

HEIN LAW FIRM, CHARTERED

5845 SW 29th Street, Topeka, KS 66614-2462

Phone: (785) 273-1441

Fax: (785) 273-9243

Ronald R. Hein

Attorney-at-Law

Email: rhein@heinlaw.com

www.heinlaw.com

**Testimony Re: SB 276
Senate Federal and State Affairs Committee
Presented by Ronald R. Hein
on behalf of
Kansas Restaurant and Hospitality Association
January 24, 2012**

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Restaurant and Hospitality Association (KRHA). The Kansas Restaurant and Hospitality Association, founded in 1929, is the leading business association for restaurants, hotels, motels, country clubs, private clubs and allied business in Kansas. Along with the Kansas Restaurant and Hospitality Association Education Foundation, the association works to represent, educate and promote the rapidly growing industry of hospitality in Kansas.

KRHA strongly opposes SB 276. The State of Kansas has adopted legislation imposing qualifications that are expected on employees hired by drinking establishments, and the KRHA believes it should be the responsibility of the state to pay for and to supply the necessary background checks required to effectuate the provisions of their policies.

If the background checks are not going to be undertaken by the State of Kansas, then the employers should not be held to a standard that basically guarantees the qualifications of employees that it hires, which the language in SB 276 would require.

To require an employer to be responsible for both knowingly and unknowingly hiring a person who violates the standards imposed by the state is, in our opinion, unfair and unjustified.

In discussions that we have had with the Kansas Department of Revenue's Alcoholic Beverage Control Division (ABC), they have indicated they are willing to amend the legislation to provide for a Safe Harbor for operators of drinking establishments, but the legislation would still impose the responsibility for conducting background checks upon the business owner, which can be a significant financial burden.

Lastly, the KRHA questions many of the regulations imposed on drinking establishments regarding background activities of employees in certain liquor industry employee positions. For example, it is illegal to hire an employee for certain positions where that

Senate Public Health and Welfare Committee
Testimony SB 276
January 24, 2012
Page 2

individual has been convicted of a DUI. One can be President of the United States with a DUI; or a state legislator; or even a Director of the ABC. To require such a provision simply to be an employee of a drinking establishment is, we believe, a requirement that does not appropriately meet the requirements of a statute which is that the statute must be designed to protect the general welfare of the public. Here, the requirement seems to be substituting the decision that should be more properly made by the employer, by usurpation of that responsibility by the state government.

The KRHA will not make specific recommendations for changes in the statutes at this time, but does want to put this committee on notice that we believe that business owners engaged in running restaurants where alcoholic beverages are sold should be permitted to run their businesses based upon their good judgment, without state government putting restrictions on them that do not properly protect the public from harm, and are, instead, simply rules and regulations that make it more difficult for the business owners to operate their businesses.

The KRHA looks forward to a continuing dialogue with the ABC and the legislature regarding some of these issues.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.