

SESSION OF 2004

**SUPPLEMENTAL NOTE ON HOUSE  
SUBSTITUTE FOR SENATE BILL NO. 437**

As Recommended by House Committee on  
Judiciary

**Brief\***

House Sub. for SB 437 deals with the serving of alcoholic liquor or cereal malt beverages (CMB) to create a dram shop law in Kansas that gives aggrieved parties a cause of action against on premises licensees in instances when the liquor or CMB was consumed by a minor or incapacitated person and the consumption of the alcohol or CMB was the proximate cause of damages by the aggrieved party and the damages were a foreseeable consequence of the negligent service of the liquor or CMB by the licensee.

Any claim under the provision of the bill will be subject to the comparative negligence statute KSA 60-258a, with certain restrictions contained in the bill. Blood alcohol content obtained at a different time than when served on premises and evidence that the incapacitated person was furnished alcohol or CMB without additional evidence that the licensee acted knowingly or intentionally will not constitute *prima facie* evidence of liability.

The effective date of the bill is December 31, 2004.

**Background**

Most of the provisions in the bill came from HB 2296. Representative O'Neal and a conferee from the Kansas Trial Lawyers Association spoke in favor of HB 2296. Opposition was expressed on behalf of Jazz Restaurants, Kansas Restaurant and Hospitality Association, and Kansas Association of Beverage Retailers.

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\*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>

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