

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman William Mason at 1:30 p.m. on March 18, 2004 in Room 313-S of the Capitol.

All members were present except:

Representative Tom Burroughs- excused

Committee staff present:

Russell Mills, Legislative Research Department
Mary Torrence, Revisor of Statutes Office
Dennis Hodgins, Legislative Research Department
Rose Marie Glatt, Secretary

Conferees appearing before the committee:

Representative Joe McLeland, 94th District
Thomas W. Groneman, Alcoholic Beverage Commission
Terry "Tuck" Duncan, Kansas Wine & Spirit Wholesalers Assn.
Norm Jennings, Kansas Grape Growers & Wine Makers Assn.
Amy Campbell, Kansas Association of Beverage Retailers
Neal Whitaker, Kansas Beer Wholesaler Association
Phil Bradley, Kansas Beverage Assn.

*written testimony

*Gregory Shipe, Devonport Winery

*Patty Clark, Department of Commerce, Agriculture Marketing Division

Others attending:

See Attached List.

HB 2637 - Purchase of wine from sellers in other states

Mr. Mills, Legislative Research Department briefed the Committee on **HB 2637**. The bill would allow for shipment of out-of-state wine to Kansas retailers, who would charge a 4% handling fee. Retailers would be responsible for age verification, collection of taxes and recording transactions.

PROPONENTS:

Representative Joe McLeland, 94th District, testified that not being able to ship wine into Kansas causes a problem for the State of Kansas and its citizens, as the State receives no revenue and the citizen breaks the law (Attachment 1).

Thomas W. Groneman, Alcoholic Beverage Commission, recommended language in Section 1 (a), page 1, line 19 -20 "*whether or not such wine is otherwise available for sale under the Kansas liquor control act*" be deleted (Attachment 2). They asked that the time requirement for retaining records be changed from two years to three years and the effective date would be no sooner than January 1, 2005.

Terry "Tuck" Duncan, Kansas Wine & Spirit Wholesalers Assn, testified that they support the concept of **HB 2637** (Attachment 3) with the two following amendments:

(1) Section 1. (a) On and after January 1, 2005, a resident of this state who is 21 or more years of age may purchase wine *not otherwise available in the State of Kansas*, from a person licensed to sell wine in another state, ~~whether or not such wine is otherwise available for sale under the Kansas liquor control act~~, if the purchase is for the purchaser's personal use and not for resale.

(2) K.S.A. 41-308 a is hereby amended to read as follows: the sale of wine, manufactured by the licensee, to licensed wine distributors, ~~retailers, clubs, drinking establishments and caterers; and pursuant to the provisions of Section 1(b) hereof, if the purchase is for the purchaser's personal use and not for resale. The purchase may be made in person, by telephone, by mail or on the internet.~~

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Norman M. Jennings, Kansas Grape Growers & Wine Makers Assn. rose in support of **HB 2723** (Attachment 4). Currently **SB 402**, which deals with the same items as in HB 2723 is currently being discussed in the Senate Federal and State Affairs Committee. He recommended that the language “*locally available*” be added to insure that someone in rural Kansas would not be blocked from having access to the same wine as those in a large store in a metropolitan area.

NEUTRAL:

Amy Campbell, Kansas Association of Beverage Retailers, cautioned the Committee to proceed cautiously when considering allowing alcoholic liquor to be delivered directly into the State (Attachment 5). She raised a question regarding the Attorney General’s position on whether or not the bill would create a federal court challenge. They support **HCR 5016** which utilizes a different framework to access a wider variety of products for Kansans.

OPPONENT:

Neal Whitaker, Kansas Beer Wholesaler Association, opposed **HB 2637**, stating that exceptions have made the Liquor Control Act subject to attack. He cited three examples of problems several states have experienced with similar laws (Attachment 6). His testimony included a joint statement sent to Congress on March 16, 2004, from the Wine and Spirits Wholesalers of America and the American Beverage Licensees, titled *Unaccountable Alcohol Sales: A Threat to Your Community*”.

The hearing was closed on **HB 2637**.

HB 2723 - Rights and authority of farm winery licenses.

Mr. Mills stated that farm wineries would be allowed to donate wine that they produced to non-profit, charitable or government-sponsored fundraising events. The licensee could serve samples or sale wine at industry seminars, festivals, the Kansas state fair, trade shows and charitable events. The bill alters the percentage of Kansas products required in the production of Kansas wines, and increases the gallon capacity of wine produced per year.

PROPONENTS:

Norm (Butch) Jennings, Kansas Grape Growers & Wine Makers Assn. rose in support of **HB 2723** (Attachment 7). The bill contained issues that farm wineries would like to see resolved which included: charitable donations; additional sales and tasting needs; increased outlets from 2 to 5; amount of Kansas fruit to be used in the production of wine; “cap” of 50,000 gallon annual production; fee for a farm winery restaurant license; and ownership in other farm wineries and provisions for the shipping of wines.

Thomas W. Groneman, Alcoholic Beverage Commission, stated that **HB 2723** would allow for numerous things that are currently prohibited under the Liquor Control Act and would constitute a significant departure from treatment of holders of other liquor license types. He described three changes in section 1 (a) and the new section 4 (Attachment 8).

It was noted that written testimony in favor of the bill had been distributed from Patty Clark, Department of Commerce, Agriculture Marketing Division (Attachment 9). Statutory barriers that currently exist, should be removed to allow Kansas vineyards and wineries to expand their markets, expand the industry, and garner tourism dollars to Kansas.

NEUTRAL:

Terry “Tuck” Duncan, Kansas Wine & Spirit Wholesalers Assn., stated that if they approve a policy of making charitable contributions or allowing sampling, then that opportunity should be afforded all suppliers (Attachment 10). He questioned the intent of altering the percentage requirements of Kansas produced products, as well as why a winery restaurant licensee should not have to conform to the provisions of the club and Drinking Establishment Act.

He proposed the following amendment on (pg 1, lines 18-19). K.S.A. 41-308a is hereby amended to read as follows: A farm winery license shall allow: (1) The manufacture of domestic table wine and domestic fortified wine and the storage thereof; (2) the sale of wine, manufactured by the licensee, to licensed wine

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distributors, ~~retailers, clubs, drinking establishments and caterers~~. The amendment was necessary to conform Kansas law to NAFTA, GATT and GATS.

OPPONENTS:

Phil Bradley, Kansas Beverage Assn. testified in opposition to the bill. Although they supported the farm wineries concept, they believed that they need to adhere to the same rules as other family businesses in Kansas ([Attachment 11](#)). The bill would legalize circumventing the procedures that have been crafted by the Legislature and tested by several state agencies over the years.

Mr. Bradley stated that **HB 2723** would allow a defacto Drinking Establishment, without the current licensing procedures and the current bonding. It would create a new fee structure, an uneven playing field and a new access point for retail beverage alcohol.

Amy Campbell, Kansas Association of Beverage Retailers, rose in opposition to **HB 2723**, stating that it clearly seeks to bypass the primary principles of the three tier distribution system and create exceptions for a few licensees. She cited three ways that businesses of retail liquor store licensees are threatened ([Attachment 12](#)).

Neal Whitaker, Kansas Beer Wholesaler Association, opposed **HB 2723** ([Attachment 13](#)). He stated that Kansas already had an established system for the sale and distribution of alcohol related products. If the bill were to pass, in it's present form, a major winery could establish a manufacturing facility in Kansas, set up retail outlets in major communities and effectively control wine sales to 70% of the population. He suggested that one provision that is already law, should be repealed. On page 1, line 19, the words *retailers, clubs, drinking establishments and caterers*, should be stricken.

It was noted that written testimony from Gregory A. Shipe, Davenport Orchards, that expressed his opposition to the bill had been distributed ([Attachment 14](#)).

The hearing on **HB 2723** was closed. The meeting adjourned at 3:10 p.m. The next meeting is on call of the Chairman.