

Approved: February 22, 2000  
Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Representative Tony Powell at 1:30 p.m. on January 27, 2000 in Room 313-S of the Capitol.

All members were present except: Representative Joann Freeborn, excused.

Committee staff present: Theresa Kiernan, Revisor of Statutes  
Russell Mills, Legislative Research  
Mary Galligan, Legislative Research  
Winnie Crapson, Secretary

Conferees appearing before the committee:

Proponents

Representative Lloyd Stone  
Dr. James Barnett, Emporia  
Randy Rogers, Kansas Sheriff's Association  
Cynthia Engle, Anti-Drug Task Force of Morris Co.  
Teresa Walters, Emporians for Drug Awareness  
Robert Longino, Acting Director, Bureau of Alcohol Beverage Control

Opponents

Jim Scott, Kansas Retail Liquor Dealers Association  
Amy Campbell, Kansas Retail Liquor Dealers Association  
Brian McCracken, owner of Liquor Locker, Emporia  
Kurt Bossert, owner Bossert Liquor Store, Topeka  
Maggie Harshfield, owner Maggie's Wine and Spirits, Wichita

Written testimony distributed:

In support

Attorney General  
Department of Transportation  
Kansas Association of Chiefs of Police  
Kansas Coordinators of Alcohol Safety Action Projects Association  
Kansas Medical Society  
Mothers Against Drunk Driving

In opposition

Kansas Licensed Beverage Association

Chairman Powell announced that there while there would be no strict time schedule, due to the number of witnesses they were asked to limit themselves to five to ten minutes.

The hearing was opened on:

**HB 2604, Beer keg registration.**

Representative Lloyd Stone appeared as a proponent and introduced Dr. James Barnett as an individual who has done a great deal of work with Emporians for Drug Awareness.

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Dr. Barnett presented testimony in support of **HB 2604** (Attachment #1). Keg registration was among initiatives taken by their organization and their survey of parents in Emporia indicated 93% wanted it. Thirteen states already have statewide keg registration and thirty states have some form of keg registration but not statewide legislation. He reviewed the report of his calls to each state with statewide keg registration to confirm its usefulness. He urged looking at the association of alcohol with a number of long-term problems facing our youth and our state. He included statistics relating to crime, fetal alcohol syndrome, teenage pregnancy. He reported seven young Kansans died and nearly 80 were injured during keg parties in 1998 and asked support of state-wide registration of beer kegs in a comprehensive plan to address the problem.

Randy Rogers, Sheriff of Coffey County, testified keg registration is of major concern and importance to law enforcement (Attachment #2). Through a unified effort of the Coffee County Attorney, Sheriff Rogers, and the Coffey County Commission a keg registration resolution was passed but he believes unless there is a state law, individuals will go to another jurisdiction in Kansas to purchase kegs for parties. He disagrees with the argument of the liquor industry that a keg registration law would create extensive cost and undue hardship. Coffee County furnishes the tags to retailers to put on kegs which display the county name with serial number. A form is filled out by the retailer and the individual purchasing the keg. Cost to implement the system is less than sixty cents a keg. He asked members of the committee to talk to school administrators, law enforcement officials and young people in their districts about keg parties.

Cynthia Engle, Chairperson of the Anti-Drug Task Force of Morris County, testified in support of the bill (Attachment #3). As a substance abuse counselor, teacher and parent she believes passage of the bill would serve as a deterrent to beer being so readily available for consumption by underage persons.

Teresa Walters, Executive Director, testified Emporians for Drug Awareness supported the bill (Attachment #4). She stated while the City of Emporia, Lyon County and four adjoining counties have adopted keg registration, to be most effective it should apply to all who sell beer in kegs and should be statewide to prevent underage drinking and problems associated with it.

Robert Longino, Acting Director of the Division of Alcohol Beverage Control, testified in support of **HB 2604** (Attachment #5). The registration requirement attacks the problem of underage access to large quantities of beer in several ways: by recording and documenting the purchaser's personal information, by providing investigative information to law enforcement when minors are found at keg parties. It is a positive move to support law enforcement efforts to reduce law enforcement efforts to reduce sale and consumption of such beverages by minors. While the number of local ordinances is growing, from the ABC perspective it would be in the best interest of the state to pass this legislation so they can work with the industry to establish standardized procedures for implementation across the entire state.

Jim Scott, President of the Kansas Retail Liquor Dealers Association, testified in opposition to **HB 2604** (Attachment #6). He appeared on behalf of 680 Kansas operators of individual liquor stores. He noted it was the fifth time such a bill has been considered and the wording of **HB2604** is the same as that rejected last year. He believes it is inappropriate that the industry has not been invited to discuss possible solutions in response to their offers to do so. He states when there is a valid concern in their business they will take the lead in correcting the problem. He posed questions as to the purpose of the bill and expressed concern that a clerical error by an employee in a store in the registration of a keg could result in the business being closed for five days. He believes language should be included to absolutely protect the identity of his customers until a criminal action is filed and is concerned about a precedent set of recording personal information about purchasers of alcoholic beverages for whatever reason.

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Amy Campbell, Executive Director of the Kansas Retail Liquor Dealers Association, presented testimony in opposition to **HB 2604** (Attachment #7). It is their position keg registration does not deter underage consumption and represents an invasion of privacy. Law enforcement officials might abuse the privilege against both retailers and customers. The bill should be amended to limit inspection to purposes of investigating a violation where an underage individual has been charged with consumption and there is reason to believe the retailer sold the container. If the retailer is not provided an absolute defense, no inspection should be allowed without a search warrant. The bill creates a layer of regulation in addition to records currently subject to audit by Alcohol Beverage Control and Department of Revenue. It should include a maximum fee for registration identifiers and inspection fees should be prohibited. She stated that even with the suggestions she has provided, this is not an effective method of prevention.

Brian Wade McCracken, Liquor Locker, Emporia, testified in opposition to **HB 2604** (Attachment #8). As a retailer he has been recording information at the time of keg sales for six years. Retailers do not need any more policing in addition to rules and regulations already in effect. Underage drinkers, not retailers, are the problem. He makes every effort to keep them out of his store entirely, including three VHS recorders hooked to nine cameras., one videotaping the I.D.s.

Kurt Bossert, Bossert Liquor Store, Topeka, testified in opposition to **HB 2604** in its current form (Attachment #9). He has two main areas of disagreement: (1) retailer making a legal sale should be given absolute defense to criminal prosecution or civil action, and (2) Five day suspension is too severe and does not include any penalty for employee or agent. Employees who often work with no direct supervision cannot be totally controlled no matter how thorough their training. Employees should be held legally responsible. He suggests a minimum fine for both the employee and retailer with progressive fines for continued violations. He noted other issues are recourse by the State of Kansas if the cereal malt beverage side is not being enforced at the local level, a minimum age of 21 to represent the retailer in a sale of a keg of beer, and inspection related to investigation in a specific case. While he believes in a keg registration bill that impacts underage access to alcohol, retailers have never been involved in the development stages of such a bill and should be asked for their help.

Maggie Harshfield, owner of Maggie's Adult Wine & Spirits in Wichita, testified in opposition to **HB 2604** (Attachment #10). She is concerned that a statewide law looks good but does not accomplish anything. Tags will be removed and she is worried about getting her equipment back if the tag is gone. Kegs will be siphoned into unmarked kegs. The new law could shut down her store in five days.

Written testimony in support of **HB 2604** was furnished by:

- Carla Stovall, Attorney General (Attachment #11)
- Rosalie Thornburgh, Bureau Chief of Traffic Safety, Department of Transportation (Attachment #12)
- Kansas Association of Chiefs of Police (Attachment #13)
- Jolene Grabill on behalf of the Kansas Coordinators of Alcohol Safety Action Projects Association (Attachment #14).
- Chris Collins on behalf of the Kansas Medical Society (Attachment #15)
- Mothers Against Drunk Driving (Attachment #16)

Written testimony in opposition to **HB 2604** was furnished by  
Kansas Licensed Beverage Association (Attachment #17)

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In response to Representative Edmonds, Sheriff Rogers the problem when consuming alcohol there is no way they can identify where the keg came from. It is also necessary to make possession of a untagged keg a crime as a part of the risk. If an untagged keg was sold in Coffey County, it would be a crime. Since many of these parties take place on private property it is likely the child or adult hosting the party would get charged. Sheriff Rogers described the registration form as containing basic information: name of person purchasing keg, address, form of identification (driver's license, state, number, date of birth), serial number of tag placed on keg and who the keg is sold by. The retailer maintains a copy at their establishment, copy is filed at the Coffey County Clerk's office. No fees are charged the retailer. The takes the retailer thirty seconds. They are already maintaining records but not officially. Representative Edmonds' concern is with additional regulations and costs government imposes and asked if it would materially damage the program in Coffey County if retailers were paid a fee as a transaction cost for the trips to the Courthouse and forms they are filling out. Sheriff Rogers said that is a possibility that the retailers could recover some of their cost and believes it would be appropriate to make it possible for retailers to add a charge.

Representative Vickrey commended Coffey County for the resolution. In response to his questions Sheriff Rogers said the Coffey County resolution was implemented Jan. 1, 2000 and to date retailers have acquired about 20 tags. They have found parties with over 200 kids and rural sheriffs do not have the resources to test every one of them. Representative Vickrey commented that sometimes the attitude of the parents is that they would rather have their children drinking than doing drugs.

Representative Dahl asked Mr. Scott about his reference to reports in the media about binge drinking as junk science and yellow media and asked the source for references to reduced drinking at KU and K-State. When told they were from the Topeka Capital Journal, Representative Dahl asked if that was "junk science" and said he would be interested in seeing some back-up. Mr. Scott said major universities are providing the information and he does not know whether or not it is valid.

Representative Dahl said he was disappointed that the opponents didn't develop some amendments to improve the bill. Mr. Bossert said he believed if the liquor industry had been invited to participate we would have had a bill five years ago. Representative Dahl noted any citizen can have input on a bill.

In response to Representative Hutchins, Mr. Scott said he believes underage drinking is a valid concern. She referred to Mr. Scott's testimony that when there is a valid concern the industry will take the lead in correcting the problem and asked how the Association had taken the lead to correct this problem. She asked for their proposed amendments that would improve the bill.

In response to questions Mr. Scott said a very small percentage of retail business was in kegs, maybe only 2% to 3%.

Ms. Campbell responded to question from Representative Mays that five counties now have keg registration laws. He noted that sometimes when an issue has been around a lot counties and cities get ahead of the state in the law and that by next year fifteen, twenty, maybe fifty counties may have laws, and if there is a hodgepodge of keg registration laws across the state there is a point at which there should be standardization and some advantage to having a statewide bill. He expressed surprise that the industry is not asking for such a bill to prevent counties from passing such regulations. Ms. Campbell reported their organization has a good relationship with local law enforcement.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

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Ms. Campbell said they had not been brought to the table. Representative Mays pointed out this is the table and the place for their specific suggestions.

The hearing on **HB2604** closed.

The meeting adjourned. The next scheduled meeting is January 31.