

REVISED
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SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2137

As Amended by Senate Committee on Federal
and State Affairs

Brief*

HB 2137, as amended, would expand the categories of alcoholic liquor licensees who can sell cereal malt beverage (CMB), would allow temporary permit holders to sell CMB along with alcoholic liquor, would provide for the removal of CMB from the licensed premises of clubs and drinking establishments in opened and unopened containers, and would allow CMB to be consumed in common consumption areas.

The bill would also amend the Liquor Control Act to allow a person whose spouse is employed as a law enforcement officer (LEO) to be eligible to receive a liquor license, provided that the spouse is not a LEO in the same county as the potentially permitted premises, and the applicant meets the requirements in continuing law.

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

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

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

temporary permit holder for resale by such permit holder, and to sell and deliver alcoholic liquor to a caterer, 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 Club and Drinking Establishment Act. 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 Division of Alcoholic Beverage Control (ABC) of the Kansas Department of Revenue (KDOR) to issue temporary permits which 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.

Liquor Licensure of LEO Spouses

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 a LEO to be eligible to receive a liquor license, provided that the spouse is not a LEO in the same county as the potentially permitted premises, and the applicant meets the requirements in continuing law.

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

Technical and Conforming Amendments

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

Background

The Senate Committee on Federal and State Affairs amended the bill by amending the provisions of HB 2137 related to liquor licenses for spouses of LEOs. The bill would include provisions of HB 2137, as amended, and 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 of the ABC. 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.

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 of the ABC. 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.

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 law enforcement officer spouses.

Fiscal Information

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)

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.

Fiscal Information

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.

["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"]