

SESSION OF 2010

SUPPLEMENTAL NOTE ON SENATE BILL NO. 452

As Amended by House Committee of the Whole

Brief*

SB 452, as amended, would prohibit any person less than 18 years of age who is arrested only for the violation of possessing, consuming, obtaining, purchasing, or attempting to purchase alcoholic liquor or cereal malt beverages, from being detained or placed in a jail. In addition, the person would be prohibited from being detained or placed in a juvenile detention facility for a period exceeding 24 hours, excluding Saturdays, Sundays, and legal holidays.

If only adjudicated for the violation of possessing, consuming, obtaining, purchasing, or attempting to purchase alcoholic liquor or cereal malt beverages a violation, the bill would prohibit that person from being detained in jail, juvenile detention facility, sanction house, or juvenile correctional facility.

In addition, the bill would delete the current statutory requirement that requires an applicant for a microbrewery or farm winery license to have been a resident of the state for at least four years immediately preceding the date of application. Finally, the bill would delete part of the current statutory definition of "domestic fortified wine" by striking "without rectification."

Background

The Commissioner of the Juvenile Justice Authority (JJA), testified as a proponent of the bill as introduced. The President

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

of Kansans for Addiction Prevention submitted written testimony as an opponent to the bill.

The JJA Commissioner stated current law placing a youth in detention for possession or consumption of alcohol is a violation of the federal Juvenile Justice and Delinquency Prevention Act (JJDP). The JJDP states that status offenders (youths under 18 years of age who commit an offense that if committed by an adult would not be a violation of the law) should not be placed in secure detention. Under the JJDP, in order to receive federal Title II funding, states are required to maintain these protections for children.

The Senate Committee amended the bill to include "Juvenile Correctional Facility" as a place where juveniles would be prohibited from being detained.

The Senate Committee of the Whole amended the bill to clarify that a juvenile could not be detained if that person was arrested or adjudicated only for a violation of possessing, consuming, obtaining, purchasing, or attempting to purchase alcoholic liquor or cereal malt beverages.

According to the fiscal note on the original bill, if SB 452 is not passed, the JJA stated it could lose a minimum of \$120,000 in federal funding. The Office of Judicial Administration indicates there would be no fiscal effect to the Judicial Branch resulting from the passage of the bill.

The House Committee of the Whole amendments inserted two sections pertaining to the Liquor Control Act, one regarding licensure of a microbrewery or a farm winery and another one regarding definitions. One amendment would delete the requirement for state residence four years prior to the application for license. A second amendment would strike the phrase "without rectification" from the definition of "domestic fortified wine" in current law.