

Kentucky Restaurant Association
SESSION SUMMARY
2023 KENTUCKY GENERAL ASSEMBLY

DATE

The 2023 legislative session of the Kentucky General Assembly concluded its 30-day session on March 30, and for restaurants it was a successful legislative session. Even though House and Senate leadership told advocacy groups that this session was going to be a quiet session, where not much would pass, restaurants achieved successes on multiple issues. This includes removing the sales tax from marketing services, avoiding an expanding of the sales tax to online or internet advertising, tax treatment of Restaurant Revitalization Grant funds, and even stopped legislation harmful to the industry.

In the 2022, legislative session, restaurants advocated for passing a legislative fix that would ensure ordinary businesses expenses typically deductible if paid for through ordinary business income could be deductible on income taxes even if paid for through Restaurant Revitalization Grant funds, but the language only addressed grants received in 2023, so restaurants needed a statutory change. House Bill 360 was the bill that included language to make this fix and ensure that restaurants could seek refunds for the 2022 tax year as well, and it passed and was signed by the governor.

There were big issues addressed in Kentucky including legalizing sports wagering, skills-based games or gray machines, and medical marijuana.

The 2022 general election once again saw a new class of freshman legislators, three of whom be political powerful incumbents. The tension of the new ‘liberty’ legislators and the rest of the caucus could be felt throughout the session and in both chambers. Next session will be similar, and the tensions may rise as legislators wrestle with crafting a budget.

The effective date of legislation that doesn’t contain an emergency clause or a delated effective date is June 29, 2023.

The following narrative summary is arranged alphabetically by issue are and highlights some of the key issues affecting KRA during the 2023 legislative 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 introduced.

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](#); and [Transportation Issues](#)

Alcoholic Beverage Sales Issues

Bourbon Barrel Tax: Kentucky distillers have long expressed concerns about the application of the inventory tax to bourbon aging in barrels. The industry refers to this tax as tax on the manufacturing of bourbon, but cities and counties where bourbon warehouses are located-call the revenue received from the tax necessary to provide critical government services such as education, police, and fire services. The popularity explosion of bourbon has left many distillers looking for places to locate bourbon barrel warehouses in Kentucky, but other states want to be a

part of the boom, and that is when bourbon distillers claimed Kentucky was on the verge of losing distilleries to other states without an inventory tax on aging bourbon. In the 2022 legislative session, a measure was passed to create the Bourbon Barrel Task Force. The task force met over the 2022 interim, and while no report or conclusion was reached, it was clear that legislators were supportive of eliminating the bourbon barrel tax and protecting one of its favorite signature industries.

House Bill 5, sponsored by Speaker of the House David Osborne (R-Prospect), would have exempted from the inventory tax 3% of the value of the barrel and bourbon. It would gradually exempt the total value of the barrel and the bourbon by 3% each year, starting Jan. 1, 2026, until 100% of the value was exempt from the inventory tax. Local governments claimed that the bourbon industry did not need these tax incentives and explained that many communities already provide bourbon distilleries in their communities with tax incentives in the form of industrial revenue bonds. The bill passed the House with changes in the Appropriations and Revenue Committee adding a provision that would hold K-12 schools harmless and create a new bourbon barrel fee that local government organizations would levy against distilleries. Local governments with a significant number of bourbon barrel warehouses located in their communities continued to oppose the measure. On the last day of the session, the Senate adopted another version of the legislation that would phase out the bourbon barrel inventory tax by 2043. The phase out would begin on Jan. 1, 2026. Impacted school districts would receive a hold harmless amount based on property tax revenues equal to the amount received on Jan. 1, 2023. Emergency and fire service districts would be able to levy a fee on warehouses to pay for the services the warehouses utilize. The bill passed the Senate, was agreed to by the House, and was signed by Gov. Andy Beshear. After the adjournment of the legislative session, some local government leaders announced a moratorium on the location of bourbon distilling warehouses in their communities.

[Click here to review HB 5](#)

Small Farm Wineries Self Distribution: One of the first measures to advance this session was **SB 28** sponsored by Sen. Mike Wilson (R-Bowling Green) that would allow for small farm wineries to sell and deliver to restaurants up to 30,000 gallons of wine, not registered with a licensed wine and spirits wholesaler. The Kentucky Wine and Spirits Wholesalers Association opposed SB 28 in its original form arguing that it would allow out-of-state small farm wineries the same privileges, and that the amount they would be able to self-distribute was too much. After legislators told the small farm wineries and the wholesalers to work it out, they reached an agreement. The final version of SB 28 limited self-distribution from a small farm winery to 12,000 gallons per year. Additionally, no out-of-state small farm wineries could self-distribute. The amount purchased between small farm wineries would be limited to 500 gallons. Once an agreement was reached, the measure passed and was subsequently signed by the governor. The bill contained an emergency clause and became effective upon the governor's signature.

[Click here to review SB 28](#)

Bouncer Certification: For several legislative sessions, Rep. Lisa Wilner (D-Louisville) has introduced legislation that would require bouncers hired by bars and restaurants to obtain bouncer certification and training. Law enforcement officers would also be required to go through training that teach de-escalation techniques and how serving as a bouncer is different

from traditional law enforcement situations. The bill was much improved this year, clarifying that the law would not apply to servers simply checking I.D.s for age verification. It also restricted the businesses that the bill would apply to, limiting it to bars only. The bill did pick up two Republican co-sponsors, House Health Family Services Chair Kim Moser (R-Taylor Mill) and Rep. Danny Bentley (R-Russell). A person wanting to work as a bouncer in a bar would be required to receive Server Training in Alcohol Regulations, including a bouncer education and certification. It would also require the Department for Alcoholic Beverage Control (ABC) to establish a website that would contain a registry for businesses to check and see if a bouncer is in good standing and has received bouncer certification. It would also require the ABC to collect, store and publish information about bouncer complaints. Any business who failed to comply with the requirements could receive a fine or be subject to license suspension or revocation. The bill was not considered by committee. It is not expected that this legislation will go away.

[Click here to review HB 143](#)

Entertainment Districts Expansion: Rep. Michael Meredith (R-Oak Grove) introduced and successfully passed **HB 237** that allows patrons of areas deemed entertainment districts—where patrons can walk from business to business in open areas and purchase and carry alcohol beverages—to carry beverages into non-licensed premises if the business agrees and is contained within the entertainment district or adjacent to it. Non-licensed businesses are required to receive permission from the entertainment district before allowing patrons to possess alcohol on the premise.

[Click here to review HB 237](#)

FAILED

Alcohol Licensing Fee Study: Sen. Jimmy Higdon (R-Lebanon) tried to pass a resolution that would have required the Department of Alcohol Beverage Control to study its licensing fee structure to ensure that all licensees were paying an amount to cover the costs of the regulatory and oversight needs. Senate Joint Resolution 12 made it close to the finish line, but it failed.

[Click here to review SJR 12](#)

Wine Corkage: Senator Robin Webb (D-Grayson) once again proposed legislation to allow a customer to bring their own wine to a restaurant or private club, but once again it did not move. The restaurant would be able to charge a corkage fee. The wine could not be available for purchase at the restaurant and limited to two bottles. (**SB 44**)

[Click here to review SB 44](#)

Alcohol Server Training Fees: **Senate Bill 83** would have capped the amount of fees a server could be required to pay for S.T.A.R server training to \$10 per server per certification period. It failed to receive a committee hearing.

[Click here to review SB 83](#)

Consumer Protection Issues

Automatic Renewal of Subscriptions: In the 2022 legislative session, a bill that would have made sweeping changes and placed significant burdens on businesses offering subscription

services that automatically renew, nearly passed the legislature. KRA worked to ensure that it did not pass. Instead, we promised to work on compromise legislation that would take into consideration the restaurants' concerns. Restaurants and other interested businesses worked together over the interim to draft compromise legislation that would not be overly burdensome to restaurants and other subscription-service businesses. Sen. Rick Girdler (R-Somerset) introduced **SB 30** this session that requires all businesses providing for automatic renewal of subscription or membership services to provide customers with clear and conspicuous information within the agreement, notify the customer it will automatically renew, and provide information on how to cancel the subscription. A customer must be able to cancel a subscription service online, but online includes sending email as well. All complaints will go to the Office of the Attorney General, and the business will have the right to cure the first violation. If the retailer receives another violation from OAG, then they could be subject to a penalty of no more than \$500 per occurrence. Senate Bill 30 applies to contracts created after the effective date of the Act, which is Jan. 1, 2024.

[Click here to review SB 30](#)

Data Privacy and Security: Data privacy and security policy was once again discussed in the Kentucky General Assembly. Sen. Whitney Westerfield (R-Crofton), who recently announced that he will not seek reelection in 2024, has for three years pushed legislation to make sweeping changes to data privacy and security laws. Westerfield knows a lot about data privacy and security and has a passion for the issue. In the 2022 legislative session, he proposed SB 15 (2022) that contained some novel concepts, borrowed from Europe and the California data privacy laws. It also contained a private right of action for injunctive relief. The bill failed to receive a committee vote in the Senate, but Westerfield made it clear that he would return in the next legislative session with a similar proposal.

After the close of the 2022 legislative session, the government affairs team gathered a coalition of businesses and business organizations to work on all the data privacy and security legislation moving through the Kentucky General Assembly with the goal of proactively seeking solutions to data privacy and security legislation that would protect consumers and ensure that restaurants were not harmed in the process. We met with Westerfield to try and reach a consensus, but he refused to make any changes to the legislation. **Senate Bill 15 (2023)** was a uniquely restrictive bill that applied to restaurants with 25,000 or more customers who control or process consumer data. The bill required compliance with the customer rights provided in the legislation which included a consumer right to request whether or not data is being tracked, delete personal data, obtain a copy of what is being tracked, opt-out of targeted advertising, and opt-out of the sale of personal information. The legislation contained requirements for a consumer to opt-into tracking and targeted advertising and the definitions included were difficult for restaurants to understand. Essentially, the legislation as originally drafted, would have put a digital fence around Kentucky that would stifle business innovation and frustrate consumers.

The bill was assigned to the Senate Economic Development Committee where a committee substitute was introduced to remove the private right of action. While members of the committee raised concerns, the bill came out of committee. The bill waited for floor action and in the meantime, Senate Majority Floor Leader Damon Thayer (R-Georgetown) filed a floor amendment that would have removed the provisions of SB 15 and inserted language from the Virginia model data privacy legislation that is seen as the compromise policy. As the bill

continued to wait for further action, Westerfield filed a floor amendment that, if adopted, would have changed all the opt-in requirements to opt-out requirements. The bill came to a vote and Westerfield argued that he had addressed all the concerns of the Association and that Thayer's amendment gutted the legislation. Thayer moved to withdraw his floor amendment and spoke against SB 15, arguing that it would increase business operating costs and lead to increased consumer costs. Prior to passing the Senate floor, the Westerfield floor amendment removing the opt-in requirements was adopted.

The bill next moved to the House, but it never received a committee hearing. The House indicated that their preference for legislation more closely aligned with the Virginia model. The House argued that there was a data privacy solution that could protect consumers while not restricting business's ability to innovate. House Small Business, Tourism and Technology Committee Chair Phillip Pratt (R-Georgetown) and Rep. Jennifer Decker (R-Waddy) proposed **HB 301** that did not contain a private right of action, and did not require consumers to opt-into tracking and selling of consumer data. The bill never received a committee hearing, as it was meant to send a message to the Senate that the House supported data privacy legislation that mirrored Virginia.

[Click to here to review SB 15](#)

[Click here to review HB 301](#)

FAILED

Biometric Data Privacy: Newly elected Rep. Steve Doan (R-Erlanger) introduced **HB 483** that would have required companies retaining and selling biometric consumer data including fingerprints, face prints, and other biometric data to develop a retention and destruction schedule for data, prohibit the sale of biometric information without the knowledge of the consumer, and prohibit the disclosure of the biometric information. Any consumer whose biometric data was misused would be eligible for actual and punitive damages and the attorney general could also take action. The bill passed out the House Small Business Committee, but it failed to get a vote on the House floor. Doan filed a floor amendment removing the private right of action for actual and punitive damages, but the measure still failed in the House.

[Click here to review HB 483](#)

Criminal Justice & Loss Prevention

Criminal Statistical Analysis Center: **House Bill 535**, sponsored by Rep. Stephanie Dietz (R-Edgewood), passed and was signed by the governor. It could assist with organized retail theft by providing better data collection and analysis of criminal justice statistics that might help quantify theft crimes and their impact on Kentuckians. It expands the Criminal Statistical Analysis Center to allow it to analyze crime statistics as it sees fit instead of requiring local or state law enforcement agencies to request the information.

[Click here to review HB 535](#)

Automatic License Plate Readers: Sen. Jimmy Higdon (R-Lebanon) filed **SB 129** that ultimately failed to pass, but it did advance in the Senate. As introduced, it would have prohibited the use of automatic license plate readers (ALPR), including those used by businesses to prohibit theft. A company using an automatic license plate reader could only share or sell the information collected with law enforcement or as a result of a subpoena. Concerns were raised

that there should be exemptions to the requirements in the instances of ALPR's monitoring retailer parking lots, and these changes were made in the House version. The House also added language that would establish a regulatory framework for autonomous vehicles. This was opposed by Higdon and the bill failed because the Senate did not agree to the House's changes.

[Click here to review SB 129](#)

Expungement: There were two measures introduced to expand expungement of crimes, but only one passed. **House Bill 369**, sponsored by House Majority Caucus Chair Suzanne Miles (R-Owensboro), allows for the expungement of multiple felonies, and it was the one that passed. The current law only allows for the expungement of a series of felonies connected to one incident, but **HB 369** would allow for the expungement of multiple felonies even if they were separate criminal convictions.

House Bill 588 failed to pass, but as introduced it would require the Administrative Office of the Courts (AOC) to establish an automatic expungement process. The process would require automatic expungement if the convicted individual had not been convicted of a crime in five years, and the individual would have to wait for the automatic expungement until at least five years after completion of their sentence. No request for expungement would be made by the offender; instead, the courts would automatically file the expungement once the conditions were met. The bill did not receive a hearing, but the issue is expected to return in the next legislative session.

[Click here to review HB 369](#)

[Click here to re view HB 588](#)

FAILED

Persistent Felony Offender: **Senate Bill 225**, sponsored by Sen. Brandon Storm (R-London) would remove the mandatory enhanced penalty for a persistent felony offender. Instead, a jury would be allowed to choose if an enhanced penalty should apply. It passed out of committee but failed to receive a floor vote.

[Click here to review SB 225](#)

Out-of-jurisdiction Sheriffs: **Senate Bill 41** failed to receive a committee hearing. Sen. Mike Nemes (R-Louisville) filed the bill that would have given sheriffs and deputy sheriffs statewide jurisdiction allowing them to make arrests anywhere in the state, but the out-of-jurisdiction sheriff would be required to extend some courtesies to an in-home sheriff, however their arrest powers would be broad.

[Click here to review SB 41](#)

Theft of Services: **House Bill 109** failed to even receive a committee vote, but as introduced it would expand the definition of theft of services to include when a customer doesn't return rented equipment on time and according to the contract.

[Click here to review HB 109](#)

Development & Growth Issues

Environmental Permitting: Governor Beshear vetoed **SB 226** which would speed up environmental permitting applications under the Clean Water Act and Surface Mining Control and Reclamation Act. It would prohibit the Division of Water from requiring surface mines to limit pollution dumping in streams and rivers to protect endangered species. Surface mines argue that they need an expedited process to ensure mines can continue to operate. Beshear wrote in his veto he believed the EPA could take over Kentucky's permitting process because Kentucky would be violating the Clean Water Act under this legislation. The legislature overturned the Governor's veto and made it law.

[Click here to review SB 226](#)

FAILED

PFAS: Rep. Rep. Nima Kulkarni (D-Louisville) tried once again to pass legislation targeting levels of PFAS chemicals and monitoring requirements (**HB 197**). PFAS chemicals have been used in a wide range of consumer and industrial products since the 1940's due to their resistance to grease, oil, water, and heat. The bill would have directed the Energy and Environment Cabinet to establish maximum PFAS chemical limits and monitoring requirements for drinking water provided by public and semi-public water systems and discharges into the Commonwealth's waters.

[Click here to review HB 197](#)

Water Fluoridation: **House Bill 74** would have made water fluoridation programs voluntary by allowing local governments elect to participate. The bill was sent to the State Government Committee in February, but was never heard.

[Click here to review HB 74](#)

Building Code Violations: **House Bill 251** would have amended statutes to establish criteria for a violation for deviation from the Uniform State Building Code. It was never assigned to a committee.

[Click here to review HB 251](#)

Energy and Environment Issues

Retirement of Coal-fired Powerplants: One of the Senate's priority pieces of legislation was protecting coal as a fuel for utilities, and it became law without Gov. Andy Beshear's signature. **Senate Bill 4**, sponsored by Sen. Robby Mills (R-Henderson), creates a rebuttable presumption for the retirement of coal plants and requires that utilities go through an additional process to shut the coal-fired plants down. Utility companies argued against the bill saying it would require them to keep plants open even if it was not functional or needed significant repairs to meet environmental guidelines. Legislators argued that consumers are being negatively impacted because they experience rolling blackouts, and something must be done to ensure reliability.

[Click here to review SB 4](#)

PFAS: Rep. Nima Kulkarni (D-Louisville) tried once again to pass legislation targeting levels of PFAS chemicals and monitoring requirements (**HB 197**). PFAS chemicals have been

used in a wide range of consumer and industrial products since the 1940's due to their resistance to grease, oil, water, and heat. The bill would have directed the Energy and Environment Cabinet to establish maximum PFAS chemical limits and monitoring requirements for drinking water provided by public and semi-public water systems and discharges into the Commonwealth's waters.

[Click here to review HB 197](#)

Passed

Environmental Permitting: Senate Bill 226 establishes the presumption in water discharge permitting that water quality will be maintained. The bill was vetoed by Beshear, but overrode by the legislators.

[Click here to review SB 226](#)

Hazardous Waste Assessment: House Bill 222 extends the hazardous waste assessment collection until 2032. Beshear signed the bill into law.

[Click here to review HB 222](#)

Failed

Solar Geoengineering and Weather Manipulation: House Bill 552 would have prohibited any state or local government agency from reflecting sunlight into space or any other weather modification. The bill was never assigned to a committee.

[Click here to review HB 552](#)

Clean Air and Water Constitutional Amendment: House Bill 140 proposed to amend the Constitution to establish the right to a clean environment. The bill was never assigned to a committee.

[Click here to review HB 140](#)

Food Sales & Service Issues:

PASSED

Loitering of Sex Offenders: Registered sex offenders are prohibited from loitering within 1,000 feet of, working in, or operating food trucks, ice cream trucks or other mobile businesses, because of the passage of **SB 80**. It was signed by the governor and the legislation takes effect Jan. 1, 2024.

[Click here to review SB 80](#)

Skills Games or Gray Machines: Traditional Kentucky gambling interests cried foul over the so-called gray machines or skills-based games that came into the state and placed primarily in convenience stores and restaurants. The gamemakers argued that their machines were skills-based and legal under existing Kentucky law. In turn, an organization funded by Churchill Downs – Kentuckians Against Illegal Gambling - argued that the companies came in the “dark of night” and placed these machines illegally and were leading to increased crime across the Commonwealth. It was the most heavily lobbied issue of the session. **House Bill 594**, sponsored by Rep. Killian Timoney (R-Lexington), prohibits the existence of skills-based games

operated on machines, except for entertainment or coin operated games found in establishments such as Chuck E. Cheese and Dave and Busters. The Association worked to ensure that games of entertainment could continue and successfully lobbied for language be included to protect these games as well as e-sports. The bill passed the House and the Senate and was signed quickly by the Governor. It doesn't take effect until June 29, 2023. Machines will have to be removed or locations that keep them in place could face fines and penalties of \$25,000 per machine. This is for each person who conducts, manages, supervises, or owns the machines. A lawsuit was filed by Pace-o-matic, one of the skills-based game manufacturers, against Attorney General Daniel Cameron requesting an injunction against Cameron's enforcement of the legislation. Cameron filed a motion in Franklin Circuit Court, asking for a change of venue, and Pace-o-matic filed another lawsuit in Franklin Circuit claiming that legislation passed that allowed Cameron to make such a request is unconstitutional. That question is moving through the courts now and after the venue change issue is decided, the case on skills games or gray machines can be adjudicated. Restaurants should ensure the machines are removed from locations around 30 days prior to implementation of the legislation.

[Click here to review HB 594](#)

FAILED

Unregulated Poultry Sales: Rep. Savannah Maddox (R-Dry Ridge) introduced **HB 117** that failed to receive a committee hearing, but if adopted would have allowed farmers to sell poultry to end users slaughtered on the farm without complying with federal slaughtering rules. The products could be sold from the farm or at roadside stands.

[Click here to review HB 117](#)

General Business Issues

Sports Wagering: As state after state legalized sports wagering, Kentucky waited, and the sports wagering interests continued to push hard. The turning point appeared to be when Senate Majority Floor Leader Damon Thayer (R-Georgetown) announced that he supported **HB 551**, sponsored by House Banking & Insurance Committee Chair Michael Meredith (R-Oakland), and helped shepherd it through the process. The bill legalizes sports wagering through Kentucky licensed horseracing tracks, where each track will enter into a licensing agreement with existing sports wagering platforms. In-person sports wagering will occur only at licensed horseracing tracks. The Kentucky Horse Racing Commission will be responsible for developing the regulations and Kentuckians are hoping that it will be available by the start of football season.

[Click here to review HB 551](#)

ESG in Public Pensions: Rep. Scott Sharp (R-Ashland) introduced **HB 237** that prohibits investment advisors to the Kentucky Public Pension Systems, including the County Employee Retirement Systems (CERS), from considering nonpecuniary interest, including but not limited to environmental, social, political, or ideological interest which does not have a direct material connection to the financial risk or return of an investment. Material connection is established if there is a substantial likelihood that a reasonable investor would consider it important in determining financial risk or the financial return of an investment. Evidence that a

fiduciary for the retirement systems has acted outside of the best financial interest shall include statements, explanations, reports or correspondence, votes of shares or proxies. There will have to be a quarterly report produced of all proxy votes. All fiduciaries for the state retirement systems will be required to agree to only consider financial investments that are in the best interest financial interest of the members. The bill passed over objections of securities and financial groups.

[Click here to review HB 237](#)

Gray Machines/Skills-based Games: It was one of the most costly lobbying campaigns in Kentucky history, where both the skills games makers and the horse tracks spent significant money on lobbying the General Assembly. Existing gambling interests argued that these gray machines or skills-based games that came into the state and operated primarily in convenience stores and restaurants without any legal authority to do so. The game makers argued that their machines were skills-based and legal under existing Kentucky law, an organization funded by Churchill Downs—Kentuckians Against Illegal Gambling—argued that the companies came in the “dark of night” and their presence has led to increased crime across the Commonwealth. **House Bill 594** sponsored by Rep. Killian Timoney (R-Lexington) prohibits the existence of skills-based games operated on machines, except for entertainment or coin operated games found in establishments such as Chuck E. Cheese and Dave and Busters. The Association worked to ensure that games of entertainment could continue and successfully lobbied for language changes to protect these games and e-sports. The bill passed the House and the Senate and was signed quickly by the Governor. It takes effect on June 29, 2023. Machines will have to be removed or restaurants could face fines and penalties of up to \$25,000 per machine. This is for each person who conducts, manages, supervises, or owns the machines. A lawsuit was filed by Pace-o-matic, one of the skills-based game manufacturers, against Attorney General Daniel Cameron requesting an injunction against Cameron’s enforcement of the legislation. Cameron filed a motion in Franklin Circuit Court, asking for a change of venue, and Pace-o-matic filed another lawsuit in Franklin Circuit claiming that legislation passed that allowed Cameron to make such a request is unconstitutional. That question is moving through the courts now and after that issue is decided, the case on whether the ban on gray machines or skills-based games is constitutional will be considered. Restaurants should ensure the machines are removed from their locations within 30 days of implementation of the legislation.

There was legislation filed by Rep. Steve Doan (R-Erlanger) to legalize the skills games and tax them, but after long caucus meetings it was determined that the votes were not there to legalize and tax these machines. (**HB 525**)

[Click here to review HB 594](#)

[Click here to review HB 525](#)

Judgement liens: Sponsored by Rep. Patrick Flannery (R-Olive Hill), **House Bill 83** as it passed the legislature will allow judgement liens to expire after 10 years unless the creditor’s attorney files a notice to the court.

[Click here to review HB 83](#)

Local government procurement: **House Bill 522** and **HB 393** passed the legislature, and both make changes to the local government procurement process of professional services and goods. The first increases the minimum amount for a no-bid contract for local governments

from \$30,000 to \$40,000. House Bill 393 allows a local government to accept a bid from a single source, if that is the only entity that can provide the services, if the entity is a nonprofit providing certain services, replacement parts, or they are the only service provider in the geographic area of the local government. Both will take effect June 29, 2023.

[Click here to review HB 522](#)

[Click here to review HB 393](#)

Notarial Acts: Under the provisions of **SB 123**, notarial acts that occur outside of the state of Kentucky and performed by a notary in that state shall be recognized if they are for a legal or civil action originating in this state. The bill passed and was signed by the governor.

[Click here to review SB 123](#)

Change of Venue: Senate Bill 126, sponsored by Sen. Jason Howell (R-Murray), passed the legislature, was vetoed by the governor, and then the veto overridden. The controversial bill allows the defendant in a civil action pertaining to a constitutional issue to request a change of venue. It allows the attorney general to make a venue change request at any point in the process. The bill is already the subject of a constitutional challenge. The legislature has been slowly trying to move statutory or constitutional questions out of Franklin Circuit Court where they have long been tried, to get more conservative judges involved in the proceedings. The court case on SB 126 is still pending.

[Click here to review SB 126](#)

Regulatory Sandbox: A new law will allow companies and regulated entities to request the ability to seek temporary regulatory relief from administrative regulations for a specific program or idea to determine if the regulations are a barrier to innovation, out of date, or no longer necessary. **House Bill 264** creates a regulatory relief advisory committee that evaluates whether the regulation should be forgiven for a temporary period and then subsequently, information will be provided to the advisory council to determine if it will make a recommendation that the regulation be eliminated. The Cabinet for Economic Development will prepare a report to the General Assembly on the regulatory relief sandbox. The bill became law without the governor's signature.

[Click here to review HB 264](#)

FAILED:

Phantom Damages: Senate Bill 137 would have limited damages for medical claims in lawsuits to only the amount of the claim that was paid and not the amount of the claim that was billed. Billed charges are significantly higher than what is actually paid by the insurer once the claim is finally adjudicated. The bill failed without receiving a committee vote.

[Click here to review SB 137](#)

Governor's Executive Authority: Sponsored by Sen. Adrienne Southworth, **SB 273** would have eliminated the governor's authority during declared emergencies to seize property and assets, restrict or prohibit the sale of goods, establish curfews and other powers currently

held by the governor during a declared emergency. The bill did not advance and died in the Senate.

[Click here to review SB 273](#)

Lawsuit Lending: **House Bill 224** failed to receive a committee hearing after pushback from business groups arguing that it would delay the settling of lawsuits and increase costs in which civil litigation cases against businesses. The bill would have regulated lawsuit lending companies who provide loans to litigants as they are going through a civil lawsuit, providing the plaintiff a loan based on the amount the company thinks the case will ultimately net for the plaintiff. The bill was pushed by companies that provide these loans, because they operate unregulated in Kentucky. Regulating them could have led to a proliferation of these companies.

[Click here to review HB 224](#)

Daylight Savings Time: **House Bill 77** was referred to the House Agriculture Committee, but it did not receive a committee vote. It would have made Daylight Savings Time year-round if approved by Congress. Many complain about the pitfalls of changing the clocks back and forth, and it is expected this legislation will return.

[Click here to review HB 77](#)

Payment of Attorney's Fees: As introduced, **HB 247** would have given the courts authority to enjoin the responding party from filing any further action if the payment of attorney's fees is not made according to the final order.

[Click here to review HB 247](#)

Ballot Initiatives: Once again, legislation that would have proposed to amend the constitution to authorize voters to garner signatures to place policy decisions on the electoral ballot failed and was not consider by any committee (**HB 59**).

[Click here to review HB 59](#)

Company boycotts: A bill that would have required the state treasurer to publish a list of companies making boycotts of other companies such as firearm makers, gasoline refiners and other politically sensitive companies and list them on a state website, failed to pass. It would have required the state to divest in any company boycotting an industry. It would have also prohibited state agencies from entering into contracts with these companies published on the list (**HB 533**).

[Click here to review HB 533](#)

Health Insurance Issues

Biomarker Testing: Health insurers are now required to cover biomarker testing after **House Bill 180** was signed into law by Gov. Andy Beshear. Sponsored by House Health Services Committee Chair Kim Moser (R-Independence), the legislation requires provision of testing for biomarkers for certain cancers and other healthcare conditions where such testing could provide key information in treating certain illnesses. It would also cover pharmacogenetics. The health insurers opposed provisions of the legislation and requested changes, but proponents of the legislation argued against those changes and the bill passed.

[Click here to review HB 180](#)

Passed

Fertility Treatments: Patients that are at risk of infertility due to undergoing chemotherapy or other medical treatments will now have fertility treatments covered by their insurance thanks to **HB 170** becoming law. The bill specifically relates to testicular or other urological cancers and covers preservation services.

[Click here to review HB 170](#)

Failed

Health Insurance Special Enrollment--Pregnancy: **House Bill 286** would have provided for a special enrollment period to cover individuals who become pregnant if it occurred outside the annual open enrollment period. The bill would also have included persons related to covered individuals who became pregnant after the annual enrollment date. The bill passed out of the Banking and Insurance Committee, but was then recommitted to Appropriations and Revenue and never heard.

[Click here to review HB 286](#)

Labor & Workforce Issues

Unemployment Insurance Benefits: In 2022, the Kentucky General Assembly passed sweeping reforms to the unemployment insurance benefits system. During the interim the state received feedback from the U.S. Department of Labor that statutory changes were required to become compliant with federal law. As part of the 2022 reforms, the bill tied unemployment benefits to the state's unemployment rate. If the unemployment rate was less than 4.5%, then the maximum number of weeks of benefits that could be received was 12 weeks, except for seasonal workers. The federal government argued that the state could not provide seasonal workers with a more robust benefit. The significant change adopted in **HB 146** moves the lowest level threshold unemployment rate to 6.5% and a maximum of 16 weeks of benefits. The bill takes effect July 1, 2023.

[Click here to review HB 146](#)

Employer mandated vaccinations: During the pandemic some legislators raised concerns about the COVID-19 vaccination that was approved under the emergency-use authorization by the Federal Drug Administration (FDA). Those concerns continue to penetrate the policy proposals by the legislature. There were several bills introduced related to vaccination requirements by employers. One bill did advance, but it did not pass: **House Bill 101** that would have prohibited employers from requiring anyone under the age of 18 to receive the COVID-19 vaccination. As introduced, it prohibited the Board of Education from requiring students to receive a vaccination for COVID, but it was amended in the House Health Services Committee to prohibit any organization, corporation, school, or any entity from requiring a minor to receive the COVID-19 vaccination. It passed the House, but it failed to advance in the Senate.

Other bills introduced include **SB 237**, that would have required employers to include an exemption for any vaccination required as a condition of employment for those with written documentation stating that the vaccine is medically contraindicated, refusal of the employee after receiving health information about the vaccine, or religious or conscientiously held beliefs. The

bill included a private right of action against employers who don't provide for these exemptions. **House Bill 137** was like SB 237, and neither bill moved in their respective chambers. **Senate Bill 139** would have also required employers to grant exemptions from vaccinations for those employees with religious or conscientiously held beliefs, but none of these measures passed. **House Bill 57** would have banned employers from requiring employees to receive medical treatments as a condition of employment, but it failed as well.

Finally, another bill (**SB 155**) took a different policy direction; instead, it would have prohibited employers from receiving statutory legal liability protections if they required employees to receive vaccinations to work. It was referred to the Economic Development, Tourism and Labor Committee, but it never received a committee vote. While none of these measures passed this session, it is expected that they will return in future legislative sessions.

[Click here to review HB 101](#)

[Click here to review SB 237](#)

[Click here to review HB 137](#)

[Click here to review SB 139](#)

[Click here to review HB 57](#)

[Click here to review SB 155](#)

Delivery Network Companies: Introduced by Rep. Sarge Pollock (R-Campbellsville), **HB 102** would have established new insurance requirements for delivery network companies and the contracted delivery driver. The National Conference of Insurance Legislators (NCOIL) proposed model legislation to establish these new requirements that included a provision that would have required the company's insurance to assume the insurance liability simply when the driver has the mobile application open and on. Pollock introduced **HB 102** to regulate insurance requirements of delivery network transportation companies. The opponents made the argument that these drivers are making deliveries and working for transportation network companies. A driver could simply keep the mobile application open the entire time they are driving the car if they are running personal errands or not actually delivering for the DNC. Delivery network drivers are different from transportation network drivers in the sense that trips are scheduled in advance and are not on demand. The bill was referred to the House Banking & Insurance Committee, but it never received a committee vote.

[Click here to review HB 102](#)

PASSED

Non-fixed address Identification: **House Bill 21** sponsored by Rep. Randy Bridges (R-Paducah) requires the Kentucky Transportation Cabinet to promulgate regulations to allow persons without a permanent address to obtain a driver's license or personal identification card. A shelter, healthcare facility or social service agency would have to sign a form confirming their address. The legislation will allow those without a permanent address to receive identification for the purpose of getting a job or other social services needs including healthcare.

[Click here to review HB 21](#)

Driving Under the Influence—Financial Support: In instances where driving under the influence results in incapacity or death of a victim, and the victim has surviving children, the offender will be required to pay restitution in the form of financial support to a surviving child or

children until they are 18 years of age. **Senate Bill 268**, sponsored by Sen. David Yates (D-Louisville), successfully passed the legislature and it was signed by the governor.

[Click here to review SB 268](#)

Employer-Employee Relationship: The General Assembly found a regulation promulgated by the Department of Labor deficient that redefined contract workers as employees. The regulation was opposed by several business organizations, including KRA. **Senate Bill 65** was passed and ensures that the regulation will not go into effect. The governor vetoed the legislation, but the veto was overridden. The Department of Labor cannot promulgate a similar regulation, but a regulation to put the employer-worker relationship back to the previous standard is going through the process.

[Click here to review SB 65](#)

Expungement: **House Bill 369** sponsored by Rep. Suzanne Miles (R-Owensboro) allows for the expungement of multiple felonies, including multiple crimes. Currently the law allows for the expungement of a series of felonies connected to a singular crime. The bill passed both chambers and was signed by the governor.

Two other measures, **HB 588** and **HB 417** would have allowed for the automatic expungement of felonies five years after incarceration has been completed and so long as there are no other felony convictions within that time frame. The court would automatically initiate the expungement without a request from the convicted felon. House Bill 588 was sponsored by Rep. Kim Moser (R-Taylor Mill) and Rep. Daniel Grossberg (D-Louisville) was the sponsor of HB 417. Both of these measures never moved and died without being referred to a committee.

[Click here to review HB 369](#)

[Click here to review HB 588](#)

[Click here to review HB 417](#)

FAILED:

Local Minimum Wage: **House Bill 34** failed to pass the legislature, but as introduced it would have allowed local governments to adopt a minimum wage greater than the state minimum wage.

[Click here to review HB 34](#)

Worker protections: There were several bills filed that would have created new worker protections, but only one of them advanced, even though it ultimately failed. **Senate Bill 63** would have classified hairstyles historically associated with race to be included within the definition of race. The bill, referred to as the CROWN Act, passed the Senate Judiciary Committee, but it was referred back to the Senate Judiciary and failed to pass the Senate.

Three bills were introduced to protect workers from discrimination based on sexual orientation or gender identification, but none of these bills advanced. (**SB 130**, **HB 293**, and **HB 205**)

Another bill would have made it a discriminatory employment action to ask about previous salary history, to base salary offers on previous salaries, or refusing to hire an applicant who refused to provide salary history (**HB 209**). Again, none of these measures passed.

[Click here to review SB 63](#)

[Click here to review SB 130](#)

[Click here to review HB 293](#)

[Click here to review HB 205](#)

[Click here to review HB 209](#)

Employer tax credits: Two bills were introduced providing new employer tax credits, but neither finally passed to become law. **House Bill 243** would have created a tax credit for employers providing paid leave for a living donor of organ or tissue. The nonrefundable tax credit would have been equal to the amount paid for in the living donor leave up to 40 hours.

Another bill would have created a tax credit for employers repaying student loans. The nonrefundable tax credit would have been equal to 50% of what the company repaid for the employee's student loans (**HB 216**).

[Click here to review HB 243](#)

[Click here to review HB 216](#)

Occupational License Tax: **House Bill 215** failed to pass, but it would have allowed any county to levy an uncapped local occupational license tax regardless of the tax adopted by the city, unless an agreement was reached by both parties. It would have removed the population requirements for adopting a local occupational tax. It was sponsored by Rep. Tom O'Dell Smith (R-Corbin).

[Click here to review HB 215](#)

Workers Compensation Special Fund: **House Bill 322** would have required the Workers Compensation Special Fund to offer voluntary lump-sum payments for remaining liabilities. The bill would have also lowered the assessment on employers from 9% to 6%. Once the fund reached an amount where it could pay its liabilities then none of the funds could be used to fund department programs outside of the claims administration of the workers compensation fund. The bill was referred to the House Appropriations & Revenue Committee, but it never received a committee hearing. The workers compensation special fund pays workers compensation claims for black lung and is funded through an assessment on all employers.

[Click here to review HB 322](#)

Workers' Compensation--THC: **House Bill 488** failed to pass the legislature, but as introduced it would have eliminated the presumption that a work injury was the fault of the employee if THC was detected in the employee's system. If scientifically reliable tests demonstrate the amount of THC was less than 5 nanograms, there would be no presumption that the employee was liable for the work accident.

[Click here to review HB 488](#)

Distracted Driving: Once again a bill was introduced to expand the distracted driving law to include not just texting and driving, but the operation of any device including a computer for operations that require more than a one-button touch. The first violation would be a warning, but after that fines and penalties would be assessed. **House Bill 12** was referred to the House Transportation Committee, but it never received a committee hearing.

[Click here to review HB 12](#)

Employee Paid and Unpaid Leave: The House Minority Caucus proposed a package of legislation to require employers to provide paid and unpaid leave. None of the proposals advanced in the 2023 legislative session. **House Bill 308** would have required employers to allow employees bereavement leave, which could be in the form of paid vacation or sick leave provided by employers for the death of a child, including a miscarriage. **House 280** would have required employers with 50 or more employees to provide paid parental leave of up to 12 weeks, after one year of employment. **House Bill 147** would have prohibited employers from retaliating or dismissing an employee who is a crime victim and takes leave to attend court proceedings. **House Bill 15** would have prohibited employers from retaliating against employees for taking family care leave for a relative. The leave could be unpaid, but the employee could not be dismissed from employment. **House Bill 69** would have required employers to provide earned paid sick leave whereby the employee would have earned 1 hour of paid sick leave for every 30 hours worked. They could begin using paid sick leave 90 days after the start of their employment.

[Click here to review HB 308](#)

[Click here to review HB 280](#)

[Click here to review HB 147](#)

[Click here to review HB 15](#)

[Click here to review HB 69](#)

Disabilities Bill of Rights: **House Bill 42** failed to advance in the 2023 legislative session, but as introduced it would have created a Disabled Persons Bill of Rights that would have required the payment of fair and equal wages. The bill was referred to the House Family Services Committee, but it did not receive a committee hearing.

[Click here to review HB 42](#)

Ban the Box: **House Bill 228** would have prohibited employers from asking applicants about their criminal history on the initial application or in the initial interview. The bill has been introduced for several years, but once again it did not advance in the legislature.

[Click here to review HB 228](#)

Job Postings—salary range: **House Bill 198** failed to be adopted, but it would have required employers to include a salary range for the posted position.

[Click here to review HB 198](#)

Minimum Wage: **Senate Bill 32** died in its original form, but it would have established a gradual increase in the state minimum wage to \$15 per hour, over a three-year period. It would have allowed local governments to adopt minimum wages higher than the state minimum wage.

[Click here to review SB 32](#)

Regulatory and Licensure Issues

Delivery Network Companies: Delivery network companies would have been required to provide motor vehicle liability insurance for drivers using personal vehicles for the delivery network company, but only during the period when the driver is working, under **HB 102**. The bill was modeled after the National Conference of Insurance Legislators model. The bill was sent

to the Banking and Insurance Committee where its sponsor, Rep. Sarge Pollack (R-Campbellsville), is the Vice Chair, but it was never heard.

[Click here to review HB 102](#)

Adult Entertainment and Drag Shows: One Senate bill that was closely watched and protested was **SB 115** that would have prohibited drag shows, businesses hosting drag shows, or adult entertainment venues from being located within 1,000 feet of locations where children are likely to be present. Sen. Lindsey Tichenor (R-Smithfield) made substantial changes to her original bill and defined what is an adult performance, including impersonating a gender different than the gender one was born with. The restriction on locations of the drag shows was removed and instead businesses hosting drag shows were prohibited from knowingly allowing anyone under the age of 18 to attend. A business not in compliance could have lost their license to sell alcohol. The bill passed the Senate, but failed to gain any traction in the House and died as the session ended.

[Click here to review SB 115](#)

Failed:

Assistance animals: A bill that would define when assistance animals are allowed in public buildings passed out of the Senate 34-0 but ran out of time to pass the House. **Senate Bill 92** would have established requirements for an assistance dog to be granted public accommodation and clarify the definition of an assistance dog. The bill uses American Disabilities Act definitions for emotional support animals and sets penalties for misrepresenting an assistance animal. The fines would be paid to animal control and care funds and go for spay and neuter clinics and animal shelter block grants.

[Click here to review SB 92](#)

Religious liberty: HB 204 would have prohibited any person enforcing a state or local law from restricting a person's religious liberty, including withholding benefits, accessing penalties, excluding from governmental programs or buildings. The bill passed out of the House Judiciary Committee before being recommitted to Appropriations and Revenue.

[Click here to review HB 204](#)

Administrative Regulation Reform: In another effort for the legislature to check the executive branch, **HB 40** would have amended the process for promulgation of administrative regulations to grant authority to the attorney general to review regulations found deficient and determine if they will go into effect. Unlike other bills targeting executive power, this bill failed to get out of the House despite passing out of the State Government Committee before getting recommitted to Appropriations and Revenue.

[Click here to review HB 40](#)

Skills Games or Gray Machines: The most expensively lobbied issue was skill games or gray games. Traditional Kentucky gambling interests cried foul over the so-called gray machines or skills-based games that came into the state and are operated primarily in convenience stores and restaurants. The game makers argued that their machines were skills-based and legal under existing Kentucky law. In turn, an organization funded by Churchill

Downs – Kentuckians Against Illegal Gambling – argued that the companies came in the dark of night and were leading to increased crime across the Commonwealth. **House Bill 594**, sponsored by Rep. Killian Timoney (R-Lexington), banned skills-based games operated on machines, except for entertainment or coin operated games found in establishments such as Chuck E. Cheese and Dave and Busters. The Association worked to ensure that games of entertainment could continue and successfully lobbied for language changes to protect these games and also e-sports. The bill passed the House and the Senate and was signed quickly by the Governor, but it doesn't take effect until June 29, 2023. Machines will have to be removed from locations, or retail locations that keep them in place could face fines and penalties of \$25,000 per machine. The gamemakers have filed lawsuits and their legality will be determined by the courts. Restaurants should ensure the machines are removed from locations around 30 days prior to implementation of the legislation. There were other bills filed on the games, one that would have regulated and taxed the games, which the gamemakers were lobbying for, but was never considered.

[Click here to review HB 594](#) and [HB 525](#)

Purchasing American made steel and iron: **HB 451** would have required state and local governments to only purchase iron and steel manufactured in America for construction and maintenance of public buildings. The bill failed to be assigned to a committee.

[Click here to review HB 451](#)

Politically sensitive boycotts: A bill that would have required the state Treasurer to maintain and publish a list of all financial firms that engage in politically sensitive company boycotts and the state to divest of such companies failed to be heard in a committee.

[Click here to review HB 533](#)

Gun Sales: Democrats filed an omnibus bill that would have made several changes to gun sales and ownership, including background checks, reporting stolen ammunition and handgun licensing. **HB 475** did not get a committee hearing. Another Democratic-led bill (**HB 79**) that wasn't assigned to a committee, would have created a voluntary Do Not Sell Firearms list to prohibit the sale or possession of firearms to individuals who voluntarily request to be put on the list.

[Click here to review HB 79](#) and [HB 475](#)

Data Privacy: Data privacy and security policy was once again discussed in the Kentucky General Assembly. Sen. Whitney Westerfield (R-Crofton) has for three years pushed legislation to make sweeping changes to data privacy and security laws. **Senate Bill 15** was a uniquely restrictive bill that applied to businesses with 25,000 or more customers who controls or process consumer data. The business must comply with the customer rights provided in the legislation which included a consumers' right to request whether or not data is being tracked, delete personal data, obtain a copy of what is being tracked, opt-out of targeted advertising, and opt-out of the sale of personal information. The legislation contained all these requirements for a consumer to opt-into tracking and targeted advertising and the definitions included were difficult for restaurants to understand. Essentially, the legislation as originally drafted, would have put a digital fence around Kentucky that would stifle business innovation and frustrate consumers. The bill passed the Senate but did not move in the House. House Small Business, Tourism and

Technology Committee Phillip Pratt (R-Georgetown) and Rep. Jennifer Decker (R-Waddy) proposed HB 301 that did not contain a private right of action and did not require consumers to opt-into tracking and selling of consumer data.

[Click here to review SB 15](#) and [HB 301](#)

Occupational licenses: House Bill 343 would have required licensing boards to issue an occupational license to any person or military spouse upon application, if they hold a current and valid occupational license with a similar scope of practice in another state or country, the license is in good standing for 1 year, the board required an exam, no criminal record, and no revocations of their license. The bill was never assigned to a committee.

[Click here to review HB 343](#)

Retail pet sales: Senate Bill 56 would have prohibited retail pet sales of dogs, cats and rabbits, but would allow a retail pet shop to coordinate with an animal shelter to showcase pets for adoption. It would also have prohibited a retailer from displaying or showcasing pets on behalf of a breeder. The bill was sent to the Senate Agriculture Committee but it never had a hearing.

[Click here to review SB 56](#)

Revenue & Taxation Issues

State and Local Deduction Tax: Congress passed tax changes that prohibited small businesses from claiming state and local taxes deductions on their tax return. The Internal Revenue Service created a process where a state could adopt tax law changes and ensure that pass-through entities weren't being double taxed. As such, **HB 360** was filed that would make several changes to Kentucky's tax code including the state and local tax deductions. The bill advanced to the Senate. In the Senate, HB 360 underwent changes that weakened the provisions for small businesses, only allowing 90% of the benefit to be received. The House rejected this change, but an agreement was reached to make changes to strengthen the provision. Subsequently, business organizations raised concerns that the changes were not adequate and more needed to be done to ensure small businesses received the full benefit of the SALT provisions. **House Bill 5** was amended in the Senate to allow a pass-through entity (PTE) to have individual income tax imposed upon the PTE, and the income calculated as ordinary income under the pass-through entities tax and calculated in the same way. The legislature also created a 100% refundable tax credit of the pass-through entity tax that was paid by each owner based on the proportionate share that was paid.

Many small businesses are continuing to wait on the Department of Revenue to provide guidance implementation and develop the election form. To date, the government affairs team continues to wait for such guidance, but for the current tax year, the entity must make the claim to file in such a manner prior to August 31, but no late fees or interest can be assessed.

[Click here to review HB 360](#)

[Click here to review HB 5](#)

Sales tax on Marketing: In the 2022 legislative session, the General Assembly expanded the sales tax base in exchange for a lowering of the personal income tax rate. Marketing services is one of the services where the sales tax was added. Starting Jan. 1, 2023, sales tax expansion

went into effect, and it was clear based on guidance from the Department of Revenue that the new tax would be harmful to many businesses small and large. Therefore, Rep. Ken Fleming (R-Louisville) introduced **HB 44** that would eliminate the sales tax application to marketing services, and while HB 44 did not advance, the elimination of the sales tax extension to marketing services was adopted within **HB 360**, which passed. Along with several other tax changes, HB 360 was signed by the governor and is now in effect.

[Click here to review HB 44](#)

[Click here to review HB 360](#)

Tax Changes: Whenever major tax changes are adopted by the legislature there is a good chance that tax clean-up will occur the following year and those tax clean up changes came this session in the form of **HB 360**. The bill included significant changes impacting restaurants and restaurants.

Restaurant Revitalization Funds (RRF): In the 2022 legislative session, the General Assembly tried to ensure that restaurants receiving Restaurant Revitalization Fund grants could continue to deduct normal business expenses that otherwise would be deductible, except for those expenses paid for with RRF grants. In order to ensure that restaurants could deduct these expenses, language was added to HB 360 to allow for deduction of expenses funded by RRF grants in previous tax years. A restaurant would be eligible to receive a refund going back to RRF grants received on or after January 1, 2020. . The bill was signed by the governor and the RRF portions of the bill are in effect.

Other portions of the HB 360 impacting restaurants:

- The legislation clarifies definitions of lobbying services and executive recruiting services, two new services where the sales tax was applied.
- The bill adds ‘prewritten computer software’ to the definition of extended warranty services that is also subject to the sales tax.
- Clarifies that landlords paying for utilities of the renters are not required to pay the sales tax on utility services, because it is someone’s primary residence.
- Excludes onsite security services from the sales tax.
- Exempts farm machinery used in farming operations from the property tax.

Telemarketing tax: New language was added to the definition of telemarketing services that would have meant that the internet was taxed as result of the addition of a phrase that included forms of social media. The Association raised the concern with House and Senate Appropriations and Revenue Committee Chairs and prior to the passage of HB 360, language was supposed to be added to remove the addition to the telemarketing definition, but at the end of a long evening towards the end of the session, the bill did not include the change. As the legislature left Frankfort for the veto recess, KRA continued to work with members of the legislature to discuss the need for a resolution. When legislators returned to Frankfort, it was clear that they intended to remove the language and both House and Senate leaders agreed to find a resolution to the issue. The remaining tax bill that had not been adopted prior to the veto recess was HB 5- the bourbon barrel tax bill, and so that is where the change was made deleting social media from the definition of telemarketing services. This means that advertising and online marketing are not subject to the sales tax. The bill contained an emergency clause for that portion of the bill, and it went into effect upon the governor’s signature.

[Click here to review HB 360](#)

Personal Income Tax Rate: The first bill that passed the legislative session was one making good on a promise from the 2022 session where the General Assembly passed parameters for the lowering of the personal income tax when revenues reached certain benchmarks. As a result of reaching these benchmarks, the legislature had to follow up with statutory changes to lower the personal income tax rate. **House Bill 1** passed, and it lowered the personal income tax rate for 2023 to 4.5% and to 4.0% the following year.

[Click here to review HB 1](#)

Bourbon Barrel Tax: The distilleries in Kentucky have long lamented the inventory tax applied to bourbon barrels as they age in warehouses. Local governments claim is the tax revenue is necessary to support their communities and the bourbon industry. House Bill 5 passed even after local governments engaged in a heavy lobbying battle that could not be matched by the power of the distilleries. The bill gradually lowers the inventory tax that is paid on bourbon barrels until it is eliminated. School districts in these communities would see their SEEK funding protected. It passed on the last day and the governor signed the legislation.

[Click here to review HB 5](#)

City Tax Liens: **Senate Bill 141** allows local governments to collect unpaid tax liens, including code enforcement liens through property tax bills. It would treat unpaid liens added to property tax bills in the same way as delinquent taxes.

[Click here to review SB 141](#)

FAILED:

Sales Tax Exemptions: Several sales tax exemptions were filed this year, but none of them were adopted. This includes sales tax exemptions on diapers (**SB 218**), baby items (**HB 270**), feminine hygiene products (**HB 142**) (**HB 229**), and breast-feeding supplies (**HB 273** and **HB 285**). It was part of a package of bills introduced by the minority Democratic caucus to support women and families.

[Click here to review SB 218](#)

[Click here to review HB 270](#)

[Click here to review HB 142](#)

[Click here to review HB 229](#)

[Click here to review HB 273](#)

[Click here to review HB 285](#)

Tax Expenditures: **House Bill 45** would have required a review of all tax expenditures by creating the Tax Expenditure and Economic Development Review Committee. It's mission would be reviewing these expenditures and ensuring they reach their desired goal. The committee would create a report for the legislature and specify the exact amount of revenues lost as result of economic development incentives or tax expenditures such as tax exemptions and tax credits. The bill failed to receive a committee hearing.

[Click here to review HB 45](#)

Limited Liability Entities Tax: If adopted, the bill would have prevented businesses operating in Kentucky from paying the limited liability entities tax on gross receipts or \$100,000 or less. The bill failed to get a committee hearing (**HB 123**).

[Click here to review HB 123](#)

Depreciation: **House Bill 46** would have changed Kentucky's depreciation expense schedule to match the Internal Revenue Service, giving businesses operating in Kentucky a tax victory. The bill died after never receiving a committee hearing.

[Click here to review HB 46](#)

Employer Tax Credits: Two employer tax credits were proposed this legislative session, but neither were adopted. **House Bill 243** would have created a nonrefundable tax credit for an employer offering an employee time off to be living organ or tissue donor. **House Bill 216** would have created an employer tax credit for employers providing student loan repayment. The nonrefundable tax credit would have been equal to 50% of the amount of the student loan paid by the employer.

[Click here to review HB 243](#)

[Click here to review HB 216](#)

Local Occupational License Tax: **House Bill 215** failed to receive a referral to a committee, but as introduced it would have removed the 1% cap on local occupational license taxes and allowed cities and counties to adopt separate local occupational license taxes that would have been uncapped. Currently, local governments cumulatively can only adopt an occupational tax capped at 1%, and split among the local governments. But this significant local tax increase failed.

[Click here to review HB 215](#)

Restaurant Tax: **House Bill 255** failed to advance in the 2023 legislative session, but as introduced it would have allowed all cities and counties to enact a local restaurant tax of up to 3%. Restaurants who are remitting the restaurant tax wouldn't be required to pay the occupational tax. The bill never received a hearing, but local governments are going to be pushing a constitutional amendment to allow for local sales taxes, which would also include the ability to enact a restaurant tax.

[Click here to review HB 255](#)

Transportation Issues

Autonomous Vehicles: During the 2022 Interim legislative session, the Interim Joint Committee on Transportation examined the potential of autonomous vehicles as a solution to address truck driver and delivery driver shortages. While several states have already implemented legislation to establish regulatory frameworks for autonomous vehicles, Kentucky fell behind in this regard. **House Bill 135**, which aimed to address the issue, was vetoed and, due to its passage on the final day, the General Assembly was unable to override the veto. The legislation faced opposition from trial attorneys and labor unions. As a result, the trial attorneys

were successful in securing changes to the bill, including a last-minute amendment that raised the legal liability limits to \$5 million.

The journey of House Bill 135 was fraught with twists and turns throughout the session. Initially, it failed to advance from the Senate Transportation Committee, even after a hostile committee amendment was added, requiring a person to be always present in the vehicle while it operated autonomously. After its setback in the Senate Transportation Committee, the provisions of HB 135 were incorporated into **SB 129**, a separate piece of legislation that aimed to prohibit the use of automatic license plate readers. However, when the House returned the amended bill to the Senate, the Senate chose not to consider the measure. Instead, they transferred HB 135 to the Senate Appropriations & Revenue Committee, where it gained approval and quickly progressed to the Senate floor with a floor amendment to increase the legal liability limits to \$5 million. Despite the House's acceptance of these changes, the bill ultimately did not come to fruition, as it was vetoed by the Governor.

[Click here to review HB 135](#)

[Click here to review SB 129](#)

Reformulated Gas: As Kentuckians faced increased gas prices due to supply chain issues and inflation, more and more Louisville area legislators pushed for the need to remove the requirement for the Louisville region to sell only Reformulated Gasoline (RFG). Newly elected Rep. Jared Bauman (R-Louisville) introduced **House Joint Resolution 37** to address the issue of reformulated gasoline. The Environmental Protection Agency would need to redesignate the Louisville region as meeting EPA pollution goals and eliminate the RFG requirement. This request has been made, but it was denied by the Louisville Pollution Control Board which refused to agree with the request. HJR 37 requests the EPA to expedite review and approval of the request to eliminate RFG. Once the request has been approved, the Kentucky Energy and Environment Cabinet would have 60 days to make the necessary changes to state plans, including implementing other environmental controls to ensure the Louisville region remains at the necessary attainment levels. The cabinet is required to report to the Interim Joint Committee on Natural Resources and Energy by Oct. 31, 2023.

[Click here to review HJR 37](#)

Delivery Network Companies: Rep. Sarge Pollock (R-Campbellsville) introduced **HB 102** to establish property and casualty insurance requirements for delivery network drivers and the companies who contract with these drivers for deliveries. It failed after concerns were raised about delivery drivers taking advantage of proposed legislation language that required the company's property insurer to be responsible whenever the mobile application is turned on by the driver. Insurance companies wanted to set clear parameters for which the insurance provider is responsible when a delivery network driver is using their personal vehicle to provide a service. The Association raised concerns about the legislation and the potential ways in which drivers could take advantage of the provisions in the legislation. The Association argued that delivery network companies are different than transportation network companies such as Uber and Lyft. The bill was heavily discussed by members of the Banking and Insurance Committee, but it never received a hearing and the legislation failed. House Bill 102 as introduced was based on model legislation that came from the National Conference of Insurance Legislators (NCOIL), and it is expected that this legislation will return in the 2024 legislative session.

[Click here to review HB 102](#)

FAILED:

Driving Under the Influence: Senate Bill 228 failed to pass after advancing through the Senate, but it would have established guidance for determining when a driver is under the influence of marijuana, based on a certain level of THC. Law enforcement and prosecutors raised concerns about the validity of these tests and the lack of research on the amount of THC that causes driver impairment.

[Click here to review SB 228](#)

Automatic Speed Enforcement: There were three bills introduced that would have created automatic enforcement of traffic laws by video cameras at intersections. **House Bill 73** and **SB 21** mirror each other and would have established fines and penalties for traffic law violations, but neither bill moved forward. **House Bill 201** was more narrow than the other two bills, and while it passed the House Transportation Committee, it never received a floor vote. The bill would have required the Transportation Cabinet to establish an automated speed enforcement pilot program in road construction work zones. The program was supported by the Transportation Cabinet because of safety concerns for those working on road construction sites.

[Click here to review HB 73](#)

[Click here to review SB 21](#)

[Click here to review HB 201](#)

Overweight Trucks: House Bill 416; however, if it had been successful, would have established enhanced penalties for trucks violating posted bridge weights on state highways that are over 75 years old. The bill proposed a penalty of \$500 for the first offense and \$2,000 for the third or subsequent offense within a one-year period.

[Click here to review HB 416](#)

Distracted driving: Once again, legislation failed that would have expanded Kentucky's traffic laws prohibiting texting and driving to include any distraction, such as from a personal communication device, unless it was for directions or using a one-touch option. Penalties and fines would have included a warning for the first offense, and after that the fine would have been a minimum of \$50 and a maximum of \$100. **House Bill 12** failed to receive a committee hearing or vote, but it is expected to return next session.

[Click here to review HB 12](#)