

Hearing on HB 2200 – Big Box Liquor Bill – House Commerce Committee - February 11 – Proponents

These are notes only – not a transcript. Some comments may be summarized and not word for word.

Bill description-by Revisor (Chuck)

Repeals 41-103 – prohibits sale of cmb in same location w liquor

Repeals - Separate premises for liquor from another business

Basic Bill Outline:

Sec. 1 All license are deemed to be Class B licenses and capped.

Sec. 2 July 1, 2018 – allows transfers within a county, allows more than one license, but each license is attached to premises

Sec. 3 – Class A licenses – Strong Beer – sell only to temporary permit holders. Can sell anything in addition to beer.

Sec. 4 – allow Director to administer the changes

Sec. 6 – local government transfer 3% of liquor enforcement tax revenues based on a population formula.

Sec. 7 – new definitions – based on NAICS codes – for Convenience Store, Grocery Store, Liquor Store

Sec. 9 – county approve licenses outside city limits

Sec. – can store alcoholic liquor in cold storage units what????

Sec. 11 – class B licenses can be transferred, can sell anything, same restrictions on purchasing from distributors

Sec. 12 – only class B licenses can do tastings

Sec. 13 – license fees – 500 for liquor stores, 1500 for grocery stores, 1500 for convenience stores

Sec. 14 – allows corporate licenses. Limitation on number of licenses stricken. Class A license may only be held by grocery or convenience stores. Class B license can only be held by grocery or liquor stores as defined by the Act.

Sec. 15 – corporations – Secretary of State documents – require resident agent for out of state.

Sec. 16 – the license is not property, only a personal privilege, can only be transferred as permitted by the Act.

Sec. 17 – age restrictions – have to be 18 to sell, no felons, 21 year old supervision

Q & A:

Ruiz – does the felony restriction on employees pertain from everywhere or only felony in the state?

The language simply says any person adjudged guilty of a felony, so I would have to check with one of our revisors that works with criminal law, but would expect that any state would apply.

Frownfelter – how do we handle club and restaurant sales?

Class B licensees can sell to clubs and restaurants. Not Class A.

Dannebohm – could you elaborate on the section that allows selling “any other good or service”?

Class A license can sell any good or service in addition to the strong beer.

Corbet – what are the NAICS codes? Do they include Dollar Generals, Walgreens?

I think a Walgreens or Big Box Store would fall under the definition of grocery store.

Corbet – in my area there are a lot of Dollar General stores – where would they fall?

I guess we would have to parse whether they fall under a convenience store definition or a grocery store location. There is an emphasis placed on a convenience location vs. primarily retailing groceries, so would have to work that out.

Claeys – would a pharmacy like CVS or Walgreens be included or excluded?

I’m not sure. At first glance, it is possible they would fit under one of these definitions, but I would need to look into it a little bit more.

Claeys - I would appreciate that. And also for a Dollar General, where it is more of a dry goods sort of a store. Would that fit?

Proponents testimony:

Rep. John Rubin – Appreciate opportunity to speak to the latest and best iteration of this legislation.

Existing law – page 13 lines 34-35 – clarifies any felony in any state would prohibit ownership.

Also tried to delineate which kind of store fits under each definition.

It’s not often that we in the Legislature get to support and move forward what I would call win/win legislation. This is a win/win/win bill for every interested party – for everyone involved. It’s a win for consumers like me, for reduced regulation, for free markets... Could be a win for existing retail liquor stores because it limits the overall number of licenses, allows for transferring those licenses, and allows

This will greatly enhance the value and the marketability of the existing liquor store licenses.

Also allows those who want to stay in business to sell any other legal product - not Colorado – so only legal products, which will enhance their revenue. And more – it is a win for Kansas consumers who will enjoy choice of where to buy and possibly reduced prices.

Those of us who truly believe in fostering free market values recognize a flaw in a system that restricts where a product can be bought. Particularly important to those like me from Johnson County where retailers must compete with Missouri.

Government should not be in the business of picking winners and losers.

Foster economic growth, foster competition, provide choice for consumers, while protecting the investment by liquor store owners in their current businesses.

Mr. David Dillon

Recently retired Chairman and CEO of Kroger / Dillons

I volunteered to Chair the Uncork Kansas Coalition.

1989 – 1990 when Wal-Mart was adding groceries to their stores and almost every other retailer was adding groceries to their sales, I genuinely believed that this trend could be the end of grocery stores and Dillons at that time. We set out a plan. We have lowered prices, improved customer services, and did all of that because we came to the conclusion that the only way a store goes out of business is if customers stop shopping there.

When retailers compete, the customer always wins. When retailers compete, they actually get better.

I believe at Kroger I left some unfinished business. That unfinished business was to widen the product we sell in Kansas to match the other states where we sell these products.

I understand that if I was a liquor store owner today, I would be nervous. I understand the anxiety that this bill creates. But if you roll back the time to 1989,

The grocers who have done the best job have been the local grocers, the regional grocers.

I would say to current liquor store owners that you are selling yourself short. You need to look at what you offer that grocery stores can't.

In the states where we sell liquor, there are retail liquor stores. In fact, near my former hometown store in Cincinnati, have

My perspective on the liquor store owners concerns:

Changing the rules after they have invested in their business – what businesses are there where the rules don't change? Some of those are within the purview of the Legislature and some are outside that.

States can't protect us from our customers. Dillons customers can choose to shop wherever they want. Customers have a way of solving their own problems.

Restaurants can sell wine, if a bottle has been opened, it can be capped and sent home – which is as close as you can get to selling wine.

Talked about direct shipping.

Concern about selling to underage. Hogwash. Our record in Kansas of selling cigarettes, pharmaceuticals and cereal malt beverages safely is proven.

Concern that Dillons isn't local. Read paragraph about Dillons profits going out of state – reinvested \$200 million in building new stores in Kansas. 10,000 jobs. Kansas plumbers, electricians, lawn services, bakeries, and farmers. Fund pensions, provide healthcare.

Shared copies of the Dr. Art Hall study. Highlighted findings –

Liquor store owners have cited the study as proof that some liquor stores will go out of business, and I don't doubt that some liquor stores will go out of business. This study asserts that grocery stores

States that the government will collect about \$70 million in additional tax revenue.

Bill is meant as a compromise. Which it is. Our customers demand a solution.

Lawmakers need to be fair to liquor stores and we agree with that. They also need to be fair to consumers.

Matt Smithhilser, Filby Liquor, Manhattan

It's not IF this passes. It's WHEN it passes. Can't continue to beat the drums

There is testimony from other liquor stores in this packet and some I have spoken to personally

I'm sticking my neck out big on this one. This is the best deal that we liquor stores can expect to get on this. With a permanent cap, I don't have to choose immediately whether or not to sell.

I'm not standing before you because I think I have a junk business that won't survive. I've worked hard the past five years – it is a seven days a week job. It has to be seven days a week, that is the only way a little store can make it.

Would like it to go into effect in 2015. Not sure what is gained by waiting until 2018 but I am willing to listen.

Consumers benefit from competition. The small guy has to work harder. I do it now. There are big stores now. I am on the outskirts and don't serve students. I serve military and adults. I am a convenience liquor store – I have gas pumps out front and I don't pay for them.

Please understand the testimony you will hear tomorrow doesn't reflect all liquor store owners.

Loren Lance – small pebble on this beach

Rural community in southeast Kansas that lost our grocery store in our town of Mildred. Maybe 20 people. But our surrounding towns don't have grocery stores. It was devastating to lose our store – would be 100 years old this year. No one was stepping up to open the store, so we felt it was our duty to do that. I farm and ranch about 4 or 5 miles from the store. My wife is a dean at the community college. We didn't need another job.

Main concern is I need every person in my community to be able to come to my store to purchase anything he needs. I've got to offer everything in order to survive.

Without a doubt, this bill would allow us to run a better business. There is nothing around me for 30 miles. There is a small grocery store 9 miles away, but we are 30 miles from any big store. If they can grab their six pack of real beer, they will grab additional things.

It is disheartening to hear legislators vow to protect liquor stores at the expense of businesses like mine. Now is the time to promote free enterprise by passing this bill and showing that Kansas is Open for Business. Please pass HB 2200 and stop giving a free pass to liquor store owners and benefit small businesses like mine.

Patrick Craven –

Says he is from Patton's district. Didn't vote for him. Touted conservatism. Marine corps.

People think Kansas is a conservative state, trust me, North Carolina is way worse. There has been a big change in Kansas over the past few years – a decided step to the right. Free market – competitiveness. Let businesses compete.

Not being protective, not being coddled. It's finding out what your customers want and providing it to your customers at a good price. That is what is going to keep liquor stores open after this bill passes. I go to liquor stores. They aren't going to be hurt by this in the least. Because they are good businesses who take good care of their customers.

I shop at Dillons. I like to cook. I cook with wine a lot. Guess what, I get to make another trip.

I've seen the argument that retail liquor stores don't want grocers to have wine or liquor sales because they won't have the selection. Isn't that the perfect argument for them? Let's look at Walmart. They sell tires, they sell hardware and handtools. The tire sellers aren't going out of business

I don't buy strong beer at retail liquor stores, I'm a homebrewer. I do buy some craft beers, and I'll guarantee you those won't show up at the grocery stores. I buy wine. I'm a wine snob. If someone wants to buy their wine at a grocery store, they better know what they are getting.

It's time to drag Kansas' liquor laws kicking and screaming into the 21st century. Some of Kansas liquor laws are the most archaic in the country. Missouri allows sales in grocery and convenience stores. So, does my home state of Nebraska – and it has caused no problems whatsoever.

Richard Liston – electronics shop in Shawnee

We have all had to compete directly against the big guys. The way we stay in business is through exceptional customer service. The way the liquor stores can compete is by providing customer service, remembering their names, coming out from behind the counter to help.

Competition lowers prices. Improves products. Anything we can do to enhance competition will benefit us. Some will go out of business. Bottom line is the free market works.

The convenience of making a single stop is a benefit and prices do come down.

For the benefit of the consumer, let's go ahead and pass this and allow everyone to compete.

Karen Washburn – Lenexa

Moved to Kansas from North Carolina. Roy Williams – was absolutely shocked to find that I couldn't buy wine at a grocery store. I signed petitions in the 70's to allow for liquor by the drink and thankfully, North Carolina passed it in 1978. Fast forward forty years, this is like déjà vu all over again, except this time I am 60 years old and I am signing petitions again

I am confused that I can go into a HyVee store and buy a glass of wine in their café but I can't buy a bottle of wine to take home. Why are we protecting liquor stores at the expense of our own people.

Liquor stores are the only beneficiaries of the current law and they want to keep the government protection for their own profit.

The current law is forcing business out of our state. Kansas liquor stores are only getting a very small percentage of sales from my wine purchases. Truth be told, I am buying wine at Trader Joe's on State Line Road in Missouri, not the Trader Joe's in Kansas.

I can't say I speak for all women – an informal poll of females in my neighborhood – we find we have similar views on this. We don't want to keep taking our money across the state line, but you aren't giving us much of an option.

As a businesswomen, I am not one to bring up gender preferences, but I have permission from the women in my neighborhood to state our preference to buy wine in a grocery store – listed a number of Missouri stores.

Women make up 60% of the wine sales and consumption of product. You don't see us flocking to liquor stores because there is discomfort in entering a typical male bastion.

This is not a slam against liquor stores but it is a preference. And in almost every state I travel to, there was a grocery store where I could get it.

I implore you to pass this reasonable legislation and move Kansas closer to a promise of a free market. We are ready to buy our wine in Kansas if you make that happen.

David Mitby – Kansas City

Got involved on facebook. I see a lot of the arguments made by the opposition – the idea that we can't change the liquor laws because they have been doing business the same way for the last 60 years is unfair to customers.

The current laws are not right and not a free market policy. Kansas customers look at other states and wonder why we can't have the same convenience and choice. We see this working in other states.

Tom Palace – talk about what is in this bill.

Strong Beer. Freeze on Liquor Licenses.

Transfer of license within a county. Each location must have its own license.

Liquor stores can sell whatever they want. Can also have multiple licenses.

Allows 3% of the excise tax to go to cities and counties – that excise tax is the 8% enforcement tax from sales of strong beer and liquor.

This issue has sparked a lot of conversation in the State Capitol. We've been talking about this for 5 years. We've been talking about strong beer for 15 years.

Establishes the three year moratorium – where there is a cap but nothing else changes. The stores can prepare for the new marketplace.

Established the permanent cap – that's what we thought would bring value to the license and that was what we were told by a number of people.

Requires a 21 year old on premises, which can be a hardship to hire in some of our businesses. I look at it like the Applebees and other businesses where the server under 21 brings me a drink. I don't watch to see if

We already have corporate licenses in the state. They are just on premise. But off premise, that is illegal.

Talk about changing the laws – they do change every day. And in the convenience store business, they are tough. When the drinking age changed – it hit us hard.

In the convenience stores, gasoline are the major sales. Much like you will hear tomorrow, but now everyone is selling it. Inside the store, tobacco is the biggest seller – and that isn't restricted either. Anyone can sell it.

Age controlled – compliance. We already sell age controlled products. Compliance is important to us, so we have put in software and that has helped.

Competition is our best friend.

This is a consumer driven bill – you heard someone talk about the Facebook. We have been hearing from consumers thought that and we feel this is a consumer issue.

You will hear about the big vs. small. I represent the Petroleum Marketers

Have the large retailers helped us advance this issue? Yes, they have. But we are working with large and small.

Uncork has worked hard to come up with a bill that works for everybody. Don't know

We believe we have conceded a lot in this bill. The c-stores in particular have given up a lot in this bill. Change brings opportunity. It brings opportunity for us.

We've spoken to a lot of legislators – both proponents and opponents. And you've heard before, it is not IF this will happen, it is WHEN this will happen.

Want to thank the Speaker and the Chairman for bringing both sides together to talk about the bill twice last week.

And want to thank Amy Campbell for coming with some retailers to meet with us last October and had some good conversations.

Hope we hear something tomorrow that maybe has some solutions to it.

Couture-Lovelady – asked Palace – question I have is related to 3.2 beer. Will there still be places selling 3.2 beer?

That would be up to the beer distributors as to what they wanted to do.

Dannebohm – is there a purpose to having the 3.2 beer after that point?

It is a choice now. Obviously, you have beer bars and you have dry counties.

For retail purposes?

It would be a choice at that point, and probably no.

Frownfelter – question to small grocery guy – you could have liquor sales now, right?

Yes – but there is a cost issue.

One of the issues we have now is the segregation of alcohol products and it is like tobacco products.

I have that ability now, yes, because my building has a triple building setup.

Tietze – I do not know how much our community gets out of the current sales tax on 3.2 products. And don't know how much we would get after it passes. Is it flexible? Is it set in stone?

As of today, everything is flexible. We were trying to come up with \$2 million - that was our goal. We may have caused more confusion by doing that. We were just trying to make the cities and counties whole. That would be up to you in that aspect, whether or not you give it to them or hold it for the state general fund.

Your group, say in the future, if CMB does go away, do you see a future means to pull those taxes from other sales after the shift.

This only talks about the liquor enforcement tax.

Corbet – there are about 750 liquor stores now. How many would be selling after this?

Same number of outlets for spirits yes. But there would be another 2000 outlets for strong beer, yes.

Frownfelter – do you really believe that 3% will really go back to the cities?

We can only put it in writing. What happens to the money is up to the Legislature.

We have a history of not putting anything back to the locals – look at the transfers we have held up, the machinery and equipment funds, very little makes it back to the locals.

Frownfelter – to woman – do you shop primarily for groceries in Missouri because of the prices? I know they have very low taxes on food.

It is primarily because I like to shop for wine in a grocery store when I am shopping. I do occasionally pick up a bottle of wine in a liquor store if it is more convenient

Kleeb – you had a meeting with the representatives of the small liquor stores. What suggestions were made by the liquor stores at the meeting?

Dillon – I wasn't there.

Riley Scott – had two meeting that the Speaker initiated. There were a series of ideas thrown out in terms of proximity to liquor stores, density, an idea of paying liquor stores for a right to locate near them. From our perspective, we are flexible in what this bill says. This is our best attempt so far, but we are willing to continue to work toward compromise.

Kleeb – so this bill was already in print when you met, but you could work on it some more.

Scott – the bill before you is our bill and I don't want to suggest it includes their preferences. We have been talking to liquor stores for several years and we are listening – trying to incorporate some of their issues.

Kleeb – I would hope the two sides could continue to work toward some compromise, thank you.

Brunk – you had a figure in here that you thought there would be \$70 million in additional taxes?

Dillon – quoting the study by Dr. Hall. He said the study in total from additional employment, some ancillary business around those businesses, removing loss of liquor store income. That was from 2011 – and I don't want to put it out there as something to rely on now.

Brunk – I am not sure how you would justify that.

I'm not much on reading long studies, but this is a short study, and I found it compelling.

He did not consider the 60-70 businesses close to the Missouri border. What was included is that supermarkets tend to employ more people for the work that they do. Often in states where we do sell liquor, we may hire people who are knowledgeable on the product. May need more checkers.

He said supermarkets employ more people – net gain of employment, and pay more, which is true.

Brunk – I continue to hear people say “get rid of the monopoly”, but I am concerned about some of the terms used in the debate. I understand that a liquor store owner can only have one store – and that seems to me to be the opposite of a monopoly. I understand the benefit of using that term for an argument, but it concerns me that it isn't accurate. And when you talk about a free market. Right now, nobody is keeping anybody from opening up a liquor store now if they can qualify. There is no cap now. True?

I agree with you and I have tried to train myself to use the correct terminology. I think the correct description is protectionist laws.

So, you agree that anybody who qualifies can get into the business today.

Yes – one store, no other products.

Billinger – So in the study we are going to sell a lot more liquor?

I don't think he assumes more sales. He assumes the businesses will get healthier as a whole.

Craft beers will improve because they are popular with few outlets. Specialty wines would improve because of more outlets.

Billinger – how many stores?

Dillons has 60 stores – not all of them would probably have a license. Some are small.

I asked our accounting office, in other states where we have bought a license, I have asked how much we have paid. On average, we regularly paid a six-figure number. That's not unusual at all. That's generally the direction of the amount a liquor license would get.

Billinger – what about the sales to 18 year olds?

We have technology and training to prevent underage sales. We push that very hard. We see that as damaging our reputation any time we violate those sales.

Whipple – question to the liquor store owner – thank you for coming forward. We had met before outside my office. You said that change is coming and this was the best deal that liquor stores could get.

Is that still your opinion?

Yes,

It stuck with me that the Legislature makes those changes and chooses if it would change. Would it be best if the bill was voted down for local liquor store owners? Or if this bill will pass?

If I thought that if the bill would come out of committee, be voted down, and Uncork Kansas would go away, absolutely that would be best. It would be best for it to go away. But I don't believe that will ever happen. I don't think Uncork is ever going away.