



Nick Jordan, Secretary
Dean Reynoldson, Director

Sam Brownback, Governor

MEMORANDUM

TO: Representative Steve Brunk, Chairman, House Committee on Federal and State Affairs

FROM: Dean Reynoldson, Director of Kansas Alcoholic Beverage Control

DATE: 03 February 2015

SUBJECT: House Bill 2125

Mr. Chairman and members of the committee. Thank you for introducing this bill for consideration at our request.

HB 2125 would provide several technical clarifications that codify ABC's current practices relating to the issuance of liquor licenses and administrative actions against liquor licensees for violations. This bill does not provide ABC with any additional authority.

New Sections 1, 2 and 3 would clarify that an LLC, as a business ownership type, is eligible for a liquor license. No such language currently exists. An Attorney General's opinion, 2001-19, stated that until such time as an official decision is codified in statute, the Director may determine the qualifications for licensure of an LLC. Since that time, it had been the practice of ABC to treat LLCs as corporations or partnerships (in the case of LLCs applying for licensure as retail liquor stores). Recently, as ABC attempted to update many of its administrative regulations, we were informed by the Attorney General's Office that we had no authority to issue policies relating to LLCs in those regulations unless that authority was specifically granted in statute, hence the need for this addition.

New Section 4 clarifies the Director's authority to suspend, revoke or involuntarily cancel a liquor license when a licensee violates liquor laws. This also involves an omission pointed out by the Attorney General's Office. Currently, the ability to involuntarily cancel a license is mentioned in ABC's administrative regulations, but the practice is not specifically authorized in statute. Though fairly rare, involuntary cancellation is sometimes an attractive option for licensees facing license discipline, since it is not a "revocation," and as such, will not trigger the prohibition on future licensure that is associated with a revocation pursuant to K.S.A. 41-311.

Sections 5, 6, 7, 8 and 9 make technical amendments to statutes in article 3 of chapter 41, codifying current practices relating to administrative actions against liquor licenses for violations of liquor laws. Specifically, Section 6 clarifies and outlines that all proceedings used by ABC with regard to licenses issued under the Kansas Liquor Control Act are subject to the Kansas Administrative Procedure Act (KAPA). While most of these proceedings were already operated pursuant to KAPA, the statutes on this issue were unorganized, confusing, and in some instances, lacking.

Section 10 amends K.S.A. 41-719 which governs where alcoholic liquor may be lawfully consumed. Subsection (c)(9) would be deleted as an exception to the prohibition against consuming liquor in public. The exception that would be eliminated would be the one that currently exists for the Hiram Price Dillon house. The exceptions in K.S.A. 41-719 include exceptions relating to public property. The Hiram Price Dillon house is no longer public property.

Sections 11, 12 and 13 also clarify that the Kansas Administrative Procedures Act applies to all administrative actions against liquor licenses. These sections are parallel in nature to the previous sections involving Kansas Liquor Control Act licensees, and instead deal with licensees licensed under the Kansas Club and Drinking Establishment Act.

ADDITIONAL REQUESTED AMENDMENT: Since submitting the initial proposed language for this bill, ABC has learned that a minor addition would be necessary regarding the sections clarifying KAPA procedures. This would be accomplished by adding a subsection (d) to Section 6 that read: "Notwithstanding any provision of law to the contrary, the Secretary may designate the Director to be the presiding officer in any proceeding conducted pursuant to this

section.” Similar language would be necessary as a new subsection (c) of Section 11. We would be happy to work with the revisors to provide a balloon amendment with this language when you are ready to work the bill.

Thank you Mr. Chairman for the opportunity to testify in support of this bill.

