

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 28, 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:

Sandy Jacquot, League of Kansas Municipalities
Henry Couchman, Unified Government of Wyandotte and Kansas City, Kansas
Terri Moses, Deputy Chief of Police, Wichita
Frances Wood
Diann Windmeyer
Norman Jennings, Kansas Grape Growers & Wine Makers Association

Others attending:

See Attached List.

Chairperson Brungardt called the meeting to order and asked the committee for announcements.

Senator Gilstrap introduced members of the audience to the committee.

Chairperson Brungardt welcomed the group and then welcomed Sandy Jacquot to the podium.

Ms. Jacquot presented testimony against **SB 305** (Attachment 1).

Chairperson Brungardt asked the committee for questions.

Senator Vratil observed that if preemption language was removed from the bill, it would invite uniformity problems the bill was supposed to correct in the first place.

Ms. Jacquot stated she was not suggesting the complete removal of preemption language. She stated the more restrictive and supplemental language is the problem.

Senator Vratil asked Ms. Jacquot if her suggestion called for the preemption provisions to be modified to allow cities to be more restrictive and supplemental.

Ms. Jacquot stated that Senator Vratil was correct.

Senator Vratil asked what Ms. Jacquot had meant by supplemental.

Ms. Jacquot answered that an example of supplemental would be the adult entertainment type of prohibited conduct.

Senator Vratil observed that as long as it did not conflict with state statute, and if there are no state statutes occupying the area, cities could regulate in that area.

Ms. Jacquot stated that Senator Vratil was correct. She explained the Supreme Court said that cities could not be looser, but the city can be more restrictive than the state.

Chairperson Brungardt asked the committee for additional questions.

Senator Barnett asked what the compliance rate is for CMB outlets within the state.

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:30 a.m. on January 28, 2004 in Room 231-N of the Capitol.

Ms. Jacquot answered that she did not have the figure. She stated that she was not sure the statistic was compiled anywhere by anybody.

Senator Barnett stated that it was his understanding that there is no requirement for compliance checks with CMB outlets.

Ms. Jacquot explained the compliance checks took place at the local level. She further explained the policing of liquor retail stores also happens at the local level.

Senator Barnett expressed concern over the opening of a number of alcoholic beverage outlets that have no structured compliance checks. He stated that some of the compliance rates he had read were extremely poor. Senator Barnett asked if there was a similar fine structure in the state for CMB outlets as the current structure for retail liquor stores.

Ms. Jacquot answered that the fine structure would be a city ordinance at the local level. She stated that if a city finds a violation of ordinance, the city could fine and could also suspend or invoke licenses.

Senator Barnett explained that there were 3.2 taverns from his district who sold alcohol to underage individuals because of an ordinance that required the owners to be on premise in order to be subject to fine or revocation of their license to sell alcohol.

Ms. Jacquot stated the ordinance was not in any code that she had done. She further stated she would never put that type of ordinance in a code.

Senator Lyon asked Ms. Jacquot if she thought there should be any state regulation on alcoholic beverages.

Ms. Jacquot stated that state regulation in the area of alcohol was not a bad thing. She stated she had never had a city tell her that the regulation of alcohol should be at the local level. She explained that the local communities, however, if they have a problem with the establishment, would like the right to take away the license of the establishment and prevent the establishment from doing business in the city for an amount of time. Ms. Jacquot explained that the alcoholic beverage industry would probably prefer regulation at the state level instead of the local level.

Senator Lyon observed cities want the ability to pose stricter and new regulation.

Ms. Jacquot stated that Senator Lyon was correct.

Senator Lyon asked Ms. Jacquot to explain what she meant when she said one of the reasons for local control was because of community values.

Ms. Jacquot explained that there were communities in Kansas that did not believe Sunday sales were appropriate for them.

Senator Lyon asked if there are such things as state values.

Ms. Jacquot stated that of course the state has values. She explained that the state has various interests it seeks to protect.

Chairperson Brungardt thanked Ms. Jacquot and welcomed Henry Couchman to the podium.

Mr. Couchman presented testimony against **SB 305** ([Attachment 2](#)).

Chairperson Brungardt thanked Mr. Couchman and welcomed Deputy Chief Terri Moses to the podium.

Deputy Chief Moses presented testimony against **SB 305** ([Attachment 3](#)).

Chairperson Brungardt thanked Deputy Chief Moses and welcomed Frances Wood to the podium.

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:30 a.m. on January 28, 2004 in Room 231-N of the Capitol.

Ms. Wood presented testimony against **SB 305** (Attachment 4).

Chairperson Brungardt thanked Ms. Wood and welcomed Diann Windmeyer to the podium.

Ms. Windmeyer presented testimony against **SB 305** (Attachment 5).

Chairperson Brungardt thanked Ms. Windmeyer and asked the committee for questions.

Senator Barnett asked Ms. Windmeyer if dram shop liability was what she was most interested in for the committee to consider.

Ms. Windmeyer stated that Senator Barnett was correct.

Senator Barnett asked Ms. Windmeyer if there were other individuals in the state of Kansas interested in a dram shop law.

Ms. Windmeyer stated that Senator Barnett was correct.

Chairperson Brungardt asked the committee for additional questions.

Senator Vratil asked the Chair if the committee could have Ms. Jacquot work with the revisor to draft an amendment to **SB 305** that she would advocate .

Ms. Jacquot stated she would be happy to work with the revisor.

Chairperson Brungardt called the committee's attention to written testimony by the Kansas Grape Growers & Wine Makers Association (Attachment 6) and the City of Overland Park (Attachment 7). Chairperson Brungardt asked Norman Jennings if he would like to make a statement before the committee.

Mr. Jennings stated that the biggest issue, with regards to **SB 305**, for grape growers and wine makers, is the shipping of wine. He explained that as proposed in **SB 305**, the shipping section would allow for competition to enter into the market place but would not give the same rights to Kansas farm wineries. Mr. Jennings further stated, that the five dollar fee as proposed, would entice illegal shipment of wine.

Chairperson Brungardt thanked Mr. Jennings. He reminded the committee that those members who had amendments to the bill should talk with Theresa Kiernan. He then adjourned the meeting.

The meeting was adjourned at 11:20 a.m. The next meeting is scheduled for January 29, 2004, at 10:30 a.m. in room 231-N.