

Tim Liesmann
1547 SW Glick Road
Topeka, KS 66615
785-218-9008

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Testimony submitted to the House Committee on Commerce, Labor and Economic Development

Dear Chairman Kleeb and Members of the Committee:

I am an attorney with a private practice in Topeka and I work part time for a neighboring county. Almost one year ago, I wrote a letter to the Committee on the exact issue that is before you again. As you know, the thrust of the Uncork movement is the same this year. They are pushing liquor sale expansion under the guise of free market principles and increased competition.

As socialism and crony capitalism makes its advances at the national level, we have to be very wary of well funded efforts at the local effort that appear to appeal to some of our most deeply revered principles such as free market enterprise and competition. The reality of the Uncork movement, is that it is attempting to overhaul an area that was never a free market, nor ever intended to be by anyone, conservative or liberal. It is a highly regulated and government controlled market that Uncork is simply seeking to put in the control of a handful of companies. The principles that might make sense in home improvement markets or electronics do not apply well to intoxicating liquors. Additionally, a rule overhaul that takes place over a relatively short period of time will always play to the favor of well capitalized large businesses. In other words, Uncork is not fair, not competitive, nor is it an example of a free market push.

As I read the new bill, this is clearly not deregulation that advances the free market, but rather, reregulation that helps a handful NYSE listings. As their stock prices are inflated by the Fed's endless digital creation of money, it is not surprising they have a yearly well-funded push for beneficial legislation. The same money printing that is helping the NYSE corporate bases has been devaluing the assets and income of Kansas family owned businesses and cash holdings. We are in interesting times where the bond between big business and big government is getting to the point where we have to maintain balance. This is especially true, when forces out of our control (in D.C.) are giving an unfair advantage to big business. I suppose it is probably fairer to say that D.C. is harming all business, but they are harming small business disproportionately. I argue that we should not exacerbate the problem.

Proponents of Uncork have argued that allowing big box stores and large grocery stores to sell liquor will give economy of scale advantage and will allow those stores to sell to consumers at a reduced cost. Economy of scale advantages usually do result in price decreases, however, they typically come with consumption increases. Do we actually want to sell substantially more liquor in Kansas? I realize the individual businesses on all sides of this issue do want to sell more to help their ticker tapes and families, but the legislature needs to consider if it is prudent to put regulation into force that will result in significant increases in the sales of alcohol. Is that what we want? How will you react to that? Will you regulate excessive advertising at grocery stores where little kids are abundant? Will you increase taxes? I imagine that the legislature may end up doing things to reign in big box stores down the road, negating

consumer advantages in the near term. Of course, big box stores will be just fine with that, once their competition is out of business. This is what happened in the car industry where the big three welcome stringent regulations (traction control, side airbags, crash testing) that they can comply with and that take immense capital to deal with while startups languish and fail. Tucker's car was killed by the SEC in 1948, Fisker Karma was killed by the EPA in 2013, and Chrysler has been bailed out twice.

Getting input from big business on regulation is not necessarily a bad thing, and big business can be a very good thing. But we cannot confuse a sudden application of the same rules to all business as being a level playing field or fair competition. Many years ago, Kansas split general retail and liquor. Grocers and retail stores were allowed to open multiple locations and since people buy more non-liquor product than liquor products, those businesses were allowed to get huge (and actually sell some alcohol products). Meanwhile, liquor stores were relegated to one product, one store, and a stringent set of rules including employee age restrictions, employee criminal background restrictions, and hours of operation. This of course meant that liquor store businesses remained small, while grocers and general retail businesses got huge. So when you suddenly apply the same rules to both of them over just a few years, is that really fair competition? Do you trust that these companies wouldn't engage in predatory pricing?

As I look at my letter from last year and recall the rhetorical tactics of Uncork at the time, I realize they have made some clever shifts of emphasis while pushing the same ideas. Last year, my letter criticized the Uncork website where their "Supporters" page contained only thirteen businesses, three of which were Kroger brands. I doubt they read my letter but I noticed they removed that. Additionally, they seem to have toned down the monopoly accusations they were launching toward the current system. Obviously, the one license per person requirement that currently exists destroys any dream of a liquor store monopoly. And frankly, anyone with common sense knows that the number of businesses in the liquor business will decrease long term. Walmart and Kroger screaming monopoly at Kansas families is absurd.

Also keep in mind that the alleged increase in competition will largely be from out of state. Logistics, transportation, and other support work will be almost exclusively out of state. Will Walmart get general legal advice from a local attorney like me, or use a local accountant? Or, will that business go to Bentonville, Arkansas?

As a conservative, I value free market principles and I am a huge Walmart and Dillons fan, but Uncork is not something that will benefit Kansas, Kansas families, or Kansas businesses. And let's be honest, Kansans are not exactly worked up about not being able to get liquor at their grocery store and instead have to go to the liquor store right next to the grocery store. Let's keep it corked.

Sincerely,

/s/ Tim Liesmann
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