

SENATE BILL No. 452

By Committee on Federal and State Affairs

3-5

1 AN ACT concerning alcoholic beverages; relating to clubs and drinking
2 establishments; permitting tastings on the licensed premises; amending
3 K.S.A. 41-2640 and K.S.A. 2011 Supp. 41-2637, 41-2641 and 41-2642
4 and repealing the existing sections.
5

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

7 Section 1. K.S.A. 2011 Supp. 41-2637 is hereby amended to read as
8 follows: 41-2637. (a) A license for a class A club shall allow the licensee
9 to: (1) Offer for sale, sell and serve alcoholic liquor for consumption on
10 the licensed premises by members and their families, and guests
11 accompanying them; and (2) *serve samples of alcoholic liquor free of*
12 *charge on the licensed premises and at special events, monitored and*
13 *regulated by the division of alcoholic beverage control for consumption by*
14 *members and their families, and guests accompanying them.*

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

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

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

32 Sec. 2. K.S.A. 41-2640 is hereby amended to read as follows: 41-
33 2640. (a) *Except as otherwise provided in this act*, no club, drinking
34 establishment, caterer or holder of a temporary permit, nor any person
35 acting as an employee or agent thereof, shall:

36 (1) Offer or serve any free cereal malt beverage or alcoholic liquor in

1 any form to any person;

2 (2) offer or serve to any person a drink at a price that is less than the
3 acquisition cost of the drink to the licensee or permit holder;

4 (3) sell, offer to sell or serve to any person an unlimited number of
5 drinks during any set period of time for a fixed price, except at private
6 functions not open to the general public or to the general membership of a
7 club;

8 (4) sell, offer to sell or serve any drink to any person at any time at a
9 price less than that charged all other purchasers of drinks on that day;

10 (5) increase the volume of alcoholic liquor contained in a drink or the
11 size of a drink of cereal malt beverage without increasing proportionately
12 the price regularly charged for the drink on that day;

13 (6) encourage or permit, on the licensed premises, any game or
14 contest which involves drinking alcoholic liquor or cereal malt beverage or
15 the awarding of drinks as prizes; or

16 (7) advertise or promote in any way, whether on or off the licensed
17 premises, any of the practices prohibited under subsections (a)(1) through
18 (6).

19 (b) Nothing in subsection (a) shall be construed to prohibit a club,
20 drinking establishment, caterer or holder of a temporary permit from:

21 (1) Offering free food or entertainment at any time;

22 (2) *-serving samples of alcoholic liquor free of charge as authorized*
23 *by this act;* or

24 ~~(2)~~ (3) selling or delivering wine by the bottle or carafe.

25 (c) Violation of any provision of this section is a misdemeanor
26 punishable as provided by K.S.A. 41-2633, and amendments thereto.

27 (d) Violation of any provision of this section shall be grounds for
28 suspension or revocation of the licensee's license as provided by K.S.A.
29 41-2609, and amendments thereto, and for imposition of a civil fine on the
30 licensee or temporary permit holder as provided by K.S.A. 41-2633a, and
31 amendments thereto.

32 (e) Every licensed club and drinking establishment shall make
33 available at any time upon request a price list showing the club's or
34 drinking establishment's current prices per drink for all drinks.

35 (f) As used in this section, "drink" means an individual serving of any
36 beverage containing alcoholic liquor or an individual serving of cereal
37 malt beverage.

38 Sec. 3. K.S.A. 2011 Supp. 41-2641 is hereby amended to read as
39 follows: 41-2641. (a) A license for a class B club shall allow the licensee
40 to: (1) Offer for sale, sell and serve alcoholic liquor for consumption on
41 the licensed premises by members of such club and guests accompanying
42 them; and (2) *serve samples of alcoholic liquor free of charge on the*
43 *licensed premises and at special events, monitored and regulated by the*

1 *division of alcoholic beverage control for consumption by such members*
2 *and guests accompanying them.*

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

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

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

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

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

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

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

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

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

39 (3) Any class B club may establish rules whereby military personnel
40 of the armed forces of the United States on temporary duty and housed at
41 or near any military installation located within the exterior boundaries of
42 the state of Kansas may file application for temporary membership in such
43 club. The membership, if granted, shall be valid only for the period of the

1 training, not to exceed 20 weeks. Any person wishing to make application
2 for temporary membership in a class B club under this subsection (d)(3)
3 shall present the temporary duty orders to the club. Temporary
4 membership issued under this subsection (d)(3) shall not be subject to the
5 waiting period or fee requirements of this section.

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

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

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

29 Sec. 4. K.S.A. 2011 Supp. 41-2642 is hereby amended to read as
30 follows: 41-2642. (a) A license for a drinking establishment shall allow the
31 licensee to: (1) Offer for sale, sell and serve alcoholic liquor for
32 consumption on the licensed premises which may be open to the public;
33 *and (2) serve samples of alcoholic liquor free of charge on the licensed*
34 *premises and at special events, monitored and regulated by the division of*
35 *alcoholic beverage control*, but only if such premises are located in a
36 county where the qualified electors of the county:

37 (1) (A) Approved, by a majority vote of those voting thereon, the
38 proposition to amend section 10 of article 15 of the constitution of the state
39 of Kansas at the general election in November 1986; or (B) have
40 approved a proposition to allow sales of alcoholic liquor by the individual
41 drink in public places within the county at an election pursuant to K.S.A.
42 41-2646, and amendments thereto; and

43 (2) have not approved a proposition to prohibit such sales of alcoholic

1 liquor in such places at a subsequent election pursuant to K.S.A. 41-2646,
2 and amendments thereto.

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

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

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

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

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

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

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

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

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

38 Sec. 5. K.S.A. 41-2640 and K.S.A. 2011 Supp. 41-2637, 41-2641 and
39 41-2642 are hereby repealed.

40 Sec. 6. This act shall take effect and be in force from and after its
41 publication in the statute book.