

Microbrewery Self-distribution; Senate Sub. for HB 2124

Senate Sub. for HB 2124 amends law pertaining to microbreweries. Among other changes, the bill permits microbreweries to self-distribute beer and hard cider up to certain limits, lowers the number of barrels per year a microbrewery may manufacture and store, and requires a study and report on licensed microbrewery compliance with state laws and rules and regulations regarding the collection and remittance of alcoholic liquor enforcement and gallonage taxes.

Study on Microbrewery Compliance

The bill directs the Secretary of Revenue (Secretary) and the Director of the Department of Revenue's Division of Alcoholic Beverage Control (ABC) to each:

- Conduct a compliance study on licensed microbrewery compliance with state laws and rules and regulations regarding the collection and remittance of:
 - Alcoholic liquor enforcement taxes (Secretary);
 - Alcoholic liquor gallonage taxes (Director of ABC); and
- On or before January 15, 2025, prepare and submit a report to the Governor and the Legislature on the findings of such study, including any recommendations regarding collection and remittance, monitoring, and ensuring compliance with applicable laws and rules and regulations.

These provisions expire on July 1, 2025.

Microbrewery Licenses

Annual Barrel Limit

The bill lowers the number of barrels of beer per calendar year a microbrewery licensee can manufacture and store from 60,000 barrels to 30,000 barrels. [*Note:* Continuing law provides that a microbrewery licensee may manufacture and store up to 100,000 gallons of hard cider during the calendar year.]

Self-distribution

Under the bill, a microbrewery licensee will be allowed to sell beer and hard cider manufactured by such licensee to licensed beer and wine distributors, retailers, public venues, clubs, drinking establishments, caterers, and temporary permit holders. The bill limits the total annual sales to:

- 1,000 barrels of beer; and

- 3,000 gallons of hard cider.

The bill also allows a microbrewery licensee to sell beer and hard cider manufactured by the licensee both on the licensed premises and off the licensed premises at special events monitored and regulated by the ABC. [Note: This is similar to a provision applicable to farm wineries under KSA 41-308a.]

Ownership Interest

The bill permits a microbrewery or an owner, officer, stockholder, or director of a microbrewery to have an interest in a licensed club, drinking establishment, or caterer, and the limit on total annual sales will not apply to the distribution of beer or hard cider by a microbrewery licensee to either:

- A drinking establishment or caterer licensed under the Club and Drinking Establishment Act in which such microbrewery licensee holds a 25.0 percent or greater ownership interest; or
- Another microbrewery licensee or a licensed microbrewery packaging and warehouse facility in which such microbrewery licensee holds a 25.0 percent or greater ownership interest.

Distributor Requirements

The bill applies requirements for distributors under continuing law to microbreweries and also requires the Secretary to include microbreweries in certain rules and regulations applicable to manufacturers or distributors.

The bill specifies that a microbrewery is prohibited from selling or attempting to sell any beer or hard cider within the state except to retailers licensed under the Kansas Liquor Control Act or the Kansas Cereal Malt Beverage Act or a licensee under the Club and Drinking Establishment Act. The bill requires such sales to be made within a geographic territory described in a notice filed with the Director of ABC.

The bill permits a distributor or microbrewery to buy back or exchange any beer or cereal malt beverage (CMB) within 30 days of its expiration date at the original sales price.

Temporary Permits

The bill authorizes a temporary permit holder to offer for sale, sell, and serve beer or hard cider that is:

- Manufactured by a microbrewery licensee; and
- Purchased or acquired from a microbrewery licensee for consumption on licensed or unlicensed premises, or other premises subject to a separate

temporary permit that may be open to the public and subject to terms of such permit.

Drinking Establishments

The bill allows drinking establishments to acquire and sell beer from a microbrewery licensed under the Kansas Liquor Control Act. The bill also allows a drinking establishment to acquire hard cider from a Kansas-licensed microbrewery that possesses a federal wholesaler's basic permit.

Technical and Conforming Amendments

The bill removes provisions that expired on January 1, 2023, requiring a certain percentage of the products utilized in the manufacture of hard cider by a microbrewery to be grown in Kansas. It also makes conforming amendments throughout to implement the provisions of the bill.