

January 29, 2018

The Honorable Les Mason, Chairperson
House Committee on Commerce, Labor and Economic Development
Statehouse, Room 521-E
Topeka, Kansas 66612

Dear Representative Mason:

SUBJECT: Fiscal Note for HB 2502 by House Committee on Commerce, Labor and Economic Development

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2502 is respectfully submitted to your committee.

HB 2502 would allow the Director of Alcohol Beverage Control (ABC) at the Department of Revenue to issue fines up to \$1,000 for violations of the Cereal Malt Beverage Act and related rules and regulations. The bill requires that the details of the violation and the fine be included in the written order of the violation that is subject to appeal under the Kansas Administrative Procedure Act. All fines would be deposited in the State General Fund.

The bill would allow the ABC Director to use the best information available at the time to produce the market impact study of the sale of beer not containing not more than 6.0 percent alcohol by volume by cereal malt beverage retailers. The report is required to be submitted prior to the 2029 Legislative Session. The bill would allow the ABC Director to refuse to issue a cereal malt beverage license if the applicant or licensee is not current in the payment of fines assessed for that license or any other previously issued license. The bill would provide a definition of cereal malt beverage that would be specific only to the Kansas Retailers' Sales Tax Act and would include beer of not more that 6.0 percent alcohol by weight.

The Department of Revenue estimates that HB 2502 has the potential to decrease state revenues beginning in April 2019 when cereal malt beverage retailers are allowed to sell beer containing no more than 6.0 percent alcohol by volume or "strong beer." Under current law, strong beer is subject to the 8.0 percent liquor enforcement tax, but not the retail sales tax, when sold at a liquor store; while cereal malt beverages that contain no more 3.2 percent alcohol when sold at grocery or convenience stores is subject to only the state and local retail sales tax. Defining cereal malt beverage to include strong beer in the Kansas Retailers' Sales Tax Act would allow strong beer sold at cereal malt beverage retailers to be subject to the retail sales tax instead of the liquor enforcement tax. The 8.0 percent liquor enforcement tax is distributed to the State General Fund and the 6.5 percent collected from the state retail sales tax is distributed to both the State General

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Fund (83.846 percent) and the State Highway Fund (16.154 percent). The state would receive less tax receipts from strong beer sales at grocery and convenience stores (6.5 percent state retail sales tax) compared to liquor stores (8.0 percent liquor enforcement tax) and there would be an overall reduction in tax receipts that are distributed to the State General Fund. However, the net State General Fund reduction is estimated to be negligible. The bill would provide an increase in sales tax receipts that are distributed to the State Highway Fund and local sales tax receipts that are distributed to local governments. The Department of Revenue does not have data on potential sales of strong beer in order to quantify the amount of additional receipts for the State Highway Fund and local governments.

The Department of Revenue indicates that the fines collected from violations of the Cereal Malt Beverage Act would be negligible.

The Kansas Department of Transportation (KDOT) indicates that the bill would increase state revenues to the State Highway Fund as noted above. KDOT indicates the bill would provide additional funding for the comprehensive transportation plan, known as T-WORKS.

The Kansas Association of Counties and the League of Kansas Municipalities indicate the bill has the potential to increase local sales tax collections that are used in part to finance local governments. Any fiscal effect associated with HB 2502 is not reflected in *The FY 2019 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,
Director of the Budget

cc: Lynn Robinson, Department of Revenue
Ben Cleeves, Transportation
Chardae Caine, League of Municipalities
Melissa Wangemann, Association of Counties