



House Bill 2291 Oral Proponent Testimony
Kansas Restaurant & Hospitality Association
February 8th, 2023
Scott J. Schneider JD

Chairman Tarwater and members of the committee, I am Scott Schneider, Legislative Counsel for the Kansas Restaurant & Hospitality Association (KRHA). We support this legislation because our members believe it creates a dog-friendly environment for their customers and also our local communities.

Currently, the food code does generally prohibit animals in food establishments with several exceptions. The food code states:

6-501.115 Prohibiting Animals.

(A) Except as specified in ¶¶ (B) and (C) of this section, live animals may not be allowed on the PREMISES of a FOOD ESTABLISHMENT.

(B) Live animals may be allowed in the following situations if the contamination of FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES cannot result:

- (1) Edible FISH or decorative FISH in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems;
- (2) Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas;
- (3) In areas that are not used for FOOD preparation and that are usually open for customers, such as dining and sales areas, SERVICE ANIMALS that are controlled by the disabled EMPLOYEE or PERSON, if a health or safety HAZARD will not result from the presence or activities of the SERVICE ANIMAL;
- (4) Pets in the common dining areas of institutional care facilities such as nursing homes, assisted living facilities, group homes, or residential care facilities at times other than during meals if:
 - (a) Effective partitioning and self-closing doors separate the common dining areas from FOOD storage or FOOD preparation areas,
 - (b) Condiments, EQUIPMENT, and UTENSILS are stored in enclosed cabinets or removed from the common dining areas when pets are present, and
 - (c) Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service; and
- (5) In areas that are not used for FOOD preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly confined, such as in a variety store that sells pets or a tourist park that displays animals.

(C) Live or dead FISH bait may be stored if contamination of FOOD; clean EQUIPMENT, UTENSILS, and LINENS; and unwrapped SINGLE-SERVICE and SINGLE-USE ARTICLES cannot result.

KANSAS RESTAURANT AND HOSPITALITY ASSOCIATION 3500 N ROCK ROAD BUILDING 1300
WICHITA, KANSAS 67226

TELEPHONE: 800.369.6787 IN WICHITA: 316.267.8383 FACSIMILE: 316.267.8400 E-MAIL:

KSREST@KRHA.ORG WEB SITE: WWW.KRHA.ORG

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House Bill 2291 provides food establishments that are microbreweries to allow dogs on the premises. Historically, there has been a waiver or variance request and we just want to put that request into statute. Please see the attached variance guidelines. A food establishment could apply to the Department to allow dogs on a food establishments premise under certain circumstances. This variance included criteria that must be met.

- 1) Dogs must be under handler control.
- 2) Dogs of the establishment must be well-behaved and respond to owner command but are not required to be leashed.
- 3) Dogs of guests to the establishment must be leashed.
- 4) The food establishment must have a written plan describing the processes and procedures in place to prevent food contamination from on-premises dogs.
- 5) This plan must be posted next to the food establishment license in the establishment, employees of the establishment must be trained on the plan and the plan must be made available to KDA upon request.

The Animal Legal & Historical Center at Michigan State University College of Law believes, as of 2023, there are currently 20 states that have a law allowing dogs in outdoor dining areas and 6 states that do the same through state regulations.¹ House Bill 2291 is a reasonable way to manage the public safety concerns of keeping food preparation separate from animals and allowing dogs back into microbreweries and giving them the ability to create an enjoyable environment for everyone to love.

<https://www.animallaw.info/content/dogs-outdoor-dining>¹

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Dogs in Food Establishments



Kansas Administrative Regulation (KAR) 4-28-13, Code Section 6-501.115(A) prohibits the presence of animals on the premises of a food establishment.

Per KAR 4-28-15, Code Section 8-103.10, the Secretary of the Kansas

Department of Agriculture may grant a variance by modifying or waiving the requirements of the Code if a health hazard or nuisance will not result from the variance.

KDA recognizes that dogs on food establishment premises can be part of an overall business plan and as such understands that variances may be requested from time to time. Below are the criteria that must be met in order for the variance to be considered. The Kansas Food Code treats indoor and outdoor dining areas of a food establishment the same in regard to the presence of animals. As such the below criteria must be met for indoor or outdoor dining areas.

- The food establishment must have a written plan describing the processes and procedures in place to prevent food contamination from on-premises dogs. This plan must be posted next to the food establishment license in the establishment, employees of the establishment must be trained on the plan and the plan must be made available to KDA upon request.

- Dogs must be under handler control. Dogs of the establishment must be well-behaved and respond to owner command but are not required to be leashed. Dogs of guests to the establishment must be leashed.
- Dogs in indoor areas must not be in food or drink preparation areas such as kitchens, behind bars, etc.
- Dogs must not be allowed on dining surfaces such as tables, bars, countertops, etc.
- Dogs must not be fed or watered from any food establishment equipment including but not limited to plates, bowls and utensils with the exception of single-service items which are disposed of immediately following use.
- An area outside the establishment must be designated for dog urination and defecation.
- Employees must be required to wash their hands after dog contact of any kind prior to any food, drink, utensil or equipment handling or preparation or use of food contact surfaces.
- Patrons must be advised to wash their hands after dog contact.
- A process for immediately sanitizing equipment or surfaces if a dog were to make prohibited contact must be developed and followed in the establishment. This process must include instructions for disposing of contaminated food.

The establishment requesting the variance must present a plan for meeting the above criteria to KDA. This plan must be approved and the variance granted by the Secretary prior to dogs being allowed on the premises of the food establishment. The Secretary will reserve the right to revoke the variance once granted if it is determined that the variance creates an unforeseen public health hazard, or it is found upon inspection that the establishment is not complying with the provisions of the variance.