

SESSION OF 2015

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2200

As Amended by House Committee on
Commerce, Labor and Economic Development

Brief*

HB 2200, as amended, would revise the Kansas Liquor Control Act pertaining to the number and type of licenses issued, who may receive a license, and the activities a licensee may engage in; provide for the distribution of revenue from the liquor enforcement tax; and repeal certain sections of law.

Starting on July 1, 2015, all retailer liquor licenses would become class B licenses. Class B licensees would continue to sell alcoholic liquor (beer, wine, and spirits) as retail liquor licensees currently do. The number of class B licenses would be capped at the number issued as of June 30, 2015. New class B licenses could be issued after July 1 if a person has not renewed a license.

Starting on July 1, 2018, and ending on June 30, 2021, a person qualified under the Liquor Control Act would be permitted to purchase a class B license from one of the three existing liquor stores in closest proximity to the premises of the person buying the license. Starting on July 1, 2021, a qualified person could purchase a class B license from an existing liquor store, provided it was located in the same county as the premises of the person buying the license. The transaction between the transferor and transferee, pending the approval of the Director of the Alcohol Beverage Control (ABC) Division, would be required to provide for the sale of the transferor's inventory of alcoholic liquor. A new class B license would be issued to the transferee for the remainder of

*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 original license's term. The transferee would pay a transfer fee of \$10,000.

"Convenience store," "grocery store," and "liquor store" would be defined in the Liquor Control Act. "Convenience store" would mean a retail business with primary emphasis placed on providing the public a convenient location to quickly purchase from a wide array of consumable products (predominantly food or food and gasoline) and services. "Grocery store" would mean an establishment primarily engaged in retailing a general line of groceries, including, but not limited to, packaged food, fresh and frozen food, prepared foods, and other consumable products, and would include establishments primarily engaged in retailing a general line of groceries in combination with general lines of new merchandise. "Liquor store" would mean a store whose primary business is the retail sale of alcoholic liquor in the original and unopened container and not for consumption on the premises.

Starting on July 1, 2018, a class A license, which would permit the sale of beer only, could be issued to a person engaged in business as either a convenience store or a grocery store. The holder of a class A license also would be able to distribute advertising and sell chilled beer, products included in the manufacturer's packaging, lottery tickets, and any other good or service.

Starting on January 1, 2018, a class B licensee that operated a liquor store also could sell any other good or service on the premises. A grocery store holding a class B license would be required to segregate the display of wine and spirits to an area of the store. A class B license could be issued to a person engaged in business as either a grocery store or a liquor store. Tastings of alcoholic beverages could be conducted at liquor stores and would not be permitted at grocery or convenience stores. The Director of ABC would be permitted to authorize a grocery store to become a supplier of alcoholic liquor for a licensed restaurant, club, or drinking

establishment if there was no liquor store located in the same county.

The fee for a class A license would be \$1,500 if issued to a convenience or grocery store. A class B license would be \$1,500 if issued to a grocery store, and the fee for a class B license issued to a liquor store would be \$500. The bill would repeal the prohibition placed on individuals from holding multiple licenses. A retailer's class A or class B license would not be classified as property.

The eligibility for licenses would be revised, changing reference from "person" to "individual" in the residency requirements. Corporations would be allowed to hold a license provided any corporation officer, manager, director, or shareholder owning in the aggregate more than 5 percent of the corporation stock would be eligible for a license, excluding the residency requirements. If an individual associated with the corporation had a license previously revoked or was convicted of a violation under the Liquor Control Act, then the corporation would become ineligible for a license. A corporation would be required to file with the Secretary of State and designate a Kansas resident as an agent for service of process purposes.

A person would not be permitted to hold a class B license dormant for more than 180 days without engaging in retail sales of alcoholic beverages; if a person could show good cause to the Secretary of Revenue for not selling alcoholic beverages, the Secretary could extend the inactive period by an additional 180 days. If a class B license were to be revoked by the Secretary, it would be sold by public auction by the Secretary to qualified persons in the same county where the license was issued. The proceeds of the sale would be applied to any enforcement taxes due, and the remainder would be deposited in the State General Fund (SGF). The transfer fee established by the bill would be applicable to an auctioned license.

Persons under the age of 21 who are employed by a class B licensee would be prohibited from selling, stocking, or handling alcoholic liquor. Persons under the age of 21 employed by a class A licensee could work on the premises so long as they were supervised by someone who was 21 years old or older. Persons under the age of 18 would not be permitted to sell alcoholic liquor at retail. Current law prohibits persons under the age of 21 from selling alcoholic liquor. A person convicted of a felony would be allowed to work for a retailer of alcoholic liquor but would not be permitted to sell the product. Under current law a person convicted of a felony may not be employed by a liquor store.

The bill would repeal two prohibitions: the prohibition placed on the sale of cereal malt beverages next to alcoholic liquor; and the prohibition placed on inside entrances connecting a business that sells alcoholic liquor with another business.

A distributor would be permitted to establish minimum order requirements based on either invoice dollar amounts or product case quantity.

The Local Cereal Malt Beverage Sales Tax Fund (Fund), which would be used for liquor enforcement purposes, would be created in the state treasury on July 1, 2018. Three percent of the revenue collected from the liquor enforcement tax would be credited to the Fund, and moneys would be distributed quarterly to the cities and counties on a weighted population basis. Under current law the revenue collected from the liquor enforcement tax is credited to the SGF.

By July 1, 2016, the Secretary of Revenue would adopt rules and regulations to administer the provisions of the bill, including limiting the number of licenses issued monthly after July 1, 2018, and the means to submit license applications prior to July 1, 2018.

Background

At the House Committee hearing, testimony in favor of the bill was provided by Representative Rubin, representatives for Uncork Kansas and trade associations for retail grocery and convenience stores, individuals, and business owners. Proponents said the bill would provide convenience for consumers who are wanting an improved shopping experience. The bill would encourage more competition, better pricing, and increase product selection.

Opponent testimony was provided by representatives of beer and alcohol trade associations, suppliers, wholesalers, liquor stores, local law enforcement agencies, and the Woman's Christian Temperance Union. Noting Kansas is among the lowest alcohol consumption states in the country, opponents noted the three-tiered system of regulation has been effective in the taxation, regulation, and sale of alcohol. Opponents who worked in the liquor industry expressed concern the bill would cause the loss of jobs and income. Law enforcement representatives expressed concern the bill could lead to more shop lifting crimes, especially crimes committed by minors.

Neutral testimony was provided by the Director of ABC, and representatives for the League of Kansas Municipalities, the Kansas Licensed Beverage Association, and the Kansas Health Institute. The Director of ABC suggested the beneficial interest for corporations be reduced from 25 percent to 5 percent, making the licensing qualification uniform with other alcohol laws. The representative for the League of Kansas Municipalities expressed concern about the loss of sales tax revenue from cereal malt beverage sales and encouraged replacement funding through liquor enforcement tax revenue. The representative for the Kansas Licensed Beverage Association expressed concern that as class B licenses are sold and bought, on-premise retail licensees, especially in rural parts of the state, could find themselves without a supplier for beer and alcoholic liquor. The representative for

the Kansas Health Institute outlined the negative public health impacts which could be a result of the bill.

The House Committee on Commerce, Labor and Economic Development amended the bill to:

- Specify the vicinity in which a class B license may be purchased;
- Provide for the sale of wholesale products between parties in a class B license transaction and increase the transfer fee from \$500 to \$10,000;
- Require rules and regulations to be established by a date certain;
- Revise the definitions for “convenience store,” “grocery store,” and “liquor store”;
- Allow distributors to establish minimum order requirements;
- Allow grocery stores with a class B license, if certain conditions exist, to sell alcoholic liquor to a licensed on-premises establishment for resale;
- Allow a liquor store to sell other goods and services starting January 1, 2018, instead of July 1, 2018;
- Require displays of wine and spirits in a grocery store to be segregated from other goods;
- Decrease the beneficial interest from 25 percent to 5 percent for corporations to be eligible for a retailer’s license;
- Limit the period of time class B licenses may be held inactive and allow revoked class B licenses to be auctioned;

- Allow employees under the age of 21 to work in a class A licensed establishment under adult supervision; and
- Preclude tastings in grocery and convenience stores.

According to the fiscal note prepared by the Division of the Budget, in consultation with the Department of Revenue and the Department for Aging and Disability Services, the bill, as introduced, would require the ABC Division to begin hiring additional staff in the fourth quarter of FY 2018 to conduct licensing functions for as many as 1,528 new licenses and 247 retail license transfers and to maintain the enforcement of the liquor laws at the current level. For FY 2018, the Department estimated expenditures would increase by \$657,967, which would include \$200,440 for 12.0 FTE positions (9.0 enforcement agents and 3.0 support staff) and \$457,527 in other operating expenditures. For FY 2019, the first full fiscal year of operations, the Department estimated expenditures would be \$1,293,494, which would include \$1,202,631 for salaries and wages for 12.0 FTE positions and \$90,863 for other operating expenditures.

According to the fiscal note, the sale of cereal malt beverages currently generates approximately \$7.5 million in state sales taxes and \$1.9 million in local sales taxes.

The Department for Aging and Disability Services indicated the bill could increase consumption of alcohol and tobacco, requiring greater levels of service for substance abuse treatment, but the Department did not indicate an additional amount of funds necessary to provide services.