

SESSION OF 2013

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 36**

As Amended by House Committee on Federal  
and State Affairs

**Brief\***

This bill would amend the Club and Drinking Establishment Act and the Kansas Liquor Control Act. The bill would address free samples of mixed alcoholic beverages, licensees' restrictions regarding employees, and administrative rules and regulations for licensed retail sellers of alcoholic liquors, micro-distilleries, and public venues.

***Free Samples***

The bill would allow various licensees, including licensed Class A and Class B clubs, licensed drinking establishments, licensed caterers, licensed public venue clubs, temporary permit holders, and any person or entity licensed to sell alcoholic beverages at retail in the original package, to serve free samples of alcoholic liquor on the licensed premises, or in adjacent premises for licensed retail sellers.

The bill would define "sample" to mean a serving of alcoholic liquor that contains not more than one-half ounce of distilled spirits, one ounce of wine, or two ounces of beer or cereal malt beverage. A sample of mixed alcoholic beverage could not contain more than one-half ounce of distilled spirits.

Class A and B clubs would be allowed to serve the samples free of charge only to their members and their members' families and guests.

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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>

All licensees would be prohibited from serving more than five samples to any individual per visit and no samples could be removed from the premises. The bill would prohibit licensees from collecting either a cover charge or an entry fee at any time during the business day that free samples are provided for anyone.

The bill also would authorize the preparing or mixing of samples at a licensed retail premises, or adjacent premises, for the purpose of conducting distilled spirit tastings, as well as wine and beer tastings, or any combination of alcoholic liquors.

The bill would require samples to come from the licensee's inventory and would require the licensee to pay all associated excise and drink taxes for any alcoholic liquor served in free samples.

### ***Licensees' Restrictions***

The bill also would modify statutes pertaining to the employment of certain individuals under the Club and Drinking Establishment Act.

The bill would make it unlawful for licensees to knowingly employ, or continue to employ, any person dispensing or serving alcoholic liquor, or mixing drinks containing alcoholic liquor, who:

- Has been adjudicated guilty of two or more violations of KSA 21-5607 (furnishing alcoholic beverages to minors) or similar laws from other states regarding the furnishing of liquor to minors, within the immediately preceding five years; or
- Has been adjudicated guilty of three or more violations of any other Kansas, or any other state, intoxicating liquor law, but not involving the

furnishing of alcoholic liquor to minors, within the immediately preceding five years.

### ***Rules and Regulations***

The bill would continue application of all rules and regulations concerning retail sellers of alcoholic liquors, micro-distilleries, and public venues, which were adopted on and after July 1, 2012, and before July 1, 2013, to remain effective until revised, revoked, or nullified by law.

### **Background**

The bill as introduced would have allowed licensed class A clubs, class B clubs, drinking establishments, caterers, public venue clubs, and temporary permit holders to serve free samples of alcoholic liquor on the licensed premises. Clubs and drinking establishments also would have been allowed to serve free samples at special events monitored and regulated by the Division of Alcoholic Beverage Control.

At the Senate Committee hearing, testimony in support of the bill was provided by the Kansas Licensed Beverage Association and the Kansas Restaurant and Hospitality Association. Testimony opposing the bill was provided by Alcoholic Beverage Control, Department of Revenue. Neutral testimony was provided by the Kansas Wine and Spirits Wholesalers Association.

The Senate Committee on Federal and State Affairs requested its amendments be included in a substitute bill for SB 36 that would limit the number of and quantity of alcoholic liquor in free samples; prohibit any type of charges (cover, entry or any other consideration) being collected by licensees offering free samples; and pay all required excise and drink taxes based on the acquisition costs of alcoholic liquor in the free samples.

The House Committee on Federal and State Affairs amended the bill by adding certain provisions from 2013 SB 7 as passed by the Senate. The language from SB 7 would permit licensed retail sellers to provide free samples of mixed alcoholic beverages in the same manner as other licensees addressed in the bill. Other language that would continue the rules and regulations in effect for micro-distilleries and public venues from SB 7 also was added.

The House Committee also amended the bill by adding certain provisions from 2013 SB 35 as passed by the Senate, except for one provision. Language referring to anyone convicted of a person or drug felony, or offender as defined in KSA 22-4902, was eliminated by the House Committee, thus reverting to language in current law that refers to anyone guilty of a felony or of any crime involving a morals charge.

The House Committee concurred with the Senate-passed 2013 Sub. For SB 36 provisions and made no changes in its language, except to reconcile it with the addition of the provisions from the two other bills.

The fiscal note as provided by the Division of the Budget on the original bill is no longer applicable to the provisions of the substitute bill. The Department of Revenue indicated SB 36, as introduced, could result in the loss of excise tax revenue to the State General Fund, but did not provide an estimate. The original bill did not require remittance of the liquor excise tax on the value of the alcohol served free of charge.