

## SENATE BILL No. 299

By Committee on Federal and State Affairs

3-15

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9 AN ACT concerning alcoholic beverages; enacting the cereal malt bev-  
10 erage retailers' act; providing for an increase in the maximum permit-  
11 ted alcohol content of cereal malt beverage under certain circum-  
12 stances; amending K.S.A. 41-103, 41-312 and 41-410 and repealing  
13 the existing sections.  
14

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

16 Section 1. K.S.A. 41-103 is hereby amended to read as follows: 41-  
17 103. The legislature hereby declares the public policy of this state to be  
18 that, *except as otherwise provided in the cereal malt beverage retailers'*  
19 *act*: (a) Cereal malt beverage shall be sold at retail separately from sales  
20 of alcoholic liquor at retail; (b) cereal malt beverage shall be sold and  
21 dispensed at retail in rooms or premises separate and distinct from rooms  
22 or premises where alcoholic liquor is sold; and (c) no retailer's license for  
23 the sale of alcoholic liquor shall be granted to any applicant making ap-  
24 plication therefor if the premises sought to be licensed are located outside  
25 the corporate limits of any city within this state, except as provided in  
26 K.S.A. 41-303, and amendments thereto.

27 New Sec. 2. (a) The governing body of any city in which the sale of  
28 alcoholic liquor is authorized may adopt a resolution providing that the  
29 cereal malt beverage retailers' act, as set forth in sections 4 through 53,  
30 and amendments thereto, shall be applicable in such city. Such resolution  
31 shall be published at least once each week for two consecutive weeks in  
32 the official city newspaper. Such resolution shall not become effective  
33 until at least 30 days following the date of the last publication thereof. If  
34 within 30 days following the last publication of the resolution, a petition  
35 requesting that the proposition be submitted for approval by the voters  
36 is filed in accordance with subsection (b), such resolution shall not be-  
37 come effective until the proposition is submitted to and approved at an  
38 election as provided by this section.

39 (b) A petition to submit a proposition to the qualified voters of a city  
40 pursuant to this section shall be filed with the city clerk. The petition  
41 shall be signed by qualified voters of the city equal in number to not less  
42 than 10% of the voters of the city who voted for the office of secretary  
43 of state at the last preceding general election of such office.

1 (c) Upon the filing of a sufficient petition pursuant to this section,  
2 the governing body shall cause the proposition to be placed on the ballot  
3 at the next succeeding primary or general election which occurs after the  
4 petition is filed with the city clerk or at a special election called and held  
5 thereon. Such election shall be called and held in the manner provided  
6 by law for question submitted elections.

7 (d) If a majority of the voters voting at any election pursuant to this  
8 section votes in favor of the proposition, the governing body shall transmit  
9 a copy of the results to the director of the division of alcoholic beverage  
10 control, department of revenue.

11 (e) The cereal malt beverage retailers' act shall be applicable in any  
12 township in which alcoholic liquor may be sold pursuant to the provisions  
13 of K.S.A. 41-303, and amendments thereto, if the board of county com-  
14 missioners of the county in which such township is located adopts a res-  
15 olution making the cereal malt beverage retailers' act applicable in such  
16 township. The county clerk shall send a certified copy of such resolution  
17 to the director of the division of alcoholic beverage control, department  
18 of revenue, and to the township board of trustees of such township.

19 (f) The following statutes, and amendments thereto, shall not apply  
20 in any city or township in which the cereal malt beverage retailers' act is  
21 applicable: K.S.A. 41-102, 41-104, 41-208, 41-209, 41-210, 41-211, 41-  
22 307, 41-308, 41-308b, 41-601, 41-602, 41-701, 41-708, 41-712, 41-717,  
23 41-718, 41-724, 41-725, 41-726, 41-729, 41-805, 41-806, 41-901, 41-905,  
24 41-1001, 41-1002, 41-1004, 41-1101, 41-1102, 41-1122, 41-1123, 41-  
25 1125, 41-2604, 41-2610, 41-2611, 41-2614, 41-2632, 41-2637, 41-2641,  
26 41-2642, 41-2643, 41-2645, 41-2701, 41-2702, 41-2703, 41-2704, 41-  
27 2705, 41-2707, 41-2708, 41-2709, 79-4101, 79-4102, 79-4103, 79-4104,  
28 79-4105, 79-4106, 79-4107, 79-4108, 79-41a01, 79-41a02, 79-41a03, 79-  
29 41a03a, 79-41a04, 79-41a05, 79-41a06, 79-41a07, 79-41a08 and 79-41a09,  
30 and amendments thereto.

31 (g) Nothing in the cereal malt beverage retailers' act shall be con-  
32 strued to exempt cereal malt beverage, as defined in section 5, and  
33 amendments thereto, from any provision of the Kansas liquor control act  
34 regarding the gallonage tax or any provision of the beer and cereal malt  
35 beverage keg registration act.

36 New Sec. 3. (a) On the date when the cereal malt beverage retailers'  
37 act is made applicable in any city or township the following shall be  
38 deemed licensed for purposes of such act: Any liquor retailer located in  
39 such city or township and licensed on that date pursuant to the Kansas  
40 liquor control act; any distributor, manufacturer, farm winery or micro-  
41 brewery licensed on that date pursuant to the Kansas liquor control act;  
42 and any club, drinking establishment or caterer located in such city or  
43 township and licensed on that date pursuant to the club and drinking

1 establishment act.

2 (b) On the date when the cereal malt beverage retailers' act is made  
3 applicable in any city or township, any person licensed on that date in  
4 such city or township pursuant to K.S.A. 41-2702, and amendments  
5 thereto, shall be deemed licensed as a cereal malt beverage retailer for  
6 purposes of the cereal malt beverage retailers' act.

7 New Sec. 4. (a) Sections 4 through 53, and amendments thereto,  
8 shall be known and may be cited as the cereal malt beverage retailers'  
9 act.

10 (b) For purposes of the cereal malt beverage retailers' act:

11 (1) The provisions of K.S.A. 41-2701 et seq., and amendments  
12 thereto, shall be referred to as the Kansas cereal malt beverage act; and

13 (2) any reference to the Kansas liquor control act, the club and drink-  
14 ing establishment act or the Kansas cereal malt beverage act shall be  
15 deemed to be a reference to those provisions of such acts which remain  
16 applicable to any city or township in which the cereal malt beverage re-  
17 tailers' act is made applicable.

18 New Sec. 5. As used in the cereal malt beverage retailers' act, unless  
19 the context clearly requires otherwise:

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

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

28 (c) "Beer" means a beverage, containing more than 5% alcohol by  
29 weight, obtained by alcoholic fermentation of an infusion or concoction  
30 of barley, or other grain, malt and hops in water and includes beer, ale,  
31 stout, lager beer, porter and similar beverages having such alcoholic  
32 content.

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

35 (e) "Cereal malt beverage" means any fermented but undistilled liq-  
36 uor brewed or made from malt or from a mixture of malt or malt substi-  
37 tute, but does not include any such liquor which is more than 5% alcohol  
38 by weight.

39 (f) "Cereal malt beverage retailer" means any person who sells or  
40 offers for sale any cereal malt beverage for use or consumption and not  
41 for resale in any form, but such term does not include a liquor retailer or  
42 any person licensed under the club and drinking establishment act.

43 (g) "Club" has the meaning provided by K.S.A. 41-2601, and amend-

1 ments thereto.

2 (h) "Director" means the director of alcoholic beverage control of  
3 the department of revenue.

4 (i) "Distributor" means the person importing or causing to be im-  
5 ported into the state, or purchasing or causing to be purchased within  
6 the state, alcoholic liquor for sale or resale to liquor retailers or cereal  
7 malt beverage for sale or resale to cereal malt beverage retailers or per-  
8 sons licensed pursuant to K.S.A. 41-2702, and amendments thereto.

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

12 (k) "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 (l) "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 (m) "Drinking establishment" has the meaning provided by K.S.A.  
19 41-2601, and amendments thereto.

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

22 (o) "Licensee" means any cereal malt beverage retailer, any liquor  
23 retailer and any person licensed under the club and drinking establish-  
24 ment act.

25 (p) "Liquor retailer" means any retailer licensed pursuant to the Kan-  
26 sas liquor control act.

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

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

34 (2) "Manufacturer" does not include a microbrewery or a farm  
35 winery.

36 (s) "Microbrewery" means a brewery licensed by the director to man-  
37 ufacture, store and sell domestic beer.

38 (t) "Minor" means any person under 21 years of age.

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

43 (v) "Original package" or "original container" means any bottle, flask,

- 1 jug, can, cask, barrel, keg, hogshead or other receptacle or container what-  
2 soever, used, corked or capped, sealed and labeled by the manufacturer  
3 of alcoholic liquor, to contain and to convey any alcoholic liquor or cereal  
4 malt beverage but shall not include a sleeve.
- 5 (w) "Person" means any natural person, limited liability company,  
6 corporation, partnership, trust or association.
- 7 (x) "Place of business" means any place where cereal malt beverages  
8 are sold by a licensee, except, for purposes of a caterer licensed pursuant  
9 to the club and drinking establishment act, "place of business" means the  
10 caterer's principal place of business.
- 11 (y) "Primary American source of supply" means the manufacturer,  
12 the owner of cereal malt beverage or alcoholic liquor at the time it be-  
13 comes a marketable product or the manufacturer's or owner's exclusive  
14 agent who, if the cereal malt beverage or alcoholic liquor cannot be se-  
15 cured directly from such manufacturer or owner by American wholesal-  
16 ers, is the source closest to such manufacturer or owner in the channel  
17 of commerce from which the product can be secured by American  
18 wholesalers.
- 19 (z) "Sale" means any transfer, exchange or barter in any manner or  
20 by any means whatsoever for a consideration and includes all sales made  
21 by any person, whether principal, proprietor, agent, servant or employee.
- 22 (aa) "Salesperson" means any natural person who:
- 23 (1) Procures or seeks to procure an order, bargain, contract or agree-  
24 ment for the sale of alcoholic liquor or cereal malt beverage; or
- 25 (2) is engaged in promoting the sale of alcoholic liquor or cereal malt  
26 beverage, or in promoting the business of any person, firm or corporation  
27 engaged in the manufacturing and selling of alcoholic liquor or cereal  
28 malt beverage, whether the seller resides within the state of Kansas and  
29 sells to licensed buyers within the state of Kansas, or whether the seller  
30 resides without the state of Kansas and sells to licensed buyers within the  
31 state of Kansas.
- 32 (bb) "Secretary" means the secretary of revenue.
- 33 (cc) (1) "Sell at retail" and "sale at retail" refer to and mean sales for  
34 use or consumption and not for resale in any form and sales to clubs,  
35 licensed drinking establishments, licensed caterers or holders of tempo-  
36 rary permits.
- 37 (2) "Sell at retail" and "sale at retail" do not refer to or mean sales  
38 by a distributor, a microbrewery, a farm winery, a licensed club, a licensed  
39 drinking establishment, a licensed caterer or a holder of a temporary  
40 permit.
- 41 (dd) "To sell" includes to solicit or receive an order for, to keep or  
42 expose for sale and to keep with intent to sell.
- 43 (ee) "Sleeve" means a package of two or more 50-milliliter (3.2-fluid-

1 ounce) containers of spirits.

2 (ff) "Spirits" means any beverage which contains alcohol obtained by  
3 distillation, mixed with water or other substance in solution, and includes  
4 brandy, rum, whiskey, gin or other spirituous liquors, and such liquors  
5 when rectified, blended or otherwise mixed with alcohol or other  
6 substances.

7 (gg) "Supplier" means a manufacturer of alcoholic liquor or cereal  
8 malt beverage or an agent of such manufacturer, other than a salesperson.

9 (hh) "Temporary permit" has the meaning provided by K.S.A. 41-  
10 2601, and amendments thereto.

11 (ii) "Wine" means any alcoholic beverage obtained by the normal  
12 alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries  
13 or other agricultural products, including such beverages containing added  
14 alcohol or spirits or containing sugar added for the purpose of correcting  
15 natural deficiencies.

16 New Sec. 6. No person shall manufacture, bottle, blend, sell, barter,  
17 transport, deliver, furnish or possess any alcoholic liquor or cereal malt  
18 beverage for beverage purposes, except as specifically provided in the  
19 cereal malt beverage retailers' act, the Kansas liquor control act, the club  
20 and drinking establishment act or K.S.A. 41-2701 et seq., and amend-  
21 ments thereto, except that nothing contained in the cereal malt beverage  
22 retailers' act shall prevent:

23 (a) The possession and transportation of alcoholic liquor or cereal  
24 malt beverage for the personal use of the possessor, the possessor's family  
25 and guests except that the provisions of K.S.A. 41-407, and amendments  
26 thereto, shall be applicable to all persons;

27 (b) the making of wine, cider, cereal malt beverage or beer by a per-  
28 son from fruits, vegetables or grains, or the product thereof, by simple  
29 fermentation and without distillation, if it is made solely for the use of  
30 the maker and the maker's family;

31 (c) any duly licensed practicing physician or dentist from possessing  
32 or using alcoholic liquor in the strict practice of the medical or dental  
33 profession;

34 (d) any hospital or other institution caring for sick and diseased per-  
35 sons, from possessing and using alcoholic liquor for the treatment of bona  
36 fide patients of such hospital or institution;

37 (e) any drugstore employing a licensed pharmacist from possessing  
38 and using alcoholic liquor in the compounding of prescriptions of duly  
39 licensed physicians; or

40 (f) the possession and dispensation of wine by an authorized repre-  
41 sentative of any church for the purpose of conducting any bona fide rite  
42 or religious ceremony conducted by such church.

43 New Sec. 7. The power to regulate all phases of the control of the

1 manufacture, distribution, sale, possession, transportation and traffic in  
2 alcoholic liquor and cereal malt beverage, except as specifically delegated  
3 in the Kansas liquor control act and the cereal malt beverage retailers'  
4 act, is hereby vested exclusively in the state and shall be exercised as  
5 provided in this act. No city in which the cereal malt beverage retailers'  
6 act is applicable shall enact any ordinance in conflict with or contrary to  
7 the provisions of this act and any ordinance of any such city in effect at  
8 the time this act takes effect or thereafter enacted which is in conflict  
9 with or contrary to the provisions of this act shall be null and void. Nothing  
10 contained in this section shall be construed as preventing any city from  
11 enacting ordinances declaring acts prohibited or made unlawful by this  
12 act as unlawful or prohibited in such city and prescribing penalties for  
13 violation thereof, but the minimum penalty in any such ordinance shall  
14 not exceed the minimum penalty prescribed by this act for the same  
15 violation, nor shall the maximum penalty in any such ordinance exceed  
16 the maximum penalty prescribed by this act for the same violation.

17 New Sec. 8. The director shall have the following powers, functions  
18 and duties:

19 (a) To receive applications for, and to issue and revoke licenses to  
20 manufacturers, distributors, nonbeverage users and liquor retailers in ac-  
21 cordance with the provisions of the Kansas liquor control act and the  
22 cereal malt beverage retailers' act;

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

29 (c) to inspect or cause to be inspected, any premises where alcoholic  
30 liquor or cereal malt beverage is manufactured, distributed or sold;

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

43 (e) except as otherwise specifically provided in the cereal malt bev-

1 erage retailers' act, to collect, receive, account for and turn over to the  
2 secretary of revenue all registration and license fees and taxes provided  
3 for in the Kansas liquor control act and the cereal malt beverage retailers'  
4 act and all other moneys received by the director by virtue of the direc-  
5 tor's office; and

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

8 New Sec. 9. (a) The director shall propose such rules and regulations  
9 as necessary to carry out the intent and purposes of the Kansas liquor  
10 control act and the cereal malt beverage retailers' act, except that, to the  
11 extent that rules and regulations adopted by the secretary pursuant to  
12 K.S.A. 41-210, and amendments thereto, also carry out the intent and  
13 purposes of the cereal malt beverage retailers' act, they shall be applicable  
14 to 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) The director of alcoholic beverage control shall have broad dis-  
19 cretionary powers to govern the traffic in alcoholic liquor and cereal malt  
20 beverage and to enforce strictly all the provisions of the Kansas liquor  
21 control act and the applicable provisions of the cereal malt beverage re-  
22 tailers' act in the interest of sanitation, purity of products, truthful rep-  
23 resentation and honest dealings in such manner as generally will promote  
24 the public health and welfare. All valid rules and regulations adopted  
25 under the provisions of the Kansas liquor control act and the applicable  
26 provisions of the cereal malt beverage retailers' act shall be absolutely  
27 binding upon all licensees and enforceable by the director of alcoholic  
28 beverage control through the power of suspension or revocation of  
29 licenses.

30 New Sec. 10. (a) The rules and regulations adopted by the secretary  
31 of revenue pursuant to section 8, and amendments thereto, shall include  
32 rules and 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 liquor retailers'

- 1 licenses 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  
12 thereof which are intended for sale in this state to set forth, in plain legible  
13 print in the English language, the name and kind of alcoholic liquors or  
14 cereal malt beverage contained therein, together with their alcoholic con-  
15 tent, and if a blended product (except wine) to so state, except that, if  
16 the director deems it unnecessary to show the alcoholic content of beer  
17 or cereal malt beverage on labels of containers of beer or cereal malt  
18 beverage, the alcoholic content shall not be required to be shown thereon;
- 19 (9) establishing procedures and conditions under which minors may  
20 be engaged in programs or systems encouraging compliance with the  
21 provisions of laws relating to the sale of alcoholic liquor and cereal malt  
22 beverages to a minor as authorized by K.S.A. 41-727a, 41-2652 and 41-  
23 2727, and amendments thereto. Such rules and regulations shall include  
24 provisions which require that such person used in any such program or  
25 system to be (A) at least 18 years of age and not more than 19½ years of  
26 age; (B) exhibit a youthful appearance; (C) carry only one piece of iden-  
27 tification, which shall be a valid form of identification; (D) truthful in  
28 interactions with licensees; except if asked, such person may deny working  
29 with law enforcement officials.
- 30 It shall be an absolute defense in any civil proceeding or criminal pros-  
31 ecution if any such program or system does not comply with the proce-  
32 dures and conditions required by such rules and regulations;
- 33 (10) providing for such other details as are necessary or convenient  
34 to the administration and enforcement of this act.
- 35 (b) The secretary of revenue may adopt rules and regulations pur-  
36 suant to section 8, and amendments thereto, establishing:
- 37 (1) Standards of manufacture of alcoholic liquors and cereal malt bev-  
38 erage, not inconsistent with federal laws, in order to insure the use of  
39 proper ingredients and methods in the manufacture and distribution  
40 thereof; and
- 41 (2) standards, not inconsistent with federal law, for the proper label-  
42 ing of containers or barrels, casks or other bulk containers or bottles of  
43 alcoholic liquor and cereal malt beverage, manufactured or sold in this

1 state.

2 New Sec. 11. A beer distributor's license shall allow:

3 (a) The wholesale purchase, importation and storage of beer and ce-  
4 real malt beverage.

5 (b) The sale of beer to:

6 (1) Licensed caterers;

7 (2) beer distributors licensed in this state;

8 (3) liquor retailers, temporary permit holders, clubs and drinking es-  
9 tablishments, licensed in this state, except that such distributor shall sell  
10 a brand of beer only to those liquor retailers, temporary permit holders,  
11 clubs and drinking establishments of which the licensed premises are  
12 located in the geographic territory within which such distributor is au-  
13 thORIZED to sell such brand, as designated in the notice or notices filed  
14 with the director pursuant to K.S.A. 41-410, and amendments thereto;  
15 and

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

18 (c) The sale of cereal malt beverage to beer distributors licensed in  
19 this state; cereal malt beverage retailers, liquor retailers, clubs, drinking  
20 establishments and temporary permit holders whose licensed or permit-  
21 ted premises are located in a city or township in which the cereal malt  
22 beverage retailers' act is applicable; and caterers whose primary places of  
23 business is located in a city or township in which the cereal malt beverage  
24 retailers' act is applicable. Such distributor shall sell a brand of cereal  
25 malt beverage only to such cereal malt beverage retailers, liquor retailers,  
26 clubs, drinking establishments and temporary permit holders whose li-  
27 censed or permitted premises are located, and such caterers whose pri-  
28 mary place of business is located, in the geographic territory within which  
29 such distributor is authorized to sell such brand, as designated in the  
30 notice or notices filed with the director pursuant to K.S.A. 41-410, and  
31 amendments thereto.

32 (d) The sale of cereal malt beverage containing not more than 3.2%  
33 alcohol by weight to a person licensed pursuant to K.S.A. 41-2702, and  
34 amendments thereto.

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

37 (f) The storage on the distributor's licensed premises of: (1) Another  
38 licensed distributor's alcoholic liquor and delivery of such alcoholic liquor  
39 to a liquor retailer to whom such other distributor is authorized by law  
40 to sell such alcoholic liquor; (2) another licensed distributor's cereal malt  
41 beverage containing not more than 3.2% of alcohol by weight and delivery  
42 of such cereal malt beverage to a person licensed pursuant to K.S.A. 41-  
43 2702, and amendments thereto, to whom such other distributor is au-

1 thORIZED BY LAW TO SELL SUCH CEREAL MALT BEVERAGE; AND (3) ANOTHER LICENSED  
2 DISTRIBUTOR'S CEREAL MALT BEVERAGE AND DELIVERY OF SUCH CEREAL MALT BEV-  
3 ERAGE TO A CEREAL MALT BEVERAGE RETAILER OR LIQUOR RETAILER WHOSE LICENSED  
4 PREMISES ARE IN A CITY OR TOWNSHIP IN WHICH THE CEREAL MALT BEVERAGE  
5 RETAILERS' ACT IS APPLICABLE AND TO WHOM SUCH OTHER DISTRIBUTOR IS AUTHOR-  
6 IZED BY LAW TO SELL SUCH CEREAL MALT BEVERAGE TO SUCH CEREAL MALT BEVERAGE  
7 RETAILER OR LIQUOR RETAILER. ANY SUCH DELIVERIES FOR ANOTHER DISTRIBUTOR SHALL  
8 BE IN ACCORDANCE WITH AN AGREEMENT ENTERED INTO WITH SUCH OTHER DISTRIB-  
9 UTOR AND APPROVED BY THE DIRECTOR.

10 NEW SEC. 12. (A) A LIQUOR RETAILER'S LICENSE SHALL ALLOW THE LICENSEE TO  
11 SELL AND OFFER FOR SALE AT RETAIL AND DELIVER IN THE ORIGINAL PACKAGE ALCOHOLIC  
12 LIQUOR AND CEREAL MALT BEVERAGE FOR USE OR CONSUMPTION OFF OF AND AWAY  
13 FROM THE PREMISES SPECIFIED IN SUCH LICENSE. A LIQUOR RETAILER'S LICENSE  
14 SHALL PERMIT THE SALE AND DELIVERY OF ALCOHOLIC LIQUOR AND CEREAL MALT BEV-  
15 ERAGE ONLY ON THE LICENSED PREMISES AND SHALL NOT PERMIT THE SALE OF AL-  
16 COHOLIC LIQUOR OR CEREAL MALT BEVERAGE FOR RESALE IN ANY FORM, EXCEPT THAT  
17 A LICENSED LIQUOR RETAILER MAY:

18 (1) SELL ALCOHOLIC LIQUOR TO A TEMPORARY PERMIT HOLDER FOR RESALE BY  
19 SUCH PERMIT HOLDER AND ALSO MAY SELL FOR RESALE CEREAL MALT BEVERAGE TO A  
20 TEMPORARY PERMIT HOLDER LOCATED IN A CITY OR TOWNSHIP IN WHICH THE CEREAL  
21 MALT BEVERAGE RETAILERS' ACT IS APPLICABLE; AND

22 (2) SELL AND DELIVER ALCOHOLIC LIQUOR TO A CATERER OR TO THE LICENSED  
23 PREMISES OF A CLUB OR DRINKING ESTABLISHMENT, IF SUCH PREMISES ARE IN THE  
24 COUNTY WHERE THE LIQUOR RETAILER'S PREMISES ARE LOCATED OR IN AN ADJACENT  
25 COUNTY, FOR RESALE BY SUCH CLUB, DRINKING ESTABLISHMENT OR CATERER; AND

26 (3) SELL AND DELIVER CEREAL MALT BEVERAGE TO A CATERER, CLUB OR DRINKING  
27 ESTABLISHMENT IF THE PRIMARY PLACE OF BUSINESS OF THE CATERER OR THE LI-  
28 CENSED PREMISES OF THE CLUB OR DRINKING ESTABLISHMENT ARE LOCATED IN A  
29 CITY OR TOWNSHIP IN WHICH THE CEREAL MALT BEVERAGE RETAILERS' ACT IS  
30 APPLICABLE.

31 (B) EXCEPT AS PROVIDED HEREIN, THE HOLDER OF A LIQUOR RETAILER'S LICENSE  
32 SHALL NOT SELL, OFFER FOR SALE, GIVE AWAY OR PERMIT TO BE SOLD, OFFERED FOR  
33 SALE OR GIVEN AWAY IN OR FROM THE PREMISES SPECIFIED IN SUCH LICENSE ANY  
34 SERVICE OR THING OF VALUE WHATSOEVER EXCEPT ALCOHOLIC LIQUOR OR CEREAL MALT  
35 BEVERAGE IN THE ORIGINAL PACKAGE. A LICENSED LIQUOR RETAILER MAY:

36 (1) CHARGE A DELIVERY FEE FOR DELIVERY TO A CLUB, DRINKING ESTABLISHMENT  
37 OR CATERER PURSUANT TO SUBSECTION (A);

38 (2) SELL LOTTERY TICKETS AND SHARES TO THE PUBLIC IN ACCORDANCE WITH THE  
39 KANSAS LOTTERY ACT, IF THE LIQUOR RETAILER IS SELECTED AS A LOTTERY RETAILER;

40 (3) INCLUDE IN THE SALE OF ALCOHOLIC LIQUOR OR CEREAL MALT BEVERAGE ANY  
41 GOODS INCLUDED BY THE MANUFACTURER IN PACKAGING WITH THE ALCOHOLIC LIQUOR  
42 OR CEREAL MALT BEVERAGE, SUBJECT TO THE APPROVAL OF THE DIRECTOR;

43 (4) DISTRIBUTE TO THE PUBLIC, WITHOUT CHARGE, CONSUMER ADVERTISING

- 1 specialities bearing advertising matter, subject to rules and regulations of  
2 the secretary limiting the form and distribution of such specialities so that  
3 they are not conditioned on or an inducement to the purchase of alcoholic  
4 liquor or cereal malt beverage; and
- 5 (5) sell soft drinks, mix and the following beverage-related, non-food  
6 items:
- 7 (A) Disposable cups;
  - 8 (B) bottle and can openers;
  - 9 (C) corkscrews; and
  - 10 (D) ice.
- 11 (c) No liquor retailer shall furnish any entertainment in such premises  
12 or permit any pinball machine or game of skill or chance to be located in  
13 or on such premises.
- 14 (d) A liquor retailer's license shall allow the licensee to store alcoholic  
15 liquor and cereal malt beverage in refrigerators, cold storage units, ice  
16 boxes or other cooling devices, and the licensee may sell such alcoholic  
17 liquor and cereal malt beverage to consumers in a chilled condition.
- 18 New Sec. 13. Every manufacturer, distributor, microbrewery which  
19 sells any beer or cereal malt beverage to a beer distributor at wholesale  
20 and farm winery which sells any wine to a distributor at wholesale be-  
21 tween the 1st and 15th day of each calendar month shall make a return  
22 under oath to the director of all alcoholic liquor or cereal malt beverage  
23 manufactured and sold by the manufacturer, distributor, microbrewery  
24 or farm winery in the course of business during the preceding calendar  
25 month. In the case of a distributor, the return shall also show: (a) The  
26 total amount of alcoholic liquor or cereal malt beverage purchased by the  
27 distributor during the preceding calendar month, the names of the dis-  
28 tillers or distributors from whom purchased, the quantity of each brand  
29 and the price paid therefor; and (b) the names and locations of the liquor  
30 retailers to whom alcoholic liquor or cereal malt beverage was sold by the  
31 distributor during the preceding calendar month, the quantity of each  
32 brand and the price charged therefor. The return shall be made upon  
33 forms prescribed and furnished by the director and shall contain such  
34 other information as the director requires.
- 35 New Sec. 14. It is the duty of each manufacturer, distributor, micro-  
36 brewery which sells any domestic beer to a beer distributor and farm  
37 winery which sells any wine to a distributor to keep complete and accurate  
38 records of all such sales and complete and accurate records of all alcoholic  
39 liquors and domestic beers produced, manufactured, compounded or im-  
40 ported. The director, in the director's discretion, may prescribe reason-  
41 able and uniform methods for keeping records by manufacturers, distrib-  
42 utors, microbreweries and farm wineries as contemplated by K.S.A.  
43 41-401 through 41-409, and amendments thereto.

1 New Sec. 15. (a) Except as provided in subsection (d), no spirits dis-  
2 tributor shall sell or attempt to sell any spirits within this state except to:  
3 (1) A licensed manufacturer, licensed nonbeverage user or licensed  
4 spirits distributor; or  
5 (2) a licensed liquor retailer, as authorized by K.S.A. 41-306, and  
6 amendments thereto.  
7 (b) Except as provided in subsection (d), no wine distributor shall sell  
8 or attempt to sell any wine within this state except to:  
9 (1) A licensed manufacturer, licensed nonbeverage user or licensed  
10 wine distributor;  
11 (2) a licensed caterer; or  
12 (3) a liquor retailer, club or drinking establishment, licensed in this  
13 state, as authorized by K.S.A. 41-306a, and amendments thereto.  
14 (c) Except as provided by subsection (d), no beer distributor shall sell  
15 or attempt to sell any beer or cereal malt beverage within this state except  
16 to:  
17 (1) A licensed manufacturer, licensed nonbeverage user or licensed  
18 beer distributor;  
19 (2) a licensed caterer; or  
20 (3) a liquor retailer, cereal malt beverage retailer, club or drinking  
21 establishment, licensed in this state, as authorized by section 11, and  
22 amendments thereto.  
23 (d) (1) If any spirits distributor refuses to sell spirits which such dis-  
24 tributor is authorized to sell or refuses to provide any service in connec-  
25 tion therewith to any licensed liquor retailer as authorized by K.S.A. 41-  
26 306, and amendments thereto, it shall be lawful for any other licensed  
27 spirits distributor to sell such spirits to such liquor retailer.  
28 (2) If any wine distributor refuses to sell wine which such distributor  
29 is authorized to sell or refuses to furnish service in connection therewith  
30 to any licensed liquor retailer, as authorized by K.S.A. 41-306a, and  
31 amendments thereto, it shall be lawful for any other licensed wine dis-  
32 tributor to sell such wine to such liquor retailer.  
33 (3) If any beer distributor refuses to sell beer or cereal malt beverage  
34 which such distributor is authorized to sell or provide service in connec-  
35 tion therewith to any licensed cereal malt beverage retailer or any licensed  
36 liquor retailer, as authorized by section 11, and amendments thereto, it  
37 shall be lawful for any other licensed beer distributor to sell such beer or  
38 cereal malt beverage to such cereal malt beverage retailer or such liquor  
39 retailer.  
40 (e) No manufacturer of alcoholic liquor or cereal malt beverage shall  
41 sell or attempt to sell any alcoholic liquor or cereal malt beverage within  
42 this state except to a licensed manufacturer, licensed distributor or li-  
43 censed nonbeverage user.

1 (f) No supplier, wholesaler, distributor, manufacturer or importer  
2 shall by oral or written contract or agreement, expressly or impliedly fix,  
3 maintain, coerce or control the resale price of alcoholic liquor, beer or  
4 cereal malt beverage to be resold by such wholesaler, distributor, man-  
5 ufacturer or importer.

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

16 New Sec. 16. No liquor retailer shall purchase or receive alcoholic  
17 liquor or cereal malt beverage from any source except a licensed distrib-  
18 utor having a place of business in this state, except that a licensed liquor  
19 retailer may purchase confiscated alcoholic liquor or cereal malt beverage  
20 at a sheriff's sale. Any liquor retailer who violates this section is guilty of  
21 a misdemeanor, and upon conviction thereof shall be punished by a fine  
22 of not less than \$200, nor more than \$1,000, to which may be added  
23 imprisonment for not more than six months, and the license of such li-  
24 censee may be revoked as provided by law.

25 New Sec. 17. No liquor retailer shall sell any alcoholic liquor or ce-  
26 real malt beverage: (1) On Sunday; (2) on Memorial Day, Independence  
27 Day, Labor Day, Thanksgiving Day or Christmas Day; or (3) before 9  
28 a.m. or after 11 p.m. on any day when the sale is permitted, except that  
29 the governing body of any city by ordinance may require closing prior to  
30 11 p.m., but such ordinance shall not require closing prior to 8 p.m.

31 New Sec. 18. (a) (1) Except as provided by subsection (a)(2), no per-  
32 son shall sell or furnish at retail and no microbrewery or farm winery shall  
33 sell to any consumer any alcoholic liquor or cereal malt beverage on  
34 credit; on a passbook; on order on a store; in exchange for any goods,  
35 wares or merchandise; or in payment for any services rendered. If any  
36 person extends credit in violation of this subsection, the debt attempted  
37 to be created shall not be recoverable at law.

38 (2) A licensed liquor retailer may sell alcoholic liquor, cereal malt  
39 beverage and nonalcoholic malt beverage to a consumer, a licensed mi-  
40 crobrewery may sell domestic beer to a consumer and a licensed farm  
41 winery may sell domestic wine to a consumer on credit pursuant to a  
42 credit card which entitles the user to purchase goods or services from at  
43 least 100 persons not related to the issuer of the credit card.

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

5 New Sec. 19. (a) No person except a manufacturer, distributor, mi-  
6 crobrewery, farm winery or wholesaler shall fill or refill, in whole or in  
7 part, any original package of alcoholic liquor or cereal malt beverage with  
8 the same or any other kind or quality of alcoholic liquor or cereal malt  
9 beverage.

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

13 New Sec. 20. No person or common carrier shall haul or transport  
14 alcoholic liquor or cereal malt beverage in or into this state, for sale, or  
15 for storage and sale in this state, upon which the required labeling or  
16 gauging fee, tax, duty or license has not been paid, except for delivery to  
17 distributors, distillers, manufacturers, importers, blenders, rectifiers,  
18 wholesalers or jobbers maintaining a bonded warehouse within this state.

19 New Sec. 21. It shall be unlawful for any officer, agent or employee  
20 of any railroad company, express company or other common carrier to  
21 deliver any alcoholic liquors or cereal malt beverages to any person other  
22 than to the person to whom such shipment is consigned, or to his au-  
23 thorized agent, and without a written receipt in each instance by such  
24 consignee in person therefor, or by his authorized agent; or to deliver any  
25 such shipments to any person whomsoever where such shipments have  
26 been consigned to a fictitious person or persons under a fictitious name.

27 New Sec. 22. It shall be unlawful for any person to make a false  
28 statement, for the purpose of obtaining alcoholic liquors or cereal malt  
29 beverages, to any railroad, express or transportation company, or any per-  
30 son engaged in the business of transporting goods, wares or merchandise  
31 for the purpose of obtaining the shipment, transportation or delivery of  
32 same.

33 New Sec. 23. (a) No liquor retailer shall sell, directly or indirectly,  
34 any alcoholic liquor or cereal malt beverage at less than the acquisition  
35 cost of such alcoholic liquor or cereal malt beverage without first having  
36 obtained from the director a permit to do so.

37 (b) The director may issue to a licensed liquor retailer a permit au-  
38 thorizing such liquor retailer to sell alcoholic liquor or cereal malt bev-  
39 erage at less than the acquisition cost of such alcoholic liquor or cereal  
40 malt beverage if:

41 (1) The liquor retailer is actually closing out the liquor retailer's stock  
42 for the purpose of completely discontinuing sale of the item of alcoholic  
43 liquor or cereal malt beverage for a period of not less than 12 months;

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

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

5 New Sec. 24. (a) Any room, house, building, boat, vehicle, airplane,  
6 structure or place of any kind where alcoholic liquors or cereal malt bev-  
7 erages are sold, manufactured, bartered or given away, in violation of this  
8 act, or any building, structure or boat where persons are permitted to  
9 resort for the purpose of drinking alcoholic liquors or cereal malt bev-  
10 erages, in violation of the Kansas liquor control act or the cereal malt  
11 beverage retailers' act, or any place where such alcoholic liquor or cereal  
12 malt beverage is kept for sale, barter or gift in violation of the Kansas  
13 liquor control act or the cereal malt beverage retailers' act. All such al-  
14 coholic liquor or cereal malt beverage and all property kept in and used  
15 in maintaining such a place, are each and all of them hereby declared to  
16 be a common nuisance. Any person who maintains or assists in maintain-  
17 ing such common nuisance is guilty of a misdemeanor punishable by  
18 imprisonment for not more than one year or by a fine not exceeding  
19 \$25,000, or by both. If the court finds that the owner of real property  
20 knew or should have known under the circumstances of the maintenance  
21 of a common nuisance on such property, contrary to the liquor laws of  
22 this state, and did not make a bona fide attempt to abate such nuisance  
23 under the circumstances, such property shall be subject to a lien for, and  
24 may be sold to pay all fines and costs assessed against the occupant of  
25 such building or premises for any violation of the Kansas liquor control  
26 act or the cereal malt beverage retailers' act. Such lien shall be enforced  
27 by civil action, in any court having jurisdiction, by the county or district  
28 attorney of the county wherein such building or premises may be located,  
29 or by the attorney for the director, when ordered by the director. For  
30 purposes of this section, evidence of a bona fide attempt to abate such  
31 nuisance by the owner of the property shall include, but not be limited  
32 to, the filing of a written report, by such owner or at such owner's direc-  
33 tion, to the local law enforcement agency that the property is suspected  
34 by the owner of the property of being used in maintaining a common  
35 nuisance as set forth in K.S.A. 22-3901, and amendments thereto, con-  
36 trary to the liquor laws of this state. If a tenant of any building or premises  
37 uses the building or premises, or any part thereof, in maintaining a com-  
38 mon nuisance as hereinbefore defined, or knowingly permits such use by  
39 another, such use shall render void the lease under which the tenant  
40 holds, and shall cause the right of possession to revert to the owner or  
41 lessor, who may make immediate entry upon the premises, or may invoke  
42 the remedy provided for the forcible detention thereof.

43 (b) Upon the filing of a complaint or information charging that a

1 vehicle or airplane is a common nuisance as above declared, a warrant  
2 shall be issued authorizing and directing the officer to whom it is directed  
3 to arrest the person or persons described in the complaint or information  
4 or the person or persons using the vehicle or airplane in violation of the  
5 Kansas liquor control act or the cereal malt beverage retailers' act and to  
6 seize and take into the officer's custody all such vehicles and airplanes so  
7 used which the officer finds, and safely keep them subject to the order  
8 of the court. In the complaint or information it shall not be necessary to  
9 accurately describe the vehicle or airplane so used, but only such descrip-  
10 tion shall be necessary as will enable the officer executing the warrant to  
11 identify it properly.

12 Whenever any vehicles or airplanes are seized under any such warrant,  
13 whether an arrest has been made or not, a notice shall issue within 48  
14 hours after the return of the warrant in the same manner as a summons,  
15 directed to the defendant in such action and to all persons claiming any  
16 interest in such vehicles or airplanes, fixing a time, to be not less than 60  
17 days, and place at which all persons claiming any interest therein may  
18 appear and answer the complaint made against such vehicles or airplanes  
19 and show cause why they should not be adjudged forfeited and sold as  
20 hereinafter provided. Such notice shall be served upon the defendant in  
21 the action in the same manner as a summons if the defendant is found  
22 within the jurisdiction of the court, and a copy thereof also shall be posted  
23 in one or more public places in the county in which the cause is pending.  
24 If at the time for filing an answer the notice has not been duly served or  
25 sufficient cause appear, the time for answering shall be extended by the  
26 court and such other notice issued as will correct any defect in the pre-  
27 vious notice and give reasonable time and opportunity for all persons  
28 interested to appear and answer. At or before the time fixed by notice,  
29 any person claiming an interest in the vehicles or airplanes seized, may  
30 file an answer in writing, setting up a claim thereto, and shall be admitted  
31 as a party defendant to the proceedings against such vehicles or airplanes.  
32 The complaint or information and answer or answers that may be filed  
33 shall be the only pleadings required. At the time fixed for answer, or at  
34 any other time to be fixed by the court, a trial shall be held in a summary  
35 manner before the court on the allegation of the complaint or information  
36 against the property seized. Whether any answer is filed or not, it shall  
37 be the duty of the county or district attorney to appear and adduce evi-  
38 dence in support of such allegation.

39 (c) If the court finds that such vehicles or airplanes were a nuisance,  
40 as defined in this section, the court shall adjudge forfeited so much  
41 thereof as the court finds to be a common nuisance, and shall order the  
42 officer in whose custody they are to sell them publicly. The officer shall  
43 cause notice to be given by publication for at least one week in the official

1 county paper of the time and place of the sale of the property and shall  
2 file in the court a return showing the sale of the property and the amount  
3 received therefor and shall pay the same into court to await the order of  
4 the court. The court, if it approves such sale, shall declare forfeited the  
5 proceeds of the sale and, after paying out of the proceeds of the sale the  
6 costs of the action, including costs of sale and the keeping and mainte-  
7 nance of the property, shall out of the balance of the money received  
8 from the property at the sale, pay all liens, according to their priorities,  
9 which are established by intervention or otherwise at the hearing or an-  
10 other proceeding brought for that purpose as being bona fide and for  
11 value and as having been created without the lienor having any notice  
12 that the vehicle or airplane was being used in so violating the provisions  
13 of the Kansas liquor control act or the cereal malt beverage retailers' act  
14 and without the lienor having any notice at any time subsequent to the  
15 creation of the lien and prior to the seizure in time to have protected the  
16 lien that the vehicle was so being used. The balance remaining shall be  
17 paid to the state treasurer pursuant to K.S.A. 20-2801, and amendments  
18 thereto. If upon proper proof, a lien as herein provided is established in  
19 excess of the value of the vehicle as found by the court, the court may  
20 order, without sale, the surrender of such vehicle to such lienor upon the  
21 payment of all costs as is herein provided.

22 (d) Either the state or any defendant or other person claiming the  
23 vehicle or airplane seized, or an interest therein, may appeal from the  
24 judgment of the court in any such proceedings against the property seized  
25 in the manner provided for taking appeals in criminal cases. Any claimant  
26 of such property who appeals, in order to stay proceedings, must enter  
27 into an undertaking with two or more sureties to the state of Kansas, to  
28 be approved by the judge of the district court, in the sum of not less than  
29 \$100 nor less than double the amount of the value of the property as  
30 fixed by the court and the costs adjudged against the property, condi-  
31 tioned that the claimant will prosecute the appeal without unnecessary  
32 delay, and if judgment is entered against the claimant on appeal, the  
33 claimant will satisfy the judgment and costs, and no bond shall be required  
34 for an appeal by the state, and such appeal shall stay the execution of the  
35 judgment.

36 New Sec. 25. The attorney for the director when ordered by the  
37 director, or county attorney in the county in which such nuisance exists,  
38 or is kept or maintained, may maintain an action by injunction, in the  
39 name of the state of Kansas, to abate and temporarily or permanently to  
40 enjoin such nuisance. The court shall have the right to make temporary  
41 and final orders as in other injunction proceedings. The plaintiff shall not  
42 be required to give bond in such action.

43 Upon final judgment against the defendant, such court shall allow the

1 attorneys for the state of Kansas a reasonable fee for prosecuting the  
2 action which shall be taxed as costs and shall also order that such room,  
3 house, building, structure, boat or place of any kind shall be closed and  
4 padlocked for a period of not less than three months nor more than two  
5 years, and until the owner, lessee, tenant or occupant thereof shall give  
6 bond with sufficient surety to be approved by the court making the order,  
7 in the penal sum of not less than \$1,000, payable to the state of Kansas,  
8 and conditioned that no alcoholic liquor or cereal malt beverage for a  
9 period of two years thereafter shall be manufactured, possessed, sold,  
10 bartered or given away or furnished or otherwise disposed of thereon or  
11 therein, or kept thereon or therein with intent to sell, barter, give away,  
12 or otherwise dispose of the same, contrary to law and that such person's  
13 surety will pay all fines and costs assessed against such person for violating  
14 such law.

15 If any condition of such bond is violated, the whole amount may be  
16 recovered as a penalty for the use of the state of Kansas; and, in such suit  
17 on the bond, both principal and surety may be joined as party defendants,  
18 and satisfaction may be had from either of them. In such action a notice  
19 to nonresident defendants may be given by publication as authorized by  
20 law under the code of civil procedure, or upon their agents for service in  
21 this state, if any.

22 New Sec. 26. (a) No person shall manufacture, import for distribu-  
23 tion as a distributor at wholesale or distribute or sell alcoholic liquor or  
24 cereal malt beverage at any place within the state without having first  
25 obtained a valid license therefor under the provisions of the Kansas liquor  
26 control act or the cereal malt beverage retailers' act. No person shall  
27 obtain a license to carry on the business authorized by the license as agent  
28 for another, obtain a license by fraud or make any false statement or  
29 otherwise violate any of the provisions of the Kansas liquor control act,  
30 the cereal malt beverage retailers' act or the club and drinking establish-  
31 ment act in obtaining any license under any of such acts. No person having  
32 obtained a license under any of such acts shall violate any of the provisions  
33 thereof with respect to the manufacture, possession, distribution or sale  
34 of alcoholic liquor or cereal malt beverage; or with respect to the main-  
35 tenance of the licensed premises.

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

38 (1) For a first offense, by a fine of not more than \$500; and

39 (2) for a second or subsequent offense, by a fine of not more than  
40 \$1,000 or by imprisonment for not more than six months, or both.

41 (c) Each day any person engages in business as a manufacturer, dis-  
42 tributor, microbrewery, farm winery, cereal malt beverage retailer or liq-  
43 uor retailer in violation of the provisions of the Kansas liquor control act,

1 the cereal malt beverage retailers' act or the club and drinking establish-  
2 ment act shall constitute a separate offense.

3 (d) Any license obtained to carry on the business as agent for another  
4 or any license obtained by fraud or by false statements shall be revoked  
5 by the director. When a license has been revoked for obtaining a license  
6 to carry on the business authorized by the license as agent for another,  
7 or obtained a license by fraud or by any false statement, all alcoholic liquor  
8 and cereal malt beverage in the possession of the person who procured  
9 the license shall be forfeited and sold and the proceeds of the sale shall  
10 be paid to the county treasurer of the county where the alcoholic liquor  
11 or cereal malt beverage was located. During the pendency of any appeal  
12 from any order revoking a license, the director may obtain an order from  
13 the district court of the county where the alcoholic liquor or cereal malt  
14 beverage is located, restraining the sale or disposal of the alcoholic liquor  
15 or cereal malt beverage. When an order revoking any license is issued by  
16 the director, the director shall forthwith forward by registered mail a  
17 certified copy of the order revoking the license under the seal of the  
18 director to the county attorney of the county where the alcoholic liquor  
19 or cereal malt beverage is located.

20 Within 15 days after the order of revocation becomes final, the county  
21 attorney shall institute, against the person who procured the license, a  
22 civil action under the code of civil procedure in the district court of the  
23 county in the name of the state of Kansas on the relation of the county  
24 attorney to forfeit all alcoholic liquor and cereal malt beverage. Summons  
25 shall be served as provided by the code of civil procedure upon the person  
26 who procured the license. Upon the return day of the summons issued  
27 or as soon after as convenient to the court, an order shall be entered by  
28 the court forfeiting the alcoholic liquor and cereal malt beverage to the  
29 state of Kansas and ordering it to be sold by the sheriff of the county in  
30 which the forfeiture occurred. The order shall fix the time and place of  
31 sale and the method and manner in which the sale shall be held, together  
32 with notice of the sale as the court directs. After payment of all costs of  
33 the action, including a reasonable fee for the county attorney, the balance  
34 remaining shall be paid to the state treasurer pursuant to K.S.A. 20-2801  
35 and amendments thereto.

36 New Sec. 27. Any person who knowingly shall possess, sell, ship,  
37 transport or in any way dispose of any alcoholic liquor or cereal malt  
38 beverage under any other than the proper name or brand known to the  
39 trade as designating the kind and quality of the contents of the package  
40 or other containers of such alcoholic liquor or cereal malt beverage or  
41 who shall cause any such act to be done, shall forfeit to the state such  
42 alcoholic liquor or cereal malt beverage and such packages and containers,  
43 and shall be subject to the punishment and penalties provided for viola-

1 tion of the Kansas liquor control act.

2 New Sec. 28. In any indictment, information or complaint, charging  
3 the violation of any of the provisions of the Kansas liquor control act, the  
4 club and drinking establishment act or the cereal malt beverage retailers'  
5 act, it shall be sufficient to charge that the accused unlawfully manufac-  
6 tured, sold, offered for sale, kept for sale, delivered or otherwise unlaw-  
7 fully disposed of alcoholic liquor or cereal malt beverage without any  
8 further or more specific description of such alcoholic liquor or cereal malt  
9 beverage; and proof of any kind of alcoholic liquor or cereal malt beverage  
10 unlawfully manufactured, sold, offered for sale, kept for sale, delivered,  
11 or otherwise unlawfully disposed of, as the case may be, shall be sufficient  
12 proof as to the character or kind of alcoholic liquor or cereal malt  
13 beverage.

14 New Sec. 29. In any indictment, information, or complaint charging  
15 the violation of any of the provisions of the Kansas liquor control act, the  
16 club and drinking establishment act or the cereal malt beverage retailers'  
17 act, it shall not be necessary to allege the quantity of such alcoholic liquor  
18 or cereal malt beverage or the kind thereof further than to allege that the  
19 same was alcoholic liquor or cereal malt beverage, as the case may be. In  
20 case of sale, keeping for sale or delivery, it shall not be necessary to set  
21 out the name of the person to whom sale or delivery has been made. In  
22 any prosecution for a second offense, it shall not be necessary to state in  
23 the indictment, complaint or information the record of the former con-  
24 viction, but it shall be sufficient briefly to allege such conviction. Proof  
25 of sale, delivery or unlawful disposition of alcoholic liquors or cereal malt  
26 beverages to any person, not authorized by the Kansas liquor control act,  
27 the club and drinking establishment act or the cereal malt beverage re-  
28 tailers' act to purchase or receive the same, shall be sufficient to sustain  
29 the allegation of unlawful sale, delivery or disposition, as the case may be.

30 New Sec. 30. The possession of a special tax stamp from the govern-  
31 ment of the United States authorizing the sale or manufacture of alcoholic  
32 liquor or cereal malt beverage by a person not licensed under the Kansas  
33 liquor control act, the club and drinking establishment act or the cereal  
34 malt beverage retailers' act shall be prima facie evidence that the person  
35 so holding such special tax stamp is manufacturing or selling in violation  
36 of law. A certified copy of such special tax stamp verified by the proper  
37 authority shall be admitted in evidence in all respects as the original spe-  
38 cial tax stamp might be received.

39 New Sec. 31. (a) No distributor shall purchase any alcoholic liquor  
40 or cereal malt beverage from any manufacturer, owner of alcoholic liquor  
41 or cereal malt beverage at the time it becomes a marketable product,  
42 exclusive agent of such manufacturer or owner, microbrewery, farm win-  
43 ery or distributor of alcoholic liquor or cereal malt beverage bottled in a

1 foreign country either within or without this state, unless the manufac-  
2 turer, owner, exclusive agent, microbrewery, farm winery or distributor  
3 files with the director a written statement sworn to by the manufacturer,  
4 owner, exclusive agent, microbrewery, farm winery or distributor or, in  
5 case of a corporation, one of its principal officers, agreeing to sell any of  
6 the brands or kinds of alcoholic liquor or cereal malt beverage manufac-  
7 tured or distributed by the manufacturer, owner, exclusive agent, micro-  
8 brewery, farm winery or distributor to any distributor licensed in this state  
9 and having a franchise to distribute the alcoholic liquor pursuant to K.S.A.  
10 41-410, and amendments thereto, and to make such sales to all such  
11 licensed distributors in this state at the same current price and without  
12 discrimination. Each manufacturer, owner, exclusive agent, microbrewery  
13 or farm winery shall provide to each distributor written notice not less  
14 than 45 days before any change in the current price of any spirits or wine  
15 which such manufacturer, owner, exclusive agent, microbrewery or farm  
16 winery sells to such distributor. If any manufacturer, owner, exclusive  
17 agent, microbrewery, farm winery or distributor making the agreement  
18 violates the agreement by refusing to sell such alcoholic liquor or cereal  
19 malt beverage to any such franchised licensed distributor in this state or  
20 discriminates in current prices among such franchised licensed distribu-  
21 tors making or attempting to make purchases of alcoholic liquor or cereal  
22 malt beverage from the manufacturer, owner, exclusive agent, micro-  
23 brewery, farm winery or distributor, the director shall notify, by registered  
24 mail, each such franchised licensed distributor in this state of the viola-  
25 tion. Thereupon, it shall be unlawful for a franchised licensed distributor  
26 in this state to purchase any alcoholic liquor or cereal malt beverage from  
27 the manufacturer, owner, exclusive agent, microbrewery, farm winery or  
28 distributor. If thereafter such a franchised licensed distributor purchases  
29 any alcoholic liquor or cereal malt beverage from the manufacturer,  
30 owner, exclusive agent, microbrewery, farm winery or distributor, such  
31 franchised distributor's license shall be revoked by the director. If any  
32 manufacturer, owner, exclusive agent, microbrewery, farm winery or dis-  
33 tributor of alcoholic liquor or cereal malt beverage bottled in a foreign  
34 country, making any agreement hereunder, does not have a sufficient  
35 supply of alcoholic liquor or cereal malt beverage of any of the brands or  
36 kinds which the manufacturer, owner, exclusive agent, microbrewery,  
37 farm winery or distributor manufactures or distributes to supply the de-  
38 mands of all licensed distributors having a franchise to distribute such  
39 alcoholic liquor or cereal malt beverage, the manufacturer, owner, exclu-  
40 sive agent, microbrewery, farm winery or distributor may ration such  
41 alcoholic liquor or cereal malt beverage and apportion the available supply  
42 among such franchised licensed distributors purchasing or attempting to  
43 purchase it, in accordance with a plan which shall be subject to the ap-

1 proval of the director.

2 (b) No liquor retailer shall purchase any alcoholic liquor from any  
3 distributor unless the distributor files with the director a written state-  
4 ment sworn to by the distributor, or in case of a corporation by one of its  
5 principal officers, agreeing to sell any of the brands or kinds of alcoholic  
6 liquor distributed by the distributor and to provide service in connection  
7 therewith to any liquor retailer whose licensed premises are located  
8 within the geographic territory of the distributor's franchise for the al-  
9 coholic liquor, unless written approval to do otherwise is obtained from  
10 the director, and to make such sales to all such liquor retailers at the same  
11 current bottle, sleeve and case price and without discrimination. For pur-  
12 poses of this subsection the "same current bottle, sleeve and case price"  
13 for spirits and wine means a price effective for a specified period as des-  
14 ignated by the distributor on or before the first day of each month. If any  
15 distributor making the agreement violates the agreement by refusing to  
16 sell or provide service to any such liquor retailer in this state without  
17 written approval of the director or discriminates in current prices among  
18 such liquor retailers making or attempting to make purchases of alcoholic  
19 liquor from the distributor, the director may revoke the license of the  
20 distributor. If any licensed distributor making any agreement hereunder  
21 does not have a sufficient supply of alcoholic liquor of any of the brands  
22 or kinds which the distributor distributes to supply the demands of all  
23 such liquor retailers, the distributor may ration such alcoholic liquor and  
24 apportion the available supply among such liquor retailers purchasing or  
25 attempting to purchase the same, in accordance with a plan which shall  
26 be subject to the approval of the director.

27 (c) No club or drinking establishment licensed in this state shall pur-  
28 chase any wine, beer or cereal malt beverage from any distributor unless  
29 the distributor files with the director a written statement sworn to by the  
30 distributor, or in case of a corporation by one of its principal officers,  
31 agreeing to sell any of the brands or kinds of wine, beer or cereal malt  
32 beverage distributed by the distributor to those clubs and drinking estab-  
33 lishments to which the distributor is authorized to sell such wine, beer or  
34 cereal malt beverage and to which the distributor desires to sell such wine,  
35 beer or cereal malt beverage, unless written approval to do otherwise is  
36 obtained from the director and to make such sales to all such licensed  
37 clubs or drinking establishments at the same current bottle and case price  
38 and without discrimination. If any distributor making the agreement vi-  
39 olates the agreement by refusing to sell to any such licensed club or  
40 drinking establishment in this state without written approval of the di-  
41 rector or discriminates in current prices among such licensed clubs or  
42 drinking establishments making or attempting to make purchases of wine,  
43 beer or cereal malt beverage from the distributor, the director may revoke

1 the license of the distributor. If any licensed distributor making any agree-  
2 ment hereunder does not have a sufficient supply of wine, beer or cereal  
3 malt beverage of any of the brands or kinds which the distributor distrib-  
4 utes to supply the demands of all such licensed clubs or drinking estab-  
5 lishments, the distributor may ration such wine, beer or cereal malt bev-  
6 erage and apportion the available supply among such licensed clubs or  
7 drinking establishments purchasing or attempting to purchase the same,  
8 in accordance with a plan which shall be subject to the approval of the  
9 director.

10 For the purposes of this subsection, a delivery charge shall not be  
11 considered a part of the price of wine, beer or cereal malt beverage sold  
12 by a distributor.

13 (d) No liquor retailer or cereal malt beverage retailer shall purchase  
14 any cereal malt beverage from any distributor unless the distributor files  
15 with the director a written statement sworn to by the distributor, or in  
16 case of a corporation by one of its principal officers, agreeing to sell any  
17 of the brands or kinds of cereal malt beverage distributed by the distrib-  
18 utor and to provide service in connection therewith to any liquor retailer  
19 or cereal malt beverage retailer to which the distributor is authorized to  
20 sell such cereal malt beverage, unless written approval to do otherwise is  
21 obtained from the director, and to make such sales to all such liquor  
22 retailers and cereal malt beverage retailers at the same current price and  
23 without discrimination. If any distributor making the agreement violates  
24 the agreement by refusing to sell or provide service to any such liquor  
25 retailer or cereal malt beverage retailer in this state without written ap-  
26 proval of the director or discriminates in current prices among such liquor  
27 retailers or cereal malt beverage retailers making or attempting to make  
28 purchases of cereal malt beverage from the distributor, the director may  
29 revoke the license of the distributor. If any distributor making any agree-  
30 ment hereunder does not have a sufficient supply of cereal malt beverage  
31 of any of the brands or kinds which the distributor distributes to supply  
32 the demands of all such liquor retailers and cereal malt beverage retailers,  
33 the distributor may ration such cereal malt beverage and apportion the  
34 available supply among such liquor retailers and cereal malt beverage  
35 retailers purchasing or attempting to purchase the same, in accordance  
36 with a plan which shall be subject to the approval of the director.

37 (e) No distributor shall sell alcoholic liquor or cereal malt beverage  
38 at a discount for multiple lots to a licensed liquor retailer; a club, drinking  
39 establishment or caterer licensed pursuant to the club and drinking es-  
40 tablishment act; or a licensed cereal malt beverage retailer.

41 New Sec. 32. Any licensee who shall quit business or shall have the  
42 license suspended or revoked may sell and dispose of any alcoholic liquor  
43 or cereal malt beverage which the licensee has possession of at the time

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

4 New Sec. 33. The director is authorized to sell at public or private  
5 sale alcoholic liquor or cereal malt beverage in the director's custody  
6 heretofore or hereafter purchased or confiscated by agents of the division  
7 or other law enforcement officers of the state for use as evidence in any  
8 investigation, proceeding or trial when such liquor or cereal malt beverage  
9 is no longer required for such investigation, trial or proceeding.

10 New Sec. 34. All alcoholic liquor or cereal malt beverage in the cus-  
11 tody of the director through seizure by agents of the division or other law  
12 enforcement officers of the state under authority of a duly executed  
13 search warrant shall be held until final determination of any prosecution  
14 arising under such search and seizure. Upon the final determination of  
15 such prosecution and if such alcoholic liquor or cereal malt beverage is  
16 fit for human consumption the director may make application to the court  
17 in which such alcoholic liquor or cereal malt beverage was offered as  
18 evidence for an order to sell such liquor or cereal malt beverage. The  
19 court, if satisfied that such liquor or cereal malt beverage so seized was  
20 being manufactured, distributed, stored, sold or used in violation of law,  
21 shall make an order that such property be sold by the director at public  
22 or private sale.

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

25 New Sec. 35. The sheriff of any county who possesses alcoholic liq-  
26 uors or cereal malt beverages on which has been levied execution for a  
27 judgment creditor may sell such alcoholic liquors or cereal malt beverages  
28 when an order of the court is entered directing such sale. Such order  
29 shall be directed to the sheriff of the county in which execution is levied  
30 and shall fix the time and place of sale, method and manner in which the  
31 sale shall be held, together with such notice as the court shall direct. After  
32 payment of all costs of the action, the balance shall be paid to the judg-  
33 ment creditor. If the amount exceeds the amount of the judgment, then  
34 any excess of the judgment amount shall be returned to defendant debtor.  
35 This section shall not apply in any case in which the court has ordered  
36 and directed confiscation of alcoholic liquor or cereal malt beverage as  
37 part of a judgment or conviction.

38 New Sec. 36. Any person allowing consumption of alcoholic liquor  
39 or cereal malt beverage in violation of the Kansas liquor control act, the  
40 club and drinking establishment act or the cereal malt beverage retailers'  
41 act on any property owned, leased or otherwise under such person's con-  
42 trol shall thereby subject such person and the property on which the  
43 illegal consumption takes place to the penalties hereinafter provided.

- 1 (a) The person allowing such consumption shall be guilty of a mis-  
2 demeanor and upon conviction thereof shall be subject to a fine not to  
3 exceed \$500 or confinement in the county jail not to exceed six months  
4 or both such fine and imprisonment.
- 5 (b) The property on which the violation takes place is declared to be  
6 a public nuisance and as such is subject to abatement as provided in K.S.A.  
7 41-805, and amendments thereto.
- 8 New Sec. 37. It shall be unlawful for any licensee or holder of a  
9 temporary permit under the club and drinking establishment act to:
- 10 (a) Employ any person under the age of 18 years in connection with  
11 the serving of alcoholic liquor or cereal malt beverage.
- 12 (b) Employ knowingly or continue in employment any person in con-  
13 nection with the dispensing or serving of alcoholic liquor or cereal malt  
14 beverage or the mixing of drinks containing alcoholic liquor who has been  
15 adjudged guilty of a felony or of any crime involving a morals charge in  
16 this or any other state, or of the United States.
- 17 (c) Employ knowingly or to continue in employment any person in  
18 connection with the dispensing or serving of alcoholic liquor or cereal  
19 malt beverage or mixing of drinks containing alcoholic liquor who has  
20 been adjudged guilty of a violation of any intoxicating liquor law of this  
21 or any other state, or of the United States, during the two-year period  
22 immediately following such adjudging.
- 23 (d) In the case of a club, fail to maintain at the licensed premises a  
24 current list of all members and their residence addresses or refuse to  
25 allow the director, any of the director's authorized agents or any law  
26 enforcement officer to inspect such list.
- 27 (e) Purchase alcoholic liquor or cereal malt beverage from any person  
28 except from a person authorized by law to sell such alcoholic liquor or  
29 cereal malt beverage to such licensee or permit holder.
- 30 (f) Permit any employee of the licensee or permit holder who is under  
31 the age of 21 years to work on premises where alcoholic liquor or cereal  
32 malt beverage is sold by such licensee or permit holder at any time when  
33 not under the on-premises supervision of either the licensee or permit  
34 holder, or an employee who is 21 years of age or over.
- 35 (g) Employ any person under 21 years of age in connection with the  
36 mixing or dispensing of drinks containing alcoholic liquor or cereal malt  
37 beverage.
- 38 New Sec. 38. The director may revoke or suspend any license issued  
39 pursuant to the club and drinking establishment act for any one or more  
40 of the following reasons:
- 41 (a) The licensee has fraudulently obtained the license by giving false  
42 information in the application therefor or any hearing thereon.
- 43 (b) The licensee has violated any of the provisions of the club and

1 drinking establishment act or any rules and regulations adopted  
2 hereunder.

3 (c) The licensee has become ineligible to obtain a license or permit  
4 under the club and drinking establishment act.

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

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

10 (f) There has been a violation of a provision of the laws of this state,  
11 or of the United States, pertaining to the sale of intoxicating or alcoholic  
12 liquors or cereal malt beverages, or any crime involving a morals charge,  
13 on premises where alcoholic liquor or cereal malt beverage is sold by such  
14 licensee.

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

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

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

29 (j) There has been a violation of K.S.A. 21-4106 or 21-4107, and  
30 amendments thereto, on premises where alcoholic liquor or cereal malt  
31 beverage is sold by such licensee.

32 New Sec. 39. (a) Except as provided by subsection (c), no club or  
33 drinking establishment shall allow the serving, mixing or consumption of  
34 alcoholic liquor or cereal malt beverage on the licensed premises between  
35 the hours of 2:00 a.m. and 9:00 a.m. on any day.

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

39 (c) A hotel of which the entire premises are licensed as a drinking  
40 establishment or as a drinking establishment/caterer may allow at any time  
41 the serving, mixing and consumption of alcoholic liquor and cereal malt  
42 beverage from a minibar in a guest room by guests registered to stay in  
43 such room, and guests of guests registered to stay in such room.

1 New Sec. 40. (a) It shall be unlawful for a distributor or a manufac-  
2 turer, or any officer, agent or employee thereof, to influence, coerce or  
3 induce or attempt to influence, coerce or induce, either directly or indi-  
4 rectly, any holder of a license issued under the club and drinking estab-  
5 lishment act, or any officer, agent or employee of the holder of such a  
6 license, to: (1) Purchase any particular brand or kind of alcoholic liquor  
7 or cereal malt beverage to be dispensed by the licensee, except that a  
8 distributor or manufacturer may provide to a licensee information re-  
9 garding the availability of brands in the market and things of value as  
10 authorized by subsection (d) of K.S.A. 41-703, and amendments thereto;  
11 or (2) purchase from a particular liquor retailer alcoholic liquor to be  
12 dispensed by the licensee.

13 (b) Violation of this section is a misdemeanor punishable by a fine of  
14 not less than \$100 nor more than \$1,000 or by imprisonment for not more  
15 than six months, or by both.

16 New Sec. 41. (a) A license for a class A club shall allow the licensee  
17 to offer for sale, sell and serve alcoholic liquor and cereal malt beverage  
18 for consumption on the licensed premises by members and their families,  
19 and guests accompanying them.

20 (b) (1) Subject to the provisions of subsection (b)(2), any two or more  
21 class A or class B clubs may permit, by an agreement filed with and  
22 approved by the director, the members of each such club to have access  
23 to all other clubs which are parties to such agreement. The privileges  
24 extended to the visiting members of other clubs under such an agreement  
25 shall be determined by the agreement and, if the agreement so provides,  
26 any club which is a party to such agreement may sell, offer for sale and  
27 serve, to any person who is a member of another club which is a party to  
28 such agreement, alcoholic liquor and cereal malt beverage for consump-  
29 tion on the licensed premises by such person and such person's family,  
30 and guests accompanying them.

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

33 New Sec. 42. (a) A license for a class B club shall allow the licensee  
34 to offer for sale, sell and serve alcoholic liquor and cereal malt beverage  
35 for consumption on the licensed premises by members of such club and  
36 guests accompanying them.

37 (b) (1) Subject to the provisions of subsection (b)(2), any two or more  
38 class A or class B clubs may permit, by an agreement filed with and  
39 approved by the director, the members of each such club to have access  
40 to all other clubs which are parties to such agreement. The privileges  
41 extended to the visiting members of other clubs under such an agreement  
42 shall be determined by the agreement and, if the agreement so provides,  
43 any club which is a party to such agreement may sell, offer for sale and

- 1 serve, to any person who is a member of another club which is a party to  
2 such agreement, alcoholic liquor and cereal malt beverage for consump-  
3 tion on the licensed premises by such person and such person's family,  
4 and guests accompanying them.
- 5 (2) A class B club may enter into a reciprocal agreement authorized  
6 by subsection (b)(1) only if the class B club is a restaurant.
- 7 (c) Except as provided by subsection (d), an applicant for member-  
8 ship in a class B club shall, before becoming a member of such club:
- 9 (1) Be screened by the club for good moral character;  
10 (2) pay an annual membership fee of not less than \$10; and  
11 (3) wait for a period of 10 days after completion of the application  
12 form and payment of the membership fee.
- 13 (d) Notwithstanding the membership fee and waiting period require-  
14 ment of subsection (c):
- 15 (1) Any class B club located on the premises of a hotel or RV resort  
16 may establish rules whereby a guest, who is registered at the hotel or RV  
17 resort and who is not a resident of the county in which the club is located,  
18 may file application for temporary membership in such club. The mem-  
19 bership, if granted, shall be valid only for the period of time that the guest  
20 is a bona fide registered guest at the hotel or RV resort and such tem-  
21 porary membership shall not be subject to the waiting period or fee re-  
22 quirement of this section.
- 23 (2) Any class B club located on property which is owned or operated  
24 by a municipal airport authority and upon which consumption of alcoholic  
25 liquor is authorized by law may establish rules whereby an air traveler  
26 who is a holder of a current airline ticket may file application for tem-  
27 porary membership in such club for the day such air traveler's ticket is  
28 valid, and such temporary membership shall not be subject to the waiting  
29 period or fee requirement of this section.
- 30 (3) Any class B club may establish rules whereby military personnel  
31 of the armed forces of the United States on temporary duty and housed  
32 at or near any military installation located within the exterior boundaries  
33 of the state of Kansas may file application for temporary membership in  
34 such club. The membership, if granted, shall be valid only for the period  
35 of the training, not to exceed 20 weeks. Any person wishing to make  
36 application for temporary membership in a class B club under this sub-  
37 section (d)(3) shall present the temporary duty orders to the club. Tem-  
38 porary membership issued under this subsection (d)(3) shall not be sub-  
39 ject to the waiting period or fee requirements of this section.
- 40 (4) Any class B club may enter into a written agreement with a hotel  
41 or RV resort whereby a guest who is registered at the hotel or RV resort  
42 and who is not a resident of the county in which the club is located may  
43 file application for temporary membership in such club. The temporary

1 membership, if granted, shall be valid only for the period of time that the  
2 guest is a bona fide registered guest at the hotel or RV resort and shall  
3 not be subject to the waiting period or dues requirement of this section.  
4 A club may enter into a written agreement with a hotel or RV resort  
5 pursuant to this provision only if (A) the hotel or RV resort is located in  
6 the same county as the club, (B) there is no class B club located on the  
7 premises of the hotel or RV resort and (C) no other club has entered into  
8 a written agreement with the hotel or RV resort pursuant to this section.

9 (5) Any class B club located in a racetrack facility where races with  
10 parimutuel wagering are conducted under the Kansas parimutuel racing  
11 act may establish rules whereby persons attending such races may file an  
12 application for temporary membership in such club for the day such per-  
13 son is attending such races, and such temporary membership shall not be  
14 subject to the waiting period or fee requirement of this section.

15 New Sec. 43. (a) A license for a drinking establishment shall allow  
16 the licensee to offer for sale, sell and serve alcoholic liquor and cereal  
17 malt beverage for consumption on the licensed premises which may be  
18 open to the public, but only if such premises are located in a county where  
19 the qualified electors of the county:

20 (1) (A) Approved, by a majority vote of those voting thereon, the  
21 proposition to amend section 10 of article 15 of the constitution of the  
22 state of Kansas at the general election in November 1986, or (B) have  
23 approved a proposition to allow sales of alcoholic liquor by the individual  
24 drink in public places within the county at an election pursuant to K.S.A.  
25 41-2646, 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 (b) A drinking establishment shall be required to derive from sales  
30 of food for consumption on the licensed premises not less than 30% of  
31 all the establishment's gross receipts from sales of food and beverages on  
32 such premises unless the licensed premises are located in a county where  
33 the qualified electors of the county:

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

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

42 (c) A drinking establishment shall specify in the application for a li-  
43 cense or renewal of a license the premises to be licensed, which may

1 include all premises which are in close proximity and are under the con-  
2 trol of the applicant or licensee.

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

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

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

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

16 New Sec. 44. (a) A caterer's license shall allow the licensee to offer  
17 for sale, sell and serve alcoholic liquor and cereal malt beverage for con-  
18 sumption on unlicensed premises, which may be open to the public, but  
19 only if such premises are located in a county where the qualified electors  
20 of the county:

21 (1) (A) Approved, by a majority vote of those voting thereon, the  
22 proposition to amend section 10 of article 15 of the constitution of the  
23 state of Kansas at the general election in November, 1986, or (B) have  
24 approved a proposition to allow sales of alcoholic liquor by the individual  
25 drink in public places within the county at an election pursuant to K.S.A.  
26 41-2646, and amendments thereto; and

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

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

35 (1) Have approved, at an election pursuant to K.S.A. 41-2646, and  
36 amendments thereto, a proposition to allow sales of alcoholic liquor by  
37 the individual drink in public places within the county without a require-  
38 ment that any portion of their gross receipts be derived from the sale of  
39 food; 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 (c) Each caterer shall maintain the caterer's principal place of busi-

1   ness in a county in this state where the caterer is authorized by this section  
2   to sell alcoholic liquor by the individual drink in a public place. All records  
3   of the caterer relating to the caterer's licensed business and the caterer's  
4   license shall be kept at such place of business. The caterer's principal  
5   place of business shall be stated in the application for a caterer's license  
6   and the caterer shall notify the director of any change in its location within  
7   10 days after such change.

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

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

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

16   (e) A caterer may rebate a portion of the caterer's receipts from the  
17   sale of alcoholic liquor or cereal malt beverage, or both, at an event to  
18   the person or organization contracting with the caterer to sell alcoholic  
19   liquor or cereal malt beverage, or both, at such event.

20   New Sec. 45. (a) A temporary permit shall allow the permit holder  
21   to offer for sale, sell and serve alcoholic liquor and cereal malt beverage  
22   for consumption on unlicensed premises, which may be open to the pub-  
23   lic, subject to the terms of such permit.

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

28   (c) Applications for temporary permits shall be required to be filed  
29   with the director not less than 14 days before the event for which the  
30   permit is sought unless the director waives such requirement for good  
31   cause. Each application shall state the purposes for which the proceeds  
32   of the event will be used. The application shall be upon a form prescribed  
33   and furnished by the director and shall be filed with the director in du-  
34   plicate. Each application shall be accompanied by a permit fee of \$25 for  
35   each day for which the permit is issued, which fee shall be paid by a  
36   certified or cashier's check of a bank within this state, United States post  
37   office money order or cash in the full amount thereof. All permit fees  
38   collected by the director pursuant to this section shall be remitted to the  
39   state treasurer in accordance with the provisions of K.S.A. 75-4215, and  
40   amendments thereto. Upon receipt of each such remittance, the state  
41   treasurer shall deposit the entire amount in the state treasury to the credit  
42   of the state general fund.

43   (d) Temporary permits shall specify the premises for which they are

1 issued and shall be issued only for premises where the city, county or  
2 township zoning code allows use for which the permit is issued. No tem-  
3 porary permit shall be issued for premises which are not located in a  
4 county where the qualified electors of the county:

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

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

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

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

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

22 (h) The director may refuse to issue a temporary permit to any person  
23 or organization which has violated any provision of the Kansas liquor  
24 control act, the club and drinking establishment act, K.S.A. 79-41a01 et  
25 seq. or section 57, and amendments thereto.

26 New Sec. 46. (a) No cereal malt beverage retailer shall sell any cereal  
27 malt beverage without having first secured a license for each place of  
28 business as herein provided. If such place of business is located within  
29 the corporate limits of a city in which the cereal malt beverage retailers'  
30 act is applicable, the application for a license shall be made to the gov-  
31 erning body of such city. A place of business, other than a railway car,  
32 located outside the corporate limits of a city may be licensed only if the  
33 place of business is located in a township in which the cereal malt bev-  
34 erage retailers' act is applicable, and the application for a license for such  
35 place of business shall be made to the board of county commissioners in  
36 the county in which such place of business is to be located. The appli-  
37 cation for a license to sell on railway cars shall be made to the director  
38 as hereinafter provided.

39 (b) A board of county commissioners shall not issue or renew a cereal  
40 malt beverage retailer's license without giving the clerk of the township  
41 where the place of business is to be located written notice by registered  
42 mail of the filing of the application for licensure or renewal. The township  
43 board may within 10 days file advisory recommendations as to the grant-

1 ing of such license or renewal and such advisory recommendations shall  
2 be considered by the board of county commissioners before such license  
3 is issued. If an original license is granted and issued, the board of county  
4 commissioners shall grant and issue renewals thereof upon application of  
5 the license holder, if the license holder is qualified to receive the same  
6 and the license has not been revoked as provided by law.

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

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

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

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

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

40 (f) The director shall remit all fees collected by the director to the  
41 state treasurer in accordance with the provisions of K.S.A. 75-4215, and  
42 amendments thereto. Upon receipt of each such remittance, the state  
43 treasurer shall deposit the entire amount in the state treasury to the credit

1 of the state general fund, except that the director may provide for the  
2 deposit in the cereal malt beverage tax refund fund of such amounts as  
3 necessary for the refund of any license fees collected hereunder.

4 (g) For any township or city in which the cereal malt beverage re-  
5 tailers' act is applicable, the board of county commissioners of the county  
6 in which the township is located or the governing body of the city, as the  
7 case may be, shall issue a license upon application duly made as otherwise  
8 provided for herein, to any cereal malt beverage retailer engaged in busi-  
9 ness in such township or city and qualified to receive such license, to sell  
10 only cereal malt beverages in original and unopened containers, and not  
11 for consumption on the premises. The annual license fee for such license,  
12 which shall be in addition to the fee provided by subsection (e), shall be  
13 not less than \$25 nor more than \$50.

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

16 New Sec. 47. (a) After examination and approval of an application  
17 for a cereal malt beverage retailer's license for a place of business located  
18 in a township in which the cereal malt beverage retailers' act is applicable,  
19 the board of county commissioners or the director shall issue a license to  
20 the applicant. For a place of business located in a city in which the cereal  
21 malt beverage retailers' act is applicable, the governing body of the city  
22 shall issue a license to an applicant if the applicant is qualified as provided  
23 by law.

24 (b) No cereal malt beverage retailer's license shall be issued to:

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

29 (2) A person who has not been a resident of this state for at least one  
30 year immediately preceding application for a cereal malt beverage re-  
31 tailer's license.

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

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

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

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

42 (7) A corporation, if any manager, officer or director thereof, or any  
43 stockholder owning in the aggregate more than 25% of the stock of such

1 corporation, would be ineligible to receive a license hereunder for any  
2 reason other than the citizenship and residency requirements.

3 (8) A corporation, if any manager, officer or director thereof, or any  
4 stockholder owning in the aggregate more than 25% of the stock of such  
5 corporation, has been an officer, manager or director, or a stockholder  
6 owning in the aggregate more than 25% of the stock, of a corporation  
7 which: (A) Has had a license revoked under K.S.A. 41-2708 or section  
8 51, and amendments thereto; or (B) has been convicted of a violation of  
9 the cereal malt beverage retailers' act, the Kansas liquor control act, the  
10 club and drinking establishment act or K.S.A. 41-2701 et seq., and amend-  
11 ments thereto.

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

15 (10) A person whose spouse would be ineligible to receive a cereal  
16 malt beverage retailer's license for any reason other than citizenship, res-  
17 idence requirements or age, except that this subsection (b)(10) shall not  
18 apply in determining eligibility for a renewal license.

19 (11) A person whose spouse has been convicted of a felony or other  
20 crime which would disqualify a person from licensure under this section  
21 and such felony or other crime was committed during the time that the  
22 spouse held a license issued under this act or under K.S.A. 41-2702, and  
23 amendments thereto.

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

30 New Sec. 48. (a) In addition to and consistent with the requirements  
31 of the cereal malt beverage retailers' act, the board of county commis-  
32 sioners of any county or the governing body of any city may prescribe  
33 hours of closing, standards of conduct and rules and regulations concern-  
34 ing the moral, sanitary and health conditions of cereal malt beverage  
35 retailers pursuant to this act and may establish zones within which no  
36 such place may be located.

37 (b) No cereal malt beverages may be sold for consumption on the  
38 premises by a cereal malt beverage retailer:

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

40 (2) on Sunday, except in a place of business which is licensed to sell  
41 cereal malt beverage for consumption on the premises, which derives not  
42 less than 30% of its gross receipts from the sale of food for consumption  
43 on the licensed premises and which is located in a county where such

- 1 sales on Sunday have been authorized by resolution of the board of county  
2 commissioners of the county or in a city where such sales on Sunday have  
3 been authorized by ordinance of the governing body of the city.
- 4 (c) No cereal malt beverage may be sold in the original and unopened  
5 container by a cereal malt beverage retailer:
- 6 (1) Before 9 a.m. or after 11 p.m. on any day when the sale is  
7 permitted;
- 8 (2) on Sunday; or
- 9 (3) on Decoration or Memorial day, Independence Day, Labor day,  
10 Thanksgiving day or Christmas day.
- 11 (d) No private rooms or closed booths shall be operated in a cereal  
12 malt beverage retailer's place of business, but this provision shall not apply  
13 if the licensed premises are also currently licensed as a club pursuant to  
14 the club and drinking establishment act.
- 15 (e) Each cereal malt beverage retailer's place of business shall be  
16 open to the public and to law enforcement officers at all times during  
17 business hours.
- 18 (f) No cereal malt beverage retailer shall permit a minor to consume  
19 or purchase any cereal malt beverage in or about the cereal malt beverage  
20 retailer's place of business, and no cereal malt beverage retailer shall  
21 permit a minor to possess cereal malt beverage in or about the cereal  
22 malt beverage retailer's place of business, except that a cereal malt bev-  
23 erage retailer's employee who is not less than 18 years of age may dispense  
24 or sell cereal malt beverage, if:
- 25 (1) The cereal malt beverage retailer's place of business is licensed  
26 only to sell cereal malt beverage at retail in original and unopened con-  
27 tainers and not for consumption on the premises; or
- 28 (2) the cereal malt beverage retailer's place of business is a licensed  
29 food service establishment, as defined by K.S.A. 36-501 and amendments  
30 thereto, and not less than 50% of the gross receipts from the cereal malt  
31 beverage retailer's place of business is derived from the sale of food for  
32 consumption on the licensed premises of the cereal malt beverage re-  
33 tailer's place of business.
- 34 (g) No person shall have any alcoholic liquor in such person's pos-  
35 session while in a cereal malt beverage retailer's place of business.
- 36 (h) No cereal malt beverage retailer shall sell, directly or indirectly,  
37 any cereal malt beverage at less than the acquisition cost of such cereal  
38 malt beverage without first having obtained from the director a permit  
39 to do so. The director may issue to a licensed cereal malt beverage retailer  
40 a permit authorizing the cereal malt beverage retailer to sell cereal malt  
41 beverage at less than the acquisition cost of such cereal malt beverage if:
- 42 (1) The cereal malt beverage retailer is actually closing out the cereal  
43 malt beverage retailers' stock for the purpose of completely discontinuing

1 the sale of the item of cereal malt beverage for a period of not less than  
2 12 months;

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

5 (3) the sale of the item of cereal malt beverage is by a law enforce-  
6 ment officer acting under the order of a court.

7 New Sec. 49. (a) Except to the extent permitted pursuant to K.S.A.  
8 41-703, and amendments thereto, no cereal malt beverage retailer, or any  
9 officer, associate, member, representative or agent thereof, shall accept,  
10 receive or borrow money or anything else of value, or accept or receive  
11 credit, directly or indirectly, from: (1) Any manufacturer or distributor;  
12 (2) any person connected with, in any way representing or a member of  
13 the family of a manufacturer or distributor; (3) any stockholders in a  
14 manufacturer or distributor; or (4) any officer, manager, agent or repre-  
15 sentative of a manufacturer or distributor.

16 (b) Any distributor, manufacturer or cereal malt beverage retailer  
17 who shall permit or assent, or be a party in any way, to any violation or  
18 infringement of the provisions of this section or of K.S.A. 41-702 or 41-  
19 703, and amendments thereto, shall be deemed guilty of a violation of  
20 the cereal malt beverage retailers' act, and any money loaned contrary to  
21 a provision of this section shall not be recovered, or any note, mortgage  
22 or other evidence of indebtedness, or security, or any lease or contract  
23 obtained or made contrary to this act shall be unenforceable and void.

24 New Sec. 50. No distributor shall sell or furnish cereal malt bever-  
25 ages to a cereal malt beverage retailer on credit; on a passbook; on order  
26 on a store; in exchange for any goods, wares or merchandise; in payment  
27 for any service rendered or to be rendered; or by any extension of credit  
28 of any kind, type or class. Any distributor or cereal malt beverage retailer  
29 who violates any of the terms of this section or K.S.A. 41-2706, and  
30 amendments thereto, shall be subject to all penalties and forfeitures pro-  
31 vided by sections 49 and 51, and amendments thereto, and any debt  
32 attempted to be created in violation hereof shall not be recoverable at  
33 law.

34 New Sec. 51. (a) The board of county commissioners or the govern-  
35 ing body of any city, upon five days' notice to the persons holding a license  
36 as a cereal malt beverage retailer, shall revoke or suspend the license for  
37 any one of the following reasons:

38 (1) The cereal malt beverage retailer has fraudulently obtained the  
39 license by giving false information in the application therefor;

40 (2) the cereal malt beverage retailer has violated any of the provisions  
41 of the cereal malt beverage retailers' act, or any rules and regulations  
42 made by the board or the city, as the case may be;

43 (3) the cereal malt beverage retailer has become ineligible to obtain

1 a license;

2 (4) drunkenness of the cereal malt beverage retailer or permitting  
3 any intoxicated person to remain in or upon the cereal malt beverage  
4 retailer's place of business;

5 (5) the sale of cereal malt beverages to any minor;

6 (6) the nonpayment of any license fees;

7 (7) permitting any gambling in or upon the cereal malt beverage re-  
8 tailer's place of business;

9 (8) permitting any person to mix drinks with materials purchased in  
10 or upon the cereal malt beverage retailer's place of business or brought  
11 in for that purpose;

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

14 (10) the employment or continuation in employment of a person in  
15 connection with the sale, serving or dispensing of cereal malt beverages  
16 if the cereal malt beverage retailer knows such person has been, within  
17 the preceding two years, adjudged guilty of a felony or of any violation of  
18 the intoxicating liquor laws of this state, another state or the United States;

19 (11) the sale or possession of, or permitting any person to use or  
20 consume on the licensed premises, any alcoholic liquor;

21 (12) the cereal malt beverage retailer has been convicted of a viola-  
22 tion of the beer and cereal malt beverage keg registration act; or

23 (13) there has been a violation of K.S.A. 21-4106 or 21-4107, and  
24 amendments thereto, in or upon the cereal malt beverage retailer's place  
25 of business.

26 (b) Within 20 days after the order of the board revoking or suspend-  
27 ing any cereal malt beverage retailer's license, the cereal malt beverage  
28 retailer may appeal to the district court and the district court shall proceed  
29 to hear such appeal as though such court had original jurisdiction of the  
30 matter. Any appeal taken from an order revoking or suspending the li-  
31 cense shall not suspend the order of revocation or suspension during the  
32 pendency of any such appeal. In case of the revocation of the license of  
33 any cereal malt beverage retailer, no new license shall be issued to the  
34 former licensee, or to any person acting for or on the former licensee's  
35 behalf, for a period of six months thereafter.

36 New Sec. 52. The attorney general, any county or district attorney  
37 or any city attorney within their respective jurisdictions shall at all times  
38 have the power to enjoin any person from selling cereal malt beverages  
39 if it shall appear that the person has violated any provision of the cereal  
40 malt beverage retailers' act or any rules and regulations adopted there-  
41 under. Injunction proceedings shall be the same as prescribed for the  
42 enjoining of intoxicating liquor nuisances.

43 New Sec. 53. (a) No cereal malt beverage retailer, or employee or

1 agent of a cereal malt beverage retailer, licensed to sell cereal malt bev-  
2 erage for consumption on the licensed premises shall:

- 3 (1) Offer or serve any free cereal malt beverage to any person;  
4 (2) offer or serve to any person a drink at a price that is less than the  
5 acquisition cost of the drink to the cereal malt beverage retailer;  
6 (3) sell, offer to sell or serve to any person an unlimited number of  
7 drinks during any set period of time for a fixed price, except at private  
8 functions not open to the general public;  
9 (4) sell, offer to sell or serve any drink to any person at any time at a  
10 price less than that charged the general public on that day, except at  
11 private functions not open to the general public;  
12 (5) increase the size of a drink of cereal malt beverage without in-  
13 creasing proportionately the price regularly charged for the drink on that  
14 day;  
15 (6) encourage or permit, on the licensed premises, any game or con-  
16 test which involves drinking cereal malt beverage or the awarding of  
17 drinks as prizes; or  
18 (7) advertise or promote in any way, whether on or off the licensed  
19 premises, any of the practices prohibited under subsections (a)(1) through  
20 (6).  
21 (b) Nothing in subsection (a) shall be construed to prohibit a cereal  
22 malt beverage retailer from offering free food or entertainment at any  
23 time.  
24 (c) Violation of any provisions of this section is a misdemeanor pun-  
25 ishable as provided by K.S.A. 41-2711, and amendments thereto.  
26 (d) Violation of any provision of this section shall be grounds for sus-  
27 pension or revocation of the cereal malt beverage retailer's license as  
28 provided by section 51, and amendments thereto.  
29 (e) Every cereal malt beverage retailer subject to the provisions of  
30 this section shall make available at any time upon request a price list  
31 showing the cereal malt beverage retailer's current prices for all cereal  
32 malt beverages.  
33 (f) As used in this section, "drink" means an individual serving of  
34 cereal malt beverage.

35 Sec. 54. K.S.A. 41-312 is hereby amended to read as follows: 41-312.  
36 No person holding a manufacturer's or distributor's license shall be per-  
37 mitted to receive any retailer's *license*, microbrewery ~~or~~ *license*, farm win-  
38 ery license or *cereal malt beverage retailer's license issued pursuant to*  
39 *the cereal malt beverage retailers' act*. No person holding a retailer's,  
40 microbrewery or farm winery license shall be permitted to receive any  
41 manufacturer's or distributor's license or another retailer's, microbrewery  
42 or farm winery license.

43 *No person holding a cereal malt beverage retailer's license, issued pur-*

1 *suant to the cereal malt beverage retailers' act, shall be permitted to re-*  
2 *ceive any manufacturer's or distributor's license.*

3 Sec. 55. K.S.A. 41-410 is hereby amended to read as follows: 41-410.

4 (a) No distributor shall sell any alcoholic liquor or cereal malt beverage  
5 in this state unless such distributor has filed with the director a written  
6 notice stating each geographic territory, agreed upon in writing between  
7 the distributor and a supplier of the distributor, within which the distrib-  
8 utor sells one or more brands of such supplier to retailers licensed under  
9 the Kansas liquor control act, *under the cereal malt beverage retailers'*  
10 *act* or under K.S.A. 41-2702 and amendments thereto or to clubs or drink-  
11 ing establishments licensed under the club and drinking establishment  
12 act. Such notice shall be accompanied by a map outlining each geographic  
13 territory stated in the notice. No manufacturer, importer or other supplier  
14 shall grant a franchise for the distribution of a brand to more than one  
15 distributor for all or part of any designated territory.

16 (b) Each supplier of alcoholic liquor or cereal malt beverage doing  
17 business within this state shall file with the director a written notice de-  
18 scribing each geographic territory, agreed upon in writing between the  
19 supplier and a distributor, within which the distributor sells one or more  
20 brands of the supplier to retailers licensed under the Kansas liquor control  
21 act, *under the cereal malt beverage retailers' act* or under K.S.A. 41-2702  
22 and amendments thereto or to clubs or drinking establishments licensed  
23 under the club and drinking establishment act.

24 (c) No supplier or distributor shall terminate or modify a franchise  
25 for the distribution of a brand of alcoholic liquor or cereal malt beverage  
26 or alter the geographic territory designated in a franchise agreement un-  
27 less such supplier or distributor files written notice thereof with the di-  
28 rector not less than 30 days prior to the termination, modification or  
29 alteration. In the case of an alteration in a franchise territory, such notice  
30 shall be accompanied by a map outlining the altered territory. Upon re-  
31 ceipt of such notice, the director shall notify immediately, by certified  
32 mail, all affected parties of the impending termination, modification or  
33 alteration.

34 (d) Any notice filed by a supplier pursuant to subsection (c) shall be  
35 accompanied by an affidavit stating that the termination, modification or  
36 alteration is not caused by the failure of the distributor to violate any  
37 provision of the Kansas liquor control act or any rules and regulations  
38 adopted pursuant thereto.

39 (e) Any supplier or distributor aggrieved by a termination, modifi-  
40 cation or alteration made under subsection (c) may file an appropriate  
41 action in any district court of this state having venue, alleging that the  
42 termination, modification or alteration violates the franchise agreement  
43 between the supplier and distributor involved.

- 1 (f) No franchise agreement for the distribution of a brand of alcoholic  
2 liquor or cereal malt beverage shall be terminated or modified, nor shall  
3 the territory designated in such an agreement be altered, except for rea-  
4 sonable cause.
- 5 (g) This section shall be part of and supplemental to the Kansas liquor  
6 control act.
- 7 New Sec. 56. (a) The governing body of any city in which alcoholic  
8 liquor may not be sold and in which cereal malt beverage only may be  
9 sold may adopt a resolution providing that, for the purpose of K.S.A. 41-  
10 2701 et seq., and amendments thereto, the definition of cereal malt bev-  
11 erage shall be as follows:
- 12 "Cereal malt beverage" means any fermented but undistilled liquor  
13 brewed or made from malt or from a mixture of malt or malt substitute,  
14 but does not include any such liquor which is more than 5% by weight.
- 15 Such resolution shall be published at least once each week for two  
16 consecutive weeks in the official city newspaper. Such resolution shall not  
17 become effective until at least 30 days following the date of the last pub-  
18 lication thereof. If within 30 days following the last publication of the  
19 resolution, a petition requesting that the proposition be submitted for  
20 approval by the voters is filed in accordance with subsection (b), such  
21 resolution shall not become effective until the proposition is submitted  
22 to and approved at an election as provided by this section.
- 23 (b) A petition to submit a proposition to the qualified voters of a city  
24 pursuant to this section shall be filed with the city clerk. The petition  
25 shall be signed by qualified voters of the city equal in number to not less  
26 than 10% of the voters of the city who voted for the office of secretary  
27 of state at the last preceding general election of such office.
- 28 (c) Upon the filing of a sufficient petition pursuant to this section,  
29 the governing body shall cause the proposition to be placed on the ballot  
30 at the next succeeding primary or general election which occurs after the  
31 petition is filed with the city clerk or at a special election called and held  
32 thereon. Such election shall be called and held in the manner provided  
33 by law for question submitted elections.
- 34 (d) If a majority of the voters voting at any election pursuant to this  
35 section votes in favor of the proposition, the governing body shall transmit  
36 a copy of the results to the director of the division of alcoholic beverage  
37 control, department of revenue.
- 38 (e) The board of county commissioners of any county in which al-  
39 coholic liquor may not be sold and in which cereal malt beverage only  
40 may be sold in any portion of such county outside the corporate limits of  
41 any city within the county, may adopt a resolution providing that in said  
42 portions of the county, for purposes of K.S.A. 41-2701 et seq., and amend-  
43 ments thereto, the definition of cereal malt beverage shall be as follows:

1  
2 “Cereal malt beverage” means any fermented but undistilled liquor  
3 brewed or made from malt or from a mixture of malt or malt substitute,  
4 but does not include any such liquor which is more than 5% by weight.

5 The county clerk shall send a certified copy of such resolution to the  
6 director and to the township board of trustees for any township in the  
7 county in which the resolution shall be applicable.

8 New Sec. 57. (a) From and after the effective date of the cereal malt  
9 beverage retailers’ act in any city or county adopting its provisions, there  
10 is hereby imposed, for the privilege of engaging in the business of selling  
11 cereal malt beverage by liquor retailers or cereal malt beverage retailers  
12 to consumers, or selling cereal malt beverage by distributors to clubs,  
13 drinking establishments, caterers or temporary permit holders, a tax at  
14 the rate of 8% upon the gross receipts received from: (1) The sale of  
15 cereal malt beverage by liquor retailers or cereal malt beverage retailers  
16 to consumers; and (2) the sale of cereal malt beverage by distributors to  
17 clubs, drinking establishments, caterers or temporary permit holders.

18 (b) The tax imposed by this section shall be identical in its application,  
19 and exemptions therefrom, if any, to the tax imposed pursuant to K.S.A.  
20 79-4101, and amendments thereto. All laws and administrative rules and  
21 regulations of the department of revenue relating to the tax imposed  
22 pursuant to K.S.A. 79-4101, and amendments thereto, shall apply to the  
23 tax imposed pursuant to this section, to the extent such laws and rules  
24 and regulations may be made applicable. The state director of taxation is  
25 hereby authorized to administer, enforce and collect the tax imposed  
26 pursuant to this section and to adopt such rules and regulations as may  
27 be necessary for the efficient and effective administration and enforce-  
28 ment thereof.

29 (c) As used in this section, terms have the meanings provided by  
30 section 5, and amendments thereto.

31 New Sec. 58. (a) There is hereby imposed, for the privilege of selling  
32 cereal malt beverage for consumption on the premises, a tax at the rate  
33 of 10% upon the gross receipts derived from the sale of cereal malt bev-  
34 erage by any club, caterer, drinking establishment, temporary permit  
35 holder or cereal malt beverage retailer licensed to sell cereal malt bev-  
36 erage for consumption on the premises.

37 (b) The tax imposed by this section shall be identical in its application,  
38 and exemptions therefrom, if any, to the tax imposed pursuant to K.S.A.  
39 79-41a02, and amendments thereto. All laws and administrative rules and  
40 regulations of the department of revenue relating to the tax imposed  
41 pursuant to K.S.A. 79-41a02, and amendments thereto, shall apply to the  
42 tax imposed pursuant to this section, to the extent such laws and rules  
43 and regulations may be made applicable. The state director of taxation is

1 hereby authorized to administer, enforce and collect the tax imposed  
2 pursuant to this section and to adopt such rules and regulations as may  
3 be necessary for the efficient and effective administration and enforce-  
4 ment thereof.

5 (c) As used in this section, terms have the meanings provided by  
6 section 5, and amendments thereto.

7 New Sec. 59. (a) All sales of cereal malt beverage by a liquor retailer  
8 or cereal malt beverage retailer shall be subject to the tax imposed pur-  
9 suant to the Kansas retailers' sales tax act, and also shall be subject to the  
10 retailers' sales tax imposed by any city or county in which such sales are  
11 made.

12 (b) As used in this section, terms have the meanings provided by  
13 section 5, and amendments thereto.

14 Sec. 60. K.S.A. 41-103, 41-312 and 41-410 are hereby repealed.

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