

HOUSE BILL No. 2331

By Committee on Federal and State Affairs

2-12

1 AN ACT concerning alcoholic beverages; ~~relating to consumption of~~
2 ~~alcoholic liquor on public property; permitted consumption at catered~~
3 ~~events {and by patrons on certain unlicensed premises};~~
4 ~~{temporary permits for the Kansas state fair;}~~ amending K.S.A. 41-
5 ~~2643 and K.S.A. 2014 Supp. {41-104, 41-710,} 41-719 {and 41-2645}~~
6 ~~and repealing the existing section sections.~~
7

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

9 **{Section 1. K.S.A. 2014 Supp. 41-104 is hereby amended to read**
10 **as follows: 41-104. No person shall manufacture, bottle, blend, sell,**
11 **barter, transport, deliver, furnish or possess any alcoholic liquor for**
12 **beverage purposes, except as specifically provided in this act, the club**
13 **and drinking establishment act or article 27 of chapter 41 of the**
14 **Kansas Statutes Annotated, and amendments thereto, except that**
15 **nothing contained in this act shall prevent:**

16 (a) **The possession and transportation of alcoholic liquor for the**
17 **personal use of the possessor, the possessor's family and guests except**
18 **that the provisions of K.S.A. 41-407, and amendments thereto, shall be**
19 **applicable to all persons;**

20 (b) **the making of wine, cider or beer by a person from fruits,**
21 **vegetables or grains, or the product thereof, by simple fermentation**
22 **and without distillation, if it is made solely for the use of the maker,**
23 **the maker's family, guests and judges at a contest or competition of**
24 **such beverages, provided, the maker receives no compensation for**
25 **producing such beverages or for allowing the consumption thereof;**

26 (c) **any duly licensed practicing physician or dentist from**
27 **possessing or using alcoholic liquor in the strict practice of the medical**
28 **or dental profession;**

29 (d) **any hospital or other institution caring for sick and diseased**
30 **persons, from possessing and using alcoholic liquor for the treatment**
31 **of bona fide patients of such hospital or institution;**

32 (e) **any drugstore employing a licensed pharmacist from**
33 **possessing and using alcoholic liquor in the compounding of**
34 **prescriptions of duly licensed physicians;**

1 (f) the possession and dispensation of wine by an authorized
2 representative of any church for the purpose of conducting any bona
3 fide rite or religious ceremony conducted by such church;

4 (g) the sale of wine to a consumer in this state by a person which
5 holds a valid license authorizing the manufacture of wine in this or
6 another state and the shipment of such wine directly to such
7 consumer, subject to the following: (1) The consumer must be at least
8 21 years of age; (2) the consumer must purchase the wine while
9 physically present on the premises of the wine manufacturer; (3) the
10 wine must be for the consumer's personal consumption and not for
11 resale; and (4) the consumer shall comply with the provisions of
12 K.S.A. 41-407, and amendments thereto, by payment of all applicable
13 taxes within such time after purchase of the wine as prescribed by
14 rules and regulations adopted by the secretary;

15 (h) the serving of complimentary alcoholic liquor or cereal malt
16 beverages at fund raising activities of charitable organizations as
17 defined by K.S.A. 17-1760, and amendments thereto, and as qualified
18 pursuant to 26 U.S.C.A. § 501(c) and by committees formed pursuant
19 to K.S.A. 25-4142 et seq., and amendments thereto. The serving of
20 such alcoholic liquor at such fund raising activities shall not constitute
21 a sale pursuant to this act, the club and drinking establishment act or
22 article 27 of chapter 41 of the Kansas Statutes Annotated, and
23 amendments thereto. Any such fund raising activity shall not be
24 required to obtain a license or a temporary permit pursuant to this
25 act, the club and drinking establishment act or article 27 of chapter 41
26 of the Kansas Statutes Annotated, and amendments thereto;~~or~~

27 (i) the serving of complimentary alcoholic liquor or cereal malt
28 beverage on the unlicensed premises of a business by the business
29 owner or owner's agent at an event sponsored by a nonprofit
30 organization promoting the arts and which has been approved by
31 ordinance or resolution of the governing body of the city, county or
32 township wherein the event will take place and whereby the director
33 of the alcoholic beverage control has been notified thereof no less than
34 10 days in advance; or

35 (j) *any unlicensed business from authorizing the possession and*
36 *consumption of alcoholic liquor or cereal malt beverage by patrons of*
37 *such business on private property owned or leased by such business when*
38 *such alcoholic liquor or cereal malt beverage is in the personal possession*
39 *of the patron and is not sold, offered for sale or given away by the owner*
40 *of such business or any employees thereof.*

41 (†) (k) (1) For purposes of subsection (b), the term "guest" means
42 a natural person who is known to the host and receives a personal
43 invitation to an event conducted by the host. The term "guest" shall

1 **not mean a natural person who receives an invitation to an event**
2 **conducted by the host when such invitation has been made available to**
3 **the general public.**

4 (2) *For purposes of subsection (j), “patron” means a natural person*
5 *who is a customer of an unlicensed business.*

6 ~~Section 1.~~ **{Sec. 2.}** K.S.A. 2014 Supp. 41-719 is hereby amended to
7 read as follows: 41-719. (a) (1) Except as otherwise provided herein and in
8 K.S.A. 8-1599, and amendments thereto, no person shall drink or consume
9 alcoholic liquor on the public streets, alleys, roads or highways or inside
10 vehicles while on the public streets, alleys, roads or highways.

11 (2) Alcoholic liquor may be consumed at a special event *or catered*
12 *event* held on public streets, alleys, roads, sidewalks or highways when a
13 temporary permit has been issued pursuant to K.S.A. 41-2645, and
14 amendments thereto, for such special event, *or when the caterer's licensee*
15 *has provided the required notifications pursuant to K.S.A. 41-2643, and*
16 *amendments thereto.* ~~Such~~ Any special event must be approved, by
17 ordinance or resolution, by the local governing body of any city, county or
18 township where such special event is being held. No alcoholic liquor may
19 be consumed inside vehicles while on public streets, alleys, roads or
20 highways at any ~~such~~ special event *or catered event.*

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

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

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

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

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

40 (3) in a lodging room of any hotel, motel or boarding house by the
41 person occupying such room and by the guests of such person, if no charge
42 is made for the serving or mixing of any drink or drinks of alcoholic liquor
43 or for any substance mixed with any alcoholic liquor and if no sale of

1 alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto,
2 takes place;

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

8 (5) on the premises of a manufacturer, microbrewery, microdistillery
9 or farm winery, if authorized by K.S.A. 41-305, 41-308a, 41-308b or
10 K.S.A. 2014 Supp. 41-354, and amendments thereto.

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

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

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

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

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

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

38 (6) In the state historical museum provided for by K.S.A. 76-2036,
39 and amendments thereto, on the surrounding premises and in any other
40 building on such premises, as authorized by rules and regulations of the
41 state historical society.

42 (7) On the premises of any state-owned historic site under the
43 jurisdiction and supervision of the state historical society, on the

1 surrounding premises and in any other building on such premises, as
2 authorized by rules and regulations of the state historical society.

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

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

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

13 (11) On the premises of any land or waters owned or managed by the
14 department of wildlife, parks and tourism, except as otherwise prohibited
15 by rules and regulations of the department adopted by the secretary
16 pursuant to K.S.A. 32-805, and amendments thereto.

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

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

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

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

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

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

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

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

4 ~~Sec. 2.~~ {3.} **K.S.A. 41-2643 is hereby amended to read as follows:**
5 **41-2643. (a) A caterer's license shall allow the licensee to offer for sale,**
6 **sell and serve alcoholic liquor for consumption on unlicensed**
7 **premises, which may be open to the public, but only if such premises**
8 **are located in a county where the qualified electors of the county:**

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

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

18 (b) **A caterer shall be required to derive from sales of food at**
19 **catered events not less than 30% of the caterer's gross receipts from**
20 **all sales of food and beverages at catered events in a 12-month period**
21 **unless the caterer offers for sale, sells and serves alcoholic liquor only**
22 **in counties where the qualified electors of the county:**

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

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

31 (c) **Each caterer shall maintain the caterer's principal place of**
32 **business in a county in this state where the caterer is authorized by**
33 **this section to sell alcoholic liquor by the individual drink in a public**
34 **place. All records of the caterer relating to the caterer's licensed**
35 **business and the caterer's license shall be kept at such place of**
36 **business. The caterer's principal place of business shall be stated in**
37 **the application for a caterer's license and the caterer shall notify the**
38 **director of any change in its location within 10 days after such change.**

39 (d) ~~A caterer shall notify the director at least 10 days prior to any~~
40 ~~event at which the caterer will sell alcoholic liquor by the individual drink~~
41 ~~unless the director waives the 10-day requirement for good cause shown.~~
42 ~~In addition, prior to the event, the caterer shall notify:~~

43 (1) ~~The police chief of the city where the event will take place, if the~~

1 event will take place within the corporate limits of a city; or

2 ~~(2) the county sheriff of the county where the event will take place, if~~
3 ~~the event will be outside the corporate limits of any city~~ *A caterer shall*
4 *provide electronic notification to the director at least 48 hours prior to any*
5 *event at which the caterer will sell alcoholic liquor by the individual drink.*
6 *The director shall make the electronic notification available to local law*
7 *enforcement. Notice shall consist of the time, location and the names of*
8 *the contracting parties of the event. For events where alcohol is served, a*
9 *licensee shall retain all documents for a period of three years for*
10 *inspection by the director. The documents retained shall include*
11 *agreements, receipts, employees assigned to the event and records of*
12 *alcohol purchased.*

13 **(e) A caterer may rebate a portion of the caterer's receipts from**
14 **the sale of alcoholic liquor at an event to the person or organization**
15 **contracting with the caterer to sell alcoholic liquor at such event.**

16 **{Sec. 3-4. K.S.A. 2014 Supp. 41-710 is hereby amended to read as**
17 **follows: 41-710. (a) No retailer's license shall be issued for premises**
18 **unless such premises comply with all applicable zoning regulations.**

19 **(b) No microbrewery license, microdistillery license or farm**
20 **winery license shall be issued for premises which are zoned for any**
21 **purpose except agricultural, commercial or business purposes.**

22 **(c) No retailer's, microbrewery, microdistillery or farm winery**
23 **license shall be issued for premises which:**

24 **(1) Are located within 200 feet of any public or parochial school**
25 **or college or church, except that if any such school, college or church**
26 **is established within 200 feet of any licensed premises after the**
27 **premises have been licensed, the premises shall be an eligible location**
28 **for retail licensing; or**

29 **(2) do not conform to all applicable building regulations.**

30 **(d) Any city, by ordinance, may allow a retailer, microbrewery,**
31 **microdistillery or farm winery to be located within a core commercial**
32 **district as defined by K.S.A. 2014 Supp. 12-17,122, and amendments**
33 **thereto, which does not meet the distance requirements established by**
34 **subsection (c)(1).**

35 **Sec. 3-5. K.S.A. 2014 Supp. 41-2645 is hereby amended to read as**
36 **follows: 41-2645. (a) A temporary permit shall allow the permit holder**
37 **to offer for sale, sell and serve alcoholic liquor for consumption on**
38 **unlicensed premises, which may be open to the public, subject to the**
39 **terms of such permit.**

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

1 is issued.

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

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

22 (1) (A) Approved, by a majority vote of those voting thereon, to
23 adopt the proposition amending section 10 of article 15 of the
24 constitution of the state of Kansas at the general election in November,
25 1986; or (B) have approved a proposition to allow the sale of liquor by
26 the individual drink in public places within the county at an election
27 pursuant to K.S.A. 41-2646, and amendments thereto; and

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

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

43 (2) Drinking establishments that are immediately adjacent to, or

1 located within the licensed premises of a special event, for which a
2 temporary permit has been issued and the consumption of alcoholic
3 liquor on public property has been approved, may request that the
4 drinking establishment's licensed premises be extended into and made
5 a part of the licensed premises of the special event for the duration of
6 the temporary permit issued for such special event.

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

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

14 (f) (1) Except as otherwise provided in this subsection, a
15 temporary permit shall be issued for a period of time not to exceed
16 three consecutive days, the dates and hours of which shall be specified
17 in the permit. Not more than four temporary permits may be issued to
18 any one applicant in a calendar year.

19 (2) The director may issue ~~one~~ a temporary permit, valid for the
20 entire period of time of the Kansas state fair, which authorizes the sale
21 of wine *or beer, or both*, in its original, unopened container and the
22 serving by the drink of ~~only~~ wine or beer, or both, on the state
23 fairgrounds on premises specified in the temporary permit, by a
24 person who has entered into an agreement with the state fair board for
25 that purpose. *Nothing in this subsection (f)(2) shall be construed to limit*
26 *the number of temporary permits the director may issue for the sale of*
27 *wine or beer, or both, on the state fairgrounds.*

28 (3) The director may issue a temporary permit for a special event
29 approved by the governing body of a city, county or township
30 pursuant to subsection (e)(1), which may, at the director's discretion,
31 be valid for the entire period of such special event, but in no event
32 shall such permit be issued for a period of time that exceeds 30
33 consecutive days.

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

37 (h) Upon written permission from the director and within three
38 business days after the end of an event conducted pursuant to a
39 temporary permit, the holder of a temporary permit may sell back to
40 the licensee from whom alcoholic liquor was purchased any alcoholic
41 liquor sold to the holder of the temporary permit for such event.

42 (i) A temporary permit shall not be transferable or assignable.

43 (j) The director may refuse to issue a temporary permit to any

1 **person or organization which has violated any provision of the Kansas**
2 **liquor control act, the drinking establishment act or K.S.A. 79-41a01**
3 **et seq., and amendments thereto.}**

4 ~~Sec. 2-6.~~ **K.S.A. 41-2643 and K.S.A. 2014 Supp. {41-104, 41-710,}**
5 **41-719 {and 41-2645} is are** hereby repealed.

6 ~~Sec. 3-7.~~ This act shall take effect and be in force from and after its
7 publication in the statute book.