



CASEY'S GENERAL STORES, INC.

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TESTIMONY OF BOB ALDERSON
ON BEHALF OF CASEY'S GENERAL STORES, INC.
BEFORE THE SENATE COMMITTEE ON
FEDERAL AND STATE AFFAIRS

FEBRUARY 28, 2018

Chairman Estes and Members of the Committee:

My name is Bob Alderson, and I am appearing on behalf of Casey's General Stores, Inc., in support of House Bill No. 2502 ("HB 2502"). Casey's operates nearly 2,000 stores in 14 states, including 154 stores in Kansas. In its last fiscal year, Casey's sold 144,254,175 gallons of gasoline in Kansas for total gasoline sales of \$308,569,042. Total sales for all goods and services in Kansas were \$833,119,850, and Casey's paid property, sales and payroll taxes in the total amount of 25 million dollars.

Casey's is a member of a coalition of retail grocers and convenience stores which have incorporated their coalition as Uncork Kansas, Inc. The other members of Uncork are QuikTrip, Hy-Vee, Inc., Dillon's, Walmart and Petroleum Marketers and Convenience Store Association of Kansas, Inc. I am authorized by these companies to present this testimony on their behalf.

The proponents of HB 2502 are Uncork and the representatives of the liquor industry who joined with Uncork to support the passage last session of House Substitute for Senate Bill No. 13 ("SB 13"), which originated in this Committee. SB 13 authorizes grocery stores and convenience stores to sell beer containing not to exceed 6% alcohol by volume ("6% Beer"), effective April 1, 2019. However, during the interim it was discovered that there are a few unresolved issues resulting from the passage of SB 13, and the purpose of HB 2502 as a "trailer bill" is to address those issues.

During last Summer and Fall, ABC Director Debbi Beavers and her staff convened several well-attended meetings with representatives of the alcoholic beverage industry to discuss ABC's proposed rules and regulations to implement SB 13. During those meetings Director Beavers expressed her concerns regarding certain provisions of SB 13, and Sections 1, 2 and 3 of HB 2502 address those concerns.

Section 1 provides the Director of ABC with authority to issue citations for violations of the Kansas Cereal Malt Beverage Act and rules and regulations adopted thereunder with respect to the sale, consumption or possession of 6% Beer. The Director is authorized to impose a civil fine of not to exceed \$1,000 for any such violation or any violation of the Kansas Liquor Control Act and rules and regulations adopted thereunder with respect to the sale, consumption or possession of 6% Beer. This section also contains provisions regarding the imposition and disposition of any such fine.

Section 2 amends K.S.A. 2017 Supp. 41-212, which was a Section of SB 13, to clarify the Director's responsibility to provide a market impact study following the 10th anniversary of SB 13.

Section 3 amends K.S.A. 2016 Supp. 41-2702, as amended in SB 13, relating to licensure of CMB retailers, by providing in subsection (e) that the Director may refuse to issue the stamp required by that subsection, if the applicant or licensee is not current in payment of fines issued by the Director under various statutes administered in whole or in part by the Director.

Section 4 corrects a drafting error in SB 13. It amends K.S.A. 2016 Supp. 41-2704, as amended in SB 13, by inserting language in subsection (c) which was omitted in SB 13. That language is shown in italics on page 5, lines 8 and 9. This language was included in subsection (b) of 41-2704 (page 4, lines 32 and 33) when SB 13 was enacted, and it was intended to be included in subsection (c) as well, but was inadvertently omitted.

Section 5 has the effect of providing that 6% Beer sold by a cereal malt beverage retailer will be subject to the sales tax. All Beer, as opposed to cereal malt beverage, is defined in the Kansas Liquor Control Act as being an alcoholic liquor, and without Section 5, the retail sale of 6% Beer would be subject to the liquor enforcement tax. Section 5 amends K.S.A. 2017 Supp. 79-3602, which is the definition section for the Kansas Retailers Sales Tax Act. The amendment adds at the end (page 16) a new subsection (hhh) to define "cereal malt beverage" as meaning cereal malt beverage as defined in K.S.A. 41-2701 and, for purposes only of the Kansas Retailers Sales Tax Act, it also includes 6% Beer sold by a retailer licensed under the Kansas Cereal Malt Beverage Act.

The definition has application in K.S.A. 2017 Supp. 79-3606, which is the statute that sets forth exemptions from the sales tax act. Subsection (a) of that statute exempts any article upon which a sales or excise tax has been paid, which includes alcoholic liquor (including 6% Beer) which is subject to the gallonage tax. However, there is an exception to this exemption for cereal malt beverage, so that sales of cereal malt beverage are subject to the sales tax. Thus, by defining cereal malt beverage to include 6% Beer when sold by a CMB Retailer, such sales of 6% Beer will be subject to the sales tax.

As to why this change is being proposed, the liquor industry proponents of HB 2502 recognize that the Kansas Cereal Malt Beverage Act is primarily regulated and enforced by municipalities, so that enabling municipalities having a local sales tax to impose that tax on the sales of 6% Beer will allow them to recover moneys to assist in such regulation and enforcement. Such moneys would be lost if 6% Beer is subject to the liquor enforcement tax.

Thank you for your attention to this testimony. HB 2502 is not a clean-up bill, but it is pretty close, and I would urge your favorable consideration. I will be happy to respond to your questions.