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Senate Federal & State Affairs Committee
SB 276

Testimony of
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Good morning Mr. Chairman and members of the committee. I thank you for the opportunity to appear here today to present testimony on SB 276.

ABC supports the passage of SB 276. K.S.A. 41-2610 makes it illegal for a licensee under the Club and Drinking Establishment Act to knowingly employ or continue in employment, persons who have certain criminal convictions. The Liquor Control Act, specifically K.S.A. 41-713 also prohibits licensees from employing people with felony convictions, yet contains no scienter requirement. It is illegal for a retailer to employ a convicted felon, period, whether knowingly or unknowingly. There is no compelling reason for the different standard between different tiers of the liquor industry.

In the past, ABC has, as a courtesy, conducted criminal history checks on employees of licensees. To perform that courtesy, the department adopted regulations requiring each licensee to register every manager and employee who will be involved with the mixing, selling, serving or dispensing of alcoholic liquor within five days after each employee begins work and upon each renewal of the license. These regulations create a burden on the licensees.

Due to dwindling resources, ABC can no longer perform background checks on the employees registered with us. ABC is, therefore, willing to revoke the burdensome regulations requiring employees be registered within five days after beginning work. However, someone must be held accountable for ensuring the people hired by the licensee are qualified to work in the liquor industry.

The burden to ensure employees are qualified to work lies squarely on the licensees. However, the current requirement that the employment of disqualified persons must be *knowingly* done to be illegal creates an incentive for the licensees to avoid checking the qualifications of their employees. It would be all too easy for an employer to hire someone without assuring himself that the employee is qualified to work, and later claim he was unaware of any disqualifying factors, thus avoiding prosecution. It is poor public policy to create laws which provide a