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Nick Jordan, Secretary  
Doug Jorgensen, Director

Sam Brownback, Governor

House Federal and State Affairs Committee  
HB 2550

Testimony of  
Doug Jorgensen  
Director, Alcoholic Beverage Control

February 6, 2012

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Good afternoon Mr. Chairman and members of the committee. I thank you for the opportunity to present testimony on HB 2550.

The ABC is neutral on the passage of this bill. However, if the committee votes to send this bill to the floor, ABC requests the bill be amended to incorporate the provisions of SB 288, which addresses, in part, the same statute.

K.S.A. 41-2640(a) contains restrictions on the sale and service of alcoholic liquor. HB 2550 proposes removing subsection (4), which requires the same drink be served for the same price all day.

SB 288 proposes removing subsection (5), which prohibits a licensee under the club and drinking establishment act from increasing the volume of liquor in a drink or increasing the size of a drink of cereal malt beverage without increasing proportionately the price regularly charged for that drink on that day. That language is vague and leads to confusion among both industry and regulators as to its application.

In 2009, some chain restaurants asked ABC to create a comprehensive price policy to avoid conflicting information across regions of the state. When ABC attempted to do so in a policy memorandum it met with mixed support from the industry, but the beer industry strongly opposed it. The policy has been withdrawn until after the legislature has a chance to address the issue. ABC, since withdrawing the policy, has no official interpretation of this requirement. The provision, in its current form at least, is therefore unenforceable.

It is acknowledged that the proportionate pricing requirement was initially adopted to promote temperance through pricing restrictions. However, ABC feels there are better ways of accomplishing that goal, without engaging in arguably unconstitutional "price fixing". Those ways are also addressed in the bill.

SB 288 also proposes a definition of individual drink and individual serving, limiting the amount of alcohol that may be sold in any one drink. This will help prevent over-service and over-

consumption of liquor. Servers will have more contact with consumers as the consumers order more drinks, giving those servers increased opportunities to monitor the intoxication level of the consumers.

Also, SB 288 addresses the serving of beer in ever increasing sizes, which has become a safety issue that can no longer be ignored. Some licensees serve beer in towers containing up to 180 ounces or more. This creates a public safety issue involving over-consumption, DUI, and in some cases, alcohol poisoning. Once the tower is served, patrons may just help themselves without any monitoring by the servers or other staff. The patrons may consume the beer as quickly as they want, creating potentially high levels of intoxication.

State law currently does not specifically address the sale or service of beer in pitchers or beer towers. An amendment specifying that beer and cereal malt beverage may be sold and served in pitchers not exceeding a certain size clarifies the issue, allows licensees to meet the requests of their customers and limits the size of container to avoid public safety hazards.

As a matter of convenience and efficiency, it is appropriate for the committee to amend HB 2550 to include the provisions of SB 288, a copy of which is attached to this testimony.

Thank you for considering favorably our proposed amendment.