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Senate Federal & State Affairs Committee  
SB 390

Testimony of  
Doug Jorgensen  
Director, Alcoholic Beverage Control

February 21, 2012

Good morning Mr. Chairman and members of the committee. I thank you for the opportunity to present neutral testimony on SB 390.

ABC does not oppose the concept of this bill. We consulted with the Department of Agriculture on the original content of the bill and were in agreement that the principal ideas of the bill were workable.

ABC does, however, have a concern about the bill, as drafted. The bill reduces the percentage of Kansas produce required to be utilized in the manufacture of domestic wine from 60% to 10%. That was not part of the discussions between the ABC and the Department of Agriculture. Further, while reducing the Kansas product requirement, the bill retains the requirement that each label of domestic wine bear a statement that the majority of the products used in the manufacture of the wine were grown in Kansas. Not only would that, in most instances, be a false statement, which is prohibited by federal and state regulations, but the requirement itself conflicts with federal regulations.

Federal regulations require that, to place a statement concerning appellation of origin, like "Kansas" on the label, at least 75% of the products used in the manufacture of the wine be grown in that appellation of origin. Many of our wineries have had labels rejected by the federal regulators because the wine does not contain 75% Kansas products. Attorney General Derek Schmidt, in opinion #2011-21, found that K.S.A. 41-308a(c) is "impliedly preempted by federal regulation as it relates to the percentage of grape variety required to label a wine with Kansas as an appellation of origin." Therefore the labeling requirement of K.S.A. 41-308a(c) is unenforceable and should be removed.

If the committee passes this bill with the 10% Kansas product requirement, the committee must amend the bill to strike the labeling requirement, located on page 2, lines 27-30.