



**Kansas Legislative Research Department**

*Providing nonpartisan, objective research and fiscal analysis for the Kansas Legislature since 1934*

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October 17, 2023

**To:** Kansas Legislature

**From:** Jordan Milholland, Managing Research Analyst

**Re:** Report of the October 10, 2023, Meeting of the Joint Committee on Administrative Rules and Regulations

With this report, the Joint Committee on Administrative Rules and Regulations (Committee) provides its comments on rules and regulations reviewed at its meeting on October 10, 2023. Agencies are asked to respond to each comment or request for information; responses are compiled and maintained by staff of the Kansas Legislative Research Department.

### Department of Revenue

KAR 92-19-200, revocation (was Refund of sales tax paid upon food; definitions of "member of a household"); KAR 92-19-201, revocation (was Refund of sales tax paid upon food; definition of domicile; residency requirement; temporary absence); KAR 92-19-202, revocation (was Refund of sales tax paid upon food; right of representative to make a claim on behalf of claimant); KAR 92-19-203, revocation (was Refund of sales tax paid upon food; death of claimant subsequent to filing claim; disbursement of refund).

The Committee had no comments.

Review of rules and regulations to be noticed for expedited revocation per 2022 HB 2087 (KSA 77-426): KAR 14-5-1, alcoholic liquor (except beer) transported into state or federal area only by bonded carriers; KAR 14-5-2, carriers' permits; application; fees; KAR 14-5-4, storage of alcoholic liquor and cereal malt beverage in transit in public liquor warehouses; reports of warehouseman; KAR 14-5-6, required delivery of alcoholic liquor to distributor by common carrier; KAR 14-7-6, Kansas liquor stamps or strips; securing, affixation to original package; who shall affix; placing of stamps or strips; KAR 14-11-16, farm wineries and farm winery outlets selling at retail; marking prices; price or inventory control tags; shelf markings; KAR 14-16-17, hearing procedures; prehearing motions; KAR 14-16-18, prehearing conference; availability; notice; KAR 14-16-19, hearing procedures; KAR 14-17-5, acceptance of hospitality by director and employees; KAR 14-19-4a, liquor pool; storage; KAR 14-19-19, change of club status; KAR 14-19-31, clubs charge the same price for the

same drink all day; day defined; KAR 14-20-33, clubs charge the same price for the same drink all day; day defined; KAR 14-21-16, drinking establishments charge the same price for the same drink all day; day defined; KAR 14-22-17, caterers charge the same price for the same drink all day; day defined; KAR 14-23-13, charge the same price for the same drink all day; day defined; KAR 14-19-33, federal retail stamp; KAR 14-20-35, federal retail stamp; KAR 14-21-18, federal retail stamp; KAR 14-22-18, federal retail stamp; KAR 14-19-37, display of license; KAR 14-20-39, display of license; KAR 14-23-2, applications; documents required; KAR 14-23-4; issuance of permit; KAR 14-23-6, refund upon voluntary cancellation; KAR 14-23-7, employees; prohibitions; KAR 14-23-8, purchase of alcoholic liquor; requirements and restrictions; KAR 14-23-9, permit holder's responsibility for conduct at event; KAR 14-23-10, removal of liquor from event premises prohibited; boundary requirement; KAR 14-23-11, nontaxed liquor; individual bringing alcoholic liquor on to permitted premises.

The Committee had no comments.

### **Kansas Bureau of Investigation**

KAR 10-21-1, definitions; KAR 10-21-3, procedural compatibility with the FBI; KAR 10-21-4, expungement; KAR 10-21-5, maintenance; KAR 10-21-6, collection of samples for DNA databank.

The Committee notes its concern that not all eligible persons are aware of the procedure to be followed to initiate removal of their DNA profiles and destruction of their collected DNA samples from the data maintained by the Kansas Bureau of Investigation (KBI). It expresses support for this process becoming automatic for all persons upon expungement, provided such person's information is not otherwise required to be part of the Combined DNA Index System (CODIS) or DNA Databank.

KAR 10-22-1, approved field tests.

The Committee notes that materials used or intended for use to test a substance for the presence of fentanyl or a fentanyl analog are excluded from the definition of drug paraphernalia with enactment of 2023 SB 174. The Committee requests information on the availability of the immunoassay-based field test approved by the Director, including if members of the public can purchase these testing strips or if they are available only to law enforcement personnel.

The Committee requests a statement from the KBI regarding its jurisdiction and at what point the agency becomes involved in criminal cases investigated by local law enforcement agencies.

### **State Board of Examiners in Optometry**

KAR 65-4-4, notice to the board; KAR 65-5-4, approved schools or colleges of optometry.

The Committee had no comments.

## **Emergency Medical Services Board**

KAR 109-2-2, application for ambulance service permit and ambulance license; permit renewal and license renewal.

The Committee requests the agency provide a report on its current unencumbered fee fund balance and also provide proposed uses or appropriations for those funds, including whether such funds are used to pay for continuing education classes for licensees.

## **Department of Wildlife and Parks**

KAR 115-2-1, amount of fees.

The Committee notes the agency has tracked licensing fee revenues and the numbers issued since fee changes in 2016. The Committee requests the agency track the same information for the fees to be increased by this proposed rule and regulation and report that information to the Committee after four years with the increased fees.

The Committee notes the economic statement for this proposed rule and regulation does not contain any estimate of impact on hunting lodges, outfitters, guides, and related businesses that serve primarily out-of-state hunters. The Committee urges the agency to contact a sample of such businesses when drafting proposed changes to hunting and fishing rules and regulations in the future and include information gained from those contacts in the economic impact statement.

The Committee requests a statement from the Secretary of Wildlife and Parks regarding the agency's efforts to address deer baiting within the State and the purposes behind the educational meetings it has held in recent months.

The Committee requests a statement from the Secretary of Wildlife and Parks regarding the agency's position on out-of-state hunters, particularly regarding amendments to rules and regulations that affect only or primarily out-of-state hunters.

Review of rules and regulations to be revoked using expedited revocation procedure of KSA 77-426(d): KAR 23-1-2, migratory water fowl—open season and bag limits; KAR 23-1-3, doves—open season and bag limits; KAR 23-1-4, upland birds; open seasons, bag limits and possession limits; KAR 23-2-2, squirrel; season, daily bag limit, possession limit.

The Committee had no comments.

## **Board of Pharmacy**

KAR 68-20-33, 6-(2-chlorophenyl)-1-methyl-8-nitro-4*H*-benzo[f][1,2,4]triazolo[4,3-*a*][1,4]diazepine included in schedule I. [clonazolam]

The Committee had no comments.

## **Kansas Department of Health and Environment**

KAR 28-34-145, definitions; KAR 28-34-146, application process; KAR 28-34-147, licensing procedure; renewals; KAR 28-34-148, terms of a license; amendments; KAR 28-34-149, rural emergency hospital services; KAR 28-34-150, conditions of participation; KAR 28-34-151, construction standards; KAR 28-34-152, laboratory services. [rural emergency hospitals]

The Committee had no comments.

KAR 28-48-1, definitions; KAR 28-48-2, action required; KAR 28-48-3, reportable quantities; KAR 28-48-4, adoption of certain reportable quantities. [spill reporting]

The Committee commends the agency for its efforts to solicit stakeholder input, including through email, regarding these proposed changes regarding reporting of hazardous material spills.

The Committee asks the agency to consider implementing a requirement that the agency confirm receipt or provide follow-up information to a person reporting a spill of a hazardous substance within 24 hours of such report.

## **Secretary of State**

KAR 7-43-7, definitions; KAR 7-43-8, notary public authorization with respect to notarial acts for electronic records and for remotely located individuals; KAR 7-43-12, renewal of notary public commission; KAR 7-43-13, stamping device; official stamp for a tangible record; KAR 7-43-14, official stamp for an electronic record; KAR 7-43-15, notary public's journal; KAR 7-43-17, short form notarial certificates; statement for notarial act for a remotely located individual; KAR 7-43-18, standards for identity verification of a remotely located individual; KAR 7-43-19, security of records bearing a notarial certificate; KAR 7-43-20, notarial acts for remotely located individuals; KAR 7-43-22, notarial acts for remotely located individuals; providers of communication technology.

In proposed KAR 7-43-14, the Committee suggests the agency clarify which notary public must take specified actions, *i.e.*, any notary public or the specific notary public who stamped the record.

Review of rule and regulation to be revoked using expedited revocation procedure of KSA 77-426(d): KAR 7-36-4, advance voting voter lists.

The Committee had no comments.