

## SENATE BILL No. 317

By Committee on Federal and State Affairs

2-6

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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 any ref-  
11 erence to the Kansas liquor control act, the club and drinking establish-  
12 ment act or the Kansas cereal malt beverage act shall be deemed to be a  
13 reference to those provisions of such acts which remain applicable to any  
14 city or township in which the cereal malt beverage retailers' act is made  
15 applicable.

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

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

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

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

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

33 (e) "Cereal malt beverage" means any fermented but undistilled liq-  
34 uor brewed or made from malt or from a mixture of malt or malt substi-  
35 tute, but does not include any such liquor which is more than 5% alcohol  
36 by weight. Such term also includes flavored malt beverage, as defined by  
37 K.S.A. 2006 Supp. 41-2729, and amendments thereto.

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

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

- 1 (h) "Director" means the director of alcoholic beverage control of  
2 the department of revenue.
- 3 (i) "Distributor" means the person importing or causing to be im-  
4 ported into the state, or purchasing or causing to be purchased within  
5 the state, alcoholic liquor for sale or resale to liquor retailers or cereal  
6 malt beverage for sale or resale to cereal malt beverage retailers or per-  
7 sons licensed pursuant to K.S.A. 41-2702, and amendments thereto.
- 8 (j) "Domestic beer" means cereal malt beverage or beer which con-  
9 tains not more than 8% alcohol by weight and which is manufactured  
10 from agricultural products grown in this state.
- 11 (k) "Domestic fortified wine" means wine which contains more than  
12 14%, but not more than 20% alcohol by volume and which is manufac-  
13 tured from agricultural products grown in this state without rectification.
- 14 (l) "Domestic table wine" means wine which contains not more than  
15 14% alcohol by volume and which is manufactured without rectification  
16 or fortification from agricultural products grown in this state.
- 17 (m) "Drinking establishment" has the meaning provided by K.S.A.  
18 41-2601, and amendments thereto.
- 19 (n) "Farm winery" means a winery licensed by the director to man-  
20 ufacture, store and sell domestic table wine and domestic fortified wine.
- 21 (o) "Licensee" means any cereal malt beverage retailer, any liquor  
22 retailer and any person licensed under the club and drinking establish-  
23 ment act.
- 24 (p) "Liquor retailer" means any retailer licensed pursuant to the Kan-  
25 sas liquor control act.
- 26 (q) "Manufacture" means to distill, rectify, ferment, brew, make, mix,  
27 concoct, process, blend, bottle or fill an original package with any alco-  
28 holic liquor, beer or cereal malt beverage.
- 29 (r) (1) "Manufacturer" means every brewer, fermenter, distiller, rec-  
30 tifier, wine maker, blender, processor, bottler or person who fills or refills  
31 an original package and others engaged in brewing, fermenting, distilling,  
32 rectifying or bottling alcoholic liquor, beer or cereal malt beverage.
- 33 (2) "Manufacturer" does not include a microbrewery or a farm  
34 winery.
- 35 (s) "Microbrewery" means a brewery licensed by the director to man-  
36 ufacture, store and sell domestic beer.
- 37 (t) "Minor" means any person under 21 years of age.
- 38 (u) "Nonbeverage user" means any manufacturer of any of the prod-  
39 ucts set forth and described in K.S.A. 41-501, and amendments thereto,  
40 when the products contain alcohol or wine, and all laboratories using  
41 alcohol for nonbeverage purposes.
- 42 (v) "Original package" or "original container" means any bottle, flask,  
43 jug, can, cask, barrel, keg, hogshead or other receptacle or container what-

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

- 1 (ff) "Spirits" means any beverage which contains alcohol obtained by  
2 distillation, mixed with water or other substance in solution, and includes  
3 brandy, rum, whiskey, gin or other spirituous liquors, and such liquors  
4 when rectified, blended or otherwise mixed with alcohol or other  
5 substances.
- 6 (gg) "Supplier" means a manufacturer of alcoholic liquor or cereal  
7 malt beverage or an agent of such manufacturer, other than a salesperson.
- 8 (hh) "Temporary permit" has the meaning provided by K.S.A. 41-  
9 2601, and amendments thereto.
- 10 (ii) "Wine" means any alcoholic beverage obtained by the normal  
11 alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries  
12 or other agricultural products, including such beverages containing added  
13 alcohol or spirits or containing sugar added for the purpose of correcting  
14 natural deficiencies.
- 15 New Sec. 6. No person shall manufacture, bottle, blend, sell, barter,  
16 transport, deliver, furnish or possess any alcoholic liquor or cereal malt  
17 beverage for beverage purposes, except as specifically provided in the  
18 cereal malt beverage retailers' act, the Kansas liquor control act, the club  
19 and drinking establishment act or the cereal malt beverage act, except  
20 that nothing contained in the cereal malt beverage retailers' act shall  
21 prevent:
- 22 (a) The possession and transportation of alcoholic liquor or cereal  
23 malt beverage for the personal use of the possessor, the possessor's family  
24 and guests except that the provisions of K.S.A. 41-407, and amendments  
25 thereto, shall be applicable to all persons;
- 26 (b) the making of wine, cider, cereal malt beverage or beer by a per-  
27 son from fruits, vegetables or grains, or the product thereof, by simple  
28 fermentation and without distillation, if it is made solely for the use of  
29 the maker and the maker's family;
- 30 (c) any duly licensed practicing physician or dentist from possessing  
31 or using alcoholic liquor in the strict practice of the medical or dental  
32 profession;
- 33 (d) any hospital or other institution caring for sick and diseased per-  
34 sons, from possessing and using alcoholic liquor for the treatment of bona  
35 fide patients of such hospital or institution;
- 36 (e) any drugstore employing a licensed pharmacist from possessing  
37 and using alcoholic liquor in the compounding of prescriptions of duly  
38 licensed physicians;
- 39 (f) the possession and dispensation of wine by an authorized repre-  
40 sentative of any church for the purpose of conducting any bona fide rite  
41 or religious ceremony conducted by such church; or
- 42 (g) the sale of wine in accordance with the provisions of subsection  
43 (g) of K.S.A. 2006 Supp. 41-104 and amendments thereto.

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

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

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

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

32       (c) to inspect or cause to be inspected, any premises where alcoholic  
33 liquor or cereal malt beverage is manufactured or distributed and to inspect  
34 or cause to be inspected, the premises of a liquor retailer where  
35 alcoholic liquor or cereal malt beverage is sold;

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

1 of the district court, either in term time or vacation, may by order duly  
2 entered, require the attendance of witnesses and the production of rel-  
3 evant books subpoenaed by the director, and the court or judge may  
4 compel obedience to the order by proceedings for contempt;

5 (e) except as otherwise specifically provided in the cereal malt bev-  
6 erage retailers' act, to collect, receive, account for and turn over to the  
7 secretary of revenue all registration and license fees and taxes provided  
8 for in the Kansas liquor control act and the cereal malt beverage retailers'  
9 act and all other moneys received by the director by virtue of the direc-  
10 tor's office; and

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

13 New Sec. 9. (a) The director shall propose such rules and regulations  
14 as necessary to carry out the intent and purposes of the Kansas liquor  
15 control act and the cereal malt beverage retailers' act, as it relates to the  
16 sale of cereal malt beverage by a liquor retailer except that, to the extent  
17 that rules and regulations adopted by the secretary pursuant to K.S.A. 41-  
18 210, and amendments thereto, also carry out the intent and purposes of  
19 the cereal malt beverage retailers' act, as it relates to the sale of cereal  
20 malt beverage by a liquor retailer they shall be applicable to the cereal  
21 malt beverage retailers' act. After the hearing on a proposed rule and  
22 regulation has been held as required by law, the director shall submit the  
23 proposed rule and regulation to the secretary of revenue who, if the sec-  
24 retary approves it, shall adopt the rule and regulation.

25 (b) The director of alcoholic beverage control shall have broad dis-  
26 cretionary powers to govern the traffic in alcoholic liquor and cereal malt  
27 beverage and to enforce strictly all the provisions of the Kansas liquor  
28 control act and the applicable provisions of the cereal malt beverage re-  
29 tailers' act in the interest of sanitation, purity of products, truthful rep-  
30 resentation and honest dealings in such manner as generally will promote  
31 the public health and welfare. All valid rules and regulations adopted  
32 under the provisions of the Kansas liquor control act and the applicable  
33 provisions of the cereal malt beverage retailers' act shall be absolutely  
34 binding upon all licensees and enforceable by the director of alcoholic  
35 beverage control through the power of suspension or revocation of  
36 licenses.

37 New Sec. 10. (a) The rules and regulations adopted by the secretary  
38 of revenue pursuant to section 8, and amendments thereto, shall include  
39 rules and regulations:

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

42 (2) prescribing the nature of and the representations to be shown  
43 upon the labels attached to the containers and requiring that the labels



- 1 attached to all original containers or packages of alcoholic liquors sold or  
2 offered for sale in this state shall set forth in plain and legible print in the  
3 English language the quantity of such liquors, exclusive of the package  
4 or cask containing them, in either metric or English measurement;
- 5 (3) prescribing administrative procedures for the issuance of licenses  
6 and the investigation of license applications and providing for advisory  
7 recommendations from governing bodies of cities as to liquor retailers'  
8 licenses and for hearings on applications;
- 9 (4) prescribing conditions for the issuance of duplicate licenses in lieu  
10 of those lost or destroyed;
- 11 (5) prescribing those violations of the rules and regulations for which  
12 licenses shall be suspended or revoked;
- 13 (6) establishing standards of purity, sanitation and honest advertising  
14 and representations;
- 15 (7) requiring the destruction of stamps upon containers which have  
16 been opened;
- 17 (8) in the case of manufacturers and distributors of alcoholic liquors  
18 or cereal malt beverage, requiring the labels attached to all containers  
19 thereof which are intended for sale in this state to set forth, in plain legible  
20 print in the English language, the name and kind of alcoholic liquors or  
21 cereal malt beverage contained therein, together with their alcoholic con-  
22 tent, and if a blended product (except wine) to so state, except that, if  
23 the director deems it unnecessary to show the alcoholic content of beer  
24 or cereal malt beverage on labels of containers of beer or cereal malt  
25 beverage, the alcoholic content shall not be required to be shown thereon;
- 26 (9) establishing procedures and conditions under which minors may  
27 be engaged in programs or systems encouraging compliance with the  
28 provisions of laws relating to the sale of alcoholic liquor and cereal malt  
29 beverages to a minor as authorized by K.S.A. 41-727a, 41-2652 and 41-  
30 2727, and amendments thereto. Such rules and regulations shall include  
31 provisions which require that such person used in any such program or  
32 system to be (A) at least 18 years of age and not more than 19 ½ years  
33 of age; (B) exhibit a youthful appearance; (C) carry only one piece of  
34 identification, which shall be a valid form of identification; (D) truthful  
35 in interactions with licensees; except if asked, such person may deny  
36 working with law enforcement officials.
- 37 It shall be an absolute defense in any civil proceeding or criminal pros-  
38 ecution if any such program or system does not comply with the proce-  
39 dures and conditions required by such rules and regulations;
- 40 (10) providing for such other details as are necessary or convenient  
41 to the administration and enforcement of this act.
- 42 (b) The secretary of revenue may adopt rules and regulations pur-  
43 suant to section 8, and amendments thereto, establishing;

- 1 (1) Standards of manufacture of alcoholic liquors and cereal malt bev-  
2 erage, not inconsistent with federal laws, in order to insure the use of  
3 proper ingredients and methods in the manufacture and distribution  
4 thereof; and
- 5 (2) standards, not inconsistent with federal law, for the proper label-  
6 ing of containers or barrels, casks or other bulk containers or bottles of  
7 alcoholic liquor and cereal malt beverage, manufactured or sold in this  
8 state.
- 9 New Sec. 11. A beer distributor's license shall allow:
- 10 (a) The wholesale purchase, importation and storage of beer and ce-  
11 real malt beverage.
- 12 (b) The sale of beer to:
- 13 (1) Licensed caterers;
- 14 (2) beer distributors licensed in this state;
- 15 (3) liquor retailers, temporary permit holders, clubs and drinking es-  
16 tablishments, licensed in this state, except that such distributor shall sell  
17 a brand of beer only to those liquor retailers, temporary permit holders,  
18 clubs and drinking establishments of which the licensed premises are  
19 located in the geographic territory within which such distributor is au-  
20 thorized to sell such brand, as designated in the notice or notices filed  
21 with the director pursuant to K.S.A. 41-410, and amendments thereto;  
22 and
- 23 (4) such persons located outside such territory or outside this state  
24 as permitted by law.
- 25 (c) The sale of cereal malt beverage to beer distributors licensed in  
26 this state; cereal malt beverage retailers, liquor retailers, clubs, drinking  
27 establishments and temporary permit holders whose licensed or permit-  
28 ted premises are located in a city or township in which the cereal malt  
29 beverage retailers' act is applicable; and caterers whose primary places of  
30 business is located in a city or township in which the cereal malt beverage  
31 retailers' act is applicable. Such distributor shall sell a brand of cereal  
32 malt beverage only to such cereal malt beverage retailers, liquor retailers,  
33 clubs, drinking establishments and temporary permit holders whose li-  
34 censed or permitted premises are located, and such caterers whose pri-  
35 mary place of business is located, in the geographic territory within which  
36 such distributor is authorized to sell such brand, as designated in the  
37 notice or notices filed with the director pursuant to K.S.A. 41-410, and  
38 amendments thereto.
- 39 (d) The sale of cereal malt beverage containing not more than 3.2%  
40 alcohol by weight to a person licensed pursuant to K.S.A. 41-2702, and  
41 amendments thereto.
- 42 (e) The purchase of cereal malt beverage in kegs or other bulk con-  
43 tainers and the bottling or canning thereof in accordance with law.

1 (f) The storage on the distributor's licensed premises of: (1) Another  
2 licensed distributor's alcoholic liquor and delivery of such alcoholic liquor  
3 to a liquor retailer to whom such other distributor is authorized by law  
4 to sell such alcoholic liquor; (2) another licensed distributor's cereal malt  
5 beverage containing not more than 3.2% of alcohol by weight and delivery  
6 of such cereal malt beverage to a person licensed pursuant to K.S.A. 41-  
7 2702, and amendments thereto, to whom such other distributor is au-  
8 thorized by law to sell such cereal malt beverage; and (3) another licensed  
9 distributor's cereal malt beverage and delivery of such cereal malt bev-  
10 erage to a cereal malt beverage retailer or liquor retailer whose licensed  
11 premises are in a city or township in which the cereal malt beverage  
12 retailers' act is applicable and to whom such other distributor is author-  
13 ized by law to sell such cereal malt beverage to such cereal malt beverage  
14 retailer or liquor retailer. Any such deliveries for another distributor shall  
15 be in accordance with an agreement entered into with such other distrib-  
16 utor and approved by the director.

17 New Sec. 12. (a) A liquor retailer's license shall allow the licensee to  
18 sell and offer for sale at retail and deliver in the original package alcoholic  
19 liquor and cereal malt beverage for use or consumption off of and away  
20 from the premises specified in such license. A liquor retailer's license  
21 shall permit the sale and delivery of alcoholic liquor and cereal malt bev-  
22 erage only on the licensed premises and shall not permit the sale of al-  
23 coholic liquor or cereal malt beverage for resale in any form, except that  
24 a licensed liquor retailer may:

25 (1) Sell alcoholic liquor to a temporary permit holder for resale by  
26 such permit holder and also may sell for resale cereal malt beverage to a  
27 temporary permit holder located in a city or township in which the cereal  
28 malt beverage retailers' act is applicable; and

29 (2) sell and deliver alcoholic liquor to a caterer or to the licensed  
30 premises of a club or drinking establishment, if such premises are in the  
31 county where the liquor retailer's premises are located or in an adjacent  
32 county, for resale by such club, drinking establishment or caterer; and

33 (3) sell and deliver cereal malt beverage to a caterer, club or drinking  
34 establishment if the primary place of business of the caterer or the li-  
35 censed premises of the club or drinking establishment are located in a  
36 city or township in which the cereal malt beverage retailers' act is  
37 applicable.

38 (b) Except as provided herein, the holder of a liquor retailer's license  
39 shall not sell, offer for sale, give away or permit to be sold, offered for  
40 sale or given away in or from the premises specified in such license any  
41 service or thing of value whatsoever except alcoholic liquor or cereal malt  
42 beverage in the original package. A licensed liquor retailer may:

43 (1) Charge a delivery fee for delivery to a club, drinking establishment

- 1 or caterer pursuant to subsection (a);
- 2 (2) sell lottery tickets and shares to the public in accordance with the
- 3 Kansas lottery act, if the liquor retailer is selected as a lottery retailer;
- 4 (3) include in the sale of alcoholic liquor or cereal malt beverage any
- 5 goods included by the manufacturer in packaging with the alcoholic liquor
- 6 or cereal malt beverage, subject to the approval of the director;
- 7 (4) distribute to the public, without charge, consumer advertising
- 8 specialities bearing advertising matter, subject to rules and regulations of
- 9 the secretary limiting the form and distribution of such specialities so that
- 10 they are not conditioned on or an inducement to the purchase of alcoholic
- 11 liquor or cereal malt beverage; and
- 12 (5) sell soft drinks, mix and the following beverage-related, non-food
- 13 items:
- 14 (A) Disposable cups;
- 15 (B) bottle and can openers;
- 16 (C) corkscrews; and
- 17 (D) ice.
- 18 (c) No liquor retailer shall furnish any entertainment in such premises
- 19 or permit any pinball machine or game of skill or chance to be located in
- 20 or on such premises.
- 21 (d) A liquor retailer's license shall allow the licensee to store alcoholic
- 22 liquor and cereal malt beverage in refrigerators, cold storage units, ice
- 23 boxes or other cooling devices, and the licensee may sell such alcoholic
- 24 liquor and cereal malt beverage to consumers in a chilled condition.
- 25 New Sec. 13. Every manufacturer, distributor, microbrewery which
- 26 sells any beer or cereal malt beverage to a beer distributor at wholesale
- 27 and farm winery which sells any wine to a distributor at wholesale be-
- 28 tween the 1st and 15th day of each calendar month shall make a return
- 29 under oath to the director of all alcoholic liquor or cereal malt beverage
- 30 manufactured and sold by the manufacturer, distributor, microbrewery
- 31 or farm winery in the course of business during the preceding calendar
- 32 month. In the case of a distributor, the return shall also show: (a) The
- 33 total amount of alcoholic liquor or cereal malt beverage purchased by the
- 34 distributor during the preceding calendar month, the names of the dis-
- 35 tillers or distributors from whom purchased, the quantity of each brand
- 36 and the price paid therefor; and (b) the names and locations of the liquor
- 37 retailers to whom alcoholic liquor or cereal malt beverage was sold by the
- 38 distributor during the preceding calendar month, the quantity of each
- 39 brand and the price charged therefor. The return shall be made upon
- 40 forms prescribed and furnished by the director and shall contain such
- 41 other information as the director requires.
- 42 New Sec. 14. It is the duty of each manufacturer, distributor, micro-
- 43 brewery which sells any domestic beer to a beer distributor and farm

1 winery which sells any wine to a distributor to keep complete and accurate  
2 records of all such sales and complete and accurate records of all alcoholic  
3 liquors and domestic beers produced, manufactured, compounded or im-  
4 ported. The director, in the director's discretion, may prescribe reason-  
5 able and uniform methods for keeping records by manufacturers, distrib-  
6 utors, microbreweries and farm wineries as contemplated by K.S.A.  
7 41-401 through 41-409, and amendments thereto.

8 New Sec. 15. (a) Except as provided in subsection (d), no spirits dis-  
9 tributor shall sell or attempt to sell any spirits within this state except to:  
10 (1) A licensed manufacturer, licensed nonbeverage user or licensed  
11 spirits distributor; or  
12 (2) a licensed liquor retailer, as authorized by K.S.A. 41-306, and  
13 amendments thereto.

14 (b) Except as provided in subsection (d), no wine distributor shall sell  
15 or attempt to sell any wine within this state except to:  
16 (1) A licensed manufacturer, licensed nonbeverage user or licensed  
17 wine distributor;  
18 (2) a licensed caterer; or  
19 (3) a liquor retailer, club or drinking establishment, licensed in this  
20 state, as authorized by K.S.A. 41-306a, and amendments thereto.

21 (c) Except as provided by subsection (d), no beer distributor shall sell  
22 or attempt to sell any beer or cereal malt beverage within this state except  
23 to:  
24 (1) A licensed manufacturer, licensed nonbeverage user or licensed  
25 beer distributor;  
26 (2) a licensed caterer; or  
27 (3) a liquor retailer, cereal malt beverage retailer, club or drinking  
28 establishment, licensed in this state, as authorized by section 11, and  
29 amendments thereto.

30 (d) (1) If any spirits distributor refuses to sell spirits which such dis-  
31 tributor is authorized to sell or refuses to provide any service in connec-  
32 tion therewith to any licensed liquor retailer as authorized by K.S.A. 41-  
33 306, and amendments thereto, it shall be lawful for any other licensed  
34 spirits distributor to sell such spirits to such liquor retailer.

35 (2) If any wine distributor refuses to sell wine which such distributor  
36 is authorized to sell or refuses to furnish service in connection therewith  
37 to any licensed liquor retailer, as authorized by K.S.A. 41-306a, and  
38 amendments thereto, it shall be lawful for any other licensed wine dis-  
39 tributor to sell such wine to such liquor retailer.

40 (3) If any beer distributor refuses to sell beer or cereal malt beverage  
41 which such distributor is authorized to sell or provide service in connec-  
42 tion therewith to any licensed cereal malt beverage retailer or any licensed  
43 liquor retailer, as authorized by section 11, and amendments thereto, it

1 shall be lawful for any other licensed beer distributor to sell such beer or  
2 cereal malt beverage to such cereal malt beverage retailer or such liquor  
3 retailer.

4 (e) No manufacturer of alcoholic liquor or cereal malt beverage shall  
5 sell or attempt to sell any alcoholic liquor or cereal malt beverage within  
6 this state except to a licensed manufacturer, licensed distributor or li-  
7 censed nonbeverage user.

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

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

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

32 New Sec. 17. Except to the extent authorized by law in any city or  
33 township in which the hours and days of sale have been expanded pur-  
34 suant to K.S.A. 2006 Supp. 41-2911, and amendments thereto, no liquor  
35 retailer shall sell any alcoholic liquor or cereal malt beverage: (1) On  
36 Sunday; (2) on Memorial Day, Independence Day, Labor Day, Thanks-  
37 giving Day or Christmas Day; or (3) before 9 a.m. or after 11 p.m. on any  
38 day when the sale is permitted, except that the governing body of any  
39 city by ordinance may require closing prior to 11 p.m., but such ordinance  
40 shall not require closing prior to 8 p.m.

41 New Sec. 18. (a) (1) Except as provided by subsection (a)(2), no per-  
42 son shall sell or furnish at retail and no microbrewery or farm winery shall  
43 sell to any consumer any alcoholic liquor or cereal malt beverage on

1 credit; on a passbook; on order on a store; in exchange for any goods,  
2 wares or merchandise; or in payment for any services rendered. If any  
3 person extends credit in violation of this subsection, the debt attempted  
4 to be created shall not be recoverable at law.

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

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

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

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

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

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

37 New Sec. 22. It shall be unlawful for any person to make a false  
38 statement, for the purpose of obtaining alcoholic liquors or cereal malt  
39 beverages, to any railroad, express or transportation company, or any per-  
40 son engaged in the business of transporting goods, wares or merchandise  
41 for the purpose of obtaining the shipment, transportation or delivery of  
42 same.

43 New Sec. 23. (a) No liquor retailer shall sell, directly or indirectly,

1 any alcoholic liquor or cereal malt beverage at less than the acquisition  
2 cost of such alcoholic liquor or cereal malt beverage without first having  
3 obtained from the director a permit to do so.

4 (b) The director may issue to a licensed liquor retailer a permit au-  
5 thORIZING such liquor retailer to sell alcoholic liquor or cereal malt bev-  
6 erage at less than the acquisition cost of such alcoholic liquor or cereal  
7 malt beverage if:

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

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

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

15 New Sec. 24. (a) Any room, house, building, boat, vehicle, airplane,  
16 structure or place of any kind where alcoholic liquors or cereal malt bev-  
17 erages are sold, manufactured, bartered or given away, in violation of this  
18 act, or any building, structure or boat where persons are permitted to  
19 resort for the purpose of drinking alcoholic liquors or cereal malt bev-  
20 erages, in violation of the Kansas liquor control act or the cereal malt  
21 beverage retailers' act, or any place where such alcoholic liquor or cereal  
22 malt beverage is kept for sale, barter or gift in violation of the Kansas  
23 liquor control act or the cereal malt beverage retailers' act. All such al-  
24 coholic liquor or cereal malt beverage and all property kept in and used  
25 in maintaining such a place, are each and all of them hereby declared to  
26 be a common nuisance. Any person who maintains or assists in maintain-  
27 ing such common nuisance is guilty of a misdemeanor punishable by  
28 imprisonment for not more than one year or by a fine not exceeding  
29 \$25,000, or by both. If the court finds that the owner of real property  
30 knew or should have known under the circumstances of the maintenance  
31 of a common nuisance on such property, contrary to the liquor laws of  
32 this state, and did not make a bona fide attempt to abate such nuisance  
33 under the circumstances, such property shall be subject to a lien for, and  
34 may be sold to pay all fines and costs assessed against the occupant of  
35 such building or premises for any violation of the Kansas liquor control  
36 act or the cereal malt beverage retailers' act. Such lien shall be enforced  
37 by civil action, in any court having jurisdiction, by the county or district  
38 attorney of the county wherein such building or premises may be located,  
39 or by the attorney for the director, when ordered by the director. For  
40 purposes of this section, evidence of a bona fide attempt to abate such  
41 nuisance by the owner of the property shall include, but not be limited  
42 to, the filing of a written report, by such owner or at such owner's direc-  
43 tion, to the local law enforcement agency that the property is suspected



1 by the owner of the property of being used in maintaining a common  
2 nuisance as set forth in K.S.A. 22-3901, and amendments thereto, con-  
3 trary to the liquor laws of this state. If a tenant of any building or premises  
4 uses the building or premises, or any part thereof, in maintaining a com-  
5 mon nuisance as hereinbefore defined, or knowingly permits such use by  
6 another, such use shall render void the lease under which the tenant  
7 holds, and shall cause the right of possession to revert to the owner or  
8 lessor, who may make immediate entry upon the premises, or may invoke  
9 the remedy provided for the forcible detention thereof.

10 (b) Upon the filing of a complaint or information charging that a  
11 vehicle or airplane is a common nuisance as above declared, a warrant  
12 shall be issued authorizing and directing the officer to whom it is directed  
13 to arrest the person or persons described in the complaint or information  
14 or the person or persons using the vehicle or airplane in violation of the  
15 Kansas liquor control act or the cereal malt beverage retailers' act and to  
16 seize and take into the officer's custody all such vehicles and airplanes so  
17 used which the officer finds, and safely keep them subject to the order  
18 of the court. In the complaint or information it shall not be necessary to  
19 accurately describe the vehicle or airplane so used, but only such descrip-  
20 tion shall be necessary as will enable the officer executing the warrant to  
21 identify it properly.

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

1 any other time to be fixed by the court, a trial shall be held in a summary  
2 manner before the court on the allegation of the complaint or information  
3 against the property seized. Whether any answer is filed or not, it shall  
4 be the duty of the county or district attorney to appear and adduce evi-  
5 dence in support of such allegation.

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

32 (d) Either the state or any defendant or other person claiming the  
33 vehicle or airplane seized, or an interest therein, may appeal from the  
34 judgment of the court in any such proceedings against the property seized  
35 in the manner provided for taking appeals in criminal cases. Any claimant  
36 of such property who appeals, in order to stay proceedings, must enter  
37 into an undertaking with a sufficient surety to the state of Kansas, to be  
38 approved by the judge of the district court, in the sum of not less than  
39 \$100 nor less than double the amount of the value of the property as  
40 fixed by the court and the costs adjudged against the property, condi-  
41 tioned that the claimant will prosecute the appeal without unnecessary  
42 delay, and if judgment is entered against the claimant on appeal, the  
43 claimant will satisfy the judgment and costs, and no bond shall be required

1 for an appeal by the state, and such appeal shall stay the execution of the  
2 judgment.

3 New Sec. 25. The attorney for the director when ordered by the  
4 director, or county attorney in the county in which such nuisance exists,  
5 or is kept or maintained, may maintain an action by injunction, in the  
6 name of the state of Kansas, to abate and temporarily or permanently to  
7 enjoin such nuisance. The court shall have the right to make temporary  
8 and final orders as in other injunction proceedings. The plaintiff shall not  
9 be required to give bond in such action.

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

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

32 New Sec. 26. (a) No person shall manufacture, import for distribu-  
33 tion as a distributor at wholesale or distribute or sell alcoholic liquor or  
34 cereal malt beverage at any place within the state without having first  
35 obtained a valid license therefor under the provisions of the Kansas liquor  
36 control act or the cereal malt beverage retailers' act. No person shall  
37 obtain a license to carry on the business authorized by the license as agent  
38 for another, obtain a license by fraud or make any false statement or  
39 otherwise violate any of the provisions of the Kansas liquor control act,  
40 the cereal malt beverage retailers' act or the club and drinking establish-  
41 ment act in obtaining any license under any of such acts. No person having  
42 obtained a license under any of such acts shall violate any of the provisions  
43 thereof with respect to the manufacture, possession, distribution or sale

1 of alcoholic liquor or cereal malt beverage; or with respect to the main-  
2 tenance of the licensed premises.

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

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

6 (2) for a second or subsequent offense, by a fine of not more than  
7 \$1,000 or by imprisonment for not more than six months, or both.

8 (c) Each day any person engages in business as a manufacturer, dis-  
9 tributor, microbrewery, farm winery, cereal malt beverage retailer or liq-  
10 uor retailer in violation of the provisions of the Kansas liquor control act,  
11 the cereal malt beverage retailers' act or the club and drinking establish-  
12 ment act shall constitute a separate offense.

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

30 Within 15 days after the order of revocation becomes final, the county  
31 attorney shall institute, against the person who procured the license, a  
32 civil action under the code of civil procedure in the district court of the  
33 county in the name of the state of Kansas on the relation of the county  
34 attorney to forfeit all alcoholic liquor and cereal malt beverage. Summons  
35 shall be served as provided by the code of civil procedure upon the person  
36 who procured the license. Upon the return day of the summons issued  
37 or as soon after as convenient to the court, an order shall be entered by  
38 the court forfeiting the alcoholic liquor and cereal malt beverage to the  
39 state of Kansas and ordering it to be sold by the sheriff of the county in  
40 which the forfeiture occurred. The order shall fix the time and place of  
41 sale and the method and manner in which the sale shall be held, together  
42 with notice of the sale as the court directs. After payment of all costs of  
43 the action, including a reasonable fee for the county attorney, the balance

1 remaining shall be paid to the state treasurer pursuant to K.S.A. 20-2801  
2 and amendments thereto.

3 New Sec. 27. Any person who knowingly shall possess, sell, ship,  
4 transport or in any way dispose of any alcoholic liquor or cereal malt  
5 beverage under any other than the proper name or brand known to the  
6 trade as designating the kind and quality of the contents of the package  
7 or other containers of such alcoholic liquor or cereal malt beverage or  
8 who shall cause any such act to be done, shall forfeit to the state such  
9 alcoholic liquor or cereal malt beverage and such packages and containers,  
10 and shall be subject to the punishment and penalties provided for viola-  
11 tion of the Kansas liquor control act.

12 New Sec. 28. In any indictment, information or complaint, charging  
13 the violation of any of the provisions of the Kansas liquor control act, the  
14 club and drinking establishment act or the cereal malt beverage retailers'  
15 act, it shall be sufficient to charge that the accused unlawfully manufac-  
16 tured, sold, offered for sale, kept for sale, delivered or otherwise unlaw-  
17 fully disposed of alcoholic liquor or cereal malt beverage without any  
18 further or more specific description of such alcoholic liquor or cereal malt  
19 beverage; and proof of any kind of alcoholic liquor or cereal malt beverage  
20 unlawfully manufactured, sold, offered for sale, kept for sale, delivered,  
21 or otherwise unlawfully disposed of, as the case may be, shall be sufficient  
22 proof as to the character or kind of alcoholic liquor or cereal malt  
23 beverage.

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

40 New Sec. 30. The possession of a special tax stamp from the govern-  
41 ment of the United States authorizing the sale or manufacture of alcoholic  
42 liquor or cereal malt beverage by a person not licensed under the Kansas  
43 liquor control act, the club and drinking establishment act or the cereal

1 malt beverage retailers' act shall be prima facie evidence that the person  
2 so holding such special tax stamp is manufacturing or selling in violation  
3 of law. A certified copy of such special tax stamp verified by the proper  
4 authority shall be admitted in evidence in all respects as the original spe-  
5 cial tax stamp might be received.

6 New Sec. 31. (a) No distributor shall purchase any alcoholic liquor  
7 or cereal malt beverage from any manufacturer, owner of alcoholic liquor  
8 or cereal malt beverage at the time it becomes a marketable product,  
9 exclusive agent of such manufacturer or owner, microbrewery, farm win-  
10 ery or distributor of alcoholic liquor or cereal malt beverage bottled in a  
11 foreign country either within or without this state, unless the manufac-  
12 turer, owner, exclusive agent, microbrewery, farm winery or distributor  
13 files with the director a written statement sworn to by the manufacturer,  
14 owner, exclusive agent, microbrewery, farm winery or distributor or, in  
15 case of a corporation, one of its principal officers, agreeing to sell any of  
16 the brands or kinds of alcoholic liquor or cereal malt beverage manufac-  
17 tured or distributed by the manufacturer, owner, exclusive agent, micro-  
18 brewery, farm winery or distributor to any distributor licensed in this state  
19 and having a franchise to distribute the alcoholic liquor pursuant to K.S.A.  
20 41-410, and amendments thereto, and to make such sales to all such  
21 licensed distributors in this state at the same current price and without  
22 discrimination. Each manufacturer, owner, exclusive agent, microbrewery  
23 or farm winery shall provide to each distributor written notice not less  
24 than 45 days before any change in the current price of any spirits or wine  
25 which such manufacturer, owner, exclusive agent, microbrewery or farm  
26 winery sells to such distributor. If any manufacturer, owner, exclusive  
27 agent, microbrewery, farm winery or distributor making the agreement  
28 violates the agreement by refusing to sell such alcoholic liquor or cereal  
29 malt beverage to any such franchised licensed distributor in this state or  
30 discriminates in current prices among such franchised licensed distribu-  
31 tors making or attempting to make purchases of alcoholic liquor or cereal  
32 malt beverage from the manufacturer, owner, exclusive agent, micro-  
33 brewery, farm winery or distributor, the director shall notify, by registered  
34 mail, each such franchised licensed distributor in this state of the viola-  
35 tion. Thereupon, it shall be unlawful for a franchised licensed distributor  
36 in this state to purchase any alcoholic liquor or cereal malt beverage from  
37 the manufacturer, owner, exclusive agent, microbrewery, farm winery or  
38 distributor. If thereafter such a franchised licensed distributor purchases  
39 any alcoholic liquor or cereal malt beverage from the manufacturer,  
40 owner, exclusive agent, microbrewery, farm winery or distributor, such  
41 franchised distributor's license shall be revoked by the director. If any  
42 manufacturer, owner, exclusive agent, microbrewery, farm winery or dis-  
43 tributor of alcoholic liquor or cereal malt beverage bottled in a foreign

1 country, making any agreement hereunder, does not have a sufficient  
2 supply of alcoholic liquor or cereal malt beverage of any of the brands or  
3 kinds which the manufacturer, owner, exclusive agent, microbrewery,  
4 farm winery or distributor manufactures or distributes to supply the de-  
5 mands of all licensed distributors having a franchise to distribute such  
6 alcoholic liquor or cereal malt beverage, the manufacturer, owner, exclu-  
7 sive agent, microbrewery, farm winery or distributor may ration such  
8 alcoholic liquor or cereal malt beverage and apportion the available supply  
9 among such franchised licensed distributors purchasing or attempting to  
10 purchase it, in accordance with a plan which shall be subject to the ap-  
11 proval of the director.

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

37 (c) No club or drinking establishment licensed in this state shall pur-  
38 chase any wine, beer or cereal malt beverage from any distributor unless  
39 the distributor files with the director a written statement sworn to by the  
40 distributor, or in case of a corporation by one of its principal officers,  
41 agreeing to sell any of the brands or kinds of wine, beer or cereal malt  
42 beverage distributed by the distributor to those clubs and drinking estab-  
43 lishments to which the distributor is authorized to sell such wine, beer or

1 cereal malt beverage and to which the distributor desires to sell such wine,  
2 beer or cereal malt beverage, unless written approval to do otherwise is  
3 obtained from the director and to make such sales to all such licensed  
4 clubs or drinking establishments at the same current bottle and case price  
5 and without discrimination. If any distributor making the agreement vi-  
6 olates the agreement by refusing to sell to any such licensed club or  
7 drinking establishment in this state without written approval of the di-  
8 rector or discriminates in current prices among such licensed clubs or  
9 drinking establishments making or attempting to make purchases of wine,  
10 beer or cereal malt beverage from the distributor, the director may revoke  
11 the license of the distributor. If any licensed distributor making any agree-  
12 ment hereunder does not have a sufficient supply of wine, beer or cereal  
13 malt beverage of any of the brands or kinds which the distributor distrib-  
14 utes to supply the demands of all such licensed clubs or drinking estab-  
15 lishments, the distributor may ration such wine, beer or cereal malt bev-  
16 erage and apportion the available supply among such licensed clubs or  
17 drinking establishments purchasing or attempting to purchase the same,  
18 in accordance with a plan which shall be subject to the approval of the  
19 director.

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

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



1 available supply among such liquor retailers and cereal malt beverage  
2 retailers purchasing or attempting to purchase the same, in accordance  
3 with a plan which shall be subject to the approval of the director.

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

8 New Sec. 32. Any licensee who shall quit business or shall have the  
9 license suspended or revoked may sell and dispose of any alcoholic liquor  
10 or cereal malt beverage which the licensee has possession of at the time  
11 of quitting business or of the suspension or revocation of the license in  
12 accordance with rules and regulations adopted by the secretary of  
13 revenue.

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

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

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

35 New Sec. 35. The sheriff of any county who possesses alcoholic liq-  
36 uors or cereal malt beverages on which has been levied execution for a  
37 judgment creditor may sell such alcoholic liquors or cereal malt beverages  
38 when an order of the court is entered directing such sale. Such order  
39 shall be directed to the sheriff of the county in which execution is levied  
40 and shall fix the time and place of sale, method and manner in which the  
41 sale shall be held, together with such notice as the court shall direct. After  
42 payment of all costs of the action, the balance shall be paid to the judg-  
43 ment creditor. If the amount exceeds the amount of the judgment, then

1 any excess of the judgment amount shall be returned to defendant debtor.  
2 This section shall not apply in any case in which the court has ordered  
3 and directed confiscation of alcoholic liquor or cereal malt beverage as  
4 part of a judgment or conviction.

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

11 (a) The person allowing such consumption shall be guilty of a mis-  
12 demeanor and upon conviction thereof shall be subject to a fine not to  
13 exceed \$500 or confinement in the county jail not to exceed six months  
14 or both such fine and imprisonment.

15 (b) The property on which the violation takes place is declared to be  
16 a public nuisance and as such is subject to abatement as provided in K.S.A.  
17 41-805, and amendments thereto.

18 New Sec. 37. It shall be unlawful for any licensee or holder of a  
19 temporary permit under the club and drinking establishment act to:

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

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

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

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

37 (e) Purchase alcoholic liquor or cereal malt beverage from any person  
38 except from a person authorized by law to sell such alcoholic liquor or  
39 cereal malt beverage to such licensee or permit holder.

40 (f) Permit any employee of the licensee or permit holder who is under  
41 the age of 21 years to work on premises where alcoholic liquor or cereal  
42 malt beverage is sold by such licensee or permit holder at any time when  
43 not under the on-premises supervision of either the licensee or permit

1 holder, or an employee who is 21 years of age or over.

2 (g) Employ any person under 21 years of age in connection with the  
3 mixing or dispensing of drinks containing alcoholic liquor or cereal malt  
4 beverage.

5 New Sec. 38. The director may revoke or suspend any license issued  
6 pursuant to the club and drinking establishment act for any one or more  
7 of the following reasons:

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

10 (b) The licensee has violated any of the provisions of the club and  
11 drinking establishment act or any rules and regulations adopted  
12 hereunder.

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

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

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

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

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

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

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

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

42 New Sec. 39. (a) Except as provided by subsection (c), no club or  
43 drinking establishment shall allow the serving, mixing or consumption of

1 alcoholic liquor or cereal malt beverage on the licensed premises between  
2 the hours of 2:00 a.m. and 9:00 a.m. on any day.

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

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

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

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

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

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

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

43 New Sec. 42. (a) A license for a class B club shall allow the licensee

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

1 such club. The membership, if granted, shall be valid only for the period  
2 of the training, not to exceed 20 weeks. Any person wishing to make  
3 application for temporary membership in a class B club under this sub-  
4 section (d)(3) shall present the temporary duty orders to the club. Tem-  
5 porary membership issued under this subsection (d)(3) shall not be sub-  
6 ject to the waiting period or fee requirements of this section.

7 (4) Any class B club may enter into a written agreement with a hotel  
8 or RV resort whereby a guest who is registered at the hotel or RV resort  
9 and who is not a resident of the county in which the club is located may  
10 file application for temporary membership in such club. The temporary  
11 membership, if granted, shall be valid only for the period of time that the  
12 guest is a bona fide registered guest at the hotel or RV resort and shall  
13 not be subject to the waiting period or dues requirement of this section.  
14 A club may enter into a written agreement with a hotel or RV resort  
15 pursuant to this provision only if (A) the hotel or RV resort is located in  
16 the same county as the club, (B) there is no class B club located on the  
17 premises of the hotel or RV resort and (C) no other club has entered into  
18 a written agreement with the hotel or RV resort pursuant to this section.

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

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

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

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

39 (b) A drinking establishment shall be required to derive from sales  
40 of food for consumption on the licensed premises not less than 30% of  
41 all the establishment's gross receipts from sales of food and beverages on  
42 such premises unless the licensed premises are located in a county where  
43 the qualified electors of the county:

- 1 (1) Have approved, at an election pursuant to K.S.A. 41-2646, and  
2 amendments thereto, a proposition to allow sales of alcoholic liquor by  
3 the individual drink in public places within the county without a require-  
4 ment that any portion of their gross receipts be derived from the sale of  
5 food; and
- 6 (2) have not approved a proposition to prohibit such sales of alcoholic  
7 liquor in such places at a subsequent election pursuant to K.S.A. 41-2646,  
8 and amendments thereto.
- 9 (c) A drinking establishment shall specify in the application for a li-  
10 cense or renewal of a license the premises to be licensed, which may  
11 include all premises which are in close proximity and are under the con-  
12 trol of the applicant or licensee.
- 13 (d) Notwithstanding any other provision of law to the contrary, any  
14 hotel of which the entire premises are licensed as a drinking establish-  
15 ment or as a drinking establishment/caterer may sell alcoholic liquor or  
16 cereal malt beverage by means of minibars located in guest rooms of such  
17 hotel, subject to the following:
- 18 (1) The key, magnetic card or other device required to attain access  
19 to a minibar in a guest room shall be provided only to guests who are  
20 registered to stay in such room and who are 21 or more years of age;
- 21 (2) containers or packages of spirits or wine sold by means of a min-  
22 ibar shall hold not less than 50 nor more than 200 milliliters; and
- 23 (3) a minibar shall be restocked with alcoholic liquor or cereal malt  
24 beverage only during hours when the hotel is permitted to sell alcoholic  
25 liquor and cereal malt beverage as a drinking establishment.
- 26 New Sec. 44. (a) A caterer's license shall allow the licensee to offer  
27 for sale, sell and serve alcoholic liquor and cereal malt beverage for con-  
28 sumption on unlicensed premises, which may be open to the public, but  
29 only if such premises are located in a county where the qualified electors  
30 of the county:
- 31 (1) (A) Approved, by a majority vote of those voting thereon, the  
32 proposition to amend section 10 of article 15 of the constitution of the  
33 state of Kansas at the general election in November, 1986, or (B) have  
34 approved a proposition to allow sales of alcoholic liquor by the individual  
35 drink in public places within the county at an election pursuant to K.S.A.  
36 41-2646, and amendments thereto; and
- 37 (2) have not approved a proposition to prohibit such sales of alcoholic  
38 liquor in such places at a subsequent election pursuant to K.S.A. 41-2646,  
39 and amendments thereto.
- 40 (b) A caterer shall be required to derive from sales of food at catered  
41 events not less than 30% of the caterer's gross receipts from all sales of  
42 food and beverages at catered events in a 12-month period unless the  
43 caterer offers for sale, sells and serves alcoholic liquor or cereal malt

1 beverage only in counties where the qualified electors of the county:

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

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

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

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

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

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

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

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

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

38 (c) Applications for temporary permits shall be required to be filed  
39 with the director not less than 14 days before the event for which the  
40 permit is sought unless the director waives such requirement for good  
41 cause. Each application shall state the purposes for which the proceeds  
42 of the event will be used. The application shall be upon a form prescribed  
43 and furnished by the director and shall be filed with the director in du-



1 plicate. Each application shall be accompanied by a permit fee of \$25 for  
2 each day for which the permit is issued, which fee shall be paid by a  
3 certified or cashier's check of a bank within this state, United States post  
4 office money order or cash in the full amount thereof. All permit fees  
5 collected by the director pursuant to this section shall be remitted to the  
6 state treasurer in accordance with the provisions of K.S.A. 75-4215, and  
7 amendments thereto. Upon receipt of each such remittance, the state  
8 treasurer shall deposit the entire amount in the state treasury to the credit  
9 of the state general fund.

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

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

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

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

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

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

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

36 New Sec. 46. (a) No cereal malt beverage retailer shall sell any cereal  
37 malt beverage without having first secured a license for each place of  
38 business as herein provided. If such place of business is located within  
39 the corporate limits of a city in which the cereal malt beverage retailers'  
40 act is applicable, the application for a license shall be made to the gov-  
41 erning body of such city. A place of business located outside the corporate  
42 limits of a city may be licensed only if the place of business is located in  
43 a township in which the cereal malt beverage retailers' act is applicable,

1 and the application for a license for such place of business shall be made  
2 to the board of county commissioners in the county in which such place  
3 of business is to be located.

4 (b) A board of county commissioners shall not issue or renew a cereal  
5 malt beverage retailer's license without giving the clerk of the township  
6 where the place of business is to be located written notice by registered  
7 mail of the filing of the application for licensure or renewal. The township  
8 board may within 10 days file advisory recommendations as to the grant-  
9 ing of such license or renewal and such advisory recommendations shall  
10 be considered by the board of county commissioners before such license  
11 is issued. If an original license is granted and issued, the board of county  
12 commissioners shall grant and issue renewals thereof upon application of  
13 the license holder, if the license holder is qualified to receive the same  
14 and the license has not been revoked as provided by law.

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

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

31 (d) In addition to the fee provided by subsection (e), each application  
32 for a cereal malt beverage retailer's license to sell cereal malt beverages  
33 for consumption on the licensed premises shall be accompanied by a fee  
34 of not less than \$25 or more than \$200, as prescribed by the board of  
35 county commissioners or the governing body of the city, as the case may  
36 be.

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

1 stamp has first been affixed thereto.

2 (f) The director shall remit all fees collected by the director to the  
3 state treasurer in accordance with the provisions of K.S.A. 75-4215, and  
4 amendments thereto. Upon receipt of each such remittance, the state  
5 treasurer shall deposit the entire amount in the state treasury to the credit  
6 of the state general fund, except that the director may provide for the  
7 deposit in the cereal malt beverage tax refund fund of such amounts as  
8 necessary for the refund of any license fees collected hereunder.

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

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

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

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

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

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

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

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

40 (5) A person who, within two years immediately preceding the date  
41 of application, has been convicted of a felony or any crime involving moral  
42 turpitude, drunkenness, driving a motor vehicle while under the influence  
43 of intoxicating liquor or violation of any other intoxicating liquor law of

- 1 any state or of the United States.
- 2 (6) A partnership, unless all the members of the partnership are oth-  
3 erwise qualified to obtain a license.
- 4 (7) A corporation, if any manager, officer or director thereof, or any  
5 stockholder owning in the aggregate more than 25% of the stock of such  
6 corporation, would be ineligible to receive a license hereunder for any  
7 reason other than the citizenship and residency requirements.
- 8 (8) A corporation, if any manager, officer or director thereof, or any  
9 stockholder owning in the aggregate more than 25% of the stock of such  
10 corporation, has been an officer, manager or director, or a stockholder  
11 owning in the aggregate more than 25% of the stock, of a corporation  
12 which: (A) Has had a license revoked under K.S.A. 41-2708 or section  
13 51, and amendments thereto; or (B) has been convicted of a violation of  
14 the cereal malt beverage retailers' act, the Kansas liquor control act, the  
15 club and drinking establishment act or K.S.A. 41-2701 et seq., and amend-  
16 ments thereto.
- 17 (9) A person whose place of business is conducted by a manager or  
18 agent unless the manager or agent possesses all the qualifications of a  
19 licensee.
- 20 (10) A person whose spouse would be ineligible to receive a cereal  
21 malt beverage retailer's license for any reason other than citizenship, re-  
22 sidence requirements or age, except that this subsection (b)(10) shall not  
23 apply in determining eligibility for a renewal license.
- 24 (11) A person whose spouse has been convicted of a felony or other  
25 crime which would disqualify a person from licensure under this section  
26 and such felony or other crime was committed during the time that the  
27 spouse held a license issued under this act or under K.S.A. 41-2702, and  
28 amendments thereto.
- 29 (c) Each class of cereal malt beverage retailers' licenses shall be is-  
30 sued either on an annual basis or for the calendar year. If such licenses  
31 are issued on an annual basis, the board of county commissioners or the  
32 governing body of the city shall notify the distributors supplying the  
33 county or city on or before April 1 of the calendar year if a cereal malt  
34 beverage retailer's license is not renewed.
- 35 New Sec. 48. (a) In addition to and consistent with the requirements  
36 of the cereal malt beverage retailers' act, the board of county commis-  
37 sioners of any county or the governing body of any city may prescribe  
38 hours of closing, standards of conduct and rules and regulations concern-  
39 ing the moral, sanitary and health conditions of cereal malt beverage  
40 retailers pursuant to this act and may establish zones within which no  
41 such place may be located.
- 42 (b) No cereal malt beverages may be sold for consumption on the  
43 premises by a cereal malt beverage retailer:

- 1 (1) Between the hours of 12 midnight and 6 a.m.; or
- 2 (2) on Sunday, except in a place of business which is licensed to sell  
3 cereal malt beverage for consumption on the premises, which derives not  
4 less than 30% of its gross receipts from the sale of food for consumption  
5 on the licensed premises and which is located in a county where such  
6 sales on Sunday have been authorized by resolution of the board of county  
7 commissioners of the county or in a city where such sales on Sunday have  
8 been authorized by ordinance of the governing body of the city.
- 9 (c) Except to the extent authorized by law in any city or county in  
10 which the hours and days of sale have been expanded pursuant to K.S.A.  
11 2006 Supp. 41-2911, and amendments thereto, no cereal malt beverage  
12 may be sold in the original and unopened container by a cereal malt  
13 beverage retailer:
- 14 (1) Before 9 a.m. or after 11 p.m. on any day when the sale is  
15 permitted;
- 16 (2) on Sunday; or
- 17 (3) on Decoration or Memorial day, Independence Day, Labor day,  
18 Thanksgiving day or Christmas day.
- 19 (d) No private rooms or closed booths shall be operated in a cereal  
20 malt beverage retailer's place of business, but this provision shall not apply  
21 if the licensed premises also are licensed as a club pursuant to the club  
22 and drinking establishment act.
- 23 (e) Each cereal malt beverage retailer's place of business shall be  
24 open to the public and to law enforcement officers at all times during  
25 business hours.
- 26 (f) No cereal malt beverage retailer shall permit a minor to consume  
27 or purchase any cereal malt beverage in or about the cereal malt beverage  
28 retailer's place of business, and no cereal malt beverage retailer shall  
29 permit a minor to possess cereal malt beverage in or about the cereal  
30 malt beverage retailer's place of business, except that a cereal malt bev-  
31 erage retailer's employee who is not less than 18 years of age may dispense  
32 or sell cereal malt beverage, if:
- 33 (1) The cereal malt beverage retailer's place of business is licensed  
34 only to sell at retail cereal malt beverage in the original package and not  
35 for consumption on the premises; or
- 36 (2) the cereal malt beverage retailer's place of business is a licensed  
37 food service establishment, as defined by K.S.A. 36-501 and amendments  
38 thereto, and not less than 50% of the gross receipts from the cereal malt  
39 beverage retailer's place of business is derived from the sale of food for  
40 consumption on the licensed premises of the cereal malt beverage re-  
41 tailer's place of business.
- 42 (g) No person shall have any alcoholic liquor in such person's pos-  
43 session while in a cereal malt beverage retailer's place of business.

1 (h) No cereal malt beverage retailer shall sell, directly or indirectly,  
2 any cereal malt beverage at less than the acquisition cost of such cereal  
3 malt beverage without first having obtained from the director a permit  
4 to do so. The director may issue to a licensed cereal malt beverage retailer  
5 a permit authorizing the cereal malt beverage retailer to sell cereal malt  
6 beverage at less than the acquisition cost of such cereal malt beverage if:

7 (1) The cereal malt beverage retailer is actually closing out the cereal  
8 malt beverage retailers' stock for the purpose of completely discontinuing  
9 the sale of the item of cereal malt beverage for a period of not less than  
10 12 months;

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

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

15 New Sec. 49. (a) Except to the extent permitted pursuant to K.S.A.  
16 41-703, and amendments thereto, no cereal malt beverage retailer, or any  
17 officer, associate, member, representative or agent thereof, shall accept,  
18 receive or borrow money or anything else of value, or accept or receive  
19 credit, directly or indirectly, from: (1) Any manufacturer or distributor;  
20 (2) any person connected with, in any way representing or a member of  
21 the family of a manufacturer or distributor; (3) any stockholders in a  
22 manufacturer or distributor; or (4) any officer, manager, agent or repre-  
23 sentative of a manufacturer or distributor.

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

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

42 New Sec. 51. (a) The board of county commissioners or the govern-  
43 ing body of any city, upon five days' notice to the persons holding a license

- 1 as a cereal malt beverage retailer, shall revoke or suspend the license for  
2 any one of the following reasons:
- 3 (1) The cereal malt beverage retailer has fraudulently obtained the  
4 license by giving false information in the application therefor;
  - 5 (2) the cereal malt beverage retailer has violated any of the provisions  
6 of the cereal malt beverage retailers' act, or any rules and regulations  
7 made by the board or the city, as the case may be;
  - 8 (3) the cereal malt beverage retailer has become ineligible to obtain  
9 a license;
  - 10 (4) drunkenness of the cereal malt beverage retailer or permitting  
11 any intoxicated person to remain in or upon the cereal malt beverage  
12 retailer's place of business;
  - 13 (5) the sale of cereal malt beverages to any minor;
  - 14 (6) the nonpayment of any license fees;
  - 15 (7) permitting any gambling in or upon the cereal malt beverage re-  
16 tailer's place of business;
  - 17 (8) permitting any person to mix drinks with materials purchased in  
18 or upon the cereal malt beverage retailer's place of business or brought  
19 in for that purpose;
  - 20 (9) the employment of persons under 18 years of age in dispensing  
21 or selling cereal malt beverages;
  - 22 (10) the employment or continuation in employment of a person in  
23 connection with the sale, serving or dispensing of cereal malt beverages  
24 if the cereal malt beverage retailer knows such person has been, within  
25 the preceding two years, adjudged guilty of a felony or of any violation of  
26 the intoxicating liquor laws of this state, another state or the United States;
  - 27 (11) the sale or possession of, or permitting any person to use or  
28 consume on the licensed premises, any alcoholic liquor;
  - 29 (12) the cereal malt beverage retailer has been convicted of a viola-  
30 tion of the beer and cereal malt beverage keg registration act; or
  - 31 (13) there has been a violation of K.S.A. 21-4106 or 21-4107, and  
32 amendments thereto, in or upon the cereal malt beverage retailer's place  
33 of business.
- 34 (b) Within 20 days after the order of the board revoking or suspend-  
35 ing any cereal malt beverage retailer's license, the cereal malt beverage  
36 retailer may appeal to the district court and the district court shall proceed  
37 to hear such appeal as though such court had original jurisdiction of the  
38 matter. Any appeal taken from an order revoking or suspending the li-  
39 cense shall not suspend the order of revocation or suspension during the  
40 pendency of any such appeal. In case of the revocation of the license of  
41 any cereal malt beverage retailer, no new license shall be issued to the  
42 former licensee, or to any person acting for or on the former licensee's  
43 behalf, for a period of six months thereafter.

- 1 New Sec. 52. The attorney general, any county or district attorney  
2 or any city attorney within their respective jurisdictions shall at all times  
3 have the power to enjoin any person from selling cereal malt beverages  
4 if it shall appear that the person has violated any provision of the cereal  
5 malt beverage retailers' act or any rules and regulations adopted there-  
6 under. Injunction proceedings shall be the same as prescribed for the  
7 enjoining of intoxicating liquor nuisances.
- 8 New Sec. 53. (a) No cereal malt beverage retailer, or employee or  
9 agent of a cereal malt beverage retailer, licensed to sell cereal malt bev-  
10 erage for consumption on the licensed premises shall:
- 11 (1) Offer or serve any free cereal malt beverage to any person;
  - 12 (2) offer or serve to any person a drink at a price that is less than the  
13 acquisition cost of the drink to the cereal malt beverage retailer;
  - 14 (3) sell, offer to sell or serve to any person an unlimited number of  
15 drinks during any set period of time for a fixed price, except at private  
16 functions not open to the general public;
  - 17 (4) sell, offer to sell or serve any drink to any person at any time at a  
18 price less than that charged the general public on that day, except at  
19 private functions not open to the general public;
  - 20 (5) increase the size of a drink of cereal malt beverage without in-  
21 creasing proportionately the price regularly charged for the drink on that  
22 day;
  - 23 (6) encourage or permit, on the licensed premises, any game or con-  
24 test which involves drinking cereal malt beverage or the awarding of  
25 drinks as prizes; or
  - 26 (7) advertise or promote in any way, whether on or off the licensed  
27 premises, any of the practices prohibited under subsections (a)(1) through  
28 (6).
- 29 (b) Nothing in subsection (a) shall be construed to prohibit a cereal  
30 malt beverage retailer from offering free food or entertainment at any  
31 time.
- 32 (c) Violation of any provisions of this section is a misdemeanor pun-  
33 ishable as provided by K.S.A. 41-2711, and amendments thereto.
- 34 (d) Violation of any provision of this section shall be grounds for sus-  
35 pension or revocation of the cereal malt beverage retailer's license as  
36 provided by section 51, and amendments thereto.
- 37 (e) Every cereal malt beverage retailer subject to the provisions of  
38 this section shall make available at any time upon request a price list  
39 showing the cereal malt beverage retailer's current prices for all cereal  
40 malt beverages.
- 41 (f) As used in this section, "drink" means an individual serving of  
42 cereal malt beverage.
- 43 Sec. 54. K.S.A. 41-312 is hereby amended to read as follows: 41-312.



1 No person holding a manufacturer's or distributor's license shall be per-  
2 mitted to receive any retailer's *license*, microbrewery ~~or license~~, farm win-  
3 ery license *or cereal malt beverage retailer's license issued pursuant to*  
4 *the cereal malt beverage retailers' act*. No person holding a retailer's,  
5 microbrewery or farm winery license shall be permitted to receive any  
6 manufacturer's or distributor's license or another retailer's, microbrewery  
7 or farm winery license.

8 *No person holding a cereal malt beverage retailer's license, issued pur-*  
9 *suant to the cereal malt beverage retailers' act, shall be permitted to re-*  
10 *ceive any manufacturer's or distributor's license.*

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

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

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

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

42 (d) Any notice filed by a supplier pursuant to subsection (c) shall be  
43 accompanied by an affidavit stating that the termination, modification or

1 alteration is not caused by the failure of the distributor to violate any  
2 provision of the Kansas liquor control act or any rules and regulations  
3 adopted pursuant thereto.

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

9 (f) No franchise agreement for the distribution of a brand of alcoholic  
10 liquor or cereal malt beverage shall be terminated or modified, nor shall  
11 the territory designated in such an agreement be altered, except for rea-  
12 sonable cause.

13 (g) This section shall be part of and supplemental to the Kansas liquor  
14 control act.

15 New Sec. 56. (a) The governing body of any city in which alcoholic  
16 liquor may not be sold and in which cereal malt beverage only may be  
17 sold may adopt a resolution providing that, for the purpose of K.S.A. 41-  
18 2701 et seq., and amendments thereto, the definition of cereal malt bev-  
19 erage shall be as follows:

20 "Cereal malt beverage" means any fermented but undistilled liquor  
21 brewed or made from malt or from a mixture of malt or malt substitute,  
22 but does not include any such liquor which is more than 5% by weight.

23 Such resolution shall be published at least once each week for two  
24 consecutive weeks in the official city newspaper. Such resolution shall not  
25 become effective until at least 30 days following the date of the last pub-  
26 lication thereof. If within 30 days following the last publication of the  
27 resolution, a petition requesting that the proposition be submitted for  
28 approval by the voters is filed in accordance with subsection (b), such  
29 resolution shall not become effective until the proposition is submitted  
30 to and approved at an election as provided by this section.

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

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

42 (d) If a majority of the voters voting at any election pursuant to this  
43 section votes in favor of the proposition, the governing body shall transmit

1 a copy of the results to the director of the division of alcoholic beverage  
2 control, department of revenue.

3 (e) The board of county commissioners of any county in which al-  
4 coholic liquor may not be sold and in which cereal malt beverage only  
5 may be sold in any portion of such county outside the corporate limits of  
6 any city within the county, may adopt a resolution providing that in said  
7 portions of the county, for purposes of K.S.A. 41-2701 et seq., and amend-  
8 ments thereto, the definition of cereal malt beverage shall be as follows:

9 "Cereal malt beverage" means any fermented but undistilled liquor  
10 brewed or made from malt or from a mixture of malt or malt substitute,  
11 but does not include any such liquor which is more than 5% by weight.

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

15 New Sec. 57. (a) From and after the effective date of the cereal malt  
16 beverage retailers' act in any city or county adopting its provisions, there  
17 is hereby imposed, for the privilege of engaging in the business of selling  
18 cereal malt beverage by liquor retailers to consumers, or selling cereal  
19 malt beverage by distributors to clubs, drinking establishments, caterers  
20 or temporary permit holders, a tax at the rate of 8% upon the gross  
21 receipts received from: (1) The sale of cereal malt beverage by liquor  
22 retailers to consumers; and (2) the sale of cereal malt beverage by dis-  
23 tributors to clubs, drinking establishments, caterers or temporary permit  
24 holders.

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

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

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

1 (b) The tax imposed by this section shall be identical in its application,  
2 and exemptions therefrom, if any, to the tax imposed pursuant to K.S.A.  
3 79-41a02, and amendments thereto. All laws and administrative rules and  
4 regulations of the department of revenue relating to the tax imposed  
5 pursuant to K.S.A. 79-41a02, and amendments thereto, shall apply to the  
6 tax imposed pursuant to this section, to the extent such laws and rules  
7 and regulations may be made applicable. The state director of taxation is  
8 hereby authorized to administer, enforce and collect the tax imposed  
9 pursuant to this section and to adopt such rules and regulations as may  
10 be necessary for the efficient and effective administration and enforce-  
11 ment thereof.

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

14 New Sec. 59. (a) All sales of cereal malt beverage by a cereal malt  
15 beverage retailer shall be subject to the tax imposed pursuant to the Kan-  
16 sas retailers' sales tax act, and also shall be subject to the retailers' sales  
17 tax imposed by any city or county in which such sales are made.

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

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

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