

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on January 27, 2004 in Room 231-N of the Capitol.

All members were present.

Committee staff present:

Russell Mills, Legislative Research
Dennis Hodgins, Legislative Research
Theresa Kiernan, Revisor of Statutes' Office
John Beverlin, Committee Secretary

Conferees appearing before the committee:

Neal Whitaker, Kansas Beer Wholesalers Association
Tuck Duncan, Kansas Wine and Spirit Wholesalers Association
Bob Alderson, Casey's General Stores Inc.
Philip Bradley, Kansas Licensed Beverage Association
Tom Palace, Petroleum Markets and Convenience Store Association
Martin Platt, Kansas Association of Beverage Retailers
Amy Campbell, Kansas Association of Beverage Retailers
Tom Groneman, Alcoholic Beverage Control, Department of Revenue

Others attending:

See Attached List.

Chairperson Brungardt called the meeting to order. He started the meeting with a bill introduction by Senator Gilstrap.

Senator Gilstrap stated that he would like the committee to introduce a bill that would amend KSA 19-228 concerning a county's quarterly reports of expenditures.

Senator Gilstrap made a move to introduce the bill. Senator Lyon seconded the motion. The motion passed.

Chairperson Brungardt briefed the committee on the agenda for the day concerning testimony to be presented for **SB 305** and called Neal Whitaker to testify.

Mr. Whitaker presented testimony for **SB 305** (Attachment 1).

Chairperson Brungardt thanked Mr. Whitaker and told the committee to hold questions until after all of the testimony has been presented. He welcomed Tuck Duncan to the podium.

Mr. Duncan presented testimony for **SB 305** (Attachment 2).

Chairperson Brungardt thanked Mr. Duncan and welcomed Bob Alderson to the podium.

Mr. Alderson presented testimony for **SB 305** (Attachment 3).

Chairperson Brungardt thanked Mr. Alderson and welcomed Philip Bradley to the podium.

Mr. Bradley presented testimony for **SB 305** (Attachment 4). Mr. Bradley added to his testimony by stating that in order to keep things uniform, micro-breweries and on-sight farm wineries that sell packaged products, should be allowed the same hours of operation as stated in the bill.

Chairperson Brungardt thanked Mr. Bradley and welcomed Tom Palace to the podium.

Mr. Palace presented testimony for **SB 305** (Attachment 5). Mr. Palace presented to the committee an editorial from the Kansas City Star (Attachment 6).

Chairperson Brungardt thanked Mr. Palace and welcomed Martin Platt to the podium.

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MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:30 a.m. on January 27, 2004 in Room 231-N of the Capitol.

Mr. Platt presented testimony for **SB 305** (Attachment 7).

Chairperson Brungardt thanked Mr. Platt and welcomed Amy Campbell to the podium.

Ms. Campbell presented testimony for **SB 305** (Attachment 8).

Chairperson Brungardt thanked Ms. Campbell and welcomed Tom Groneman to the podium.

Mr. Groneman presented testimony for **SB 305** (Attachment 9).

Chairperson Brungardt asked the committee for questions.

Senator Barnett asked Mr. Whitaker who would benefit from increased revenue due to Sunday sales.

Mr. Whitaker answered that a study done on Wyandotte County revealed an eight percent increase in sales for those liquor stores. He stated that a store in a less populace county also showed a 35 percent sales increase.

Senator Barnett stated that Sunday sales would increase revenue for the state.

Mr. Whitaker answered that revenue would increase for border counties.

Senator Barnett asked who would benefit from Sunday Sales.

Mr. Whitaker answered that distributors who serve those border counties would have an increase in revenue, as well as the state of Kansas, because of the increase in revenue from the gallonage and enforcement taxes.

Senator Barnett asked for the names of the distributors that would benefit from the increased sales.

Mr. Whitaker answered that Crawford Sales of Olathe, Schatz Distributors of Wyandotte County, and Big Sky Distributors of Lenexa distribute to the border counties of northeastern Kansas. He explained that these distributors have already benefitted from Sunday sales. He further stated that distributors of northwest and southwest Kansas would also benefit from Sunday sales.

Mr. Alderson stated that if **SB 305** was passed as is, there would also be an increase in revenue from the sale of CMB in those border counties.

Senator Barnett asked Mr. Duncan about problems in collecting gallonage taxes.

Mr. Duncan explained that there were no taxes collected on the illegal shipment of wine. He stated that the provision allowed for both the collection of the gallonage and the eight percent excise tax to be collected at the retail liquor store and would create no new tax collection system.

Senator Barnett stated he had heard that the state would not be able to collect all the taxes from wines shipped into the state.

Chairperson Brungardt called on Mr. Groneman to comment on Senator Barnett's question.

Mr. Groneman stated that he did not think there would be a problem with the collection of the gallonage tax, but that they needed to create new forms for the retailers. He stated that concerning the liquor excise tax, the only thing the local retail liquor stores would be collecting is a five dollar fee from the purchaser of the out-of-state wine. The excise tax, he further explained, is on gross receipts, and if the liquor store is only receiving five dollars for the transaction, then the excise tax would be on the five dollar fee.

Mr. Duncan stated that federal law requires a receipt of purchase, for the alcoholic beverage, to accompany the shipment of the beverage. This enables, he explained, the retailer to know the gross price of the product, so the retailer could apply the appropriate eight percent tax.

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Senator Vratil asked if there was anything to discourage wineries from shipping product directly to customers.

Mr. Duncan answered no. He stated that the actual provision came from individuals who want to purchase wine lawfully. He explained that people have been forced into non-compliance of the law. Mr. Duncan further explained that once a mechanism was in place, the state can use the 21st Amendment Enforcement Act, which empowers the Attorney General to utilize the Federal Court to enjoin those shippers from out-of-state who are not complying with state law.

Senator Vratil observed that it would cost those Kansas residents who wanted to follow the law more money, than it would for those residents who had the wine shipped directly to their door.

Mr. Duncan explained that this was a way for vintages and small production products to reach customers lawfully.

Senator Clark asked whether marginal vendors would stay within the state system as it exists, or if they would move more toward direct sale to retailers.

Mr. Duncan explained that the sales in question were more for personal use. He further explained that the type of commerce in which Senator Clark was referring is called allocated goods. The bill only allows the purchase of the products for one's own personal consumption.

Senator Barnett addressed Ms. Campbell. He expressed concern about compliance rates of non-retail liquor store sales. He asked whether **SB 305** would maintain a uniform structure of compliance checks for retail liquor stores.

Ms. Campbell stated **SB 305** would make no change as it pertains to how the ABC regulates a retail liquor store. She also stated that the bill does not make a change to the fact the ABC does not regulate CMB outlets.

Senator Barnett observed that with increased access to retail outlets with lower compliance rates, you would increase access to underage individuals.

Rebecca Rice, from the audience, asked the committee to wait two years for the U.S. Supreme Court to rule, before allowing out-of-state wineries to ship into the state.

Chairperson Brungardt reviewed the agenda for the rest of the week. He then adjourned the meeting.

The meeting was adjourned at 11:45 a.m. The next meeting is scheduled for January 28, 2004, at 10:30 a.m. in room 231-N.