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House Committee on Commerce, Labor, and Economic Development

House Bill 2206

Testimony of Director Dean Reynoldson

Alcoholic Beverage Control

March 7, 2013

Chairman Kleeb and members of the committee. Thank you for the opportunity to describe the impact of House Bill 2206 on ABC. ABC is neutral on the bill but would like to share concerns we have about portions of the bill and suggest potential changes to address our concerns.

New Section 2 deals with the transfer of licenses. We respectfully suggest an amendment to clarify that the \$50 application fee that is charged for new license applications applies to license transfers as well. We also suggest raising the proposed transfer fee from \$25 to \$100. Before ABC can approve a license transfer, we must ensure the transferee is qualified to hold a license. The application and increased transfer fees will help cover costs associated with ensuring the transferee candidate is eligible to receive a license. Also, New Section 2 should be amended to clarify that the transfer fee is not refundable. And lastly, we recommend that New Section 2 be amended to clarify that, should the second half of the 2-year license fee become due while the application for a transfer is being processed, the transfer will not be approved until the outstanding license fee is paid.

New Section 4 would provide authority for the director to propose regulations to limit the number of licenses issued each month to what can be reasonably processed based on ABC resources. When the number of businesses desiring a liquor license far exceeds our ability to meet the demand, there will be applicants unhappy with our process cycle time. In his testimony

on last year's grocery store bill, former ABC Director Doug Jorgensen proposed a lottery system wherein the applications would be put in a batch and ABC would process them in the order they pulled out of the batch. If New Section 4 became law as it is written, we would likely propose regulations for such a lottery system. We recognize that it would benefit both ABC and the chain stores to have all their licensees across the state on the same license cycle, so we would issue however many licenses the applicant has applied for when that application is pulled from the batch.

We recommend amending New Section 4 to prohibit the filing of new applications until January 1, 2015.

Section 5 requires liquor retailers to use age verification technology whenever a person who appears to not be more than 27 years of age attempts to buy liquor. It further requires that the technology be "consistent with nationally recognized industry standards for making such determinations." ABC encourages licensees to use available tools to avoid the sale of alcohol to anyone under 21 years of age. This section, however, is subjective and unenforceable. Whether a person appears to be under 28 years of age is subjective. It would also be subjective to determine what the "nationally recognized industry standards" would be.

Section 10 limits the sales of liquor stores to liquor and lottery tickets until July 1, 2015 but it allows convenience and grocery stores to sell liquor and any other goods or services once they have a license, which could be as early as January 1, 2014. This seems contradictory to us.

Section 11 changes the word "person" to "individual." One of the consequences of that would be that subsection (a)(11) would exempt a corporation or an LLC from having to have a lease agreement in place before qualifying for a license, unlike a sole proprietor. We recommend leaving the term "person" as it applies to subsections (3), (8), (9), (10), (11), and (14), as those provisions could apply to an individual, partnership, corporation or other business association.

Section 11(b)(4) 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 is 5%. Anyone owning 5% or more of an on-premise business must qualify for the license. A convicted felon or a person who has had a liquor license revoked is currently

ineligible for a liquor license. Section 11 would allow such individuals to own up to 25% of the business. For example, four convicted felons could 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. Section 11 would also allow a corporation or an LLC that has had a liquor license revoked to be eligible for a new license.

ABC proposes to adopt the language from the club and drinking establishment act, specifically K.S.A. 41-2623, for licensing qualifications of corporations, trusts and partnerships.

Finally, in Section 10, the provisions relating to “co-partnerships” in subsection (b)(5) and “trusts” in subsection (b)(7) are deleted. We currently have active liquor licenses which are held by trusts or partnerships. This deletion would make those entities no longer eligible to hold those licenses. We request keeping the stricken sections currently in (b)(5) and (b)(7) in the final bill.

Thank you Mr. Chairman for considering our suggestions.