

SESSION OF 2015

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2088

As Amended by House Committee of the Whole

Brief*

HB 2088 would create and amend law concerning citations issued for violations of the Liquor Control Act and the Club and Drinking Establishment Act.

The bill would change law by specifying, when issuing a citation for a violation of the liquor laws, agents of the Department of Revenue, Division of Alcoholic Beverage Control (ABC) must deliver the citation issued to a person in charge of the licensed premises at the time of the alleged violation. Current law requires delivery of the citation to the person allegedly committing the violation. The bill would define "person in charge" as any individual or employee present on the licensed premises at the time of the alleged violation who is responsible for the operation of the licensed premises. If no designated individual or employee is a person in charge, then any employee present would be the person in charge.

The bill also would add law concerning the delivery of citations by local law enforcement officers other than agents of ABC. The new provisions would allow any local law enforcement officer observing a violation of the liquor laws to be able to submit a report of the violation to ABC for review after serving notice of the violation to a person in charge of the licensed premises. Notice would be required to:

- Be made at the time of the alleged violation;
- Be made in writing;

*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>

- Contain the name of the licensee;
- Contain the date and time of the alleged violation;
- Contain a description of the alleged violation; and
- Contain a statement indicating a report of the violation would be submitted to ABC for review.

The bill also would add language stating any citation not issued in accordance with the provisions laid out in the new and amended law would be void.

Finally, the bill would ban the sale and service of powdered alcohol. The Club and Drinking Establishment Act would be amended to prohibit clubs, drinking establishments, caterers, holders of temporary permits, and public venues from selling, offering to sell, or serving free of charge any form of powdered alcohol. The bill also would define “powdered alcohol” as alcohol prepared in a powdered or crystal form for either direct use or for reconstruction in a nonalcoholic liquid.

Background

At the hearing in the House Committee on Federal and State Affairs, the Director of ABC, along with representatives of the Kansas Association of Chiefs of Police, the Kansas Sheriffs’ Association, the Kansas Peace Officers Association, the Kansas Association of Beverage Retailers, and the Kansas Restaurant and Hospitality Association, provided testimony in support of the bill.

Testimony in opposition to the bill was provided by a representative of Kite’s Bar, the establishment involved in the court case prompting the change in the law proposed by the bill.

Neutral testimony was presented by a representative of the Kansas Licensed Beverage Association, the Kansas Craft

Brewers Association, the Kansas Viticulture and Farm Winery Association, and the Artisan Distillers of Kansas.

The House Committee of the Whole amended the bill to require the ABC to deliver a citation to a person in charge of the licensed premises rather than to the licensee's agent or employee and to prohibit the sale and service of powdered alcohol.

According to the fiscal note prepared by the Division of the Budget, the Department of Revenue indicates the bill, as introduced, would have no fiscal effect on state expenditures but could result in an increase in revenues from fines issued to liquor licensees, although the amount of the potential increase cannot be determined.