

**Substitute for SENATE BILL No. 277**

By Committee on Federal and State Affairs

2-18

1 AN ACT concerning alcoholic beverages; relating to microbreweries;  
2 authorizing the production of hard cider; amending K.S.A. 2015 Supp.  
3 41-102 and 41-308b and repealing the existing sections.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2015 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 of  
19 barley, or other grain, malt and hops in water and includes beer, ale, stout,  
20 lager beer, porter and similar beverages having such alcoholic content.

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

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

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

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

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

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

36 (j) "Domestic fortified wine" means wine which contains more than

1 14%, but not more than 20% alcohol by volume and which is  
2 manufactured in this state.

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

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

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

11 (n) *"Hard cider" means any alcoholic beverage that:*

12 (1) *Contains less than 8.5% alcohol by volume;*

13 (2) *has a carbonation level that does not exceed 6.4 grams per liter;*  
14 *and*

15 (3) *is obtained by the normal alcoholic fermentation of the juice of*  
16 *sound, ripe apples or pears, including such beverages containing sugar*  
17 *added for the purpose of correcting natural deficiencies.*

18 ~~(o)~~ "Manufacture" means to distill, rectify, ferment, brew, make,  
19 mix, concoct, process, blend, bottle or fill an original package with any  
20 alcoholic liquor, beer or cereal malt beverage.

21 ~~(p)~~ (1) "Manufacturer" means every brewer, fermenter, distiller,  
22 rectifier, wine maker, blender, processor, bottler or person who fills or  
23 refills an original package and others engaged in brewing, fermenting,  
24 distilling, rectifying or bottling alcoholic liquor, beer or cereal malt  
25 beverage.

26 (2) "Manufacturer" does not include a microbrewery, microdistillery  
27 or a farm winery.

28 ~~(q)~~ "Microbrewery" means a brewery licensed by the director to  
29 manufacture, store and sell domestic beer *and hard cider*.

30 ~~(r)~~ "Microdistillery" means a facility which produces spirits from  
31 any source or substance that is licensed by the director to manufacture,  
32 store and sell spirits.

33 ~~(s)~~ "Minor" means any person under 21 years of age.

34 ~~(t)~~ "Nonbeverage user" means any manufacturer of any of the  
35 products set forth and described in K.S.A. 41-501, and amendments  
36 thereto, when the products contain alcohol or wine, and all laboratories  
37 using alcohol for nonbeverage purposes.

38 ~~(u)~~ "Original package" means any bottle, flask, jug, can, cask,  
39 barrel, keg, hogshead or other receptacle or container whatsoever, used,  
40 corked or capped, sealed and labeled by the manufacturer of alcoholic  
41 liquor, to contain and to convey any alcoholic liquor. Original container  
42 does not include a sleeve.

43 ~~(v)~~ "Person" means any natural person, corporation, partnership,

1 trust or association.

2 ~~(v)~~-(w) "Powdered alcohol" means alcohol that is prepared in a  
3 powdered or crystal form for either direct use or for reconstitution in a  
4 nonalcoholic liquid.

5 ~~(w)~~-(x) "Primary American source of supply" means the  
6 manufacturer, the owner of alcoholic liquor at the time it becomes a  
7 marketable product or the manufacturer's or owner's exclusive agent who,  
8 if the alcoholic liquor cannot be secured directly from such manufacturer  
9 or owner by American wholesalers, is the source closest to such  
10 manufacturer or owner in the channel of commerce from which the  
11 product can be secured by American wholesalers.

12 ~~(x)~~-(y) (1) "Retailer" means a person who sells at retail, or offers for  
13 sale at retail, alcoholic liquors.

14 (2) "Retailer" does not include a microbrewery, microdistillery or a  
15 farm winery.

16 ~~(y)~~-(z) "Sale" means any transfer, exchange or barter in any manner or  
17 by any means whatsoever for a consideration and includes all sales made  
18 by any person, whether principal, proprietor, agent, servant or employee.

19 ~~(z)~~-(aa) "Salesperson" means any natural person who:

20 (1) Procures or seeks to procure an order, bargain, contract or  
21 agreement for the sale of alcoholic liquor or cereal malt beverage; or

22 (2) is engaged in promoting the sale of alcoholic liquor or cereal malt  
23 beverage, or in promoting the business of any person, firm or corporation  
24 engaged in the manufacturing and selling of alcoholic liquor or cereal malt  
25 beverage, whether the seller resides within the state of Kansas and sells to  
26 licensed buyers within the state of Kansas, or whether the seller resides  
27 without the state of Kansas and sells to licensed buyers within the state of  
28 Kansas.

29 ~~(aa)~~-(bb) "Secretary" means the secretary of revenue.

30 ~~(bb)~~-(cc) (1) "Sell at retail" and "sale at retail" refer to and mean sales  
31 for use or consumption and not for resale in any form and sales to clubs,  
32 licensed drinking establishments, licensed caterers or holders of temporary  
33 permits.

34 (2) "Sell at retail" and "sale at retail" do not refer to or mean sales by  
35 a distributor, a microbrewery, a farm winery, a licensed club, a licensed  
36 drinking establishment, a licensed caterer or a holder of a temporary  
37 permit.

38 ~~(cc)~~-(dd) "To sell" includes to solicit or receive an order for, to keep  
39 or expose for sale and to keep with intent to sell.

40 ~~(dd)~~-(ee) "Sleeve" means a package of two or more 50-milliliter (3.2-  
41 fluid-ounce) containers of spirits.

42 ~~(ee)~~-(ff) "Spirits" means any beverage which contains alcohol  
43 obtained by distillation, mixed with water or other substance in solution,

1 and includes brandy, rum, whiskey, gin or other spirituous liquors, and  
2 such liquors when rectified, blended or otherwise mixed with alcohol or  
3 other substances.

4 ~~(ff)~~-(gg) "Supplier" means a manufacturer of alcoholic liquor or  
5 cereal malt beverage or an agent of such manufacturer, other than a  
6 salesperson.

7 ~~(gg)~~-(hh) "Temporary permit" has the meaning provided by K.S.A.  
8 41-2601, and amendments thereto.

9 ~~(hh)~~-(ii) "Wine" means any alcoholic beverage obtained by the  
10 normal alcoholic fermentation of the juice of sound, ripe grapes, fruits,  
11 berries or other agricultural products, including such beverages containing  
12 added alcohol or spirits or containing sugar added for the purpose of  
13 correcting natural deficiencies. *The term "wine" shall include hard cider  
14 and any other product that is commonly known as a subset of wine.*

15 Sec. 2. K.S.A. 2015 Supp. 41-308b is hereby amended to read as  
16 follows: 41-308b. (a) A microbrewery license shall allow:

17 (1) The manufacture of not less than 100 nor more than 30,000  
18 barrels of domestic beer during the calendar year and the storage thereof;

19 (2) *the manufacture in the aggregate of not more than 100,000  
20 gallons of hard cider during the calendar year and the storage thereof;*

21 ~~(2)~~-(3) the sale to beer distributors of beer and *the sale to wine  
22 distributors of hard cider*, manufactured by the licensee;

23 ~~(3)~~-(4) the sale, on the licensed premises in the original unopened  
24 container to consumers for consumption off the licensed premises, of beer  
25 and hard cider manufactured by the licensee;

26 ~~(4)~~-(5) the serving free of charge on the licensed premises and at  
27 special events, monitored and regulated by the division of alcoholic  
28 beverage control, of samples of beer and hard cider manufactured by the  
29 licensee, if the premises are located in a county where the sale of alcoholic  
30 liquor is permitted by law in licensed drinking establishments;

31 ~~(5)~~-(6) if the licensee is also licensed as a club or drinking  
32 establishment, the sale of domestic beer and other alcoholic liquor for  
33 consumption on the licensed premises as authorized by the club and  
34 drinking establishment act; and

35 ~~(6)~~-(7) if the licensee is also licensed as a caterer, the sale of domestic  
36 beer and other alcoholic liquor for consumption on unlicensed premises as  
37 authorized by the club and drinking establishment act.

38 (b) *Not less than 30% of the products utilized in the manufacture of  
39 hard cider by a microbrewery shall be grown in Kansas except when a  
40 lesser proportion is authorized by the director based upon the director's  
41 findings and judgment. The production requirement of this subsection shall  
42 be determined based on the annual production of domestic hard cider.*

43 (c) Upon application and payment of the fee prescribed by K.S.A. 41-

1 310, and amendments thereto, by a microbrewery licensee, the director  
2 may issue not to exceed one microbrewery packaging and warehousing  
3 facility license to the microbrewery licensee. A microbrewery packaging  
4 and warehousing facility license shall allow:

5 (1) The transfer, from the licensed premises of the microbrewery to  
6 the licensed premises of the microbrewery packaging and warehousing  
7 facility, of beer *and hard cider* manufactured by the licensee, for the  
8 purpose of packaging or storage, or both; ~~and~~

9 (2) the transfer, from the licensed premises of the microbrewery  
10 packaging and warehousing facility to the licensed premises of the  
11 microbrewery, of beer *and hard cider* manufactured by the licensee; ~~or~~

12 (3) the removal from the licensed premises of the microbrewery  
13 packaging and warehousing facility of beer manufactured by the licensee  
14 for the purpose of delivery to a licensed beer wholesaler; *and*

15 (4) *the removal from the licensed premises of the microbrewery*  
16 *packaging and warehousing facility of hard cider manufactured by the*  
17 *licensee for the purpose of delivery to a licensed wine distributor.*

18 (c) A microbrewery may sell domestic beer *and hard cider* in the  
19 original unopened container to consumers for consumption off the licensed  
20 premises at any time between 6 a.m. and 12 midnight on any day except  
21 Sunday and between 11 a.m. and 7 p.m. on Sunday. If authorized by  
22 subsection (a), a microbrewery may serve samples of domestic beer *and*  
23 *hard cider* and serve and sell domestic beer and other alcoholic liquor for  
24 consumption on the licensed premises at any time when a club or drinking  
25 establishment is authorized to serve and sell alcoholic liquor.

26 (d) The director may issue to the Kansas state fair or any bona fide  
27 group of brewers a permit to import into this state small quantities of beer.  
28 Such beer shall be used only for bona fide educational and scientific  
29 tasting programs and shall not be resold. Such beer shall not be subject to  
30 the tax imposed by K.S.A. 41-501, and amendments thereto. The permit  
31 shall identify specifically the brand and type of beer to be imported, the  
32 quantity to be imported, the tasting programs for which the beer is to be  
33 used and the times and locations of such programs. The secretary shall  
34 adopt rules and regulations governing the importation of beer pursuant to  
35 this subsection and the conduct of tasting programs for which such beer is  
36 imported.

37 (e) A microbrewery license or microbrewery packaging and  
38 warehousing facility license shall apply only to the premises described in  
39 the application and in the license issued and only one location shall be  
40 described in the license.

41 (f) No microbrewery shall:

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

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

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

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

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

13       Sec. 3. K.S.A. 2015 Supp. 41-102 and 41-308b are hereby repealed.

14       Sec. 4. This act shall take effect and be in force from and after  
15 January 1, 2017, and its publication in the statute book.