

**SENATE BILL No. 252**

By Committee on Federal and State Affairs

2-16

1 AN ACT concerning alcoholic liquor; relating to wineries; special  
2 shipping order licensees; creating fulfillment house licensure;  
3 authorizing the storage and shipment of alcoholic liquors for a special  
4 order shipping licensee; amending K.S.A. 2020 Supp. 41-102 and  
5 repealing the existing section.  
6

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

8 New Section 1. (a) Before making or causing any shipment of  
9 alcoholic liquor to Kansas residents, a fulfillment house shall pay a \$100  
10 license fee and obtain such license that will be applicable for all locations  
11 that are involved in the shipping process to Kansas residents. A fulfillment  
12 house license shall commence on the date the license is issued by the  
13 director and expire two years after such date. The holder of a fulfillment  
14 house license may only provide services for the warehousing, packaging  
15 and shipping of alcoholic liquors produced by, and belonging to, a special  
16 order shipping licensee in accordance with K.S.A. 41-350, and  
17 amendments thereto. A fulfillment house licensee shall make reasonable  
18 efforts to confirm that any winery that they ship alcoholic liquor for holds  
19 a special order shipping license and may rely on the representations of  
20 each such winery for such assurance.

21 (b) As part of a fulfillment house license application, the applicant  
22 shall provide:

23 (1) All locations under the license from which lawful alcoholic  
24 liquors shall be shipped; and

25 (2) any other information as required by rules and regulations  
26 adopted by the director and contained in the fulfillment house license  
27 application form established by the director.

28 (c) If the holder of the license is an out-of-state entity, the licensee  
29 shall be deemed to have appointed the secretary of state as the resident  
30 agent and representative of the licensee to accept service of process from  
31 the secretary of revenue, the director and the courts of this state concerning  
32 enforcement of this section, K.S.A. 41-501 et seq., and amendments  
33 thereto, and any rules and regulations adopted thereunder and to accept  
34 service of any notice or order provided for in the liquor control act.

35 (d) (1) A fulfillment house licensee shall ensure all containers of  
36 alcoholic liquors shipped directly to an individual in this state are labeled

1 with the name, address and license number of the fulfillment house  
2 licensee and special order shipping licensee. All such containers shall  
3 contain a conspicuously printed statement of "SIGNATURE OF PERSON  
4 AGE 21 OR OLDER REQUIRED FOR DELIVERY".

5 (2) All containers of alcoholic liquors shipped directly to a resident of  
6 this state shall be shipped using a common carrier pursuant to K.S.A. 41-  
7 725, and amendments thereto.

8 (e) (1) A fulfillment house licensee shall:

9 (A) Maintain records of all shipments for a minimum of three years  
10 after the shipment date, that shall include the:

11 (i) Name, address and license number of the special order shipping  
12 licensee;

13 (ii) name and license number of the express company or common  
14 carrier;

15 (iii) date of each shipment;

16 (iv) carrier tracking number;

17 (v) name and address of the consignee of such alcoholic liquors; and

18 (vi) weight of the package and product type of alcoholic liquors  
19 shipped.

20 (B) Submit these records as an electronic report to the director  
21 monthly in the form and format prescribed by the director.

22 (2) Reports submitted pursuant to this subsection shall be open  
23 records available for public inspection in accordance with the open records  
24 act. Any information relating to the name or address of a consignee of any  
25 alcoholic liquors shall be redacted from the reports that are made available  
26 for public inspection. The provisions of this paragraph providing for the  
27 confidentiality of certain public records shall expire on July 1, 2026,  
28 unless the legislature reviews and reenacts such provisions in accordance  
29 with K.S.A. 45-229, and amendments thereto, prior to July 1, 2026.

30 (f) A fulfillment house that willfully fails, neglects or refuses to file  
31 any report pursuant to subsection (e) shall be subject to a civil penalty of  
32 not more than \$100. After notice and an opportunity for hearing in  
33 accordance with the Kansas administrative procedure act, the director may  
34 refuse to issue or renew or may revoke a fulfillment house license upon a  
35 finding that the licensee has failed to comply with any provision of this  
36 section.

37 (g) The secretary of revenue shall adopt rules and regulations to  
38 implement, administer and enforce the provisions of this section.

39 (h) The provisions of this section shall be a part of and supplemental  
40 to the Kansas liquor control act.

41 Sec. 2. K.S.A. 2020 Supp. 41-102 is hereby amended to read as  
42 follows: 41-102. As used in this act, unless the context clearly requires  
43 otherwise:

- 1 (a) "Alcohol" means the product of distillation of any fermented  
2 liquid, whether rectified or diluted, whatever its origin, and includes  
3 synthetic ethyl alcohol but does not include denatured alcohol or wood  
4 alcohol.
- 5 (b) "Alcoholic candy" means:
- 6 (1) For purposes of manufacturing, any candy or other confectionery  
7 product with an alcohol content greater than 0.5% alcohol by volume; and  
8 (2) for purposes of sale at retail, any candy or other confectionery  
9 product with an alcohol content greater than 1% alcohol by volume.
- 10 (c) "Alcoholic liquor" means alcohol, spirits, wine, beer, alcoholic  
11 candy and every liquid or solid, patented or not, containing alcohol, spirits,  
12 wine or beer and capable of being consumed by a human being, but shall  
13 not include any cereal malt beverage.
- 14 (d) "Beer" means a beverage, containing more than 3.2% alcohol by  
15 weight, obtained by alcoholic fermentation of an infusion or concoction of  
16 barley, or other grain, malt and hops in water and includes beer, ale, stout,  
17 lager beer, porter and similar beverages having such alcoholic content.
- 18 (e) "Caterer" ~~has the meaning provided~~ *means the same as defined* by  
19 K.S.A. 41-2601, and amendments thereto.
- 20 (f) "Cereal malt beverage" ~~has the meaning provided~~ *means the same*  
21 *as defined* by K.S.A. 41-2701, and amendments thereto.
- 22 (g) "Club" ~~has the meaning provided~~ *means the same as defined* by  
23 K.S.A. 41-2601, and amendments thereto.
- 24 (h) "Director" means the director of alcoholic beverage control of the  
25 department of revenue.
- 26 (i) "Distributor" means the person importing or causing to be  
27 imported into the state, or purchasing or causing to be purchased within  
28 the state, alcoholic liquor for sale or resale to retailers licensed under this  
29 act or cereal malt beverage for sale or resale to retailers licensed under  
30 K.S.A. 41-2702, and amendments thereto.
- 31 (j) "Domestic beer" means beer which contains not more than 15%  
32 alcohol by weight and which is manufactured in this state.
- 33 (k) "Domestic fortified wine" means wine which contains more than  
34 14%, but not more than 20% alcohol by volume and which is  
35 manufactured in this state.
- 36 (l) "Domestic table wine" means wine which contains not more than  
37 14% alcohol by volume and which is manufactured without rectification or  
38 fortification in this state.
- 39 (m) "Drinking establishment" ~~has the meaning provided~~ *means the*  
40 *same as defined* by K.S.A. 41-2601, and amendments thereto.
- 41 (n) "Farm winery" means a winery licensed by the director to  
42 manufacture, store and sell domestic table wine and domestic fortified  
43 wine.

- 1 (o) *"Fulfillment house" means all locations and facilities for any in-*  
2 *state or out-of-state entity that handles logistics, including warehousing,*  
3 *packaging, order fulfillment or shipping services, on behalf of the holder*  
4 *of a special order shipping license issued pursuant to K.S.A. 41-350, and*  
5 *amendments thereto.*
- 6 (p) "Hard cider" means any alcoholic beverage that:  
7 (1) Contains less than 8.5% alcohol by volume;  
8 (2) has a carbonation level that does not exceed 6.4 grams per liter;  
9 and  
10 (3) is obtained by the normal alcoholic fermentation of the juice of  
11 sound, ripe apples or pears, including such beverages containing sugar  
12 added for the purpose of correcting natural deficiencies.
- 13 ~~(p)~~(q) "Manufacture" means to distill, rectify, ferment, brew, make,  
14 mix, concoct, process, blend, bottle or fill an original package with any  
15 alcoholic liquor, beer or cereal malt beverage.
- 16 ~~(q)~~(r) (1) "Manufacturer" means every brewer, fermenter, distiller,  
17 rectifier, wine maker, blender, processor, bottler or person who fills or  
18 refills an original package and others engaged in brewing, fermenting,  
19 distilling, rectifying or bottling alcoholic liquor, beer or cereal malt  
20 beverage.  
21 (2) "Manufacturer" does not include a microbrewery, microdistillery  
22 or a farm winery.
- 23 ~~(r)~~(s) "Microbrewery" means a brewery licensed by the director to  
24 manufacture, store and sell domestic beer and hard cider.
- 25 ~~(s)~~(t) "Microdistillery" means a facility which produces spirits from  
26 any source or substance that is licensed by the director to manufacture,  
27 store and sell spirits.
- 28 ~~(t)~~(u) "Minor" means any person under 21 years of age.
- 29 ~~(u)~~(v) "Nonbeverage user" means any manufacturer of any of the  
30 products set forth and described in K.S.A. 41-501, and amendments  
31 thereto, when the products contain alcohol or wine, and all laboratories  
32 using alcohol for nonbeverage purposes.
- 33 ~~(v)~~(w) "Original package" means any bottle, flask, jug, can, cask,  
34 barrel, keg, hogshead or other receptacle or container whatsoever, used,  
35 corked or capped, sealed and labeled by the manufacturer of alcoholic  
36 liquor, to contain and to convey any alcoholic liquor. Original container  
37 does not include a sleeve.
- 38 ~~(w)~~(x) "Person" means any natural person, corporation, partnership,  
39 trust or association.
- 40 ~~(x)~~(y) "Powdered alcohol" means alcohol that is prepared in a  
41 powdered or crystal form for either direct use or for reconstitution in a  
42 nonalcoholic liquid.
- 43 ~~(y)~~(z) "Primary American source of supply" means the manufacturer,

1 the owner of alcoholic liquor at the time it becomes a marketable product  
2 or the manufacturer's or owner's exclusive agent who, if the alcoholic  
3 liquor cannot be secured directly from such manufacturer or owner by  
4 American wholesalers, is the source closest to such manufacturer or owner  
5 in the channel of commerce from which the product can be secured by  
6 American wholesalers.

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

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

12 ~~(aa)~~(bb) "Sale" means any transfer, exchange or barter in any manner  
13 or by any means whatsoever for a consideration and includes all sales  
14 made by any person, whether principal, proprietor, agent, servant or  
15 employee.

16 ~~(bb)~~(cc) "Salesperson" means any natural person who:

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

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

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

31 ~~(dd)~~(ee) "Secretary" means the secretary of revenue.

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

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

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

42 ~~(gg)~~(hh) "Sleeve" means a package of two or more 50-milliliter *or*  
43 (3.2-fluid-ounce) containers of spirits.

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

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

8       ~~(jj)~~(kk) "Temporary permit" ~~has the meaning provided~~ *means the*  
9 *same as defined* by K.S.A. 41-2601, and amendments thereto.

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

16       Sec. 3. K.S.A. 2020 Supp. 41-102 is hereby repealed.

17       Sec. 4. This act shall take effect and be in force from and after its  
18 publication in the statute book.