

HB 2556 – Big Box Liquor Bill Hearing Notes – February 19, 2014

Good turnout today from retailers. Much smaller turnout for the Big Box / grocery / convenience store group. Thanks to all who came. As we know from experience, the next week or so is key. The bill could be worked as early as next Monday.

Some legislators suggest that there may not be an appetite to work this bill – it is an election year after all. But there are a couple of legislators on this committee who genuinely favor the concept and may push it forward. Communicate with your legislators immediately – you can share some of the information put forward today. For instance – the 2013 Public Survey indicating that Kansans do not support the deregulation of liquor/sale in grocery and convenience stores. Communicate with the Committee. Remember – always be professional and courteous. And let us know if you need assistance. Take advantage of the hotline – 1-866-519-2200 during office hours.

KABR will post copies of testimony as soon as we can get it done. Some are there now, but not all.

Revisor reviewed the contents of the bill – section by section.

- Creates new categories of liquor licenses – Class C – current liquor store license for strong beer, wine and spirits. Class A = Strong Beer. Class B = Strong Beer + Wine. 10 year implementation period for the new licenses (actually 7), then removes the limit on Class C licenses in ten years.
- Will allow corporate sales in all categories. Class C begins in 2015. Expands sale of these products outside of liquor stores July 1, 2015 by allowing the purchase of liquor store licenses.
- Requires new licenses to be issued to a grocery or convenience store (or liquor) – using a definition that will include additional businesses not currently contemplated by ABC estimates. The definitions include NAICS codes that are not strictly limited to typical grocery and convenience stores, although the bill does attempt to define and limit to grocery and convenience stores and liquor stores.
- Allows for purchasing Class C licenses (strong beer, wine and spirits) and appears to allow a corporate licensee to sell liquor and non-liquor products in their businesses in one year, while liquor stores must still sell only liquor until 2020. No real acknowledgement of the negative impact on investments.

Time Line

- | | |
|--------------|--|
| July 1, 2014 | Create Class C license allowing sale of strong beer, wine and spirits. Number of Class C licenses capped at current number (753). 18 year old employees allowed. License fee doubled. |
| July 1, 2015 | Allow Class C licenses to be held by corporate grocers, convenience stores and others who choose to purchase a license from someone holding an existing license. (\$100 transfer fee) Not sure what happens to licenses that are relinquished – still under the limit. |

- 2015 – 2017 Liquor stores are competing with the corporate retailers for the sale of strong beer, wine and spirits, but shall not expand their products or change their business model.

- July 1, 2017 Create Class A license allowing Strong Beer sales by corporate grocers, convenience stores and others who apply for the license from ABC and pay license fee. Number of these licenses is UNLIMITED.

- 2017 – 2020 Liquor stores are competing with a limited number of corporate retailers for the sale of Strong Beer, Wine and Spirits (Class C), but shall not expand their products or change their business model. Liquor stores are also competing with an unlimited number of corporate retailers for the sale of Strong Beer (Class B), but shall not expand their products or change their business model.

- July 1, 2020 Create Class B license allowing Strong Beer and Wine sales by corporate grocers, convenience stores and other who apply for the license from ABC and pay license fee. Number of these licenses is UNLIMITED.

- 2020-2024 Liquor stores are competing with a limited number of corporate retailers for the sale of Strong Beer, Wine and Spirits (Class C), and an UNLIMITED number of additional retailers for the sale of Strong Beer (Class A) and Strong Beer and Wine (Class B). Liquor stores may now expand their products or change their business model.

- 2024 Full implementation – no further restrictions on numbers of retailers selling Spirits, along with Strong Beer and Wine.

Sec. 7 ABC can limit number of licenses issued per month to maintain reasonable workflow, and applicants may apply in advance – knowing that the license may not be issued in 30 days.

Sec. 8 New definitions – convenience store, grocery store, liquor store using NAICS codes. Important - Only businesses that engage in these lines of business can get a license. (That language has problems)

Sec. 9 Issuing licenses inside the city and licenses outside the city. County must approve licenses outside the city.

Sec. 11 Line 17-23 – grandfather clause for current licenses

Sec. 13 Provisions for Class C Licenses

Prior to July 2020, liquor stores can't sell other items. After 2020, can sell other items.

After July 2020, can furnish entertainment.

Same price controls as for class A and class B apply to class C.

Sec 14 Tastings for class C licenses (technical change)

Sec 15 Fees and taxes for licenses

Sec 16 Changes who can get a license – “person” changed to “individual” Person is defined to include businesses.

Removed the “beneficial interest” prohibition.

If certain persons are not eligible, then the corporation is not eligible. The boundary is 25% ownership, stock ownership. Same applies for revoked licenses.

p. 16 – lines 5-8 Must be liquor store, convenience store or grocery store or engage in that business once they get the license.

Sec 17 Corporate applicants must file a document with the Secretary of State.

p. 20 line 2 – no class C licenses can be transferred (does it allow class A/B transfer? Why?)

Must be 18 to sell alcoholic liquor.

3% of revenue from the enforcement tax go to the new cereal malt beverage fund to cities and counties. Not to be used for other purposes.

Chairman – There are certainly a lot of moving parts here. Over the weekend, hope you will consider all of it very carefully.

Testimony - Proponents

Rep. John Rubin – R-Shawnee – Apologize for getting my written testimony to you literally at the last minute. I am a limited government free market advocate and those of us who are of that view recognize the flaw of logic of State of Kansas restricting sale of adult beverages to one business over another. It affects choice and prices to the detriment of Kansans. And it is contrary to my view that business should not be restricted. Encourage the open marketplace.

I think everybody recognizes that we do have to take care during the transitional period that the move to open markets doesn't happen to the detriment of current liquor store owners. I think this bill does an excellent job with its staggered license privileges.

It is just a matter of sound public policy. The Government should not pick winners and losers. There is a comment made periodically that this is a State sanction monopoly and clearly it is not that. But think it would foster benefit to public, more choice, and income....

Thomas Willman – Kansas citizen – I am a veteran. I have had the privilege of serving in other states where they have much more reasonable policies . Even states who are not as friendly to the free market have more reasonable alcohol policies. Think concerns of rht

Why should liquor stores have more privileges than other types of businesses. Grocers provide more jobs and more economic investment to the community than liquor stores. I know that some

Kleeb – asked conferees to please paraphrase and not read their testimony.

David Dillon – Retired CEO of Dillon Company – Chairman of Board of Directors

Recently retired. Moving to Kansas City, KS, to be close to family. No matter where I've lived, I've been a Kansan. See written testimony. Dillons is still run by our CEO John Grieshaber who lives in Hutch. Talked about being a local business.

Listening to our customers who tell us they want the freedom to buy liquor where they choose.

We hear it from our customers who value local, some want to buy craft beers, others just feel it is reasonable. We are also hearing it from liquor store owners like from Hutchinson, who want to be able to sell their liquor store and retire comfortably.

I've been in Georgia where an independent liquor store purposely locates next to our store to benefit from the traffic. We both sell wine. Talked about Nebraska – other states.

The best businesses, the really good businesses are able to take on competition and prosper. In my career at Dillons and then at Kroger, I have seen non-traditional retailers add groceries to their shelves – convenience stores, drug stores, and even

No one at Dillons ever suggested passing protectionist laws to keep big box stores from selling groceries

Grocery retailers are willing to compromise, we think liquor stores should be able to add other products to their shelves. But they will just tell you that it won't work. Yet it works in many other states where independent liquor stores exist alongside grocery stores selling liquor.

We are willing to compromise, but we need a dance partner. The truth is, they don't want to participate because they don't want the competition.

Mike Moon – grocer – I got a phone call at 10 a.m. this morning because a couple of conferees weren't able to attend and I left to be here. Own grocery stores in Osawatomie, Humboldt, LaCygne. Only store in those communities. Would think we could do well, but we struggle. The one in the biggest town struggles the most. There aren't very many independent stores left. And it is bad for our communities.

Food is sold everywhere. Dollar Stores are popping up everywhere that really cut into our paper and other products, some groceries and are now experimenting with fresh groceries.

We have to work harder, advertise, and all that cuts into our margin. When the only grocery store closes, it creates a food desert. We are more than food places, we are community gathering places, generate sales taxes, property taxes and payroll taxes.

Modernizing liquor laws will be very good for rural grocery stores. It is difficult for grocery stores to get into selling other products besides food items. Adult beverages really are food items.

One of the considerations is – can grocery stores handle the sale of restricted product? We've been selling cigarettes, beer and lottery tickets for a long time. You can count on our industry to sell it responsibly.

I have everything I own and some things I don't at risk in my business. Have everything in it and are scratching to survive. We compete every day for our customers. Rules and regulations and customer habits often change, and we will work within those changes.

If I asked you to pass rules to restrict sales by other businesses, you would give resounding no. But isn't that what your current legislation provides for the liquor industry?

Granting liquor stores the exclusive ability to sell alcoholic products puts our businesses at a disadvantage.

I am not interested in putting a single liquor store out of business. I am interested in seeing every small town business succeed.

Taylor/Tabor – convenience store operator – four stores in eastern Kansas.

Cited the changes to their business over the past forty years. Increased competition. Self-serve, bigger stores and parking lots, more products, more self-serve islands. Dealt with the change of drinking age. Home rule bill allows liquor stores in small towns without liquor stores. Allowed a store in Princeton. This really affected my store in Osawatomie, cutting our cmb sales in half. As the city of Ottawa passed an ordinance to allow liquor sales, also reduced our CMB sales.

According to the tax map, there is only one county left that doesn't have a liquor store. Rules of competition change all the time and good business people adapt.

I believe we started trying to change this law in 1991. We tried really hard in the last 7-8 years. It came pretty close sometimes. If you bought a store during that time, shouldn't you have taken into account the chance that this might change?

Jessica Lucas, Uncork Kansas – Remember last year, I came with a big tub of signatures. Loves her job – taking photos, signing up people who support. Banners at KCC dinner last night. Talked about the things people say in support – reasons to support it. Believe Kansans really want this and are eager to talk about it. Many can't understand why we don't have it already.

Understand the industry has singularly operated this way for 60 years and they don't want to change that. And you have heard from several business owners here about how they have had to change to compete.

Despite the loud oppositional outcry, the majority of Kansans do want this to pass.

It is easy to position this as a big box issue, but it isn't. I talk to small rural grocers all the time. Some are here and many more are hoping to hear that we will have some success.

Not everyone with a liquor license stands opposed to Uncork. A few wrote letters of support, but some are out there just watching quietly and I can understand their fears of backlash if they spoke out.

Tom Jacobs – PMCA of KS – my goal is to talk about the bill. Last year, seemed that it wasn't really clear what was in the bill. Talked about the main points of the bill – ten year license caps. That is more than we would like, but several committee members asked for that. Can purchase the class C licenses. Transfer will be located in the county. After 3 years = purchase Beer licenses

Allows corporate licenses, but each store must buy a license. We have added legislative intent in the language of the bill to define grocery, convenience and liquor stores. Also added NAICS codes. May not be ideal, but we want to try to make that clear.

18 year olds sell – as long as supervised on premise by 21 year olds. This is a tough issue for convenience stores. There are areas where this is tough.

Allows multiple licenses for liquor stores. Could buy as many liquor stores as they wanted.

Tax policy – may be clear as mud, but working to make sure that lost sales tax

No volume discounts

Allows liquor stores to sell other products until 2020. If it needs to change, we are open. That was based on their testimony of past years saying they didn't want to sell other products.

Legislators said they wanted a transition period. Ten year cap. Three years before a beer license can be applied for. Six years before a beer/wine license opens up.

I've heard from a number of people about the "entertainment" section of the bill. Convenience stores can allow pinball machines, KENO, and other entertainment. We wanted to allow liquor stores the same privilege. If there is a problem with it, we'll strike it.

Age issue = 18 year old serving me scotch in a restaurant. She was 19. Not sure what the difference is between on-premise and off-premise licenses, but I'm sure we'll hear about that today. We would like to see more equality between on-premise and off-premise licenses. Restaurants can have as many liquor licenses as they want, but off premise can't.

We can talk about how much money it costs to build a convenience store = a million dollars. Back in 1980, convenience stores were selling cmb and liquor stores were selling strong beer. Federal law changed regarding the drinking age and our 45% market share of malt beverages was decimated.

65% of our sales or higher is gasoline. Now grocery and big box stores are selling gasoline. We still have to compete with those places today. Tobacco is our biggest inside product. Now, there are smoke shops everywhere, everyone is selling tobacco.

As far as I know – the only rate I can tell you is for tobacco. In the past few years, we have been very fortunate to reach 94% compliance for tobacco. I don't know that there are any statistics

We can have felons working in our stores? Someone said that. The bill doesn't say that.

I don't believe that even liquor stores are required to do background checks on their employees – if they are, they have to do that themselves. I'm sure someone will clear that up for me.

I have talked to staunch proponents and staunch opponents, and I keep hearing that this is going to happen.

Chair – we asked proponents and opponents to organize themselves to stick within 45 minutes. Went one minute over.

Read the list of proponent written testimony.

Opponents – will have roughly 45 minutes allotted for that.

Rep. Jim Howell – Have great respect for the people on the other side of this bill. Don't have any conflicts with alcohol as long as it is being used responsibly.

LIFT principles – 23 paragraphs in my testimony – won't read it. Major issue here is expanded liquor consumption. The arguments are flawed. Every year the committee has been thoughtful and I appreciate that. Reminds me of child who wants something and returns to ask again and again.

Constitution does mention alcohol as something that needs to be regulated and licensed. That is the only singular product mentioned in our constitution. It is an extraordinary product. I would argue that those things the proponents sell may harm some people

If we want to open up a free market – this is not a free market bill. Grocery and convenience stores don't really want a free market. This is predatory legislation – that is something where you look around and find something that you want and write a bill that lets you do that. Then they can take it from people who are doing a pretty good job.

I know there are liquor stores around here that are attached to big box stores, grocery stores.

Bill doesn't provide the same restrictions on enforcement and penalties. It doesn't provide the same restrictions on age.

State ranking on DUI went up drastically. An indictment on this kind of change. Kansas numbers are pretty good.

Remind you of definition of monopoly – exclusive ownership and complete control.

Difference between controlled substances, regulated substances, and generally available products. Whether or not our laws are different than other states should have no bearing on what we do here.

They argue our laws are antiquated. I've seen a lot of liquor law changes since I've been here. We even passed a Mega-Liquor law that had 12 substantive law changes in.

One thing I think liquor stores are doing a good job at is allowing sale of alcoholic liquor to be sold to adults and not putting it in front of children.

Spoke of friend who had had a liquor problem. Anyone who wants to buy alcohol has lots of choices to get their alcohol. Is it really inconvenient. But this creates a new problem, by putting it into stores who will put it in your face. They market it at the register, in the vegetable section.

New fiscal note – 21 new inspectors / SRS 4.5 to 5 million dollars. Doesn't talk about loss of taxes. Don't expect the new corporate stores to add new employees or grow their square footage. This is about lowering our standards.

Tuck Duncan – KWSWA – creates three different types of licenses. That beer license will effectively create single strength. Every one of the cmb licensees is likely to get that beer license. It is not a free market that doesn't allow all products sold to be sold by all licensees. Instead of 750 delivery points today, we will have at least three times the delivery points and three times the cost of delivering what we deliver today. The proponents own study says product volume isn't likely to change.

Showed beer / wine / spirits example. Three years take away the volume of beer. Six years take away the volume of wine. So, we are going to lose some of our full service liquor stores.

You need to read all my testimony. It took a lot of time. It is well written.

Last paragraph – nine reasons. Discrimination of product categories. Spirits will not keep up with growth of the other sales. Same thing happened in Texas.

Immense costs to local policing when it becomes like Iowa with a liquor business on every corner. Because of its immediate scattering of points of sale – problem for enforcement and for market. For these reasons,

Brandon Plaschka – Plaschka & Kramer – Princeton – bought store in 2006. Within a year the convenience store came up for sale, later added a feed stores. It is possible to own a liquor store and another business in Kansas.

Also want to address the issue that Kansans want this. I have a copy of public survey that says that isn't true.

If there was a need for more retail outlets in the state, we would have them. The number of

We are all behind a Kansas team. Talked about March madness. Called this February Frenzy.

Please back this Kansas team – local liquor retailers, families, and all the affiliated businesses – banks, insurance agents.

Seth Fox – High Plains Distillery – I am the first distillery in Kansas. It has been a hard business, but we are probably one of the top 20 small distilleries in the United States. Family owned and operated.

Talked about all of the investment and work. Since that first pallet, the retailers of Kansas have been so supportive so helpful in educating public. With their cooperation and our distributor (Worldwide), we have been successful.

Three tier system and COD state – would not have been able to achieve a fraction of what we have in a different system. I've been in chains in Missouri. The system in Kansas is supportive of Kansas products. It is more stable. Will it add jobs? Yes – in other states, because those big distillers will have to crank up production to replace the volume we are selling now.

Three tier system is standard state structure and it works well. OK is a four tier state which is a little odd. We sell in some control states too. Talk about choosing winners and losers, they decide what you will charge what you will drink. Kansas is private – not like that. Nebraska is an extremely hard state for an independent distiller to sell in.

This law would be the start of deterioration of our product sales and jobs here. I've not seen anything like this anywhere else. We are also in Washington State – not getting support from the large stores there, since their market opened up to large grocers.

Thank you for your time. Happy to share information about our business with you.

Chris Williams – Detective-Sergeant - Montgomery County Sheriffs Dept. –

So far – no real testimony about keeping alcohol from minors. Not as much publicity these days, but it is a huge problem in small communities keeping it out of the hands of young people. We have no reason to change the status quo. We do an adequate job working with the ABC – we are not flawless, because obviously there are times we can't be there. If this opens up, it will make it much more difficult for our small law enforcement agencies.

It has been my experience that the liquor retail outlets do a very good job of screening their employees. Doing their best that adult only product doesn't get into the hands of underage. We have conducted CMB outlet stings that have readily sold in our jurisdiction in the past. We are asking people who are 18 years of age to make a decision whether to sell this product to someone of age. Not only that, but whether or not they are impaired.

Please read the rest of the testimony. To enforce this will take a financial toll, especially on smaller communities, to enforce this.

Tim Liesmann – attorney – I do some work for Vern’s Liquor, but I’m here because of how I feel about this proposal. Can talk about keeping business local, but also bring some more academic concepts. 7 years ago I might not have been here. As we see a trend to socialism on the federal level, there is a concept that big business loves big government. Are we really seeing deregulation for advancement of free market or are we seeing reregulation for the benefit of fewer big businesses? You won’t be able to turn this back around. Right here we have an opportunity where there still are smaller businesses able to succeed. Passing this bill could change that. Local LLCs do not benefit from the easing policies from our federal government right now. Only big businesses benefit from such practices.

Regarding the idea that suddenly applying the same rules to everybody is fair – look at the history.

Arguments about costs going down. Generally, when you see economies of scale come in, you may see profits go down. They make that up by volume - if consumption did increase, is that what we want? Would we be coming back here to then restrict what the new licensees are doing?

Amy Campbell – KABR – very quick – First page – quote. 12 pages of details about these policies. Won’t spend much time talking today, since time is limited and there are more of our members to speak. But willing to sit down with any legislator to go over these details.

Talk to any liquor store owner about how they have grown and changed to meet market changes.

Agreed with Jessica of Uncork – getting out to talk with the public is fun. KABR went to the State Fair and spoke to members of the public. Didn’t have any problem finding people to sign postcards. Actually, none of the people even needed any convincing – Kansans know where they stand. We haven’t spent days in all of our stores doing this like Uncork has, but we spent a week at the State Fair and got a couple of hundred cards. It was fun.

Talked about the transition time line – why that doesn’t put a liquor store in a decent negotiating position. The competition in the first year with corporate retailers who buy a license from a retailer, then the wide open competition for beer in 2017 (no limits on those licenses) and the unlimited licenses in 2020 for beer and wine. Not a strong negotiating position when the cliff is right behind you. Dollar value of that license drops daily – and doesn’t start out very high according to this plan.

We understand that a few retailers would like to sell out or sell other products. Would be happy to share with you a copy of the letters that have been sent to retailers by Uncork and I will let you make your own decision whether or not you think those letters provide the information needed to truly understand what is in the bill.

Jeff Breault – Great message – see testimony. Talked about jobs, employees – how important they are.

More empty storefronts and fewer jobs in every one of your home districts. Not a good time for that.

Frances Wood – Citizen – temperance union – general concern and statistics about harm of liquor. Frances is an older woman who is charming – got chuckles when she said she rarely agrees with Tuck Duncan on something.

Steve Faust – strong testimony about realities of the investments of his own family, practical information about the impact of this bill, including their new license scheme. Period of ten years is irrelevant when the largest big box store buys into liquor sales (beer, wine and spirits) in July 2015 – sells at cost on high traffic products as long as it takes to knock out the competition. Don't expect them to try to buy the large stores' out – can simply go to the smallest store in the county, make a small offer and they are fully in the liquor business.

This bill doesn't represent a pay cut for me. It represents the loss of everything I have tied up in this investment – which is just about everything.

Whitney Damron –

Testimony highlights a number of concerns with the bill.

Stark realities. First big date – July 1, 2015 – that is the day grocery stores can get into the liquor businesses. Then it goes off like a neutron bomb – you don't see grocery stores locating near each other. They set a gas station out front.

The ten year ramp-up will benefit their businesses. Bentonville sends the checks to buy some liquor stores. They will have the

In 10 years – wild west.

Even if they are allowed to sell chips, coca-cola, other things – who controls that marketplace? They do. They have the national agreements with manufacturers.

It is a difficult issue and a challenging issue.

Another 18 written testimony in opposition.

The Chairman stated that the Committee would not hear the neutral testimony from Division of ABC today – may get to that later – if ever.

Thank you for coming and thank you for putting your testimony within the time frame.

Senator Ralph Ostmeyer – Chair of the Senate Federal and State Affairs Committee came in to observe the hearing – think he missed most of the proponents. But it is nice to see him taking time out to attend a House hearing to track what is going on.