

## HOUSE BILL No. 2677

By Committee on Federal and State Affairs

Requested by Representative Osman

2-1

1 AN ACT concerning alcoholic beverages; relating to the sale of wine;  
2 authorizing cereal malt beverage retailers to sell wine; imposing the  
3 applicable retailers' sales tax on such sales; amending K.S.A. 41-212,  
4 41-355, 41-701, 41-1101a, 41-2701, 41-2702, 41-2706, 41-2708, 41-  
5 2722, 41-2726, 41-2728 and 41-2730 and K.S.A. 2023 Supp. 41-102,  
6 41-306a, 41-308, 41-2704 and 79-3602 and repealing the existing  
7 sections; also repealing K.S.A. 2023 Supp. 79-3602c.  
8

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

10 Section 1. K.S.A. 2023 Supp. 41-102 is hereby amended to read as  
11 follows: 41-102. As used in this act, unless the context clearly requires  
12 otherwise:

13 (a) "Alcohol" means the product of distillation of any fermented  
14 liquid, whether rectified or diluted, whatever its origin, and includes  
15 synthetic ethyl alcohol but does not include denatured alcohol or wood  
16 alcohol.

17 (b) "Alcoholic candy" means:

18 (1) For purposes of manufacturing, any candy or other confectionery  
19 product with an alcohol content greater than 0.5% alcohol by volume; and

20 (2) for purposes of sale at retail, any candy or other confectionery  
21 product with an alcohol content greater than 1% alcohol by volume.

22 (c) "Alcoholic liquor" means alcohol, spirits, wine, beer, alcoholic  
23 candy and every liquid or solid, patented or not, containing alcohol, spirits,  
24 wine or beer and capable of being consumed by a human being, but shall  
25 not include any cereal malt beverage.

26 (d) "Beer" means a beverage, containing more than 3.2% alcohol by  
27 weight, obtained by alcoholic fermentation of an infusion or concoction of  
28 barley, or other grain, malt and hops in water and includes beer, ale, stout,  
29 lager beer, porter and similar beverages having such alcoholic content.

30 (e) "Caterer" means the same as defined by K.S.A. 41-2601, and  
31 amendments thereto.

32 (f) "Cereal malt beverage" means the same as defined by K.S.A. 41-  
33 2701, and amendments thereto.

34 (g) "Club" means the same as defined by K.S.A. 41-2601, and  
35 amendments thereto.

1 (h) "Director" means the director of alcoholic beverage control of the  
2 department of revenue.

3 (i) "Distributor" means the person importing or causing to be  
4 imported into the state, or purchasing or causing to be purchased within  
5 the state, alcoholic liquor for sale or resale to retailers licensed under this  
6 act or cereal malt beverage, *beer containing not more than 6% alcohol by*  
7 *volume or wine containing not more than 16% alcohol by volume* for sale  
8 or resale to retailers licensed under K.S.A. 41-2702, as defined in K.S.A.  
9 41-2701, and amendments thereto.

10 (j) "Domestic beer" means beer ~~which that~~ contains not more than  
11 15% alcohol by weight and ~~which that~~ is manufactured in this state.

12 (k) "Domestic fortified wine" means wine ~~which that~~ contains more  
13 than 16%, but not more than 20% alcohol by volume and ~~which that~~ is  
14 manufactured in this state.

15 (l) "Domestic table wine" means wine ~~which that~~ contains not more  
16 than 16% alcohol by volume and ~~which that~~ is manufactured without  
17 rectification or fortification in this state.

18 (m) "Drinking establishment" means the same as defined by K.S.A.  
19 41-2601, and amendments thereto.

20 (n) "Farm winery" means a winery licensed by the director to  
21 manufacture, store and sell domestic table wine and domestic fortified  
22 wine.

23 (o) "Fulfillment house" means any location or facility for any in-state  
24 or out-of-state entity that handles logistics, including warehousing,  
25 packaging, order fulfillment or shipping services on behalf of the holder of  
26 a special order shipping license issued pursuant to K.S.A. 41-350, and  
27 amendments thereto.

28 (p) "Hard cider" means any alcoholic beverage that:

29 (1) Contains less than 8.5% alcohol by volume;

30 (2) has a carbonation level that does not exceed 6.4 grams per liter;  
31 and

32 (3) is obtained by the normal alcoholic fermentation of the juice of  
33 sound, ripe apples or pears, including such beverages containing sugar  
34 added for the purpose of correcting natural deficiencies.

35 (q) "Manufacture" means to distill, rectify, ferment, brew, make, mix,  
36 concoct, process, blend, bottle or fill an original package with any  
37 alcoholic liquor, beer or cereal malt beverage.

38 (r) (1) "Manufacturer" means every brewer, fermenter, distiller,  
39 rectifier, wine maker, blender, processor, bottler or person who fills or  
40 refills an original package and others engaged in brewing, fermenting,  
41 distilling, rectifying or bottling alcoholic liquor, beer or cereal malt  
42 beverage.

43 (2) "Manufacturer" does not include a microbrewery, microdistillery

1 or a farm winery.

2 (s) "Microbrewery" means a brewery licensed by the director to  
3 manufacture, store and sell domestic beer and hard cider.

4 (t) "Microdistillery" means a facility ~~which~~ that produces spirits from  
5 any source or substance that is licensed by the director to manufacture,  
6 store and sell spirits.

7 (u) "Minor" means any person under 21 years of age.

8 (v) "Nonbeverage user" means any manufacturer of any of the  
9 products set forth and described in K.S.A. 41-501, and amendments  
10 thereto, when the products contain alcohol or wine, and all laboratories  
11 using alcohol for nonbeverage purposes.

12 (w) "Original package" means any bottle, flask, jug, can, cask, barrel,  
13 keg, hogshead or other receptacle or container whatsoever, used, corked or  
14 capped, sealed and labeled by the manufacturer of alcoholic liquor, to  
15 contain and to convey any alcoholic liquor. Original container does not  
16 include a sleeve.

17 (x) "Person" means any natural person, corporation, partnership, trust  
18 or association.

19 (y) "Powdered alcohol" means alcohol that is prepared in a powdered  
20 or crystal form for either direct use or for reconstitution in a nonalcoholic  
21 liquid.

22 (z) "Primary American source of supply" means the manufacturer, the  
23 owner of alcoholic liquor at the time it becomes a marketable product or  
24 the manufacturer's or owner's exclusive agent who, if the alcoholic liquor  
25 cannot be secured directly from such manufacturer or owner by American  
26 wholesalers, is the source closest to such manufacturer or owner in the  
27 channel of commerce from which the product can be secured by American  
28 wholesalers.

29 (aa) (1) "Retailer" means a person who is licensed under the Kansas  
30 liquor control act and sells at retail, or offers for sale at retail, alcoholic  
31 liquors or cereal malt beverages.

32 (2) "Retailer" does not include a microbrewery, microdistillery or a  
33 farm winery.

34 (bb) "Sale" means any transfer, exchange or barter in any manner or  
35 by any means whatsoever for a consideration and includes all sales made  
36 by any person, whether principal, proprietor, agent, servant or employee.

37 (cc) "Salesperson" means any natural person who:

38 (1) Procures or seeks to procure an order, bargain, contract or  
39 agreement for the sale of alcoholic liquor or cereal malt beverage; or

40 (2) is engaged in promoting the sale of alcoholic liquor or cereal malt  
41 beverage, or in promoting the business of any person, firm or corporation  
42 engaged in the manufacturing and selling of alcoholic liquor or cereal malt  
43 beverage, whether the seller resides within the state of Kansas and sells to

1 licensed buyers within the state of Kansas, or whether the seller resides  
2 without the state of Kansas and sells to licensed buyers within the state of  
3 Kansas.

4 (dd) "Sample" means a serving of alcoholic liquor that contains not  
5 more than: (1) One-half ounce of distilled spirits; (2) one ounce of wine; or  
6 (3) two ounces of beer or cereal malt beverage. A "sample" of a mixed  
7 alcoholic beverage shall contain not more than ½ ounce of distilled spirits.

8 (ee) "Secretary" means the secretary of revenue.

9 (ff) (1) "Sell at retail" and "sale at retail" refer to and mean sales for  
10 use or consumption and not for resale in any form and sales to clubs,  
11 licensed drinking establishments, licensed caterers or holders of temporary  
12 permits.

13 (2) "Sell at retail" and "sale at retail" do not refer to or mean sales by  
14 a distributor, a microbrewery, a farm winery, a licensed club, a licensed  
15 drinking establishment, a licensed caterer or a holder of a temporary  
16 permit.

17 (gg) "To sell" includes to solicit or receive an order for, to keep or  
18 expose for sale and to keep with intent to sell.

19 (hh) "Sleeve" means a package of two or more 50-milliliter or 3.2-  
20 fluid-ounce containers of spirits.

21 (ii) "Spirits" means any beverage ~~which~~ that contains alcohol  
22 obtained by distillation, mixed with water or other substance in solution,  
23 and includes brandy, rum, whiskey, gin or other spirituous liquors, and  
24 such liquors when rectified, blended or otherwise mixed with alcohol or  
25 other substances.

26 (jj) "Supplier" means a manufacturer of alcoholic liquor or cereal  
27 malt beverage or an agent of such manufacturer, other than a salesperson.

28 (kk) "Temporary permit" means the same as defined by K.S.A. 41-  
29 2601, and amendments thereto.

30 (ll) "Wine" means any alcoholic beverage obtained by the normal  
31 alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or  
32 other agricultural products, including such beverages containing added  
33 alcohol or spirits or containing sugar added for the purpose of correcting  
34 natural deficiencies. "Wine" includes hard cider and any other product that  
35 is commonly known as a subset of wine.

36 Sec. 2. K.S.A. 41-212 is hereby amended to read as follows: 41-212.

37 (a) ~~Following the 10<sup>th</sup> anniversary of the effective date of this act~~ *After*  
38 *January 1, 2028*, the director shall conduct, based on information available  
39 to the director, a market impact study of the sale of beer containing not  
40 more than 6% alcohol by volume *and wine containing not more than 16%*  
41 *alcohol by volume* by persons licensed ~~as cereal malt beverage retailers~~  
42 pursuant to K.S.A. 41-2702, and amendments thereto. Such study shall  
43 include, but not be limited to, the changes ~~subsequent to the effective date~~

1 of this act after January 1, 2018, if any, in the number of *such* retailers and  
2 the reasons for any changes; the changes ~~subsequent to the effective date~~  
3 ~~of this act after January 1, 2018, if any, in the number of persons licensed~~  
4 to sell cereal malt beverage in the original package for use or consumption  
5 off of and away from the licensed premises, and the reasons for any  
6 changes; the effect of this act on state and local tax revenues; the impact of  
7 this act on employment; and such other factors as the director deems  
8 pertinent. A report on the director's findings from such study shall be  
9 submitted to the legislature prior to adjournment of the 2029 session of the  
10 legislature.

11 (b) The director shall have oversight over the sale of beer containing  
12 not more than 6% alcohol by volume *and wine containing not more than*  
13 *16% alcohol by volume* by persons licensed ~~as cereal malt beverage~~  
14 ~~retailers~~ pursuant to K.S.A. 41-2702, and amendments thereto, to ensure  
15 that such sales promote an orderly market. For such purpose, the director  
16 may adopt such rules and regulations as the director deems necessary and  
17 appropriate, including rules and regulations making ~~applicable to cereal~~  
18 ~~malt beverage retailers selling beer containing not more than 6% alcohol~~  
19 ~~by volume such~~ the provisions of ~~the existing rules and regulations~~  
20 concerning industry trade practices ~~as are necessary and appropriate~~  
21 ~~applicable to retailers, as defined in K.S.A. 41-2701, and amendments~~  
22 ~~thereto, who sell beer containing not more than 6% alcohol by volume and~~  
23 ~~wine containing not more than 16% alcohol by volume.~~ The rules and  
24 regulations authorized by this section shall be promulgated by the director  
25 on or before ~~July 1, 2018~~ *January 1, 2025*.

26 Sec. 3. K.S.A. 2023 Supp. 41-306a is hereby amended to read as  
27 follows: 41-306a. A wine distributor's license shall allow:

28 (a) The wholesale purchase, importation and storage of wine, but all  
29 wine so purchased or imported ~~which~~ *that* is manufactured in the United  
30 States shall be purchased from the primary American source of supply or  
31 from another licensed wine distributor, except that a licensed wine  
32 distributor may purchase confiscated wine at a sheriff's sale.

33 (b) The sale of wine to:

34 (1) Wine distributors licensed in this state;

35 (2) retailers licensed in this state, except that such distributor shall  
36 sell a brand of wine only to those retailers whose licensed premises are  
37 located in the geographic territory within which such distributor is  
38 authorized to sell such brand, as designated in the notice or notices filed  
39 with the director pursuant to K.S.A. 41-410, and amendments thereto; and

40 (3) such persons located outside such territory or outside this state as  
41 permitted by law.

42 (c) *The sale of wine containing not more than 16% alcohol by volume*  
43 *to retailers, as defined in K.S.A. 41-2701, and amendments thereto.*

1 (d) The sale of wine, but only in barrels, casks and other bulk  
2 containers, to:

3 (1) Licensed caterers; and

4 (2) public venues, clubs and drinking establishments licensed in this  
5 state, except that such distributor shall sell a brand of wine only to such  
6 public venues, clubs and drinking establishments the licensed premises of  
7 which are located in the geographic territory within which such distributor  
8 is authorized to sell such brand, as designated in the notice or notices filed  
9 with the director pursuant to K.S.A. 41-410, and amendments thereto.

10 ~~(d)~~(e) The purchase of wine in barrels, casks or other bulk containers  
11 and the bottling thereof before resale, but all bottles or containers filled  
12 with such wine shall be sealed, labeled and otherwise made to comply with  
13 all laws and rules and regulations governing the preparation and bottling of  
14 wine by manufacturers and with all federal rules, regulations and laws.

15 ~~(e)~~(f) The storage and delivery to a retailer licensed under the Kansas  
16 liquor control act or a retailer ~~licensed under K.S.A. 41-2702~~, *as defined in*  
17 *K.S.A. 41-2701*, and amendments thereto, on the distributor's licensed  
18 premises, of alcoholic liquor or cereal malt beverage of another licensed  
19 distributor authorized by law to sell such alcoholic liquor or cereal malt  
20 beverage to such retailer, in accordance with an agreement entered into  
21 with such other distributor and approved by the director.

22 ~~(f)~~(g) The withdrawal of wine from such licensee's inventory for use  
23 as samples in the course of the business of the distributor or at industry  
24 seminars. Samples may only be provided to persons licensed as a  
25 distributor or a retailer under the Kansas liquor control act, and such  
26 person's employees, or to persons licensed under the club and drinking  
27 establishment act, and such person's employees. Samples may be served  
28 on the licensed premises of the licensee, or on the premises of a licensed  
29 retailer, provided no sample shall be served on that portion of the premises  
30 of a licensed retailer that is open to the public and where sales of alcoholic  
31 liquor at retail are made. Samples may be served on the premises of a  
32 licensee holding a license issued under the club and drinking establishment  
33 act, provided no sample shall be served on that portion of the premises that  
34 is open to the public and where sales of alcoholic liquor are made. Only  
35 products that have not been purchased from the distributor licensee by the  
36 retailer or club and drinking establishment licensee within the previous 12  
37 months may be provided for sampling pursuant to this subsection. No  
38 sample shall be provided to any minor. Nothing in this subsection shall be  
39 construed to permit the licensee to sell any alcoholic liquor for  
40 consumption on the premises. The withdrawal of wine shall be subject to  
41 the tax imposed by K.S.A. 79-4101 et seq., and amendments thereto, based  
42 on the applicable current posted bottle or case price. For purposes of this  
43 subsection, "sample" means not more than three liters of any brand of

1 wine.

2 ~~(g)~~(h) This section shall be a part of and supplemental to the Kansas  
3 liquor control act.

4 Sec. 4. K.S.A. 2023 Supp. 41-308 is hereby amended to read as  
5 follows: 41-308. (a) Except as provided in K.S.A. 41-308d, and  
6 amendments thereto, a retailer's license shall allow the licensee to sell and  
7 offer for sale at retail and deliver in the original package, as therein  
8 prescribed, alcoholic liquor and cereal malt beverage for use or  
9 consumption off and away from the premises specified in such license.

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

14 (1) Sell alcoholic liquor and cereal malt beverage to a temporary  
15 permit holder for resale by such permit holder;

16 (2) sell and deliver alcoholic liquor and cereal malt beverage to a  
17 caterer or to the licensed premises of a public venue, club or drinking  
18 establishment, if such premises are in the county where the retailer's  
19 premises are located or in an adjacent county or a county with a corner  
20 located within two miles measured along the adjacent county boundary, for  
21 resale by such public venue, club, establishment or caterer; and

22 (3) sell and deliver cereal malt beverage ~~and~~, beer containing not  
23 more than 6% alcohol by volume *and wine containing not more than 16%*  
24 *alcohol by volume* to the licensed premises of a ~~cereal malt beverage~~  
25 retailer, as defined in K.S.A. 41-2701, and amendments thereto, who is  
26 licensed for on-premises consumption, if such ~~cereal malt beverage~~  
27 *licensed* premises are located in the same county, or an adjacent county to  
28 the county where the ~~retailer's licensed~~ premises are located, for resale by  
29 such ~~cereal malt beverage~~ retailer.

30 (c) A retailer may:

31 (1) Charge a delivery fee for delivery of alcoholic liquor and cereal  
32 malt beverage to a public venue, club, drinking establishment or caterer  
33 pursuant to subsection (b)(2);

34 (2) charge a delivery fee for delivery of cereal malt beverage ~~and~~,  
35 beer containing not more than 6% alcohol by volume *and wine containing*  
36 *not more than 16% alcohol by volume* to a ~~cereal malt beverage~~  
37 *retailer, as defined in K.S.A. 41-2701, and amendments thereto*, pursuant to subsection  
38 (b)(3);

39 (3) sell lottery tickets and shares to the public in accordance with the  
40 Kansas lottery act, if the retailer is selected as a lottery retailer;

41 (4) include in the sale of alcoholic liquor and cereal malt beverage  
42 any goods included by the manufacturer in packaging with the alcoholic  
43 liquor or cereal malt beverage, subject to the approval of the director;

1 (5) distribute to the public, without charge, consumer advertising  
2 specialties bearing advertising matter, subject to rules and regulations of  
3 the secretary limiting the form and distribution of such specialties so that  
4 they are not conditioned on or an inducement to the purchase of alcoholic  
5 liquor or cereal malt beverage;

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

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

15 (8) sell containers of beer, domestic beer and cereal malt beverage  
16 that 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 Sec. 5. K.S.A. 41-355 is hereby amended to read as follows: 41-355.

26 (a) Any person engaged in business as a vineyard with not less than 100  
27 vines of sound, ripe grapes or other type of agricultural producer with an  
28 annual harvest of 1,000 pounds of other sound, ripe fruits or berries or 100  
29 pounds of honey may apply to the director for and be issued up to two  
30 producer licenses.

31 (b) A producer license shall apply only to the premises described in  
32 the application and in the issued license.

33 (c) A producer license shall authorize the sale in the original,  
34 unopened container and the serving by the drink of wine on the premises  
35 specified in the license. A producer license also shall authorize the license  
36 holder to conduct wine tastings in accordance with K.S.A. 41-308d, and  
37 amendments thereto, on the premises specified in the license. All wine sold  
38 or served by the license holder, *including any wine sold or served*  
39 *pursuant to a license issued under K.S.A. 41-2702, and amendments*  
40 *thereto*, shall be produced, in whole or in part, using sound, ripe grapes,  
41 fruits, berries or honey grown or produced by the license holder, shall be  
42 manufactured by a farm winery and shall be purchased by the license  
43 holder from such farm winery.

1 (d) Any wine not consumed on the premises shall be disposed of by  
2 the license holder or, prior to its removal from the property, securely re-  
3 sealed and placed in a tamper-proof, transparent bag that is sealed in a  
4 manner that makes it visibly apparent if the bag is subsequently opened.

5 (e) If the producer licensee is also licensed as a club or drinking  
6 establishment, the producer's license shall allow the sale of domestic wine,  
7 domestic fortified wine and other alcoholic liquor for consumption on the  
8 licensed premises as authorized by the club and drinking establishment act.  
9 If the producer licensee is also licensed as a cereal malt beverage licensee,  
10 the producer's license shall allow the sale of cereal malt beverage and beer  
11 not exceeding 6% alcohol by volume for consumption on the licensed  
12 premises as authorized by the Kansas cereal malt beverage act.

13 (f) The officers, directors, shareholders or managers of a producer  
14 licensee shall meet the qualifications of K.S.A. 41-311(a), and  
15 amendments thereto.

16 (g) (1) Each producer licensee shall maintain records of all sales  
17 made under the license, including sales of agricultural products to a farm  
18 winery and sales to consumers, and maintain records of all purchases of  
19 wine manufactured by such farm winery, for at least three years after the  
20 date of the sale or purchase.

21 (2) The records required by this subsection shall be available for  
22 inspection by the director, any agent or employee of the director, the  
23 secretary or any law enforcement officer.

24 (3) Each record of a sale or purchase required by this subsection shall  
25 be maintained on the premises specified in the license for at least 90 days  
26 after such sale or purchase.

27 (4) Any record of a sale or purchase required by this subsection may  
28 be stored electronically and maintained off the premises specified in the  
29 license after 90 days have passed since such sale or purchase.

30 (h) The secretary may adopt rules and regulations as necessary to  
31 implement the provisions of this section.

32 (i) (1) Nothing in this section shall be construed to prohibit a person  
33 from possessing alcoholic liquor or cereal malt beverage not purchased  
34 from the licensee on the premises licensed pursuant to this section.

35 (2) Nothing in this section shall prevent a licensee from adopting a  
36 policy prohibiting the possession of alcoholic liquor or cereal malt  
37 beverage not purchased from the licensee on the licensee's premises  
38 licensed pursuant to this section.

39 (j) This section shall be a part of and supplemental to the Kansas  
40 liquor control act.

41 Sec. 6. K.S.A. 41-701 is hereby amended to read as follows: 41-701.

42 (a) Except as provided in subsection (d), no spirits distributor shall sell or  
43 attempt to sell any spirits within this state except to:

1 (1) A licensed manufacturer, licensed nonbeverage user or licensed  
2 spirits distributor; or

3 (2) a licensed retailer, as authorized by K.S.A. 41-306, and  
4 amendments thereto.

5 (b) Except as provided in subsection (d), no wine distributor shall sell  
6 or attempt to sell any wine within this state except to:

7 (1) A licensed manufacturer, licensed nonbeverage user or licensed  
8 wine distributor;

9 (2) a licensed caterer; or

10 (3) a retailer, public venue, club or drinking establishment; licensed in  
11 this state *or a retailer, as defined in K.S.A. 41-2701, and amendments*  
12 *thereto*, as authorized by K.S.A. 41-306a, and amendments thereto.

13 (c) Except as provided by subsection (d), no beer distributor shall sell  
14 or attempt to sell any beer or cereal malt beverage within this state except  
15 to:

16 (1) A licensed manufacturer, licensed nonbeverage user or licensed  
17 beer distributor;

18 (2) a licensed caterer; or

19 (3) a retailer licensed under the Kansas liquor control act or under  
20 K.S.A. 41-2702, and amendments thereto, or a club or drinking  
21 establishment, licensed in this state, as authorized by K.S.A. 41-307, and  
22 amendments thereto.

23 (d) (1) If any spirits distributor refuses to sell spirits ~~which~~ *that* such  
24 distributor is authorized to sell or refuses to provide any service in  
25 connection therewith to any licensed retailer as authorized by K.S.A. 41-  
26 306, and amendments thereto, it shall be lawful for any other licensed  
27 spirits distributor to sell such spirits to such retailer.

28 (2) If any wine distributor refuses to sell wine ~~which~~ *that* such  
29 distributor is authorized to sell or refuses to furnish service in connection  
30 therewith to any ~~licensed~~ retailer *licensed under the Kansas liquor control*  
31 *act or K.S.A. 41-2702, and amendments thereto*, as authorized by K.S.A.  
32 41-306a, and amendments thereto, it shall be lawful for any other licensed  
33 wine distributor to sell such wine to such retailer.

34 (3) If any beer distributor refuses to sell beer or cereal malt beverage  
35 ~~which~~ *that* such distributor is authorized to sell or provide service in  
36 connection therewith to any retailer licensed under ~~this~~ *the Kansas liquor*  
37 *control act or* ~~under~~ K.S.A. 41-2702, and amendments thereto, as  
38 authorized by K.S.A. 41-307, and amendments thereto, it shall be lawful  
39 for any other licensed beer distributor to sell such beer or cereal malt  
40 beverage to such retailer.

41 (e) No manufacturer of alcoholic liquor or cereal malt beverage shall  
42 sell or attempt to sell any alcoholic liquor or cereal malt beverage within  
43 this state except to a licensed manufacturer, licensed distributor or licensed

1 nonbeverage user.

2 (f) No supplier, wholesaler, distributor, manufacturer or importer  
3 shall by oral or written contract or agreement, expressly or impliedly fix,  
4 maintain, coerce or control the resale price of alcoholic liquor, beer or  
5 cereal malt beverage to be resold by such wholesaler, distributor,  
6 manufacturer or importer.

7 (g) Any supplier, wholesaler, distributor or manufacturer violating the  
8 provisions of this section shall be guilty of a misdemeanor and upon  
9 conviction thereof shall be punished by a fine of not less than \$500 and not  
10 more than \$1,000, to which may be added not to exceed six months'  
11 imprisonment. In addition, any supplier, wholesaler, distributor,  
12 manufacturer or importer violating the provisions of this section relating to  
13 fixing, maintaining or controlling the resale price of alcoholic liquor, beer  
14 or cereal malt beverage shall be liable in a civil action to treble the amount  
15 of any damages awarded plus reasonable attorney fees for the damaged  
16 party.

17 Sec. 7. K.S.A. 41-1101a is hereby amended to read as follows: 41-  
18 1101a. (a) Notwithstanding the provisions of K.S.A. 41-1101, and  
19 amendments thereto, or the provisions of the Kansas cereal malt beverage  
20 act, a distributor may establish reasonable minimum order quantities or  
21 minimum dollar value of an order, or both, for beer and cereal malt  
22 beverages distributed by the distributor to a retailer.

23 (b) The provisions of K.S.A. 41-1101(b), and amendments thereto,  
24 shall apply to a ~~person~~ *cereal malt beverage retailer* licensed pursuant to  
25 K.S.A. 41-2702, and amendments thereto, to sell cereal malt beverage ~~and~~,  
26 beer containing not more than 6% alcohol by volume *and wine containing*  
27 *not more than 16% alcohol by volume* to the same extent ~~it applies such~~  
28 *provisions apply* to a retailer licensed pursuant to the Kansas liquor control  
29 act, ~~and~~. The provisions of K.S.A. 41-1101(d), and amendments thereto,  
30 shall apply to a retailer licensed pursuant to the Kansas liquor control act  
31 to the same extent ~~it applies such provisions apply~~ to a retailer licensed  
32 pursuant to K.S.A. 41-2702, and amendments thereto.

33 (c) This section shall be a part of and supplemental to the Kansas  
34 liquor control act.

35 ~~(d) The provisions of this section shall be effective on and after April~~  
36 ~~1, 2019.~~

37 Sec. 8. K.S.A. 41-2701 is hereby amended to read as follows: 41-  
38 2701. As used in this act, unless the context otherwise requires:

39 (a) "Cereal malt beverage" means any fermented but undistilled  
40 liquor brewed or made from malt or from a mixture of malt or malt  
41 substitute or any flavored malt beverage, as defined in K.S.A. 41-2729,  
42 and amendments thereto, but does not include any such liquor ~~which that~~  
43 is more than 3.2% alcohol by weight.

1 (b) "Director" means the director of alcoholic beverage control of the  
2 department of revenue.

3 (c) "Manufacturer" means a manufacturer as defined by K.S.A. 41-  
4 102, and amendments thereto.

5 (d) "Person" means any individual, firm, partnership, corporation or  
6 association.

7 (e) "Retailer" means any person who is licensed under the Kansas  
8 cereal malt beverage act and who sells or offers for sale any cereal malt  
9 beverage ~~or~~, beer containing not more than 6% alcohol by volume *or wine*  
10 *containing not more than 16% alcohol by volume* for use or consumption  
11 and not for resale in any form.

12 (f) "Place of business" means any place ~~at which~~ *where* cereal malt  
13 beverages ~~or~~, beer containing not more than 6% alcohol by volume *or*  
14 *wine containing not more than 16% alcohol by volume* are sold.

15 (g) "Distributor" means a beer distributor licensed pursuant to the  
16 Kansas liquor control act.

17 (h) "Legal age for consumption of cereal malt beverage" means 21  
18 years of age, except that "legal age for consumption of cereal malt  
19 beverage" shall mean 18 years of age if at any time the provisions of P.L.  
20 98-363 penalizing states for permitting persons under 21 years of age to  
21 consume cereal malt beverage are repealed or otherwise invalidated or  
22 nullified.

23 Sec. 9. K.S.A. 41-2702 is hereby amended to read as follows: 41-  
24 2702. (a) No retailer shall sell any cereal malt beverage ~~or~~, beer containing  
25 not more than 6% alcohol by volume *or wine containing not more than*  
26 *16% alcohol by volume* without having first secured a license for each  
27 place of business as herein provided. In case such place of business is  
28 located within the corporate limits of a city, the application for license  
29 shall be made to the governing body of such city. In all other cases, the  
30 application for license shall be made to the board of county commissioners  
31 in the county in which such place of business is to be located, except that  
32 the application for license to sell on railway cars shall be made to the  
33 director as hereinafter provided.

34 (b) A board of county commissioners shall not issue or renew a  
35 retailer's license without giving the clerk of the township where the place  
36 of business is to be located written notice by registered mail of the filing of  
37 the application for licensure or renewal. The township board may within  
38 10 days file advisory recommendations as to the granting of such license  
39 or renewal and such advisory recommendations shall be considered by the  
40 board of county commissioners before such license is issued. If an original  
41 license is granted and issued, the board of county commissioners shall  
42 grant and issue renewals thereof upon application of the license holder, if  
43 the license holder is qualified to receive the same and the license has not

1 been revoked as provided by law.

2 (c) An application for a retailer's license shall be verified and upon a  
3 form prepared by the attorney general of the state and shall contain:

4 (1) The name and residence of the applicant;

5 (2) the length of time that the applicant has resided within the state of  
6 Kansas;

7 (3) the particular place of business for which a license is desired;

8 (4) the name of the owner of the premises upon which the place of  
9 business is located; and

10 (5) a statement that the applicant is a citizen of the United States and  
11 not less than 21 years of age and that the applicant has not within two  
12 years immediately preceding the date of making application been  
13 convicted of a felony, any crime involving moral turpitude, drunkenness,  
14 driving a motor vehicle while under the influence of intoxicating liquor or  
15 violation of any other intoxicating liquor law of any state or of the United  
16 States.

17 (d) In addition to the fee provided by subsection (e), each application  
18 for a retailer's license to sell cereal malt beverages for consumption on the  
19 licensed premises shall be accompanied by a fee as follows:

20 (1) For licensure of a place of business other than a railway car, a fee  
21 of not less than \$25 nor more than \$200, as prescribed by the board of  
22 county commissioners or the governing body of the city, as the case may  
23 be; and

24 (2) for licensure to sell on railway cars, a fee of \$100.

25 (e) Each applicant for a retailer's license or renewal of such a license  
26 shall submit to the director a copy of the completed application for such  
27 license or license renewal, together with a fee of \$25. Upon receipt of such  
28 application, the director shall authorize a state stamp to be affixed to the  
29 license. No such stamp shall be affixed to any license except such stamps  
30 as provided by the director and no retailer's license shall be issued or  
31 renewed unless such stamp has first been affixed thereto. The director may  
32 refuse to issue a stamp if the applicant or licensee is not current in the  
33 payment of any fines imposed by the director relating to such license or a  
34 license previously issued pursuant to this section, the Kansas liquor control  
35 act or the club and drinking establishment act.

36 (f) The director shall remit all fees collected by the director to the  
37 state treasurer in accordance with the provisions of K.S.A. 75-4215, and  
38 amendments thereto. Upon receipt of each such remittance, the state  
39 treasurer shall deposit the entire amount in the state treasury to the credit  
40 of the state general fund, except that the director may provide for the  
41 deposit in the cereal malt beverage tax refund fund of such amounts as  
42 necessary for the refund of any license fees collected hereunder.

43 (g) The board of county commissioners of the several counties or the

1 governing body of a city shall issue a license upon application duly made  
2 as otherwise provided for herein, to any retailer engaged in business in  
3 such county or city and qualified to receive such license, to sell only cereal  
4 malt beverages in original and unopened containers, and not for  
5 consumption on the premises. The annual license fee for such license,  
6 which shall be in addition to the fee provided by subsection (e), shall be  
7 not less than \$25 nor more than \$50.

8 (h) No license issued under this act shall be transferable.

9 Sec. 10. K.S.A. 2023 Supp. 41-2704 is hereby amended to read as  
10 follows: 41-2704. (a) In addition to and consistent with the requirements  
11 of the Kansas cereal malt beverage act, the board of county commissioners  
12 of any county or the governing body of any city may prescribe hours of  
13 closing, standards of conduct and rules and regulations concerning the  
14 moral, sanitary and health conditions of places licensed pursuant to this act  
15 and may establish zones within which no such place may be located.

16 (b) Within any city where the days of sale at retail of cereal malt  
17 beverage in the original package have not been expanded as provided by  
18 K.S.A. 41-2911, and amendments thereto, or have been so expanded and  
19 subsequently restricted as provided by K.S.A. 41-2911, and amendments  
20 thereto, no cereal malt beverages~~or~~, beer containing not more than 6%  
21 alcohol by volume *or wine containing not more than 16% alcohol by*  
22 *volume* may be sold:

23 (1) Between the hours of 12 midnight and 6 a.m.; or

24 (2) on Sunday, except in a place of business that is licensed to sell  
25 cereal malt beverage for consumption on the premises and that is located  
26 in a county where such sales on Sunday have been authorized by  
27 resolution of the board of county commissioners of the county or in a city  
28 where such sales on Sunday have been authorized by ordinance of the  
29 governing body of the city.

30 (c) Within any city where the days of sale at retail of cereal malt  
31 beverage in the original package have been expanded as provided by  
32 K.S.A. 41-2911, and amendments thereto, and have not been subsequently  
33 restricted as provided in K.S.A. 41-2911, and amendments thereto, no  
34 person shall sell at retail cereal malt beverage~~or~~, beer containing not more  
35 than 6% alcohol by volume *or wine containing not more than 16% alcohol*  
36 *by volume*:

37 (1) Between the hours of 12 midnight and 6 a.m.;

38 (2) in the original package not earlier than 9 a.m. and not later than 8  
39 p.m. on Sunday;

40 (3) on Easter Sunday; or

41 (4) for consumption on the licensed premises on Sunday, except in a  
42 place of business that is licensed to sell cereal malt beverage for  
43 consumption on the premises and that is located in a county where such

1 sales on Sunday have been authorized by resolution of the board of county  
2 commissioners of the county or in a city where such sales on Sunday have  
3 been authorized by ordinance of the governing body of the city.

4 (d) No private rooms or closed booths shall be operated in a place of  
5 business, but this provision shall not apply if the licensed premises also are  
6 licensed as a club pursuant to the club and drinking establishment act.

7 (e) Each place of business shall be open to the public and to law  
8 enforcement officers at all times during business hours, except that a  
9 premises licensed as a club pursuant to the club and drinking establishment  
10 act shall be open to law enforcement officers and not to the public.

11 (f) Except as otherwise provided by this subsection, no licensee shall  
12 permit a person under the legal age for consumption of cereal malt  
13 beverage ~~or beer containing not more than 6% alcohol by volume~~ to  
14 consume or purchase any cereal malt beverage, *beer or wine* in or about a  
15 place of business. A licensee's employee who is not less than 18 years of  
16 age may dispense or sell cereal malt beverage ~~or beer containing not more~~  
17 ~~than 6% alcohol by volume~~ *or wine containing not more than 16% alcohol*  
18 *by volume*, if:

19 (1) The licensee's place of business is licensed only to sell at retail  
20 cereal malt beverage ~~or beer containing not more than 6% alcohol by~~  
21 ~~volume or wine containing not more than 16% alcohol by volume~~ in the  
22 original package and not for consumption on the premises; or

23 (2) the licensee's place of business is a licensed food service  
24 establishment, as defined by K.S.A. 36-501, and amendments thereto, and  
25 not less than 50% of the gross receipts from the licensee's place of  
26 business is derived from the sale of food for consumption on the premises  
27 of the licensed place of business.

28 (g) No person shall have any alcoholic liquor, except beer containing  
29 not more than 6% alcohol by volume *or wine containing not more than*  
30 *16% alcohol by volume*, in such person's possession while in a place of  
31 business, unless the premises are currently licensed as a club or drinking  
32 establishment pursuant to the club and drinking establishment act or the  
33 business is a farm winery licensed pursuant to K.S.A. 41-316, and  
34 amendments thereto, or a producer licensed pursuant to K.S.A. 41-355,  
35 and amendments thereto.

36 (h) Cereal malt beverages may be sold on premises that are licensed  
37 pursuant to both the Kansas cereal malt beverage act and the club and  
38 drinking establishment act at any time when alcoholic liquor is allowed by  
39 law to be served on the premises.

40 Sec. 11. K.S.A. 41-2706 is hereby amended to read as follows: 41-  
41 2706. (a) Except as provided by subsection (b), no person shall sell or  
42 furnish cereal malt beverages ~~or beer containing not more than 6% alcohol~~  
43 ~~by volume or wine containing not more than 16% alcohol by volume~~ at

1 retail to any person on credit; on a passbook; on order on a store; in  
2 exchange for any goods, wares or merchandise; or in payment for any  
3 services rendered. If any person extends credit for such purpose, the debt  
4 attempted to be created shall not be recoverable at law and, in addition,  
5 such person shall be subject to the penalties provided in K.S.A. 41-2707,  
6 and amendments thereto.

7 (b) A licensed retailer may sell cereal malt beverages~~or~~, beer  
8 containing not more than 6% alcohol by volume *or wine containing not*  
9 *more than 16% alcohol by volume* to a consumer on credit pursuant to a  
10 credit card~~which~~ that entitles the user to purchase goods or services from  
11 at least 100 persons not related to the issuer of the credit card.

12 Sec. 12. K.S.A. 41-2708 is hereby amended to read as follows: 41-  
13 2708. (a) The board of county commissioners or the governing body of  
14 any city, upon five days' notice to the persons holding a license, may  
15 revoke or suspend the license for any one of the following reasons:

16 (1) The licensee has violated any of the provisions of K.S.A. 41-2701  
17 et seq., and amendments thereto, or any rules or regulations made by the  
18 board or the city, as the case may be;

19 (2) drunkenness of the licensee or permitting any intoxicated person  
20 to remain in or upon the licensee's place of business;

21 (3) the sale of cereal malt beverages~~or~~, beer containing not more than  
22 6% alcohol by volume *or wine containing not more than 16% alcohol by*  
23 *volume* to any person under the legal age for consumption of cereal malt  
24 beverage;

25 (4) permitting any person to mix drinks with materials purchased in  
26 or upon the place of business or brought in for that purpose;

27 (5) the sale or possession of, or permitting any person to use or  
28 consume on the licensed premises, any alcoholic liquor as defined by  
29 K.S.A. 41-102, and amendments thereto, except beer containing not more  
30 than 6% alcohol by volume *or wine containing not more than 16% alcohol*  
31 *by volume*; or

32 (6) the licensee has been convicted of a violation of the beer and  
33 cereal malt beverage keg registration act.

34 (b) The provisions of subsections (a)(4) and (5) shall not apply if the  
35 place of business or premises also are currently licensed as a club or  
36 drinking establishment pursuant to the club and drinking establishment act.

37 (c) The board of county commissioners or the governing body of any  
38 city, upon five days' notice to the persons holding a license, shall revoke or  
39 suspend the license for any one of the following reasons:

40 (1) The licensee has fraudulently obtained the license by giving false  
41 information in the application therefor;

42 (2) the licensee has become ineligible to obtain a license under this  
43 act;

- 1 (3) the nonpayment of any license fees;
- 2 (4) permitting any gambling in or upon the licensee's place of  
3 business;
- 4 (5) the employment of persons under 18 years of age in dispensing or  
5 selling cereal malt beverages ~~or~~, beer containing not more than 6% alcohol  
6 by volume *or wine containing not more than 16% alcohol by volume*;
- 7 (6) the employment or continuation in employment of a person in  
8 connection with the sale, serving or dispensing of cereal malt beverages if  
9 the licensee knows such person has been, within the preceding two years,  
10 adjudged guilty of a felony or of any violation of the intoxicating liquor  
11 laws of this state, another state or the United States; or
- 12 (7) there has been a violation of K.S.A. 21-4106 or 21-4107, prior to  
13 their repeal, or K.S.A. 21-6204, and amendments thereto, in or upon the  
14 licensee's place of business.
- 15 (d) Within 20 days after the order of the board revoking or  
16 suspending any license, the licensee may appeal to the district court and  
17 the district court shall proceed to hear such appeal as though such court  
18 had original jurisdiction of the matter. Any appeal taken from an order  
19 revoking or suspending the license shall not suspend the order of  
20 revocation or suspension during the pendency of any such appeal.
- 21 Sec. 13. K.S.A. 41-2722 is hereby amended to read as follows: 41-  
22 2722. (a) No retailer, or employee or agent of a retailer, licensed to sell  
23 cereal malt beverage ~~and~~, beer containing not more than 6% alcohol by  
24 volume *and wine containing not more than 16% alcohol by volume* for  
25 consumption on the licensed premises shall:
  - 26 (1) Offer or serve any free cereal malt beverage ~~or~~, beer containing  
27 not more than 6% alcohol by volume *or wine containing not more than*  
28 *16% alcohol by volume* to any person;
  - 29 (2) offer or serve to any person a drink at a price that is less than the  
30 acquisition cost of the drink to the licensee;
  - 31 (3) sell, offer to sell or serve to any person an unlimited number of  
32 drinks during any set period of time for a fixed price, except at private  
33 functions not open to the general public;
  - 34 (4) encourage or permit, on the licensed premises, any game or  
35 contest ~~which~~ *that* involves drinking cereal malt beverage ~~or~~, beer  
36 containing not more than 6% alcohol by volume *or wine containing not*  
37 *more than 16% alcohol by volume* or the awarding of drinks as prizes; or
  - 38 (5) advertise or promote in any way, whether on or off the licensed  
39 premises, any of the practices prohibited under subsections (a)(1) through  
40 (4).
- 41 (b) A retailer may:
  - 42 (1) Offer free food or entertainment at any time;
  - 43 (2) sell, offer to sell and serve individual drinks at different prices

1 throughout any day; or

2 (3) sell or serve cereal malt beverage in a pitcher capable of  
3 containing not more than 64 fluid ounces.

4 (c) Violation of any provisions of this section is a misdemeanor  
5 punishable as provided by K.S.A. 41-2711, and amendments thereto.

6 (d) Violation of any provision of this act shall be grounds for  
7 suspension or revocation of the retailer's license as provided by K.S.A. 41-  
8 2708, and amendments thereto.

9 (e) Every licensee subject to the provisions of this section shall make  
10 available at any time upon request a price list showing the licensee's  
11 current prices for all cereal malt beverages ~~and~~, beer containing not more  
12 than 6% alcohol by volume *and wine containing not more than 16%*  
13 *alcohol by volume.*

14 (f) This section shall be a part of and supplemental to ~~K.S.A. 41-2701~~  
15 ~~through 41-2721, and amendments thereto~~ *the Kansas cereal malt*  
16 *beverage act.*

17 Sec. 14. K.S.A. 41-2726 is hereby amended to read as follows: 41-  
18 2726. (a) No retailer licensed under K.S.A. 41-2701 et seq., and  
19 amendments thereto, to sell cereal malt beverage ~~or~~, beer containing not  
20 more than 6% alcohol by volume *or wine containing not more than 16%*  
21 *alcohol by volume* in original and unopened containers and not for  
22 consumption on the licensed premises shall sell or offer for sale directly or  
23 indirectly any cereal malt beverage ~~or~~, beer containing not more than 6%  
24 alcohol by volume *or wine containing not more than 16% alcohol by*  
25 *volume* at a price that is less than the acquisition cost of such cereal malt  
26 beverage ~~or~~, beer containing not more than 6% alcohol by volume *or wine*  
27 *containing not more than 16% alcohol by volume* to the licensee.

28 (b) The director may issue to a retailer a permit authorizing the  
29 retailer to sell cereal malt beverage ~~or~~, beer containing not more than 6%  
30 alcohol by volume *or wine containing not more than 16% alcohol by*  
31 *volume* at less than the acquisition cost thereof, if:

32 (1) The retailer is actually closing out the retailer's stock for the  
33 purpose of completely discontinuing sale of the item for a period of not  
34 less than 12 months;

35 (2) the item is damaged or deteriorated in quality and notice is given  
36 to the public thereof; or

37 (3) the sale of the item is by an officer acting under the order of a  
38 court.

39 (c) Violation of this section is a misdemeanor punishable as provided  
40 by K.S.A. 41-2711, and amendments thereto.

41 (d) Violation of this section shall be grounds for suspension or  
42 revocation of the retailer's license as provided by K.S.A. 41-2708, and  
43 amendments thereto.

1       Sec. 15. K.S.A. 41-2728 is hereby amended to read as follows: 41-  
2 2728. ~~From and after November 15, 2005:~~

3       (a) K.S.A. 41-2701 through ~~41-2727 and section 14~~ 41-2730, and  
4 amendments thereto, shall be known and may be cited as the Kansas cereal  
5 malt beverage act.

6       (b) Except as specifically provided in the Kansas cereal malt  
7 beverage act, the power to regulate all phases of the manufacture,  
8 distribution, sale, possession, transportation and traffic in cereal malt  
9 beverages is vested exclusively in the state and shall be exercised as  
10 provided in the Kansas cereal malt beverage act. No city or county shall  
11 enact any ordinance or resolution ~~which~~ *that* is in conflict with the  
12 provisions of the Kansas cereal malt beverage act and any such ordinance  
13 or resolution shall be null and void.

14       (c) The provisions of this act are severable. If any provision of this  
15 act is held to be invalid or unconstitutional, it shall be presumed  
16 conclusively that the legislature would have enacted the remainder of this  
17 act without such invalid or unconstitutional provision.

18       Sec. 16. K.S.A. 41-2730 is hereby amended to read as follows: 41-  
19 2730. (a) The director, or any properly designated agent of the director,  
20 may issue a citation for any violation of the Kansas cereal malt beverage  
21 act, or any rules and regulations promulgated thereunder, with regard to  
22 the sale, consumption or possession of beer containing not more than 6%  
23 alcohol by volume *or wine containing not more than 16% alcohol by*  
24 *volume*. Any such citation shall be issued in accordance with the  
25 provisions of K.S.A. 41-106, and amendments thereto.

26       (b) In addition to or in lieu of any other civil or criminal penalty  
27 provided by law, the director, upon a finding that a retailer, as defined by  
28 K.S.A. 41-2701(e), and amendments thereto, has violated a provision of  
29 the Kansas liquor control act or the Kansas cereal malt beverage act, or  
30 any rules and regulations promulgated thereunder, with regard to the sale,  
31 consumption or possession of beer containing not more than 6% alcohol  
32 by volume *or wine containing not more than 16% alcohol by volume* may  
33 impose upon such retailer a civil fine not exceeding \$1,000 for each  
34 violation.

35       (c) No fine shall be imposed pursuant to this section except upon the  
36 written order of the director to the retailer who committed the violation.  
37 Such order shall state the violation, the fine to be imposed and the right of  
38 the retailer to appeal the order. Such order shall be subject to appeal and  
39 review in accordance with the Kansas administrative procedure act.

40       (d) Any fine imposed pursuant to this section shall be remitted to the  
41 state treasurer in accordance with the provisions of K.S.A. 75-4215, and  
42 amendments thereto. Upon receipt of each such remittance, the state  
43 treasurer shall deposit the entire amount in the state treasury to the credit

1 of the state general fund.

2 (e) This section shall be a part of and supplemental to the Kansas  
3 cereal malt beverage act.

4 Sec. 17. K.S.A. 2023 Supp. 79-3602 is hereby amended to read as  
5 follows: 79-3602. Except as otherwise provided, as used in the Kansas  
6 retailers' sales tax act:

7 (a) "Agent" means a person appointed by a seller to represent the  
8 seller before the member states.

9 (b) "Agreement" means the multistate agreement entitled the  
10 streamlined sales and use tax agreement approved by the streamlined sales  
11 tax implementing states at Chicago, Illinois on November 12, 2002.

12 (c) "Alcoholic beverages" means beverages that are suitable for  
13 human consumption and contain 0.05% or more of alcohol by volume.

14 (d) "Certified automated system (CAS)" means software certified  
15 under the agreement to calculate the tax imposed by each jurisdiction on a  
16 transaction, determine the amount of tax to remit to the appropriate state  
17 and maintain a record of the transaction.

18 (e) "Certified service provider (CSP)" means an agent certified under  
19 the agreement to perform all the seller's sales and use tax functions, other  
20 than the seller's obligation to remit tax on its own purchases.

21 (f) "Computer" means an electronic device that accepts information  
22 in digital or similar form and manipulates it for a result based on a  
23 sequence of instructions.

24 (g) "Computer software" means a set of coded instructions designed  
25 to cause a computer or automatic data processing equipment to perform a  
26 task.

27 (h) "Delivered electronically" means delivered to the purchaser by  
28 means other than tangible storage media.

29 (i) "Delivery charges" means charges by the seller of personal  
30 property or services for preparation and delivery to a location designated  
31 by the purchaser of personal property or services including, but not limited  
32 to, transportation, shipping, postage, handling, crating and packing.  
33 Delivery charges shall not include charges for delivery of direct mail if the  
34 charges are separately stated on an invoice or similar billing document  
35 given to the purchaser.

36 (j) "Direct mail" means printed material delivered or distributed by  
37 United States mail or other delivery services to a mass audience or to  
38 addressees on a mailing list provided by the purchaser or at the direction of  
39 the purchaser when the cost of the items are not billed directly to the  
40 recipients. Direct mail includes tangible personal property supplied  
41 directly or indirectly by the purchaser to the direct mail seller for inclusion  
42 in the package containing the printed material. Direct mail does not  
43 include multiple items of printed material delivered to a single address.

1 (k) "Director" means the state director of taxation.

2 (l) "Educational institution" means any nonprofit school, college and  
3 university that offers education at a level above the 12<sup>th</sup> grade, and  
4 conducts regular classes and courses of study required for accreditation by,  
5 or membership in, the higher learning commission, the state board of  
6 education, or that otherwise qualify as an "educational institution," as  
7 defined by K.S.A. 74-50,103, and amendments thereto. Such phrase shall  
8 include: (1) A group of educational institutions that operates exclusively  
9 for an educational purpose; (2) nonprofit endowment associations and  
10 foundations organized and operated exclusively to receive, hold, invest  
11 and administer moneys and property as a permanent fund for the support  
12 and sole benefit of an educational institution; (3) nonprofit trusts,  
13 foundations and other entities organized and operated principally to hold  
14 and own receipts from intercollegiate sporting events and to disburse such  
15 receipts, as well as grants and gifts, in the interest of collegiate and  
16 intercollegiate athletic programs for the support and sole benefit of an  
17 educational institution; and (4) nonprofit trusts, foundations and other  
18 entities organized and operated for the primary purpose of encouraging,  
19 fostering and conducting scholarly investigations and industrial and other  
20 types of research for the support and sole benefit of an educational  
21 institution.

22 (m) "Electronic" means relating to technology having electrical,  
23 digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

24 (n) "Food and food ingredients" means substances, whether in liquid,  
25 concentrated, solid, frozen, dried or dehydrated form, that are sold for  
26 ingestion or chewing by humans and are consumed for their taste or  
27 nutritional value. *"Food and food ingredients" includes bottled water,*  
28 *candy, dietary supplements, food sold through vending machines and soft*  
29 *drinks.* "Food and food ingredients" does not include alcoholic beverages  
30 or tobacco.

31 (o) "Gross receipts" means the total selling price or the amount  
32 received as defined in this act, in money, credits, property or other  
33 consideration valued in money from sales at retail within this state; and  
34 embraced within the provisions of this act. The taxpayer, may take credit  
35 in the report of gross receipts for: (1) An amount equal to the selling price  
36 of property returned by the purchaser when the full sale price thereof,  
37 including the tax collected, is refunded in cash or by credit; and (2) an  
38 amount equal to the allowance given for the trade-in of property.

39 (p) "Ingredient or component part" means tangible personal property  
40 that is necessary or essential to, and that is actually used in and becomes  
41 an integral and material part of tangible personal property or services  
42 produced, manufactured or compounded for sale by the producer,  
43 manufacturer or compounder in its regular course of business. The

1 following items of tangible personal property are hereby declared to be  
2 ingredients or component parts, but the listing of such property shall not be  
3 deemed to be exclusive nor shall such listing be construed to be a  
4 restriction upon, or an indication of, the type or types of property to be  
5 included within the definition of "ingredient or component part" as herein  
6 set forth:

7 (1) Containers, labels and shipping cases used in the distribution of  
8 property produced, manufactured or compounded for sale that are not to be  
9 returned to the producer, manufacturer or compounder for reuse.

10 (2) Containers, labels, shipping cases, paper bags, drinking straws,  
11 paper plates, paper cups, twine and wrapping paper used in the distribution  
12 and sale of property taxable under the provisions of this act by wholesalers  
13 and retailers and that is not to be returned to such wholesaler or retailer for  
14 reuse.

15 (3) Seeds and seedlings for the production of plants and plant  
16 products produced for resale.

17 (4) Paper and ink used in the publication of newspapers.

18 (5) Fertilizer used in the production of plants and plant products  
19 produced for resale.

20 (6) Feed for animals, fowl and aquatic plants and animals, the  
21 primary purpose of which is use in agriculture or aquaculture, as defined in  
22 K.S.A. 47-1901, and amendments thereto, the production of food for  
23 human consumption, the production of animal, dairy, poultry or aquatic  
24 plant and animal products, fiber, fur, or the production of offspring for use  
25 for any such purpose or purposes.

26 (q) "Isolated or occasional sale" means the nonrecurring sale of  
27 tangible personal property, or services taxable hereunder by a person not  
28 engaged at the time of such sale in the business of selling such property or  
29 services. Any religious organization that makes a nonrecurring sale of  
30 tangible personal property acquired for the purpose of resale shall be  
31 deemed to be not engaged at the time of such sale in the business of selling  
32 such property. Such term shall include: (1) Any sale by a bank, savings and  
33 loan institution, credit union or any finance company licensed under the  
34 provisions of the Kansas uniform consumer credit code of tangible  
35 personal property that has been repossessed by any such entity; and (2)  
36 any sale of tangible personal property made by an auctioneer or agent on  
37 behalf of not more than two principals or households if such sale is  
38 nonrecurring and any such principal or household is not engaged at the  
39 time of such sale in the business of selling tangible personal property.

40 (r) "Lease or rental" means any transfer of possession or control of  
41 tangible personal property for a fixed or indeterminate term for  
42 consideration. A lease or rental may include future options to purchase or  
43 extend.

1 (1) Lease or rental does not include: (A) A transfer of possession or  
2 control of property under a security agreement or deferred payment plan  
3 that requires the transfer of title upon completion of the required  
4 payments;

5 (B) a transfer or possession or control of property under an agreement  
6 that requires the transfer of title upon completion of required payments and  
7 payment of an option price does not exceed the greater of \$100 or 1% of  
8 the total required payments; or

9 (C) providing tangible personal property along with an operator for a  
10 fixed or indeterminate period of time. A condition of this exclusion is that  
11 the operator is necessary for the equipment to perform as designed. For the  
12 purpose of this subsection, an operator must do more than maintain,  
13 inspect or set-up the tangible personal property.

14 (2) Lease or rental does include agreements covering motor vehicles  
15 and trailers where the amount of consideration may be increased or  
16 decreased by reference to the amount realized upon sale or disposition of  
17 the property as defined in 26 U.S.C. § 7701(h)(1).

18 (3) This definition shall be used for sales and use tax purposes  
19 regardless if a transaction is characterized as a lease or rental under  
20 generally accepted accounting principles, the internal revenue code, the  
21 uniform commercial code, K.S.A. 84-1-101 et seq., and amendments  
22 thereto, or other provisions of federal, state or local law.

23 (4) This definition will be applied only prospectively from the  
24 effective date of this act and will have no retroactive impact on existing  
25 leases or rentals.

26 (s) "Load and leave" means delivery to the purchaser by use of a  
27 tangible storage media where the tangible storage media is not physically  
28 transferred to the purchaser.

29 (t) "Member state" means a state that has entered in the agreement,  
30 pursuant to provisions of article VIII of the agreement.

31 (u) "Model 1 seller" means a seller that has selected a CSP as its  
32 agent to perform all the seller's sales and use tax functions, other than the  
33 seller's obligation to remit tax on its own purchases.

34 (v) "Model 2 seller" means a seller that has selected a CAS to  
35 perform part of its sales and use tax functions, but retains responsibility for  
36 remitting the tax.

37 (w) "Model 3 seller" means a seller that has sales in at least five  
38 member states, has total annual sales revenue of at least \$500,000,000, has  
39 a proprietary system that calculates the amount of tax due each jurisdiction  
40 and has entered into a performance agreement with the member states that  
41 establishes a tax performance standard for the seller. As used in this  
42 subsection a seller includes an affiliated group of sellers using the same  
43 proprietary system.

1 (x) "Municipal corporation" means any city incorporated under the  
2 laws of Kansas.

3 (y) "Nonprofit blood bank" means any nonprofit place, organization,  
4 institution or establishment that is operated wholly or in part for the  
5 purpose of obtaining, storing, processing, preparing for transfusing,  
6 furnishing, donating or distributing human blood or parts or fractions of  
7 single blood units or products derived from single blood units, whether or  
8 not any remuneration is paid therefor, or whether such procedures are done  
9 for direct therapeutic use or for storage for future use of such products.

10 (z) "Persons" means any individual, firm, copartnership, joint  
11 adventure, association, corporation, estate or trust, receiver or trustee, or  
12 any group or combination acting as a unit, and the plural as well as the  
13 singular number; and shall specifically mean any city or other political  
14 subdivision of the state of Kansas engaging in a business or providing a  
15 service specifically taxable under the provisions of this act.

16 (aa) "Political subdivision" means any municipality, agency or  
17 subdivision of the state that is, or shall hereafter be, authorized to levy  
18 taxes upon tangible property within the state or that certifies a levy to a  
19 municipality, agency or subdivision of the state that is, or shall hereafter  
20 be, authorized to levy taxes upon tangible property within the state. Such  
21 term also shall include any public building commission, housing, airport,  
22 port, metropolitan transit or similar authority established pursuant to law  
23 and the horsethief reservoir benefit district established pursuant to K.S.A.  
24 82a-2201, and amendments thereto.

25 (bb) "Prescription" means an order, formula or recipe issued in any  
26 form of oral, written, electronic or other means of transmission by a duly  
27 licensed practitioner authorized by the laws of this state.

28 (cc) "Prewritten computer software" means computer software,  
29 including prewritten upgrades, that is not designed and developed by the  
30 author or other creator to the specifications of a specific purchaser. The  
31 combining of two or more prewritten computer software programs or  
32 prewritten portions thereof does not cause the combination to be other than  
33 prewritten computer software. Prewritten computer software includes  
34 software designed and developed by the author or other creator to the  
35 specifications of a specific purchaser when it is sold to a person other than  
36 the purchaser. Where a person modifies or enhances computer software of  
37 which the person is not the author or creator, the person shall be deemed to  
38 be the author or creator only of such person's modifications or  
39 enhancements. Prewritten computer software or a prewritten portion  
40 thereof that is modified or enhanced to any degree, where such  
41 modification or enhancement is designed and developed to the  
42 specifications of a specific purchaser, remains prewritten computer  
43 software, except that where there is a reasonable, separately stated charge

1 or an invoice or other statement of the price given to the purchaser for  
2 such modification or enhancement, such modification or enhancement  
3 shall not constitute prewritten computer software.

4 (dd) "Property which is consumed" means tangible personal property  
5 that is essential or necessary to and that is used in the actual process of and  
6 consumed, depleted or dissipated within one year in: (1) The production,  
7 manufacture, processing, mining, drilling, refining or compounding of  
8 tangible personal property; (2) the providing of services; (3) the irrigation  
9 of crops, for sale in the regular course of business; or (4) the storage or  
10 processing of grain by a public grain warehouse or other grain storage  
11 facility, and which is not reusable for such purpose. The following is a  
12 listing of tangible personal property, included by way of illustration but  
13 not of limitation, that qualifies as property that is consumed:

14 (A) Insecticides, herbicides, germicides, pesticides, fungicides,  
15 fumigants, antibiotics, biologicals, pharmaceuticals, vitamins and  
16 chemicals for use in commercial or agricultural production, processing or  
17 storage of fruit, vegetables, feeds, seeds, grains, animals or animal  
18 products whether fed, injected, applied, combined with or otherwise used;

19 (B) electricity, gas and water; and

20 (C) petroleum products, lubricants, chemicals, solvents, reagents and  
21 catalysts.

22 (ee) "Purchase price" applies to the measure subject to use tax and  
23 has the same meaning as sales price.

24 (ff) "Purchaser" means a person to whom a sale of personal property  
25 is made or to whom a service is furnished.

26 (gg) "Quasi-municipal corporation" means any county, township,  
27 school district, drainage district or any other governmental subdivision in  
28 the state of Kansas having authority to receive or hold moneys or funds.

29 (hh) "Registered under this agreement" means registration by a seller  
30 with the member states under the central registration system provided in  
31 article IV of the agreement.

32 (ii) "Retailer" means a seller regularly engaged in the business of  
33 selling, leasing or renting tangible personal property at retail or furnishing  
34 electrical energy, gas, water, services or entertainment, and selling only to  
35 the user or consumer and not for resale.

36 (jj) "Retail sale" or "sale at retail" means any sale, lease or rental for  
37 any purpose other than for resale, sublease or subrent.

38 (kk) "Sale" or "sales" means the exchange of tangible personal  
39 property, as well as the sale thereof for money, and every transaction,  
40 conditional or otherwise, for a consideration, constituting a sale, including  
41 the sale or furnishing of electrical energy, gas, water, services or  
42 entertainment taxable under the terms of this act and including, except as  
43 provided in the following provision, the sale of the use of tangible personal

1 property by way of a lease, license to use or the rental thereof regardless of  
2 the method by which the title, possession or right to use the tangible  
3 personal property is transferred. The term "sale" or "sales" shall not mean  
4 the sale of the use of any tangible personal property used as a dwelling by  
5 way of a lease or rental thereof for a term of more than 28 consecutive  
6 days.

7 (II) (1) "Sales or selling price" applies to the measure subject to sales  
8 tax and means the total amount of consideration, including cash, credit,  
9 property and services, for which personal property or services are sold,  
10 leased or rented, valued in money, whether received in money or  
11 otherwise, without any deduction for the following:

12 (A) The seller's cost of the property sold;

13 (B) the cost of materials used, labor or service cost, interest, losses,  
14 all costs of transportation to the seller, all taxes imposed on the seller and  
15 any other expense of the seller;

16 (C) charges by the seller for any services necessary to complete the  
17 sale, other than delivery and installation charges;

18 (D) (i) prior to July 1, 2023, delivery charges; and

19 (ii) on and after July 1, 2023, delivery charges that are not separately  
20 stated on the invoice, bill of sale or similar document given to the  
21 purchaser; and

22 (E) installation charges.

23 (2) "Sales or selling price" includes consideration received by the  
24 seller from third parties if:

25 (A) The seller actually receives consideration from a party other than  
26 the purchaser and the consideration is directly related to a price reduction  
27 or discount on the sale;

28 (B) the seller has an obligation to pass the price reduction or discount  
29 through to the purchaser;

30 (C) the amount of the consideration attributable to the sale is fixed  
31 and determinable by the seller at the time of the sale of the item to the  
32 purchaser; and

33 (D) one of the following criteria is met:

34 (i) The purchaser presents a coupon, certificate or other  
35 documentation to the seller to claim a price reduction or discount where  
36 the coupon, certificate or documentation is authorized, distributed or  
37 granted by a third party with the understanding that the third party will  
38 reimburse any seller to whom the coupon, certificate or documentation is  
39 presented;

40 (ii) the purchaser identifies to the seller that the purchaser is a  
41 member of a group or organization entitled to a price reduction or  
42 discount. A preferred customer card that is available to any patron does not  
43 constitute membership in such a group; or

1 (iii) the price reduction or discount is identified as a third party price  
2 reduction or discount on the invoice received by the purchaser or on a  
3 coupon, certificate or other documentation presented by the purchaser.

4 (3) "Sales or selling price" shall not include:

5 (A) Discounts, including cash, term or coupons that are not  
6 reimbursed by a third party that are allowed by a seller and taken by a  
7 purchaser on a sale;

8 (B) interest, financing and carrying charges from credit extended on  
9 the sale of personal property or services, if the amount is separately stated  
10 on the invoice, bill of sale or similar document given to the purchaser;

11 (C) any taxes legally imposed directly on the consumer that are  
12 separately stated on the invoice, bill of sale or similar document given to  
13 the purchaser;

14 (D) the amount equal to the allowance given for the trade-in of  
15 property, if separately stated on the invoice, billing or similar document  
16 given to the purchaser;

17 (E) cash rebates granted by a manufacturer to a purchaser or lessee of  
18 a new motor vehicle if paid directly to the retailer as a result of the original  
19 sale; and

20 (F) commencing on July 1, 2023, delivery charges that are separately  
21 stated on the invoice, bill of sale or similar document given to the  
22 purchaser.

23 (mm) "Seller" means a person making sales, leases or rentals of  
24 personal property or services.

25 (nn) "Service" means those services described in and taxed under the  
26 provisions of K.S.A. 79-3603, and amendments thereto.

27 (oo) "Sourcing rules" means the rules set forth in K.S.A. 79-3670  
28 through 79-3673, 12-191 and 12-191a, and amendments thereto, that shall  
29 apply to identify and determine the state and local taxing jurisdiction sales  
30 or use taxes to pay, or collect and remit on a particular retail sale.

31 (pp) "Tangible personal property" means personal property that can  
32 be seen, weighed, measured, felt or touched, or that is in any other manner  
33 perceptible to the senses. Tangible personal property includes electricity,  
34 water, gas, steam and prewritten computer software.

35 (qq) "Taxpayer" means any person obligated to account to the  
36 director for taxes collected under the terms of this act.

37 (rr) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco or  
38 any other item that contains tobacco.

39 (ss) "Entity-based exemption" means an exemption based on who  
40 purchases the product or who sells the product. An exemption that is  
41 available to all individuals shall not be considered an entity-based  
42 exemption.

43 (tt) "Over-the-counter drug" means a drug that contains a label that

1 identifies the product as a drug as required by 21 C.F.R. § 201.66. The  
2 over-the-counter drug label includes: (1) A drug facts panel; or (2) a  
3 statement of the active ingredients with a list of those ingredients  
4 contained in the compound, substance or preparation. Over-the-counter  
5 drugs do not include grooming and hygiene products such as soaps,  
6 cleaning solutions, shampoo, toothpaste, antiperspirants and sun tan  
7 lotions and screens.

8 (uu) "Ancillary services" means services that are associated with or  
9 incidental to the provision of telecommunications services, including, but  
10 not limited to, detailed telecommunications billing, directory assistance,  
11 vertical service and voice mail services.

12 (vv) "Conference bridging service" means an ancillary service that  
13 links two or more participants of an audio or video conference call and  
14 may include the provision of a telephone number. Conference bridging  
15 service does not include the telecommunications services used to reach the  
16 conference bridge.

17 (ww) "Detailed telecommunications billing service" means an  
18 ancillary service of separately stating information pertaining to individual  
19 calls on a customer's billing statement.

20 (xx) "Directory assistance" means an ancillary service of providing  
21 telephone number information or address information, or both.

22 (yy) "Vertical service" means an ancillary service that is offered in  
23 connection with one or more telecommunications services, that offers  
24 advanced calling features that allow customers to identify callers and to  
25 manage multiple calls and call connections, including conference bridging  
26 services.

27 (zz) "Voice mail service" means an ancillary service that enables the  
28 customer to store, send or receive recorded messages. Voice mail service  
29 does not include any vertical services that the customer may be required to  
30 have in order to utilize the voice mail service.

31 (aaa) "Telecommunications service" means the electronic  
32 transmission, conveyance or routing of voice, data, audio, video or any  
33 other information or signals to a point, or between or among points. The  
34 term telecommunications service includes such transmission, conveyance  
35 or routing in which computer processing applications are used to act on the  
36 form, code or protocol of the content for purposes of transmissions,  
37 conveyance or routing without regard to whether such service is referred to  
38 as voice over internet protocol services or is classified by the federal  
39 communications commission as enhanced or value added.  
40 Telecommunications service does not include:

41 (1) Data processing and information services that allow data to be  
42 generated, acquired, stored, processed or retrieved and delivered by an  
43 electronic transmission to a purchaser where such purchaser's primary

1 purpose for the underlying transaction is the processed data or  
2 information;

3 (2) installation or maintenance of wiring or equipment on a  
4 customer's premises;

5 (3) tangible personal property;

6 (4) advertising, including, but not limited to, directory advertising;

7 (5) billing and collection services provided to third parties;

8 (6) internet access service;

9 (7) radio and television audio and video programming services,  
10 regardless of the medium, including the furnishing of transmission,  
11 conveyance and routing of such services by the programming service  
12 provider. Radio and television audio and video programming services shall  
13 include, but not be limited to, cable service as defined in 47 U.S.C. §  
14 522(6) and audio and video programming services delivered by  
15 commercial mobile radio service providers, as defined in 47 C.F.R. § 20.3;

16 (8) ancillary services; or

17 (9) digital products delivered electronically, including, but not limited  
18 to, software, music, video, reading materials or ring tones.

19 (bbb) "800 service" means a telecommunications service that allows a  
20 caller to dial a toll-free number without incurring a charge for the call. The  
21 service is typically marketed under the name 800, 855, 866, 877 and 888  
22 toll-free calling, and any subsequent numbers designated by the federal  
23 communications commission.

24 (ccc) "900 service" means an inbound toll telecommunications  
25 service purchased by a subscriber that allows the subscriber's customers to  
26 call in to the subscriber's prerecorded announcement or live service. 900  
27 service does not include the charge for collection services provided by the  
28 seller of the telecommunications services to the subscriber, or service or  
29 product sold by the subscriber to the subscriber's customer. The service is  
30 typically marketed under the name 900 service, and any subsequent  
31 numbers designated by the federal communications commission.

32 (ddd) "Value-added non-voice data service" means a service that  
33 otherwise meets the definition of telecommunications services in which  
34 computer processing applications are used to act on the form, content,  
35 code or protocol of the information or data primarily for a purpose other  
36 than transmission, conveyance or routing.

37 (eee) "International" means a telecommunications service that  
38 originates or terminates in the United States and terminates or originates  
39 outside the United States, respectively. United States includes the District  
40 of Columbia or a U.S. territory or possession.

41 (fff) "Interstate" means a telecommunications service that originates  
42 in one United States state, or a United States territory or possession, and  
43 terminates in a different United States state or a United States territory or

1 possession.

2 (ggg) "Intrastate" means a telecommunications service that originates  
3 in one United States state or a United States territory or possession, and  
4 terminates in the same United States state or a United States territory or  
5 possession.

6 (hhh) "Cereal malt beverage" shall have the same meaning as such  
7 term is defined in K.S.A. 41-2701, and amendments thereto, except that  
8 for the purposes of the Kansas ~~retailers~~ *retailers'* sales tax act and for no  
9 other purpose, such term shall include beer containing not more than 6%  
10 alcohol by volume *and wine containing not more than 16% alcohol by*  
11 *volume* when such beer *or wine* is sold by a retailer licensed under the  
12 Kansas cereal malt beverage act.

13 (iii) "Nonprofit integrated community care organization" means an  
14 entity that is:

15 (1) Exempt from federal income taxation pursuant to section 501(c)  
16 (3) of the federal internal revenue code of 1986;

17 (2) certified to participate in the medicare program as a hospice under  
18 42 C.F.R. § 418 et seq. and focused on providing care to the aging and  
19 indigent population at home and through inpatient care, adult daycare or  
20 assisted living facilities and related facilities and services across multiple  
21 counties; and

22 (3) approved by the Kansas department for aging and disability  
23 services as an organization providing services under the program of all-  
24 inclusive care for the elderly as defined in 42 U.S.C. § 1396u-4 and  
25 regulations implementing such section.

26 (jjj) (1) *"Bottled water" means water that is placed in a safety sealed*  
27 *container or package for human consumption. "Bottled water" is calorie*  
28 *free and does not contain sweeteners or other additives, except that it may*  
29 *contain:*

30 (A) *Antimicrobial agents;*

31 (B) *fluoride;*

32 (C) *carbonation;*

33 (D) *vitamins, minerals and electrolytes;*

34 (E) *oxygen;*

35 (F) *preservatives; or*

36 (G) *only those flavors, extracts or essences derived from a spice or*  
37 *fruit.*

38 (2) *"Bottled water" includes water that is delivered to the buyer in a*  
39 *reusable container that is not sold with the water.*

40 (lll) (1) *"Candy" means a preparation of sugar, honey or other*  
41 *natural or artificial sweeteners in combination with chocolate, fruits, nuts*  
42 *or other ingredients or flavorings in the form of bars, drops or pieces.*

43 (2) *"Candy" does not include any preparation containing flour and*

1 shall require no refrigeration.

2 (mmm) "Dietary supplement" means the same as defined in K.S.A.  
3 79-3606(jjj), and amendments thereto.

4 (nnn) "Food sold through vending machines" means food dispensed  
5 from a machine or other mechanical device that accepts payment.

6 (ooo) (1) "Prepared food" means:

7 (A) Food sold in a heated state or heated by the seller;

8 (B) two or more food ingredients mixed or combined by the seller for  
9 sale as a single item; or

10 (C) food sold with eating utensils provided by the seller, including,  
11 but not limited to, plates, knives, forks, spoons, glasses, cups, napkins or  
12 straws. A plate does not include a container or packaging used to  
13 transport the food.

14 (2) "Prepared food" does not include:

15 (A) Food that is only cut, repackaged or pasteurized by the seller; or

16 (B) eggs, fish, meat, poultry or foods containing these raw animal  
17 foods that require cooking by the consumer as recommended by the food  
18 and drug administration in chapter 3, part 401.11 of the food and drug  
19 administration food code so as to prevent food borne illnesses.

20 (ppp) (1) "Soft drinks" means nonalcoholic beverages that contain  
21 natural or artificial sweeteners.

22 (2) "Soft drinks" does not include beverages that contain milk or milk  
23 products, soy, rice or similar milk substitutes or beverages that are greater  
24 than 50% vegetable or fruit juice by volume.

25 Sec. 18. K.S.A. 41-212, 41-355, 41-701, 41-1101a, 41-2701, 41-  
26 2702, 41-2706, 41-2708, 41-2722, 41-2726, 41-2728 and 41-2730 and  
27 K.S.A. 2023 Supp. 41-102, 41-306a, 41-308, 41-2704, 79-3602 and 79-  
28 3602c are hereby repealed.

29 Sec. 19. This act shall take effect and be in force from and after its  
30 publication in the statute book.