

Temporary Permits; Common Consumption Areas; License Terms; Delivery of Alcoholic Liquors; Farm Wine; Official Red and White Wine Grapes; SB 70

SB 70 amends law concerning temporary permits to serve liquor for consumption on premises; amends law concerning common consumption areas; amends law related to the issuance of licenses by the Division of Alcoholic Beverage Control (ABC), Department of Revenue; creates law related to delivery of alcoholic liquors within the state and required reporting of such deliveries; amends the Liquor Control Act to allow for producers of certain fermentative products to sell wine made at a farm winery; and designates the official Kansas red and white wine grapes.

Application for a Temporary Permit

The bill requires applications to be submitted electronically to the Director of Alcoholic Beverage Control (Director). The bill requires a non-refundable \$25 temporary permit application fee to be paid by a check or a credit card. The bill removes the requirement for any check used to pay the permit fee to be from a bank located in Kansas.

The bill requires an application for a temporary permit to include a diagram showing the boundaries of the premises, entrances, and exits and the area where liquor is served as part of the requirement to specify the premises covered by the temporary permit.

The bill authorizes the Director to reject an application for a temporary permit if:

- The applicant has been granted four permits in the current calendar year;
- The application was not filed with the Director at least 14 days prior to the event;
- The applicant, or any officer, director, partner, registered agent, trustee, manager, or owner of the applicant, has previously owned or operated any entity holding a temporary permit, club, drinking establishment, or caterer's license and had to surrender such permit or license and had been ordered to appear and show cause why the permit or license should not be revoked or suspended;
- The applicant has designated an area for an event that was the subject of the order to appear and show cause and it appears that the new application is an attempt to avoid remedial action taken by the Director; or
- The applicant has had a license or permit revoked under the Club and Drinking Establishment Act, or has been convicted of a violation of the Kansas Liquor Control Act, the Club and Drinking Establishment Act, the Kansas Cereal Malt Beverage Act, or laws related to liquor drink tax.

Rights and Responsibilities of Temporary Permit Holders

The bill allows a temporary permit holder to charge an entrance fee for the premises or any portion of the premises.

The bill permits a temporary permit holder to serve liquor for consumption on licensed or unlicensed premises, or on premises otherwise subject to a separate temporary permit. The bill removes the requirement for all proceeds from an event for which a temporary permit is issued to be used only for the purposes stated in the application.

Purchase and Transfer of Liquor

The bill permits a temporary permit holder to purchase and possess liquor for resale three days prior to the first day of sale of such liquor. Temporary permit holders may purchase liquor only from a farm winery or a retailer with a federal wholesaler's permit. Temporary permit holders purchasing liquor from farm wineries or retailers are required to keep the following records for one year after the date of purchase: date of purchase; name and address of the retailer or farm winery; name and address of the temporary permit holder as it appears on the temporary permit; brand, size, proof, and amount of all liquor purchased; and the subtotal of the cost and total cost, including enforcement tax, of all liquor purchased.

The bill requires all liquor purchased on any one day be removed from the licensed premises of any retailer or farm winery within 48 hours. Temporary permit holders are prohibited from warehousing any liquor on the licensed premises of any retailer or farm winery for more than 48 hours.

The bill allows a distributor to deliver liquor to the permit premises, without permission from the Director, so long as the liquor was purchased from a retailer who is a wholesaler under federal law. If a licensee sold liquor to a temporary permit holder and the distributor directly delivered the liquor to a temporary permit holder, but the licensee's normal operating hours prevent immediate payment to the distributor, the licensee may pay the retailer and the retailer may pay the distributor within 48 hours of the sale.

The bill removes the requirement for written permission from the Director for a temporary permit holder to sell back to the retailer or farm winery from whom the liquor was purchased within three business days after the event. However, after four business days, written permission from the Director is still required.

Consumption of Liquor on a Public Street, Alley, Road, or Highway

The bill permits the consumption of liquor on a public street, alley, road, or highway when:

- A temporary permit has been issued pursuant to the provisions of the bill or continuing law;
- A caterer's licensee has provided the required notification for a catered event; or

- A drinking establishment licensee has been authorized to extend its licensed premises.

The bill requires consumption of liquor on public streets, alleys, roads, sidewalks, or highways to be approved by the local governing body where the consumption will occur through an ordinance or resolution. The bill prohibits consuming liquor inside a vehicle while on a public street, alley, road, or highway at any time instead of at any special event or catered event.

Extended Premises

The bill allows a drinking establishment licensee, public venue, hotel, hotel caterer, or drinking establishment caterer to extend its licensed premises.

The bill allows the licensed premises covered by a temporary license to be extended into a city, county, or township street, alley, road, sidewalk, or highway if:

- Such street, alley, road, sidewalk, or highway is closed to motor vehicle traffic by the local governing body during any time that liquor is to be sold or consumed; and
- Such extension has been approved by the city, county, or township by ordinance or resolution that specifies the exact times during which liquor may be sold or consumed on a street, alley, road, sidewalk, or highway.

The bill includes the extended licensed premises of a drinking establishment as one of the boundaries from which liquor provided by the temporary permit holder may not be removed. The bill removes a restriction on possessing or consuming liquor inside the premises licensed as a special event that was not sold or provided by the temporary permit holder.

Premises Boundaries

The bill requires the boundary of any premises covered by a temporary permit to be marked by a line of demarcation.

Dispensing and Removal of Liquor from Premises

The bill allows only temporary permit holders who obtained the permit to sell liquor at a charitable auction or one or more limited-issue porcelain containers containing liquor to sell liquor for removal from or consumption off the licensed premises, except that liquor may be removed to a drinking establishment that has extended its premises into the event area.

The bill requires all liquor sold at an event covered by a temporary permit be dispensed only from original containers. An individual is permitted to carry an original container of liquor onto the event premises with the approval of the temporary permit holder and under the following conditions:

- The temporary permit holder may not store any containers of liquor on the event premises; and
- Each individual carrying such a container onto the premises is required to remove such container when the individual exits the event premises.

The bill repeals provisions related to charitable auctions and limited-issue decanter sales.

Samples

The bill authorizes temporary permit holders to provide samples of wine, beer, and spirits as follows, subject to the provisions of the Liquor Control Act and Club and Drinking Establishment Act:

- All wine, beer, and spirits sampled must come from the inventory of the temporary permit holder. A person other than the temporary permit holder, or a temporary permit holder's employee or agent, may not dispense or participate in the dispensing of alcoholic beverages;
- A supplier's permit holder, or a supplier permit holder's agent or employee, may provide samples of wine, beer, and distilled spirits on the permit premises, and may open, touch, or pour liquor; make a presentation; or answer questions at sampling events. Any liquor sampled must be purchased from a retailer or temporary permit holder on whose premises the sampling event is held;
- No charge may be made for a sample serving;
- A person may be served more than one sample;
- Samples may not be given to minors;
- No samples may be removed from the permit premises; and
- The providing of samples to consumers is exempt from the requirement to hold a Kansas Food Service Dealer license.

The bill defines “sample” in both the Liquor Control Act and the Club and Drinking Establishment Act as a serving of alcoholic liquor that contains not more than one-half ounce of distilled spirits, one ounce of wine, or two ounces of beer or cereal malt beverage. The bill specifies a sample of a mixed alcoholic beverage shall contain no more than one-half ounce of distilled spirits.

Keg Identification Numbers

The bill exempts the retail sales of liquor to temporary permit holders from the Beer and Cereal Malt Beverage Keg Registration Act, which requires affixing a keg identification number to a cereal malt beverage or beer container having a liquid capacity of four or more gallons.

Employees and Services Contracted by Temporary Permit Holders

The bill prohibits temporary permit holders from employing or using the services of any person who:

- Is under 18 years old to serve liquor;
- Is under 21 years old to mix or dispense drinks containing liquor;
- Is under 21 years old and not supervised by the temporary permit holder or an employee who is at least 21 years old;
- Has been convicted of a felony or any crime involving a morals charge to dispense, mix, or serve liquor; or
- Has been convicted within the previous two years of a violation of any intoxicating liquor law of Kansas, any other state, or the United States, to dispense, mix, or serve liquor.

Enforcement

The bill places Sections 1 through 5 under the enforcement of the Kansas Liquor Control Act and the Club and Drinking Establishment Act and the rules and regulations adopted under these acts. The bill authorizes the Secretary of Revenue to adopt rules and regulations for the administration and enforcement of Sections 1 through 5.

The bill specifies the terms used in Sections 1 through 5 have the same meaning as such terms in KSA 2018 Supp. 41-102 (the Kansas Liquor Control Act) or 41-2601 (the Club and Drinking Establishment Act). The bill removes the definition for a “special event” from a statute prohibiting consumption of alcoholic liquor in certain places.

Liability

The bill specifies each temporary permit holder selling liquor for consumption on the permit premises is liable for all violations of laws governing the sale and consumption of liquor in areas covered by multiple temporary permits.

The bill includes employees of temporary permit holders and any person contracting with temporary permit holders to provide services or food in connection with an event, as well as any person dispensing, mixing, or serving alcohol at an event as individuals the temporary permit holder is responsible for if such an individual were to violate the Club and Drinking Establishment Act while on the permit premises.

Common Consumption Areas

The bill allows licensees that have permission to participate in a common consumption area (CCA) to sell and serve liquor from one non-contiguous service area, in addition to the licensed premise, within the CCA and requires such licensee to prominently display a copy of its drinking establishment license and the approval of the CCA permit holder at the non-contiguous service area.

ABC License Terms

The bill provides the term for licenses issued by ABC commence on the effective date specified on the license.

Additionally, the bill amends law relating to the license term of Class B clubs, drinking establishments, public venues, and caterer's licenses by providing that such licenses will be issued for two years commencing on the effective date specified on the license, rather than such licenses expire two years after issuance.

Delivery of Alcoholic Liquors

The bill requires every express company or other common carrier (carrier) that delivers alcoholic liquors from outside the state to consumers within the state to prepare a monthly report of known alcoholic liquors shipped by the carrier to be filed with the Director.

The bill requires such report to contain the following information:

- The name of the express company or other common carrier that delivered the liquors;
- The period of time covered by the report;
- The name and business address of the consignor of the liquors;
- The weight of the package delivered to each consignee;

- A unique tracking number; and
- The date of delivery.

The bill requires any carrier, upon request by the Director, to make any additional records supporting the report available to the Director. The bill requires such records be kept and preserved for a period of two years unless destruction of the records is authorized in writing by the Director.

The bill imposes a penalty of not more than \$500 upon any carrier that willingly fails, neglects, or refuses to file any report required by the bill.

The bill further provides each report is an open record available for public inspection in accordance with the Kansas Open Records Act. The bill prohibits the inclusion of the name and business address of the consignee of such alcoholic liquors in reports made available to the public. The provisions concerning the exclusion of certain information in reports made available to the public expire on July 1, 2024, unless the Legislature reenacts such provisions.

Sale of Farm Wine by Producer Licensees

The bill allows producers of certain fermentative products to sell wine made at a farm winery. The bill requires the farm wine to meet the minimum Kansas content requirements. A vineyard permit is renamed a producer license, which is available to producers of grapes, with not less than 100 vines; ripe fruit, or berries, not less than 1,000 pounds; or honey, not less than 100 pounds. Each producer licensee is required to secure a \$500 bond under the Liquor Control Act, and is liable for payment of liquor drink and liquor enforcement taxes. A producer license is valid for two years, and it costs \$200. The bill requires licensees to maintain records and sales receipts, which may be inspected by the ABC, the Secretary of Revenue, or any law enforcement officer.

If a producer licensee is also licensed as a club or drinking establishment, the producer license allows for the sale of domestic wine and other alcoholic liquor, as authorized by the Club and Drinking Establishment Act. If the producer licensee also has a cereal malt beverage license, the producer is allowed to sell beer not exceeding 6.0 percent alcohol by volume, as authorized by the Kansas Cereal Malt Beverage Act. The bill allows a producer licensee to prohibit a person from possessing alcoholic liquor or cereal malt beverage not purchased on the licensee's premises.

Official Red Wine and White Wine Grapes

The bill designates the official Kansas red wine grape as chambourcin and the official Kansas white wine grape as vigneoles.

Effective Date

The bill takes effect upon publication in the *Kansas Register*.