

Senate Substitute for HOUSE BILL No. 2124

AN ACT concerning alcoholic liquor; relating to microbreweries; directing the secretary of revenue to study the collection and remittance of alcoholic liquor enforcement tax by microbreweries; directing the director of alcoholic beverage control to study the collection and remittance of alcoholic liquor gallonage tax by microbreweries; permitting the sale of beer and hard cider manufactured by the licensee to retailers, public venues, clubs, drinking establishments, holders of temporary permits and caterers; allowing the sale of such beer and hard cider in unopened containers to consumers at special events monitored and regulated by the division of alcoholic beverage control; amending K.S.A. 41-308b, 41-410, 41-601, 41-701, 41-702, 41-703, 41-706, 41-708, 41-709, 41-728, 41-1101, 41-1202 and 41-2642 and K.S.A. 2023 Supp. 41-1201 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) The secretary of revenue shall conduct a study on licensed microbrewery compliance with state laws and rules and regulations governing the collection and remittance of alcoholic liquor enforcement taxes. On or before January 15, 2025, the secretary shall prepare and submit a report to the governor and the legislature on the findings of such study, including any recommendations regarding such collection and remittance, the monitoring thereof and ensuring compliance with applicable laws and rules and regulations.

(b) The director of alcoholic beverage control shall conduct a study on licensed microbrewery compliance with state laws and rules and regulations governing the collection and remittance of alcoholic liquor gallonage taxes. On or before January 15, 2025, the director shall prepare and submit a report to the governor and the legislature on the findings of such study, including any recommendations regarding such collection and remittance, the monitoring thereof and ensuring compliance with applicable laws and rules and regulations.

(c) This section shall expire on July 1, 2025.

Sec. 2. K.S.A. 41-308b is hereby amended to read as follows: 41-308b. (a) A microbrewery license shall allow:

(1) The manufacture of not less than 100 nor more than ~~60,000~~ 30,000 barrels of domestic beer during the calendar year and the storage thereof, if, however, the licensee holds a 10% or greater ownership interest in one or more entities that also hold a microbrewery license, then the aggregate number of barrels of domestic beer manufactured by all such licensees with such common ownership shall not exceed the ~~60,000~~ 30,000 barrel limit;

(2) the manufacture in the aggregate of not more than 100,000 gallons of hard cider during the calendar year and the storage thereof;

(3) (A) the sale to licensed beer distributors of beer ~~and~~ manufactured by the licensee;

(B) the sale to licensed wine distributors of hard cider; ~~and~~ manufactured by the licensee; and

(C) the sale to retailers, public venues, clubs, drinking establishments, caterers and temporary permit holders of beer and hard cider manufactured by the licensee. The aggregate annual sales of such beer made pursuant to this subparagraph shall not exceed 1,000 barrels. The aggregate annual sales of such hard cider made pursuant to this subparagraph shall not exceed 3,000 gallons;

(4) the sale, both on the licensed premises and off the licensed premises at special events monitored and regulated by the division of alcoholic beverage control in the original unopened container to consumers for consumption off the licensed premises, of beer and hard cider manufactured by the licensee;

(5) the sale, on the licensed premises in refillable and sealable containers to consumers for consumption off the licensed premises, of beer manufactured by the licensee, subject to the following conditions:

(A) Containers described in this paragraph shall contain not less than 32 fluid ounces and not more than 64 fluid ounces of beer; and

(B) the licensee shall affix a label to all containers sold pursuant to

this paragraph clearly indicating the licensee's name and the name and type of beer contained in such container;

(6) the serving free of charge on the licensed premises and at special events, monitored and regulated by the division of alcoholic beverage control, of samples of beer and hard cider manufactured by the licensee, if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments;

(7) if the premises is also licensed as a club or drinking establishment, the sale and transfer of domestic beer to such club or drinking establishment and the sale of domestic beer and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act;

(8) if the premises is also licensed as a caterer, the sale of domestic beer and other alcoholic liquor for consumption on unlicensed premises as authorized by the club and drinking establishment act;

(9) if the licensee holds a 10% or greater ownership interest in one or more entities that also hold a microbrewery license, the domestic beer may be manufactured and transferred for sale or storage among such microbrewery licensees with such common ownership; and

(10) the transfer of beer and hard cider manufactured by the licensee pursuant to a contract entered into in accordance with subsection (b) to the contracting microbrewery.

(b) (1) A microbrewery may contract with one or more microbreweries for the purpose of manufacturing beer or hard cider for such other microbreweries. A microbrewery located in this state may manufacture and package beer and hard cider for a microbrewery located within or outside of Kansas.

(2) A microbrewery manufacturing beer or hard cider for another microbrewery shall be responsible for complying with all federal and state laws dealing with the manufacturing of beer and hard cider, including labeling laws, and shall be responsible for the payment of all federal and state taxes on the beer and hard cider.

(3) Each party engaged in a contract brewing agreement must count the total amount of barrels and gallons manufactured as part of the agreement and include that total amount as part of their allowed aggregate total as provided in subsection (a).

~~(c) (1) Not less than 30% of the products utilized in the manufacture of hard cider by a microbrewery shall be grown in Kansas except when a lesser proportion is authorized by the director based upon the director's findings and judgment. The production requirement of this subsection shall be determined based on the annual production of domestic hard cider.~~

~~(2) On and after July 1, 2021, the percentage of products utilized in the manufacture of hard cider by a microbrewery required to be grown in Kansas shall be not less than 15%.~~

~~(3) The provisions of this subsection shall expire on January 1, 2023.~~

~~(d) The limit on aggregate annual sales of beer and hard cider as specified in subsection (a)(3)(C) shall not apply to the distribution of beer or hard cider by the microbrewery licensee to:~~

~~(1) A drinking establishment or caterer licensed under the club and drinking establishment act if such microbrewery licensee holds a 25% or greater ownership interest in such drinking establishment or caterer; or~~

~~(2) another microbrewery licensee or a licensed microbrewery packaging and warehousing facility if such microbrewery licensee holds a 25% or greater ownership interest in such microbrewery licensee or microbrewery packaging and warehousing facility.~~

(d) Upon application and payment of the fee prescribed by K.S.A. 41-310, and amendments thereto, by a microbrewery licensee, the director may issue not to exceed one microbrewery packaging and warehousing facility license to the microbrewery licensee. A microbrewery packaging and warehousing facility license shall allow:

(1) The transfer, from the licensed premises of the microbrewery to the licensed premises of the microbrewery packaging and warehousing facility, of beer and hard cider manufactured by the licensee, for the purpose of packaging or storage, or both;

(2) the transfer, from the licensed premises of the microbrewery packaging and warehousing facility to the licensed premises of any microbrewery of such licensee, of beer manufactured by the licensee;

(3) the removal from the licensed premises of the microbrewery packaging and warehousing facility of beer manufactured by the licensee for the purpose of delivery to a licensed beer wholesaler; and

(4) the removal from the licensed premises of the microbrewery packaging and warehousing facility of hard cider manufactured by the licensee for the purpose of delivery to a licensed wine distributor.

(e) A microbrewery may sell domestic beer in the original unopened container to consumers for consumption off the licensed premises at any time between 6 a.m. and 12 midnight on any day. If authorized by subsection (a), a microbrewery may serve samples of domestic beer and serve and sell domestic beer and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor.

(f) The director may issue to the Kansas state fair or any bona fide group of brewers a permit to import into this state small quantities of beer. Such beer shall be used only for bona fide educational and scientific tasting programs and shall not be resold. Such beer shall not be subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The permit shall identify specifically the brand and type of beer to be imported, the quantity to be imported, the tasting programs for which the beer is to be used and the times and locations of such programs. The secretary shall adopt rules and regulations governing the importation of beer pursuant to this subsection and the conduct of tasting programs for which such beer is imported.

(g) A microbrewery license or microbrewery packaging and warehousing facility license shall apply only to the premises described in the application and in the license issued and only one location shall be described in the license.

(h) No microbrewery shall:

(1) Employ any person under the age of 18 years in connection with the manufacture, sale or serving of any alcoholic liquor;

(2) permit any employee of the licensee who is under the age of 21 years to work on the licensed premises at any time when not under the on-premises supervision of either the licensee or an employee of the licensee who is 21 years of age or over;

(3) employ any person under 21 years of age in connection with mixing or dispensing alcoholic liquor; or

(4) employ any person in connection with the manufacture or sale of alcoholic liquor if the person has been convicted of a felony.

(i) Whenever a microbrewery licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and all fees paid for the license in accordance with the Kansas administrative procedure act.

Sec. 3. K.S.A. 41-410 is hereby amended to read as follows: 41-410. (a) No distributor shall sell any alcoholic liquor or cereal malt beverage in this state unless such distributor has filed with the director a written notice stating each geographic territory, agreed upon in writing between the distributor and a supplier of the distributor, within which the distributor sells one or more brands of such supplier to retailers licensed under the Kansas liquor control act or under K.S.A. 41-2702, and amendments thereto, or to clubs or drinking establishments licensed under the club and drinking establishment act. Such notice shall be accompanied by a map outlining each geographic territory stated in the notice. No manufacturer, importer or other supplier shall grant a franchise for the distribution of a brand to more than one distributor for all or part of any designated territory.

(b) Each supplier of alcoholic liquor or cereal malt beverage doing business within this state shall file with the director a written notice describing each geographic territory, agreed upon in writing between the supplier and a distributor, within which the distributor sells one or more brands of the supplier to retailers licensed under the Kansas liquor control act or under K.S.A. 41-2702, and amendments thereto, or to clubs or drinking establishments licensed under the club and drinking establishment act.

(c) No supplier or distributor shall terminate or modify a franchise for the distribution of a brand of alcoholic liquor or cereal malt beverage or alter the geographic territory designated in a franchise agreement unless such supplier or distributor files written notice thereof with the director not less than 30 days prior to the termination, modification or alteration. In the case of an alteration in a franchise territory, such notice shall be accompanied by a map outlining the altered territory. Upon receipt of such notice, the director shall notify immediately, by certified mail, all affected parties of the impending termination, modification or alteration.

(d) Any notice filed by a supplier pursuant to subsection (c) shall be accompanied by an affidavit stating that the termination, modification or alteration is not caused by the failure of the distributor to violate any provision of the Kansas liquor control act or any rules and regulations adopted pursuant thereto.

(e) Any supplier or distributor aggrieved by a termination, modification or alteration made under subsection (c) may file an appropriate action in any district court of this state having venue, alleging that the termination, modification or alteration violates the franchise agreement between the supplier and distributor involved.

(f) No franchise agreement for the distribution of a brand of alcoholic liquor or cereal malt beverage shall be terminated or modified, nor shall the territory designated in such an agreement be altered, except for reasonable cause.

(g) *No microbrewery shall sell beer or hard cider produced by such microbrewery to retailers licensed under the Kansas liquor control act or the Kansas cereal malt beverage act or to any licensee under the club and drinking establishment act unless such microbrewery has filed a written notice with the director stating the geographic territory within which such sales are made.*

(h) This section shall be a part of and supplemental to the Kansas liquor control act.

Sec. 4. K.S.A. 41-601 is hereby amended to read as follows: 41-601. Every manufacturer, distributor, microbrewery ~~which that~~ sells any beer to a beer distributor at wholesale, microdistillery ~~which that~~ sells any spirits to a spirits distributor at wholesale and farm winery ~~which that~~ sells any wine to a distributor at wholesale shall between the 1st and 15th day of each calendar month, make return under oath to the director of all alcoholic liquor manufactured and sold by the manufacturer, distributor, microbrewery, microdistillery or farm winery in the course of business during the preceding calendar month. In the case of a distributor *or microbrewery*, the return shall also show: (a) The total amount of liquor purchased by the distributor *or microbrewery* during the preceding calendar month, the names of the distillers or distributors from whom purchased, the quantity of each brand and the price paid therefor; and (b) the names and locations of the retailers to whom alcoholic liquor was sold by the distributor *or microbrewery* during the preceding calendar month, the quantity of each brand and the price charged therefor. The return shall be made upon forms prescribed and furnished by the director and shall contain such other information as the director reasonably requires.

Sec. 5. K.S.A. 41-701 is hereby amended to read as follows: 41-701. (a) Except as provided in subsection ~~(d)~~ (e), no spirits distributor shall sell or attempt to sell any spirits within this state except to:

(1) A licensed manufacturer, licensed nonbeverage user or licensed spirits distributor; or

(2) a licensed retailer, as authorized by K.S.A. 41-306, and amendments thereto.

(b) Except as provided in subsection ~~(d)~~ (e), no wine distributor shall sell or attempt to sell any wine within this state except to:

(1) A licensed manufacturer, licensed nonbeverage user or licensed wine distributor;

(2) a licensed caterer; or

(3) a retailer, public venue, club or drinking establishment, licensed in this state, as authorized by K.S.A. 41-306a, and amendments thereto.

(c) Except as provided by subsection ~~(d)~~ (e), no beer distributor shall sell or attempt to sell any beer or cereal malt beverage within this state except to:

(1) A licensed manufacturer, licensed nonbeverage user or licensed beer distributor;

(2) a licensed caterer; or

(3) a retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702, and amendments thereto, or a club or drinking establishment, licensed in this state, as authorized by K.S.A. 41-307, and amendments thereto.

(d) *Except as provided in K.S.A. 41-308b, and amendments thereto, and subsection (e), no microbrewery shall sell or attempt to sell any beer or hard cider within this state except to:*

(1) A retailer licensed under the Kansas liquor control act or the Kansas cereal malt beverage act; or

(2) a licensee under the club and drinking establishment act.

(e) (1) If any spirits distributor refuses to sell spirits ~~which~~ *that* such distributor is authorized to sell or refuses to provide any service in connection therewith to any licensed retailer as authorized by K.S.A. 41-306, and amendments thereto, it shall be lawful for any other licensed spirits distributor to sell such spirits to such retailer.

(2) If any wine distributor refuses to sell wine ~~which~~ *that* such distributor is authorized to sell or refuses to furnish service in connection therewith to any licensed retailer, as authorized by K.S.A. 41-306a, and amendments thereto, it shall be lawful for any other licensed wine distributor to sell such wine to such retailer.

(3) If any beer distributor refuses to sell beer or cereal malt beverage ~~which~~ *that* such distributor is authorized to sell or provide service in connection therewith to any retailer licensed under this act or under K.S.A. 41-2702, and amendments thereto, as authorized by K.S.A. 41-307, and amendments thereto, it shall be lawful for any other licensed beer distributor *or microbrewery* to sell such beer or cereal malt beverage to such retailer.

(e) No manufacturer of alcoholic liquor or cereal malt beverage shall sell or attempt to sell any alcoholic liquor or cereal malt beverage within this state except to a licensed manufacturer, licensed distributor or licensed nonbeverage user.

(f) No supplier, wholesaler, distributor, *microbrewery*, manufacturer or importer shall by oral or written contract or agreement, expressly or impliedly fix, maintain, coerce or control the resale price of alcoholic liquor, beer or cereal malt beverage to be resold by such wholesaler, distributor, *microbrewery*, manufacturer or importer.

(g) Any supplier, wholesaler, distributor, *microbrewery* or manufacturer violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$500 and not more than \$1,000, to which may be added not to exceed six months' imprisonment. In addition, any supplier, wholesaler, distributor, *microbrewery*, manufacturer or importer violating the provisions of this section relating to fixing, maintaining or controlling the resale price of alcoholic liquor, beer or cereal malt beverage shall be liable in a civil action to treble the amount of any damages awarded plus reasonable attorney fees for the damaged party.

Sec. 6. K.S.A. 41-702 is hereby amended to read as follows: 41-702. (a) Except to the extent permitted pursuant to K.S.A. 41-703, and

amendments thereto, no licensed retailer, club, drinking establishment or caterer, or any officer, associate, member, representative or agent thereof, shall accept, receive or borrow money or anything else of value, or accept or receive credit, directly or indirectly, from: (1) Any manufacturer~~—or~~, distributor *or microbrewery*; (2) any person connected with, in any way representing or a member of the family of a manufacturer~~—or~~, distributor *or microbrewery*; (3) any stockholders in a manufacturer~~—or~~, distributor *or microbrewery*; or (4) any officer, manager, agent or representative of a manufacturer~~—or~~, distributor *or microbrewery*.

(b) Except to the extent permitted pursuant to K.S.A. 41-703, and amendments thereto, no manufacturer~~—or~~, distributor *or microbrewery* shall give or lend money or anything of value or otherwise loan or extend credit, directly or indirectly, to any retailer licensed under this act or under K.S.A. 41-2702, and amendments thereto, or to any licensed club, drinking establishment or caterer, or to the manager, representative, agent, officer or director thereof.

(c) If any licensed retailer, distributor, manufacturer, *microbrewery*, club, drinking establishment or caterer violates any provision of this section, the license of such retailer, distributor, manufacturer, *microbrewery*, club, drinking establishment or caterer shall be suspended or revoked by the director in the manner provided by law for revocation or suspension for other violations of this act.

Sec. 7. K.S.A. 41-703 is hereby amended to read as follows: 41-703. (a) Except as provided by subsection (d), no manufacturer~~—or~~, distributor *or microbrewery* shall directly or indirectly: (1) Sell, supply, furnish, give, pay for, loan or lease any furnishing, fixture or equipment on the premises of a place of business of a licensee under the club and drinking establishment act or a retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702, and amendments thereto; (2) pay for any such licensee's or retailer's license, or advance, furnish, lend or give money for payment of such license; (3) purchase or become the owner of any note, mortgage or other evidence of indebtedness of any such licensee or retailer or any form of security therefor; (4) be interested in the ownership, conduct or operation of the business of any such licensee or retailer; or (5) be interested, directly or indirectly, or as owner, part owner, lessee or lessor thereof, in the licensed premises of any such licensee or retailer.

(b) Except as provided by subsection (d), no manufacturer~~—or~~, distributor *or microbrewery* shall, directly or indirectly, or through a subsidiary or affiliate or by any officer, director or firm of such manufacturer~~—or~~, distributor *or microbrewery*, furnish, give, lend or rent any interior decorations or any signs, for inside or outside use, for use in or about or in connection with the licensed premises of a licensee under the club and drinking establishment act, or a retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702, and amendments thereto, products of the manufacturer~~—or~~, distributor *or microbrewery* are sold.

(c) No manufacturer~~—or~~, distributor *or microbrewery* shall directly or indirectly pay for or advance, furnish or lend money for the payment of any license of another under the club and drinking establishment act, the Kansas liquor control act or K.S.A. 41-2702, and amendments thereto.

(d) (1) A manufacturer~~—or~~, distributor *or microbrewery* may furnish things of value to a licensee under the club and drinking establishment act or to a retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702, and amendments thereto, to the extent permitted by rules and regulations adopted by the secretary pursuant to subsection (e).

(2) Notwithstanding any other provision of law to the contrary, an owner, officer, stockholder or director of a distributor may have an interest in the licensed premises of a club, a drinking establishment or a retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702, and amendments thereto, if such premises are located outside

the geographic territory of the distributor's franchise.

(3) *A microbrewery or owner, officer, stockholder or director thereof may have an interest in a licensed club, drinking establishment or caterer.*

(e) The secretary shall adopt rules and regulations permitting manufacturers—~~and~~, distributors *or microbreweries* to furnish equipment, signs, supplies or similar things of value to licensees under the club and drinking establishment act or to a retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702, and amendments thereto. Such rules and regulations shall limit the furnishing of such things of value so that they are not conditioned on or an inducement to the purchase of any alcoholic liquor or cereal malt beverage. In adopting such rules and regulations, the secretary shall consider and, to the extent the secretary determines suitable, base such rules and regulations on the standards of the bureau of alcohol, tobacco and firearms of the United States treasury.

Sec. 8. K.S.A. 41-706 is hereby amended to read as follows: 41-706. No manufacturer, distributor, *microbrewery* or wholesaler shall sell or deliver any package containing alcoholic liquor manufactured or distributed by such manufacturer, distributor, *microbrewery* or wholesaler, unless the package has affixed thereto all canceled revenue stamps—~~which~~ *that* may be provided by federal law and shall also carry thereon a clear and legible label containing the name and kind of alcoholic liquor contained therein, and the alcoholic content thereof, except in the case of beer, and such other information as may be required by federal laws and rules and regulations and by rules and regulations adopted by the secretary of revenue. No package shall be delivered by any manufacturer—~~or~~, distributor, *microbrewery* or importing distributor unless the same shall be securely sealed so that the contents thereof cannot be removed without breaking the seal so placed thereon by such manufacturer, and no other licensee shall sell, have in the possession of the licensee or use any package or container ~~which~~ *that* does not comply with this section or K.S.A. 41-707, and amendments thereto, or does not bear evidence that such package, when delivered to the licensee, complied with this section.

Sec. 9. K.S.A. 41-708 is hereby amended to read as follows: 41-708. No retailer licensed under this act shall purchase or receive alcoholic liquor from any source except from a distributor, *farm winery or microbrewery* licensed under this act and having a place of business in this state, except that a licensed retailer may purchase confiscated alcoholic liquor at a sheriff's sale. Any retail licensee who violates this section is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$200, nor more than \$1,000, to which may be added imprisonment for not more than six months, and the license of such licensee may be revoked as provided by law.

Sec. 10. K.S.A. 41-709 is hereby amended to read as follows: 41-709. (a) No manufacturer—~~or~~, distributor *or microbrewery* shall sell or deliver any package containing alcoholic liquor manufactured or distributed by such manufacturer—~~or~~, distributor *or microbrewery* for resale, unless the person to whom such package is sold or delivered is authorized to receive such package in accordance with the provisions of this act.

(b) The director shall revoke the license of any manufacturer—~~or~~, distributor *or microbrewery* who violates the provisions of this section.

Sec. 11. K.S.A. 41-728 is hereby amended to read as follows: 41-728. (a) No distributor *or microbrewery* shall, directly or indirectly, sell on credit any alcoholic liquor or cereal malt beverage to a club, drinking establishment or caterer, and no club, drinking establishment or caterer shall, directly or indirectly, buy on credit any alcoholic liquor or cereal malt beverage from a distributor *or microbrewery*.

(b) Any sales of alcoholic liquor or cereal malt beverage by a distributor *or microbrewery* to a club, drinking establishment, caterer or retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702, and amendments thereto, shall be separate transactions from

sales by such distributor *or microbrewery* to any other such club, drinking establishment, caterer or retailer even if the licensee is the same person or entity as the holder of the license for such other club, drinking establishment, caterer or retailer.

(c) Except as otherwise provided by this section or K.S.A. 41-702, 41-703 and 41-2707, and amendments thereto, any financial instrument, other than a second-party check, may be used by a club, drinking establishment, caterer or retailer licensed under the Kansas liquor control act or under K.S.A. 41-2702, and amendments thereto, to purchase alcoholic liquor or cereal malt beverage from a distributor *or microbrewery* and a distributor *or microbrewery* may accept any such financial instrument as payment. In addition, a prepayment plan may be used for the purpose of making such purchases if the amount prepaid does not exceed the usual purchases made for the period of time for which prepayment is made.

(d) Sales of alcoholic liquor by a distributor *or microbrewery* to clubs, drinking establishments, caterers or retailers licensed under the Kansas liquor control act or under K.S.A. 41-2702, and amendments thereto, shall be final except that a distributor *or microbrewery* may:

(1) Buy back any item of alcoholic liquor or cereal malt beverage ~~which~~ *that* such club, drinking establishment, caterer or retailer has obtained the approval of the director to close out;

(2) buy back any item of alcoholic liquor or cereal malt beverage when required by the supplier; ~~and~~

(3) buy back or exchange, within 24 hours after delivery, any item of alcoholic liquor or cereal malt beverage ~~which~~ *that* is damaged or deteriorated in quality; *and*

(4) *buy back or exchange, at the original sales price, any item of beer or cereal malt beverage that is within 30 days of its expiration date.*

Sec. 12. K.S.A. 41-1101 is hereby amended to read as follows: 41-1101. (a) No distributor licensed under this act shall purchase any alcoholic liquor from any manufacturer, owner of alcoholic liquor at the time it becomes a marketable product, exclusive agent of such manufacturer or owner, microbrewery, microdistillery, farm winery or distributor of alcoholic liquor bottled in a foreign country either within or without this state, unless the manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor files with the director a written statement sworn to by the manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor or, in case of a corporation, one of its principal officers, agreeing to sell any of the brands or kinds of alcoholic liquor manufactured or distributed by the manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor to any distributor licensed in this state and having a franchise to distribute the alcoholic liquor pursuant to K.S.A. 41-410, and amendments thereto, and to make such sales to all such licensed distributors in this state at the same current price and without discrimination. Each manufacturer, owner, exclusive agent, microbrewery, microdistillery or farm winery shall provide to each distributor written notice not less than 45 days before any change in the current price of any spirits or wine ~~which~~ *that* such manufacturer, owner, exclusive agent, microbrewery, microdistillery or farm winery sells to such distributor. If any manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor making the agreement violates the agreement by refusing to sell such alcoholic liquor to any such franchised licensed distributor in this state or discriminates in current prices among such franchised licensed distributors making or attempting to make purchases of alcoholic liquor from the manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor, the director shall notify, by registered mail, each such franchised licensed distributor in this state of the violation. Thereupon, it shall be unlawful for a franchised licensed distributor in this state to purchase any alcoholic liquor from the manufacturer, owner, exclusive agent,

microbrewery, microdistillery, farm winery or distributor. If thereafter such a franchised licensed distributor purchases any alcoholic liquor from the manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor, such franchised distributor's license shall be revoked by the director. If any manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor of alcoholic liquor bottled in a foreign country, making any agreement hereunder, does not have a sufficient supply of alcoholic liquor of any of the brands or kinds—~~which~~ *that* the manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor manufactures or distributes to supply the demands of all licensed distributors having a franchise to distribute such alcoholic liquor, the manufacturer, owner, exclusive agent, microbrewery, microdistillery, farm winery or distributor may ration such alcoholic liquor and apportion the available supply among such franchised licensed distributors purchasing or attempting to purchase it, in accordance with a plan—~~which~~ *that* shall be subject to the approval of the director.

(b) No retailer licensed under this act shall purchase any alcoholic liquor from any distributor *or microbrewery* licensed under this act unless the distributor *or microbrewery* files with the director a written statement sworn to by the distributor *or microbrewery*, or in case of a corporation by one of its principal officers, agreeing to sell any of the brands or kinds of alcoholic liquor distributed by the distributor *or microbrewery* and to provide service in connection therewith to any licensed retailer whose licensed premises are located within the geographic territory of the distributor's franchise for the alcoholic liquor *or the microbrewery's geographic territory*, unless written approval to do otherwise is obtained from the director, and to make such sales to all such licensed retailers at the same current bottle, sleeve and case price and without discrimination. For purposes of this subsection the "same current bottle, sleeve and case price" for spirits and wine means a price effective for a specified period as designated by the distributor *or microbrewery* on or before the first day of each month. If any distributor *or microbrewery* making the agreement violates the agreement by refusing to sell or provide service to any such licensed retailer in this state without written approval of the director or discriminates in current prices among such licensed retailers making or attempting to make purchases of alcoholic liquor from the distributor *or microbrewery*, the director may revoke the license of the distributor *or microbrewery*. If any licensed distributor *or microbrewery* making any agreement hereunder does not have a sufficient supply of alcoholic liquor of any of the brands or kinds—~~which~~ *that* the distributor *or microbrewery* distributes to supply the demands of all such licensed retailers, the distributor *or microbrewery* may ration such alcoholic liquor and apportion the available supply among such licensed retailers purchasing or attempting to purchase the same, in accordance with a plan—~~which~~ *that* shall be subject to the approval of the director.

(c) No club or drinking establishment licensed in this state shall purchase any wine or beer from any distributor *or microbrewery* licensed under this act unless the distributor *or microbrewery* files with the director a written statement sworn to by the distributor *or microbrewery*, or in case of a corporation by one of its principal officers, agreeing to sell any of the brands or kinds of wine or beer distributed by the distributor *or microbrewery* to those clubs and drinking establishments to which the distributor *or microbrewery* is authorized to sell such wine or beer and to which the distributor *or microbrewery* desires to sell such wine or beer, unless written approval to do otherwise is obtained from the director and to make such sales to all such licensed clubs or drinking establishments at the same current bottle and case price and without discrimination. If any distributor *or microbrewery* making the agreement violates the agreement by refusing to sell to any such licensed club or drinking establishment in this state without written approval of the director or discriminates in current

prices among such licensed clubs or drinking establishments making or attempting to make purchases of wine or beer from the distributor *or microbrewery*, the director may revoke the license of the distributor *or microbrewery*. If any licensed distributor *or microbrewery* making any agreement hereunder does not have a sufficient supply of wine or beer of any of the brands or kinds—~~which that~~ the distributor *or microbrewery* distributes to supply the demands of all such licensed clubs or drinking establishments, the distributor *or microbrewery* may ration such wine or beer and apportion the available supply among such licensed clubs or drinking establishments purchasing or attempting to purchase the same, in accordance with a plan—~~which that~~ shall be subject to the approval of the director.

For the purposes of this subsection, a delivery charge shall not be considered a part of the price of wine or beer sold by a distributor *or microbrewery*.

(d) No retailer licensed under K.S.A. 41-2701 et seq., and amendments thereto, shall purchase any cereal malt beverage from any distributor licensed under this act unless the distributor files with the director a written statement sworn to by the distributor, or in case of a corporation by one of its principal officers, agreeing to sell any of the brands or kinds of cereal malt beverage distributed by the distributor to those retailers to which the distributor is authorized to sell such cereal malt beverage, unless written approval to do otherwise is obtained from the director, and to make such sales to all such licensed retailers at the same current price and without discrimination. If any distributor making the agreement violates the agreement by refusing to sell to any such licensed retailer in this state without written approval of the director or discriminates in current prices among such licensed retailers making or attempting to make purchases of cereal malt beverage from the distributor, the director may revoke the license of the distributor. If any licensed distributor making any agreement hereunder does not have a sufficient supply of cereal malt beverage of any of the brands or kinds which the distributor distributes to supply the demands of all such licensed retailers, the distributor may ration such cereal malt beverage and apportion the available supply among such licensed retailers purchasing or attempting to purchase the same, in accordance with a plan which shall be subject to the approval of the director.

(e) No distributor *or microbrewery* shall sell alcoholic liquor or cereal malt beverage to a retailer licensed under the Kansas liquor control act, to a club, drinking establishment or caterer licensed under the club and drinking establishment act or to a retailer licensed under K.S.A. 41-2702, and amendments thereto, at a discount for multiple case lots.

Sec. 13. K.S.A. 2023 Supp. 41-1201 is hereby amended to read as follows: 41-1201. (a) A temporary permit shall:

(1) Allow the permit holder to offer for sale, sell and serve alcoholic liquor for consumption on licensed or unlicensed premises, or on premises that are otherwise subject to a separate temporary permit, that may be open to the public, subject to the terms of such permit. ~~A temporary permit shall also;~~

(2) authorize the permit holder to sell, in accordance with rules and regulations adopted by the secretary, alcoholic liquor at a charitable auction, or one or more limited issue porcelain containers containing alcoholic liquor; and

(3) *allow the permit holder to offer for sale, sell and serve alcoholic liquor that is beer or hard cider manufactured by a microbrewery licensee and purchased by the temporary permit holder from such microbrewery licensee as provided by K.S.A. 41-308b, and amendments thereto, for consumption on licensed or unlicensed premises, or on premises that are otherwise subject to a separate temporary permit, that may be open to the public, subject to the terms of such permit.*

(b) A temporary permit holder may charge a fee for entrance into the premises described in the permit, or any portion thereof.

(c) The director may issue a temporary permit to any one or more persons or organizations applying for such a permit, in accordance with rules and regulations of the secretary. The permit shall be issued in the names of the persons or organizations to which it is issued.

(d) (1) Applications for temporary permits shall be required to be filed with the director not less than 14 days before the event for which the permit is sought, unless the director waives such requirement for good cause. The application shall be upon a form prescribed by the director. Each application shall be electronically submitted and accompanied by a non-refundable permit fee of \$25 for each day for which the permit is issued, and such fee shall be paid by a check or credit card in the full amount thereof. All permit fees collected by the director pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(2) No city, county or township shall charge more than a \$25 non-refundable fee for each day for which the permit is issued.

(e) Each application for a temporary permit shall specify the premises for which such permit is issued, including a diagram of the premises covered by the temporary permit. The diagram shall clearly show the boundaries of the premises, entrances to and exits from the premises and the area in which the service of alcoholic liquor would take place. A temporary permit shall be issued only for premises where the city, county or township zoning code allows the use for which the permit is issued. No temporary permit shall be issued for premises that are not located in a county where the qualified electors of the county:

(1) (A) Approved, by a majority vote of those voting thereon, to adopt the proposition amending section 10 of article 15 of the constitution of the state of Kansas at the general election in November, 1986; or

(B) have approved a proposition to allow the sale of liquor by the individual drink in public places within the county at an election pursuant to K.S.A. 41-2646, and amendments thereto; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 41-2646, and amendments thereto.

(f) (1) (A) A temporary permit may be issued for the consumption of alcoholic liquor on a city, county or township street, alley, road, sidewalk or highway for an event if: (i) Such street, alley, road, sidewalk or highway is closed to motor vehicle traffic by the governing body of such city, county or township for such event; (ii) a written request for such consumption and possession of such alcoholic liquor has been made to the local governing body; and (iii) the event has been approved by the governing body of such city, county or township by ordinance or resolution.

(B) The boundaries of any such event shall be clearly marked by signs, a posted map or other means that reasonably identify the area in which alcoholic liquor may be possessed or consumed at such event.

(2) Drinking establishments that are immediately adjacent to, or located within the licensed premises of an event, for which a temporary permit has been issued and the consumption of alcoholic liquor on public property has been approved, may request that the drinking establishment's licensed premises be extended into and made a part of the licensed premises of the event, for the duration of the temporary permit issued for such event.

(3) Each licensee selling alcoholic liquor for consumption on the premises of an event for which a temporary permit has been issued shall be liable for violations of all laws governing the sale and consumption of alcoholic liquor.

(4) Each temporary permit holder selling alcoholic liquor for consumption on the permit premises shall be liable for all violations of laws governing the sale and consumption of alcoholic liquor that occur

in areas covered by multiple temporary permits.

(g) (1) A temporary permit may be issued for the sale of wine, beer or other alcoholic liquor on the Kansas state fairgrounds during the days of the Kansas state fair, or as authorized by the Kansas state fair board, if the Kansas state fair board has authorized such consumption and possession of such wine, beer or other alcoholic liquor. Each application for such temporary permit shall specify the premises within the fairgrounds for which the permit is issued, including a diagram of the premises covered by the temporary permit. Such diagram shall match the entirety of the premises as leased from the Kansas state fair board. The boundaries of the Kansas state fairgrounds shall be clearly marked by signs, a posted map or other means that reasonably identify the area in which wine, beer or other alcoholic liquor, may be possessed or consumed at the state fair.

(2) Each temporary permit holder selling wine, beer or other alcoholic liquor for consumption on the premises of the Kansas state fairgrounds that is covered by such temporary permit shall be liable for all violations of laws governing the sale and consumption of such alcoholic liquor that occur on such temporary premises.

(3) Any temporary permit holder who has received a temporary permit for the sale of wine, beer or other alcoholic liquor on the Kansas state fairgrounds may allow such wine, beer or other alcoholic liquor to be removed from the temporary permit premises and onto the Kansas state fairgrounds.

(h) (1) Except as otherwise provided in this subsection, a temporary permit shall be issued for a period of time not to exceed three consecutive days, the dates and hours of which shall be specified in the permit. An applicant may not be issued more than four temporary permits in a calendar year.

(2) The director may issue a sufficient number of temporary permits as required by the state fair board, valid for the entire period of time of the Kansas state fair, which authorizes the sale of wine in its original, unopened container and the serving by the drink of wine, beer or other alcoholic liquor on the state fairgrounds on premises specified in the temporary permit, by a person who has entered into an agreement with the state fair board for that purpose subject to the conditions imposed by the state fair board. Nothing in this paragraph shall be construed to limit the number of temporary permits the director may issue for the sale of wine, beer or other alcoholic liquor on the state fairgrounds consistent with the requirements of the state fair board.

(3) For an event approved by the governing body of a city, county or township pursuant to subsection (e)(1), the director may issue a temporary permit, which may, at the director's discretion, be valid for the entire period of such event, but in no event shall such permit be issued for a period of time that exceeds 30 consecutive days.

(i) An application for a temporary permit may be rejected by the director if:

(1) The applicant has been granted 12 permits in the current calendar year;

(2) the application was not filed with the director at least 14 days prior to the event;

(3) the applicant, or any officer, director, partner, registered agent, trustee, manager or owner of the applicant has previously owned or operated any entity holding a temporary permit, club, drinking establishment or caterer's license, had such permit or license surrendered, and at the time such permit or license was surrendered had been ordered to appear and show cause why the permit or license should not be revoked or suspended;

(4) the applicant has designated an area for an event that was the subject of the order to appear and show cause as set forth in paragraph (3), and it appears that the new application for a temporary permit covering the premises is an attempt to avoid any possible remedial action taken by the director against the former permit or license holder;

(5) the applicant has had a license or permit revoked under the

club and drinking establishment act, or has been convicted of a violation of the Kansas liquor control act, the club and drinking establishment act, the Kansas cereal malt beverage act or the provisions of K.S.A. 79-41a01 et seq., and amendments thereto; or

(6) the applicant has not remitted all liquor drink taxes due from a previous temporary permit.

(j) (1) A temporary permit holder may purchase and possess alcoholic liquor for resale for a period of three days prior to the first day of sale of such alcoholic liquor. A distributor may, without any further permission from the director, deliver such alcoholic liquor to the permit premises.

(2) If a licensee has sold alcoholic liquor to a temporary permit holder, and a distributor directly delivers such alcoholic liquor to such temporary permit holder, but such licensee's normal hours of operation make immediate payment to the distributor impossible, the licensee may pay the retailer and the retailer may pay the distributor for such alcoholic liquor within 48 hours of the sale.

(3) Within three business days after the end of an event conducted pursuant to a temporary permit, the temporary permit holder may sell back to the retailer~~or~~, farm winery *or microbrewery* from whom alcoholic liquor was purchased any alcoholic liquor sold to the temporary permit holder for such event.

(4) Upon written permission from the director and after four business days after the end of an event conducted pursuant to a temporary permit, the temporary permit holder may sell back to the licensee from whom alcoholic liquor was purchased any alcoholic liquor sold to the temporary permit holder for such event.

(k) A temporary permit shall not be transferable or assignable.

(l) Each temporary permit holder shall not employ or use the services of any person:

(1) Who is under 18 years of age to serve alcoholic liquor;

(2) who is under 21 years of age to mix or dispense drinks containing alcoholic liquor;

(3) who is under 21 years of age and not supervised by the temporary permit holder or an employee who is at least 21 years of age;

(4) who has been convicted of a felony or of any crime involving a morals charge to dispense, mix or serve alcoholic liquor; or

(5) who has been convicted within the previous two years of a violation of any intoxicating liquor law of this state, any other state or the United States, to dispense, mix or serve alcoholic liquor.

Sec. 14. K.S.A. 41-1202 is hereby amended to read as follows: 41-1202. (a) A temporary permit holder shall only purchase alcoholic liquor or cereal malt beverage from a retailer~~or~~, a farm winery *or a microbrewery*, as provided by K.S.A. 41-308b, and amendments thereto, and may receive delivery of such alcoholic liquor or cereal malt beverage from a distributor.

(b) Temporary permit holders shall only purchase alcoholic liquor or cereal malt beverage from a retailer who possesses a federal wholesaler's basic permit and ~~who~~ has a sign on display at the licensed premises that states that the licensee is a "Wholesale Liquor Dealer Under Federal Law." All alcoholic liquor or cereal malt beverage purchased on any one day shall be removed from the licensed premises of the retailer~~or~~, farm winery *or microbrewery* within 48 hours. Temporary permit holders shall not warehouse any alcoholic liquor or cereal malt beverage on the licensed premises of any retailer~~or~~, farm winery *or microbrewery* for more than 48 hours.

(c) Each temporary permit holder, when purchasing alcoholic liquor or cereal malt beverage from a retailer~~or~~, farm winery *or microbrewery*, shall obtain and keep for at least one year from the date of purchase a sales receipt that contains the following information:

(1) The date of purchase;

(2) the name and address of the retailer~~or~~, farm winery *or microbrewery*;

(3) the name and address of the temporary permit holder as it

appears on the temporary permit;

(4) the brand, size, proof and amount of all alcoholic liquor or cereal malt beverage purchased; and

(5) the subtotal of the cost of all alcoholic liquor or cereal malt beverage purchased, and the total cost of such purchase, including enforcement tax.

(d) Each temporary permit holder shall be responsible for all violations of the club and drinking establishment act by the following people while on the permit premises:

(1) An employee of the temporary permit holder, or of any person contracting with the temporary permit holder to provide services or food in connection with an event; or

(2) any individual dispensing, mixing or serving alcoholic liquor or cereal malt beverage at an event.

(e) Except for a temporary permit holder who has obtained such permit for the sale of alcoholic liquor at a charitable auction or for the sale of one or more limited issue porcelain containers containing alcoholic liquor, no temporary permit holder shall sell alcoholic liquor or cereal malt beverage for removal from or consumption off the licensed premises, except that alcoholic liquor or cereal malt beverage may be removed to a drinking establishment that has extended its premises into the event area in accordance with K.S.A. 41-2608, and amendments thereto.

(f) The boundary of any premises covered by a temporary permit shall be marked by a line of demarcation.

Sec. 15. K.S.A. 41-2642 is hereby amended to read as follows: 41-2642. (a) A license for a drinking establishment shall allow the licensee to offer for sale, sell and serve alcoholic liquor or cereal malt beverage for consumption on the licensed premises ~~which~~ *that* may be open to the public, and to serve samples of *such* alcoholic liquor or cereal malt beverage free of charge on licensed premises subject to the requirements of subsection (c), ~~but only~~ if such premises are located in a county where the qualified electors of the county:

(1) (A) Approved, by a majority vote of those voting thereon, the proposition to amend section 10 of article 15 of the constitution of the state of Kansas at the general election in November 1986; or (B) have approved a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county at an election pursuant to K.S.A. 41-2646, and amendments thereto; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 41-2646, and amendments thereto.

(b) A drinking establishment shall be required to derive from sales of food for consumption on the licensed premises not less than 30% of all the establishment's gross receipts from sales of food and beverages on such premises unless the licensed premises are located in a county where the qualified electors of the county:

(1) Have approved, at an election pursuant to K.S.A. 41-2646, and amendments thereto, a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county without a requirement that any portion of their gross receipts be derived from the sale of food; and

(2) have not approved a proposition to prohibit such sales of alcoholic liquor in such places at a subsequent election pursuant to K.S.A. 41-2646, and amendments thereto.

(c) No charge of any sort may be made for a sample serving. Samples may not be served to a minor. No samples may be removed from the licensed premises. Providing samples is prohibited for any licensee who charges a cover charge or entry fee at any time during the business day. No consideration shall be requested or required for entry onto the premises, participation in any event taking place on the premises or to remain on the premises.

(d) (1) A drinking establishment shall specify in the application for a license or renewal of a license the premises to be licensed, which

may include all premises which are in close proximity and are under the control of the applicant or licensee.

(2) If the drinking establishment licensee also holds a manufacturer's license issued under the Kansas liquor control act, the licensed premises specified in the drinking establishment license shall not be the same as the licensed premises specified in the manufacturer's license, but such specified premises shall be located not more than two miles by the usually traveled road from the licensed premises specified in the manufacturer's license.

(e) Notwithstanding any other provision of law to the contrary, any hotel of which the entire premises are licensed as a drinking establishment or as a drinking establishment caterer may sell alcoholic liquor or cereal malt beverage by means of minibars located in guest rooms of such hotel, subject to the following:

(1) The key, magnetic card or other device required to attain access to a minibar in a guest room shall be provided only to guests who are registered to stay in such room and who are 21 or more years of age;

(2) containers or packages of spirits or wine sold by means of a minibar shall hold not less than 50 nor more than 200 milliliters; and

(3) a minibar shall be restocked with alcoholic liquor or cereal malt beverage only during hours when the hotel is permitted to sell alcoholic liquor and cereal malt beverage as a drinking establishment.

(f) A drinking establishment may store on its premises wine sold to a customer for consumption at a later date on its premises in the unopened container. Such wine must be kept separate from all other alcohol stock and in a secure locked area separated by customer. Such wine shall not be removed from the licensed premises in its unopened condition.

(g) If the drinking establishment licensee also holds a manufacturer's license issued under the Kansas liquor control act, the drinking establishment shall not sell alcoholic liquor manufactured by such manufacturer's licensee to the exclusion of other alcoholic liquor. All beer and cereal malt beverage sold by the drinking establishment shall be acquired from a distributor~~—or~~, retailer *or microbrewery* licensed under the Kansas liquor control act, and all wine and spirits sold by the drinking establishment shall be acquired from a retailer or farm winery licensed under the Kansas liquor control act and who possesses a federal wholesaler's basic permit, *except that hard cider may be acquired from a microbrewery licensed under the Kansas liquor control act and who possesses a federal wholesaler's basic permit.*

Sec. 16. K.S.A. 41-308b, 41-410, 41-601, 41-701, 41-702, 41-703, 41-706, 41-708, 41-709, 41-728, 41-1101, 41-1202 and 41-2642 and K.S.A. 2023 Supp. 41-1201 are hereby repealed.

Sec. 17. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.