

{As Amended by Senate Committee of the Whole}

As Amended by Senate Committee

As Amended by House Committee

Session of 2023

HOUSE BILL No. 2059

By Committee on Federal and State Affairs

1-18

1 AN ACT concerning alcoholic beverages; *{exempting charitable raffle*
2 *prizes of alcoholic liquor and cereal malt beverages from the Kansas*
3 *liquor control act, the club and drinking establishment act and the*
4 *Kansas cereal malt beverage act;}* *relating to spirits, wine and beer*
5 *distributors; regulating samples;* amending the common consumption
6 area law to permit rather than require roads be blocked and allowing
7 designation of such areas by signage; amending K.S.A. *{41-104, }41-*
8 *306, 41-306a, 41-307 and 41-2659 and repealing the existing ~~section~~*
9 *sections.*

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 *{Section 1. On and after July 1, 2023, K.S.A. 41-104 is hereby*
13 *amended to read as follows: 41-104. (a) No person shall manufacture,*
14 *bottle, blend, sell, barter, transport, deliver, furnish or possess any*
15 *alcoholic liquor for beverage purposes, except as specifically provided in*
16 *this act, the club and drinking establishment act or article 27 of chapter*
17 *41 of the Kansas Statutes Annotated, and amendments thereto, except*
18 *that nothing contained in ~~this act~~ such acts shall prevent:*

19 *(a)(1) The possession and transportation of alcoholic liquor for the*
20 *personal use of the possessor, the possessor's family and guests except*
21 *that the provisions of K.S.A. 41-407, and amendments thereto, shall be*
22 *applicable to all persons;*

23 *(b)(2) the making of wine, cider or beer by a person from fruits,*
24 *vegetables or grains, or the product thereof, by simple fermentation and*
25 *without distillation, if it is made solely for the use of the maker, the*
26 *maker's family, guests and judges at a contest or competition of such*
27 *beverages, provided, the maker receives no compensation for producing*
28 *such beverages or for allowing the consumption thereof;*

29 *(c)(3) any duly licensed practicing physician or dentist from*
30 *possessing or using alcoholic liquor in the strict practice of the medical*
31 *or dental profession;*

32 *(d)(4) any hospital or other institution caring for sick and diseased*

1 *persons, from possessing and using alcoholic liquor for the treatment of*
2 *bona fide patients of such hospital or institution;*

3 ~~(5)~~ *any drugstore employing a licensed pharmacist from*
4 *possessing and using alcoholic liquor in the compounding of*
5 *prescriptions of duly licensed physicians;*

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

9 ~~(7)~~ *the sale of wine to a consumer in this state by a person which*
10 *holds a valid license authorizing the manufacture of wine in this or*
11 *another state and the shipment of such wine directly to such consumer,*
12 *subject to the following:*

13 ~~(A)~~ *The consumer must be at least 21 years of age;*

14 ~~(B)~~ *the consumer must purchase the wine while physically*
15 *present on the premises of the wine manufacturer;*

16 ~~(C)~~ *the wine must be for the consumer's personal consumption*
17 *and not for resale; and*

18 ~~(D)~~ *the consumer shall comply with the provisions of K.S.A. 41-*
19 *407, and amendments thereto, by payment of all applicable taxes within*
20 *such time after purchase of the wine as prescribed by rules and*
21 *regulations adopted by the secretary;*

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

34 ~~or~~

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

43 *(10) the provision of alcoholic liquor or cereal malt beverage as a*

1 prize for a charitable raffle conducted in accordance with K.S.A. 75-5171
2 et seq., and amendments thereto, except that no such prize shall be
3 provided to any person under 21 years of age.

4 ~~(b)~~ *For purposes of subsection ~~(b)~~ (a)(2), the term "guest" means*
5 *a natural person who is known to the host and receives a personal*
6 *invitation to an event conducted by the host. The term "guest" shall does*
7 *not mean a natural person who receives an invitation to an event*
8 *conducted by the host when such invitation has been made available to*
9 *the general public.*

10 ~~Section 1.~~ *{Sec. 2.} K.S.A. 41-306 is hereby amended to read as*
11 *follows: 41-306. A spirits distributor's license, shall allow:*

12 *(a) The wholesale purchase, importation and storage of spirits, but*
13 *all such spirits so purchased or imported which are manufactured in the*
14 *United States shall be purchased from the primary American source of*
15 *supply or from another licensed spirits distributor, except that a licensed*
16 *spirits distributor may purchase confiscated spirits at a sheriff's sale.*

17 *(b) The sale of spirits to:*

18 *(1) Spirits distributors licensed in this state;*

19 *(2) retailers licensed in this state, except that such distributor shall*
20 *sell a brand of spirits only to those retailers whose licensed premises are*
21 *located in the geographic territory within which such distributor is*
22 *authorized to sell such brand, as designated in the notice or notices filed*
23 *with the director pursuant to K.S.A. 41-410, and amendments thereto;*
24 *and*

25 *(3) such persons located outside such territory or outside this state*
26 *as permitted by law.*

27 *(c) The purchase of spirits in barrels, casks or other bulk*
28 *containers and the bottling thereof before resale, but all bottles or*
29 *containers filled with such spirits shall be sealed, labeled and otherwise*
30 *made to comply with all laws and rules and regulations governing the*
31 *preparation and bottling of spirits by manufacturers and with all federal*
32 *rules, regulations and laws.*

33 *(d) The storage and delivery to a retailer licensed under the Kansas*
34 *liquor control act or a retailer licensed under K.S.A. 41-2702, and*
35 *amendments thereto, on the distributor's licensed premises, of alcoholic*
36 *liquor or cereal malt beverage of another licensed distributor authorized*
37 *by law to sell such alcoholic liquor or cereal malt beverage to such*
38 *retailer, in accordance with an agreement entered into with such other*
39 *distributor and approved by the director.*

40 *(e) The storage and delivery to a public venue licensed under the*
41 *club and drinking establishment act of alcoholic liquor purchased by the*
42 *public venue licensee from a retailer authorized by law to sell such*
43 *alcoholic liquor to such public venue licensee.*

1 ***(f) The withdrawal of spirits from such licensee's inventory for use***
2 ***as samples in the course of the business of the distributor or at industry***
3 ***seminars. Samples may only be provided to persons licensed as a***
4 ***distributor or a retailer under the Kansas liquor control act, and such***
5 ***person's employees or to persons licensed under the club and drinking***
6 ***establishment act and such persons' employees. Samples may be served***
7 ***on the licensed premises of the licensee, or on the premises of a licensed***
8 ***retailer, provided except that no sample shall be served on that portion of***
9 ***the premises of a licensed retailer that is open to the public and where***
10 ***sales of alcoholic liquor at retail are made. Only products that have not***
11 ***been purchased from the distributor licensee by the retailer or club and***
12 ***drinking establishment act licensee within the previous 12 months may be***
13 ***provided for sampling pursuant to this subsection. No sample shall be***
14 ***provided to any minor. Nothing in this subsection shall be construed to***
15 ***permit the licensee to sell any alcoholic liquor for consumption on the***
16 ***premises. The withdrawal of spirits shall be subject to the tax imposed by***
17 ***K.S.A. 79-4101 et seq., and amendments thereto, based on the applicable***
18 ***current posted bottle or case price. For purposes of providing samples***
19 ***pursuant to this subsection other than at industry seminars or to the***
20 ***licensee's employees, the term "sample" shall have the same meaning as***
21 ***that term is defined in K.S.A. 41-2601, and amendments thereto this***
22 ***subsection, "sample" means not more than three liters of distilled spirits.***

23 ***Sec. 2. {3.} K.S.A. 41-306a is hereby amended to read as follows:***
24 ***41-306a. A wine distributor's license shall allow:***

25 ***(a) The wholesale purchase, importation and storage of wine, but***
26 ***all wine so purchased or imported which is manufactured in the United***
27 ***States shall be purchased from the primary American source of supply***
28 ***or from another licensed wine distributor, except that a licensed wine***
29 ***distributor may purchase confiscated wine at a sheriff's sale.***

30 ***(b) The sale of wine to:***

31 ***(1) Wine distributors licensed in this state;***

32 ***(2) retailers licensed in this state, except that such distributor shall***
33 ***sell a brand of wine only to those retailers whose licensed premises are***
34 ***located in the geographic territory within which such distributor is***
35 ***authorized to sell such brand, as designated in the notice or notices filed***
36 ***with the director pursuant to K.S.A. 41-410, and amendments thereto;***
37 ***and***

38 ***(3) such persons located outside such territory or outside this state***
39 ***as permitted by law.***

40 ***(c) The sale of wine, but only in barrels, casks and other bulk***
41 ***containers, to:***

42 ***(1) Licensed caterers; and***

43 ***(2) public venues, clubs and drinking establishments licensed in***

1 *this state, except that such distributor shall sell a brand of wine only to*
2 *such public venues, clubs and drinking establishments the licensed*
3 *premises of which are located in the geographic territory within which*
4 *such distributor is authorized to sell such brand, as designated in the*
5 *notice or notices filed with the director pursuant to K.S.A. 41-410, and*
6 *amendments thereto.*

7 *(d) The purchase of wine in barrels, casks or other bulk containers*
8 *and the bottling thereof before resale, but all bottles or containers filled*
9 *with such wine shall be sealed, labeled and otherwise made to comply*
10 *with all laws and rules and regulations governing the preparation and*
11 *bottling of wine by manufacturers and with all federal rules, regulations*
12 *and laws.*

13 *(e) The storage and delivery to a retailer licensed under the Kansas*
14 *liquor control act or a retailer licensed under K.S.A. 41-2702, and*
15 *amendments thereto, on the distributor's licensed premises, of alcoholic*
16 *liquor or cereal malt beverage of another licensed distributor authorized*
17 *by law to sell such alcoholic liquor or cereal malt beverage to such*
18 *retailer, in accordance with an agreement entered into with such other*
19 *distributor and approved by the director.*

20 *(f) The withdrawal of wine from such licensee's inventory for use*
21 *as samples in the course of the business of the distributor or at industry*
22 *seminars. Samples may only be provided to persons licensed as a*
23 *distributor or a retailer under the Kansas liquor control act, and such*
24 *person's employees, or to persons licensed under the club and drinking*
25 *establishment act, and such person's employees. Samples may be served*
26 *on the licensed premises of the licensee, or on the premises of a licensed*
27 *retailer, provided no sample shall be served on that portion of the*
28 *premises of a licensed retailer that is open to the public and where sales*
29 *of alcoholic liquor at retail are made. Samples may be served on the*
30 *premises of a licensee holding a license issued under the club and*
31 *drinking establishment act, provided no sample shall be served on that*
32 *portion of the premises that is open to the public and where sales of*
33 *alcoholic liquor are made. Only products that have not been purchased*
34 *from the distributor licensee by the retailer or club and drinking*
35 *establishment licensee within the previous 12 months may be provided for*
36 *sampling pursuant to this subsection. No sample shall be provided to any*
37 *minor. Nothing in this subsection shall be construed to permit the*
38 *licensee to sell any alcoholic liquor for consumption on the premises.*
39 *The withdrawal of wine shall be subject to the tax imposed by K.S.A. 79-*
40 *4101 et seq., and amendments thereto, based on the applicable current*
41 *posted bottle or case price. For purposes of providing samples pursuant to*
42 *this subsection other than at industry seminars or to the licensee's*
43 *employees, the term of this subsection, "sample" shall have the same*

1 meaning as that term is defined in K.S.A. 41-2601, and amendments-
2 thereto means not more than three liters of any brand of wine.

3 (g) *This section shall be a part of and supplemental to the Kansas*
4 *liquor control act.*

5 *Sec. ~~3~~ {4.} K.S.A. 41-307 is hereby amended to read as follows: 41-*
6 *307. A beer distributor's license shall allow:*

7 (a) *The wholesale purchase, importation and storage of beer.*

8 (b) *The sale of beer to:*

9 (1) *Licensed caterers;*

10 (2) *beer distributors licensed in this state;*

11 (3) *retailers, public venues, clubs and drinking establishments,*
12 *licensed in this state, except that such distributor shall sell a brand of*
13 *beer only to those retailers, public venues, clubs and drinking*
14 *establishments of which the licensed premises are located in the*
15 *geographic territory within which such distributor is authorized to sell*
16 *such brand, as designated in the notice or notices filed with the director*
17 *pursuant to K.S.A. 41-410, and amendments thereto; and*

18 (4) *such persons located outside such territory or outside this state*
19 *as permitted by law.*

20 (c) *The sale of cereal malt beverage to:*

21 (1) *Beer distributors licensed in this state;*

22 (2) *clubs and drinking establishments, licensed in this state, and*
23 *retailers licensed under K.S.A. 41-2702, and amendments thereto, except*
24 *that such distributor shall sell a brand of cereal malt beverage only to*
25 *those such clubs, drinking establishments and retailers of which the*
26 *licensed premises are located in the geographic territory within which*
27 *such distributor is authorized to sell such brand, as designated in the*
28 *notice or notices filed with the director pursuant to K.S.A. 41-410, and*
29 *amendments thereto;*

30 (3) *retailers; and*

31 (4) *such persons located outside such territory or outside this state*
32 *as permitted by law.*

33 (d) *The sale of beer containing not more than 6% alcohol by*
34 *volume to cereal malt beverage retailers licensed pursuant to K.S.A. 41-*
35 *2702, and amendments thereto.*

36 (e) *The purchase of cereal malt beverage in kegs or other bulk*
37 *containers and the bottling or canning thereof in accordance with law.*

38 (f) *The storage and delivery to a retailer licensed under the Kansas*
39 *liquor control act or a retailer licensed under K.S.A. 41-2702, and*
40 *amendments thereto, on the distributor's licensed premises, of alcoholic*
41 *liquor or cereal malt beverage of another licensed distributor authorized*
42 *by law to sell such alcoholic liquor or cereal malt beverage to such*
43 *retailer, in accordance with an agreement entered into with such other*

1 *distributor and approved by the director.*

2 *(g) The storage and delivery, with proper invoicing in accordance*
3 *with rules and regulations adopted by the secretary, on the premises of a*
4 *public venue licensee, of beer sold to or available for purchase by the*
5 *public venue during an event.*

6 *(h) The withdrawal of beer or cereal malt beverage from such*
7 *licensee's inventory for use as samples in the course of the business of*
8 *the distributor or at industry seminars. Samples may only be provided to*
9 *persons licensed as a distributor or a retailer under the Kansas liquor*
10 *control act, and such person's employees, or to persons licensed under*
11 *the club and drinking establishment act, and such person's employees.*
12 *Samples may be served on the licensed premises of the licensee, or on*
13 *the premises of a licensed retailer, provided no sample shall be served on*
14 *that portion of the premises of a licensed retailer that is open to the*
15 *public and where sales of alcoholic liquor at retail are made. Samples*
16 *may be served on the premises of a licensee holding a license issued*
17 *under the club and drinking establishment act, provided no sample shall*
18 *be served on that portion of the premises that is open to the public and*
19 *where sales of alcoholic liquor are made. Only products that have not*
20 *been purchased from the distributor licensee by the retailer or club and*
21 *drinking establishment act licensee within the previous 12 months may be*
22 *provided for sampling pursuant to this subsection. No sample shall be*
23 *provided to any minor. Nothing in this subsection shall be construed to*
24 *permit the licensee to sell any alcoholic liquor for consumption on the*
25 *premises. The withdrawal of beer or cereal malt beverage shall be*
26 *subject to the tax imposed by K.S.A. 79-4101 et seq., and amendments*
27 *thereto, based on the applicable current posted bottle or case price. For*
28 *purposes of providing samples pursuant to this subsection other than at*
29 *industry seminars or to the licensee's employees, the term this subsection,*
30 *"sample" shall have the same meaning as that term is defined in K.S.A.*
31 *41-2601, and amendments thereto means not more than three gallons of*
32 *any brand of beer or cereal malt beverage.*

33 ~~Section 4.~~ Sec. 4. {5.} *On and after July 1, 2023, K.S.A. 41-2659 is*
34 *hereby amended to read as follows: 41-2659. (a) (1) A city or a county*
35 *may establish one or more common consumption areas within the limits of*
36 *the city or within the unincorporated portion of the county, as applicable,*
37 *by ordinance or resolution, respectively, and authorize the possession and*
38 *consumption of alcoholic liquor or cereal malt beverage within the*
39 *common consumption area. The ordinance or resolution shall designate the*
40 *boundaries of any common consumption area and prescribe the times*
41 *during which alcoholic liquor or cereal malt beverage may be consumed*
42 *therein. The ordinance or resolution shall may require that any public street*
43 *or roadway that lies within a common consumption area shall be blocked*

1 from motorized traffic during the hours in which alcoholic liquor or cereal
2 malt beverage is consumed.

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

7 (b) A common consumption area permit shall allow the consumption
8 of alcoholic liquor or cereal malt beverage in any area designated by such
9 permit. The director may issue common consumption area permits to the
10 city or county or any one person who shall be a resident of Kansas or an
11 organization that has its principal place of business in Kansas and that has
12 been approved by the respective city or county, in accordance with rules
13 and regulations adopted by the secretary of revenue.

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

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

19 (2) Each application shall be accompanied by a non-refundable
20 permit fee of \$100. All permit fees collected by the director pursuant to
21 this section shall be remitted to the state treasurer in accordance with the
22 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
23 each such remittance, the state treasurer shall deposit the entire amount in
24 the state treasury to the credit of the state general fund.

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

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

33 (e) (1) Any licensee who has requested and received permission to
34 participate in the common consumption area may allow its legal patrons to
35 remove alcoholic liquor or cereal malt beverage purchased from the
36 licensee into the premises described by the common consumption area
37 permit. All alcoholic liquor and cereal malt beverage removed from a
38 licensed premises in such fashion shall be served in a container that
39 displays the licensee's trade name or logo or other identifying mark that is
40 unique to the licensee.

41 (2) In addition to their licensed premises, one or more licensees that
42 have requested and received permission to participate in a common
43 consumption area may offer for sale, sell and serve alcoholic liquor or

1 cereal malt beverage for consumption from one non-contiguous service
2 area within the common consumption area, as designated and approved by
3 the common consumption area permit holder. The licensee shall
4 prominently display a copy of its drinking establishment license and the
5 approval of the common consumption area permit holder at its non-
6 contiguous service area.

7 (f) (1) Each licensee within a common consumption area shall be
8 liable for violations of all liquor laws governing the sale and consumption
9 of alcoholic liquor or cereal malt beverage that occur on the licensee's
10 premises.

11 (2) Each common consumption area permit holder shall be liable for
12 violations that occur off the licensee's premises, but within the common
13 consumption area identified in the permit. No permit holder shall permit
14 any person to remove any open container of alcoholic liquor or cereal malt
15 beverage from the boundaries of the common consumption area.

16 (g) (1) For the purposes of this section, "common consumption area"
17 means a defined indoor or outdoor area not otherwise subject to a license
18 issued pursuant to the Kansas liquor control act or the club and drinking
19 establishment act where the possession and consumption of alcoholic
20 liquor or cereal malt beverage is allowed pursuant to a common
21 consumption area permit.

22 (2) The boundaries of any common consumption area must be clearly
23 marked using a physical barrier ~~or~~ or any apparent line of demarcation ~~or~~
24 ~~other appropriate signage~~. **Every common consumption area shall have**
25 **signs conspicuously posted identifying the boundaries of such area in a**
26 **size and manner that provides notice to persons entering or leaving**
27 **the area.**

28 (h) The secretary shall adopt rules and regulations to implement this
29 section.

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

32 *Sec. ~~5~~ {6.} K.S.A. 41-306, 41-306a and 41-307 are hereby repealed.*

33 *Sec. ~~2-6~~ {7.} On and after July 1, 2023, K.S.A. {41-104 and} 41-*
34 *2659 ~~is~~ {are} hereby repealed.*

35 *Sec. ~~3-7~~ {8.} This act shall take effect and be in force from and after*
36 *its publication in the ~~statute book~~ **Kansas register**.*