

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 common
8 consumption area within the limits of the city or within the unincorporated
9 portion of the county, as applicable, by ordinance or resolution,
10 respectively, and authorize the possession and consumption of alcoholic
11 liquor within the common consumption area. The ordinance or resolution
12 shall designate the boundaries of the common consumption area and
13 prescribe the times during which alcoholic liquor may be consumed
14 therein. The ordinance or resolution shall require that any public street or
15 roadway that lies within a common consumption area shall be blocked
16 from motorized traffic during the hours in which alcohol is consumed.

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

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

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

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

33 (2) Each application shall be accompanied by a non-refundable
34 permit fee of \$100. All permit fees collected by the director pursuant to
35 this section shall be remitted to the state treasurer in accordance with the
36 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of

1 each such remittance, the state treasurer shall deposit the entire amount in
2 the state treasury to the credit of the state general fund.

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

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

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

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

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

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

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

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

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

42 (2) Alcoholic liquor may be consumed at a special event or catered
43 event held on public streets, alleys, roads, sidewalks or highways when a

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

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

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

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

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

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

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

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

42 (4) in a private dining room of a hotel, motel or restaurant, if the
43 dining room is rented or made available on a special occasion to an

1 individual or organization for a private party and if no sale of alcoholic
2 liquor in violation of K.S.A. 41-803, and amendments thereto, takes place;

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

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

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

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

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

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

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

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

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

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

41 (7) On the premises of any state-owned historic site under the
42 jurisdiction and supervision of the state historical society, on the
43 surrounding premises and in any other building on such premises, as

1 authorized by rules and regulations of the state historical society.

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

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

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

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

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

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

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

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

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

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

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

42 ~~(i)~~ *(j)* (1) An unlicensed business may authorize patrons or guests of
43 such business to consume alcoholic liquor on the premises of such

1 business provided:

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

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

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

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

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

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

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

22 ~~(k)~~ (l) For the purposes of this section;: (1) "Special event" means a
23 picnic, bazaar, festival or other similar community gathering, which has
24 been approved by the local governing body of any city, county or
25 township; and

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

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

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