

As Amended by Senate Committee

Session of 2005

SENATE BILL No. 274

By Committee on Federal and State Affairs

2-21

10 AN ACT concerning alcoholic liquor; amending K.S.A. 41-308b and 41-
11 310 and ~~K.S.A. 2004 Supp. 41-719 and 41-2645~~ and repealing the
12 existing sections.

13

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

15 Section 1. K.S.A. 41-308b is hereby amended to read as follows: 41-
16 308b. (a) A microbrewery license shall allow:

17 (1) The manufacture of not less than 100 nor more than 15,000 bar-
18 rels of domestic beer during the license year and the storage thereof;

19 (2) the sale to beer distributors of beer, manufactured by the licensee;

20 (3) the sale, on the licensed premises in the original unopened con-
21 tainer to consumers for consumption off the licensed premises, of beer
22 manufactured by the licensee;

23 (4) the serving on the premises of samples of beer manufactured by
24 the licensee, if the premises are located in a county where the sale of
25 alcoholic liquor is permitted by law in licensed drinking establishments;

26 (5) if the licensee is also licensed as a club or drinking establishment,
27 the sale of domestic beer and other alcoholic liquor for consumption on
28 the licensed premises as authorized by the club and drinking establish-
29 ment act; and

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

33 (b) *Upon application and payment of the fee prescribed by K.S.A. 41-
34 310, and amendments thereto, by a microbrewery licensee, the director
35 may issue not to exceed one microbrewery packaging and warehousing
36 **facility** license to the microbrewery licensee. A microbrewery packaging
37 and warehousing license shall allow:*

38 (1) *The transfer, from the licensed premises of the microbrewery to
39 the licensed premises of the microbrewery packaging and warehousing
40 facility, of beer manufactured by the licensee, for the purpose of packaging
41 or storage, or both; and*

42 (2) *the transfer, from the licensed premises of the microbrewery pack-
43 aging and warehousing facility to the licensed premises of the microbrew-*

- 1 *ery, of beer manufactured by the licensee; or*
2 *(3) the removal from the licensed premises of the microbrewery pack-*
3 *aging and warehousing facility of beer manufactured by the licensee for*
4 *the purpose of delivery to a licensed beer wholesaler.*
5 ~~(b)~~ *(c) Not less than 50% of the products utilized in the manufacture*
6 *of domestic beer by a microbrewery shall be grown in Kansas except when*
7 *a greater proportion of products grown outside this state is authorized by*
8 *the director based upon findings that such products are not available in*
9 *this state. The label of each container of domestic beer shall clearly set*
10 *forth the proportion of the products utilized in the manufacture of the*
11 *beer which was from agricultural products grown in Kansas.*
12 ~~(c)~~ *(d) A microbrewery may sell domestic beer in the original uno-*
13 *pened container to consumers for consumption off the licensed premises*
14 *at any time between 6 a.m. and 12 midnight on any day except Sunday*
15 *and between ~~12 noon and 6 p.m.~~ 11 a.m. and 7 p.m. on Sunday. If au-*
16 *thorized by subsection (a), a microbrewery may serve samples of domestic*
17 *beer and serve and sell domestic beer and other alcoholic liquor for con-*
18 *sumption on the licensed premises at any time when a club or drinking*
19 *establishment is authorized to serve and sell alcoholic liquor.*
20 *(e) The director may issue to the Kansas state fair or any bona fide*
21 *group of brewers ~~or beer enthusiasts~~ a permit to import into this state*
22 *small quantities of beer. Such beer shall be used only for bona fide edu-*
23 *cational and scientific tasting programs and shall not be resold. Such beer*
24 *shall not be subject to the tax imposed by K.S.A. 41-501, and amendments*
25 *thereto. The permit shall identify specifically the brand and type of beer*
26 *to be imported, the quantity to be imported, the tasting programs for*
27 *which the beer is to be used and the times and locations of such programs.*
28 *The secretary shall adopt rules and regulations governing the importation*
29 *of beer pursuant to this subsection and the conduct of tasting programs*
30 *for which such beer is imported.*
31 ~~(d)~~ *(f) A microbrewery license or microbrewery packaging and ware-*
32 *housing facility license shall apply only to the premises described in the*
33 *application and in the license issued and only one location shall be de-*
34 *scribed in the license.*
35 ~~(e)~~ *(g) No microbrewery shall:*
36 *(1) Employ any person under the age of 18 years in connection with*
37 *the manufacture, sale or serving of any alcoholic liquor;*
38 *(2) permit any employee of the licensee who is under the age of 21*
39 *years to work on the licensed premises at any time when not under the*
40 *on-premises supervision of either the licensee or an employee of the*
41 *licensee who is 21 years of age or over;*
42 *(3) employ any person under 21 years of age in connection with mix-*
43 *ing or dispensing alcoholic liquor; or*

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

3 ~~(h)~~ (h) Whenever a microbrewery licensee is convicted of a violation
4 of the Kansas liquor control act, the director may revoke the licensee's
5 license and all fees paid for the license in accordance with the Kansas
6 administrative procedure act.

7 Sec. 2. K.S.A. 41-310 is hereby amended to read as follows: 41-310.

8 (a) At the time application is made to the director for a license of any
9 class, the applicant shall pay the fee provided by this section.

10 (b) The annual fee for a manufacturer's license to manufacture al-
11cohol and spirits shall be \$2,500.

12 (c) The annual fee for a manufacturer's license to manufacture beer
13 and cereal malt beverage shall be:

14 (1) For 1 to 100 barrel daily capacity or any part thereof, \$200.

15 (2) For 100 to 150 barrel daily capacity, \$400.

16 (3) For 150 to 200 barrel daily capacity, \$700.

17 (4) For 200 to 300 barrel daily capacity, \$1,000.

18 (5) For 300 to 400 barrel daily capacity, \$1,300.

19 (6) For 400 to 500 barrel daily capacity, \$1,400.

20 (7) For 500 or more barrel daily capacity, \$1,600.

21 As used in this subsection, "daily capacity" means the average daily
22 barrel production for the previous 12 months of manufacturing operation.
23 If no basis for comparison exists, the licensee shall pay in advance for the
24 first year's operation a fee of \$1,000.

25 (d) The annual fee for a manufacturer's license to manufacture wine
26 shall be \$500.

27 (e) The annual fee for a microbrewery license or a farm winery li-
28 cense shall be \$250.

29 The annual fee for a winery outlet license shall be \$50.

30 *The annual fee for a microbrewery packaging and ~~warehouse~~ ware-*
31 *housing facility license shall be ~~\$50~~ \$100.*

32 (f) The annual fee for a spirits distributor's license for the first and
33 each additional distributing place of business operated in this state by the
34 licensee and wholesaling and jobbing spirits shall be \$1,000.

35 (g) The annual fee for a wine distributor's license for the first and
36 each additional distributing place of business operated in this state by the
37 licensee and wholesaling and jobbing wine shall be \$1,000.

38 (h) The annual fee for a beer distributor's license, for the first and
39 each additional wholesale distributing place of business operated in this
40 state by the licensee and wholesaling or jobbing beer and cereal malt
41 beverage shall be \$1,000.

42 (i) The annual fee for a nonbeverage user's license shall be:

43 (1) For class 1, \$10.

- 1 (2) For class 2, \$50.
2 (3) For class 3, \$100.
3 (4) For class 4, \$200.
4 (5) For class 5, \$500.
5 (j) In addition to the license fees prescribed by subsections (b), (c),
6 (d), (f), (g), (h) and (i):
7 (1) Any city in which the licensed premises are located may levy and
8 collect an annual occupation or license tax on the licensee in an amount
9 not exceeding the amount of the annual license fee required to be paid
10 under this act to obtain the license, but no city shall impose an occupation
11 or privilege tax on the licensee in excess of that amount; and
12 (2) any township in which the licensed premises are located may levy
13 and collect an annual occupation or license tax on the licensee in an
14 amount not exceeding the amount of the annual license fee required to
15 be paid under this act to obtain the license, but no township shall impose
16 an occupation or privilege tax on the licensee in excess of that amount;
17 the township board of the township is authorized to fix and impose the
18 tax and the tax shall be paid by the licensee to the township treasurer,
19 who shall issue a receipt therefor to the licensee and shall cause the tax
20 paid to be placed in the general fund of the township.
21 (k) The annual fee for a retailer's license shall be \$250.
22 (l) In addition to the license fee prescribed by subsection (k):
23 (1) Any city in which the licensed premises are located shall levy and
24 collect an annual occupation or license tax on the licensee in an amount
25 not less than \$100 nor more than \$300, but no other occupation or excise
26 tax or license fee shall be levied by any city against or collected from the
27 licensee; and
28 (2) any township in which the licensed premises are located shall levy
29 and collect an annual occupation or license tax on the licensee in an
30 amount not less than \$100 nor more than \$300; the township board of
31 the township is authorized to fix and impose the tax and the tax shall be
32 paid by the licensee to the township treasurer, who shall issue a receipt
33 therefor to the licensee and shall cause the tax paid to be placed in the
34 general fund of the township.
35 (m) The license year for a license shall commence on the date the
36 license is issued by the director and shall end one year after that date.
37 ~~Sec. 3.—K.S.A. 2004 Supp. 41-719 is hereby amended to read as fol-~~
38 ~~lows: 41-719. (a) No person shall drink or consume alcoholic liquor on~~
39 ~~the public streets, alleys, roads or highways or inside vehicles while on~~
40 ~~the public streets, alleys, roads or highways.~~
41 ~~—(b) No person shall drink or consume alcoholic liquor on private~~
42 ~~property except:~~
43 ~~—(1) On premises where the sale of liquor by the individual drink is~~

1 authorized by the club and drinking establishment act;
2 ~~—(2)— upon private property by a person occupying such property as an~~
3 ~~owner or lessee of an owner and by the guests of such person, if no charge~~
4 ~~is made for the serving or mixing of any drink or drinks of alcoholic liquor~~
5 ~~or for any substance mixed with any alcoholic liquor and if no sale of~~
6 ~~alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto,~~
7 ~~takes place;~~
8 ~~—(3)— in a lodging room of any hotel, motel or boarding house by the~~
9 ~~person occupying such room and by the guests of such person, if no~~
10 ~~charge is made for the serving or mixing of any drink or drinks of alcoholic~~
11 ~~liquor or for any substance mixed with any alcoholic liquor and if no sale~~
12 ~~of alcoholic liquor in violation of K.S.A. 41-803, and amendments thereto,~~
13 ~~takes place;~~
14 ~~—(4)— in a private dining room of a hotel, motel or restaurant, if the~~
15 ~~dining room is rented or made available on a special occasion to an in-~~
16 ~~dividual or organization for a private party and if no sale of alcoholic liquor~~
17 ~~in violation of K.S.A. 41-803, and amendments thereto, takes place; or~~
18 ~~—(5)— on the premises of a microbrewery or farm winery, if authorized~~
19 ~~by K.S.A. 41-308a or 41-308b, and amendments thereto;~~
20 ~~—(c)— No person shall drink or consume alcoholic liquor on public prop-~~
21 ~~erty except:~~
22 ~~—(1)— On real property leased by a city to others under the provisions~~
23 ~~of K.S.A. 12-1740 through 12-1749, and amendments thereto, if such real~~
24 ~~property is actually being used for hotel or motel purposes or purposes~~
25 ~~incidental thereto.~~
26 ~~—(2)— In any state-owned or operated building or structure, and on the~~
27 ~~surrounding premises, which is furnished to and occupied by any state~~
28 ~~officer or employee as a residence.~~
29 ~~—(3)— On premises licensed as a club or drinking establishment and~~
30 ~~located on property owned or operated by an airport authority created~~
31 ~~pursuant to chapter 27 of the Kansas Statutes Annotated, and amend-~~
32 ~~ments thereto, or established by a city having a population of more than~~
33 ~~200,000.~~
34 ~~—(4)— On the state fair grounds on the day of any race held thereon~~
35 ~~pursuant to the Kansas parimutuel racing act.~~
36 ~~—(5)— On the state fairgrounds, if: (A) Such liquor is domestic beer or~~
37 ~~wine or wine imported under subsection (c) of K.S.A. 41-308a, and~~
38 ~~amendments thereto, and is consumed only for purposes of judging com-~~
39 ~~petitions; or (B) such liquor is wine manufactured by farm winery li-~~
40 ~~censees or beer manufactured by microbrewery licensees and is sold and~~
41 ~~consumed during the days of the Kansas state fair on premises leased by~~
42 ~~the state fair board to a person who holds a temporary permit issued~~
43 ~~pursuant to K.S.A. 41-2645, and amendments thereto, authorizing the sale~~

- 1 ~~and serving of such wine or beer, or both.~~ The state fair board, in its
2 discretion, may authorize the consumption of such alcoholic liquor on
3 nonfair days in conjunction with bona fide scheduled events involving not
4 less than 75 invited guests and subject to any conditions or restrictions as
5 the board may require.
- 6 ~~—(6) In the state historical museum provided for by K.S.A. 76-2036,~~
7 ~~and amendments thereto, on the surrounding premises and in any other~~
8 ~~building on such premises, as authorized by rules and regulations of the~~
9 ~~state historical society.~~
- 10 ~~—(7) On the premises of any state-owned historic site under the juris-~~
11 ~~isdiction and supervision of the state historical society, on the surrounding~~
12 ~~premises and in any other building on such premises, as authorized by~~
13 ~~rules and regulations of the state historical society.~~
- 14 ~~—(8) In a lake resort within the meaning of K.S.A. 32-867, and amend-~~
15 ~~ments thereto, on state-owned or leased property.~~
- 16 ~~—(9) In the Hiram Price Dillon house or on its surrounding premises,~~
17 ~~subject to limitations established in policies adopted by the legislative~~
18 ~~coordinating council, as provided by K.S.A. 75-3682, and amendments~~
19 ~~thereto.~~
- 20 ~~—(10) On the premises of the Kansas national guard regional training~~
21 ~~center located in Saline county, and any building on such premises, as~~
22 ~~authorized by rules and regulations of the adjutant general and upon~~
23 ~~approval of the Kansas military board.~~
- 24 ~~—(11) On property exempted from this subsection (c) pursuant to sub-~~
25 ~~section (d), (e), (f), (g), (h) or (i).~~
- 26 ~~—(d) Any city may exempt, by ordinance, from the provisions of sub-~~
27 ~~section (c) specified property the title of which is vested in such city.~~
- 28 ~~—(e) The board of county commissioners of any county may exempt,~~
29 ~~by resolution, from the provisions of subsection (c) specified property the~~
30 ~~title of which is vested in such county.~~
- 31 ~~—(f) The state board of regents may exempt from the provisions of~~
32 ~~subsection (c) the Sternberg museum on the campus of Fort Hays state~~
33 ~~university, or other specified property which is under the control of such~~
34 ~~board and which is not used for classroom instruction, where alcoholic~~
35 ~~liquor may be consumed in accordance with policies adopted by such~~
36 ~~board.~~
- 37 ~~—(g) The board of regents of Washburn university may exempt from~~
38 ~~the provisions of subsection (c) the Mulvane art center and the Bradbury~~
39 ~~Thompson alumni center on the campus of Washburn university, and~~
40 ~~other specified property the title of which is vested in such board and~~
41 ~~which is not used for classroom instruction, where alcoholic liquor may~~
42 ~~be consumed in accordance with policies adopted by such board.~~
- 43 ~~—(h) Any city may exempt, by ordinance, from the provisions of sub-~~

1 ~~section (c) any national guard armory in which such city has a leasehold~~
2 ~~interest, if the Kansas military board consents to the exemption.~~
3 ~~—(i) The board of trustees of a community college may exempt from~~
4 ~~the provisions of subsection (c) specified property which is under the~~
5 ~~control of such board and which is not used for classroom instruction,~~
6 ~~where alcoholic liquor may be consumed in accordance with policies~~
7 ~~adopted by such board.~~
8 ~~—(j) Violation of any provision of this section is a misdemeanor punish-~~
9 ~~able by a fine of not less than \$50 or more than \$200 or by imprisonment~~
10 ~~for not more than six months, or both.~~
11 ~~—Sec. 4. K.S.A. 2004 Supp. 41-2645 is hereby amended to read as~~
12 ~~follows: 41-2645. (a) A temporary permit shall allow the permit holder to~~
13 ~~offer for sale, sell and serve alcoholic liquor for consumption on unli-~~
14 ~~icensed premises, which may be open to the public, subject to the terms~~
15 ~~of such permit.~~
16 ~~—(b) The director may issue a temporary permit to any one or more~~
17 ~~persons or organizations applying for such a permit, in accordance with~~
18 ~~rules and regulations of the secretary. The permit shall be issued in the~~
19 ~~names of the persons or organizations to which it is issued.~~
20 ~~—(c) Applications for temporary permits shall be required to be filed~~
21 ~~with the director not less than 14 days before the event for which the~~
22 ~~permit is sought unless the director waives such requirement for good~~
23 ~~cause. Each application shall state the purposes for which the proceeds~~
24 ~~of the event will be used. The application shall be upon a form prescribed~~
25 ~~and furnished by the director and shall be filed with the director in du-~~
26 ~~uplicate. Each application shall be accompanied by a permit fee of \$25 for~~
27 ~~each day for which the permit is issued, which fee shall be paid by a~~
28 ~~certified or cashier's check of a bank within this state, United States post~~
29 ~~office money order or cash in the full amount thereof. All permit fees~~
30 ~~collected by the director pursuant to this section shall be remitted to the~~
31 ~~state treasurer in accordance with the provisions of K.S.A. 75-4215, and~~
32 ~~amendments thereto. Upon receipt of each such remittance, the state~~
33 ~~treasurer shall deposit the entire amount in the state treasury to the credit~~
34 ~~of the state general fund.~~
35 ~~—(d) Temporary permits shall specify the premises for which they are~~
36 ~~issued and shall be issued only for premises where the city, county or~~
37 ~~township zoning code allows use for which the permit is issued. No tem-~~
38 ~~porary permit shall be issued for premises which are not located in a~~
39 ~~county where the qualified electors of the county:~~
40 ~~—(1) (A) Approved, by a majority vote of those voting thereon, to adopt~~
41 ~~the proposition amending section 10 of article 15 of the constitution of~~
42 ~~the state of Kansas at the general election in November, 1986, or (B) have~~
43 ~~approved a proposition to allow the sale of liquor by the individual drink~~

1 in public places within the county at an election pursuant to K.S.A. 41-
2 2646, and amendments thereto, and
3 ~~—(2)—~~ have not approved a proposition to prohibit such sales of alcoholic
4 liquor in such places at a subsequent election pursuant to K.S.A. 41-2646,
5 and amendments thereto.
6 ~~—(c)—~~ A temporary permit shall be issued for a period of time not to
7 exceed three consecutive days, the dates and hours of which shall be
8 specified in the permit, *except that the director may issue one temporary*
9 *permit, valid for the entire period of time of the Kansas state fair, which*
10 *authorizes the sale and serving by the drink of only wine manufactured*
11 *by farm winery licensees or beer manufactured by microbrewery licens-*
12 *ees, or both, on the premises specified in the temporary permit, by a*
13 *person who has entered into an agreement with the state fair board for*
14 *that purpose.* Not more than four temporary permits may be issued to
15 any one applicant in a calendar year.
16 ~~—(f)—~~ All proceeds from an event for which a temporary permit is issued
17 shall be used only for the purposes stated in the application for such
18 permit.
19 ~~—(g)—~~ A temporary permit shall not be transferable or assignable.
20 ~~—(h)—~~ The director may refuse to issue a temporary permit to any person
21 or organization which has violated any provision of the Kansas liquor
22 control act, the drinking establishment act or K.S.A. 79-41a01 et seq., and
23 amendments thereto.
24 **Sec. 5: 3.** K.S.A. 41-308b and 41-310 and K.S.A. 2004 Supp. 41-719
25 and 41-2645 are hereby repealed.
26 **Sec. 6: 4.** This act shall take effect and be in force from and after its
27 publication in the statute book.