

SENATE BILL No. 2

By Senator McGinn

12-10

1 AN ACT concerning the Kansas state fair; relating to alcoholic liquor;
2 sales during the state fair; issuance of temporary permits; liquor
3 enforcement tax and liquor drink tax; crediting a portion of such tax
4 moneys collected to the state fair capital improvements fund; amending
5 K.S.A. 79-4108 and 79-41a03 and K.S.A. 2020 Supp. 41-719 and 41-
6 1201 and repealing the existing sections.
7

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

9 Section 1. K.S.A. 2020 Supp. 41-719 is hereby amended to read as
10 follows: 41-719. (a) (1) Except as otherwise provided herein and in K.S.A.
11 8-1599, and amendments thereto, no person shall drink or consume
12 alcoholic liquor on the public streets, alleys, roads or highways or inside
13 vehicles while on the public streets, alleys, roads or highways.

14 (2) Alcoholic liquor may be consumed on public streets, alleys, roads,
15 sidewalks or highways when:

16 (A) A temporary permit has been issued pursuant to K.S.A. 41-2703,
17 and amendments thereto, or K.S.A. 2020 Supp. 41-1201, and amendments
18 thereto, for such an event;

19 (B) a caterer's licensee has provided the required notification for a
20 catered event pursuant to K.S.A. 41-2643, and amendments thereto; or
21 (C) a public venue, hotel, hotel caterer, drinking establishment caterer
22 or drinking establishment licensee has been authorized to extend its
23 licensed premises pursuant to K.S.A. 41-2608, and amendments thereto.

24 (3) Consumption of alcoholic liquor on public streets, alleys, roads,
25 sidewalks or highways must be approved, by ordinance or resolution, by
26 the local governing body of any city, county or township where such
27 consumption will occur. No alcoholic liquor may be consumed inside
28 vehicles while on public streets, alleys, roads or highways at any time.

29 (4) No person shall remove any alcoholic liquor from inside the
30 boundaries of an event as designated by the governing body of any city,
31 county or township, from the boundaries of a catered event or from the
32 extended licensed premises of a public venue, hotel, hotel caterer, drinking
33 establishment caterer or drinking establishment. Such boundaries shall be
34 clearly marked by signs, a posted map or other means which reasonably
35 identify the area in which alcoholic liquor may be possessed or consumed.
36 (b) Alcoholic liquor may be consumed within common consumption

Proposed Amendments to
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1 areas designated by a city or county on public streets, alleys, roads,
2 sidewalks or highways pursuant to K.S.A. 2020 Supp. 41-2659, and
3 amendments thereto, except that no alcoholic liquor may be consumed
4 inside vehicles while on public streets, alleys, roads or highways within a
5 common consumption area. Further, no person shall remove any alcoholic
6 liquor from inside the boundaries of the common consumption area which
7 shall be clearly designated by a physical barrier.

8 (c) No person shall drink or consume alcoholic liquor on private
9 property except:

10 (1) On premises where the sale of liquor by the individual drink is
11 authorized by the club and drinking establishment act;

12 (2) upon private property by a person occupying such property as an
13 owner or lessee of an owner and by the guests of such person, if no charge
14 is made for the serving or mixing of any drink or drinks of alcoholic liquor
15 or for any substance mixed with any alcoholic liquor and if no sale of
16 alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto,
17 takes place;

18 (3) in a lodging room of any hotel, motel or boarding house by the
19 person occupying such room and by the guests of such person, if no charge
20 is made for the serving or mixing of any drink or drinks of alcoholic liquor
21 or for any substance mixed with any alcoholic liquor and if no sale of
22 alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto,
23 takes place;

24 (4) in a private dining room of a hotel, motel or restaurant, if the
25 dining room is rented or made available on a special occasion to an
26 individual or organization for a private party and if no sale of alcoholic
27 liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

28 (5) on the premises of a manufacturer, microbrewery, microdistillery
29 or farm winery, if authorized by K.S.A. 41-305, 41-308a, 41-308b, *and*
30 *amendments thereto*, or K.S.A. 2020 Supp. 41-354, and amendments
31 thereto;

32 (6) on the premises of an unlicensed business as authorized pursuant
33 to subsection (j); or

34 (7) within a common consumption area established pursuant to
35 K.S.A. 2020 Supp. 41-2659, and amendments thereto.

36 (d) No person shall drink or consume alcoholic liquor on public
37 property except:

38 (1) On real property leased by a city to others under the provisions of
39 K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real
40 property is actually being used for hotel or motel purposes or purposes
41 incidental thereto.

42 (2) In any state-owned or operated building or structure, and on the
43 surrounding premises, which is furnished to and occupied by any state

1 authorize the possession or consumption of alcoholic liquor by a patron of
2 such business when such authorization is not in accordance with the
3 provisions of this subsection.

4 (3) For the purposes of this subsection, "patron" means a natural
5 person who is a customer or guest of an unlicensed business.

6 (k) Violation of any provision of this section is a misdemeanor
7 punishable by a fine of not less than \$50 or more than \$200 or by
8 imprisonment for not more than six months, or both.

9 (l) For the purposes of this section, "common consumption area"~~has~~
10 means the same ~~meaning~~ as that term is defined in K.S.A. 2020 Supp. 41-
11 2659, and amendments thereto.

12 Sec. 2. K.S.A. 2020 Supp. 41-1201 is hereby amended to read as
13 follows: 41-1201. (a) A temporary permit shall allow the permit holder to
14 offer for sale, sell and serve alcoholic liquor for consumption on licensed
15 or unlicensed premises, or on premises that are otherwise subject to a
16 separate temporary permit, that may be open to the public, subject to the
17 terms of such permit. A temporary permit shall also authorize the permit
18 holder to sell, in accordance with rules and regulations adopted by the
19 secretary, alcoholic liquor at a charitable auction, or one or more limited
20 issue porcelain containers containing alcoholic liquor.

21 (b) A temporary permit holder may charge a fee for entrance into the
22 premises described in the permit, or any portion thereof.

23 (c) The director may issue a temporary permit to any one or more
24 persons or organizations applying for such a permit, in accordance with
25 rules and regulations of the secretary. The permit shall be issued in the
26 names of the persons or organizations to which it is issued.

27 (d) Applications for temporary permits shall be required to be filed
28 with the director not less than 14 days before the event for which the
29 permit is sought, unless the director waives such requirement for good
30 cause. The application shall be upon a form prescribed by the director.
31 Each application shall be electronically submitted and accompanied by a
32 non-refundable permit fee of \$25 for each day for which the permit is
33 issued, and such fee shall be paid by a check or credit card in the full
34 amount thereof. All permit fees collected by the director pursuant to this
35 section shall be remitted to the state treasurer in accordance with the
36 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
37 each such remittance, the state treasurer shall deposit the entire amount in
38 the state treasury to the credit of the state general fund.

39 (e) Each application for a temporary permit shall specify the premises
40 for which ~~they are~~ such permit is issued, including a diagram of the
41 premises covered by the temporary permit. The diagram shall clearly show
42 the boundaries of the premises, entrances to and exits from the premises
43 and the area in which the service of alcoholic liquor would take place. A

1 temporary permit shall be issued only for premises where the city, county
2 or township zoning code allows the use for which the permit is issued. No
3 temporary permit shall be issued for premises that are not located in a
4 county where the qualified electors of the county:

5 (1) (A) Approved, by a majority vote of those voting thereon, to
6 adopt the proposition amending section 10 of article 15 of the constitution
7 of the state of Kansas at the general election in November, 1986; or

8 (B) have approved a proposition to allow the sale of liquor by the
9 individual drink in public places within the county at an election pursuant
10 to K.S.A. 41-2646, and amendments thereto; and

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

14 (F) (1) (A) A temporary permit may be issued for the consumption of
15 alcoholic liquor on a city, county or township street, alley, road, sidewalk
16 or highway for an event if: ~~(A)~~ (i) Such street, alley, road, sidewalk or
17 highway is closed to motor vehicle traffic by the governing body of such
18 city, county or township for such event; ~~(B)~~ (ii) a written request for such
19 consumption and possession of such alcoholic liquor has been made to the
20 local governing body; and ~~(C)~~ (iii) the event has been approved by the
21 governing body of such city, county or township by ordinance or
22 resolution.

23 (B) The boundaries of any such event shall be clearly marked by
24 signs, a posted map or other means ~~which~~ that reasonably identify the area
25 in which alcoholic liquor may be possessed or consumed at such event.

26 (2) Drinking establishments that are immediately adjacent to, or
27 located within the licensed premises of an event, for which a temporary
28 permit has been issued and the consumption of alcoholic liquor on public
29 property has been approved, may request that the drinking establishment's
30 licensed premises be extended into and made a part of the licensed
31 premises of the event, for the duration of the temporary permit issued for
32 such event.

33 (3) Each licensee selling alcoholic liquor for consumption on the
34 premises of an event for which a temporary permit has been issued shall be
35 liable for violations of all laws governing the sale and consumption of
36 alcoholic liquor.

37 (4) Each temporary permit holder selling alcoholic liquor for
38 consumption on the permit premises shall be liable for all violations of
39 laws governing the sale and consumption of alcoholic liquor that occur in
40 areas covered by multiple temporary permits.

41 (g) (1) *A temporary permit may be issued for the sale of ~~wine or beer,~~*
42 *~~or both,~~ on the Kansas state fairgrounds during the days of the Kansas*
43 *state fair, or as authorized by the Kansas state fair board, if the Kansas*

alcoholic liquor

1 state fair board has authorized such consumption and possession of such
 2 ~~wine or beer or both~~. Each application for such temporary permit shall
 3 specify the premises within the fairgrounds for which the permit is issued,
 4 including a diagram of the premises covered by the temporary permit.
 5 Such diagram shall match the entirety of the premises as leased from the
 6 Kansas state fair board. The boundaries of the Kansas state fairgrounds
 7 shall be clearly marked by signs, a posted map or other means that
 8 reasonably identify the area in which ~~wine or beer or both~~ may be
 9 possessed or consumed at the state fair.

alcoholic liquor

10 (2) Each temporary permit holder selling ~~wine or beer or both~~ for
 11 consumption on the premises of the Kansas state fairgrounds that is
 12 covered by such temporary permit shall be liable for all violations of laws
 13 governing the sale and consumption of such alcoholic liquor that occur on
 14 such temporary premises.

alcoholic liquor

15 (3) Any temporary permit holder who has received a temporary
 16 permit for the sale of ~~wine or beer or both~~ on the Kansas state
 17 fairgrounds may allow such ~~wine or beer or both~~ to be removed from the
 18 temporary permit premises and onto the Kansas state fairgrounds.

alcoholic liquor

19 (h) (1) Except as otherwise provided in this subsection, a temporary
 20 permit shall be issued for a period of time not to exceed three consecutive
 21 days, the dates and hours of which shall be specified in the permit. An
 22 applicant may not be issued more than four temporary permits in a
 23 calendar year.

24 (2) The director may issue a sufficient number of temporary permits
 25 as required by the state fair board, valid for the entire period of time of the
 26 Kansas state fair, which authorizes the sale of wine in its original,
 27 unopened container and the serving by the drink of ~~wine or beer or both~~,
 28 on the state fairgrounds on premises specified in the temporary permit, by
 29 a person who has entered into an agreement with the state fair board for
 30 that purpose subject to the conditions imposed by the state fair board.

alcoholic liquor

31 Nothing in this paragraph shall be construed to limit the number of
 32 temporary permits the director may issue for the sale of ~~wine or beer or
 33 both~~ on the state fairgrounds consistent with the requirements of the state
 34 fair board.

alcoholic liquor

35 (3) For an event approved by the governing body of a city, county or
 36 township pursuant to subsection (e)(1), the director may issue a temporary
 37 permit, which may, at the director's discretion, be valid for the entire
 38 period of such event, but in no event shall such permit be issued for a
 39 period of time that exceeds 30 consecutive days.

40 (h)(i) An application for a temporary permit may be rejected by the
 41 director if:
 42 (1) The applicant has been granted four permits in the current
 43 calendar year;

1 (2) the application was not filed with the director at least 14 days
2 prior to the event;

3 (3) the applicant, or any officer, director, partner, registered agent,
4 trustee, manager or owner of the applicant has previously owned or
5 operated any entity holding a temporary permit, club, drinking
6 establishment or caterer's license, had such permit or license surrendered,
7 and at the time such permit or license was surrendered had been ordered to
8 appear and show cause why the permit or license should not be revoked or
9 suspended;

10 (4) the applicant has designated an area for an event that was the
11 subject of the order to appear and show cause as set forth in paragraph (3),
12 and it appears that the new application for a temporary permit covering the
13 premises is an attempt to avoid any possible remedial action taken by the
14 director against the former permit or license holder; or

15 (5) the applicant has had a license or permit revoked under the club
16 and drinking establishment act, or has been convicted of a violation of the
17 Kansas liquor control act, the club and drinking establishment act, the
18 Kansas cereal malt beverage act or the provisions of K.S.A. 79-41a01 et
19 seq., and amendments thereto.

20 ~~(f)(j)~~ (1) A temporary permit holder may purchase and possess
21 alcoholic liquor for resale for a period of three days prior to the first day of
22 sale of such alcoholic liquor. A distributor may, without any further
23 permission from the director, deliver such alcoholic liquor to the permit
24 premises.

25 (2) If a licensee has sold alcoholic liquor to a temporary permit
26 holder, and a distributor directly delivers such alcoholic liquor to such
27 temporary permit holder, but such licensee's normal hours of operation
28 make immediate payment to the distributor impossible, the licensee may
29 pay the retailer and the retailer may pay the distributor for such alcoholic
30 liquor within 48 hours of the sale.

31 (3) Within three business days after the end of an event conducted
32 pursuant to a temporary permit, the temporary permit holder may sell back
33 to the retailer or farm winery from whom alcoholic liquor was purchased
34 any alcoholic liquor sold to the temporary permit holder for such event.

35 (4) Upon written permission from the director and after four business
36 days after the end of an event conducted pursuant to a temporary permit,
37 the temporary permit holder may sell back to the licensee from whom
38 alcoholic liquor was purchased any alcoholic liquor sold to the temporary
39 permit holder for such event.

40 ~~(f)(k)~~ A temporary permit shall not be transferable or assignable.

41 ~~(f)(l)~~ Each temporary permit holder shall not employ or use the
42 services of any person.

43 (1) Who is under the age of 18 years of age to serve alcoholic liquor;