



Nick Jordan, Secretary  
Doug Jorgensen, Director

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House Federal & State Affairs Committee  
HB 2774

Testimony of  
Doug Jorgensen  
Director, Alcoholic Beverage Control

March 29, 2012

Good afternoon Mr. Chairman and members of the committee. I thank you for the opportunity to present testimony in opposition to HB 2774.

ABC opposes this bill for numerous reasons.

The bill does not specify whether the sale and service of alcoholic liquor to members of the general public at fund raising events takes place on or off the licensed premises. To allow a class A club to sell and serve alcoholic liquor off its licensed premises creates a new class of license. Even licensed caterers must follow proper procedure to sell and serve liquor at unlicensed premises. This bill creates a class of license that could compete with caterers, without all the restrictions caterers have.

There is no requirement in this bill that any procedures be followed or notice given for these fund raising events. These clubs are all non-profit, so arguably any activity could be considered a fund raising event. Under this bill, a class A club operated by a veterans' organization could operate daily like a drinking establishment, without the restrictions to which those drinking establishments are subject. Further, there is no limitation proposed on the location, size or scope of any fund raising event. The bill is, therefore, unconstitutionally broad and vague.

There are currently 19 Kansas counties which do not allow liquor by the drink to be sold in public places. Private clubs may acquire a license to sell and serve liquor by the drink in those counties, but may only sell and serve liquor to members of the club and their invited guests. If this bill includes the class A clubs in those "dry" counties, it would negate the counties' ability to self-determine, under K.S.A. 41-2646, whether to allow the sale of alcoholic liquor by the individual drink in public places. It creates a situation in which the only businesses who may acquire licenses to sell liquor by the individual drink to the general public in those counties are veterans' organizations. Other businesses would be prohibited from acquiring such a license, creating disparate treatment between similarly situated persons which is often ruled unconstitutional.

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Also, the bill creates a problem concerning the 30% food sales requirement 61 Kansas counties have adopted for drinking establishments. Private clubs, like these veterans' clubs, are exempt from that requirement because they are not open to the general public. Under this bill, those clubs would still be exempt even though they are operating like drinking establishments. Again, there is a potentially unconstitutional situation in which similarly situated establishments receive disparate treatment.

We are all aware that these veterans' organizations have been struggling financially over the past few years: The older members are passing on and the younger veterans don't seem interested in joining these organizations. Many of the class A clubs run by veterans' organizations have relinquished their licenses because they can't survive financially by selling drinks only to members and invited guests. As membership in these organizations declines, we can expect more veterans' organizations to relinquish their class A club licenses.

While we appreciate the veterans' organizations for their service to Kansas and our country, and would like to see those groups flourish, this bill is problematic in many ways. There is a simple solution, however, which does not involve any legislative action...

**There is no reason a veterans' organization would not qualify for a drinking establishment license.** The solution to this dilemma, then, is simple...those clubs located in counties which have approved the sale of liquor by the drink in public places may acquire a drinking establishment license. The license fee for a drinking establishment license is \$2,000, versus the \$500 fee currently paid for a class A club license. These veterans' organizations would pay more initially, but could recoup that expense through sales to the general public.

This solution does not help those clubs located in dry counties, but will work for the majority of class A clubs run by veterans' organizations, and more importantly, does not create constitutional and enforcement issues.

ABC therefore, respectfully requests that the committee vote "No" on the passage of this bill. Thank you for considering our position on HB 2774.