

HOUSE BILL No. 2458

By Committee on Appropriations

3-25

AN ACT transferring the duties of the division of alcoholic beverage control to the Kansas highway patrol; amending K.S.A. 21-4216, 41-102, 41-107, 41-201, 41-202, 41-207, 41-210, 41-330, 41-1122, 41-1123, 41-2701, 74-2113, 74-5602, 75-5117, 75-5121, 79-4104, 79-41a07 and 79-4715 and repealing the existing sections.

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

New Section 1. There is hereby established within the Kansas highway patrol, an alcoholic beverage control unit to be organized and administered by the Kansas highway patrol. The head of the division shall be the director of the alcoholic beverage control unit, who shall be appointed by and serve at the pleasure of the superintendent of the Kansas highway patrol. The superintendent of the Kansas highway patrol shall administer the alcoholic beverage control unit.

New Sec. 2. (a) The division of alcoholic beverage control within the department of revenue and the director of alcoholic beverage control within the department of revenue created by K.S.A. 74-5117, and amendments thereto, are hereby abolished.

(b) Except as otherwise provided by this act, all of the powers, duties and functions of the existing division of the alcoholic beverage control unit within the department of revenue, and the existing director of the alcoholic beverage control within the department of revenue, are hereby transferred to and imposed upon the alcoholic beverage control unit within the Kansas highway patrol and the director of alcoholic beverage control unit established by this act.

(c) Except as otherwise provided by this order, all of the powers, duties and functions of the department of revenue and the secretary of revenue that relate to alcoholic beverage control purposes are hereby transferred to and imposed upon the Kansas highway patrol and the superintendent of the Kansas highway patrol.

New Sec. 3. (a) The alcoholic beverage control unit within the Kansas highway patrol established by this act shall be the successor in every way to the powers, duties and functions of the division of alcoholic beverage control within the department of revenue in which the same were vested prior to the effective date of this act and that are transferred pur-

1 suant to section 2. Every act performed in the exercise of such powers,
2 duties and functions by or under the authority of the Kansas highway
3 patrol or the director of the alcoholic beverage control unit within the
4 Kansas highway patrol established by section 1, and amendments thereto,
5 shall be deemed to have the same force and effect as if performed by the
6 department of revenue or the director of the division of alcoholic bev-
7 erage control within the department of revenue in which such powers,
8 duties and functions were vested prior to the effective date of this act.
9 Contracts related to alcohol control functions shall be transferred to the
10 extent they may be legally transferred or assigned.

11 (b) Whenever the division of alcoholic beverage control of the de-
12 partment of revenue, or words of like effect, are referred to or designated
13 by a statute, contract or other document, such reference or designation
14 shall be deemed to apply to the alcoholic beverage control unit estab-
15 lished by section 1, and amendments thereto.

16 (c) Whenever the director of alcoholic beverage control within the
17 department of revenue, or words of like effect, are referred to or desig-
18 nated by a statute, contract or other document, such reference or desig-
19 nation shall be deemed to apply to the director of the alcoholic beverage
20 control unit established by this act.

21 (d) Whenever the department of revenue or the secretary of revenue,
22 or words of like effect, are referred to or designated by a statute, contract
23 or other document and such reference is in regard to any of the powers,
24 duties or functions transferred to the Kansas highway patrol pursuant to
25 this order, such reference or designation shall be deemed to apply to the
26 Kansas highway patrol and the superintendent of the Kansas highway
27 patrol.

28 (e) All rules and regulations, orders and directives of the secretary of
29 revenue or the director of alcoholic beverage control which relate to the
30 functions transferred by this act and which are in effect on the effective
31 date of this act shall continue to be effective and shall be deemed to be
32 rules and regulations, orders and directives of the Kansas highway patrol
33 and the director of the alcoholic beverage control unit until revised,
34 amended, revoked or nullified pursuant to law.

35 New Sec. 4. (a) On the effective date of this act, the balances of all
36 funds or accounts thereof appropriated or reappropriated for the depart-
37 ment of revenue relating to the powers, duties and functions transferred
38 by this act are hereby transferred within the state treasury to the alcoholic
39 beverage control unit within the Kansas highway patrol and shall be used
40 only for the purpose for which the appropriation was originally made.

41 (b) On the effective date of this act, liability for all accrued compen-
42 sation or salaries of officers and employees who are transferred to the
43 Kansas highway patrol under this act shall be assumed and paid by the

1 alcoholic beverage control unit within the Kansas highway patrol.

2 New Sec. 5. (a) When any conflict arises as to the disposition of any
3 property, power, duty or function or the unexpended balance of any ap-
4 propriation as a result of any abolition or transfer made by or under the
5 authority of this act, such conflict shall be resolved by the governor, whose
6 decision shall be final.

7 (b) The Kansas highway patrol shall succeed to all property, property
8 rights and records which were used for or pertain to the performance of
9 powers, duties and functions transferred to the Kansas highway patrol.
10 Any conflict as to the proper disposition of property, personnel or records
11 arising under this order shall be determined by the governor, whose de-
12 cision shall be final.

13 New Sec. 6. (a) No suit, action or other proceeding, judicial or ad-
14 ministrative, lawfully commenced, or which could have been commenced,
15 by or against any state agency or program mentioned in this order, or by
16 or against any officer of the state in such officer's official capacity or in
17 relation to the discharge of such officer's official duties, shall abate by
18 reason of the governmental reorganization effected under the provisions
19 of this order. The court may allow any such suit, action or other pro-
20 ceeding to be maintained by or against the successor of any such state
21 agency or any officer affected. The state shall remain the party in interest
22 in any such action.

23 (b) No criminal action commenced or which could have been com-
24 menced by the state shall abate by the taking effect of this order, and the
25 state shall remain the party in interest in any such action.

26 New Sec. 7. (a) All officers and employees of the division of alcoholic
27 beverage control within the department of revenue who, immediately
28 prior to the effective date of this act, are engaged in the exercise and
29 performance of the powers, duties and functions transferred by this act
30 are hereby transferred to and become employees of the Kansas highway
31 patrol. All classified employees so transferred shall retain their status as
32 classified employees. Thereafter, the Kansas highway patrol may convert
33 vacant classified positions to positions that are not classified.

34 (b) Officers and employees of the division of alcoholic beverage con-
35 trol of the department of revenue transferred by this act shall retain all
36 retirement benefits and leave balances and rights which had accrued or
37 vested prior to the date of transfer. The service of each such officer and
38 employee so transferred shall be deemed to have been continuous. Any
39 subsequent transfers, layoffs and abolition of classified service positions
40 under the Kansas civil service act shall be made in accordance with the
41 civil service laws and any rules and regulations adopted thereunder. Noth-
42 ing in this act shall affect the classified status of any transferred person
43 employed prior to the date of transfer by the division of alcoholic beverage

1 control within the department of revenue.

2 Sec. 8. K.S.A. 21-4216 is hereby amended to read as follows: 21-
3 4216. (a) As used in this section:

4 (1) "Beverage container" means any sealed can containing beer, ce-
5 real malt beverages, mineral waters, soda water and similar soft drinks so
6 designated by the director of alcoholic beverage control *unit of the Kansas*
7 *highway patrol*, in liquid form and intended for human consumption.

8 (2) "In this state" means within the exterior limits of the state of
9 Kansas and includes all territory within these limits owned by or ceded
10 to the United States of America.

11 (b) No person shall sell or offer for sale at retail in this state any metal
12 beverage container so designed and constructed that a part of the con-
13 tainer is detachable in opening the container.

14 (c) Any person violating the provisions of subsection (b) shall be guilty
15 of a class C misdemeanor.

16 Sec. 9. K.S.A. 41-102 is hereby amended to read as follows: 41-102.
17 As used in this act, unless the context clearly requires otherwise:

18 (a) "Alcohol" means the product of distillation of any fermented liq-
19 uid, whether rectified or diluted, whatever its origin, and includes syn-
20 thetic ethyl alcohol but does not include denatured alcohol or wood
21 alcohol.

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

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

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

33 (e) "Cereal malt beverage" has the meaning provided by K.S.A. 41-
34 2701, and amendments thereto.

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

37 (g) "Director" means the director of *the* alcoholic beverage control
38 *unit of the department of revenue Kansas highway patrol*.

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

1 (i) "Domestic beer" means beer which contains not more than 8%
2 alcohol by weight and which is manufactured from agricultural products
3 grown in this state.

4 (j) "Domestic fortified wine" means wine which contains more than
5 14%, but not more than 20% alcohol by volume and which is manufac-
6 tured from agricultural products grown in this state without rectification.

7 (k) "Domestic table wine" means wine which contains not more than
8 14% alcohol by volume and which is manufactured without rectification
9 or fortification from agricultural products grown in this state.

10 (l) "Drinking establishment" has the meaning provided by K.S.A. 41-
11 2601, and amendments thereto.

12 (m) "Farm winery" means a winery licensed by the director to man-
13 ufacture, store and sell domestic table wine and domestic fortified wine.

14 (n) "Manufacture" means to distill, rectify, ferment, brew, make, mix,
15 concoct, process, blend, bottle or fill an original package with any alco-
16 holic liquor, beer or cereal malt beverage.

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

21 (2) "Manufacturer" does not include a microbrewery or a farm
22 winery.

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

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

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

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

35 (t) "Person" means any natural person, corporation, partnership, trust
36 or association.

37 (u) "Primary American source of supply" means the manufacturer,
38 the owner of alcoholic liquor at the time it becomes a marketable product
39 or the manufacturer's or owner's exclusive agent who, if the alcoholic
40 liquor cannot be secured directly from such manufacturer or owner by
41 American wholesalers, is the source closest to such manufacturer or
42 owner in the channel of commerce from which the product can be se-
43 cured by American wholesalers.

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

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

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

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

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

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

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

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

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

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

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

30 (cc) “Spirits” means any beverage which contains alcohol obtained by
31 distillation, mixed with water or other substance in solution, and includes
32 brandy, rum, whiskey, gin or other spirituous liquors, and such liquors
33 when rectified, blended or otherwise mixed with alcohol or other
34 substances.

35 (dd) “Supplier” means a manufacturer of alcoholic liquor or cereal
36 malt beverage or an agent of such manufacturer, other than a salesperson.

37 (ee) “Temporary permit” has the meaning provided by K.S.A. 41-
38 2601, and amendments thereto.

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

1 Sec. 10. K.S.A. 41-107 is hereby amended to read as follows: 41-107.
2 Any licensee who has been the subject of an operation conducted by the
3 ~~division of~~ alcoholic beverage control *unit of the Kansas highway patrol*
4 or any local law enforcement agency to determine compliance with the
5 provisions of laws relating to the sale of alcoholic liquor and cereal malt
6 beverages to persons under 21 years of age or the legal age for consump-
7 tion of cereal malt beverage shall be issued a written notice of compliance
8 with such laws within 30 days of the date of such operation.

9 Sec. 11. K.S.A. 41-201 is hereby amended to read as follows: 41-201.

10 (a) The director of *the* alcoholic beverage *unit of the Kansas highway*
11 *patrol* control and agents and employees of the director designated by
12 the director, with the approval of the secretary of revenue, are hereby
13 vested with the power and authority of peace and police officers, in the
14 execution of the duties imposed upon the director of alcoholic beverage
15 control by this act and in enforcing the provisions of this act.

16 (b) The director and each agent and employee designated by the
17 director under subsection (a), with the approval of the secretary of rev-
18 enue, shall have the authority to make arrests, conduct searches and sei-
19 zures and carry firearms while investigating violations of this act and dur-
20 ing the routine conduct of their duties as determined by the director or
21 designee. In addition to the above, the director and such agents and
22 employees shall have the authority to make arrests, conduct searches and
23 seizures and generally to enforce all the criminal laws of the state as
24 violations of those laws are encountered by such employees or agents
25 during the routine performance of their duties. In addition to or in lieu
26 of the above, the director and the director's agents and employees shall
27 have the authority to issue notices to appear pursuant to K.S.A. 22-2408,
28 and amendments thereto. No agent or employee of the director shall be
29 certified to carry firearms under the provisions of this section without
30 having first successfully completed the firearm training course or courses
31 prescribed for law enforcement officers under subsection (a) of K.S.A.
32 74-5604a, and amendments thereto. The director may adopt rules and
33 regulations prescribing other training required for such agents or
34 employees.

35 (c) The attorney general shall appoint, with the approval of the sec-
36 retary of revenue, an assistant attorney general who shall be the attorney
37 for the director of alcoholic beverage control and the division of alcoholic
38 beverage control, and who shall receive an annual salary fixed by the
39 attorney general with the approval of the director of alcoholic beverage
40 control and the state finance council.

41 Sec. 12. K.S.A. 41-202 is hereby amended to read as follows: 41-202.
42 The office of the director of *the* alcoholic beverage control *unit of the*
43 *Kansas highway patrol* shall be in Topeka, but the director may, with the

1 approval of the ~~secretary of revenue~~ *superintendent of the Kansas high-*
2 *way patrol*, establish and maintain branch offices at places other than the
3 seat of government.

4 Sec. 13. K.S.A. 41-207 is hereby amended to read as follows: 41-207.
5 The director *of the alcoholic beverage control unit of the Kansas highway*
6 *patrol* may, for authentication of the records, process and proceedings of
7 ~~the such~~ director, adopt and keep and use a common seal of which judicial
8 notice shall be taken in all of the courts of the state. Any process, notice
9 or other paper which ~~the such~~ director may be authorized by law to issue
10 shall be deemed sufficient if signed by the director ~~or deputy director~~
11 and authenticated by the seal of the director.

12 All acts, orders, proceedings, rules and regulations, entries, minutes
13 and other records of the director and all reports and documents filed with
14 the director may be proved in any court of this state by copy thereof
15 certified to by the director or the deputy director with the seal of the
16 director attached. A written certificate stating that after diligent search
17 no record or entry of a specified tenor is found to exist in the records of
18 the ~~office of state~~ director of alcoholic beverage control *unit of the Kansas*
19 *highway patrol*, when signed and certified to by the director or the deputy
20 director and authenticated by the seal of the director, shall be admissible
21 as evidence in any court of this state to prove that the records of ~~the office~~
22 ~~such unit~~ contain no such record or entry.

23 Sec. 14. K.S.A. 41-210 is hereby amended to read as follows: 41-210.

24 (a) The ~~director~~ *superintendent of the Kansas highway patrol* shall pro-
25 pose such rules and regulations as necessary to carry out the intent and
26 purposes of this act. After the hearing on a proposed rule and regulation
27 has been held as required by law, the ~~director shall submit the proposed~~
28 ~~rule and regulation to the secretary of revenue who, if the secretary ap-~~
29 ~~proves it,~~ *superintendent of the Kansas highway patrol* shall adopt the
30 rule and regulation.

31 (b) It is intended by this act that the director of alcoholic beverage
32 control *unit of the Kansas highway patrol* shall have broad discretionary
33 powers to govern the traffic in alcoholic liquors and to enforce strictly all
34 the provisions of this act in the interest of sanitation, purity of products,
35 truthful representation and honest dealings in such manner as generally
36 will promote the public health and welfare. All valid rules and regulations
37 adopted under the provisions of this act shall be absolutely binding upon
38 all licensees and enforceable by the director of alcoholic beverage control
39 *unit of the Kansas highway patrol* through the power of suspension or
40 revocation of licenses.

41 Sec. 15. K.S.A. 41-330 is hereby amended to read as follows: 41-330.

42 After notice and an opportunity for hearing in accordance with the pro-
43 visions of the Kansas administrative procedure act, the director *of the*

1 *alcoholic beverage control unit of the Kansas highway patrol* may refuse
2 to issue or renew or may revoke any license provided for by the Kansas
3 liquor control act if:

4 (a) The licensee or the licensee's spouse has been convicted of a vi-
5 olation of intoxicating liquor laws of any state or the alcoholic beverage
6 control laws of the United States or has forfeited of bond to appear in
7 court to answer charges for any such violation, within the 10 years im-
8 mediately preceding the date of application for issuance or renewal of the
9 license or the date of revocation; or

10 (b) the licensee or the licensee's spouse has been convicted of a vi-
11 olation of any of the laws of any state relating to cereal malt beverages,
12 within 10 years immediately preceding the date of application for issuance
13 or renewal of the license or the date of revocation.

14 Sec. 16. K.S.A. 41-1122 is hereby amended to read as follows: 41-
15 1122. The director of *the alcoholic beverage control unit of the Kansas*
16 *highway patrol* is authorized to sell at public or private sale alcoholic
17 liquor in ~~his such director's~~ custody ~~heretofore or hereafter~~ purchased or
18 confiscated by ~~his such director's~~ agents or other peace officers of the
19 state for use as evidence in any investigation, proceeding or trial when
20 such liquor is no longer required for such investigation, trial or
21 proceeding.

22 Sec. 17. K.S.A. 41-1123 is hereby amended to read as follows: 41-
23 1123. All alcoholic liquor in the custody of the director of *the alcoholic*
24 *beverage control unit of the Kansas highway patrol* through seizure by
25 agents of *the alcoholic beverage control unit of the Kansas highway patrol*
26 or other peace officers of the state under authority of a duly executed
27 search warrant shall be held until final determination of any prosecution
28 arising under such search and seizure. Upon the final determination of
29 such prosecution and if such alcoholic liquor is fit for human consumption
30 the director may make application to the court in which such alcoholic
31 liquor was offered as evidence for an order to sell such liquor. The court,
32 if satisfied that such liquor ~~so~~ seized was being manufactured, distributed,
33 stored, sold or used in violation of law, shall make an order that such
34 property be sold by the director of *the alcoholic beverage control unit of*
35 *the Kansas highway patrol* at public or private sale.

36 All alcoholic liquor which is unfit for human consumption may be sum-
37 marily destroyed by the director of *the alcoholic beverage control unit of*
38 *the Kansas highway patrol*.

39 Sec. 18. K.S.A. 41-2701 is hereby amended to read as follows: 41-
40 2701. As used in this act unless the context otherwise requires:

41 (a) "Cereal malt beverage" means any fermented but undistilled liq-
42 uor brewed or made from malt or from a mixture of malt or malt substi-
43 tute, but does not include any such liquor which is more than 3.2% alcohol

1 by weight.

2 (b) “Director” means the director of *the* alcoholic beverage control
3 *unit* of the ~~department of revenue~~ *Kansas highway patrol*.

4 (c) “Manufacturer” means a manufacturer as defined by K.S.A. 41-
5 102 and amendments thereto.

6 (d) “Person” means any individual, firm, partnership, corporation or
7 association.

8 (e) “Retailer” means any person who sells or offers for sale any cereal
9 malt beverage for use or consumption and not for resale in any form.

10 (f) “Place of business” means any place at which cereal malt bever-
11 ages are sold.

12 (g) “Distributor” means a beer distributor licensed pursuant to the
13 Kansas liquor control act.

14 (h) “Legal age for consumption of cereal malt beverage” means 21
15 years of age, except that “legal age for consumption of cereal malt bev-
16 erage” shall mean 18 years of age if at any time the provisions of P.L. 98-
17 363 penalizing states for permitting persons under 21 years of age to
18 consume cereal malt beverage are repealed or otherwise invalidated or
19 nullified.

20 Sec. 19. K.S.A. 74-2113 is hereby amended to read as follows: 74-
21 2113. (a) There is hereby created a Kansas highway patrol. The patrol
22 shall consist of: (1) A superintendent, who shall have the rank of colonel
23 and who shall have special training and qualifications for such position;
24 (2) an assistant superintendent, who shall have the rank of lieutenant
25 colonel; and (3) officers and troopers who are appointed in accordance
26 with appropriation acts and as provided in this section. The superinten-
27 dent and assistant superintendent shall be within the unclassified service
28 under the Kansas civil service act. The assistant superintendent serving
29 on the effective date of this act shall be appointed to such position by the
30 superintendent. Thereafter, the assistant superintendent shall be ap-
31 pointed by the superintendent from among the members of the patrol,
32 and shall serve at the pleasure of the superintendent. If a person ap-
33 pointed as superintendent or assistant superintendent is a member of the
34 patrol when appointed, such person in each case, upon termination of the
35 term as superintendent or assistant superintendent, respectively, shall be
36 returned to a rank not lower than the rank such person held when ap-
37 pointed as superintendent or assistant superintendent. If such rank is
38 filled at that time, a temporary additional position shall be created in such
39 rank until a vacancy occurs in such rank. All other officers, troopers and
40 employees shall be within the classified service under the Kansas civil
41 service act.

42 (b) The superintendent of the patrol shall be appointed by the gov-
43 ernor, subject to confirmation by the senate as provided in K.S.A. 75-

1 4315b, and amendments thereto, and shall receive an annual salary fixed
2 by the governor. The assistant superintendent shall receive an annual
3 salary fixed by the superintendent and approved by the governor.

4 (c) All other members of the patrol shall be appointed by the super-
5 intendent in accordance with appropriation acts and with the Kansas civil
6 service act. No person shall be appointed as an officer of the patrol, other
7 than superintendent, unless the person has had at least five years of serv-
8 ice in the patrol as an officer or trooper. No person shall be appointed as
9 a trooper unless the person meets the following requirements:

10 (1) Is a citizen of the United States;

11 (2) is at least 21 years of age at the time of appointment;

12 (3) has not been convicted by any state or the federal government of
13 a crime which is a felony or its equivalent under the uniform code of
14 military justice;

15 (4) has been fingerprinted and a search of local, state and national
16 fingerprint files has been made to determine whether the applicant has
17 a criminal record;

18 (5) is the holder of a high school diploma or furnishes evidence of
19 successful completion of an examination indicating an equivalent achieve-
20 ment; and

21 (6) is free of any physical or mental condition which might adversely
22 affect the applicant's performance of duties as a trooper and whose phys-
23 ical health has been certified by an examining physician appointed by the
24 superintendent.

25 (d) No member of the patrol shall hold any other elective or appoint-
26 ive commission or office, except in the Kansas national guard or in the
27 organized reserve of the United States army, air force or navy. No mem-
28 ber of the patrol shall accept any employment or compensation from any
29 licensee of the director of alcoholic beverage control *unit* of the ~~depart-~~
30 ~~ment of revenue~~ *Kansas highway patrol* or from any licensee of the Kan-
31 sas racing commission or from any officer, director, member or employee
32 of any such licensee, nor shall any member of the patrol accept any em-
33 ployment or compensation for services which require the use of any state-
34 owned equipment provided by the Kansas highway patrol or the wearing
35 of the patrol uniform. No member of the patrol shall accept any reward
36 or gift except with the written permission of the superintendent.

37 Sec. 20. K.S.A. 74-5602 is hereby amended to read as follows: 74-
38 5602. As used in the Kansas law enforcement training act:

39 (a) "Training center" means the law enforcement training center
40 within the division of continuing education of the university of Kansas,
41 created by K.S.A. 74-5603 and amendments thereto.

42 (b) "Commission" means the Kansas law enforcement training com-
43 mission, created by K.S.A. 74-5606 and amendments thereto.

1 (c) “Dean” means the dean of the division of continuing education
2 of the university of Kansas.

3 (d) “Director,” as created in K.S.A. 74-5603 and amendments
4 thereto, means the director of police training at the law enforcement
5 training center.

6 (e) “Police officer” or “law enforcement officer” means a full-time or
7 part-time salaried officer or employee of the state, a county or a city,
8 whose duties include the prevention or detection of crime and the en-
9 forcement of the criminal or traffic laws of this state or of any municipality
10 thereof. Such terms shall include, but not be limited to, the sheriff, un-
11 dersheriff and full-time or part-time salaried deputies in the sheriff’s of-
12 fice in each county; deputy sheriffs deputized pursuant to K.S.A. 19-2858
13 and amendments thereto; conservation officers of the Kansas department
14 of wildlife and parks; campus police officers at all state educational insti-
15 tutions or a municipal university; law enforcement agents of the director
16 of *the* alcoholic beverage control *unit of the Kansas highway patrol*; law
17 enforcement agents of the Kansas lottery; law enforcement agents of the
18 Kansas racing commission; deputies and assistants of the state fire marshal
19 having law enforcement authority; capitol area security guards, existing
20 under the authority of K.S.A. 75-4503 and amendments thereto. Such
21 terms shall also include railroad policemen appointed pursuant to K.S.A.
22 66-524 and amendments thereto; and school security officers designated
23 as school law enforcement officers pursuant to K.S.A. 72-8222 and
24 amendments thereto. Such terms shall not include any elected official,
25 other than a sheriff, serving in the capacity of a law enforcement or police
26 officer solely by virtue of such official’s elected position; any attorney-at-
27 law having responsibility for law enforcement and discharging such re-
28 sponsibility solely in the capacity of an attorney; any employee of the
29 secretary of corrections or the secretary of social and rehabilitation serv-
30 ices; any deputy conservation officer of the Kansas department of wildlife
31 and parks; or any employee of a city or county who is employed solely to
32 perform correctional duties related to jail inmates and the administration
33 and operation of a jail; or any full-time or part-time salaried officer or
34 employee whose duties include the issuance of a citation or notice to
35 appear provided such officer or employee is not vested by law with the
36 authority to make an arrest for violation of the laws of this state or any
37 municipality thereof, and is not authorized to carry firearms when dis-
38 charging the duties of such person’s office or employment. Such term
39 shall include any officer appointed or elected on a provisional basis.

40 (f) “Full-time” means employment requiring at least 1,000 hours of
41 work per year.

42 (g) “Part-time” means employment on a regular schedule or employ-
43 ment which requires a minimum number of hours each payroll period,

1 but in any case requiring less than 1,000 hours of work per year.

2 (h) "Misdemeanor crime of domestic violence" means a violation of
3 domestic battery as provided by K.S.A. 2002 Supp. 21-3412a and amend-
4 ments thereto, or any other misdemeanor under federal, municipal or
5 state law that has as an element the use or attempted use of physical
6 force, or the threatened use of a deadly weapon, committed by a current
7 or former spouse, parent, or guardian of the victim, by a person with
8 whom the victim shares a child in common, by a person who is cohabiting
9 with or has cohabited with the victim as a spouse, parent or guardian, or
10 by a person similarly situated to a spouse, parent or guardian of the victim.

11 (i) "Auxiliary personnel" means members of organized nonsalaried
12 groups which operate as an adjunct to a police or sheriff's department,
13 including reserve officers, posses and search and rescue groups.

14 Sec. 21. K.S.A. 75-5117 is hereby amended to read as follows: 75-
15 5117. There is hereby established, within and as a part of the ~~department~~
16 ~~of revenue~~ *Kansas highway patrol*, a ~~division of~~ alcoholic beverage control
17 *unit*, the head of which shall be the director of alcoholic beverage control
18 *unit*. Under the supervision of the ~~secretary of revenue~~ *superintendent*
19 *of the Kansas highway patrol*, the director of *the* alcoholic beverage control
20 *unit* shall administer the ~~division of~~ alcoholic beverage control *unit*.
21 The secretary of revenue shall appoint the director of alcoholic beverage
22 control *unit*, subject to confirmation by the senate as provided in K.S.A.
23 75-4315b, *and amendments thereto*, and the director shall serve at the
24 pleasure of the ~~secretary of revenue~~ *superintendent of the Kansas high-*
25 *way patrol*. The director of *the* alcoholic beverage control *unit* shall be
26 in the unclassified service and shall receive an annual salary fixed by the
27 ~~secretary of revenue~~ *superintendent of the Kansas highway patrol* and
28 approved by the governor.

29 Sec. 22. K.S.A. 75-5121 is hereby amended to read as follows: 75-
30 5121. The ~~secretary of revenue~~ *superintendent of the Kansas highway*
31 *patrol* may appoint attorneys for the department of revenue and its di-
32 visions and officers, except attorneys for the state board of tax appeals
33 and the ~~division~~ *unit* and director of alcoholic beverage control. All at-
34 torneys appointed under this section shall be subject to assignment and
35 reassignment of duty within the ~~department of revenue~~ *Kansas highway*
36 *patrol* as may be determined by the attorney designated by the ~~secretary~~
37 ~~of revenue~~ *superintendent of the Kansas highway patrol* as chief attorney
38 of the ~~department of revenue~~ *Kansas highway patrol*. Not more than
39 three attorneys appointed under this section shall be in the classified
40 service under the Kansas civil service act. All other attorneys, including
41 the chief attorney of the ~~department of revenue~~ *Kansas highway patrol*,
42 appointed under this section shall be in the unclassified service under the
43 Kansas civil service act and shall receive annual salaries fixed by the ~~see-~~

1 ~~retary of revenue~~ *superintendent of the Kansas highway patrol* and ap-
2 proved by the governor.

3 Sec. 23. K.S.A. 79-4104 is hereby amended to read as follows: 79-
4 4104. Whenever the director of *the* alcoholic beverage control *unit of the*
5 *Kansas highway patrol* issues a retailer's, distributor's, microbrewery or
6 farm winery license, the director of *the* alcoholic beverage control *unit of*
7 *the Kansas highway patrol* shall promptly notify the director of taxation
8 of its issuance. The notice shall include the name of the licensee and, in
9 the case of a retailer, microbrewery or farm winery, the address of the
10 licensed premises. Whenever the director of *the* alcoholic beverage con-
11 trol *unit of the Kansas highway patrol* revokes or suspends any retailer's,
12 distributor's, microbrewery or farm winery license or whenever any re-
13 tailer's, distributor's, microbrewery or farm winery license expires, the
14 director of *the* alcoholic beverage control *unit of the Kansas highway*
15 *patrol* shall likewise notify the director of taxation.

16 Sec. 24. K.S.A. 79-41a07 is hereby amended to read as follows: 79-
17 41a07. (a) The director of taxation or the director of *the* alcoholic beverage
18 control *unit of the Kansas highway patrol* may enjoin any person from
19 engaging in business as a club, drinking establishment, caterer or tem-
20 porary permit holder when the club, drinking establishment, caterer or
21 temporary permit holder is in violation of any of the provisions of K.S.A.
22 79-41a01 *et seq.*, and amendments thereto, or any of the terms of this act
23 and shall be entitled in any proceeding brought for that purpose to have
24 an order restraining the person from engaging in business as a club, drink-
25 ing establishment, caterer or temporary permit holder. No bond shall be
26 required for any such restraining order or for any temporary or perma-
27 nent injunction issued in that proceeding.

28 (b) If a club, drinking establishment or caterer licensed by the direc-
29 tor of *the* alcoholic beverage control *unit of the Kansas highway patrol*
30 or a temporary permit holder violates any of the provisions of K.S.A. 79-
31 41a01 *et seq.*, and amendments thereto, or any of the terms of this act,
32 the director of *the* alcoholic beverage control *unit of the Kansas highway*
33 *patrol* may suspend or revoke the license of such club, establishment or
34 caterer in accordance with K.S.A. 41-2609 and amendments thereto or
35 may impose a civil fine on the licensee or permit holder in the manner
36 provided by K.S.A. 41-2633a and amendments thereto.

37 Sec. 25. K.S.A. 79-4715 is hereby amended to read as follows: 79-
38 4715. The director of *the* alcoholic beverage control *unit* of the ~~depart-~~
39 ~~ment of revenue~~ *Kansas highway patrol* shall submit to the Kansas racing
40 and gaming commission semiannual activity reports concerning inspec-
41 tions and investigations of bingo operations in this state.

42 Sec. 26. K.S.A. 21-4216, 41-102, 41-107, 41-201, 41-202, 41-207, 41-
43 210, 41-330, 41-1122, 41-1123, 41-2701, 74-2113, 74-5602, 75-5117, 75-

1 5121, 79-4104, 79-41a07 and 79-4715 are hereby repealed.

2 Sec. 27. This act shall take effect and be in force from and after its
3 publication in the statute book.

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