

HIGH PLAINS INC.

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Testimony to the House Commerce, Labor and Economic Development Committee

February 17, 2014

Re: HB 2556

Dear Chairman and Committee:

My name is Seth Fox and I am the owner/operator of High Plains Distillery in Atchison, Kansas. High Plains Inc. is proud to be in Kansas we are a family owned and operated company and the first bottling distillery in Kansas since 1881. High Plains has federal permits for distilling, rectifying, bottling, warehousing, wholesale and importing.

My wife Dorcie and I decided to start a distillery in 2005 and now with my daughter Sierra and son Hunter Fox, this idea has grown into a great but hard business. The Fox family has been in the distilling business for 7 generations, but we are the first to turn it into a legitimate business. What started with Most Wanted Vodka and has grown to 8 Kansas made products packaged in 5 sizes. We also package private label products for brands in other states. The spirits industry is one of the most competitive markets I have ever been in and is quite hard to make a sustainable and growing business in.

House Bill 2556 creates concerns for our business in a number of ways. First, the bill is designed to move the majority of retail alcoholic liquor sales into corporate chain grocery, convenience, and other retail stores in the upcoming years. This transition will move the majority of consumer transactions into venues where the smaller producers are at a disadvantage when it comes to gaining shelf space and featured product positioning. While this legislation does not address practices such as paying for shelf space or volume discounts, the changeover of retailers will bring those issues into question – meaning that the Legislature will either need to change those laws or provide additional enforcement to prevent those practices which are considered standard operations among the big retailers nationwide.

Second, the bill does not seem to consider the possible effects on other tiers of the regulated industry. It is likely to be very difficult to get our products on the big store shelves, but this legislation has the potential to make it even more difficult for me to get my products into the restaurants and other on-premise establishments which is a key marketing component.

Third, if the debate on House Bill 2556 takes a left turn and turns this bill into a Beer or Beer and Wine only bill, there will be even less customer access for not only my products, but for all spirits. Fewer retail liquor stores means fewer people seeing our products displayed and advertised.

To help create more jobs and help us bring more money in from other states via Kansas products there are a couple of simple things that could be done

It is impossible to compete with all other states around Kansas because the manufacturing regulations will not allow me to build inventory without paying the tax for the inventory before withdraw for sale. All other states allow manufacturers to pay upon withdraw of product just like the federal regulations and not pre-production, this is what the bond is suppose to cover. (amend the regulation to say: tax to be determined upon withdraw of finished product from bonded primes)

Any bulk alcohol for production should not be pre-taxed before a product is processed and removed from the bonded premise for sale. Under federal regulations this is a "transfer in bond" movement and is not even considered a viable product until it has been processed according to federal approved formula and filled in a approved container

with a federal approved label. (amend the regulation to say that any bulk alcohol for beverage purpose will not taxable until it is processed into a product and removed for sale from the bonded warehouse.)

Please do not pass House Bill 2556 as is. Our products will not be as available to Kansas consumers, as the liquor business will be dominated by retailers that focus on large national brands and have very limited shelf space. While liquor laws are unique in most states, Kansas is not alone in having a three tiered liquor system designed to allow private retail sales, while still having effective regulation. The state would also start to see deterioration of Kansas Products and Jobs and the control in the environment that HB 2556 would create.

Thank you for your attention to our concerns. I look forward to the opportunity to visit with you further about this issue. Please feel free to contact me at 913-773-5780.

Sincerely,

A handwritten signature in black ink, appearing to read 'Seth Fox', written in a cursive style.

Seth Fox

president High Plains Distillery