

**SENATE BILL No. 277**

By Committee on Federal and State Affairs

1-12

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1 AN ACT concerning alcoholic beverages; relating to the licensing of  
2 microdistilleries; amending K.S.A. 41-304, 41-316 and 41-320 and  
3 K.S.A. 2011 Supp. 41-102, 41-310, 41-317 and 41-319 and repealing  
4 the existing sections.  
5

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

7 New Section 1. (a) A microdistillery license shall allow:

8 (1) The manufacture of not more than 50,000 gallons of spirits during  
9 the license year and the storage thereof;

10 (2) the sale to spirit distributors of spirits, manufactured by the  
11 licensee;

12 (3) the sale, on the licensed premises in the original unopened  
13 container to consumers for consumption off the licensed premises, of  
14 spirits manufactured by the licensee;

15 (4) the serving free of charge on the licensed premises of samples of  
16 spirits manufactured by the licensee, if the premises are located in a county  
17 where the sale of alcoholic liquor is permitted by law in licensed drinking  
18 establishments;

19 (5) if the licensee is also licensed as a club or drinking establishment,  
20 the sale of spirits and other alcoholic liquor for consumption on the  
21 licensed premises as authorized by the club and drinking establishment  
22 act; and

23 (6) if the licensee is also licensed as a caterer, the sale of spirits and  
24 other alcoholic liquor for consumption on unlicensed premises as  
25 authorized by the club and drinking establishment act.

26 (b) Upon application and payment of the fee prescribed by K.S.A. 41-  
27 310, and amendments thereto, by a microdistillery licensee, the director  
28 may issue not to exceed one microdistillery packaging and warehousing  
29 facility license to the microdistillery licensee. A microdistillery packaging  
30 and warehousing facility license shall allow:

31 (1) The transfer, from the licensed premises of the microdistillery to  
32 the licensed premises of the microdistillery packaging and warehousing  
33 facility, of spirits manufactured by the licensee, for the purpose of  
34 packaging or storage, or both;

35 (2) the transfer, from the licensed premises of the microdistillery  
36 packaging and warehousing facility to the licensed premises of the

1 microdistillery, of spirits manufactured by the licensee; or

2 (3) the removal from the licensed premises of the microdistillery  
3 packaging and warehousing facility of spirits manufactured by the licensee  
4 for the purpose of delivery to a licensed spirits wholesaler.

5 (c) A microdistillery may sell spirits in the original unopened  
6 container to consumers for consumption off the licensed premises at any  
7 time between 6 a.m. and 12 midnight on any day except Sunday and  
8 between 11 a.m. and 7 p.m. on Sunday. If authorized by subsection (a), a  
9 microdistillery may serve samples of spirits and serve and sell spirits and  
10 other alcoholic liquor for consumption on the licensed premises at any  
11 time when a club or drinking establishment is authorized to serve and sell  
12 alcoholic liquor.

13 (d) The director may issue to the Kansas state fair or any bona fide  
14 group of distillers a permit to import into this state small quantities of  
15 spirits. Such spirits shall be used only for bona fide educational and  
16 scientific tasting programs and shall not be resold. Such spirits shall not be  
17 subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The  
18 permit shall identify specifically the brand and type of spirit to be  
19 imported, the quantity to be imported, the tasting programs for which the  
20 spirit is to be used and the times and locations of such programs. The  
21 secretary shall adopt rules and regulations governing the importation of  
22 spirits pursuant to this subsection and the conduct of tasting programs for  
23 which such spirits are imported.

24 (e) A microdistillery license or microdistillery packaging and  
25 warehousing facility license shall apply only to the premises described in  
26 the application and in the license issued and only one location shall be  
27 described in the license.

28 (f) No microdistillery shall:

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

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

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

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

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

43 Sec. 2. K.S.A. 2011 Supp. 41-102 is hereby amended to read as

1 follows: 41-102. As used in this act, unless the context clearly requires  
2 otherwise:

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

7 (b) "Alcoholic liquor" means alcohol, spirits, wine, beer and every  
8 liquid or solid, patented or not, containing alcohol, spirits, wine or beer  
9 and capable of being consumed as a beverage by a human being, but shall  
10 not include any cereal malt beverage.

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

15 (d) "Caterer" has the meaning provided by K.S.A. 41-2601, and  
16 amendments thereto.

17 (e) "Cereal malt beverage" has the meaning provided by K.S.A. 41-  
18 2701, and amendments thereto.

19 (f) "Club" has the meaning provided by K.S.A. 41-2601, and  
20 amendments thereto.

21 (g) "Director" means the director of alcoholic beverage control of the  
22 department of revenue.

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

28 (i) "Domestic beer" means beer which contains not more than 10%  
29 alcohol by weight and which is manufactured in this state.

30 (j) "Domestic fortified wine" means wine which contains more than  
31 14%, but not more than 20% alcohol by volume and which is  
32 manufactured in this state.

33 (k) "Domestic table wine" means wine which contains not more than  
34 14% alcohol by volume and which is manufactured without rectification or  
35 fortification in this state.

36 (l) "Drinking establishment" has the meaning provided by K.S.A. 41-  
37 2601, and amendments thereto.

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

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

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

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

8 (p) "Microbrewery" means a brewery licensed by the director to  
9 manufacture, store and sell domestic beer.

10 (q) "*Microdistillery*" means a distillery licensed by the director to  
11 manufacture, store and sell spirits.

12 ~~(r)~~ (r) "Minor" means any person under 21 years of age.

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

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

22 ~~(u)~~ (u) "Person" means any natural person, corporation, partnership,  
23 trust or association.

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

31 ~~(w)~~ (w) (1) "Retailer" means a person who sells at retail, or offers for  
32 sale at retail, alcoholic liquors.

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

34 ~~(x)~~ (x) "Sale" means any transfer, exchange or barter in any manner  
35 or by any means whatsoever for a consideration and includes all sales  
36 made by any person, whether principal, proprietor, agent, servant or  
37 employee.

38 ~~(y)~~ (y) "Salesperson" means any natural person who:

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

41 (2) is engaged in promoting the sale of alcoholic liquor or cereal malt  
42 beverage, or in promoting the business of any person, firm or corporation  
43 engaged in the manufacturing and selling of alcoholic liquor or cereal malt

1 beverage, whether the seller resides within the state of Kansas and sells to  
2 licensed buyers within the state of Kansas, or whether the seller resides  
3 without the state of Kansas and sells to licensed buyers within the state of  
4 Kansas.

5 ~~(y)~~ (z) "Secretary" means the secretary of revenue.

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

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

14 ~~(aa)~~ (bb) "To sell" includes to solicit or receive an order for, to keep  
15 or expose for sale and to keep with intent to sell.

16 ~~(bb)~~ (cc) "Sleeve" means a package of two or more 50-milliliter (3.2-  
17 fluid-ounce) containers of spirits.

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

23 ~~(dd)~~ (ee) "Supplier" means a manufacturer of alcoholic liquor or  
24 cereal malt beverage or an agent of such manufacturer, other than a  
25 salesperson.

26 ~~(ee)~~ (ff) "Temporary permit" has the meaning provided by K.S.A. 41-  
27 2601, and amendments thereto.

28 ~~(ff)~~ (gg) "Wine" means any alcoholic beverage obtained by the  
29 normal alcoholic fermentation of the juice of sound, ripe grapes, fruits,  
30 berries or other agricultural products, including such beverages containing  
31 added alcohol or spirits or containing sugar added for the purpose of  
32 correcting natural deficiencies.

33 Sec. 3. K.S.A. 41-304 is hereby amended to read as follows: 41-304.  
34 Licenses issued by the director shall be of the following classes: (a)  
35 Manufacturer's license; (b) spirits distributor's license; (c) wine  
36 distributor's license; (d) beer distributor's license; (e) retailer's license; (f)  
37 microbrewery license; (g) *microdistillery license*; (h) farm winery license;  
38 and ~~(h)~~(i) nonbeverage user's license.

39 Sec. 4. K.S.A. 2011 Supp. 41-310 is hereby amended to read as  
40 follows: 41-310. (a) At the time application is made to the director for a  
41 license of any class, the applicant shall pay the fee provided by this  
42 section.

43 (b) The fee for a manufacturer's license to manufacture alcohol and

1 spirits shall be \$5,000.

2 (c) The fee for a manufacturer's license to manufacture beer and  
3 cereal malt beverage shall be:

4 (1) For 1 to 100 barrel daily capacity or any part thereof, \$400.

5 (2) For 100 to 150 barrel daily capacity, \$800.

6 (3) For 150 to 200 barrel daily capacity, \$1,400.

7 (4) For 200 to 300 barrel daily capacity, \$2,000.

8 (5) For 300 to 400 barrel daily capacity, \$2,600.

9 (6) For 400 to 500 barrel daily capacity, \$2,800.

10 (7) For 500 or more barrel daily capacity, \$3,200.

11 As used in this subsection, "daily capacity" means the average daily  
12 barrel production for the previous 12 months of manufacturing operation.  
13 If no basis for comparison exists, the licensee shall pay in advance for  
14 operation during the first term of the license a fee of \$2,000.

15 (d) The fee for a manufacturer's license to manufacture wine shall be  
16 \$1,000.

17 (e) (1) The fee for a microbrewery license, *a microdistillery license* or  
18 a farm winery license shall be \$500.

19 (2) The fee for a winery outlet license shall be \$100.

20 (3) The fee for a microbrewery packaging and warehousing facility  
21 license shall be \$200.

22 (4) *The fee for a microdistillery packaging and warehousing facility*  
23 *license shall be \$200.*

24 (f) The fee for a spirits distributor's license for the first and each  
25 additional distributing place of business operated in this state by the  
26 licensee and wholesaling and jobbing spirits shall be \$2,000.

27 (g) The fee for a wine distributor's license for the first and each  
28 additional distributing place of business operated in this state by the  
29 licensee and wholesaling and jobbing wine shall be \$2,000.

30 (h) The fee for a beer distributor's license, for the first and each  
31 additional wholesale distributing place of business operated in this state by  
32 the licensee and wholesaling or jobbing beer and cereal malt beverage  
33 shall be \$2,000.

34 (i) The fee for a nonbeverage user's license shall be:

35 (1) For class 1, \$20.

36 (2) For class 2, \$100.

37 (3) For class 3, \$200.

38 (4) For class 4, \$400.

39 (5) For class 5, \$1,000.

40 (j) In addition to the license fees prescribed by subsections (b), (c),  
41 (d), (f), (g), (h) and (i):

42 (1) Any city in which the licensed premises are located may levy and  
43 collect a biennial occupation or license tax on the licensee in an amount

1 not exceeding the amount of the license fee required to be paid under this  
2 act to obtain the license, but no city shall impose an occupation or  
3 privilege tax on the licensee in excess of that amount; and

4 (2) any township in which the licensed premises are located may levy  
5 and collect a biennial occupation or license tax on the licensee in an  
6 amount not exceeding the amount of the license fee required to be paid  
7 under this act to obtain the license, but no township shall impose an  
8 occupation or privilege tax on the licensee in excess of that amount; the  
9 township board of the township is authorized to fix and impose the tax and  
10 the tax shall be paid by the licensee to the township treasurer, who shall  
11 issue a receipt therefor to the licensee and shall cause the tax paid to be  
12 placed in the general fund of the township.

13 (k) The fee for a retailer's license shall be \$500.

14 (l) In addition to the license fee prescribed by subsection (k):

15 (1) Any city in which the licensed premises are located may levy and  
16 collect a biennial occupation or license tax on the licensee in an amount  
17 not less than \$200 nor more than \$600, but no other occupation or excise  
18 tax or license fee shall be levied by any city against or collected from the  
19 licensee; and

20 (2) any township in which the licensed premises are located may levy  
21 and collect a biennial occupation or license tax on the licensee in an  
22 amount not less than \$200 nor more than \$600; the township board of the  
23 township is authorized to fix and impose the tax and the tax shall be paid  
24 by the licensee to the township treasurer, who shall issue a receipt therefor  
25 to the licensee and shall cause the tax paid to be placed in the general fund  
26 of the township.

27 (m) The license term for a license shall commence on the date the  
28 license is issued by the director and shall end two years after that date. The  
29 director may, at the director's sole discretion and after examination of the  
30 circumstances, extend the license term of any license for not more than 30  
31 days beyond the date such license would expire pursuant to this section.  
32 Any extension of the license term by the director pursuant to this section  
33 shall automatically extend the due date for payment by the licensee of any  
34 occupation or license tax levied by a city or township pursuant to this  
35 section by the same number of days the director has extended the license  
36 term.

37 Sec. 5. K.S.A. 41-316 is hereby amended to read as follows: 41-316.  
38 Licenses to manufacturers, distributors, microbreweries, *microdistilleries*,  
39 farm wineries and nonbeverage users of alcoholic liquors shall be issued  
40 and renewed by the director to qualified applicants upon written  
41 application, receipt of bond properly executed and payment in advance of  
42 the state registration fee and the license fee.

43 Sec. 6. K.S.A. 2011 Supp. 41-317 is hereby amended to read as

1 follows: 41-317. (a) Applications for all licenses under this act shall be  
2 completed and submitted to the director in a manner prescribed by the  
3 director. Each applicant shall submit an application fee of \$50 for each  
4 initial application and \$10 for each renewal application to defray the cost  
5 of processing the application.

6 (b) Each applicant shall submit to the division of alcoholic beverage  
7 control the full amount of the application fee and:

8 (1) The full amount of the license fee required to be paid for the kind  
9 of license specified in the application; or

10 (2) one-half of the full amount of the license fee required to be paid  
11 for the kind of license specified in the application.

12 (c) If the applicant elects to pay only one-half of the license fee  
13 pursuant to subsection (b)(2), the remaining one-half of the license fee  
14 plus 10% of such remaining balance shall be due and payable one year  
15 from the date of issuance of the license. Notwithstanding any other  
16 provision of law, failure to pay the full amount due under this paragraph  
17 on the date it is due shall result in the automatic cancellation of such  
18 license for the remainder of the license term. The director may, at the  
19 director's sole discretion and after examination of the circumstances,  
20 extend the date payment is due pursuant to this paragraph for not more  
21 than 30 days beyond the date such payment is originally due.

22 (d) Any license fee paid by an applicant shall be returned to the  
23 applicant if the application is denied.

24 (e) Payment of all fees required to be paid pursuant to this section  
25 may be made by personal, certified or cashier's check, United States post  
26 office money order, debit or credit card or cash, or by electronic payment  
27 authorized by the applicant in a manner prescribed by the director.

28 (f) All fees received by the director pursuant to this section shall be  
29 remitted by the director to the state treasurer in accordance with the  
30 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of  
31 each such remittance, the state treasurer shall deposit the entire amount in  
32 the state treasury to the credit of the state general fund.

33 (g) Every applicant for a manufacturer's, distributor's, nonbeverage  
34 user's, microbrewery, *microdistillery*, farm winery, retailer's or special  
35 order shipping license shall file with the application a joint and several  
36 bond on a form prescribed by the director and executed by good and  
37 sufficient corporate sureties licensed to do business within the state of  
38 Kansas to the director, in the following amounts:

39 (1) For a manufacturer, \$25,000;

40 (2) for a spirits distributor, \$15,000 or an amount equal to the highest  
41 monthly liability of the distributor for taxes imposed by the Kansas liquor  
42 control act for any of the 12 months immediately prior to renewal of the  
43 distributor's license, whichever amount is greater;



1 (3) for a beer or wine distributor, \$5,000 or an amount equal to the  
2 highest monthly liability of the distributor for taxes imposed by the Kansas  
3 liquor control act for any of the 12 months immediately prior to renewal of  
4 the distributor's license, whichever amount is greater;

5 (4) for a retailer, \$2,000;

6 (5) for nonbeverage users, \$200 for class 1, \$500 for class 2, \$1,000  
7 for class 3, \$5,000 for class 4 and \$10,000 for class 5;

8 (6) for a microbrewery, *microdistillery* or a farm winery, \$2,000; and

9 (7) for a winery holding a special order shipping license, \$750, unless  
10 the winery has already complied with subsection (g)(6).

11 If a distributor holds or applies for more than one distributor's license,  
12 only one bond for all such licenses shall be required, which bond shall be  
13 in an amount equal to the highest applicable bond.

14 (h) All bonds required by this section shall be conditioned on the  
15 licensee's compliance with the provisions of this act and payment of all  
16 taxes, fees, fines and forfeitures which may be assessed against the  
17 licensee.

18 Sec. 7. K.S.A. 2011 Supp. 41-319 is hereby amended to read as  
19 follows: 41-319. (a) Except as provided by subsection (b), within 30 days  
20 after an application is filed for a retailer's, microbrewery, *microdistillery* or  
21 farm winery license and within 20 days after an application is filed for a  
22 manufacturer's, distributor's or nonbeverage user's license, the director  
23 shall enter an order either refusing or granting the license. If the director  
24 does not enter an order within the time prescribed, the license applied for  
25 shall be deemed to have been refused. The director, with the written  
26 consent of the applicant for a license, may delay entering an order on an  
27 application for an additional period of not to exceed 30 days.

28 (b) In order to complete any national criminal history record check of  
29 an applicant who submitted any application after January 31, 2001, and if  
30 the applicant is not a resident of the state of Kansas on the date of  
31 submission of such application or has not been a resident for at least one  
32 year immediately preceding the date of submission of such application the  
33 director shall enter an order either refusing or granting the license within  
34 90 days after such application is filed. If the director does not enter an  
35 order within the time prescribed, the license applied for shall be deemed to  
36 have been refused. The director, with the written consent of the applicant  
37 for a license, may delay entering an order on an application for an  
38 additional period of not to exceed 30 days.

39 Sec. 8. K.S.A. 41-320 is hereby amended to read as follows: 41-320.  
40 (a) All proceedings for the suspension and revocation of licenses of  
41 manufacturers, distributors, retailers, microbreweries, *microdistilleries*,  
42 farm wineries and nonbeverage users shall be before the director, and the  
43 proceedings shall be in accordance with the provisions of the Kansas

1 administrative procedure act. Except as provided in subsection (b), no  
2 license shall be suspended or revoked except after a hearing by the  
3 director.

4 (b) When proceedings for the suspension or revocation of a  
5 distributor's license are filed and the distributor has been issued more than  
6 one license for distributing places of business in this state, any order of the  
7 director suspending or revoking the license at any one place of business  
8 shall suspend or revoke all licenses issued to the distributor. When one  
9 person is the holder of stock in two or more corporations licensed as  
10 distributors under the provisions of this act, any order of the director  
11 suspending or revoking the license of any such corporation shall operate as  
12 a suspension or revocation of the license of all corporations licensed as  
13 distributors in which the person is a stockholder.

14 Sec. 9. K.S.A. 41-304, 41-316 and 41-320 and K.S.A. 2011 Supp. 41-  
15 102, 41-310, 41-317 and 41-319 are hereby repealed.

16 Sec. 10. This act shall take effect and be in force from and after its  
17 publication in the statute book.

18