

SENATE BILL No. 636

By Committee on Federal and State Affairs

2-27

AN ACT concerning alcoholic beverages; relating to the regulation thereof; amending K.S.A. 41-102, 41-103, 41-104, 41-208, 41-209, 41-210, 41-211, 41-307, 41-308, 41-308b, 41-312, 41-601, 41-602, 41-701, 41-708, 41-712, 41-717, 41-718, 41-724, 41-725, 41-726, 41-729, 41-801, 41-805, 41-806, 41-901, 41-905, 41-1001, 41-1002, 41-1004, 41-1101, 41-1102, 41-1122, 41-1123, 41-1125, 41-2604, 41-2610, 41-2611, 41-2614, 41-2632, 41-2637, 41-2641, 41-2642, 41-2643, 41-2701, 41-2704, 41-2705, 41-2707, 41-2708, 41-2709, 41-2722, 79-4101, 79-4102 and 79-4103 and K.S.A. 2001 Supp. 41-501, 41-2645, 41-2702 and 41-2703 and repealing the existing sections.

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

Section 1. K.S.A. 41-102 is hereby amended to read as follows: 41-102. As used in ~~this~~ *the Kansas liquor control* 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 liquor" means alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.

(c) "Beer" means a beverage, containing more than ~~3.2%~~ 5% 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.

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

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

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

(g) "Director" means the director of alcoholic beverage control of the

1 department of revenue.

2 (h) “Distributor” means the person importing or causing to be im-
3 ported into the state, or purchasing or causing to be purchased within
4 the state, alcoholic liquor for sale or resale to retailers licensed under ~~this~~
5 *the Kansas liquor control act* or cereal malt beverage for sale or resale to
6 retailers licensed under ~~K.S.A. 41-2702~~ *the Kansas liquor control act or*
7 *the cereal malt beverage retailers’ act*, and amendments thereto.

8 (i) “Domestic *cereal malt beverage or beer*” means ~~beer which con-~~
9 ~~tains~~ *cereal malt beverage or beer containing* not more than 8% alcohol
10 by weight ~~and~~ which is manufactured from agricultural products grown
11 in this state.

12 (j) “Domestic fortified wine” means wine which contains more than
13 14%, but not more than 20% alcohol by volume and which is manufac-
14 tured from agricultural products grown in this state without rectification.

15 (k) “Domestic table wine” means wine which contains not more than
16 14% alcohol by volume and which is manufactured without rectification
17 or fortification from agricultural products grown in this state.

18 (l) “Drinking establishment” has the meaning provided by K.S.A. 41-
19 2601, and amendments thereto.

20 (m) “Farm winery” means a winery licensed by the director to man-
21 ufacture, store and sell domestic table wine and domestic fortified wine.

22 (n) “Manufacture” means to distill, rectify, ferment, brew, make, mix,
23 concoct, process, blend, bottle or fill an original package with any alco-
24 holic liquor, beer or cereal malt beverage.

25 (o) (1) “Manufacturer” means every brewer, fermenter, distiller, rec-
26 tifier, wine maker, blender, processor, bottler or person who fills or refills
27 an original package and others engaged in brewing, fermenting, distilling,
28 rectifying or bottling alcoholic liquor, beer or cereal malt beverage.

29 (2) “Manufacturer” does not include a microbrewery or a farm
30 winery.

31 (p) “Microbrewery” means a brewery licensed by the director to
32 manufacture, store and sell domestic *cereal malt beverage or beer*.

33 (q) “Minor” means any person under 21 years of age.

34 (r) “Nonbeverage user” means any manufacturer of any of the prod-
35 ucts set forth and described in K.S.A. 41-501, and amendments thereto,
36 when the products contain alcohol or wine, and all laboratories using
37 alcohol for nonbeverage purposes.

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

43 (t) “Person” means any natural person, corporation, partnership, trust

1 or association.

2 (u) “Primary American source of supply” means the manufacturer,
3 the owner of alcoholic liquor at the time it becomes a marketable product
4 or the manufacturer’s or owner’s exclusive agent who, if the alcoholic
5 liquor cannot be secured directly from such manufacturer or owner by
6 American wholesalers, is the source closest to such manufacturer or
7 owner in the channel of commerce from which the product can be se-
8 cured by American wholesalers.

9 (v) (1) “Retailer” means a person who sells at retail, or offers for sale
10 at retail, alcoholic liquors.

11 (2) “Retailer” does not include a microbrewery or a farm winery.

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

15 (x) “Salesperson” means any natural person who:

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

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

25 (y) “Secretary” means the secretary of revenue.

26 (z) (1) “Sell at retail” and “sale at retail” refer to and mean sales for
27 use or consumption and not for resale in any form and sales to clubs,
28 licensed drinking establishments, licensed caterers or holders of tempo-
29 rary permits.

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

34 (aa) “To sell” includes to solicit or receive an order for, to keep or
35 expose for sale and to keep with intent to sell.

36 (bb) “Sleeve” means a package of two or more 50-milliliter (3.2-fluid-
37 ounce) containers of spirits.

38 (cc) “Spirits” means any beverage which contains alcohol obtained by
39 distillation, mixed with water or other substance in solution, and includes
40 brandy, rum, whiskey, gin or other spirituous liquors, and such liquors
41 when rectified, blended or otherwise mixed with alcohol or other
42 substances.

43 (dd) “Supplier” means a manufacturer of alcoholic liquor or cereal

1 malt beverage or an agent of such manufacturer, other than a salesperson.

2 (ee) “Temporary permit” has the meaning provided by K.S.A. 41-
3 2601, and amendments thereto.

4 (ff) “Wine” means any alcoholic beverage obtained by the normal
5 alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries
6 or other agricultural products, including such beverages containing added
7 alcohol or spirits or containing sugar added for the purpose of correcting
8 natural deficiencies.

9 Sec. 2. K.S.A. 41-103 is hereby amended to read as follows: 41-103.

10 ~~The legislature hereby declares the public policy of this state to be that~~

11 ~~(a) Cereal malt beverage shall be sold at retail separately from sales of~~

12 ~~alcoholic liquor at retail, (b) cereal malt beverage shall be sold and dis-~~

13 ~~persed at retail in rooms or premises separate and distinct from rooms~~

14 ~~or premises where alcoholic liquor is sold, and (c) No retailer’s license~~

15 ~~for the sale of alcoholic liquor shall be granted to any applicant making~~

16 ~~application therefor if the premises sought to be licensed are located~~

17 ~~outside the corporate limits of any city within this state, except as provided~~

18 ~~in K.S.A. 41-303 and amendments thereto.~~

19 Sec. 3. K.S.A. 41-104 is hereby amended to read as follows: 41-104.

20 No person shall manufacture, bottle, blend, sell, barter, transport, deliver,

21 furnish or possess any alcoholic liquor *or cereal malt beverage* for bev-

22 erage purposes, except as specifically provided in this act, the club and

23 drinking establishment act or article 27 of chapter 41 of the Kansas Stat-

24 utes Annotated, except that nothing contained in this act shall prevent:

25 (a) The possession and transportation of alcoholic liquor *or cereal*

26 *malt beverage* for the personal use of the possessor, the possessor’s family

27 and guests except that the provisions of ~~K.S.A. 41-1103 and amendments~~

28 ~~thereto relating to transportation and the provisions of K.S.A. 41-407, and~~

29 ~~amendments thereto, shall be applicable to all persons;~~

30 (b) the making of wine, cider, *cereal malt beverage* or beer by a per-

31 son from fruits, vegetables or grains, or the product thereof, by simple

32 fermentation and without distillation, if it is made solely for the use of

33 the maker and the maker’s family;

34 (c) any duly licensed practicing physician or dentist from possessing

35 or using alcoholic liquor in the strict practice of the medical or dental

36 profession;

37 (d) any hospital or other institution caring for sick and diseased per-

38 sons, from possessing and using alcoholic liquor for the treatment of bona

39 fide patients of such hospital or institution;

40 (e) any drugstore employing a licensed pharmacist from possessing

41 and using alcoholic liquor in the compounding of prescriptions of duly

42 licensed physicians; or

43 (f) the possession and dispensation of wine by an authorized repre-

1 sentative of any church for the purpose of conducting any bona fide rite
2 or religious ceremony conducted by such church.

3 Sec. 4. K.S.A. 41-208 is hereby amended to read as follows: 41-208.
4 The power to regulate all phases of the control of the manufacture, dis-
5 tribution, sale, possession, transportation and traffic in alcoholic liquor
6 and ~~the manufacture of beer regardless of its alcoholic content~~ *cereal*
7 *malt beverage*, except as specifically delegated in this act, is hereby vested
8 exclusively in the state and shall be exercised as provided in this act. No
9 city shall enact any ordinance in conflict with or contrary to the provisions
10 of this act and any ordinance of any city in effect at the time this act takes
11 effect or thereafter enacted which is in conflict with or contrary to the
12 provisions of this act shall be null and void. Nothing contained in this
13 section shall be construed as preventing any city from enacting ordinances
14 declaring acts prohibited or made unlawful by this act as unlawful or
15 prohibited in such city and prescribing penalties for violation thereof, but
16 the minimum penalty in any such ordinance shall not exceed the mini-
17 mum penalty prescribed by this act for the same violation, nor shall the
18 maximum penalty in any such ordinance exceed the maximum penalty
19 prescribed by this act for the same violation.

20 Sec. 5. K.S.A. 41-209 is hereby amended to read as follows: 41-209.
21 The director shall have the following powers, functions and duties:

22 (a) To receive applications for, and to issue and revoke licenses to
23 manufacturers, distributors, nonbeverage users and retailers in accord-
24 ance with the provisions of ~~this~~ *the Kansas liquor control act and the*
25 *cereal malt beverage retailers' act*;

26 (b) to call upon other administrative departments of the state, county
27 and city governments, sheriffs, city police departments, city marshals, law
28 enforcement officers and upon prosecuting officers for such information
29 and assistance as the director deems necessary in the performance of the
30 duties imposed upon the director by ~~this~~ *the Kansas liquor control act or*
31 *the cereal malt beverage retailers' act*;

32 (c) to inspect or cause to be inspected, any premises where alcoholic
33 ~~liquors are~~ *liquor or cereal malt beverage is* manufactured, distributed or
34 sold;

35 (d) in the conduct of any hearing authorized to be held by the director
36 to examine, or cause to be examined, under oath, any person, and to
37 examine or cause to be examined books and records of any licensee; to
38 hear testimony and take proof material for the information of the director
39 in the discharge of such duties hereunder; to administer or cause to be
40 administered oaths; and for any such purposes to issue subpoenas to re-
41 quire the attendance of witnesses and the production of books which shall
42 be effective in any part of this state; and any district court or any judge
43 of the district court, either in term time or vacation, may by order duly

1 entered, require the attendance of witnesses and the production of rel-
2 evant books subpoenaed by the director, and the court or judge may
3 compel obedience to the order by proceedings for contempt;

4 (e) to collect, receive, account for and turn over to the secretary of
5 revenue all registration and license fees and taxes provided for in ~~this the~~
6 *Kansas liquor control act or the cereal malt beverage retailers' act* and all
7 other moneys received by the director by virtue of the director's office;
8 and

9 (f) such other powers, functions and duties as are or may be imposed
10 or conferred upon the director by law.

11 Sec. 6. K.S.A. 41-210 is hereby amended to read as follows: 41-210.

12 (a) The director shall propose such rules and regulations as necessary to
13 carry out the intent and purposes of ~~this the~~ *Kansas liquor control act*
14 *and the cereal malt beverage retailers' act*. After the hearing on a proposed
15 rule and regulation has been held as required by law, the director shall
16 submit the proposed rule and regulation to the secretary of revenue who,
17 if the secretary approves it, shall adopt the rule and regulation.

18 (b) ~~It is intended by this act that~~ The director of alcoholic beverage
19 control shall have broad discretionary powers to govern the traffic in al-
20 coholic ~~liquors~~ *liquor and cereal malt beverage* and to enforce strictly all
21 the provisions of ~~this the~~ *Kansas liquor control act and the cereal malt*
22 *beverage retailers' act* in the interest of sanitation, purity of products,
23 truthful representation and honest dealings in such manner as generally
24 will promote the public health and welfare. All valid rules and regulations
25 adopted under the provisions of ~~this the~~ *Kansas liquor control act and*
26 *the cereal malt beverage retailers' act* shall be absolutely binding upon all
27 licensees and enforceable by the director of alcoholic beverage control
28 through the power of suspension or revocation of licenses.

29 Sec. 7. K.S.A. 41-211 is hereby amended to read as follows: 41-211.

30 (a) The rules and regulations adopted by the secretary of revenue pur-
31 suant to K.S.A. 41-210, and amendments thereto, shall include rules and
32 regulations:

33 (1) Prescribing the nature, form and capacity of all containers used
34 for alcoholic liquors;

35 (2) prescribing the nature of and the representations to be shown
36 upon the labels attached to the containers and requiring that the labels
37 attached to all original containers or packages of alcoholic liquors sold or
38 offered for sale in this state shall set forth in plain and legible print in the
39 English language the quantity of such liquors, exclusive of the package
40 or cask containing them, in either metric or English measurement;

41 (3) prescribing administrative procedures for the issuance of licenses
42 and the investigation of license applications and providing for advisory
43 recommendations from governing bodies of cities as to retailers' licenses

1 and for hearings on applications;

2 (4) prescribing conditions for the issuance of duplicate licenses in lieu
3 of those lost or destroyed;

4 (5) prescribing those violations of the rules and regulations for which
5 licenses shall be suspended or revoked;

6 (6) establishing standards of purity, sanitation and honest advertising
7 and representations;

8 (7) requiring the destruction of stamps upon containers which have
9 been opened;

10 (8) in the case of manufacturers and distributors of alcoholic liquors
11 *or cereal malt beverage*, requiring the labels attached to all containers of
12 such liquors ~~which are~~ *or cereal malt beverage* intended for sale in this
13 state to set forth, in plain legible print in the English language, the name
14 and kind of alcoholic liquors *or cereal malt beverage* contained therein,
15 together with their alcoholic content, and if a blended product (except
16 wine) to so state, except that, if the director deems it unnecessary to show
17 the alcoholic content of beer *or cereal malt beverage* on labels of con-
18 tainers of beer *or cereal malt beverage*, the alcoholic content shall not be
19 required to be shown thereon;

20 (9) establishing procedures and conditions under which minors may
21 be engaged in programs or systems encouraging compliance with the
22 provisions of laws relating to the sale of alcoholic liquor and cereal malt
23 beverages to a person under 21 years of age or under the legal age for
24 consumption of cereal malt beverages as authorized by K.S.A. 41-727a,
25 41-2652 and 41-2727, and amendments thereto. Such regulations shall
26 include provisions which require that such person used in any such pro-
27 gram or system to be (A) at least 18 years of age and not more than 19½
28 years of age; (B) exhibit a youthful appearance; (C) carry only one piece
29 of identification, which shall be a valid form of identification; (D) truthful
30 in interactions with licensees; except if asked, such person may deny
31 working with law enforcement officials.

32 It shall be an absolute defense in any civil proceeding or criminal pros-
33 ecution if any such program or system does not comply with the proce-
34 dures and conditions required by such rules and regulations;

35 (10) providing for such other details as are necessary or convenient
36 to the administration and enforcement of this act.

37 (b) The secretary of revenue may adopt rules and regulations pur-
38 suant to K.S.A. 41-210, and amendments thereto establishing:

39 (1) Standards of manufacture of alcoholic liquors and beer, ~~regardless~~
40 ~~of its alcoholic content,~~ *cereal malt beverage* not inconsistent with federal
41 laws, in order to insure the use of proper ingredients and methods in the
42 manufacture and distribution thereof; and

43 (2) standards, not inconsistent with federal law, for the proper label-

1 ing of containers or barrels, casks or other bulk containers or bottles of
2 alcoholic liquor and beer, ~~regardless of its alcoholic content, cereal malt~~
3 ~~beverage~~ manufactured or sold in this state.

4 Sec. 8. K.S.A. 41-307 is hereby amended to read as follows: 41-307.

5 A beer distributor's license shall allow:

6 (a) The wholesale purchase, importation and storage of beer *and ce-*
7 *real malt beverage*.

8 (b) The sale of beer *and cereal malt beverage* to:

9 (1) Licensed caterers;

10 (2) beer distributors licensed in this state;

11 (3) retailers, *temporary permit holder* clubs and drinking establish-
12 ments, licensed in this state, except that such distributor shall sell a brand
13 of beer *or cereal malt beverage* only to those retailers, *temporary permit*
14 *holder* clubs and drinking establishments of which the licensed premises
15 are located in the geographic territory within which such distributor is
16 authorized to sell such brand, as designated in the notice or notices filed
17 with the director pursuant to K.S.A. 41-410, and amendments thereto;
18 and

19 (4) such persons located outside such territory or outside this state
20 as permitted by law.

21 (c) The sale of cereal malt beverage to:

22 ~~—(1) Beer distributors licensed in this state;~~

23 ~~—(2) clubs and drinking establishments, licensed in this state, and re-~~
24 ~~tailers licensed under K.S.A. 41-2702 and amendments thereto, except~~
25 ~~that cereal malt beverage retailers. Such distributor shall sell a brand of~~
26 ~~cereal malt beverage only to those such clubs, drinking establishments~~
27 ~~and retailers of which the cereal malt beverage retailers whose licensed~~
28 ~~premises are located in the geographic territory within which such dis-~~
29 ~~tributor is authorized to sell such brand, as designated in the notice or~~
30 ~~notices filed with the director pursuant to K.S.A. 41-410, and amend-~~
31 ~~ments thereto; and~~

32 ~~—(3) such persons located outside such territory or outside this state~~
33 ~~as permitted by law.~~

34 (d) The purchase of cereal malt beverage in kegs or other bulk con-
35 tainers and the bottling or canning thereof in accordance with law.

36 (e) The storage *on the distributor's licensed premises* and delivery to
37 a retailer licensed under the Kansas liquor control act or a *cereal malt*
38 *beverage* retailer licensed under ~~K.S.A. 41-2702 and amendments~~
39 ~~thereto, on the distributor's licensed premises, the cereal malt beverage~~
40 *retailers' act* of alcoholic liquor or cereal malt beverage of another li-
41 censed distributor authorized by law to sell such alcoholic liquor or cereal
42 malt beverage to such retailer, in accordance with an agreement entered
43 into with such other distributor and approved by the director.

1 Sec. 9. K.S.A. 41-308 is hereby amended to read as follows: 41-308.

2 (a) A retailer's license shall allow the licensee to sell and offer for sale at
3 retail and deliver in the original package, ~~as therein prescribed,~~ alcoholic
4 liquor *and cereal malt beverage* for use or consumption off of and away
5 from the premises specified in such license. A retailer's license shall per-
6 mit sale and delivery of alcoholic liquor *and cereal malt beverage* only on
7 the licensed premises and shall not permit sale of alcoholic liquor *or cereal*
8 *malt beverage* for resale in any form, except that a licensed retailer may:

9 (1) Sell alcoholic liquor *and cereal malt beverage* to a temporary per-
10 mit holder for resale by such permit holder; and

11 (2) sell and deliver alcoholic liquor *and cereal malt beverage* to a
12 caterer or to the licensed premises of a club or drinking establishment,
13 if such premises are in the county where the retailer's premises are lo-
14 cated or in an adjacent county, for resale by such club, establishment or
15 caterer.

16 (b) The holder of a retailer's license shall not sell, offer for sale, give
17 away or permit to be sold, offered for sale or given away in or from the
18 premises specified in such license any service or thing of value whatsoever
19 except alcoholic liquor *or cereal malt beverage* in the original package;
20 ~~except that~~. A licensed retailer may:

21 (1) Charge a delivery fee for delivery to a club, drinking establishment
22 or caterer pursuant to subsection (a);

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

25 (3) include in the sale of alcoholic liquor *or cereal malt beverage* any
26 goods included by the manufacturer in packaging with the alcoholic liquor
27 *or cereal malt beverage*, subject to the approval of the director; ~~and~~

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

33 (5) *sell soft drinks, mix and the following beverage-related, nonfood*
34 *items:*

35 (A) *Disposable cups;*

36 (B) *bottle and can openers;*

37 (C) *corkscrews; and*

38 (D) *ice.*

39 (c) No licensed retailer shall furnish any entertainment in such prem-
40 ises or permit any pinball machine or game of skill or chance to be located
41 in or on such premises.

42 (d) A retailer's license shall allow the licensee to store alcoholic liquor
43 *and cereal malt beverage* in refrigerators, cold storage units, ice boxes or

1 other cooling devices, and the licensee may sell such alcoholic liquor *and*
2 *cereal malt beverage* to consumers in a chilled condition.

3 Sec. 10. K.S.A. 41-308b is hereby amended to read as follows: 41-
4 308b. (a) A microbrewery license shall allow:

5 (1) The manufacture of not less than 100 nor more than 15,000 bar-
6 rels of domestic *cereal malt beverage* or beer during the license year and
7 the storage thereof;

8 (2) the sale to beer distributors of *domestic cereal malt beverage* or
9 beer, manufactured by the licensee;

10 (3) the sale, on the licensed premises in the original unopened con-
11 tainer to consumers for consumption off the licensed premises, of *do-*
12 *mestic cereal malt beverage* or beer manufactured by the licensee;

13 (4) the serving on the premises of samples of *domestic cereal malt*
14 *beverage* or beer manufactured by the licensee, if the premises are lo-
15 cated in a county where the sale of alcoholic liquor is permitted by law
16 in licensed drinking establishments;

17 (5) if the licensee is also licensed as a club or drinking establishment,
18 the sale of domestic *cereal malt beverage* or beer and other alcoholic
19 liquor for consumption on the licensed premises as authorized by the
20 club and drinking establishment act; and

21 (6) if the licensee ~~is~~ also *is* licensed as a caterer, the sale of domestic
22 *cereal malt beverage* or beer and other alcoholic liquor for consumption
23 on unlicensed premises as authorized by the club and drinking establish-
24 ment act.

25 (b) Not less than 50% of the products utilized in the manufacture of
26 domestic *cereal malt beverage* or beer by a microbrewery shall be grown
27 in Kansas except when a greater proportion of products grown outside
28 this state is authorized by the director based upon findings that such
29 products are not available in this state. The label of each container of
30 domestic *cereal malt beverage* or beer shall clearly set forth the propor-
31 tion of the products utilized in the manufacture of the *domestic cereal*
32 *malt beverage* or beer which was from agricultural products grown in
33 Kansas.

34 (c) A microbrewery may sell domestic *cereal malt beverage* or beer
35 in the original unopened container to consumers for consumption off the
36 licensed premises at any time between 6 a.m. and 12 midnight on any
37 day except Sunday and between 12 noon and 6 p.m. on Sunday. If au-
38 thorized by subsection (a), a microbrewery may serve samples of domestic
39 *cereal malt beverage* or beer and serve and sell domestic *cereal malt*
40 *beverage* or beer and other alcoholic liquor for consumption on the li-
41 censed premises at any time when a club or drinking establishment is
42 authorized to serve and sell alcoholic liquor.

43 (d) A microbrewery license shall apply only to the premises described

1 in the application and in the license issued and only one location shall be
2 described in the license.

3 (e) No microbrewery shall:

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

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

10 (3) employ any person under 21 years of age in connection with mix-
11 ing or dispensing alcoholic liquor; or

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

14 (f) Whenever a microbrewery licensee is convicted of a violation of
15 the Kansas liquor control act, the director may revoke the licensee's li-
16 cense and all fees paid for the license in accordance with the Kansas
17 administrative procedure act.

18 Sec. 11. K.S.A. 41-312 is hereby amended to read as follows: 41-312.
19 No person holding a manufacturer's or distributor's license shall be per-
20 mitted to receive any retailer's, microbrewery or farm winery license. No
21 person holding a retailer's, microbrewery or farm winery license shall be
22 permitted to receive any manufacturer's or distributor's license or another
23 retailer's, microbrewery or farm winery license. *No person holding a ce-
24 real malt beverage retailers' license shall be permitted to receive any man-
25 ufacturer's or distributor's license.*

26 Sec. 12. K.S.A. 2001 Supp. 41-501 is hereby amended to read as
27 follows: 41-501. (a) As used in this section and K.S.A. 41-501a, and
28 amendments thereto:

29 (1) "Gallon" means wine gallon.

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

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

36 (b) (1) For the purpose of raising revenue a tax is imposed upon the
37 manufacturing, using, selling, storing or purchasing alcoholic liquor, ce-
38 real malt beverage or malt products in this state or a federal area at a rate
39 of \$.18 per gallon on beer and cereal malt beverage; \$.20 per gallon on
40 all wort or liquid malt; \$.10 per pound on all malt syrup or malt extract;
41 \$.30 per gallon on wine containing 14% or less alcohol by volume; \$.75
42 per gallon on wine containing more than 14% alcohol by volume; and
43 \$2.50 per gallon on alcohol and spirits.

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

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

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

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

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

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

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

42 (g) Retail sales of alcoholic liquor, sales of *domestic cereal malt bev-*
43 *erage* or beer to consumers by microbreweries and sales of wine to con-

1 sumers by farm wineries shall not be subject to the tax imposed by the
2 Kansas retailers' sales tax act but shall be subject to the enforcement tax
3 provided for in this act.

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

10 (i) The director shall collect the taxes imposed by this section and
11 shall account for and remit all moneys collected from the tax to the state
12 treasurer in accordance with the provisions of K.S.A. 75-4215, and
13 amendments thereto. Upon receipt of each such remittance, the state
14 treasurer shall deposit the entire amount in the state treasury and the
15 state treasurer shall credit $\frac{1}{10}$ of the moneys collected from taxes imposed
16 upon alcohol and spirits under subsection (b)(1) to the community alco-
17 holism and intoxication programs fund created by K.S.A. 41-1126, and
18 amendments thereto, and shall credit the balance of the moneys collected
19 to the state general fund.

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

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

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

9 Sec. 13. K.S.A. 41-601 is hereby amended to read as follows: 41-601.
10 Every manufacturer, distributor, microbrewery which sells any beer *or*
11 *cereal malt beverage* to a beer distributor at wholesale and farm winery
12 which sells any wine to a distributor at wholesale ~~shall~~, between the 1st
13 and 15th day of each calendar month, *shall* make return under oath to
14 the director of all alcoholic liquor *or cereal malt beverage* manufactured
15 and sold by the manufacturer, distributor, microbrewery or farm winery
16 in the course of business during the preceding calendar month. In the
17 case of a distributor, the return shall also show: (a) The total amount of
18 *alcoholic liquor or cereal malt beverage* purchased by the distributor dur-
19 ing the preceding calendar month, the names of the distillers or distrib-
20 utors from whom purchased, the quantity of each brand and the price
21 paid therefor; and (b) the names and locations of the retailers to whom
22 alcoholic liquor *or cereal malt beverage* was sold by the distributor during
23 the preceding calendar month, the quantity of each brand and the price
24 charged therefor. The return shall be made upon forms prescribed and
25 furnished by the director and shall contain such other information as the
26 director ~~reasonably~~ requires.

27 Sec. 14. K.S.A. 41-602 is hereby amended to read as follows: 41-602.
28 It is the duty of each manufacturer, distributor, microbrewery which sells
29 any *domestic cereal malt beverage or beer* to a beer distributor and farm
30 winery which sells any wine to a distributor to keep complete and accurate
31 records of all ~~such sales of liquor, wine or beer~~ and complete and accurate
32 records of all alcoholic liquors *and cereal malt beverages* produced, man-
33 ufactured, compounded or imported. The director, in the director's dis-
34 cretion, may prescribe reasonable and uniform methods for keeping re-
35 cords by manufacturers, distributors, microbreweries and farm wineries
36 as contemplated by K.S.A. 41-401 through 41-409, and amendments
37 thereto.

38 Sec. 15. K.S.A. 41-701 is hereby amended to read as follows: 41-701.
39 (a) Except as provided in subsection (d), no spirits distributor shall sell
40 or attempt to sell any spirits within this state except to:

- 41 (1) A licensed manufacturer, licensed nonbeverage user or licensed
42 spirits distributor; or
- 43 (2) a licensed retailer, as authorized by K.S.A. 41-306, and amend-

1 ments thereto.

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

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

6 (2) a licensed caterer; or

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

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

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

14 (2) a licensed caterer; or

15 (3) a retailer licensed under the Kansas liquor control act ~~or under~~
16 ~~K.S.A. 41-2702 and amendments thereto~~, *a cereal malt beverage retailer*
17 *licensed under the cereal malt beverage retailers' act* or a club or drinking
18 establishment, licensed in this state, as authorized by K.S.A. 41-307, and
19 amendments thereto.

20 (d) (1) If any spirits distributor refuses to sell spirits which such dis-
21 tributor is authorized to sell or refuses to provide any service in connec-
22 tion therewith to any licensed retailer as authorized by K.S.A. 41-306,
23 and amendments thereto, it shall be lawful for any other licensed spirits
24 distributor to sell such spirits to such retailer.

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

30 (3) If any beer distributor refuses to sell beer or cereal malt beverage
31 which such distributor is authorized to sell or provide service in connec-
32 tion therewith to any retailer licensed under ~~this act or under K.S.A. 41-~~
33 ~~2702 and amendments thereto~~, *the Kansas liquor control act or the cereal*
34 *malt beverage retailers' act* as authorized by K.S.A. 41-307, and amend-
35 ments thereto, it shall be lawful for any other licensed beer distributor to
36 sell such beer or cereal malt beverage to such retailer.

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

41 (f) No supplier, wholesaler, distributor, manufacturer or importer
42 shall by oral or written contract or agreement, expressly or impliedly fix,
43 maintain, coerce or control the resale price of alcoholic liquor, beer or

1 cereal malt beverage to be resold by such wholesaler, distributor, man-
2 ufacturer or importer.

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

13 Sec. 16. K.S.A. 41-708 is hereby amended to read as follows: 41-708.
14 No retailer licensed under ~~this~~ *the Kansas liquor control act or the cereal*
15 *malt beverage retailers'* act shall purchase or receive alcoholic liquor *or*
16 *cereal malt beverage* from any source except from a distributor licensed
17 under this act and having a place of business in this state, except that a
18 licensed retailer may purchase confiscated alcoholic liquor *or cereal malt*
19 *beverage* at a sheriff's sale. Any retail licensee who violates this section is
20 guilty of a misdemeanor, and upon conviction thereof shall be punished
21 by a fine of not less than \$200, nor more than \$1,000, to which may be
22 added imprisonment for not more than six months, and the license of
23 such licensee may be revoked as provided by law.

24 Sec. 17. K.S.A. 41-712 is hereby amended to read as follows: 41-712.
25 No ~~person shall sell at retail~~ *retailer shall sell* any alcoholic liquor: ~~(1) or~~
26 *cereal malt beverage: (a) On Sunday; (2) (b) on Memorial Day, Indepen-*
27 *dence Day, Labor Day, Thanksgiving Day or Christmas Day; or (3) (c)*
28 *before 9 a.m. or after 11 p.m. on any day when the sale is permitted,*
29 *except that the governing body of any city by ordinance may require*
30 *closing prior to 11 p.m., but such ordinance shall not require closing prior*
31 *to 8 p.m.*

32 Sec. 18. K.S.A. 41-717 is hereby amended to read as follows: 41-
33 717.(a) (1) Except as provided by subsection (a)(2), no person shall sell
34 or furnish at retail and no microbrewery or farm winery shall sell to any
35 consumer any alcoholic liquor *or cereal malt beverage* on credit; on a
36 passbook; on order on a store; in exchange for any goods, wares or mer-
37 chandise; or in payment for any services rendered. If any person extends
38 credit in violation of this subsection, the debt attempted to be created
39 shall not be recoverable at law.

40 (2) A licensed retailer may sell alcoholic liquor, *cereal malt beverage*
41 and nonalcoholic malt beverage to a consumer, a licensed microbrewery
42 may sell domestic *cereal malt beverage or* beer to a consumer and a
43 licensed farm winery may sell domestic wine to a consumer on credit

1 pursuant to a credit card which entitles the user to purchase goods or
2 services from at least 100 persons not related to the issuer of the credit
3 card.

4 (b) No microbrewery, farm winery or retailer of alcoholic liquor shall
5 accept a check for payment for alcoholic liquors *or cereal malt beverages*
6 sold by the winery or retailer to a consumer, other than the personal check
7 of the person making the purchase.

8 Sec. 19. K.S.A. 41-718 is hereby amended to read as follows: 41-
9 718.(a) No person except a manufacturer, distributor, microbrewery, farm
10 winery or wholesaler shall fill or refill, in whole or in part, any original
11 package of alcoholic liquor *or cereal malt beverage* with the same or any
12 other kind or quality of alcoholic liquor *or cereal malt beverage*.

13 (b) No person shall have in the person's possession for sale at retail
14 any bottles, casks or other containers containing alcoholic liquor *or cereal*
15 *malt beverage*, except in original packages.

16 Sec. 20. K.S.A. 41-724 is hereby amended to read as follows: 41-724.
17 No person or common carrier shall haul or transport alcoholic liquor *or*
18 *cereal malt beverage* in or into this state, for sale, or for storage and sale
19 in this state, upon which the required labeling or gauging fee, tax, duty
20 or license has not been paid, except for delivery to distributors, distillers,
21 manufacturers, importers, blenders, rectifiers, wholesalers or jobbers
22 maintaining a bonded warehouse within this state.

23 Sec. 21. K.S.A. 41-725 is hereby amended to read as follows: 41-
24 725.It shall be unlawful for any officer, agent or employee of any railroad
25 company, express company or other common carrier to deliver any al-
26 coholic liquors *or cereal malt beverages* to any person other than to the
27 person to whom such shipment is consigned, or to his authorized agent,
28 and without a written receipt in each instance by such consignee in person
29 therefor, or by his authorized agent; or to deliver any such shipments to
30 any person whomsoever where such shipments have been consigned to
31 a fictitious person or persons under a fictitious name.

32 Sec. 22. K.S.A. 41-726 is hereby amended to read as follows: 41-
33 726.It shall be unlawful for any person to make a false statement, for the
34 purpose of obtaining alcoholic liquors *or cereal malt beverages*, to any
35 railroad, express or transportation company, or any person engaged in the
36 business of transporting goods, wares or merchandise for the purpose of
37 obtaining the shipment, transportation or delivery of same.

38 Sec. 23. K.S.A. 41-729 is hereby amended to read as follows: 41-
39 729.(a) No retailer shall sell, directly or indirectly, any alcoholic liquor *or*
40 *cereal malt beverage* at less than the acquisition cost of such *alcoholic*
41 liquor *or cereal malt beverage* without first having obtained from the
42 director a permit to do so.

43 (b) The director may issue to a licensed retailer a permit authorizing

1 the retailer to sell alcoholic liquor *or cereal malt beverage* at less than the
2 acquisition ~~net~~ cost of such liquor *or cereal malt beverage* if:

3 (1) The retailer is actually closing out the retailer's stock for the pur-
4 pose of completely discontinuing sale of the item of alcoholic liquor *or*
5 *cereal malt beverage* for a period of not less than 12 months;

6 (2) the item of alcoholic liquor *or cereal malt beverage* is damaged
7 or deteriorated in quality and notice is given to the public thereof; or

8 (3) the sale of the item of alcoholic liquor *or cereal malt beverage* is
9 by an officer acting under the order of a court.

10 Sec. 24. K.S.A. 41-801 is hereby amended to read as follows: 41-
11 801. Every railroad, express or transportation company, or other common
12 contract or private carrier or contract hauler, their agents, employees or
13 servants, shall furnish to the director a duplicate bill of lading or receipt,
14 showing the name of the consignor and the consignee, date, place re-
15 ceived, destination, and quantity of alcoholic liquor *or cereal malt bev-*
16 *erage* received by them for shipment to any point within this state. Upon
17 failure to comply with the provisions of this section, such railroad, express
18 or transportation company, or other common, contract or private carrier
19 or contract hauler, their agents, employees or servants, shall be deemed
20 guilty of a misdemeanor, and upon conviction thereof shall be fined in
21 the sum of ~~fifty dollars (\$50)~~ \$50 for each offense.

22 Sec. 25. K.S.A. 41-805 is hereby amended to read as follows: 41-
23 805. ~~(1)~~ (a) Any room, house, building, boat, vehicle, airplane, structure
24 or place of any kind where alcoholic liquors *or cereal malt beverages* are
25 sold, manufactured, bartered or given away, in violation of ~~this~~ *the Kansas*
26 *liquor control act or the cereal malt beverage retailers' act*, or any building,
27 structure or boat where persons are permitted to resort for the purpose
28 of drinking alcoholic liquors, ~~in violation of this act, or any place where~~
29 ~~such liquors are kept for sale, barter or gift, in violation of this act, and~~
30 ~~all such liquors, or cereal malt beverage, in violation of the Kansas liquor~~
31 ~~control act or the cereal malt beverage retailers' act, or any place where~~
32 ~~such alcoholic liquor or cereal malt beverage is kept for sale, barter or~~
33 ~~gift in violation of the Kansas liquor control act or the cereal malt beverage~~
34 ~~retailers' act. All such alcoholic liquor or cereal malt beverage and all~~
35 property kept in and used in maintaining such a place, are each and all
36 of them hereby declared to be a common nuisance. Any person who
37 maintains or assists in maintaining such common nuisance is guilty of a
38 misdemeanor punishable by imprisonment for not more than one year or
39 by a fine not exceeding \$25,000, or by both. If the court finds that the
40 owner of real property knew or should have known under the circum-
41 stances of the maintenance of a common nuisance on such property,
42 contrary to the liquor laws of this state, and did not make a bona fide
43 attempt to abate such nuisance under the circumstances, such property

1 shall be subject to a lien for, and may be sold to pay all fines and costs
2 assessed against the occupant of such building or premises for any vio-
3 lation of ~~this act, and~~ *the Kansas liquor control act or the cereal malt*
4 *beverage retailers' act*. Such lien shall be ~~immediately~~ enforced by civil
5 action, in any court having jurisdiction, by the county or district attorney
6 of the county wherein such building or premises may be located, or by
7 the attorney for the director, when ordered by the director. For purposes
8 of this section, evidence of a bona fide attempt to abate such nuisance by
9 the owner of the property shall include, but not be limited to, the filing
10 of a written report, by such owner or at such owner's direction, to the
11 local law enforcement agency that the property is suspected by the owner
12 of the property of being used in maintaining a common nuisance as set
13 forth in K.S.A. 22-3901, and amendments thereto, contrary to the liquor
14 laws of this state. If a tenant of any building or premises uses the building
15 or premises, or any part thereof, in maintaining a common nuisance as
16 hereinbefore defined, or knowingly permits such use by another, such
17 use shall render void the lease under which the tenant holds, and shall
18 cause the right of possession to revert to the owner or lessor, who may
19 make immediate entry upon the premises, or may invoke the remedy
20 provided for the forcible detention thereof.

21 ~~(2)~~ (b) Upon the filing of a complaint or information charging that a
22 vehicle or airplane is a common nuisance as above declared, a warrant
23 shall be issued authorizing and directing the officer to whom it is directed
24 to arrest the person or persons described in the complaint or information
25 or the person or persons using the vehicle or airplane in violation of ~~this~~
26 *the Kansas liquor control act or the cereal malt beverage retailers' act* and
27 to seize and take into the officer's custody all such vehicles and airplanes
28 so used which the officer finds, and safely keep them subject to the order
29 of the court. In the complaint or information it shall not be necessary to
30 accurately describe the vehicle or airplane so used, but only such descrip-
31 tion shall be necessary as will enable the officer executing the warrant to
32 identify it properly.

33 Whenever any vehicles or airplanes ~~shall be~~ *are* seized under any such
34 warrant, whether an arrest has been made or not, a notice shall issue
35 within 48 hours after the return of the warrant in the same manner as a
36 summons, directed to the defendant in such action and to all persons
37 claiming any interest in such vehicles or airplanes, fixing a time, to be not
38 less than 60 days, and place at which all persons claiming any interest
39 therein may appear and answer the complaint made against such vehicles
40 or airplanes and show cause why they should not be adjudged forfeited
41 and sold as hereinafter provided. Such notice shall be served upon the
42 defendant in the action in the same manner as a summons if the defend-
43 ant be found within the jurisdiction of the court, and a copy thereof ~~shall~~

1 also *shall* be posted in one or more public places in the county in which
2 the cause is pending. If at the time for filing answer the notice has not
3 been duly served or sufficient cause appear, the time for answering shall
4 be extended by the court and such other notice issued as will ~~supply~~
5 *correct* any defect in the previous notice and give reasonable time and
6 opportunity for all persons interested to appear and answer. At or before
7 the time fixed by notice, any person claiming an interest in the vehicles
8 or airplanes seized, may file an answer in writing, setting up a claim
9 thereto, and shall ~~thereupon~~ be admitted as a party defendant to the
10 proceedings against such vehicles or airplanes. The complaint or infor-
11 mation and answer or answers that may be filed shall be the only pleadings
12 required. At the time fixed for answer, or at any other time to be fixed
13 by the court, a trial shall be held in a summary manner before the court
14 on the allegation of the complaint or information against the property
15 seized. Whether any answer ~~shall be~~ *is* filed or not, it shall be the duty
16 of the county or district attorney to appear and adduce evidence in sup-
17 port of such allegation.

18 ~~(3)~~ (c) If the court finds that such vehicles or airplanes were ~~at the~~
19 ~~time a common~~ a nuisance, as defined in this section, the court shall
20 adjudge forfeited so much thereof as the court finds to be a common
21 nuisance, and shall order the officer in whose custody they are to sell
22 them publicly. The officer shall cause notice to be given by publication
23 for at least one week in the official county paper of the time and place of
24 the sale of the property and shall file in the court a return showing the
25 sale of the property and the amount received therefor and shall pay the
26 same into court to await the order of the court. The court, if it approves
27 such sale, shall declare forfeited the proceeds of the sale and, after paying
28 out of the proceeds of the sale the costs of the action, including costs of
29 sale and the keeping and maintenance of the property, shall out of the
30 balance of the money received from the property at the sale, pay all liens,
31 according to their priorities, which are established by intervention or oth-
32 erwise at the hearing or another proceeding brought for that purpose as
33 being bona fide and for value and as having been created without the
34 lienor having any notice that the vehicle or airplane was being used in so
35 violating the provisions of ~~this~~ *the Kansas liquor control act or the cereal*
36 *malt beverage retailers' act* and without the lienor having any notice at
37 any time subsequent to the creation of the lien and prior to the seizure
38 in time to have protected the lien that the vehicle was so being used. The
39 balance remaining shall be paid to the state treasurer pursuant to K.S.A.
40 20-2801, and amendments thereto, ~~except that~~. If upon proper proof, a
41 lien as herein provided is established in excess of the value of the vehicle
42 as found by the court, the court may order, without sale, the surrender
43 of such vehicle to such lienor upon the payment of all costs as is herein

1 provided.

2 ~~(4)~~(d) Either the state or any defendant or other person claiming the
3 vehicle or airplane seized, or an interest therein, may appeal from the
4 judgment of the court in any such proceedings against the property seized
5 in the manner provided for taking appeals in criminal cases. Any claimant
6 of such property who appeals, in order to stay proceedings, must enter
7 into an undertaking with two or more sureties to the state of Kansas, to
8 be approved by the judge of the district court, in the sum of not less than
9 \$100 nor less than double the amount of the value of the property as
10 fixed by the court and the costs adjudged against the property, condi-
11 tioned that the claimant will prosecute the appeal without unnecessary
12 delay, and if judgment is entered against the claimant on appeal, the
13 claimant will satisfy the judgment and costs, and no bond shall be required
14 for an appeal by the state, and such appeal shall stay the execution of the
15 judgment.

16 Sec. 26. K.S.A. 41-806 is hereby amended to read as follows: 41-
17 806. The attorney for the director when ordered by the director, or county
18 attorney in the county in which such nuisance exists, or is kept or main-
19 tained, may maintain an action by injunction, in the name of the state of
20 Kansas, to abate and temporarily or permanently to enjoin such nuisance.
21 The court shall have the right to make temporary and final orders as in
22 other injunction proceedings. The plaintiff shall not be required to give
23 bond in such action.

24 Upon final judgment against the defendant, such court shall allow the
25 attorneys for the state of Kansas a reasonable fee for prosecuting the
26 action which shall be taxed as costs and shall also order that such room,
27 house, building, structure, boat or place of any kind shall be closed and
28 padlocked for a period of not less than three ~~(3)~~ months nor more than
29 two ~~(2)~~ years, and until the owner, lessee, tenant or occupant thereof shall
30 give bond with sufficient surety to be approved by the court making the
31 order, in the penal sum of not less than ~~one thousand dollars (\$1,000)~~
32 \$1,000, payable to the state of Kansas, and conditioned that no alcoholic
33 liquor ~~will or cereal malt beverage~~ for a period of two years thereafter
34 shall be manufactured, possessed, sold, bartered or given away or fur-
35 nished or otherwise disposed of thereon or therein, or kept thereon or
36 therein with intent to sell, barter, give away, or otherwise dispose of the
37 same, contrary to ~~this act, and that he and his law and that such person's~~
38 surety will pay all fines and costs assessed against ~~him for any violation of~~
39 ~~this act such person for violating such law.~~

40 If any condition of such bond ~~be is~~ violated, the whole amount may be
41 recovered as a penalty for the use of the state of Kansas; and, in such suit
42 on the bond, both principal and surety may be joined as party defendants,
43 and satisfaction may be had from either of them. In such action, a notice

1 to nonresident defendants may be given by publication as authorized by
2 law under the code of civil procedure, or upon their agents for service in
3 this state, if any.

4 Sec. 27. K.S.A. 41-901 is hereby amended to read as follows: 41-
5 901.(a) No person shall manufacture, import for distribution as a distrib-
6 utor at wholesale or distribute or sell alcoholic liquor or cereal malt bev-
7 erage at any place within the state without having first obtained a valid
8 license therefor under the provisions of ~~this act or under K.S.A. 41-2702~~
9 ~~and amendments thereto~~ *the Kansas liquor control act or the cereal malt*
10 *beverage retailers' act*. No person shall obtain a license to carry on the
11 business authorized by the license as agent for another, obtain a license
12 by fraud or make any false statement or otherwise violate any of the
13 provisions of ~~this act~~ *the Kansas liquor control act, the club and drinking*
14 *establishment act or the cereal malt beverage retailers' act* in obtaining
15 any license ~~hereunder~~ *under any of such acts*. No person having obtained
16 a license ~~hereunder~~ *under any of such acts* shall violate any of the pro-
17 visions of ~~this act~~ *thereof* with respect to the manufacture, possession,
18 distribution or sale of alcoholic liquor or cereal malt beverage; or with
19 respect to the maintenance of the licensed premises.

20 (b) Violation of subsection (a) shall be punishable as follows, except
21 where other penalties are specifically provided by law:

- 22 (1) For a first offense, by a fine of not more than \$500; and
23 (2) for a second or subsequent offense, by a fine of not more than
24 \$1,000 or by imprisonment for not more than six months, or both.

25 (c) Each day any person engages in business as a manufacturer, dis-
26 tributor, microbrewery, farm winery or retailer in violation of the provi-
27 sions of ~~this act~~ *the Kansas liquor control act, the club and drinking es-*
28 *tablishment act or the cereal malt beverage retailers' act* shall constitute
29 a separate offense.

30 (d) Any license obtained to carry on the business as agent for another
31 or any license obtained by fraud or by false statements shall be revoked
32 by the director. When a license has been revoked for obtaining a license
33 to carry on the business authorized by the license as agent for another,
34 or obtained a license by fraud or by any false statement, all alcoholic liquor
35 *or cereal malt beverage* in the possession of the person who procured the
36 license shall be forfeited and sold and the proceeds of the sale shall be
37 paid to the county treasurer of the county where the alcoholic liquor was
38 located. During the pendency of any appeal from any order revoking a
39 license, the director may obtain an order from the district court of the
40 county where the alcoholic liquor *or cereal malt beverage* is located, re-
41 straining the sale or disposal of the alcoholic liquor *or cereal malt bev-*
42 *erage*. When an order revoking any license is issued by the director, the
43 director shall forthwith forward by registered mail a certified copy of the

1 order revoking the license under the seal of the director to the county
2 attorney of the county where the alcoholic liquor *or cereal malt beverage*
3 is located.

4 Within 15 days after the order of revocation becomes final, the county
5 attorney shall institute, against the person who procured the license, a
6 civil action under the code of civil procedure in the district court of the
7 county in the name of the state of Kansas on the relation of the county
8 attorney to forfeit all alcoholic liquor *and cereal malt beverage*. Summons
9 shall be served as provided by the code of civil procedure upon the person
10 who procured the license. Upon the return day of the summons issued
11 or as soon after as convenient to the court, an order shall be entered by
12 the court forfeiting the alcoholic liquor *and cereal malt beverage* to the
13 state of Kansas and ordering it to be sold by the sheriff of the county in
14 which the forfeiture occurred. The order shall fix the time and place of
15 sale and the method and manner in which the sale shall be held, together
16 with notice of the sale as the court directs. After payment of all costs of
17 the action, including a reasonable fee for the county attorney, the balance
18 remaining shall be paid to the state treasurer pursuant to K.S.A. 20-2801,
19 and amendments thereto.

20 Sec. 28. K.S.A. 41-905 is hereby amended to read as follows: 41-
21 905. Any person who ~~shall~~ knowingly *shall* possess, sell, ship, transport or
22 in any way dispose of any alcoholic liquor *or cereal malt beverage* under
23 any other than the proper name or brand known to the trade as design-
24 ating the kind and quality of the contents of the package or other con-
25 tainers of such alcoholic liquor *or cereal malt beverage* or who shall cause
26 any such act to be done, shall forfeit to the state such alcoholic liquor *or*
27 *cereal malt beverage* and such packages and containers, and shall be sub-
28 ject to the punishment and penalties provided for violation of ~~this the~~
29 *Kansas liquor control act*.

30 Sec. 29. K.S.A. 41-1001 is hereby amended to read as follows: 41-
31 1001. In any indictment, information or complaint, charging the violation
32 of any of the provisions of ~~this the Kansas liquor control act, the club and~~
33 *drinking establishment act or the cereal malt beverage retailers' act*, it
34 shall be sufficient to charge that the accused unlawfully manufactured,
35 sold, offered for sale, kept for sale, delivered or otherwise unlawfully
36 disposed of alcoholic liquor *or cereal malt beverage* without any further
37 or more specific description of such liquor, ~~and~~ *or cereal malt beverage*.
38 Proof of any kind of alcoholic liquor *or cereal malt beverage* unlawfully
39 manufactured, sold, offered for sale, kept for sale, delivered, or otherwise
40 unlawfully disposed of, as the case may be, shall be sufficient proof as to
41 the character or kind of alcoholic liquor *or cereal malt beverage*.

42 Sec. 30. K.S.A. 41-1002 is hereby amended to read as follows: 41-
43 1002. In any indictment, information, or complaint charging the violation

1 of any of the provisions of ~~this~~ *the Kansas liquor control act, the club and*
2 *drinking establishment act or the cereal malt beverage retailers' act*, it
3 shall not be necessary to allege the quantity of such alcoholic liquor *or*
4 *cereal malt beverage* or the kind thereof further than to allege that the
5 same was alcoholic liquor ~~and~~, *or cereal malt beverage, as the case may*
6 *be*. In case of sale, keeping for sale or delivery, it shall not be necessary
7 to set out the name of the person to whom sale or delivery has been
8 made; ~~and~~. In any prosecution for a second offense, it shall not be nec-
9 essary to state in the indictment, complaint or information the record of
10 the former conviction, but it shall be sufficient briefly to allege such con-
11 viction. Proof of sale, delivery or unlawful disposition of alcoholic liquors
12 *or cereal malt beverages* to any person, not authorized by ~~this~~ *the Kansas*
13 *liquor control act, the club and drinking establishment act or the cereal*
14 *malt beverage retailers' act* to purchase or receive the same, shall be
15 sufficient to sustain the allegation of unlawful sale, delivery or disposition,
16 as the case may be.

17 Sec. 31. K.S.A. 41-1004 is hereby amended to read as follows: 41-
18 1004. The possession of a special tax stamp from the government of the
19 United States authorizing the sale or manufacture of alcoholic liquor *or*
20 *cereal malt beverage* as defined ~~in this~~ *by the cereal malt beverage re-*
21 *tailers' act* by a person not licensed under ~~this~~ *the Kansas liquor control*
22 *act, the club and drinking establishment act or the cereal malt beverage*
23 *retailers' act*, shall be prima facie evidence that the person so holding ~~said~~
24 *such* special tax stamp is manufacturing or selling in violation of ~~this act~~
25 *law*. A certified copy of such special tax stamp verified by the proper
26 authority shall be admitted in evidence in all respects as the original spe-
27 cial tax stamp might be received.

28 Sec. 32. K.S.A. 41-1101 is hereby amended to read as follows: 41-
29 1101. (a) No distributor licensed under this act shall purchase any alco-
30 holic liquor *or cereal malt beverage* from any manufacturer, owner of
31 alcoholic liquor *or cereal malt beverage* at the time it becomes a market-
32 able product, exclusive agent of such manufacturer or owner, microbrew-
33 ery, farm winery or distributor of alcoholic liquor *or cereal malt beverage*
34 bottled in a foreign country either within or without this state, unless the
35 manufacturer, owner, exclusive agent, microbrewery, farm winery or dis-
36 tributor files with the director a written statement sworn to by the man-
37 ufacturer, owner, exclusive agent, microbrewery, farm winery or distrib-
38 utor or, in case of a corporation, one of its principal officers, agreeing to
39 sell any of the brands or kinds of alcoholic liquor *or cereal malt beverage*
40 manufactured or distributed by the manufacturer, owner, exclusive agent,
41 microbrewery, farm winery or distributor to any distributor licensed in
42 this state and having a franchise to distribute the alcoholic liquor pursuant
43 to K.S.A. 41-410, and amendments thereto, and to make such sales to all

1 such licensed distributors in this state at the same current price and with-
2 out discrimination. Each manufacturer, owner, exclusive agent, micro-
3 brewery or farm winery shall provide to each distributor written notice
4 not less than 45 days before any change in the current price of any spirits
5 or wine which such manufacturer, owner, exclusive agent, microbrewery
6 or farm winery sells to such distributor. If any manufacturer, owner, ex-
7 clusive agent, microbrewery, farm winery or distributor making the agree-
8 ment violates the agreement by refusing to sell such alcoholic liquor *or*
9 *cereal malt beverage* to any such franchised licensed distributor in this
10 state or discriminates in current prices among such franchised licensed
11 distributors making or attempting to make purchases of alcoholic liquor
12 *or cereal malt beverage* from the manufacturer, owner, exclusive agent,
13 microbrewery, farm winery or distributor, the director shall notify, by
14 registered mail, each such franchised licensed distributor in this state of
15 the violation. Thereupon, it shall be unlawful for a franchised licensed
16 distributor in this state to purchase any alcoholic liquor *or cereal malt*
17 *beverage* from the manufacturer, owner, exclusive agent, microbrewery,
18 farm winery or distributor. If thereafter, such a franchised licensed dis-
19 tributor purchases any alcoholic liquor *or cereal malt beverage* from the
20 manufacturer, owner, exclusive agent, microbrewery, farm winery or dis-
21 tributor, such franchised distributor's license shall be revoked by the di-
22 rector. If any manufacturer, owner, exclusive agent, microbrewery, farm
23 winery or distributor of alcoholic liquor *or cereal malt beverage* bottled
24 in a foreign country, making any agreement hereunder, does not have a
25 sufficient supply of alcoholic liquor *or cereal malt beverage* of any of the
26 brands or kinds which the manufacturer, owner, exclusive agent, micro-
27 brewery, farm winery or distributor manufactures or distributes to supply
28 the demands of all licensed distributors having a franchise to distribute
29 such alcoholic liquor *or cereal malt beverage*, the manufacturer, owner,
30 exclusive agent, microbrewery, farm winery or distributor may ration such
31 alcoholic liquor *or cereal malt beverage* and apportion the available supply
32 among such franchised licensed distributors purchasing or attempting to
33 purchase it, in accordance with a plan which shall be subject to the ap-
34 proval of the director.

35 (b) No retailer licensed under ~~this~~ *the Kansas liquor control act* shall
36 purchase any alcoholic liquor *or cereal malt beverage* from any distributor
37 licensed under ~~this~~ *the Kansas liquor control act* unless the distributor
38 files with the director a written statement sworn to by the distributor, or
39 in case of a corporation by one of its principal officers, agreeing to sell
40 any of the brands or kinds of alcoholic liquor *or cereal malt beverage*
41 distributed by the distributor and to provide service in connection there-
42 with to any licensed retailer whose licensed premises are located within
43 the geographic territory of the distributor's franchise for the alcoholic

1 liquor *or cereal malt beverage*, unless written approval to do otherwise is
2 obtained from the director, and to make such sales to all such licensed
3 retailers at the same current bottle, sleeve and case price and without
4 discrimination.

5 For purposes of this subsection, the “same current bottle, sleeve and
6 case price” for spirits and wine means a price effective for a specified
7 period as designated by the distributor on or before the first day of each
8 month. If any distributor making the agreement violates the agreement
9 by refusing to sell or provide service to any such licensed retailer in this
10 state without written approval of the director or discriminates in current
11 prices among such licensed retailers making or attempting to make pur-
12 chases of alcoholic liquor *or cereal malt beverage* from the distributor,
13 the director may revoke the license of the distributor. If any licensed
14 distributor making any agreement hereunder does not have a sufficient
15 supply of alcoholic liquor *or cereal malt beverage* of any of the brands or
16 kinds which the distributor distributes to supply the demands of all such
17 licensed retailers, the distributor may ration such alcoholic liquor *or cereal*
18 *malt beverage* and apportion the available supply among such licensed
19 retailers purchasing or attempting to purchase the same, in accordance
20 with a plan which shall be subject to the approval of the director.

21 (c) No club or drinking establishment licensed in this state shall pur-
22 chase any wine ~~or beer~~, *beer or cereal malt beverage* from any distributor
23 licensed under ~~this~~ *the Kansas liquor control* act unless the distributor
24 files with the director a written statement sworn to by the distributor, or
25 in case of a corporation by one of its principal officers, agreeing to sell
26 any of the brands or kinds of wine ~~or beer~~, *beer or cereal malt beverage*
27 distributed by the distributor to those clubs and drinking establishments
28 to which the distributor is authorized to sell such wine ~~or beer~~, *beer or*
29 *cereal malt beverage* and to which the distributor desires to sell such wine
30 ~~or beer~~, *beer or cereal malt beverage*, unless written approval to do oth-
31 erwise is obtained from the director and to make such sales to all such
32 licensed clubs or drinking establishments at the same current bottle and
33 case price and without discrimination. If any distributor making the agree-
34 ment violates the agreement by refusing to sell to any such licensed club
35 or drinking establishment in this state without written approval of the
36 director or discriminates in current prices among such licensed clubs or
37 drinking establishments making or attempting to make purchases of wine
38 ~~or beer~~, *beer or cereal malt beverage* from the distributor, the director
39 may revoke the license of the distributor. If any licensed distributor mak-
40 ing any agreement hereunder does not have a sufficient supply of wine
41 ~~or beer~~, *beer or cereal malt beverage* of any of the brands or kinds which
42 the distributor distributes to supply the demands of all such licensed clubs
43 or drinking establishments, the distributor may ration such wine ~~or beer~~,

1 *beer or cereal malt beverage* and apportion the available supply among
2 such licensed clubs or drinking establishments purchasing or attempting
3 to purchase the same, in accordance with a plan which shall be subject
4 to the approval of the director.

5 For the purposes of this subsection, a delivery charge shall not be
6 considered a part of the price of wine ~~or beer~~, *beer or cereal malt beverage*
7 sold by a distributor.

8 (d) No retailer licensed under ~~K.S.A. 41-2701 et seq. and amend-~~
9 ~~ments thereto~~ *the cereal malt beverage retailers' act* shall purchase any
10 cereal malt beverage from any distributor licensed under ~~this~~ *the Kansas*
11 *liquor control* act unless the distributor files with the director a written
12 statement sworn to by the distributor, or in case of a corporation by one
13 of its principal officers, agreeing to sell any of the brands or kinds of
14 cereal malt beverage distributed by the distributor ~~to those retailers and~~
15 ~~to provide service in connection therewith to any licensed cereal malt~~
16 *beverage retailer* to which the distributor is authorized to sell such cereal
17 malt beverage, unless written approval to do otherwise is obtained from
18 the director, and to make such sales to all such licensed *cereal malt bev-*
19 *erage* retailers at the same current price and without discrimination. If
20 any distributor making the agreement violates the agreement by refusing
21 to sell ~~or provide service~~ to any such licensed *cereal malt beverage* retailer
22 in this state without written approval of the director or discriminates in
23 current prices among such licensed *cereal malt beverage* retailers making
24 or attempting to make purchases of cereal malt beverage from the dis-
25 tributor, the director may revoke the license of the distributor. If any
26 licensed distributor making any agreement hereunder does not have a
27 sufficient supply of cereal malt beverage of any of the brands or kinds
28 which the distributor distributes to supply the demands of all such li-
29 censed *cereal malt beverage* retailers, the distributor may ration such
30 cereal malt beverage and apportion the available supply among such li-
31 censed *cereal malt beverage* retailers purchasing or attempting to pur-
32 chase the same, in accordance with a plan which shall be subject to the
33 approval of the director.

34 (e) No distributor shall sell alcoholic liquor or cereal malt beverage
35 to a *cereal malt beverage* retailer licensed under the Kansas liquor control
36 act, to a club, drinking establishment or caterer licensed under the club
37 and drinking establishment act or to a retailer licensed under ~~K.S.A. 41-~~
38 ~~2702 and amendments thereto~~ *the cereal malt beverage retailers' act* at a
39 discount for multiple case lots.

40 Sec. 33. K.S.A. 41-1102 is hereby amended to read as follows: 41-
41 1102. Any licensee who shall quit business or shall have the license sus-
42 pended or revoked may sell and dispose of any alcoholic liquor ~~or cereal~~
43 *malt beverage* which the licensee has possession of at the time of quitting

1 business or of the suspension or revocation of the license in accordance
2 with rules and regulations adopted by the secretary of revenue.

3 Sec. 34. K.S.A. 41-1122 is hereby amended to read as follows: 41-
4 1122. The director of alcoholic beverage control is authorized to sell at
5 public or private sale alcoholic liquor ~~in his~~ *or cereal malt beverage in the*
6 *director's custody heretofore or hereafter purchased or confiscated by his*
7 ~~agents or other peace agents of the division or other law enforcement~~
8 officers of the state for use as evidence in any investigation, proceeding
9 or trial when such liquor *or cereal malt beverage* is no longer required
10 for such investigation, trial or proceeding.

11 Sec. 35. K.S.A. 41-1123 is hereby amended to read as follows: 41-
12 1123. All alcoholic liquor *or cereal malt beverage* in the custody of the
13 director through seizure by agents of alcoholic beverage control or other
14 peace officers of the state under authority of a duly executed search war-
15 rant shall be held until final determination of any prosecution arising
16 under such search and seizure. Upon the final determination of such
17 prosecution and if such alcoholic liquor *or cereal malt beverage* is fit for
18 human consumption the director may make application to the court in
19 which such alcoholic liquor *or cereal malt beverage* was offered as evi-
20 dence for an order to sell such liquor *or cereal malt beverage*. The court,
21 if satisfied that such liquor *or cereal malt beverage* so seized was being
22 manufactured, distributed, stored, sold or used in violation of law, shall
23 make an order that such property be sold by the director at public or
24 private sale.

25 All alcoholic liquor *or cereal malt beverage* which is unfit for human
26 consumption may be summarily destroyed by the director.

27 Sec. 36. K.S.A. 41-1125 is hereby amended to read as follows: 41-
28 1125. The sheriff of any county who ~~has in his possession~~ *possesses* al-
29 *coholic liquors or cereal malt beverages* on which ~~he~~ *has been* levied
30 execution for a judgment creditor may sell such alcoholic liquors *or cereal*
31 *malt beverage* when an order of the court is entered directing such sale.
32 Such order shall be directed to the sheriff of the county in which exe-
33 cution is levied and shall fix the time and place of sale, method and man-
34 ner in which the sale shall be held, together with such notice as the court
35 shall direct. After payment of all costs of ~~said~~ *the* action, the balance shall
36 be paid to the judgment creditor, ~~except~~. If the amount exceeds the
37 amount of the judgment, then any excess of the judgment amount shall
38 be returned to defendant debtor. This ~~act~~ *section* shall not apply in any
39 case in which the court has ordered and directed confiscation of ~~liquors~~
40 *alcoholic liquor or cereal malt beverage* as part of a judgment or
41 conviction.

42 Sec. 37. K.S.A. 41-2604 is hereby amended to read as follows: 41-
43 2604. Any person allowing consumption of alcoholic liquor *or cereal malt*

1 *beverage* in violation of ~~this~~ *the Kansas liquor control* act on any property
2 owned, leased or otherwise under ~~his~~ *such person's* control shall thereby
3 subject ~~himself~~ *such person* and the property on which ~~said~~ *the* illegal
4 consumption takes place to the penalties hereinafter provided.

5 (a) The person allowing such consumption shall be guilty of a mis-
6 demeanor and upon conviction thereof shall be subject to a fine not to
7 exceed ~~five hundred dollars (\$500)~~ \$500 or confinement in the county
8 jail not to exceed six ~~(6)~~ months or both such fine and imprisonment.

9 (b) The property on which the violation takes place is declared to be
10 a public nuisance and as such is subject to abatement as provided ~~for any~~
11 ~~other liquor nuisance~~ in K.S.A. 41-805, *and amendments thereto*.

12 Sec. 38. K.S.A. 41-2610 is hereby amended to read as follows: 41-
13 2610. It shall be unlawful for any licensee or holder of a temporary permit
14 under this act to:

15 (a) Employ any person under the age of 18 years in connection with
16 the serving of alcoholic liquor *or cereal malt beverage*.

17 (b) Employ knowingly or continue in employment any person in con-
18 nection with the dispensing or serving of alcoholic liquor *or cereal malt*
19 *beverage* or the mixing of drinks containing alcoholic liquor who has been
20 adjudged guilty of a felony or of any crime involving a morals charge in
21 this or any other state, or of the United States.

22 (c) Employ knowingly or to continue in employment any person in
23 connection with the dispensing or serving of alcoholic liquor *or cereal*
24 *malt beverage* or mixing of drinks containing alcoholic liquor who has
25 been adjudged guilty of a violation of any intoxicating liquor law of this
26 or any other state, or of the United States, during the two-year period
27 immediately following such adjudging.

28 (d) In the case of a club, fail to maintain at the licensed premises a
29 current list of all members and their residence addresses or refuse to
30 allow the director, any of the director's authorized agents or any law
31 enforcement officer to inspect such list.

32 (e) Purchase alcoholic liquor *or cereal malt beverage* from any person
33 except from a person authorized by law to sell such alcoholic liquor *or*
34 *cereal malt beverage* to such licensee or permit holder.

35 (f) Permit any employee of the licensee or permit holder who is under
36 the age of 21 years to work on premises where alcoholic liquor *or cereal*
37 *malt beverage* is sold by such licensee or permit holder at any time when
38 not under the on-premises supervision of either the licensee or permit
39 holder, or an employee who is 21 years of age or over.

40 (g) Employ any person under 21 years of age in connection with the
41 mixing or dispensing of drinks containing alcoholic liquor *or cereal malt*
42 *beverage*.

43 Sec. 39. K.S.A. 41-2611 is hereby amended to read as follows: 41-

1 2611. The director may revoke or suspend any license issued pursuant to
2 the club and drinking establishment act for any one or more of the fol-
3 lowing reasons:

4 (a) The licensee has fraudulently obtained the license by giving false
5 information in the application therefor or any hearing thereon.

6 (b) The licensee has violated any of the provisions of this act or any
7 rules or regulations adopted hereunder.

8 (c) The licensee has become ineligible to obtain a license or permit
9 under this act.

10 (d) The licensee's manager or employee has been intoxicated while
11 on duty.

12 (e) The licensee, or its manager or employee, has permitted any dis-
13 orderly person to remain on premises where alcoholic liquor *or cereal*
14 *malt beverage* is sold by such licensee.

15 (f) There has been a violation of a provision of the laws of this state,
16 or of the United States, pertaining to the sale of intoxicating or alcoholic
17 liquors or cereal malt beverages, or any crime involving a morals charge,
18 on premises where alcoholic liquor *or cereal malt beverage* is sold by such
19 licensee.

20 (g) The licensee, or its managing officers or any employee, has pur-
21 chased and displayed, on premises where alcoholic liquor *or cereal malt*
22 *beverage* is sold by such licensee, a federal wagering occupational stamp
23 issued by the United States treasury department.

24 (h) The licensee, or its managing officers or any employee, has pur-
25 chased and displayed, on premises where alcoholic liquor *or cereal malt*
26 *beverage* is sold by such licensee, a federal coin operated gambling device
27 stamp for the premises issued by the United States treasury department.

28 (i) The licensee holds a license as a class B club, drinking establish-
29 ment or caterer and has been found guilty of a violation of article 10 of
30 chapter 44 of the Kansas Statutes Annotated under a decision or order
31 of the Kansas human rights commission which has become final or such
32 licensee has been found guilty of a violation of K.S.A. 21-4003, and
33 amendments thereto.

34 Sec. 40. K.S.A. 41-2614 is hereby amended to read as follows: 41-
35 2614. (a) Except as provided by subsection (c), no club or drinking estab-
36 lishment shall allow the serving, mixing or consumption of alcoholic liquor
37 ~~on its~~ *or cereal malt beverage on the licensed* premises between the hours
38 of 2:00 a.m. and 9:00 a.m. on any day.

39 (b) No caterer shall allow the serving, mixing or consumption of al-
40 coholic liquor *or cereal malt beverage* between the hours of 2:00 a.m. and
41 6:00 a.m. on any day at an event catered by such caterer.

42 (c) A hotel of which the entire premises are licensed as a drinking
43 establishment or as a drinking establishment/caterer may allow at any time

1 the serving, mixing and consumption of alcoholic liquor and cereal malt
2 beverage from a minibar in a guest room by guests registered to stay in
3 such room, and guests of guests registered to stay in such room.

4 Sec. 41. K.S.A. 41-2632 is hereby amended to read as follows: 41-
5 2632. (a) As used in this section: (1) ~~The word~~ “Distributor” means a
6 person, firm, association or corporation which is the holder of ~~an alcoholic~~
7 ~~liquor~~ a distributor’s license issued under the Kansas liquor control act;
8 (2) ~~the word~~ “retailer” means a person, copartnership or association which
9 is the holder of a retailer’s license issued under the Kansas liquor control
10 act; and (3) ~~the word~~ “manufacturer” shall have the meaning ascribed ~~to~~
11 ~~it~~ *thereto* by K.S.A. 41-102, and amendments thereto.

12 (b) It shall be unlawful for a distributor ~~of alcoholic liquor~~, or a man-
13 ufacturer, or any officer, agent or employee thereof, to influence, coerce
14 or induce or attempt to influence, coerce or induce, either directly or
15 indirectly, any holder of a license issued under this act, or any officer,
16 agent or employee of the holder of such a license, to: (1) Purchase any
17 particular brand or kind of alcoholic liquor *or cereal malt beverage* to be
18 dispensed by the licensee, except that a distributor or manufacturer may
19 provide to a licensee information regarding the availability of brands in
20 the market and things of value as authorized by subsection (d) of K.S.A.
21 41-703, and amendments thereto; or (2) purchase from a particular re-
22 tailer alcoholic liquor to be dispensed by the licensee.

23 (c) Violation of this section is a misdemeanor punishable by a fine of
24 not less than \$100 nor more than \$1,000 or by imprisonment for not more
25 than six months, or by both.

26 Sec. 42. K.S.A. 41-2637 is hereby amended to read as follows: 41-
27 2637. (a) A license for a class A club shall allow the licensee to offer for
28 sale, sell and serve alcoholic liquor *and cereal malt beverage* for con-
29 sumption on the licensed premises by members and their families, and
30 guests accompanying them.

31 (b) (1) Subject to the provisions of subsection (b)(2), any two or more
32 class A or class B clubs may permit, by an agreement filed with and
33 approved by the director, the members of each such club to have access
34 to all other clubs which are parties to such agreement. The privileges
35 extended to the visiting members of other clubs under such an agreement
36 shall be determined by the agreement and, if the agreement so provides,
37 any club which is a party to such agreement may sell, offer for sale and
38 serve, to any person who is a member of another club which is a party to
39 such agreement, alcoholic liquor *and cereal malt beverage* for consump-
40 tion on the licensed premises by such person and such person’s family,
41 and guests accompanying them.

42 (2) A class B club may enter into a reciprocal agreement authorized
43 by subsection (b)(1) only if the class B club is a restaurant.

1 Sec. 43. K.S.A. 41-2641 is hereby amended to read as follows: 41-
2 2641. (a) A license for a class B club shall allow the licensee to offer for
3 sale, sell and serve alcoholic liquor *and cereal malt beverage* for con-
4 sumption on the licensed premises by members of such club and guests
5 accompanying them.

6 (b) (1) Subject to the provisions of subsection (b)(2), any two or more
7 class A or class B clubs may permit, by an agreement filed with and
8 approved by the director, the members of each such club to have access
9 to all other clubs which are parties to such agreement. The privileges
10 extended to the visiting members of other clubs under such an agreement
11 shall be determined by the agreement and, if the agreement so provides,
12 any club which is a party to such agreement may sell, offer for sale and
13 serve, to any person who is a member of another club which is a party to
14 such agreement, alcoholic liquor *and cereal malt beverage* for consump-
15 tion on the licensed premises by such person and such person's family,
16 and guests accompanying them.

17 (2) A class B club may enter into a reciprocal agreement authorized
18 by subsection (b)(1) only if the class B club is a restaurant.

19 (c) Except as provided by subsection (d), an applicant for member-
20 ship in a class B club shall, before becoming a member of such club:

- 21 (1) Be screened by the club for good moral character;
- 22 (2) pay an annual membership fee of not less than \$10; and
- 23 (3) wait for a period of 10 days after completion of the application
24 form and payment of the membership fee.

25 (d) Notwithstanding the membership fee and waiting period require-
26 ment of subsection (c):

27 (1) Any class B club located on the premises of a hotel or RV resort
28 may establish rules whereby a guest, who registered at the hotel or RV
29 resort and who is not a resident of the county in which the club is located,
30 may file application for temporary membership in such club. The mem-
31 bership, if granted, shall be valid only for the period of time that the guest
32 is a bona fide registered guest at the hotel or RV resort and such tem-
33 porary membership shall not be subject to the waiting period or fee re-
34 quirement of this section.

35 (2) Any class B club located on property which is owned or operated
36 by a municipal airport authority and upon which consumption of alcoholic
37 liquor is authorized by law may establish rules whereby an air traveler
38 who is a holder of a current airline ticket may file application for tem-
39 porary membership in such club for the day such air traveler's ticket is
40 valid, and such temporary membership shall not be subject to the waiting
41 period or fee requirement of this section.

42 (3) Any class B club may establish rules whereby military personnel
43 of the armed forces of the United States on temporary duty and housed

1 at or near any military installation located within the exterior boundaries
2 of the state of Kansas may file application for temporary membership in
3 such club. The membership, if granted, shall be valid only for the period
4 of the training, not to exceed 20 weeks. Any person wishing to make
5 application for temporary membership in a class B club under this sub-
6 section (d)(3) shall present the temporary duty orders to the club. Tem-
7 porary membership issued under this subsection (d)(3) shall not be sub-
8 ject to the waiting period or fee requirements of this section.

9 (4) Any class B club may enter into a written agreement with a hotel
10 or RV resort whereby a guest who is registered at the hotel or RV resort
11 and who is not a resident of the county in which the club is located may
12 file application for temporary membership in such club. The temporary
13 membership, if granted, shall be valid only for the period of time that the
14 guest is a bona fide registered guest at the hotel or RV resort and shall
15 not be subject to the waiting period or dues requirement of this section.

16 A club may enter into a written agreement with a hotel or RV resort
17 pursuant to this provision only if (A) the hotel or RV resort is located in
18 the same county as the club, (B) there is no class B club located on the
19 premises of the hotel or RV resort and (C) no other club has entered into
20 a written agreement with the hotel or RV resort pursuant to this section.

21 (5) Any class B club located in a racetrack facility where races with
22 parimutuel wagering are conducted under the Kansas parimutuel racing
23 act may establish rules *and regulations* whereby persons attending such
24 races may file an application for temporary membership in such club for
25 the day such person is attending such races, and such temporary mem-
26 bership shall not be subject to the waiting period or fee requirement of
27 this section.

28 Sec. 44. K.S.A. 41-2642 is hereby amended to read as follows: 41-
29 2642. (a) A license for a drinking establishment shall allow the licensee
30 to offer for sale, sell and serve alcoholic liquor *and cereal malt beverage*
31 for consumption on the licensed premises which may be open to the
32 public, but only if such premises are located in a county where the qual-
33 ified electors of the county:

34 (1) (A) Approved, by a majority vote of those voting thereon, the
35 proposition to amend section 10 of article 15 of the constitution of the
36 state of Kansas at the general election in November 1986, or (B) have
37 approved a proposition to allow sales of alcoholic liquor by the individual
38 drink in public places within the county at an election pursuant to K.S.A.
39 41-2646, and amendments thereto; and

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

43 (b) A drinking establishment shall be required to derive from sales

1 of food for consumption on the licensed premises not less than 30% of
2 all the establishment's gross receipts from sales of food and beverages on
3 such premises unless the licensed premises are located in a county where
4 the qualified electors of the county:

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

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

13 (c) A drinking establishment shall specify in the application for a li-
14 cense or renewal of a license the premises to be licensed, which may
15 include all premises which are in close proximity and are under the con-
16 trol of the applicant or licensee.

17 (d) Notwithstanding any other provision of law to the contrary, any
18 hotel of which the entire premises are licensed as a drinking establish-
19 ment or as a drinking establishment/caterer may sell alcoholic liquor or
20 cereal malt beverage by means of minibars located in guest rooms of such
21 hotel, subject to the following:

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

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

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

30 Sec. 45. K.S.A. 41-2643 is hereby amended to read as follows: 41-
31 2643. (a) A caterer's license shall allow the licensee to offer for sale, sell
32 and serve alcoholic liquor *and cereal malt beverage* for consumption on
33 unlicensed premises, which may be open to the public, but only if such
34 premises are located in a county where the qualified electors of the
35 county:

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

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

1 and amendments thereto.

2 (b) A caterer shall be required to derive from sales of food at catered
3 events not less than 30% of the caterer's gross receipts from all sales of
4 food and beverages at catered events in a 12-month period unless the
5 caterer offers for sale, sells and serves alcoholic liquor only in counties
6 where the qualified electors of the county:

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

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

15 (c) Each caterer shall maintain the caterer's principal place of busi-
16 ness in a county in this state where the caterer is authorized by this section
17 to sell alcoholic liquor by the individual drink in a public place. All records
18 of the caterer relating to the caterer's licensed business and the caterer's
19 license shall be kept at such place of business. The caterer's principal
20 place of business shall be stated in the application for a caterer's license
21 and the caterer shall notify the director of any change in its location within
22 10 days after such change.

23 (d) A caterer shall notify the director at least 10 days prior to any
24 event at which the caterer will sell alcoholic liquor by the individual drink
25 unless the director waives the 10-day requirement for good cause shown.
26 In addition, prior to the event, the caterer shall notify:

27 (1) The police chief of the city where the event will take place, if the
28 event will take place within the corporate limits of a city; or

29 (2) the county sheriff of the county where the event will take place,
30 if the event will be outside the corporate limits of any city.

31 (e) A caterer may rebate a portion of the caterer's receipts from the
32 sale of alcoholic liquor at an event to the person or organization contract-
33 ing with the caterer to sell alcoholic liquor at such event.

34 Sec. 46. K.S.A. 2001 Supp. 41-2645 is hereby amended to read as
35 follows: 41-2645. (a) A temporary permit shall allow the permit holder to
36 offer for sale, sell and serve alcoholic liquor *and cereal malt beverage* for
37 consumption on unlicensed premises, which may be open to the public,
38 subject to the terms of such permit.

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

43 (c) Applications for temporary permits shall be required to be filed

1 with the director not less than 14 days before the event for which the
2 permit is sought unless the director waives such requirement for good
3 cause. Each application shall state the purposes for which the proceeds
4 of the event will be used. The application shall be upon a form prescribed
5 and furnished by the director and shall be filed with the director in du-
6 plicate. Each application shall be accompanied by a permit fee of \$25 for
7 each day for which the permit is issued, which fee shall be paid by a
8 certified or cashier's check of a bank within this state, United States post
9 office money order or cash in the full amount thereof. All permit fees
10 collected by the director pursuant to this section shall be remitted to the
11 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
12 amendments thereto. Upon receipt of each such remittance, the state
13 treasurer shall deposit the entire amount in the state treasury to the credit
14 of the state general fund.

15 (d) Temporary permits shall specify the premises for which they are
16 issued and shall be issued only for premises where the city, county or
17 township zoning code allows use for which the permit is issued. No tem-
18 porary permit shall be issued for premises which are not located in a
19 county where the qualified electors of the county:

20 (1) (A) Approved, by a majority vote of those voting thereon, to adopt
21 the proposition amending section 10 of article 15 of the constitution of
22 the state of Kansas at the general election in November, 1986; or (B) have
23 approved a proposition to allow the sale of liquor by the individual drink
24 in public places within the county at an election pursuant to K.S.A. 41-
25 2646, and amendments thereto; and

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

29 (e) A temporary permit shall be issued for a period of time not to
30 exceed three consecutive days, the dates and hours of which shall be
31 specified in the permit. Not more than four temporary permits may be
32 issued to any one applicant in a calendar year.

33 (f) All proceeds from an event for which a temporary permit is issued
34 shall be used only for the purposes stated in the application for such
35 permit.

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

37 (h) The director may refuse to issue a temporary permit to any person
38 or organization which has violated any provision of the Kansas liquor
39 control act, the *club and* drinking establishment act or K.S.A. 79-41a01
40 *et seq.*, and amendments thereto.

41 Sec. 47. K.S.A. 41-2701 is hereby amended to read as follows: 41-
42 2701. As used in this act unless the context otherwise requires:

43 (a) "Cereal malt beverage" means any fermented but undistilled liq-

1 uor brewed or made from malt or from a mixture of malt or malt substi-
2 tute, but does not include any such liquor which is more than ~~3.2%~~ 5%
3 alcohol by weight.

4 (b) "Director" means the director of alcoholic beverage control of
5 the department of revenue.

6 (c) "Manufacturer" means a manufacturer as defined by K.S.A. 41-
7 102, and amendments thereto.

8 (d) "Person" means any individual, firm, partnership, corporation or
9 association.

10 (e) "*Cereal malt beverage* retailer" means any person who sells or
11 offers for sale any cereal malt beverage for use or consumption and not
12 for resale in any form.

13 "*Cereal malt beverage retailer*" shall not mean any retailer licensed
14 under the Kansas liquor control act or the club and drinking establishment
15 act.

16 (f) "Place of business" means any place at which cereal malt bever-
17 ages are sold *by a licensee. The place of business of a caterer licensed*
18 *under the club and drinking establishment act shall be the caterer's prin-*
19 *cipal place of business.*

20 (g) "Distributor" means a beer distributor licensed pursuant to the
21 Kansas liquor control act.

22 (h) "Legal age for consumption of cereal malt beverage" means 21
23 years of age, ~~except that "legal age for consumption of cereal malt be-~~
24 ~~verage" shall mean 18 years of age if at any time the provisions of P.L. 98-~~
25 ~~363 penalizing states for permitting persons under 21 years of age to~~
26 ~~consume cereal malt beverage are repealed or otherwise invalidated or~~
27 ~~nullified.~~

28 (i) "*Licensee*" means any *cereal malt beverage retailer, any retailer*
29 *licensed under the Kansas liquor control act and any person licensed un-*
30 *der the club and drinking establishment act.*

31 Sec. 48. K.S.A. 2001 Supp. 41-2702 is hereby amended to read as
32 follows: 41-2702. (a) No *cereal malt beverage* retailer shall sell any cereal
33 malt beverage without having first secured a license for each place of
34 business as herein provided. In case such place of business is located
35 within the corporate limits of a city, the application for license shall be
36 made to the governing body of such city. In all other cases, the application
37 for license shall be made to the board of county commissioners in the
38 county in which such place of business is to be located, except that the
39 application for license to sell on railway cars shall be made to the director
40 as hereinafter provided.

41 (b) A board of county commissioners shall not issue or renew a *cereal*
42 *malt beverage* retailer's license without giving the clerk of the township
43 where the place of business is to be located written notice by registered

1 mail of the filing of the application for licensure or renewal. The township
2 board may within 10 days file advisory recommendations as to the grant-
3 ing of such license or renewal and such advisory recommendations shall
4 be considered by the board of county commissioners before such license
5 is issued. If an original license is granted and issued, the board of county
6 commissioners shall grant and issue renewals thereof upon application of
7 the license holder, if the license holder is qualified to receive the same
8 and the license has not been revoked as provided by law.

9 (c) An application for a *cereal malt beverage* retailer's license shall be
10 verified and upon a form prepared by the attorney general of the state
11 and shall contain:

- 12 (1) The name and residence of the applicant;
- 13 (2) the length of time that the applicant has resided within the state
14 of Kansas;
- 15 (3) the particular place of business for which a license is desired;
- 16 (4) the name of the owner of the premises upon which the place of
17 business is located; and
- 18 (5) a statement that the applicant is a citizen of the United States and
19 not less than 21 years of age and that the applicant has not within two
20 years immediately preceding the date of making application been con-
21 victed of a felony, any crime involving moral turpitude, drunkenness, driv-
22 ing a motor vehicle while under the influence of intoxicating liquor or
23 violation of any other intoxicating liquor law of any state or of the United
24 States.

25 (d) In addition to the fee provided by subsection (e), each application
26 for a *cereal malt beverage* retailer's license to sell cereal malt beverages
27 for consumption on the licensed premises shall be accompanied by a fee
28 as follows:

- 29 (1) For licensure of a place of business other than a railway car, a fee
30 of not less than \$25 nor more than \$200, as prescribed by the board of
31 county commissioners or the governing body of the city, as the case may
32 be; and
- 33 (2) for licensure to sell on railway cars, a fee of \$100.

34 (e) Each applicant for a retailer's license or renewal of such a license
35 shall submit to the director a copy of the completed application for such
36 license or license renewal, together with a fee of \$25. Upon receipt of
37 such application, the director shall authorize a state stamp to be affixed
38 to the license. No such stamp shall be affixed to any license except such
39 stamps as provided by the director and no *cereal malt beverage* retailer's
40 license shall be issued or renewed unless such stamp has first been affixed
41 thereto.

42 (f) The director shall remit all fees collected by the director to the
43 state treasurer in accordance with the provisions of K.S.A. 75-4215, and

1 amendments thereto. Upon receipt of each such remittance, the state
2 treasurer shall deposit the entire amount in the state treasury to the credit
3 of the state general fund, except that the director may provide for the
4 deposit in the cereal malt beverage tax refund fund of such amounts as
5 necessary for the refund of any license fees collected hereunder.

6 (g) The board of county commissioners of ~~the several counties a~~
7 *county* or the governing body of a city shall issue a license upon appli-
8 cation duly made as otherwise provided for herein, to any *cereal malt*
9 *beverage* retailer engaged in business in such county or city and qualified
10 to receive such license, to sell only cereal malt beverages in original and
11 unopened containers, and not for consumption on the premises. The annual
12 license fee for such license, which shall be in addition to the fee
13 provided by subsection (e), shall be not less than \$25 nor more than \$50.

14 (h) No license issued under ~~this cereal malt beverage retailers' act~~
15 shall be transferable.

16 Sec. 49. K.S.A. 2001 Supp. 41-2703 is hereby amended to read as
17 follows: 41-2703. (a) After examination *and approval* of an application for
18 a retailer's license, the board of county commissioners or the director
19 shall, if they approve the same, issue a license to the applicant. The gov-
20 erning body of the city shall *issue*, if the applicant is qualified as provided
21 by law, ~~issue~~ a license to such applicant.

22 (b) No *cereal malt beverage* retailer's license of *any class* shall be
23 issued to:

24 (1) A person who is not a resident of the county in which the place
25 of business covered by the license is located, has not been a resident of
26 such county for at least six months or has not been a resident in good
27 faith of the state of Kansas.

28 (2) A person who has not been a resident of this state for at least one
29 year immediately preceding application for a retailer's license.

30 (3) A person who is not of good character and reputation in the com-
31 munity in which the person resides.

32 (4) A person who is not a citizen of the United States.

33 (5) A person who, within two years immediately preceding the date
34 of application, has been convicted of a felony or any crime involving moral
35 turpitude, drunkenness, driving a motor vehicle while under the influence
36 of intoxicating liquor or violation of any other intoxicating liquor law of
37 any state or of the United States.

38 (6) A partnership, unless all the members of the partnership are oth-
39 erwise qualified to obtain a license.

40 (7) A corporation, if any manager, officer or director thereof, or any
41 stockholder owning in the aggregate more than 25% of the stock of such
42 corporation, would be ineligible to receive a license hereunder for any
43 reason other than the citizenship and residency requirements.

1 (8) A corporation, if any manager, officer or director thereof, or any
2 stockholder owning in the aggregate more than 25% of the stock of such
3 corporation, has been an officer, manager or director, or a stockholder
4 owning in the aggregate more than 25% of the stock, of a corporation
5 which: (A) Has had a retailer's license revoked under K.S.A. 41-2708, and
6 amendments thereto; or (B) has been convicted of a violation of the *Kan-
7 sas liquor control act, the club and drinking establishment act* or the
8 cereal malt beverage laws of this state *retailers' act*.

9 (9) A person whose place of business is conducted by a manager or
10 agent unless the manager or agent possesses all the qualifications of a
11 licensee.

12 (10) A person whose spouse would be ineligible to receive a retailer's
13 license for any reason other than citizenship, residence requirements or
14 age, except that this subsection (b)(10) shall not apply in determining
15 eligibility for a renewal license.

16 (11) A person whose spouse has been convicted of a felony or other
17 crime which would disqualify a person from licensure under this section
18 and such felony or other crime was committed during the time that the
19 spouse held a license under this act.

20 (c) *Each class of cereal malt beverage* retailers' licenses shall be issued
21 either on an annual basis or for the calendar year. If such licenses are
22 issued on an annual basis, the board of county commissioners or the
23 governing body of the city shall notify the distributors supplying the
24 county or city on or before April 1 of the year if a *cereal malt beverage*
25 retailer's license is not renewed.

26 Sec. 50. K.S.A. 41-2704 is hereby amended to read as follows: 41-
27 2704. (a) In addition to and consistent with the requirements of this act,
28 the board of county commissioners of any county or the governing body
29 of any city may prescribe hours of closing, standards of conduct and rules
30 and regulations concerning the moral, sanitary and health conditions of
31 places licensed pursuant to this act and may establish zones within which
32 no such place may be located.

33 (b) ~~Except as provided by subsection (g),~~ No cereal malt beverages
34 may be sold *for consumption on the premises by a cereal malt beverage*
35 *retailer*:

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

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

1 (c) No cereal malt beverage may be sold in the original and unopened
2 container by a cereal malt beverage retailer:

3 (1) Before 9 a.m. or after 11 p.m. on any day when the sale is
4 permitted;

5 (2) on Sunday; or

6 (3) on Decoration or Memorial Day, Independence day, Labor Day,
7 Thanksgiving Day or Christmas Day.

8 ~~(d)~~ (d) No private rooms or closed booths shall be operated in a cereal
9 malt beverage retailers' place of business, but this provision shall not apply
10 if the licensed premises are also currently licensed as a club pursuant to
11 the club and drinking establishment act.

12 ~~(d)~~ (e) Each cereal malt beverage retailers' place of business shall be
13 open to the public and to law enforcement officers at all times during
14 business hours, except that a premises licensed as a club pursuant to the
15 club and drinking establishment act shall be open to law enforcement
16 officers and not to the public.

17 ~~(e)~~ (f) No licensee shall permit a person under the legal age for con-
18 sumption of cereal malt beverage to consume or purchase any cereal malt
19 beverage in or about a place of business, and no licensee shall permit a
20 person under the legal age for consumption of cereal malt beverage to
21 possess cereal malt beverage in or about a place of business, except that
22 a licensee's employee who is not less than 18 years of age may dispense
23 or sell cereal malt beverage, if:

24 (1) The licensee's place of business is licensed only to sell cereal malt
25 beverage at retail in original and unopened containers and not for con-
26 sumption on the premises; or

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

32 ~~(f)~~ (g) No person shall have any alcoholic liquor in such person's pos-
33 session while in a cereal malt beverage retailers' place of business, unless
34 the premises are currently licensed as a club or drinking establishment
35 pursuant to the club and drinking establishment act.

36 ~~(g)~~ Cereal malt beverages may be sold on premises which are licensed
37 pursuant to both the acts contained in article 27 of chapter 41 of the
38 Kansas Statutes Annotated and the club and drinking establishment act
39 at any time when alcoholic liquor is allowed by law to be served on the
40 premises.

41 (h) No cereal malt beverage retailer shall sell, directly or indirectly,
42 any cereal malt beverage at less than the acquisition cost of such cereal
43 malt beverage without first having obtained from the director a permit to

1 do so. The director may issue to a licensed cereal malt beverage retailer
2 a permit authorizing the cereal malt beverage retailer to sell cereal malt
3 beverage at less than the acquisition cost of such cereal malt beverage if:

4 (1) The cereal malt beverage retailer is actually closing out the cereal
5 malt beverage retailers' stock for the purpose of completely discontinuing
6 the sale of the item of cereal malt beverage for a period of not less than
7 12 months;

8 (2) the item of cereal malt beverage is damaged or deteriorated in
9 quality and notice is given to the public thereof; or

10 (3) the sale of the item of cereal malt beverage is by an officer acting
11 under the order of a court.

12 Sec. 51. K.S.A. 41-2705 is hereby amended to read as follows: 41-
13 2705. (a) Except to the extent permitted pursuant to K.S.A. 41-703, and
14 amendments thereto, no *cereal malt beverage* retailer, or any officer, as-
15 sociate, member, representative or agent thereof, shall accept, receive or
16 borrow money or anything else of value, or accept or receive credit, di-
17 rectly or indirectly, from: (1) Any manufacturer or distributor; (2) any
18 person connected with, in any way representing or a member of the family
19 of a manufacturer or distributor; (3) any stockholders in a manufacturer
20 or distributor; or (4) any officer, manager, agent or representative of a
21 manufacturer or distributor.

22 (b) Any ~~licensee~~ distributor, manufacturer or cereal malt beverage
23 retailer who shall permit or assent, or be a party in any way, to any vio-
24 lation or infringement of the provisions of this section or of K.S.A. 41-
25 702 or 41-703, and amendments thereto, shall be deemed guilty of a
26 violation of this act, and any money loaned contrary to a provision of this
27 section shall not be recovered, or any note, mortgage or other evidence
28 of indebtedness, or security, or any lease or contract obtained or made
29 contrary to this act shall be unenforceable and void.

30 Sec. 52. K.S.A. 41-2707 is hereby amended to read as follows: 41-
31 2707. No distributor shall sell or furnish cereal malt beverages to a *cereal*
32 *malt beverage* retailer on credit; on a passbook; on order on a store; in
33 exchange for any goods, wares or merchandise; in payment for any service
34 rendered or to be rendered; or by any extension of credit of any kind,
35 type or class. Any distributor or *cereal malt beverage* retailer who violates
36 any of the terms of this section or K.S.A. 41-2706, and amendments
37 thereto, shall be subject to all penalties and forfeitures provided by K.S.A.
38 41-2705 and 41-2708, and amendments thereto, and any debt attempted
39 to be created in violation hereof shall not be recoverable at law.

40 Sec. 53. K.S.A. 41-2708 is hereby amended to read as follows: 41-
41 2708. (a) The board of county commissioners or the governing body of
42 any city, upon five days' notice to the persons holding a *cereal malt bev-*
43 *erage retailers'* license, shall revoke or suspend the license for any one of

1 the following reasons:

2 (1) ~~The licensee has fraudulently~~ *cereal malt beverage retailer fraud-*
3 *ulently has* obtained the license by giving false information in the appli-
4 cation therefor;

5 (2) the ~~licensee~~ *cereal malt beverage retailer* has violated any of the
6 provisions of ~~this the~~ *cereal malt beverage retailers'* act or any rules or
7 regulations made by the board or the city, as the case may be;

8 (3) the ~~licensee~~ *cereal malt beverage retailer* has become ineligible
9 to obtain a license under ~~this the~~ *cereal malt beverage retailers'* act;

10 (4) drunkenness of the ~~licensee~~ *cereal malt beverage retailer* or per-
11 mitting any intoxicated person to remain in the ~~licensee's~~ *cereal malt*
12 *beverage retailers' licensed* place of business;

13 (5) the sale of cereal malt beverages to any person under the legal
14 age for consumption of cereal malt beverage;

15 (6) the nonpayment of any license fees;

16 (7) permitting any gambling in or upon the ~~licensee's~~ *cereal malt bev-*
17 *erage retailer's licensed* place of business;

18 (8) permitting any person to mix drinks with materials purchased in
19 the place of business or brought in for that purpose;

20 (9) the employment of persons under 18 years of age in dispensing
21 or selling cereal malt beverages;

22 (10) the employment or continuation in employment of a person in
23 connection with the sale, serving or dispensing of cereal malt beverages
24 if the ~~licensee~~ *cereal malt beverage retailer* knows such person has been,
25 within the preceding two years, adjudged guilty of a felony or of any
26 violation of the intoxicating liquor laws of this state, another state or the
27 United States; or

28 (11) the sale or possession of, or permitting any person to use or
29 consume on the licensed premises, any alcoholic liquor as defined by
30 K.S.A. 41-102, and amendments thereto.

31 ~~(b) The provisions of subsections (a)(9) and (11) shall not apply if the~~
32 ~~place of business or premises are also currently licensed as a club or~~
33 ~~drinking establishment pursuant to the club and drinking establishment~~
34 ~~act.~~

35 ~~(c)~~ (b) Within 20 days after the order of the board revoking or sus-
36 pending any license, the ~~licensee~~ *cereal malt beverage retailer* may appeal
37 to the district court and the district court shall proceed to hear such
38 appeal as though such court had original jurisdiction of the matter. Any
39 appeal taken from an order revoking or suspending the license shall not
40 suspend the order of revocation or suspension during the pendency of
41 any such appeal. In case of the revocation of the license of any ~~licensee~~
42 *cereal malt beverage retailer*, no new license shall be issued to the former
43 licensee, or to any person acting for or on the former licensee's behalf,

1 for a period of six months thereafter.

2 Sec. 54. K.S.A. 41-2709 is hereby amended to read as follows: 41-
3 2709. The attorney general, ~~or any county or district attorney of the state~~
4 ~~within his county~~ or any city attorney ~~within his city shall at all times shall~~
5 have the power to enjoin any ~~party person~~ from selling cereal malt bev-
6 erages ~~within the county or city notwithstanding said party has a license~~
7 ~~and permit if it shall appear that the licensee~~ *if it appears the person* has
8 violated any provision or regulation of ~~this the cereal malt beverage re-~~
9 ~~tailers' act~~ or any of the rules or regulations ~~prescribed under this act~~
10 ~~adopted thereunder~~. Injunction proceedings shall be the same as ~~is now~~
11 prescribed for the enjoining of intoxicating liquor nuisances.

12 Sec. 55. K.S.A. 41-2722 is hereby amended to read as follows: 41-
13 2722. (a) No *cereal malt beverage* retailer, or employee or agent of a *cereal*
14 *malt beverage* retailer, licensed to sell cereal malt beverage for consump-
15 tion on the licensed premises shall:

16 (1) Offer or serve any free cereal malt beverage to any person;

17 (2) offer or serve to any person a drink at a price that is less than the
18 acquisition cost of the drink to the ~~licensee~~ *cereal malt beverage retailer*;

19 (3) sell, offer to sell or serve to any person an unlimited number of
20 drinks during any set period of time for a fixed price, except at private
21 functions not open to the general public;

22 (4) sell, offer to sell or serve any drink to any person at any time at a
23 price less than that charged the general public on that day, except at
24 private functions not open to the general public;

25 (5) increase the size of a drink of cereal malt beverage without in-
26 creasing proportionately the price regularly charged for the drink on that
27 day;

28 (6) encourage or permit, on the licensed premises, any game or con-
29 test which involves drinking cereal malt beverage or the awarding of
30 drinks as prizes; or

31 (7) advertise or promote in any way, whether on or off the licensed
32 premises, any of the practices prohibited under subsections (a)(1) through
33 (6).

34 (b) Nothing in subsection (a) shall be construed to prohibit a *cereal*
35 *malt beverage* retailer from offering free food or entertainment at any
36 time.

37 (c) Violation of any provisions of this section is a misdemeanor pun-
38 ishable as provided by K.S.A. 41-2711, and amendments thereto.

39 (d) Violation of any provision of this act shall be grounds for suspen-
40 sion or revocation of the retailer's license as provided by K.S.A. 41-2708,
41 and amendments thereto.

42 (e) Every ~~licensee~~ *cereal malt beverage retailer* subject to the provi-
43 sions of this section shall make available at any time upon request a price

1 list showing the ~~licensee's~~ *cereal malt beverage retailer's* current prices
2 for all cereal malt beverages.

3 (f) As used in this section, "drink" means an individual serving of
4 cereal malt beverage.

5 ~~(g) This section shall be part of and supplemental to K.S.A. 41-2701~~
6 ~~through 41-2721, and amendments thereto.~~

7 New Sec. 56. K.S.A. 41-2701 through 41-2709, 41-2711, 41-2712
8 and 41-2722, and amendments thereto, shall be known as and may be
9 cited as the cereal malt beverage retailers' act.

10 Sec. 57. K.S.A. 79-4101 is hereby amended to read as follows: 79-
11 4101. (a) For the purpose of providing revenue which may be used by
12 the state, counties and cities in the enforcement of the provisions of ~~this~~
13 *the Kansas liquor control act, the club and drinking establishment act and*
14 *the cereal malt beverage retailers' act, from and after the effective date*
15 ~~of this act~~, for the privilege of engaging in the business of selling alcoholic
16 liquor or cereal malt beverage by retailers ~~or to consumers in this state,~~
17 *selling cereal malt beverage to consumers in this state, by cereal malt*
18 *beverage retailers, in the original and unopened container for consump-*
19 *tion off the premises or selling wine by farm wineries to consumers in this*
20 *state or selling alcoholic liquor or cereal malt beverage by distributors to*
21 *clubs, drinking establishments or caterers in this state, there is hereby*
22 *levied and there shall be collected and paid a tax at the rate of 8% upon*
23 *the gross receipts received from: (1) The sale of alcoholic liquor by re-*
24 *tailers, microbreweries or farm wineries to consumers within this state;*
25 ~~and~~ *(2) the sale of alcoholic liquor or cereal malt beverage by distributors*
26 *to clubs, drinking establishments or caterers in this state; (3) the sale of*
27 *cereal malt beverage retailers; and (4) the sale of cereal malt beverage by*
28 *cereal malt beverage retailers in the original and unopened container for*
29 *consumption off the premises .*

30 (b) The tax imposed by this section shall be in addition to the license
31 fee imposed on distributors, retailers, microbreweries and farm wineries
32 by K.S.A. 41-310, and amendments thereto.

33 Sec. 58. K.S.A. 79-4102 is hereby amended to read as follows: 79-
34 4102. The tax levied under K.S.A. 79-4101, and amendments thereto,
35 shall be paid by the consumer or user to the retailer, *cereal malt beverage*
36 *retailer selling cereal malt beverage in the original and unopened con-*
37 *tainer for consumption off the premises, microbrewery or farm winery or*
38 *by the club, drinking establishment or caterer to the distributor. It shall*
39 *be the duty of each retailer, cereal malt beverage retailer, microbrewery,*
40 *farm winery or distributor in this state to collect from the purchaser the*
41 *full amount of the tax imposed by this act, or an amount equal as nearly*
42 *as possible or practicable, to the average equivalent thereof.*

43 Sec. 59. K.S.A. 79-4103 is hereby amended to read as follows: 79-

1 4103. On or before the 25th day of each calendar month, every ~~person~~
2 ~~engaged in the business of retailer~~ selling alcoholic liquor ~~at retail or~~
3 ~~cereal malt beverage, every cereal malt beverage retailer selling cereal~~
4 ~~malt beverage in the original and unopened container for consumption~~
5 ~~off the premises~~, every microbrewery selling beer to consumers, every
6 farm winery selling wine to consumers in this state and every distributor
7 selling alcoholic liquor or cereal malt beverage to clubs, drinking estab-
8 lishments or caterers in this state during the preceding calendar month
9 shall make a return to the director of taxation upon forms prescribed and
10 furnished by the director, stating: (a) The name and address of the seller;
11 (b) the total amount of gross sales subject to the tax imposed by K.S.A.
12 79-4101, and amendments thereto, during the preceding calendar month;
13 and (c) any other pertinent information the director requires. The person
14 making the return shall, at the time of making the return, pay to the
15 director of taxation the amount of tax imposed by K.S.A. 79-4101, and
16 amendments thereto. The director of taxation may extend the time for
17 making returns and paying the tax for any period not to exceed 60 days,
18 under rules and regulations adopted by the secretary of revenue.

19 Sec. 60. K.S.A. 41-102, 41-103, 41-104, 41-208, 41-209, 41-210, 41-
20 211, 41-307, 41-308, 41-308b, 41-312, 41-601, 41-602, 41-701, 41-708,
21 41-712, 41-717, 41-718, 41-724, 41-725, 41-726, 41-729, 41-801, 41-805,
22 41-806, 41-901, 41-905, 41-1001, 41-1002, 41-1004, 41-1101, 41-1102,
23 41-1122, 41-1123, 41-1125, 41-2604, 41-2610, 41-2611, 41-2614, 41-
24 2632, 41-2637, 41-2641, 41-2642, 41-2643, 41-2701, 41-2704, 41-2705,
25 41-2707, 41-2708, 41-2709, 41-2722, 79-4101, 79-4102 and 79-4103 and
26 K.S.A. 2001 Supp. 41-501, 41-2645, 41-2702 and 41-2703 are hereby
27 repealed.

28 Sec. 61. This act shall take effect and be in force from and after its
29 publication in the statute book.
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