

SESSION OF 2015

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2331

As Amended by Senate Committee on Federal
and State Affairs

Brief*

HB 2331, as amended, would make changes to liquor laws concerning catered events; restrictions on the locations of liquor retailers, microbreweries, microdistilleries, and farm wineries; temporary permits for the sale of beer and wine on the state fairgrounds; farmer's market sales permits; special order shipping licenses for wineries; and art studio permits.

Catered Events

The bill would allow the consumption of alcoholic liquor at catered events held on public property. Existing law generally prohibits the consumption of alcoholic liquor on public property, but makes an exception for special events (events approved by local government of a city, county, or township) when a temporary permit has been issued by the Director of Alcoholic Beverage Control (ABC.)

The language of this exception would be amended to allow also the consumption of alcoholic liquor at catered events on public property where the caterer has provided the required notice.

The bill also would change the notice required to be given by caterers to the ABC. Existing law, which requires a caterer to provide notice to ABC 10 days before any event and provide notice to the chief of police or sheriff where the event occurs, would be changed to require electronic

*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>

notification to ABC at least 48 hours before any event. The the electronic notice provided to ABC must include the time, location, and names of the contracting parties of the event. Caterers would be required to keep their records (agreements, receipts, employees assigned to the events, and records of alcohol purchased) for three years. The bill also would specify that no notice to ABC would be required for weddings, funerals, events sponsored by religious institutions, or for business industry, or trade sponsored meetings, including but not limited to, awards presentations and retirement celebrations.

Location of Liquor Retailers, Microbreweries, Microdistilleries, and Farm Wineries

The bill would allow cities to pass ordinances allowing liquor retailers, microbreweries, microdistilleries, and farm wineries to locate within 200 feet of any public or parochial school or college or church in a core commercial district. Current law only allows those facilities to be within 200 feet of schools, colleges, or churches if the retailer, microbrewery, microdistillery, or farm winery was already in a location and a school or church chose to establish itself within 200 feet of that facility.

Temporary Permits: State Fair

The bill would allow the Director of ABC, on or after July 1, 2016, to issue a sufficient number of temporary permits for the sale of wine in unopened containers and the sale of beer, wine, or both by the glass, on the State Fairgrounds as specified in the temporary permit issued. Current law has been interpreted to allow the issuance of only one temporary permit for the Kansas State Fair. The bill would specify that nothing would be construed to limit the number of temporary permits issued by ABC for the Fairgrounds, but the issuance of the permits must be consistent with the requirements of the State Fair Board.

Farmers' Market Sales Permits

The bill would allow farm wineries to sell wine at a farmers' market by applying for a sales permit and submitting a \$25 application fee. The application for the permit would be required to specify the locations of the farmers' markets at which wine would be sold. The location of any farmers' market not specified in the application would have to be provided to the Director of ABC before the licensee could sell wine there.

The bill would define "farmers' market" as any common facility or area where producers or growers gather on a regular, recurring basis to sell fruits, vegetables, meats, and other farm products directly to consumers.

Special Order Shipping Licenses; Wineries

The bill would provide that a winery holding a special order shipping license may market its wines and receive orders through any means of communication. This would include, but would not be limited to: the internet, written correspondence, by telephone, or through orders transmitted from registered agents hosting private, in state, wine tastings in accordance with the trade practice regulations promulgated by the Secretary of Revenue.

Special order shipping licensees would be required to provide electronic notification to the Director of ABC at least 48 hours prior to any event at which the licensee hosts a wine tasting.

Art Studio Permits

The bill would create a new permit, the art studio permit, which, once obtained, would allow any business engaged in the practice of teaching or allowing its patrons to produce artwork to allow the possession and consumption of alcoholic

liquor on private property owned or leased by the permit holder. The alcoholic liquor on the premises would be required to remain in the personal possession of the patrons of the permit holder, and could not be sold, offered for sale, or given away by the permit holder.

Any alcoholic liquor not consumed by a patron would have to be disposed of by the permit holder or securely resealed and placed in a tamper-proof, transparent bag, sealed in a manner that would make it visibly apparent if the bag was opened, before being removed from the premises.

Art studio permits would be valid for one year from the date of issuance and would cost \$25.

The bill also would define “artwork” as tangible products paid for and created by a patron of a business, including but not limited to, painting, drawing, sculpting, or jewelry-making. “Patron” would be defined as a customer participating in a program offered by the permit holder involving the production of artwork.

The Secretary of Revenue would have the authority to adopt rules and regulations necessary to implement the provisions of the bill.

Background

In addition to amendments related to timing requirements for the notification caterers must provide to ABC, the issuance of temporary permits for the sale of beer and wine at the Kansas State Fair, advertising and sales by special order shipping licensees, and striking language which added a new exception to the Club and Drinking Establishment Act concerning the possession and consumption of alcoholic liquor, the Senate Committee on Federal and State Affairs added the contents of SB 217 (farmers’ market permits), as introduced, and HB 2413 (art studio permits), as introduced.

*HB 2331 - Catered events, the Club and Drinking
Establishment Act, Restrictions on the Locations of Liquor
Retailers, Microbreweries, Microdistilleries, and Farm
Wineries, and Temporary Permits for the Sale of Beer and
Wine on the State Fairgrounds*

At the hearing on HB 2331 in the House Federal and State Affairs Committee, representatives from Beverage Association, Kansas Craft Brewers Association, Kansas Viticulture and Farm Winery Association, Artisan Distillers of Kansas, and the Kansas Restaurant and Hospitality Association appeared in support of the bill. The proponents testified the bill would allow caterers to host events on public property without the need for an additional permit, and indicated the change was good public policy because using trained caterers to serve alcohol on public property supported a well-regulated alcohol industry. There was no neutral or opponent testimony on the bill.

The House Committee amended the bill by adding the contents of Section 3 of 2015 HB 2223 (requiring caterers to provide electronic notice of events to ABC) and then further amended the bill by adding language requiring that caterers provide ABC with notice at least 48 hours in advance of any event.

The House Committee of the Whole amended the bill by adding the following provisions: authorizing any unlicensed business to allow the possession and consumption of alcoholic liquor or cereal malt beverage (CMB) by patrons of such business on private property owned or leased by such business; authorizing cities to pass ordinances allowing liquor retailers, microbreweries, microdistilleries, and farm wineries to locate within 200 feet of any public or parochial school or college or church in a core commercial district; and authorizing the Director of ABC to issue more than 1 temporary permit for the sale of wine or beer, or both, on the State Fairgrounds.

The Senate Committee on Federal and State Affairs amended the bill by modifying provisions related to timing requirements for the notification caterers must provide to ABC and the issuance of temporary permits for the sale of beer and wine at the Kansas State Fair. The Committee also added provisions to the bill related to farmers' market sales permits, advertising and sales by special order shipping licensees, and art studio permits. Finally, the Committee struck language added by the House Committee of the Whole that would have created a new exception to the Club and Drinking Establishment Act concerning the possession and consumption of alcoholic liquor.

The fiscal note prepared by the Department of Revenue on HB 2331, as introduced, indicates the bill would have no fiscal effect on state revenues or expenditures.

SB 217 - Farmers' Market Permits

SB 217 had a hearing in the Senate Committee on Federal and State Affairs, but the Senate Committee did not take action on the bill.

At the hearing in the Senate Committee, representatives from the Department of Agriculture and the Kansas Viticulture and Farm Winery Association appeared as proponents of the bill. They testified that the bill would open farmers' markets to more farm wineries, which would be a positive economic benefit for both the registered farmers' markets and the farm wineries in the state.

There was no neutral or opponent testimony on the bill.

According to the fiscal note on SB 217, as introduced, the Department of Revenue estimates the bill would increase expenditures by \$60,000 in FY 2016 to modify existing computer processing systems to allow for one permit for multiple locations. The Department cannot determine what, if any, revenues would result from the \$25 fee included in this

bill. Any fiscal effect associated with the bill is not reflected in *The FY 2016 Governor's Budget Report*.

HB 2413 - Art Studio Permits

HB 2413 had a hearing in the House Committee on Federal and State Affairs, but the House Committee did not take action on the bill.

At the hearing in the House Federal and State Affairs Committee, Representative Claeys appeared in support of the bill. He testified that the bill would ensure small businesses could continue to operate lawfully while allowing patrons to possess and consume alcohol that they brought to the premises of the private business. Written testimony in support of the bill was provided by a representative of Paint the Towne, Wichita.

Neutral testimony was provided by ABC. That testimony urged the Committee to make any exceptions very narrow to prevent any potential unintended consequences.

Testimony in opposition of the bill was provided by a representative of the Kansas Licensed Beverage Association, who testified the best option would be for the parties involved, ABC, and local law enforcement to sit down and work out any issues.

According to the fiscal note prepared by the Division of Budget on HB 2413, as introduced, the Department of Revenue indicates the bill would increase revenues by \$25 for each art studio permit issued. The number of permits that would be issued under the bill is unknown. The Department estimates the bill would increase expenditures by \$1,200 in FY 2016 to update the liquor tax registration system. Any fiscal effect associated with the bill is not reflected in *The FY 2016 Governor's Budget Report*.