



KANSAS ASSOCIATION OF BEVERAGE RETAILERS

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Testimony to the Senate Federal and State Affairs Committee
Opposition Testimony SB 511
March 5, 2024

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Chairman Thompson and Members of the Committee,

Thank you for the opportunity to speak to you today on behalf of the Kansas Association of Beverage Retailers. The Association was created at the repeal of prohibition in Kansas and is made up of licensed off premise retailers – liquor store owners – across the state of Kansas.

The Kansas Association of Beverage Retailers supports locally owned microbreweries as a very important partner to our retailers. Retailers and customers love innovative and quality craft beer production. Our customers love craft beer and seek out popular brands. We strongly believe that encouraging and supporting locally owned businesses is crucial to boosting our communities and other local businesses including banking, insurance, contractors and HVAC services.

But we must oppose efforts to punch holes into our three-tier system when it makes the Kansas Liquor Control Act difficult to defend against legal challenges. Cases brought against three tier systems across the country focus on the self-imposed exceptions in those states, so any exceptions must be grounded in legitimate state's interests to survive those challenges.

In particular, the Kansas definition of microbrewery seems to go far beyond the more commonly accepted definition of 15,000 barrels or less. That makes this bill extremely broad in comparison.

A second concern is the lack of responsibilities for the distribution actions of microbreweries as defined in SB 511. This legislation anticipates microbreweries acting as distributors. Currently, Kansas law requires a distributor with an exclusive product franchise to "*sell any of the brands or kinds of alcoholic liquor for which it possesses a franchise to any retailer in the geographical territory serviced under the terms of the franchise without discrimination;*"(K.A.R. 14-14-8)

Additional distributor requirements – excerpt from K.A.R. 14-14-11 Prohibited Conduct of Licensees:

(f) A distributor shall be deemed to have discriminated against licensed retailers, clubs, drinking establishments or caterers if it either directly or indirectly, or by any agent or employee: (1) Makes an offer to make any secret rebate to or enters into any transaction in any manner whatsoever with any licensed retailer, club, drinking establishment or caterer which would result in, or which has as its purpose the purchase of any alcoholic liquor or cereal malt beverage at a price different than the current price offered to all retailers, clubs, drinking establishments or caterers; (2) requires a licensed retailer to purchase in one-case lot of any brand, or kind, or container size of alcoholic liquor, except beer; (3) refuses to sell any brand or kind of alcoholic liquor, except beer, to a licensed retailer for cash

at the current price in any quantity ordered by the licensed retailer; or (4) refuses to sell any brand or kind of alcoholic liquor or cereal malt beverage to a licensed retailer, club, drinking establishment or caterer unless the licensed retailer, club, drinking establishment or caterer purchases or agrees to purchase alcoholic liquor or cereal malt beverage of another kind, quantity, or brand in addition to, or partially in lieu of the brand or kind of alcoholic liquor or cereal malt beverage specifically ordered.

Note: Not included are the paragraphs relating to the obligations of the manufacturer – a role that the microbrewery is also performing in SB 511.

Why does this matter? When a distributor holds exclusive control over a product in a specific region, that control may be used to benefit or provide competitive advantage to one retailer (off-premise or on-premise) over others. This may seem trivial until you consider the common customer practice of seeking out the “latest and greatest” products, often made more desirable by grassroots social media or regional advertising. We see this often with national brands when quantity is not available. Have you seen the latest rush to purchase Crown Royal Blackberry?

Ultimately, our greatest concern is preventing the drafting of “liquor law by court challenge”. As Kansas microbreweries look to expand their privileges beyond current law, we ask the Legislature to strategically protect our three tier system by considering only exceptions that:

- Are structured narrowly, and defensible as state-allowed exceptions for producers that have truly “micro” production or demonstrable agricultural connections, and
- Require non-discrimination for price and service to retailers within their defined distribution area.

Thank You for Supporting our Small Businesses

Kansas has an extremely healthy market for locally owned breweries and retailers - this is demonstrated by the numbers of licenses issued in our state. The reason for this is the structure of the Liquor Control Act and its provisions to provide a fair and even playing field for these businesses.

Thank you for considering our testimony. We would be happy to answer questions and look forward to working with you as we work to further improve Kansas liquor laws in the future.