effectively exercised or provided as a~~
28 ~~consolidated activity performed by a single intergovernmental office or~~
29 ~~agency or by a single office or agency of one of the participating political~~
30 ~~or taxing subdivisions desires to consolidate with like subdivisions or to~~
31 ~~consolidate the operations, procedures and functions of the offices and~~
32 ~~agencies of political and taxing subdivisions, such governing body or gov-~~
33 ~~erning bodies are hereby authorized to consolidate with like subdivisions~~
34 ~~or consolidate any or all of the operations, procedures or functions per-~~
35 ~~formed or carried on by such offices or agencies of political and taxing~~
36 ~~subdivisions by the passage of a resolution or identical resolutions setting~~
37 ~~out the time, form and manner of consolidation and designating the sur-~~
38 ~~ving political or taxing subdivisions or the office or agency.~~

39 (b) ~~The consolidation of like subdivisions or the elimination of an~~
40 ~~elective office by consolidation under the provisions of this act shall be~~
41 ~~subject to the approval of a majority of not be effective unless the question~~
42 ~~of such consolidation or elimination of office has been submitted to and~~
43 ~~approved by the electors of the political or taxing subdivision served by~~

1 ~~[such office, voting in subdivisions proposed to be consolidated or served~~
2 ~~by the office proposed to be eliminated. Such question shall be submitted~~
3 ~~at the next regular general election of the county in which the office of~~
4 ~~governor is elected, and no elective office shall be eliminated prior to~~
5 ~~such election held in November of an even numbered year.~~

6 ~~If the office is to be eliminated and the duties transferred to a nonelec-~~
7 ~~tive office, the question of elimination of the elective office shall be sub-~~
8 ~~mitted to the voters as a separate ballot question. Any such proposed~~
9 ~~consolidation which eliminates any such an elective office shall provide~~
10 ~~that the elimination of such office shall become effective upon the date~~
11 ~~of normal expiration of the term of such office.~~

12 ~~Any such proposed consolidation which eliminates any such of like po-~~
13 ~~litical or taxing subdivisions or any proposal which eliminates an elective~~
14 ~~office shall not be voted on by the governing body of the political or taxing~~
15 ~~subdivision until a special public hearing is held within the political or~~
16 ~~taxing subdivision subdivisions affected by the proposal. Notice of such~~
17 ~~special hearing shall be published in a newspaper of general circulation~~
18 ~~in the political or taxing subdivision subdivisions affected at least once~~
19 ~~each week for two consecutive weeks prior to the hearing. The first pub-~~
20 ~~lication shall not be less than 21 days prior to such hearing. Any elected~~
21 ~~officer whose office would be eliminated in such consolidation and any~~
22 ~~other interested party shall be given an opportunity to appear and offer~~
23 ~~testimony at any of such hearings.~~

24 ~~(e) Whenever the statutorily mandated duties of any elected county~~
25 ~~official are proposed for elimination, by transfer or otherwise, the ques-~~
26 ~~tion of the elimination of any such duties shall be considered as an elim-~~
27 ~~ination of the elective office itself within the meaning of this section, and~~
28 ~~shall be subject to an election prior to such elimination as required by~~
29 ~~subsection (b). The provisions of this subsection shall not preclude the~~
30 ~~transfer of duties of an elected office with the consent of the affected~~
31 ~~elected official.~~

32 ~~Sec. 11. K.S.A. 12-3904 is hereby amended to read as follows: 12-~~
33 ~~3904. Whenever a petition, signed by not less than 10% of the qualified~~
34 ~~electors of any political or taxing subdivision of this state or any two or~~
35 ~~more political or taxing subdivisions of this state, shall be filed with the~~
36 ~~governing body of such subdivision or subdivisions requesting that a prop-~~
37 ~~osition for the consolidation of such like subdivisions or the consolidation~~
38 ~~of specified operations, procedures and functions of designated offices or~~
39 ~~agencies of any such subdivision or subdivisions be submitted to the elec-~~
40 ~~tors thereof, such governing body or governing bodies shall submit such~~
41 ~~proposition at an election called and held for such purpose in the manner~~
42 ~~provided by the general bond law. The wording of such a petitioned for~~
43 ~~proposition affecting the consolidation of two or more like subdivisions]~~

1 ~~[or the consolidation of the operations, procedures and functions of any~~
 2 ~~two or more subdivisions shall be expressed in general terms. If the prop-~~
 3 ~~osition is approved by a majority of the electors voting thereon, the gov-~~
 4 ~~erning body or governing bodies shall develop and implement a plan for~~
 5 ~~the consolidation consistent with the intent of the proposition. If such~~
 6 ~~proposition eliminates an elective office by consolidation, the governing~~
 7 ~~body of such subdivision or subdivisions shall provide for the hearing~~
 8 ~~required by K.S.A. 12-3903, and amendments thereto. The governing~~
 9 ~~body shall submit, in accordance with K.S.A. 12-3903, and amendments~~
 10 ~~thereto, such proposition at the next regular general election of the county~~
 11 ~~in which the office of governor is elected in accordance with K.S.A. 12-~~
 12 ~~3903, and amendments thereto held in November of an even numbered~~
 13 ~~year.~~

14 Sec. 12. ~~K.S.A. 12-3909 is hereby amended to read as follows: 12-~~
 15 ~~3909. Nothing in this act shall be construed as authorizing the consoli-~~
 16 ~~dation of any political or taxing subdivision with any other political or~~
 17 ~~taxing subdivision. Nothing in this act shall be construed to authorize the~~
 18 ~~closing or the change of use of any school or attendance facility.~~

19 Sec. 13. ~~K.S.A. 12-3901, 12-3902, 12-3903, 12-3904, 12-3909 and 19-~~
 20 ~~205 are hereby repealed.]~~

21 Sec. 14. This act shall take effect and be in force from and after its
 22 publication in the statute book.

SENATE BILL No. 224

By Committee on Ways and Means

2-5

9 AN ACT concerning the emergency medical services board; authorizing
10 the assessment of civil penalties.

11

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

13 Section 1. The emergency medical services board, in ~~addition to~~ any
14 other penalty prescribed by law, may assess a civil fine, after proper notice
15 and an opportunity to be heard, against any person granted a license,
16 certificate of qualification or authorization to practice by the board for a
17 violation of a law or rule and regulation applicable to the practice for
18 which such person has been granted a license, certificate of qualification
19 or authorization by the board in an amount not to exceed \$1,000. All fines
20 assessed and collected under this section shall be remitted to the state
21 treasurer in accordance with the provisions of K.S.A. 75-4215, and
22 amendments thereto. Upon receipt of each such remittance, the state
23 treasurer shall deposit the entire amount in the state treasury to the credit
24 of the state general fund.

25 Sec. 2. This act shall take effect and be in force from and after its
26 publication in the statute book.

Senate Federal and State Affairs

SB 224 Balloon

lieu of

Sn Fed & State
Attachment 28
3-10-09