

Substitute for SENATE BILL No. 36

By Committee on Federal and State Affairs

Balloon Amendments for Sub for SB 36
Prepared by Jason Long
Office of the Revisor of Statutes
March 11, 2013

1 AN ACT concerning alcoholic beverages; relating to ~~clubs and drinking~~
2 ~~establishments; permitting~~ tastings on licensed premises; amending
3 K.S.A. 2012 Supp. 41-2601, 41-2637, 41-2640, 41-2641, 41-2642 and
4 79-41a02 and repealing the existing sections.

K.S.A. 41-713 and

41-308d, 41-354,

, 41-2655

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

6 Section 1. K.S.A. 2012 Supp. 41-2601 is hereby amended to read as
7 follows: 41-2601. As used in the club and drinking establishment act:

8 (a) The following terms shall have the meanings provided by K.S.A.
9 41-102, and amendments thereto: (1) "Alcoholic liquor"; (2) "director"; (3)
10 "original package"; (4) "person"; (5) "sale"; and (6) "to sell."

11 (b) "Beneficial interest" shall not include any interest a person may
12 have as owner, operator, lessee or franchise holder of a licensed hotel or
13 motel on the premises of which a club or drinking establishment is located.

14 (c) "Caterer" means an individual, partnership or corporation which
15 sells alcoholic liquor by the individual drink, and provides services related
16 to the serving thereof, on unlicensed premises which may be open to the
17 public, but does not include a holder of a temporary permit, selling
18 alcoholic liquor in accordance with the terms of such permit.

19 (d) "Cereal malt beverage" has the meaning provided by K.S.A. 41-
20 2701, and amendments thereto.

21 (e) "Class A club" means a premises which is owned or leased by a
22 corporation, partnership, business trust or association and which is
23 operated thereby as a bona fide nonprofit social, fraternal or war veterans'
24 club, as determined by the director, for the exclusive use of the corporate
25 stockholders, partners, trust beneficiaries or associates (hereinafter referred
26 to as members) and their families and guests accompanying them.

27 (f) "Class B club" means a premises operated for profit by a
28 corporation, partnership or individual, to which members of such club may
29 resort for the consumption of food or alcoholic beverages and for
30 entertainment.

31 (g) "Club" means a class A or class B club.

32 (h) "Drinking establishment" means premises which may be open to
33 the general public, where alcoholic liquor by the individual drink is sold.
34 Drinking establishment includes a railway car.

35 (i) "Food" means any raw, cooked or processed edible substance or
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1 ingredient, other than alcoholic liquor or cereal malt beverage, used or
2 intended for use or for sale, in whole or in part, for human consumption.

3 (j) "Food service establishment" has the meaning provided by K.S.A.
4 36-501, and amendments thereto.

5 (k) "Hotel" has the meaning provided by K.S.A. 36-501, and
6 amendments thereto.

7 (l) "Individual drink" means a beverage containing alcoholic liquor or
8 cereal malt beverage served to an individual for consumption by such
9 individual or another individual, but which is not intended to be consumed
10 by two or more individuals. The term "individual drink" includes
11 beverages containing not more than: (1) Eight ounces of wine; (2) thirty-
12 two ounces of beer or cereal malt beverage; or (3) four ounces of a single
13 spirit or a combination of spirits.

14 (m) "Minibar" means a closed cabinet, whether nonrefrigerated or
15 wholly or partially refrigerated, access to the interior of which is restricted
16 by means of a locking device which requires the use of a key, magnetic
17 card or similar device.

18 (n) "Minor" means a person under 21 years of age.

19 (o) "Morals charge" means a charge involving prostitution; procuring
20 any person; soliciting of a child under 18 years of age for any immoral act
21 involving sex; possession or sale of narcotics, marijuana, amphetamines or
22 barbiturates; rape; incest; gambling; illegal cohabitation; adultery; bigamy;
23 or a crime against nature.

24 (p) "Municipal corporation" means the governing body of any county
25 or city.

26 (q) "Public venue" means an arena, stadium, hall or theater, used
27 primarily for athletic or sporting events, live concerts, live theatrical
28 productions or similar seasonal entertainment events, not operated on a
29 daily basis, and containing:

30 (1) Not less than 4,000 permanent seats; and

31 (2) not less than two private suites, which are enclosed or semi-
32 enclosed seating areas, having controlled access and separated from the
33 general admission areas by a permanent barrier.

34 (r) "Railway car" means a locomotive drawn conveyance used for the
35 transportation and accommodation of human passengers that is confined to
36 a fixed rail route and which derives from sales of food for consumption on
37 the railway car not less than 30% of its gross receipts from all sales of food
38 and beverages in a 12-month period.

39 (s) "Restaurant" means:

40 (1) In the case of a club, a licensed food service establishment which,
41 as determined by the director, derives from sales of food for consumption
42 on the licensed club premises not less than 50% of its gross receipts from
43 all sales of food and beverages on such premises in a 12-month period;

(2) in the case of a drinking establishment subject to a food sales requirement under K.S.A. 41-2642, and amendments thereto, a licensed food service establishment which, as determined by the director, derives from sales of food for consumption on the licensed drinking establishment premises not less than 30% of its gross receipts from all sales of food and beverages on such premises in a 12-month period; and

(3) in the case of a drinking establishment subject to no food sales requirement under K.S.A. 41-2642, and amendments thereto, a licensed food service establishment.

(t) "RV resort" means premises where a place to park recreational vehicles, as defined in K.S.A. 75-1212, and amendments thereto, is offered for pay, primarily to transient guests, for overnight or longer use while such recreational vehicles are used as sleeping or living accommodations.

(u) "Sample" means a serving of alcoholic liquor which contains not more than: (1) One-half ounce of distilled spirits; (2) one ounce of wine; or (3) two ounces of beer or cereal malt beverage. A sample of a mixed alcoholic beverage shall contain not more than one-half ounce of distilled spirits.

(v) "Secretary" means the secretary of revenue.

(w) "Temporary permit" means a temporary permit issued pursuant to K.S.A. 41-2645, and amendments thereto.

Sec. 2. K.S.A. 2012 Supp. 41-2637 is hereby amended to read as follows: 41-2637. (a) A license for a class A club shall allow the licensee to: (1) Offer for sale, sell and serve alcoholic liquor for consumption on the licensed premises by members and their families, and guests accompanying them; and (2) serve samples of alcoholic liquor free of charge for consumption by members and their families and guests accompanying them.

No charge of any sort may be made for a sample serving. A person may be served no more than five samples per visit. Samples may not be served to a minor. No samples may be removed from the licensed premises. No consideration shall be requested or required for entry onto the premises, participation in any event taking place on the premises or to remain on the premises.

(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

1 by such person and such person's family, and guests accompanying them.

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

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

9 Sec. 3. K.S.A. 2012 Supp. 41-2640 is hereby amended to read as
10 follows: 41-2640. (a) *Except as otherwise provided in this act*, no club,
11 drinking establishment, caterer or holder of a temporary permit, nor any
12 person acting as an employee or agent thereof, shall:

13 (1) Offer or serve any free cereal malt beverage or alcoholic liquor in
14 any form to any person;

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

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

22 (4) encourage or permit, on the licensed premises, any game or
23 contest which involves drinking alcoholic liquor or cereal malt beverage or
24 the awarding of individual drinks as prizes; or

25 (5) advertise or promote in any way, whether on or off the licensed
26 premises, any of the practices prohibited under subsections (a)(1) through
27 (4).

28 (b) No public venue, nor any person acting as an employee or agent
29 thereof, shall:

30 (1) Offer or serve any free cereal malt beverage or alcoholic liquor in
31 any form to any person;

32 (2) offer or serve to any person a drink or original container of
33 alcoholic liquor or cereal malt beverage at a price that is less than the
34 acquisition cost of the drink or original container of alcoholic liquor or
35 cereal malt beverage to the licensee;

36 (3) sell or serve alcoholic liquor in glass containers to customers in
37 the general admission area;

38 (4) sell or serve more than two drinks per customer at any one time in
39 the general admission area;

40 (5) encourage or permit, on the licensed premises, any game or
41 contest which involves drinking alcoholic liquor or cereal malt beverage or
42 the awarding of drinks as prizes; or

43 (6) advertise or promote in any way, whether on or off the licensed

1 premises, any of the practices prohibited under subsections (b)(1) through
2 (5).

3 (c) A public venue club, drinking establishment, caterer or holder of a
4 temporary permit may:

5 (1) Offer free food or entertainment at any time;

6 (2) sell or deliver wine by the bottle or carafe;

7 (3) sell, offer to sell and serve individual drinks at different prices
8 throughout any day; or

9 (4) sell or serve beer or cereal malt beverage in a pitcher capable of
10 containing not more than 64 fluid ounces; or

11 (5) *offer samples of alcoholic liquor free of charge as authorized by*
12 *this act.*

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

15 (e) Violation of any provision of this section shall be grounds for
16 suspension or revocation of the licensee's license as provided by K.S.A.
17 41-2609, and amendments thereto, and for imposition of a civil fine on the
18 licensee or temporary permit holder as provided by K.S.A. 41-2633a, and
19 amendments thereto.

20 (f) Every licensed club and drinking establishment shall make
21 available at any time upon request a price list showing the club's or
22 drinking establishment's current prices per individual drink for all
23 individual drinks.

24 Sec. 4. K.S.A. 2012 Supp. 41-2641 is hereby amended to read as
25 follows: 41-2641. (a) A license for a class B club shall allow the licensee
26 to: (1) Offer for sale, sell and serve alcoholic liquor for consumption on
27 the licensed premises by members of such club and guests accompanying
28 them; and (2) *serve samples of alcoholic liquor free of charge on the*
29 *licensed premises for consumption by such members and their families*
30 *and guests accompanying them.*

31 *No charge of any sort may be made for a sample serving. A person may*
32 *be served no more than five samples per visit. Samples may not be served*
33 *to a minor. No samples may be removed from the licensed premises.*
34 *Providing samples is prohibited for any licensee who charges a cover*
35 *charge or entry fee at any time during the business day. No consideration*
36 *shall be requested or required for entry onto the premises, participation in*
37 *any event taking place on the premises or to remain on the premises.*

38 (b) (1) Subject to the provisions of subsection (b)(2), any two or more
39 class A or class B clubs may permit, by an agreement filed with and
40 approved by the director, the members of each such club to have access to
41 all other clubs which are parties to such agreement. The privileges
42 extended to the visiting members of other clubs under such an agreement
43 shall be determined by the agreement and, if the agreement so provides,

1 any club which is a party to such agreement may sell, offer for sale and
2 serve, to any person who is a member of another club which is a party to
3 such agreement, alcoholic liquor for consumption on the licensed premises
4 by such person and such person's family, and guests accompanying them.

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

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

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

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

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

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

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

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

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

41 (4) Any class B club may enter into a written agreement with a hotel
42 or RV resort whereby a guest who is registered at the hotel or RV resort
43 and who is not a resident of the county in which the club is located may

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

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

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

21 Sec. 5. K.S.A. 2012 Supp. 41-2642 is hereby amended to read as
22 follows: 41-2642. (a) A license for a drinking establishment shall allow the
23 licensee to offer for sale, sell and serve alcoholic liquor for consumption
24 on the licensed premises which may be open to the public, and to serve
25 samples of alcoholic liquor free of charge on licensed premises subject to
26 the requirements of subsection (c), and amendments thereto, but only if
27 such premises are located in a county where the qualified electors of the
28 county:

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

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

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

43 (1) Have approved, at an election pursuant to K.S.A. 41-2646, and

1 amendments thereto, a proposition to allow sales of alcoholic liquor by the
 2 individual drink in public places within the county without a requirement
 3 that any portion of their gross receipts be derived from the sale of food;
 4 and

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

8 (c) *No change of any sort may be made for a sample serving. A*
 9 *person may be served no more than five samples per visit. Samples may*
 10 *not be served to a minor. No samples may be removed from the licensed*
 11 *premises. Providing samples is prohibited for any licensee who charges a*
 12 *cover charge or entry fee at any time during the business day. No*
 13 *consideration shall be requested or required for entry onto the premises,*
 14 *participation in any event taking place on the premises or to remain on the*
 15 *premises.*

16 (d) 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 (e) Notwithstanding any other provision of law to the contrary,
 21 any hotel of which the entire premises are licensed as a drinking
 22 establishment or as a drinking establishment/caterer may sell alcoholic
 23 liquor or cereal malt beverage by means of minibars located in guest
 24 rooms of such hotel, 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 (f) A drinking establishment may store on its premises wine sold
 34 to a customer for consumption at a later date on its premises in the
 35 unopened container. Such wine must be kept separate from all other
 36 alcohol stock and in a secure locked area separated by customer. Such
 37 wine shall not be removed from the licensed premises in its unopened
 38 condition.

39 Sec 6. K.S.A. 2012 Supp. 79-41a02 is hereby amended to read as
 40 follows: 79-41a02. (a) There is hereby imposed, for the privilege of selling
 41 alcoholic liquor, a tax at the rate of 10% upon the gross receipts derived
 42 from the sale of alcoholic liquor by any club, caterer, drinking
 43 establishment, public venue or temporary permit holder, and upon the

See attached insert for Sub for SB 36

and by renumbering remaining sections accordingly

10.

1 acquisition costs of any alcoholic liquor served as samples by clubs and
2 drinking establishments.

3 (b) The tax imposed by this section shall be paid by the consumer to
4 the club, caterer, drinking establishment, public venue or temporary permit
5 holder and it shall be the duty of each and every club, caterer, drinking
6 establishment, public venue or temporary permit holder subject to this
7 section to collect from the consumer the full amount of such tax, or an
8 amount equal as nearly as possible or practicable to the average equivalent
9 thereto. Each club, caterer, drinking establishment, public venue or
10 temporary permit holder collecting the tax imposed hereunder shall be
11 responsible for paying over the same to the state department of revenue in
12 the manner prescribed by K.S.A. 79-41a03, and amendments thereto, and
13 the state department of revenue shall administer and enforce the collection
14 of such tax.

15 (c) Any club or drinking establishment that serves free samples of
16 alcoholic liquor shall remit the tax imposed by subsection (a) in the
17 manner prescribed by K.S.A. 79-41a03, and amendments thereto, and the
18 state department of revenue shall administer and enforce the payment of
19 such tax.

20 New Sec. [7] (a) Alcoholic liquor and cereal malt beverage for the
21 sampling as provided for in K.S.A. 41-2637, 41-2640, 41-2641 and 41-
22 2642, and amendments thereto, shall be withdrawn from the inventory of
23 the licensee. Except as provided by subsection (b), a person other than the
24 licensee or the licensee's agent or employee may not dispense or
25 participate in the dispensing of alcoholic beverages under this section.

26 (b) The holder of a supplier's permit or such permit holder's agent or
27 employee may participate in and conduct product tastings of alcoholic
28 beverages at a licensee's premises, monitored and regulated by the division
29 of alcoholic beverage control, and may open, touch or pour alcoholic
30 beverages, make a presentation or answer questions at the tasting. Any
31 alcoholic beverage or cereal malt beverages sampled under this subsection
32 must be purchased from the licensee on whose premises the sampling is
33 held. The licensee may not require the purchase of more alcoholic
34 beverages or cereal malt beverage than is necessary for the tasting. This
35 section does not authorize the supplier or its agent to withdraw or purchase
36 an alcoholic beverage or cereal malt beverage from the holder of a
37 distributor's license or provide an alcoholic beverage or cereal malt
38 beverage for sampling on licensee's premises that is not purchased from
39 the licensee.

40 New Sec. [8] Each licensee licensed under this act who provides
41 samples shall pay the drink tax imposed by K.S.A. 79-41a01 et seq., and
42 amendments thereto, on the alcoholic liquor and cereal malt beverage
43 inventory when the inventory is withdrawn from the licensee's stock based

11.

12.

1 on the licensee's acquisition cost. 13. K.S.A. 41-713 and
2 Sec [9.] K.S.A. 2012 Supp. 41-2601, 41-2637, 41-2640, 41-2641, 41-
3 2642 and 79-41a02 are hereby repeated. 41-308d, 41-354,
4 Sec. [10.] This act shall take effect and be in force from and after its 14. , 41-2655
5 publication in the statute book.

Insert for Sub for SB 36

Sec. 6. K.S.A. 2012 Supp. 41-308d is hereby amended to read as follows: 41-308d. (a) Notwithstanding any other provisions of the Kansas liquor control act to the contrary, any person or entity who is licensed to sell alcoholic liquor in the original package at retail may conduct wine, beer and distilled spirit tastings on the licensed premises, or adjacent premises, monitored and regulated by the division of alcoholic beverage control, as follows:

(1) Wine, beer and spirits for the tastings shall come from the inventory of the licensee. Except as provided by paragraph (2), a person other than the licensee or the licensee's agent or employee may not dispense or participate in the dispensing of alcoholic beverages under this section.

(2) The holder of a supplier's permit or such permit holder's agent or employee may participate in and conduct product tastings of alcoholic beverages at a retail licensee's premises, or adjacent premises, monitored and regulated by the division of alcoholic beverage control, and may open, touch, or pour alcoholic beverages, make a presentation, or answer questions at the tasting. Any alcoholic beverage tasted under this subsection must be purchased from the retailer on whose premises the tasting is held. The retailer may not require the purchase of more alcoholic beverages than are necessary for the tasting. This section does not authorize the supplier or its agent to withdraw or purchase an alcoholic beverage from the holder of a distributor's permit or provide an alcoholic beverage for tasting on a retailer's premises that is not purchased from the retailer.

(3) No charge of any sort may be made for a sample serving.

(4) A person may be served more than one sample. Samples may not be served to a minor. No samples may be removed from the licensed premises.

Insert for Sub for SB 36

(5) The act of providing samples to consumers shall be exempt from the requirement of holding a Kansas food service dealer license from the department of agriculture under the provisions of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

(b) Nothing in this section shall be construed to permit the licensee to sell wine, malt beverages or distilled spirits for on-premises consumption.

(c) The provisions of this section shall take effect and be in force from and after July 1, 2012.

(d) All rules and regulations adopted on and after July 1, 2012, and prior to July 1, 2013, to implement this section shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary until revised, amended, revoked or nullified pursuant to law.

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

Sec. 7. K.S.A. 41-713 is hereby amended to read as follows: 41-713. (a) It shall be unlawful for a retailer of alcoholic liquor:

(1) To permit any person to mix drinks in or on the licensed premises, except as provided in subsection (b);

(2) to employ any person under the age of ~~twenty-one (21)~~ 21 years in connection with the operation of such retail establishment; or

(3) to employ any person in connection with the operation of such retail establishment who has been adjudged guilty of a felony.

(b) The provisions of subsection (a)(1) shall not apply to the preparation or mixing of samples for the purposes of conducting wine, beer, or distilled spirit tastings, or any combination thereof, as authorized by K.S.A. 2012 Supp. 41-308d, and amendments thereto.

Insert for Sub for SB 36

Sec. 8. K.S.A. 2012 Supp. 41-354 is hereby amended to read as follows: 41-354. (a) A microdistillery license shall allow:

(1) The manufacture of not more than 50,000 gallons of spirits per year and the storage thereof;

(2) the sale to spirit distributors of spirits, manufactured by the licensee;

(3) the sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of spirits 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 spirits manufactured by the licensee, 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 spirits and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act; and

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

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

Insert for Sub for SB 36

(1) The transfer, from the licensed premises of the microdistillery to the licensed premises of the microdistillery packaging and warehousing facility, of spirits manufactured by the licensee, for the purpose of packaging or storage, or both;

(2) the transfer, from the licensed premises of the microdistillery packaging and warehousing facility to the licensed premises of the microdistillery, of spirits manufactured by the licensee; or

(3) the removal from the licensed premises of the microdistillery packaging and warehousing facility of spirits manufactured by the licensee for the purpose of delivery to a licensed spirits wholesaler.

(c) A microdistillery may sell spirits 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 11 a.m. and 7 p.m. on Sunday. If authorized by subsection (a), a microdistillery may serve samples of spirits and serve and sell spirits 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.

(d) The director may issue to the Kansas state fair or any bona fide group of distillers a permit to import into this state small quantities of spirits. Such spirits shall be used only for bona fide educational and scientific tasting programs and shall not be resold. Such spirits 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 spirit to be imported, the quantity to be imported, the tasting programs for which the spirit is to be used and the times and locations of such programs. The secretary shall adopt rules and regulations governing the importation of spirits pursuant to this subsection and the conduct of tasting programs for which such spirits are imported.

Insert for Sub for SB 36

(e) A microdistillery license or microdistillery packaging and warehousing facility 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.

(f) No microdistillery 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-premises 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.

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

(h) The provisions of this section shall take effect and be in force from and after July 1, 2012.

(i) All rules and regulations adopted on and after July 1, 2012, and prior to July 1, 2013, to implement this section shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary until revised, amended, revoked or nullified pursuant to law.

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

Insert for Sub for SB 36

Sec. 9. K.S.A. 2012 Supp. 41-2655 is hereby amended to read as follows: 41-2655. (a)

A license for a public venue shall allow the licensee to:

(1) Offer for sale, sell and serve alcoholic liquor by the individual drink for consumption on the licensed premises;

(2) offer for sale, sell and serve unlimited drinks for a fixed price in designated areas of the licensed premises;

(3) offer for sale and sell all inclusive packages which include unlimited drinks in designated areas of the licensed premises;

(4) offer for sale, sell and serve alcoholic liquor in the original container for consumption on the licensed premises in private suites, which are enclosed or semi-enclosed seating areas, having controlled access and separated from the general admission areas by a permanent barrier;

(5) store, in each private suite, which are enclosed or semi-enclosed seating areas, having controlled access and separated from the general admission areas by a permanent barrier, alcoholic liquor sold in the original container to a customer in that private suite; and

(6) with the approval of the retailer or distributor, return for a full refund of the original purchase price unopened containers of alcoholic liquor to the retailer or distributor from whom such items were purchased upon the conclusion of an event if the next scheduled event for that premises is more than 90 days from the date of the concluded event.

(b) An applicant or public venue licensee shall specify in the application for a license, or renewal of a license, the premises to be licensed. No public venue licensee may offer for sale, sell or serve any alcoholic liquor in any area not included in the licensed premises.

Insert for Sub for SB 36

(c) The term "designated areas" for purposes of this section shall mean an area identified in the license application, which may include suites, that has controlled access and is separated from the general admission by a barrier.

(d) The provisions of this section shall take effect and be in force from and after July 1, 2012.

(e) All rules and regulations adopted on and after July 1, 2012, and prior to July 1, 2013, to implement this section shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary until revised, amended, revoked or nullified pursuant to law.

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

