

## SENATE BILL No. 569

By Committee on Ways and Means

3-9

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9 AN ACT concerning taxation; relating to tax on alcoholic liquor, cereal  
10 malt beverage and malt products; liquor enforcement tax; increase in  
11 rates; amending K.S.A. 79-4101 and K.S.A. 2009 Supp. 41-501 and  
12 repealing the existing sections.  
13

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

15 Section 1. K.S.A. 2009 Supp. 41-501 is hereby amended to read as  
16 follows: 41-501. (a) As used in this section and K.S.A. 41-501a, and  
17 amendments thereto:

18 (1) "Gallon" means wine gallon.

19 (2) "Federal area" means any lands or premises which are located  
20 within the exterior boundaries of this state and which are held or acquired  
21 by or for the use of the United States or any department, establishment  
22 or agency of the United States.

23 (3) "Malt product" means malt syrup, malt extract, liquid malt or  
24 wort.

25 (b) (1) For the purpose of raising revenue a tax is imposed upon the  
26 manufacturing, using, selling, storing or purchasing alcoholic liquor, ce-  
27 real malt beverage or malt products in this state or a federal area at a rate  
28 of ~~\$.18~~ \$.36 per gallon on beer and cereal malt beverage; ~~\$.20~~ \$.40 per  
29 gallon on all wort or liquid malt; ~~\$.10~~ \$.20 per pound on all malt syrup  
30 or malt extract; ~~\$.30~~ \$.60 per gallon on wine containing 14% or less al-  
31cohol by volume; ~~\$.75~~ \$1.50 per gallon on wine containing more than  
32 14% alcohol by volume; and ~~\$2.50~~ \$5.00 per gallon on alcohol and spirits.

33 (2) The tax imposed by this section shall be paid only once and shall  
34 be paid by the person in this state or federal area who first manufactures,  
35 uses, sells, stores, purchases or receives the alcoholic liquor or cereal malt  
36 beverage. The tax shall be collected and paid to the director as provided  
37 in this act. If the alcoholic liquor or cereal malt beverage is manufactured  
38 and sold in this state or a federal area, the tax shall be paid by the man-  
39 ufacturer, microbrewery or farm winery producing it. If the alcoholic  
40 liquor or cereal malt beverage is imported into this state by a distributor  
41 for the purpose of sale at wholesale in this state or a federal area, the tax  
42 shall be paid by the distributor, and in no event shall such tax be paid by  
43 the manufacturer unless the alcoholic liquor or cereal malt beverage is

1 manufactured in this state. If not to exceed one gallon, or metric equiv-  
2 alent, per person of alcoholic liquor has been purchased by a private  
3 citizen outside the borders of the United States and is brought into this  
4 state by the private citizen in such person's personal possession for such  
5 person's own personal use and not for sale or resale, such import is lawful  
6 and no tax payment shall be due thereon.

7 (c) Manufacturers, microbreweries, farm wineries or distributors at  
8 wholesale of alcoholic liquor or cereal malt beverage shall be exempt from  
9 the payment of the gallonage tax imposed on alcoholic liquor and cereal  
10 malt beverage, upon satisfactory proof, including bills of lading furnished  
11 to the director by affidavit or otherwise as the director requires, that the  
12 liquor or cereal malt beverage was manufactured in this state but was  
13 shipped out of the state for sale and consumption outside the state.

14 (d) Wines manufactured or imported solely and exclusively for sac-  
15 ramental purposes and uses shall not be subject to the tax provided for  
16 by this section.

17 (e) The tax provided for by this section is not imposed upon:

18 (1) Any alcohol or wine, whether manufactured in or imported into  
19 this state, when sold to a nonbeverage user licensed by the state, for use  
20 in the manufacture of any of the following when they are unfit for bev-  
21 erage purposes: Patent and proprietary medicines and medicinal, anti-  
22 septic and toilet preparations; flavoring extracts and syrups and food prod-  
23 ucts; scientific, industrial and chemical products; or scientific, chemical,  
24 experimental or mechanical purposes; or

25 (2) the privilege of engaging in any business of interstate commerce  
26 or otherwise, which business may not be made the subject of taxation by  
27 this state under the constitution and statutes of the United States.

28 (f) The tax imposed by this section shall be in addition to all other  
29 taxes imposed by the state of Kansas or by any municipal corporation or  
30 political subdivision thereof.

31 (g) Retail sales of alcoholic liquor, sales of beer to consumers by mi-  
32 crobreweries and sales of wine to consumers by farm wineries shall not  
33 be subject to the tax imposed by the Kansas retailers' sales tax act but  
34 shall be subject to the enforcement tax provided for in this act.

35 (h) Notwithstanding any ordinance to the contrary, no city shall im-  
36 pose an occupation or privilege tax on the business of any person, firm  
37 or corporation licensed as a manufacturer, distributor, microbrewery,  
38 farm winery, retailer or nonbeverage user under this act and doing busi-  
39 ness within the boundaries of the city except as specifically authorized by  
40 K.S.A. 41-310, and amendments thereto.

41 (i) The director shall collect the taxes imposed by this section and  
42 shall account for and remit all moneys collected from the tax to the state  
43 treasurer in accordance with the provisions of K.S.A. 75-4215, and

1 amendments thereto. Upon receipt of each such remittance, the state  
2 treasurer shall deposit the entire amount in the state treasury and the  
3 state treasurer shall credit ~~4 to~~ 5% of the moneys collected from taxes  
4 imposed upon alcohol and spirits under subsection (b)(1) to the com-  
5 munity alcoholism and intoxication programs fund created by K.S.A. 41-  
6 1126, and amendments thereto, and shall credit the balance of the mon-  
7 eys collected to the state general fund.

8 (j) If any alcoholic liquor manufactured in or imported into this state  
9 is sold to a licensed manufacturer or distributor of this state to be used  
10 solely as an ingredient in the manufacture of any beverage for human  
11 consumption, the tax imposed upon the manufacturer or distributor shall  
12 be reduced by the amount of the taxes which have been paid under this  
13 section as to the alcoholic liquor so used.

14 (k) The tax provided for by this section is not imposed upon alcohol  
15 or wine used by any school or college for scientific, chemical, experimen-  
16 tal or mechanical purposes or by hospitals, sanatoria or other institutions  
17 caring for the sick. Any school, college, hospital, sanatorium or other  
18 institution caring for the sick may import alcohol or wine for scientific,  
19 chemical, experimental, mechanical or medicinal purposes by making ap-  
20 plication to the director for a permit to import it and receiving such a  
21 permit. Application for the permit shall be on a form prescribed and  
22 furnished by the director, and a separate permit shall be required for  
23 each purchase of alcohol or wine. A fee of \$2 shall accompany each ap-  
24 plication. All permits shall be issued in triplicate to the applicant and shall  
25 be under the seal of the office of the director. Two copies of the permit  
26 shall be forwarded by the applicant to the microbrewery, farm winery,  
27 manufacturer or distributor from which the alcohol or wine is purchased,  
28 and the microbrewery, farm winery, manufacturer or distributor shall  
29 return to the office of the director one copy of the permit with its shipping  
30 affidavit and invoice. Within 10 days after receipt of any alcohol or wine,  
31 the school, college, hospital or sanatorium ordering it shall file a report  
32 in the office of the director upon forms furnished by the director, showing  
33 the amount of alcohol or wine received, the place where it is to be stored,  
34 from whom it was received, the purpose for which it is to be used and  
35 such other information as required by the director. Any school, college,  
36 hospital, sanatorium or institution caring for the sick, which complies with  
37 the provisions of this subsection, shall not be required to have any other  
38 license to purchase alcohol or wine from a microbrewery, farm winery,  
39 manufacturer or distributor.

40 New Sec. 2. On July 1, 2010, a tax at the rate of \$.18 per gallon on  
41 all beer and cereal malt beverage, \$.30 per gallon for wine containing  
42 14% or less of alcohol by volume, \$.75 per gallon for wine containing  
43 more than 14% of alcohol by volume, \$2.50 per gallon on alcohol and

1 spirits, \$.20 per gallon on wort and liquid malt, and \$.10 per pound of  
2 malt syrup and malt extract, is hereby imposed on the manufacture, use,  
3 sale, storage or purchase of such alcoholic liquors owned at 12:01 a.m. on  
4 July 1, 2010, by a licensed distributor or retail dealer as to which the tax  
5 has been imposed as provided in K.S.A. 41-501, and amendments thereto.  
6 Such tax shall be paid by the licensed distributor or retail dealer owning  
7 such alcoholic liquors, cereal malt beverage or beer at such time and date.  
8 On or before July 25, 2010, every such distributor and retail dealer shall  
9 make a report to the director on a form prescribed and furnished by the  
10 director showing the total number of gallons of such alcoholic liquors,  
11 cereal malt beverage or beer so owned at 12:01 a.m. on July 2, 2010, and  
12 such report shall be accompanied by a remittance of the tax due.

13 The license of any licensed distributor or retail dealer who shall fail to  
14 make such report or pay such tax, within the time hereinbefore pre-  
15 scribed, shall be subject to suspension or revocation as provided by K.S.A.  
16 41-320, and amendments thereto. All taxes collected by the director un-  
17 der this section shall be paid into the state treasury and the state treasurer  
18 shall credit the entire amount of such payment of taxes collected to the  
19 state general fund.

20 Sec. 3. K.S.A. 79-4101 is hereby amended to read as follows: 79-  
21 4101. (a) For the purpose of providing revenue which may be used by  
22 the state, counties and cities in the enforcement of the provisions of this  
23 act, from and after the effective date of this act, for the privilege of en-  
24 gaging in the business of selling alcoholic liquor by retailers or farm win-  
25 eries to consumers in this state or selling alcoholic liquor or cereal malt  
26 beverage by distributors to clubs, drinking establishments or caterers in  
27 this state, there is hereby levied and there shall be collected and paid a  
28 tax at the rate of ~~8%~~ 16% upon the gross receipts received from: (1) The  
29 sale of alcoholic liquor by retailers, microbreweries or farm wineries to  
30 consumers within this state; and (2) the sale of alcoholic liquor or cereal  
31 malt beverage by distributors to clubs, drinking establishments or caterers  
32 in this state.

33 (b) The tax imposed by this section shall be in addition to the license  
34 fee imposed on distributors, retailers, microbreweries and farm wineries  
35 by K.S.A. 41-310, and amendments thereto.

36 Sec. 4. K.S.A. 79-4101 and K.S.A. 2009 Supp. 41-501 are hereby  
37 repealed.

38 Sec. 5. This act shall take effect and be in force from and after its  
39 publication in the statute book.