

HOUSE BILL No. 2470

By Committee on Federal and State Affairs

1-16

1 AN ACT concerning alcoholic beverages; dealing with microbreweries;
2 *{homebrew competitions;}* amending K.S.A. 2017 Supp. *{41-104 and}*
3 41-308b and repealing the existing ~~section~~ *{sections}*.
4

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

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

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

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

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

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

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

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

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

34 (8) if the licensee holds a 10% or greater ownership interest in one or

1 more entities that also hold a microbrewery license, the domestic beer may
2 be manufactured and transferred for sale or storage among such
3 microbrewery licensees with such common ownership; **and**

4 **(9) the transfer of beer and hard cider manufactured by the**
5 **licensee pursuant to a contract entered into in accordance with**
6 **subsection (b) to the contracting microbrewery.**

7 (b) (1) *A microbrewery may contract with one or more*
8 *microbreweries for the purpose of manufacturing beer or hard cider for*
9 *such other microbreweries. A microbrewery located in this state may*
10 *manufacture and package beer and hard cider for a microbrewery*
11 *located within or outside of Kansas.*

12 (2) *A microbrewery manufacturing beer or hard cider for another*
13 *microbrewery shall be responsible for complying with all federal and state*
14 *laws dealing with the manufacturing of beer and hard cider, including*
15 *labeling laws, and shall be responsible for the payment of all federal and*
16 *state taxes on the beer and hard cider.*

17 (3) *Each party engaged in a contract brewing agreement must count*
18 *the total amount of barrels-brewed and gallons manufactured as part of*
19 *the agreement and include that total amount as part of their allowed*
20 *aggregate total as provided in subsection (a).*

21 ~~(4) Beer manufactured by a contract brewer for a microbrewery may~~
22 ~~be returned to the manufacturing microbrewery.~~

23 (c) Not less than 30% of the products utilized in the manufacture of
24 hard cider by a microbrewery shall be grown in Kansas except when a
25 lesser proportion is authorized by the director based upon the director's
26 findings and judgment. The production requirement of this subsection shall
27 be determined based on the annual production of domestic hard cider.

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

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

37 (2) the transfer, from the licensed premises of the microbrewery
38 packaging and warehousing facility to the licensed premises of any
39 microbrewery of such licensee, of beer manufactured by the licensee;

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

43 (4) the removal from the licensed premises of the microbrewery

1 packaging and warehousing facility of hard cider manufactured by the
2 licensee for the purpose of delivery to a licensed wine distributor.

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

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

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

26 ~~(g)~~(h) No microbrewery shall:

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

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

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

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

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

41 *{Sec. 2. K.S.A. 2017 Supp. 41-104 is hereby amended to read as*
42 *follows: 41-104. No person shall manufacture, bottle, blend, sell, barter,*
43 *transport, deliver, furnish or possess any alcoholic liquor for beverage*

1 *purposes, except as specifically provided in this act, the club and*
2 *drinking establishment act or article 27 of chapter 41 of the Kansas*
3 *Statutes Annotated, and amendments thereto, except that nothing*
4 *contained in this act shall prevent:*

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

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

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

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

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

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

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

38 *(h) the serving of complimentary alcoholic liquor or cereal malt*
39 *beverages at fund raising activities of charitable organizations as*
40 *defined by K.S.A. 17-1760, and amendments thereto, and as qualified*
41 *pursuant to 26 U.S.C.A. § 501(c) and by committees formed pursuant to*
42 *K.S.A. 25-4142 et seq., and amendments thereto. The serving of such*
43 *alcoholic liquor at such fund raising activities shall not constitute a sale*

1 *pursuant to this act, the club and drinking establishment act or article*
2 *27 of chapter 41 of the Kansas Statutes Annotated, and amendments*
3 *thereto. Any such fund raising activity shall not be required to obtain a*
4 *license or a temporary permit pursuant to this act, the club and drinking*
5 *establishment act or article 27 of chapter 41 of the Kansas Statutes*
6 *Annotated, and amendments thereto; or*

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

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

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

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

27 ~~Sec. 2 {3.}~~ K.S.A. 2017 Supp. ~~{41-104 and}~~ 41-308b ~~is~~ *{are}* hereby
28 repealed.

29 ~~Sec. 3 {4.}~~ This act shall take effect and be in force from and after its
30 publication in the ~~statute book~~ *{Kansas register}*.