

Journal of the Senate

SEVENTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, May 28, 2015, 10:00 a.m.

The Senate was called to order by President Susan Wagle.
The roll was called with 38 senators present.
Senators Arpke and Masterson were excused.
Invocation by Reverend Cecil T. Washington:

Heavenly Father,

As we open in prayer today, open our hearts. Would You speak to each of us today, and turn ALL of our hearts toward You? As we pause for these few moments, as it says in Matthew 6:6, help us enter our individual prayer closets. Help us to momentarily close out all other concerns, that we may hear Your still small voice. Help us to avoid the pretense of prayer. Let bowed heads be true reflections of humble hearts. Let these few moments of prayer tune us in to Your frequency. Lord, speak to the depths of our need today. Deeply engage us Lord, that we may lock in to Your wisdom, in all our levels of involvement. By Your Spirit, speak to us individually and personally, but also collectively. Lord, bring us together, united around the issues, in humble submission to You, with love and respect for one another. Cancel in us any issues of pride and move us to do Your will...to do Your will Your way. In 1Thessalonians 5:17, You said we should always pray...without ceasing. So, Lord, help us keep our antennas extended, always seeking a signal from You. Thank You for the blessed privilege of prayer. In Jesus name. Amen

The Pledge of Allegiance was led by President Susan Wagle.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following concurrent resolution was referred to Committee as follows:

Committee of the Whole: **SCR 1606**

On motion of Senator Bruce, the Senate recessed until 2:00 p.m.

The Senate met pursuant to recess with Vice President King in the chair.

MESSAGES FROM THE GOVERNOR

H Sub SB 91 approved on May 28, 2015

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators O'Donnell, Abrams, Arpke, Baumgardner, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, Schmidt, Smith, Tyson, Wagle, Wilborn and Wolf introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1752—

A RESOLUTION congratulating and commending Andy Tompkins
for his many years of service to the people of Kansas.

WHEREAS, Andy Tompkins became President and CEO of the Kansas Board of Regents on June 1, 2010. The Kansas Board of Regents is the governing board of the state's six universities and the statewide coordinating board for the state's 32 public higher education institutions (seven public universities, 19 community colleges and six technical colleges). In addition, the Board administers the state's student financial aid, adult education, GED and career and technical education programs. The Board also authorizes private proprietary schools and out-of-state institutions to operate in Kansas, and administers the KAN-ED network, a statewide network that provides broadband internet access and distance learning capabilities for schools, hospitals and libraries; and

WHEREAS, Dr. Tompkins previously served as the Dean of the College of Education, and as Associate Professor in the Department of Special Services and Leadership Studies at Pittsburg State University (PSU). From 2005 to 2007, he served as an Associate Professor in the Department of Education Leadership and Policy Studies at the University of Kansas; and

WHEREAS, Dr. Tompkins served as the Kansas State Department of Education's Commissioner of Education from 1996 through 2005. Throughout his career he has held various positions in K-12 and higher education serving as a high school teacher, principal, superintendent, university associate professor, department chair and college dean; and

WHEREAS, Dr. Tompkins earned his undergraduate degree in English at East Central State University in Ada, Oklahoma. He earned his master's degree from Emporia State University and his doctorate from the University of Kansas in Educational Administration; and

WHEREAS, Dr. Tompkins has earned numerous honors, including distinguished alumni and service awards from Emporia State University and the University of Kansas. He was inducted into the Kansas Teacher's Hall of Fame in 2001, was recognized as a Master Teacher in 1999 and was awarded the leadership Kansas Alumnus of the Year Award in 2002; and

WHEREAS, Dr. Tompkins and his wife, Glenda, live in Topeka. They have two children, Kyle and Amanda: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we congratulate, commend and thank Andy Tompkins for his long and successful career serving the people of Kansas. We wish him all the best in his retirement; and

Be it further resolved: That the Secretary of the Senate shall send an enrolled copy of

this resolution to Andy Tompkins.

On emergency motion of Senator Schmidt **SR 1752** was adopted unanimously.

The Senate honored Dr. Tompkins with a standing ovation.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to HB 2223 submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee amendments, as follows:

On page 7, in line 12, after "venue" by inserting a comma; in line 33, after "(e)" by inserting "(1) A public venue, club or drinking establishment may offer customer self-service of wine from automated devices on licensed premises so long as the licensee monitors and has the ability to control the dispensing of such wine from the automated devices.

(2) The secretary may adopt rules and regulations as necessary to implement the provisions of this subsection.

(f)";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 18, in line 40, after "event" by inserting "or catered event"; in line 43, after the first "event" by inserting "or when the caterer's licensee has provided the required notification pursuant to K.S.A. 41-2643, and amendments thereto"; also in line 43, by striking "Such" and inserting "Any";

On page 19, in line 4, by striking "such"; also in line 4, after "event" by inserting "or catered event"; in line 7, after "township" by inserting ", or the boundaries of the catered event"; also in line 7, by striking "such" and inserting "a"; in line 34, by striking "or"; in line 37, after "thereto" by inserting "; or

(6) on the premises of an unlicensed business as authorized pursuant to subsection (i)";

On page 21, following line 2, by inserting:

"(12) On the premises of the state capitol building or on its surrounding premises during an official state function of a nonpartisan nature that has been approved by the legislative coordinating council.";

Also on page 21, in line 25, after "(i)" by inserting "(1) An unlicensed business may authorize patrons or guests of such business to consume alcoholic liquor on the premises of such business provided:

(A) Such alcoholic liquor is in the personal possession of the patron and is not sold, offered for sale or given away by the owner of such business or any employees thereof;

(B) possession and consumption of alcoholic liquor shall not be authorized between the hours of 12 a.m. and 9 a.m.;

(C) the business, or any owner thereof, shall not have had a license issued under either the Kansas liquor control act or the club and drinking establishment act revoked for any reason; and

(D) no charge of any sort may be made by the business for the privilege of possessing or consuming alcoholic liquor on the premises, or for mere entry onto the premises.

(2) It shall be a violation of this section for any unlicensed business to authorize the possession or consumption of alcoholic liquor by a patron of such business when such authorization is not in accordance with the provisions of this subsection.

(3) For the purposes of this subsection, "patron" means a natural person who is a customer or guest of an unlicensed business.

(j)";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 28, following line 3, by inserting:

"New Sec. 25. (a) Any person engaged in business as a vineyard with not less than 100 vines may apply to the director for an annual vineyard permit.

(b) A vineyard permit shall authorize the sale in the original, unopened container and the serving by the drink of wine on the premises specified in the permit. A vineyard permit also shall authorize the permit holder to conduct wine tastings in accordance with K.S.A. 2014 Supp. 41-308d, and amendments thereto, on the premises specified in the permit. All wine sold or served by the permit holder shall be produced, in whole or in part, using grapes grown by the permit holder and shall be manufactured by a farm winery.

(c) Any wine not consumed on the premises shall be disposed of by the permit holder or, prior to its removal from the property, securely resealed and placed in a tamper-proof, transparent bag which is sealed in a manner that makes it visibly apparent if the bag is subsequently opened.

(d) Permits issued under this section shall be valid for one year from the date of issuance.

(e) The annual fee for a vineyard permit shall be \$100.

(f) The secretary may adopt rules and regulations as necessary to implement the provisions of this section.

(g) This section shall be part of and supplemental to the Kansas liquor control act.

Sec. 26. K.S.A. 41-2643 is hereby amended to read as follows: 41-2643. (a) A caterer's license shall allow the licensee to offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises, which may be open to the public, but only if such premises are located in a county where the qualified electors of the county:

(1) (A) Approved, by a majority vote of those voting thereon, the proposition to amend section 10 of article 15 of the constitution of the state of Kansas at the general election in November, 1986; or (B) have approved a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county at an election pursuant to K.S.A. 41-2646, and amendments thereto; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 41-2646, and amendments thereto.

(b) A caterer shall be required to derive from sales of food at catered events not less than 30% of the caterer's gross receipts from all sales of food and beverages at catered events in a 12-month period unless the caterer offers for sale, sells and serves alcoholic liquor only in counties where the qualified electors of the county:

(1) Have approved, at an election pursuant to K.S.A. 41-2646, and amendments thereto, a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county without a requirement that any portion of their gross receipts

be derived from the sale of food; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 41-2646, and amendments thereto.

(c) Each caterer shall maintain the caterer's principal place of business in a county in this state where the caterer is authorized by this section to sell alcoholic liquor by the individual drink in a public place. All records of the caterer relating to the caterer's licensed business and the caterer's license shall be kept at such place of business. The caterer's principal place of business shall be stated in the application for a caterer's license and the caterer shall notify the director of any change in its location within 10 days after such change.

~~(d) A caterer shall notify the director at least 10 days prior to any event at which the caterer will sell alcoholic liquor by the individual drink unless the director waives the 10-day requirement for good cause shown. In addition, prior to the event, the caterer shall notify:~~

~~(1) The police chief of the city where the event will take place, if the event will take place within the corporate limits of a city; or~~

~~(2) the county sheriff of the county where the event will take place, if the event will be outside the corporate limits of any city. Except as otherwise provided herein, a caterer shall provide electronic notification to the director at least 48 hours prior to any event at which the caterer will sell alcoholic liquor by the individual drink. The director shall make the electronic notification available to local law enforcement. Notice shall consist of the time, location and the names of the contracting parties of the event. For events where alcohol is served, a licensee shall retain all documents for a period of three years for inspection by the director. The documents retained shall include agreements, receipts, employees assigned to the event and records of alcohol purchased. Notification shall not 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.~~

(e) A caterer may rebate a portion of the caterer's receipts from the sale of alcoholic liquor at an event to the person or organization contracting with the caterer to sell alcoholic liquor at such event.

Sec. 27. K.S.A. 2014 Supp. 41-710 is hereby amended to read as follows: 41-710.

(a) No retailer's license shall be issued for premises unless such premises comply with all applicable zoning regulations.

(b) No microbrewery license, microdistillery license or farm winery license shall be issued for purposes which are zoned for any purpose except agricultural, commercial or business purposes.

(c) No retailer's, microbrewery, microdistillery or farm winery license shall be issued for premises which:

(1) Are located within 200 feet of any public or parochial school or college or church, except that if any such school, college or church is established within 200 feet of any licensed premises after the premises have been licensed, the premises shall be an eligible location for retail licensing; or

(2) do not conform to all applicable building regulations.

(d) Any city, by ordinance, may allow a retailer, microbrewery, microdistillery or farm winery to be located within a core commercial district as defined by K.S.A. 2014

Supp. 12-17,122, and amendments thereto, which does not meet the distance requirements established by subsection (c)(1).

Sec. 28. K.S.A. 2014 Supp. 41-2645 is hereby amended to read as follows: 41-2645. (a) A temporary permit shall allow the permit holder to offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises, which may be open to the public, subject to the terms of such permit.

(b) The director may issue a temporary permit to any one or more persons or organizations applying for such a permit, in accordance with rules and regulations of the secretary. The permit shall be issued in the names of the persons or organizations to which it is issued.

(c) Applications for temporary permits shall be required to be filed with the director not less than 14 days before the event for which the permit is sought unless the director waives such requirement for good cause. Each application shall state the purposes for which the proceeds of the event will be used. The application shall be upon a form prescribed and furnished by the director and shall be filed with the director in duplicate. Each application shall be accompanied by a permit fee of \$25 for each day for which the permit is issued, which fee shall be paid by a certified or cashier's check of a bank within this state, United States post office money order or cash in the full amount thereof. All permit fees collected by the director pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(d) Temporary permits shall specify the premises for which they are issued and shall be issued only for premises where the city, county or township zoning code allows use for which the permit is issued. No temporary permit shall be issued for premises which are not located in a county where the qualified electors of the county:

(1) (A) Approved, by a majority vote of those voting thereon, to adopt the proposition amending section 10 of article 15 of the constitution of the state of Kansas at the general election in November, 1986; or (B) have approved a proposition to allow the sale of liquor by the individual drink in public places within the county at an election pursuant to K.S.A. 41-2646, and amendments thereto; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 41-2646, and amendments thereto.

(e) (1) A temporary permit may be issued for the consumption of alcoholic liquor on a city, county or township street, alley, road, sidewalk or highway for a special event; provided, that such street, alley, road, sidewalk or highway is closed to motor vehicle traffic by the governing body of such city, county or township for such special event, a written request for such consumption and possession of such alcoholic liquor has been made to the local governing body and the special event is approved by the governing body of such city, county or township by ordinance or resolution. The boundaries of such special event shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed at such special event.

(2) Drinking establishments that are immediately adjacent to, or located within the licensed premises of a special event, for which a temporary permit has been issued and the consumption of alcoholic liquor on public property has been approved, may request

that the drinking establishment's licensed premises be extended into and made a part of the licensed premises of the special event for the duration of the temporary permit issued for such special event.

(3) Each licensee selling alcoholic liquor for consumption on the premises of a special event for which a temporary permit has been issued shall be liable for violations of all laws governing the sale and consumption of alcoholic liquor.

(4) For the purposes of this section, "special event" shall have the same meaning given that term in K.S.A. 41-719, and amendments thereto.

(f) (1) Except as otherwise provided in this subsection, a temporary permit shall be issued for a period of time not to exceed three consecutive days, the dates and hours of which shall be specified in the permit. Not more than four temporary permits may be issued to any one applicant in a calendar year.

(2) (A) On or before June 30, 2016, the director may issue one temporary permit, valid for the entire period of time of the Kansas state fair, which authorizes the sale of wine in its original, unopened container and the serving by the drink of only wine or beer, or both, on the state fairgrounds on premises specified in the temporary permit, by a person who has entered into an agreement with the state fair board for that purpose;

(B) On and after July 1, 2016, the director may issue a sufficient number of temporary permits as required by the state fair board, valid for the entire period of time of the Kansas state fair, which authorizes the sale of wine in its original, unopened container and the serving by the drink of wine or beer, or both, on the state fairgrounds on premises specified in the temporary permit, by a person who has entered into an agreement with the state fair board for that purpose subject to the conditions imposed by the state fair board. Nothing in this subsection (f)(2)(B) shall be construed to limit the number of temporary permits the director may issue for the sale of wine or beer, or both, on the state fairgrounds consistent with the requirements of the state fair board.

(3) The director may issue a temporary permit for a special event approved by the governing body of a city, county or township pursuant to subsection (e)(1), which may, at the director's discretion, be valid for the entire period of such special event, but in no event shall such permit be issued for a period of time that exceeds 30 consecutive days.

(g) All proceeds from an event for which a temporary permit is issued shall be used only for the purposes stated in the application for such permit.

(h) Upon written permission from the director and within three business days after the end of an event conducted pursuant to a temporary permit, the holder of a temporary permit may sell back to the licensee from whom alcoholic liquor was purchased any alcoholic liquor sold to the holder of the temporary permit for such event.

(i) A temporary permit shall not be transferable or assignable.

(j) The director may refuse to issue a temporary permit to any person or organization which has violated any provision of the Kansas liquor control act, the drinking establishment act or K.S.A. 79-41a01 et seq., and amendments thereto.

Sec. 29. K.S.A. 2014 Supp. 41-351 is hereby amended to read as follows: 41-351.

(a) Notwithstanding any other provisions of the Kansas liquor control act, the club and drinking establishment act or the Kansas cereal malt beverage act, any person who is licensed to sell wine pursuant to K.S.A. 41-308a, and amendments thereto, may apply to the director for an annual ~~bona fide~~ farmers' market sales permit. Such permit shall authorize the licensee, a member of the licensee's family or an employee of the licensee to sell wine in the original unopened container produced and bottled by the licensee at a

~~bona fide farmers' market located at a site approved by the director~~ markets.

(b) An application submitted pursuant to this section shall be accompanied by an application fee of \$25. Permits issued under this section shall be valid for one year from the date of issuance. ~~A licensee shall not hold more than one bona fide farmers' market sales permit at any one time.~~

(c) ~~The licensee may only sell wine at a single bona fide farmers' market on one day of the week.~~ The location ~~locations~~ of the bona fide farmers' market ~~markets~~ at which wine shall be sold shall be specified in the application submitted to the director. If the licensee elects to sell wine at a farmers' market, the location of which was not reported to the director in the application, such licensee shall notify the director of the location before any wine may be sold at that location. The director shall notify the city, county and applicable law enforcement agency where ~~the bona fide farmers' market is~~ markets are to be held and of the issuance of a permit under this section for the sale of wine at such ~~bona fide farmers' market~~ markets.

(d) For the purposes of this section, ~~"bona fide farmers' market"~~ means any ~~location held out to be a farmers' market that is subject to inspection by the department of agriculture~~ 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.

(e) The secretary may adopt rules and regulations as necessary to implement the provisions of this section.

(f) This section shall be a part of and supplemental to the Kansas liquor control act.";

Also on page 28, in line 4, by striking "and" and inserting a comma; in line 5, after "2633a" by inserting "and 41-2643"; in line 6, after "41-328," by inserting "41-351, 41-710,"; also in line 6, by striking "and" and inserting a comma; also in line 6, after "41-2640" by inserting "and 41-2645";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "the dispensing of"; in line 2, by striking the first "and" and inserting a comma; also in line 2, after "41-2633a" by inserting "and 41-2643"; in line 4, after "41-328," by inserting "41-351, 41-710,"; also in line 4, by striking the first "and" and inserting a comma; also in line 4, after "41-2640" by inserting "and 41-2645";

And your committee on conference recommends the adoption of this report.

RALPH OSTMEYER
JACOB LATURNER
OLETHA FAUST-GOUDEAU
Conferees on part of Senate

STEVEN BRUNK
TRAVIS COUTURE-LOVELADY
ANNIE TIETZE
Conferees on part of House

Senator Ostmeyer moved the Senate adopt the Conference Committee Report on **HB 2223**.

On roll call, the vote was: Yeas 30; Nays 6; Present and Passing 1; Absent or Not

Voting 3.

Yeas: Abrams, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Holmes, Kelly, King, LaTurner, Longbine, Love, Lynn, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettet, Pilcher-Cook, Powell, Smith, Wagle, Wilborn, Wolf.

Nays: Baumgardner, Hensley, Knox, Pyle, Schmidt, Tyson.

Present and Passing: Holland.

Absent or Not Voting: Arpke, Kerschen, Masterson.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2352** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee amendments, as follows:

On page 6, in line 24, before "K.S.A" by inserting "On January 1, 2016,"; in line 33, by striking "individual or small group"; in line 34, before "health" by inserting "individual or group";

On page 12, following line 43, by inserting:

"Sec. 2. K.S.A. 2014 Supp. 40-3118 is hereby amended to read as follows: 40-3118. (a) No motor vehicle shall be registered or reregistered in this state unless the owner, at the time of registration, has in effect a policy of motor vehicle liability insurance covering such motor vehicle, as provided in this act, or is a self-insurer thereof, or the motor vehicle is used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and amendments thereto, in an approved driver training course by a school district or an accredited nonpublic school under an agreement with a motor vehicle dealer, and such policy of motor vehicle liability insurance is provided by the school district or accredited nonpublic school. As used in this section, the term "financial security" means such policy or self-insurance. The director shall require that the owner certify and provide verification of financial security, in the manner prescribed by K.S.A. 8-173, and amendments thereto, that the owner has such financial security, and the owner of each motor vehicle registered in this state shall maintain financial security continuously throughout the period of registration. In addition, when an owner certifies that such financial security is a motor vehicle liability insurance policy meeting the requirements of this act, the director may require that the owner or owner's insurance company produce records to prove the fact that such insurance was in effect at the time the vehicle was registered and has been maintained continuously from that date. Such records may be produced by displaying such records on a cellular phone or any other type of portable electronic device. Any person to whom such records are displayed on such cellular phone or other type of portable electronic device shall be prohibited from viewing any other content or information stored on such cellular phone or other type of portable electronic device. Failure to produce such records shall be prima facie evidence that no financial security exists with regard to the vehicle concerned. It shall be the duty of insurance companies, upon the request of the director, to notify the director within 30 calendar days of the date of the receipt of such request

by the director of any insurance that was not in effect on the date of registration and maintained continuously from that date.

(b) Except as otherwise provided in K.S.A. 40-276, 40-276a and 40-277, and amendments thereto, and except for termination of insurance resulting from nonpayment of premium or upon the request for cancellation by the insured, no motor vehicle liability insurance policy, or any renewal thereof, shall be terminated by cancellation or failure to renew by the insurer until at least 30 days after mailing a notice of termination, by certified or registered mail—~~or~~, United States post office certificate of mailing, or any other mail tracking method currently used, approved or accepted by the United States postal service to the named insured at the latest address filed with the insurer by or on behalf of the insured. Time of the effective date and hour of termination stated in the notice shall become the end of the policy period. Every such notice of termination sent to the insured for any cause whatsoever shall include on the face of the notice a statement that financial security for every motor vehicle covered by the policy is required to be maintained continuously throughout the registration period, that the operation of any such motor vehicle without maintaining continuous financial security therefor is a class B misdemeanor and shall be subject to a fine of not less than \$300 and not more than \$1,000 and that the registration for any such motor vehicle for which continuous financial security is not provided is subject to suspension and the driver's license of the owner thereof is subject to suspension.

(c) The director of vehicles shall verify a sufficient number of insurance certifications each calendar year as the director deems necessary to insure compliance with the provisions of this act. The owner or owner's insurance company shall verify the accuracy of any owner's certification upon request, as provided in subsection (a).

(d) (1) In addition to any other requirements of this act, the director shall require a person to acquire insurance and for such person's insurance company to maintain on file with the division evidence of such insurance for a period of one year when a person has been convicted in this or another state of any of the violations enumerated in K.S.A. 8-285, and amendments thereto.

(2) The director shall also require any driver whose driving privileges have been suspended pursuant to this section to maintain such evidence of insurance as required above.

(3) The company of the insured shall immediately mail notice to the director whenever any policy required by this subsection to be on file with the division is terminated by the insured or the insurer for any reason. The receipt by the director of such termination shall be prima facie evidence that no financial security exists with regard to the person concerned.

(4) No cancellation notice shall be sent to the director if the insured adds or deletes a vehicle, adds or deletes a driver, renews a policy or is issued a new policy by the same company. No cancellation notice shall be sent to the director prior to the date the policy is terminated if the company allows a grace period for payment until such grace period has expired and the policy is actually terminated.

(5) For the purposes of this act, the term "conviction" includes pleading guilty or nolo contendere, being convicted or being found guilty of any violation enumerated in this subsection without regard to whether sentence was suspended or probation granted. A forfeiture of bail, bond or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction.

(6) The requirements of this subsection shall apply whether or not such person owns a motor vehicle.

(e) Whenever the director shall receive prima facie evidence, as prescribed by this section, that continuous financial security covering any motor vehicle registered in this state is not in effect, the director shall notify the owner by registered or certified mail or United States post office certificate of mailing that, at the end of 30 days after the notice is mailed, the registration for such motor vehicle and the driving privileges of the owner of the vehicle shall be suspended or revoked, pursuant to such rules and regulations as the secretary of revenue shall adopt, unless within 10 days after the notice is mailed: (1) Such owner shall demonstrate proof of continuous financial security covering such vehicle to the satisfaction of the director. Such proof of continuous financial security may be provided by the owner by displaying such proof on a cellular phone or other portable electronic device; or (2) such owner shall mail a written request which is postmarked within 10 days after the notice is mailed requesting a hearing with the director. Any person to whom such proof of continuous financial security is displayed on a cellular phone or other portable electronic device shall view only such evidence of continuous financial security. Such person shall be prohibited from viewing any other content or information stored on such cellular phone or other portable electronic device. Upon receipt of a timely request for a hearing, the director shall afford such person an opportunity for hearing within the time and in the manner provided in K.S.A. 8-255, and amendments thereto. If, within the ten-day period or at the hearing, such owner is unable to demonstrate proof of continuous financial security covering the motor vehicle in question, the director shall revoke the registration of such motor vehicle and suspend the driving privileges of the owner of the vehicle.

(f) Whenever the registration of a motor vehicle or the driving privileges of the owner of the vehicle are suspended or revoked for failure of the owner to maintain continuous financial security, such suspension or revocation shall remain in effect until satisfactory proof of insurance has been filed with the director as required by subsection (d) and a reinstatement fee in the amount herein prescribed is paid to the division of vehicles. Such reinstatement fee shall be in the amount of \$100 except that if the registration of a motor vehicle of any owner is revoked within one year following a prior revocation of the registration of a motor vehicle of such owner under the provisions of this act such fee shall be in the amount of \$300. The division of vehicles shall remit such fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state highway fund.

(g) In no case shall any motor vehicle, the registration of which has been revoked for failure to have continuous financial security, be reregistered in the name of the owner thereof, the owner's spouse, parent or child or any member of the same household, until the owner complies with subsection (f). In the event the registration plate has expired, no new plate shall be issued until the motor vehicle owner complies with the reinstatement requirements as required by this act.

(h) Evidence that an owner of a motor vehicle, registered or required to be registered in this state, has operated or permitted such motor vehicle to be operated in this state without having in force and effect the financial security required by this act for such vehicle, together with proof of records of the division of vehicles indicating that

the owner did not have such financial security, shall be prima facie evidence that the owner did at the time and place alleged, operate or permit such motor vehicle to be operated without having in full force and effect financial security required by the provisions of this act.

(i) Any owner of a motor vehicle registered or required to be registered in this state who shall make a false certification concerning financial security for the operation of such motor vehicle as required by this act, shall be guilty of a class A misdemeanor. Any person, firm or corporation giving false information to the director concerning another's financial security for the operation of a motor vehicle registered or required to be registered in this state, knowing or having reason to believe that such information is false, shall be guilty of a class A misdemeanor.

(j) The director shall administer and enforce the provisions of this act relating to the registration of motor vehicles, and the secretary of revenue shall adopt such rules and regulations as may be necessary for its administration.

(k) Whenever any person has made application for insurance coverage and such applicant has submitted payment or partial payment with such application, the insurance company, if payment accompanied the application and if insurance coverage is denied, shall refund the unearned portion of the payment to the applicant or agent. Such refund may:

- (1) Accompany the notice of denial of coverage; or
- (2) be separately returned in not more than 10 days from the date of such notice.

If payment did not accompany the application to the insurance company but was made to the agent, the agent shall refund the unearned portion of the payment to the applicant upon receipt of the company's notice of denial.

(l) For the purpose of this act, "declination of insurance coverage" means a final denial, in whole or in part, by an insurance company or agent of requested insurance coverage.

Sec. 3. K.S.A. 2014 Supp. 40-223 is hereby amended to read as follows: 40-223.

(a) (1) Except as provided in K.S.A. 40-110 and 40-253, and amendments thereto, any person who makes any examination under the provisions of this act may receive, as full compensation for such person's services, on a per diem basis an amount fixed by the commissioner, which shall not exceed the amount recommended by the national association of insurance commissioners, for such time necessarily and actually occupied in going to and returning from the place of such examination and for such time the examiner is necessarily and actually engaged in making such examination including any day within the regular workweek when the examiner would have been so engaged had the company or society been open for business, together with such necessary and actual expenses for traveling and subsistence as the examiner shall incur because of the performance of such services.

(2) For the purposes of this act, "necessary and actual expenses" shall be limited, whether for travel within the state or travel outside the state, to those limitations expressed in K.S.A. 75-3207, and amendments thereto, which pertain to official travel outside the state. The daily charge shall be calculated by dividing the amount the examiner is authorized by the commissioner of insurance to charge per week by the number of days in the regular workweek of the company or society being examined.

(b) (1) All of such compensation, expenses, the employer's share of the federal insurance contributions act taxes, the employer's contribution to the Kansas public

employees retirement system as provided in K.S.A. 74-4920, and amendments thereto, the self-insurance assessment for the ~~workmen's~~ workers compensation act as provided in K.S.A. 44-576, and amendments thereto, the employer's cost of the state health care benefits program under K.S.A. 75-6507, and amendments thereto, a pro rata amount determined by the commissioner to provide vacation and sick leave for the examiner not to exceed the number of days allowed state officers and employees in the classified service pursuant to regulations promulgated in accordance with the Kansas civil service act, all outside consulting and data processing fees necessary to perform any examination, and a pro rata amount determined by the commissioner not to exceed an annual aggregate of \$18,000 to fund the purchase, maintenance and enhancement of examination equipment and computer software shall be paid to the commissioner of insurance by the insurance company or society so examined, on demand of the commissioner.

(2) The amount paid for all outside consulting and data processing fees necessary to perform any financial examination at any one company or society, including examination of such company's or society's subsidiaries or any combination thereof, and the pro rata amount to fund the purchase of examination equipment and computer software shall not collectively total more than:

(A) \$50,000 for any insurance company or society which has less than \$200,000,000 in gross premiums, both direct and assumed, in the preceding calendar year; or

(B) ~~\$100,000~~—\$500,000 for any insurance company or society which has \$200,000,000 or more in gross premiums, both direct and assumed, in the preceding calendar year.

(3) The amount paid for all outside consulting and data processing fees necessary to perform any market regulation examination at any one company or society, including examination of such company's or society's subsidiaries, or any combination thereof, and the pro rata amount to fund the purchase of examination equipment and computer software shall not collectively total more than \$25,000.

(c) Such demand shall be accompanied by the sworn statement of the person making such examination, setting forth in separate items the number of days necessarily and actually occupied in going to and returning from the place of such examination, the number of days the examiners were necessarily and actually engaged in making such examination including those days within the regular workweek while the examination was in progress and the company or society had closed for business, and the necessary and actual expenses for traveling and subsistence, incurred in and on account of such services.

(d) A duplicate of every such sworn statement shall be kept on file in the office of the commissioner of insurance. All moneys so paid to the commissioner of insurance shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the insurance company examination fund. The state treasurer shall issue duplicate receipts therefor, one to be delivered to the commissioner of insurance and the other to be filed with the director of accounts and reports.

Sec. 4. K.S.A. 40-2127 is hereby amended to read as follows: 40-2127. (a) Not later than July 1, 1993, and July 1 of each succeeding year, the board shall submit an

audited financial report for the plan for the preceding calendar year to the commissioner in a form provided or prescribed by the commissioner.

(b) The financial status of the plan shall be subject to examination by the commissioner or the commissioner's designee. Such examination shall be conducted at least once every ~~three~~ five years ~~beginning January 1, 1995~~. The commissioner shall transmit a copy of the results of such examination to the legislature by February 1 of the year following the year in which the examination is conducted.

New Sec. 5. The following definitions shall apply to K.S.A. 40-246b through 40-246e, and amendments thereto, and section 7, and amendments thereto:

(a) "Exempt commercial purchaser" means any person purchasing commercial insurance that, at the time of placement, meets the following requirements:

(1) The person employs or retains a qualified risk manager to negotiate insurance coverage;

(2) the person has paid aggregate nationwide commercial property and casualty insurance premiums in excess of \$100,000 in the immediately preceding 12 months; and

(3) the person:

(A) Possesses a net worth in excess of \$20,040,000, except that this amount shall be adjusted every five years by rules and regulations of the commissioner of insurance to account for the percentage change in the consumer price index;

(B) generates annual revenues in excess of \$55,100,000, except that this amount shall be adjusted every five years by rules and regulations of the commissioner of insurance to account for the percentage change in the consumer price index;

(C) employs more than 500 full-time or full-time-equivalent employees per insured entity or is a member of an affiliated group employing more than 1,000 employees in the aggregate;

(D) is a not-for-profit organization or public entity generating annual budgeted expenditures of at least \$33,060,000, except that this amount shall be adjusted every five years by rules and regulations of the commissioner of insurance to account for the percentage change in the consumer price index; or

(E) is a municipality with a population in excess of 50,000 persons.

(b) "Home state" (1) In general, except as provided in subparagraph (2), the term "home state" means, with respect to an insured:

(A) The state in which an insured maintains its principal place of business or, in the case of an individual, the individual's principal residence; or

(B) if 100% of the insured risk is located out of the state referred to in paragraph (1)(A), the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.

(2) Affiliated groups. If more than one insured from an affiliated group are named insureds on a single non-admitted insurance contract, the term "home state" means the home state, as determined pursuant to paragraph (1), of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract.

(c) "Nonadmitted insurer" means an insurer that is not authorized or admitted to transact the business of insurance under the law of the home state, but does not include a risk retention group as that term is defined in 15 U.S.C. § 3901(a)(4), as in effect on July 1, 2015.

(d) "Principal place of business" means, with respect to determining the home state of the insured, the state where the insured maintains its headquarters and where the insured's high-level officers direct, control and coordinate the business activities of the insured.

(e) "Surplus lines insurance" means insurance procured by a surplus lines licensee from a surplus lines insurer as permitted under the law of the home state. "Surplus lines insurance" shall also mean excess lines insurance as may be defined by applicable state law.

(f) This section shall take effect on and after January 1, 2016.

Sec. 6. On January 1, 2016, K.S.A. 2014 Supp. 40-246c is hereby amended to read as follows: 40-246c. (a) On March 1 of each year, each licensed agent shall collect and pay to the commissioner a ~~sum based tax of 6%~~ tax of 6% on the total gross premiums charged, less any return premiums, for surplus lines insurance ~~provided transacted~~ by the licensee pursuant to the license. ~~Where the insurance covers properties, risks or exposures located or to be performed both in and out of this state, the sum payable shall be computed based on:~~

~~(1) An amount equal to 6% of that portion of the gross premiums allocated to this state; plus~~

~~(2) an amount equal to the portion of the premiums allocated to other states or territories on the basis of the tax rates and fees applicable to properties, risks or exposures located or to be performed outside of this state; less~~

~~(3) the amount of gross premiums allocated to this state and returned to the insured for insureds whose home state is this state.~~

(b) The tax on any portion of the premium unearned at termination of insurance, if any, having been credited by the state to the licensee shall be returned to the policyholder directly by the surplus lines licensee or through the producing broker. The surplus lines licensee is prohibited from rebating any part of the tax for any reason. ~~To the extent that other states where portions of the properties, risks or exposures reside have failed to enter into a compact or reciprocal allocation procedure with this state, the net premium tax collected shall be retained by this state.~~

(c) The individual responsible for filing the statement shall be the agent who signs the policy or the agent of record with the company. The commissioner of insurance shall collect double the amount of tax herein provided from any licensee or other responsible individual as herein described who shall fail, refuse or neglect to transmit the required affidavit or statement or shall fail to pay the tax imposed by this section, to the commissioner within the period specified.

New Sec. 7. (a) A surplus lines producer seeking to place non-admitted insurance for an exempt commercial purchaser is not required to file the signed statement under K.S.A. 40-246b, and amendments thereto, if the surplus lines producer has disclosed to the exempt commercial purchaser that such insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight and the exempt commercial purchaser has subsequently requested in writing the surplus lines producer to procure or place such insurance from a nonadmitted insurer.

(b) This section shall take effect on and after January 1, 2016.

New Sec. 8. The commissioner of insurance may adopt such rules and regulations as are reasonable, necessary and incidental to the enforcement and administration of the provisions of K.S.A. 2014 Supp. 40-246b through 40-246e and section 7, and

amendments thereto. Such rules and regulations shall be adopted no later than January 1, 2017.

(b) This section shall take effect on and after January 1, 2016.

Sec. 9. K.S.A. 40-2127 and K.S.A. 2014 Supp. 40-223 and 40-3118 are hereby repealed.";

On page 13, in line 1, before "K.S.A." by inserting "On January 1, 2016,"; also in line 1, after "Supp." by inserting "40-246c,"; also in line 1, by striking "is" and inserting ", 40-5701, 40-5702 and 40-5703 are"; in line 3, by striking "January 1, 2016, and";

And by renumbering sections accordingly;

On page 1, in the title, in line 4, after the semicolon by inserting "motor vehicle liability insurance, mailing notice of termination of coverage; certain financial examinations, consulting fees, examination period; surplus lines insurance, gross premiums and tax thereon,"; also in line 4, after "K.S.A." by inserting "40-2127 and K.S.A."; also in line 4, after "Supp." by inserting "40-223, 40-246c,"; also in line 4, after "40-2,194" by inserting "and 40-3118"; in line 5, by striking "section" and inserting "sections"; also repealing K.S.A. 2014 Supp. 40-5701, 40-5702 and 40-5703";

And your committee on conference recommends the adoption of this report.

JEFF LONGBINE
ELAINE BOWERS
TOM HAWK

Conferees on part of Senate

SCOTT SCHWAB
ROB BRUCHMAN
RODERICK HOUSTON

Conferees on part of House

Senator Longbine moved the Senate adopt the Conference Committee Report on **HB 2352**.

On roll call, the vote was: Yeas 37; Nays 0; Present and Passing 0; Absent or Not Voting 3.

Yeas: Abrams, Baumgardner, Bowers, Bruce, Denning, Donovan, Faust-Goudeau, Fitzgerald, Francisco, Haley, Hawk, Hensley, Holland, Holmes, Kelly, King, Knox, LaTurner, Longbine, Love, Lynn, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pettey, Pilcher-Cook, Powell, Pyle, Schmidt, Smith, Tyson, Wagle, Wilborn, Wolf.

Absent or Not Voting: Arpke, Kerschen, Masterson.

The Conference Committee Report was adopted.

On motion of Senator Bruce, the Senate adjourned until 10:00 a.m., Friday, May 29, 2015.

ROSE MARIE GLATT, CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks*.
COREY CARNAHAN, *Secretary of the Senate*.

□