

SENATE BILL No. 7

By Joint Committee on Administrative Rules and Regulations

1-8

1 AN ACT concerning alcoholic beverages; relating to preparation of
2 samples for tasting; relating to penalties; amending K.S.A. 41-713 and
3 K.S.A. 2012 Supp. 41-308d, 41-354 and 41-2655 and repealing the
4 existing sections.
5

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

7 New Section 1. (a) Notwithstanding the provisions of either the
8 Kansas administrative procedure act, and amendments thereto, or any rule
9 and regulation adopted pursuant to the Kansas liquor control act, and
10 amendments thereto, governing the issuance of any written administrative
11 notice or order concerning the imposition of any proposed civil fine or
12 other penalty to be imposed for a violation of any of the provisions of the
13 Kansas liquor control act, K.S.A. 41-101 et seq., and amendments thereto,
14 such notice or order shall be issued no later than 90 days after the date a
15 citation for such violation was issued.

16 (b) This section shall be part of and supplemental to the provisions of
17 the Kansas liquor control act, K.S.A. 41-101 et seq., and amendments
18 thereto.

19 New Sec. 2. (a) Notwithstanding the provisions of either the Kansas
20 administrative procedure act, and amendments thereto, or any rule and
21 regulation adopted pursuant to the club and drinking establishment act, and
22 amendments thereto, governing the issuance of any written administrative
23 notice or order concerning the imposition of any proposed civil fine or
24 other penalty to be imposed for a violation of any of the provisions of the
25 club and drinking establishment act, K.S.A. 41-2601 et seq., and
26 amendments thereto, such notice or order shall be issued no later than 90
27 days after the date a citation for such violation was issued.

28 (b) This section shall be part of and supplemental to the provisions of
29 the Kansas club and drinking establishment act, K.S.A. 41-2601 et seq.,
30 and amendments thereto.

31 Sec. 3. K.S.A. 2012 Supp. 41-308d is hereby amended to read as
32 follows: 41-308d. (a) Notwithstanding any other provisions of the Kansas
33 liquor control act to the contrary, any person or entity who is licensed to
34 sell alcoholic liquor in the original package at retail may conduct wine,
35 beer and distilled spirit tastings on the licensed premises, or adjacent
36 premises, monitored and regulated by the division of alcoholic beverage

1 control, as follows:

2 (1) Wine, beer and spirits for the tastings shall come from the
3 inventory of the licensee. Except as provided by paragraph (2), a person
4 other than the licensee or the licensee's agent or employee may not
5 dispense or participate in the dispensing of alcoholic beverages under this
6 section.

7 (2) The holder of a supplier's permit or such permit holder's agent or
8 employee may participate in and conduct product tastings of alcoholic
9 beverages at a retail licensee's premises, or adjacent premises, monitored
10 and regulated by the division of alcoholic beverage control, and may open,
11 touch, or pour alcoholic beverages, make a presentation, or answer
12 questions at the tasting. Any alcoholic beverage tasted under this
13 subsection must be purchased from the retailer on whose premises the
14 tasting is held. The retailer may not require the purchase of more alcoholic
15 beverages than are necessary for the tasting. This section does not
16 authorize the supplier or its agent to withdraw or purchase an alcoholic
17 beverage from the holder of a distributor's permit or provide an alcoholic
18 beverage for tasting on a retailer's premises that is not purchased from the
19 retailer.

20 (3) No charge of any sort may be made for a sample serving.

21 (4) A person may be served more than one sample. Samples may not
22 be served to a minor. No samples may be removed from the licensed
23 premises.

24 (5) The act of providing samples to consumers shall be exempt from
25 the requirement of holding a Kansas food service dealer license from the
26 department of agriculture under the provisions of chapter 65 of the Kansas
27 Statutes Annotated, and amendments thereto.

28 (b) Nothing in this section shall be construed to permit the licensee to
29 sell wine, malt beverages or distilled spirits for on-premises consumption.

30 (c) The provisions of this section shall take effect and be in force
31 from and after July 1, 2012.

32 (d) *All rules and regulations adopted on and after July 1, 2012, and*
33 *prior to July 1, 2013, to implement this section shall continue to be*
34 *effective and shall be deemed to be duly adopted rules and regulations of*
35 *the secretary until revised, amended, revoked or nullified pursuant to law.*

36 (e) *This section shall be a part of and supplemental to the Kansas*
37 *liquor control act.*

38 Sec. 4. K.S.A. 41-713 is hereby amended to read as follows: 41-713.

39 (a) It shall be unlawful for a retailer of alcoholic liquor:

40 (1) To permit any person to mix drinks in or on the licensed premises,
41 *except as provided in subsection (b);*

42 (2) to employ any person under the age of ~~twenty-one (21)~~ 21 years
43 in connection with the operation of such retail establishment; or

1 (3) to employ any person in connection with the operation of such
2 retail establishment who has been adjudged guilty of a felony.

3 (b) *The provisions of subsection (a)(1) shall not apply to the*
4 *preparation or mixing of samples for the purposes of conducting wine,*
5 *beer, or distilled spirit tastings, or any combination thereof, as authorized*
6 *by K.S.A. 2012 Supp. 41-308d, and amendments thereto.*

7 Sec. 5. K.S.A. 2012 Supp. 41-354 is hereby amended to read as
8 follows: 41-354. (a) A microdistillery license shall allow:

9 (1) The manufacture of not more than 50,000 gallons of spirits per
10 year and the storage thereof;

11 (2) the sale to spirit distributors of spirits, manufactured by the
12 licensee;

13 (3) the sale, on the licensed premises in the original unopened
14 container to consumers for consumption off the licensed premises, of
15 spirits manufactured by the licensee;

16 (4) the serving free of charge on the licensed premises and at special
17 events, monitored and regulated by the division of alcoholic beverage
18 control, of samples of spirits manufactured by the licensee, if the premises
19 are located in a county where the sale of alcoholic liquor is permitted by
20 law in licensed drinking establishments;

21 (5) if the licensee is also licensed as a club or drinking establishment,
22 the sale of spirits and other alcoholic liquor for consumption on the
23 licensed premises as authorized by the club and drinking establishment
24 act; and

25 (6) if the licensee is also licensed as a caterer, the sale of spirits and
26 other alcoholic liquor for consumption on unlicensed premises as
27 authorized by the club and drinking establishment act.

28 (b) Upon application and payment of the fee prescribed by K.S.A. 41-
29 310, and amendments thereto, by a microdistillery licensee, the director
30 may issue not to exceed one microdistillery packaging and warehousing
31 facility license to the microdistillery licensee. A microdistillery packaging
32 and warehousing facility license shall allow:

33 (1) The transfer, from the licensed premises of the microdistillery to
34 the licensed premises of the microdistillery packaging and warehousing
35 facility, of spirits manufactured by the licensee, for the purpose of
36 packaging or storage, or both;

37 (2) the transfer, from the licensed premises of the microdistillery
38 packaging and warehousing facility to the licensed premises of the
39 microdistillery, of spirits manufactured by the licensee; or

40 (3) the removal from the licensed premises of the microdistillery
41 packaging and warehousing facility of spirits manufactured by the licensee
42 for the purpose of delivery to a licensed spirits wholesaler.

43 (c) A microdistillery may sell spirits in the original unopened

1 container to consumers for consumption off the licensed premises at any
2 time between 6 a.m. and 12 midnight on any day except Sunday and
3 between 11 a.m. and 7 p.m. on Sunday. If authorized by subsection (a), a
4 microdistillery may serve samples of spirits and serve and sell spirits and
5 other alcoholic liquor for consumption on the licensed premises at any
6 time when a club or drinking establishment is authorized to serve and sell
7 alcoholic liquor.

8 (d) The director may issue to the Kansas state fair or any bona fide
9 group of distillers a permit to import into this state small quantities of
10 spirits. Such spirits shall be used only for bona fide educational and
11 scientific tasting programs and shall not be resold. Such spirits shall not be
12 subject to the tax imposed by K.S.A. 41-501, and amendments thereto. The
13 permit shall identify specifically the brand and type of spirit to be
14 imported, the quantity to be imported, the tasting programs for which the
15 spirit is to be used and the times and locations of such programs. The
16 secretary shall adopt rules and regulations governing the importation of
17 spirits pursuant to this subsection and the conduct of tasting programs for
18 which such spirits are imported.

19 (e) A microdistillery license or microdistillery packaging and
20 warehousing facility license shall apply only to the premises described in
21 the application and in the license issued and only one location shall be
22 described in the license.

23 (f) No microdistillery shall:

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

26 (2) permit any employee of the licensee who is under the age of 21
27 years to work on the licensed premises at any time when not under the on-
28 premises supervision of either the licensee or an employee of the licensee
29 who is 21 years of age or over;

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

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

34 (g) Whenever a microdistillery licensee is convicted of a violation of
35 the Kansas liquor control act, the director may revoke the licensee's license
36 and all fees paid for the license in accordance with the Kansas
37 administrative procedure act.

38 (h) The provisions of this section shall take effect and be in force
39 from and after July 1, 2012.

40 (i) *All rules and regulations adopted on and after July 1, 2012, and*
41 *prior to July 1, 2013, to implement this section shall continue to be*
42 *effective and shall be deemed to be duly adopted rules and regulations of*
43 *the secretary until revised, amended, revoked or nullified pursuant to law.*

1 (j) *This section shall be a part of and supplemental to the Kansas*
2 *liquor control act.*

3 Sec. 6. K.S.A. 2012 Supp. 41-2655 is hereby amended to read as
4 follows: 41-2655. (a) A license for a public venue shall allow the licensee
5 to:

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

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

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

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

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

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

26 (b) An applicant or public venue licensee shall specify in the
27 application for a license, or renewal of a license, the premises to be
28 licensed. No public venue licensee may offer for sale, sell or serve any
29 alcoholic liquor in any area not included in the licensed premises.

30 (c) The term "designated areas" for purposes of this section shall
31 mean an area identified in the license application, which may include
32 suites, that has controlled access and is separated from the general
33 admission by a barrier.

34 (d) The provisions of this section shall take effect and be in force
35 from and after July 1, 2012.

36 (e) *All rules and regulations adopted on and after July 1, 2012, and*
37 *prior to July 1, 2013, to implement this section shall continue to be*
38 *effective and shall be deemed to be duly adopted rules and regulations of*
39 *the secretary until revised, amended, revoked or nullified pursuant to law.*

40 (f) *This section shall be a part of and supplemental to the club and*
41 *drinking establishment act.*

42 Sec. 7. K.S.A. 41-713 and K.S.A. 2012 Supp. 41-308d, 41-354 and
43 41-2655 are hereby repealed.

1 Sec. 8. This act shall take effect and be in force from and after its
2 publication in the statute book.