

SENATE BILL No. 299

By Committee on Federal and State Affairs

1-18

1 AN ACT concerning alcoholic beverages; relating to the club and drinking
2 establishment act; creating a public venue license; amending K.S.A.
3 41-306, 41-306a, 41-307, 41-308, 41-701, 41-2608, 41-2613, 41-2614
4 and 41-2640 and K.S.A. 2011 Supp. 41-308a, 41-2601, 41-2622 and
5 41-2629 and repealing the existing sections.

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

8 New Section 1. (a) A license for a public venue shall allow the
9 licensee to:

10 (1) Offer for sale, sell and serve alcoholic liquor by the individual
11 drink for consumption on the licensed premises;

12 (2) offer for sale, sell and serve unlimited drinks for a fixed price in
13 designated areas of the licensed premises;

14 (3) offer for sale and sell all inclusive packages which include
15 unlimited drinks in designated areas of the licensed premises;

16 (4) offer for sale, sell and serve alcoholic liquor in the original
17 container for consumption on the licensed premises in private suites,
18 which are enclosed or semi-enclosed seating areas, having controlled
19 access and separated from the general admission areas by a permanent
20 barrier;

21 (5) store, in each private suite, which are enclosed or semi-enclosed
22 seating areas, having controlled access and separated from the general
23 admission areas by a permanent barrier, alcoholic liquor sold in the
24 original container to a customer in that private suite; and

25 (6) with the approval of the retailer or distributor, return for a full
26 refund of the original purchase price unopened containers of alcoholic
27 liquor to the retailer or distributor from whom such items were purchased
28 upon the conclusion of an event if the next scheduled event for that
29 premises is more than 90 days from the date of the concluded event.

30 (b) An applicant or public venue licensee shall specify in the
31 application for a license, or renewal of a license, the premises to be
32 licensed, which may include all premises which are in close proximity and
33 are under the control of the applicant or licensee. No public venue
34 licensee may offer for sale, sell or serve any alcoholic liquor in any area
35 not included in the licensed premises.

36 Sec. 2. K.S.A. 41-306 is hereby amended to read as follows: 41-306.

1 A spirits distributor's license, shall allow:

2 (a) The wholesale purchase, importation and storage of spirits, but all
3 such spirits so purchased or imported which are manufactured in the
4 United States shall be purchased from the primary American source of
5 supply or from another licensed spirits distributor, except that a licensed
6 spirits distributor may purchase confiscated spirits at a sheriff's sale.

7 (b) The sale of spirits to:

8 (1) Spirits distributors licensed in this state;

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

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

16 (c) The purchase of spirits in barrels, casks or other bulk containers
17 and the bottling thereof before resale, but all bottles or containers filled
18 with such spirits shall be sealed, labeled and otherwise made to comply
19 with all laws and rules and regulations governing the preparation and
20 bottling of spirits by manufacturers and with all federal rules, regulations
21 and laws.

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

29 (e) *The storage and delivery to a public venue licensed under the*
30 *club and drinking establishment act of alcoholic liquor purchased by the*
31 *public venue licensee from a retailer authorized by law to sell such*
32 *alcoholic liquor to such public venue licensee.*

33 Sec. 3. K.S.A. 41-306a is hereby amended to read as follows: 41-
34 306a. A wine distributor's license shall allow:

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

40 (b) The sale of wine to:

41 (1) Wine distributors licensed in this state;

42 (2) retailers licensed in this state, except that such distributor shall
43 sell a brand of wine only to those retailers whose licensed premises are

1 located in the geographic territory within which such distributor is
2 authorized to sell such brand, as designated in the notice or notices filed
3 with the director pursuant to K.S.A. 41-410, and amendments thereto; and

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

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

8 (1) Licensed caterers; and

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

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

20 (e) The storage and delivery to a retailer licensed under the Kansas
21 liquor control act or a retailer licensed under K.S.A. 41-2702, and
22 amendments thereto, on the distributor's licensed premises, of alcoholic
23 liquor or cereal malt beverage of another licensed distributor authorized by
24 law to sell such alcoholic liquor or cereal malt beverage to such retailer, in
25 accordance with an agreement entered into with such other distributor and
26 approved by the director.

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

29 Sec. 4. K.S.A. 41-307 is hereby amended to read as follows: 41-307.
30 A beer distributor's license shall allow:

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

32 (b) The sale of beer to:

33 (1) Licensed caterers;

34 (2) beer distributors licensed in this state;

35 (3) retailers, *public venues*, clubs and drinking establishments,
36 licensed in this state, except that such distributor shall sell a brand of beer
37 only to those retailers, *public venues*, clubs and drinking establishments of
38 which the licensed premises are located in the geographic territory within
39 which such distributor is authorized to sell such brand, as designated in the
40 notice or notices filed with the director pursuant to K.S.A. 41-410, and
41 amendments thereto; and

42 (4) such persons located outside such territory or outside this state as
43 permitted by law.

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

2 (1) Beer distributors licensed in this state;

3 (2) clubs and drinking establishments, licensed in this state, and
4 retailers licensed under K.S.A. 41-2702, and amendments thereto, except
5 that such distributor shall sell a brand of cereal malt beverage only to those
6 such clubs, drinking establishments and retailers of which the licensed
7 premises are located in the geographic territory within which such
8 distributor is authorized to sell such brand, as designated in the notice or
9 notices filed with the director pursuant to K.S.A. 41-410, and amendments
10 thereto; and

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

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

15 (e) The storage and delivery to a retailer licensed under the Kansas
16 liquor control act or a retailer licensed under K.S.A. 41-2702, and
17 amendments thereto, on the distributor's licensed premises, of alcoholic
18 liquor or cereal malt beverage of another licensed distributor authorized by
19 law to sell such alcoholic liquor or cereal malt beverage to such retailer, in
20 accordance with an agreement entered into with such other distributor and
21 approved by the director.

22 (f) *The storage and delivery, with proper invoicing in accordance*
23 *with rules and regulations adopted by the secretary, on the premises of a*
24 *public venue licensee, of beer sold to or available for purchase by the*
25 *public venue during an event.*

26 Sec. 5. K.S.A. 41-308 is hereby amended to read as follows: 41-308.

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

33 (1) Sell alcoholic liquor to a temporary permit holder for resale by
34 such permit holder; and

35 (2) sell and deliver alcoholic liquor to a caterer or to the licensed
36 premises of a *public venue*, club or drinking establishment, if such
37 premises are in the county where the retailer's premises are located or in an
38 adjacent county, for resale by such *public venue*, club, establishment or
39 caterer.

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

1 retailer may:

- 2 (1) Charge a delivery fee for delivery to a *public venue*, club,
3 drinking establishment or caterer pursuant to subsection (a);
- 4 (2) sell lottery tickets and shares to the public in accordance with the
5 Kansas lottery act, if the retailer is selected as a lottery retailer;
- 6 (3) include in the sale of alcoholic liquor any goods included by the
7 manufacturer in packaging with the alcoholic liquor, subject to the
8 approval of the director; and
- 9 (4) distribute to the public, without charge, consumer advertising
10 specialities bearing advertising matter, subject to rules and regulations of
11 the secretary limiting the form and distribution of such specialities so that
12 they are not conditioned on or an inducement to the purchase of alcoholic
13 liquor.

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

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

21 Sec. 6. K.S.A. 2011 Supp. 41-308a is hereby amended to read as
22 follows: 41-308a. (a) A farm winery license shall allow:

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

26 (2) the sale of wine, manufactured by the licensee, to licensed wine
27 distributors, retailers, *public venues*, clubs, drinking establishments,
28 holders of temporary permits as authorized by K.S.A. 41-2645, and
29 amendments thereto, and caterers;

30 (3) the sale, on the licensed premises in the original unopened
31 container to consumers for consumption off the licensed premises, of wine
32 manufactured by the licensee;

33 (4) the serving free of charge on the licensed premises and at special
34 events, monitored and regulated by the division of alcoholic beverage
35 control, of samples of wine manufactured by the licensee or imported
36 under subsection (f) (e), if the premises are located in a county where the
37 sale of alcoholic liquor is permitted by law in licensed drinking
38 establishments;

39 (5) if the licensee is also licensed as a club or drinking establishment,
40 the sale of domestic wine, domestic fortified wine and other alcoholic
41 liquor for consumption on the licensed premises as authorized by the club
42 and drinking establishment act;

43 (6) if the licensee is also licensed as a caterer, the sale of domestic

1 wine, domestic fortified wine and other alcoholic liquor for consumption
2 on the unlicensed premises as authorized by the club and drinking
3 establishment act;

4 (7) the sale and shipping, in the original unopened container, to
5 consumers outside this state of wine manufactured by the licensee,
6 provided that the licensee complies with applicable laws and rules and
7 regulations of the jurisdiction to which the wine is shipped; and

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

10 (b) Upon application and payment of the fee prescribed by K.S.A. 41-
11 310, and amendments thereto, by a farm winery licensee, the director may
12 issue not to exceed three winery outlet licenses to the farm winery
13 licensee. A winery outlet license shall allow:

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

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

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

25 (c) Not less than 60% of the products utilized in the manufacture of
26 domestic table wine and domestic fortified wine by a farm winery shall be
27 grown in Kansas except when a lesser proportion is authorized by the
28 director based upon the director's findings and judgment. The label of
29 domestic wine and domestic fortified wine shall indicate that a majority of
30 the products utilized in the manufacture of the wine at such winery were
31 grown in Kansas.

32 (d) A farm winery or winery outlet may sell domestic wine and
33 domestic fortified wine in the original unopened container to consumers
34 for consumption off the licensed premises at any time between 6 a.m. and
35 12 midnight on any day except Sunday and between 12 noon and 6 p.m.
36 on Sunday. If authorized by subsection (a), a farm winery may serve
37 samples of domestic wine, domestic fortified wine and wine imported
38 under subsection (e) and serve and sell domestic wine, domestic fortified
39 wine and other alcoholic liquor for consumption on the licensed premises
40 at any time when a club or drinking establishment is authorized to serve
41 and sell alcoholic liquor. If authorized by subsection (b), a winery outlet
42 may serve samples of domestic wine, domestic fortified wine and wine
43 imported under subsection (e) at any time when the winery outlet is

1 authorized to sell domestic wine and domestic fortified wine.

2 (e) The director may issue to the Kansas state fair or any *bona fide*
3 group of grape growers or wine makers a permit to import into this state
4 small quantities of wines. Such wine shall be used only for *bona fide*
5 educational and scientific tasting programs and shall not be resold. Such
6 wine shall not be subject to the tax imposed by K.S.A. 41-501, and
7 amendments thereto. The permit shall identify specifically the brand and
8 type of wine to be imported, the quantity to be imported, the tasting
9 programs for which the wine is to be used and the times and locations of
10 such programs. The secretary shall adopt rules and regulations governing
11 the importation of wine pursuant to this subsection and the conduct of
12 tasting programs for which such wine is imported.

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

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

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

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

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

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

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

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

34 Sec. 7. K.S.A. 41-701 is hereby amended to read as follows: 41-701.

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

37 (1) A licensed manufacturer, licensed nonbeverage user or licensed
38 spirits distributor; or

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

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

43 (1) A licensed manufacturer, licensed nonbeverage user or licensed

1 wine distributor;

2 (2) a licensed caterer; or

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

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

8 (1) A licensed manufacturer, licensed nonbeverage user or licensed
9 beer distributor;

10 (2) a licensed caterer; or

11 (3) a retailer licensed under the Kansas liquor control act or under
12 K.S.A. 41-2702, and amendments thereto, or a club or drinking
13 establishment, licensed in this state, as authorized by *K.S.A.* 41-307, and
14 amendments thereto.

15 (d) (1) If any spirits distributor refuses to sell spirits which such
16 distributor is authorized to sell or refuses to provide any service in
17 connection therewith to any licensed retailer as authorized by K.S.A. 41-
18 306, and amendments thereto, it shall be lawful for any other licensed
19 spirits distributor to sell such spirits to such retailer.

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

25 (3) If any beer distributor refuses to sell beer or cereal malt beverage
26 which such distributor is authorized to sell or provide service in
27 connection therewith to any retailer licensed under this act or under K.S.A.
28 41-2702, and amendments thereto, as authorized by K.S.A. 41-307, and
29 amendments thereto, it shall be lawful for any other licensed beer
30 distributor to sell such beer or cereal malt beverage to such retailer.

31 (e) No manufacturer of alcoholic liquor or cereal malt beverage shall
32 sell or attempt to sell any alcoholic liquor or cereal malt beverage within
33 this state except to a licensed manufacturer, licensed distributor or licensed
34 nonbeverage user.

35 (f) No supplier, wholesaler, distributor, manufacturer or importer
36 shall by oral or written contract or agreement, expressly or impliedly fix,
37 maintain, coerce or control the resale price of alcoholic liquor, beer or
38 cereal malt beverage to be resold by such wholesaler, distributor,
39 manufacturer or importer.

40 (g) Any supplier, wholesaler, distributor or manufacturer violating the
41 provisions of this section shall be guilty of a misdemeanor and upon
42 conviction thereof shall be punished by a fine of not less than \$500 and not
43 more than \$1,000, to which may be added not to exceed six months'

1 imprisonment. In addition, any supplier, wholesaler, distributor,
2 manufacturer or importer violating the provisions of this section relating to
3 fixing, maintaining or controlling the resale price of alcoholic liquor, beer
4 or cereal malt beverage shall be liable in a civil action to treble the amount
5 of any damages awarded plus reasonable attorney fees for the damaged
6 party.

7 Sec. 8. K.S.A. 2011 Supp. 41-2601 is hereby amended to read as
8 follows: 41-2601. As used in the club and drinking establishment act:

9 (a) The following terms shall have the meanings provided by K.S.A.
10 41-102, and amendments thereto: (1) "Alcoholic liquor"; (2) "director"; (3)
11 "original package"; (4) "person"; (5) "sale"; and (6) "to sell."

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

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

20 (d) "Cereal malt beverage" has the meaning provided by K.S.A. 41-
21 2701, and amendments thereto.

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

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

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

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

37 ~~(†) (h) "Drinking establishment" means premises which may be open~~
38 ~~to the general public, where alcoholic liquor by the individual drink is~~
39 ~~sold.~~

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

43 ~~(⌘) (j) "Food service establishment" has the meaning provided by~~

1 K.S.A. 36-501, and amendments thereto.

2 ~~(h)~~ (k) "Hotel" has the meaning provided by K.S.A. 36-501, and
3 amendments thereto.

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

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

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

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

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

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

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

24 ~~(h)~~ (q) "Restaurant" means:

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

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

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

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

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

43 ~~(s)~~ (t) "Temporary permit" means a temporary permit issued pursuant

1 to K.S.A. 41-2645, and amendments thereto.

2 Sec. 9. K.S.A. 41-2608 is hereby amended to read as follows: 41-
3 2608. (a) Any *public venue*, club or drinking establishment license
4 issued pursuant to this act shall be for one particular premises which shall
5 be stated in the application and in the license. *Not more than one premises*
6 *licensed under the club and drinking establishment act shall exist at a*
7 *single legal address.*

8 (b) No license shall be issued for a *public venue*, club or drinking
9 establishment unless the city, township or county zoning code allows a
10 club or drinking establishment at that location.

11 Sec. 10. K.S.A. 41-2613 is hereby amended to read as follows: 41-
12 2613. The right of immediate entry to and inspection of any premises
13 licensed as a *public venue*, club or drinking establishment or any premises
14 where alcoholic liquor is sold by a holder of a temporary permit, or any
15 premises subject to the control of any licensee or temporary permit holder,
16 by any duly authorized officer or agent of the director, or by any law
17 enforcement officer, shall be a condition on which every license or
18 temporary permit is issued, and the application for, and acceptance of, any
19 license or temporary permit shall conclusively be deemed to be the consent
20 of the applicant and licensee or permit holder to such immediate entry and
21 inspection. Such right of immediate entry and inspection shall be at any
22 time when the premises are occupied and is not limited to hours when the
23 club or drinking establishment is open for business. Such consent shall not
24 be revocable during the term of the license or temporary permit. Refusal of
25 such entry shall be grounds for revocation of the license or temporary
26 permit.

27 Sec. 11. K.S.A. 41-2614 is hereby amended to read as follows: 41-
28 2614. (a) Except as provided by subsection (c), no *public venue*, club or
29 drinking establishment shall allow the serving, mixing or consumption of
30 alcoholic liquor on its premises between the hours of 2:00 a.m. and 9:00
31 a.m. on any day.

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

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

40 Sec. 12. K.S.A. 2011 Supp. 41-2622 is hereby amended to read as
41 follows: 41-2622. (a) At the time application is made to the director for a
42 license pursuant to the club and drinking establishment act, the applicant
43 shall pay the following license fee in the manner provided by K.S.A. 41-

1 2606, and amendments thereto:

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

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

7 (3) for a class A club which is a *bona fide* nonprofit social club, as
8 defined by rules and regulations of the secretary, and which has more than
9 500 members, \$2,000;

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

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

12 ~~(6) for a hotel of which the entire premises are licensed as a drinking~~
13 ~~establishment, \$3,000;~~

14 ~~(7) (5) for a caterer, \$1,000;~~

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

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

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

23 ~~(1) (6) for a drinking establishment, \$2,000;~~

24 ~~(2) (7) for a hotel of which the entire premises are licensed as a~~
25 ~~drinking establishment, \$6,000;~~

26 ~~(3) (8) for a drinking establishment/caterer, \$3,000; and~~

27 ~~(4) (9) for a drinking establishment/caterer, if the drinking~~
28 ~~establishment is a hotel of which the entire premises are licensed as a~~
29 ~~drinking establishment, \$7,000;~~

30 ~~(10) for a public venue with a maximum capacity of not more than~~
31 ~~10,000 persons, \$5,000;~~

32 ~~(11) for a public venue with a maximum capacity of not more than~~
33 ~~25,000 persons, \$10,000; and~~

34 ~~(12) for a public venue with a maximum capacity exceeding 25,000~~
35 ~~persons, \$20,000.~~

36 ~~(e) (b) In addition to the fee provided by subsections (a) and (b), any~~
37 ~~city where the licensed premises of a club or drinking establishment are~~
38 ~~located or, if such licensed premises are not located in a city, the board of~~
39 ~~county commissioners of the county where the licensed premises are~~
40 ~~located may levy and collect a biennial occupation or license tax from the~~
41 ~~licensee in an amount equal to not less than \$200 nor more than \$500.~~

42 ~~(c) In addition to the fee provided by subsection (a), any city where~~
43 ~~the licensed premises of a public venue is located or, if such licensed~~

1 *premises is not located in a city, the board of county commissioners of the*
2 *county where the licensed premises is located may levy and collect a*
3 *biennial occupation or license tax from the licensee in an amount not less*
4 *than \$200.*

5 (d) No occupational or excise tax or license fee other than that
6 authorized by subsection (b) or (c) shall be levied by any city or county
7 against or collected from a licensed *public venue*, club or drinking
8 establishment.

9 (e) The director shall remit all moneys received under this section to
10 the state treasurer in accordance with the provisions of K.S.A. 75-4215,
11 and amendments thereto. Upon receipt of each such remittance, the state
12 treasurer shall deposit the entire amount in the state treasury. Of each such
13 deposit, 50% shall be credited to the state general fund, and the remaining
14 50% shall be credited to the other state fees fund of the department of
15 social and rehabilitation services. In addition to other purposes for which
16 expenditures may be made from the other state fees fund of the department
17 of social and rehabilitation services, expenditures may be made by the
18 secretary of social and rehabilitation services for the purpose of
19 implementing the powers and duties of the secretary under the provisions
20 of K.S.A. 65-4006 and 65-4007, and amendments thereto.

21 Sec. 13. K.S.A. 2011 Supp. 41-2629 is hereby amended to read as
22 follows: 41-2629. (a) A class B club ~~license~~, *drinking establishment*,
23 *public venue* or caterer's license shall be issued for a term not to exceed
24 two years after issuance, except as otherwise provided by law, unless
25 sooner suspended or revoked as provided in this act.

26 ~~(b) Prior to July 1, 2011, a drinking establishment license shall be~~
27 ~~issued for a term not to exceed one year after issuance, except as otherwise~~
28 ~~provided by law, unless sooner suspended or revoked as provided by this~~
29 ~~act. On and after July 1, 2011, a drinking establishment license shall be~~
30 ~~issued for a term not to exceed two years after issuance, except as~~
31 ~~otherwise provided by law, unless sooner suspended or revoked as~~
32 ~~provided by this act.~~

33 ~~(e) (b)~~ (b) The director, may, at the director's sole discretion and after
34 examination of the circumstances, extend the license term of any license
35 for not more than 30 days beyond such date the license would expire
36 pursuant to this section. Any extension of the license term by the director
37 pursuant to this section shall automatically extend the due date for
38 payment by the licensee of any occupation or license tax levied by a city
39 or township pursuant to K.S.A. 41-2622, and amendments thereto, by the
40 same number of days the director has extended the license term.

41 ~~(d) (c)~~ (c) A class B ~~license~~ *club*, drinking establishment ~~license~~, *public*
42 *venue* or caterer's license shall be purely a personal privilege and shall not
43 constitute property, nor shall it be subject to attachment, garnishment or

1 execution, nor shall it be alienable or transferable, voluntarily or
2 involuntarily, or subject to being encumbered or hypothecated. A class B
3 club ~~license~~, drinking establishment ~~license~~, *public venue* or caterer's
4 license shall not descend by the laws of testate or intestate devolution, but
5 shall cease or expire upon the death of the licensee subject to ~~the following~~
6 ~~provision~~ *subsection (d)*.

7 (e) *(d)* An executor, administrator or representative of the estate of
8 any deceased holder of a class B club, drinking establishment, *public*
9 *venue* or caterer's license, or the trustee of any insolvent or bankrupt class
10 B club, drinking establishment, *public venue* or caterer's license may
11 continue the licensee's business under order of the appropriate court and
12 may exercise the privilege of the deceased, insolvent or bankrupt licensee
13 after the death of such licensee or after such insolvency or bankruptcy
14 until the expiration of such license, but in no case longer than one year
15 after the death, insolvency or bankruptcy of such licensee.

16 (f) *(e)* When the licensee pays the full amount of the license fee upon
17 application and is prevented from operating under such license in
18 accordance with the provisions of this act for the entire second year of the
19 license term, a refund shall be made of one-half of the license fee paid by
20 such licensee. The secretary shall adopt, in accordance with K.S.A. 41-
21 210, and amendments thereto, rules and regulations providing for the
22 authorization of refunds of one-half of the license fee paid when the
23 licensee does not use such license for the entire second year of the license
24 term as a result of the cancellation of the license upon the request of the
25 licensee for voluntary reasons.

26 Sec. 14. K.S.A. 41-2640 is hereby amended to read as follows: 41-
27 2640. (a) No club, drinking establishment, caterer or holder of a temporary
28 permit, nor any person acting as an employee or agent thereof, shall:

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

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

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

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

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

42 (6) encourage or permit, on the licensed premises, any game or
43 contest which involves drinking alcoholic liquor or cereal malt beverage or

1 the awarding of drinks as prizes; or

2 (7) advertise or promote in any way, whether on or off the licensed
3 premises, any of the practices prohibited under subsections (a)(1) through
4 (6).

5 (b) *No public venue, nor any person acting as an employee or agent
6 thereof, shall:*

7 (1) *Offer or serve any free cereal malt beverage or alcoholic liquor
8 in any form to any person;*

9 (2) *offer or serve to any person a drink or original container of
10 alcoholic liquor or cereal malt beverage at a price that is less than the
11 acquisition cost of the drink or original container of alcoholic liquor or
12 cereal malt beverage to the licensee;*

13 (3) *sell or serve alcoholic liquor in glass containers to customers in
14 the general admission area;*

15 (4) *sell or serve more than two drinks per customer at any one time
16 in the general admission area;*

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

20 (6) *advertise or promote in any way, whether on or off the licensed
21 premises, any of the practices prohibited under subsections (b)(1) through
22 (5).*

23 ~~(b)~~ (c) *Nothing in subsection subsections (a) or (b) shall be construed
24 to prohibit a public venue, club, drinking establishment, caterer or holder
25 of a temporary permit from:*

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

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

28 ~~(c)~~ (d) *Violation of any provision of this section is a misdemeanor
29 punishable as provided by K.S.A. 41-2633, and amendments thereto.*

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

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

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

41 Sec. 15. K.S.A. 41-306, 41-306a, 41-307, 41-308, 41-701, 41-2608,
42 41-2613, 41-2614 and 41-2640 and K.S.A. 2011 Supp. 41-308a, 41-2601,
43 41-2622 and 41-2629 are hereby repealed.

1 Sec. 16. This act shall take effect and be in force from and after its
2 publication in the statute book.
3