

Alcoholic Liquor—Infusion of Alcohol; Citations for Violations of Liquor Control Act; Eligibility for Liquor Licenses; Alcohol Sampling; Alcohol Consumption; Location of Certain Licensees; Temporary Permits; Farmers’ Market Permits; Vineyard Permits; Alcohol on Capitol Premises; Alcohol on Unlicensed Premises; Powdered Alcohol; HB 2223

HB 2223 makes changes to several different areas of law concerning alcoholic liquor: infusing alcohol with flavors or other ingredients; citations issued for violations of the Liquor Control Act and the Club and Drinking Establishment Act; powdered alcohol; automated wine devices; eligibility to obtain a liquor license; consumption of alcohol at the State Capitol and on unlicensed premises; allowing distributors to provide samples; vineyard permits; notification requirements for catered events; the consumption of alcoholic liquor on public property at events catered by a licensed caterer; the location of liquor retailers, microbreweries, microdistilleries, and farm wineries; temporary permits for the Kansas State Fair; and farmers’ market sales permits.

Infusing Alcohol with Flavors or Other Ingredients

The bill allows drinking establishments to sell and serve alcoholic liquor infused with spices, herbs, fruits, vegetables, candy, or other substances intended for human consumption if no additional fermentation occurs during the process.

Generally, alcoholic liquor is to be dispensed only from original containers but, under the bill, a drinking establishment or its agent or employee is able to dispense alcoholic liquor from a machine or container used to mix, chill, or infuse alcoholic liquor with additional liquids or solids. A drinking establishment or its agent or employee is not able to refill any original container with any alcoholic liquor or any other substance. The bill specifies that the dispensing of alcohol from a machine pursuant to the provisions of the bill does not include self-dispensing by a customer.

The bill also defines the terms “infuse” and “dispense.” “Infuse” means to add flavor or scent to a liquid by steeping additional ingredients in the liquid. “Dispense” means to portion out servings of alcoholic liquor for consumption, including the pouring of drinks of alcoholic liquor and opening original containers of alcoholic liquor by the licensee or licensee’s employee for consumption by consumers, and shall not include any self-dispensing by a customer.

Citations Issued for Violations of the Liquor Control Act and the Club and Drinking Establishment Act

The bill specifies when issuing a citation for a violation of the liquor laws, agents of the Department of Revenue, Division of Alcoholic Beverage Control (ABC) must deliver the citation issued to a person in charge of the licensed premises at the time of the alleged violation. Previously, the law required delivery of the citation to the person allegedly committing the violation. The bill defines “person in charge” as any individual or employee present on the licensed premises at the time of the alleged violation who is responsible for the operation of the licensed premises. If no designated individual or employee is a person in charge, then any employee present is considered the person in charge.

The bill also adds law concerning the delivery of citations by local law enforcement officers other than agents of ABC. The new provisions allow any local law enforcement officer observing a violation of the liquor laws to submit a report of the violation to ABC for review after serving notice of the violation to a person in charge of the licensed premises. Notice is required to:

- Be made at the time of the alleged violation;
- Be made in writing;
- Contain the name of the licensee;
- Contain the date and time of the alleged violation;
- Contain a description of the alleged violation; and
- Contain a statement indicating a report of the violation will be submitted to ABC for review.

The bill also adds language stating any citation not issued in accordance with the provisions laid out in the new and amended law is void.

Powdered Alcohol

The bill bans the sale and service of powdered alcohol. The Club and Drinking Establishment Act is amended to prohibit clubs, drinking establishments, caterers, holders of temporary permits, and public venues from selling, offering to sell, or serving free of charge any form of powdered alcohol.

The bill also defines “powdered alcohol” as alcohol prepared in a powdered or crystal form for either direct use or for reconstruction in a nonalcoholic liquid.

Automated Wine Devices

The bill allows public venues, clubs, and drinking establishments to offer customer self-service of wine from automated devices on licensed premises. Licensees are required to monitor and have the ability to control the dispensing of wine from the automated devices. The Secretary of Revenue is granted rule and regulation authority to implement this provision.

Eligibility to Obtain a Liquor License

The bill adds to the list of persons who cannot receive liquor licenses any person who, after a hearing before the Director of ABC (Director), is found to have held an undisclosed beneficial interest in a liquor license obtained through fraud or false statement on the application for the license.

Additionally, the bill establishes requirements for limited liability companies (LLCs) applying for liquor licenses. Specifically, in addition to being required to submit copies of their

articles of organization and operating agreements to the Director, LLCs applying for retailer's licenses are required to:

- Meet the licensure qualifications for co-partnerships applying for retailer's licenses;
- Under the Club and Drinking Establishment Act, meet the licensure qualifications for corporations under the Act; and
- Under the Cereal Malt Beverage Act, meet the licensure qualifications for corporations applying for licenses under that act. Individuals owning, in the aggregate, 25.0 percent or more of the ownership interest in the LLC will be required to meet the qualifications for an individual applying for a license under that act.

The bill also specifies the Director may suspend, involuntarily cancel, or revoke any license issued pursuant to the Liquor Control Act if, after notice and opportunity for a hearing, the Director determines the licensee did any of the following:

- Fraudulently obtained the license by providing false information on the license application or at a hearing related to the license;
- Violated any provision of the Liquor Control Act or related rules and regulations;
or
- Became ineligible to obtain a license.

The bill adds language specifying proceedings involving the denial, suspension, involuntary cancellation, or revocation of any license, or any assessment of civil fines, are to be governed by the provisions of the Kansas Administrative Procedure Act. The bill specifies the Secretary of Revenue is able to designate the Director to be the presiding officer in any such hearing.

The bill also removes the Hiram Price Dillon House from the list of exceptions to the general prohibition against consumption of alcohol on public property. (The Dillon House is no longer public property.)

Consumption of Alcohol at the State Capitol and on Unlicensed Premises

The bill allows the consumption of alcoholic liquor on the premises of the State Capitol Building for official state functions that are nonpartisan in nature. Any such function requires the approval of the Legislative Coordinating Council before the consumption of alcoholic liquor can commence.

The bill also provides that patrons and guests of unlicensed businesses will be authorized to consume alcoholic liquor and cereal malt beverages on the premises of an unlicensed business property only if:

- The business, or any owner of the business, has not had a license that is issued under the Kansas Liquor Control Act or the Club and Drinking Establishment Act revoked for any reason;
- No charge of any sort is made by the business for the privilege of possession or consuming alcohol on the premises, or for mere entry onto the premises;
- Any alcoholic liquor:
 - Remains in the personal possession of the patron, and
 - Is not sold, offered for sale, or given away by the owner or employees of such business; and
- No possession or consumption of alcoholic liquor takes place between 12 a.m. and 9 a.m.

The bill defines “patron” to mean a natural person who is a customer or guest of an unlicensed business.

Allowing Distributors to Provide Samples

The bill allows alcoholic beverage distributor licensees to provide samples of spirits, wine, and beer or cereal malt beverages to alcoholic beverage retailer licensees and their employees or other distributor licensees and their employees in the course of business or at industry seminars. The bill specifies that no licensee is allowed to sell alcoholic liquor for consumption on the premises and liquor provided as samples under the provisions of the bill is subject to the liquor enforcement tax.

The service of samples is authorized on the distributor licensee’s premises or on the retailer licensee’s premises, with the exception of those areas open to the public where alcoholic liquor sales occur. Samples are required to come out of the distributor licensee’s inventory and the distributor is required to pay retail sales enforcement taxes on such samples. No sample can be served to a minor, and the sizes of the samples are as defined in the Club and Drinking Establishment Act.

Vineyard Permits

The bill allows any person engaged in business as a Kansas vineyard with more than 100 vines to apply for an annual vineyard permit.

The permit authorizes the following on the premises specified in the permit:

- The sale of wine in the original, unopened container;
- The serving of wine by the drink; and
- Conducting wine tastings in accordance with continuing law.

Wine sold or served by a permit holder must be produced, in whole or in part, using grapes grown by the permit holder, and must be manufactured by a farm winery.

Any wine not consumed on the premises must be disposed of by the permit holder or securely resealed in a tamper-proof, transparent bag, sealed in a manner that makes it visibly apparent if the bag subsequently is opened before being removed from the property.

A vineyard permit costs \$100 and is valid for one year. The Secretary of Revenue is authorized to adopt rules and regulations necessary to implement the new permit.

Catered Events

The bill allows the consumption of alcoholic liquor at catered events held on public property. Prior to passage of the bill, the law generally prohibited the consumption of alcoholic liquor on public property, but made an exception for special events (events approved by local government of a city, county, or township) when a temporary permit was issued by the Director. The bill expands the language of this exception to also allow the consumption of alcoholic liquor at catered events on public property where the caterer has provided the required notice.

The bill also changes the notice required to be given by caterers to ABC. Prior to the passage of the bill, the law required a caterer to provide notice to ABC ten days before any event and provide notice to the Chief of Police or Sheriff where the event was to occur. The bill changes this law to require only that the caterer provide electronic notification to ABC at least 48 hours before any event. The electronic notice provided to ABC must include the time, location, and names of the contracting parties of the event. Caterers are required to keep their records (agreements, receipts, lists of employees assigned to the events, and records of alcohol purchased) for three years. The bill also specifies that no notice to ABC is required for weddings, funerals, events sponsored by religious institutions, or business-, industry-, or trade-sponsored meetings including, but not limited to, awards presentations and retirement celebrations.

Locations of Liquor Retailers, Microbreweries, Microdistilleries, and Farm Wineries

The bill allows cities to pass ordinances allowing liquor retailers, microbreweries, microdistilleries, and farm wineries to locate within 200 feet of any public or parochial school or college or church in a core commercial district. Prior to the passage of the bill, the law allowed those facilities to be located within 200 feet of schools, colleges, or churches only if the retailer, microbrewery, microdistillery, or farm winery was already in a location and a school or church chose to establish itself within 200 feet of that facility.

Temporary Permits: State Fair

The bill allows the Director, on or after July 1, 2016, to issue a sufficient number of temporary permits for the sale of wine in unopened containers and the sale of beer, wine, or both by the glass on the State Fairgrounds as specified in the temporary permit issued. Prior to the passage of the bill, the law had been interpreted to allow the issuance of only one temporary permit for the Kansas State Fair. The bill specifies that nothing will be construed to limit the

number of temporary permits issued by ABC for the State Fairgrounds, but the issuance of the permits must be consistent with the requirements of the State Fair Board.

Farmers' Market Sales Permits

The bill allows a farm winery to sell wine at a farmers' market by applying for a sales permit and submitting a \$25 application fee. The application for the permit is required to specify the locations of the farmers' markets at which wine will be sold. The location of any farmers' market not specified in the application will have to be provided to the Director before the licensee can sell wine there.

The bill defines "farmers' market" as any common facility or area where producers or growers gather on a regular, recurring basis to sell fruits, vegetables, meats, and other farm products directly to consumers.