

# Journal of the Senate

THIRTY-EIGHTH DAY

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SENATE CHAMBER, TOPEKA, KANSAS  
Tuesday, March 12, 2019, 2:30 p.m.

The Senate was called to order by President Susan Wagle.

The roll was called with 39 senators present.

Senator Hensley was excused.

Invocation by Reverend Cecil T. Washington, which he sang:

As we come together, in this house today, Let us all remember it is time to pray. We should all be faithful if we really care. Let us raise our spirits in this time of prayer.

God bless America. Land that I love.

Stand beside her, and guide her through the night with Your light from above.

From the mountains, to the prairies to the oceans white with foam.

God bless America, my home sweet home.

God bless America, my home sweet home.

From the mountains, to the prairies to the oceans white with foam.

God bless America, my home sweet home.

God bless America, my home sweet home. Amen.

The Pledge of Allegiance was led by President Wagle.

## INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

**SB 223**, AN ACT enacting the anesthesiologist assistant licensure act; providing for the powers, duties and functions of the state board of healing arts; amending K.S.A. 65-1163 and 65-28,127 and repealing the existing sections, by Committee on Federal and State Affairs.

**SB 224**, AN ACT enacting the Kansas retail pet shop act; establishing the Kansas retail pet shop act fee fund, by Committee on Assessment and Taxation.

## INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Holland, Billinger, Braun, Doll, Faust-Goudeau, Francisco, Goddard, Haley, Hawk, Hilderbrand, Kerschen, Longbine, McGinn, Miller, Petersen, Pettey, Rucker, Skubal, Sykes, Taylor, Tyson, Wagle and Ware introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1718—

A RESOLUTION recognizing the Kansas Small Business Development Center's  
2019 Businesses of the Year.

WHEREAS, The mission of the Kansas Small Business Development Center (SBDC), a member of America's SBDC, is to increase economic prosperity in Kansas by helping entrepreneurs and small business owners start and grow their businesses through professional consulting and training and the identification of appropriate resources; and

WHEREAS, In 2019, the Kansas SBDC regional directors and staff selected eight Emerging Businesses of the Year award recipients and eight Existing Businesses of the Year award recipients; and

WHEREAS, The Kansas SBDC's Business of the Year awards recognize Kansas SBDC clients for superior performance; and

WHEREAS, The Business of the Year award recipients have achieved major accomplishments, overcome significant obstacles, demonstrated good corporate citizenship through community contributions, and shown growth and made a positive economic impact in Kansas, based on a record of profitability and on the Kansas SBDC Economic Impact Tracking spreadsheet; and

WHEREAS, The 2019 Kansas SBDC Emerging Businesses of the Year are: ArtForms Gallery in Pittsburg, owned by Sue Horner, Janet Lewis, Ruth Miller, and Sylvia Shirley; Ellen Plumb's City Bookstore in Emporia, owned by Marcia Lawrence; Gravity Wellness Center in Garden City, owned by Kristi Schmitt; Leeway Franks in Lawrence, owned by Lee and K. Meisel; Lost Creek German Shepherds in Clayton, owned by Taylor and John Meitl; Norsemen Brewing Company in Topeka, owned by Jared and Emily Rudy and Adam and Melissa Rosdahl; Safely Delicious in Overland Park, owned by Lisa Ragan; and Triple Threat Ag Services in Conway Springs, owned by Aaron, Allen, Paul, and Phillip Lange; and

WHEREAS, The 2019 Kansas SBDC Existing Businesses of the Year are: Angela's Wellness Center, LLC in Elkhart, owned by Angela Willey; Bolling's Meat Market & Deli in Iola, owned by Cara Bolling Thomas; Dod Installations in Wichita, owned by Wilt and Tina Dod; Floyd's Inc. in Emporia, owned by John and Ruth Wheeler; Good Energy Solutions in Lawrence, owned by Kevin Good; LaCrosse Furniture Co. in LaCrosse, employee-owned; The Winged Lion in Manhattan, owned by Ralph Diaz; and Wolcott Foods in Kansas City, owned by Ron Tilman; and

WHEREAS, The Kansas SBDC Businesses of the Year serve as examples of the success that the Kansas SBDC and small business owners across Kansas can achieve: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That we recognize the Kansas Small Business Development Center's 2019 Businesses of the Year. We wish them all, the Kansas SBDC, and America's SBDC continued success in the future; and

*Be it further resolved:* That the Secretary of the Senate shall send 20 enrolled copies of this resolution to Senator Holland.

On emergency motion of Senator Holland **SR 1718** was adopted unanimously.

On motion of Senator Denning, the senate recessed to the sound of the gavel.

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The Senate met pursuant to recess with Vice President Longbine in the chair.

**COMMITTEE OF THE WHOLE**

On motion of Senator Denning, the Senate resolved itself into Committee of the Whole, for consideration of bills on the calendar under the heading of General Orders with Senator Kerschen in the chair.

On motion of Senator Kerschen the following report was adopted:

**SB 99** be amended by the adoption of the committee amendments, and the bill be passed as amended.

**SB 70** be amended by the adoption of the committee amendments, be further amended by motion of Senator Estes; on page 1, in line 27, by striking "of a bank within this state";

On page 6, following line 38, by inserting:

"Sec. 7. K.S.A. 2016 Supp. 41-102, as amended by section 4 of chapter 56 of the 2017 Session Laws of Kansas, is hereby amended to read as follows: 41-102. As used in this act, unless the context clearly requires otherwise:

(a) "Alcohol" means the product of distillation of any fermented liquid, whether rectified or diluted, whatever its origin, and includes synthetic ethyl alcohol but does not include denatured alcohol or wood alcohol.

(b) "Alcoholic liquor" means alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.

(c) "Beer" means a beverage, containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content.

(d) "Caterer" has the meaning provided by K.S.A. 41-2601, and amendments thereto.

(e) "Cereal malt beverage" has the meaning provided by K.S.A. 41-2701, and amendments thereto.

(f) "Club" has the meaning provided by K.S.A. 41-2601, and amendments thereto.

(g) "Director" means the director of alcoholic beverage control of the department of revenue.

(h) "Distributor" means the person importing or causing to be imported into the state, or purchasing or causing to be purchased within the state, alcoholic liquor for sale or resale to retailers licensed under this act or cereal malt beverage for sale or resale to retailers licensed under K.S.A. 41-2702, and amendments thereto.

(i) "Domestic beer" means beer which contains not more than 10% alcohol by weight and which is manufactured in this state.

(j) "Domestic fortified wine" means wine which contains more than 14%, but not more than 20% alcohol by volume and which is manufactured in this state.

(k) "Domestic table wine" means wine which contains not more than 14% alcohol by volume and which is manufactured without rectification or fortification in this state.

(l) "Drinking establishment" has the meaning provided by K.S.A. 41-2601, and amendments thereto.

(m) "Farm winery" means a winery licensed by the director to manufacture, store and sell domestic table wine and domestic fortified wine.

(n) "Hard cider" means any alcoholic beverage that:

(1) Contains less than 8.5% alcohol by volume;

(2) has a carbonation level that does not exceed 6.4 grams per liter; and  
(3) is obtained by the normal alcoholic fermentation of the juice of sound, ripe apples or pears, including such beverages containing sugar added for the purpose of correcting natural deficiencies.

(o) "Manufacture" means to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle or fill an original package with any alcoholic liquor, beer or cereal malt beverage.

(p) (1) "Manufacturer" means every brewer, fermenter, distiller, rectifier, wine maker, blender, processor, bottler or person who fills or refills an original package and others engaged in brewing, fermenting, distilling, rectifying or bottling alcoholic liquor, beer or cereal malt beverage.

(2) "Manufacturer" does not include a microbrewery, microdistillery or a farm winery.

(q) "Microbrewery" means a brewery licensed by the director to manufacture, store and sell domestic beer and hard cider.

(r) "Microdistillery" means a facility which produces spirits from any source or substance that is licensed by the director to manufacture, store and sell spirits.

(s) "Minor" means any person under 21 years of age.

(t) "Nonbeverage user" means any manufacturer of any of the products set forth and described in K.S.A. 41-501, and amendments thereto, when the products contain alcohol or wine, and all laboratories using alcohol for nonbeverage purposes.

(u) "Original package" means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor. Original container does not include a sleeve.

(v) "Person" means any natural person, corporation, partnership, trust or association.

(w) "Powdered alcohol" means alcohol that is prepared in a powdered or crystal form for either direct use or for reconstitution in a nonalcoholic liquid.

(x) "Primary American source of supply" means the manufacturer, the owner of alcoholic liquor at the time it becomes a marketable product or the manufacturer's or owner's exclusive agent who, if the alcoholic liquor cannot be secured directly from such manufacturer or owner by American wholesalers, is the source closest to such manufacturer or owner in the channel of commerce from which the product can be secured by American wholesalers.

(y) (1) "Retailer" means a person who is licensed under the Kansas liquor control act and sells at retail, or offers for sale at retail, alcoholic liquors or cereal malt beverages.

(2) "Retailer" does not include a microbrewery, microdistillery or a farm winery.

(z) "Sale" means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration and includes all sales made by any person, whether principal, proprietor, agent, servant or employee.

(aa) "Salesperson" means any natural person who:

(1) Procures or seeks to procure an order, bargain, contract or agreement for the sale of alcoholic liquor or cereal malt beverage; or

(2) is engaged in promoting the sale of alcoholic liquor or cereal malt beverage, or in promoting the business of any person, firm or corporation engaged in the

manufacturing and selling of alcoholic liquor or cereal malt beverage, whether the seller resides within the state of Kansas and sells to licensed buyers within the state of Kansas, or whether the seller resides without the state of Kansas and sells to licensed buyers within the state of Kansas.

(bb) "Sample" means a serving of alcoholic liquor that contains not more than: (1) One-half ounce of distilled spirits; (2) one ounce of wine; or (3) two ounces of beer or cereal malt beverage. A sample of a mixed alcoholic beverage shall contain not more than ½ ounce of distilled spirits.

(cc) "Secretary" means the secretary of revenue.

~~(ee)~~(dd) (1) "Sell at retail" and "sale at retail" refer to and mean sales for use or consumption and not for resale in any form and sales to clubs, licensed drinking establishments, licensed caterers or holders of temporary permits.

(2) "Sell at retail" and "sale at retail" do not refer to or mean sales by a distributor, a microbrewery, a farm winery, a licensed club, a licensed drinking establishment, a licensed caterer or a holder of a temporary permit.

~~(dd)~~(ce) "To sell" includes to solicit or receive an order for, to keep or expose for sale and to keep with intent to sell.

(ee)(ff) "Sleeve" means a package of two or more 50-milliliter (3.2-fluid-ounce) containers of spirits.

~~(ff)~~(gg) "Spirits" means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.

~~(gg)~~(hh) "Supplier" means a manufacturer of alcoholic liquor or cereal malt beverage or an agent of such manufacturer, other than a salesperson.

~~(hh)~~(ii) "Temporary permit" has the meaning provided by K.S.A. 41-2601, and amendments thereto.

~~(ii)~~(jj) "Wine" means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including such beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies. The term "wine" shall include hard cider and any other product that is commonly known as a subset of wine.";

On page 15, in line 16, by striking "which" and inserting "that"; in line 17, before the colon by inserting "not more than"; also in line 17, before "distilled" by inserting "One-half ounce of"; also in line 17, before "wine" by inserting "one ounce of"; in line 18, before "beer" by inserting "two ounces of"; in line 20, by striking "may also be served" and inserting "shall contain not more than ½ ounce of distilled spirits";

On page 21, in line 18, after "K.S.A." by inserting "2016 Supp. 41-102, as amended by section 4 of chapter 56 of the 2017 Session Laws of Kansas, and K.S.A."; in line 19, by striking "and" and inserting a comma; also in line 19, after "41-2645" by inserting "and 41-2657"; in line 21, after "after" by inserting "April 1, 2019, and"; in line 22, by striking "statute book" and inserting "Kansas register";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after "amending" by inserting "K.S.A. 2016 Supp. 41-102, as amended by section 4 of chapter 56 of the 2017 Session Laws of Kansas,"; in line 4, by striking "and" and inserting a comma; also in line 4, after "41-2645" by inserting "and 41-2657"

**SB 70** be further amended by motion of Senator Estes; on page 21, following line 17, by inserting:

"Sec. 15. K.S.A. 2018 Supp. 41-2659 is hereby amended to read as follows: 41-2659. (a) (1) A city or a county may establish one or more common consumption areas within the limits of the city or within the unincorporated portion of the county, as applicable, by ordinance or resolution, respectively, and authorize the possession and consumption of alcoholic liquor within the common consumption area. The ordinance or resolution shall designate the boundaries of any common consumption area and prescribe the times during which alcoholic liquor may be consumed therein. The ordinance or resolution shall require that any public street or roadway that lies within a common consumption area shall be blocked from motorized traffic during the hours in which alcohol is consumed.

(2) The city or county shall immediately notify the director of the division of alcoholic beverage control of the establishment of a common consumption area and submit a copy of the ordinance or resolution along with such notice.

(b) A common consumption area permit shall allow the consumption of alcoholic liquor in any area designated by such permit. The director may issue common consumption area permits to the city or county or any one person who shall be a resident of Kansas or an organization that has its principal place of business in Kansas and that has been approved by the respective city or county, in accordance with rules and regulations adopted by the secretary of revenue.

(c) Applications for common consumption area permits shall be submitted to the director, subject to the following:

(1) A copy of any ordinance or resolution promulgated in accordance with subsection (a) shall accompany any application for a common consumption area permit.

(2) Each application shall be accompanied by a non-refundable permit fee of \$100. All permit fees collected by the director pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(3) A common consumption area permit shall be issued for a period of not to exceed one year. A common consumption area permit shall not be transferable or assignable.

(d) Any licensee immediately adjacent to, or located within a common consumption area may request that the licensee's licensed premises participate in the common consumption area for the duration of the common consumption area permit. Such a request shall be made upon forms prescribed by the director.

(e)(1) Any licensee who has requested and received permission to participate in the common consumption area may allow its legal patrons to remove alcoholic liquor purchased from the licensee into the premises described by the common consumption area permit. All alcoholic beverages removed from a licensed premises in such fashion shall be served in a container that displays the licensee's trade name or logo or other identifying mark that is unique to the licensee.

(2) In addition to their licensed premises, one or more licensees that have requested and received permission to participate in a common consumption area may offer for sale, sell and serve alcoholic liquor for consumption from one non-contiguous service area within the common consumption area, as designated and approved by the common

consumption area permit holder. The licensee shall prominently display a copy of its drinking establishment license and the approval of the common consumption area permit holder at its non-contiguous service area.

(f) (1) Each licensee within a common consumption area shall be liable for violations of all liquor laws governing the sale and consumption of alcoholic liquor that occur on the licensee's premises.

(2) Each common consumption area permit holder shall be liable for violations that occur off the licensee's premises, but within the common consumption area identified in the permit. No permit holder shall permit any person to remove any open container of alcoholic liquor from the boundaries of the common consumption area.

(g) For the purposes of this section, "common consumption area" shall mean a defined indoor or outdoor area not otherwise subject to a license issued pursuant to the Kansas liquor control act or the club and drinking establishment act where the possession and consumption of alcoholic liquor is allowed pursuant to a common consumption area permit. The boundaries of any common consumption area must be clearly marked using a physical barrier or any apparent line of demarcation.

(h) The secretary shall adopt rules and regulations to implement this section.

(i) This section shall be a part of and supplemental to the club and drinking establishment act.;

Also on page 21, in line 19, by striking "and" and inserting a comma; also in line 19, after "41-2645" by inserting "and 41-2659";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after the second semicolon by inserting "common consumption areas.;" in line 3, by striking the first "and" and inserting a comma; also in line 3, after "41-2642" by inserting "and 41-2659", and the bill be passed as further amended.

A motion by Senator Bowers to amend **SB 70** was withdrawn.

## REPORTS OF STANDING COMMITTEES

Committee on **Judiciary** recommends **SB 150** be amended on page 2, in line 19, by striking "(B) an administrative agency; or (C)" and inserting "or (B)"; in line 26, after "fee" by inserting "not to exceed one month's rent"; in line 28, by striking "lease" and inserting "agreement"; and the bill be passed as amended.

Committee on **Public Health and Welfare** begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Governor:

Secretary, Department of Health and Environment: K.S.A. 75-5601

Dr. Lee Norman, serves at the pleasure of the Governor

Committee on **Utilities** recommends **SB 69** be amended by substituting a new bill to be designated as "Substitute for SENATE BILL NO. 69," as follows:

"Substitute for SENATE BILL NO. 69

By Committee on Utilities

"AN ACT concerning electric utilities; requiring a study of electric rates; relating to the legislative coordinating council; state corporation commission.";

And the substitute bill be passed.

**CHANGE OF REFERENCE**

The President withdrew **SB 211** from the Committee on **Judiciary**, and referred the bill to the Committee on **Education**.

On motion of Senator Petersen, the Senate adjourned until 2:30 p.m., Wednesday, March 13, 2019.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks*.

COREY CARNAHAN, *Secretary of the Senate*.

