

SESSION OF 2021

**CONFERENCE COMMITTEE REPORT BRIEF  
HOUSE BILL NO. 2137**

As Agreed to May 6, 2021

**Brief\***

HB 2137 would amend various provisions in the Kansas Liquor Control Act (KLCA) and the Club and Drinking Establishment Act (CDEA) concerning the sale, transfer, and licensure requirements related to alcoholic liquor.

***Effective Date***

The bill would be in effect upon publication in the *Kansas Register*.

***Days and Times of Sale of Liquor and  
Cereal Malt Beverage***

The bill would amend statutes in the KLCA and the Cereal Malt Beverage Act (CMBA) to expand the time when retail sales of alcoholic liquor and cereal malt beverage (CMB) are allowed.

The bill would allow retail sales of alcoholic liquor and CMB in original packaging on Sundays between 9 a.m. and 8 p.m. and on Memorial Day, Independence Day, and Labor Day. Current law prohibits the sale of alcohol and CMB before 12 p.m. on Sundays and on Memorial Day, Independence Day, and Labor Day.

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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>

***Electronic Submission of Records by Special Order  
Shipping License Holders***

The bill would amend provisions in law related to the effective date of special order shipping licenses by specifying the license term begins on the date listed on the license.

Current law specifies such license terms begin on the date the license is issued.

The bill would also amend law related to the payment of gallonage taxes by licensees and would require such taxes to be paid electronically on a quarterly basis to the Division of Alcoholic Beverage Control (ABC), Kansas Department of Revenue (KDOR), rather than annually, as in current law.

***Refillable and Sealable Containers***

The bill would amend statutes in the KLCA and CDEA to authorize alcoholic liquor retailers, class A and B clubs, and drinking establishments to sell refillable and sealable containers of beer and CMB for consumption off the licensed premises.

Under current law, alcoholic liquor retailers are restricted to selling alcoholic liquor only in the original unopened container, and class A and B clubs are not able to sell refillable and sealable containers of beer and CMB; only microbreweries are allowed to make such sales.

The bill would allow alcoholic liquor retailers and clubs to sell beer and CMB under the same conditions as microbreweries. The bill would require such refillable and sealable containers to hold between 32 and 64 fluid ounces and have a label that clearly indicates the licensee's name and the type of alcoholic beverage in the container. Club and drinking establishment sales of beer and CMB in refillable

and sealable containers would be prohibited after 11 p.m., and the bill would specify that such sales would be subject to the liquor drink tax.

### ***Sale and Delivery of CMB by Liquor Retail Licensees***

Under current law, retail liquor store licensees may sell CMB along with alcoholic liquor, and CMB retailers are allowed to sell beer with an alcohol content of up to six percent alcohol by volume. Liquor retail licensees are also allowed to sell and deliver alcoholic liquor and CMB to a temporary permit holder for resale by such permit holder, to sell and deliver alcoholic liquor to a caterer, and to deliver alcoholic liquor to the licensed premises of a public venue, club, or drinking establishment, if such premises are either in the same county or in a county adjacent to that of the liquor retailer.

The bill would allow liquor retail licensees to sell, and deliver for resale, CMB and beer containing not more than six percent alcohol by volume to the licensed premises of a CMB retailer who is licensed for on-premises consumption, provided such premises are located either in the same county as the retailer or in an adjacent county.

The bill would also allow the retailer to charge a delivery fee for delivery of the CMB and beer containing not more than six percent alcohol by volume to a receiving CMB retailer.

### ***Sale of CMB By the Drink***

The bill would allow liquor-by-the-drink licensees (clubs, restaurants, bars, caterers, and public venues) to also sell CMB for consumption on the licensed premises pursuant to the same restrictions as for sales of liquor-by-the-drink.

***Removal of Unconsumed CMB from a Club or Drinking Establishment***

The bill would allow for the removal of unconsumed CMB from the premises of a club or drinking establishment, both in the original unopened container and no longer in the original unopened container, under the following conditions:

- If the licensee can legally sell the liquor in its original container;
- The liquor is in its original container;
- Each container of liquor was purchased and partially consumed by the patron on the licensed premises;
- The licensee provides a date receipt for the unfinished container;
- If each container is resealed in a tamper-proof, transparent bag that makes subsequent opening or tampering obvious before it is removed from the licensed premises (if not in the original, unopened container); and
- If no original unopened containers of spirits are removed from the licensed premises.

Current law allows for the removal of unconsumed alcoholic liquor, in the original package, from the premises of clubs and drinking establishments under these same conditions.

The bill would also specify that no licensee shall allow any alcoholic liquor or CMB to be removed from the licensed premises after 11:00 p.m., unless such alcoholic liquor is wine that was purchased and partially consumed on the licensed premises.

The bill would further specify that beer, CMB, and wine in the original unopened container and mixed drinks not in the original container shall not be subject to any drink size requirements of the CDEA. The bill would require any other alcoholic liquor or CMB that is not in the original unopened container to comply with all drink size requirements, and be sold in a durable, sealed container.

The bill would also remove the sunset date of March 31, 2021, for the provisions related to removal of alcoholic liquor from licensed premises found in current law.

[*Note:* The provisions in current law for removal of alcoholic drinks from licensed premises originally had a sunset date of January 26, 2021, pursuant to 2020 Special Session HB 2016. 2021 SB 14, which was signed by the Governor on January 25, 2021, extended those provisions through March 31, 2021.]

### ***Temporary Permits***

Current law allows the ABC to issue temporary permits that allow the holder to sell alcoholic liquor at a location specified on the permit for a certain period of time. The bill would allow holders of temporary permits to sell CMB in addition to alcoholic liquor, subject to the same permit application requirements, limitations, and restrictions in continuing law.

### ***Common Consumption Areas***

Current law allows municipalities to establish common consumption areas in which alcoholic liquor may be consumed without being subject to enforcement of open container laws. The bill would allow the consumption of CMB within such common consumption areas.

### ***Special Events at Class A and Class B Clubs***

[*Note:* Continuing law defines a “class A club” (club) as a premises that is owned or leased by a corporation, partnership, business trust, or association and that is operated as a *bona fide* nonprofit social, fraternal, or war veterans’ club, as determined by the Director of Alcoholic Beverage Control (Director), for the exclusive use of the corporate stockholders, partners, trust beneficiaries, or associates (members) and their families and guests accompanying them.]

The bill would authorize a club to offer the sale and service of alcoholic liquor on the club’s licensed premise to individuals outside of members, families, and accompanying guests during events held at the club.

An “event” would be defined by the bill as any function, occasion, celebration, or other event held on the licensed premises for a contractually specified duration of time and during which individuals who are not members of the licensee, their families, or guests are permitted to enter and use the licensed premises.

The bill would also require a club hosting an event to provide electronic notice to the Director no less than 48 hours prior to the event. The Director would then be required to provide notification to local law enforcement agencies. The bill would require such notice consist of the date, time, location, and names of the contracting parties of the event. All agreements, receipts, and records of alcohol purchased at events would be required to be retained by the licensee for a minimum of three years for inspection by the Director.

### ***Mixed Alcoholic Beverages in Pitchers***

The bill would authorize a public venue, club, drinking establishment, caterer, or holder of a temporary permit to sell or serve mixed alcoholic beverages in a pitcher. Current law

allows the sale or serving of only certain mixed drinks listed in statute or others specifically approved by the Director.

The bill would also define the following terms:

- “Mixed alcoholic beverage” to mean a beverage, such as a margarita or sangria, made of at least 25 percent non-alcoholic liquid or other edible substance and combined with alcoholic liquor; and
- “Pitcher” to mean any container capable of containing more than 32 fluid ounces but not more than 64 fluid ounces that is used to serve alcoholic liquor or CMB.

### ***Transfer of Alcohol for Canning and Bottling***

The bill would allow any manufacturer or supplier of alcoholic liquor or CMB, or holder of a distilled spirits plant permit issued by the Alcohol and Tobacco Tax and Trade Bureau of the U.S. Department of Treasury to apply for an annual packaging and warehousing facility permit. The bill would also allow such permit holders to receive and transfer liquor in a bulk container from any manufacturer, supplier, farm winery, microbrewery, or microdistillery for the purposes of packaging in cans or bottles, in addition to actions allowed in continuing law.

### ***Residency Requirements for Certain Liquor Licenses***

The bill would amend the KLCA by removing the residency requirement for liquor license applicants and their spouses, including a prohibition on license issuance to residents who have not been a resident of Kansas for a full year, corporations not organized under the laws of Kansas, and persons who are not a resident of the county in which the premises sought to be licensed are located. The bill would also amend the current requirement to fingerprint all out-of-

state applicants by making it optional if the applicant's identity is unclear.

The bill would specifically remove residency requirements for the following liquor licenses:

- Retailer;
- Manufacturer;
- Distributor;
- Microbrewery;
- Microdistillery; and
- Farm Winery.

#### *Retailer License*

The bill would remove a requirement that retailer's licenses may not be issued to:

- A person who is not a resident of the county in which the place of business covered by the license is located; or
- A person who has not been a resident of such county for at least six months; and
- A person who has not been a resident of Kansas for at least one year immediately preceding application for a retailer's license.

#### *Manufacturer License*

The bill would require, for copartnership applicants for a manufacturer license, all of the copartners to be individually eligible to receive a manufacturer's license.

### *Resident Agent*

The bill would also specify that if the applicant is not a Kansas resident, no license would be issued until the applicant has appointed a citizen of the United States who is a resident of Kansas as the applicant's agent and has filed certain documentation. Such agent would be required to meet certain qualifications as required by continuing law.

### *Nonresident Application Documentation*

The bill would further provide the Director could require applicants, who are not residents of Kansas on the date of application, to submit certain documentation, submit to a criminal history record check as provided in continuing law, and appoint a process agent who is a U.S. citizen and a resident of Kansas to accept service of process for legal proceedings.

Current law requires the Director to require such documentation and background check for such applicants, or applicants who have not been a resident of Kansas for at least one year immediately preceding the date of application submission.

### ***Suspending, Canceling, or Revoking Certain Liquor Licenses***

The bill would allow the Director to suspend, cancel, or revoke a license under the KLCA or the CDEA for violation of a lawful order issued by the Director.

Under current law, the Director is authorized to suspend, cancel, or revoke a license for certain unlawful acts by a licensee. The bill would amend current law to expand the lists of unlawful conduct to include violations of lawful orders issued by the Director.

### ***Liquor Licensure of Spouses of Law Enforcement Officers***

Current law prohibits liquor licensure for an applicant whose spouse is employed as a law enforcement officer (LEO) and such applicant is ineligible to hold a license. The bill would amend law to allow a person whose spouse is employed as an LEO to be eligible to receive a liquor license, provided the applicant meets the requirements in continuing law.

[*Note:* KSA 2020 Supp. 41-2623(a)(1), which establishes eligibility for licensure under the CDEA, specifically references the eligibility provisions being amended in this bill.]

### ***Fulfillment House License Application***

The bill would clarify that before making or causing any shipment of alcoholic liquor to Kansas residents, an applicant for a fulfillment house license would be required to:

- Pay a \$50 license fee for each of the locations involved in the shipping process to Kansas residents; and
- Provide any information required by rules and regulations adopted by the Director and contained in the application. The bill would provide that such licenses would remain valid for two years from the date specified on the license.

### ***Fulfillment House Licensee Requirements***

The bill would require a licensee to:

- Make reasonable efforts to confirm that any winery the licensee ships for has a Kansas special order shipping license, and the bill would specify the

licensee may rely on the representations of each such winery for such assurance;

- Ensure that all containers of alcoholic liquors shipped directly within the state are labeled with the name, address, and license number of the fulfillment house licensee;
- Ensure containers are labeled with the following conspicuously printed statement: "SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY";
- Require the signature of a receiver over the age of 21 for all packages shipped; and
- Ship all packages by a common carrier pursuant to continuing law.

#### *Electronic Records*

The bill would require fulfillment house licensees to keep records of all shipments for a three-year period and electronically submit them to ABC on a monthly basis.

Reports submitted would be available as open records, in accordance with the Kansas Open Records Act. However, the bill would specify that the names and addresses of consignees must be redacted from the paragraphs open for public inspection.

The bill would provide the confidentiality of the redacted report information would expire on July 1, 2026, unless reenacted pursuant to continuing law by the Legislature prior to such date.

### *Record and Report Requirements*

The bill would require the following information to be maintained by the licensee as a record for a minimum of three years after the shipment date:

- The name, address, and license number of the special order shipping licensee for whom the alcoholic liquor is being shipped;
- The name and license number of the express company or common carrier used;
- The date of each shipment;
- The carrier tracking number;
- The name and address of the consignee of such alcoholic liquors; and
- The weight of the package and the product type of alcoholic liquors shipped.

The bill would require such records to be submitted to the Director monthly in the form and format prescribed.

### *Penalty for Failure to Report*

The bill would state willful failure, neglect, or refusal to report any shipments would be subject to civil penalty of no more than \$100. The bill would further specify that after notice and an opportunity for a hearing in accordance with the Kansas Administrative Procedure Act, the Director could refuse to issue or renew, or may revoke, a fulfillment house license upon a finding that the licensee has failed to comply with the provisions of the bill.

The bill also would specify that an out-of-state license holder would be deemed to have appointed the Secretary of State as the resident agent and representative of the licensee to accept service of process from the Secretary of Revenue,

the Director, and the courts concerning enforcement of the provisions of the bill, the KLCA, and any rules and regulations adopted pursuant to those sections, and to accept service of any notice or order provided for in the KLCA.

### ***Farm Winery Licenses***

The bill would allow farm wineries, in accordance with federal law, to:

- Transfer or receive wine in a bulk container or packaged wine in bond to any bonded premises;
- Transfer or receive wine in a bulk container in bond to a distilled spirits plant;
- Receive distilled spirits in a bulk container; and
- Produce fortified wine with the addition of wine spirits to domestic wine if the added spirits are produced from the same kind of fruit used to produce the wine.

Under the bill, a farm winery licensee could import wine from outside Kansas for use in the production of its domestic table wine and domestic fortified wine. The bill would require such imports of wine to be reported on forms prescribed by the Director.

The bill would specify farm wineries could not transfer wine in a bulk container to the premises of a brewery.

Additionally, the bill would allow a farm winery, microdistillery, microbrewery, or the holder of a federal distilled spirits plant permit to receive and transfer alcoholic liquor in a bulk container from any manufacturer or supplier of liquor or cereal malt beverage, licensed in any state, for packaging in cans or bottles.

Any terms not defined in state law would have the same meaning as in the definitions found in federal law.

The bill would also amend provisions generally requiring farm wineries and microbreweries to use at least 30 percent Kansas-grown products in the manufacture of domestic wine and hard cider, respectively. Under the bill, farm wineries and microbreweries would be required to use at least 15 percent Kansas-grown products beginning on July 1, 2021. The Kansas-grown products requirement would sunset on January 1, 2023.

### ***Licenses Held by Alcoholic Liquor Manufacturers***

The bill would amend the CDEA to allow any person who has a beneficial interest in a manufacturer licensed pursuant to the KLCA to be issued one drinking establishment license.

Current law prohibits manufacturers and others from influencing, coercing, or attempting to influence or coerce drinking establishment licensees from purchasing particular brands or kinds of alcoholic liquor or purchasing alcoholic liquor from a specific distributor. The bill would create an exemption from those provisions for manufacturers holding drinking establishment licenses with respect to purchases made by such a drinking establishment.

The bill would specify that if a drinking establishment licensee also holds a manufacturer's license:

- The licensed premises specified in the drinking establishment license would be required to be separate from, and could be not more than two miles by the road usually traveled from, the licensed premises specified in the manufacturer's license;

- The drinking establishment could not sell alcoholic liquor manufactured by such manufacturer's licensee to the exclusion of other alcoholic liquor;
- All beer and CMB sold by the drinking establishment would be required to be acquired from a licensed distributor or retailer; and
- All wine and spirits sold by the drinking establishment would be required to be acquired from a licensed retailer or farm winery who possesses a federal wholesaler's basic permit.

### ***Producer's Licenses***

The bill would require an application for a retailer's license be approved if the applicant has already been issued a producer's license for a vineyard pursuant to KSA 41-355, provided the applicant is not otherwise disqualified from holding the retailer's license under continuing law.

### ***Technical and Conforming Amendments***

The bill would make technical amendments to ensure consistency in statutory phrasing and conforming changes to existing statutory sections.

### ***Conference Committee Action***

The Conference Committee agreed to the provisions of HB 2137, as amended by the Senate Committee on Federal and State Affairs, with modifications to the provisions concerning issuance of a license to a person whose spouse is a law enforcement officer.

The Conference Committee further agreed to add the contents of Senate Sub. for HB 2252, as passed by the

Senate, regarding liquor licensing and bulk transfers, and amended provisions concerning a Kansas-grown products requirement for farm wineries and microbreweries.

The Conference Committee agreed to add the contents of Senate Sub. for HB 2138, as passed by the Senate, regarding liquor violations, sales of mixed alcoholic beverages in pitchers, and CMB retailer licenses, and amended provisions concerning Sunday and holiday sales.

The Conference Committee further agreed to add the contents of SB 126, as amended by the House Committee on Federal and State Affairs, concerning sales of liquor at class A club special events.

## **Background**

HB 2137, as amended by the Senate Committee on Federal and State Affairs, contained the provisions of HB 2138. The Conference Committee agreed to amend and include the contents of Senate Sub. for HB 2252 and Senate Sub. for HB 2138 and include the contents of SB 126.

### ***HB 2137 (Expanding Sale and Delivery of CMB by Liquor Retail Licensees Liquor; Licensure of LEO Spouses)***

The Senate Committee on Federal and State Affairs amended the provisions of HB 2137 related to liquor licenses for spouses of LEOs. The bill would also include provisions of HB 2138, as amended. The backgrounds of both bills are described below.

*HB 2137 (Expanding Sale and Delivery of CMB by Liquor Retail Licensees)*

The bill was introduced by the House Committee on Federal and State Affairs at the request of Representative Blake Carpenter.

**House Committee on Federal and State Affairs.** In the House Committee hearing, **proponent** testimony was provided by representatives of the Kansas Association of Beverage Retailers, the Kansas Beer Wholesalers Association, and the Kansas Wine & Spirits Wholesalers Association, stating the bill would allow the sale of CMB products at licensed club and drinking establishments that do not have a separate CMB license. Written-only proponent testimony was provided by the Kansas Restaurant and Hospitality Association.

Written-only neutral testimony was provided by the Director. No other testimony was provided.

**House Committee of the Whole.** The bill was amended by the House Committee of the Whole to add unconsumed CMB to provisions in current law that allow for the removal of unconsumed alcoholic liquor from the premises of a club and drinking establishment. [*Note:* The Conference Committee retained these amendments.]

**Senate Committee on Federal and State Affairs.** In the Senate Committee hearing, **proponent** testimony was provided by representatives of the Kansas Association of Beverage Retailers, the Kansas Beer Wholesalers Association, and the Kansas Restaurant and Hospitality Association.

Written-only neutral testimony was provided by the Director. No other testimony was provided.

The Senate Committee amended the bill to consolidate the changes made by the House Committee of the Whole into

a single section. The Senate Committee also amended the bill to prohibit class A, class B, or drinking establishment licensees from allowing legal patrons to remove unopened containers of spirits from the licensed premises and to prohibit alcoholic liquor or CMB from being removed from the licensed premises after 11:00 p.m., except for wine that was purchased and partially consumed on the licensed premises. [Note: The Conference Committee retained these amendments.]

The Senate Committee further amended the bill to insert the contents of HB 2138, and amended the provisions of HB 2138 related to liquor licensure of spouses of LEOs. [Note: The Conference Committee did not retain these amendments.]

#### *HB 2138 (Liquor Licensure of LEO Spouses)*

The bill was introduced by the House Committee on Federal and State Affairs at the request of Representative Eplee.

[Note: The bill contains provisions similar to 2020 HB 2571, as amended by the House Committee on Federal and State Affairs.]

**House Committee on Federal and State Affairs.** In the House Committee hearing, a representative of Dirty Girl Adventures, LLC, testified as a **proponent**, stating a business owned by the spouse of a law enforcement officer, who does not have jurisdiction over the location of the applying business, should be eligible to receive a liquor license upon meeting all other application criteria.

Written-only neutral testimony was submitted by a representative of the ABC. No other testimony was provided.

**Senate Committee on Federal and State Affairs.** In the Senate Committee hearing, a representative of Dirty Girl

Adventures, LLC, provided **proponent** testimony. No other testimony was provided.

The Senate Committee amended the bill to prohibit a person whose spouse is employed as a LEO from receiving a liquor license if the spouse is a LEO in the same county as the potentially permitted premises. The bill prior to amendment would have granted eligibility for licensure to a person whose spouse is employed as a LEO without the location restriction. [Note: The Conference Committee did not retain these amendments.]

***HB 2252 (Fulfillment House Licenses; Farm Wineries, Bulk Wine and Fortified Wine; Special Order Shipping Licenses; Alcoholic Liquor Manufacturer; Drinking Establishment License; Residency Requirements)***

The bill contains provisions of HB 2552, SB 253 with an amendment added by the Senate Committee on Federal and State Affairs, SB 258, HB 2057, and HB 2212.

***HB 2552 (Fulfillment House Licenses)***

The bill was introduced by the House Committee on Federal and State Affairs at the request of Representative Miller.

**House Committee on Federal and Senate Affairs.** In the House Committee hearing on February 19, 2021, representatives of the Kansas Association of Beverage Retailers and the Kansas Wine and Spirits Wholesalers Association testified as **proponents** of the bill, stating the bill would help ABC identify and regulate unlawful shipments and help bring shippers into compliance. Written-only proponent testimony was submitted by representatives of Americans for Prosperity and the League of Kansas Municipalities.

The Director provided neutral testimony on the bill. No other testimony was provided.

The House Committee amended the bill to:

- Reduce the fulfillment house license fee from \$100 to \$50;
- Clarify that a fulfillment house must pay a separate fee for each location involved in the shipping process to Kansas residents;
- Remove certain required label information;
- Remove specific information required in the application, and providing that the Director could specify application information in rules and regulations; and
- Change the date the license would commence.

[*Note:* The Conference Committee retained these amendments.]

**Senate Committee on Federal and State Affairs.** In the Senate Committee hearing on March 10, 2021, representatives of the Kansas Association of Beverage Retailers, the Kansas Restaurant and Hospitality Association, and the Kansas Wine and Spirits Wholesalers Association testified as **proponents** of the bill, stating the bill would help ABC identify and regulate unlawful shipments and help bring shippers into compliance.

The Director provided neutral testimony on the bill. No other testimony was provided.

The Senate Committee amended the bill by inserting the contents of SB 253 (farm wineries and winery outlets), SB 258 (license terms and electronic records and payments by special order shipping licensees), HB 2057 (licenses held by

an alcoholic liquor manufacturer), HB 2212 (eliminating residency requirements for certain liquor licenses), and removing the general 30 percent Kansas products requirement for domestic wine and hard cider. [Note: The Conference Committee retained these amendments.]

*SB 253 (Farm Wineries, Bulk Wine and Fortified Wine)*

The bill was introduced by the Senate Committee on Federal and State Affairs at the request of a representative of the Kansas Wine and Spirits Wholesaler Association.

**Senate Committee on Federal and State Affairs.** In the Senate Committee hearing on February 25, 2021, on the bill, representatives of BevHub LLC, the Kansas Grape Growers and Winemakers Association, and the Kansas Viticulture and Farm Winery Association, and one private citizen provided **proponent** testimony. The proponents generally stated that the bill would clarify, in state law, the authority given to farm wineries under federal law.

The Director provided neutral testimony on the bill. No other testimony was provided.

The Senate Committee amended the bill to make farm wineries, microdistilleries, and microbreweries eligible to apply for an annual packaging and warehousing facility permit. [Note: The Conference Committee retained these amendments.]

The Senate Committee further amended the bill to remove provisions requiring farm wineries and microbreweries to use at least 30 percent Kansas-grown products in the manufacture of domestic wine and hard cider. [Note: The Conference Committee did not retain these amendments.]

*SB 258 (Special Order Shipping Licenses)*

The bill was introduced by the Senate Committee on Federal and State Affairs at the request of Senator Alley on behalf of the Director.

**Senate Committee on Federal and State Affairs.** In the Senate Committee hearing on March 10, 2021, the Director and a representative from the Wine Institute testified as **proponents** on the bill. The proponents generally stated that the bill would allow matching of common carrier reports to special order shipping reports and assist in identifying unlawful shipments and unpaid gallonage or liquor enforcement taxes. No other testimony was provided.

*HB 2057 (Alcoholic Liquor Manufacturer; Drinking Establishment License)*

The bill was introduced by the House Committee on Federal and State Affairs at the request of Representative Eplee.

[*Note:* HB 2057 is identical to 2020 HB 2596, as amended by the House Committee on Federal and State Affairs.]

**House Committee on Commerce Labor and Economic Development.** In the House Committee hearing on February 15, 2021, **proponent** testimony was provided by Representative Eplee and representatives of the City of Atchison, the League of Kansas Municipalities, MGP Ingredients, Inc., and the Kansas Wine and Spirits Wholesalers Association. Proponents noted enactment of the bill would support local economies by increasing tourism and providing opportunities for economic growth. No other testimony was provided.

*HB 2212 (Residency Requirements)*

The bill was introduced by the House Committee on Federal and State Affairs at the request of Representative Averkamp.

**House Committee on Federal and State Affairs.** In the House Committee hearing on February 19, 2021, **proponent** testimony was presented by the Director and representatives of Davis Retail Liquor, the Institute for Justice, the Kansas Association of Beverage Retailers, and the Kansas Wine and Spirits Wholesalers Association. The proponents indicated that the bill was drafted in response to a U.S. Supreme Court decision, *Tennessee Wine and Spirits Retailers Association v. Thomas*, 139 S.Ct. 2449 (2019), which held that state residency laws for liquor licenses are unconstitutional. The proponents also cited Kansas Attorney General Opinion 2020-11, which concluded Kansas residency statutes may be unenforceable in light of the U.S. Supreme Court decision.

Written-only proponent testimony was provided by representatives of Americans for Prosperity and the League of Kansas Municipalities. No other testimony was provided.

***Senate Sub. for HB 2138 ( Authorizing Actions by the Director; Class A Clubs and Mixed-Drink Pitchers; Expanding Sunday and Holiday Sales of Alcoholic Liquor; Authorizing Retailers, Clubs, and Drinking Establishments to Sell Certain Beer and CMB)***

The Senate Committee on Federal and State Affairs recommended adoption of a substitute bill, created by removing the contents of HB 2138, as introduced, and inserting the provisions of SB 255, as introduced; SB 256, as introduced; and SB 257, as amended. The Senate Committee amended the provisions previously found in SB 257 to allow sales of refillable and sealable containers for off-premise consumption. [Note: The Conference Committee retained these amendments.]

HB 2138, as introduced, would have amended the KLCA to allow a person whose spouse is employed as a law enforcement official to be eligible to receive a liquor license.

[Note: The contents of HB 2138, as introduced, were amended by the Senate Committee and included in HB 2137, as amended by the Senate Committee.]

***Senate Committee of the Whole***

The Senate Committee of the Whole amended the bill to authorize the sale of all mixed drinks in pitchers and add definitions for “mixed alcoholic beverage” and “pitcher.” [Note: The Conference Committee retained these amendments.]

The Senate Committee of the Whole also amended the bill to restore the discretion of boards of county commissioners and governing bodies of cities to allow retail sales of alcoholic liquor and CMB on Memorial Day, Independence Day, and Labor Day, as in current law. [Note: The Conference Committee did not retain these amendments.]

*SB 255 (Authorizing Actions by the Director)*

SB 255 was introduced by the Senate Committee on Federal and State Affairs at the request of Senator Alley on behalf of the Director.

[*Note:* Provisions of SB 255 are the same as those of 2020 SB 433, as introduced.]

**Senate Committee on Federal and State Affairs.** In the Senate Committee hearing on SB 255, the Director provided **proponent** testimony, indicating the intent of the bill is to clarify and improve the method of enforcing ABC administrative orders. The conferee stated the bill does not add a new violation, but clarifies existing law to the benefit of licensees and staff. A representative of the Kansas Association of Beverage Retailers provided written-only proponent testimony, indicating the bill is important to licensees under ABC jurisdiction, and enforcement of the rules provides an even playing field for everyone.

No other testimony was provided.

*SB 126 (Class A Clubs and Mixed-Drink Pitchers)*

The bill was introduced by the Senate Committee on Commerce at the request of Senator Olson.

**Senate Committee on Commerce.** In the Senate Committee hearing, **proponent** testimony was provided by a representative of American Legion Post #153. The proponent generally stated that the bill would allow them to better generate revenue needed to offset dwindling memberships by being able to host more events that desire to serve alcohol.

No neutral or **opponent** testimony was provided.

**House Committee on Federal and State Affairs.** In the House Committee hearing, **proponent** testimony was provided by Senator Olson and a representative of American Legion Post #153, who stated the bill, by allowing alcoholic beverages to be served, would attract more people to use class A clubs for their events. Written-only proponent testimony was provided by another representative of American Legion Post #153.

No neutral or **opponent** testimony was provided.

The House Committee amended the bill to include provisions concerning the sale of mixed alcoholic beverage pitchers. [Note: The Conference Committee retained these amendments.]

*SB 256 (Expanding Sunday and Holiday Sales of Alcoholic Liquor)*

SB 256 was introduced by the Senate Committee on Federal and State Affairs at the request of Senator Alley on behalf of the Kansas Association of Beverage Retailers.

**Senate Committee on Federal and State Affairs.** In the Senate Committee hearing on SB 256, representatives of Blackjack's Retail Liquor, Fuel True, the Kansas Association of Beverage Retailers, and the Kansas Association for Responsible Liquor Laws, Inc., provided **proponent** testimony. The conferees generally indicated the bill could have a positive economic impact. A representative of the League of Kansas Municipalities (LKM) provided written-only proponent testimony, stating the bill preserves options for local governments.

No other testimony was provided.

*SB 257 (Authorizing Retailers, Clubs, and Drinking Establishments to Sell Certain Beer and CMB)*

SB 257 was introduced by the Senate Committee on Federal and State Affairs at the request of Senator Alley on behalf of the Kansas Association of Beverage Retailers.

**Senate Committee on Federal and State Affairs.** In the Senate Committee hearing on SB 257, representatives of Davis Retail Liquor, the Kansas Association of Beverage Retailers, and the Kansas Restaurant and Hospitality Association provided **proponent** testimony. The conferees generally indicated the bill would be a benefit to retail liquor stores, customers, craft brewers, and small businesses.

The Director provided neutral testimony, recommending the bill be amended to address contradictory language in state statute.

No other testimony was provided.

[*Note:* The language of Senate Sub. for HB 2138 incorporates technical changes to SB 257 regarding statutory references.]

## **Fiscal Information**

### ***HB 2137 (Expanding Sale and Delivery of CMB by Liquor Retail Licensees; Liquor Licensure of LEO Spouses)***

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, KDOR indicates enactment of the bill would have no fiscal effect on CMB or liquor tax revenue. The bill would have no fiscal effect on the operations of KDOR, but there would be a small reduction in the number of on-premises CMB retailer licenses issued by a city or county that could have an impact on their budgets due to reduced license fee collections; however, the reduction in licensee fee revenue is estimated to be negligible.

Any fiscal effect associated with the bill is not reflected in *The FY 2022 Governor's Budget Report*.

### ***HB 2138 (Liquor Licensure of LEO Spouses)***

According to the fiscal note prepared by the Division of the Budget on the bill, KDOR estimates enactment of the bill would have no fiscal effect.

### ***HB 2252 (Fulfillment House Licenses; Farm Wineries, Bulk Wine and Fortified Wine; Special Order Shipping Licenses; Alcoholic Liquor Manufacturer; Drinking Establishment License; Residency Requirements)***

According to the fiscal note prepared by the Division of the Budget on HB 2552 as introduced, KDOR estimates the bill would increase expenditures by \$56,000 from the State General Fund for FY 2022 for system updates and 760 hours would be needed to make changes to forms, websites, and the Public One Stop Service Engine System and to create a handbook. The agency estimates the bill would increase revenues to the Liquor Control Act License Fund by \$5,000

for FY 2022 for 50 licenses at \$100 per license. [Note: The conference committee report would set the license fee at \$50.] Any fiscal effect associated with the bill is not reflected in *The FY 2022 Governor's Budget Report*.

*SB 253 (Farm Wineries; Bulk Wine and Fortified Wine)*

According to the fiscal note prepared by the Division of Budget on SB 253 as introduced, KDOR has indicated enactment of the bill would have no fiscal effect.

*SB 258 (Special Order Shipping Licenses)*

According to the fiscal note prepared by the Division of the budget on SB 258, KDOR has indicated enactment of the bill would increase information technology expenditures by \$1,150 in FY 2022. However, if the combined effect of implementing this bill and other enacted legislation exceeds KDOR's programming resources, or if the time for implementing the changes is too short, expenditures for outside contract programmer services beyond the agency's current budget may be required. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2022 Governor's Budget Report*.

*HB 2057 (Alcoholic Liquor Manufacturer; Drinking Establishment License)*

According to the fiscal note prepared by the Division of the Budget on HB 2057, KDOR indicates enactment of the bill would have no fiscal effect.

*HB 2212 (Residency Requirements)*

According to the fiscal note prepared by the Division of the Budget on HB 2112, KDOR indicates enactment of the bill

would have no fiscal effect on state revenues or expenditures; however, it would need to revise handbooks and forms to remove the residency requirement. The Kansas Association of Counties indicates the bill could increase revenues for counties if additional licenses are issued.

***SB 126 (Class A Clubs and Mixed-Drink Pitchers)***

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the Department of Revenue estimates enactment of the bill would increase expenditures of \$10,500 from the State General Fund for FY 2022 to make changes to the Class A handbook and implement an electronic notification system for licensees to report special events to ABC.

Both the Kansas Association of Counties and League of Kansas Municipalities state the bill could impact local government revenues due to increased liquor taxes as well as expenditures for increased law enforcement costs. No estimates could be made however.

Any fiscal effect associated with the bill is not reflected in *The FY 2022 Governor's Budget Report*.

***Senate Sub. for HB 2138 (Authorizing Actions by the Director; Class A Clubs and Mixed-Drink Pitchers; Expanding Sunday and Holiday Sales of Alcoholic Liquor; Authorizing Retailers, Clubs, and Drinking Establishments to Sell Certain Beer and CMB)***

***SB 255 (Authorizing Actions by the Director)***

According to the fiscal note provided by the Division of the Budget on SB 255, as introduced, KDOR indicates enactment of the bill would have no fiscal effect on the agency.

*SB 256 (Expanding Sunday and Holiday Sales of Alcoholic Liquor)*

According to the fiscal note prepared by the Division of the Budget on SB 256, as introduced, KDOR indicates enactment of the bill would require it to revise its retailers' handbook, which would have a negligible fiscal effect that could be absorbed within existing resources.

The Kansas Association of Counties indicates enactment of the bill could result in increased tax revenue for counties, but it is unclear if such increased revenue would be offset by enforcement costs. A fiscal effect cannot be estimated.

The LKM indicates the increased hours for sales on Sundays and during summer holidays could increase sales tax revenue for cities. However, the LKM notes that if a petition is submitted requiring an election to expand the hours of Sunday sales, cities would bear the cost of holding such an election. A fiscal effect cannot be determined, because the number of additional sales and potential elections cannot be estimated.

*SB 257 (Authorizing Retailers, Clubs, and Drinking Establishments to Sell Certain Beer and CMB)*

According to the fiscal note prepared by the Division of the Budget on SB 257, as introduced, KDOR indicates enactment of the bill would require it to revise its handbooks for class A and B clubs, drinking establishments, and retailers at a total cost of \$4,575 from the State General Fund for FY 2022. Of this amount, \$1,800 would be used to update publications and \$2,775 would be used to print and mail notices to approximately 2,500 taxpayers. KDOR notes enactment of the bill could result in a decrease in beer and CMB sales made by retailers. Any fiscal effect associated with SB 257 is not reflected in *The FY 2022 Governor's Budget Report*.

Alcohol; Kansas Liquor Control Act; Club and Drinking Establishment Act; law enforcement officer; licenses, alcoholic liquor; cereal malt beverage; common consumption area; liquor-by-the-drink license; off-premises; retail liquor licensee; farm wineries; special order shipping license; residency; alcoholic liquor manufacturers; drinking establishment licenses; Cereal Malt Beverage Act; cereal malt beverage; administrative orders; Sunday liquor sales holiday liquor sales; alcoholic liquor retail; liquor licensing; class A clubs; ABC; commerce; mixed alcoholic beverage; pitcher

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