As Amended by Senate Committee

Session of 2020

SENATE BILL No. 417

By Committee on Federal and State Affairs

2-12

AN ACT concerning alcoholic beverages; relating to class A clubs; authorizing the sale of alcoholic liquor at special events; amending K.S.A. 2019 Supp. 41-2601 and 41-2637 and repealing the existing sections.

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

Section 1. K.S.A. 2019 Supp. 41-2601 is hereby amended to read as follows: 41-2601. As used in the club and drinking establishment act:

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

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

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

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

(e) "Class A club" means a premises which that is owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the director, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates—(hereinafter referred to as members), and their families and guests accompanying them, as provided in K.S.A. 41-2637, and amendments thereto.

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

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

(h) "Drinking establishment" means premises which that may be open to the general public, where alcoholic liquor by the individual drink
is sold. The term "drinking establishment" includes a railway car.

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

(j) "Food service establishment" has the meaning means the same as provided by K.S.A. 36-501, and amendments thereto.

(k) "Hotel" has the meaning means the same as provided by K.S.A. 36-501, and amendments thereto.

(l) "Individual drink" means a beverage containing alcoholic liquor or cereal malt beverage served to an individual for consumption by such individual or another individual, but which is not intended to be consumed by two or more individuals. The term "individual drink" includes beverages containing not more than: (1) Eight ounces of wine; (2) thirty-two ounces of beer or cereal malt beverage; or (3) four ounces of a single spirit or a combination of spirits.

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

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

(o) "Morals charge" means a charge: Involving the sale of sexual relations; procuring any person; soliciting of a child under 18 years of age for any immoral act involving sex; possession or sale of narcotics, marijuana, amphetamines or barbiturates; rape; incest; gambling; illegal cohabitation; adultery; bigamy; or a crime against nature.

(p) "Municipal corporation" means the governing body of any county or city.

(q) "Public venue" means an arena, stadium, hall or theater, used primarily for athletic or sporting events, live concerts, live theatrical productions or similar seasonal entertainment events, not operated on a daily basis, and containing:

(1) Not less than 4,000 permanent seats; and

(2) not less than two private suites, which are enclosed or semi-enclosed seating areas, having controlled access and separated from the general admission areas by a permanent barrier.

(r) "Railway car" means a locomotive drawn conveyance used for the transportation and accommodation of human passengers that is confined to a fixed rail route and which derives from sales of food for consumption on the railway car not less than 30% of its gross receipts from all sales of food and beverages in a 12-month period.

(s) "Restaurant" means:

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

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

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

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

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

(v) "Secretary" means the secretary of revenue.

(w) "Temporary permit" means a temporary permit issued pursuant to K.S.A. 2019 Supp. 41-1201, and amendments thereto.

Sec. 2. K.S.A. 2019 Supp. 41-2637 is hereby amended to read as follows: 41-2637. (a) A license for a class A club shall allow the licensee to:

(1) Offer for sale, sell and serve alcoholic liquor for consumption on the licensed premises by members and their families, and guests accompanying them; and

(2) serve samples of alcoholic liquor free of charge for consumption by members and their families and guests accompanying them; and

(3) offer for sale, sell and serve alcoholic liquor for consumption on the licensed premises by individuals other than those individuals specified in paragraph (1) during an event held in accordance with subsection (e).

(b) No charge of any sort may be made for a sample serving. Samples may not be served to a minor. No samples may be removed from the licensed premises. No consideration shall be requested or required for entry onto the premises, participation in any event taking place on the premises or to remain on the premises.

(b)(c) (1) Subject to the provisions of subsection (b)(2) (c)(2), any two or more class A or class B clubs may permit, by an agreement filed with and approved by the director, the members of each such club to have
access to all other clubs which *that* are parties to such agreement. The privileges extended to the visiting members of other clubs under such an agreement shall be determined by the agreement and, if the agreement so provides, any club which *that* is a party to such agreement may sell, offer for sale and serve, to any person who is a member of another club which *that* is a party to such agreement, alcoholic liquor for consumption on the licensed premises by such person and such person's family, and guests accompanying them.

(2) A class B club may enter into a reciprocal agreement authorized by subsection (b)(1) (c)(1) only if the class B club is a restaurant.

(e)(d) (1) A licensee may offer for sale, sell and serve alcoholic liquor for consumption on the licensed premises by individuals other than members of the licensee, their families or guests during an event. The licensee shall provide electronic notification to the director at least 48 hours prior to any such event. The director shall make the electronic notification available to local law enforcement. Such notice shall consist of the date, time, location and the names of the contracting parties of the event. The licensee shall retain all documents for a period of three years for inspection by the director. The documents retained shall include agreements, receipts, names of employees, members and any agent of the licensee who sells or serves alcohol at the event, and records of alcohol purchased.

(2) For purposes of this subsection, the term "event" means any function, occasion, celebration or other event held on the licensed premises for a specified duration of time and during which individuals who are not members of the licensee, their families or guests are permitted to enter and use the licensed premises pursuant to an agreement between the licensee and the contracting party.

(e) A licensee may store on its premises wine sold to a customer for consumption at a later date on its premises in the unopened container. Such wine must be kept separate from all other alcohol stock and in a secure locked area separated by customer. Such wine shall not be removed from the licensed premises in its unopened condition.

Sec. 3. K.S.A. 2019 Supp. 41-2601 and 41-2637 are hereby repealed.

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