

HOUSE BILL No. 2482

By Committee on Commerce, Labor and Economic Development

1-17

Proposed Amendment for HB 2482  
House Committee on Commerce, Labor  
and Economic Development  
February 14, 2018  
Chuck Reimer  
Office of Revisor of Statutes

1 AN ACT concerning alcoholic beverages; relating to the hours of sale of  
2 alcoholic liquor by the drink; amending K.S.A. 2017 Supp. 41-2614  
3 and 41-2640 and repealing the existing sections.

sale of wine by a farm winery for consumption;

41-308a.

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

See attached insert

5 Section 1. K.S.A. 2017 Supp. 41-2614 is hereby amended to  
6 read as follows: 41-2614. (a) Except as provided by subsection (c), no  
7 public venue, club or drinking establishment shall allow the serving,  
8 mixing or consumption of alcoholic liquor on its premises between the  
9 hours of 2:00 a.m. and 9:00 6:00 a.m. on any day.

10 (b) No caterer shall allow the serving, mixing or consumption of  
11 alcoholic liquor between the hours of 2:00 a.m. and 6:00 a.m. on any day  
12 at an event catered by such caterer.

13 (c) A hotel of which the entire premises are licensed as a drinking  
14 establishment or as a drinking establishment/caterer may allow at any time  
15 the serving, mixing and consumption of alcoholic liquor and cereal malt  
16 beverage from a minibar in a guest room by guests registered to stay in  
17 such room, and guests of guests registered to stay in such room.

18 Sec. 2. K.S.A. 2017 Supp. 41-2640 is hereby amended to read as  
19 follows: 41-2640. (a) No club, drinking establishment, caterer or holder of  
20 a temporary permit, nor any person acting as an employee or agent thereof,  
21 shall:

22 (1) Offer or serve any free cereal malt beverage or alcoholic liquor in  
23 any form to any person;  
24 (2) offer or serve to any person an individual drink at a price that is  
25 less than the acquisition cost of the individual drink to the licensee or  
26 permit holder;

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

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

34 (5) sell, offer to sell or serve free of charge any form of powdered  
35 alcohol, as defined in K.S.A. 41-102, and amendments thereto; or  
36

*And by renumbering remaining sections accordingly*

- 1 (6) advertise or promote in any way, whether on or off the licensed  
2 premises, any of the practices prohibited under subsections (a)(1) through  
3 (5).
- 4 (b) No public venue, nor any person acting as an employee or agent  
5 thereof, shall:
- 6 (1) Offer or serve any free cereal malt beverage or alcoholic liquor in  
7 any form to any person;
- 8 (2) offer or serve to any person a drink or original container of  
9 alcoholic liquor or cereal malt beverage at a price that is less than the  
10 acquisition cost of the drink or original container of alcoholic liquor or  
11 cereal malt beverage to the licensee;
- 12 (3) sell or serve alcoholic liquor in glass containers to customers in  
13 the general admission area;
- 14 (4) sell or serve more than two drinks per customer at any one time in  
15 the general admission area;
- 16 (5) encourage or permit, on the licensed premises, any game or  
17 contest which involves drinking alcoholic liquor or cereal malt beverage or  
18 the awarding of drinks as prizes;
- 19 (6) sell, offer to sell or serve free of charge any form of powdered  
20 alcohol, as defined in K.S.A. 41-102, and amendments thereto; or
- 21 (7) advertise or promote in any way, whether on or off the licensed  
22 premises, any of the practices prohibited under subsections (b)(1) through  
23 (6).
- 24 (c) A public venue, club, drinking establishment, caterer or holder of  
25 a temporary permit may:
- 26 (1) Offer free food or entertainment at any time;
- 27 (2) sell or deliver wine by the bottle or carafe;
- 28 (3) sell, offer to sell and serve individual drinks at different prices  
29 throughout any day;
- 30 (4) sell or serve beer or cereal malt beverage in a pitcher capable of  
31 containing not more than 64 fluid ounces;
- 32 (5) offer samples of alcohol liquor free of charge as authorized by this  
33 act; or
- 34 (6) sell or serve margarita, sangria, daiquiri, mojito or other mixed  
35 alcoholic beverages as approved by the director in a pitcher containing not  
36 more than 64 fluid ounces.
- 37 (d) A hotel of which the entire premises is licensed as a drinking  
38 establishment may, in accordance with rules and regulations adopted by  
39 the secretary, distribute to its guests coupons redeemable on the hotel  
40 premises for drinks containing alcoholic liquor. The hotel shall remit  
41 liquor drink tax in accordance with the provisions of the liquor drink tax  
42 act, K.S.A. 79-41a01 et seq., and amendments thereto, on each drink  
43 served based on a price which is not less than the acquisition cost of the

1 drink.

2 (e) (1) A public venue, club or drinking establishment may offer  
3 customer self-service of wine from automated devices on licensed  
4 premises so long as the licensee monitors and has the ability to control the  
5 dispensing of such wine from the automated devices.

6 (2) The secretary may adopt rules and regulations as necessary to  
7 implement the provisions of this subsection.

8 (f) A hotel of which the entire premises is not licensed as a drinking  
9 establishment may, in accordance with rules and regulations adopted by  
10 the secretary, through an agreement with one or more clubs or drinking  
11 establishments, distribute to its guests coupons redeemable at such clubs or  
12 drinking establishments for drinks containing alcoholic liquor. Each club  
13 or drinking establishment redeeming coupons issued by a hotel shall  
14 collect from the hotel the agreed price, which shall be not less than the  
15 acquisition cost of the drink plus the liquor drink tax for each drink served.  
16 The club or drinking establishment shall collect and remit the liquor drink  
17 tax in accordance with the provisions of the liquor drink tax act, K.S.A.  
18 79-41a01 et seq., and amendments thereto.

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

21 (h) Violation of any provision of this section shall be grounds for  
22 suspension or revocation of the licensee's license as provided by K.S.A.  
23 41-2609, and amendments thereto, and for imposition of a civil fine on the  
24 licensee or temporary permit holder as provided by K.S.A. 41-2633a, and  
25 amendments thereto.

26 (i) *For purposes of this section, the term "day" means from 6:00 a.m.*  
27 *until 2:00 a.m. the following calendar day.*

41-308a,

28 Sec. 3. K.S.A. 2017 Supp. 41-2614 and 41-2640 are hereby repealed.

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

Section 1. K.S.A. 2017 Supp. 41-308a is hereby amended to read as follows: 41-308a. (a) A farm winery license shall allow:

(1) The manufacture of domestic table wine and domestic fortified wine in a quantity not exceeding 100,000 gallons per year and the storage thereof;

(2) the sale of wine, manufactured by the licensee, to licensed wine distributors, retailers, public venues, clubs, drinking establishments, holders of temporary permits as authorized by K.S.A. 41-2645, and amendments thereto, and caterers;

(3) the sale, on the licensed premises and at special events monitored and regulated by the division of alcoholic beverage control in the original unopened container to consumers for consumption off the licensed premises, of wine 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 wine manufactured by the licensee or imported under subsection (e), if the licensed premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments;

(5) the sale of wine manufactured by the licensee for consumption on the licensed premises, provided, the licensed premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments. Wine sold pursuant to this paragraph shall not be subject to the provisions of the club and drinking establishment act, K.S.A. 41-2601 et seq., and amendments thereto, and no drinking establishment license shall be required to make such sales;

(6) if the licensee is also licensed as a club or drinking establishment, the sale of domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act;

(7) if the licensee is also licensed as a caterer, the sale of domestic wine, domestic fortified wine and other alcoholic liquor for consumption on the unlicensed premises as authorized by the club and drinking establishment act;

(8) the sale and shipping, in the original unopened container, to consumers outside this state of wine manufactured by the licensee, provided that the licensee complies with applicable laws and rules and regulations of the jurisdiction to which the wine is shipped; and

(9) the sale and shipping of wine within this state pursuant to a permit issued pursuant to K.S.A. 2017 Supp. 41-350, and amendments thereto.

(b) Upon application and payment of the fee prescribed by K.S.A. 41-310, and amendments thereto, by a farm winery licensee, the director may issue not to exceed three winery outlet licenses to the farm winery licensee. A winery outlet license shall allow:

(1) The sale, on the licensed premises and at special events monitored and regulated by the division of alcoholic beverage control in the original unopened container to consumers for consumption off the licensed premises, of wine manufactured by the licensee, and the sale of wine manufactured by the licensee for consumption on the licensed premises, provided, the licensed premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments. Wine sold pursuant to this paragraph shall not be subject to the provisions of the club and drinking establishment act, K.S.A. 41-2601 et seq., and amendments thereto, and no drinking establishment license shall be required to make the sale;

(2) the serving on the licensed premises of samples of wine manufactured by the licensee or imported under subsection (e), if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments; and

(3) the manufacture of domestic table wine and domestic fortified wine and the storage thereof; provided, that the aggregate quantity of wine produced by the farm winery licensee, including all winery outlets, shall not exceed 100,000 gallons per year.

(c) Not less than 30% of the products utilized in the manufacture of domestic table wine and domestic fortified wine by a farm winery shall be grown in Kansas except when a lesser proportion is authorized by the director based upon the director's findings and judgment. The production requirement of this subsection shall be determined based on the annual production of domestic table wine and domestic fortified wine by the farm winery.

(d) A farm winery or winery outlet may sell domestic wine and domestic fortified wine 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 12 noon and 6 p.m. on Sunday. If authorized by subsection (a), a farm winery may serve samples of wine manufactured by the licensee and wine imported under subsection (e) and serve and sell domestic wine, domestic fortified wine 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. If authorized by subsection (b), a winery outlet may serve samples of domestic wine, domestic fortified wine and wine imported under subsection (e) at any time when the winery outlet is authorized to sell domestic wine and domestic fortified wine.

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

(f) A farm winery license or winery outlet 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.

(g) No farm winery or winery outlet 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-premise 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.
- (h) Whenever a farm winery or winery outlet licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and order forfeiture of all fees paid for the license, after a hearing before the director for that purpose in accordance with the provisions of the Kansas administrative procedure act.
- (i) This section shall be part of and supplemental to the Kansas liquor control act.