

As Amended by Senate Committee

SENATE BILL No. 379

By Committee on Agriculture

2-6

Proposed Amendments to SB 379
April 24, 2012
Prepared By: Mike Heim
Office of Revisor of Statutes

Rubin

, microwineries and wineries

, 41-310, 41-317, 41-351 and 41-501

by striking "2011 Supp. " and inserting "41-304, 79-4101, 79-4102, 79-4103 and 79-4104 and K.S.A. 2011 Supp. 41-102,"

1 AN ACT concerning farm wineries; amending K.S.A.-2011 Supp. 41-308a
2 and repealing the existing section.

3 Be it enacted by the Legislature of the State of Kansas:

4 Section 1. K.S.A. 2011 Supp. 41-308a is hereby amended to read as
5 follows: 41-308a. (a) A farm winery license shall allow:

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

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

13 (3) the sale, on the licensed premises in the original unopened
14 container to consumers for consumption off the licensed premises, of wine
15 manufactured by the licensee;

16 (4) the serving free of charge on the licensed premises and at special
17 events, monitored and regulated by the division of alcoholic beverage
18 control, of samples of wine manufactured by the licensee or imported
19 under subsection (f), if the premises are located in a county where the sale
20 of alcoholic liquor is permitted by law in licensed drinking establishments;

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

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

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

33 (8) the sale and shipping of wine within this state pursuant to a permit
34 issued pursuant to K.S.A. 2011 Supp. 41-350, and amendments thereto.

35 (b) Upon application and payment of the fee prescribed by K.S.A. 41-
36

House Federal & State Affairs
Date: 4-25-12

Attachment # 1

1 310, and amendments thereto, by a farm winery licensee, the director may
2 issue not to exceed three winery outlet licenses to the farm winery
3 licensee. A winery outlet license shall allow:

4 (1) The sale, on the licensed premises in the original unopened
5 container to consumers for consumption off the licensed premises, of wine
6 manufactured by the licensee;

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

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

15 ~~(c) Not less than 60% of the products utilized in the manufacture of
16 domestic table wine and domestic fortified wine by a farm winery shall be
17 grown in Kansas except when a lesser proportion is authorized by the
18 director based upon the director's findings and judgment. The label of
19 domestic wine and domestic fortified wine shall indicate that a majority of
20 the products utilized in the manufacture of the wine at such winery were
21 grown in Kansas.~~

22 ~~(c) "Production" means to use non-alcoholic juice or other physical
23 product to distill, rectify, ferment, brew, make, mix, concoct or process any
24 substance capable of producing a beverage containing more than one-half
25 of one percent of alcohol by volume and includes blending, bottling and
26 the preparation for sale within a licensed physical structured winery
27 operation within the state of Kansas boundaries.~~

28 ~~(d) The labeling of domestic wine and domestic fortified wine shall
29 follow the label laws approved by the federal government. Not less than
30 20% of the products utilized in the manufacture of domestic table wine
31 and domestic fortified wine by a farm winery shall be grown in Kansas,
32 except when a lesser proportion is authorized by the director based upon
33 the director's findings and judgment. The production requirement of this
34 subsection shall be determined based on the annual production of
35 domestic table wine and domestic fortified wine by the farm winery.~~

36 ~~(e) (d) A farm winery or winery outlet may sell domestic wine and
37 domestic fortified wine in the original unopened container to consumers
38 for consumption off the licensed premises at any time between 6 a.m. and
39 12 midnight on any day except Sunday and between 12 noon and 6 p.m.
40 on Sunday. If authorized by subsection (a), a farm winery may serve
41 samples of domestic wine, domestic fortified wine and wine imported
42 under subsection (e) (f) (e) and serve and sell domestic wine, domestic
43 fortified wine and other alcoholic liquor for consumption on the licensed~~

Strike "20%" and insert "5%"

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1 premises at any time when a club or drinking establishment is authorized
 2 to serve and sell alcoholic liquor. If authorized by subsection (b), a winery
 3 outlet may serve samples of domestic wine, domestic fortified wine and
 4 wine imported under subsection ~~(c)(1)~~ (c) at any time when the winery
 5 outlet is authorized to sell domestic wine and domestic fortified wine.
 6 ~~(c)(1)~~ (c) The director may issue to the Kansas state fair or any bona
 7 fide group of grape growers or wine makers a permit to import into this
 8 state small quantities of wines. Such wine shall be used only for bona fide
 9 educational and scientific tasting programs and shall not be resold. Such
 10 wine shall not be subject to the tax imposed by K.S.A. 41-501, and
 11 amendments thereto. The permit shall identify specifically the brand and
 12 type of wine to be imported, the quantity to be imported, the tasting
 13 programs for which the wine is to be used and the times and locations of
 14 such programs. The secretary shall adopt rules and regulations governing
 15 the importation of wine pursuant to this subsection and the conduct of
 16 tasting programs for which such wine is imported.
 17 ~~(f)(1)~~ (f) A farm winery license or winery outlet license shall apply
 18 only to the premises described in the application and in the license issued
 19 and only one location shall be described in the license.
 20 ~~(g)(1)~~ (g) No farm winery or winery outlet shall:
 21 (1) Employ any person under the age of 18 years in connection with
 22 the manufacture, sale or serving of any alcoholic liquor;
 23 (2) permit any employee of the licensee who is under the age of 21
 24 years to work on the licensed premises at any time when not under the on-
 25 premise supervision of either the licensee or an employee of the licensee
 26 who is 21 years of age or over;
 27 (3) employ any person under 21 years of age in connection with
 28 mixing or dispensing alcoholic liquor; or
 29 (4) employ any person in connection with the manufacture or sale of
 30 alcoholic liquor if the person has been convicted of a felony.
 31 ~~(h)(1)~~ (h) Whenever a farm winery or winery outlet licensee is
 32 convicted of a violation of the Kansas liquor control act, the director may
 33 revoke the licensee's license and order forfeiture of all fees paid for the
 34 license, after a hearing before the director for that purpose in accordance
 35 with the provisions of the Kansas administrative procedure act.
 36 ~~(i)(1)~~ (i) This section shall be part of and supplemental to the Kansas
 37 liquor control act.
 38 Sec. 2. K.S.A. 2011 Supp. 41-308a is hereby repealed.
 39 Sec. 3. This act shall take effect and be in force from and after its
 40 publication in the statute book.

Insert Attachment following line 37 and renumber
 sections accordingly.

by striking "2011 Supp." and inserting "41-304, 79-4101,
 79-4102, 79-4103 and 79-4104 and K.S.A. 2011 Supp. 41-102,"
 by striking "is" and inserting ", 41-310, 41-317, 41-351 and
 41-501 are"

Sec. 2. K.S.A. 2011 Supp. 41-102 is hereby amended to read as follows: 41-102. As used in this act, unless the context clearly requires otherwise:

- (a) "Alcohol" means the product of distillation of any fermented liquid, whether rectified or diluted, whatever its origin, and includes synthetic ethyl alcohol but does not include denatured alcohol or wood alcohol.
- (b) "Alcoholic liquor" means alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.
- (c) "Beer" means a beverage, containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content.
- (d) "Caterer" has the meaning provided by K.S.A. 41-2601, and amendments thereto.
- (e) "Cereal malt beverage" has the meaning provided by K.S.A. 41-2701, and amendments thereto.
- (f) "Club" has the meaning provided by K.S.A. 41-2601, and amendments thereto.
- (g) "Director" means the director of alcoholic beverage control of the department of revenue.
- (h) "Distributor" means the person importing or causing to be imported into the state, or purchasing or causing to be purchased within the state, alcoholic liquor for sale or resale to retailers licensed under this act or cereal malt beverage for sale or resale to retailers licensed under K.S.A. 41-2702, and amendments thereto.

- (i) "Domestic beer" means beer which contains not more than 10% alcohol by weight and which is manufactured in this state.
- (j) "Domestic fortified wine" means wine which contains more than 14%, but not more than 20% alcohol by volume and which is manufactured in this state.
- (k) "Domestic table wine" means wine which contains not more than 14% alcohol by volume and which is manufactured without rectification or fortification in this state.
- (l) "Drinking establishment" has the meaning provided by K.S.A. 41-2601, and amendments thereto.
- (m) "Farm winery" means a winery licensed by the director to manufacture, store and sell domestic table wine and domestic fortified wine.
- (n) "Manufacture" means to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle or fill an original package with any alcoholic liquor, beer or cereal malt beverage.
- (o) (1) "Manufacturer" means every brewer, fermenter, distiller, rectifier, wine maker, blender, processor, bottler or person who fills or refills an original package and others engaged in brewing, fermenting, distilling, rectifying or bottling alcoholic liquor, beer or cereal malt beverage.
- (2) "Manufacturer" does not include a microbrewery or a farm winery.
- (p) "Microbrewery" means a brewery licensed by the director to manufacture, store and sell domestic beer.
- (q) "Microwinery" means a winery licensed by the director to manufacture, store and sell table wine and fortified wine.
- (r) "Minor" means any person under 21 years of age.

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

(~~f~~)(t) "Original package" means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container whatsoever,

used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor.

Original container does not include a sleeve.

(~~f~~)(u) "Person" means any natural person, corporation, partnership, trust or association.

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

(~~v~~)(w)(1) "Retailer" means a person who sells at retail, or offers for sale at retail, alcoholic liquors.

(2) "Retailer" does not include a microbrewery or a farm winery.

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

(~~x~~)(y) "Salesperson" means any natural person who:

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

(2) is engaged in promoting the sale of alcoholic liquor or cereal malt beverage, or in promoting the business of any person, firm or corporation engaged in the manufacturing and selling of alcoholic liquor or cereal malt beverage, whether the seller resides within the state of Kansas and sells to licensed buyers within the state of Kansas, or whether the seller resides without the state of Kansas and sells to licensed buyers within the state of Kansas.

~~(y)~~ (z) "Secretary" means the secretary of revenue.

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

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

~~(aa)~~ (bb) "To sell" includes to solicit or receive an order for, to keep or expose for sale and to keep with intent to sell.

~~(bb)~~ (cc) "Sleeve" means a package of two or more 50-milliliter (3.2-fluid-ounce) containers of spirits.

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

~~(dd)~~ (ee) "Supplier" means a manufacturer of alcoholic liquor or cereal malt beverage or an agent of such manufacturer, other than a salesperson.

~~(ee)~~ (ff) "Temporary permit" has the meaning provided by K.S.A. 41-2601, and amendments thereto.

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(~~F~~) (gg) "Wine" means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including such beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies.

New Sec. 3. (a) A microwinery license shall allow:

- (1) The manufacture of table wine and fortified wine in a quantity not exceeding 100,000 gallons per year and the storage thereof;
- (2) the sale of wine, manufactured by the licensee, to licensed wine distributors;
- (3) the sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of wine manufactured by the licensee;
- (4) the serving free of charge on the licensed premises and at special events, monitored and regulated by the division of alcoholic beverage control, of samples of wine manufactured by the licensee or imported under subsection (f), if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments;
- (5) if the licensee is also licensed as a club or drinking establishment, the sale of wine, fortified wine and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act;
- (6) if the licensee is also licensed as a caterer, the sale of wine, fortified wine and other alcoholic liquor for consumption on the unlicensed premises as authorized by the club and drinking establishment act;
- (7) the sale and shipping, in the original unopened container, to consumers outside this state of wine manufactured by the licensee, provided that the licensee complies with applicable laws and rules and regulations of the jurisdiction to which the wine is shipped; and

(8) the sale and shipping of wine within this state pursuant to a permit issued pursuant to K.S.A. 2011 Supp. 41-350, and amendments thereto.

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

(1) The sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of wine manufactured by the licensee;

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

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

(c) A microwinery or microwinery outlet may sell wine and fortified wine in the original unopened container to consumers for consumption off the licensed premises at any time between 6 a.m. and 12 midnight on any day except Sunday and between 12 noon and 6 p.m. on Sunday. If authorized by subsection (a), a microwinery may serve samples of wine, fortified wine and wine imported under subsection (e) and serve and sell wine, fortified wine and other alcoholic liquor for consumption on the licensed premises at any time when a club or drinking establishment is authorized to serve and sell alcoholic liquor. If authorized by subsection (b), a

microwinery outlet may serve samples of wine, fortified wine and wine imported under subsection (d) at any time when the microwinery outlet is authorized to sell wine and domestic fortified wine.

(d) The director may issue to the Kansas state fair or any *bona fide* group of grape growers or wine makers a permit to import into this state small quantities of wines. Such wine shall be used only for *bona fide* educational and scientific tasting programs and shall not be resold. Such wine shall not be subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The permit shall identify specifically the brand and type of wine to be imported, the quantity to be imported, the tasting programs for which the wine is to be used and the times and locations of such programs. The secretary shall adopt rules and regulations governing the importation of wine pursuant to this subsection and the conduct of tasting programs for which such wine is imported.

(e) A microwinery license or microwinery outlet license shall apply only to the premises described in the application and in the license issued and only one location shall be described in the license.

(f) No microwinery or microwinery outlet shall:

- (1) Employ any person under the age of 18 years in connection with the manufacture, sale or serving of any alcoholic liquor;
- (2) permit any employee of the licensee who is under the age of 21 years to work on the licensed premises at any time when not under the on-premise supervision of either the licensee or an employee of the licensee who is 21 years of age or over;
- (3) employ any person under 21 years of age in connection with mixing or dispensing alcoholic liquor; or
- (4) employ any person in connection with the manufacture or sale of alcoholic liquor if the person has been convicted of a felony.

(g) Whenever a microwinery or microwinery outlet licensee is convicted of a violation of the Kansas liquor control act, the director may revoke the licensee's license and order forfeiture of all fees paid for the license, after a hearing before the director for that purpose in accordance with the provisions of the Kansas administrative procedure act.

(h) This section shall be part of and supplemental to the Kansas liquor control act.

Sec. 4. K.S.A. 41-304 is hereby amended to read as follows: 41-304. Licenses issued by the director shall be of the following classes: (a) Manufacturer's license; (b) spirits distributor's license; (c) wine distributor's license; (d) beer distributor's license; (e) retailer's license; (f) microbrewery license; (g) microwinery license; (g) (h) farm winery license; and (h) (i) nonbeverage user's license.

Sec. 5. K.S.A. 2011 Supp. 41-310 is hereby amended to read as follows: 41-310. (a) At the time application is made to the director for a license of any class, the applicant shall pay the fee provided by this section.

- (b) The fee for a manufacturer's license to manufacture alcohol and spirits shall be \$5,000.
- (c) The fee for a manufacturer's license to manufacture beer and cereal malt beverage shall be:
 - (1) For 1 to 100 barrel daily capacity or any part thereof, \$400.
 - (2) For 100 to 150 barrel daily capacity, \$800.
 - (3) For 150 to 200 barrel daily capacity, \$1,400.
 - (4) For 200 to 300 barrel daily capacity, \$2,000.
 - (5) For 300 to 400 barrel daily capacity, \$2,600.
 - (6) For 400 to 500 barrel daily capacity, \$2,800.

(7) For 500 or more barrel daily capacity, \$3,200.

As used in this subsection, "daily capacity" means the average daily barrel production for the previous 12 months of manufacturing operation. If no basis for comparison exists, the licensee shall pay in advance for operation during the first term of the license a fee of \$2,000.

(d) The fee for a manufacturer's license to manufacture wine shall be \$1,000.

(e) (1) The fee for a microbrewery license ~~or a farm winery license~~ or a microwinery license shall be \$500.

(2) The fee for a winery outlet license or a microwinery outlet license shall be \$100.

(3) The fee for a microbrewery packaging and warehousing facility license shall be \$200.

(f) The fee for a spirits distributor's license for the first and each additional distributing place of business operated in this state by the licensee and wholesaling and jobbing spirits shall be \$2,000.

(g) The fee for a wine distributor's license for the first and each additional distributing place of business operated in this state by the licensee and wholesaling and jobbing wine shall be \$2,000.

(h) The fee for a beer distributor's license, for the first and each additional wholesale distributing place of business operated in this state by the licensee and wholesaling or jobbing beer and cereal malt beverage shall be \$2,000.

(i) The fee for a nonbeverage user's license shall be:

(1) For class 1, \$20.

(2) For class 2, \$100.

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(3) For class 3, \$200.

(4) For class 4, \$400.

(5) For class 5, \$1,000.

(j) In addition to the license fees prescribed by subsections (b), (c), (d), (f), (g), (h) and (i):

(1) Any city in which the licensed premises are located may levy and collect a biennial occupation or license tax on the licensee in an amount not exceeding the amount of the license fee required to be paid under this act to obtain the license, but no city shall impose an occupation or privilege tax on the licensee in excess of that amount; and

(2) any township in which the licensed premises are located may levy and collect a biennial occupation or license tax on the licensee in an amount not exceeding the amount of the license fee required to be paid under this act to obtain the license, but no township shall impose an occupation or privilege tax on the licensee in excess of that amount; the township board of the township is authorized to fix and impose the tax and the tax shall be paid by the licensee to the township treasurer, who shall issue a receipt therefor to the licensee and shall cause the tax paid to be placed in the general fund of the township.

(k) The fee for a retailer's license shall be \$500.

(l) In addition to the license fee prescribed by subsection (k):

(1) Any city in which the licensed premises are located may levy and collect a biennial occupation or license tax on the licensee in an amount not less than \$200 nor more than \$600, but no other occupation or excise tax or license fee shall be levied by any city against or collected from the licensee; and

(2) any township in which the licensed premises are located may levy and collect a biennial occupation or license tax on the licensee in an amount not less than \$200 nor more than \$600; the township board of the township is authorized to fix and impose the tax and the tax shall be paid by the licensee to the township treasurer, who shall issue a receipt therefor to the licensee and shall cause the tax paid to be placed in the general fund of the township.

(m) The license term for a license shall commence on the date the license is issued by the director and shall end two years after that date. The director may, at the director's sole discretion and after examination of the circumstances, extend the license term of any license for not more than 30 days beyond the date such license would expire pursuant to this section. Any extension of the license term by the director pursuant to this section shall automatically extend the due date for payment by the licensee of any occupation or license tax levied by a city or township pursuant to this section by the same number of days the director has extended the license term.

Sec. 6. K.S.A. 2011 Supp. 41-317 is hereby amended to read as follows: 41-317. (a) Applications for all licenses under this act shall be completed and submitted to the director in a manner prescribed by the director. Each applicant shall submit an application fee of \$50 for each initial application and \$10 for each renewal application to defray the cost of processing the application.

- (b) Each applicant shall submit to the division of alcoholic beverage control the full amount of the application fee and:
 - (1) The full amount of the license fee required to be paid for the kind of license specified in the application; or
 - (2) one-half of the full amount of the license fee required to be paid for the kind of license specified in the application.
- (c) If the applicant elects to pay only one-half of the license fee pursuant to subsection (b)(2), the remaining one-half of the license fee plus 10% of such remaining balance shall be due and payable one year from the date of issuance of the license.

Notwithstanding any other provision of law, failure to pay the full amount due under this paragraph on the date it is due shall result in the automatic cancellation of such license for the remainder of the license term. The director may, at the director's sole discretion and after examination of the circumstances, extend the date payment is due pursuant to this paragraph for not more than 30 days beyond the date such payment is originally due.

(d) Any license fee paid by an applicant shall be returned to the applicant if the application is denied.

(e) Payment of all fees required to be paid pursuant to this section may be made by personal, certified or cashier's check, United States post office money order, debit or credit card or cash, or by electronic payment authorized by the applicant in a manner prescribed by the director.

(f) All fees received by the director pursuant to this section shall be remitted by the director to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(g) Every applicant for a manufacturer's, distributor's, nonbeverage user's, microbrewery, farm winery, retailer's or special order shipping license shall file with the application a joint and several bond on a form prescribed by the director and executed by good and sufficient corporate sureties licensed to do business within the state of Kansas to the director, in the following amounts:

(1) For a manufacturer, \$25,000;

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(2) for a spirits distributor, \$15,000 or an amount equal to the highest monthly liability of the distributor for taxes imposed by the Kansas liquor control act for any of the 12 months immediately prior to renewal of the distributor's license, whichever amount is greater;

(3) for a beer or wine distributor, \$5,000 or an amount equal to the highest monthly liability of the distributor for taxes imposed by the Kansas liquor control act for any of the 12 months immediately prior to renewal of the distributor's license, whichever amount is greater;

(4) for a retailer, \$2,000;

(5) for nonbeverage users, \$200 for class 1, \$500 for class 2, \$1,000 for class 3, \$5,000 for class 4 and \$10,000 for class 5;

(6) for a microbrewery, a microwinery or a farm winery, \$2,000; and

(7) for a winery holding a special order shipping license, \$750, unless the winery has already complied with subsection (g)(6).

If a distributor holds or applies for more than one distributor's license, only one bond for all such licenses shall be required, which bond shall be in an amount equal to the highest applicable bond.

(h) All bonds required by this section shall be conditioned on the licensee's compliance with the provisions of this act and payment of all taxes, fees, fines and forfeitures which may be assessed against the licensee.

Sec. 7. K.S.A. 2011 Supp. 41-351 is hereby amended to read as follows: 41-351. (a) Notwithstanding any other provisions of the Kansas liquor control act, the club and drinking establishment act or the Kansas cereal malt beverage act, any person who is licensed to sell wine pursuant to K.S.A. 41-308a, and amendments thereto, and new section 3, and amendments thereto, may apply to the

director for an annual *bona fide* farmers' market sales permit. Such permit shall authorize the licensee, a member of the licensee's family or an employee of the licensee to sell wine in the original unopened container produced and bottled by the licensee at a *bona fide* farmers' market located at a site approved by the director.

(b) Permits issued under this section shall be valid for one year from the date of issuance. A licensee shall not hold more than one *bona fide* farmers' market sales permit at any one time.

(c) The licensee may only sell wine at a single *bona fide* farmers' market on one day of the week. The location of the *bona fide* farmers' market shall be specified in the application submitted to the director. The director shall notify the city, county and applicable law enforcement agency where the *bona fide* farmers' market is to be held and of the issuance of a permit under this section for the sale of wine at such *bona fide* farmers' market.

(d) For the purposes of this section, "*bona fide* farmers' market" means any location held out to be a farmers' market that is subject to inspection by the department of agriculture.

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

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

Sec. 8. K.S.A. 2011 Supp. 41-501 is hereby amended to read as follows: 41-501. (a) As used in this section and K.S.A. 41-501a, and amendments thereto:

(1) "Gallon" means wine gallon.

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(2) "Federal area" means any lands or premises which are located within the exterior boundaries of this state and which are held or acquired by or for the use of the United States or any department, establishment or agency of the United States.

(3) "Malt product" means malt syrup, malt extract, liquid malt or wort.

(b) (1) For the purpose of raising revenue a tax is imposed upon the manufacturing, using, selling, storing or purchasing alcoholic liquor, cereal malt beverage or malt products in this state or a federal area at a rate of \$.18 per gallon on beer and cereal malt beverage; \$.20 per gallon on all wort or liquid malt; \$.10 per pound on all malt syrup or malt extract; \$.30 per gallon on wine containing 14% or less alcohol by volume; \$.75 per gallon on wine containing more than 14% alcohol by volume; and \$2.50 per gallon on alcohol and spirits.

(2) The tax imposed by this section shall be paid only once and shall be paid by the person in this state or federal area who first manufactures, uses, sells, stores, purchases or receives the alcoholic liquor or cereal malt beverage. The tax shall be collected and paid to the director as provided in this act. If the alcoholic liquor or cereal malt beverage is manufactured and sold in this state or a federal area, the tax shall be paid by the manufacturer, microbrewery or farm winery producing it. If the alcoholic liquor or cereal malt beverage is imported into this state by a distributor for the purpose of sale at wholesale in this state or a federal area, the tax shall be paid by the distributor, and in no event shall such tax be paid by the manufacturer unless the alcoholic liquor or cereal malt beverage is manufactured in this state. If not to exceed one gallon, or metric equivalent, per person of alcoholic liquor has been purchased by a private citizen outside the borders of the United States and is brought into this state by the private citizen in such person's personal

possession for such person's own personal use and not for sale or resale, such import is lawful and no tax payment shall be due thereon.

(c) Manufacturers, microbreweries, farm wineries, microwineries or distributors at wholesale of alcoholic liquor or cereal malt beverage shall be exempt from the payment of the gallonage tax imposed on alcoholic liquor and cereal malt beverage, upon satisfactory proof, including bills of lading furnished to the director by affidavit or otherwise as the director requires, that the liquor or cereal malt beverage was manufactured in this state but was shipped out of the state for sale and consumption outside the state.

(d) Wines manufactured or imported solely and exclusively for sacramental purposes and uses shall not be subject to the tax provided for by this section.

(e) The tax provided for by this section is not imposed upon:

(1) Any alcohol or wine, whether manufactured in or imported into this state, when sold to a nonbeverage user licensed by the state, for use in the manufacture of any of the following when they are unfit for beverage purposes: Patent and proprietary medicines and medicinal, antiseptic and toilet preparations; flavoring extracts and syrups and food products; scientific, industrial and chemical products; or scientific, chemical, experimental or mechanical purposes; or

(2) the privilege of engaging in any business of interstate commerce or otherwise, which business may not be made the subject of taxation by this state under the constitution and statutes of the United States.

(f) The tax imposed by this section shall be in addition to all other taxes imposed by the state of Kansas or by any municipal corporation or political subdivision thereof.

(g) Retail sales of alcoholic liquor, sales of beer to consumers by microbreweries and sales of wine to consumers by farm wineries shall not be subject to the tax imposed by the Kansas retailers' sales tax act but shall be subject to the enforcement tax provided for in this act.

(h) Notwithstanding any ordinance to the contrary, no city shall impose an occupation or privilege tax on the business of any person, firm or corporation licensed as a manufacturer, distributor, microbrewery, farm winery, retailer or nonbeverage user under this act and doing business within the boundaries of the city except as specifically authorized by K.S.A. 41-310, and amendments thereto.

(i) The director shall collect the taxes imposed by this section and shall account for and remit all moneys collected from the tax to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and the state treasurer shall credit $\frac{1}{10}$ of the moneys collected from taxes imposed upon alcohol and spirits under subsection (b)(1) to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, and shall credit the balance of the moneys collected to the state general fund.

(j) If any alcoholic liquor manufactured in or imported into this state is sold to a licensed manufacturer or distributor of this state to be used solely as an ingredient in the manufacture of any beverage for human consumption, the tax imposed upon the manufacturer or distributor shall be reduced by the amount of the taxes which have been paid under this section as to the alcoholic liquor so used.

(k) The tax provided for by this section is not imposed upon alcohol or wine used by any school or college for scientific, chemical, experimental or mechanical purposes or by hospitals, sanatoria or other institutions caring for the sick. Any school, college,

hospital, sanatorium or other institution caring for the sick may import alcohol or wine for scientific, chemical, experimental, mechanical or medicinal purposes by making application to the director for a permit to import it and receiving such a permit. Application for the permit shall be on a form prescribed and furnished by the director, and a separate permit shall be required for each purchase of alcohol or wine. A fee of \$2 shall accompany each application. All permits shall be issued in triplicate to the applicant and shall be under the seal of the office of the director. Two copies of the permit shall be forwarded by the applicant to the microbrewery, farm winery, manufacturer or distributor from which the alcohol or wine is purchased, and the microbrewery, farm winery, manufacturer or distributor shall return to the office of the director one copy of the permit with its shipping affidavit and invoice. Within 10 days after receipt of any alcohol or wine, the school, college, hospital or sanatorium ordering it shall file a report in the office of the director upon forms furnished by the director, showing the amount of alcohol or wine received, the place where it is to be stored, from whom it was received, the purpose for which it is to be used and such other information as required by the director. Any school, college, hospital, sanatorium or institution caring for the sick, which complies with the provisions of this subsection, shall not be required to have any other license to purchase alcohol or wine from a microbrewery, farm winery, manufacturer or distributor.

Sec. 9. K.S.A. 79-4101 is hereby amended to read as follows: 79-4101. (a) For the purpose of providing revenue which may be used by the state, counties and cities in the enforcement of the provisions of this act, from and after the effective date of this act, for the privilege of engaging in the business of selling alcoholic liquor by retailers, microwineries or farm wineries to consumers in this state or selling alcoholic liquor or cereal malt beverage by distributors to clubs, drinking establishments or caterers in this state, there is hereby levied and there shall be collected and paid a tax at the rate of 8% upon the gross receipts received from: (1) The sale of

alcoholic liquor by retailers, microbreweries or farm wineries to consumers within this state; and (2) the sale of alcoholic liquor or cereal malt beverage by distributors to clubs, drinking establishments or caterers in this state.

(b) The tax imposed by this section shall be in addition to the license fee imposed on distributors, retailers, microbreweries, microwineries and farm wineries by K.S.A. 41-310, and amendments thereto.

Sec. 10. K.S.A. 79-4102 is hereby amended to read as follows: The tax levied under K.S.A. 79-4101, and amendments thereto, shall be paid by the consumer or user to the retailer, microbrewery, microwinery or farm winery or by the club, drinking establishment or caterer to the distributor. It shall be the duty of each retailer, microbrewery, microwinery, farm winery or distributor in this state to collect from the purchase the full amount of the tax imposed by this act, or an amount equal as nearly as possible or practicable, to the average equivalent thereof.

Sec. 11. K.S.A. 79-4103 is hereby amended to read as follows: 79-4103. On or before the 25th day of each calendar month, every person engaged in the business of selling alcoholic liquor at retail, every microbrewery selling beer to consumers, every microwinery and farm winery selling wine to consumers in this state and every distributor selling alcoholic liquor or cereal malt beverage to clubs, drinking establishments or caterers in this state during the preceding calendar month shall make a return to the director of taxation upon forms prescribed and furnished by the director, stating: (a) The name and address of the seller; (b) the total amount of gross sales subject to the tax imposed by K.S.A. 79-4101, and amendments thereto, during the preceding calendar month; and (c) any other pertinent information the director requires. The person making the return shall, at the time of making the return, pay to the director of taxation the amount of tax imposed by K.S.A. 79-4101, and amendments thereto. The director of taxation may extend the time for

making returns and paying the tax for any period not to exceed 60 days, under rules and regulations adopted by the secretary of revenue.

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Sec. 12. K.S.A. 79-4104 is hereby amended to read as follows: 79-4104. Whenever the director of alcoholic beverage control issues a retailer's, distributor's, microbrewery or farm winery license, the director of alcoholic beverage control shall promptly notify the director of taxation of its issuance. The notice shall include the name of the licensee and, in the case of a retailer, microbrewery, microwinery or farm winery, the address of the licensed premises. Whenever the director of alcoholic beverage control revokes or suspends any retailer's, distributor's, microbrewery or farm winery license or whenever any retailer's, distributor's, microbrewery, microwinery or farm winery license expires, the director of alcoholic beverage control shall likewise notify the director of taxation.

New Sec. 13. (a) Farm wineries and microwineries shall post signs in prominent locations at any tasting or sales location listing the percentage of Kansas fruit content in each offered wine.

(b) The secretary of revenue shall adopt rules and regulations to implement this section.