

Journal of the Senate

FORTY-SIXTH DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, March 18, 2021, 2:30 p.m.

The Senate was called to order by Vice President Rick Wilborn.

The roll was called with 37 senators present.

Senators Faust-Goudeau, O'Shea and Ware were excused.

Invocation by Reverend Cecil T. Washington:

“United In Prayer; Giving and Receiving Forgiveness!”
Matthew 18:20; Matthew 6:9-15; Luke 11:1-4, 17, 23

I don't know if anyone has noticed, but God has me promoting more togetherness in prayer. The environment, the Lord has promised to bless, is the environment of unity. He says “where two or three, gather together as My followers, I am there among them.” (Matthew 18:20) And folks, there's no better time, position or need for us to be united in than prayer!

So, I'm going to lead us in that model prayer that the Lord gave His disciples to pray in Matthew 6 and Luke 11:1-4. And we want to do this together.

Luke 11:17 says, “Any kingdom divided by civil war is doomed. And a family splintered by feuding will fall apart.” Let's pray; all of us, out loud, coming from Matthew 6:9-15. And note that all 15 of the pronouns are in the plural, promoting unity. Please repeat after me: [The model prayer vss 9-15, including the Lord's postscript vss 14-15]

Our Father which art in heaven, Hallowed be Thy name.
Thy kingdom come. Thy will be done in earth, as it is in heaven.
Give us this day our daily bread.

And forgive us our debts, as we forgive our debtors.
And lead us not into temptation, but deliver us from evil.

For thine is the kingdom, and the power, and the glory, for ever. Amen.

For if ye forgive men their trespasses, your heavenly Father will also forgive you. But if ye forgive not men their trespasses, neither will your Father forgive your trespasses. Now Lord, as Chaplain for this house, I ask that You impress this prayer on the hearts of everyone of us. In the Name of our Lord and Savior, Amen!

The Pledge of Allegiance was led by Vice President Wilborn.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 300, AN ACT concerning crimes, punishment and criminal procedure; relating to the Kansas racketeer influenced and corrupt organization act; adding a person who has engaged in identity theft or identity fraud to the definition of covered person; identity theft and identity fraud to the definition of racketeering activity; amending K.S.A. 2020 Supp. 21-6328 and repealing the existing section, by Committee on Federal and State Affairs.

SB 301, AN ACT concerning children and minors; establishing the office of the child advocate within the office of the attorney general and prescribing certain powers, duties and functions therefor; the joint committee on child welfare system oversight; authorizing access to certain records; amending K.S.A. 2020 Supp. 38-2211, 38-2212, 38-2213, 38-2309 and 38-2310 and repealing the existing sections, by Committee on Federal and State Affairs.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Federal and State Affairs: **HB 2339**.

Ways and Means: **SB 299; HB 2021, HB 2094, HB 2248**.

REFERENCE OF APPOINTMENTS

The following appointment made by the Commissioner of Insurance and submitted to the Senate for confirmation, was referred to Committee as indicated:

Securities Commissioner, Office of the State Securities Commissioner:

Daniel Klucas, to serve At the pleasure of the Insurance Commissioner.

(Committee on Financial Institutions and Insurance)

The following appointments made by the Governor and submitted to the Senate for confirmation, were referred to Committee as indicated:

Member - 12, University of Kansas Hospital Authority:

Mark Uhlig, to serve Term ends March 15, 2024.

(Committee on Public Health and Welfare)

Secretary, Department of Labor:

Amber Shultz, to serve At the pleasure of the governor.

(Committee on Commerce)

Member - 3, State Civil Service Board:

Sheryl Gilchrist, to serve Term ends March 15, 2025.

(Committee on Federal and State Affairs)

Member - 5, State Civil Service Board:

Tom Phillips, to serve Term ends March 15, 2025.

Committee on Federal and State Affairs

The following appointments made by the Attorney General and submitted to the Senate for confirmation, were referred to Committee as indicated:

Member - 3, Kansas Crime Victims Compensation Board:

Rebecca Dickinson, to serve Term ends March 15, 2021.

(Committee on Judiciary)

Inspector General, Office of Inspector General:

Steven Anderson, to serve Term ends January 15, 2025.

(Committee on Public Health and Welfare)

MESSAGE FROM THE HOUSE

Announcing passage of **Sub HB 2089; HB 2236**.

Announcing adoption of **HCR 5013**.

Announcing passage of **SB 77**, as amended; **SB 178**, as amended; **SB 170**, as amended.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

Sub HB 2089; HB 2236; HCR 5013 were thereupon introduced and read by title.

CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR

On motion of Senator Hilderbrand the Senate nonconcurred in the House amendments to **SB 77** and requested a conference committee be appointed.

Under the authority of the President the Vice President appointed Senators Hilderbrand, Gossage and Pettey as a conference committee on the part of the Senate.

On motion of Senator Hilderbrand the Senate nonconcurred in the House amendments to **SB 170** and requested a conference committee be appointed.

Under the authority of the President the Vice President appointed Senators Hilderbrand, Gossage and Pettey as a conference committee on the part of the Senate.

On motion of Senator Longbine the Senate nonconcurred in the House amendments to **SB 178** and requested a conference committee be appointed.

Under the authority of the President the Vice President appointed Senators Longbine, Fagg and Pittman as a conference committee on the part of the Senate.

Upon motion of Senator Alley the Senate recessed until the sound of the gavel.

The senate met pursuant to recess with Vice President Wilborn in the chair.

CONSIDERATION OF MOTIONS TO CONCUR AND NONCONCUR

Senator Tyson moved the Senate concur in House amendments to **SB 21**.

SB 21, AN ACT concerning sales and compensating use tax; relating to countywide retailers' sales tax; approving election by Cherokee county; amending K.S.A. 2020 Supp. 12-187, 12-189 and 12-192 and repealing the existing sections.

On roll call, the vote was: Yeas 34; Nays 1; Present and Passing 0; Absent or Not Voting 5.

Yeas: Alley, Baumgardner, Bowers, Corson, Dietrich, Doll, Erickson, Fagg, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, Olson, Petersen, Pettey, Pittman, Pyle, Ryckman, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Warren, Wilborn.

Nays: Peck.

Absent or Not Voting: Billinger, Claeys, Faust-Goudeau, O'Shea, Ware.

The Senate concurred.

FINAL ACTION ON CONSENT CALENDAR

HB 2063, HB 2124 having appeared on the Consent Calendar for the required two legislative days without objection from any member were considered on final action.

HB 2063, AN ACT concerning retirement and pensions; relating to the Kansas police

and firemen's retirement system; providing certain spousal and children's benefits for death resulting from a service-connected disability; enacting the Michael Wells memorial act; amending K.S.A. 74-4960a and repealing the existing section.

On roll call, the vote was: Yeas 35; Nays 0; Present and Passing 0; Absent or Not Voting 5.

Yeas: Alley, Baumgardner, Bowers, Corson, Dietrich, Doll, Erickson, Fagg, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Warren, Wilborn.

Absent or Not Voting: Billinger, Claeys, Faust-Goudeau, O'Shea, Ware.

The bill passed.

HB 2124, AN ACT concerning the healing arts; relating to healing arts schools; professional services performed thereby; authorization thereof; amending K.S.A. 2020 Supp. 17-2707, 17-7668 and 65-2877a and repealing the existing sections.

On roll call, the vote was: Yeas 35; Nays 0; Present and Passing 0; Absent or Not Voting 5.

Yeas: Alley, Baumgardner, Bowers, Corson, Dietrich, Doll, Erickson, Fagg, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Ryckman, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Warren, Wilborn.

Absent or Not Voting: Billinger, Claeys, Faust-Goudeau, O'Shea, Ware.

The bill passed.

REPORTS OF STANDING COMMITTEES

The Committee on **Agriculture and Natural Resources** recommends **HB 2102** be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2102," as follows:

"Senate Substitute for HOUSE BILL NO. 2102

By Committee on Agriculture and Natural Resources

"AN ACT concerning agriculture; relating to eggs; clarifying repackaging requirements for retailers; amending K.S.A. 2020 Supp. 2-2507 and 2-2510 and repealing the existing sections.";

And the substitute bill be passed.

The Committee on **Federal and State Affairs** recommends **HB 2138** be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2138," as follows:

"Senate Substitute for HOUSE BILL NO. 2138

By Committee on Federal and State Affairs

"AN ACT concerning alcoholic beverages; providing for suspension or revocation of licenses for violations of orders issued by the director; authorizing sales on Sunday and certain holidays; requiring issuance of a cereal malt beverage retailers' license to licensed producers; allowing the sale and removal of beer and cereal malt beverage in certain containers; amending K.S.A. 2020 Supp. 41-308, 41-320a, 41-712, 41-718, 41-2611, 41-2653, as amended by section 1 of 2021 Senate Bill No. 14, 41-2703, 41-2704 and 41-2911 and repealing the existing sections.";

And the substitute bill be passed.

Also, **HB 2252** be amended by substituting a new bill to be designated as "Senate Substitute for HOUSE BILL NO. 2252," as follows:

"Senate Substitute for HOUSE BILL NO. 2252

By Committee on Federal and State Affairs

"AN ACT concerning alcoholic beverages; relating to wineries; authorizing the issuance of fulfillment house licenses; eliminating the requirement for certain percentage of Kansas grown product; allowing the transfer and receipt of bulk wine; allowing the transfer and receipt of bulk alcoholic liquor and cereal malt beverage for canning and bottling purposes; requiring electronic submission of gallonage taxes by special order shipping licensees; authorizing the issuance of a drinking establishment license to manufacturers under certain conditions; eliminating the requirement of Kansas residency for licensure; amending K.S.A. 41-2632 and K.S.A. 2020 Supp. 41-102, 41-308a, 41-308b, 41-311, 41-311b, 41-350, 41-352, 41-2623, 41-2642 and 41-2703 and repealing the existing sections.";

and the substitute bill be passed.

HB 2137, as amended by House Committee of the Whole, be amended on page 2, following line 27, by inserting:

"Sec. 2. K.S.A. 2020 Supp. 41-311 is hereby amended to read as follows: 41-311.

(a) No license of any kind shall be issued pursuant to the liquor control act to a person:

- (1) Who is not a citizen of the United States;
- (2) who has been convicted of a felony under the laws of this state, any other state or the United States;
- (3) who has had a license revoked for cause under the provisions of the liquor control act, the beer and cereal malt beverage keg registration act or who has had any license issued under the cereal malt beverage laws of any state revoked for cause except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;
- (4) who has been convicted of being the keeper or is keeping any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older or has forfeited bond to appear in court to answer charges of being a keeper of any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older;
- (5) who has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;
- (6) who is not at least 21 years of age;
- (7) who, other than as a member of the governing body of a city or county, appoints or supervises any law enforcement officer, who is a law enforcement official or who is an employee of the director;
- (8) who intends to carry on the business authorized by the license as agent of another;
- (9) who at the time of application for renewal of any license issued under this act would not be eligible for the license upon a first application, except as provided by subsection (a)(12);
- (10) who is the holder of a valid and existing license issued under article 27 of

chapter 41 of the Kansas Statutes Annotated, and amendments thereto, unless the person agrees to and does surrender the license to the officer issuing the same upon the issuance to the person of a license under this act, except that a retailer licensed pursuant to K.S.A. 41-2702, and amendments thereto, shall be eligible to receive a retailer's license under the Kansas liquor control act;

(11) who does not own the premises for which a license is sought, or does not, at the time of application, have a written lease thereon;

(12) whose spouse would be ineligible to receive a license under this act for any reason other than citizenship, residence requirements or age, except that this subsection (a)(12) shall not apply in determining eligibility for a renewal license or to a person whose spouse is a law enforcement officer in a county other than the county in which the premises for which the license is sought is located;

(13) whose spouse has been convicted of a felony or other crime which would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under this act;

(14) who does not provide any data or information required by K.S.A. 2020 Supp. 41-311b, and amendments thereto; or

(15) who, after a hearing before the director, has been found to have held an undisclosed beneficial interest in any license issued pursuant to the liquor control act which was obtained by means of fraud or any false statement made on the application for such license.

(b) No retailer's license shall be issued to:

(1) A person who is not a resident of this state;

(2) a person who has not been a resident of this state for at least four years immediately preceding the date of application;

(3) a person who has a beneficial interest in a manufacturer, distributor, farm winery or microbrewery licensed under this act, except that the spouse of an applicant for a retailer's license may own and hold a farm winery license, microbrewery license, or both, if the spouse does not hold a retailer's license issued under this act;

(4) a person who has a beneficial interest in any other retail establishment licensed under this act, except that the spouse of a licensee may own and hold a retailer's license for another retail establishment;

(5) a copartnership, unless all of the copartners are qualified to obtain a license;

(6) a corporation; or

(7) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(c) No manufacturer's license shall be issued to:

(1) A corporation, if any officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a manufacturer's license for any reason other than citizenship and residence requirements;

(2) a copartnership, unless all of the copartners shall have been residents of this state for at least five years immediately preceding the date of application and unless all the members of the copartnership would be eligible to receive a manufacturer's license under this act;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a

license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license;

(4) an individual who is not a resident of this state;

(5) an individual who has not been a resident of this state for at least five years immediately preceding the date of application; or

(6) a person who has a beneficial interest in a distributor, retailer, farm winery or microbrewery licensed under this act, except as provided in K.S.A. 41-305, and amendments thereto.

(d) No distributor's license shall be issued to:

(1) A corporation, if any officer, director or stockholder of the corporation would be ineligible to receive a distributor's license for any reason. It shall be unlawful for any stockholder of a corporation licensed as a distributor to transfer any stock in the corporation to any person who would be ineligible to receive a distributor's license for any reason, and any such transfer shall be null and void, except that: (A) If any stockholder owning stock in the corporation dies and an heir or devisee to whom stock of the corporation descends by descent and distribution or by will is ineligible to receive a distributor's license, the legal representatives of the deceased stockholder's estate and the ineligible heir or devisee shall have 14 months from the date of the death of the stockholder within which to sell the stock to a person eligible to receive a distributor's license, any such sale by a legal representative to be made in accordance with the provisions of the probate code; or (B) if the stock in any such corporation is the subject of any trust and any trustee or beneficiary of the trust who is 21 years of age or older is ineligible to receive a distributor's license, the trustee, within 14 months after the effective date of the trust, shall sell the stock to a person eligible to receive a distributor's license and hold and disburse the proceeds in accordance with the terms of the trust. If any legal representatives, heirs, devisees or trustees fail, refuse or neglect to sell any stock as required by this subsection, the stock shall revert to and become the property of the corporation, and the corporation shall pay to the legal representatives, heirs, devisees or trustees the book value of the stock. During the period of 14 months prescribed by this subsection, the corporation shall not be denied a distributor's license or have its distributor's license revoked if the corporation meets all of the other requirements necessary to have a distributor's license;

(2) a copartnership, unless all of the copartners are eligible to receive a distributor's license;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license; or

(4) a person who has a beneficial interest in a manufacturer, retailer, farm winery or microbrewery licensed under this act.

(e) No nonbeverage user's license shall be issued to a corporation, if any officer, manager or director of the corporation or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a nonbeverage user's license for any reason other than citizenship and residence requirements.

(f) No microbrewery license, microdistillery license or farm winery license shall be issued to a:

(1) Person who is not a resident of this state;

(2) person who has a beneficial interest in a manufacturer or distributor licensed

under this act, except as provided in K.S.A. 41-305, and amendments thereto;

(3) person, copartnership or association which has a beneficial interest in any retailer licensed under this act or under K.S.A. 41-2702, and amendments thereto, except that the spouse of an applicant for a microbrewery or farm winery license may own and hold a retailer's license if the spouse does not hold a microbrewery or farm winery license issued under this act;

(4) copartnership, unless all of the copartners are qualified to obtain a license;

(5) corporation, unless stockholders owning in the aggregate 50% or more of the stock of the corporation would be eligible to receive such license and all other stockholders would be eligible to receive such license except for reason of citizenship or residency; or

(6) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3), (f)(1) and K.S.A. 2020 Supp. 41-311b, and amendments thereto, shall not apply in determining eligibility for the 10th, or a subsequent, consecutive renewal of a license if the applicant has appointed a citizen of the United States who is a resident of Kansas as the applicant's agent and filed with the director a duly authenticated copy of a duly executed power of attorney, authorizing the agent to accept service of process from the director and the courts of this state and to exercise full authority, control and responsibility for the conduct of all business and transactions within the state relative to alcoholic liquor and the business licensed. The agent must be satisfactory to and approved by the director, except that the director shall not approve as an agent any person who:

(1) Has been convicted of a felony under the laws of this state, any other state or the United States;

(2) has had a license issued under the alcoholic liquor or cereal malt beverage laws of this or any other state revoked for cause, except that a person may be appointed as an agent if the person's license was revoked for the conviction of a misdemeanor and 10 years have lapsed since the date of the revocation;

(3) has been convicted of being the keeper or is keeping any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older or has forfeited bond to appear in court to answer charges of being a keeper of any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older;

(4) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes; or

(5) is less than 21 years of age.";

On page 22, in line 15, after "remove" by inserting "alcoholic liquor or cereal malt beverage"; also in line 15, after "premises" by inserting "in"; in line 16, by striking "opened"; also in line 16, by striking "of alcoholic liquor or cereal malt beverage"; also in line 16, after the comma by inserting "including in the original unopened container"; in line 18, after "be" by inserting "otherwise"; in line 19, by striking "in its original container"; in line 20, by striking all after "(2)"; by striking all in line 21; in line 22, by striking "(3)"; in line 23, by striking all after "patron"; by striking all in line 24 and

inserting "of"; in line 27, by striking all after "the"; in line 28, by striking "of"; also in line 28, by striking "and"; in line 29, by striking "the" and inserting "any"; in line 31, by striking "each container" and inserting "any opened containers"; also in line 31, after the comma by inserting "and"; in line 34, after "opened" by inserting ";

(5) no original unopened containers of spirits may be removed from the licensed premises; and

(6) no alcoholic liquor or cereal malt beverage may be removed from the licensed premises after 11:00 p.m. unless such alcoholic liquor is wine that was purchased and partially consumed on the licensed premises";

Also on page 22, by striking all in lines 35 through 43;

On page 23, by striking all in lines 1 through 22;

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 27, in line 9, after the comma by inserting "41-311, "; in line 15, by striking "statute book" and inserting "Kansas register";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after the semicolon by inserting "authorizing the issuance of a license to an individual whose spouse is a law enforcement officer;"; in line 5, after the first comma by inserting "41-311, "; and the bill be passed as amended.

HB 2008 be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Financial Institutions and Insurance** recommends **SB 265** be passed.

Also, **HB 2064**, as amended by House Committee, be amended on page 3, in line 2, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

HB 2187 be amended on page 13, in line 35, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

HB 2243 be amended on page 3, in line 23, by striking "statute book" and inserting "Kansas register"; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2077**, as amended by House Committee of the Whole, be passed.

Also, recommends **HB 2298** be passed.

Committee on **Judiciary** begs leave to submit the following report:

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

By the Governor:

Judge, Court of Appeals: K.S.A. 2020 Supp. 20-3020

Lesley Isherwood, to fill a term expiring on January 9, 2023

Judge, Court of Appeals: K.S.A. 2020 Supp. 20-3020

Jacy Hurst, to fill a term expiring on January 9, 2023

The Committee on **Public Health and Welfare** recommends **HB 2234** be amended on page 4, in line 6, by striking "Kansas register" and inserting "statute book"; and the bill be passed as amended.

The Committee on **Transportation** recommends **SB 158** be amended on page 3, in line 2, after the second "of" by inserting "either:

(1)";

Also on page 3, in line 3, by striking "or without the consent of" and inserting "(2)";

Also on page 3, in line 4, after "member" by inserting "; or

(3) the insurance company processing a claim with respect to the vehicle or an agent of such insurance company";

Also on page 3, in line 11, after "vehicle" by inserting "pursuant to this section"; in line 14, by striking "10" and inserting "15"; and the bill be passed as amended.

Also, **SB 146** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Utilities** recommends **HB 2321**, as amended by House Committee, be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

REPORT ON ENROLLED BILLS

SB 40 reported correctly enrolled, properly signed and presented to the Governor on March 18, 2021.

On motion of Senator Alley, the senate adjourned pro forma until 10:00 a.m. March 19, 2021.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

