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WINE & SPIRITS
WHOLESALERS ASSOCIATION

To: House Federal & State Affairs Committee February 14, 2017
From: R.E. "Tuck" Duncan
RE: HB2141 — Alcoholic beverages; authorizing a manufacturer licensee to hold a drinking establishment license.

The KWSWA opposes HB2141. This bill creates a "tied house" which is contrary to state and federal public policy.

The Federal Alcohol Administration Act provides at 7 United States Code, Chapter 8, Subchapter I, Section 205 establishes "Tied house" violations.

As prescribed under the Tied House provisions, it is unlawful for industry members to induce, directly or indirectly, a retailer to purchase alcoholic beverage products from the industry member to the exclusion, in whole or in part, of alcohol beverage products offered for sale by others. This guidance is issued to address recent examples of industry members found to have furnished retailers with unlawful inducements by supplying items of value such as product displays, point of sale advertising materials, equipment and supplies in exchange for favorable product shelf or display space. TTB regulations at 27 CFR 6.21(a) through (g) list seven prohibited means to induce that can lead to a violation under the Tied House provisions Paragraph (c) of this regulation provides that an industry member may not furnish, give, rent, lend, or sell to a retailer any equipment, fixtures, signs, supplies, money, services, or other things of value, subject to the exceptions listed under Subpart D of part 6.

Sec. 6.11 defines industry member and retailer as follows:

> Industry member. Any person engaged in business as a distiller, brewer, rectifier, blender, or other producer, or as an importer or wholesaler, of distilled spirits, wine or malt beverages, or as a bottler, or warehousemen and bottler, of distilled spirits; industry member does not include an agency of a State or political subdivision thereof, or an officer or employee of such agency.
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> Retail establishment. Any premises where distilled spirits, wine or malt beverages are sold or offered for sale to consumers, whether for consumption on or off the premises where sold.

Kansas has adopted the federal trade practice laws as its own, and as such HB2141 is disruptive to the three-tier system of beverage alcohol sales which ensures an orderly market. In 1933 John D. Rockefeller, Jr. commissioned Raymond Fosdick and Albert Scott to study alcohol regulation and prepare America for the return of legal alcohol and its regulation. They produced Toward Liquor Control, which provided guidance to policymakers as they set up regulatory systems for alcohol, and much of that framework still exists today. That policy was first enacted in Kansas in 1949 and eliminated the "tied house" to prevent a return to the corruptions of the saloon era.

We respectfully request that the committee report HB2141 adversely. *Thank you for your attention to and consideration of this matter.*

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