

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on February 18, 2009, in Room 136-N of the Capitol.

All members were present.

Committee staff present:

Jason Long, Office of the Revisor of Statutes
Julian Efir, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Connie Burns, Committee Assistant

Conferees appearing before the committee:

Others attending:
See attached list.

Final Action:

SB 115 - Fire departments, temporarily closing highways.

Senator Reitz moved to pass SB 115 out favorably. Senator Ostmeyer seconded the motion. The motion carried.

SB 178 - Exceptions from amusement ride operation requirements for home owned amusement rides.

Senator Reitz moved a technical amendment removing "consecutive" on page 2 line 7; and giving Rules and Regulations authorizations in New Section 2. Senator Owens seconded the motion. Motion passed.

Senator Osmeyer moved to pass out favorably as amended. Senator Francisco seconded the motion. The motion carried.

SB 107 - Bingo games; increasing the prize limits, time and location for conducting games.

Staff provided a balloon that changes the prize limit from \$50 dollars and \$1 charge limit; to \$100 prize limit and \$3 charge limit and striking language "under subsections (g), (h) and (j) of" on page 4 section (w); adding "and consumed on the premises" on page 5 section (e) and line 33 change \$1,800 to \$1,500, replacing new section (j) on page 6, and inserting language "Except as otherwise provided, only", and changing \$500 to \$100 on lines 42 and 43; on page 7 changing 4 to 5 drawings on line 3, inserting language at the end of line 5 and striking lines 11 - 13, 17-21; and inserting new language and renumbering, page 8 inserting 90 minutes on line 3; page 9 inserting 90 minutes in line 38. (Attachment 1)

Senator Francisco moved to adopt the balloon. Senator Faust-Goudeau seconded the motion. The motion carried.

Senator Francisco moved to pass SB 107 out favorably as amended. Senator Faust-Goudeau seconded the motion. The motion carried.

SB 215 - Non-gubernatorial appointments subject to confirmation; procedure..

Senator Morris moved to pass SB 215 out favorably. Senator Owens seconded the motion. The motion carried.

SB 76 - Cereal malt beverages; alcohol content, regulation by ABC, retailers authorized to sell, taxation..

Staff provided balloon #1 that changes the statute to 41-103, inserts new language on page 39 line 1, and

CONTINUATION SHEET

Minutes of the Senate Federal And State Affairs Committee at 10:30 a.m. on February 18, 2009, in Room 136-N of the Capitol.

extends the effective date to July 1, 2010. (Attachment 2)

Senator Reitz moved to adopt the balloon. Senator Owens seconded the motion. The motion carried.

Senator Reitz moved to amend the liquor retailer definition on page 2 line 32. Senator Owens seconded the motion. The motion carried.

Staff provided a balloon that would direct the Director of ABC to contract with the cities or counties for enforcement; and to change the effective date to January 1, 2010. (Attachment 3)

Committee discussion with no further action taken.

The next meeting is scheduled for February 24, 2009. The meeting was adjourned at 11:22 am

SENATE BILL No. 107

By Committee on Federal and State Affairs

1-26

9 AN ACT concerning bingo games; relating to operation thereof and
10 prizes awarded; amending K.S.A. 2008 Supp. 79-4701, 79-4706 and
11 79-4717 and repealing the existing sections.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2008 Supp. 79-4701 is hereby amended to read as
15 follows: 79-4701. As used in this act:

16 (a) "Act" means the bingo act.

17 (b) "Administrator" means the administrator of charitable gaming
18 designated by the secretary pursuant to K.S.A. 2008 Supp. 79-4717, and
19 amendments thereto.

20 (c) "Bingo" or "games of bingo" means the games of call bingo and
21 instant bingo.

22 (d) "Bingo card" or "card" means a reusable card which is marked
23 off into 25 squares arranged in five horizontal rows of five squares each
24 and five vertical rows of five squares each, with each square being des-
25 ignated by a number, letter or combination of numbers and letters. Only
26 the center square shall be designated with the word "free". No two cards
27 in the same game shall be identical.

28 (e) "Bingo face" or "face" means a piece of paper which is marked
29 off into 25 squares arranged in five horizontal rows of five squares each
30 and five vertical rows of five squares each, with each square being des-
31 ignated by a number, letter or combination of numbers and letters. Only
32 the center square shall be designated with the word "free". No two bingo
33 faces in the same game shall be identical. Faces shall be disposable and
34 shall not be reused after the game in which a player has used such face.

35 (f) "Call bingo" means a game in which: (1) Each player pays a
36 charge; (2) a prize or prizes are awarded to the winner or winners; (3)
37 each player receives one or more cards or faces; and (4) each player covers
38 the squares on each card or face as the operator of such game announces
39 a number, letter or combination of numbers and letters appearing on an
40 object selected by chance, either manually or mechanically from a recep-
41 tacle in which have been placed objects bearing numbers, letters or com-
42 binations of numbers and letters corresponding to the system used for
43 designating the squares. The winner of each game is the player or players

1 first covering properly a predetermined and announced pattern of squares
2 upon the card or face being used by such player or players.

3 "Call bingo" shall include any regular, special, mini and progressive
4 game of bingo.

5 "Call bingo" shall not include any game utilizing an electronic or com-
6 puterized card system.

7 (g) "Department" means the department of revenue.

8 (h) "Director" means the director of taxation.

9 (i) "Distributor" means any person or entity that sells or distributes
10 instant bingo tickets, bingo cards or bingo faces.

11 (j) "Instant bingo" means a game: (1) In which each player pays a
12 charge; (2) in which a prize or prizes are awarded to the winner or win-
13 ners; (3) in which each player receives one or more disposable pull-tab
14 or break-open tickets which accord a player an opportunity to win some-
15 thing of value by opening or detaching the paper covering from the back
16 of the ticket to reveal a set of numbers, letters, symbols or configurations,
17 or any combination thereof; (4) which is conducted by a licensee under
18 this act; (5) the conduct of which must be in the presence of the players;
19 and (6) which does not utilize any dice, normal playing cards, instant ticket
20 with a removable latex covering or slot machines. Winners of instant bingo
21 shall be determined either (1) by a combination of letters, numbers or
22 symbols determined and posted prior to the sale of instant bingo tickets
23 or (2) by matching a letter, number or symbol under a tab of an instant
24 bingo ticket with the winning letter, number or symbol in a designated
25 call game of bingo during the same session.

26 "Instant bingo" shall not include any game utilizing electronically gen-
27 erated or computer-generated tickets.

28 (k) "Lessor" means the owner, coowner, lessor or sublessor of prem-
29 ises upon which a licensee is permitted to manage, operate or conduct
30 games of bingo, whether or not a written lease has been entered into and
31 submitted to the administrator as required in subsection (c) of K.S.A. 79-
32 4703, and amendments thereto, and includes all political subdivisions and
33 other public agencies.

34 (l) "Licensee" means any nonprofit organization holding a license to
35 manage, operate or conduct games of bingo pursuant to K.S.A. 79-4701
36 et seq., and amendments thereto.

37 (m) "Mini bingo" means a game of call bingo in which the prizes
38 awarded are not less than 50% of the gross receipts derived from the sale
39 of cards or faces for participation in the game, but not more than \$50.

40 (n) "Net proceeds" means the gross receipts received by the licensee
41 from charges imposed on players for participation in games of bingo and
42 any admission fees or charges less amounts actually paid as prizes in
43 games of bingo and any tax payable by the licensee.

1 (o) "Nonprofit religious organization" means any organization,
2 church, body of communicants, or group, gathered in common member-
3 ship for mutual support and edification in piety, worship, and religious
4 observances, or a society of individuals united for religious purposes at a
5 definite place and of which no part of the net earnings inures to the
6 benefit of any private shareholder or individual member of such organi-
7 zation, and which religious organization maintains an established place of
8 worship within this state and has a regular schedule of services or meet-
9 ings at least on a weekly basis and has been determined by the adminis-
10 trator to be organized and created as a bona fide religious organization
11 and which has been exempted from the payment of federal income taxes
12 as provided by section 501(c)(3) or section 501(d) of the federal internal
13 revenue code of 1986, as amended, or determined to be organized and
14 operated as a bona fide nonprofit religious organization by the
15 administrator.

16 (p) "Nonprofit charitable organization" means any organization
17 which is organized and operated for:

18 (1) The relief of poverty, distress, or other condition of public con-
19 cern within this state; or

20 (2) for financially supporting the activities of a charitable organization
21 as defined in paragraph (1); or

22 (3) for conferring direct benefits on the community at large; and of
23 which no part of the net earnings inures to the benefit of any private
24 shareholder or individual member of such organization and has been de-
25 termined by the administrator to be organized and operated as a bona
26 fide charitable organization and which has been exempted from the pay-
27 ment of federal income taxes as provided by sections 501(c)(3), 501(c)(4),
28 501(c)(5), 501(c)(6) and 501(c)(7) of the federal internal revenue code of
29 1986, as amended, or determined to be organized and operated as a bona
30 fide nonprofit charitable organization by the administrator.

31 (q) "Nonprofit fraternal organization" means any organization within
32 this state which exists for the common benefit, brotherhood, or other
33 interests of its members and is authorized by its written constitution,
34 charter, articles of incorporation or bylaws to engage in a fraternal, civic
35 or service purpose within this state and has been determined by the ad-
36 ministrator to be organized and operated as a bona fide fraternal organ-
37 ization and which has been exempted from the payment of federal income
38 taxes as provided by section 501(c)(8) or section 501(c)(10) of the federal
39 internal revenue code of 1986, as amended, or determined to be organ-
40 ized and operated as a bona fide nonprofit fraternal organization by the
41 administrator.

42 (r) "Nonprofit educational organization" means any public or private
43 elementary or secondary school or institution of higher education which

1 has been determined by the administrator to be organized and operated
 2 as a bona fide educational organization and which has been exempted
 3 from the payment of federal income taxes as provided by section 501(c)(3)
 4 of the federal internal revenue code of 1986, as amended, or determined
 5 to be organized and operated as a bona fide nonprofit educational organ-
 6 ization by the administrator.

7 (s) "Nonprofit veterans' organization" means any organization within
 8 this state or any branch, lodge, or chapter of a national or state organi-
 9 zation within this state, the membership of which consists exclusively of
 10 individuals who qualify for membership because they were or are mem-
 11 bers of the armed services or forces of the United States, or an auxiliary
 12 unit or society of such a nonprofit veterans' organization the membership
 13 of which consists exclusively of individuals who were or are members of
 14 the armed services or forces of the United States, or are cadets, or are
 15 spouses, widows or widowers of individuals who were or are members of
 16 the armed services or forces of the United States, and of which no part
 17 of the net earnings inures to the benefit of any private shareholder or
 18 individual member of such organization, and has been determined by the
 19 administrator to be organized and operated as a bona fide veterans' or-
 20 ganization and which has been exempted from the payment of federal
 21 income taxes as provided by section 501(c)(4) or 501(c)(19) of the federal
 22 internal revenue code of 1986, as amended, or determined to be organ-
 23 ized and operated as a bona fide nonprofit veterans' organization by the
 24 administrator.

25 (t) "Person" means any natural person, corporation, partnership, trust
 26 or association.

27 (u) "Premises" means any room, hall, building, enclosure or outdoor
 28 area used for the management, operation or conduct of a game of bingo
 29 by a licensee.

30 (v) "Progressive bingo" means a game of call bingo in which either
 31 the established prize amount or number of bingo balls or objects called,
 32 or both, may be increased from one session to the next scheduled session
 33 if no player completes the required pattern within the specified number
 34 of bingo balls or objects drawn. The player's opportunity to win shall
 35 increase as the prize amount increases.

36 (w) "Regular game of bingo" means any game of bingo which is sub-
 37 ject to the 25 game limit, ~~\$50 [and \$100 prize limit] and the \$1 charge limit~~
 38 imposed under subsections (g), (h) and (j) of by K.S.A. 79-4706, and
 39 amendments thereto.

40 (x) "Secretary" means the secretary of revenue or the secretary's
 41 designee.

42 (y) "Session" means a day on which a licensee conducts games of
 43 bingo.

, \$100 prize limit and the \$3 charge limit

1 Sec. 2. K.S.A. 2008 Supp. 79-4706 is hereby amended to read as
2 follows: 79-4706. Games of bingo shall be managed, operated and con-
3 ducted in accordance with the bingo act and rules and regulations adopted
4 pursuant thereto and the following restrictions:

5 (a) The entire gross receipts received by any licensee from the op-
6 eration or conduct of games of bingo, except that portion utilized for the
7 payment of the cost of prizes and license fees and taxes on games of bingo
8 imposed under the provisions of this act, shall be used exclusively for the
9 lawful purposes of the licensee permitted to conduct that game.

10 (b) Games of bingo managed, conducted or operated by a licensee,
11 shall be managed, conducted or operated only by a bona fide member or
12 spouse of a bona fide member of the licensee or parent organization or
13 an auxiliary unit or society of such licensee *or of the beneficiary*
14 *organization.*

15 (c) No lessor, employee of such lessor or employee, officer or share-
16 holder of a for profit corporation which is the lessor shall play any game
17 of bingo or participate in any drawing on premises leased by any such
18 lessor nor shall such person be responsible for or assist in the manage-
19 ment, operation or conduct of any game of bingo or drawing on such
20 premises.

21 (d) No person may participate in the management, conduct or op-
22 eration of bingo games by a licensee if such person, within five years prior
23 to such participation, has been convicted of or pleaded guilty or *nolo*
24 *contendere* to any felony or illegal gambling activity or purchased a tax
25 stamp for wagering or gambling activity.

26 (e) No person may receive any remuneration or profit for participat-
27 ing in the management, conduct or operation of any game of bingo man-
28 aged, conducted or operated by a licensee. *Food offered in the course of*
29 *a volunteer duty shift shall not be considered remuneration.*

30 (f) The aggregate value of all prizes including the retail value of all
31 merchandise awarded or offered by a licensee in a single session to win-
32 ners of games of regular and special call bingo shall not exceed ~~\$1,200~~
33 ~~\$1,800~~. The value of a prize awarded in a progressive or mini bingo game
34 shall not be included when determining the limit imposed by this sub-
35 section. Any monetary prize of \$500 or more awarded in games of bingo
36 shall be paid by a check drawn on the bingo trust bank account of the
37 licensee. Any monetary prize awarded in games of bingo shall be paid by
38 a check on the bingo trust bank account of the licensee upon the request
39 of the winner of such award.

40 (g) The total number of regular, special and progressive call bingo
41 games managed, operated or conducted by any licensee in any session
42 shall not exceed 25 and not more than five of such games shall be special
43 games. Not more than one licensee may conduct bingo games at a given

and consumed on the premises

\$1,500

1 location or registered premises in any one session.

2 (h) The prize awarded by a licensee in any one regular call bingo
3 game shall not exceed ~~\$50~~ \$100. The prize in any one special call bingo
4 game shall not exceed ~~\$500~~ \$1,000.

5 (i) The retail value of any merchandise received by a winner of a
6 bingo game shall be considered as the cash value for the purposes of
7 determining the value of the prize.

8 ~~(j) The charge made by a licensee for a bingo card or equivalent~~
9 ~~number of bingo faces to play in regular bingo games in any one session~~
10 ~~shall not exceed \$1. Such bingo card or equivalent number of bingo faces~~
11 ~~shall be valid for all such regular bingo games conducted or operated by~~
12 ~~the licensee in any one session. The charge made by a licensee for a single~~
13 ~~bingo card or bingo face to play in any single, mini or progressive special~~
14 ~~game shall not exceed \$1. The charge made by a licensee for a single~~
15 ~~instant bingo ticket shall not exceed \$1.~~

16 ~~(k)~~ (j) Games of bingo shall not be managed, operated or conducted
17 by any licensee on more than ~~two~~ three calendar days in any one week.

18 ~~(l)~~ (k) All licenses issued under the provisions of this act shall be
19 issued in the name of the organization licensed.

20 ~~(m)~~ (l) Each licensee shall keep a record of all games of bingo man-
21 aged, operated or conducted by it for a period of three years following
22 the date the game is managed, operated or conducted.

23 ~~(n)~~ (m) No person under the age of 18 years shall participate in the
24 management, operation or conduct of any game of bingo managed, op-
25 erated or conducted by a licensee under the provisions of this act and no
26 licensee shall sell any instant bingo ticket to a person under the age of 18
27 years.

28 ~~(o)~~ (n) A lessor of premises used for the management, operation or
29 conduct of games of bingo or a licensee may not advertise games of bingo
30 except to the extent and in the manner prescribed by the rules and reg-
31 ulations adopted pursuant to the bingo act. Any advertisement of any
32 game of bingo by or on behalf of such lessor or licensee shall specify the
33 organization which is managing, operating or conducting such game. The
34 announcement of the cancellation of a game of bingo shall not be con-
35 sidered to be an advertisement.

36 ~~(p)~~ (o) (1) Except as provided by paragraph (2) of this subsection, no
37 game of chance or contest where a prize is awarded, other than games of
38 bingo, shall be conducted on any premises where licensees are conducting
39 games of bingo, where the intent of such game of chance or contest is to
40 induce participation in such games of bingo.

41 (2) One drawing during a session may be conducted by the licensee
42 or the lessor of the premises. ~~Only~~ a nonmonetary prize having a value
43 not exceeding ~~\$25~~ ~~\$500~~ shall be awarded to the winner of such drawing.

(j) The charge made by a licensee for a bingo card or equivalent number of bingo faces to play in regular bingo games in any one session shall not exceed \$3. Such bingo card or equivalent number of bingo faces shall be valid for all such regular bingo games conducted or operated by the licensee in any one session. The charge made by a licensee for a single bingo card or bingo face to play in any single, mini or progressive special game shall not exceed \$3. The charge made by a licensee for a single instant bingo ticket shall not exceed \$3.
and reletter the remaining subsections accordingly

Except as otherwise provided, only

\$100

1 There shall be no charge for participation in such drawing. There shall
 2 be no requirement to purchase anything of value in order to participate
 3 in such drawing. No more than ~~four~~ ^{five} ~~drawings per month~~ of such
 4 drawings shall be conducted by each licensee or lessor during any cal-
 5 endar year.

6 ~~(q)~~ (p) No licensee shall manage, operate or conduct bingo on any
 7 leased premises or with leased equipment unless all of the terms and
 8 conditions of rental or use, including the rental of chairs, bingo equip-
 9 ment, tables, security guards, janitor service or any other services, are set
 10 forth in a lease submitted, approved and on file with the administrator.

11 ~~(r) No premises shall be used for the management, operation or con-~~
 12 ~~duct of games of bingo by licensees on more than three calendar days in~~
 13 ~~any one week.~~

14 ~~(s)~~ (q) No premises shall be subdivided to provide multiple premises
 15 where games of bingo are managed, operated or conducted by licensees,
 16 whether or not the multiple premises have different addresses.

17 ~~(t)~~ (r) ~~No game of bingo shall be managed, operated or conducted~~
 18 ~~by licensees on leased premises if at any time during the immediately~~
 19 ~~preceding 44 hours the premises, or any leased premises within 1,000~~
 20 ~~feet of them, have been used for the management, operation or conduct~~
 21 ~~of a game of bingo. A game of bingo shall be managed, operated or con-~~
 22 ~~ducted only once during any 24-hour period by a licensee or licensed~~
 23 ~~premises. No other game of bingo may operate within 1,000 feet of such~~
 24 ~~licensee or licensed premises that has been used for the management,~~
 25 ~~operation or conduct of a bingo game during the 24-hour period.~~

26 ~~(u)~~ (s) Every licensee who has gross receipts of \$1,000 or more re-
 27 ceived from participation in games, admission fees or charges and from
 28 any other source directly related to the operation or conduct of any games
 29 of bingo in any calendar month shall maintain a bingo trust bank account
 30 into which all such receipts are deposited daily and from which all pay-
 31 ments are made relating to the management, operation or conduct of any
 32 games of bingo, except payment of prizes of less than \$200. Having once
 33 established such bingo trust bank account, the licensee shall continue to
 34 make deposits of all receipts therein. Every licensee shall notify the ad-
 35 ministrator of the name of the bank in which the bingo trust bank account
 36 is maintained, together with the number and name of the account. Every
 37 licensee who maintains a bingo trust bank account shall maintain a com-
 38 plete record of all deposits and withdrawals from such bank account and
 39 the same shall be available to the administrator to audit at any reasonable
 40 time.

41 The records required under this subsection are in addition to all other
 42 records required to be kept by the licensee. The records required by this
 43 subsection shall be maintained in the same place as all other records

five

Each licensee may conduct two drawings within a licensed year with a nonmonetary prize having a value not exceeding \$500. Such drawings shall be included in the total number of drawings conducted for the month in which they are held.

(r) No premises shall be used for the management, operation or conduct of games of bingo by licensees on more than four calendar days in any one week.

and reletter the remaining subsections accordingly

1 required to be kept by the licensee.

2 ~~(t)~~ (t) No instant bingo ticket shall be sold by a licensee more than
3 ~~one hour~~ ~~[two hours]~~ prior to the start of the first regular or special game
4 of call bingo of a session or after the termination of the last game of call
5 bingo operated or conducted by the licensee for such session.

90 minutes

6 ~~(u)~~ (u) No licensee shall purchase or obtain bingo faces or instant
7 bingo tickets from any person or entity other than a distributor registered
8 pursuant to K.S.A. 79-4712a, and amendments thereto.

9 ~~(v)~~ (v) All instant bingo tickets sold or distributed to licensees shall
10 bear on the face thereof a unique serial number which shall not be re-
11 peated on the same manufacturer's form number less than every three
12 years. All instant bingo tickets shall be sold or distributed in boxes. Each
13 box shall be sealed by the manufacturer with a seal which includes a
14 warning to the purchaser that the box may have been tampered with if
15 the box was received by the purchaser with the seal broken. Each box of
16 instant bingo tickets shall contain tickets printed in such a manner as to
17 insure that at least 60% of the gross revenues generated by the ultimate
18 sale of all tickets from such box shall be returned to the final purchasers
19 of such tickets. No box of instant bingo tickets may be opened by a li-
20 censee unless all tickets contained in a previously opened box with the
21 same form number have been sold.

22 ~~(w)~~ (w) Each box of instant bingo tickets sold or distributed to li-
23 censees shall be accompanied by a flare which contains the following
24 information: (1) The name of the game; (2) the manufacturer's name or
25 logo; (3) the game form number; (4) the ticket count in the game; (5) the
26 prize structure for the game, which includes the number of winning tick-
27 ets by denomination and their respective winning symbol or number com-
28 binations; (6) the cost per ticket; (7) the game serial number; (8) the
29 winning numbers or symbols for the top three winning tiers set out in
30 such a manner that each prize may be marked off as the prize is won and
31 awarded; (9) the business name of the distributor; and (10) if sold or
32 distributed to a licensee under the bingo act, the Kansas bingo license
33 number of the licensee to which the game is sold.

34 ~~(x)~~ (x) (1) No progressive game may exceed 20 consecutive sessions
35 conducted by a licensee prior to the awarding of the established prize.

36 (2) No more than two progressive bingo games may be conducted in
37 any one session.

38 (3) ~~A prize for a progressive game may start at an amount not to~~
39 ~~exceed \$250 and may be increased by no more than \$100 for each session~~
40 ~~during which the progressive game is continued.~~ The prize awarded at
41 the end of any progressive game shall not exceed \$1,000.

42 (4) If the progressive bingo game prize is not awarded at a bingo
43 session, the progressive bingo game shall be continued at a future occa-

1 sion until such time a winner is determined. The winning prize shall be
 2 the full amount. If there is no winner of a progressive bingo game at a
 3 session, a stated consolation prize in an amount not to exceed \$250 may
 4 be awarded. Any consolation prize shall be less than the value of the
 5 progressive bingo game prize amount.

6 (5) All progressive bingo games and rules for such games shall be
 7 described fully and posted in the house rules prior to the start of the
 8 session. Such games shall comply with requirements imposed under the
 9 bingo act and any rules and regulations adopted pursuant thereto.

10 (6) When a person achieves the first preannounced winning combi-
 11 nation, the game shall be completed and the next progressive bingo game
 12 and winning combination shall be commenced with a new bingo card or
 13 face and all objects or balls in the receptacle.

14 (7) The rules for a progressive bingo game shall remain in effect until
 15 the game ends and the winner is determined.

16 (8) Progressive bingo games may not be conducted in conjunction
 17 with a session of bingo conducted at a location other than that specified
 18 in the license as authorized by subsection (c) of 79-4703, and amendments
 19 thereto.

20 (9) A licensee shall not cease bingo operations unless all progressive
 21 bingo games are completed and prizes are awarded, unless prior approval
 22 has been received from the secretary.

23 ~~(aa)~~ (y) Except as specifically provided by rules and regulations
 24 adopted pursuant to the bingo act, the distribution, sale or use of bingo
 25 cards is prohibited from and after July 1, 2003, and thereafter, only bingo
 26 faces shall be distributed, sold or used in call bingo games operated and
 27 conducted by licensees.

28 ~~(bb)~~ (z) ~~Only three games of instant bingo in which the winner or~~
 29 ~~winner of such game is determined by matching a letter, number or~~
 30 ~~symbol under a tab of an instant bingo ticket with the winning letter,~~
 31 ~~number or symbol in a designated call game of bingo during the same~~
 32 ~~session shall be played in any one session.~~ There shall be no limit on the
 33 number of instant bingo tickets which may be sold for participation in
 34 any such game of instant bingo.

35 ~~(cc)~~ (aa) The total number of mini games of bingo managed, operated
 36 or conducted by a licensee during a session shall not exceed 20 games.
 37 No mini bingo game shall be conducted by a licensee more than ~~one hour~~
 38 ~~[two hours]~~ prior to, or ~~[two hours]~~ after the commencement of, the first
 39 regular or special game of call bingo operated or conducted by the li-
 40 censee for such session.

90 minutes

41 Sec. 3. K.S.A. 2008 Supp. 79-4717 is hereby amended to read as
 42 follows: 79-4717. (a) The secretary of revenue shall designate an admin-
 43 istrator of charitable gaming. Any person designated the administrator of

6-1

1-10

1 charitable gaming shall have at least five years' experience in the area of
2 charitable gaming regulation *or similar background*. The administrator of
3 charitable gaming shall be in the unclassified service and shall receive an
4 annual salary fixed by the secretary of revenue and approved by the
5 governor.

6 (b) Under the supervision of the secretary, the administrator of char-
7 itable gaming shall administer and enforce the provisions of the bingo act
8 and any rules and regulations adopted pursuant thereto. The administra-
9 tor's exclusive duties shall be the administration and enforcement of the
10 bingo act and any rules and regulations adopted pursuant thereto. The
11 administrator shall be solely accountable to and report to the secretary of
12 revenue.

13 Sec. 4. K.S.A. 2008 Supp. 79-4701, 79-4706 and 79-4717 are hereby
14 repealed.

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

SENATE BILL No. 76

By Committee on Federal and State Affairs

1-22

9 AN ACT concerning alcoholic beverages; amending K.S.A. 41-210, 41-
 10 211, 41-304, 41-307, 41-308, 41-601, 41-602, 41-701, 41-708, 41-717,
 11 41-718, 41-724, 41-725, 41-726, 41-729, 41-806, 41-901, 41-905, 41-
 12 1001, 41-1002, 41-1004, 41-1101, 41-1102, 41-1122, 41-1123, 41-1125,
 13 41-2604, 41-2610, 41-2614, 41-2632, 41-2637, 41-2641, 41-2642, 41-
 14 2643, 41-2705, 41-2706, 41-2707, 41-2709, 41-2722, 41-2726, 79-4101,
 15 79-4102, 79-4103, 79-4104, 79-41a01, 79-41a02, 79-41a04, 79-41a06,
 16 79-41a07 and 79-41a08 and K.S.A. 2008 Supp. 41-102, 41-104, 41-209,
 17 41-308b, 41-712, 41-805, 41-2611, 41-2645, 41-2701, 41-2704, 41-
 18 2728, 79-3606, 79-4108 and 79-41a03 and repealing the existing sec-
 19 tions; also repealing K.S.A. ~~41-403~~ and 41-2712 and K.S.A. 2008 Supp.
 20 41-2702, 41-2703 and 41-2708.

41-103

21

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

23 Section 1. K.S.A. 2008 Supp. 41-102 is hereby amended to read as
 24 follows: 41-102. As used in ~~this~~ *the Kansas liquor control* act, unless the
 25 context clearly requires otherwise:

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

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

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

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

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

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

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

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

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

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

28 New Sec. 45. (a) ~~No corporation, either organized under the laws of~~
29 ~~this state, any other state or a foreign country, shall be issued a cereal~~
30 ~~malt beverage retailer's license, unless the corporation has first procured~~
31 ~~a certificate of authority from the secretary of state to do business in this~~
32 ~~state as provided by law, appointed a citizen of the United States, and~~
33 ~~resident of Kansas, as its resident agent and filed with the director a duly~~
34 ~~authenticated copy of a duly executed power of attorney, authorizing the~~
35 ~~agent to accept service of process from the director and the courts of this~~
36 ~~state.~~

37 ~~In addition, any corporation organized under the laws of any other state~~
38 ~~or foreign country, as a condition precedent to the issuance to it of any~~
39 ~~license, shall file with the secretary of state of the state of Kansas, a duly~~
40 ~~authorized and executed power of attorney, authorizing the secretary of~~
41 ~~state to accept service of process from the director and the courts of this~~
42 ~~state and to accept service of any notice or order provided for in the~~
43 ~~Kansas cereal malt beverage act, and all such acts by the secretary of state]~~

1 ~~[shall be fully binding upon the corporation.]~~

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

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

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

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

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

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

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

No business entity, organized under the laws of this state, any other state or a foreign county, shall be issued a cereal malt beverage retailer's license, unless such business entity filed with the secretary of state the necessary documents for appointment of a resident agent or service agent to act as agent for the service of process for such business entity in this state.

1 *beverage retailer* when the club, drinking establishment, caterer ~~or~~, tem-
 2 porary permit holder *or cereal malt beverage retailer* is in violation of any
 3 of the provisions of K.S.A. 79-41a01 et seq., and amendments thereto, or
 4 any of the terms of this act and shall be entitled in any proceeding brought
 5 for that purpose to have an order restraining the person from engaging
 6 in business as a club, drinking establishment, caterer ~~or~~, temporary permit
 7 holder *or cereal malt beverage retailer*. No bond shall be required for any
 8 such restraining order or for any temporary or permanent injunction is-
 9 sued in that proceeding.

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

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

41-103,

35 Sec. 72. K.S.A. ~~41-210, 41-211, 41-304, 41-307, 41-308, 41-403,~~ 41-
 36 601, 41-602, 41-701, 41-708, 41-717, 41-718, 41-724, 41-725, 41-726, 41-
 37 729, 41-806, 41-901, 41-905, 41-1001, 41-1002, 41-1004, 41-1101, 41-
 38 1102, 41-1122, 41-1123, 41-1125, 41-2604, 41-2610, 41-2614, 41-2632,
 39 41-2637, 41-2641, 41-2642, 41-2643, 41-2705, 41-2706, 41-2707, 41-
 40 2709, 41-2712, 41-2722, 41-2726, 79-4101, 79-4102, 79-4103, 79-4104,
 41 79-41a01, 79-41a02, 79-41a04, 79-41a06, 79-41a07, 79-41a08 and K.S.A.
 42 2008 Supp. 41-102, 41-104, 41-209, 41-308b, 41-712, 41-805, 41-2611,
 43 41-2645, 41-2701, 41-2702, 41-2703, 41-2704, 41-2708, 41-2728, 79-

1 3606, 79-4108 and 79-41a03 are hereby repealed.

2 Sec. 73. This act shall take effect and be in force from and after its

3 publication in the statute book.

July 1, 2010, and

2-5

SENATE BILL No. 76

By Committee on Federal and State Affairs

1-22

9 AN ACT concerning alcoholic beverages; amending K.S.A. 41-210, 41-
 10 211, 41-304, 41-307, 41-308, 41-601, 41-602, 41-701, 41-708, 41-717,
 11 41-718, 41-724, 41-725, 41-726, 41-729, 41-806, 41-901, 41-905, 41-
 12 1001, 41-1002, 41-1004, 41-1101, 41-1102, 41-1122, 41-1123, 41-1125,
 13 41-2604, 41-2610, 41-2614, 41-2632, 41-2637, 41-2641, 41-2642, 41-
 14 2643, 41-2705, 41-2706, 41-2707, 41-2709, 41-2722, 41-2726, 79-4101,
 15 79-4102, 79-4103, 79-4104, 79-41a01, 79-41a02, 79-41a04, 79-41a06,
 16 79-41a07 and 79-41a08 and K.S.A. 2008 Supp. 41-102, 41-104, 41-209,
 17 41-308b, 41-712, 41-805, 41-2611, 41-2645, 41-2701, 41-2704, 41-
 18 2728, 79-3606, 79-4108 and 79-41a03 and repealing the existing sec-
 19 tions; also repealing K.S.A. 41-403 and 41-2712 and K.S.A. 2008 Supp.
 20 41-2702, 41-2703 and 41-2708.

21

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

23 Section 1. K.S.A. 2008 Supp. 41-102 is hereby amended to read as
 24 follows: 41-102. As used in ~~this~~ *the Kansas liquor control* act, unless the
 25 context clearly requires otherwise:

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

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

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

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

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

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

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

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

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

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

, temporary permit holder

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

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

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

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

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

29 Sec. 9. K.S.A. 2008 Supp. 41-308b is hereby amended to read as
30 follows: 41-308b. (a) A microbrewery license shall allow:

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

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

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

38 (4) the serving on the premises of samples of *domestic* beer manu-
39 factured by the licensee, if the premises are located in a county where
40 the sale of alcoholic liquor is permitted by law in licensed drinking
41 establishments;

42 (5) if the licensee is also licensed as a club or drinking establishment,
43 the sale of domestic beer, *cereal malt beverage* and other alcoholic liquor

1 malt beverage was offered as evidence for an order to sell such alcoholic
2 liquor or cereal malt beverage. The court, if satisfied that such alcoholic
3 liquor or cereal malt beverage so seized was being manufactured, distrib-
4 uted, stored, sold or used in violation of law, shall make an order that
5 such property be sold by the director at public or private sale.

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

8 Sec. 32. K.S.A. 41-1125 is hereby amended to read as follows: 41-
9 1125. The sheriff of any county who ~~has in his possession~~ possesses al-
10 coholic liquors or cereal malt beverages on which ~~he~~ has been levied
11 execution for a judgment creditor may sell such alcoholic liquors or cereal
12 malt beverages when an order of the court is entered directing such sale.
13 Such order shall be directed to the sheriff of the county in which exe-
14 cution is levied and shall fix the time and place of sale, method and man-
15 ner in which the sale shall be held, together with such notice as the court
16 shall direct. After payment of all costs of ~~said~~ the action, the balance shall
17 be paid to the judgment creditor, ~~except~~. If the amount exceeds the
18 amount of the judgment, then any excess of the judgment amount shall
19 be returned to defendant debtor. This ~~act~~ section shall not apply in any
20 case in which the court has ordered and directed confiscation of liquors
21 alcoholic liquor or cereal malt beverage as part of a judgment or
22 conviction.

23 Sec. 33. K.S.A. 41-2604 is hereby amended to read as follows: 41-
24 2604. Any person allowing consumption of alcoholic liquor or cereal malt
25 beverage in violation of ~~this the Kansas liquor control act or the Kansas~~
26 cereal malt beverage act on any property owned, leased or otherwise un-
27 der ~~his such person's~~ control shall thereby subject himself and the prop-
28 erty on which said illegal consumption takes place to the penalties here-
29 ~~inafter provided.~~

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

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

37 Sec. 34. K.S.A. 41-2610 is hereby amended to read as follows: 41-
38 2610. It shall be unlawful for any licensee or holder of a temporary permit
39 under ~~this the club and drinking establishment act~~ to:

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

42 (b) Employ knowingly or continue in employment any person in con-
43 nection with the dispensing or serving of alcoholic liquor or cereal malt

Sec. 33. K.S.A. 41-2601 is hereby amended to read as follows: 41-2601. (i)
"Drinking establishment" means premises which may be open to the general
public, where alcoholic liquor and cereal malt beverage by the individual drink
is sold.

and by renumbering the remaining sections accordingly

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

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

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

28 New Sec. 45. (a) ~~No corporation, either organized under the laws of
29 this state, any other state or a foreign country, shall be issued a cereal
30 malt beverage retailer's license, unless the corporation has first procured
31 a certificate of authority from the secretary of state to do business in this
32 state as provided by law, appointed a citizen of the United States, and
33 resident of Kansas, as its resident agent and filed with the director a duly
34 authenticated copy of a duly executed power of attorney, authorizing the
35 agent to accept service of process from the director and the courts of this
36 state.~~

37 ~~In addition, any corporation organized under the laws of any other state
38 or foreign country, as a condition precedent to the issuance to it of any
39 license, shall file with the secretary of state of the state of Kansas, a duly
40 authorized and executed power of attorney, authorizing the secretary of
41 state to accept service of process from the director and the courts of this
42 state and to accept service of any notice or order provided for in the
43 Kansas cereal malt beverage act, and all such acts by the secretary of state~~

5-5

1 ~~shall be fully binding upon the corporation.~~

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

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

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

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

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

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

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

No business entity, organized under the laws of this state, any other state or a foreign county, shall be issued a cereal malt beverage retailer's license, unless such business entity filed with the secretary of state the necessary documents for appointment of a resident agent or service agent to act as agent for the service of process for such business entity in this state.

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

4 (f) Any person who was licensed on the date immediately preceding
5 the effective date of this act to sell cereal malt beverage, as such term
6 was defined in K.S.A. 2008 Supp. 41-2701 prior to its amendment by this
7 act, shall be deemed a licensed cereal malt beverage retailer for a period
8 of ~~90~~ days after the effective date of this act. Thereafter, such person
9 must be licensed by the director as provided in this act, in order to operate
10 as a cereal malt beverage retailer.

180

and in rules and regulations adopted by the secretary regarding the time for
filing an application by such person

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

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

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

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

39 (d) Proceedings for the suspension, revocation or refusal to grant or
40 renew a license to sell cereal malt beverage, including the proceedings
41 for administrative appeal and judicial review, shall be in substantial con-
42 formity with the proceedings set forth in the Kansas liquor control act for
43 the suspension, revocation or refusal to grant or renew a liquor retailer's

1 or by any law enforcement officer, shall be a condition on which every
 2 license is issued, and the application for, and acceptance of, any license
 3 shall conclusively be deemed to be the consent of the applicant and licensee
 4 to such immediate entry and inspection. Such right of immediate entry
 5 and inspection shall be at any time when the premises are occupied and
 6 is not limited to hours when the licensed premises are open for business.
 7 Such consent shall not be revocable during the term of the license. Refusal
 8 of such entry shall be grounds for revocation of the license.

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

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

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

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

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

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

40 (b) Any licensee who shall permit or assent, or be a party in any way,
 41 to any violation or infringement of the provisions of this section or of
 42 K.S.A. 41-702 or 41-703, and amendments thereto, shall be deemed guilty
 43 of a violation of ~~this~~ the Kansas cereal malt beverage act, and any money

(i) To the greatest extent practicable, the director shall contract with the governing body of any city in which the premises of a licensed cereal malt beverage retailer is located for the enforcement of the Kansas cereal malt beverage act within such city, and shall contract with the board of county commissioners of any county in which the premises of a licensed cereal malt beverage retailer is located outside the corporate limits of any city for the enforcement of the Kansas cereal malt beverage act within such county.

1 or farm wineries to consumers within this state; ~~and~~ (2) *the sale of cereal*
 2 *malt beverage by liquor retailers to consumers in this state;* (3) *the sale*
 3 *of alcoholic liquor to temporary permit holders by liquor retailers;* (4) *the*
 4 *sale of cereal malt beverage to consumers in this state by cereal malt*
 5 *beverage retailers licensed to sell cereal malt beverage in the original and*
 6 *unopened containers;* (5) *the sale of cereal malt beverage by distributors*
 7 *to cereal malt beverage retailers* ~~licensed~~ *to sell cereal malt beverage for*
 8 *consumption on the licensed premises;* and (6) *the sale of alcoholic liquor*
 9 *or cereal malt beverage by distributors to clubs, drinking establishments,*
 10 *temporary permit holders or caterers in this state.*

licensed

11 (b) The tax imposed by this section shall be in addition to the license
 12 fee imposed on distributors, *liquor* retailers, microbreweries and farm
 13 wineries by K.S.A. 41-310, and amendments thereto, *and in addition to*
 14 *the license fee imposed on cereal malt beverage retailers by section 3, and*
 15 *amendments thereto.*

16 Sec. 61. K.S.A. 79-4102 is hereby amended to read as follows: 79-
 17 4102. The tax levied under K.S.A. 79-4101, and amendments thereto,
 18 shall be paid by the consumer or user to the *liquor retailer, cereal malt*
 19 *beverage* retailer, microbrewery or farm winery or by the club, drinking
 20 establishment or caterer to the distributor. It shall be the duty of each
 21 *liquor retailer, cereal malt beverage* retailer, microbrewery, farm winery
 22 or distributor in this state to collect from the purchaser the full amount
 23 of the tax imposed by this act, or an amount equal as nearly as possible
 24 or practicable, to the average equivalent thereof.

25 Sec. 62. K.S.A. 79-4103 is hereby amended to read as follows: 79-
 26 4103. On or before the 25th day of each calendar month, every person
 27 engaged in the business of selling alcoholic liquor ~~at retail~~ or *cereal malt*
 28 *beverage at retail pursuant to the Kansas liquor control act or the club*
 29 *and drinking establishment act, every liquor retailer selling alcoholic liq-*
 30 *uor or cereal malt beverage to temporary permit holders, every micro-*
 31 *brewery selling beer to consumers, every farm winery selling wine to*
 32 *consumers in this state and, every distributor selling alcoholic liquor or*
 33 *cereal malt beverage to clubs, drinking establishments, temporary permit*
 34 *holders or caterers in this state, every distributor selling cereal malt bev-*
 35 *erage to cereal malt beverage retailers licensed to sell cereal malt beverage*
 36 *for consumption on the licensed premises and every cereal malt beverage*
 37 *retailer licensed to sell cereal malt beverage in the original and unopened*
 38 *containers selling to consumers in this state during the preceding calendar*
 39 *month shall make a return to the director of taxation upon forms pre-*
 40 *scribed and furnished by the director, stating: (a) The name and address*
 41 *of the seller; (b) the total amount of gross sales subject to the tax imposed*
 42 *by K.S.A. 79-4101, and amendments thereto, during the preceding cal-*
 43 *endar month; and (c) any other pertinent information the director re-*

1 3606, 79-4108 and 79-41a03 are hereby repealed.

2 Sec. 73. This act shall take effect and be in force from and after its

January 1, 2010, and

3 publication in the statute book.

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