

HOUSE BILL No. 2332

By Committee on Federal and State Affairs

2-12

1 AN ACT concerning alcoholic beverages; relating to microbreweries;
2 permitting the manufacture and sale of hard cider and mead; amending
3 K.S.A. 2014 Supp. 41-102 and 41-308b and repealing the existing
4 sections.

5

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

7 Section 1. K.S.A. 2014 Supp. 41-102 is hereby amended to read as
8 follows: 41-102. As used in this act, unless the context clearly requires
9 otherwise:

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

14 (b) "Alcoholic liquor" means alcohol, spirits, wine, beer and every
15 liquid or solid, patented or not, containing alcohol, spirits, wine or beer
16 and capable of being consumed as a beverage by a human being, but shall
17 not include any cereal malt beverage.

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

22 (d) "Caterer" has the meaning provided by K.S.A. 41-2601, and
23 amendments thereto.

24 (e) "Cereal malt beverage" has the meaning provided by K.S.A. 41-
25 2701, and amendments thereto.

26 (f) "Club" has the meaning provided by K.S.A. 41-2601, and
27 amendments thereto.

28 (g) "Director" means the director of alcoholic beverage control of the
29 department of revenue.

30 (h) "Distributor" means the person importing or causing to be
31 imported into the state, or purchasing or causing to be purchased within
32 the state, alcoholic liquor for sale or resale to retailers licensed under this
33 act or cereal malt beverage for sale or resale to retailers licensed under
34 K.S.A. 41-2702, and amendments thereto.

35 (i) "Domestic beer" means beer which contains not more than 10%
36 alcohol by weight and which is manufactured in this state.

1 (j) "Domestic fortified wine" means wine which contains more than
2 14%, but not more than 20% alcohol by volume and which is
3 manufactured in this state.

4 (k) "Domestic table wine" means wine which contains not more than
5 14% alcohol by volume and which is manufactured without rectification or
6 fortification in this state.

7 (l) "Drinking establishment" has the meaning provided by K.S.A. 41-
8 2601, and amendments thereto.

9 (m) "Farm winery" means a winery licensed by the director to
10 manufacture, store and sell domestic table wine and domestic fortified
11 wine.

12 (n) *"Hard cider" means any alcoholic beverage obtained by the*
13 *normal alcoholic fermentation of the juice of sound, ripe apples, including*
14 *such beverages containing sugar added for the purpose of correcting*
15 *natural deficiencies.*

16 (o) "Manufacture" means to distill, rectify, ferment, brew, make,
17 mix, concoct, process, blend, bottle or fill an original package with any
18 alcoholic liquor, beer or cereal malt beverage.

19 (p) (1) "Manufacturer" means every brewer, fermenter, distiller,
20 rectifier, wine maker, blender, processor, bottler or person who fills or
21 refills an original package and others engaged in brewing, fermenting,
22 distilling, rectifying or bottling alcoholic liquor, beer or cereal malt
23 beverage.

24 (2) "Manufacturer" does not include a microbrewery, microdistillery
25 or a farm winery.

26 (q) *"Mead" means any alcoholic beverage obtained by the normal*
27 *alcoholic fermentation of honey with water; including such beverages*
28 *containing sugar, fruits, spices, grains or hops added for the purpose of*
29 *correcting natural deficiencies.*

30 (r) "Microbrewery" means a brewery licensed by the director to
31 manufacture, store and sell domestic beer.

32 (s) "Microdistillery" means a facility which produces spirits from
33 any source or substance that is licensed by the director to manufacture,
34 store and sell spirits.

35 (t) "Minor" means any person under 21 years of age.

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

40 (v) "Original package" means any bottle, flask, jug, can, cask,
41 barrel, keg, hogshead or other receptacle or container whatsoever, used,
42 corked or capped, sealed and labeled by the manufacturer of alcoholic
43 liquor, to contain and to convey any alcoholic liquor. Original container

1 does not include a sleeve.

2 ~~(t)~~ (w) "Person" means any natural person, corporation, partnership,
3 trust or association.

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

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

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

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

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

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

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

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

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

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

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

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

41 ~~(dd)~~ (ff) "Spirits" means any beverage which contains alcohol
42 obtained by distillation, mixed with water or other substance in solution,
43 and includes brandy, rum, whiskey, gin or other spirituous liquors, and

1 such liquors when rectified, blended or otherwise mixed with alcohol or
2 other substances.

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

6 ~~(ff)~~ (hh) "Temporary permit" has the meaning provided by K.S.A. 41-
7 2601, and amendments thereto.

8 ~~(gg)~~ (ii) "Wine" means any alcoholic beverage obtained by the
9 normal alcoholic fermentation of the juice of sound, ripe grapes, fruits,
10 berries or other agricultural products, including ~~such~~ *hard cider, mead and*
11 *other* beverages containing added alcohol or spirits or containing sugar
12 added for the purpose of correcting natural deficiencies.

13 Sec. 2. K.S.A. 2014 Supp. 41-308b is hereby amended to read as
14 follows: 41-308b. (a) A microbrewery license shall allow:

15 (1) The manufacture of not less than 100 nor more than 30,000
16 barrels of domestic beer during the calendar year and the storage thereof;

17 (2) *the manufacture in the aggregate of not more than 100,000*
18 *gallons of hard cider or mead during the calendar year and the storage*
19 *thereof;*

20 ~~(2)~~ (3) the sale to beer distributors of beer *and the sale to wine*
21 *distributors of hard cider and mead*, manufactured by the licensee;

22 ~~(3)~~ (4) the sale, on the licensed premises in the original unopened
23 container to consumers for consumption off the licensed premises, of beer,
24 *hard cider and mead* manufactured by the licensee;

25 ~~(4)~~ (5) the serving free of charge on the licensed premises and at
26 special events, monitored and regulated by the division of alcoholic
27 beverage control, of samples of beer, *hard cider and mead* manufactured
28 by the licensee, if the premises are located in a county where the sale of
29 alcoholic liquor is permitted by law in licensed drinking establishments;

30 ~~(5)~~ (6) if the licensee is also licensed as a club or drinking
31 establishment, the sale of domestic beer and other alcoholic liquor for
32 consumption on the licensed premises as authorized by the club and
33 drinking establishment act; and

34 ~~(6)~~ (7) if the licensee is also licensed as a caterer, the sale of domestic
35 beer and other alcoholic liquor for consumption on unlicensed premises as
36 authorized by the club and drinking establishment act.

37 (b) Upon application and payment of the fee prescribed by K.S.A. 41-
38 310, and amendments thereto, by a microbrewery licensee, the director
39 may issue not to exceed one microbrewery packaging and warehousing
40 facility license to the microbrewery licensee. A microbrewery packaging
41 and warehousing facility license shall allow:

42 (1) The transfer, from the licensed premises of the microbrewery to
43 the licensed premises of the microbrewery packaging and warehousing

1 facility, of beer, *hard cider and mead* manufactured by the licensee, for the
2 purpose of packaging or storage, or both; and

3 (2) the transfer, from the licensed premises of the microbrewery
4 packaging and warehousing facility to the licensed premises of the
5 microbrewery, of beer, *hard cider and mead* manufactured by the licensee;
6 or

7 (3) the removal from the licensed premises of the microbrewery
8 packaging and warehousing facility of beer manufactured by the licensee
9 for the purpose of delivery to a licensed beer wholesaler, *and hard cider*
10 *and mead manufactured by the licensee for the purpose of delivery to a*
11 *licensed wine distributor.*

12 (c) A microbrewery may sell domestic beer, *hard cider and mead* in
13 the original unopened container to consumers for consumption off the
14 licensed premises at any time between 6 a.m. and 12 midnight on any day
15 except Sunday and between 11 a.m. and 7 p.m. on Sunday. If authorized
16 by subsection (a), a microbrewery may serve samples of domestic beer,
17 *hard cider and mead* and serve and sell domestic beer and other alcoholic
18 liquor for consumption on the licensed premises at any time when a club
19 or drinking establishment is authorized to serve and sell alcoholic liquor.

20 (d) The director may issue to the Kansas state fair or any bona fide
21 group of brewers a permit to import into this state small quantities of beer,
22 *hard cider and mead*. Such beer, *hard cider and mead* shall be used only
23 for bona fide educational and scientific tasting programs and shall not be
24 resold. Such beer, *hard cider and mead* shall not be subject to the tax
25 imposed by K.S.A. 41-501, and amendments thereto. The permit shall
26 identify specifically the brand and type of beer, *hard cider or mead* to be
27 imported, the quantity to be imported, the tasting programs for which the
28 beer, *hard cider or mead* is to be used and the times and locations of such
29 programs. The secretary shall adopt rules and regulations governing the
30 importation of beer, *hard cider and mead* pursuant to this subsection and
31 the conduct of tasting programs for which such beer, *hard cider or mead* is
32 imported.

33 (e) A microbrewery license or microbrewery packaging and
34 warehousing facility license shall apply only to the premises described in
35 the application and in the license issued and only one location shall be
36 described in the license.

37 (f) No microbrewery shall:

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

40 (2) permit any employee of the licensee who is under the age of 21
41 years to work on the licensed premises at any time when not under the on-
42 premises supervision of either the licensee or an employee of the licensee
43 who is 21 years of age or over;

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

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

5 (g) Whenever a microbrewery licensee is convicted of a violation of
6 the Kansas liquor control act, the director may revoke the licensee's license
7 and all fees paid for the license in accordance with the Kansas
8 administrative procedure act. added for the purpose of correcting natural
9 deficiencies.

10 Sec. 3. K.S.A. 2014 Supp. 41-102 and 41-308b are hereby repealed.

11 Sec. 4. This act shall take effect and be in force from and after its
12 publication in the statute book.