

Nick Jordan, Secretary  
Dean Reynoldson, Director

Sam Brownback, Governor

## MEMORANDUM

**TO:** Senator Ralph Ostmeyer, Chairman, Senate Committee on Federal and State Affairs

**FROM:** Dean Reynoldson, Director of Kansas Alcoholic Beverage Control

**DATE:** 25 February 2015

**SUBJECT:** Senate Bill 152 RE: elimination of requirement for caterer notification prior to an event

There was discussion during the hearing last week on Senate Bill 152 about a desire to eliminate altogether the requirement for a licensed caterer to notify the ABC Director prior to catering an event involving the sale/service of liquor. For the record, should such an amendment be adopted, ABC's position on the bill would change from neutral to one of opposition. The source of this opposition would be a concern for public safety.

ABC opposes elimination of the requirement for caterers to notify ABC prior events where liquor is to be sold/served for the following reasons:

1. ABC cannot regulate liquor licensees when we do not know where they are operating.
2. ABC cannot maintain a level playing field among liquor caterers when we do not know where they are operating, resulting in caterers who violate the law achieving a competitive advantage over compliant caterers.
3. Laws are not written in the regulatory field to keep the honest guy honest – they are enacted for the scofflaws – those who desire to do the wrong thing. Eliminating the requirement to notify ABC would give liquor caterers who wish to ignore underage laws or laws prohibiting serving intoxicated persons the ability to do so with no risk of getting caught.
4. The ability to profit from catering alcohol to parties patronized by underage persons without interference from ABC or local law enforcement will result in more underage drinking as caterers pursuing this endeavor pop up in Lawrence, Manhattan, Emporia, Hays and Pittsburg, as well as community college locales.

5. With no requirement to submit a proposed diagram before the event, the violation of removing drinks from the licensed premises of an event – customers taking drinks with them when they leave - would become much more prevalent. K.A.R. 14-22-13 prohibits a licensee from allowing a customer to remove a drink from the premises. That would essentially become unenforceable because the requirement in K.A.R. 14-22-6(e) for a caterer to submit a diagram of the proposed premises would be repealed given that it is part of the event notification requirement. This would have the potential effect of putting customers in violation of K.S.A. 41-719 – consumption of alcohol in public.
6. Removing the notification requirement would essentially allow liquor-by-the-drink on wheels without knowledge of ABC. In practical terms, there would be nothing prohibiting a caterer from operating like a hot dog vendor.
7. K.S.A. 41-2646 allows a caterer to operate only in counties that have passed liquor-by-the-drink. With no notification requirement, ABC would have no ability to notify a caterer that their planned event is in a dry county before the event occurs.

It has been noted during testimony and discussion of this bill and its amendments that ABC very rarely utilizes its resources to “investigate” smaller-scale catered events. While this is true, there are several problems with using that fact as a basis to support a removal of any and *all* notification requirements. First and foremost, the committee’s discussion seemed to be solely focused on weddings, which are only one of many different types of catered events. Many of these other events are much larger in scale than weddings, and ABC regulation would definitely be appropriate in those instances. Removing the requirement for catered events to provide notification to ABC would potentially prevent the agency from being aware of – and thus providing appropriate regulation of – *any* form of catered event, no matter how large or small. Second, it is potentially dangerous logic to remove a legal requirement simply because it is not *often* invoked.

As a state agency, ABC has long been entrusted with administering and enforcing Kansas liquor laws in a responsible and fair manner. As such, while the agency would continue its policy of rarely sending agents to monitor weddings, any amendment removing the notification requirement entirely would be disastrous, as the agency would often be unaware of the location of *any* form of catered event (not just weddings).

Thank you Mr. Chairman for considering our position on this important issue.