

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 March 26, 2008 in Room 526-S of the Capitol.

All members were present.

Committee staff present:

Kathie Sparks, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Melissa Doeblin, Revisor of Statutes Office
Theresa Kiernan, Revisor of Statutes Office
Connie Burns, Committee Assistant

Conferees appearing before the committee:

Philip Bradley, Kansas Licensed Beverage Association
Tuck Duncan, Kansas Wine & Spirits Wholesalers Association
Norm Jennings, Smoky Hills Vineyards and Winery
John Brewer, Wyldewood Cellars
Rebecca Rice
Greg Shipe, Davenport Orchards, Vineyards & Winery
Richard Bryan, Kansas Viticulture & Farm Winery Association
Michelle Meyer, Kansas Viticulture & Farm Winery Association
Pep Solberg-Selvan, Bluejacket Crossing Vineyard & Winery
Kip Peterson, Kansas Board of Regents

Others attending:

See attached list.

The Committee Minutes for February 14, 19, 20, 21, 26, and March 5 and 6, distributed on March 20, 2008, with no changes stand approved.

SB 696 - Designation of Salina area technical college

Chairman Brungardt opened the hearing on **SB 696**.

Kip Peterson, Kansas Board of Regents testified in favor of the bill. The bill is a technical renaming amendment, last year legislation was passed for technical schools to merge with community colleges or become independent, and statutory the name has to change from Salina Area Technical School to Salina Area Technical College.

Chairman Brungardt opened the hearing on **SB 696**.

Final Action:

SB 696 - Designation of Salina area technical college

Senator Ostemeyer moved to pass **SB 696** out favorably.. Senator Reitz seconded the motion. The motion carried.

HB 2908 - Permits for farm wineries

Chairman Brungardt opened the hearing on **HB 2908**.

Phil Bradley, Kansas Licensed Beverage Association, (KLBA) spoke in favor of the bill. ([Attachment 1](#)) KLBA asks that the elements of **HB 2817** be amended into the bill, and that **SB 397** be amended into the bill. The elements of **HB 2817** would remove the requirement for 50% Kansas products to be used in the production of Kansas Micro brews. The ABC Director and authors do not object to this amendment. The

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elements of **SB 397** were passed in committee and the Senate on February 20th. This re-allows consumption of alcohol at National Guard armories and corrects the affirmative defense to require that the driver's license or identification card presented by the minor reasonably appear to contain a photograph of the minor purporting to establish that such minor was 21 years of age.

Tuck Duncan, Kansas Wine & Spirits Wholesalers Association, appeared in favor of the bill. (Attachment 2) The Association asks that the committee approve the non-controversial provisions of the bill, extend sale to holders of temporary permits and the sale at farmers markets, and the sale of wine in its original, unopened container at the state fairgrounds during the fair by a person who has entered into an agreement with the state fair board for that purpose, add the amendment that would eliminate the township population requirement (to which the Alcoholic Beverage Control has no objection), and add the provisions of **SB 397** regarding armories.

Norm Jennings, Smoky Hills Vineyards and Winery, spoke in favor of the bill. (Attachment 3) The bill address the following issues:

- allows wineries to sell to temporary permit holders
- makes the labeling requirements the same as the federal requirements
- allows the Director of the ABC to issue a permit allowing for sales by the bottle at farmers' markets
- make the same fix to farm winery industry that was done for micro breweries last session
- allows for the temporary permit holder at the state fair to sell, buy the original unopened bottle, the wines that are sold by the glass

John Brewer, Wyldewood Cellars, appeared in support of the bill. (Attachment 4) Submitted the following points:

- All Kansas Farm Wineries would like to use 100% Kansas fruit, but there is not enough fruit to satisfy the consumer's demand
- Wine can be made from any fruit, not just grapes
- Federal law, the Kansas Wine designation is only allowed for grape wines with at least 76% Kansas grape content
- Oklahoma, Texas, and Colorado do not have a fruit requirement, and Missouri allows wineries to hold both Farm Winery and Manufactures licenses, which effectively eliminates their fruit requirement

Rebecca Rice appeared neutral on the bill. (Attachment 5) The new labeling language appears to require that 75% of each bottle must contain Kansas grown product because of federal labeling law requirements. The specific requirement of 60% has been eliminated and replaced by the non-specific "majority of the products" language which is modified by the more specific "labeling requirements" of the treasury department. A simple fix would be to simply strike the labeling language.

For multi-state and multi-national hotel and restaurant chains and for the licensing department of ABC, the continued enforcement of the residency requirement has caused additional and purposeless filings and required creation of corporate fictions to meet this requirement.

Greg Shipe, Davenport Orchards and Vineyards, appeared in opposition to the bill. (Attachment 6) Submitted the following points:

- 2 licenses in Kansas - Manufacturer license can use 0% Kansas grown product
- Farm Winery license must use at least 60% Kansas grown product
- Federal label law is very complex
- Multiple ownerships of wineries would allow for chain and franchised wineries. Retailers are not allowed to have the same

The recommendation that the sale of Kansas wine at the Kansas State fair be approved and the rest of the bill sent to the Kansas Department of Agriculture for the Kansas Grape and Wine Advisory Council to review with the whole Kansas wine and grape industry to get right or send the whole bill to KDA for review and possible work next year.

Richard Bryan, Kansas Viticulture and Farm Winery Association, spoke in opposition to the bill. (Attachment 7) The bill would eliminate the requirement for at least 60% Kansas grown fruit in Kansas wine and oppose the amendment based on the following:

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- The inclusion of Kansas grown fruit is required to maintain the Kansas identity in Kansas wine
- California produces more wine than the rest of the United States combined and requires 100% of the grapes used in California wine to be from California
- Missouri produces more wine than the other states surrounding Kansas, and requires 85% grapes used in Missouri wine be from Missouri

Would support the use of more Kansas product in Kansas wine.

Michelle Meyer, President, Kansas Viticulture and Farm Winery Association (KVFWA), spoke in opposition to the bill. (Attachment 8) The KVFWA proposes the elimination of the two amendments, specifically lines 14 thru 21 agriculture requirement and lines 34 and 35 multiple ownership,. The remaining amendments we support. KVFWA will support the bill only if the agriculture requirement is left intact and the allowance for multiple ownership is eliminated.

Pep Solberg-Selvan, Bluejacket Crossing & Vineyard & Winery, appeared in opposition to the bill. (Attachment 9) Mr. Solberg-Selvan stated his testimony covered his opinion.

Patrick Del app, appeared as an opponent at the Senate Agriculture Committee hearing, but was not able to attend the Senate Fed & State hearing; his testimony is included. (Attachment 10) Written testimony from the Senate Agriculture Committee hearing was presented in opposition to the bill by George Hoff, Stone Pillar Vineyard (Attachment 11) Dr. Everett DeHaven, Skyline Ridge Vineyards (Attachment 12), Francis Riley, Jr., Overland Park. (Attachment 13)

Chairman Brungardt closed the hearing on **HB 2908**

Final Action:

HB 2908 -Permits for farm wineries

Senator Vratil moved to reinsert the language stricken from the bill on page 2 lines 14 thru 17 on percentages. Senator Brownlee seconded the motion. The motion carried. (Attachment 14)

Senator Vratil moved to amend in the language from **HB 2817**. Senator Brownlee seconded the motion. The motion carried.

Senator Barnett moved to strike the language on page 3, line 3 section (f) on the Farmers' Market. Senator Reitz seconded the motion. The motion carried. (Attachment 15)

Senator Vratil moved to reinsert the language stricken from the bill on page 6 lines 34 and 35 on multiple ownership. Senator Barnett seconded the motion. The motion carried. (Attachment 16)

Senator Vratil moved to strike the language on unincorporated townships of a population of 5,000. Senator Francisco seconded the motion. The motion carried. (Attachment 17)

Senator Vratil moved to incorporate the provisions from **SB 397**. Senator Gilstrap seconded the motion. The motion carried.

Senator Barnett moved to pass **HB 2908** out favorably as amended. Senator Reitz seconded the motion. The motion carried.

The meeting was adjourned at 11:46 am.