

SESSION SUMMARY
2020 KENTUCKY GENERAL ASSEMBLY
Prepared for Members of the Kentucky Restaurant Association
June 23, 2020

The 2020 session of the General Assembly did not adjourn in its usual manner. The COVID-19 pandemic forced the shutdown of the Capitol and the Legislative Annex leaving legislators to vote from their offices and advocates out of the proceedings. Although some trends continued such as the flurry of activity in the final days as the General Assembly considered overriding vetoes and passing its last-minute priorities. The 60-day session of the General Assembly during a world health pandemic led to the passage of a one-year budget considering the economic impacts of the pandemic. The budget itself is based on pessimistic forecasts, that led to no funding increases for education, and state employee and teacher salaries. More than 900 bills were introduced during the 2020 session and KRA's government affairs team identified more than 200 bills as potentially impacting members.

Key "wins" for restaurants this session included:

- *Legislation allowing restaurants to sell alcohol by the package and by the drink for carryout and delivery;*
- *Restaurants were given the ability to sell raw foods during the COVID-19 pandemic. While the pain of having to close during the pandemic could not be healed by these measures, they were some help;*
- *Another piece of the COVID-19 package allowed for employees whose hours were reduced to be eligible for unemployment to make up the difference in pay due to hours being cut.*

But, as is often the case, KRA members reaped some of their biggest 'wins' when halting many bills that would have negatively affected Kentucky restaurateurs. The biggest of these bills proposed to amend the Constitution to allow the General Assembly the authority to allow local governments to levy additional local taxes including a local sales tax and a restaurant tax. The proposed Constitutional amendment was broad and was sponsored by Democrats and Republicans alike. In addition, a measure allowing all local governments to enact a restaurant tax failed to get a hearing. The Senate refused to take up a measure that would allow local governments to enact a local alcohol regulatory fee for all cities and counties except Louisville and Lexington.

Other measures on this session's list of filed-but-not-adopted legislation included bills proposing to raise the minimum wage, including the minimum cash wage for tipped employees, and empowering local governments to set a local minimum wage higher than the state rate. Other proposals introduced but not passed included mandated paid sick leave for all employees; to roll back some of the workers' compensation reforms enacted in 2018; to require those with 50 or more employees to provide six weeks of paid maternity leave and to institute "predictive scheduling" by which employers would be required to provide a written estimate of the employee's work schedule at the time of hire and post weekly schedules at least seven days in advance.

The following narrative summary is arranged alphabetically by issue area and highlights some of the key issues affecting KRA and its members that were debated during the 2020 Session. It includes links to the legislature's website so you can easily access additional

information on specific bills, including the full text of the legislation as it was introduced along with changes made or proposed as it moved through the process.

All legislation with an emergency clause took effect upon the governor's signature and those statutory changes without an emergency clause takes effect July 15, 2020 as determined by the Attorney General.

ISSUE INDEX

[Alcoholic Beverage Sales Issues](#); [Consumer Protection & Privacy Issues](#);
[Criminal Justice & Loss Prevention Issues](#); [Development & Growth Issues](#);
[Food Sales & Service Issues](#); [General Business Issues](#);
[Health Insurance Issues](#); [Labor & Workforce Issues](#);
[Regulatory & Licensure Issues](#); [Taxation & Revenue Issues](#);
and [Transportation Issues](#)

Alcoholic Beverage Sales:

Direct Ship of Alcohol: At the close of the 2019 session, it was clear that direct shipment of all alcohol would be a major focus of the 2020 session. In 2019, the Senate passed legislation that would allow the shipment of wine from out-of-state wineries directly to a consumer. Almost immediately, the Kentucky Distillers Association rebuked the legislation for not including beer and distilled spirits, calling the measure inequitable. Ultimately the wine shipping legislation failed in 2019.

House Licensing & Occupations Committee Chair Adam Koenig (R-Erlanger) filed [HB 415](#) which as introduced would have allowed retailers, wholesalers and producers to ship products out of state and intrastate directly to consumers. In essence, out-of-state retailers would have more privileges than in-state retailers, because Kentucky grocers are only allowed to sell beer. The measure as introduced would have required direct shippers to pay a 15% fee in addition to all state and local taxes.

Under pressure from retailers and wholesalers, [HB 415](#) was amended to limit direct shipping to producers only, but the 15% fee was removed as well. Although the legislation was amended to include language that would collect wholesale taxes on the shipped product, the measure also included monthly limits on products that could be shipped to a consumer to no more than 10 liters of distilled spirits, 10 cases of wine, and 10 cases of beer. Retailers are allowed to purchase products directly from other retailers as long as they have gone through the three-tiered system. [House Bill 415](#) eliminated retailer shipping as a result of the U.S. Supreme Court decisions that require the treatment of out-of-state entities similar to in-state entities. Even as amended, the bill barely passed the House. In the Senate the timing of the legislation for distillers was perfect given that lobbyists were prohibited from the Annex and distillers started making much needed hand sanitizer which seemed to bolster the bill to passage. Even so, it barely passed the Senate with the required number of votes. Gov. Andy Beshear opted to let the measure become law without his signature.

Local Alcohol Regulatory Fee: In the 2019 legislative session, KRA worked with Sen. Danny Carroll (R-Paducah) to formulate what was thought to be a final agreement on local alcohol regulatory fees. Smaller cities that had gone wet didn't have the authority to enact a regulatory fee, but KRA worked with Sen. Carroll to allow smaller cities to enact a local alcohol

regulatory fee of up to 5% and to cap cities with an existing regulatory fee that had not reached 5% to no more than 5%.

Fast forward to the 2020 legislative session and cities and counties were back again asking for the ability to have additional cities enact a local alcohol regulatory fee. Rep. Phillip Pratt (R-Georgetown) filed [HB 374](#) that would have allowed counties containing cities with a population of at least 20,000 to enact up to a 5% local regulatory fee. Subsequently, Pratt filed [HB 426](#) that would have allowed any city or county – except Louisville and Lexington – to enact a local alcohol regulatory fee up to 5%. An audit provision was included that would have allowed these fees to be audited to ensure that they were being used for policing of alcohol-related offenses. In recent years it has come to light that cities were using these funds to pay for sidewalks, playgrounds and counting any traffic stops as an alcohol-related stop. These abuses need to be stopped as cities are not supposed to be using these fees for general government purposes.

[House Bill 426](#) passed the House, but the Senate, reluctant to take up another alcohol regulatory fee matter given that a bill passed in the previous session, never considered the bill. Pratt tried to revive the issue by filing a floor amendment on [SB 99](#) that would allow counties containing a city with a population of at least 20,000 to enact a local alcohol regulatory fee, but that floor amendment was not called for a vote when the House considered [SB 99](#).

ABC Licensing: A bill filed would have prohibited anyone with pending administrative action against them from the Alcohol Beverage Control agency from getting an alcohol license. [House Bill 297](#) would have also prohibited anyone who had been denied a license in the previous two years from getting a license. The bill was referred to the House Licensing, Occupations & Administrative Regulations Committee but was never taken up for a vote.

Retail Package Sales at Restaurants: Rep. Joe Graviss (D-Versailles) filed [HB 589](#) that would have allowed restaurants and hotels with a non-quota 2 license to sell up to 2,000 bottles of souvenir or vintage spirits annually to consumers. The bill was never taken up for a vote by the House Licensing, Occupations and Administrative Regulations Committee. There were temporary changes adopted by the General Assembly in the wake of the coronavirus pandemic.

[Senate Bill 150](#), commonly referred to as the COVID-19 relief bill, passed both chambers easily and allowed restaurants to sell alcoholic beverages by the package and by the drink with carryout food. As restaurants were forced to close dining rooms, the General Assembly quickly recognized that restaurants would need some new strategies to continue to operate during the pandemic and they added these options.

Wine Corkage: Sen. Robin Webb (D-Grayson) once again filed legislation that would allow customers to bring up to two bottles of their own personal wine into a restaurant for table service and the restaurant could charge the customer a corkage fee. [Senate Bill 138](#) was referred to the Senate Licensing & Occupations Committee, but it was never considered.

Alcohol Sales Local Option Elections: Current law allows distilleries located in dry territories to hold local option elections to allow distilleries to sell alcohol by the package and by the drink, but the law was set to sunset without a change to make these local option elections permanent. [Senate Bill 99](#) as originally filed would have allowed only distilleries to do this, but the microbreweries cried foul, stating they need to be given the same privilege in the name of

parity. This provision was added in the Senate Licensing & Occupations Committee by the Committee Chair and bill sponsor John Schickel (R-Union). It was also amended to allow distilleries to sell malt beverage products where they have formal collaboration in place at distillery gift shops. The bill easily passed the Senate.

The House made additional changes to the measure including increasing the number of gallons a small farm winery can produce up to 500,000 gallons and still be considered a small farm winery. It also removed prohibitions on coupons, rebates and samplings of malt beverages. Another floor amendment was added by the House that would allow microbreweries to sell distilled spirit products in which they have a formal collaboration, but the Senate rejected this amendment and the House relented. [Senate Bill 99](#) was signed by the governor.

Another bill filed by Sen. Tom Buford (R-Nicholasville) would have changed the number of signatures required to hold a local option election in cities with a population of 100,000 or less. Current law states that at least 25% of the number of voters in the previous general election must sign a petition in order to trigger a local wet/dry vote. [Senate Bill 49](#) would have limited the required number of signatures to 500 in cities with a population of less than a 100,000, but the bill was never taken up for a vote in the Licensing, Occupations and Administrative Regulations Committee.

Microbreweries: [Senate Bill 231](#) filed by Sen. Julie Raque Adams (R-Louisville) would have allowed microbreweries to self-distribute up to 2,500 barrels of malt beverages directly to retailers and restaurants without using a malt beverage distributor. The measure appeared likely to pass given that it had strong support from Senate President Robert Stivers (R-Manchester) but as the coronavirus spread, the measure lost steam.

Omnibus Alcohol Changes: Sen. Jimmy Higdon (R-Lebanon) filed [SB 259](#) that would make several technical corrections to alcohol statutes, including changes that would impact current lawsuits in federal court over Kentucky's alcohol delivery law. It would have removed the one-year residency requirement for anyone waiting to get a license and it would have prohibited retailer shipping. Both of these items were passed in [SB 99](#) and [HB 415](#), respectively. It would have also removed the delivery restriction for some out-of-state retailers. The bill was never heard in committee.

Alcohol Minors: Freshman Rep. Randy Bridges (R-Paducah) introduced legislation that would have established a \$500 fine on underage purchasers of alcohol. It would have also required the parents or guardians of the underage person to attend all court proceedings and pay the fine on behalf of the child. [House Bill 625](#) would have applied to nicotine products as well. The measure was scheduled for a hearing but was abruptly removed from consideration.

Consumer Protection and Privacy:

Deceptive Lawsuit Advertisements: This session saw few consumer protection bills filed. One such bill was HB 481, sponsored by Rep. Kim Moser (R-Taylor Mill), which attempted to rein in frivolous lawsuits by regulating advertisements soliciting participation in lawsuits involving prescription drugs. Included in the measure were specific prohibitions against using a state or federal logo in an advertisement, and requirements to disclose the attorney or law firm sponsoring the advertisement. It would have also required that any such advertisement

include a warning for the public to not stop taking the any medication without first speaking to their doctor.

This measure was assigned to the House Judiciary Committee but was never heard.

Autocalling for Businesses: A bill on automated calling passed both chambers and was signed by the governor. [HB 414](#) clarifies the rules for consumers using automated calling equipment to reach businesses. Current statutes referencing “automated calling equipment” focus on the consumer being the recipient of the automated call. The bill was amended in the House to prohibit the sale or dissemination of any information collected by users of this technology.

Criminal Justice & Loss Prevention

Felony Theft: There were two measures introduced that would have increased the felony theft threshold. [House Bill 161](#) filed by Rep. Ed Massey (R-Hebron) would have increased the felony theft threshold to \$1,500. The Association immediately engaged Massey in a conversation about theft and its impact on retailers and customers. He agreed to lower the felony theft threshold to \$1,000. Subsequently, he withdrew [HB 161](#) and filed [HB 424](#) that in its original form would have increased not just the felony theft level to \$1,000, but also increased the felony level for crimes of not paying child support and many others. The legislation would have allowed for the aggregation of theft crimes, except for those thefts where it was determined that the individual suffered from drug addiction. The Association raised concerns about the exemption for theft by those stealing to feed a drug habit. Massey amended the language to remove the aggregation and allow for 3 misdemeanor theft crimes over a five-year period to be charged as a felony and theft of more than \$500 but less than \$1,000 would be a Class B Misdemeanor. Once again, KRA went back to Massey and asked for changes. The measure passed the House with 17 ‘nay’ votes and moved on to the Senate. The KRA worked with Senate Judiciary Committee Chairman Whitney Westerfield (R-Hopkinsville) to get aggregation language included in [HB 424](#) and Westerfield agreed to amend the measure to allow for aggregation of theft crimes over a 90-day period. Several floor amendments were filed in the Senate including delaying the effective date of the legislation until Jan. 1, 2021. In the end the Senate decided not to take up the legislation for a vote and it died after being referred back to committee.

Expungement: Legislation filed by Rep. Charles Booker (D-Louisville) would have expanded Kentucky’s current expungement law by requiring automatic expungement of crimes with less than a three-year sentence exclusive of sex crimes and other limitations. [House Bill 222](#) never received a hearing.

Another measure would have allowed courts to waive expungement fees based on an individual’s ability to pay; it failed to receive a hearing in the Senate Judiciary Committee as well ([SB 272](#)).

Crime Victims’ Rights: A proposed constitutional amendment once again asks voters to consider giving crime victims certain constitutional rights. [Senate Bill 15](#) was necessary after the original constitutional amendment was thrown out of the courts because the question was considered vague and did not contain all the provisions adopted by the General Assembly in 2019. [Senate Bill 15](#) was adopted by the General Assembly and will be on the ballot this fall. It asks voters if they support giving crime victims certain rights in criminal proceedings: giving

victims notice of release of prisoners, commutation of sentences and notice of hearings of the case. The General Assembly also passed enabling legislation to implement the changes if voters approve. The enabling legislation would require victims to be notified of any changes in hearing and of their rights regarding restitution. In addition, the victim shall be consulted by the commonwealth's attorney prior to any plea or other disposition of the case ([SB 80](#)). It passed the General Assembly and the governor signed the legislation.

A crime victims bill of rights statutory change was filed by House Judiciary Committee Chair Jason Petrie (R-Elkton), who voted against the constitutional amendment arguing that a victims' bill of rights should be established in statute and not in the Constitution. [House Bill 617](#) would have required victims to keep contact information up-to-date with commonwealth attorneys and provided additional notification requirements as well, but it was not considered for a hearing or a vote.

Restitution: Senate Majority Whip Mike Wilson (R-Bowling Green) file [SB 212](#) that would have required restitution from a criminal defendant be paid prior to the payment of court costs. This would include restitution to a retailer or other victim as required by any sentencing. The measure was referred to the Senate Judiciary Committee but never received a hearing.

Felony Mediation: [House Bill 170](#) filed by Rep. Massey would have allowed crime victims to request felony mediation from Circuit Court so long as the defendant agreed. A felony mediator would be a retired judge and any party could terminate the proceeding at any time. A reached agreement would have the same effect as a plea bargain. The bill was never heard despite being posted in the House Judiciary Committee.

Criminal Gangs: In 2018, the General Assembly passed legislation that would make participating in a criminal gang a crime. At the time, the legislation was controversial, but it passed and required anyone convicted under the criminal gang statute to serve 85% of their sentence. Criminal justice reform advocates continue to push to remove the legal distinction and [HB 62](#) would have done just that, but the House Republicans expressed no interest in considering the bill and it died in committee.

Decriminalization of Drug Possession: As marijuana legalization continues to pass in other states, Kentucky has still not taken the first step toward passage of such a change. That hasn't stopped advocates and legislators from trying. [House Bill 148](#) filed by Rep. Cluster Howard (D-Jackson) would have not only legalized recreational marijuana it would have also removed the crime of possession of less than one ounce of marijuana. The measure didn't receive a hearing in committee.

Rep. Jason Nemes (R-Louisville) introduced [HB 586](#) which would have reduced the penalty for a person in possession of a trace or residual amount of a controlled substance. The House passed the measure, but it failed to get a hearing in the Senate Judiciary Committee.

Judgement Liens: Legislation filed by former House Judiciary Committee Chair Joe Fischer (R-Ft. Thomas) would have clarified that creditors' legal representatives may file a notice of judgement lien with a county clerk. Additionally, [HB 430](#) would have required judgement liens to expire 15 years after the date of the final judgment. There would be limited

reasons for postponement. The measure passed the House, but it was not considered by the Senate Judiciary Committee.

Development & Growth:

Abandoned and Blighted Property: Abandoned and blighted properties are a growing concern for metropolitan areas across Kentucky. In response, Sen. Robby Mills (R-Henderson) filed [SB 225](#) that would have allowed a conservatorship to be set up to rehabilitate abandoned and blighted property, including industrial and commercial property, for future uses. The property would have to be abandoned for a year, and there could be no bank liens. Cities have complained that they cannot clean up these eyesores and revitalize communities without a process to take them over. The bill would have created new sections in state law that would allow a petition, if approved, to appoint a conservatorship to rehabilitate the abandoned building and revitalize the area in which it is located.

Although the bill was reported favorably out of the Senate Economic Development, Tourism and Labor Committee, it was never considered before the entire Senate.

Historic Properties: Rep. Stan Lee (R-Lexington) filed a measure ([HB 574](#)) that would have required any persons requesting a Historic District designation circulate a petition and garner signatures from at least 75% of the property owners in the potential area prior to its designation. This measure died in the House Local Government Committee.

Local Planning & Zoning: Smaller cities within Louisville Metro boundaries would have been granted more planning and zoning authority had [SB 224](#) passed. This measure sponsored by Rep. Morgan McGarvey (D-Louisville) would have clarified the home rule authority for smaller cities within Louisville Metro regarding planning and zoning. This measure was assigned to the Senate State and Local Government Committee where it failed to receive a vote.

Road Encroachments: Rep. Brandon Reed (R-Hodgenville) filed [HB 544](#), which would have designated power to the Department of Transportation (DOT) to remove any encroachments to roads and fine offenders. Encroachments in the bill are defined as any improvement to land such as buildings, fences, ditches, driveways, that are constructed on or over the right-of-way of a state-maintained road. It includes anything that may hinder or prevent use or maintenance of a road or right-of-way.

The measure would have also allowed local governments to collect fines on behalf of the DOT and prohibit encroachment of state roads and establish penalties. Penalties for violating these new road ‘encroachment’ rules would be fines starting at \$500 for the first offense increasing up to \$2,000 for a third violation within a three-year period. [House Bill 544](#) was assigned to the House Transportation Committee but never received a hearing.

Playgrounds: A bill to allow local governments to require any government-owned playgrounds to have wheelchair accessible equipment passed out of the House Local Government Committee but failed to receive a vote from the full House. Rep. Joe Graviss (D-Versailles) filed a floor amendment to [HB 394](#) that would have allowed local governments to require privately-funded playgrounds to be wheelchair accessible; this would expand the scope

of the original bill to allow local governments to regulate all playgrounds, regardless of how they are funded.

Food Sales & Service:

Public Benefits Reform: As a result of the work by the 2019 Public Benefits Task Force, House Speaker Pro Tem David Meade filed [HB 1](#) that if adopted would have made drastic changes to Kentucky’s public benefits system, including the Supplemental Nutrition Assistance Program (SNAP). As originally filed, the legislation would have prohibited SNAP beneficiaries from using more than 25% of monthly assistance on sugary beverages; and employers would be required to enroll employees making 138% of the federal poverty level or less into employer-sponsored health benefit plans. It would have also established work requirements for Medicaid beneficiaries—a policy implemented by the Bevin administration that was ruled in violation of federal law by the courts. Gov. Beshear withdrew the state’s Medicaid waiver request to implement work requirements.

The measure was ultimately amended in the House this session to change the prohibition on sugary beverages to a recommendation that SNAP beneficiaries spend 75% of monthly benefits on healthy food. In addition, there was a requirement for the state to apply for a Medicaid waiver to provide substance abuse treatment services to incarcerated persons. While the measure didn’t pass unanimously out of the House, it did eventually pass and was sent to the Senate where it appeared likely to move the legislation through, but ultimately the measure failed to receive a hearing in the Senate Health & Welfare Committee.

Plastic Waste: Rep. Mary Lou Marzian (D-Louisville) again filed a “plastics ban” in [House Bill 85](#). Sen. Denise Harper-Angel’s [SB 68](#) contained similar language. Both bills would have banned the use of single-use plastic bags starting July 1, 2025 and Styrofoam containers and plastic straws starting July 1, 2023 from food retailers and restaurants. A violator would have incurred a penalty of \$100 per violation. Neither of these measures received consideration in the committees they were assigned.

Health Department Inspection Fees: Local health departments have repeatedly complained that they do not have the necessary resources to fully implement the food inspection program required under state law. In 2018, they tried to pass a reorganization bill that would have removed any restrictions on inspections fees and allowed the Cabinet for Health and Family Services to set the fees by administrative regulation without any limits. The Association’s Government Affairs team opposed this measure and was able to get it amended to limit any increase to no more than 5% a year. While the Department for Public Health did file a regulation to increase food permit inspection fees, it was withdrawn after KRA pointed out the increases were significantly greater than allowed by statute.

Fast-forward to December 2019 when House Health and Family Services Chairwoman Kim Moser (R-Taylor Mill) introduced [HB 129](#) referred to as the Public Health Transformation Bill that was meant to return local health departments to their original mission and limit one-time public health grants and other changes to equalize funding across health departments. Tucked in the multiple-paged bill was a provision that removed the statutory 5% restriction on fee increases, and KRA, on behalf of its establishments selling prepared foods opposed the increases. According to documents provided by advocates for the legislation, they argued that fees

increases of more than 80% percent across the board were necessary to cover health departments' enforcement costs. Restaurants and grocers argued that the food inspection program is a public health benefit and should be paid for with taxpayer dollars and not solely the responsibility of the food establishment. The measure passed the House Health and Family Services Committee, but was quickly referred back to the House Appropriations and Revenue Committee where an agreement was reached to limit the food inspection fee increases to no more than 25% in the first year and after the initial increase, the 5% yearly cap would then apply. With this compromise, the measure easily passed the House and went into the Senate Health & Welfare Committee. The Senate amended the legislation to remove a provision allowing the Commissioner of Public Health set property tax rates. The House agreed to the change and [HB 129](#) was signed by the governor. The bill contained an emergency clause and became effective once Beshear signed the bill.

Restaurant Tax: Kentucky's current law only allows cities formerly classified as fourth or fifth class cities to levy a restaurant tax for the purposes of promoting tourism in these communities. The law requires that these funds be solely used for the purpose of tourism and the tourism commissions are responsible for appropriating those funds. Cities and counties have longed for the opportunity to levy a restaurant tax and allow some portion of the proceeds to be spent on general government expenses. Former Shelby County Judge-Executive Rep. Rob Rothenburger (R-Shelbyville) filed [HB 470](#) that would have allowed all city and county governments to levy a restaurant tax of up to 3%. It would have required all local governments levying a restaurant tax, except for Louisville and Lexington, to allocate at least 25% percent of the proceeds to tourism commissions. The measure was referred to the House Appropriations and Revenue Committee, but it never received a hearing. That is likely because city and county advocacy organizations set as their priority a constitutional amendment that would have allowed the General Assembly to authorize city and county governments to levy additional taxes, including a local sales or a restaurant tax.

[House Bill 475](#), sponsored by House Local Government Committee Chair Michael Meredith (R-Oakland), proposed a constitutional change presented to the public as 'local government tax reform' but the constitutional question only included an opportunity to expand local government taxing authority and didn't limit cities and counties taxing authority in any way. Sponsored by more than 50 legislators on the day it was filed, it appeared that a measure with such broad bipartisan support would surely pass regardless of the objections of the retailers and restaurateurs. But as the measure was called for a vote in a Republican political stunt meant to shine light on Democrats sponsoring the measure but not wanting to vote on it, the bill failed to receive the constitutionally required number of votes for passage.

Milk Labeling: Sen. Matt Castlen (R-Owensboro) filed [SB 81](#) that would have created a statutory definition of milk as the "lacteal secretion... of a hooved mammal." In addition, the bill would prohibit the future sales of any other product not meeting this definition and classify it as mislabeled milk. The bill is in response to more products being labeled and sold as milk, such as almond or oat. The bill was assigned to the Senate Agriculture Committee, but it failed to receive consideration.

Raw Food Sales at Restaurants: As restaurants were faced with having to close dining rooms to customers and limited to only curbside and pickup sales, the General Assembly was

looking for ways to assist the industry due to the COVID-19 pandemic. They put together a package of relief policy changes, one of which included allowing restaurants to sell raw grocery items such as meat and other grocery items and baked goods not typically for sale. The Association worked closely with the General Assembly on the measure to see it passed and signed by the governor ([SB 150](#)).

Small Farm Produce Food Safety: Rep. Kim King (R-Harrodsburg) filed [HB 420](#) that passed and require the expiration of small farmer federal food safety rules when the federal funds are depleted. Department of Agriculture staff would still have inspection responsibilities. It passed both chambers and was signed by the governor without any opposition.

General Business:

Sports wagering: There was much anticipation this session of expanding sports wagering. But [House Bill 137](#), that would have expanded sports wagering, sponsored by Rep. Adam Koenig (R-Erlanger), failed to receive a vote by the full House. A similar measure was filed, [Senate Bill 24](#) by Sen. Julian Carroll (D-Frankfort), but it failed to receive a vote in committee.

[House Bill 137](#), which had bipartisan legislative support and the endorsement of Gov. Beshear, only managed to get out of the House Licensing and Occupation Committee. As amended, the bill would have only allowed horserace tracks and professional sports arenas to host a sports wagering operation. Rep. Richard Heath (R-Mayfield) filed a floor amendment that would have expanded eligibility for licensure to restaurants where at least 70% of food and beverage sales comes from the sale of food in addition to lottery retailers. Advocates of the sports wagering measure will assuredly try again next session to see to its passage.

Expanded Gaming: Two bills filed this session proposed to change the state Constitution to allow casinos in Kentucky. [House Bill 7](#), sponsored by Rep. Al Gentry (D-Louisville) would have allowed the Lottery Corporation to issue limited casino licenses to horse racetracks and full casino licenses to up to four other locations if voters had approved the constitutional change.

A similar bill was filed in the Senate ([SB 145](#)) which proposed to amend the Constitution to legalize casino gaming and dedicate revenues to public pensions. Both of these measures were met with a blockade from the Republican Senate leadership.

Similar legislation will no doubt be filed next year despite leaderships' staunch position against casino gaming.

Marijuana legalization: Sen. Perry Clark (D-Louisville), who has been a vocal marijuana advocate, filed [SB 105](#) which would have legalized the sale, cultivation, and private use of marijuana by individuals 21 years of age and older. A bill was also filed in the House that would have decriminalized the possession of less than one ounce of marijuana. [House Bill 148](#) sponsored by Rep. Cluster Howard (D-Jackson) would have also established framework for recreational marijuana with dedicated licensing fees going to the pension fund.

Neither of these pieces of legislation received consideration in the committee they were assigned.

Tort reform: A house priority bill, [HB 3](#), sponsored by Rep. Chad McCoy (R-Bardstown), would have required the primary defendant in civil actions to notify the plaintiff's attorney of all non-named parties potentially at fault. The legislation would have applied to all civil actions and was backed by trial attorneys. The notification would also include the last-known address of the party and why the party may be potentially at fault. The plaintiff would have 90 days to provide names of all parties and provide notification of being added to the civil action. The bill passed the House Judiciary Committee, but a House floor amendment passed that would limit the adding of notified non-named parties to 180 days after the initial claim was filed. This measure passed out of the House but failed to receive a vote in the Senate.

Another tort reform bill was filed in the Senate by Sen. Ralph Alvarado (R-Winchester). [SB 51](#), a constitutional amendment, proposed to amend the Constitution to allow the legislature to limit noneconomic damages for injuries and establish a statute of limitations for civil actions. This measure was prefiled by Alvarado, but it failed to get a hearing in committee.

Supreme Court reorganization: [House Bill 300](#), a proposed constitutional amendment, aimed to reorganize the Supreme Court justices to follow the same boundaries as current Congressional districts. The justices would have been elected statewide, but they would have to be a resident of the district they represent. A Chief Justice would have been elected statewide at large as well, leaving seven justices on the Supreme Court. This measure filed by Rep. Ed Massey (R-Hebron) failed to pass out of committee.

Abuse of Civil Actions: [House Bill 472](#) would have established new procedures for courts to dismiss civil actions that are determined to be harassing and malicious and allow for court costs and attorney fees to be awarded to the prevailing party. This measure was assigned to the House Judiciary Committee where it languished.

Discrimination based on sexual orientation: [House Bill 225](#), which would have explicitly prohibited discrimination based on gender identity or sexual orientation, failed to receive a hearing in the House Economic Development and Workforce Investment Committee. Rep. Mary Lou Marzian (D-Louisville) filed a similar bill in the 2018 session when it also failed to receive a hearing. **Senate Bill 130**, sponsored by Sen. Morgan McGarvey (D-Louisville), would have made the same changes as [HB 225](#), but it also failed to receive a committee hearing.

Daylight Savings Permanency: Rep. Brandon Reed (R-Hodgenville) attempted to change Kentucky's policy on daylight savings time. This endeavor took a turn when his [HB 19](#), which would have adopted year-round daylight savings time if authorized by U.S. Congress, failed to gain traction in the House. The language from this bill was then added to the House version of the budget. However, after the House and Senate met in conference committee to finalize the budget proposal, the daylight savings language was omitted.

Public Notaries: Sen. McGarvey filed [SB 283](#) that would have made additional changes to the public notary laws allowing for electronic notarizing if a public notary was present and the notarized document was transmitted electronically. It was assigned to the Senate Judiciary Committee where it failed to receive a committee hearing.

Health Insurance:

Insulin Cost: Despite a myriad of bills filed to combat rising insulin prices, none of them made it past the finish line. Rep. Danny Bentley (R-Russell) filed a measure to cap the copay on insulin at \$100 for a month's supply. It passed out of the House and landed in the Senate in late February. The Senate Banking & Insurance Committee amended [HB 12](#) to add a prescription insulin assistance program that would be funded through a fee on pharmacy benefit managers (PBMs) and health benefit plans. The cap on insulin copays of \$100 would remain in place if the measure had passed. The amended legislation would only establish the prescription insulin assistance program if funds were available. The plan as described in committee was to add the fee to revenue legislation working its way through the General Assembly, but that revenue legislation didn't include language establishing a fee. [House Bill 12](#), as amended in the Senate Banking and Insurance Committee, failed to get a vote of the full Senate and was referred back to committee.

[House Bill 423](#), sponsored by Rep. Steve Sheldon (R-Bowling Green), would have prohibited insurers and PBMs from benefitting from rebates on prescription insulin. It would have also prohibited insurers from putting prior authorizations or step therapy requirements on certified insulin products where the manufacturer requests to be considered a certified insulin. Under this bill, the insurer would also be prohibited from requiring deductibles on insulin products. The manufacturer would also have to justify any price increases on these medications. This measure failed to receive a hearing in the House.

Sen. Phillip Wheeler also tried to address insulin prices with [SB 69](#). His measure would have capped the cost-sharing requirements for prescription insulin at \$100 per 30-day supply and require the state employee health plan to comply. Like the other insulin bills, this one also failed.

Health Insurance Mandates: Legislators filed a slew of health insurance mandates this session, but the none of them were considered by the General Assembly.

Epipens: Rep. Maria Sorolis (D-Louisville) filed [HB 519](#), which would have required health plans to cover Epipens for children under the age of 18 and cap copays at \$50 per pen, died without a hearing in committee. This measure would have also allowed the copay cap to increase with inflation every 5 years.

Alternative Chronic Pain Treatments: A mandated benefit bill for chronic pain also died in the House. [House Bill 198](#), sponsored by Rep. Cherylnn Stevenson (D-Lexington), would have required health benefit plans to cover chronic pain treatments and also require health care practitioners refer or prescribe alternative chronic pain treatments before initially prescribing or dispensing a controlled substance.

Affordable Care Act Health Benefits: [House Bill 21](#), which aimed to prohibit health benefit plans from imposing any exclusions for preexisting conditions, died in committee. Rep. Patti Minter (D-Bowling Green), who was the sponsor of this bill, has already prefiled similar legislation for the 2021 legislative session.

Lyme Disease Treatment: Requiring health benefit plans to cover long-term antibiotic therapy for covered persons with Lyme disease under certain circumstances was the intended goal of [SB 61](#). The measure, which was sponsored by Sen. Jimmy Higdon (R-Lebanon), died in the Senate Banking and Insurance Committee.

Balance and surprise billing: Three measures attempted to combat the rising and sometimes unexpected cost of health care coverage. Two of the three measures failed to pass, and one morphed into a Covid-19 Relief bill.

SB 194, sponsored by Sen. Rick Girdler (R-Somerset), would have required health insurers to provide coverage of services performed at a participating facility by a nonparticipating provider. The measure would have also established payment of services from nonparticipating providers and prohibit nonparticipating providers from collecting residual charges in emergency situations. This bill failed to receive a hearing in the Senate.

Sen. Wil Schroder (R-Wilder) also tried his hand at passing a balance billing measure; however it too failed. Schroder's bill, **SB 265**, would have required health care providers to provide a good faith cost estimate for all scheduled healthcare services and prohibit balanced billing for out-of-network providers.

A bill seeking to fix surprise medical billing by insurance companies, passed the Senate, but it was used as a vehicle in the House to pass COVID-19 relief legislation. **Senate Bill 150**, filed by Sen. Ralph Alvarado (R-Winchester), would have required an insurer to reimburse for unanticipated out-of-network care, prohibit balance billing from a provider who has been reimbursed as required and provide an independent dispute resolution program to review reimbursements provided for unanticipated out-of-network care.

Co-pay accumulator ban: **House Bill 72** sponsored by Rep. Bentley would have required health benefit plans to allow prescription drug assistance programs to apply to patients' copays or deductibles. The bill was opposed by health insurance plans and pharmacy benefit managers, who argued that the bill would discourage patients from being good stewards of the healthcare dollar. Some insurers refuse to allow prescription drug coupons to count towards a patient's deductible and the patient is left to cover large out-of-pocket costs. It was amended in the House Banking & Insurance Committee to ensure that if there was a generic drug on the market that the ban would not apply. It passed the committee, but failed to get a vote of the full House and was referred to the House Appropriations & Revenue Committee.

Labor & Workforce

Minimum Wage: This session, two bills were filed that would have increased the minimum wage and the minimum wage for cash tipped employees, but neither bill was adopted. Both bills, **HB 39** and **SB 13**, would have increased the state minimum wage to \$15 by July 2027, starting with an initial increase to \$8.20 per hour on July 1, 2020, and increasing annually until it reaches \$15. They also would have increased the minimum wage for tipped employees to \$4.90 by July 1, 2023, after an initial increase to \$3.05 on July 1, 2020, and increasing annually until it reaches \$4.90. Local governments would have been authorized to increase the minimum wage as well. House and Senate Democrats continue to push increases to minimum wages and other labor friendly measures.

Wage Theft: After a coal company closed and workers' checks bounced, the General Assembly sought statutory changes to ensure that workers wouldn't lose wages that they have earned, but **HB 40** would have applied to all employers, not just coal companies. **House Bill 40** filed by Rep. Bobby McCool (R-Van Lear) would have created a crime of 'theft of wages'. A company convicted of this crime for less than \$500 would be charged with a Class A

misdemeanor, for anything greater than \$500 but less than \$10,000 the charge would be a Class D felony, and anything over \$10,000 would be a Class C felony. Employers would also be required to keep additional records for up to three years and the information could be used to determine any back wages owed to an employee. Written notification would have been provided to the employee at the time of hiring and any time the information changed. Rep. Chris Fugate (R-Chaviss) filed [HB 606](#) that mirrored [HB 40](#), but neither measure was heard in committee.

Ban the Box: [House Bill 43](#), commonly referred to as ‘ban the box’ would have prohibited employers from asking on the initial employment application whether the applicant has a criminal record. The bill was referred to the House Economic Development & Workforce Investment Committee, but it never received a hearing.

Employers Drug Screening--CBD: [House Bill 102](#), sponsored by Rep. John Sims (D-Flemingsburg), would have prohibited an employer from firing an employee using cannabidiol or CBD if they test positive on a drug screening for CBD or THC. Employers would have been able to terminate employment if the employee showed up for work impaired, but the measure never was considered by the House Economic Development & Workforce Investment Committee.

Salary History: A bill filed by Rep. Susan Westrom (D-Lexington) would have prohibited employers from asking a job applicant’s previous salary or any salary history ([HB 109](#)). The bill was another part of a House Democrats’ policy package dealing with employee rights and wages. House Republicans didn’t allow the bill to receive a hearing so the measure died at the end of the 2020 legislative session in the House Economic Development & Workforce Investment Committee.

Predictive Scheduling: As states and cities across the country adopt ‘predictive scheduling’ policies, Kentucky is not immune from seeing such legislation introduced here. [House Bill 121](#) sponsored by Rep. McKenzie Cantrell (D-Louisville) would have required employers to post schedules seven days in advance and employees could not be required to work extra shifts, but they could volunteer. Employers would be required to give employees additional compensation if they are required to work a shift that was not previously scheduled in the seven days prior. Cantrell’s bill was referred to the House Economic Development & Workforce Committee, where it died.

Employer-Paid Leave: This year there were several bills filed that would have mandated employers pay for various types of employee leave time. None of the bills were enacted, but some of them were filed by members of the majority party in the House.

Employer Paid Sick Leave: Rep. Cantrell filed [HB 123](#) that would have required employers to provide one hour of paid sick leave to all employees for every 30 hours worked by the employee. Employees could use the paid sick leave after being employed for 90 days and employers not providing paid sick leave would be subject to fines and penalties of not less than \$500 per offense. Employees could use the paid sick leave for self-medical care or to care for a loved one or child.

In the wake of the COVID-19 pandemic and the executive orders encouraging Kentuckians to stay Healthy at Home, Sen. Morgan McGarvey (D-Louisville) filed [SB 282](#) that

would permanently mandate employers provide paid sick leave to any employees with at least 120 hours of employment with the employer for 30 days. Immediately upon completing this requirement the employee is awarded eight hours of sick leave and after that sick leave would be earned at one and a half hours for every 30 hours worked. The bill would have established a fine of no less than \$100 per offense and no more than \$1,000. The bill was filed late in the session and was never taken up for a vote.

Parental Paid Leave: The bill sponsored by Rep. Josie Raymond (D-Louisville) would have required employers with 50 or more employees to provide at least 12 weeks paid parental leave for the birth of a child. This would include birth by surrogate or adoption of children 6 and under for those employed for at least one year. [House Bill 176](#) was referred to the House Economic & Workforce Development Committee, but it was never discussed.

Crime Victim Leave: Rep. Cantrell filed legislation that would impact employers and employees participating in court proceedings because an employee was a victim of a crime ([HB 122](#) and [HB 330](#)). While neither bill would have required an employer to pay for a crime victim's time off taken in order to participate in court proceedings related to the crime, both of these would have prohibited an employer from retaliating against or firing an employee who takes leave to participate in these court proceedings. The measure would have required employers to establish policies for the use of paid leave in these cases.

[House Bill 330](#) differed from [HB 122](#) in that it would have established a private right of action for employees wronged by an employer's crime victims policy. Neither of these bills received a hearing in the House Economic Development & Workforce Investment Committee.

Adoptive Leave: [House Bill 390](#) sponsored by Rep. Samara Heavrin (R-Leitchfield) would have required employers to give the same parental leave policies as birth parents for adoptive parents when the child being adopted is age 10 or less. Current law requires employers to give the same parental leave policies for adoptive parents adopting a child age 7 or less. The bill easily passed the House, but the Senate elected not to take up the measure and it died in the Senate Economic Development, Tourism and Labor Committee.

Workers' Compensation: After the passage of workers compensation reform in 2018, multiple bills have been filed to try and undo the reform changes. This session was no different and included the introduction of [HB 211](#) that would reinstate medical coverage for partially disabled workers for the entire duration of the injury. Current law limits partially disabled workers to 780 weeks of medical benefits. The bill was referred to the House Budget Review Subcommittee on Economic Development, where the measure stayed until the General Assembly adjourned. Other measures filed would have eliminated the requirements for 'b-readers' to determine black lung disease ([HB 125](#), [HB 239](#) and [SB 215](#))

Two other bills that were filed would have made changes to the special funding commission. The special fund is paid for through an assessment on all employers' workers' compensation insurance in order to pay off old workers' compensation claims adjudicated prior to the 1996 workers' compensation reform. [House Bill 448](#) would have required the Department of Labor (DoL) to develop a program of lump sum payments for black lung claims included in the special fund. It would have also reduced the assessment rate for all employers from 9% to 6.29% and once the fund has enough resources to pay all claims the assessment rate would be 1%. The bill was set to be considered in the House Economic and Workforce Development Committee, but it was never called for a hearing. [Senate Bill 47](#) would have moved the special fund from the DoL to the Unemployment Insurance fund, but the measure was withdrawn.

Worker Protections: Each year there are more and more bills expanding worker protections and this session was no different. [House Bill 490](#) would have given employees the right to sue employers and collect punitive damages in employee civil rights cases. The bill was introduced by Rep. Patti Minter (D-Bowling Green) and was referred to the House Judiciary Committee where it stayed.

Rep. Mary Lou Marzian (D-Louisville) filed legislation that would prohibit employer discrimination based on gender identification or sexual orientation ([HB 225](#)). A similar measure ([SB 130](#)) was filed in the Senate by Sen. McGarvey (D-Louisville), but neither bill was discussed in committee.

McGarvey also filed [SB 146](#) that would have prohibited employers from discriminating against employees who compare or inquire about other employees' wages. The measure was referred to the Senate Economic Development & Labor Committee but was not considered.

Unemployment Insurance: As coal mining continues to decline in Kentucky, legislators seek solutions for employees transitioning to other industries. One proposed solution ([HB 634](#)) introduced by Rep. Adam Bowling (R-Middlesboro) would have given employees in declining professions additional unemployment benefits of up to 13 weeks in order for the employee to complete work training in high tech occupations. The measure was not considered by the House Economic & Workforce Development Committee.

[Senate Bill 150](#), commonly referred to as the COVID-19 Relief Bill, made some additional changes to the unemployment system to account for reductions in the workforce. It suspended work search requirements and other eligibility hurdles that may have prevented some from applying for benefits. The bill also suspended the seven-day waiting period for recently laid off employees to wait in order to apply for benefits. An expansion of benefits was included for those who had work hours reduced by 10-60%, but whose hourly rate wasn't cut, to apply for supplemental unemployment benefits and allowed for those self-employed or employees previously not eligible for unemployment benefits, to apply for unemployment benefits. An employer with 100 employees or less shall not see its reserve ratio impacted by the expansion of unemployment benefits. The bill contained an emergency clause, so it is in effect now and expires when the COVID-19 state of emergency expires or when the General Assembly returns in January of 2021.

Employees Protected Class: There were bills filed that would have removed employee protections and others that would have created new employee protected classes.

Hemp: [Senate Bill 65](#) would have prohibited an employer from discriminating against an employee using hemp-derived products. Sponsored by Sen. Robin Webb (D-Grayson), the bill was never considered by the Senate. [Senate Bill 96](#) would have encouraged employers to exempt CBD use from its drugfree workplace policies and it failed to receive a committee hearing.

Smokers: Sen. John Schickel (R-Union) has filed legislation for a number of years that would eliminate the protected status of employees who smoke cigarettes ([SB 98](#)) but once again the measure failed to advance in the General Assembly.

Misclassification: The issue of misclassification of employees as independent contractors has been a contentious issue, particularly in the construction industry, and more

legislation was filed to try address the issue. [Senate Bill 250](#) sponsored by Sen. Phillip Wheeler (R-Pikeville) would have given the Labor Cabinet the authority to determine which workers are contractors and which are employees. The bill was referred to the Senate Economic Development & Labor Committee where it remained until the end of session. The most discussed bill this session was [House Bill 397](#) that would have limited the classification of employees as contractors in the construction industry and create penalties for misclassification of these employees. The bill was amended prior to final passage to create the Task Force on Classification of Employees in the Construction Industry. [House Bill 587](#) would have let the Labor Cabinet classify employees, but it failed to get a hearing.

Employee Monitoring: Rep. Chris Harris (D-Forest Hills) would have required employers to notify the employee that they were being monitored electronically, but it failed to make it out of the House Small Business & Technology Committee ([HB 585](#)).

Employer Sponsored Drug Abuse Programs: Legislation enacted and signed by the governor encourages employers to offer drug abuse programs and continue to employ those in drug treatment programs sponsored by the employer. The employer would be absolved of liability if the employee relapses. The employer may pay for the program or make a wage assignment for payment of the program. The Cabinet for Health and Family Services will develop regulations to establish the requirements of the program. The bill originally introduced by Sen. Matt Castlen (R-Owensboro) actually passed in [SB 191](#) that was amended in the House to include the provisions of [SB 173](#).

Sanctuary Cities: The Senate's top priority was legislation to restrict the designation of cities as sanctuary cities for illegal immigrants. The measure introduced by Sen. Danny Carroll (R-Paducah) would have required local law enforcement agencies to implement federal immigration policies ([SB 1](#)). It was voted out of the Senate, but it failed to pass out of the House Judiciary Committee. A similar measure was filed in the House as well, but was never called for a vote in the committee.

Regulatory & Licensure:

Human Trafficking: For the last few legislative sessions, human trafficking has been discussed by the General Assembly and 2020 saw one bill signed into law. Rep. Suzanne Miles (R-Owensboro) sponsored [HB 2](#), a House priority, and as enacted requires truck stops to post signs in restrooms displaying the Human Trafficking Hotline phone number. The bill easily passed both chambers and was signed by the governor. [House Bill 183](#), also sponsored by Miles, would have set the same requirements, but it was not heard in committee. Both bills expanded the definition of human trafficking and allowed police investigations into trafficking even if the victims did not comply with the investigation.

Plastics Ban: Legislation filed in the House and the Senate would have restricted single plastic use ([HB 85](#); [SB 68](#)). In the House, Rep. Mary Marzian (D-Louisville) introduced [HB 85](#) that would have prohibited the use of single-use plastic straws and Styrofoam food and beverage containers by retail food establishments by July 1, 2023 and ban single use plastic bags by July

1, 2025. In the Senate, Sen. Denise Harper Angel (D-Louisville) filed companion legislation, but neither measure received a hearing in the committee where they were assigned.

Health Department Fees: [House Bill 129](#) sponsored by House Health & Family Services Chair Kim Moser (R-Taylor Mill), was described as a measure to return health departments to their core mission of public health. One change in the legislation that KRA opposed would have removed the restriction on increases of food inspection permit fees and allowed the Cabinet for Health and Family Services to increase food inspection fees by administrative regulation without any limit. After initial discussions with KRA Government Affairs staff, the measure was amended to return the 5% increase per year after one year, but this change would have allowed the cabinet to increase the fee as much as they wanted in one year. The measure passed out of the House Health & Family Services Committee, but was moved to the House Appropriations and Revenue Committee for further discussions. The bill was once again amended to include a cap of a 25% increase in food inspection fees for one year. The bill passed the House and moved to the Senate after this change was made. In the Senate an additional change was made that removed the ability of the Commissioner of Public Health to increase property taxes. Once this provision was removed, it passed the Senate and the governor signed it. It took effect immediately since it contained an emergency clause.

Medical marijuana: [House Bill 136](#), championed by Rep. Jason Nemes (R-Louisville), would have legalized non-combustible medical marijuana as recommended by a health care provider to treat certain medical conditions. The patient would visit their physician to receive a recommendation for the use of medical marijuana and the patient would receive the product from a licensed dispensary. The legislation included language that would allow employers to terminate employment of an individual misusing or illegally using medical marijuana. The bill passed the House Judiciary Committee and the House after much floor debate, but the Senate did not take up the legislation in the remaining days of the legislative session.

Recreational Marijuana: In contrast to legalizing medical marijuana, there were two bills filed to legalize recreational marijuana in Kentucky. [House Bill 148](#) would have legalized recreational marijuana and dedicated the license fees to the public pension fund. In the upper chamber, Sen. Perry Clark (D-Louisville) filed [SB 105](#) that would have made similar changes, but neither bill was taken before the committee they were assigned.

Distracted Driving: Legislation filed by Rep. James Tipton (R-Taylorsville) would have prohibited the use of a cell phone or any other electronic device while operating a motor-vehicle. It would have also prohibited the use of a cell phone even in hands-free mode by anyone under the age of 18. The bill was set to be heard in the House Transportation committee, but it never happened ([HB 255](#)).

Automated Calling of Businesses: Kentucky's no-call list law prohibits companies from receiving automated calls. [House Bill 414](#) as enacted allows automated calling equipment to place calls with recorded messages or artificial voices to publicly available phone numbers of businesses. Google advocated for the legislative change arguing that it would help them keep businesses information up to date. The bill was signed by the governor.

Misrepresentation of Assistance Dogs: [Senate Bill 279](#) would have made it unlawful to misrepresent an assistance dog. The legislation filed by Sen. Jimmy Higdon (R-Lebanon) would have required that assistance dogs be granted public accommodations, but a private business would be allowed to inquire about the assistance dog and its duties. The bill would have also prohibited pets from entrance onto private business premises. The bill passed the Senate, but the House failed to adopt the measure.

Taxation and Revenue:

CA Local Tax Expansion: As local government and cities, like Louisville, continue to argue that they don't have the necessary revenues to cover general government expenses and growing pension obligations, these governments are searching for new revenue streams. Cities and counties started to push the idea of 'local tax reform.'

[House Bill 475](#) introduced by House Local Government Committee Chair Michael Meredith (R-Oakland) proposed to amend the constitution to give the General Assembly the authority to expand the taxing authority of local governments to include sales taxes and other taxes without decreasing their current authority. The measure was introduced with 51 co-sponsors from all sides of the political spectrum.

Retailers and restaurants were the only businesses who testified against the proposed constitutional amendment, arguing that a local sales tax is bad for consumers and retailers. Even with that testimony, the bill passed out of the House Elections Constitutional Amendments Committee.

As the bill headed to the House floor, it appeared that it was set to pass quickly and move to the Senate. The Federation engaged in a paid advocacy effort along with mobilizing grassroots to oppose the bill. On the Friday the bill was called before the House, KRA expected it to pass, but House Democrats stood their ground and voted against the measure even though they were co-sponsors of the bill. There were several Republicans who opposed the measure along with the Democrats and when the votes were tallied, the measure didn't have the votes to pass the full House. Rep. Steven Rudy (R-Paducah) voted against the measure in order to be on the prevailing side and call the measure back up at a future date, but that never happened as the session was shortened by the COVID-19 pandemic.

Restaurant Tax: The Kentucky League of Cities continues to push to expand those entities who can enact up to a 3% tax on restaurant meals or prepared foods. [House Bill 470](#) as introduced by Rep. Rob Rothenburger (R-Shelbyville) would have allowed all cities and counties in Kentucky to levy up to a 3% restaurant tax on all meals. Currently, proceeds from a restaurant tax in cities formerly classified as fourth or fifth-class cities must be used for tourism efforts in those communities. But [HB 470](#) would have allowed cities and counties to use up to 75% of the funds for general fund purposes. The bill was referred to the House Appropriations & Revenue Committee, but it was never called for a vote or a discussion.

Revenue: Every budget year, there is typically a revenue measure that passes with the budget and this year was no exception. [House Bill 351](#), sponsored by House Appropriations & Revenue Chair Steven Rudy (R-Paducah), was this year's revenue bill. It included a number of measures that would clarify tax law or generate new revenue. First, the bill added a tax on vapor products to include \$1.50 per cartridge tax on vapor products and 15% tax on open system vapor products at the wholesale level. There is a no floor stocks tax included in the bill. The revenue

bill also includes a selling farmer's tax credit for those farmers selling a farm capped at no more than \$25,000 per sale. It also expands the waste tire definition to include tires on semi-trailers and other trailers. [House Bill 351](#) expands the definition of equipment used in manufacturing to include machines used outside the plant that would be exempt from the sales tax. It also increases fees on driving under the influence to \$475. The bill also creates the renewable chemicals tax credit that would include products such as biodiesel. It also allowed local governments to publish financial statements online instead of in the local newspaper. The bill maintains the Petroleum Storage Tank Environmental Assurance Fund (PSTEAF) and extend the time those funds can be expended until July 1, 2025.

Beshear took out his veto pen on [HB 351](#) vetoing the renewable chemicals tax credit, local publication of financial statements and a few other sections. But when the General Assembly returned from the veto recess, they chose to override all the vetoes.

Budget: Due to the economic impact of the COVID-19 pandemic and its effect on state revenues, the General Assembly only enacted a one-year budget. The one-year budget included flat-funding levels for K-12 education, post-secondary education, and teachers' and state employees' salaries. The General Assembly did appropriate funding from the Volkswagen Settlement fund, which appropriated more than \$8 million for the purchase of alternative-fuel school buses. The school district will be required to provide 50% of the funding for the purchases of alternative-fueled school buses that could be fueled by propane, and the settlement funds will pay for the rest of the funds. This appropriation will allow each school district to purchase up to five school buses. [House Bill 352](#) and the budget for next year will need to be considered by the General Assembly in 2021.

Local Health Department Fees: The Public Health Transformation legislation – [HB 129](#) and sponsored by Rep. Kim Moser (R-Taylor Mill), not only created a realignment of priorities for the health departments, but as introduced it would have eliminated the cap on health department inspection fee increases that KRA worked to establish in the 2018 session. The cap on food permit fees stated that the Cabinet for Health and Family Services through regulation could not increase the food inspection fees more than 5% a year. Health departments argued that food inspection fees as currently assessed did not cover the cost of the food inspection program. The Restaurant Association argued that the program was not a benefit of the food service industry and it should be paid for through general funds since it is a public health service. Rep. Moser agreed to return the cap of 5% after one year, but KRA pushed for additional changes. The bill passed the House Health and Family Services Committee, but it was referred to the House Appropriations & Revenue Committee for further changes. The committee opted to put a 25% cap on any fee increase in the first year and each year after the fees could not increase more than 5% in one year. The Senate made an additional change to the bill removing language that gave the Commissioner of Public Health the ability to set property tax rates on behalf of local health departments. The measure included an emergency clause, so it is in effect now.

Sales Tax Exemptions: Sales tax exemptions are always a part of the discussion in a legislative session and several were filed this year. There were sales tax exemptions filed by Rep. Attica Scott (D-Louisville) that would have exempted feminine hygiene products from the state sales tax and on baby products such as diapers, baby bottles and breast pumps, but neither of these measures were considered for a vote ([HB 26](#) and [HB 54](#)). Another measure introduced

would have exempted prescription adult incontinence products from the sales tax ([HB 372](#)) but it wasn't given a hearing in committee either.

Another measure introduced in the House ([HB 56](#)) would have exempted farm maintenance services such as mowing, spraying, fence cleaning and other services performed on agriculture lands for farmers and the bill was referred to the House Appropriations and Revenue Committee, but it was not considered.

Bills filed in the House and Senate would have exempted from the sales tax contractor purchases for items that would be incorporated into real property owned by governments or other exempt entities ([SB 95](#) and [HB 193](#)). Neither of these bills were considered by the General Assembly.

When the General Assembly expanded sales tax to services, they included small animal veterinary services, and many have raised concerns about subjecting small animal vet services to the sales tax. To that end, [HB 376](#) was filed that would have exempted these services from the sales tax, but it wasn't considered for a committee vote either.

Tax Reform: Rep. Lisa Willner (D-Louisville) introduced [HB 416](#) that would have reformed the tax structure in Kentucky. Included in the measure would be an increase in the tax on cigarettes, vapor products, and other tobacco products. It would have frozen the state property tax rate and expanded the inclusion of property in the compensating tax rate and remove the 4% cap on the increase in the property tax rate for local governments. It would have also expanded the state sales tax to additional services to include alterations and armored car services. It would create a state graduated income tax bracket with the top rate being 7%. It would have also expanded the standard deduction for individuals. The bill was never considered by the House Appropriations and Revenue Committee.

Special Taxing Districts: Senators have for a number of years tried to reform special taxing districts, who by statute are non-elected appointed boards to govern services such as library districts and other services with the authority to levy property taxes without accountability to the voters. [Senate Bill 5](#) sponsored by Sen. Ralph Alvarado as enacted puts checks and balances on these special taxing districts by requiring the county fiscal court or city council to review and disapprove tax and fee increases levied by special districts. A floor amendment was filed exempting fire districts in Louisville. With the floor amendment attached, the bill passed the Senate and moved to the House. The House did adopt the measure and sent the bill to the governor before the veto recess period and the governor vetoed the measure arguing that local governments need to maintain flexibility in establishing taxes and fees. The General Assembly rejected this argument and overrode the veto, meaning that the bill will go into effect on July 15, 2020.

[House Bill 377](#) as enacted excludes non-recurring revenues from public use airports from auditing requirements. It was signed by the governor.

EMS Tax: Rep. Rothenburger filed [HB 100](#) that if enacted would have allowed local governments to add an Emergency Medical Services fee on to residents that would be collected through property tax bills. The fee could be no more than \$100 per property unit and it could be assessed on commercial properties. The bill was assigned to the House Local Government Committee, but it was never considered.

Sales Tax Increase: Rep. Jon Sims (D-Flemingsburg) filed [HB 28](#) that would have increased the state sales tax from 6% to 8% on Jan. 1, 2021. It would have also increased the motor vehicle usage tax rate and the U-drive it rental tax rate from 6% to 8%. Sims eventually withdrew the legislation after a Facebook post went viral and increased the volume of calls that were received from constituents to legislators.

Tax Credits: There were several tax credits filed this session, but very few were seriously considered. First, [HB 510](#) and [SB 227](#) would have created the ‘earn and learn’ tax credit that give companies a 25% non-refundable tax credit towards the cost of tuition and expenses. The tax credit could be used against income and limited liability entity taxes. Neither of the measures were considered by either the House or Senate. Similarly, Rep. Derek Lewis (R-London) filed [HB 91](#) which would establish a nonrefundable tax credit for employers paying on employee student loans for up to 50% of the amount paid, but it did not receive a committee hearing.

A bill filed by Rep. Randy Bridges (R-Paducah) would have created a nonrefundable affordable housing tax credit equal to the federal low-income housing tax credit. The tax credit would have applied to the income and limited liability entity taxes. [House Bill 371](#) was referred to the House Appropriations & Revenue Committee, but it was never considered by the committee. Another bill, [HB 325](#), would have increased the rehabilitation tax credit for historic structures to \$30 million and set aside 30% of that amount for rural communities. It failed to get a committee hearing as well.

Rep. Jason Nemes (R-Louisville) filed [HB 380](#) that would have increased the voluntary remediation tax credit for redevelopment of ‘brownfields’ and make it refundable. The bill would have increased the maximum amount a taxpayer may receive for years January 1, 2021-2024 to \$30 million. Brownfields included property sites that previously housed chemicals such as petroleum and others that require additional investment to clean up the site. The bill never received a hearing.

Sen. Morgan McGarvey (D-Louisville) filed [SB 267](#) that would increase the dependent care tax credit from 20% to 100% of the allowable federal tax credit, and it was referred to the Senate Appropriations & Revenue Committee where it remained.

Tax Rebates Parks: State parks and venues in Kentucky would have been able to keep sales tax revenues they collected if the General Assembly adopted [HB 187](#). State parks argue that they need additional revenue to operate and these funds would go to enhancing the park system. The bill was referred to the House Appropriations & Revenue Committee but was never considered.

Local Government Invoices: [House Bill 264](#) would have required local governments to provide its vendors with written documentation and information on invoices that were rejected for payment. The bill passed the House and was referred to the Senate State & Local Government Committee where it remained.

Consolidated Local Governments/ County Unification: [House Bill 305](#) would have allowed communities to create consolidated emergency service districts with the ability to levy property taxes for emergency services. The bill would have created a new board to manage these services, but the bill was never taken for a committee vote. Rep. Koenig sponsored [HB 465](#) that

would have created a voluntary county consolidation process, but it too was not considered for a vote in the House Local Government Committee.

A measure that did pass was [HB 570](#) that allows any public agency, local government or special taxing district to enter into interlocal government agreements for the sharing of revenues and physical assets.

Local Fees Established by Local Officials: [House Bill 367](#) would have allowed local elected officials to set a lower fee than the highest established fee if more revenue is generated than is required for the service. The bill passed the House Local Government Committee and a floor amendment was filed that would have allowed local governments to increase fees if they revenue generated wasn't sufficient for the service. The bill was never considered by the full House and in the final days of session was referred back to the House Local Government Committee.

Gas Tax: Many in Kentucky have argued that the current gas tax formula has not kept pace with Kentucky's infrastructure needs. [House Bill 580](#) introduced by House Budget Review Committee Transportation Chair Sal Santoro (R-Florence) would have increased the gas tax to 34 cents per gallon, instead of based on the average wholesale price. The gas tax rate could be adjusted annually based on a national construction cost metric. The bill would have established an annual transportation fee on electric vehicles with a base of at least \$200 per year and increasing annually. There would have also been a new fee created on all noncommercial vehicles to be paid annually based on the fuel efficiency of the registered vehicle. The bill was assigned to the House Appropriations & Revenue Committee and never received a hearing.

Transportation:

Gas Tax: Road funding and transportation infrastructure continue to be a discussion point. Advocates have argued that the current gas tax formula has not kept pace with Kentucky's infrastructure needs. [House Bill 580](#), introduced by House Budget Review Committee Transportation Chair Sal Santoro (R-Florence), would have increased the gas tax to 34 cents per gallon, instead of being taxed on the average wholesale price. The gas tax rate could be adjusted annually based on a national construction cost metric. The bill would have established an annual transportation fee on electric vehicles with a base of at least \$200 per year and increasing annually. There would have also been a new fee created on all noncommercial vehicles to be paid annually based on the fuel efficiency of the registered vehicle. The bill was assigned to the House Appropriations & Revenue Committee and never received a hearing.

Motor vehicle tax: Rep. John Sims Jr. (D-Flemingsburg) had prefiled [HB 28](#) last year that would have raised the state sales tax to 8%, the personal property tax rate to 6% and the U-drive it tax to 8%. Rep. Sims withdrew the legislation, telling the *Maysville Ledger-Independent* he filed it in order to start a conversation on tax reform.

Waste Tire Fee: [House Bill 261](#), sponsored by Rep. Steven Rudy (R-Paducah), would have expanded the waste tire fee to 'any wheel', but concerns were raised about the fee applying to things such as a child's bicycle it was amended to expand the waste fee to trailer tires. This provision did not pass in [HB 261](#), but was adopted in [HB 351](#) – the revenue bill.

Distracted driving: A measure that would have prohibited the use of personal communication devices while driving failed to receive a hearing in committee. [House Bill 66](#), sponsored by Rep. Regina Huff (R-Williamsburg), would have restricted the use of personal communication devices while driving except for hands-free devices and emergencies.

Another distracted driving measure was filed but also failed to pass. [House Bill 255](#) aimed to prohibit the use of a cell phone or any other electronic device while operating a motor-vehicle. Sponsored by Rep. James Tipton (R-Taylorsville), [HB 255](#) would have also prohibited anyone under the age of 18 from using a hands-free device.

Improper Passing of a School Bus: Rep. Huff also attempted to increase penalties for those who illegally pass a school bus. [House Bill 61](#) would have revoked driving privileges of an individual convicted of illegally passing a school or church bus for 90 days. This measure was assigned to the House Transportation committee where it died.

Real ID: The Senate passed [HB 453](#) 21-10 and the measure was subsequently signed by the governor. This measure sponsored by Rep. Santoro now makes the Transportation Cabinet the only issuers of Real ID and eliminates the requirement that Kentucky residents have to get their operators licenses and personal ID cards from their county of residence. The legislation continued efforts by the state to comply with federal law on issuance of Real IDs. Kentucky attempted to roll out the Real ID cards last year through the county clerks offices, but the demand and amount of documentation required to get a Real ID overwhelmed the counties piloting the project. This bill sets up regional centers across the state, but also includes mobile centers that will go to areas not close to a regional site. County clerks would still be able to issue identification documents.

Reformulated Gas: [House Joint Resolution 8](#) asked for a study to determine if reformulated gas (RFG) sold in Jefferson and parts of Oldham and Bullitt counties is still needed. Sponsors Reps. Thomas Huff (R-Shepherdsville) and Jason Nemes (R-Louisville) said there has not been a recent study to determine if the more expensive RFG fuel is needed. Nemes has said that RFG was needed in 1993, but that gasoline today is cleaner and the more expensive fuel is not needed. Both Nemes and Huff said that if the study shows that RFG is still necessary, they would not try to change the requirements. If the study determined that RFG was no longer necessary, the cabinet would be required to file a plan amendment with the federal government removing RFG as a requirement. This measure passed both chambers and went into effect without the governor's signature.

Restricted Lane Use: Rep. Myron Dossett (R-Pembroke) filed a bill to address lane usage. [House Bill 456](#) would have allowed the Transportation Cabinet to restrict lanes of travel, for trucks with more than six wheels, on any highway containing 3 or more lanes. The bill was set to be heard in committee, but it never received a hearing.

Road Encroachments: [House Bill 544](#), sponsored by Rep. Brandon Reed (R-Hodgenville), would designate the Department of Transportation to remove any encroachments to roads, and fine offenders. Encroachments in the bill are defined as any improvement to land like buildings, fences, ditches, driveways, that are constructed, on, or over the right-of-way of a

state-maintained road. It includes anything that may hinder or prevent use or maintenance of a road or right-of-way. The measure never received a hearing in the Transportation Committee.

Vision Screenings: Rep. Kim Moser (R-Taylor Mill) filed **HB 206** which would have required vision testing for the renewal of driver's licenses. Moser's measure would have also allowed applicants to be exempt from the test if they provide a vision testing form from a trained private vision assessor. This measure was introduced to the House Transportation Committee but not heard.

Driver Emergency: [House Bill 254](#), sponsored by Rep. Daniel Elliot (R-Danville) attempted to require any driver ignoring signs warning of roads blocked by high water to cover any and all costs associated with rescue and recovery. This measure never received a hearing in the House Transportation Committee.