

March 20, 2014

REVISED

The Honorable Marvin Kleeb, Chairperson
House Committee on Commerce, Labor and Economic Development
Statehouse, Room 286-N
Topeka, Kansas 66612

Dear Representative Kleeb:

SUBJECT: Revised Fiscal Note for HB 2556 by House Committee on Taxation

In accordance with KSA 75-3715a, the following revised fiscal note concerning HB 2556 is respectfully submitted to your committee.

HB 2556 would amend the Kansas Liquor Control Act by allowing the issuance of retail liquor store licenses to grocery stores and convenience stores from July 1, 2014 through June 30, 2024. The bill would freeze the number of retail liquor licenses as of July 1, 2014 until June 30, 2024 and classify the existing licenses as Class C licenses. The bill would allow existing Class C liquor retail licenses to be transferred to any qualified person within the same county beginning July 1, 2014. The transferee would be required to pay a transfer fee of \$100 to the Division of Alcoholic Beverage Control (ABC). Beginning July 1, 2017, Class A licenses would be issued which would allow retailers to sell only beer. The Class B license would be issued beginning July 1, 2020, which would allow retailers to sell beer and wine. The bill would limit the issuance of Class A, Class B, and Class C licenses to liquor stores, grocery stores, convenience stores, and other related stores. The bill would implement a fee of \$500 for all licenses which would be valid for two years after issuance.

Under the bill, Class B retailers would be allowed to conduct wine and beer tastings on the licensed premise or adjacent premise that are monitored and regulated by ABC, and to comply with current sampling regulations. Class C licensees would be subject to the same sample requirements as existing retail liquor stores. Cities would be allowed to prohibit sales of alcohol in retail stores unless voters elect to opt in. The bill would authorize persons under the age of 18 to sell liquor at the point of sale, but would require an employee who is under the age of 21 to be supervised by the licensee or an employee of the licensee who is at least 21 years of age. Persons who have been adjudged guilty of a felony would be prohibited from selling at retail any alcoholic liquor at the point of sale.

The bill would create the Local Cereal Malt Beverage Sales Tax Fund and would require 3.0 percent of liquor enforcement remittances during the prior calendar year to be deposited in this fund each quarter and distributed to the cities and counties as part of the January, April, July

and October sales tax distribution to each city and county which levied a local retailers' sales tax. The amount distributed would be determined based on a weighted population average. The bill lists the requirements that corporations and individuals must meet in order to obtain a license, and the circumstances under which no license must be issued. The bill outlines the requirements expected of licensed retailers and ABC, and would require the Department of Revenue to adopt the rules and regulations necessary to carry out the provisions in the bill. The bill includes definitions for grocery store, convenience store, liquor store and retailer's license. HB 2556 would take effect on July 1, 2014.

Estimated State Fiscal Effect				
	FY 2014 SGF	FY 2014 All Funds	FY 2015 SGF	FY 2015 All Funds
Revenue	--	--	--	--
Expenditure	--	\$14,321	--	\$279,019
FTE Pos.	--	1.00	--	3.00

The Department of Revenue indicates that the enactment of HB 2556 would require the hiring of additional staff to conduct liquor licensing functions, administer prosecution relating to liquor law violations, enforce liquor laws to maintain the current level of enforcement among liquor retailers, and process the liquor enforcement tax. Because the bill would involve a phased-in approach over several years, the Department indicates the cost would increase proportionately over time with total costs of over \$3.0 million throughout the first five years.

For FY 2014, the Department estimates expenditures would increase by \$14,321 to hire 1.00 Administrative Specialist FTE position to support license transfers. The FY 2014 estimate includes \$9,511 in salaries and wages for the last two months of the fiscal year and \$4,810 for one-time costs. In FY 2015, the Department estimates its expenditures would increase by \$279,019, which includes salaries and wages expenditures of \$238,738 to fund 3.00 FTE positions and \$40,281 for contractual services and one-time costs such as office equipment and an agency vehicle. The new positions would include 1.00 Administrative Specialist to support license transfers, 1.00 Enforcement Agent to enforce liquor laws throughout the state, and 1.00 Revenue Customer Representative Senior FTE position to process the transfer of licensees. The Department indicates similar costs would be required in FY 2016.

The Department indicates its largest expense would be realized in FY 2017 with approximately 1,645 new license requests as convenience stores and grocery stores acquire the ability to apply for a retailer's license to sell strong beer. The Department estimates the cost associated with this influx of requests to be \$822,313, including salaries and wages expenditures of \$536,765 for 14.00 FTE positions and temporary help to assist with investigations for the sale of alcohol to minors, in addition to \$285,548 for contractual services expenditures and other one-time costs such as office equipment, employee vehicles, and system upgrades to the ABC computer processing system. The additional positions would include 6.00 Enforcement Agents, 1.00 Special Investigator II, 3.00 Revenue Customer Representative Senior positions, 2.00 Administrative Specialists, 2.00 Assistant Attorney General's, and 1.00 Legal Assistant.

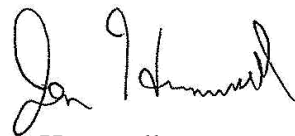
In FY 2018, new Class A licenses would be issued for the full year which the Department estimates would cost \$1,710,868, including \$1,544,562 for salaries and wages and \$67,452 for contractual services and other one-time costs. The estimate also includes \$96,532 for 1.50 Customer Service Representative FTE positions for the Division of Taxation to process the increased number of liquor enforcement tax returns and tax clearances, and \$2,322 in testing costs for processing revenue and distributions from the new Local Cereal Malt Beverage Sales Tax Fund.

The Department of Revenue estimates that HB 2556 would increase revenues to the State General Fund by \$30,000 in FY 2016 since 300 of the 748 existing liquor stores would likely pay the \$100 fee to transfer an existing license. The Department anticipates that all 1,650 existing cereal malt beverage licensees would pay the \$500 fee to obtain a Class A license in FY 2018 which would increase revenues to the State General Fund by \$825,000.

Currently, sales tax from the sale of cereal malt beverages is remitted to the State General Fund, the State Highway Fund and local governments. The Department estimates the switch from cereal malt beverage sales to beer would decrease sales tax revenue and increase liquor enforcement tax revenue in FY 2018. The difference would result in a net increase to the State General Fund of \$4.53 million; a net increase in distributions to local governments of \$400,000; and a net decrease of \$1.8 million to the State Highway Fund in FY 2018 and each subsequent year. Since the bill would provide 3.0 percent of liquor enforcement remittances credited to the Local Cereal Malt Beverage Sales Tax Fund with the effective date of July 1, 2014, distributions to cities and counties would also increase by \$3.5 million in FY 2015, \$3.7 million in FY 2016, and \$3.9 million in FY 2017.

Since retailers holding a Class A license would be allowed to also sell tobacco products and grocery items beginning January 1, 2016, the Kansas Department for Aging and Disability Services (KDADS) estimates the bill would increase its expenditures from the State General Fund by \$68,789 in FY 2016 and \$122,055 in FY 2017 to enforce laws related to the sale and distribution of tobacco products to minors. These laws are enforced by the Cigarette and Tobacco Enforcement (CATE) Team which is a unit within the Division of Alcoholic Beverage Control. CATE is funded by KDADS through an agreement between both agencies, and if the rate of compliance with underage laws does not maintain a targeted level of 80.0 percent, the federal government may withhold grant funds. This aspect of the bill's fiscal effect was not reported in the original fiscal note. Any fiscal effect associated with HB 2556 is not reflected in *The FY 2015 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Hummell", written in a cursive style.

Jon Hummell,
Interim Director of the Budget