

CHAPTER 114
SENATE BILL No. 212

AN ACT concerning alcoholic beverages; amending K.S.A. 41-305, 41-2637, 41-2641, 41-2642 and 41-2651 and K.S.A. 2008 Supp. 41-308a, 41-317, 41-719 and 41-2645 and repealing the existing sections; also repealing K.S.A. 2008 Supp. 41-348 and 41-349.

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

New Section 1. (a) For the purposes of this act, the term “winery” means any maker or producer of wine whether in this state or in any other state, who holds a valid federal basic wine manufacturing permit. The terms “director” and “secretary” have the meaning ascribed to these terms in K.S.A. 2008 Supp. 41-102, and amendments thereto.

(b) Any winery may be authorized to make direct shipments of wine to consumers in this state upon obtaining a special order shipping license from the secretary pursuant to this act.

(1) A special order shipping license shall only be issued to a winery upon compliance with all applicable provisions of this act and the regulations promulgated pursuant to this act, and upon payment of a license fee in the amount of \$50.

(2) A special order shipping license shall entitle the winery to ship wine upon order directly to consumers for personal or household use in this state. The purchaser shall pay the purchase price and all shipping costs directly to the permit holder. Enforcement taxes collected herein shall be paid solely on the purchase price and not on the shipping costs.

(c) No holder of a special order shipping license shall be permitted to ship in excess of 12 standard cases of wine of one brand or a combination of brands into this state to any one consumer or address per calendar year.

(d) (1) Before accepting an order from a consumer in this state, the holder of a special order shipping license shall require that the person placing the order to state affirmatively that he or she is 21 years of age or older and shall verify the age of such person placing the order either by the physical examination of an approved government issued form of identification or by utilizing an internet based age and identification service approved by the director of alcoholic beverage control, or the director’s designee.

(2) Every shipment of wine by the holder of a special order shipping license shall be clearly marked ‘Alcoholic Beverages, Adult Signature Required’ and the carrier delivering such shipment shall be responsible for obtaining the signature of an adult who is at least 21 years of age as a condition of delivery.

(e) A special order shipping license shall not authorize the shipment of any wine to any premises licensed to sell alcoholic beverages pursuant to this act or the club and drinking establishment act.

(f) The failure to comply strictly with the requirements of this act and rules and regulations promulgated pursuant to this act shall be grounds for the revocation of a special order shipping license or other disciplinary action by the director. After notice and an opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, the director may refuse to issue or renew or may revoke a shipping permit upon a finding that the permit holder has failed to comply with any provision of this section or K.S.A. 2008 Supp. 41-501 et seq., and amendments thereto, or any rules and regulations adopted pursuant to such statutes. Upon revocation of a special order shipping license for shipment of wine to a person not of legal age as required herein such winery shall not be issued any special order shipping license pursuant to this act for a period of one year from the date of revocation.

(g) The holder of a special order shipping license shall collect all gallonage taxes imposed by K.S.A. 2008 Supp. 41-501 et seq., and amendments thereto, shall remit such taxes annually in a manner prescribed by the secretary and shall accompany such remittance with such reports, documentation and other information as may be required by the secretary. In addition, an applicant for and a holder of a special order shipping license, as a condition of receiving and holding a valid license, shall:

(1) Collect and pay the applicable Kansas enforcement tax on each sale shipped to a consumer in Kansas imposed by K.S.A. 79-4101 et seq., and amendments thereto;

(2) accompany each remittance with such sales tax reports, docu-

mentation and other information as may be required by the director of taxation; and

(3) if the holder of the license is an out-of-state shipper, the licensee shall be deemed to have appointed the secretary of state as the resident agent and representative of the licensee to accept service of process from the secretary of revenue, the director and the courts of this state concerning enforcement of this section, K.S.A. 2008 Supp. 41-501 et seq., and amendments thereto, and any related laws and rules and regulations and to accept service of any notice or order provided for in the liquor control act.

(h) The secretary of revenue may adopt rules and regulations to implement, administer and enforce the provisions of this section.

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

New Sec. 2. (a) Notwithstanding any other provisions of the Kansas liquor control act, the club and drinking establishment act or the Kansas cereal malt beverage act, any person who is licensed to sell wine pursuant to K.S.A. 41-308a, and amendments thereto, may apply to the director for an annual bona fide farmers' market sales permit. Such permit shall authorize the licensee, a member of the licensee's family or an employee of the licensee to sell wine in the original unopened container produced and bottled by the licensee at a bona fide farmers' market located at a site approved by the director.

(b) Permits issued under this section shall be valid for one year from the date of issuance. A licensee shall not hold more than one bona fide farmers' market sales permit at any one time.

(c) The licensee may only sell wine at a single bona fide farmers' market on one day of the week. The location of the bona fide farmers' market shall be specified in the application submitted to the director. The director shall notify the city, county and applicable law enforcement agency where the bona fide farmers' market is to be held and of the issuance of a permit under this section for the sale of wine at such bona fide farmers' market.

(d) For the purposes of this section, "bona fide farmers' market" means any location held out to be a farmers' market that is subject to inspection by the department of agriculture.

(e) The secretary may adopt rules and regulations as necessary to implement the provisions of this section.

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

Sec. 3. K.S.A. 41-305 is hereby amended to read as follows: 41-305. A manufacturer's license shall allow the manufacture and storage of alcoholic liquor and cereal malt beverage and the sale of alcoholic liquor and cereal malt beverage to distributors and nonbeverage users licensed in this state and to such persons outside this state as permitted by law. *A person holding a farm winery license issued pursuant to K.S.A. 41-308a, and amendments thereto, may also be issued a manufacturer's license; provided, that no alcoholic liquor or cereal malt beverage manufactured by such licensee shall be sold by such licensee at its licensed premises or at any of such licensee's winery outlets.*

Sec. 4. K.S.A. 2008 Supp. 41-308a is hereby amended to read as follows: 41-308a. (a) A farm winery license shall allow:

(1) The manufacture of domestic table wine and domestic fortified wine in a quantity not exceeding 100,000 gallons per year and the storage thereof;

(2) the sale of wine, manufactured by the licensee, to licensed wine distributors, retailers, clubs, drinking establishments, holders of temporary permits as authorized by K.S.A. 41-2645, and amendments thereto, and caterers;

(3) the sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of wine manufactured by the licensee;

(4) the serving free of charge on the licensed premises and at special events, monitored and regulated by the division of alcoholic beverage control, of samples of wine manufactured by the licensee or imported under subsection (f), if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments;

(5) if the licensee is also licensed as a club or drinking establishment,

the sale of domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act;

(6) if the licensee is also licensed as a caterer, the sale of domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the unlicensed premises as authorized by the club and drinking establishment act;

(7) the sale and shipping, in the original unopened container, to consumers outside this state of wine manufactured by the licensee, provided that the licensee complies with applicable laws and rules and regulations of the jurisdiction to which the wine is shipped; and

(8) the sale and shipping of wine within this state pursuant to a permit issued pursuant to K.S.A. 2008 Supp. 41-348, and amendments thereto.

(b) Upon application and payment of the fee prescribed by K.S.A. 41-310, and amendments thereto, by a farm winery licensee, the director may issue not to exceed three winery outlet licenses to the farm winery licensee. A winery outlet license shall allow:

(1) The sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of wine manufactured by the licensee; ~~and~~

(2) the serving on the licensed premises of samples of wine manufactured by the licensee or imported under subsection (f), if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments; *and*

(3) *the manufacture of domestic table wine and domestic fortified wine and the storage thereof; provided, that the aggregate quantity of wine produced by the farm winery licensee, including all winery outlets, shall not exceed 100,000 gallons per year.*

(c) Not less than 60% of the products utilized in the manufacture of domestic table wine and domestic fortified wine by a farm winery shall be grown in Kansas except when a lesser proportion is authorized by the director based upon the director's findings and judgment. The label of domestic wine and domestic fortified wine shall indicate that a majority of the products utilized in the manufacture of the wine at such winery were grown in Kansas.

(d) A farm winery or winery outlet may sell domestic wine and domestic fortified wine in the original unopened container to consumers for consumption off the licensed premises at any time between 6 a.m. and 12 midnight on any day except Sunday and between 12 noon and 6 p.m. on Sunday. If authorized by subsection (a), a farm winery may serve samples of domestic wine, domestic fortified wine and wine imported under subsection (e) and serve and sell domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor. If authorized by subsection (b), a winery outlet may serve samples of domestic wine, domestic fortified wine and wine imported under subsection (e) at any time when the winery outlet is authorized to sell domestic wine and domestic fortified wine.

(e) The director may issue to the Kansas state fair or any bona fide group of grape growers or wine makers a permit to import into this state small quantities of wines. Such wine shall be used only for bona fide educational and scientific tasting programs and shall not be resold. Such wine shall not be subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The permit shall identify specifically the brand and type of wine to be imported, the quantity to be imported, the tasting programs for which the wine is to be used and the times and locations of such programs. The secretary shall adopt rules and regulations governing the importation of wine pursuant to this subsection and the conduct of tasting programs for which such wine is imported.

(f) A farm winery license or winery outlet license shall apply only to the premises described in the application and in the license issued and only one location shall be described in the license.

(g) No farm winery or winery outlet shall:

(1) Employ any person under the age of 18 years in connection with the manufacture, sale or serving of any alcoholic liquor;

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

(3) employ any person under 21 years of age in connection with mixing or dispensing alcoholic liquor; or

(4) employ any person in connection with the manufacture or sale of alcoholic liquor if the person has been convicted of a felony.

(h) Whenever a farm winery or winery outlet licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and order forfeiture of all fees paid for the license, after a hearing before the director for that purpose in accordance with the provisions of the Kansas administrative procedure act.

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

Sec. 5. K.S.A. 2008 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 remitted by the director to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. All license fees received by the director, including fees received for licenses to manufacture beer, regardless of its alcoholic content, 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, distributor's, nonbeverage user's, microbrewery, farm winery ~~or~~, retailer's or *special order shipping* 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, \$25,000;

(2) for a spirits distributor, \$15,000 or an amount equal to the highest monthly liability of the distributor for taxes imposed by the Kansas liquor control act for any of the 12 months immediately prior to renewal of the distributor's license, whichever amount is greater;

(3) for a beer or wine distributor, \$5,000 or an amount equal to the highest monthly liability of the distributor for taxes imposed by the Kansas liquor control act for any of the 12 months immediately prior to renewal of the distributor's license, whichever amount is greater;

(4) for a retailer, \$2,000;

(5) 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; ~~and~~

(6) for a microbrewery or a farm winery, \$2,000; *and*

(7) *for a winery holding a special order shipping license, \$750, unless the winery has already complied with subsection (b)(6).*

If a distributor holds or applies for more than one distributor's license, only one bond for all such licenses shall be required, which bond shall be in an amount equal to the highest applicable bond.

(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. 6. K.S.A. 41-2642 is hereby amended to read as follows: 41-2642. (a) A license for a drinking establishment shall allow the licensee to offer for sale, sell and serve alcoholic liquor for consumption on the licensed premises which may be open to the public, but only if such premises are located in a county where the qualified electors of the county:

(1) (A) Approved, by a majority vote of those voting thereon, the proposition to amend section 10 of article 15 of the constitution of the state of Kansas at the general election in November 1986, or (B) have approved a proposition to allow sales of alcoholic liquor by the individual drink in public places within the county at an election pursuant to K.S.A.

41-2646 and amendments thereto; and

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

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

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

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

(c) A drinking establishment shall specify in the application for a license or renewal of a license the premises to be licensed, which may include all premises which are in close proximity and are under the control of the applicant or licensee.

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

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

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

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

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

Sec. 7. K.S.A. 41-2637 is hereby amended to read as follows: 41-2637. (a) A license for a class A club shall allow the licensee to offer for sale, sell and serve alcoholic liquor for consumption on the licensed premises by members and their families, and guests accompanying them.

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

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

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

Sec. 8. K.S.A. 41-2641 is hereby amended to read as follows: 41-2641. (a) A license for a class B club shall allow the licensee to offer for sale, sell and serve alcoholic liquor for consumption on the licensed premises by members of such club and guests accompanying them.

(b) (1) Subject to the provisions of subsection (b)(2), any two or more class A or class B clubs may permit, by an agreement filed with and approved by the director, the members of each such club to have access to all other clubs which are parties to such agreement. The privileges

extended to the visiting members of other clubs under such an agreement shall be determined by the agreement and, if the agreement so provides, any club which is a party to such agreement may sell, offer for sale and serve, to any person who is a member of another club which is a party to such agreement, alcoholic liquor for consumption on the licensed premises by such person and such person's family, and guests accompanying them.

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

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

(1) Be screened by the club for good moral character;

(2) pay an annual membership fee of not less than \$10; and

(3) wait for a period of 10 days after completion of the application form and payment of the membership fee.

(d) Notwithstanding the membership fee and waiting period requirement of subsection (c):

(1) Any class B club located on the premises of a hotel or RV resort may establish rules whereby a guest, who registered at the hotel or RV resort and who is not a resident of the county in which the club is located, may file application for temporary membership in such club. The membership, if granted, shall be valid only for the period of time that the guest is a bona fide registered guest at the hotel or RV resort and such temporary membership shall not be subject to the waiting period or fee requirement of this section.

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

(3) Any class B club may establish rules whereby military personnel of the armed forces of the United States on temporary duty and housed at or near any military installation located within the exterior boundaries of the state of Kansas may file application for temporary membership in such club. The membership, if granted, shall be valid only for the period of the training, not to exceed 20 weeks. Any person wishing to make application for temporary membership in a class B club under this subsection (d)(3) shall present the temporary duty orders to the club. Temporary membership issued under this subsection (d)(3) shall not be subject to the waiting period or fee requirements of this section.

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

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

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

Sec. 9. K.S.A. 2008 Supp. 41-719 is hereby amended to read as follows: 41-719. (a) ~~Not~~ (1) *Except as otherwise provided herein and in K.S.A. 8-1599, and amendments thereto, no person shall drink or consume alcoholic liquor on the public streets, alleys, roads or highways or inside*

vehicles while on the public streets, alleys, roads or highways.

(2) *Alcoholic liquor may be consumed at a special event held on public streets, alleys, roads, sidewalks or highways when a temporary permit has been issued pursuant to K.S.A 41-2645, and amendments thereto, for such special event. Such special event must be approved, by ordinance or resolution, by the local governing body of any city, county or township where such special event is being held. No alcoholic liquor may be consumed inside vehicles while on public streets, alleys, roads or highways at any such special event.*

(3) *No person shall remove any alcoholic liquor from inside the boundaries of a special event as designated by the governing body of any city, county or township. The boundaries of such special event shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed at such special event.*

(4) *No person shall possess or consume alcoholic liquor inside the premises licensed as a special event that was not sold or provided by the licensee holding the temporary permit for such special event.*

(b) No person shall drink or consume alcoholic liquor on private property except:

(1) On premises where the sale of liquor by the individual drink is authorized by the club and drinking establishment act;

(2) upon private property by a person occupying such property as an owner or lessee of an owner and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(3) in a lodging room of any hotel, motel or boarding house by the person occupying such room and by the guests of such person, if no charge is made for the serving or mixing of any drink or drinks of alcoholic liquor or for any substance mixed with any alcoholic liquor and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

(4) in a private dining room of a hotel, motel or restaurant, if the dining room is rented or made available on a special occasion to an individual or organization for a private party and if no sale of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto, takes place; or

(5) on the premises of a microbrewery or farm winery, if authorized by K.S.A. 41-308a or 41-308b, and amendments thereto.

(c) No person shall drink or consume alcoholic liquor on public property except:

(1) On real property leased by a city to others under the provisions of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real property is actually being used for hotel or motel purposes or purposes incidental thereto.

(2) In any state-owned or operated building or structure, and on the surrounding premises, which is furnished to and occupied by any state officer or employee as a residence.

(3) On premises licensed as a club or drinking establishment and located on property owned or operated by an airport authority created pursuant to chapter 27 of the Kansas Statutes Annotated, and amendments thereto, or established by a city.

(4) On the state fair grounds on the day of any race held thereon pursuant to the Kansas parimutuel racing act.

(5) On the state fairgrounds, if: (A) The alcoholic liquor is domestic beer or wine or wine imported under subsection (e) of K.S.A. 41-308a, and amendments thereto, and is consumed only for purposes of judging competitions; (B) the alcoholic liquor is wine or beer and is sold and consumed during the days of the Kansas state fair on premises leased by the state fair board to a person who holds a temporary permit issued pursuant to K.S.A. 41-2645, and amendments thereto, authorizing the sale and serving of such wine or beer, or both; or (C) the alcoholic liquor is consumed on nonfair days in conjunction with bona fide scheduled events involving not less than 75 invited guests and the state fair board, in its discretion, authorizes the consumption of the alcoholic liquor, subject to any conditions or restrictions the board may require.

(6) In the state historical museum provided for by K.S.A. 76-2036, and amendments thereto, on the surrounding premises and in any other

building on such premises, as authorized by rules and regulations of the state historical society.

(7) On the premises of any state-owned historic site under the jurisdiction and supervision of the state historical society, on the surrounding premises and in any other building on such premises, as authorized by rules and regulations of the state historical society.

(8) In a lake resort within the meaning of K.S.A. 32-867, and amendments thereto, on state-owned or leased property.

(9) In the Hiram Price Dillon house or on its surrounding premises, subject to limitations established in policies adopted by the legislative coordinating council, as provided by K.S.A. 75-3682, and amendments thereto.

(10) On the premises of any Kansas national guard regional training center or armory, and any building on such premises, as authorized by rules and regulations of the adjutant general and upon approval of the Kansas military board.

(11) On property exempted from this subsection (c) pursuant to subsection (d), (e), (f), (g) or (h).

(d) Any city may exempt, by ordinance, from the provisions of subsection (c) specified property the title of which is vested in such city.

(e) The board of county commissioners of any county may exempt, by resolution, from the provisions of subsection (c) specified property the title of which is vested in such county.

(f) The state board of regents may exempt from the provisions of subsection (c) the Sternberg museum on the campus of Fort Hays state university, or other specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(g) The board of regents of Washburn university may exempt from the provisions of subsection (c) the Mulvane art center and the Bradbury Thompson alumni center on the campus of Washburn university, and other specified property the title of which is vested in such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(h) The board of trustees of a community college may exempt from the provisions of subsection (c) specified property which is under the control of such board and which is not used for classroom instruction, where alcoholic liquor may be consumed in accordance with policies adopted by such board.

(i) Violation of any provision of this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$200 or by imprisonment for not more than six months, or both.

(j) *For the purposes of this section, "special event" means a picnic, bazaar, festival or other similar community gathering, which has been approved by the local governing body of any city, county or township.*

Sec. 10. K.S.A. 2008 Supp. 41-2645 is hereby amended to read as follows: 41-2645. (a) A temporary permit shall allow the permit holder to offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises, which may be open to the public, subject to the terms of such permit.

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

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

of the state general fund.

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

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

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

(e) (1) A temporary permit may be issued for the consumption of alcoholic liquor on a city, county or township street, alley, road, sidewalk or highway for a special event; provided, that such street, alley, road, sidewalk or highway is closed to motor vehicle traffic by the governing body of such city, county or township for such special event, a written request for such consumption and possession of such alcoholic liquor has been made to the local governing body and the special event is approved by the governing body of such city, county or township by ordinance or resolution. The boundaries of such special event shall be clearly marked by signs, a posted map or other means which reasonably identify the area in which alcoholic liquor may be possessed or consumed at such special event.

(2) Drinking establishments that are immediately adjacent to, or located within the licensed premises of a special event, for which a temporary permit has been issued and the consumption of alcoholic liquor on public property has been approved, may request that the drinking establishment's licensed premises be extended into and made a part of the licensed premises of the special event for the duration of the temporary permit issued for such special event.

(3) Each licensee selling alcoholic liquor for consumption on the premises of a special event for which a temporary permit has been issued shall be liable for violations of all laws governing the sale and consumption of alcoholic liquor.

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

~~(e)~~ (f) A temporary permit shall be issued for a period of time not to exceed three consecutive days, the dates and hours of which shall be specified in the permit, except that the director may issue one temporary permit, valid for the entire period of time of the Kansas state fair, which authorizes the sale of wine in its original, unopened container and the serving by the drink of only wine or beer, or both, on the state fairgrounds on premises specified in the temporary permit, by a person who has entered into an agreement with the state fair board for that purpose. Not more than four temporary permits may be issued to any one applicant in a calendar year.

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

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

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

Sec. 11. K.S.A. 41-2651 is hereby amended to read as follows: 41-2651. (a) When application for licensure or renewal of licensure as a club or drinking establishment is received by the director, the director shall notify the governing body of the city or county where the premises to be licensed are located, if such governing body requests such notification.

(b) No such license or renewal shall be granted by the director until the expiration of at least 10 days from the time of filing the application for licensure or renewal with the director, during which period the governing body of any city or county notified pursuant to subsection (a) may request the director to hold a hearing on the granting or refusal to grant such license or renewal. ~~The~~

(c) At any time, the governing body of any city or county may request the director to hold a hearing on whether any license issued pursuant to this act should be revoked or suspended. The governing body shall provide the director reasonable cause to believe a hearing is necessary based upon factors included in rules and regulations by the secretary. The director may refuse the governing body's request absent such reasonable cause.

(d) Any hearing on the application held pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act as provided in K.S.A. 41-2609, and amendments thereto.

~~(c)~~ *(e) At such any hearing held pursuant to this section the governing body of such city or county shall have the right to appear before the director and present testimony and evidence and make recommendations regarding the granting or refusal to grant such license or renewal, or whether such license should be revoked or suspended. In determining whether to grant or to refuse to grant such license or renewal, or to revoke or suspend such license, the director shall take into consideration the testimony and evidence and recommendations of the governing body of such city or county. The director may refuse to grant such license or renewal, or may revoke or suspend such license based on the evidence gathered at such hearing, in the interest of protecting the public welfare, and in accordance with rules and regulations adopted by the secretary.*

~~(d)~~ *(f) This section shall be part of and supplemental to the club and drinking establishment act.*

New Sec. 12. If any provision of the Kansas liquor control act, or its application to any person or circumstance, is determined by a court to be invalid or unconstitutional, the remaining provisions shall be construed in accordance with the intent of the legislature to further limit rather than to expand commerce in alcoholic liquor and to enhance strict regulatory control over taxation, distribution and sale of alcoholic liquor through the three-tier regulatory system imposed by the Kansas liquor control act upon all alcoholic liquor and cereal malt beverages.

Sec. 13. K.S.A. 41-305, 41-2637, 41-2641, 41-2642 and 41-2651 and K.S.A. 2008 Supp. 41-308a, 41-317, 41-348, 41-349, 41-719 and 41-2645 are hereby repealed.

Sec. 14. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 20, 2009.
