

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2059**

As Agreed to April 3, 2023

Brief*

HB 2059 would amend various provisions of the Kansas Liquor Control Act (KLCA), Kansas Cereal Malt Beverage (CMB) Act, and Club and Drinking Establishment Act (CDEA) concerning remittance of gallonage taxes, samples, Sunday sales, the food sales requirement, and common consumption areas. The bill would also permit food establishments to allow dogs in outside areas on the premises and provide an exception to the Kansas Food Code for microbreweries to allow dogs in inside areas, if certain conditions are met.

Remittance of Gallonage Taxes

The bill would amend provisions of the KLCA to require gallonage taxes by holders of a special order shipping license to be submitted to the Secretary of Revenue monthly rather than quarterly, as required in current law.

Product Samples

The bill would amend the KLCA provisions on the licensing of spirits, wine, and CMB distributors concerning samples of products provided to retailers and to club and drinking establishment licensees.

Spirits

The bill would allow a sample of up to three liters of distilled spirits to be provided to club and drinking establishment licensees and employees of the establishment. Continuing law allows samples to be provided to distributors, retailers, and their employees.

Wine

The bill would allow a sample of up to three liters of any brand of wine to be provided to a licensee. Continuing law allows a sample to be provided to club and drinking establishment licensees, distributors, retailers, and their employees.

*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/klrld>

Beer

The bill would allow a sample of up to three gallons of any brand of beer or CMB to be provided to a licensee. Continuing law allows a sample to be provided to club and drinking establishment licensees, distributors, retailers, and their employees.

Sample Products

The bill would require a sample to be of a product the licensee has not purchased from the distributor within the previous 12 months.

Sunday Sales—Food Sales Requirement

The bill would amend the CMB Act's provisions regarding on-premises sales of CMB on Sunday to remove the 30 percent food sales requirement for Sunday sales. In continuing law, Sunday sales must have been authorized by the county or city where the licensee is located. [Note: There is no food sales requirement for other days of the week.]

Common Consumption Areas

The bill would amend the CDEA provisions related to common consumption areas to remove the requirement that a city or county require the portions of common consumption areas on public streets or roadways to be blocked from motorized traffic during events.

The bill would also require each common consumption area to be marked by signs that are conspicuously posted, identifying the boundaries of such area and in a size and manner that provides notice to persons entering or leaving the area.

Charitable Raffles

The bill would amend KLCA provisions regarding prohibited acts to allow liquor or CMB to be a prize of a charitable raffle conducted in accordance with the Kansas Charitable Gaming Act, provided such prize would not be awarded to a person under 21 years of age.

Dogs at Food Establishments and Microbreweries

The bill would permit food establishments to allow dogs in outside areas on the premises if certain conditions are met and would provide a specific exception from the Kansas Food Code for microbreweries to allow dogs in inside areas upon meeting an additional condition.

[Note: Under current law, a food establishment may apply for a variance to be allowed to permit dogs in outside areas.]

Dogs at Food Establishments

The bill would allow a food establishment to permit dogs in outside areas on its premises if the following conditions are met:

- The establishment shall prepare a written plan detailing the processes and procedures to prevent food contamination from dogs on the premises and post the plan next to the food establishment license inside the premises of the establishment;
- Employees of the establishment shall be trained on the plan, and the plan shall be made available to the Kansas Department of Agriculture (KDA) upon request;
- Dogs shall be under handler control, well behaved, and respond to their handler's command;
- Dogs belonging to guests of the microbrewery shall be leashed at all times;
- Dogs shall not be permitted on dining surfaces, including tables, bars, or counter tops;
- Dogs shall not be fed or watered from any food establishment equipment, including, but not limited to, plates, bowls, and utensils, except for single-service items that are disposed of immediately following use;
- An area outside the food establishment shall be designated for dog urination and defecation;
- Employees shall be required to wash their hands after contact of any kind with a dog prior to handling any food, drink, utensil, or food or drink production, preparation or serving equipment, or the preparation or use of surfaces that may come into contact with food or drink;
- Guests shall be advised to wash their hands after any contact with a dog; and
- The establishment shall develop and follow a process for immediately sanitizing equipment or surfaces used for the production, preparation, serving, or consumption of food or drink if a dog has contact with the equipment or surfaces, including instructions for disposing of contaminated food or drink.

Dogs at Microbreweries

In addition to the provisions that permit dogs in outside areas of all food establishments, food establishments that are microbreweries would be permitted to allow dogs in inside areas, but dogs would not be permitted in food or drink preparation areas, including, but not limited to, kitchens and behind bars.

Technical Amendments

The bill would make technical amendments to ensure consistency in statutory phrasing.

Effective Date

The provisions of the bill relating to charitable raffles and common consumption areas would be in effect on July 1, 2023. The provisions of the bill relating to gallonage taxes, product samples, Sunday sales, and dogs in food establishments and microbreweries would be in effect upon publication in the *Kansas Register*.

Conference Committee Action

The Conference Committee agreed to the provisions of HB 2059, as amended by the Senate Committee of the Whole, regarding product samples, common consumption areas, and charitable raffles.

The Conference Committee agreed to add the contents of HB 2058, as passed by the House, regarding remittance of gallonage taxes.

The Conference Committee agreed to add the contents of HB 2124, as passed by the House, concerning food sales requirements for Sunday sales of CMB.

The Conference Committee further agreed to add the contents of HB 2291, as amended by the House Committee on Commerce, regarding dogs in microbreweries and food establishments.

Background

The Conference Committee agreed to the provisions of HB 2059 and agreed to include the contents of HB 2124, and amend and include the contents of HB 2058 and HB 2291.

HB 2059 (Product Samples; Common Consumption Areas; Charitable Raffles)

HB 2059 was requested for introduction in the House Committee on Federal and State Affairs by a representative of the City of Topeka.

House Committee on Federal and State Affairs

In the House Committee hearing, Representative Blew and representatives of the City of Topeka, Kansas League of Municipalities, Kansas Restaurant and Hospitality Association, and the NOTO Arts and Entertainment District provided **proponent** testimony, stating the bill would help cities designate larger and more open areas for events with common consumption area permits and to attract additional patrons.

Neutral testimony was provided by a representative of the Division of Alcoholic Beverage Control (ABC), Department of Revenue, who stated the agency has some public safety concerns and would request additional language to be added concerning liability.

No other testimony was provided.

The House Committee amended the bill to replace the proposed language that would allow the use of appropriate signage to mark a common consumption area with language that would require common consumption area signage to be in a size and manner that provides notice to patrons of the boundaries. [Note: The amendment was retained by the Conference Committee.]

Senate Committee on Federal and State Affairs

In the Senate Committee hearing, representatives of the City of Topeka, Kansas League of Municipalities, and Kansas Restaurant and Hospitality Association provided **proponent** testimony that was similar to the testimony provided to the House Committee.

Written-only proponent testimony was provided by Representative Blew and representatives of the Greater Topeka Chamber of Commerce and the NOTO Arts and Entertainment District.

Neutral testimony was provided by a representative of the Division of ABC, Department of Revenue, who stated the agency has some public safety concerns.

No other testimony was provided.

The Senate Committee on Federal and State Affairs amended the bill by inserting the provisions of HB 2170, as passed by the House, and by changing the effective date to upon publication in the *Kansas Register*. [Note: The amendments were retained by the Conference Committee.] Background information for HB 2170 is included below.

Senate Committee of the Whole

The Senate Committee of the Whole amended HB 2059 to allow liquor and CMB to be provided as prizes for charitable raffles. Provisions concerning prizes for charitable raffles are similar to SB 269. [Note: The amendment was retained by the Conference Committee.]

HB 2170 (Samples)

HB 2170 was introduced by the House Committee on Federal and State Affairs at the request of Representative Will Carpenter.

In the House Committee on Federal and State Affairs hearing, **proponent** testimony was provided by representatives of the Kansas Association of Beverage Retailers, Kansas Beer Wholesalers Association, and Kansas Wine & Spirits Wholesalers Association. The proponents indicated the bill would conform Kansas law to Federal Tax and Trade Bureau rules in regard to sampling among industry members. One of the proponents recommended an amendment to the bill, requesting HB 2170 become effective upon publication in the *Kansas Register*.

Neutral testimony was provided by a representative of the ABC, Department of Revenue, who stated that if HB 2170 is enacted, ABC would begin the process of revoking the portion of the rule and regulation that conflicts with the new law.

No other testimony was provided.

HB 2058 (Gallonage Taxes)

The bill was introduced by the House Committee on Federal and State Affairs at the request of a representative from the Wine & Spirits Wholesalers Association.

House Committee on Federal and State Affairs

In the House Committee hearing on HB 2058, **proponent** testimony was provided by representatives from the Division of ABC, Department of Revenue, and the Wine & Spirits Wholesalers Association. The proponents indicated the bill would allow the ABC to match reports to identify unlawful shipments of alcoholic liquor. Currently, common carriers and fulfillment houses report monthly, while special order shippers report monthly, which results in a delay in matching shipment orders, thereby resulting in a delay in determining which shipments may be from unlicensed entities.

No other testimony was provided.

HB 2124 (Sunday Sales—Food Sales Requirement)

The bill was introduced by the House Committee on Commerce, Labor and Economic Development at the request of Representative Blew.

House Committee on Federal and State Affairs

In the House Committee hearing, Representative Blew and a representative of the Kansas Beer Wholesalers Association provided **proponent** testimony, stating the bill would help businesses with only a CMB license to sell such products by-the-drink on Sundays in a county with a food sales requirement.

No other testimony was provided.

HB 2291 (Dogs in Microbreweries and Eating Establishments)

HB 2291 was introduced by the House Committee on Commerce, Labor and Economic Development at the request of Representative Laura Williams.

House Committee on Commerce, Labor and Economic Development

In the House Committee hearing, representatives of the Kansas Restaurant and Hospitality Association and Transport Brewery provided **proponent** testimony, stating the bill would permit microbreweries to allow dogs in outside and indoor areas on their premises, create a dog-friendly environment for customers and local communities, and codify the current variance to allow dogs on outdoor patios.

Opponent testimony was provided by a representative of the KDA, who stated the Food Safety and Lodging Program is in the process of adopting an updated Kansas Food Code that

would allow dogs on outdoor patios without a food establishment being required to apply for a variance. The KDA representative also stated the presence of dogs in indoor dining areas raises several significant health and safety concerns, such as food contaminated with dog hair, the transmission of viral and bacterial diseases from dogs to humans, and allergies to dogs.

No other testimony was provided.

The House Committee amended the bill to permit all food establishments to allow dogs in outside areas on the premises if conditions are met. [*Note: The amendment was retained by the Conference Committee.*]

Fiscal Information

HB 2058

According to the fiscal note prepared by the Division of the Budget on HB 2058, the Department of Revenue indicates the enactment of the bill would have no fiscal effect on the amount of liquor gallonage tax collections. The Department indicates the bill would require \$5,000 from the State General Fund in FY 2024 for additional technology expenditures, but if the combined effect of implementation of the bill and other enacted legislation exceeds the Department's programming, or if the time for implementation of changes is too short, expenditures for outside contract programmer services beyond the Department's current budget may be required. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2024 Governor's Budget Report*.

HB 2059

According to the fiscal note prepared by the Division of the Budget on HB 2059, as introduced, the Kansas Association of Counties (KAC) indicates enactment of the bill could increase revenues to counties from additional application fees, provided that enforcement costs would not exceed new revenues. The League of Kansas Municipalities indicates enactment of the bill would have no fiscal effect.

HB 2124

According to the fiscal note prepared by the Division of the Budget on HB 2124, the Department of Revenue indicates enactment of the bill would require the handbook for CMB retailers to be updated and any fiscal effect would be negligible.

The KAC indicates enactment of the bill would allow Sunday alcohol sales for more licensed entities which would increase revenues to counties from licensure fees and sales tax revenues; however, a fiscal effect cannot be estimated.

HB 2170

According to the fiscal note prepared by the Division of the Budget on HB 2170, as introduced, the Department of Revenue indicates enactment of the bill would have no fiscal effect.

HB 2291

According to the fiscal note prepared by the Division of the Budget on HB 2291, as introduced, the KDA indicates enactment of the bill would not have a fiscal effect on agency operations.

Sample; alcohol; wine; cereal malt beverage; Kansas Cereal Malt Beverage Act; CMB; spirits; beer; drinking establishment; distributor; remittance; gallonage; tax; special order shipper; common consumption area; roadway; Sunday sales; food sales requirement; microbreweries; dogs; food establishments; Kansas Food Code; Department of Agriculture; Department of Revenue

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