

CORRECTED

Journal of the Senate

FIFTY-THIRD DAY

SENATE CHAMBER, TOPEKA, KANSAS
Thursday, March 29, 2012, 10:00 a.m.

The Senate was called to order by President Stephen Morris.
The roll was called with forty senators present.
Invocation by Chaplain Fred S. Hollomon:

Heavenly Father,

About this time each year some of us begin to question the system.
We have so much to do and so little time to do it.
There are bills yet to be passed.
There are bills that should be passed.
And there is yet one bill that seems to defy passage.

The Senate wonders how on earth the House could do what it did, while the House wonders how the Senate could possibly not do what it should have done. And vice versa.

Our ears are ringing;
Our eyes are red;
Our heads are aching;
And our back sides are dead.

We sometimes wonder if we should swap this Republic for another form of government....when we remember the terrible results in any other form.

In the meantime we remember that Churchill said: The only system worse than what we have....is all the rest.

I pray in the Name of Jesus Christ, AMEN

The Pledge of Allegiance was led by President Stephen Morris.

MESSAGE FROM THE GOVERNOR

SB 316 approved on March 28, 2012.

CONSIDERATION OF MOTIONS TO CONCUR OR NONCONCUR

On motion of Senator Owens the Senate nonconcurred in the House amendments to **H Sub for SB 425** and requested a conference committee be appointed.

The President appointed Senators Owens, King and Haley as a conference committee on the part of the Senate.

ORIGINAL MOTION

On motion of Senator McGinn, the Senate acceded to the request of the House for a conference on **S Sub for HB 2454**.

The President appointed Senators Huntington, Schodorf and Kelly as conferees on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senator Longbine introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. **1851**—

A RESOLUTION designating every Sunday
as "Cooking With Kids Day."

WHEREAS, Our children are Kansas' most precious and joyful responsibility, and we are obligated to do all we can to make the good health of our children our number one goal; and

WHEREAS, Childhood obesity is considered by many to be an epidemic in western countries, where now one out of every three children is considered overweight or obese; and

WHEREAS, Local, state and federal governments recognize the tremendous health risk to our children and the added burden to our health care costs in this country from obesity and are now taking an active role in fighting childhood obesity through new programs, including improved nutrition education and access to healthier school lunches; and

WHEREAS, The President of the United States signed a memorandum on February 9, 2010, creating a new inter-agency task force that included 12 federal agencies to address the problem of childhood obesity in the United States; and

WHEREAS, The President's task force identified 70 specific recommendations, many of which can or have been implemented immediately. The report broadly summarizes the task force recommendations, including getting children a healthy start in life with good prenatal care, providing health food in schools, improving access to healthy food in schools and getting children more physically active; and

WHEREAS, Children have historically led their parents when embarking on a culture change. Children often learn skills and disciplines and reinforce new behaviors in the family dynamic, for instance, helping to teach their parents how to do a better job recycling and to understand new technologies, such as social networking; and

WHEREAS, Children are more likely to eat healthier when they are involved in their food choices and food preparation; and

WHEREAS, Children who help their parents plan a meal, shop for the groceries and prepare the food they buy are empowered to make healthier food choices; and

WHEREAS, Children who are connected to the food supply at a young age become more conscious consumers as adults; and

WHEREAS, New venues such as the Food Network and network television have introduced adults and children to fun, healthy ways to enjoy family time together while creating healthy meals. These new venues and their celebrity chefs are leading families in a culture change in our relationship with food: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we designate every Sunday, so long as it does not conflict with personal beliefs, as "Cooking With Kids Day" in order to encourage parents and children to spend time in the kitchen together and prepare a healthy meal; and

Be it further resolved: That the Secretary of the Senate shall send an enrolled copy of this resolution to Senator Jeff Longbine.

On emergency motion of Senator Longbine **SR 1851** was adopted unanimously.

Senator V. Schmidt introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. **1852**—

A RESOLUTION encouraging participation in the American Public Health Association and the Kansas Public Health Association National Public Health Week, April 2-8, 2012.

WHEREAS, The week of April 2-8, 2012, is National Public Health Week, where the theme is "A Healthier America Begins Today. Join the Movement."; and

WHEREAS, The week of April 2-8, 2012, has been designated as National Public Health Week in Kansas in a Governor's Proclamation by Governor Sam Brownback; and

WHEREAS, Since 1995, the sponsorship of National Public Health Week by the American Public Health Association, the Kansas Public Health Association and its members have educated the public, policymakers and public health professionals about issues important to improving the American public's health; and

WHEREAS, Preventing diseases before they start is critical to helping people live longer and healthier lives while managing health-related costs; and

WHEREAS, Chronic diseases such as heart disease, cancer and diabetes are responsible for millions of premature deaths each year; and

WHEREAS, Chronic diseases cause Americans to miss 2.5 billion days of work each year, resulting in lost productivity totaling more than \$1 trillion; and

WHEREAS, On average, Americans are living to 78 years of age. However, only 69 of these years are spent in good health: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we support the efforts of the American Public Health Association and the Kansas Public Health Association to recognize the week of April 2-8, 2012, as National Public Health Week, and call upon the people of Kansas to observe National Public Health Week by helping our families, friends, neighbors, co-workers and leaders better understand the importance of public health to a successful health system in light of this year's theme of National Public Health Week, "A Healthier America Begins Today. Join the Movement."; and

Be it further resolved: That the Secretary of the Senate shall send five enrolled copies of this resolution to Senator V. Schmidt.

On emergency motion of Senator V. Schmidt **SR 1852** was adopted unanimously.

Senator V. Schmidt and members of the Senate welcomed and recognized Brenda Nickel, KPHA Administration Section Chair, Elaine Schwartz, KPHA Executive Director, Mary Jayne Hellebust, KPHA Member for Tobacco Free Kansas Coalition, Allison Alejos, KPHA Member for Shawnee County Health Agency, Michelle Ponce, KPHA Member for Kansas Association of Local Health Departments, Jane Shirley and Joseph Kostch, KPHA Members for Kansas Department of Health & Environment, in recognition of the Kansas Public Health Association National Public Health Week. The Senate acknowledged the guests with a standing ovation.

Senator Holland introduced the following Senate resolution , which was read:

SENATE RESOLUTION No. **1853**—

A RESOLUTION recognizing and designating
June 18-24, 2012, as Amateur Radio Week.

WHEREAS, Amateur radio operators are celebrating over a century of the miracle of the human voice broadcast over the airwaves; and

WHEREAS, Amateur radio has continued to provide a bridge between peoples, societies and countries by creating friendships and the sharing of ideas; and

WHEREAS, Amateur radio operators have also provided countless hours of community services both in emergencies and to other local organizations throughout these decades, in natural or man-made disasters, when other methods fail; and

WHEREAS, These amateur radio operators' services are provided wholly uncompensated; and

WHEREAS, These same individuals have further demonstrated their value in public assistance by providing free radio communications for local parades, bikeathons, triathlons, fairs and other charitable public events; and

WHEREAS, The state of Kansas recognizes and appreciates the diligence of these "hams" who also serve as weather spotters in the Skywarn program of the U.S. Government Weather Bureau; and

WHEREAS, Amateur radio once again proved its undisputed relevance in the modern world in 2005 by providing emergency communications when other systems failed in the devastation of hurricanes Katrina and Rita in the United States and in the tsunami catastrophe overseas; and

WHEREAS, The American Radio Relay League (ARRL) is the leading organization for amateur radio in the United States of America; and

WHEREAS, The ARRL Amateur Radio Field Day exercise will take place on June 23-24, 2012, and is a 24-hour emergency preparedness exercise and demonstration of the radio amateurs' skills and readiness to provide self-supporting communications without further infrastructure being required: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we recognize and designate June 18-24, 2012, as Amateur Radio Week; and

Be it further resolved: That the Secretary of the Senate shall send an enrolled copy of this resolution to Senator Tom Holland.

On emergency motion of Senator Holland **SR 1853** was adopted unanimously.

On motion of Senator Emler, the Senate recessed until 2:30 p.m.

AFTERNOON SESSION

The Senate met pursuant to recess with Senator Morris in the chair.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2432** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee amendments, as follows:

On page 1, by striking all in lines 8 through 36;

By striking all on pages 2 through 24;

On page 25, by striking all in lines 1 through 26 and inserting:

"New Section 1. (a) Sections 1 through 4, and amendments thereto, shall be known and may be cited as the safety corridor act.

(b) The provisions of this act shall expire on July 1, 2015.

New Sec. 2. As used in the safety corridor act:

(a) "Department" means the department of transportation.

(b) "Secretary" means the secretary of transportation.

(c) "Executive safety council" means a group of representatives appointed by the secretary who are charged with developing and maintaining the strategic highway safety plan. Representatives may be appointed from the Kansas department of transportation, Kansas department of revenue, Kansas department of health and environment, the Kansas legislature, transportation safety academia, transportation safety businesses, law enforcement, or local governments.

(d) "Safety corridor" means a segment of highway designated by the secretary of transportation pursuant to the provisions of this act identified by posted or moving signs as being a safety corridor. The corridor starts at the first sign identifying the corridor and continues until a posted or moving sign indicates that the corridor has ended.

New Sec. 3. (a) The secretary of transportation is hereby authorized and empowered to establish and administer a safety corridor program.

(b) The secretary shall establish criteria and designate safety corridors at the recommendation of the executive safety council. The following criteria shall be used in determining designation as a safety corridor, which shall include, but not be limited to:

(1) Accident rates and accident fatality rates, which account for the number of crashes;

(2) number of crashes resulting in serious injury or death; and

(3) traffic volumes.

(c) The secretary shall use the same criteria on all highways in determining whether a highway segment shall be designated as a safety corridor.

(d) The secretary shall designate not more than two safety corridors.

(e) The secretary shall have authority to designate highway safety corridors on highways that are designated as interstate, United States or state highways.

(f) The secretary shall not designate a safety corridor on an interstate, United States or state highway within the corporate limits of any city unless the governing body of such city has passed a resolution supporting the designation of a safety corridor by the secretary. If the governing body of such city passes a resolution revoking its support for

the designation of a safety corridor within its corporate limits, upon notification to the secretary that such resolution has passed, the secretary shall remove the safety corridor designation from such highway that is within the corporate limits of the city. All signage regarding its designation as a safety corridor shall be removed from the highway. However, failure to remove the signage shall not affect the status of the highway that is no longer a designated safety corridor and increased fines cannot be assessed for moving violations that occur within the sign marked area.

(g) The secretary shall establish guidelines to evaluate whether a highway segment designated as a safety corridor continues to meet established criteria. If the secretary determines the criteria no longer applies to the segment, the designation shall be revoked, the signage shall be removed and the segment shall cease to be a safety corridor.

(h) Annually, prior to the 10th day of each regular session of the legislature, the secretary shall report to the house committee on transportation and senate committee on transportation concerning implementation and operation of the program authorized by this section.

New Sec. 4. (a) There is hereby created in the state treasury the safety corridor fund to be administered by the secretary of transportation. All moneys credited to the safety corridor fund shall be used solely for programs within designated safety corridors, including appropriate signage, education, enforcement and such other purposes deemed appropriate by the secretary. All fines collected pursuant to subsection (h) of K.S.A. 8-2118, and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. The state treasurer shall credit all moneys received from fines pursuant to subsection (h) of K.S.A. 8-2118, and amendments thereto, in accordance with K.S.A. 74-7336, and amendments thereto.

(b) Each municipality or other governmental entity that enacts an ordinance or resolution that is substantially similar to subsection (h) of K.S.A. 8-2118, and amendments thereto, shall remit one half of the doubled fine that is collected as a result of the conviction of a moving violation relating to exceeding the maximum speed limit in a safety corridor 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 safety corridor fund.

Sec. 5. K.S.A. 2011 Supp. 8-1560c is hereby amended to read as follows: 8-1560c.

(a) (1) Any conviction or forfeiture of bail or bond for violating a maximum posted or authorized speed limit of 30 miles per hour or more but not exceeding 54 miles per hour on any highway, by not more than six miles per hour, shall not be construed as a moving traffic violation for the purpose of K.S.A. 8-255, and amendments thereto. (2) except that a conviction of exceeding the maximum speed limit within a safety corridor by more than six miles per hour shall be considered a moving violation pursuant to K.S.A. 8-255, and amendments thereto.

(b) (1) Any conviction or forfeiture of bail or bond for violating the maximum posted or authorized speed limit of 55 miles per hour or more but not exceeding 75 miles per hour on any highway, by not more than 10 miles per hour, shall not be construed as a moving traffic violation for the purpose of K.S.A. 8-255, and amendments thereto. (2) except that a conviction of exceeding the maximum speed limit within a safety corridor by more than six miles per hour shall be considered a moving

violation pursuant to K.S.A. 8-255, and amendments thereto.

(c) The provisions of subsections (a)(2) and (b)(2) shall expire on July 1, 2015.

Sec. 6. K.S.A. 2011 Supp. 8-1560d is hereby amended to read as follows: 8-1560d.

(a) Except as provided by subsection (b), convictions for violating a maximum posted speed limit of 55 miles per hour or more but not exceeding 75 miles per hour, by not more than 10 miles per hour in excess of such maximum speed limit, or a maximum posted speed limit of 30 miles per hour or more but not exceeding 54 miles per hour, by not more than six miles per hour in excess of such maximum speed limit, shall not be reported by the division and shall not be considered by any insurance company in determining the rate charged for any automobile liability insurance policy or whether to cancel any such policy under the provisions of subsection (4)(c)(7) of K.S.A. 40-277, and amendments thereto.

(b) Convictions for violating a maximum speed limit within a safety corridor by not more than six miles per hour shall not be reported by the division and shall not be considered by any insurance company in determining the rate charged for any automobile liability insurance policy under the provisions of subsection (4)(c)(7) of K.S.A. 40-277, and amendments thereto. The provisions of this subsection shall expire on July 1, 2015.

Sec. 7. K.S.A. 2011 Supp. 8-2118 is hereby amended to read as follows: 8-2118. (a) A person charged with a traffic infraction shall, except as provided in subsection (b), appear at the place and time specified in the notice to appear. If the person enters an appearance, waives right to trial, pleads guilty or no contest, the fine shall be no greater than that specified in the uniform fine schedule in subsection (c) and court costs shall be taxed as provided by law.

(b) Prior to the time specified in the notice to appear, a person charged with a traffic infraction may enter a written appearance, waive right to trial, plead guilty or no contest and pay the fine for the violation as specified in the uniform fine schedule in subsection (c) and court costs provided by law. Payment may be made in any manner accepted by the court. The traffic citation shall not have been complied with if the payment is not honored for any reason, or if the fine and court costs are not paid in full. When a person charged with a traffic infraction makes payment without executing a written waiver of right to trial and plea of guilty or no contest, the payment shall be deemed such an appearance, waiver of right to trial and plea of no contest.

(c) The following uniform fine schedule shall apply uniformly throughout the state but shall not limit the fine which may be imposed following a court appearance, except an appearance made for the purpose of pleading and payment as permitted by subsection (a). The description of offense contained in the following uniform fine schedule is for reference only and is not a legal definition.

<i>Description of Offense</i>	<i>Statute</i>	<i>Fine</i>
Refusal to submit to a preliminary breath test	8-1012	\$105
Unsafe speed for prevailing conditions	8-1557	\$75
Exceeding maximum speed limit; or speeding in zone posted by the state department of transportation; or	8-1558 to 8-1560 8-1560a	1-10 mph over the limit, \$45 11-20 mph over the limit, \$45 plus \$6

speeding in locally posted zone	or 8-1560b	per mph over 10 mph over the limit; 21-30 mph over the limit, \$105 plus \$9 per mph over 20 mph over the limit; 31 and more mph over the limit, \$195 plus \$15 per mph over 30 mph over the limit;
Disobeying traffic control device	8-1507	\$75
Violating traffic control signal	8-1508	\$75
Violating pedestrian control signal	8-1509	\$45
Violating flashing traffic signals	8-1510	\$75
Violating lane-control signal	8-1511	\$75
Unauthorized sign, signal, marking or device	8-1512	\$45
Driving on left side of roadway	8-1514	\$75
Failure to keep right to pass oncoming vehicle	8-1515	\$75
Improper passing; increasing speed when passed	8-1516	\$75
Improper passing on right	8-1517	\$75
Passing on left with insufficient clearance	8-1518	\$75
Driving on left side where curve, grade, intersection railroad crossing, or obstructed view	8-1519	\$75
Driving on left in no-passing zone	8-1520	\$75
Unlawful passing of stopped emergency vehicle	8-1520a	\$75
Driving wrong direction on one-way road	8-1521	\$75
Improper driving on laned roadway	8-1522	\$75
Following too close	8-1523	\$75
Improper crossover on divided highway	8-1524	\$45
Failure to yield right-of-way at uncontrolled intersection	8-1526	\$75

Failure to yield to approaching vehicle when turning left	8-1527	\$75
Failure to yield at stop or yield sign	8-1528	\$75
Failure to yield from private road or driveway	8-1529	\$75
Failure to yield to emergency vehicle	8-1530	\$195
Failure to yield to pedestrian or vehicle working on roadway	8-1531	\$105
Failure to comply with restrictions in road construction zone	8-1531a	\$45
Disobeying pedestrian traffic control device	8-1532	\$45
Failure to yield to pedestrian in crosswalk; pedestrian suddenly entering roadway; passing vehicle stopped for pedestrian at crosswalk	8-1533	\$75
Improper pedestrian crossing	8-1534	\$45
Failure to exercise due care in regard to pedestrian	8-1535	\$45
Improper pedestrian movement in crosswalk	8-1536	\$45
Improper use of roadway by pedestrian	8-1537	\$45
Soliciting ride or business on roadway	8-1538	\$45
Driving through safety zone	8-1539	\$45
Failure to yield to pedestrian on sidewalk	8-1540	\$45
Failure of pedestrian to yield to emergency vehicle	8-1541	\$45
Failure to yield to blind pedestrian	8-1542	\$45
Pedestrian disobeying bridge or railroad signal	8-1544	\$45
Improper turn or approach	8-1545	\$75
Improper "U" turn	8-1546	\$75
Unsafe starting of stopped vehicle	8-1547	\$45
Unsafe turning or stopping, failure to give proper signal; using turn signal un-	8-1548	\$75

lawfully		
Improper method of giving notice of intention to turn	8-1549	\$45
Improper hand signal	8-1550	\$45
Failure to stop or obey road crossing signal	8-1551	\$195
Failure to stop at railroad crossing stop sign	8-1552	\$135
Certain hazardous vehicles failure to stop at railroad crossing	8-1553	\$195
Improper moving of heavy equipment at railroad crossing	8-1554	\$75
Vehicle emerging from alley, private roadway, building or driveway	8-1555	\$75
Improper passing of school bus; improper use of school bus signals	8-1556	\$315
Improper passing of church or day-care bus; improper use of signals	8-1556a	\$195
Impeding normal traffic by slow speed	8-1561	\$45
Speeding on motor-driven cycle	8-1562	\$75
Speeding in certain vehicles or on posted bridge	8-1563	\$45
Improper stopping, standing or parking on roadway	8-1569	\$45
Parking, standing or stopping in prohibited area	8-1571	\$45
Improper parking	8-1572	\$45
Unattended vehicle	8-1573	\$45
Improper backing	8-1574	\$45
Driving on sidewalk	8-1575	\$45
Driving with view or driving mechanism obstructed	8-1576	\$45
Unsafe opening of vehicle door	8-1577	\$45
Riding in house trailer	8-1578	\$45
Unlawful riding on vehicle	8-1578a	\$75
Improper driving in defiles, canyons, or on grades	8-1579	\$45
Coasting	8-1580	\$45
Following fire apparatus too	8-1581	\$75

closely		
Driving over fire hose	8-1582	\$45
Putting glass, etc., on highway	8-1583	\$105
Driving into intersection, crosswalk, or crossing without sufficient space on other side	8-1584	\$45
Improper operation of snowmobile on highway	8-1585	\$45
Parental responsibility of child riding bicycle	8-1586	\$45
Not riding on bicycle seat; too many persons on bicycle	8-1588	\$45
Clinging to other vehicle	8-1589	\$45
Improper riding of bicycle on roadway	8-1590	\$45
Carrying articles on bicycle; one hand on handlebars	8-1591	\$45
Improper bicycle lamps, brakes or reflectors	8-1592	\$45
Improper operation of motorcycle; seats; passengers, bundles	8-1594	\$45
Improper operation of motorcycle on laned roadway	8-1595	\$75
Motorcycle clinging to other vehicle	8-1596	\$45
Improper motorcycle handlebars or passenger equipment	8-1597	\$75
Motorcycle helmet and eye-protection requirements	8-1598	\$45
Unlawful operation of all-terrain vehicle	8-15,100	\$75
Unlawful operation of low-speed vehicle	8-15,101	\$75
Littering	8-15,102	\$115
Disobeying school crossing guard	8-15,103	\$75
Unlawful operation of micro utility truck	8-15,106	\$75
Failure to remove vehicles in accidents	8-15,107	\$75
Unlawful operation of golf cart	8-15,108	\$75

Unlawful operation of work-site utility vehicle	8-15,109	\$75
Unlawful display of license plate	8-15,110	\$60
Unlawful text messaging	8-15,111	\$60
Equipment offenses that are not misdemeanors	8-1701	\$75
Driving without lights when needed	8-1703	\$45
Defective headlamps	8-1705	\$45
Defective tail lamps	8-1706	\$45
Defective reflector	8-1707	\$45
Improper stop lamp or turn signal	8-1708	\$45
Improper lighting equipment on certain vehicles	8-1710	\$45
Improper lamp color on certain vehicles	8-1711	\$45
Improper mounting of reflectors and lamps on certain vehicles	8-1712	\$45
Improper visibility of reflectors and lamps on certain vehicles	8-1713	\$45
No lamp or flag on projecting load	8-1715	\$75
Improper lamps on parked vehicle	8-1716	\$45
Improper lights, lamps, reflectors and emblems on farm tractors or slow-moving vehicles	8-1717	\$45
Improper lamps and equipment on implements of husbandry, road machinery or animal-drawn vehicles	8-1718	\$45
Unlawful use of spot, fog, or auxiliary lamp	8-1719	\$45
Improper lamps or lights on emergency vehicle	8-1720	\$45
Improper stop or turn signal	8-1721	\$45
Improper vehicular hazard warning lamp	8-1722	\$45
Unauthorized additional lighting equipment	8-1723	\$45
Improper multiple-beam lights	8-1724	\$45

Failure to dim headlights	8-1725	\$75
Improper single-beam headlights	8-1726	\$45
Improper speed with alternate lighting	8-1727	\$45
Improper number of driving lamps	8-1728	\$45
Unauthorized lights and signals	8-1729	\$45
Improper school bus lighting equipment and warning devices	8-1730	\$45
Unauthorized lights and devices on church or day-care bus	8-1730a	\$45
Improper lights on highway construction or maintenance vehicles	8-1731	\$45
Defective brakes	8-1734	\$45
Defective or improper use of horn or warning device	8-1738	\$45
Defective muffler	8-1739	\$45
Defective mirror	8-1740	\$45
Defective wipers; obstructed windshield or windows	8-1741	\$45
Improper tires	8-1742	\$45
Improper flares or warning devices	8-1744	\$45
Improper use of vehicular hazard warning lamps and devices	8-1745	\$45
Improper air-conditioning equipment	8-1747	\$45
Improper safety belt or shoulder harness	8-1749	\$45
Improper wide-based single tires	8-1742b	\$75
Improper compression release engine braking system	8-1761	\$75
Defective motorcycle headlamp	8-1801	\$45
Defective motorcycle tail lamp	8-1802	\$45
Defective motorcycle reflector	8-1803	\$45
Defective motorcycle stop	8-1804	\$45

lamps and turn signals		
Defective multiple-beam lighting	8-1805	\$45
Improper road-lighting equipment on motor-driven cycles	8-1806	\$45
Defective motorcycle or motor-driven cycle brakes	8-1807	\$45
Improper performance ability of brakes	8-1808	\$45
Operating motorcycle with disapproved braking system	8-1809	\$45
Defective horn, muffler, mirrors or tires	8-1810	\$45
Unlawful statehouse parking	75-4510a	\$30
Exceeding gross weight of vehicle or combination	8-1909	
	Pounds Overweight	
	up to 1000	\$40
	1001 to 2000	3¢ per pound
	2001 to 5000	5¢ per pound
	5001 to 7500	7¢ per pound
	7501 and over	10¢ per pound
Exceeding gross weight on any axle or tandem, triple or quad axles	8-1908	
	Pounds Overweight	
	up to 1000	\$40
	1001 to 2000	3¢ per pound
	2001 to 5000	5¢ per pound
	5001 to 7500	7¢ per pound
	7501 and over	10¢ per pound
Failure to obtain proper registration, clearance or to have current certification	66-1324	\$287
Insufficient liability insurance for motor carriers	66-1,128 or 66-1314	\$137
Failure to obtain interstate motor fuel tax authorization	79-34,122	\$137
No authority as private or common carrier	66-1,111	\$137
Violation of motor carrier safety rules and regulations, except for violations specified in subsection (b)(2) of K.S.A. 66-1,130, and amendments thereto	66-1,129	\$115

(d) Traffic offenses classified as traffic infractions by this section shall be classified as ordinance traffic infractions by those cities adopting ordinances prohibiting the same offenses. A schedule of fines for all ordinance traffic infractions shall be established by

the municipal judge in the manner prescribed by K.S.A. 12-4305, and amendments thereto. Such fines may vary from those contained in the uniform fine schedule contained in subsection (c).

(e) Fines listed in the uniform fine schedule contained in subsection (c) shall be doubled if a person is convicted of a traffic infraction, which is defined as a moving violation in accordance with rules and regulations adopted pursuant to K.S.A. 8-249, and amendments thereto, committed within any road construction zone as defined in K.S.A. 8-1458a, and amendments thereto.

(f) For a second violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years after a prior conviction of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined 1½ times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c). For a third violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years, after two prior convictions of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined two times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c). For a fourth and each succeeding violation of K.S.A. 8-1908 or 8-1909, and amendments thereto, within two years after three prior convictions of K.S.A. 8-1908 or 8-1909, and amendments thereto, such person, upon conviction shall be fined 2½ times the applicable amount from one, but not both, of the schedules listed in the uniform fine schedule contained in subsection (c).

(g) Fines listed in the uniform fine schedule contained in subsection (c) relating to exceeding the maximum speed limit, shall be doubled if a person is convicted of exceeding the maximum speed limit in a school zone authorized under subsection (a)(4) of K.S.A. 8-1560, and amendments thereto.

(h) Fines listed in the uniform fine schedule contained in subsection (c) relating to exceeding the maximum speed limit, shall be doubled if a person is convicted of a traffic infraction, which is defined as a moving violation in accordance with rules and regulations adopted pursuant to K.S.A. 8-249, and amendments thereto, committed within any safety corridor designated pursuant to section 3, and amendments thereto. A person may not enter into a diversion agreement in lieu of further criminal proceedings that would prevent such person's conviction of exceeding the maximum speed limit in a safety corridor from appearing on the person's record. The provisions of this subsection shall expire on July 1, 2015.

Sec. 8. K.S.A. 2011 Supp. 74-7336 is hereby amended to read as follows: 74-7336. (a) Except as provided by subsection (c) of the remittances of fines, penalties and forfeitures received from clerks of the district court, at least monthly, the state treasurer shall credit:

- (1) 10.94% to the crime victims compensation fund;
- (2) 2.24% to the crime victims assistance fund;
- (3) 2.75% to the community alcoholism and intoxication programs fund;
- (4) 7.65% to the department of corrections alcohol and drug abuse treatment fund;
- (5) 0.16% to the boating fee fund;
- (6) 0.11% to the children's advocacy center fund;
- (7) 2.28% to the EMS revolving fund;
- (8) 2.28% to the trauma fund;
- (9) 2.28% to the traffic records enhancement fund;

(10) 2.91% to the criminal justice information system line fund; ~~and~~

~~(11) 0.9% to the safety corridor fund; and~~

~~(11)(12)~~ the remainder of the remittances to the state general fund.

(b) The county treasurer shall deposit grant moneys as provided in subsection (a), from the crime victims assistance fund, to the credit of a special fund created for use by the county or district attorney in establishing and maintaining programs to aid witnesses and victims of crime.

(c) The credit required by subsection (a)(11) of this section shall expire on July 1, 2015.

Sec. 9. K.S.A. 2011 Supp. 8-2009a is hereby amended to read as follows: 8-2009a.

(a) Every school bus, as defined in K.S.A. 8-1461, and amendments thereto, shall be governed by the requirements of law and rules and regulations of the state board of education applicable to design, lighting equipment, distinctive markings, special warning devices, and any other equipment which are in effect on the date any such school bus is purchased or otherwise acquired, and shall be exempt from the requirements of law and rules and regulations which become effective at any time ~~during a period of 25 years from after~~ the date of manufacture of such school bus, except that, on and after July 1, 2016, such school buses shall be exempt from the requirements of law and rules and regulations which become effective at any time during a period of 25 years from the date of manufacture of such school bus. The state board of education is hereby required to approve any such school bus as to design, and as to lighting equipment, special warning devices, distinctive markings, and any other equipment required by law and rules and regulations, for operation as a school bus during such exemption period upon submission of a request for such approval.

(b) The state board of education is authorized to establish the procedure to be followed when request for approval of any such school bus is submitted under this section. The approval shall be in writing and a copy of the written approval shall be carried in the school bus at all times, but failure to carry such copy of the written approval shall not affect the status of the school bus as an approved school bus. The state board of education shall maintain a list of all such school buses which have been approved by the board.

Sec. 10. K.S.A. 2011 Supp. 8-1560c, 8-1560d, 8-2009a, 8-2118 and 74-7336 are hereby repealed.";

And by renumbering remaining sections accordingly;

Also on page 25, in line 28, by striking "January 1, 2013, and";

On page 1, in the title, in line 1, by striking "distinctive license plates"; by striking all in lines 2 through 5 and inserting "traffic regulation; designating certain highway segments as safety corridors; establishing the traffic safety corridor fund; regulating school buses; amending K.S.A. 2011 Supp. 8-1560c, 8-1560d, 8-2009a, 8-2118 and 74-7336 and repealing the existing sections.";

And your committee on conference recommends the adoption of this report.

Dwayne Umbarger

BOB MARSHALL

KELLY KULTALA

Conferees on part of Senate

GARY K. HAYZLETT

WILLIE PRESCOTT

VINCENT WETTA

Conferees on part of House

Senator Umbarger moved the Senate adopt the Conference Committee Report on **HB 2432**.

On roll call, the vote was: Yeas 26; Nays 14; Present and Passing 0; Absent or Not Voting 0.

Yeas: Apple, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, King, Kultala, Longbine, Marshall, McGinn, Morris, Owens, Reitz, A. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger.

Nays: Abrams, Bruce, Kelsey, Love, Lynn, Masterson, Merrick, Olson, Ostmeyer, Petersen, Pilcher-Cook, Pyle, Vratil, Wagle.

The Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2631** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee amendments, as follows:

On page 12, following line 20, by inserting:

"Sec. 6. K.S.A. 2011 Supp. 65-1424 is hereby repealed.";

Also on page 12, in line 21, by striking "6." and inserting "7."; also in line 21, by striking "65-1424, "; in line 23, by striking "7." and inserting "8.";

And your committee on conference recommends the adoption of this report.

VICKI SCHMIDT

PETE BRUNGARDT

LAURA KELLY

Conferees on part of Senate

BRENDA LANDWEHR

OWEN DONOHOE

GERALDINE FLAHARTY

Conferees on part of House

Senator V. Schmidt moved the Senate adopt the Conference Committee Report on **HB 2631**.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The Conference Committee Report was adopted.

REPORT ON ENGROSSED BILLS

SB 427 reported correctly engrossed March 28, 2012.

H Sub for SB 74; SB 301, SB 453 reported correctly engrossed March 29, 2012.

REPORTS OF STANDING COMMITTEES

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:

Long-term Care Ombudsman: K.S.A. 75-7304

Barbara J. Hickert, to fill a term expiring on March 15, 2016

Committee on **Ways and Means** recommends **HB 2743**, (Corrected), be passed.

COMMITTEE OF THE WHOLE

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

On motion of Senator Umbarger the following report was adopted:

Recommended:

HB 2562 be amended by motion of Senator V. Schmidt, on page 1, in line 5, before "Section" by inserting "New"; following line 13, by inserting:

"Sec. 2. K.S.A. 2011 Supp. 65-2878 is hereby amended to read as follows: 65-2878. (a) The board shall appoint an executive director, subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided by K.S.A. 46-2601, and amendments thereto, no person appointed as executive director shall exercise any power, duty or function as executive director until confirmed by the senate. The executive director shall be in the unclassified service under the Kansas civil service act and shall receive a salary fixed by the board and approved by the governor. The executive director shall not be a member of the board. Under the supervision of the board, the executive director shall be the chief administrative officer of the board and shall perform such duties as may be specified by the board and as may be required by law. The executive director shall be the custodian of the common seal of the board, the books and records of the board and shall keep minutes of all board proceedings.

(b) The board may employ an administrative assistant. The administrative assistant shall be in the unclassified service under the Kansas civil service act and shall receive a salary fixed by the board and approved by the governor. Under the supervision of the executive director, the administrative assistant shall assist the executive director in the performance of the duties of the executive director.

(c) The board may employ such clerical and other employees, who shall be in the classified service under the Kansas civil service act, as it considers necessary in order to administer and execute, under the supervision of the executive director, the provisions of this act or other statutes delegating duties and responsibilities to the board, except that any attorney employed by the board shall be in the unclassified service under the Kansas civil service act and shall receive a salary fixed by the board and approved by

the governor.

(d) As necessary, the board shall be represented by an attorney appointed by the attorney general as provided by law, whose compensation shall be determined and paid by the board with the approval of the governor.

(e) The board may contract with one or more persons who are licensed to practice the healing arts in this state and who are not members of the board to provide such advice and assistance as necessary on: Licensure matters including review, investigation and disposition of complaints; clinical and patient care matters; and the ethical conduct and professional practice of licensees; or to perform other duties as assigned by the executive director or the board. For the purposes of contracting with such persons, the board shall be exempt from the provisions of K.S.A. 75-3739, and amendments thereto.

Sec. 3. K.S.A. 2011 Supp. 65-2878 is hereby repealed.;

And by renumbering sections accordingly;

Also on page 1, in line 15, by striking "statute book" and inserting "Kansas register";

Also on page 1, in the title, in line 2, before the period by inserting "; concerning certain contracts by the board of healing arts with persons licensed to practice the healing arts; amending K.S.A. 2011 Supp. 65-2878 and repealing the existing section" and **HB 2562** be passed as amended.

Sub HB 2689 be amended by adoption of the committee amendments and be further amended by motion of Senator Brungardt on page 16, following line 6, by inserting:

"Sec. 13. K.S.A. 2011 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 has not been a citizen of the United States for at least 10 years, except that the spouse of a deceased retail licensee may receive and renew a retail license notwithstanding the provisions of this subsection (a)(1) if such spouse is otherwise qualified to hold a retail license and is a United States citizen or becomes a United States citizen within one year after the deceased licensee's death;

(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 a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(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 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;

(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; or

(14) who does not provide any data or information required by K.S.A. 2011 Supp. 41-311b, and amendments thereto.

(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 other than citizenship and residence requirements, provided, that at least one officer and one director of the corporation meets the citizenship and residence requirements. 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 or farm winery license shall be issued to a:

- (1) Person who is not a resident of this state;
- (2) person who has not been a resident of this state for at least one year immediately preceding the date of application;

(3) 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;

(4) 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;

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

(6) 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

(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.

(g) The provisions of subsections (b)(1), (b)(2), (c)(3), (c)(4), (d)(3), (f)(1), (f)(2) and K.S.A. 2011 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 a house of prostitution or has forfeited bond to appear in court to answer charges of being a keeper of a house of prostitution;

(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.";

And by renumbering sections accordingly;

On page 42, in line 16, after "41-310," by inserting "41-311,";

On page 1, in the title, in line 6, after "41-310," by inserting "41-311," and

Senator Abrams made a motion to amend **Sub for HB 2689** and Senator Holland requested the amendment be divided into two parts.

Senator Abrams moved Part 1 of his amendment: on page 12, in line 3, after "premises" by inserting "and at special events monitored and regulated by the division of alcoholic beverage control"; in line 9, after "the" by inserting "licensed"; following

line 11, by inserting:

"(5) the sale of wine manufactured by the licensee for consumption on the licensed premises, provided, the licensed premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments. Wine sold pursuant to this paragraph shall not be subject to the provisions of the club and drinking establishment act, K.S.A. 41-2601 *et seq.*, and amendments thereto, and no drinking establishment license shall be required to make such sales;"

And redesignating paragraphs accordingly;

Also on page 12, in line 31, after "premises" by inserting "and at special events monitored and regulated by the division of alcoholic beverage control"; On page 13, in line 11, by striking "domestic wine, domestic fortified wine and"; also in line 11, after "wine" by inserting "manufactured by the licensee and wine" and the motion carried.

Senator Abrams moved Part 2 of his amendment: On page 12, in line 42, by striking "Not less than 60% of the products utilized in the manufacture of"; by striking all in line 43;

On page 13, by striking all in lines 1 through 5 and inserting "Not less than 20% of the products utilized in the manufacture of domestic table wine and domestic fortified wine by a farm winery shall be grown in Kansas, except when a lesser proportion is authorized by the director based upon the director's findings and judgment. The production requirement of this subsection shall be determined based on the annual production of domestic table wine and domestic fortified wine by the farm winery."

Upon the showing of five hands a roll call vote was requested.

On roll call, the vote was: Yeas 26; Nays 13; Present and Passing 1; Absent or Not Voting 0.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Kelsey, Longbine, Love, Masterson, McGinn, Morris, Ostmeyer, Owens, Petersen, Reitz, A. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: Francisco, Haley, Hensley, Holland, Huntington, King, Kultala, Lynn, Marshall, Merrick, Olson, Pilcher-Cook, Pyle.

Present and Passing: Kelly.

The motion carried and **Sub HB 2689** be passed as further amended.

A motion by Senator Steineger to amend **Sub HB 2689** failed and the following amendment was rejected: on page 6, in line 24, after "liquors" by inserting "and cereal malt beverage";

On page 11, in line 1, after "liquor" by inserting "and cereal malt beverage"; in line 3, after "liquor" by inserting "and cereal malt beverage"; in line 4, after "liquor" by inserting "or cereal malt beverage"; in line 16, after "liquor" by inserting "and cereal malt beverage"; in line 22, after "liquor" by inserting "or cereal malt beverage"; in line 23, after "liquor" by inserting "or cereal malt beverage"; in line 29, after "liquor" by inserting "or cereal malt beverage"; in line 34, after "liquor" by inserting "and cereal malt beverage"; in line 35, after "liquor" by inserting "and cereal malt beverage";

On page 33, following line 19, by inserting:

"Sec. 29. K.S.A. 2011 Supp. 41-2702 is hereby amended to read as follows: 41-2702. (a) No retailer shall sell any cereal malt beverage without having first secured a license for each place of business as herein provided. In case such place of business is located within the corporate limits of a city, the application for license shall be made to

the governing body of such city. In all other cases, the application for license shall be made to the board of county commissioners in the county in which such place of business is to be located, except that the application for license to sell on railway cars shall be made to the director as hereinafter provided.

(b) A board of county commissioners shall not issue or renew a retailer's license without giving the clerk of the township where the place of business is to be located written notice by registered mail of the filing of the application for licensure or renewal. The township board may within 10 days file advisory recommendations as to the granting of such license or renewal and such advisory recommendations shall be considered by the board of county commissioners before such license is issued. If an original license is granted and issued, the board of county commissioners shall grant and issue renewals thereof upon application of the license holder, if the license holder is qualified to receive the same and the license has not been revoked as provided by law.

(c) An application for a retailer's license shall be verified and upon a form prepared by the attorney general of the state and shall contain:

- (1) The name and residence of the applicant;
- (2) the length of time that the applicant has resided within the state of Kansas;
- (3) the particular place of business for which a license is desired;
- (4) the name of the owner of the premises upon which the place of business is located; and

(5) a statement that the applicant is a citizen of the United States and not less than 21 years of age and that the applicant has not within two years immediately preceding the date of making application been convicted of a felony, any crime involving moral turpitude, drunkenness, driving a motor vehicle while under the influence of intoxicating liquor or violation of any other intoxicating liquor law of any state or of the United States.

(d) In addition to the fee provided by subsection (e), each application for a retailer's license to sell cereal malt beverages for consumption on the licensed premises shall be accompanied by a fee as follows:

- (1) For licensure of a place of business other than a railway car, a fee of not less than \$25 nor more than \$200, as prescribed by the board of county commissioners or the governing body of the city, as the case may be; and
- (2) for licensure to sell on railway cars, a fee of \$100.

(e) Each applicant for a retailer's license or renewal of such a license shall submit to the director a copy of the completed application for such license or license renewal, together with a fee of \$25. Upon receipt of such application, the director shall authorize a state stamp to be affixed to the license. No such stamp shall be affixed to any license except such stamps as provided by the director and no retailer's license shall be issued or renewed unless such stamp has first been affixed thereto.

(f) The director shall remit all fees collected by the director 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, except that the director may provide for the deposit in the cereal malt beverage tax refund fund of such amounts as necessary for the refund of any license fees collected hereunder.

(g) The board of county commissioners of the several counties or the governing body of a city shall issue a license upon application duly made as otherwise provided

for herein, to any retailer engaged in business in such county or city and qualified to receive such license, to sell only cereal malt beverages in original and unopened containers, and not for consumption on the premises. The annual license fee for such license, which shall be in addition to the fee provided by subsection (e), shall be not less than \$25 nor more than \$50.

(h) No license issued under this act shall be transferable.

(i) No retailer shall sell or offer for sale any alcoholic liquor without having first been issued a license in accordance with the Kansas liquor control act.

Sec. 30. K.S.A. 2011 Supp. 41-2703 is hereby amended to read as follows: 41-2703. (a) After examination of an application for a retailer's license, the board of county commissioners or the director shall, if they approve the same, issue a license to the applicant. The governing body of the city shall, if the applicant is qualified as provided by law, issue a license to such applicant.

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

(1) A person who is not a resident of the county in which the place of business covered by the license is located, has not been a resident of such county for at least six months or has not been a resident in good faith of the state of Kansas.

(2) A person who has not been a resident of this state for at least one year immediately preceding application for a retailer's license.

(3) A person who is not of good character and reputation in the community in which the person resides.

(4) A person who is not a citizen of the United States.

(5) A person who, within two years immediately preceding the date of application approval, has been convicted of, released from incarceration for or released from probation or parole for a felony or any crime involving moral turpitude, drunkenness, driving a motor vehicle while under the influence of intoxicating liquor or violation of any other intoxicating liquor law of any state or of the United States.

(6) A partnership, unless all the members of the partnership are otherwise qualified to obtain a license.

(7) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, would be ineligible to receive a license hereunder for any reason other than the citizenship and residency requirements.

(8) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses all the qualifications of a licensee.

(9) A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship, residence requirements or age, except that this subsection (b)(9) shall not apply in determining eligibility for a renewal license.

(10) A person 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.

(c) After examination of an application for a retailer's license, the board of county commissioners or the governing body of a city may deny a license to a person, partnership or corporation if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, has been an officer, manager, director or a stockholder owning in the aggregate more than 25% of the stock, of a corporation which has:

(1) Had a retailer's license revoked under K.S.A. 41-2708, and amendments thereto; or

(2) been convicted of a violation of the Kansas liquor control act, the club and drinking establishment act or the cereal malt beverage laws of this state.

(d) Retailers' licenses shall be issued either on an annual basis or for the calendar year. If such licenses are issued on an annual basis, the board of county commissioners or the governing body of the city shall notify the distributors supplying the county or city on or before April 1 of the year if a retailer's license is not renewed.

(e) In addition to, and consistent with the requirements of K.S.A. 41-2701 *et seq.*, and amendments thereto, the board of county commissioners of any county or the governing body of any city may provide by resolution or ordinance for the issuance of a special event retailers' permit which shall allow the permit holder to offer for sale, sell and serve cereal malt beverage for consumption on unpermitted premises, which may be open to the public, subject to the following:

(1) A special event retailers' permit shall specify the premises for which the permit is issued;

(2) a special event retailers' permit shall be issued for the duration of the special event, the dates and hours of which shall be specified in the permit;

(3) no more than four special event retailers' permits may be issued to any one applicant in a calendar year; and

(4) a special event retailers' permit shall not be transferable or assignable.

(f) A special event retailers' permit holder shall not be subject to the provisions of the beer and cereal malt beverage keg registration act, K.S.A. 41-2901 *et seq.*, and amendments thereto.

Sec. 31. K.S.A. 2011 Supp. 41-2704 is hereby amended to read as follows: 41-2704. (a) In addition to and consistent with the requirements of the cereal malt beverage act, the board of county commissioners of any county or the governing body of any city may prescribe hours of closing, standards of conduct and rules and regulations concerning the moral, sanitary and health conditions of places licensed pursuant to this act and may establish zones within which no such place may be located.

(b) Within any city where the days of sale at retail of cereal malt beverage in the original package have not been expanded as provided by K.S.A. 2011 Supp. 41-2911, and amendments thereto, or have been so expanded and subsequently restricted as provided by K.S.A. 2011 Supp. 41-2911, and amendments thereto, and within any township where the hours and days of sale at retail of cereal malt beverage in the original package have not been expanded as provided by K.S.A. 2011 Supp. 41-2911, and amendments thereto, or have been so expanded and subsequently restricted as provided by K.S.A. 2011 Supp. 41-2911, and amendments thereto, no cereal malt beverages may be sold:

(1) Between the hours of 12 midnight and 6 a.m.; or

(2) on Sunday, except in a place of business which is licensed to sell cereal malt beverage for consumption on the premises, which derives not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises and which is located in a county where such sales on Sunday have been authorized by resolution of the board of county commissioners of the county or in a city where such sales on Sunday have been authorized by ordinance of the governing body of the city.

(c) Within any city where the days of sale at retail of cereal malt beverage in the

original package have been expanded as provided by K.S.A. 2011 Supp. 41-2911, and amendments thereto, and have not been subsequently restricted as provided in K.S.A. 2011 Supp. 41-2911, and amendments thereto, and within any township where the days of sale at retail of cereal malt beverage in the original package have been expanded as provided by K.S.A. 2011 Supp. 41-2911, and amendments thereto, and have not been subsequently restricted as provided by K.S.A. 2011 Supp. 41-2911, and amendments thereto, no person shall sell at retail cereal malt beverage:

- (1) Between the hours of 12 midnight and 6 a.m.;
- (2) in the original package before 12 noon or after 8 p.m. on Sunday;
- (3) on Easter Sunday; or

(4) for consumption on the licensed premises on Sunday, except in a place of business which is licensed to sell cereal malt beverage for consumption on the premises, which derives not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises and which is located in a county where such sales on Sunday have been authorized by resolution of the board of county commissioners of the county or in a city where such sales on Sunday have been authorized by ordinance of the governing body of the city.

(d) No private rooms or closed booths shall be operated in a place of business, but this provision shall not apply if the licensed premises also are licensed as a club pursuant to the club and drinking establishment act.

(e) Each place of business shall be open to the public and to law enforcement officers at all times during business hours, except that a premises licensed as a club pursuant to the club and drinking establishment act shall be open to law enforcement officers and not to the public.

(f) Except as otherwise provided by this subsection, no licensee shall permit a person under the legal age for consumption of cereal malt beverage to consume or purchase any cereal malt beverage in or about a place of business. A licensee's employee who is not less than 18 years of age may dispense or sell cereal malt beverage, if:

(1) The licensee's place of business is licensed only to sell at retail cereal malt beverage in the original package and not for consumption on the premises; or

(2) the licensee's place of business is a licensed food service establishment, as defined by K.S.A. 36-501, and amendments thereto, and not less than 50% of the gross receipts from the licensee's place of business is derived from the sale of food for consumption on the premises of the licensed place of business.

(g) No person shall have any alcoholic liquor in such person's possession while in a place of business, unless the premises are currently licensed as a club or drinking establishment pursuant to the club and drinking establishment act.

(h) Notwithstanding any provision of this section to the contrary:

(1) Cereal malt beverages may be sold on premises which are licensed pursuant to both the cereal malt beverage act and the club and drinking establishment act at any time when alcoholic liquor is allowed by law to be served on the premises; and

(2) cereal malt beverages may be sold on premises which are licensed pursuant to both the cereal malt beverage act and the Kansas liquor control act at any time when alcoholic liquor is allowed by law to be served on the premises.

Sec. 32. K.S.A. 2011 Supp. 41-2708 is hereby amended to read as follows: 41-2708. (a) The board of county commissioners or the governing body of any city, upon

five days' notice to the persons holding a license, may revoke or suspend the license for any one of the following reasons:

(1) The licensee has violated any of the provisions of K.S.A. 41-2701 *et seq.*, and amendments thereto, or any rules or regulations made by the board or the city, as the case may be;

(2) drunkenness of the licensee or permitting any intoxicated person to remain in or upon the licensee's place of business;

(3) the sale of cereal malt beverages to any person under the legal age for consumption of cereal malt beverage;

(4) permitting any person to mix drinks with materials purchased in or upon the place of business or brought in for that purpose;

(5) the sale or possession of, or permitting any person to use or consume on the licensed premises, any alcoholic liquor as defined by K.S.A. 41-102, and amendments thereto; or

(6) the licensee has been convicted of a violation of the beer and cereal malt beverage keg registration act.

(b) The provisions of subsections (a)(4) and (5) shall not apply if the ~~place of business or premises is~~ also ~~are~~ currently licensed as a club or drinking establishment pursuant to the club and drinking establishment act, or as a retailer pursuant to the Kansas liquor control act.

(c) The board of county commissioners or the governing body of any city, upon five days' notice to the persons holding a license, shall revoke or suspend the license for any one of the following reasons:

(1) The licensee has fraudulently obtained the license by giving false information in the application therefor;

(2) the licensee has become ineligible to obtain a license under this act;

(3) the nonpayment of any license fees;

(4) permitting any gambling in or upon the licensee's place of business;

(5) the employment of persons under 18 years of age in dispensing or selling cereal malt beverages;

(6) the employment or continuation in employment of a person in connection with the sale, serving or dispensing of cereal malt beverages if the licensee knows such person has been, within the preceding two years, adjudged guilty of a felony or of any violation of the intoxicating liquor laws of this state, another state or the United States; or

(7) there has been a violation of K.S.A. 21-4106 or 21-4107, prior to their repeal, or K.S.A. 2011 Supp. 21-6204, and amendments thereto, in or upon the licensee's place of business.

(d) Within 20 days after the order of the board revoking or suspending any license, the licensee may appeal to the district court and the district court shall proceed to hear such appeal as though such court had original jurisdiction of the matter. Any appeal taken from an order revoking or suspending the license shall not suspend the order of revocation or suspension during the pendency of any such appeal.";

And by renumbering sections accordingly;

On page 34, in line 21, after "liquor" by inserting "or cereal malt beverage"; also in line 21, by striking "or" and inserting "to consumers in this state, selling alcoholic liquor by"; in line 22, after "wineries" by inserting "and microbreweries"; in line 26,

after "liquor" by inserting "and cereal malt beverage"; also in line 26, by striking the comma and inserting "to consumers in this state; (2) the sale of alcoholic liquor by"; in line 27, by striking "(2)" and inserting "(3)";

On page 35, in line 1, after "liquor" by inserting "and cereal malt beverage";

On page 42, in line 11, before "41-304" by inserting "41-103,"; in line 16, after "41-2645" by inserting ", 41-2702, 41-2703, 41-2704, 41-2708";

On page 1, in the title, in line 7, after "41-2645" by inserting ", 41-2702, 41-2703, 41-2704, 41-2708"; in line 8, after "K.S.A." by inserting "41-103,"

A motion by Senator V. Schmidt to amend **HB 2689** failed and the following amendment was rejected: on page 11, following line 29, by inserting:

"(c) The holder of a retailer's license or such licensee's employees, managers or agents shall not, directly or indirectly, have any financial interest in a club, drinking establishment, farm winery, microbrewery, caterer or holder of a temporary license, except as provided in K.S.A. 41-2623, and amendments thereto. When the spouse of the holder of a retailer's license applies for a club or drinking establishment license or a caterer's license, each spouse must file with the director an affidavit of no financial interest.";

And redesignating subsections accordingly;

On page 28, following line 22, by inserting:

"Sec. 26. K.S.A. 2011 Supp. 41-2623 is hereby amended to read as follows: 41-2623. (a) No license shall be issued under the provisions of this act to:

(1) Any person described in subsection (a)(1), (2), (4), (5), (6), (7), (8), (9), (12) or (13) of K.S.A. 41-311, and amendments thereto, except that the provisions of subsection (a)(7) of such section shall not apply to nor prohibit the issuance of a license for a class A club to an officer of a post home of a congressionally chartered service or fraternal organization, or a benevolent association or society thereof.

(2) A person who has had the person's license revoked for cause under the provisions of this act.

(3) A person who has not been a resident of this state for a period of at least one year immediately preceding the date of application.

(4) A person who has a beneficial interest in the manufacture, preparation or wholesaling or the retail sale of alcoholic liquors or a beneficial interest in any other club, drinking establishment or caterer licensed hereunder, except that:

(A) A license for premises located in a hotel may be granted to a person who has a beneficial interest in one or more other clubs or drinking establishments licensed hereunder if such other clubs or establishments are located in hotels.

(B) A license for a club or drinking establishment which is a restaurant may be issued to a person who has a beneficial interest in other clubs or drinking establishments which are restaurants.

(C) A caterer's license may be issued to a person who has a beneficial interest in a club or drinking establishment and a license for a club or drinking establishment may be issued to a person who has a beneficial interest in a caterer.

(D) A license for a class A club may be granted to an organization of which an officer, director or board member is a distributor or retailer licensed under the liquor control act if such distributor or retailer sells no alcoholic liquor to such club.

(E) Any person who has a beneficial interest in a microbrewery or farm winery licensed pursuant to the Kansas liquor control act may be issued any or all of the

following: (1) Class B club license; (2) drinking establishment license; and (3) caterer's license.

(F) The spouse a holder of a retailer's license issued under the Kansas liquor control act may be issued any or all of the following: (i) Drinking establishment license; and (ii) caterer's license.

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

(6) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than 5% of the common or preferred stock of such corporation would be ineligible to receive a license hereunder for any reason other than citizenship and residence requirements.

(7) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than 5% of the common or preferred stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 5% of the common or preferred stock, of a corporation which:

(A) Has had a license revoked under the provisions of the club and drinking establishment act; or

(B) has been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(8) A corporation organized under the laws of any state other than this state.

(9) 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) of K.S.A. 41-311, and amendments thereto, shall not apply in determining whether a beneficiary would be eligible for a license.

(b) No club or drinking establishment license shall be issued under the provisions of the club and drinking establishment act to:

(1) A person who does not own the premises for which a license is sought, or does not, at the time the application is submitted, have a written lease thereon, except that an applicant seeking a license for a premises which is owned by a city or county, or is a stadium, arena, convention center, theater, museum, amphitheater or other similar premises may submit an executed agreement to provide alcoholic beverage services at the premises listed in the application in lieu of a lease.

(2) A person who is not a resident of the county in which the premises sought to be licensed are located.";

And renumbering sections accordingly;

On page 42, in line 16, after "41-2622," by inserting "41-2623,";

On page 1, in the title, in line 7, after "41-2622," by inserting "41-2623,"

A motion by Senator Holland to amend **HB 2689** failed and the following amendment was rejected: as further amended on March 29, 2012, on motion of Senator Abrams, on page 13 of the bill as printed with Senate Committee amendments, following line 5, in the language inserted on motion of Senator Abrams, by striking "20%" and inserting "51%"

HB 2647 be passed over and retain a place on the calendar.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Emler an emergency was declared by a 2/3 constitutional majority, and **HB 2562** and **Sub HB 2689** were advanced to Final Action and roll call.

HB 2562, AN ACT concerning alcoholic beverages; amending K.S.A. 41-2612, 79-

41a01 and 79-41a04 and K.S.A. 2011 Supp. 41-260141-304, 41-306, 41-306a, 41-307, 41-308, 41-316, 41-320, 41-701, 41-2608, 41-2610, 41-2612, 41-2613, 41-2614, 41-2640, 41-2722, 79-4101, 79-4102, 79-4103, 79-41a01, 79-41a02 79-41a04, 79-41a06, 79-41a07 and 79-41a08 and K.S.A. 2011 Supp. 41-102, 41-305, 41-308a, 41-310, 41-311, 41-317, 41-319, 41-719, 41-2601, 41-2622, 41-2629, 41-2645 and 79-41a03 and repealing the existing sections; also repealing K.S.A. 41-333, 41-334, 41-335, 41-336, 41-337, 41-338, 41-339, 41-340 and 41-341.

On roll call, the vote was: Yeas 40; Nays 0; Present and Passing 0; Absent or Not Voting 0.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Francisco, Haley, Hensley, Holland, Huntington, Kelly, Kelsey, King, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Pyle, Reitz, A. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

The bill passed, as amended.

Sub HB 2689, AN ACT concerning alcoholic beverages; amending K.S.A. 41-304, 41-306, 41-306a, 41-307, 41-308, 41-316, 41-320, 41-701, 41-2608, 41-2610, 41-2612, 41-2613, 41-2614, 41-2640, 41-2722, 79-4101, 79-4102, 79-4103, 79-41a01, 79-41a02, 79-41a04, 79-41a06, 79-41a07 and 79-41a08 and K.S.A. 2011 Supp. 41-102, 41-305, 41-308a, 41-310, 41-317, 41-319, 41-719, 41-2601, 41-2622, 41-2629, 41-2645 and 79-41a03 and repealing the existing sections; also repealing K.S.A. 41-333, 41-334, 41-335, 41-336, 41-337, 41-338, 41-339, 41-340 and 41-341.

On roll call, the vote was: Yeas 36; Nays 2; Present and Passing 2; Absent or Not Voting 0.

Yeas: Abrams, Apple, Bruce, Brungardt, Donovan, Emler, Faust-Goudeau, Haley, Hensley, Huntington, Kelly, Kelsey, Kultala, Longbine, Love, Lynn, Marshall, Masterson, McGinn, Merrick, Morris, Olson, Ostmeyer, Owens, Petersen, Pilcher-Cook, Reitz, A. Schmidt, V. Schmidt, Schodorf, Steineger, Taddiken, Teichman, Umbarger, Vratil, Wagle.

Nays: King, Pyle.

Present and Passing: Francisco, Holland.

The substitute bill passed, as amended.

EXPLANATION OF VOTE

MR. PRESIDENT: I voted yes on **Substitute for House bill 2689** in order to advance the agricultural grape growing industry in Kansas. The grape industry in Kansas reported only 350 acres of fruit in the state in their latest report to the Senate Agriculture Committee. It was reported in later testimony that Kansas once had 5,000 acres of grapes grown in the state. It is obvious that this industry has much greater potential and should be supported as such. To grow this industry we must adequately deal with the effects of herbicides that kill grapes and destroy vine yards. Secondly, we must provide increased support to new and existing growers through our agricultural programs in our colleges and universities and through Departments of Agriculture and Commerce programs. — ALLEN C. SCHMIDT

MESSAGE FROM THE HOUSE

The House nonconcur in Senate amendments to **HB 2757**, requests a conference and has appointed Representatives Hayzlett, Prescott and Wetta as conferees on the part of the House.

ORIGINAL MOTION

On motion of Senator Umbarger, the Senate acceded to the request of the House for a conference on **HB 2757**.

The President appointed Senators Umbarger, Marshall and Kultala as conferees on the part of the Senate.

On motion of Senator Emler, the Senate adjourned until 10:00 a.m., Friday, March 30, 2012.

HELEN MORELAND, ROSE MARIE GLATT, SHIRLEY LAMOTT, *Journal Clerks*.

PAT SAVILLE, *Secretary of the Senate*.

