

Capitol Connection

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To: House Federal & State Affairs Committee
Re: HB2766

I am appearing today on behalf of Brew Bank, a Topeka based small business. We are asking for your support on HB2766, which would allow for the dispensing of beer by mechanical devices. I have included SB433, and we request that you adopt the provisions of that legislation into HB2766.

The provisions of SB433 were worked on extensively by all stakeholders involved, including Kansas Alcoholic Beverage Control and Legislators, to ensure it meets the needs of business while continuing to offer protections for Kansans.

This legislation simply extends current law to allow for dispensing of beer by machines. The legislature has decided the issue of dispensing alcohol by mechanical device when it passed legislation three years ago allowing for wine to be dispensed in this manner. HB2766 allows beer to be dispensed in the same manner.

With the provisions of SB433 adopted, this legislation ensures the process is monitored and regulated. Among the safeguards:

- Face-to-face transactions are preserved as individuals must purchase a machine card from a real person 21-years-of age or older.
- Cards expire the end of each day, ensuring they cannot be passed along to other individuals.
- The cards have a responsibility limit, ensuring limited ounces of beer before having to add to the card. Each individual must be seen by a real person working in the establishment before they can add to the card, ensuring no one will be “over served”.
- Establishes a daily limit be placed on the card of 32 ounces (in line with current law which establishes 32 ounces as a drink). An individual cannot be issued a different card as the system tracks the ID.
- Individuals will still work the establishment, monitoring usage of devices and ensuring no one is drinking above their limits.
- All machines will be required to be monitored by video surveillance.
- All other current liquor laws continue to apply to these establishments and machines.
- Clearly defines who receives a citation. The establishment can also be issued a criminal citation by Alcoholic Beverage Control or Police Department if a machine serves improperly and criminal charges can be filed by local District Attorney offices.

There are currently 42 states which allow the use of these machines. This is a next step in the service industry being utilized by establishments across the country.

If you have any questions I will be happy to answer them.

Respectfully Submitted,

Spencer Duncan

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Beer Service Machines

How They Work:

- ◆ Patrons are carded upon entering an establishment or prior to service or receiving access to a machine
- ◆ Server creates a card for the individual, after confirming the person is 21-years-of age or older.
- ◆ Card limits amount to two drinks. If an individual wants more on the card, they must speak with a server and the server must add more ounces. Cards cannot exceed 32 ounces per use.
- ◆ The amount consumed is clearly displayed on the screen when someone uses the card. It is also displayed at a master monitor used by servers in the establishment.
- ◆ When an allotment is consumed, the screen clearly notifies the patron that they can no longer have access to beer until a server allows it or that they have reached their total limit.
- ◆ Approval of continued service provides an opportunity for servers to assess patrons.
- ◆ The system uses the patron's ID to ensure new cards cannot be issued that day.
- ◆ All taps are monitored through video surveillance.
- ◆ There is NO unlimited, unrestricted, or unchecked accessing or consuming of alcohol by patrons through this system. All use is monitored and limited.

What These Are NOT:

- ◆ They are not unrestricted, unlimited machines such as coin operated machines or self-checkout lines.
- ◆ They are not coin, cash or credit operated vending machines. No coin/currency is inserted in the device, but rather payment must be made to a human.
- ◆ This is not "automatic bar equipment." It does not operate independent of a human trained in serving alcohol to patrons who are of legal age and legal levels of intoxication.
- ◆ It is not "Human free." Human interaction is required at the front end and upon reorders after the fixed unit of alcohol has been consumed. Humans also monitor patrons throughout the establishment and view video surveillance.



You have reached your
responsibility limit!
Please see one of our friendly
staff to get access.

As Amended by Senate Committee

Session of 2018

SENATE BILL No. 433

By Committee on Federal and State Affairs

3-1

1 AN ACT concerning alcoholic beverages; authorizing self-service of beer
2 from automated devices; amending K.S.A. 2017 Supp. 41-2614 and
3 41-2640 and repealing the existing section sections.

4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. K.S.A. 2017 Supp. 41-2640 is hereby amended to read as
6 follows: 41-2640. (a) No club, drinking establishment, caterer or holder of
7 a temporary permit, nor any person acting as an employee or agent thereof,
8 shall:

- 9 (1) Offer or serve any free cereal malt beverage or alcoholic liquor in
- 10 any form to any person;
- 11 (2) offer or serve to any person an individual drink at a price that is
- 12 less than the acquisition cost of the individual drink to the licensee or
- 13 permit holder;
- 14 (3) sell, offer to sell or serve to any person an unlimited number of
- 15 individual drinks during any set period of time for a fixed price, except at
- 16 private functions not open to the general public or to the general
- 17 membership of a club;
- 18 (4) encourage or permit, on the licensed premises, any game or
- 19 contest which involves drinking alcoholic liquor or cereal malt beverage or
- 20 the awarding of individual drinks as prizes;
- 21 (5) sell, offer to sell or serve free of charge any form of powdered
- 22 alcohol, as defined in K.S.A. 41-102, and amendments thereto; or
- 23 (6) advertise or promote in any way, whether on or off the licensed
- 24 premises, any of the practices prohibited under subsections (a)(1) through
- 25 (5).

26 (b) No public venue, nor any person acting as an employee or agent

27 thereof, shall:

- 28 (1) Offer or serve any free cereal malt beverage or alcoholic liquor in
- 29 any form to any person;
- 30 (2) offer or serve to any person a drink or original container of
- 31 alcoholic liquor or cereal malt beverage at a price that is less than the
- 32 acquisition cost of the drink or original container of alcoholic liquor or
- 33 cereal malt beverage to the licensee;
- 34 (3) sell or serve alcoholic liquor in glass containers to customers in
- 35 the general admission area;
- 36

1 (4) sell or serve more than two drinks per customer at any one time in
2 the general admission area;

3 (5) encourage or permit, on the licensed premises, any game or
4 contest which involves drinking alcoholic liquor or cereal malt beverage or
5 the awarding of drinks as prizes;

6 (6) sell, offer to sell or serve free of charge any form of powdered
7 alcohol, as defined in K.S.A. 41-102, and amendments thereto; or

8 (7) advertise or promote in any way, whether on or off the licensed
9 premises, any of the practices prohibited under subsections (b)(1) through
10 (6).

11 (c) A public venue, club, drinking establishment, caterer or holder of
12 a temporary permit may:

13 (1) Offer free food or entertainment at any time;

14 (2) sell or deliver wine by the bottle or carafe;

15 (3) sell, offer to sell and serve individual drinks at different prices
16 throughout any day;

17 (4) sell or serve beer or cereal malt beverage in a pitcher capable of
18 containing not more than 64 fluid ounces;

19 (5) offer samples of alcohol liquor free of charge as authorized by this
20 act; or

21 (6) sell or serve margarita, sangria, daiquiri, mojito or other mixed
22 alcoholic beverages as approved by the director in a pitcher containing not
23 more than 64 fluid ounces.

24 (d) A hotel of which the entire premises is licensed as a drinking
25 establishment may, in accordance with rules and regulations adopted by
26 the secretary, distribute to its guests coupons redeemable on the hotel
27 premises for drinks containing alcoholic liquor. The hotel shall remit
28 liquor drink tax in accordance with the provisions of the liquor drink tax
29 act, K.S.A. 79-41a01 et seq., and amendments thereto, on each drink
30 served based on a price which is not less than the acquisition cost of the
31 drink.

32 (e) (1) A public venue, club or drinking establishment may offer
33 customer self-service of beer and wine from automated devices on
34 licensed premises so long as the licensee monitors and has the ability to
35 control the dispensing of such beer and wine from the automated devices.

36 (2) ~~The secretary may shall adopt rules and regulations prior to~~
37 ~~January 1, 2019, as necessary to implement the provisions of this~~
38 ~~subsection (4). For purposes of this subsection, "automated device"~~
39 ~~shall mean any mechanized device capable of dispensing wine or beer~~
40 ~~directly to a customer in exchange for compensation that a licensee has~~
41 ~~received directly from the customer.~~

42 (B) No licensee shall allow an automated device to be used on its
43 licensed premises without first providing written or electronic

1 notification to the director of the licensee's intent to use the automated
2 device. The licensee shall provide this notification at least 48 hours
3 before any automated device is used on the licensed premises.

4 (C) Each licensee offering customer self-service of wine or beer
5 from any automated device shall provide constant video monitoring of
6 the automated device at all times during which the licensee is open to the
7 public. The licensee shall keep recorded footage from the video
8 monitoring for at least 60 days and shall provide the footage, upon
9 request, to any agent of the director or other authorized law enforcement
10 agent.

11 (D) The compensation required by subsection (a) shall be in the
12 form of a programmable, prepaid access card containing a fixed amount
13 of monetary credit that may be directly exchanged for beer or wine
14 dispensed from the automated device. Access cards may be sold, used or
15 reactivated only during a business day. Each access card shall be
16 purchased from the licensee by a customer. A licensee shall not issue
17 more than one active access card to a customer. For purposes of this
18 subsection, an access card shall be deemed active if the access card
19 contains monetary credit or has not yet been used to dispense 15 ounces
20 of wine or 32 ounces of beer. Each purchase of an access card under
21 this regulation shall be subject to the liquor drink tax imposed by K.S.A.
22 79-41a02, and amendments thereto.

23 (E) In order to obtain a prepaid access card from a licensee, each
24 customer shall produce a valid driver's license, identification card or
25 other government-issued document that contains a photograph of the
26 individual and demonstrates that the individual is at least 21 years of
27 age. Each access card shall be programmed to require the production of
28 the customer's valid identification before the access card can be used for
29 the first time during any business day or for any subsequent reactivation
30 as provided in subparagraph (D).

31 (F) Each access card shall become inactive at the end of each
32 business day.

33 (G) Each access card shall be programmed to allow the dispensing
34 of no more than 15 ounces of wine or 32 ounces of beer to a customer.
35 Once an access card has been used to dispense 15 ounces of wine or 32
36 ounces of beer to a customer, the access card shall become inactive. Any
37 customer in possession of an inactive access card may, upon production
38 of the customer's valid identification to the licensee or licensee's
39 employee, have the access card reactivated to allow the dispensing of an
40 additional 15 ounces of wine or 32 ounces of beer from an automated
41 device.

42 Subparagraphs (D), (E), (F) or (G) shall not apply to wine or beer
43 that is dispensed directly to the licensee or the licensee's agent or

1 employee.

2 (3) The secretary shall adopt rules and regulations prior to January
3 1, 2019, as necessary to implement the provisions of this subsection.

4 (4) Notwithstanding any other provision of law, all laws and rules
5 and regulations applicable to the sale of alcoholic liquor to persons
6 under the legal age of consumption shall be applicable to the sales
7 transaction of the prepaid access card.

8 (f) A hotel of which the entire premises is not licensed as a drinking
9 establishment may, in accordance with rules and regulations adopted by
10 the secretary, through an agreement with one or more clubs or drinking
11 establishments, distribute to its guests coupons redeemable at such clubs or
12 drinking establishments for drinks containing alcoholic liquor. Each club
13 or drinking establishment redeeming coupons issued by a hotel shall
14 collect from the hotel the agreed price, which shall be not less than the
15 acquisition cost of the drink plus the liquor drink tax for each drink served.
16 The club or drinking establishment shall collect and remit the liquor drink
17 tax in accordance with the provisions of the liquor drink tax act, K.S.A.
18 79-41a01 et seq., and amendments thereto.

19 (g) Violation of any provision of this section is a misdemeanor
20 punishable as provided by K.S.A. 41-2633, and amendments thereto.

21 (h) Violation of any provision of this section shall be grounds for
22 suspension or revocation of the licensee's license as provided by K.S.A.
23 41-2609, and amendments thereto, and for imposition of a civil fine on the
24 licensee or temporary permit holder as provided by K.S.A. 41-2633a, and
25 amendments thereto.

26 (i) For purposes of this section, the term "day" means 6:00 a.m.
27 until 2:00 a.m. the following calendar day.

28 Sec. 2. K.S.A. 2017 Supp. 41-2614 is hereby amended to read as
29 follows: 41-2614. (a) Except as provided by subsection (c), no public
30 venue, club or drinking establishment shall allow the serving, mixing or
31 consumption of alcoholic liquor on its premises between the hours of
32 2:00 a.m. and ~~9:00~~ 6:00 a.m. on any day.

33 (b) No caterer shall allow the serving, mixing or consumption of
34 alcoholic liquor between the hours of 2:00 a.m. and 6:00 a.m. on any
35 day at an event catered by such caterer.

36 (c) A hotel of which the entire premises are licensed as a drinking
37 establishment or as a drinking establishment/caterer may allow at any
38 time the serving, mixing and consumption of alcoholic liquor and cereal
39 malt beverage from a minibar in a guest room by guests registered to
40 stay in such room, and guests of guests registered to stay in such room.

41 Sec. ~~3~~. 3. K.S.A. 2017 Supp. 41-2614 and 41-2640—is hereby
42 repealed.

43 Sec. ~~3~~-4. This act shall take effect and be in force from and after its