

{As Amended by House Committee of the Whole}

Session of 2017

Substitute for HOUSE BILL No. 2277

By Committee on Local Government

3-21

1 AN ACT concerning alcoholic liquor; creating common consumption areas
2 designated by cities and counties; authorizing common consumption
3 area permits; amending K.S.A. 2016 Supp. 41-719 and repealing the
4 existing section.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) (1) A city or a county may establish a **{one or**
8 **more}** common consumption area **{areas}** within the limits of the city or
9 within the unincorporated portion of the county, as applicable, by
10 ordinance or resolution, respectively, and authorize the possession and
11 consumption of alcoholic liquor within the common consumption area.
12 The ordinance or resolution shall designate the boundaries of ~~the~~ **{any}**
13 common consumption area and prescribe the times during which alcoholic
14 liquor may be consumed therein. The ordinance or resolution shall require
15 that any public street or roadway that lies within a common consumption
16 area shall be blocked from motorized traffic during the hours in which
17 alcohol is consumed.

18 (2) The city or county shall immediately notify the director of the
19 division of alcoholic beverage control of the establishment of a common
20 consumption area and submit a copy of the ordinance or resolution along
21 with such notice.

22 (b) A common consumption area permit shall allow the consumption
23 of alcoholic liquor in any area designated by such permit. The director
24 may issue a common consumption area ~~permit~~ **{permits}** to the city or
25 county or any one person who shall be a resident of Kansas or an
26 organization that has its principal place of business in Kansas and that has
27 been approved by the respective city or county, in accordance with rules
28 and regulations adopted by the secretary of revenue.

29 (c) Applications for common consumption area permits shall be
30 submitted to the director, subject to the following:

31 (1) A copy of any ordinance or resolution promulgated in accordance
32 with subsection (a) shall accompany any application for a common
33 consumption area permit.

34 (2) Each application shall be accompanied by a non-refundable
35 permit fee of \$100. All permit fees collected by the director pursuant to
36 this section shall be remitted to the state treasurer in accordance with the

1 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
2 each such remittance, the state treasurer shall deposit the entire amount in
3 the state treasury to the credit of the state general fund.

4 (3) A common consumption area permit shall be issued for a period
5 of not to exceed one year. A common consumption area permit shall not be
6 transferable or assignable.

7 (d) Any licensee immediately adjacent to, or located within a
8 common consumption area may request that the licensee's licensed
9 premises participate in the common consumption area for the duration of
10 the common consumption area permit. Such a request shall be made upon
11 forms prescribed by the director.

12 (e) Any licensee who has requested and received permission to
13 participate in the common consumption area may allow its legal patrons to
14 remove alcoholic liquor purchased from the licensee into the premises
15 described by the common consumption area permit. All alcoholic
16 beverages removed from a licensed premises in such fashion shall be
17 served in a container that displays the licensee's trade name or logo or
18 other identifying mark that is unique to the licensee.

19 (f) (1) Each licensee within a common consumption area shall be
20 liable for violations of all liquor laws governing the sale and consumption
21 of alcoholic liquor that occur on the licensee's premises.

22 (2) Each common consumption area permit holder shall be liable for
23 violations that occur off the licensee's premises, but within the common
24 consumption area identified in the permit. No permit holder shall permit
25 any person to remove any open container of alcoholic liquor from the
26 boundaries of the common consumption area.

27 (g) For the purposes of this section, "common consumption area"
28 shall mean a defined indoor or outdoor area not otherwise subject to a
29 license issued pursuant to the Kansas liquor control act or the club and
30 drinking establishment act where the possession and consumption of
31 alcoholic liquor is allowed pursuant to a common consumption area
32 permit. The boundaries of any common consumption area must be clearly
33 marked using a physical barrier **{or any apparent line of demarcation}**.

34 (h) The secretary shall adopt rules and regulations to implement this
35 section.

36 (i) This section shall be a part of and supplemental to the club and
37 drinking establishment act.

38 Sec. 2. K.S.A. 2016 Supp. 41-719 is hereby amended to read as
39 follows: 41-719. (a) (1) Except as otherwise provided herein and in K.S.A.
40 8-1599, and amendments thereto, no person shall drink or consume
41 alcoholic liquor on the public streets, alleys, roads or highways or inside
42 vehicles while on the public streets, alleys, roads or highways.

43 (2) Alcoholic liquor may be consumed at a special event or catered

1 event held on public streets, alleys, roads, sidewalks or highways when a
2 temporary permit has been issued pursuant to K.S.A. 41-2645, and
3 amendments thereto, for such special event or when the caterer's licensee
4 has provided the required notification pursuant to K.S.A. 41-2643, and
5 amendments thereto. Any special event must be approved, by ordinance or
6 resolution, by the local governing body of any city, county or township
7 where such special event is being held. No alcoholic liquor may be
8 consumed inside vehicles while on public streets, alleys, roads or
9 highways at any special event or catered event.

10 (3) No person shall remove any alcoholic liquor from inside the
11 boundaries of a special event as designated by the governing body of any
12 city, county or township, or the boundaries of the catered event. The
13 boundaries of a special event shall be clearly marked by signs, a posted
14 map or other means which reasonably identify the area in which alcoholic
15 liquor may be possessed or consumed at such special event.

16 (4) No person shall possess or consume alcoholic liquor inside the
17 premises licensed as a special event that was not sold or provided by the
18 licensee holding the temporary permit for such special event.

19 (b) *Alcoholic liquor may be consumed within common consumption*
20 *areas designated by a city or county on public streets, alleys, roads,*
21 *sidewalks or highways pursuant to section 1, and amendments thereto,*
22 *except that no alcoholic liquor may be consumed inside vehicles while on*
23 *public streets, alleys, roads or highways within a common consumption*
24 *area. Further, no person shall remove any alcoholic liquor from inside the*
25 *boundaries of the common consumption area which shall be clearly*
26 *designated by a physical barrier.*

27 (c) No person shall drink or consume alcoholic liquor on private
28 property except:

29 (1) On premises where the sale of liquor by the individual drink is
30 authorized by the club and drinking establishment act;

31 (2) upon private property by a person occupying such property as an
32 owner or lessee of an owner and by the guests of such person, if no charge
33 is made for the serving or mixing of any drink or drinks of alcoholic liquor
34 or for any substance mixed with any alcoholic liquor and if no sale of
35 alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto,
36 takes place;

37 (3) in a lodging room of any hotel, motel or boarding house by the
38 person occupying such room and by the guests of such person, if no charge
39 is made for the serving or mixing of any drink or drinks of alcoholic liquor
40 or for any substance mixed with any alcoholic liquor and if no sale of
41 alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto,
42 takes place;

43 (4) in a private dining room of a hotel, motel or restaurant, if the

1 dining room is rented or made available on a special occasion to an
2 individual or organization for a private party and if no sale of alcoholic
3 liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

4 (5) on the premises of a manufacturer, microbrewery, microdistillery
5 or farm winery, if authorized by K.S.A. 41-305, 41-308a, 41-308b or
6 K.S.A. 2016 Supp. 41-354, and amendments thereto; ~~or~~

7 (6) on the premises of an unlicensed business as authorized pursuant
8 to subsection ~~(i)~~ (j); or

9 (7) *within a common consumption area established pursuant to*
10 *section 1, and amendments thereto.*

11 ~~(e)~~ (d) No person shall drink or consume alcoholic liquor on public
12 property except:

13 (1) On real property leased by a city to others under the provisions of
14 K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real
15 property is actually being used for hotel or motel purposes or purposes
16 incidental thereto.

17 (2) In any state-owned or operated building or structure, and on the
18 surrounding premises, which is furnished to and occupied by any state
19 officer or employee as a residence.

20 (3) On premises licensed as a club or drinking establishment and
21 located on property owned or operated by an airport authority created
22 pursuant to chapter 27 of the Kansas Statutes Annotated, and amendments
23 thereto, or established by a city.

24 (4) On the state fair grounds on the day of any race held thereon
25 pursuant to the Kansas parimutuel racing act.

26 (5) On the state fairgrounds, if: (A) The alcoholic liquor is domestic
27 beer or wine or wine imported under K.S.A. 41-308a(e), and amendments
28 thereto, and is consumed only for purposes of judging competitions; (B)
29 the alcoholic liquor is wine or beer and is sold and consumed during the
30 days of the Kansas state fair on premises leased by the state fair board to a
31 person who holds a temporary permit issued pursuant to K.S.A. 41-2645,
32 and amendments thereto, authorizing the sale and serving of such wine or
33 beer, or both; or (C) the alcoholic liquor is consumed on nonfair days in
34 conjunction with bona fide scheduled events involving not less than 75
35 invited guests and the state fair board, in its discretion, authorizes the
36 consumption of the alcoholic liquor, subject to any conditions or
37 restrictions the board may require.

38 (6) In the state historical museum provided for by K.S.A. 76-2036,
39 and amendments thereto, on the surrounding premises and in any other
40 building on such premises, as authorized by rules and regulations of the
41 state historical society.

42 (7) On the premises of any state-owned historic site under the
43 jurisdiction and supervision of the state historical society, on the

1 surrounding premises and in any other building on such premises, as
2 authorized by rules and regulations of the state historical society.

3 (8) In a lake resort within the meaning of K.S.A. 32-867, and
4 amendments thereto, on state-owned or leased property.

5 (9) On the premises of any Kansas national guard regional training
6 center or armory, and any building on such premises, as authorized by
7 rules and regulations of the adjutant general and upon approval of the
8 Kansas military board.

9 (10) On the premises of any land or waters owned or managed by the
10 department of wildlife, parks and tourism, except as otherwise prohibited
11 by rules and regulations of the department adopted by the secretary
12 pursuant to K.S.A. 32-805, and amendments thereto.

13 (11) On property exempted from this subsection—(e) pursuant to
14 subsection—(d) (e),—(e) (f),—(f) (g),—(g) (h) or—(h) (i).

15 (12) On the premises of the state capitol building or on its
16 surrounding premises during an official state function of a nonpartisan
17 nature that has been approved by the legislative coordinating council.

18 (13) *On premises of a common consumption area established by*
19 *section 1, and amendments thereto.*

20 (d) (e) Any city may exempt, by ordinance, from the provisions of
21 subsection—(e) (d) specified property the title of which is vested in such
22 city.

23 (e) (f) The board of county commissioners of any county may
24 exempt, by resolution, from the provisions of subsection—(e) (d) specified
25 property the title of which is vested in such county.

26 (f) (g) The state board of regents may exempt from the provisions of
27 subsection—(e) (d) the Sternberg museum on the campus of Fort Hays state
28 university, or other specified property which is under the control of such
29 board and which is not used for classroom instruction, where alcoholic
30 liquor may be consumed in accordance with policies adopted by such
31 board.

32 (g) (h) The board of regents of Washburn university may exempt
33 from the provisions of subsection—(e) (d) the Mulvane art center and the
34 Bradbury Thompson alumni center on the campus of Washburn university,
35 and other specified property the title of which is vested in such board and
36 which is not used for classroom instruction, where alcoholic liquor may be
37 consumed in accordance with policies adopted by such board.

38 (h) (i) The board of trustees of a community college may exempt
39 from the provisions of subsection—(e) (d) specified property which is under
40 the control of such board and which is not used for classroom instruction,
41 where alcoholic liquor may be consumed in accordance with policies
42 adopted by such board.

43 (i) (j) (1) An unlicensed business may authorize patrons or guests of

1 such business to consume alcoholic liquor on the premises of such
2 business provided:

3 (A) Such alcoholic liquor is in the personal possession of the patron
4 and is not sold, offered for sale or given away by the owner of such
5 business or any employees thereof;

6 (B) possession and consumption of alcoholic liquor shall not be
7 authorized between the hours of 12 a.m. and 9 a.m.;

8 (C) the business, or any owner thereof, shall not have had a license
9 issued under either the Kansas liquor control act or the club and drinking
10 establishment act revoked for any reason; and

11 (D) no charge of any sort may be made by the business for the
12 privilege of possessing or consuming alcoholic liquor on the premises, or
13 for mere entry onto the premises.

14 (2) It shall be a violation of this section for any unlicensed business to
15 authorize the possession or consumption of alcoholic liquor by a patron of
16 such business when such authorization is not in accordance with the
17 provisions of this subsection.

18 (3) For the purposes of this subsection, "patron" means a natural
19 person who is a customer or guest of an unlicensed business.

20 ~~(j)~~ (k) Violation of any provision of this section is a misdemeanor
21 punishable by a fine of not less than \$50 or more than \$200 or by
22 imprisonment for not more than six months, or both.

23 ~~(k)~~ (l) For the purposes of this section;: (l) "Special event" means a
24 picnic, bazaar, festival or other similar community gathering, which has
25 been approved by the local governing body of any city, county or
26 township; and

27 (2) "*common consumption area*" has the meaning as defined in
28 *section 1, and amendments thereto.*

29 Sec. 3. K.S.A. 2016 Supp. 41-719 is hereby repealed.

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