

AN ACT concerning alcoholic beverages; relating to retailer's licenses;

Chairman Hutton, Vice Chairman Mason, Ranking Minority Member Frownfelter and members of the Commerce, Labor and Economic Development Committee:

I am here today testifying as a citizen and am not representing the Sedgwick County Commission. I greatly appreciate your time and this opportunity to once again urge your judicious analysis of this repackaged proposal.

Over the last four years, most of you have known me as a conservative, small-government, free-market, freedom-loving, constitution-driven representative. Those principles appeal to many of you too, I am sure. I believe my opposition to this bill rests on those very principles as well as the principles of fiscal common sense and traditional family values.

First let me remind the committee that the legislature does have a compelling government interest in regulating and controlling the marketing and sales of alcohol. Although alcohol is legal, it is not an ordinary product but an extra-ordinary one. It has elements of danger, which if unregulated will detrimentally impact our communities. For that reason, the Kansas Constitution states, "The legislature may regulate, license and tax the manufacture and sale of intoxicating liquors, and may regulate the possession and transportation of intoxicating liquors." (Article 15.10.b). The Constitution does not mention other products so Alcohol is truly special and the State's founding document commands we treat it special for some purpose. I believe this is because Alcohol is an extraordinary product that may be enjoyed by some but can certainly cause harm to others.

Constitutional freedoms are sacred. This proposal to change the way alcohol is marketed is not a constitutional issue. States with differences in their laws with respect to alcohol sales are reasonable and acceptable. Every state in the country regulates the marketing and sales of alcohol. The idea of free market without government oversight does not apply here. Every state draws the line differently. Just because another state draws the line differently should have no bearing on Kansas.

If HB2200 is signed into law, the state government's budget will be adversely affected in at least three ways. First, as the Revenue Department testified to my General Government Budget committee previously that Kansas would have to spend \$1.8 million to hire 21 new inspectors to ensure compliance of a similar bill in the new stores. In 2011, the estimate for SRS to accommodate the additional pressure was \$4.5 to \$5 Million. Secondly, with an estimated 300+ liquor stores going out of business because of this bill, each employing 3-28 people, we could end up with a few thousand people losing their jobs. This will result in less revenue to the state from their employment taxes, while requiring more spending for unemployment benefits. Thirdly, with all these stores going out of business, we will see a decrease in property tax revenue. Now, it is important to note that the other retail stores will not have to expand the square-footage of their properties or hire more employees in order to sell alcohol. It will be easy for them to do minimal rearranging in their stores to free up a couple shelves for alcoholic beverages. So, allowing these stores to sell liquor will be unlikely to offset the costs in unemployment and reduced property tax revenue. Additional costs to the state and lost revenue equals an overall negative on the fiscal scale. That is, unless the sales skyrocket and these costs are offset by additional liquor taxes. That may happen but the proponents claim this will not happen. They say adding these new outlets mean

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everybody makes more money and no one goes out of business and consumption is level. This is nonsense. Pick a side. This equation does not balance.

One final objection that I have to this bill is that it creates an uneven playing field for enforcement and penalties. For instance, liquor stores may only hire individuals that are at least 21 years of age. However, a grocery store can hire teenagers that are several years younger than that. Liquor stores are held to a higher standard. I will point out once again that this legislation seeks to lower the standard.

Also, as a penalty for existing stores violating our liquor laws, they are not allowed to sell alcohol for a certain number of days. For a liquor store, this punishment means shutting down the whole store for that period of time. But a grocery store can just put red tape on the liquor aisle and continue earning money from selling all other items as usual. The result is an unequal punishment that favors the larger retailers. This is another example of lowering the standard.

Please do not be fooled -

- Kansas does not have antiquated liquor laws - The legislature has updated more laws relating to liquor than any other topic. These changes can be summarized and characterized as loosening the regulations and creating many new opportunities for producers and consumers. HB2689 (2012) alone had 12 original bills rolled into one mega-liquor bill changing all sorts of aspects related to liquor. We are no longer a state of prohibition and those arguments that Kansas has antiquated liquor laws should be rejected because it is simply false.
- Kansas's voices are not in unison clamoring for this change - I challenge you to do a real survey of your constituents. I did one in my legislative district and found that a strong majority of people that answered the survey were against this change.
- This proposal not about Convenience - Unless asked a biased question (or incentivized) inside a Dillon's store, constituents are not knocking the doors down, trying to evoke this change. If it was an issue of convenience, then these that are pushing this bill could partner with an attached liquor store next to a big box or convenience store. This model is already being utilized across the state. It is quite simple to legally find, access, and purchase alcohol in Kansas. The issue of convenience is not a problem seeking a solution. Consider the discussions you had at the doors during your campaign. The people of the state do not prioritize this issue as one needing changed.
- Uncork & HB200 do not promote a Free Market - The truth is, any qualified individual wanting to open a liquor store under the rules & regulations may do so at any time. There is no such arbitrary limit on more retail stores. Those advocating this proposal are not in favor of true free markets as this bill also limits the licenses to certain types of stores and gets into what products each type of store can and cannot sell.
- Opposition to this bill is not about protecting and defending a current monopoly - A monopoly is defined by the exclusive possession or control of the supply or trade in a commodity or service. Kansas has 760 independent retail liquor stores. Once the effects of this bill are fully realized, about 2/3 of those will fail and the product sales will shift to Kroger, Wal-Mart, Quik Trip, & HyVee who will then control a large portion of the state's market. Although not a monopoly, this is a shift towards less entities gaining a majority of the control over the market. This bill moves the state from

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diversity of small dedicated liquor stores to a small number of dominant big-box retailers and big-name convenience stores.

- This bill does not drive towards smaller government – if this passes, alcohol will continue to be regulated, just with reduced public safety standards. The issue we are debating is HOW does Kansas regulate and market alcohol. Does it protect children/underage from easy access and what are the penalties? Good and proper government will effectively regulate alcohol because it directly affects public safety.
- This bill hurts the economy – Not one square foot will be built, not one private sector job created as a result of this bill. Children will see it and touch it (and steal it). Adults in independent stores will be unemployed and lost revenue (property & income taxes) to the state will result. More public sector government (state regulatory staff enforcement) will need to be filled at a cost to the state. Social costs in terms of medical problems, DUI, DCF, and unemployment will all increase. This is a loser economic development proposal.
- This proposal IS about money for the big box/big name winners - In my opinion, this proposal is just another form of predatory legislation and your support allows the attack to happen.

A final consideration:

Kansas had been rated one of the top states in the Nation for reducing access for underage drinking. This was a fact presented when I served on Fed & State in 2012. See the attachment and consider how more access to alcohol and a lifetime of marketing to minors will affect this data.

In summary, the change this bill seeks to:

- Reduce protections for young people
- Increase direct access to alcohol products
- Encourage more consumption
- Lower standards
- Make lots of money

The arguments that we have heard in support of this bill are like a used car sales pitch where the salesman highlights all the great things about the car and refuses to acknowledge the defects. The proponents talk about the positives and do not acknowledge the negatives. Please understand the big picture and realize this decision is UNREVERSABLE. It's like popping a balloon. Once we tread down this path, we can never reverse direction. It does not solve any real problems. It does not make Kansas a better place to live or help the economy thrive. The risks are great and the likely damage is real. I encourage you to oppose HB2200.

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# Underage Drinking in Kansas

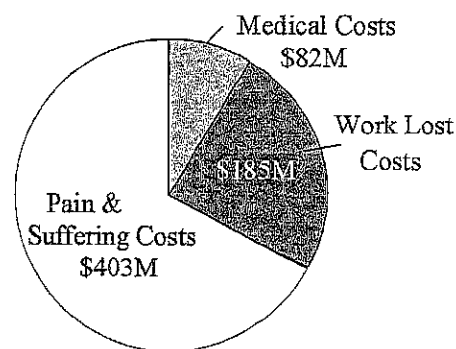
## *The Facts*

Tragic health, social, and economic problems result from the use of alcohol by youth. Underage drinking is a causal factor in a host of serious problems, including homicide, suicide, traumatic injury, drowning, burns, violent and property crime, high risk sex, fetal alcohol syndrome, alcohol poisoning, and need for treatment for alcohol abuse and dependence.

### *Problems and Costs Associated with Underage Drinking in Kansas*

Underage drinking cost the citizens of Kansas \$0.7 billion in 2010. These costs include medical care, work loss, and pain and suffering associated with the multiple problems resulting from the use of alcohol by youth.<sup>1</sup> This translates to a cost of \$2,356 per year for each youth in the State or \$3.27 per drink consumed underage. Excluding pain and suffering from these costs, the direct costs of underage drinking incurred through medical care and loss of work cost Kansas \$267 million each year or \$1.30 per drink. In contrast, a drink in Kansas retails for \$1.05.

**Costs of Underage Drinking  
Kansas, 2010**



**Total: \$0.7 billion**

**Costs of Underage Drinking by Problem, Kansas, 2010**

| Problem                     | Total Costs<br>(in millions) |
|-----------------------------|------------------------------|
| Youth Violence              | \$365.0                      |
| Youth Traffic Crashes       | \$129.2                      |
| High-Risk Sex, Ages 14-20   | \$50.8                       |
| Youth Property Crime        | \$48.9                       |
| Youth Injury                | \$20.9                       |
| Poisonings and Psychoses    | \$6.4                        |
| FAS Among Mothers Age 15-20 | \$12.2                       |
| Youth Alcohol Treatment     | \$36.6                       |
| <b>Total</b>                | <b>\$670.0</b>               |

Youth violence (homicide, suicide, aggravated assault) and traffic crashes attributable to alcohol use by underage youth in Kansas represent the largest costs for the State. However, a host of other problems contribute substantially to the overall cost. Among teen mothers, fetal alcohol syndrome (FAS) alone costs Kansas \$12 million.

Young people who begin drinking before age 15 are four times more likely to develop alcohol dependence

and are two and a half times more likely to become abusers of alcohol than those who begin drinking at age 21.<sup>2</sup> In 2009, 1,023 youth 12- 20 years old were admitted for alcohol treatment in Kansas, accounting for 12% of all treatment admissions for alcohol abuse in the state.<sup>3</sup>

## *Alcohol Consumption by Youth in Kansas*

Underage drinking is widespread in Kansas. Approximately 119,000 underage customers in Kansas drink each year. In 2009, Kansas students in grades 9-12 reported:<sup>4</sup>

- 69.2% had at least one drink of alcohol on one or more days during their life.
- 21.1% had their first drink of alcohol, other than a few sips, before age 13.
- 38.7% had at least one drink of alcohol on one or more occasion in the past 30 days.
- 25.5% had five or more drinks of alcohol in a row (binge drinking) in the past 30 days.
- 3.2% had at least one drink of alcohol on school property in the past 30 days.

In 2009, underage customers consumed 25.5% of all alcohol sold in Kansas, totaling \$215 million in sales (in 2010 dollars). These sales provided profits of \$105 million to the alcohol industry.<sup>1</sup> Ranking states based on the percentage of alcohol consumed underage, with 1 the highest, Kansas ranked number 3. This percentage is affected by both adult and youth drinking levels.

Annual sales of alcohol consumed by youth in Kansas averaged \$1,804 per underage customer. Underage customers were heavier consumers than adults. They drank an average of 4.7 drinks per day; in contrast, legal customers consumed only 1.4.

## *Harm Associated with Underage Drinking in Kansas*

Underage drinking in Kansas leads to substantial harm due to traffic crashes, violent crime, property crime, unintentional injury, and risky sex.

- During 2009, an estimated 33 traffic fatalities and 1,279 nonfatal traffic injuries were attributable to driving after underage drinking.
- In 2009, an estimated 14 homicides; 10,000 nonfatal violent crimes such as rape, robbery and assault; and 18,100 property crimes including burglary, larceny, and car theft were attributable to underage drinking.
- In 2007, an estimated 4 alcohol involved fatal burns, drownings, and suicides were attributable to underage drinking.
- In 2009, an estimated 277 teen pregnancies and 8,901 teens having risky sex were attributable to underage drinking.

For comparison with other states, in US rather than state prices, the harm from underage drinking per youth in Kansas averages \$1,330. Such comparisons require caution. In part, they may reflect differences in crime and crash rates, problem-reporting to police, and co-occurring drug use.

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<sup>1</sup> Levy, D.T., Miller, T.R., & Cox, K.C. (2003). Underage drinking: societal costs and seller profits. Working Paper. Calverton, MD: PIRE.

<sup>2</sup> Grant, B.F., & Dawson, D.A. (1997). Age at onset of alcohol use and its association with DSM-IV alcohol abuse and dependence: Results from the National Longitudinal Alcohol Epidemiologic Survey. *Journal of Substance Abuse* 9: 103-110.

<sup>3</sup> Office of Applied Studies, Substance Abuse and Mental Health Services Administration. Treatment Episode Data Set. (2011). *Substance Abuse Treatment by Primary Substance of Abuse, According to Sex, Age, Race, and Ethnicity, 2009*. Available [On-line]: <http://www.icpsr.umich.edu/icpsrweb/SAMHDA/studies/30462>.

<sup>4</sup> Center for Disease Control (CDC). (2011). Youth Risk Behavior Surveillance System (YRBSS). Available [On-line]: <http://apps.nccd.cdc.gov/youthonline/App/Default.aspx>.