

As Amended by House Committee

Session of 2020

HOUSE BILL No. 2596

By Committee on Federal and State Affairs

2-7

1 AN ACT concerning alcoholic beverages; relating to the club and drinking
2 establishment act; authorizing the issuance of drinking establishment
3 licenses to licensed manufacturers; amending K.S.A. 41-2632 and
4 K.S.A. 2019 Supp. 41-2623 and 41-2642 and repealing the existing
5 sections.

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

8 Section 1. K.S.A. 2019 Supp. 41-2623 is hereby amended to read as
9 follows: 41-2623. (a) No license shall be issued under the provisions of
10 this act to:

11 (1) Any person described in K.S.A. 41-311(a)(1), (2), (4), (5), (6),
12 (7), (8), (9), (12), (13) or (15), and amendments thereto, except that the
13 provisions of ~~subsection K.S.A. 41-311(a)(7) of such section, and~~
14 *amendments thereto*, shall not apply to nor prohibit the issuance of a
15 license for a class A club to an officer of a post home of a congressionally
16 chartered service or fraternal organization, or a benevolent association or
17 society thereof.

18 (2) A person who has had the person's license revoked for cause
19 under the provisions of this act.

20 (3) A person who has not been a resident of this state for a period of
21 at least one year immediately preceding the date of application.

22 (4) A person who has a beneficial interest in the manufacture,
23 preparation or wholesaling or the retail sale of alcoholic liquors or a
24 beneficial interest in any other club, drinking establishment or caterer
25 licensed hereunder, except that:

26 (A) A license for premises located in a hotel may be granted to a
27 person who has a beneficial interest in one or more other clubs or drinking
28 establishments licensed hereunder if such other clubs or establishments are
29 located in hotels.

30 (B) A license for a club or drinking establishment which is a
31 restaurant may be issued to a person who has a beneficial interest in other
32 clubs or drinking establishments which are restaurants.

33 (C) A caterer's license may be issued to a person who has a beneficial
34 interest in a club or drinking establishment and a license for a club or
35 drinking establishment may be issued to a person who has a beneficial
36 interest in a caterer.

1 (D) A license for a class A club may be granted to an organization of
2 which an officer, director or board member is a distributor or retailer
3 licensed under the liquor control act if such distributor or retailer sells no
4 alcoholic liquor to such club.

5 (E) Any person who has a beneficial interest in a microbrewery,
6 microdistillery or farm winery licensed pursuant to the Kansas liquor
7 control act may be issued any or all of the following: (1) Class B club
8 license; (2) drinking establishment license; and (3) caterer's license.

9 (F) *Any person who has a beneficial interest in a manufacturer*
10 *licensed pursuant to the Kansas liquor control act may be issued one*
11 *drinking establishment license.*

12 (5) A copartnership, unless all of the copartners are qualified to
13 obtain a license.

14 (6) A corporation, if any officer, manager or director thereof, or any
15 stockholder owning in the aggregate more than 5% of the common or
16 preferred stock of such corporation would be ineligible to receive a license
17 hereunder for any reason other than citizenship and residence
18 requirements.

19 (7) A corporation, if any officer, manager or director thereof, or any
20 stockholder owning in the aggregate more than 5% of the common or
21 preferred stock of such corporation, has been an officer, manager or
22 director, or a stockholder owning in the aggregate more than 5% of the
23 common or preferred stock, of a corporation which:

24 (A) Has had a license revoked under the provisions of the club and
25 drinking establishment act; or

26 (B) has been convicted of a violation of the club and drinking
27 establishment act or the cereal malt beverage laws of this state.

28 (8) A corporation organized under the laws of any state other than this
29 state.

30 (9) A trust, if any grantor, beneficiary or trustee would be ineligible to
31 receive a license under this act for any reason, except that the provisions of
32 K.S.A. 41-311(a)(6), and amendments thereto, shall not apply in
33 determining whether a beneficiary would be eligible for a license.

34 (b) No club or drinking establishment license shall be issued under
35 the provisions of the club and drinking establishment act to:

36 (1) A person who does not own the premises for which a license is
37 sought, or does not, at the time the application is submitted, have a written
38 lease thereon, except that an applicant seeking a license for a premises
39 which is owned by a city or county, or is a stadium, arena, convention
40 center, theater, museum, amphitheater or other similar premises may
41 submit an executed agreement to provide alcoholic beverage services at
42 the premises listed in the application in lieu of a lease.

43 (2) A person who is not a resident of the county in which the

1 premises sought to be licensed are located.

2 Sec. 2. K.S.A. 41-2632 is hereby amended to read as follows: 41-
3 2632. (a) As used in this section:

4 (1) ~~The word~~ "Distributor" means a person, firm, association or
5 corporation ~~which~~ *that* is the holder of an alcoholic liquor distributor's
6 license issued under the Kansas liquor control act;

7 (2) ~~the word~~ "retailer" means a person, copartnership or association
8 ~~which~~ *that* is the holder of a retailer's license issued under the Kansas
9 liquor control act; and

10 (3) ~~the word~~ "manufacturer" ~~shall have the meaning ascribed to it by~~
11 *means the same as defined in* K.S.A. 41-102, and amendments thereto.

12 (b) It shall be unlawful for a distributor of alcoholic liquor, or a
13 manufacturer, or any officer, agent or employee thereof, to influence,
14 coerce or induce or attempt to influence, coerce or induce, either directly
15 or indirectly, any holder of a license issued under this act, or any officer,
16 agent or employee of the holder of such a license, to:

17 (1) Purchase any particular brand or kind of alcoholic liquor to be
18 dispensed by the licensee, except that a distributor or manufacturer may
19 provide to a licensee information regarding the availability of brands in the
20 market and things of value as authorized by ~~subsection (d)~~ of K.S.A. 41-
21 703(d), and amendments thereto; or

22 (2) purchase from a particular retailer alcoholic liquor to be dispensed
23 by the licensee.

24 (c) Violation of this section is a misdemeanor punishable by a fine of
25 not less than \$100 nor more than \$1,000 or by imprisonment for not more
26 than six months, or by both.

27 (d) *The provisions of this section shall not apply to any manufacturer*
28 *who holds a drinking establishment license with respect to purchases*
29 *made by such drinking establishment.*

30 Sec. 3. K.S.A. 2019 Supp. 41-2642 is hereby amended to read as
31 follows: 41-2642. (a) A license for a drinking establishment shall allow the
32 licensee to offer for sale, sell and serve alcoholic liquor for consumption
33 on the licensed premises which may be open to the public, and to serve
34 samples of alcoholic liquor free of charge on licensed premises subject to
35 the requirements of subsection (c), but only if such premises are located in
36 a county where the qualified electors of the county:

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

43 (2) have not approved a proposition to prohibit such sales of alcoholic

1 liquor in such places at a subsequent election pursuant to K.S.A. 41-2646,
2 and amendments thereto.

3 (b) A drinking establishment shall be required to derive from sales of
4 food for consumption on the licensed premises not less than 30% of all the
5 establishment's gross receipts from sales of food and beverages on such
6 premises unless the licensed premises are located in a county where the
7 qualified electors of the county:

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

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

16 (c) No charge of any sort may be made for a sample serving. Samples
17 may not be served to a minor. No samples may be removed from the
18 licensed premises. Providing samples is prohibited for any licensee who
19 charges a cover charge or entry fee at any time during the business day. No
20 consideration shall be requested or required for entry onto the premises,
21 participation in any event taking place on the premises or to remain on the
22 premises.

23 (d) (1) A drinking establishment shall specify in the application for a
24 license or renewal of a license the premises to be licensed, which may
25 include all premises ~~which~~ *that* are in close proximity and are under the
26 control of the applicant or licensee.

27 (2) *If the drinking establishment licensee also holds a manufacturer's*
28 *license issued under the Kansas liquor control act, the licensed premises*
29 *specified in the drinking establishment license shall not be the same as the*
30 *licensed premises specified in the manufacturer's license, but such*
31 *specified premises shall be located not more than ~~1.2~~ **two miles by the***
32 ***usually traveled road** from the licensed premises specified in the*
33 *manufacturer's license.*

34 (e) Notwithstanding any other provision of law to the contrary, any
35 hotel of which the entire premises are licensed as a drinking establishment
36 or as a drinking establishment caterer may sell alcoholic liquor or cereal
37 malt beverage by means of minibars located in guest rooms of such hotel,
38 subject to the following:

39 (1) The key, magnetic card or other device required to attain access to
40 a minibar in a guest room shall be provided only to guests who are
41 registered to stay in such room and who are 21 or more years of age;

42 (2) containers or packages of spirits or wine sold by means of a
43 minibar shall hold not less than 50 nor more than 200 milliliters; and

1 (3) a minibar shall be restocked with alcoholic liquor or cereal malt
2 beverage only during hours when the hotel is permitted to sell alcoholic
3 liquor and cereal malt beverage as a drinking establishment.

4 (f) A drinking establishment may store on its premises wine sold to a
5 customer for consumption at a later date on its premises in the unopened
6 container. Such wine must be kept separate from all other alcohol stock
7 and in a secure locked area separated by customer. Such wine shall not be
8 removed from the licensed premises in its unopened condition.

9 (g) *If the drinking establishment licensee also holds a manufacturer's*
10 *license issued under the Kansas liquor control act, the drinking*
11 *establishment shall not sell alcoholic liquor manufactured by such*
12 *manufacturer's licensee to the exclusion of other alcoholic liquor. All beer*
13 *and cereal malt beverage sold by the drinking establishment shall be*
14 *acquired from a distributor or retailer licensed under the Kansas liquor*
15 *control act, and all wine and spirits sold by the drinking establishment*
16 *shall be acquired from a retailer or farm winery licensed under the*
17 *Kansas liquor control act and who possesses a federal wholesaler's basic*
18 *permit.*

19 Sec. 4. K.S.A. 41-2632 and K.S.A. 2019 Supp. 41-2623 and 41-2642
20 are hereby repealed.

21 Sec. 5. This act shall take effect and be in force from and after its
22 publication in the statute book.