

SENATE BILL No. 2

AN ACT concerning alcoholic liquor; relating to the Kansas state fair; sales during the state fair; issuance of temporary permits; liquor enforcement tax and liquor drink tax; crediting a portion of such tax moneys collected to the state fair capital improvements fund; relating to the sale and delivery by retail liquor stores of alcohol and cereal malt beverages; increasing the percentage of alcohol by volume in domestic table wine and domestic fortified wine; relating to cereal malt beverage retailer licenses; requiring issuance thereof to a licensed farm winery that satisfies the statutory requirements for such retailer license; permitting farm wineries and producers to hold cereal malt beverage licenses; allowing farm wineries and producers to have alcoholic liquor such as wine on their premises while holding a cereal malt beverage license; removing the good character and reputation requirement for a cereal malt beverage license; providing that applicants for a farm winery or a producer license who are registered as agritourism operators shall be issued the license notwithstanding any zoning or other regulations of any city or county; providing that registered agritourism operators shall be issued a license as a drinking establishment not withstanding any city or county zoning or other regulations; amending K.S.A. 41-102, 41-308, 41-311, 41-501, 41-719, 41-1201, 41-2608, 41-2703, 41-2704, 79-4108 and 79-41a03 and repealing the existing sections.

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

Section 1. On and after January 1, 2023, K.S.A. 41-102 is hereby amended to read as follows: 41-102. As used in this act, unless the context clearly requires otherwise:

(a) "Alcohol" means the product of distillation of any fermented liquid, whether rectified or diluted, whatever its origin, and includes synthetic ethyl alcohol but does not include denatured alcohol or wood alcohol.

(b) "Alcoholic candy" means:

(1) For purposes of manufacturing, any candy or other confectionery product with an alcohol content greater than 0.5% alcohol by volume; and

(2) for purposes of sale at retail, any candy or other confectionery product with an alcohol content greater than 1% alcohol by volume.

(c) "Alcoholic liquor" means alcohol, spirits, wine, beer, alcoholic candy and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being, but shall not include any cereal malt beverage.

(d) "Beer" means a beverage, containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content.

(e) "Caterer" means the same as defined by K.S.A. 41-2601, and amendments thereto.

(f) "Cereal malt beverage" means the same as defined by K.S.A. 41-2701, and amendments thereto.

(g) "Club" means the same as defined by K.S.A. 41-2601, and amendments thereto.

(h) "Director" means the director of alcoholic beverage control of the department of revenue.

(i) "Distributor" means the person importing or causing to be imported into the state, or purchasing or causing to be purchased within the state, alcoholic liquor for sale or resale to retailers licensed under this act or cereal malt beverage for sale or resale to retailers licensed under K.S.A. 41-2702, and amendments thereto.

(j) "Domestic beer" means beer which contains not more than 15% alcohol by weight and which is manufactured in this state.

(k) "Domestic fortified wine" means wine which contains more than ~~14%~~ 16%, but not more than 20% alcohol by volume and which is manufactured in this state.

(l) "Domestic table wine" means wine which contains not more than ~~14%~~ 16% alcohol by volume and which is manufactured without rectification or fortification in this state.

(m) "Drinking establishment" means the same as defined by K.S.A.

41-2601, and amendments thereto.

(n) "Farm winery" means a winery licensed by the director to manufacture, store and sell domestic table wine and domestic fortified wine.

(o) "Fulfillment house" means any location or facility for any in-state or out-of-state entity that handles logistics, including warehousing, packaging, order fulfillment or shipping services on behalf of the holder of a special order shipping license issued pursuant to K.S.A. 41-350, and amendments thereto.

(p) "Hard cider" means any alcoholic beverage that:

(1) Contains less than 8.5% alcohol by volume;

(2) has a carbonation level that does not exceed 6.4 grams per liter; and

(3) is obtained by the normal alcoholic fermentation of the juice of sound, ripe apples or pears, including such beverages containing sugar added for the purpose of correcting natural deficiencies.

(q) "Manufacture" means to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle or fill an original package with any alcoholic liquor, beer or cereal malt beverage.

(r) (1) "Manufacturer" means every brewer, fermenter, distiller, rectifier, wine maker, blender, processor, bottler or person who fills or refills an original package and others engaged in brewing, fermenting, distilling, rectifying or bottling alcoholic liquor, beer or cereal malt beverage.

(2) "Manufacturer" does not include a microbrewery, microdistillery or a farm winery.

(s) "Microbrewery" means a brewery licensed by the director to manufacture, store and sell domestic beer and hard cider.

(t) "Microdistillery" means a facility which produces spirits from any source or substance that is licensed by the director to manufacture, store and sell spirits.

(u) "Minor" means any person under 21 years of age.

(v) "Nonbeverage user" means any manufacturer of any of the products set forth and described in K.S.A. 41-501, and amendments thereto, when the products contain alcohol or wine, and all laboratories using alcohol for nonbeverage purposes.

(w) "Original package" means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor. Original container does not include a sleeve.

(x) "Person" means any natural person, corporation, partnership, trust or association.

(y) "Powdered alcohol" means alcohol that is prepared in a powdered or crystal form for either direct use or for reconstitution in a nonalcoholic liquid.

(z) "Primary American source of supply" means the manufacturer, the owner of alcoholic liquor at the time it becomes a marketable product or the manufacturer's or owner's exclusive agent who, if the alcoholic liquor cannot be secured directly from such manufacturer or owner by American wholesalers, is the source closest to such manufacturer or owner in the channel of commerce from which the product can be secured by American wholesalers.

(aa) (1) "Retailer" means a person who is licensed under the Kansas liquor control act and sells at retail, or offers for sale at retail, alcoholic liquors or cereal malt beverages.

(2) "Retailer" does not include a microbrewery, microdistillery or a farm winery.

(bb) "Sale" means any transfer, exchange or barter in any manner

or by any means whatsoever for a consideration and includes all sales made by any person, whether principal, proprietor, agent, servant or employee.

(cc) "Salesperson" means any natural person who:

(1) Procures or seeks to procure an order, bargain, contract or agreement for the sale of alcoholic liquor or cereal malt beverage; or

(2) is engaged in promoting the sale of alcoholic liquor or cereal malt beverage, or in promoting the business of any person, firm or corporation engaged in the manufacturing and selling of alcoholic liquor or cereal malt beverage, whether the seller resides within the state of Kansas and sells to licensed buyers within the state of Kansas, or whether the seller resides without the state of Kansas and sells to licensed buyers within the state of Kansas.

(dd) "Sample" means a serving of alcoholic liquor that contains not more than: (1) One-half ounce of distilled spirits; (2) one ounce of wine; or (3) two ounces of beer or cereal malt beverage. A "sample" of a mixed alcoholic beverage shall contain not more than ½ ounce of distilled spirits.

(ee) "Secretary" means the secretary of revenue.

(ff) (1) "Sell at retail" and "sale at retail" refer to and mean sales for use or consumption and not for resale in any form and sales to clubs, licensed drinking establishments, licensed caterers or holders of temporary permits.

(2) "Sell at retail" and "sale at retail" do not refer to or mean sales by a distributor, a microbrewery, a farm winery, a licensed club, a licensed drinking establishment, a licensed caterer or a holder of a temporary permit.

(gg) "To sell" includes to solicit or receive an order for, to keep or expose for sale and to keep with intent to sell.

(hh) "Sleeve" means a package of two or more 50-milliliter or 3.2-fluid-ounce containers of spirits.

(ii) "Spirits" means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.

(jj) "Supplier" means a manufacturer of alcoholic liquor or cereal malt beverage or an agent of such manufacturer, other than a salesperson.

(kk) "Temporary permit" means the same as defined by K.S.A. 41-2601, and amendments thereto.

(ll) "Wine" means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including such beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies. "Wine" includes hard cider and any other product that is commonly known as a subset of wine.

Sec. 2. K.S.A. 41-308 is hereby amended to read as follows: 41-308. (a) Except as provided in K.S.A. 41-308d, and amendments thereto, a retailer's license shall allow the licensee to sell and offer for sale at retail and deliver in the original package, as therein prescribed, alcoholic liquor and cereal malt beverage for use or consumption off and away from the premises specified in such license.

(b) A retailer's license shall permit sale and delivery of alcoholic liquor and cereal malt beverage only on the licensed premises and shall not permit sale of alcoholic liquor and cereal malt beverage for resale in any form, except that a licensed retailer may:

(1) Sell alcoholic liquor and cereal malt beverage to a temporary permit holder for resale by such permit holder;

(2) sell and deliver alcoholic liquor and cereal malt beverage to a caterer or to the licensed premises of a public venue, club or drinking establishment, if such premises are in the county where the retailer's premises are located or in an adjacent county *or a county with a corner located within two miles measured along the adjacent county boundary*, for resale by such public venue, club, establishment or caterer; and

(3) sell and deliver cereal malt beverage and beer containing not more than 6% alcohol by volume to the licensed premises of a cereal malt beverage retailer, as defined in K.S.A. 41-2701, and amendments thereto, who is licensed for on-premises consumption, if such cereal malt beverage premises are located in the same county, or an adjacent county to the county where the retailer's premises are located, for resale by such cereal malt beverage retailer.

(c) A retailer may:

(1) Charge a delivery fee for delivery of alcoholic liquor and cereal malt beverage to a public venue, club, drinking establishment or caterer pursuant to subsection (b)(2);

(2) charge a delivery fee for delivery of cereal malt beverage and beer containing not more than 6% alcohol by volume to a cereal malt beverage retailer pursuant to subsection (b)(3);

(3) sell lottery tickets and shares to the public in accordance with the Kansas lottery act, if the retailer is selected as a lottery retailer;

(4) include in the sale of alcoholic liquor and cereal malt beverage any goods included by the manufacturer in packaging with the alcoholic liquor or cereal malt beverage, subject to the approval of the director;

(5) distribute to the public, without charge, consumer advertising specialties bearing advertising matter, subject to rules and regulations of the secretary limiting the form and distribution of such specialties so that they are not conditioned on or an inducement to the purchase of alcoholic liquor or cereal malt beverage;

(6) store alcoholic liquor and cereal malt beverage in refrigerators, cold storage units, ice boxes or other cooling devices, and the licensee may sell such alcoholic liquor and cereal malt beverage to consumers in a chilled condition;

(7) sell any other good or service on the licensed premises, except that the gross sales of other goods and services, excluding fees derived from the sale of lottery tickets and revenues from sales of cigarettes and tobacco products, shall not exceed 20% of the retailer's total gross sales; and

(8) sell containers of beer, domestic beer and cereal malt beverage that are sold on the licensed premises to consumers and served in refillable and sealable containers for consumption off the licensed premises if such containers:

(A) Contain between 32 and 64 fluid ounces; and

(B) have a label affixed that clearly indicates the licensee's name and the type of alcoholic beverage contained in such container.

(d) All alcoholic liquor, cereal malt beverage and nonalcoholic malt beverage sold by a holder of a retail license shall be subject to the liquor enforcement tax imposed by K.S.A. 79-4101, and amendments thereto.

Sec. 3. K.S.A. 41-311 is hereby amended to read as follows: 41-311. (a) No license of any kind shall be issued pursuant to the liquor control act to a person:

(1) Who is not a citizen of the United States;

(2) who has been convicted of a felony under the laws of this state, any other state or the United States;

(3) who has had a license revoked for cause under the provisions

of the liquor control act, the beer and cereal malt beverage keg registration act or who has had any license issued under the cereal malt beverage laws of any state revoked for cause except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;

(4) who has been convicted of being the keeper or is keeping any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older or has forfeited bond to appear in court to answer charges of being a keeper of any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older;

(5) who has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes;

(6) who is not at least 21 years of age;

(7) who, other than as a member of the governing body of a city or county, appoints or supervises any law enforcement officer, who is a law enforcement official or who is an employee of the director;

(8) who intends to carry on the business authorized by the license as agent of another;

(9) who at the time of application for renewal of any license issued under this act would not be eligible for the license upon a first application, except as provided by subsection (a)(12);

(10) who is the holder of a valid and existing license issued under article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto, unless the person agrees to and does surrender the license to the officer issuing the same upon the issuance to the person of a license under this act, ~~except that~~ *such person may be issued a farm winery license pursuant to K.S.A. 41-316, and amendments thereto, or a producer license pursuant to K.S.A. 41-355, and amendments thereto, and a retailer licensed pursuant to K.S.A. 41-2702, and amendments thereto, shall be eligible to receive a retailer's license under the Kansas liquor control act;*

(11) who does not own the premises for which a license is sought, or does not, at the time of application, have a written lease thereon;

(12) whose spouse would be ineligible to receive a license under this act for any reason other than citizenship requirements or age, except that this paragraph shall not apply in determining eligibility for a renewal license or to a person whose spouse is a law enforcement officer;

(13) whose spouse has been convicted of a felony or other crime that would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under this act;

(14) who does not provide any data or information required by K.S.A. 41-311b, and amendments thereto; or

(15) who, after a hearing before the director, has been found to have held an undisclosed beneficial interest in any license issued pursuant to the liquor control act that was obtained by means of fraud or any false statement made on the application for such license.

(b) No retailer's license shall be issued to:

(1) A person who has a beneficial interest in a manufacturer, distributor, farm winery or microbrewery licensed under this act, except that the spouse of an applicant for a retailer's license may own and hold a farm winery license, microbrewery license, or both, if the spouse does not hold a retailer's license issued under this act;

(2) a person who has a beneficial interest in any other retail establishment licensed under this act, except that the spouse of a licensee may own and hold a retailer's license for another retail establishment;

(3) a copartnership, unless all of the copartners are qualified to obtain a license;

(4) a corporation; or

(5) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(c) No manufacturer's license shall be issued to:

(1) A corporation, if any officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a manufacturer's license for any reason other than citizenship requirements;

(2) a copartnership, unless all of the copartners would be individually eligible to receive a manufacturer's license under this act;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license; or

(4) a person who has a beneficial interest in a distributor, retailer, farm winery or microbrewery licensed under this act, except as provided in K.S.A. 41-305, and amendments thereto.

(d) No distributor's license shall be issued to:

(1) A corporation, if any officer, director or stockholder of the corporation would be ineligible to receive a distributor's license for any reason. It shall be unlawful for any stockholder of a corporation licensed as a distributor to transfer any stock in the corporation to any person who would be ineligible to receive a distributor's license for any reason, and any such transfer shall be null and void, except that: (A) If any stockholder owning stock in the corporation dies and an heir or devisee to whom stock of the corporation descends by descent and distribution or by will is ineligible to receive a distributor's license, the legal representatives of the deceased stockholder's estate and the ineligible heir or devisee shall have 14 months from the date of the death of the stockholder within which to sell the stock to a person eligible to receive a distributor's license, any such sale by a legal representative to be made in accordance with the provisions of the probate code; or (B) if the stock in any such corporation is the subject of any trust and any trustee or beneficiary of the trust who is 21 years of age or older is ineligible to receive a distributor's license, the trustee, within 14 months after the effective date of the trust, shall sell the stock to a person eligible to receive a distributor's license and hold and disburse the proceeds in accordance with the terms of the trust. If any legal representatives, heirs, devisees or trustees fail, refuse or neglect to sell any stock as required by this subsection, the stock shall revert to and become the property of the corporation, and the corporation shall pay to the legal representatives, heirs, devisees or trustees the book value of the stock. During the period of 14 months prescribed by this subsection, the corporation shall not be denied a distributor's license or have its distributor's license revoked if the corporation meets all of the other requirements necessary to have a distributor's license;

(2) a copartnership, unless all of the copartners are eligible to receive a distributor's license;

(3) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining

whether a beneficiary would be eligible for a license; or

(4) a person who has a beneficial interest in a manufacturer, retailer, farm winery or microbrewery licensed under this act.

(e) No nonbeverage user's license shall be issued to a corporation, if any officer, manager or director of the corporation or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a nonbeverage user's license for any reason other than citizenship and residence requirements.

(f) No microbrewery license, microdistillery license or farm winery license shall be issued to a:

(1) Person who has a beneficial interest in a manufacturer or distributor licensed under this act, except as provided in K.S.A. 41-305, and amendments thereto;

(2) person, copartnership or association that has a beneficial interest in any retailer licensed under this act or under K.S.A. 41-2702, and amendments thereto, except that the spouse of an applicant for a microbrewery or farm winery license may own and hold a retailer's license if the spouse does not hold a microbrewery or farm winery license issued under this act;

(3) copartnership, unless all of the copartners are qualified to obtain a license;

(4) corporation, unless stockholders owning in the aggregate 50% or more of the stock of the corporation would be eligible to receive such license and all other stockholders would be eligible to receive such license except for reason of citizenship or residency; or

(5) a trust, if any grantor, beneficiary or trustee would be ineligible to receive a license under this act for any reason, except that the provisions of subsection (a)(6) shall not apply in determining whether a beneficiary would be eligible for a license.

(g) If the applicant is not a Kansas resident, no license shall be issued until the applicant has appointed a citizen of the United States who is a resident of Kansas as the applicant's agent and filed with the director a duly authenticated copy of a duly executed power of attorney, authorizing the agent to accept service of process from the director and the courts of this state and to exercise full authority, control and responsibility for the conduct of all business and transactions within the state relative to alcoholic liquor and the business licensed. The agent must be satisfactory to and approved by the director, except that the director shall not approve as an agent any person who:

(1) Has been convicted of a felony under the laws of this state, any other state or the United States;

(2) has had a license issued under the alcoholic liquor or cereal malt beverage laws of this or any other state revoked for cause, except that a person may be appointed as an agent if the person's license was revoked for the conviction of a misdemeanor and 10 years have lapsed since the date of the revocation;

(3) has been convicted of being the keeper or is keeping any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older or has forfeited bond to appear in court to answer charges of being a keeper of any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older;

(4) has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes; or

(5) is less than 21 years of age.

Sec. 4. On and after January 1, 2023, K.S.A. 41-501 is hereby

amended to read as follows: 41-501. (a) As used in this section and K.S.A. 41-501a, and amendments thereto:

(1) "Gallon" means wine gallon.

(2) "Federal area" means any lands or premises which are located within the exterior boundaries of this state and which are held or acquired by or for the use of the United States or any department, establishment or agency of the United States.

(3) "Malt product" means malt syrup, malt extract, liquid malt or wort.

(b) (1) For the purpose of raising revenue a tax is imposed upon the manufacturing, using, selling, storing or purchasing *of* alcoholic liquor, cereal malt beverage or malt products in this state or a federal area at a rate of \$.18 per gallon on beer and cereal malt beverage; \$.20 per gallon on all wort or liquid malt; \$.10 per pound on all malt syrup or malt extract; \$.30 per gallon on wine containing ~~14%~~ 16% or less alcohol by volume; \$.75 per gallon on wine containing more than ~~14%~~ 16% alcohol by volume; and \$2.50 per gallon on alcohol and spirits.

(2) The tax imposed by this section shall be paid only once and shall be paid by the person in this state or federal area who first manufactures, uses, sells, stores, purchases or receives the alcoholic liquor or cereal malt beverage. The tax shall be collected and paid to the director as provided in this act. If the alcoholic liquor or cereal malt beverage is manufactured and sold in this state or a federal area, the tax shall be paid by the manufacturer, microbrewery, microdistillery or farm winery producing it. If the alcoholic liquor or cereal malt beverage is imported into this state by a distributor for the purpose of sale at wholesale in this state or a federal area, the tax shall be paid by the distributor, and in no event shall such tax be paid by the manufacturer unless the alcoholic liquor or cereal malt beverage is manufactured in this state. If not to exceed one gallon, or metric equivalent, per person of alcoholic liquor has been purchased by a private citizen outside the borders of the United States and is brought into this state by the private citizen in such person's personal possession for such person's own personal use and not for sale or resale, such import is lawful and no tax payment shall be due thereon.

(c) Manufacturers, microbreweries, microdistilleries, farm wineries or distributors at wholesale of alcoholic liquor or cereal malt beverage shall be exempt from the payment of the gallonage tax imposed on alcoholic liquor and cereal malt beverage, upon satisfactory proof, including bills of lading furnished to the director by affidavit or otherwise as the director requires, that the liquor or cereal malt beverage was manufactured in this state but was shipped out of the state for sale and consumption outside the state.

(d) Wines manufactured or imported solely and exclusively for sacramental purposes and uses shall not be subject to the tax provided for by this section.

(e) The tax provided for by this section is not imposed upon:

(1) Any alcohol or wine, whether manufactured in or imported into this state, when sold to a nonbeverage user licensed by the state, for use in the manufacture of any of the following when they are unfit for beverage purposes: Patent and proprietary medicines and medicinal, antiseptic and toilet preparations; flavoring extracts and syrups and food products; scientific, industrial and chemical products; or scientific, chemical, experimental or mechanical purposes; or

(2) the privilege of engaging in any business of interstate commerce or otherwise, which business may not be made the subject of taxation by this state under the constitution and statutes of the United States.

(f) The tax imposed by this section shall be in addition to all other



taxes imposed by the state of Kansas or by any municipal corporation or political subdivision thereof.

(g) Retail sales of alcoholic liquor, sales of beer to consumers by microbreweries and sales of wine to consumers by farm wineries shall not be subject to the tax imposed by the Kansas retailers' sales tax act but shall be subject to the enforcement tax provided for in this act.

(h) Notwithstanding any ordinance to the contrary, no city shall impose an occupation or privilege tax on the business of any person, firm or corporation licensed as a manufacturer, distributor, microbrewery, microdistillery, farm winery, retailer or nonbeverage user under this act and doing business within the boundaries of the city except as specifically authorized by K.S.A. 41-310, and amendments thereto.

(i) The director shall collect the taxes imposed by this section and shall account for and remit all moneys collected from the tax 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 and the state treasurer shall credit  $\frac{1}{10}$  of the moneys collected from taxes imposed upon alcohol and spirits under subsection (b)(1) to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, and shall credit the balance of the moneys collected to the state general fund.

(j) If any alcoholic liquor manufactured in or imported into this state is sold to a licensed manufacturer or distributor of this state to be used solely as an ingredient in the manufacture of any beverage for human consumption, the tax imposed upon the manufacturer or distributor shall be reduced by the amount of the taxes which have been paid under this section as to the alcoholic liquor so used.

(k) The tax provided for by this section is not imposed upon alcohol or wine used by any school or college for scientific, chemical, experimental or mechanical purposes or by hospitals, sanatoria or other institutions caring for the sick. Any school, college, hospital, sanatorium or other institution caring for the sick may import alcohol or wine for scientific, chemical, experimental, mechanical or medicinal purposes by making application to the director for a permit to import it and receiving such a permit. Application for the permit shall be on a form prescribed and furnished by the director, and a separate permit shall be required for each purchase of alcohol or wine. A fee of \$2 shall accompany each application. All permits shall be issued in triplicate to the applicant and shall be under the seal of the office of the director. Two copies of the permit shall be forwarded by the applicant to the microbrewery, microdistillery, farm winery, manufacturer or distributor from which the alcohol or wine is purchased, and the microbrewery, microdistillery, farm winery, manufacturer or distributor shall return to the office of the director one copy of the permit with its shipping affidavit and invoice. Within 10 days after receipt of any alcohol or wine, the school, college, hospital or sanatorium ordering it shall file a report in the office of the director upon forms furnished by the director, showing the amount of alcohol or wine received, the place where it is to be stored, from whom it was received, the purpose for which it is to be used and such other information as required by the director. Any school, college, hospital, sanatorium or institution caring for the sick, which complies with the provisions of this subsection, shall not be required to have any other license to purchase alcohol or wine from a microbrewery, microdistillery, farm winery, manufacturer or distributor.

Sec. 5. K.S.A. 41-719 is hereby amended to read as follows: 41-719. (a) (1) Except as otherwise provided herein and in K.S.A. 8-1599, and amendments thereto, no person shall drink or consume alcoholic

liquor on the public streets, alleys, roads or highways or inside vehicles while on the public streets, alleys, roads or highways.

(2) Alcoholic liquor may be consumed on public streets, alleys, roads, sidewalks or highways when:

(A) A temporary permit has been issued pursuant to K.S.A. 41-1201 or 41-2703, and amendments thereto, ~~or K.S.A. 2020 Supp. 41-1201, and amendments thereto~~; for such an event;

(B) a caterer's licensee has provided the required notification for a catered event pursuant to K.S.A. 41-2643, and amendments thereto; or

(C) a public venue, hotel, hotel caterer, drinking establishment caterer or drinking establishment licensee has been authorized to extend its licensed premises pursuant to K.S.A. 41-2608, and amendments thereto.

(3) Consumption of alcoholic liquor on public streets, alleys, roads, sidewalks or highways must be approved, by ordinance or resolution, by the local governing body of any city, county or township where such consumption will occur. No alcoholic liquor may be consumed inside vehicles while on public streets, alleys, roads or highways at any time.

(4) No person shall remove any alcoholic liquor from inside the boundaries of an event as designated by the governing body of any city, county or township, from the boundaries of a catered event or from the extended licensed premises of a public venue, hotel, hotel caterer, drinking establishment caterer or drinking establishment. Such boundaries shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed.

(b) Alcoholic liquor may be consumed within common consumption areas designated by a city or county on public streets, alleys, roads, sidewalks or highways pursuant to K.S.A. ~~2020 Supp.~~ 41-2659, and amendments thereto, except that no alcoholic liquor may be consumed inside vehicles while on public streets, alleys, roads or highways within a common consumption area. Further, no person shall remove any alcoholic liquor from inside the boundaries of the common consumption area which shall be clearly designated by a physical barrier.

(c) No person shall drink or consume alcoholic liquor on private property except:

(1) On premises where the sale of liquor by the individual drink is authorized by the club and drinking establishment act;

(2) upon private property by a person occupying such property as an owner or lessee of an owner and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(3) in a lodging room of any hotel, motel or boarding house by the person occupying such room and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(4) in a private dining room of a hotel, motel or restaurant, if the dining room is rented or made available on a special occasion to an individual or organization for a private party and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(5) on the premises of a manufacturer, microbrewery, microdistillery or farm winery, if authorized by K.S.A. 41-305, 41-

308a, 41-308b or 41-354, and amendments thereto ~~or K.S.A. 2020-Supp. 41-354, and amendments thereto;~~

(6) on the premises of an unlicensed business as authorized pursuant to subsection (j); or

(7) within a common consumption area established pursuant to K.S.A. ~~2020-Supp. 41-2659~~, and amendments thereto.

(d) No person shall drink or consume alcoholic liquor on public property except:

(1) On real property leased by a city to others under the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposes or purposes incidental thereto.

(2) In any state-owned or operated building or structure, and on the surrounding premises, which is furnished to and occupied by any state officer or employee as a residence.

(3) On premises licensed as a club or drinking establishment and located on property owned or operated by an airport authority created pursuant to chapter 27 of the Kansas Statutes Annotated, and amendments thereto, or established by a city.

(4) On the state fair grounds on the day of any race held thereon pursuant to the Kansas parimutuel racing act.

(5) On the state fairgrounds, *within boundaries that have been marked with a three-dimensional barrier*, if: (A) The alcoholic liquor is domestic beer or wine or wine imported under K.S.A. 41-308a(e), and amendments thereto, and is consumed only for purposes of judging competitions; (B) the alcoholic liquor is wine or beer ~~and that is sold and consumed~~ during the days of the Kansas state fair ~~on premises leased by the state fair board to a person who holds a temporary permit issued pursuant to K.S.A. 41-2703, and amendments thereto, or K.S.A. 2020-Supp. 41-1201, and amendments thereto, authorizing the sale and serving of such wine or beer, or both, or as authorized by the Kansas state fair board, by the holder of a temporary permit in accordance with the provisions of K.S.A. 41-1201(g), and amendments thereto;~~ or (C) the alcoholic liquor is consumed on nonfair days in conjunction with bona fide scheduled events involving not less than 75 invited guests and the state fair board, in its discretion, authorizes the consumption of the alcoholic liquor, subject to any conditions or restrictions the board may require.

(6) In the state historical museum provided for by K.S.A. 76-2036, and amendments thereto, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.

(7) On the premises of any state-owned historic site under the jurisdiction and supervision of the state historical society, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.

(8) In a lake resort within the meaning of K.S.A. 32-867, and amendments thereto, on state-owned or leased property.

(9) On the premises of any Kansas national guard regional training center or armory, and any building on such premises, as authorized by rules and regulations of the adjutant general and upon approval of the Kansas military board.

(10) On the premises of any land or waters owned or managed by the department of wildlife, parks and tourism, except as otherwise prohibited by rules and regulations of the department adopted by the secretary pursuant to K.S.A. 32-805, and amendments thereto.

(11) On property exempted from this subsection pursuant to subsection (e), (f), (g), (h) or (i).

(12) On the premises of the state capitol building or on its

surrounding premises during an official state function of a nonpartisan nature that has been approved by the legislative coordinating council.

(13) On premises of a common consumption area established by K.S.A. 2020 Supp. 41-2659, and amendments thereto.

(e) Any city may exempt, by ordinance, from the provisions of subsection (d) specified property the title of which is vested in such city.

(f) The board of county commissioners of any county may exempt, by resolution, from the provisions of subsection (d) specified property the title of which is vested in such county.

(g) The state board of regents may exempt from the provisions of subsection (d) the Sternberg museum on the campus of Fort Hays state university, or other specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(h) The board of regents of Washburn university may exempt from the provisions of subsection (d) the Mulvane art center and the Bradbury Thompson alumni center on the campus of Washburn university, and other specified property the title of which is vested in such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(i) The board of trustees of a community college may exempt from the provisions of subsection (d) specified property ~~which~~ *that* is under the control of such board and ~~which~~ is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(j) (1) An unlicensed business may authorize patrons or guests of such business to consume alcoholic liquor on the premises of such business provided:

(A) Such alcoholic liquor is in the personal possession of the patron and is not sold, offered for sale or given away by the owner of such business or any employees thereof;

(B) possession and consumption of alcoholic liquor shall not be authorized between the hours of 12 a.m. and 9 a.m.;

(C) the business, or any owner thereof, shall not have had a license issued under either the Kansas liquor control act or the club and drinking establishment act revoked for any reason; and

(D) no charge of any sort may be made by the business for the privilege of possessing or consuming alcoholic liquor on the premises, or for mere entry onto the premises.

(2) It shall be a violation of this section for any unlicensed business to authorize the possession or consumption of alcoholic liquor by a patron of such business when such authorization is not in accordance with the provisions of this subsection.

(3) For the purposes of this subsection, "patron" means a natural person who is a customer or guest of an unlicensed business.

(k) Violation of any provision of this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$200 or by imprisonment for not more than six months, or both.

(l) For the purposes of this section, "common consumption area" ~~has means~~ the same ~~meaning~~ as that term is defined in K.S.A. 41-2659, and amendments thereto.

Sec. 6. K.S.A. 41-1201 is hereby amended to read as follows: 41-1201. (a) A temporary permit shall 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 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.

(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 ~~they are~~ *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: ~~(A)~~ (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; ~~(B)~~ (ii) a written request for such consumption and possession of such alcoholic liquor has been made to the local governing body; and ~~(C)~~ (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 ~~which~~ *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 ~~or~~, beer; ~~or both~~, 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 ~~or~~, beer; ~~or both~~, 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.

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

(1) The applicant has been granted ~~four~~ 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;

~~or~~  
(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.*

~~(i)~~(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 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.

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

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

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

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

(3) who is under ~~the age of~~ 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. 7. K.S.A. 41-2608 is hereby amended to read as follows: 41-2608. (a) Any public venue, club or drinking establishment license issued pursuant to this act shall be for one particular premises that shall be stated in the application and in the license. Not more than one premises licensed under the club and drinking establishment act shall exist at a single legal address.

(b) No license shall be issued for a public venue, club or drinking establishment unless the city, township or county zoning code allows a club or drinking establishment at that location.

(c) The licensed premises of a license may be extend into a city, county or township street, alley, road, sidewalk or highway if:

(1) Such street, alley, road, sidewalk or highway is closed to motor vehicle traffic by the governing body of such city, county or township at any time during which alcoholic liquor or cereal malt beverage is to be sold or consumed; and

(2) such extension has been approved by the city, county or township by ordinance or resolution that specifies the exact times during which alcoholic liquor or cereal malt beverage may be sold or consumed on the street, alley, road, sidewalk or highway.

*(d) Notwithstanding the provisions of this section, a license under this act shall be issued to a farm winery or producer licensee who meets the requirements for a license under this act and who is a registered agritourism operator as defined in K.S.A. 32-1432, and amendments thereto. Such license shall not be denied on the basis of any zoning regulation or other regulation, ordinance or resolution of any city or county.*

Sec. 8. K.S.A. 41-2703 is hereby amended to read as follows: 41-2703. (a) After examination of an application for a retailer's license, the board of county commissioners or the director shall, if they approve the same, issue a license to the applicant. The governing body of the city shall, if the applicant is qualified as provided by law, issue a license to such applicant.

(b) No retailer's license shall be issued to:

~~(1) A person who is not of good character and reputation in the community in which the person resides;~~

~~(2) A person who is not a citizen of the United States;;~~

~~(3)(2) a person who, within two years immediately preceding the date of application approval, has been convicted of, released from incarceration for or released from probation or parole for a felony or any crime involving moral turpitude, drunkenness, driving a motor vehicle while under the influence of intoxicating liquor or violation of any other intoxicating liquor law of any state or of the United States;;~~

~~(4)(3) a partnership, unless all the members of the partnership are otherwise qualified to obtain a license;;~~

~~(5)(4) a corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, would be ineligible to receive a license hereunder for any reason other than the citizenship requirements;;~~

~~(6)(5) a person whose place of business is conducted by a manager or agent unless the manager or agent possesses all the qualifications of a licensee;;~~

~~(7)(6) a person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship requirements or age, except that this paragraph shall not apply in determining eligibility for a renewal license; and~~

~~(8)(7) a person whose spouse has been convicted of a felony or~~



other crime that would disqualify a person from licensure under this section and such felony or other crime was committed during the time that the spouse held a license under this act.

(c) After examination of an application for a retailer's license, the board of county commissioners or the governing body of a city may deny a license to a person, partnership or corporation if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, has been an officer, manager, director or a stockholder owning in the aggregate more than 25% of the stock, of a corporation that has:

(1) Had a retailer's license revoked under K.S.A. 41-2708, and amendments thereto; or

(2) been convicted of a violation of the club and drinking establishment act or the cereal malt beverage laws of this state.

(d) *Notwithstanding any generally applicable grant of discretion that may be provided pursuant to subsection (a)*, if an applicant has been issued a *farm winery license pursuant to K.S.A. 41-316, and amendments thereto, or a producer's license pursuant to K.S.A. 41-355, and amendments thereto*, an application for a retailers' license shall be approved by the board of county commissioners, *the governing body of the city* or the director, subject to the requirements of subsections (b) and (c).

(e) Retailers' licenses shall be issued either on an annual basis or for the calendar year. If such licenses are issued on an annual basis, the board of county commissioners or the governing body of the city shall notify the distributors supplying the county or city on or before April 1 of the year if a retailer's license is not renewed.

(f) In addition to, and consistent with the requirements of K.S.A. 41-2701 et seq., and amendments thereto, the board of county commissioners of any county or the governing body of any city may provide by resolution or ordinance for the issuance of a special event retailers' permit that shall allow the permit holder to offer for sale, sell and serve cereal malt beverage for consumption on unpermitted premises, that may be open to the public, subject to the following:

(1) A special event retailers' permit shall specify the premises for which the permit is issued;

(2) a special event retailers' permit shall be issued for the duration of the special event, the dates and hours of which shall be specified in the permit;

(3) not more than four special event retailers' permits may be issued to any one applicant in a calendar year; and

(4) a special event retailers' permit shall not be transferable or assignable.

(g) A special event retailers' permit holder shall not be subject to the provisions of the beer and cereal malt beverage keg registration act, K.S.A. 41-2901 et seq., and amendments thereto.

Sec. 9. K.S.A. 41-2704 is hereby amended to read as follows: 41-2704. (a) In addition to and consistent with the requirements of the Kansas cereal malt beverage act, the board of county commissioners of any county or the governing body of any city may prescribe hours of closing, standards of conduct and rules and regulations concerning the moral, sanitary and health conditions of places licensed pursuant to this act and may establish zones within which no such place may be located.

(b) Within any city where the days of sale at retail of cereal malt beverage in the original package have not been expanded as provided by K.S.A. 41-2911, and amendments thereto, or have been so expanded and subsequently restricted as provided by K.S.A. 41-2911, and amendments thereto, no cereal malt beverages or beer containing not

more than 6% alcohol by volume may be sold:

(1) Between the hours of 12 midnight and 6 a.m.; or

(2) on Sunday, except in a place of business which is licensed to sell cereal malt beverage for consumption on the premises, which derives not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises and which is located in a county where such sales on Sunday have been authorized by resolution of the board of county commissioners of the county or in a city where such sales on Sunday have been authorized by ordinance of the governing body of the city.

(c) Within any city where the days of sale at retail of cereal malt beverage in the original package have been expanded as provided by K.S.A. 41-2911, and amendments thereto, and have not been subsequently restricted as provided in K.S.A. 41-2911, and amendments thereto, no person shall sell at retail cereal malt beverage or beer containing not more than 6% alcohol by volume:

(1) Between the hours of 12 midnight and 6 a.m.;

(2) in the original package not earlier than 9 a.m. and not later than 8 p.m. on Sunday;

(3) on Easter Sunday; or

(4) for consumption on the licensed premises on Sunday, except in a place of business which is licensed to sell cereal malt beverage for consumption on the premises, which derives not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises and which is located in a county where such sales on Sunday have been authorized by resolution of the board of county commissioners of the county or in a city where such sales on Sunday have been authorized by ordinance of the governing body of the city.

(d) No private rooms or closed booths shall be operated in a place of business, but this provision shall not apply if the licensed premises also are licensed as a club pursuant to the club and drinking establishment act.

(e) Each place of business shall be open to the public and to law enforcement officers at all times during business hours, except that a premises licensed as a club pursuant to the club and drinking establishment act shall be open to law enforcement officers and not to the public.

(f) Except as otherwise provided by this subsection, no licensee shall permit a person under the legal age for consumption of cereal malt beverage or beer containing not more than 6% alcohol by volume to consume or purchase any cereal malt beverage in or about a place of business. A licensee's employee who is not less than 18 years of age may dispense or sell cereal malt beverage or beer containing not more than 6% alcohol by volume, if:

(1) The licensee's place of business is licensed only to sell at retail cereal malt beverage or beer containing not more than 6% alcohol by volume in the original package and not for consumption on the premises; or

(2) the licensee's place of business is a licensed food service establishment, as defined by K.S.A. 36-501, and amendments thereto, and not less than 50% of the gross receipts from the licensee's place of business is derived from the sale of food for consumption on the premises of the licensed place of business.

(g) No person shall have any alcoholic liquor, except beer containing not more than 6% alcohol by volume, in such person's possession while in a place of business, unless the premises are currently licensed as a club or drinking establishment pursuant to the club and drinking establishment act *or the business is a farm winery licensed pursuant to K.S.A. 41-316, and amendments thereto, or a*

*producer licensed pursuant to K.S.A. 41-355, and amendments thereto.*

(h) Cereal malt beverages may be sold on premises that are licensed pursuant to both the Kansas cereal malt beverage act and the club and drinking establishment act at any time when alcoholic liquor is allowed by law to be served on the premises.

Sec. 10. K.S.A. 79-4108 is hereby amended to read as follows: 79-4108. (a) All revenue collected or received by the director of taxation from taxes imposed by K.S.A. 79-4101 ~~to~~ through 79-4105, and amendments thereto, 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, *except as provided for in subsection (b)*, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. The state treasurer shall transfer any moneys remaining in the county and city alcoholic liquor control enforcement fund on the effective date of this act to the state general fund.

(b) *For each remittance of the taxes collected upon the gross receipts derived from the sale of alcoholic liquor to consumers while on the Kansas state fairgrounds, 30% shall be credited to the state general fund, and the remainder shall be credited to the state fair capital improvements fund established pursuant to K.S.A. 2-223, and amendments thereto. The provisions of this subsection shall expire and have no effect if the state fair is located outside the city limits of the city of Hutchinson, Kansas.*

Sec. 11. K.S.A. 79-41a03 is hereby amended to read as follows: 79-41a03. (a) The tax levied and collected pursuant to K.S.A. 79-41a02, and amendments thereto, shall become due and payable by the club, caterer, drinking establishment, public venue or temporary permit holder monthly, or on or before the 25<sup>th</sup> day of the month immediately succeeding the month in which it is collected, but any club, caterer, drinking establishment, public venue or temporary permit holder filing an annual or quarterly return under the Kansas retailers' sales tax act, as prescribed in K.S.A. 79-3607, and amendments thereto, shall, upon such conditions as the secretary of revenue may prescribe, pay the tax required by this act on the same basis and at the same time the club, caterer, drinking establishment, public venue or temporary permit holder pays such retailers' sales tax. Each club, caterer, drinking establishment, public venue or temporary permit holder shall make a true report to the department of revenue, on a form prescribed by the secretary of revenue, providing such information as may be necessary to determine the amounts to which any such tax shall apply for all gross receipts derived from the sale of alcoholic liquor by the club, caterer, drinking establishment, public venue or temporary permit holder for the applicable month or months, which report shall be accompanied by the tax disclosed thereby. Records of gross receipts derived from the sale of alcoholic liquor shall be kept separate and apart from the records of other retail sales made by a club, caterer, drinking establishment, public venue or temporary permit holder in order to facilitate the examination of books and records as provided herein.

(b) The secretary of revenue or the secretary's authorized representative shall have the right at all reasonable times during business hours to make such examination and inspection of the books and records of a club, caterer, drinking establishment, public venue or temporary permit holder as may be necessary to determine the accuracy of such reports required hereunder.

(c) The secretary of revenue is hereby authorized to administer and collect the tax imposed hereunder and to adopt such rules and regulations as may be necessary for the efficient and effective administration and enforcement of the collection thereof. Whenever

any club, caterer, drinking establishment, public venue or temporary permit holder liable to pay the tax imposed hereunder refuses or neglects to pay the same, the amount, including any penalty, shall be collected in the manner prescribed for the collection of the retailers' sales tax by K.S.A. 79-3617, and amendments thereto.

(d) (1) The secretary of revenue shall remit all revenue collected under the provisions of this act 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.

(2) *Except as provided for in paragraph (3) and* subject to the maintenance requirements of the local alcoholic liquor refund fund created under K.S.A. 79-41a09, and amendments thereto, 25% of the remittance shall be credited to the state general fund, 5% shall be credited to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, and the balance shall be credited to the local alcoholic liquor fund created by K.S.A. 79-41a04, and amendments thereto.

(3) *For each remittance of the taxes collected upon the gross receipts derived from the sale of alcoholic liquor by any temporary permit holder to consumers while on the Kansas state fairgrounds, 30% shall be credited to the state general fund, and the remainder shall be credited to the state fair capital improvements fund established pursuant to K.S.A. 2-223, and amendments thereto. The provisions of this subsection shall expire and have no effect if the state fair is located outside the city limits of the city of Hutchinson, Kansas.*

(e) Whenever, in the judgment of the secretary of revenue, it is necessary, in order to secure the collection of any tax, penalties or interest due, or to become due, under the provisions of this act, the secretary may require any person subject to such tax to file a bond with the director of taxation under conditions established by and in such form and amount as prescribed by rules and regulations adopted by the secretary.

(f) The amount of tax imposed by this act shall be assessed within three years after the return is filed, and no proceedings in court for the collection of such taxes shall be begun after the expiration of such period except in the cases of fraud. In the case of a false or fraudulent return with intent to evade tax, the tax may be assessed or a proceeding in court for collection of such tax may be begun at any time, within two years from the discovery of such fraud. No refund or credit shall be allowed by the director after three years from the date of payment of the tax as provided in this act unless before the expiration of such period a claim therefor is filed by the taxpayer, and no suit or action to recover on any claim for refund shall be commenced until after the expiration of six months from the date of filing a claim therefor with the director. Before the expiration of time prescribed in this section for the assessment of additional tax or the filing of a claim for refund, the director is hereby authorized to enter into an agreement in writing with the taxpayer consenting to the extension of the periods of limitations for the assessment of tax or for the filing of a claim for refund, at any time prior to the expiration of the periods of limitations. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Sec. 12. K.S.A. 41-308, 41-311, 41-719, 41-1201, 41-2608, 41-2703, 41-2704, 79-4108 and 79-41a03 are hereby repealed.

Sec. 13. On and after January 1, 2023, K.S.A. 41-102 and 41-501 are hereby repealed.

Sec. 14. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the SENATE, and passed that body

\_\_\_\_\_

SENATE adopted

Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE

as amended \_\_\_\_\_

HOUSE adopted

Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*