



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: 24 March 2015

SUBJECT: House Bill 2331

Mr. Chairman and members of the committee. Thank you for allowing us to testify about this bill as an opponent.

ABC takes no position on any sections of the bill with the exception of Section 1 as it relates to the “BYOB” provisions that would amend K.S.A. 41-104.

As we discussed with the House Federal and State Affairs Committee during our annual legislative briefing on January 20th, K.S.A. 41-719 prohibits an unlicensed business from allowing customers to bring their own liquor and consume it on the premises. Specifically, K.S.A. 41-719 prohibits the consumption on private property and lists several exceptions. BYOB at a private business is not listed as an exception. ABC has held this position for decades and our position is supported by Attorney General’s Opinion 93-35.

Contrary to media reports, ABC has taken no enforcement action against art studios. We have merely answered questions as to what current state law is. BYOB is not allowed under current law without a liquor license.

ABC suggested language for statutory changes to provide for customers of art studios to bring their own alcohol for consumption on the premises. This verbiage was suggested to the House

Federal and State Affairs Committee on January 22, 2015. The suggested language was codified into HB 2413. A hearing was held on that bill on March 18th. HB 2413 provided for a permit for art studios to allow their customers to bring their own alcohol. ABC suggested a permit rather than a license in order to minimize the regulatory burden and the cost to the art studios. It was carefully crafted to avoid unintended consequences that could open up BYOB for high risk bars. The creation of a permit for art studios is becoming a trend across the country.

The “BYOB” amendment to HB 2331 goes much further than what ABC recommended – allowing **any** business to authorize consumption of liquor on its premises. HB 2331, as it currently exists, would allow for the possibility of:

1. BYOB bars in college towns catering to underage persons where the bar charges a cover.
2. BYOB strip bars.
3. Allowing businesses who have had a liquor license revoked to get back into the business on a BYOB basis.
4. Allow unqualified persons such as a convicted felon into the bar business on a BYOB basis.
5. The operation of BYOB bars in dry counties – counties that have voted against allowing the sale of liquor by the drink.

These unlicensed BYOB bars would operate without regulation on the part of ABC meaning no ABC or local law enforcement inspections, no fines, license suspensions or revocations. This would create the potential of more over-consumption of alcohol and the associated DUIs and other public safety problems that would follow.

As you know, there has been a good deal of liquor legislation passed during the past few years. The fact that there has been virtually no need to tweak the newly enacted legislation reinforces the notion that the bills were carefully crafted and considered with an eye toward avoiding unintended consequences - a credit to the work of your committee and that of the House Federal and State Affairs Committee through the years. This is clearly not the case with the amendment to HB 2331 where patrons of **any** business can consume on the premises on a BYOB basis.

Thank you again Mr. Chairman for the opportunity to testify about this bill.