

SESSION OF 2004

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 254**

As Amended by House Committee of the Whole

**Brief\***

SB 254 concerns the use of pyrotechnics (fireworks), pyrotechnic devices, and pyrotechnic materials, as those terms are defined in the bill. With certain exceptions, the use of any pyrotechnics, such device or materials, is prohibited in any building which is a place of public assembly, defined as a building or structure with an occupancy capacity of 50 or more. The use of such pyrotechnics in violation of the act or any local ordinance or resolution is deemed to constitute a common nuisance. The State Fire Marshal is directed to adopt rules and regulations to implement the act. The act would not apply to:

- ! any building having an automatic sprinkler system;
- ! any building constructed of fire restrictive materials;
- ! certain candles; or
- ! any building or structure exempted by rules and regulations of the State Fire Marshal.

The common nuisance statutes are amended to include the use of pyrotechnics in violation of the act. A court hearing on a common nuisance violation must be held within five days of the notification.

The provisions of SB 254 apply to all places of public assembly (as defined), but in the case of clubs and drinking establishments, the Director of Alcoholic Beverage Control (ABC) is authorized to revoke or suspend the license of any licensee where there has been a violation of KSA 21-4106 or 21-4107 in or upon the licensee's place of business. These statutes make it a crime to maintain or permit a public nuisance. Similar authority is granted to cities and counties for violations by licensees under the Cereal Malt Beverage laws. Notice of convictions of violations of these statutes would be given to the appropriate licensing authority.

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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>

The Senate Committee of the Whole amended the bill to provide that nothing in the bill should be construed as limiting the powers of cities and counties to regulate or restrict the use of pyrotechnics.

The amendments by the House Committee are technical and clarifying in nature.

The House Committee of the Whole amended the bill to delete the exemption for “religious ceremonies.”

## **Background**

Senator Barnett, the primary sponsor of the bill, stated that his goal was to protect the public safety and ensure that the nightclub fires that occurred recently in Chicago and Rhode Island would not happen in Kansas.

Testifying in support of the original bill was the Director of the ABC, as well as representatives of the League of Kansas Municipalities, the State Fire Marshal, and the Kansas Restaurant and Hospitality Association.

Testifying in opposition to the original bill were representatives of the Kansas Wine and Spirits Wholesalers and the Kansas Licensed Beverage Association.

During the House Committee hearing, the following proponents testified in favor of the amended bill: Senator Barnett; Kansas Wine and Spirits Wholesalers Association; Kansas Licensed Beverage Association; State Fire Marshal; League of Kansas Municipalities; Kansas Restaurant and Hospitality Association; and the Director of Alcoholic Beverage Control. There were no opponents.

The revised fiscal note indicates that the amended version of the bill will have no fiscal effect.