

SESSION OF 2023

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR
SENATE BILL NO. 116**

As Recommended by House Committee on
Federal and State Affairs

Brief*

House Sub. for SB 116 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.

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

*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>

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.

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 such 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 concerning 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 that the portions of common consumption areas on public streets or roadways 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.

Background

As referred to the House Committee on Federal and State Affairs, SB 116 contained provisions relating to firearms education in public schools. [*Note:* These provisions are identical to the provisions in HB 2304 as passed by the House.]

On March 16, 2023, the House Committee on Federal and State Affairs recommended a substitute for SB 116 incorporating the contents of HB 2058, HB 2059 (as amended by the House Committee on Federal and State Affairs), HB 2124, and HB 2170 (as amended by the House Committee on Federal and State Affairs).

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 Wine & Spirits Wholesalers Association and the Kansas Department of Revenue, Division of Alcoholic Beverage Control (ABC). The proponents indicated that the bill would allow the ABC to match reports to identify unlawful shipments of alcoholic liquor. They indicated 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 2059 (Common Consumption Areas)

HB 2059 was introduced by the House Committee on Federal and State Affairs at the request of a representative of the City of Topeka.

House Committee on Federal and State Affairs

During 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 ABC, who stated the agency has some public safety concerns and would prefer additional language be added concerning liability.

No other testimony was provided.

On February 7, 2023, the House Committee amended HB 2059 to replace proposed language allowing the use of appropriate signage for marking a common consumption area with language specifying common consumption area signage be in a size and manner that provides notice to patrons of the boundaries.

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 2170 (Samples)

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

House Committee on Federal and State Affairs

In the House Committee 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 regards 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, who stated that if HB 2170 is enacted, ABC would begin the process of revoking the portion of the regulation that conflicts with the new law.

No other testimony was provided.

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 this 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 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 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 HB 2059 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 Kansas Association of Counties indicates enactment of HB 2124 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.

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.