

{As Amended by Senate Committee of the Whole}

As Amended by Senate Committee

Session of 2019

SENATE BILL NO. 221

By Committee on Federal and State Affairs

3-7

1 AN ACT concerning alcoholic liquor; relating to clubs and drinking  
2 establishments; ~~retailer's license; removal of unconsumed beer and~~  
3 ~~cereal malt beverage from licensed premises~~; amending K.S.A. ~~2018~~  
4 2019 Supp. 41-308 and 41-2653 and repealing the existing ~~section~~  
5 sections.

6  
7 Be it enacted by the Legislature of the State of Kansas:

8 Section 1. K.S.A. 2019 Supp. 41-308 is hereby amended to read as  
9 follows: 41-308. (a) Except as provided in K.S.A. 2019 Supp. 41-308d,  
10 and amendments thereto, a retailer's license shall allow the licensee to  
11 sell and offer for sale at retail and deliver in the original package, as  
12 therein prescribed, alcoholic liquor and cereal malt beverage for use or  
13 consumption off and away from the premises specified in such license.

14 (b) A retailer's license shall permit sale and delivery of alcoholic  
15 liquor and cereal malt beverage only on the licensed premises and shall  
16 not permit sale of alcoholic liquor and cereal malt beverage for resale in  
17 any form, except that a licensed retailer may:

18 (1) Sell alcoholic liquor and cereal malt beverage to a temporary  
19 permit holder for resale by such permit holder; ~~and~~  
20 (2) sell and deliver alcoholic liquor and cereal malt beverage to a  
21 caterer or to the licensed premises of a public venue, club or drinking  
22 establishment, if such premises are in the county where the retailer's  
23 premises are located or in an adjacent county, for resale by such public  
24 venue, club, establishment or caterer.

25 (c) A retailer may:  
26 (1) Charge a delivery fee for delivery of alcoholic liquor and cereal  
27 malt beverage to a public venue, club, drinking establishment or caterer  
28 pursuant to subsection (b);

29 (2) Sell lottery tickets and shares to the public in accordance with  
30 the Kansas lottery act, if the retailer is selected as a lottery retailer;

31 ~~(3)~~ include in the sale of alcoholic liquor and cereal malt beverage  
32 any goods included by the manufacturer in packaging with the alcoholic  
33 liquor or cereal malt beverage, subject to the approval of the director;

34 ~~(4)~~ distribute to the public, without charge, consumer advertising

sales of alcoholic liquor and cereal malt beverage; authorizing sales to cereal  
malt beverage retailers and sales of certain beer and cereal malt beverage

Strike in line 19

; and

(3) sell and deliver cereal malt beverage and beer containing not more than 6% alcohol by volume to the licensed premises of a cereal malt beverage retailer, as defined in K.S.A. 41-2701, and amendments thereto, who is licensed for on-premises consumption, if such cereal malt beverage premises are in the county where the retailer's premises are located or in an adjacent county, for resale by such cereal malt beverage retailer

(2)

charge a delivery fee for delivery of cereal malt beverage and beer containing not more than 6% alcohol by volume to a cereal malt beverage retailer pursuant to subsection (b)(3);

(3)

(4)

(5)

1 specialties bearing advertising matter, subject to rules and regulations of  
2 the secretary limiting the form and distribution of such specialties so  
3 that they are not conditioned on or an inducement to the purchase of  
4 alcoholic liquor or cereal malt beverage;

5 **(6)** ~~(5)~~ store alcoholic liquor and cereal malt beverage in refrigerators,  
6 cold storage units, ice boxes or other cooling devices, and the licensee  
7 may sell such alcoholic liquor and cereal malt beverage to consumers in  
8 a chilled condition; and

9 **(7)** ~~(6)~~ sell any other good or service on the licensed premises, except  
10 that the gross sales of other goods and services, excluding fees derived  
11 from the sale of lottery tickets and revenues from sales of cigarettes and  
12 tobacco products, shall not exceed 20% of the retailer's total gross sales;  
13 and

14 **(8)** ~~(7)~~ sell containers of beer, domestic beer and cereal malt beverage,  
15 as those terms are defined in K.S.A. 41-102, and amendments thereto, that  
16 are sold on the licensed premises to consumers and served in refillable  
17 and sealable containers for consumption off the licensed premises if such  
18 containers:

19 (A) Contain between 32 and 64 fluid ounces; and

20 (B) have a label affixed that clearly indicates the licensee's name and  
21 the type of alcoholic beverage contained in such container.

22 (d) All alcoholic liquor, cereal malt beverage and nonalcoholic malt  
23 beverage sold by a holder of a retail license shall be subject to the liquor  
24 enforcement tax imposed by K.S.A. 79-4101, and amendments thereto.

25 ~~Section 1.~~ Sec. 2. K.S.A. ~~2018~~ 2019 Supp. 41-2653 is hereby  
26 amended to read as follows: 41-2653. (a) In addition to the rights of a  
27 licensee pursuant to provisions of K.S.A. 41-2637, 41-2641 or 41-2642,  
28 and amendments thereto, a class A club license, class B club license or  
29 drinking establishment license shall allow the licensee to allow legal  
30 patrons of the club or drinking establishment to remove alcoholic liquor  
31 from the licensed premises in accordance with this section.

32 (b) A patron may remove one or more opened containers of alcoholic  
33 liquor from the licensed premises, subject to the following conditions:

34 (1) It must be legal for the licensee to sell the alcoholic liquor in its  
35 original container;

36 (2) the alcoholic liquor must be in its original container;

37 (3) each container of alcoholic liquor must have been purchased by a  
38 patron and the alcoholic liquor in each container must have been partially  
39 consumed on the licensed premises;

40 (4) the licensee or the licensee's employee must provide the patron  
41 with a dated receipt for the unfinished container or containers of alcoholic  
42 liquor; and

43 (5) before the container of alcoholic liquor is removed from the

Strike in lines 14 & 15

1 licensed premises, the licensee or the licensee's employee must securely  
2 reseal each container, place the container in a tamper-proof, transparent  
3 bag which is sealed in a manner that makes it visibly apparent if the bag is  
4 subsequently tampered with or opened.

5 (c) *A patron may remove one or more containers of beer, domestic*  
6 *beer and cereal malt beverage, as those terms are defined in K.S.A. 41-*  
7 *102, and amendments thereto, that are sold on the licensed premises to*  
8 *consumers and served in refillable and sealable containers for*  
9 *consumption off the licensed premises if such containers:*

10 (A) *Contain between 32 and 64 fluid ounces; and*

11 (B) *have a label affixed that clearly indicates the licensee's name and*  
12 *the type of alcoholic beverage contained in such container; and*

13 (C) *are not sold or removed from the premises after 11:00 p.m.*

14 ~~(D)~~ *{All alcoholic liquor, cereal malt beverage and nonalcoholic*  
15 *malt beverage sold by a licensee shall be subject to the tax imposed by*  
16 *K.S.A. 79-41a02, and amendments thereto.*

17 (e) *{This section shall be part of and supplemental to the club and*  
18 *drinking establishment act.*

19 ~~Sec. 2. 3.~~ *K.S.A. 2018 2019 Supp. 41-308 and 41-2653-is are hereby*  
20 *repealed.*

21 ~~Sec. 3. 4.~~ *This act shall take effect and be in force from and after its*  
22 *publication in the statute book.*