Kentucky Restaurant Association
SESSION SUMMARY
2022 KENTUCKY GENERAL ASSEMBLY
June 6, 2022

The 2022 legislative session of the Kentucky General Assembly concluded its 60-day session on April 14, crafting a budget, tax changes, and many other issues impacting restaurants. This session was long – just like its informal name – the long session. One of the first notable differences this session was returning to the Capitol in person for the first time in nearly two years. Next, the House changed the rules of the chamber allowing bills to stay in the committee on committees until Sine Die. This let House leadership have control over what issues would be heard by committees.

For restaurants, it was a very successful legislative session, that included the passage of HB 252 that allows restaurants to employ persons 18 years of age or older to serve and sell alcohol, and legislation passed allowing for employer-established tip pooling (SB 180). Additionally, legislation passed that reforms the unemployment insurance program to hold beneficiaries accountable and get them back to work more quickly. Restaurants have struggled over the last few years with economic effects of COVID-19 shutdowns, but this legislation that passed this session should help ease those negative effects.

A successful legislative session can also be measured in legislation that KRA worked to ensure did not pass that would have had negative consequences for the industry. House Bill 260 would have required that the valuation of restaurant locations include the value of the tenant in the building. Rep. Patrick Flannery (R-Olive Hill) tried to pass floor amendments that would make it clear that the property in Kentucky is assessed based on the bricks, sticks and dirt, and not the stock price of the tenant. Also, local government groups again tried to push a proposed constitutional change allowing the legislature to grant local governments authority to do any tax not in conflict with the Constitution, while simultaneously removing all local government tax conflicts in the Constitution. The bill passed the House, and in the final days it started to inch forward in the Senate, but it was never called for a committee vote and the bill died.

Other legislation that will impact restaurants includes HB 8 that made significant tax changes, including lowering the personal income tax .5% and expanding the sales tax to services including services used by businesses, such as telemarketing, prewritten computer software, marketing services, website design and hosting services, and employee recruitment services. The sales tax expansion takes effect Jan. 1, 2023. Another tax change included in HB 8 was to exclude the treatment of Restaurant Revitalization Funds from conforming with the Internal Revenue Code, which would allow for income tax deductions for expenses paid for with these funds. The General Assembly tried to correct this through passing additional language to allow these funds to conform with Internal Revenue Code, but it was not clear. The government affairs team continues to work with the Beshear administration to get this corrected.

Legislation without an emergency clause or a specified enactment date, takes effect July 14, 2022. If the bill includes an emergency clause it took effect upon the governor's signature.

The following narrative summary is arranged alphabetically by issue area and highlights some of the key issues affecting KRA that were debated during the 2022 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.

ISSUE INDEX

Alcoholic Beverage Sales Issues; Consumer Protection Issues; Criminal Justice & Loss Prevention Issues; Development & Growth Issues;
Energy & Environment Issues; Food Sales & Service Issues; General Business Issues;
Health Insurance Issues; Labor & Workforce Issues;
Regulatory & Licensure Issues; Revenue & Taxation Issues; Tobacco Sales & Use Issues;
and Transportation Issues

ALCOHOLIC BEVERAGE SALES ISSUES

LOWER ALCOHOL SERVING AGE: During the 2021 Interim Session, the Joint Committee on Licensing & Occupations discussed the concept of lowering the alcohol serving age to 18 for restaurants in order to give them the ability to have a larger pool of potential employees. Rep. Richard White (R-Morehead) presented **HB 104** to the committee, but a few questions were raised about the bill. The bill as introduced would have allowed anyone 18 or older to serve or sell alcohol, so long as they were supervised by someone 21 years of age or older. This would have changed the supervision age for the grocery and convenience stores because it would have increased the supervision of grocery and convenience store employees from 20 years of age to 21. The Association expressed this concern and White agreed to change the draft. Subsequently, Rep Killian Timoney (R-Lexington) proposed a similar measure, but it would expand it beyond just the restaurant industry and include beer wholesalers and retailers (**HB 252**). House Bill 252 was the measure that finally passed and was signed into law by Gov. Andy Beshear. House Bill 252 allows restaurant employees to serve and sell alcohol so long as they are supervised by someone 20 years of age or older. The measure does not change the minimum age at which a person may serve as a bartender, which is 20 years of age. The House advanced the measure by a vote of 62-34. It moved through the Senate Economic Development Committee quickly, and it passed the full chamber by a vote of 23-10. Other bills were introduced that would have made similar changes including **SB 237** that would have allowed someone 18 or older to serve alcohol so long as they were supervised by someone 21 years of age or older (**SB 237**). **Senate Bill 365**, sponsored by Sen. Morgan McGarvey, was slightly different; it would have allowed restaurants and bars to employ an18-year-old to serve alcohol so long as the employee had a high school diploma or GED (**SB 365**).

Click here to read HB 104
Click hereto read HB 252
Click here to read SB 237
Click here to read SB 365

PRIVATE SELECTION OF BOURBON BARRELS: In the summer of 2021, the Department of Alcoholic Beverage Control (ABC), determined that private selection barrels – where a restaurant working with a distillery selects a barrel of bourbon for sale at its location – were not legal under current law. The ABC argued that the law did not allow for the bourbon barrel selects but said that it would allow the program to remain in effect until the General Assembly had an opportunity to correct the issue. For restaurants, private barrel select programs are very popular with customers and assists in managing with the decrease in availability of the highly sought-after bourbons. The Kentucky Distillers Association wanted to continue the program as well, but they also wanted to expand their retailing privileges in addition to making sure the bourbon barrel select program continues. To that end, Rep. Chad McCoy (R-Bardstown) introduced **HB 500** that as proposed would include allowing for the sale of batched or premised cocktails by the drink; allowing a distillery to have a satellite tasting room location under their existing license; and allow them to direct ship private barrel selects in unlimited quantities to customers. It would also allow for distilleries to sell exclusive bottles to customers through distillery gift shops, without any of the product going to the distillery. The concern was expanding privileges of distilleries to sell their products directly to consumers would put a further strain on the bourbon supply. A compromise was reached, where customers could only purchase bourbon barrels for direct shipping in person at the distillery gift shop. Additionally, 70 % of the bourbon barrels would need to go through a wholesaler for sale to restaurants.

In contrast, the Senate proposed a different measure that would only ensure that the bourbon barrel select program would continue to exist and operate as it did prior to the ABC ruling. Sponsored by the chair of the Senate Licensing and Occupations Committee, **SB 160** would preserve the bourbon barrel select program. The bill was passed the Senate quickly, but once the parties reached an agreement on **HB 500**, it was determined to be the vehicle to move. The legislation contained an emergency clause, so it is in effect today.

Click here to read HB 500
Click here to read SB 160

CERTIFICATION OF BOUNCERS: Two measures filed – one in the House and one in the Senate – would have required anyone verifying age to validate that a person is of legal drinking age would need to be licensed with the Department of Alcoholic Beverage Control (ABC), in order to work as a bouncer. The definition of "bouncer" is so broad that it could consider any employee verifying the legal drinking age of the customer that it includes servers, hostesses, managers, or anyone from any business. All bouncers employed on premises serving alcohol would be required to undergo ABC-approved training program through certified schools. The department would also be allowed to establish training requirements for businesses employing bouncers. Anyone wishing to be employed as a bouncer would need to provide a history on previous work experience and any incidents. The ABC would be required to develop a bouncer reporting incident log. If a bouncer engaged in serious physical harm or in inappropriate physical contact with a customer, the employer would be required to report these incidents to the log within 30 days and relieve the employee of services within 14 days. Any violation would result in license revocation. Neither measure was considered in their respective chambers. (**HB 207**) (**SB 367**)

Click here to read HB 207
Click here to read SB 367

READY TO DRINK TAXES: "Ready to drink'(RTDs) or pre-mixed alcohol products are very popular with customers, and some of these products are malt based and others are spirit or wine- based alcohol products. In Kentucky, distilled spirits are taxed at $1.92 per gallon, but malt beverages are taxed at a lower rate. This left distillers and other spirits and wine producers arguing that the spirits and wine-based products had a price disadvantage compared to malt based RTDs. Rep. Chad McCoy (R-Bardstown) proposed increasing the exemption of the amount of alcohol by volume current law allows to a 6% exemption, but **HB 752** would have increased the ABV allowed in canned products to 14%. These products would be taxed at a rate of $.25 per gallon, a much lower rate. The bill was not considered in the 2022 legislation session. It will likely return in coming years, especially as RTD products become more popular.

Click here to read HB 752

ELIMINATE THREE-TIER ALCOHOL REGULATION: **House Bill 660**, sponsored by Rep. Thomas Huff (R-Shepherdsville), would have eliminated the current regulated alcohol structure of producers, wholesalers, and restaurants. Restaurants would not be required to use a wholesaler, but they could if they choose. Restaurants would also be able to be wholesalers and producers if they so choose. Eliminating the three-tier system has been part of the dialogue in the Republican-majority for a number of years. The bill did not advance in the House.

Click here to read HB 660

ASHLAND ALCOHOL REGULATORY FEE: Under the provisions of **HB 536** approved by the legislature, the City of Ashland will have one local alcohol regulatory fee instead of a differing regulatory fee for each precinct. Ashland was one of the only cities that operated on a precinct-by-precinct election for allowing alcohol sales, but recently the City of Ashland went 'wet' citywide. It passed the House and Senate and the governor has signed the bill.

Click here to read HB 536

WINE CORKAGE: Legislation that would have allowed customers to bring their own bottles of wine into a restaurant for service with a meal, did not move in the 2022 session. The bill would allow restaurants to charge a corkage fee. The bottle of wine brought onto the premise by the customer could not be a bottle that is available for purchase at the restaurant (**SB 71**).

Click here to read SB 71

SALE OF RUSSIAN VODKA: After the invasion of Ukraine by Russia, Sen. Damon Thayer (R-Georgetown) introduced a resolution urging Department of Alcoholic Beverage Control licensees to suspend the sale of Russian Vodka. The resolution was adopted, but it simply *urges* licensees to suspend the sale of Russian Vodka and doesn't require them to stop selling the product (**SR 159**).

Click here to read SR 159

CONSUMER PROTECTION

BIOMETRIC DATA COLLECTION: A bill that would have prohibited the capture of a person's biometric identifier failed to get a hearing this session. Rep. Josh Bray (R-Mount Vernon) filed **HB 626**, which would have banned a business from capturing a person's identifier, including a retina or iris scan, fingerprint or voice print unless the individual grants permission. It also prohibited the sale of identifiers for commercial purposes and set the fine for violations at not more than $25,000 per incident.

Click here to read HB 626

AUTO-RENEWAL OF SUBSCRIPTION SERVICES: Rep. Susan Westrom (D-Lexington), who announced her legislative retirement at the end of the session, attempted once more to tackle automatic subscription renewals. **House Bill 106** would require businesses that offer autorenewal of subscription services for a subscription lasting one month or longer to obtain affirmative consent from the customer agreeing to the automatic renewal. Additionally, it would also contain clear notice in offset type of the service that it would automatically renew. It would require the business to notify the customer at least one month, but no greater than two months, before an automatic subscription would be renewed. Any business that did not comply with the requirements could be assessed a fine of $5,000 per violation. The bill was surprisingly taken up by the House, and passed with relative ease before stalling in the Senate. The KRA government affairs team testified against the legislation expressing concerns, that the language in HB 106 would disrupt the convenience of automatic renewal subscription services customers like, and put Kentucky out of sync with every state. The Senate decided not to pass the legislation and work on the issue over the interim session.

Click here to read HB 106

CONSUMER DATA PRIVACY: Bills in the House and Senate would have addressed consumer data and protecting individual's privacy. Sen. Whitney Westerfield (R-Crofton) filed **SB 15** that would implement guidelines on consumer data and privacy. During a "discussion only" hearing, Westerfield said Senate Bill 15 is modeled after Virginia's law and allows consumers control over their data and the power to delete their data. However, unlike Virginia's law, Westerfield's bill has threshold controls that would kick in at 10,000 customers, much lower than Virginia's 100,000. Westerfield said he wasn't trying to stop the data economy, and understands small businesses want to know who is shopping with them, but the problem is consumers have no control over the data. Groups with concerns about the bill want to keep consumers from being overwhelmed by the actions the bill would implement, and fear that it could make Kentucky less competitive due to the impact on small businesses who don't have dedicated personnel to handle consumer data guidelines. Restaurants were also concerned with the private right of action contained in SB 15 that would not have allowed for any monetary damages but would allow the consumer to seek injunctive relief, leading to increased litigation costs. The legislation would have required that businesses setup a process where a consumer could request what data the business is sharing and with whom it is being shared. The consumer could request to know the data that was shared and request that the business not share consumer data within any other businesses. After the discussion, no vote was taken on SB 15 in committee.

In the House, Small Business and Information Technology Committee Chair Phil Pratt (R-Georgetown) introduced **HB 586** that would require additional data and privacy and security requirements, and it is modeled on Virginia legislation that the industry suggests be used as a model. Pratt's legislation did set the threshold controls would take place at 100,000 customers or more to provide customers with opt-out options of having their data tracked. The legislation doesn't include a private right of action for consumers and allows the consumer to be able to request the controller of the information stop tracking or sharing their data. House Bill 586 did not get assigned to a committee.

Click here to read HB 586
Click here to read SB 15

DIGITAL ASSETS: As cryptocurrency and blockchain technology becomes more prevalent in today's economy, legislators continue to look at ways to protect consumers. Sen. Brandon Smith (R-Hazard) filed **SB 17** that would have established a uniform code for blockchain technology and cryptocurrency. The bill was assigned to the Banking and Insurance Committee but never had a hearing.

Click here to read SB 17

UCC – CONTROLLABLE ELECTRONIC RECORDS: Sen. Brandon Smith (R-Hazard)'s **SB 67** would have established regulation of controllable electronic records and NFTs. The bill would have established control requirements for an electronic copy of records evidencing chattel paper, intangible money, controllable accounts and payment intangibles. The bill was assigned to the Senate Judiciary Committee but never had a hearing.

Click here to read SB 67

CRIMINAL JUSTICE AND LOSS PREVENTION

PRETRIAL DISMISSAL: In an effort to get some people with criminal records back in the workforce and stop those stealing or committing crimes to feed a habit, **SB 90** established a pretrial dismissal pilot program in participating counties, beginning on Jan. 1, 2023, for those charged with crimes linked to a substance use disorder or other behavioral health issues that the defendant can prove the crime was a result of those disorders. The bill was signed by Gov. Andy Beshear after a conference committee agreed to amendments, including not naming specific counties where the pilot project will take place.

In order for the charges to be dismissed, the offender must complete a treatment program and pay restitution. It would also require a workforce assessment and plan for offender along with workforce training. If re-offense occurs after completion of the program, dismissed charges could be reopened. The bill appropriates $10.5 million in Opioid settlement proceeds to fund the pilot project, which sunsets on Dec. 31, 2027

Click here to read SB 90

CRIMINAL OFFENSES DURING A DECLARED EMERGENCY: A Senate bill addressing criminal theft charges during a declared emergency became law, while a House bill on the same issue failed to get assigned to a committee.

House Bill 329 would have made a theft of property valued at $300 or more, or receiving stolen property valued at $300 or more, during a declared emergency a Class D Felony. The bill, sponsored by Rep. Ed Massey (R-Hebron), was not assigned to a committee.

In the upper chamber, **SB 179**, sponsored by Sen. Danny Carroll (R-Paducah), would increase a criminal charge of theft during a declared emergency one level than if it was committed in an area not under a declared emergency. The definition of a declared emergency is a natural or manmade disaster. A floor amendment was approved to state that a crime must be committed in the area impacted by a disaster to qualify for the enhanced penalty. Gov. Beshear signed SB 179 into law.

Click here to read SB 179
Click here to read HB 329

FELONY MEDIATION: A bill establishing a felony mediation program passed both chambers with amendments, but it failed to ultimately pass due to the House and Senate not reaching agreement on the changes made. **House Bill 311**, sponsored by Rep. Ed Massey (R-Hebron), would have set up a felony mediation process if the defendant and commonwealth attorney agree and the victim has been consulted. The House amendment would have excluded cases of assault, stalking, domestic violence and abuse and dating violence and abuse, and the Senate approved an amendment requiring victim's approval. The bill was passed for passage for concurrence in the Senate on March 29, but it never came up for a vote.

Click here to read HB 311

PERSISTENT FELONY OFFENDERS: Sen Adrienne Southworth (R-Lawrenceburg) attempted to pass **SB 333** that would declare that persistent felony offender sentences could only apply to offenders who has committed a second crime with the same KRS chapter as the one they have been convicted on previously. Senate Bill 333 was assigned to the Judiciary Committee, but never had a hearing.

Click here to read SB 333

PRETRIAL RELEASE: Legislation that would have prohibited any defendant from being detained on money bail and require the use of pretrial services was filed by Sen. David Yates (D-Louisville) but was not heard by the Judiciary Committee. **Senate Bill 369** would have set out the criteria for when money bail was to be used in holding a defendant, including those charged with violent or sexual offenses.

Click here to read SB 369

DEVELOPMENT AND GROWTH

HEALTHY SOILS: House Bill 235 would have established and fund a Healthy Soils Program in the Department for Natural Resources. The bill, filed by Rep. Nima Kulkarni (D-Louisville), would also have required the Agriculture Water Quality Authority to promote soil restoration and include an organic agriculture organization among its appointments to join a committee to promote healthy soil practices by Kentucky farmers. The bill did not get assigned to a committee.

Click here to read HB 235

COUNTY CLERKS ELECTRONIC DATABASE: County clerks will now be required to develop electronic databases for storing and retrieving legal documents after Gov. Beshear signed **SB 135** into law. Sen. Jason Howell (R-Murray) outlined fees the clerk's office could collect for various functions, such as recording deeds, to cover the cost of setting up the data portal and allocated general fund dollars to establish a grant program for smaller counties to set up the data portal. The legislation also lists which documents can be obtained via the database, such as deeds, liens, plats and easements.

Click here to read SB 135

PLANNING AND ZONING: Sen. David Yates (D-Louisville) proposed increasing penalties for violating planning and zoning laws. If a person or entity violated the laws the fine would not less than $10 but not more than $2,000 per day in violation, an increase from $500 maximum per day. If convicted, the fine would be not less than $100 but no more than $2,000 for each lot or parcel in violation. Finally, intentional violation would be a fine of not less than $100 but no more than $5,000. **Senate Bill 154** was referred to the State and Local Government Committee but never received a hearing.

Click here to read SB 154

STREAM AND WETLAND MITIGATION: A pair of House and Senate bills regarding stream and wetland mitigation both fell short of passing this session.

House Bill 513 would have allowed the Department of Fish and Wildlife to establish a stream and wetland compensatory mitigation program and require the purchase price of the property to be greater than the appraised value. In the Senate, **SB 218** would have created a restoration and preservation program of U.S. waterways and allowed for compensatory mitigation credits for entities providing restoration.

Click here to read HB 513
Click here to read SB 218

MECHANICS AND MATERIALS LIENS: Rep. Myron Dossett (R-Pembroke) filed **HB 719** that would have protected owners of leased property from facing liens arising from work performed through a contract with the lessee when the lessee is prohibited from entering into such an agreement. The bill, which passed the House before dying in the Senate Judiciary Committee, did describe the criteria that had to be met for the lessee to avoid the lien placed on him.

Click here to read HB 719

ADULT SIZE CHANGING TABLES: Senate Bill 117, filed by Sen. Julie Raque-Adams (R-Louisville), would require a building with a capacity of at least 1,500 people or larger than 40,000 square feet built on or after Jan. 1, 2024, or have renovations of at least $10,000 on or after Jan. 1, 2026, provide access to at least one powered, height-adjustable, adult-size changing table in a single occupancy restroom that is universal to gender and available to the public. Although it was quickly assigned to the Senate Licensing and Occupations Committee, SB 117 never received a hearing.

Click here to read SB 117

ENERGY AND ENVIRONMENT

PLASTIC WASTE: Once again this year there was legislation filed that would prohibit restaurants from providing customers with single-use plastic bags starting July 1, 2027, and it would have prohibited providing plastic straws and Styrofoam beverage containers starting July 1, 2025. (**HB 189**, **SB 41).** Any restaurant violating these provisions would be subject to a fine of $100 per day. Neither of these measures were heard in a committee or advanced.

Another measure introduced also sought to address plastic waste, but it took a different approach. **House Bill 108** would have required plastic producers to pay fees for waste disposal that would be used to reduce plastic waste through grants funded by the fees. The legislation did not advance this session.

Click here to reads HB 189
Click here to read SB 41
Click here to read HB 108

PFAS CHEMICALS: **House Bill 338**, sponsored by Rep. Nima Kulkarni (D-Louisville), would have required the Energy and Environment Cabinet to develop limits on acceptable PFAS contained in drinking water. The measure did not advance this legislative session, but a resolution recognizing PFAs Awareness Day did pass.

House Resolution 85, also sponsored by Kulkarni, recognized March 4, 2022, as PFAs Awareness Day. The resolution was adopted on that day, and Kulkarni gave a floor speech encouraging members of the chamber to recognize the harms of PFAs and encourage more education on the subject. The simple resolution has no negative legal impact on restaurants, but it was co-sponsored by a Republican. We will need to monitor and pay attention to the issue.

Click here to read HB 338
Click here to read HR 85

ELECTRIC UTILITY RATE AFFORDABILITY: The issue of electric utilities rates and impact on customers was the topic of multiple pieces of legislation, especially for eastern Kentucky legislators, where automatic rate increases due to fuel adjustment clauses seem to be causing some residents to pay stiff legislative rate increases. To that end, three bills were introduced that would have required the Kentucky Public Service Commission to open administrative cases evaluating the automatic increases allowed under fuel adjustment clauses and the impact on customers (**SB 329, HB 755 and SJR 170)**. Only one of these measures took any steps towards passage and that was **HB 755** sponsored by House Natural Resources & Energy Committee Chair Jim Gooch (R-Providence). As introduced, HB 755 would have required the PSC to open an administrative case evaluating the volatility of fuel adjustment clause increases and require the agency to implement any changes necessary based on their findings to reduce volatility. It was amended in the House committee to remove the PSC administrative case and instead create a Ratepayer Task Force within the General Assembly to study three issues—fuels adjustment clauses, utilities deferring securitized debt, and the impact on customers of prematurely retiring electric generating facilities. The bill as amended passed the House, but it did not receive a hearing in the Senate Natural Resources Committee where it was referred. Both Senate measures that would have required the PSC to open administrative cases to review fuel adjustment clauses and rate volatility, were both sponsored by Sen. Phillip Wheeler (R-Pikeville).

Another measure filed in the House would have required the PSC to consider affordability of electric utility rates when determining fair, just, and reasonable rates. **House Bill 342** died in the House Committee on Committees.

Click here to read SB 329
Click here to read HB 755
Click here to read SJR 170
Click here to read HB 342

UTILITY RATES PROCEEDINGS: House Natural Resources and Energy Chair Jim Gooch (R-Providence) also introduced **HB 341** that raised a lot of concern from utility customer advocates and those organizations and companies who typically intervene in utility rate cases. In essence, the legislation reformed the intervening process for those persons directly impacted by utility rate increases, including companies and associations. It would have reduced the number of days to request intervening status, allow utilities to increase rates in between full rate case based on add-on costs, and eliminate evidentiary hearings in rates cases. It would have also restricted information requests by intervening parties to utilities. Ultimately, the measure was withdrawn by the sponsor after op-eds and newspaper articles were written criticizing the bill.

Click here to read HB 341

ALTERNATIVE RATE MAKING MECHANISM STUDY: House Majority Caucus Chair Suzanne Miles (R-Owensboro) proposed **HCR 138** that would have required the General Assembly to study an alternative utility rate setting mechanism where a utility could increase utility rates annually based on projected instead of actual costs. The legislation passed both chambers, but it was vetoed by the governor who argued that ARMs allow utilities to increase rates more rapidly with less oversight from utility regulators. The General Assembly had time to override the veto, but they did not take up HCR 138 during the final two days of the legislative session meaning that it died.

Click here to read HCR 138

CLEAN ENVIRONMENT CONSTITUTIONAL AMENDMENT: House Bill 471, introduced by Rep. Josie Raymond (D-Louisville), would have proposed amending the Constitution to guarantee the citizens of Kentucky the right to a clean and healthy environment. Its meaning would likely be interpreted broadly and give residents powerful arguments against development or manufacturing and suing over the use of certain chemicals. The proposed amendment was not considered by the legislature and therefore did not make it on the ballot.

Click here to read HB 471

STREAM & WETLAND MITIGATION COMPENSATORY PROGRAM: House Bill 513, sponsored by Rep. Jerry Miller (R-Louisville), would have created the Stream and Wetland Mitigation Compensatory Program where the Kentucky Department of Fish and Wildlife could purchase land for stream and wetland conservation, including using eminent domain in situations for lands where surface mining occurred. The fund would be used to restore wetlands and waterways. It would have also created a conservation easement that could be purchased with this fund or mitigation credits. The bill passed out of the House Tourism & Outdoor Recreation Committee, but it died when it was recommitted to the Appropriations & Revenue Committee where it remained until Sine Die. A similar measure filed in the Senate did not advance either (**SB 218**).

Click here to read SB 218

RENEWABLE ENERGY PORTFOLIO STANDARDS: Legislation filed in the Senate (**SB 225**) would have required that electric utility suppliers develop an integrated resources plan explaining how they will incorporate renewable energy sources, such as wind and solar into their energy mix. The legislation would have required that by fiscal year 2023-2024, at least 2.25% of the electric generated and supplied to customers would be renewable and of that mix .25% had to be solar energy. This increase would scale up each year until 2030-2031 when 12.5% of the utility's energy mix would be required to be from renewable energies with a requirement that 2% of it be produced from solar energy. Additionally, the bill requires a feasibility study be completed to determine if electricity suppliers could contract with commercial and industrial properties for the use of their roofs to generate solar energy. The measure did not pass, but it is legislation that returns every year, so expect it will likely be filed next year.

Click here to read SB 225

SOLAR ENERGY: One issue heavily debated during this legislative session and over the interim last year was the siting of merchant solar panels on agriculture lands, specifically who regulates them and determines such things as decommissioning standards. Retiring Senate Agriculture Committee Chair Paul Hornback (R-Shelbyville) proposed **SB 69** that would have established merchant siting standards through the Kentucky Public Service Commission and its Merchant Energy siting board, which determines whether certain energy projects that are for the sole purpose of generating electricity and selling energy to the U.S. power grid meets the standards for being able to locate and construct facilities in Kentucky. The bill would have also required that decommissioning plans be on file with the PSC. That was met with opposition from farmers and solar energy companies who argued that it would be best to allow local governments to regulate where these facilities were constructed. Rep. Josh Branscum (R-Russell Springs) introduced **HB 392** that would have restricted the authority of the merchant siting board and prescribed how decommissioning plans would be developed. Neither measure won final passage as both sides were unwilling to compromise their positions. It is not an issue that is likely to go away.

Click here to read SB 69
Click here to read HB 392

FOOD SALES AND SERVICE ISSUES

SMOKING BAN: Retiring legislator Rep. Susan Westrom (D-Lexington) filed **HB 199** to prohibit smoking in public places and places of employment across the commonwealth. Smoking would include cigarettes, cigars and vapor products. Local governments would still be able to enact more stringent smoking bans. As introduced, it would have exempted cigar bars, but the sponsor filed a floor amendment to remove the cigar bars exemption. Local health departments would be responsible for enforcing the measure. The bill did not even take one step toward passage and died in the Committee on Committees.

[Click here to read HB 199]

FOOD TRUCK REGULATIONS: **House Bill 365**, introduced by Rep. Savannah Maddox (R-Dry Ridge), would have allowed food trucks to be subject to less food safety regulations than other retail food establishments, including restaurants. It would have also limited the amount of regulation that local governments could put in place regulating food trucks, and prohibit local governments from requiring food trucks to get a local permit if they have a statewide permit. The legislation states that the Department for Public Health could only adopt specific statewide food safety regulations, but could not adopt restrictions that limit where food trucks can locate, restrict the hours of operation, require food trucks to enter into agreements with restaurants where they are parked in proximity, and limit food safety inspections that could be conducted.

Proponents of the legislation argue that food trucks need more flexibility from state and local government regulations because they are trying to grow their business, but opponents argue that they are trying to create an unlevel regulatory playing field that gives them an advantage over brick-and-mortar restaurants who are paying city property taxes and are subject to all state and local government regulations.

The legislation did not advance in the House this session, but it has picked up some interesting allies including the Pegasus Institute, an economic libertarian think tank who thinks they should be allowed to operate with little to no regulations, regardless if it jeopardizes public safety.

[Click here to read HB 365]

RESTAURANT REVITALIZATION FUNDS: The federal government created the Restaurant Revitalization Fund (RRF) to allow restaurants negatively impacted by the effects of the global COVID-19 pandemic due to lockdowns and other restrictions, to receive grant funding to ensure that these restaurants could stay in business. The U.S. Internal Revenue Service (IRS) determined that RRF proceeds used for expenses that would normally be deductible would continue to be deductible. In December of 2021, the Kentucky Department of Revenue announced that due to existing state law, the DOR would prohibit the deduction of expenses that would normally be deductible, if those expenses were paid for with RRF funds. This hit restaurants receiving these grants with big tax bills at the end of the year. To rectify this problem and make sure that these expenses could be deductible, Rep. Patrick Flannery (R-Olive Hill) proposed **HB 385** that would have allowed for the deduction of expenses, even if it was RRF that paid for these expenses. The bill was assigned to the Appropriations and Revenue Committee, but did not receive a vote.

Members of the House Appropriations and Revenue Committee also introduced **HB 8** that was their version of tax reform and included in the legislation was language that would have prohibited conformity with the IRS determination. The government affairs team sought clarification in the Senate, and they passed language in **HB 659** that eliminated the requirement that the tax apply and instead stated that they would comply with the Internal Revenue Code. Unfortunately, it did not include language that was necessary to ensure RRF proceeds used for expenses could be deductible. Given that it was April 14 and Tax Day was around the corner, restaurants that received these proceeds were required to pay back taxes on expenses that they had deducted where RRF proceeds were used. The Association is continuing to work with the administration for a fix on this issue.

Click here to read HB 385
Click here to read HB 8
Click here to read HB 659

DOG-FRIENDLY RESTAURANTS: Sen. Denise Harper Angel (D-Louisville) introduced **SB 107** that would have required the Cabinet for Health and Family Services to promulgate regulations for restaurants wanting to allow dogs on the premises to follow and create exemptions from existing food health and safety regulations. It would have required the regulations to include additional food safety standards and requirements for restaurants seeking to allow dogs on the premises. It would have created a designation for dog friendly restaurants if they meet certain requirements. The legislation was referred to the Senate Licensing & Occupations Committee, but it failed to receive consideration by the committee.

Click here to read SB 107

TIP POOLING: Retiring Rep. Bart Rowland (R-Tompkinsville) filed a floor amendment on to **SB 180** to remove the statutory prohibition on employer mandated tip pooling. Current Kentucky law prohibits tip pooling requirements unless all employees agree to participate. There are federal requirements for tip pooling and some potential restaurateurs have argued that the tip pooling prohibition stymies opportunities for growth and hiring more staff to assist service staff. Senate Bill 180 passed the legislature on the last day and was signed into law by the governor, meaning that restaurants can require employees to participate in tip pooling program as a condition of employment. Again, all federal laws would need to be complied with, which include restrictions on the types of employees who could be tipped out. The legislation takes effect July 14, 2022.

Click here to read SB 180

GENERAL BUSINESS ISSUES

EXECUTIVE BRANCH BUDGET: For the first time in a long time, legislators involved in crafting the state budget (**HB 1**) were talking about making investments and not making cuts. Buoyed by federal funding and strong state receipts, the General Assembly was able to make tax changes and spend significant resources in places. This includes appropriating $15 million for childcare assistance grants, funding for state infrastructure needs, and increasing salaries of state workers. The governor did issue several vetoes of the legislation, but many of those vetoes were overridden; only those that were technical changes remained.

Click here to read HB 1

SMOKING BAN: Rep. Susan Westrom (D-Lexington) filed **HB 199** that would have enacted a statewide smoking ban for all public places and places of employment. Smoking would include cigarettes, cigars and vapor products. Local governments would still be able to enact more stringent smoking bans. As introduced, it would have exempted cigar bars, but Westrom filed a floor amendment to remove the cigar bars exemption. Local health departments would be responsible for enforcing the measure. The bill failed to move in the 2022 legislative session.

Click here to read HB 199

MARIJUANA: Kentucky remains one of a handful of states that has not adopted legislation legalizing marijuana for medical or recreational use or decriminalizing the possession of marijuana. That doesn't mean legislators didn't try to legalize recreational or medical use of marijuana or decriminalize the possession of marijuana. Legislation filed in the House by Rep. Nima Kulkarni (D-Louisville) would have decriminalized the possession of marijuana (**HB 224**), and she also introduced **HB 225** proposing to amend the Constitution to legalize recreational and medical marijuana, but neither bill received a committee hearing. **House Bill 136** that would legalize medical marijuana passed the House, but it once again died in the Senate, where leadership raised concerns about the legislation, even after it was made more restrictive in the House. It would have allowed patients with certain medical conditions to receive a recommendation from a healthcare provider for medical marijuana. The patient would be required to have an annual prescription check with a pharmacist before they could visit the dispensary. House Bill 136 would not prohibit an employer from enacting drug-free workplace laws.

Click here to read HB 224
Click here to read HB 225
Click here to read HB 136

TORT REFORM: Last session, restaurants fought hard for COVID-19 limited liability protections given the unknowns of the global pandemic, but those ended March 8, 2022, when the declared emergency related to the global pandemic was ended by **SJR 150**. Some legislators tried to make tort reform permanent by proposing to amend the Constitution by asking the voters to allow the General Assembly to restrict punitive damages in civil actions. **House Bill 455** was introduced by Rep. Josh Bray (R-Mount Vernon) and a companion bill was introduced in the Senate, **SB 142**, by Sen. Ralph Alvarado (R-Winchester), but neither bill advanced in either chamber.

Click here to read SJR 150
Click here to read HB 455
Click here to read SB 142

DECLARATION OF EMERGENCY--COVID-19: In January, the Omicron variant of COVID-19 was raging across the Commonwealth and schools were still requiring students to wear masks. It appeared that the Coronavirus would never loosen its grip on the state. With the Declaration of Emergency approved by the legislature last summer set to expire, the General Assembly did extend it until April 14, 2022, when the General Assembly would conclude the session (**SB 25**). The bill extended provisions related to price gouging, COVID-19 limited liability protections, enhanced federal public assistance benefits and continue to allow pharmacies to order and administer COVID-19 tests and vaccinations, and other vaccinations down to age 3.

Suddenly, in late February, Senate Republicans, seeing the decline in case numbers, decided that it was time to end the declared emergency related to COVID-19 and passed **SJR 150**. The resolution as sponsored by Sen. Donald Douglas (R-Nicholasville), who was locked in a primary battle with a Republican restaurant owner critical of government shutdowns, mask requirements and vaccination requirements. Douglas argued that the pandemic itself was over, and it was time for Kentuckians to get back to normal life. To that end, SJR 150 ended the declared emergency related to COVID-19 and the some of the protections contained in it, including limited liability protections. The legislation took a lot of criticism from the press because it meant that Kentucky would give up tens of millions of dollars in federal assistance for the SNAP program.

Beshear called the decision reckless as did some House Democrats. House Minority Floor Leader Joni Jenkins (D-Louisville) proposed **HB 460** that would have returned to the executive branch some of its authority to declare states of emergency, but the bill was never discussed.

Click here to read SB 25
Click here to read SJR 150
Click here to read HB 460

ENERGY COMPANY BOYCOTTS: One measure that was signed into law by the governor would prohibit state agencies from contracting with businesses who refuse to provide goods or services to fossil fuel energy companies. It would require the state treasurer to maintain a list of corporations that engage in energy boycotts. Sen. Robby Mills (R-Henderson) sponsored **SB 205**, and it passed mostly along partisan lines.

Click here to read SB 205

SPORTS WAGERING: Even as other southern and surrounding states cash-in on sports wagering, another year passes where it will not be a reality in Kentucky. While **HB 606** passed the House, the Senate would not take up the legislation, arguing that there was not agreement within the caucus. The bill would have legalized sports wagering at horse racing facilities and through parimutuel wagering mobile applications. It would have also legalized fantasy sports contests and online poker. The measure passed the House by a vote of 58-30, but it failed to go before the Senate Economic Development Committee where it was referred. Other bills introduced to address sports wagering included **SB 213** that was a companion to HB 606. **House Bill 610** introduced would have legalized sports wagering, but also prohibited skills-based games. Nothing in any of the proposed measure would authorize the sports wagering through restaurants.

Click here to read HB 606
Click here to read SB 213
Click here to read HB 610

HEALTH INSURANCE ISSUES

MANDATED BENEFIT: There were several bills that would have required insurance companies to cover various health care items, including annual mental health exams, chronic pain treatments, testing and treatment of Hep C in pregnant women and post-partum depression treatment. None of these bills were assigned to a committee.

Click here to read HB 55
Click here to read HB 58
Click here to read HB 98
Click here to read HB 412

Click here to read HB 413
Click here to read HB 416
Click here to read HB 431
Click here to read HB 90

ALL-PAYER CLAIMS DATABASE: Rep. Cherlynn Stevenson (D-Lexington) filed **HB 60** that would have established a database of healthcare claims and prices, so patients may shop for lowest cost services. The bill also would have created an advisory committee to create the website. House Bill 60 was not assigned to a committee.

Click here to read HB 60

PRIOR AUTHORIZATION REFORM: Rep. Kim Moser filed a bill to address prior authorization requirements for healthcare services. **House Bill 343** would have removed those requirements for services where 90% of prior authorizations are approved. The bill was assigned to the Health and Family Services Committee.
Click here to read HB 434

TAX CREDIT ORGAN DONATION: House Bill 47, sponsored by Rep. Shawn McPherson (R-Scottsville) would have created an employer tax credit when paid leave is granted to an employee who donated organs or bone marrow. The credit would be equivalent to the amount paid in salary and benefits during the leave period, not exceeding 40 hours for each door. The bill was not assigned to a committee.

Click here to read HB 47

MEDICAID COVERAGE: Senate Bill 178 extends Medicaid coverage to new mothers for up to 12 months postpartum. The bill, which was signed into law by Gov. Beshear, also included a section that requires the Personnel Cabinet to contract with an entity to monitor all pharmacy claims and correct errors in reimbursement. A floor amendment was attempted in the House that would have established a Medicaid fee schedule for compounded medications and medications used in the treatment for substance use disorder, but it failed.

Click here to read SB 178

INSURED NEGOTIATED PAYMENTS: Sen. David Yates (D-Louisville) filed **SB 286** that would have allowed insured patients to negotiate payments with healthcare providers in excess of copays and outside of the provided health insurance. Insured patients could negotiate with the provider for noncovered benefits or services or for covered benefits and services if they didn't file a claim. The bill was assigned to the Banking and Insurance Committee but was never heard.

Click here to read SB 286

LABOR AND WORKFORCE ISSUES

UNEMPLOYMENT INSURANCE: Policy issues surrounding unemployment insurance benefits and funding have been at the forefront of legislators' minds since the start of the global pandemic when the UI system became flooded with claims from those who lost jobs due to the COVID-19 pandemic. It exposed a system that was not ready for the flood of claims, leaving some waiting months to receive benefits. At the same time, the state UI fund was quickly depleted, requiring the state to take a federal loan to ensure they could continue to pay benefits. When the state takes a federal loan, it sets in motion automatic increases in the unemployment insurance tax rates for businesses. In the 2021 legislative session, legislators put a freeze in place on businesses' unemployment insurance tax rates, ensuring that it would remain at the lowest possible rate.

As lockdowns subsided and businesses began to ask employees to return to work, a new problem cropped up – lack of employees returning to work. It led to additional questions from policymakers about the need to reform the unemployment insurance benefits. Additionally, the General Assembly was looking for ways to pay back part of the UI federal loan and ensure that employers don't see UI tax increases. There was also an attempt by a bipartisan group of legislators to expand unemployment insurance benefits to domestic violence victims. Below are subsections that provide additional details on these issues.

Unemployment Insurance Reform: House Economic Development Committee Chair Russell Webber (R-Shepherdsville) discussed the need to reform the unemployment insurance program in the interim. He argued that systemic changes to UI needed to occur, especially given that Kentucky's UI benefit is significantly more generous than other states. Coupled with Republican's long-held desire to reform UI benefits and the cracks in the system that grew through the pandemic made 2022 ripe for reform. The last time changes took place was after the great recession of 2008.

To address Republican concerns and get Kentuckians back to work, Webber introduced **HB 4** that is a comprehensive reform of Kentucky's UI program. The bill ties the length of benefits to the state's average unemployment rate over the previous six months. If the state's average unemployment rate is 4.5% or less, the maximum length of benefits will be 12 weeks. It increases by a week if unemployment is 5-5.5 % and goes up to a maximum of 24 weeks as the rate increases. It also increases the number of work search requirements of beneficiaries to five per week and at least three of these weekly activities shall consist of applying and interviewing for positions. Employers raised concerns that currently there was no accountability for those continuing to receive benefits even though they were offered employment or didn't show for an interview. Employers will now be allowed to notify the Labor Cabinet if a beneficiary declined to accept suitable work or attend an interview, and the cabinet shall take this into consideration when determining if the beneficiary should continue to receive benefits. If a beneficiary is enrolled and making progress in a job training or certification program, they shall be eligible for an additional five weeks of benefits. The legislation also creates a shared work program, where an employer can apply to the state for approval to have employees with reduced number of hours continue to be paid and receive partial UI benefits. This allows an employer to reduce hours, as opposed to implementing mass layoffs, especially if they plan to return to the previous full employment. The Cabinet has 30 days to approve the plan and an employer may only apply for one work share program in a 12-month period. The House did make a small change before passing the legislation out of committee, ensuring that west Kentucky tornado victims receiving Disaster UI benefits will not be impacted by the program changes. In the Senate, a clarification was made to state that if a beneficiary is in a job training or on recall within 16 weeks, they are not subject to the work search requirements. The bill passed both chambers, but not without some controversy, as Eastern Kentucky legislators raised concerns about the high unemployment rates in their region that will likely never be in sync with the state unemployment rate. Gov. Beshear vetoed the legislation, but both chambers quickly moved to override the veto and the law takes effect Jan. 1, 2023.

Click here to read HB 4

DOMESTIC VIOLENCE: The House Economic Development Committee did advance **HB 83** that would have provided unemployment insurance benefits to women who were victims of domestic violence, if the reason they were filing for benefits meant that they needed to leave their employment to remove themselves from the situation. The benefits would be paid out of the state UI pool account, and not impact the employer's reserve accounts, but the Unemployment Insurance Program would require a state appropriation to provide this benefit. The Association engaged in this issue asking for tighter documentation and more information to prove there is a domestic violence. This would make it more in line with other states that require a police report or other court record or affidavit documenting the situation, but those changes were not accommodated. The bill did pass the House 96-6, but it died in the Senate which took no action on the measure.

Click here to read HB 83

UNEMPLOYMENT INSURANCE TAX RATE: **House Bill 144** is legislation that once again suspends any increase in the taxable wage base for employers, keeping the lower UI tax rate in place for Jan. 1, 2022-Dec. 31, 2022. Additionally, the General Assembly appropriated $243 million in federal funds to pay back part of the federal unemployment insurance fund loan. Both chambers adopted the measure, and the governor signed the legislation. It is in effect now retroactive to January 2022.

Click here to read HB 144

WORKER PROTECTIONS: Democrats in both the House and Senate introduced an array of bills that would add additional provisions to workers' legal protections including legislation that would prohibit discrimination against employees based on their weight (**HB 426**). Another series of bills would make it discriminatory for an employer to ask previous salary and wage history (**HB 382**), and in the Senate, similar legislation was filed, but it also prohibited employers from disciplining employees who discuss salaries and wages with other employees (**SB 273** and **SB 360**). Another measure would have prohibited employers from requiring employees to sign a non-disclosure agreement as a condition of employment (**HB 750**). Three measures would have prohibited discrimination against employees based on gender identification and sexual orientation (**SB 171**, **HB 11**, **HB 15**). **Senate Bill 381** would have prohibited employers from discriminating or punishing employees unable to attend work due to inclement weather and require a policy be put in place. None of these measures passed the Republican-controlled House and Senate.

One measure that did pass the House Judiciary Committee was **HB 31** clarifying that a person's hairstyle is protected in so far as it identifies with their race. The C.R.O.W.N. Act would prohibit discrimination based on hairstyle. The legislation did pass the House Judiciary Committee but was not considered by the full House.

A Republican-supported bill, **HB 400**, would have eliminated a worker protection smokers have in current Kentucky law. Currently, employers may not ask an employee their smoking status or make it a condition of employment. With increased healthcare costs due to tobacco use, many employers would like to eliminate this protection, but it was never considered for a committee vote and died.

Click here to read HB 426
Click here to read HB 382
Click here to read SB 273
Click here to read SB 360
Click here to read HB 750
Click here to read SB 171
Click here to read HB 11
Click here to read HB 15
Click here to read SB 381
Click here to read HB 31
Click here to read HB 400

MEDICAL MARIJUANA: Once again legislation to legalize medical marijuana failed to be called for a vote in the Senate. The legislation would have allowed a patient to receive a medical card to be eligible for medical marijuana. **House Bill 136** would still allow employers to have policies about medical marijuana use on the job. It is likely to come back up, and Gov. Andy Beshear has proposed finding a path through the executive branch to make the legalization of medical marijuana a reality in Kentucky.

Click here to read HB 136

EMPLOYER-MANDATED VACCINATIONS: Several measures were filed in the both chambers to address concerns from some constituents and legislators about employers requiring vaccinations as a condition of employment, especially the COVID-19 vaccine. None of these measures made it across the finish line, meaning that the only restrictions on employer mandated vaccines are those that exist in law today, which are religious and medical exemptions.

House Bill 28 sponsored by Rep. Savannah Maddox (R-Dry Ridge) would have prohibited employers from requiring employees to be vaccinated as a condition of employment if they had medical, religious, or conscientiously held beliefs reasons. Employees would have a right to a civil action to sue an employer for violations. The penalties include statutory damages of $1,000 and civil punitive damages. The bill was amended in committee to remove private employers from the requirements, and it would have only applied to public employers. The legislation passed the House, but in the Senate Health & Welfare Committee, **HB 28** died for failing to receive the adequate number of votes in the committee.

In the Senate, **SB 93,** sponsored by Sen. Rick Girdler (R-Somerset), was the measure that advanced. It stated that an employer would be prohibited from requiring as a condition of employment that an employee be vaccinated if they have a sincerely held religious or conscientiously held belief. The employee would sign a statement that they have these sincerely held beliefs as documentation of their exemption. The bill passed the Senate Judiciary

Committee, but after multiple floor amendments were filed to the legislation, it was referred back to the Senate Judiciary Committee where it died.

Other measures in both chambers were introduced but did not advance. **House Bill 52** would have prohibited employers from requiring immunizations as a condition of employment and would have prohibited segregation of employees based on vaccination status. Also, **HB 198** would have required employers with vaccination mandates to allow those with religious, conscientious held beliefs or medical reasons to be exempt, and prohibit retaliation against employees who refuse meet exemptions or if they agree to testing and masking. **House Bill 664** would have allowed employees experiencing adverse reactions to vaccines where the employer mandated the vaccine to have a right to civil action against the employer for the requirement. Sen. Adrienne Southworth (R-Lawrenceburg) filed two bills on vaccine mandates; one would require additional exemptions and the other would prohibit employers from requiring employees to obtain a vaccine passport (**SB 246** and **SB 358**). None of these measures advanced, but it was a populist issue that many legislators heard from constituents about the need for action.

Click here to read HB 28
Click here to read SB 93
Click here to read HB 52
Click here to read HB 198
Click here to read HB 664
Click here to read SB 246
Click here to read SB 358

WORKERS' COMPENSATION: Workers' compensation is always an issue that receives attention, and this session was no different. Some of the proposals included legislation that would provide workers' compensation benefits to employees who experience an adverse reaction to vaccines where the employer required immunization as a condition of employment (**HB 54** and **HB 62**). Neither of these bills were considered by the House. One measure that did advance in the House was **HB 69** sponsored by Rep. John Blanton (R-Salyersville) that would have reinstituted COVID-19 presumptive eligibility for workers' compensation when an employee of an essential employer, including grocery store workers, are diagnosed with COVID-19. Originally an Executive Order, the General Assembly did not renew it, and the bill would have made it retroactive to July 2021. The bill passed the House, but it died in the Senate.

Other workers' compensation changes introduced in 2022 would have repealed or amended some of the workers' compensation reforms adopted in 2018 that benefited employers and lowered workers' compensation insurance rates. This includes **HB 162** that would have reinstated lifetime medical benefits for a partial and permanent injury. Also, **SB 304,** sponsored by Sen. Johnnie L. Turner (R-Harlan), increased benefits for permanent partial disabilities. **Senate Bill 261** would have required that the Department of Workers Claims hire a physician to inform and resolve disputes on benefits based on medical issues. The Beshear administration adopted a regulation to do this, but the General Assembly overturned this regulation, and it is not in effect.

Finally, there were two measures proposed to address workers' compensation benefits in relation to cannabis use and prescription drug use. **House Bill 598**, if adopted, would have eliminated the presumption that the presence of THC was responsible for the workplace injury, if an employee was injured and there was less than 5 nanograms of delta-9 THC. Instead, the employer would be required to provide proof that the presence of THC caused the accident.

Another bill, **SB 303,** filed by Turner would have made the same change for prescription drugs not prescribed by a healthcare provider or used in excess of the prescription. Neither of these measures were considered by the General Assembly.

Click here to read HB 62
Click here to read HB 54
Click here to read HB 69
Click here to read HB 162
Click here to read SB 304
Click here to read SB 261
Click here to read HB 598
Click here to read SB 303

PAID LEAVE: Democrats in the House filed a series of bills that would have required various types of paid leave. This paid leave would have required employers to provide bereavement leave for loss of an infant (**HB 78**), crimes victims leave (**HB 205**), and parental leave (**HB 427**), but none of these measures were adopted. **House Bill 59** would have required employers to provide unpaid family leave, but it did not advance either.

Two measures introduced by Republicans did not get adopted either. **House Bill 47** would have provided employers with a tax credit if they provided employees with paid leave for organ or tissue donation. Rep. Jim Gooch (R-Providence) filed **HB 178** that would have required employers offering paid leave to vaccinated employees who contract COVID-19 to provide the same paid leave to unvaccinated employees, but neither of these measures were considered for a vote and died at the end of session.

Click here to read HB 78
Click here to read HB 205
Click here to read HB 427
Click here to read HB 59
Click here to read HB 47
Click here to read HB 178

MINIMUM WAGE AND TIP CREDIT: A proposed minimum wage increase to $15 per hour by July 1, 2029, died in the House. The bill would have increased the minimum wage for tipped employees to $4 per hour by July 1, 2025 (**HB 357).** And in the Senate, **SB 13** would have increased the minimum wage to $12 per hour by July 1, 2026, for employers with 25 or fewer employees. For employers with more than 25 employees, minimum wage would $15 per hour by July 1, 2026, and the minimum wage starting on July 1, 2022, would have been $10. **House Bill 424** would have allowed local governments to increase the minimum wage in excess of the state minimum wage, but it died as well.

Click here to read HB 357
Click here to read SB 13
Click here to read HB 424

OCCUPATIONAL HEALTH AND SAFETY REGULATIONS AND VIOLATIONS: **House Bill 208** filed by Rep. John Blanton (R-Salyersville) would have allowed the Kentucky Occupational Health and Safety Administration to reintroduce occupational health and safety regulations previously in effect before July 1, 2021, but because they were more stringent than the federal requirements, they expired because of a state law that passed in 2021 prohibiting the Department of Labor from requiring more stringent occupational standards that the federal government. The bill died in the House. **House Bill 749** would have increased the fines for violations of Kentucky's occupational standards – doubling the current fines for serious and minor violations. It died as well.

Click here to read HB 208
Click here to read HB 749

BAN THE BOX: For several years in row, Rep. George Brown (D-Lexington) has introduced legislation that would have prohibited employers from asking about criminal history on the initial application. **House Bill 293** did not pass this session, but it is expected to return next legislative session.

Click here to read HB 293

AT-WILL EMPLOYMENT: Rep. Pamela Stevenson (D-Louisville) filed **HB 368** that would have removed language in existing Kentucky law recognizing that Kentucky is an employment at- will state, instead requiring any termination of an employee be for cause. It would have allowed wrongfully terminated employees to seek civil damages. It did not get referred to a committee, so it died in the House Committee on Committees.

Click here to read HB 368

SEIZURE FIRST AID: Rep. Mark Hart (R-Falmouth) filed **HB 404** that would have required to post information on how to give seizure first aid. The Department of Labor would have been required to provide the information to the employer. It passed the House, but it died in the Senate Economic Development Committee.

Click here to read HB 404

HERO PAY: Two bills were introduced on 'hero pay.' **House Bill 425** would require employers, during a declared emergency, to pay employees deemed essential, including healthcare and grocery store workers, hazard pay of at least $15 per hour for a 40-hour week and time and a half after a 40-hour work week, but it died. Gov. Andy Beshear proposed paying essential employees a bonus and use a portion of the state's American Rescue Plan Act funding to pay for them, but the General Assembly did not include this in their budget. A resolution urged the General Assembly to take such action, but even the resolution was not considered for a vote (**HCR 101).**

Click here to read HB 425
Click here to read HCR 101

CHILDCARE ASSISTANCE FUND: Rep. Samara Heavrin (R-Leitchfield) successfully passed **HB 499** that establishes a private-public partnership for employers choosing to pay all or a portion of an employee's childcare obligations. The state can match up to 100% of the employer's contribution for employees whose incomes are equal to or below the state median income level. For employees whose wages are above the median income, the matching funds would be in the amount of 80% of the employer's contribution. The legislation originally appropriated $15 million for the establishment of childcare assistance fund, but this appropriation was removed from the bill and put into the state budget (**HB 1**). The new entity would pay the matching funds directly to the childcare provider. An employee would be required to be employed for a minimum of 20 weeks before they would be eligible for the benefit. Additionally, 25% of the matching funds must go to businesses with fewer than 50 employees who work 35 hours per week.

Click here to read HB 499
Click here to read HB 1

WAGE ADVERTISEMENT: **House Bill 650** would have required employers to include the actual wage or wage range for job advertisements soliciting applicants. The bill did not get referred to a committee and died at the end of the session.

Click here to read HB 650

TIP POOLING: Businesses where employees rely on tips got a big win with the passage of **SB 180** as it was amended in the House. Retiring Rep. Bart Rowland (R-Tompkinsville) filed a floor amendment to remove the prohibition on employer mandated tip pooling. Current Kentucky law prohibits tip pooling requirements unless all employees agree to participate. There are federal requirements for tip pooling and some potential restaurateurs have argued that the tip pooling prohibition stymies opportunities for growth and hiring more staff to assist service staff. Senate Bill 180 passed on the last day and was signed into law by the governor, meaning that restaurants can require employees to participate in a tip pooling program as a condition of employment. Again, all federal laws would need to be complied with, which include restrictions on the types of employees who could be tipped out. The legislation takes effect July 14, 2022.

Click here to read SB 180

CERTIFICATION OF BOUNCERS: Legislation filed in the House and in the Senate would have required anyone verifying age to validate the person is of legal drinking age would need to be licensed with the Department of Alcoholic Beverage Control (ABC), in order to work as a bouncer. The definition of "bouncer" is so broad that it could consider any employee verifying the legal drinking age of the customer, including servers, hostesses, managers, or anyone from any business. All bouncers employed on the premises serving alcohol would be required to undergo an ABC-approved training program through certified schools. The department would also be allowed to establish training requirements for businesses employing bouncers. Anyone wishing to be employed as a bouncer would need to provide a history on previous work experience and any incidents. The ABC would be required to develop a bouncer reporting incident log. If a bouncer engaged in serious physical harm or in inappropriate physical contact with a customer, the employer would be required to report these incidents to the log within 30 days and relieve the employee of services within 14 days. Any violation would result in license revocation. Neither measure was considered in their respective chambers. (**HB 207**) (**SB 367**)

Click here to read HB 207
Click here to read SB 367

COMMERCIAL DRIVER'S LICENSING: Senate Bill 124, sponsored by Sen. Phillip Wheeler (R-Pikeville), allows a person whose commercial driver's license (CDL) has been expired for less than five years to get their licensed renewed without having to retake examinations, so long as their licensed was not revoked and they submit the appropriate medical certifications. For hazard chemicals endorsement, the driver would be required to retake the hazardous chemical endorsements. The legislation also exempts entry-level CDL training programs from undergoing separate state licensing for the training program so long as the program complies with the federal program standards. Senate Bill 124 was signed into law by Gov. Beshear.

Click here to read SB 124

REGULATORY AND LICENSURE ISSUES

VACCINE PASSPORTS: There were no shortage of bills related to vaccine passports or employer-mandated vaccination policies. This included **HB 21** and **HB 28** which prohibited businesses from requiring proof of vaccination in order to enter a business. The bills would have allowed a state agency to enforce the requirement on businesses and if the business refused to comply, they would be prohibited from receiving state contracts in the future (HB 28), and HB 21 would have subjected a non-compliant business to a $5,000 per violation fine. House Bill 28 did advance in the legislature, but the vaccine passport restriction was removed from the legislation. **Senate Bill 358** would have prohibited employers from requiring employees to obtain a vaccine passport as a condition of employment, but it did not advance.

Click here to read HB 21
Click here to read HB 28
Click here to read SB 358

BALLOT INITIATIVES: **House Bill 150**, sponsored by Rep. Josie Raymond (D-Louisville), would have proposed a constitutional amendment to allow citizens to propose new laws or amend existing ones by ballot initiative. This proposed constitutional amendment did not advance in the legislature.

Click here to read HB 150

AMUSEMENT RIDES: Legislation was adopted by the General Assembly and signed by the governor to make changes to the regulation of amusement rides (**HB 273**). It allows the Department of Agriculture to set the licensing fee by regulation and it increases the liability insurance requirement to a minimum of $1 million.

Click here to read HB 273

DEFICIENT REGULATIONS: **House Bill 337**, introduced by Administrative Regulatory Review Subcommittee Co-chair Rep. David Hale (R-Wellington), passed the House, but was not considered by the Senate. The legislation would have changed what happens to administrative regulations once they are found deficient. Currently it is up to the governor whether or not to implement a deficient regulation, and the General Assembly can act on it when they return to a regular session. HB 337 stated that if a regulation is found deficient, it is automatically withdrawn. It would have also granted the attorney general the authority to determine if deficient regulations should take effect or be withdrawn. It was referred to the Senate Local Government Committee, but it never received a hearing.

Click here to read HB 337

SPORTS WAGERING: Kentucky remains the long shot for passing sports wagering, as it fell short once again. While **HB 606** passed the House, the Senate would not take up the legislation, arguing that there was not agreement within the caucus. The bill would have legalized sports wagering at horse racing facilities and through parimutuel wagering mobile applications. It would have also legalized fantasy sports contests and online poker. The measure passed the House by a vote of 58-30, but it failed to go before the Senate Economic Development Committee where it was referred. Other bills were introduced to address sports wagering including **SB 213** that was a companion bill to HB 606. **House Bill 610** was introduced and would have legalized sports wagering, but also prohibited skills-based games. Nothing in any of the proposed measure would authorize the sports wagering through restaurants.

Click here to read HB 606
Click here to read SB 213
Click here to read HB 610

REINS ACT: House Tourism, Small Business and Information Technology Committee Chair Phillip Pratt (R-Georgetown) proposed **HB 594** called the REINS Act to ensure that executive branch agencies were taking into consideration the cost of proposed regulations on the private businesses they are regulating. The bill was vetoed by Beshear, but the legislature did vote to override the veto and it is now law. It requires any executive branch agency proposing an administrative regulation to conduct a fiscal analysis of the financial impact the regulations will have on the impacted businesses. It allows the Administrative Regulatory Review Committee to find any regulation deficient if the regulation doses include the cost analysis.

Click here to read HB 594

SKILLS-BASED GAMES: House Bill 608 was adopted by the Senate Licensing & Occupations Committee after it passed the House, but the Senate dramatically changed the legislation. Sen. Whitney Westerfield (R-Crofton) filed a floor amendment that KRA raised concerns about because it would have banned arcade games and entertainment games that are legal today for children and adults to play. The Senate did adopt Amendment 3 which would have ensured that e-sports competitions are legal and would allow for arcade style games to remain, so long as the merchandise value did not exceed $50. Sen. Paul Hornback (R-Shelbyville) filed a floor amendment that would shift the enforcement responsibilities from the Kentucky State Police to the Department of Alcoholic Beverage Control, but it was not adopted. This could have been problematic for restaurants, as those choosing to utilize skills-based games could lose their license to sell alcohol quicker if the amendment was to be adopted. House Bill 608 as it passed the committee would state that the only forms of legalized gaming would be charitable gaming, games regulated by the lottery and games regulated at horse tracks, but the floor amendment would have outright banned the skills-based games that have popped up in convenience stores and restaurants. The bill passed the Senate 24-13 with the amendment 3 but was not taken up by the House for concurrence of the amendment, and it died this session.

The lottery and the horse tracks have pushed heavily against the game machines that have shown up in restaurant locations across the commonwealth. There are two legal cases recently brought on by machine makers asking for the determination of whether or not the machines are legal arguing that they are skills based and don't contain an element of chance.

Click here to read HB 608

REVENUE AND TAXATION ISSUES

EXECUTIVE BRANCH BUDGET: The General Assembly passed the state executive branch budget that for the first time in many years was not considered an austere budget. The Kentucky coffers are full of revenues from increased tax collections and federal money provided to assist states with overcoming the economic effects of the COVID-19 global pandemic. **House Bill 1** as passed by the House appropriated no funding for childcare assistance, but when the bill passed out of the Senate, it did include $15 million in funding for a childcare assistance program where an employee receiving childcare assistance support from their employer is eligible for matching funds to apply towards their childcare cost. A portion of the funds must be set aside for small employers. One of the greatest challenges to workforce shortage issues has been the cost of childcare as well as access to childcare.

The legislature also included an appropriation for the technology development of a basic health benefit plan managed under the Medicaid Managed Care Organizations (MCOs), but later in the budget the General Assembly states that the state shall not develop a basic health benefit plan without the express authority of the General Assembly. But after the session concluded, the administration stated they would develop a basic health benefit plan, but have subsequently put it on hold until Jan. 1, 2024.

The House passed its version of the budget early, giving the Senate something they have long desired – time to craft their version of the budget without the end of the legislative session looming. It was surprising how quickly the Senate and House came to agreements on their budget differences and for the most part both chambers got what they wanted. The legislature funded a broadband initiative for rural Kentucky to the tune of $185 million, salary increases for state employees, but no salary increases for teachers, which brought some criticism, especially because the General Assembly approved a pay increase for legislators. Beshear vetoed portions of the executive branch budget and many items were overridden by the legislature. The only vetoes left standing were those technical in nature or those that created a conflict.

Click here to read HB 1

WEST KENTUCKY TORNADO DISASTER RELIEF: The far western Kentucky region was devastated by a tornado that ripped through several western Kentucky communities decimating entire towns in early December of 2021. It was no surprise when the General Assembly quickly and very early in the session passed **HB 5** sponsored by Rep. Richard Heath (R-Mayfield) to appropriate $45 million into a tornado relief fund managed by the Division of Emergency Services. It will help these communities build back and cover tornado recovery costs.

Click here to read HB 5

PROPERTY TAXES:

DARK STORE THEORY: After the House passed **HB 260**, legislation that would prescribe the assessment of commercial properties to include the value of the tenant in the building and not just the value of the land and the building, the Senate assigned HB 260 to the Senate Transportation Committee, where it remained until the end of the session.

House Bill 260 passed the House 66-24. Rep. Patrick Flannery (R-Olive Hill) stood and opposed the legislation, requesting the House adopt two floor amendments to the legislation that would have removed the provisions that would require commercial property to be assessed with the restrictions. One floor amendment was ruled out of order and the other floor amendment would have eliminated all the provisions of HB 260, except for the requirement of the representation by Kentucky licensed real agents, lawyers and certified public accounts for appeal hearings. One floor amendment did pass, changing the requirement regarding appraisals to reference assessments and require them to be based on the assessors' standards or the USPAP, which is the Appraisal Standard. It was adopted by the chamber before it was sent to the Senate.

The Association has opposed the legislation since it was filed, and even though several changes were made, the legislation that passed the House was still harmful to restaurants. Proposed changes to the income approach requiring that the value of the lease include the characteristics of long-term leases attached to the property were removed. What remained was still confusing language on when a PVA uses the sales comparison approach for sales or rentals and require that like properties be assessed only to like properties and exclude the leased properties. Regardless of the positive changes, the legislation would still be harmful to restaurants because it would require the PVA to consider the economic characteristics of the tenant in the building, requiring a shift of the property tax burden to commercial businesses.

Click here to read HB 260

MOTOR VEHICLES: The issue of increased values for motor vehicles went viral as a result of a legislator's social media post which stated that in the 2021 legislative session, he foresaw that the property taxes people pay on their motor vehicles would increase significantly based on the value of used cars increasing in the current marketplace. There were several measures filed in both chambers to try and address this issue. Gov. Andy Beshear said that he would address the issue at the Executive Branch level after arguing that he did not have the authority to take steps to fix the issue. In the end, the legislature passed **HB 6** that states for 2022 and 2023 tax years, the taxpayer shall not pay county and city taxes on the increased value of their car. Beshear quickly signed the legislation and for those who have already paid their licensing and registration for 2022, they are entitled to apply for a refund.

Click here to read HB 6

COMPREHENSIVE TAX REFORM: Each chamber came up with its version of tax reform. The Senate proposed a $500 per individual taxpayer rebate directly to Kentucky voters. This passed the Senate, but was never considered by the House. Instead, the House proposed lowering the personal income tax by 1% immediately and, in exchange, added sales taxes to certain services used by businesses, such as marketing, prewritten computer software, telemarketing services, and others. **House Bill 8** ended up including more tax changes than just lowering the personal income tax; it also became the vehicle for the traditional revenue measure clean up. The personal income tax rate will decrease .5% for the upcoming tax year, if the budget reserve trust fund reaches 10% of the revenues collected and the general fund revenues include enough money to cover the tax reduction and deposit revenues of 10% into the budget reserve trust fund. In order to make-up for the loss of revenues from the personal income tax, sales taxes are added to certain services. Those services include prewritten computer software, marketing, telemarketing, photography services, lobbying services, executive employee recruitment services, website design and hosting, private mailroom services, and security system monitoring services. The new services will not be subject to the sales tax until Jan. 1, 2023.

Other changes include creation of a tax amnesty program, the requirement for electric vehicles to pay a 3 cent per kilowatt hour assessed by the vehicle power dealer. The EV tax would increase annually by the National Construction Cost Index (NCCI). The tax change is not supposed to take effect until Jan. 1, 2024, but the legislation actually required that the tax changes will go into effect Jan. 1, 2023.

The revenue measure adopts the IRS conformity language, except for restaurant revitalization funds meaning that these expenses would not be deductible. The governor vetoed this provision, arguing that punishes restaurants. There is a tax credit created for the decontamination of brownfield sites located within a tax increment financing district that would be refundable. Those who receive the underground storage tank tax credit would not be eligible for this specific tax credit. It does appear to be for a specific project.

Finally, the legislation exempts prescription and over-the-counter animal medications from the sales tax. Currently, the sales tax applies to animal and human over-the-counter medications, but for animal medications prescribed by a veterinarian, they are subject to the sales tax. This would remove the requirement that sales tax be collected on both animal over-the-counter and prescription medications. Included in HB 8 was a tax amnesty program that was originally proposed in **HB 176** that creates tax amnesty program for taxes and penalties issued prior to December 1, 2021.

Click here to read HB 8

Click here to read HB 176

EMPLOYER TAX CREDITS:

ORGAN TISSUE DONATION: **House Bill 47** sought to increase participation in organ and tissue donation by establishing a non-refundable organ and bone marrow tissue donation employer tax credit when paid leave is provided to the donor. The tax credit is equal to the amount paid in salary and benefits during the leave period. The bill did not get referred to a committee or receive a hearing.

Click here to read HB 47

EDUCATIONAL EXPENSES: **House Bill 103** would have established a nonrefundable tax credit for employers making contributions to educational savings accounts on behalf of employees. The bill was referred to the House Appropriations & Revenue Committee, but it never passed the committee.

Click here to read HB 103

STUDENT LOANS: **House Bill 255** would have created a tax credit for employers who make student loan payments on behalf of employees. The tax credit would be nonrefundable of up to 50% of the employers' contributions towards employees' student loans. The bill was introduced, but it never moved.

Click here to read HB 255

TAX EXPENDITURES: **House Bill 143**, introduced by Rep. Ken Fleming (R-Louisville), would have created the Tax Expenditure Review Panel within the General Assembly to regularly review sales tax exemptions and tax credits. The bill would require the panel to review the purpose and success of the tax expenditure and determine whether or not the tax expenditure should continue. It would also look at the impact of tax expenditures on state revenues. The legislation was introduced, but not considered.

Click here to read HB 143

TAX TREATMENT OF RESTAURANT REVITALIZATION FUND GRANTS: Restaurants are being forced to pay additional taxes because of the Department of Revenue's treatment of Restaurant Revitalization Programs. The federal government created the Restaurant Revitalization Fund to allow restaurants negatively impacted by the global COVID1-9 pandemic due to lockdowns and other negative impacts to receive grant funding to ensure that these restaurants could stay in business. The U.S. Internal Revenue Service (I.R.S.) determined that that RRF proceeds used for expenses that would normally be taxable would continue to be deductible. In December of 2021, the Kentucky Department of Revenue announced that due to existing state law, DOR would prohibit the deduction of expenses that would normally be deductible if those expenses were paid for with RRF funds. This hit restaurants receiving the grants with big tax bills at the end of the year. To rectify this problem and make sure that these expenses could be deductible, Rep. Patrick Flannery (R-Olive Hill) proposed **HB 385** that would have allowed for the deduction of expenses, even if it was RRF that paid for these expenses. Members of the House Appropriations and Revenue Committee also introduced **HB 8** that was their version of tax reform and included in the legislation was language that would have required the tax be paid. KRA sought clarification in the Senate, and they passed language in **HB 659** that eliminated the requirement that the tax apply and instead stated that they would comply with the Internal Revenue Code. Unfortunately, it did not include language that was necessary to ensure RRF proceeds used for expenses could be deductible. Given that it was April 14 and Tax Day was around the corner, restaurants that received these proceeds were required to pay back taxes on expenses that they had deducted where RRF proceeds were used. The Association is continuing to work with the administration for a fix on this issue

Click here to read HB 385
Click here to read HB 8
Click here to read HB 659

OCCUPATIONAL LICENSE TAXES: **House Bill 438** sponsored by Rep. Tom O'Dell Smith (R-Corbin) would have allowed a city or county of any size to levy an occupational tax of any amount separately or without the taxes offsetting each other. Today, there is a cap of 1% on occupational license taxes between and the city and county, but this would allow unlimited occupational license taxes without any offset or cap. The bill was introduced, but it did not pass.

Click here to HB 438

LIMITED LIABILITY ENTITIES TAX: **House Bill 445** sponsored by Rep. David Hale (R-Wellington) would have changed the definition of the cost of goods sold to align with the federal definition of cost of goods sold and in turn lowering the overall LLET tax companies would have to pay, but it died in the House Committee on Committees. Another bill impacting the LLET did not see action as well. **House Bill 715**, sponsored by Rep. Patrick Flannery (R-Olive Hill), would have increased the threshold for assessing the LLET tax to businesses making $100,000 or more, but it failed to get assigned to a committee.

Click here to read HB 445
Click here to read HB 715

RESTAURANT TAX: Local governments are not giving up on the idea of expanding the restaurant tax and while it was not their primary legislative goal, they continue to push the issue. To that end, Rep. Tom O'Dell Smith (R-Corbin) introduced **HB 449** that would allow any city or county with a tourism commission to levy up to a 3% on all retail sales at restaurants in their jurisdiction. The bill required the first 25% of proceeds to go towards tourism, 33% to recreational promotion and infrastructure, and the remaining proceeds going to the infrastructure and maintenance of the taxing jurisdiction. A restaurant required to pay the restaurant tax cannot be required to pay occupational gross receipts or net profits tax. The bill was not assigned to a committee.

Click here to read HB 449

CONSTITUTIONAL AMENDMENT: LOCAL OPTION SALES TAX: Rep. Michael Meredith (R-Oakgrove) introduced **HB 475** and **HB 476** to take the steps necessary to make the local option sales tax a reality in Kentucky. A constitutional amendment that would ask the voters to amend the constitution to give the General Assembly the authority to allow local governments to levy any taxes not in conflict with the constitution and then if it was amended nothing would be in conflict with the constitution. Essentially, HB 475 would open the door to allow the General Assembly the authority to levy any local tax; the only restriction would be that any local sales tax would have to match the state base. It could not exclude certain goods or services that the state taxes, and local governments could not pass sales taxes on goods and services that were not included in the state sales tax base. House Bill 476 states that if the constitutional amendment is adopted, no local government could implement a sales tax immediately upon approval of the constitutional amendment. Local government groups argued this was necessary because there are existing state statutes that would allow local governments to levy any local tax not in conflict with the constitution, but others argued that the General Assembly was trying to have their cake and eat it too, arguing that they didn't pass legislation authorizing a local sales tax. The politics of taxes can make it tricky to adopt these constitutional amendments. House Bill 475 passed the House, and it looked like the Senate might give final passage to HB 475 as the legislation kept getting readings, keeping the legislation on life support. The Association fought hard against the legislation and it did not get a hearing in committee or a full vote in the Senate. This doesn't mean that local government groups are giving up and they will likely return in two years to try and put the measure on the ballot.

Click here to read HB 475

Click here to read HB 476

PROPERTY TAX REFUND SPECIAL PURPOSE GOVERNMENT ENTITIES: **House Bill 504**, sponsored by Rep. Matt Lockett (R-Nicholasville), would have established a taxpayer refund procedure in situations where a special purpose government entity did not follow the appropriate proceeds for establishing a tax rate. The bill was referred to the House Local Government Committee where it easily passed and subsequently to the House floor where it passed 90-0, but after being referred to the Senate State and Local Government Committee, the bill died in the committee.

Click here to read HB 504

TRANSPORTATION INFRASTRUCTURE DISTRICTS: **House Bill 274** passed allowing local governments with a population of 20,000 or more to establish transportation improvement districts that would be considered a special purpose government entity and therefore would be authorized to levy property taxes that could be created for a specified area for the construction of roads, parking or other transportation needs. The Transportation

Improvement District could receive funds as well. The legislation did not have any opposition and passed easily through both chambers. The General Assembly sees the legislation as something that can assist with the underfunded road fund at a time when increasing the gas tax is not politically palatable.

Click here to read HB 274

LOWER SALES TAX RATE: Gov. Andy Beshear was pressed by Senate Republicans that his Department of Revenue was not taking the appropriate steps to ensure that motor vehicle owners required to pay property taxes on vehicles weren't getting hit with higher than necessary property bills because of the increased value of used cars inflating the value of motor vehicles. The Senate argued that the legislature did not to take action on this issue and that Beshear could do it on his own. Inspired by this edict, Behsear agreed with the Senate that it was time to return some money to the people to help manage the costs experienced by consumers because of inflation. To that end, he proposed a temporary one-time drop in the state sales tax rate from 5% to 4%. **House Bill 508** sponsored by Rep. Angie Hatton (D-Whitesburg) would have made this proposal a reality, but it was never considered by the Republican legislature. Instead, the General Assembly opted to lower the personal income tax and add additional services to the sales tax base.

Click here to read HB 508

SALES TAX REBATE STATE PARKS: **Senate Bill 183** would have established a sales tax rebate program for state run parks, restaurants and entertainment venues, where the facilities would apply to participate in the program and receive 100 percent of the sales tax collected at these venues in a sales tax rebate annually. It never received a committee hearing and died in the Senate Appropriations & Revenue Committee.

Click here to read SB 183

PERSONAL INCOME TAX REBATE: The Senate's refrain about the increased revenues receipts the state continued to see over the last few years is that it was time to return tax revenue to the people, and they demonstrated that refrain by introducing **SB 194** that would have for the tax year starting Jan. 1, 2022-Dec. 31, 2022, establish an individual income tax economic recovery tax rebate of $500 per individual. The Senate quickly passed this legislation, which was also a response to Beshear's proposed lowering of the sales tax rate, but the House did not go along with such a change. Instead, both chambers agreed to lower the personal income tax rate .5% and expand the state sales tax to additional services.

Click here to read SB 194

TOBACCO SALES AND USE ISSUES

LOCAL REGULATION OF TOBACCO: The Government Affairs Team was once again able to beat back a bill regulating the local sale of tobacco. Sen. Wil Schroder (R-Wilder) filed **SB 166** that would have allowed local governments the authority to regulate the use sale, display, or distribution of tobacco and vapor products that are more restrictive than state regulation. The bill was opposed because it would create a patchwork of local regulations and could have opened the door to local governments to put more taxes on tobacco products or ban them outright. The bill was assigned to the Senate Health and Welfare Committee but was never heard.

Click here to read SB 166

TRANSPORTATION ISSUES

ELECTRIC VEHICLES: As electric vehicles become more popular with consumers, the General Assembly is looking for ways to ensure that electric vehicle owners pay their fair share of taxes dedicated to the road fund. Additionally, the legislature wants to be more involved and engaged in the federal grants states are receiving to deploy electric vehicle charging stations throughout the state.

ELECTRIC VEHICLE CHARGING TAX: Proposed comprehensive tax changes contained in **HB 8** passed the Senate and agreed to in the House include a proposed 3 cent per kilowatt hour tax on electric vehicle charging stations. Originally, the tax would automatically increase annually based on the National Construction Cost Index (NCCI) starting Jan. 1, 2023, and the annual increase or decrease could not exceed 5%. This date is significant in the fact that the Senate publicly stated that this tax would not begin until Jan. 1, 2024, to give those interested parties time to discuss the issues related to charging of such a tax. it is unclear if three cents per kilowatt hour is the appropriate amount and how the state will manage taxing at-home vehicle charging. The Senate recognized that the date finally included in HB 8 was incorrect and subsequently corrected the date in **HB 659**. Now, the electric vehicle charging tax will not take effect until Jan. 1, 2024. It will be a priority discussion in the 2023 legislative session.

House Bill 568, sponsored by Rep. Jim Duplessis (R-Elizabethtown), as introduced would create a similar electric vehicle charging tax of 3 cents per kilowatt hour collected by the electric power dealer. The dealer would be responsible for remitting the tax and it would be indexed to the National Construction Cost Index (NCCI) that would increase annually. It also included an annual electric vehicle and hybrid vehicle charging registration of $140 for electric vehicles and $70 for hybrid vehicles that would be paid by the owner. The bill did not advance in the 2022 legislative session.

Click here to read HB 8
Click here to read HB 659
Click here to read HB 568

ELECTRIC VEHICLE INFRASTRUCTURE: **Senate Bill 347**, introduced by Senate Transportation Committee Chair Jimmy Higdon (R-Lebanon), would have required that if the federal government changes the electric vehicle charging infrastructure grant program parameters then the state's plan would be required to place electric vehicle charging stations at public rest stops. The legislation also stated when the state is awarding grants it must create an allocation formula that favored local governments and public schools, but these provisions were removed and amended in the House. The bill did not pass in the end, because the sponsor's stated goal for the legislation was to require the cabinet to provide the General Assembly with a briefing on the state plan. In **HB 241**, language was included to require that the cabinet present its electric vehicle charging infrastructure plan to the Interim Joint Committee on Transportation by June 30, 2022.

Click here to read SB 347

Click here to read HB 241

TAX CREDIT ELECTRIC VEHICLE INFRASTRUCTURE: **Senate Bill 370** would have created a new nonrefundable income tax credit for individuals or corporations installing electric vehicle charging stations on their property. Residential installations would be eligible for a credit up to $1,000 and commercial businesses would be eligible for a $30,000 tax credit on businesses taxes for installation of DCFC charging station. The bill was referred to the Senate Appropriations & Revenue Committee where it remained until the end of the legislative session.

Click here to read SB 370

MANDATORY HEADLIGHTS: Rep. Richard White (R-Morehead) introduced **HB 40** that would have required vehicle headlights to be on during any precipitation requiring the use of windshield wipers. Kentucky doesn't currently have a 'rain dance' law like many other states. Violations would have been subject to a traffic violation after Jan. 1, 2023. The bill was introduced, but it did not advance.

Click here to read HB 40

DISTRACTED DRIVING: Rep. James Tipton (R-Taylorsville) proposed a measure to address distracted driving that was referred to the House Banking & Insurance Committee and scheduled for a hearing, but ultimately was not heard. **House Bill 258** would have prohibited the use of any electronic device while driving. For those under the age of 18, they would be prohibited from using the electronic devices while driving without exception. For adults, they would be permitted to use electronic devices in hands-free mode. The definition of 'use' includes reaching or holding a portable electronic device, but it doesn't not include voice texting or voice commands. The penalties for violating the policy would have been $50 on first offense, second offense $100, and no more than $200 for the third event and the driver would lose 3 points on their license. Ultimately, the measure did not advance this legislative session, but it is expected to come back.

Click here to read HB 258

TRANSPORTATION IMPROVEMENT DISTRICTS: One measure that did pass is **HB 274**, sponsored by House Budget Review Subcommittee Chair Sal Santoro (R-Union), that allows local governments to create a new type of special purpose governmental entity called a Transportation Improvement District (TIDs). Any city with a population of more than 20,000, a county, or a combination of no more than three counties can form a Transportation Improvement Plan District with the goal of funding transportation infrastructure projects within a certain area. The proponents argue that it will help developers with these needs for specific projects. A TID would be able to levy property taxes to fund the transportation projects within specific areas – just like other SPGEs. The legislation easily passed the House and Senate with little opposition. The new entity would be able to purchase land and issue bonds, but no project could proceed forward without the authority of the local government(s) who approved the TID. The governor signed the legislation, and it takes effect July 14, 2022.

Click here to read HB 274

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TEMPORARY VEHICLE TAGS: House Bill 321 makes temporary vehicle license plates valid for an additional 30 days, making them valid for a total of 60 days. The bill was signed by the governor, and it will take effect July 14, 2022.

Click here to read HB 321

COMMERCIAL DRIVER'S LICENSING: Supply chain issues and finding employees to work, including truck drivers, was an issue of interest to legislators. For that reason, multiple bills were introduced to try and address the commercially licensed driver shortages across Kentucky. Rep. Chris Freeland introduced **HB 693** that would exempt a federally credentialed CDL training facility from state regulations, and it was amended in the House to add a provision to allow drivers whose CDLs had been expired for five years or less to have that CDL license renewed. Freeland also introduced **HB 538** that included the provision regarding the expired CDL licenses. House Bill 693 passed the House and was assigned the Senate Transportation where it remained until the end of the session. The issue though would not die in committee as proposed legislation in the Senate would take the same steps to ease restrictions on commercial truck driver licensing in the hopes of getting more truck drivers on the road. **Senate Bill 124**, sponsored by Sen. Phillip Wheeler (R-Pikeville), allows a person whose commercial driver's license (CDL) has been expired for less than five years to get their licensed renewed without having to retake examinations, so long as their license was not revoked and they submit the appropriate medical certifications. For Hazard Chemicals Endorsements, the driver would be required to retake the hazardous chemical endorsements. The legislation also exempts entry level CDL training programs from undergoing separate state licensing for the training program so long as the program complies with the federal program standards. The bill passed both chambers and was signed by the governor.

Senate Transportation Committee Chair Jimmy Higdon (R-Lebanon) introduced **SR 144** that urges the U.S. Department of Transportation to reconsider recent federal requirements for entry-level commercial CDL drivers with a hazardous material endorsement. The resolution was adopted by the chamber meaning a letter was sent making this request.

Click here to read HB 693
Click here to read HB 538
Click here to read SB 124
Click here to read SR 144

REFORMULATED GASOLINE: Once Russia invaded Ukraine and gas prices began to soar, a renewed focus was on the issue and cost of reformulated gasoline that is required for certain population attainment areas including Louisville and Northern Kentucky. **House Concurrent Resolution 124** urges President Joe Biden to remove the federally mandated reformulated gasoline requirements for Jefferson County and other areas through the end of year to allow families to see some ease of gasoline prices. The resolution passed the House 82-7.

Click here to read HCR 124

VIDEO TRAFFIC MONITORING: Democratic Sen. Reggie Thomas of Lexington proposed **SB 19** that would establish a video traffic control monitoring program at intersections capable of capturing traffic violations and require the violator to pay a $50 fine. The bill was referred to the Senate Transportation Committee, where it remained until the end of the legislative session.

Click here to read SB 19

LOCAL REGULATION OF TRUCK WEIGHTS: **Senate Bill 219**, sponsored by Sen. Mike Nemes (R-Shepherdsville), would have allowed counties to regulate or prohibit the operation of vehicles and semitrailers on state and county roads, if damaged roads could be damaged further if truck weights or speed exceed safe amounts. It would have also allowed cities to regulate overweight trucks on city roads. It was referred to the Senate Transportation Committee and died there, but the issues resurfaced in the House by way of an amendment on **SB 124**. The amendment would have allowed counties to regulate the truck weights on county roads and did not include the provision to allow them to regulate the truck weights on damaged state roads. The amended version of SB 124 passed the House Transportation Committee, but that section was removed by a floor amendment before SB 124 passed off the House floor. The bill was signed by the governor.

Click here to read SB 219

Click here to read SB 124

SUPER SPEEDERS: Sen. Ralph Alvarado (R-Winchester) introduced **SB 282** that would increase fines and penalties for those driving 20 miles or greater over the speed limit by adding a $200 additional fine that had to be paid within 90 days. The bill died in the Senate Transportation Committee.

Click here to read SB 282