KLBA

Kansas
Licensed
Beverage
Association

February 19, 2014
Neutral Written only Testimony on HB 2556
House Commerce and Economic Development Committee

Chairman Kleeb, and Members of the Committee,

I am Philip Bradley representing the Kansas Licensed Beverage Association. The KLBA represents the interests of the men and women in the hospitality industry, who own, manage and work in Kansas bars, breweries, clubs, caterers, hotels, and restaurants. These are the places you frequent and enjoy with the tens of thousands of employees that are glad to serve you. Thank you for the opportunity to speak today and I will be brief.

Although this bill addresses **an issue that we take no position on**, we have several questions/concerns we would ask to be resolved satisfactorily before this bill advances.

Our first concern is vital to the existence of the on-premise retail licensees;

1- We appreciate the redefined off premise retailer licensee is allowed to obtain a federal wholesaler license and then sell to an On-Premise establishment as Liquor stores do now, **we need some assurance that they will.** We are required by KS Statute to purchase through such a retailer and some areas of the state have a dwindling supply. With the acknowledged closing of existing stores this measure would cause, **we are very concerned that this will not only cause further scarcity but also reduce variety and supply**. We ask for your help in assuring that there is an ample supply of places for us to purchase our supplies, and help with a concern over the product mix that will be available to on-premise establishments in rural areas of Kansas

The rest of these are in no particular order and of lessor importance but concerns of our members;

2- We now have "Dry" counties where no "alcohol" may be sold only CMB. Will that continue? Will CMB licenses continue to be available in those areas?

3- Does a new redefined off premise retailer license be allowed to also hold a caterers or on-premise alcohol license? Will they then be allowed to sell to themselves from the off premise license to the on premise license changing a long held Kansas law that licenses for these two tiers cannot be held by one individual or group. If they are now allowed to, will that lead to unfair competitive advantage on pricing, supply and/or preferential treatment to themselves? Where will they store opened, unsold caterer alcohol inventory?

4- Delivery fee to On-premise licensees & Caterers is allowed in this bill. Will that be uniform and apply to all? Including, as discussed above, if allowed to sell to themselves?

Again thank you for your attention and consideration. I am available for your questions.

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House Commerce, Labor, and Economic Development Committee
February 19, 2014

A Health Impact Assessment of Changes to the Kansas Liquor Control Act (in progress)

House Bill 2556

Tatiana Y. Lin, M.A.
Senior Analyst & Strategy Team Leader
Kansas Health Institute

To improve the health of all Kansans by supporting effective policy making, engaging at the state and community levels, and providing non-partisan, actionable and evidence-based information.

Informing Policy. Improving Health.

Chairman Kleeb and Members of the Committee:

My name is Tatiana Lin and I am a senior analyst with the Kansas Health Institute, where I lead work on community health improvement. KHI is a nonprofit, nonpartisan health policy and research organization based here in Topeka, founded in 1995 with a multiyear grant from the Kansas Health Foundation.

Thank you for the opportunity to make a brief presentation and provide information on the ongoing health impact assessment surrounding House Bill 2556. The Kansas Health Institute does not take positions on legislation, and therefore we are not here to speak either for or against HB 2556. Rather, we want to make you aware that KHI is in the process of conducting a health impact assessment to determine potential positive or negative impacts on community health as a result of changes to the Kansas Liquor Control Act.

A health impact assessment – or HIA – is a new tool that brings health considerations into policy discussions, where health isn't always considered. When the research is complete, the HIA will recommend evidence-based strategies to maximize the potential positive health impacts of that policy decision, while mitigating the negative health impacts. KHI has completed two HIAs in recent years (one related to casino development and one related to a transit system in Wichita).

HB 2556 makes changes in the licensing process for liquor retailers under the Kansas Liquor Control Act and defines who is eligible to hold retail liquor licenses. Specifically, the bill would permit convenience and grocery stores to hold retail liquor licenses. The bill also sets specific dates for the granting of retailer class A, B, and C licenses.

In 2013, the Kansas Health Institute, in partnership with the KU School of Medicine in Wichita, was awarded a grant from the National Network of Public Health Institutes (NNPHI) and the Heath Impact Project, a collaboration of the Robert Wood Johnson Foundation and The Pew Charitable Trusts, to identify the potential positive and negative health effects associated with allowing convenience and grocery stores to hold retail liquor licenses. The results of the HIA will then be shared with state policymakers.

In order to assess the potential health effects of expansion of Kansas liquor licenses, the HIA team has followed several steps: reviewed existing literature, analyzed state and national data, and gathered stakeholder input from groups such as grocery and convenience stores, liquor stores, public health officials, family organizations and prevention centers that promote healthy youth behaviors.

The HIA primarily focuses on potential impacts that could result from permitting convenience and grocery stores to hold retail liquor licenses. This might result in changes to the number of off-premise retail alcohol outlets in Kansas.

Although the impact of alcohol consumption on health is well-documented, it is unclear whether an increase in density of off-premise retail alcohol outlets (that may result from this legislation) would have an impact on the consumption behaviors of Kansans. It is also unclear how this could impact other socioeconomic factors and related health outcomes.

To answer these and other questions, KHI has been assessing a variety of effects that could be associated with density of off-premise retail alcohol outlets that could potentially result in health impacts (Attachment 1) including: economic (e.g., employment, local and state tax revenue), behavioral (e.g., alcohol consumption, DUIs, crime), and health outcomes (e.g., injuries, morbidity, mortality). The HIA will provide recommendations for options to minimize the identified potential health risks, and optimize potential health benefits.

We are in the process of finalizing the health impact assessment findings and recommendations. Today, we would like to share with you two preliminary findings which could result in health impacts. Table 1 includes findings regarding consumption, as related to the regulation of alcohol sales and the density of off-premise retail alcohol outlets. This table does not describe the related health impacts. We plan to share the projected health impacts of these findings and other results in March.

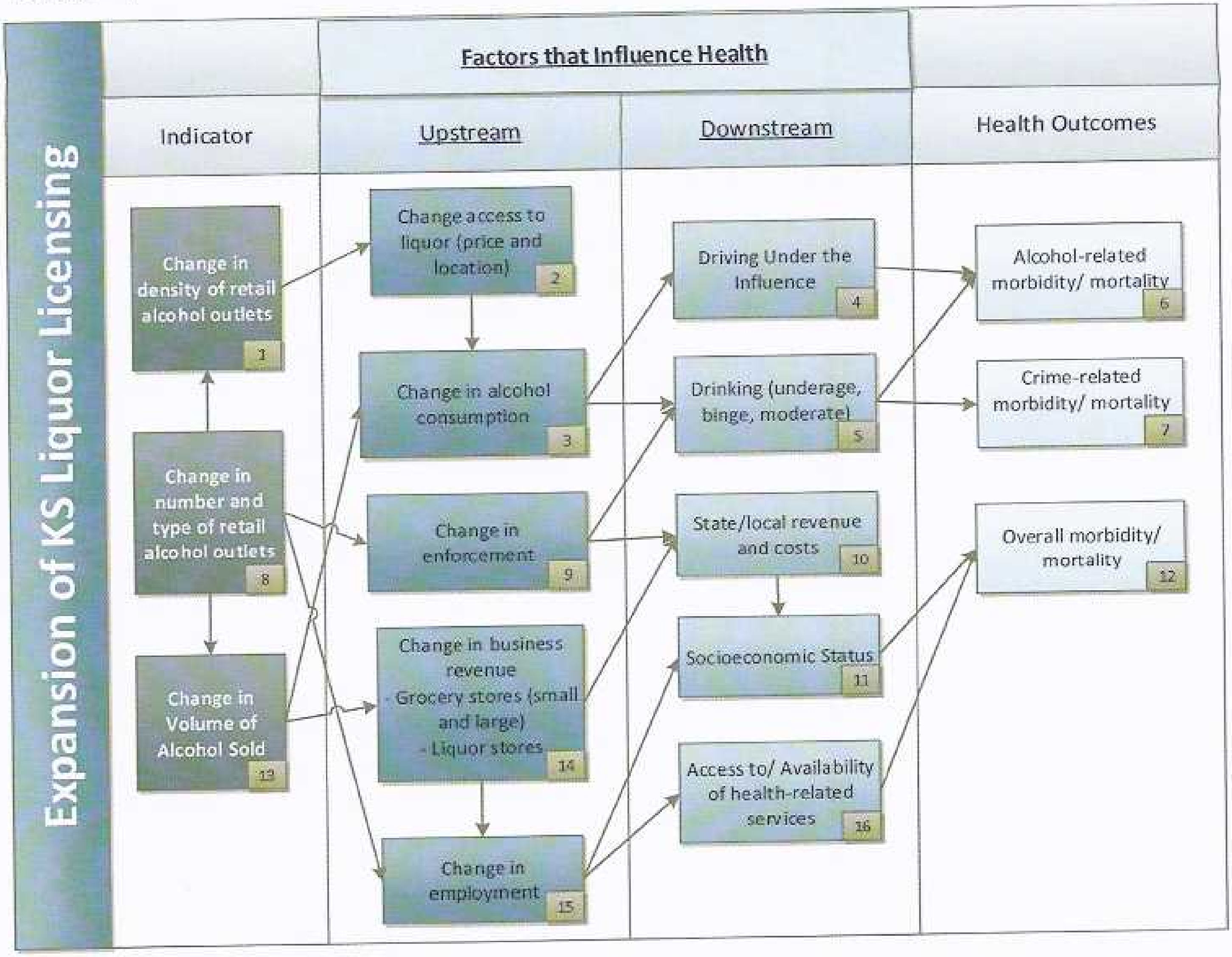
Table 1. Preliminary Findings

Preliminary HIA findings	
Question 1: What is the impact of regulation of alcohol sales on consumption?	
Literature and Data	Alcohol sales regulations have various components, including hours of sales, age of seller, retail sale and distribution license requirements. These regulations may impact consumption. For example, in Kansas and 16 peer states, higher alcohol consumption was correlated with more weekly hours of alcohol sales. Although hours of sale is an important measure of strictness of alcohol sale regulation, it is just one component of regulation and the impact on consumption may depend on the strictness of other components. Each component is difficult to quantify in isolation.
Findings	More lenient alcohol sales laws have been associated with increased consumption. Currently, Kansas is among the states with the most restrictive alcohol sale laws.
Question #2: What would be the impact of increased density of off-premise retail alcohol outlets on consumption?	
Literature and Data	Overall, the majority of published studies suggest that the density of off-premise retail alcohol outlets affects consumption. These studies included research done within the U.S. (which are related specifically to the relationship of **liquor store density** and consumption, and mostly do not consider all off-premise retail alcohol outlets such as grocery and convenience stores) and research published outside the U.S, which examined the relationship of **all off-premise retail alcohol outlets.** [It is important to note that studies conducted outside of the U.S. took place within different social, physical and regulatory

Preliminary HIA findings	
	environments, and therefore should be carefully applied in understanding the impact on density of off-premise retail alcohol outlets and consumption in Kansas.] However, the impact on consumption is clearer for on-premise alcohol sale outlets (such as restaurants and bars). Research has revealed that increased density of on-premise alcohol sale outlets increased consumption. KHI analyses of nationwide data also find that liquor store density is correlated with self-reported measures of alcohol consumption. However, the same results are not observed when all access points (e.g., liquor stores, grocery stores, convenience stores) are considered; all access point density was not found to be correlated with alcohol consumption. In Kansas, off-premise retail alcohol outlets were not correlated with overall consumption. This was true for both liquor stores and for outlets that sell cereal malt beverages. Further data analyses show that self-reported measures of youth consumption were strongly correlated with density of off-premise retail alcohol outlets.
Findings	Published studies suggest that off-premise outlet density is associated with overall consumption, although KHI analyses of available data is mixed and leans toward no impact on consumption. However, both published studies and KHI analyses of available data show that increase in density of off-premise retail alcohol outlets may impact youth consumption. Based on the mix of data and research it is unclear whether the sale of alcohol in grocery stores and convenience stores will have a similar impact on consumption as has been found for liquor stores.

If you have any questions regarding this health impact assessment, please contact me at (785) 233-5443 or tlin@khi.org.

Attachment 1.
A Health Impact Assessment of Changes to the Kansas Liquor Control Act (in progress)



This figure is called a "Pathway Diagram." Its purpose is to provide the visual links between legislation and health. Specifically, how upcoming legislation on liquor licensing could affect the health of Kansans. An "indicator" is a direct change that may happen due to the legislation. These indicators may then lead to impacts that are called "upstream" and "downstream." Upstream and downstream impacts are factors that end up affecting health. These terms are used to demonstrate that health can be affected by multiple factors which could fall into two categories "upstream" and "downstream." Upstream factors seem to be more removed from health than downstream factors.

For example, starting at box number one, indicates that changes in the number of alcohol outlets could lead to a change in how (e.g., price, location) people access liquor (box 2). Access could lead to a change in consumption (box 3) which could in turn influence drinking and driving (box 4), which could lead to a change in the number of deaths or injuries due to DUIs (box 6). On the other hand, change in the number of sales (box 8) could affect grocery store revenue (box 10), which could then affect availability of funds that could be allocated to hire new employees (box 11), and employment could affect access to health related services through change in income and/ or insurance (box 14). A change in access to health services could change the overall morbidity and mortality of the community (box 15) (morbidity and mortality mean illness/injury and death).

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Nick Jordan, Secretary
Dean Reynoldson, Director

Sam Brownback, Governor

MEMORANDUM

TO: Representative Marvin Kleeb, Chairman, House Committee on Commerce, Labor and Economic Development

FROM: Dean Reynoldson, Director of Kansas Alcoholic Beverage Control

DATE: 19 February 2014

SUBJECT: House Bill 2556

Mr. Chairman and members of the committee. The Kansas Alcoholic Beverage Control is neutral on this bill but would like to bring a few items to the attention of the committee.

The cap on the number of liquor retailers in Section 1 would be established on July 1, 2014. As this bill would be passed prior to that date, the agency expects to receive applications of retail liquor licenses as a means of holding a license to sell it to a convenience store or grocery store beginning July 1, 2015.

New Section 2, which deals with transfers of class C retail liquor licenses beginning July 1, 2015, should be amended to clarify that the transferee is responsible to pay the second half of a two year license fee and the 10% surcharge when the transfer occurs with more than one year remaining on the term of the license fee and when the second year of the license has not yet been paid.

Section 13 would allow class C retailers to offer games of chance beginning on July 1, 2020. With the exception of licensed bingo games or the Kansas Lottery, games of chance are not authorized in Kansas.

Section 16, which amends K.S.A. 41-311, would exempt stockholders who own 25% or less of the business from having to qualify for a retail liquor license. For drinking establishments and other on-premise licensees, the threshold outlined in K.S.A. 41-2623(a)(6) is 5%. Anyone *owning more than 5% or of an on-premise business must qualify* for the license. A convicted felon or a person who has had a liquor license revoked would both currently be ineligible for a liquor license. Section 16 would allow such individuals to own up to 25% of the business rather than up to and including 5%. For example, this section would allow four convicted felons to join together and qualify for a license, or four people whose violations as former liquor licensees were so substantial that they have had their licenses revoked, could, together, qualify for a liquor license. Since the Liquor Control Act was passed in 1949, one of the objectives has been to keep the criminal element out of the liquor business. We suggest adopting the language from the club and drinking establishment act, specifically K.S.A. 41-2623, for licensing qualifications of corporations, trusts and partnerships. Section 16 would also allow a corporation or an LLC that has had a liquor license revoked to be eligible for a new license. The reason for this is the word "person" is changed to "individual."

Section 19 of the bill would allow persons aged 18 and above to sell liquor at retail, reducing the age from 21. While this section also requires a 21-year old to supervise minors who sell liquor, the dynamic of a minor selling alcohol has the potential result of an increase in sales of liquor to minors. The minimum age to sell package sales of cereal malt beverage (3.2% beer), on the other hand, is 18 years of age as provided in K.S.A. 41-2704.

Section 20 requires the distribution to local governments with a sales tax, the sales tax lost due to the discontinuation of sales of cereal malt beverage. This section goes into effect beginning July 1, 2014 (FY 2015) and requires that 3% of the liquor enforcement tax be deposited into the local cereal malt beverage sales tax fund for quarterly distribution to the local governments. We suggest this section of the bill should not become effective until there is a loss of cereal malt beverage sales, which will not occur until after July 1, 2017.

Thank you Mr. Chairman for the opportunity to testify about this important bill.

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To: House Commerce, Labor and Economic Development

From: Nicole Proulx Aiken, Legal Counsel

Date: February 19, 2014

Re: Written Neutral Testimony on HB 2556

Thank you for allowing the League of Kansas Municipalities to provide written testimony on HB 2556. The League does not have a position on the underlying policy of where alcohol is sold. We would, however, like to provide some information for you to consider, because the proposed changes in HB 2556 would impact how liquor is taxed and how money is distributed.

Currently, only cereal malt beverage products may be sold in grocery stores and convenience stores. Sales taxes are imposed on these products and the money is distributed as such. Package liquor stores, on the other hand, impose the liquor enforcement tax. A portion of these funds is distributed to cities and counties.

As grocery stores and convenience stores begin to sell alcoholic liquor as provided for in HB 2556, sales of cereal malt beverage products will decline and eventually end altogether. Because of this decline, cities and counties will lose the revenue they currently receive from the sales tax on cereal malt beverage products. To mitigate these losses, the proponents of HB 2556 have included a provision to establish the local cereal malt beverage sales tax fund. The bill provides that these funds will be distributed along with local sales tax distributions based upon a weighted population formula.

The League appreciates the creation of this fund. We have a concern, however, that if the funds become subject to appropriation, they could be used for other purposes. As HB 2556 is currently written, it appears that the funds are an automatic transfer and not subject to appropriation. The League requests that this language remain intact to ensure that those funds remain targeted for the purposes intended in this bill.

Thank you again for the opportunity to provide written testimony on HB 2556.