

HOUSE BILL No. 2651

By Committee on Federal and State Affairs

2-7

1 AN ACT concerning alcoholic beverages; amending K.S.A. 41-306a, 41-
2 307, 41-308, 41-701, 41-2612, 41-2614, 41-2640, 79-41a01, 79-41a02,
3 79-41a04, 79-41a06, 79-41a07 and 79-41a08 and K.S.A. 2011 Supp.
4 41-308a, 41-2601, 41-2622, 41-2629 and 79-41a03 and repealing the
5 existing sections.
6

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

8 New Section 1. (a) A license of a railway car shall allow the licensee
9 to offer for sale, sell and serve alcoholic liquor for consumption on the
10 railway car but only if such railway car is located in or passing through a
11 county where the qualified electors of the county:

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

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

21 (b) A railway car shall be required to derive from sales of food for
22 consumption on the railway car not less than 30% of all the licensee's
23 gross receipts from sales of food and beverages on such railway car.

24 (c) A railway car shall not sell or serve alcoholic liquor at any time
25 during which the railway car is located in or passing through a county in
26 which sales of alcoholic liquor by the individual drink in public places has
27 not been approved by a majority vote at an election pursuant to K.S.A. 41-
28 2646, and amendments thereto.

29 Sec. 2. K.S.A. 41-306a is hereby amended to read as follows: 41-
30 306a. A wine distributor's license shall allow:

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

36 (b) The sale of wine to:

1 (1) Wine distributors licensed in this state;

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

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

9 (c) The sale of wine, but only in barrels, casks and other bulk
10 containers, to:

11 (1) Licensed caterers; and

12 (2) clubs and drinking establishments licensed in this state, except
13 that such distributor shall sell a brand of wine only to such clubs and
14 drinking establishments the licensed premises of which are located in the
15 geographic territory within which such distributor is authorized to sell
16 such brand, as designated in the notice or notices filed with the director
17 pursuant to K.S.A. 41-410, and amendments thereto; *and*

18 (3) *railway cars licensed in this state, except that such distributor*
19 *shall sell a brand of wine only to a railway car that operates in or passes*
20 *through the geographic territory within which such distributor is*
21 *authorized to sell such brand, as designated in the notice or notices filed*
22 *with the director pursuant to K.S.A. 41-410, and amendments thereto.*

23 (d) The purchase of wine in barrels, casks or other bulk containers
24 and the bottling thereof before resale, but all bottles or containers filled
25 with such wine shall be sealed, labeled and otherwise made to comply with
26 all laws and rules and regulations governing the preparation and bottling of
27 wine by manufacturers and with all federal rules, regulations and laws.

28 (e) The storage and delivery to a retailer licensed under the Kansas
29 liquor control act or a retailer licensed under K.S.A. 41-2702, and
30 amendments thereto, on the distributor's licensed premises, of alcoholic
31 liquor or cereal malt beverage of another licensed distributor authorized by
32 law to sell such alcoholic liquor or cereal malt beverage to such retailer, in
33 accordance with an agreement entered into with such other distributor and
34 approved by the director.

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

37 Sec. 3. K.S.A. 41-307 is hereby amended to read as follows: 41-307.
38 A beer distributor's license shall allow:

39 (a) The wholesale purchase, importation and storage of beer.

40 (b) The sale of beer to:

41 (1) Licensed caterers;

42 (2) beer distributors licensed in this state;

43 (3) retailers, clubs and drinking establishments, licensed in this state,

1 except that such distributor shall sell a brand of beer only to those retailers,
2 clubs and drinking establishments of which the licensed premises are
3 located in the geographic territory within which such distributor is
4 authorized to sell such brand, as designated in the notice or notices filed
5 with the director pursuant to K.S.A. 41-410, and amendments thereto; ~~and~~

6 *(4) railway cars licensed in this state, except that such distributor*
7 *shall sell a brand of beer only to a railway car that operates in or passes*
8 *through the geographic territory within which such distributor is*
9 *authorized to sell such brand, as designated in the notice or notices filed*
10 *with the director pursuant to K.S.A. 41-410, and amendments thereto; and*

11 ~~(4)~~(5) such persons located outside such territory or outside this state
12 as permitted by law.

13 (c) The sale of cereal malt beverage to:

14 (1) Beer distributors licensed in this state;

15 (2) clubs and drinking establishments, licensed in this state, and
16 retailers licensed under K.S.A. 41-2702, and amendments thereto, except
17 that such distributor shall sell a brand of cereal malt beverage only to those
18 such clubs, drinking establishments and retailers of which the licensed
19 premises are located in the geographic territory within which such
20 distributor is authorized to sell such brand, as designated in the notice or
21 notices filed with the director pursuant to K.S.A. 41-410, and amendments
22 thereto; and

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

25 (d) The purchase of cereal malt beverage in kegs or other bulk
26 containers and the bottling or canning thereof in accordance with law.

27 (e) The storage and delivery to a retailer licensed under the Kansas
28 liquor control act or a retailer licensed under K.S.A. 41-2702, and
29 amendments thereto, on the distributor's licensed premises, of alcoholic
30 liquor or cereal malt beverage of another licensed distributor authorized by
31 law to sell such alcoholic liquor or cereal malt beverage to such retailer, in
32 accordance with an agreement entered into with such other distributor and
33 approved by the director.

34 Sec. 4. K.S.A. 41-308 is hereby amended to read as follows: 41-308.

35 (a) A retailer's license shall allow the licensee to sell and offer for sale at
36 retail and deliver in the original package, as therein prescribed, alcoholic
37 liquor for use or consumption off of and away from the premises specified
38 in such license. A retailer's license shall permit sale and delivery of
39 alcoholic liquor only on the licensed premises and shall not permit sale of
40 alcoholic liquor for resale in any form, except that a licensed retailer may:

41 (1) Sell alcoholic liquor to a temporary permit holder for resale by
42 such permit holder; ~~and~~

43 (2) sell and deliver alcoholic liquor to a caterer or to the licensed

1 premises of a club or drinking establishment, if such premises are in the
2 county where the retailer's premises are located or in an adjacent county,
3 for resale by such club, establishment or caterer; *and*

4 (3) *sell and deliver alcoholic liquor to a railway car if such railway*
5 *car operates in or passes through the county where the retailer's premises*
6 *are located.*

7 (b) The holder of a retailer's license shall not sell, offer for sale, give
8 away or permit to be sold, offered for sale or given away in or from the
9 premises specified in such license any service or thing of value whatsoever
10 except alcoholic liquor in the original package, except that a licensed
11 retailer may:

12 (1) Charge a delivery fee for delivery to a club, drinking
13 establishment or caterer pursuant to subsection (a);

14 (2) sell lottery tickets and shares to the public in accordance with the
15 Kansas lottery act, if the retailer is selected as a lottery retailer;

16 (3) include in the sale of alcoholic liquor any goods included by the
17 manufacturer in packaging with the alcoholic liquor, subject to the
18 approval of the director; and

19 (4) distribute to the public, without charge, consumer advertising
20 specialities bearing advertising matter, subject to rules and regulations of
21 the secretary limiting the form and distribution of such specialities so that
22 they are not conditioned on or an inducement to the purchase of alcoholic
23 liquor.

24 (c) No licensed retailer shall furnish any entertainment in such
25 premises or permit any pinball machine or game of skill or chance to be
26 located in or on such premises.

27 (d) A retailer's license shall allow the licensee to store alcoholic
28 liquor in refrigerators, cold storage units, ice boxes or other cooling
29 devices, and the licensee may sell such alcoholic liquor to consumers in a
30 chilled condition.

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

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

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

40 (3) *the sale and delivery of wine to a railway car;*

41 ~~(4)~~ (4) the sale, on the licensed premises in the original unopened
42 container to consumers for consumption off the licensed premises, of wine
43 manufactured by the licensee;

1 ~~(4)~~ (5) the serving free of charge on the licensed premises and at
2 special events, monitored and regulated by the division of alcoholic
3 beverage control, of samples of wine manufactured by the licensee or
4 imported under subsection (f), if the premises are located in a county
5 where the sale of alcoholic liquor is permitted by law in licensed drinking
6 establishments;

7 ~~(5)~~ (6) if the licensee is also licensed as a club or drinking
8 establishment, the sale of domestic wine, domestic fortified wine and other
9 alcoholic liquor for consumption on the licensed premises as authorized by
10 the club and drinking establishment act;

11 ~~(6)~~ (7) if the licensee is also licensed as a caterer, the sale of domestic
12 wine, domestic fortified wine and other alcoholic liquor for consumption
13 on the unlicensed premises as authorized by the club and drinking
14 establishment act;

15 ~~(7)~~ (8) the sale and shipping, in the original unopened container, to
16 consumers outside this state of wine manufactured by the licensee,
17 provided that the licensee complies with applicable laws and rules and
18 regulations of the jurisdiction to which the wine is shipped; and

19 (8) (9) the sale and shipping of wine within this state pursuant to a
20 permit issued pursuant to K.S.A. 2011 Supp. 41-350, and amendments
21 thereto.

22 (b) Upon application and payment of the fee prescribed by K.S.A. 41-
23 310, and amendments thereto, by a farm winery licensee, the director may
24 issue not to exceed three winery outlet licenses to the farm winery
25 licensee. A winery outlet license shall allow:

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

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

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

37 (c) Not less than 60% of the products utilized in the manufacture of
38 domestic table wine and domestic fortified wine by a farm winery shall be
39 grown in Kansas except when a lesser proportion is authorized by the
40 director based upon the director's findings and judgment. The label of
41 domestic wine and domestic fortified wine shall indicate that a majority of
42 the products utilized in the manufacture of the wine at such winery were
43 grown in Kansas.

1 (d) A farm winery or winery outlet may sell domestic wine and
2 domestic fortified wine in the original unopened container to consumers
3 for consumption off the licensed premises at any time between 6 a.m. and
4 12 midnight on any day except Sunday and between 12 noon and 6 p.m.
5 on Sunday. If authorized by subsection (a), a farm winery may serve
6 samples of domestic wine, domestic fortified wine and wine imported
7 under subsection (e) and serve and sell domestic wine, domestic fortified
8 wine and other alcoholic liquor for consumption on the licensed premises
9 at any time when a club or drinking establishment is authorized to serve
10 and sell alcoholic liquor. If authorized by subsection (b), a winery outlet
11 may serve samples of domestic wine, domestic fortified wine and wine
12 imported under subsection (e) at any time when the winery outlet is
13 authorized to sell domestic wine and domestic fortified wine.

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

25 (f) A farm winery license or winery outlet license shall apply only to
26 the premises described in the application and in the license issued and only
27 one location shall be described in the license.

28 (g) No farm winery or winery outlet shall:

29 (1) Employ any person under the age of 18 years in connection with
30 the manufacture, sale or serving of any alcoholic liquor;

31 (2) permit any employee of the licensee who is under the age of 21
32 years to work on the licensed premises at any time when not under the on-
33 premise supervision of either the licensee or an employee of the licensee
34 who is 21 years of age or over;

35 (3) employ any person under 21 years of age in connection with
36 mixing or dispensing alcoholic liquor; or

37 (4) employ any person in connection with the manufacture or sale of
38 alcoholic liquor if the person has been convicted of a felony.

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

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

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

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

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

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

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

12 (1) A licensed manufacturer, licensed nonbeverage user or licensed
13 wine distributor;

14 (2) a licensed caterer; or

15 (3) a retailer, club, *railway car* or drinking establishment, licensed in
16 this state, as authorized by K.S.A. 41-306a, *and amendments thereto*.

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

20 (1) A licensed manufacturer, licensed nonbeverage user or licensed
21 beer distributor;

22 (2) a licensed caterer; or

23 (3) a retailer licensed under the Kansas liquor control act or under
24 K.S.A. 41-2702, and amendments, thereto or a club, *railway car* or
25 drinking establishment, licensed in this state, as authorized by 41-307, and
26 amendments thereto.

27 (d) (1) If any spirits distributor refuses to sell spirits which such
28 distributor is authorized to sell or refuses to provide any service in
29 connection therewith to any licensed retailer as authorized by K.S.A. 41-
30 306, and amendments thereto, it shall be lawful for any other licensed
31 spirits distributor to sell such spirits to such retailer.

32 (2) If any wine distributor refuses to sell wine which such distributor
33 is authorized to sell or refuses to furnish service in connection therewith to
34 any licensed retailer, as authorized by K.S.A. 41-306a, *and amendments*
35 *thereto*, it shall be lawful for any other licensed wine distributor to sell
36 such wine to such retailer.

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

43 (e) No manufacturer of alcoholic liquor or cereal malt beverage shall

1 sell or attempt to sell any alcoholic liquor or cereal malt beverage within
2 this state except to a licensed manufacturer, licensed distributor or licensed
3 nonbeverage user.

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

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

19 Sec. 7. K.S.A. 2011 Supp. 41-2601 is hereby amended to read as
20 follows: 41-2601. As used in the club and drinking establishment act:

21 (a) The following terms shall have the meanings provided by K.S.A.
22 41-102, and amendments thereto: (1) "Alcoholic liquor"; (2) "director"; (3)
23 "original package"; (4) "person"; (5) "sale"; and (6) "to sell."

24 (b) "Beneficial interest" shall not include any interest a person may
25 have as owner, operator, lessee or franchise holder of a licensed hotel or
26 motel on the premises of which a club or drinking establishment is located.

27 (c) "Caterer" means an individual, partnership or corporation which
28 sells alcoholic liquor by the individual drink, and provides services related
29 to the serving thereof, on unlicensed premises which may be open to the
30 public, but does not include a holder of a temporary permit, selling
31 alcoholic liquor in accordance with the terms of such permit.

32 (d) "Cereal malt beverage" has the meaning provided by K.S.A. 41-
33 2701, and amendments thereto.

34 (e) "Class A club" means a premises which is owned or leased by a
35 corporation, partnership, business trust or association and which is
36 operated thereby as a *bona fide* nonprofit social, fraternal or war veterans'
37 club, as determined by the director, for the exclusive use of the corporate
38 stockholders, partners, trust beneficiaries or associates (hereinafter referred
39 to as members) and their families and guests accompanying them.

40 (f) "Class B club" means a premises operated for profit by a
41 corporation, partnership or individual, to which members of such club may
42 resort for the consumption of food or alcoholic beverages and for
43 entertainment.

1 (g) "Club" means a class A or class B club.

2 (h) "Minibar" means a closed cabinet, whether nonrefrigerated or
3 wholly or partially refrigerated, access to the interior of which is restricted
4 by means of a locking device which requires the use of a key, magnetic
5 card or similar device.

6 (i) "Drinking establishment" means premises which may be open to
7 the general public, where alcoholic liquor by the individual drink is sold.

8 (j) "Food" means any raw, cooked or processed edible substance or
9 ingredient, other than alcoholic liquor or cereal malt beverage, used or
10 intended for use or for sale, in whole or in part, for human consumption.

11 (k) "Food service establishment" has the meaning provided by K.S.A.
12 36-501, and amendments thereto.

13 (l) "Hotel" has the meaning provided by K.S.A. 36-501, and
14 amendments thereto.

15 (m) "Minor" means a person under 21 years of age.

16 (n) "Morals charge" means a charge involving prostitution; procuring
17 any person; soliciting of a child under 18 years of age for any immoral act
18 involving sex; possession or sale of narcotics, marijuana, amphetamines or
19 barbiturates; rape; incest; gambling; illegal cohabitation; adultery; bigamy;
20 or a crime against nature.

21 (o) "Municipal corporation" means the governing body of any county
22 or city.

23 (p) *"Railway car" means a locomotive drawn conveyance used for*
24 *the transportation and accommodation of human passengers that is*
25 *confined to a fixed rail route.*

26 ~~(q)~~ (q) "Restaurant" means:

27 (1) In the case of a club, a licensed food service establishment which,
28 as determined by the director, derives from sales of food for consumption
29 on the licensed club premises not less than 50% of its gross receipts from
30 all sales of food and beverages on such premises in a 12-month period;

31 (2) in the case of a drinking establishment subject to a food sales
32 requirement under K.S.A. 41-2642, and amendments thereto, a licensed
33 food service establishment which, as determined by the director, derives
34 from sales of food for consumption on the licensed drinking establishment
35 premises not less than 30% of its gross receipts from all sales of food and
36 beverages on such premises in a 12-month period; and

37 (3) in the case of a drinking establishment subject to no food sales
38 requirement under K.S.A. 41-2642, and amendments thereto, a licensed
39 food service establishment.

40 ~~(r)~~ (r) "RV resort" means premises where a place to park recreational
41 vehicles, as defined in K.S.A. 75-1212, and amendments thereto, is offered
42 for pay, primarily to transient guests, for overnight or longer use while
43 such recreational vehicles are used as sleeping or living accommodations.

1 ~~(s)~~ (s) "Secretary" means the secretary of revenue.

2 ~~(t)~~ (t) "Temporary permit" means a temporary permit issued pursuant
3 to K.S.A. 41-2645, and amendments thereto.

4 Sec. 8. K.S.A. 41-2612 is hereby amended to read as follows: 41-
5 2612. Every holder of a license for a club or drinking establishment shall
6 cause such license to be framed and hung in plain view in a conspicuous
7 place on the licensed premises. *In the case of a railway car, each car shall*
8 *have such license framed and hung in plain view in a conspicuous place in*
9 *each car where alcoholic liquor is served mixed, opened or otherwise*
10 *dispensed.*

11 Sec. 9. K.S.A. 41-2614 is hereby amended to read as follows: 41-
12 2614. (a) Except as provided by subsection (c), no club or drinking
13 establishment *or railway car* shall allow the serving, mixing or
14 consumption of alcoholic liquor on its premises between the hours of 2:00
15 a.m. and 9:00 a.m. on any day.

16 (b) No caterer shall allow the serving, mixing or consumption of
17 alcoholic liquor between the hours of 2:00 a.m. and 6:00 a.m. on any day
18 at an event catered by such caterer.

19 (c) A hotel of which the entire premises are licensed as a drinking
20 establishment or as a drinking establishment/caterer may allow at any time
21 the serving, mixing and consumption of alcoholic liquor and cereal malt
22 beverage from a minibar in a guest room by guests registered to stay in
23 such room, and guests of guests registered to stay in such room.

24 Sec. 10. K.S.A. 2011 Supp. 41-2622 is hereby amended to read as
25 follows: 41-2622. (a) At the time application is made to the director for a
26 license pursuant to the club and drinking establishment act, the applicant
27 shall pay the following license fee in the manner provided by K.S.A. 41-
28 2606, and amendments thereto:

29 (1) For a class A club which is a *bona fide* nonprofit fraternal or war
30 veterans' club, as defined by rules and regulations of the secretary, \$500;

31 (2) for a class A club which is a *bona fide* nonprofit social club, as
32 defined by rules and regulations of the secretary, and which has not more
33 than 500 members, \$1,000;

34 (3) for a class A club which is a *bona fide* nonprofit social club, as
35 defined by rules and regulations of the secretary, and which has more than
36 500 members, \$2,000;

37 (4) for a class B club, \$2,000;

38 (5) for a drinking establishment, \$1,000;

39 (6) *for a railway car, \$2,000;*

40 ~~(7)~~ (7) for a hotel of which the entire premises are licensed as a
41 drinking establishment, \$3,000;

42 ~~(8)~~ (8) for a caterer, \$1,000;

43 ~~(9)~~ (9) for a drinking establishment/caterer, \$1,500; and

1 ~~(9)~~ (10) for a drinking establishment/caterer, if the drinking
2 establishment is a hotel of which the entire premises are licensed as a
3 drinking establishment, \$3,500.

4 (b) On and after July 1, 2011, at the time an application is submitted
5 to the director for a drinking establishment license pursuant to the club and
6 drinking establishment act, the applicant shall pay the following license
7 fee in the manner provided by K.S.A. 41-2606, and amendments thereto:

8 (1) For a drinking establishment, \$2,000;

9 (2) for a hotel of which the entire premises are licensed as a drinking
10 establishment, \$6,000;

11 (3) for a drinking establishment/caterer, \$3,000; and

12 (4) for a drinking establishment/caterer, if the drinking establishment
13 is a hotel of which the entire premises are licensed as a drinking
14 establishment, \$7,000.

15 (c) In addition to the fee provided by subsections (a) and (b), any city
16 where the licensed premises of a club or drinking establishment are located
17 or, if such licensed premises are not located in a city, the board of county
18 commissioners of the county where the licensed premises are located may
19 levy and collect a biennial occupation or license tax from the licensee in an
20 amount equal to not less than \$200 nor more than \$500.

21 (d) No occupational or excise tax or license fee other than that
22 authorized by subsection (c) shall be levied by any city or county against
23 or collected from a licensed club or drinking establishment.

24 (e) The director shall remit all moneys received under this section to
25 the state treasurer in accordance with the provisions of K.S.A. 75-4215,
26 and amendments thereto. Upon receipt of each such remittance, the state
27 treasurer shall deposit the entire amount in the state treasury. Of each such
28 deposit, 50% shall be credited to the state general fund, and the remaining
29 50% shall be credited to the other state fees fund of the department of
30 social and rehabilitation services. In addition to other purposes for which
31 expenditures may be made from the other state fees fund of the department
32 of social and rehabilitation services, expenditures may be made by the
33 secretary of social and rehabilitation services for the purpose of
34 implementing the powers and duties of the secretary under the provisions
35 of K.S.A. 65-4006 and 65-4007, and amendments thereto.

36 Sec. 11. K.S.A. 2011 Supp. 41-2629 is hereby amended to read as
37 follows: 41-2629. (a) A class B club license ~~or~~, caterer's license *or railway*
38 *car license* shall be issued for a term not to exceed two years after
39 issuance, except as otherwise provided by law, unless sooner suspended or
40 revoked as provided in this act.

41 (b) Prior to July 1, 2011, a drinking establishment license shall be
42 issued for a term not to exceed one year after issuance, except as otherwise
43 provided by law, unless sooner suspended or revoked as provided by this

1 act. On and after July 1, 2011, a drinking establishment license *or railway*
2 *car license* shall be issued for a term not to exceed two years after
3 issuance, except as otherwise provided by law, unless sooner suspended or
4 revoked as provided by this act.

5 (c) The director, may, at the director's sole discretion and after
6 examination of the circumstances, extend the license term of any license
7 for not more than 30 days beyond such date the license would expire
8 pursuant to this section. Any extension of the license term by the director
9 pursuant to this section shall automatically extend the due date for
10 payment by the licensee of any occupation or license tax levied by a city
11 or township pursuant to K.S.A. 41-2622, and amendments thereto, by the
12 same number of days the director has extended the license term.

13 (d) A class B license, drinking establishment license, *railway car* or
14 caterer's license shall be purely a personal privilege and shall not constitute
15 property, nor shall it be subject to attachment, garnishment or execution,
16 nor shall it be alienable or transferable, voluntarily or involuntarily, or
17 subject to being encumbered or hypothecated. A class B club license,
18 drinking establishment license ~~or~~, caterer's license *or railway car license*
19 shall not descend by the laws of testate or intestate devolution but shall
20 cease or expire upon the death of the licensee subject to the following
21 provision.

22 (e) An executor, administrator or representative of the estate of any
23 deceased holder of a class B club, drinking establishment ~~or~~, caterer's
24 license *or railway car license* or the trustee of any insolvent or bankrupt
25 class B club, drinking establishment ~~or~~, caterer's license *or railway car*
26 *license* may continue the licensee's business under order of the appropriate
27 court and may exercise the privilege of the deceased, insolvent or bankrupt
28 licensee after the death of such licensee or after such insolvency or
29 bankruptcy until the expiration of such license, but in no case longer than
30 one year after the death, insolvency or bankruptcy of such licensee.

31 (f) When the licensee pays the full amount of the license fee upon
32 application and is prevented from operating under such license in
33 accordance with the provisions of this act for the entire second year of the
34 license term, a refund shall be made of one-half of the license fee paid by
35 such licensee. The secretary shall adopt, in accordance with K.S.A. 41-
36 210, and amendments thereto, rules and regulations providing for the
37 authorization of refunds of one-half of the license fee paid when the
38 licensee does not use such license for the entire second year of the license
39 term as a result of the cancellation of the license upon the request of the
40 licensee for voluntary reasons.

41 Sec. 12. K.S.A. 41-2640 is hereby amended to read as follows: 41-
42 2640. (a) No club, drinking establishment, caterer ~~or~~, *railway car* or holder
43 of a temporary permit, nor any person acting as an employee or agent

1 thereof, shall:

2 (1) Offer or serve any free cereal malt beverage or alcoholic liquor in
3 any form to any person;

4 (2) offer or serve to any person a drink at a price that is less than the
5 acquisition cost of the drink to the licensee or permit holder;

6 (3) sell, offer to sell or serve to any person an unlimited number of
7 drinks during any set period of time for a fixed price, except at private
8 functions not open to the general public or to the general membership of a
9 club;

10 (4) sell, offer to sell or serve any drink to any person at any time at a
11 price less than that charged all other purchasers of drinks on that day;

12 (5) increase the volume of alcoholic liquor contained in a drink or the
13 size of a drink of cereal malt beverage without increasing proportionately
14 the price regularly charged for the drink on that day;

15 (6) encourage or permit, on the licensed premises, any game or
16 contest which involves drinking alcoholic liquor or cereal malt beverage or
17 the awarding of drinks as prizes; or

18 (7) advertise or promote in any way, whether on or off the licensed
19 premises, any of the practices prohibited under subsections (a)(1) through
20 (6).

21 (b) Nothing in subsection (a) shall be construed to prohibit a club,
22 drinking establishment, *railway car*, caterer or holder of a temporary
23 permit from:

24 (1) Offering free food or entertainment at any time; or

25 (2) selling or delivering wine by the bottle or carafe.

26 (c) Violation of any provision of this section is a misdemeanor
27 punishable as provided by K.S.A. 41-2633, and amendments thereto.

28 (d) Violation of any provision of this section shall be grounds for
29 suspension or revocation of the licensee's license as provided by K.S.A.
30 41-2609, and amendments thereto, and for imposition of a civil fine on the
31 licensee or temporary permit holder as provided by K.S.A. 41-2633a, and
32 amendments thereto.

33 (e) Every licensed club and drinking establishment *and railway car*
34 *licensee* shall make available at any time upon request a price list showing
35 the club's or drinking establishment's *or railway car's* current prices per
36 drink for all drinks.

37 (f) As used in this section, "drink" means an individual serving of any
38 beverage containing alcoholic liquor or an individual serving of cereal
39 malt beverage.

40 Sec. 13. K.S.A. 79-41a01 is hereby amended to read as follows: 79-
41 41a01. As used in K.S.A. 79-41a01 through 79-41a09, and amendments
42 thereto:

43 (a) "Alcoholic liquor" means alcoholic liquor, as defined by K.S.A.

1 41-102, and amendments thereto, and cereal malt beverage, as defined by
2 K.S.A. 41-2701, and amendments thereto.

3 (b) "Caterer," "club," "drinking establishment," "*railway car*" and
4 "temporary permit" have the meanings provided by K.S.A. 41-2601, and
5 amendments thereto.

6 (c) "Gross receipts derived from the sale of alcoholic liquor" means
7 the amount charged the consumer for a drink containing alcoholic liquor,
8 including any portion of that amount attributable to the cost of any
9 ingredient mixed with or added to the alcoholic liquor contained in such
10 drink.

11 Sec. 14. K.S.A. 79-41a02 is hereby amended to read as follows: 79-
12 41a02. (a) There is hereby imposed, for the privilege of selling alcoholic
13 liquor, a tax at the rate of 10% upon the gross receipts derived from the
14 sale of alcoholic liquor by any club, caterer, drinking establishment,
15 *railway car* or temporary permit holder.

16 (b) The tax imposed by this section shall be paid by the consumer to
17 the club, caterer, drinking establishment, *railway car* or temporary permit
18 holder and it shall be the duty of each and every club, caterer, drinking
19 establishment, *railway car* or temporary permit holder subject to this
20 section to collect from the consumer the full amount of such tax, or an
21 amount equal as nearly as possible or practicable to the average equivalent
22 thereto. Each club, caterer, drinking establishment, *railway car* or
23 temporary permit holder collecting the tax imposed hereunder shall be
24 responsible for paying over the same to the state department of revenue in
25 the manner prescribed by K.S.A. 79-41a03, and amendments thereto and
26 the state department of revenue shall administer and enforce the collection
27 of such tax.

28 Sec. 15. K.S.A. 2011 Supp. 79-41a03 is hereby amended to read as
29 follows: 79-41a03. (a) The tax levied and collected pursuant to K.S.A. 79-
30 41a02, and amendments thereto, shall become due and payable by the
31 club, caterer, drinking establishment, *railway car* or temporary permit
32 holder monthly, or on or before the 25th day of the month immediately
33 succeeding the month in which it is collected, but any club, caterer,
34 drinking establishment, *railway car* or temporary permit holder filing an
35 annual or quarterly return under the Kansas retailers' sales tax act, as
36 prescribed in K.S.A. 79-3607, and amendments thereto, shall, upon such
37 conditions as the secretary of revenue may prescribe, pay the tax required
38 by this act on the same basis and at the same time the club, caterer,
39 drinking establishment, *railway car* or temporary permit holder pays such
40 retailers' sales tax. Each club, caterer, drinking establishment, *railway car*
41 or temporary permit holder shall make a true report to the department of
42 revenue, on a form prescribed by the secretary of revenue, providing such
43 information as may be necessary to determine the amounts to which any

1 such tax shall apply for all gross receipts derived from the sale of alcoholic
2 liquor by the club, caterer, drinking establishment, *railway car* or
3 temporary permit holder for the applicable month or months, which report
4 shall be accompanied by the tax disclosed thereby. Records of gross
5 receipts derived from the sale of alcoholic liquor shall be kept separate and
6 apart from the records of other retail sales made by a club, caterer,
7 drinking establishment, *railway car* or temporary permit holder in order to
8 facilitate the examination of books and records as provided herein.

9 (b) The secretary of revenue or the secretary's authorized
10 representative shall have the right at all reasonable times during business
11 hours to make such examination and inspection of the books and records
12 of a club, caterer, drinking establishment, *railway car* or temporary permit
13 holder as may be necessary to determine the accuracy of such reports
14 required hereunder.

15 (c) The secretary of revenue is hereby authorized to administer and
16 collect the tax imposed hereunder and to adopt such rules and regulations
17 as may be necessary for the efficient and effective administration and
18 enforcement of the collection thereof. Whenever any club, caterer,
19 drinking establishment, *railway car* or temporary permit holder liable to
20 pay the tax imposed hereunder refuses or neglects to pay the same, the
21 amount, including any penalty, shall be collected in the manner prescribed
22 for the collection of the retailers' sales tax by K.S.A. 79-3617, and
23 amendments thereto.

24 (d) The secretary of revenue shall remit all revenue collected under
25 the provisions of this act to the state treasurer in accordance with the
26 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
27 each such remittance, the state treasurer shall deposit the entire amount in
28 the state treasury. Subject to the maintenance requirements of the local
29 alcoholic liquor refund fund created under K.S.A. 79-41a09, and
30 amendments thereto, 25% of the remittance shall be credited to the state
31 general fund, 5% shall be credited to the community alcoholism and
32 intoxication programs fund created by K.S.A. 41-1126, and amendments
33 thereto, and the balance shall be credited to the local alcoholic liquor fund
34 created by K.S.A. 79-41a04, and amendments thereto.

35 (e) Whenever, in the judgment of the secretary of revenue, it is
36 necessary, in order to secure the collection of any tax, penalties or interest
37 due, or to become due, under the provisions of this act, the secretary may
38 require any person subject to such tax to file a bond with the director of
39 taxation under conditions established by and in such form and amount as
40 prescribed by rules and regulations adopted by the secretary.

41 (f) The amount of tax imposed by this act shall be assessed within
42 three years after the return is filed, and no proceedings in court for the
43 collection of such taxes shall be begun after the expiration of such period

1 except in the cases of fraud. In the case of a false or fraudulent return with
2 intent to evade tax, the tax may be assessed or a proceeding in court for
3 collection of such tax may be begun at any time, within two years from the
4 discovery of such fraud. No refund or credit shall be allowed by the
5 director after three years from the date of payment of the tax as provided
6 in this act unless before the expiration of such period a claim therefor is
7 filed by the taxpayer, and no suit or action to recover on any claim for
8 refund shall be commenced until after the expiration of six months from
9 the date of filing a claim therefor with the director. Before the expiration
10 of time prescribed in this section for the assessment of additional tax or the
11 filing of a claim for refund, the director is hereby authorized to enter into
12 an agreement in writing with the taxpayer consenting to the extension of
13 the periods of limitations for the assessment of tax or for the filing of a
14 claim for refund, at any time prior to the expiration of the periods of
15 limitations. The period so agreed upon may be extended by subsequent
16 agreements in writing made before the expiration of the period previously
17 agreed upon.

18 Sec. 16. K.S.A. 79-41a06 is hereby amended to read as follows: 79-
19 41a06. No club, drinking establishment, *railway car*, caterer or temporary
20 permit holder shall sell any alcoholic liquor without a registration
21 certificate from the secretary of revenue. Application for such certificate
22 shall be made to the secretary upon forms provided by the secretary and
23 shall contain such information as the secretary deems necessary for the
24 purposes of administering the provisions of this act. The registration
25 certificate shall be conspicuously displayed in the licensed premises or
26 permitted for which it is issued.

27 Upon violation of any of the provisions of K.S.A. 79-41a01 *et seq.*, and
28 amendments thereto, or any of the terms of this act, and upon due notice
29 and opportunity for hearing in accordance with the provisions of the
30 Kansas administrative procedure act, the secretary may revoke such
31 registration certificate.

32 Sec. 17. K.S.A. 79-41a07 is hereby amended to read as follows: 79-
33 41a07. (a) The director of taxation or the director of alcoholic beverage
34 control may enjoin any person from engaging in business as a club,
35 drinking establishment, *railway car*, caterer or temporary permit holder
36 when the club, drinking establishment, *railway car*, caterer or temporary
37 permit holder is in violation of any of the provisions of K.S.A. 79-41a01 *et*
38 *seq.*, and amendments thereto, or any of the terms of this act and shall be
39 entitled in any proceeding brought for that purpose to have an order
40 restraining the person from engaging in business as a club, drinking
41 establishment, *railway car*, caterer or temporary permit holder. No bond
42 shall be required for any such restraining order or for any temporary or
43 permanent injunction issued in that proceeding.

1 (b) If a club, drinking establishment, *railway car* or caterer licensed
2 by the director of alcoholic beverage control or a temporary permit holder
3 violates any of the provisions of K.S.A. 79-41a01 *et seq.*, and amendments
4 thereto, or any of the terms of this act, the director of alcoholic beverage
5 control may suspend or revoke the license of such club, establishment,
6 *railway car* or caterer in accordance with K.S.A. 41-2609, and
7 amendments thereto, or may impose a civil fine on the licensee or permit
8 holder in the manner provided by K.S.A. 41-2633a, and amendments
9 thereto.

10 Sec. 18. K.S.A. 79-41a04 is hereby amended to read as follows: 79-
11 41a04. (a) There is hereby created, in the state treasury, the local alcoholic
12 liquor fund. Moneys credited to such fund pursuant to this act or any other
13 law shall be expended only for the purpose and in the manner provided by
14 this act.

15 (b) *Except as provided in subsection (b)(4)*, all moneys credited to
16 the local alcoholic liquor fund shall be allocated to the several cities and
17 counties of the state as follows:

18 (1) Each city that has a population of more than 6,000 shall receive
19 70% of the amount which is collected pursuant to this act from clubs or
20 drinking establishments located in such city, from caterers whose principal
21 places of business are so located or from temporary permit holders whose
22 permitted events are so located and which is paid into the state treasury
23 during the period for which the allocation is made.

24 (2) Each city that has a population of 6,000 or less shall receive
25 $46\frac{2}{3}\%$ of the amount which is collected pursuant to this act from clubs or
26 drinking establishments located in such city, from caterers whose principal
27 places of business are so located or from temporary permit holders whose
28 permitted events are so located and which is paid into the state treasury
29 during the period for which the allocation is made.

30 (3) Each county shall receive: (A) 70% of the amount which is
31 collected pursuant to this act from clubs or drinking establishments located
32 in such county and outside the corporate limits of any city, from caterers
33 whose principal places of business are so located or from temporary permit
34 holders whose permitted events are so located and which is paid into the
35 state treasury during the period for which the allocation is made; and (B)
36 $23\frac{1}{3}\%$ of the amount which is collected pursuant to this act from clubs or
37 drinking establishments located in the county and within a city that has a
38 population of 6,000 or less, from caterers whose principal places of
39 business are so located or from temporary permit holders whose permitted
40 events are so located and which is paid into the state treasury during the
41 period for which the allocation is made.

42 (4) *Counties shall receive 70% of the amount collected from railway*
43 *cars which shall be divided equally among the counties through which the*

1 *railway car passes or in which the railway car operates, provided such*
2 *county is a county where the qualified electors of the county:*

3 *(A) (i) Approved, by a majority vote of those voting thereon, the*
4 *proposition to amend section 10 of article 15 of the constitution of the*
5 *state of Kansas at the general election in November 1986; or (ii) have*
6 *approved a proposition to allow sales of alcoholic liquor by the individual*
7 *drink in public places within the county at an election pursuant to K.S.A.*
8 *41-2646, and amendments thereto; and*

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

12 (c) The state treasurer shall make distributions from the local
13 alcoholic liquor fund in accordance with the allocation formula prescribed
14 by subsection (b) on March 15, June 15, September 15 and December 15
15 of each year. The director of accounts and reports shall draw warrants on
16 the state treasurer in favor of the several county treasurers and city
17 treasurers on the dates and in the amounts determined under this section.
18 Such distributions shall be paid directly to the several county treasurers
19 and city treasurers.

20 (d) Except as otherwise provided by this subsection, each city
21 treasurer of a city that has a population of more than 6,000, upon receipt of
22 any moneys distributed under this section, shall deposit the full amount in
23 the city treasury and shall credit $\frac{1}{3}$ of the deposit to the general fund of the
24 city, $\frac{1}{3}$ to a special parks and recreation fund in the city treasury and $\frac{1}{3}$ to
25 a special alcohol and drug programs fund in the city treasury. Each city
26 treasurer of a city that has a population of 6,000 or less, upon receipt of
27 any moneys distributed under this section, shall deposit the full amount in
28 the city treasury and shall credit $\frac{1}{2}$ of the deposit to the general fund of the
29 city and $\frac{1}{2}$ to a special parks and recreation fund in the city treasury.
30 Moneys in such special funds shall be under the direction and control of
31 the governing body of the city. Moneys in the special parks and recreation
32 fund may be expended only for the purchase, establishment, maintenance
33 or expansion of park and recreational services, programs and facilities.
34 One-half of the moneys distributed under this section to cities located in
35 Butler county shall be deposited in a special community support program
36 and parks and recreation fund in the city treasury. Moneys in the special
37 community support program and parks and recreation fund may be
38 expended only for (1) the establishment and operation of a domestic
39 violence program operated by a not-for-profit organization or (2) the
40 purchase, establishment, maintenance or expansion of park and
41 recreational services, programs and facilities. Moneys in the special
42 alcohol and drug programs fund shall be expended only for the purchase,
43 establishment, maintenance or expansion of services or programs whose

1 principal purpose is alcoholism and drug abuse prevention and education,
2 alcohol and drug detoxification, intervention in alcohol and drug abuse or
3 treatment of persons who are alcoholics or drug abusers or are in danger of
4 becoming alcoholics or drug abusers.

5 (e) Except as otherwise provided by this subsection, each county
6 treasurer, upon receipt of any moneys distributed under this section, shall
7 deposit the full amount in the county treasury and shall credit to a special
8 alcohol and drug programs fund in the county treasury 23 $\frac{1}{3}$ % of the
9 amount which is collected pursuant to this act from clubs or drinking
10 establishments located in the county and within a city that has a population
11 of 6,000 or less, from caterers whose principal place of business is so
12 located or from temporary permit holders whose permitted events are so
13 located and which is paid into the state treasury during the period for
14 which the allocation is made; of the remainder, the treasurer shall credit $\frac{1}{3}$
15 to the general fund of the county, $\frac{1}{3}$ to a special parks and recreation fund
16 in the county treasury and $\frac{1}{3}$ to the special alcohol and drug programs
17 fund. Moneys in such special funds shall be under the direction and control
18 of the board of county commissioners. Moneys in the special parks and
19 recreation fund may be expended only for the purchase, establishment,
20 maintenance or expansion of park and recreational services, programs and
21 facilities. One-third of the moneys distributed under this section to Butler
22 county shall be deposited in a special community support program and
23 parks and recreation fund in the county treasury. Moneys in the special
24 community support program and parks and recreation fund may be
25 expended only for (1) the establishment and operation of a domestic
26 violence program operated by a not-for-profit organization or (2) the
27 purchase, establishment, maintenance or expansion of park and
28 recreational services, programs and facilities. Moneys in the special
29 alcohol and drug programs fund shall be expended only for the purchase,
30 establishment, maintenance or expansion of services or programs whose
31 principal purpose is alcoholism and drug abuse prevention and education,
32 alcohol and drug detoxification, intervention in alcohol and drug abuse or
33 treatment of persons who are alcoholics or drug abusers or are in danger of
34 becoming alcoholics or drug abusers. In any county in which there has
35 been organized an alcohol and drug advisory committee, the board of
36 county commissioners shall request and obtain, prior to making any
37 expenditures from the special alcohol and drug programs fund, the
38 recommendations of the advisory committee concerning such
39 expenditures. The board of county commissioners shall adopt the
40 recommendations of the advisory committee concerning such expenditures
41 unless the board, by unanimous vote of all commissioners, adopts a
42 different plan for such expenditures.

43 (f) Each year, the county treasurer shall estimate the amount of

1 money the county and each city in the county will receive from the local
2 alcoholic liquor fund and from distributions pursuant to K.S.A. 79-41a05,
3 and amendments thereto. The state treasurer shall advise each county
4 treasurer, prior to June 1 of each year of the amount in the local alcoholic
5 liquor fund that the state treasurer estimates, using the most recent
6 available information, will be allocated to such county in the following
7 year. The county treasurer shall, before June 15 of each year, notify the
8 treasurer of each city of the estimated amount in dollars of the distribution
9 to be made from the local alcoholic liquor fund and pursuant to K.S.A. 79-
10 41a05, and amendments thereto.

11 Sec. 19. K.S.A. 79-41a08 is hereby amended to read as follows: 79-
12 41a08. The tax imposed by this act shall be a lien upon the business and
13 any property of the club, drinking establishment, *railway car*, caterer or
14 permit holder which may be sold. The person acquiring such business or
15 property shall withhold a sufficient amount of the purchase price thereof to
16 cover the amount of any taxes due and unpaid by the seller, until the seller
17 shall furnish the purchaser with a receipt from the secretary of revenue, as
18 herein provided, showing that such taxes have been paid. The purchaser
19 shall be personally liable for the payment of any unpaid taxes of the seller,
20 to the extent of the value of the business or property received by the
21 purchaser, and if a receipt is not furnished by such seller within 20 days
22 from the date of sale of such business or property, the purchaser shall remit
23 the amount of such unpaid taxes to the secretary on or before the 20th day
24 of the month succeeding that in which such purchaser acquired such
25 business or property.

26 Sec. 20. K.S.A. 41-306a, 41-307, 41-308, 41-701, 41-2612, 41-2614,
27 41-2640, 79-41a01, 79-41a02, 79-41a04, 79-41a06, 79-41a07 and 79-
28 41a08 and K.S.A. 2011 Supp. 41-308a, 41-2601, 41-2622, 41-2629 and
29 79-41a03 are hereby repealed.

30 Sec. 21. This act shall take effect and be in force from and after its
31 publication in the statute book.
32