

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 p.m. on February 19, 2004 in Room 313-S of the Capitol.

All members were present except:

Representative Dan Williams - Excused

Committee staff present:

Jill Wolters, Revisor of Statutes

Diana Lee, Revisor of Statutes

Jerry Ann Donaldson, Kansas Legislative Research Department

Cindy O'Neal, Secretary

Conferees appearing before the committee:

Jim Concannon, Dean, Washburn University School of Law

Lew Ebert, Kansas Chamber of Commerce & Industry

Gene Balloun, Shook, Hardy & Bacon

Representative Michael O'Neal

Ron Pope, Kansas Trial Lawyers Association

Vic Allred, Jazz Restaurants

Phillip Bradley, Kansas Licensed Beverage Association

Ron Hein, Kansas Restaurant & Hospitality Association

Amy Campbell, Kansas Association Beverage Retailers

Tom Groneman, Alcoholic Beverage Control

The hearing on **HB 2764 - class action, appeals from certification of class**, was opened.

Jim Concannon, Dean, Washburn University School of Law, explained that the proposed bill would give the Court of Appeals the discretion to permit an immediate appeal prior to the final judgement of a trial court, whether it has been certified a class action or not. ([Attachment 1](#))

Lew Ebert, Kansas Chamber of Commerce & Industry, stated that the proposed bill would allow for a more efficient use of legal resources and the courts. ([Attachment 2](#))

Gene Balloun, Shook, Hardy & Bacon, appeared as a proponent of the bill because it would benefit both the plaintiffs and defendants and would not eliminate any appellate rights that currently exist. ([Attachment 3](#))

The hearing on **HB 2764** was closed.

The hearing on **HB 2296 - dram shop**, was opened.

Representative Michael O'Neal appeared as the sponsor of the bill. Kansas is one of a very few states that does not extend liability to those who serve/dispense alcohol. It is his opinion that the courts want the legislature to address the issue of dram shop, and if the legislature does not then the courts will adopt some type of common law and the legislature will have no say as to whom it will apply. He provided the committee with some clarifying amendments and suggested that Sections 2-10 be struck as it relates to mandatory server training. ([Attachment 4](#))

Ron Pope, Kansas Trial Lawyers Association, practices law in Kansas, Missouri and Oklahoma. Missouri and Oklahoma have dram shop and it works well in those states. He supported some level of liability for those who knowingly serve minors or incapacitated person. ([Attachment 5](#))

Vic Allred, Jazz Restaurants, empathized with those who are damaged as a result of drunk driving, but believes that the intoxicated person must face personal responsibility of their actions. ([Attachment 6](#))

Phillip Bradley, Kansas Licensed Beverage Association, opposed mandatory server training, mandatory state registration and dram shop type laws in general. ([Attachment 7](#))

CONTINUATION SHEET

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Ron Hein, Kansas Restaurant & Hospitality Association, supported the higher standards but believes that this is not a good bill. The responsibility should lay with the person who is drinking. He suggested that maybe the bill could include a safe harbor provision that would limit or remove liability from those restaurants that provide one. (Attachment 8)

Amy Campbell, Kansas Association Beverage Retailers, appeared to oppose the bill due to the mandatory server training program but since the provisions are being withdrawn from the bill she wanted to make sure that liquor stores would also not be included in the dram shop provisions. (Attachment 9)

Tom Groneman, Alcoholic Beverage Control, also appeared in opposition to the mandatory server training because they would need an additional four employees at a cots of approximately \$150,000. (Attachment 10)

The hearing on **HB 2296** was closed.

The committee meeting adjourned. The next meeting was scheduled for February 23, 2004.