

Approved \_\_\_\_\_

1/24/85  
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Senator Edward F. Reilly, Jr. at \_\_\_\_\_  
Chairperson

11:00 a.m./~~p.m.~~ on January 16, 1985 in room 254-E of the Capitol.

All members were present ~~except~~

Committee staff present:

Fred Carman, Assistant Revisor of Statutes  
Russell Mills, Legislative Research  
Emalene Correll, Legislative Research  
June Windscheffel, Secretary to the Committee

Conferees appearing before the committee:

Jerry Shelor, Kansans for Effective Liquor Control, Topeka, Kansas  
Neal Whitaker, Kansas Beer Wholesalers Association, Topeka, Kansas  
Senator Paul "Bud" Burke, Majority Leader, Kansas Senate  
Jon Small, Kansans for Parimutuel, Inc., Topeka, Kansas

The Chairman welcomed the Committee Members and Staff and gave the orientation as to Committee procedure for the Session. Senator Reilly anticipates a very productive Session in 1985.

The Chairman introduced Jerry Shelor, Kansans for Effective Liquor Control, who presented a statement that "Our right to vote is fundamental to the democratic process." Copy of his remarks is Attachment #1 of these Minutes. He also presented a proposed Senate Concurrent Resolution, concerning amending the constitution of the state of Kansas, authorizing the legislature to permit for county option of liquor by the individual drink. It is Attachment #2, 5 RS 0223.

Neal Whitaker, Kansas Beer Wholesalers Association, appeared next before the Committee. He spoke on proposed legislation concerning increasing the drinking age for 3.2 beer to 21 years of age. A copy of his "Position Paper" is part of these Minutes as Attachment #3. The proposed legislation is attached as Attachment #4, 5 RS 0274.

Senator Paul "Bud" Burke appeared to request introduction of a proposed Senate Concurrent Resolution, relating to horse racing and parimutuel wagering, Attachment #5, of these Minutes, 5 RS 0170. Senator Reilly recognized Jon Small, of Kansans for Parimutuel, Inc., who stated that the proposed Resolution carries the fundamental safeguards which had been talked about before; it does carry the non-profit operation and the county option.

Senator Anderson moved that the three proposals be introduced as Committee bills. 2d by Senator Martin. Each of the proposals was voted on independently. On 5 RS 0223, there were 7 "yes" votes and Senators Arasmith, Daniels and Ehrlich voted "no." On 5 RS 0274, 10 members voted "yes." On 5 RS 0170, there were 8 "yes" votes, and Senators Daniels and Ehrlich voted "no." The motion carried.

Senator Morris said that he would like for Staff to draft a proposal for a constitutional amendment concerning total prohibition. He requested that the draft be brought back to the Committee for consideration.

Senator Anderson said he would like information in the area of state programs for education and counseling of alcohol-related treatment programs. The Chairman requested that Staff prepare a briefing for the Committee.

The meeting adjourned at 11:35 a.m.

*JW* 1/16/85  
Attachment #1

*Kansans for Effective Liquor Control*  
P.O. Box 2144 • 117 West 10th Street • Topeka, Kansas 66601  
913/232-0890 or 913/232-0899

*Jerry Shelor*  
Executive Director

OUR RIGHT TO VOTE IS FUNDAMENTAL TO THE DEMOCRATIC PROCESS.  
THAT RIGHT TO VOTE ON LIQUOR BY THE DRINK IS NOW BEFORE THE KANSAS  
SENATE.

A POLL CONDUCTED LAST WEEK BY KANSAS UNIVERSITY'S CENTER FOR  
PUBLIC AFFAIRS AND INSTITUTE FOR ECONOMIC AND BUSINESS RESEARCH  
FOUND 85% OF THE VOTERS SUPPORTED A CONSTITUTIONAL AMENDMENT TO  
VOTE ON LIQUOR BY THE DRINK.

STRONG SUPPORT COMES FROM KANSANS IN THE 21 TO 30 AGE  
CATEGORY. OVER 78% IN THIS AGE GROUP WANT TO VOTE. THIS AGE  
CATEGORY REPRESENTS A GENERATION OF KANSANS WHO HAVE NEVER BEEN  
GIVEN THE OPPORTUNITY TO VOTE ON THIS ISSUE. THESE PEOPLE WERE 6 TO 15  
YEARS OLD WHEN THE ISSUE WAS LAST VOTED ON IN 1970 - 15 YEARS AGO.

FOR TOO LONG THE DRY FORCES OF KANSAS HAVE WANTED US TO ACT  
LIKE THE OSTRICH WITH OUR HEADS BURIED IN THE SAND. KANSANS HAVE  
LIQUOR BY THE DRINK, BUT HIDE WHEN FELLOW TRAVELLERS COME THROUGH  
ASKING FOR EQUAL TREATMENT. WE PRETEND WE ARE A DRY STATE TO THE  
OUTSIDER. THIS FARCE SHOULD END.

IF WE ARE TO BE COMPETITIVE IN THE NATIONAL AS WELL AS

INTERNATIONAL BUSINESS CIRCLES WE NEED TO CHANGE THIS ONE ISSUE WHICH PROJECTS KANSAS AS BEING TOTALLY BACKWARD AND ALIENATES THE REST OF OUR NATION'S FELLOW CITIZENS.

IT IS TIME TO UPDATE OUR STATE WITH SISTER STATES. IT IS TIME TO END OUR HYPOCRISY. IT IS TIME TO BE HONEST ABOUT OURSELVES.

KANSANS FOR EFFECTIVE LIQUOR CONTROL IS A BROAD BASED ORGANIZATION OF 61 MEMBERS FROM THE STATE'S CHAMBER OF COMMERCE, AFL-CIO, HOTEL/MOTEL INDUSTRY, LAW ENFORCEMENT, RESTAURANTS AND OTHER KANSAS BUSINESSES. THESE CONCERNED KANSAS CITIZENS WANT TO END OUR "GOOD OLD BOY" SYSTEM.

THE RIGHT TO VOTE ON THIS ISSUE HAS AN IMPRESSIVE LIST OF ENDORSEMENTS FROM GOVERNOR CARLIN, ATTORNEY GENERAL STEPHAN, THE STATE CHAMBER OF COMMERCE, THE AFL-CIO, TRAVEL INDUSTRY ASSOCIATION OF KANSAS, THE KANSAS LODGING ASSOCIATION AND THE LEAGUE OF MUNICIPALITIES.

OBJECTIONS TO OUR ARCHAIC LIQUOR LAWS HAVE BEEN NOTICED BY BUSINESSES AS CLOSE TO HOME AS PIZZA HUT IN WICHITA, AND AS FAR AWAY AS JAPANESE CORPORATIONS IN TOKYO, JAPAN. TO SAY THE LEAST, OUR PRESENT

SITUATION IS EMBARRASSING.

THE TIME HAS COME FOR SENATORS AND REPRESENTATIVES TO STAND UP  
AND BE COUNTED ON THIS IMPORTANT ISSUE IF KANSAS WANTS TO PROGRESS IN  
THE FUTURE LET'S NOT WAIT ANOTEHR 15 YEARS TO VOTE.

SENATE CONCURRENT RESOLUTION NO. \_\_\_\_\_

By Committee on Federal and State Affairs

A PROPOSITION to amend section 10 of article 15 of the constitution of the state of Kansas, relating to intoxicating liquors; authorizing the legislature to permit and provide for county option in the sale of liquor by the individual drink.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Section 10 of article 15 of the constitution of the state of Kansas is amended to read as follows:

§ 10. Intoxicating liquors. (a) The legislature may provide for the prohibition of intoxicating liquors in certain areas. ~~Subject-to-the-foregoing,~~

"(b) The legislature may regulate, license and tax the manufacture and sale of intoxicating liquors, and may regulate the possession and transportation of intoxicating liquors. ~~The-open-saloon-shall-be--and--is hereby-forever-prohibited.~~

"(c) The sale of intoxicating liquor by the individual drink is prohibited, except that the legislature may permit, regulate, license and tax the sale of liquor by the drink in any county in which the qualified electors of the county have determined, by a majority vote of those voting thereon, to permit the sale of intoxicating liquor by the drink within the boundaries of the county."

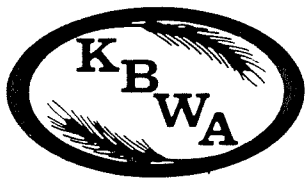
Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

"Explanatory statement. This proposed amendment would authorize the legislature to permit, license, regulate and tax the sale of liquor by the drink in any county where the voters have approved its sale in their county.

"A vote for the proposed amendment would permit the sale of liquor by the drink in any county where the voters approve its sale in their county.

"A vote against the proposed amendment would continue the current prohibition against the sale of liquor by the drink."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the senate and two-thirds of the members elected (or appointed) and qualified to the house of representatives, shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in the year 1986 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at the special election.



**KANSAS BEER WHOLESALERS ASSOCIATION**

1017 Merchants National Bank • Topeka, Kansas 66612

**POSITION PAPER**

**TO: Members of the 1985 Kansas Legislature**

**RE: Increase In The Drinking Age For 3.2% Beer To 21 In Kansas**

Congressional action in the summer of 1984 placing highway fund limitations upon states that have not increased the drinking age for consumption of alcoholic beverages and beer to 21 makes it apparent that Kansas will ultimately raise its age for consumption of 3.2% beer. This action provides an opportunity for the legislature to review Kansas law regarding 3.2% beer sales.

Even though the difference is almost insignificant, Kansas law creates a distinction between beer that contains 3.2% alcohol by weight and "Kansas Strong" beer. The difference in most cases is 1/10th of 1 percent. Cereal malt beverage (3.2% beer) is sold in a variety of public outlets and the so-called strong beer is sold only in licensed retail liquor stores. As the age increases to 21 for consumption, the need for two different kinds of beer to be marketed in this state appears to be eliminated. Presently, beer wholesalers keep in their inventories identical packages of 3.2% and strong beer in every brand that it is available. Since Kansas is one of only five states that sells cereal malt beverage, there are occasions when breweries are unable to supply product to wholesalers in Kansas.

Present law requires that cereal malt beverage and strong beer be separated in the warehouse and practice dictates that it must be separated on the trucks, both requiring additional warehouse space, additional vehicles and additional personnel.

It is our contention that by eliminating the alcohol content requirement of 3.2% by weight and allowing all beer, regardless of strength, to be classified under Kansas law as cereal malt beverage and allowing cereal malt beverage to be sold everywhere beer is sold today, would allow for some economics in operation for beer wholesalers and increase the variety of products available to licensed liquor retailers and the present cereal malt beverage retailers.

The industry will lose approximately 300,000 potential customers. This loss will affect approximately 5,000 cereal malt beverage retailers in this state. Some businesses will no longer be able to operate as they have in the past and some young people who have depended on jobs in restaurants and taverns will no longer be allowed to be employed in those places unless changes are made.

Immediately after Congress passed the mandate we began to examine Kansas law with an eye toward modernization of statutes concerning beer and cereal malt beverage. This is an outline of a package we wish to present to the 1985 session of the Kansas Legislature for its consideration.

**DRINKING AGE INCREASE**

The drinking age for beer in Kansas will be raised to 21 through a series of steps beginning July 1, 1985 by going to 19, the following July, age 20 and a year later, 21.

**EFFECTIVE DATE**

While the bill provides that the drinking age increases will begin taking effect July 1, 1985, the rest of the provisions of the bill, such as Sunday sales, reclassification of beers and the like will take effect on the date the drinking age finally reaches 21.

## **DEFINITION OF BEER**

The committee changed the definition of beer to apply to all malt products presently sold in the state. Hereafter, all beer will be called Cereal Malt Beverage. This means that there will be no distinction in the statute books between strong beer and 3.2% beer products and that all beer products may be sold in any outlet they are currently being sold in. Those outlets having an equal status include taverns, grocery stores, liquor stores and any other establishment where beer is presently legal for sale today. If the statute is passed, all references to 3.2% beer will be removed from the statute book and beer will be CMB whether or not it is a low alcohol product or a standard strength product.

## **WHOLESALE LICENSING**

The provisions prohibiting a CMB wholesaler from holding a wine and spirits license have been repealed under the proposed legislation. It should be remembered that this will also allow wine and spirits wholesalers to operate a CMB wholesale house within their operation. Beer wholesalers have an option of operating only as a CMB wholesaler and wine and spirits wholesalers have the option of operating only as a wine and spirits wholesaler. This is necessary because there are wine and spirits wholesalers who sell beer today.

## **TAXATION**

Because CMB and strong beer are taxed at different rates at the point of sale, some adjustment needed to be made so that the state did not get shorted tax revenues it depended on. The committee decided to fix the tax rate at five percent (5%) of the retail selling price of beer and call it an enforcement tax. This percentage raises an identical amount of money that is raised today under the system where CMB is subject to sales tax of three percent (3%) or more and strong beer is subject to an eight percent (8%) enforcement tax. All beer sold in private clubs would fall under the ten percent (10%) excise tax on drinks.

## **SALES BY MINORS**

Provisions were made in the proposal to allow sales by minors in closed containers in licensed establishments if they are age eighteen (18), and in open containers in licensed establishments if the establishment has 50% of its gross sales in food.

## **SUNDAY SALES - ELECTION DAY SALES - HOURS OF OPERATION**

The bill allows for sales on Sunday after 1:00 P.M. and until regular closing hours in any licensed outlet, except liquor retailers. It allows for sales on election day and it alters closing hours to 1:30 A.M. in all outlets, except liquor retailers.

## **ENFORCEMENT AGENCIES**

Under the act, the Kansas ABC will continue to have licensing authority over beer wholesalers, wine and spirits wholesalers, liquor retailers and private club license holders just as they do today. Local units of government will continue to have their authority to license local establishments for the retail sale of CMB. Therefore, there is no change in the present licensing system or the responsibilities of enforcement agencies and municipalities.



COPY  
5 RS 0274  
1/16/85  
Attachment #4

SENATE BILL NO. 46

By Committee on Federal and State Affairs

AN ACT concerning alcoholic beverages; amending K.S.A. 21-3610a, 41-103, 41-208, 41-209, 41-211, 41-305, 41-306, 41-308, 41-401, 41-402, 41-410, 41-701, 41-706, 41-708, 41-709, 41-713, 41-2701, 41-2707, 41-2708, 41-2713, 41-2716, 79-3606, 79-3817, 79-4101, 79-4102, 79-4103, 79-4104 and 79-41a01 and K.S.A. 1984 Supp. 8-260, 8-1327, 41-102, 41-304, 41-310, 41-311, 41-317, 41-501, 41-602, 41-901, 41-2704, 41-2705, 41-2714 and 41-2721 and repealing the existing sections; also repealing K.S.A. 41-307 and K.S.A. 1984 Supp. 41-409.

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

Section 1. K.S.A. 1984 Supp. 8-260 is hereby amended to read as follows: 8-260. (a) ~~It shall be unlawful for any person, for any purpose, to~~ No person shall:

(1) Display or cause or permit to be displayed or have in possession any canceled, revoked, suspended, fictitious or fraudulently altered driver's license.

(2) Lend any driver's license to any other person or knowingly permit the use thereof by another.

(3) Display or represent as the person's own, any driver's license not issued to the person.

(4) Fail or refuse to surrender to the division upon its lawful demand any driver's license which has been suspended, revoked, or canceled.

(5) Use a false or fictitious name in any application for a driver's license, or any renewal or duplicate thereof, or knowingly conceal a material fact, or otherwise commit a fraud in any such application.

(6) Permit any unlawful use of a driver's license issued to

the person.

(7) Photograph, photostat, duplicate or in any way reproduce any driver's license or facsimile thereof in such a manner that it could be mistaken for a valid driver's license or display or have in possession any such photograph, photostat, duplicate, reproduction or facsimile unless authorized by law.

(8) Display or possess any photograph, photostat, duplicate or facsimile of a driver's license unless authorized by law.

(b) Violation of any provision of subsection (a) is a class B misdemeanor.

(c) ~~It shall be unlawful for any person to:~~

~~(1)~~ No person shall lend any driver's license to or knowingly permit the use of any driver's license by any person under 21 years old for use in the purchase of any alcoholic liquor.

~~(2)~~ (d) Until July 1, 1987, no person shall lend any driver's license to or knowingly permit the use of any driver's license by a person ~~under 18 years old~~ whose date of birth is on or after July 1, 1966, for use in the purchase of any cereal malt beverage. On and after July 1, 1987, no person shall lend any driver's license to or knowingly permit the use of any driver's license by a person under 21 years old for use in the purchase of cereal malt beverage.

~~(3)~~ (e) No person shall lend any driver's license, nondriver's identification card or other form of identification to aid another person in wrongfully obtaining a driver's license or duplicate or substitute driver's license.

~~(4)~~ (f) Violation of any provision of subsection (c), (d) or (e) is a class A misdemeanor.

Sec. 2. K.S.A. 1984 Supp. 8-1327 is hereby amended to read as follows: 8-1327. (a) ~~It shall be unlawful for any person, for any purpose, to~~ No person shall:

(1) Display, cause or permit to be displayed, or have in possession, any canceled, fictitious, fraudulently altered or fraudulently obtained identification card.

(2) Lend any identification card to any other person or knowingly permit the use thereof by another.

(3) Display or represent any identification card not issued to the person as being the person's card.

(4) Permit any unlawful use of an identification card issued to the person.

(5) Do any act forbidden or fail to perform any act required by this act.

(6) Display or possess any photograph, photostat, duplicate, reproduction or facsimile of an identification card unless authorized by the provisions of this act.

(b) Violation of any provision of subsection (a) is a class B misdemeanor.

~~(c) it shall be unlawful for any person to:~~

~~(1)~~ No person shall lend any identification card to or knowingly permit the use of any identification card by any person under 21 years old for use in the purchase of any alcoholic liquor.

~~(2)~~ (d) Until July 1, 1987, no person shall lend any identification card to or knowingly permit the use of any identification card by any person ~~under 18 years old~~ whose date of birth is on or after July 1, 1966, for use in the purchase of any cereal malt beverage. On and after July 1, 1987, no person shall lend any identification card to or knowingly permit the use of any identification card by any person under 21 years old for use in the purchase of cereal malt beverage.

~~(3)~~ (e) No person shall lend any identification card, driver's license or other form of identification to aid another person in obtaining an identification card or duplicate identification card.

~~(4)~~ (f) Violation of any provision of subsection (c), (d) or (e) is a class A misdemeanor.

Sec. 3. K.S.A. 21-3610a is hereby amended to read as follows: 21-3610a. (a) Until July 1, 1987, furnishing cereal malt beverage to a minor is buying for or selling, giving or

furnishing, whether directly or indirectly, any cereal malt beverage to any person ~~under 18 years of age~~ whose date of birth is on or after July 1, 1966. On and after July 1, 1987, furnishing cereal malt beverage to a minor is buying for or selling, giving or furnishing, whether directly or indirectly, any cereal malt beverage to any person under 21 years of age.

(b) Furnishing cereal malt beverage to a minor is a class B misdemeanor.

(c) This section shall not apply to the furnishing of cereal malt beverage by a parent or legal guardian to such parent's child or such guardian's ward.

(d) As used in this section, "cereal malt beverage" has the meaning provided by K.S.A. 41-2701 and amendments thereto.

(e) This section shall be part of and supplemental to the Kansas criminal code.

Sec. 4. From and after July 1, 1987, K.S.A. 1984 Supp. 41-102 is hereby amended to read as follows: 41-102. As used in this act, unless the context clearly requires otherwise:

(a) "Alcohol" means the product of distillation of any fermented liquid, whether rectified or diluted, whatever its origin, and includes synthetic ethyl alcohol but does not include denatured alcohol or wood alcohol.

(b) "Alcoholic liquor" means alcohol, spirits, wine, ~~beer~~ and every liquid or solid, patented or not, containing alcohol, spirits, or wine ~~or beer~~ and capable of being consumed as a beverage by a human being, but shall not include any ~~beer or~~ cereal malt beverage ~~containing not more than 3.2% alcohol by weight.~~

(c) ~~"Beer," when its meaning is not enlarged, modified, or limited by other words, means a beverage containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content~~ "Cereal malt beverage" has the meaning ascribed thereto by K.S.A. 41-2701 and

amendments thereto.

(d) "Board" means the state alcoholic beverage control board of review created by this act.

(e) "Director" means the director of alcoholic beverage control of the department of revenue.

(f) "Distributor" means the person importing or causing to be imported into the state, or purchasing or causing to be purchased within the state, alcoholic liquor for sale or resale to retailers licensed under this act.

(g) "Domestic table wine" means wine which contains not more than 14% alcohol by volume and which is manufactured without rectification or fortification from agricultural products grown in this state.

(h) "Farm winery" means a winery licensed by the director to manufacture, store and sell domestic table wine.

(i) "Manufacture" means to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle or fill an original package with any alcoholic liquor, or with ~~beer-regardless-of-its alcoholic-content~~ cereal malt beverage, and includes blending.

(j) (1) "Manufacturer" means every brewer, fermenter, distiller, rectifier, wine maker, blender, processor, bottler or person who fills or refills an original package and others engaged in brewing, fermenting, distilling, rectifying or bottling alcoholic liquors or ~~beer-regardless-of-its-alcoholic content~~ cereal malt beverage.

(2) "Manufacturer" does not include a farm winery.

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

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

(m) "Original package" means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any

alcoholic liquor.

(n) "Person" means any natural person, corporation, partnership or association.

(o) "Primary American source of supply" means the manufacturer, the owner of alcoholic liquor at the time it becomes a marketable product or the manufacturer's or owner's exclusive agent who, if the alcoholic liquor cannot be secured directly from such manufacturer or owner by American wholesalers, is the source closest to such manufacturer or owner in the channel of commerce from which the product can be secured by American wholesalers.

(p) (1) "Retailer" means a person who sells at retail, or offers for sale at retail, alcoholic liquors or cereal malt beverage.

(2) "Retailer" does not include a farm winery, any retailer licensed pursuant to the cereal malt beverage control act or any club licensed pursuant to the provisions of article 26 of chapter 41 of the Kansas Statutes Annotated.

(q) "Sale" means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration and includes all sales made by any person, whether principal, proprietor, agent, servant or employee.

(r) (1) "Sell at retail" and "sale at retail" refer to and mean sales for use or consumption and not for resale in any form and sales to clubs licensed pursuant to article 26 of chapter 41 of the Kansas Statutes Annotated.

(2) "Sell at retail" and "sale at retail" do not refer to or mean sales by a farm winery, sales of cereal malt beverage by a retailer licensed pursuant to the provisions of the cereal malt beverage control act or sales by a club licensed pursuant to the provisions of article 26 of chapter 41 of the Kansas Statutes Annotated.

(s) "~~To~~ Sell" includes ~~to~~ solicit or receive an order for, ~~to~~ keep or expose for sale and ~~to~~ keep with intent to sell.

(t) "Spirits" means any beverage which contains alcohol

obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.

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

Sec. 5. From and after July 1, 1987, K.S.A. 41-103 is hereby amended to read as follows: 41-103. The legislature hereby declares the public policy of this state to be:--(1)--that beer--containing--not--more--than--3.2--percent--of--alcohol--by--weight shall--be--sold--at--retail--separately--from--sales--of--alcoholic--liquor at--retail;--(2)--that--beer--containing--not--more--than--3.2--percent--of alcohol--by--weight--shall--be--sold--and--dispensed--at--retail--in--rooms or--premises--separate--and--distinct--from--rooms--or--premises--where alcoholic--liquor--is--sold;--and--(3) that no retailer's license for the sale of alcoholic liquors shall be granted to any applicant making application therefor if the premises sought to be licensed are located outside the corporate limits of any city within this state, ~~save--and~~ except as provided in K.S.A. 41-303 and amendments thereto.

Sec. 6. From and after July 1, 1987, K.S.A. 41-208 is hereby amended to read as follows: 41-208. The power to regulate all phases of the control of the manufacture, distribution, sale, possession, transportation and traffic in alcoholic liquor and the manufacture of beer--regardless-of-its alcoholic-content cereal malt beverage, except as specifically delegated in this act, is hereby vested exclusively in the state and shall be exercised as provided in this act. No city shall enact any ordinance in conflict with or contrary to the provisions of this act and any ordinance of any city in effect at the time this act takes effect or thereafter enacted which is in conflict with or contrary to the provisions of this act shall be

null and void. Nothing contained in this section shall be construed as preventing any city from enacting ordinances declaring acts prohibited or made unlawful by this act as unlawful or prohibited in such city and prescribing penalties for violation thereof, but the minimum penalty in any such ordinance shall not exceed the minimum penalty prescribed by this act for the same violation, nor shall the maximum penalty in any such ordinance exceed the maximum penalty prescribed by this act for the same violation.

Sec. 7. From and after July 1, 1987, K.S.A. 41-209 is hereby amended to read as follows: 41-209. The director shall have the following ~~powers, functions and duties~~ the power and duty to:

(1) ~~To~~ Receive applications for, and to issue and revoke licenses to manufacturers, distributors, nonbeverage users and retailers in accordance with the provisions of this act;

~~(2) To fix by regulations the standards of manufacture of alcoholic liquors and beer regardless of its alcoholic content not inconsistent with federal laws in order to insure the use of proper ingredients and methods in the manufacture and distribution thereof; and to establish rules, not inconsistent with federal laws, for the proper labeling of containers or barrels, casks or other bulk containers or bottles of alcoholic liquor and beer, regardless of its alcoholic content, manufactured or sold in this state;~~

~~(3) To~~ (2) Call upon other administrative departments of the state, county and city governments, sheriffs, city police departments, city marshals, peace officers and upon prosecuting officers for such information and assistance as ~~he or she may deem~~ the director deems necessary in the performance of the duties imposed upon the director by this act;

~~(4) To~~ (3) Submit to the governor annual and biennial reports of such official acts and recommendations in the manner prescribed in K.S.A. 75-3044 ~~to~~ through 75-3048 and amendments thereto;



~~(5)~~--~~To~~ (4) Inspect or cause to be inspected, any premises where alcoholic liquors are manufactured, distributed or sold;

~~(6)~~ (5) In the conduct of any hearing authorized to be held by the director ~~to~~, examine, or cause to be examined, under oath, any person, and to examine or cause to be examined books and records of any licensee; ~~to~~ hear testimony and take proof material for ~~his--or--her~~ the director's information in the discharge of ~~such~~ the director's duties hereunder under the Kansas liquor control act; ~~to~~ administer or cause to be administered oaths; and for any ~~such~~ of the foregoing purposes ~~to~~, issue subpoenas to require the attendance of witnesses and the production of books which shall be effective in any part of this state; and ~~any-district-court-or~~ any judge of the district court, ~~either-in--term--time--or--vacation,~~ may by order ~~duly entered,~~ ~~require~~ the attendance of witnesses and the production of relevant books subpoenaed by the director, and ~~the--court--or~~ judge may compel obedience to ~~its-or-his-or-her~~ such order by proceedings for contempt; and

~~(7)~~--~~To~~ (6) Collect, receive, account for and turn over to the state treasurer all registration and license fees and taxes provided for in this act and all other moneys received by the director by virtue of ~~his-or-her~~ the director's office;

~~(8)~~--~~Such~~ (7) Perform any other powers, functions and duties as are ~~or-may-be~~ imposed or conferred upon the director by law.

Sec. 8. From and after July 1, 1987, K.S.A. 41-211 is hereby amended to read as follows: 41-211. The rules and regulations ~~established-by-the-director~~ adopted by the secretary of revenue pursuant to K.S.A. 41-210 shall include rules and regulations:

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

(2) prescribing the nature of and the representations to be shown upon the labels attached to the containers and requiring that the labels attached to all original containers or packages of alcoholic liquors sold or offered for sale in this state shall

set forth in plain and legible print in the English language the quantity of such liquors, exclusive of the package or cask containing them, in either metric or English measurement, except that no original package of alcoholic liquor sold or offered for sale in the original package in this state shall contain less than ~~two-hundred-(200)~~ 200 milliliters (6.8 fluid ounces);

(3) prescribing administrative procedures for the issuance of licenses and the investigation of license applications and providing for advisory recommendations from governing bodies of cities as to retailers' licenses and for hearings on applications;

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

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

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

(7) establishing the form of revenue stamps and the methods of affixing the same to the containers and prescribing such design, character, color combination, color changes, sizes and material therefor, including a decalcomania revenue stamp, as afford the best security to the state;

(8) requiring the destruction of stamps upon containers which have been opened;

(9) in the case of manufacturers and distributors of alcoholic liquors, requiring the labels attached to all containers of such liquors which are intended for sale in this state to set forth, in plain legible print in the English language, the name and kind of alcoholic liquors contained therein, together with their alcoholic content, and if a blended product (except wine) to so state, ~~except that, if the director deems it unnecessary to show the alcoholic content of beer on labels of containers of beer, the alcoholic content shall not be required to be shown thereon; and;~~

(10) fixing the standards of manufacture of alcoholic

liquors and cereal malt beverage, not inconsistent with federal law, in order to insure the use of proper ingredients and methods in its manufacture and distribution;

(11) not inconsistent with federal law, providing for the proper labeling of containers, barrels, casks or other bulk containers or bottles or cans of alcoholic liquor and cereal malt beverage manufactured or sold in this state; and

~~(10)~~ (12) providing for such other details as are necessary or convenient to the administration and enforcement of this act.

Sec. 9. From and after July 1, 1987, K.S.A. 1984 Supp. 41-304 is hereby amended to read as follows: 41-304. Licenses issued by the director shall be of the following classes: (a) Manufacturer's license; (b) alcoholic liquor distributor's license ~~(except beer);~~ ~~(c) beer distributor's license;~~ ~~(d);~~ (c) retailer's license; ~~(e)~~ (d) farm winery license; and ~~(f)~~ (e) nonbeverage user's license.

Sec. 10. From and after July 1, 1987, K.S.A. 41-305 is hereby amended to read as follows: 41-305. The manufacturer's license shall allow the manufacture, storage and sale of alcoholic ~~liquor~~ ~~including beer regardless of its alcoholic content~~ liquors and cereal malt beverages to distributors and nonbeverage users licensed in this state and to such persons without the state as may be permitted by law ~~provided~~ That. A license to manufacture beer cereal malt beverage shall also allow the sale of beer cereal malt beverage to retailers licensed in this state ~~provided further~~ That any under either the cereal malt beverage control act or the Kansas liquor control act. Cereal malt beverage ~~or beer containing not to exceed three and two-tenths percent (3.2%) of alcohol by weight~~ manufactured by any such manufacturer shall not be sold to any person in this state other than a wholesaler or distributor holding a valid and existing wholesaler's or distributor's license issued under the laws of this state ~~relating to cereal malt beverages and malt products.~~

Sec. 11. From and after July 1, 1987, K.S.A. 41-306 is

hereby amended to read as follows: 41-306. An alcoholic liquor distributor's license ~~except a beer distributor's license~~ shall allow: (1) The wholesale purchase, importation and storage of alcoholic liquors ~~except beer~~, but all such alcoholic liquor so purchased or imported which is manufactured in the United States shall be purchased from the primary American source of supply or from another licensed distributor, except that a licensed distributor may purchase confiscated alcoholic liquor at a sheriff's sale;

(2) The sale of alcoholic liquors ~~except beer~~ to:

(a) Distributors licensed in this state;

(b) Retailers licensed in this state, except that a licensed distributor shall sell a brand of alcoholic liquor only to those retailers whose licensed premises are located in the geographic territory within which such distributor is authorized to sell such brand, as designated in the notice or notices filed with the director pursuant to K.S.A. 41-410; and

(c) Such persons located outside such territory or outside this state as permitted by law;

(3) The purchase of alcoholic liquors ~~except beer~~ in barrels, casks or other bulk containers and the bottling thereof before resale, but all bottles or containers filled with such alcoholic liquors shall be sealed, labeled, stamped and otherwise made to comply with all laws and rules and regulations governing the preparation and bottling of alcoholic liquors by manufacturers and with all federal rules, regulations and laws.

Sec. 12. From and after July 1, 1987, K.S.A. 41-308 is hereby amended to read as follows: 41-308. (a) A retailer's license shall allow the licensee to sell and offer for sale at retail and deliver in the original package, as therein prescribed, only in the premises specified in ~~such~~ the license, alcoholic liquor ~~including beer containing more than 3.2 percent of alcohol by weight~~ and cereal malt beverage for use or consumption off of and away from the premises specified in ~~such~~ the license, but not for resale in any form except ~~to~~ by a club

licensed pursuant to the provisions of article 26 of chapter 41 of the Kansas Statutes Annotated.

~~(b)~~ The holder of a retailer's license shall not sell, offer for sale, or give away or permit to be sold, offered for sale, or given away in or from the premises as specified in such the license any service, or thing of value whatsoever except alcoholic liquor in the original package, nor shall ~~he or she~~ a retail licensee furnish any entertainment in such the licensed premises or permit any pinball machine or game of skill or chance to be located in or on such premises.

~~(b)~~ (c) A retailer's license shall allow the licensee to store wine and cereal malt beverage in refrigerators, cold storage units, ice boxes or other cooling devices, and the licensee may sell such wine and cereal malt beverage to consumers in a chilled condition.

Sec. 13. From and after July 1, 1987, K.S.A. 1984 Supp. 41-310 is hereby amended to read as follows: 41-310. (a) At the time application is made to the director for a license of any class, the applicant shall pay the fee provided by this section.

(b) The annual fee for a manufacturer's license to manufacture alcohol and spirits shall be \$2,500.

(c) The annual fee for a manufacturer's license to manufacture ~~beer-(regardless-of-alcoholic-content)~~ cereal malt beverage shall be:

- (1) For 1 to 100 barrel daily capacity or any part thereof, \$200.
- (2) For 100 to 150 barrel daily capacity, \$400.
- (3) For 150 to 200 barrel daily capacity, \$700.
- (4) For 200 to 300 barrel daily capacity, \$1,000.
- (5) For 300 to 400 barrel daily capacity, \$1,300.
- (6) For 400 to 500 barrel daily capacity, \$1,400.
- (7) For 500 or more barrel daily capacity, \$1,600.

As used in this subsection, "daily capacity" means the average daily barrel production for the previous 12 months of manufacturing operation. If no basis for comparison exists, the

licensee shall pay in advance for the first year's operation a fee of \$1,000.

(d) The annual fee for a manufacturer's license to manufacture wine shall be \$500.

(e) The annual fee for a farm winery license shall be \$1,100.

(f) The annual fee for a distributor's license for the first and each additional distributing place of business operated in this state by the licensee and wholesaling and jobbing alcoholic liquors ~~except beer~~ shall be \$1,250.

~~(g) The annual fee for a beer distributor's license for the first and each additional wholesale distributing place of business operated in this state by the licensee and wholesaling or jobbing beer shall be \$150.~~

~~(h)~~ The annual fee for a nonbeverage user's license shall be:

- (1) For class 1, \$10.
- (2) For class 2, \$50.
- (3) For class 3, \$100.
- (4) For class 4, \$200.
- (5) For class 5, \$500.

~~(i)~~ (h) In addition to the license fees prescribed by subsections (b) through ~~(h)~~ (g):

(1) Any city in which the licensed premises are located may levy and collect an annual occupation or license tax on the licensee in an amount not exceeding the amount of the annual license fee required to be paid under this act to obtain the license, but no city shall impose an occupation or privilege tax on the licensee in excess of that amount; and

(2) any township having a population of more than 11,000 in which the licensed premises are located, if the premises are located outside an incorporated city, may levy and collect an annual occupation or license tax on the licensee in an amount not exceeding the amount of the annual license fee required to be paid under this act to obtain the license, but no township shall

impose an occupation or privilege tax on the licensee in excess of that amount; the township board of the township is authorized to fix and impose the tax and the tax shall be paid by the licensee to the township treasurer, who shall issue a receipt therefor to the licensee and shall cause the tax paid to be placed in the general fund of the township.

~~fj~~ (i) The annual fee for a retailer's license shall be \$100.

~~fk~~ (j) In addition to the license fees prescribed by subsection ~~fj~~ (i):

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

(2) any township having a population of more than 11,000 in which the licensed premises are located, if located outside any incorporated city, shall levy and collect an annual occupation or license tax on the licensee in an amount not less than \$100 or more than \$300; the township board of the township is authorized to fix and impose the tax and the tax shall be paid by the licensee to the township treasurer, who shall issue a receipt therefor to the licensee and shall cause the tax paid to be placed in the general fund of the township.

~~fl~~ (k) The license year for a license shall commence on the date the license is issued by the director and shall end one year after that date.

Sec. 14. From and after July 1, 1987, K.S.A. 1984 Supp. 41-311 is hereby amended to read as follows: 41-311. (a) No license of any kind shall be issued to a person:

(1) Who has not been a citizen of the United States for at least 10 years.

(2) Who has been convicted of a felony under the laws of this state, any other state or the United States.

(3) Who has been convicted of a violation of intoxicating

liquor laws of any state or the alcoholic beverage control laws of the United States or has forfeited bond to appear in court to answer charges for any such violation, within the 10 years immediately prior to the date of the person's application for a license.

(4) Who has been convicted of a violation of any of the laws of any state relating to cereal malt beverages, within 10 years immediately prior to the date of the person's application for a license.

(5) Who has had a license revoked for cause under the provisions of this act or who has had any license issued under the cereal malt beverage laws of any state revoked for cause, except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation.

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

(7) Who has been convicted of being a proprietor of a gambling house, pandering or any other crime opposed to decency and morality or has forfeited bond to appear in court to answer charges for any of those crimes.

(8) Who is not at least 21 years of age.

(9) Who appoints or is a law enforcement official or who is an employee of the director or the board.

(10) Who intends to carry on the business authorized by the license as agent of another.

(11) Who at the time of application for renewal of any license issued under this act would not be eligible for the license upon a first application.

(12) Who is the holder of a valid and existing license issued under the laws of this state relating to cereal malt beverages and malt products, unless the person agrees to and does surrender the license to the officer issuing the same upon the



issuance to the person of a license under this act, except that a holder of a cereal malt beverages wholesaler's license shall be eligible to receive a beer distributor's license under this act.

(13) Who does not own the premises for which a license is sought, or does not have a written lease thereon for at least 3/4 of the period for which the license is to be issued.

(14) Whose spouse would be ineligible to receive a license under this act for any reason other than citizenship, residence requirements, age or conviction of a violation of K.S.A. 8-1567, and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by such statute, or forfeiture of bond to appear in court to answer charges for any such violation.

(b) No retailer's or farm winery license shall be issued to a:

(1) Person who is not a resident of the county in which the premises sought to be licensed are located.

(2) Person who has not been, for at least five years immediately preceding the date of application, a resident of the county in which the premises covered by the license are located or a person who has not been a resident of this state for a total of at least 10 years preceding the date of application, except that, if the premises sought to be licensed are located in a city which is located in two or more counties and the applicant for license is a resident of either county, the applicant shall be deemed to be a resident of each county for the purpose of qualification.

(3) Person who has beneficial interest in the manufacture, preparation or wholesaling of alcoholic beverages.

(4) Person or copartnership or association who has beneficial interest in any other retail establishment licensed under this act.

(5) Copartnership, unless all of the copartners are qualified to obtain a license.

(6) Corporation.

(c) No manufacturer's license or farm winery license, if the winery sells any wine to a distributor, shall be issued to:

(1) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a manufacturer's license for any reason other than citizenship and residence requirements.

(2) A copartnership, unless all of the copartners shall have been residents of this state for at least five years immediately preceding the date of application and unless all the members of the copartnership would be eligible to receive a manufacturer's license under this act.

(3) An individual who has not been a resident of this state for at least five years immediately preceding the date of application.

(d) No distributor's license shall be issued to:

(1) A corporation, if any officer, manager, director or stockholder of the corporation would be ineligible to receive a distributor's license for any reason. It shall be unlawful for any stockholder of a corporation licensed as a distributor to transfer any stock in the corporation to any person who would be ineligible to receive a distributor's license for any reason, and any such transfer shall be null and void, except that: (A) If any stockholder owning stock in the corporation dies and an heir or devisee to whom stock of the corporation descends by descent and distribution or by will is ineligible to receive a distributor's license, the legal representatives of the deceased stockholder's estate and the ineligible heir or devisee shall have 14 months from the date of the death of the stockholder within which to sell the stock to a person eligible to receive a distributor's license, any such sale by a legal representative to be made in accordance with the provisions of the probate code; or (B) if the stock in any such corporation is the subject of any trust and any trustee or beneficiary of the trust who is 21 years of age or older is ineligible to receive a distributor's license, the

trustee, within 14 months after the effective date of the trust, shall sell the stock to a person eligible to receive a distributor's license and hold and disburse the proceeds in accordance with the terms of the trust. If any legal representatives, heirs, devisees or trustees fail, refuse or neglect to sell any stock as required by this subsection, the stock shall revert to and become the property of the corporation, and the corporation shall pay to the legal representatives, heirs, devisees or trustees the book value of the stock. During the period of 14 months prescribed by this subsection, the corporation shall not be denied a distributor's license or have its distributor's license revoked if the corporation meets all of the other requirements necessary to have a distributor's license.

(2) A copartnership, unless all of the copartners are eligible to receive a distributor's license.

(3) An individual who has not been a resident of this state for at least ~~10~~ 5 years immediately preceding the date of application ~~except that:~~

~~(A) A wholesaler of cereal-malt beverages properly licensed on September 1, 1948, shall be eligible for a beer distributor's license; and~~

~~(B) a person who has been a resident of the state for at least five years immediately preceding the date of application shall be eligible for a beer distributor's license.~~

(e) No nonbeverage user's license shall be issued to a corporation, if any officer, manager or director of the corporation or any stockholder owning in the aggregate more than 25% of the stock of the corporation would be ineligible to receive a nonbeverage user's license for any reason other than citizenship and residence requirements.

Sec. 15. From and after July 1, 1987, K.S.A. 1984 Supp. 41-317 is hereby amended to read as follows: 41-317. (a) Applications for all licenses under this act shall be upon forms prescribed and furnished by the director and shall be filed with the director in duplicate. Each application shall be accompanied

by a state registration fee of \$50 for each initial application and \$10 for each renewal application to defray the cost of preparing and furnishing standard forms incident to the administration of this act and the cost of processing the application. Each application shall also be accompanied by a deposit of a certified or cashier's check of a bank within this state, United States post-office money order or cash in the full amount of the license fee required to be paid for the kind of license applied for, which license fee shall be returned to the applicant if the application is denied. All registration fees shall be paid into the state treasury by the director and shall be credited to the state general fund. All license fees received by the director, including fees received for licenses to manufacture ~~beer, regardless of its alcoholic content~~ cereal malt beverage, shall be paid into the state treasury by the director and shall be credited to the state general fund.

(b) Every applicant for a manufacturer's, alcoholic liquor distributor's, ~~beer--distributor's~~, nonbeverage user's, farm winery or retailer's license shall file with the application a joint and several bond on a form prescribed by the director and executed by good and sufficient corporate sureties licensed to do business within the state of Kansas to the director, in the following amounts:

- (1) For a manufacturer or a farm winery, \$25,000;
- (2) for an alcoholic liquor distributor, \$15,000;
- (3) for a ~~beer-distributor-or-a~~ retailer, \$2,000; and
- (4) for nonbeverage users, \$200 for class 1, \$500 for class 2, \$1,000 for class 3, \$5,000 for class 4 and \$10,000 for class 5.

(c) All bonds required by this section shall be conditioned on the licensee's compliance with the provisions of this act and payment of all taxes, fines and forfeitures which may be assessed against the licensee.

Sec. 16. From and after July 1, 1987, K.S.A. 41-401 is hereby amended to read as follows: 41-401. Every licensed

manufacturer or distributor of alcoholic liquor ~~except-beer~~ shall provide at ~~his~~ the licensee's own expense a warehouse to be situated on and to constitute a part of ~~his~~ the licensee's distillery or winery or as a part of ~~his~~ the licensee's premises used for the purpose of distributing, furnishing or selling such alcoholic liquor for purposes of resale, to be kept separate and distinct from such distillery or premises, ~~and to~~. Unless the licensee also is licensed as a wholesaler or distributor under the cereal malt beverage control act, the warehouse shall be used only for the storage of such liquor manufactured or distributed by ~~him~~ the licensee for purposes of resale until the tax levied thereon, as hereinafter provided, shall have been paid. ~~Provided~~. If the licensee also is licensed as a wholesaler or distributor under the cereal malt beverage control act, the warehouse also may be used for the purpose of distributing, furnishing or selling cereal malt beverage for purposes of resale and for such other purposes as are authorized or required under the cereal malt beverage control act. No dwelling house shall be used for such purpose. Such warehouse, when approved by the director, shall be a bonded warehouse of the state of Kansas, and shall be under the control of the director, ~~and he~~. The director may assign one or more of ~~his~~ the director's agents to be known as a "storekeeper" or "inspector" to enforce the provisions of this act with respect to such warehouse or warehouses.

Sec. 17. From and after July 1, 1987, K.S.A. 41-402 is hereby amended to read as follows: 41-402. The entire stock of alcoholic liquor, ~~except-beer-regardless-of-its-alcoholic-content, of-such-manufacturers-or-distributors~~ of a manufacturer or distributor of alcoholic liquors, except in the case of a distillery or wine cellar where ~~such~~ the liquor is in the process of distillation or manufacture, shall be kept in ~~such~~ the manufacturer's or distributor's bonded warehouse. The director shall prescribe the records which the storekeeper or inspector shall keep, when assigned, ~~as-regards-to-such~~ regarding the liquor while in the process of manufacture or distillation and

after ~~such liquor shall have~~ the liquor has been delivered to bonded warehouses. Every such bonded warehouse shall be in the joint custody of the director through ~~his~~ the director's storekeeper or inspector, when assigned, and the proprietor ~~thereof, and of the warehouse.~~ The warehouse shall be kept securely locked and at no time be unlocked or open, or remain open unless in the presence of such storekeeper, inspector or other person ~~who may be~~ designated to act for ~~him as provided by the rule or order of the director;~~ and no such the storekeeper or inspector, as provided by rules and regulations of the secretary of revenue. No alcoholic liquor shall be received or delivered in or delivered from such warehouse, except on order or permit of the director or ~~his~~ the director's duly authorized storekeeper, inspector or other agent.

Sec. 18. From and after July 1, 1987, K.S.A. 41-410 is hereby amended to read as follows: 41-410. (1) No distributor of alcoholic liquor ~~except beer,~~ shall sell any alcoholic liquor in this state unless such distributor has filed with the director a written notice stating each geographic territory, agreed upon in writing between the distributor and a supplier of the distributor, within which the distributor sells to retailers one or more brands of such supplier. Such notice shall be accompanied by a map outlining each geographic territory stated in the notice. No manufacturer, importer or other supplier shall grant a franchise for the distribution of a brand to more than one distributor for all or part of any designated territory.

(2) Each supplier of alcoholic liquors doing business within this state shall file with the director a written notice describing each geographic territory, agreed upon in writing between the supplier and a distributor, within which the distributor sells to licensed retailers one or more brands of the supplier.

(3) No supplier or distributor shall terminate or modify a franchise for the distribution of a brand of alcoholic liquor or alter the geographic territory designated in a franchise

agreement unless such supplier or distributor files written notice thereof with the director not less than ~~thirty~~<sup>(30)</sup> 30 days prior to the termination, modification or alteration. In the case of an alteration in a franchise territory, such notice shall be accompanied by a map outlining the altered territory. Upon receipt of such notice, the director shall notify immediately, by certified mail, all affected parties of the impending termination, modification or alteration.

(4) Any notice filed by a supplier pursuant to subsection (3) shall be accompanied by an affidavit stating that the termination, modification or alteration is not caused by the failure of the distributor to violate any provision of the Kansas liquor control act or any rules and regulations adopted pursuant thereto.

(5) Any supplier or distributor aggrieved by a termination, modification or alteration made under subsection (3) may file an appropriate action in any district court of this state having venue, alleging that the termination, modification or alteration violates the franchise agreement between the supplier and distributor involved.

(6) No franchise agreement for the distribution of a brand of alcoholic liquor shall be terminated or modified, nor shall the territory designated in such an agreement be altered, except for reasonable cause.

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

Sec. 19. From and after July 1, 1987, K.S.A. 1984 Supp. 41-501 is hereby amended to read as follows: 41-501. (a) As used in this section and K.S.A. 41-501a, and amendments thereto:

(1) "Gallon" means "wine gallon";

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

(b) (1) For the purpose of raising revenue a tax is imposed

upon the manufacturing, using, selling, storing or purchasing alcoholic liquors in this state or a federal area at a rate of ~~\$.18--per-gallon-on-all-beer-containing-more-than-3.2%--alcohol-by-weight~~; \$.15 per gallon on domestic table wine; \$.30 per gallon on wine containing 14% or less alcohol by volume; \$.75 per gallon on wine containing more than 14% alcohol by volume; and \$2.50 per gallon on alcohol and spirits.

(2) The tax imposed by this section shall be paid only once and shall be paid by the person in this state or federal area who first manufactures, uses, sells, stores, purchases or receives the alcoholic liquors. The tax shall be collected and paid to the director as provided in this act. If the alcoholic liquor is manufactured and sold in this state or a federal area, the tax shall be paid by the manufacturer or farm winery producing it. If the alcoholic liquor is imported into this state by a distributor for the purpose of sale at wholesale in this state or a federal area, the tax shall be paid by the distributor.

(c) Manufacturers, farm wineries or distributors at wholesale of alcoholic liquors shall be exempt from the payment of the gallonage tax imposed on alcoholic liquors, upon satisfactory proof, including bills of lading furnished to the director by affidavit or otherwise as the director requires, that the liquors were manufactured in this state but were shipped out of the state for sale and consumption outside the state.

(d) Wines manufactured or imported solely and exclusively for sacramental purposes and uses shall not be subject to the tax provided in this section.

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

(1) Any alcohol or wine, whether manufactured in or imported into this state, when sold to a nonbeverage user licensed by the state, for use in the manufacture of any of the following when they are unfit for beverage purposes: Patent and proprietary medicines and medicinal, antiseptic, and toilet preparations; flavoring extracts and syrups and food products;



scientific, industrial and chemical products; or scientific, chemical, experimental or mechanical purposes; or

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

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

(g) Retail sales of alcoholic liquor ~~and beer~~ and sales of wine to consumers by farm wineries shall not be subject to the tax imposed by the Kansas retailers' sales tax act but shall be subject to the enforcement tax provided for in this act.

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

(i) The director shall collect the taxes imposed by this section and shall account for and turn over to the state treasurer at least once each week all moneys collected from the tax. The state treasurer shall credit 1/10 of the moneys collected from taxes imposed upon alcohol and spirits under subsection (b)(1) of this section to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126 and amendments thereto and shall credit the balance of the moneys collected to the state general fund.

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

as to the alcoholic liquor so used.

(k) The tax provided for by this section is not imposed upon alcohol or wine used by any school or college for scientific, chemical, experimental or mechanical purposes or by hospitals, sanatoria or other institutions caring for the sick. Any school, college, hospital, sanatorium or other institution caring for the sick may import alcohol or wine for scientific, chemical, experimental, mechanical or medicinal purposes by making application to the director for a permit to import it and receiving such a permit. Application for the permit shall be on a form prescribed and furnished by the director, and a separate permit shall be required for each purchase of alcohol or wine. A fee of \$2 shall accompany each application. All permits shall be issued in triplicate to the applicant and shall be under the seal of the office of the director. Two copies of the permit shall be forwarded by the applicant to the farm winery, manufacturer or distributor from which the alcohol or wine is purchased, and the farm winery, manufacturer or distributor shall return to the office of the director one copy of the permit with its shipping affidavit and invoice. Within 10 days after receipt of any alcohol or wine, the school, college, hospital or sanatorium ordering it shall file a report in the office of the director upon forms furnished by the director, showing the amount of alcohol or wine received, the place where it is to be stored, from whom it was received, the purpose for which it is to be used and such other information as required by the director. Any school, college, hospital, sanatorium or institution caring for the sick, which complies with the provisions of this subsection, shall not be required to have any other license to purchase alcohol or wine from a farm winery, manufacturer or distributor.

Sec. 20. From and after July 1, 1987, K.S.A. 1984 Supp. 41-602 is hereby amended to read as follows: 41-602. ~~It is the duty of~~ Each manufacturer, distributor and farm winery which sells any wine to a distributor ~~to~~ shall keep complete and accurate records of all sales of liquor, wine ~~or beer~~ and cereal

malt beverage and complete and accurate records of all alcoholic liquors and cereal malt beverages produced, manufactured, compounded or imported. The director, in the director's discretion, may prescribe reasonable and uniform methods for keeping records by manufacturers, distributors and farm wineries as contemplated by K.S.A. 41-401 through 41-409, and amendments thereto.

Sec. 21. From and after July 1, 1987, K.S.A. 41-701 is hereby amended to read as follows: 41-701. (1) No distributor or wholesaler shall sell or attempt to sell any alcoholic liquor within this state except to:

(a) A licensed manufacturer, licensed nonbeverage user or licensed distributor; or

(b) A licensed retailer, except that, subject to the provisions of subsection (2):

~~(i) 1~~ no distributor of alcoholic liquor ~~except beer~~ shall sell a brand of alcoholic liquor to any retailer whose licensed premises are located outside of the geographic territory within which such distributor is authorized to sell such brand, as designated in the notice filed with the director pursuant to K.S.A. 41-410 ~~and~~.

~~(ii) No beer distributor shall sell beer to any retailer who is located outside the geographic territory designated in the notice filed with the director by the distributor pursuant to K.S.A. 41-409.~~

~~(2) (a) If any beer distributor refuses to sell beer or provide service in connection therewith to any retailer located within such beer distributor's geographic territory, it shall be lawful for any other beer distributor to sell beer to such retailer.~~

~~(b) (2)~~ If any licensed distributor of alcoholic liquor ~~except beer~~ refuses to sell alcoholic liquor which such distributor is authorized to sell or refuses to provide any service in connection therewith to any retailer located within such distributor's geographic territory, it shall be lawful for

any other licensed distributor of alcoholic liquor, ~~except beer~~, to sell such liquor to such retailer.

(3) No manufacturer of alcoholic liquor shall sell or attempt to sell any alcoholic liquor within this state except to a licensed manufacturer, licensed distributor or licensed nonbeverage user, ~~except that the holder of a license to manufacture beer may attempt to sell or sell beer manufactured by such manufacturer to retailers licensed in this state, but a licensed manufacturer of beer shall not sell or attempt to sell any beer manufactured by such manufacturer containing not to exceed three and two tenths percent (3.2%) of alcohol by weight to any person in this state other than a wholesaler or distributor licensed as such under the laws of this state relating to cereal malt beverages and malt products.~~

(4) No supplier, wholesaler, distributor, manufacturer or importer shall by oral or written contract or agreement, expressly or impliedly fix, maintain, coerce or control the resale price of alcoholic liquor, ~~beer~~ or cereal malt beverage to be resold by such wholesaler, distributor, manufacturer or importer, except that a licensed distributor may furnish to retailers lists of the minimum bottle and case prices required under subsection (2) of K.S.A. 41-1117 and amendments thereto.

(5) Any supplier, wholesaler, distributor or manufacturer violating the provisions of this section shall be guilty of a misdemeanor ~~and upon conviction thereof shall be punished~~ punishable by a fine of not less than ~~five hundred dollars (\$500)~~ \$500 and not more than ~~one thousand dollars (\$1,000)~~, ~~to which~~ may be added \$1,000 or by imprisonment for a period not to exceed ~~six (6) months imprisonment, or both.~~ In addition, any supplier, wholesaler, distributor, manufacturer or importer violating the provisions of this section relating to fixing, maintaining or controlling the resale price of alcoholic liquor, ~~beer~~ or cereal malt beverage shall be liable in a civil action to treble the amount of any damages awarded plus reasonable attorney fees for the damaged party.

Sec. 22. From and after July 1, 1987, K.S.A. 41-706 is hereby amended to read as follows: 41-706. No manufacturer, distributor or wholesaler shall sell or deliver any package containing alcoholic liquor ~~manufactured-or-distributed-by-him,~~ unless the same ~~shall-have~~ has affixed thereto all cancelled revenue stamps, which may be provided by federal law and under the terms of this act, and shall also bear thereon a clear and legible label containing the name and kind of alcoholic liquor contained therein, and the alcoholic content thereof, except in the case of ~~beer~~ cereal malt beverage, and such other information as may be required by federal laws and rules and regulations and by rules and regulations adopted by the director. No package shall be delivered by any manufacturer or distributor or importing distributor unless the same shall be securely sealed so that the contents thereof cannot be removed without breaking the seal so placed thereon by such manufacturer, and no other licensee shall sell, have in his possession, or use any package or container which does not comply with this section or K.S.A. 41-707 and amendments thereto, or does not bear evidence that such package, when delivered ~~to-him,~~ complied herewith.

Sec. 23. From and after July 1, 1987, K.S.A. 41-708 is hereby amended to read as follows: 41-708. (a) No retailer licensed under this act shall purchase or receive alcoholic liquor from any source except from a distributor licensed under this act and having a place of business in this state ~~provided,~~ except that a licensed retailer may purchase confiscated alcoholic liquor at a sheriff's sale ~~And-provided-further,~~ that a licensed--retailer--may--purchase-or-receive-beer-from-a-licensed beer-manufacturer-having-a-place-of-business-in-this-state.

(b) Any retail licensee who ~~shall--violate~~ violates this section shall be guilty of a misdemeanor, ~~and-upon-conviction thereof-shall-be-punished~~ punishable by a fine of not less than ~~two--hundred--dollars--(\$200)~~ \$200, nor more than ~~one-thousand dollars--(\$1,000),~~ to-which-may-be-added \$1,000 or imprisonment for not more than ~~six (6)~~ six months, or both, and the license of

such the licensee may be revoked as provided by law.

Sec. 24. From and after July 1, 1987, K.S.A. 41-709 is hereby amended to read as follows: 41-709. No manufacturer, distributor or wholesaler shall sell or deliver any package containing alcoholic liquor manufactured or distributed by ~~him~~ the manufacturer, distributor or wholesaler for resale, unless the person to whom such the package is sold or delivered is authorized to receive such the package in accordance with the provisions of this act: ~~Provided~~ That a manufacturer may sell or deliver beer containing not more than 3.2 percent of alcohol by weight manufactured by him for resale to a wholesaler or distributor licensed under the laws of this state relating to cereal malt beverages. The director shall revoke the license of any manufacturer, distributor or wholesaler who violates the provisions of this section.

Sec. 25. From and after July 1, 1987, K.S.A. 41-713 is hereby amended to read as follows: 41-713. It shall be unlawful for a retailer of alcoholic liquor to:

(1) ~~To~~ Permit any person to mix drinks in or on the licensed premises;

(2) ~~to~~ employ any person under the age of ~~twenty-one~~ (21) 21 years in connection with the operation of such ~~retail~~ the retailer's establishment; ~~or~~

(3) ~~to~~ employ any person in connection with the operation of such ~~retail~~ the retailer's establishment who has been adjudged guilty of a felony; or

(4) sell cereal malt beverage to any person under 21 years of age.

Sec. 26. From and after July 1, 1987, K.S.A. 1984 Supp. 41-901 is hereby amended to read as follows: 41-901. (a) No person shall manufacture, import for distribution as a distributor at wholesale or distribute or sell alcoholic liquor ~~or beer or manufacture beer containing not more than 3.2% alcohol by weight~~ or manufacture cereal malt beverage at any place within the state without having first obtained a valid

license so to do under the provisions of this act. No person shall obtain a license to carry on the business authorized by the license as agent for another, obtain a license by fraud or make any false statement or otherwise violate any of the provisions of this act in obtaining any license hereunder. No person having obtained a license hereunder shall violate any of the provisions of this act with respect to the manufacture, possession, distribution or sale of alcoholic liquor ~~or beer~~; with respect to the manufacture of ~~beer-containing-not-more-than-3.2%-alcohol--by-weight~~ cereal malt beverage; or with respect to the maintenance of the licensed premises.

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

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

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

(c) Each day any person engages in business as a manufacturer, distributor, farm winery or retailer in violation of the provisions of this act shall constitute a separate offense.

(d) Any license obtained to carry on the business as agent for another or any license obtained by fraud or by false statements shall be revoked by the director. When a license has been revoked for obtaining a license to carry on the business authorized by the license as agent for another, or obtained a license by fraud or by any false statement, all alcoholic liquor in the possession of the person who procured the license shall be forfeited and sold and the proceeds of the sale shall be paid to the county treasurer of the county where the alcoholic liquors were located. During the pendency of any appeal from any order revoking a license, the director may obtain an order from the district court of the county where the alcoholic liquor is

located, restraining the sale or disposal of the alcoholic liquor. When an order revoking any license is issued by the director, the director shall forthwith forward by registered mail a certified copy of the order revoking the license under the seal of the director to the county attorney of the county where the alcoholic liquor is located.

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

Sec. 27. K.S.A. 41-2701 is hereby amended to read as follows: 41-2701. As used in this act, unless the context otherwise requires:

(a) (1) Before July 1, 1987, "cereal malt beverage" means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any such liquor which is more than three and two-tenths percent (3.2%) alcohol by weight.

(2) On and after July 1, 1987, "cereal malt beverage" means a beverage containing alcohol obtained solely by the fermentation of an infusion or concoction of barley, or other grain, malt and



hops in water and includes beer, ale, stout, lager beer, porter and similar beverages.

(b) "Director" means the director of alcoholic beverage control of the department of revenue.

(c) "Person" means any individual, firm, partnership, corporation or association.

(d) "Retailer" means any person, other than a person licensed as a retailer pursuant to the Kansas liquor control act, who sells or offers for sale any cereal malt beverage for use or consumption and not for resale in any form.

(e) "Place of business" ~~shall mean~~ means any place at which cereal malt beverages are sold, other than the place of business of a person licensed under the Kansas liquor control act.

(f) "Wholesaler or distributor" ~~shall mean individuals, firms, copartnerships, corporations and associations which sell or offer for sale any beverage referred to in this act, to persons, copartnerships, corporations and associations~~ means any person who sells or offers for sale cereal malt beverage to any person authorized by this act or by the Kansas liquor control act to sell cereal malt beverages at retail.

(g) "Minor" means an individual whose date of birth is on or after July 1, 1966, except that on and after July 1, 1987, it shall mean an individual who is under the age of 21.

(h) "Manufacturer" means a manufacturer, as defined by K.S.A. 1984 Supp. 41-102(j)(1), which manufacturers cereal malt beverage.

Sec. 28. K.S.A. 1984 Supp. 41-2704 is hereby amended to read as follows: 41-2704. (a) In addition to and consistent with the requirements of ~~this~~ the cereal malt beverage control act, the board of county commissioners of any county or the governing body of any city may prescribe hours of closing, standards of conduct and rules and regulations concerning the moral, sanitary and health conditions of places licensed pursuant to ~~this~~ the cereal malt beverage control act and may establish zones within which no such place may be located.

(b) Except as provided by subsection (g), no cereal malt beverages may be sold:

(1) Between the hours of ~~12:00-midnight~~ 1:30 a.m. and 6:00 a.m.; or

(2) on Sunday ~~or~~, except between the hours of 1:00 p.m. and 12:00 midnight.

~~(3) on the day of any national, state, county or city elections, including primary elections, during the hours the polls are open, within the political area in which such election is being held.~~

(c) No private rooms or closed booths shall be operated in a place of business, but this provision shall not apply if the licensed premises are also currently licensed as a club under a license issued by the director.

(d) Each place of business shall be open to the public and to the police at all times during business hours, except that a premises licensed as a club under a license issued by the director shall be open to the police and not to the public.

(e) No licensee shall permit a ~~person under 18 years of age~~ minor to consume, or purchase or possess any cereal malt beverage in or about a place of business, and no licensee shall permit a minor to possess cereal malt beverage in or about a place of business, except that a licensee's employee who is not less than 18 years of age may sell or dispense cereal malt beverage, if:

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

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

(f) No person shall have any alcoholic liquor in such person's possession while in a place of business, unless the premises are currently licensed as a club by the director.

(g) Cereal malt beverages may be sold on premises which are both licensed pursuant to the ~~acts contained in article 27 of chapter 41 of the Kansas Statutes Annotated~~ cereal malt beverage control act and licensed as a club by the director at any time when alcoholic liquor is allowed by law to be served on the premises.

Sec. 29. From and after July 1, 1987, K.S.A. 1984 Supp. 41-2705 is hereby amended to read as follows: 41-2705. (a) It shall be unlawful for any individual brewer or group of brewers to sell, deliver or distribute cereal malt beverages ~~or malt products~~ in the state of Kansas except to a licensed wholesaler or distributor of such.

(b) (1) Except as provided in paragraph (2) of this subsection (b), no manufacturer, distributor, agent or wholesaler shall:

(A) Directly or indirectly sell, supply, furnish, give, pay for, loan or lease any furnishings, fixture or equipment on the premises of a place of business of a retailer licensed under either the cereal malt beverage control act or the Kansas liquor control act;

(B) directly or indirectly pay for ~~any retailer's~~ the license of a retailer licensed under either the cereal malt beverage control act or the Kansas liquor control act, or advance, furnish, lend or give money for payment of such license;

(C) purchase or become the owner of any note, mortgage or other evidence of indebtedness ~~of a retailer,~~ of a retailer licensed under either the cereal malt beverage control act or the Kansas liquor control act;

(D) directly or indirectly be interested in the ownership, conduct or operation of the business of any retailer licensed under either the cereal malt beverage control act or the Kansas liquor control act; or

(E) be directly or indirectly interested in or owner, part owner, lessee or lessor of any premises upon which cereal malt beverages are sold at retail.

(2) A distributor, agent or wholesaler may sell tapping and dispensing equipment, as defined by rules and regulations adopted under ~~article--27-of-chapter-41-of-the-Kansas-Statutes-Annotated~~ the cereal malt beverage control act, at not less than the cost paid for such equipment by the distributor, agent or wholesaler. The terms of any such sale shall comply with the provisions of K.S.A. 41-2706. Such sales shall not be subject to any repurchase agreement.

(c) No manufacturer, distributor or wholesaler shall, directly or indirectly or through a subsidiary or affiliate, or by any officer, director or firm of such manufacturer, distributor or wholesaler, furnish, give, lend or rent any interior decorations other than signs, costing in the aggregate more than \$100 in any one calendar year for use in or about or in connection with any one establishment on which products of the manufacturer, distributor or wholesaler are sold.

(d) No person engaged in the business of manufacturing, distributing or wholesaling cereal malt beverages shall, directly or indirectly, pay for or advance, furnish or lend money for the payment of any license for another.

(e) Any licensee who shall permit or assent, or be a party in any way to any violation or infringement of the provisions of this section, shall be deemed guilty of a violation of this act, and any money loaned contrary to a provision of this act shall not be recovered back, or any note, mortgage or other evidence of indebtedness, or security, or any lease or contract obtained or made contrary to this act shall be unenforceable and void.

(f) No wholesaler or distributor shall sell any cereal malt beverage to any person who has not secured a license as provided for in ~~this~~ the cereal malt beverage control act or in the Kansas liquor control act, and no wholesaler or distributor shall sell any cereal malt beverage to any retailer who is licensed pursuant to the cereal malt beverage control act or the Kansas liquor control act and is located outside the geographic area designated in the ~~wholesaler~~ wholesaler's or distributor's application for a

license pursuant to K.S.A. 41-2713, and any amendments thereto, except that if any wholesaler or distributor shall refuse to sell any cereal malt beverage or provide service in connection with that sale to any retailer who is licensed pursuant to the cereal malt beverage control act or the Kansas liquor control act and is located within such wholesaler's or distributor's geographic territory, it shall be lawful for any other wholesaler or distributor to sell any such cereal malt beverage to such retailer.

(g) (1) Except as provided in paragraph (2) of this subsection (g), no individual brewer or group of brewers shall directly or indirectly or through a subsidiary or affiliate, or by any officer, director or firm of such brewer or group of brewers:

(A) Furnish, give or lend money for the payment of any license for any wholesaler in the state of Kansas;

(B) have or own any financial interest directly or indirectly in the ownership, conduct or operation of the business of any wholesaler in the state of Kansas;

(C) be directly or indirectly interested in or owner, part owner, lessee or lessor of any premises upon which cereal malt beverages are sold at wholesale; or

(D) engage in the wholesale distribution of cereal malt beverages ~~or malt products~~ in the state of Kansas.

(2) Nothing in this section shall be construed to prohibit any brewer from making sale and deliveries of cereal malt beverages or malt products to licensed wholesalers in the state of Kansas, or to a branch, subsidiary or affiliate located in the state of Kansas, from which, on or before January 14, 1947, the brewer had been dispensing at wholesale cereal malt beverage or malt products and for which the brewer holds, directly or indirectly, a license and pays a license tax as provided for in K.S.A. 41-2713, and any amendments thereto.

(h) Nothing contained in this section shall make it unlawful for any person to be a member of a club licensed as such

by the director of alcoholic beverage control nor shall membership in such a club by any person constitute a disqualification of any person for any license under this act.

(i) No brewer or other supplier shall enter into an agreement for the distribution of a brand of cereal malt beverage with more than one wholesaler or distributor of cereal malt beverages for all or part of any designated geographic territory. No supplier or distributor shall terminate or modify an agreement for the distribution of a brand of cereal malt beverage or alter the geographic territory designated in an agreement unless such supplier or distributor files written notice thereof with the director not less than 30 days prior to the termination, modification or alteration. Upon receipt of such notice, the director shall notify immediately all affected parties of the impending termination, modification or alteration by certified mail. Any supplier or distributor aggrieved by a termination, modification or transferral made under this section may file an appropriate action in any district court of this state having venue, alleging that the termination, modification or transferral violates the agreement between the supplier and the distributor involved.

Sec. 30. From and after July 1, 1987, K.S.A. 41-2707 is hereby amended to read as follows: 41-2707. No wholesaler of cereal malt beverages licensed under the laws of this state shall sell or furnish cereal malt beverages to a retailer ~~of cereal malt beverages licensed under the laws of this state~~ cereal malt beverage control act or the Kansas liquor control act, on credit or on a passbook or order on a store, or in exchange for any goods, wares or merchandise, or in payment for any service rendered or to be rendered, or by any extension of credit of any kind, type or class. Any distributor, wholesaler or retailer who shall violate any of the terms of this section or K.S.A. 41-2706 shall be subject to all penalties and forfeitures provided by K.S.A. 41-2705 and 41-2708 and any amendments thereto, and any debt attempted to be created in violation hereof shall not be

recoverable at law.

Sec. 31. K.S.A. 41-2708 is hereby amended to read as follows: 41-2708. (a) The board of county commissioners or the governing body of any city, upon five ~~(5)~~ days' notice to ~~the persons~~ a person holding ~~such a~~ retailer's license, shall revoke or suspend such license for any one of the following reasons:

~~(a)~~ ~~if~~ ~~a~~ (1) The licensee has fraudulently obtained the license by giving false information in the application therefor;

~~(b)~~ ~~if~~ (2) the licensee has violated any of the provisions of ~~this~~ the cereal malt beverage control act or any ~~rule~~ rules or regulations made by the board or the city as the case may be;

~~(c)~~ ~~if~~ (3) the licensee has become ineligible to obtain a license ~~in this~~ under the cereal malt beverage control act;

~~(d)~~ (4) drunkenness of the ~~person~~ ~~holding~~ ~~such~~ ~~license~~ licensee or permitting any intoxicated person to remain in ~~such~~ place the licensee's place of business;

~~(e)~~ (5) the sale of cereal malt beverages to ~~those~~ ~~under~~ ~~the~~ ~~age~~ ~~of~~ ~~eighteen~~ ~~(18)~~ ~~years~~ a minor;

~~(f)~~ (6) the nonpayment of any license fees;

~~(g)~~ ~~for~~ (7) permitting any gambling in or upon ~~such~~ the premises of the licensee's place of business;

~~(h)~~ ~~for~~ (8) permitting any person to mix drinks with materials purchased in ~~said~~ the place of business or brought in for ~~this~~ that purpose;

~~(i)~~ ~~for~~ (9) the employment of ~~persons~~ ~~under~~ ~~eighteen~~ ~~(18)~~ ~~years~~ ~~of~~ ~~age~~ ~~in~~ any person under the age prescribed by K.S.A. 1984 Supp. 41-2704(e), and amendments thereto, for dispensing cereal malt beverages;

~~(j)~~ ~~for~~ (10) the employment of persons who have been adjudged guilty of felony or of any violation of the intoxicating liquor law; or

~~(k)~~ ~~for~~ (11) the sale or possession of or ~~for~~ permitting any person to use or consume ~~upon~~ ~~or~~ ~~in~~ ~~said~~ on the licensed premises any alcoholic liquor, as defined by ~~the laws of the state of Kansas relating thereto~~; Provided, That K.S.A. 41-102

and amendments thereto.

(b) the provisions of ~~the foregoing~~ subsections ~~(h) and (i)~~ (a)(8) and (a)(11) shall not apply if ~~such~~ the place of business or premises are also currently licensed as a club under a license issued by the state director of alcoholic beverage control.

(c) Within ~~twenty-(20)~~ 20 days after the order of the board or governing body revoking or suspending any license, the licensee may appeal to the district court, and the district court shall proceed to hear such appeal as though such court had original jurisdiction of the matter. Any appeal taken from an order revoking or suspending ~~any such~~ a license shall not suspend the order of revocation or suspension during the pendency of ~~any such~~ the appeal. In case of the revocation of the license of any licensee, no new license shall be issued to ~~such person or the former licensee or to~~ any person acting for or on ~~his or her~~ the former licensee's behalf, for a period of six ~~(6)~~ months thereafter.

Sec. 32. K.S.A. 41-2713 is hereby amended to read as follows: 41-2713. (a) It shall be unlawful for any wholesaler or distributor to sell or deliver cereal malt beverages within the state of Kansas to persons authorized to sell the same within this state unless such wholesaler or distributor has first secured from the director a license authorizing such sales.

(b) The application for licensure as a wholesaler or distributor shall be verified and upon forms prepared by the director and approved by the attorney general. The application shall contain:

(1) The name and residence of the applicant and, if a corporation, the location of its principal office;

(2) the name, brand or other designation of the beverage that the applicant desires to sell in wholesale quantities in the state and the geographic territory in Kansas within which the applicant intends to distribute the designated beverages, which territory shall be the territory agreed upon by the brewer and the wholesaler or distributor and shall not be changed without



the written consent of both the brewer and the wholesaler or distributor;

(3) a statement that, if the license is granted, the applicant will file with the director between the first and tenth of each month a verified statement showing the amount, designated in cases or gallons, of the beverages distributed the preceding month;

(4) a statement that the applicant will present a bond in the sum of ~~one-thousand-dollars-(\$1,000)~~ \$1,000, payable to the state of Kansas, conditioned that the applicant will comply with the laws and regulations of the state of Kansas and of the municipalities of the state of Kansas in which the applicant transacts business and that all fines and forfeitures which may be assessed against such applicant will be paid;

(5) answers to such other questions as may be contained in the application; and

(6) a statement that the application is accompanied by a license fee of ~~three-hundred-dollars-(\$300)~~ \$300 and that such sum will be paid annually to the state of Kansas so long as the license is renewed.

(c) A separate application and fee shall be required for each place of business operated by a wholesaler or distributor.

(d) No wholesaler's or distributor's license shall be issued to any individual applicant who has not been a resident of the state of Kansas for a period of five ~~(5)~~ years immediately preceding the filing of his or her application.

(e) An application for a wholesaler's or distributor's license may be rejected and refused in the discretion of the director if:

(1) The applicant has been adjudged guilty of the violation of any law of any state or of the United States pertaining to intoxicating liquors or cereal malt beverages, a felony or any crime involving moral turpitude.

(2) The applicant is a firm, partnership, association or corporation and any of the individual members, partners, officers

or stockholders thereof would be ineligible to receive a license.

(3) The applicant has had a license revoked for cause, under the provisions of this act.

(f) Any wholesaler's or distributor's license issued under the provisions of this act shall be subject to suspension or revocation by the director, after due notice and hearing, if the licensee:

(1) Has become ineligible to obtain a license under the provisions of this act;

(2) obtained the license by giving false information on the application therefor;

(3) has violated any provision of ~~article 27 of chapter 41~~ the cereal malt beverage control act or article 38 of chapter 79 of the Kansas Statutes Annotated, or any rules and regulations adopted pursuant thereto.

(g) Whenever a wholesaler's or distributor's license is issued pursuant to this section, the director shall promptly notify the director of taxation of the issuance thereof. Such notice shall include the name of the wholesaler or distributor and the address of the licensed place of business. Whenever any wholesaler's or distributor's license is revoked or suspended or whenever any wholesaler's or distributor's license shall expire, the director shall notify the director of taxation thereof.

(h) On and after July 1, 1987, a person licensed as a distributor under the Kansas liquor control act shall not be disqualified from applying for and obtaining a license as a wholesaler or distributor under the cereal malt beverage control act. Such person may submit an application in accordance with this section, and the application may be submitted prior to July 1, 1987, but shall not take effect prior to that time. The initial license issued to any such person pursuant to this section shall expire at the time such person's alcoholic liquor distributor's license expires, and if such initial license is issued for less than one year, the license fees payable under this section shall be prorated. Thereafter, renewals of such

license shall be for periods of one year.

(i) Any person licensed as a beer distributor on June 30, 1987, may continue to distribute cereal malt beverage of a brand that the distributor has an agreement to distribute, to persons authorized to sell cereal malt beverage at retail within the geographical territory where the distributor has agreed to distribute that brand. Until the beer distributor's license expires or is suspended or revoked, the distributor shall be considered to have an agreement to be the exclusive distributor of cereal malt beverage of that brand with respect to such persons authorized to sell cereal malt beverage at retail in that geographical territory.

Sec. 33. From and after July 1, 1987, K.S.A. 1984 Supp. 41-2714 is hereby amended to read as follows: 41-2714. The license of a wholesaler or distributor shall be purely a personal privilege, good for not to exceed one (1) year after issuance unless sooner suspended or revoked, and shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferrable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall not descend by the laws of testate or intestate devolution, but it shall cease and expire upon the death of the licensee~~;~~—Provided, except that executors, administrators or representatives of the estate of any deceased licensee and the trustee of any insolvent or bankrupt licensee, when such estate consists in part of cereal malt beverage, may continue the business of the sale of cereal malt beverage under order of the appropriate court, and may exercise the privilege of the deceased or insolvent or bankrupt licensee after the death of such decedent, or after such insolvency or bankruptcy, until the expiration of such license but no longer than one (1) year after the death, bankruptcy or insolvency of such licensee.

Sec. 34. From and after July 1, 1987, K.S.A. 41-2716 is hereby amended to read as follows: 41-2716. It shall be unlawful for:

(a) Any wholesaler or distributor to sell, deliver or otherwise dispose of any cereal malt beverage to any person other than a wholesaler, distributor or retailer who is licensed in accordance with the laws of this state pursuant to the cereal malt beverage control act, a retailer licensed under the Kansas liquor control act or a private club licensed under the provisions of article 26 of chapter 41 of the Kansas Statutes Annotated.

(b) Any person to use fraud or deception to circumvent the provisions of this act.

(c) Any person to prevent the director or any officer or agent authorized by law from making a full inspection of any place of business for the purposes of this act.

Sec. 35. K.S.A. 1984 Supp. 41-2721 is hereby amended to read as follows: 41-2721. (a) No person under 18 years of age minor shall:

(1) Claim to be ~~18 or more years of age~~ of a lawful age to purchase cereal malt beverage for the purpose of obtaining or attempting to obtain any cereal malt beverage from any person;

(2) purchase or attempt to purchase any cereal malt beverage from any person; or

(3) possess or consume any cereal malt beverage.

(b) Any person under the age of 18 years who violates this section, upon adjudication thereof, shall be deemed a juvenile offender under the Kansas juvenile offenders code. Any other person who violates this section is guilty of a class C misdemeanor.

(c) This section shall not apply to the possession and consumption of cereal malt beverage by a ~~person under 18 years of age~~ minor when such possession and consumption is permitted, and such beverage is furnished, by the person's parent or legal guardian.

(d) This section shall be part of and supplemental to ~~article 27 of chapter 41 of the Kansas Statutes Annotated~~ the cereal malt beverage control act.

New Sec. 36. The sections contained in article 27 of chapter 41 of the Kansas Statutes Annotated and this section, as the same may be amended or supplemented, shall be known and may be cited as the cereal malt beverage control act.

Sec. 37. From and after July 1, 1987, K.S.A. 79-3606 is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:

(a) All sales of motor-vehicle fuel or other articles upon which a sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes as defined by K.S.A. 79-3301, and amendments thereto, ~~cereal-malt-beverages-and malt-products-as-defined-by-K.S.A.--79-3817,--and--amendments thereto,--including-wort,--liquid-malt,--malt-syrup-and-malt-extract~~ and motor vehicles as defined by K.S.A. 79-1017, and amendments thereto;

(b) all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the state of Kansas, a political subdivision thereof, other than a school or educational institution, or purchased by a public or private nonprofit hospital or nonprofit blood bank and used exclusively for state, political subdivision, hospital or nonprofit blood bank purposes, except when: (1) Such state or hospital is engaged or proposes to engage in any business specifically taxable under the provisions of this act and such items of tangible personal property or service are used or proposed to be used in such business, or (2) such political subdivision is engaged or proposes to engage in the business of furnishing gas, water, electricity or heat to others and such items of personal property or service are used or proposed to be used in such business;

(c) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly by a public or private elementary or secondary school or public or private nonprofit educational institution and used primarily by such school or institution for nonsectarian

programs and activities provided or sponsored by such school or institution or in the erection, repair or enlargement of buildings to be used for such purposes. The exemption herein provided shall not apply to erection, construction, repair, enlargement or equipment of buildings used primarily for human habitation;

(d) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any public or private nonprofit hospital, public or private elementary or secondary school or a public or private nonprofit educational institution, which would be exempt from taxation under the provisions of this act if purchased directly by such hospital, school or educational institution; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state the total cost of which is paid from funds of such political subdivision and which would be exempt from taxation under the provisions of this act if purchased directly by such political subdivision. Nothing in this subsection or in the provisions of K.S.A. 12-3418, and amendments thereto, shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state. As used in this subsection, K.S.A. 12-3418, and amendments thereto, and K.S.A. 79-3640, and amendments thereto, "funds of a political subdivision" shall mean general tax revenues, the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the purpose of constructing, equipping, reconstructing, repairing, enlarging, furnishing or remodeling facilities which are to be leased to the donor. When any political subdivision of the state, public or

private nonprofit hospital, public or private elementary or secondary school or public or private nonprofit educational institution shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the political subdivision, hospital, school or educational institution concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate be found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the political subdivision, hospital, school or educational institution concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate shall be issued without the payment of the sales or

compensating tax otherwise imposed upon such materials shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(4), and amendments thereto;

(e) all sales of tangible personal property or services purchased by a contractor for the erection, repair or enlargement of buildings or other projects for the government of the United States, its agencies or instrumentalities, which would be exempt from taxation if purchased directly by the government of the United States, its agencies or instrumentalities. When the government of the United States, its agencies or instrumentalities shall contract for the erection, repair, or enlargement of any building or other project, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the government of the United States, its agencies or instrumentalities concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate shall be issued without the payment of the sales or compensating tax otherwise imposed upon such materials shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in K.S.A. 79-3615(4), and amendments thereto;

(f) tangible personal property purchased by a railroad or



public utility for consumption or movement directly and immediately in interstate commerce;

(g) sales of aircraft including remanufactured and modified aircraft, sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of aircraft sold to persons using such aircraft and aircraft repair, modification and replacement parts as certified or licensed carriers of persons or property in interstate or foreign commerce under authority of the laws of the United States or any foreign government or sold to any foreign government or agency or instrumentality of such foreign government and all sales of aircraft, aircraft parts, replacement parts and services employed in the remanufacture, modification and repair of aircraft for use outside of the United States;

(h) all rentals of nonsectarian textbooks by public or private elementary or secondary schools;

(i) the lease or rental of all films, records, tapes, or any type of sound or picture transcriptions used by motion picture exhibitors;

(j) meals served without charge or food used in the preparation of such meals to employees of any restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public if such employees' duties are related to the furnishing or sale of such meals or drinks;

(k) any motor vehicle, semitrailer or pole trailer, as such terms are defined by K.S.A. 8-126, and amendments thereto, or aircraft sold and delivered in this state to a bona fide resident of another state, which motor vehicle, semitrailer, pole trailer or aircraft is not to be registered or based in this state and which vehicle, semitrailer, pole trailer or aircraft will not remain in this state more than 10 days;

(l) all isolated or occasional sales of tangible personal property, services, substances or things, except isolated or occasional sale of motor vehicles specifically taxed under the provisions of K.S.A. 79-3603(o), and amendments thereto;

(m) all sales of tangible personal property which become an ingredient or component part of tangible personal property or services produced, manufactured or compounded for ultimate sale at retail within or without the state of Kansas; and any such producer, manufacturer or compounder may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for use as an ingredient or component part of the property or services produced, manufactured or compounded;

(n) all sales of tangible personal property which is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the providing of services or the irrigation of crops for ultimate sale at retail within or without the state of Kansas; and any purchaser of such property may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for consumption in such production, manufacture, processing, mining, drilling, refining, compounding, irrigation and in providing such services;

(o) all sales of animals, fowl and fish, the primary purpose of which is use in agriculture, the production of food for human consumption, the production of animal, dairy, poultry or fish products, fiber or fur, or the production of offspring for use for any such purpose or purposes;

(p) trade fixtures and equipment which is already installed and second-hand when sold by a person ceasing to do business where said fixtures or equipment is installed;

(q) all sales of prescription only drugs, as defined by K.S.A. 65-1626, and amendments thereto, dispensed pursuant to a prescription order, as defined by K.S.A. 65-1626, and amendments thereto, by a licensed practitioner;

(r) all sales of insulin dispensed by a person licensed by the state board of pharmacy to a person for treatment of diabetes at the direction of a person licensed to practice medicine by the board of healing arts;

(s) all sales of prosthetic and orthopedic appliances prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry. For the purposes of this subsection, the term prosthetic and orthopedic appliances means any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the body; used to alleviate the malfunction of any part of the body; or used to assist any disabled person in leading a normal life by facilitating such person's mobility; but such term shall not include motor vehicles, accessories to be attached to motor vehicles or personal property which when installed becomes a fixture to real property;

(t) all sales of tangible personal property or services purchased directly by a groundwater management district organized or operating under the authority of K.S.A. 82a-1020 et seq., and amendments thereto, which property or services are used in the operation or maintenance of the district;

(u) all sales of used farm machinery and equipment, repair and replacement parts therefor and services performed in the repair and maintenance of such machinery and equipment. For the purposes of this subsection the term "farm machinery and equipment" shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as said terms are defined by K.S.A. 8-126, and amendments thereto. For the purposes of this subsection "sales of used farm machinery and equipment" shall mean and include sales other than the original retail sale of such machinery and equipment. Each purchaser of farm machinery or equipment exempted herein must certify in writing on the copy of the invoice or sales ticket to be retained by the seller that such purchaser is engaged in farming or ranching and that the farm machinery or equipment purchased will be used only in farming or ranching;

(v) all leases or rentals of tangible personal property used as a dwelling where said tangible personal property is leased or rented for a period of more than 28 consecutive days;

(w) all sales of food products to any contractor for use in preparing meals for delivery to homebound elderly persons over 60 years of age and to homebound disabled persons or to be served at a group-sitting at a location outside of the home to otherwise homebound elderly persons over 60 years of age and to otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization;

(x) all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes to residential premises for noncommercial use by the occupant of such premises and all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes for agricultural use;

(y) all sales of propane gas, LP-gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises;

(z) all sales of intrastate telephone and telegraph services for noncommercial use except noncommercial intrastate long distance telephone service;

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

(bb) sales of tangible personal property and services purchased directly by a port authority or by a contractor therefor as provided by the provisions of K.S.A. 12-3418, and amendments thereto; and

(cc) all sales of materials and services applied to equipment which is transported into the state from without the state for repair, service, alteration, maintenance, remanufacture or modification and which is subsequently transported outside the state for use in the transmission of liquids or natural gas by

means of pipeline in interstate or foreign commerce under authority of the laws of the United States.

Sec. 38. From and after July 1, 1987, K.S.A. 79-3817 is hereby amended to read as follows: 79-3817. As used in this act, the following words and phrases shall have the meanings ascribed to them by this section, unless the context otherwise requires:

(a) "Person" ~~shall--include~~ includes individuals, firms, copartnerships, corporations and associations;

(b) "wholesaler" or "distributor" ~~shall--mean~~ means a person who comes into possession of the articles or things herein taxed for the purpose of selling or distributing them either to other wholesalers or distributors or retailers; "wholesaler" shall also mean a person who first receives or comes into possession of such articles or things for any resale;

(c) "retailer" ~~shall--mean~~ means a person who comes into possession of the articles or things herein taxed for the purpose of selling or distributing them to any consumer;

(d) "sale at retail" or "retail sale" ~~shall--mean~~ means sales for use or consumption and not for resale in any form of any of the articles or things herein taxed;

(e) "crown" ~~shall--mean~~ means such crowns or caps as are used for stopping bottles, lids for the closing of cans, and stoppers of whatever material or design for sealing containers of cereal malt beverages, but shall not include stamps;

(f) "cereal malt beverage" shall ~~include-any-fermented--but-undistilled--liquor-brewed-or-made-from-malt-or-from-a-mixture-of-malt-and/or-malt-substitute-but-shall-not-include-any-such-liquor-which-contains-more-than-three-and-two-tenths-percent--(3.2%)--of-alcohol-by-weight~~ have the meaning provided in K.S.A. 41-2701 and amendments thereto;

(g) "malt product" ~~shall--mean-and-include~~ means malt syrup, malt extracts and liquid malt or wort;

(h) "retail container" means each individual bottle, can, barrel or proportional barrel as applied to cereal malt beverage

and each individual bottle, can, package or container as applied to malt products; and

(i) "director" ~~shall mean~~ means the director of taxation.

Sec. 39. From and after July 1, 1987, K.S.A. 79-4101 is hereby amended to read as follows: 79-4101. (a) For the purpose of providing revenue which may be used by the state, counties and cities in the enforcement of the provisions of this act, from and after the effective date of this act;

(1) For the privilege of engaging in the business of selling alcoholic liquor at retail or by farm wineries to consumers in this state, there is hereby levied and there shall be collected and paid a tax at the rate of 8% upon the gross receipts received from the sale of alcoholic liquor at retail or by farm wineries to consumers within this state; and

(2) For the privilege of engaging in the business of selling cereal malt beverages by a retailer licensed under the cereal malt beverage act or the Kansas liquor control act, there is hereby levied and there shall be collected and paid a tax at the rate of 5% upon the gross receipts received from the sale of cereal malt beverages at retail within this state.

(b) The tax imposed by subsection (a)(1) of this section shall be in addition to the license fee imposed on retailers and farm wineries by K.S.A. 41-310 and amendments thereto, and the tax imposed by subsection (a)(2) of this section shall be in addition to any license fees paid by retailers licensed under the cereal malt beverage control act or the Kansas liquor control act.

Sec. 40. From and after July 1, 1987, K.S.A. 79-4102 is hereby amended to read as follows: 79-4102. The tax levied under K.S.A. 79-4101 and amendments thereto shall be paid by the consumer or user to the alcoholic liquor retailer, cereal malt beverage retailer or farm winery, as the case may be. It shall be the duty of each such retailer and farm winery in this state to collect from the purchaser the full amount of the applicable tax imposed by this act, or an amount equal as nearly as possible or

practicable, to the average equivalent thereof.

Sec. 41. From and after July 1, 1987, K.S.A. 79-4103 is hereby amended to read as follows: 79-4103. On or before the last day of each calendar month, every person engaged in the business of selling alcoholic liquor or cereal malt beverage at retail and every farm winery selling wine to consumers in this state during the preceding calendar month shall make a return to the director of taxation upon forms prescribed and furnished by the director, stating: (a) The name and address of the seller; (b) the total amount of gross sales of all alcoholic liquor or cereal malt beverage made to consumers by the seller during the preceding calendar month; and (c) any other pertinent information the director requires. The person making the return shall, at the time of making the return, pay to the director of taxation the amount of tax imposed by K.S.A. 79-4101 and amendments thereto. The director of taxation may extend the time for making returns and paying the tax for any period not to exceed 60 days, under rules and regulations adopted by the secretary of revenue.

Sec. 42. From and after July 1, 1987, K.S.A. 79-4104 is hereby amended to read as follows: 79-4104. (a) Whenever the director of alcoholic beverage control issues a retailer's license to sell alcoholic liquors or issues a farm winery license, the director of alcoholic beverage control shall promptly notify the director of taxation of its issuance. The notice shall include the name of the licensee and the address of the licensed premises. Whenever the director of alcoholic beverage control revokes or suspends any retailer's or farm winery license or whenever any retailer's or farm winery license expires, the director of alcoholic beverage control shall likewise notify the director of taxation.

(b) Whenever the governing body of any city or the board of county commissioners of any county issues a license to sell cereal malt beverage at retail, the city clerk or county clerk, as the case may be, shall promptly notify the director of taxation of its issuance. The notice shall include the name of

the licensee and the address of the licensed premises. Whenever the governing body of any city or the board of county commissioners of any county revokes or suspends a license to sell cereal malt beverage at retail, or whenever any such license expires and is not renewed, the city clerk or county clerk, as the case may be, likewise shall notify the director of taxation.

Sec. 43. From and after July 1, 1987, K.S.A. 79-41a01 is hereby amended to read as follows: 79-41a01. As used in K.S.A. 79-41a01 to 79-41a04, inclusive:

(a) "Alcoholic liquor" shall have the meaning provided by K.S.A. 41-102 and amendments thereto, and shall include cereal malt beverage, as defined by K.S.A. 41-2701, and amendments thereto.

(b) "Club" shall have the meaning provided by K.S.A. 41-2601 and amendments thereto.

(c) "Gross receipts derived from the sale of alcoholic liquor" means the amount charged the consumer for a drink containing alcoholic liquor, including any portion of that amount attributable to the cost of any ingredient mixed with or added to the alcoholic liquor contained in such drink.

Sec. 44. K.S.A. 21-3610a, 41-2701, 41-2708 and 41-2713 and K.S.A. 1984 Supp. 8-260, 8-1327, 41-2704 and 41-2721 are hereby repealed.

Sec. 45. From and after July 1, 1987, K.S.A. 41-103, 41-208, 41-209, 41-211, 41-305, 41-306, 41-307, 41-308, 41-401, 41-402, 41-410, 41-701, 41-706, 41-708, 41-709, 41-713, 41-2707, 41-2716, 79-3606, 79-3817, 79-4101, 79-4102, 79-4103, 79-4104 and 79-41a01 and K.S.A. 1984 Supp. 41-102, 41-304, 41-310, 41-311, 41-317, 41-409, 41-501, 41-602, 41-901, 41-2705 and 41-2714 shall be and are hereby repealed.

Sec. 46. This act shall take effect and be in force from and after its publication in the statute book.



SENATE CONCURRENT RESOLUTION NO. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

A PROPOSITION to amend the constitution of the state of Kansas by adding a new section thereto authorizing the legislature to permit, regulate, license and tax horse racing by bona fide nonprofit organizations and parimutuel wagering thereon and to provide for county option thereon.

Be it resolved by the Legislature of the State of Kansas, two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the House of Representatives concurring therein:

Section 1. The following proposition to amend the constitution of the state of Kansas shall be submitted to the qualified electors of the state for their approval or rejection: Article 15 of the constitution of the state of Kansas is amended by adding a new section thereto to read as follows:

"§ 3b. Regulation, licensing and taxation of horse racing and parimutuel wagering thereon; disbursal of revenue therefrom. Notwithstanding the provisions of section 3 of article 15 of the constitution of the state of Kansas, the legislature may permit, regulate, license and tax the operation or conduct, by bona fide nonprofit organizations, of horse racing and parimutuel wagering thereon in any county in which the qualified electors of the county have determined, by a majority vote of those voting thereon, to permit such racing and wagering within the boundaries of the county."

Sec. 2. The following statement shall be printed on the ballot with the amendment as a whole:

"Explanatory statement. This proposed amendment would authorize the legislature to permit, license, regulate and tax horse races and parimutuel wagering on horse races,

conducted by nonprofit organizations, in any county where the voters have approved the conduct of the races and wagering in their county.

"A vote for the proposed amendment would permit horse racing with parimutuel wagering in any county where the voters approve the conduct of the races and wagering in their county.

" A vote against the proposed amendment would continue the current prohibition against parimutuel wagering on horse races."

Sec. 3. This resolution, if approved by two-thirds of the members elected (or appointed) and qualified to the Senate and two-thirds of the members elected (or appointed) and qualified to the house of representatives, shall be entered on the journals, together with the yeas and nays. The secretary of state shall cause this resolution to be published as provided by law and shall cause the proposed amendment to be submitted to the electors of the state at the general election in the year 1986 unless a special election is called at a sooner date by concurrent resolution of the legislature, in which case it shall be submitted to the electors of the state at such special election.