

KEEP KANSANS IN BUSINESS

Local businesses are the lifeblood of our communities.



Testimony on House Bill 2556

February 19 2014

House Committee on Commerce, Labor and Economic Development

Presented by Spencer Duncan, M.B.A

Kansas' retail liquor system adheres to principles of a free market while providing a strong economic model that takes into account issues of social responsibility that come with selling spirits, strong beer and wine. HB 2556 is a radical restructuring that will not benefit the economy, will harm communities and increase spending.

False License Freeze

HB 2556 allows big-box, convenience and grocery stores to add strong beer, wine and spirits without ever having to purchase the license of an existing retailer. The proposal allows corporate out-of-state entities to slowly take away alcohol sales. This proposal takes away the No. 1 selling product of liquor stores within three years (strong beer); the No. 2 selling product within six years (wine); and the No. 3 selling product within 10 years (spirits), without big-box, grocery or convenience stores ever having to purchase the license of an existing liquor store.

There is also no provision that requires a big-box, grocery or convenience store make an effort to purchase a liquor store located directly next to them or in the same shopping center.

Alcohol Will Not Be Contained to Grocery & Convenience Stores

HB 2556 does not just limit retail alcohol sales to grocery, convenience and liquor stores. The legislation uses federal NAICS Codes as definitions of who can qualify for a license. These definitions are broad and there is little difference between a Kroger store that sells televisions and a Menard's which sells groceries. HB 2556 opens the floodgates to thousands of new outlets selling strong beer, wine and spirits in Kansas. *These codes and the new outlets who could be eligible to sell are included on pages 3 & 4 of this testimony.*

Statewide Polls Show Kansans Have No Desire For Change.

A statewide poll, conducted by Public Opinion Strategies, shows Kansans do not want expanded alcohol sales. Overall, 66% oppose changing the law; 81% said alcohol should be displayed and sold away from items such as milk and candy; 70% said a change would be bad for the economy. Kansans have no appetite for the Legislature to expand sales into thousands of new outlets.

Job Loss

The average Kansas liquor store has 8.5 employees(1). Some as few as 3, while large stores employ more than 30. Estimates are at least 340 local stores close upon implementation of this legislation(2). Just allowing for the sale of strong beer in grocery and convenience stores will close as many as 217 liquor stores(3). **That is nearly 3,000 people HB 2556 puts out of work.**

Big-box, grocery and convenience stores will not make up these lost jobs. In most cases, grocery/convenience stores have the staff they need. Adding a product then making dozens of new hires is counterproductive. New income and new expenses rise proportionally. This is especially true with beer and wine - low-margin products that must be sold in high volumes to produce a cost benefit. Profit is maximized from these low margin items by hiring as few individuals as possible. National chains also demand - and get - assistance from suppliers and distributors in ordering, stocking, shelving and marketing, which decreases the need for new staff.

High Fiscal Notes, Plus Additional Costs

Previous fiscal notes have indicated a nearly 50% expansion of Alcohol Beverage Control is necessary to implement this type of Legislation, totaling nearly \$2 million in additional money needed from the SGF. A 2011 memo from the Department for Children and Families, then SRS, indicates **\$4.2 million will be needed yearly for prevention and treatment programs** as a direct result of this type of legislation.

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Alcohol is Not a Factor in Construction Decisions

In researching documents from proponent companies – Annual Reports, SEC filings and other public papers – there is no mention of a necessity to sell alcohol in order to expand. Instead, factors include population density, tax base, incentives, population income, other area stores, etc. It is disingenuous for proponents to claim they must have alcohol to expand. There are numerous recent examples of Quiktrip, Dillon's, HyVee, Wal-Mart, Trader Joes, and others expanding in Kansas, without selling alcohol.

It's a Practical, Not Theoretical, Problem

The average liquor store in Kansas is 3,000 square feet(1). HB2556 allows liquor stores to sell other products. Where will they put them? Big-box and grocery stores can clear shelves and stack product in other sections.

Many liquor stores are landlocked in shopping centers or areas where permitting and zoning issues make it impossible to expand. If a current liquor-store owner wants to move or expand, where will the resources come from? Lending to small businesses is low, and passage of this legislation tells bankers half of these stores will go out-of-business, making them poor investments. This is a real-world, practical problem that must be addressed.

HB2556 Harms Rural Grocers Who Can Sell Alcohol Under Current Law

Any Kansas grocer has the ability to sell alcohol and create de-facto liquor departments under current law. They can open a liquor store or put a separate entrance in their current store so individuals do not have to leave the building. If Kansas grocers believed selling alcohol was a solution or beneficial, they would be selling alcohol today. A survey conducted by Kansas State University and the Kansas Sampler Foundation found 80% of rural grocers said the biggest threat to their business is out-of-state grocers and big-box stores. No study concludes selling alcohol will keep rural stores open.

Kansas is Not Comparable to Other States

Every state has liquor laws tailored to fit its values, population and economic models. Comparisons to other states are not valid. No state has switched from a system like Kansas to another system. There is no model. Many states used as examples of where so-called de-regulation has been successful were primarily "Control States" before they privatized systems. Control States are those in which the state itself owns, operates and sells all, or a portion of, the alcoholic liquor. Those states went from systems in which alcoholic product was controlled by state government then turned over to private industry to take control of the alcohol business.

Of course this had a short-term economic impact! Private industry will always be an improvement over state-run stores. Private industry will spend more, promote more and invest more than government. Those systems had nowhere to go but up. Kansas has never been a control state and always had a privatized industry.

Other systems used as examples have had, or still have in place, caps on the number of licenses they issue or that entities can purchase. Basing an economic model for Kansas on systems that will never compare to Kansas is apples vs. oranges.

HB2556 is bad economic policy and we encourage you to support the current retail liquor system.

Sources

(1) Capitol Connection, LLC. *Statewide survey of more than 250 Kansas liquor stores*, 2013. www.capitolconnectionks.com

(2) "An Economic Case for Increased Competition in the sale of Beer, Wine and Spirits in the State of Kansas" Dr. Art Hall, PhD, January 2011

(3) "Distilled Spirits Council of America, *Kansas Fiscal Analysis of Strong Beer Sales*" 2008. www.discus.org

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NAICS CODES

These retails establishments would all possibly qualify for a liquor license under HB 2556

Here is a look at NAICS Codes and those that will inevitably apply for liquor licenses in Kansas. The cross referencing illustrates just how finite the difference is between many of these establishments. The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

44512 Convenience Stores

See industry description for 445120.

445120 Convenience Stores

This industry comprises establishments known as convenience stores or food marts (except those with fuel pumps) primarily engaged in retailing a limited line of goods generally including milk, bread, soda, snacks.

Cross-References. Establishments primarily engaged in--

Retailing a general line of food, known as supermarkets and grocery stores--are classified in Industry **445110**, Supermarkets and Other Grocery (except Convenience) Stores; and

Retailing automotive fuels in combination with a convenience store or food mart--are classified in Industry **447110**, Gasoline Stations with Convenience Stores.

447110 Gasoline Stations with Convenience Stores

This industry comprises establishments engaged in retailing automotive fuels (e.g., diesel fuel, gasohol, gasoline) in combination with convenience store or food mart items. These establishments can either be in a convenience store (i.e., food mart) setting or a gasoline station setting. These establishments may also provide automotive repair services.

Cross-References. Establishments primarily engaged in--

Retailing automotive fuels without a convenience store--are classified in Industry **447190**, Other Gasoline Stations; and Retailing a limited line of goods, known as convenience stores or food marts (except those with fuel pumps)--are classified in Industry **445120**, Convenience Stores.

445110 Supermarkets and Other Grocery (except Convenience) Stores

This industry comprises establishments generally known as supermarkets and grocery stores primarily engaged in retailing a general line of food, such as canned and frozen foods; fresh fruits and vegetables; and fresh and prepared meats, fish, and poultry. Included in this industry are delicatessen-type establishments primarily engaged in retailing a general line of food.

Cross-References. Establishments primarily engaged in--

Retailing automotive fuels in combination with a convenience store or food mart--are classified in Industry **447110**, Gasoline Stations with Convenience Stores;

Retailing a limited line of goods, known as convenience stores or food marts (except those with fuel pumps)--are classified in Industry **445120**, Convenience Stores;

Retailing frozen food and freezer meal plans via direct sales to residential customers--are classified in Industry **454390**, Other Direct Selling Establishments;

Providing food services in delicatessen-type establishments, are classified in U.S. Industry **722513**, Limited-Service Restaurants; and Retailing fresh meat in delicatessen-type establishments--are classified in Industry **445210**, Meat Markets.

446110 Pharmacies and Drug Stores

This industry comprises establishments known as pharmacies and drug stores engaged in retailing prescription or non-prescription drugs and medicines.

Cross-References. Establishments primarily engaged in--

Retailing food supplement products, such as vitamins, nutrition supplements, and body enhancing supplements--are classified in U.S. Industry **446191**, Food (Health) Supplement Stores; and

Retailing prescription and nonprescription drugs via electronic home shopping, mail-order, or direct sale--are classified in Subsector 454, Nonstore Retailers.

NAICS CODES Continued...

These retail establishments would all possibly qualify for a liquor license under HB 2556

452111 Department Stores (except Discount Department Stores)

This industry comprises establishments known as department stores that have separate departments for various merchandise lines, such as apparel, jewelry, home furnishings, linens, each with separate cash registers and sales associates. Department stores in this industry generally do not have central customer checkout/cash register facilities.

Cross-References. Establishments primarily engaged in--

Retailing apparel without a significant amount of housewares or general merchandise--are classified in Subsector 448, Clothing and Clothing Accessories Stores; Retailing a wide variety of general merchandise in department stores with central customer checkout and cash register facilities--are classified in U.S. Industry **452112**, Discount Department Stores; and Retailing a wide variety of general merchandise in combination with a general line of perishable groceries, such as fresh meat, vegetable, and dairy products--are classified in Industry **452910**, Warehouse Clubs and Supercenters.

452112 Discount Department Stores

This industry comprises establishments known as department stores that have central customer checkout areas, generally in the front of the store, and that may have additional cash registers located in one or more individual departments. Department stores in this industry sell a wide range of general merchandise (except fresh, perishable foods).

Cross-References. Establishments primarily engaged in--

Retailing apparel without a significant amount of housewares or general merchandise--are classified in Subsector 448, Clothing and Clothing Accessories Stores;
Retailing a wide variety of general merchandise in department stores with separate cash registers and sales associates for each department--are classified in U.S. Industry **452111**, Department Stores (except Discount Department Stores); and

Retailing a wide variety of general merchandise in combination with a general line of perishable groceries, such as fresh meat, vegetable, and dairy products--are classified in Industry **452910**, Warehouse Clubs and Supercenters.

452910 Warehouse Clubs and Supercenters

This industry comprises establishments known as warehouse clubs, superstores or supercenters engaged in retailing a general line of groceries in combination with general lines of new merchandise, such as apparel, furniture, appliances.

Cross-References. Establishments primarily engaged in--

Retailing general lines of merchandise via electronic home shopping, mail-order, or direct sale--are classified in Subsector 454, Nonstore Retailers; Retailing a general line of food, generally known as supermarkets and grocery stores--are classified in Industry **445110**, Supermarkets and Other Grocery (except Convenience) Stores;
Retailing general lines of new merchandise with little grocery item sales--are classified in Industry **452990**, All Other General Merchandise Stores;

Retailing new merchandise in discount department stores--are classified in U.S. Industry **452112**, Discount Department Stores; Retailing new merchandise in department stores other than discount department stores--are classified in U.S. Industry **452111**, Department Stores (except Discount Department Stores); and Retailing used merchandise--are classified in Industry **453310**, Used Merchandise Stores.

452990 All Other General Merchandise Stores

Comprises establishments primarily engaged in retailing new goods in general merchandise stores (except department stores, discount department stores, warehouse clubs, superstores, supercenters). These retail a general line of new merchandise, such as apparel, automotive parts, dry goods, hardware, groceries, housewares, home furnishings, other lines in limited amounts, with none of the lines predominating. Illustrative Examples: Dollar stores General stores General merchandise catalog showrooms (except catalog mail-order) General merchandise trading posts Home and auto supply stores Variety stores

445310 Beer, Wine, and Liquor Stores

Comprise establishments primarily engaged in retailing packaged alcoholic beverages, such as ale, beer, wine, liquor.

Cross-References.

Establishments primarily engaged in retailing packaged liquor in combination with providing prepared drinks for immediate consumption on the premises are classified in Industry **722410**, Drinking Places (Alcoholic Beverages).