

SENATE BILL No. 80

By Committee on Federal and State Affairs

1-31

1 AN ACT concerning alcoholic beverages; relating to microbreweries;
2 amending K.S.A. 2010 Supp. 41-102 and 41-308b and repealing the
3 existing sections.
4

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

6 Section 1. K.S.A. 2010 Supp. 41-102 is hereby amended to read as
7 follows: 41-102. As used in this act, unless the context clearly requires
8 otherwise:

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

13 (b) "Alcoholic liquor" means alcohol, spirits, wine, beer and every
14 liquid or solid, patented or not, containing alcohol, spirits, wine or beer
15 and capable of being consumed as a beverage by a human being, but shall
16 not include any cereal malt beverage.

17 (c) "Beer" means a beverage, containing more than 3.2% alcohol by
18 weight, obtained by alcoholic fermentation of an infusion or concoction
19 of barley, or other grain, malt and hops in water and includes beer, ale,
20 stout, lager beer, porter and similar beverages having such alcoholic
21 content.

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

24 (e) "Cereal malt beverage" has the meaning provided by K.S.A. 41-
25 2701, and amendments thereto.

26 (f) "Club" has the meaning provided by K.S.A. 41-2601, and
27 amendments thereto.

28 (g) "Director" means the director of alcoholic beverage control of
29 the department of revenue.

30 (h) "Distributor" means the person importing or causing to be
31 imported into the state, or purchasing or causing to be purchased within
32 the state, alcoholic liquor for sale or resale to retailers licensed under this
33 act or cereal malt beverage for sale or resale to retailers licensed under
34 K.S.A. 41-2702, and amendments thereto.

35 (i) "Domestic beer" means beer which contains not more than 8%
36 10% alcohol by weight and which is manufactured in this state.

1 (j) "Domestic fortified wine" means wine which contains more than
2 14%, but not more than 20% alcohol by volume and which is
3 manufactured in this state.

4 (k) "Domestic table wine" means wine which contains not more than
5 14% alcohol by volume and which is manufactured without rectification
6 or fortification in this state.

7 (l) "Drinking establishment" has the meaning provided by K.S.A.
8 41-2601, and amendments thereto.

9 (m) "Farm winery" means a winery licensed by the director to
10 manufacture, store and sell domestic table wine and domestic fortified
11 wine.

12 (n) "Manufacture" means to distill, rectify, ferment, brew, make,
13 mix, concoct, process, blend, bottle or fill an original package with any
14 alcoholic liquor, beer or cereal malt beverage.

15 (o) (1) "Manufacturer" means every brewer, fermenter, distiller,
16 rectifier, wine maker, blender, processor, bottler or person who fills or
17 refills an original package and others engaged in brewing, fermenting,
18 distilling, rectifying or bottling alcoholic liquor, beer or cereal malt
19 beverage.

20 (2) "Manufacturer" does not include a microbrewery or a farm
21 winery.

22 (p) "Microbrewery" means a brewery licensed by the director to
23 manufacture, store and sell domestic beer.

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

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

29 (s) "Original package" means any bottle, flask, jug, can, cask, barrel,
30 keg, hogshead or other receptacle or container whatsoever, used, corked
31 or capped, sealed and labeled by the manufacturer of alcoholic liquor, to
32 contain and to convey any alcoholic liquor. Original container does not
33 include a sleeve.

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

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

43 (v) (1) "Retailer" means a person who sells at retail, or offers for

- 1 sale at retail, alcoholic liquors.
- 2 (2) "Retailer" does not include a microbrewery or a farm winery.
- 3 (w) "Sale" means any transfer, exchange or barter in any manner or
4 by any means whatsoever for a consideration and includes all sales made
5 by any person, whether principal, proprietor, agent, servant or employee.
- 6 (x) "Salesperson" means any natural person who:
- 7 (1) Procures or seeks to procure an order, bargain, contract or
8 agreement for the sale of alcoholic liquor or cereal malt beverage; or
9 (2) is engaged in promoting the sale of alcoholic liquor or cereal
10 malt beverage, or in promoting the business of any person, firm or
11 corporation engaged in the manufacturing and selling of alcoholic liquor
12 or cereal malt beverage, whether the seller resides within the state of
13 Kansas and sells to licensed buyers within the state of Kansas, or whether
14 the seller resides without the state of Kansas and sells to licensed buyers
15 within the state of Kansas.
- 16 (y) "Secretary" means the secretary of revenue.
- 17 (z) (1) "Sell at retail" and "sale at retail" refer to and mean sales for
18 use or consumption and not for resale in any form and sales to clubs,
19 licensed drinking establishments, licensed caterers or holders of
20 temporary permits.
- 21 (2) "Sell at retail" and "sale at retail" do not refer to or mean sales by
22 a distributor, a microbrewery, a farm winery, a licensed club, a licensed
23 drinking establishment, a licensed caterer or a holder of a temporary
24 permit.
- 25 (aa) "To sell" includes to solicit or receive an order for, to keep or
26 expose for sale and to keep with intent to sell.
- 27 (bb) "Sleeve" means a package of two or more 50-milliliter (3.2-
28 fluid-ounce) containers of spirits.
- 29 (cc) "Spirits" means any beverage which contains alcohol obtained
30 by distillation, mixed with water or other substance in solution, and
31 includes brandy, rum, whiskey, gin or other spirituous liquors, and such
32 liquors when rectified, blended or otherwise mixed with alcohol or other
33 substances.
- 34 (dd) "Supplier" means a manufacturer of alcoholic liquor or cereal
35 malt beverage or an agent of such manufacturer, other than a salesperson.
- 36 (ee) "Temporary permit" has the meaning provided by K.S.A. 41-
37 2601, and amendments thereto.
- 38 (ff) "Wine" means any alcoholic beverage obtained by the normal
39 alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or
40 other agricultural products, including such beverages containing added
41 alcohol or spirits or containing sugar added for the purpose of correcting
42 natural deficiencies.
- 43 Sec. 2. K.S.A. 2010 Supp. 41-308b is hereby amended to read as

1 follows: 41-308b. (a) A microbrewery license shall allow:

2 (1) The manufacture of not less than 100 nor more than 15,000
3 barrels of domestic beer during the license year and the storage thereof;

4 (2) the sale to beer distributors of beer, manufactured by the
5 licensee;

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

9 (4) the serving free of charge on the licensed premises *and at*
10 *special events, monitored and regulated by the division of alcoholic*
11 *beverage control*, of samples of beer manufactured by the licensee, if the
12 premises are located in a county where the sale of alcoholic liquor is
13 permitted by law in licensed drinking establishments;

14 (5) if the licensee is also licensed as a club or drinking
15 establishment, the sale of domestic beer and other alcoholic liquor for
16 consumption on the licensed premises as authorized by the club and
17 drinking establishment act; and

18 (6) if the licensee is also licensed as a caterer, the sale of domestic
19 beer and other alcoholic liquor for consumption on unlicensed premises
20 as authorized by the club and drinking establishment act.

21 (b) Upon application and payment of the fee prescribed by K.S.A.
22 41-310, and amendments thereto, by a microbrewery licensee, the
23 director may issue not to exceed one microbrewery packaging and
24 warehousing facility license to the microbrewery licensee. A
25 microbrewery packaging and warehousing facility license shall allow:

26 (1) The transfer, from the licensed premises of the microbrewery to
27 the licensed premises of the microbrewery packaging and warehousing
28 facility, of beer manufactured by the licensee, for the purpose of
29 packaging or storage, or both; and

30 (2) the transfer, from the licensed premises of the microbrewery
31 packaging and warehousing facility to the licensed premises of the
32 microbrewery, of beer manufactured by the licensee; or

33 (3) the removal from the licensed premises of the microbrewery
34 packaging and warehousing facility of beer manufactured by the licensee
35 for the purpose of delivery to a licensed beer wholesaler.

36 (c) A microbrewery may sell domestic beer in the original unopened
37 container to consumers for consumption off the licensed premises at any
38 time between 6 a.m. and 12 midnight on any day except Sunday and
39 between 11 a.m. and 7 p.m. on Sunday. If authorized by subsection (a), a
40 microbrewery may serve samples of domestic beer and serve and sell
41 domestic beer and other alcoholic liquor for consumption on the licensed
42 premises at any time when a club or drinking establishment is authorized
43 to serve and sell alcoholic liquor.

1 (d) The director may issue to the Kansas state fair or any bona fide
2 group of brewers a permit to import into this state small quantities of
3 beer. Such beer shall be used only for bona fide educational and scientific
4 tasting programs and shall not be resold. Such beer shall not be subject to
5 the tax imposed by K.S.A. 41-501, and amendments thereto. The permit
6 shall identify specifically the brand and type of beer to be imported, the
7 quantity to be imported, the tasting programs for which the beer is to be
8 used and the times and locations of such programs. The secretary shall
9 adopt rules and regulations governing the importation of beer pursuant to
10 this subsection and the conduct of tasting programs for which such beer is
11 imported.

12 (e) A microbrewery license or microbrewery packaging and
13 warehousing facility license shall apply only to the premises described in
14 the application and in the license issued and only one location shall be
15 described in the license.

16 (f) No microbrewery shall:

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

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

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

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

27 (g) Whenever a microbrewery licensee is convicted of a violation of
28 the Kansas liquor control act, the director may revoke the licensee's
29 license and all fees paid for the license in accordance with the Kansas
30 administrative procedure act.

31 Sec. 3. K.S.A. 2010 Supp. 41-102 and 41-308b are hereby repealed.

32 Sec. 4. This act shall take effect and be in force from and after its
33 publication in the statute book.

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