

ALCOHOL PRIORITY GROUP

March 7, 2008

1:00-2:30

Attending: Carol Seager
Heidi Garcia
Jenny McKee
Chris Stoppel
Kara Boston
Amber Long
Michael Harrity
Leslie Rhoton
Mindy Rendon

Guest Speaker: Diana Robertson introduced Phil Bradley from the Kansas Licensed Beverage Association (KLBA), and then asked the group to introduce themselves to Mr. Bradley.

Background

Mr. Bradley grew up in Lawrence. He then moved away for some time. He has several degrees. His emphasis has been in business consulting and economics. He returned to Kansas to take care of his father, eventually relocating here and retiring. He has many friends in the hospitality industry who own hotels, restaurants, and bars. He was asked to help them out knowing he had also worked in politics and lobbying. His association started very simply and has since then become very, very complicated in the twelve years he has been in business. His organization, the Kansas Licensed Beverage Association, is a professional trade organization of anyone who serves beverage alcohol on premise. He has a few off-premise members as well. The differentiation is on-premise means you get it in the glass, drink it there, and do not take it out. Off-premise means you buy it there and you take it somewhere else to drink.

Definition of alcohol

The KLBA deals with what in the industry is called “real alcohol” mostly which is items you buy in liquor stores, in clubs, hotels, and those types of places. There is another level of alcohol in the state of Kansas which is CMB or cereal malt beverage which can be purchased at convenient stores and grocery stores. There is a huge, legal differentiation and argument about how much actual differentiation there really is. CMB was created when the citizens of the state of Kansas would not vote to repeal prohibition, so the legislature had a large number of the citizens, about half and half, that wanted to be able to have access to legal alcohol and they could not get the votes to repeal it. Therefore, they created something in our constitution as a non-intoxicating beverage called cereal malt beverage which is beer or sometimes wine cooler-type beverages that contain less than or no more than 3.2% by weight of alcohol. All other alcohol in the world is based on what percentage of alcohol content it has by volume. Alcohol weighs less than almost

anything, including water, as it is a smaller molecule; therefore, alcohol by weight is a higher content than it is by volume. The KLBA deals with alcohol on-premise which includes hotels, clubs, catering services, microbreweries, bars, taverns, restaurants, farm wineries in which alcohol can be purchased and consumed on premise.

Presentation

Mr. Bradley spoke to the committee about what his presentation would cover. He submitted to the committee a disk containing information to include his slide show, his on-premise server training program called BRASS, and there is also, as of 2006, all the Kansas Liquor Laws, an alcohol primer on the 3-tiered system, and an alcohol primer on direct shipping of wine.

Mr. Bradley recognized the committee is concerned with the effects of alcohol on the student body/citizenship of KU. He shared some basic facts and premises in which he operates under:

- There has been a very credible study done just two years ago that over 65% of the alcohol of the underage people who obtain alcohol to consume obtained it not from purchasing; they obtain it from friends or family, and in that friends' category is also bribing an older friend to go buy it for them in a liquor store. It is a very important figure. The studies in the state of Kansas show the figure is low for Kansas, primarily because of the type of laws in the state of Kansas. There are some exceedingly strict liquor laws in the state of Kansas. Possession is also a violation, so the minute she has it in front of her or in her hand, a law has been broken. There is a criminal law for providing, and that is in the criminal code. Strangely enough that law is almost never prosecuted, especially when it is not an employee; however, on another criminal law, I have just broken a law even though I was in the kitchen because it is knowingly or unknowingly providing someone underage alcohol on the licensed establishment, so there are a lot of criminal charges pending against me, and that law is almost always filed. There is another avenue, and it is called an Administrative charge. That is against the bar for allowing a minor to have possession of consumption. That goes down a whole different track against their license, so we have a standard of knowing and unknowing. It is a terribly harsh standard. There have been some attempts to make it more common with other states. Whether it does or doesn't is irrelevant to us right now; that is where it is.
- The liquor licenses in the state of Kansas are privileged the same way your driver's license is a privilege. In order to get one, you sign away your life and many other things, and you agree to abide by all the rules. It can be taken away just like your driver's license for virtually no reason. They do not have to enumerate anything except they do not think you are a responsible character or you have followed the rules closely enough. Of course, anyone can sue anyone else, and the licensee can sue the state, but the director of the ABC has the right to take a license at any time. The agent also has the right to enter any licensed premise anytime anyone is in the building whether you are opened or closed. There are numerous rights they have and law enforcement has all of those rights as well. Mr. Bradley shared this information not to impress the group of how well

the system works, it works fairly well, but there are bad actors out there, too. There are many, many bad actors. There are a little over 3000 liquor licensees in the state of Kansas, and Mr. Bradley represents their interests. There are about 750 liquor stores. There is another association who works with them, and there is an additional number which the KLBA does not have a handle on because they do not have to file the same way and that is the CMB establishments, i.e. grocery stores, convenient stores, and taverns like Pizza Huts that do not serve any other alcohol but CMB beer. Those establishments are licensed by the city and county, not by the state and also controlled; therefore, it is a little hard. The estimate is 3200 of those types of establishments.

Mr. Bradley stated he was trying to impress upon the committee how many people are operating establishments and there are good and bad. He tried to impress upon the committee it is in the good operator licensee's best interest to do every thing within their power to make sure they do not serve someone underage. It does not make economic sense for them, even though the standard line is, "Oh yeah they love to serve all of those kids up there because they make a lot of money on them." They really do not make a lot of money, and all they need is one violation, if it is flagrant enough or if the director has it in his mind the establishment is trying to serve, they lose their license. In the state of Kansas when you lose your liquor license you lose it for life.

Diana Robertson asked if the license was issued to an individual. Mr. Bradley stated every liquor license has to have an individual name on it. Many times if the individual does lose the license, then sometimes a spouse comes back and applies. The state takes this into consideration. If there is a close relationship or if they feel there is an invisible relationship of a criminal nature, and then they do not issue those licenses anymore. That is why many of your favorite places or places you see which may not be your favorite places change names fairly often. The establishments either accumulate violations or things and they take care of it. Sometimes the name can stay the same because you are allowed to do a DBA even though the licensee is a different person and the license has changed.

Carol Seager asked if the license has to be renewed, and Mr. Bradley stated the license has to be renewed every year. Mr. Bradley also stated they are the only business other than gambling that also is required to put up a bond to make sure they pay taxes. Alcohol is taxed four times before you consume it. Unlike any other tax like sales tax or business taxes, it is not a deductible tax item, meaning even though there is a federal tax, there is a state gallonage tax, there is an excise tax as the 8% you pay at the liquor store, and an additional 10% tax when you purchase the drink. Every one of those taxes is compounded, so by the time you get to the drink stage, you are paying a tax, on a tax, on a tax, on a tax. The state of Kansas last year made almost \$95,000,000 in taxes out of alcohol.

Mr. Bradley restated over 65% obtain from friends and family. If you want to get the greatest impact for your time and effort, concentrate on those types of

transactions whether it is stealing it from their parents, whether it is getting someone to buy it from them, whether it is getting it from a friend, uncle or aunt or anyone else, that is where you will get the most type of return for your investment of time and energy.

Something that is growing exceedingly fast is internet sales. Even though it is supposed to be illegal and you are supposed to do all sorts of things, if you Google it, you can find numerous, numerous reporters, including one in Kansas City and Chicago very recently who have had a credit card and ordered internet alcohol and had it delivered to a doorstep. They have given it to kids, people obviously underage, as long as they have signed for it. More and more underage people are accessing their alcohol that way.

Mr. Bradley stated these are the two largest categories for people to get alcohol.

The reason it is very popular to look at, “Well, what can we do about the bars, because the bars are definitely the culprits here?” They are very visible. At any given time, even though they have video machines, they have trained door people, they know they can get in trouble, the fines are huge and close days are huge, at any given moment you can walk into a popular student spots in this city, and given enough time, you will find someone in that bar who has used a fake ID to get in or borrowed an ID. More often than not now, it is turning into borrowing or recycling of IDs. Mr. Bradley explained vertical driver license (ID) for those who are under 21, a law which he got passed. Unfortunately when people go into get their horizontal driver’s license, and most students do that shortly after they turn 21, they are supposed to surrender their horizontal ID which is still valid and good, but they are not. Mr. Bradley got another law passed in which any ID issued after July expires on their 21st birthday. Right now the IDs are still good, and when they come in to get their horizontal ID, strangely enough they have lost their vertical ID. They do not turn it in and it does not get destroyed. Mr. Bradley tends bar occasionally and is aware the vertical IDs are matched up with people to use. Mr. Bradley stated another area to look at false ID manufacturing or recycling. It happens 50 times more in college towns than it does in any other town. He believes there is a link.

Carol Seager asked for clarification of the use of IDs. Mr. Bradley stated the vertical IDs are for people under 21, but they do not have an expiration date; therefore, people may be using them as their ID after they have turned 21 because the ID is still valid. Mr. Bradley stated the law changed last July and now the vertical ID expires when the individual turns 21, but there are still several IDs out there which will not expire for a long time, so people may give there vertical ID to somebody to use since they have their new ID which is horizontal.

Mr. Bradley’s organization prefers face-to-face training. Members are also encouraged to start videotaping at the door, especially in college towns. They are videotaping not only the ID that they present but then presenting the ID to you

and a close enough color picture of the ID to use for verification. There is an affirmative defense in the law, if you present a credible fake ID or credible recycled ID (i.e. older brother) and you served them any way, you can present a defense. It does not get you off of the hook, it may reduce the penalty, it may make the charge get dismissed, but it is an affirmative defense. It is not an excuse out of the law or the violation.

Another area that has been a real problem is the length of time driver's license are good. As a cost saving measure, mostly, the time a driver's license is valid is being extended so it is harder and harder to do an interpolation off of that photograph if the individual got a driver's license at 16 or 18 and now the individual may be 25, and although it is very valid and real, they get mad at the bars because they will not be served since the picture does not look like the individual. It is a real problem here because so many people are coming in from other states. Arizona has a class of license that is good for 20 years.

Following are a couple of programs that the KLBA do already:

*It is hard to do a state-wide program since every city is different; every university runs a different situation, so it is really difficult to do a state-wide program.

Heineken runs a Safe Ride program, and KLBA works with them on that. Standard Beverage Corporation which is a large distributor runs Safe Ride in Wichita.

Tipsy Taxi in Lawrence: Members participate on an individual basis. KLBA willing to try to expand those for those that have already over consumed legally. Tipsy Taxi is available during the holiday season to get a taxi and it is free. The bar will call it for you. It is paid for out of grants. He stated a little known fact is that it is pretty much available all of the time until the money runs out. All donate into it, and as long there is money available you can get it pretty much year round. It depends on the usage. You just ask the bartender to call and they do that. Mr. Bradley stated they would like to participate in more of those, but most people when they are in that state are unwilling to wait.

Mr. Bradley stated as an organization they may decide to participate in a program, but then it is up to each member to decide if they are going to participate. He said he has never had anyone refuse to participate in a program that works well and is lined out well. Many people refuse if there are programs that look like they throw all the responsibility on the establishment, so anywhere people are trying to work together to do good. When it is come in "it's your fault, and we want you to take are of it", I get a lot of push back. Mr. Bradley stated that all licensed members in the state of Kansas are not members of his organization. He has a substantial portion but cannot divulge that information.

Diana Robertson asked about designated driver programs. Mr. Bradley stated he has been trying to find the "silver bullet" for that. Almost all of our establishments will give away free soft drinks to anyone who is a designated

driver. Many of them will also give away food if they serve it for that. Some of them have buttons or coasters they put out for people to use as a designated driver. Some ended up lying about being the designated driver. When you offer free drinks, food, etc., you suddenly have 90% of customers being designated drivers.

In the state of Kansas you cannot give away alcohol free. Alcohol must be purchased. There has to be a paper trail. The paper trail indicates taxes got paid. We have to collect and report the 10% drink tax.

You are not allowed to sell alcohol in the state of Kansas below costs plus tax. You can sell multiple drinks to a person but you cannot sell it to an obviously incapacitated person. You are not allowed to sell to disorderly people.

Mr. Bradley stated every time a program is put in place it gets abused. Also there are instances where drinks are being given to the designated drivers by friends or people are smuggling alcohol into the bars. It is usually in small containers. Mr. Bradley helped get a law passed against AWOLs which is alcohol without liquid. The alcohol is put in something such as an inhaler. Also, there is a new soft container which contains a shot of alcohol. The packets look like ketchup. Many items such as the soft containers cannot be detected through searching which means every time they come up with a program they feel is working, there is another alternative. Mr. Bradley stated under 21 patrons either wear a bracelet, have their hand marked with a green pen, etc., to be identified, but a friend will buy them a Coke, and then empty the contents of a soft container in it, therefore, going undetected by servers. Diana Robertson asked who was selling soft containers, and Mr. Bradley stated there are a multitude of manufacturers. He does not feel they are for sale inside the state of Kansas but they are in Missouri. Carol Seager asked Mr. Bradley if the people who are using the soft containers are included in the 65% who are not getting alcohol through direct sales. Yes, but not when they consume it on premise. We took any consumption on premise whether it is legal or illegal out of that percentage. The bar is still responsible even though they did not sell it to them. If they are consuming alcohol within the premises, they are guilty of a crime, an administrative charge. Every Thursday there is a hearing of the ABC, and then one Thursday a month there is a hearing held at the law enforcement center with people with alcohol charges.

Chris Stoppel asked Mr. Bradley if his association ever addresses what is happening inside the bars as far as special drinks nights for women, etc. Mr. Bradley stated within the disk he presented at the beginning of his presentation is a slide including what you can and can't do legally, and there are some pretty severe restrictions on advertising as well. Johnson County is concentrating more on house parties because they are seeing a lot of the underage drinking shifting because we are doing a better job. We have an 82% compliance rate according to the law enforcement people who do bar checks in the state of Kansas, meaning when they go in and try the right thing happens. It is not perfect, but it is getting better. The

best tool is competitors. Mr. Bradley stated he gets 4-5 calls a week from a licensee who saw a newspaper ad for another licensee and he is worried that this is not legal and it may or may not be, but Mr. Bradley follows up and tries to correct it. He gave other examples of illegal advertising such as buy one, get two free. Mr. Bradley said they discuss advertising all the time. He used the example of "The Wheel" as one of the oldest bars in Lawrence as being an establishment and stated it is hard to draw the line between good fun and bad fun in terms of celebrations (i.e. KU Orange Bowl). He said they have tried all kinds of things such as more security personnel, but recently a few years ago they passed another modification of the law of what owners could actually do to people inside establishments regarding restraint, escorting the person out. He said you can escort them out but you cannot touch the person being taken out. Mr. Bradley stated in some cases it is not the licensee in the case of "Last Call" but the actions or lack there of an individual. He said once you lose your liquor license you lose a whole lot of "gotcha laws" you had before. All of a sudden the city has to prove probable cause and get search warrants to enter the premise which you do not have to do with a liquor license because you are guaranteed in.

Diana Robertson asked Mr. Bradley what the criteria is to get a license. Mr. Bradley stated it is an extensive process. You have to fill out an application. Applicant, immediate family, including spouse, have to have a background checks. You cannot have a liquor license if you have a criminal background or a moral charge or conviction (i.e. gaming, prostitution or alcohol. If you get a DUI, you're in danger of losing license. Also as a server, you are not allowed to serve if you get an alcohol conviction or any of those other things. Once you make the application, you have to tell where you are going to have the liquor license at, you have to produce copy of the lease or the ownership documents, you have to have a map outlining exactly where and where you are not going to alcohol and how you are going to control those circumstances, and then you have to present zoning, its legal in the city, and have a document from the city that where you want to put the establishment is legal. That is the application process. Then it gets reviewed by the state for all of the different criteria they review it for. There is a \$1000.00 fee up front. There is a minimum of a \$1000.00 bond the first time on a new license. If you are putting your place in an establishment that has already been in existence, they will take the average tax revenue from the past 3 months and that will be the bond. In some places in this town and in Kansas City and Wichita have a \$25,000 bond or larger out there that you have to put up to guarantee that you will pay the liquor taxes. If you go 24 continuous months which means its an annual renew 3 years, paying everyone of you taxes, never having a violation, never getting caught or cited by anybody for anything and always paying on time, you can get your bond relieved, but it will be reinstated the first time a violation happens. There is no mandatory training in the state of Kansas. Mr. Bradley trains thousands of people a year personally. There is always talk of mandatory training but Kansas is a "right to work" state. The KLBA is working with the ABC to create more training availability. There is a free training that goes on here almost about every 2 or 3 years. The last two times it has been at Abe and Jakes and it

has been opened to any citizen but basically licensees and employees and it is server training.

Br. Bradley then spoke of the hospitality business. He said it is a very low margin industry. He said by the time you take the overhead, labor for people, and the tax, another additional 10% right off the top, the margin on that is pretty low.

Carol Seager asked about special events; how it contributes to alcohol usage whether it is a football game or basketball game or anything like that. Focusing on that part of the Lawrence experience, do you see anything the University or anything we could be doing around those special events times that might be unique to that experience that would be helpful in the community as a whole. Mr. Bradley responded by saying alcohol is an extremely specialized trade. It has laws that are just incomprehensible to anyone else and practices that are incomprehensible and business things that you need to do that in normal business would say you cannot do that. Since it is such a specialized area, I would recommend anytime there is a specialized event they be required to be licensed or permitted. There is a temporary permit you can get through the state of Kansas. It calls attention to a lot of the alcohol laws and puts them on notice; therefore, it also notifies the state which notifies law enforcement that these special events are going to occur. It puts them under a circumstance which if you won't allow any special event that is serving alcohol that is not temporarily permitted or licensed then they know they need to follow the rules in order to get there. Special events are tough. The other part is unless it is absolutely necessary to have a separate, tented location for special events, drive them to already licensed establishments. These facilities have their own license. They know if they lose their license they lose their business; therefore, they work especially hard to make sure that all the practices that occur inside are under their umbrella as a caterer happens the right way. It is when you get people outside of that you get problems. Mr. Bradley worked the last 3 years with the Wakarusa Fest training their volunteer people who nonprofit groups sell their beer for. Mr. Bradley has been working on training them and working with them on how you need to do this.

Mr. Bradley stated the KLBA works hand-in-hand with the law enforcement groups in the state of Kansas as well as with the DCCCA groups and training. He said the KLBA does as much training as they can. Alcohol is a huge turn-over industry too. It is hard to train people and get them to stay.

For future resource, Mr. Bradley stated part of the 10% excise tax, \$0.07 out of every \$0.10, 70% comes back to local community. It is divided into special funds. Some of them are recreation, but there is a special fund in Lawrence called "The Special Alcohol Fund." Most of the money goes to the prevention groups like DCCCA. They are very jealous of it and guard it very closely. The money is charged for prevention programs. It is substantial like 500,000 a year. It was 575,000 last year, and 90% of it goes to treatment programs now. Mr. Bradley stated if more went into prevention there may not be as many people to treat.

The committee thanked Mr. Bradley for coming.

Mr. Bradley stated he would like to work with the group in anyway he can.

Sub-groups: The sub-groups broke into two groups and worked on grids for the remainder of the meeting.

Next meeting: March 28, 2008, 1:00-2:30, #301 Relays Room, Burge Union
Guests: Officer Trent McKinley, Lawrence Police Dept.,
Neighborhood Resource Officer
Jen Brinkerhoff, Director of Prevention, DCCCA