

## HOUSE BILL No. 2576

By Committee on Taxation

3-23

---

AN ACT concerning agriculture; relating to agricultural products development; alternative crop research and marketing; tax imposed upon alcoholic liquor and cereal malt beverages; amending K.S.A. 41-501, as amended by section 129 of 2001 Senate Bill No. 15 and K.S.A. 2000 Supp. 74-50,156, as amended by section 328 of 2001 Senate Bill No. 15 and repealing the existing sections.

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

Section 1. K.S.A. 41-501, as amended by section 129 of 2001 Senate Bill no. 15, 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 *and developing the program specified in K.S.A. 74-50,156, and amendments thereto*, a tax is imposed upon the manufacturing, using, selling, storing or purchasing 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% or less alcohol by volume; \$.75 per gallon on wine containing more than 14% 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 or farm winery producing it. If the alcoholic liquor or cereal malt beverage is imported into this state by a distributor

1 for the purpose of sale at wholesale in this state or a federal area, the tax  
2 shall be paid by the distributor, and in no event shall such tax be paid by  
3 the manufacturer unless the alcoholic liquor or cereal malt beverage is  
4 manufactured in this state. If not to exceed one gallon, or metric equiv-  
5 alent, per person of alcoholic liquor has been purchased by a private  
6 citizen outside the borders of the United States and is brought into this  
7 state by the private citizen in such person's personal possession for such  
8 person's own personal use and not for sale or resale, such import is lawful  
9 and no tax payment shall be due thereon.

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

17 (d) Wines manufactured or imported solely and exclusively for sac-  
18 ramental purposes and uses shall not be subject to the tax provided for  
19 by this section.

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

21 (1) Any alcohol or wine, whether manufactured in or imported into  
22 this state, when sold to a nonbeverage user licensed by the state, for use  
23 in the manufacture of any of the following when they are unfit for bev-  
24 erage purposes: Patent and proprietary medicines and medicinal, anti-  
25 septic and toilet preparations; flavoring extracts and syrups and food prod-  
26 ucts; scientific, industrial and chemical products; or scientific, chemical,  
27 experimental or mechanical purposes; or

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

31 (f) The tax imposed by this section shall be in addition to all other  
32 taxes imposed by the state of Kansas or by any municipal corporation or  
33 political subdivision thereof.

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

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

1 (i) The director shall collect the taxes imposed by this section and  
2 shall account for and remit all moneys collected from the tax to the state  
3 treasurer in accordance with the provisions of K.S.A. 75-4215, and  
4 amendments thereto. Upon receipt of each such remittance, the state  
5 treasurer shall deposit the entire amount in the state treasury and the  
6 state treasurer shall credit ~~1/10~~: *(1) 2% of the moneys collected from taxes*  
7 *imposed upon beer, cereal malt beverages, wort or liquid malt, malt syrup*  
8 *or malt extract and wine under subsection (b)(1), to the alternative crop*  
9 *research and marketing fund created by K.S.A. 74-50,156, and amend-*  
10 *ments thereto, and shall credit the balance of the moneys collected to the*  
11 *state general fund; and (2) 10% of the moneys collected from taxes im-*  
12 *posed upon alcohol and spirits under subsection (b)(1) to the community*  
13 *alcoholism and intoxication programs fund created by K.S.A. 41-1126,*  
14 *and amendments thereto, 2% of such moneys collected from taxes im-*  
15 *posed upon alcohol and spirits under subsection (b)(1) to the alternative*  
16 *crop research and marketing fund created by K.S.A. 74-50,156, and*  
17 *amendments thereto, and shall credit the balance of the moneys collected*  
18 *to the state general fund.*

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

25 (k) The tax provided for by this section is not imposed upon alcohol  
26 or wine used by any school or college for scientific, chemical, experimen-  
27 tal or mechanical purposes or by hospitals, sanatoria or other institutions  
28 caring for the sick. Any school, college, hospital, sanatorium or other  
29 institution caring for the sick may import alcohol or wine for scientific,  
30 chemical, experimental, mechanical or medicinal purposes by making ap-  
31 plication to the director for a permit to import it and receiving such a  
32 permit. Application for the permit shall be on a form prescribed and  
33 furnished by the director, and a separate permit shall be required for  
34 each purchase of alcohol or wine. A fee of \$2 shall accompany each ap-  
35 plication. All permits shall be issued in triplicate to the applicant and shall  
36 be under the seal of the office of the director. Two copies of the permit  
37 shall be forwarded by the applicant to the microbrewery, farm winery,  
38 manufacturer or distributor from which the alcohol or wine is purchased,  
39 and the microbrewery, farm winery, manufacturer or distributor shall  
40 return to the office of the director one copy of the permit with its shipping  
41 affidavit and invoice. Within 10 days after receipt of any alcohol or wine,  
42 the school, college, hospital or sanatorium ordering it shall file a report  
43 in the office of the director upon forms furnished by the director, showing

1 the amount of alcohol or wine received, the place where it is to be stored,  
2 from whom it was received, the purpose for which it is to be used and  
3 such other information as required by the director. Any school, college,  
4 hospital, sanatorium or institution caring for the sick, which complies with  
5 the provisions of this subsection, shall not be required to have any other  
6 license to purchase alcohol or wine from a microbrewery, farm winery,  
7 manufacturer or distributor.

8 Sec. 2. K.S.A. 2000 Supp. 74-50,156, as amended by section 328 of  
9 2001 Senate Bill No. 15, is hereby amended to read as follows: 74-50,156.

10 (a) There is hereby established within and as a part of the department of  
11 commerce and housing the agriculture products development division.  
12 The secretary of commerce and housing shall appoint a director of such  
13 division and such director shall be in the unclassified service of the Kansas  
14 civil service act. Subject to and in accordance with appropriations acts,  
15 the agriculture products development division shall include: (1) All pow-  
16 ers, duties and functions related to the agricultural value added center  
17 pursuant to subsections (b) and (c); (2) all powers and duties created  
18 regarding the division of markets pursuant to K.S.A. 74-530, and amend-  
19 ments thereto, which are hereby transferred; (3) all powers and duties  
20 created regarding registered trademarks pursuant to K.S.A. 74-540a, and  
21 amendments thereto, which are hereby transferred; (4) all powers and  
22 duties regarding the trademark fund pursuant to K.S.A. 74-540b, and  
23 amendments thereto, which are hereby transferred; and (5) all powers  
24 and duties created regarding expenditures and moneys credited to the  
25 market development fund pursuant to K.S.A. 74-540c, and amendments  
26 thereto, which are hereby transferred.

27 (b) The objectives of the agricultural value added center within the  
28 agriculture products development division shall include, but not be lim-  
29 ited to, providing technical assistance to existing and potential value added  
30 facilities, including incubator facilities; developing a network for collect-  
31 ing and distributing information to individuals involved in value added  
32 processing in Kansas; initiating pilot plant facilities to act as research and  
33 development laboratories for existing and potential small scale value  
34 added processing endeavors in Kansas; providing technical assistance to  
35 new agricultural value added businesses; developing and promoting com-  
36 munication and cooperation among private businesses; state government  
37 agencies and public and private colleges and universities in Kansas; es-  
38 tablishing research and development programs in technologies that have  
39 value added commercial potential for food and nonfood agricultural prod-  
40 ucts achieving substantial and sustainable continuing growth for the Kan-  
41 sas economy through value added products from agriculture; serving as  
42 a catalyst for industrial agriculture through technological innovation in  
43 order to expand economic opportunity for all Kansas communities; estab-

1 lishing an industrial agriculture industry for the state of Kansas; com-  
2 mercializing the developed industrial agriculture technology in smaller  
3 communities and the rural areas of Kansas; ~~and~~ developing investment  
4 grade agriculture value added technologies and products *and developing*  
5 *the program specified in subsection (h)*.

6 (c) Subject to the provisions of appropriations acts, the functions of  
7 the agricultural value added center within the agriculture products de-  
8 velopment division shall include, but not be limited to, developing a mar-  
9 ket referral program, matching distribution to buyers in coordination with  
10 other state agencies concerned with marketing Kansas products; assisting  
11 private entrepreneurs in the establishment of facilities and markets for  
12 new agricultural value added endeavors; and introducing coordinated pro-  
13 grams to develop marketing skills of existing agricultural value adding  
14 processors in Kansas.

15 (d) (1) It shall be the duty of the agriculture products development  
16 division to perform acts and to do, or cause to be done, those things which  
17 are designed to lead to the more advantageous marketing of agricultural  
18 products of Kansas. For these purposes the division may:

19 (A) Investigate the subject of marketing farm products;  
20 (B) promote their sales distribution and merchandising;  
21 (C) furnish information and assistance to the public;  
22 (D) study and recommend efficient and economical methods of  
23 marketing;

24 (E) provide for such studies and research as may be deemed neces-  
25 sary and proper;

26 (F) gather and diffuse timely and useful information concerning the  
27 supply, demand, prevailing prices and commercial movement of farm  
28 products including quantity in common storage and cold storage, in co-  
29 operation with other public or private agencies;

30 (G) conduct market development activities and assist and coordinate  
31 participation by companies, commodity organizations, trade organiza-  
32 tions, producer organizations and other interested organizations to de-  
33 velop new markets and sales for Kansas agricultural commodities and food  
34 products;

35 (H) render assistance to any of the entities listed in subsection (G)  
36 and development activities and make a reasonable service charge for such  
37 services rendered by the division; and

38 (I) make agreements with other states and with the United States  
39 government, or its agencies, and accept funds from the federal govern-  
40 ment, or its agencies, or any other source for research studies, investi-  
41 gation, market development and other purposes related to the duties of  
42 the division.

43 (2) The department of commerce and housing shall remit all moneys

1 received under this subsection to the state treasurer in accordance with  
2 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt  
3 of each such remittance, the state treasurer shall deposit the entire  
4 amount in the state treasury to the credit of the market development  
5 fund. All expenditures from such fund shall be made for any purpose  
6 consistent with this subsection and shall be made in accordance with  
7 appropriation acts upon warrants of the director of accounts and reports  
8 issued pursuant to vouchers approved by the secretary of commerce and  
9 housing or a person designated by the secretary.

10 (e) (1) In conjunction with any trademark registered by the depart-  
11 ment of commerce and housing, the agriculture products development  
12 division is hereby authorized to:

13 (A) Promulgate policy regarding the use of any such trademark;

14 (B) print, reproduce or use the trademark in or on educational, pro-  
15 motional or other material;

16 (C) fix, charge and collect fees for the use of the trademark provided  
17 that the fees shall be fixed in an amount necessary to recover all direct  
18 costs associated with the production of educational, promotional and  
19 other materials associated with a trademark program; and

20 (D) enter into any contracts necessary to carry out the purposes of  
21 this subsection, which contracts shall not be subject to the bidding  
22 requirements of K.S.A. 75-3739, and amendments thereto.

23 (2) The secretary of commerce and housing shall remit all moneys  
24 received under this subsection to the state treasurer in accordance with  
25 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt  
26 of each such remittance, the state treasurer shall deposit the entire  
27 amount in the state treasury to the credit of the trademark fund. All  
28 expenditures from such fund shall be made for any purpose consistent  
29 with this subsection and shall be made in accordance with appropriation  
30 acts upon warrants of the director of accounts and reports issued pursuant  
31 to vouchers approved by the secretary of commerce and housing or a  
32 person designated by the secretary.

33 (f) On or before February 1 of each year, the agriculture products  
34 development division shall present an oral and written report to the house  
35 and senate agriculture committees concerning the performance indica-  
36 tors, performance outcomes, activities and functions of the division for  
37 the previous year. Such report shall include a budget of how moneys  
38 appropriated or otherwise authorized to be expended from the state gen-  
39 eral fund or any special revenue fund for the agriculture products devel-  
40 opment division of the department of commerce and housing for the  
41 previous fiscal year were spent and a projected budget of moneys appro-  
42 priated or otherwise authorized to be expended from the state general  
43 fund or any special revenue fund for the agriculture products develop-

1 ment division of the department of commerce and housing for the current  
2 fiscal year. Such report shall further include the full-time equivalent num-  
3 ber of positions financed from appropriations and allocated for the agri-  
4 culture products development division of the department of commerce  
5 and housing for each fiscal year. In the report to the 1997 legislature, the  
6 division's report shall include a mission statement for the reorganized  
7 division.

8 (g) Subject to appropriation acts, the secretary of commerce and  
9 housing shall fulfill all contracts in existence on the effective date of this  
10 act between the Kansas technology enterprise corporation and the alter-  
11 native agriculture research and development center.

12 (h) (1) *The value added center within the agriculture products de-*  
13 *velopment division shall develop a program for alternative crop research,*  
14 *not including any commodity crops, and marketing of alternative crop*  
15 *products to be funded from expenditures from the alternative crop re-*  
16 *search and marketing fund as provided in this subsection.*

17 (2) *There is hereby created within the state treasury the alternative*  
18 *crop research and marketing fund. All expenditures from such fund shall*  
19 *be made in accordance with appropriation acts upon warrants of the*  
20 *director of accounts and reports issued pursuant to vouchers approved*  
21 *by the director or a person designated by the director.*

22 (3) *All expenditures from the alternative crop research and marketing*  
23 *fund shall be used to fund the program for alternative crop research,*  
24 *research projects approved within the value added center as provided in*  
25 *this subsection and the position of the marketing officer within the center*  
26 *as provided in this subsection. The director shall appoint a marketing*  
27 *officer within the center to specifically aid in the marketing of such alter-*  
28 *native crop products who shall be in the unclassified service under the*  
29 *Kansas civil service act. The compensation of such marketing officer shall*  
30 *be established by the director.*

31 (4) *An alternative crop research and marketing committee is hereby*  
32 *created to assist the value added center in carrying out the provisions of*  
33 *this act. The membership of such committee shall be appointed by the*  
34 *governor as follows: Three members who shall be actively involved in*  
35 *producing or marketing alternative crop products; one member who shall*  
36 *be an official with the Kansas state university department of horticulture;*  
37 *and one member who shall be a member of the legislature. Of the members*  
38 *first appointed to the committee, the governor shall designate two whose*  
39 *terms shall expire June 30, 2003, and three whose terms shall expire June*  
40 *30, 2005. After the expiration of such terms, each member shall be ap-*  
41 *pointed for a term of four years until a successor is appointed and qual-*  
42 *ified. A vacancy on the committee shall be filled for the unexpired term*  
43 *by appointment of the governor. The governor shall appoint a chairperson*

1 *of the committee. The committee shall meet as the chairperson or a ma-*  
2 *jority of the committee members determine.*

3 Sec. 3. K.S.A. 41-501, as amended by section 129 of 2001 Senate Bill  
4 No. 15 and K.S.A. 2000 Supp. 74-50,156, as amended by section 328 of  
5 2001 Senate Bill No. 15 are hereby repealed.

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

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43