

As Amended by Senate Committee

Session of 2019

HOUSE BILL No. 2035

By Committee on Federal and State Affairs

1-16

1 AN ACT concerning alcoholic beverages; relating to cereal malt beverages
2 and enforcement of laws regulating the sale thereof; amending *K.S.A.*
3 *2016 Supp. 41-308, as amended by section 6 of chapter 56 of the 2017*
4 *Session Laws of Kansas, and K.S.A. 2018 Supp. 41-106 and 79-4101*
5 and repealing the existing ~~section~~ *sections*.
6

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

8 Section 1. K.S.A. 2018 Supp. 41-106 is hereby amended to read as
9 follows: 41-106. (a) Any citation issued by an agent of the division of
10 alcoholic beverage control for a violation of the liquor control act ~~or~~, the
11 club and drinking establishment act *or the Kansas cereal malt beverage*
12 *act* shall be delivered to the licensee or a person in charge of the licensed
13 premises at the time of the alleged violation. A copy of such citation also
14 shall be delivered by United States mail to the licensee within 30 days of
15 the alleged violation.

16 (b) Any duly authorized law enforcement officer who observes a
17 violation of the liquor control act ~~or~~, the club and drinking establishment
18 act *or the Kansas cereal malt beverage act* may, after serving notice to the
19 licensee or a person in charge of the licensed premises, submit a report of
20 such violation to the division of alcoholic beverage control for review.
21 Upon receipt of such report, the director shall review the report and
22 determine if administrative action will be taken against the licensee. If the
23 director determines that administrative action will be taken, an
24 administrative citation and notice of administrative action shall be
25 delivered by United States mail to the licensee within 30 days of the date
26 of the alleged violation.

27 (c) The notice required to be served to the licensee or a person in
28 charge of the licensed premises at the time of the alleged violation
29 pursuant to subsection (b) shall be in writing and shall contain the
30 following:

- 31 (1) The name of the licensee;
- 32 (2) the date and time of the alleged violation;
- 33 (3) a description of the alleged violation; and
- 34 (4) a statement that a report of the alleged violation will be submitted

1 to the division of alcoholic beverage control for review.

2 (d) Any citations not issued in accordance with the provisions of this
3 section shall be void and unenforceable.

4 (e) For purposes of this section, the term "person in charge" means
5 any individual or employee present on the licensed premises at the time of
6 the alleged violation who is responsible for the operation of the licensed
7 premises. If no designated individual or employee is a person in charge,
8 then any employee present is the person in charge.

9 *Sec. 2. K.S.A. 2016 Supp. 41-308, as amended by section 6 of*
10 *chapter 56 of the 2017 Session laws of Kansas, is hereby amended to*
11 *read as follows: 41-308. (a) Except as provided in K.S.A.—2016 2018*
12 *Supp. 41-308d, and amendments thereto, a retailer's license shall allow*
13 *the licensee to sell and offer for sale at retail and deliver in the original*
14 *package, as therein prescribed, alcoholic liquor and cereal malt*
15 *beverage for use or consumption off and away from the premises*
16 *specified in such license.*

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

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

23 (2) *sell and deliver alcoholic liquor and cereal malt beverage to a*
24 *caterer or to the licensed premises of a public venue, club or drinking*
25 *establishment, if such premises are in the county where the retailer's*
26 *premises are located or in an adjacent county, for resale by such public*
27 *venue, club, establishment or caterer.*

28 (c) *A retailer may:*

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

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

34 (3) *include in the sale of alcoholic liquor and cereal malt beverage*
35 *any goods included by the manufacturer in packaging with the alcoholic*
36 *liquor or cereal malt beverage, subject to the approval of the director;*

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

42 (5) *store alcoholic liquor and cereal malt beverage in refrigerators,*
43 *cold storage units, ice boxes or other cooling devices, and the licensee*

1 *may sell such alcoholic liquor and cereal malt beverage to consumers in*
2 *a chilled condition; and*

3 *(6) sell any other good or service on the licensed premises, except*
4 *that the gross sales of other goods and services, excluding fees derived*
5 *from the sale of lottery tickets and revenues from sales of cigarettes and*
6 *tobacco products, shall not exceed 20% of the retailer's total gross sales.*

7 *(d) All alcoholic liquor{,} cereal malt beverage and nonalcoholic*
8 *malt beverage sold by a holder of a retail license shall be subject to the*
9 *liquor enforcement tax imposed by K.S.A. 79-4101, and amendments*
10 *thereto.*

11 *Sec. 3. K.S.A. 2018 Supp. 79-4101 is hereby amended to read as*
12 *follows: 79-4101. (a) For the purpose of providing revenue which may*
13 *be used by the state, counties and cities in the enforcement of the*
14 *provisions of this act, from and after the effective date of this act, for the*
15 *privilege of engaging in the business of selling alcoholic liquor by*
16 *retailers, microbreweries, microdistilleries or farm wineries to*
17 *consumers in this state or selling alcoholic liquor or cereal malt*
18 *beverage by distributors to clubs, drinking establishments, public venues*
19 *or caterers in this state, there is hereby levied and there shall be*
20 *collected and paid a tax at the rate of 8% upon the gross receipts*
21 *received from: (1) The sale of alcoholic liquor, cereal malt beverage and*
22 *nonalcoholic malt beverage by retailers;; (2) the sale of alcoholic liquor*
23 *by microbreweries, microdistilleries or farm wineries to consumers*
24 *within this state; and-~~(2)~~ (3) the sale of alcoholic liquor or cereal malt*
25 *beverage by distributors to clubs, drinking establishments, public venues*
26 *or caterers in this state.*

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

31 *{(c) As used in this section, the term "retailer" means the same as*
32 *such term is defined in K.S.A. 41-102, and amendments thereto.}*

33 *Sec. ~~2~~ 4. K.S.A. 2016 Supp. 41-308, as amended by section 6 of*
34 *chapter 56 of the 2017 Session Laws of Kansas, and K.S.A. 2018 Supp.*
35 *41-106~~is~~ and 79-4101 are hereby repealed.*

36 *Sec. ~~3~~ 5. This act shall take effect and be in force from and after*
37 *April 1, 2019, and its publication in the Kansas register.*