As Amended by Senate Committee of the Whole

As Amended by House Committee

Session of 2018

HOUSE BILL No. 2470

By Committee on Federal and State Affairs

AN ACT concerning alcoholic beverages; dealing with microbreweries; amending K.S.A. 2017 Supp. 41-104 and 41-308b and repealing the existing sections.

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

Section 1. K.S.A. 2017 Supp. 41-308b is hereby amended to read as follows: 41-308b. (a) A microbrewery license shall allow:

(1) The manufacture of not less than 100 nor more than 60,000 barrels of domestic beer during the calendar year and the storage thereof, if, however, the licensee holds a 10% or greater ownership interest in one or more entities that also hold a microbrewery license, then the aggregate number of barrels of domestic beer manufactured by all such licensees with such common ownership shall not exceed the 60,000 barrel limit;

(2) the manufacture in the aggregate of not more than 100,000 gallons of hard cider during the calendar year and the storage thereof;

(3) the sale to beer distributors of beer and the sale to wine distributors of hard cider, manufactured by the licensee;

(4) the sale, on the licensed premises in the original unopened container to consumers for consumption off the licensed premises, of beer and hard cider manufactured by the licensee;

(5) the serving free of charge on the licensed premises and at special events, monitored and regulated by the division of alcoholic beverage control, of samples of beer and hard cider manufactured by the licensee, if the premises are located in a county where the sale of alcoholic liquor is permitted by law in licensed drinking establishments;

(6) if the premises is also licensed as a club or drinking establishment, the sale and transfer of domestic beer to such club or drinking establishment and the sale of domestic beer and other alcoholic liquor for consumption on the licensed premises as authorized by the club and drinking establishment act;

(7) if the premises is also licensed as a caterer, the sale of domestic beer and other alcoholic liquor for consumption on unlicensed premises as authorized by the club and drinking establishment act; and

(8) if the licensee holds a 10% or greater ownership interest in one or
more entities that also hold a microbrewery license, the domestic beer may
be manufactured and transferred for sale or storage among such
microbrewery licensees with such common ownership; and
(9) the transfer of beer and hard cider manufactured by the
licensee pursuant to a contract entered into in accordance with
subsection (b) to the contracting microbrewery.
(b) (1) A microbrewery may contract with one or more
microbreweries for the purpose of manufacturing beer or hard cider for
such other microbreweries. A microbrewery located in this state may
manufacture and package beer and hard cider for a microbrewery
located within or outside of Kansas.
(2) A microbrewery manufacturing beer or hard cider for another
microbrewery shall be responsible for complying with all federal and state
laws dealing with the manufacturing of beer and hard cider, including
labeling laws, and shall be responsible for the payment of all federal and
state taxes on the beer and hard cider.
(3) Each party engaged in a contract brewing agreement must count
the total amount of barrels brewed and gallons manufactured as part of
the agreement and include that total amount as part of their allowed
aggregate total as provided in subsection (a).
(4) Beer manufactured by a contract brewer for a microbrewery may
be returned to the manufacturing microbrewery.
(c) Not less than 30% of the products utilized in the manufacture of
hard cider by a microbrewery shall be grown in Kansas except when a
lesser proportion is authorized by the director based upon the director's
findings and judgment. The production requirement of this subsection shall
be determined based on the annual production of domestic hard cider.
(d) Upon application and payment of the fee prescribed by K.S.A.
41-310, and amendments thereto, by a microbrewery licensee, the director
may issue not to exceed one microbrewery packaging and warehousing
facility license to the microbrewery licensee. A microbrewery packaging
and warehousing facility license shall allow:
(1) The transfer, from the licensed premises of the microbrewery to
the licensed premises of the microbrewery packaging and warehousing
facility, of beer and hard cider manufactured by the licensee, for the
purpose of packaging or storage, or both;
(2) the transfer, from the licensed premises of the microbrewery
packaging and warehousing facility to the licensed premises of any
microbrewery of such licensee, of beer manufactured by the licensee;
(3) the removal from the licensed premises of the microbrewery
packaging and warehousing facility of beer manufactured by the licensee
for the purpose of delivery to a licensed beer wholesaler; and
(4) the removal from the licensed premises of the microbrewery
packaging and warehousing facility of hard cider manufactured by the
licensee for the purpose of delivery to a licensed wine distributor.

(d)(e) A microbrewery may sell domestic beer in the original
unopened container to consumers for consumption off the licensed
premises at any time between 6 a.m. and 12 midnight on any day except
Sunday and between 11 a.m. and 7 p.m. on Sunday. If authorized by
subsection (a), a microbrewery may serve samples of domestic beer and
serve and sell domestic beer and other alcoholic liquor for consumption on
the licensed premises at any time when a club or drinking establishment is
authorized to serve and sell alcoholic liquor.

(e)(f) The director may issue to the Kansas state fair or any bona fide
group of brewers a permit to import into this state small quantities of beer.
Such beer shall be used only for bona fide educational and scientific
tasting programs and shall not be resold. Such beer shall not be subject to
the tax imposed by K.S.A. 41-501, and amendments thereto. The permit
shall identify specifically the brand and type of beer to be imported, the
quantity to be imported, the tasting programs for which the beer is to be
used and the times and locations of such programs. The secretary shall
adopt rules and regulations governing the importation of beer pursuant to
this subsection and the conduct of tasting programs for which such beer is
imported.

(f)(g) A microbrewery license or microbrewery packaging and
warehousing facility license shall apply only to the premises described in
the application and in the license issued and only one location shall be
described in the license.

(g)(h) No microbrewery shall:
(1) Employ any person under the age of 18 years in connection with
the manufacture, sale or serving of any alcoholic liquor;
(2) permit any employee of the licensee who is under the age of 21
years to work on the licensed premises at any time when not under the on-
premises supervision of either the licensee or an employee of the licensee
who is 21 years of age or over;
(3) employ any person under 21 years of age in connection with
mixing or dispensing alcoholic liquor; or
(4) employ any person in connection with the manufacture or sale of
alcoholic liquor if the person has been convicted of a felony.

(h)(i) Whenever a microbrewery licensee is convicted of a violation
of the Kansas liquor control act, the director may revoke the licensee's
license and all fees paid for the license in accordance with the Kansas
administrative procedure act.

{Sec. 2. K.S.A. 2017 Supp. 41-104 is hereby amended to read as
follows: 41-104. No person shall manufacture, bottle, blend, sell, barter,
transport, deliver, furnish or possess any alcoholic liquor for beverage
purposes, except as specifically provided in this act, the club and
drinking establishment act or article 27 of chapter 41 of the Kansas
Statutes Annotated, and amendments thereto, except that nothing
contained in this act shall prevent:

(a) The possession and transportation of alcoholic liquor for the
personal use of the possessor, the possessor's family and guests except
that the provisions of K.S.A. 41-407, and amendments thereto, shall be
applicable to all persons;

(b) the making of wine, cider or beer by a person from fruits,
vegetables or grains, or the product thereof, by simple fermentation and
without distillation, if it is made solely for the use of the maker, the
maker's family, guests and judges at a contest or competition of such
beverages, provided, the maker receives no compensation for producing
such beverages or for allowing the consumption thereof;

(c) any duly licensed practicing physician or dentist from
possessing or using alcoholic liquor in the strict practice of the medical
or dental profession;

(d) any hospital or other institution caring for sick and diseased
persons, from possessing and using alcoholic liquor for the treatment of
bona fide patients of such hospital or institution;

(e) any drugstore employing a licensed pharmacist from possessing
and using alcoholic liquor in the compounding of prescriptions of duly
licensed physicians;

(f) the possession and dispensation of wine by an authorized
representative of any church for the purpose of conducting any bona
fide rite or religious ceremony conducted by such church;

(g) the sale of wine to a consumer in this state by a person which
holds a valid license authorizing the manufacture of wine in this or
another state and the shipment of such wine directly to such consumer,
subject to the following: (1) The consumer must be at least 21 years of
age; (2) the consumer must purchase the wine while physically present
on the premises of the wine manufacturer; (3) the wine must be for the
consumer's personal consumption and not for resale; and (4) the
consumer shall comply with the provisions of K.S.A. 41-407, and
amendments thereto, by payment of all applicable taxes within such time
after purchase of the wine as prescribed by rules and regulations
adopted by the secretary;

(h) the serving of complimentary alcoholic liquor or cereal malt
beverages at fund raising activities of charitable organizations as
defined by K.S.A. 17-1760, and amendments thereto, and as qualified
pursuant to 26 U.S.C.A. § 501(c) and by committees formed pursuant to
K.S.A. 25-4142 et seq., and amendments thereto. The serving of such
alcoholic liquor at such fund raising activities shall not constitute a sale
pursuant to this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto. Any such fund raising activity shall not be required to obtain a license or a temporary permit pursuant to this act, the club and drinking establishment act or article 27 of chapter 41 of the Kansas Statutes Annotated, and amendments thereto; or

(i) the serving of complimentary alcoholic liquor or cereal malt beverage on the unlicensed premises of a business by the business owner or owner's agent at an event sponsored by a nonprofit organization promoting the arts and which has been approved by ordinance or resolution of the governing body of the city, county or township wherein the event will take place and whereby the director of the alcoholic beverage control has been notified thereof no less than 10 days in advance.

(j) For purposes of subsection (b), the term:

(1) "Guest" means a natural person who is known to the host and receives a personal invitation to an event conducted by the host. The term "guest" shall not mean a natural person who receives an invitation to an event conducted by the host when such invitation has been made available to the general public.

(2) "Judge" means a person who receives an invitation to an event conducted by the host when such invitation has been made available to the general public. The director may adopt reasonable rules and regulations governing contests or competitions held pursuant to subsection (b) when invitations to the contest or competition to participate as a judge are made available to the general public.

Sec. 2. K.S.A. 2017 Supp. {41-104 and} 41-308b are hereby repealed.

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