

## SENATE BILL No. 273

By Committee on Federal and State Affairs

3-25

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AN ACT concerning the liquor control act; amending K.S.A. 41-301, 41-302 and 41-712 and K.S.A. 2002 Supp. 41-719 and repealing the existing sections.

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

Section 1. K.S.A. 41-301 is hereby amended to read as follows: 41-301. The director shall issue to qualified applicants, who have filed the bond and paid the registration and license fees required by this act, licenses to sell alcoholic liquor at retail in the original package within the corporate limits of cities and outside the corporate limits of cities in certain townships as provided in this act. ~~Provided, That no such~~ . No retailer's license shall be issued for any premises within any city of the first or second class wherein a majority of the qualified electors of such city who voted on the proposition to amend section 10 of article 15 of the constitution of the state of Kansas at the general election held in November, 1948, shall have voted against the adoption of such proposition or in cities of the third class located in a township, or townships, wherein a majority of the qualified electors of such township, or townships, who voted on said proposition to amend the constitution at said election shall have voted against its adoption, until unless a majority of the qualified electors of such city voting at an election held as provided by K.S.A. 41-302, and amendments thereto, shall have declared by their votes to be vote in favor of the licensing of the sale of alcoholic liquor by the package in such city.

Sec. 2. K.S.A. 41-302 is hereby amended to read as follows: 41-302. (a) The question of licensing the retail sale of alcoholic liquors by the package shall be submitted by the governing body of any city at any regular general city election occurring in such city whenever a petition requesting such submission has been filed with the city clerk of any such city as hereinafter provided.

~~In cities of the first and second class, any~~ Such petition shall be signed by such number of electors of such city which equals 30% or more of the total vote cast in such city at the last general election for the office of secretary of state. ~~In cities of the third class, any such petition shall be signed by such number of electors of such city which equals 40% or more~~

1 of the total vote cast at the last general city election held in such city of  
2 the third class for candidates for the city office for which the greatest  
3 number of total votes were cast. Each sheet of each petition shall comply  
4 with the provisions of K.S.A. 25-3601 through 25-3607, and amendments  
5 thereto. No signature on such petition shall be valid unless appended to  
6 the petition within the last 90 days prior to the date of filing the petition  
7 with the city clerk.

8 Such petition shall be filed not less than 40 nor more than 60 days prior  
9 to the date of the election. After any such petition has been filed no  
10 signature shall be withdrawn and no signature shall be added. The gov-  
11 erning body of the city shall have the power to determine the sufficiency  
12 of any such petition. Any person who signs a proposal or petition author-  
13 ized by this section and who knowingly is not a qualified elector in the  
14 place where such proposal or petition is made, or who aids or abets any  
15 other persons in doing any of the acts mentioned, or any person who  
16 bribes, gives or pays any money or thing of value to any person directly  
17 or indirectly to induce such person to sign such proposal or petition shall  
18 be guilty of a misdemeanor and upon conviction thereof shall be punished  
19 by fine of not more than \$300 or by imprisonment of not more than 90  
20 days, or by both such fine and imprisonment in the discretion of the court.

21 (b) Upon the ballot the proposition shall be stated as follows:

22 “Shall the sale of alcoholic liquors by the package be licensed in (here YES   
23 insert the name of the city)?” NO

24 Voters desiring to vote in favor of the sale of alcoholic liquors by the  
25 package shall place a cross or check mark in the square opposite the word  
26 “Yes” and those desiring to vote against the sale of alcoholic liquor by the  
27 package shall place a cross or check mark in the square opposite the word  
28 “No.”

29 (c) Upon the filing of a sufficient petition, the governing body shall  
30 call any election required by this section ~~and notice of such election shall~~  
31 ~~be given in the manner provided by the general bond law. The provisions~~  
32 ~~of the laws of this state relating to election officers, voting places, election~~  
33 ~~places and blanks, preparation and form of ballots, information to voters,~~  
34 ~~delivery of ballots, calling of elections, conduct of elections, manner of~~  
35 ~~voting, counting of votes, records and certificates of election, and recounts~~  
36 ~~of votes, so far as applicable, shall apply to voting on the proposition under~~  
37 ~~the provisions of this act. Such election shall be called and held in the~~  
38 ~~manner provided by law for question submitted elections.~~

39 (d) The majority of those voting on the proposition shall be manda-  
40 tory upon the director insofar as licensing the sale of such liquors therein  
41 by the package is concerned. ~~In the absence of any vote on the question~~  
42 ~~of licensing the sale of such liquors in cities of the first and second class~~  
43 ~~wherein a majority of the qualified electors of such city who voted on the~~

1 proposition to amend section 10 of article 15 of the constitution of the  
2 state of Kansas at the general election held in November, 1948, shall have  
3 voted in favor of the adoption of such proposition and in cities of the  
4 third class located in townships wherein a majority of the qualified elec-  
5 tors voted in favor of such constitutional amendment and in the absence  
6 of any further vote in cities of the first, second or third class in which a  
7 majority of the qualified electors of such city shall have voted at any  
8 special or general city election in favor of the licensing of the sale of  
9 alcoholic liquor by the package, the director shall continue to issue li-  
10 censes to sell the same by the package therein for periods of one year,  
11 subject to all the terms and conditions of this act.

12 (e) If a majority of the electors voting at any such election shall vote  
13 against licensing the sale of alcoholic liquors by the package, the holder  
14 of any valid existing retailer's license for premises in such city shall have  
15 the right to continue to operate under such license for a period not to  
16 exceed 90 days after the result of such election is canvassed or until the  
17 expiration of such license, whichever period of time is the shorter. If such  
18 period of time expires before the expiration of the term for which the  
19 retailer's license was issued, such licensee shall be entitled to a refund of  
20 that portion of the license period which is unavailable to such licensee in  
21 accordance with rules and regulations established by the secretary of rev-  
22 enue.

23 (f) ~~For the purpose of determining as provided in K.S.A. 41-301, and~~  
24 ~~amendments thereto, and in this section whether a majority of the qual-~~  
25 ~~ified electors of a township in which a city of the third class is located~~  
26 ~~voted against the adoption of the liquor amendment at the general elec-~~  
27 ~~tion held in November, 1948, if any city of the third class is located in~~  
28 ~~two or more townships, the total vote for and against the amendment in~~  
29 ~~all the townships in which such city is located shall be used to determine~~  
30 ~~whether such city is located in a township in which a majority of the~~  
31 ~~qualified electors voted against the amendment.~~

32 Sec. 3. K.S.A. 41-712 is hereby amended to read as follows: 41-712.

33 (a) *Except as provided by subsection (b)*, No person shall sell at retail any  
34 alcoholic liquor: (1) On Sunday; (2) on Memorial Day, Independence  
35 Day, Labor Day, Thanksgiving Day or Christmas Day; or (3) before 9  
36 a.m. or after 11 p.m. on any day when the sale is permitted, except that  
37 the governing body of any city by ordinance may require closing prior to  
38 11 p.m., but such ordinance shall not require closing prior to 8 p.m.

39 (b) *In counties in which the sale of alcoholic liquor on Sunday has*  
40 *been approved as provided by section 4, and amendments thereto, a per-*  
41 *son may sell at retail any alcoholic liquor on Sunday between the hours*  
42 *of 12 noon and 8 p.m.*

43 New Sec. 4. (a) The board of county commissioners of any county

1 by resolution, may submit, and upon a petition filed in accordance with  
2 subsection (b), shall submit to the qualified electors of the county at any  
3 state general election a proposition to permit the sale at retail any alco-  
4 holic liquor within the county between the hours of 12 noon and 8 p.m.  
5 on Sunday.

6 (b) A petition to submit a proposition to the qualified voters of a  
7 county pursuant to this section shall be filed with the county election  
8 officer. The petition shall be signed by qualified electors of the county  
9 equal in number to not less than 10% of the electors of the county who  
10 voted for the office of secretary of state at the last preceding general  
11 election at which such office was elected. The appropriate version follow-  
12 ing shall appear on the petition:

13 “We request an election to determine whether the sale at retail of  
14 alcoholic liquor on Sundays between the hours of 12 noon and 8 p.m. in  
15 \_\_\_\_\_ county shall be allowed.”

16 (c) The board of county commissioners of any county may adopt a  
17 resolution permitting the sale at retail of any alcoholic liquor on Sundays  
18 between the hours of 12 noon and 8 p.m. Such resolution shall be pub-  
19 lished at least once each week for two consecutive weeks in the official  
20 county newspaper. Such resolution shall not become effective until at  
21 least 30 days following the date of the last publication thereof. If within  
22 30 days following the last publication of the resolution, a petition against  
23 such resolution signed by qualified electors of the county equal in number  
24 to not less than 10% of the qualified electors of the county who voted for  
25 the office of the secretary of state in the last preceding general election  
26 is filed with the county election officer, such resolution shall not become  
27 effective until submitted to and approved at an election as provided by  
28 this section.

29 (d) Upon the adoption of a resolution or the submission of a valid  
30 petition pursuant to this section, the county election officer shall cause  
31 the proposition to be placed on the ballot at the next succeeding state  
32 general election which occurs more than 90 days after the resolution is  
33 adopted or the petition is filed with the county election officer. The ap-  
34 propriate version following shall appear on the ballot:

35 “Shall the sale at retail of alcoholic liquor on Sundays between the  
36 hours of 12 noon and 8 p.m. in \_\_\_\_\_ county be allowed?”

37 (e) If a majority of the votes cast and counted is in favor of the prop-  
38 osition, the county election officer shall transmit a copy of the results to  
39 the director and the board of county commissioners.

40 (f) The election provided for by this section shall be conducted, and  
41 the votes counted and canvassed, in the manner provided by law for  
42 question submitted elections.

43 Sec. 5. K.S.A. 2002 Supp. 41-719 is hereby amended to read as fol-

1 lows: 41-719. (a) No person shall drink or consume alcoholic liquor on  
2 the public streets, alleys, roads or highways or inside vehicles while on  
3 the public streets, alleys, roads or highways.

4 (b) No person shall drink or consume alcoholic liquor on private  
5 property except:

6 (1) On premises where the sale of liquor by the individual drink is  
7 authorized by the club and drinking establishment act;

8 (2) upon private property by a person occupying such property as an  
9 owner or lessee of an owner and by the guests of such person, if no charge  
10 is made for the serving or mixing of any drink or drinks of alcoholic liquor  
11 or for any substance mixed with any alcoholic liquor and if no sale of  
12 alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto,  
13 takes place;

14 (3) in a lodging room of any hotel, motel or boarding house by the  
15 person occupying such room and by the guests of such person, if no  
16 charge is made for the serving or mixing of any drink or drinks of alcoholic  
17 liquor or for any substance mixed with any alcoholic liquor and if no sale  
18 of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto,  
19 takes place;

20 (4) in a private dining room of a hotel, motel or restaurant, if the  
21 dining room is rented or made available on a special occasion to an in-  
22 dividual or organization for a private party and if no sale of alcoholic liquor  
23 in violation of K.S.A. 41-803, and amendments thereto, takes place; or

24 (5) on the premises of a microbrewery or farm winery, if authorized  
25 by K.S.A. 41-308a or 41-308b, and amendments thereto.

26 (c) No person shall drink or consume alcoholic liquor on public prop-  
27 erty except:

28 (1) On real property leased by a city to others under the provisions  
29 of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real  
30 property is actually being used for hotel or motel purposes or purposes  
31 incidental thereto.

32 (2) In any state-owned or operated building or structure, and on the  
33 surrounding premises, which is furnished to and occupied by any state  
34 officer or employee as a residence.

35 (3) On premises licensed as a club or drinking establishment and  
36 located on property owned or operated by an airport authority created  
37 pursuant to chapter 27 of the Kansas Statutes Annotated or established  
38 by a city ~~having a population of more than 200,000.~~

39 (4) On the state fair grounds on the day of any race held thereon  
40 pursuant to the Kansas parimutuel racing act.

41 (5) On the state fairgrounds, if such liquor is domestic beer or wine  
42 or wine imported under subsection (e) of K.S.A. 41-308a, and amend-  
43 ments thereto, and is consumed only for purposes of judging competi-

1 tions. The state fair board, in its discretion, may authorize the consump-  
2 tion of such alcoholic liquor on nonfair days in conjunction with bona fide  
3 scheduled events involving not less than 75 invited guests and subject to  
4 any conditions or restrictions as the board may require.

5 (6) In the state historical museum provided for by K.S.A. 76-2036,  
6 and amendments thereto, on the surrounding premises and in any other  
7 building on such premises, as authorized by rules and regulations of the  
8 state historical society.

9 (7) On the premises of any state-owned historic site under the juris-  
10 diction and supervision of the state historical society, on the surrounding  
11 premises and in any other building on such premises, as authorized by  
12 rules and regulations of the state historical society.

13 (8) In a lake resort within the meaning of K.S.A. 32-867, and amend-  
14 ments thereto, on state-owned or leased property.

15 (9) In the Hiram Price Dillon house or on its surrounding premises,  
16 subject to limitations established in policies adopted by the legislative  
17 coordinating council, as provided by K.S.A. 75-3682, and amendments  
18 thereto.

19 (10) On the premises of the Kansas national guard regional training  
20 center located in Saline county, and any building on such premises, as  
21 authorized by rules and regulations of the adjutant general and upon  
22 approval of the Kansas military board.

23 (11) On property exempted from this subsection (c) pursuant to sub-  
24 section (d), (e), (f), (g), (h) or (i).

25 (d) Any city may exempt, by ordinance, from the provisions of sub-  
26 section (c) specified property the title of which is vested in such city.

27 (e) The board of county commissioners of any county may exempt,  
28 by resolution, from the provisions of subsection (c) specified property the  
29 title of which is vested in such county.

30 (f) The state board of regents may exempt from the provisions of  
31 subsection (c) the Sternberg museum on the campus of Fort Hays state  
32 university, or other specified property which is under the control of such  
33 board and which is not used for classroom instruction, where alcoholic  
34 liquor may be consumed in accordance with policies adopted by such  
35 board.

36 (g) The board of regents of Washburn university may exempt from  
37 the provisions of subsection (c) the Mulvane art center and the Bradbury  
38 Thompson alumni center on the campus of Washburn university, and  
39 other specified property the title of which is vested in such board and  
40 which is not used for classroom instruction, where alcoholic liquor may  
41 be consumed in accordance with policies adopted by such board.

42 (h) Any city may exempt, by ordinance, from the provisions of sub-  
43 section (c) any national guard armory in which such city has a leasehold

1 interest, if the Kansas military board consents to the exemption.

2 (i) The board of trustees of a community college may exempt from  
3 the provisions of subsection (c) specified property which is under the  
4 control of such board and which is not used for classroom instruction,  
5 where alcoholic liquor may be consumed in accordance with policies  
6 adopted by such board.

7 (j) Violation of any provision of this section is a misdemeanor punish-  
8 able by a fine of not less than \$50 or more than \$200 or by imprisonment  
9 for not more than six months, or both.

10 Sec. 6. K.S.A. 41-301, 41-302 and 41-712 and K.S.A. 2002 Supp. 41-  
11 719 are hereby repealed.

12 Sec. 7. This act shall take effect and be in force from and after its  
13 publication in the Kansas register.

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