

HOUSE BILL No. 2537

By Committee on Federal and State Affairs

1-26

9 AN ACT concerning alcoholic beverages; amending K.S.A. 41-210, 41-
10 211, 41-304, 41-307, 41-308, 41-601, 41-602, 41-701, 41-708, 41-717,
11 41-718, 41-724, 41-725, 41-726, 41-729, 41-806, 41-901, 41-905, 41-
12 1001, 41-1002, 41-1004, 41-1101, 41-1102, 41-1122, 41-1123, 41-1125,
13 41-2604, 41-2610, 41-2614, 41-2632, 41-2643, 41-2705, 41-2706, 41-
14 2707, 41-2709, 41-2722, 41-2726, 79-4101, 79-4102, 79-4103, 79-4104,
15 79-41a01, 79-41a02, 79-41a04, 79-41a06, 79-41a07 and 79-41a08 and
16 K.S.A. 2009 Supp. 41-102, 41-104, 41-209, 41-308b, 41-712, 41-805,
17 41-2611, 41-2637, 41-2641, 41-2642, 41-2645, 41-2701, 41-2704, 41-
18 2728, 79-3606, 79-4108 and 79-41a03 and repealing the existing sec-
19 tions; also repealing K.S.A. 41-103 and 41-2712 and K.S.A. 2009 Supp.
20 41-2702, 41-2703 and 41-2708.

21
22 *Be it enacted by the Legislature of the State of Kansas:*Section 1. K.S.A.
23 2009 Supp. 41-102 is hereby amended to read as follows: 41-102. As used
24 in ~~this~~ *the Kansas liquor control act*, unless the context clearly requires
25 otherwise:

26 (a) (1) “Alcohol” means the product of distillation of any fermented
27 liquid, whether rectified or diluted, whatever its origin, and includes syn-
28 thetic ethyl alcohol ~~but does not include~~.

29 (2) “Alcohol” *does not mean* denatured alcohol or wood alcohol.

30 (b) (1) “Alcoholic liquor” means alcohol, spirits, wine, beer and every
31 liquid or solid, patented or not, containing alcohol, spirits, wine or beer
32 and capable of being consumed as a beverage by a human being; ~~but shall~~
33 ~~not include~~.

34 (2) “Alcoholic liquor” *does not mean* any cereal malt beverage.

35 (c) “Beer” means a beverage, containing more than ~~3.2%~~ 4% alcohol
36 by weight, obtained by alcoholic fermentation of an infusion or concoction
37 of barley, or other grain, malt and hops in water and includes beer, ale,
38 stout, lager beer, porter and similar beverages having such alcoholic
39 content.

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

42 (e) “Cereal malt beverage” has the meaning provided by K.S.A. 41-
43 2701, and amendments thereto.

- 1 (f) (1) “Cereal malt beverage retailer” means any person who sells or
2 offers for sale any cereal malt beverage for use or consumption and not
3 for resale in any form.
- 4 (2) “Cereal malt beverage retailer” does not mean a liquor retailer or
5 any person licensed under the club and drinking establishment act.
- 6 ~~(g)~~ (g) “Club” has the meaning provided by K.S.A. 41-2601, and
7 amendments thereto.
- 8 ~~(g)~~ (h) “Director” means the director of alcoholic beverage control
9 of the department of revenue.
- 10 ~~(h)~~ (i) “Distributor” means the person importing or causing to be
11 imported into the state, or purchasing or causing to be purchased within
12 the state, alcoholic liquor for sale or resale to *liquor* retailers licensed
13 under ~~this~~ the Kansas liquor control act or cereal malt beverage for sale
14 or resale to *cereal malt beverage* retailers licensed under ~~K.S.A. 41-2702,~~
15 ~~and amendments thereto~~ the Kansas cereal malt beverage act.
- 16 ~~(i)~~ (j) “Domestic beer” means beer which contains not more than 8%
17 alcohol by weight and which is manufactured in this state.
- 18 ~~(j)~~ (k) “Domestic fortified wine” means wine which contains more
19 than 14%, but not more than 20% alcohol by volume and which is man-
20 ufactured in this state without rectification.
- 21 ~~(k)~~ (l) “Domestic table wine” means wine which contains not more
22 than 14% alcohol by volume and which is manufactured without rectifi-
23 cation or fortification in this state.
- 24 ~~(l)~~ (m) “Drinking establishment” has the meaning provided by K.S.A.
25 41-2601, and amendments thereto.
- 26 ~~(m)~~ (n) “Farm winery” means a winery licensed by the director to
27 manufacture, store and sell domestic table wine and domestic fortified
28 wine.
- 29 (o) “Licensee” means any cereal malt beverage retailer, any liquor
30 retailer and any person licensed under the club and drinking establish-
31 ment act.
- 32 (p) (1) “Liquor retailer” or “retailer” means any retailer licensed
33 pursuant to the Kansas liquor control act.
- 34 (2) “Liquor retailer” or “retailer” does not mean a microbrewery or
35 farm winery.
- 36 ~~(n)~~ (q) “Manufacture” means to distill, rectify, ferment, brew, make,
37 mix, concoct, process, blend, bottle or fill an original package with any
38 alcoholic liquor, beer or cereal malt beverage.
- 39 ~~(o)~~ (r) (1) “Manufacturer” means every brewer, fermenter, distiller,
40 rectifier, wine maker, blender, processor, bottler or person who fills or
41 refills an original package and others engaged in brewing, ferment-
42 ing, distilling, rectifying or bottling alcoholic liquor, beer or cereal malt
43 beverage.

- 1 (2) “Manufacturer” does not include a microbrewery or a farm
2 winery.
- 3 ~~(p)~~ (s) “Microbrewery” means a brewery licensed by the director to
4 manufacture, store and sell domestic beer.
- 5 ~~(q)~~ (t) “Minor” means any person under 21 years of age.
- 6 ~~(r)~~ (u) “Nonbeverage user” means any manufacturer of any of the
7 products set forth and described in K.S.A. 41-501, and amendments
8 thereto, when the products contain alcohol or wine, and all laboratories
9 using alcohol for nonbeverage purposes.
- 10 ~~(s)~~ (v) (1) “Original package” or “original container” means any bot-
11 tle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or con-
12 tainer whatsoever, used, corked or capped, sealed and labeled by the
13 manufacturer of alcoholic liquor, to contain and to convey any alcoholic
14 liquor. ~~Original container does not include a sleeve.~~
- 15 (2) “Original package” or “original container” does not mean a sleeve.
- 16 ~~(t)~~ (w) “Person” means any natural person, corporation, partnership,
17 trust or association.
- 18 ~~(u)~~ (x) “Primary American source of supply” means the manufac-
19 turer, the owner of *cereal malt beverage* or alcoholic liquor at the time it
20 becomes a marketable product or the manufacturer’s or owner’s exclusive
21 agent who, if the *cereal malt beverage* or alcoholic liquor cannot be se-
22 cured directly from such manufacturer or owner by American wholesal-
23 ers, is the source closest to such manufacturer or owner in the channel
24 of commerce from which the product can be secured by American
25 wholesalers.
- 26 ~~(v)~~ (1) ~~“Retailer” means a person who sells at retail, or offers for sale~~
27 ~~at retail, alcoholic liquors.~~
- 28 ~~(2) “Retailer” does not include a microbrewery or a farm winery.~~
- 29 ~~(w)~~ (y) “Sale” means any transfer, exchange or barter in any manner
30 or by any means whatsoever for a consideration and includes all sales
31 made by any person, whether principal, proprietor, agent, servant or
32 employee.
- 33 ~~(x)~~ (z) “Salesperson” means any natural person who:
34 (1) Procures or seeks to procure an order, bargain, contract or agree-
35 ment for the sale of alcoholic liquor or cereal malt beverage; or
36 (2) is engaged in promoting the sale of alcoholic liquor or cereal malt
37 beverage, or in promoting the business of any person, firm or corporation
38 engaged in the manufacturing and selling of alcoholic liquor or cereal
39 malt beverage, whether the seller resides within the state of Kansas and
40 sells to licensed buyers within the state of Kansas, or whether the seller
41 resides without the state of Kansas and sells to licensed buyers within the
42 state of Kansas.
- 43 ~~(y)~~ (aa) “Secretary” means the secretary of revenue.

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

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

9 ~~(aa)~~ (cc) “To sell” includes to solicit or receive an order for, to keep
10 or expose for sale and to keep with intent to sell.

11 ~~(bb)~~ (dd) “Sleeve” means a package of two or more 50-milliliter (3.2-
12 fluid-ounce) containers of spirits.

13 ~~(cc)~~ (ee) “Spirits” means any beverage which contains alcohol ob-
14 tained by distillation, mixed with water or other substance in solution,
15 and includes brandy, rum, whiskey, gin or other spirituous liquors, and
16 such liquors when rectified, blended or otherwise mixed with alcohol or
17 other substances.

18 ~~(dd)~~ (ff) “Supplier” means a manufacturer of alcoholic liquor or ce-
19 real malt beverage or an agent of such manufacturer, other than a
20 salesperson.

21 ~~(ee)~~ (gg) “Temporary permit” has the meaning provided by K.S.A.
22 41-2601, and amendments thereto.

23 ~~(ff)~~ (hh) “Wine” means any alcoholic beverage obtained by the nor-
24 mal alcoholic fermentation of the juice of sound, ripe grapes, fruits, ber-
25 ries or other agricultural products, including such beverages containing
26 added alcohol or spirits or containing sugar added for the purpose of
27 correcting natural deficiencies.

28 Sec. 2. K.S.A. 2009 Supp. 41-104 is hereby amended to read as fol-
29 lows: 41-104. No person shall manufacture, bottle, blend, sell, barter,
30 transport, deliver, furnish or possess any alcoholic liquor for beverage
31 purposes, except as specifically provided in ~~this act~~, *the Kansas liquor*
32 *control act*, *the Kansas cereal malt beverage act* or the club and drinking
33 establishment act or ~~article 27 of chapter 41 of the Kansas Statutes An-~~
34 ~~notated~~, except that nothing contained in ~~this~~ *the Kansas liquor control*
35 act shall prevent:

36 (a) The possession and transportation of alcoholic liquor for the per-
37 sonal use of the possessor, the possessor’s family and guests except that
38 the provisions of K.S.A. 41-407, and amendments thereto, shall be ap-
39 plicable to all persons;

40 (b) the making of wine, cider, *cereal malt beverage* or beer by a per-
41 son from fruits, vegetables or grains, or the product thereof, by simple
42 fermentation and without distillation, if it is made solely for the use of
43 the maker and the maker’s family;

- 1 (c) any duly licensed practicing physician or dentist from possessing
 2 or using alcoholic liquor in the strict practice of the medical or dental
 3 profession;
- 4 (d) any hospital or other institution caring for sick and diseased per-
 5 sons, from possessing and using alcoholic liquor for the treatment of bona
 6 fide patients of such hospital or institution;
- 7 (e) any drugstore employing a licensed pharmacist from possessing
 8 and using alcoholic liquor in the compounding of prescriptions of duly
 9 licensed physicians;
- 10 (f) the possession and dispensation of wine by an authorized repre-
 11 sentative of any church for the purpose of conducting any bona fide rite
 12 or religious ceremony conducted by such church; ~~or~~
- 13 (g) the sale of wine to a consumer in this state by a person which
 14 holds a valid license authorizing the manufacture of wine in this or an-
 15 other state and the shipment of such wine directly to such consumer,
 16 subject to the following: (1) The consumer must be at least 21 years of
 17 age; (2) the consumer must purchase the wine while physically present
 18 on the premises of the wine manufacturer; (3) the wine must be for the
 19 consumer's personal consumption and not for resale; and (4) the con-
 20 sumer shall comply with the provisions of K.S.A. 41-407, and amend-
 21 ments thereto, by payment of all applicable taxes within such time after
 22 purchase of the wine as prescribed by rules and regulations adopted by
 23 the secretary; *or*
- 24 (h) the serving of complimentary alcoholic liquor or cereal malt ~~bev-~~
 25 ~~erages~~ *beverage* at fund raising activities of charitable organizations as
 26 defined by K.S.A. 17-1760, and amendments thereto, and as qualified
 27 pursuant to 26 U.S.C.A. 501(c) and by committees formed pursuant to
 28 K.S.A. 25-4142 et seq., and amendments thereto. The serving of such
 29 alcoholic liquor *or cereal malt beverage* at such fund raising activities shall
 30 not constitute a sale pursuant to ~~this act, the Kansas liquor control act,~~
 31 ~~the Kansas cereal malt beverage act or the club and drinking establish-~~
 32 ~~ment act or article 27 of chapter 41 of the Kansas Statutes Annotated,~~
 33 ~~and amendments thereto.~~ Any such fund raising activity shall not be re-
 34 quired to obtain a license or a temporary permit pursuant to ~~this act, the~~
 35 ~~Kansas liquor control act, the Kansas cereal malt beverage act or the club~~
 36 ~~and drinking establishment act or article 27 of chapter 41 of the Kansas~~
 37 ~~Statutes Annotated, and amendments thereto.~~
- 38 Sec. 3. K.S.A. 2009 Supp. 41-209 is hereby amended to read as fol-
 39 lows: 41-209. The director shall have the following powers, functions and
 40 duties:
- 41 (a) To receive applications for, and to issue and revoke licenses to
 42 manufacturers, distributors, nonbeverage users ~~and, liquor retailers and~~
 43 *cereal malt beverage* retailers in accordance with the provisions of ~~this~~

- 1 *the Kansas liquor control act and the Kansas cereal malt beverage act;*
2 (b) to call upon other administrative departments of the state, county
3 and city governments, sheriffs, city police departments, city marshals, law
4 enforcement officers and upon prosecuting officers for such information
5 and assistance as the director deems necessary in the performance of the
6 duties imposed upon the director by ~~this the Kansas liquor control act~~
7 *and the Kansas cereal malt beverage act;*
8 (c) to inspect or cause to be inspected, any premises where alcoholic
9 liquors ~~or cereal malt beverages~~ are manufactured, ~~distributed or sold or~~
10 ~~distributed and to inspect or cause to be inspected the premises of a liquor~~
11 ~~retailer where alcoholic liquor or cereal malt beverage is sold;~~
12 (d) in the conduct of any hearing authorized to be held by the director
13 to examine, or cause to be examined, under oath, any person, and to
14 examine or cause to be examined books and records of any licensee; to
15 hear testimony and take proof material for the information of the director
16 in the discharge of such duties hereunder; to administer or cause to be
17 administered oaths; and for any such purposes to issue subpoenas to re-
18 quire the attendance of witnesses and the production of books which shall
19 be effective in any part of this state; and any district court or any judge
20 of the district court, may by order duly entered, require the attendance
21 of witnesses and the production of relevant books subpoenaed by the
22 director, and the court or judge may compel obedience to the order by
23 proceedings for contempt;
24 (e) to collect, receive, account for and turn over to the secretary of
25 revenue all registration and license fees and taxes provided for in ~~this act~~
26 *the Kansas liquor control act and the Kansas cereal malt beverage act,*
27 *except for occupation license fees imposed on liquor retailers and cereal*
28 *malt beverage retailers by cities and counties,* and all other moneys re-
29 ceived by the director by virtue of the director's office; and
30 (f) such other powers, functions and duties as are or may be imposed
31 or conferred upon the director by law.
32 Sec. 4. K.S.A. 41-210 is hereby amended to read as follows: 41-210.
33 (a) The director shall propose such rules and regulations as necessary to
34 carry out the intent and purposes of ~~this the Kansas liquor control act~~
35 *and the Kansas cereal malt beverage act.* After the hearing on a proposed
36 rule and regulation has been held as required by law, the director shall
37 submit the proposed rule and regulation to the secretary of revenue who,
38 if the secretary approves it, shall adopt the rule and regulation.
39 (b) ~~It is intended by this act that the director of alcoholic beverage~~
40 ~~control~~ *The director shall have broad discretionary powers to govern the*
41 *traffic in alcoholic liquors liquor and cereal malt beverage and to enforce*
42 *strictly all the provisions of this the Kansas liquor control act and the*
43 *Kansas cereal malt beverage act in the interest of sanitation, purity of*

1 products, truthful representation and honest dealings in such manner as
2 generally will promote the public health and welfare. All valid rules and
3 regulations adopted under the provisions of ~~this~~ *the Kansas liquor control*
4 act shall be absolutely binding upon all licensees and enforceable by the
5 director ~~of alcoholic beverage control~~ through the power of suspension
6 or revocation of licenses.

7 Sec. 5. K.S.A. 41-211 is hereby amended to read as follows: 41-211.

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

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

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

19 (3) prescribing administrative procedures for the issuance of licenses
20 and the investigation of license applications and providing for advisory
21 recommendations from governing bodies of cities as to *liquor retailers'*
22 *and cereal malt beverage* retailers' licenses and for hearings on
23 applications;

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

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

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

30 (7) requiring the destruction of stamps upon containers which have
31 been opened;

32 (8) in the case of manufacturers and distributors of alcoholic liquors
33 *or cereal malt beverages*, requiring the labels attached to all containers ~~of~~
34 ~~such liquors~~ *thereof* which are intended for sale in this state to set forth,
35 in plain legible print in the English language, the name and kind of al-
36 coholic liquors *or cereal malt beverages* contained therein, together with
37 their alcoholic content, and if a blended product (except wine) to so state,
38 except that, if the director deems it unnecessary to show the alcoholic
39 content of beer on labels of containers of beer, the alcoholic content shall
40 not be required to be shown thereon;

41 (9) establishing procedures and conditions under which minors may
42 be engaged in programs or systems encouraging compliance with the
43 provisions of laws relating to the sale of alcoholic liquor and cereal malt

1 beverages to a person under 21 years of age or under the legal age for
2 consumption of cereal malt beverages as authorized by K.S.A. 41-727a,
3 41-2652 and 41-2727, and amendments thereto. Such regulations shall
4 include provisions which require that such person used in any such pro-
5 gram or system to be: (A) *Be* at least 18 years of age and not more than
6 19 ½ years of age; (B) exhibit a youthful appearance; (C) carry only one
7 piece of identification, which shall be a valid form of identification; *and*
8 (D) *be* truthful in interactions with licensees; except if asked, such person
9 may deny working with law enforcement officials.

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

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

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

17 (1) Standards of manufacture of alcoholic liquors and ~~beer, regardless~~
18 ~~of its alcoholic content~~ *cereal malt beverages*, not inconsistent with federal
19 laws, in order to insure the use of proper ingredients and methods in the
20 manufacture and distribution thereof; and

21 (2) standards, not inconsistent with federal law, for the proper label-
22 ing of containers or barrels, casks or other bulk containers or bottles of
23 alcoholic liquor and ~~beer, regardless of its alcoholic content,~~ *cereal malt*
24 *beverages* manufactured or sold in this state.

25 Sec. 6. K.S.A. 41-304 is hereby amended to read as follows: 41-304.
26 Licenses issued by the director shall be of the following classes: (a) Man-
27 ufacturer's license; (b) spirits distributor's license; (c) wine distributor's
28 license; (d) beer distributor's license; (e) *liquor* retailer's license; (f) mi-
29 crobrewery license; (g) farm winery license; ~~and~~ (h) *cereal malt beverage*
30 *retailer's license, as provided in the Kansas cereal malt beverage act; and*
31 (i) nonbeverage user's license.

32 Sec. 7. K.S.A. 41-307 is hereby amended to read as follows: 41-307.
33 A beer distributor's license shall allow:

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

36 (b) The sale of beer to:

37 (1) Licensed caterers;

38 (2) beer distributors licensed in this state;

39 (3) *liquor* retailers, *temporary permit holders*, clubs and drinking es-
40 tablishments, licensed in this state, except that such distributor shall sell
41 a brand of beer only to those *liquor* retailers, *temporary permit holders*,
42 clubs and drinking establishments of which the licensed premises are
43 located in the geographic territory within which such distributor is au-

1 thORIZED to sell such brand, as designated in the notice or notices filed
 2 with the director pursuant to K.S.A. 41-410 and amendments thereto;
 3 and

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

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

7 (1) Beer distributors licensed in this state;

8 (2) *liquor retailers*, clubs and drinking establishments, licensed in this
 9 state, ~~and retailers licensed under K.S.A. 41-2702 and amendments~~
 10 ~~thereto~~ *temporary permit holders and cereal malt beverage retailers li-*
 11 *censed under the Kansas cereal malt beverage act*, except that such distri-
 12 butor shall sell a brand of cereal malt beverage only to those ~~such clubs,~~
 13 ~~drinking establishments and retailers of which the~~ *liquor retailers, clubs,*
 14 *drinking establishments, temporary permit holders and cereal malt bev-*
 15 *erage retailers whose* licensed premises are located in the geographic
 16 territory within which such distributor is authorized to sell such brand,
 17 as designated in the notice or notices filed with the director pursuant to
 18 K.S.A. 41-410 and amendments thereto; and

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

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

23 (e) The storage *on the distributor's licensed premises* and delivery to
 24 a *liquor retailer or cereal malt beverage retailer* ~~licensed under the Kansas~~
 25 ~~liquor control act or a retailer licensed under K.S.A. 41-2702 and amend-~~
 26 ~~ments thereto, on the distributor's licensed premises,~~ of alcoholic liquor
 27 or cereal malt beverage of another licensed distributor authorized by law
 28 to sell such alcoholic liquor or cereal malt beverage to such retailer, in
 29 accordance with an agreement entered into with such other distributor
 30 and approved by the director.

31 Sec. 8. K.S.A. 41-308 is hereby amended to read as follows: 41-308.

32 (a) A *liquor retailer's* license shall allow the licensee to sell and offer for
 33 sale at retail and deliver in the original package, ~~as therein prescribed,~~
 34 alcoholic liquor *and cereal malt beverage* for use or consumption off of
 35 and away from the premises specified in such license. A *liquor retailer's*
 36 license shall permit sale and delivery of alcoholic liquor *and cereal malt*
 37 *beverage* only on the licensed premises and shall not permit sale of al-
 38 coholic liquor *or cereal malt beverage* for resale in any form, except that
 39 a licensed *liquor* retailer may:

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

42 (2) sell and deliver alcoholic liquor *and cereal malt beverage* to a
 43 caterer or to the licensed premises of a club or drinking establishment,

1 if such premises are in the county where the *liquor* retailer's premises
2 are located or in an adjacent county, for resale by such club, establishment
3 or caterer.

4 (b) The holder of a *liquor* retailer's license ~~shall not sell, offer for~~
5 ~~sale, give away or permit to be sold, offered for sale or given away in or~~
6 ~~from the premises specified in such license any service or thing of value~~
7 ~~whatsoever except alcoholic liquor in the original package, except that a~~
8 ~~licensed retailer may:~~

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

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

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

16 (4) distribute to the public, without charge, consumer advertising
17 specialities bearing advertising matter, subject to rules and regulations of
18 the secretary limiting the form and distribution of such specialities so that
19 they are not conditioned on or an inducement to the purchase of alcoholic
20 liquor ~~or cereal malt beverage~~; and

21 (5) *sell any other good or service which a cereal malt beverage retailer*
22 *is permitted to sell under the Kansas cereal malt beverage act, K.S.A. 41-*
23 *2701 et seq., and amendments thereto, except a liquor retailer shall not*
24 *sell, offer for sale, give away or permit to be sold, offered for sale or given*
25 *away in or from the premises specified in such license motor-vehicle fuel,*
26 *special fuels or cigarettes and tobacco products.*

27 (c) No licensed *liquor* retailer shall furnish any entertainment in such
28 premises or permit any pinball machine or game of skill or chance to be
29 located in or on such premises.

30 (d) A *liquor* retailer's license shall allow the licensee to store alcoholic
31 liquor *and cereal malt beverage* in refrigerators, cold storage units, ice
32 boxes or other cooling devices, and the licensee may sell such alcoholic
33 liquor *and cereal malt beverage* to consumers in a chilled condition.

34 Sec. 9. K.S.A. 2009 Supp. 41-308b is hereby amended to read as
35 follows: 41-308b. (a) A microbrewery license shall allow:

36 (1) The manufacture of not less than 100 nor more than 15,000 bar-
37 rels of domestic beer during the license year and the storage thereof;

38 (2) the sale to beer distributors of *domestic* beer, manufactured by
39 the licensee;

40 (3) the sale, on the licensed premises in the original unopened con-
41 tainer to consumers for consumption off the licensed premises, of *do-*
42 *mestic* beer manufactured by the licensee;

43 (4) the serving on the premises of samples of *domestic* beer manu-

1 factured by the licensee, if the premises are located in a county where
2 the sale of alcoholic liquor is permitted by law in licensed drinking
3 establishments;

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

8 (6) if the licensee is also licensed as a caterer, the sale of domestic
9 beer, *cereal malt beverage* and other alcoholic liquor for consumption on
10 unlicensed premises as authorized by the club and drinking establishment
11 act.

12 (b) Upon application and payment of the fee prescribed by K.S.A.
13 41-310, and amendments thereto, by a microbrewery licensee, the direc-
14 tor may issue not to exceed one microbrewery packaging and warehousing
15 facility license to the microbrewery licensee. A microbrewery packaging
16 and warehousing facility license shall allow:

17 (1) The transfer, from the licensed premises of the microbrewery to
18 the licensed premises of the microbrewery packaging and warehousing
19 facility, of *domestic* beer manufactured by the licensee, for the purpose
20 of packaging or storage, or both; and

21 (2) the transfer, from the licensed premises of the microbrewery
22 packaging and warehousing facility to the licensed premises of the mi-
23 crobrewery, of *domestic* beer manufactured by the licensee; or

24 (3) the removal from the licensed premises of the microbrewery
25 packaging and warehousing facility of *domestic* beer manufactured by the
26 licensee for the purpose of delivery to a licensed beer wholesaler.

27 (c) A microbrewery may sell domestic beer in the original unopened
28 container to consumers for consumption off the licensed premises at any
29 time between 6 a.m. and 12 midnight on any day except Sunday and
30 between 11 a.m. and 7 p.m. on Sunday. If authorized by subsection (a),
31 a microbrewery may serve samples of domestic beer and serve and sell
32 domestic beer and other alcoholic liquor for consumption on the licensed
33 premises at any time when a club or drinking establishment is authorized
34 to serve and sell alcoholic liquor.

35 (d) The director may issue to the Kansas state fair or any bona fide
36 group of brewers a permit to import into this state small quantities of
37 beer. Such beer shall be used only for bona fide educational and scientific
38 tasting programs and shall not be resold. Such beer shall not be subject
39 to the tax imposed by K.S.A. 41-501, and amendments thereto. The per-
40 mit shall identify specifically the brand and type of beer to be imported,
41 the quantity to be imported, the tasting programs for which the beer is
42 to be used and the times and locations of such programs. The secretary
43 shall adopt rules and regulations governing the importation of beer pur-

1 suant to this subsection and the conduct of tasting programs for which
2 such beer is imported.

3 (e) A microbrewery license or microbrewery packaging and ware-
4 housing facility license shall apply only to the premises described in the
5 application and in the license issued and only one location shall be de-
6 scribed in the license.

7 (f) No microbrewery shall:

8 (1) Employ any person under the age of 18 years in connection with
9 the manufacture, sale or serving of any alcoholic liquor, *cereal malt bev-*
10 *erage or domestic beer*;

11 (2) permit any employee of the licensee who is under the age of 21
12 years to work on the licensed premises at any time when not under the
13 on-premises supervision of either the licensee or an employee of the
14 licensee who is 21 years of age or over;

15 (3) employ any person under 21 years of age in connection with mix-
16 ing or dispensing alcoholic liquor, *cereal malt beverage or domestic beer*;
17 or

18 (4) employ any person in connection with the manufacture or sale of
19 alcoholic liquor, *cereal malt beverage or domestic beer* if the person has
20 been convicted of a felony.

21 (g) Whenever a microbrewery licensee is convicted of a violation of
22 the Kansas liquor control act, the director may revoke the licensee's li-
23 cense and all fees paid for the license in accordance with the Kansas
24 administrative procedure act.

25 Sec. 10. K.S.A. 41-601 is hereby amended to read as follows: 41-601.
26 Every manufacturer, distributor; *or* microbrewery which sells any beer
27 *or cereal malt beverage* to a beer distributor at wholesale and farm winery
28 which sells any wine to a distributor at wholesale shall between the 1st
29 and 15th day of each calendar month, make return under oath to the
30 director of all alcoholic liquor *or cereal malt beverage* manufactured and
31 sold by the manufacturer, distributor, microbrewery or farm winery in
32 the course of business during the preceding calendar month. In the case
33 of a distributor, the return shall also show: (a) The total amount of *alco-*
34 *holic liquor or cereal malt beverage* purchased by the distributor during
35 the preceding calendar month, the names of the distillers or distributors
36 from whom purchased, the quantity of each brand and the price paid
37 therefor; and (b) the names and locations of the *liquor retailers and cereal*
38 *malt beverage* retailers to whom alcoholic liquor *or cereal malt beverage*
39 was sold by the distributor during the preceding calendar month, the
40 quantity of each brand and the price charged therefor. The return shall
41 be made upon forms prescribed and furnished by the director and shall
42 contain such other information as the director reasonably requires.

43 Sec. 11. K.S.A. 41-602 is hereby amended to read as follows: 41-602.

1 It is the duty of each manufacturer, distributor, *or* microbrewery which
2 sells any beer *or cereal malt beverage* to a beer distributor and farm
3 winery which sells any wine to a distributor to keep complete and accurate
4 records of all ~~such sales of liquor, wine or beer~~ and complete and accurate
5 records of all alcoholic liquors *and cereal malt beverages* produced, man-
6 ufactured, compounded or imported. The director, in the director's dis-
7 cretion, may prescribe reasonable and uniform methods for keeping re-
8 cords by manufacturers, distributors, microbreweries and farm wineries
9 as contemplated by K.S.A. 41-401 through 41-409, and amendments
10 thereto.

11 Sec. 12. K.S.A. 41-701 is hereby amended to read as follows: 41-701.

12 (a) Except as provided in subsection (d), no spirits distributor shall sell
13 or attempt to sell any spirits within this state except to:

14 (1) A licensed manufacturer, licensed nonbeverage user or licensed
15 spirits distributor; or

16 (2) a licensed *liquor* retailer, as authorized by K.S.A. 41-306, and
17 amendments thereto.

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

20 (1) A licensed manufacturer, licensed nonbeverage user or licensed
21 wine distributor;

22 (2) a licensed caterer; or

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

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

28 (1) A licensed manufacturer, licensed nonbeverage user or licensed
29 beer distributor;

30 (2) a licensed caterer; or

31 (3) a *liquor retailer, a cereal malt beverage* retailer ~~licensed under~~
32 ~~the Kansas liquor control act or under K.S.A. 41-2702 and amendments~~
33 ~~thereto~~ or a club or drinking establishment, licensed in this state, as au-
34 thorized by K.S.A. 41-307, and amendments thereto.

35 (d) (1) If any spirits distributor refuses to sell spirits which such dis-
36 tributor is authorized to sell or refuses to provide any service in connec-
37 tion therewith to any licensed *liquor* retailer as authorized by K.S.A. 41-
38 306, and amendments thereto, it shall be lawful for any other licensed
39 spirits distributor to sell such spirits to such *liquor* retailer.

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

1 tributor to sell such wine to such *liquor* retailer.

2 (3) If any beer distributor refuses to sell beer or cereal malt beverage
3 which such distributor is authorized to sell or provide service in connec-
4 tion therewith to any *liquor* retailer ~~licensed under this act or under~~
5 ~~K.S.A. 41-2702 and amendments thereto,~~ or to any *cereal malt beverage*
6 *retailer* as authorized by K.S.A. 41-307, and amendments thereto, it shall
7 be lawful for any other licensed beer distributor to sell such beer or cereal
8 malt beverage to such *liquor retailer or cereal malt beverage* retailer.

9 (e) No manufacturer of alcoholic liquor or cereal malt beverage shall
10 sell or attempt to sell any alcoholic liquor or cereal malt beverage within
11 this state except to a licensed manufacturer, licensed distributor or li-
12 censed nonbeverage user.

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

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

28 Sec. 13. K.S.A. 41-708 is hereby amended to read as follows: 41-708.
29 No *liquor* retailer ~~licensed under this act~~ shall purchase or receive alco-
30 holic liquor or *cereal malt beverage* from any source except from a dis-
31 tributor licensed under ~~this~~ *the Kansas liquor control* act and having a
32 place of business in this state, except that a licensed *liquor* retailer may
33 purchase confiscated alcoholic liquor or *cereal malt beverage* at a sheriff's
34 sale. Any ~~retail licensee~~ *liquor retailer* who violates this section is guilty
35 of a misdemeanor, and upon conviction thereof shall be punished by a
36 fine of not less than \$200, nor more than \$1,000, to which may be added
37 imprisonment for not more than six months, and the license of such li-
38 censee may be revoked as provided by law.

39 Sec. 14. K.S.A. 2009 Supp. 41-712 is hereby amended to read as
40 follows: 41-712. (a) Within any city where the days of sale at retail of
41 alcoholic liquor in the original package have not been expanded as pro-
42 vided by K.S.A. 2009 Supp. 41-2911, and amendments thereto, or have
43 been so expanded and subsequently restricted as provided by K.S.A. 2009

1 Supp. 41-2911, and amendments thereto, and within any township where
2 the days of sale at retail of alcoholic liquor in the original package have
3 not been expanded as provided by K.S.A. 2009 Supp 41-2911, and amend-
4 ments thereto, or have been so expanded and subsequently restricted as
5 provided by K.S.A. 2009 Supp. 41-2911, and amendments thereto, no
6 ~~person~~ *liquor retailer* shall sell at retail any alcoholic liquor *or cereal malt*
7 *beverage* in the original package: (1) On Sunday; (2) on Memorial Day,
8 Independence Day, Labor Day, Thanksgiving Day or Christmas Day; or
9 (3) before 9 a.m. or after 11 p.m. on any day when the sale is permitted.
10 The governing body of any city by ordinance may require the closing of
11 premises prior to 11 p.m., but such ordinance shall not require closing
12 prior to 8 p.m.

13 (b) Within any city where the days of sale at retail of alcoholic liquor
14 in the original package have been expanded as provided by K.S.A. 2009
15 Supp. 41-2911, and amendments thereto, and have not been subse-
16 quently restricted as provided by K.S.A. 2009 Supp. 41-2911, and amend-
17 ments thereto, and within any township where the days of sale at retail
18 of alcoholic liquor in the original package have been expanded as provided
19 by K.S.A. 2009 Supp. 41-2911, and amendments thereto, and have not
20 been subsequently restricted as provided by K.S.A. 2009 Supp. 41-2911,
21 and amendments thereto, no ~~person~~ *liquor retailer* shall sell at retail al-
22 coholic liquor *or cereal malt beverage* in the original package: (1) On
23 Sunday before 12 noon or after 8 p.m.; (2) on Easter Sunday, Thanksgiv-
24 ing Day or Christmas Day; or (3) before 9 a.m. or after 11 p.m. on any
25 day when the sale is permitted. The governing body of any city by ordi-
26 nance may require the closing of premises prior to 11 p.m., but such
27 ordinance shall not require closing prior to 8 p.m.

28 Sec. 15. K.S.A. 41-717 is hereby amended to read as follows: 41-717.
29 (a) (1) Except as provided by subsection (a)(2), no person shall sell or
30 furnish at retail and no microbrewery or farm winery shall sell to any
31 consumer any alcoholic liquor *or cereal malt beverage* on credit; on a
32 passbook; on order on a store; in exchange for any goods, wares or mer-
33 chandise; or in payment for any services rendered. If any person extends
34 credit in violation of this subsection, the debt attempted to be created
35 shall not be recoverable at law.

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

42 (b) No microbrewery, farm winery or *liquor* retailer ~~of alcoholic liq-~~
43 ~~uor~~ shall accept a check for payment for alcoholic liquors *or cereal malt*

1 *beverages* sold by the *microbrewery*, winery or *liquor* retailer to a con-
2 sumer, other than the personal check of the person making the purchase.

3 Sec. 16. K.S.A. 41-718 is hereby amended to read as follows: 41-718.

4 (a) No person except a manufacturer, distributor, microbrewery, farm
5 winery or wholesaler shall fill or refill, in whole or in part, any original
6 package of alcoholic liquor *or cereal malt beverage* with the same or any
7 other kind or quality of alcoholic liquor *or cereal malt beverage*.

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

11 Sec. 17. K.S.A. 41-724 is hereby amended to read as follows: 41-724.

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

18 Sec. 18. K.S.A. 41-725 is hereby amended to read as follows: 41-725.

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

27 Sec. 19. K.S.A. 41-726 is hereby amended to read as follows: 41-726.

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

33 Sec. 20. K.S.A. 41-729 is hereby amended to read as follows: 41-729.

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

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

42 (1) The *liquor* retailer is actually closing out the *liquor* retailer's stock
43 for the purpose of completely discontinuing sale of the item of alcoholic

1 liquor or cereal malt beverage for a period of not less than 12 months;
2 (2) the item of alcoholic liquor or cereal malt beverage is damaged
3 or deteriorated in quality and notice is given to the public thereof; or
4 (3) the sale of the item of alcoholic liquor or cereal malt beverage is
5 by an officer acting under the order of a court.

6 Sec. 21. K.S.A. 2009 Supp. 41-805 is hereby amended to read as
7 follows: 41-805. ~~(1)~~ (a) Any room, house, building, boat, vehicle, airplane,
8 structure or place of any kind where alcoholic liquors or cereal malt bev-
9 erages are sold, manufactured, bartered or given away, in violation of ~~this~~
10 *the Kansas liquor control act*, or any building, structure or boat where
11 persons are permitted to resort for the purpose of drinking alcoholic liqu-
12 uors, ~~in violation of this act, or any place where such liquors are kept for~~
13 ~~sale, barter or gift, in violation of this act, and all such liquors, and cereal~~
14 *malt beverages in violation of the Kansas liquor control act or the Kansas*
15 *cereal malt beverage act, or any place where such alcoholic liquor or*
16 *cereal malt beverage is kept for sale, barter or gift in violation of the*
17 *Kansas liquor control act or the Kansas cereal malt beverage act. All such*
18 *alcoholic liquor or cereal malt beverage* and all property kept in and used
19 in maintaining such a place, are each and all of them hereby declared to
20 be a common nuisance. Any person who maintains or assists in maintain-
21 ing such common nuisance is guilty of a misdemeanor punishable by
22 imprisonment for not more than one year or by a fine not exceeding
23 \$25,000, or by both. If the court finds that the owner of real property
24 knew or should have known under the circumstances of the maintenance
25 of a common nuisance on such property, contrary to the liquor laws of
26 this state, and did not make a bona fide attempt to abate such nuisance
27 under the circumstances, such property shall be subject to a lien for, and
28 may be sold to pay all fines and costs assessed against the occupant of
29 such building or premises for any violation of ~~this act, and such~~ *the Kansas*
30 *liquor control act or the Kansas cereal malt beverage act. Such lien shall*
31 *be immediately enforced by civil action, in any court having jurisdiction,*
32 *by the county or district attorney of the county wherein such building or*
33 *premises may be located, or by the attorney for the director, when or-*
34 *dered by the director. For purposes of this section, evidence of a bona*
35 *fide attempt to abate such nuisance by the owner of the property shall*
36 *include, but not be limited to, the filing of a written report, by such owner*
37 *or at such owner's direction, to the local law enforcement agency that the*
38 *property is suspected by the owner of the property of being used in*
39 *maintaining a common nuisance as set forth in K.S.A. 22-3901, and*
40 *amendments thereto, contrary to the liquor laws of this state. If a tenant*
41 *of any building or premises uses the building or premises, or any part*
42 *thereof, in maintaining a common nuisance as hereinbefore defined, or*
43 *knowingly permits such use by another, such use shall render void the*

1 lease under which the tenant holds, and shall cause the right of possession
2 to revert to the owner or lessor, who may make immediate entry upon
3 the premises, or may invoke the remedy provided for the forcible deten-
4 tion thereof.

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

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

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

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

42 Sec. 22. K.S.A. 41-806 is hereby amended to read as follows: 41-806.
43 The attorney for the director when ordered by the director, or county

1 attorney in the county in which such nuisance exists, or is kept or main-
 2 tained, may maintain an action by injunction, in the name of the state of
 3 Kansas, to abate and temporarily or permanently to enjoin such nuisance.
 4 The court shall have the right to make temporary and final orders as in
 5 other injunction proceedings. The plaintiff shall not be required to give
 6 bond in such action.

7 Upon final judgment against the defendant, such court shall allow the
 8 attorneys for the state of Kansas a reasonable fee for prosecuting the
 9 action which shall be taxed as costs and shall also order that such room,
 10 house, building, structure, boat or place of any kind shall be closed and
 11 padlocked for a period of not less than three ~~(3)~~ months nor more than
 12 two ~~(2)~~ years, and until the owner, lessee, tenant or occupant thereof shall
 13 give bond with sufficient surety to be approved by the court making the
 14 order, in the penal sum of not less than ~~one thousand dollars (\$1,000)~~
 15 \$1,000, payable to the state of Kansas, and conditioned that no alcoholic
 16 liquor ~~will or cereal malt beverage shall~~ for a period of two years thereafter
 17 be manufactured, possessed, sold, bartered or given away or furnished or
 18 otherwise disposed of thereon or therein, or kept thereon or therein with
 19 intent to sell, barter, give away, or otherwise dispose of the same, contrary
 20 to ~~this act, and that he and his~~ *the Kansas liquor control act, the Kansas*
 21 *cereal malt beverage act or the club and drinking establishment act, and*
 22 *that such person's surety will pay all fines and costs assessed against him*
 23 *such person for any violation of this act the Kansas liquor control act, the*
 24 *Kansas cereal malt beverage act or the club and drinking establishment*
 25 *act.*

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

33 Sec. 23. K.S.A. 41-901 is hereby amended to read as follows: 41-901.
 34 (a) No person shall manufacture, import for distribution as a distributor
 35 at wholesale or distribute or sell alcoholic liquor or cereal malt beverage
 36 at any place within the state without having first obtained a valid license
 37 therefor under the provisions of ~~this act or under K.S.A. 41-2702 and~~
 38 ~~amendments thereto~~ *the Kansas liquor control act or the Kansas cereal*
 39 *malt beverage act. No person shall obtain a license to carry on the business*
 40 *authorized by the license as agent for another, obtain a license by fraud*
 41 *or make any false statement or otherwise violate any of the provisions of*
 42 *this act the Kansas liquor control act, the Kansas cereal malt beverage act*
 43 *or the club and drinking establishment act in obtaining any license here-*

1 ~~under~~ *under any such act*. No person having obtained a license ~~hereunder~~
2 *under any such act* shall violate any of the provisions ~~of this act thereof~~
3 with respect to the manufacture, possession, distribution or sale of alco-
4 holic liquor or cereal malt beverage; or with respect to the maintenance
5 of the licensed premises.

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

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

9 (2) for a second or subsequent offense, by a fine of not more than
10 \$1,000 or by imprisonment for not more than six months, or both.

11 (c) Each day any person engages in business as a manufacturer, dis-
12 tributor, microbrewery, farm winery ~~or, liquor retailer or cereal malt bev-~~
13 *erage* retailer in violation of the provisions of ~~this act~~ *the Kansas liquor*
14 *control act, the Kansas cereal malt beverage act or the club and drinking*
15 *establishment act* shall constitute a separate offense.

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

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

1 sale and the method and manner in which the sale shall be held, together
2 with notice of the sale as the court directs. After payment of all costs of
3 the action, including a reasonable fee for the county attorney, the balance
4 remaining shall be paid to the state treasurer pursuant to K.S.A. 20-2801,
5 and amendments thereto.

6 Sec. 24. K.S.A. 41-905 is hereby amended to read as follows: 41-905.
7 Any person who ~~shall~~ knowingly *shall* possess, sell, ship, transport or in
8 any way dispose of any alcoholic liquor *or cereal malt beverage* under any
9 *name* other than the proper name or brand known to the trade as des-
10 ignating the kind and quality of the contents of the package or other
11 containers of such alcoholic liquor *or cereal malt beverage* or who shall
12 cause any such act to be done, shall forfeit to the state such alcoholic
13 liquor *or cereal malt beverage* and such packages and containers, and shall
14 be subject to the punishment and penalties provided for violation of ~~this~~
15 *the Kansas liquor control act*.

16 Sec. 25. K.S.A. 41-1001 is hereby amended to read as follows: 41-
17 1001. In any indictment, information or complaint, charging the violation
18 of any of the provisions of ~~this the Kansas liquor control act, the Kansas~~
19 *cereal malt beverage act or the club and drinking establishment act*, it
20 shall be sufficient to charge that the accused unlawfully manufactured,
21 sold, offered for sale, kept for sale, delivered or otherwise unlawfully
22 disposed of alcoholic liquor *or cereal malt beverage* without any further
23 or more specific description of such *alcoholic liquor or cereal malt bev-*
24 *erage*; and proof of any kind of alcoholic liquor *or cereal malt beverage*
25 unlawfully manufactured, sold, offered for sale, kept for sale, delivered,
26 or otherwise unlawfully disposed of, as the case may be, shall be sufficient
27 proof as to the character or kind of alcoholic liquor *or cereal malt*
28 *beverage*.

29 Sec. 26. K.S.A. 41-1002 is hereby amended to read as follows: 41-
30 1002. In any indictment, information, or complaint charging the violation
31 of any of the provisions of ~~this the Kansas liquor control act, the Kansas~~
32 *cereal malt beverage act or the club and drinking establishment act*, it
33 shall not be necessary to allege the quantity of such alcoholic liquor *or*
34 *cereal malt beverage* or the kind thereof further than to allege that the
35 same was alcoholic liquor ~~and, in~~ *or cereal malt beverage, as the case may*
36 *be*. In case of sale, keeping for sale or delivery, it shall not be necessary
37 to set out the name of the person to whom sale or delivery has been
38 made, ~~and, in~~. In any prosecution for a second offense, it shall not be
39 necessary to state in the indictment, complaint or information the record
40 of the former conviction, but it shall be sufficient briefly to allege such
41 conviction. Proof of sale, delivery or unlawful disposition of alcoholic liq-
42 uors *or cereal malt beverages* to any person, not authorized by ~~this the~~
43 *Kansas liquor control act, the Kansas cereal malt beverage act or the club*

1 *and drinking establishment* act to purchase or receive the same, shall be
2 sufficient to sustain the allegation of unlawful sale, delivery or disposition,
3 as the case may be.

4 Sec. 27. K.S.A. 41-1004 is hereby amended to read as follows: 41-
5 1004. The possession of a special tax stamp from the government of the
6 United States authorizing the sale or manufacture of alcoholic liquor ~~as~~
7 ~~defined in this act~~ *or cereal malt beverage* by a person not licensed under
8 ~~this the Kansas liquor control act, the Kansas cereal malt beverage act or~~
9 ~~the club and drinking establishment act~~, shall be prima facie evidence that
10 the person so holding said special tax stamp is manufacturing or selling
11 in violation of ~~this act~~ law. A certified copy of such special tax stamp
12 verified by the proper authority shall be admitted in evidence in all re-
13 spects as the original special tax stamp might be received.

14 Sec. 28. K.S.A. 41-1101 is hereby amended to read as follows: 41-
15 1101. (a) No distributor licensed under ~~this the Kansas liquor control act~~
16 shall purchase any alcoholic liquor *or cereal malt beverage* from any man-
17 ufacturer, owner of alcoholic liquor *or cereal malt beverage* at the time
18 it becomes a marketable product, exclusive agent of such manufacturer
19 or owner, microbrewery, farm winery or distributor of alcoholic liquor *or*
20 *cereal malt beverage* bottled in a foreign country either within or without
21 this state, unless the manufacturer, owner, exclusive agent, microbrewery,
22 farm winery or distributor files with the director a written statement
23 sworn to by the manufacturer, owner, exclusive agent, microbrewery,
24 farm winery or distributor or, in case of a corporation, one of its principal
25 officers, agreeing to sell any of the brands or kinds of alcoholic liquor *or*
26 *cereal malt beverage* manufactured or distributed by the manufacturer,
27 owner, exclusive agent, microbrewery, farm winery or distributor to any
28 distributor licensed in this state and having a franchise to distribute the
29 alcoholic liquor *or cereal malt beverage* pursuant to K.S.A. 41-410, and
30 amendments thereto, and to make such sales to all such licensed distrib-
31 utors in this state at the same current price and without discrimination.
32 Each manufacturer, owner, exclusive agent, microbrewery or farm winery
33 shall provide to each distributor written notice not less than 45 days be-
34 fore any change in the current price of any spirits or wine which such
35 manufacturer, owner, exclusive agent, microbrewery or farm winery sells
36 to such distributor. If any manufacturer, owner, exclusive agent, micro-
37 brewery, farm winery or distributor making the agreement violates the
38 agreement by refusing to sell such alcoholic liquor *or cereal malt beverage*
39 to any such franchised licensed distributor in this state or discriminates
40 in current prices among such franchised licensed distributors making or
41 attempting to make purchases of alcoholic liquor *or cereal malt beverage*
42 from the manufacturer, owner, exclusive agent, microbrewery, farm win-
43 ery or distributor, the director shall notify, by registered mail, each such

1 franchised licensed distributor in this state of the violation. Thereupon,
2 it shall be unlawful for a franchised licensed distributor in this state to
3 purchase any alcoholic liquor *or cereal malt beverage* from the manufac-
4 turer, owner, exclusive agent, microbrewery, farm winery or distributor.
5 If thereafter such a franchised licensed distributor purchases any alco-
6 holic liquor *or cereal malt beverage* from the manufacturer, owner, ex-
7 clusive agent, microbrewery, farm winery or distributor, such franchised
8 distributor's license shall be revoked by the director. If any manufacturer,
9 owner, exclusive agent, microbrewery, farm winery or distributor of al-
10 coholic liquor *or cereal malt beverage* bottled in a foreign country, making
11 any agreement hereunder, does not have a sufficient supply of alcoholic
12 liquor *or cereal malt beverage* of any of the brands or kinds which the
13 manufacturer, owner, exclusive agent, microbrewery, farm winery or dis-
14 tributor manufactures or distributes to supply the demands of all licensed
15 distributors having a franchise to distribute such alcoholic liquor *or cereal*
16 *malt beverage*, the manufacturer, owner, exclusive agent, microbrewery,
17 farm winery or distributor may ration such alcoholic liquor *or cereal malt*
18 *beverage* and apportion the available supply among such franchised li-
19 censed distributors purchasing or attempting to purchase it, in accordance
20 with a plan which shall be subject to the approval of the director.

21 (b) No liquor retailer licensed under ~~this~~ *the Kansas liquor control*
22 *act and no cereal malt beverage retailer licensed under the Kansas cereal*
23 *malt beverage act* shall purchase any alcoholic liquor *or cereal malt bev-*
24 *erage* from any distributor licensed under ~~this~~ *the Kansas liquor control*
25 *act* unless the distributor files with the director a written statement sworn
26 to by the distributor, or in case of a corporation by one of its principal
27 officers, agreeing to sell any of the brands or kinds of alcoholic liquor *or*
28 *cereal malt beverage* distributed by the distributor and to provide service
29 in connection therewith to any *such* licensed retailer whose licensed
30 premises are located within the geographic territory of the distributor's
31 franchise for the alcoholic liquor *or cereal malt beverage*, unless written
32 approval to do otherwise is obtained from the director, and to make such
33 sales to all such licensed retailers at the same current bottle, sleeve and
34 case price and without discrimination. For purposes of this subsection
35 the "same current bottle, sleeve and case price" for spirits and wine means
36 a price effective for a specified period as designated by the distributor on
37 or before the first day of each month. If any distributor making the agree-
38 ment violates the agreement by refusing to sell or provide service to any
39 such licensed retailer in this state without written approval of the director
40 or discriminates in current prices among such licensed retailers making
41 or attempting to make purchases of alcoholic liquor *or cereal malt bev-*
42 *erage* from the distributor, the director may revoke the license of the
43 distributor. If any licensed distributor making any agreement hereunder

1 does not have a sufficient supply of alcoholic liquor *or cereal malt bev-*
2 *erage* of any of the brands or kinds which the distributor distributes to
3 supply the demands of all such licensed retailers, the distributor may
4 ration such alcoholic liquor *or cereal malt beverage* and apportion the
5 available supply among such licensed retailers purchasing or attempting
6 to purchase the same, in accordance with a plan which shall be subject
7 to the approval of the director.

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

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

38 (d) No *cereal malt beverage* retailer ~~licensed under K.S.A. 41-2701~~
39 ~~et seq. and amendments thereto~~ shall purchase any cereal malt beverage
40 from any distributor licensed under ~~this~~ *the Kansas liquor control* act
41 unless the distributor files with the director a written statement sworn to
42 by the distributor, or in case of a corporation by one of its principal
43 officers, agreeing to sell any of the brands or kinds of cereal malt beverage

1 distributed by the distributor ~~to those retailers~~ and to provide services in
2 connection therewith to any licensed cereal malt beverage retailer to
3 which the distributor is authorized to sell such cereal malt beverage, un-
4 less written approval to do otherwise is obtained from the director, and
5 to make such sales to all such licensed *cereal malt beverage* retailers at
6 the same current price and without discrimination. If any distributor mak-
7 ing the agreement violates the agreement by refusing to sell or provide
8 services to any such licensed *cereal malt beverage* retailer in this state
9 without written approval of the director or discriminates in current prices
10 among such licensed *cereal malt beverage* retailers making or attempting
11 to make purchases of cereal malt beverage from the distributor, the di-
12 rector may revoke the license of the distributor. If any licensed distributor
13 making any agreement hereunder does not have a sufficient supply of
14 cereal malt beverage of any of the brands or kinds which the distributor
15 distributes to supply the demands of all such licensed *cereal malt beverage*
16 retailers, the distributor may ration such cereal malt beverage and ap-
17 portion the available supply among such licensed *cereal malt beverage*
18 retailers purchasing or attempting to purchase the same, in accordance
19 with a plan which shall be subject to the approval of the director.

20 (e) No distributor shall sell alcoholic liquor or cereal malt beverage
21 to a retailer licensed under the Kansas liquor control act, to a club, drink-
22 ing establishment or caterer licensed under the club and drinking estab-
23 lishment act or to a *cereal malt beverage* retailer licensed under ~~K.S.A.~~
24 ~~41-2702 and amendments thereto~~ *the Kansas cereal malt beverage act* at
25 a discount for multiple case lots.

26 Sec. 29. K.S.A. 41-1102 is hereby amended to read as follows: 41-
27 1102. Any licensee who shall quit business or shall have the license sus-
28 pended or revoked may sell and dispose of any alcoholic liquor or *cereal*
29 *malt beverage* which the licensee has possession of at the time of quitting
30 business or of the suspension or revocation of the license in accordance
31 with rules and regulations adopted by the secretary of revenue.

32 Sec. 30. K.S.A. 41-1122 is hereby amended to read as follows: 41-
33 1122. The director of alcoholic beverage control is authorized to sell at
34 public or private sale alcoholic liquor or *cereal malt beverage* in ~~his~~ *the*
35 *director's* custody heretofore or hereafter purchased or confiscated by ~~his~~
36 ~~agents or other peace officers~~ *agents of the division or other law enforce-*
37 *ment officers* of the state for use as evidence in any investigation, pro-
38 ceeding or trial when such *alcoholic liquor or cereal malt beverage* is no
39 longer required for such investigation, trial or proceeding.

40 Sec. 31. K.S.A. 41-1123 is hereby amended to read as follows: 41-
41 1123. All alcoholic liquor or *cereal malt beverage* in the custody of the
42 director through seizure by agents of ~~alcoholic beverage control or other~~
43 ~~peace~~ *the division or other law enforcement* officers of the state under

1 authority of a duly executed search warrant shall be held until final de-
 2 termination of any prosecution arising under such search and seizure.
 3 Upon the final determination of such prosecution and if such alcoholic
 4 liquor *or cereal malt beverage* is fit for human consumption the director
 5 may make application to the court in which such alcoholic liquor *or cereal*
 6 *malt beverage* was offered as evidence for an order to sell such *alcoholic*
 7 liquor *or cereal malt beverage*. The court, if satisfied that such *alcoholic*
 8 liquor *or cereal malt beverage* so seized was being manufactured, distrib-
 9 uted, stored, sold or used in violation of law, shall make an order that
 10 such property be sold by the director at public or private sale.

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

13 Sec. 32. K.S.A. 41-1125 is hereby amended to read as follows: 41-
 14 1125. The sheriff of any county who ~~has in his possession~~ *possesses* al-
 15 coholic liquors *or cereal malt beverages* on which ~~he has been~~ levied
 16 execution for a judgment creditor may sell such alcoholic liquors *or cereal*
 17 *malt beverages* when an order of the court is entered directing such sale.
 18 Such order shall be directed to the sheriff of the county in which exe-
 19 cution is levied and shall fix the time and place of sale, method and man-
 20 ner in which the sale shall be held, together with such notice as the court
 21 shall direct. After payment of all costs of ~~said the~~ action, the balance shall
 22 be paid to the judgment creditor, ~~except~~. If the amount exceeds the
 23 amount of the judgment, then any excess of the judgment amount shall
 24 be returned to defendant debtor. This ~~act section~~ shall not apply in any
 25 case in which the court has ordered and directed confiscation of ~~liquors~~
 26 *alcoholic liquor or cereal malt beverage* as part of a judgment or
 27 conviction.

28 Sec. 33. K.S.A. 41-2604 is hereby amended to read as follows: 41-
 29 2604. Any person allowing consumption of alcoholic liquor *or cereal malt*
 30 *beverage* in violation of ~~this the~~ *Kansas liquor control act or the Kansas*
 31 *cereal malt beverage* act on any property owned, leased or otherwise un-
 32 der ~~his such person's~~ control shall thereby subject himself and the prop-
 33 erty on which said illegal consumption takes place to the penalties here-
 34 ~~inafter provided.~~

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

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

42 Sec. 34. K.S.A. 41-2610 is hereby amended to read as follows: 41-
 43 2610. It shall be unlawful for any licensee or holder of a temporary permit

- 1 under ~~this~~ *the club and drinking establishment act* to:
- 2 (a) Employ any person under the age of 18 years in connection with
3 the serving of alcoholic liquor *or cereal malt beverage*.
- 4 (b) Employ knowingly or continue in employment any person in con-
5 nection with the dispensing or serving of alcoholic liquor *or cereal malt*
6 *beverage* or the mixing of drinks containing alcoholic liquor who has been
7 adjudged guilty of a felony or of any crime involving a morals charge in
8 this or any other state, or of the United States.
- 9 (c) Employ knowingly or to continue in employment any person in
10 connection with the dispensing or serving of alcoholic liquor *or cereal*
11 *malt beverage* or mixing of drinks containing alcoholic liquor who has
12 been adjudged guilty of a violation of any intoxicating liquor law of this
13 or any other state, or of the United States, during the two-year period
14 immediately following such adjudging.
- 15 (d) In the case of a club, fail to maintain at the licensed premises a
16 current list of all members and their residence addresses or refuse to
17 allow the director, any of the director's authorized agents or any law
18 enforcement officer to inspect such list.
- 19 (e) Purchase alcoholic liquor *or cereal malt beverage* from any person
20 except from a person authorized by law to sell such alcoholic liquor *or*
21 *cereal malt beverage* to such licensee or permit holder.
- 22 (f) Permit any employee of the licensee or permit holder who is under
23 the age of 21 years to work on premises where alcoholic liquor *or cereal*
24 *malt beverage* is sold by such licensee or permit holder at any time when
25 not under the on-premises supervision of either the licensee or permit
26 holder, or an employee who is 21 years of age or over.
- 27 (g) Employ any person under 21 years of age in connection with the
28 mixing or dispensing of drinks containing alcoholic liquor *or cereal malt*
29 *beverage*.
- 30 Sec. 35. K.S.A. 2009 Supp. 41-2611 is hereby amended to read as
31 follows: 41-2611. The director may revoke or suspend any license issued
32 pursuant to the club and drinking establishment act for any one or more
33 of the following reasons:
- 34 (a) The licensee has fraudulently obtained the license by giving false
35 information in the application therefor or any hearing thereon.
- 36 (b) The licensee has violated any of the provisions of this act or any
37 rules or regulations adopted hereunder.
- 38 (c) The licensee has become ineligible to obtain a license or permit
39 under this act.
- 40 (d) The licensee's manager or employee has been intoxicated while
41 on duty.
- 42 (e) The licensee, or its manager or employee, has permitted any dis-
43 orderly person to remain on premises where alcoholic liquor *or cereal*

1 *malt beverage* is sold by such licensee.

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

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

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

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

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

24 Sec. 36. K.S.A. 41-2614 is hereby amended to read as follows: 41-
25 2614. (a) Except as provided by subsection (c), no club or drinking estab-
26 lishment shall allow the serving, mixing or consumption of alcoholic liquor
27 ~~on its~~ *or cereal malt beverage on the licensed* premises between the hours
28 of 2:00 a.m. and 9:00 a.m. on any day.

29 (b) No caterer shall allow the serving, mixing or consumption of al-
30 coholic liquor *or cereal malt beverage* between the hours of 2:00 a.m. and
31 6:00 a.m. on any day at an event catered by such caterer.

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

37 Sec. 37. K.S.A. 41-2632 is hereby amended to read as follows: 41-
38 2632. (a) As used in this section: (1) ~~The word~~ "Distributor" means a
39 person, firm, association or corporation which is the holder of ~~an alcoholic~~
40 ~~liquor~~ *a distributor's license issued under the Kansas liquor control act;*

41 (2) ~~the word~~ "retailer" means a person, copartnership or association
42 which is the holder of a *liquor* retailer's license issued under the Kansas
43 liquor control act; and

1 (3) ~~the word~~ “manufacturer” ~~shall have~~ *has* the meaning ascribed to it
2 by K.S.A. 41-102, and amendments thereto.

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

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

18 Sec. 38. K.S.A. 2009 Supp. 41-2637 is hereby amended to read as
19 follows: 41-2637. (a) A license for a class A club shall allow the licensee
20 to offer for sale, sell and serve alcoholic liquor *and cereal malt beverage*
21 for consumption on the licensed premises by members and their families,
22 and guests accompanying them.

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

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

36 (c) A licensee may store on its premises wine sold to a customer for
37 consumption at a later date on its premises in the unopened container.
38 Such wine must be kept separate from all other alcohol stock and in a
39 secure locked area separated by customer. Such wine shall not be re-
40 moved from the licensed premises in its unopened condition.

41 Sec. 39. K.S.A. 2009 Supp. 41-2641 is hereby amended to read as
42 follows: 41-2641. (a) A license for a class B club shall allow the licensee
43 to offer for sale, sell and serve alcoholic liquor *and cereal malt beverage*

1 for consumption on the licensed premises by members of such club and
2 guests accompanying them.

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

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

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

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

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

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

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

39 (3) Any class B club may establish rules whereby military personnel
40 of the armed forces of the United States on temporary duty and housed
41 at or near any military installation located within the exterior boundaries
42 of the state of Kansas may file application for temporary membership in
43 such club. The membership, if granted, shall be valid only for the period

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

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

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

24 (e) A licensee may store on its premises wine sold to a customer for
25 consumption at a later date on its premises in the unopened container.
26 Such wine must be kept separate from all other alcohol stock and in a
27 secure locked area separated by customer. Such wine shall not be re-
28 moved from the licensed premises in its unopened condition.

29 Sec. 40. K.S.A. 2009 Supp. 41-2642 is hereby amended to read as
30 follows: 41-2642. (a) A license for a drinking establishment shall allow the
31 licensee to offer for sale, sell and serve alcoholic liquor *and cereal malt*
32 *beverage* for consumption on the licensed premises which may be open
33 to the public, but only if such premises are located in a county where the
34 qualified electors of the county:

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

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

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

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

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

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

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

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

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

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

31 (e) A drinking establishment may store on its premises wine sold to
32 a customer for consumption at a later date on its premises in the un-
33 opened container. Such wine must be kept separate from all other alcohol
34 stock and in a secure locked area separated by customer. Such wine shall
35 not be removed from the licensed premises in its unopened condition.

36 Sec. 41. K.S.A. 41-2643 is hereby amended to read as follows: 41-
37 2643. (a) A caterer's license shall allow the licensee to offer for sale, sell
38 and serve alcoholic liquor *or cereal malt beverage* for consumption on
39 unlicensed premises, which may be open to the public, but only if such
40 premises are located in a county where the qualified electors of the
41 county:

42 (1) (A) Approved, by a majority vote of those voting thereon, the
43 proposition to amend section 10 of article 15 of the constitution of the

1 state of Kansas at the general election in November, 1986, or (B) have
2 approved a proposition to allow sales of alcoholic liquor by the individual
3 drink in public places within the county at an election pursuant to K.S.A.
4 41-2646, and amendments thereto; and

5 (2) have not approved a proposition to prohibit such sales of alcoholic
6 liquor *or cereal malt beverage* in such places at a subsequent election
7 pursuant to K.S.A. 41-2646, and amendments thereto.

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

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

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

21 (c) Each caterer shall maintain the caterer's principal place of busi-
22 ness in a county in this state where the caterer is authorized by this section
23 to sell alcoholic liquor *or cereal malt beverage* by the individual drink in
24 a public place. All records of the caterer relating to the caterer's licensed
25 business and the caterer's license shall be kept at such place of business.
26 The caterer's principal place of business shall be stated in the application
27 for a caterer's license and the caterer shall notify the director of any
28 change in its location within 10 days after such change.

29 (d) A caterer shall notify the director at least 10 days prior to any
30 event at which the caterer will sell alcoholic liquor *or cereal malt beverage*
31 by the individual drink unless the director waives the 10-day requirement
32 for good cause shown. In addition, prior to the event, the caterer shall
33 notify:

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

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

38 (e) A caterer may rebate a portion of the caterer's receipts from the
39 sale of alcoholic liquor *or cereal malt beverage* at an event to the person
40 or organization contracting with the caterer to sell alcoholic liquor *or*
41 *cereal malt beverage* at such event.

42 Sec. 42. K.S.A. 2009 Supp. 41-2645 is hereby amended to read as
43 follows: 41-2645. (a) A temporary permit shall allow the permit holder to

1 offer for sale, sell and serve alcoholic liquor *or cereal malt beverage* for
2 consumption on unlicensed premises, which may be open to the public,
3 subject to the terms of such permit.

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

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

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

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

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

37 (e) (1) A temporary permit may be issued for the consumption of
38 alcoholic liquor *or cereal malt beverage* on a city, county or township
39 street, alley, road, sidewalk or highway for a special event; provided, that
40 such street, alley, road, sidewalk or highway is closed to motor vehicle
41 traffic by the governing body of such city, county or township for such
42 special event, a written request for such consumption and possession of
43 such alcoholic liquor *or cereal malt beverage* has been made to the local

1 governing body and the special event is approved by the governing body
2 of such city, county or township by ordinance or resolution. The bound-
3 aries of such special event shall be clearly marked by signs, a posted map
4 or other means which reasonably identify the area in which alcoholic
5 liquor *or cereal malt beverage* may be possessed or consumed at such
6 special event.

7 (2) Drinking establishments that are immediately adjacent to, or lo-
8 cated within the licensed premises of a special event, for which a tem-
9 porary permit has been issued and the consumption of alcoholic liquor
10 *or cereal malt beverage* on public property has been approved, may re-
11 quest that the drinking establishment's licensed premises be extended
12 into and made a part of the licensed premises of the special event for the
13 duration of the temporary permit issued for such special event.

14 (3) Each licensee selling alcoholic liquor *or cereal malt beverage* for
15 consumption on the premises of a special event for which a temporary
16 permit has been issued shall be liable for violations of all laws governing
17 the sale and consumption of alcoholic liquor *and cereal malt beverage*.

18 (4) For the purposes of this section, "special event" shall have the
19 same meaning given that term in K.S.A. 41-719, and amendments thereto.

20 (f) A temporary permit shall be issued for a period of time not to
21 exceed three consecutive days, the dates and hours of which shall be
22 specified in the permit, except that the director may issue one temporary
23 permit, valid for the entire period of time of the Kansas state fair, which
24 authorizes the sale of wine in its original, unopened container and the
25 serving by the drink of only wine, *cereal malt beverage* or beer, or ~~both~~
26 *all such beverages*, on the state fairgrounds on premises specified in the
27 temporary permit, by a person who has entered into an agreement with
28 the state fair board for that purpose. Not more than four temporary per-
29 mits may be issued to any one applicant in a calendar year.

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

33 (h) A temporary permit shall not be transferable or assignable.

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

38 Sec. 43. K.S.A. 2009 Supp. 41-2701 is hereby amended to read as
39 follows: 41-2701. As used in ~~this~~ *the Kansas cereal malt beverage act*
40 unless the context otherwise requires:

41 (a) (1) "Cereal malt beverage" means any fermented but undistilled
42 liquor brewed or made from malt or from a mixture of malt or malt
43 substitute or any flavored malt beverage, as defined in K.S.A. 2009 Supp.

1 41-2729, and amendments thereto, ~~but does not include.~~

2 (2) “Cereal malt beverage” does not mean any such liquor which is
3 more than ~~3.2%~~ 4% alcohol by weight.

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

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

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

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

13 (f) “Place of business” means any place at which cereal malt bever-
14 ages are sold *pursuant to the Kansas cereal malt beverage act.*

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

17 (h) “Legal age for consumption of cereal malt beverage” means 21
18 years of age, except that “legal age for consumption of cereal malt be-
19 verage” shall mean 18 years of age if at any time the provisions of P.L. 98-
20 363 penalizing states for permitting persons under 21 years of age to
21 consume cereal malt beverage are repealed or otherwise invalidated or
22 nullified.

23 New Sec. 44. (a) No cereal malt beverage retailer shall sell any cereal
24 malt beverage without having secured from the director a license for each
25 place of business to be licensed.

26 (b) No cereal malt beverage retailer’s license shall be issued to an
27 individual:

28 (1) Who is not a resident of this state;

29 (2) who has not been a resident of this state for at least four years
30 immediately preceding the date of application;

31 (3) who has not been a citizen of the United States for at least 10
32 years, except that the spouse of a deceased licensee may receive and
33 renew a cereal malt beverage retailer’s license notwithstanding the pro-
34 visions of this subsection (b)(3), if such spouse is otherwise qualified to
35 hold a cereal malt beverage retailer’s license and is a United States citizen
36 or becomes a United States citizen within one year after the deceased
37 licensee’s death;

38 (4) who has beneficial interest in the manufacture, preparation or
39 wholesaling of alcoholic liquor or cereal malt beverage;

40 (5) who has been convicted of a felony under the laws of this state,
41 any other state or the United States;

42 (6) who has had a license revoked for cause under the provisions of
43 the Kansas liquor control act, the Kansas cereal malt beverage act or the

1 beer and cereal malt beverage keg registration act, or who has had any
2 license issued under the cereal malt beverage laws of any state revoked
3 for cause, except that a license may be issued to an individual whose
4 license was revoked for the conviction of a misdemeanor at any time after
5 the lapse of 10 years following the date of the revocation;

6 (7) who has been convicted of being the keeper or is keeping a house
7 of prostitution or has forfeited bond to appear in court to answer charges
8 of being a keeper of a house of prostitution;

9 (8) who has been convicted of being a proprietor of a gambling house,
10 pandering or any other crime opposed to decency and morality or has
11 forfeited bond to appear in court to answer charges for any of those
12 crimes;

13 (9) who is not at least 21 years of age;

14 (10) who, other than as a member of the governing body of a city or
15 county, appoints or supervises any law enforcement officer, who is a law
16 enforcement official or who is an employee of the director;

17 (11) who intends to carry on the business authorized by the license
18 as agent of another;

19 (12) who, at the time of application for renewal of a cereal malt bev-
20 erage retailer's license, would not be eligible for the license upon a first
21 application, except as provided by subsection (b)(14);

22 (13) who does not own the premises for which a license is sought, or
23 does not have a written lease thereon for at least $\frac{3}{4}$ of the period for
24 which the license is to be issued;

25 (14) whose spouse would be ineligible to receive a cereal malt bev-
26 erage retailer's license for any reason other than citizenship, residence
27 requirements or age, except that this subsection (b)(14) shall not apply in
28 determining eligibility for a renewal license; or

29 (15) whose spouse has been convicted of a felony or other crime
30 which would disqualify a person from licensure under this section and
31 such felony or other crime was committed during the time that the spouse
32 held a license under the Kansas cereal malt beverage act.

33 (c) No cereal malt beverage retailer's license shall be issued to a part-
34 nership unless all of the partners are qualified to obtain a license.

35 (d) No cereal malt beverage retailer's license shall be issued to a
36 corporation, if any manager, officer or director thereof or any stockholder
37 of the corporation owning in the aggregate more than 25% of the stock
38 of such corporation, would be ineligible to receive a cereal malt beverage
39 retailer's license for any reason other than citizenship and residency
40 requirements. It shall be unlawful for any stockholder of a corporation
41 licensed as a cereal malt beverage retailer to transfer any stock in the
42 corporation to any person who would be ineligible to receive a cereal malt
43 beverage retailer's license for any reason, and any such transfer shall be

1 null and void, except that: (1) If any stockholder owning stock in the
2 corporation dies and an heir or devisee to whom stock of the corporation
3 descends by descent and distribution or by will is ineligible to receive a
4 cereal malt beverage retailer's license, the legal representatives of the
5 deceased stockholder's estate and the ineligible heir or devisee shall have
6 14 months from the date of the death of the stockholder within which to
7 sell the stock to a person eligible to receive a cereal malt beverage re-
8 tailer's license, any such sale by a legal representative to be made in
9 accordance with the provisions of the probate code; or (2) if the stock in
10 any such corporation is the subject of any trust and any trustee or bene-
11 ficiary of the trust who is 21 years of age or older is ineligible to receive
12 a cereal malt beverage retailer's license, the trustee, within 14 months
13 after the effective date of the trust, shall sell the stock to a person eligible
14 to receive a cereal malt beverage retailer's license and hold and disburse
15 the proceeds in accordance with the terms of the trust. If any legal rep-
16 resentatives, heirs, devisees or trustees fail, refuse or neglect to sell any
17 stock as required by this subsection, the stock shall revert to and become
18 the property of the corporation, and the corporation shall pay to the legal
19 representatives, heirs, devisees or trustees the book value of the stock.
20 During the period of 14 months prescribed by this subsection, the cor-
21 poration shall not be denied a cereal malt beverage retailer's license or
22 have its cereal malt beverage retailer's license revoked if the corporation
23 meets all of the other requirements necessary to have a cereal malt bev-
24 erage retailer's license.

25 (e) No cereal malt beverage retailer's license shall be issued to a trust,
26 if any grantor, beneficiary or trustee would be ineligible to receive a li-
27 cense under the Kansas cereal malt beverage act for any reason, except
28 that the provisions of subsection (b)(6) shall not apply in determining
29 whether a beneficiary would be eligible for a license.

30 (f) This section shall be a part of and supplemental to the Kansas
31 cereal malt beverage act.

32 New Sec. 45. (a) No business entity, organized under the laws of this
33 state, any other state or a foreign country, shall be issued a cereal malt
34 beverage retailer's license, unless such business entity has filed with the
35 secretary of state the necessary documents for appointment of a resident
36 agent or service agent to act as agent for the service of process for such
37 business entity in this state.

38 (b) This section shall be a part of and supplemental to the Kansas
39 cereal malt beverage act.

40 New Sec. 46. (a) A person may be licensed by the director to sell
41 cereal malt beverage in the original and unopened container or to sell
42 cereal malt beverage for consumption on the licensed premises.

43 (b) Applications for all licenses to sell cereal malt beverage shall be

1 upon forms prescribed and furnished by the director and shall be filed
2 with the director in duplicate. Each application shall be accompanied by
3 a state registration fee of \$50 for each initial application and \$10 for each
4 renewal application, to defray the cost of preparing and furnishing stan-
5 dard forms incident to the administration of the Kansas cereal malt bev-
6 erage act and the cost of processing the application. Each application also
7 shall be accompanied by a deposit of a certified or cashier's check of a
8 bank within this state, United States post office money order or cash in
9 the full amount of the license fee required to be paid for the license
10 applied for, which license fee shall be returned to the applicant if the
11 application is denied. All registration and license fees shall be paid into
12 the state treasury by the director and shall be credited to the state general
13 fund.

14 (c) Each applicant for a cereal malt beverage retailer's license shall
15 file with the application a joint and several bond on a form prescribed by
16 the director and executed by good and sufficient corporate sureties li-
17 censed to do business within the state of Kansas to the director, in the
18 amount of \$2,000. Such bond shall be conditioned on the licensee's com-
19 pliance with the provisions of the Kansas cereal malt beverage act and
20 payment of all taxes, fines and forfeitures which may be assessed against
21 the licensee.

22 (d) The annual fee for a cereal malt beverage retailer's license shall
23 be \$250, which shall be paid at the time application for a license is sub-
24 mitted to the director. In addition to the license fee:

25 (1) Any city in which the licensed premises are located shall levy and
26 collect an annual occupation or license tax on the licensee in an amount
27 not less than \$100 or more than \$300, but no other occupation or excise
28 tax or license fee shall be levied by any city against or collected from the
29 licensee; and

30 (2) any township in which the licensed premises are located shall levy
31 and collect an annual occupation or license tax on the licensee in an
32 amount not less than \$100 or more than \$300; the township board of the
33 township is authorized to fix and impose the tax and the tax shall be paid
34 by the licensee to the township treasurer, who shall issue a receipt there-
35 for to the licensee and shall cause the tax paid to be placed in the general
36 fund of the township.

37 (e) The license year for a cereal malt beverage retailer's license shall
38 commence on the date the license is issued by the director and shall end
39 one year after that date.

40 (f) Any person who was licensed on the date immediately preceding
41 the effective date of this act to sell cereal malt beverage, as such term
42 was defined in K.S.A. 2009 Supp. 41-2701 prior to its amendment by this
43 act, shall be deemed a licensed cereal malt beverage retailer for a period

1 of 120 days after the effective date of this act. Thereafter, such person
2 must be licensed by the director as provided in this act and in rules and
3 regulations adopted by the secretary regarding the time for filing an ap-
4 plication by such person, in order to operate as a cereal malt beverage
5 retailer.

6 (g) This section shall be a part of and supplemental to the Kansas
7 cereal malt beverage act.

8 New Sec. 47. (a) When an application for a license or renewal of a
9 license to sell cereal malt beverage is filed with the director, the director
10 shall notify the governing body of the city or county where the premises
11 to be licensed are located, if such governing body has requested such
12 notification. No such license shall be issued by the director until the
13 expiration of at least 10 days from the time of filing such application with
14 the director, during which period the governing body of such city or
15 county may request the director to hold a hearing on the granting or
16 renewal of such license. The hearing on the application shall be conducted
17 in accordance with the provisions of the Kansas administrative procedure
18 act.

19 (b) At such hearing the governing body of such city or county shall
20 have the right to appear before the director and present testimony and
21 evidence and make recommendations regarding the granting of such li-
22 cense or the renewal of such license. In determining whether to grant or
23 to refuse to grant such license or renewal, the director shall take into
24 consideration the testimony and evidence and recommendations of the
25 governing body of such city or county. The director may refuse to grant
26 such license or renewal based on the evidence gathered at such hearing.

27 (c) Within 30 days after an application for a license to sell cereal malt
28 beverage is filed, the director shall enter an order either refusing or grant-
29 ing the license. If the director does not enter an order within the time
30 prescribed, the license applied for shall be deemed to have been refused.
31 The director, with the written consent of the applicant for a license, may
32 delay entering an order on an application for an additional period of not
33 to exceed 30 days.

34 (d) This section shall be a part of and supplemental to the Kansas
35 cereal malt beverage act.

36 New Sec. 48. (a) Cereal malt beverage retailer licenses issued pur-
37 suant to the Kansas cereal malt beverage act shall apply only to the prem-
38 ises described in the application and in the license issued thereon, and
39 only one location shall be so described in each license. After such license
40 has been granted for a particular premises in any city, the director, upon
41 proper showing, may endorse upon the license permission to abandon
42 the premises, but in order to obtain such permission, the licensee shall
43 file with the director a request in writing, and a statement under oath

1 which shall show that the premises to which removal is to be made comply
2 in all respects with the requirements of this act. No such removal shall
3 be made by any licensee until such license has been endorsed to that
4 effect in writing by the director.

5 (b) This section shall be a part of and supplement to the Kansas cereal
6 malt beverage act.

7 New Sec. 49. (a) No cereal malt beverage retailer shall sell, directly
8 or indirectly, any cereal malt beverage at less than the acquisition cost of
9 such cereal malt beverage without first having obtained from the director
10 a permit to do so.

11 (b) The director may issue to a licensed cereal malt beverage retailer
12 a permit authorizing the cereal malt beverage retailer to sell cereal malt
13 beverage at less than the acquisition cost of such cereal malt beverage if:

14 (1) The cereal malt beverage retailer is actually closing out the cereal
15 malt beverage retailer's stock for the purpose of completely discontinuing
16 sale of the item of cereal malt beverage for a period of not less than 12
17 months;

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

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

22 (c) This section shall be a part of and supplemental to the Kansas
23 cereal malt beverage act.

24 New Sec. 50. (a) When a cereal malt beverage retailer has been con-
25 victed by any court of a violation of any of the provisions of the Kansas
26 cereal malt beverage act, such licensee may, in addition to the penalty for
27 such offense, incur a forfeiture of license and all moneys that have been
28 paid therefor.

29 (b) In accordance with the provisions of the Kansas administrative
30 procedure act, the director may suspend or revoke the license of any
31 cereal malt beverage retailer or deny issuance of a cereal malt beverage
32 retailer's license in an original proceeding brought before the director by
33 reason of a cereal malt beverage retailer's violation of any provision of
34 the Kansas cereal malt beverage act or the applicable provisions of the
35 Kansas liquor control act. Any suspension or revocation of the license of
36 a cereal malt beverage retailer licensed to sell cereal malt beverage in the
37 original and unopened containers shall not cause the closure of the li-
38 censed premises.

39 (c) In addition to or in lieu of any suspension or revocation of a li-
40 cense, and in addition to or in lieu of any other civil or criminal penalty
41 provided by law, the director, upon a finding that a licensee under the
42 Kansas cereal malt beverage act has violated any provision thereof, may
43 impose on such licensee a civil fine not exceeding \$1,000 for each viola-

1 tion. For such purpose, the secretary shall adopt rules and regulations
2 providing guidelines for the imposition of fines and penalties pursuant to
3 this section. Such guidelines shall be consistent with the comparable
4 guidelines promulgated by rules and regulations pursuant to the Kansas
5 liquor control act.

6 (d) No fine shall be imposed pursuant to this section except upon the
7 written order of the director to the licensee who committed the violation.
8 Such order shall state the violation, the fine to be imposed and the right
9 of the licensee to appeal the order. Such order shall be subject to appeal
10 and review in the same manner as orders of the director are appealed
11 and reviewed under the Kansas liquor control act.

12 (e) Any fine imposed pursuant to this section shall be paid to the state
13 treasurer, who shall deposit the same in the state treasury and credit it
14 to the state general fund.

15 (f) This section shall be a part of and supplemental to the Kansas
16 cereal malt beverage act.

17 Sec. 51. K.S.A. 2009 Supp. 41-2704 is hereby amended to read as
18 follows: 41-2704. (a) In addition to and consistent with the requirements
19 of the *Kansas* cereal malt beverage act, the board of county commission-
20 ers of any county or the governing body of any city may prescribe hours
21 of closing, standards of conduct and rules and regulations concerning the
22 moral, sanitary and health conditions of places licensed ~~pursuant to this~~
23 *to sell cereal malt beverage pursuant to the Kansas cereal malt beverage*
24 act and may establish zones within which no such place may be located.

25 (b) Within any city where the days of sale at retail of cereal malt
26 beverage in the original package have not been expanded as provided by
27 K.S.A. 2009 Supp. 41-2911, and amendments thereto, or have been so
28 expanded and subsequently restricted as provided by K.S.A. 2009 Supp.
29 41-2911, and amendments thereto, and within any township where the
30 hours and days of sale at retail of cereal malt beverage in the original
31 package have not been expanded as provided by K.S.A. 2009 Supp. 41-
32 2911, and amendments thereto, or have been so expanded and subse-
33 quently restricted as provided by K.S.A. 2009 Supp. 41-2911, and amend-
34 ments thereto, no cereal malt beverages may be sold:

35 (1) *In the original package between the hours of 11 p.m. and 9 a.m.,*
36 *and for consumption on the licensed premises* between the hours of 12
37 midnight and 6 a.m.; or

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

- 1 been authorized by ordinance of the governing body of the city.
- 2 (c) Within any city where the days of sale at retail of cereal malt
3 beverage in the original package have been expanded as provided by
4 K.S.A. 2009 Supp. 41-2911, and amendments thereto, and have not been
5 subsequently restricted as provided in K.S.A. 2009 Supp. 41-2911, and
6 amendments thereto, and within any township where the days of sale at
7 retail of cereal malt beverage in the original package have been expanded
8 as provided by K.S.A. 2009 Supp. 41-2911, and amendments thereto, and
9 have not been subsequently restricted as provided by K.S.A. 2009 Supp.
10 41-2911, and amendments thereto, no person shall sell at retail cereal
11 malt beverage:
- 12 (1) *In the original package between the hours of 11 p.m. and 9 a.m.,*
13 *and for the consumption on the licensed premises between the hours of*
14 *12 midnight and 6 a.m.;*
- 15 (2) in the original package before 12 noon *or* after 8 p.m. on Sunday;
- 16 (3) on Easter Sunday; or
- 17 (4) for consumption on the licensed premises on Sunday, except in a
18 place of business which is licensed to sell cereal malt beverage for con-
19 sumption on the *licensed* premises, which derives not less than 30% of
20 its gross receipts from the sale of food for consumption on the licensed
21 premises and which is located in a county where such sales on Sunday
22 have been authorized by resolution of the board of county commissioners
23 of the county or in a city where such sales on Sunday have been authorized
24 by ordinance of the governing body of the city.
- 25 (d) No private rooms or closed booths shall be operated in a place of
26 business, but this provision shall not apply if the licensed premises also
27 are licensed as a club pursuant to the club and drinking establishment
28 act.
- 29 (e) Each place of business, *except a place of business licensed as a*
30 *club pursuant to the club and drinking establishment act*, shall be open
31 to the public ~~and to law enforcement officers~~ at all times during business
32 hours, ~~except that a premises licensed as a club pursuant to the club and~~
33 ~~drinking establishment act shall be open to law enforcement officers and~~
34 ~~not to the public~~ *The right of immediate entry to and inspection of any*
35 *licensed premises by any duly authorized officer or agent of the director,*
36 *or by any law enforcement officer, shall be a condition on which every*
37 *license is issued, and the application for, and acceptance of, any license*
38 *shall conclusively be deemed to be the consent of the applicant and licensee*
39 *to such immediate entry and inspection. Such right of immediate entry*
40 *and inspection shall be at any time when the premises are occupied and*
41 *is not limited to hours when the licensed premises are open for business.*
42 *Such consent shall not be revocable during the term of the license. Refusal*
43 *of such entry shall be grounds for revocation of the license.*

1 (f) Except as otherwise provided by this subsection, no licensee shall
2 permit a person under the legal age for consumption of cereal malt bev-
3 erage to consume or purchase any cereal malt beverage in or about a
4 place of business. A licensee's employee who is not less than 18 years of
5 age may dispense or sell cereal malt beverage, if:

6 (1) The licensee's place of business is licensed only to sell at retail
7 cereal malt beverage in the original package and not for consumption on
8 the premises; or

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

14 (g) No person shall have any alcoholic liquor in such person's pos-
15 session while in a place of business, unless the premises are currently
16 licensed as a club or drinking establishment pursuant to the club and
17 drinking establishment act.

18 (h) Cereal malt beverages may be sold on premises which are licensed
19 pursuant to both the cereal malt beverage act and the club and drinking
20 establishment act at any time when alcoholic liquor is allowed by law to
21 be served on the premises.

22 Sec. 52. K.S.A. 41-2705 is hereby amended to read as follows: 41-
23 2705. (a) Except to the *same* extent permitted *a liquor retailer* pursuant
24 to K.S.A. 41-703, and amendments thereto, no *cereal malt beverage* re-
25 tailer, or any officer, associate, member, representative or agent thereof,
26 shall accept, receive or borrow money or anything else of value, or accept
27 or receive credit, directly or indirectly, from: (1) Any manufacturer or
28 distributor; (2) any person connected with, in any way representing or a
29 member of the family of a manufacturer or distributor; (3) any stock-
30 holders in a manufacturer or distributor; or (4) any officer, manager, agent
31 or representative of a manufacturer or distributor.

32 (b) Any licensee who shall permit or assent, or be a party in any way,
33 to any violation or infringement of the provisions of this section or of
34 K.S.A. 41-702 or 41-703, and amendments thereto, shall be deemed guilty
35 of a violation of ~~this~~ *the Kansas cereal malt beverage* act, and any money
36 loaned contrary to a provision of this section shall not be recovered, or
37 any note, mortgage or other evidence of indebtedness, or security, or any
38 lease or contract obtained or made contrary to this act *section* shall be
39 unenforceable and void.

40 Sec. 53. K.S.A. 41-2706 is hereby amended to read as follows: 41-
41 2706. (a) Except as provided by subsection (b), no person shall sell or
42 furnish cereal malt beverages at retail to any person on credit; on a pass-
43 book; on order on a store; in exchange for any goods, wares or merchan-

1 dise; or in payment for any services rendered. If any person extends credit
 2 for such purpose, the debt attempted to be created shall not be recov-
 3 erable at law and, in addition, such person shall be subject to the penalties
 4 provided in K.S.A. 41-2707, and amendments thereto.

5 (b) A licensed *cereal malt beverage* retailer may sell cereal malt bev-
 6 erages to a consumer on credit pursuant to a credit card which entitles
 7 the user to purchase goods or services from at least 100 persons not
 8 related to the issuer of the credit card.

9 Sec. 54. K.S.A. 41-2707 is hereby amended to read as follows: 41-
 10 2707. No distributor shall sell or furnish cereal malt beverages to a *cereal*
 11 *malt beverage* retailer on credit; on a passbook; on order on a store; in
 12 exchange for any goods, wares or merchandise; in payment for any service
 13 rendered or to be rendered; or by any extension of credit of any kind,
 14 type or class. Any distributor or *cereal malt beverage* retailer who violates
 15 any of the terms of this section or K.S.A. 41-2706, and amendments
 16 thereto, shall be subject to all penalties and forfeitures provided by K.S.A.
 17 41-2705 and 41-2708, and amendments thereto, and ~~any as provided un-~~
 18 ~~der the Kansas liquor control act for the same or substantially similar~~
 19 ~~violations by liquor retailers.~~ Any debt attempted to be created in vio-
 20 lation hereof shall not be recoverable at law.

21 Sec. 55. K.S.A. 41-2709 is hereby amended to read as follows: 41-
 22 2709. The attorney general; or any county attorney ~~of the state within his~~
 23 ~~county or any city attorney within his city shall at all times have the power~~
 24 ~~to may~~ enjoin any party from selling cereal malt beverages within the
 25 county or city notwithstanding ~~said~~ such party has a license and permit if
 26 it shall appear that the licensee has violated any provision or regulation
 27 of ~~this~~ the *Kansas cereal malt beverage* act or any of the rules or regula-
 28 tions ~~prescribed under this~~ adopted by the director pursuant to such act.
 29 Injunction proceedings shall be the same as is now prescribed for the
 30 enjoining of intoxicating liquor nuisances.

31 Sec. 56. K.S.A. 41-2722 is hereby amended to read as follows: 41-
 32 2722. (a) No *cereal malt beverage* retailer, or employee or agent of a *cereal*
 33 *malt beverage* retailer, licensed to sell cereal malt beverage for consump-
 34 tion on the licensed premises shall:

- 35 (1) Offer or serve any free cereal malt beverage to any person;
- 36 (2) offer or serve to any person a drink at a price that is less than the
 37 acquisition cost of the drink to the licensee;
- 38 (3) sell, offer to sell or serve to any person an unlimited number of
 39 drinks during any set period of time for a fixed price, except at private
 40 functions not open to the general public;
- 41 (4) sell, offer to sell or serve any drink to any person at any time at a
 42 price less than that charged the general public on that day, except at
 43 private functions not open to the general public;

- 1 (5) increase the size of a drink of cereal malt beverage without in-
2 creasing proportionately the price regularly charged for the drink on that
3 day;
- 4 (6) encourage or permit, on the licensed premises, any game or con-
5 test which involves drinking cereal malt beverage or the awarding of
6 drinks as prizes; or
- 7 (7) advertise or promote in any way, whether on or off the licensed
8 premises, any of the practices prohibited under subsections (a)(1) through
9 (6).
- 10 (b) Nothing in subsection (a) shall be construed to prohibit a *cereal*
11 *malt beverage* retailer from offering free food or entertainment at any
12 time.
- 13 (c) Violation of any provisions of this section is a misdemeanor pun-
14 ishable as provided by K.S.A. 41-2711, and amendments thereto.
- 15 (d) Violation of any provision of ~~this~~ *the Kansas cereal malt beverage*
16 *act* shall be grounds for suspension or revocation of the *cereal malt bev-*
17 *erage* retailer's license as provided by ~~K.S.A. 41-2708~~ *section 50*, and
18 amendments thereto.
- 19 (e) Every licensee subject to the provisions of this section shall make
20 available at any time upon request a price list showing the licensee's
21 current prices for all cereal malt beverages.
- 22 (f) As used in this section, "drink" means an individual serving of
23 cereal malt beverage.
- 24 (g) This section shall be part of and supplemental to ~~K.S.A. 41-2701~~
25 ~~through 41-2721, and amendments thereto~~ *the Kansas cereal malt bev-*
26 *erage act*.
- 27 Sec. 57. K.S.A. 41-2726 is hereby amended to read as follows: 41-
28 2726. (a) No *cereal malt beverage* retailer licensed under ~~K.S.A. 41-2701~~
29 ~~et seq. and amendments thereto~~ *the Kansas cereal malt beverage act* to
30 sell cereal malt beverage in original and unopened containers and not for
31 consumption on the licensed premises shall sell or offer for sale any cereal
32 malt beverage at a price that is less than the acquisition cost of such cereal
33 malt beverage to the licensee.
- 34 (b) Violation of this section is a misdemeanor punishable as provided
35 by K.S.A. 41-2711, and amendments thereto.
- 36 (c) Violation of this section shall be grounds for suspension or revo-
37 cation of the *cereal malt beverage* retailer's license as provided by ~~K.S.A.~~
38 ~~41-2708~~ *section 50*, and amendments thereto.
- 39 Sec. 58. K.S.A. 2009 Supp. 41-2728 is hereby amended to read as
40 follows: 41-2728. ~~From and after November 15, 2005:~~
- 41 (a) K.S.A. 41-2701 through 41-2727 and ~~section 14[*]~~ K.S.A. 2009
42 *Supp. 41-2728*, and amendments thereto, shall be known and may be
43 cited as the Kansas cereal malt beverage act.

1 (b) Except as specifically provided in the Kansas cereal malt beverage
2 act, the power to regulate all phases of the manufacture, distribution,
3 sale, possession, transportation and traffic in cereal malt beverages is
4 vested exclusively in the state and shall be exercised as provided in the
5 Kansas cereal malt beverage act. No city or county shall enact any ordi-
6 nance or resolution which is in conflict with the provisions of the Kansas
7 cereal malt beverage act and any such ordinance or resolution shall be
8 null and void.

9 (c) The provisions of this act are severable. If any provision of this
10 act is held to be invalid or unconstitutional, it shall be presumed conclu-
11 sively that the legislature would have enacted the remainder of this act
12 without such invalid or unconstitutional provision.

13 Sec. 59. K.S.A. 2009 Supp. 79-3606 is hereby amended to read as
14 follows: 79-3606. The following shall be exempt from the tax imposed by
15 this act:

16 (a) All sales of motor-vehicle fuel, *cereal malt beverages, which are*
17 *subject to taxation under K.S.A. 79-4101 et seq., and amendments thereto,*
18 *or subject to taxation under K.S.A. 79-41a01 et seq., and amendments*
19 *thereto, or other articles upon which a sales or excise tax has been paid,*
20 *not subject to refund, under the laws of this state except cigarettes as*
21 *defined by K.S.A. 79-3301 and amendments thereto, ~~cereal malt bever-~~*
22 *ages and malt products as defined by K.S.A. ~~79-3817 41-501,~~ and amend-*
23 *ments thereto, including wort, liquid malt, malt syrup and malt extract,*
24 *which is not subject to taxation under the provisions of K.S.A. 79-41a02*
25 *and amendments thereto, motor vehicles taxed pursuant to K.S.A. 79-*
26 *5117, and amendments thereto, tires taxed pursuant to K.S.A. 65-3424d,*
27 *and amendments thereto, drycleaning and laundry services taxed pursu-*
28 *ant to K.S.A. 65-34,150, and amendments thereto, and gross receipts from*
29 *regulated sports contests taxed pursuant to the Kansas professional reg-*
30 *ulated sports act, and amendments thereto;*

31 (b) all sales of tangible personal property or service, including the
32 renting and leasing of tangible personal property, purchased directly by
33 the state of Kansas, a political subdivision thereof, other than a school or
34 educational institution, or purchased by a public or private nonprofit hos-
35 pital or public hospital authority or nonprofit blood, tissue or organ bank
36 and used exclusively for state, political subdivision, hospital or public hos-
37 pital authority or nonprofit blood, tissue or organ bank purposes, except
38 when: (1) Such state, hospital or public hospital authority is engaged or
39 proposes to engage in any business specifically taxable under the provi-
40 sions of this act and such items of tangible personal property or service
41 are used or proposed to be used in such business, or (2) such political
42 subdivision is engaged or proposes to engage in the business of furnishing
43 gas, electricity or heat to others and such items of personal property or

1 service are used or proposed to be used in such business;

2 (c) all sales of tangible personal property or services, including the
3 renting and leasing of tangible personal property, purchased directly by
4 a public or private elementary or secondary school or public or private
5 nonprofit educational institution and used primarily by such school or
6 institution for nonsectarian programs and activities provided or sponsored
7 by such school or institution or in the erection, repair or enlargement of
8 buildings to be used for such purposes. The exemption herein provided
9 shall not apply to erection, construction, repair, enlargement or equip-
10 ment of buildings used primarily for human habitation;

11 (d) all sales of tangible personal property or services purchased by a
12 contractor for the purpose of constructing, equipping, reconstructing,
13 maintaining, repairing, enlarging, furnishing or remodeling facilities for
14 any public or private nonprofit hospital or public hospital authority, public
15 or private elementary or secondary school, a public or private nonprofit
16 educational institution, state correctional institution including a privately
17 constructed correctional institution contracted for state use and owner-
18 ship, which would be exempt from taxation under the provisions of this
19 act if purchased directly by such hospital or public hospital authority,
20 school, educational institution or a state correctional institution; and all
21 sales of tangible personal property or services purchased by a contractor
22 for the purpose of constructing, equipping, reconstructing, maintaining,
23 repairing, enlarging, furnishing or remodeling facilities for any political
24 subdivision of the state or district described in subsection (s), the total
25 cost of which is paid from funds of such political subdivision or district
26 and which would be exempt from taxation under the provisions of this
27 act if purchased directly by such political subdivision or district. Nothing
28 in this subsection or in the provisions of K.S.A. 12-3418 and amendments
29 thereto, shall be deemed to exempt the purchase of any construction
30 machinery, equipment or tools used in the constructing, equipping, re-
31 constructing, maintaining, repairing, enlarging, furnishing or remodeling
32 facilities for any political subdivision of the state or any such district. As
33 used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments
34 thereto, "funds of a political subdivision" shall mean general tax revenues,
35 the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean
36 funds used for the purpose of constructing, equipping, reconstructing,
37 repairing, enlarging, furnishing or remodeling facilities which are to be
38 leased to the donor. When any political subdivision of the state, district
39 described in subsection (s), public or private nonprofit hospital or public
40 hospital authority, public or private elementary or secondary school, pub-
41 lic or private nonprofit educational institution, state correctional institu-
42 tion including a privately constructed correctional institution contracted
43 for state use and ownership shall contract for the purpose of constructing,

1 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
2 or remodeling facilities, it shall obtain from the state and furnish to the
3 contractor an exemption certificate for the project involved, and the con-
4 tractor may purchase materials for incorporation in such project. The
5 contractor shall furnish the number of such certificate to all suppliers
6 from whom such purchases are made, and such suppliers shall execute
7 invoices covering the same bearing the number of such certificate. Upon
8 completion of the project the contractor shall furnish to the political sub-
9 division, district described in subsection (s), hospital or public hospital
10 authority, school, educational institution or department of corrections
11 concerned a sworn statement, on a form to be provided by the director
12 of taxation, that all purchases so made were entitled to exemption under
13 this subsection. As an alternative to the foregoing procedure, any such
14 contracting entity may apply to the secretary of revenue for agent status
15 for the sole purpose of issuing and furnishing project exemption certifi-
16 cates to contractors pursuant to rules and regulations adopted by the
17 secretary establishing conditions and standards for the granting and main-
18 taining of such status. All invoices shall be held by the contractor for a
19 period of five years and shall be subject to audit by the director of taxation.
20 If any materials purchased under such a certificate are found not to have
21 been incorporated in the building or other project or not to have been
22 returned for credit or the sales or compensating tax otherwise imposed
23 upon such materials which will not be so incorporated in the building or
24 other project reported and paid by such contractor to the director of
25 taxation not later than the 20th day of the month following the close of
26 the month in which it shall be determined that such materials will not be
27 used for the purpose for which such certificate was issued, the political
28 subdivision, district described in subsection (s), hospital or public hospital
29 authority, school, educational institution or the contractor contracting
30 with the department of corrections for a correctional institution con-
31 cerned shall be liable for tax on all materials purchased for the project,
32 and upon payment thereof it may recover the same from the contractor
33 together with reasonable attorney fees. Any contractor or any agent, em-
34 ployee or subcontractor thereof, who shall use or otherwise dispose of
35 any materials purchased under such a certificate for any purpose other
36 than that for which such a certificate is issued without the payment of
37 the sales or compensating tax otherwise imposed upon such materials,
38 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
39 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
40 and amendments thereto;

41 (e) all sales of tangible personal property or services purchased by a
42 contractor for the erection, repair or enlargement of buildings or other
43 projects for the government of the United States, its agencies or instru-

1 mentalities, which would be exempt from taxation if purchased directly
2 by the government of the United States, its agencies or instrumentalities.
3 When the government of the United States, its agencies or instrumen-
4 talities shall contract for the erection, repair, or enlargement of any build-
5 ing or other project, it shall obtain from the state and furnish to the
6 contractor an exemption certificate for the project involved, and the con-
7 tractor may purchase materials for incorporation in such project. The
8 contractor shall furnish the number of such certificates to all suppliers
9 from whom such purchases are made, and such suppliers shall execute
10 invoices covering the same bearing the number of such certificate. Upon
11 completion of the project the contractor shall furnish to the government
12 of the United States, its agencies or instrumentalities concerned a sworn
13 statement, on a form to be provided by the director of taxation, that all
14 purchases so made were entitled to exemption under this subsection. As
15 an alternative to the foregoing procedure, any such contracting entity may
16 apply to the secretary of revenue for agent status for the sole purpose of
17 issuing and furnishing project exemption certificates to contractors pur-
18 suant to rules and regulations adopted by the secretary establishing con-
19 ditions and standards for the granting and maintaining of such status. All
20 invoices shall be held by the contractor for a period of five years and shall
21 be subject to audit by the director of taxation. Any contractor or any agent,
22 employee or subcontractor thereof, who shall use or otherwise dispose of
23 any materials purchased under such a certificate for any purpose other
24 than that for which such a certificate is issued without the payment of
25 the sales or compensating tax otherwise imposed upon such materials,
26 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
27 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615
28 and amendments thereto;

29 (f) tangible personal property purchased by a railroad or public utility
30 for consumption or movement directly and immediately in interstate
31 commerce;

32 (g) sales of aircraft including remanufactured and modified aircraft
33 sold to persons using directly or through an authorized agent such aircraft
34 as certified or licensed carriers of persons or property in interstate or
35 foreign commerce under authority of the laws of the United States or any
36 foreign government or sold to any foreign government or agency or in-
37 strumentality of such foreign government and all sales of aircraft for use
38 outside of the United States and sales of aircraft repair, modification and
39 replacement parts and sales of services employed in the remanufacture,
40 modification and repair of aircraft;

41 (h) all rentals of nonsectarian textbooks by public or private elemen-
42 tary or secondary schools;

43 (i) the lease or rental of all films, records, tapes, or any type of sound

- 1 or picture transcriptions used by motion picture exhibitors;
- 2 (j) meals served without charge or food used in the preparation of
3 such meals to employees of any restaurant, eating house, dining car, hotel,
4 drugstore or other place where meals or drinks are regularly sold to the
5 public if such employees' duties are related to the furnishing or sale of
6 such meals or drinks;
- 7 (k) any motor vehicle, semitrailer or pole trailer, as such terms are
8 defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and
9 delivered in this state to a bona fide resident of another state, which motor
10 vehicle, semitrailer, pole trailer or aircraft is not to be registered or based
11 in this state and which vehicle, semitrailer, pole trailer or aircraft will not
12 remain in this state more than 10 days;
- 13 (l) all isolated or occasional sales of tangible personal property, serv-
14 ices, substances or things, except isolated or occasional sale of motor
15 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.
16 79-3603 and amendments thereto;
- 17 (m) all sales of tangible personal property which become an ingre-
18 dient or component part of tangible personal property or services pro-
19 duced, manufactured or compounded for ultimate sale at retail within or
20 without the state of Kansas; and any such producer, manufacturer or
21 compounder may obtain from the director of taxation and furnish to the
22 supplier an exemption certificate number for tangible personal property
23 for use as an ingredient or component part of the property or services
24 produced, manufactured or compounded;
- 25 (n) all sales of tangible personal property which is consumed in the
26 production, manufacture, processing, mining, drilling, refining or com-
27 pounding of tangible personal property, the treating of by-products or
28 wastes derived from any such production process, the providing of serv-
29 ices or the irrigation of crops for ultimate sale at retail within or without
30 the state of Kansas; and any purchaser of such property may obtain from
31 the director of taxation and furnish to the supplier an exemption certifi-
32 cate number for tangible personal property for consumption in such pro-
33 duction, manufacture, processing, mining, drilling, refining, compound-
34 ing, treating, irrigation and in providing such services;
- 35 (o) all sales of animals, fowl and aquatic plants and animals, the pri-
36 mary purpose of which is use in agriculture or aquaculture, as defined in
37 K.S.A. 47-1901, and amendments thereto, the production of food for
38 human consumption, the production of animal, dairy, poultry or aquatic
39 plant and animal products, fiber or fur, or the production of offspring for
40 use for any such purpose or purposes;
- 41 (p) all sales of drugs dispensed pursuant to a prescription order by a
42 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
43 1626, and amendments thereto. As used in this subsection, "drug" means

- 1 a compound, substance or preparation and any component of a com-
2 pound, substance or preparation, other than food and food ingredients,
3 dietary supplements or alcoholic beverages, recognized in the official
4 United States pharmacopoeia, official homeopathic pharmacopoeia of the
5 United States or official national formulary, and supplement to any of
6 them, intended for use in the diagnosis, cure, mitigation, treatment or
7 prevention of disease or intended to affect the structure or any function
8 of the body;
- 9 (q) all sales of insulin dispensed by a person licensed by the state
10 board of pharmacy to a person for treatment of diabetes at the direction
11 of a person licensed to practice medicine by the board of healing arts;
- 12 (r) all sales of oxygen delivery equipment, kidney dialysis equipment,
13 enteral feeding systems, prosthetic devices and mobility enhancing equip-
14 ment prescribed in writing by a person licensed to practice the healing
15 arts, dentistry or optometry, and in addition to such sales, all sales of
16 hearing aids, as defined by subsection (c) of K.S.A. 74-5807, and amend-
17 ments thereto, and repair and replacement parts therefor, including bat-
18 teries, by a person licensed in the practice of dispensing and fitting hear-
19 ing aids pursuant to the provisions of K.S.A. 74-5808, and amendments
20 thereto. For the purposes of this subsection: (1) “Mobility enhancing
21 equipment” means equipment including repair and replacement parts to
22 same, but does not include durable medical equipment, which is primarily
23 and customarily used to provide or increase the ability to move from one
24 place to another and which is appropriate for use either in a home or a
25 motor vehicle; is not generally used by persons with normal mobility; and
26 does not include any motor vehicle or equipment on a motor vehicle
27 normally provided by a motor vehicle manufacturer; and (2) “prosthetic
28 device” means a replacement, corrective or supportive device including
29 repair and replacement parts for same worn on or in the body to artificially
30 replace a missing portion of the body, prevent or correct physical defor-
31 mity or malfunction or support a weak or deformed portion of the body;
- 32 (s) except as provided in K.S.A. 2009 Supp. 82a-2101, and amend-
33 ments thereto, all sales of tangible personal property or services pur-
34 chased directly or indirectly by a groundwater management district or-
35 ganized or operating under the authority of K.S.A. 82a-1020 et seq. and
36 amendments thereto, by a rural water district organized or operating un-
37 der the authority of K.S.A. 82a-612, and amendments thereto, or by a
38 water supply district organized or operating under the authority of K.S.A.
39 19-3501 et seq., 19-3522 et seq. or 19-3545, and amendments thereto,
40 which property or services are used in the construction activities, opera-
41 tion or maintenance of the district;
- 42 (t) all sales of farm machinery and equipment or aquaculture ma-
43 chinery and equipment, repair and replacement parts therefor and serv-

1 ices performed in the repair and maintenance of such machinery and
2 equipment. For the purposes of this subsection the term “farm machinery
3 and equipment or aquaculture machinery and equipment” shall include
4 a work-site utility vehicle, as defined in K.S.A. 8-126, and amendments
5 thereto, and is equipped with a bed or cargo box for hauling materials,
6 and shall also include machinery and equipment used in the operation of
7 Christmas tree farming but shall not include any passenger vehicle, truck,
8 truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer,
9 as such terms are defined by K.S.A. 8-126 and amendments thereto.
10 “Farm machinery and equipment” includes precision farming equipment
11 that is portable or is installed or purchased to be installed on farm ma-
12 chinery and equipment. “Precision farming equipment” includes the fol-
13 lowing items used only in computer-assisted farming, ranching or aqua-
14 culture production operations: Soil testing sensors, yield monitors,
15 computers, monitors, software, global positioning and mapping systems,
16 guiding systems, modems, data communications equipment and any nec-
17 essary mounting hardware, wiring and antennas. Each purchaser of farm
18 machinery and equipment or aquaculture machinery and equipment ex-
19 empted herein must certify in writing on the copy of the invoice or sales
20 ticket to be retained by the seller that the farm machinery and equipment
21 or aquaculture machinery and equipment purchased will be used only in
22 farming, ranching or aquaculture production. Farming or ranching shall
23 include the operation of a feedlot and farm and ranch work for hire and
24 the operation of a nursery;

25 (u) all leases or rentals of tangible personal property used as a dwell-
26 ing if such tangible personal property is leased or rented for a period of
27 more than 28 consecutive days;

28 (v) all sales of tangible personal property to any contractor for use in
29 preparing meals for delivery to homebound elderly persons over 60 years
30 of age and to homebound disabled persons or to be served at a group-
31 sitting at a location outside of the home to otherwise homebound elderly
32 persons over 60 years of age and to otherwise homebound disabled per-
33 sons, as all or part of any food service project funded in whole or in part
34 by government or as part of a private nonprofit food service project avail-
35 able to all such elderly or disabled persons residing within an area of
36 service designated by the private nonprofit organization, and all sales of
37 tangible personal property for use in preparing meals for consumption by
38 indigent or homeless individuals whether or not such meals are consumed
39 at a place designated for such purpose, and all sales of food products by
40 or on behalf of any such contractor or organization for any such purpose;

41 (w) all sales of natural gas, electricity, heat and water delivered
42 through mains, lines or pipes: (1) To residential premises for noncom-
43 mercial use by the occupant of such premises; (2) for agricultural use and

1 also, for such use, all sales of propane gas; (3) for use in the severing of
2 oil; and (4) to any property which is exempt from property taxation pur-
3 suant to K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph,
4 “severing” shall have the meaning ascribed thereto by subsection (k) of
5 K.S.A. 79-4216, and amendments thereto. For all sales of natural gas,
6 electricity and heat delivered through mains, lines or pipes pursuant to
7 the provisions of subsection (w)(1) and (w)(2), the provisions of this sub-
8 section shall expire on December 31, 2005;

9 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources
10 for the production of heat or lighting for noncommercial use of an oc-
11 cupant of residential premises occurring prior to January 1, 2006;

12 (y) all sales of materials and services used in the repairing, servicing,
13 altering, maintaining, manufacturing, remanufacturing, or modification of
14 railroad rolling stock for use in interstate or foreign commerce under
15 authority of the laws of the United States;

16 (z) all sales of tangible personal property and services purchased di-
17 rectly by a port authority or by a contractor therefor as provided by the
18 provisions of K.S.A. 12-3418 and amendments thereto;

19 (aa) all sales of materials and services applied to equipment which is
20 transported into the state from without the state for repair, service, al-
21 teration, maintenance, remanufacture or modification and which is sub-
22 sequently transported outside the state for use in the transmission of
23 liquids or natural gas by means of pipeline in interstate or foreign com-
24 merce under authority of the laws of the United States;

25 (bb) all sales of used mobile homes or manufactured homes. As used
26 in this subsection: (1) “Mobile homes” and “manufactured homes” shall
27 have the meanings ascribed thereto by K.S.A. 58-4202 and amendments
28 thereto; and (2) “sales of used mobile homes or manufactured homes”
29 means sales other than the original retail sale thereof;

30 (cc) all sales of tangible personal property or services purchased for
31 the purpose of and in conjunction with constructing, reconstructing, en-
32 larging or remodeling a business or retail business which meets the
33 requirements established in K.S.A. 74-50,115 and amendments thereto,
34 and the sale and installation of machinery and equipment purchased for
35 installation at any such business or retail business. When a person shall
36 contract for the construction, reconstruction, enlargement or remodeling
37 of any such business or retail business, such person shall obtain from the
38 state and furnish to the contractor an exemption certificate for the project
39 involved, and the contractor may purchase materials, machinery and
40 equipment for incorporation in such project. The contractor shall furnish
41 the number of such certificates to all suppliers from whom such purchases
42 are made, and such suppliers shall execute invoices covering the same
43 bearing the number of such certificate. Upon completion of the project

1 the contractor shall furnish to the owner of the business or retail business
2 a sworn statement, on a form to be provided by the director of taxation,
3 that all purchases so made were entitled to exemption under this subsec-
4 tion. All invoices shall be held by the contractor for a period of five years
5 and shall be subject to audit by the director of taxation. Any contractor
6 or any agent, employee or subcontractor thereof, who shall use or oth-
7 erwise dispose of any materials, machinery or equipment purchased un-
8 der such a certificate for any purpose other than that for which such a
9 certificate is issued without the payment of the sales or compensating tax
10 otherwise imposed thereon, shall be guilty of a misdemeanor and, upon
11 conviction therefor, shall be subject to the penalties provided for in sub-
12 section (g) of K.S.A. 79-3615 and amendments thereto. As used in this
13 subsection, “business” and “retail business” have the meanings respec-
14 tively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;

15 (dd) all sales of tangible personal property purchased with food
16 stamps issued by the United States department of agriculture;

17 (ee) all sales of lottery tickets and shares made as part of a lottery
18 operated by the state of Kansas;

19 (ff) on and after July 1, 1988, all sales of new mobile homes or man-
20 ufactured homes to the extent of 40% of the gross receipts, determined
21 without regard to any trade-in allowance, received from such sale. As used
22 in this subsection, “mobile homes” and “manufactured homes” shall have
23 the meanings ascribed thereto by K.S.A. 58-4202 and amendments
24 thereto;

25 (gg) all sales of tangible personal property purchased in accordance
26 with vouchers issued pursuant to the federal special supplemental food
27 program for women, infants and children;

28 (hh) all sales of medical supplies and equipment, including durable
29 medical equipment, purchased directly by a nonprofit skilled nursing
30 home or nonprofit intermediate nursing care home, as defined by K.S.A.
31 39-923, and amendments thereto, for the purpose of providing medical
32 services to residents thereof. This exemption shall not apply to tangible
33 personal property customarily used for human habitation purposes. As
34 used in this subsection, “durable medical equipment” means equipment
35 including repair and replacement parts for such equipment, which can
36 withstand repeated use, is primarily and customarily used to serve a med-
37 ical purpose, generally is not useful to a person in the absence of illness
38 or injury and is not worn in or on the body, but does not include mobility
39 enhancing equipment as defined in subsection (r), oxygen delivery equip-
40 ment, kidney dialysis equipment or enteral feeding systems;

41 (ii) all sales of tangible personal property purchased directly by a non-
42 profit organization for nonsectarian comprehensive multidiscipline youth
43 development programs and activities provided or sponsored by such or-

1 ganization, and all sales of tangible personal property by or on behalf of
2 any such organization. This exemption shall not apply to tangible personal
3 property customarily used for human habitation purposes;

4 (jj) all sales of tangible personal property or services, including the
5 renting and leasing of tangible personal property, purchased directly on
6 behalf of a community-based mental retardation facility or mental health
7 center organized pursuant to K.S.A. 19-4001 et seq., and amendments
8 thereto, and licensed in accordance with the provisions of K.S.A. 75-
9 3307b and amendments thereto and all sales of tangible personal property
10 or services purchased by contractors during the time period from July,
11 2003, through June, 2006, for the purpose of constructing, equipping,
12 maintaining or furnishing a new facility for a community-based mental
13 retardation facility or mental health center located in Riverton, Cherokee
14 County, Kansas, which would have been eligible for sales tax exemption
15 pursuant to this subsection if purchased directly by such facility or center.
16 This exemption shall not apply to tangible personal property customarily
17 used for human habitation purposes;

18 (kk) (1) (A) all sales of machinery and equipment which are used in
19 this state as an integral or essential part of an integrated production op-
20 eration by a manufacturing or processing plant or facility;

21 (B) all sales of installation, repair and maintenance services per-
22 formed on such machinery and equipment; and

23 (C) all sales of repair and replacement parts and accessories pur-
24 chased for such machinery and equipment.

25 (2) For purposes of this subsection:

26 (A) "Integrated production operation" means an integrated series of
27 operations engaged in at a manufacturing or processing plant or facility
28 to process, transform or convert tangible personal property by physical,
29 chemical or other means into a different form, composition or character
30 from that in which it originally existed. Integrated production operations
31 shall include: (i) Production line operations, including packaging opera-
32 tions; (ii) preproduction operations to handle, store and treat raw mate-
33 rials; (iii) post production handling, storage, warehousing and distribution
34 operations; and (iv) waste, pollution and environmental control opera-
35 tions, if any;

36 (B) "production line" means the assemblage of machinery and equip-
37 ment at a manufacturing or processing plant or facility where the actual
38 transformation or processing of tangible personal property occurs;

39 (C) "manufacturing or processing plant or facility" means a single,
40 fixed location owned or controlled by a manufacturing or processing busi-
41 ness that consists of one or more structures or buildings in a contiguous
42 area where integrated production operations are conducted to manufac-
43 ture or process tangible personal property to be ultimately sold at retail.

1 Such term shall not include any facility primarily operated for the purpose
2 of conveying or assisting in the conveyance of natural gas, electricity, oil
3 or water. A business may operate one or more manufacturing or proc-
4 essing plants or facilities at different locations to manufacture or process
5 a single product of tangible personal property to be ultimately sold at
6 retail;

7 (D) “manufacturing or processing business” means a business that
8 utilizes an integrated production operation to manufacture, process, fab-
9 ricate, finish, or assemble items for wholesale and retail distribution as
10 part of what is commonly regarded by the general public as an industrial
11 manufacturing or processing operation or an agricultural commodity
12 processing operation. (i) Industrial manufacturing or processing opera-
13 tions include, by way of illustration but not of limitation, the fabrication
14 of automobiles, airplanes, machinery or transportation equipment, the
15 fabrication of metal, plastic, wood, or paper products, electricity power
16 generation, water treatment, petroleum refining, chemical production,
17 wholesale bottling, newspaper printing, ready mixed concrete production,
18 and the remanufacturing of used parts for wholesale or retail sale. Such
19 processing operations shall include operations at an oil well, gas well, mine
20 or other excavation site where the oil, gas, minerals, coal, clay, stone, sand
21 or gravel that has been extracted from the earth is cleaned, separated,
22 crushed, ground, milled, screened, washed, or otherwise treated or pre-
23 pared before its transmission to a refinery or before any other wholesale
24 or retail distribution. (ii) Agricultural commodity processing operations
25 include, by way of illustration but not of limitation, meat packing, poultry
26 slaughtering and dressing, processing and packaging farm and dairy prod-
27 ucts in sealed containers for wholesale and retail distribution, feed grind-
28 ing, grain milling, frozen food processing, and grain handling, cleaning,
29 blending, fumigation, drying and aeration operations engaged in by grain
30 elevators or other grain storage facilities. (iii) Manufacturing or processing
31 businesses do not include, by way of illustration but not of limitation,
32 nonindustrial businesses whose operations are primarily retail and that
33 produce or process tangible personal property as an incidental part of
34 conducting the retail business, such as retailers who bake, cook or prepare
35 food products in the regular course of their retail trade, grocery stores,
36 meat lockers and meat markets that butcher or dress livestock or poultry
37 in the regular course of their retail trade, contractors who alter, service,
38 repair or improve real property, and retail businesses that clean, service
39 or refurbish and repair tangible personal property for its owner;

40 (E) “repair and replacement parts and accessories” means all parts
41 and accessories for exempt machinery and equipment, including, but not
42 limited to, dies, jigs, molds, patterns and safety devices that are attached
43 to exempt machinery or that are otherwise used in production, and parts

- 1 and accessories that require periodic replacement such as belts, drill bits,
2 grinding wheels, grinding balls, cutting bars, saws, refractory brick and
3 other refractory items for exempt kiln equipment used in production
4 operations;
- 5 (F) “primary” or “primarily” mean more than 50% of the time.
- 6 (3) For purposes of this subsection, machinery and equipment shall
7 be deemed to be used as an integral or essential part of an integrated
8 production operation when used:
- 9 (A) To receive, transport, convey, handle, treat or store raw materials
10 in preparation of its placement on the production line;
- 11 (B) to transport, convey, handle or store the property undergoing
12 manufacturing or processing at any point from the beginning of the pro-
13 duction line through any warehousing or distribution operation of the
14 final product that occurs at the plant or facility;
- 15 (C) to act upon, effect, promote or otherwise facilitate a physical
16 change to the property undergoing manufacturing or processing;
- 17 (D) to guide, control or direct the movement of property undergoing
18 manufacturing or processing;
- 19 (E) to test or measure raw materials, the property undergoing man-
20 ufacturing or processing or the finished product, as a necessary part of
21 the manufacturer’s integrated production operations;
- 22 (F) to plan, manage, control or record the receipt and flow of inven-
23 tories of raw materials, consumables and component parts, the flow of
24 the property undergoing manufacturing or processing and the manage-
25 ment of inventories of the finished product;
- 26 (G) to produce energy for, lubricate, control the operating of or oth-
27 erwise enable the functioning of other production machinery and equip-
28 ment and the continuation of production operations;
- 29 (H) to package the property being manufactured or processed in a
30 container or wrapping in which such property is normally sold or
31 transported;
- 32 (I) to transmit or transport electricity, coke, gas, water, steam or sim-
33 ilar substances used in production operations from the point of genera-
34 tion, if produced by the manufacturer or processor at the plant site, to
35 that manufacturer’s production operation; or, if purchased or delivered
36 from offsite, from the point where the substance enters the site of the
37 plant or facility to that manufacturer’s production operations;
- 38 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid,
39 oil, solvents or other substances that are used in production operations;
- 40 (K) to provide and control an environment required to maintain cer-
41 tain levels of air quality, humidity or temperature in special and limited
42 areas of the plant or facility, where such regulation of temperature or
43 humidity is part of and essential to the production process;

- 1 (L) to treat, transport or store waste or other byproducts of produc-
2 tion operations at the plant or facility; or
- 3 (M) to control pollution at the plant or facility where the pollution is
4 produced by the manufacturing or processing operation.
- 5 (4) The following machinery, equipment and materials shall be
6 deemed to be exempt even though it may not otherwise qualify as ma-
7 chinery and equipment used as an integral or essential part of an inte-
8 grated production operation: (A) Computers and related peripheral
9 equipment that are utilized by a manufacturing or processing business
10 for engineering of the finished product or for research and development
11 or product design; (B) machinery and equipment that is utilized by a
12 manufacturing or processing business to manufacture or rebuild tangible
13 personal property that is used in manufacturing or processing operations,
14 including tools, dies, molds, forms and other parts of qualifying machinery
15 and equipment; (C) portable plants for aggregate concrete, bulk cement
16 and asphalt including cement mixing drums to be attached to a motor
17 vehicle; (D) industrial fixtures, devices, support facilities and special foun-
18 dations necessary for manufacturing and production operations, and ma-
19 terials and other tangible personal property sold for the purpose of fab-
20 ricating such fixtures, devices, facilities and foundations. An exemption
21 certificate for such purchases shall be signed by the manufacturer or
22 processor. If the fabricator purchases such material, the fabricator shall
23 also sign the exemption certificate; and (E) a manufacturing or processing
24 business' laboratory equipment that is not located at the plant or facility,
25 but that would otherwise qualify for exemption under subsection (3)(E).
- 26 (5) "Machinery and equipment used as an integral or essential part
27 of an integrated production operation" shall not include:
- 28 (A) Machinery and equipment used for nonproduction purposes, in-
29 cluding, but not limited to, machinery and equipment used for plant se-
30 curity, fire prevention, first aid, accounting, administration, record keep-
31 ing, advertising, marketing, sales or other related activities, plant cleaning,
32 plant communications, and employee work scheduling;
- 33 (B) machinery, equipment and tools used primarily in maintaining
34 and repairing any type of machinery and equipment or the building and
35 plant;
- 36 (C) transportation, transmission and distribution equipment not pri-
37 marily used in a production, warehousing or material handling operation
38 at the plant or facility, including the means of conveyance of natural gas,
39 electricity, oil or water, and equipment related thereto, located outside
40 the plant or facility;
- 41 (D) office machines and equipment including computers and related
42 peripheral equipment not used directly and primarily to control or mea-
43 sure the manufacturing process;

- 1 (E) furniture and other furnishings;
- 2 (F) buildings, other than exempt machinery and equipment that is
3 permanently affixed to or becomes a physical part of the building, and
4 any other part of real estate that is not otherwise exempt;
- 5 (G) building fixtures that are not integral to the manufacturing op-
6 eration, such as utility systems for heating, ventilation, air conditioning,
7 communications, plumbing or electrical;
- 8 (H) machinery and equipment used for general plant heating, cooling
9 and lighting;
- 10 (I) motor vehicles that are registered for operation on public high-
11 ways; or
- 12 (J) employee apparel, except safety and protective apparel that is pur-
13 chased by an employer and furnished gratuitously to employees who are
14 involved in production or research activities.
- 15 (6) Subsections (3) and (5) shall not be construed as exclusive listings
16 of the machinery and equipment that qualify or do not qualify as an
17 integral or essential part of an integrated production operation. When
18 machinery or equipment is used as an integral or essential part of pro-
19 duction operations part of the time and for nonproduction purpose at
20 other times, the primary use of the machinery or equipment shall deter-
21 mine whether or not such machinery or equipment qualifies for
22 exemption.
- 23 (7) The secretary of revenue shall adopt rules and regulations nec-
24 essary to administer the provisions of this subsection;
- 25 (ll) all sales of educational materials purchased for distribution to the
26 public at no charge by a nonprofit corporation organized for the purpose
27 of encouraging, fostering and conducting programs for the improvement
28 of public health;
- 29 (mm) all sales of seeds and tree seedlings; fertilizers, insecticides,
30 herbicides, germicides, pesticides and fungicides; and services, purchased
31 and used for the purpose of producing plants in order to prevent soil
32 erosion on land devoted to agricultural use;
- 33 (nn) except as otherwise provided in this act, all sales of services ren-
34 dered by an advertising agency or licensed broadcast station or any mem-
35 ber, agent or employee thereof;
- 36 (oo) all sales of tangible personal property purchased by a community
37 action group or agency for the exclusive purpose of repairing or weath-
38 erizing housing occupied by low income individuals;
- 39 (pp) all sales of drill bits and explosives actually utilized in the explo-
40 ration and production of oil or gas;
- 41 (qq) all sales of tangible personal property and services purchased by
42 a nonprofit museum or historical society or any combination thereof, in-
43 cluding a nonprofit organization which is organized for the purpose of

- 1 stimulating public interest in the exploration of space by providing edu-
2 cational information, exhibits and experiences, which is exempt from fed-
3 eral income taxation pursuant to section 501(c)(3) of the federal internal
4 revenue code of 1986;
- 5 (rr) all sales of tangible personal property which will admit the pur-
6 chaser thereof to any annual event sponsored by a nonprofit organization
7 which is exempt from federal income taxation pursuant to section
8 501(c)(3) of the federal internal revenue code of 1986;
- 9 (ss) all sales of tangible personal property and services purchased by
10 a public broadcasting station licensed by the federal communications
11 commission as a noncommercial educational television or radio station;
- 12 (tt) all sales of tangible personal property and services purchased by
13 or on behalf of a not-for-profit corporation which is exempt from federal
14 income taxation pursuant to section 501(c)(3) of the federal internal rev-
15 enue code of 1986, for the sole purpose of constructing a Kansas Korean
16 War memorial;
- 17 (uu) all sales of tangible personal property and services purchased by
18 or on behalf of any rural volunteer fire-fighting organization for use ex-
19 clusively in the performance of its duties and functions;
- 20 (vv) all sales of tangible personal property purchased by any of the
21 following organizations which are exempt from federal income taxation
22 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
23 for the following purposes, and all sales of any such property by or on
24 behalf of any such organization for any such purpose:
- 25 (1) The American Heart Association, Kansas Affiliate, Inc. for the
26 purposes of providing education, training, certification in emergency car-
27 diac care, research and other related services to reduce disability and
28 death from cardiovascular diseases and stroke;
- 29 (2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of
30 advocacy for persons with mental illness and to education, research and
31 support for their families;
- 32 (3) the Kansas Mental Illness Awareness Council for the purposes of
33 advocacy for persons who are mentally ill and to education, research and
34 support for them and their families;
- 35 (4) the American Diabetes Association Kansas Affiliate, Inc. for the
36 purpose of eliminating diabetes through medical research, public edu-
37 cation focusing on disease prevention and education, patient education
38 including information on coping with diabetes, and professional education
39 and training;
- 40 (5) the American Lung Association of Kansas, Inc. for the purpose of
41 eliminating all lung diseases through medical research, public education
42 including information on coping with lung diseases, professional educa-
43 tion and training related to lung disease and other related services to

- 1 reduce the incidence of disability and death due to lung disease;
- 2 (6) the Kansas chapters of the Alzheimer's Disease and Related Dis-
- 3 orders Association, Inc. for the purpose of providing assistance and sup-
- 4 port to persons in Kansas with Alzheimer's disease, and their families and
- 5 caregivers;
- 6 (7) the Kansas chapters of the Parkinson's disease association for the
- 7 purpose of eliminating Parkinson's disease through medical research and
- 8 public and professional education related to such disease;
- 9 (8) the National Kidney Foundation of Kansas and Western Missouri
- 10 for the purpose of eliminating kidney disease through medical research
- 11 and public and private education related to such disease;
- 12 (9) the heartstrings community foundation for the purpose of provid-
- 13 ing training, employment and activities for adults with developmental
- 14 disabilities;
- 15 (10) the Cystic Fibrosis Foundation, Heart of America Chapter, for
- 16 the purposes of assuring the development of the means to cure and con-
- 17 trol cystic fibrosis and improving the quality of life for those with the
- 18 disease;
- 19 (11) the spina bifida association of Kansas for the purpose of provid-
- 20 ing financial, educational and practical aid to families and individuals with
- 21 spina bifida. Such aid includes, but is not limited to, funding for medical
- 22 devices, counseling and medical educational opportunities;
- 23 (12) the CHWC, Inc., for the purpose of rebuilding urban core neigh-
- 24 borhoods through the construction of new homes, acquiring and reno-
- 25 vating existing homes and other related activities, and promoting eco-
- 26 nomic development in such neighborhoods;
- 27 (13) the cross-lines cooperative council for the purpose of providing
- 28 social services to low income individuals and families;
- 29 (14) the Dreams Work, Inc., for the purpose of providing young adult
- 30 day services to individuals with developmental disabilities and assisting
- 31 families in avoiding institutional or nursing home care for a developmen-
- 32 tally disabled member of their family;
- 33 (15) the KSDS, Inc., for the purpose of promoting the independence
- 34 and inclusion of people with disabilities as fully participating and contrib-
- 35 uting members of their communities and society through the training and
- 36 providing of guide and service dogs to people with disabilities, and provid-
- 37 ing disability education and awareness to the general public;
- 38 (16) the lyme association of greater Kansas City, Inc., for the purpose
- 39 of providing support to persons with lyme disease and public education
- 40 relating to the prevention, treatment and cure of lyme disease;
- 41 (17) the Dream Factory, Inc., for the purpose of granting the dreams
- 42 of children with critical and chronic illnesses;
- 43 (18) the Ottawa Suzuki Strings, Inc., for the purpose of providing

- 1 students and families with education and resources necessary to enable
2 each child to develop fine character and musical ability to the fullest
3 potential;
- 4 (19) the International Association of Lions Clubs for the purpose of
5 creating and fostering a spirit of understanding among all people for hu-
6 manitarian needs by providing voluntary services through community in-
7 volvement and international cooperation;
- 8 (20) the Johnson county young matrons, inc., for the purpose of pro-
9 moting a positive future for members of the community through volun-
10 teerism, financial support and education through the efforts of an all
11 volunteer organization;
- 12 (21) the American Cancer Society, Inc., for the purpose of eliminat-
13 ing cancer as a major health problem by preventing cancer, saving lives
14 and diminishing suffering from cancer, through research, education, ad-
15 vocacy and service;
- 16 (22) the community services of Shawnee, inc., for the purpose of
17 providing food and clothing to those in need;
- 18 (23) the angel babies association, for the purpose of providing assis-
19 tance, support and items of necessity to teenage mothers and their babies;
20 and
- 21 (24) the Kansas fairgrounds foundation for the purpose of the pres-
22 ervation, renovation and beautification of the Kansas state fairgrounds;
- 23 (ww) all sales of tangible personal property purchased by the Habitat
24 for Humanity for the exclusive use of being incorporated within a housing
25 project constructed by such organization;
- 26 (xx) all sales of tangible personal property and services purchased by
27 a nonprofit zoo which is exempt from federal income taxation pursuant
28 to section 501(c)(3) of the federal internal revenue code of 1986, or on
29 behalf of such zoo by an entity itself exempt from federal income taxation
30 pursuant to section 501(c)(3) of the federal internal revenue code of 1986
31 contracted with to operate such zoo and all sales of tangible personal
32 property or services purchased by a contractor for the purpose of con-
33 structing, equipping, reconstructing, maintaining, repairing, enlarging,
34 furnishing or remodeling facilities for any nonprofit zoo which would be
35 exempt from taxation under the provisions of this section if purchased
36 directly by such nonprofit zoo or the entity operating such zoo. Nothing
37 in this subsection shall be deemed to exempt the purchase of any con-
38 struction machinery, equipment or tools used in the constructing, equip-
39 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-
40 modeling facilities for any nonprofit zoo. When any nonprofit zoo shall
41 contract for the purpose of constructing, equipping, reconstructing, main-
42 taining, repairing, enlarging, furnishing or remodeling facilities, it shall
43 obtain from the state and furnish to the contractor an exemption certifi-

1 cate for the project involved, and the contractor may purchase materials
2 for incorporation in such project. The contractor shall furnish the number
3 of such certificate to all suppliers from whom such purchases are made,
4 and such suppliers shall execute invoices covering the same bearing the
5 number of such certificate. Upon completion of the project the contractor
6 shall furnish to the nonprofit zoo concerned a sworn statement, on a form
7 to be provided by the director of taxation, that all purchases so made were
8 entitled to exemption under this subsection. All invoices shall be held by
9 the contractor for a period of five years and shall be subject to audit by
10 the director of taxation. If any materials purchased under such a certifi-
11 cate are found not to have been incorporated in the building or other
12 project or not to have been returned for credit or the sales or compen-
13 sating tax otherwise imposed upon such materials which will not be so
14 incorporated in the building or other project reported and paid by such
15 contractor to the director of taxation not later than the 20th day of the
16 month following the close of the month in which it shall be determined
17 that such materials will not be used for the purpose for which such cer-
18 tificate was issued, the nonprofit zoo concerned shall be liable for tax on
19 all materials purchased for the project, and upon payment thereof it may
20 recover the same from the contractor together with reasonable attorney
21 fees. Any contractor or any agent, employee or subcontractor thereof,
22 who shall use or otherwise dispose of any materials purchased under such
23 a certificate for any purpose other than that for which such a certificate
24 is issued without the payment of the sales or compensating tax otherwise
25 imposed upon such materials, shall be guilty of a misdemeanor and, upon
26 conviction therefor, shall be subject to the penalties provided for in sub-
27 section (g) of K.S.A. 79-3615, and amendments thereto;

28 (yy) all sales of tangible personal property and services purchased by
29 a parent-teacher association or organization, and all sales of tangible per-
30 sonal property by or on behalf of such association or organization;

31 (zz) all sales of machinery and equipment purchased by over-the-air,
32 free access radio or television station which is used directly and primarily
33 for the purpose of producing a broadcast signal or is such that the failure
34 of the machinery or equipment to operate would cause broadcasting to
35 cease. For purposes of this subsection, machinery and equipment shall
36 include, but not be limited to, that required by rules and regulations of
37 the federal communications commission, and all sales of electricity which
38 are essential or necessary for the purpose of producing a broadcast signal
39 or is such that the failure of the electricity would cause broadcasting to
40 cease;

41 (aaa) all sales of tangible personal property and services purchased
42 by a religious organization which is exempt from federal income taxation
43 pursuant to section 501(c)(3) of the federal internal revenue code, and

1 used exclusively for religious purposes, and all sales of tangible personal
2 property or services purchased by a contractor for the purpose of con-
3 structing, equipping, reconstructing, maintaining, repairing, enlarging,
4 furnishing or remodeling facilities for any such organization which would
5 be exempt from taxation under the provisions of this section if purchased
6 directly by such organization. Nothing in this subsection shall be deemed
7 to exempt the purchase of any construction machinery, equipment or
8 tools used in the constructing, equipping, reconstructing, maintaining,
9 repairing, enlarging, furnishing or remodeling facilities for any such or-
10 ganization. When any such organization shall contract for the purpose of
11 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
12 ing, furnishing or remodeling facilities, it shall obtain from the state and
13 furnish to the contractor an exemption certificate for the project involved,
14 and the contractor may purchase materials for incorporation in such pro-
15 ject. The contractor shall furnish the number of such certificate to all
16 suppliers from whom such purchases are made, and such suppliers shall
17 execute invoices covering the same bearing the number of such certifi-
18 cate. Upon completion of the project the contractor shall furnish to such
19 organization concerned a sworn statement, on a form to be provided by
20 the director of taxation, that all purchases so made were entitled to ex-
21 emption under this subsection. All invoices shall be held by the contractor
22 for a period of five years and shall be subject to audit by the director of
23 taxation. If any materials purchased under such a certificate are found
24 not to have been incorporated in the building or other project or not to
25 have been returned for credit or the sales or compensating tax otherwise
26 imposed upon such materials which will not be so incorporated in the
27 building or other project reported and paid by such contractor to the
28 director of taxation not later than the 20th day of the month following
29 the close of the month in which it shall be determined that such materials
30 will not be used for the purpose for which such certificate was issued,
31 such organization concerned shall be liable for tax on all materials pur-
32 chased for the project, and upon payment thereof it may recover the same
33 from the contractor together with reasonable attorney fees. Any contrac-
34 tor or any agent, employee or subcontractor thereof, who shall use or
35 otherwise dispose of any materials purchased under such a certificate for
36 any purpose other than that for which such a certificate is issued without
37 the payment of the sales or compensating tax otherwise imposed upon
38 such materials, shall be guilty of a misdemeanor and, upon conviction
39 therefor, shall be subject to the penalties provided for in subsection (g)
40 of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after
41 July 1, 1998, but prior to the effective date of this act upon the gross
42 receipts received from any sale exempted by the amendatory provisions
43 of this subsection shall be refunded. Each claim for a sales tax refund

1 shall be verified and submitted to the director of taxation upon forms
2 furnished by the director and shall be accompanied by any additional
3 documentation required by the director. The director shall review each
4 claim and shall refund that amount of sales tax paid as determined under
5 the provisions of this subsection. All refunds shall be paid from the sales
6 tax refund fund upon warrants of the director of accounts and reports
7 pursuant to vouchers approved by the director or the director's designee;

8 (bbb) all sales of food for human consumption by an organization
9 which is exempt from federal income taxation pursuant to section
10 501(c)(3) of the federal internal revenue code of 1986, pursuant to a food
11 distribution program which offers such food at a price below cost in
12 exchange for the performance of community service by the purchaser
13 thereof;

14 (ccc) on and after July 1, 1999, all sales of tangible personal property
15 and services purchased by a primary care clinic or health center the pri-
16 mary purpose of which is to provide services to medically underserved
17 individuals and families, and which is exempt from federal income taxa-
18 tion pursuant to section 501(c)(3) of the federal internal revenue code,
19 and all sales of tangible personal property or services purchased by a
20 contractor for the purpose of constructing, equipping, reconstructing,
21 maintaining, repairing, enlarging, furnishing or remodeling facilities for
22 any such clinic or center which would be exempt from taxation under the
23 provisions of this section if purchased directly by such clinic or center.
24 Nothing in this subsection shall be deemed to exempt the purchase of
25 any construction machinery, equipment or tools used in the constructing,
26 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
27 or remodeling facilities for any such clinic or center. When any such clinic
28 or center shall contract for the purpose of constructing, equipping, re-
29 constructing, maintaining, repairing, enlarging, furnishing or remodeling
30 facilities, it shall obtain from the state and furnish to the contractor an
31 exemption certificate for the project involved, and the contractor may
32 purchase materials for incorporation in such project. The contractor shall
33 furnish the number of such certificate to all suppliers from whom such
34 purchases are made, and such suppliers shall execute invoices covering
35 the same bearing the number of such certificate. Upon completion of the
36 project the contractor shall furnish to such clinic or center concerned a
37 sworn statement, on a form to be provided by the director of taxation,
38 that all purchases so made were entitled to exemption under this subsec-
39 tion. All invoices shall be held by the contractor for a period of five years
40 and shall be subject to audit by the director of taxation. If any materials
41 purchased under such a certificate are found not to have been incorpo-
42 rated in the building or other project or not to have been returned for
43 credit or the sales or compensating tax otherwise imposed upon such

1 materials which will not be so incorporated in the building or other pro-
2 ject reported and paid by such contractor to the director of taxation not
3 later than the 20th day of the month following the close of the month in
4 which it shall be determined that such materials will not be used for the
5 purpose for which such certificate was issued, such clinic or center con-
6 cerned shall be liable for tax on all materials purchased for the project,
7 and upon payment thereof it may recover the same from the contractor
8 together with reasonable attorney fees. Any contractor or any agent, em-
9 ployee or subcontractor thereof, who shall use or otherwise dispose of
10 any materials purchased under such a certificate for any purpose other
11 than that for which such a certificate is issued without the payment of
12 the sales or compensating tax otherwise imposed upon such materials,
13 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
14 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
15 and amendments thereto;

16 (ddd) on and after January 1, 1999, and before January 1, 2000, all
17 sales of materials and services purchased by any class II or III railroad as
18 classified by the federal surface transportation board for the construction,
19 renovation, repair or replacement of class II or III railroad track and
20 facilities used directly in interstate commerce. In the event any such track
21 or facility for which materials and services were purchased sales tax ex-
22 empt is not operational for five years succeeding the allowance of such
23 exemption, the total amount of sales tax which would have been payable
24 except for the operation of this subsection shall be recouped in accord-
25 ance with rules and regulations adopted for such purpose by the secretary
26 of revenue;

27 (eee) on and after January 1, 1999, and before January 1, 2001, all
28 sales of materials and services purchased for the original construction,
29 reconstruction, repair or replacement of grain storage facilities, including
30 railroad sidings providing access thereto;

31 (fff) all sales of material handling equipment, racking systems and
32 other related machinery and equipment that is used for the handling,
33 movement or storage of tangible personal property in a warehouse or
34 distribution facility in this state; all sales of installation, repair and main-
35 tenance services performed on such machinery and equipment; and all
36 sales of repair and replacement parts for such machinery and equipment.
37 For purposes of this subsection, a warehouse or distribution facility means
38 a single, fixed location that consists of buildings or structures in a contig-
39 uous area where storage or distribution operations are conducted that are
40 separate and apart from the business' retail operations, if any, and which
41 do not otherwise qualify for exemption as occurring at a manufacturing
42 or processing plant or facility. Material handling and storage equipment
43 shall include aeration, dust control, cleaning, handling and other such

1 equipment that is used in a public grain warehouse or other commercial
2 grain storage facility, whether used for grain handling, grain storage, grain
3 refining or processing, or other grain treatment operation;

4 (ggg) all sales of tangible personal property and services purchased
5 by or on behalf of the Kansas Academy of Science which is exempt from
6 federal income taxation pursuant to section 501(c)(3) of the federal in-
7 ternal revenue code of 1986, and used solely by such academy for the
8 preparation, publication and dissemination of education materials;

9 (hhh) all sales of tangible personal property and services purchased
10 by or on behalf of all domestic violence shelters that are member agencies
11 of the Kansas coalition against sexual and domestic violence;

12 (iii) all sales of personal property and services purchased by an or-
13 ganization which is exempt from federal income taxation pursuant to sec-
14 tion 501(c)(3) of the federal internal revenue code of 1986, and which
15 such personal property and services are used by any such organization in
16 the collection, storage and distribution of food products to nonprofit or-
17 ganizations which distribute such food products to persons pursuant to a
18 food distribution program on a charitable basis without fee or charge, and
19 all sales of tangible personal property or services purchased by a contrac-
20 tor for the purpose of constructing, equipping, reconstructing, maintain-
21 ing, repairing, enlarging, furnishing or remodeling facilities used for the
22 collection and storage of such food products for any such organization
23 which is exempt from federal income taxation pursuant to section
24 501(c)(3) of the federal internal revenue code of 1986, which would be
25 exempt from taxation under the provisions of this section if purchased
26 directly by such organization. Nothing in this subsection shall be deemed
27 to exempt the purchase of any construction machinery, equipment or
28 tools used in the constructing, equipping, reconstructing, maintaining,
29 repairing, enlarging, furnishing or remodeling facilities for any such or-
30 ganization. When any such organization shall contract for the purpose of
31 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
32 ing, furnishing or remodeling facilities, it shall obtain from the state and
33 furnish to the contractor an exemption certificate for the project involved,
34 and the contractor may purchase materials for incorporation in such pro-
35 ject. The contractor shall furnish the number of such certificate to all
36 suppliers from whom such purchases are made, and such suppliers shall
37 execute invoices covering the same bearing the number of such certifi-
38 cate. Upon completion of the project the contractor shall furnish to such
39 organization concerned a sworn statement, on a form to be provided by
40 the director of taxation, that all purchases so made were entitled to ex-
41 emption under this subsection. All invoices shall be held by the contractor
42 for a period of five years and shall be subject to audit by the director of
43 taxation. If any materials purchased under such a certificate are found

1 not to have been incorporated in such facilities or not to have been re-
2 turned for credit or the sales or compensating tax otherwise imposed upon
3 such materials which will not be so incorporated in such facilities reported
4 and paid by such contractor to the director of taxation not later than the
5 20th day of the month following the close of the month in which it shall
6 be determined that such materials will not be used for the purpose for
7 which such certificate was issued, such organization concerned shall be
8 liable for tax on all materials purchased for the project, and upon payment
9 thereof it may recover the same from the contractor together with rea-
10 sonable attorney fees. Any contractor or any agent, employee or subcon-
11 tractor thereof, who shall use or otherwise dispose of any materials pur-
12 chased under such a certificate for any purpose other than that for which
13 such a certificate is issued without the payment of the sales or compen-
14 sating tax otherwise imposed upon such materials, shall be guilty of a
15 misdemeanor and, upon conviction therefor, shall be subject to the pen-
16 alties provided for in subsection (g) of K.S.A. 79-3615, and amendments
17 thereto. Sales tax paid on and after July 1, 2005, but prior to the effective
18 date of this act upon the gross receipts received from any sale exempted
19 by the amendatory provisions of this subsection shall be refunded. Each
20 claim for a sales tax refund shall be verified and submitted to the director
21 of taxation upon forms furnished by the director and shall be accompanied
22 by any additional documentation required by the director. The director
23 shall review each claim and shall refund that amount of sales tax paid as
24 determined under the provisions of this subsection. All refunds shall be
25 paid from the sales tax refund fund upon warrants of the director of
26 accounts and reports pursuant to vouchers approved by the director or
27 the director's designee;

28 (jjj) all sales of dietary supplements dispensed pursuant to a prescrip-
29 tion order by a licensed practitioner or a mid-level practitioner as defined
30 by K.S.A. 65-1626, and amendments thereto. As used in this subsection,
31 "dietary supplement" means any product, other than tobacco, intended
32 to supplement the diet that: (1) Contains one or more of the following
33 dietary ingredients: A vitamin, a mineral, an herb or other botanical, an
34 amino acid, a dietary substance for use by humans to supplement the diet
35 by increasing the total dietary intake or a concentrate, metabolite, con-
36 stituent, extract or combination of any such ingredient; (2) is intended
37 for ingestion in tablet, capsule, powder, softgel, gelcap or liquid form, or
38 if not intended for ingestion, in such a form, is not represented as con-
39 ventional food and is not represented for use as a sole item of a meal or
40 of the diet; and (3) is required to be labeled as a dietary supplement,
41 identifiable by the supplemental facts box found on the label and as re-
42 quired pursuant to 21 C.F.R. § 101.36;

43 (lll) all sales of tangible personal property and services purchased by

1 special olympics Kansas, inc. for the purpose of providing year-round
2 sports training and athletic competition in a variety of olympic-type sports
3 for individuals with intellectual disabilities by giving them continuing op-
4 portunities to develop physical fitness, demonstrate courage, experience
5 joy and participate in a sharing of gifts, skills and friendship with their
6 families, other special olympics athletes and the community, and activities
7 provided or sponsored by such organization, and all sales of tangible per-
8 sonal property by or on behalf of any such organization;

9 (mmm) all sales of tangible personal property purchased by or on
10 behalf of the Marillac Center, Inc., which is exempt from federal income
11 taxation pursuant to section 501(c)(3) of the federal internal revenue
12 code, for the purpose of providing psycho-social-biological and special
13 education services to children, and all sales of any such property by or on
14 behalf of such organization for such purpose;

15 (nnn) all sales of tangible personal property and services purchased
16 by the West Sedgwick County-Sunrise Rotary Club and Sunrise Char-
17 itable Fund for the purpose of constructing a boundless playground which
18 is an integrated, barrier free and developmentally advantageous play en-
19 vironment for children of all abilities and disabilities;

20 (ooo) all sales of tangible personal property by or on behalf of a public
21 library serving the general public and supported in whole or in part with
22 tax money or a not-for-profit organization whose purpose is to raise funds
23 for or provide services or other benefits to any such public library;

24 (ppp) all sales of tangible personal property and services purchased
25 by or on behalf of a homeless shelter which is exempt from federal income
26 taxation pursuant to section 501(c)(3) of the federal income tax code of
27 1986, and used by any such homeless shelter to provide emergency and
28 transitional housing for individuals and families experiencing homeles-
29 ness, and all sales of any such property by or on behalf of any such home-
30 less shelter for any such purpose;

31 (qqq) all sales of tangible personal property and services purchased
32 by TLC for children and families, inc., hereinafter referred to as TLC,
33 which is exempt from federal income taxation pursuant to section
34 501(c)(3) of the federal internal revenue code of 1986, and which such
35 property and services are used for the purpose of providing emergency
36 shelter and treatment for abused and neglected children as well as meet-
37 ing additional critical needs for children, juveniles and family, and all sales
38 of any such property by or on behalf of TLC for any such purpose; and
39 all sales of tangible personal property or services purchased by a contrac-
40 tor for the purpose of constructing, maintaining, repairing, enlarging, fur-
41 nishing or remodeling facilities for the operation of services for TLC for
42 any such purpose which would be exempt from taxation under the pro-
43 visions of this section if purchased directly by TLC. Nothing in this sub-

1 section shall be deemed to exempt the purchase of any construction ma-
2 chinery, equipment or tools used in the constructing, maintaining,
3 repairing, enlarging, furnishing or remodeling such facilities for TLC.
4 When TLC contracts for the purpose of constructing, maintaining, re-
5 pairing, enlarging, furnishing or remodeling such facilities, it shall obtain
6 from the state and furnish to the contractor an exemption certificate for
7 the project involved, and the contractor may purchase materials for in-
8 corporation in such project. The contractor shall furnish the number of
9 such certificate to all suppliers from whom such purchases are made, and
10 such suppliers shall execute invoices covering the same bearing the num-
11 ber of such certificate. Upon completion of the project the contractor
12 shall furnish to TLC a sworn statement, on a form to be provided by the
13 director of taxation, that all purchases so made were entitled to exemption
14 under this subsection. All invoices shall be held by the contractor for a
15 period of five years and shall be subject to audit by the director of taxation.
16 If any materials purchased under such a certificate are found not to have
17 been incorporated in the building or other project or not to have been
18 returned for credit or the sales or compensating tax otherwise imposed
19 upon such materials which will not be so incorporated in the building or
20 other project reported and paid by such contractor to the director of
21 taxation not later than the 20th day of the month following the close of
22 the month in which it shall be determined that such materials will not be
23 used for the purpose for which such certificate was issued, TLC shall be
24 liable for tax on all materials purchased for the project, and upon payment
25 thereof it may recover the same from the contractor together with rea-
26 sonable attorney fees. Any contractor or any agent, employee or subcon-
27 tractor thereof, who shall use or otherwise dispose of any materials pur-
28 chased under such a certificate for any purpose other than that for which
29 such a certificate is issued without the payment of the sales or compen-
30 sating tax otherwise imposed upon such materials, shall be guilty of a
31 misdemeanor and, upon conviction therefor, shall be subject to the pen-
32 alties provided for in subsection (g) of K.S.A. 79-3615, and amendments
33 thereto;

34 (rrr) all sales of tangible personal property and services purchased by
35 any county law library maintained pursuant to law and sales of tangible
36 personal property and services purchased by an organization which would
37 have been exempt from taxation under the provisions of this subsection
38 if purchased directly by the county law library for the purpose of providing
39 legal resources to attorneys, judges, students and the general public, and
40 all sales of any such property by or on behalf of any such county law
41 library;

42 (sss) all sales of tangible personal property and services purchased by
43 catholic charities or youthville, hereinafter referred to as charitable family

1 providers, which is exempt from federal income taxation pursuant to sec-
2 tion 501(c)(3) of the federal internal revenue code of 1986, and which
3 such property and services are used for the purpose of providing emer-
4 gency shelter and treatment for abused and neglected children as well as
5 meeting additional critical needs for children, juveniles and family, and
6 all sales of any such property by or on behalf of charitable family providers
7 for any such purpose; and all sales of tangible personal property or serv-
8 ices purchased by a contractor for the purpose of constructing, maintain-
9 ing, repairing, enlarging, furnishing or remodeling facilities for the op-
10 eration of services for charitable family providers for any such purpose
11 which would be exempt from taxation under the provisions of this section
12 if purchased directly by charitable family providers. Nothing in this sub-
13 section shall be deemed to exempt the purchase of any construction ma-
14 chinery, equipment or tools used in the constructing, maintaining, re-
15 pairing, enlarging, furnishing or remodeling such facilities for charitable
16 family providers. When charitable family providers contracts for the pur-
17 pose of constructing, maintaining, repairing, enlarging, furnishing or re-
18 modeling such facilities, it shall obtain from the state and furnish to the
19 contractor an exemption certificate for the project involved, and the con-
20 tractor may purchase materials for incorporation in such project. The
21 contractor shall furnish the number of such certificate to all suppliers
22 from whom such purchases are made, and such suppliers shall execute
23 invoices covering the same bearing the number of such certificate. Upon
24 completion of the project the contractor shall furnish to charitable family
25 providers a sworn statement, on a form to be provided by the director of
26 taxation, that all purchases so made were entitled to exemption under
27 this subsection. All invoices shall be held by the contractor for a period
28 of five years and shall be subject to audit by the director of taxation. If
29 any materials purchased under such a certificate are found not to have
30 been incorporated in the building or other project or not to have been
31 returned for credit or the sales or compensating tax otherwise imposed
32 upon such materials which will not be so incorporated in the building or
33 other project reported and paid by such contractor to the director of
34 taxation not later than the 20th day of the month following the close of
35 the month in which it shall be determined that such materials will not be
36 used for the purpose for which such certificate was issued, charitable
37 family providers shall be liable for tax on all materials purchased for the
38 project, and upon payment thereof it may recover the same from the
39 contractor together with reasonable attorney fees. Any contractor or any
40 agent, employee or subcontractor thereof, who shall use or otherwise
41 dispose of any materials purchased under such a certificate for any pur-
42 pose other than that for which such a certificate is issued without the
43 payment of the sales or compensating tax otherwise imposed upon such

1 materials, shall be guilty of a misdemeanor and, upon conviction therefor,
2 shall be subject to the penalties provided for in subsection (g) of K.S.A.
3 79-3615, and amendments thereto;

4 (ttt) all sales of tangible personal property or services purchased by
5 a contractor for a project for the purpose of restoring, constructing, equip-
6 ping, reconstructing, maintaining, repairing, enlarging, furnishing or re-
7 modeling a home or facility owned by a nonprofit museum which has
8 been granted an exemption pursuant to subsection (qq), which such home
9 or facility is located in a city which has been designated as a qualified
10 hometown pursuant to the provisions of K.S.A. 75-5071 et seq., and
11 amendments thereto, and which such project is related to the purposes
12 of K.S.A. 75-5071 et seq., and amendments thereto, and which would be
13 exempt from taxation under the provisions of this section if purchased
14 directly by such nonprofit museum. Nothing in this subsection shall be
15 deemed to exempt the purchase of any construction machinery, equip-
16 ment or tools used in the restoring, constructing, equipping, reconstruct-
17 ing, maintaining, repairing, enlarging, furnishing or remodeling a home
18 or facility for any such nonprofit museum. When any such nonprofit mu-
19 seum shall contract for the purpose of restoring, constructing, equipping,
20 reconstructing, maintaining, repairing, enlarging, furnishing or remodel-
21 ing a home or facility, it shall obtain from the state and furnish to the
22 contractor an exemption certificate for the project involved, and the con-
23 tractor may purchase materials for incorporation in such project. The
24 contractor shall furnish the number of such certificates to all suppliers
25 from whom such purchases are made, and such suppliers shall execute
26 invoices covering the same bearing the number of such certificate. Upon
27 completion of the project, the contractor shall furnish to such nonprofit
28 museum a sworn statement on a form to be provided by the director of
29 taxation that all purchases so made were entitled to exemption under this
30 subsection. All invoices shall be held by the contractor for a period of five
31 years and shall be subject to audit by the director of taxation. If any
32 materials purchased under such a certificate are found not to have been
33 incorporated in the building or other project or not to have been returned
34 for credit or the sales or compensating tax otherwise imposed upon such
35 materials which will not be so incorporated in a home or facility or other
36 project reported and paid by such contractor to the director of taxation
37 not later than the 20th day of the month following the close of the month
38 in which it shall be determined that such materials will not be used for
39 the purpose for which such certificate was issued, such nonprofit museum
40 shall be liable for tax on all materials purchased for the project, and upon
41 payment thereof it may recover the same from the contractor together
42 with reasonable attorney fees. Any contractor or any agent, employee or
43 subcontractor thereof, who shall use or otherwise dispose of any materials

1 purchased under such a certificate for any purpose other than that for
2 which such a certificate is issued without the payment of the sales or
3 compensating tax otherwise imposed upon such materials, shall be guilty
4 of a misdemeanor and, upon conviction therefor, shall be subject to the
5 penalties provided for in subsection (g) of K.S.A. 79-3615, and amend-
6 ments thereto;

7 (uuu) all sales of tangible personal property and services purchased
8 by Kansas children's service league, hereinafter referred to as KCSL,
9 which is exempt from federal income taxation pursuant to section
10 501(c)(3) of the federal internal revenue code of 1986, and which such
11 property and services are used for the purpose of providing for the pre-
12 vention and treatment of child abuse and maltreatment as well as meeting
13 additional critical needs for children, juveniles and family, and all sales of
14 any such property by or on behalf of KCSL for any such purpose; and all
15 sales of tangible personal property or services purchased by a contractor
16 for the purpose of constructing, maintaining, repairing, enlarging, fur-
17 nishing or remodeling facilities for the operation of services for KCSL
18 for any such purpose which would be exempt from taxation under the
19 provisions of this section if purchased directly by KCSL. Nothing in this
20 subsection shall be deemed to exempt the purchase of any construction
21 machinery, equipment or tools used in the constructing, maintaining, re-
22 pairing, enlarging, furnishing or remodeling such facilities for KCSL.
23 When KCSL contracts for the purpose of constructing, maintaining, re-
24 pairing, enlarging, furnishing or remodeling such facilities, it shall obtain
25 from the state and furnish to the contractor an exemption certificate for
26 the project involved, and the contractor may purchase materials for in-
27 corporation in such project. The contractor shall furnish the number of
28 such certificate to all suppliers from whom such purchases are made, and
29 such suppliers shall execute invoices covering the same bearing the num-
30 ber of such certificate. Upon completion of the project the contractor
31 shall furnish to KCSL a sworn statement, on a form to be provided by
32 the director of taxation, that all purchases so made were entitled to ex-
33 emption under this subsection. All invoices shall be held by the contractor
34 for a period of five years and shall be subject to audit by the director of
35 taxation. If any materials purchased under such a certificate are found
36 not to have been incorporated in the building or other project or not to
37 have been returned for credit or the sales or compensating tax otherwise
38 imposed upon such materials which will not be so incorporated in the
39 building or other project reported and paid by such contractor to the
40 director of taxation not later than the 20th day of the month following
41 the close of the month in which it shall be determined that such materials
42 will not be used for the purpose for which such certificate was issued,
43 KCSL shall be liable for tax on all materials purchased for the project,

1 and upon payment thereof it may recover the same from the contractor
2 together with reasonable attorney fees. Any contractor or any agent, em-
3 ployee or subcontractor thereof, who shall use or otherwise dispose of
4 any materials purchased under such a certificate for any purpose other
5 than that for which such a certificate is issued without the payment of
6 the sales or compensating tax otherwise imposed upon such materials,
7 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
8 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
9 and amendments thereto;

10 (vvv) all sales of tangible personal property or services, including the
11 renting and leasing of tangible personal property or services, purchased
12 by Jazz in the Woods, Inc., a Kansas corporation which is exempt from
13 federal income taxation pursuant to section 501(c)(3) of the federal in-
14 ternal revenue code, for the purpose of providing Jazz in the Woods, an
15 event benefiting children-in-need and other nonprofit charities assisting
16 such children, and all sales of any such property by or on behalf of such
17 organization for such purpose;

18 (www) all sales of tangible personal property purchased by or on be-
19 half of the Frontenac Education Foundation, which is exempt from fed-
20 eral income taxation pursuant to section 501(c)(3) of the federal internal
21 revenue code, for the purpose of providing education support for stu-
22 dents, and all sales of any such property by or on behalf of such organi-
23 zation for such purpose;

24 (xxx) all sales of personal property and services purchased by the
25 booth theatre foundation, inc., an organization which is exempt from fed-
26 eral income taxation pursuant to section 501(c)(3) of the federal internal
27 revenue code of 1986, and which such personal property and services are
28 used by any such organization in the constructing, equipping, recon-
29 structing, maintaining, repairing, enlarging, furnishing or remodeling of
30 the booth theatre, and all sales of tangible personal property or services
31 purchased by a contractor for the purpose of constructing, equipping,
32 reconstructing, maintaining, repairing, enlarging, furnishing or remodel-
33 ing the booth theatre for such organization, which would be exempt from
34 taxation under the provisions of this section if purchased directly by such
35 organization. Nothing in this subsection shall be deemed to exempt the
36 purchase of any construction machinery, equipment or tools used in the
37 constructing, equipping, reconstructing, maintaining, repairing, enlarg-
38 ing, furnishing or remodeling facilities for any such organization. When
39 any such organization shall contract for the purpose of constructing,
40 equipping, reconstructing, maintaining, repairing, enlarging, furnishing
41 or remodeling facilities, it shall obtain from the state and furnish to the
42 contractor an exemption certificate for the project involved, and the con-
43 tractor may purchase materials for incorporation in such project. The

1 contractor shall furnish the number of such certificate to all suppliers
2 from whom such purchases are made, and such suppliers shall execute
3 invoices covering the same bearing the number of such certificate. Upon
4 completion of the project the contractor shall furnish to such organization
5 concerned a sworn statement, on a form to be provided by the director
6 of taxation, that all purchases so made were entitled to exemption under
7 this subsection. All invoices shall be held by the contractor for a period
8 of five years and shall be subject to audit by the director of taxation. If
9 any materials purchased under such a certificate are found not to have
10 been incorporated in such facilities or not to have been returned for credit
11 or the sales or compensating tax otherwise imposed upon such materials
12 which will not be so incorporated in such facilities reported and paid by
13 such contractor to the director of taxation not later than the 20th day of
14 the month following the close of the month in which it shall be deter-
15 mined that such materials will not be used for the purpose for which such
16 certificate was issued, such organization concerned shall be liable for tax
17 on all materials purchased for the project, and upon payment thereof it
18 may recover the same from the contractor together with reasonable at-
19 torney fees. Any contractor or any agent, employee or subcontractor
20 thereof, who shall use or otherwise dispose of any materials purchased
21 under such a certificate for any purpose other than that for which such a
22 certificate is issued without the payment of the sales or compensating tax
23 otherwise imposed upon such materials, shall be guilty of a misdemeanor
24 and, upon conviction therefor, shall be subject to the penalties provided
25 for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales
26 tax paid on and after January 1, 2007, but prior to the effective date of
27 this act upon the gross receipts received from any sale which would have
28 been exempted by the provisions of this subsection had such sale occurred
29 after the effective date of this act shall be refunded. Each claim for a
30 sales tax refund shall be verified and submitted to the director of taxation
31 upon forms furnished by the director and shall be accompanied by any
32 additional documentation required by the director. The director shall
33 review each claim and shall refund that amount of sales tax paid as de-
34 termined under the provisions of this subsection. All refunds shall be paid
35 from the sales tax refund fund upon warrants of the director of accounts
36 and reports pursuant to vouchers approved by the director or the direc-
37 tor's designee;

38 (yyy) all sales of tangible personal property and services purchased
39 by TLC charities foundation, inc., hereinafter referred to as TLC chari-
40 ties, which is exempt from federal income taxation pursuant to section
41 501(c)(3) of the federal internal revenue code of 1986, and which such
42 property and services are used for the purpose of encouraging private
43 philanthropy to further the vision, values, and goals of TLC for children

1 and families, inc.; and all sales of such property and services by or on
2 behalf of TLC charities for any such purpose and all sales of tangible
3 personal property or services purchased by a contractor for the purpose
4 of constructing, maintaining, repairing, enlarging, furnishing or remodel-
5 ing facilities for the operation of services for TLC charities for any such
6 purpose which would be exempt from taxation under the provisions of
7 this section if purchased directly by TLC charities. Nothing in this sub-
8 section shall be deemed to exempt the purchase of any construction ma-
9 chinery, equipment or tools used in the constructing, maintaining, re-
10 pairing, enlarging, furnishing or remodeling such facilities for TLC
11 charities. When TLC charities contracts for the purpose of constructing,
12 maintaining, repairing, enlarging, furnishing or remodeling such facilities,
13 it shall obtain from the state and furnish to the contractor an exemption
14 certificate for the project involved, and the contractor may purchase ma-
15 terials for incorporation in such project. The contractor shall furnish the
16 number of such certificate to all suppliers from whom such purchases are
17 made, and such suppliers shall execute invoices covering the same bearing
18 the number of such certificate. Upon completion of the project the con-
19 tractor shall furnish to TLC charities a sworn statement, on a form to be
20 provided by the director of taxation, that all purchases so made were
21 entitled to exemption under this subsection. All invoices shall be held by
22 the contractor for a period of five years and shall be subject to audit by
23 the director of taxation. If any materials purchased under such a certifi-
24 cate are found not to have been incorporated in the building or other
25 project or not to have been returned for credit or the sales or compen-
26 sating tax otherwise imposed upon such materials which will not be in-
27 corporated into the building or other project reported and paid by such
28 contractor to the director of taxation not later than the 20th day of the
29 month following the close of the month in which it shall be determined
30 that such materials will not be used for the purpose for which such cer-
31 tificate was issued, TLC charities shall be liable for tax on all materials
32 purchased for the project, and upon payment thereof it may recover the
33 same from the contractor together with reasonable attorney fees. Any
34 contractor or any agent, employee or subcontractor thereof, who shall use
35 or otherwise dispose of any materials purchased under such a certificate
36 for any purpose other than that for which such a certificate is issued
37 without the payment of the sales or compensating tax otherwise imposed
38 upon such materials, shall be guilty of a misdemeanor and, upon convic-
39 tion therefor, shall be subject to the penalties provided for in subsection
40 (g) of K.S.A. 79-3615, and amendments thereto;

41 (zzz) all sales of tangible personal property purchased by the rotary
42 club of shawnee foundation which is exempt from federal income taxation
43 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,

1 as amended, used for the purpose of providing contributions to com-
2 munity service organizations and scholarships;

3 (aaaa) all sales of personal property and services purchased by or on
4 behalf of victory in the valley, inc., which is exempt from federal income
5 taxation pursuant to section 501(c)(3) of the federal internal revenue
6 code, for the purpose of providing a cancer support group and services
7 for persons with cancer, and all sales of any such property by or on behalf
8 of any such organization for any such purpose;

9 (bbbb) all sales of entry or participation fees, charges or tickets by
10 Guadalupe health foundation, which is exempt from federal income tax-
11 ation pursuant to section 501(c)(3) of the federal internal revenue code,
12 for such organization's annual fundraising event which purpose is to pro-
13 vide health care services for uninsured workers;

14 (cccc) all sales of tangible personal property or services purchased by
15 or on behalf of wayside waifs, inc., which is exempt from federal income
16 taxation pursuant to section 501(c)(3) of the federal internal revenue
17 code, for the purpose of providing such organization's annual fundraiser,
18 an event whose purpose is to support the care of homeless and abandoned
19 animals, animal adoption efforts, education programs for children and
20 efforts to reduce animal over-population and animal welfare services, and
21 all sales of any such property, including entry or participation fees or
22 charges, by or on behalf of such organization for such purpose;

23 (dddd) all sales of tangible personal property or services purchased
24 by or on behalf of Goodwill Industries or Easter Seals of Kansas, Inc.,
25 both of which are exempt from federal income taxation pursuant to sec-
26 tion 501(c)(3) of the federal internal revenue code, for the purpose of
27 providing education, training and employment opportunities for people
28 with disabilities and other barriers to employment;

29 (eeee) all sales of tangible personal property or services purchased by
30 or on behalf of All American Beef Battalion, Inc., which is exempt from
31 federal income taxation pursuant to section 501(c)(3) of the federal in-
32 ternal revenue code, for the purpose of educating, promoting and partic-
33 ipating as a contact group through the beef cattle industry in order to
34 carry out such projects that provide support and morale to members of
35 the United States armed forces and military services; and

36 (ffff) all sales of tangible personal property and services purchased by
37 sheltered living, inc., which is exempt from federal income taxation pur-
38 suant to section 501(c)(3) of the federal internal revenue code of 1986,
39 and which such property and services are used for the purpose of provid-
40 ing residential and day services for people with developmental disabilities
41 or mental retardation, or both, and all sales of any such property by or
42 on behalf of sheltered living, inc. for any such purpose; and all sales of
43 tangible personal property or services purchased by a contractor for the

1 purpose of rehabilitating, constructing, maintaining, repairing, enlarging,
2 furnishing or remodeling homes and facilities for sheltered living, inc. for
3 any such purpose which would be exempt from taxation under the pro-
4 visions of this section if purchased directly by sheltered living, inc. Noth-
5 ing in this subsection shall be deemed to exempt the purchase of any
6 construction machinery, equipment or tools used in the constructing,
7 maintaining, repairing, enlarging, furnishing or remodeling such homes
8 and facilities for sheltered living, inc. When sheltered living, inc. contracts
9 for the purpose of rehabilitating, constructing, maintaining, repairing, en-
10 larging, furnishing or remodeling such homes and facilities, it shall obtain
11 from the state and furnish to the contractor an exemption certificate for
12 the project involved, and the contractor may purchase materials for in-
13 corporation in such project. The contractor shall furnish the number of
14 such certificate to all suppliers from whom such purchases are made, and
15 such suppliers shall execute invoices covering the same bearing the num-
16 ber of such certificate. Upon completion of the project the contractor
17 shall furnish to sheltered living, inc. a sworn statement, on a form to be
18 provided by the director of taxation, that all purchases so made were
19 entitled to exemption under this subsection. All invoices shall be held by
20 the contractor for a period of five years and shall be subject to audit by
21 the director of taxation. If any materials purchased under such a certifi-
22 cate are found not to have been incorporated in the building or other
23 project or not to have been returned for credit or the sales or compen-
24 sating tax otherwise imposed upon such materials which will not be so
25 incorporated in the building or other project reported and paid by such
26 contractor to the director of taxation not later than the 20th day of the
27 month following the close of the month in which it shall be determined
28 that such materials will not be used for the purpose for which such cer-
29 tificate was issued, sheltered living, inc. shall be liable for tax on all ma-
30 terials purchased for the project, and upon payment thereof it may re-
31 cover the same from the contractor together with reasonable attorney
32 fees. Any contractor or any agent, employee or subcontractor thereof,
33 who shall use or otherwise dispose of any materials purchased under such
34 a certificate for any purpose other than that for which such a certificate
35 is issued without the payment of the sales or compensating tax otherwise
36 imposed upon such materials, shall be guilty of a misdemeanor and, upon
37 conviction therefor, shall be subject to the penalties provided for in sub-
38 section (g) of K.S.A. 79-3615, and amendments thereto.

39 Sec. 60. K.S.A. 79-4101 is hereby amended to read as follows: 79-
40 4101. (a) For the purpose of providing revenue which may be used by
41 the state, counties and cities in the enforcement of the provisions of this
42 act, from and after the effective date of this act, for the privilege of en-
43 gaging in the business of selling alcoholic liquor by *liquor* retailers or farm

1 wineries to consumers in this state ~~or~~, *selling alcoholic liquor or cereal*
 2 *malt beverage by a liquor retailer to temporary permit holders, selling*
 3 *cereal malt beverage to consumers in this state by liquor retailers or cereal*
 4 *malt beverage retailers licensed to sell cereal malt beverage in the original*
 5 *and unopened containers, selling alcoholic liquor or cereal malt beverage*
 6 *by distributors to clubs, drinking establishments, temporary permit hold-*
 7 *ers or caterers in this state or selling cereal malt beverage to cereal malt*
 8 *beverage retailers licensed to sell cereal malt beverage for consumption*
 9 *on the licensed premises, there is hereby levied and there shall be col-*
 10 *lected and paid a tax at the rate of 8% upon the gross receipts received*
 11 *from: (1) The sale of alcoholic liquor by liquor retailers, microbreweries*
 12 *or farm wineries to consumers within this state; and (2) the sale of cereal*
 13 *malt beverage by liquor retailers to consumers in this state; (3) the sale*
 14 *of alcoholic liquor to temporary permit holders by liquor retailers; (4) the*
 15 *sale of cereal malt beverage to consumers in this state by cereal malt*
 16 *beverage retailers licensed to sell cereal malt beverage in the original and*
 17 *unopened containers; (5) the sale of cereal malt beverage by distributors*
 18 *to cereal malt beverage retailers licensed to sell cereal malt beverage for*
 19 *consumption on the licensed premises; and (6) the sale of alcoholic liquor*
 20 *or cereal malt beverage by distributors to clubs, drinking establishments,*
 21 *temporary permit holders or caterers in this state.*

22 (b) The tax imposed by this section shall be in addition to the license
 23 fee imposed on distributors, *liquor* retailers, microbreweries and farm
 24 wineries by K.S.A. 41-310, and amendments thereto, *and in addition to*
 25 *the license fee imposed on cereal malt beverage retailers by section 46,*
 26 *and amendments thereto.*

27 Sec. 61. K.S.A. 79-4102 is hereby amended to read as follows: 79-
 28 4102. The tax levied under K.S.A. 79-4101, and amendments thereto,
 29 shall be paid by the consumer or user to the *liquor retailer, cereal malt*
 30 *beverage* retailer, microbrewery or farm winery or by the club, drinking
 31 establishment or caterer to the distributor. It shall be the duty of each
 32 *liquor retailer, cereal malt beverage* retailer, microbrewery, farm winery
 33 or distributor in this state to collect from the purchaser the full amount
 34 of the tax imposed by this act, or an amount equal as nearly as possible
 35 or practicable, to the average equivalent thereof.

36 Sec. 62. K.S.A. 79-4103 is hereby amended to read as follows: 79-
 37 4103. On or before the 25th day of each calendar month, every person
 38 engaged in the business of selling alcoholic liquor ~~at retail~~ *or cereal malt*
 39 *beverage at retail pursuant to the Kansas liquor control act or the club*
 40 *and drinking establishment act, every liquor retailer selling alcoholic liq-*
 41 *uor or cereal malt beverage to temporary permit holders, every micro-*
 42 *brewery selling beer to consumers, every farm winery selling wine to*
 43 *consumers in this state and, every distributor selling alcoholic liquor or*

1 cereal malt beverage to clubs, drinking establishments, *temporary permit*
2 *holders* or caterers in this state, *every distributor selling cereal malt bev-*
3 *erage to cereal malt beverage retailers licensed to sell cereal malt beverage*
4 *for consumption on the licensed premises and every cereal malt beverage*
5 *retailer licensed to sell cereal malt beverage in the original and unopened*
6 *containers selling to consumers in this state* during the preceding calendar
7 month shall make a return to the director of taxation upon forms pre-
8 scribed and furnished by the director, stating: (a) The name and address
9 of the seller; (b) the total amount of gross sales subject to the tax imposed
10 by K.S.A. 79-4101, and amendments thereto, during the preceding cal-
11 endar month; and (c) any other pertinent information the director re-
12 quires. The person making the return shall, at the time of making the
13 return, pay to the director of taxation the amount of tax imposed by K.S.A.
14 79-4101, and amendments thereto. The director of taxation may extend
15 the time for making returns and paying the tax for any period not to
16 exceed 60 days, under rules and regulations adopted by the secretary of
17 revenue.

18 Sec. 63. K.S.A. 79-4104 is hereby amended to read as follows: 79-
19 4104. Whenever the director of alcoholic beverage control issues a *liquor*
20 *retailer's, cereal malt beverage retailer's, distributor's, microbrewery or*
21 *farm winery license*, the director of alcoholic beverage control shall
22 promptly notify the director of taxation of its issuance. The notice shall
23 include the name of the licensee and, in the case of a *liquor retailer,*
24 *cereal malt beverage retailer, microbrewery or farm winery*, the address
25 of the licensed premises. Whenever the director of alcoholic beverage
26 control revokes or suspends any *liquor retailer's, cereal malt beverage*
27 *retailer's, distributor's, microbrewery or farm winery license* or whenever
28 any *liquor retailer's, cereal malt beverage retailer's, distributor's, micro-*
29 *brewery or farm winery license* expires, the director of alcoholic beverage
30 control shall likewise notify the director of taxation.

31 Sec. 64. K.S.A. 2009 Supp. 79-4108 is hereby amended to read as
32 follows: 79-4108. All revenue collected or received by the director of
33 taxation from taxes imposed by K.S.A. 79-4101 to 79-4105, and amend-
34 ments thereto, shall be remitted to the state treasurer in accordance with
35 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt
36 of each such remittance, the state treasurer shall deposit the entire
37 amount in the state treasury to the credit of the state general fund, *except*
38 *that 25% of the revenue collected and received from cereal malt beverage*
39 *retailers shall be credited to the local cereal malt beverage revenue fund,*
40 *which is hereby created in the state treasury. Moneys credited to the local*
41 *cereal malt beverage revenue fund shall be distributed quarterly on Jan-*
42 *uary 15, April 15, July 15 and October 15 of each year to the various*
43 *cities and counties in the proportion that taxpayers under the Kansas*

1 *retailers' sales tax act in such cities and counties collected and remitted*
 2 *to the director of taxation in the preceding calendar quarter revenues*
 3 *under the Kansas retailers' sales tax act. All expenditures for distributions*
 4 *from the local cereal malt beverage revenue fund shall be made in ac-*
 5 *cordance with appropriations acts upon warrants of the director of ac-*
 6 *counts and reports issued pursuant to vouchers approved by the director*
 7 *of taxation. The state treasurer shall transfer any moneys remaining in*
 8 *the county and city alcoholic liquor control enforcement fund on the*
 9 *effective date of this act to the state general fund.*

10 Sec. 65. K.S.A. 79-41a01 is hereby amended to read as follows: 79-
 11 41a01. As used in K.S.A. 79-41a01 through 79-41a09, and amendments
 12 thereto:

13 (a) "Alcoholic liquor" means alcoholic liquor, as defined by K.S.A.
 14 41-102, and amendments thereto, and cereal malt beverage, as defined
 15 by K.S.A. 41-2701, and amendments thereto.

16 (b) "Caterer," "club," "drinking establishment" and "temporary per-
 17 mit" have the meanings provided by K.S.A. 41-2601, and amendments
 18 thereto.

19 (c) "*Cereal malt beverage retailer*" means a cereal malt beverage re-
 20 *tailer, as defined in K.S.A. 41-2701, and amendments thereto, which is*
 21 *licensed under the Kansas cereal malt beverage act to sell cereal malt*
 22 *beverage for consumption on the licensed premises.*

23 (d) "Gross receipts derived from the sale of alcoholic liquor" means
 24 the amount charged the consumer for a drink containing alcoholic liquor
 25 *or cereal malt beverage*, including any portion of that amount attributable
 26 to the cost of any ingredient mixed with or added to the alcoholic liquor
 27 contained in such drink.

28 Sec. 66. K.S.A. 79-41a02 is hereby amended to read as follows: 79-
 29 41a02. (a) There is hereby imposed, for the privilege of selling alcoholic
 30 liquor *or cereal malt beverage*, a tax at the rate of 10% upon the gross
 31 receipts derived from the sale of alcoholic liquor *or cereal malt beverage*
 32 by any club, caterer, drinking establishment or temporary permit holder
 33 *or by any cereal malt beverage retailer licensed to sell cereal malt beverage*
 34 *for consumption on the licensed premises.*

35 (b) The tax imposed by this section shall be paid by the consumer to
 36 the club, caterer, drinking establishment or temporary permit holder *or*
 37 *to any cereal malt beverage retailer licensed to sell cereal malt beverage*
 38 *for consumption on the licensed premises* and it shall be the duty of each
 39 and every club, caterer, drinking establishment ~~or~~, temporary permit
 40 holder *or cereal malt beverage retailer* subject to this section to collect
 41 from the consumer the full amount of such tax, or an amount equal as
 42 nearly as possible or practicable to the average equivalent thereto. Each
 43 club, caterer, drinking establishment ~~or~~, temporary permit holder *or ce-*

1 *real malt beverage retailer* collecting the tax imposed hereunder shall be
2 responsible for paying over the same to the state department of revenue
3 in the manner prescribed by K.S.A. 79-41a03, and amendments thereto,
4 and the state department of revenue shall administer and enforce the
5 collection of such tax.

6 Sec. 67. K.S.A. 2009 Supp. 79-41a03 is hereby amended to read as
7 follows: 79-41a03. (a) The tax levied and collected pursuant to K.S.A. 79-
8 41a02, and amendments thereto, shall become due and payable by the
9 club, caterer, drinking establishment ~~or~~, temporary permit holder *or ce-*
10 *real malt beverage retailer licensed to sell cereal malt beverage for con-*
11 *sumption on the licensed premises* monthly, or on or before the 25th day
12 of the month immediately succeeding the month in which it is collected,
13 but any *such* club, caterer, drinking establishment ~~or~~, temporary permit
14 holder *or cereal malt beverage retailer* filing an annual or quarterly return
15 under the Kansas retailers' sales tax act, as prescribed in K.S.A. 79-3607,
16 and amendments thereto, shall, upon such conditions as the secretary of
17 revenue may prescribe, pay the tax required by this act on the same basis
18 and at the same time the club, caterer, drinking establishment ~~or~~, tem-
19 porary permit holder *or cereal malt beverage retailer licensed to sell cereal*
20 *malt beverage for consumption on the licensed premises* pays such retail-
21 ers' sales tax. Each *such* club, caterer, drinking establishment ~~or~~, tem-
22 porary permit holder *or cereal malt beverage retailer* shall make a true
23 report to the department of revenue, on a form prescribed by the sec-
24 retary of revenue, providing such information as may be necessary to
25 determine the amounts to which any such tax shall apply for all gross
26 receipts derived from the sale of alcoholic liquor by the club, caterer,
27 drinking establishment ~~or~~, temporary permit holder *or cereal malt bev-*
28 *erage retailer* for the applicable month or months, which report shall be
29 accompanied by the tax disclosed thereby. Records of gross receipts de-
30 rived from the sale of alcoholic liquor shall be kept separate and apart
31 from the records of other retail sales made by a club, caterer, drinking
32 establishment ~~or~~, temporary permit holder *or cereal malt beverage re-*
33 *tailer* in order to facilitate the examination of books and records as pro-
34 vided herein.

35 (b) The secretary of revenue or the secretary's authorized represen-
36 tative shall have the right at all reasonable times during business hours
37 to make such examination and inspection of the books and records of a
38 club, caterer, drinking establishment ~~or~~, temporary permit holder *or ce-*
39 *real malt beverage retailer* as may be necessary to determine the accuracy
40 of such reports required hereunder.

41 (c) The secretary of revenue is hereby authorized to administer and
42 collect the tax imposed hereunder and to adopt such rules and regulations
43 as may be necessary for the efficient and effective administration and

1 enforcement of the collection thereof. Whenever any club, caterer, drink-
2 ing establishment ~~or~~, temporary permit holder *or cereal malt beverage*
3 *retailer* liable to pay the tax imposed hereunder refuses or neglects to pay
4 the same, the amount, including any penalty, shall be collected in the
5 manner prescribed for the collection of the retailers' sales tax by K.S.A.
6 79-3617, and amendments thereto.

7 (d) The secretary of revenue shall remit all revenue collected under
8 the provisions of this act to the state treasurer in accordance with the
9 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
10 each such remittance, the state treasurer shall deposit the entire amount
11 in the state treasury. Subject to the maintenance requirements of the
12 local alcoholic liquor refund fund created under K.S.A. 79-41a09, and
13 amendments thereto, 25% of the remittance shall be credited to the state
14 general fund, 5% shall be credited to the community alcoholism and in-
15 toxication programs fund created by K.S.A. 41-1126, and amendments
16 thereto, and the balance shall be credited to the local alcoholic liquor
17 fund created by K.S.A. 79-41a04, and amendments thereto.

18 (e) Whenever, in the judgment of the secretary of revenue, it is nec-
19 essary, in order to secure the collection of any tax, penalties or interest
20 due, or to become due, under the provisions of this act, the secretary may
21 require any person subject to such tax to file a bond with the director of
22 taxation under conditions established by and in such form and amount as
23 prescribed by rules and regulations adopted by the secretary.

24 (f) The amount of tax imposed by this act shall be assessed within
25 three years after the return is filed, and no proceedings in court for the
26 collection of such taxes shall be begun after the expiration of such period
27 except in the cases of fraud. In the case of a false or fraudulent return
28 with intent to evade tax, the tax may be assessed or a proceeding in court
29 for collection of such tax may be begun at any time, within two years from
30 the discovery of such fraud. No refund or credit shall be allowed by the
31 director after three years from the date of payment of the tax as provided
32 in this act unless before the expiration of such period a claim therefor is
33 filed by the taxpayer, and no suit or action to recover on any claim for
34 refund shall be commenced until after the expiration of six months from
35 the date of filing a claim therefor with the director. Before the expiration
36 of time prescribed in this section for the assessment of additional tax or
37 the filing of a claim for refund, the director is hereby authorized to enter
38 into an agreement in writing with the taxpayer consenting to the extension
39 of the periods of limitations for the assessment of tax or for the filing of
40 a claim for refund, at any time prior to the expiration of the periods of
41 limitations. The period so agreed upon may be extended by subsequent
42 agreements in writing made before the expiration of the period previously
43 agreed upon.

1 Sec. 68. K.S.A. 79-41a04 is hereby amended to read as follows: 79-
2 41a04. (a) There is hereby created, in the state treasury, the local alcoholic
3 liquor fund. Moneys credited to such fund pursuant to this act or any
4 other law shall be expended only for the purpose and in the manner
5 provided by this act.

6 (b) All moneys credited to the local alcoholic liquor fund shall be
7 allocated to the several cities and counties of the state as follows:

8 (1) Each city that has a population of more than 6,000 shall receive
9 70% of the amount which is collected pursuant to this act from clubs ~~or~~,
10 drinking establishments *or cereal malt beverage retailers* located in such
11 city, from caterers whose principal places of business are so located or
12 from temporary permit holders whose permitted events are so located
13 and which is paid into the state treasury during the period for which the
14 allocation is made.

15 (2) Each city that has a population of 6,000 or less shall receive 46 $\frac{2}{3}$ %
16 of the amount which is collected pursuant to this act from clubs ~~or~~, drink-
17 ing establishments *or cereal malt beverage retailers* located in such city,
18 from caterers whose principal places of business are so located or from
19 temporary permit holders whose permitted events are so located and
20 which is paid into the state treasury during the period for which the
21 allocation is made.

22 (3) Each county shall receive: (A) 70% of the amount which is col-
23 lected pursuant to this act from clubs ~~or~~, drinking establishments *or cereal*
24 *malt beverage retailers* located in such county and outside the corporate
25 limits of any city, from caterers whose principal places of business are so
26 located or from temporary permit holders whose permitted events are so
27 located and which is paid into the state treasury during the period for
28 which the allocation is made; and (B) 23 $\frac{1}{3}$ % of the amount which is col-
29 lected pursuant to this act from clubs ~~or~~, drinking establishments *or cereal*
30 *malt beverage retailers* located in the county and within a city that has a
31 population of 6,000 or less, from caterers whose principal places of busi-
32 ness are so located or from temporary permit holders whose permitted
33 events are so located and which is paid into the state treasury during the
34 period for which the allocation is made.

35 (c) The state treasurer shall make distributions from the local alco-
36 holic liquor fund in accordance with the allocation formula prescribed by
37 subsection (b) on March 15, June 15, September 15 and December 15
38 of each year. The director of accounts and reports shall draw warrants on
39 the state treasurer in favor of the several county treasurers and city trea-
40 surers on the dates and in the amounts determined under this section.
41 Such distributions shall be paid directly to the several county treasurers
42 and city treasurers.

43 (d) Except as otherwise provided by this subsection, each city trea-

1 surer of a city that has a population of more than 6,000, upon receipt of
2 any moneys distributed under this section, shall deposit the full amount
3 in the city treasury and shall credit $\frac{1}{3}$ of the deposit to the general fund
4 of the city, $\frac{1}{3}$ to a special parks and recreation fund in the city treasury
5 and $\frac{1}{3}$ to a special alcohol and drug programs fund in the city treasury.
6 Each city treasurer of a city that has a population of 6,000 or less, upon
7 receipt of any moneys distributed under this section, shall deposit the full
8 amount in the city treasury and shall credit $\frac{1}{2}$ of the deposit to the general
9 fund of the city and $\frac{1}{2}$ to a special parks and recreation fund in the city
10 treasury. Moneys in such special funds shall be under the direction and
11 control of the governing body of the city. Moneys in the special parks and
12 recreation fund may be expended only for the purchase, establishment,
13 maintenance or expansion of park and recreational services, programs and
14 facilities. One-half of the moneys distributed under this section to cities
15 located in Butler county shall be deposited in a special community sup-
16 port program and parks and recreation fund in the city treasury. Moneys
17 in the special community support program and parks and recreation fund
18 may be expended only for (1) the establishment and operation of a do-
19 mestic violence program operated by a not-for-profit organization or (2)
20 the purchase, establishment, maintenance or expansion of park and re-
21 creational services, programs and facilities. Moneys in the special alcohol
22 and drug programs fund shall be expended only for the purchase, estab-
23 lishment, maintenance or expansion of services or programs whose prin-
24 cipal purpose is alcoholism and drug abuse prevention and education,
25 alcohol and drug detoxification, intervention in alcohol and drug abuse
26 or treatment of persons who are alcoholics or drug abusers or are in
27 danger of becoming alcoholics or drug abusers.

28 (e) Except as otherwise provided by this subsection, each county trea-
29 surer, upon receipt of any moneys distributed under this section, shall
30 deposit the full amount in the county treasury and shall credit to a special
31 alcohol and drug programs fund in the county treasury $23\frac{1}{3}\%$ of the
32 amount which is collected pursuant to this act from clubs ~~or~~, drinking
33 establishments *or cereal malt beverage retailers* located in the county and
34 within a city that has a population of 6,000 or less, from caterers whose
35 principal place of business is so located or from temporary permit holders
36 whose permitted events are so located and which is paid into the state
37 treasury during the period for which the allocation is made; of the re-
38 mainder, the treasurer shall credit $\frac{1}{3}$ to the general fund of the county,
39 $\frac{1}{3}$ to a special parks and recreation fund in the county treasury and $\frac{1}{3}$ to
40 the special alcohol and drug programs fund. Moneys in such special funds
41 shall be under the direction and control of the board of county commis-
42 sioners. Moneys in the special parks and recreation fund may be expended
43 only for the purchase, establishment, maintenance or expansion of park

1 and recreational services, programs and facilities. One-third of the mon-
2 eys distributed under this section to Butler county shall be deposited in
3 a special community support program and parks and recreation fund in
4 the county treasury. Moneys in the special community support program
5 and parks and recreation fund may be expended only for (1) the estab-
6 lishment and operation of a domestic violence program operated by a
7 not-for-profit organization or (2) the purchase, establishment, mainte-
8 nance or expansion of park and recreational services, programs and fa-
9 cilities. Moneys in the special alcohol and drug programs fund shall be
10 expended only for the purchase, establishment, maintenance or expansion
11 of services or programs whose principal purpose is alcoholism and drug
12 abuse prevention and education, alcohol and drug detoxification, inter-
13 vention in alcohol and drug abuse or treatment of persons who are al-
14 coholics or drug abusers or are in danger of becoming alcoholics or drug
15 abusers. In any county in which there has been organized an alcohol and
16 drug advisory committee, the board of county commissioners shall re-
17 quest and obtain, prior to making any expenditures from the special al-
18 colhol and drug programs fund, the recommendations of the advisory
19 committee concerning such expenditures. The board of county commis-
20 sioners shall adopt the recommendations of the advisory committee con-
21 cerning such expenditures unless the board, by unanimous vote of all
22 commissioners, adopts a different plan for such expenditures.

23 (f) Each year, the county treasurer shall estimate the amount of
24 money the county and each city in the county will receive from the local
25 alcoholic liquor fund and from distributions pursuant to K.S.A. 79-41a05,
26 and amendments thereto. The state treasurer shall advise each county
27 treasurer, prior to June 1 of each year of the amount in the local alcoholic
28 liquor fund that the state treasurer estimates, using the most recent avail-
29 able information, will be allocated to such county in the following year.
30 The county treasurer shall, before June 15 of each year, notify the trea-
31 surer of each city of the estimated amount in dollars of the distribution
32 to be made from the local alcoholic liquor fund and pursuant to K.S.A.
33 79-41a05, and amendments thereto.

34 Sec. 69. K.S.A. 79-41a06 is hereby amended to read as follows: 79-
35 41a06. No club, drinking establishment, caterer ~~or~~, temporary permit
36 holder *or cereal malt beverage retailer* shall sell any alcoholic liquor *or*
37 *cereal malt beverage* without a registration certificate from the secretary
38 of revenue. Application for such certificate shall be made to the secretary
39 upon forms provided by the secretary and shall contain such information
40 as the secretary deems necessary for the purposes of administering the
41 provisions of this act. The registration certificate shall be conspicuously
42 displayed in the licensed premises or permitted for which it is issued.

43 Upon violation of any of the provisions of K.S.A. 79-41a01 et seq., and

1 amendments thereto, or any of the terms of this act, and upon due notice
2 and opportunity for hearing in accordance with the provisions of the Kan-
3 sas administrative procedure act, the secretary may revoke such registra-
4 tion certificate.

5 Sec. 70. K.S.A. 79-41a07 is hereby amended to read as follows: 79-
6 41a07. (a) The director of taxation or the director of alcoholic beverage
7 control may enjoin any person from engaging in business as a club, drink-
8 ing establishment, caterer ~~or~~, temporary permit holder *or cereal malt*
9 *beverage retailer* when the club, drinking establishment, caterer ~~or~~, tem-
10 porary permit holder *or cereal malt beverage retailer* is in violation of any
11 of the provisions of K.S.A. 79-41a01 et seq., and amendments thereto, or
12 any of the terms of this act and shall be entitled in any proceeding brought
13 for that purpose to have an order restraining the person from engaging
14 in business as a club, drinking establishment, caterer ~~or~~, temporary permit
15 holder *or cereal malt beverage retailer*. No bond shall be required for any
16 such restraining order or for any temporary or permanent injunction is-
17 sued in that proceeding.

18 (b) If a club, drinking establishment ~~or~~, caterer *or cereal malt bev-*
19 *erage retailer* licensed by the director of alcoholic beverage control or a
20 temporary permit holder violates any of the provisions of K.S.A. 79-41a01
21 et seq., and amendments thereto, or any of the terms of this act, the
22 director of alcoholic beverage control may suspend or revoke the license
23 of such club, *drinking* establishment ~~or~~, caterer *or cereal malt beverage*
24 *retailer* in accordance with K.S.A. 41-2609, and amendments thereto, or
25 may impose a civil fine on the licensee or permit holder in the manner
26 provided by K.S.A. 41-2633a, and amendments thereto.

27 Sec. 71. K.S.A. 79-41a08 is hereby amended to read as follows: 79-
28 41a08. The tax imposed by this act shall be a lien upon the business and
29 any property of the club, drinking establishment, caterer ~~or~~, *temporary*
30 *permit holder or cereal malt beverage retailer* which may be sold. The
31 person acquiring such business or property shall withhold a sufficient
32 amount of the purchase price thereof to cover the amount of any taxes
33 due and unpaid by the seller, until the seller shall furnish the purchaser
34 with a receipt from the secretary of revenue, as herein provided, showing
35 that such taxes have been paid. The purchaser shall be personally liable
36 for the payment of any unpaid taxes of the seller, to the extent of the
37 value of the business or property received by the purchaser, and if a
38 receipt is not furnished by such seller within 20 days from the date of
39 sale of such business or property, the purchaser shall remit the amount
40 of such unpaid taxes to the secretary on or before the 20th day of the
41 month succeeding that in which such purchaser acquired such business
42 or property.

43 Sec. 72. K.S.A. 41-103, 41-210, 41-211, 41-304, 41-307, 41-308, 41-

1 601, 41-602, 41-701, 41-708, 41-717, 41-718, 41-724, 41-725, 41-726, 41-
2 729, 41-806, 41-901, 41-905, 41-1001, 41-1002, 41-1004, 41-1101, 41-
3 1102, 41-1122, 41-1123, 41-1125, 41-2604, 41-2610, 41-2614, 41-2632,
4 41-2643, 41-2705, 41-2706, 41-2707, 41-2709, 41-2712, 41-2722, 41-
5 2726, 79-4101, 79-4102, 79-4103, 79-4104, 79-41a01, 79-41a02, 79-
6 41a04, 79-41a06, 79-41a07, 79-41a08 and K.S.A. 2009 Supp. 41-102, 41-
7 104, 41-209, 41-308b, 41-712, 41-805, 41-2611, 41-2637, 41-2641,
8 41-2642, 41-2645, 41-2701, 41-2702, 41-2703, 41-2704, 41-2708, 41-
9 2728, 79-3606, 79-4108 and 79-41a03 are hereby repealed.
10 Sec. 73. This act shall take effect and be in force from and after July
11 1, 2011, and its publication in the statute book.