

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:40 a.m. on Wednesday, March 9, 2005, in Room 231-N of the Capitol.

All members were present.

Committee staff present:

Athena Andaya, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Phil Bradley, Kansas Licensed Beverage Association
Chuck Magerl, Owner of Free State Brewery and Wheatfields Bakery, Lawrence
Tuck Duncan, Kansas Wine & Spirits Wholesales Association
David Ross, Kelly Mill Plaza, Inc., Hutchinson
Norm Jennings, Smokey Hill Vineyards & Winery and Kansas Grape Growers & Winemakers Association (written)
Janna Dunbar, Kansas Department of Commerce (written)
Gary Winget, Kansans for Addiction Prevention
Tom Groneman, Director of Alcoholic Beverage Control, Kansas Revenue Department
Ernest Mosher, Topeka resident

Others attending:

See attached list.

Chairman Brungardt called for consideration and approval of minutes for the February 17, 22 and 24 meetings. Senator Reitz made a motion to approve the minutes as written, seconded by Senator Vratil, and the motion carried.

SB 274 - Microbreweries; packaging and warehousing license, Sunday hours; sales of Kansas wine by the drink at the state fair

Chairman Brungardt opened the hearing on **SB 274**. Philip Bradley, Kansas Licensed Beverage Association, testified in support of **SB 274**. He stated that the bill allows for a second non-sale site for microbreweries for storage and packaging. Many of Kansas' microbreweries have located in historic districts and/or in previously developed areas in an attempt to assist in the revitalization of the state's towns. The microbreweries are faced with being unable to expand due to the unique areas in which they have located and expended their resources. He said the current statute only allows one site, and this blocks a separate facility for storage and packaging so it limits the possibility of production expansion.

Mr. Bradley explained that there was another provision allowing for the State Fair to enter into an agreement with parties to obtain a temporary permit to offer for on-premise sale of Kansas wine and microbrew products during the Kansas State Fair. He said in the process of presenting this bill, it was discovered that there were additional issues involving temporary permits. In an effort to save committee time, he suggested this provision be deleted out of **SB 274** and drafted as a separate bill. The agreed to amendment would remove from **SB 274**, page 4, line 36, Section 3, all the text through the end of the bill, page 8, line 26. He stated that he had talked with all the parties involved, and a meeting had been set up for the following Friday to start the process of drafting a separate consensus bill covering the temporary permit issues. (Attachment 1)

Senator Vratil asked permission of the Chairman to offer a motion at that time to make the requested amendment, and Chairman Brungardt stated he was agreeable to that request.

Senator Vratil made a motion to amend SB 274 by deleting Section 3, beginning on page 4, line 36, through page 8, line 22, deleting the references to K.S.A. 2004 Supp. 41-719 in line 23, and K.S.A. 41-

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2645 on line 24, and for the deletion of those same references appearing in the title paragraph on page 1. Senator Reitz seconded the motion, and the motion carried.

Chuck Magerl, Free State Brewing Company in Lawrence, testified in favor of **SB 274**. He said sixteen years ago he had the great pleasure of opening the first brewery in Kansas in over 100 years. He explained that current statutes allow only one location for a business licensed as a microbrewery in Kansas, and the restriction poses a difficulty for the development and expansion of a quality product. The restriction is not common in many other states, and with the limited facility it leaves very few options for continued business growth. Mr. Magerl stated his plan was to invest in a small warehouse facility that would offer the opportunity to establish a bottling operation away from the retail district in Lawrence. He included with his written testimony letters of support from brewers in Leavenworth and Topeka who were unable to attend today's hearing.

Senator Vratil asked what was meant by "beer enthusiasts" as noted on page 2, line 20, of the bill. Mr. Magerl responded that when the bill was being drafted, it was similar language that the farm wineries used and also possibly related to home breweries wording. Senator Vratil inquired if it was defined anywhere in the bill, and Mr. Magerl said he did not think it was defined in the bill. After brief discussion, Mr. Magerl stated that he would be agreeable to having that specific language removed from the bill.

Senator Brownlee referred to the wording used on page 2, starting on line 21, which says, "bona fide educational and scientific tasting programs...", and she asked how it became educational and scientific tasting. Mr. Bradley explained the language was taken directly from the next section that allows the farm wineries to do the exact same thing in the same language. He added that both those phrases were already in current statute law, and the intent was to duplicate the wording the committee used previously in drafting the bill that became law.

Tuck Duncan, Kansas' Wine & Spirits Wholesalers, testified in favor of **SB 274**. He suggested that possibly the use of "brewers" or "brew masters" instead of "beer enthusiasts." He explained that this was the concept which allows for the competitions of the products that are made in Kansas, using Kansas agricultural products in order to compare them against each other. On occasion certain products are brought in from out of state to be judged against these items, and the judging of wines, and in this case, microbrews produced in this state, is indeed an educational and scientific activity because of the whole brewing and blending process involves a great deal of chemical understanding. He stated that the Wholesalers support this bill, including the provisions relating to the bottling, and provisions that would allow for Kansas brewed products to be judged in competitions.

Mr. Duncan explained why the temporary permit was included in this bill as current law allows for cereal malt licenses to be issued, and there are beer gardens at the State Fair during the fair days. Current law allows for the State Fair Board to provide for consumption of beverage alcohol at certain events for certain numbers of people outside of fair days. He talked about why it was suggested that the last section be taken out because various interested parties would like to see an opportunity for Kansas wine products to be sampled and tasted at the fair by Kansans who are attending the fair. He said there were over 40,000 people last year who visited the vineyards and wineries, and this was a growing tourist type of attraction and popularity. He had no objection to deleting the temporary permit language out of the bill, provided that there be a separate bill reintroducing the same identical language, subject to some of the amendments coming before the committee. He stressed that there were only three weeks remaining in the session, and if the bill doesn't get introduced, doesn't get a number assigned or is not printed, the bill will be lost for the year. (Attachment 3)

David Ross, Kelly Mill Plaza, Inc., stated his testimony was totally related to the part that was deleted, and he would plan to return at a later date when the new bill is scheduled for a hearing. (Attachment 4)

Norm Jennings, Smokey Hill Vineyards & Winery and the Kansas Grape Growers & Wine makers Association, submitted written testimony in support of **SB 274**. (Attachment 5)

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Janna Dunbar, Kansas Department of Commerce, submitted written testimony in support of **SB 274**. She said she did want to correct Mr. Duncan's earlier testimony, in that last year, Kansas had over 150,000 visitors to the farm wineries, which were almost half and half between in-state and out-of-state visitors. (Attachment 6)

Senator Vratil inquired of Mr. Bradley regarding page 3, line 30, of **SB 274**, how the amount of \$50 was arrived at for the annual fee for microbrewery packaging and warehouse license. Mr. Bradley responded that it is the exact same fee that additional farm winery retail outlets pay, plus this fee is on top of all the other fees a brewery is required to pay to be in business.

Gary Winget, Kansans for Addiction Prevention, testified in opposition to **SB 274**. He called the committee's attention to page 3, line 19, referring to the production of 500 or more barrels daily capacity. He said he thought microbreweries were suppose to be a small operation, but 500 barrels seemed very big to him, and there needed to be some limits including deleting "micro." He stated the changes in existing law that expands hours, expands sites, or introduces new products are designed to market more alcohol which will increase the harm done in Kansas. He wanted to delete the expanded hours on Sunday as noted on line 14, page 2, of the bill. Mr. Winget pointed out that the provision for issuing a license or a fee for \$50 with less than that amount in administrative costs. He stated he felt that two zeros should be added to every fee and license in **SB 274**. He emphasized this industry needed to pay for their growth. (Attachment 7)

Tom Groneman, Director of Alcoholic Beverage Control (ABC), Department of Revenue, testified as neutral conferee on **SB 274**. He explained the bill would allow the Director of ABC to issue one microbrewery packaging and warehousing license to a microbrewery licensee. This would allow the microbrewery to transfer beer manufactured by the licensee to and from the licensed premises as well as allow deliveries from the warehouse to beer distributors. He said the bill would allow the Director to issue to the Kansas State Fair or any bona fide group of brewers or beer enthusiasts a permit to import into this state small quantities of beer for educational and scientific tasting programs. This would be in line with what is currently allowed for farm wineries. Mr. Groneman stated that the fiscal impact of this bill would be negligible. (Attachment 8)

Senator Vratil inquired of Mr. Groneman what the administrative cost of processing a license for \$50 would be. Mr. Groneman responded that the fees had not been looked at for several years, but would check on it and get the information back to the committee as soon as possible. Senator Vratil asked what the reason was for expanding the hours on Sunday for which a microbrewery could sell beer. Mr. Groneman said that was a legislative decision, and the ABC would be monitoring whatever the set hours are in the passed law. He said that industry would probably say that it was more in line with what the Sunday Sales for the cities that opted out of the Liquor Control Act.

Mr. Duncan said Mr. Groneman was correct that the change in the hours was for uniformity in Sunday sales for all packaged liquor.

Senator Brownlee commented regarding that fees are usually set by the Rules and Regulations Committee, and why these fees were set in statute instead of Rules and Regulations. Mr. Groneman replied that it was the way it has always been.

Senator O'Connor asked the Chairman if he would entertain a motion to introduce the bill to mirror what was earlier deleted out. The Chairman said that would be agreeable, but that there was nothing drafted to look at.

Senator O'Connor made a motion to request a conceptual bill be introduced regarding the temporary permit language, seconded by Senator Hensley, and the motion carried.

Chairman Brungardt closed the hearing on **SB 274**.

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MINUTES OF THE Senate Federal and State Affairs Committee at 10:40 a.m. on Wednesday, March 9, 2005, in Room 231-N of the Capitol.

SB 68 - Elections; establishing requirements for daily reporting of campaign contributions

Chairman Brungardt called for discussion on **SB 68**, and asked the Revisor to review the Substitute Bill for **SB 68**. She explained that the first section contained what was in **SB 68** with the changes the committee had requested. There were changes made in order to conform to another campaign finance bill that was already passed out to the Senate floor. In subsection (b) the \$50 was changed to \$300 as the threshold for reporting independent expenditures, and there were also added provisions that the report would name the candidate whose nomination, election or defeat is expressly advocated by the independent expenditure. Subsection (c) was revised to allow the Commission flexibility to determine what methods of filing could be acceptable. Section 2 of the bill was what was in **SB 64** that deals with communications by radio, television, newspaper, mail, and other means of distribution. It requires any person who spends or contracts to spend \$300 or more per calendar year for any electioneering communication shall submit a report and is detailed on page 2 of the drafted Substitute Bill. Electioneering communication is defined on page 3, under (c) and refers to any clearly identified candidate and is broadcast for the purpose of effecting an election. The Revisor said the last section of the bill contains what was in **SB 66**, which did not come through this committee. It deals with reports filed by treasurers of candidates. Changes over on page 6 require the reporting of name and address of each candidate for an in-kind contribution that has been made in an aggregate value of \$300 or more, and sets out that it has to be contained in that report.

(Attachment 9)

Senator O'Connor stated that she served on both the Elections and Local Government Committee that heard testimony on **SB 64** and **SB 66**, and on this committee which heard **SB 68**, and was trying to keep the various provisions straight and in which committee she heard the testimony on those provisions. She said that in Elections and Local Government there was testimony given that the \$300 amount should be raised to \$500 and up, and that testimony was not heard in this committee. It was recommended that the amount be kept the same in order to lesson the confusion on the campaign requirements. She added that another provision testified on in Elections and Local Government was that the reporting requirement on the date of the election would not be needed because by then nobody would be interested as the people would be voting on that day. If there was a 24-hour required reporting period, Senator O'Connor recalled that by the time it was reported, the election would be over. She stated that this was the reason she was strongly protesting that the two bills that this committee is attempting to put into this committee's **SB 68**, should stay in the original committee since this committee did not hear the testimony or discussion on those bills. She said she was going to oppose this amended form of **SB 68** because of the procedure that is being attempted to amend the bill, and there is a lack of continuity which is not the way legislation should be done.

Chairman Brungardt asked the Committee Secretary if she had received copies of all the testimony on the two bills in question from the Elections and Local Government Committee and had distributed those copies to the committee members. The Committee Secretary confirmed that all the testimony had been hand-carried to committee members the same day the request was made.

Carol Williams, Kansas Governmental Ethics Commission, explained that this committee did change the provision regarding the day before the election in original **SB 68**. She said that the issue advocacy provision in Section 2 was within 24 hours. Chairman Brungardt stated that there was also a change regarding the means of filing that was requested by the Secretary of State's Office.

Senator Brownlee noted that on pages 2, 5, 6 and 7 the "in excess of \$50" amounts remained, and she recalled that it was to be changed to \$300. The Revisor explained that it had been requested in what was **SB 68** that originally had \$50 in it, that it be increased to \$300. The other \$50 amounts is contained in current law, and was actual contributions to the candidates. Carol Williams briefly explained the difference.

Chairman Brungardt announced that the discussion on **SB 68** would be continued at the next meeting, and possible action considered.

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SB 262 - City and county consolidation

HB 2083 - Consolidation of Topeka and Shawnee County

Chairman Brungardt called for discussion on **SB 262** and **HB 2083**. He explained that his announced goal was to try and get something that would enable the citizens in this area to move forward on their idea of trying to investigate the consolidation of government as was voted on last fall to pursue that study. He stated that he still thought that was a worthy goal, but realized the odds of actually achieving consolidation are odds against. He said he would like to figure out some way of consolidating services or sharing services, and maybe working still with the open ended idea of consolidation of governmental units. He said he had asked Ernie Mosher to come back to the committee and talk about his concept of compromise in order to find some common ground with the various interested groups.

Ernie Mosher presented to the committee a Substitute Bill in balloon form combining the provisions of **HB 2083** and **SB 262**, with amendments. He provided an outline of his suggested amendments lettered (A) through (P) with an explanation of each amendment by original bill parts, and page referencing to the numbers in the upper right corner of the balloon amendment. He explained the reasoning behind the suggested amendments for each of the bills as outlined in his written outline. (Attachment 10)

Committee questions and discussion followed Mr. Mosher's presentation.

The meeting adjourned at 11:47 a.m. The next meeting is scheduled for March 10, 2005.