

## **Microbreweries Production; Alcoholic Candy; Domestic Beer in Refillable Containers; Hours of Sale for Alcohol; Self-service Beer from Automated Devices; HB 2470**

**HB 2470** allows microbreweries in Kansas to contract with other microbreweries for production and packaging of beer and hard cider, creates and amends law related to the sale of alcoholic candy and to the sale of domestic beer in refillable containers, allows licensed microbrewers in the state to produce beer containing up to 15.0 percent alcohol by weight, increases the length of time that certain businesses may serve or sell alcohol, and allows self-service beer from automated machines.

### ***Microbreweries Production and Packaging***

The bill allows microbreweries in Kansas to contract with other microbreweries for production and packaging of beer and hard cider.

The contracting Kansas microbrewery will be held to all applicable state and federal laws concerning manufacturing, packaging, and labeling and will be responsible for payment of all state and federal taxes on the beer or hard cider.

Production of beer or hard cider will count toward production limits in continuing law for both of the microbreweries involved in such a contract. The bill allows the beer or hard cider to be transferred to the microbrewery on whose behalf the beer or hard cider was produced, after production and packaging.

### ***Sale of Alcoholic Candy; Adulterated Foods***

The bill defines “alcoholic candy” as follows:

- For purposes of manufacturing, “alcoholic candy” means any candy or other confectionery product with an alcohol content greater than 0.5 percent alcohol by volume; and
- For purposes of sale at retail locations, “alcoholic candy” means any candy or other confectionery product with an alcohol content greater than 1.0 percent alcohol by volume.

The term is included in the definition of “alcoholic liquor.” Alcoholic candy is subject to regulation by the Alcoholic Beverage Control Division (ABC) of the Kansas Department of Revenue, and a retailer is required to have a liquor license to sell such products.

In addition, the bill amends law regarding adulterated food. The bill exempts confectionery containing not more than 1.0 percent alcohol by volume from the definition of adulterated food, change from 0.5 percent.

### ***Sale of Domestic Beer in Refillable Containers***

The bill amends the definition of “domestic beer” to allow licensed microbrewers in the state to produce beer containing up to 15.0 percent alcohol by weight, changed from 10.0 percent alcohol by weight.

The bill allows a microbrewery licensee to sell beer manufactured by the licensee in refillable and sealable containers to consumers for off-premises consumption. Such containers may not contain less than 32 fluid ounces or more than 64 fluid ounces of beer. Licensees will be required to affix labels to all containers sold, which will include the licensee’s name and the name and type of beer in such container.

[*Note:* Enacted 2017 House Sub. for SB 13 amended provisions of the Liquor Control Act and Cereal Malt Beverage Act. Certain provisions of the 2017 bill were delayed in implementation until April 1, 2019. References to such date are to reconcile the provisions of the 2017 and 2018 legislation.]

### ***Hours of Sale and Service for Alcohol***

The bill increases the length of time that certain businesses may serve or sell alcohol. Establishments licensed to serve alcohol will be allowed to sell drinks starting at 6:00 a.m. Under previous law, establishments were not allowed to sell drinks between the hours of 2:00 a.m. and 9:00 a.m.

Farm wineries, microbreweries, and microdistilleries are allowed to sell their respective alcoholic products in their original containers between 6:00 a.m. and 12:00 a.m. on any day. Former law limited the hours these establishments could sell alcohol on Sundays, between 12:00 p.m. and 6 p.m. for farm wineries and between 11:00 a.m. and 7:00 p.m. for microbreweries and microdistilleries.

“Day” means 6:00 a.m. until 2:00 a.m. the following calendar day.

### ***Self-service Beer from Automated Devices***

The bill allows licensed public venues, clubs, and drinking establishments to provide self-service beer to customers from automated devices in the same manner as is permitted for wine under continuing law, so long as the licensee monitors the dispensing of beer and can control such dispensing.

### ***Definitions***

The bill defines an “automated device” as any mechanized device capable of dispensing wine or beer directly to a customer in exchange for compensation that a licensee has received directly from a customer. “Day” means 6:00 a.m. until 2:00 a.m. the following calendar day.

## *Notice*

A licensee will be required to provide written or electronic notice to the Director of ABC of a licensee's intent to use an automated device at least 48 hours before the automated device is used on the licensed premises.

## *Video Monitoring*

The bill requires any licensee offering self-service beer or wine from any automated device to provide constant video monitoring of the automated devices at all times the licensee is open to the public. The licensee will be required to maintain the recorded footage for at least 60 days and, if requested, provide the footage to any agent of the Director of ABC or other authorized law enforcement agent.

## **Access Card**

Under the bill, compensation will be in the form of a prepaid access card containing a fixed monetary amount that can be directly exchanged for beer or wine from an automated device. The access cards may be sold, used, or reactivated only during the business day. The cards will be purchased from the licensee by a customer and a licensee could issue only one active card to a customer. An access card will be considered active if the access card contains monetary credit or has not yet been used to dispense 15 ounces of wine or 32 ounces of beer. The purchase of an access card is subject to the liquor drink tax.

A customer will be required to show a valid driver's license, identification card, or other government-issued document that contains a photograph of the customer and indicates the customer is at least 21 years of age. The bill requires each access card to be programmed to require the customer show identification before the access card could be used for the first time during any business day or for any subsequent reactivation.

The bill requires that access cards become inactive at the end of each business day. The access card will become inactive if it is used to dispense 15 ounces of wine or 32 ounces of beer. A customer will be able to reactivate the access card to allow an additional 15 ounces of wine or 32 ounces of beer by showing identification to the licensee or licensee's employee.

## **Service Hours**

The bill amends the prohibited service period to last from 2:00 a.m. to 6:00 a.m. Former law prohibited public venues, clubs, or drinking establishments from allowing the serving, mixing, or consumption of alcohol on its premises between 2:00 a.m. and 9:00 a.m.

## **Other Provisions**

The bill requires the Secretary of Revenue to adopt rules and regulations to implement the provisions of the bill relating to sales *via* automated devices by January 1, 2019. The bill also states that all laws and rules and regulations concerning the sale of alcohol to individuals under 21 years of age applies to the sales transaction of the access card.