

SESSION OF 2016

**CONFERENCE COMMITTEE REPORT BRIEF  
SENATE BILL NO. 326**

As Agreed to March 24, 2016

**Brief\***

SB 326 would amend several statutes related to the production of alcohol.

***Microbrewery Production Limits***

The bill would increase the amount of beer that could be manufactured with a microbrewery license, allowing production of between 100 and 60,000 barrels of domestic beer in a calendar year for each microbrewery license issued in the state. The bill also would specify that if a licensee has a 10 percent or greater ownership interest in one or more entities that also holds a microbrewery license, the aggregate number of domestic barrels manufactured by all licenses under such common ownership could not exceed 60,000 barrels. Under current law, each license allows the production of between 100 and 30,000 barrels of beer in a calendar year.

The bill would specify that a microbrewery licensee that also is licensed as a club or drinking establishment could sell and transfer domestic beer to that club or drinking establishment. Microbrewery licensees with 10 percent or greater ownership interest in one or more entities that also hold a microbrewery license would be allowed to manufacture and transfer domestic beer between the microbrewery licenses with common ownership for storage or sale.

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\*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

Microbrewery licensees also would be able to remove hard cider produced by the licensee from the licensed premises for delivery to licensed wine distributors.

### ***Production of Hard Cider***

The bill would allow a microbrewery to manufacture and distribute not more than 100,000 gallons of hard cider. Under current law, microbreweries may manufacture only beer.

The bill would define “hard cider” as any alcoholic beverage that:

- Contains less than 8.5 percent alcohol by volume;
- Has a carbonation level that does not exceed 6.4 grams per liter; and
- Is obtained by the normal alcoholic fermentation of the juice of sound, ripe apples or pears, including such beverages containing sugar added for the purpose of correcting natural deficiencies.

The bill would require no less than 30 percent of products used by a microbrewery to manufacture hard cider be Kansas-grown products, except when a lesser proportion is authorized by the Director of Alcoholic Beverage Control (Director). This lesser proportion of Kansas-grown products would be authorized based on the Director’s findings and judgment and would be determined based on the annual production of hard cider.

The bill also would amend the definition of “wine” to include hard cider and any other product commonly known as a subset of wine.

### ***Residency Requirements***

Finally, the bill would amend the Liquor Control Act to remove the one-year residency requirement for microbrewery, microdistillery, and farm winery licensees. Microbrewery, microdistillery, and farm winery licensees would still be required to be Kansas residents.

The portions of the bill dealing with the production of hard cider would be effective on January 1, 2017, and after publication in the statute book. All other provisions of the bill would be effective upon publication in the statute book.

### **Conference Committee Action**

The Conference Committee agreed to the provisions of SB 326, as amended by the House Committee on Federal and State Affairs, with two technical amendments. The Conference Committee also agreed to add the provisions of the following bills:

- Sub. for SB 277, as recommended by the Senate Committee on Federal and State Affairs, addressing the production of hard cider by microbreweries; and
- SB 379, as amended by the Senate Committee on Federal and State Affairs, related to one-year residency requirements for microbreweries, microdistilleries, and farm wineries.

### **Background**

This Conference Committee Report would include the contents of SB 326 and add the contents of Sub. for SB 277 and SB 379.

## **SB 326**

At the hearing before the Senate Committee on Federal and State Affairs, a representative of the Kansas Craft Brewers Guild appeared in support of the bill. He testified that increasing the cap on microbrewery production would allow the microbreweries in the state to continue growing as microbreweries, keeping jobs, production facilities, and income in the state. Written testimony in support of the bill was submitted by a representative of Tallgrass Brewing Company.

The Interim Director of the Division of Alcoholic Beverage Control (ABC), Department of Revenue, offered neutral testimony on the bill. She requested, if the Legislature moves forward with the bill, production should not be increased beyond 60,000 barrels per year under a microbrewery license in the future.

No testimony in opposition to the bill was presented at the hearing.

The Senate Committee amended the bill by adding language specifying that if a licensee has 10 percent or greater ownership interest in one or more other microbrewery licenses, the aggregate number of domestic barrels manufactured by licensees under such common ownership could not exceed 60,000 barrels. The Senate Committee also amended the bill to specify that a microbrewery licensee that also is licensed as a club or drinking establishment could sell and transfer domestic beer to that club or drinking establishment. Another amendment added language stating that microbrewery licensees with 10 percent or greater ownership interest in one or more other microbrewery licenses would be allowed to manufacture and transfer domestic beer between those microbreweries licenses for storage or sale.

At the hearing before the House Committee on Federal and State Affairs, a representative of the Kansas Craft

Brewers Guild testified in support of the bill. The Interim Director of ABC, Department of Revenue, presented neutral testimony on the bill. No testimony in opposition to the bill was presented at the hearing.

The House Committee amended the bill to clarify that the 60,000 barrel limit would apply to licensees who have a 10 percent or greater ownership interest in one or more entities that also hold a microbrewery license, rather than a 10 percent or greater ownership interest in one or more microbrewery licenses. The House Committee also amended the bill by adding language that would allow licensees with 10 percent or greater ownership interest in one or more entities that also hold a microbrewery license to manufacture and transfer domestic beer among such microbrewery licenses with common ownership for storage or sale.

According to the fiscal note prepared by the Division of the Budget, the Department of Revenue estimates the bill, as introduced, could potentially raise liquor gallonage tax receipts. However, the Department of Revenue does not have data on the number of additional barrels above 30,000 that microbreweries might produce, so it cannot provide a precise estimate of the amount of additional tax receipts that may result from the changes proposed in the bill. Any fiscal effect associated with the bill is not reflected in *The FY 2017 Governor's Budget Report*.

***Sub. for SB 277 Background***

The Senate Committee on Federal and State Affairs deleted the original contents of SB 277 and inserted the contents of HB 2467, as amended by the Senate Committee, into a substitute bill.

SB 277, as introduced, would have permitted microbreweries to manufacture and sell hard cider and mead (an alcoholic beverage created by fermenting honey with water and sometimes various fruit, spices, grains, or hops).

At the hearing before the Senate Federal and State Affairs Committee, Senator Wilborn appeared in support of the bill. The Interim Director of ABC and a representative of the Kansas Craft Brewers Guild appeared as neutral on the bill.

The Senate Committee struck the original contents of the bill and inserted the contents of HB 2467, as amended by the Senate Committee. The Senate Committee then placed those contents into a substitute bill.

According to the fiscal note provided by the Division of the Budget on SB 277, as introduced, the Department of Revenue indicates enactment of the bill could potentially increase revenues from liquor taxes if a microbrewery chose to manufacture hard cider or mead, but any increase in revenues would be negligible.

#### *HB 2467 Background*

At the hearing before the House Federal and State Affairs Committee, Representative Todd and a representative of the Kansas Craft Brewers Guild appeared in support of the bill and testified there is a demand for Kansas-made hard ciders.

The Interim Director of ABC appeared as neutral on the bill. The conferee testified about concerns relating to the status of farm wineries if the bill is enacted and technical concerns regarding definitions in federal law.

The House Committee amended the bill by changing the definition of wine to include hard cider and any other product commonly known as a subset of wine. The House Committee also changed the effective date of the bill to January 1, 2017, and after publication in the statute book.

At the hearing before the Senate Federal and State Affairs Committee, Representative Todd and a representative

of the Kansas Craft Brewers Guild appeared in support of the bill. The Interim Director of ABC appeared as neutral on the bill.

The Senate Committee amended the bill by adding a requirement that no less than 30 percent of products used by a microbrewery to manufacture hard cider be Kansas-grown products, except when a lesser proportion is authorized by the Director of ABC, based on Director's findings and judgment and determined based on the annual production of hard cider. The Senate Committee then inserted the amended contents of the bill into SB 277 and created a substitute bill.

According to the fiscal note prepared by the Division of the Budget on HB 2467, as introduced, the Department of Revenue estimates the bill has the potential to increase liquor enforcement and liquor excise taxes if a microbrewery does manufacture hard cider, but that any increase in revenue would be negligible.

### ***SB 379 Background***

At the hearing before the Senate Committee on Federal and State Affairs, a representative of the Kansas Grape Growers and Winemakers Association and Somerset Ridge Vineyard and Winery testified in favor of the bill. The conferee stated his belief that the one-year residency requirement has a chilling effect on the ability of current farm winery owners to sell their business because it eliminates the pool of out-of-state buyers from consideration.

A representative of the Division of Alcoholic Beverage Control (ABC) provided neutral testimony on the bill. He noted that microbrewery and microdistillery licensees, as well as farm winery licensees, are subject to the one-year residency requirement. He stated that ABC was not opposed to removing the one-year residency requirements for all three categories of licensees.

The Senate Committee amended the bill to remove the one-year residency requirement for microbrewery and microdistillery licensees, in addition to farm winery licensees.

The fiscal note provided by the Division of the Budget on the original version of the bill states the Department of Revenue indicates that enactment of the bill would have no fiscal effect.

microbrewery production limits; microbrewery licensees; production of hard cider; farm wineries; residency requirements

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